Chapter 5

Role of Police in Gujarat: Post-Godhra Violence
CHAPTER-5

ROLE OF POLICE IN GUJARAT POST-GODHRA VIOLENCE

The communal violence that erupted in the state of Gujarat after the demolition of Babri-Masjid at Ayodhya in the year 1992 was mainly confined in the city of Surat. After 1992-93 there was no major incident of communal violence except some skirmishes in the city of Ahmedabad. The rest of the state remained peaceful and calm but the violence that erupted in Gujarat after the Godhra incident in the year 2002 was no less than a genocide or ethnic cleansing that had shaken not only the state of Gujarat, India but the whole world as well. The cause of the violence was the burning of a train by an irate mob resulting in the death of 58 passenger (kar sevaks), mostly women and children belonging to majority community, in the coach no 6-6 of the train on 27th February 2002.

The next day on 28th February the World Hindu Council or Vish Hindu Parishad (VHP) announces Gujarat ‘Bandh’ or ‘Closer’. On the day of bandh there were widespread violence, arson, looting and raping. The mass violence of a scale and brutality rarely seen in modern India. Gujarat, the industrialised, prosperous province in the west of India, was tormented by one of the most
barbarous and gruesome episodes of ethnic-blood-letting, compared to the trauma of its partition more than a half century earlier.

Compartment number S-6 and other two compartment of the 9168 DN Sabarmati Express were carrying Kar-Sevaks or Volunteers of the VHP returning home after attending a ceremony called ‘Poorna Ahuti Yagya’ a precursor to the construction of the Ram temple at the very site where the Babri Masjid once stood in the town of Ayodhya in the state of Uttar Pradesh. Once again the Babri Masjid issue became the epic-center of a horrendous communal violence in the country. The actual story starts from a place called Dahod 75 km before Godhra railway station. At about 5.30 a.m to 6.00 a.m the train reached Dahod railway station. These kar-sevaks after having tea and snacks, at the railway stall, broke down the stall after having some argument with the stall owner and they proceeded back to the departing train. The stall owner then filed an N.C against the kar-sevaks at the local police station about the incident. Then at about 7.00 a.m to 7.15 a.m the train reached Godhra railway station. Kar-Sevaks came out from their reserved compartments and again started to have tea and snacks, at a small tea stall on the platform, which was being run by an old bearded man belonging to the minority community. The kar sevaks argued with this old man and then beat him up and pulled his beard to humiliate the old man, these kar sevaks also chanting provocative slogans like ‘Mandir ka nirman karo, Babur ki aulaad ko bahar karo’ (Start building the Temple and throw the sons of Babur out of the country). On hearing the chaos, the 16 year old daughter of the old man who was also
presents at the railway station come forward and try to save her father from the clutches of Kar sevaks. She kept pleading and begging them to stop beating her father and leave him alone. But instead of listening to her woes, the kar sevaks lifted the young girl and took her inside their compartment and closed the compartment door. The train started to move out of the platform of the Godhra railway station. The old man kept banging on the compartment doors and pleaded with them to let his daughter go. Just before the train could move out completely from the platform, two stall vendors jumped into the last boggy that come after the guard cabin and with the intention of saving the girl they pulled the chain of the train and by the time train halted completely it was 1 km away from the railway station. These men then came to the bogey in which the girl was there and started to bang at the door and requested the kar sevaks to return the girl back. On hearing all these chaos, people from the nearby areas of the railway track gathered towards the train. But instead of returning the girls, they started closing their doors and windows. This infuriated the mob and they retaliated by pelting stones at the compartment. In their endeavour to save the girl from the clutches of the Kar Sevaks there was a mysterious fire broke out in the S-6 compartment of Sabarmati Express resulted in the death of 58 Kar Sevaks mainly women and childrens.

Initially Gujarat Chief Minister Narendra Modi claimed that the killings were an “organized terrorist attack”\(^4\). Federal government sources speculated that this was “pre-meditated,” or the work of Pakistan’s Inter-Services Intelligence (ISI) \(^5\). However, senior police officials in Gujarat have now
concluded that the killings were "not pre planned" but rather the result of "a sudden, provocative incident". In addition, a report from the Railway Protection Force (RPF) has concluded that the killings resulted from a spontaneous altercation between VHP activists and merchants on the railway that escalated out of control, rather than a planned conspiracy.

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

Over sixty persons have been arrested for the Godhra train attack. Unlike the persons who have been arrested for revenge attacks on Muslim community in Gujarat, the Godhra arrestees were initially charged with crimes under the Prevention of Terrorism Ordinance, now the Prevention of Terrorism Act (POTA). The charges under POTA were eventually dropped after considerable pressure, but Chief Minister Modi reserved the state government's right to pursue charges against the Godhra arrestees under POTA at a later time "if thought fit.

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Of the 58 who were charred, 26 were women and 16 children and 43 people who sustained injuries include nine women and three children. It took two fire-tenders over an hour to douse the flames but by then it was too late. The news of torching set all Gujarat on fire. On the next day 28th February VHP had given a call of a state-wide ‘Bandh’ or Closer, which turned into mass slaughter, arson and complete break down of law and order in the state of Gujarat. On that day marauding mobs, in 26 major towns and talukas of Gujarat, went to retaliatory spree even faraway villages have not been left out of the spiral of violence. Though the violence spread to almost all part of the Gujarat, except few, but its central district like Ahmedabad, Baroda, Baroch, Bhavnagar, Anand, Kheda and Sabarkhanta are worst affected by the violence and it was a mob rule and no civilized behaviour was visible during this period.

Arundhati Roy, internationally renowned Booker Prize winner, has given a devastating account of what the Muslims in Gujarat had to face. In a long essay in Outlook magazine she wrote: “Within hours of the Godhra outrage, the Vishwa Hindu Parishad (VHP) and Bajrang Dal put into motion a meticulously planned programme against the Muslims community. Officially the number of dead is 800. Independence reports put the figure at well over 2,000. More than a hundred and fifty thousand people, driven from their homes, now lives in refugee camps. Women were stripped and gang-raped, parents were bludgeoned to death in front of their children. Two hundreds and forty Dargahs and 180 Masjids were destroyed—in Ahmedabad the tomb of Wali Gujarati, the founder of modern Urdu poetry was demolished and paved
over in the course of a night. The tomb of a musician Ustad Faiyaz Ali Khan was desecrated and wreathed in burning tyres. Arsonist burned and looted shops, homes, hotels, textile mills, buses and private cars. Hundreds of thousands have lost their jobs.

Mobs had been gathered at selected spots; Muslims houses were marked; even high court judges were not spared; the former MP Iqbal Ehsan Jafri was brutally burnt alive. His telephone calls to the Chief Secretary, the Police Commissioner and to many others were not attended. It was clear that the mobs were meticulously organized; the operation was on a military scale; they were armed with petrol bombs, gun, knives, swords and tridents. Even the elite joined the orgy; they had list of Muslims shops, establishments and businesses. To assist in the murder and the loot, Dalit and Adivasis were brought in from far and near. According to Roy and many others, they had mobile phones to coordinate the action. Trucks with thousands of gas cylinders were loaded week in advance, were used to blow up Muslims commercial establishments. The culprits had not just police protection and police connivance, they had also police cover.

Political background of the Carnage

The political background of the carnage is also a factor that must be studied given the cynical use of the communal violence by the political parties of all hues in the past. Having assumed power in Gujarat in 1998 after winning
by an overwhelming two-third majority, the BJP has since been suffering defeat in local elections for reasons that need not be gone into here.

In the Panchayat, Taluka and District elections that took place on 2000, Congress won two-third of the areas. That was the first major defeat suffered after coming to power. In the elections to six municipal corporations, of 25 districts panchyats and to the closer-to-the-ground taluka elections held simultaneously in December 2000, the BJP lost heavily. It lost control in almost all the district of panchayats. It retained four of the six municipalities but its two losses were in the most prestigious municipalities of Ahmedabad and Rajkot, where the Sangh Parivar had its strongest foothold. The BJP has held the Ahmedabad Corporation for the last 5 years and Rajkot for the last 25 years. The Congress party was the biggest beneficiary of the BJP’s electoral reversals.

In September 2001, the BJP lost to the Congress in the by-election for two assembly seats. Shortly after that debacle, Chief Minister Keshubhai Patel was replaced by the Narendra Modi in a bid to arrest the party’s dwindling fortunes in the state that the Sangh Parivar consider to be the ‘Laboratory of Hindutva’. However, in by-election held on February 24, 2002, for three assembly seats, all of which were held previously by the BJP, it lost two of them by heavy margins to the Congress. Modi was elected from Rajkot, the third constituency, but by a much-reduced margin as compared to the previous poll.12
Given the continuous downslide of the BJP in the state since 98, the question has been raised by many as to whether there were any electoral – political calculations and machinations behind what subsequently happened in the state from February 28 onwards. While this remains in the realm of speculation, the fact is that the Modi government prematurely dissolved the state assembly and pushed very hard for early elections even though the situation in the state was far from normal. For this he was widely criticized and the BJP was charged for trying to cash in on the carnage. The impression certainly gained ground that with the BJP consistently losing at the grass-root level and with assembly elections in the offing, Modi cynically tried to use the politics of division and violence to gain a fresh mandate from the people. That his plan was frustrated because of the Chief Election Commissioner, J.M Lyngdoh that in the prevailing circumstance, a free and fair poll was not possible in Gujarat reaffirms the common citizen’s faith in constitutionalism and the Rule of Law.\textsuperscript{13}

The BJP had been actively pursuing the task of strengthening its base in the country as a whole since the last one-and-a-half decades. Initially, the party established close contacts with the upper castes, and having created this base, succeeded in getting elected in some states, while also obtaining power at the center with the help of small parties. In this process they were helped by Hindu fundamentalist organizations. In Gujarat, by organising programme against reservation as well as the OBCs, they initiated a new form of politics. With Ayodhya issue at its peak in 1992, the party became very important in Gujarat,
but during the post-earthquake period it did not perform well and began to lose
ground. Having lost in the panchayat elections, it was in dire need to stage a
come back in the State Assembly elections and the 2002 riots facilitated their
springing back to power. Hence, the BJP might have had interest in the riots so
as to be able to harness a substantial amount of political capital While linking
the causes of the long period of the 2002 riots with the political interest and
aspirations of the BJP, it was the most violent riot in the state in terms of lives
and property lost. Hindus had become more violent in 2002, and the VHP had
worked towards creation of such an environment more than any other
organization. What happened after the 27 February 2002 could have happened
on any other day for the essential reason for this riot was concerted effort to
gain political mileage.14

Difference between the riots of 1992 and 2002

The State support to the 2002 riots was absent in 1992 riots. The
government did not help the riot mongers in 1992, while in 2002 it was a party
to the riots to a large extent. Specifically, it misused the police. Failure of the
government in protecting people’s lives and properties were more apparent in
2002. The 2002 riots were systematic and planned meticulously as compared to
1992 riot. The riots in 1992 were not so violent, but the one that occurred in
2002 was extremely brutal and rather well spread over the space. Crossing the
boundaries of select cities, it went down to the villages. Pre-planned, the
methods used in this riot were frightening. Gas cylinders (LPG) were used for
explosions and petrol to fuel the fire further. When in some areas Muslims approached to the police stations, there were police officers saying that they were instructed not to register or entertain complaints coming from Muslims. And this indicates that the Hindutvawadi organisations, the BJP and the bureaucracy were at least in tacit support of these riots.

Another point was the growing economic rivalry between the two communities, especially in the city of Ahmedabad. The post–1992 period witnessed flight of a section of Muslim entrepreneurs towards its western suburbs where a section among them invested heavily in putting up restaurants, fast food joints, other eateries, shops and shopping complexes. Many of these were easy targets due to vulnerability of their locations in the 2002 violence, something that was not as easy to target earlier during 1992.

*Major difference between the two riots can be put in the following table*:15;

<table>
<thead>
<tr>
<th>Post-Ayodhya 1992 Riots</th>
<th>Post- Godhra 2002 Riots</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Short-lived</td>
<td>Long- drawn</td>
</tr>
<tr>
<td>2 Placed in the context of</td>
<td>Sustained anti-Muslim and pro-Hindutva propaganda</td>
</tr>
<tr>
<td>reservation issue</td>
<td></td>
</tr>
<tr>
<td>3 Demolition of the Babri Masjid</td>
<td>Mobilisation towards Hindu unification</td>
</tr>
<tr>
<td>became the cause</td>
<td></td>
</tr>
<tr>
<td>4 Less lives lost.</td>
<td>More lives lost</td>
</tr>
<tr>
<td>5 Extent of property damage were</td>
<td>Extent of property damage were very high</td>
</tr>
<tr>
<td>low</td>
<td></td>
</tr>
<tr>
<td>6 Less brutal and not as violent</td>
<td>Highly brutal, dreadful and very violent</td>
</tr>
<tr>
<td>7 No state support</td>
<td>State support evident</td>
</tr>
<tr>
<td>8 Spontaneous to some extent.</td>
<td>Systematic and well planned</td>
</tr>
</tbody>
</table>

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Post-Godhra violence and the Role of Police

Between 28 February and 2 March 2002 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 mob’s 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.

Some portions of the Gujarati language press meanwhile printed fabricated stories and statements openly calling on Hindus to avenge the Godhra attacks. In almost all 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.

**Noteworthy Features of Police Behaviour**

The following were the noteworthy features of the actual performance of the police and the districts administration during the 2002 Gujarat violence;

1- A regular traffic of the Kar-Sevaks from Gujarat to Ayodhya and back had been taken place for quite some time by train. The elementary step the administration should have taken was to provide police escorts in the trains. This was not done.

2- While the police kept the activities of the ‘Muslim fundamentalist’ under watch, no such vigilance was maintained over the ‘Hindu fundamentalist’ who were the real aggressors. The intelligence...
machinery went soft on the latter, may be because a ‘Hindu nationalist’
government is in power in the state.

3- While the VHP called for a statewide ‘bandh’ to protest the Godhra violence, the state unit of the BJP rushed to provide support to the call. This was a irresponsible action, given that the communal situation in the state was quite sensitive. The Chief Secretary and the Director General of police of the state did not advise the Chief Minister of the state against it; they did not do so, possibly due to the pressure stemming from extraneous factors. This was a disastrous mistake since the executive must function on independent advise by senior civil servants on important administrative and political matters.

4- Although several incident of violence took place in the state capital Ahmedabad on 27 February 2002, curfew was imposed in the city only on the following day. No preventive arrests were made. The police Commissioner of the city had enough manpower to take the requisite steps, but did not act. Later on, speaking to the media, he said he was overwhelmed by circumstances and that his men were also naturally affected by the prevailing public mood. One senior police officers told that it was not lack of resources but lack of will which prevented the police commissioner from acting.

5- There are indications that the Chief Minister had, at a high-level meetings of officials, instructed that they should ‘respect Hindu
sentiments’. The bureaucrats were by no means obliged to follow such advice in view of the constitutional requirement of the rule of law. However, the senior officials adopted a ‘line of least resistance’ in the light of such illegal advice of the CM. They did not advise the CM that this cannot be done under the constitution and the law. The Director General of police, in particular, failed to stand up. The junior police official got the message and conducted themselves accordingly.

6- The evidence make it quite clear that systematic preparation had preceded the attack on the Muslim community starting on 28 February 2002. No such preparation could have taken place without the knowledge of the special branch of the Gujarat police and the central government’s own Intelligence Bureau (IB) represented in strength in the state. Experienced police official say that the preparation of list of properties and persons to be attacked and destroyed could not have taken place without the knowledge of the commissioner of police because he was the licensing authority for various business activities in the city.

7- A part of the preparation for the violence consisted of the posting of ‘suitable’ police officials at the cutting-edge level. The power of the Director General of police to post officials up to the rank of Deputy Superintendent of police throughout the state were taken away from him and concentrated in the hands of Home Secretary, functioning under the Chief Minster-cum- Home Minister. Similar was the case with regard to
the posting powers of the commissioner of police in Ahmedabad. This handicapped the two officials in exercising their authority. They should have protested when these power were taken away from them, but did not.

8- According to standing instructions, organizations such as the RSS, VHP and the Bajrang Dal should come under the surveillance net of the central and state intelligence agencies for their communal activities. The intelligence agencies did not perform this vital duty.

9- The Godhra arson attack took place on the morning of 27 February 2002. It was obvious that the situation was tense and could get out of hand. The minimum precaution that the police should have taken in such a situation is to effect preventive arrest of those likely to cause violence. List of such persons are available with all police stations. Such arrests are made routinely, even when there is a likelihood of only minor law and order problems. Leave alone other parts of Gujarat, the preventive arrest made on 27 February 2002 in Ahmedabad itself throw light on the intention of police; in 10 police stations, only two preventive arrest were made, both of Muslims.

Preventive arrests on 27 February after the Godhra incident in Ahmedabad

<table>
<thead>
<tr>
<th>Police Station</th>
<th>Arrest</th>
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<tr>
<td>Naroda</td>
<td>0</td>
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Similarly Police Role in Vadodara can be summarized as

Of the more than 1,300 incidents of violence or attempted violence in the city for which PUCL- Vadodara and Shanti Abhiyan have information till mid-May, the following is the profile of Police involvement:

- Police Absent at the time of attack: 814
- Police informed but inactive: 397
- No response from Police: 60
- Police present and actively involved: 25
- Police prevented incidents: 27

Source: People Union for Civil Liberties, Vadodara and Shanti Abhiyan,

Unprofessional Conduct

The majority of Gujarat policemen, by abdicating their responsibility in the matter of preventive arrests, revealed not only their unprofessional character and conduct. But in the longer term, the failure of the law-and-order machinery to act fairly and swiftly, often against politicians and their cadres, reflects the erosion that has taken place in the criminal justice system.

If a no-nonsense and non-partisan approach had been followed after the Godhra incident of 27 February 2002 and prompt arrest of potential troublemaker had been made, tension could have been contained and the chances of a vengeful and organized spree of retaliatory killings, demonstrating every laments of ethnic cleansing, would have been pre-empted. That this did not happen suggest a lack of intent on the part of those in government to take prompt preventive measure in order to de-escalate the situation.18

The citizens tribunal met and recorded the evidence of both the DM and SP of Panchmahal district, of which Godhra town is the headquarter. It is clear from the evidence that on 27 February 2002, after the Godhra attack, though the Rapid Action Force (RAF) was called in, adequate powers were not given to it. Though curfew was declared in the city, the RAF men were made to sit in the officer’s mess, helpless, unable to do anything. Though the fire brigade was located near the Railway Station. Where the arson attack took place, it took a while for them to reach the place of occurrence. On the day of occurrence, there were only three State Reserve Police (SRP) men on duty; of the 111
Government Railway Police (GRP) officers stationed at Godhra, only two or three were on duty. While two of the GRP personnel reached the spot within minutes, it is not clear why they did not resort to firing to deter the miscreants.

A singular collapse of the criminal justice system had take place in Gujarat during this violence. There was a lack of intelligence about the likely commission of offences against the public order. The lack of systematic surveillance on the conduct of kar-sevaks going to and fro Ayodhya, for at least a month before the Godhra tragedy, especially given their recorded propensities to break the law by consistently provoking religious minorities and even behaving aggressively with them, has been dealt with by the tribunal extensively in its report.

**Other Feature of Police Behaviour**

The other feature of police behaviour briefly noted by the tribunal were;

(i). Police participation in the violence

(ii). Illegal registration of FIRs

(iii). Omnibus FIRs

(iv). FIRs without the name of accused

(v). Deliberate obfuscation of the identity of the accused.

(vi). Victimization of minorities.

(vii). Unprofessional investigation.

(viii). Real culprit not arrested.

(ix). No identification parade.
(x). Malicious combing operation.

(xi). No relief to rape victims.

(xii). No actions against errant media publishing legally actionable reports.

(xiii). No action against the VHP\Bagrang Dal activist behind the violence.

(xiv). Non-implementation of the recommendation of the NHRC.

(xv). Non-use of the Disturbed Areas (Special Courts) Act 1976.

(xvi). Non-use of the Prevention of Damage to Public Property Act 1984; and so on.

**Policemen connection with Saffron / Hindutva Organisations**

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

Here are some examples of the police-parivar nexus:

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

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

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

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

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

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

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

Himmatnagar (Sabarkantha)

8. Shri ND Solanki, SP Himmatnagar: His father is an active office-bearer in the VHP.²⁰

Major incidents of mass killings of post-Godhra violence and the Role of Police:

Some of the major incidents of mass-violence of the post-Godhra riot are:

1. **Naroda Patiya, Ahmedabad:** - On 1st March 2002 at Naroda Patiya in Ahmedabad city, a mob of about 15,000 attacked Muslims, mostly migrant labourers, from Karnataka, Maharashtra and UP. About 96 people were burnt alive women were raped and thrown in the fire. The mob had damaged Noorani
Mosque and a Dargah. LPG and Industrial Oxygen cylinder were used to inflame houses, shops and mosque. People were roasted alive in most inhuman manner at Naroda patia.

Role of Police in the incident

i). Police open fire on the community under attack result in the killing of four and two were injured.

ii). The State Reserve Police (SRP) group II headquarter located at Naroda where helpless victims were sheltered in the earlier riots temporarily. But this time the policemen were insensitive and drove away the Muslims who sought their protection.

iii). Police help in breaking of resistance that was put by victims against the rioters by throwing stones, bottles etc.

iv). The police along with PI K.K Mysorewala burst tear-gas shells when the people were running towards them for protection.

v). Commissioner of Police, PC Panday was aware of the attack on this lone Muslims settlement on the outskirts of Ahmadabad from the morning of the Feb 28 itself, when over two dozens calls were made to his mobile phone for help from residents in the area. But no help was forthcoming. The evidence has, directly indicted his team and the local police station with PI K.K Mysorewala.
2). Gulberg Society, Ahmedabad: - On the day of Gujarat bandh i.e. 28 February 2002, a violent mob of about 10,000 attacked. Muslim residents of Gulberg society at Chamanpura in the Ahmedabad city constituting 19 bungalows and eight flats. Ehsan Jaferi, an Ex-member of Parliament of Congress was one of the resident of Gulberg society he informed police about the menacing herd advancing towards them. Senior police officers reportedly visited the society and assured protection at 10.30 AM but no police arrived till 4.30 PM in spite of repeated telephone calls made by Mr Jaffri. Meanwhile at 3.30 PM Mr Jaffri was pulled out of his house and brutally killed before being burnt he was humiliated by stripping and forcing to say ‘Jai Shri Ram’ and his hands and legs were chopped before throwing in fire along with his relatives and neighbour. Women were raped before being thrown in fire. In all 45 persons including 2 children, were killed and burnt alive at Gulberg society. Police arrived late after the incident. The assault was targeted against Mr Jaffri and the residential society was repeatedly attacked for the whole day and mobs swelled to 10,000.

Noted writer Arundhati Roy mentioned the infamous incident of killing of former Congress MP Ehsan Jafri during riots in these words:

“A mob surrounded the house of former Congress M.P Ehsan Jaffri. His phone calls to the Director General of Police, the Police Commissioner, the Chief Secretary, the additional Chief Secretary (Home) were ignored. The
mobile police vans around his house did not intervene. The mob dragged Ehsan Jafri out of his house and dismembered him.

About the rioting mobs she says, “they had not just police protection and police connivance but also police cover”.

*Role of Police in the incident*

i). The F.I.R lodged by KG Erada of the Meghani Nagar police station itself gives a detailed account of the utter failure of the police to put off the assailants or protect the trapped residents. The FIR admits that the arson and destruction began from that morning itself.

ii). The Commissioner of Police, Ahmedabad, PC Panday visited Ehsan Jafri at 10.30 a.m on that fateful day and assured him of police reinforcements. The CP stands directly indicted because he did not keep his promise of sending police help. The few men who were deputed from the Meghani Nagar chowki, merely watched as 70 persons were butchered and burnt in a macabre dance of death.

iii). The police merely stood back and watched. When questioned about this gross dereliction of duty, commissioner of police PC Panday shrugged and said ‘we were out numbered’.

3). **Sardarpura Village, Mehsana District**: - On 1st March 2002 at Sardarpura village, Vijapur Taluka in Mehsana district, 37 Muslims including women and children fleeing from village were way laid by arranging road
blocks by the mob of about 3000 and they were killed and set on fire. Despite repeated attacks on 28 February 2002 no protection was provided.

Role of police in the incident

i). During the violence of March 1, 2002 that engulfed Sardarpur village and surrounding areas of the District, PSI Parmar had brought Muslims from Sundar village. Though a large number of people were witness to this, none of their statements were recorded.

4) Pandharvada village, Panchmahal District: - On 1 March 2002 at village Pandharvada, Khanpur Taluka 33 persons mostly women and childrens were slaughtered and brunt by a mob of about 2,000. One Mahendra Vakil promised shelter for Muslims in his farm and he betrayed the Muslims by informing herd, led by Sarpanch Anil Modi and Taluka Panchyat President (BJP) Jaswant Manila Patel. It is reported that many corpse were disposed off illegally by burning and VHP district president Sanjay took active part. The acid and solvent were used for burning and disfiguring the victims. 12 person shown as missing; most probably they were killed during violence and were burnt to destroy evidence.

Role of Police in the incident;

i). Though Pandarvada had a police output, police failed to prevent the incident.

ii). The police were called but the attack were continue even in their presence and even after they had left.
5). **Ode Village, Anand District:** Ode village is also called as the NRI villages because there are many rich traders of tobacco live in this village. On 1\(^{st}\) and 2\(^{nd}\) March 2002, a total of 27 persons were killed and equal numbers of persons were shown as missing; 18 accused persons were arrested but they were released on bail reportedly for celebrating Shivratri. The cattle were burnt alive and people were not allowed to escape and they caught and charred to death.

*Role of Police in the incident*

i). The local police did help some people who were attacked to escape.

ii). After the incident the police arrested 23 accused person mostly Hindus for attacking Muslims.

6). **Best Bakery, Vadodra:** On 1\(^{st}\) March 2002 at 8.30 PM a mob plundered and burnt Best Bakery at Vadodra owned by a Muslim. The repeated attacks continued the whole night. One Jayantilal promised the victims that nothing would happen and he could safeguard them. But later on, he betrayed and joined the mob to assault them. The bakery was looted and it was ignited. 14 person including 3 women and 4 children were consumed by fire. The police was informed and the police van came at 9.30 PM and did not prevent the act of savagery. The criminal case was acquitted in lower court on 24 June 2003. But the Supreme Court ordered on 12 April 2004 for retrial outside Gujarat state at Bombay. On 24 February 2006 Bombay High Court awarded life term punishment to nine and acquitted eight.
Role of Police in the incident:

i). The besieged family repeatedly called the police control room and also the policemen at the Pani-gate police station.

ii). The police kept saying we are coming but an hour and a half later a police vehicle drove by the bakery stopped briefly and then drove away without doing anything to top the mob.

iii). The most shocking aspect of this incident is that it was after the police had come and gone away without any preventive stop that the mob started loot and arson and the subsequent massacre.

Frenzy against Judges and Police officers

In India, an individual, however mighty and powerful, is considered as a member of religious or caste group to which he belongs and his social status is not related to the post he holds. The accidental birth in a particular religion or caste decides his standing in the society. The social interaction descent based as in South Africa where apartheid is practiced; while India condemns it in world forum but ignores the same in the country.

The followings are instances as to how Muslims occupying higher posts have to confront with the barbaric Hindu mobs;

i). On 28 February 2002 Gujarat bandh day, Justice M.H Kadri a sitting judge of Gujarat High court staying in a posh locality of Dhallakot area of Ahmedabad, where high court judge’s Bunglaws are located, had to confront
Hindu mob at 4.00 AM. The situations were tense in Dhuliakot area and incidents of plunder and arson were reported. The high court judges are provided with police guards at their residences but only two ill-equipped police constables were not at all sufficient to meet furious determined mob. Justice Kadri had to move to a nearby house of Justice Vaghela along with his aged mother, wife and two daughters. Finally Justice Kadri had to move to his sister-in-law house under military escort on 1st march 2002; thanks to the intervention of brother Judges and Justice Ravani, a retired chief justice of Rajasthan High Court. It may be added that right in front of Gujarat High Court, which is situated on a high way, trucks of Muslims were set ablaze in the presence of state reserve police and other policemen posted at the high court premises.

ii). There is another case of assault against a retired Judge of Gujarat High Court, Justice A.N Divecha, a resident of flat 1 and 2 of Kazmi apartments Paldi in a total of 12 flats occupied mostly by Muslims. On the night of 28 February 2002 a mob led by VHP volunteers threw petrol bombs. Police was informed but no effective action was taken; the riotous mob of 2,000 reappeared again for targeted attack of Kazmi, Tarana, Delite and Elite apartments inhabited by Muslims. Justice Divecha left his flat in the night apprehending attack. But his flat was set on fire and property damaged. Police failed to take action against known VHP leader in the above incidents; the violent attacks repeatedly took place in Posh locality of Paldi, Ahmedabad and the intention of the Hindu mob was to throw out well to do Muslims living along with others in decent area and drive them to congested ghettos of
Juhupara, at the outskirts of Ahmedabad city inhabited by Muslims. The above two incidents were brought to the notice of National Human Rights Commission (NHRC). Even the senior officers of the rank of I.G.P had to shift his residence for safety and Muslims locality inhabited by senior IPS officers, near Navangpura police station has to provided permanently with the State Reserve Police Force for security. On 4 March 2002, A.I Saiyed, a senior IPS officer of minority community, was assaulted on his way to the office.

Professor Bandukwala of MS University, Vadodra, a Human Rights activist, was repeatedly attacked on 28 February 2002 and on the 1st March 2002 at Sama, Vadodra, his house and car were torched with patrol bombs. Fire brigade was not allowed to enter and no police assistance was available to him. Similarly on March 10 2002 retired Lt Col. H.V Shaikh was attacked by a mob of 500 at his residence at Ajwa Road, Vadodra and he had to seek help from EME School, Vadodra for shelter. A policeman of minority community on duty was burnt to death along with his vehicle.

Murder and Rape

The communal violence of 2002 is incomparable to any of the previous riots in its velocity, continuity, and inhuman atrocious and barbaric acts. There are many reported cases of rapes, killing of victims and destruction of identity of victims and the evidence. The details of Bilkis Bano Rasul Patel, a pregnant women who was gang raped, is an example of a heinous crime. She left her village Randhikpur, under Panch Mahal district, on 28 February 2002 fearing
murderous attack upon her and her family members of 15 persons. On the way at Chhaporwad bloodthirsty crowd assaulted them. They raped the family members including herself and thereafter all the 14 members were killed. Presuming that she was dead, miscreant herd left the place but she regained consciousness and reported the matter to police. But the police has recorded death of only seven persons and reported others as missing. Many people were shown as missing in most of the mass murder cases. As the rape of victim was not investigated properly, Bilkis Bano filled a petition in Supreme Court with legal assistance from NHRC requesting for a CBI investigation. As per the order of the apex court, CBI took up investigation in January 2004 and arrested 12 persons including police officers and medical officers for criminal conspiracy and assistance to accused persons. It was reported on 26 April 04 that the CBI DSP K. Sinha who investigated case visited the Sabarmati jail, Ahmedabad to take photographs of accused as per order of the court, he was threatened and the DSP had filled affidavit in the Session’s Court at Dahod in this regard. This indicates as to how a CBI officer was intimated in Gujarat and how local police were threatened can be imagined. The trial of this case was transferred to Bombay.24

Communalisation of Police

Victims have reported in so many cases, including the massacres in Gulberg society in which former Congress MP Ehsan Jafri was brutally slain, and in Naroda-Patia where more than 80 people died, that the police has been
partisan and anti-Muslim. The NHRC notes that the communal marauders were widely reported to have been “singling out certain homes and properties for death and destruction in certain districts- sometimes within view of police stations and personnel”

There are several eyewitness accounts of victims pleading with the policeman present and receiving no help or even the policeman being on the side of murderous mobs. In cases throughout the state, Muslim victims claimed the police used force against them, including firing, thereby providing cover and support to the rampaging mobs. A number of victims are quoted in various sources as saying that but for the police partisanship, the toll in the Gujarat carnage would have been much lower. Till date no satisfactory explanation has been given for the inordinate police delay in intervening in Gulberg Society where more than 50 lives were lost, despite the ex-MP Ehsan Jafri’s incessant request for help through telephone. According to the survivors of Naroda-Patia, the State Reserve Police (SRP) not only refused the fleeing Muslims to shelter, but tear-gassed them, forcing them towards the waiting mobs. When the NHRC team visited Naroda-Patiya, a victim Nanhoo Miyan accused PSI K.K Mysorewala of directing the fleeing Muslim men and women into the arms of the marauding crowd an ensuring that no one escaped unhurt. P.C Pande, Commissioner, Ahmedabad was asked by the NHRC to explain his widely publicised statement in an interview given to rediff.com to the effect that the policemen have their own feeling and cannot be expected to remain uninfluenced by the mood of the community.
The higher ups had ensured that the partisanship was much greater at the lower level, where there appears to have been substantial communalization of police force. There are widespread reports of the lower echelons of the police being especially partisan and hostile to Muslims. But efforts to get the senior officials to remedy this sordid state of affair seem to have failed too. Some senior police officials have indicated that their hands were tied, implying that this was done at the behest of politicians. But this does not absolve the top police brass in Gujarat for failing to do their duties. The maintenance of law and order is the direct responsibility of the police force. Regardless of what political pressure may or may not be put upon them, there exist a structure of rules and powers that empowers the police to ignore such political pressure and to ensure that law and order is maintained. This can be done through a variety of measures including identification of likely communal hotspots, preventive arrests and detention on a mass scale in curfew and other areas, back up preparations etc none of which was done. What is more, despite a degree of communalisation of the police at lower levels, as long as the top hierarchy of the police make it clear that the police must and will do its duty of ensuring peace, such communal prejudices are invariably kept firmly in check and easily subordinated to the acceptance of the existing chain of command and operation. It is when the top official do not assert themselves that wrong signals go down the line. In the case of Ahmedabad on Feb 27 when bandh was declared by the VHP and the government in power supported it, there were no preventive arrests made by police stations in communally sensitive areas.
The NHRC cites the Gujarat government’s report to it noting “that many instances were recorded in the report of prompt and courageous action by District Collectors, Commissioners and Superintendents of police and other officers to control the violence.” But the NHRC points out that “the report itself reveals that while some communally prone districts succeeded in controlling the violence, other districts – sometimes less prone to such violence succumbed to it.” Thus the communal holocaust could be averted had the conscientious and capable officers intervened.

This lack of political will has also affected investigations. For most victims, the police were not registering FIRs. Even when they did they avoided writing specific names of alleged wrong doers, they wrote collective FIRs for a whole group of victims thereby defeating the purpose at the very outset. Further, they have cited lesser offences, for example, noting the charges of rioting instead of murder. Several instances suggest that the investigating officers were biased throughout. The NHRC has clearly noted this: “numerous allegations have been made both in the media and to the team of the commission … that FIRs … were being distorted or poorly recorded, and that senior political personalities were seeking to influence the working of police station by their presence within them, the commission is constrained to observe that there is a widespread lack of faith in the integrity of the investigating process and the ability of those conducting investigations”.

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Transfers of Police

About 27 Police officers in the state were transferred on March 24, 2002 even when the violence was continuing all around. The police officers who took firm position against violent VHP and Bajrang Dal mobs were punished. Those officers who maintained a purposeful inaction and were partisan towards the mobs were rewarded with key and important postings. A.K Chakravarty, the Director General of Police, was not consulted and he objected to these transfers and wrote to the additional chief secretary that four IPS officers were being transferred for fulfilling their constitutional obligations. He stated that such transfers would demoralize the police force. The SP of Kutch, Vivek Srivastav was transferred because he arrested the area’s Home Guard commandant, Akshay Thakkar, a member of the VHP and a local VHP leader Vasant Patel for attacking priest of a Dargah in the area. Rahul Sharma, who had only recently transferred as SP of Bhavnagar, took strong measures to stop rioting mobs there on March 1. He resorted to some rounds of firing himself and rescued over 400 Muslim children in a Madrassa who were attacked by a mob. He took strong action against the mob leaders including Shiv Sena’s Kishore Bhatt. Sharma was since transferred. Other officers like DCP P.B Gondhia, who had named BJP MLA Maya Kodnani and VHP leader Jaideep Patel in his FIR on the Naroda-Patia massacre in Ahmedabad was shunted out to civil defence. On the other hand, R.J Savani, who is reportedly close to the VHP, was appointed DCP (Crime) while Sanjay Gadhvi, a friend of Praveen Togadia replaced Gondhia as DCP (Zone IV), Ahmedabad. It is quite clear that
every attempt to control and communalise the police force was evident during the entire period of communal violence in 2002\textsuperscript{25}.

**Saffronised Police shows their Colour**

The communalisation of the Gujarat police under the BJP administration in the State is complete and the uniformed men have given ample demonstration of it when Ahmedabad and most other parts of the State were burning in the cauldron of communal carnage in the aftermath of the gruesome Godhra train attack. In the score-sheet of the Vishwa Hindu Parishad, the police must have earned cent per cent marks for the way it acted as an extended arm of the communal elements indulging in looting and arson, selectively targeting the shops, houses and business establishments of the minority community. For 24 hours, the hooligans had a field day with the police looking the other way round and in some cases even actually aiding and abetting in their crime. And once the mob tasted blood, there was no stopping.

True that the police were far outnumbered by the hooligans and anti-social elements joined by the local urchins fishing in the troubled water to take advantage of the VHP bandh call, but that could not be an excuse for the way the police behaved during the riots. In many places, shops were looted and set afire right under the nose of the policemen and they even collected a part of the booty. Even as the hooligans were breaking a small mausoleum in the middle of a road barely a few metres away from the police commissioner's office, the police vehicles passing by, not only did not bother to intervene, the police
actually gestured to the hooligans to go ahead. There had been at least 15 incidents of damaging and destroying minority places of worship which were overnight converted into "temples" with the police remaining a mute spectator.

It was not the first time the State witnessed such large scale communal violence, nor the percentage of policemen, vis-a-vis, the increasing population of the city and the State anytime higher than at present, but except for the days of the police revolt during the 1985 riots, such total inaction of the police was ever witnessed. The police may not have demonstrated such impotency without a tacit approval from above which they received from the ruling party extending support to the bandh call. In such a situation, the police would always be hesitant to act lest it hurt the interests of the political bosses. And the saffronised police also found a common cause with the criminals to "punish" the minorities.

Insiders in the BJP admit that the police were under instructions from the Narendra Modi administration not to act firmly; apparently he wanted to please his RSS and VHP brethren in return for the help he received from the saffron brigade to acquire the top post and win the Rajkot-II Assembly by election despite heavy odds. It may not be mere co-incidental that Bapunagar, home constituency of the Minister of State for Home, Gordhan Jhadaphiya, 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 the Modi
Cabinet were also alleged to have participated in the destruction of the minority places of worship

Stirring 'hindutva'

The sensible people in the State feel that the ruling party was deliberately allowing the situation to deteriorate to reignite the "hindutva" sentiments taking advantage of the Godhra train carnage. The Godhra incident may have provided a ready situation for Mr. Modi to try to recapture some of the lost grounds for the BJP to fight the Assembly elections due in February next year. As of now, shocked by the Godhra incident, a substantial section of the Hindus is finding a common cause with the VHP and in turn the BJP, but whether the advantage could be reaped a year later, only the time will tell.

It also explains why the Modi administration deliberately delayed a decision to seek the assistance of the Army to allow free time to the hooligans to "teach" a lesson to the minorities.

It is to cash in on this sentiment that Mr. Modi, even risking criticism, had tried to virtually "justify" the vandalism on the bandh day as the "natural outpour of anguish of the people" for the "terrorist-type pre-planned attack" on the "Ram sevaks" in the Sabarmati Express. He also maintained that the mass murder in Meghaninagar and Naroda areas in Ahmedabad, in which more than a hundred people were burnt alive, were actually "provoked" by the minorities. Despite promising that not one culprit guilty of burning of shops or human beings would be "spared" by the administration, no action had been taken
against any VHP leader or volunteer on the ground that no "specific complaint had been received against them."²⁷

Mr. Modi may allow the situation to drift because he is under no political compulsions. Having taken over the reins of the State only recently, he is not threatened to be replaced by the party. It would also be inadvisable for the Opposition to demand dismissal of his Government and imposition of the President's rule, because earlier the next election, more beneficial would be to the BJP. De-saffronisation of the State police would perhaps become a major task before the next Government in the State after the Assembly elections.

**Secret Circular of Gujarat Police**

To,

All Police Commissioners
All District Police Officers
&
For Information: Police Ahmedabad
All range IGPs /DIGPS
From: Director General of Police (Intelligence)
Gujarat State, Ahmedabad
Ref.: D.2/2,Com/Muslim/Activity/84/99 of 1/2-2-99

1. You are asked to intimate the details of persons (Muslims) involved in communal riots which occurred in your city/district during the last five years viz (1) offence registration No. (2) Section (3) Place (4) What judgement by court? (5) How many times the person is booked under CRPC Section 107, 151, 110 or PASA, NASA?
2. Please submit the dossier of criminals and persons with communal mentality.

3. Please prepare the complete dossier and send with special messenger about branches of Students Islamic Movement of India located in your district/Cities with the names, addresses telephone numbers of the office bearers and active workers. The details of addresses of offices also be given.

4. Please intimate how many Darul Uloom are functioning in your districts / cities where the same are located. The boys and girls studying there belong to which Country/ State/District and their numbers. Details and types of degree awarded. Whether the same are recognised by the Government. and from which foreign countries they receive assistance and quantum of the same.

5. Please intimate the details of existing Muslim organizations in your district/ with their address and who are the leaders working for their organizations, their names addresses, total members, telephone numbers etc.

6. Please intimate the places where Istemas are organized by Muslims in your districts/cities and total number of persons attending Istemas. Name the participating religious leaders and the names of persons actively involved in the activity with addresses.
7. Please intimate about the number of Pakistani Nationals in your District/cities, when they came. How many went back, how many got Indian nationality? What are the activities at present?

8. Please intimate the details of Muslims in your cities who are involved in narcotic and smuggling activities. How many times they have been detained under COFEPOSA, PASS, NASA, and deported? Prepare the dossier with names and other complete details.

9. Please open the dossier of Muslims individuals who are involved in the offence of assault with knives or scissors, rioting and murder with their names and the copy of the same to be sent here.

10. Please intimate the names of political leaders, with their names and their party, who are supporting these criminals and assist them for release for help in the polls.

Sd/- P.B.Upadhyaya

Fact finding Teams, Commissions and Committees of Inquiry

After the carnage of 2002 various fact finding panels, inquiry commissions and committees set up to inquire in to the massacre by both governmental as well as non govt organisations;

1. Fact findings by a Women’s Panel

Role of the Police and Minority women

This time round in Gujarat, far more than in previous episodes of communal violence, women have been fair game. Forced out of burning homes, running
for their lives on violent streets, they have been targeted not only by rampaging mobs hell bent on hurting every Muslim women, man and child in sight, but far worse, by the police, whose job was to protect them. Just as the mobs sought revenge on behalf of Hindu women so too it appears did the police. This we have on the word of Gujarat’s chief Minister –‘Police are human being as well’, he said, shortly after the carnage began, and not inured to the sentiments of society’. Everywhere the fact-finding team went, women narrated graphic, first-hand tales of police complicity.

- Several account speak of policemen actively aiding, abetting and in some cases leading the mobs. Video footage seen by the fact-finding team showed slogan’s like. Yeh Andar ki Baat hai, Police hamare saath hai’, (The inside story is that the police is on our side) - written boldly on the walls of gutted Muslim homes.

- A pattern that was often repeated was that the police would open fire at the Muslims rather than at the mob, which were attacking them.

- In other cases, the police turned a deaf ear to cries of help, or simply told women, in so many words, that they did not have orders from above’. Women and children were repeatedly turned away from police chowkis and stations and told to fend for themselves

- At best, the police would take a crowd of frightened Muslims and dump them in safer Muslim majority areas. The message was clear –
‘Protecting Muslim was not our responsibility; other Muslims can look after them’. Muslims were no longer citizens of the state.

- In no instance did the fact-finding team hear of Mahila Police being deployed in areas where women were being brutalized.

- In a vast majority of cases, FIRs have not been lodged. Several accounts say that the Police simply refuse to lodge the FIR, saying, ‘you don’t have enough evidence, there is no case’.

- Victim of sexual violence do not even have the confidence to approach the police, let alone walk the long path to evidence gathering and getting justice. In the words of one Muslim woman, “Yeh to Hinduon ki police hai” (This is a Hindu Police).

- Muslim women surviving in relief camps across the state are not only ones who dread the Police. Outside the camps, in several Muslim dominated areas in Ahmedabad, they live in forced imprisonment and constant terror of another kind. Curfew has been imposed in these areas, including Millat Nagar, visited by the fact-finding team. Under the guise of ‘combing operations’ the police are picking up young Muslim boys at random. Mothers live in constant fear. Order to protect their men, women are being forced to venture out of their homes for daily chores, and encountering the police. The fact-finding team heard specific accounts of continuing police atrocities of women being severely beaten or killed in police firing.
However, even in its worst moment, there remained in Gujarat isolated pockets of calm where the police and the administration stood firm, giving the lie to the theory that the post-Godhra carnage was an unstoppable case of spontaneous communal combustion. For example, no causalities have been reported from Panchmahals District since March 5th, including on Godhra town the spiral of violence first started and which has a long history of communal tension. The fact-finding team believes that this is in large part due to the sincere efforts of the District Collector Jayanti Ravi in ensuring that law and order is maintained.

2. Shah-Nanavati commission

After the carnage of 2002 some inquiry commissions and committees set up to inquire into the massacre. On March 6, the Gujarat government set up a commission of enquiry headed by retired High Court judge K.G. Shah to enquire into the Godhra train burning and the subsequent violence and submit a report in three months. Following criticism from victims' organisations, activists and political parties over Shah's alleged proximity to the BJP, on May 22, the government reconstituted the commission, appointing retired Supreme Court Justice G.T. Nanavati to lead the commission. In 2008, the Nanavati commission came out largely in favour of the Gujarat government's aspect. Nanavati's evidence hinged on the acquisition of 140 litres of petrol hours before the arrival of the train and the storage of the said petrol at the alleged key conspirator's, Razzak Kurkur, guest house. This was further corroborated
by forensic evidence showing fuel was poured on the train compartment before being burnt. The alleged mastermind was said to be the cleric Maulvi Husain Haji Ibrahim Umarji and a dismissed CRPF officer by the name of Nanumiyan, from Assam, who had instigated the Muslim crowds. Furthermore, two Kashmiris, Gulamnabi and Ali Mohammed, were in the same guesthouse for a fortnight prior to the event speaking about the Kashmir liberation movement.\(^{32}\)

The CPM and the Congress party both came out railing against the exoneration of the Gujarat government by the commission citing the timing of the report (with general elections months away) as evident of unfairness. Congress spokesperson Veerappa Moily commented at the strange absolvement of the Gujarat government for complacency for the carnage. He also said the report reinforced communal prejudices\(^{33}\).

3. **National Human Rights Commission (NHRC)**

In its Proceedings of 1 April 2002, the Commission had set out its Preliminary Comments and Recommendations on the situation and sent a Confidential Report of the team of the Commission that visited Gujarat from 19 March-22 March 2002 to Gujarat government and Central Home Ministry. The Gujarat government in its reply did not provide its response to the Confidential report. Therefore, the Commission was compelled to release the confidential report in its entirety and observed that nothing in the reports received in response "rebuts the presumption that the Modi administration failed in its duty to protect the rights of the people of Gujarat" by not exercising its jurisdiction
over non-state players that may cause or facilitate the violation of human rights.

It further observed that "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".

The report claims failure of intelligence, failure to take appropriate action, patterns of arrests, uneven handling of major cases, and "Distorted FIRs: ‘extraneous influences’, issue of transparency and integrity" as key factors in the incident(s).

See NHRC first report in Appendices for more detail.

4. Banerjee Committee

In September 2004, a panel appointed by the central government and headed by former Supreme Court judge UC Banerjee to probe the Godhra train fire concluded that the fire was accidental. It has found no proof of the "terrorist conspiracy" which was propounded by the Gujarat Police SIT inquiring into the causes of fire in the Sabarmati Express at Godhra station for which it arrested 104 person belonging to minority under POTA. The committee also dismissed the "miscreant theory". It ruled out the possibility that the fire could have ignited after a fight erupted between the kar sevaks and hawkers at the Godhra station, or that the hawkers gathered a mob that threw
stones and burning rags at the kar sevaks inside coach S-6. "The committee has noted the forensic laboratory's experiment and verified its conclusion that it was impossible to set fire to the train from outside," Banerjee concluded. Eliminating the "petrol theory", the "miscreant theory" and the possibility of an electrical fire, the committee said that the burning was an "accidental fire". But it gave no reason why it could have been an "accidental fire".

Its report also highlights the failings of the railway administration. It has criticised the entire hierarchy of the Western Railway for pre-judging the case by describing the fire as "miscreant activity" without even conducting a preliminary inquiry. Even later, no statutory inquiry into the fire was carried out.

Conspiracy theory has several loopholes. How did the conspirators know that there are Karsevaks on Sabarmati Express. The train was also running more than four hours late. And as for Karsevaks are being on the train inquiries show that even RAW, I.B and Railway Police did not know anything about it. In fact Karsevaks were scheduled to return a day earlier but were delayed by a day. How could then conspirators know that Karsevaks were on the train that day? They could not know more than government intelligence agencies. Even if they did, delay of more than four hours could have upset their plans. In such matters even minutes matter, let alone hours.

Its findings were challenged by the BJP and the Gujarat Inspector-General of police. In October 2006, the Gujarat High Court ruled that the panel...
was set up illegally, in violation of the Commissions of Inquiry Act, 1952 which prohibits the setting up of separate commissions by state and central governments to probe a matter of public importance\textsuperscript{38}

**Gujarat police and Fake encounters**

A very grim reality about the police in our country in general and Gujarat police in particular, today is the repeated incidents of ‘Fake encounters’ in which innocent people were branded as dreaded terrorist and criminals and killed by police in cold-blooded manner to achieve various nefarious political ends. After the 2002-riot there was a spate of encounter killings in Gujarat one after the another. Police in Gujarat state adopted a policy or strategy of extra-judicial killings of the people involved in some criminal activities belonging mainly to the minority community on a large scale. It can be said that there were incidents of ‘mass fake-encounters’ in the state of Gujarat after the 2002 communal pogrom. There were as many as 21 encounter killings between 2002 to 2006 in whole state. The Gujarat police fake encounter controversies started to open when the police of Gujarat state admitted on March 23, 2007 to the killing of an alleged extortionist "Sohrabuddin Sheikh" in a staged gun battle, better known as ‘encounter killings’, on November 26, 2005 by the Anti-Terrorist Squad (ATS) of Gujarat police\textsuperscript{39}.

The police at that time had claimed that the man, belonged to the Pakistan based terrorist group Lashkar-e-Toiba and was planning to assassinate Gujarat Chief Minister Narendra Modi to avenge the death of Muslims killed in
the 2002 Gujarat communal violence. It was a joint operation of the Gujarat and Rajasthan police. The Sohrabuddin encounter is not the only one encounter conducted by Gujarat ATS there are many other people who were killed in similar fashion and on the same pretext.

Second major controversial encounter conducted by the Gujarat ATS was the brutal killing of a teenaged girl named Ishrat Jahan, a first-year student of Khalsa college in Bombay. Then there's the case of Samirkhan Pathan, an Ahmedabad youth killed in the Usmanpura locality on October 22, '02. Next comes Sadik Jamal of Bhavnagar, bumped off near the Galaxy cinema in Ahmedabad on January 13, '03. His parents, Zeenabibi and Sarfraz Khan Pathan, are emphatic that their son was killed in a fake encounter. More recently, on March 17, '06, four presumed 'Kashmir terrorists' were shot dead near Vatwa in Ahmedabad.

Amidst all these encounters most controversial figure is the role of three IPS officers, namely, D G Vanzara (DIG, border range), Rajkumar Pandian (SP, Intelligence Bureau) and Dinesh M N (SP Alwar, Rajasthan) all of them were arrested for their alleged role in the encounters. All these incidents are happened under Vanzara's watch. Ironically, in every instance he had claimed that Modi was the target. Vanzara was known as a favourite officer of Chief Minister Narendra Modi and state Home Minister Amit Shah. Of all the encounters police conducted two of them attract much public attention due to their ferocity. These are Sohrabuddin Sheikh and Ishrat Jahan encounter;
1). **Sameer Khan Pathan**: Sameer's was the first in the series of encounter killings of alleged "terrorists" in Gujarat. On October 1, 2002, incidentally observed as anti-terrorist day by the BJP, the Crime Branch of the Ahmedabad Police announced that they had arrested a Jaish-e-Mohammed terrorist called Sameer Khan. Khan was a small-time criminal wanted for the alleged murder of a police constable and had been absconding since 1996. Vanzara, who was then DCP Crime, said that they had arrested Khan from outside ST bus stand on the afternoon of September 27. For the next four days, however, the police kept him in unlawful custody, violating the legal provision of producing an accused in court within 24 hours of arrest. On the night of September 30, the Crime Branch finally showed Khan as arrested under a newly-registered FIR. What is shocking is that the police chose not to arrest him under the already existing FIR, filed for the constable's murder, but waited four days before they registered a new FIR spun around a conspiracy alleged to have been hatched by the ISI and Jaish-e-Mohammed to assassinate Modi, Togadia and Advani.

He was killed from the point-blank range but the police claimed that he was killed while trying to snatch the revolver of a police inspector KM Vagehla. Three bullets were pumped into Sameer — one on the head and two on either side of the ribs.
Sameer Khatri’s encounter was faked by Vanzara and its cover-up supervised by Modi’s principal secretary who got top secret documents changed and manipulated in the name of ‘desh bhakti’

2). **Sohrabuddin Sheikh Encounter**: -It was Sohrabuddin's encounter that opens the Pandora box of Gujarat police fake encounter misdemeanour before the public. Sohrabuddin was a big goon in Rajasthan, involved in extorting ransom from big marble merchants and rich builders. Sources in Gujarat police claimed that some Rajasthan-based people arranged for Rs 2 Crore Supari (contract killing) for killing Sohrabuddin. But the stage was set in Gujarat, instead of Rajasthan. Sohrabuddin was killed along with his wife Kausar and an associate, Tulsiram Prajapati, had been taken off a bus from Hyderabad to Belgaum on the night of November 22, 2005. Three plainclothesmen carrying guns identified themselves as ‘police’ and barged into the bus. They went straight to the three passengers and forced them to disembark at Tadola village in Bidar, about 20 km from AP. That was the last time anyone saw of Sohrabuddin Sheikh, his wife Kauserbi and Tulsiram. All this according to the staff of Sangita Travels on whose bus the three were travelling.

The Gujarat government also admitted that Sohrabuddin's innocent wife Kausarbi had been killed by the police and her body burnt in an attempt to remove the traces of the crime. Besides Sohrabuddin and his wife Kauser Bi, the third 'encounter victim' was Tulsi Prajapati, a small-time gangster and a
friend of Sohrabuddin. In fact, it is believed that Tulsi was used by the police to track down Sohrabuddin. Just after Sheikh got killed, his wife Kausar Bi had gone missing. Rubabuddin, Sohrabuddin's brother, had filed a petition in the Supreme Court claiming that the Gujarat police's encounter was fake and he wanted to know where his sister-in-law Kausar Bi was. Another friend of Tulsi, Udaipur-based Sylvestor Daniel Christian, was picked up along with him on December 12, 2005, by the Gujarat ATS. He too is still missing.

All these incidents of police encounters on the same pretext are highly alarming since the single reason cited in all these encounters were the 'mission to kill Modi' which reflected a dubious nexus between police and politicians of the state.

2). **Ishrat Jahan encounter:** - In yet another major setback to the Narendra Modi government in Gujarat, Ahmedabad Metropolitan Magistrate S.P Tamang, has ruled that the incident in which Ishrat Jahan and three others were killed in June, 2004, was yet another case of "fake encounter". Ishrat Jahan encounter is one of the most barbaric and infamous encounter conducted by Gujarat police. In his 243-page hand written report on the encounter, Mr Tamang has named the then "encounter specialist" of the Gujarat police, D.G Vanzara, and others as accused in the "Cold blooded murder" of the teenaged girl and three others. Ishrat was just 19 when she was "kidnapped," shot "in cold blood" and termed as Lashkar-e-taiba operative. She was a second year B.Sc student aspiring to become a teacher. She was also teaching in a well-known
coaching class at the time. A day before she was “kidnapped” she had applied for an educational scholarship.

Mr Tamang’s report said the Crime Branch police “kidnapped” Ishrat and three others from Mumbia on June 12 and brought them to Ahmedabad. The four were killed on the night of June 14 in police custody, but the police claimed that an “encounter” took place on the morning of June 15 near Kotarpur water works on the Ahmedabad. The rigor mortis clearly indicated that Ishrat died between 11 p.m. and 12 midnight the previous night and the police apparently pumped bullets into her body to substantiate the encounter theory. It said the explosives, rifles and other weapons allegedly found in their car were all “planted” by the police after the encounter. Police claimed Ishrat Jahan was killed along with three more persons — Javed Sheikh alias Pranesh Pillai, a converted Muslim, son of a Gopinathan Pillai of Kerala and two Pakistani citizens Amzad Ali Rana and Jishan Jauhar of LeT outfit. Mussarat Jahan, mother of Ishrat, says her family believes Ishrat Jahan was raped before being killed and Mr Gopinathan Pillai also alleges that his son was brutally tortured before the encounter.

All these incidents of fake encounters has reflected a very sad state of affairs on the part of Gujarat police which has already played a very controversial role during the 2002 horrendous communal violence. This incident of encounters has further established their image as cruel and communal before the masses.
See NHRC guidelines for Police encounters in Appendices.

Special Investigation Team (SIT)

On 26 March 2008, Supreme Court of India ordered the State government of Gujarat to constitute a five-member Special Investigation Team (SIT) headed by Dr R.K. Raghvan, former Director of the Central Bureau of Investigation (CBI) as the chairperson of SIT, well known for his integrity and impartiality, to investigate the nine infamous cases of 2002 Gujarat communal violence. Besides Raghvan former Director General of UP police, CB Satpathy and three IPS officers from Gujarat Geeta Johri, Shivanand Jha and Ashish Bhatia are its members. Among them Ms Gita Johri has recently resigned from the SIT owing to dissatisfaction with the apex court about her work performance in the investigation into another case, the Sohrabuddin alleged fake encounter case, in which she was heading a CID (crime branch) team which is now transferred to the CBI for investigation. Ms. Johri confirmed that she had sent her resignation to the SIT chief stating that she was pained at being targeted personally. “Despite working under the apex court, I have to prove my credentials again and again.”

The order of establishing SIT was in response to a petition filed by Mrs Zakia Ahsan Jaffrey wife of former Congress MP who was brutally killed by the violent mob and the Citizens for Justice and Peace (an NGO). The government constituted the SIT on 1 April 2008 upon the order of the Supreme Court bench headed by Justice Arijit Pasayat. These include the Godhra train
burning case (59 dead), Naroda Gam and Patiya (about 110 dead), Gulberg Society (70 dead), Sardarpura (33 dead), Odh (27 dead), Deepla Darwaza (14 dead) and the British national case (11 dead). The special trial courts tried all these cases. The Supreme Court on 1\textsuperscript{st} May 2009, ordered the High Court of Gujarat to set up six fast-track courts, as suggested by the Special Investigation Team (SIT), to hear the nine sensitive cases on a day-to-day basis. The court had stayed the hearing of the cases in 2003\textsuperscript{43}. In order to expedite the trial, the apex court requested the Chief Justice of the High Court to designate special courts in each district where the cases were to be tried and select senior judicial officers to conduct the trials as soon as possible and in the most satisfactory manner.

The SIT completed the investigation into five of the nine cases and claimed that it had almost completed the investigation into the remaining four. The court noted in its judgment that owing to the efforts of the SIT, persons who were not earlier arrayed as accused had now been brought to book. In most of the cases, a large number of persons have been additionally brought into the prosecution net. Besides, a large number of witnesses were also examined in each case. Considering the thoroughness with which the SIT has conducted its probe, the court directed that it should continue to function until the completion of trial in all the cases and, if required, undertake further inquiry.
In 2004, the Supreme Court transferred the trial of the Best Bakery case, one of the worst carnage cases, to Mumbai. This signaled the lack of confidence of the apex court in the impartiality of the public prosecutors appointed by the State government in prosecuting the cases. On 1st May 2009 the court made it clear regarding the appointment of public prosecutors to try the nine sensitive cases should be made in consultation with the SIT, whose opinion would be binding on the State government. The bench said it would be open for the chairman of the SIT to seek change of public prosecutors if any deficiency was found during the trial. Further the chairman of SIT can make a request to the Advocate General of the state on the appointment of assistant public prosecutors to assist the public prosecutors.

Responding to the Supreme Court judgment, Raghavan expressed satisfaction that the court reposed trust and confidence in the SIT and hoped that the fast-track courts could complete the trial within a year. The judgment was delivered in the backdrop of the controversy over the timing of the court’s directive to the SIT on April 27 to investigate a complaint against Chief Minister Narendra Modi and 62 others, alleging their involvement in the 2002 carnage. As the directive came three days ahead of the Lok Sabha elections in Gujarat, it was felt that Modi would use it to his advantage to polarize the voters. The Chief Minister did try to do that by suggesting that the Congress party was behind the directive and that he would be arrested immediately after the elections.
People indicted & arrested by SIT

SIT has arrested persons who were responsible for the carnage belonging to police as well as political background. These are;

1. **Chief Minister Narender Modi**: - Apex court directed to the Special Investigation Team (SIT) to probe the role of Modi, his cabinet colleagues and other top functionaries of state and those involved in violence. The court gave the direction in response to appeal by Zakia Ahsan Jafri, the widow of slain Congress MP, Ahsan Jafri. One must complements the courage and doggedness of Zakia Jafri for all her efforts. Most of the earlier citizen’s inquiry committees by human rights activists have pointed out the role of state administration and Modi in particular in the violence. In a major such report of ‘Citizens tribunal’ headed by retired Justice Krishna Ayer and Justice P.B.Sawant, (Crime against Humanity), a Minister in Modi’s Government Haren Pandya gave description of the meeting which Modi had called on the evening of Godhra train accident. As per Pandya Modi instructed all the top state officials to let the Hindu anger not be curtailed in the aftermath of Godhra

Modi popularized the thesis that Godhra train was burnt in a pre-planned manner by the international terrorism, in collusion with the ISI and local Muslims. Infamously, he announced that every action has an opposite reaction, meaning that now Hindus will take revenge and state should sit back and let the opposite reaction take its course.
SIT has summoned Modi to present before the SIT in the Gulberg society case. This is for the first time in the history of communal violence in India that a person of the statute of chief minister has been summoned in the riot related case. On 27 March, 2010 he appear before the SIT ending all speculation about his appearance. He was questioned in the Sit office and it was one-to-one in camera questioning which last for five and a half hour in the initial round. The question were put by SIT officer A.K Malhotra, retired DIG of CBI.

2. **Dr Maya Kodwani:** - Dr Mayaben Kodnani is facing charges of instigating communal riots in the Naroda Gam and Naroda Patiya localities of Naroda area in Ahmedabad on February 28, 2002 in which more than 100 people were killed. She was Minister of State for Women and Child Welfare. Maya Kodnani, the BJP MLA from Naroda, is a practising gynaecologist, whose clinic is barely a kilometre from the site of the Naroda-Patiya massacre. She belongs to a refugee Sindhi family with strong saffron roots. Kodnani was actively associated with the Rashtriya Sevika Samiti, women's wing of the RSS, since the time she joined the Baroda Medical College from where she did her MBBS and Diploma in Gynaecology and Obstetrics.

Kodnani resigned from the Modi cabinet before she surrendered. Her anticipatory bail was cancelled by the Gujarat High Court after a lower court had granted her bail. It is this case in which Court has states that "Religious fanatic are no less bad than terrorist" A number of witnesses in the two cases
have said they had seen Dr Kodnani at the rioting scene distributing weapons among rioters and instigating them to killing even some people had seen her firing from her private pistol.  

3. **Jaideep Patel:** - Along with Maya Kodani Jaideep Patel, a VHP General Secretary was also arrested on charges of Murder at Naroda Patia and Naroda Gaou  

4. **V.S. Gohil, Police Inspector:** - Mr. Gohil has been booked for dereliction of duty and destruction of evidence, apart from the other charges. The then first police inspector of Naroda K.K. Maisurwala and the then Deputy Commissioner P.B. Gondia have testified that Mr. Gohil defied orders at a critical juncture and did not move with the police force to quell riots. Both police officers told the SIT that when they received information of a crowd build-up at Naroda Gaam, they instructed Mr. Gohil to rush there and bring the situation under control. But he did not report to them about the situation.  

The SIT has also charged Mr. Gohil with attempting to destroy evidence. He deliberately avoided filling up the logbook on the “police station to mobile van messages” after 1.30 p.m. on the crucial day.  

5. **Kirisitsinh Erda, DSP Bulsar:** - Mr Erda was then senior police inspector in-charge of Meghaninagar police station which covered the Gulberg Society area in Chamanpura locality where more than 40 people, including Congress MP Ehsan Jafri were burnt to death. Besides others witness, Mr Jafri’s wife had complained that the police officers did not turn up at the scene
of crime despite repeated pleas by the residents to protect them from mob attack. According to Ashish Bhatia, one of the 3 members of the SIT from the Gujarat IPS cadre, Mr Erda was arrested not only for the dereliction of duty but also because of his alleged complicity in preparing false documents to help out some accused in the massacre. “We have enough evidence against Mr Erda of having committed many major mistakes during the massacre in Gulberg Society,” Mr Bhatia said. Not only that the police official did not respond to the pleas from the residents in time, when finally he turned up with the police team, he did not resort to “effective firing” to disperse the attacking mob. Even during the investigation into the incident later, he showed carelessness and was found to have prepared some false documents that could benefit some of the accused in the Gulberg Society case, Mr Bhatia said.

6. **Dr Praveen Togadia, VHP International Secretary:** Firebrand VHP leader was also summoned by the SIT. This is the second big name since chief minister Narendra Modi’s statement was recorded on 27 March 2010 by the SIT. Following this he appeared before the SIT office in Gandhinagar on 10 May 2010. He arrived at the office accompanying VHP activists and Sadhus who were kept raising pro-Hindu slogans while Dr Togadia was inside answering questions. He came out after three hours and also made a brief speech outside the SIT office. He threatened to “teach a lesson at an appropriate time” to Zakia Jafery, wife of Ehsan Jaffery, whose petition led to the formation of SIT and also to social activist Ms Teesta Setalvad, who
supported Ms Jaffery in filing the petition, and others helping the “anti-Hindu cause.”

He also questioned the constitution of SIT and demanded an action against its chairman R.K Raghvan, who made public statement that Ms Jaffery’s petition before the apex court was his bible” to act. Dr Togadia appearance before the SIT ended a near month-long suspense over his response to the SIT summons.

Togadia is being considered to be an important witness for SIT as he could have vital information about the state government's involvement in the 2002 communal riots. Especially, since Togadia and Modi do not see eye-to-eye on most issues these days.

**Witness Protection**

It is said that, in India, in most of the cases involving rich influential persons or corrupt politicians, crucial witnesses turn hostile, making the rule of law, a mockery. Very often witnesses become untraceable. Sometimes they are just eliminated. The court took special care for the protection of witnesses, keeping in view the culture of witness intimidation and harassment prevailed in the riot cases of Gujarat. It directed that if a witness needed protection, he or she should make an application to the SIT, and the agency should pass the necessary orders. The court held that the State should abide by the direction of the SIT in this regard. The SIT would be the nodal agency to decide which witnesses required protection and what kind of protection was to be made
available to such a witness. The SIT could also consider relocation of witnesses outside the State in order to ensure their security and protection, the court held. Witness remain under great pressure not to give evidence against those who attacked them and destroyed their homes – sometimes it is a condition imposed on them for returning to the land of their ancestors or a threat of being prosecuted themselves on false charges. So keeping in view the danger of subversion of justice. Protection of witness was given special consideration. SIT had set up Witness Protection Cell (WPC) headed by an IPS officer. Two companies of CISF have been deployed in Gujarat for the security of witnesses in the nine cases relating to the 2002 riots, including the Godhra train burning, being probed afresh by the Supreme Court-appointed Special Investigation Team (SIT). "Besides CISF and State Reserve Police Force, local police have also been roped in for protection of the witness of 2002 riot cases," the SIT officials said. In addition, the SIT has started a help line which witnesses can use if they feel they are threatened or intimidated.

**SIT Report**

On February 11, 2009, the SIT submitted its report to the Supreme Court, indicating the progress it had made in the cases. Nearly a year after it was constituted SIT has submitted its report before the Apex court. The SIT, submitted its confidential interim report in a sealed cover through amicus curiae Harish Salve, sought time till 31 December 2009 for completing the investigation. Though the report was confidential but it was leaked selectively.
to the media over which the Supreme Court expresses its concern and terming it as betrayal of trust. "Whosoever has given the report of SIT (to media) has betrayed the trust and faith of this court. We disapprove it and deplore it," a three-judge Bench headed by Justice Arijit Pasayat said when the issue of leakage of SIT report was raised before it. Since the report is confidential the court has denied its access to the accused. Gujarat High Court has denied an accused in the post-Godhra riot case access to reports of Special Investigating Team (SIT) submitted before Supreme Court. The order was passed by Justice Akil Kureshi recently while hearing the petition of one Kanti Patel, an accused in the Sardarpura riot case in Vijapur taluka of Mehsana district where 33 persons were killed in 2002. Patel had approached the High Court after a special court hearing the case declined his plea for obtaining a copy of the report that SIT had placed before the Apex Court for the purpose of 'fair trial' and to prepare his defence. "The report was meant to be highly confidential in nature. The Apex Court directed the State machinery to submit such a report in a sealed cover. Access thereto was not provided to all parties," the court said. SIT has also sought extension for the complete submission of its report as its term ended on December 31, 2009. It has already submitted a progress report on the probe to the apex court and further hearing on the matter is scheduled for later this month. SIT chief R K Raghavan said the inquiry by the agency was still on. "We are yet to get an extension from the SC," Raghavan told PTI when asked if the extension was already granted. "But the investigation into the matter (Zakia's complaint) was still on. The hearing in SC is sometime in
January," he added. On Friday, 14 May 2010, SIT has submit its final report to the Supreme Court. SIT chief R.K Raghavan submitted the report to the Court Registry in a sealed cover.
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