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- iii) Although the presentation mentioned some major incidents of arson and looting, it was silent about the registration of criminal cases against the miscreants.
  - iv) Details of Police/Army firing and date and community-wise break-up of casualties was not shown.
  - v) The presentation did not mention the alarming fact of the spread of the communal violence to the rural, particularly the tribal areas, though some figures of evacuation/rescue operations were given.
  - vi) The presentation made no mention of destruction of Mosques and Dargahs in Ahmedabad and elsewhere which the media has been regularly reporting.
  - vii) The presentation gave the consolidated figure of arrests (10,196 till 18 March) without giving community-wise break-up and without showing separately the number of persons arrested in cases registered in connection with the incidents of killing, arson and looting.
  - viii) The presentation was also silent about the number of policemen killed or injured on duty or otherwise in connection with the communal incidents which may reflect their commitment and devotion to duty.
  - (ix) Particulars of visits to relief camps of VIPs / political leaders / senior officers were also not indicated, nor were the facilities provided in these camps mentioned in detail.

The team drew the attention of the Chief Secretary to the media reports of the date (20 Feb.) about the application of POTO to the cases registered against the accused persons of the Godhara incident without indicating that a similar move is contemplated against the criminals of violence in other parts of the State. The Chief Secretary was asked to examine this question in the light of likelihood of allegations of discrimination between offenders.

The Addl. Chief Secretary (Home) Shri Ashok Narayan mentioned the move of the VHP to take out the Asthi-kalash Yatra to various States of Godhra victims and their advice to the CM to prevail upon the VHP to exclude Gujarat from this programme to which he stated that the CM was receptive. The Chairperson asked the Chief Secretary to advise the Government to use its influence over the VHP to stop this programme altogether in all parts of the country in view of its dangerous implications to communal harmony.

DGP, Gujarat, Shri K. Chakravarthi, described the communal riots as unprecedented in terms of scale and intensity and as a reaction to Godhara incident and narrated the difficulties of the Department arising from shortage of manpower, lack of equipment and total absence of "specific prior information" about Godhara incident. He explained that available resources including even the recruits in the training were utilised and officers were recalled from leave.

Shri P.C. Pande, Commissioner, Ahmedabad was asked to explain his widely publicised statement in an interview given to Rediff.com to the effect that the policemen have their own feelings and cannot be expected to remain uninfluenced by the mood of the community. He said, all he had told the reporter was that the police force being drawn from the same society

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by the Chairperson for having stated in the interview that his head hangs in shame, he clarified that he had said this in reply to the question put by the correspondent as to how he felt that this time the well-to-do people coming in expensive cars were involved in looting in the posh areas of Ahmedabad which meant he was ashamed to belong to that very society. Shri Pande tried to explain the inability of his police force to control the violence because of the enormity of the challenge and unanticipated emergence of new trouble spots different from those of the past and the shortage of manpower and equipment.

At the conclusion of the meeting, the Chairperson observed that it was evident that normalcy had not till then been restored and that there was a prevailing sense of insecurity, felt even by a sitting and retired High Court Judges. He stressed on the officers exercising their statutory powers uninfluenced by any extraneous consideration. He reminded the officers that democracy is not majoritarian rule but should be 'inclusive' in character representing the interests of all sections of the society. He concluded by adding that the tragic events which had occurred should never be allowed to recur.

The team met many prominent citizens – individually as well as in groups – and thereafter had a long meeting with NGOs/Human Rights activists numbering 72. A summary of what was said by the above is:

Gujarat has, over the years, become prone to frequent outbreaks of communal riots. It had serious communal riots in 1969, 1985, 1992 and 1996. However, the present riots are different from all earlier riots in terms of intensity of violence and degree of brutality. New areas and not only the usual trouble spots identified on the basis of past experience were affected by the menace this time. While the riots in the past involved both the communities in group clashes resulting even from minor incidents, the incidents following the Godhra incident are characterised by assaults by huge Hindu mobs on the members of the minority community. The size of the marauding crowds involved in the major incidents was found to be between five to fifteen thousand and the scale of violence and brutality of methods of killing and looting indicated long planning and indoctrination.

The Vishwa Hindu Parishad (VHP) gave a call for "Bandh" on the 28<sup>th</sup> Feb. pursuant to the Godhra incident of burning alive of Karsewaks which was supported by the State BJP. The police did not take effective steps to make proper security arrangements in several areas known for their communal sensitivity. Many felt that the police should have learnt from the past experience that Bandhs supported by the ruling party are never peaceful and should have therefore made full preparations. Whereas the VHP leaders could mobilise their supporters for the 'Bandh', the police did not take any effective measures to control the unlawful crowds, while they were building up. The police, by and large, chose to act as silent spectators allowing the crowds to swell in size and become uncontrollable.

While in the previous riots also political elements did play a major part and the police and administration failed to control violence, they were not accused of direct involvement in the carnage. The failure of police and administration in the current riots is attributed not to their professional incompetence but to their attitude of apathy and callousness in general and the accusation of connivance and complicity was made in some cases.

A number of persons holding responsible positions in public life alleged involvement of some

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Ministers and MLAs in these riots. They mentioned that Shri Gordhan Zadafia, Home Minister and Shri Ashok Bhatt, Health Minister were monitoring the progress of riots from the City Police control room. Shri I.K. Jadeja, Urban Development Minister was accused of controlling things at Police Bhawan, Gandhi Nagar. Someone stated that he had seen the Home Minister moving about in the riot affected areas openly displaying the "V" signal. Smt. Maya Ben Kudnani, MLA and former Dy. Mayor, Ahmedabad and Dr. Jai Deep Patel, VHP leader were named by a number of victim families of Naroda Patia who appeared before the team at Shah-e-Alam Relief Camp. Shri Usman Bhai, MLA alleged that the Home Minister Gordhan Zadafia was directly monitoring the progress of attacks on Muslim localities from the room of Shri Ashok Raina, Home Secretary.

Representatives of many NGOs and some Prominant citizens narrated a number of the minority community under attack from the marauding mobs but their pleas evoked no responce. Shri Amar Sinh Chaudhary, former Chief minister, Gujarat Narrated to the team his futile efforts in seeking of police help for Shri Ahsan Jaffrey former M.P. He claimed to have personally contacted the police commissioner. P.C Pande at 10.30 AM on 28 february and apprised him of the imminent danger to the life of Shri Jaffrey. The Police Commissioner assured him that police assistance will be despatched rapidly. He reminded him again after receiving another frantic call from Ahsan Jaffrey that no police reinforcement had reached his place and that the few policemen present were ineffective and unwilling to control the violent mob. Shri Chaudhary said that he also spoke to the CM Narendra Modi in the afternoon and found him well informed about the presence of a violent crowd outside Shri Jaffrey's house. He also spoke to the Chief Secretary and Home Secretary between 12.30 and 2 PM. Shri Jaffrey was burnt alive along with his family and 39 others (total killed -50).

The team heard several allegations of connivance of police in incidents of arson and looting by the marauding crowds. It was alleged that the crowds involved in the destruction of slums opposite Ambika Mill No.1 near Khokra over bridge, Gomtipur, Ahmedabad had the support of the administration (275 hutments housing approximately 1800 persons with 90 % Muslims and the other Dalits were totally destroyed). These hutments have been in existence for over 30 years and the Gujarat High Court had ordered status quo in 1999 when the authorities sought to demolish them. It is alleged that one PSI Modi from Gomtipur police station had come to the site in police jeep (GJ1-AR-5342). He parked his jeep near the gate of Ambika Mill, spoke to the mob in the presence of Shri Mohan Bundela, Shri Israil Bhai Ansari and some other activists of Jan Sangarsh Manch. The mob took out 4 to 5 bottles of diesel from the jeep of Shri Modi, which were subsequently used in torching the hutments. Another specific allegation of connivance of police was narrated by some victims at the Shah-e-Alam camp. They charged a senior police Inspector K.K. Mysorewala with misdirecting some helpless Muslims including some young girls into the arms of a murderous mob. (These cases were brought to the notice of the Chief Secretary by the Chairperson for immediate action).

Many representatives of the NGOs/activists accused the police of outright discriminatory approach in the matter of arrest. It was alleged by many that though it was the minority community which was under attack at all the places after the Godhra incident, the bulk of the arrests made by the police were from minority community. Since the official presentation made before the team did not give community-wise break-up of arrests which is an important parameter of police action in the handling of communal riots, the allegations made by people holding re-

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sponsible position and enjoying high reputation for their integrity cannot be rejected outright.

It was alleged by many that the police allowed the crowds to swell and turn violent by ignoring the calls for help from the victims of mob attack. Admitting that the police presence on such spots was very thin, it was asserted that their sense of duty demanded that they should have used firepower to rescue the persons under attack from mob fury. It was said by many that the police either did not use the weapons or merely fired a couple of rounds in the air without producing any deterrence.

It was alleged that the mobs were led by VHP, Bajrang Dal and BJP activists some of whom carried mobile phones to contact others and coordinate operations. The mobs were equipped with items like gas cylinders, kerosene oil, petrol bombs for burning people and torching people and houses, shops and business establishments. They were seen carrying lists with full details of Muslim houses and establishments which were to be targeted. Hotel businesses on the N.H-8 had suffered most. About 90 percent of the commercial establishments including small shops, godowns and factories were wiped out on national highway No.8.

One of the NGO representatives referred to the Govt. claim to have controlled the riots in 72 hours. She said that all it means is that the VHP elements supported by the police were given freedom of loot and plunder for 72 hours to finish the Muslim population. It is believed by many that deployment of Army to control violence was deliberately delayed.

Describing the prevailing sense of insecurity and fear in the minds of the members of the minority community, a number of representatives of the NGOs/activists including A.P. Ravani, former Chief Justice, Rajasthan, referred to the cases of Justice A Divecha, ret'd. Judge of Gujarat High Court who was forced to leave his house which was later burnt and Justice Qadri, a sitting High Court Judge who had to leave his bungalow in Law Garden area and move to the Judges colony as no one assured safety and security to him and his family.

Even the police officials belonging to the minority community were targets of threats from the marauding mobs. A number of gazetted police officers belonging to the minority community were advised by their superiors to remain confined in their homes during the period of violence. The incident involving IGP, Saiyed who was in uniform with name tag and was menacingly accosted by a mob in the presence of some policemen was mentioned by a number of speakers.

A number of NGOs/activists stated that the violence and destruction witnessed in Ahmedabad and elsewhere was not entirely a spontaneous reaction of the majority community to the Godhra massacre. The suggestion made by many was that the continued disturbed situation in Gujarat appeared to be the result of at least tacit support by acts and omissions of the State Government without which this situation could not prevail. They stated, inter alia, that leaders of mobs were in constant touch with others on mobile phones, that every wing of the State Government was used to ascertain full or partial ownership of assets by the minority community.

A distressing and alarming feature of these riots pointed out is that for the first time rural and tribal areas were also affected by communal virus. It is estimated that more than 1200 villages, particularly in districts of Panch Mahal, Mehsana, Sabarkantha, Bharuch, Bhavnagar and Vadodra witnessed mob attacks on minority communities leading to large scale exodus.

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The migration of Muslims from rural areas is attributed by many to a sustained drive launched by the VHP and Bajrang Dal during the last 8-9 years to mobilise the tribal population in revolt against the Bohra Muslim community which it is alleged is controlling businesses in rural areas.

Over 100 mosques and dargahs were desecrated and damaged in Ahmedabad and about 500 in other parts of Gujarat. (Two members of the team saw the site of Dargah of Sufi poet Wali Gujarati, revered by both the communities, near the underground bridge at Shahibag, which had been razed to the ground.) Allegedly, the Govt., instead of protecting the site for reconstruction of the Dargah, has got the old historic Dargah ground flattened and now one sees an asphalt road with vehicles moving over it.

The President of Ahmedabad Sunni Muslim Waqf Board stated that 33 mosques including 7 identified as heritage sites by the ASI have been damaged. He expressed the concern of his community for the protection of the remaining mosques particularly the 'Jali masjid' which is considered a treasured monument. (The Chairperson directed the officials present in the meeting to take immediate steps in this regard.)

Organised attempts for effecting a social and economic boycott of the minority community was another distressing feature of the current riots stressed by many. Pamphlets and handbills were widely circulated exhorting Hindus to boycott Muslims in matters of employment and business activities. Shri R.K. Sayed, a retired Secretary to the Govt. of India and former advisor to the Governor of J&K said in anguish that the husband of his maid servant, Rayeesa Banu, has been told not to report for work at a motor garage whose Hindu owner has been threatened not to employ any Muslim workers. He further said that the authorities of Don Bosco school have also received threats not to allow students from the Muslim community to attend.

Godhra incident was condemned strongly and without any reservations by all. However, a few persons attributed irresponsible behaviour of Karsevaks as the immediate provocation for the incident. Everybody who referred to this incident emphasized the need for immediate apprehension and prosecution of the culprits and awarding of the harshest possible punishment to them. Some members of the minority community said these persons deserve unusually severe punishment for having caused barbarous reprisals on the community by their ghastly criminal act.

A total lack of faith in the State police to investigate the riot cases was voiced by many. The popular perception was that these cases will not be investigated fairly and the culprits will go scot-free. Many stated that the FIRs are either not being recorded or not recorded honestly by mentioning the accused persons named by the complainants. There was a general demand for investigation of these cases by an outside independent agency like CBI. This suggestion was voiced also in respect of the investigation into Godhra incident which is suspected to be pre-planned and widely believed to be the origin of the communal disturbances.

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A number of persons criticized the Govt. decision to modify its order regarding postponement of class X and XII examinations. They said the Govt. is forcing the traumatised students throughout the State, except in Ahmedabad and Vadodara, to take the Board examinations at their own risk just to show that normalcy has been restored. (On request from several persons for immediate intervention, the Chairperson advised the Chief Secretary to convey to the Chief Minister the Commission's desire for reconsideration of the matter keeping the welfare of the students in mind.)

#### **Delegation of Media persons and Activists**

A delegation of prominent media persons including Mallika Sarabhai, Teesta Setalvad and Batuk Vora met the team and apprised it of the attempts of the Govt. to bar some TV channels for a few hours on the crucial day of carnage while allowing the Gujarati print media, which grossly violated the code of ethics laid down by the Press Council of India by its inflammatory reporting of incidents, to operate freely. The delegation informed the team about physical attacks on several media persons, particularly of the electronic-media, and damage caused to their cameras. A specific instance of the burning of the branch office of Gujarat Today Daily run by a Muslim trust was cited.

#### **Visit to relief camps**

The team visited two relief camps, one each of the minority and majority community.

#### **Shah-e-Alam Relief Camp**

The camp holding about 9000 refugees is being run by Shah-e-Alam Relief Committee. The office bearers of the Committee apprised the team of the atrocities at Naroda Patia and Naroda village which had borne the brunt of communal riots in Ahmedabad. The Committee was informed that a 5000 strong mob armed with swords, daggers, lathies and petrol bombs attacked Naroda Patia around 9 AM on 28<sup>th</sup> February. After damaging a masjid and razing one of its minarets to the ground, the crowd hoisted a saffron flag and burnt a heap of religious books including Holi Quran. When the terrorized residents went to the nearby SRP camp for shelter they were pushed back by the jawans. They went to the nearby police station where PSI K.K. Mysorewala turned down their request for a safe passage. Ultimately these people were surrounded by the mob. Men and women were segregated; young girls were stripped, gang raped, lynched and thrown into the burning fire. No man was spared. A young woman, Quasar, in advance-stage of pregnancy, pleaded for her life. Her abdomen was slit open, the foetus was taken out and thrown into the fire. They picked up the woman and threw her into the same fire. The survivors of Naroda Patia were brought to the relief camp by the Shah-e-Alam Committee members. In village Naroda, the entire Muslim locality was wiped out. A few survivors were rescued by the Addl. Police Commissioner, Tandon, who was praised by many victims.

The team went round the Relief Camp and spoke to a number of families. Each had a horrible tale of suffering to narrate. Ameena Bibi narrated the incidents of arson and rape from 9 AM to 9 PM in Naroda Patia. She said that MLA, Smt. Maya Ben Kudnani, was moving about in the area and encouraging the rioters. Jannat Bibi stated that she was raped and her nephew and his son were burnt alive. Bilkis, sole survivor of her family, stated that her mother-in-law, her husband and his brother were burnt alive. Mariam Bibi lost her disabled son and Noor Jahan her husband. Sharifa Bibi, wife of Iqbal Sheikh, stated that her 18 year old son was burnt alive before her eyes. She stated that she was a witness to the murderous attack on the pregnant woman, Quasar. Mehjabeen, wife of Iqbal Hussain, stated that MLA, Smt. Maya Ben Kudnani, and VHP leader Dr. Jaydev Patel were openly leading the miscreants in acts of arson, killing and looting. Naimuddin said that his mother, sister, niece, brother-in-law and two nephews were burnt alive by the mob, some of whose members came from Gangotri Society and Gopinath Society. He produced before the team his wife who suffered a head injury and had her right arm chopped off.

11 year old Raja, s/o Munna, gave a graphic account of the incidents at Naroda Patia from 8 AM onwards on 28<sup>th</sup> February. He lost his mother and sister and his father is lying in a state of trauma.

Nanhoo Miyan accused PSI K.K. Mysorewala of directing the fleeing Muslim-men and women-into the arms of the marauding crowd and ensuring that no one escaped unhurt. Abdul Majid said that his daughter was raped by one Bhawani Singh and she died after 8 days in the hospital. Reshma said that she took 6 days to trace her children who got separated from her in the attack. She said she had saved 8 children from the marauding mob. She confirmed the incident-involving the pregnant women, Quasar.

The office bearers of the Camp Committee praised the Collector, Ahmedabad, for being sympathetic and responsive to their needs and calls adding with a sense of hurt that no senior officer of the Government or political leader from the ruling party has visited the camp.

The team visited a relief camp operating from Saryudas Temple where 106 Hindu families comprising 471 members have been living since 28 Feb. Smt. Kailash Ben and two other inmates spoke to the team. They stated that these families had moved out from their houses in Prem Darwaja Bagriwan situated in the heart of a Muslim locality. They said that they were attacked by a group of Muslims and have lost all their properties. In reply to a specific question asked by the team they said that none of their family members had been killed or injured in the incident. They accused the SRP of not providing any help to them. The inmates had no further complaint to make either orally or in writing.

#### Meeting of the Chief Minister with the Chairperson

Shri Narendra Modi, CM, Gujarat, called on the Chairperson at Raj Bhawan Annexe at 243  
and had a discussion lasting over an hour during which he assured the

Chairperson of the needful being done by the Administration to restore normalcy in the State while promising to send the comprehensive report to the NHRC within the next few days. The CM also invited the Chairperson to visit the State again after a month to see for himself the restoration of normalcy. He requested the Commission to issue suitable directions/appeal to the Insurance Companies for an expeditious settlement of property claims of the sufferers of the riots. The CM also assured the Chairperson that no student will be allowed to suffer on account of the examination policy decision.

#### **Delegation of Traders**

A delegation of Beopar Mandal (Hindu) from machinery area met the team and apprised it about the burning and looting of 17 shops on 28-29 February by the members of Muslim community. They expressed their sense of insecurity and requested the posting of an SRP picket which was there since 1985 but was removed some 8 months back by the Municipal Corporation to establish a water-piao. (The Chairperson asked Shri Kumara Swamy, IGP, Human Rights Cell to get the request examined and make necessary arrangements for the security of these people).

#### **Some Karsevaks meet the team**

Two victims of Godhra incident met the team at Raj Bhawan Annexe on 20 March. 11 year old Gayatri, d/o Harshad Bhai, is the sole survivor of her family. She said that her mother, father and two sisters died in the fire in compartment S/6 of Sabarmati Express. She could manage to jump out to the safe side from the burning coach. She said that the train was attacked by a crowd, which was 1500-2000 strong. She added that the crowd was shouting 'Get the girls out'. Smt. Urmila Trivedi who accompanied Gayatri said that she was travelling in coach S/5 and was injured in stone pelting.

Sunil Kumar Jamna Prasad Tiwari and his brother Amarjeet met the team at Govt. Guest House on 21 March, 2002 morning. They said that their father Jamna Prasad (67) and mother Surti Ben (54) were among the Godhra victims. Only one of them is employed in a private TV repair shop. They have two unmarried sisters to look after. They requested for assistance and employment.

Smt. Veena Ben Rajut, a VHP activist appeared before the team at Govt. Guest House on 21<sup>st</sup> March morning. She said that the Godhra tragedy could have claimed many more lives if the train was not running late by six hours. She said that about 2800 karsevaks were travelling in this train. She claimed to have saved 18 people by pulling them out from the burning coach. She said that the Muslim community wants to make Gujarat into a Kashmir. She said that the women were particularly targeted by the mobs. She said 3-4 women among Karsevaks are still missing. On being asked to furnish their names, she said that they belonged to Bihar and as such as she did not know their names.



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### Vadodara

The NHRC team reached Vadodara by road from Ahmedabad around 3 PM on 21.03.02. After a two hour long meeting with the district officials, it held an interaction with some eminent citizens representing various sections of civil society and thereafter received 17 delegations – 7 Muslims and 10 Hindus ranging in strength from 2 to 20. The team, thus, met a total of 176 citizens. The meeting with officers started with a presentation by DM, Bhagyesh Jha. He claimed to have effectively controlled the reaction of Godhra incident in his district by mounting a vigil at the communally sensitive areas of Dabhoi, Padra and Karajan. On his own initiative, he could arrange a flag-march by the training unit of EME stationed at Vadodara on 1<sup>st</sup> March, in addition to the deployment of Forest Guards in rural areas.

The DM said that for the first time in the history of communal riots in his district, rural tribal areas were affected by the communal violence. Army had to be diverted to tribal areas on 5<sup>th</sup> March. 2517 persons belonging to minority community were rescued and evacuated from 22 villages to safer places. The SP, Keshav Kumar, described the particularly difficult job of shifting 100 persons from Kawant. The DM and SP confirmed that these villages now have no member of minority community. They did not sound confident about the safety of the property – houses, agriculture land and standing crops left behind by the evacuees. All these persons, they informed, have been moved to the Relief camps at Godhra and Dahod. They tried to explain the attack by tribals on members of minority community (largely Bohra Muslim traders) on the ground of economic exploitation of tribals by the traders. Rural economy is largely controlled by the Bohra community which they said, has earned the wrath of the tribal population.

I.G.P (Zone) Vadodara, Deepak Swaroop who was also present, confirmed that all the districts in his range namely Bharuch, Narmada, Panchmahal and Dahod have been affected by unrest in the tribal villages resulting in the exodus of Muslim population.

The DM informed that 8 lives have been lost (Hindu –6 and Muslims –2) till 20 March in the district. While the Muslim casualties (2) were at the hands of riotous mobs, 2 Hindus were killed by the rioters and 4 died in police firing.

Shri Tuteja, Police Commissioner, Vadodara, briefed the team about the situation in Vadodara city. He stated that almost the entire city was affected and curfew was imposed well in time. The Commissioner read out date-wise account of major events from 27 Feb. to 20 March. The city police swung into action from 1020 hrs. on 27 Feb. after receiving a message from the State Control Board about the attack on Karsewaks at Godhra Rly. Station. All the P.Is and SRP personnel were alerted and patrolling was intensified. All the P.Is were briefed properly for dealing with the Gujarat Bandh on 28 February and a company of RAF was also requisitioned. 95 preventive arrests were made during 27-28 Feb. night. The Police Commissioner accepted the observation of the team about the stabbing incident at the Rly. Station Vadodara

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on arrival of Sabarmati Exp. from Godhra in which one person was killed and two injured. He said he had excluded this incident from his presentation on 'technical reasons' as the incident had taken place in the jurisdiction of Railway police. Two deaths of stabbing were reported in early hours of 28 February – one was a truck-driver and the other auto-rickshaw driver. Curfew was imposed in areas of 6 PSs from 8 AM on 28 Feb. It was extended to six more PS at 5.30p.m. onwards.

The Police Commissioner claimed police effectiveness in rescuing 102 Muslim children studying in the Islamic Centre in Panigate PS. In response to a query from the team, he admitted that the Islamic Study Centre was burnt – a fact which finds no mention in his written presentation submitted to the Commission.

During the night intervening 1-2 March, Best bakery was set on fire in the Hanuman Tekri area on Dabhoi Road in the outskirts of the city. A 300 strong mob armed with swords, stones and kerosene attacked and looted the bakery. After stabbing the families and workers staying in the Bakery, the building was set on fire. 9 Muslims and 3 Hindus were killed and 6 Muslims were injured in this incident. 18 accused have been identified in the FIR but no arrests could be made till then.

The presentation made by the Police Commissioner, Vadodara, gave the following information:

*A total of 37 persons ( 24 Hindu, 12 Muslims and 1 other) had died in disturbances in Vadodara till 21 March (morning). 17 of them were killed in arson, 13 in stabbing incidents, 6 in police firing and 1 in pvt. firing. The police firing resulted in killing of 3 Hindus and 3 Muslims. A total of 125 persons – 45 Hindu & 80 Muslims have been injured in disturbances till 21 March. 16 police personnel are also reported to have been injured.*

The details of arrests furnished by the Police Commissioner have been found incomplete and confusing. However, what is clear is that only 4 persons – 3 Hindu and 1 Muslim have been arrested under Arms Act and 2 (one Hindu and one Muslim) under Explosive Act. The rest of the arrests are under Section 151 Cr. PC, Section 135 Bombay Police Act and for Curfew violations. The presentation made by the police shows that 132 vehicles including 6 luxury buses and 11 trucks were burnt and property worth over Rs. 10 crore was looted/damaged. A total of 380 offences have been registered, 72 cases detected and 3746 arrests have been made.

The Police Commissioner stated that 8 Mosques, 7 Dargahs and one Temple have been damaged in the disturbances.

The death toll in Distt. Vadodara till 20 March comes to 46 including 37 in the city, one at Rly. Stn. and 8 in rural area. The community-wise details are: Hindu 30, Muslims 15 and other 1.

### INTERACTION WITH PROMINENT CITIZENS

Following points emerged from the interaction:

1. Many members of the majority community stated that the riots were a reaction to the incident at Godhra. They added that there had been a feeling of resentment over the increasing visits of people from Pakistan who are using Ahmedabad, Vadodara and Godhra for subversive activities. They feel that the Godhra attack on karsewaks was pre-planned and there is involvement of a foreign hand in it. Local Muslims and Hindus have no problem in living together peacefully. It is only the visitors from the neighbouring country receiving huge amount of foreign money who are working to create disaster in India.
2. Media played a negative role by repeated display of pictures of Godhra incident which inflamed passions and infuriated the people.
3. Expressing a feeling of disappointment, it was stated by some persons that not many people/parties came forward to condemn the Godhra incident. It is believed that a strong condemnation of the attack on Karsewaks at Godhra regardless of ideological differences could have cooled tempers and prevented unprecedented retaliation.
4. The trouble in rural areas is rooted in the economic and other forms of exploitation of tribals by traders belonging to minority community. However, one person mentioned that it is a part of the political strategy of the ruling party in the State to mobilise grievances of the tribals in their ultimate aim of driving the Muslims out.
5. These riots are different from the past riots in the sense that new areas, not the traditional sensitive spots, were affected and Hindus turned offensive for the first time.
6. Most of the speakers praised the Administration for effectively handling the communal situation in the first phase of violence but found the same Admn. weak and also partisan after 15 March when the Ram Dhun procession in response to developments at Ayodhya was taken out. The incident of Machhipeeth was mentioned in this connection.

The delegations of voluntary agencies and various Citizen Committees made the following submissions before the NHRC team:

i)

Representatives of the Chamber of Commerce and Forum of Industries (18) said that the intensity of violence in the aftermath of Godhra inci-

dent would have been much less had the burning alive of Karsewaks at Godhra on 27 February been condemned promptly by all parties regardless of their ideological differences. They blamed the 'pseudo-securarists' for the communal violence. They praised the District Administration and the police for doing well despite being under tremendous strain.

ii) The representatives of the Qureshi Jamat Khana praised the Collector for rescuing 400-500 Muslims. However, they expressed their anguish over the burning of the Islamic Study Centre.

iii) Representatives of Machhipeeth Musafirkhana (10) described the events of March 15 at Machhipeeth arising from the 'Ramdhun' call given by the VHP and Bajrang Dal after the 'Shilladan' at Ayodhya. At about 2.30 p.m. a crowd of about 500 after the spiritual Aarti in the temple at Ahmedawadi marched towards Machhipeeth. The police did not intervene in spite of an order under Section 144 Cr.PC being in force. In the presence of 6-7 policemen who were accompanying the mob, the crowd went on raising slogans "Bandiao, go away to Pakistan", "Babar ki Aulad Hindustan chod do". The rally reached Machhipeeth Naka around 3.10 p.m. after burning a number of Muslim shops including Boot House and Tower Shoes en-route. On reaching Machhipeeth some of the rally members rushed to residential lanes with trishuls and swords and started pelting stones. Some took off their pants and danced around in the lanes. By the time police reinforcement came in 4 Jeeps, both sides - the attackers and local residents - were engaged in stone-pelting. The police started firing directly from stenguns and service-revolvers. The police firing lasting for about 25 minutes was directed at the residents of Machhipeeth. They also lobbed some tear-gas-shells. After about 15 minutes of police firing, the army personnel reached and the situation was brought under control and the rally left the scene. The police conducted combing operation, abused the residents and arrested 13 persons including a boy of 12 years and a 60 year old TB patient. All these people were beaten up and taken to Police Station.

(iv) At 7.30 p.m., on instigation from Municipal Councillor and Bajrang Dal Chief, Neeraj Jain and Ajay Dave, Bajrang Dal activists attacked the mosque from the top of the building in the adjacent lane when a number of Muslims were offering evening Namaz. Mr. R.N. Rathore, a Police Officer, fired some 20 rounds under the directions of Neeraj Jain. Thereafter in combing operation, the police arrested 12 persons including a stage singer and an Advocate. All the persons arrested from Machhipeeth

were booked under section 307 IPC. The Leader of the Delegation mentioned that the 12 year old boy arrested in this case was actually a riot victim who had come to the relief camp from Tarsali area. They also told the team that many Muslims of Machhipeeth have been relieved from their jobs by Hindu employers.

- (v) The delegation stated that the police are reluctant to record FIRs on their complaints. The names of the accused mentioned by them are not being recorded. The police knows the persons in some cases who are involved in looting of shops. The police is persuading them to throw away the looted property on the streets which is being seized as unclaimed property without initiating any action against the looters. However, even this delegation stated that the performance of the administration has been satisfactory and many lives were saved.
- (vi) The delegation of Bajrang Dal stated that disturbances were a reaction to the Godhra incident. They referred to strong resentment among Hindus over the news of slaughtering of 300 cows at Bharuch on the last Id day.
- (vii) Praveen Rawal of Hindu Suraksha Dal said that the large concentration of refugees near Wasna Road, Diwalipura area, was causing tension and the camps should therefore be shifted from there.
- (viii) It was mentioned by most of the delegations that the media had overplayed the incident of 27 February at Godhra and thus played a negative role by inflaming passions.
- (ix) Shri Kirit Bhatt, President, PUCL, Gujarat, informed the team about the plight of Prof. J.S. Bandukwala, a respected citizen of Vadodara and an active member of PUCL who has been a consistent critic of both Hindu and Muslim fundamentalism. A mob of around 20 people attacked his house at 10 a.m. on 28 February. One car in his compound was completely burnt and the other was damaged. Prof. Bandukwala and his daughter were saved by their Hindu neighbours who gave them protection. However, he had to leave his house under police escort after his house was attacked again the following day and his Hindu neighbours went into hiding for 3-4 days fearing an attack on them.
- (x) Shri Kirit Bhatt informed the team that situation in Vadodara had become tense on 27 February afternoon after the incident of stabbing in the presence of police at the Railway Stn. when the Sabarmati Express arrived from Godhra. One Muslim was killed and two were injured. Shri Bhatt blamed the local political leaders for using the electronic local media

in the most despicable manner. He requested the Commission to see the video-cassette of the speeches made on Local TV Channel (JTV, Deep and VNM) by Ajay Dave, Nalin Bhatt, Deepak Kharchikar, Neeraj Jain, Bhartiben, Jitendra Sukhadia and others. Shri Kirit Bhatt stated that from the 15<sup>th</sup> of March, the second round of violence erupted when the VHP gave a call for Ramdhun procession in response to the Shilladan at Ayodhya. The Muslim establishments which survived the fury of first round were systematically attacked in the second round.

#### GODHRA

The team arrived at Godhra around 10 AM on 22<sup>nd</sup> March. The District Magistrate, Ms. Jayanthi S. Ravi, briefed the team about the current situation. The team thereafter visited the site near the railway station where the coaches S-5 and S-6 of Sabarmati Express which were the target of attack on 27<sup>th</sup> Feb. stand parked. The team inspected both the coaches and observed that in coach S-6 everything except the steel frame was completely gutted. The team then went to the railway station and spoke to Shri Jai Singh Katija, Station Superintendent, and some eye witnesses of the incident of 27<sup>th</sup> Feb. Shri Shafi Ghulam Rasool, a tea stall owner, said that around 8 AM on 27<sup>th</sup> Feb. when the Sabarmati Express arrived, he had seen the slogan-shouting passengers who alighted from the train. He heard about their altercation with tea vendor, Siddiqui Bokkar, only after the train left. Shri Bhairon Singh, tea vendor, stated that the karsevaks had quarreled with Siddiqui. Constable Karan Singh Yadav of RPF said that he had seen 2-3 passengers in a scuffle with the tea vendor. ASI, GRP, Chatter Singh Chauhan, said that the karsevaks were trying to force the tea vendor to raise the slogan 'Jai Shri Ram'. He also stated that one of the karsevaks had pulled the beard of a Muslim tea vendor and asked him to utter the words 'Jai Shri Ram'. They also beat the vendor. After the train started and before it could leave the platform, the chain was pulled. As the train halted, it was attacked with stones from the left side. The GRP staff rushed to the train, chased away the crowd and the train was made to leave. However, there was second chain pulling and the train stopped at a distance of about one kilometer from the railway station near 'A' cabin. It was at this spot that coaches S/5 and S/6 were heavily stoned by a mob, which later burnt coach S/6. SI M.J. Jhalla, PSO, GRP said that he had learnt about the incident at 8 AM and before he reached the spot at 8.15 AM, the coach had already been burnt. His estimate of the crowd was 500 to 700. He said that on his orders the RPF had fired 4 rounds to disperse the mob. Shri Jai Singh Katija, Station Supdt. said that he had come after the incident and learnt about the altercation between the karsevaks and Muslim tea vendor over the raising of 'Shri Ram Bolo' slogan and subsequent attack on the train. He said that the train had arrived at 7.43 AM and left at 7.48 AM. The first chain pulling was at 7.50 AM. The train again left at 7.55 AM and came to halt at 7.58 AM with the second chain pulling. He said he alerted the civil authorities, the RPF and GRP rushed to the spot. After the district police came, situation was brought under control by resorting to firing, which resulted in killing of 2 attackers. The police firing was effective in chasing away the attackers and preventing any further loss of life.

The DM briefed the team about the action taken by the District Administration to arrange medical aid for the injured, and move the train at 12.40 PM after detaching the coaches S/5 and S/6. The tragedy had taken 58 lives – 26 women, 12 children and 20 men – all burnt alive. She described the arrangements made by the District Administration for the despatch of bodies after the post mortem examinations were conducted the same day.

Anticipating violent reaction to the ghastly incident, the DM imposed curfew in Godhra city at 10.55 AM on the same day. Curfew was imposed in Kalol city, Vejalpur, Derol and Halol, Lunawada and Gohoghamba cities on the 28<sup>th</sup> February. Curfew was imposed in Santrampur city on 1<sup>st</sup> March and at Mora, Rampur (Kasanpur) Natapur and Morva, Hadaf on the 2<sup>nd</sup> March. Army was called on 1<sup>st</sup> March and its 3 columns were deployed at Godhra, Lunawada and Halol where effective flag-marches were held. 8 miscreants were injured in army fire on 3 March and one on 4 March. Army had to resort to firing to clear access to some villages blocked by the miscreants from where members of minority community had to be rescued. Army columns were used effectively in intensive patrolling and were helpful in rescuing members of the minority community.

The DM informed that a total of 7569 persons were rescued – 1065 from Godhra and the rest from 27 villages and taken to safer places. The SP and the DM confirmed that no Muslim population has been left behind in these 27 villages. They could not give a definite reply about the safety of their houses, agricultural land and the standing crops left behind by these persons.

Special police protection has been provided at the following places with estimated number of the Muslim population given against each:

Sr. No.	Places	Taluka No. of people	Estimated
1.	Karanta	Khanpur	4000
2.	Aantalwada	Kadana	5000
3.	Pallav	Rajgadh	2100
4.	Baska	Halol	1200
5.	Khandivav	Jambughoda	100
6.	Vejalpur	Kalol	800

8169 persons are accommodated in 7 relief camps including the Iqbal Primary School camp at Godhra. These camps are being run by the minority community itself with supply of food-2 grains and milk by the administration.

The DM stated that 81 riot casualties have been reported from the district – 77 Muslims and 4 Hindus. 9 persons have died in army/police firing. Pandarwada (23 killed), Kalol (14), Limidya (13) and Anjanvav (11) are the worst affected villages.

Casualties in firing are: Army – 1 (Hindu) GRP 2 (Muslim), police 6 (3Hindus and 3 Muslims).

As per preliminary estimates, 2595 houses, 801 shops and commercial establishments and 223 vehicles have been damaged in the riots.

A total of 144 offences have been registered on charges of murder (17), attempt to murder (3), robbery/dacoity (45), arson (54) and rioting (25).

A total of 405 persons (320 Hindus and 85 Muslims) have been arrested during the period from 27<sup>th</sup> Feb to 20 March 2002. They include 11 prominent public leaders, 4 of minority community and 7 of majority community.

Shri P.P. Agja, Spl IGP, CID Crime, could not answer satisfactorily the team's queries about investigation of the crime case registered in connection with the train burning at Godhra on 27 February. He informed that two cases have been registered under relevant sections of the IPC, Indian Railways Act and POTO on 27 February. Both are being investigated by Shri K.C. Bava, SDPO, Western Railway, Ahmedabad, and are being supervised by him. It shows that the investigation of this important case, has not been formally transferred to the State CID.

A total of 12 Dargahs and 23 mosques have been destroyed in the district during communal violence. Cases have been registered for each incident and a total of 76 persons of Hindu community have been arrested.

#### Visit to Relief Camp at Godhra

The team visited the Iqbal Primary School Relief Camp which is holding 3040 persons. It is the only relief camp at Godhra. The team met some victims of violence and heard pathetic accounts of their suffering and misery.

Noorunisa, a ten-year old girl from village Pandarwada stated that her uncle was killed in the riots. Bilkis, about 25 years, of Mora village in Morva (H. Taluka) said that she was raped by a group of persons at village Randikapura in Limkheida Taluka of District Dahod. The DM informed that her complaint was recorded by the Executive Magistrate in which she has named 12 persons. The FIR was also registered and transferred to Limkheida police station for further action. In the FIR she had mentioned only 3 names. Additional names mentioned before the Executive Magistrate are being intimated to SP, Dahod.

Maqsooda, a young woman bearing marks of injury caused by sword on her head, has been rescued from village Anjanva. She said that she was thrown into a well along with her two children who are no more. She said that a total of 12 persons were thrown into the well. Only three of them could be rescued. The rest nine died. This was confirmed by the D.M.



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### Delegations

The team heard 6 delegations of Hindus and 2 of Muslims. Shri KP Seth, representing Federation of Panchmahal Industries stated that the Hindus have been the target of attacks by Muslims since Independence and their patience is wearing out and it is, therefore, natural for them to take the offensive.

Mr. Sharad Shah, Educationist said that the disturbances are caused only by 'Goondas' belonging to both the communities.

Shri Kishore Lal Bhayani, Ex-President, Nagar Palika Sindhi Society pointed out the need for strengthening police presence at railway station, old bus stand and two other places. He stated that frequent reports of cow-slaughter by Muslims is causing provocation to Hindus.

Son of Sanji Bhai Damor, 7 time MP (Lok Sabha) from Dahod said that the VHP and Bajrang Dal activists had incited tribals to attack Muslims and that property worth crores has been destroyed in these attacks.

Ahmed Bhai Kalota, District President, Janta Dal, said that the present policies of Govt. cannot bring about peace. He criticized the Govt. for arresting innocent persons including the President of Godhra Municipal Corporation in the Godhra incident case. He also criticized selective application of POTO. He said that about 100 Muslims have been burnt in village Pandarwada.

Jainuddin of Bohra community condemned Godhra incident and held both the communities equally responsible for communal violence. He appealed for speedy rehabilitation of the displaced persons and restoration of communal harmony.

As the number of persons desirous of meeting the team of the Commission in each city was vast, they were encouraged to express their views, whenever possible, in groups and to submit their views in writing. The Commission regrets that it was impossible, within the constraints of the time available and the circumstances prevailing on the ground, to meet individually with all of those who sought to interact with the team. However, all such persons were also requested to submit their views and concerns to the Commission in writing, for the study and consideration of the Commission. A large number of written representations were thus submitted to the team, both during its stay in Gujarat and subsequently. All of these are being carefully examined.

31 March, 2002

(Y.S.R. Murthy)  
PS to Chairperson

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**A.N. DIVECHA, M.A., LL.M.**

Judge (Retd.), High Court of Gujarat  
Chairman (Retd.), M.R.T.P. Commission  
Chairman Expert Committee (Government of Gujarat)

**Annexure - II**

Telephone: 6851500  
4 High Court Judges' Bungalow Bodakdev  
AHMEDABAD- 380054

**23rd March 2002**

The Hon 'ble Chairperson  
National Human Rights Commission  
Sardar Patel Bhawan  
Parliament Street  
NEW DELHI-11 0001

**Sub: Travails of Communal Riots in the State of Gujarat**

Respected Sir,

I am indeed obliged to the Hon'ble Chairman for having fixed a separate appointment for me at the Raj Bhavan Annexe in Ahmedabad on 19th March 2002 at 7.30 p.m. and having given to me a patient hearing with respect to the traumatic experience my wife and I had undergone in the wake of communal riots that broke out in the State of Gujarat on and from 27 February 2002.

Incidentally, by virtue of one Interim Order passed by the Hon'ble Supreme Court on 16th February 2002 in SLP (Civil) No.13658 of 1996, the Government of Gujarat has constituted one Expert Committee with Members drawn from different fields like hydrology, soil erosion, environment, forest, and geology and mining and I was appointed its Chairman. The status of a sitting High Court Judge was conferred on me. An official car was also placed at my disposal. On my request, the Office of the Expert Committee for my functioning as its Chairman was located at my residence. My staff included one part-time stenographer, one part-time clerk, 2 part-time daily wagers peons and one driver for the official car provided for me. The Government had also placed at my disposal for my official work one Fax Machine and one Computer with a Printer and certain required furniture. In view of the tense situation on 27th February 2002, I contacted my staff on phone to inform them not to report for work on 28th February 2002 in the wake of the call of Gujarat Bandh on that day.

Since the Hon'ble Chairman is fully aware of what happened to people at large in Ahmedabad and elsewhere and more particularly to us on 27th and 28th February 2002, I need not repeat them in detail. In a nutshell, I have to say that my wife and I were blissfully ignorant of the Godhra carnage that occurred on 27th February 2002 till about 5.30 p.m. on that day when our opposite door neighbour informed us of it and requested me for using my good offices to provide protection in the wake of likely reaction and repercussions, more particularly in

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Ahmedabad. I contacted Government Pleader Shri Arun Oza and our Chartered Accountant friend Shri Sanjay Shah. Shri Arun Oza was good enough to arrange for police patrolling in the area. However, at about 11 p.m. on that day, about 50-60 people gathered around our building on their motorbikes and scooters and hurled petrol bombs at our building. They dispersed within less than 10 minutes, presumably on spotting a police mobile van in the nearby area. I again contacted Government Pleader Shri Arun Oza and my Chartered Accountant friend Shri Sanjay Shah and informed them of the frightful incident. It needs no telling that -We were quite scared on that account. Shri Arun Oza arranged for sending one Deputy Commissioner of Police, Shri Parghi, at our residence at about 11.30 p.m. He assured us intensive police patrolling in the area. We requested for an armed police point near our building but that was not done, may be because of shortage of police personnel minding the so-supposed law and order situation in the city. No untoward incident occurred during the night in view of intensive police patrolling in the area.

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In the morning on 28th February 2002, the milkman delivered to us our usual quota of milk pouches and the newspaper man brought to us newspapers of the day. On inquiry, both of them indicated to us that the situation was normal. In view of the previous night's frightening incident, the watchman of our building had fled. Since the situation was found normal, certain occupants of other flats in our building started going for their work. At about 11 a.m. on 28th February 2002, again about 70-80 people gathered around our building on their two-wheelers, mostly motorbikes and scooters, and started throwing stones at our building. Some miscreants flung open the compound gate with sticks, spears and swords and broke the glasses of the cars parked in the parking lot. Our building stands on pillars and the ground floor is used for parking vehicle. My official car was also damaged by certain miscreants. The crowd dispersed within about 10 minutes for some unknown reason, may be on spotting some police vehicle. I again contacted Government Pleader Shri Arun Oza on his mobile and my Chartered Accountant friend Shri Sanjay Shah, again on his mobile. My friend along with his wife immediately ran down to us and insisted on our leaving the house for safety at his residence. In the meantime, other occupants of the flats in the building were also panic-stricken and all of us decided to leave our respective houses for safety. Around 12.30 p.m. we left the house with a pair of clothes in a bag locking most rooms and the main door and the grill outside. A lock was applied each to the staircase grill and the compound gate. I received a phone call from my neighbour residing in a nearby area at about 4 p.m. on that day that my flat was set on fire. We tried to contact the Fire Brigade for help but in vain. My chartered accountant friend is a BJP active worker and he has good connections with certain Ministers. He immediately contacted Health Minister Shri Ashok Bhatt for help. About an hour later, Shri Ashok Bhatt informed my friend that the fire in my flat was extinguished. At about 6.15 p.m. on that day, I again received a phone call from an acquaintance from the nearby area that all the flats in the building were set on fire and were in flames. My friend and I tried to contact Government Pleader Shri Arun Oza and other Ministers including Health Minister Shri Ashok Bhatt, Revenue Minister Shri Haren Pandya and the like for help, but to no avail. It appears that they were also helpless and could

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not provide any help to us. Since the Computer placed at my disposal for my official use for storing the relevant data with respect to the Expert Committee's functioning was located in the office room at my residence, I thought of retrieving it if possible with a view to saving the data stored therein. On my request, Government Pleader Shri Arun Oza arranged for some military escort and in their company we visited our residence at about 10 p.m. on that day. To our dismay, we could see that the outer grill was pulled out as the lock applied thereon could not be broken open by miscreants and the wooden door was set on fire and it was reduced to ashes, again because the lock applied thereon could not be broken open. The refrigerator and the dining table and the chairs were in flames. The sofa set and one diwan in the drawing room were found reduced to ashes. The colour TV was found missing, so was the cordless telephone in the drawing room. Since the dining table with chairs and the nearby refrigerator were in flames, we could not move further to our kitchen or bedrooms. With the help of military personnel, we could retrieve the Computer and it was found completely blackened by the smoke emanating from flames. We have still not been able to ascertain whether or not it is in a working order and the data stored in the hard disk would be in tact. The official car parked in the ground floor parking lot was found burned, so also certain two-wheelers belonging to other occupants of certain flats in the building. Our residence was wide open as the outside grill was pulled down and the wooden frame of the door was also in flames. It was completely dark as all electric meters of the building were broken and burnt down. My wife had a traumatic shock on seeing the condition of her house. With heavy heart we came back to our friend's residence.

Government Pleader Shri Arun Oza was good enough to arrange for military escort and police protection for our visit during the day time the next day, that is, on 11th March 2002, at about 10.30 a.m. At that time we found that the house was littered with glasses all over and nails used for fixing sofa sets and other wooden articles were also found littered throughout the house. The refrigerator was found completely burnt and the dining table and the chairs were reduced to ashes. Our kitchen was also found ransacked and household kits therein were damaged and destroyed or useful articles like the grinder-cum-mixture and other kitchenwares etc. were found missing, presumably removed by miscreants. To our good fortune, the locks applied to bedrooms were found in tact and only the lock of one bedroom was found tampered with as it could not be opened with its key. Since we had military escort and police protection, we picked up our clothes, some important documents, our bank papers and returned to our friend's residence.

The then Hon'ble Chief Justice of Gujarat High Court (Hon'ble Mr. Justice D.M. Dharmadhikari who has since been elevated to the Supreme Court on and from 5th March 2002) was informed on 1st March 2002 of the tragedy that had befallen us in the previous evening and he immediately rang me up at my friend's house and on my oral request he was good enough to allot to me a bungalow in the Complex of the Bungalows meant for Hon'ble Judges of the High Court of Gujarat. Its possession was handed over to me on 2nd March 2002. Under the cover of

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police protection, we could shift from our ransacked residence whatever household kits and furniture that escaped fire to our new residence. We have now started residing in it after putting most things in order.

In the wake of insistence the part of Vishwa Hindu Parishad on bhoomipoojan and/or shiladan at Ayodhya on 15th March 2002, the situation in Ahmedabad was found to be tense from 13th March onwards. In order to see that our presence at his house would not put my chartered accountant friend to jeopardy qua his life and property, we thought of going to my brother's place residing in Juhapura, a predominantly Muslim habitat in Ahmedabad. My friend was however reluctant. He contacted Health Minister Shri Ashok Bhatt for guidance. To his credit, Shri Ashok Bhatt talked to me on phone and assured me not to worry about our safety or that of my chartered accountant friend Shri Sanjay Shah during the period by staying at his residence. Shri Bhatt was good enough to offer accommodation in his residence at Gandhinagar if we were quite scared or in the alternative in the Circuit House with full security cover. We therefore continued to stay at our friend's house during the period. Newspaper reports indicate that communal riots resulted in virtual-carnage and holocaust in Ahmedabad and elsewhere in the State. So many persons were roasted alive. Countless persons were rendered homeless and many lost all their belongings and had to take shelter in relief camps. A large number of people lost their business premises and their belongings therein were gutted in fire. They suffered colossal economic loss on both counts inasmuch as they were rendered homeless and left without any source of livelihood. During the Hon'ble Chairman's visit to this area, the Hon'ble Chairman and his team had a first hand account of their sufferings.

In view of my personal relations as also my present position, friends did provide us timely help and took us to safety and we could retrieve some important documents, our bank papers and clothes and the like, but one may shudder to think the plight of people who have lost everything including the source of eking out a living. Some of them could be belonging to good families and they had to take shelter in relief camps at the mercy of organizers. One wonders whether or not they would be in a position to get two square meals a day when the situation becomes normal and when they have to leave the relief camps. The tragedy is too ghastly to describe in words; it would beggar description.

It is reported that conditions of persons taking shelter in relief camps are quite pathetic and pitiable. The food that they get is often of sub-standard quality. Besides, it is reported that meals served to them are also not adequate. Sanitation conditions therein are highly deplorable. Medical facilities are reported to be simply out of question. They live like animals put together in some open space rather than human beings with proper concern with human treatment. If some epidemic breaks out, it would further add to their woes.

Almost all persons taking shelter in relief camps have no work to do. It is a matter of common sense that they might be ruminating over what has happened to them. The whole episode of

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ransacking their houses or business premises and setting on fire their belongings would be very much before their eyes. It would therefore be necessary to find out some solution to keep them engaged in some kind of economic activities which would enable them to keep their minds preoccupied as also to give them a source of earning their livelihood. In cases of natural calamities like famine, floods, earthquakes and the like, the Government often undertakes relief works. That provides self-sufficiency to victims of such calamities. They have also to feel a sense of dignity by eking out their own living. Their minds would remain preoccupied with some kind of activities. In the case of victims of communal riots, whether Hindus or Muslims, it would be necessary to evolve some kind of relief work under the cover of security so as to generate in them the sense of dignity of toiling for their bread. Besides, that would result in no idle minds and there will not be any devil's workshop operating in their idle minds. Similarly, female members ill such relief camps may also be engaged in some kind of , gainful activities of stitching, knitting, and the like. In my humble suggestion, the State Government's attention may be drawn on this aspect of the issue or the problem.

A question of rehabilitation of persons taking shelter in relief camps would also deserve proper consideration. Those who have seen their houses or business premises ransacked and their belongings set on fire therein might be scared to go back to their original places for residence or work. Their rehabilitation need not result into segregation or division of two main communities, Hindus and Muslims, in water-tight compartments.

Such an attempt might keep the communal tension alive and burning. They should be persuaded to go back to their original places under the cover of proper security. Their neighbors may also be persuaded to take care of such persons so that they feel safe and secure and may not remain frightened or scared any longer in settling down in their original places. If such an attempt is not made, it might result in creation of separate pockets of habitation of the main two communities, namely, Hindus and Muslims. That would be a dangerous proposition. Any attempt to allow them to settle for residence and business in their original places in a harmonious manner would result in building up communal harmony in the society. It might also result in mitigating economic losses that such victims might have suffered on account of loss, temporary or otherwise, of cover over their head or source of livelihood; else their sufferings on account of economic loss would be aggravated inasmuch as they will have to dispose of their properties practically at throwaway prices. If the victim of communal violence is a Hindu residing or carrying on business in a predominantly Muslim locality may not be in a position to dispose of his property to any Hindu because no Hindu would like to purchase such property in that area and a Muslim purchaser would like to acquire it at a throwaway price. So would be the case of a Muslim victim of communal violence residing or carrying on business in a predominantly Hindu locality. The best course for the Government would be to cultivate and to develop a public opinion for peaceful existence in communal harmony. It is certainly a long drawn process difficult to realize in a near future but is not an impossibility.

It is everyone's common knowledge that this time communal violence has spread in far-flung areas including in rural areas. The victims of such communal violence might be scared of living in their original villages. That might result in building up separate rural habitats for different communities like Hindus and Muslims. In our secular country such segregation in rural areas is highly undesirable. Such segregation might result in treating each other as enemies rather than friends. In this case also the State Government could play a vital role in allowing the victims of communal violence in rural areas to settle down in their original places either for residence or for business or for both under the cover of proper security for the time being. Again, an atmosphere of peaceful co-existence with communal harmony need be developed by cultivation of public opinion in that regard. This is not impossible in view of the mass appeal that can be created with the help of visual media.

Our State of Gujarat is known for its industrial peace. In order to maintain such industrial peace it is necessary to establish communal harmony between the two main communities, namely, Hindus and Muslims. If this is not done, industrial entrepreneurs might not be inclined to have their industrial activities in our State of Gujarat. The prospects of foreign investment for industrial activities in our State might have considerably dwindled on account of recent communal riots. It is therefore necessary for the state Government to take necessary remedial measures for establishment of communal harmony in the State anywhere and everywhere irrespective of caste, creed or religion. This would result in taking big strides in recouping the loss suffered by our State of Gujarat on account of large-scale communal riots in recent times which have put the State at least a decade behind on the economic front as well. In my humble opinion, since the law and order machinery had almost completely failed during the early period of riots for nearly 72 hours resulting in loss of life and property by victims thereof, the State Government should provide adequate compensation not only to bereaved family members of the dead but also to those who are rendered homeless, whose properties are destroyed or gutted in fire and those who have lost their substance on account of setting their business premises on fire. Victims of the communal violence could be both Hindus and Muslims. No discrimination need be permitted to be made for providing adequate compensation to them for whatever loss they have suffered. I humbly suggest that the National Human Rights Commission itself or through its committee, if any, may survey the damage and assess the loss in each case and recommended adequate compensation for victims of communal riots in the state. The state Government need not be permitted to escape its liability on that score. The whole issue may be likened to "no fault liability" as in the case of certain motor accidents. The State Government need not be permitted to claim any immunity under any pretext. I need not carry coal to the New Castle by stating that the primary function of the State is to protect its citizens and other residents from internal disturbances. The concepts of Welfare State need not obliterate its primary concepts of Police State. For the traumatic shock undergone by victims of communal riots as also for economic loss on being rendered homeless as also loss of substance, some formula may be evolved for the minimum compensation may be worked out on assessment of loss in each case by the Hon'ble Commission or its committee, if any. This is

my humble suggestion to the Hon'ble commission. I express my great sense of gratitude for giving me patient hearing in the evening of the 19th march, 2002 in the Raj Bhavan Annexe and i look forward to kin and sympathetic consideration of my humble suggestion stated here in above by the Hon'ble Commission and I again express my deep sense of gratitude and thankfulness in anticipation.

Respectfully Yours

A. N. Divecha



Annexure III



**GUIDELINE S  
TO  
PROMOTE  
COMMUNAL HARMONY**



**GOVERNMENT OF INDIA  
MINISTRY OF HOME AFFAIRS**

Home Minister India  
New Delhi-110001

D.O No. 9/42/96-CHC

Indrajit Gupta

22nd Oct., 1997

Dear Shri,

Please refer to the former Home Minister's d.o letter No.5/3/90-CHC dated 23rd April.1990 forwarding therewith guidelines to promote communal harmony.

2. The changing face of communal tension/riots and particularly the use of illegal lethal weapons by the rioters, has necessitated a reappraisal of the present system of dealing with Communal situations. For this purpose, my ministry convened a meeting of a few District Magistrates and Superintendents of police to gather first hand knowledge of the level of implementation of the guidelines. During the discussions, the contemporary scenario which emerged is as under:-

(a) Most Internal security situations, today have an external angle to them. subversive elements infiltrating through our borders work on frustrated elements in minority communities, which results in acts of communal instead of accepting these incidents as acts of misguided individuals. This in turn, further heightens the tensions between the two communities.

(b) Minority communities often have their own perceptions of injustice done to them by the Governmental agencies. Particularly the state police force.

(c) There is a certain amount of growth of competitive communalism visible in the manner of celebration of religious festivals.

(d) Despite the presence of Central enactments against misuse of places of worship and against changing their religious character, there are occasional attempts to misuse them for subversive purpose and attempts by one religious community to reclaim a place of worship belonging to another. In this background, it has become imperative for the administration to gather timely intelligence, interpret the developments and be in a position to react in time.

3. Some of the points raised by the participants as mentioned below need attention of state governments:-

(a) Gathering of intelligence by uniformed services has its own limitations. therefore, DMs need to develop their independent sources of intelligence. such sources will have higher credibility. in this context, most participants felt that the DM should have a separate fund for this purpose.

(b) There must be a periodic (more monthly than quarterly) meeting for review of the communal situation at the district level. However, for this, it is not necessary to add one more meeting to the already existing long list. States can decide whether it can be clubbed with the monthly crime review Meeting or any similar meeting. The point to be stressed is that apart from routine matters, the communal situation must be discussed in the light of intelligence reports with a view to take preventive action.

(c) Strong sentiments were voiced by most participants against the practice of routine transfers of DMs and SPs by most state govts. after a communal riot/tension. They felt that it amounts to declaring the officers guilty before trial. Similarly, Wherever a judicial enquiry is commissioned to look into any incident or riot, its proceedings become a personal harassment and that in all such cases, the state govt. should bear the expenses of the officers involved in explaining their official conduct

in explaining their official conduct before the Commission.

4. Based on the past experience and the shortcomings noticed in the execution of contingency plans with communal situations. The guidelines for tackling such situation have been reappraised and a copy thereof is enclosed for urgent action. These guidelines are by no means exhaustive. Additional action points may be included based on the situation.
5. I shall be grateful, if I am also kept informed regularly of the operational effectiveness of these guidelines.

With Regards,

Yours Sincerely

Sd/-

(INDRAJIT GUPTA)

To all The Chief Ministers of states / UT Administration.

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## GUIDELINES TO PROMOTE COMMUNAL HARMONY

### INTELLIGENCE

1. Preventing a communal riot is far more important and effective than containing a raging one. It is, therefore, essential for the administration to anticipate the developments and make advance preparations for preventing it.
2. Intelligence is the eyes and ears of administration. The organisational aspect of intelligence, with special reference to its adequacy, scope and efficacy, both at the state level and in the districts/ Towns/ Areas identified as sensitive should be thoroughly reviewed on a priority basis.
3. Gathering of Intelligence by uniformed services has its own limitations. Therefore, DMs need to develop their independent sources of intelligence.
4. Emphasis should be laid on the setting up of special intelligence units for tracking communal problems. Special training should be imparted to the personnel manning these units so as to ensure a proper, systematic and timely feed-back of the requisite information to the concerned authorities. The staff of this special branch should be fanned out among various thanas, Particularly in the sensitive pockets. This would plug the chances of breakdown of the mechanism of communication between village authorities and the police.
5. Matters arising out of inter-communal issues, religious processions etc., should get priority in the matter of collection of intelligence.
6. Data pertaining to sensitive areas should be carefully collected and changes in population and distribution of population in the various towns and other significant areas in the district should be carefully observed and the reasons for such migration should be ascertained and analysed.
7. This should be made an integral part of the assessment exercise which should be beneficial to the district authorities while making contingency plans especially when major festivals are round the corner. Organisations collecting intelligence/ information should keep a close watch on the activities of the organised communal groups with special reference of their propaganda and publications.
8. There is an urgent need to make use of the intelligence feed back so gleaned from the ground level. To ensure this there must be at least a monthly review of intelligence at the district level by the District Magistrate, Superintendent of police and the Head of District Intelligence. Such review should be sent to the State Government.

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**PERIODICAL REVIEW OF COMMUNAL SITUATION  
AT DISTRICT LEVEL AND STATE LEVEL**

9. It is necessary to periodically review the communal situation at all levels in the state so that appropriate steps may be taken to promote peace and communal harmony. Administration should comprehensively review the communal situation on a monthly basis and send a report of the review to the Home Secretary of the state. Similarly, communal situation in the state as a whole should be reviewed by the Home Secretary on a quarterly basis and a report of such review should be sent to the Ministry of Home Affairs by the end of January, April, July and October every year.

10. The Working of the district communal harmony Committee / Zila Quami Ekta Samiti should be activated. Their working should be closely monitored by the district Magistrate. Deliberations of these meetings should be closely monitored by the District Magistrate. Deliberations of these meetings should be communicated at least once a month to the state Government. Similarly, the state level integration committees headed by the chief Minister should review the situation at least once a quarter and keep the Central Government informed. Every town identified as communally sensitive should have a peace committee consisting of prominent citizens of all communities, representatives of political parties, public representatives, office bearers of prominent associations/union.

Communal forces and antisocial elements should not be included in the committee. At the time of apprehension of communal tension, meetings of the peace committee should always be called to discuss all matters relating to the communal tension. Efforts should be made to enlist the support of the members of the committee for persuading the members of different communities to find an amicable settlement of the cause of tension and to defuse the situation.

11. Women are the most affected group in communal tensions or riots. They can be effective in helping to defuse the communal tension and to prevent riots. As such they should get fair representation in the membership of the peace Committees/ Integration Committee/Tripartite Committees.

12. Peace Committee shall also:-

(a) Assist the Administration in identifying children rendered orphans or widows becoming helpless in communal riots /clashes for recommendation of financial relief by the National Foundation for community Harmony.

(b) Recommend to the District Administration names of those individuals who, belonging to one community, have come forward to protect lives and properties of members of another community. In case of a communal riot or clash. The district Administration may consider such recommendation for proposing these individuals for award of Kabir Puraskar by the Government of India.

13. Industrial areas may be prone communal flareups. Tripartite committees comprising representatives of state government, employers and the labour should be set up. The composition of these committees should take into account the communal mix.
14. The police, the local intelligence and the local bodies best know the elements, who have the capacity to create possible communal rifts, directly or indirectly. An update of these persons should be readily available in all police stations and the district Headquarters. Whenever a festival, religious procession etc., is about to occur, the District Administration should take timely advance action to immobilise these elements through preventive arrests.
15. At the first sign of trouble, immediate steps have to be taken to isolate elements having a non-secular outlook. Effective will needs to be displayed by the District Authorities in the management of such situations so that ugly incidents do not occur. Provisions of section 153 (A), 153(B), 295 to 298 and 505 of IPC and any other Law should be freely used to deal with individuals promoting communal enmity.
16. Activities of communal organisations fomenting communal trouble, should be under constant watch of intelligence/police authorities. Prompt action should be taken against them at the first sign of trouble.
17. Processions have been the single largest cause of communal conflagrations. A tendency has also developed among the communal organisations to organise processions on religious occasions as a part of competitive communalism. As far as possible, no new processions, as did not exist before 1.1.1990 should be allowed. Only traditional religious processions should be permitted in sensitive areas. Care must be taken that the conduct of processions is not left to any informal understanding or verbal promise of good behaviour by the organisers. These should be accompanied by adequately armed police "Bandobust" Commensurate with the estimated strength of the participants. Only traditional slogans should be permitted and in the event that slogans offensive to other communities are shouted, The organisers of the procession should be proceeded against under relevant law. In any case, Organisers should be asked to guarantee good behaviour, a breach of which should attract a collective fine, heavy enough to be different. Action under relevant laws should also be taken against erring persons. If the procession of one religious community has to pass through a route to which any important places of worship belonging to another religious community is situated, an undertaking should be obtained from the organisers of the procession that nothing will be done by the processionists to offend the religious sanctity of such place of worship.
18. A common code of conduct should be evolved in consultation with the leaders of different communities for the observance of their festivals. This code should be for every festival and festive occasion. The common code of conduct should be widely publicised so that everybody knows about it.

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19. Advance warning should be given that strict action will be taken against those who violate the norms of good behaviour while celebrating festivals.
  20. Areas may be demarcated and allotted to prominent persons, members of Peace/Integration Committees and voluntary organizations of the area, who should ensure that the festivals are observed in an amicable atmosphere without causing any annoyance to any other persons.
  21. Mohalla Committees consisting of members of all religious communities should be constituted for the observance of festivals. This will greatly help in ensuring peace and observance of the festival with usual gaiety.
  22. Loud-speakers are a very potent instrument for exciting passions among the crowd or groups of persons. Police Act or similar local legislations should be effectively used while granting permission for the use of loud-speaker.
  23. Care should generally be taken not to permit use of loudspeakers between 11.00 pm and 6.00 am.
  24. Any construction of religious place should be made only with the prior approval of the District Authorities and at the earmarked place. Cases of construction of unauthorised religious places should be dealt with severely under existing laws. Negligence on the part of the District Administration in implementing this direction should be seriously viewed and the guilty dealt with.

#### STRINGENT IMPLEMENTATION OF ACTS RELATING TO RELIGIOUS PLACES

25. The Religious Institutions (Prevention of Misuse Act, 1988)  

This Act has been enacted with a view to maintain sanctity of religious places and to prevent their misuse for political, criminal, subversive or communal purposes. It, inter-alia, casts responsibility on the manager to inform the police in the event of misuse of the places of worship. The Act also, inter-alia, prohibits storage of arms and ammunition inside any place of worship.
26. The Places of Worship (Special Provisions) Act, 1991  

This Act provides that no person shall convert any place of worship of any religious denomination or any section thereof into a place of worship of a different section of the same religious denomination or of a different religious denomination or any section thereof. The Act also provides that the religious character of a place of worship existing on the 15th day of August, 1947 shall continue to be the same as existed on that day.
27. Both the above Acts provide for punishment of imprisonment as well as fine for violating

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the provisions of the said Acts. There is need for strict enforcement of the penal provisions of these Acts and this will greatly help in maintenance of Communal harmony.

#### REMOVAL OF IRRITANTS, OBJECTIONABLE ACTS

28. Slaughtering of animals in public and near places of worship should be avoided.
29. Religious slogans should not be inscribed on the walls of Government buildings and there should be no religious places of workshop inside Government buildings.

#### PRESS

30. It is the responsibility of the Press to report incidents factually without imparting a communal color to them. It should not sensationalize the prevalent situation and should only publish the facts after checking their veracity. There should be a coordinated interaction between the Magistracy, the police and the publicity set-up at the District level for the proper use of the media to create public opinion against such incidents.
31. Reporters, editors, printers and publishers should be advised to discourage tendentious reporting. Action should be taken against writers and publishers of objectionable and inflammatory material aimed at inciting communal tension.

#### ADMINISTRATIVE MEASURES

32. Communally sensitive places should be identified in the riot-prone areas for making necessary administrative arrangements. Manpower requirements for these areas should be realistically assessed. It should be ensured that all vacancies are filled up and manned. Police Stations/Posts should be set up in all sensitive/trouble-prone areas. These should be provided with adequate personnel weaponry communication links, equipment including videographs, vehicles, etc. These administrative measures should be constantly reviewed.
33. Having identified communally sensitive places/pockets, it should be ensured that a Control Room at the District level is set up permanently, which should be adequately manned by competent peronnel.
34. At the slightest indication of communal trouble the contingency plans should be put to use without the least hesitation.
35. As soon as a communal incident occurs, a report should be sent thereon to the Ministry of Home Affairs immediately which should be followed with a detailed report, mentioning, inter-alia, the grant of awards for good work or punishments for showing laxity to the district officers connected with the incidents.
36. In the case of serious communal disturbace special Publish Prosecutors, preferably from outside the district concerned or In any event from outside the affected area should be appointed.
37. District level Screening Committees should be set up with District Magistrate as its



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Chairman. These would review all arrests and detentions - both preventive and in the wake of communal riots-to ensure that the elements responsible for instigation and committing violence do not go scot free. These Committees should have representation of prominent and fair-minded citizens known for their integrity and communal impartiality.

#### MEDICAL RELIEF

38. It should be ensured that proper medical are units exist in all the sensitive places/ pockets, which can handle emergencies.
39. The police party dealing with riots should be accompanied by ambulance and first aid service.

#### LEGAL POSSESSION OF ARMS

40. It has been observed that illegal lethal weapons are used quite widely in communal riots. A campaign to detect and unearth such arms, raid places of manufacture and initiate action, should be launched by the District Authorities immediately. A special review of arms licences issued should be done and in the case of inadequate justification, licences should be cancelled.

#### THE ROLE OF POLICE

41. Police is the chief image-maker of the District Administration. Great care and attention should be paid towards providing proper leadership and suitable motivation to the police force. The emphasis should be on keeping their morale high.
42. There should be a review of the training programmes for the police forces with a view to inculcating in them the attitudes of secularism and communal harmony.
43. There is need for specialised training to the local police in gathering and sharing of intelligence.
44. It has been commonly observed that the presence of minority community members in the police force deployed in communally sensitive areas goes a long way in winning the confidence of the minority communities. This is of vital importance. The following steps which were recommended from time to time, should be taken earnestly:
  - a. Launching of Special Campaigns to recruit more members of minorities in the State Police Force.
  - b. Creation of composite battalions of armed police which should include members of all religious communities including SCs/STs for exclusive use in maintaining communal peace and amity in the sensitive areas.
  - c. Starting of special training/orientation programmes for State Police Force with a view to maintaining communal harmony.
45. The positioning and placement of the armed police should be done in such a manner

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as to ensure their quick and easy movement to trouble spots. In case the armed police is deployed to assist the civil police, at no time should it remain leaderless. Steps should also be taken to ensure smooth functioning between the civil administration and the army.

46. The availability and capability of Home Guards should be fully made use of by the Police.

#### ESSENTIAL SERVICES MANAGEMENT

47. In many riot situations people suffer on account of delayed/Non-provision of essential supplies such as food, milk, water, electricity and medicines. by ensuring their timely provision, the District Administration would be removing a major irritant.

#### PUNITIVE ACTION

48. Laws relating to collective fines should be used without fear or favour, whenever the situation warrants.

#### PUNITIVE ACTION

48. Laws relating to collective fines should be used without fear or favour, whenever the situation warrants.
49. Crimes committed during riots should be registered, investigated and the criminals identified and prosecuted. If stringent judicial action is taken against a criminal and well publicised it would impose a high degree of constraint upon others from indulging in criminal activities.

#### SPECIAL COURTS

50. Special courts should be set up for the expeditious trial and disposal of communal riot cases. When a communal riot takes place and an Enquiry Committee/Commission is set up, it should be given a time-specific mandate for completion of its enquiry. the State Governments should give priority to providing all manner of logistic support required by the Committee/Commission to enable it to submit its report on time. Its recommendations should be expeditiously implemented, say within 3 months and the Central government should be kept informed.

#### PERSONNEL POLICY

51. In areas which are identified as communally sensitive and riot prone, police and administrative officials of proven integrity, efficiency, impartiality and non-partisan outlook should alone be posted. Good work in this regard should be rewarded and severe action taken against officials found to be instigating communal tension or taking part in communal violence.
52. The District Magistrate and the Superintendent of Police will be responsible for maintaining Communal Harmony in the District.

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53. A mention should be made in the ACRs of DMs/ SPs which should reflect their capability in managing law and order situations, especially their handling of communal situation.
54. Due recognition needs to be given to the services rendered by the personnel in preventing and dealing with communal disturbances. A scheme of granting suitable awards in the form of promotions/commemoration certificate/cash awards should be considered. A similar system of award can be envisaged for the public also.

#### RELIEF AND REHABILITATION

55. A lot of resentment is generated on account of non-payment of timely relief/ex-gratia to the riot victims. A system of expeditious disbursement of the relief should therefore, be devised. Through the State Governments are competent to decide the quantum of ex-gratia, it would be desirable that all the State Governments pay ex-gratia at a uniform scale as suggested by the Central Government in the guidelines issued from time to time as, indicated below :

In the case of	(Rupees)
1. Death	100,000.00
2. Permanent incapacitation	50,000.00
3. Pension to the widow of the victim of riots belonging to low income group	500.00

#### DOCUMENTATION

56. The documentation of information, in its entirety, should be completed in the minimum period of time at the cessation of every communal riot.

#### ROLE OF MINISTERS/OFFICE BEARERS OF POLITICAL PARTIES

57. Ministers and office bearers of Political Parties should exercise maximum restraint and self-discipline in making public utterances on any issue concerning the communal disturbances.
58. No Minister or an office bearer of any political party should participate in a function or a meeting or a procession, which may have a bearing on religious or communal issues. It would be best if the District Magistrate is consulted before participating therein.

**NATIONAL HUMAN RIGHTS COMMISSION**  
**SARDAR PATEL BHAVAN, NEW DELHI**

Name of the complainant : Suo motu  
Case No. : 1150/6/2001-2002  
Date : 10 June 2002

**CORAM**

Justice Shri J.S. Verma, Chairperson  
Justice Shri K. Ramaswamy, Member  
Justice Smt. Sujata V. Manohar, Member  
Shri Virendra Dayal, Member

**PROCEEDINGS**

1. In paragraph 6 of its Proceedings of 31 March 2002, the Commission had observed that there had been no response until that date from the Government of Gujarat in respect of the Confidential Report on the visit of the team of the Commission to Gujarat between 19-22 March 2002. The Commission had noted that this was so despite repeated oral reminders by the Commission and assurances by the State Government that a response would soon be forthcoming.

2. In these circumstances, as recorded in paragraph 7(B) of its Proceedings of 1 May 2002, the Commission had stated:

"It will not wait any longer for the response of the Government of Gujarat to the Confidential Report that was sent to it on 1 April 2002, enough time and opportunity having been provided to the State Government to comment on it. Instead, the Commission now considers it to be its duty to release that Confidential Report in totality. It is, accordingly, annexed to these Proceedings as Annexure I. The Commission had earlier withheld release of the Confidential Report because it considered it appropriate to give the State Government a full opportunity to comment on its contents, given the sensitivity of the allegations contained in it that were made to the team of the Commission that visited Gujarat between 19-22 March 2002. As and when the response of the State Government to that Confidential Report is received, the Commission will also make that public, together with the Commission's views thereon."

3. On 31 May 2002, after the Commission had despatched its Proceedings of that date, inter alia to the Chief Secretary, Government of Gujarat, the Secretary-General of the Commission received by fax a letter dated 30 May 2002 from the Chief Secretary, Government of Gujarat to which was attached a "Reply to the Confidential Report of the National Human Rights Commission."

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4. The Commission has carefully considered that reply. In accordance with paragraph 7(B) of its Proceedings of 31 May 2002 that reply is being made public, together with the Chief Secretary's letter dated 30 May 2002 (see Annexure I).

5. The Commission does not consider that there is any need, at this stage, to express its views on that reply since it does not add substantially to the earlier reports received from the Government of Gujarat, notably that dated 12 April 2002. The Commission, however, is deeply disturbed by recent press reports stating that the charge-sheets filed thus far in respect of the Gulbarga Society and Naroda Patia incidents lack credibility in as much as they are reported to depict the victims of violence as the provocateurs.

6. The Commission now awaits a reply from the Government of Gujarat to its Proceedings of 31 May 2002. Upon receiving that reply, which is due by 30 June 2002, the Commission will consider the nature of any further comments that it may wish to make in regard to the situation in Gujarat, including any views that it may need to express in respect of the reply that has been received in response to its Confidential Report.

(Justice J.S. Verma)  
Chairperson

(Justice K. Ramaswamy)  
Member

(Justice Sujata V. Manohar)  
Member

(Virendra Dayal)  
Member

## Reply to the Confidential Report of The National Human Rights Commission.

It may be mentioned at the outset that the Confidential Report of the Commission is an account of the visit of the Commission to Gujarat and it contains a record of the discussions held with officers of the Government of Gujarat as well as representations made by members of the public, NGOs, inmates of relief camps etc. during the visit of the Commission to the relief camps and during discussions. The complaints, representations and views expressed by different persons to the Commission are mostly of very general nature and at places they pertain to specific incidents. As far as specific incidents are concerned, in most cases FIRs have been lodged or statements have been recorded during investigations and the correct factual position can be known only after the investigations are over. As far as general complaints, representations and opinion expressed are concerned, it should not be construed that anything contained in the Confidential Report of the Commission is admitted by the State Government unless so stated specifically in this report.

With the above remarks, point by point comments of the State Government are given below:

I. The details of preventive measures taken and personnel deployed have already been enumerated in the comprehensive report (Annexure A32 of Annexure-A Law and Order Measures)

The community-wise break up of 217 arrests made on 27.2.02 is 137 Hindus and 80 Muslims.

The presentation highlighted only major incidents. A number of less major incidents have also been reported and FIRs have been registered. As on 20<sup>th</sup> March 2751 FIRs have been registered.

Details of police firing date-wise and community-wise break up casualties up to 20<sup>th</sup> March are provided in Appendix.

It is not possible to give the final details of spread of communal violence, though broad details have been given in the comprehensive report on the course of disturbances on pages 7-53 which give a clear picture as to how some remote parts of the State were also affected by the riots. Details of the spread of communal violence in the rural areas, particularly the tribal areas have been highlighted in the comprehensive report

122 Mosques (Masjids) and 238 Dargahs have been subject to attacks and suffered partial damage in most of the cases. Seventeen temples and three churches also suffered damage as on 20<sup>th</sup> March 2002.

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Community-wise break up of arrests as on 20<sup>th</sup> March in respect of registered crimes is 3911 Hindus 1592 Muslims. In respect of preventive arrests, it is 2189 Hindus and 646 Muslims. Arrests continue to be made as and when evidence is forthcoming against them in respect of their complicity in the offence. More than 4000 FIRs have been registered so far.

The number of policemen killed and injured is 4 killed and 503 injured which included officers, men and Home Guard personnel. (p 5)

II. Application of POTO. (P 5)

The details regarding application of POTO have been enumerated in the comprehensive report Vol. 1 Page 65.

III. The Hon'ble Chief Minister had personally intervened and impressed on the VHP to withdraw their proposed programme of *Asthi Kalash Yatra* on 27<sup>th</sup> March which was not taken out. (p 5)

IV. There are no comments on the observation of the Commissioner of Police Shri P.C. Pande made before the Commission. (p 6)

V. Major violence was contained in the first few days. However sporadic and isolated incidents have been continuing. The details regarding the incidents involving the Hon'ble Judges are as follows:

Honourable Mr. Justice M.H. Kadri is a sitting Judge of the Gujarat High Court. As per the report of CP Ahmedabad, the Hon'ble Judge was residing in a Government Bungalow in Law Garden area under Ellis'bridge Police Station of Ahmedabad City. Prior to 28-02-2002, there was already half a section of police guard posted there for the security of the Hon'ble Judge at his residence. However, on 28<sup>th</sup> February, after assessing the situation, the Hon'ble Judge on his own shifted to Judges Colony in Vastrapur where official designated bungalows for the Judges exist. However, with effect from 09-03-2002, a further police guard was deployed at his house since he desired to shift back to his original residence. Hence, it is not true that Police had not provided any protection.

Justice A.N. Divecha, retired Judge of the Gujarat High Court, was living in No.1, Kazmi Apartment, Paldi, Ahmedabad city. On 28-2-2002 morning, an unknown mob had thrown stones on the said building, which has several flats. Thereafter, Justice Divecha had shifted to

a friend's house with his family. Subsequently, a part of his flat had been set on fire by a mob. An offence was registered vide Ellisbridge P.S. C.R. No. 121/2002 u/s 143, 147, 148, 149, 435, 436, 427 IPC. Subsequently, the statement of Justice Shri Divecha was also been recorded. 7 accused persons were arrested during investigation. Further investigation is in progress. As the city of Ahmedabad was engulfed by the disturbances, it was not possible for the City Police to arrange for protection in each and every residential society (p 6).

VI. It is a fact that these riots are different from the previous ones in terms of intensity of violence and degree of brutality. Areas affected have never in the past witnessed communal group clashes. Huge marauding mobs descended on smaller and unsuspecting groups. (p 7)

(2) It is a fact that the VHP had given a call for bandh. It is incorrect to blame the police for improper security measures in several areas known for their communal sensitivity. In fact in most places especially in Ahmedabad, traditional communal sensitive pockets were adequately guarded. Major incidents of violence like at Champura and Naroda took place in areas which were not known for communal violence and had no history of communal trouble. However the details of alert and precautionary measures taken and deployment of security forces have been enumerated in the Chapter on alert and precautionary measures and deployment of Army, CPFC/State Police on P.60-78 of the comprehensive report. (p 7)

It is not correct to say that the police acted as spectators. The very fact that the police fired more than 1000 rounds in Ahmedabad City itself on the first day i.e., 28<sup>th</sup> February is a testimony to the effective force used by the police. As violence erupted in many parts simultaneously, the available police force was not adequate to meet the demands of the situation. (p 7)

(3) Accusation of apathy and connivance will be inquired into by the Commission of Inquiry and any dereliction of duty will be dealt with in accordance with law. (p 7)

4) The alleged involvement of Ministers and MLAs in the riots would also be examined by the Commission of Inquiry on the basis representations, if any, made before the Commission.. It is not true that the Home Minister (Minister of State for Home) was monitoring the progress of attacks on Muslim localities from the room of the Home Secretary. (p 8)

It is also not true that Shri I.K. Jadeja, Urban Development Minister was controlling things at Police Bhavan, Gandhingar. As a matter of fact, there is nothing wrong if a Minister



of the State Government visits the DGP's office or the office of the Commissioner of Police for ascertaining facts as well as to ensure that timely and effective action are being taken by the administration.

5) The details regarding the attack on the former MP Shri Ehsan Jaffrey have been enumerated in the comprehensive report on P.56 & 57. ( p 8)

6) The incidents involving Police Inspector Shri Mysorewala and Police Sub Inspector Shri Modi have been taken note of and are being inquired into. An offence was registered at Naroda Police Station CR No.193/2002 in which Police Inspector Shri Mysorewala has been named as an accused and the offence is being investigated. Incidentally Police Inspector Shri Mysorewala has also been transferred out of the police station. Police Sub Inspector Shri Modi has also been named in an FIR registered vide Gomtipur police station Crime register No 88/02 u/s 143,147,149, 436,188 etc., of the IPC.

7) It is not a fact that the bulk of arrests are from the minority community. In fact as on 20<sup>th</sup> March 3911 Hindus and 1592 Muslims were arrested in crime and 2189 Hindus and 646 Muslims were arrested in preventive sections of law

8) In the first few days innumerable distress calls were received. Police attended to as many calls as possible prioritizing the call on the basis of the intensity and magnitude of the violence. There were more than 1500 distress calls on the first day itself in Ahmedabad. Fire power was used to the maximum. In Ahmedabad city itself more than 1000 rounds were fired on the first day. Seventeen people were killed in police firing on the first day itself.

9) In respect of the role of Vishwa Hindu Parishad, Bajarang Dal & Bharatiya Janata Party activists, the same will be covered in the investigation of the various offences registered and also in the inquiry by the Commission of Inquiry.

10) It is a fact that major violence was contained in the first few days. It is not correct to allege that VHP elements supported by the police were given to loot and plunder.

10B) The deployment of the Army within 16 hours of their requisition has been elaborated in detail in the comprehensive report on P. 68.

11) The details of the incidents involving the High Court Judges have been elaborated in Para 5 above.

12) It is not true that any advice was given to Police Officers of the minority community by their superiors to remain confined to their house.

*In respect of the incident involving IGP Shri Saiyed the details are as follows:*

Shri A I Saiyed is an officer of the rank of Special IGP and serving as Director of Gujarat Police Academy at Karaj, Gandhinagar. On 28-02-2002 (on the day of Gujarat Bandh), people in very large numbers turned up on the roads all over the city. Shri Saiyed, while coming from his house, was stopped by a crowd which wanted to get a 'particular road' opened. He explained the mob that he was not the officer in charge of Ahmedabad City. At this time, someone from the crowd saw his name plate and started shouting and giving 'cat calls'. The officer rather than entering into further arguments with this mob decided to drive away. No formal complaint was lodged in this matter.

It is an undisputable fact that the violence in the State was a direct consequence of the Godhra massacre. But for Godhra incident violence would not have taken place in the State. There was no question of any tacit support nor any acts/omission of the State Government. (p 9)

13) It is a fact that riots this time had affected some rural areas also. However it may be mentioned that only a small percentage of villages in the State were affected.

In respect of the alleged sustained drive launched by VHP/BD during the last 8-9 years, to mobilise the tribal population to revolt against the Bohra Muslims, no such drive has come to the notice of the Government.

14) It is a fact that mosques and dargahs were damaged during the riots. It is also a fact that the Dargah of Sufi Poet Wali Gujarati was raised to the ground. However, the Government only removed another structure built by the miscreants who had erected it after demolishing the dargah.

15) As mentioned earlier, it is a fact that Masjids and Dargahs have suffered damage during the riots. Historical monuments will be provided adequate protection.

16) The Godhra massacre is being thoroughly investigated. It is pertinent to mention here that Charge Sheet has been filed in the Godhra Massacre case on 22 May 2002 against all 57 people involved. Forty-four accused are absconding in this case. Efforts are on to arrest the remaining accused and action under various provisions of Cr.P.C. for declaring them absconders and attaching their property is also under way.

17) The role and responsibility of all people in the incident will be under through scrutiny

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during the investigation of the incident and also by the Commission of Inquiry.

18) As of today more than 4000 FIRs have been registered for the various offences in connection with the riots. All necessary evidence will be collected and the culprits brought to book. Regarding demand for CBI enquiry into the major incidents, the views of the State Government have been enumerated in the response to the recommendations of the National Human Rights Commission. It is pertinent to mention that charge sheet has already been filed in the Godhra incident and charge sheets will also be filed shortly (within the time limit of 90 days) in the other major incidents also. (P.13 to 15)

19) The examinations have been conducted peacefully in both the phases with 98% attendance in the first phase and 95% in the second phase. Adequate arrangements were made for the students both at the examination centre and during travel to the examination center itself. The Government has always been committed to holding the examination and had also assured the students who have missed out on the examination that reexamination would be conducted. The decision of holding the examination was taken keeping the students welfare in mind.

#### **Delegation of media persons and activists**

The NHRC has acknowledged and appreciated the views of the Government on the media. There have been reports of irresponsible coverage of the riots by a section of the media, to such an extent those media reports especially the electronic media was indirectly contributing to inflaming the communal passions. It sometimes becomes necessary for the state to intervene in the over all interest of law and order.

There is an inherent danger to media personnel covering such incidents. They might become inadvertent victims of communal violence. The killing of Daniel Pearl in Pakistan is a perfect example.

#### **VIII. Sham Alam Relief Camp**

The incident of Naroda Patia is under investigation. An offence was registered vide C.R. No 100/2002. 26 accused have been arrested so far in this offence. None of the accused have been enlarged on bail. The case will be charge sheeted in the next couple of days. All necessary evidence is being collected to bring the culprits to book. The role of Police Inspector Shri Mysorewala is under investigation as he has been named in a FIR. He has since been transferred out of the police station.

The police is also recording statements in the camps and collecting evidence in the course

of the investigation. Victims are being encouraged to file FIRs and also give evidence before the police to enable them to initiate legal proceedings. Nearly 283 FIRs have been registered in the relief camps itself. The incident involving Kausar Begum who was allegedly abused and killed is being inquired into. Action will be taken against the guilty. Section 376 of the IPC is being incorporated wherever instances of rape are being reported.

Regarding statements made by the victims, they are all being inquired into by the Ahmedabad city police. FIRs naming MLA Mayaben Kodnani and Dr. Jaydeep Patel (Not Jaydev Patel) have already been registered vide C.R. No 100/2002 and 197/2002 of Naroda Police Station and they are being inquired into.

In respect of these two paragraphs the crime investigation and the commission of inquiry would examine them in the course of the investigation and inquiry. ( paras 1&2 of P 13)

No comments on this para.( para 3 of P 13)

Regarding visit of the commission to the Saryudas temple, action if any will be initiated for dereliction of duty on the basis of written evidence presented before the investigation officer.

**VIII. Meeting of the Chief Minister with the Chairperson.**

No comments.

**1X. Delegation of traders.**

No comments.

**X. Some Karsevaks met the team.**

Various incidents narrated and the responsibility of the accused persons will be covered in the criminal investigation of the Godhra train incident.

**XI. Vadodara**

It is a fact for the first time tribal areas were severely affected in these riots. The role of the Bohra Muslims in exploiting the tribes which prompted their attack is an issue which needs to be studied independently by a professional agency. However it is also hoped that this aspect will be covered in the Commission of inquiry.

Regarding the Islamic study centre at Vadodara it has been clarified by C.P. Vadodara that the Islamic study centre was not burnt down but an attempt was made to damage it and

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set it on fire but was thwarted by the timely arrival of the police. In fact police saved 11 people from being lynched by the mob.

It is a fact that the Best bakery in Vadodara was set on fire by some miscreants on the intervening night of 1<sup>st</sup> and 2<sup>nd</sup> March 2002. In this incident 9 Muslims and three Hindus were burnt alive. An offence vide C.R, No 82/02 u/s 143, 147, 148, 302, 307 etc., of the IPC has been registered. Since the whole population in that area had fled after the incident it was not possible to arrest the accused immediately. Until now 19 people have been arrested and ten more people's names have figured in the investigation. Attempts are being made to arrest these people also. Further investigation is in progress and charge sheet will be filed shortly.

The details of arrests in Vadodara city as on 20 March 2002 are as follows. A total of 1177 people were arrested in substantive offences related to these riots. 1275 people were arrested for breach of curfew orders, 102 people were arrested for carrying weapons in violation of the prohibitory orders, 736 prospective trouble makers were arrested u/s 151 of the Cr.P.C. 4 persons were arrested under the arms act and 2 under the explosives act.

## **XII. Interaction with prominent citizens**

Godhra has traditional links with Pakistan as many people from this place had migrated to Pakistan during partition and hence regular contacts are maintained. However the role of visitors from Pakistan in the recent riots needs to be examined.

The role of the media has already been critically reviewed by the commission in its recommendations.

There is no political agenda of the ruling party to drive out the Muslims by mobilising the grievances of the tribals.

It is a fact that traditional non sensitive spots and new areas were engulfed in the riots, but the riots in these areas were contained and their spread prevented.

There was no partisan attitude of the administration before or after the 15<sup>th</sup> of March. In fact after 15<sup>th</sup> March the overall situation was well under control except for isolated incidents.

With regard to the incident at Machhepeeth the facts are as follows. On 15-3-2002 a call was given for Ram Dhun at 14.15 hrs. The day also happened to be a Friday. Both the community members were persuaded to keep their religious activities at a low key in view of the surcharged atmosphere. However despite the assurance given by the leaders no one stuck to the promise and people were found moving around on the streets freely. There were confronta-

tions on the streets between members of both the communities. However on Raopura road after Ramdhun at Ahamadabadi pole when Hindus were passing by Machipeeth, stone throwing took place between members of both the communities. Police intervened and used force to disperse the crowds. Acid bulbs, petrol bombs were freely used and there was report of private firing also. Police combed the area immediately and arrested 13 people. They were all produced before the magistrate and none of them were found under age. The youngest accused was 18 years of age. While 13 people were arrested on the spot, ten more were arrested during combing operation. None of the accused arrested complained of beating by the police when they were produced before the magistrate. The army, which was nearby, had reached the spot earlier than the RAF which had to be sent from the control room. By the time the RAF reached the spot the situation was brought under control.

**XII-A Delegation of voluntary agencies and various citizens Committee.**

- 1) No comments
- 2) No comments. However it is pertinent to mention that many instances have been reported where the police and the local administration took considerable pains to rescue members of the minority community from the rioters.
- 3) The details regarding the incident at Machipeeth have been elaborated above
- 4) As stone throwing was taking place in the Mcheepeth area Police Inspector N.K.Rathod along with ACP 'C' Dn. and Police Inspector Kareli bag went to some roof tops and identified the building from where stone throwing was taking place and arrested some people. No action was taken against the stage singer and the advocate as they were not found involved in the offence.
- 5) Strict instructions have been issued by the DGP vide his Fax message dated 16-3-2002 to register FIRs freely. Names of the accused person will be recorded wherever mentioned. In addition police had filed FIRs on behalf of the state whenever the victims were not available or forthcoming to register complaints. All victims have been given copies of the FIR along with copies of the panchnama to enable them to make necessary claims. Nearly 230 Hindus were arrested in offences of dacoities and robberies after searches were conducted.
- 6) Action will be taken against all concerned wherever evidence is forthcoming.
- 7) No comments
- 8) The role of the media is already under the critical review from many quarters.

9) In the case of the incident of Shri Bandukwala after the incident of the burning of his car a picket of two armed policemen have been posted at his residence which is still continuing.

10) The role of the electronic media has been critically examined. In Vadodra four persons belonging to the video channel operators group were proceeded against legally for inflaming communal passions by depicting communally sensitive scenes.

### XIII. GODHRA

Critical evaluation of the various issues concerning the background of the attack on Sabarmati express are being examined both in the investigation of the offence registered and also by the Commission of Inquiry and hence no comments are being offered.

The immediate proactive response of the District administration has already been enumerated in the comprehensive report on P 3-6 and also in the presentation made before the Commission

The detailed deployment of the army in Godhra town has been elaborated in the comprehensive report on p 68-78 under the heading deployment of the army as also at Annexure A16(1) in the volume Annexure A.

No comments on the various statistical inputs provided by the D.M.

Regarding investigation of the Godhra train incident, it is a fact that Two FIRs vide C.R. No 9/2002 & 10/2002 have been registered. Both the cases are being investigated by Shri.K.C.Bava Dy.S.P. Western Railway, Ahamadabad under the direct supervision of Shri. Rakesh Asthana D.I.G C.I.D. It may be mentioned that Shri Rakesh Asthana has recently returned to the state after serving for ten years in the CBI. It may also be mentioned that the GRP is under the direct control of Addl.DGP C.I.D. Crime and Railways. As mentioned above the case No 9/2002 has been charge sheeted on 22<sup>nd</sup> May 2002.

### XIV Visit to Relief Camp in Godhra

In respect of the complaint of Bilkis of Mora village , an offence has been registered vide Limkheda Police Station C.R. No 59/2002 u/s 143,147,148,149 376, 302 etc., of the IPC. The offence took place in Panivala village on 3.3.2002 at 11.00hrs. In this case when some Muslims were migrating for safety they were attacked by a mob of 500-600 people. Some member of the mob also allegedly raped some women. Investigation of this offence is in progress.

Bilkis of Mora village had initially given a complaint at Limkheda Police station on 4.3.2002

to the effect that when she along-with other women and children had migrated from Panivela village on 3.3.2002 morning, enroute in the jungle area, they were attacked by a mob of about 500 people. Bilkishben had also mentioned that 3 Muslim-women viz. Mumtazben, Madinaben and Hamidaben were raped by the accused, who also killed the women and burnt them. Bilkishben, however, did not complain about herself also being raped. On her aforesaid complaint, F.I.R. was registered vide Limkheda P.Stn. I. CR No. 59/2002 u/s. 302, 376, 147, 148, 149, I.P.C. on 4.3.2002.

Subsequently, Bilkishben was shifted to Godhra Relief camp. Subsequently on 7.3.2002, she gave her complaint at Godhra Town P. Stn that she was raped by known accused of her village Randhikpur on 3.3.2002. It was registered vide Godhra Town P.Stn C.R. No. 0/2002 u/s. 376, 114 I.P.C. and transferred to Limkheda Police station.)

#### XV. Delegations

No comments on the representations of the various delegations in Godhra.

Date	Hindu	Muslim	Total
27/02/2002	0		
28/02/2002	10	2	2
01/03/2002	24	7	17
02/03/2002	12	27	51
03/03/2002	10	4	16
04/03/2002	4	0	10
05/03/2002	1	0	4
06/03/2002	0	0	1
07/03/2002	1	0	0
08/03/2002	0	0	1
09/03/2002	0	0	0
10/03/2002	2	0	0
11/03/2002	0	0	2
12/03/2002	0	0	0
13/03/2002	0	0	0
14/03/2002	0	0	0
15/03/2002	0	0	0
16/03/2002	0	0	0
17/03/2002	1	2	2
18/03/2002	1	1	2
19/03/2002	0	0	1
20/03/2002	0	6	6
		5	5
<b>Total</b>	<b>66</b>	<b>54</b>	<b>120</b>



D.O.No.SB.II.COM/102002/514

**Government of Gujarat**

Block No.1, 3rd Floor, Sardar Bhavan, Sachivalaya, Gandhinagar-382010.  
Phone : (079) 3220372, 3221105, 3250301 Fax : (079) 3243330, 3222103  
e-mail : csguj@hotmail.com

**G. SUBBA RAO IAS**  
CHIEF SECRETARY

May 30, 2002

Dear Shri Sen,

Please refer to your D.O. letters No.1150/6/2001-2002 dated 1st April, 2002 and 1<sup>st</sup> May 2002 asking the State Government to send its reply/comments on the contents of the Confidential Report of the NHRC team.

As assured, we send herewith reply of Government of Gujarat in response to the Confidential Report of NHRC. In the said reply, a sincere effort is made to deal with the alleged omissions referred to by various groups of voluntary agencies, NGOs, human rights activists, some prominent citizens, media persons, etc. during the course of the visit of the team on 20<sup>th</sup> March to 23<sup>rd</sup> March and which are set out in the said Confidential Report.

With due deference, no attempt is made in the present reply to question the veracity of the said complaints, representations, opinions, etc., on the basis of which the alleged omissions have been attributed to the State Government. Instead of this, the Government has dealt with reported facts and actions taken in that behalf, without admitting the contents of the said general complaints, representations, opinions, etc. If the Hon'ble Commission so desires, the State Government is ready and prepared to bring on record the correct facts in respect of each of the incidents referred to in the Confidential Report based on the complaints, representations and opinions of various people. However, the said task is very huge and time consuming.

The Government requests to take into consideration the present reply to the Confidential Report in the light of what has already stated by the Government in its response to the proceedings dated 1-4-2002 of the Hon'ble Commission containing the details of the inquiry proceedings as well as recommendations of the Hon'ble Commission. At this stage, it may not be out of place to mention that most of the recommendations of the Hon'ble Commission have already been pressed in service.

With regards,

Yours sincerely,  
(G. Subba Rao)

**Shri P.C. Sen, IAS,**  
Secretary General,  
National Human Rights Commission,  
(Law Division) Sardar Patel Bhavan,  
Sansad Marg,  
New Delhi-11001

NATIONAL HUMAN RIGHTS COMMISSION  
SARDAR PATEL BHAWAN, NEW DELHI

Name of the complainant : Suo motu  
Case No. : 1150/6/2001-2002  
Date : 1 July 2002

**CORAM**

Justice Shri J.S. Verma, Chairperson  
Dr. Justice K. Ramaswamy, Member  
Justice Mrs. Sujata V. Manohar, Member  
Shri Virendra Dayal, Member

**PROCEEDINGS**

In paragraph 66 of its Proceedings of 31 May 2002 in respect of the situation in Gujarat, the Commission had indicated that it intended to continue to monitor the situation with care and it called upon the Government of Gujarat to report to it again, by 30 June 2002, on all of the matters covered in the Comments and Recommendations contained in those Proceedings, including the Confidential Report of 1 April 2002 transmitted to it earlier.

Subsequently, in paragraph 3 of its Proceedings of 10 June 2002, the Commission noted:

"On 31 May, after the Commission had despatched its Proceedings of that date, *inter alia* to the Chief Secretary, Government of Gujarat, the Secretary-General of the Commission received by fax a letter dated 30 May 2002 from the Chief Secretary, Government of Gujarat to which was attached a reply to the Confidential Report of the National Human Rights Commission."

That reply was made public by the Commission on 12 June 2002, together with the Chief Secretary's letter dated 30 May 2002.

On 30 June 2002, the Commission received by fax a reply of that date from the Government of Gujarat to the Commission's Proceedings of 31 May 2002. That reply will be carefully studied and the Commission will comment upon it, as needed, in the period ahead.

On 1 July 2002, the Commission also received a response of that date from the Ministry of

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Home Affairs, Government of India to its Proceedings of 31 May 2002 and the recommendations made therein, "so far as it concerns the Central Government" (see Annexure I). The Commission has taken note of that response.

In the meantime, however, the Commission has learnt both from its Special Rapporteur in Gujarat, Shri P.G.J. Nampoothiri, and from numerous media reports, that there are imminent plans to hold a series of Gaurav Yatras all over Gujarat from 4 July 2002 and that Jagannath Rath Yatras are scheduled to be held on 12 July 2002 in over 70 locations of the State.

The reports indicate that there is a widespread apprehension both within sections of the Administration and among members of the public that this could re-ignite communal violence in the State. Of particular concern is the situation in Ahmedabad and Bhavnagar which, in the view of Shri Nampoothiri, Special Rapporteur of the Commission, and a former Director General of Police of Gujarat, have "a distinct potential for disturbing communal peace." Shri Nampoothiri has recalled that large-scale rioting occurred in Ahmedabad in 1985 and 1992 at the time of the Jagannath Rath Yatra and that such violence had also occurred twice in Bhavnagar. Indeed, in 1985 in Ahmedabad, despite the police having persuaded the organizers to cancel the event in view of the on-going disturbances in the State, on the appointed day, a full procession was held, defying the police ban. Shri Nampoothiri adds that "though the army had been deployed in the city, the procession passed through sensitive areas resulting in large-scale rioting."

Given this unfortunate history, of which the authorities in the Centre and State are fully aware, the Commission urges all concerned – including non-State actors in Gujarat – to behave in such a way that the peace is not disturbed and innocent residents of the State are not exposed, yet again, to violence or the threat of violence. Apprehensions have also been expressed that the Gaurav Yatras being planned might be countered by rival rallies and that, as a result, the situation could become volatile for this reason as well. The Commission trusts that this danger, too, will be avoided and contained by the Government and others concerned. The Commission recalls that, when its team visited Gujarat between 19-22 March 2002, an appeal was made by its Chairperson that the 'Asthi-kalash Yatra' planned from 27 March 2002, in the wake of the Godhra tragedy, be not proceeded with. At that time the Chief Minister had personally intervened to have that programme withdrawn. The Commission therefore expects that all due care will be taken by the State Government in the coming days - both at the political and at the administrative levels - to prevent situations arising that have the potential to endanger lives and property and that can lead to the violation of human rights.

The Commission would like to recall, in this connection, certain positions that it took in its Proceedings of 1 April 2002, when it held, inter alia, that:

"... It is the primary responsibility of the State to protect the right to life, liberty, equality and dignity of all those who constitute it. It is also the responsibility of the State to ensure that such rights are not violated either through overt acts, or through abetment or negligence."

The Commission then added that:

"... it is a clear and emerging principle of human rights jurisprudence that the State is responsible not only for the acts of its own agents, but also for the acts of non-State players acting within its jurisdiction. The State is, in addition, responsible for any inaction that may cause or facilitate the violation of human rights."

10. The Commission would, further, like to draw attention to its Proceedings of 31 May 2002, in which it underlined the unambiguous duty of the police and the magistracy to fulfill their statutory responsibilities under the laws of the land and in accordance with the circulars and guidelines already issued by the Central Government on matters relating to the promotion of communal harmony and the maintenance of law and order. As those responsibilities and the relevant statutory provisions, circulars and guidelines are detailed fully in the Commission's Proceedings of 31 May 2002, they are not being repeated here. Suffice it to say, however, that those laws and directives clearly lay down the manner in which the police and magistracy are expected to function and that any failure to discharge their responsibilities in accordance with those statutory provisions, circulars and guidelines would render the delinquent public servants personally liable and accountable for their conduct.

11. It is opportune here to recall the rulings of the High Court of Madras in two cases having to do with the duty of a magistrate when public peace is threatened, inter alia, by the taking out of processions in public streets. In Sundram Chetti and Others vs The Queen (1883 ILR 6 Mad. 203 (F.B.)), it was held:

"The first duty of the Government is the preservation of life and property, and, to secure this end, power is conferred on its officer to interfere with even the ordinary rights of members of the community. In this view, it matters not whether the exercise of the rights of procession is of ancient usage or a novelty; the Government is not bound to deprive some members of the community of the services of the force that is found necessary for the protection of their lives and property to enable others to exercise a right which not only is not indispensable to life or to the security of property, but, in the case assumed, creates an excitement which endangers both. Where rights are threatened, the persons entitled to them should receive the fullest protection the law affords them and circumstances admit of. It needs no argument to prove that the authority of the Magistrate should be exerted in the defence of rights rather than in their suspension; in the repression of illegal rather than in interference with lawful acts. If the Magistrate is satisfied that the exercise of a right is likely to create a riot, he can hardly be ignorant of the persons from whom disturbance is to be apprehended, and it is his duty to take from them security to keep the peace"

In similar vein, in Muthialu Chetti vs. Bapun Saib (1880 ILR 2 Mad. 142) the High Court of Madras held:

"For the preservation of the public peace he (the Magistrate) has a special authority – an authority limited to certain occasions ....If he apprehends that the lawful exercise of a right may lead to civil tumult, and he doubts whether he has available a sufficient force to suppress such tumult, or to render it innocuous, regard for the public welfare is allowed to override temporarily the private right, and the Magistrate is authorised to interdict its exercise."

12. It is worth emphasizing, in this connection, that these two rulings of the High Court of Madras were quoted with approval by the Supreme Court in the Ayodhya Judgement (M. Ismail Faruqui vs. Union of India, AIR 1995 S.C.605) when it was observed that, even prior to the guarantee of freedom of religion in the Constitution of India, it had been held that all religions were to be treated equally, with the State maintaining neutrality between them having regard to the public welfare. It follows, then, that there is even greater need now, in the light of the Constitutional guarantees that exist, for the State and its agents to act in accordance with that principle.

13. The Commission has had occasion to stress that it is essential to heal the wounds and to look to a future of peace and harmony in Gujarat. The Commission has, however, added that the pursuit of these high objectives must be based on justice and the upholding of the Constitution and the laws of the land.

14. It therefore remains fundamentally important, in such circumstances, that those who are responsible for the promotion of communal harmony and the maintenance of law and order – whether in the political or administrative leadership – should discharge their duties in the present and future in accordance with that Constitution and the relevant statutory provisions, or be answerable for such acts of omission or commission that result in the violation of the law and the rights to life, liberty, equality and dignity of their fellow human beings.

(Justice J.S. Verma)  
Chairperson

(Justice K. Ramaswamy)  
Member

(Justice Sujata V. Manohar)  
Member

(Virendra Dayal)  
Member

Surendra Kumar  
Joint Secretary (HR)



भारत सरकार, नई दिल्ली  
MINISTRY OF HOME AFFAIRS  
NEW DELHI

D. O. No. 15011/16/2002-IIR

dated July, 2002

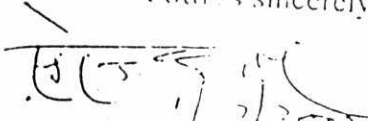
Dear Sir,

Please refer to your D.O. letter No. 1150/6/2001-2002 dated 31<sup>st</sup> May, 2002 addressed to the Home Secretary enclosing therein a copy of the proceedings dated 31<sup>st</sup> May, 2002 of the National Human Rights Commission relating to the situation in Gujarat.

2. I am enclosing herewith the response of the Central Government to the proceedings of the Commission dated 31<sup>st</sup> May, 2002 and the recommendations made therein, so far as it concerns the Central Government.

With regards,

Yours sincerely,

  
(SURENDRA KUMAR)

Shri P. C. Sen,  
Secretary General,  
National Human Rights Commission,  
Sardar Patel Bhawan,  
New Delhi.