

CRIME AGAINST HUMANITY

VOLUME II

An Inquiry into the Carnage in Gujarat
Findings and Recommendations

CONCERNED CITIZENS TRIBUNAL - GUJARAT 2002

Recommended contribution (Vols I & II): **Rs. 200**
(Towards expenses incurred on the Tribunal's work)

Published by **Anil Dharkar**
for **Citizens for Justice and Peace**
P.O. Box 28253, Juhu Post Office,
Mumbai 400 049. India.
E-mail : cjp02in@yahoo.com

and Printed at:
Siddhi Offset Pvt. Ltd.
5-12, Kamat Industrial Estate,
396, Veer Savarkar Marg,
Prabhadevi, Mumbai - 25

Photographs Courtesy:
AFP, AP, Communalism Combat,
Reuters (Arko Datta), Sandesh,
The Indian Express, The Tribune

CONTENTS

Foreward	5
Introduction	9
Godhra	12
Patterns of Violence	23
Violence Against Women	38
Economic Destruction	44
Religious and Cultural Desecration	48
Preparation for Violence	51
State Complicity	
Government of Gujarat	75
Police Misbehaviour	81
Role of the Central Government	96
Role of Non-BJP Parties	100
Failure of Criminal Justice System	104
Disturbing Trends: Police System	115
Communalisation of Public Space — Hospitals	118
Relief and Rehabilitation	122
Role of the Media	132
Build-Up in Gujarat	148
Genocide	152
Consequences	155
Recommendations	
Short Term	162
Long Term	176
Secularism and the Constitution	182
The accused: Police, Civil Servants, Politicians, Others	191
About ‘Citizens for Justice and Peace’	105

FOREWARD

What a shock and shame that India's fair secular name should suffer dastardly disgrace through the recent government-abetted Gujarat communal rage, compounded by grisly genocidal carnage and savage arsonous pillage, victimising people of Muslim vintage—and 'unkindest cut of all'—allegedly executed with the monstrous abetment of chief minister Modi, his colleagues and party goons. The gravamen of this pogrom-like operation was that the administration reversed its constitutional role and, by omission and commission, engineered the loot, ravishment and murder which was methodically perpetrated through planned process by chauvinist VHP elements, goaded by terrorist appetite. What ensued was a ghastly sight the like of which, since bleeding partition days, no Indian eye had seen, no Indian heart had conceived and of which no Indian tongue could adequately tell. *Hindutva* barbarians came out on the streets in different parts of Gujarat and, in all flaming fury, targeted innocent and helpless Muslims who had nothing to do with the antecedent Godhra event. They were brutalised by miscreants uninhibited by the police; their women were unblushingly molested; and Muslim men, women and children, in a travesty of justice, were burnt alive. The chief minister, oath-bound to defend law and order, vicariously connived at the inhuman violence and some of his ministers even commanded the macabre acts of horror.

There was none to question the malevolent managers of communal massacre. The criminal outrage, there was none in uniform to resist, not even to record information of the felonies. Nor was there any impartial official to render succour or assure civilised peace. When government failed and the local media distorted the truth, the fascist trend flourished and the barbaric, fanatic, rapist human animals remained unchecked.

Awakened by this sinister scenario, people of conscience, all over the country, felt the gory, catastrophe merited investigation. Thus was set up a committee of enquiry formally headed by me, but actively and functionally managed by a great young lady—Teesta Setalvad. She organised the services of eminent judges whose retirement would not inhibit them from throwing all their energy to the enquiry process—a signal public service. A great team, valiant paradigm, joined them. They collected

evidence of the gruesome events, lethal incidents, vicious environs and the complicity of people in authority who were vicariously guilty of the indescribable offenses. Those who sat on the committee—they were superannuated judges, a militant marvel of an advocate and four other noble public figures—made great sacrifice and rendered free service. They were experienced as judges and seasoned social activists, and knew what a judicial enquiry called for—an objective, yet sensitive examination of the overall holocaust. They pooled testimonies sought from official and non-official sources, and pooled all probative material. People came and gave evidence, some officials showed up to unfold what they knew had happened. The Tribunal toured, restlessly strove to get at the traumatic truth and were guided by the necessity of hearing both parties. Grievances poured in. Tears and fears were placed before the Tribunal. I was there only for a day and, therefore, cannot claim to have participated substantially in the enquiry. But my colleagues have done an anguished job, looking into tons of material, sifting and sorting and producing a brave, massive report. I commend their task to the Indian People. I cannot but condemn the culpable delinquency of those in power in Gandhinagar nor, indeed, is it possible to absolve the Central rulers in Delhi who failed to act and, perhaps, connived by omission, the harrying operation in Gandhi Country; I mean Gujarat, where the greatest man of our time was born, with the noblest example of secular symphony of religions. Yet, action has to be taken against heinous culprits since justice shall be done under the Indian Constitution. Be you ever so high, the law is above you.

My message and my mission is the presentation of an exhaustive report, which does credit to those (other than me) who prepared, sedulously and feelingly, findings which they were commissioned to do by their conscience and the nation.

There are tragic, traumatic conclusions and creative, corrective recommendations. There are measures, punitive and rehabilitative, for victimological constitutional action. My task is to place the report before the people. Know ye the Truth and the Truth shall make you Free—provided We, the people of India, act promptly and fearlessly.

The melody of communal unity, the beauty of religious amity and the secularity of Indian humanity—these glorious values are the mission and message to the nation. Let us struggle to sustain this supreme value, lest we, as a people, perish by divisive ideology. The Gujarat episode is an evil event and disastrous portent. Let us battle for the success of our pluralist culture, secular heritage and social-justice-illuminated democracy. India must win! The integrity of our fraternity shall never surrender to berserk, blood-thirsty political bestiality.

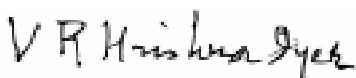
October 24, 2002

Justice VR Krishna Iyer

Concerned Citizens Tribunal - Gujarat 2002

An Inquiry into the Carnage in Gujarat

Report of the Tribunal



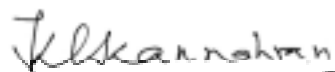
Justice VR Krishna Iyer
Retd Judge, Supreme Court



Justice PB Sawant
Retd Judge, Supreme Court



Justice Hosbet Suresh
Retd Judge, Mumbai High Court



Adv KG Kannabiran
President, PUCL



Ms. Aruna Roy
Mazdoor Kisan Shakti Sanghatan



Dr. KS Subramanian
Retd IPS, Former DGP, Tripura



Prof. Ghanshyam Shah
Professor of Social Sciences in
Community Health, JNU



Prof. Tanika Sarkar
Professor of History, JNU

Dated this 21st day of November 2002

Introduction

The Concerned Citizens Tribunal – Gujarat 2002, was conceived as a response to the carnage that rocked the state of Gujarat following the Godhra tragedy on February 27, 2002. The eight-member Tribunal was constituted in consultation with a large number of groups from within Gujarat and the rest of the country. A copy of its terms of reference and a list of the groups urging that such a People's Inquiry be launched is annexed hereto and marked as Annexure 1.

The Tribunal collected 2,094 oral and written testimonies, both individual and collective, from victim-survivors and also independent human rights groups, women's groups, NGOs and academics. The documentation work done by relief camp managers and community leaders, from lists of persons killed or 'missing', to the meticulous tabulation of economic loss and religious desecration, is unprecedented and immense. The Tribunal has benefited greatly from these and they are being published in a separate volume of annexures to our report. In addition, over one dozen detailed fact-finding reports and inquiries were placed before the Tribunal and we have benefited greatly from a close scrutiny of these. We have also collected photographs, copies of FIRs, audio- and video-tapes, as evidence. The sheer volume of the evidence on record took an enormous amount of time and human resources to sift through and evaluate. Yet, as in all human endeavours, there may be deficiencies in the report. For these, we plead extenuation and understanding as unlike in case of official inquiries, it has been voluntary commitment from a whole team that has enabled the completion of this report.

The Tribunal pays tribute to the victim-survivors, individually and collectively, who deposed before us at great risk to their person in the simple hope that one day justice will be done and the guilty be punished. Even as the Tribunal sat in Ahmedabad, there were threats and premises like the circuit house at Shahibaug were denied us due to the omnipresence of prowling mobs. We acknowledge our great debt to the activists on the ground who worked day and night to bring the victims and reliable eyewitnesses to us.

After recording evidence, visiting sites, placing on record statements and collecting other relevant material, the Tribunal arrived at some *prima facie* conclusions. These

were forwarded along with our recommendations to both the central and state governments and their views were awaited. However, the Tribunal regrets that neither the state government nor the central government, or individual ministers to whom request letters were sent, responded. Though we are entitled to draw adverse conclusions from this lack of response, because that they did not respond to the interim findings, we do not propose to do so.

However, many senior government officials and police officers did agree to meet the Tribunal, responded to our queries, shared insightful observations and presented some valuable evidence to us. One minister also appeared and deposed before us. The Tribunal had assured this witness (minister) and other officials that their anonymity would be protected. Hence, while their valuable evidence is reflected in the *Findings* of the report, they have not been identified. Anonymity was urged especially because of the fear of reprisal from political bosses if names became known.

The Tribunal has independently accessed volumes of material that helped us arrive at our final *Findings and Recommendations*. The *Interim findings and Recommendations* are annexed as *Annexure 6, Volume 1*.

In a democracy, the people's right to information should be paramount. Any government wedded to this basic right should have eagerly cooperated in the effort of a citizen's tribunal to inquire and let the people know what happened in Gujarat, who engineered the carnage, and who the guilty are.

The Tribunal undertook this huge task as part of the exercise of this fundamental human freedom. The health of any society lies not in denials and half-truths when grave injustices have occurred, but in courageously admitting to them, righting those wrongs with justice and then reconciliation. That both the government of Gujarat and the government of India did not participate in the inquiry reveals their utter disregard for the people's basic democratic right to know.

Having completed its task, it is with humility that the Tribunal presents this report to the country and the world. Even as we complete our task, we know and recognise that our country's record in the matter of punishment of the guilty in cases of mass crimes, against the minorities, against Dalits, and against the poor has been pathetic. Yet, with hope that is eternal to the human condition, we do present this report in the belief that, this time, knowing the truth will help us chalk a future that is radically different.

The sorry state of the rule of law in the country is closely connected to the functioning and accountability of our courts, and the criminal justice system is crying out for radical reform. We hope that with justice to the victim-survivors, these reforms will become a matter of urgent political debate.

The Tribunal would like to express its gratitude to justice GG Loney (retd) who participated in some sittings of the Tribunal. The panel also benefited from the insights provided by justice PD Desai (former CJ Mumbai, Kolkata and Himachal Pradesh High Court) who met us in Ahmedabad, and over lengthy discussions, enhanced our understanding and grasp of the situation.

The setting up and the functioning of the Tribunal was made possible due to the Citizens for Justice and Peace, an association of committed citizens from all walks of life, from Mumbai and Ahmedabad, who came together to garner support for the fight for justice, post-carnage. The Tribunal acknowledges its huge debt to this group that felt duty and conscience bound to support and make possible such a Citizen's Inquiry.

The committed team from Sabrang Communications and Publishing, Mumbai, ably handled the secretariat of the Tribunal. Dr Uma Sheth and Rashmi contributed of their time generously. Their responsibilities included coordinating the schedules of the Tribunal in Ahmedabad and from its districts-- its sittings, recording of evidence, translating and transcribing the evidence and handling voluminous material. Then came the task of deliberations on the evidence by the panel which constituted the Tribunal and finalising this report.

During the Tribunal hearings, the India Centre for Human Rights and Law, Mumbai, Prashant, Ahmedabad, and PUCL-Shanti Abhiyan, Vadodara, provided able support for the Tribunal's hearings.

The panel that constituted the Tribunal pays a humble tribute to all the hapless and innocent victims of the ghastly Gujarat carnage. We dedicate this report to them and to their surviving relatives. And also to each one of those women and men who, at great risk to their person, provided succour and helped expose the truth.

VR Krishna Iyer
Hosbet Suresh
Aruna Roy
Ghanshyam Shah

PB Sawant
KG Kannabiran
KS Subramanian
Tanika Sarkar

Godhra

1.1. The Sabarmati Express train started from Ahmedabad for Ayodhya on February 22, 2002, with *kar sevaks* on board. It appears that on its onward journey to Ayodhya, there was an incident at Dahod railway station where the *kar sevaks* indulged in vandalism and terrorising of Muslim vendors at the station. According to another version, the Dahod incident took place on the return journey. There is no clear evidence of the date of the incident but it is clear that it took place.

1.2. There was another incident between Rudauli and Daryabad stations (closer to Faizabad) wherein the *kar sevaks* attacked Muslim passengers, including innocent women and children. When some young man protested against this, he was thrown off the train between Patranga and Rojagaon stations. Several women, badly wounded and covered in blood, jumped off the train at Rudauli station. The *kar sevaks* got off and started attacking those whom they identified as Muslim from among those present at the platform.

1.3. At Rudauli station, other similar incidents occurred, such as forcing the Muslims to shout, '*Jai Shri Ram!*', pulling the beards of some of them, including stabbing with *trishul*. Despite the severity of these incidents, there was no prompt action taken either by the railway authorities or the police; nor were those seriously injured rushed to hospital. It appears that both local Hindus and Muslims condemned the attack and that Muslim religious leaders appealed for peace and urged that there should be no retaliation. (*Report in Jan Morcha, published from Faizabad on February 25, 2002, two days before the Godhra incident on the return journey of the same Sabarmati Express— see Annexure 7 Volume 1.*)

1.4. As the train travelled back from Ayodhya on its return journey to Ahmedabad, *kar sevak* girls and boys armed with *trishuls* and lathis, were getting down at every station and shouting slogans like, "*Mandir Vabin Banayenge!*", "*Jai Shriram!*", "*Muslim Bharat Chodo, Pakistan Jao*" ("*Muslims, Quit India! Go to Pakistan*"), "*Dudh mango tho kbeer denge, Kashmir mango tho cheer denge*" ("*Ask for milk and we'll give you kbeer (pudding), But ask for Kashmir and we'll cut you up*"). Many passengers felt harassed by this behaviour

but were constrained to silence because the *kar sevaks* had captured all the reserved seats and the train was jam-packed.

1.5. The train reached Godhra station at 7.30 a.m. (three hours late), on February 27, 2002. There were certain incidents on the platform. There were some reports to the effect that a Muslim girl was molested by the *kar sevaks* who attempted to pull her into the train. The attempt to take her into the train was averted due to the intervention by Muslim vendors at the Godhra railway station.

1.6. In a separate incident, a Muslim tea vendor had boarded coach S-6 with an aluminum tea *kitli* and plastic cups to sell tea. Passengers started to buy tea from him but he was insulted by some of the *kar sevaks* and sent out of the coach. It appears that some *kar sevaks*, identified by their saffron head bands and *trishuls*, had climbed onto the roofs of coaches of the Sabarmati Express as it stopped at the Godhra railway station, stripped themselves and made obscene gestures at Muslim women residing just opposite the station, who had come out to perform their morning chores. There was also some stone throwing, both from within and from outside the compartments.

1.7. As the train left the platform, at 7.48 a.m., it was immediately stopped by someone pulling the chain. The obvious reason for this was to enable some of the *kar sevaks* who were still left behind on the platform to enter the train. The train proceeded for about a kilometre. At Singal Falia the train stopped. Whether this was on account of someone pulling the chain or otherwise is not clear. The engine driver, at that point of time, had only seen someone from outside pelting stones at the train though not at coach S-6. Soon thereafter, coach S-6 was on fire. The question is, how did the fire occur?

1.8. The version of the government appears to be that the Ghanchi Muslims residing near the railway station, who had gathered in large numbers, threw fireballs into the train and that resulted in the fire. The government version also has it that these Ghanchi Muslims wanted to attack the *kar sevaks*, and that there were about 2,000 Muslims who were bent on attacking the train.

1.9. It may be stated at this stage that the full capacity of the train is 1,100. But, in fact, the train at that time had about 2,000 passengers, of which about 1,700 were *kar sevaks*. As far as coach S-6 of the Sabarmati Express is concerned, the reservation capacity is 72. However, it was jam-packed on that day. Only one coach was burned and even in that coach one is not sure how many passengers were *kar sevaks*. The train had 11 coaches with vestibule connection and the *kar sevaks* were spread all over the train. So why did anyone target coach S-6? If 2,000 Muslims had gathered there, could they not have attacked the other coaches? Again, did anyone try to come out from the other coaches? If it is reasonably presumed that some of the passengers, including *kar sevaks*, rushed out, did anyone attack them? On all these questions there is no satisfactory answer.

1.10. In all, 58 bodies were found in coach S-6, out of which 26 were of women, 12 were of children and 20 were of men. It appears that 43 persons sustained injuries, of

whom only 5 were admitted to the hospital. The rest were treated for minor injuries like bruises, and were allowed to go. Out of the five admitted to hospital, one died, and the rest were discharged after 3 or 4 days.

1.11. Since the bodies were charred beyond recognition, it was not possible to identify anyone on the basis of physical features. The collector of Godhra told the Tribunal that only five bodies could be identified on the basis of articles or things which were on their person. One was the local station master's wife who had boarded the train at Godhra to go to Vadodara. She had a metal tiffin box in her hand and she was thus identified. Thus, no one could say with certainty that the dead bodies were all of *kar sevaks*.

2. Mystery of the Fire

2.1. A very significant fact is that coach S-6 was the only one that got burnt. The fire did not even spread to the other coaches. It is also not clear whether the train was stopped because of the fire in the coach or the coach was set on fire after the train stopped. If it was the latter, why was the train stopped at all? It is reasonable to presume that because of the fire in the coach, someone must have pulled the chain and the train was stopped by the engine driver.

2.2. As the train left Godhra station, all the windows and doors of Coach S-6 were all closed. Since there was stone throwing on the train, it is reasonable to presume that similar was the situation in all the other coaches. In other words, as the train stopped, nobody from outside was in a position to identify any particular person in any particular coach, so as to target any particular person/s. If *kar sevaks* were the target, they were overwhelmingly present in the entire train and the whole train could have been set on fire. The fact that the fire did not even spread to the remaining coaches, is a clear indication that the fire originated in that compartment itself. That also explains why only persons in that coach died. In all probability, as the fire broke out, there was extreme panic and, the compartment being over-packed, many of the able-bodied persons managed to escape through the vestibules to the other coaches, leaving mostly women and children behind, who must have succumbed to the smoke and suffocation and fallen down in a pile, one over the other. The evidence also suggests that the passengers had stacked their belongings against the doors and it was just not possible for anyone to escape from or enter the coach.

2.3. On 7-5-2002, we inspected the coach and the site where it was burnt. The site where the train stopped is an elevated *bund*. From the ground level, the height of the *bund* could be about 12-15 feet and it is a slope. At the top, there is hardly enough space for 2,000 persons to assemble on either side of the track. Assuming that so many had gathered at that spot, the crowd would be spread over a much larger area than the stretch of coach S-6. This is only to indicate that if the government version is true, the other coaches would have been as easy a target as Coach S-6. Again, if one takes into account the height of the *bund* and the height of the train, and if fire-balls were to be thrown at the train, the outside of the coach should have shown signs of being charred. But we found that there were no such marks below the windows; the

charred marks were to be seen only around the windows and above that height. This is a clear indication that the fire started inside the coach and the flames leaping out of the windows singed the outside of the compartment, above window level. Therefore, even to the naked eye, it was clear that the fire was from within and not from outside.

2.4. Our own observations were subsequently confirmed by the reports of the Forensic Science Laboratory. Among its other findings, the relevant section of the Forensic Science Laboratory (State of Gujarat, New Mental Corner, Ahmedabad – 16, Spot Investigation Report No.2 regarding CR No. 9/2002, Godhra Railway Police Station) filed by Dr. MS Dahiya, assistant director, states:

2.4.1. “It was found that the height of the window of the coach was around 7 ft. from the ground at the place. Under this circumstance, it was not possible to throw any inflammable fluid inside from outside the coach from any bucket or carboy, because by doing this, most of the fluid was getting thrown out side. At the place of the incidents, there was one heap of grit, of three feet height at a distance of around 14-ft., in the southern side of the coach. Water was thrown on the windows of the coach with the help of bucket standing on the top of the said heap, in that case only about 10 to 15% of the water went inside and the rest of the quantity was spilled outside itself. Thus, if the inflammable fluid is thrown from outside, then a major part of it would fall around the track outside and catch fire and cause damage to the outer part of bottom side of the coach. But after examination of the coach and the track, no effect was found of the fire on bottom side below the windows of the coach. By taking into consideration this fact, and also the burning pattern of the outer side of the coach, a conclusion can be drawn that no inflammable fluid had been thrown inside from outside the coach.”

2.4.2. “There also appears to be no possibility that any inflammable liquid was thrown through the door of the bogie.”

2.4.3. “By standing in the passage between the compartment of the bogie and the northern side door of the eastern side of the bogie, water was poured towards the western side from a container with a wide mouth like a bucket; in that case most part of the bogie was covered with 60 liters of water. By pouring the water in this manner, the water went only towards the West and no part of it came out of the door, nor did it go towards the latrine side.”

2.4.4. “On the basis of the above experimental demonstration, such a conclusion can be drawn that 60 liters of inflammable liquid was poured towards the western side by using a wide mouthed container by standing on the passage between the northern side door of the eastern side of the S-6 coach and the compartment of seat No. 72 and coach was set on fire immediately thereafter. If the period after the train had started from Godhra Railway Station, intensity of fire, the degree of burn of the objects that were inside the bogie etc. are taken into account, it can also be concluded that a large quantity (around 60 liters) of highly inflammable fluid was used to set the aforesaid fire and that the fire had spread very rapidly.”

2.4.5. By observing the condition of the frames of the windows of the coach, it appears that all the windows of the coach were closed during the time of the fire.”

2.4.6. Thus, it is clear that the fire came from inside. We have seen the inner side of the coach. The intensity of the fire was such that even the iron rods, the seats, the fans were all burnt to such an extent that we found them twisted and molten out of shape. We also found rice and wheat partly burnt and scattered all across the floor of compartment S-6. Some of the witnesses had stated that *kar sevaks* had stoves in the train, but we did not find them in the coach. The FSLR shows that for such an intensity of fire, 60 litres of inflammable liquid had to be poured into the coach, “by using a wide mouthed container”. The question is, where is this container? There is no evidence of anyone carrying 60 litres of inflammable liquid. At what point of time was this taken inside the coach, or into the passage? Who was travelling in the train? If such a large number of *kar sevaks*, armed with *trishuls* and in such an aggressive mood, were inside the train, how could Ghanchi Muslims enter the train? And how could they have carried so much petrol openly, or even clandestinely, for that would have been found out in no time. So the mystery of the fire remains, the only thing certain being the fact that it came from within.

3. Was Godhra Pre-Planned?

3.1. The evidence as analysed above clearly indicates that the incident was not pre-planned by the Muslims, as alleged by the government. In this connection, we would like to refer to a statement made by the IGP, Railways, PP Agja recorded by the *Times of India* on March 29, 2002 to the effect that there is no evidence of a pre-planned conspiracy behind the Godhra incident. “The case is still being investigated and if there was some deep conspiracy, then we are yet to find it,” said Shri Agja. He further told *The Times of India*, standing in front of the railway police station on the platform where the trouble began:

3.2. “According to the sequence of events as found by the police, all was not well in coach S-6 of the Ahmedabad-bound Sabarmati Express on that day. A group of unruly *Ram sevaks* had boarded the train at Lucknow without reservations and had put to discomfort the 66 genuine passengers of the coach. Some of the ticket-paying passengers had to sleep on the floor; so overcrowded had the compartment become that the ticket collector who came aboard the train at Ratlam (two stations before Godhra) was not allowed to enter the coach.

3.3. “At Godhra station, the hawkers on the platform started stoning the train after an unsavoury incident, especially targeting Coach S-6, because some occupants of the coach had given offence. At any point of time, there are some 250 hawkers on the station. Some of them carry stoves with kerosene in them. All of them live in the slum called Signal Falia, next to the station.

3.3.1. “This means it is not surprising that a crowd could collect at the station so fast. The people, who live cheek by jowl in the slums next to the station, include a fair share of criminals indulging in railway crimes like looting, pick-pocketing and stealing of goods of passengers and also railway property. All of them are Ghanchi Muslims and they are uneducated, without any jobs and poor.”

3.3.2. All these things are not sufficient to come to any conclusion that the attack on S-6 coach was a pre-meditated one.

4. Immediate Reaction of the Administration and the Government

4.1. The local district magistrate/collector was the first to reach the scene of the incident.

4.2. The Prime Minister of India, Shri Atal Behari Vajpayee made a statement in Parliament at noon on February 27, asking people to maintain calm since the Godhra incident was a response to “slogan shouting”. “An inquiry is being held and it will ascertain facts – what happened and why did it happen? But, from the preliminary reports, it appears that the train was stopped maybe because slogans were being shouted in the train and clashes took place. The Gujarat government has ordered an inquiry.” (Extracts from a compilation by the PMO on PM’s reactions to the event thereafter to media persons at Hyderabad House, New Delhi, February 27, 2002, posted on the PM’s website).

4.3. From 8.30 a.m., just after the fire on the Sabarmati Express took place, until 7.30 p.m. that evening, repeated statements by the Godhra district collector, Smt. Jayanthi Ravi relayed on Doordarshan and Akashwani (radio) stated that “the incident was *not* pre-planned, it was an accident.”

4.4. The chief minister of Gujarat, Shri Narendra Modi, accompanied by health minister, Shri Ashok Bhatt and other cabinet colleagues, arrived in Godhra around 2 p.m. that day. After meeting the collector, he decided to take the bodies to Ahmedabad. It was the decision of Shri Modi to take the badly charred bodies to Ahmedabad against the advice of the district administration. Initially, the chief minister and his colleagues had wanted to take the bodies in the same train onwards to Ahmedabad. The district administration strongly advised against this for law and order reasons, after which a motor cavalcade drove the bodies to the Sola Civil hospital at Ahmedabad.

4.5. Evidence presented before the Tribunal and confirmed by the administration revealed that 40 shops belonging to Muslims of Godhra, many of whom lived at Signal Falia, were demolished around 5.30 p.m. during curfew hours on Feb 27 itself. While the unauthorised nature of the establishments and their location being a security hazard were the reasons offered by the administration, the strange choice of timing for the demolition bears mention. What was the motivation for the civil administration in undertaking this act that caused an economic loss, of some magnitude, to one community alone, on this day?

4.6. At 7.30 p.m., chief minister, Shri Modi made a public broadcast in which, for the first time, he put forward the ‘ISI hand behind the Godhra incident’ version.

4.7. Thereafter, from the next day onwards, the Prime Minister, Shri Vajpayee called it a “national shame” and then home minister, Shri Advani also ominously pointed to the “ISI hand.” Union defence minister, Shri George Fernandes, too, joined the chorus of voices, alleging that there was “a foreign hand” behind Godhra.

4.8. What could have been confined to Godhra and Godhra alone was taken and broadcast to all of Gujarat state. All that followed was directly related to Shri Modi’s decision to carry Godhra to the whole state instead of containing the issue therein.

5. *Bandh* Call and the Preparation

5.1. On the evening of February 27, after visiting Godhra, Shri Modi announced that there would be a state *bandh* 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. 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.

5.2. 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.

5.3. 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.

5.4. The *bandh* call made possible exactly what the chief minister and the BJP/VHP/RSS/Bajrang Dal leadership wanted to happen after the Godhra incident.

5.5. As is amply evident from the voluminous evidence recorded by the Tribunal, and substantive other evidence made available to it, investigating officials have yet to find any proof of the Godhra atrocity being pre-planned. Nonetheless, Shri Modi, union home minister, Shri Advani and others continue to reiterate the distorted version of the motive behind the incident at Godhra. The electoral and related advantages for these persons in power, set to gain from the misconceptions and prevarications around Godhra, need to be understood and exposed for what they are. Thousands of innocent citizens became victims to this cynical game of politics and the priorities for India as a country were derailed by these perpetrators of hatred and division, some of whom even hold the reins of government.

5.6. News of the deaths of passengers in Coach S-6, conveyed as the killing of *kar sevaks* returning from Ayodhya, was used to fuel the rage of the other *kar sevaks* who then tried to attack a nearby mosque at Signal Falia. The police fired 30 tear gas shells and 14 rounds of live bullets to disperse them. The damaged coaches, S-5 and S-6 were detached, and the train departed with the rest of the passengers at 12.40 p.m. On the way to Ahmedabad, some *kar sevaks* reportedly stabbed 2-3 people at the Vadodara railway station, giving a clear warning of things to come. Inquest and post-

mortem of all the recovered bodies was undertaken by 4.30 p.m. Under instructions from the administration in Ahmedabad, all the bodies, excluding those of the five passengers from the Godhra region, were dispatched to the Civil Hospital, at Sola, Ahmedabad, in a motor cavalcade. Shri Jaideep Patel of the BJP, and one of the main accused in the Naroda incidents, travelled to Ahmedabad along with the bodies.

5.7. It is apparent that by the evening of February 27, a well thought out scheme to extract maximum political capital out of Godhra had been launched. As part of this scheme, at around 2.30 a.m., the bodies of the *kar sevaks* were brought to Ahmedabad. Around 500 people were waiting outside Sola Civil Hospital in Ahmedabad for the charred bodies to arrive from Godhra. By 3.35 a.m. on February 28, a convoy of five trucks led by a pilot Gypsy entered the hospital compound.

5.8. Sloganeering started: '*Kar sevak, amar rabo!*' and '*Hindu ekta zindabad!*' as small bundles carrying the victims' remains were off-loaded onto waiting stretchers. The mood was morose but tears were few. Anger welled in the eyes of bereaved relatives as each bundle – the remains of a Godhra massacre victim – was placed on ice slabs. Vows for vengeance and shouts of '*Jai Shri Ram!*' resounded throughout the hospital compound as a martyrs' honour was accorded to the Godhra victims. "For the nine from Amraiwadi who laid their lives for the country, there will be 90 more to replace. We had gone there for 'yagna' only, yet the *kaifirs* (read Muslims) butchered the devotees. This time we will go and construct the Ram temple," said a waiting VHP man outside the hospital, as reported by the national media.

5.9. The state government and the administration, instead of appealing for restraint and peace, became the agents of a well-planned action against innocent Muslims of the state that was in fact projected as a 'reaction.' The corpses of the unfortunate victims of the Godhra arson were used to launch a statewide pogrom of decimation that has not entirely stopped to date.

5.10. A point to be noted is evidence recorded by the media, of ordinary victims of the Godhra arson, who did not wish to be part of any political project of "vengeance". *The Times of India* (March 3, 2002) quoted Govind Makwana, who lost his son Umakant (22) in the fire that engulfed coach S-6 of the Sabarmati Express. "I am extremely disturbed by what is happening in our area. I had pleaded with folded hands to all who came to my son's cremation to restrain themselves and maintain peace. Killing other people is not a solution. Losing a son is shattering, and I want no father or mother to suffer from this feeling".

6. Was 'Godhra' Allowed to Happen?

6.1. The crucial issue before the entire nation today is why 'Godhra' happened? Who failed in their duty in preventing it?

6.2. Gujarat and indeed the whole country was on red alert due to the aggressive mobilisation by the VHP for building the temple at Ayodhya. In Mumbai, the police made as many as 8,000 preventive arrests in the first week of March, to keep the situation under strict control. In contrast, even *after* Godhra happened, the Gujarat police arrested *only two* persons in Ahmedabad, both of whom were Muslims.

6.3. A noticeable lapse in Godhra and in the anticipation and handling of the violence, was the blatant ignoring of the basic principles of law and order maintenance and governance in Godhra. There was utter and complete failure of law and order maintenance and governance, particularly given the chequered communal history of the town. An investigation into the background of Godhra shows that when disturbances erupted in 1965, the then collector promptly arrested both Muslims and Hindus whose names appeared in FIRs and within a couple of days the disturbances were curbed. Even after the October 1980 disturbances, the then collector, Smt. SK Verma immediately put the miscreants behind bars. If a similar, no-nonsense and non-partisan approach had followed the Godhra incident of February 27, by promptly apprehending the suspected criminals, tension would have been contained. And the chances of a vengeful and highly-organised spree of retaliatory killings that demonstrate every element of ethnic cleansing and genocide, would have been pre-empted. That this did not happen suggests a lack of intent on the part of those in government, to take prompt preventive measures in order to de-escalate the situation. In December 1992, a similar incident of provocation had occurred at Palej near Vadodara, but at that time, the state police cracked down on the Shiv Sainiks who had abused and provoked passengers and residents and thus squashed potential communal trouble within hours.

6.4. At Godhra, there is always one SRP company on duty. One Railway Protection Force contingent is posted on the railway station itself. At the RPF station, there are supposed to be 42 policemen in all. Generally, there are two constables per reserved compartment in a running train. The fact that *kar sevaks* were expected on this route and the fact that Godhra has a fragile communal history were, and are, themselves enough for additional precautionary deployment. Besides, as a district headquarter, Godhra has a police HQ, armed police, a control room, a town police station with eight *chowkies*, all equipped with telephones plus a *taluka* police station. It is the HQ of an SRP battalion, too, and it has a municipal Fire Brigade. All these factors are enough to make any responsible citizen wonder why adequate preventive deployment was absent during the Godhra arson.

6.5. The Tribunal met and recorded the evidence of both the collector and DySP of the Panchmahal district, of which Godhra town is the district headquarter. It is clear from the evidence recorded by us that on February 27, after the Godhra tragedy, though the Rapid Action Force (RAF) was called in, no adequate powers were given to it. Though curfew was declared in Godhra, the RAF men were made to sit in the officers' mess, helpless, unable to do anything. It appears that though the Fire Brigade station is only 5 minutes away from the railway station, it took a while for the fire brigade to reach the torched coach. That day, there were only 3 SRP men on duty; of the 111 GRP (Government Railway Police) officers stationed at Godhra, only 2 or 3 were on duty. Two GRP jawans reached the spot within minutes; it is a matter of serious conjecture why they did not fire shots to disperse the mob.

7. Role of Fanatical Organisations

7.1. Godhra, and the tragic death of 58 passengers through gruesome burning, was picked up and propagated in Gujarat and all over the country by many fanatical organisations connected closely with the ruling BJP in Gujarat. These include the parent *Rahstriya Swayamsevak Sangh*, the *Vishwa Hindu Parishad* and the *Bajrang Dal*.

7.2. A serious and gross misrepresentation of facts was resorted to by these conglomerate organisations in a nationwide bid to create a hysteria over the Godhra tragedy and thus justify the state-sponsored carnage that was allowed to take place.

7.3. Within a fortnight of the statewide carnage, the RSS spokesperson, Shri MG Vaidya described it as the “natural reaction of Hindus” and gave a clean chit to the Modi administration in Gujarat, saying “no government could have controlled the upsurge.” (*The Times of India*, March 16, 2002).

7.4. Worse still, the publications brought out by the RSS and its affiliates spread systematic and sinister misinformation about Godhra. For instance, in two publications brought out by the *Hindu Samvad Kendra*, Ahmedabad, the following ‘facts’ are listed to prove that Godhra was pre-planned:

- ◆ Passengers of a particular religion (read Muslims) were asked to get down at Dahod, the station before Godhra;

- ◆ The patients of a particular community (read Muslims) were discharged from the civil hospital of Godhra one day before February 27; not a single case against anyone from a particular community (read Muslims) was registered on February 27, 2002;

- ◆ Not a single student or a teacher of a particular community (read Muslims) was present in the schools of Godhra on February 27;

- ◆ Another canard that was spread deliberately was that no one from the minorities or the secular parties ever condemned Godhra.

7.5. The Tribunal investigated each of these allegations during its investigation and visit to Godhra. Each one of these reasons, propagated nationwide by these outfits, was patently false and used to generate sympathetic complicity to the gruesome state-sponsored carnage that has taken place. The fact that the district administration at Godhra and elsewhere took *no* initiative to scotch these fabricated stories, being used in the cynical and never-ending cycle of violence, speaks poorly of it and also reveals the state administration’s ineptness in coping with the menace that these organisations represent.

7.6. Among other things, the Tribunal is also in possession of half-a-dozen separate statements published by different Muslim religious leaders, independent persons and opposition parties, outrightly condemning the Godhra incident. Yet, repeatedly, the propaganda was unleashed that neither Muslims nor secularists have ever condemned the Godhra tragedy.

7.7. During the recording of our evidence, senior officials of the administration and police who deposed before the Tribunal on assurance of anonymity expressed concern about the fact that in most *talukas* of Gujarat, CDs and hate pamphlets were circulated by the VHP during March 2002, spreading ill-will, rumours and falsehoods

about the conduct of Muslims. To effectively counter this trend, the administration only had to swoop down on xerox centres that were being used to reproduce bulk copies of such incendiary material.

8. Conclusion

8.1. Though all accounts suggest that there was provocation enough by the *kar sevaks*, nothing can justify the crime of torching 58 persons alive. The guilty need to be brought to book and punished. The tragedy and crime simply need to be placed in the charged and venomous atmosphere that the country and the polity has been held victim to, where sane, rational impulses are being overwhelmed by the politics of rage, revenge and violence.

Patterns of Violence

Introduction

A noticeable feature of the Gujarat carnage is the *distinct and similar patterns* that have emerged from different parts of the state. While some local conditions and socio-economic factors do differentiate the attacks from one place to another, detailed and extensive evidence before the Tribunal points to the overwhelming and sinister similarity behind the attacks that were engineered and launched. This is evident in the manner in which innocent people were quarterised, sometimes sexually violated and killed; in the ammunition used for the gory killings and the arson; in the immediate and long-term preparations for the violence. All these are detailed below:

1. Selective Targeting of Muslims.
2. Brutality and Bestiality of Attacks.
3. Unprecedented Scale and Degree of Violence — Ethnic Cleansing.
4. Looting and Destruction of Property.
5. Military Precision and Planning behind Attacks.
6. Complicity of Civil Society.
7. Role of the RSS/VHP/BD/BJP.
8. Use of Hindu Religious Symbols.
9. Use of Hate Speech and Hate Writing.
10. Mobilisation of Women, Adivasis and Dalits.

1. Selective Targeting of Muslims

1.1. From the extensive evidence recorded by the Tribunal, it is clear that Muslims from all social strata, rich and poor, were the prime targets for the state-sponsored pogrom unleashed all over the state of Gujarat. From cities and towns to villages, be it the question of life, dignity or property, barring few exceptions, Muslims were the sole target. While the targeting of economically better off Muslims was limited to their property, and this damage was vast and extensive (the carnage in Gulberg society, where former MP Ahsan Jafri was specifically targeted, being an exception), the

lower middle class and the working class sector, be it in urban centres or villages, faced attacks on their life, property and dignity. Except in the few cases where some Hindu establishments were targeted (in the immediate vicinity of areas that have been converted into Muslim ghettos), in cities like Ahmedabad and Vadodara, the recent carnage was marked (unlike earlier rounds of violence where sections of both communities were affected) by the selective targeting of Muslim lives, Muslim homes, Muslim business establishments and Muslim properties. Whether it was on the posh CG Road of Ahmedabad, the main streets of Bharuch, Ankleshwar and Vadodara, or the villages of Kheda district or the Panchmahal, small and large farms and properties, homes and shops, only of Muslims were the target of marauding mobs. A potentially gruesome tragedy, where the rampaging mobs nearly set upon and burnt alive 70 children in a Muslim-run orphanage in the city of Bhavnagar, was averted by a conscientious police official loyal to his uniform, is worthy of mention here. For having shown exemplary courage and saving innocent lives, the SP Bhavnagar, Rahul Sharma was 'rewarded' with a summary transfer.

1.2. In most places, Hindu houses amongst Muslim *bastis* had been marked out before the attacks using saffron flags, or pictures of Ram and Hanuman, or with crosses. Evidence before the Tribunal shows that in some places this marking was done a few days before February 27 and which was the ostensible justification for the 'retaliation'. These markings were to avoid inadvertent attacks on Hindu homes and businesses in areas that were targeted later.

There was no damage whatsoever to the Hindu houses so marked. Months later, saffron flags were still aflutter in many villages of Gujarat and it is evident how the attacks and destruction were carried out so that the Hindu houses were not damaged. In some villages, the adjoining Hindu houses were first sawed away from the Muslim houses before the latter were set on fire. Each attack, therefore, took not just extensive planning but also several hours to execute, which further indicates an abdication of responsibility by the police in its failure to come to the rescue of the targeted community.

1.3. From the state wide evidence earlier recorded and placed before us, it is also clear that apart from the lives of Muslims, several symbols of India's composite culture were deliberate targets during the carnage in Gujarat. The *durgahs* (shrines) of Sufi saints that are revered by persons from all communities, especially the oppressed castes, deserve special mention here.

1.4. The other targets of violence were couples who had entered into inter-community marriages. Evidence was specifically placed before us about the shameful stripping, gross sexual abuse and subsequent quartering and killing of Geeta (Mumtazbano), a Hindu woman from Ahmedabad who had married a Muslim man, Salim. The couple was tricked into visiting her family on April 5. They were set upon while travelling on a scooter. Geeta died while Salim survived.

1.5. Violence against mixed couples has become common all over Gujarat and the issue of inter-religious marriage has become part of the hate propaganda against Muslims and those Hindus who enter into or accept such marriages.

2. Brutality and Bestiality of Attacks

2.1. The Tribunal recorded over 1,500 testimonies of eye-witnesses, victims and survivors of the violence from Ahmedabad, Kheda, Mehsana, Himmatnagar, Sabarkantha, Banaskantha, Vadodara, Godhra, Bharuch, Ankleshwar, Patan, Anand, Bhavnagar, Rajkot and elsewhere. This includes the written evidence collected by others and placed before us. The widespread violence that targeted Muslims in urban and rural Gujarat was marked by utter bestiality and brutality. We have recorded evidence from Naroda Patiya in Ahmedabad, as also from witnesses from Kheda, Bharuch, Ankleshwar, Panchmahal, Mehsana, Sabarkantha, Banaskantha and Vadodara, 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* and swords, and *justified* as the legitimate means to self-defence.

2.2. In the attacks all over Gujarat, as recorded before the Tribunal, areas were besieged for 7-8 hours, by mobs of over a few thousand (this varied in different cases but the marked similarity was the scale of the attackers). In all the cases, the leaders of the mobs co-ordinating and supervising the transport of gas cylinders, *trishuls* and *talwars*, chemicals and gelatine sticks have been identified by witnesses and survivors as prominent leaders and elected representatives from the BJP or leaders of the VHP, Bajrang Dal or the RSS. In most cases, there was large-scale mobilisation from local areas; neighbours attacked neighbours even though outsiders were called in to make up the numbers; rapes, too, were carried out by known figures from the village or locality. This, too, was the result of definite planning, intended to terrorise completely and to destroy the faith of the survivors in co-existence or living in neighbourhoods that had been their homes, for centuries in many cases.

2.3. Women and young girls were targeted brutally, as were children. Evidence recorded before us shows how in the macabre dance of death, human beings were quartered and the killing protracted while the terrorised survivors looked on; the persons targeted were dragged or paraded naked through the neighbourhood; victims were urinated upon, before being finally cut to pieces and burnt. Hundreds of testimonies before us show how this manner and method of killing has left an indelible imprint on the minds of the survivors, who saw their near and loved ones killed and, that too, in such a fashion. These are images that have the potential to haunt, traumatise and enrage the survivors. In the case of the now well-known Gulberg society, where former MP Ahsan Jafri was killed along with 60 others (estimate of independent sources), after the housing colony was set upon, the massacre orchestrated, and the survivors had finally managed to escape in the evening, the skulls of those killed were used by some in the neighbourhood to play cricket with. (*See section on Incidents of Violence, Volume I*). It would be relevant here to record that whether it was the killings at Naroda Gaon, Naroda Patiya or Gulberg society in Chamanpura, Ahmedabad, Ode in Anand district, Visnagar, Kadi, Sardarpura or Kidiad in Mehsana district, in

Pandharwada, or on the highways of Panchmahal district, or in scores of other places where lives of persons were taken, the killings were effected in a bestial fashion, suggesting systematic training aimed at the demonisation of Muslims and their subsequent terrorising.

2.4. Muslim men, women and children were killed by stabbing, in private or police firing, or by burning them alive. Evidence before the Tribunal shows that the burning alive of victims was widespread. This is not accidental. For the victim community, Muslims, who bury their dead, the killing by burning was meant to annihilate as also to terrorise and establish dominance over the entire community. When 6-year-old Irfan asked for water, his assailants at Naroda Patiya made him forcibly drink kerosene, or some other inflammable liquid, before a lit match was thrown inside his gullet to make him explode within. Such brutality, which was encouraged or condoned by the government in power, is now cynically being denied.

2.5. Bodies of victims were dismembered in a merciless fashion before they were finally killed. Women and children were especially subject to this; women were not just raped but all kinds of objects and instruments were brutally inserted into their bodies. There were instances where young children, even infants, were hoisted on swords or *trishuls* before being flung into flames.

3. Unprecedented Scale and Degree of Violence – Ethnic Cleansing

3.1. The Tribunal recorded evidence from more than 16 districts of Gujarat. From the evidence placed before us it is clear that starting from February 28, within the first 72 hours, even as Shri Modi claimed the situation to be under control, there was unprecedented loss of life and property. Thereafter, violence continued in 3-4 distinct stages right up to mid-May. Even the hearings of the Tribunal in the first half of May were preceded by warnings to call off the Tribunal. We, too, had to ask for state security.

3.2. To cause the maximum possible damage swiftly and comprehensively, a powdery-white chemical was widely used, which not only burnt human beings to the bone, but even cement houses were completely burnt down. From Vatwa to Gulberg society in Chamanpura, Ahmedabad, to far-flung district-places like Ode, Sardarpura and parts of Vadodara, we have recorded evidence of the use of this powdery-white chemical. When Tribunal members visited Gulberg society on May 5, the compound of the society was littered with small bottles with remnants of a whitish powder inside. From Vatwa we collected not only evidence of use of this powder but also ingenious electrical wiring to ensure that all 65 homes of the Vohra Muslim Burhani society caught fire almost simultaneously. During our visit to Ankleshwar, a few days later, we recorded testimonies of many victims who said that in the attacks in that district, gelatine sticks of the kind used in mining operations were widely used. The premeditated and meticulously planned attacks were obviously intended to ensure that the targeted homes and business establishments of the minority were reduced to bare shells. A noticeable pattern in the attacks on rural farms was the total destruction of bore-wells in such a way that it left no scope for repair of the device. The scale of the

economic loss suffered by Muslims in the villages can be gauged from the fact that each bore-well costs not less than Rs. 50,000; it can even go up to Rs 1.25 lakhs.

Evidence before the Tribunal shows that, guided by leaders, the trained mobs first sprinkled the targeted buildings with fuel drawn from *kerbas* (large cans/barrels), or even a tanker in some cases, followed by a spray of acid. Immediately thereafter, a gas cylinder brought along by the mobs was unsealed and tossed into the flame. The result was a deadly explosion that ripped buildings apart and killed a large number of persons on the spot. The complete destruction of the Noorani Masjid at Naroda Patiya at around 9.30 a.m. on February 28 was probably the first among the large number of such deadly assaults launched across the state using gas cylinders and acid.

3.3. Across Gujarat, over 1,100 Muslim-owned hotels, the homes of not less than 1,00,000 families, over 15,000 small and big business establishments, around 3,000 *larri gallas* (handcarts), and over 5,000 vehicles (private cars, trucks, taxis, autorickshaws) were badly damaged or completely destroyed in the attacks. These figures, arrived at by the Tribunal through the voluminous evidence presented before us indicate the attempt to economically cripple a community on a scale unprecedented in the post-independence history of communal violence in the country.

4. Looting and Destruction of Property

4.1. The destruction of property across Gujarat, in the most affected cities of Ahmedabad and Vadodara, as also elsewhere, was thorough and precise. The extensive evidence before the Tribunal shows that this, too, was part of the pattern and the planning behind the attacks; to devastate and completely destroy the property of the targeted Muslim section. The Tribunal has photographs and written and oral evidence that shows how even RCC slabs of homes and shops caved in because of the intensity of the chemically-fuelled fires. As significant is the fact that every single Muslim household and business establishment was looted before being reduced to an empty shell. There are instances where, at the more affluent shops located on the main roads in Ahmedabad or Bharuch, the middle and affluent classes among Hindus, women and girls noticeably, were seen looting choice collections from a boutique or shop before it was completely destroyed. Whether it was household articles painfully collected by the working classes, or dowries that were carefully amassed over the years for girls to be married, the marauding mobs made sure that no recovery was possible and that to rebuild their lives, the affected families would, literally, have to begin from scratch. This was evident all over, whether in the Panchmahal, Himmatnagar, Mehsana, Sabarkantha, Chhotaudaipur, Anand and Kheda or in the cities of Vadodara and Ahmedabad.

4.2. Most of the attacks in the first round of violence began on the morning of February 28, or on March 1, the day of the Bharat *bandh*. On day one of the murder and loot, brutal state wide killings were conducted with precision. Apart from that, in cities and in far-flung rural areas, evidence shows that the attacks were on the houses and business establishments of the Muslim community, which were either in Hindu dominated areas like market-places or on the outskirts of villages. This was almost

like a prelude or 'warm-up' activity for what was to follow. In most places, the attacks started in the afternoon, driving Muslims out of their homes. From March 1-3, in all the affected villages, Muslims were forced to flee their homes taking nothing with them. In the villages, people first tried to gather in the local mosque or in the few concrete houses that belonged to better-off Muslims. When these were also attacked, they had to flee in some available vehicles or on foot. Trees were felled to block roads and obstruct Muslims trying to escape from the frenzied, armed mob. The way in which large masses of victimised Muslims were terrorised and made to flee is despicable in a society where democracy and secularism is said to be the norm. Although in a large number of cases, people managed to escape from their villages and reach safer places, many were chased, caught, killed, and sometimes even dismembered and completely burnt. Women were stripped naked and repeatedly sexually assaulted by mobs. In many cases, the dead bodies have not been found.

4.3. Once the Muslims fled from their villages, mobs looted and then burnt their houses and shops at leisure. In many villages, houses were being torched until as late as March 10-13, and, in some instances, even later. In every structure targeted, be it a house or a shop, doors, windows, window frames, grills, electric wiring, water pipes, taps, switch-boards, electric meters, all movable property, even roofs, went missing. There were traces of the chemical powders used even when Tribunal members visited these villages two months after the crime. Every place was burnt completely. In some places, even walls have been broken down. Elsewhere, only burnt, bare walls remained. The dwellings looked as though they had been bombed. Even bore-wells were totally damaged or blocked. Every single tree, including all fruit-bearing trees, was cut down. The marauders made sure there was no sign of life left anywhere. In most places, the looting and the destruction of property went on for days after the people had run away from their villages. Victims deposed that many of their goods can still be found in the homes of their Hindu neighbours but no attempt has been made by the state to look for them and book the culprits.

4.4. The evidence recorded before the Tribunal shows that, while Godhra provided the pretext, there was prior mobilisation of men and materials, and an organisation in place that made possible the systematic and calculated preparations that preceded many of the massacres. The mass use of gas cylinders in Ahmedabad and many other places, even while there was a shortage a fortnight before, the training needed to torch the fire-proof showroom of Harsoliya Motors (Sabarkantha), the selection of the kind of blasting devices and detonators needed to destroy Muslim-owned factories and establishments in the GIDC area in Modasa (Sabarkantha) or Vatwa (Ahmedabad), while the areas were under curfew between March 1-3; they all suggest detailed military-style pre-planning.

4.5. *Take Over of Agricultural Holdings Owned By Muslims.* The Tribunal has received evidence from across the state of Gujarat that a *deliberate motive* behind driving Muslims out of villages where they have lived for centuries, and where an economic and social boycott is even today being carried out, is to surreptitiously and illegally take over landholdings held by them.

5. Military Precision and Planning behind Attacks

5.1. *How the operations were executed:* Large mobs running into thousands were led by well-known elected representatives from the BJP, leaders of the VHP, Bajrang Dal and RSS and even cabinet ministers. From the evidence before us, it is clear that these leaders (see sections on Incidents of Violence, Volume I and List of Accused, Volume II) quite often carried computer printouts of the names and addresses of Muslims homes and shops. Field operations were co-ordinated by a central command using mobile phones.

5.2. *The formation of arson battalions:* The evidence before the Tribunal clearly points to scores of key actors leading large mobs, fully aware of what they had to do and achieving their task with precision. This suggests the existence of a private, trained militia running into thousands in Gujarat. A militia, moreover, established and made fighting fit through training camps, distribution of weaponry and hate propaganda glorifying violence. Weapons used in attacks, such as swords, were of the same brand, and must obviously have been distributed in advance across large tracts of the state. The deployment in many of the attacks of large tempos or trucks, full of hired hooligans, some local and others from UP, MP or Maharashtra, identified as such because they spoke in Hindi or Marathi, is a worrying indicator of the scale and reach of these underground operations. Village-level evidence points to hired mobs, where the hooligans were equipped with *trishuls*, iron rods and swords, carrying supplies of water, salted beans and peanuts and liquor pouches and paid Rs. 500 per day or Rs.1,000 per night. The slogans shouted by the drunken mobs included, "*Hindu baccha Ram ka, Musalman baccha haram ka!*" ("Hindus are children of Lord Ram, Muslims are bastards!") and "*Jai Shri Ram!*"

5.3. *Profile of the assailants:* The leadership of large mobs running into thousands was provided by easily identifiable elected representatives of the BJP (including cabinet ministers), and others from the VHP, the Bajrang Dal and the RSS. From the evidence before us, it is clear that these leaders were carrying computerised sheets containing people's names and addresses. Houses were marked off community-wise. Evidence regarding surveys collected in advance and details obtained through revenue and sales tax records, apart from electoral rolls, was placed before the Tribunal.. The mobs, arriving in vehicles such as trucks, Tata Sumos, tempos, jeeps and Maruti vans, were led and directed by local Hindu leaders belonging to the *sangh parivar*. Leaders, who used mobile phones while the attacks were being carried out, have been named by Muslim survivors in the complaints sent to the police by registered post or in the FIRs recorded.

5.4. The second rung comprised of the chief executioners who wielded all the weapons — guns, *trishuls*, swords — and handled arsenals and supplies — petrol, diesel, kerosene, chemicals and gas cylinders — for starting fires. They moved around in vehicles loaded with chemicals and weapons. This was the group primarily responsible for the brutal killings, sexual assaults and other abuses. Muslim survivors from many villages told the Tribunal that these aggressors carried identical backpacks filled

with pouches of chemicals. The planning was so elaborate that a particular group of people had been assigned only the task of loading guns.

The third group was mainly involved in looting property from the houses and shops. In some of the tribal areas, this group consisted of Adivasis. In some villages, people said that not all of those who came in the mob spoke Gujarati. Some of them were also speaking in Marathi and Hindi.

5.5. *A well-financed operation:* Money, in several instances, was an added factor in mobilising mobs. The Tribunal has recorded the evidence of four witnesses who attended training camps conducted by the VHP and the BD, often inside local temples. Swords and *trisbuls* were sold to those attending. They were indoctrinated into being prepared at all times to attack Muslims and assured that if someone lost his life performing his 'duty', his dependants would be paid an adequate sum of money; one witness said that a few lakhs was promised as compensation. The propaganda and the indoctrination created fanatics who were comforted by the assurance that, were something to happen to them, their family members would be well looked after. In many villages in Vadodara rural, Panchmahal and Dahod districts, monetary incentives and liquor were offered to Adivasis to kill Muslims. Three witnesses from Mora told the Tribunal that two Sindhis from Godhra had come to Mora on the night of February 28, offering money and liquor as inducement to attack Muslims and this helped in assembling mobs. They also held meetings in other areas like Methral and Suliath to plan attacks.

5.6. Such access to resources raises the critical question as to *who funded these operations* and from where such huge resources had come from. From the evidence of expert witnesses and victims recorded before the Tribunal, it is clear that groups like the RSS, the VHP and the BD have access to large sums.

5.7. The state *bandh* on February 28, and the Bharat *bandh* on March 1 — both called by the VHP/BD and supported by the state BJP and the chief minister himself — helped in the killing, loot and destruction. The fear created by aggressive sloganeering and posturing, the deathly silence and empty streets helped the trained militia to carry out their jobs with ease, unhindered by the state police.

6. Complicity of Civil Society

6.1. With their relentless hate campaign, the masterminds of the violence ensured such complicity from civil society in their murderous deeds, that there were very few instances of members of the majority community coming out to protect Muslims. This complicity was due to the following factors.

6.2. Lack of remorse: The visible *lack of remorse* among a large section of the Hindu educated middle-class, about the enormous human tragedy that affected such large numbers of people in the state, is a disturbing feature of the violence in Gujarat. This situation is quite unlike that in other communal riots, where this social segment played a role in the restoration of peace. In many Hindu middle-class localities, Hindus who had social relationships with their Muslim neighbours, gave encouragement and shel-

ter to attackers. The reality that many of these attackers were lumpen elements, of whom they would normally be fearful, did not seem to disturb them. There was enthusiastic participation of middle-class Hindus in the looting of shops. Right from the beginning of the violence, statements like, ‘a lesson needed to be taught’ and other justifications of the violence were often heard from middle-class Hindus, ranging from university teachers to petty businessmen. It is almost as if the affected people are the antagonistic ‘other’, beyond the pale of human ethics and morality. There is an eerie silence in which victims of the carnage appear to have been rendered invisible.

6.3. *Fear and terror generated by threats and hate speech:* The Tribunal has recorded evidence that clearly shows how Hindus who sheltered and supported affected Muslim families were threatened and abused. A witness as highly placed as Shri Piyush Desai, CMD, Wagh Bakri Chai, and a corporate leader belonging to the majority community, took the lead in organising relief and mobilising men from the trading and business groups to initiate reconciliatory measures. Even on the day he deposed before the Tribunal, May 5, Shri Desai was threatened by local VHP-BD goons and asked to stop his activities. If a man as highly placed as him could be so threatened, imagine an ordinary citizen or a family wanting to help his/her neighbour. Even retired High Court judges and lawyers did not have the courage to come out openly against the goons, for they, too, felt unsafe.

6.4. *Tirades against peace initiatives, secularists:* In their public exhortations and speeches, hate pamphlets and articles published in blatantly communal newspapers like *Sandesh*, and mouthpieces like *Hindu Vision* and *Hotline*, top level state functionaries in Gujarat and their minions, have specifically targeted the small number of men and women from Gujarat and outside, who have stood out at this moment of crisis, speaking for sanity and reason, and against hatred.

6.5. Among those singled out for slander, abuse and threat were senior journalists Shri Batuk Vora and Shri Digant Oza from Ahmedabad, social activists Shri Rohit Prajapati, Smt. Trupti Shah and Shri Jussar Bandukwala from Vadodara, *Star News*’ political editor Shri Rajdeep Sardesai and co-editor *Communalism Combat*, Smt. Teesta Setalvad. In early April, danseuse Su. Mrinalini Sarabhai was targeted simply because she took a serious initiative for peace in Ahmedabad. On June 11, Shri Modi stated, “Those journalists who cover Gujarat... may meet the fate of Daniel Pearl... Cover communal riots at your own risk, look at Daniel Pearl.” This is nothing short of threat and intimidation, an utterance unworthy of the post of a chief political executive.

6.6. In this context, the Tribunal pays tribute to each one of the witnesses — from Ahmedabad and Vadodara as much as from far-flung towns and villages, in Sabarkantha, Mehsana, Himmatnagar, Bharuch, Ankleshwar, and Dahod — who ignored serious threats and deposed before us in their quest for justice. The Tribunal hopes that this report lives up to the expectation of the survivors who deposed before it in the belief that this would be helpful in their search for justice.

6.7. *Deep polarisation within Gujarat society:* The proliferation of outfits like the RSS, the VHP and the Bajrang Dal, and their sustained and unchecked hate propaganda

has, unfortunately, succeeded in creating a sharp polarisation particularly in urban, middle-class Gujarati society. Local newspapers, particularly *Sandesh*, added to the stereotyping of the Muslim community as anti-national and terrorist. From the testimonies of the survivors before various fact-finding teams, and the FIRs lodged by them, it is evident that throughout Gujarat, while the carnage was masterminded by the *Sangh Parivar* and its paid hirelings, in numerous cases, Hindu neighbours, too, actively participated in the attacks on Muslims. However, in as many instances, victims categorically stated that the violence was the work of outsiders.

7. Role of the RSS/VHP/BD/BJP

7.1. The public exhortations to and celebrations of violence by the *Sangh Parivar* leadership against Muslims and Christians in recent years, and especially during the build up to the proposed start of the construction of the Ram temple in Ayodhya on March 15, and during and after the carnage in Gujarat, is evident from their published statements that were placed before the Tribunal. (see *Annexures, Hate Speech, Hate Writing, Volume I, and chapter, Preparation for Violence: Hate Speech and Hate Writing, Volume II*). That these were not mere exhortations is apparent from the direct participation in and leadership provided by many of these very people during the carnage.

8. Use of Hindu Religious Symbols

8.1. Among the clear patterns that emerge from the state wide violence in Gujarat, is the widespread use of upper caste Hindu symbols: *fire*, to kill and burn; *trishuls*, as weapons of assault; '*Hulladiya Hanuman*' (literally, 'Riot Hanuman') idols, to symbolise conquest over Muslim places of worship. The ethnic cleansing was premeditated and the plan had been worked out to the last detail. The slogan, '*Jai Shri Ram!*' was scrawled on the external walls of Hindu houses and shops, so that Muslim premises could be easily identified at the time of attack.

8.2. Other Hindu religious symbols that were extensively used during the violence included the following: shouting of '*Jai Sri Ram!*' as a battle-cry by marauding mobs and politicians of the ruling party; forcing Muslims to chant, '*Jai Sri Ram!*' or '*Sabse Bada Hanuman!*'; projection of the Godhra victims as 'martyrs' in the cause of Hinduism; aggressive and loud *bhajan* singing (especially on March 15, the day chosen by the VHP for *shiladan* in Ayodhya, but also before and after); public recitations of the *Hanuman Chalisa* organised by those involved in looting and arson (as in Tarsali).

8.3. Shrines, mosques and *madrassas*, several of them dating back to Gaikwadi and even earlier times, were damaged in the violence. In several cases of attacks on mosques, copies of the Koran was vandalised or burnt (Naroda Gaon and Patiya, Paldi, Ahmedabad, Vadodara, Raja Rani Talav, Kisanwadi, Navayard and Raghovpura village, Tarsali). Books, furniture and other items in mosques and *durgahs* were damaged or burnt. The installation of '*Hulladiya Hanuman*' was evident in many religious places that were attacked or destroyed. Temples were quickly constructed on destroyed Muslim property. In Sama, for example, on February 28, poultry shops were

destroyed and a Hanuman temple was quickly raised at the same place. By the evening of March 2, *artis* were being held, with *bhajans* blaring over loudspeakers and *prasad* distributed. A 'Hulladiya' Ganpati was installed at the damaged Shenshani *dargah* on Waghodia Road. In Navayard, a mob attempted to install a Hanuman idol in a garage belonging to a Muslim.

9. Use of Hate Speech and Hate Writing

9.1. Widespread hate propaganda was conducted through pamphlets distributed by Hindu communal organisations in different areas in large numbers. The content of these included calls for the social and economic boycott of Muslims, warnings about Muslims constituting a danger to the survival of Hindus, urging Hindus to awaken and to decimate and drive Muslims out from India. (*See chapter, Preparation for Violence: Hate Speech and Hate Writing, Volume II*).

9.2. Much of the local media played a reprehensibly partisan and inflammatory role right from February 28 onwards. Local political leaders used the electronic media in the most despicable manner. The intentions of leaders belonging to the ruling party and their affiliates becomes very clear if one examines the speeches on local TV channels like *JTV*, *Deep* and *VNM*. For example, inflammatory speeches by certain leaders on local cable news channels on March 15, after the Machchipith incident in Vadodara, prompted combing operations by the police. Despite several appeals to the administration requesting action against particularly offensive local news channels, the police commissioner only acted in the last week of March, by filing FIRs, ironically, against two of the relatively less provocative channels.

9.3. It would be no exaggeration to state that the local press, particularly *Sandesh* and *Gujarat Samachar* (the former with greater impunity) was party to fuelling communal tension in the state through sensationalised, provocative, and, at times, highly inflammatory reporting. *Sandesh*, for example, carried the headline on February 28: 'Around 10 Hindu girls pulled out of the railway carriage by a group of religious fanatics' even though the report that followed merely said this was a rumour. (*See section on Role of Media, Volume II*). Had these newspapers played a more sober and responsible role, allaying rather than preying on the fears of people (particularly those belonging to the majority community), they could, perhaps, have contributed to defusing tension and restoring peace in the state.

9.4. Hate propaganda: There are numerous examples of motivated and false propaganda used to fuel local passions leading to violence against Muslims. (*See section on Incidents of Violence, Volume I*). One example bears mention here. Shri Dalsukh Maharaj of Sanjeli, mobilised a mammoth crowd of 30-35,000 people, mostly Adivasis, some of whom had gathered for a wedding, to slaughter local Muslims and to burn and loot their houses. Baseless propaganda about the abduction of Adivasi women by Muslim men, giving communal colour to the prevalent exploitation of Adivasis by all traders to paint a picture of the Muslims as 'exploiters', were some of the strategies behind *Hindutva*'s mobilisation among Bhils and other tribals. Similarly, the sustained propa-

gation of myths and falsehoods such as, ‘Alarming increase in Muslim population’, ‘Hindu women being violated by Muslims’, ‘More Hindus than Muslims killed in all earlier riots’, ‘Muslims collecting weapons to attack Hindus’, were used throughout Gujarat to generate widespread hostility against Muslims.

9.5. A top district-level official who deposed before the Tribunal provided evidence of distribution of CDs and pamphlets among Adivasis and others in Panchmahal, that contained blatant falsehoods about Muslims. The administration had to crack down on recording and video parlours and photocopy shops engaged in this nasty business.

9.6. Muslim refugees from Pandharwada (Panchmahal), Randhikpur (Dahod), Sanjeli (Dahod), Por (Gandhinagar), Rajpardi (Bharuch), Unjha, Dasaj (Mehsana) and several other areas reported the steady build-up of anti-Muslim propaganda through meetings, leaflets, etc. over the last decade and, more intensively, in the last few years. ‘Kodar Doctor’, one of the chief accused in the Pandharwada violence, would tell Muslim villagers that Pandharwada was the land of the five Pandavas where Muslims were not wanted; they were repeatedly told to go away to Pakistan.

10. Mobilisation of Women, Adivasis and Dalits

10.1. *Adivasis:* The systematic organisation of tribals by the *Sangh Parivar* and attacks on Christian missionaries working among the former has been common in western and central India in recent years. Evidence before the Tribunal shows how determinedly the *Sangh Parivar* had been organising Adivasis over the past few years and how this work had intensified a few months prior to the violence.

10.2. The Sewa Bharti sponsored a Hindu Sangam in the Jhabua district of Madhya Pradesh on January 17 and 18, 2002. The Sewa Bharti, which is an outfit of the Rashtriya Swayam Sewak Sangh (RSS), had been carried out a drive to install idols of Lord Hanuman in the homes of “Hindu tribals” in Jhabua district in the three months from November 2001 onwards. The RSS chief, K Sudershan, and Sadhvi Rithambara had addressed this gathering.

10.3. The mass mobilisation of tribals by the RSS at Jhabua in MP — a gathering of 1,50,000 that was addressed by RSS chief, KS Sudarshan — was an occasion when many utterances were made to relatively innocent tribals, and which the Tribunal views as a deliberate attempt at communalising them. Poisoning the minds of tribals against the minorities and drawing them into the intolerant *Hindutva* fold, seemed to be the agenda here.

10.4. In the tribal dominated districts of Panchmahal, Banaskantha and Sabarkantha, the landscape presents a profusion of saffron flags aflutter over freshly painted, well maintained temples. This is clear evidence of the growing political presence of these forces in the tribal regions.

10.5. The incitement of tribal communities, and the targeting of Muslims in rural areas, is a disturbing feature of the recent violence in Gujarat. Violence spread to rural areas by March 3. In August 2000, too, when the international general secretary of the VHP, Shri Praveen Togadia, exhorted cadres of the *Sangh Parivar* to avenge the

deaths of Amarnath pilgrims in Kashmir, — ‘*Waban Ka Jawaab Yaban Denge*’ (‘Kashmir will be avenged in Gujarat’) — there was widespread destruction of Muslim properties in tribal areas like Lambadiya and Khed Brahma.

10.6. This time, there is clear evidence that Adivasis were incited by Hindu communal organisations to attack Muslim houses and property in Vadodara, Banaskantha and Sabarkantha districts. Terror was created by stoning, spreading rumours and killing animals, followed by mob attacks, which forced Muslims to flee. This was followed by the looting of houses, which included carrying away their animals, such as goats, (or killing them by running them over with vehicles), and, finally, burning, smashing and breaking whatever was left in or around the houses. In many cases, victims fled to nearby fields. In Sokhada village, all the Muslim residents hid in the fields at night, watching their homes being looted and burnt. However, Adivasi involvement in killings and rape seems to have been the exception rather than the rule.

10.7. While this was a discernible and disturbing trend in many parts of Gujarat, especially sections of Panchmahal, Sabarkantha and Dahod, where the direct political influence of the RSS/VHP/BD had spread, in other pockets *adivasis* and Dalits rose in defence of Muslims: Rabaris in some villages of Panchmahal actually prevented a massacre and the Tribunal has examples of Dalits, too, in rural areas who sheltered Muslims for days before they could escape. Often this was at great risk to their lives.

10.8. Dalits: Dalits and members of the denotified tribes like Waghris and Charas were active in the violence in urban areas, especially in the more gruesome instances of rape, killing and bestiality. The tragedy behind this pattern lies in the fact that influential and dominant sections of caste Hindu society have driven a wedge among the oppressed sections, pitting Dalits, Waghris and Charas against the Muslim minority. In urban Gujarat, especially Ahmedabad, Dalits and Muslims live in close proximity. The lower castes were cynically trained to indulge in violence of a kind that dehumanises the perpetrators themselves. The Tribunal has recorded evidence to show that, especially in the past two years, in Gujarat, the Bajrang Dal paid salaries of Rs. 3-5,000 a month, to lure unemployed Dalit youth to camps where indoctrination against Muslims and arms training were the main activities.

10.9. Women: Women, especially from the affluent classes of Hindu society, were visible participants in the violence; in some cases, they even led the assaults and instigated Hindu men to commit sexual crimes against Muslim women. Examples of this are the BJP’s elected representatives, namely, Su. Maya Kotdani and Su. Amita Patel, who guided marauding mobs that indulged in the most vile forms of violence at Naroda Gaon and Naroda Patiya. Or the large number of women and young girls from elite sections of Ahmedabad who came in their cars to loot from the shops on CG Road. The Durga Vahini, the militant women’s outfit affiliated to the RSS/VHP/BD, which gives arms training to women, has a significant presence in Gujarat. Sadhvi Rithambara, the fire-breathing priestess of the VHP who played a major role in whipping up mass frenzy in the build-up to December 6, 1992 and the countrywide violence that followed, is very popular in the state of Gujarat.

10.10. Communal violence spread to new areas: Unlike in the earlier riots of 1969, 1985 and 1992, which were largely restricted to ‘traditionally riot-prone’ areas, new areas were affected this time. Areas where people have co-existed peacefully for generations have been targets of violence, e.g., Pira Mita and Fatehgunj. This trend began in 1992, when Surat, a city which had, until then, remained unaffected by the communal virus, was first racked by large-scale violence including gang rapes of Muslim women. Elected representatives and persons associated with the ruling party have played a key role in spreading violence to peaceful areas. Municipal councillors have challenged colleagues from relatively unaffected areas and implied a lack of *mardangi* (manliness), because there was no destruction or killing in those areas. MLAs of the ruling party, in Anand district, even sent bangles to villages that maintained peace. Similar cases were reported from other parts of Gujarat, where local leaders from the more peaceful districts were sent bangles to denote a lack of manliness.

10.11. The violence affected not only Muslims but poor Hindus as well, because of loss of livelihood, and in many cases, the burning of their homes. Poor and Dalit women have complained to citizens’ fact-finding teams of harassment and sexual abuse by the police during curfew.

11. Preparation for violence – Immediate and Long Term:

11.1. The Tribunal recorded extensive evidence on the systematic pre-planning and preparations that also explain the military precision with which the violence was led and its devastating consequences for the state’s Muslims. The evidence that was put before the Tribunal is dealt with in a separate section (*see chapter Preparations for Violence, Volume II*). Suffice it to say here that meetings, training camps and other forms of mass mobilisation were all part of the planning and preparation for the ensuing violence.

11.2. 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.

11.3. Shri Faiz Mohammad Ahmadbhai told the Tribunal that people from 50-60 neighbouring villages came for the meeting held at Ayodhya Chowk in Pandharwada only a fortnight before the fatal attack on Muslims. Nearly 300 to 400 people from nearby villages, men and women, had collected at the meeting. They included VHP leaders, *sadhus* and others. The entire meeting was broadcast on loudspeakers provided by Shri Anil Modi. According to Shri Ahmadbhai, one leader said, “There were 2-3 households of Muslims earlier, now they have 100-125 houses. The Muslim population is increasing. We must do something now. We have no arms. In Muslim houses

there are arms ready for use. We must prepare to fight them.” Shri Kantibhai Ambalal Pandya, the principal of Shri KM Doshi High School, who chaired the meeting said, “We must give serious thought to what the speakers have said today; and we must prepare ourselves so that we confront them... The Muslims don’t believe in family planning so their population increases. Let us also also increase our population ...”

11.4. In almost all the affected villages, meetings were held on the evening of February 27 or on February 28 to plan the attacks. Some of the villages where such meetings were held are Leach (Mehsana), Motera (Gandhinagar), Prantij (Sabarkantha) and Sanjeli (Dahod). In some villages, these meetings were described as ‘*Shanti Samiti*’ (‘Peace Committee’) meetings, but, curiously, as in the case of Sanjeli (Dahod), participants in these so-called ‘Peace Committee’ meetings led the attacks the following day. In Piplod (Dahod), the attack was launched at 4 p.m. on February 28, soon after a four-hour-long meeting in the town, destroying the handful of Muslim houses in the area.

11.5. It was only due to such organisation and pre-planning that mobs as large as 7-10,000 or more could be so quickly mobilised, not only in a large city like Ahmedabad but also in the rural areas of Gujarat.

11.6. Evidence before the Tribunal also reveals there were many cases where the Muslims fled the villages before the attacks, thanks to their being alerted in time by their peace loving Hindu neighbours. This was true especially in Bharuch, Ankleshwar and Sabarkantha districts and in parts of Panchmahal.

11.7. On the strength of the extensive evidence placed before the Tribunal, it is led to the conclusion that the Gujarat carnage has its roots in the sustained anti-Muslim mobilisation by the *Sangh Parivar*, among specific social groups. In the face of all the evidence of prior planning, the ‘*pratikriya*’ (‘spontaneous reaction’) explanation for the post-Godhra violence touted by officials and political leaders is hopelessly inadequate, to say the least.

Violence Against Women

1.1. A distinct, tragic and ghastly feature of the state sponsored carnage unleashed against a section of the population, the Muslim minority in Gujarat, was the systematic sexual violence unleashed against young girls and women. Rape was used as an instrument for the subjugation and humiliation of a community. A chilling technique, absent in pogroms unleashed hitherto but very much in evidence this time in a large number of cases, was the deliberate destruction of evidence. Barring a few, in most instances of sexual violence, the women victims were stripped and paraded naked, then gang-raped, and thereafter quartered and burnt beyond recognition.

1.2. In one of the fallouts of the hatred unleashed by the *rath yatra* led by Shri LK Advani for the *Ramjanmabhoomi* and following the demolition of the Babri Masjid in Ayodhya, on the night of December 8-9, 1992, a predominantly Muslim *basti* in Surat was subjected to a concerted attack, during which at least one dozen women were gang raped by *trishul*-carrying mobs. Even a Hindu woman, also a resident of the same locality, was not spared. In the pogroms unleashed under the directive of Shiv Sena supreme, Shri Bal Thackeray in Bombay in January 1993, too, at least three cases of communally-driven rapes have been documented, both in the *People's Verdict* (report of a Citizens Tribunal headed by Justice SM Daud and Justice Hosbet Suresh, both retired judges of the Bombay High Court) and in the report of the officially appointed Justice BN Shrikrishna Commission of Inquiry.

1.3. Even during the horrors of violence unleashed during Partition, driven to a frenzy of hatred, Hindu, Muslim and Sikh mobs used rape as a form of subjugation and humiliation of the 'other community'.

1.4. While the large number of cases of sexual violence perpetrated during the statewide carnage in Gujarat is shocking, the trivial and dismissive manner in which this chilling pattern evidenced all over the state was dealt with by the CM and his cabinet, the authorities as a whole in Gujarat and, worst of all, by ministers in the government of India, make it doubly so.

1.5. The Tribunal notes with concern and outrage the shocking remarks made by the union defence minister, Shri George Fernandes on the floor of the Lok Sabha

during the debate on the Gujarat carnage. He said, “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.” Such things, Shri Fernandes said, have been happening for 54 years in India and happened even on the streets of New Delhi in 1984. (Lok Sabha debate on Gujarat, April 30, 2002, reported on May 1 in *The Hindu*, *The Indian Express*, the *Deccan Herald* and *The Times of India*.)

1.6. The Tribunal recorded with pain the statements of women from all over Gujarat who had either themselves been subject to sexual violence or were direct witness to it. Many of the over 33,000 children forced to live as refugees in relief camps throughout the state were also witness to the most debased and brutal forms of violence. They were mute witnesses to gross gender crimes perpetrated on their near and dear ones — sisters, mothers, aunts and even grandmothers — with gory and military precision, evidence of some sick minds and a vicious ideology. The Tribunal shudders to think of the impact of this on young and impressionable minds.

1.7. Women victims of the carnage from Saijpur Patia, Naroda, Chamanpura, Behrampura, Danilimda, Gomtipur, Vatwa, Narol, Shah-e-Alam, Millatnagar and Bapunagar in Ahmedabad city deposed before us. Not only had they been victims of violence that took the lives of their near and dear ones, their dignity was made a special target and their homes and belongings, collected painfully over the years, were looted and then destroyed. They have been forced to become refugees in their own homeland.

1.8. In Saijpur Patia, Naroda, on February 28, a mob of around 25,000 surrounded the Muslim areas at nine in the morning. They instigated the attacks by pelting stones at the residents — working class Muslims who had been living there for over 60 years — throwing acid and petrol bombs at them. Thereafter, they forcefully entered the lanes, shouting slogans against Muslims, implying that they are terrorists and that they should not be allowed to live in this country. They were also shouting the slogan, ‘*Jai Shri Ram!*’. The mobs were armed with sharp swords, spears, tridents, chemicals, petrol cans, kerosene and private firearms. Residents tried to defend themselves and their homes with the available stones but could not do so for long. The mob then went on a rampage, looting and burning houses. They then started killing people, first cutting them up with swords and then burning them saying, “We will even spoil your deaths.” Evidently, this was not spontaneous, but a premeditated attack meant to subjugate or even obliterate a whole community. Muslims do not burn their dead, they bury them. The widespread use of arson and burning was part of a methodology to annihilate a community’s culture and beliefs.

1.9. When the residents of Saijpur Patia, Naroda, tried to escape, they were subjected to the mass rapes of their sisters, wives, mothers and daughters. The helpless men — brothers, sons, fathers and husbands — were first humiliated and then killed.

1.10. The police, instead of firing on the assailants and protecting lives, misdirected the terrorised people and lead them towards armed mobs waiting for assault. Those who ran in the direction indicated by the police are no longer alive.

1.11. According to the evidence recorded by the Tribunal, the leaders of the mobs (many of whom have been identified) even raped young girls, some as young as 11-

years-old. The young girls were made to remove their clothes in front of 1,000–2,000 strong mobs who humiliated and terrorised the girls. Thereafter, they were raped by 8–10 men. After raping them, the attackers inserted sharp swords, knives or hard objects into their bodies to torture them before burning them alive. In the many bouts of communally incited pogroms that have taken place in different parts of the country, never has there been this depth of perversion, sickness and inhumaneness. Even a 20-day-old infant, or a foetus in the womb of its mother, was not spared. They flung babies in the pyres that they had prepared. They cut up people, threw them in a well known as '*teesra kuva*' and then burnt them. The police supported the mob during the assault by shelling tear gas shells on the hapless Muslims. They also opened fire on men when they were trying to defend the women in the area. The State Reserve Police was very complacent and indifferent saying, "We have been given orders to do nothing for 24 hours in Naroda." Women pleaded with the police and the SRP to stop acting partially and save the children at least. They begged before these policemen, laying their children at their feet, but it made no difference to them.

1.12. The sinister aspect of these gender crimes is that they have been led and directed by elected representatives and prominent leaders of the BJP, RSS and VHP. (*See section on Incidents of Violence, Volume I*). This means that the dominant political leadership of our times is actually creating or displaying role models that glorify gender crimes against women. Can any civilised society witness this without finding an urgent need to punish those guilty and making a determined effort to purge public life of these perversions?

1.13. In the attack on February 28 on Gulberg Society, Chamanpura, Ahmedabad, where a former Congress member of Parliament was a specific target, there were at least 10–12 cases of girls and women who were gang-raped, assaulted with swords and rods and quartered before being burnt to ashes.

1.14. Similarly, on March 1, in Fatehpura village outside Sanjeli, and in Morwa in the Panchmahal district, women were gang raped by mobs. Fatehpura is one village where, among the survivors, are many women victims of gross gender crimes.

1.15. The infamous BEST Bakery incident that occurred in Vadodara on the night of March 1, when 14 persons were quartered and burnt (the attack took place after a jeep of the Vadodara Panigate police had driven past at 9 p.m.) also involved three cases of communally-driven rape.

1.16. At the mass grave that was dug on March 6 to provide burial to 96 bodies from Naroda Patiya, 46 women were buried.

1.17. A rape victim from the Godhra relief camp told a tale that seemed to confirm a recurrent pattern in most places, according to survivors' accounts. She was stripped, gang-raped, her baby was killed before her, she was then beaten up, then burnt and left for dead. For variety's sake, other women also had acid thrown upon them, and then burnt in fires. A women's fact-finding report sums up the usual procedure: "...rape, gang rape, mass rape, stripping, insertion of objects into their body, molestation... a majority of rape victims were burnt alive."

1.18. Before they were finally killed, some were beaten up with rods and pipes for almost an hour. Before or after the killing, their vagina would be sliced, or would have iron rods

pushed inside. Similarly, their bellies would be cut open or would have hard objects inserted into them. A 13-year old girl, had a rod pushed into her stomach, and was then burnt. A mother reported that her three-year old baby girl was raped and killed in front of her, while elsewhere daughters reported on the rapes of their mothers, now dead. Kausar Bano, a young girl from Naroda Patiya, was several months pregnant. Several eyewitnesses testified that she was raped, tortured, her womb was slit open with a sword to disgorge the foetus which was then hacked to pieces and roasted alive with the mother.

1.19. Evidence placed before the Tribunal also shows how, on March 17, after the afternoon *namaaz*, the police unleashed a reign of brutality and terror on women and young men of the Danilimda area around Ahmedabad. Eleven boys were arrested on that day, without reason, when they were returning to their homes after praying at the *masjid*. About 500 women from Danilimda and Shah-e-Alam went to Danilimda police station to urge the police to release them. Initially, the police tried to send the women back saying that the boys have been transferred to Haveli police station. When the women repeatedly pleaded, argued and asked for the reasons for which they were arrested the police told the women, “You wait here, we will go and bring back the boys”. They went in three police jeeps, returned with two additional jeeps full of policemen and immediately resorted to *lathi* charge. They beat the women severely with *lathis* and butts of their guns, constantly using very abusive and offensive language. In all, 53 women were severely injured in the attack. Terrorised with further implications if they went to any hospital for treatment, these women were forced to nurse their wounds with home made remedies.

1.20. Evidence before us also shows that on February 28, armed mobs attacked Muslim homes in Gomtipur, in the Ambika Mill *na Chapra* and Nutan Mill *na Chapra* colonies. They looted and burnt houses. They were in such large numbers that the police pleaded that defence was impossible. Police behaviour indicated no desire to protect the lives of those targeted. On March 2, the residents of Patel *ki Chali* in Gomtipur closed the two main entry gates to their area, and the women gathered outside their homes guarding their men and their houses from both the police and the mob. The police entered by jumping over the gates. Head constable Narayan Modi was leading the police. He is the head constable in ‘D’ staff in Gomtipur police station. When the women protested against his entering the area without any reason, Shri Modi used a very cheap and vulgar trick to humiliate and outwit the protesting women. He and his fellow policemen pulled down their trousers and started mouthing very offensive and indecent language. Encouraged by the disgusting conduct of the police men, the mob gathered outside the gates did the same.

1.21. Again, in the third round of violence from April 2 to April 5, the minority community living in Mariam Bibi *ki Chali* and Chotalal *ki Chali* constantly faced the danger of getting killed and burnt. Shri Narayan Modi, the head constable of the ‘D’ staff, leading a posse of policemen and some *jawans* of the Rapid Action Force (a specialised wing of the police, specially created to combat communal conflict), attacked these areas, severely beat up the residents with *lathis* and the butts of their guns and then stripped themselves in order to insult and humiliate them. This behaviour

of the police towards women of the minority community had also been recorded in some incidents of the post-demolition violence that rocked Ahmedabad in 1992. But the scale and frequency of such shocking misconduct during the state sponsored carnage this time makes it most deplorable. It shows not just lawless behaviour by the police, but an identification with the ideology of hate and humiliation that instigated this and earlier bouts of violence against the minority community in Gujarat. This kind of behaviour by the police has completely alienated the entire minority community in Gujarat. Women, especially, feel fear, humiliation, disgust and anger at this.

1.22. Evidence before us shows how, especially in the Gomtipur area of Ahmedabad, the police even molested elderly women. Women managed to escape a worse fate only by constantly escaping to the relief camps. Once they had left the area to protect their lives and dignity, the assailants burnt down their houses. The police in Gomtipur regularly used this trick of stripping to make women flee the area, so that they could detain the men and the boys and destroy property, since women were the ones who were trying to defend their homes and the lives of their husbands and sons. Until August 12, when President APJ Abdul Kalam visited the area and women complained of no rehabilitation measures having been undertaken in Gomtipur, it was apparent that the state administration and the government had completely turned their eyes away from any sort of rehabilitation or compensation. During their tours of the state, both the President and the Chief Election Commissioner, Shri JM Lyngdoh evidenced the unchanged state of their homes a full six months after they were looted, destroyed and burnt down.

1.23. Evidence placed before the Tribunal shows that in the later phases of violence, even in Vadodara city, vulgar and brutal behaviour of the police with women of the minority community was recurrent. Evidence on record shows that from March 15 onwards, the Vadodara police played a prominent role in terrorising Muslim residents in their localities through combing operations and illegal arrests. Women, in particular, were subject to oppressive forms of harassment in their homes, especially when their men had either fled or were away. One case of a pregnant woman, about to deliver, as narrated by her mother, was especially poignant. On the night of April 30, she was brutally beaten with *lathis* and the butts of rifles, especially on her breasts. Though she had carried the baby to full term, this episode, in all probability, caused her to go into premature labour the next day and she delivered. With tears in her eyes, her mother recounted to the Tribunal how, when breast feeding her new born infant, while milk flowed from one breast, blood oozed out from the other, scarred by the beatings from the merciless Vadodara police.

1.24. Apart from physical beatings, Muslim women in localities of Vadodara were subject to sexual and communal threats; policemen used highly abusive language before they vandalised their homes. The Bahar colony at Ajwa Road, Rain Bassera, Machchipith under the Karelibaug Police Station, as well as areas under the jurisdiction of the Panigate Police Station were especially vulnerable to this sexually perverse and violent behaviour of the Vadodara police.

1.25. The sexual assault on Muslim women in Gujarat since February 27, has to be seen in the context of the carnage carried out by the right wing *Sangh Parivar* with total state complicity. Violence against the minority community assumed various forms: mass killings, sexual humiliation — including gang-rape — of women, brutal attacks

on children, and attacks on the very survival of the minority community through looting, burning and destruction of their property and means of livelihood.

1.26. Evidence before the Tribunal shows that women have suffered the most bestial forms of sexual violence, including rape, gang rape, insertion of objects into their bodies, stripping, and molestation. A majority of the women who suffered this violence were then burnt alive. Amongst the survivors, many have spoken about the assaults but many have been silenced, for fear of further attacks and for fear of censure from their own families and community. Besides the lack of faith in the system of justice, the humiliation faced by women who dare challenge taboos and demand punishment for gender crimes like rape have silenced the natural cry for retribution and justice.

1.27. These crimes against women have been grossly underreported and the exact extent of these crimes in rural and urban areas, has yet to be grappled with. These attacks have been carried out in the presence of, in many instances even at the behest of, the police and other state authorities.

1.28. In Gujarat, the degree of violence and sexual crimes against women reached unprecedented levels. Women, and entire communities, have been so traumatised and silenced that the full extent of this has yet to be realised. Mental trauma as well as insecurity of an extreme form are issues that need to be dealt with. The ineffectiveness and insensitivity of our criminal justice system, particularly when it comes to sexual and other crimes against women, renders the victim, her family and even the entire community in cases of mass and planned crimes of this sort, especially vulnerable. These crimes call for not simply a re-orientation in thinking and values in the matter of justice to the victims and punishment to the guilty; also urgently needed is psychological and trauma counseling for some sort of a healing process even to begin.

1.29. That sexual crimes against Muslim women took place on such a large scale in post-independent, democratic and secular India is shocking in itself. What is far worse is the shameful trivialising or denial of these crimes by agents and representatives of the central and state governments and outfits like the BJP and its affiliates like the RSS, the VHP and the Bajrang Dal. This amounts to a virtual condoning of such gross crimes against women.

1.30. Attacks on children were used as instruments of terror. In what is surely the most perverse dimension of the violence, children were used to torture and terrorise victims. In one particularly tragic incident in Tarsali, an old Muslim man was shown the head of his beheaded son on a tray before he was himself brutally slain. Another woman, surrounded by a mob, had to watch as her son, who had climbed up a tree to escape the mob, was brought down, his fingers cut off and the rest of his body dismembered in her presence — all before she herself was killed. In many cases, children were beaten and abused in the presence of their parents. Even the police did not spare small children — they were beaten with *lathis*, kicked and abused, and in one case, even flung across a room. Young children who were badly beaten by the police were in a state of shock weeks after the incidents.

Economic Destruction

1.1 One of the most telling testimonies presented before the Tribunal was that of an expert witness on the recorded words of a police officer on *Star News* on March 9. “*Wahan factory mein aag lagi hai, GIDC mein... baan...aag lagi hai... factory Hindu-Muslim mix thi, is mein ek partner Muslim tha, baki ke sab partner Hindu the.*” (“In GIDC a factory is on fire... yes... it is on fire... the factory was jointly owned... one partner was a Muslim and the rest were Hindus.”)

1.2 Extensive evidence recorded by the Tribunal points to the devastating loss of property by the Muslim community in the state. Relying on detailed tabulation of losses computed by community leaders at the village, city and district levels, independent groups estimated the total loss to the Muslim community at not less than Rs. 3,800 crore. Except where otherwise stated, the figures for losses given below have been computed by business representatives of the community and social activists. (*See Detailed Annexures, Volume 1II*). The pre-planning, precision and scale of destruction calls for massive reparation by the Gujarat state.

1.3 The Muslim community in Gujarat was one of the most prosperous in the country and its contribution to the economy of the state, pivotal. The fact that the economy of this section of the population has been crippled suggests a sinister motive behind the destruction. In most of the cases, chemicals were used, apparently to generate very high temperatures and ensure complete destruction.

1.4. In Ahmedabad, the selective destruction has been well documented. The list below, of some prominent targets, illustrates the point:

- ◆ Moti Mahal, a three-star hotel, situated not far from the office of the police commissioner, in Shahibag, Ahmedabad.

- ◆ Alfa Restaurant, opposite Gauri Cinema, Odhav, Ahmedabad.
- ◆ Ashish Restaurant, also opposite Gauri cinema, Odhav, Ahmedabad.
- ◆ Tulsi Restaurant, Gulbai Tekra, Ahmedabad.
- ◆ Hotel Signor, Sarkhej, Gandhinagar Highway, Ahmedabad.
- ◆ Tasty Restaurant, near Judges’ Bungalows, Bodakev, Ahmedabad.
- ◆ Kabir restaurant, opposite Doordarshan, Thaltej, Ahmedabad.

- ◆ Metro shop, CG Road, Navrangpura, Ahmedabad.
- ◆ Cona Shoe Shop, Sardar Patel Municipal Market, Navrangpura, Ahmedabad.
- ◆ Navrang Restaurant, Drive-in Road, Near Vijay Cross Road, Ahmedabad.

Evidence provided by prominent businessmen belonging to both the Muslim and Hindu communities, point to this systematic destruction. The destruction of two establishments on CG Road — Pantaloon Showroom and the Hero Honda Showroom — in a posh area in Ahmedabad, is illuminating. The Pantaloon Showroom is a partnership of Hindus and Muslims, with the Muslim partner owning only a 10 per cent share. The Copper Chimney restaurant, though owned by a Hindu Punjabi, was targeted. Those instigating the attack were obviously well-informed, for very few people knew that the owner had recently signed a deal with a Sheikh in the Gulf. Information was gathered from the Registrar of Companies, the Revenue and the Sales Tax departments. Significantly, several months prior to the carnage, the widely circulated local Gujarati daily, *Sandesb*, had published a list of all Muslim-owned establishments in Ahmedabad with 'Hindu' names. Was there some unstated purpose behind the publishing of this list? Was it used as a ready reckoner by those who destroyed these establishments later?

1.5. Similarly, shops and establishments owned by Muslims were destroyed in Rajkot, Vadodara, Surat, Bhavnagar, Junagadh, Palanpur, Nadiad, Himmatnagar, Mehsana, Visnagar and Unjha. Vehicles at the General Motors showroom in Halol (60 km from Godhra) were also not spared. Several processing houses and small factories located in the industrial areas of Narol/Vatwa and Naroda on the outskirts of Ahmedabad city, suffered heavy losses on the day of the Gujarat *bandh*, as the finished goods lying in the godowns were set on fire. (An FIR filed in this connection has named BJP MLA Sushri Maya Kotdani and VHP vice-president of Gujarat unit, Dr. Jaideep Patel as among those responsible).

1.6. Industries located in the GIDC estates at Godhra, Kalol near Ahmedabad, Halol in Panchmahal and in the adjoining Vadodara district bore the brunt of this destruction. Textile units in Ankleshwar and other industrial units in Bharuch district, too, suffered huge losses. According to Shri Narendra Brahmbutt, president of the Ahmedabad Hotel and Residents Association, the hotel sector alone has suffered a staggering loss of Rs. 260 crore. Suppliers to the hotel industry suffered losses to the extent of Rs. 60 crore. As many as 6,700 workers belonging to the majority community have been rendered jobless due to the burning and arson by the fanatic militia.

1.7. Details of losses suffered:

Muslims estimate losses due to the prolonged closure of shops, industries and commercial establishments in the state to be no less at Rs. 3,000 crore. (The Gujarat Chambers of Commerce and Industry puts the figure at Rs. 2,000 crore).

1.8. Hotel Industry

Approximately 1,150 hotels were burnt or looted on the National Highway from Vapi to Vadodara and on to Palanpur. The total estimated loss to property and investment in looting and damage alone, across the state, is Rs. 760 crore.

- ◆ A Rs. 600 crore business loss for the hotel industry in Gujarat.
- ◆ At least 20,000 workers in the hotel industry were rendered jobless and many are

missing. Ironically, many of those who lost their jobs were non-Muslims, indicative of the long-term impact of destruction and terror on all sections of society, not just the 10 per cent strong Muslim minority that is the immediate target. Nearly 7,000-8,000 Rabari boys were rendered jobless in Gujarat because Muslim hotels were burnt and destroyed, according to the evidence of Tejabhai, a Rabari leader recorded by an expert witness.

1.9. Transport industry

The transport godowns on the National Highway have suffered damages to the tune of Rs. 12 crore. In addition, losses suffered due to the burning down of over 1,000 trucks are estimated by transport operators belonging to Ahmedabad, Surat, Vadodara Godhra and Himmatnagar, at Rs. 60 crore.

The truck operators' insurance claims for the cumulative damage amounted to Rs. 830 crore.

- ◆ More than Rs. 10 crore lost due to the burning down of 60 Opel Astras parked outside the GM Motors unit at Halol.

- ◆ Rs. 4 crore lost due to the torching of the Honda City and Accord fleet of cars at the Landmark Honda showroom at Thaltej, Gandhinagar.

- ◆ The Gujarat State Road Transport Corporation estimated a loss of Rs. 12.50 crore and transport companies have lost business amounting to Rs. 70 crore.

1.10. Industry

- ◆ Halol: 17-18 factories destroyed.

- ◆ Vatwa: All Muslim-owned factories in GIDC area destroyed.

- ◆ Mehsana: All Muslim-owned factories destroyed.

- ◆ Dahod-Godhra: Large factories destroyed.

- ◆ Naroda Fruit Market: Muslim-owned fruit shops destroyed.

- ◆ Kabadi Market, Ahmedabad: Destroyed.

- ◆ Bharuch: Muslim-owned shops and showrooms destroyed in Bharuch city.

- ◆ Ankleshwar: All Muslim-owned factories in GIDC area destroyed.

- ◆ Sabarkantha/Chhotaudaipur/Banaskantha: Muslim-owned shops, hotels and commercial establishments destroyed.

- ◆ Factories which had insurance cover have lodged claims worth Rs. 400 crore.

- ◆ On National Highway No. 8, about 90 per cent of the commercial establishments, including small shops, godowns and factories, have been completely wiped out.

1.11. Agriculture

- ◆ Standing crops in Panchmahal, Mehsana, Dahod, Sabarkantha, Banaskantha and Kheda districts were burnt by the miscreants.

- ◆ Motors installed in the fields for drawing water were stolen.

- ◆ Borewells in the fields, which cost anywhere from Rs. 50,000 to Rs 1.5 lakh, were damaged beyond repair. At least 7,000 such borewells of Muslim agriculturists from all over Gujarat were destroyed.

- ◆ Large and small agricultural landholdings of Muslims in Gujarat where economic and social boycott still continues have been taken over by powerful interests dominated by the BJP/RSS/VHP and BD.

1.12. *Miscellaneous*

- ◆ More than Rs. 2 crore lost in damage to the Lucky Film Studio.
- ◆ Hundreds of crores lost due to the arson of thousands of houses and buildings. At least 75,000 homes were seriously damaged in the destruction, of which 10, 204 were burnt down completely. At least 10,000 shops were targeted, of which over 2,100 were completely ransacked.
- ◆ A Handloom Expo was on in Ahmedabad when the Godhra tragedy took place. All the Muslim artisans from Kashmir and West Bengal were attacked and their displays destroyed.

1.13. It is abundantly clear that the economic destruction took place mainly because of inaction on the part of the state government. Hence, the responsibility for rehabilitation need lie squarely with it. But the government has not even assessed the damages, nor laid down any guidelines for payment of compensation. Unfortunately, even the insurance companies, such as the New India Insurance and others, have not even considered the legitimate insurance claims of businessmen in many areas. The evidence recorded of a prosperous businessman from Gulberg society, who owned five shops and whose insurance claims were Rs. 9 lakh, but who was paid only Rs. 3 lakh, is a case in point.

1.14. While ignoring the genuine and pressing relief and rehabilitation needs of the survivors, the sponsors of the carnage and their cadre have now resorted to a crippling economic boycott against Muslims in many parts of Gujarat. In Gandhinagar, Mehsana and Sabarkantha districts, truck and auto drivers are facing a severe economic boycott thanks to the machinations of politicians like Gujarat ministers, Shri Nitin Patel and Shri Narayan Laloo Patel. In Vadodara, there have been, *at least*, over two dozen instances of Muslims being told by their Hindu employers not to come to work. In Por and Paliyad villages in Gandhinagar district, villagers who had returned were facing the severe impact of hunger and loss of livelihood due to the refusal by village Patels (who dominate the *panchayat* and who are politically associated with the BJP) to buy milk (from milch cattle) or to hire Muslim women as farm labour on the land belonging to the majority community.

Though overt violence has ended, ethnic cleansing continues in the form of the economic decimation of the minority in Gujarat.

1.15. The Tribunal is particularly disturbed by the fact that it is not just the ordinary worker of the *Sangh Parivar*, even ministers and other *Hindutva* leaders are involved in instigating the economic boycott of Muslims from behind the scenes. Home minister Shri Gordhan Zadaphiya and revenue minister Shri Haren Pandya, ministers Shri Narayan Laloo Patel, Shri Niteen Patel, forest minister Shri Prabhatsinh Chauhan, minister of state for cottage industries, Shri Ranjitsinh Chawda, BJP MLAs Sushri Amita Patel and Sushri Maya Kotdani and Dr. Jaideep Patel (Gujarat VHP's vice-president), among many others, have been named by the eyewitnesses, in this context.

Religious and Cultural Desecration

1.1. Mosques, *dargahs*, small shrines and other Muslim religious and cultural places were systematically destroyed and desecrated in the first 72-hour round of violence all over Gujarat. Copies of the Koran and other religious books were despoiled and damaged in many places all over the city of Ahmedabad, in Vadodara, Ankleshwar and Bharuch and in many smaller towns and villages all over the state. (*A List of the names of the mosques and dargahs desecrated is annexed, Detailed Annexures, Volume III*).

1.2. In all, over 270 mosques and *dargahs* have been thus destroyed. In many cases 'Jai Shri Ram!' was scrolled all over the desecrated shrines. In many shrines, idols of 'Hulladiya Hanuman' (translated, it means 'Riot Hanuman') were installed. This shows the cynical abuse of caste Hindu religious symbols as instruments of domination and subjugation of Muslims. When the Tribunal members visited and inspected some of the damaged shrines in May, they were still in their ramshackle state. One mosque, which was rebuilt through the efforts of a Muslim religious organisation, was pulled down in July by officials of the Ahmedabad Municipal Corporation, a body that is, ironically, controlled by the Congress(I). The Noorani Masjid at Naroda Gaon was blasted using gas cylinders. Witnesses appearing before the Tribunal complained that, while desecrating the mosque at the Naroda Fruit Market, the Koran was urinated upon. The Tribunal shudders to think which religion could ever sanction such vile desecration of the sacred texts and places of worship of people of another faith.

1.3. Detailed evidence was recorded by us regarding the desecration of the tomb of Wali Gujarati, a renowned poet remembered as the founder of Urdu poetry. On March 1, his tomb, located not more than 10 metres from the office of Ahmedabad's commissioner of police (also the police headquarters) was demolished and a saffron flag hoisted on the site. It is believed that the shrine was torn down by marauding mobs under the directions of Gujarat's revenue minister, Shri Haren Pandya. This flag was removed on the night of March 2. On March 8, a tarred road was constructed at the site, leaving no trace whatsoever of the tomb that had stood there for nearly three centuries. It is shocking that a callous government and an unprincipled administration participated in the utter obliteration of this cultural monument and allowed a road to be constructed over it.

1.4. On the night of March 3, a 400-year-old mosque owned by the Wakf Board, and located near Anjali Cinema in Ahmedabad, was broken down in the presence of state ministers Shri Haren Pandya and Shri Amit Shah. As in many other cases, a ‘*Hulladiya Hanuman*’ idol was installed there, followed by *darshans* and *artis*.

1.5. The mosque of Malik Asin (Asas, Imadul Mulk) at Ahmedabad, built in the reign of Sultan Mahmud Begada (1458-1511), was also destroyed in the initial round of violence. A protected monument built in stone, this structure was destroyed within hours, with military precision, using a bulldozer and cranes. At around the same time, the mosque of Muhafiz Khan at Ahmedabad was also badly damaged.

1.6. The Madrassa Qasimul Uloom, Ansarnagar was plundered and pages of a partly burnt Koran were scattered all over.

1.7. Born in Aurangabad in 1667, Wali Gujarati is regarded as the founder of the modern Urdu poetry. A widely travelled man, he was also known as Wali Aurangabadi or Wali Dakhani. Ironically, he was a frequent traveller to Gujarat and wrote lovingly of its centres, especially Surat. He died in Ahmedabad in 1707, during one of his numerous visits to the city. The people of Gujarat at the time, who subscribed to a rich and inclusive worldview, built a tomb for him in the city and proudly laid claim to his legacy by bestowing upon him the title of Wali Gujarati. This was pulled down, as mentioned above. Also attacked was the tomb of Ustad Faiyaz Khan in Vadodara, which was attacked and wreathed in burning tyres in early March. Extensive damage was inflicted on the façade of the structure commemorating a man who, in 1912, was acclaimed as one of the greatest among classical singers by the then ruling dynasty of Vadodara. The underlying motive behind these attacks is obviously to obliterate all symbols of India’s composite heritage.

1.8. Article 25 of the Indian Constitution, which upholds the fundamental right of every citizen to preach, practise and propagate his/her faith, was utterly and contemptuously violated during the state-sponsored carnage in Gujarat.

1.9. The Hague Convention of 1954, the ‘Convention for the Protection of Cultural Property in the Event of Armed Conflict’ stipulates that the preservation of “cultural heritage is of great importance for all peoples of the world” and that “damage to cultural property belonging to any people whatsoever means damage to the cultural heritage of all mankind.” India is a signatory to this convention. In 1972, a protocol to this Convention was adopted, which identified “cultural heritage” as, among other things, “monuments, architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding universal value from the point of view of history, art or science.” Every State that had acceded to the Hague Convention, it held, recognised that “the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage situated on its territory, belongs primarily to that State.”

1.10. At its general conference meeting in 2001, UNESCO adopted a resolution that sought to define the circumstances under which an act could be construed as a

“crime against the common heritage of humanity.” It reiterated the need for all member-states to accede to and observe the various conventions it had evolved over the years. And it authorised the director-general of the organisation to formulate for the next session of the general conference, a ‘Draft Declaration’ that would define the circumstances under which the “Intentional Destruction of Cultural Heritage” could be deemed to have taken place.

1.11. Evidently, besides being guilty of crimes against humanity, the chief minister of Gujarat is also guilty of crimes against the common heritage of humanity. And in its reluctance or refusal to intervene, the BJP-led government at the centre stands charged with flagrant violation of international conventions to which India is a signatory.

Preparation for Violence

1. Role of the BJP and Allied Organisations – RSS/VHP/BD

1.1. From its declaration of the Gujarat *bandh* on February 28 and the Bharat *bandh* on March 1, following the Godhra tragedy, the questionable role of the *Sangh Parivar* in Gujarat and the ruling BJP's active 'fraternal' support to them is clear. Within hours of the VHP's *bandh* call, on the afternoon of February 27, the BJP's Gujarat general secretary extended to them his party's support.

1.2. Following the declaration of the *bandh* with detailed action plans, including steps taken to ensure police complicity, (*see chapters — State Complicity, Police Misbehaviour, Volume III*), many of the BJP's elected representatives to the civic corporation or Parliament, were active in leading the mobs targeting Muslims.

1.3. They have been named in FIRs, fact-finding reports of citizens groups and newspaper reports. (*see chapter-- List of the accused, Volume III*)

1.4. The tight control that outfits like the VHP and RSS have on the ruling BJP in Gujarat and on the dominant partner of the National Democratic Alliance at the Centre, has been evident for long. The Gujarat carnage has thoroughly exposed how even the murder of innocents could be condoned by a party, the BJP, ostensibly wedded to democracy and the rule of law.

1.5. Most shocking in this condonation of the Gujarat carnage, was the role of the deputy prime minister and home minister, Shri LK Advani, whose electoral constituency is Gandhinagar, the capital of Gujarat. On innumerable occasions, Shri Advani has been engaged in high praise for Shri Modi and given him a clean chit, when he should, in fact, have been upholding the Constitution of India. He referred to the Gujarat CM as the "best chief minister in 50 years" and has repeatedly praised Shri Modi's *Gaurav Yatra*, which is nothing short of a celebration of the violence that his government effectively sponsored. It is in the course of his *Gaurav Yatra* that Shri Modi made some extremely offensive remarks, describing the relief camps as "breeding centres" for Muslims, which his government had no interest in promoting.

1.6. The close nexus between the Modi-headed BJP government in Gujarat on the one hand, and the RSS and VHP on the other, is apparent from the backing that each

gave to the other's statements, including those casting aspersions on constitutional authorities like the election commission and the chief election commissioner (CEC).

1.7. Three days after Shri Modi had hit out at the CEC, JM Lyngdoh, as well as the Congress party president, Smt. Sonia Gandhi, because they both happen to be of the Christian faith, on August 23, the international general secretary of the VHP, Shri Praveen Togadia, forcefully repeated the charge. Describing Shri Modi as the 'he-man' of Gujarat, he charged Lyngdoh with having an 'anti-Hindu' bias because of his decision to defer the elections in Gujarat. After delivering a lecture on Islamic terrorism, organised by the Indraprastha VHP at the Constitution Club in Delhi, Shri Togadia told reporters, "There are two similarities between Mrs Gandhi and Lyngdoh. They are both Christians and both of them don't want early elections in Gujarat." The CEC, he said, had also "betrayed his anti-Hindu bias" earlier, in a lecture delivered at Mussourie in the aftermath of the anti-Christian violence in Dangs (Gujarat) in 2000.

1.8. The clear connection and nexus between the democratically elected BJP government in Gujarat and outfits like the RSS and the VHP is evident from the former's conduct, since the carnage. Reports of the Gujarat government's deliberate avoidance of the arrest of at least 150 VHP, Bajrang Dal and BJP kingpins — their names figure in the FIRs filed by the police for directly leading the mobs who slaughtered Muslims and indulged in bloody violence — have been confirmed by the absence of their names in the charge-sheets.

1.9. Although Shri Modi's government claims to have arrested over 2,500 persons involved in the post-Godhra riots, not a single mastermind from the VHP, BJP or Bajrang Dal named as riot perpetrators and mob leaders in various police complaints, have been arrested. On the contrary, police officials who have named these leaders from the *Sangh Parivar* in the FIRs are being pressured to either drop their names or book them under less serious charges. At least six BJP workers have been named as the main accused in the Naroda carnage case, where over 150 Muslim men and women were massacred after girls and women were brutalised sexually. The accused include, Shri Raju Sharma, Shri Kishan Kurani, Shri PJ Rajput, Shri Harish Rohara, Shri Bapu Bajrang and Shri Raju Chaubal, all identified as BJP and VHP activists. FIRs have been lodged against the six *Sangh Parivar* activists under IPC 302, 395 and 143, 149 and 148 for slaughtering and rioting. However, police have been instructed not to arrest the culprits. "It is politically incorrect to arrest them and we are under tremendous pressure not to act against them," said police officers. (*The Indian Express*, March 9, 2002).

1.10. The Tribunal observes that in Gujarat, many cabinet ministers are simultaneously prominent leaders of the VHP. The home minister, Shri Gordhan Zadaphiya, is one of them. So, too, is the former revenue minister Shri Haren Pandya, a senior VHP functionary. He has been named by many witnesses who appeared before us, as trying to influence police not to take action against the accused. Minister for forests, Shri Prabhat Singh Chauhan and minister for cottage industries, Shri Narayan Laloo Patel are also two clear examples of this.

1.11. In Bhavnagar, which witnessed the worst communal violence in its history, there are FIRs against Shri Om Trivedi, the city VHP president, and Shri Mansukh Panjwani, a city BJP office bearer and former municipal councillor. Both Shri Trivedi and Shri Panjwani are alleged to have led mobs that set fire to over 80 Muslim-owned business establishments. They are, however, yet to be arrested.

1.12. Similarly, at Surendranagar, CR No. 54/2002 names six persons, who are primary members of the BJP and VHP, for instigating riots and indulging in mayhem. They have been charged under IPC 395, 436, 147, 148 and 149 but have not been arrested. These include district VHP in-charge, Shri Raju Vaishnav, BJP councillor, Shri Narottam Satwara, VHP joint secretary, Shri Dhiren Shukla, Shri Tulsibhai Ranchhod Bharwad and Shri Devji Bharwad, (the last three being active BJP workers). Each time chief minister Shri Modi and the union home minister and present deputy prime minister, Shri LK Advani were questioned on this matter, they have simply feigned ignorance. This attitude, on both their parts, amounts to shielding the guilty.

1.13. Soon after the Gujarat carnage, there was a nation-wide clamour for the dismissal or resignation of the chief minister and the imposition of President's rule in the state. While on occasions the Prime Minister Shri Vajpayee gave the impression of being somewhat shaken by the events in Gujarat, it soon became evident that it was the RSS who had the final say, when the then BJP president, Shri Jana Krishnamurthy, effectively overruled the PM and asserted that Shri Modi's resignation was out of the question.

1.14. It is clear from these associations, and the desire of the central and the Gujarat governments to grant these outfits legitimacy, that a close and abiding link exists between the BJP, the RSS and the VHP/BD. (Two years ago, the Gujarat government decided that there lift the bar on government servants from joining the RSS. The decision had to be withdrawn following country-wide protests, including those from the BJP's allies in the NDA coalition at the Centre.)

1.15. On February 27, concerned over the strident posturing related to the campaign for building the Ram temple at Ayodhya on the site of the demolished Babri Masjid, none less than the Prime Minister of India, Shri Vajpayee, met with the working president of the VHP, Shri Ashok Singhal.. At this meeting, the RSS joint general secretary who was also present promised "to tone down the movement."

1.16. Within days of the PM expressing some remorse over Gujarat during a visit to the US, Shri Singhal responded (September 22): "PM Vajpayee's statement in the US regarding the Gujarat riots had lowered the image of the people of Gujarat. The prime minister made a ridiculous remark in the US that what happened in Gujarat was a matter of shame. The remark in fact is most shameful... Gujarat is a lesson for all times to come. Since Independence, Hindus had been victims of Muslim vandalism. Now the Hindus of Gujarat have beamed a message that *jehadi* programmes will no longer be tolerated in any part of the country. Gujarat has served as a warning to those trying to make India a pan-Islamic nation. There are one lakh *madrassas* (Islamic institutions) which are propagating a dangerous ideology to make India Dar-ul-Islam. They are breeding grounds for terrorists..."

1.17. The role played by the BJP and organisations like the RSS, VHP and BD in threatening internal peace and security in many parts of India is clear. There is an urgent need to put a complete stop to these activities, which are subversive of the Indian Constitution.

1.18. The Tribunal would like to record here, the ample evidence placed before it by expert witnesses, newspaper reports and fact-finding team reports, documenting the aggressive tone and posturing of organisations like the RSS, VHP and BD, especially since the BJP-dominated National Democratic Alliance came to power at the centre. These activities and such public posturing indicate several things:

- ◆ The intimate connection and the hold that these organisations have on the BJP, a party which heads the central government today;

- ◆ The avowedly anti-constitutional thrust of their intent and activities, whether in the matter of the construction of a temple on the site of a demolished mosque, in the absence of a court verdict on the matter, or on other issues;

- ◆ The series of arms training camps held all over the country, by the VHP and the Bajrang Dal, both off-shoots of the RSS, with close links to the BJP, since, at least, the year 2000. The Indian Arms Act, 1959, expressly prohibits the possession of arms by private parties without licence (the only exception being security agencies). The possession of a licence *before* a firearm is owned is a legal requirement. The Bombay Police Act, which applies to Gujarat, is similarly stringent on the question of possession of arms by citizens. The police are empowered to demand production of a licence. (Section 19 of the Arms Act). The exemption of the *trishul* (which in fact is a sharp, three-pronged weapon, which can cause fatal injury), from the provisions of the Arms Act, through a GR issued by the central government, is a clever ploy to encourage the militarisation and arming of a section of civil society by such groups. The swords that are also freely sold at the arms training camps, along with the air guns and rifles that are used for shooting practice, are clear pointers to the intent of these organisations. Yet, the police in BJP-ruled states and the BJP-led central government have turned a blind eye to such ominous developments.

- ◆ In the specific case of the Gujarat carnage, whether on the issue of the removal or resignation of Shri Modi from the chief minister's post or others, it is evident that the BJP-led ruling NDA's demeanour and actions have been strongly influenced by the utterings of the RSS and its siblings, the VHP and the BD.

1.19. The intelligence departments of three states in India — Madhya Pradesh, Maharashtra and Rajasthan — have asked for a ban on the Bajrang Dal, on the grounds that it is generating “terror” and spawning home-bred terrorists. The testimony of many witnesses, from both communities, who appeared before the Tribunal, reinforces the assessment of the state police in Gujarat's neighbouring states. “Many Gujaratis, Hindus and Muslims alike, felt that the Bajrang Dal had made a business of deliberately transforming ordinary people into terrorists. Where people had been living peacefully, they unnecessarily spun stories about Muslims, although, so far, Muslims had never given them any trouble. They wondered why people were being taught things like this.” (A witness' testimony before the Tribunal.)

2. Training

2.1. In recent years, groups affiliated to the *Sangh Parivar* have been in the ascendant country-wide, given their increased access to political power, patronage and money. But the extent and scale of their mobilisation in Gujarat should be a matter of grave concern for the law and order machinery.

2.2. The BJP's rule in Gujarat, after its return to power in February 1998, has been marked by frequent attacks on the religious minorities in the state and other anti-constitutional actions that remained unchallenged. (See *chapter on Build-Up in Gujarat, Volume II*).

2.3. Evidence led before the tribunal from Naroda Patiya, Naroda Gaon, Gulberg society, Chamanpura, Gomtipur and Rakhial (all in Ahmedabad), from Vadodara, Bharuch, Ankleshwar and from villages in Himmatnagar, Sabarkantha, and Panchmahal district reveals that local tensions built up after the formation of an RSS/VHP/BD unit in the area. These groups started marshalling young Hindus, assuming an aggressive attitude, distributing swords and *trishuls* and, in general, adopting a vigilante stance against 'impending attacks from Muslims.'

2.4. The Tribunal has led specific and detailed evidence on the method of mobilisation and training adopted by the VHP and Bajrang Dal from four recruits/former recruits. This explains the phenomenon whereby huge mobs surfaced so promptly all over the state during the carnage. It also explains the ability of these organisations to collect youngsters, indoctrinated with misconceptions and with hatred in their hearts, who were available at a signal from their leaders to commit murder, loot, arson and rape, and defy all laws, secure in the conviction that with the BJP in power, they would have full protection and need have no fear of the law and order machinery.

2.5. Reproduced here is the gist of the testimony of the four recruits/former recruits mentioned above, which provides a clear picture of the BD's and the VHP's mobilisation techniques. The enrolment fee for a new entrant to a BD *shakha* (cell) is Rs. 55. Once admitted, you are expected to attend meetings held around 8 p.m. every night, mostly on private premises, sometimes in small temples. Secret meetings for the more select are held once a week, later at night, around 10 p.m. Enrolment to the *shakha* entitles the volunteer to a card identifying him as a Bajrang Dal *karyakarta* (activist). If you help recruit 10 more youth, you are made a '*VHP Mantri*'. You are given a *trishul* the moment you enrol. You are told that *trishuls* were not meant to be kept inside a temple and worshipped but to be used to protect the Hindu faith. You are also told that the *trishul* should not be used to kill one's 'brothers', but to save 'our' religion.

2.6. At the weekly meetings, members are told, more explicitly, that the *trishuls* are to be used against Muslims whenever there was a riot or a fight. If you killed Muslims, the organisation was there to protect you from penal consequences. If something happened to you, the organisation was there to take care of your family. If you did get arrested during the riots, all you had to do was to show your Bajrang dal membership card and the police was sure to let you go.

2.7. The *VHP Mantris* are assigned the responsibility of training 60-70 boys each day. What did the training involve? The training primarily involved compiling an ex-

haustive list of all Muslims living in the area. Members had to collect information about Muslim places of residence, property, businesses, family, etc. in the locality: Who lived where, how much they were worth, how many children they had, etc. All the information so gathered was to be passed on in the form of a written report that was maintained by the *Mantri*.

2.8. The Tribunal notes with horror, the level of impunity that such unlawful, armed organisations have come to enjoy in BJP-ruled Gujarat.

2.9. Apart from the detailed account of the four recruits/former recruits to the Bajrang Dal, other witnesses from Naroda, near Ahmedabad, and from Kheda, Bharuch and Panchmahal districts also gave evidence before the Tribunal about training camps being organised in their neighbourhoods. In all these cases, an intensive training of the BD/VHP volunteers began after September 2001. An advertisement encouraging youngsters to join the Bajrang Dal in large numbers had appeared in the Gujarat daily, *Sandesh* in August last year.

2.10. This suggests sinister preparation and planning for the Gujarat carnage long before the Godhra tragedy, by the *Sangh Parivar* affiliates, their leaders confident of impunity from the long arm of the law since they enjoyed the patronage of the ruling party.

2.11. Notwithstanding the in themselves startling and brazen revelations made by professor Keshavram Kashiram Shastri, the 96-year-old chairman of the Gujarat unit of the VHP, in an interview to *rediff.com*, there is evidently an attempt to deny past preparation and planning, intensively so in Gujarat since last year. In the interview (*see Annexures, Volume I*) Shri Shastri said that the list of shops owned by Muslims in Ahmedabad was prepared on the morning of February 28 itself. This was in response to the allegation that shops in Ahmedabad were looted on the basis of a list prepared by the VHP in advance, and that the violence was not a spontaneous outburst against the Godhra outrage. Asked why they did it, he responded, “*Karvunj pade, karvunj pade*” (‘It had to be done, it had to be done’). We don’t like it, but we were terribly angry. Lust and anger are blind.” He said the rioters were “*kelvayela Hindu chokra*” (“well-bred Hindu boys”). The impunity with which Shri Shastri could speak with the candour that he did in his interview on March 12, and again on March 29, when he told the same journalist that the organisation (VHP) had been asked to pull back, is shocking, to say the least. That the Gujarat government has taken no action whatsoever against Shri Shastri speaks volumes about the BJP-VHP nexus.

2.12. The constant invocation of caste Hindu symbols, militant and aggressive posturing, the possession of *trishuls* and swords and regular weapons’ training were elements of the methodical preparation of these cadres. Young men were told that Bajrang Dal workers should always greet each other with ‘*Jai Shri Ram!*’ to identify themselves. One of the centres used for physical training was at a theatre beyond Adalaj on the Gandhinagar road outside Ahmedabad. While *trishuls* were often distributed on payment of enrolment fees, members were asked to pay Rs. 310 for a sword. They were assured at the secret weekly training sessions that the swords were ‘legal’. They were also told that if ever the police found them, all they had to do was

tell them that it was a Bajrang Dal sword, and no one would say anything. Swords were sold to the recruits quite openly and instructions on how to use them were given at the secret meetings.

2.13. At the advanced stage of training, the more seasoned members were told they would have to participate in fights or riots (*ladhai-jhagda*, *danga-fasaad*) whenever necessary. They said that, as Bajrang Dal leaders, they would, necessarily, be the most active, but young men, too, should always be prepared. They might be woken up in the middle of the night and should be ready to participate. The recruits were promised that when they participated in a riot, the organisation would pay them double the money that they lost in regular wages. Young men were also assured that if ever they were injured or killed during a riot, their families would receive adequate compensation.

2.14. The speeches at these meetings followed a basic pattern. Leaders would be brought in to brainwash the young members against Muslims. The single point agenda, evidence before the Tribunal has recorded, indicates that the desire was to demonise the Muslim community as also to create an armed cadre of young men, indoctrinated, full of hatred in their hearts, and sufficiently trained to perpetrate the grossest forms of physical abuse on their victims.

2.15. The Tribunal collected concrete information about the kind of mental training and brainwashing imparted to young men at the secret, weekly meetings – “We were told that until now it is the Muslims who have been harassing Hindus. ‘They have molested Hindu sisters and Hindu daughters. In Hindi films today, all the top heroes are Muslims, but there are no Muslim heroines. It is Muslims who are forging ahead in our country. They don’t let their daughters out in public but they spoil our Hindu daughters. Muslims are the ones who always use force. Our country was once a Hindu nation. The Muslims invaded us by force, married our mothers and our daughters and converted us to Islam.’”

2.16. According to the witnesses, in the Bajrang Dal camps, young men are told: “Under the pretext of prayers [*namaaz*], Muslims gather at 2 p.m. every day and *maulvis* instruct them in several activities. They specially employ young men, pay them a salary and send them to college to spoil Hindu girls. Muslims are involved in several such nefarious activities.” They said that they wanted to start a similar practice amongst Hindus. That was what the secret 10 p.m. meetings were meant for. Here the members would all band together, worship/invoke Hanuman and prepare “to give Muslims a fitting reply.” The secret meetings – *gupt shakhas* — also gave special training in the use of arms.

2.17. The Tribunal, therefore, concludes that abundant financial resources was one distinguishing feature of these outfits; that mercenary means are adopted to sustain the interest and participation of young cadres, ready to do the bidding of their hate-filled masters.

2.18. The Tribunal records that in Gujarat, quite apart from the political patronage and impunity from the law accorded to these outfits, there is enough money to finance the mobilisation. The source of such funds, used increasingly for blatantly unlawful and unconstitutional activities, needs to be investigated.

2.19. The Tribunal received detailed information on the *Sangh Parivar's shakha* activities all over Gujarat, from the evidence of witnesses living in neighbourhoods where the training takes place. It should be a matter of priority for the local police to keep a tab on such activities, and curtail them, as they clearly disseminate hate literature to create permanent disharmony, fissures and tensions in Indian society and distribute arms and give arms training to pit one religious community against another.

2.20. Reports in credible national dailies and periodicals show that the VHP and the Bajrang Dal have been regularly conducting arms training camps in different parts of the country, for the last two years at least. (*See Detailed Annexures, Volume III*). From the statements on record, the objective behind these camps is evident, as are the objectives of their organisers and the instructors who conduct them: to spread venom against the minorities, especially Muslims and Christians, and to prepare a band of heavily indoctrinated, well-trained youth ready at a moment's notice to pounce on the minorities. "We are preparing these able-bodied persons to fight any eventuality. With the ISI spreading its tentacles, these people are being trained to challenge the anti-Hindu forces... It is not the gun that matters, but self-confidence." (Ved Prakash Sachchan, joint convenor of the UP unit of the Bajrang Dal, in an interview to *The Times of India*, June 13, 2001.) Such are the declared activities at these camps. The Tribunal has on its record, details of such arms training by these outfits in different states all over the country.

2.21. Given this background and the detailed evidence gathered by the Tribunal in the course of its investigations for a fortnight in Gujarat in May 2002, on the objectives and the kind of training given in the course of these camps, it is clear that they are a means to poison minds and generate hatred among Hindu youth towards other faiths and their followers. For Indian society, the consequences of such systematic and large-scale indoctrination and training, which is blatantly unconstitutional and seriously threatens internal peace, cannot be overemphasised. Instead of orienting them towards productive, creative and noble purposes, hate-mongers from the *Sangh Parivar* are busy mobilising youth for destructive activities. Anyone concerned about the health of Indian society and its progress should be acutely disturbed by these developments. Governments in the states and in New Delhi should view these developments with the urgency they deserve and halt such hate-driven mobilisation for violence.

2.22. Testimonies recorded by the Tribunal from Vadodara showed that about 2 months prior to the Godhra incident, a big meeting (*sabha*) was held at Tarsali bus stand near Vijaynagar colony. About 2-3000 people attended. It was a meeting for people from the Bajrang Dal and was attended by the international general secretary of the VHP, Shri Praveen Togadia as well a religious leader whose speech was telecast on the local television channel. The Tribunal recorded evidence that showed objectionable and criminal statements were made and telecast. Witnesses testified before the Tribunal saying that Hindus should not interact with Muslims on a normal basis but should only maintain good relations with those Muslims who have good looking wives, so that when the time came they could do what they had to do.

2.23. In August 2001, the VHP and the Bajrang Dal had organised a VHP *Bharti* (Join VHP) programme. Nearly one lakh people marched through the streets of Ahmedabad even though curfew was declared. This went on until September. One of the main programmes was held at the VHP's Vanikar Bhavan, Paldi. Their main *avahan* (call) was, “*Muslim ko nasht kar do!*” (“Destroy the Muslims!”) Advertisements were also released, asking for membership.

3 Impunity from Punishment

3.1. Gross and heinous crimes instigated or committed by the *Sangh Parivar* with the connivance of the BJP-ruled state government, during the post-Godhra carnage in Gujarat, has been matched with a celebration of the crimes and open contempt for the rule law. On March 9, *The Indian Express* reported that even before the police had apprehended or prepared charge-sheets against the VHP and Bajrang Dal activists named in FIRs for attacking Muslims, the VHP had a team of 50 advocates ready to defend the killers in court. “The advocates will work in teams of five each. What is more, a core committee was set up on Tuesday to provide ‘succour’ to families of men on the run or in judicial custody... The VHP state wing general secretary, Jaideep Patel says, ‘These men (the Godhra victims and those facing police action for post Godhra crimes) have 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’... Patel is not sure how many of his men are already in police reports or will be named in them, but says it ‘will not be less than 3,000’, including those responsible for the Gulberg society and Jakar Falia attacks.”

3.2. According to the same report in *The Indian Express* a top Bajrang Dal functionary, Shri Harshad Gilletwala said, “Cases are being registered against our men all across the state — Ahmedabad, Surat, Panchmahal. Maybe some of our men may have been involved in reprisals, being emotionally charged by the Godhra attack. But in most cases they are being falsely implicated.”

3.3. Incidentally, Shri Gilletwala himself faces similar charges. He is named in several cases of rioting in Ahmedabad over the last few years, the most infamous being the 1999 Bhagyodaya restaurant case. Gilletwala and a gang of Bajrang Dal men allegedly set fire to the restaurant in the Satellite area and burnt alive one of its Muslim owners in July 1999. (*See chapter on Build-Up in Gujarat, Volume II*)

4. Hate Speech and Hate Writing

4.1. Since the BJP came to power in Gujarat in 1998, the parent RSS and its progeny have been conducting a relentless hate campaign against the minorities, which goes against the laws of the land and violates international covenants, many of which India is a signatory to. After the Godhra tragedy, where, in an unpardonable act, 58 passengers aboard a train were burnt alive on February 27, the hate speeches and hate literature has been geared to both incite and justify the gross violence against Muslims.

4.2. The Akhil Bharatiya Pratinidhi Sabha of the RSS, held at Chenninahalli, near Bangalore, from March 16-19, reflected the organisation's role and thinking on the

Godhra and post-Godhra incidents. On the eve of the meeting of its leaders, the RSS gave a clean chit to Shri Modi's role during the Gujarat carnage. Describing the violence after the Godhra incident as a "natural reaction of Hindus", the RSS asserted that no government could have controlled the "upsurge". While expressing the view that the "natural reaction" (read gruesome and unprecedented violence) was unjustifiable, the RSS spokesperson Shri MG Vaidya said, "Whole Hindu society irrespective of caste, creed and political affiliations, reacted violently against what had happened at Godhra." (*The Times of India*, March 16.)

4.3. At the conclusion of the conference, two days later, with over 2,000 innocent Muslims having been brutally killed, not to mention the other indignities heaped on the community in Gujarat, the RSS thought it fit to lecture to Indian Muslims on their "extremist leaders" and "Hindu-baiters". A resolution adopted at the three-day conference of the Sangh, said: "Let Muslims understand that their real safety lies in the goodwill of the majority." Although a few Muslim leaders interpreted *jihad* as not supporting terrorism, they had not been able to influence the extremist elements, it said. "The Sabha wants to make it clear that it does no credit to the Muslim community to allow itself to be made pawns in the hands of extremist leaders," the resolution added. Describing the Godhra incident as "horrible and ghastly", the RSS delegates said it was imperative to present things in the proper perspective. "The reaction to the incident was spontaneous. The entire Hindu society had reacted. It was unfortunate that a number of people died in the violence." (Shri Vaidya quoted in *The Hindu*, March 18). Ten days later, the RSS restated its position and further elucidated the advice given in Bangalore. Shri Vaidya demanded that Muslims "re-interpret and define" the words *kafir* (infidels), *kufr* (the philosophy of infidels) and *jihad* (holy war against infidels). When asked how, in his view, Muslims could earn the goodwill of Hindus, Vaidya said they must condemn the activities of those who professed to carry out a "*jihad*" against "idol-worshippers". He said the RSS did not consider all Muslims terrorists, but "many terrorists happened to be Muslims" and claimed that they were pursuing "*jihad*, which is an Islamic cause". (*The Indian Express*, March 28). The RSS spokesperson used the occasion to advise Christians, too. "Christians should also accept that there is salvation outside the Church, too. Nobody should indulge in mass conversions and nobody should claim to offer a superior spirituality."

4.4. The attitude of the top leadership of the VHP to the post-Godhra carnage embodied not just open support and celebration of the mass crimes, but also the threat to repeat Gujarat's example all over India. On March 6, *The Hindustan Times* quoted the all-India vice-president of the VHP, Shri Hareshbhai Bhatt as saying that he was proud that Hindus have finally stirred: "For years, we have been harassed and attacked. The law protects them and governments, including the one led by the BJP, have appeased them." Shri Bhatt scoffed at the idea of an inquiry into the mayhem: "Inquiry, what inquiry? An inquiry is held when an offence has been committed. What happened at Godhra was an offence. What happened after Godhra was a reaction... The VHP has taken a long-term decision that all Hindus will boycott Muslims eco-

nomically, financially and socially. Muslims have to change their mindsets if they have to live here.”

4.5. Such statements by office bearers of the VHP must not be seen in isolation. Pre-and post-Godhra Gujarat and India is testimony to how these statements are also translated into venomous actions against the minorities.

4.5.1. Since the Gujarat carnage, the working president of the VHP, Shri Ashok Singhal, its international general secretary, Shri Praveen Togadia, and other prominent leaders have revelled in repeated public utterances gloating over the violence against Muslims, instigating further hatred against them and threatening to force all Indian Muslims into refugee camps, as in Gujarat.

4.5.2. On September 17, the VHP’s national secretary, Shri Surendra Jain, told a news agency that what happened in Gujarat after the Godhra killing was “not a matter of shame but a matter of pride.” He was criticising the Prime Minister who had described the Gujarat happenings as a matter of “national shame.”

4.5.3. On September 3, describing Gujarat as a “successful experiment,” Shri Singhal said, “Godhra happened on February 27 and the next day, 50 lakh Hindus were on the streets. We were successful in our experiment of raising Hindu consciousness, which will be repeated all over the country now.” The very next day, he expounded on his proposition. Shri Singhal spoke in glowing terms of the fact that in the state of his dreams, entire villages had been “emptied of Islam” and large numbers of Muslims had been forced to seek the shelter of refugee camps. “People say I praise Gujarat. Yes, I do.”

At a press conference on October 11, Shri Singhal stated, “What happened in Gujarat will happen in the whole of the country. Hindus were not born to be cut like carrots and radishes... the *Hindukaran* (Hinduisation) of the people of Gujarat was a direct result of the ‘*jehadi*’ mentality of Muslims.”

4.5.4. On September 15, Shri Praveen Togadia, who has repeatedly mocked the law of the land in recent months, (*see section on Annexures, Volume I*) said that Gujarat would decide the country’s politics.

4.5.5. On August 9, the VHP leader Acharya Giriraj Kishore demanded that Muslims should amend certain verses (*Ayaat*) in the Koran.

4.5.6. On September 9, the chief minister of Gujarat, Shri Narendra Modi, addressing a rally in Mehsana district during his *Gaurav Yatra*, said: “Relief camps are actually child-making factories. Those who keep on multiplying the population (read Muslims) should be taught a lesson.” (*The Hindu*, September 10)

Shri Modi’s very offensive remarks created a national uproar. When, following news reports, the National Human Rights Commission demanded a copy of the taped speech of the chief minister, the Gujarat government pretended that no such tape existed, until *Star News* telecast the same. Undeterred by all this, Shri Togadia announced at a press conference, “The VHP will distribute all over the country one lakh copies of the cassette of Modi’s speech delivered on September 9, to make the people aware of the double standards of the so-called secularist parties including the Congress.” (*The Deccan Herald*, September 24)

4.5.7. “The time was ripe for forming a separate army of Hindu youths who would protect the religion from attacks by *jehadis*.” (Praveen Togadia, *The Times of India*, October 18, 2002)

4.6. The above statements and others made at different points by influential office bearers of the VHP and BD, jubilant over the Gujarat carnage post-Godhra and eulogising Shri Modi as one of the three modern day heroes of Hindus, along with Shri Singhal (for his role in the Ramjanmabhoomi movement and demolition of the Babri Masjid) and Shiv Sena leader, Shri Bal Thackeray (for his anti-Muslim pogrom in 1992-'93), reflect the intimate connection between them and the common design by which they operate. They also reveal the real intent of these organisations. Not only is the generation of animus and hatred against a particular section celebrated and justified, there is little concern that such an attitude militates against the country's secular democratic ethos. It is clear to the Tribunal from the vast evidence placed before it that the real intent and purpose of the *Sangh Parivar* is the subversion of the Constitution of India.

4.7. Quite apart from the public statements and utterances that have been widely publicised in the national media after the Gujarat carnage, the plethora of hate pamphlets in circulation in Gujarat before, during and since the carnage are testimony to the calculated use of demonising tactics, by these outfits, to spur their cadres into action.

4.8. Evidence in the form of the originals and translations of these pamphlets were placed on record before the tribunal. (*See section on Annexures, Volume I*). Many of these have been in circulation, intermittently, over the past four years. But the period between February and April, 2002 saw the proliferation of such literature, some identifying the author, others anonymous, but all a foul testimony to the debasing levels of hatred that the ideologues of a 'Hindu State' can reduce ordinary people to. The Tribunal records with horror, the deep-rooted conspiracy and design that is evident from a perusal of all these pamphlets. From openly asking for a blatantly anti-constitutional boycott of Muslim shops and establishments, there are also exhortations to violence against Muslim women and children that are too shocking and painful to detail here. They reveal a depth of hatred that can be no good for the people it grips and takes hold of. Only a sick and degenerate leadership can want the whole of Indian society to descend to such demeaning levels of hatred whereby any excuse is good enough to unleash bloodshed and mass violence. The Tribunal has recorded dozens of testimonies from different parts of Gujarat that show how in the past four years, 3-4 times a year, tens of thousands of such pamphlets would flood Gujarati homes, thrust upon even those Hindus who are repulsed by their contents. From February-April 2002, the circulation of these pamphlets intensified considerably. It is astounding that no action was initiated by any wing of the Gujarat state intelligence or police against such hateful and incendiary writing; nor did the judiciary take *suo motu* action, which it is empowered to do. While most of the hate pamphlets are anonymous, there were at least four for which both the VHP and BD claimed proud authorship. (*See section on Annexures, Volume I*). It is a matter of profound shame that even in these cases, no action was initiated against the errant outfits and their office bearers.

4.9. One such pamphlet which bears special mention here, is one that mentions, with name and full address, a VHP office bearer as the author and publisher of this VHP/BD pamphlet: Chinubhai N. Patel, Vishwa Hindu Parishad Office; Vanikar Smarak Bhavan, 11 Mahalakshmi Society, Mahalakshmi Cross Roads, Paldi, Karnavati. Tel. 6604015, 6631365 Tel. (res.) 7454699. This pamphlet, which was in wide circulation, openly propagated hatred against Indian Muslims:

“The terrorist and traitorous Muslims of this country get weapons from more than 50 Muslim nations to carry out their religious wars. They are supplied with AK-56 and AK-47 rifles, automatic machine guns, small canons, rocket launchers and several kilos of RDX... The entire country is sitting on a heap of weapons and heading towards civil war and internal strife... When Pakistan attacks India, the Muslims living here will revolt... In 1947, they only had sticks, swords and spears but now they have modern weapons... They are plotting to kill crores of Hindus and we will be fighting these traitorous Muslims in every lane and by-lane of the country... If the Parliament and the Kashmir assembly can be attacked then what safety is there for the citizens of the country?...”

4.10. The above-mentioned pamphlet, which was produced before the Tribunal is nothing short of a vilification of Muslims. It is shocking that under a constitutional, secular-democratic order, such a pamphlet was not seized, the organisation whose views it obviously represents immediately banned, and its office bearers, who are a grave threat to national security, detained.

4.11. Provocative statements by VHP office bearers and by elected representatives in Gujarat in the immediate aftermath of the reprehensible killing of 59 Hindus on a train in Godhra, are widely believed to have been interpreted by VHP cadres, sympathisers and other individuals in Gujarat as a call to violence, which led to widespread killings throughout the state, earlier this year.

5. Communalisation of the State and Civil Society in Gujarat

5.1. Undeterred by the country-wide condemnation and outrage at the Gujarat carnage, the VHP's office bearers, especially Shri Singhal and Shri Togadia, have been touring the country and making newspaper headlines each day, pouring fresh vitriol against the minorities and undermining the constitutional scheme itself. The fact that they continue to do so, unchecked by the political executive, the law and order machinery, or by *suo motu* action by the judiciary, is a sorry comment on the state of the rule of law, or the lack of it, now prevalent in this country.

5.2. When the country's chief election commissioner (CEC), Shri JM Lyngdoh decided that in the circumstances still prevailing in Gujarat, elections (free and fair) could not be held immediately as desired by Shri Modi and his party, both Shri Modi and Shri Togadia alleged that the CEC was a “Christian who was taking revenge for the attack on Christians in Dangs in 1999.” This is nothing short of the denigration of a constitutional authority on sectarian grounds.

5.3. The agenda of these outfits for Gujarat becomes clear when you see their unabashed proclamation of Gujarat as a “*Hindu Rashtra*” (“Hindu state”). During their tour of several areas of Gujarat in May, Tribunal members saw signboards all over the state, welcoming people to ‘Hindu *Rashtra*’. “Karnavati city of this Hindu *Rashtra* welcomes you,” proclaims a board painted in saffron, in the heart of Ahmedabad. (Karnavati is the VHP’s preferred name for Ahmedabad). In Chhotaudaipur, 200 km south of Ahmedabad, the signboard on the highway is more direct. It simply says: “Welcome to Hindu *Rashtra*’s Chhotaudaipur town.”

5.4. These signboards are just one part of the legacy of nearly five years of BJP rule in Gujarat. Whenever cornered, the BJP claims it has nothing to do with the ‘hidden agenda’ of the *Sangh Parivar*, but neither the party nor the government it runs has any difficulty with their fraternity’s open challenge to the constitutional idea of India by *Hindutva*’s long cherished dream of a ‘Hindu India’.

5.5. Even the Congress party, which returned to power in the Ahmedabad Municipal Corporation (AMC) two years ago, has been reluctant to pull down these boards, despite a directive to this effect issued recently by the new state Congress president, Shri Shankersinh Vaghela.

6. Role of the RSS

6.1. The Rashtriya Swayamsevak Sangh (RSS), is an organisation with the self-professed goal of India as a ‘Hindu state’. (See section below, *Historical Background of the RSS*). It spawned the Vishwa Hindu Parishad in 1964 which in turn set up the Bajrang Dal in 1986, an aggressive militant outfit whose activities are nothing short of criminal. The RSS’ links with the BJP are well known. In the early 50s, when the Bharatiya Jana Sangh, the earlier *avatar* of the BJP, was formed to dabble in parliamentary politics, trusted RSS *pracharaks* (propagators) were ‘delegated’ to the party. Following the failed Janata experiment of the 1970s, after the end of Emergency rule, the Bharatiya Jana Sangh resurfaced as the Bharatiya Janata Party, which dominates the National Democratic Alliance coalition government at the centre today. The antecedents of both present Prime Minister, Shri Atal Behari Vajpayee, and deputy prime minister, Shri LK Advani, are as trusted *pracharaks* of the RSS, loaned to the BJS decades ago, to translate *Hindutva*’s ideology into a political programme.

6.2. The loyalties of Shri Vajpayee, Shri Advani and other senior BJP leaders like former law minister Shri Arun Jaitley and the chief minister of Gujarat, Shri Narendra Modi, to the RSS are well known and have been established beyond any doubt.

6.3. The role of the RSS in the build-up to Godhra (the *shilapoojan* in Ayodhya on March 15) and the post-Godhra carnage is both curious and enlightening. On March 15, the RSS gave a clean chit to the Modi-run administration in its handling of the violence. As mentioned above in the section on hate speech and writing, it justified the carnage as a “natural reaction”. Two days later, as also detailed in the section above, it castigated Indian Muslims for their extremist leadership.

6.4. In January 2002, the RSS announced that henceforth, it would hoist the National Flag at all its *shakhas* on every Republic Day and Independence Day. This is a recent phenomenon. Until now, when, as a body, it claims the inculcating of nationalism and patriotism in every citizen to be its primary objective, it had doggedly shunned the national flag — a precious national symbol for any country — except on a few occasions.

6.5. In January 2002, the RSS convened a massive rally in Jhabua in MP state in which an estimated 1.5 lakh Adivasis from Gujarat, MP and Rajasthan participated. As the crow flies, Jhabua is not far from the Panchmahal district in Gujarat. Inflammatory speeches made by the RSS chief, Shri KS Sudarshan, and others at this rally are believed to have contributed to the incitement of tribals to violence against Muslims in the tribal areas of north Gujarat. From news reports, it appeared that the rally had more to do with ‘Hinduisation’ of Adivasis and inciting them against minorities than with anything related to the genuine welfare of the Adivasis.

6.6. The statements of RSS leaders made at training camps in Bihar, teaching students that because President Shri APJ Abdul Kalam reads the Gita, “He is a Hindu” (*The Statesman*, September 3), and the constant questioning of Article 25 of the Indian Constitution, which upholds the freedom of faith, are further indicative of the organisation’s anti-constitutional thrust.

6.7. A clear demonstration of the communal and blatantly unconstitutional manner of functioning by the RSS was the recent campaign launched by that organisation in Rajasthan, to draw the city’s youth into its fold by undertaking a communal survey of the city’s population. At the end of this campaign, the RSS hopes to have a database on every Hindu boy and young man in the city of Jaipur. Its aim being, “To proselytise uninitiated Hindus, and to give memberships to those who show sympathy for the *sangh*.” (*The Hindustan Times*, Jaipur August 21, 2002)). The report also pointed out that a similar survey was conducted in Gujarat six months prior to the carnage. The Tribunal is convinced that given the track record of this organisation and given the fact that a large part of its mission is to engender communal feeling among sections wherein none existed before, the activities of these outfits need to be watched and, if necessary, curtailed.

6.8. Role of the RSS in Indian Politics: The RSS has always expressed keen interest and taken its own stance on what it considers to be key national issues. Since the BJP’s assumption of power in New Delhi, this articulation became more pronounced. Every so often, it has attempted to issue a ‘whip’ to its parliamentary wing – the BJP. Routine political utterances by RSS functionaries, either in approval or disapproval of the decisions taken by the BJP-led cabinet are examples of this.

7. Historical Background: The RSS

7.1. An investigation into the state-sponsored carnage in Gujarat would be rudderless without an examination and understanding of the ideology and the workings of the RSS and the VHP, the ideological fountainheads of the Hindu right wing. The BJP, which leads the NDA government at the centre, is merely the parliamentary

expression of the sectarian ideology of *Hindutva*. The Bajrang Dal is the youth wing of the VHP, whose mandate involves the use of arms, if necessary, to nurture 'Hindu pride' and 'Save the Hindu Nation'.

7.2. The RSS, the VHP and its numerous affiliates and branches are committed to an ideology that militates against the basic principles that underpin the Indian Constitution. The principle of equal rights to all citizens and non-discrimination are fundamental values in the Indian Constitution. It is clear from its ideological orientation, utterances and activities that the *Sangh Parivar* — the RSS, VHP, BD, BJP and their ideological offspring — is fundamentally opposed to the Indian Constitution.

7.3. In his book, *We or Our Nationhood Defined*, published in 1939, Shri MS Golwalkar, the second '*sarsangbhalak*' (head) of the RSS, reverentially referred to by *Sangh Parivar* members as 'Guru Golwalkar' or simply 'Guruji', clearly spelt out his notion of 'cultural nationalism', drawing unabashed inspiration from the example of Adolph Hitler. Through painstaking research, some scholars have unearthed information in recent years, to establish, beyond doubt, the ideological and organisational inspiration that RSS leaders drew from fascist Italy and nazi Germany in the late '20s and '30s. (*See Detailed Annexures, Volume III*). The public utterances of the RSS today, its constant invocation of the 'Hindu nation' ideal, its consistent adversarial stance against the country's religious minorities, clearly establish the link between the *theory* articulated by 'Guruji' in 1939 and the *current practice* of the *Sangh Parivar*.

7.4. In January 2000, the BJP-controlled Gujarat and UP governments decided to lift the ban on government servants joining the RSS. This raised a nation-wide outcry forcing withdrawal of the notifications, but not before Shri Advani had paid glowing tributes to his parent organisation. The fact that the BJP leadership would like to encourage and legitimise such close links between the RSS and the bureaucracy is a clear indication of the close links between the two organisations. That the short-lived Janata experiment, post-Emergency, collapsed over the issue of former Jana Sangh leaders' insistence on their right to publicly retain their relationship with the RSS ('dual membership') is well-known. It is, of course, another matter that this is no longer an issue for the other (non-BJP) political descendents of the Janata Party who are now part of the NDA.

7.5. On January 30, 1948, barely five months after India won her Independence and the sub-continent was partitioned on religious lines, the unthinkable happened — Gandhi, affectionately called the 'Mahatma' and 'Father of the Nation' was assassinated by Nathuram Vinayak Godse, a young Maharashtrian. Godse, who belonged to the extremist Hindu Mahasabha, had, in the past, also been member of a small voluntary organisation, the Hindu Rashtra Dal, and, in the early 1930s, of the RSS.

7.6. Following the assassination, the government of India treated both the Hindu Mahasabha and the RSS as constituting a threat to law and order. Shri Golwalkar, the RSS *sarsangbhalak* and Shri VG Deshpande, general secretary of the Hindu Mahasabha, were arrested, and the government declared that no organisation preaching violence or communal hatred would be tolerated. On February 4, 1948 the union home minis-

try headed by Sardar Vallabhbhai Patel, released a communiqué announcing that the RSS was an unlawful association; the subsequent arrest of a number of its leaders and members reduced its activity to a minimum.

7.7. When a few sympathisers of the RSS within the Congress initiated a move to lift the ban, the home ministry, under Shri Patel, issued yet another communiqué dated November 14, 1948: “The information received by the government of India shows that the activities carried on in various forms and ways by the people associated with the RSS tend to be anti-national and often subversive and violent and that persistent attempts are being made by the RSS to revive an atmosphere in the country which was productive of such disastrous consequences in the past.”

7.8. While rejecting all pleas from Shri Golwalkar that the RSS was a reformed body, the communiqué continued: “He has written letters both to the Prime Minister and the Home Minister explaining inter alia that the RSS agrees entirely in the conception of a secular state for India and that it accepts the National Flag of the country and requesting that the ban imposed on the organisation in February should now be lifted. These professions of the RSS leader are, however, quite inconsistent with the practice of his followers and for the reasons already explained above, the Government of India find themselves unable to advice provincial governments to lift the ban. The Prime Minister has, therefore, declined the interview which Mr. Golwalkar had sought.”

7.9. In a letter to Shri Golwalkar, on the ban on the RSS following Gandhiji’s assassination, Sardar Vallabhbhai Patel had written: “It was not necessary to spread poison in order to enthuse Hindus and organise for their self-protection... As a final result of their poison, the country had to suffer the sacrifice of the invaluable life of Gandhiji. The RSS men expressed joy and distributed sweets.” (From *Truth Triumphs*, published by a pro-RSS publication in 1997 and distributed by Sahitya Niketan, Hyderabad).

7.10. In August 1948, Shri Golwalkar began a correspondence with Pandit Nehru and Sardar Patel to have the ban against the RSS lifted. His letters to both on September 24, 1948, harped on the ostensible danger to India from communism, as evidenced by the “alarming happenings in Burma, Indochina, Java and other neighbouring states.” Eventually, the RSS agreed to adopt a written constitution, maintain regular registers of members, not admitting minors without parental permission, and working openly in the cultural field only.

7.11 The RSS won back its legal status on January 12, 1949. Following the demolition of the Babri Masjid on December 6, 1992, the union government imposed a ban on the RSS, the VHP, BD and organisations like the Jamaat-e-Islami and Islamic Sevak Sangh (ISS) on December 10, 1993. But the Bahri Tribunal set up under the Unlawful Activities (Prevention) Act, exonerated the RSS and the ban was lifted on June 4, 1993. The ban on the VHP, BD and the Jamaat-e-Islami was lifted subsequently.

8. The VHP and Bajrang Dal: Their Evolution and Role

8.1. In an RSS publication, *Matrusansthas* (literally, ‘mother organisations’), on the numerous affiliates and organisations which the RSS has spawned over the decades and which form part of the *Sangh Parivar*, are included the Vanvasi Kalyan Ashram and the VHP. (See *Detailed Annexures, Volume III*).

8.2. The VHP was born in 1964, when the RSS chief, Shri Golwalkar, met a select group of *sanyasis* and heads of religious organisations in Mumbai with the aim of launching a new organisation to unite all Hindu religious sects under a single umbrella. During the first ten years of its existence, the VHP worked largely in the north-eastern states, proselytising against the Christian missionaries. But following the mass conversion of Dalits to Islam in Meenakshipuram (Tamil Nadu) in 1981, it shifted its focus and turned against Muslims. In this new phase, it sought to enlarge and formalise the institutional links between the high priests of Hinduism across the country. Two apex bodies were created for this purpose – the *Marg Darshak Mandal*, which meets once or twice annually, and the *Dharam Sansad*, which meets only when needed. The Shankaracharyas, all heads of top *maths*, were given a prominent role within them and most of them became closely identified with VHP politics.

8.3. In legal terms, the VHP was conceived of as a trust, with a 100-member board of trustees and a 51-strong governing council. The latter body includes only one *sanyasi* at present, Swami Chinmayananda. An indication, perhaps, that the ultimate controlling power rests not with traditional religious leaders, but with the RSS patriarchs. VHP activists are called *hitchintaks* (well-wishers).

8.4. In a relatively short span of time, the trust has developed eighteen departments. These include the *Dharma Anusthan* department, which organises *kirtans* and *bhajans* in temples. Another branch looks after *dharma prachar* (missionary work) geared towards *ghar vapasi* (reconversion, or literally, return to home) of Christians and Muslims. Yet another is the *Acharya Vibhag*, which trains *pujaris* (priests) for the VHP as well as for other non-VHP run temples. The *Parva Samanyaya* department co-ordinates common festivals with non-VHP temple committees.

8.5. Since the early '80s the VHP has become politically visible with its aggressive '*Ramjanmabhoomi Andolan*'. The declared aim was to 'reclaim' the 'birthplace of Lord Ram' in Ayodhya on which the Babri Masjid stood and to build a Ram temple in its place. Among other things, the campaign involved a series of national mobilisations — the *Ekatma Yajna* (1983), *Shri Ramjanaki Janmabhoomi Yatra* (1984), other *rath yatras* (1985-89), *Shilapoojan* and *Shilanyas* ceremonies at Ayodhya (1989), and finally, Shri Advani's *rath yatra* (1990). All these, except the last one, which was organised under the BJP banner, were conceived and organised by the VHP.

8.6. While some of these *yatras* were for 'consciousness-raising', others required active contributions from everyone — a brick, a rupee, or the sale of a bottle of Ganga water in each village of the country. The mobilisations were a means to claiming and, to an extent, creating 'Hindu unity' under the VHP's auspices.

8.7. Of the myriad texts that exist for the eclectic faith of Hinduism, it is curious that *Manusmriti* and *Arthashastra* are treated as central by the ideologues of *Hindu Rashtra*. It is interesting to remember that the *Manusmriti* prescribes a rigidly stratified caste and gender hierarchy, while the *Arthashastra* recommends a police state under a single despotic head.

8.8. In retrospect, the core concern behind the formation of the VHP was the desire to forge 'unity' in a society fragmented by the rigidities of caste. Beginning with the

tribals of the north-east, VHP activities then extended to Delhi, Karnataka, Orissa, Andhra Pradesh, MP, Tamil Nadu, Gujarat, Maharashtra, Kerala, UP and Bihar. The 'Hinduisation' of exploited social groups became urgent, particularly after the Meenakshipuram incident. In UP, the VHP has been wooing the forest-dwelling Kol tribes. The nature of the VHP's activities among such groups reveals that their inspiration is drawn entirely from the RSS worldview. On paper, the VHP is engaged mainly in educational work: setting up of libraries, *yogashramas*, *bahwadis*, student hostels and child *samskar* centres for the development of the knowledge of Hindu texts and Hindu national heroes. But the central thrust – though the VHP seldom describes it as such – is clearly the 'conversion' of tribals and Dalits to *Hindutva*-approved forms of worship. Raghunandan Prasad Sharma's *VHP: Aims, Activities and Achievements* advises the spread of the 'chief religious *samskaras*' among '*vanवासि*, *girijans* and *barijans*'. Clearly these are meant to replace existing beliefs and practices among tribals and ensure a homogenised version of religion.

8.9. The Bajrang Dal (See <http://www.hinduunity.org/bajrangdal>) looks after the training of young boys. It calls itself by different names in different parts of the country. In Bengal, for instance, it is known as the Vivekananda Vahini.

8.10. The above mentioned website describes the formation of the Bajrang Dal thus: "Vishva Hindu Parishad decided to start 'Ram-Janaki' *rath yatra* for awakening the society on October 1, 1984... Many elements refused to give protection to *Rath* and the participants. The Holy saints made a call to the Youths to protect '*Rath*'. Hundreds of youth gathered in Ayodhya. They performed their duty very well. Thus Bajrang Dal was formed with a temporary and localised objective of awakening youth of UP, and get their involvement in *Ramjanmabhoomi* movement... In 1986, the VHP decided to form Bajrang Dal in other states and very soon Bajrang Dal was formed in other states too, as its youth wing." (See *Detailed Annexures, Volume III*).

8.11. It is clear from these assertions that whether it is the VHP, BD or the Durga Vahini, perceived wrongs against a supposedly homogenous Hindu society are played upon to whip up sentiments against India's religious minorities, be they artisans from Aligarh or Moradabad, peaceful residents of Faizabad or businessmen, traders and agriculturists from Gujarat. Implicit in their agenda is aggression against fellow Indians.

8.12. The Durga Vahini wing of the VHP works among young girls and women.

8.13. Centres of the BD are often located at Hanuman *mandirs* where they organise weekly *satsangs* (prayer meetings). The BD was largely instrumental in recruiting urban youths for the '*kar seva*' at Ayodhya.

8.14. The distortion of Indian history, in a bid to project a 'Hindu history' of a people who for centuries were victims of Muslim marauders and Christian design, is at the heart of the mobilisation of these outfits. School textbooks and every other forum of public discourse are used for this purpose.

8.15. During the Ramjanmabhoomi movement between 1989-1992, Sadhvi Rithambara (an incendiary VHP protégé), frequently proclaimed an all-out war: '*Khoon kharaba hota hai to ek bar hone do*' ("If there has to be bloodshed, let it happen once and for all"). The call for blood was sufficient to instigate cadres into violence against

Muslims in Meerut, Maliana, Bhagalpur, Ahmedabad, Varanasi, Kanpur, Jaipur, Hubli, Ahmedabad, Surat, and Mumbai.

8.16. “*Angry Hindu! Yes. Why not? Why are Hindus in the Dock?*” An RSS booklet by that title celebrated manufactured rage as the saving grace for the community. A *Hindu Jagaran Manch* leaflet from Khurja, published during the same period, evoked the image of divine vengeance, seeking Muslim blood, elevating *Hindutva*’s blood-thirst to divine desire: “*Ranchandi khali khappar liye gali gali vichar rahi hain*” (“The goddess of war is roaming the streets thirsting for blood”). The open call for bloody revenge underpins the thinking of these organisations.

8.17. A distinct component of the VHP strategy to evolve an ‘all-Hindu reality’ is to mobilise Dalits to do their job so that caste Hindus can avoid getting blood on their own hands. Thus the Valmiki (Dalits) were deployed in communal conflicts in Nizamuddin (New Delhi) in 1983 and during the riots in Delhi’s walled city in 1987. A more fundamental motive seems to be the assimilation (‘Hinduisation’) of Dalits after their ‘trial by fire’ in Ram’s name. Dalits are invited to embrace the ideal of ‘Hindu unity’ even as discrimination against them and their exploitation remains a harsh reality. A Harijan was thus given the great privilege of laying the first foundation stone at the Ram temple site in Ayodhya in 1989.

8.18. The VHP’s promotion of the Valmiki group, in particular, is significant. It coordinates with the Valmiki temple committees for its festivals and VHP literature pays glowing tributes to Valmiki and Ravi Das as ‘Hindu’ religious leaders. The association between Valmiki and Ram is striking. It is also significant that in Delhi, Valmiki temples abound and constitute practically the only visible activity of the VHP among the low caste groups. The strategy is to recruit the traditionally neglected and exploited tribals and Valmikis to defend the high caste Hindu cause, by glorifying them even while showing little concern for their socio-economic status.

8.19. The VHP and the BD have played an important role in Gujarat in recent years. Since the BJP came back to power in 1998, these outfits have been breaking the law with impunity, certain as they are of political patronage from both the state and the centre. The Tribunal was presented with abundant examples of FIRs lodged against the cadre of these outfits in the past four years. The police, however, have launched no investigations. (*See chapter on Build-Up, Volume II*)

9. Funding of RSS and its Affiliates

9.1. Non-resident Indians (NRIs) of Gujarat have been the lifeline of finance for *Hindutva* organisations.

9.2. 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.

9.3. 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 UK-based ‘charity’ and many such fronts in the US collect and contribute large sums of money to these organisations.

9.4. The VHP finances the Bajrang Dal, which remains an unregistered body, from the money it receives as donations for charitable work.

9.5. 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.

9.6. The most active have been VHP (USA) and VHP (UK), both of which are also connected with other “charitable” societies in these countries.

9.7. The Hindu Swayamsevak Sangh (HSS), the overseas incarnation of the RSS and the Friends of India Society International (FISI), the political mobilisation wing of the HSS, work very closely with the India Development and Relief Foundation (IDRF) in the USA. The IDRF was set up as a tax-exempt, non-profit organisation in 1989, under the provisions of section 501(c)(3) of the tax code in the US. Its ostensible purpose is to raise money for organisations in India, “assisting in rural development, tribal welfare, and urban poor.” According to its tax returns, the IDRF raised \$ 3.8 million in the year 2000, of which it disbursed \$1.7 million in “relief and development work.” (From the exemption application of the IDRF filed with the IRS in 1989 and Form 990 filed by the IDRF for the 2000 tax year). (http://www.hssworld.org/usa/wc/shakha/LosAngeles/rss_75years_files/frame.htm)

9.8. However, a closer scrutiny of the projects that the IDRF funds, the IDRF itself, the political affiliations of its office-bearers and of the organisations that raise funds for it, reveals that the IDRF is closely linked with the *Sangh Parivar* — the RSS/VHP/BD and BJP.

9.9. Evidence placed before the Tribunal points to a strong link between the IDRF and its Indian affiliate, Sewa International. On its web site and in its literature, the IDRF lists Sewa International as ‘IDRF India’ and Shri Shyam Parande, the general secretary of Sewa International, as the IDRF advisor in India. And on its web site, Sewa International also states that it is “associated with the IDRF, USA and Sewa International, UK.” (The Sewa International, UK calls itself the ‘service project’ of Hindu Seva Sangh, UK).

9.10. From the evidence before us, it is clear that Sewa International identifies itself with the vision of the RSS. The organisation’s affiliation with the RSS is further confirmed by the contents of the section entitled, ‘Experiments and Results’ on Sewa International’s web site. This section expounds the visions of many RSS leaders (and only RSS leaders), the various “community” activities taken on by the *Sangh* and the resulting spread of *Sangh* philosophy in different areas. In some of its earlier literature, the address of Sewa International is the same as that of the RSS headquarters in Delhi.

9.11. *Sevadisha*, a publication of the Seva Vibhag (Service Wing) of the RSS also lists Sewa International as an RSS affiliate, established primarily to mobilise international support for organisations working within the *Parivar* framework: “Yet another development is the establishment of an international organisation titled “Seva Inter-

national” which now has branches in many countries. Sewa International will look after the interests of *sewa* (service) related issues not only in the respective countries where they have chapters but also take up ‘global’ level care of *sewa* (service) work carried out under the *Sangh* ideology.”

9.12. The FISI and HSS have held fund-raising drives for the IDRF. Many of the people associated with the IDRF, its founders, affiliates in India and its officials have extensive affiliations with other *Hindutva* organisations in this country, or the *Sangh Parivar* in India. The IDRF’s Founders: Shri Bhishma Agnihotri, a well-known RSS ideologue and an HSS *Sanghchalak* (Chief), is one of the founders of the IDRF. Two of the IDRF’s other founders, Shri Jatinder Kumar and Shri Ram Gehani are office-bearers of the FISI, while Shri Gehani is also associated with the organisation ‘Overseas Friends of the BJP’

9.13. The Tribunal has evidence that following the earthquake last year, Sewa Bharati, Gujarat, received a lot of funds from foreign donors as well as the Indian government for rebuilding villages in Gujarat.

9.14. The Tribunal has evidence which shows that money was raised by the IDRF, through Sewa International, for five organisations belonging to the Vanvasi Kalyan Ashram (Vanvasi Kalyan Ashram in MP, Gujarat and Nagar Haveli; the Girivasi Vanvasi Sewa Prakalp in UP and the G. Deshpande Vanvasi Vastigrah in Maharashtra). Vanvasi Kalyan Ashram is one of the major *Sangh* affiliated organisations active in the tribal regions in India. From the evidence before the Tribunal, Vanvasi Kalyan Ashrams located in Bharuch, Vadodara, Kheda, Sabarkantha and Banaskantha districts have been very active on issues that are a clear part of the RSS agenda, as many witnesses told the Tribunal during its visit to these areas.

9.15. Among what the IDRF describes as its affiliates, most appear to be linked with the vast network of organisations affiliated to the RSS. For example, the One Teacher Schools (Ekal Vidyalays): This is a scheme started by the VHP to indoctrinate students in remote villages (tribal villages). Different *Sangh* organisations have raised money for this scheme and helped in the administration of the schools. Some of them are the Bharat Kalyan Pratishthan, the VHP, the Swami Vivekananda Rural Development Society, the Friends of Tribal Society, and the Vanvasi Kalyan Ashram — all of which have been funded by the IDRF based in the USA. Recently, the Ekal Vidyalay Foundation has been set up as an independent organisation, but it is still under the control of Dr. BK Modi, the current president of VHP-Overseas.

9.16. It appears clear from the evidence placed before us that Sewa International is the IDRF affiliate in India, overseeing its Indian operation. In terms of monetary reimbursements, it may be the most significant ‘sister organisation’ of the IDRF. Sewa International is a *Sangh Parivar* organisation that was set up primarily for co-ordinating the flow of foreign contributions for *Sangh* projects in India. Sewa International clearly identifies itself as a *Sangh* organisation and states in its mission statement that it “is an umbrella for more than 2,000 projects and programmes all over India” overseeing “more than 50,000 volunteers (*swayamsevak*s) involved in running 76 different types

of activities.” A *swayamsevak*, which literally means a ‘volunteer’, is a term that is increasingly identified with an RSS member, especially when used in English. This organisation’s RSS affiliation is further confirmed by looking at the section entitled ‘Experiments and Results’ on Sewa International’s web site.

9.17. Sewa International, UK— the counterpart of IDRF in the UK, which also raises money for projects overseen by the Sewa International, India — is registered under the name of HSS, UK. Lord Adam Patel, a Labour Party peer who was a patron of this organisation, resigned from it after the Gujarat carnage, claiming that Sewa International had “links with right wing extremist groups blamed for provoking rioting in India.” A newspaper from the UK reported Lord Patel as saying that he had examined Sewa International’s own records: “I am satisfied that Sewa International is a front for controversial militant Hindu organisations and so I have been forced to resign as one of its patrons.”

9.18. In view of the above, the Tribunal notes the lack of accountability and transparency in the funding and running of organisations like the RSS/VHP/BD which have been indicted even by several judicial commissions of inquiry for their role in communal violence. Given their huge network of affiliates, religious-developmental organisations, educational trusts, etc. it is difficult to fathom the manner in which funds are raised, the ostensible purpose for which they are raised and for what purposes they are actually utilised.

9.19. In the course of an investigation into the tax returns and assets of the VHP under the National Front government headed by Shri VP Singh – the income tax official, Shri Gupta had issued summons to VHP leaders, Shri Ashok Singhal, Shri Vishnu Hari Dalmia, Mahant Nrit Gopal Das and Mahant Paramhans to question them on the accounts submitted for the financial year 1988-89. But using a technical loophole, the government quashed the case within 24 hours, after senior BJP leaders threatened to withdraw support to the government. Shri Gupta was transferred to Tamil Nadu. Later, newspapers reported that the entire record of the IT returns filed by the VHP was found missing.

9.20. The Tribunal’s investigations into the Gujarat carnage reveal that free access to funds, from abroad and India have contributed greatly to the strength of *Sangh Parivar* outfits which openly conduct armed training camps, exhort young men and women to violence and seriously jeopardise communal amity and internal security.

9.21. To check the spread and proliferation of hate ideology any further into the country’s social and political life, it is imperative that the funding sources and links of these organisations and their myriad outfits are immediately and thoroughly investigated.

10. Indictment in Communal Crimes

10.1. Virtually every judicial commission of inquiry officially appointed to investigate communal riots since Independence and Partition, has indicted organisations affiliated with or allied to the RSS/VHP/BD/BJP combine, including the Maharashtra-based Shiv Sena, for their role in violent crimes against India’s minorities. (*See Detailed Annexures, Volume III*).

10.2. Yet, the Indian state has been reluctant to prosecute those guilty of these crimes. Such failure amounts to official complicity and shows reluctance on the part of governments to give justice to a section of its citizens. The Tribunal recommends that such crimes are dealt with seriously and swiftly and punishments accorded so that the demands of internal peace, justice and reconciliation are met.

10.3. Through their high-pitched, ‘Who casts the first stone?’ propaganda, Hindu majoritarian outfits seek to absolve themselves of any blame or responsibility for the violence and bloodshed, in the public eye. Expert evidence placed before the Tribunal shows that in conflict after conflict, these outfits defend their actions as “justifiable retaliatory acts by Hindus in self-defence” against attacks started by Muslims.

10.4. However, after detailed investigations, most judicial commissions of inquiry have concluded that Hindu communal organisations systematically inject the poison of communalism into the atmosphere and cause deliberate provocation to prompt a reaction from Muslims, a reaction which is then projected as proof of Muslims having thrown the first stone. (*See Detailed Annexures, Volume III*).

10.5. In their findings on the Jabalpur riots of 1967, Ahmedabad (1969), Kanyakumari (1982), Jamshedpur (1979), Ranchi (1969), Bhiwandi-Jalna, Mumbai (1970), Tellicheri (1971), the various judicial commissions of inquiry appointed by the appropriate state and central governments to probe into the violence have indicted one or other member of the *Sangh Parivar* and other votaries of Hindutva. That they have escaped subsequent action is, of course, another matter. (*See Detailed Annexures, Volume III*). A singular exception was the anti-Sikh riots in November 1984 where the Congress party and its then leadership must bear the blame for the massacre of 3,000 Sikhs in the nation’s capital.

State Complicity

Government of Gujarat

1. The post-Godhra carnage in Gujarat was an organised crime perpetrated by the state's chief minister and his government. The state's complicity is evident from the various acts of commission and omission of the government and its officials.

1.1. It was the chief minister who declared that the Godhra incident was pre-planned when the investigating agencies had not reached such a conclusion. Shri Modi's cabinet, notably the minister for home, Shri Gordhan Zadaphiya, reiterated strongly that Pakistani hands were behind the Godhra act. These statements were irresponsible, given the sensitivity of the situation and the anger that they generated. Once they generated a climate ripe for apportioning blame, for the acts of a few criminals, the entire Ghanchi Muslim community of Godhra was branded. This led to a feeling of justifying the systematic massacre, plunder, loot and cultural decimation of the entire Muslim community in Gujarat thereafter.

1.2. It was the chief minister who decided that the charred, unidentifiable dead bodies be taken from Godhra to Ahmedabad in a motor cavalcade. As the cavalcade headed for Ahmedabad, senior members of his party and organisations affiliated to it shouted slogans and incited mobs to retaliate. The CM's role in condoning this behaviour, and in using official machinery to propagate the unsubstantiated view that the Godhra tragedy was a sinister conspiracy, is condemnable. Thus, it was the chief minister who was primarily responsible for the spread of violence, post-Godhra, in the rest of Gujarat.

1.3. The VHP gave a call for a Gujarat *Bandh* on February 28 and for a *Bharat Bandh* on March 1. The Gujarat BJP president, Shri Rajendrasinh Rana, was quick to announce the state BJP's support for both the *bandh* calls, giving a clear signal to the administration that it need not take a hard line against those who enforce the *bandh*. The state government's reluctance to take adequate steps in the wake of the proposed *bandhs* amounted to an abdication of all its responsibilities and an open invitation to anarchy.

1.4. Shri Modi played an active role, along with at least three cabinet colleagues, in instructing senior police personnel and civil administrators that a “Hindu reaction was to be expected and this must not be curtailed or controlled.”

1.5. On the evening of February 27, two cabinet colleagues of the chief minister, Shri Ashok Bhatt and Shri Pratap Singh Chauhan, met at Lunavada in Panchmahal district along with others. In this meeting, the manner and methods of unleashing violence on Muslims were planned in detail.

1.6. It is clear from what happened in Ahmedabad and its environs on February 28 and all over the state on March 1-3 and thereafter, that there was deliberate connivance and support of the government.

1.7. The sectarian approach of the government and the inaction on the part of the administration allowed the violence to spread. According to dozens of testimonies before the Tribunal, even some ministers of the Gujarat government led the carnage and rapes, in many cases. The CM did not take adequate preventive measures, nor did he keep the army on stand-by. Though the situation was grim, and tension was at its peak, Shri Modi falsely claimed on March 2 (Newshour, *Star News*, 2/03/2002): “*Gujarat mein babut tezi se shanti prasthapit ho rahi hai, normalcy aa rahi hai... Ahmedabad ek prakhar se kal raat ke baad, puri taraha incident-free rahi hai.*” (“Gujarat is well on the road to peace and normalcy is slowly returning here... Ahmedabad too has been largely peaceful since last night.”) This, while the attacks in Panchmahal district, Mehsana, Kheda, Nadiad, Bhavnagar – which included hacking, lynching and burning alive of people—continued. This was done deliberately to mislead the rest of the country and the world, though what was going on in Gujarat was clear to the whole world through the print media, radio and TV.

1.8. Shri Modi claimed on March 3 (Talking Heads, *Star News*, 3/03/2002), that the Army was called for on the evening of February 28, and joined duty from the morning of 1st March.

(Although 12 columns of the Army (approximately 600 troops) had reached Ahmedabad and other sensitive areas on March 1, they were kept on standby. Military intelligence puts the blame on the state government. News reports maintained that the initial delay was due to the absence of clear instructions from the Gujarat government. (*The Times of India*, Ahmedabad, March 11, Pg. 7). (See chapter on Godbra, Volume II).

1.9. In the past, communal riots had been mostly an urban phenomena that did not spread to the villages. But this time, due to the sectarian politics of religion, it spread to the villages as well. One of the worst incidents was at Sardarpura village where 38 villagers were hacked and torched. This is what Shri Modi had to say about the gruesome killings on March 1: “In some villages, especially in one village of Mehsana district, due to rumours, due to suspicion, due to mistrust, due to tension on both sides, there was an *incident* (emphasis added) in the Sardarpura village.” He took no steps to nip the rumours in the bud.

1.10. Other ministers in the state cabinet displayed the same attitude. Electoral constituencies of ministers in the state cabinet were more prone to violence; in some

cases, ministers themselves were leading the mobs. It may not be a mere coincidence that Bapunagar, home constituency of the minister of state for home, Shri Gordhan Zadaphiya, witnessed one of the worst communal scenes since the 1969 riots, when the area was the hardest hit. Some of the senior BJP leaders and ministers in Shri Modi's cabinet were also alleged to have participated in the destruction of minority places of worship. Minister for revenue, Shri Haren Pandya and health minister, Shri Ashok Bhatt led the mobs enthusiastically in Ahmedabad. Shri Bharat Barot, a sitting MLA, was also at the forefront. Residents of Paldi, from where Shri Pandya was elected, actually saw him lead arson attacks. Shri Pandya's election promise the last time was "to wipe any trace of Muslims out of Paldi." Smt. Maya Kotdani, an MLA, has also been named by a few dozen witnesses as an active participant in the violence. Gujarat ministers Shri Nitin Patel and Shri Narayan Laloo Patel led violence, arson and even sexual violence against women in Kadi and Unja in Mehsana respectively.

1.11. The utter disregard for the loss of life and property and the anguish that a section of the citizenry suffered due to unprecedented violence could be seen in the fact that until Prime Minister Shri Atal Behari Vajpayee flew into Ahmedabad and visited the Shah-e-Alam Camp, Shri Modi had not visited a single one. This, despite the fact that there were as many as 66,000 persons, according to collector's figures, huddled in camps in Ahmedabad, while independent assessments put the figure at close to 98,000. Instead of providing succour and assistance, which is the fundamental duty of a government towards its citizens, terror tactics through *lathi*-wielding policemen were employed with the residents of these camps. In areas of Gujarat outside Ahmedabad, too, there were as many as 60,000 persons internally displaced, living in terrible conditions. But the government and the administration did precious little to give them prompt and adequate relief.

1.12. The attitude of the government showed it had no regard for the life, well-being and future of students from the minority community. Traumatized and distressed students had requested a postponement of the annual examinations. But the state government, and later even the Gujarat High Court, rejected their plea. On April 10, the Gujarat government took a decision to shift out all centres located in the minority dominated areas, out of concern for the lives of students belonging to the majority community. However, minority community children were still expected to travel to examination centres located in majority dominated areas.

1.13. The CM announced Rs. 2 lakh as compensation for the victims/survivors of the Godhra tragedy. But the compensation declared by the CM for the survivors of the carnage that followed was Rs. 1 lakh for the family members of each victim. (When widespread criticism was made about the discriminatory stand of the state, the amount was equalised by reducing the compensation to the Godhra victims' families to Rs 1 lakh, rather than by increasing the amount to Rs 2 lakh in all cases.) As of now, there is no information on how many families concerned have been paid the compensation amount. As regards the injured, the government decided to pay compensation amounts ranging from Rs. 2,000 to Rs. 50,000. This compensation amount

was decided in accordance with the norms fixed for the victims of the earthquake on January 26, 2001, a government notification said. Here, again, there is no statistical data offered. As regards the destruction of homes, properties and businesses, the state government has been perfunctory and callous in announcing compensation. There are no clear guidelines; some have been paid paltry sums ranging from Rs. 500 to a few thousand rupees, without any proper assessment of the loss suffered.

1.14. On March 1, the CM announced a judicial commission of inquiry into the Godhra tragedy alone, appointing retired judge, Shri KG Shah at its head. Again, only after widespread protests, did he announce the inclusion, in the terms of reference of inquiry of the judicial commission, of the post-Godhra carnage. (On March 5.) The appointment of the KG Shah Commission was the subject matter of serious controversy because of the conduct of this particular judge in an earlier matter and also on the simple ground that due to the situation in Gujarat, where judges, academics, professionals and others live under threat of fanatic groups who have become a law unto themselves, *the criteria of a free, fair and independent inquiry demands the appointment of a senior judge (preferably judges) from outside the state.* Now, the government has included Justice GT Nanavaty (former judge of the SC) as an additional member, without specifying as to what would happen if the two judges differ on any matter.

The terms of reference of the KG Shah Commission are also controversial. They do not refer to the need to look into the *causes* of the disturbances/events/killings as also the need to *pinpoint* the groups, individuals and organisations behind the violent provocation, and also the role of the police and the administration in controlling the spread of riots and on the failure of the state government in taking prompt and effective relief measures for the victims of the riots.

1.15. The RSS and the VHP control key functionaries in the State. Chief minister Shri Modi is an RSS *pracharak*. Minister of state for home, Shri Zadaphiya, is a VHP activist. Shri SS Bhandari, the governor of Gujarat, who has not deemed it fit to send a true report on what is happening in the state to the centre, is also an RSS leader. As a consequence of all these factors, the Gujarat government has functioned not as a constitutionally bound, non-partisan and independent body, but one controlled by, and answerable to, the *Sangh Parivar*. The role and the functioning of the Gujarat government, therefore, is directly determined by its penetration by the *Sangh Parivar* including its most extreme elements, the VHP and Bajrang Dal. This fact underlies the conduct of the Gujarat government before, during and after the peak period of communal violence in the state during February-March 2002. As a result, while the Government had made certain arrests, *no arrests of Bajrang Dal/VHP and BJP workers were undertaken.* The arrests of at least 150 such accused, whose names figure in FIRs, are being avoided by the state government.

1.16. Not only the criminal justice system, the entire Administration has failed. IAS and IPS officers who are supposed to be independent, have succumbed to the pressure of the *Sangh Parivar*. “There is no civil service left in Gujarat,” said the former Indian cabinet secretary Shri TSR Subramanian (*The Indian Express*, April 10). “What has happened is something much more fundamental than Gujarat: The civil service is

gone. There is no such thing left. Over the years, the civil service has turned from a steelframe to non-existent. And that is a shattering thought.

“When the government wants something done it has the ability, it has the *takat* (strength). It can do it in village after village, town after town. That it has not done so in Gujarat is a telling indictment not only of the way of the present government, but also the collapse of the police and civil magistracy,” he says.

1.17. The government of Gujarat has been utterly secretive about the disbursal of the Rs. 150 crores promised by the Prime Minister Shri Atal Bihari Vajpayee for rehabilitation on April 4, 2002. In all this, the conduct of the chief minister Shri Narendra Modi, has not simply violated the spirit and the law as laid down by the Indian Constitution. He has, in effect, blatantly defied every constitutional institution, including that of the Prime Minister. Shri Narendra Modi is accountable for criminal negligence of duty in failing to provide any relief and rehabilitation to the victims of carnage in Gujarat.

2. Role of Chief Minister and His Ministerial Colleagues

2.1. The facts mentioned in this report clearly establish that chief minister Shri Narendra Modi is the chief Author and Architect of all that happened in Gujarat after the arson of February 27, 2002. It is amply clear from all the evidence placed before the Tribunal that what began in Godhra, could have, given the political will, *been controlled promptly at Godhra itself*. Instead, the state government under chief minister Shri Narendra Modi took an active part in leading and sponsoring the violence against minorities all over Gujarat. His words and actions throughout the developments in Gujarat show that he has been openly defying the Constitution and indulging in actions which are positively detrimental to the interests of the country.

2.2. Shri Modi was the one who took Godhra to the rest of Gujarat. He was the one who directed the police and the administration not to act. He was the one who refused to help the likes of former member of Parliament, Shri Ahsan Jafri and the large number of people in Shri Jafri's home, who were all butchered later on.

2.3. He refused shelter and succour to the victims of the carnage.

He refused, and continues to refuse, basic human amenities and was using coercion and other tactics to wind up refugee relief camps.

2.4. He has refused to buy land and rehabilitate persons in new locations or to give transparent accounts of the Rs. 150 crore rehabilitation package announced by Prime Minister Shri Atal Behari Vajpayee during his visit to the state on April 4, 2002. He has no remorse for the rapes, the butcherings, the loss of properties, the agony of displacement and the acute insecurity and lack of belonging felt by large numbers of the people of Gujarat.

2.5. As late as September 3, 2002, the international working president of the Vishwa Hindu Parishad, Shri Ashok Singhal made a shocking statement that received wide publicity, in which he described Gujarat as a “successful experiment” and warned that it would be repeated all over India. Shri Singhal further stated that the success of the Gujarat experiment lay in the fact that entire villages were “purged” of Islam and

Muslims. This outrageous and pathetic statement was not only anti-constitutional but also in violation of the law itself, for which he could be prosecuted. But Shri Modi, by not expressing any outrage at Shri Singhal's remarks, and by indulging in blatant minority-bashing himself, appears to have accepted Shri Singhal's warning that whatever happened in Gujarat was an experiment, a precursor of things to come in the rest of the country. He has made no secret of his hatred for the minorities, and his utterances from time to time keep emphasising that he is still an RSS *pracharak* (propagator) with a hostile attitude. His role as CM is nothing short of an extension of his functioning as an RSS *pracharak*.

2.6. It is unfortunate that all his ministerial colleagues have toed his line with no regard to the oath that they took under the Indian Constitution. They are, therefore, equally guilty of the commissions and omissions committed by the chief minister. These rabid, communal, anti-national and anti-constitutional statements and conduct on the part of the chief minister of Gujarat, Shri Narendra Modi and his cabinet colleagues make them unfit to hold any public office. The interests of the people of this country are not safe in their hands.

State Complicity

Police Misbehaviour

1.1. Evidence before the Tribunal clearly establishes the absolute failure of large sections of the Gujarat police to fulfil their constitutional duty and prevent mass massacre, rape and arson — in short, to maintain law and order. Worse still is the evidence of their active connivance and brutality, their indulgence in vulgar and obscene conduct against women and children in full public view. It is as if, instead of being impartial keepers of the rule of law, they were a part of the *Hindutva* brigade targeting helpless Muslims.

1.2. To start with, the Godhra incident would not have taken place had the police taken due precautions right from the beginning. Given Godhra's history and communal background, the police should have maintained a strict vigil as *kar sevaks* crossed Godhra, on their way to Ayodhya and on their return journey, more so because the climate in the country was already tense because of the VHP's Ayodhya plan. On their way to Ayodhya, the *kar sevaks* had indulged in provocative acts at Godhra station. Despite these warning signs, there was not enough deployment of forces. (See chapter on Godhra, Volume II). In the circumstances, one may well ask whether this was a case of intelligence failure on the part of the police force, or a deliberate absence of pre-emptive action?

1.3. Once the Godhra tragedy had occurred, the Gujarat police made no preventive arrests. (See Annexures Police statistics, Volume I). The only two arrests made on February 27 were those of Shri Mohammed Ismail Jalaluddin and Shri Fateh Mohammed, who were picked up at Astodia that night, for shouting slogans.

1.4. Significantly, the police waited in the wings as subsequent events unfolded. By the evening of February 27, the VHP had made its intentions apparent with its strident call for a 'Gujarat Bandh' the next day and a 'Bharat Bandh' the day after. Seeing the Godhra incident as 'a manifestation of Islamic fundamentalism', the VHP gave a 24-hour ultimatum to the state government to bring the culprits to book. (Two years ago, in the Gujarat Bandh it enforced on August 1, 2000, the VHP and the BJP had gone on the rampage, destroying Muslim property worth Rs. 15 crore. (See chapter on Build-Up in Gujarat, Volume II). This recent history alone should have been sufficient reason for the police to make preventive arrests and take other precautionary measures.

1.5 Since 1998, there has been a proliferation of hate speech and incendiary pamphlets all over Gujarat. The Gujarat government and the police had enough evidence of this incendiary and provocative literature, printed in hundreds of thousands and thrust even on those opposed to the violent brand of politics that they typify. Various communal Hindu groups — *Dharam Raksha Samitis* (Committee for Protecting Hinduism), the VHP, the Bajrang Dal — have been circulating these pamphlets inciting its cadres to rape, humiliate, destroy and kill. As of early February this year, a highly provocative pamphlet exhorting cadres to economically boycott Muslims was in circulation throughout the state. Another anonymous pamphlet decreeing filthy conduct against Muslims, especially women, was not only in circulation but had its desired effect as the bestiality of the violence reveals. The Gujarat police are guilty of not initiating or pursuing criminal action against the hate-mongers for four long years, even after hate speech and hate writing had frequently been used to create an ‘appropriate’ social climate to precipitate violence against the minorities. To argue that hate speech is not related to engineered violence would be puerile. In August 1998, the VHP’s pamphlet, ‘Onward To Sanjeli’ resulted in anti-Muslim violence in Sanjeli and Randikpur. In December 1999, the *Sangh Parivar*’s reign of terror in the Dangs in south Gujarat was preceded by anti-Christian pamphlets that were distributed in lakhs. (See *Annexures, Hate Writing, Volume I*).

1.6. There is adequate evidence recorded by the Tribunal from rural and urban Gujarat, which points to systematic data collection by the VHP/RSS/BD outfits, aided by sections of the state administration under the direct control of the fraternal BJP. The exhaustive survey included drawing up of lists using revenue and sales tax records, electoral rolls, information from the registrar of companies and door-to-door information collection drives by *shakhas* (cells) of these outfits, to enable action, both precise and swift, at the right time. Throughout the sinister planning and plotting, the Gujarat police maintained a discreet distance, adopting a non-interfering stance to blatantly unlawful activities. On March 12, *rediff.com* posted an interview by the Gujarat VHP chief, KK Shastri on its website. He revealed in the interview: “In the morning (February 28), we sat down and prepared the list (of Muslim shops and establishments to be targeted). We were not prepared in advance.” The police have not thought it fit to initiate any inquiry or action against Shri Shastri despite his self-confession of the VHP’s criminal misconduct.

1.7. The Tribunal received direct information through a testimony from a highly placed source of a meeting where the chief minister, two or three senior cabinet colleagues, the CP of Ahmedabad, and an IG police of the state were present. This meeting took place on the late evening of February 27. The meeting had a singular purpose: the senior-most police officials were told that they should expect a “Hindu reaction” after Godhra. They were also told that they should not do anything to contain this reaction.

1.8. The Tribunal also has evidence of a secret meeting, held late in the evening of February 27, in Lunavada village of Sabarkantha district. Between 3 and 6 p.m., a call was made from the house of Dr. Yogesh Ramanlal Pandya, in Godhra to Dr. Anil Patel (a member of the Gujarat Doctor’s Cell), intimating him about the meeting. A

call was also made to the police housing corporation chairman, Dr. Chandrakanth Pandya (from Kalol). Shri Ashok Bhatt, the state health minister who was then sitting in the Godhra collectorate, was also intimated about the meeting. Transport minister, Shri Prabhat Singh Chauhan, who hails from Panchmahal, was reportedly also called to attend. One AP Pandya was also present at the meeting. The phone calls were made to invite 50 top people of the BJP/RSS/BD/VHP and the plan was to assemble them at someone's house in Lunavada (Sabarkantha). Fifty top people, the Tribunal was told, met at this undisclosed destination and detailed plans were made on the use of kerosene, petrol for arson and other methods of killing. The state intelligence did not or could not track such meetings and preparations for the gruesome violence that was to follow.

1.9. On the night of February 27, some companies of the State Reserve Police (SRP) were rustled into action: one was sent to Godhra from SRP Group-III Naroda, and another to Ahmedabad rural. Some more companies from Ghodasar were moved into parts of Ahmedabad by early morning. But they were split into groups of four or five jawans each, which rendered them largely ineffective against the mobs that went on the rampage on February 28.

1.10. "The police tried their best, but they couldn't stop the mobs. They were grossly outnumbered when the mobs grew," Ahmedabad's police commissioner, Shri PC Pandey had pleaded. But in most cases, inadequacy of forces is a mere excuse touted by serving police officers who fail in their primary duty. Even in Gujarat this time, in several cases where good officers held out against political pressure, the same small deployment was enough to act decisively and control the situation. In the vast majority of cases, however, the police either did not act or acted on behalf of the mob.

1.11. PC Pandey publicly changed his stand four months later when, on June 1, 2002, in an interview he stated that "VHP and BD were responsible for the violence in the state." (*rediff.com--see Detailed annexures, Volume III*).

1.12. On the evening of February 27, DD telecast the statements of DGP Gujarat, Shri K Chakravarty: "As a precautionary measure, since there was a possibility of a flare-up, the district authorities have imposed curfew in Godhra town and in all other sensitive towns in Gujarat; especially the towns and cities which are coming on the train route, maximum alert was kept... The entire state police machinery has been put on red alert. The state reserve battalions have been positioned in all the communally sensitive areas and instructions have been given to all the SPs and the commissioners to take strict action against all anti-social elements and such action is already in progress... since the incident took place all of a sudden, there was no possibility of that being prevented." In retrospect, these comments proved to be farcical, given the sheer inadequacy and complicity of the police the very next day.

1.13. The shocking levels of police complicity in the Gujarat carnage cannot be over-emphasised. On February 28, of the 40 persons shot dead by the police in Ahmedabad city, 36 were Muslims. This, despite the fact that it was the minority community which was being targeted by huge and well-armed mobs on that day, at both Naroda Gaon and Patiya as well as Chamanpura. (*See Annexure, Police Statistics*,

Volume I). Among the numerous instances of the police making victims the target, is also one that took place on April 15, when two persons belonging to the minority community, Shri Ayub Khan Pathan being one of them, were shot dead at Dariapur, Ahmedabad. The police was effectively aiding an attacking mob that was pelting stones on the hapless Muslim residents in the area. Even minors were shot at, a few fatally, by the police. (See *Annexures, Police: Dereliction of Duty, Volume I*).

Gujarat Police has finally admitted that it killed more Muslims than Hindus in its ostensible attempts to stop what was clearly targeted Hindu violence against Muslims. Of the 184 people who died in police firing since the violence began, 104 are Muslims, says a report drafted by Gujarat police force itself. This statistic substantiates the allegations of riot victims from virtually every part of the state that not only did the local police not do anything to stop the Hindu mobs; they actually turned their guns on the helpless Muslim victims.

At some places in the state though, this trend, of more Muslims falling to police bullets than Hindus, was reversed. In both Bhavnagar and Banaskantha districts, five Hindus died in police firing on rioters. No Muslim was killed in Banaskantha, only one died in Bhavnagar. The superintendents of police of both districts were promptly removed from their posts. The number of Muslim and Hindu deaths in police firing, despite having been computed by the Gujarat police, have, so far, not been released. Coming out with the truth would only inflame the situation, it is feared.

1.14. Shri Pandey's comments, telecast during the 'Newshour' bulletin of *Star News* on February 28, on the role of the police under his command was telling: "These people also, they somehow get carried away by the overall general sentiment. That's the whole trouble. The police are equally influenced by the overall general sentiments." Here we have a top police official being indulgent towards his policemen who "somehow" get carried away by "general sentiments", when the least that could be expected of him would be a categorical assertion that those in the force who had failed to enforce 'the rule of law' were a disgrace to the uniform they donned and would themselves be punished in accordance with the law.

1.15. Shri Pandey pronounced on 'Newshour' (*Star News*) on March 2: "The situation is well within control. In fact, it is fast returning to normal. So we hope that within the next maybe 12-24 hours, we would have complete peace." The people of Ahmedabad who lived in terror until late April know otherwise.

1.16. The police did not even conduct the mandatory police drill. They did not even follow basic procedure stipulated for such circumstances. It did not contact religious and community leaders to make appeals for peace, nor did it take steps to arrest the culprits and give support to the victims.

1.17. On February 28, as carefully planned mass killings were engineered in 30 different locations all over the state, two senior cabinet ministers sat in the police control room in Ahmedabad and the state police control room in Gandhinagar and directly influenced police action, or inaction. Gujarat's health minister, Shri Ashok Bhatt — who, incidentally, faces a criminal charge for the murder of a police head

constable, Desai, on April 22, 1985 at Khadia in Ahmedabad — was in the police control room (PCR) at the Ahmedabad police commissionerate in Shahibaug for more than three hours on February 28. And urban development minister, Shri IK Jadeja who is considered Modi's right hand man, had parked himself in the state police control room at Gandhinagar for four hours from 11 a.m. onwards on the same day. Commissioner Pandey's untenable explanation is that they were only there to facilitate the easy flow of government directions, as union defence minister George Fernandes was to arrive in the city on March 1. In a crisis situation, the control room is a critical area of operation since this is one place where every bit of information is sent to and received from various locations in the city, or the entire state. The officer-in-charge of the control room is always kept informed on wireless about what is happening. To have cabinet ministers sitting inside the state and city police control rooms can mean only one thing: they were there to influence the independent functioning of the police. The actions and non-actions of the Gujarat police on that day and thereafter, are, barring a few sterling exceptions, proof of the partisan, political control over the police.

1.18. The police chiefs of Ahmedabad, Vadodara, Rajkot, Mehsana, Panchmahal, Dahod and Sabarkantha stand individually indicted for their failure to control unprecedented violence under their respective jurisdictions. The SPs of several of Gujarat's 24 districts are also directly culpable. (*See chapter List of Accused: Policemen, Volume II*). The general message sent out to the police was: minimum response to panic calls and minimal action thereafter; indulgence towards armed mobs as they went about their business of killing, rape, loot and arson; either non-registration or tailoring of complaints from victims. It is unpardonable that the police obeyed such unwritten directions from Shri Modi and other political bosses.

1.19. The Tribunal has enough evidence to establish that the Gujarat carnage was not simply a case of failure or abdication of duty; in far too many cases, the police were accomplices in the carnage. (*See section on Incidents of Violence, Volume I*). We recall here just a few of the most glaring instances of obvious police complicity:

- ◆ On February 28, former Congress MP, Shri Ahsan Jafri from the Gulberg society in Chamanpura, made repeated frantic calls pleading for police assistance against a huge mob in a murderous mood. He kept calling the control room for several hours, until, finally, with no one to check the mob, he was charred to death along with 65 of his relatives and neighbours. Pleading anonymity, police officials who met the Tribunal confirmed that Shri Jafri had also made frantic calls to the director general of police, the police commissioner, the chief secretary and the additional chief secretary (home) among others. Three mobile vans of the city police were on hand around Shri Jafri's house but did not intervene. Finally, when he came out of his house with folded hands and appealed to the crowd to spare all the others who had taken shelter in his house, the marauders cut him to pieces and then consigned him to flames. They also set fire to the house in an attempt to burn alive all those who were in the house. It was only *nine hours* later that the Rapid Action Force (RAF) of the central government intervened, by which time it was far too late.

◆ At around the same time as the carnage in Chamanpura was taking place, the massacre in Naroda Patiya began, in which, by the end of the day, over 91 Muslims had been torched. Over two dozen survivors from Naroda Gaon and Naroda Patiya who appeared before the Tribunal said that they had attempted over a hundred distress calls to the police commissioner and other police officers for help, all in vain. They said that the commissioner's mobile was permanently switched off. The response from most of the other top officers — additional CPs and DCPs — was equally callous. Police finally arrived only around 11 p.m.

◆ Shri KK Mysorewala, police inspector, Naroda police station, was indicted by several eyewitnesses for being a mere bystander, watching the massacre of helpless men, women and children at Naroda Gaon and Patiya.

◆ The police could not, or did not, respond to pleas for protection to a retired and a sitting judge of the Ahmedabad high court (Justice Akbar Divecha and Justice MH Kadri respectively), compelling them to seek army help on the night of February 28-March 1. None less than the sitting chief justice of the Gujarat High Court told his brother judges not to rely on the police.

◆ The police did nothing while a very large number of shops, hotels and business premises were looted and burnt. Almost nine months after the carnage, they have made no attempt to recover the goods looted even by people from educated, rich and middle-class backgrounds. In all probability, the looted goods could be recovered from the homes of the culprits even today.

◆ The state police was nowhere to be seen as huge mobs comprising several thousands looted and torched Muslim property, from farms to factories large and small, on the Ahmedabad-Modasa highway, the Baroda-Godhra road and the Sanjeli/Randhikpur-Baria road in broad daylight. Armed mobs wreaked havoc all over, their actions co-ordinated by troop leaders who issued instructions on their mobile phones as they were driven around on motorcycles. These motorcycle riders would track fleeing Muslims and instruct mobs that would soon close in on them to rape, brutalise, hack and kill. This was particularly the case on the Godhra-Modasa route, which runs through Panchmahal district. There was no patrolling of the highways in Gujarat, which only demonstrates the police's utter ignorance of, if not indifference to, the *modus operandi* of the *Sangh Parivar* leadership and cadre who have consistently mocked the law and order machinery in the past two years.

◆ In the Best Bakery Case in Vadodara, policemen from the Panigate police station simply drove by the bakery, totally unmindful of the huge mob that had encircled it. Not long after that, 14 persons were burned alive.

When Vadodara's commissioner of police, Shri DD Tuteja was contacted by concerned citizens and traumatised survivors to protest against the overall failure of the police to respond to complaints, he is claimed to have remarked, "*Aapka naukhar kiska kaam karega?*" ("Who's work would your servant do?"), implying that the police is subservient to the ruling party in power. In the meeting which he agreed to have with the Tribunal and which lasted for several hours, Shri Tuteja was urbane throughout and kept insisting that he and his police force did the best that was possible in the circumstances.

The loot and plunder of the home of senior citizen and prominent human rights activist, professor Jussar Bandukwala in Vadodara city also exposes the police. Shri Bandukwala chose to live in a Hindu dominated (Sama) society. However, his home could not be saved.

◆ The Panchmahal and Dahod police were party and privy to the burning alive and hacking of villagers. The police posted at Anjanwa, Mora, Pandharwada villages, as also those near Limkheda and Limwada and Fatehpura (Dahod district) did nothing to stop the killings. The Mehsana district police were also guilty of the same misconduct, when they failed to prevent massacres like the ones at Sardarpura, Visnagar and Unjha. Similarly, in Anand and Kheda districts where massacres have taken place, the police presence was of no help. Detailed testimonies recorded from Ankleshwar and Bharuch also reveal complete dereliction of duty by the police.

1.20. One of the most shocking aspects of the Gujarat carnage was that the constituencies of some ministers and sitting MLAs were the arena for the worst incidents of carnage. Bapunagar in Ahmedabad, one of the worst affected areas, is the home constituency of the minister of state for home, Shri Gordhan Zadaphiya. Paldi, Ahmedabad is the constituency of Shri Haren Pandya, former state home minister and, until recently, revenue minister in Shri Modi's cabinet. Shri Nitin Patel, also a state cabinet minister, is charged with leading the violence (including sexual assault of a woman) in Kadi, Mehsana district. Shri Nararayan Patel is transport minister in Shri Modi's cabinet, from Unjha in Mehsana district who allegedly inspired and abetted mob violence, including sexual assault and arson. Rajkot, from where Shri Modi recently won an election, had never witnessed a riot before. Shri Prabhatsinh Chauhan, transport minister from Panchmahal has been directly indicted by witnesses. Shri Ashok Bhatt, state health minister, is named in the evidence of victims. In all these areas, the police took no preventive steps; worse, in areas like Paldi, Gomtipur and many district places, many eyewitnesses have charged them with helping and even leading mobs.

1.21. To begin with, police failure to quash rumours, deliberately floated to inflame passion and fuel violence, is unpardonable. Justice Jagmohan Reddy's commission of inquiry report after the 1969 violence has recommended detailed methods for the police, especially to tackle rumour. These should be revised and re-interpreted given the fact that 33 years have elapsed and immediately implemented. (*See Detailed Annexures, Volume III*). In addition, from February 27 to April 10, it failed miserably in taking decisive action to control the violence that followed. The daily newspaper *Sandesh* was used to actively promote fear and insecurity in the minds of the majority while the minority was being targeted. However, the police did precious little to diffuse the situation.

1.22. As if this were not bad enough, the police itself committed atrocities against Muslims, especially in Vadodara (Bahar Colony, Noor Park and other areas) and Ahmedabad (Gomtipur and elsewhere). Even women were beaten and thrashed, often on their breasts and vaginas. In fact, such widespread sexual misbehaviour of the police with Muslim women marks a new low in police misconduct against the minorities.

1.23. It is a matter of public knowledge that in the past 3-4 years the VHP and the Bajrang Dal have distributed *trishuls* on a large scale in Gujarat. Barely disguised as a

‘religious symbol’, *trishuls* are sharp, three-pronged weapons that can easily cause fatal injury. These organisations have had no qualms in publicising their arms training camps, even for young children and women. Witnesses from the area who deposed before the Tribunal said that Kathwada, near Mehmdavad in Kheda district, is one of the locations that the *Sangh Parivar* combine allegedly used for training in the use of weapons and techniques of killing. The Gujarat police cannot pretend to be unaware of the regular camps that have been conducted in recent years, arming and training bands of youth. Besides, as is evident from the track record of these outfits that in Gujarat, and elsewhere in the country, the VHP/BD have frequently disturbed peace and harmony. Yet the Gujarat police took no steps to seize the weapons, stop the training camps or act against its practitioners in any other way. Significantly, even after the carnage, the distribution of *trishuls*, swords and other arms continued in Gujarat until late March. It was only in mid-April, after the orgy of violence had claimed a very large number of victims and more or less run its course, did the police finally seize arms in Bejalpur, Shahpur, Maninagar, Vatwa and Kalupur in Ahmedabad. However, there has been no prosecution, no arrest of persons indulging in such acts, no seizure of the *trishuls* and swords distributed on such a large scale. Carrying weapons that can be used to kill is an offence and the police should have taken action against the offenders right at the outset.

1.24. In one case, on May 16, the Rajkot police did seize 170 swords from Mansukh Patel, a BD activist, and for which they arrested him. This time it was SM Soni, the first class judicial magistrate who let the accused off lightly.

1.25. Police conduct after the Gujarat carnage, with regard to the registration of crimes, conducting of investigations etc., has been marked by a desire to please political bosses and an utter disregard for the law of the land. This is nothing but calculated miscarriage of justice. The police are required to file separate FIRs for each incident. Instead, separate incidents of crime committed by different aggressors at different places at different times have been clubbed together in single omnibus FIRs. *Panchnamas* have either been made 3-4 weeks after the incidents or not at all. Also, if the charge-sheets filed in the Gulberg (Chamanpura), Naroda Gaon and Patiya massacres are anything to go by, the names of the main accused have been conveniently dropped. Worse still, in places like Pandharwada, Anjanwa, Mora (Panchmahal district), Randhikpur and Sanjeli, Fatehpur and Dailol (Dahod district) as well as in villages in Bharuch, Sabarkantha, Mehsana and Himmatnagar districts, the Tribunal has evidence of the police bullying victim-survivors into filing FIRs wherein only mobs are mentioned, without naming the assailants and mob leaders whom the victim-survivors had clearly recognised during the incidents of violence. The CPs of Ahmedabad and Vadodara are also culpable for similar police misconduct.

1.26. In far too many incidents of violence, the police refused to intervene, sided with the perpetrators of crimes, itself indulged in criminal acts, and denied curfew passes to social workers and human rights activists who, at great risk to life and limb, moved around nonetheless at the height of the violence, in a bid to restore peace.

1.27. The police completely failed in providing protection to relief camps sheltering traumatised and desperate survivors, for as long as six months in many cases.

1.28. Police conduct in compiling data and statistics about the loss of life, destruction of property, missing persons, too, has been totally callous to say the least.

1.29. *Continuing violence:* In Ahmedabad city, Vadodara, Himmatnagar, and Mehsana district, where violence continued unabated, as also in places like Panchmahal district, Rajkot and Bhavnagar where sporadic incidents occurred, the police inspired no confidence amongst the affected, even after the first round of brutalities. It is responsible for highly dubious conduct from mid-March to mid-May. On the eve of PM Atal Behari Vajpayee's visit to Ahmedabad on April 4, the police led an assault against Muslims in the curfew-ridden parts of Gomtipur. In the presence of Shri Parmar, an official from the Ahmedabad collectorate, the police led by PI, SD Sharma, set upon the 750 refugees of the Suleiman Roza Relief Camp (behind Nutan Mills), Saraspur, and actually shot two persons, Shri Pirujbhai Mohammad Sheikh (30) and Smt. Khatoonbi Sharfuddin Saiyed (45). As a result, the 750-strong camp was wound up under threat of violence. On April 3, Advocate Shri Nizam was shot dead by the police inside his home while Dr. Ishaq Sheikh, vice-president of the Al Ameen Garib Niwas Hospital, was brutally assaulted. (*See section Incidents of Violence: Continuing Violence, Volume I*). On April 14, the police shot dead two more persons at Dariapur, even as they were being attacked by a violent mob. The Tribunal is certain that the number of lives lost due to deliberate police criminality is astronomically high. (These figures are being withheld by the state government.) All its acts of commission and omission are sufficient to indict the Gujarat police before any forum for justice.

1.30. As late as November 12, as CEC, JM Lyngdoh, was visiting the state to oversee operations for safe elections, rampaging mobs terrorised Muslim families who had returned from Dasaj town to their nearby villages Mehrwada, Jaska and Kohda (Mehsana district). Minister Narayan Laloo Patel was actively involved in instigating the violence and the SP Arun Sharma did not quite inspire confidence among the targeted community.

2 Communalisation of the Police Administration

2.1. Evidence before the Tribunal clearly indicates that since the assumption of power by the BJP in Gujarat in February 1998, there was a calculated move to sideline Muslim police officers. Muslim officers were given non-executive posts. (they were assigned to crime investigation etc.). The eight Muslim officers, from a total of 141 IPS officers in the state, were kept away from decision-making posts.

2.2. The Tribunal notes with shock that, as a result of this discriminatory practice by the Gujarat government, the younger batch of Muslim IPS officers who joined service in '92-'93 have not known executive policing because they have simply been denied the opportunity to test their executive capabilities.

2.3. Gujarat is the only state in the country where IPS officers who are Muslim have never been assigned the post of deputy SP of police. For an IPS officer, the charge of SP, or DySP is a critical training opportunity to gain in executive and supervisory experience.

2.4. The Tribunal recorded the testimonies of many police officials who, for obvious reasons, cannot be identified. In every police *chowki*, the normal practice is to

make head constables in-charge of a beat or outpost. Since the BJP assumed power in Gujarat, it has ensured that in the few instances where a head constable might be a Muslim, he would not be in-charge of the beats/outposts under the *chowki*.

2.5. Evidence led before the Tribunal indicates that ministers in the BJP government in Gujarat made public statements to ensure that Muslims in the state's police force were sidelined. For instance, in 1999, Shri Mahen Trivedi, the minister of state for home, stated publicly at a police function: "We have told you that we don't want Muslims in controlling posts. Why is he posted there?" (Confidential testimony of police officers before the Tribunal).

2.6. Currently, there are 65 Muslims in police service, at the DySP and inspector levels, in Gujarat. With the exception of one, who has a close relationship with a minister, the rest have all been shunted to CID crime, computer training, civil defence and railways.

2.7. Discrimination in the police force is in line with the discrimination in other government departments in the state. In the three critical government departments concerned with recruitment — the Gujarat Public Service Commission, (GPSC), the Panchayat Service Selection Board and the Gram Seva Samiti — there is not a single member from any minority community. In the vital departments of government — establishment, recruitment, law and order, finance and loans department, there are no minority persons at all. This is blatantly anti-constitutional as it violates the principles of non-discrimination and equal opportunity.

2.8. Politicians of all hues resort to punitive transfers, which only reinforces the oft reiterated demand for an independent police force in the country. (*See chapters on Disturbing Trends in the Indian Police & Recommendations, Volume II*). In Gujarat, such transfers take place at the behest of the *Sangh Parivar*.

2.9. After the carnage, several police officers suffered for their upright behaviour in controlling violence and preventing further loss of life. From the evidence placed before the Tribunal these are:

- ◆ *Shri Vivek Srivastava, SP, Kutch:* The young officer arrested a Home Guard commandant after he assaulted a Muslim woman. The commandant is a known VHP worker. Shri Srivastava was shunted to the post of SP (Prohibition).

- ◆ *Shri Praveen Gondia, DCP Zone IV, Ahmedabad City:* Shri Gondia registered FIRs against prominent BJP and VHP leaders for their role in the rioting. He was transferred to Civil Defence.

- ◆ *Shri Himanshu Bhatt, SP, Banaskantha:* He suspended a sub-inspector who had allowed a Hindu mob to plunder a village in the district. The PSI is close to several BJP and VHP leaders. Shri Bhatt was transferred to the Intelligence Bureau.

- ◆ *Shri Rahul Sharma, SP, Bhavnagar:* The riots erupted when he had only been in charge for 25 days. Shri Sharma fired on a mob that was trying to set a *madrassa* (school) on fire, and put all its leaders behind bars. By his firm act, 400 young lives were saved. A local BJP leader wanted the culprits released but Shri Sharma refused to oblige. The officer is now DCP (Control Room). On March 1, the 1992-batch officer broke up a rally led by a Shiv Sena leader and VHP activists. For several days, Shri Sharma held

his ground, resisting pressure from BJP MLAs, minister of state for home, Shri Gordhan Zadaphiya and others. When leaders in the rally including the SS leader, Shri Kishore Bhatt and 21 VHP activists raised inflammatory slogans, the SP issued instructions for their immediate arrest. This brought the situation under immediate control.

On the evening of March 1, when mobs were prowling the streets, the Bhavnagar police, who had never faced a riot before, momentarily seemed to lose confidence. "Sensing that my men were hesitating, I got out and fired the first round and they immediately joined me. We managed to disperse the mob and did not allow them to regroup," Shri Sharma had told the press at the time. For this, he had to face the heat from political bosses. The BJP MLA, Shri Sunil Oza, called up Sharma, accusing him of stirring up trouble by arresting Sena and VHP leaders. The MLA, in fact, threatened the police, saying that if the arrested were not released, it would cause a serious law and order problem. But the police stuck to their principles.

Shri Oza is reported to have then exerted pressure on the DGP's office, but after considering the case, the DGP's office chose not to pressurise Shri Sharma. They then tried to instigate riots to get Shri Sharma into trouble. All of a sudden, 22 incidents were reported from his district. That is when the police decided to use force. The Bhavnagar police were on their toes, opening fire wherever and whenever necessary. By March 3, there was nothing to report but peace. When the Army eventually reached Bhavnagar, it had little to do. But the interference did not stop here. Shri Zadaphiya called up the Bhavnagar city police and told them not to register cases against those injured in police firing. The police refused to oblige. Shri Sharma paid the price for his uprightness.

◆ *Shri Ajit Srivastava*, PI, Khanpur police station, surveillance branch, Ahmedabad city: On February 28, this officer saved the lives of 35 Muslim women who were trapped inside some hutments with a mob surrounding them within his jurisdiction. It took him over 40 minutes to convince the women to trust an officer. He then risked his life and limb by jumping into the fire that had already started and fortunately saved them. Later that day, around 8 p.m., while he was in the Madhopur police station area, Shri Srivastava risked his left for the second time the same day to rescue 134 Muslims surrounded by an over 20,000-strong mob. In the process, he prevented what could very likely have been two more incidents of ghastly massacre in Ahmedabad city.

◆ *Shri Shivanand Jha and Shri VM Parghi*, additional CP and DCP of Ahmedabad: They were transferred on April 8 and appointed as DIG, Armed Unit, Rajkot and commandant of SRP, Group Eight, Gondal, respectively. Shri Parghi was the officer who beat up journalists at the Gandhi Ashram on April 8, while Shri Jha had admonished him and tried to do his duty.

◆ *Shri Vinod Mall*, SP Surendranagar: For having efficiently controlled violence and foiled attempts at provocation in his district, he was given a promotion posting in Ahmedabad which effectively deprived him of direct charge of a district.

2.10. The Gujarat government under the BJP has used the IB (Intelligence Bureau) to promote the *sangh parivar's* political agenda of targeting the minority community. In

the past, police stations maintained details of places of residence and business of members from the minority community, to ensure them protection whenever necessary. The present government grossly misused the IB machinery to find out who lived where, making their cadre's job of loot and arson easy.

2.11. A secret circular, issued by Gujarat's director of police (intelligence) to the top brass of the state police in 1999, reveals the hostile attitude of the BJP-led state government towards Muslims over the last three years. The circular directed all police commissioners, district police officers and range IGPs/DIGPs to "intimate details of persons (Muslims) involved in communal riots which occurred in their city/district during the last five years — viz., offence registration section, place, what was the judgement by court, how many times the person was booked under CrPC Sections 107,151,110, or PASA, NASA." According to the circular (No. D 2/2, Com/Muslim/Activity/84/99 of 1/2-2-99), the district police officials and others were asked to "intimate (to the state) how many darul ulmas (*madrassas*) were functioning in their districts/cities and where they are located."

2.12. The present government had attempted to use the police to put together a selective census of Christians and Muslims but was compelled to withdraw after a nation-wide protest. The Gujarat police, under instructions from the government, instituted a 'Cell to Monitor Inter-Community Marriages', a step that is in gross violation of the Indian Constitution. That the police could undertake such activity without questioning its inherent anti-constitutional and sectarian basis is a sorry reflection on the state of the Indian police.

2.13. One of the gravest charges made by the victim-survivors and also senior police officers too who deposed before the Tribunal, is of the great danger to the neutrality of the Gujarat police force by overt and covert measures to infiltrate it with persons owing allegiance to the thinking and mind-set of the RSS/VHP/BD and BJP. The dangers of such developments cannot be over-stated. Instead of a man or a woman wedded to constitutionalism and attendant values, the result of such placements could be a police official who does not care to protect lives without fear or favour, regardless of caste, creed and community. He or she is more concerned with furthering a particular thinking that has on many an occasion in the present been the cause of the perpetration of violence.

2.14. Some lists of politically convenient appointments to the police department were placed before the Tribunal. (*See Box, Sangh Nexus with Police*). This needs further investigation and, if true, the situation must be redressed. This is imperative if a clean and politically untarnished police force is to be put in place to ensure justice and peace.

2.15. Apart from the police, the BJP has filled several posts within the state's Home Guards with members of the VHP. The head of the Home Guards in Mehsana district is also a senior VHP functionary. (Significantly, the public prosecutor in Mehsana district, Dilip Trivedi, is also the VHP's district chief. Moreover, the district magistrate/collector, Amrut Patel is a close relative of Shri Narayan Laloo Patel, a BJP minister and one of the prime accused for leading attacks in the district). There is a policy decision under the Home Guards' scheme to create a new post,

‘*suraksha sabay*’ (security assistant) akin to the existing post of ‘*shikshak sabay*’ (assistant teacher) Under this scheme, policemen are hired on a monthly remuneration of Rs 2,500 for four years. The recruitment procedure is *ad hoc* and does not follow the normal rules. The intention is, obviously, to make them permanent after four years. Over the last 5 years more than 8,000 VHP workers have been inducted into the state Home Guards, with many district chiefs being VHP office-bearers. The Home Guard’s position is a critical one for the maintenance of law and order in rural areas. Through massive infiltration over the past four years, the BJP and its rabid wings have virtually taken control of the Home Guards machinery. The fact that in the testimonies recorded by the Tribunal victim survivors spoke of the launching of attacks on their persons and property by Home Guards is both shocking and revealing. (See section on *Incidents of Violence, Volume I*).

2.16. The intense insecurity felt by Muslims in Gujarat is borne out by the fact that even Muslim policemen are/were afraid to put name tags on their uniforms and had sought special permission to be on duty without their name tags. Special IG, Shri AI Saiyed, with over 25 years of service, was asked to help a group on his way to Karai in Gandhinagar district. When Shri Saiyed tried to help the hapless people, he was himself attacked when the mob saw his name.

2.17. On May 3, the police made attempts to restore peace, by serving notices on many *sarpanches* who “failed to inform the authorities about the violence in their villages.” More than two dozen *sarpanches* in Chhotaudaipur, Kanwat and Pavi Jetpur *talukas* were shocked when they received notices under section 40 of the Criminal Procedure Code (CrPC) asking them to explain why they did not inform the police when mobs ran riot.

2.18. The Tribunal was informed that police only wanted to keep the *sarpanches* on alert and was not intent on pursuing the notices seriously. The idea was merely to ensure that they would prevent further violence in their areas. Contrary to what the police had expected, none of the *sarpanches* divulged the names of persons involved in riots. The notices require the *sarpanches* to appear and explain their side of the story to the police.

2.19. The height of the ‘fear and favour’ policy of the current political dispensation is borne out by CM Modi’s treatment of senior officials. On September 18, the Gujarat state intelligence bureau chief and his two deputies were summarily transferred on punishment postings because *Star News* gained access to police tapes on Shri Modi’s shocking anti-Muslim remarks made at Bahucharaji near Mehsana on September 9, 2002. The additional director general of police Shri Srikumar was transferred to the police reforms department. He had joined the state IB just four months earlier. Deputy inspector general of police, Shri E Radhakrishna, in-charge of political and communal affairs, was transferred to Junagadh as principal of the Police Training College, while DCP, Shri Sanjiv Bhatt, in-charge of internal security, was transferred as principal of the State Reserve Police Training College.

2.20. The Tribunal is of the view that a significant section of the Gujarat police is guilty of gross dereliction of duty and of flouting the Indian Constitution and Indian criminal law. Therefore, all the individual policemen named by the Tribunal in the list

of accused must be promptly prosecuted. The shameful and brazenly partisan conduct of the police in the Gujarat carnage is a blot on Indian democracy and Indian secularism. Our democratic and secular credentials are truly tested only in times of such acute crisis. In such situations, the police have been utterly partisan and communal, repeatedly failing to protect and even themselves trampling on the fundamental rights of India's religious minorities. This highly disturbing trend needs to be dealt with urgently and comprehensively.

3. Legal Remedies

3.1. Sections 107-110 and sections 143-152 of the Criminal Procedure Code (CrPC) give adequate *preventive* and *punitive* powers and deem it the *duty* of district magistrates and police chiefs to prevent breach of peace and ensure the rule of law. They have the power and the duty to:

- ◆ Demand execution of bonds, with or without security, from persons likely to commit breach of peace (sec 107);
- ◆ Demand security for good behaviour from any person who intentionally disseminates or attempts to disseminate or abets the dissemination of any material that is likely to incite communal passion or religious hatred (sec 108);
- ◆ Demand security for good behaviour from suspected persons (sec 109);
- ◆ Demand security for good behaviour from habitual offenders (sec 110);
- ◆ Prohibit repetition or continuance of public nuisance (sec 143);
- ◆ Issue orders in urgent cases of nuisance or apprehended danger (sec 144);
- ◆ Arrest without warrant (sec 145-148);
- ◆ Prevent cognisable offences (sec 149);
- ◆ Inform (to immediate seniors) of design to commit cognisable offences (sec 150);
- ◆ Arrest to prevent the commission of cognisable offences (sec 151);
- ◆ Prevent damage to public property (sec 152).

If the above-mentioned provisions of the CrPC spell out the powers and duties of district magistrates and police chiefs to ensure the rule of law, the All India Service Rules (1969) provides for the punishment of errant IAS and IPS officials:

3.2. Apart from violating Indian penal and constitutional law, dereliction of duty is a clear violation of the 'All India Services (Discipline and Appeal) Rules, 1969, Part III – Penalties and Disciplinary Authorities'. Under these rules, there *already exist* provisions for the dismissal from service of IAS and IPS officials guilty of "any act or omission which renders him liable to any penalty specified in rule 6."I (See *Detailed Annexures, Volume III*).

4. Communalisation of the Bureaucracy

4.1. The Tribunal has received substantial evidence of the deep communalisation of the state bureaucracy. Collectors and deputy collectors are appointed on the basis of political expediency. Again, in these posts they do not perform their constitutional duty. They have in fact been subverting basic rights guaranteed through the Indian

Constitution and to which they are sworn, whether in the matter of relief and rehabilitation or compensation claims or law and order. The Tribunal, for instance, received specific complaints about three deputy collectors from Naroda, Rakhial and Ahmedabad city who have not only served more than their four-year term but are patronised by BJP MLA Sushri Maya Kotdani who is directly indicted in killings and massacres and Naroda Gaon and Naroda Patiya. Their names are Shri Manoj Macwana (deputy collector, Rakhial), Shri Manoj Patariya (deputy collector, Naroda) and Shri Gaurav Prajapati (deputy collector, Ahmedabad). Besides this, many DMs/collectors have been indicted in specific cases as in Bharuch and Ahmedabad city and their names have been included in the List of Accused with a strong recommendation from this Tribunal that they be swiftly prosecuted and punished.

Annexure –Police and *Hindutvawadi* Organisations

All vital and sensitive postings in the Gujarat police were systematically politicised and saffronised by the BJP immediately after coming to power.

Here are some examples of the police-*parivar* nexus:

Ahmedabad

1. Police Inspector VB Raval, (PCB, Ahmedabad City) Crime Branch: He participated in the demolition of the Babri *Masjid* as a *kar sevak* and proudly displays a photograph thereof as a trophy. This deed of his is said to have fetched him such a plum post.

2. Shri RD Makadia, DCP Zone IV: Very close to VHP leader Shri Pravin Togadia; works as his agent.

3. Shri Savani, DCP Zone V: A close ally of Shri Togadia.

4. Shri RB Jebalia, DCP Zone VI: Hails from Amreli district, as does Shri Togadia. He is said to be under a personal obligation to Shri Togadia, though he may not be outright communal.

5. Shri PB Gondia (IPS), DCP Zone III: His father is an ex-MLA (Congress.) He was offered a BJP ticket from Panchmahal dist. during the last Assembly elections. He was ready to contest but his father persuaded him not to.

6. Shri Parghi (IPS), DCP Zone I: Brother-in-law of Shri Gondia. He was seen moving in his official vehicle along with Shri Haren Pandya during the riots.

7. Shri DJ Patel, DCP Zone II: Also very close to Shri Togadia.

Himmatnagar (Sabarkantha)

8. Shri ND Solanki, SP Himmatnagar: His father is an active office-bearer in the VHP.

Role of the Central Government

1.1. The complicity of the state government is obvious. And, the support of the central government to the state government in all that it did is also by now a matter of common knowledge.

1.2. The entire country had been held to ransom by the vitriolic rhetoric around the building of the temple at Ayodhya; the threatening statements by leaders of the RSS, VHP, Bajrang Dal and the BJP kept communal temperatures on the boil. It was in the midst of this surcharged national climate that Godhra happened and the Gujarat carnage was masterminded.

1.3. Within hours of the Godhra arson, an organised carnage was planned and ruthlessly executed over the next 72 hours in 15 of Gujarat's 25 districts. It was apparent that thanks to the instructions from the state government, the administration and the police stood paralysed as the brutal massacres — Naroda Patiya and Gulberg society in Ahmedabad, Pandharwada in Panchmahal and Sardarpura, Unhava and Kadi in Mehsana apart from Nadiad — were clinically executed; yet the government of India turned a blind eye. In a situation such as post-Godhra Gujarat, when huge, organised mobs of the majority community were attacking the minorities, when the state government and the administration sided with the majority, it was a clear case of a breakdown of the constitutional machinery in the state. The culpability of the central government in the Gujarat carnage lay in its failure to invoke its executive powers available under Article 355, read with Entry 2.2A of List 1 and Entry 1 of List II and Entry I of List III of the Constitution of India, to take over the administration of law and order in Gujarat, and to send in the Army under direct orders of the Centre.

1.4. At no time during the Gujarat carnage did the central government and its functionaries show any initiative or commitment to constitutional values, impelling them to intervene and intervene swiftly and effectively to end the violence.

1.5. Far from invoking the provisions of the Constitution and performing their constitutional obligations and duties, neither did the Prime Minister nor the home minister even issue a stern order to the chief minister to crackdown on the lawless elements.

1.6. Late on February 28, after he had cancelled a scheduled foreign visit, the PM

met RSS and VHP leaders in the nation's capital, not to discuss the quartering and massacre of innocents in Gujarat, but to dialogue on the Ayodhya issue! Later, the Cabinet Committee on Security met and merely ordered the Army to be on alert.

1.7. The attitude of both Shri Vajpayee and Shri Advani appeared to aim at *diverting* the nation's attention away from Gujarat, and directing it instead towards Ayodhya and the happenings there.

1.8. The conduct of the railway minister, who rushes to the spot whenever a train accident takes place, failed in his duty to visit Godhra, to survey the situation for himself and to order an immediate inquiry into the cause of the fire. Questions about the fire in the railway compartment at Godhra still beg for an answer. Who pulled the chain? How did the fire occur? Surely this merited the urgent attention and immediate intervention of the railway minister? Yet, to this date, the minister has not visited Godhra. What explanation has he to offer for his utter inaction?

1.9. The conduct of the railway ministry related to the entire Godhra arson is shocking. On February 27, as reported in *The Times of India* (February 28), Shri Nitish condemned the attack on the Sabarmati Express and asked the Gujarat government to take proper measures to ensure the safety of railway property and passengers. Shri Kumar, who spoke to the Gujarat chief minister on telephone in this regard, asked the state government to take appropriate measures to ensure the smooth and safe running of trains, from the capital without visiting the scene of the incident.

1.10. However, in the six months that have followed, Shri Nitish Kumar has been distancing his ministry from the Godhra carnage on the ground that what happened was not a 'rail accident' but a law and order issue. But the very fact that the Railways made speedy ex-gratia payments to the relatives of those killed and to those injured is proof that the ministry indeed treated Godhra as any other 'accident' with a difference: in many earlier rail accidents the ex-gratia payment has not necessarily been so prompt.

1.11. In fact it was not until the media made specific inquiries that the internal Western railway reservation list of that day was made available. From this, it is not at all clear if all those killed were *kar sevaks*. Reservations for coach S-6 were made in Lucknow and not Faizabad. The Gujarat government released the names of 39 of those who died. Nineteen of the 58 dead have yet to be identified. One of the passengers who suffered grievous injuries was a Muslim.

1.12. The Prime Minister's prevaricating statements, saying different things at different times at different places, left everybody in utter confusion. Had he already prejudged the situation and apportioned blame for the Godhra arson to the Muslim minority or did he attribute guilt to the goons from the Hindu majority who indulged in this carnage and brought a bad name to the country in the international community?

1.13. On February 27, hours after the Godhra tragedy, the PM said in Parliament that from the preliminary reports it appeared that the incident was the result of slogan shouting. On April 4, when he visited the Shah-e-Alam Camp, he bemoaned the burning alive of women and children, the rapes and killings and urged the Gujarat government to observe its duty. But only a fortnight later, at his party's national executive meeting in Goa on April 22, he said the Gujarat carnage would not have occurred but

for the Godhra arson. Thereafter, he bemoaned India's loss of face in the international community. He termed the Gujarat carnage as "a blot on the nation." His statement at his party's national executive in Goa bears mention. "Wherever there are Muslims, there is a problem... What happened in Gujarat? If the passengers of the Sabarmati express, innocent, unblameworthy, had not been deliberately burnt alive, Gujarat's tragedy (Gujarat *ki trasadhi*) could have been avoided. But this did not happen. People were burnt alive. Who were they? Intelligence is investigating but we still need to ask, how did this all happen? The latter happenings should not be criticised till we understand who set Gujarat on fire. Who lit the fire? How did it spread? Our country is multi-religious, multi-linguistic. We believe in cooperation, we believe in *sarva dharma sambhav* (respect for all religions). We are proud of our secularism... From Goa to Guwahati, wherever I go, the Indian is not a *kattarwadi*. *Yeh maati ek hai* (the Indian is not a fanatic. This soil is one). But whenever I travel around the world, our officials in all the embassies tell me, 'militant Islam *raaste mein kaante bo raha hai*' (militant Islam is sowing thorns in our path'). One Islam there is which is tolerant to all, that believes in truth: *samvedna aur daya sikhata hai* (it preaches compassion and mercy). But the kind of Islam being perpetrated in the world today is a violent, intolerant Islam that has no room for tolerance." This statement, made after the worst state-sponsored carnage against Muslims post-Partition had been so cynically carried out, is unfortunate, to say the least.

1.14. The role of the then union home minister and now deputy Prime Minister, Shri LK Advani appears to be patently partisan. His pat on the back for Shri Modi, not once but on several occasions and his rejection of the state government's Forensic Science Laboratory Report (FSLR) as soon as it appeared in the press, amounted to no less than his assuming the role of a judge. His dogged refusal to acknowledge within the country that the Gujarat carnage was an inhuman, shameful act on the part of the communal elements among Hindus, yet accepting it as a blot on the country during his foreign jaunt in England, makes people wonder whether he is a spokesman of the party which he represents or the home minister/deputy Prime Minister in the government of India? Is he simply a time server when it comes to a foreign audience? What is inexcusable on his part is the assumption of the role of both a lawyer holding the brief for Hindu communalists as also of a presiding judge giving his verdict on the carnage. When he rejected the state government's Forensic Science Laboratory Report, was he doing so on behalf of the Hindu communalists or the central government? It appears that like Shri Modi, he too keeps forgetting that he holds constitutional office and is not a Sangh *pracharak*.

1.15. His statements with regard to the entire carnage make people wonder whether any impartial investigation is at all possible into the charges against the accused, with him in charge of the home affairs of the country.

1.16. As noteworthy was his reluctance to visit extensively, affected areas of the post-Godhra carnage, immediately after it took place, despite the fact that he is elected from the Gandhinagar parliamentary constituency each year.

1.17. Shri Advani is one of the leading figures in the central government who has irresponsibly peddled the theory of a "foreign hand" behind the Godhra arson without any proof; described Godhra as an "act of terrorism" and the subsequent carnage

as a “communal riot”; debunked the findings of official investigations as contained in the FSLR; repeatedly praised Shri Modi as “being the best chief minister India has seen in 50 years” and lauded him as being the best example of “good governance”; and, most dangerously, given a clean chit to indicted organisations like the VHP and BD, who were openly gloating over the violence. (See *section on Annexures, Volume I*).

1.18. It needs to be recorded here that barely a few days after Rev. Graham Staines, the Australian priest who had been working with lepers for years, was torched to death along with his two young sons inside a jeep in Orissa on the night of Jan 22/23, 1999 and Shri Dara Singh, a man with clear links with the RSS/VHP and BD was named as the main accused in the case, Shri Advani had shown similar partisan conduct when he had said on the floor of the Lok Sabha, “I know these people (Bajrang Dal), they will never do such a thing.”

1.19. Shri George Fernandes, the union defence minister, emerges from the entire episode as a pathetic character. While he no doubt visited Gujarat immediately after the outbreak of the violence to oversee the role of the Army, and for which he undoubtedly deserves appreciation, it appears he learnt nothing from whatever he may have surveyed. Had he done so, he would not have made the statement that he did in the Lok Sabha on April 30. That statement not only added insult to the injury of those brutalised by the pogrom but also undermined all human values. If a minister of his rank and a politician of his experience chooses to liken the mass instances of gender violence (perpetrated against 150-200 women and girls) and the subsequent slaughter of most of them, as “nothing new”, it is sufficient indication of the seriousness with which the whole carnage was looked upon by the central government. His attempt at whitewashing his statement at a later stage made things even worse.

1.20. As the union law minister, it was expected that Shri Arun Jaitley would have more respect for the rule of law than Shri Modi. Instead, he showed complete disregard for the basic human rights of innocent men, women and children who fell victim to the carnage. He patted Shri Modi’s back, the man who was the root cause of the massacre of humanity in the state of Gujarat. His attitude was and is sufficiently representative of the view and attitude of the central government to the entire incident.

1.21. In short, the inaction on the part of the central government and the utterances of its spokesmen occupying responsible positions show that not only had the central government failed in its duty but it also had no intention to discharge it at all. Contrast this conduct of the central government with its prompt action after the Akshardham Mandir massacre. This only shows that if the central government intended to take action, it could have done so. The fact that the central government failed in its constitutional obligations during the post-Godhra carnage is indisputable. In the event of any international authority also indicting the state government, which we believe to be inevitable, the central government will have to bear a major share of the blame and will be liable for censure.

Role of Non-BJP Parties

1. National Democratic Alliance

1.1. The BJP's allies in the National Democratic Alliance government at the Centre were shaken by the violence in Gujarat but failed to go beyond shedding the usual crocodile tears. The Tribunal notes with anguish that the allies in the NDA who claim to continue to be wedded to democracy and secularism, did nothing more than issue statements after the Gujarat carnage. Much more was expected from them and history will hold them guilty for failing to rise to the occasion, putting narrow political considerations aside and using all the strength at their command to ensure that the central government acted and acted swiftly to control the Gujarat carnage. This they did not do, and hence, a government indicted before the country and the world continues to be in power in Gujarat today.

1.2. The Tribunal has no great expectations that the NDA allies will do anything in future to assure the physical, emotional and economic rehabilitation of Muslims in Gujarat. However, it observes that the NDA allies must push for a proper rehabilitation of, and justice for, the victim-survivors if their claim to be wedded to the Indian Constitution is to have any meaning.

2. Role of the Opposition Parties

2.1. The role of the opposition Congress party in the state of Gujarat, though vociferous in demanding the dismissal of the Modi government, was obviously lacking in any political or moral resolve while the violence was actually taking place. Former MP Shri Ahsan Jafri, who belonged to this party, was killed along with others after, after his house had been besieged for 8 long hours and during which period he made innumerable calls for help. The Tribunal finds it shocking that not a single senior member of his party went physically to his aid, or tried, independently, to contact the police commissioner to ensure his safety. Barring a few exceptions, Congressmen were absent while the violence was at its height. Independent MP, Shri Madhu Sudhan Mistry from Sabarkantha and Shri Praveen Rashtrapal from Patan are exceptions. The mayor of Ahmedabad Shri Himmatsingh Patel was visible on television, and on the

streets and in the hospitals at the time, working for peace and helping victims. On March 5, a peace march of prominent Gujaratis was organised by the Gujarat Lok Samiti. Independent individuals sent out this much-needed message for peace, against hatred. Political parties became active much later.

2.2. However, the conduct of the Congress-controlled Ahmedabad Municipal Corporation — in aiding and abetting the demolition of the tomb of Wali Gujarati opposite the police commissioner's office in Ahmedabad, or the demolition of the 100-year-old Madni mosque in Vasna, Ahmedabad, months later, is shocking to say the least. The corporation body faced a crisis following the resignation of 19 party corporators from various committees, in protest against the demolition of the Madni mosque, on July 3. The Congress mayor, Shri Himmatsingh Patel, claimed that the demolition was carried out under instructions from Gandhinagar and the municipal commissioner and had kept the elected representatives in the dark.

2.3. The mosque had been in the eye of a storm for causing obstruction to traffic. However, no temples were similarly targeted though hundreds dot Gujarat roads even in the heart of the city. Hooligans damaged the mosque, along with nine shops adjoining its boundary wall, during the recent violence. Repair work had just been taken up by a private Muslim trust when municipal bulldozers demolished it.

2.4. Objectionable bill-boards, proclaiming Gujarat to be a '*Hindu Rashtra*' (Hindu state) have come up in Ahmedabad city over past months, after the carnage. "Karnavati city of this Hindu Rashtra welcomes you," proclaims a bill-board painted in saffron in the heart of Ahmedabad. (*The Times of India*, August 18, 2002). In Chhotaudaipur, 200 km south of Ahmedabad, the bill-board on the highway is more direct. It simply says: "Welcome to *Hindu Rashtra's* Chhotaudaipur town." These are a legacy of five years of BJP rule. Though symbolic, they send out clear a message that is entirely in tune with the ideology of the sangh parivar and the conduct of the BJP in Gujarat. A freshly painted bill-board on a crossroad outside Shahpur Gate in Ahmedabad proclaims the roundabout to be 'Kashi Vishwanath Chowk'.

2.5 The bill-boards have been put up by the VHP, Bajrang Dal and Durga Vahini. Most of them proclaim *Dharamraksha* (Protection of Faith), *Rashtraraksha* (Protection of Country) and Gauraksha (Protection of Cows) as the main objectives of these organisations. But while welcoming people to 'Karnavati city of *Hindu Rashtra*', a bill-board at Kalupur, Ahmedabad, goes a step further: '*Garv Se Kabo Hum Hindu Hain*' ('Say with pride you are a Hindu').

2.6. It is tragic that even the Congress, which was returned to power in the Ahmedabad Municipal Corporation (AMC) two years ago, is dragging its feet on pulling these bill-board down, despite a directive to this effect issued by new state Congress president Shankersinh Vaghela recently.

2.7. The Gujarat carnage has shown to India and the world how some political parties that use the electoral process to come to power work towards the steady erosion of secular and democratic values and defiance of the Constitution through the manipulation and misuse of the very state institutions that were created to protect them.

2.8. The Constitution of India is founded on a notion of representative nationhood. It is this critical principle that gives every citizen equal rights and an equal stake in the nation. But this constitutional provision is seriously compromised when religious or some other sectarian identity redefines the share and stake of different citizens in public life. For genuine secularism to be re-injected into Indian political and public life, it is imperative that political parties that profess commitment to secularism are undaunted in their critique of discrimination and hate politics. Ultimately, their actions must speak as much as words. What India badly needs today are men and women of stature, committed to countering violence whenever and wherever it occurs. And for this are prepared to risk their life and limb.

3. Role of Neighbouring States

3.1. The relatively more sensitive governance being provided by the state governments and administrations of neighbouring Rajasthan and Madhya Pradesh deserves appreciation.

3.2. Attempts were made by the Bajrang Dal and the VHP, supported by the RSS and the BJP, to inflame sentiments in the neighbouring districts of both Rajasthan and Madhya Pradesh. The fact that there was no spill over violence in these areas is testimony to the fact that communal tension and violence spread only when the state wishes them to, and when it connives with such communal elements. In the border areas of Rajasthan, commissioners of police in the cities and SPs of districts were personally in charge for a fortnight while the situation simmered.

3.3. While returning from Mecca, Haj pilgrims who hail from Gujarat diverted their journey and sought refuge in Madhya Pradesh and Rajasthan. The governments there, in sharp contrast of the state of affairs in Gujarat, housed and fed them. They returned only when they felt comfortable about their security. Similarly, in Rajasthan, the local administration in the districts bordering Panchmahal, Sabarkantha and Banaskantha actually ran refugee camps for victims who had fled from Gujarat in terror.

3.4. On August 17, 2000, having amended the Indian Arms Act, the MP government ordered a crackdown on VHP-Bajrang Dal cadres in that state trying to foment trouble through mass distribution of trishuls. The Indian Arms Act, 1959, prohibits possession and carrying of sharp-edged weapons longer than six inches. Taking advantage of this provision, the VHP had decided to distribute Tridents measuring five-and-three-quarters of an inch. Thousands of trishuls would have been distributed all over the state. However, the government amended the Arms act, curtailing the permissible limit to four inches.

4. Role of Gandhian Institutions

4.1. Gandhian institutions have been a pivotal force in the state of Gujarat. In the past they have had a significant influence on political forces like the Congress(O). However, since 1977, their distance from active politics has played a significant role in their declining influence. The absence of any organisational work among the young,

too, has contributed to this. These factors culminating in an active distancing from active politics have added to their declining influence. Gandhian organisations, which number over 2,000 in the state of Gujarat and are beneficiaries of state funds, have therefore lost the stature they had in past decades. Individually, senior Gandhians have condemned violence and communalism. But their silence in some significant cases, and open allegiance to stances taken by *Hindutvavadi* organisations on occasions have further contributed to the communalisation of civil society in Gujarat.

5. Godhra Tragedy Condemned

5.1. Among other things, the BJP and the *sangh parivar* have frequently reiterated that 'Hindu anger' was fuelled largely by the reluctance of opposition parties, secular groups and Muslim organisations to condemn the merciless killing of '*kar sevaks*' in the Sabarmati Express. This, however, is far from the truth.

5.2. Leaders of various opposition parties have repeatedly challenged this contention, pointing out that on February 27 itself they had condemned the Godhra killing in unambiguous terms. We have examined this and found the BJP and the *sangh parivar*'s charge as unfounded. If their statements did not get the prominence they deserved is of course another issue altogether that needs to be addressed, *in the first place*, by the mass media.

5.3. Heads of Muslim organisations throughout India condemned the killing of 58 passengers of the Sabarmati Express. In a statement released on February 28, they called upon the people of Gujarat to exercise restraint. The signatories included Shri Syed Shahabuddin, president, All India Majlis-e-Mushawarat, Qazi Mujahid-ul-Islam Qasmi's Milli Council, Shri Asad Madani, president Jamiat-ul-Ulema-e-Hind, Shri Saiyid Hamid, president, Movement for Empowerment of Muslim Indians, Shri Jalaludin Umri, acting amir, Jamaat-e-Islami Hind, Shri Mohd. Yaha, president, Markazi Jamiat Ahl-e-Hadith, Shri HR Nomani, president, All India Momin Conference, Shri Syed Nizamuddin, general secretary, All India Muslim Personal Law Bill-board, Shri Amanullah Khan, general secretary, Rahat Committee, Shri M. Afzal, president, All India Urdu Editors' Conference and Shri Navaid Hamid, secretary, Minority Council.

5.4. Statements promptly condemning Godhra were also made by independent citizens like Shri Javed Akhtar, Shri Alyque Padamsee and other concerned citizens from Mumbai and elsewhere.

Failure of Criminal Justice System

The events that took place in Gujarat prior to the Godhra tragedy, during and after it, and during and following the state-sponsored carnage are marked by a singular and shameful collapse of the criminal justice system.

1. Failure of Intelligence

1.1. The conduct of the police machinery in Gujarat is marked by a lack of intelligence about the likely commitment of offences against public order, which was not collected from all over the state. The lack of systematic surveillance on the conduct of *kar sevaks* going to and fro from Ayodhya, for at least a month before the Godhra tragedy, especially given their recorded propensities to break the law by consistently provoking religious minorities and even behaving aggressively with them, has been dealt with by the Tribunal extensively in the chapter on Godhra.

2. Preventive Arrests

2.1. The Godhra tragedy took place on the morning of February 27, 2002. The VHP gave a call for a *bandh* on February 28. It was obvious that the situation was tense and could get out of hand. The minimum that the state does in similar situations is to effect preventive arrests of persons who are likely to cause violence. Such lists are available with all police stations. Such arrests are affected routinely, even if there is the likelihood of a minor law and order problem. Leave alone other parts of Gujarat, the preventive arrests made on February 27 in Ahmedabad itself throw a light on the intentions of the police:

<i>Police Station</i>	<i>Arrests</i>
Naroda	0
Gomtipur	0
Shaherkotda	0
Vejalpur	0
Kalupur	0
Gaekwad Haveli	0

Ellis Bridge	0
Navrangpura	0
Naranpura	0
Ghatlodia	0
Astodia	2

The two persons arrested at Astodia were both Muslims.

2.2. Section 151 of the Criminal Procedure Code (CrPC) permits preventive arrests by the police. It reads: “151(1). A police officer knowing of a design to commit any cognizable offence may arrest, without orders from a magistrate and without a warrant, the person so designing, if it appears to such officer that the offence cannot be otherwise prevented.”

2.3. Similarly section 3 of the National Security Act, 1980, allows preventive arrests by the central or the state government of any person likely to act in a manner prejudicial to the maintenance of public order. The Gujarat police, by abdicating its responsibility in the matter of preventive arrest, revealed not just its unprofessional character and conduct. In the longer term, the failure of the law and order machinery to act and to act fairly and swiftly, often against politicians and their cadres, is reflective of the symptomatic erosion that has taken place in the criminal justice system in India. Today it would be no exaggeration to say, in the context of Gujarat, that the criminal justice system in India has collapsed.

3. Police Participation in the Riots

3.1. Numerous cases have come to light that have exposed the conduct of police personnel during the Gujarat carnage. Police either turned a blind eye to the mass and systematic assaults by large mobs led by political leaders or even actually participated in the violence.

3.2. During the first 48 hours in the city of Ahmedabad, while the assaulting mobs and their leaders clearly belonged to the lumpen, communal elements from the Hindu community, police single-mindedly targeted innocent victims, who were, overwhelmingly, Muslims. On February 28, 40 persons died in police firing, out of whom 36 were Muslims. Besides, the Tribunal has recorded evidence from all over Gujarat that shows a sinister pattern — the police, despite being present, did nothing, especially during the first few days, to stop the mobs. Detailed instances of police misdemeanour have been extensively recorded by the Tribunal. It must be noted here that inaction during such a situation is punishable under section 166 of the Indian Penal Code (IPC).

4. Illegal Registration of FIRs (Problems with FIRs)

4.1. Evidence from various towns and districts of Gujarat, recorded by the Tribunal, reveals a shocking pattern of behaviour among the police in:

- ◆ their failure to record First Information Reports (FIRs);
- ◆ police complicity in not naming the accused despite repeated insistence of the victims/survivors that all accused should be named;
- ◆ worst of all, their insistence on recording omnibus FIRs for whole areas, regions and towns instead of separate detailed ones for every crime and offence committed.

Section 154 of the CrPC deals with the First Information Report of cognisable offences and is the first crucial step in the prosecution of offenders.

4.2. Omnibus FIRs

It is a fundamental principle of criminal law that every offence needs to be separately registered, investigated and tried. Filing omnibus FIRs is one of the simplest ways of avoiding detailed investigations and effective trials. In many cases in Gujarat, where 80 or 90 shops have been burnt or a large number of people have been killed, instead of filing separate FIRs in respect of each incident, the police has registered collective FIRs, thus virtually scuttling the possibility of detailed investigation or conviction. Apart from this, many incidents, separated over time (sometimes days) and place and concerning different victims and accused, have been clubbed together. Moreover, when individuals came forward to lodge their FIRs, they were told that the FIRs have already been recorded, and that no second FIR was possible.

4.3. FIRs Without Names of the Accused

Most of the FIRs which have been filed, especially where the police are the informants, do not contain the names of the accused and only say that an unidentified mob attacked. There are a significant number of cases (*see Detailed Annexures, Volume III*) where the victims actually named the accused but the Gujarat police have refused to lodge their names in the FIRs. Instead, the police took on the role of a partisan intermediary in the evidence recorded from Naroda, Chamanpura, Ode, Sardarpura, Bharuch, Ankleshwar, Vadodara, Mehsana, Himmatnagar, Sabarkantha and Banaskantha. In these cases, the police told the complainants that the FIR would be lodged only if the names of the accused were deleted. For example, at village Por, 3 women and 3 children were killed. The victims have identified and named 95 attackers but the police refused to include their names in the FIRs. The detailed area-wise list of incidents is covered by the Tribunal. (*See section on Incidents of Violence, Volume I*).

4.4. Deliberate Obfuscation of the Identity of the Accused

In a number of other cases, hundreds of victims have testified before the Tribunal, stating that though some people have been named in the FIRs, they were not the persons actually present at the site. This would not only subvert investigations by casting serious doubts on the intentions of the complainant but would also let the real accused go scot free.

Similar is the case with a number of persons who have been arrested. Due to public pressure, some arrests had to be made. To take an easy way out, the police has, in some areas, arrested persons not at all connected with the crime and not even named in the FIRs. This makes the case against the actual perpetrators very weak.

All the above series of actions by the police are offences under section 167 of the Indian Penal Code but the Tribunal notes with shock that not a single police officer has been charged under this section.

4.5. The police has failed to respond to the threats and intimidation meted out, as a matter of course by organisations affiliated closely to the ruling party in Gujarat--the RSS/VHP and BD. Senior jurist, Shri Girishbhai Patel was threatened in his home by young

leaders of the VHP-BJP after the genocide simply because of his staunch espousal of human rights issues that in recent years has meant defending minority rights at great risk to his person. It was not the police that checked the threats and posturings but the intervention of Shri Arun Oza, state public prosecutor who is a senior member of the RSS.

5. Minority community victimised

5.1. Apart from targeting sections of the Muslim population with bullets, the Gujarat police have further blackened their conduct by indiscriminate arrests of innocent young Muslims all over the state. The Tribunal has recorded details of these arrests and we estimate that at least 500 innocent Muslims languish in police lock-ups and jails of the state.

6. Unprofessional investigations

6.1. Both the Godhra tragedy and the post-Godhra carnage show up the criminal justice system for tardy and loose investigations.

- ◆ The police, who are the investigating agency, have simply not collected the forensic evidence in many of the mass crimes that took place in Gujarat.

- ◆ *Panchnamas* have not been recorded or not recorded properly. Irregularities in search and seizure operations are amply evident.

- ◆ The list of victims and witnesses directly related to different offences has not been compiled.

7. Real culprits not arrested

7.1. Whether it is the Naroda Gaon, Naroda Patiya and Gulberg society mass killings or the Sardarpura, Ode, Godasar, Pandharwada, Vishnagar, Unhava massacres, the major masterminds who led the mobs and co-ordinated the attacks, have not been arrested. State cabinet ministers who have been named in FIRs are also scot free. The criminal justice system of Gujarat has been especially lax with those among the accused and perpetrators of mass crimes who belong to the BJP, VHP or Bajrang Dal. Even when they have been named, these persons have not been arrested. For example, in Bhavnagar, Shri Om Trivedi, the city VHP president and Shri Mansukh Panjwani, a city BJP office-bearer, have been named as having led mobs which set fire to 80 Muslim shops. Neither has been arrested.

7.2. Similarly, in Naroda Gaon in Ahmedabad, Dr. Jaideep Patel, leader of the VHP and Sushri Maya Kotdani, MLA from the BJP, have been named as perpetrators in a number of offences. But not only have they not been arrested, they have in fact been discharged in respect of these offences. State ministers Shri Ashok Bhatt, Shri Bharat Barot, Shri Haren Pandya, Shri Narayan Laloo Patel, Shri Nitin Patel, Shri Prabhat Singh Chavan and Shri Ranjitsingh Chawda too, have escaped any criminal action.

8. No identification parades

8.1. In a number of cases, the victims could identify the perpetrators by sight as they hailed from the neighbourhood, but did not know their names. It was essential for the police to conduct identification parades in such cases. But no such identification parades are known to have been conducted.

9. Combing Operations

9.1 A large number of combing operations have been carried out in Muslim localities and a number of persons have been arrested. However, given who the mass offenders were, given the fact that it was the communal and lumpen element among Hindus who were the aggressors in the post-Godhra carnage, what was essential was that combing operations be carried out in non-Muslim areas. If proper combing operations had been carried out in these areas, a large amount of arms and ammunition like *trishuls*, swords, gas cylinders, provocative leaflets, and later on, stolen goods could have been recovered. But interestingly, no such operations have been carried out. Even as the combing operations were being carried out, the police resorted to indecent behaviour against women and children, the real motive being to harass and humiliate them and to terrorise them on the pretext of searching their houses.

10. Rape Victims

10.1. Many women have been molested and raped. The investigations by various civil society groups, including the evidence recorded by the Tribunal, suggest that as many as 250 young girls and women were victims of gross sexual crimes. It was incumbent upon the law and order machinery to facilitate speedy medical examinations of the victims. But this was not done. Thus, there is no medical proof of rape. Secondly, a number of women have complained that though they informed the police about rape, the FIR does not mention rape at all.

11. No Action Against Errant Media

11.1. *Sandesh* and *Gujarat Samachar* have especially played a very provocative role in the carnage. Most fact-finding reports, including the Editors' Guild report, have found them guilty of generating communal propaganda against Muslims. The police has sufficient powers under section 153 B of the Indian Penal Code to take penal action against these papers. The editors and the authors could have been arrested but not even a complaint has been lodged against them.

12. No Action Against the VHP/Bajrang Dal

12.1. It is obvious that the VHP and Bajrang Dal played a major role in the carnage. Their leaders have made highly provocative statements and have justified the carnage. Again, they could have been arrested under section 153B of the Penal Code but this has not been done. SIMI (Students Islamic Movement of India) has been banned. The VHP and Bajrang Dal could also have been banned by the state or the central government for inflaming communal passions under POTA and under the Unlawful Activities (Prevention) Act. But this has not happened.

13. Non-implementation of NHRC Recommendations

13.1. The Tribunal notes and records with concern the callous indifference with which the interim and final recommendations of the NHRC have been regarded by the criminal justice system in Gujarat. When the National Human Rights Commission, presided over by a retired Chief Justice of the Supreme Court, visits Gujarat,

meets victims and officials and makes certain elementary recommendations, one would expect that a government which is keen to bring about normalcy would at least accept these recommendations. But even this has not been done. Police are the accused in many of the cases. NHRC, for instance, recommends that at least five such cases be handed over to the CBI (Central Bureau of Investigation) for investigation. Even this has not been done.

13.2. Even the existing provisions of Indian criminal law, if applied with stringent regard to the rule of law, could have helped ensure that the entire carnage was avoided. None of the more than 2,000 persons who died would have died if the State had implemented the letter of the law.

14. Disturbed Areas (Special Courts) Act, 1976

14.1. Under section 3 of this Act, any area within the state can be declared as Disturbed Area –

“Where a state government is satisfied that there was, or there is, in any area within a state extensive disturbance of the public peace and tranquility, by reason of differences or disputes between members of *different religions*, racial, language or regional groups or castes or communities, it may, by notification in the official Gazette, declare such area to be a disturbed area.”

14.2. Once an area is declared as disturbed, all scheduled offences within the notified area have to be tried quickly by specially designated judges. Murder and rape are some of the scheduled offences.

14.2. If the affected areas in Gujarat had been declared as Disturbed Areas, the prosecution of the cases would have been quick and, possibly, effective.

14.3. Since section 3(2) of the Act limits any notification to incidents that have taken place three months prior to it being issued, today this provision of law cannot be invoked. Thus, now the opportunity under this law is lost.

15. The Prevention of Damage to Public Property Act, 1984

15.1. Under this Act, any person who commits mischief in respect of public property can be imprisoned for a period of up to 5 years. Though a majority of the violence, arson and looting has been in respect of Muslim property, there have been certain major incidents of targeting public property. The office of the state minorities commission at Gandhinagar and the shrine of Wali Gujarati are two of the many instances of public properties, in respect of which mischief has been committed. However, to the best of our knowledge, no case under this Act has been registered against any one.

16. Status of Criminal Investigations into Major Massacres

16.1. Partisan language in chargesheets filed by the police

The overtly partisan behaviour of the Gujarat police can be assessed from the language contained in the chargesheets related to the major incidents of mass massacre. For instance, the chargesheet filed in the Gulberg society killings, where no less than 60-70 persons were brutally killed, virtually begins with a defence of the accused and paints the victims as instigators.

“It was after the firing by Jafri on members of the mob (of 23,000) that the mob got violent and attacked the locality”. This recording of the offence is shocking to say the least. Gulberg society was under a violent siege since 7.30 a.m. on February 28; the commissioner of police, Shri PC Pandey visited Shri Jafri at 10.30 a.m. and assured him protection; the crowds grew ominously by 11.30 a.m.; and finally Shri Jafri gave himself up to the aggressors, in order to save innocent men, women and children who had sought shelter in his home, at 2.30 p.m.

16.2. In a similar misrepresentation, the Tribunal records with horror the way the Naroda Patiya chargesheet reads: “The unruly crowd at Naroda Patiya went on the rampage after a mini-truck driven by a Muslim ran over a Hindu youth and the mutilated body of a Hindu was recovered from the area... the crowd was anguished by the incident.”

17. Progress of Major Cases

17.1. Sardarpura massacre, Mehsana: Thirty-three persons, mostly women and children, were burnt alive in a small room in Sardarpura village in Mehsana district. In all, there are 46 accused and they have been released on bail following four different applications filed before the additional sessions judge, Mehsana, Judge DR Shah. Four applications have also been filed by representatives of the survivors, for cancellation of bail of the accused. The public prosecutor (PP) in the district court, Shri Dilip Trivedi, is also a general secretary of the Vishwa Hindu Parishad, Mehsana district. (He gave an extremely provocative statement on February 28 to the *Sandesb* daily). The four applications for cancellation of bail are on the grounds that after being released on bail, the accused attacked a mosque in the same Sardarpura area. (FIR no. 110/2002 dated May 13 is lodged with the Vijapur police station.). The PP did not take any interest in the cancellation of bail. The High Court has issued notices in all these four matters filed under section 439(2) of CrPC. Chargesheets have been filed. This case and the conduct of the PP reveals the clear and criminal anti-constitutional conduct.

17.2. Deepla Darwaja, Visnagar, Mehsana district: Eleven persons were hacked or burnt to death. Thereafter, with a view to destroy the evidence, the culprits collected their remains and dumped them in a lake situated in a Patel community area. Two cancellation of bail applications have been filed against the 43 accused who were released on bail. Predictably, the same PP (Shri Trivedi who is also general secretary of the district VHP) who never objects to bail applications by the VHP and the BJP, had, registered his ‘no objection’ to bail being given to the accused in this case as well. These applications have made several pleas, the main ones being that the police conduct in non-registration of names of the accused, deliberate non-recording of *panchnamas* and subsequent failure to help locate the victims’ bodies, all ensured that easy bail was obtained. *Prima facie*, there appears to be biased police conduct, a patent example of culpable negligence. A special criminal application has also been made challenging the same.

17.3. Gomtipur police atrocities case, Ahmedabad: This case pertains to the death of six persons in reprisal killings by the police on April 21, after a police constable was

killed at Danilimda. Significantly, there were no disturbances in the area on that day and no members of the majority community reside anywhere around where the victims were targeted or shot dead. The police killed Sushri Hanifabibi Bashir Ahmed Sheikh (42), a woman residing at Modi Chawl, for no reason. So also, Shri Kalubhai Sheikh (20), male, residing at Jhoolta Minara, Ahmedi society, was shot dead. He suffered a head injury and died on the spot. Sushri Naziabibi and Shri Mehmood Husein Sheikh (daughter and father) aged 18 and 42 respectively residing at Patel Chawl, Kamdar Maidan were similarly killed. Sushri Naziabi was cooking in the kitchen. Her father was shot at in the same incident, outside the house. Shri Abrar Ahmed Hanif Qureshi (22), male, was killed in the compound when the police aimed from a hole in the gate and shot him. He suffered neck injury and died on the spot. Similarly, one Shri Mehboobhai Sultanbhai Sheikh (22) was shot after the police entered the chawl from a private house. All the post-mortem reports show that the victims died as a result of fire-arm injuries. Yet, no FIR has been filed. Four different applications have been filed before the Gujarat High Court on behalf of the victims and supported by the Islamic Relief Committee, praying for special investigation by the crime branch and inquiry against the culprits/police constables and for compensation. They are all pending.

17.4. Dr. Bhavnagari case, Ahmedabad: On February 28, when many areas of Ahmedabad and the state of Gujarat were being attacked, a large mob of 5-7,000 had targeted the Paldi area of Ahmedabad. Dr. Bhavnagari, a respected doctor, and his son lived in Delite Apartments at Paldi, which was also severely attacked and damaged by the mobs. Dr. Bhavnagari owns a licensed gun and is also an ace shooter, being a member of the National Rifle Shooters' Association. When the mob advanced close and threatened the doctor and his family, he used his gun and fired. Two persons were injured and later, one fell victim to the bullets.

The police arrested Dr. Bhavnagari, despite there being a strong case under section 76 onwards of the Indian Penal Code, which permits a person firing in self-defence when his life is endangered. The police also filed an FIR against both Dr. Bhavnagari and his son on the ground that both had fired. The son surrendered to the police in late March.

Though the police met one of those who survived the bullets on March 3, they recorded his statement only on March 14. In his statement, the young man stated that both father and son had fired, in which two persons died. Applications for anticipatory bail, filed for both father and son were rejected in the City Civil and Sessions Court, Ahmedabad. The bail applications were then pending before the Gujarat High Court. In its report, the police stated: "If he had not fired, he would have died. A mob of 1,500-2,000 had attacked the building; shops were burning; they had deadly weapons and it was only when sections of this mob climbed the staircase of Delite Apartments that Dr. Bhavnagari and his son fired." When this report was filed in the Sessions Court, Shri Chetan Shah, advocate for the VHP (he is appearing for them in all their cases), asked to be joined as party. Magistrate Purani turned down the application saying that he had no *locus standi*. The matter for deliberation on the police report

under section 159 was pending. Meanwhile, 90 days had passed since Dr. Bhavnagari's arrest. Under section 167(2) of the CrPC, if no chargesheet has been filed within three months, a person has to be released. Both appeals for bail came up before the HC. Granting bail, the judge, Justice Behram J Sethna passed strictures against two police officers — additional commissioner of police Shri Satish Sharma and police inspector Shri NH Joshi — for filing the report, which only stated the truth. It appears that the learned judge recommended departmental action against the police officers, which we consider as rather unwarranted.

17.5. *Best Bakery Case:* In the Best Bakery Case in Vadodara where 12 persons were killed by a mob of around 1,000 people, the police have played a shocking role by booking one Muslim, Shri Yasin Alibhai Khokhar, among others, and charging him with murder, robbery and arson.

18. Investigations into Godhra Tragedy

18.1. After the Godhra tragedy, the Gujarat police initially arrested 62 persons, including at least seven boys, all said to be under the age of 16. They were booked under the Prevention of Terrorism Act (POTA) by the government railway police (GRP) for the February 27 attack on the Sabarmati Express at Godhra. Following public outrage, the application of POTA to these seven boys was withdrawn. But all the accused, including the seven boys, still faced charges of murder, attempt to murder, criminal conspiracy, arson, rioting and damaging public property. Family members of the arrested minors were not informed, in direct contravention of the orders of the Supreme Court in the Joginder Singh case. The boys are: Haroon Iqbal, Farooq Kharadi, Firozkhan Pathan (residents of Signal Falia); Asif Kader, Altaf Diwan and Naseer Pathan (residents of Vejalpur Road); and Hasankhan Pathan of Dahod. The attitude of the police after arresting these minors was telling. The inspector of Godhra town police station, Shri K Trivedi said it was not possible to check their ages at the time of arrest. "They were seen near the site of the incident, so we arrested them. The rest will be taken care of by the judiciary," he said.

Hasankhan Pathan, who is a Class IX student in Dahod in the Panchmahal district, 150 km. away, had come to Godhra to meet his aunt and uncle on February 26. His date of birth according to school records is October 31, 1986. Evidence recorded by the Tribunal records his relative Hussain Khan Pathan as saying: "In the morning, he was playing with some other local boys, including Firoz and Mustaq, when they heard of something going on near the railway track. They got scared and came inside their houses. After a few hours, the police came and picked up Hasan near Ali Masjid, on charges of mass murder." Under the Juvenile Justice Act, minors below 16 years of age have to be sent to a juvenile home, not to a police lock-up. "But they have been kept in police custody, along with the other accused in this case. We showed the age-proof documents of these minors to the police, but they did not listen to us," said Shri Soukat I Samor, a senior advocate, who represents some of the accused. This is one more instance of police misconduct in the context of the Godhra tragedy and the carnage that followed.

18.2. The Godhra police failed in their first major case, when additional sessions judge Viram Y Desai acquitted all 73 accused of all charges against them on September 22, 2002. The judge accused the police of extracting the names of the accused from those who were arrested first, and the investigating officer (IO) of fabricating evidence. He expressed doubts over whether one of the incidents occurred at all. These findings by the judge cast a major cloud on the conduct of the police in the Godhra investigations.

Following the Godhra incident, these 73 who were arrested, were charged with conspiracy, rioting, arson, inciting communal passions, attacking the police, robbery, etc. All the Hindus got bail, whereas most of the Muslims (accused of burning property belonging to their own community, including a mosque and school), remained in custody till the trial was over. Some of them continue to be in custody on the charge of burning the train. The witnesses for the prosecution were all policemen. The prosecutor argued that since the area was under curfew at the time of these incidents of violence, it was difficult to find independent witnesses. Hence, the testimony of the policemen should be believed, as also the *panchnamas* made on the spot by them.

18.3. The judge found that none of the charges were proved because of the conduct of the investigating officer (IO) who first brought in a set of accused persons to the police station, who in turn named others as co-accused, who were later arrested in combing operations. The judge held that this revealed that “there is no concrete evidence against the 73 accused, who were picked up out of 2,000 people.” This verdict of the Sessions Judge points out several serious lacunae in police investigations. (*See Detailed Annexures, Volume III*).

19. Medico-Legal Issues

19.1. During the post-Godhra carnage, government and municipal hospitals that gave post-mortem reports recorded shocking lapses when detailing causes of injury in the case of police firings. The post-mortem reports in such cases mention nothing about injury by bullets but state that death was due to injury and shock. These lapses, we hope, were not deliberate, as otherwise it would legitimately invite the criticism that hospitals in Gujarat are not different from other public institutions, which have been communalised.

20. Role of the Judiciary

20.1. The Tribunal records that the overall conduct of the judiciary, higher and lower, when in times of serious law and order breakdown and when complete anarchy prevails, is decidedly wanting. While we are clear that, as a rule, courts cannot play the role of the legislature or the executive and take charge of the maintenance of public order, there comes a time when the judiciary is looked upon as the last resort. At such times, and such moments were evident during the Gujarat carnage and remain important to date, the judiciary is expected to rise to the full capability of its constitutional obligations and duties and take swift and clear *suo motu* action, if necessary, to restore the belief of the disillusioned, marginalised and alienated sections of

our population, who have been victims of state sponsored massacres. In not doing so, the courts fail in their primary duty. We state with regret that the casualness with which matters relating to the Gujarat carnage have been handled by the court(s), high and low, is a matter of serious concern for the rule of law and the survival of constitutional principles in any real sense in this country. Even open acts of threat, against two high court judges belonging to the minority community, did not stir the high judiciary into any action against the government. This is a sad reflection on the judiciary, which in the past, had considered the slapping of a magistrate a sufficient enough reason to invoke the contempt jurisdiction of the Apex Court!

**The evidence shows that the investigation process
was totally inactive, in that,**

- ◆ There was no recording of complaints made by affected persons, even while the incidents were taking place.
- ◆ FIRs were recorded after several days.
- ◆ Even the recorded FIRs contained incorrect versions and not the versions as reported by the complainants.
- ◆ The names of the culprits, even when disclosed, were not recorded.
- ◆ In fact, the complainants were told not to name the accused, otherwise the complaints would not be recorded.
- ◆ The FIRs of individual victims were not recorded and omnibus complaints containing several incidents were recorded, which would deny proper investigation and stall the delivery of criminal justice.
- ◆ In many cases, the panchnamas *of the scenes of offence have not been made. The forensic evidence has not been collected.*
- ◆ The leaders of the mob violence have not yet been arrested.
- ◆ The police participated in the violence and, in spite of clear and well-documented evidence against the police, no policeman has been prosecuted or proceeded against otherwise.
- ◆ Search and seizure of weapons and looted material have not been effected at all, despite direct evidence of armed mobs committing the crimes.
- ◆ Most of the prosecutors who are in charge of these cases owe allegiance to the organisations perpetrating the crimes, with the result that the victims have no confidence in the due process of law.

From the evidence recorded, many persons, politicians and officials among others, have been repeatedly mentioned by witnesses, as directly taking part and inflicting violence on innocent victims and also leading the mobs.

Disturbing Trends: Police System

1.1. The Tribunal has looked at a lot of evidence on trends in police behaviour especially related to communal riots.

1.2. Findings and recommendations of several officially appointed judicial commissions of inquiry appointed by various state and central governments to probe into communal violence, the report of the National Integration Council and the sixth report of the National Police Commission have all indicted the police for partisan behaviour towards religious minorities and Dalits in particular and have made recommendations to check this disturbing fact.

1.3. This disturbing trend has become more acute in recent years thanks to the unchecked politics of intolerance pursued by the *Sangh Parivar*.

1.3.1. Justice Shiv Dayal Srivastava's report on the riots in Jabalpur, Sagar, Damoh and Narasinhapur (MP), February 1961, comments adversely on the laxity in investigation. (*See Detailed Annexures, Volume III*).

1.3.2. The Justice Raghubar Dayal Commission of Inquiry into the 1967 riots in Ranchi, Sholapur, Malegaon, Ahmednagar, Sursand, Jaipur and Suchetpur found the conduct of the police to be far from satisfactory.

1.3.3. The Justice Jagmohan Reddy Commission of Inquiry investigating the Ahmedabad riots of 1969 has cited more than half a dozen instances where Muslim religious places adjoining police lines or police stations were attacked or damaged. The argument advanced by the police officers that because they were busy quelling riots at various other places, these police stations were shorn of adequate strength and hence these attacks on religious places could not be stopped, did not impress the Commission. It made this observation because not a single Hindu place of worship near a police station was reported to the Commission as having been damaged or destroyed.

1.3.4. Report of the Justice DP Madon Commission of Inquiry into the Communal Disturbances at Bhiwandi, Jalgaon and Mahad in May, 1970: "Several instances have been proved before the Commission in which police officers and policemen either did not prevent Hindu rioters from indulging in rioting, looting or arson, or showed communal discrimination in dealing with the rioting mobs, or gave incorrect information to the control room or lodged incorrect FIRs, in order to make out that the persons

who had rioted or were responsible for looting or arson in particular incidents were Muslim rioters not Hindu, or actively assisted Hindu rioters in burning and looting Muslim properties.” (See *Detailed Annexures, Volume III*). The commission’s comments on the Special Investigation Squad of Bhiwandi: “The working of the Special Investigation Squad is a study in communal discrimination.”

1.3.5. Report of the Commission of Inquiry, Tellicherry Disturbance, 1971, Justice (retd) Joseph Vithayathil: “236. Through the evidence of the deputy SP, he says that while on patrol duty he had to curb many among his rank and file who could not restrain themselves when they met Muslims on the road. Similar evidence was given by the sub-collector and other witnesses who have testified saying that while chasing away some Muslims many policemen yelled at them to go to Pakistan. At Mattambaram one or two of them got into the mosque and besides beating Usmakutty Haji, a very respectable person, broke the tube-light and chandeliers in the mosque. There is nothing to show that there was any justification for this action... I am inclined to think that this was a high-handed act done by some policemen who made use of the opportunity to exhibit their anti-Muslim feelings.”

1.3.6. Report of the Commission of Inquiry into the Jamshedpur riots in April 1979, by Justice J Narain, Shri SK Ghosh and Shri SQ Rizvi: “During the course of inquiry by the commission there were wide-ranging complaints regarding the anti-Muslim behaviour of the Bihar Military Police(BMP)... the facts and circumstances of the attack on the Muslim *basti* did give rise to the suspicion that deliberate or otherwise, firing by the police on the Hindus had no effect. Not a single Hindu could be identified as having been injured or killed as a result of 108 rounds fired by the BMP in this area over a period of 24 hours; this couples with the fact that when the Hindu attacking mob had been driven away from the area, 9 Muslims were found dead in their own homes... The Commission feels that the composition, training discipline and leadership in the BMP leaves much to be desired...”

1.3.7. Inquiry report on Meerut Riots, September-October 1982, by Shri NC Saxena, former director, Indian Institute of Administration, Mussourie, to the central Minorities Commission of which he was joint secretary: “As regards the first act of violence which led to the riots, the district administration tried to give an impression that the riots broke out in Meerut town because the *Pujari* of the disputed temple in *moballa* Shahgasa was murdered on September 6, 1982. The aggressiveness of the Hindus, unlawful activities of the Hindu communal group and police inaction prior to the murder of the *Pujari* was not highlighted in either the reports of the district administration or in the national newspapers... Right from the beginning the district administration saw the communal riot as instigated by the Muslims and the Hindu action as retaliation and therefore chose to take stern action against Muslims only... The orders from the senior officers in the district to the police could be summarised in one phrase, ‘Muslims must be taught a lesson’. The PAC and the police faithfully implemented this policy. Looting and arson, in this context, was considered legitimate and necessary, and was therefore ignored. The district administration was very keen to retain the PAC in the district and bitterly opposed suggestions for getting it replaced by CRPF or BSF”

1.3.8. The Report (majority) of the Commission of Inquiry into the Bhagalpur Riots of October 1989, signed by Justices RCP Sinha and S Shamsul Hasan and pub-

lished in 1995, said: “The role of magistracy was no different from that of the police. In general they were cowardly, communal and indifferent to the sufferings of the common man... Admittedly hordes of Hindus, the number going up to thousands, attacked the localities and villages of Muslim inhabitants, but nobody was arrested in the process of attacking an area... From the officers to ordinary police constables, and the smaller functionaries of the administration, barring a few exceptions, they were totally infected with an anti-Muslim bias. This is evident from the fact that every unlawful act succeeded, totally uninterrupted by any administrative interference except in one or two cases... We would hold the SP of Bhagalpur, KS Dwivedi wholly responsible for whatever happened before October 24, 1989, on that day and after October 24. His communal bias was fully demonstrated by the manner in which he arrested Muslims and by his extending no adequate protection to them.”

1.3.9. Report of the J Ranganath Misra Commission of Inquiry into the 1984 riots in Delhi: “The riots occurred broadly on account of the total passivity, callousness and indifference of the police in the matter of controlling the situation and protecting the people of the Sikh community.”

1.3.10. Sixth Report of the National Police Commission, March 1981: “(There are) several instances where police officers and policemen have shown an unmistakable bias against a particular community while dealing with communal situations... (The composition of the police) is heavily weighted in favour of the majority community.”

1.3.11. In its report, the National Integration Council, drew similar conclusions: “The most disquieting feature in recent times is the loss of credibility of the police in the effective tackling of communal disturbances. The charge of partisanship was levelled against the PAC during the communal violence at Aligarh. A police force which cannot command the trust of all sections of the community is self-defeating... Police, like the judiciary, must not only be impartial but must manifestly be so. We have to build up a police system without caste and communal prejudices affecting its role and performance, a system vigilant, alert and impartial, capable of exercising operational freedom in the ruthless suppression of communal riots.”

1.4. The Tribunal therefore observes that this disturbing trend of partisan, communal and anti-constitutional police behaviour has grown over time. Even prior to the Gujarat carnage, the police have almost always been charged with unprofessional, partisan conduct.

1.5. The issue of police bias has been a subject of nationwide debate in recent years underlining the urgent need to professionalise the country’s police force.

1.6. Despite the well-documented findings of so many commissions of inquiry, that reveal clear and distinct trends, despite the fact that every fresh communal conflagration provides further proof of police bias, *no government* has displayed the moral courage to legislate on a statutory police commission with an independent structure and an independent grievances cell to investigate complaints against police misconduct.

1.7. It is imperative that steps to reform the police force are placed on the national agenda for debate and fresh legislation immediately.

Communalisation of Public Space — Hospitals

1.1. One of the most disturbing and sinister truths about some prominent master-minds behind the Gujarat carnage was the fact that many of them hailed from the medical profession and, despite their professional allegiance to the Hippocratic oath, violated it to lead mobs to rape, pillage, maim and kill and that too, in the most barbaric ways. Dr. Praveen Togadia, Dr. Jaideep Patel, Dr. Amita Patel and Dr. Bhartibehn, Dr. Maya Kotdani (the latter three are BJP MLAs) are all doctors by profession who were named by victims as masterminds and leaders in brutal crimes.

1.2. Dr. Praveen Togadia, international general secretary of the VHP, is well-known for his frequent threats of hatred and violence. He is a cancer surgeon by profession and also owns the Dhanvantri Hospital at India Colony, Ahmedabad. Doctors belonging to the Muslim minority testified to the fact that, on February 28, Shri Togadia had put in an ad-slide of his, which was telecast on Citicable in Ahmedabad city, asking all doctors and nurses to report to his hospital. He was making this appeal to all doctors. Many witnesses who deposed before us raised the question of whether this was also part of a master plan, to keep, through threats and warnings, Hindu doctors away from Muslim-run hospitals.

1.3. Justice AP Ravani spoke of his personal acquaintance and knowledge of (Hindu) doctors being threatened and told (by the VHP) not to treat Muslims. He knew of one doctor in the Shahibag area who must have attended to 17-20 deliveries for women staying in camps. The doctor was personally threatened by Shri Togadia himself, “Stop this, otherwise consequences will not be good.” Other doctors have also confided to Justice Ravani saying they too had received similar threats.

1.4. Ahmedabad’s Sola Civil Hospital received the bodies of the ‘martyred’ *kar sevaks* at 8 a.m. on February 28. This venue became the scene for sharp and focussed anger that quickly progressed into the raising of hate-filled slogans. The VHP organised a religious ceremony where its vice-president, Acharya Giriraj Kishore said that the day’s violence was “a natural outburst”. He also said, “Islamic terrorism was responsible for the Godhra incident and that Hindus had acted with restraint.” (*The Times of India*, March 1).

1.5. Soon after the bodies of the *kar sevaks* had been cremated, from the evening of February 28, the bodies of another set of victims started pouring in, this time bearing

another identity. They were Muslims from Chamanpura, Rakhial, Bapunagar, Behrampura, and late, at night, Naroda Gaon and Naroda Patiya.

1.6. The ‘borders’ drawn within Ahmedabad have ensured a severely ghettoised existence. This has been an unfortunate fact for the past three decades and it has had serious implications for inter-community interaction and relations. In the recent state-sponsored genocide, it was used cleverly by large, well-organised and well-armed mobs numbering several thousand, through bloodshed, violence and intimidation, to *restrict* the passage of ambulances from the inner, old city to either the Vadilal Sarabhai (VS) Hospital or the Sola Civil Hospital. This was another cruel method of preventing victims from receiving urgent medical attention.

1.7. At least six injured persons rescued from Chamanpura (Gulberg society), testified before the Tribunal confirming that the VS Hospital had refused them treatment, demanding that a police statement be obtained first. This, from a group of persons who had been brutalised and traumatised, having been witness to 60-70 of their close relations or neighbours stripped, raped, cut into pieces, and burnt alive.

1.8. One eyewitness from Jamalpur stated, “The worst conduct was at the Sola Civil Hospital. Here Bharti *behn* and Anita *behn*, both BJP corporators (Bharti *behn* is from Mani Nagar), were actually telling doctors whom to treat or not to treat.” At the VS Hospital, which gave more access to the minorities initially due to the presence of Congress corporators on the hospital’s managerial board, there were attempts to deny treatment to Muslims that were not entirely successful.

1.9. Even in the second week of April, while violence in the city of Ahmedabad had trickled down to stray incidents, fear stalked public spaces — hospitals, schools, government offices and even the Gujarat High Court. One witness told the Tribunal that on April 11, groups of 15-20, armed with unsheathed swords, stalked the corridors of the VS Hospital each night and no one challenged them. They did not directly harm or kill but the message spread through nurses and class IV staff was that the area was out of bounds for the marked — the Muslim population in Gujarat.

1.10. But no incident can typify the extent of communalisation of hospitals more than the brutal murder of a Muslim who had brought a severely injured person to the VS Hospital by ambulance on May 7, while the Tribunal sat. The youth was stabbed when he alighted from an ambulance carrying a patient who had been stabbed in the Juhapura locality. The assailants were *sangh parivar* activists who were demonstrating against the alleged “partisan attitude” of the hospital authorities against Hindu patients. The fact that such brazen incidents could take place in broad daylight is a clear indicator that these forces, murderous and threatening, have no fear of the arm of the law.

1.11. As bad as the perpetration of crimes by medical professionals during the Gujarat carnage, and the attempts to brutally communalise hospital spaces, were the attempt by the police in Ahmedabad and Vadodara to actually harass and stop ambulance services belonging to the minority community. At the height of the carnage, these ambulance services were the only ones to provide desperately needed medical support, reaching help, saving groups, carrying mutilated bodies, etc. The fact that even

they were stopped, as were trucks carrying relief, indicated the premeditation of the carnage at the very top levels as also the genocidal nature of its entire execution.

1.12. Several witnesses who deposed before us actually detailed how, in Ahmedabad, one police officer, stopped the Nobel Ambulance Service personnel at Bawa Lababi to prevent it from reaching Danilimda, Char Rasta, Sardarbridge and Calico, despite the fact that they had curfew passes.

1.13. The Tribunal recorded the written statement of Dr. Ishaq Shaikh, vice-president, Al Ameen Garib Niwas General Hospital, Ahmedabad. This 40-bed hospital had over-stretched itself in service of the community from February 28 onwards. He described how, from 12.30 p.m., there was a flood of patients – virtually a patient per minute. With this pressure they had to make painful decisions of which patients to treat and which to leave to their fate.

1.14. Twice on February 28, when Dr. Shaikh tried to drive a grievously injured patient to the Vadilal Sarabhai Hospital in his ambulance, he was attacked at Raipur between 4 and 5 p.m. When this happened a second time, mayor Himmatsingh Patel helped them out by calling for an ambulance from the Ahmedabad municipal corporation.

1.15. A severe strain on community health services was evidenced during and after the carnage, with the state abdicating its primary role. In the numerous relief camps that sprung up across the city/state, there was a severe problem of clean drinking water, sanitation facilities and adequate food. Children were suffering from jaundice, a water-borne disease, diarrhoea and dehydration. One child died in a camp in mid-April. The strain on small privately run hospitals increased. On April 3, Dr. Shaikh was brutally beaten by inspectors Modi and Parmar as he tried to take his ambulance to Shamser Bagh, Gomtipur, where two persons had been shot in the leg. He was pounced upon by the police and beaten badly.

1.16. This most appalling state of affairs can be appreciated and properly understood from the fact that victims and doctors had petitioned the NHRC, pleading for SRP protection *within* hospitals. This is a sad commentary on the situation in Gujarat during those months, and reflects the depth of communalisation of Gujarati state and society. Muslims were terrified to go to government run hospitals to claim their dead because systematic efforts were made to create an atmosphere of dread and terror there. Menacing groups of Bajrang Dal and VHP youths would stalk the casualty departments of hospitals, 50-60 at a time.

1.17. It appears that these were well-organised and coordinated efforts to deny medical aid to the Muslim community. Since most of the Muslims, dead or injured, were being taken to VS Hospital, it was made the target of the mobs. Muslim drivers would be so scared that they would refuse to go there. *In 1992, this sense of fear did not prevail within hospitals.* Though initially the injured were not attacked while in hospital, there was enormous psychological fear. Hence, victim-survivors started going to small hospitals, which had neither adequate facilities nor staff. “They never struck the victims, they merely showed us the swords, but it was enough to frighten us” said Sharief Khan Pathan of the Nobel Ambulance Service.

1.18. The Tribunal also heard the account of a doctor who practised in Vadodara

and another government hospital 40 km away. He stated that in the virtual deluge of patients pouring into this hospital from on February 28 and March 1, there were injuries on their person that he had never seen before.

1.19. There were countless injuries caused by swords. The mutilation of breasts in the case of women was common. There were some cases of mutilation of the penis. In yet another Vadodara hospital, a doctor conducted 17 post-mortems, the majority of whom were women who had been gang-raped. There were three survivors of gang rape. In one case, the police had intervened and saved the victim from death. A woman from Kheda district who was gang raped, had her head shaved and an *Om* cut into her head with a knife by the rapists. She died a few days after she was admitted to hospital. There were other instances of *Om* engraved with a knife on the back and other parts of women's bodies, as well as of some men. According to the doctors, the deaths of the few Hindus, both men and women, who were admitted to hospital, were of people who had disobeyed prohibitory orders and fell victim to violent circumstances.

1.20. Dr. Ali Shaikh, Vadodara, a witness who appeared before the Tribunal, ran a 15-bed nursing home in a building near the Panigate police station in Vadodara. The building is just five minutes away from the police station, and all the vehicles, mobile vans etc. belonging to the police station were usually parked outside it. Despite this, his clinic and everything inside it, including the ICU and expensive medical equipment, was looted or destroyed on March 1. Two days later, the nursing home was burnt. As of May, the police had not taken any action in the matter. The witness tried to return to the premises about three weeks later and to resume his practice, when he was assaulted by a group of people. He and his son had a narrow escape. The Tribunal records with shock and horror that, two-and-a-half months after the crimes, even when insurance officials visited the building for a survey, the crowd, comprising of local people who lived around the clinic, did not allow them to enter the premises. That these incidents could occur in such close proximity to the Panigate police station makes the whole situation almost farcical. Another community health centre – the Muslim medical centre in Bhoiwada was also destroyed and burnt.

1.21. The Gujarat government is culpable of failure to protect the lives of at least 2,000 victims. It is also guilty of failure to provide medical aid and relief to victim-survivors in life-threatening situations.

1.22. To allow the spaces occupied by doctors and hospitals, which are sacred by sheer nature of the job they do, to be vitiated by hate speech and propaganda sounds a serious warning to the extent of percolation of communal ideology in Gujarat.

1.23. The fact that many leaders and perpetrators of the crimes are doctors surely behoves upon the Indian Medical Association to initiate disciplinary action against them for never can the mandate of a doctor, who's first job is to save and preserve life, become exactly the opposite — of being the one to snatch life away.

Relief and Rehabilitation

1 Relief

1.1. From the night of February 28, when brutal and systematic attacks against targeted sections of the Muslims population in Ahmedabad city began, distressed residents were shepherded out of their homes and localities, often in hired buses, in the dead of the night by community leaders. Over night, relief camps came up in the city and by March 5 a staggering 98,000 refugees were housed there. Even by the admission of the district magistrate and collector of Ahmedabad, there were 66,000 refugees in these camps. In none of these efforts was any state presence visible.

1.2. By March 1, a similar situation was observed in over one dozen districts of Gujarat (see *Detailed Annexures: List of Camps, Volume III*). Independent sources show that outside Ahmedabad, as many as 76,000 refugees were housed in camps all over the state. Official figures put this amount at about 25,000. In any event, even by the state government's own assessment, at least 91,000 persons were displaced as a direct result of the carnage. Independent assessments put these at closer to 1,74,000 refugees in the state of Gujarat after the first flush of brutal violence; a staggering figure by any standards. Besides, not all the survivors moved into camps— many went to the homes of their relatives and so on. Including them in the calculation, independent estimates put the total number of displaced Muslims in Gujarat at not less than 2,50,000.

1.3. In the days following the first bout of brutal violence, agents of the state, notably the collectors/district magistrates of Ahmedabad, Vadodara, Mehsana, Himmatnagar, Anand, Sabarkantha, Banaskantha, Bharuch and Ankleshwar districts, as also the officials of some police stations, obstructed truckloads of privately mobilised relief material — milk, foodgrains, etc. — from reaching the camps. Thereafter, the same officials harassed and penalised the refugees by, among other things, not giving them sufficient food. The conduct of these IAS and IPS officials calls for strong penal action.

1.4. The Tribunal is greatly concerned and outraged by the fact that only the leadership of the Muslim community was involved in the running of the relief camps be-

cause others did not come forward. Though some non-Muslim NGOs did contribute substantial amounts of aid to these relief camps right until August, the vast bulk of relief assistance to the refugees came from the community itself.

1.5. The government is under a constitutional obligation to protect the basic rights of every citizen and duty bound to start and run relief camps for the violence affected. Instead, for days and weeks, the Gujarat government adamantly refused even to recognise the existence of refugees (a direct consequence of the state sponsored carnage). It refused to register the relief camps and denied relief assistance — water, food, medical aid, sanitation — from state coffers.

1.6. In blatant and brazen contrast to the Gujarat state's attitude to the earthquake victims just one year earlier, when the ghastly earthquake of January 26, 2001 rocked the state, this time neither the Gujarat government nor the government of India applied to the UN and other international agencies for relief and rehabilitation measures.

1.7. Equally, the Tribunal notes with concern and anguish that an insignificant number of international aid agencies came forward in the case of the Gujarat carnage, to help the victims. Given the scale of the state-perpetrated violence and given the response of international aid agencies to such carnages in other areas in the past, it was incumbent on the United Nations relief agencies, including the United Nations Development Programme (UNDP), the United Nations Children Fund (UNICEF), the World Food Programme (WFP), the World Health Organisation (WHO), and the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), as well as international humanitarian organisations, to provide relief and rehabilitation assistance to all those displaced and dispossessed by the communal carnage in Gujarat, without discrimination. That this did not happen speaks volumes about the political dimensions of aid and intervention by foreign countries when mass crimes of this kind occur.

1.8. Similarly, the fact that major national newspapers which, during such calamities in the past, have always set up independent relief funds, did not do so in the context of Gujarat 2002, speaks for the silence and complicity that surrounds relief and rehabilitation of the survivors of the Gujarat carnage. This bodes ill for India's polity.

1.9. Six relief camps had to approach the Gujarat High Court (special civil applications 3773 of 2002) through a writ petition — supported by the *Citizens for Justice and Peace* — and a senior advocate had to be flown down from Mumbai for arguments, before the Gujarat government gave an assurance in court that it assumes responsibility for providing adequate relief to the camps — food, water (30 litres per person per day), public toilets, medical aid, timely payment of rupees 5 per person per day and *shamianas* for protection from the scorching heat. Justice Pradeep PB Majmudar delivered the order on this writ petition on April 22, 2002. The petition had also urged army protection for the relief camps since, on more than one occasion, instigated by politicians belonging to the ruling party and the police, relief camps had been attacked.

1.10. The attitude of the chief minister of Gujarat, Shri Modi and that of his cabinet colleagues obviously percolated down to the entire state administration and police, towards innocent persons made victims of a state sponsored carnage and ren-

dered refugees in their own homes and homelands, is nothing short of shocking. For this alone, Shri Modi and his cabinet are guilty of gross dereliction of their constitutional obligation and duty.

1.11. On March 6, none less than Gujarat's minister for food and civil supplies, Shri Bharat Barot had the temerity to state in a much publicised interview that since Hindus in his constituency, living close to the Dariakhan Ghumbat camp in Ahmedabad, felt insecure with so many Muslims living in a camp nearby, the camp should be closed down.

1.12. As recently as September 9, at Becharaji, Mehsana, during his Gujarat *Gaurav Yatra*, none other than the chief minister made a shocking public declaration: "What should we do? Run relief camps for them? Do we want to open baby producing centres?"

1.13. The first time that the Shri Modi condescended to visit the Shah-e-Alam Relief Camp in Ahmedabad city was a full month after the carnage broke out, on April 4.

1.14. Again on May 31, a public interest litigation (special civil application number 5311 of 2002) had to be filed in the Gujarat High Court by the *Citizens for Justice and Peace and Communalism Combat* to elicit an assurance from the state that relief camps would not be forcibly closed down. On June 4, the petitioners obtained an oral assurance from the government pleader that there would be no closure of the camps at least until June 30, 2002. It was on this precise date, that the state government, through the collector of Ahmedabad, began exerting pressure on camps and threatened penal measures against camp managers, if they did not 'voluntarily' sign a statement saying they wished to close down their camps. On June 26, when the matter came up for hearing, the petitioners, several camp managers and refugees filed 25 affidavits, detailing the extent of abdication of primary duty by the state and shocking instances of coercion and pressure being used against refugees and camp managers.

1.15. Due to the callous attitude of the government and threats of penal action against individuals, a camp at Jahangirnagar, Vatwa was forced to shut down on June 1. As a result, over 600 refugees were forced to reside under the open sky despite heavy rainfall. None of these refugees had until mid-May received any compensation for the destruction of their homes. In a way, the pending writ petition, ensured resumption of rations and shifting of some of the refugees to camps in permanent places like the Haj House and Qureshinagar. Shri Javed Munnabhai Sheikh, the administrator of the Patrewali Masjid relief camp, Saraspur, Ahmedabad was threatened directly by the collector on the issue of the number of refugees living there. Invariably, the collector would come for a headcount in the afternoon — when some of the refugees would have gone out for a few hours — not in the morning or at night. This was a deliberate ploy used by the state administration to discredit the camps. While the Tribunal has detailed some of the specific instances where direct coercion was used to threaten camp managers to shut down, there was not a single relief camp in Gujarat where officials did not try and browbeat the managers. Camps in rural areas were forcibly shut down in mid-May itself. This appears to be a clear ploy on the part of the Gujarat government to portray an image of normalcy, when there is nothing about Gujarat that is normal even now.

1.16. The writ petition pertaining to relief is still alive before the Gujarat High Court. To enable a proper assessment of the condition of the refugees and the scope and extent of government rehabilitation, the petitioners also conducted a detailed, state wide refugee survey. They presented this before the court in the form of an affidavit and urged that a monitoring committee for rehabilitation be put in place. They have also demanded that the court ask for complete accountability from the Gujarat government regarding the Rs. 150-crore rehabilitation package announced by the Prime Minister Shri Atal Bihari Vajpayee when he visited Gujarat on April 4.

1.17. Certain aspects of the survey are important. It points out that apart from the nearly 20,000 persons who remained in camps in early-May within Ahmedabad city (only 13,500 as per government figures), another 2,000-odd persons were still living in camps located elsewhere in the state, but they all had ceased to exist for the government. These camps – Nandasan, Gandhinagar district (419 persons), Dasaj, Mehsana district (400 persons), Lunava, Shivali, Gunja near Visnagar, and Unjha, all in Mehsana district (with 100 persons, 400 persons, 50 persons and 250 persons respectively), Lunavada, Panchmahal district (460 persons), and Vadali, Sabarkantha district (200 persons) – were summarily closed down between mid-May and early July and the government assumed no responsibility for their relief or rehabilitation needs. The state admitted in court that there are only 13,482 refugees in the state (all of them in Ahmedabad city). To these, the state was then supplying foodgrains grudgingly through the district collector; with only three-four days ration being dished out at a time. This is not, however, an accurate picture of the number of displaced persons. The actions of the state government on the ground, therefore, run contrary to their assurances made to the court. Moreover, the actions of the state government and its agencies in coercively shutting down relief camps is malafide, given the abject refusal of the government of Gujarat and its chief executive, Shri Modi, to actively engage in any rehabilitation or reconciliatory measures. The reluctance of the Gujarat government to provide relief to the inmates of these camps (where even water and foodgrains had to be obtained through court orders), and its subsequent use of coercion to close them down, is intrinsically connected to an abject and crude refusal to concern itself with rehabilitation of its citizenry.

1.18. None will argue that life in a relief camp should continue forever. But the scale and brutality of the violence at a dozen places across the state of Gujarat, where victims were quartered, and girls and women gang raped before being burnt to ashes to destroy evidence, requires re-location of the victim-survivors to more conducive surroundings where life, liberty and security can be somewhat assured. Hence the attitude of the Gujarat government in coercively closing down camps, thus forcing victims to ‘disappear’, is shocking, to say the least. Moreover, it is linked to the issue of the refusal of the government to rehabilitate the victims of the carnage. Both are violations of the just and humane principles underlying Indian constitutional law and international covenants related to violence, refugees and state responsibility.

2. Compensation

2.1. This brings us to the crucial issue of compensation for the enormous human and material loss during such mass man-made disasters and crimes. Can the amount of Rs. 1.5 lakh ever compensate for the loss of a life deliberately, cruelly and brutally taken away? What when a family loses not one but over five family members, men and women, especially those who are in the prime of their lives, leaving bitter heirs behind? What about the loss of livelihood, dignity, a sense of family and security?

2.2. The Gujarat government showed itself in a crudely partisan and anti-constitutional light when it initially announced discriminatory amounts of compensation for the survivors of the Godhra tragedy and the post-Godhra carnage.

2.3. The history of compensation in our country is a chequered one. Each time there are mass crimes of the kind of the carnage witnessed in Gujarat, governments have issued GRs announcing compensation. In Mumbai, after the 1992 violence, largely against the minorities, the government announced compensation to the tune of Rs. 2 lakh for every life lost. Obtaining this amount by the bereaved families was facilitated by NGOs who continually put pressure on the government. However, the family members of at least 174 “missing persons”, whose bodies were either not found or deliberately burnt beyond recognition, have, till date, been denied this compensation. In addition to this, the government’s insistence that a Rs. 7,000 bond be given by the survivors lends further indignity and injustice to the paltry compensation.

2.4. A survivor of the 1984 anti-Sikh riots in Delhi was granted Rs. 2 lakh as compensation ten years after the pogrom, by an order of the Delhi High Court.

2.5. The death of a military officer under mysterious circumstances, due to gross negligence and callousness, saw the Supreme Court awarding Rs. 6 lakh to the widow of the deceased (*Charanjit Kaur v/s Union of India AIR SC, 1994*). In a historic judgement by the Supreme Court in *DK Basu v/s State of West Bengal, 1996*, the court laid down the fundamental principles of monetary compensation, ruling that appropriate compensation is “indeed an effective and sometimes, perhaps, the only suitable remedy for redressal of the established infringement of the fundamental right to life of a citizen by a public servant.” The court also held that in the assessment of compensation, the emphasis should be on the compensatory and not on the punitive element. The award of compensation in public law jurisdiction is also without any prejudice to any other civil action for damages.

2.6. These are just a few of the judicial awards of compensation made in a variety of cases. The Gujarat high court itself had awarded Rs. 2 lakh as interim compensation to the widow of Narendrasinh Zala, a 29-year-old assistant intelligence officer, who was subjected to mental and psychological torture that led to his death in police custody in 1997. (*Dharmishtaben Narendrasinh Zala v/s. State of Gujarat 1997*).

In this case, the court ruled that when great loss and injustice is caused to a person who has lost her beloved, and her life has become miserable by way of an atrocity by a police officer, she is not in a position to undertake any orthodox litigation and proceeding. Therefore, interim compensation can be awarded under Article 226.

2.7. Suffice it is to say that in the case of mass crimes like the Gujarat carnage, or other such instances of selective and targeted crimes against sections of the population, like the anti-Sikh pogrom of 1984, or the anti-Dalit violence that takes place periodically, the discretionary dole that the state announces as compensation is in no way commensurate with the loss of life, dignity, livelihood and property of the victims.

2.8. Similarly, abdicating its primary role as protector and provider of all its citizenry, the Gujarat government has made no efforts to compute the extent of the loss of lives, the quantum of the destruction of homes, belongings, businesses and agricultural properties to date.

2.9. A measly Rs. 2,500 is being given as dole to persons for loss of household goods (*ghar vakhari*) and, though the Prime Minister had announced that Rs. 50,000 would be given for loss of homes, less than 10 per cent of those who have obtained home compensation from the Gujarat government (at least 25 per cent of the total affected have not received anything at all) have got more than Rs. 30,000 each. For most of the survivors of the Gujarat carnage, the state government has rubbed salt on the wounds already suffered, by giving them paltry amounts of Rs. 1,200-2,500 each or less.

3. Rehabilitation

3.1. The Gujarat government has shown a similar callous indifference to the rehabilitation of the victims of continued violence. Barely a year ago, when a devastating earthquake struck the same state, the Gujarat government evolved an elaborate Earthquake-2001 Rehabilitation Package No. 1 for the earthquake affected and similar Packages No. 2, 3, 4, 4a, 4b, 5 followed. The Tribunal has closely examined these packages. They show an elaborate and responsible concern on the part of the state government to categorise the damage to homes and compensate the loss on the basis of this categorisation. These packages show that the state government awarded damages from Rs. 7,000, for a hut that had fully collapsed, to Rs. 8,000, 15,000, 30,000, 45,000 and Rs 1.5 lakh, depending on the extent of damage. Besides, the packages show government involvement in the repair and replacement of infrastructural facilities like health, sanitation, roads, education, water supply and power. It also talks of the restoration of community assets and economic livelihood. It talks of restoration of cultural and heritage sites. The packages include the suspension of property tax and other taxes for a year and grants-in-aid to sustain the municipalities. It talks of a detailed survey to be conducted by the state, using technical teams, photographs and other data, to assess the damage. Only the bare details of these seven-eight packages announced by the government of Gujarat, run by the same party, just over a year before the carnage, have been detailed here. The intent is to simply establish how deeply discriminatory, callous and objectionable the conduct of the Gujarat government is in the context of the carnage.

3.2. Not only has no comprehensive rehabilitation package been declared even five months after the violence, no survey has been conducted. And by its behaviour and

action, the government has made it clear that it wishes to have nothing to do with the physical and psychological rehabilitation of its own people, the Muslims of Gujarat. In fact, unofficial NGO surveys and reports suggest mass migrations from Gujarat to Mumbai, Maharashtra, Karnataka, Rajasthan, Madhya Pradesh, UP and Bihar. The number could be a staggering 15,000.

3.3. Apart from the loss of about 2,000 lives, the destruction of businesses is worth at least Rs. 3,800 crore. The damage caused to private homes and agricultural properties of at least 3,00,000 victims of Gujarat has not been computed. Not less than 270 mosques, *dargahs* and other shrines, representative of our composite culture, were systematically destroyed in the first five days of the carnage. Instead of showing shock and remorse at the fact that the religious places of worship and the cultural heritage of the minority community were damaged and destroyed, Shri Modi has made public pronouncements, stating that there was no question of his government either buying land to re-house survivors, for whom returning to a threatening environment is an impossibility, or of repairing or rebuilding mosques, *dargahs* and shrines that have been damaged.

3.4. Reporting on a meeting of a 100-odd representatives from among the Muslim community with the CM, *The Times of India* said, "CM outrightly rejected the demand that riot-affected victims from the worst-affected areas like Naroda Patia, Chamanpura, Sardarpura, Best Bakery, Panvad and other carnages be provided with alternate resettlement sites... He also refused any government fund to rebuild the ransacked shrines. The CM's tough talk came at a gathering organised by the Gujarat Minorities Finance Development Corporation chairman, Shri Gani Qureshi." (*The Times of India*, Saturday, June 8, 2002). It becomes clear from this and other reported decisions that the Gujarat government does not feel in the least obligated to rehabilitate the victims on humanitarian, egalitarian, constitutional or on any other grounds.

3.5. This attitude of the chief minister and his government is in direct violation of the recommendation of the National Human Rights Commission (NHRC) that has directed the government to rebuild *all* the shrines of religious and cultural importance that have been destroyed. In fact, according to a news report that appeared in *The Pioneer* on August 28, 2002 titled, 'ASI ordered to repair Gujarat monuments', it was reported that the union minister for culture and tourism, Shri Jagmohan had ordered the Archaeological Survey of India (ASI) to repair any protected monuments damaged or destroyed in either the Gujarat earthquake or the carnage. According to the ASI, some of the protected monuments to be repaired include historic mosques like the Ishanpur Masjid at Paldi, Ahmedabad and '*makbaras*' (tombs) from the Sultanate period, destroyed during the carnage, and the Lothal and Dholavira sites of the Indus Valley civilisation that were damaged during the earthquake. Evidence recorded before the tribunal shows that many historic, religious and cultural sites were systematically targeted in the violence. It is to be hoped that this decision of the central tourism and culture ministry is implemented swiftly.

4. Situation of Muslims in Gujarat

4.1. The Tribunal notes with concern and dismay, the continuing misery of the victim Muslim community in Gujarat. In areas where the most brutal incidents of mass killing, quartering and killings (often after sexual crimes against women and girls were committed) took place, statewide surveys by independent groups show that there is no question of the victimised section of residents returning to their original place of residence. (*See Detailed Annexures: status of Refugees, Volume III*). These include survivors of Ghodasar, Sardarpura, Pandharwada, Ode, Sanjeli, Randhikpur and Chanasma massacres, as also residents of villages in Gandhinagar district itself, where Muslims were in a small and hopeless minority. They also include areas like Gulberg society, Ahmedabad. Though many residents of Naroda Gaon and Patiya have returned, this has been under duress, after the forced closure of the refugee camps where they had sought shelter. Many others have been rehabilitated by Muslim NGOs in different parts of Ahmedabad, while a significant number have migrated to other states. Agricultural land holdings owned by Muslims in districts are being callously taken over by miscreants and dominant interests.

4.2. In many villages, especially in Mehsana, Gandhinagar, Panchmahal and Dahod districts, Muslims who have returned to their battered homes were facing a strictly enforced economic boycott by the dominant castes and communities through their refusal to buy milk products from them, to hire them as labour on their fields, etc. A near permanent loss of livelihood, and therefore a reduction to penury, was an imminent and serious likelihood. The urgent need for intervention by central and state agencies is a must before this enforced destitution causes further alienation and marginalisation of these populations.

4.3. In welcome contrast to the above, in many regions of Sabarkantha and Banaskantha districts, it appears that a sincere effort was being made by members from the dominant community to isolate those in their midst who have led and fomented trouble, and to take a stand against violence in the future. In Chhotaudaipur, where sections of the Adivasi population have been misled and misused by dominant sections of their own and other castes, there has been a genuine expression of remorse, too, about the incident.

4.4. That only a fragile peace prevails in the state can be gauged from the fact that, with the slightest hint of fresh aggression or trouble, vulnerable sections of the Muslim population who have returned to their original or new places of residence rush back to the security of those camps that are still running. This happened, the Tribunal has noted, for a whole week around the time of the July 12, 2002 *rath yatra*, which the Gujarat government, in its irresponsible attitude to governance, refused to postpone or re-route. The same thing happened again, on September 24, when the attack on the Akshardham temple in Gandhinagar took place. Overnight, the refugee camp at Haj House had to provide for over 4,000 terrified persons, while the capacity of the camp is only 1,925. Needless to say, on such occasions, not only has the Gujarat govern-

ment failed in providing a sense of security to large sections of its own citizenry, it has not even provided the ration and costs to camp managers who have borne the entire expenses.

4.5. It is shocking and unfortunate that while the situation on the ground remains grim in the state, where no remorse has been expressed, no justice is in sight, where relief has only grudgingly been given and rehabilitation measures have been meagre, the sole desire of the government appeared to be to proclaim ‘normalcy’ before the country and the world. At no time was this babble of normalcy exposed more effectively than during the visit of the two teams of the Chief Election Commission to the state in August 2002. The extensive visits of the teams to the towns and villages of Gujarat, their assessment of the status of criminal investigations, the pathetic plight of homes that even six months after the violence lie in a state of total disrepair, are shocking pointers to the extent that the government of Gujarat has gone, and continues to do so, to literally delegitimise the rights and the very existence of a section of its citizens — the Muslims of Gujarat.

4.6. The story of Gujarat today, especially of cities like Ahmedabad, is one of brutally enforced ghettoisation of the Muslim minority in their residential colonies as much as in their business and trade enterprises. This phenomenon has been growing steadily over the past two decades (*See chapter, Build-Up in Gujarat, Volume II*) but the present carnage has made it very acute. In parts of Ahmedabad, it is becoming increasingly difficult for the Muslim minority to live, inhabit and move freely in areas that are now seen as “Hindu”. This state of affairs should be unacceptable in any part of Constitution-bound India.

4.7. During the violence, communal polarisation had taken place in public and private hospitals, in schools and in many other public arenas. The Tribunal finds that not only is this ugly reality in Gujarat shocking, there is no effort at all on any significant scale, either by the state or in civil society, to protest and rectify the situation through short and long-term measures.

4.8. For the religious minorities, the state of affairs in Gujarat is blatantly discriminatory and in violation of the Indian Constitution. The Tribunal regrets to record that with the connivance of the state, they have already been reduced to the status of second-class citizens.

5. Violation of Basic Human Rights

5.1. The crimes against humanity that took place in the state of Gujarat after February 27, were all gross violations of basic human rights. The survivors were rendered destitute. All the homes, schools, cultural and religious places, that have been damaged or destroyed need to be rebuilt.

5.2. All the offences were offences under sections 302/307, 295 and 153 of the Indian Penal Code.

5.3. Despite the mass crimes committed against large sections of the population of

Gujarat, the police response to the crimes was such that justice was not done. This is evident from the fact that mass FIRs were filed, often even *panchnamas* were not recorded and an investigation of forensic evidence was not undertaken.

Our examination of the voluminous evidence, including the statistics gathered by different groups, clearly reveals that in each case the system was not geared to cope.

5.4. In Gujarat, even the appointment of public prosecutors followed neither constitutional principles nor the basic principles of criminal justice.

5.5. Section 164 of the IPC empowers the judge to inform himself/herself about the truth. This is a section that can be, but has not been used in many cases, to get at the truth.

Role of the Media

1.1. The Tribunal recommends that all the recommendations made by the Editors' Guild in its report on the Gujarat carnage be implemented. (*See Detailed Annexures, Volume III*)

1.2. The role of the mass media — audio, visual and print — is critical in times of internal conflict. Unbiased coverage, the urge to investigate and report the truth, and to expose injustices are the positive aspects of media coverage. On the negative side, provocative headlines and non-factual reporting can reinforce stereotypes, fuel rumours, fan the flames of hatred and justify or instigate violence against the targeted community. In the latter case, the media abandons what is expected of a free press — fair reporting, analysis and comment — and, instead, acts as a partisan in the conflict.

1.3. Following Shri Modi's diktat, the bodies of the passengers burnt to death in a compartment of the Sabarmati Express at Godhra, were taken by road in a cavalcade to the Sola Civil Hospital in Ahmedabad. 'Rambhaks' in the cavalcade resorted to provocative sloganeering, expressing their rage and threatening revenge. The state-controlled media was used to broadcast this message and the local *Akashvani* radio station even announced the cavalcade's scheduled time of arrival in Ahmedabad. By the time the dead bodies reached the civil hospital, a highly charged crowd had already assembled there, shouting incendiary slogans like, "*Khoon ka badla khoon se lenge*" ("We will avenge blood with blood").

1.4. It was during the 7.30 p.m. broadcast on *Akashvani* radio that Shri Modi, for the first time, alleged that the "ISI or a foreign hand was behind the Godhra tragedy." This, then, became his government and party's official version; and for his *Sangh Parivar* fraternity, the justification for the 'reaction'. The tragedy was that the state executive touted the 'foreign hand' version without any investigative proof and that large sections of the media published it uncritically, without asking Shri Modi the basis on which he had so quickly arrived at such a conclusion.

1.5. Even English language newspapers, which, to their credit, played a non-partisan role after the outbreak of violence post-Godhra, faltered somewhat on the question of the ISI link in the Godhra crime. For example, based on information provided by officials investigating the Godhra tragedy, *The Times of India* carried a report in the

last week of March, debunking the 'pre-planned theory'. But weeks earlier, the same newspaper had uncritically reported statements made by Gujarat ministers, baselessly asserting that the 'Godhra attack could not have been spontaneous.' Later, after extensive investigation, the Ahmedabad based Forensic Science Laboratory concluded that the inflammable material that set coach S-6 aflame could not possibly have been poured in from outside.

1.6. *Aaj Tak* was the first TV news channel to flash the news of the Godhra deaths. Thereafter, *Zee TV*'s local cameraman in Godhra rushed his footage to Ahmedabad. This was aired soon after 2 p.m. Others, including *Doordarshan*, followed, deputing camera crew from Ahmedabad, Vadodara and Delhi. The magnitude of the horror only unfolded several hours after the tragedy, as the evening TV news bulletins repeatedly telecast gruesome pictures of the burnt train and the corpses. The telecast of such pictures raises ethical issues that the visual media should deliberate upon.

1.7. On February 28, the two largest circulation, multiple-edition Gujarati newspapers, *Sandesh* and *Gujarat Samachar*, which are fairly dependent on the state government's largesse, played up the unsubstantiated official version of there being a 'foreign hand' behind the Godhra tragedy. It was only 3-4 weeks later that reports rubbishing this theory began to appear in newspapers. But by that time, the damage had already been done.

1.8. *Sandesh* and *Gujarat Samachar* have been playing a blatantly communal role since the BJP returned to power in Gujarat in 1998. The BJP government's patronage of these dailies needs to be looked into carefully, so that they do not continue to act as mere government agents. In the recent carnage, too, the role of *Sandesh* was particularly mischievous, while some smaller circulation newspapers like *Gujarat Today*, *Sadbhava* and *Gujarat Mitra* acted responsibly.

1.9. On February 28, the day after the Godhra tragedy, *Sandesh* published photographs of the burning coach of the Sabarmati Express with the headline, 'Fifty Hindus burnt alive' above the masthead. Besides, it also had a gruesome colour spread of photographs of the Godhra corpses. This was the *first* major breach of media ethics and law in the context of the Gujarat carnage. Witnesses told the Tribunal that copies of this issue of *Sandesh* were widely photocopied and flaunted by cadres of the RSS/VHP and BD in rural areas, to provoke anger and prompt the participation of ordinary people in the carnage that followed.

1.10. In the same issue, another front page headline that read, 'From among those abducted from the Sabarmati Express, two dead bodies of Hindu girls found near Kalol in mutilated state' had the following report: "Vadodara, Thursday: News about the dead bodies of two girls, abducted from the bogies during the attack on the Sabarmati Express yesterday, found in a mutilated and terribly disfigured form near a pond in Kalol, has added fuel to the already volatile situation of tension, not only in Panchmahal, but in the whole state. In an act of inhumanity that would make even a devil weep, both girls had their breasts cut off. It is evident from the dead bodies that the victims had been repeatedly raped. There is speculation that the girls might have died because of gross sexual abuse." After investigations, the police found the report to be entirely baseless.

1.11. The police, too, stands indicted in this case by choosing to remain silent and doing nothing to expose the newspaper and initiate action against it for publishing a totally baseless but highly inflammatory story. Meanwhile, *Sandesh* continued, unchecked, to paint Muslims as murderers and traitors. On March 1, a report titled, 'Call from the mosque: Slay the non-believers — Islam is in trouble' told its readers: "On February 27, at 11.30 a.m., a mosque located along the railway tracks incited a crowd with the call: 'Slay the non-believers... Islam is in danger.' Responding to the call, the crowd attacked the surviving *Ram sevaks* from the torched train compartments, who were sitting by the railway tracks." This, too, was a story without any basis.

1.12. From the news clippings perused and the testimonies collected by the Tribunal, it appears that the deliberate labelling of the miscreants responsible for the Godhra tragedy as 'anti-national Pakistanis' was the brainwave of Gujarat's home minister, Shri Gordhan Zadaphiya, who is also a senior VHP leader. "The bogie-burning is a terrorist act similar to the attack on the American Centre in Kolkata. The culprits in both cases are the same," Shri Zadaphiya claimed, and issued a dire threat: "We will teach a lesson to those who have done this. No one will be spared and we will make sure that the forces behind this act will never dare to repeat it."

1.13. On March 7, *Sandesh* carried a report with a damaging headline, suggesting that Indian Muslims returning from the Haj pilgrimage could be a potential 'terrorist' threat to Hindus. Titled, 'Hindus in danger! Possibility of attack with terrorists' support! Frightening scheme of attack by returning Hajis!', the report stated: "Various government agencies have received frightening information that, after the Godhra incident, the fear of terrorist attacks is looming. The terrorists will use RDX purchased with foreign funds, attack with bombs or hijack planes. Investigating agencies have confirmed that the ISI is responsible for the attack on *kar sevaks* in Godhra. The anti-social elements have gone underground for the present and are waiting for an opportunity to attack. It is possible that the attack will take place after the international pilgrims return from Saudi Arabia after Haj. The attack was postponed so that the pilgrims can return safely. According to the SP of the intelligence bureau, Shri Sanjeev Bhatt, the bombings will be as serious as those that took place in Mumbai, in 1993. As if in support of this, the chief minister, Shri Modi, told the trading community that the Godhra incident was not communal. It was well-planned and according to the facts being revealed, it indicates that we have to be more alert. Only Pakistan benefits from all this... That there are internal disturbances in India, and the citizens are harassed, appears to be in the interest of the perpetrators. The chief minister stated that the government is determined to get to the roots of the Godhra incident and destroy the elements that harmed the common man... Similarly, the former chief minister, Shri Chhabildas Mehta said that the government and the people should take adequate steps to ensure that Pakistan's secret service cannot do whatever it likes wherever it likes."

1.14. 'When Muslim leaders shouted slogans like '*Hindustan Zindabad!*', read a *Sandesh* headline on March 8. The report said that the Circuit House witnessed 'an unprecedented event', when Muslim leaders of the city came together to shout slogans like

the one mentioned above, and appeal for peace. The implication was clear: that Muslims are inherently anti-national and violent, whose raising of patriotic slogans and appealing for peace was 'unprecedented'.

1.15. Typically, the opening lines of most reports concerning the post-Godhra violence began with, "In the continuing spiral of communal rioting that broke out as a reaction to the demonic (or barbaric) Godhra incident..." The denunciatory words used liberally to describe the Godhra incident were strikingly absent when reporting the subsequent genocide. Clearly, like the Gujarat government, *Sandesb*, too, continued to justify the carnage in the rest of Gujarat as a 'reaction' to the heinous arson in Godhra.

1.16. There were several instances of misreporting that helped fuel rumours. The report, on March 16, of an incident that took place in Machchipith, Vadodara, where four Muslim youths in a Tata Sumo had been picked up for carrying arms, was completely misleading. If one read the *Sandesb* report, it appeared as though the youths had a whole cache of arms in the vehicle. The truth was that one of the occupants was carrying a firearm for which he had a license. Similarly, there were misleading reports about Tandalja in Vadodara, which has a large Muslim population. It also housed the largest relief camp, giving shelter to more than 5,000 people from the city and nearby areas. *Sandesb's* reports on Tandalja were instrumental in fuelling rumours and spreading false information. In fact, on March 18, members of Shanti Abhiyan, an NGO, forced *Sandesb* to publish a refutation of an article it had earlier published, which reported that there was tension in Tandalja.

1.17. Inflammatory tactics were used consistently by *Sandesb*. Reports on gruesome acts, like the burning alive of people, were published in bold letters, under banner headlines. Photographs of burnt, mangled bodies were a regular feature on the front page, or the last page reserved for important local news. In the first week of violence in the state, *Sandesb* published colour photographs of scenes of the carnage, superimposed with a 'burst' giving readers the latest figure of casualties. Photographs of *trishul*-wielding 'Ram sevaks' were splashed on the front pages in the first week. The photographs served to instill terror amongst Muslims and to provoke intense passions and mutual hostility between the two communities.

1.18. *Sandesb* did worse than ignore the journalistic code of conduct that prohibits naming the communities involved in violent conflagrations. It published reports like: 'a mob of religious fanatics' (read Muslims) who were abducting tribal women, having to face the wrath of the people; or: 'religious fanatics' about to attack a temple causing tension in certain areas in Vadodara city, bringing 'devotees' (read Hindus) out on the street to protect their place of worship.

1.19. Throughout the violence, *Sandesb* cynically propagated the idea of Muslims being anti-national and pro-Pakistan. Areas in the city or the state with a sizeable Muslim population were described as 'mini-Pakistan'. On March 7, a report claimed to have discovered Godhra's 'Karachi connection': an entire area in Karachi named Godhra. On March 1, the headline of a news item claimed that a 'mini-Pakistan' was in existence in the Navayard area of the city. The article went on to say that such

‘pockets’ were being created in the city, and asked the police to take note of the ‘criminal’ UP migrant labourers who lived in this area. That Muslims in such *bastis* were living in complete terror at the time, was a trivial detail the *Sandesh* reports had no use for.

1.20. On March 1, a report claimed that the entire Sabarmati Express would have been put to flames had it not been delayed. The headline claimed, ‘A mob of 7-8,000 was waiting for the Sabarmati Express to arrive at Godhra.’ The mob, *Sandesh* reminded its readers, was made up of ‘religious fanatics’.

1.21. *Gujarat Samachar*, the other leading Gujarati paper, also played a role in inflaming passions, though not as consistently as *Sandesh*. Reportage on the Godhra incident, in particular, was inflammatory and irresponsible. But it also carried reports highlighting the need for communal harmony.

1.22. On February 28, the lead story on page 1 carried the headline, ‘3-4 young girls kidnapped.’ The source of this information was not mentioned. On page 10, a report quoted VHP leader, Shri Kaushik Patel, who claimed that 10 girls had been kidnapped. The reporter, evidently, had not cross-checked the concocted claims, either with the IGP or the railway police. The report did not mention the names of any of the girls or any other details about the alleged kidnapping. Yet another report, on page 2, carried the account, ostensibly, of an eyewitness, Sushri Hetalben, after the train reached Vadodara. She was quoted as saying, “Young girls from Ashraiwadi, who were travelling with us, are lost.”

1.23. On March 6, the *Gujarat Samachar* carried a report on the last page with the headline, ‘The Plan was to torch the whole train, not just one bogie.’ A box item on the last page stated that, ‘a mob was ready for the second attack.’ Again, the source of information was not mentioned; the tone and tenor of the reports, however, suggested they were reports based on careful investigation.

1.24. On March 7, *Gujarat Samachar* carried a box item on the last page, claiming that, “ISI is creating trouble in Gujarat; Kalota and his colleagues are important link; the deputy commander of ‘Huji’, arrested in Kolkata, has confessed to the conspiracy.” The report uses the term ‘*Rambhakt*’ several times for the travellers on the Sabarmati Express on that fateful day. On March 6, the headline of a report read “Torching of the train at Godhra was pre-planned. Kalota was tipped off by a railway officer on how to cut open the vacuum pipes.” The source of information was not mentioned.

1. 25. On March 16, a page 1 story titled, ‘Indiscriminate firing from Fatehganj Mosque,’ was a complete fabrication.

1.26. On March 18, a photograph on page 1 showing bombs recovered by police during combing operations in the Danilimda area of Ahmedabad, had a caption that said: “People talking of secularism should be asked if protecting criminals is secularism.”

1.27. There were many other stories that contributed actively to the belief that Muslims were mobilising on a large scale to attack Hindus. It is evident from the communal pogroms and conflicts in recent years, that a section of the mass media is being increasingly used to peddle the familiar communal tactic of depicting the victim as the aggressor and vice versa. On March 24, a heading on page 1 of *Gujarat*

Samachar read, ‘Sat Kaival temple receives threat; Sarsa temple and *pathshala* under threat of being blown up using remote control.’ And a heading on page 2 in the same issue read, ‘Possibility of attack with deadly weapons; Secret agencies receive information; Religious and educational institutions will be targeted. All DSPs alerted.’ On March 26, *Gujarat Samachar* had a story on the last page, ‘Sabarmati Express incident was nothing but a pre-planned incident; many youths ready to commit crimes on just one signal from Bilal.’ There was absolutely no basis to any of these reports.

1.28. However, unlike *Sandesh* and *Gujarat Samachar* also carried some positive stories. Here are some examples:

- ◆ Muslims saved a Hindu shopkeeper’s shop in Halol. (March 2, p.5)
- ◆ Residents of Ram-Rahim *tekra* in Ahmedabad are an example of communal harmony. (March 5, p.1)
- ◆ Hindus saved the life of a Muslim woman in Halol. (March 5, p.5)
- ◆ No one wants riots. Rare scenes of communal harmony in sensitive areas of the city. (March 6, last page)
- ◆ Elol village near Himmatnagar is an example of communal harmony. (March 6, p.5)
- ◆ A Muslim woman offered shelter to a Hindu family. (March 7, p.3)
- ◆ At Bhoj village in Padra *taluka*, Muslims were given shelter in a temple. (March 7, p.8)
- ◆ “Oh! He is our Rahim *Chacha*... our *guruji*...” and they saved him. (March 10, p.11 - An article by Bhaven Kachchhi in Sunday supplement.)
- ◆ At Lilapir Dargah of Talaja, devotees include all — Hindus and Muslims. (March 11, p.5)
- ◆ An old Muslim woman saved from a mob by a Hindu youth. (March 22, p.2)
- ◆ A pregnant lady taken to hospital by a Muslim youth risking his life. (March 28)

1.29. *Gujarat Today* is an 11-year-old Gujarati daily with a claimed circulation of 70,000. It is published by the Lokhit Prakashan Trust, Ahmedabad. The paper was started by Muslim liberals, and is probably the only Gujarati daily with a large Muslim readership. The paper carries news from villages and district towns that are not generally covered by the mainstream media. Given that Muslims constitute the vast majority of the readers of *Gujarat Today*, the role it played during the carnage is particularly noteworthy and significant

1.30. In its report on the Godhra incident on February 28, the paper reported that *kar sevaks* caught hold of some Muslim tea-vendors at Godhra station and forced them to say ‘*Jai Shri Ram*’, which sparked off the incident. This is also highlighted in a box on another page. In contrast to the more temperate language used in later reports, the reportage on February 28 was distasteful in parts. When the Sabarmati Express arrived at Vadodara station, “the saffron mob of the Bajrang Dal and VHP ran like dogs, attacking people with swords... *kar sevaks* got down from the train shouting slogans like ‘*Har Har Mahadev!*’ ‘*Bharat Mata ki Jai!*’ ‘Kill Muslims, chop up Muslims’...” The paper also carried a report and a photograph of a Hindu youth, Shri Arun Paswan, who was also attacked at Vadodara railway station.

1.31. There was no editorial on the Godhra carnage on February 28, to condemn the heinous crime of torching a train compartment, whatever the provocation. Principles apart, the daily, it would seem, was even oblivious to the enormous communal consequences of what had happened.

1.32. However, thereafter, the extensive coverage of the incidents, helplines and information about the police and the administration was factual.

1.33. Details of relief camps in Ahmedabad — their location, the kinds of facilities available (and what was necessary) in the camps — as well as appeals for assistance were published.

1.34. The paper carried detailed investigative reports of the violence. Some of these were:

- ◆ Details on the conditions of people in the relief camps, including issues of legal assistance, marriages organised and the delivery of babies in the camps. (March 6)

- ◆ Investigation into the Naroda Patiya incident, with details relating to the procurement of petrol, diesel and gas cylinders used for burning.

- ◆ Use of the inflammable chemical ‘Lakgel’ for burning. (March 8) This has not been reported in any other paper.

1.35. The daily also made a consistent effort to report on instances of communal harmony, and to project the view of Hindu liberals and progressives who were critical of the *Hindutva* project in Gujarat. Some examples are reports on: how the lives and properties of 175 Muslims of Naroda in Ahmedabad were protected by local shepherds; how Hindu doctors in Bhavnagar saved properties from burning and made efforts to treat the injured; relief in the form of foodgrain and clothes provided by Hindus to victims in Jhagadia; a group marriage of Hindu and Muslim youths in Mangrol.

1.36. Also reported was news from Prantij, where a woman *sarpanch* successfully stopped riots occurring in her village. The March 8 edition carried news items about peace committees in Vagra, Palej, Dholka and Bharuch. On March 10, the paper had a report on how Hindu families saved the lives of 15 Muslims in Kavitha village near Borsad. While there were reports from Juhapura, of how Muslims saved Hindus, there was also a report on how looting of both Hindus and Muslims took place.

1.37. The March 12 issue carried news of a Hindu family in Dehgam, which sheltered 20 Muslims in their house, and a boxed item about a relief camp in Bhalej village, Kheda district, run by Hindus and Muslims. The March 15 issue had a report of how Muslim women saved the lives of Hindus. News of unity among the Hindus and Muslims of Lambadia and Sami was reported in other issues of the paper.

1.38. The Gujarat government, the Tribunal notes, was selective about action against TV channels and publications. While it banned some local TV channels, and also a national channel — *Star News* — on March 2, because it had exposed the government’s inaction, it took no action against newspapers like *Sandesh*. The ban was lifted on the assurance that the CM would be given a chance to air his views on the channel.

1.39. The English language newspapers, with their local editions in Gujarat, did a

commendable job through most of that period. Although the over-emphasis on urban reportage meant that the villages and rural districts affected by the carnage received exposure much later (even though the violence took place in the same 72 hours after Godhra), the abiding impression gained by the Tribunal, on perusing the English media, was its commitment to secular values even in the face of intimidation. The Ahmedabad and Vadodara 'Newline' supplements of *The Indian Express* and *The Times of India's* local edition, did a fine job in exposing the truth, doing follow-up stories etc. The Ahmedabad-edition of *The Asian Age*, too, reflected this urgency and sense of purpose. Many of the stories exposed the government's complicity and the police buckling under political pressure. *The Indian Express* especially went out of its way on the issue. The resident editor of the newspaper, Shri Virendra Kumar had to face threats and intimidation from both the government and leaders of the accused organisations but he did not buckle down.

1.40. The Tribunal would like to record its appreciation of the *Updates on the Gujarat Carnage* put out on the website *sabrang.com*, which were, in a sense, the first insightful accounts and analyses of the horrors of the Gujarat carnage. The conditions at the relief camps, the abdication of state responsibility in giving succour, and the sheer scale of the deaths, were recorded accurately by this and other efforts of this organisation. Journalist Teesta Setalvad's tracking of the Gujarat carnage, in the report brought out by *Communalism Combat* and in earlier publications, also deserves favourable mention.

1.41. Through a statement issued on April 3, the chairman of the Press Council, Justice K Jayachandra Reddy, warned the errant media of action under section 295-A of the IPC and allied provisions. (Section 295-A deals with "Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs.")

1.42. The national print and electronic media documented the holocaust and the systematic targeting of Muslim homes, *mohallas*, shops and establishments, factories, hotels and eateries and other economic assets as well as *dargahs*, mosques, shrines and *kabristans* (graveyards).

1.43. The *rediff.com* portal posted an interview that journalist Sushri Sheela Bhatt conducted with Shri KK Shastri, the 96-year-old president of the Gujarat unit of the Vishwa Hindu Parishad, which makes for chilling reading. According to Shri Shastri, the list of Muslim-owned shops to be targeted was prepared on the morning of February 28. This because, "We were terribly angry (over Godhra)... Lust and anger are blind"... "*Hindutva* was attacked... This is a tremendous outburst that will be difficult to roll back"... "We can't condemn it because they are our boys." Shri Shastri added, "The VHP has formed a panel of 50 lawyers to help release the arrested people accused of rioting and looting. None of these lawyers will charge any fees because they believe in the RSS ideology." Shri Shastri is said to have denied making these remarks. The two VHP joint general secretaries from Gujarat, Dr. Jaideep Patel and Dr Kaushik Mehta, whom the Editors' Guild met at the VHP office in Ahmedabad, also contradicted the report, making out that Shri Shastri was

old and hard of hearing. They rejected the theory that Muslim premises were targeted. But Sushri Sheela Bhatt has the tape. (See section on Annexures, Volume I). The tenor of the April issue of *Vishwa Hindu Samachar*, published by Rashtra Chetna Prakashan and edited by none other than Shri Shastri himself, lends credence to what he told *rediff.com*. A two-page article therein praises the ‘*Cbhote Sardar*’ (CM Shri Narendra Modi) for his handling of Godhra and its aftermath.

1.44. The Tribunal recorded the evidence, in detail, of representatives from the print and electronic media. There are a large number of Gujarati newspapers, there being 32 large and small vernacular publications, in Ahmedabad alone. *Fulchab*, in Rajkot, was, characteristically, the first to take out a peace rally immediately after Godhra. *Sambhav* (with 4 editions in Gujarat), *Prabhat* (published from Ahmedabad and Mehsana) and *Gujarat Today* (which has a Muslim ownership, and is published in Ahmedabad) are seen to have been moderate and balanced in their reportage and editorial approach. The CMD of *Sambhav*, Shri Kiran Vadodaaria, avoided publishing pictures of corpses. The paper received an anonymous threat on April 1, because it had carried a column by Shri MJ Akbar, the editor-in-chief of *The Asian Age*. Though curfew passes were denied to the editorial staff of *Sambhav*, they were able to move about quite freely with their normal press cards.

Prabhat’s director, Shri Ashish Kothari, has testified before the Editors’ Guild about swords and liquor being distributed on February 27. The *Kutch Mitra* ran a statement by a prominent *moulavi* on its front page for several days, condemning Godhra and expressing regret over what had happened while the March 2 issue of *Saurashtra Samachar*, Bhavnagar, carried a special supplement devoted to religious harmony. Evidence before the Tribunal also indicates that smaller Gujarati papers like *Madhyantar*, edited by Shri Jashwant Rawal, incited violence through provocative reporting. The publication’s April 3 edition, produced before the Tribunal alleged that a Muslim police officer was behind the local riots in Anand district. An eight-column commentary on the front page was headlined, ‘Muslims will have to prove that they are full Indians.’

1.45. The widely reported statements of Sri Modi and former union law minister, Shri Arun Jaitley, about the media’s role in ‘provoking violence’ generated a lot of discussion and debate. “...I would also appeal to the media to do their bit. The media is supposed to give subdued coverage to such volatile situations.... If you show dead bodies and then identify which community the bodies belong to, then, instead of playing the role of reducing tensions you are actually provoking people.” — Arun Jaitley. (Telephonic interview on the programme, ‘Is Waqt’, *Zee News*, March 1).

1.46. The Tribunal finds these statements farcical, since these top-level government functionaries did nothing to control obvious efforts by the VHP/RSS/BJP leadership to fuel rage and instigate ‘revenge’ post-Godhra. When the free press did its job, highlighting the crimes committed and the government’s complicity in it, they chose to lay the blame at the doors of the ‘messengers’ from the media.

1.47. Journalists covering communal riots in the country experience a sea change over the last decade and a half, in the conditions of work and the risks they now face.

Prior to 1992, when communal violence did not involve the mobilisation of large mobs/cadres, a reporter or a press photographer could move around more or less freely, secure that, in the performance of journalistic duty, they themselves would not become potential targets. But after December 6, 1992, this can no longer be taken for granted. The violence and vandalism accompanying the Ayodhya movement changed all that. As the demolition of the Babri Masjid was in progress on December 6, 1992, several reporters, correspondents and media persons were brutally attacked.

A significant development, negatively in this regard has been the physical danger experienced by women and men journalists from the targeted Muslim community covering the carnage. The Tribunal met at least three such who had identity cards with assumed names, supported by their respective publications and managements to ensure safe passage in their work.

1.48. Media persons were targeted during the Gujarat carnage as well. Shri Modi himself made repeated and veiled threats about the television coverage by national channels like *Star News* and *Aaj Tak*. He even attempted a ban on the former news channel, which did not quite work.

1.49. On February 28, Shri Bhargava Parikh of *Zee TV* and his cameraman were attacked because the attackers thought that they were documenting evidence of individuals leading the mobs. Shri Dibang from *Aaj Tak* was attacked near the Kabadi Market on March 2. Shri Rajdeep Sardesai of *Star News* was threatened. ANS staff was also attacked. Two correspondents of *NDTV*, Shri Sanjay Singh and Shri Sanjay Rokhade were detained at Bhavnagar for five hours. They were terrorised and traumatised by a band of Bajrang Dalis who taunted them repeatedly, asking, should we kill you, should we not?

1.50. On April 3, the crime reporter of *The Asian Age* in Ahmedabad, Sushri Sonal Kellogg, and the reporter of a Surat-based daily were beaten up by the police in the Mariam Bibi Ni Chawli area in Gomtipur. When she complained to the deputy commissioner of police [Zone V], Shri RJ Savani, whom she knew quite well, all he said was that “it might have been a mistake.” When she protested to the police commissioner, Shri PC Pandey, in his office, he was dismissive, “Don’t bother me...I don’t have time...file a complaint if you want.” As the journalist herself puts it, “If policemen can be so brutal towards journalists on duty, their behaviour with ordinary citizens could be so much more atrocious. It is a pity that the police in Gujarat is either a mute spectator or it harasses and tortures innocent people.”

1.51. On April 8, the Ahmedabad police, who had failed to control mob violence over the past 33 days, severely assaulted about two dozen reporters and photographers at the historic Gandhi Ashram. The journalists, who had assembled to cover two peace meetings, including one attended by Medha Patkar, were beaten up ruthlessly. Leading his men was deputy commissioner of police, Shri VM Parghi. Three media persons, *The Indian Express* photographer Shri Harsh Shah, *NDTV* cameraman Shri Pranav Joshi and *ETV* reporter Shri Harshal Pandya were seriously injured, and Shri Pranav Joshi had to be admitted to the ICU at a private hospital. *Aaj Tak* correspondent Shri Dhimant Purohit, who suffered a fracture in his hand, *NDTV* reporter

Shri Sanjeev Singh, *Jansatta* photographer Shri Amit Dave, *Gujarat Samachar* reporter Shri Ketan Trivedi, a photographer of the same newspaper Shri Gautam Mehta and reporter Shri Ashish Amin were amongst the other victims.

1.52. The Editors' Guild team also faced the wrath of *Hindutva* forces. On April 1, one of its members was closeted with some print and TV journalists at the Circuit House in Ahmedabad, when there was a big commotion. A group of 6-8 VHP storm-troopers burst into his room, shouting and gesticulating, jostling those present and vehemently accusing them of hatching a dark conspiracy behind closed doors. A Gujarat Information Directorate official sought to intervene and said that discussions were in progress with a representative of the Editors' Guild. The mob turned on the latter demanding to know whether he was Hindu or Muslim. He replied saying that this was irrelevant, and that he was a '*Hindustani*' (Indian). Giving them his name, he asked the intruders to identify themselves and state their purpose. They refused to identify themselves, shouting '*Hum Hindu hain*' ('We are Hindus'), each insisting in turn that this was his name. Only gradually did the group cool down. Its spokesmen accused the English media and national TV channels of defaming the majority community with 'one-sided' and 'totally biased' coverage. "They only listen to Muslims and ignore Hindus. They do not focus on Muslim rioters and on damage to Hindu property. Hindus who escaped from the Godhra inferno and have been admitted to hospital in Ahmedabad and Hindu refugees in the Prem Darwaza and other relief camps have not been interviewed." *Aaj Tak* invited the harshest rebuke, especially for its coverage of the violence in the first few hours of February 28. The group demanded that this channel should be shut down and its 'licence' revoked. *Aaj Tak* was probably the first on air with live footage of the rioting. *The Times of India* and *The Indian Express*, both of which have Ahmedabad editions, were also singled out for mention.

1.53. The Editors' Guild report comments extensively on the language used in the press notes of the Gujarat government. Some of these deserve mention here: "The phraseology most often used for the Godhra incident was, "inhuman genocide", "inhuman carnage" or "massacre", while the subsequent incidents of violence were invariably described as "disturbances", and occasionally, as "violent disturbances/incidents." The chief minister visited Godhra on the afternoon of February 27 itself, and the press note issued thereafter described the torching of the Sabarmati Express as a "pre-planned, inhuman, collective, violent act of terrorism."

1.53.1. "Several press releases of the government refer to the situation having been brought under control within 72 hours. An official release on March 5 carried twin headings, 'The state government has taken stringent action to stem riots and violence: Narendra Modi' and 'Chief minister's appeal to trade and industry, religious heads and intellectuals for the revival and restoration of economic activities has evoked encouraging response.' The occasion was a Citizens' meet organised by the Gujarat Chamber of Commerce and Industry, in response to an appeal by the CM "to revive and restore economic activity." The release notes: "Modi said it was the duty of the state government to provide security to the citizens even by taking drastic actions.

Referring to the keen interest shown by the people around the globe in the 'Resurgent Gujarat' after devastating earthquake, he said that entire world was looking at the progressive and fast developing Gujarat."

1.53.2. "After again referring to "the pre-planned, collective terrorism against Gujarat", "Pakistan's proxy war" and its "clandestine role...behind the Godhra genocide", "Modi asserted that at this critical juncture, interest of Gujarat was to maintain peace and said that the Government had discharged its duty to stop violence." Further, he said, "the elements wanting to perpetuate violence and destabilise Gujarat were disappointed." Making a reference to Shabana Azmi's demand to file a case of mass murder against the chief minister, Modi said that he would not have any regret to be hanged at the Bhadra Fort if restoration of peace within three days was considered an offence.

1.53.3. "Another press release dated March 9 was headed, 'We will not surrender to the elements out to malign Gujarat says the chief minister.' The occasion was another address to "leading business men and the merchant community" under the auspices of the Maskati New Cloth Market Mahajan. Shri Modi said Mahatma Gandhi had taught Gujarat to fight against injustice. Health minister Shri Ashok Bhatt who also spoke, "was cheered when he said that the trading community hails the chief minister as "the Sardar opposed to terrorism", because he restored peace to Ahmedabad in only 72 hours." The press release concluded with the observation that "businessmen, traders and the owners of process houses were full of praise for the strong will power of the chief minister and described him as '*Chhote Sardar*'"

1.53.4. "A March 4 press release from Ahmedabad on the occasion of Shri LK Advani's visit to Gujarat stated, "Home minister LK Advani today said that the Godhra genocide had given a setback to the four years of peaceful Bharatiya Janata party rule in Gujarat." This comment was reflected in the heading.

1.53.5. "There were a few press notes on communal amity. A release dated March 2 quoted the chief minister as denying newspaper reports of people having been burnt alive in Pandharwada village in the Panchmahal district. It turned out to be one of the worst instances of rural violence. (This incident was first reported by the monthly *Communalism Combat* in its special issue, 'Genocide, Gujarat 2002', March-April issue, No. 77-78.)"

1.54. Among the television networks, in addition to *Doordarshan*, *Aaj Tak* and *ETV* (Eenadu) operate Gujarati channels. There were few critics of *ETV*, and its coverage was described as balanced. But *Aaj Tak*, in particular, received a lot of flak for its candid coverage. A year ago, during the earthquake in 2001, it had been praised for going off the beaten track and picking up special nuances on the ground. It is possible that a similar approach proved an embarrassment to the powers that be on this occasion. Like the other networks, it used mobile OB vans that allowed for quicker and more exhaustive coverage.

1.55. *Star News* telecast some graphic footage and interviews in the thick of the riots in Ahmedabad, and along the Vadodara-Godhra highway, where a number of industrial establishments and trucks were burnt. It also carried an extremely moving

interview with professor JS Bandukwala in Vadodara, a man whose secular convictions continue to burn bright, even after going through a terrible ordeal.

1.56. There is little doubt that some of the television coverage exposed the state government. It hit back by banning *Star News* on March 2 for several hours. In an interview to *Outlook* (March 18), Shri Modi was asked why he had sought to muzzle the press. His response was, “There is no ban on the media. I blacked out just one channel because of the provocative reporting methods used. Traditionally, the print media has used its own methods of self-censorship, taking care not to mention the names of communities while reporting riots. If every half an hour, names of communities are going to be mentioned, without any substantiation or any attribution, it inflames the situation instead of allaying it. It is not difficult to see what impact it will have. I must also tell you that since then, the channel has tendered an apology and made amends.” Asked about this, Star News sources commented that they met Shri Modi at a press conference and requested him to lift, what they termed, an unfair ban. The chief minister did so. It must also be added that Shri Modi was given an opportunity to air his point of view on events in Gujarat on the channel, by prior arrangement before the ban was lifted.

1.57. The coverage by *Doordarshan* and *All India Radio (AIR)*’s Ahmedabad stations was restrained. Many viewers and listeners who appeared as witnesses before the Tribunal said that they appreciated this, although others expressed dissatisfaction, commenting on the fact that while *AIR* reported the facts, *Doordarshan* kept saying that the situation was ‘under control.’ The chief minister’s appeal for peace was telecast repeatedly by *Doordarshan*. Peace rallies in different parts of the state and programmes emphasising communal harmony were aired. These included sound bytes in Gandhiji’s voice, culled from archival material, and stories of Hindus sheltering Muslims. Efforts were made to counter rumours and scenes of joint Holi celebrations were screened.

1.58. According to a report in *The Indian Express* (March 8), *AIR*, Delhi was quizzed by somebody in the Prime Minister’s Office, regarding an English discussion that was critical of the manner in which the Gujarat riots had been handled. This is said to have resulted in an inquiry and the transfer of the concerned programme officer.

1.59. Many cities in Gujarat have local cable-television channels that telecast news and programmes several hours a day. *Gujarat Samachar* has one such channel in Ahmedabad. There is another, a 24-hour channel in Anand, known as *Charotar Area Network Link* or CAN-Link. The group also publishes a local newspaper, *Naya Padkar*. What subscribers wanted from their local media was positive stories of community living and hard information about violence-affected areas, curfew hours, safe routes for commuting, and so forth. This was not forthcoming and such information, when it was provided, was sometimes confusing.

Vadodara has 4 cable channels. While they did carry some official peace messages, it is alleged that they were politically exploited and that some of their coverage amounted to incitement. In the evidence placed before the Tribunal, members of the civil liberties’ group, PUCL, as well as Shanti Abhiyan were particularly critical of the *JTV* and *Deep* channels. The police commissioner of Vadodara felt that the cable

networks had “played havoc” and issued them a warning. The licences of two operators were suspended on March 17, after they showed live footage of rioting in the sensitive Machchipith area on March 15, when the VHP celebrated news of the performance of *shilanyas* at Ayodhya. This same footage was telecast again the following day. The licences were restored after 48 hours. FIRs were, however, registered against *News Plus* and the *VNM Channel* respectively and the operators were released on bail.

Political leaders used the local electronic media in the most despicable manner. The intentions of a number of leaders belonging to the ruling party and its affiliates become very clear, if one examines their speeches on local TV channels such as *JTV*, *Deep* and *VNM*. The speeches of leaders like Shri Ajay Dave (BJP), Shri Nalin Bhatt (BJP), Shri Deepak Kharchikar (Shiv Sena), Shri Neeraj Jain (VHP), Sushri Bhartiben Vyas (Mayor of Vadodara) and Shri Jitendra Sukhadia (BJP), were particularly provocative, obviously intended to incite crowds to violence. If these were the speeches made on TV, one can well imagine the role of these people during the violence on the streets. (For example, on March 18, Sushri Bhartiben Vyas convened a ‘*Shanti Samiti*’ meeting which was attended by the police commissioner and the collector, as well as leading political figures of various parties. She made appropriate pacifist remarks at this meeting but later that day, she made inflammatory remarks against the minority community in the Vadodara Municipal Council.)

1.60. The Tribunal also recorded evidence that shows the misuse of the media by channels like *Citicable* and *Narmada*, which influenced public perceptions for the worse in Bharuch-Ankleshwar.

1.61. Networks are subject to rules framed under the Cable Television Networks (Regulation) Act, 1995. Operators have to seek registration by an authorised officer, who may be a district magistrate, sub-divisional magistrate or police commissioner within his/her area of jurisdiction. The rules prescribe a code for programmes and advertisements. No programme may be carried, which offends good taste or decency, attacks religious communities, incites violence, contains false and suggestive innuendoes and half-truths, or is unsuitable for unrestricted public exhibition. Any authorised officer may prohibit certain transmissions infringing the code or otherwise, if expedient to do so in the public interest. Penalties include fines and seizure of equipment.

1.62. The Editors’ Guild was informed that during long periods of curfew between March 1 and 15, some cable channels made it a point to screen ‘patriotic’ or ‘nationalist’ films such as *Gadar*, *Border* and *Ma Tujhe Salaam*.

1.63. The Gujarat carnage was probably the first of its kind, where mobile phones and cellular services were actively used. They were used by the leaders of large mobs to coordinate and launch attacks. Equally, they were used by victims, survivors, rights activists etc. to contact authorities or to make frantic appeals for peace, which, unfortunately, were not always heeded.

1.64. The long history of communal violence in India is replete with instances where rumours have been a prominent part of the *modus operandi* adopted to stoke hatred and violence. But it works differently now. Earlier phases of inter-community

violence, riots started over small and freak incidents and often spread due to the residual mistrust and suspicion between communities. Since the early eighties, the pattern of communal violence has increasingly assumed the characteristics of pogroms and genocidal killings, and has made the generation of hate speech and rumour an exercise put into force by the elements who lead and mastermind the killings. Hate speech, pamphlets and propaganda are conspicuously used to these ends, and even mainstream newspapers put into use for the purpose.

1.65. The rumours that were spread during the Gujarat carnage followed familiar lines: Impending attacks from Muslims, threat of retaliation from the relief camps, Muslim youths being armed, decapitated bodies found in a temple, etc. Rumours such as these, which were doing the rounds, were not adequately countered by the authorities; regrettably, the mass media, too, did not pay heed to this. In what might appear paradoxical, and reminiscent of the 1992-1993 anti-Muslim pogrom in Mumbai, while the minorities were the victims, it was the majority that experienced the threat perception most acutely. This was so because the fear psychosis was deliberately created, in Mumbai earlier and in Gujarat this time, so as to justify the carnage and killings as 'defensive' acts by 'protectors of Hindus'. In response to this, sections of the minority formed vigilante squads to defend themselves in majority dominated areas of Ahmedabad and Vadodara.

1.66. Hate speech and hate writing, rumour-mongering and factual reportage have now become critical issues that need to be addressed by the police, the government and the media, to maintain internal peace and security.

1.67. The Tribunal would like to put on record that an anonymous e-mail message was widely circulated in early March, the gist of which was that the trigger for the tragedy at Godhra was provided by riotous *kar sevaks*, who, among other things, molested a young Muslim girl on the railway platform and dragged her with them into the compartment. It was this misdemeanour which enraged the Muslim stall-owners trying to rescue the girl, the e-mail claimed. It added that two local correspondents, Shri Anil and Sushri Neelam Soni, were eyewitness to all this but that their report was suppressed. To make the information appear authentic, the designations and telephone numbers of the correspondents were given.

The e-mail message said that the girl was "molested" and "abducted". Further, as the train began moving out of the station, incensed hawkers pulled the alarm chain to stop it within a few hundred metres of the station, near the outer signal cabin adjacent to the Ghanchi neighbourhood, to which the vendors belong. The train was mobbed and stoned and coach No. S-6 was set on fire.

When, exactly, this e-mail message was actually sent, is not clear. However, on being questioned by the Editors' Guild, the Sonis denied having filed the story and disclaimed it as a fabrication. Nevertheless, others also put out somewhat similar versions, supplementing their account with a news report published by the Faizabad-based *Jan Morcha* on February 25, narrating accounts of the misbehaviour of *kar sevaks* on their way to Ayodhya, travelling by the same Sabarmati Express.

That the *kar sevaks* attempted to drag a Muslim girl standing on the platform to their compartment is a fact. But rumour had it that she was actually pulled into the train. A senior journalist who deposed before the Tribunal, clarified that she had spoken to the family concerned, who said that an attempt was made to pull the girl into the train, but Muslim vendors intervened at once and rescued her.

1.68. The Tribunal records from the evidence placed before it that four young men from Ahmedabad – Shri Memon Mohammed Samir B and Shri Memon Ayub Abubakar from Juhapura and Shri Memon Gulam Mustafa J and Shri Mansuri Makbul I, both from Sarkhej Road — have filed an FIR under sections 153(A), 155, 295, 295(A) of the Indian Penal Code against *Sandesh* and *Gujarat Samachar*. The complaint, faxed to the commissioner of police, Ahmedabad, Shri PC Pandey, and dated March 10 states, “After the incident of February 27, these two publications, instead of reporting news fairly, made baseless accusations against Muslims and printed fallacious news and also spread the news in a provocative manner, which is detrimental to the interest of the nation and as such, caused provocation resulting in large-scale destruction... Due to the articles carried by the publication on February 28, which were inflammatory, not only was the integrity of the Muslim community questioned, but unspeakable atrocities were also inflicted on it... By such provocative news articles, the accused displayed support to particular right-wing extremist organisations like the VHP and the Bajrang Dal, which has not only ruined the prestige of the state but brought national shame to India in the eyes of the international community... The rift caused between citizens on the grounds of religion and communal disharmony is becoming irrevocable and as such the accused, large circulating newspapers, have committed a heinous crime, as contemplated by the sections above. They can also be booked under the POTO ordinance.” The Tribunal notes with regret that no action has been initiated against the newspapers. (See *Detailed Annexures: PUCL Report on Media, Volume III*).

Build-Up in Gujarat

1.1. In the past four years of BJP rule in Gujarat, several unconstitutional measures have been initiated. Since February 1998, when the BJP was returned to power for a second term, fundamental rights of citizens have been violated, the rule of law flouted and the security of the life and property of citizens, particularly the religious minorities and Dalits, consistently threatened. No action has been taken against the culprits. A plethora of outfits like the Hindu Jagran Manch and Dharam Raksha Samiti spawned by the *sangh parivar*, have been engaged in the task of mobilisation for intimidation, threats, terrorisation and violence.

1.2. From the evidence placed before the Tribunal, it is evident that a full catalogue of the words and deeds of the *sangh parivar* in the last four years, and the BJP government's unabashed support and encouragement to these on the one hand, and dogged refusal to book the perpetrators of hatred and violence on the other, is itself an appropriate subject for a separate report. Given below are mere examples to illustrate how the calculated spreading poison has been systematic and sustained, especially since 1998.

2. Targeting the Minorities

2.1. The whole of 1998 and 1999 saw a spate of attacks on minorities, especially on Christian institutions and Christian religious persons in remote areas of Gujarat state, as well as in cities like Rajkot and Ahmedabad. But no action was taken by the state government against the offenders.

2.2. Around Christmas time in 1998, 17 churches were destroyed in Dangs in south Gujarat in a concerted attack on the minority led by VHP leaders Janubhai Pawar and Swami Aseemanand.

2.3. During 1998, as part of the attacks on Christians by the BD, VHP, RSS, and BJP all over Gujarat, some incidents took place in Vadodara as well. One of the major incidents was the attack on the five-day National Convention of Christians (Alpha Group). The gang, led by Shri Niraj Jain (VHP leader) and others allegedly belonging to the VHP and Bajrang Dal, started threatening the participants to stop the convention and quit as "they resorted to forcible conversions of Hindus to Chris-

tianity.” Police supported them. Several people were beaten and one man suffered a fracture of the hand. At midnight, the VHP men also attacked women delegates who were staying at the Women’s Hostel in Fatehgunj.

2.4. In many parts of Gujarat, the police visited Christian institutions at Christmas time (1998) asking how many people attended Christmas mass. Should this be allowed in a country that calls itself both secular and democratic? Each act of violence over the past four years was preceded by hate-mongering and vicious propaganda through pamphlets signed by Janubhai Pawar of the Hindu Jagran Manch (VHP). No action was taken until a year later; in December 1999, he was arrested at Dangs before Christmas. (For details on the hate propaganda unleashed in Gujarat against Christians and Muslims, see chapter on Hate Writing, Volume II).

2.5. A private members Bill, “to prevent conversion by coercion or force”, but which did not consider conversion to Hinduism an offence, was sought to be rushed through the state legislature in November-December 1999. It was ultimately held back because of the outcry by local groups. The campaigners pointed out that existing provisions within the Indian Constitution were adequate to prevent conversions by inducements and coercion and that the maximum number of conversions, post-Independence, have been of tribals to Hinduism.

2.6. In August 2000, Pakistan-trained terrorists shot down 33 Hindu pilgrims in Kashmir and in the cross fire another 100 died. The VHP leader, Shri Praveen Togadia, took it upon his organisation to ‘avenge’ these deaths and targeted unsuspecting Muslims of Gujarat. At a press conference in Ahmedabad on August 1, 2000, he declared, “We will give a fitting reply to these killings here, in Gujarat.” For the next ten days, the law and order machinery was held to ransom, as gangs of the RSS/VHP/BD led by elected representatives of the BJP destroyed Rs. 15 crore worth of Muslim property in Surat, Ahmedabad, Khhedbrahma, Lambadiya, Rajkot, Porbander and other Gujarat cities. Not a rupee in compensation was paid to any of the victims. Leaders and activists of RSS/VHP/BD figure in the FIRs of the police, yet no action has been initiated against them.

In September 1999, police fired 80 rounds of bullets on Muslims from Rajpurani Pole near Mandvi, in Vadodara to stop any Muslim who would come out on the road to save his/her property or to protect the Jumma Masjid. Shri Nalin Bhatt, then a minister in the state government, personally directed the firing by the police. He even made the statement, “Muslims have no place in Hindustan. Either they go to Pakistan or *Kabrastan* (graveyard).” In the current riots, some BJP leaders and members of violent mobs made similar statements.

3. Enforcing Ghettoisation

3.1. On February 8, 2000, a horde of people ransacked the homes of Muslim families who had bought homes in Paldi, a posh and predominantly Hindu inhabited locality of Ahmedabad. The families who had just bought a flat there were terrorised, their belongings destroyed. Two municipal corporators of the BJP led the mob, shouting,

‘Jai Sri Ram!’ One senior VHP leader was also present. The motive was to terrorise Muslims to move out of a pre-dominantly Hindu locality. (*The Asian Age*, February 9, 2000).

3.2. What happened in Paldi is becoming more and more common all over Gujarat state. This violates Article 14 (Equality before the law), Article 15 (Non-Discrimination on grounds of religion, race, gender, caste), Article 16 (Equality of opportunity in matters of employment), Article 19 (Protection of the freedom of speech, expression and movement), Article 21 (Protection of life and personal liberty), Article 22 (Protection against arrest and detention), Article 25 (Freedom of conscience and freedom of religion).

This was not an isolated incident. Social and economic boycott enforced through terror and violence is happening every other day in BJP-ruled Gujarat, where the writ of the RSS runs large.

4. Encouraging the RSS

4.1. In early December 2000, the then CM Keshubhai Patel took the lead in lifting the ban on government servants from joining the RSS. In response to a national outcry within and outside the Indian Parliament, on December 15, 2000, the Prime Minister, Shri Vajpayee, assured the Indian Parliament that there was no question of army or government officials being allowed to join the RSS. On February 6, 2000, Shri Vajpayee announced that he saw nothing wrong in the move since the RSS was a cultural organisation. However, the BJP government in Gujarat was forced to rescind its earlier directive following relentless pressure from the opposition parties and even some of the BJP’s NDA allies.

4.2. Soon after the Gujarat government announced its no ban on government servants from joining the RSS policy; it played the role of a generous host at a national meet of the RSS, an organisation that openly espouses its goal of a Hindu State. Photographs of the then union home minister, Shri LK Advani, standing alongside the then chief minister Shri Keshubhai Patel (the latter donned in the trademark khaki shorts of the RSS), at the head of the rally, were published by major national newspapers throughout the country. On January 11, 2000, following its convention, the RSS heaped lavish praise on the state government for the “free services” it provided to the three-day ‘*Sankalp Shibir*’. Pucca roads were laid overnight especially for the event and free drinking water and sanitation services provided. The Gujarat State Road Transport Corporation stationed 260 new buses at the venue to facilitate transportation of participants. This amounted to a blatant misuse of government and semi-government machinery. Billboards put up by the VHP all over Gujarat since 1998, proudly proclaim: ‘Welcome to *Hindu Rashtra*’. (‘Welcome to a Hindu State’).

5. Discrimination Politics

5.1. The Gujarat government has also taken a series of administrative measures that directly violate the Constitution. These are:

- ◆ A selective census specially directed at Christians and Muslims in the state.
- ◆ A selective census of SCs and STs initiated 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. This followed spurious propaganda by the RSS-VHP-Hindu Jagran Manch combine that Muslims were abducting and marrying Hindu girls in order to convert them to Islam, while Christians were guilty of forced conversion.

◆ Inter-community marriages between couples are frowned upon by the state. In 1998, the government directed the police to set up a special cell to investigate every case of inter-community marriage. Recently a Christian groom was forced to convert to Hinduism even after his marriage to a Hindu girl took place in a civil ceremony before the courts.

6. Imposing Hindutva

6.1. Muslim children have had to sit for exams on Id day. A few years ago, the Gujarat government also tried to remove Good Friday from its list of public holidays. A volley of protests from the Christians forced them to shelve the plan.

6.2. In January 2001, the education department of the Gujarat government issued a circular, directing all schools in the state to subscribe to the RSS mouthpiece, *Sadhana*. The directive was allowed to lapse thanks to widespread criticism and protest.

6.3. In January 2002, the Gujarat state’s education department ordered that all grant-in-aid schools must perform *dharti poojan* on January 26, the day on which a killer earthquake had devastated Gujarat a year ago. The fact that such activity is contrary to the practice of religious minorities was deliberately ignored. A government circular issued earlier this year, informed tribal welfare institutions receiving grants from the government that a part of the sanctioned amount this time would be paid to them in kind – copies of Hindu scriptures.

Genocide

1. Nothing but Genocide

1.1. Over the past three decades, a disturbing trend in mass crimes has been the single-handed targeting of vulnerable sections of the population. This includes caste massacres against Dalits or lower castes, and violence against the country's minorities. On several occasions, responsible persons and organisations have termed massacres such as the recent one in Gujarat, the one in Delhi in 1984 and those in Hashimpura (Meerut) in May 1987, when PAC personnel killed more than 40 Muslim youth, as genocide killings.

1.2. After World War II, an International Convention was brought into existence worldwide on December 9, 1948 to Prevent and Punish the Crime of Genocide. In all, it has 19 Articles, of which Article II and III are particularly important. Article II defines the crime of Genocide as: "...Genocide means any of the following acts committed with the intent to destroy, in whole or in part a national ethnical, racial, or religious group, as such:

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

The Convention has also enumerated the offences that are punishable and they are

- ◆ Genocide;
- ◆ Conspiracy to commit genocide;
- ◆ Direct and public incitement to commit genocide;
- ◆ Attempt to commit genocide;
- ◆ Complicity in genocide."

1.3. Under the Convention, the acts that are punishable are, genocide, conspiracy to commit genocide, the direct and public incitement to commit genocide, the attempt to commit genocide and complicity in genocide. The persons who can be punished for these crimes are any of the persons committing any of the above acts, even if they are constitutionally responsible rulers, public officials or private individuals.

1.4. Under the Convention, it is a responsibility of member states to make legislation to give effect to the provisions of the present legislation; and to provide penalties to persons responsible to be tried by a competent tribunal of the state, or such international penal tribunals whose jurisdiction the contracting party may have accepted.

1.5. To prove the crime of genocide, there has to be evidence of the physical destruction of a section, community, racial or ethnic group as well as the evidence of mental harm. At the crux of it all, the evidence needs to point to an “intention” to destroy and harm; it is a crime not computed in numbers of dead or harmed but in the intention and desire to commit it – the sheer planning, pre-meditation, extent and thoroughness of the killings.

1.6. The Gujarat carnage was especially coloured by state complicity in the violence, premeditation and planning behind the attacks on the lives, dignity, livelihoods, businesses and properties of a section of the population — Muslims — and a selective assault on their religious and cultural places of worship. Muslim women were targeted as objects of their community and similarly abused with an inhuman level of violence and sexual crimes. Economic and social boycott of the community was openly encouraged and continues in many parts of Gujarat, to date. Agricultural land holdings of Muslims, small and large have been taken over by dominant community and caste groups. Livelihood for Muslims has been snatched away and there is a clearcut and ongoing design to economically cripple the community.

1.7. The chief Minister of Gujarat, Shri Narendra Modi has been held by this Tribunal to be directly responsible, along with cabinet colleagues, and organisations that he leads and patronises – the BJP, RSS, VHP and BD. For all these reasons together there is no way that the post-Godhra carnage in Gujarat can escape being called squarely what it was – Crimes against Humanity and Genocide.

1.8. The case for genocide against the VHP and the Bajrang Dal as well as Shri Narendra Modi and members of his cabinet is being made for the following reasons:

- ◆ There have been a number of statements and pamphlets from the VHP and the BD and its leaders in the past, which establish that they have been consistently against the Muslim community, making them the target of verbal and physical attacks and have been provoking people to economically and physically attack Muslims and, thereafter, subject them to economic and social boycott.

- ◆ There is sufficient evidence to show that the carnage in Gujarat, post-February 27, was led by the VHP and the Bajrang Dal.

- ◆ The carnage was at six levels: Physical destruction of a part of the community; economic destruction; sexual violence and rape of a large number of Muslim women; cultural and religious destruction; resistance to rehabilitation; publicly declared desire to physically and morally destroy the Muslim community of Gujarat.

- ◆ The offences that were committed in the first flush of organised violence continue at a lower intensity under the same political dispensation even today (*See Detailed Annexures: Status of Refugee Survey, Volume III*).

1.9. The chief minister is equally liable for prosecution for genocide for the following reasons:

◆ Refusal to take any preventive measures and protect the lives and properties of Muslims;

◆ Connivance in and facilitation of the carnage;

◆ Transfer of good police officers;

◆ No action against erring police officers or party functionaries who were named by victims;

◆ Persistent threats to close down privately run relief camps;

◆ Abusive comments against the affected and victimised community that qualify as Hate Speech;

◆ Refusal to comply with the NHRC recommendations;

◆ Total failure in the provision of relief and rehabilitation;

◆ Absence of punitive action against provocative press and other organisations;

◆ Influencing criminal investigation — the omission of the names of VHP/RSS/BJP functionaries from charge-sheets although their names appear in FIRs.

◆ The case for the Gujarat carnage being nothing short of genocide is clinched by the fact that Muslim journalists, Muslim police officers, Muslim bureaucrats, Muslim teachers have had to function only after concealing or changing their identities and this continues to be a trend even now.

1.10. Considering these facts and the distinct tendency and trends that mass crimes committed against marginalised groups have taken in past years, it is a grave lapse on the part of the government of India, which has, to date, not enacted any law in compliance with Article V of the International Convention on the Prevention and Punishment of the Crime of Genocide, 1948. India has signed the Genocide Convention in 1948 and ratified it in 1958. Under the Convention, a state that is signatory is bound to effectively act upon and legislate upon the intents of the legislation. So far, India has not enacted any law in compliance with the Convention.

2. Note on the International Criminal Court

2.1. The ICC came into existence from July 1, 2002. India has, however, refused to ratify the treaty. Under the treaty, any person can be tried and punished for crimes against humanity, acts of genocide, etc. before the International Court, irrespective of where the crime is committed. India, not being a ratifying party, cannot be forced to hand over any person charged or convicted to this Court.

2.2. The genocide in Gujarat could not have been taken up at the ICC since the Court came into being only on July 1, 2002. However, since it is not the first time that mass crimes of this kind have been allowed and condoned internally, it is vital, as a safeguard for the future, that India ratifies the ICC treaty and subjects itself to international scrutiny, especially in respect of heinous crimes committed by government functionaries. If the carnage in Gujarat had taken place post-July 2002, and India had still not ratified the ICC treaty and acceded to the Court, the issue could have come up through the UN Security Council reference.

Consequences

1. Alienation

1.1 Hate speeches and the atrocities that follow against sections of our people are generating fissures and divisions in our society. Deep-rooted and serious alienation is being caused by these hate campaigns against minorities in different parts of the country. As is evident especially in Kashmir, Muslims all over India are experiencing this alienation. In the absence of any concerted effort, on the part of government, central or state, to check growing hate politics and brutal violence, it is difficult to see how the problem of alienation and its damaging consequences can be remedied. Among those engaged in this cynical project are the chief minister of Gujarat, Shri Narendra Modi, his ministerial team, the Bajrang Dal and the VHP represented by people like Shri Praveen Togadia and Shri Ashok Singhal.

1.2. The current practitioners of hate, preach and pursue the same philosophy that contributed to the tragic partition of the country in 1947. Having made impressive organisational gains since then and having spawned numerous affiliates — VHP, Bajrang Dal etc — the same forces are back to playing the same game. Through word and deed they relentlessly send out the message that Muslims are not safe in this country. The inevitable consequences are clear for everyone to see.

1.3. Apart from numerous instances of brutality and bestiality, and the sheer scale and magnitude of the malevolence, the Gujarat carnage is perhaps epitomised by the fact that even High Court judges — one sitting, the other retired; both Muslims — experienced deep insecurity and utter vulnerability at the time. With the government offering them no protection whatsoever, both had to flee their homes. The house of Justice Divecha (retired) was ransacked and partly destroyed. When the Tribunal met him in May, two months after the carnage, Justice Kadri, a member of the bench, did not feel safe enough to return to his official accommodation. This threat to the judiciary cannot be treated lightly. Every citizen is fully entitled to equal protection of law. But when judges are not safe, what of the common man?

2. Muslims as Second Class Citizens

2.1. Reducing Muslims to the status of second-class citizens would appear to have been the central objective of the perpetrators of the carnage. Eight months after the violence, the Muslim community in Gujarat continues to face terror and economic boycott. There is little hope of speedy justice being done. Many of the accused, almost all the chief culprits, are out on bail. Evidence placed before the tribunal showed how, in villages where people have dared to return, organised economic and social boycott had reduced them to penury. This is the story in parts of Gandhinagar, Sabarkantha, Anand, Bharuch, Ankleshwar, Mehsana and Dahod districts as also in Ahmedabad and Vadodara city. Tens of thousands have not been able to resume work because of the comprehensive economic crippling; even insurance claims have not been met in many cases. Far from helping a badly bruised and battered community, with word and deed, Shri Modi's government continues to gloat over their predicament. This state of affairs calls for immediate intervention from every institution of the state and civil society, not only in Gujarat but also from all over the country.

3. Women

3.1. An issue that needs to be recognised and sensitively handled is the high number of female-headed households, widows and victim-survivors of sexual violence. Special measures need to be taken for the material, emotional and psychological healing of this section.

4. Children

4.1. There are at least 33,000 children and young persons who have faced attacks on their own person or been eyewitness to most gruesome forms of violence being inflicted on their near and dear ones. Both state and society must make consistent efforts to reach out to them so that the trauma that they have been inflicted with is dealt with in a humane fashion and does not become the cause of growing alienation.

5. Ghettoisation

5.1. Cities of Gujarat, especially Ahmedabad, have seen increasing ghettoisation since 1991. This enforced ghettoisation following frequent communal clashes, isolates communities from each other, ruptures normal social interaction and inter-dependencies, and creates a dangerous climate within localities and colonies where demonisation and stereotyping of the 'other' becomes so much easier. This is hardly conducive to peace and social harmony in a multi-religious, multi-cultural, multi-ethnic society like ours. Active steps at the policy level need to be taken to reverse the trend, which is being so cynically promoted by the RSS/Vishwa Hindu Parishad/BJP.

6. Communalisation of Public Space

6.1. Gujarat, claimed as the laboratory of *Hindutva* where 'a successful experiment' was recently conducted by proponents of this ideology, has seen a gross communalisation of public spaces in many of its cities, Ahmedabad probably being the worst. Today, there are many schools, especially elite and middle class ones, that

will simply not admit Muslim children. Despite complaints being filed, the government has done little to curb or control this sort of discrimination. During the Gujarat carnage, medical doctors were seen leading the carnage and clinics and hospitals were used to plan the attacks. Dr. Praveen Togadia of the VHP is a cancer surgeon while his second-in-command in Gujarat, Jaideep Patel, is also a doctor. During the carnage, the Sola Civil Hospital, Ahmedabad, was almost entirely out of bounds for severely injured Muslims in need of urgent medical attention. The VS hospital, on the other hand, was accessible and that is where most of the injured were taken. Until late April, goon squads of the *Sangh Parivar* sporting saffron scarves around their necks stalked the VS hospital's corridors, brandishing bared swords to terrorise Muslims into running away. Muslims in the police force, other government departments, or in the public sector, too, have been completely alienated and have to face constant humiliation and threats.

7. Impact on Education

7.1. With regard to the state examinations for the Standards X and XII, which took place in end-March and early-April 2002, the Gujarat government was openly partisan. The examination centres of Hindu children were relocated to majority-predominant areas, while terrorised Muslim students were forced to appear for examinations in Hindu-majority localities where VHP/BD goons roamed the streets. The government refused to re-schedule exams, whether of Std X and XII or RTBA and MA II, despite pleas from Muslims as thousands of students were physically dislocated and emotionally tormented by what the community had been through.

8. Economic Decimation

8.1. The state-sponsored carnage economically crippled the Muslim community which suffered losses to the extent of Rs. 3,800 crores, according to independent estimates. The Gujarat Chamber of Commerce has estimated the primary damage to industrial outfits, hotels and establishments belonging to the Muslim minority at around Rs. 2,000 crores. Non-Muslims, too, suffered heavily due to the disruption of economic activities. Of the over 20,000 persons who lost their jobs as a result of the destruction of hotels belonging to Muslims, some 7-8,000 were from the tribal Rabari community. Today, the majority community, too, feels the impact of the economic devastation sorely. (*See chapter on Economic Destruction, Volume II*).

9. Religious and Cultural Desecration

9.1. Like other parts of India, Gujarat too has been home to a live syncretic culture enriched by different traditions. Local history, shrines, language and poetry reflect this. One tragic consequence of the Gujarat carnage has been the systematic targeting of numerous symbols of Muslim culture, be they the shrines of great Indian classical singers, litterateurs, *dargahs* or centuries-old mosques. (*See chapter on Religious and Cultural Desecration, Volume II*).

10. Minority Identity a Target

10.1. The situation in Gujarat was so malignant that for weeks it was difficult for Muslims to be hailed by their names even in elite Hindu-predominant parts of the city of Ahmedabad. Many Hindus shaved off their beards for fear of being mistaken as Muslims. In the genocidal climate that prevailed, every aspect of a Muslim's identity was a target for violence.

11. Forced Migration

11.1. The sheer brutality of the violence triggered a mass migration of Muslims from Gujarat. Daily wage earners from Naroda have fled to Karnataka and Maharashtra, their native states. Thousands from Panchmahal and other districts moved to Rajasthan and UP. In many cases, Muslim girls have been sent back to their native places in rural UP, thus putting an end to their education.

12. Impact on Muslim minority in other states

12.1. The impact of the recent carnage in Gujarat, and the years of hate campaigns that preceded it, is not restricted to Gujarat alone. It has already impacted into intra-community and state-citizen relations in other parts of the country. It is therefore critical that drastic measures are initiated soon, to bring justice to the victim-survivors of the Gujarat carnage, ensure reparation and heal the deep wounds caused by the unprecedented violence. It is imperative that the government of India absorbs the full message and meaning of Gujarat and ensures that this sort of violent mobilisation is not allowed to grow and spread in other states of the country.

13. Conservative Trends among Women

13.1. Experience shows that any community which feels threatened and vulnerable tends to cling harder to past traditions and lapses into more conservative religio-cultural practices, especially with regard to women. The apparent burgeoning of the *burqa* in Mumbai after the 1992-1993 pogrom against Muslims is a case in point. The widespread incidents of sexual crimes against women have given rise to a similar trend in Gujarat.

14. Arming of Civil Society

14.1. The common man's threat perception has increased dramatically since the carnage in Gujarat. The Tribunal gathered evidence to show that there was a steep rise in the demand for ammunition by those licensed to carry firearms. The largest gun dealer in Ahmedabad, and arms dealers in Vadodara, have recorded a marked increase in the sale of cartridges, revolvers, pistols, and guns. There are over 3,300 licensed arms holders in Surat. This growing need among citizens in Gujarat to arm themselves, is a dangerous trend, to say the least. With faith in the state and the police machinery totally eroded, this can only lead to more violence and internal conflict.

15. Hidden Agenda

15.1. Irrespective of what some of them might otherwise proclaim, by their actual conduct, the saffron brotherhood comprising of the RSS/VHP/BD/BJP/Shiv Sena

among others, has increasingly demonstrated its hostility to the Indian Constitution since the late-eighties. Now, with state power in their hands, the hidden agenda is being pursued from within the government. The sectarian and undemocratic worldview inherent in the very ideology of *Hindutva* has, in the past decade, been explicit in the politics of hate and violence preached and practised by its proponents. The political atmosphere in the country has been increasingly vitiated since the Somnath to Ayodhya *rath yatra* of the then BJP president, Sri LK Advani in 1990, culminating in the demolition of the Babri Masjid on December 6, 1992.

16. Decline in India's International Stature

16.1. India's respected stature before the global community as a secular, democratic nation has been irretrievably damaged by the state-sponsored carnage in Gujarat. That this is so is apparent from the recent statements of Prime Minister, Shri Vajpayee and the deputy Prime Minister, Shri Advani, both being forced to admit, while on foreign soil, that the Gujarat carnage was a "blot on the nation."

17. Brutalisation of Women, Adivasis and Dalits

17.1. The violence in Gujarat was marked by the cynical manipulation and mobilisation of a section of Adivasis and Dalits for loot, rape and mass murder. The *Sangh Parivar* has worked assiduously and intensively since 1998, indoctrinating and training Dalits in urban areas and Adivasis in the tribal belts. Women from middle and upper middle class Hindu houses have participated in the violence. In Naroda and some parts of Vadodara there have been disturbing signs of their egging on their men to brutal violence. They even actively participated in the looting of shops.

18. Attack on Akshardham

18.1. The terrorist attack on Akshardham on September 24, 2002, shocked the country. It appeared to be a direct reaction to the Gujarat carnage. The mindless attack on innocent worshippers at the Akshardham temple suggests a blind desire for revenge and retaliation. It is the selfsame politics that governed the carnage unleashed after the Godhra tragedy.

18.2. Unless this cynical cycle of violence and counter-violence is stopped, economic progress, a healthy society and development all around will be sacrificed. Neither Gujarat, nor India can afford this. The deep schisms caused by the Godhra tragedy, the post-Godhra carnage and the Akshardham attack will take years to heal. The lives lost, often in the most inhuman and degrading way, cannot be recovered; homes destroyed, looted and burnt will take years of tearful labour to reconstruct; properties lost and destroyed in the calculated violence have been lost forever.

18.3. More difficult than effective reparation and reconstruction will be the hugely difficult task of restoration of trust between victim-survivors and the rest, a faith so utterly destroyed in the most brutal way.

18.4. After the attack on the temple, which claimed 28 innocent lives, the plea of a parent who had lost a child in the massacre comes to mind. Telecast all over the

networks, she pleaded strongly that her sorrow was private, that she did not want her grief to be converted into political capital. Victims of the arson who lived at Naroda had made similar pleas following the Godhra carnage but they went cynically unheeded.

18.5. Genuine reconciliatory measures at community levels, unmindful of political considerations need to be undertaken. Justice must be done and the guilty punished for peace and reconciliation to result. How successfully the physical and emotional healing takes place is dependant on the sincerity of the efforts made by politicians, the administration, the police and other sections of society.

The system needs to be cleansed and a genuine commitment to secularism and democracy reaffirmed.

18.6. The message that needs to go out is that the poison of communalism, which is the politics of hatred and division, can take us only further on the road to disaster. The ordinary Hindu, the Muslim and people of other faiths have no faith in this; it is cynical politicians who have been playing with this dangerous fire.

19. All is Not Lost

19.1. If this report, concerned with unveiling the truth and identifying the hate-mongers, the instigators and the perpetrators of violence, points to a very grim reality, it must not be concluded that there is no room for hope any longer. The Tribunal remains convinced that the vast majority of Indians, whatever their caste, creed, or community, still believe in tolerance and compassion. Even at the height of the state-sponsored carnage and at great personal risk, many individuals and organisations showed great courage, and, through word and action, worked for peace and amity.

This is true of Gujarat as much as the rest of India. It is to such individuals and organisations that the state should turn, and engage with them to initiate an action plan for political cleansing, for cleansing of the administration, for the secularisation of public space and for the speedy delivery of justice to those so brutally and morally wronged by the hate-bred violence.

Recommendations

Recommendations

Short Term

1. STATE GOVERNMENT

1.1. Implement all the recommendations of the National Human Rights Commission (NHRC).

1.2. Prosecute all those indicted in the NHRC report, including the chief minister and his ministerial colleagues who have aided and abetted the violence by word and action, under the relevant provisions of Indian Law – the Indian Penal Code (IPC), Prevention of Terrorism Act (POTA) and the Unlawful Activities (Prevention) Act. The Tribunal is also of the view that Shri Modi is guilty of crimes against humanity and of genocide under the relevant international statutes. It is the view of the Tribunal that the CM and his concerned ministers are not fit to hold public office since they are guilty of the aforesaid crimes. The Tribunal is further of the view that the interests of the country are not safe in the hands of people like Shri Modi and of those who hold his views and have his attitude and approach in public life.

1.3. The Tribunal recommends immediate banning of the VHP and the BD under the relevant provisions of the Unlawful Activities (Prevention) Act, 1967, for committing an “unlawful activity” and “unlawful association” within the meaning of that Act. “Unlawful activity” under section 2 of the Act relates to an individual or any association and “any action taken by such individual or association (whether by committing an act or by word, either spoken or written, or by sign or by visible representation or otherwise) (i) which is intended or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory in India or the secession of the territory of India from the union, or which incites any individual or group of individuals to bring about such cession or secession; (ii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India. “Unlawful association” means under section 2g of the Act (i) which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity; or (ii) “which has for its

object any activity which is punishable under section 153-A or section 153-B of the Indian Penal Code 1860 (45 of 1860) or which encourages or aids persons to undertake any such activity; or of which the members undertake any such activity.”

1.4. By their public utterances and behaviour, which includes provoking their armed cadres through hate propaganda, they are disturbing the law and order machinery of different states in a democratic country like ours. This publicly proclaimed hate propaganda and celebration of violent pogroms against the country’s minorities, makes public their secret agenda — an agenda, moreover, that is not contained in the written constitution(s) of these outfits. Through this public agenda, which clearly violates the Act, the Vishwa Hindu Parishad and the Bajrang Dal are holding the country to ransom. Moreover, the declared agenda is being promoted by senior office-bearers who travel all over world.

1.5. Immediate steps must be taken by both the central and the state governments to prohibit the distribution of *trishuls* and swords since, by these means, attempts are being made to arm civil society and prepare a section of Indian society to unleash violence against other sections; an altogether dangerous and fragile situation for peace and internal security in the country. The Tribunal recommends that the law and order machinery seize and confiscate, not merely in Gujarat but in all other parts of the country, the *trishuls* and swords which have been and are being distributed for the purpose of generating terror against other sections of the people.

The Tribunal observes that the distribution of *trishuls*, particularly to young men across the length and the breadth of the country, have nothing to do with the traditional practices of Hindu religion. Yet, through a government resolution, the central government has exempted the *trishul* from the purview of the Arms Act. The Tribunal recommends the withdrawal of this central government resolution, suitable amendments to the Indian Arms Act to include small but deadly weapons like the *trishul* and the seizure of all *trishuls* forthwith.

1.6. The government of Gujarat should crack down on the arms training camps being conducted by the RSS/VHP and BD, as these are breeding grounds for home-bred terrorists who propagate violence against sections of Indian society and hence pose a threat to internal peace and security.

1.7. The Tribunal recommends the arrest of, and immediate criminal action against, those guilty of violence and of incitement to violence in Gujarat, including politicians, policemen, administrative officers and all those named by the victims of the violence, as well as others who are guilty of dereliction of duty. (*The list of the accused so named is annexed separately*).

◆ We have evidence before us which discloses the direct complicity and active participation in the carnage, of the chief minister and other ministers; of leaders of the VHP and Bajrang Dal at the state and local levels; of the complicity of the then commissioner of police and several other policemen at the level of inspectors, sub-inspectors and the constabulary.

◆ Examination of the evidence also shows that elected representatives, including cabinet ministers, supported and led large unlawful assemblies that indulged in large-scale arson, loot, murders and other offences, including crimes against women.

◆ Our inquiry shows that the entire bureaucracy of the state, barring a few exceptions, exhibited a callous and culpable indifference to what was going on in the state from February 28 onwards. A former chief justice who appeared before us, summed up the situation succinctly. Constitutional law and authority stood suspended for seventy-two hours. No preventive measures were taken against the Hindu marauders. This attitude is inexplicable and unpardonable. Despite the presence of provisions for keeping peace and public tranquility in the Criminal Procedure Code, the provisions of the National Security Act, state laws providing for the preventive detention of anti-social elements or their externment and the provisions of the Unlawful Activities (Prevention) Act 1967, none of these were applied.

◆ Every one of these officers should face due procedure for this culpable indifference and be charged for utter incompetence and inefficiency.

◆ The chief minister and his cabinet colleagues should be dismissed forthwith, even from the caretaker status he and his colleagues are enjoying now.

◆ As many of our political parties increasingly reflect an absence of proprieties and non-adherence to the basic principles of democracy and the rule of law, there is need for a law defining the constructive liability of individual ministers and the political government collectively, when such gross crimes take place. This alone will enable people to hold their representatives accountable.

1.8. The Tribunal recommends the immediate detention and prosecution of Shri Praveen Togadia and Shri Ashok Singhal of the VHP, and Shri Narendra Modi of the BJP, who, repeatedly, and with impunity, do not merely incite communal hatred and violence against the country's minorities through their rabid armed cadres, in violation of sections 153A and B of the IPC and 295 etc. of the CrPC, which in themselves are serious enough offences, but also disrupt public peace and order, vitiate communal peace and harmony and create an atmosphere of insecurity, tension and active conflict.

1.9. The National Human Rights Commission (NHRC) noted the need to take firm action on provocative statements, which have the potential to incite communal tensions and violence. In its "Final Order on Gujarat dated 31st May, 2002", the NHRC has stated that it "had urged that these [statements] be examined and acted upon, the burden of proof being shifted to such persons to explain or contradict their statements."

1.10. The promotion of enmity between different groups on grounds of religion is a recognised criminal offence under Indian law. Indian Statutory Law also provides effective protection for the rights of minorities whether in Gujarat or in the rest of the country. The Indian Penal Code (IPC) prescribes criminal prosecution for "wantonly giving provocation with intent to cause riot" (section 153); "promoting enmity between different groups on grounds of religion" (section 153A); "imputations, assertions prejudicial to national integration" (section 153B); "uttering words with deliberate intent to wound the religious feelings of any person" (section 298); "statements conducive to public mischief" (section 505 (1), b and c); and "statements creating or promoting enmity, hatred or ill-will between classes" (section 505(2)).

1.11. The Judiciary is also empowered to initiate *suo motu* action, which it has been

loth to do in these circumstances. In addition, section 108 of the Code of Criminal Procedure allows an executive magistrate to initiate action against a person violating section 153A or 153B of the IPC.

1.12. The “Guidelines to promote communal harmony” issued by the Indian ministry of home affairs in October 1997, specify the precise responsibility of the state machinery when dealing with potentially inflammatory statements in the context of communal tension. Guideline 15 states that “effective will needs to be displayed by the district authorities in the management of such situations so that ugly incidents do not occur. Provisions in section 153A, 153B, 295 to 298 and 505 of IPC and any other Law should be freely used to deal with individuals promoting communal enmity.”

1.13. Besides, Article 20 of the International Covenant on Civil and Political Rights, which India ratified in 1979, affirms that “Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.” Despite the existence of these provisions, voluminous evidence relating to the Gujarat carnage shows that they have been violated. The executive, the law and order machinery and the judiciary have shown a marked reluctance to haul up offenders who are guilty of mass crimes.

1.14. The Tribunal recommends that the state government urgently provide adequate security to the sections of the Muslim population of Gujarat who wish to return to their original places of residence and business.

1.15. The Tribunal recommends independent investigation into cases relating to the Gujarat carnage under the direct supervision of the chief justice of the state. The CJ may also be requested to select the sessions judges and magistrates who should try these cases exclusively. Special courts should be set up to try the guilty. Inquiries must be instituted by the CBI against senior police officers and bureaucrats suspected of dereliction of duty.

(*Note:* Trials in the 1985 riot cases in Gujarat, registered against the then health minister, Shri Ashok Bhatt — one of those who sat in the police control room in Ahmedabad during the carnage in 2002 — and also against Shri Harin Pathak, are yet to begin, even after 18 years. The cases have been stayed in the wake of a High Court order. In the 60 cases registered against the 263 persons accused of faulty construction, leading to the death of nearly 800 people in the January 2001 earthquake, trial has still not begun in a single case, a year and a half later. This is a sorry record of the justice delivery system).

1.16. The impartial and swift prosecution of those guilty of violence, both in the Godhra massacre and in the incidents that took place throughout the state thereafter, would go a long way in building confidence in and in reestablishing the credibility of the state administration. Without legal and social justice, the issues of peace and the process of healing for the traumatised survivors, will, simply, not be addressed.

1.17. The establishment of a State Human Rights Commission in Gujarat is a matter of urgency and should be accomplished forthwith.

1.18. Suitable amendments need to be made in the existing laws relating to sexual assault, to incorporate the different kinds of sexual assault that occurred during the

violence in Gujarat. Testimonies before us narrate that there were numerous instances of gruesome sexual violence, which involved the insertion of a variety of objects into women's bodies, and sexual mutilation of all kinds. The existing definition of rape is totally inadequate to deal with the various kinds of rape that took place in the context of the genocide in Gujarat.

1.19. The Tribunal recommends the immediate suspension of, and action against, the district magistrates/collectors of Ahmedabad, Vadodara, Bharuch, and Himmatnagar since these officials have violated various laws and service rules.

1.20. Public prosecutors should be appointed by the chief justice and not the state government. There should be adequate representation of the minority communities among the public prosecutors. To this end, the Tribunal recommends an amendment to the CrPC, as has been made in the Civil Procedure Code with effect from July 1, 2002, to ensure that the appointment of public prosecutors is carried out by the chief justice of the concerned High Courts, in consultation with at least five judges. (At present, the appointment of government pleaders in all districts is being done by the state government in consultation with the district judge).

1.21. The Tribunal recommends the quick manning of police stations and relief operations by a sizeable and significant number of representatives from the minority community (*See chapter, Recommendations: Police*).

1.22. On account of the brutal manner in which people were attacked, killed and burnt across the length and breadth of the state, including residents of far-flung and hitherto 'unaffected' rural areas, many who were killed could not be identified. These could well be termed 'missing' persons, although they have all been killed. Formalities and paper work, and even post-mortem examinations have not been possible in many cases where bodies were destroyed without a trace. Therefore, as part of its wider duty, the state government should compile and declare a list of 'missing' persons and expedite the payment of compensation to family members who are eligible. In cities like Ahmedabad, Vadodara, Bharuch, Ankleshwar, Anand and elsewhere, victims deposing before the Tribunal complained of the completely indifferent attitude displayed by the administration, as a rule, in the matter of payment of compensation to victim-survivors and especially towards the relatives of the 'missing persons' who were mute witness to the brutal killing of their near and dear ones and, yet, have no proof (such as a post-mortem or any other record) of their deaths.

1.23. Many sections of the IPC, the CrPC and other laws pre-date the Indian Constitution and have not undergone a thorough revision, restructuring and orientation in keeping with the fundamental principles of democracy, equity, freedom and equality as contained in our Constitution. While the Constitution of India was framed in 1950, after India attained independence, our criminal laws date back to the colonial period and have not been modified to conform to constitutional provisions in many respects. Therefore, a new law, termed the National Human Rights Law, should be formulated to encompass a rights-based perspective. To this end,

- ◆ The provisions of existing criminal justice laws such as the IPC, CrPC and the Evidence Act should be suitably incorporated in the new law.

- ◆ A legal framework should be developed to institutionalise the rights of the victims of wanton violence to compensation and restitution from the state, along with relief and rehabilitation.

- ◆ A legal framework should be developed to enable the victims of violence to participate in conflict resolution.

- ◆ A legal framework should be developed to promote the rights of victims of violence and underdevelopment, and to ensure their right to humane treatment and humane development and governance in the light of the UN reports on human development and the Mahbub-ul-Haq Human Development Centre reports on humane governance.

- ◆ An independent monitoring system should be established, to monitor government operations in conflict situations and to ensure the rights of the conflict-affected communities to adequate protection, compensation, relief and rehabilitation.

1.24. Conflict-affected communities, and especially women and other more vulnerable sections among them, should be given a voice in determining the course of action to prevent, mitigate and resolve structural and political violence. Only by reversing the process of disempowerment engendered by structural violence and conflict, can sustainable strategies for development be achieved.

(Note: a) The newly enacted constitutional amendments to institutionalise Panchayati Raj Institutions (PRIs), empower the PRIs to deal with specific developmental functions but leave out regulatory and police functions. PRIs should be empowered to deal with police functions and the DM and the SP should be placed under the *Panchayat* chief in each district.

- ◆ The sections of the Commission of Inquiry Act that do *not* make the report of the commission statutorily binding on the government, need to be amended.

- ◆ Another is section 197 of the IPC, a provision that requires the government to grant sanction for the prosecution of persons spitting venom orally and in writing, in violation of section 153 A and B of the IPC. The Tribunal recommends the repeal of this section, which precludes any individual from criminally prosecuting persons for hate speech until the government has granted sanction.)

1.25. The Tribunal believes that no rehabilitation is possible unless the guilty are brought to book. Wherever the accused have been named, the government needs to take necessary action so as to instil confidence in the people and enable them to restart their lives. The Tribunal condemns all measures taken by the government to force compromises by pressurising victims to withdraw the names of the accused from police complaints. Instead the Tribunal demands that:

- ◆ Proper FIRs be registered and immediate action be taken. The police should collect and investigate forensic evidence.

- ◆ Wherever possible, searches should be conducted to recover goods that have been looted from people's homes or compensation be paid for the goods lost.

- ◆ In view of the extraordinary circumstances under which the crimes against women were committed, and the evidence that the state machinery was not accessible to

victims, there is a need to relax some normal requirements of the law to goad the legal process into swift and speedy action.

◆ Wherever plots of land and properties belonging to the minority community have been illegally occupied by Hindu villagers, as is the case in many districts and villages, urgent and immediate action needs to be taken to restore these lands and properties to their rightful owners. Before this, an urgent official survey, statewide, of such 'lost lands' needs to be undertaken at the earliest.

◆ Thorough procedures of investigation have been consistently ignored by the police. The culpability of police personnel, where they have failed to follow basic investigative procedures, should also be referred to the Grievances Authority. (*See chapter, Recommendations, Long Term: Police*).

◆ The Tribunal recommends that the police and courts taken legal cognisance of, even if retrospectively, of FIRs and complaints sent by victim survivors and affected communities, by registered AD immediately after the genocidal carnage, given the Gujarat police's criminal failure in accurately recording FIRs. Even though months have passed, this needs to be done.

1.26. The establishment and activities of peace committees in the affected areas should be encouraged. All efforts must be made to prevent further ghettoisation of the Muslim community. To this end, specific interest needs to be shown in the matter by the state government, civil society and the central government and by their respective agencies.

1.27. The government should take the necessary steps to restore confidence amongst all communities. The state government has not addressed the issue of the betrayal of trust by various sections of the administration and the consequent sense of extreme insecurity felt by the victims. So far, rehabilitation has been totally ignored by the state and central governments, and, to date, the government has treated the post-violence scenario solely as a matter of law and order and of maintaining the peace. It has also tried to sweep the enormity of the crimes committed under the carpet. Eight months after the attack on the Sabarmati Express, the towns and villages of Gujarat continue to simmer. The government, and the party that controls the government, should not indulge in any activity which undermines public confidence and harmonious relations between communities.

2. CENTRAL GOVERNMENT

2.1. In view of the breakdown of the constitutional machinery in Gujarat, and the patent, concerted and systematic challenge to the secular foundation of the polity; to the extent that it failed to protect the life, liberty, reputation and property of a sitting High Court judge as well as a retired High Court judge still in service of the government, both belonging to the minority community; to the extent that in the very heart of the commercial capital, the large-scale looting, arson, rape and killing to which the minority community was allowed to be subjected in a planned and systematic manner; to the extent that the entire criminal justice system is being polarised and perverted, the Tribunal recommends that, under the obligations enjoined on it by Article 356, the union government should immediately impose President's Rule and assure

the minorities of the safety and the security of their life, liberty, reputation and property. The present government, which is in power even after the dissolution of the Assembly, is an irresponsible government, not answerable to anyone. It is an anti-democratic government.

2.2. During President's Rule, stringent and extensive measures may be undertaken to de-politicise and de-communalise the bureaucracy and the police at all levels. The impartial and efficient functioning of the Gujarat administration and police force, must be restored in accordance with the provisions and injunctions of the Constitution.

2.3. The central government should ensure the criminal prosecution of those office-bearers in the Gujarat government who are found guilty.

2.4. The central government must end its apathy and impassivity towards the minorities and stop the present campaign against them, in the name of the so-called *Gaurav Yatras*, which are nothing short of a shameless exhibition of the perversion and glorification of crimes committed against the minority community.

2.5. The deliberate attempts to communalise the polity and to generate the politics of hate are bound to have both short term and long term impacts on national life as a whole. These impacts can be wished away but only at the cost of the unity and integrity of the nation. It is the solemn responsibility of the central government to keep the nation intact, a duty, which it has quite patently, chosen to ignore.

2.6. The centre should take a specific and special interest in measures of reparation, to enable the rehabilitation of affected persons. Adequate compensation should be given for the reconstruction of residential, commercial and industrial establishments that were damaged or destroyed. The relevant rules must be revised and the centre should provide the necessary financial support, to complete the task of reparation.

2.7. The centre must bring in a new legislation to implement the Genocide Convention, which India has signed and ratified, and must use these measures to prosecute and punish all those who participated in the planning and the execution of murder, sexual violence, theft and destruction in the state of Gujarat during the communal carnage. The Tribunal finds that the state sponsored crimes committed in the state of Gujarat are nothing short of Genocide and Crimes against Humanity. Hence the need to have a suitable legislative measure as required by the Genocide Convention.

2.8. The government should suitably amend electoral laws so as to disallow parties that espouse a particular religion, and which act or behave by word of mouth, print or in any other manner with a view to secure power through a religious policy, to contest elections to Parliament, to the Assembly, to the municipal corporation to Panchayats.

2.9. The government should appoint three high-powered commissions:

- ◆ To determine the extent of communalisation within the administration (bureaucracy) and to suggest various measures to remedy the situation so as to ensure a secular, independent administration.

- ◆ To determine the extent of communalisation of education and educational institutions, and to suggest various steps to ensure that future generations are not in any way communalised before they come out of the schools and colleges.

◆ To investigate and determine the activities of all organisations indulging in communal activities, to determine whether their activities are detrimental to the interests of the country.

On December 18, 1992, the UN General Assembly passed the Declaration of Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities under which States and Nations are bound to assure the basic rights, safety and cultural and religious rights of minorities. While the world was taking cognisance of the acute need to preserve the life, security and dignity of all minorities – given the violent ethnic conflicts that erupted in Europe involving minorities in this period— India, following the Babri Mosque demolition on December 6, 1992 and violent pogroms thereafter, launched into a phase in its history where the lives, security and faith of minorities have become increasingly endangered. Article 1, 2 and 4 of this Declaration need to be borne in mind. This Declaration, taking cognisance of Article 27 of the International Covenant on Civil and Political rights under Article 1, states that “1. States shall protect the existence and the national or the ethnic, cultural, religious and linguistic identity of minorities within their territories and shall encourage conditions for the promotion of that identity. 2. States shall adopt appropriate legislative and other measures to achieve those ends.” Article 2 states that “1. Persons belonging to National, Ethnic, Religious and Linguistic minorities have the right to enjoy their own culture, to profess and practise their own religion and to use their own language in private and in public freely and without any interference or any form of discrimination .2. Persons belonging to such minorities have the right to participate effectively in cultural, religious, social, economic and public life.” Article 4 states that “ States shall take measures to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.”

2.10. To ensure impartial assessment of damages, we call on the Indian government to bring in the UN Special Rapporteur on Violence Against Women as also the UN Special Rapporteur on Religious Minorities and other UN agencies for various treaties that India is signatory to, for investigation and assessment

3. UN/INTERNATIONAL COMMUNITY

3.1. Until that happens, and because national legal mechanisms are extremely inadequate to deal with crimes of this magnitude where state complicity of the very highest level has been found; and where there are no laws to deal with issues of genocide, sexual violence against women in these circumstances; and so on — there is an urgent need for international agencies to intervene and help in the process of justice for the victims of the Gujarat genocide.

Hence the Tribunal appeals to the International Community to use all the influence at its command with the government of India and the Gujarat government to ensure the speedy carriage of justice.

3.2. To impress upon the government of India, through its Parliament, to legislate mechanisms for the implementation of the Genocide Convention— which India has

both signed and ratified — and to use these mechanisms to prosecute and punish all those who participated in the planning and execution of murder, sexual violence, theft, and destruction in the state of Gujarat during recent months.

4. MEDIA

4.1. Action needs to be taken against those who gave provocative speeches on TV channels and made statements in newspapers, as well as against the newspapers and TV channels who have published the same, as well as those that published news and gave it a communal colour, as confirmed by the report and recommendations of the Editors' Guild of India. (*See Detailed Annexures, Volume III*)

4.2. The role of sections of the media, particularly the Gujarati language press, in spreading and inciting violence, should be investigated and all facilities provided to it, such as advertisements from public authorities and bodies, postal and transport concessions, credentials, entry cards and passes, should be withdrawn.

5. RELIEF & REHABILITATION

5.1. Restoration and repair of places of worship damaged and destroyed during the violence, in consultation with the community concerned.

5.2. Constitution of a tribunal for compensation/reparation to victims. This tribunal should have enough benches spread over an entire city like Ahmedabad and also have benches in the districts. The tribunal should be given clear guidelines for the assessment of compensation in respect of the losses suffered by every individual in the violence. The losses would include the loss of and damage to homes and belongings, the loss of life and injuries sustained, the destruction of or damage to businesses and the loss of means of livelihood, as well as the impact of sexual assaults on women and their relations. It is the view of the Tribunal that such tribunals (like those set up after the Dockyard Explosion in Bombay in 1944 by the colonial power at the time) should be set up without any further delay to restore a feeling of justice in the victims of the state sponsored carnage.

The benches of the Reparation Tribunal must have:

- ◆ the status of independent judicial authority to assess the losses suffered and to award and enforce the payment of compensation.
- ◆ specific time frames within which they should function.
- ◆ the necessary infrastructure to discharge their functions.

5.3. In the meanwhile, the victims should be rehabilitated on available land, including government land, at government expense.

5.4. *Survey of Damage to Life and Property:* The state government should immediately conduct a detailed survey to determine the loss of life, dignity, property, livelihood and business suffered by the victims and the compensation, if any, that has been given to them so far. The findings of the survey should be made public as was done at the time of the earthquake in 2001 . The findings should include:

- ◆ The manner in which the amount of Rs. 150 crores, provided by the central government as aid to ensure rehabilitation, has been disbursed.

- ◆ Detailed tabulations of the amounts disbursed as compensation for houses that were damaged or destroyed.

- ◆ A detailed survey of the affected persons and the manner in which they have been affected.

- ◆ The identification of destitute women and orphans.

- ◆ The tabulation of victim survivors who suffered serious injuries, including especially bullet and burn injuries, and payment of compensation-reparation to them. The amount that is paid should be ascertained on the basis of not simply compensation for the medical aid required for the injury itself, but from the cumulative impact of it, including loss of livelihood, physical handicaps suffered and the mental trauma that resulted.

5.5. Quick disbursement of Relief:

5.5.1. The government has put a low ceiling of Rs. 50,000 in assessment of the damage to houses. The vast majority of payments made are well below this amount; some assessments and surveys claim that the damages are as low as 5,000 and 10,000. A cursory glance reveals that in the majority of cases, the damages caused are much higher than the ceiling. In light of the almost uniform and extensive damage to houses and shops, a minimum of Rs. 50,000 should be given to all people whose houses and shops have been damaged. These payments should be made immediately, as minimum compensation pending detailed assessment by the tribunal as suggested above. There should be no ceiling on the compensation awarded.

5.5.2. The state, along with groups and organisations from among the affected community and civil society, should ensure that all those who were affected receive compensation.

5.5.3. The state should ensure that foodgrain rations reach the camps and, thereafter, also reach people from affected communities who have tried to rehabilitate themselves but still face the loss of livelihood and impending hunger and starvation because of the economic and social boycott being faced by them.

5.5.4. The rations provided should be adequate and camps should not be closed until the inhabitants are properly rehabilitated.

5.5.5. The state should take complete responsibility for the running and maintenance of the camps in a humane manner.

In particular:

- ◆ Adequate facilities must be provided to address the health needs of pregnant women and trauma therapy to all camp residents, particularly women.

- ◆ Adequate and nutritious food should be made available to all, and in particular to women and children. Lactating and pregnant women should be given extra attention.

- ◆ In the camps, provision should be made for adequate sanitation facilities, which allow for privacy and hygiene that are particularly important for women during the menstruation period.

5.5.6. Comprehensive health care, including counselling for trauma, should be provided on a regular basis and free medical aid should be given to all victim-survivors. In view of the trauma that the victims, especially women and children, have suffered, free medical aid, including psychiatric care, should be provided to them. As there has been widespread rape, including that of minor girls, special counselling by medical personnel as well as by social workers should be organised.

5.5.7. Surveys and *panchnamas* should be rapidly and properly conducted to ensure timely disbursement of interim and other relief.

5.5.8. Interim and other relief should be handed over to women and men of a family, jointly.

5.5.9. Ration cards and other identity cards should be provided to those who have lost such documents immediately.

5.5.10. Educational documents/certificates should be provided to those who have lost such documents immediately. Full protection should be provided to those who wish to return to their homes, and legal/ownership documentation should be provided expeditiously in cases where they have been destroyed.

5.5.11. The state should allocate land for people who want to shift from camps into safe localities of their choice, and a special rehabilitation package should be provided for widows, single women and female-headed households.

5.5.12. The government policy regarding compensation to heirs of ‘missing’ persons should be changed in view of the abnormal circumstances in which the people went ‘missing’.

5.5.13. A single window system should be established to complete all administrative formalities, including those concerning relief and rehabilitation.

5.5.14. Proper procedures should be laid down to ensure transparency and the right to information, and this should also apply to arrests, relief and rehabilitation measures.

5.5.15. Outstanding dues to managers of camps should be paid by government.

5.6. Economic rehabilitation needs to be undertaken on an urgent footing. Economic rehabilitation should not be equated with the interim relief. Although interim relief is crucial in the short term, the state has to address itself to the issue of long-term employment opportunities for those affected by the violence. The compensation and relief package announced by the government of Gujarat does not reflect the extent of losses sustained nor does it allow for a reasonable opportunity for economic rehabilitation. The compensation package does not take the ground realities into account and is, at best, mere token relief.

- ◆ The Tribunal recommends urgent and quick disbursal of interest-free loans for business through a single window clearance system.

- ◆ The Tribunal recommends quick disbursal of insurance claims.

- ◆ The evidence recorded by the Tribunal from different districts of the state reveals the depth of communal polarisation in different sectors, aided and abetted by the party in power in Gujarat. Small and big businessmen and traders who deposed before the Tribunal testified to the communal and partisan attitude of assessment

officers from the Oriental Insurance Company, and showed that even those who had insured their businesses and trades are being denied fair recompense by the insurance company. The government must look into this matter and take the guilty to task.

- ◆ Job opportunities for women and men should be encouraged by creating a pool of information, particularly for those on daily wages. The provision of small, interest-free loans for those wishing to set up *laaris* (handcarts), stalls and small shops or any other small businesses should be made.

- ◆ Steps should be taken to ensure education and employment opportunities for women of the minority community.

5.7. *Education/Children*

- ◆ Mass promotion of children who have not been able to take the annual and Board examinations should be made to ensure that they do not lose an academic year.

- ◆ School transfers should be provided without the insistence on formal transfer certificates, to facilitate the process of school transfers for those displaced by the violence;

- ◆ The Tribunal recommends the immediate withdrawal of textbooks in Gujarat and elsewhere, which distort history, sow communal discord and teach communal hatred.

- ◆ The genocide in Gujarat has had a serious impact on the young, their mental and physical well-being especially their schooling and education. Special attention needs to be paid to this tragic consequence of the violence on children to ensure how we draw these children back into the system. The government should encourage and facilitate creative, formal and non-formal interventions, governmental and non-governmental, to ensure this.

5.8 *Reparation, not compensation*

The devastation of a section of the population on a mass scale such as the one witnessed in Gujarat has to be distinguished from sporadic violence against a few individuals resulting in the loss of life and property. In the former, an attempt is made to uproot people through an organised plan, with the connivance and support of the state, with a view to wiping them out without a trace. In such cases, the usual compensation doles cannot recuperate the losses suffered by the people in question. What is needed is their complete rehabilitation, physically, psychologically and spiritually. In such cases, losses have to be calculated, not only in terms of the loss of men and material, but also in terms of the loss of human-self of survivors who have to be resuscitated as human beings and induced to start a new life by overcoming the trauma of the devastation. The cost of such a revival is inestimable. The loss of all that is near and dear, including the lives of close relatives, the complete defacement of past existence, the shattering of all dreams, hopes and aspirations, and the cruel uncertainties of the future are all that the survivor is left with. He or she has to live with it every moment of his or her life. What is needed in such circumstances is not mere rehabilitation of material existence but the dignified restoration of all the survivors in all aspects of societal life. Hence, what is needed to be

paid is not only compensation for the material loss but also the cost of reparation as a societal being. The government, therefore, is duty bound to assess these costs in human terms as well, while calculating the losses suffered by the victims.

6. CIVIL SOCIETY

Peace committees must be set up in all localities, including the unaffected ones. These committees should be involved in creating a conducive atmosphere for the victims to return home once their places of residence are reconstructed.

7. NATIONAL HUMAN RIGHTS COMMISSION

7.1. In compliance with Article V of the International Convention on the Prevention and Punishment of the Crime of Genocide, 1948, which India signed in 1948 and ratified in 1958, a state that is signatory is bound to effectively act upon and legislate upon the intents of the legislation. Our country has not complied with this requisite in the Convention although more than five decades have passed. The Tribunal has clearly held that the crimes in Gujarat were Crimes against Humanity and Genocide. To date, however, there is no law in force to ensure the punishment of those who are guilty of these crimes. Under the present political circumstances, the Tribunal does not expect either the state of Gujarat or the union of India to enact such a much-needed law.

7.2. Despite the fact that there is no law on genocide at present, the Tribunal holds that the Covenant on Genocide has become part of customary law, as it does not conflict with any other existing law. Such an interpretation of the law is imperative and binding on the NHRC. Such an approach would help the NHRC to conduct a detailed investigation into the crimes in Gujarat and submit a detailed report to the government and the nation. The facts narrated in the NHRC's Summary Report on Gujarat already add upto a *prima facie* accusation of genocide. The Commission has a present and urgent obligation to the people and a mandatory obligation to posterity to inquire into the Gujarat violence and record its findings so that no political party and no government in future ever resort to such brutal practices.

7.3. As part of this obligation, the NHRC must prepare a Model Statute on Genocide including provisions that allow for effective preventive measures to protect religious, ethnic and linguistic minorities from attack. This is mandatory because, under the International Criminal Code, genocide and crimes against humanity are declared as offences. State actors may not follow this but Human Rights Commissions set up by various countries will have to enforce them, however limited their jurisdiction may be. "Genocide is an attack on human diversity as such, that is upon a characteristic of the human status without which the very words 'mankind' or 'humanity' would be devoid of meaning" (Hannah Arndt). The carnage in Gujarat was nothing short of genocide and needs to be dealt with in a manner befitting the gravity of the offence.

Recommendations

Long Term

1. NATIONAL CRIMES TRIBUNAL

1.1. A Standing National Crimes Tribunal be established, forthwith, to deal with all cases of,

- Crimes against humanity, pogroms,
- Offences in the nature of genocide,
- Cases of mass violence and genocide,
- Cases of riots and incidents where there is large-scale destruction of lives

and property, including caste, religious, linguistic, regional, ethnic and racial violence.

1.2. A suitable Statute should be enacted for the purpose by Parliament

1.3. The Standing National Crimes Tribunal (SNCT) should be an independent body, the personnel of which should be selected by a committee consisting of the Chief Justice of India, the Prime Minister of India and the Leader of the Opposition in Parliament. Persons with legal and judicial background should be appointed on the tribunal for a fixed tenure of not less than 7 years.

1.3. The members of the SNCT should be free to follow such procedure as they may find fit notwithstanding the provisions of any other law.

1.4. The SNCT should have the power to investigate offences through its own investigating agency, created for the purpose. The SNCT should have, for its independent use, a special investigating and enforcing agency.

1.5. The SNCT should take cognisance of mass crimes as soon as they occur. Once the cognisance of such crimes is taken, no court should have the power to deal with them. The SNCT should dispose of these cases within a fixed time-frame.

1.6. The SNCT should have the power to arrest, try, and punish the accused, as well as to compensate, and rehabilitate the victims and their dependents.

1.7. Jurisdiction, Admissibility and Applicable Law

For the purpose of the statute to be enacted, “mass violence and genocide” should mean, as it does in the International Convention on *Prevention and Punishment of the Crime of Genocide*, any of the following acts committed with intent to destroy in whole or in part an ethnic, racial caste or religious group:

- ◆ Killing members of the group;
 - ◆ Causing serious bodily or mental harm to members of the group;
 - ◆ Deliberately inflicting on the group, conditions of life calculated to bring about its physical destruction in whole or in part;
 - ◆ Imposing measures intended to prevent births within the group;
 - ◆ Forcibly transferring children of the group to another group.
- In addition, the following acts should also be punishable under the proposed statutes:
- ◆ Genocide;
 - ◆ Conspiracy to commit genocide;
 - ◆ Direct and public incitement to commit genocide;
 - ◆ Attempt to commit genocide;
 - ◆ Complicity in genocide.

2. CRIMES AGAINST HUMANITY

2.1. Within the definition of crimes that fall under the definition of crimes against humanity, sexual crimes against women should be recognised as crimes against humanity. Sexual crimes should not include only rape in the conventional sense; but should also include sexual slavery, debasing, enforced pregnancy, enforced sterilisation, forcible insertion of any object into the vagina. The definition of crimes against humanity should also include attacks on the lives and dignity of a section of the people, attempted or actual obliteration of a section of the people, economic annihilation of a targeted section, as well as their religious and cultural obliteration.

3. GENDER CRIMES

3.1. The definition of rape and sexual assault under the new statute should recognise that it cannot be restricted to the act, or the proof, of the penis forcibly entering a woman's vagina. Any object used to abuse a woman's body, and even verbal assault should be considered a part of the same crime. The present laws of evidence and procedures involve medical examination of the victim as well as of the accused, as proof of such an assault. In situations such as that of mass rapes and gang rapes during the recent violence in Gujarat, this is an impossibility because in some cases, where the victims have fled for days on end if they have survived the assault at all, or where the police has refused to file any complaints, or have deliberately filed incorrect complaints, no accused may be apprehended. It is important that the onus of proof, in all such cases of mass and gang rapes, should rest on the accused and the victims should not be burdened with proof of the crime. The testimonies of the witnesses, in cases where women have been burnt or killed, have to be given due weight as those of the victims themselves.

3.2. In most cases, the accused might be unknown, or due to the presence of a large number of people, it may be difficult to identify the persons involved directly in the crime. In such situations, the state has to be held responsible for the crime, for not protecting its citizens. The persons holding responsible offices must be made accountable for the same.

3.3. The concept of justice has to be widened in such cases. It must deal, not only

with the punishment of those found guilty of the crime, but should also consider reparation for the women who suffered physical and mental injuries, since such assaults further curtail women's rights to be a part of mainstream social life, besides inflicting a damning long term impact on the coming generation. Precisely for this failure to protect the basic human rights of these citizens, the state has to provide reparation. Financial reparations are no doubt extremely important, but ought not to be seen as full compensation. Since all individual women are not in a position to register their complaints, reparation should be provided to all women of the affected community.

3.4. Women and witnesses who have come forward to give testimonies should be given adequate protection by the SNCT, holding the state and the offenders responsible and punishable for any harm that may be caused to them.

4. JUSTICE AND THE JUDICIARY

4.1. The near collapse of the criminal justice system in our country has made the deliverance of justice an exception rather than the rule. It is a painful reality and has to be acknowledged by all. Hence, when situations like the Gujarat carnage/genocide occur, where mass scale violence takes place, it is unrealistic to expect prompt justice from the present system. It has, therefore, become necessary to suggest a mechanism such as the SNCT above, with special composition, status, power and procedure. Section 11 of the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985 envisages such a tribunal.

5. SUPREME COURT

5.1. The Tribunal therefore recommends that all necessary steps including seeking direction from the Supreme Court and making a statutory recommendation to the government of India to (i) appoint such a Tribunal for fixing the responsibility for acts and omissions of officials and the political executive in the Gujarat carnage of February-March 2002, and to ensure that persons found derelict make restitution and reparation, and to ensure compensation for all sufferers in the violence (ii) enact a law on the Prevention and Punishment of the Crime of Genocide. (iii) Such a comprehensive law on riots and disorders should take into consideration detailed recommendations made by the National Police Commission, the NHRC and the NCM.

6. REHABILITATION

6.1 A long term and systematic plan should be worked out by the civic and town planning administrations in urban centres in Gujarat, with the assistance of the housing boards and housing financing authorities, to actively break the aggressive, violent and enforced ghettoisation of Gujarat's cities, especially Ahmedabad, Vadodara and the like. This can be ensured with adequate political and moral will, committed to the belief that enforced ghettoisation makes communities more vulnerable as target groups for mass violence and also actively prevents healthy interaction that breeds tolerance between communities.

The municipal authorities and the housing boards of cities in the state need to prepare plans that encourage mixed, inter-religious, inter-caste housing. This is vital for the future health of all sections of the population.

6.2. Provision of alternative housing to those who are not in a position to return to their old homes, and the formation of *mohalla* committees, to rebuild trust in mixed neighbourhoods, will also go a long way in the direction of rehabilitation.

6.3. Dissemination of accurate information about the Muslim community, including their comparative socio-economic development indices, statistics on bigamy etc., in an easily understandable form, will help prevent false propaganda against them.

6.4. Dissemination of information on the history of the struggle for independence, and the part played by the different communities, classes and tribes in the freedom struggle, will increase awareness about the contribution of all communities to the building of India as a nation and their deep interdependence on one another.

6.5. Recruitment of a non-partisan, gender-sensitive police force and bureaucracy, by building gender sensitivity and impartiality indicators into the selection process and following it up with periodic training programmes, is a must and must be followed strictly.

7. POLICE

7.1. Recommendations made by the National Police Commission [1979-81], in order to establish the autonomy of the police and free it from undue political control, should be accepted and implemented immediately, especially in relation to:

- ◆ the setting up of a composite State Security Commission to deal with, among other things, the selection of the police chief, to ensure his autonomy, independence and professional functioning, and to confer on him the fixity of tenure to remove fear of punitive transfer and to empower him to act within the ambit of his statutory authority;
- ◆ the evaluation of the performance of the police and receipt of complaints from police officials about illegal and irregular orders from above;
- ◆ recasting of the Police Act of 1861.

7.2. An independent Police Complaints Authority should be created, on the lines of the British model, to hear complaints from the public against police behaviour. In the recent violent incidents in Gujarat, a large number of complaints about human rights violations by the police had to be registered with the very same police authorities who had committed the violations in the first place, creating a very bizarre situation. The creation of an Independent Police Complaints Authority is essential to obviate such a situation in the future.

7.3. The Tribunal is of the view that it is the urgent need of the hour that law-enforcement be made impartial, effective and humane. For impartial law-enforcement, the functioning of the police must be independent of political direction and interference. Courses on human rights, the eradication of caste and communal prejudices, and humane riot control methods should be included

in the training programme for police and other law-enforcement agencies. Training of police personnel on the especially sensitive matter of dealing with communal violence is also necessary. The examination of video footage of telecasts by local TV channels as well as of police videos, should become mandatory, to identify and prosecute those found guilty of making provocative speeches/statements and indulging in acts of violence.

7.4. The social composition of all law-enforcement agencies should be diverse, wherein the presence of at least 25 percent of the personnel from among the minorities and women should be ensured. For this purpose, a study should be undertaken to assess the present representation of these categories in the police and the deficiency should be made up.

7.5. Recommendations of the Committee on Police Training, 1972, should be implemented, especially in relation to social justice and attitudinal reorientation of the police through appropriate training on social justice issues.

7.6. The need for the existence of centralised All India Services, such as the IAS and the IPS, should be examined in the light of increasing democratic decentralisation in the country. An Administrative Reforms Commission with a comprehensive mandate, should be set up to examine a gamut of issues that arise in this connection.

7.7. Official and NGO inquiries and investigative reporting by eminent persons have noted the partisan role of the police during riots. These reports include those of the Justice Madon Commission (1970), National Police Commission (1981), studies by Shri NC Saxena (1983) and Shri VN Rai (1996), and finally, by the Justice Shrikrishna Commission on the Mumbai riots (1992-93). (*See Detailed Annexure, Volume III*).

The extremely partisan role of the law-enforcement agencies has been generally attributed to the following four factors:

- ◆ A culture of governance which makes the police function as a subordinate body, carrying out orders and directions of the political executive.
- ◆ Deeply entrenched communal prejudices in the minds of a section of officials and police personnel.
- ◆ Social composition of the police and of the other wings of the law-enforcement and criminal justice system, wherein minorities are persistently under-represented.
- ◆ Lack of training in humane and effective mob control by the police. This is a state of affairs that needs to be rectified and rectified quickly. The Tribunal notes with anguish and concern that *no political party* has ever paid heed to the urgent need for radical police reforms. The Tribunal recommends that this be a matter that is debated and legislated upon with the utmost urgency. Let it not happen that more carnages take place and are condoned by the political class, simply because they lack the moral courage to initiate and push for an independent police authority in the country.

7.8. Legal provisions must be enacted to ensure restitution of rights and compensation to sufferers/victims of the riots. (The rationale and modalities for taking these measures have been discussed in the National Commission on Minorities Report on Communal Riots: Prevention & Control (1999).)

8. CIVIL SOCIETY

8.1. Joint forums of all social groups - castes, religions, etc. - should be created to discuss, debate and deliberate upon all matters of common concern.

8.2. Common festivals and festivities should be organised not only on national occasions but also to celebrate the special occasions of all religious groups.

8.3. Discourses should be held to educate people on the merits of each religion and the denigration of any religion should be statutorily banned and made punishable.

8.4. Mixed localities, housing complexes, housing societies, clubs, educational and recreational institutions should be promoted and social intercourse and interactions including voluntary inter-caste, inter-religious marriages should be encouraged.

Secularism and the Constitution

The preamble of our Constitution begins with the expression 'We, the People of India' and states that it is the 'People' who have *resolved solemnly* to constitute India into a Sovereign, Socialist, Secular, Democratic Republic and to secure *to all its citizens*,

- JUSTICE social, economic and political;
- LIBERTY of thought, expression, belief, faith and worship;
- EQUALITY of status and of opportunity;
and to promote among them all,
- FRATERNITY assuring the dignity of the individual and the unity and integrity of the nation.

Although the ideal of secularism was added together with that of socialism expressly in the preamble by the 42nd Amendment of the Constitution enacted in January 1977, it was implicit in the ideal of democracy itself, for there cannot be democracy when any section of society is discriminated against on any account – be it caste, religion, race, language, territory, sex etc. Equality in the matter of exercising all democratic rights and the absence of inequality among citizens on any account are the basis of a democratic regime. Secularism is thus the basis of democracy and a non-secular state cannot be democratic. Consequently, communalism, or the practice of discrimination against any individual or group of individuals in any form, in any walk of life is undemocratic and unconstitutional.

'We, the people of India' does not further mean 'We, the Hindus' much less, 'We, the upper castes or the upper class'. It means the people of all castes and religions, the rich and the poor, those living in the plains and on the hills, in Kerala as well as in Kashmir and the North-East. The Constitution does not confer special favours on any social group or deny any rights to any group. Further, it is all the people of this country who have accepted the Constitution and pledged themselves to constitute this nation into a democratic, socialist and secular state. Not the Hindus, the Brahmins, the Kshatriyas and the Vaishyas alone.

Social, economic and political justice, the liberty of thought and of expression, belief, faith and worship, the equality of status and of opportunity and the dignity of

the individual as declared by the Constitution are to be ensured to all, irrespective of the social group to which they belong. Likewise, the fundamental rights are conferred on all and the directive principles have to be operational for the benefit of each and every individual in the country.

Of particular significance in this connection are the fundamental rights enshrined in Articles 14, 16, 19 to 22 and 25, 26, 27, 29 and 30. Together, they ensure equality before law, equality of opportunity for education and employment, equal civil rights and liberties, equal freedom of conscience and of opportunity for all to profess, practice and propagate one's faith and religion and also the right to the religious and the linguistic minorities even to run and manage their own educational institutions.

The fundamental duties laid down in Article 51A are further binding on all citizens and none can ignore them. Of particular importance are the duties:

- ◆ to abide by the Constitution and respect its ideals and institutions;
- ◆ to uphold and protect the unity and integrity of India;
- ◆ to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and sectional diversities;
- ◆ to value and preserve our rich heritage and composite culture.
- ◆ and to develop the scientific temper, humanism and the spirit of inquiry and reform.

In spite of the aforesaid express provisions of the Constitution, a section of Indian society continues to believe that the country belongs exclusively to those who profess the religion of the majority, namely, the Hindu religion, and that those belonging to the other religions are aliens in this country. This way of thinking is further sought to be spread, and deepened and perpetuated even by resorting to violence. What is dismaying is that even among the so-called educated sections of society and those belonging to the economically higher strata, many have become a party to this irrational belief and attitude, either due to sheer ignorance, or on account of the mistaken notion of superiority of their religion and of the inferiority of the other faiths, or, due to some acquired prejudices or selfish reasons of their own.

It is therefore necessary to remind this section that Muslims and Christians in this country are as much of Indian origin as are the Hindus. About 95 per cent of the Muslims and 99 per cent of the Christians of today are those who were originally Hindus and had voluntarily embraced their respective religions, even while the rest might have been converted forcibly or under duress. The higher castes and the higher classes embraced these religions to seek pelf, power and position under the regimes of the time, while the lower castes, who formed the vast majority, did so to escape the tyranny and exploitation of the caste system and of the rituals prevalent in Hinduism. Faiths like Buddhism, Jainism and Sikhism were born as revolts against this very tyranny, inequality and inhumanity.

Recent archaeological finds and other historical data confirm that Indian civilisation and culture began with the Dravidian alias Sindhu civilisation, which was one of the most ancient and advanced civilisations of the world. It is the Dravidians who are the

original inhabitants of this land, and not the Aryans who came from the North about 1,500 years after the Dravidian civilisation had already been fully established, and was at the peak of its progress. The Aryans were a semi-nomadic, semi-barbaric and pastoral tribe when they arrived in this land around 1,500 BC. They raided the Dravidians who were traders and agriculturists and who had settled on the banks of the river Sindhu, Harappa and Mohenjodaro being their major centres of settlement. The Aryans raided not once but several times over a period of years, massacred and looted the Dravidians and abducted their female and male children, the former for marriage, the latter to serve in their armies. The peaceful Dravidians, who do not seem to have had any standing armed force, fell an easy prey to the semi-barbaric Aryans and fled mainly to the South.

Later, as happened in the case of some of the other raiders on this land such as Huns and Shaks, the Dravidians and Aryans assimilated with each other. The present Indian population has thus a mixed racial composition. That is why this country has always been looked upon as a land with a composite culture. The massacres, loot, and abductions of the natives were not new to this land, which was always vulnerable to the raiders and the marauders from abroad, for a variety of reasons that need not be gone into here. The point to be noted is that almost all the people of this country today have been inhabitants of this land for centuries. None is an alien and none can claim purity of race. Accidents of history, the exploitative and tyrannical caste system, the selfish and intolerant attitude of the privileged classes, the rise of indigenous rebellious religions like Buddhism, Jainism and Sikhism, the arrival of religions like Judaism, Christianity and Islam from abroad and the embracing of all of them by the natives — all these have contributed equally to the distribution of the inhabitants of this land among various religious communities and sects. This distribution is not a division and is certainly not one between natives and foreigners. Non-Hindus are as Indian as are the Hindus of various castes and sects.

Communalism

Before the Partition of the subcontinent on religious lines, the total population of this country was about 30 crores, of which about 8.50 crores were Muslims and. It is not necessary to consider here the population of the Christians, Sikhs, the Jains, the Buddhists, the Jews or the Parsees. Today, India has about 84 crore Hindus and 12 crore Muslims. India has the second largest population of Muslims in the world, next only to Indonesia; Both Pakistan and Bangladesh are behind India terms of the size of the Muslim population.

What exactly forms the basis of a nation is certainly a fascinating subject for discussion. But that need not tempt us to digress from the main issue here. Suffice it to say that religion, though a major factor, is neither a necessary nor always a bonding element. History is replete with instances of intra-faith wars between the Hindu kingdoms, the Christian nations and the Muslim states and of violent conflicts between different sects of the same religion. When Hindu kings and Muslim kings fought with

each other, their armies had sizeable proportions of Muslims and Hindus respectively, even as commanders and chiefs of their armies. While Hindu India and Hindu Nepal were never one nation, Muslim Bangladesh separated from Muslim Pakistan within a quarter of a century after a bloody war, mainly on the question of language. Besides, the lapse of 55 years after Partition should not allow us to forget that the Muslims in Pakistan and Bangladesh have the same legacy of the original Dravidian civilisation as have the Hindus, Muslims and others (except Parsees) of this land.

In this connection, it should also not be forgotten that Hindus have never been a united community. The different castes, particularly the higher castes and the lower castes, have been in continual conflict with each other and unfortunate incidents of violent attacks against each other occur frequently even today. Yet, it is a fact that the two-nation theory based on religion came to be propounded and the partition of the country was eventually effected on that basis.

Who were the proponents of the theory?

In 1923, Shri VD Savarkar, then associated with the Hindu Mahasabha and who later became its president, propounded his thesis of *Hindu Rashtra (Hindutva)*. According to this thesis, all Hindus were tied together by the bonds of a common fatherland, ties of blood, a common culture and civilisation, common heroes, common history and, above all, the will to remain united as a nation. Further, according to him, culture was inextricably linked to territory and the membership of the Hindu nation depended upon the acceptance of India *both as Fatherland and Holy Land*. This excluded Muslims and Christians who look to Mecca and Jerusalem respectively as their Holy Land, although Shri Savarkar did not deny that they looked upon India as their fatherland. In defining Hindu nationality, further, he underlined the importance of *Hindutva*, a religious, racial and cultural entity in which Hinduism as a religion formed a part of the whole.

The thesis, besides being divisive, is ahistorical and unscientific. The obvious flaws, to state only a few, are that all the original inhabitants of the land have common blood. But if blood is to be distinguished by religions or other social grouping, then there are no common ties of blood on account of the pernicious caste system. Consequently, there is also no common culture and civilisation. The lower castes were hardly ever allowed to play their role in the making of history. Their gods and heroes have also been different. The caste system has always prevented social unity and even interaction and exchange among the Hindus and also among those who carried the caste system with them when they converted into other religions. As regards the heroes of the same castes, Rama and Ravana who are depicted as the enemies of each other by one of the two great epics of the Hindus, namely the Ramayana, they are both worshipped, in the north and the south respectively. According to this thesis, Indians living abroad can no longer look to this country as their Holy Land, while the Buddhists in other countries who look to Bodh Gaya as their Holy Land should be considered aliens in their own countries.

As regards the willingness to live together as a nation, this begs the question. No people desire to be torn away from the soil and the surroundings in which they have been born and grow up unless they are denied the elementary right to live with dignity as human beings. Constant insecurity of life, the denial of equal status and opportunity, discrimination in the social, political, economic and cultural life of the nation and threats to their distinct language, faith, religion or culture alienate sections of society from the mainstream of national life. Every nation has within it more sub-social groups than those based on race, religion, language etc. It is for the major national group, which is in a position to dictate and dominate, to see that no social group is discriminated against in any walk of life on any grounds. No nation is planned. It emerges out of the feeling of togetherness, which is created by common hopes and aspirations, common apprehensions and a common stake in progress and prosperity. Bonds of unity and fraternity are to be built by chords, which have to evolve and grow from within. They cannot grow when sectarian forces attempt to keep the people apart for one reason or another. The responsibility to keep a nation together lies with the majority, by allowing no scope for the generation of any feeling of alienation within any social group; instead, the majority should take all steps to foster the sense of unity and integrity.

Further, while defining the meaning of the word 'Indian', Shri Savarkar has obviously and completely ignored the Dravidian civilisation. According to his criteria, India will not be one, but many nations. Incidentally, those like Shri MA Jinnah and others, who promoted and propagated Pakistan, also claimed this factor, among others, on the grounds that there were no common heroes, no common culture, civilisation and history and no common Holy Land.

In a conference held in Lahore in 1940, the Muslim League passed a resolution calling for the formation of a separate state of Pakistan for the first time, although the concept of Pakistan was left vague, with no definite formulation of territorial boundaries. The demand for partition was, of course, based on religion, with Muslim majority territories being grouped together as a nation. Some of the reasons for this demand were the same as those sanctified by the Savarkar thesis, which was mentioned earlier.

During alien colonial rule, communal forces from both the major religious groups, namely, Hindu and Muslim, did not participate in the freedom struggle, and while Muslim communalists welcomed the formation of Pakistan when it was announced, Hindu communalists maintained a strategic silence. However, it was ultimately a Hindu fanatic who, consumed with rage at the partition of the country, assassinated Mahatma Gandhi while holding him responsible for this partition. While riots between the two communities did erupt during the course of the freedom struggle, rocking the country from time to time, Partition triggered off a wave of violence — loot, arson, rape and massacre — unprecedented in the history of the world. The large-scale communal clashes resulted in the loss of no less than five lakh innocent men, women and children on both sides. The bitterness born during the pre-partition riots became venom-

ous after the carnage in the days that immediately followed Partition. However, due to adroit handling of the situation by the leadership of the country at the time, the country soon witnessed the restoration of peace and the gradual harmonisation of relationships between the two communities. Were it not for the wisdom and foresight displayed by the committed and secular statesmen who led the nation then, this amazing feat would indeed have been impossible to perform within such a short time.

However, the riots that took place just before and after Partition, and the carnage that was witnessed then, fed communal forces in both communities and have kept their fires burning until today – always awaiting an opportunity for conflagration. Over the last 55 years, the smallest incidents, whether actual or rumoured, have been used as pretexts by which to fuel riots at one place or another. These years have also witnessed pre-planned and organised attempts by communal forces to disturb age-old peaceful and harmonious relations between the two communities in various places, which had withstood the test of time despite much provocation elsewhere in the country. Vested interests on both sides appear to concentrate on keeping communities divided, and the conflicts and tension between them constantly alive, and to thrive at the cost of the innocent men, women and children of both the communities.

The only persons who have benefited and are benefiting from the communal conflicts are firstly, the priests and the *pundits* and the *mullahs* and the *maulvis*. Not only does their livelihood depend on their respective religion, but their status, power and position are equally sustained by it. The priest of every religious group is an uncrowned king of his followers. His word is law and his preaching is the last word in wisdom. His interpretation of the religious text is final and his pronouncements are the ultimate authority on every subject. He is interested in expanding the empire of his followers and maintaining its identity strictly distinct from the others. Any blurring of distinction between his followers and the others is perceived as harmful to his interests, and he loses no time in raising the alarm of ‘religion in danger’ the moment he apprehends or imagines any intrusion in, or encroachment on, his regime.

Another class of people who have always benefited from communal disharmony is politicians, who look upon followers of their religion as their vote banks. Any harmony between different religious groups is detrimental to their interests. They have, therefore, no interest in bridging the gap between communities, but have, in fact, a positive stake in ensuring that it remains as wide as possible. When they have no issues, policies or programmes to offer the electorate, or when they are not interested in these issues, or when they want to divert people’s attention from the real issues, which they are either unable to solve or the solutions of which are likely to affect their own interests, they resort to the easiest path, namely, an appeal to the religious sentiments of the people to garner votes. This phenomenon is particularly common among politicians who have nothing in common with the people and their problems. Like the priests, they succeed in misguiding their ignorant co-religionists in the wrong direction and towards the wrong goals, which are against the interests of the people themselves. The capital asset of both priests and politicians is the ignorance of the

common man, who is caught up in the humdrum of daily life and burdened with its strains. He falls as easy prey to appeals to his religious sentiments, which are manipulated by priest and politician for their selfish purpose. So far, that is how both these groups have succeeded in stoking the flames of communal hatred, bias and prejudice and in triggering violent clashes whenever convenient to them. The blame for such misuse of the ignorance of the masses lies squarely on the responsible sections in society who have so far failed to educate the people on proper lines.

Religious fanaticism among the people also has its source in the constant preaching and actions of communal organisations. Since they are interested in sharpening the differences between religious groups, it is in their interest to make their followers hard-boiled, unreasonable and passionate followers of a manipulated form of the religion concerned, a form which is, in fact, farthest from the actual tenets of the faith. That is why it is a common feature, observed in every religious group, to unite whenever the 'religion in danger' slogan is raised. Priests and politicians vie with each other in mobilising people around this slogan, and they persevere in keeping the slogan alive all the time. This fostering of fanaticism is, of course, facilitated by the ignorance and the lack of awareness amongst the people. That is why vested interests have a stake in keeping ignorant as many people as possible and for as long as possible. This is the reason for their insistence on fundamentalist and fanatical notions and on following strictly every word handed down to them by the religious texts, custom and tradition. Any attempt at a scientific inquiry into these texts and traditions is not only frowned upon and resented, but those who attempt it are socially boycotted, persecuted and often even physically eliminated. Fundamentalism and fanaticism thus continue to thrive, inspite of the advances made in science and technology.

Secularism

Inspite of the clear declaration in the Constitution that this country shall be a secular state, the Hindu communal forces in the country have always preached that the country can only be a Hindu state and has to be governed as such. Those who insist on its secular character have been derisively nicknamed pseudo-secularists by them. To buttress their contention, they argue that while others have been following and supporting policies and measures to appease the minorities, particularly Muslims, they alone preach true secularism by insisting that no special favours be bestowed on the minorities.

It therefore becomes necessary to examine the concept of secularism as is understood and accepted in this country and interpreted by the Supreme Court. The historical context in which the concept of secularism was born and therefore the meaning it bore initially were different from the present context and the usage it has come to acquire today. The conflict between the King and the Church, which was ultimately resolved in favour of the former, formulated the well-known proposition: "Render therefore unto Caesar the things which are Caesar's; and unto God, the things that are God's." What this meant was that secular activities are the exclusive preroga-

tive of the government while spiritual activities were the business of the Church, and that one would not interfere with the activities of the other.

Once religion was divorced from the business of state, the state ceased to be identified with any particular religion or its practices, and the religion (Protestant or Catholic in the specific historical context) that the individual king or queen practised varied with the incumbent of the office. Thereafter, the open hostilities against and the harassment and persecutions of those who professed and practised the tenets of a religious order other than that of the ruling king or queen ceased. The persecution of rival religions or sects had also its own unsavoury history as a backdrop to the ultimate affirmation and the triumph of the principle of the observance of secularism in the governance of the state. As a logical corollary, all religions and sects were treated equally with their followers free to profess, practice and propagate their faith.

The undisturbed and unhindered practice of one's faith later came to be recognised as a part of fundamental human rights — the freedom of conscience and also the right to freedom of speech and expression. Both these rights are basic to any meaningful scheme of democratic rights of the people and one cannot think of any democratic regime without them. A nation which enthrones any particular religion as the religion of the state not only relegates the other religions and religionists to a secondary status, but also negates the basic tenet of democracy in that it denies them the equality of status and of the rights so essential to democracy. It disqualifies itself from being a democratic nation.

There are at present two different modes of practising secularism. In the USA, a leading secular state, the state keeps itself equidistant from all faiths and does not favour even giving grants to educational institutions where religious prayers are recited. On the other hand, the secular practice accepted in this country, which is also endorsed by the interpretation of secularism given by the apex court, is different from the US variety. In India, instead of equal indifference to or equal distant from all religions as in the USA, we follow the principle of equal favours or equal protection to all religions, sects and faiths. Whether a religion is of the majority community or of the minority, is immaterial for the secular state, all religions being treated as equal and no religion or religious practice being adopted by the state in the governance of the country.

We have been following this meaning of secularism in all our state affairs, since the inception of our Constitution. In fact, this was the concept of secularism advocated and promised to all sections of our society during the freedom struggle, and even before Independence, this was the way the then elected provincial governments administered the country. It is strict adherence to this concept of secularism that prompted the then national leadership to reject the two-nation theory as well as the demand to make this country a theocratic state by adopting the religion of the majority, namely, the Hindu religion as the state religion. People belonging to different religions, sects and faiths could come together to struggle for freedom because of this promise by the leadership of the then dominant national political party, namely, the Indian National Congress. The secularism of the kind we have been practising in this country has thus

been an article of faith with us, and not a mere provision in the Constitution. It is also an essential part of the basic structure of our Constitution. The defiance of secularism in any manner, by word or action, is thus a defiance of the Constitution itself.

The persons who met in the Constituent Assembly knew too well that they would have to deal with a conflict-ridden, pluralist society. So they provided for secularism as a value. The major inarticulate premise of the constitutional scheme has been secularism until the 42nd Amendment to the Constitution, when it was made explicit as one of the objectives. Secularism as a concept came into existence during periods of early capitalism, as a response to the misery inflicted on the poor by unregulated working conditions. In fact, the dictionary defines secularism as a doctrine that morality should be solely based on regard to the well being of humankind in the present life to the exclusion of all considerations drawn from a belief in God or in a future state. Secularism was later eclipsed by the emergence of Socialist thought.

Thus secularism is included in the objectives set out in the Preamble, the Article pertaining to abolition of untouchability, bonded and child labour and almost all of the Directive Principles in the Constitution. This is how the Supreme Court defined Secularism in the crucial SR Bommai case, a decision rendered in the backdrop of the Ayodhya controversy. Now that ethnic claims and conflicts abound all over the world there is a necessity for the world body to bring forth an International Covenant on secularism in plural societies within states.

The refusal to see any good in others, the claim of the superiority of one's faith and the inferiority of other faiths, the all-out attempts to maintain separate identities, the anti-social policy of exclusiveness and the irrational interpretation of traditions and a strict adherence to the religious texts, all tend to thwart the development of the scientific temper and the spirit of inquiry, which in turn prevents individual and social progress. Mankind today needs the acceptance of an all-embracing humanism, not sectarian indoctrination. A religion bereft of humanism is no religion at all and a religion which preaches humanism can never be sectarian.

The Accused – I

Policemen & Bureaucrats

List of policemen and civil servants as named by witnesses:

Chief secretary, Subha Rao
Home secretary, Ashok Narayan
DGP K Chakravarty

AHMEDABAD

Top officials named: 1) Commissioner of police, PC Pandey, 2) Collector, K Srinivasan, 3) Chief secretary, Subha Rao.

Gulberg society, Chamanpura: 1) Commissioner of police PC Pandey, 2) PI (Police inspector) KG Erda, Meghaninagar Police Station.

Naroda Gaon and Naroda Patiya: 1) DGP, K Chakravarty, 2) Commissioner of police, PC Pandey 3) PI KK Mysorewala, 4) PSI Parikh, 5) SRP-G II Saijpur bough, Police Head Quarters.

Gomtipur: 1) Inspector Modi, 2) Inspector Parmar, RAF (while on duty at Shamsar Bag, Gomtipur), 3) PSI Modi (Gomtipur Police Station), 4) PI Patel (Amraiwadi Police Station).

Naroda Fruit Market: 1) PSI Yadav, 2) PSI Chavda, 3) PI Jadeja, 4) PI Barot..

Paldi: 1) DCP (Deputy commissioner of police) Parghi, 2) PSI Birja.

Vatwa: 1) DCP, KC Patel, 2) PI Singh, 3) PI Damod, 4) Jagdish Patel, Home guard.

Ellis Bridge: 1) PSI Yadav, 2) PSI Chavda, 3) PI Jadeja, 4) PI Barot, 5) PSI Yadav, 6) PSI Chavda 7) PI Jadeja.

PANCHMAHAL DISTRICT

Top officials: 1) Superintendent of police (SP) Raju Bhargava. 2) *Mamlatdar* Bakor, 3) *Mamlatdar* Lunavada.

Malav, Kalol, Panchmahal: Kalol Police Station.

Mora, Morvad Hadap, Panchmahal: 1) SI Mora, 2) SI Damod, 3) Constable Nawat Singh, 4) Constable Mafatlal.

Babaliya, Panchmahal: 1) Khanpur Police Station 2) SP, Raju Bhargava.

Mora village, Morva Hadap: 1) PSI Mora, 2) PSI Damod; 3) Constable Nawat Singh 4) Constable Mafatlal.

Dailol, Kalol: 1) Khanpur Police Station, 2) Mamlatdar Bakor, 3) Mamlatdar Lunavada, 4) SP, Raju Bhargava.

PATAN DISTRICT : *Top officials named:* 1) SP, I Jadeja, 2) DySP, Harikrishna Patel , 3) Collector, JC Rathod.

Ghasiavas, Radhanpur taluka: Police Post, Ghasiawas.

DAHOD DISTRICT : *Top officials named:* SP I Jadeja.

Sanjeli: 1) SP I Jadeja, 2) Sanjeli and Dahod police, 3) Kalol police Station.

BHARUCH DISTRICT : *Top officials named:* 1) SP Manoj Antani 2) DySP Shastri, 3) DySP Harikrishna Patel, 4) Collector, Smt Anju Sharma.

Bharuch City: 1) SP Manoj Antani, 2) PI GM Chawda, 3) Home Guard Bharat Sunderlal Bhatia, 4) Home Guard Deepak Samardas Rana, 5) DySP Harikrishna Patel.

Ankleshwar/GIDC: DySP (Deputy superintendent of police), Shastri.

Rajpardi village: 1) PI Ninama, 2) Jhagadiya Police Station.

VADODARA DISTRICT

Top officials named: 1) CP DD Tuteja, 2) Collector, Bhagye Shah.

Wadi Taiwada, Vadodara city: 1) PI PP Kanani 2) DCB staff.

Bavamanpura, Vadodara city: 1) PI Katara, 2) PI Kanani.

Raghovpura, near Tarsali, Vadodara city: PSI Vadalia.

Kisanwadi, Vadodara city: 1) PI PP Kanani 2) DCB staff.

Machchipith, Vadodara city: 1) PI NK Rathod, 2) MS Patel, Raopura Police Station, 3) PI Bhagirathsinh Jadeja 4) PSI Rao, ECO cell station, 5) Kanu Patel, Karelibaug Police Station, 6) Fatehsinh Patel, Karelibaug Police Station.

Bajwa, Vadodara city: PSI Sarvaiya

Tejgadh, Vadodara: 1) PSI Pandya, 2) Tejgadh police station.

Ajwa Road, Aalishan Apartments No. 2, Vadodara city

1) Hemraj R Parmar, Panigate Mobile Unit.

Borsali Apartments, Bahar Colony and Sabina Park, Vadodara city

1) PSI Parmar, Panigate Police Station.

SABARKANTHA DISTRICT: *Top officials named:* 1) SP, Nitiraj Solanki.

MEHSANA DISTRICT: *Top officials named:* 1) SP, Anupam Gehlot, 2) Collector, Amrutlal Patel.

RAJKOT DISTRICT : *Top officials named:* 1) CP, Upendra Singh, 2) Collector, PN Patel.

The Accused – II

Politicians & Others

List of politicians as named by the witnesses:

Chief minister, Narendra Modi
Minister for home, Gordhan Zadaphiya
Minister for revenue, Haren Pandya
Minister for health, Ashok Bhatt
Minister for transport, Narayan Laloo Patel
Minister for forests, Prabhatsinh Chauhan
Minister for cottage industries, Ranjitsingh Chawda
International general secretary, VHP Praveen Togadia

List of others as named by the witnesses:

AHMEDABAD

Gulberg Society, Chamanpura, Ahmedabad

- 1) Girish Prabhudas Sharma (26), Patni society, Chamanpura.
- 2) Dinesh Prabhudas Sharma (23), Patni society, Chamanpura.
- 3) Ramesh Choti (30), Asha Trading, Patni Nagar society, Chamanpura.
- 4) Kapil (22), petrol pump near Swami Narayan Mandir, Babusingh Madhesinh society, opp. Gulberg society, Chamanpura., belongs to Bajrang Dal.
- 5) Suresh Alias Kali Dhobi (22), Babusingh Madhesinh society, Opp. Gulberg society, Chamanpura.
- 6) Narayan Tonk alias Kabra – Channelwala (40), Gheewali Chali, Chamanpura.
- 7) Bharat Lakshman Rajput, he lives behind Ramji Mandir and works behind Dr. Sultan's Dispensary, Chamanpura.
- 8) Surendra (22), Dr. Gandhi Chawl, Chamanpura.
- 9) Krishna (son of Champabehn), Dr. Gandhi Chali, Chamanpura.
- 10) Lala Mohanji Darbar; Dr. Gandhi Chali, Chamanpura.
- 11) Sushil Brij Mohan Sharma (26), resident of Ramchandra colony, Takri, Chamanpura.
- 12) Poona Singh Rajput (40-42), works in Arvind Mills; a Congress (I) activist; resident of Opp. Gheewali Chawl, above Ramlal Uttamchand, Chamanpura.

- 13) Manish Prabhudas Jain (25), Owner Raja Kirana Store, resident of Dr. Gandhi Chali, Chamanpura.
- 14) Dharmesh (20), son of Ram Achal Pathak; Resident of Chandulal Chali, Chamanpura.
- 15) Gabbar; son of Mandan Jhingar; resident of Babusingh Madhesinh Chali, Opp. Gulberg society, Chamanpura.
- 16) Chunnilal Prajapati (55), ex-municipal corporator, from BJP, resident of Mohanlal Wadi, Chamanpura.
- 17) Mehsingh Dudhsinh Chaudhary (45), an advocate and ex-municipal corporator of the Congress.
- 18) Jagrup Sinh Rajput (48), an advocate and ex-deputy mayor of Ahmedabad, Navi Chali, Om Nagar Road, Chamanpura.
- 19) Dayaram Mochi; living in Bungalow No. 1 and Ashok alias Jhingar; resident of Bungalow No. 1, Gulberg society, Chamanpura.
- 20) Mangal Jain (32), owns the Adhinath Kirana Store, opposite Chamanpura Pumping Station.
- 21) Dilip Suraj Bali; Ramchandra Colony, Near Water Tanker, Chamanpura.
- 22) Naresh Krishnadas Brahmania, Talati Nagar, Near Rohidas Bus Station, Block No. 32, Talati Nagar.
- 23) Lakhia (27), lives in Block 55, Talati Nagar.
- 24) Girish Alias Kalia (25), lives near Rohidas bus stop.
- 25) Dhobi Kailash, lives in Gopal Nagar.
- 26) Madan Mochi's son, Gabbar.

Naroda Gaon & Naroda Patiya, Ahmedabad

1) Dr Jaideep Patel (Gujarat state joint secretary,VHP); 2) Rana 'Telecom'; 3) Mayaben Kotdani, (BJP MLA); 4) Bharti *behn* (BJP corporator); 5) Anita *behn* (BJP corporator); 6) Vallabh (BJP MLC); 7) Ashok (BJP MLC); 8) Jai Bhagwan (Gangotri apartments); 9) Naresh; 10) Chotta; (accused nos. 8-10 are local level BJP/VHP workers); 11) Sunil Jaratha; 12) Sunil Patel; 13) Pochia Dada; 14) Suresh aka Sarezad; 15) Manilal Thakore; 16) Padumal Patel; 17) Bipinbhai Patel; (Bipin Auto Centre), 18) Shureshbhai Chhara; 19) Uddchhara Mekda; 20) Jay Harijan; 21) Vijay Harijan bhaiyya; 22) Harish Lakshmanbhai Koshti (Shiv Sena leader); 23) Manoj Lakshmanbhai Koshti (Shiv Sena leader); 24) Bhav Daruwala (*Sarpanch*); 25) Vijay Dada (Shiv Sena leader); 26) Bharatbhai Rabati (Shiv Sena leader); 27) Anil Madrasi; 28) Arvind C Mali; 29) Popat Vaghri; 30) Raju Ambetwala; 31) Dineshbhai *Cyclewala*; 32) Dr.. Parmar.

Accused named in separate incidents in Naroda area: 1) Vasant Rathod, 2) Solanki, 3) Guddu Chhara, son of Mukesh Jiwanlal Banya (local level BJP/VHP worker), 4) Ratilal, son of Bhavani Singh 5) AMTS driver, Mungna Chhara 6) Murli Naran Sindhi, 7) Satish Mahadik 8) Bipin Panchal Sindhi, owner, Uday Gas Agency, 9) Praveen Modi, 10) Langda Chhara, 11) Natarajwala Sindhi, 12) Sangeet 'Furniturewala Sindhi'. 13) Ratilal, 14) AMTS driver Mungna Chhara, 15) Owner, Manoj Video.

Naroda Fruit Market, Ahmedabad

1) Gordhan Zadaphiya (Home minister), 2) Babu Zadaphiya, 3) Revenue minister, Haren Pandya, 4) BJP MLA, Ashok Bhatt (for inciting arson and destruction at Naroda Fruit Market).

Vatwa, Ahmedabad

Leaders/politicians: 1) Principal Navneet Patel, 2) Keshubhai *Sabziwalla*, 3) Babubhai Patel, 4) Mahesh Patel (Bajrang Dal), 5) Girish Pandya (BJP corporator), 6) Amita Patel (BJP corporator).

Vandarva Talav, Ahmedabad

1) JP Pandey, 2) Hardevgiri Vanraj, 3) Ranio Ishwar Vaghri, 4) Sushil Panwla, 5) Baldev, 6) Jitu, 7) Darmesh 'TVwala', 8) Rana Shanker Nai 'Talav Kinarawalla', 9) Sankar, 10) Vijay, 11) Guddu, 12) Sunil Panwala, 13) Ramesh Dudhawala, 14) Nikul, 15) Babu Pande, 16) Ramesh Dadhi, 17) Jitu Darbar, 18) Mahesh 'Darji', 19) Millan 'Dabhwala', 20) Ramesh Bhia (security guard of Rajdeep Estate) and others.

Bachubhai no Kuvo, Ahmedabad

1) Rajesh, 2) Prem Prabhdhayal Pal, 3) Om Prakash 'Langdo – pakodiwalla', 4) Samshir Yadav, 5) Mahesh Chhotabhai Patel, 6) Raju Sabjiwala, 7) Sunil Ram Kaival, 8) Panday and others.

Bismillanagar and Burhani society, Ahmedabad

1) Ashvinkumar Rao of Dharmabhumi society and others. (Complainants do not know the names of the other accused but they recognise the faces of all.)

Rosni Row house, Ahmedabad

1) Paresh Daruvala Chunara, 2) Ketiyabhai, security guard of Maruti Cargo, 3) Arun Patel, 4) Mahesh Patel (builder) of Narol, 5) Kanti Chunara and others.

Jahidsa Pir ni Dargah, Ahmedabad

1) Kausik Patel, 2) Mahesh Patel, 3) Kirit Patel, 4) Kishan Patel, 5) Sambhbhai Patel 'Wireman', 6) Mahendrabhai (member of Bajrang Dal) and others.

Navapura, Ahmedabad

1) Mahesh Chotabhai Patel (Bajrang Dal leader), 2) Suresh Chunara, 3) Babu Chunara, 4) Ramesh Yadav, 5) Mahendrasingh Zala, 6) Magan Patel (Manibhai na Kuvawalla), 7) Harishbhai, 8) Rameshbhai Zala, 9) Ashok Singh, 10) Shobharam Singh, 11) Jignesh Bhavsar, 12) Rashik Vanad, 13) Parag – Patil Lakhel ('Tata Sumowala'), 14) Chirag 'Yamahawalla' (bike no. 4444), 15) Jayantibhai, 16) Jago of Chunaravas, 17) Sitaben Chunara, 18) Soniben Chunara, 19) Santosh Chunara, 20) Ranchhod Chunara, 21) Pradeep Chunara.

GIDC, Ahmedabad

1) Subriyam, 2) Vaudev, 3) Sivkhalisingh, 4) Raju, 5) Vasudev Pande, 6) Manoj (*Indawalo*)-Leader, 7) Iswer Rabari, 8) Bharat Bhavrad, 9) Gullsingh, 10) Kalalkar, 11) Papu *Hajam*, 12) Bhola Pandit, 13) Kalicharan.

Paldi–Ellis Bridge, Ahmedabad

1) Revenue minister, Haren Pandya, 2) BJP MLA Ashok Bhatt, 3) *Bhartibehn* (BJP corporator) 4) *Anitabehn* (BJP corporator) and other VHP leaders and activists from Paldi area.

PANCHMAHAL DISTRICT

Pandharwada, Panchmahal

1) *Sarpanch* Anil Modi (BJP), 2) Mahendra Vakil, 3) Jaswant Manilal Patel (BJP), *taluka*

panchayat pramukh, Khanpur, 4) Pramilal, 5) Arvind Patel, 6) Mansukh Bhai, 7) Chamunda, 8) Sanjay (VHP district president, Panchmahal).

Pandharwada (farm massacre), Panchmahal

1) Pramilal, 2) Jaswant Manilal Patel, 3) Arvind Patel, 4) Mansukh Bhai Chamunda and 5) Sanjay, (VHP district president, Panchmahal) 6) Mahendra Vakil (also involved in first massacre in Pandharwada)

Anjanwa, Panchmahal

Minister for forests, Prabhatsinh Chauhan (BJP).

Malav Gaon, Kalol, Panchmahal

1) Dilip Babu Shah 2) Ulhas Daya Patel.

Dailol, Kalol taluka, Panchmahal

1) Arvind Singh Ranjit Singh Thakore (owner, tempo, no. KJ17 X 5838), 2) Mehta Hitesh Kumar Jayantilal (owner, Mehta photo studio at Bakor), 3) Jayantilal Parma Bhai Patel (Gangta), 4) Panchal Mohan Bhai Soma Bhai (Naroda, runs hotel), 5) Bharat Singh Ranjit Singh Thakore (Tarakdi, owner, tempo no. GJ17 T 7121), 6) Bhagvan Bhai Sabur Bhai (*sarpanch*, Koyla village), 7) Babubhai Patel 'Yoka', 8) Nareshbhai Patel (owner, commander jeep no: GJ17R92), 9) Kanku Bahen Dalabhai (Gangta, runs hotel at bus stand), 10) Malivad Nanabhai Bhurabhai (runs hotel near Ganga petrol pump), 11) Patel Rameshbhai Bhaga Bhai (driver of private vehicle), 12) Vikram Nagar Solanki and others.

Dailol, Panchmahal

BJP minister Pratapsinh Chauhan

Dailol (highway crime, 13 slaughtered), Panchmahal

1) The manager of People's Bank, JP Shah, 2) Owner of Vijay Talkies, 3) Jaggubhai and others.

Mora village, Morvad Hadap taluka, Panchmahal

1) Amrishbhai Panchal (BJP *mahamantri*), 2) Bipinbhai Bhoi (BJP), 3) Kantilal Rana (BJP), 4) Vinod Ambalal Bhoi (Bajrang Dal, president), 5) Vikrambhai Dindod (BJP, Rajasthan), 6) *Sarpanch* *es* from the tribal villages of Veramya, Suliath, Mora, Deloch and Rajaita, 7) Dayabhai Gangabhai (Khudra), 8) Chandubhai Sohanbhai (Chandpur), 9) Vinodbhai Chandubhai (Chandpur), 10) Jaswantsingh Jagalbhai (Chandpur), 11) Manglabhai Parsingbhai (Chandpur), 12) Prajapati Dineshbhai Ranchhod, 13) Bhavsar Hiteshbhai Ambalal, 14) Harijan Kanji Mansukh, 15) Nigora Lakshman Abhesingh.

(These accused have also been named by victim survivors from other villages for different crimes in Panchmahal and neighbouring Dabod district.)

Kuvajar, Morvad (Hadap) taluka, Panchmahal

1) Vinu Budha Patel, (next to Shreeji Tiles Factory, Vejalpur, *taluka* Kalol, *zilla panch*), 2) Amarsinh Budhabhai Patel, (Next to Shreeji Tiles Factory, Vejalpur, *taluka* Kalol, *zilla panch*), 3) Santosh Rama Vaghri, (Vaghriwad, Tejalpur, *taluka* Kalol), 4) Anand Rama Vaaghri, (Vaghriwad, Tejalpur, *taluka* Kalol), 5) Girish Varia Kanti Kantawala, (Kheda *falia*, Vejalpur; *taluka* Kalol), 6) Dharmendra Jadav, (Godhra Highway Road, Vejalpur, *taluka* Kalol) 7) Holo Barot (Garagewala, Bahar *faliu*, Vejalpur, *taluka* Kalol). 8) Saratsingh Daulat (Kuvajar), 9) Rana

Balwant (Kuvajar), 10) Arjan Bharat (Kuvajar), 11) Jaswant Singh Ramsingh (Chaupur), 12) Shauka Hira Parmar (Chaupur), 13) Babu Bhavsingh Vanjara (Khudra), 14) Amarsingh Patel (Khudra), 15) Jaswant Ramsingh Patel (Chandpur), 16) Prabhat Ramsingh Patel (Chandpur), 17) Himmatbhai Ramsingh Patel, 18) Himmatsingh Navalbhai Nayak (Khudra), 19) Rajesinghbhai Kanjibhai, 20) Sesingh Sardarbhai, 21) Dashratbhai Rawesingh, 22) Samatsingh Amarsingh Patel, 23) Kiran Abhesingh, 24) Samatsingh Manji, 24) Narsingh Khatra.

Eral village, Kalol taluka, Panchmahal

1) Rajubhai Vithalbhai Talati, 2) Purshottambhai Gordhanbhai Parmar, 3) Ganabhai Chandubhai Parmar, 4) Bhailalbhai Maganbhai, 3) Narendra Singh Chandulal.

Vejalpur, Kalol taluka, Panchmahal

1) Vinu Budha Patel (next to Shreeji Tiles Factory, Vejalpur, *taluka* Kalol, *zilla panch*), 2) Amarsinh Budhabhai Patel (Next to Shreeji Tiles Factory, Vejalpur, *taluka* Kalol, *zilla panch*), 3) Santosh Rama Vaghri, (Vaghriwad, Tejalpur, *taluka* Kalol) 4) Anand Rama Vaaghri, (Vaghriwad, Tejalpur, *taluka* Kalol), 5) Girish Varia Kanti Kantawala, (Kheda *falia*, Vejalpur; *taluka* Kalol), 6) Dharmendra Jadav, (Godhra Highway Road, Vejalpur, *taluka* Kalol), 7) Holo Barot (Garagewala, Bahar *faliyu*, Vejalpur, *taluka* Kalol).

(*These accused have also been named by victim survivors from other villages for different crimes in Panchmahal and neighbouring Dahod district*); 8) Mukesh Devidas Jaswani aka Gungo, (Sindhi Bazar, Vejalpur), 9) Rajeshbhai Vensimal Jaswani aka Sindhi, (Sindhi Bazar, Vejalpur), 10) Rajesh Ballu Jaswani, aka Sindhi, (Sindhi Bazar, Vejalpur), 11) Rakesh Nagindas Soni, aka Sindhi, (Sindhi Bazar, Vejalpur), 12) Bharat Vensimal Jaswani, aka Sindhi, (Sindhi Bazar, Vejalpur), 13) Prakash Urshandas Aswani, 14) Amit Sheth aka Rana, (*panchayat* member).

Babaliya village, Panchmahal

1) Arvind Singh Ranjit Singh Thakore (owner, tempo, no. KJ17 X 5838), 2) Mehta Hitesh Kumar Jayantilal (owner, Mehta photo studio at Bakor), 3) Jayantilal Parma Bhai Patel (Gangta), 4) Panchal Mohan Bhai Soma Bhai (Naroda, runs hotel), 5) Bharat Singh Ranjit Singh Thakore (Tarakdi, his tempo no. GJ17 T 7121), 6) Bhagvan Bhai Sabur Bhai (*sarpanch*, Koyla village), 7) Babubhai Patel (Yoka), 8) Nareshbhai Patel (Has Commander jeep no: GJ17R92), 9) Kanku Bahen Dalabhai (Gangta, runs hotel at bus stand), 10) Malivad Nanabhai Bhurabhai (runs hotel near Ganga petrol pump), 11) Patel Rameshbhai Bhaga Bhai (driver of private vehicle), and a crowd of 250 under the leadership of the above-mentioned accused

Limkheda, Panchmahal and Piplod Road, Dahod

1) Rameshkumar R. Chandana (*sarpanch*), 2) Shailesh C. Bhatt; 3) Mitish C Bhatt; 4) Pradip Ramanbhai Modhia, 5) Naresh Ramanbhai Modhia, 6) Govind Hukam Rawal, 7) Jaswant Rawal, 8) Gopaldas Babulal Shah, 9) Shreepal Ajablal Jain, 10) Vikas Subhash Jain, 11) Gopal Dama Rawal; 12) Govind Varsing Bilwad; Radheshyam B. Shah (lawyer), 13) Ashish B. Shah, 14) Bhagubhai Kuvar Shah; 15) Kesar Khima Vahomia; 16) Rajukant Modhia (came with jeep no. 3605), 17) Mukesh Pawar Vanjara; 18) Umeshkumar Shah (doctor), 19) Maukabhai Mansingh Guniji; 20) Raju Chhagan Harijan; 21) Shankar Chhagan Harijan; 22) Mafat Moghilal Prajapat; 23) Harshad Kantilal Patanwadia; 24) Natu Dala Parmar; 25) Bharat Raval; 26), Dave Raju Magan Maharaj; 27) Khicha Vahomia; 28) Pankajkumar Naran Luhar; 29) Ashok Naran Luhar; 30) Raju Karan Vanjhara; 31) Mangalbhai Mogilal Prajapati; 32) Pradyumbhai Majisaivik (came in car no. GJ-17-7-5728), 33) Gopal Prakash Modhia; 34) Jignesh Prakash

Modhia; 35) Dilip Manalal Darji; 36) Vijaykumar Ramanlal Modhia; 37) Harish B. Shah; 38) Manish B. Shah; 39) Kambhai Lalit Bairyawala (tailor), 40) Dilip K. Chandana; 41) Kanti Kadakia Shilot; 42) Lakshman Bhabor (Dasana), 43) Natu Dhirsingh Sangada; 44) Bharat Dhirsingh Sangada; 45) Kambhai Master (Dasa), 46) Padamsingh Labana Bandibarwala; 47) Kamleshkumar Manharlal Dave; 48) Pramukhkumar Bhagabhai Dabgar; 49) Rajubhai Babulal Soni; 50) Mahesh Suvalal Shah; 51) Budhabhai Shamabahi Bilwad; 52) Umeshkumar Gopikrishan Shah; 53) Nileshkumar Anadilal Shah (teacher), 54) Rajeshkumar Anandilal Shah. *(All the above 54 are residents of Randhikpur)*, 55) Jaswantbhai Patel (Chhapan Road, *taluka* Limkheda came in his car; 56) Mahendra Driver Chhapanwad came in car, car No. GJ-17-C-2853), 57) Narsingh, *sarpanch* Dhamanbhai.

DAHOD DISTRICT

Jhalod, Dahod

Preparation for attack/conspiracy: The leaders of the BJP from Jhalod named by the local people are: 1) Bhagwan Panchal, 2) Agnesh Panchal, 3) Bhavesh Babubhai Katar (son of the MP), 4) Subhash Agrawal, 5) Sunil Agrawal, 6) Kaloobhai Sangada, 7) Chhagan Bhunatar (ex-corporator), 8) Narainbhai (from Limli), 9) Mukesh Karnawat, 10) Dalsukh Maharaj, 11) Mukeshkumar Nandkishor Purohit, 12) Shankar Labana, 13) Maheshbhai Bhuria, 14) Suresh Charal, 15) Ramanbhai Admat Khutawala (*sarpanch*) and others.

Private Firing: Subhash Makhanlal Agrawal, Bhavesh Babulal Katara, Gopal Makhanlal Agrawal, Kirit Makhanlal Agrawal, Mukesh Makhanlal Agrawal, Suresh Charel, Balji Patel, Rajni Patel.

Randhikpur, Dahod

Accused of gang rapes and the murder of 14 family members: 1) Shailesh Bhat, 2) Raju Soni, 3) Lala doctor, 4) Govind Nana, 5) Jaswant Navi, 6) Lalo Vakil, son of Bhagu Kuverji, 7) Kesar Khima, 8) Baka Khima Vasava (*all from Randhikpur*).

(These accused have also been named by victim survivors from other villages for different crimes in Panchmahal and neighbouring Dahod district).

Arson in Randhikpur: 1) Rameshkumar R. Chandana (*sarpanch*), 2) Shailesh C. Bhatt; 3) Mitish C. Bhatt; 4) Pradip Ramanbhai Modhia; 5) Naresh Ramanbhai Modhia; 6) Govind Hukam Rawal; 7) Jaswant Rawal; 8) Gopaldas Babulal Shah; 9) Shreepal Ajablal Jain; 10) Vikas Subhash Jain; 11) Gopal Dama Rawal; 12) Govind Varsing Bilwad; 13) Radheshyam B. Shah (lawyer), 14) Ashish B. Shah; 15) Bhagubhai Kuvar Shah; 16) Kesar Khima Vahomia; 17) Rajukant Modhia (came with jeep no. 3605), 18) Mukesh Pawar Vanjara; 19) Umeshkumar Shah (doctor), 20) Maukabhai Mansingh Guniji; 21) Raju Chhagan Harijan; 22) Shankar Chhagan Harijan; 23) Mafat Moghilal Prajapat; 24) Harshad Kantilal Patanwadia; 25) Natu Dala Parmar; 26) Bharat Raval; 27) Dave Raju Magan Maharaj; 28) Khicha Vahomia; 29) Pankajkumar Naran Luhar; 30) Ashok Naran Luhar; 31) Raju Karan Vanjhara; 32) Mangalbhai Mogilal Prajapati; 33) Pradyumbhai Majisaivik (came in car no. GJ-17-7-5728), 34) Gopal Prakash Modhia; 35) Jignesh Prakash Modhia; 36) Dilip Manalal Darji; 37) Vijaykumar Ramanlal Modhia; 38) Harish B. Shah; 39) Manish B. Shah; 40) Kambhai Lalit Bairyawala (tailor), 41) Dilip K. Chandana; 42) Kanti Kadakia Shilot; 43) Lakshman Bhabor (Dasana), 44) Natu Dhirsingh Sangada; 45) Bharat Dhirsingh Sangada; 46) Kambhai Master (Dasa), 47)

Padamsingh Labana Bandibarwala; 48) Kamleshkumar Manharlal Dave; 49) Pramukhkumar Bhagabhai Dabgar; 50) Rajubhai Babulal Soni; 51) Mahesh Suvalal Shah; 52) Budhabhai Shamabahi Bilwad; 53) Umeshkumar Gopikrishan Shah; 54) Nileshkumar Anadilal Shah (teacher), 55) Rajeshkumar Anandilal Shah. — *all named in the FIR who are residents of Randbikpur* and 56) Jaswantbhai Patel (Chhapan Road, *taluka* Limkheda, came in his car; 57) Mahendra (driver) Chhaparwad, came in car No. GJ-17-C-2853), 58) Narsingh, *sarpanch* Dhamanbhai --from outside.

Piplod, Dahod

Arson: 1) Ketan Parikh, 2) Prithvi Puwar (*sarpanch* of Guna village), 3) Bhuderbhai Mulabhai (*ex-sarpanch*), 4) leader of Salia Manubhai Valabhai (*Taluka pramukh*), 5) Pradipbhai Manabhai, 6) Sunil Rameshchandra Soni.

Sanjeli, Dahod

Among the accused identified by the villagers are also many who were responsible for the brutal attacks against Christians in 1998. The accused named here are: 1) Dalsukhdas Maharaj, 2) Mukesh Nandkishor Purohit, 3) Jagdish Premchand Jain, 4) Dimple Occhavlal Desai, 5) Vijaysinh Dalpatsinh Raolji, 6) Prakash Jagannath *Dhobi*, 7) Ramchandra Ghanshyam Agrawal, 8) Digvijaysinh M Chauhan, 9) Vaktabhai Salabhai Khant, 10) Chandubhai Prajapati, 11) Ramesh Maharaj (Nenki *Sarpanch*), 12) Shankar Kotha Prajapati, 13) Bhopat Luna Prajapati, 14) Chadiya Ghala Harijan, 15) Prakash Shomabhai Raval, 16) Popat Somabhai Raval (driver), 17) Mansingh Ravat (Picchhoda), 18) Shashikant Mahida, 19) Pardhibhai Kamabhai Marel, 20) Dalsingh Bhagabhai Marel, 21) Tajsingh Bhundabhai Marel, 22) Ashok Bhoi. 23) Rajubhai Vithalbhai Talati, 24) Purshottambhai Gordhanbhai Parmar, 25) Ganabhai Chandubhai Parmar, 26) Bhailalbhai Maganbhai, 27) Narendra Singh Chandulal, 28) Dilip Babu Shah, 29) Ulhas Daya Patel, 30) Dalsukh Maharaj (VHP Marg Darshak Mandal).

KHEDA DISTRICT

Mehmdavad

1) RSS, VHP and Bajrang Dal, 2) Pankaj Bhai, 3) Vinod Bhai Patel (BJP), 4) *Sarpanch* of Kheda town.

PATAN DISTRICT

Ghasiavas, Radhanpur, Patan

1) Shankarbhai Lakdhirbhai Chaudhri (Arbuda Society; MLA Santalpur, Radhanpur), 2) Pravinbhai Thakkar Mahalakshmi (Radhanpur; chief of the Radhanpur *taluka* BJP), 3) Prakash Keshavlal Thakkar, who is known as Prakash '*Dakshini*', 4) Doctor Rawal, hospital in Lalbaug, 5) Kanubhai Deri, 6) Vinod Kumar Goklani, 7) Satishbhai Thakkar, sells dish antennae, 8) Thakore Ajmalbhai Abhabhai (Chalwada, *taluka* Radhanpur). 9) Bharatkumar Kalyanji Thakkar (Dandia suburb, Radhanpur; business: Ambika Electronics, Lalbaug, Radhanpur), 10) Ratilal Vyas, vice-chief of Santalpur *taluka panchayat*. (Varahi). Also other residents of Radhanpur city and *taluka*, a mob of more than 700 VHP, Bajrang Dal, and RSS members, 11) Sukhadia Bakulkumar Pannalal (Gogasheri, Radhanpur). 12) Shankarbhai Lakdhirbhai Chaudhri (Arbuda Society), 13) Pravinbhai Thakkar Mahalakshmi, (Radhanpur), 14) Prakash Keshavlal Thakkar,

alias Prakash Dakshini; 15) Doctor Rawal, whose hospital is in Lalbaug; 16) Kanubhai Deri, who is a former corporator..

The accused have been accused under IPC, sections 147, 148, 149, 307, 427, 436.

ANAND DISTRICT

Ode, Anand

1) Harish Valabhbhai, 2) Nantubhai Sana, Anand 3) Basant Poonambhai, 4) Lalabhai Bakoor bhai. *Leading the mob were:* 5) Dilipbhai Valabhbhai Patel, 6) Chotobhai Ranabhai Patel, 7) Prakashbhai Jamnadas Patel; 8) Hemand Kumar Rathod. *Also in the mob were:* 9) Ghanshyambhai Ambala, 10) Devendrabhai Harshadbhai Patel, 11) Prakashbhai Jashbhai Patel, 12) Dilipbhai Sanabhai Patel, 13) Girishbhai Somabhai Patel.

MEHSANA DISTRICT

Visnagar, Mehsana

1) Daya Purushottam, 2) Babubhai Purushottam, 3) Ramesh Daya Madhabar, 4) BJP MLA Prahlad Ghosa (*supplied arms*).

VADODARA DISTRICT

Wadi Taiwada, Vadodara city

1) Sandip Bhonse, 2) Mukesh D. Sirsagar, 3) Hitesh R. Dhomse, 4) Bharatesh Desai (RSS).

Bavamanpura, Vadodara city

1) Jayanti 2) Satya.

Hajimiyan ki Sara, Baranpura, Vadodara city

1) Ishwar Machhi, 2) Soni Bhooria, 3) Dr Thakore Patel, 4) Vimal Thakur, 5) Bhaya Mochi, 6) Bhuriyo Soni, 7) Ramesh Mochi, 8) Hardik, 9) Maniyo, son of Ranjeet, Chobdar Mohalla.

Roshannagar (Tulsiwadi/Hathikhana), Vadodara city

1) Umakant Joshi (ex-mayor), 2) Kanubhai Panwala, 3) Narendra Pandya s/o Parvati, 4) Rajubhai Kuberbhai, 5) Suresh Sharma STD *walla*

Machchipith, Vadodara city

1) Ajay Dave, (Leader of BJP), 2) Niraj Jain, (leader of Vadodara chapter of VHP), 3) Baka Brahmbhatt (a factory owner in GIDC, Makarpura), 4) Milind Ambegaonkar (Shikshan Samiti, VMC).

Vadsar Road, Vadodara

1) Manoj, 2) Yogesh, 3) Maradi 4) Mr. Shrimali.

Shivshakti Nagar and Indiranagar, Vadodara

1) VHP and the Bajrang Dal, 2) Nattubhai

Makarpura, Vadodara

1) Dayabhai Prajapati, 2) Naresh Sharma 3) A.P. Singh (all residents of Indiranagar, D group), 4) Raju Vishnu More, 5) Lotan Patil, Hiralal Lotan Patil, 6) Sanju Marathe (residents of Narayan Nagar), 7) Dilipsingh Jethisingh Raj (resident of Tulja Nagar), 8) Ramanand R Yadav, 9) Sahebrao Patil (residents of Shreeji Nagar), 10) Shyam Vishnu

More, 11) Sanju Marathe (driver) (*residents* of Ghanshyam Nagar). *Others from Maretha involved were:* 12) Sanabhai Thakur, 13) Ishwarbhai Thakur, 14) Narayanbhai Thakur, 15) Sureshbhai Chotabhai Thakur, 16) Mansinghbhai Jethabhai Thakur, 17) Nilesh Bhogilal Patel, 18) Chimanbhai Tribhovanbhai Thakur.

Best Bakery, Dabhoi Road, Vadodara

1) Jayanti 'Chaiwala', 2) Mahesh, 3) Munna, 4) Sanjay Thakkar, 5) Santosh Thakkar, 6) Jagdish Rattiwala, 7) Dinesh Bakeriwala, 8) Shanabhai.

Noor Park, Tarsali, Vadodara

Accused in Salim Memon's murder: 1) Raju Bangri (of Adarsh Nagar, a Bajrang Dal leader), 2) Alpesh (Bajrang Dal), 3) Jagdish Patel (ex-Sarpanch of Tarsali and BJP member), 4) Amar Ghanti, 5) Raman Ishwar Dishwala, 6) Raju Thakore & 7) Anil Tailor (both of Vijay Nagar).

Accused for rioting and arson: 1) Raju Thakore, 2) Jasbhai Patel.

Vishal Nagar, Tarsali, Vadodara

Accused in Iqbal Hussain and Nasir Hussain's murders

1) Narendrasinh Solanki (BJP, *taluka panchayat* member), 2) Sunil Bhoieto, 3) Ajit Kalia (of Vishal Nagar), 4) Sunil Patel (of BJP), 5) Sudhir Meldi, 6) Pradip aka Padiyo, 7) Kallo Jaiswal, 8) Bhupendra, 9) Ravi, 10) Dharmendra, 11) Kanchia, 12) Manish Gurkha (all of Vishal Nagar)

Raghovpura village, near Tarsali, Vadodara

1) *Sarpanch* Shantilalbhai Patel

Gotri village, Vadodara

1) Ghanshyam Brahmabhatt (BJP worker), 2) Kanchanben Barot (BJP councillor), 3) Bhailal Parag Patel 4) Dilip Bhagat Patel.

Kisanwadi, Vadodara

1) Vishnu Prajapati, 2) Kishore Marathi, 3) Santosh Hajam, 4) Jogi, 5) Chandrakant, 6) Uma, 7) Dhamma, 8) Rahul, 9) Karia, 10) Jayanti, 11) Pappu, 12) Subhash, 13) Natu, 14) Chandu Plumber, 15) Ramesh 'Stickervalla'.

Indiranagar, Karelilbaug, Vadodara

1) Shankar 2) Pinto.

Roshannagar-Ashapuri, Navayard Cabin D Area, Vadodara

1) Pradip Joshi (councillor, Ward no. 12), 2) Bharat Shah (councillor), 3) Rajubhai, 4) Dilipbhai 5) 'Painter'.

Amarnagar, Navayard, Vadodara

1) Kanu Acharya, 2) Kamlesh Gandhi 3) Pradip Joshi (councillor) 4) Raju Vaghela.

Das Patel ni Chaal, Sardarnagar, Navayard, Vadodara: 1) Dilip Keria.

Ektanagar, Navayard, Vadodara: 1) Pradip Joshi (councillor).

Fatehgunj, Vadodara

1) Gopal N Rabadi, 2) Mahendra N Rabadi, 3) Ashoo Dubey 4) Guddu Dubey.

Sama, Vadodara: 1) Pradip Joshi (BJP councillor).

Atladra, Vadodara

1) Arunaben Pandya, 2) Yogesh Patel, 3) Hari Krishan Patel 4) Nikeshbhai G Patel.

Bajwa, Vadodara

1) Jagdish Patel, 2) Dhirubhai Patel, 3) Jagdish Armanbhai Patel, 4) Arun Patel of Karachiya village, 5) Sampat Vaghri of Rajasthan colony, 6) Mukesh Patel, 7) Jayaben Thakkar (BJP MP).

Maretha, Vadodara

1) Sanabhai Ishwarbhai Thakur, 2) Sanjay Chiman Thakur, 3) Mahendra Magan Thakur, 4) Vishnu Raisingh Bhuria (*all residents of Bhatuji Falia*), 5) Sana Thakur (resident of Santoshi Nagar) 6) Prakash Mulchand Wagh (resident of Magan Park), 7) Bipinbhai Patel (resident of Alamgar), 8) Sukhdeo Thakur, the *Sarpanch* of Talsat, 9) Pramodbhai of Chappad, 10) Nilesh Bhogilal Patel, 11) Mahesh Haribhai Rabari, 12) Raghubhai Bharwad, (*all Bajrang Dal leaders*), 13) *Sarpanch* Kantaben Sanabhai Vasava, 14) Veenabhai Chagganbhai Patel (ex-BJP leader), 15) Govindbhai Ramsibhai Rabari, 16) Haribhai Icchabhai Rabari 17) Narayanbhai Chottabhai Thakur.

Sokhada, Vadodara

1) Motiya Pura, 2) Lalji Pura, 3) Vashna, 4) Madhusudhanbhai Muljibhai '*Amerikawalla*' 5) *Sarpanch* Mahendrabhai Ramanbhai Patel, 6) Jagdishbhai Mohanbhai (Tailor), 7) Hiteshbhai Purushottam '*STD Pangallawalla*', 8) Manojbhai Thakorebhai Patel (newspaper dealer) 10) Sanjaybhai Thakorebhai.

Chappad, Vadodara

1) Village *sarpanch*, 2) Pramodbhai Shankarbhai Patel, 3) Rajubhai Shankarbhai Patel, 4) *Sarpanch's* daughter-in-law, 5) Pradipbhai Tarjabhai Patel, 6) Manojbhai Laljibhai Patel, 7) Somabhai Himmatbhai Patanwala, 8) Pramod Thakkar, 9) Pradip Patel, 10) Jyotishbhai Vasava, 11) Kanu Ratilal Vasava.

Ranoli, Vadodara

1) *Sarpanch* Chandrakant Patel, 2) & 3) *Sarpanch's* two sons, 4) Kaushik Patel (an employee of GACL).

Samiala, Vadodara

1) Narendrabhai Gordhanbhai Vaid (*Sarpanch*), 2) Kamlesh Gordhanbhai Patel (Dy *Sarpanch*), 3) Bhogilal Mohanbhai Patel, 4) Mahendrabhai Harmanbhai Patel, 5) Kishorebhai Laljibhai Baria, 6) Natubhai Dayabhai Patel, 7) Jagdishbhai Dayabhai Patel, 8) Hiteshbhai Bacchubhai Patel.

Lakshmipura, Vadodara

1) Bhagatsinh Gaikwad (*Panchayat* member), 2) Labhubhai (*Gramsewak*), 3) Bharatbhai (Doctor), 4) Rameshbhai Bakorbhai Solanki, 5) Chiragbhai Maganbhai Panchal, 6) Narendrabhai Raojibhai Patel, 7) Lakshmansinh Bodana, 8) Poonambhai Solanki, 9) Ranjitsinh Chatrasinh Gohil, 10) Umeshbhai Natubhai Rawal, 11) Kantilal Bhatt, 12) Shantilal Shanabhai Vaghri, 13) Rameshbhai Chimanbhai Padiyar, 14) Punitbhai Solanki, 15) Sukhabhai Vaghri, 16) Dilipsinh Gaikwad, 17) Sureshbhai Rajput, 18) Chandrasinh Maganbhai Rajput, 19) Dilipbhai Shantilal Valand.

Taiwasa, Vadodara

1) Sandip Bhonse, 2) Mukesh D Sirsagar, 3) Hitesh R Dhomse, 4) Bharatesh Desai (of the RSS).

After the Godhra incident an urgent meeting of the activists of BJP, VHP, RSS, & Bajrang Dal was held under the leadership of 1) Yogesh Patel (MLA), 2) Nalin Bhatt (ex-chairman of GEB), 3) PC Patel, 4) Jani Mama (councillor & librarian of MS University), 5) Jivraj Chauhan, 6) Milinbhai Ambegaokar, 7) Ajay Dave, 8) Pradip Joshi, 9) Niraj Jain, 10) Pankaj Jain (Advocate), 11) Jatin Vyas, 12) Raju Bareliwala, 13) Chiman Maradia, 14) Ashok Pawar, (Samata Party corporator), 15) Pranav Patel (BJP corporator).

Tejgadh, Chhotaudaipur, Vadodara

1) *Sarpanch* and 2) Adivasis from villages nearby.

SABARKANTHA DISTRICT**Bhiloda, Sabarkantha**

1) Gunvantbhai Bhagwandas Trivedi, (BJP member) and 11 others 2) *Sarpanch*, Rupesh Trivedi (RSS *pracharak*), 3) Shri Prabhudas Lalabhai Patel (joint secretary of RSS for Banaskantha and Sabarkantha.), and 8 others.

Kidiad, Sabarkantha

1) Kalubhai Malwad (BJP, *MLA* and *taluka panchayat pramukh*).

Kediagaon, Sabarkantha

1) Kalubhai Malwad (BJP, *MLA* and *taluka panchayat pramukh*).

Prantij, Himmatnagar, Sabarkantha

1) Minister of state for cottage industries, Ranjitsingh Chawda, 2) Jagdish Taral (VHP leader).

Mujethi, Idar *taluka*, Sabarkantha

1) *Sarpanch* Kantibhai Hiralal Patel 2) Jayantibhai Patel, 3) Nalinbhai Bhogilal Mehta, 4) Devarkumar Chandrakant Tulsi 5) Saratkumar Kantilal Doshi. 6) Suryakant Joshi (BJP *taluka* leader).

BHARUCH CITY

1) VHP Bharuch president, Viral Desai 2) Ranjan Mistry, 3) Champak Mistry, 4) Satish Mistry (BJP corporator, also an active member of the BD/RSS).

Ankleshwar, Bharuch

1) Pintu, 2) Janak Shah, 3) Jeetu Patel, 4) Ganesh Agrawal, 5) Pravin Master, 6) Harendra Solanki, 7) Dinesh Solanki.

Rajpardi, Bharuch

1) Rohit Shah (Advocate), 2) Yogesh Kanti Patel.

Andada, Bharuch

1) Naresh Nagji Patel (works in the postal department), 2) Prakashbhai Rameshbhai Patel, 3) Anilbhai Ramanbhai Patel 4) Dineshbhai Bhikabhai Patel.

Mandwa, Bharuch

1) Mahesh Shankar, 2) Bipinbhai Gunwantbhai Pandya, 3) Mahesh Dalpat Parmar, 4) Khushal Chiman Machhi Patel, 5) Thakore Jina, 6) Chandubhai Bhikhabhai Machhi Patel, 7) Bhikha Sardar (All belonging to the Bajrang Dal).

BANASKANTHA DISTRICT

1) Brahmin Thakar, 2) Rajendra Prasad, 3) Vasudev and others.

Citizens for Justice and Peace

Aims & Objects

The burning of innocent women and children inside a train at Godhra on February 27 and the subsequent ethnic cleansing of Muslims in Gujarat, justified by chief minister Narendra Modi as a 'natural reaction', has thrown up an unprecedented challenge to Indian democracy and the rule of law.

To respond to this brazen communal assault on the country's secular democratic polity, concerned citizens from Mumbai and Ahmedabad have come together on March 31, 2002 to form an 'Association of Persons' (AOP), to be called, **Citizens for Justice and Peace - CJP**.

Activities

Following intensive interaction and consultation with a wide cross-section of survivors of the carnage in Gujarat lawyers, human rights groups and communal harmony/peace activists from across the country, CJP has set for itself the task of mobilising finances for the following activities:

1. *Citizens' Tribunal: Gujarat 2002*: A Citizens' Tribunal consisting of retired judges and prominent citizens from different walks of life will examine and investigate the incident of arson at Godhra and the subsequent statewide violence that took lives, destroyed property and attacked cultural symbols and places of worship of sections of the population.
2. *Public Interest Litigation*: To make legal interventions in the Gujarat High Court and the Supreme Court for the redressal of grievances (*Relief, Rehabilitation, Reparation by the Gujarat state*) and prosecution of all those guilty for the killing of innocents in Godhra and the rest of Gujarat (*Punish the Guilty!*).
3. *Intervention before the Gujarat-govt. appointed official commission of inquiry*: To assist any lawyer/team of lawyers formed to effectively highlight before the commission the case of the victims and survivors of violence.
4. *Public campaign and advocacy*: To build public opinion on the need for justice as an essential step towards reconciliation and peace.

5. *Relief and rehabilitation*: To accept contributions from concerned citizens and organisations and assist organisations, groups and individuals engaged in relief work in Gujarat.

6. *Documentation, Research, Translation*: To put together the information needed for any or all of the activities outlined above.

7. *Legal Training*: To hold legal training workshops in order to prepare a team of junior lawyers and social activists who will assist senior advocates in the various legal interventions proposed.

The proposed activities will be carried out by members of CPJ or by other appropriate individuals or organisations selected by the CPJ Working Committee.

The accounts will be audited by a reputed chartered accountant and extracts of the auditor's report will be sent to all persons/organisations contributing Rs.5,000 or more. All contributors can, however, obtain the extract of the audited report on request.

No surplus is anticipated but in case there is, it will be applied for similar objects elsewhere in India.

All cheques should be drawn in favour of '**Citizens for Justice and Peace**' and posted to the address given below.

Members of CJP

The following are members of the committee formed to mobilise resources and oversee its judicious disbursement for the activities identified above.

MUMBAI:

Alyque Padamsee
Ghulam Mohammed
Nandan Maluste
Teesta Setalvad

Anil Dharkar
I.M. Kadri
Titoo Ahluwalia
Javed Anand

Cyrus Guzder
Javed Akhtar
Vijay Tendulkar

AHMEDABAD:

Indubhai Jani
Fr. Cedric Prakash

Uves Sareshwala
Najmal Almelkar

Batuk Vora

Address:

P.O. Box No. 28253, Juhu Post Office, Juhu, MUMBAI – 400 049.

Phone/fax: 2660 22 88; Phone: 2660 39 27; e-mail cjp02in@yahoo.com

(CN:812 Complainant: Jamaluddin Abdulbhai Qureshi)

Accused

1) Dr. Jaideep Patel (VHP joint secretary, Gujarat), 2) Ashok Saheb (corporator), 3) Parikh Patel (Pavna Ice-cream Parlour) 4) Vallabh Patel (corporator), 5) Padyuman Mistry Balbhai Patel (BD)

(CN:832 Complainant: Pathan Naseerkhan Jaffer Khan)

1)Jaideep Patel, Prakashbhai, 2)Sunil Jaratha, 3)Sunil Patel, 4)Pochia Dada

(CN:834 Complainant:Rafik Kallubhai Shaikh)

1)Navani Singh, Gudu Chhara, 2)Suresh aka Sarezad

(CN:845 Complainant:Yassienkhan Anwar Khan Pathan)

1)Jaideep Patel (VHP leader), 2)Pachund da, 3)Manilal Thakore, 4)Padumal Patel

(CN:1314 Complainant:Yunusbhai Rabemanbhai Mansuri)

1)Bipinbhai Patel (Bipin Auto Centre), 2)Manoj Sindhi (Manoj Audio Cassette), 3)Shureshbhai Chhara

(CN:1331 Complainant:Qayyum Khan Rasid Khan)

1)Uddchhara Mekda

(CN:1337 Complainant:Mariamben Mohammedbhai Mansuri)

1)Jay Harijan, Ravi 2)Vijay Harijan bhaiyya, 3)Marathi people opposite our house, 4)Harijans on the floor below, All the neighbours

(CN:1366 Complainant:Amimbanu A. Gani Shaikh)

1) Ashok

(CN:1504 Complainant:Farid Khan Muslim Khan Pathan)

1)Babuben Rambhai Thakore, 2)Khegar Bharvad; All the villagers

(CN:1508 Complainant:Habib Khan Bhikhan Khan Pathan)

1) Harish Lakshmanbhai Koshti (Shiv Sena leader), 2) Manoj Lakshmanbhai Koshti (Shiv Sena leader), 3) Bhav Daruwala (*Sarpanch*), 4) Vijay Dada (Shiv Sena leader)

(CN:1510 Complainant:Abdul Ibrahim Lakha)

1) Harish Lakshmanbhai Koshti (Shiv Sena leader) 2)Manoj Lakshmanbhai Koshti (Shiv Sena leader) 3)Bharatbhai Rabati (Shiv Sena leader) 4)Vijay Dada (Shiv Sena leader)

(CN:1517 Complainant:Feroze Khan Babukhan Pathan)

1)Bipinbhai

(CN:1518 Complainant:Salimbhai Munnabbhai Shaikh)

1) Manoj Koshti

(CN:1532 Complainant:Anwar Shabbuddin Taibee)

1) Arvind C. Mali, 2) Anil Madras, 3) Popat Vaghri, 4)Raju Ambetwala, 5)Babu Kerosenewala

(CN:1535 Complainant:Samsuddin Shabbuddin Taibee)

1) Anil Madras, 2) Arvind C Mali, 3) Popat Vaghri

(CN:1541 Complainant:A. Khaliq A. Karim Shaikh)

1) Bipin, 2) Manoj, 3) Guddu, 4) Haria, 5) Suresh Langda

(CN:1542 Complainant:Salimkhan Sarifkhan Baloch)

1) Bipin, 2) Guddu Chhara, 3) Suresh Langda, 4) Manoj Dariya

(CN:1556 Complainant:Jabangirkhan Rabimkhan Pathan)

1) Paresh, 2) Shankar

(CN:1559 Complainant:Abidali Shaijan)

1) Navnit, 2) Manisha Chanlal, 3) Naresh

(CN:1569 Complainant:Raheemabibi Ahmedkhan Pathan)

1) Paresh

(CN:1575 Complainant:Kalim Akhtar Sagufta Tailor)

1) Pankajbhai STDwala, 2) Dineshbhai Cyclewala, 3) Parmar Dr.

