

[Tabular Presentation 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 following Part I, II and III Statements submitted at Gandhinagar on May 9, 2008](#)

**Date of Tabular Presentation May 29, 2008**

**ODH(e) MASSACRE**

Subject	Investigation	Sections	Cross Referencing to TS Statement and Annexures Submitted on 9.5.2002
<p><b>Odh(e):</b> Faulty Investigation from the Recording of the Crime, i.e. the Deliberate Wrongful recording of FIRs; An FIR into a Murder not recorded deliberately; and thereafter in four years deliberate subversion of evidence by superior officers and unlawful supervision of the investigators in this case.</p> <p><b>Ode(h) :</b> Statements of Witnesses are Recorded with Scant Regard to Thoroughness and Detail and hence are not substantive. SIT should compare earlier Police Statements with Statements Recorded Now and List and Enumerate Crucial Details Deliberately Omitted Earlier as also record motive behind protection of officers of the law who had committed unlawful and criminal acts.</p> <p>Twenty-seven persons were killed over <b>three separate incidents, one in which 23 + 2 + 1 were burnt alive on 1-3-2002 and one more was torched on the street the next day, i.e. 2-3-2002.</b></p> <p>The First FIR 23/2002 and the second FIR 27/2002 relates to the incidents of the first day. In between a police officer also filed an FIR 25/2002.</p> <p><b>No FIR has been lodged related</b></p>	<p>SIT should Inquire why No Investigation Therefore At all into the Murder by Torching alive of Ghulam Rasool Saiyed despite repeated requests by the Victim Survivors in 2002 itself</p> <p>As a result accused have been accused only once when they have been guilty of two crimes.</p> <p>Investigating Officer (23/2002) <b>Interrogation of</b> P.I. K.R. Bhuwa, Pathak Khambholaj P. St. Assistant Investigating Officer P.S.I. R.G. Patel Khambholaj P. St. should be questioned.</p> <p>IOs: KR Buva (2002 PI Khambolaj Police Station) Assistant IO-- RG Patel (2002 PSI</p>	<p>Violation of 154 CrPC (procedure of registration of FIR) and worse the Suppression and Destruction of Evidence. This includes the fabricating of documents and causing disappearance of evidence immediately after the registration of the case and the continued the illegal act of causing disappearance of evidence till the dead bodies were buried. Further protecting the names of influential accused and arraigning wrong</p>	<p><b>(see Annexure Gi and its annexures on internally numbered pages 20 onwards)</b></p> <p><b>--(see Annexure Gi to Part I of TS statement and its annexures on internally numbered pages 20 onwards)</b></p> <p><b>-(see Note on Odh Chargesheet Annexure N)</b></p>

<p><b>to the offence of torching alive of Ghulam Rasool Miya on 2-3-2002 the next day despite repeated complaints to police and the Trial Court.</b></p> <p>No Investigation Therefore At all into the Murder by Torching alive of Ghulam Rasool Saiyed despite repeated requests by the Victim Survivors in 2002 itself</p>	<p>Khambolaj Police Station) ML Rathod (2002 PSI Bijapur in 2006 he was thereafter posted to Karanj Police station Ahmedabad) Some of the Officers are likely to be guilty of subverting and suppressing and destroying evidence</p>	<p>accused also amounts to a crime. Sections 120-B r/w 143, 147, 148, 149, 302, 376 (2) (e) and (g), 201, 217 and 218 IPC and substantive offences u/s 143, 147, 148, 149, 302, 376 (2) (e) and (g) and 201, 217, 218 IPC are attracted in the commission of all these offences.</p>	
<p>Complaints regarding Clubbing of FIRs Victims' Complaints about registration of FIR for the incident of 2-3-2002. These include a) On 5-3-2002 Complaint to DSP; b) on 9-7-2002 Complaint to S.P. Anand; c) On 24-7-2002 Complaint to P.I., Police Station, MDSP, Anand, Home Minister, Chairman of Minorities Commission; d) Response of SP Anand District to Victim/survivors complaints about clubbing SP, Anand sent letters dated 9-9-2002 and 26-9-2002 acknowledging the complaints made; e) witness/survivor complaint to Nadiad Court about clubbing of FIR Witness No. 26 Rafik Mohammad Ghulam Rasool Saiyed dated 25-9-2002 about FIR being clubbed and records not rectified.</p>	<p>SIT needs to Interrogate considered officials who received these complaints and come to a conclusion about how repeated requests, in time, at the time, were simply not heeded by the authorities in Gujarat. Did higher Range In Charge IG's ask for reports on the Investigation? Were any internal reports made or observations supplied? Why not?</p>	<p>Ibid. (Ditto as above)</p>	<p>Please see <b>Para 6, Int. numbered page 4 and 5 Annexure A and B Colly to Annexure Gi.</b> Related to complaints filed by witnesses about Investigation Para 7, Internally Numbered page 5 with <b>Annexure C Colly to Teesta Setalvad's affidavit post Judge Mehta's Report dated 21-9-2006.)</b></p> <p>State of Gujarat fist in SC makes irresponsible statements that there are <i>no</i> missing persons. (10) State of Gujarat admits that PP did not oppose Anticipatory Bail <b>(Annexure K Colly to Part 1 of</b></p>

			<b>TS Statement)</b>
<p>Missing Persons Complaint lodged by victims was back on 14.03.2002 onwards that show that victims have been diligently following up with the police about factual errors vis a vis the missing persons related to the Ode Massacre.</p> <p>Application to Ode (Umreth) Sessions Court on 26.2.2008 for Digging of Bodies refused; Please look at Annexure M Colly (Ode(h) Mass graves application to Part I of TS Statement before SIT dated 9.5.2008 for Exhuming Bodies filed by Victim Survivors on February 26, 2008 that was turned down; )</p>	<p>SIT should examine why the Issue of Missing Persons was not looked at seriously; and also examine/question then DySP Bavang Zamir who had filed a Missing Persons Report. SIT should Interrogate why no bone remains were returned to families for last rites; why to date no FSLR/DNA Report has been made available; Where should Victim Survivors Go for Efficacious Remedy?</p>		<p><b>(Please See Annexure Gi-- Details of Annexure C Colly Internally numbered pages 25- 54 Internally numbered Pages 51-52 to Teesta Setalvad's affidavit post Judge Mehta's Report dated 21-9-2006.</b></p> <p>&amp; Affidavits Filed by Witnesses/Victims</p> <p><b>Annexure F Colly Volume 'B';</b> pages 270-337 Majeed Miya Murad Malek <b>Annexure F Colly Page 279-283,</b> Paperbook 'B' Rafik Mohd Abdullah Khalifa who is Complainant in FIR 23/2002. <b>Annexure F Colly Page304/305,</b> Paperbook 'B' Rehana Yusuf Vohra, Complainant, names accused <b>Annexure F Colly Page 301,</b> <b>Paperbook 'B'</b> Mehmoodabibi Majeed Malek Victim Survivor <b>Annexure F Colly Pages 306-310,</b> <b>Paperbook 'B'.</b> Rashid Khan Matbar Khan Pathan a Victim survivor <b>Annexure F Colly Page 311-314,</b></p>

		<p><b>Paperbook 'B'</b>  Hasan Khan  Hassukhan  Pathan, Witness  and Victim  Survivor o the  incident  <b>Annexure F Colly  Page 315- 317,  Paperbook 'B'</b></p> <p>Mohammad Khan  Akbar Khan  Pathan a Victim  survivor who lost  seven family  members  <b>Annexure F Colly  Page 318- 322,  Paperbook 'B'</b></p> <p><b>Rafik Mohd  Ghulam Rasool  Syed</b>, a Victim  survivor who's  father was torched  alive on 2-3-2002.  For this offence an  FIR has still not  been registered  despite repeated  pleas by this  witness  <b>Annexure F Colly  Page 323- 329 of  Paperbook 'B', see  pages 324 &amp; 326</b></p> <p>Anwarmiya  Akbarmiya Malek  describes the  preplanning  behind Ode attack</p> <p><b>Annexure F Colly  Page 330-333,  Paperbook 'B', see  pages 331 &amp; 332</b></p> <p>Shafi Miya Mohd  Miya Malek,  Victim Survivor  <b>Annexure F Colly  Page 334-337,  Paperbook 'B'</b></p> <p>Police Not  Recording FIR  <b>Annexure F Colly  Page 323 at 324,  paras 1-2,</b></p>
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		<p>Ode Massacre</p> <p><b>Annexure F Colly Pages 271-274 of Paperbook 'B'</b></p> <p>Influential persons not allowing recording of FIR  <b>Annexure F Colly Pages 325-326 at para 6, Paperbook 'B'</b></p> <p><b><u>Mehta (ASJ) Report (which is Annexure I to Part of TS Statement before SIT dated 9.5.2008)</u></b></p> <p>Judge Mehta summarizes contentions of malafide investigation, intimidation of witnesses, complicity of police etc. Contentions of witness survivors through affidavits are summarized along with state response. No conclusions are drawn</p> <p><b>Annexure I- Page 42-51 of Mehta Report which is Annexure I to Part of TS Statement before SIT dated 9.5.2008</b></p> <p>State shockingly admits survivor complaints about remains being sent to FSL for</p>
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			DNA testing <i>but is silent completely about what was the outcome of these investigations.</i> <b>Annexure I Page 46 and Page 49 of Mehta Report which is Annexure I to TS Statement Part I before SIT dated 9.5.2008</b>
Collusion of Politicians/Administrators/Police and Fire Brigade & Motives Behind Inaction/Negligence//Complicity  No Firefighters came in time to Ode Village.	SIT should Interrogate why No Fire Fighters came in time to Ode(h) village though attack took place in broad daylight. SIT should Interrogate Fire Officers On Duty for this Jurisdiction on That Day and Also Examine all Log Entries: Were they called? By whom at what time? Why did they not go in response to the summons? What do Police Records Say? <b>Station Diaries, Case Diaried, Control room records, Hospital records, Post Morten records.</b> Already we see below how Panchnamas have been Doctored <b>Role of Fire Brigade:</b> Was it summoned and when? Fire Brigade	Sections of Criminal Conspiracy, Negligency, Conspiracy get drawn in apart from Outright Mass Murder in the Conduct of the Police Officers on Duty, the Higher Range Officers in Charge and Also the Fire Brigade Personnel	<b>(Annexure K Colly to Part I of TS Statement Discrepancies in States Stand at Page 7)</b>

	<p>register and Notings need to be examined by SIT Who were the Officers? All need to be examined. Did they reach the spot on time or at all? When did they reach? Why did they reach so late? <b>SIT needs to look at this as part of the Collusion and Complicity allegations against the State Government and Administrative Machinery in Gujarat.</b></p>		
<p><b>Discrepancies in Chargesheet A and B:</b> <b>Chargesheet Details</b> Chargesheet A filed on 31/05/2002 against 33 accused. Charge sheet B filed on 31/05/2002 Both the Panchnamas and Other Police Statements Including DNA Sampling Reports mention three/four different locales where bone remains were found. (Akbar Moyan Malek's house, the heap of vehicles on which Ghulam Rasool's remains were found and the spot at M Bhagaol where Rehana states that remains were found? How Come the Chargesheet does not reflect this at all? The chargesheet despite statements of witnesses and panchnamas showing recovery of bone remains continues to treat the dead persons as missing.</p>	<p>1. Who are the Local Level and Higher Level Officers of the Gujarat police Responsible for this Level of Discrepancy that despite being pointed out is not rectified? 2. What are the notings/reports of Supervisory Officers on the Issue? Has any politician/Minister Interfered with the Investigations in this Case? Why else would the Local Police simply not want to investigate the obvious especially when their own Chargesheet and Panchnamas</p>		<p><b>Annexure L to Part 1 of TS Statement and Annexure 2 and 2a to Tabular Presentation dated May 29, 2008.</b></p> <p>This Analysis Prepare by Us Shows: 1. Despite belongings/bones of two dead persons Sikandarmiya Usmanmiya Malek and Guddi Munni Sikandarmiya Malek they have been (deliberately) shown as Missing; 2. Despite witness seeing the killing of Ghulam Rasool Saiyed he has been (deliberately) shown as missing. Bones of this person have also</p>



	<p>indicate issues that are thereafter left hanging?</p> <p><b>Following Senior IAS/IPS Officers Need to be Questioned by the highest echelons of SIT on the issues of Failure to Investigate and Punish the Guilty and thereby Obstruct the Deliverance of Justice</b></p> <p>SIT Must Interrogate Shri Kuldeep Sharma (IPS, 1970) he was IG Range In Charge of Anand where Ode(h) village is). He needs to be questioned on Ode(h). Incidentally he has not filed any affidavit before the Nanavati Shah now Nanavati Akshay Mehta Commission; Shri K Chakravarthi at the crucial moments in 2002 the DGP Gujarat needs to be Questioned by SIT; Shri K Nityananandam (IPS, 1977) who was Home Secretary from 2001-2005 needs also to be questioned; DR P.K. Mishra (IAS, 1972) then PS to the Chief Minister needs to</p>		<p>been taken and recovered and sent for FSL examination and yet this slip. Is it a slip?</p>
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	<p>be Questioned on the Overall Supervision of the Violence and Steps Taken (or Not) to Contain It; SIT needs to Question also Shri Subha Rao (IAS, 1965) then Chief secretary on the same issues; Shri Ashok Narayanan (IAS, 1966) Batch who was in 2002 ACS home also needs to be questioned on these Critical Issues</p>		
<p>Bail Pattern. Eighteen accused members politically influential were given anticipatory bail for such heinous Crimes. Hasty Bail Ode Massacre Undue haste/bail applications &amp; 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 Anticipatory bail being 246 of 2002 u/s 438 Cr.PC. 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</p>	<p>Accused are wealthy NRIs 18 of whom were given Anticipatory Bail. (Details of Bail)(39 Accused arrested and released on bail, 18 on Anticipatory Bail) Pages 2-3-4, SIT should question all the PPs and the Legal Secretary and the IOs briefing PPs on Bail and Anticipatory Bail. Under what Circumstances were 5 of the accused of such a mass murder allowed to even go abroad? Is this a normal practice in Gujarat?</p>	<p>PPs who did not oppose bail?</p>	<p><b>Annexure B Colly to Part I of TS Statement before SIT</b> Bail Orders and Bail Tables that reveals the silent complicity of State of Gujarat appointed PP's towards accused who have committed grave crimes. <b>Annexure E Colly to Part One of Statement, Page 293 onwards Paperbook 'B' &amp; Annexure B Colly to Part One of Statement</b> Anticipatory Bail granted in cases of 302 <b>Annexure E Colly to Part I of Statement, Page 294 Paperbook 'B'</b> Complicity of Public Prosecutor</p>

<p>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</p>	<p>What are the implications if accused of such mass crimes roam free?</p>	<p>in not opposing Bail application  <b>Annexure E</b>  <b>Colly to Part One of Statement, Page 294</b>  <b>Paperbook 'B'</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  <b>Annexure E</b>  <b>Colly to Part I of Statement, Page 294, Paperbook 'B'</b>  Amicus Bail Table showing hasty Granting of Bail to Ode Mass Massacre Accused  <b>Annexure E</b>  <b>Colly to Part I of Statement, Paperbook 'B' Pages 338 -344.</b>  Anticipatory bail granted; PP did not oppose Bail  <b>Annexure E</b>  <b>Colly to Part I of Statement, Page 294, para 7, para 9, Paperbook 'B'</b>  PP Conduct in Not Opposing Anticipatory Bail in cases of 302  <b>Annexure E</b>  <b>Colly to Part I of Statement, Page 294, Para 7, Paperbook 'B' Page 294, Para 9, Paperbook 'B'</b></p>
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			<p>Unanswered earlier claims on Anticipatory Bail being granted to accused in Ode carnage Case</p> <p><b>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, Internally numbered Page 4</b></p>
<p><b>Threats and Intimidation of Witnesses who cannot even today return home</b></p>	<p>SIT needs to Interrogate Independently deploying the Highest degree of Confidentiality how safe the Victim Survivors feel in the places of their rehabilitation; that, if tomorrow Trials are Conducted within the State of Gujarat will they be able to Depose Free and Fearlessly given the fact that Accused Roam Free on Bail, arte Politically Powerfully Connected and have even obtained Anticipatory Bail and some have gone abroad.</p>	<p>Intimidation and Coercion of witnesses is a criminal offence under the IPC and refusal to give adequate protection despite Supreme Court orders amounts to Contempt of the Supreme Court.</p>	<p>Affidavits alleging threats and intimidation</p> <p><b>Annexure E Colly, Page 287, 297, 304, Paperbook 'B'</b></p> <p>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</p> <p><b>Annexure E Colly, Pages 284-290, Paperbook 'B' at page 287</b></p> <p>Rehanabehn Yusufbhai Vora is the complainant in 27/2002.</p>

		<p>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</p> <p><b>Annexure E Colly, Pages 297-298 of Paperbook 'B'</b></p> <p><b>Annexure E Colly, Pages 291-293, Paperbook 'B'</b></p> <p>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</p> <p><b>Annexure Gi to Part One of Statement,</b></p>
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			<p><b>Affidavit of Teesta Setalvad dated 21-9-2006 at Para 23, Internally numbered page 16 of Affidavit; Para 3, Internally numbered page 2</b></p> <p><b>Annexure E Colly, Pages 291-293, Paperback 'B'</b></p> <p>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</p> <p><b>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, Internally numbered page 2</b></p>
<p><b>Ode (h)</b> Subversion of the Deliverance of Justice Process through the</p>			<p><b>Annexure E Colly to Part One of Statement,</b></p>

<p>appointment of Compromised Public Prosecutors that continues until this day. 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.</p> <p>Affidavits of Victims speaking of Complicity of Prosecutor and his/her Appointment. The allegation is that PP appointed 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 completed eroded the faith of the common citizen, especially a victim and eye witness of the 2002 carnage in the administration of justice.</p>			<p><b>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</b> PP Conduct in Not Opposing Anticipatory Bail in cases of 302 is reflected here related to the Ode Massacre <b>Annexure E Colly to Part One of Statement, Page 294,Paras 7-9, Paperbook 'B'</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 <b>Annexure J to Part One, paras 14, 23 and 36 of Amicus Note dated 22-3-2007 and filed before the Supreme Court</b></p>
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<p>Protection of the Politically Powerful</p>	<p>The officers of the investigating agency surreptitiously removed from the array of accused all those offenders who held official or political positions of influence and whose being implicated would reveal the deep rooted and wide spread involvement of the State's political and executive machinery as prime movers of the riots. In the course of investigation and even after the filing of charge sheets, the police sedulously avoided arresting persons who were members of the political party or of a private army owing allegiance to that political party which held the reins of government in the State. So much so, that the charge sheets conveniently failed to mention those of such persons whose names and roles in the commission of the offences figured in the statements of witnesses recorded under Section 161 Cr.PC.</p>	<p>This amounts to worse than Criminal Conspiracy and Collusion</p>	<p><b>Annexures to Part I and Part III of TS Statement before SIT dated 9.5.2008</b></p>
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ENDS.