

**Statement by Teesta Setalvad, Secretary Citizens for Justice and Peace before the Special Investigation Team (SIT) appointed by the Hon'ble Supreme Court through its Order dated 26.3.2008**

Date of Statement at the SIT Office Gandhinagar: Friday May 9, 2008

**Part III**

**I. Suggested Investigation of Wider Conspiracy behind the Incidents being Re-Investigated and Facts Thereof**

Copies of *Genocide—Gujarat 2002 (Communalism Combat, March-April 2002)* and the *Concerned Citizens Tribunal (CCT) Report—Crimes Against Humanity (November 21-22.2002)* have been submitted to the Special Investigation Team (SIT).

**(Annexures 3 and 2 to Part II of Statement -Genocide-Gujarat 2002 and Concerned Citizens Tribunal (CCT) Report—Crimes Against Humanity (November 21-22.2002)**

The CCT was headed by Justice VR Krishna Iyer and included Justices PB Sawant and Hosbet Suresh and senior advocate KG Kannabiran. I would urge that the SIT records the formal statement of the CCT as it contains pertinent information especially related to the wider, overall conspiracy and the Godhra incident. I have for the purposes of convenience flagmarked the two volumes on the questions involved **(Green markings on Godhra, Yellow—State Conspiracy, Orange-Incidents like Gulberg, Naroda etc).**

**Please Note the Following:**

## **II. Role of chief minister and cabinet**

### **Annexures 2 to Part II of Statement Page 17, Volume II-- Paras 4.1-4.8.**

Role of chief minister and his favoured among the cabinet and state administration and police to distort and spread the Godhra incident.

### **Annexures 2 to Part II of Statement Page, 17, Volume II –Para 4.3.**

Collector of Godhra (2002) Smt Jayanthi Ravi met the Tribunal and clearly stated that in her view it was an accident. Her statement needs to be recorded by SIT. She had also stated that she advised the chief minister and his cabinet *against* carrying the bodies of the Godhra victims to Ahmedabad (they had first expressed the intention that the entire burnt coach should be taken by rail to Ahmedabad) but did not succeed. Due to her stand they decided to take the bodies by road/motor cavalcade. Dr Jaideep Patel accused in the Naroda Gaon and Patiya massacres, state chief of the Vishwa Hindu Parioshad accompanied this cavalcade. Who else did? Sit needs to investigate.

Similarly the statements of chief minister Modi and his close associates in the cabinet Shri Ashok Bhatt also need to be recorded on this issue—decision to take burnt bodies to Godhra despite the fact that this was likely to heighten communal tensions and against the advise of the DM, Godhra.

**Annexures 2 to Part II of Statement Page 17, Volume II, para 4.2**—then prime minister Atal Behari Vajpayee clearly stating that the Godhra incident was a result of “slogan shouting.” (Extracts from a compilation by the PMO on PM’s reactions to the event thereafter to mediapersons at Hyderabad House, New Delhi, February 27, 2002 posted on the PM’s website.

### **Was there a Common Design or Conspiracy behind the 2002 Genocida Carnage Hatched at the Highest Levels of the Gujarat Government ?**

Linked to this key Question of whether or not all the events being re-investigated by SIT are also part of a common design and conspiracy is linked critically to how the Godhra train incident was manipulated from being an ‘accident’ or response to slogan shouting to an ‘ISI conspiracy !’

**Annexures 2 to Part II of Statement Page 81, Volume II, State Complicity, paras 1.1-1.4.**

**Annexures 2 to Part II of Statement Page 82, Volume II, State Complicity, para 1.7**

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

Since this finding of the CCT has a direct bearing on the suggested common design or state conspiracy behind the incidents under Investigation, the SIT may be advised to interrogate the persons who possibly are reported to have attended this meeting (all mentioned above and also examine their phone call records).

**Annexures 2 to Part II of Statement Page 82, Volume II, State Complicity, para 1.8**

The Tribunal also recorded a similar meeting on the evening of February 27 in the Lunawada Village of Sabarkantha district. A phone call from the house of one Dr Yogesh Ramanlal Pandya (Godhra) to Dr Anil Patel (member of Gujarat’s Doctor’s Cell) calling him for the meeting as also Dr Chandrakant Pandya (Kalol) Ashok Bhatt (then state health minister) who was at that point sitting at the Godhra Collectorate was also called. Similarly then state transport minister Prabhatsinh Chauhan also attended this meeting at which 40-50 top leadership of the BJP/RSS/VHP/Bajrang Dal met to decide the manner to use kerosene, petrol for arson and other methods of killing.

The phone call records of these persons as also verification of the meeting needs to be undertaken by SIT to investigate possible conspiracy.

**Annexures 2 to Part II of Statement Page 87, Volume II, para 1.17**

Two Cabinet Ministers sat inside the Shahibaug (Ahmedabad city) and State (Gandhinagar Police Control Rooms, hitherto unknown conduct indicating a brazen level of political interference in police functioning.

Gujarat's Health Minister sat at the city control room where the Commissioner of Police (PC Pandey) was present and Gujarat's urban development minister, IK Jadeja was present at the Gandhinagar State Control Room that day at which DGP Chakravarthi (now retired). Both the politicians and police officers need to be questioned by SIT since their conduct has a bearing on the major incidents being investigated today.

### **III. Role of Sister Organisations, VHP & BJP, BD**

#### **Annexures 2 to Part II of Statement, Page 82, Volume II, para 1.6**

Reference March 12, 2002 to an Interview to Rediff.Com by Gujarat state VHP chief KK Shastri stating. "In the morning we sat down (February 28) and prepared the list (of Muslim shops and establishments to be targeted. We were not prepared in advance."

To date the Gujarat State Police has not seen fit to initiate any inquiry or question KK Shahstri despite his self-confession of criminal misconduct.

### **IV. Role of High Level of Gujarat Police**

#### **Annexures 2 to Part II of Statement Page 87, Volume II, para 1.17**

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**Note: Both the politicians, Ashok Bhatt and IK Jadeja and police officers, PC Pandey and DGP Chakravarty need to be questioned by SIT since their conduct has a bearing on the major incidents being investigated today.**

**Annexures 2 to Part II of Statement Page 87, Volume II, Concerned Citizens Tribunal, para 1.18, Page 87, Volume II, para 1.20**

Police chiefs of Ahmedabad, Mehsana, Panchmahals [Godhra] (and other districts not directly relevant to SIT) stand directly indicted for their failure to contain brutalized violence. All these persons need to be questioned by SIT on the preventive measures taken

#### **V. Bandh Call and the Preparations**

The call for Bandh by the ruling Party and affiliate organizations, and the acquiescence by the State of Gujarat and Its Police needs to be Examined by SIT.

**Annexures 2 to Part II of Statement Page 18, Volume II, Concerned Citizens Tribunal, para 5.1.**

#### **VI. Some Questions Related to Conspiracy and Common Design that need to be Investigated by SIT. These Relate to State Government Functioning and Police Conduct.**

**Note: This means that chief minister, senior cabinet colleagues at the relevant time and then CP Ahmedabad, now DGP PC Pandey, then DGP Chakravarti and Other 63 Persons Named by Petitioners in Complaint and Subsequent petition and pending SLP in Sureme Court.**

**See Annexure I and II to Part Three of Statement**

Specifically, they have a bearing on the chargesheets in the relevant cases since the complicit conduct of policemen suggests they acted as or sided with accused.

- Why were no minutes prepared of the meetings held by the chief minister and other senior officers to review the situation from February 27, 2002 onwards? Why were such minutes not circulated to concerned officials?
- If such minutes were prepared, why were no copies of such minutes submitted to the commission?
- Why were the dead bodies of the Godhra arson victims paraded through the streets of Ahmedabad city, especially when many of the deceased belonged to places outside Ahmedabad city and a few had not even been

identified at that juncture?

- Did the CP, Ahmedabad, or the DGP, Gujarat, report in writing to the chief minister or their superiors in government and administration on the possible adverse repercussions on law and order by this parade of dead bodies?
- If any such letters were sent to higher authorities, why were they not placed before the commission?
- Why was no preventive action taken against communal elements on February 27/28, 2000 even though the call for a *bandh* (on February 28) by the sangh parivar and the BJP was issued on February 27, 2002 itself?
- Why was the Communal Riot Scheme not put into operation in relevant areas from the evening of February 27, 2002 onwards?
- Why was no prompt and effective action taken against the rioters by officers of the rank of DSP (deputy superintendent of police) and above (who had additional forces of armed policemen moving with them), particularly in Ahmedabad city which has about 40 such DSPs and Vadodara city, which has about 30?
- Why was no action taken by the policemen in approximately 100 police mobile vans stationed in Ahmedabad city, as also in Vadodara city, against crowds that first began to congregate in small numbers on the morning of February 28, 2002 onwards?
- Why was no action taken when enforcers of the *bandh* created traffic disturbances and indulged in petty crimes on the morning of February 28, 2002 so as to test the mood and strategy of the police?
- Why was there a delay in the imposition of a curfew, particularly in Ahmedabad city? (In Ahmedabad, curfew was imposed as late as 1.00 p.m. on February 28, 2002.)
- Why were no arrangements made for videography of the violent mobs despite regulations to this effect?
- How or why did the police fail to videograph mobs even as the electronic

media succeeded in doing so? Were there any orders to prevent this?

- Why was no effective action taken against rioters by policemen at specific locations and in mobile patrolling groups, both in vehicles and on foot, from the evening of February 27, 2002 onwards?
- Why was there such a delayed response to distress calls from prominent Muslim citizens such as former member of parliament, Ahsan Jaffri, despite their having made frantic calls to the chief secretary, the DGP, the CP, Ahmedabad city, etc, and possibly even the chief minister?
- Why were there higher casualties of police firing and riots among Muslims?
- Why were the instructions contained in the compilation of circulars entitled “Communal Peace”, issued to all district magistrates and police officers of the rank of SP and above, not implemented?
  
- Why were the “Instructions to deal with Communal Riots (Strategy and Approach)”, prepared by ZS Saiyed, former officer on special duty, and forwarded to all executive police officers for strict implementation, not enforced?
- Why was there no monitoring of the implementation of instructions issued by the chief secretary, the home department, the DGP and other higher officers from February 28, 2002 onwards?
- Why was no action taken against the vernacular press publishing communally inflammatory news reports and articles despite clear reports from the SP, Bhavnagar (Rahul Sharma), the CP, Ahmedabad (PC Pande) and the ADGP (Int.), RB Sreekumar, that such action should be initiated?
- Why was no action taken or any enquiry instituted against police officers for their alleged failure to record FIRs and conduct proper investigations into complaints of riot victims, largely minorities, although this matter

was emphasised by ADGP RB Sreekumar in his reports to the government dated (1) April 24, 2002 (2) June 15, 2002 (3) August 20, 2002 and (4) August 28, 2002?

- Why was no action taken or any enquiry instituted against officers of the executive magistracy, particularly district magistrates, who failed to initiate prompt action against rioters, especially between February 27 and March 4, 2002? Similarly, why was no action taken or any enquiry instituted against district magistrates and their staff who recommended the appointment of pro-BJP/VHP advocates as public prosecutors in a bid to subvert the trials that would follow?
- Why was no action taken against supervisory officers (i.e. DSPs, Range IGs/DIGs, CPs and the DGP) who violated Rules 24, 134, 135 and 240 of the Gujarat Police Manual-Vol. III by not properly supervising the investigation of serious riot related crimes and who were thereby guilty of culpable omission and grave misconduct?
- Why was no investigation conducted into the deposition by Rahul Sharma, the then SP, Bhavnagar, before the commission on October 30, 2004, about the location of BJP leaders and senior officers in Bhavnagar while a madrassa was being attacked? (In November 2004, the English daily, *The Indian Express*, published a three-part investigative report that exposed revealing conversations between influential politicians and policemen.)
- Why was no clarification provided on the government's inadequate implementation of recommendations made by the National Human Rights Commission, the National Commission for Minorities and even the Supreme Court?

## **VII. Issues Raised by Zakia Ahsan Jafri in Her Complaint and Subsequent Petition in the Gujarat HC and Supreme Court (pending)**

Following startling disclosures made before the state government appointed Nanavati Shah Commission, not least of which are the Four Affidavits with



Annexures filed by former Additional Director General of Police, RB Sreekumar and former SP, Bhavnagar, Rahul Sharma, widow of the late Shri Ahsan Jaffri sought to register an FIR Against Shri Narendra Modi and 62 Others for Criminal Conspiracy and Mass Murder (June 8, 2006). This was sent by Registered Post with 2,000 pages of Annexures to the state DGP, PC Pandey. No FIR was registered. The Gujarat high court turned down the petitioner's plea to direct registration on an FIR. The Supreme Court on March 3, 2008 has issued notice to the state and central governments on wider issues of what remedies a citizen has when a police fails to register an FIR despite evidence.

**See Annexure I and II to Part Three of Statement  
(FIR Copy annexed + Table Assigning Responsibility to the Accused)**

### **VIII. Hasty Granting of Bail**

In 90 per cent of the post Godhra massacres in Gujarat in 2002 Bail was granted within months to those accused of heinous crimes. Bail tables and orders are part of the record. The State of Gujarat in its response to the Amicus note dated April 2007

### **State Complicity in Not Opposing Grant of Bail to Accused**

A shocking aspect of the trials in the mass carnage cases that have been stayed since 21-11-2003 and are under consideration by this Hon'ble Court for transfer out of the State of Gujarat is the manner in which bail was sought and granted to those accused who are politically powerful and those who enjoyed protection of elected representatives of the state Government.

Specifically it must be noted that following " Statements of Bail Applications n the Sessions Court" submitted by the state of Gujarat, the Amicus Curiae had through an IA No. 6864/04 in WP (Criminal) No 109/2003 *inter alia*

"complaining that the information supplied by the State of Gujarat regarding the status of Bail Applications of the accused is not appropriate and "praying

for the responsibility to be fixed.." Thereafter through an affidavit dated 23.07.04 in reply to this IA by the Amicus, CB Trivedi deputy secretary, government of Gujarat apologised for providing incomplete information.

**See Annexure B Colly to Part One of Statement**

It is submitted that this sums up the attitude of the state of Gujarat to these entire proceedings that has been hostile to victim survivors of the mass carnage, done nothing to redeem their faith in the state, sided with the accused and in effect exposed its partisan and complicit role in the violence.

The conduct of the PPs in the major trials that have been stayed has been *not to oppose bail, even anticipatory bail for heinous crimes.*

**Note for Investigation by SIT: Was Hasty Applications of Bail, Granting of Bails and Non Opposition by Politically affiliated PPs part of a Wide Conspiracy by the State of Gujarat to Deny Justice to the Victims?**

**I.A Gulberg (Chamanpura) Massacre**

Table filed by AMICUS CURIAE that shows shocking attitude of State of Gujarat in granting Bail to Gulberg Accused.

**Annexure E Colly to Part One of the Statement, Page 62-63 of Paperbook 'A'**

**(Detailed Bail tables and Bail Orders Provided to SIT—Annexure B Colly of Part One of the Statement)**

Bail Situation in Gulberg Massacre

**Annexure I to Part One of the Statement, Page 19 of the Mehta (ASJ) Report**

Amicus Note deals with granting of out of turn bail

**Annexure J to Part One of the Statement, Paras 22-24 of the Amicus Note dated 22-3-2007**

State of Gujarat admits that of the 46 persons arrested 41 are out on bail; only 5 are in judicial custody

**Annexure K Colly to Part One of the Statement, Page 7 of State's Response dated 14-3-2007**

**Annexure K Colly to Part One, Pages 17 and 31 of the State's response to Amicus Note dated April 2007**

### **Gulberg Massacre**

Bail Table also filed by AMICUS CURIAE

**Annexure E Colly to Part One of the Statement, Page 269 of paperbook A**

Table Filed by AMICUS CURIAE

**Annexure E Colly to Part One of the Statement Page 171-174 of Paperbook A**

### **Ode Massacre**

#### **Hasty Bail**

Ode Massacre

Undue haste/bail applications & orders.

- 1)** 15 accused preferred bail vide bail application no. 112/2002 before the Additional Sessions Judge at Anand on 8-3-2002. The Learned prosecutor Shri Patnaik appeared on behalf of the state. Bail granted to 9 out of the 15 accused who had applied for bail. (Para 4 of the order)
- 2)** The other 18 accused preferred and Anticipator bail being 246 of 2002 u/s 438 Cr.P.C. on 15.4.2002. Mr. M.S. Pathak appeared as PP. The Learned Judge, B.M. Modi granted all the accused anticipatory bail by the order dated 20.4.2002.
- 3)** Some of accused preferred Misc. Criminal Application No. 417 of 2002 and 5 other accused preferred Criminal Misc. Application No. 418/02. Both the

applications were allowed and bail was granted to the accused. The Public Prosecutor V.G. Parlot did not oppose bail applications and consented to the bail being granted

Details of Bail Granted to Accused

**Annexure E Colly to Part One of Statement, Page 293 onwards Paperbook 'B' &**

**Annexure B Colly to Part One of Statement**

Anticipatory Bail granted in cases of 302

**Annexure E Colly to Part One of Statement, Page 294 Paperbook 'B'**

Complicity of Public Prosecutor in not opposing Bail application

**Annexure E Colly to Part One of Statement, Page 294 Paperbook 'B'**

Names List of 24 absconding accused—all prominent wealthy Patels who visit USA regularly and yet Gujarat police and District Court are silent spectators

**Annexure E Colly to Part One of Statement, Page 294, Paperbook 'B'**

Amicus Bail Table showing hasty Granting of Bail to Ode Mass Massacre Accused

**Annexure E Colly to Part One of Statement, Paperbook 'B' Pages 338 -344.**

Anticipatory bail granted; PP did not oppose Bail

**Annexure E Colly to Part One of Statement, Page 294, para 7, para 9, Paperbook 'B'**

PP Conduct in Not Opposing Anticipatory Bail in cases of 302

**Annexure E Colly to Part One of Statement, Page 294, Para 7, Paperbook 'B' Page 294, Para 9, Paperbook 'B'**

Unanswered earlier claims on Anticipatory Bail being granted to accused in Ode carnage Case

**Annexure Gi to Part One of Statement- Affidavit of Teesta Setalvad dated 21-9-2006 at Para 4 a)-c) Int. numbered Pages 2, Para 5, Int numbered Page 4**

**Sardarpur**

Bail Table Filed by Amicus Revealing hasty granting of bail to Sardarpura Accused. Table was filed to show that bails were rejected by Trial Court but the High Court has granted Bail to the Accused without giving reasons. None of these orders appealed against. Difficult to discern whether any serious opposition by the PP.

**Annexure E Colly to Part One of Statement Pages 5-6 of Paperbook 'A'**

### **IX. Compromising of Public Prosecutors**

Public Prosecutor's appointed are close to the political party in power and their related extra-judicial outfits like VHP and Bajrang Dal

#### **NHRC Report dated March 1-July 2002**

The issue of the political antecedents of public prosecutors in the state of Gujarat has also come in for severe criticism and scrutiny. In Gujarat there has been a tendency to appoint public prosecutors who are either card holders or sympathizers of the ruling party or its *sangh parivar*. This Hon'ble Court was apprised of, how, the conduct of the PP in the BEST Bakery case was not one that ensured the course of justice.

**Shri Raghuvir Pandya**, the public prosecutor in this case is a member of the Rashtriya Swayam Sevak Sangh is also allegedly a card-holding member of the ruling Bharatiya Janata Party (BJP) and contested elections from Ward 20, Kesariya (south)Vadodara in 1996 for the Majalpur Corporation ticket. He has been District Government Pleader for Two Years and is a Notary in the BJP Government in Gujarat. During the BEST Bakery trial, in the Fast track court of Judge H.U. Mahida, all matters were handled by Public Prosecutor, Mr. Gupta. But at the time of interrogation of witnesses Mr Raghuvir N. Pandya was suddenly appointed as public prosecutor.

**Chetan Shah**, an Ahmedabad-based criminal lawyer, is an ardent Vishwa Hindu Parishad (VHP) supporter. He was appointed public prosecutor for the state for the Gulberg Society massacre in which the former Congress Member of Parliament Shri Ahsan Jaffri was brutally massacred along with over 70 others (there were 10-12 gang rapes on girls and women before the killings) on

June 2003. Before that date, Shri Chetan Shah appeared for the accused in both the Gulberg carnages and the Naroda gaon and Patiya tragedies and thereafter

**Until September 2003**, Shri Shah was defending all the 35 accused in the Gulberg Housing Society massacre in which ex-Congress MP Ehsan Jafri and 38 others were killed.

**In 1986**, Shah was named in an FIR in connection with burning alive seven Muslims. He was acquitted in that case for “lack of evidence.”

In June 2003, eye-witnesses from the Gulberg including Feroze Mohammed Gulzar Pathan who lost five family members in the massacre, case officially protested against his appointment because of his antecedents. An official protest letter to state Law Minister Ashok Bhatt, the Law Secretary and the principal judge, City Sessions Court was sent against his appointment. The government of Gujarat simply did not respond nor did the Sessions Court take any steps or give any directions

**Annexure E Colly to Part One of Statement, Paperbook ‘A’**

It was only after the sharp directions by the Honorable Supreme Court in the BEST Bakery Case on September 12, 2002 that Firoz Mohammed Gulzarmohammed Pathan and another witness, Sairabehn Salimbhai sandhi received a letter from the Registrar of the City Civil Court Ahmedabad, Mr JH Champavat dated September 16, 2003 stating that Shri VP Atre has been appointed instead.

**Today Shri VP Atre who has been appointed PP in the Gulberg massacre has not, to date supported the witness 173[8] application for re-investigation and instead defends the police version [November 2003]**

Another public prosecutor, **Mr HM Dhruv [in the Godhra case]** defended Shri Chetan Shah in the TADA matter in 1987

In **Banaskantha District** (a matter not under consideration here at the moment), it is reliably learnt that President of the BJP and VHP in this district. Prashant Shah, (a BJP leader), heads the prosecutors’ panel in Banaskantha district.

In **Mehsana District** (relevant here because of the Sardarpur massacre trial that is sought to be transferred) it is learnt that Shri Dilip Trivedi, who is the general secretary of the state VHP, heads the 12 member prosecutor's panel. After the Sardarpura carnage in which 33 persons were burnt alive on Feb 28, 2002 and in which all 46 accused out on bail. (A day after they were released, some of them allegedly attacked a mosque) Dilip Trivedi was appointed Public Prosecutor; in Both Cases. There was no objection raised by him raised to the speedy granting of bail to the accused.

It was only when the victims filed an application in the Gujarat High Court objecting to Trivedi's role, Additional Public Prosecutor S J Dave said that the government would consider the appointment of a special public prosecutor but it could not give a commitment. Then, Trivedi was removed from the Dipda Darwaja case and replaced with Rajendra Darji, allegedly another lawyer with close VHP connections.

In the Panchmahals District, --this District saw one of the Worst Carnages (Panchmahals: 121 riot FIRs, trial on in 26 cases and three acquittals already ) the Public Prosecutor appointed was Piyush Gandhi, who, it is reliably learnt the president of Panchmahals district VHP unit and a member of the VHP's lawyers' panel.

In Anand District, (where Ode village at which 27 persons were butchered and then burnt alive, it is public prosecutor P S Dhora's panel of public prosecutors who are handling riot cases in both Anand and Kheda districts. Dhora is a known RSS sympathiser.

In Vadodara advocate Avadhoot Sumant had, in early August 2003, demanded that the Gujarat High Court initiate contempt proceedings against the NHRC for calling the Bakery case verdict "a miscarriage of justice". Three days after his public declaration to this effect, Sumant was appointed assistant public prosecutor in the case.

Vadodara's assistant public prosecutor, Sanjay Bhatt/Vyas, is the nephew of VHP city unit president Ajay Joshi. Joshi, himself an advocate, was a defence counsel in the Best Bakery case.

Some other assistant public prosecutors, like Dwarkesh Haribhakti and J P Bhatt(prosecutor in major carnage cases in the Panchmahals district including Limabadiya Chowky and Pandharwada village) are strong and open BJP supporters as can be perceived from their public posturings Advocate Vinod Gajjar who appeared before Judge Mehta in Supreme Court is an Advocate who has appeared for the Accused in the Gulberg and Naroda Massacre cases. Hence the Complicity of State in Appointment of Public Prosecutor continues until today.

**(Annexure G to Part One of Statement, Vakalatnama of Gajjar placed on record in the TS/CJP affidavit dated 20-9-2006)**

Affidavits of Victims speaking of Complicity of Prosecutor and his/her Appointment. The allegation is that PP apptd office bearer of political outfit . The state of Gujarat's repeated response (admitting the political allegiances of the PPs) has been that Shri Shah was later removed. The state is silent o the continued complicity of PPs in Gujarat that have completely eroded the faith of the common citizen, especially a victim and eye witness of the 2002 carnage in the administration of justice.

**Annexure E Colly to Part One of Statement, Page 11 at page 18, para 27, page 94, para 3,Page 139 at page 142 para 3-4 (this is un-numbered) of Affidavits**

PP Conduct in Not Opposing Anticipatory Bail in cases of 302 is reflected here related to the Ode Massacre

**Annexure E Colly to Part One of Statement,Page 294,Paras 7-9, Paperbook 'B'**

The State does not have significant reply to the allegations that the appointment of public prosecutors was done in a manner inconsistent with the rights of victims under Article 21, and in the breach of the duty cast by the State under the Code of Criminal procedure



The appointment of some persons as public prosecutors, one (or many of who have even appeared before the accused

**Annexure J to Part One, paras 14 , 23 and 36 of Amicus Note dated 22-3-2007 and filed before the Supreme Court**

#### **X. Intimidation of Witnesses and Eye-Witnesses**

The Intimidation of Victims and Eyewitnesses of Major Trials in Gujarat is reflected in the inability of them, due to persistent threats by accused who are freed on bail, to return to their places of residence. Complaints of witnesses and victims being intimidated, arrested and forced to withdraw the cases. There is also a social boycott to force withdrawal of cases also and a Continued Threat (and Inducements offered to Witnesses and Victims) to turn hostile. This happened in the BEST Bakery case after re-trial was ordered and in some cases where trials took place in Gujarat like the Kidiad and Pandharwada massacres that are now pending adjudication by this Court. Witnesses have now explained the circumstances under which they were forced by the police administration in conjunction with the accused to resile from their statements.

The table of Cases and their outcome attached by the State of Gujarat to its Response dated April 2007 to the Amicus Note reveals that the administration of justice in Gujarat is still a matter of great concern.

**Note: senior officers of SIT not connected to the Gujarat administration need to independently assess from victim survivors/witnesses and neighbours whether or not today the atmosphere is conducive to safe residence and passage and justice process in Gujarat. Victim survivors from Odh have complained of the conduct of local officers (esp PI Choudhary from the Khambolaj Police Station who was trying to ‘persuade’ witnesses to give; oral statements at a police station where they do not feel safe.)**

## **X A. Witnesses Still Threatened and cannot return home**

A key factor that is emerging from the affidavits and other evidence of witnesses is that in these nine major massacres the witness survivors *have not been able to return to their homes which were also tragically still the scene of the ghastly crime*. Gulberg society is located in the heart of Ahmedabad and witnesses cannot return, their society is like a ruin, is this law and order and normalcy in Gujarat? They are terrorized by not even being offered a proper price. **[Annexure E Colly to Part One of Statement, rejoinder of Teesta Setalvad, April 19. 2004]**

A similar plight prevails for the victims of Ode, Anand and Sardapur and the key witnesses of Naroda who cannot return due to the bullying by the accused in collusion with the local police and political bigwigs. Is this normalcy and law and order? The eye witnesses of the Sardarpur massacre live in Santnagar, Himmatnagar and the all key witnesses from Gulberg society in different parts of Ahmedabad and some of the key witnesses of Naroda gaon and Patiya in other parts of Ahmedabad.

**[ Annexure E Colly of Part One of the Statement, seven affidavits filed summarised in Charts Circulated before SC]**

For the poor agricultural labourers and others who are victim survivors of the Ode massacre, they cannot step in there due to the terror by the accused Patels and live in Muslim clusters in Nadiad or elsewhere.

**[Annexure E Colly of Part One of the Statement, 11 affidavits filed sumarised in charts circulated]** This more than proves that if justice is to be done in these massacres and witnesses need to move and function without fear or favour it has to be outside the state of Gujarat. I crave leave to refer to the fact that when witnesses to the Bikis Bano rape had to be examined the CBI to bring them to Mumbai in order to gain their confidence.

This state of affairs continues until today. Coercion by Investigating Officer KG Erda in the Gulberg trial

**(Annexure G and Gi to Part One of the Statement, Page 9 of affidavit of 20-9-2006)**

Lack of Protect to witnesses. Victims and Eye witnesses of major carnage cases cannot return to places of residence: This was stated by Victims of Affidavit and reiterated before Judge Mehta Photographs of Places of Residence filed through CJP's affidavit of September 20 and 21, 2006. These contentions have been unanswered by State in Its Responses post Amicus Notes and Suggestions dated March 23, 2007. Letters were sent by victim survivors and witnesses to Judge Mehta. These facts have been put on affidavit before the Hon'ble Judge Mehta. Court.

**(Annexure H Colly- Zerox of Photos submitted to SIT)**

**X.A Gulberg (Chamanpura)Massacre**

Saiyyed Mohd Ali Sahajad Ali affidavit dated 5/9/2003

**Annexure E Colly, Page 92 of Paperbook 'A'**

Said Khan Pathan

**Annexure E Colly, Page 94 Paperbook 'A'**

Firoz Mohd Gulzar Mod

**Annexure E Colly, Page 97 of Paperbook 'A'**

Zakia Jaffri

**Annexure E Colly, Page 103 of Paperbook 'A'**

Tanvir Jaffri

**Annexure E Colly, Page 110-113 of Paperbook 'A'**

Press Clippings of Threat to Witnesses in Gujarat

**Annexure E Colly, Page 77-81 of Paperbook 'A'**

**X.B. Ode Massacre**

Affidavits alleging threats and intimidation

**Annexure E Colly, Page 287, 297, 304, Paperbook 'B'**

Yusufbhai Yakubbhai Vora, father of complainant in 27/2002 (Rehana Vora). Lost three family members in attack.

Repeated threats to his daughter, the complainant and himself on the phone. He has given the phone number on which threats come

**Annexure E Colly, Pages 284-290, Paperbook 'B' at page 287**

Rehanabehn Yusufbhai Vora is the complainant in 27/2002. Victim Survivors and Witnesses cannot repair their homes and be rehabilitated in the Malao Bhagol mohalla of Ode town simply because they have decided to fight for justice. On oath she names accused Harish Vallabh Patel and Prakash who offered her and her father inducements to withdraw complaint

**Annexure E Colly, Pages 297- 298 of Paperbook 'B'**

**Annexure E Colly, Pages 291-293, Paperbook 'B'**

Intimidation of witnesses related to Ode massacre continues; witnesses forced to live in sub-human conditions in the fields; influential accused belonging to Patel community continue to intimidate;

Photographs of conditions of destroyed homes submitted to Hon. SC that reveal these pitiable conditions

**Annexure Gi to Part One of Statement, Affidavit of Teesta Setalvad dated 21-9-2006 at Para 23, Internally numbered page 16 of Affidavit; Para 3, Int numbered page 2**

### **X.C Sardarpur Massacre.**

Victim Survivors who are agricultural labourers now residing at Satnagar nearby filed a complaint of torture, intimidation and false levy of taxes by accused who are members of the Sardarpur panchayat where the massacre took place before the DSP.

**Annexure E Colly, Page 99 (internal numbering of Setalvad/Citizens for Justice and Peace's affidavit dated 21-9-2006**

Homes of victim survivors in same pitiable condition. Victims can't return to Shaikh Mohalla,

**(Annexure H Colly- Zerox of Photos submitted to SIT)**

**Photographs taken in June 2006 filed Para 2, internal numbered page 84-85 All 54 accused out on bail &**

**Annexure Gi of Part One of the Affidavit, Para 1, Page 1 of Setalvad/Citizens for Justice and Peace Affidavit dated 21-9-2006 filed after Mehta (ASJ's) Report**

Sardarpur Witnesses filed a complaint about the forced recovery of taxes from witness survivors by the accused who are in powerful positions in the village **(Annexure E Colly to Part One of the Statement, Para 9, internally numbered page 91 of Affidavit dated 21-9-2006**

Affidavit of Ibrahim Miya Rasool Miya Shaikh in Criminal Miscellaneous No. 10538-10546 of 2003 ; Former, Minister MLA Naran Laloo Patel and Kachrabai Tirbhuvan sarpanch—accused of inciting followers to attack Muslim areas before February 27<sup>th</sup> 2002 when Godhra happened **Annexure E Colly to Part One of the Statement, Pages 7 , 13, 14 of Paperback 'A'**

Sharif Miya Bikhu Miya Shaikh

Eye-Witness this witness saw earlier preparations for massacre on March 1 , 2002-- Amrutbhai Somabhai

IBID Ayub Miya Rasool Miya Shaikh Eye-Witness & Victim

Lost eleven family members ; unable to go back This witness has stated that when his aunt had gone to buy gram flour, the shopkeeper Dahyabhai , Vanabhai made a remark that this would be the last date they would eat bhajiyas

**Threats to witnesses Continue Today.**

Victim Survivors of the Ode massacre live in their fields outside town. Cannot enter and reclaim homes in Ode. Most live in Anand. Powerful Patels even today block access to bore wells etc for farming purposes. They have made complaints.

Prominent Accused Roaming Freely but shown as absconding in Sardarpur

**Annexure E Colly Page 286, para 8, page 294 para 10 of Paperbook 'B'**  
Influencing Investigation in Sardarpur

**Annexure E Colly Pages 325-326 at para 6, Paperbook 'B'**

#### **XI. Rahul Sharma Affidavit and Submission of Cds**

Sharma, formerly SP Bhavnagar who was transferred out of Bhavnagar to Ahmedabad city, as DCP (control room) in March 2002 deposed before Nanavati Shah Commission and some portion of his deposition has a direct bearing on the **Gulberg ands Naroda Massacres**.

In his new post he was entrusted with the work of assisting in the investigations being conducted by the crime branch of the Ahmedabad police commissionerate. He was specifically asked by PC Pande, then police commissioner (CP) of Ahmedabad, to assist in the investigation of Naroda Patiya and Gulberg Society cases which were being handled by SS Chudasama, then assistant commissioner of police (ACP) in the Ahmedabad crime branch. (Chudasama, incidentally, is one of the policemen who have been implicated in the Sohrabuddin Sheikh and Kauserbi encounter cases.) Sharma states that in all these sensitive cases, *"more and more political leaders were being involved"*. It was in the course of these investigations that the joint CP (JCP) (crime branch), PP Pandey, had ordered investigations into the telephone records. Sharma then told the commission that on the night of May 27/28, 2002 some accused involved in the Naroda Patiya and Gulberg Society incidents were arrested. By now, KR Kaushik had been brought in as CP, Ahmedabad. Sharma was not kept informed of the arrests, to which he objected. Thereafter, Kaushik issued instructions to PP Pandey that Sharma should be kept informed. Neither Kaushik nor Sharma were happy with the first charge sheet that was filed in the Gulberg Society case on June 3, 2002 and the CP communicated this to Pandey immediately.

The very next day, on June 4, Pandey called Sharma for a meeting. He then called for the Naroda Patiya case papers. Sharma was shown all the investigation papers and the JCP asked him to assess whether the

investigation was being conducted properly. Initially Sharma said he needed time to make an assessment but Pandey insisted he should do it right away. According to the charge sheet, the violence in Naroda took place “because one person ran over a person of another community by a truck, whole mob got provoked and thereafter serious incidents had happened”. This did not seem convincing to Rahul Sharma. The charge sheet filed in the Gulberg Society case claimed that the gruesome massacre was precipitated by Ahsan Jaffri’s firing on the mob that had collected outside the building.

He stated on oath: “There was serious difference of opinion between me and Mr Pandey and other investigating officers i.e. Mr Vanzara and Mr Chudasama and the discussion had lasted for about two hours... I had told them that since they were the investigating officers and Mr Pandey was superior, it was for them to decide what to do. Whatever difference I had was put in writing by me and handed over to Mr Kaushik by way of a letter dated June 4, 2002.” Sharma produced this letter before the commission.

Police Commissioner Kaushik, who was not satisfied with the charge sheet that had been filed, called Sharma about 10 to 15 days later. He told Sharma to scrutinise the case papers of both cases thoroughly and point out the discrepancies to him. Kaushik instructed Pandey to send the case papers of these two cases to his office. After Pandey had brought the case papers and produced them before Kaushik, photocopies were prepared and they were handed over to Sharma.

Sharma then makes some startling assessments about the case papers. He says he noticed that the ***FIR and the charge sheet were mutually inconsistent. This was true of both the Gulberg massacre case as well as the Naroda Patiya and Gaon carnage cases.*** Sharma states on oath that in his assessment the firing by (Ahsan) Jaffri was not the cause for the subsequent attack on residents of Gulberg Society. In his assessment of the

Naroda Patiya case, the incident with the truck was not the reason for the violence that followed. Sharma says that his assessment was based on a close reading of the FIRs and the case papers that were supplied to him.

On July 5, 2002, Sharma was once again transferred because, no doubt, of his honesty and candour. He could not therefore communicate this assessment to the then CP, KR Kaushik. **These aspects need to be investigated by SIT including recording the statement of Rahul Sharma.**

Sharma's CDs submitted before the Commission with his affidavit are also revealed (annexed before the Supreme Court)

## **XII. PC Pande's Deposition loss before the commission**

Deposing before the Nanavati-Shah Commission on August 18, 2004, former CP, Ahmedabad city, PC Pande said he only heard about the Naroda Patiya violence at 9.30 p.m. on February 28, 2002, when "I received information that some persons had been killed there". And it was only when he went there at around 10 or 11 p.m. that he realised the "gravity" of the situation. The loss of memory of this senior officer needs to be interrogated by SIT.

**(See Annexure VII to Part Three of the Statement before SIT)**

However, by 9.30 p.m., the Naroda massacre was long over. Eighty-three persons had already been killed and Pande's cellphone records show that right through the afternoon, from 2.30 to 9 p.m., he was, in fact, in regular touch with two police officers in charge of the areas under which both Naroda Patiya and Gulberg Society fall.

During the last half hour of the massacre at Naroda, Pande even received a call from VHP state general secretary and riot accused, Jaideep Patel. Nevertheless, in his deposition before the Nanavati-Shah Commission, Pande said that he had not been "receiving any information regarding the serious incidents which followed after 2.30 p.m."



Another point on which Pande claimed memory loss was the meeting called by the chief minister, Narendra Modi, on the night of the Godhra arson, hours after the VHP and the BJP had declared a *bandh* for the next day.

### **XIII. Other Depositions That Raise Questions before the commission**

Joint CP (sector II), Ahmedabad, MK Tandon, who was in charge of areas that saw the worst two massacres, told the Nanavati-Shah Commission that he only heard about the attack on Gulberg Society at 2 p.m. on February 28. This was a massacre in which 70 people were killed, many of them burnt alive, including former Congress MP, Ahsan Jaffri. “I was not present when the mob was being dispersed as I had gone near the Gulberg Society at about 10.45 a.m. and then had gone to Naroda. I was in Naroda at about 12 p.m.,” he deposed.

However, records of Tandon’s official cellphone reveal that between 11.34 a.m. and 12.09 p.m., he was in the Meghaninagar area (where Gulberg Society is). From Meghaninagar, records show, he called up the DCP in charge of the area and the CP, PC Pande. (According to police records, violence at Gulberg Society started at 10.30 a.m. and went on till 7 p.m.)

He also told the commission that he only heard about the Naroda Patiya massacre at 9.30 p.m. “I do not know when the mob entered this Muslim locality and I also do not know if the police officials present on the spot tried to contact me during this time. I think that during this time, the telephone lines were jammed. I first came to know about this incident (Naroda Patiya) at 9.30 p.m. when I was in the Gulberg Society and immediately rushed there,” he said.

But his cellphone details reveal that he was constantly in touch with the police officers who were in direct charge of the riot hit areas, and the police control room called him at least four times between 1.24 p.m. and 3.01p.m.

### **XIV. Revelations by Tehelka’s Operation Kalank that reveal a**

### **masterminded statewide conspiracy**

The Expose, *Operation Kalank* by Tehelka magazine and telecast on the AAJ TAK channel on October 25, 2007 further adds gravity and urgency to the situation. As the transcripts of the conversations show, the persons taped in a sting operation include:

1. Babu Bajrangi (accused No 1 in Naroda Patiya)
2. Haresh Bhatt (former MLA, Godhra}
3. Dhaval Patel (Sabarkantha VHP member)
4. Anil Patel (VHP head ,Sabarkantha/Mehsana]
5. Ramesh Dave
6. Mangilal Jain (Gulberg accused}
7. Madan Chawal (Gulberg accused}
8. Suresh Richard (Naroda accused}
9. Prahlad Raju (Naroda accused)
10. Prakash Rathod
11. Dhimant Bhatt
12. Deepak Shah Advocates
13. Arvind Pandya
14. Dilip Trivedi
15. Bharat Bhatt
16. Rajendra Vyas

The contents of the conversations are stark and revealing. Apart from brazen admissions of mass murder, rape, transportation of arms from states, preparation for Godhra and post Godhra violence for weeks and months before February 27, 2002 and a direct role of chief minister Narendra Modi in fuelling mass rape and murder. These revelations call for SIT to examine the veracity/authenticity of the recordings. SIT must question/interrogate all the persons above and whom they name even if they be the powerful.

The *Tehelka* tapes contain a confession, or rather a gloating admission of a rapist from Naroda who speaks of Modi arriving at Naroda the evening after 112 persons have been humiliated butchered and burnt, euphorically congratulating the army of marauders, surrounded by black cat commandoes (who are therefore witnesses as well). They also contain recordings of a man working in the accounts office of MS University Vadodara also speaking of direct orders from Modi as also Modi's street operator, Babu Bajrangi who was thereafter protected by Modi in mount Abu. The judiciary was also carefully manipulated to ensure that mass murderers and rapists get bail, sometimes anticipatory bail and roam scot free.

#### **XV. Besides serious questions for SIT are also raised: Arms Distribution before Execution of Mass Crimes**

A. Conversation with Haresh Bhatt (then MLA of the ruling BJP party) from Godhra suggests that the conspiracy to import arms into Gujarat from Punjab was a long standing one. If so,

- a) Who were the conspirators?
- b) Who was present in the meeting?
- c) When did the meeting take place?
- d) Did this meeting take place well before 27th Feb. 2002 when the Godhra arson took place?
- e) It is true that Godhra is a hub of Truck owners. Hundreds of truck could be available at short notice to supply consignment all over Gujarat. However it is worth investigating what the Distance between Godhra/Ahmedabad and point in Punjab as well as UP/MP?
- f) When did Haresh Bhatt order two truck load consignment (swords) from Punjab?
- g) When did Haresh ordered consignment of KATTA (desi guns) from UP &

MP?

- h) How long does it take for a loaded truck to communicate distance between Punjab & Gujarat?
- i) How long does it take for a loaded truck to communicate distance between UP & Gujarat? (cause' road conditions en rout partially single lane road & partially express way – Trucks do not exceed 50/60 KM / Hour speed and therefore the time factor is critical)
- j) When did the consignment arrive in Gujarat (Ahmedabad / Godhra)?
- k) If the consignment was ordered well before 27th Feb. 02, ca it or does it corroborate the much-touted Godhra conspiracy theory?
- l) The truck passed through how many states? Punjab, Haryana, UP, MP, & Rajasthan states. Did the Police arranged easy passage for the consignment to pass through their respective states like Punjab, Haryana, UP, MP and Rajasthan?
- m) Is it possible for he consignment to be ordered on 27th, receive delivery instantly and use it on 28th, 1st, 2nd?
- n) Who are the manufacturers and suppliers of swords (Punjab) & Katta in UP, MP?
- o) When did they receive the order for consignment? When delivered? Who paid for them?

B. Haresh Bhatt claims to be an owner of Crackers factory in Ahmedabad. From 27th February onwards, despite the Gujarat Bandh(!!)his factory was functioning!! Questions:

- a) Who were/are the workers in the factory?
- b) Who supplied the Diesel to make Diesel bombs?
- c) Pipe bomb does require considerable time on lathe machine!
- d) Rocket launcher manufacturing does require considerable time on lathe machine?
- e) How many lathe machines and expert workers were occupied? Time factor.
- f) Identity of vehicles used for the supply & it's owners?

- g) Where was it supplied?
- h) To whom it was delivered in village, town or city?
- i) Which Police Officers allowed the consignment to pass through giving it safe passage.
- j) Patterns of burns / destructions on structures like buildings etc by BURN MARK by Diesel, by explosive like Dynamite, by Explosive used in Rocket launchers etc?
- k) What about the FSL report? Does it help anywhere? Like samples of ashes, color, melted organs, floor of building and penetration marks by weapon like Rocket launcher?

C. Sting Operation on Dhaval Patel VHP General Secretary, Sabarkantha. Questions Raised after Sting Operation:

- a) He is a Registered holder and supplier of Dynamites for stone query.
- b) What was the quantity of stock of dynamite noted on Stock Register kept in his premises ON and BEFORE 27th Feb. 02.
- c) From which Government Depot did he get the supply on requisition?
- d) Did he acquire the stock from some other State?
- e) How much stock was supplied and where?
- f) Identity of vehicles used for the supply & it's owners?
- g) Where was it supplied?
- h) To whom it was delivered in village, town or city?
- i) Which Police Officers allowed the consignment to pass through? Giving safe passage.

D. Babu Bajrangi, accused number one of the Naroda Patiya Massacre. He is from Naroda, formerly with the VHP now supposedly with the Shiv Sena. The sting has his interview shows that

- \* He was present in Godhra at the time of accident and threatened to kill four times the number of karsevaks.
- \* First to start the Naroda Patiya massacre.
- \* Organized as well as threatened people to participate in the riots.

- \* Rammed a diesel tanker inside a mosque and set it ablaze.
- \* Witnesses were bribed, threatened and forced to flee.
- \* Slit open a pregnant ladies womb.
- \* Did not allow the release of the movie Parzania threatening to cause harm to theatres.

Questions raised:

- a) He has admitted to calling Home Minister Zadafiya. This can be corroborated with print-out of his incoming calls on the mobile.
- b) He claims that CM Modi informed Commissioner to provide safe passage to Bajrangi and to enjoy hospitality at Gujarat Bhavan, Mount Abu (Raj).
- c) Who else were with him in Mt. Abu? What are the details of the rooms Nos. occupied by Bajrangi and others?
- d) Any entry in the Guest book register from 1st Jan to 31st Aug 2003.
- e) Who provided the expenses of living at Mount Abu?
- f) Bajrangi's interview has indicted Justice Dholakia's court and this needs investigation due to the seriousness of the allegations.
- g) Which court was Justice Dholakia presiding over? The records and orders of this court need to be examined.
- h) Which Judge/s subsequently occupied his place?
- i) Which Judge may have arranged for 'setting' the matter?
- j) Which Judge granted Bail?
- k) Did the court ask for the opinion / statement of the concerned Investigating Officer before granting bail? Who were the concerned IOs?
- l) Details of Bail applications presented by Defenses lawyer/s.
- m) Objections by Prosecution – if any?
- n) Entire court record – for security.

E. Dilip Trivedi, A Public Prosecutor from the VHP Cadre, Mehsana District

Questions Raised from the sting Interview:

- a) He was responsible for settling 1800 riot related cases all over Gujarat state. Settled 1700 riot related cases with **conviction** in only 12 cases!

- b) In Mehsana riot related FIR registered 182. Out of which charge sheet presented in 78 + 2 on later date. 76 cases were decided in acquittal of Hindu rioters / offenders and 2 for conviction : out of it one gets acquittal from Sessions Court where as the other one have an Appeal pending before the Hon'ble High Court. Rest 4 are still pending.
- c) Who did he manage in judiciary to obtain acquittal of Hindu offenders?
- d) Through which part of state machinery did he manage judiciary in Gujarat State?
- e) Court record of Mehsana and rest of the state – for scrutiny & re-trial.

F. Bharat Bhatt VHP (Public Prosecutor) Sabarkantha District. He admits in the Sting that an IPC 436 matter settled by buying witnesses for Rs. 6,50,000/-

- a) There is a need to scrutinize identity of complainant and witnesses who may have turned hostile as part of the game.
- b) Bhiloda: Day light murder by five persons who cut off the victim into pieces.
- c) Did the Police recover murder weapon – swords in muddamal?
- d) Does the swords match & identical to the swords used elsewhere in the state or the swords as part of consignment from Punjab?
- e) Entire Court record-for scrutiny and re-trial.
- f) Whom did he pay the money?

G. Arvind Pandya – Head of Lawyers panel to defend the Government (& Hindu youth). Questions Raised by the Sting Operation

- a) Who did call upon him in the early hours of the morning to handle matters relating to 182, 130 ?
- b) His questioning pattern of witnesses including police officers before the Nanavati Shah commission.
- c) Which witnesses were dropped from examining?
- d) Did the commission help him in recording the words as per his will?
- e) For the release if how many Hindu offers he is responsible?

- f) Which and how many Judges expressed their sympathy with him and provided guidance when to put up the case and how to put up the case?
- g) Which cases were put up accordingly?
- h) How could he manage the judiciary? Who are they?
- i) How could he manage facility to offenders in the jail?
- j) Which jails?
- k) Who were the jailors etc.
- l) Who used to provide food and other luxury in the jail?
- m) Could other detainees of the jails testify to the special treatments given to the riot related offenders?

H. Ramesh Dave VHP Ahmedabad

In the sting operation, he admits to taking DCP Gadhavi to the terrace of a house opposite a Mandir, to pin point any house/s or Gali/street where (Muslims were/stay) on the back side of the house in question. Thereafter:

- a) DCP Gadhavi fired shots and kill 5 persons.
- b) Did he shot by service revolver – distance should be close range of upto 20ft.
- c) Did he shoot by 303 rifle – bullet would get through the wound making a hole and would be recovered later from scene of crime!
- d) If it was shot from the revolver – bullet should have struck in the body, either in the head or chest!
- e) Five dead bodies must have idetical injury/wound.
- f) Did the doctor performing PM recover any bullets? PM report?
- g) Bullets fired from One weapon/gun would have identical pattern/scratch mark/s. FSL report.



**Annexure IV-Hard Copy of Tehelka Magazine and Operation Kalank  
Transcripus**

**&**

**Annexure D Colly of Part One of the Statement that is the Official List of  
Accused in Jail or those Accused of Offences belonging to Political Outfits  
like the BJP/BD and Vishwa Hindu Parishad**

**XVI. Preplanning and Conspiracy**

**A.** State Intelligence reports (annexed to RB Sreekumar Four Affidavits) and In former DGO Mahapatra Affidavit Before the Nanavati-Shah Commission clearly show that VHP/BD are the Accused.

Why was this fact sheltered politically? It needs to be Investigated by SIT.

**Note: Four Affidavits of RB Sreekumar former Additional Director  
General of Police Need to Be examined by SIT comprehensively including  
the Annexures to One, Two and Three and Four**

**B.** Reports of Provocative behaviour by *kar sevaks and members of the  
BHP/VHP/BD, including trishul distribution and sloganeering documented  
by SIB. This needs to be Investigated by SIT*

**Annexure III Colly of Confidential Letter of PC Pandey of 2002 and  
Annexures to former DGP Mahapatra Affidavit (CONFIDENTIAL) placed  
before Nanavati Shah Commission and sent to me anonymously**

**C. White Chemical Powder and Weapons Used in All Gujarat attacks in  
2002 and also found in Sabarmati Express Coach (?)**

Neerja Gotru, DIG (Coordination -Interpol Cell} formerly In Charge of the Team Re-Investigating 2,000 cases appointed by the Supreme Court has recorded evidence to show that a white chemical powder (also possibly found in the Godhra train compartment) was used to destroy flesh and possibly a substance

imported. The materials used to destroy bodies to ugly shells needs to be investigated by SIT.

## **XVII. Conspiracy Behind Gulberg & Naroda Incidents**

All accounts of the Gulberg Incident, the intensity and duration of the attack, the fact that Shri PC Pandey (then CP Ahmedabad visited the site, assured security but failed to deliver all suggest a particular conspiracy behind the two Ahmedabad located mass carnage incidents, both Gulberg Society and Naroda Patiya and Gaon.

- A.** One reason for this is Shri Ahsan Jafri, a trade unionist of renown and repute who made over 200 phone calls begging for help. Among the last phone calls was to the chief minister, Shri Modi. Witness accounts state that the abuse he heard when he called fatalistically convinced him that he had to give up his life, because he was the target. His phone records have vanished since that day. His telephone records need to be obtained and examined by SIT.
- B.** On February 21-22, 2002, six to seven dates before the Gulberg incident, the Rajkot assembly bye-election was scheduled in which chief minister Modi was seeking election. One of the persons who actively campaigned there against him was Shri Jafri accompanied by veteran supporters including Fakir Mohd Saiyed Ali and Kannubhai made speeches there which were widely reported in the media and during which he warned the people of Gujarat against a man like Modi. **Those who went with Jafri to Rajkot need to be questioned.** This is another indicator of Jafri being a specific target.
- C.** On March 6, 2002 the Times of India, Ahmedabad reported that chief minister visited both Gulberg Society and Naroda Patiya. He did not meet any survivors there or at the camps. He was accompanied by former deputy mayor Jagrup Singh named as an accused in the Gulberg Massacre.

**D.** Post Mortem Reports of Bodies of the Gulberg Massacre are not being provided easily by Civil hospital. Many are erroneous.

**E.** When many of the Gulberg society residents managed to escape around 7.30 p.m. in the evening of February 28

**Note: PI Erda and PC Pandey are responsible??) many of the massacred and mutilated bodies (including the naked bodies of girls and women) lay within the society.** After they left, a macabre dance of death was obviously allowed by the police as when the remains were buried on March 3, 2002 they were charged and decomposed pieces beyond recognition. **This shows that after the committal of the offence, further offences were committed after policemen arrived at the spot and then bodies became unrecognizable. Policemen may need to be made co-accused in this massacre.**

**F.** City and State Control Room records, Station Diary Entries, Case Diaries all need to be studied and verified for the happenings of these days.

**(Note: I have tried to access these records through RTI. They have been denied me under RTI, the Gujarat Police claiming that they have given privilege against disclosure to the City/State Crime Branch and My Appeal is pending before the Commissioner in some cases and lower officers)**

**G.** Was any videography carried out when mobs attacked Gulberg, Naroda, Sardapura, Odh, Deepa Darwaza? The BEST Bakery re-trial revealed a state police CD..so are there such CDs related to these massacres? **The SIT needs to find out.**

**H.** The victim survivors of the Gulberg Massacre were houses mainly in DaraiaKhan Ghumbat Camp (run by Inamul Iraqui) and those from Naroda at Shah e Alam (Sharif Khan and Shafi Mullah).

**Note: These persons need to be examined by SIT to corroborate the conditions of the survivors when they were brought in; the descriptions of the naked and burnt bodies of women and children.**

- I. Telephone Records of all the Persons Named Above whether they be politicians **(chief minister and his cabinet), senior police officers and senior IAS officers need to be investigated (Subha Rao, Ashok Narayan, Late Haren Pandya, Ashok Bhatt, Amit Shah, Prabhatsinh Chauhan and local leaders to ensure that the investigation restores Public Confidence.**
- J. Role of the Chief Minister on February 28, 2002. Indicators are that for two and a half to three hours on February 28, 2002, Narendra Modi broke with his security cover and went on a private visit. *Tehelka's Operation Kalank* has Suresh Chara Richard boasting of raping women and claiming *on camera* that the chief minister came and garlanded him personally that day for a job well done. Is there a co-relation?
- K. Similarly *Tehelka* reports in two or three other video interviews the direct role played by chief minister in fomenting the violence and congratulating and shielding the perpetrators. This has a direct bearing on the possible wider conspiracy behind the cases under re-Investigation.

#### **XIV. Discrepancy in Missing Person Records and Discriminatory Handling, Callous Handling of Dead Bodies of Victims**

There appears a clear policy to callously dump missing bodies of the dead of the post-Godhra massacres while the bodies of the dead in the Sabarmati Coach S-6 Burning were paraded by sympathetic politicians. The SIT needs to interrogate whether or not Missing Persons Lists of Godhra Victims were placed and advertised in local papers; and what was the pattern in the post Godhra massacres?

#### **XIV. Other Broad Issues that need to be Addressed in the Re-Investigation and Reflect in the New FIRs/Fresh Chargesheets that will be finalized by SIT**

## A. Role of the Police

1. The role of the police during the entire carnage and its aftermath has been by and large dubious in terms of inaction and complicity during the riots, refusal to lodge and doctoring of FIRs, scuttling of investigations, etc. There also serious allegations of involvement and interference by politicians. [Brought on Record through Affidavits etc and put on charts which have been circulated in court. Today these are supported by Official Documents brought on Record by Affidavits and Depositions of then SP Bhavnagar Rahul Sharma and then Additional Director General of Police RB Sreekumar ]

### **Note:**

**Has the State of Gujarat acted against offending, complicit inept policemen and investigation especially related to the re-investigations being handled by SIT?**

**Has there been a policy of Rewarding the Criminally Complicit and Punishing those who functioned as per Law and the Indian Constitution?**

**Were doctors who filed faulty post mortems pulled up and punished?**

2. Thus, there are serious allegations of continuous failure of the Police and the Executive to diligently pursue the offenders.

**[All Annexures- Brought on Record through Affidavits etc and summarised in charts which have been circulated in court]**

## **B. POLICE COMPLICITY**

1. Police alleged to have been actually involved in rioting at a number of places

2. Statements have been made by the victims in a number of cases such as Gulberg, Sardarpura, Ode and Naroda Gam and Patiya etc. that police actually participated in the carnage or instigated those who were rioting.

3. Press Reports consistently highlighted police inaction during the carnage.

### **C. Hate Speech Before and During 2002**

**Annexure 2 Colly- CCT 2002, Volumes I, 2 and 3, Page 258-270 Volume I, Concerned Citizens Tribunal**

The Contribution of Hate Speech to Fomenting Violence and the Inaction on Organisations, Individuals and Publications who indulged in the same was also a key pattern and factor of the mass carnages of Gujarat 2002

Also see

### **D. Challenge for SIT**

The appointment of the SIT has redeemed faith. Yet there is skepticism. Specifically the appointment of Noel Parmar to the Godhra re-investigation (facing charges of faulty chargesheets) until the public outcry due to which he was removed was one.

**Similarly we have complained to the SIT about the following:**

1. Repeated attempts by PI Choudhary and DySP Pathak at Odh to rattle together oral testimonies when IG Shivananad Jha has clearly and specifically told witnesses and survivors only to depose in writing, before senior officials, at Gandhinagar. This continued conduct by lower officials of SIT (some of whom were connected to the post 2002 investigations) have made us wary. We put our reservations on record.
2. Similarly the two writers employed for the Sardarpur statements recordings and who visited the victim survivors at Satnagar are from Mehsana, one of whom is a distant relative of one of the accused. Not a factor to reassure a traumatized victim. This fact has also been brought on record. We place some of these issues here as we believe that this Re-Investigation through SIT will and must reach the most mighty and powerful. Hence there will be attempts to subvert it at the outset.

**See Annexure O to Part One of the Statement by witness complaint sent to SIT -Gujarati**

3. While we have implicit faith in the functioning of SIT and the ongoing re-investigation we are concerned over the fact that it is the same state government and administration responsible *possibly* for the genocidal carnage, including doctoring of the Godhra incident that is in power today, that it is vindictive towards upright and honest officers and rewarding of those who shield the guilty; hence the responsibility on the SIT Re-Investigation deepens and widens, making it a rare challenge.

**E. POLITICAL INTERFERENCE**

1. Allegations that a number of politicians were involved at various stages of the carnage and even subsequently interfered in investigations.
2. By and large the police refused to name any politician or activists of certain organizations in the FIRs that are being re-investigated
3. The few politicians who were named in the FIRs have been dropped from the Chargesheets. (Mentioned in Specific Cases)
4. Those policemen who controlled the riots or took action against policemen or politicians have been transferred.
5. Some of the following politicians who have participated in the violence (been accused of manipulating the Godhra train burning and thereafter masterminding a state-sponsored genocidal carnage for which preparation has been made months in advance), have been reelected and are likely to further hamper investigations and subvert the criminal justice system. That is why there is genuine concern that the SIT re-investigation looks into the aspect of command responsibility behind these allegations and indicators.

**These names are only illustrative:**

Dr. Maya Kodnani- MLA & Minister of Women and Child Welfare

Ashok Bhatt- Speaker in the Gujarat Assembly, former Minister of Law and Judiciary

Amit Shah, state home minister

IK Jadeja- former Minister for Health and Family Welfare

Prabhatsinh Chauhan- former Minister for Cow Protection

Dr. Jaideep Patel, state VHP chief

Niteenkumar Ratilal Patel, former and present MLA and minister for Water Supply and Water Resources

Prabhatsinh Chauhan, former state cabinet minister

Narendra Modi, chief minister, in 2002 and in 2008

**See Annexure I - FIR Copy by Zakia Jafri dated June 8, 2006 annexed Annexure II Table Assigning Responsibility to the Accused annexed to Part III of the Statement**

**C. Conclusions of the Hon. Supreme Court related to the State of affairs in Gujarat in 2002; the conduct of Political Masters; the Subversion of the Criminal Justice System, Appointment of Public Prosecutors, Defence Counsel, Police and even the Gujarat Courts – in Appeal (cri) 446-449 of 2004, *Zahira Habibulla H Shaikh & Anr v/s State of Gujarat & Ors* dated April 12, 2004**

**See Annexure VI in Part Three of the Statement that Contains Full Text of the SC Judgement**

**ENDS**