APPENDIX-I

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

A team of forensic experts had visited the place of offence on 3/5/2002 in which along with the under signed, Shri AN Joshi, Scientific Officer, Ahmedabad was included. In order to recreate the real picture of how the offence was committed on the day of incident, one coach of the train was kept on the same spot. With the help of different types of containers experimental demonstrations were also carried out by using liquids inside the said coach. On the basis of which the following conclusions were made.

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 outside. 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 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 in to 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 of the coach.

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

3. By standing in the passage between the compartment of the bogey 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.

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.

Sd/-

Dr. M S Dahiya
Assistant Director
(Seal)
Appendix

Spot investigation report No. 1 regarding CR No. 9/2/2002.

Godhra Railway Police Station

The forensic experts had visited the place of offence on 1/5/2002. In the team of the experts along with the undersigned, the other experts were Shri AR Vaghela, Scientific Officer, Vadodara, Shri Yogesh Patel, Scientific Officer (Mobile), Panchmahal and Shri SI Desai, Photographer, Surat. The experts have made detailed investigation of the burnt down S-6 coach of the Sabarmati Express train. The said coach was kept in the yard of Godhra railway station. The observations made on the basis of the informations learnt by the detailed examination of the coach are as under.

1. A large number of hit marks were observed on the outer part of the southern side of the burnt out S-6 coach which were due to stones. Apart from this a large number of stones were found scattered inside the coach and similarly glass pieces were also seen. It was found that the said glass pieces were of the windows. From these observations it is possible to say that there was large scale stone pelting on the coach from outside and the glasses of the southern side was primarily broken due to stone throwing and the glass of the northern side were broken due to the heat of the fire.

2. From the condition of the colour on the door of the coach, the burning pattern, condition of the hand lock, the marks of the melting Aluminum strips of the frame of the window etc. it can be established that both the east-west doors of the northern side of the coach and similarly the eastern door of the southern side, thus a total of three doors were opened at the time of the incident of fire and the door in the west direction of the southern side was closed.

3. Out of the windows in the southern side, one rod of one of the windows was found to be broken due to heat. As the height of the lower part of the window was at the height of more than 7 ft. from the ground, it negates the possibility of force on the rod from window side. Further it was not found that any instrument was used to bend the rod. Thus, it becomes clear that the rod was attempted to be broken by the use of force from inside. It appears that the other rods had become loose due to the melting of joints due to heat.

4. By observing the burning pattern inside the coach, its degree, the depth and the eligatering pattern on the floor, it appears that the fire has spread inside the coach very rapidly. Further, by observing the intensity of the eligatering pattern on the floor, it appears that the fire has started from the eastern side of the coach and thereafter spread towards western side rapidly. Further, it appears that the intensity and proportion of the burning of the objects inside the coach was very high, up to around 80% part of the east to west side whereas in the 20% part, the intensity of burning was less in comparison with 80% part.

5. No sign was observed of the use of any corrosive fluid like acid in the said fire.

6. 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.

Dr. M.S. Dahiya
Assistant Director
(Seal)


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APPENDIX-II

CONCERNED CITIZENS TRIBUNAL - GUJARAT 2002
An inquiry into the carnage in Gujarat

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 bahut tezi se shanti prasthapit ho rahi hai, normalcy aa rahi hai... Ahmedabad ek prakar se kal raat ke baad, puri taraha incident-free raha 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 Godhra, 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. Traumatised 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 steel frame 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.

Source: http://www.sabrang.com/tribunal/vol.2/rolegovt.html
APPENDIX – III

HUMAN RIGHTS WATCH REPORT ON GUJARAT

April 2002

Vol. 14, No. 3(C)

“WE HAVE NO ORDERS TO SAVE YOU”

State Participation and Complicity in Communal Violence in Gujarat

1. SUMMARY

Indian government officials have acknowledged that since February 27, 2002, more than 850 people have been killed in communal violence in the state of Gujarat, most of the Muslims. Unofficial estimates put the death toll as high as 2,000. At this writing, murders are continuing, with violence spreading to rural areas fanned by ongoing hate campaigns and economic boycotts against Muslims. The attacks against Muslims in Gujarat have been actively supported by state government officials and by the police.

The violence in Gujarat began after a Muslim mob in the town of Godhra attacked and set fire to two carriages of a train carrying Hindu activists. Fifty-eight people were killed, many of them women and children. The activists were returning from Ayodhya, Uttar Pradesh, where they supported a campaign led by the Vishwa Hindu Parishad (World Hindu Council, VHP) to construct a temple to the Hindu god Ram on the site of a sixteenth century mosque destroyed by Hindu militants in 1992. The Ayodhya campaign continues to raise the spectre of further violence in the country—Hindu-Muslim violence following the destruction of the mosque claimed thousands of lives in the city of Bombay and elsewhere in 1992 and 1993. The VHP claims that the mosque was built on a site that was the birthplace of Ram.

Between February 28 and March 2, 2002, a three-day retaliatory killing spree by Hindus left hundreds dead and tens of thousands homeless and dispossessed, marking the country’s worst religious bloodletting in a decade. The looting and burning of Muslim homes, shops, restaurants, and places of worship was also widespread. Tragically consistent with the longstanding pattern of attacks on minorities and Dalits (or so-called untouchables) in India, and with previous episodes of large-scale communal violence in India, scores of Muslim girls and women were brutally raped in Gujarat before being
mutilated and burnt to death. Attacks on women and girls, including sexual violence, are detailed throughout this report.

The Gujarat government chose to characterize the violence as a “spontaneous reaction” to the incidents in Godhra. Human Rights Watch’s findings, and those of numerous Indian human rights and civil liberties organizations, and most of the Indian press indicate that the attacks on Muslims throughout the state were planned, well in advance of the Godhra incident, and organized with extensive police participation and in close cooperation with officials of the Bharatiya Janata Party (Indian People’s Party, BJP) state government.

The attacks on Muslims are part of a concerted campaign of Hindu nationalist organizations to promote and exploit communal tensions to further the BJP’s political rule—a movement that is supported at the local level by militant groups that operate with impunity and under the patronage of the state. The groups most directly responsible for violence against Muslims in Gujarat include the Vishwa Hindu Parishad, the Bajrang Dal, the ruling BJP, and the umbrella organization Rashtriya Swayamsevak Sangh (National Volunteer Corps, RSS), all of whom collectively form the sangh parivar (or “family” of Hindu nationalist groups). These organizations, although different in many respects, have all promoted the argument that because Hindus constitute the majority of Indians, India should be a Hindu state.

Nationwide violence against India’s Muslim community in 1992 and 1993 and against India’s Christian community since 1998, including in the state of Gujarat, have also stemmed from the violent activities and hate propaganda of these groups. Human Rights Watch and Indian human rights groups have long warned of the potential scale of death and destruction resulting from the sangh parivar’s Hindu nationalist agenda. If the activities of these groups remain unchecked, violence may continue to engulf the state, and may spread to other parts of the country.

The state of Gujarat and the central government of India initially blamed Pakistan for the train massacre, which it called a “pre-meditated” “terrorist” attack against Hindus

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in Godhra. The recent revival of the Ram temple campaign, and heightened fears of terrorism since September 11 were exploited by local Hindu nationalist groups and the local press which printed reports of a “deadly conspiracy” against Hindus by Muslims in the state. On February 28, one local language paper headline read: “Avenge blood for blood.” Muslim survivors of the attacks repeatedly told Human Rights Watch that they were told to “go back to Pakistan.” Anti-Pakistan and anti-Muslim sentiments had been building up in Gujarat long before the revival of the Ayodhya Ram temple campaign. Human Rights Watch was unable to verify conflicting accounts of what led to the mob attack on the Sabarmati Express in Godhra though local police investigations have ruled out the notion that it was either organized or planned.

The state government initially charged those arrested in relation to the attack on the Godhra train under the controversial and draconian Prevention of Terrorism Ordinance (POTO, now the Prevention of Terrorism Act), but filed ordinary criminal charges against those accused of attacks on Muslims. Bowing to criticism from political leaders and civil society across the country, the chief minister dropped the POTO charges but stated that the terms of POTO may be applied at a later date.

Three weeks after the attacks began, Human Rights Watch visited the city of Ahmedabad, a site of largescale destruction, murder, and several massacres, and spoke to both Hindu and Muslim survivors of the attacks. The details of the massacres of Muslims in the neighborhoods of Naroda Patia and Gulmarg Society and of retaliatory attacks against Hindus in Jamalpur are included in this report. Human Rights Watch was able to document patterns in Ahmedabad that echo those of previous episodes of anti-Muslim violence throughout the state and of anti-minority violence over the years in many parts of the country—most notably the Bombay riots in 1992 and 1993, and the anti-Sikh riots in Delhi in 1984.\(^2\) These include the role of sangh parivar organizations, political parties, and the local media in promoting anti-minority propaganda, the exploitation of communal differences to mask political and economic motives underlying the attacks, local and state

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\(^2\) The then-ruling Congress (I) party was charged with complicity in the killing of over 2,000 Sikhs in Delhi in 1984 following the assassination of Congress party president Indira Gandhi by her Sikh bodyguard. 3 Hindutwa, Hindutva, or Hinduvata refers to a movement for Hindu awakening
Appendix

government complicity in the attacks, and the failure of the government to meet its constitutional and international obligations to protect minorities.

Between February 28 and March 2 the attackers descended with militia-like precision on Ahmedabad by the thousands, arriving in trucks and clad in saffron scarves and khaki shorts, the signature uniform of Hindu nationalist—Hindutva—groups. Chanting slogans of incitement to kill, they came armed with swords, trishuls (three-pronged spears associated with Hindu mythology), sophisticated explosives, and gas cylinders. They were guided by computer printouts listing the addresses of Muslim families and their properties, information obtained from the Ahmedabad municipal corporation among other sources, and embarked on a murderous rampage confident that the police was with them. In many cases, the police led the charge, using gunfire to kill Muslims who got in the mobs’ way. A key BJP state minister is reported to have taken over police control rooms in Ahmedabad on the first day of the carnage, issuing orders to disregard pleas for assistance from Muslims. Portions of the Gujarati language press meanwhile printed fabricated stories and statements openly calling on Hindus to avenge the Godhra attacks.

In almost all of the incidents documented by Human Rights Watch the police were directly implicated in the attacks. At best they were passive observers, and at worse they acted in concert with murderous mobs and participated directly in the burning and looting of Muslim shops and homes and the killing and mutilation of Muslims. In many cases, under the guise of offering assistance, the police led the victims directly into the hands of their killers. Many of the attacks on Muslim homes and places of business also took place in close proximity to police posts. Panicked phone calls made to the police, fire brigades, and even ambulance services generally proved futile. Many witnesses testified that their calls either went unanswered or that they were met with responses such as: “We don’t have any orders to save you”; “We cannot help you, we have orders from above”; “If you wish to live in Hindustan, learn to protect yourself”; “How come you are alive? You should have died too”; “Whose house is on fire? Hindus’ or Muslims’?” In some cases phone lines were eventually cut to make it impossible to call for help.

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3 Hindutwa, Hindutva, or Hinduuvata refers to a movement for Hindu awakening.
Surviving family members have faced the added trauma of having to fend for themselves in recovering and identifying the bodies of their loved ones. The bodies have been buried in mass gravesites throughout Ahmedabad. Gravediggers testified that most bodies that had arrived—many were still missing—were burned and butchered beyond recognition. Many were missing body parts—arms, legs, and even heads. The elderly and the handicapped were not spared. In some cases, pregnant women had their bellies cut open and their fetuses pulled out and hacked or burned before the women were killed.

Muslims in Gujarat have been denied equal protection under the law. Even as attacks continue, the Gujarat state administration has been engaged in a massive cover-up of the state’s role in the massacres and that of the sangh parivar. Eyewitnesses filed numerous police First Information Reports (FIRs), the initial reports of a crime recorded by the police, that named local VHP, BJP, and Bajrang Dal leaders as instigators or participants in the attacks. Few if any of these leaders have been arrested as the police, reportedly under instructions from the state, face continuous pressure not to arrest them or to reduce the severity of the charges filed. In many instances, the police have also refused to include in FIRs the names of perpetrators identified by the victims. Police have, however, filed false charges against Muslim youth arbitrarily detained during combing operations in Muslim neighborhoods that have been largely destroyed. The state government has entrusted a criminal probe into the deadliest of attacks in Ahmedabad, in the Naroda Patia and Gulmarg Society neighborhoods, to an officer handpicked by the VHP, the organization implicated in organizing and perpetrating these massacres.

On April 3, India’s National Human Rights Commission (NHRC) released the preliminary findings of its report on the violence, a strong indictment of the failure of the Gujarat government to contain the violence. As the commission awaited a response from the state government before releasing a comprehensive report, its very authority to intervene in the matter was being challenged in the state’s High Court based on the fact that a stateappointed judicial commission of inquiry was already in place. Following the trail of other commissions of inquiry appointed by the state in the wake of communal riots in 1969 and 1985—whose recommendations have yet to be implemented—the current state commission inspires little hope of justice. One lawyer noted, “The state government is involved and is a party to what happened. How can a party appoint a
judge? We cannot expect him to give justice.” India’s National Commission for Minorities (NCM) and National Commission for Women (NCW) have also been severely critical of the Gujarat government’s response to the violence and its aftermath.

Government figures indicate that more than 98,000 people are residing in over one hundred newly created relief camps throughout the state, an overwhelming majority of them Muslim. They hold little hope for justice and remain largely unprotected by the police and local authorities. One relief camp resident asked: “The same people who shot at us are now supposed to protect us? There is no faith in the police.” A lack of faith has also kept many camp residents from approaching the police to file complaints. Fearing for their lives, or fearing arrest, many have also been unable to leave the camps to return to what is left of their homes.

The state government has failed to provide adequate and timely humanitarian assistance to internally displaced persons in Gujarat. Problems documented in this report include serious delays in government assistance reaching relief camps, inadequate state provision of medical and food supplies and sanitation facilities, and lack of access and protection for nongovernmental (NGO) relief workers seeking to assist victims of violence. Muslims have also been denied equal access to relief assistance. Government authorities are also reported to be absent from many Muslim camps. In sharp contrast to the international and Indian community’s response following a massive earthquake in the state in January 2001—when millions of dollars in aid from the international community and civil society poured into the state—the onus for providing food, medical support, and other supplies for victims of violence rests largely on local NGO and Muslim voluntary groups.

The relief camps visited by Human Rights Watch were desperately lacking in government and international assistance. One camp with 6,000 residents was located on the site of a Muslim graveyard. Residents Human Rights Watch 7 April 2002, Vol. 14, No. 3 (C) were literally sleeping in the open, between the graves. One resident remarked: “Usually the dead sleep here, now the living are sleeping here.”

The disbursement of financial compensation and the process of rehabilitation for victims of the violence has been painstakingly slow and has failed to include all of those affected. Initially compensation was disbursed on a communal basis: the state
government announced that the families of Hindus killed in Godhra would receive Rs. 200,000 (U.S.$4,094) while the families of Muslims killed in retaliatory attacks would receive Rs. 100,000—a statement that was later retracted, in part due to widespread criticism from nongovernmental organizations and Indian officials outside the state of Gujarat.

In the wake of the massive earthquake in January 2001 that, according to government reports, claimed close to 14,000 lives and left over one million homeless, the state of Gujarat also faces economic devastation. The economic impact is felt acutely by both Hindu and Muslim survivors of the attacks whose homes and personal belongings have been destroyed, and whose businesses have been burnt to the ground. Others reside in neighborhoods where curfews have yet to be lifted, limiting their mobility. Thousands are also unable to leave the relief camps to go to work for fear of further attacks. Many Muslims do not have jobs to which to return—their employers have hired Hindus in their place. An economic boycott against Muslims in certain parts of the state has helped to ensure their continued and long-term impoverishment. Acute food shortages resulting in starvation have been reported in areas of Ahmedabad where Muslim communities are forced into isolation, afraid to leave their enclaves to get more supplies. Children’s education has also been severely disrupted while the threat of measles and other outbreaks looms large in Ahmedabad camps.

On April 4, Indian Prime Minister Atal Behari Vajpayee visited Gujarat and announced a federal relief package for riot victims. Vajpayee, who earlier described the burning alive of men, women, and children, as a “blot on the country’s face,” stated that the Godhra attack was “condemnable” but what followed was “madness.” His comments stood in deep contrast to those of the state’s chief minister, Narendra Modi, formerly a Rashtriya Swayamsevak Sangh volunteer and propagandist, who at the height of the carnage declared that, “The five crore [fifty million] people of Gujarat have shown remarkable restraint under grave provocation,” referring to the Godhra attacks.

On April 12, the BJP proposed early elections in Gujarat soon after rejecting Chief Minister Narendra Modi’s offer to resign. Early elections in the aftermath of the attacks may favor the Hindu nationalist vote in the state—a primary objective of the

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4 At this writing, one U.S. dollar was equivalent to 48.85 Indian rupees.
sangh parivar nationwide—and Narendra Modi’s continued tenure as chief minister. As this report was going to press, national political parties were pressing to remove Modi, leading the BJP to set aside the early election option. The upper and lower houses of the Indian parliament were preparing for parliamentary debates on the violence in Gujarat while opposition parties were pushing for a vote to censure thenational government.

This report is by no means a comprehensive account of the violence that began on February 27. Ahmedabad was only one of many cities affected. Reports from other areas indicate that the violence was statewide, affecting at least twenty-one cities and sixty-eight provinces. Information from these areas also suggest a consistent pattern in the methods used, undermining government assertions that these were “spontaneous” “communal riots.” As one activist noted, “no riot lasts for three days without the active connivance of the state.”

Gujarat is only one of several Indian states to have experienced post-Godhra violence, though elsewhere incidents have been sporadic and were often immediately contained. Events were unfolding every day as this report went to press including developments related to the political future of the Gujarat government.

Both the Godhra incident and the attacks that ensued throughout Gujarat have been documented in meticulous detail by Indian human rights and civil liberties groups and by the Indian press. Their painstaking documentation of the attacks, often under grave security conditions, has been cited throughout this report. In some cases, the names of victims have been changed or withheld for their protection. Names of human rights activists have also been withheld to ensure their ability to continue their important work, an unfortunate indicator of the volatility surrounding the issue of communal violence in Gujarat and beyond.

All of the communities affected continue to live with a deep sense of insecurity, fearing further attacks and a cycle of retaliation. Not included in this report are many heroic accounts of individual police and of Hindu and Muslim civilians who risked their lives and livelihoods to rescue and shelter one another, and the many peace activities that have been organized by citizens amidst the ruins of the state.

The violence in Gujarat has triggered widespread outrage in India. Civil society groups from across the world have also mobilized to condemn the attacks and appeal for
justice and intervention. Responding to growing international scrutiny into the violence, however, the Indian government has stated that it “does not appreciate interference in [its] internal affairs.” Human Rights Watch calls on the Indian government to prevent further attacks and prosecute those found responsible for the violence in Gujarat, including state government and police officials complicit in the attacks. We call on the international community to put pressure on the Indian government to comply with international human rights and Indian constitutional law and end impunity for current and past campaigns to generate communal violence against Indian minorities.

Assistance from international humanitarian and United Nations agencies is sorely needed for Hindus and Muslims in relief camps. Human Rights Watch urges the Indian government to actively seek the assistance of these groups and to invite United Nations human rights experts to investigate state participation and complicity in the violence in Gujarat.

Source: www.hrw.org/report/2002/india

IV. Role Of The Police

During the course of the carnage the role of the police, or rather, its absence has been most noticeable. It was so conspicuous because the police was the one actor during the carnage which departed significantly and consistently from its assigned role.

In most places the police was seen hand in glove with the mobs. It was overtly so in Kalol town where the ASI Uday Singh Parmar was seen actively participating in the destruction and burning of Muslim shops, houses and vehicles on 28 February. More common was the police seen as silent spectators while the mobs went on the rampage. In Randhikpur, a police party arrived when the mob was setting houses on fire and stayed there till the mob had completed the destruction. In Pandarwada, four policemen were present when the mob was chasing and killing Muslims. In Kadi town, during the second phase of rioting at the end of March, a BSF party and large numbers of police personnel including the SP were available when the mobs attacked. While the police took no action to combat rioters, the Collector gave the mobs two and a half hours before declaring curfew and refused to deploy the BSF for another fourhours. In Sardarpura two PSIs who were present in the village ‘disappeared’ when the attack was taking place. They kept on giving wrong messages to the DGP that everything was all right in the village.

Those escaping from mobs were also refused help in reaching safety. Muslims fleeing from Delol to Kalol at night (see account) saw many police vehicles along the way but not one was willing to stop and take them to safety. In Por, the police posted at the village took no action to counter the killer mobs and instead, told the Muslims to flee. Even in this, they provided no help, so the entire Muslim population of the village habitation had to cram themselves into the two tempos available with them. Six of them died of suffocation. In Anjanwa, the police were called on the morning of the 4th but help
eventually arrived only on the evening of the 5th. In the meantime 11 people had been killed.

In most cases, the police had prior knowledge of oncoming attacks. This did not, however, translate into any preventive measures. Preventive arrests did take place but these arrests do not seem to have made any difference to the number or intensity of mob attacks. One of the reasons is available in the figures of these arrests given in the table below:

**Preventive Arrests**

*for the six districts visited*

<table>
<thead>
<tr>
<th>District</th>
<th>Hindu</th>
<th>Muslim</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anand</td>
<td>20</td>
<td>4</td>
<td>24</td>
</tr>
<tr>
<td>Dahod</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Panchmahals</td>
<td>NA</td>
<td>NA</td>
<td>115</td>
</tr>
<tr>
<td>Kheda</td>
<td>499</td>
<td>260</td>
<td>759</td>
</tr>
<tr>
<td>Mahesana</td>
<td>NA</td>
<td>NA</td>
<td>248</td>
</tr>
<tr>
<td>Sabarkantha</td>
<td>160</td>
<td>10</td>
<td>170</td>
</tr>
</tbody>
</table>

*Source:* Gujarat Government’s Submission to NHRC. Figures for Kheda are for the period upto 2 April; for other districts upto 25 March.

There is a tendency in the police (or part of their training) to maintain a semblance of balance in the number of people of each religious group arrested preventively in a situation of communal rioting. This is probably meant to show an unbiased police force. In the current situation, where attacks were so one sided, and were organised by the ruling party and its associate organizations like the VHP and Bajrang Dal, the same practice makes preventive arrests by the police communally biased actions.

A second reason why the preventive arrests made little difference is because they did not target the main leaders. As is clear in one incident after another, mobs were led by known elected representatives or functionaries of the ruling party and its associates. In Delol, the BJP MLA Prabhasingh Chouhan was leading the mob while in Randhikpur, the leaders were known RSS functionaries. In Pandarwada, the mob was led by the Taluk
pramukh, sarpanch, ex-sarpanch and known local leaders of the VHP and BJP. In Visnagar, BJP MLA Prahladbhai Mohan Lal Patel Ghosa was seen instigating the mob.

Given that the preventive arrests were not meant to have practical value, they become solely an alibi to later proclaim that the government wanted to control the riots. That prevention of escalation was not on the agenda is also clear from the happenings of 27 February. When the Sabarmati Express continued onwards to Ahmadabad after the Godhra attack, no measures were taken to prevent a violent buildup. Attacks by the passengers occurred at every railway station enroute except for Kheda district where the SP ordered the removal of every Muslim vendor from the railway platforms.

Apart from preventive arrests, BJP leaders (like Chief Minister Narendra Modi and Union Minister Arun Jaitley speaking on television) as well as individual police officers (in conversations with our team) flaunt the number of people killed in police firing as evidence of the administration’s efficiency in maintaining law and order. What perhaps is being forgotten is that the taking of life is permissible only as per procedure established by law. Even in cases of violent mobs about to commit heinous crimes, water cannons, teargas shells, lathi-charge and rubber bullets have to be first used to disperse the mob. The police appear to have interpreted the continuing communal violence as giving them a free rein to fire straight away.

Even more problematically, in a number of cases under the cover of controlling mobs, the police has shot Muslims who were being attacked, rather than their Hindu attackers. The numbers killed tell their own story.

**Killings In Police Firings**

<table>
<thead>
<tr>
<th>District</th>
<th>Hindu</th>
<th>Muslim</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anand</td>
<td>5</td>
<td>1</td>
<td>6</td>
</tr>
<tr>
<td>Dahod</td>
<td>2</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Panchmahals</td>
<td>4</td>
<td>3</td>
<td>7</td>
</tr>
<tr>
<td>Kheda</td>
<td>7</td>
<td>4</td>
<td>11</td>
</tr>
<tr>
<td>Mahesana</td>
<td>3</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Sabarkantha</td>
<td>4</td>
<td>5</td>
<td>9</td>
</tr>
<tr>
<td>Total for Gujarat</td>
<td>66</td>
<td>57</td>
<td>123</td>
</tr>
</tbody>
</table>

*Source: Gujarat Government’s Submission to NHRC. Figures provided are for the period 27 February to 25 March 2002.*
Appendix

There is no other explanation except that the police firings were communally motivated. Even in the instances where there was no overt communal bias there was a tendency to view the attacking mobs and the attacked people attempting to protect their lives and homes with the same yardstick, as criminals on an equal footing. The impact of this is equally apparent in the registration of crimes and subsequent arrests (see following section). As per routine practice, a magisterial inquiry is carried out in cases of police firing. In the present surcharged atmosphere, an impartial judicial inquiry must be conducted, to ascertain the justification or otherwise, into each and every case of police firing in the state.

In short, police action has ranged from active collusion with the mobs to silent inaction in the face of cognizable and serious offences; from state apathy towards formulating and executing preventive measures to the unjustified and frequently biased resort to gunfire. What stands out conspicuously is the total lack of criminal, disciplinary, departmental or any other action against the personnel whose behavior was found to be contrary to established law, service rules or the constitution. Dismissals, suspensions, or even transfers as a punitive measure against erring officials have been completely lacking.

Officials certainly faced transfers but that seemed to be aimed not at erring against law, but for ‘erring’ against the government in power. Twenty seven civil servants including 10 IPS officials were transferred on 25 March. These included officers who had taken measures to prevent and curtail the violence in their areas and had won acclaim for it.

VI. Conclusion

Here then is the record of the Gujarat carnage and its aftermath in brief.

The numbers killed among the highest in any riot in recent history. Affecting the population across an entire state. Nearly 3 months after the attacks began, the number of people killed still remain unknown to the government. Or else the government chooses not to divulge the fact.

State connivance at the highest level. True, communal killings have normally not occurred on a large scale without support from state functionaries. A senior police officer commented on the Bombay riots of 1992: “There is no riot in this country that can
continue its mayhem beyond 24 hours unless the state permits it.” Senior police officials in Gujarat stated the same in a more obscure fashion to say that the problem lies in the fact that the police is answerable to the politicians as well as to the judiciary. But the Gujarat government made a history of sorts by transferring officials at key posts who were successful in controlling and containing the mayhem.

Gujarat carnage is not the first where the guilty would go scot free. In riot after riot neither those who organised the killer mobs, nor the state functionaries who facilitated them have been brought to book. In fact the history of such precedents enabled the perpetration of organised killing in Gujarat of such nature and scale. But, Gujarat plans to outdo others in the sheer extent of the planning that seems to have gone into ensuring this acquittal. Prior assurance of immunity from arrest, prison and punishment given to attackers by the VHP/ Bajrang Dal leaders as “Our government is in power” was translated into reality by the strategies adopted by the police after each communal attack. These strategies were smoothly and universally implemented – the registration of faulty FIRs before the victims got an opportunity to file their information, refusal to accept such information when it is brought before them, the non-collection of crucial evidence like petrol cans, weapons used to burn and kill, the refusal to register the names of those identified and their ‘natural’ consequence in a refusal to apprehend them.

The characteristic that makes the Gujarat carnage especially grave is the combination of intensive and focused mobilisation and organization by the VHP/Bajrang Dal/RSS and an elected government which is an eager facilitator. Elected representatives and ministers as also state functionaries are openly associated and active members of these organisations. Manipulation of local and structural factors, tensions and resentment, deployment of lies and half truths, control of official machinery and key posts, has led an unprecedented degree of consent for their agenda of hate. Sustained hate propaganda accelerated in the last couple of years, further intensified in the last 6 months, has successfully convinced a substantial section of the majority Hindu community that they are under threat from the Muslims. Myths and prejudices about Muslims have played a vital role in inciting Hindus and adivasis to attack the community. The depth and spread of this build-up and its close association with the state distinguishes Gujarat.
Anti-Muslim mobilisation itself has not made the carnage. It is its translation into official policies and strategies that has enabled the carnage to occur. The public pronouncements and the policies pursued after the communal attacks by those holding the highest offices in the state expose them. There has not been a single unqualified statement condemning the attacks on the Muslim people and their properties. On the contrary there are several statements justifying the killings as a backlash, a ‘reaction’. The message is clear.

This refusal to condemn the carnage is implemented in policy. The government clearly does not, even after such ghastly attacks, feel the need to provide succour to survivors or even be seen to be assisting Muslims, at this juncture. This is what makes the Gujarat carnage far more sinister.

What does this portend immediately and in real terms? It means that the communal attacks continue even 3 months and much army deployment, media and political criticism later. Simply as a brazen declaration of the complete absence of political will to stop them or to sincerely assist Muslims to get justice and to rebuild broken lives and homes. Survivors carry on in relief camps not recognized by the government – ‘non recognized victims’ of sorts. Food in even several recognized camps is inadequate, sanitation notional, the responsibility for organising security is left to the mercies of respective religious community. In most rural camps schooling, medical help, employment generation are unheard of. Policies formulated for the rehabilitation are such as to prevent the victims from ever being able to stand on their feet. The pitiable compensation being offered for loss of life or livelihood is among the lowest offered anywhere in the country. And Gujarat is among the states with the highest per capita income.

What is evident in all of the above is the consistent and intentional refusal of the state in Gujarat to protect the right to life and liberty of a large number of its citizens in the course of the post Godhra carnage. Amply clear also is the actual collusion with those who took away the fundamental rights of a section of citizens on the basis of their religion, in itself a denial of the right to freedom from discrimination. The state did not really fail in Gujarat — it deliberately suspended the rule of law, and violated the rights of the people and continues to do so. It has to be held accountable.
The Gujarat carnage of 2002 will probably one day, a decade or two later, become part of another forgotten chapter of the history of our people. Its victims marginalised, wanting for both justice and livelihood. Those attempting similar attacks in the future more cocksure of their success. Those who stand by the rights of the individual and a democratic social order need to reflect very carefully on what steps they must take as citizens to isolate and punish the guilty, defend the victims, and ensure such pogroms never happen again.

APPENDIX -V

NATIONAL HUMAN RIGHTS COMMISSION
SARDAR PATEL BHAVAN
NEW DELHI

NAME OF THE COMPLAINANT : SUO MOTU
CASE NO. : 1150/6/2001-2002
DATE : 31 MAY 2002

CORAM
JUSTICE SHRI J.S. VERMA, CHAIRPERSON
JUSTICE SHRI K. RAMASWAMY, MEMBER
JUSTICE SMT SUJATA V. MANOHAR, MEMBER
SHRI VIRENDRA DAYAL, MEMBER

PROCEEDINGS


Failure to protect rights to life, liberty, equality and dignity

9. In its Preliminary Comments of 1 April 2002 the Commission had observed that the first question that arises is whether the State has discharged its primary and inescapable responsibility to protect the rights to life, liberty, equality and dignity of all of those who constitute it. Given the history of communal violence in Gujarat, a history vividly recalled in the report dated 28 March 2002 of the State Government itself, the Commission had raised the question whether the principle of ‘res ipsa loquitur’ (‘the affair speaking for itself’) should not apply in this case in assessing the degree of State responsibility in the failure to protect the rights of the people of Gujarat. It observed that the responsibility of the State extended not only to the acts of its own agents, but also to those of non-State players within its jurisdiction and to any action that may cause or facilitate the violation of human rights. The Commission added that, unless rebutted by the State Government, the adverse inference arising against it would render it accountable. The burden of proof was therefore on the State Government to rebut this presumption.

10. Nothing in the reports received in response to the Proceedings of 1 April 2002 rebuts the presumption. The violence in the State, which was initially claimed to have been brought under control in seventy two hours, persisted in varying degree for over two months, the toll in death and destruction rising with the passage of time. Despite the measures reportedly taken by the State Government, which are recounted in its report of 12 April 2002, that report itself testifies to
the increasing numbers who died or were injured or deprived of their liberty and compelled to seek shelter in relief camps. That report also testifies to the assault on the dignity and worth of the human person, particularly of women and children, through acts of rape and other humiliating crimes of violence and cruelty. The report further makes clear that many were deprived of their livelihood and capacity to sustain themselves with dignity. The facts, thus, speak for themselves, even as recounted in the 12 April 2002 report of the State Government itself. The Commission has therefore reached the definite conclusion that the principle of ‘res ipsa loquitur’ applies in this case and that there was a comprehensive failure of the State to protect the Constitutional rights of the people of Gujarat, starting with the tragedy in Godhra on 27 February 2002 and continuing with the violence that ensued in the weeks that followed. The Commission has also noted in this connection that, on 6 May 2002, the Rajya Sabha adopted with one voice the motion stating

“That this House expresses its deep sense of anguish at the persistence of violence in Gujarat for over six weeks, leading to loss of lives of a large number of persons, destruction of property worth crores of rupees and urges the Central Government to intervene effectively under article 355 of the Constitution to protect the lives and properties of the citizens and to provide effective relief and rehabilitation to the victims of violence.”

The Commission has further noted, in this connection, that it has proven necessary to appoint a Security Advisor to the Chief Minister, to assist in dealing with the situation. The appointment implicitly confirms that a failure had occurred earlier to bring under control the persisting violation of the rights to life, liberty, equality and dignity of the people of the State.

**Failure of intelligence**

11. The response of the State Government of 12 April 2002 also fails to dispel the observation made by the Commission in its Preliminary Comments that the failure to protect the life, liberty, equality and dignity of the people of Gujarat itself stemmed from a serious failure of intelligence and a failure to take timely and adequate anticipatory steps to prevent the initial tragedy in Godhra and the subsequent violence.

12. The report of the State Government of 12 April 2002 asserts that the State Intelligence Bureau “had alerted all Superintendents and Commissioners of Police as early as 7.2.2002 about the movement of karsevaks from the State by train on 22.2.2002 to Ayodhya. Besides the State Intelligence Bureau had also intimated UP State Police authorities on 12th, 21st, 23rd, 25th and 26th February 2002 about the number of karsevaks who had left the State for Ayodhya by train.” However, “specific information about the return journey of karsevaks by the Sabarmati
Express starting from Ayodhya was received only on 28.2.2002 at 0122 hrs i.e., after the incident had taken place on 27.2.2002 morning.”

13. It appears incomprehensible to the Commission that a matter which had been the subject of repeated communications between the Gujarat Intelligence Bureau and the UP State Police as to the out-going travel plans of the karsevaks, should have been so abysmally lacking in intelligence as to their return journeys. This is all the more so given the volatile situation that was developing in Ayodhya at that time and the frequent reports in the press warning of the dangers of inter-communal violence erupting in Ayodhya and other sensitive locations in the country. In the view of the Commission, it was imperative, in such circumstances, for the Gujarat Intelligence Bureau to have kept in close and continuing touch with their counterparts in Uttar Pradesh and with the Central Intelligence Bureau. The inability to establish a two-way flow of intelligence clearly led to tragic consequences. The Commission must therefore also definitively conclude that there was a major failure of intelligence and that the response of the State Government has been unable to rebut this presumption.

**Failure to take appropriate action**

14. The failure of intelligence was, in the opinion of the Commission, accompanied by a failure to take appropriate anticipatory and subsequent action to prevent the spread and continuation of violence. The Preliminary Comments of the Commission had observed, in this connection, that while some communally-prone districts had succeeded in controlling the violence, other districts – sometimes less communally prone – had succumbed to it. The Commission had therefore pointed to “local factors and players” overwhelming the district officers in certain instances, but not in others, and had asked the State Government as to who these players were in the situations that had gone out of control. Such information had been sought from the State Government particularly since there were widespread reports of well-organized persons, armed with mobile telephones and addresses, singling out certain homes and properties for death and destruction. The reports had also implied that public servants who had sought to perform their duties diligently and to deal firmly with those responsible for the violence had been transferred at short notice to other posts without consulting the Director-General of Police and, indeed, over his protests.

15. The reply of the State Government of 12 April 2002 does not answer these questions. Instead, it refers to the “gravity of the communal incident which provoked the disturbances” and the role of the electronic media. While there can be no doubt whatsoever about the gravity of the Godhra tragedy, it is the considered view of the Commission that that itself
should have demanded a higher degree of responsiveness from the State Government to control the likely fall-out, especially in the wake of the call for the ‘Gujarat bandh’ and the publicly announced support of the State Government to that call. Regrettably, immediate and stringent measures were not adequately taken; the response of the Government thus proved to be unequal to the challenge, as vividly illustrated by the numbers who lost their lives, or were brutally injured or humiliated as the violence spread and continued.

**Failure to identify local factors and players**

16. As to the “local factors and players”, in respect of whom the Commission had sought specific information, the reply of the State Government is silent, taking instead the position that this is a “matter covered by the terms of reference of the Commission of Inquiry appointed by the State Government.” The Commission is constrained to observe that it found this answer evasive and lacking in transparency, not least because of the numerous eye-witness and media reports – including allegations specifically made to the Commission and communicated to the State Government – which identify and name specific persons as being involved in the carnage, sometimes within the view of police stations and personnel. The reply makes no effort whatsoever to rebut the allegations made against such persons, or to indicate the action taken by the State Government against those specifically named for participating in the egregious violation of human rights that occurred, or for inciting the acts of violence that resulted in murder, arson, rape and the destruction of lives and property.

**Pattern of arrests**

17. In this connection, the Commission has made a careful analysis of the pattern of arrests indicated to it by the State Government in its report of 12 April 2002. That report states that a total number of 27,780 arrests had been made, involving both crimes and as preventive detention. The response does not, however, make clear how many arrests, preventive or otherwise, were made in the worst afflicted areas of the State within the first 72 hours of the tragedy in Godhra, nor the community-wise break-up of those arrested in those areas in the immediate aftermath of Godhra, though such data would have enabled a proper scrutiny of the charge of discrimination brought against the State Government in respect of its conduct in the critical hours immediately after the Godhra tragedy and the call for the ‘bandh’. This lack of transparency seriously undermines the response. The report states instead, that, in relation to various offences, 11,167 persons were arrested, of whom 3,269 belonged to the “minority” community and 7,896 to the “majority.” As regards the 16,615 preventive arrests, it mentions that 13,804 belong to the “majority” community and 2,811 to the “minority.” The questions that
arise, however, are when and where were the arrests made, who were arrested and for how long were they kept in custody, and were those who were specifically named arrested. The Special Representative of the Commission, Shri Nampoothiri has observed in a report to the Commission dated 24 April 2002 that “almost 90% of those arrested even in heinous offences like murder, arson, etc., have managed to get bailed out almost as soon as they were arrested.” Reports have also appeared in the media that those who have been released on bail were given warm public welcomes by some political leaders. This is in sharp contrast to the assertion made by the State Government in its report of 12 April 2002 that “bail applications of all accused persons are being strongly defended and rejected” (sic).

Uneven handling of major cases

18. The analysis made by the Commission of the State Government’s reply of 12 April 2002 also illustrates the uneven manner in which some of the major cases had been handled until that date. In respect of the Godhra incident, where 59 persons were killed, 58 persons had been arrested and all were in custody (54 in judicial custody, 4 in police remand). In respect of the Chamanpura (Gulbarga Society) case, where some 50 persons including a former Member of Parliament were killed, 18 persons had been arrested (17 were in judicial custody, 1 was released by the juvenile court). As regards Naroda Patia, where some 150 persons were reportedly killed, 22 had been arrested, but the response is silent in respect of whether they had been released on bail or were in custody. In respect of the Best Bakery case in Vadodara, where some 8 persons were reportedly killed, 12 accused persons were in judicial custody. However, no details were given about the status of the 46 persons arrested in the Sadarpura case of Mehsana District where some 28 persons were reportedly killed.

Distorted FIRs: ‘extraneous influences’, issue of transparency and integrity

19. The Commission had recorded in its Proceedings of 1 April 2002 that there were numerous allegations made both in the media and to its team that FIRs in various instances were being distorted or poorly recorded, and that senior political personalities were seeking to influence the working of police stations by their presence within them. The Commission had thus been constrained to observe that there was a widespread lack of faith in the integrity of the investigating process and the ability of those conducting investigations. The Commission had also observed that according to the State Government itself, “in Ahmedabad, looting was reported in well-to-do localities by relatively rich people.” Yet the State Government had not identified who these persons were.
20. The report of the State Government of 12 April 2002 once again fails to make the necessary identification of these persons. It also fails to rebut the repeatedly made allegation that senior political personalities – who have been named – were seeking to influence the working of police stations by their presence within them. It states that the Government “fully accepts the view that there should be transparency and integrity in investigating instances of death and destruction” and adds that “this is being taken care of”. The Commission’s Special Representative, Shri Nampoothiri, however, has reported to the Commission on 24 April 2002 in a totally opposite vein. He has stated that, in respect of most of the “sensational cases,” the FIRs registered on behalf of the State by the police officers concerned, the accused persons are shown as “unknown”. His report adds that “this is the general pattern seen all over the State. Even when complaints of the aggrieved parties have been recorded, it has been alleged that the names of the offenders are not included. In almost all the cases, copies of the FIRs which the complainant is entitled to, has not been given.” There has been widespread public outrage, in particular, in respect of atrocities against women, including acts of rape, in respect of which FIRs were neither promptly nor accurately recorded, and the victims harassed and intimidated. The Commission must conclude, therefore, that until the time of Shri Nampoothiri’s 24 April 2002 report, the victims of the atrocities were experiencing great difficulty in having FIRs recorded, in naming those whom they had identified and in securing copies of their FIRs. Further – for far too long - politically-connected persons, named by the victims of the crimes committed, remained at large, many defying arrest. These are grave matters indeed that must not be allowed to be forgiven or forgotten. Based on Shri Nampoothiri’s reports the Commission would therefore like to warn that the danger persists of a large-scale and unconscionable miscarriage of justice if the effort to investigate and prosecute the crimes that have been committed is not directed with greater skill and determination, and marked by a higher sense of integrity and freedom from ‘extraneous political and other influences’ than has hitherto been in evidence. Of particular concern to the Commission have been the heart-rending instances identified in its Proceedings of 1 April 2002, in respect of which it had called for investigations by the CBI: those cases relate to some of the very worst incidents of murder, arson, rape and other atrocities, including many committed against women and children whose tragic and inconsolable circumstances have profoundly shocked and pained the nation.

Pervasive insecurity: Justices Kadri & Divecha

21. In its Preliminary Comments of 1 April 2002 the Commission had referred to the pervasive sense of insecurity prevailing in Gujarat at the time of the visit of its team to that State
between 19-22 March 2002. It added that this was most acute among the victims of the successive tragedies, but that it extended to all segments of society, including to two Judges of the High Court of Gujarat, one sitting (Justice Kadri) and the other retired (Justice Divecha) who were compelled to leave their homes because of the vitiated atmosphere.

22. The Commission has carefully considered the 12 April 2002 response of the State Government in respect of Justices Kadri and Divecha. In regard to the former, the response states that, “prior to 28th, there was already half a section of police guards” posted outside Justice Kadri’s residence in Law Garden. It adds that on 28 February 2002, Justice Kadri shifted to Judges Colony in Vastrapur “of his own accord.” It goes on to state that, from 9 March 2002, a further police guard was placed at his house “since he desired to shift back to his original residence.” The Commission is compelled to observe that the response of the State Government fails to acknowledge an incontrovertible fact: the movements of Justice Kadri from house to house were compelled on him because of the pervasive insecurity. They were not “of his own accord” because they were clearly involuntary. And the conclusion is inescapable that the insecurity was such that it was not dispelled by the police arrangements reportedly made for him.

23. As to the 12 April 2002 response of the State Government in respect of Justice Divecha, it totally ignores any mention of the repeated efforts made by him and his associates to seek appropriate police protection, the repeated visits of mobs to his home on 27 and 28 February, his forced departure, together with Mrs. Divecha, from their home at around 12.20 p.m. on 28 February 2002 and the fire that was set to their apartment and property at around 4 p.m. on that day. Justice Divecha’s letter to the Chairperson of this Commission dated 23 March 2002 (Annexure II) speaks for itself. The fact that criminal case no. 121/2002 was subsequently registered, that 7 arrests had been made and that the matter was under investigation, does not explain the failure to protect Justice Divecha. The action taken was, sadly, too little and too late. Nor can the Commission accept the proposition that, “As the city of Ahmedabad was engulfed by the disturbance, it was not possible for the City Police to arrange for protection for every society.” The Commission would like to underline that there were communal reasons for the repeated and specifically targeted attacks on Justice Divecha’s property. The attacks were not a case of random violence against “every society” in the city, as the response of the State Government would have the Commission believe. Indeed, the response betrays a considerable lack of sensitivity in explaining what occurred. It is for this reason that the Commission must reject as utterly inadequate the response of the State Government, as contained in its reply of 12 April 2002, in respect of this matter.
24. There is a deeper point at issue here that the Commission wishes to make. If the response of the State Government to the security needs of two Justices of the High Court was so hopelessly inadequate, despite the time and the opportunity that it had to prevent the harm that was done, it must be inferred that the response to the needs of others, who were far less prominent, was even worse. Indeed, the facts indicate that the response was often abysmal, or even non-existent, pointing to gross negligence in certain instances or, worse still, as was widely believed, to a complicity that was tacit if not explicit.

B. Release of the Confidential Report transmitted to the Government of Gujarat with the Commission’s Proceedings of 1 April 2002

25. For the reasons indicated earlier in these Proceedings, the Confidential Report transmitted to the State Government of Gujarat on 1 April 2002, and to which the State Government has not responded for nearly two months despite repeated opportunities to do so, is now being released by the Commission (see Annexure I). Even while doing so, however, the Commission urges that Government to come forward with a clear response, indicating in detail the steps it has taken in respect of the persons named in that report who allegedly violated human rights or interfered in the discharge of the responsibilities of the State to protect such rights. Further, the Commission once again calls upon the State Government to provide a full account of the incidents to which the Commission drew its attention in that Confidential Report, and to indicate the measures it has taken to investigate and redress the wrongs that were committed.

Concluding Observations

64. The tragic events in Gujarat, starting with the Godhra incident and continuing with the violence that rocked the State for over two months, have greatly saddened the nation. There is no doubt, in the opinion of this Commission, that there was a comprehensive failure on the part of the State Government to control the persistent violation of the rights to life, liberty, equality and dignity of the people of the State. It is, of course, essential to heal the wounds and to look to a future of peace and harmony. But the pursuit of these high objectives must be based on justice and the upholding of the values of the Constitution of the Republic and the laws of the land. That is why it remains of fundamental importance that the measures that require to be taken to bring the violators of human rights to book are indeed taken.

65. The Commission has noted that there has been a decline in the incidents of violence in the past three weeks and that certain positive developments have taken place since the start of May 2002. However, as these Proceedings indicate, much remains to be done, and the integrity
of the administration must be restored and sustained if those who have suffered are to be fully restored in their rights and dignity.

66. The Commission will therefore continue to monitor the situation with care, and it calls upon the Government of Gujarat to report to it again, by 30 June 2002, on all of the matters covered in the Comments and Recommendations contained in these Proceedings, including the Confidential Report of 1 April 2002 transmitted to it earlier (Annexure I).

67. The Commission would like to close with an invocation of the thoughts of Mahatma Gandhi and Sardar Vallabhbhai Patel who, born in Gujarat, illuminated the life of the country with their wisdom, foresight and courage.

68. Gandhiji once observed:

“It has always been a mystery to me how men can feel themselves honoured by the humiliation of their fellow beings.”

He also said:

“Peace will not come out of a clash of arms but out of justice lived and done.”

69. And the comments of Sardar Patel, who chaired the Advisory Committee of the Constituent Assembly charged with the drafting of the articles on Fundamental Rights, are also of the deepest significance. The issue then was this: in the years preceding Independence, detractors of the National Movement, including elements of the retreating colonial power, repeatedly claimed that the minorities of India could not possibly find justice at the hands of other Indians. Sardar Patel was determined to refute this politically motivated assessment of the character of the country. Accordingly, on 27 February 1947, at the very first meeting of the Advisory Committee of the Constituent Assembly on Fundamental Rights, Minorities and Tribals and Excluded areas, Sardar Patel asserted:

“It is for us to prove that it is a bogus claim, a false claim, and that nobody can be more interested than us, in India, in the protection of our minorities. Our mission is to satisfy every one of them….. Let us prove we can rule ourselves and we have no ambition to rule others.”

70. So it was that the Constitution of the Republic included a series of articles having a bearing on the rights of minorities – some of general applicability, others of greater specificity. The most notable were those relating to the Right to Equality (particularly articles 14,
15, 16 and 17), the Right to Freedom of Religion (articles 25, 26, 27 and 28), Cultural and Educational Rights (particularly articles 29 and 30) and, upholding them all, the Right to Constitutional Remedies (in particular article 32).

71. Critical and cruel as the communal dimension was to the tragedy of Gujarat, what was at stake, additionally, was respect for the rights of all Indians – irrespective of community – that are guaranteed by the Constitution. That Constitution assures the Fundamental Rights of all who dwell in this country, on a non-discriminatory basis, regardless of religion, race, caste, sex or place of birth. It was this guarantee that was challenged by the events in Gujarat. It is for this reason that the Commission has followed developments in that State closely, and that it will continue to monitor the situation for as long as is needed.

(Justice J.S. Verma)
Chairperson

(JUSTICE K. RAMASWAMY)
MEMBER

(Justice Sujata V. Manohar)
Member

(Virendra Dayal)
Member

Source: http://nhrc.nic/guj_finalorder.htm
160. The role played by the Chief Minister, Members of the Council of Ministers, officials of the Government of Uttar Pradesh and by the individuals, concerned organizations and agencies in or in connection with the destruction of the Ram Janambhoomi-Babri Masjid structure;

160.1. The destruction of the Ram Janambhoomi - Babri Masjid structure was carried out in a duplicitous and underhanded manner. It was an act not worthy of a democratically elected government of a constituent state of this great nation.

160.2. The government and administration of a state is the repository of the trust, hopes, aspirations and faith of the people. Whether a government is elected into office with a thumping majority or otherwise, it represents not just those who voted it into power, or even those who are enfranchised but also those who do not, or are not able to participate in the polls or were opposed to them or those who hold a contrary or different view.
160.3 A government which remains faithful to its mandate need not adopt any underhanded or dishonourable methods for any purpose. As the nominee of the people, its actions carry the people's sanction and are beyond reproach. But when a government has to adopt base methods to mask and conceal its intent, it is obvious that the actions of the government are without sanction of law and without the sanction of the people.

160.4 The BJP's claim that it was carrying out the people's mandate makes it inexplicable why it had to resort to subterfuge in order to effect the destruction of the disputed structure. The very fact that the Chief Minister of the state of Uttar Pradesh, its ministers and its mandarins supported the destruction with tacit, open, active and material support at every step, but did not make it part of the officially stated agenda lends overwhelming credence to the fact that they were aware of the gross illegality and impropriety they were guilty of. It would be reasonable to conclude that they were conscious of their acts and conduct ensuring the achievement of their concealed intent to demolish the disputed structure.

160.5 Kalyan Singh, his ministers and his handpicked bureaucrats created man-made and cataclysmic circumstances which could result in no consequences other than the demolition of the disputed structure and broadened the cleavage between the two religious communities resulting in massacres all over the country. They denuded the state of every legal, moral and statutory restraint and wilfully enabled and facilitated the wanton destruction and the ensuing anarchy.

160.6 While dealing with the role of the administration in detail in my report, I have dilated on the role of specific members of the *de jure* and the *de facto* government of Uttar Pradesh at the time. The parallel government run by the RSS has also been exposed and analysed in my report. There is no manner of doubt admissible in the culpability and responsibility of the Chief Minister, his ministers and his cohorts who were handpicked to occupy selected posts. Paramhans Ramchander Das, Ashok Singhal, Vinay Katiyar, Vishnu Hari Dalmia, Vamdev, KS Sudarshan, HV Sheshadari, Lalji Tandon, Kalraj
Mishra, Govindacharya and others named in my report formed this complete cartel lead by Kalyan Singh and supported by the icons of the movement like LK Advani, MM Joshi, AB Vajpayee.

160.7. Chief Minister Kalyan Singh stood on guard against the possibility of any pre-emptive or preventive action by the Central Government or the Supreme Court of India or the other courts or any other institution. He and his trusted lieutenants spared no lie before the highest authorities of the land to befoul them and to tie their hands with the niceties of our constitutional democracy.

160.8. There were few who resisted the betrayal of democracy; those who did were swiftly removed, sidelined and rendered toothless. The police, the district magistracy, the local administration and the state machinery was covetousness personified. Their personal desires and their single-minded pursuit of personal gain cast dark shadows on their very training, professional ethos and their responsibilities. It prevented them from ensuring the majesty of law. The police and the administration were openly supporting the RSS and its agenda. The coercive forces of law were used only against those who opposed the de facto parallel government and not against those who were violating the Indian constitution and ethos.

160.9. The Central Government was crippled by the failure of the intelligence agencies to provide an analysis of the situation. It stayed its hand deferring to the Hon'ble Supreme Court which had taken up the matter and was dealing with it by giving appropriate directions. The Supreme Court was in turn misled by the pretentious undertakings given to it by the UP government and the leadership of the movement and the all-is-well reports by its rapporteur Tej Shanker. Without the proverbial leg to stand on, there was little either could have done to forestall the determination of the perverted guardians of democracy, who were in control in Uttar Pradesh.

160.10. The RSS, Shiv Sena, Bajrang Dal, BJP etc. and their inter se relationship have been subjected to a detailed study in my report and their relationship with the de jure powers. These organizations are collectively an immense and awesome entity with a shrewd brain, a wide encompassing sweep and
the crushing strength of a mob. The leadership provided by the RSS, BJP, VHP and the other mutating and constantly transforming organizations like the Hindu Mahasabha and the Jan Sangh, in furtherance of the suspect theories of the founders of these organizations was consistent and unabashed. The ends are all that matter to the core group of thinkers and the destruction of the disputed structure was only one victorious battle in their ongoing campaign against secularism and the multicultural society, clothed in the garb of religion, regions, reservations, castes etc.

160.11. In my report I have, to the best of my ability and knowledge, dealt at length with the wily schemes to undermine secularism by articulating its meaning. The RSS, BJP and VHP core have turned the tables - they have redefined secularism and turned the definition on its head to mean the exact opposite of what it has always been held to be and understood all over the world. Their version of Secularism is neither benign nor tolerant of the ideals enshrined in our Constitution.

160.12. Their infiltration of the Government and of the administration of the state of Uttar Pradesh was complete. Its traces and remnants are still thriving all over the country and still pose as grave a threat as ever. It had and continues to spread in scope to encompass every pillar of the constitutional system.

160.13. I must therefore answer this question posed by the Parliament emphatically by pointing the finger at the Chief Minister; Members of the Council of Ministers; the officials of the Government of Uttar Pradesh who systematically eliminated all impediments; and at the RSS and the BJP and their allies which filled the void with malevolence.

169. **The government, Chief Minister and the cabinet of Uttar Pradesh**

169.1. Immediately after entering into office, the government of Uttar Pradesh headed by Kalyan Singh embarked on the pogrom leading up to the events of December 6th 1992.

169.2. The Kalyan Singh government systematically and in a preplanned manner removed inconvenient bureaucrats from positions of power, dismantled and
diluted the security apparatus and infrastructure, lied consistently to the High Court and the Supreme Court of India and to the people of India to evade constitutional governance and thus betrayed the confidence of the electorate.

169.3. Even at the height of the crisis in December 1992, Kalyan Singh maintained a studied silence and refused to allow even a single measure which might impede the Ayodhya campaign or prevent the assault on the disputed structures, the journalists or the innocent public.

169.4. The Chief Minister and his cabinet disarmed the security forces, neutralized the defensive barricades around the site, embargoed the use of any meaningful force even against the highly unruly mobs which had gathered and subverted every possible measure which could have saved the day.

169.5. Before, during and even after the demolition of the disputed structure had been accomplished, Kalyan Singh and his henchmen proudly owned up to and proclaimed the demolition to be their great success. Even in his post demolition speeches, Kalyan Singh claimed all credit for the demolition and in fact sought to glorify their role by equating themselves with the heroes of the 1857 first war of independence. In the aftermath of the demolition when the possibility of an enquiry or prosecution was still not a certainty, these leaders did not mince words in claiming all credit. They claimed to be martyrs in the great cause of Lord Ram.

169.6. The Chief Minister of Uttar Pradesh and his cabinet members consciously allowed the writ of the extra constitutional authority, i.e. the RSS to run in the state. All the steps taken by the state or the Sangh Parivar, BJP, VHP, Bajrang Dal, Shiv Sena or the Dharam Sansad, Kendriya Marg Darshak Mandal had the implied consent of the RSS or those RSS members who had been "lent" to the BJP. Rather, it was the Swayamsevaks of RSS who carried out the programs or execution at the spot. The Chief Minister and his cabinet were the proverbial insiders who caused the collapse of the entire, system. Kalyan Singh resisted every attempt at persuading him to act in a responsible manner and to notice the ground realities. Even when it was brought to his notice that the disputed structure had been demolished and mobs were
attacking the Muslim populace of Ayodhya, he did not direct the police to use force or resort to firing to chase away the miscreants or to save the lives of those wretched innocents whose only crime was that they lived in the twin city area and belonged to the Muslim community. The wanton violence against human life and property continued unabated and even at that late stage, the Chief Minister did not use the central forces which could have been swiftly deployed.

169.7. Without the BJP's Chief Minister Kalyan Singh and his cabinet colleagues or the icons of the movement or of the BJP, the Ayodhya campaign could not have succeeded at all. A similar situation in the past had been handled by an earlier chief minister denying the miscreants the opportunity to wreak the havoc as they later did in 1992.

169.8. Kalyan Singh's government was the essential component needed by the Sangh Parivar for its purposes. Kalyan Singh lived up to the expectations of the Parivar.

APPENDIX-VII  
(Judgment reserved on 26.07.2010)  
(Judgment delivered on 30.09.2010)  

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD (LUCKNOW BENCH)  

GIST OF THE FINDINGS  
1. The disputed structure was constructed as mosque by or under orders of Babar.  
2. It is not proved by direct evidence that premises in dispute including constructed portion belonged to Babar or the person who constructed the mosque or under whose orders it was constructed.  
3. No temple was demolished for constructing the mosque.  
4. Mosque was constructed over the ruins of temples which were lying in utter ruins since a very long time before the construction of mosque and some material thereof was used in construction of the mosque.  
5. That for a very long time till the construction of the mosque it was treated/believed by Hindus that somewhere in a very large area of which premises in dispute is a very small part birth place of Lord Ram was situated, however, the belief did not relate to any specified small area within that bigger area specifically the premises in dispute.  
6. That after some time of construction of the mosque Hindus started identifying the premises in dispute as exact birth place of Lord Ram or a place wherein exact birth place was situated.  
7. That much before 1855 Ram Chabutra and Seeta Rasoi had come into existence and Hindus were worshipping in the same. It was very unique and absolutely unprecedented situation that inside the boundary wall and compound of the mosque Hindu religious places were there which were actually being worshipped along with offerings of Namaz by Muslims in the mosque.  
8. That in view of the above gist of the finding at serial no.7 both the parties Muslims as well as Hindus are held to be in joint possession of the entire premises in dispute.
9. That even though for the sake of convenience both the parties i.e. Muslims and Hindus were using and occupying different portions of the premises in dispute still it did not amount to formal partition and both continued to be in joint possession of the entire premises in dispute.

10. That both the parties have failed to prove commencement of their title hence by virtue of Section 110 Evidence Act both are held to be joint title holders on the basis of joint possession.

11. That for some decades before 1949 Hindus started treating/believing the place beneath the Central dome of mosque (where at present make shift temple stands) to be exact birth place of Lord Ram.

12. That idol was placed for the first time beneath the Central dome of the mosque in the early hours of 23.12.1949.

11. That in view of the above both the parties are declared to be joint title holders in possession of the entire premises in dispute and a preliminary decree to that effect is passed with the condition that at the time of actual partition by meets and bounds at the stage of preparation of final decree the portion beneath the Central dome where at present make shift temple stands will be allotted to the share of the Hindus.

Order:

Accordingly, all the three sets of parties, i.e. Muslims, Hindus and Nirmohi Akhara are declared joint title holders of the property/premises in dispute as described by letters A B C D E F in the map Plan-I prepared by Sri Shiv Shanker Lal, Pleader/Commissioner appointed by Court in Suit No.1 to the extent of one third share each for using and managing the same for worshipping. A preliminary decree to this effect is passed.

However, it is further declared that the portion below the central dome where at present the idol is kept in makeshift temple will be allotted to Hindus in final decree.

It is further directed that Nirmohi Akhara will be allotted share including that part which is shown by the words Ram Chabutra and Sita Rasoi in the said map.

It is further clarified that even though all the three parties are declared to have one third share each, however if while allotting exact portions some minor adjustment in the
share is to be made then the same will be made and the adversely affected party may be
compensated by allotting some portion of the adjoining land which has been acquired by
the Central Government.

The parties are at liberty to file their suggestions for actual partition by metes and
bounds within three months. List immediately after filing of any suggestion/ application
for preparation of final decree after obtaining necessary instructions from Hon'ble the
Chief Justice. Status quo as prevailing till date pursuant to Supreme Court judgment of
Ismail Farooqui (1994(6)

Sec 360) in all its minutest details shall be maintained for a period of three
months unless this order is modified or vacated earlier.

Date:30.09.2010
RS/NLY/VKG

Source: rjbm.nic.in/suk/0.0.s%20Nes.13,14%20&%20of%201989.pdf
APPENDIX-VIII

PREVENTION OF COMMUNAL AND TARGETED VIOLENCE (ACCESS TO JUSTICE AND REPARATIONS) BILL, 2011

A BILL

To respect, protect and fulfill the right to equality before law and equal protection of law by imposing duties on the Central Government and the State Governments, to exercise their powers in an impartial and non-discriminatory manner to prevent and control targeted violence, including mass violence, against Scheduled Castes, Scheduled Tribes and religious minorities in any State in the Union of India, and linguistic minorities in any State in the Union of India; to thereby uphold secular democracy; to help secure fair and equal access to justice and protection to these vulnerable groups through effective provisions for investigation, prosecution and trial of offences under the Act; to provide for restorative relief and reparation, including rehabilitation and compensation to all persons affected by communal and targeted violence.

Source: www/nac.nic.in/pdf/pctvb-amended.pdf
UPA, BJP FACE OFF OVER COMMUNAL VIOLENCE BILL

New Delhi: The Prevention of Communal and Targeted Violence (Justice and Reparation) Bill has split the National Integration Council. While the Congress and its allies have come out in support of the Bill, the Bharatiya Janata Party (BJP) has opposed it, calling it unconstitutional. However, one of the biggest allies of the Congress, the Trinamool Congress opposed the Bill in its present form.

The differences over the Bill came out in open at the National Integration Council meeting in New Delhi on Saturday with BJP leaders criticising the Bill as a dangerous one. Leader of Opposition in the Lok Sabha Sushma Swaraj said that her party disagreed with the very concept of the Bill.

"We have opposed the Communal Violence Bill. This Bill is dangerous. It does not look at an individual as a citizen of the country, rather it looks at them as a member of a minority or majority community. The Bill also takes away the law and order privilege from the state government and brings it under the purview of the Central Government," said Swaraj.

Her party colleague and Leader of Opposition in the Rajya Sabha Arun Jaitley said that the Bill will divide people on basis of religion.

"The Communal Violence Bill violates the Constitution and is anti-federal. The Bill will lead to disintegration and it's a non secular draft. It denies equality of citizenship by dividing people on basis of religion," said Jaitley.

Karnakata Chief Minister Sadanand Gowda and Madhya Pradesh Chief Minister Shivraj Singh Chauhan, both belonging to the BJP, also spoke against the Bill at the meet.

BJP ally and Janata Dal (United) President Sharad Yadav said the Communal Violence Bill will divide India and bring a "tsunami of protests".

Sources have told CNN-IBN that several Opposition leaders have told the Government not to introduce the Bill in Parliament.
However, the Left Front has indicated that it will support a strong Communal Violence Bill.

"If Communal Violence Bill can give teeth to the legal machinery for controlling communal violence we should consider it. Law should be restricted to communal violence and not other forms of violence," said Communist Party India(Marxist) General Secretary Prakash Karat.

Rashtriya Janata Dal chief Lalu Prasad said that a strong Bill was needed to protect minorities.

Uttar Pradesh Chief Minister and Bahujan Samaj Party declined to take a clear stand on the issue saying that the Centre hasn't bothered to send her a copy of the Bill.

The Prevention of Communal and Targeted Violence (Justice and Reparation) Bill has been drafted by the National Advisory Council (NAC) headed by UPA Chairperson and Congress President Sonia Gandhi.

The Bill defines riots as 'that which destroys nation's secular fabric' and seeks to protect religious minorities, Schedule Castes and Schedule Tribes during communal violence. The Bill will also gives the Centre overriding power to intervene in riot-affected states and proposes to create authorities at Centre as well as the state level to cope with riots.

It will also provide witnesses protection during investigation and trial.

Appendix

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