

To: The Tom Lantos Human Rights Commission
From: Dr. Angana Chatterji

Re.: Hearing on Religious Minorities in India

March 21, 2012

Representative Pitts, I thank you and the Tom Lantos Human Rights Commission for honoring me with an invitation to testify at the hearing, and thank you for your distinguished work.

...

I would also like to acknowledge the dedicated work undertaken by civil society groups in support of the rights of non-dominant religious and ethnic groups and minorities in India, and in response to organized riots and violence against minorities, as well as by state and non-state bodies.

Orissa

The riots and organized violence against Christian minority communities in Orissa in December 2007 and August-October 2008 was not unexpected. In Orissa, since the mid-1990s, a formidable mobilization has been established by Hindutva groups, including in Kandhamal district. These groups have acted with impunity with adverse impact on society, economy, religion, and security. The Sangh Parivar 'family' of Hindutva, Hindu supremacist, organizations has *a visible presence* in twenty-five of thirty districts in Orissa, and has amassed between 35 and 40 major organizations (including paramilitary hate camps), and a massive base of a few million operating at every level of society.

December 23, 2007: Hindutva-affiliated Adivasi (tribal peoples) organizations organized a march rallying: "Stop Christianity. Kill Christians."

In the violence of 2008 in Kandhamal, Christians, prevalently poor Dalits (erstwhile 'untouchable' groups) and Adivasis, were forced out from approximately 450 villages.

Approximately 4,901 homes were torched, including 101 places of worship. More than 18,000 persons were injured, as thousands sought refuge in nearby forests. Some Christians disappeared, some were tortured, including through rape, and approximately 92 were murdered.

The coordination of attacks across mountainous terrain in Kandhamal corroborate that the violence was planned, premeditated, and that the police had prior knowledge of them.

The number of persons that sought shelter in the relief camps operated by the state was 27,000 at its highest.

Post-violence, injunctions were issued to minority communities, Christian and Muslim, to hide or erase their "difference." Forced conversions of non-Hindus to Hinduism continued. Economic and social boycotts, too, continued. Psychosocial restitution has been lacking.

State employees have intimidated that minority groups must recant their grievances in order to escape further violation. Only 3,300 complaints have been lodged with the police by victims/survivors, of which, as few as 831 have been registered as First Information Reports, with only 510 charge sheets issued.

In January 2009, I documented testimonies of Christian women survivors of the 2008 riots that reveal the scope of the violence (From Chatterji, *Violent Gods*, Page 357-358):

“About five hundred people surrounded the body. His body was aflame. They killed Christians, buried them, then placed stones over the bodies to stop ‘resurrection.’”

Jammu and Kashmir

The rights of the Muslim community remain compromised and there continues at large criminalization of the community. There is also concern for the rights of certain groups that are in a minority in Jammu and Kashmir, such as Hindu Pandits. Jammu and Kashmir continues to be a nuclear flashpoint in the conflict between India and Pakistan. The actions and escalated militarization across the Af-Pak border zone, and the actions of violent groups across the Indo-Pak border, directly impact the security and integrity of lives in Jammu and Kashmir.

The armed militancy, which began in 1988, abated to nonviolent dissent between 2004-2007.

Since 1989, an extraordinary militarization has saturated life. Approximately 70,000 have died in Kashmir, including through extrajudicial or “fake encounter” executions, custodial brutality, and other means, and 8,000+ have been involuntarily disappeared. Lawyers have reportedly filed 15,000 petitions since 1990, inquiring, largely unsuccessfully, into the location and health of detainees and the charges against them.

Approximately 6,67,000 military and paramilitary personnel are stationed in Jammu and Kashmir at present. The psychological health of various soldiers remains precarious. Fifty-six soldiers committed suicide in Kashmir in 2008-2009, for example, with fifteen instances of fratricidal killing.

Laws, such as the Armed Forces Special Powers Act, the Disturbed Areas Act, the Public Safety Act, provide legal immunity to security forces.

Notwithstanding confidence building measures and various other activities, the situation in Jammu and Kashmir remains critical.

BURIED EVIDENCE, a report authored by myself, Parvez Imroz, Khurram Parvez, Mihir Desai, et al., in December 2009, documented 2,700 unknown and unmarked graves containing 2,943+ bodies, including from extrajudicial executions by forces between 1990-2009. These findings were corroborated by the Jammu and Kashmir State Human Rights Commission in July 2011.

Women have been victimized by horrific forms of brutality, including rape, gang and collective rape, used as a tool of torture and power.

There is need for ascertaining the status of minorities in Jammu and Kashmir, related to displacement, dislocation, and rehabilitation.

In Summer 2010, we documented a list of 51 civilians that were reportedly killed. In 2011, 56 civilians were killed.

There is urgent need for supporting the human rights of the affected civilian population as they live with the effects of the conflict, and holding all parties to the conflict (state and non-state) accountable in accordance with international standards.

Punjab

Sikhs are required to marry under the “Hindu Marriage Act,” since the Sikh Marriage Act was suspended in 1947. In August 2005, the Supreme Court of India declined minority status to Jains and Sikhs, depicting them as sub-sects of Hinduism.

Sikhs are regularly prevented from observing remembrance days for 1984, the year of massive Sikh killings. Incidents of police engaging, and allowing, the removal of turbans continue as a tactic of humiliation.

Cases of custodial torture are reported at regular intervals.

Gujarat 2002

- * Between February 28 and March 2, 2002, approximately 2,000 people, mostly Muslims, were killed in Gujarat, aided and abetted by the state.
- * Women and girls were beaten, thrown into wells, targeted for rape, gang rape, and collective rape, sexually mutilated and burnt.
- * Ehsan Jafri, a former member of the Indian Parliament, made more than twenty phone calls seeking help; his pleas remained unanswered, he was brutally killed.
- * The Government of Gujarat, lead by Hindu nationalist Chief Minister Narendra Modi, was grossly negligent in providing necessary support, security, relief, and rehabilitation measures to the victims.
- * In Gujarat, after 2002, 240 people were held under the Prevention of Terrorism Act, 239 Muslims and one Sikh.
- * A climate of terror permeates various segments of civil society in Gujarat even today.

Funding for Hindu Nationalism

Various diasporic charitable organizations affiliated with Hindutva ideologies operate in the United States and United Kingdom. These organizations routinely maintain links with Hindu nationalist leaders and organizations in India, including in Orissa. As well, these diasporic organizations seek to influence public discourse and policy in the United States in relation to India.

To: The Tom Lantos Human Rights Commission
From: Dr. Angana Chatterji

March 20, 2012

I thank the Tom Lantos Human Rights Commission for honoring me with an invitation to testify at the hearing. I submit the following preliminary statement for your kind consideration.

The following submission is mindful of the political/policy borders and boundaries that mediate issues of national sovereignty, as relates to United States policy in its continued association with India, in ensuring mutual respect for, and commitment to, freedom of religion, a secular state, and the attendant human rights and civil liberties of disenfranchised, including minority groups and peoples. The implicit assumption is that actions to uphold human rights, civil liberties, and democratic governance by the United States Government contributes significantly to international discourse in ways that are beneficial globally as well as to United States domestic policy and practice. The following submission is an appeal for ethical negotiation between India and the United States as the most powerful (United States) and populous and emergently powerful (India) democracies seek to fulfill their commitment to human rights and its attendant freedoms. In so doing, various constituencies in both nations remain hopeful that any opportunity for association between these states will assist in enabling mutual adherence to responsible and democratic governance.

The submission below is in addition to the dossier of my research that I hope to submit at the hearing on March 21, 2012. Further, at the hearing, I will also speak to issues as they pertain to other areas relevant to the topic, such as in Punjab and the northeast of India. I will also speak to the work undertaken by civil society groups that is preventive and that responds to needs in the aftermath of organized riots and violence against religious and ethnic minorities in India, steps taken by state and non-state bodies to address the same, and the work ahead.

Note:

I am a Citizen of India and a Permanent Resident of the United States. My observations are based on sustained research on religious freedom and minority rights conducted by me in Orissa and on militarization and human rights in Jammu and Kashmir, and select primary investigation and secondary research on Gujarat. I have undertaken 16 trips to Orissa between June 2002-January 2009, and undertaken work in 66 villages, 11 towns, and 4 cities across 17 districts in Orissa. In 2005-2006, I co-convoked the Indian People's Tribunal on Communalism in Orissa through the Indian People's Tribunal on Environment and Human Rights with Advocate Mihir Desai, with a panel led by Former Chief Justice K.K. Usha of the Kerala High Court. Since 2006, I have been working in Kashmir, with issues of militarization, state and group violence, and human rights, and in 2008, co-founded the International People's Tribunal on Human Rights and Justice there.

Enclosed, please find submissions pertaining to:

Orissa: Page 2-11

Jammu and Kashmir: Page 12-17

Gujarat: Page 18-26

Orissa, Kandhamal 2007 and 2008

The violence against Christian minority communities in Orissa in December 2007 and August-October 2008 was not unexpected. In Orissa, since the mid-1990s, a formidable mobilization has been established by Hindu nationalist groups, including in Kandhamal district. These groups have acted with egregious impunity with adverse impact on society, economy, culture, religion, polity, and security in the state. The Sangh Parivar ‘family’ of Hindutva, Hindu supremacist, organizations has a *visible presence* in twenty-five of thirty districts in Orissa. The Sangh Parivar has amassed between 35 and 40 major organizations with numerous branches (including paramilitary hate camps) in 25 districts in Orissa, with a massive base of a few million operating at every level of society, ranging from, and connecting, villages to cities, in their campaign to ‘convert’ Orissa for the ‘Hindu nation’. Religious violence and the religionization of social life by Hindu nationalist organizations have continued to endanger life and livelihood for minorities in India, as witnessed in Gujarat (2002), Orissa (2007-2008), Karnataka (2008), Assam (2008), and elsewhere.

Toward this, enclosed please find:

1. A Brief from the Testimony (below).
2. Testimony: I will submit separate enclosures from my work on Kandhamal, taken from:
Violent Gods: Hindu Nationalism in India's Present; Narratives from Orissa.
[New Delhi: Three Essays Collective Press. Book Published March 2009, Reprinted February 2010, xvi, 469 pages.]
I submit them in the following order:
 - i. Page 308-363: Violent Gods -- Kandhamal 2008
 - ii. Page 287-307: Riots in Kandhamal, December 2007
 - iii. Page 157-177 and Page 182-189: Impunity

The riots and organized violence against the Christian minority in Orissa, in Kandhamal District, in 2007 and 2008 were interconnected as events in Hindu nationalist targeting of the Christian minority community in Orissa.

The riots of December 2007 and the violence of August-October 2008 were not unforeseen. In Hindutva's grotesque progression in Kandhamal, Hindu nationalist groups and cadres targeted the Christian community with impunity.

In the violence of August-October 2008 in Kandhamal, Christians, prevalently of Dalit (erstwhile ‘untouchable’ groups) and also of Adivasi (tribals, indigenous peoples) descent, and largely poor, were forced out from approximately 450 villages. Approximately 4,901 homes were torched, and numerous houses were looted. Hindu nationalists attacked and plundered religious and educational institutions, and businesses. More than 18,000 persons were injured, as thousands sought refuge in nearby forests. Christian community members were intimidated and threatened, some disappeared, some tortured, including through rape, and over 92 were murdered.

The violence spread to other districts across Orissa. In the aftermath of August 2008, a child born in a relief shelter was named “Communal Riot.”

In 2010 and 2011, the members of the Christian community who were displaced by Hindu nationalism's orchestrated violence in Kandhamal were yet to be rehabilitated. The number of

persons that sought shelter in the relief camps operated by the state was 27,000 at its highest. Sparse attention has been allocated to enable conditions where the Christian community may grieve and heal, where psychosocial restitution would be possible.

Sparse attention has been allocated to the urgent need for desegregation, decommunalization, and decastification of Orissa. Attempts at decommunalization have often resulted in injunctions to the minority community, be it Christian or Muslim, to hide or erase their “difference” and assimilate into the norms set by the majority community. Forced and processual conversions of non-Hindus to Hinduism (posed as “reconversion”) have continued in varied forms. Economic and social boycotts too have continued in various places. State forces personnel, as well as government officials including at the highest levels, that were aligned with Hindu nationalists in various instances, have not been held accountable.

The justice system has remained compromised and ineffectual in protecting survivors and witnesses. In this climate of heightened fear and intimidation, where state employees have intimated that minority groups must recant their grievances in order to escape further violation, only 3,300 complaints have been lodged with the police by victims/survivors. Of these, as few as 831 have been registered as First Information Reports (FIRs). Hindu nationalist organizations that orchestrated the attacks have not been held accountable, and only certain individuals have been charged or found at fault.

[Note: Muslim leaders cite that cases registered against Muslims after the Bhadrak riots of 1991 in which the Muslim community was targeted, for example, were still pending in 2007, while every case against Hindus implicated in that violence has been recanted.]

A composite from numerous testimonies of Christian and other women survivors of the 2008 riots in Kandhamal that I documented in January 2009 reveals the scope of the violence. Words overflow onto each other, describing lucidly the incomprehensible. Speech bears witness to the brutality of the upheaval, and the perverted violence it imposed (From Chatterji, *Violent Gods*, Page 357-358):

“In the first days of the riots about 60 people surrounded the body. About 80 people surrounded the body. Five hundred people surrounded the body. His body was aflame. They [Hindutva workers] asked I become Hindu. The body took a long time to die. Some Hindus aided our escape. He was marked from before. My son tells me that it is not over. Can I go back home? They say they must kill us, so we cannot tell what they have done. They killed Christians, buried them, then placed stones over the bodies to stop ‘resurrection.’ At night, I can still hear – become Hindu, become Hindu, become Hindu. They beat him with a crowbar. Another hacked him. People were afraid to give us shelter but still did. They asked him to become Hindu. They hit me. My husband was axed. Torched. I saw him buried. They desecrated his body. After this what life is possible? I have seen his killers. The police ask why I am agitated. His ... was decapitated. They torched her. They were our neighbours. Blood everywhere. The police do not arrest the people. Bits of bone. They threatened rape. It is hard to get the medical report. We cannot live at home. They killed his mother. We have lost our identity, our ration cards, identification papers, our bodies, our selves. Who are we now?”

Another woman, survivor of rape. Speech, a daunting testimony to things that break, to fortitude

(From Chatterji, *Violent Gods*, Page 358):

“I want to sit with you and cry. I wanted to die. I promised ... I would live but I wanted to die. I thought I would go mad. Life brings a lot, this was my test? I want to remain myself. I want to make a life, a new life. I still feel ... So many nights, the scenes repeat and repeat in my dreams.”

The intensity of Hindutva’s hatred reverberates across Kandhamal’s landscape. The violence of 2008, and what preceded it in 2007, was, and continues to be, a part of Hindu nationalist campaigns for the Hindutvaization of Orissa, through which minorities and other disenfranchised communities are to be domesticated or annihilated.

Culpability:

On August 23, 2008, Orissa’s Hindu nationalist icon, Lakshmanananda Saraswati, was murdered, together with four disciples, in Jalespeta, in Kandhamal district. Armed men not affiliated with the Christian community carried out the murder. While the All India Christian Council condemned the violence as an act of terrorism, Praveen Togadia and Bajrang Dal leader, Subash Chouhan, travelled to Orissa, rumouring “Christian militants” to be responsible for Saraswati’s death. On the afternoon of August 24, yet again, the Sangh Parivar and its allies prioritized extra-legal intervention in Kandhamal, authorizing mob violence.

The political actions and inactions of the Biju Janata Dal (BJD) Government in Orissa facilitated the scope and reach of Hindu nationalists in Kandhamal in 2008. The delayed and inadequate response of the Government of Orissa and Government of India enabled the continuance of the violence for as long as it did. While Muslim community leaders were placed under house arrest based on uncorroborated suspicion in Kashmir, no preventive action was taken against Hindu nationalists in Jammu or Orissa, as Hindutva workers continued to riot.

The extent of the violence and coordination of attacks across mountainous terrain in Kandhamal corroborate that the violence was planned, premeditated, and that the police had prior knowledge of Hindutva groups’ intent to riot.

Given the inaction of the state following the Kandhamal riots of December 2007, the State Government of Orissa is morally and legally culpable, per international humanitarian law, in failing to act to stop the planning and execution of the orchestrated violence enacted by Hindu nationalists in Kandhamal that begun on August 24, 2008, and that continued through the end of October of 2008.

The Government of Orissa carried out misinformation campaigns, and “ethnicized” the violence, failing to hold Hindu nationalists accountable. Further, the expectation of the majority community appears to have been that when the Christian minority community was violently attacked, they must react peaceably, even as the state failed to respond. For example, in few select occasions where members of the Christian community used aggression to resist the violent attacks of Hindu nationalists on Christians, Christians were mis-characterized as “terrorists.”

While a Maoist group claimed responsibility for Saraswati’s killing, Maoist groups had largely not been operational in the riot-impacted areas. Saraswati had been involved in creating a

confrontational situation between Hindutva workers, Hinduized Adivasis, and Maoists in the area. In mid-September, 2008, national Rashtriya Swayamsevak Sangh (RSS) leader, K. S. Sudarshan, alleged the involvement of “foreign hands” in the mobilization of the church *and* Maoists against Hindus. Maoists begun to be uniformly named as “terrorists,” and certain members of the Christian community who were associated with Maoists were not labelled “Maoists” but “Christian Maoists.”

Mobilizations:

I am a Citizen of India and a Permanent Resident of the United States. I have worked in Orissa since 1995.¹ Between June 2002-January 2010, I conducted primary participatory and advocacy research on religious and gendered violence in Orissa over 18 trips, including in 66 villages, 11 towns, and four cities, spanning 17 districts. I studied the violence that had been perpetrated on the Muslim community in Orissa, through the Bhadrak riots of 1991 and others, and the ways in which they continued to be socially and economically terrorized by Hindu nationalists between 2002-2009. I studied the structured and systemic oppression perpetrated on Adivasis and Dalits, and the forcible conversion of members of Adivasi and Dalit communities to Hinduism. I learned about the ways in which the Christian community were targeted in Orissa and identified as the “next” victims of Hindu nationalist violence.

In 2002, following the organized and massified violence against Muslims in Gujarat, Hindu nationalists gave a call to transform Orissa into Hindutva’s next laboratory. It is in this context that I started investigating the reach of Hindu nationalism in Orissa. My work since 2002 strongly and repeatedly warned about the formidable extent of mobilization by Hindu communalist organizations in Orissa, including in Kandhamal district, and documented their adverse impact on society, economy, culture, and polity in the state.

The Sangh Parivar, Hindu supremacist and xenophobic, has a visible presence in twenty-five of thirty districts in Orissa. The reach and power of this group continues, supported by institutions of the Government of Orissa, and Hindu nationalists and Hindu majoritarianists in the state. In October 2002, a Shiv Sena unit in Balasore district in Orissa declared that it had formed the first Hindu “suicide squad” to train youth for high-risk assignments. The RSS operates 6,000 shakhas in Orissa with a 1,75,000+ cadre, and an outsized and growing general membership. The Vishwa Hindu Parishad (VHP) has 1,50,000+ primary workers in Orissa. The Bajrang Dal has 60,000+ activists working as leaders through 200 akharas in the state. The Sangh Parivar has amassed between 35 and 40 major organizations with numerous branches (including paramilitary hate camps, and charitable, religious, educational, political, and development organizations), with a massive base of a few million persons operating at every level of society, ranging from, and connecting, villages to cities, in their campaign to “convert” Orissa for the “Hindu nation.”

[Note:

- Hindu nationalists work to link Hinduism to state power; Hindu majoritarianists support the majoritarianism of people of Hindu descent in India.
- Orissa has a population of 36.8 million. Orissa Christians numbered 8,97,861 per the Census in 2001, 2.4 percent of the state’s population. Orissa Muslims numbered 7,61,985, 2.1 percent of the state’s population. Adivasis constituted 22.1 percent of Orissa’s population, and Dalits 16.5 percent.
- The Orissa Freedom of Religion Act, 1967, and the Orissa Prevention of Cow Slaughter Act, 1960, assist in the criminalizing of Christian and Muslim peoples in Orissa.]

The Bharatiya Janata Party (BJP) and BJD coalition government at the state level aided in cementing institutional support for Hindutva. The BJP's loss in the state elections in 2009 was not a call for the secularization of Orissa following the Kandhamal violence, but a tactical success engineered by Hindu nationalists who experienced the BJP as a hindrance to adopting a more aggressive and integrated Hindutva approach. The BJD's affiliation with the BJP, and its participation in Hindutva politics, progressively invalidated its secular credentials. Hindutva's proliferation in Orissa since the mid-1990s has been supported by, but is *not* provisory to, the growth of the BJP and BJD. The Congress, BJP, and BJD each fortify, and benefit from, inter-communal hostilities in Orissa.

Between January 2005-October 2006, I co-convoked a people's tribunal on communalism in Orissa with the Indian People's Tribunal, Sudhir Pattnaik, and Mihir Desai, examining the impact of Hindu nationalism's religionized violence on Christians, Muslims, Adivasis, and Dalits. The Tribunal was led by Justice K. K. Usha, Retired Chief Justice of Kerala. We submitted detailed recommendations for action, which did not invoke any reflection or determination on part of the Government of Orissa or the Central Government.

The imbrication of Hindu majoritarianism with Indian secularism, and the linkages between Indian secularism and statist-nationalism, has permitted the encroachment of Hindu nationalism into the fabric of political and civic life across India. These largely unexamined relationships sustain the cultural dominance of people of Hindu descent (with caste, gender, and class privilege) in defining the problem of Hindu nationalism and its resolution. This, as well, defines the relationship between the nation (represented by those dominant) and "minority" peoples and groups in India who remain the nation's other. What is defined as "secular" refuses to "see" the implicit Hindu cultural dominance in how its parameters are defined. Without addressing the above, which will require difficult work in alliance building and in undoing privilege on part of the majority community, the institution of laws and policies, boundaries and checkpoints will remain insufficient to addressing Hindu nationalism and Hindu militant violence on Muslims, Christians, Sikhs, Buddhists, Adivasis, Dalits, and others.

Kandhamal 2007:

December 25, 2007: Seven churches, Catholic, Protestant, Pentecostal, independent... were torched in Barakhama village, in west Kandhamal/Phulbani district, central Orissa.

December 23: Hindutva-affiliated Adivasi organizations organized a march, reportedly supported by Hindu communalist groups, rallying: "Stop Christianity. Kill Christians."

A Dalit Christian leader from Barakhama testified: "On December 22, hearing of plans to create trouble during Christmas, we went to the local police and informed them of the situation. They assured us that things would be under control. On December 24, in the daytime, we heard voices of Bajrang Dal, VHP, RSS, Shiv Sena people, chanting: 'Hindu, Hindu, Bhai, Bhai,' 'Lakshmanananda Zindabad.' On the 25th, we went to the inspector in-charge of police again. On the 25th, at 2.30 [p.m.], about 200 of us sat down to Christmas prayer at our church and around 4 p.m. we heard the mob approach."

The crowd carried rods, trishuls (tridents), swords, kerosene, and crude bombs. They used guns, a first in Orissa, weapons available in the market and makeshift local fabrications. Predominantly middle class caste Hindus participated in looting, destroying and torching property. They threw

bombs to start the fire. The breakage was systematic, thorough. Women and men hid for days in forests in winter temperatures, later seeking shelter in the Balliguda town relief camp, returning to decimated Barakhama on January 2. Engulfed in soot and sorrow, people attempted to function amid charred remnants. A woman testified: “Everything burns down and we are left with nothing. How little our lives are made (of). How alone we are, so far away from everything.”

The Sangh Parivar in Kandhamal:

Kandhamal district witnessed Hindutva’s violence in 1986, followed by the Sangh Parivar’s growth in the area. After the instatement of Vanavasi Kalyan Ashrams in 1987, it is noteworthy that since the mid-1990s, Hindutva organizations have worked extensively among Kondh and Kui Adivasi groups, seeking to assimilate and Hinduize them, and create economic and political hostilities between them and the Pana Dalit community, especially within its Christian segment, and instigated against the latter’s campaign for scheduled tribe status.²

In September 1999, Catholic priest Arul Das was murdered in Jamabani village in Mayurbhanj, followed by the destruction of churches in Kandhamal. In August 2004, Our Lady of Charity Catholic Church was vandalized in Raikia and eight Christian homes burnt. The Raikia incident led to the economic and social ghettoization of the Christian community since 2004.

In October 2005, converting 200 Bonda Adivasi Christians to Hinduism in Malkangiri, Lakshmanananda Saraswati reportedly stated: “How will we... make India a completely Hindu country? This is our aim and this is what we want to do. The feeling of Hindutva should come within the hearts and minds of all the people.”

Through the Kandhamal riots of 2007, Hindutva’s discourse named Christians as “conversion terrorists.” Numbers and rates of conversions to Christianity, which are legal, have been inflated by the Hindu Right and circulate in retaliatory capacity even within progressive communities who fixate on such conversions as contributing to the communalization of society.

Amid this, in January 2008, Hindutva activists claimed that they had succeeded in converting over 10,000 Christians (through force and/or coercion) to Hinduism in Orissa in 2007.

The situation in Kandhamal is compounded by a decline in employment and income generating opportunities in the area. Kandhamal remains socioeconomically vulnerable, with a large percentage of the population living below the poverty line.

Funding for Hindu Nationalism:

Various diasporic charitable organizations affiliated with Hindu nationalist ideologies operate in the United States and United Kingdom. These organizations routinely maintain links with Hindu nationalist leaders and organizations in India, including in Orissa. As well, these diasporic organizations seek to influence public discourse and policy in the United States in relation to India. They also fundraise to export capital and resources to counterpart/affiliate organizations in India, including in Orissa, that assist in various ways in promulgating Hindu nationalist ideology and action.

Various trusts and branches of national and international institutions in Orissa aid fundraising, including, reportedly, the Friends of Tribal Society, Samarpan Charitable Trust, Sookruti, Yasodha Sadan, Utkal Bipanna Sahayata Samiti, and Odisha International Centre.

Governmental regulations focus scrutiny on Christian and Islamic groups, and remain negligent on monitoring Hindu “charities” that operate as sectarian organizations. Within the nation, new agendas in fundraising included outreach to the software industry in Bengaluru, with 20 lakh rupees reportedly accrued through a month-long campaign in 2007, benefitting the Vanavasi Kalyan Kendra. As well, the following, registered as charitable organizations in the United States, allocated sizeable amounts of money under “programme services,” disproportionately directed to Hindutva affiliated groups in India. Per the tax records of 2006, Ekal Vidyalaya allocated US\$ 2 million+ to India, India Development and Relief Fund (IDRF) allocated US\$ 1.6 million, and Sewa International USA allocated US\$ 284,800. The VHP-America allocated US\$ 247,579, for *“funds provided for relief & services, support-a-child activities, youth books & emporium, educational vidyalayas, seva projects, one teacher school, festival celebration etc.,”* which might likely have been, in part or entirely, sent directly to India. Some of the above, as the Ekal Vidyalaya Foundation of the United States, prolonged their association with the Friends of Tribal Society in Orissa.³

The Government of India is yet to investigate the activities of the Bajrang Dal, VHP, and RSS in Orissa, and apply, wherever necessary, relevant provisions of the Unlawful Activities (Prevention) Act, 1967.⁴

Actions applicable to Orissa and at the national level in India:

Reciprocally, it is important to note certain actions that have been proposed by concerned citizens in India that the Government of India and Government of Orissa must undertake toward effective intervention into the organization and growth of Hindu nationalism. Toward this:

1. In India, the Central Bureau of Investigation must be required to expeditiously investigate the activities of the Bajrang Dal, Vishwa Hindu Parishad (VHP), and the Rashtriya Swayamsevak Sangh (RSS) in Orissa, and apply, wherever necessary, relevant provisions of the Unlawful Activities (Prevention) Act, 1967. Section 2G of the Act, ‘unlawful association’ denotes: (1) *‘that which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or through which the members undertake such activity’*; or (2) *‘which has for its object any activity which is punishable under Section 153A or Section 153B of the Indian Penal Code 1860 ([Central Act] 45 of 1860) or which encourages or aids persons to undertake any such activity; or of which the members undertake any such activity’*.
2. A review panel must be appointed by the Government of Orissa, in consultation with the National Human Rights Commission, the National Minorities Commission, and other relevant independent bodies, such as the People’s Union for Democratic Rights and People’s Union for Civil Liberties, to identify and investigate the status, actions, finances, and membership of Hindu nationalist groups and their affiliates and cadre, and the actions of their membership. These groups must be investigated and monitored, and, as appropriate, requisite action must be taken and sanctions must be imposed on their activities, and reparations must be made retroactively to the affected communities and individuals. The Government of Orissa must act to stop instances of communalization from escalating into violent episodes.
3. Hindu nationalist leaders, activists, and organizations in Orissa charged with involvement in

criminal acts and involvement in actions that have led, or may lead, to communal violence must be investigated and prosecuted.

4. Certain organizations, such as the VHP and Vanavasi Kalyan Ashram, are registered as cultural and charitable organizations. As their work appears to be political in nature, they should be audited and recognized as political organizations. A serious concern is whether the activities of Hindu nationalist charitable organizations fall within the objectives of the social trust/public charitable trust and whether in fact these organizations should have been registered as social trusts given the nature of their activities; whether the monies collected are indeed used for the purposes for which they were collected and whether illegal and political activities are being carried out in the name of social work. Given these concerns, the charitable status, and the rights and privileges thereof, enjoyed by these groups must be reviewed and necessary action taken.
5. The Government of Orissa and the Central Government must make concerted efforts to identify, investigate, and eradicate paramilitary hate camps being operated in Orissa by the Hindu nationalist groups that instruct cadre in arms training and militancy with the express purpose of threatening and destroying disenfranchised and minority populations through social and economic boycotts, sporadic and organized intimidation, arson, rape, murder, and other forms of social, gendered, sexualized, economic, and physical violence.
6. Various police and court investigations related to crimes against minorities have not been undertaken in Orissa. On various occasions, the police have refused to file First Information Reports (FIR). Police desks should be set up for registering minority grievances and filing FIRs, and the Government of Orissa must appoint a team of Special Public Prosecutors to conduct proceedings as necessary. Toward this, independent monitoring bodies must be supported and protected.
7. The Government of India and the Government of Orissa must take adequate and expeditious steps to ensure that those who convert voluntarily to Christianity, Islam, or any other faith are allowed to practice their religion. Failing to do so is in serious violation of Articles 25-28 of the Constitution of India, which define the Fundamental Rights of every citizen of India, and those that the Government of India and the Government of Orissa are obligated to uphold. Toward this, independent monitoring bodies must be supported and protected.
8. Hindu nationalist organizations are forcibly converting Christians and other non-Hindus in Orissa to Hinduism. Sangh Parivar activists claim India to be a Hindu nation and all Adivasis and Dalits to be 'originally' Hindus, even as Adivasis and Dalits often do not self-identify as such. Drawing on such rationales, Hindu nationalist organizations justify coercion in 'bringing back' Adivasis or Dalits to Hinduism. Urgent steps should be taken to stop the Hinduization of these communities by means of coercion or duress. The police and courts must act immediately and authoritatively to stop Hindu nationalists from enacting forcible conversions or 'reconversions', and the police must be required to submit regular and public reports documenting their work in this matter.
9. The disparagement, demonization, and vilification of any religion should be statutorily prohibited and held punishable under the Indian Penal Code.

10. The Orissa Freedom of Religion Act, 1967, must be reviewed and repealed.
11. The Orissa Prevention of Cow Slaughter Act, 1960, must be reviewed and repealed.
12. The Government of Orissa must establish and activate the State Minorities Commission.
13. The BJD-BJP coalition government in Orissa must honor the Constitutional mandate requiring the separation of religion from state.
14. Police, judicial, and governmental reform, including diversity training, must be addressed by relevant state institutions, and action taken against officers of the law and political servants who abuse their position of public trust by using their power to influence and support Hindu nationalist organizations and sustain a climate of communalism in Orissa.
15. The Government of Orissa must adopt an integrated and sustainable approach to community development, and take concrete efforts to stop further ghettoization of minority communities. The Government of Orissa must promote non-segregated localities, housing complexes, housing societies, clubs, educational, and recreational institutions, and that the Government of Orissa must publicly support social interactions, including voluntary inter-caste, inter-faith, and inter-class unions, marriages, and partnerships.
16. The Government of India must issue a White Paper on bomb blasts and terror attacks in India and constitute a Joint Parliamentary Committee that investigates such incidents.
17. The law should be amended to obviate the requirement of prior sanction of the state before prosecuting anyone for hate speech.
18. The Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill, 2005, introduced in the Parliament of India in December 2005 and approved by the Union Cabinet in March 2007, must be passed, and with the requisite clauses to ensure state accountability. The bill, advocated by citizen motivated efforts for the prevention of genocide and crimes against humanity, in its official formulation as introduced by the Congress government, remained deficient in defining procedures for state and public accountability. As presently drafted, the law will become applicable only selectively. An amendment should do away with the law being made applicable only selectively, at places and times as convenient to the state. In addition, there exist no dedicated provisions for reparation and rehabilitation of victims/survivors. The bill fails to address issues of negligence displayed by state authorities in preventing and controlling communal violence, and in disbursing timely and just compensation and psychosocial rehabilitation, as well as establishing parameters for witness protection and for soliciting and recording victim testimonies. It fails to chart measures to bring justice and accountability with regard to gender and sex-based crimes in the event of communal violence (which is not effectively addressed by the Indian Penal Code or separate legislation), and in imposing checks and balances on the state and its police and security forces, whose inertia and majoritarianist complicity in communal collisions have been consistent.
19. On 29 November 1949, India became a signatory to the Convention on the Prevention and Punishment of the Crime of Genocide, approved by the United Nations General Assembly resolution 260 A (III) of 9 December 1948. On 27 August 1959, India ratified the

Genocide Convention. However, India is yet to fulfill its obligatory commitment to enact legislation to implement the convention, which it must be compelled to undertake.

Jammu and Kashmir

Human Rights Concerns

The situation in Jammu and Kashmir remains critical. The rights of the Muslim community remain compromised at large. There is also concern for the rights of certain groups that are in a minority in Jammu and Kashmir, such as Hindu Pandits. Jammu and Kashmir continues to be a nuclear flashpoint in the conflict between India and Pakistan. The actions and escalated militarization across the Af-Pak border zone, and the actions of violent and misogynist groups across the Indo-Pak border, directly impact the security and integrity of lives in Jammu and Kashmir.

The period between 1947-1987 witnessed people's nonviolent struggles for the right of self-determination. The people's armed movement and militancy began in 1988, and, between 2004-2007, abated to nonviolent dissent. Since 1989, an extraordinary militarization, effectuated through gendered and sexualized violences, has saturated public and domestic life in Jammu and Kashmir. Between 1989-2011, the actions of India's forces in Kashmir have resulted in 70,000+ deaths, including through extrajudicial or "fake encounter" executions, custodial brutality, and other means. Lawyers have reportedly filed 15,000 petitions since 1990, inquiring, largely unsuccessfully, into the location and health of detainees and the charges against them.

Approximately 6,67,000 military and paramilitary personnel are stationed in Jammu and Kashmir at present. There are 671 security camps, where torture and other brutalities have taken place. The structure and placement of the camps regularize forced encounters between local women and armed forces. Male youth and men refusing to participate in the sexual servitude of women have been sodomized. Former militants have been forcibly engaged in counter-terrorism operations. Only cursory reductions in troops have been made, influenced by political interests, not those of human rights. The psychological health of the Indian armed forces remains in question. Fifty-six soldiers committed suicide in Kashmir in 2008-2009, for example, with fifteen instances of fratricidal killing.

Laws, such as the Armed Forces Special Powers Act, 1958, the Disturbed Areas Act, 1976, the Unlawful Activities (Prevention) Act, 1967, and the Jammu and Kashmir Public Safety Act of 1978, provide legal immunity to security forces for international crimes.

Notwithstanding some confidence building measures, Jammu and Kashmir remains a conflict zone in a heavily militarized and nuclear zone, requiring the focused attention of the international community in addressing the dangers, violences, and injustices. The international community, the United Nations, United States, United Kingdom, and members of the European Union must act, in the course of permissible bilateral actions/negotiations, to halt the militarization of, and attendant human rights abuses in, Jammu and Kashmir.

i. Unmarked Graves and Extrajudicial Killings:

BURIED EVIDENCE, a preliminary report on Unknown and Unmarked Graves in Kashmir, was released by International People's Tribunal on Human Rights and Justice in Indian-administered Kashmir (IPTK) in December 2009, based on three years of research, authored by Angana Chatterji, Parvez Imroz et al. *BURIED EVIDENCE* documented 2,700 unknown and unmarked graves,

containing 2,943+ bodies, across 55 villages in Bandipora, Baramulla, and Kupwara districts of Kashmir. These graveyards entomb bodies of those murdered in encounter and fake encounter killings between 1990-2009. These graves include bodies of extrajudicial, summary, and arbitrary executions, and massacres committed by the Indian military and paramilitary forces. The findings of the report were corroborated by the Jammu and Kashmir State Human Rights Commission in July 2011.

IPTK has been able to study only partial areas within 3 of 10 districts in Kashmir, and our findings and very preliminary evidence point to the severity of existing conditions. If independent investigations were to be undertaken in all 10 districts, it is reasonable to assume that the 8,000+ enforced disappearances since 1989 would correlate with the number of bodies in the unknown graves.

Of the graves we investigated, 2,373 (87.9 percent) were unnamed. Of these graves, 23 graves contained more than two cadavers each (with between 3 and 17 bodies per grave) and 154 graves contained two cadavers each. The postcolonial Indian state's governance of Kashmir requires the use of discipline and death as techniques of social control. Discipline is affected through military presence, surveillance, punishment, and fear. Death is disbursed through "extrajudicial" means and those authorized by law. These techniques of rule are used to kill, and create fear of not just death but of murder.

Post-death, the bodies of the victims were brought to the "secret graveyards" by military and paramilitary personnel. The graves were constructed by local gravediggers and caretakers, buried individually when possible, and specifically not en mass, in keeping with Islamic religious sensibilities.

The Indian Armed Forces, Paramilitary, and the Jammu and Kashmir Police routinely claim the dead buried in unknown and unmarked graves to be "foreign militants/terrorists." They claim that the dead were unidentified foreign or Kashmiri militants killed while infiltrating across the border areas into Kashmir or travelling from Kashmir into Pakistan to seek arms training. Official state discourse conflates cross-border militancy with present nonviolent struggles by local Kashmiri groups for political and territorial self-determination, portraying local resistance as "terrorist" activity.

Exhumation and identification have not occurred in sizeable cases. Where they have been undertaken, in various instances, "encounter" killings across Kashmir have, in fact, been authenticated as "fake encounter" killings. In instances where, post-burial, bodies have been identified, two methods have been used prevalently. These are 1. Exhumation; and 2. Identification through the use of photographs.

Our report examined 50 alleged "encounter" killings by Indian security forces in numerous districts in Kashmir. Of these persons, 39 were of Muslim descent; 4 were of Hindu descent; 7 were not determined. Of these cases, 49 were labelled militants/foreign insurgents by security forces and one body that was drowned. In instances, security forces manufactured identities of victims, and entered into record a list of arms and ammunition being carried by them. Following investigations, 47 were found killed in fake encounters and one was identifiable as a local militant.

The graves, with few exceptions, hold bodies of men. These graveyards have been placed next to fields, schools, and homes, largely on community land, and their affect on the local community is

daunting.

Extrajudicial killings have been part of a sustained and widespread offensive by the military and paramilitary institutions against civilians of Jammu and Kashmir. There is substantial evidence of methodical and planned use of killing and violence in Indian Kashmir.

IPTK asked that the evidence put forward in this report be examined, verified, and reframed as relevant by credible, independent, and international bodies, and that international institutions ask that the Government of India comply with such investigations. This has not taken place.

We ask that the United Nations Military Observer Group in India and Pakistan (UNMOGIP), stationed in Jammu and Kashmir, be empowered and authorized to inquire into, and make recommendations on, the status of militarization in Indian Kashmir, and such recommendations be implemented.

We ask that evidence from unknown and unmarked graves in Jammu and Kashmir be used to seek justice, through the sentencing of criminals and other judicial and social processes. As well, the existence of these graves, and how they came to be, may be understood as indicative of the effects and issue of militarization, and the issues pertaining to militarization itself must be addressed seriously and expeditiously.

ii. Killing by Police Firings, Fake Encounter Killings, and Extrajudicial Killings, and Disappearances: In the absence of intervention into extrajudicial killings, violence continued in the summer of 2010. On August 9, 2010, IPTK filed an allegation with the Office of the United Nations High Commissioner for Human Rights, Dr. Christof Heyns, Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, documenting a list of 51 civilians reportedly killed by the Indian military, paramilitary, and police forces in Indian Kashmir between June 11 and August 8 of 2010. Further, another 58 persons were killed in Kashmir during August-October 2010. In certain instances, the victims being involuntarily disappeared preceded these extrajudicial killings.

[Note: In 2008 as well, during July-August, in response to largely peaceful protests for self-determination across Kashmir, 80 people were killed, and approximately 2,000 injured (with nearly 600 sustaining bullet injuries), and doctors, ambulances and hospitals attacked by Indian security forces.]

iii. Fake Encounter Killings: Cross-Line of Control (LoC, between India and Pakistan) movements, infiltrations, and insurgency into Indian Kashmir are real and significant issues. These realities are exaggerated these in order to create national and international sanction to escalate militarization, by linking “foreign terror” to local Kashmiri civilians, in a context where large sections of civil society are discontent. Such claims enable the Indian state’s administration of Kashmir to proceed with impunity. In April-May 2010 alone, Indian Armed Forces reportedly killed over 20 militants in different “encounters.” These cases require transparent and independent investigations. Fake encounter killings in Indian Kashmir are utilized to create/enhance the supposition of national threat and cross-border terrorism. Such threat facilitates the Indian state’s national interest through strategies of militarization, enabling a more aggressive role for India within the Afghanistan-Pakistan-Kashmir region, expanding considerably India’s influence as an international force who must be reckoned with as a leader when forming policy and establishing alliances. For a detailed brief, see www.kashmirprocess.org/machil.

The United Nations Human Rights Committee, European Court of Human Rights, and the Inter-American Commission and Court of Human Rights have used international human rights law in contexts of non-international armed conflict as well as in disputed areas. International human rights law explicitly states that states may apply lethal force only in situations where such use is imperative and necessary to contend with the amount of force being perpetrated. International humanitarian law urges the adoption of a law enforcement framework, and the mandate to make arrests whenever possible. The United Nations Human Rights Committee asks that the right to life be protected by law (Article 6, UN Doc. HRI\GEN\1\Rev.1 at 6 [1982]; University Centre for International Humanitarian Law, 2005). Even with respect to proportionality and the use of disproportionate force on persons perpetrating force, international human rights law argues that a state must respect the right to life. Fake encounter killings in Indian Kashmir repeatedly break this agreement.

iv. Torture: In various instances, persons held during unlawful detentions and incarceration in violation of Habeas Corpus during and outside of enforced disappearances have been tortured by military and paramilitary forces is widespread in Kashmir. As well, the Government of India is yet to ratify the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, although it has been a signatory since October 1997.

v. Detention and Torture Centres: We urge that the UNHCHR ask that unlawful detention and torture centres in Kashmir, including in army camps, be identified, made public, and banned. Further, appropriate reparations must be determined and undertaken with regard to unlawful and unconstitutional practises undertaken in these camps and centres. Further, international institutions, such as the International Committee of the Red Cross (ICRC), must be permitted to visit the above places to assess the situation independently.

vi. Enforced Disappearances: Credible and independent investigations must be undertaken into all disappearances and staged killings since the conflict began in Kashmir. The names of those disappeared between 1989-2009 should be rendered into the public domain. The details of any investigations undertaken into these disappearances should be rendered into the public domain. Further, a full-scale investigation must be commissioned under provisions of the Commissions of Inquiry Act, 1952, and/or other relevant laws, to inquire into the disappearances within a stipulated and reasonable timeframe. As well, on the matter of disappearances, we also note that certain militants who have surrendered to the security forces have been disappeared in violation of Habeas Corpus, and that the chain of violations in these cases should be investigated.

Police personnel must be required to assist persons seeking to file first information reports. Victims/survivors and witnesses testifying to disappearances and killings must be guaranteed protection, including claimants and security forces personnel that wish to testify.

All laws of Jammu and Kashmir have thus far failed to incorporate the premise of the United Nations Declaration on the Protection of All Persons From Enforced Disappearance, the International Convention for the Protection of All Persons from Enforced Disappearance, and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The Supreme Court of India must follow up on the actions and investigations initiated by them or appeals for action submitted to them on the matter of unknown, unmarked, and mass graves and the matter of disappearances. The Supreme Court of India must examine its enshrinement of the

impunity of the Armed Forces Special Powers Act, 1958, into written law through its judgment in the Masooda Parveen case (2007), adjudicating that security forces personnel could not be prosecuted for committing custodial killings if the individuals killed in custody were alleged militants. The National Human Rights Commission and the State Human Rights Commission of Jammu and Kashmir must follow up on the actions and investigations initiated by them or appeals for action submitted to them on the matter of unknown and unmarked graves and the matter of disappearances.

Civil society groups must be consulted in defining the conditions, terms, and parameters for reparation and compensation related to disappearances and killings. All those affected by the process, such as “half-widows,” must be taken into account.

International organizations must be allowed access to report on disappearances, torture, and unknown and unmarked graves in Jammu and Kashmir. We note that only certain international organizations, such as the ICRC (International Committee of the Red Cross), Médecins Sans Frontières, Human Rights Watch, Save the Children, and Action Aid International have been permitted selective access to Jammu and Kashmir. Amnesty International has not been permitted to work in Jammu and Kashmir. ICRC has a very limited mandate of reporting on the conditions of detainees. Unlike in other countries, ICRC has no mandate on reporting on disappearances, torture, and unknown and unmarked, graves in Jammu and Kashmir. International organizations must be allowed to report on disappearances, torture, and unknown and unmarked graves in Jammu and Kashmir.

vii. Gendered and Sexualized Violence: We note the severity of gendered and sexualized violences that have been perpetrated in Kashmir in the last two decades. Violence against civilian men has expanded spaces for enacting violence against women. Women and children, and others, have been victimized by horrific forms of brutality, including rape, gang and collective rape, perpetrated on women. Other categories of victimization include women whose male partners are missing, labelled ‘half-widows’. Women and children, and others, have been subjected to physical and psychological torture and trauma, and social and literal displacements. Women have been forced to disproportionately assume the task of caregiving to disintegrated families and seek justice following disappearances and deaths. The structure and placement of the military and paramilitary camps regularize forced encounters between local women and armed forces. Male youth and men refusing to participate in the sexual servitude of women have been sodomized. Former militants have been forcibly engaged in counter-terrorism operations, commandeered by approximately 32,000 security personnel.

viii. Prisoners Rights: Prisoners’ rights continue to be violated, and that medical aid is not readily made available, and the right to legal counsel, due process, fair and speedy trials withheld.

ix. Rights of Former Militants: The civic and political rights of former militants, and their families, who are now living different and committed lives, continue to be violated by personnel of the military and paramilitary forces. Some of them have been subjected to torture after serving sentences and deemed ‘rehabilitated’ by the justice system. Many still have to report to local camps of the security forces on a weekly basis. Former militants and their families continue to be subjected to maltreatment and denied access to social life, such as to institutions, employment, and pensions.

x. Juvenile Justice: Youth are taken into custody, held, or tried as adults, and their rights to legal counsel, due process, and fair and speedy trials are withheld. There are no laws that guarantee juvenile justice, safeguard the rights of juveniles in conflict with law, and neglected and destitute juveniles. Young people in general, particularly girls and young women, are not guaranteed an environment free of sexual harassment and violence.

xi. Access to Justice: In countless instances, complaints are disregarded by the police, false first information reports (FIRs) filed, and people's request to file FIRs are met with disrespect, even force.

xii. Landmines: The placement of landmines along the border and other sensitive areas in Jammu and Kashmir continues to endanger lives, including those of children. The Government of India is not a signatory to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, and has continued to justify landmine use in Jammu and Kashmir.

xiii. Minorities: Peace and reconciliation requires commitment to minority rights and issues, and the ethical and transparent resolution of injustices. There is need for ascertaining the status of minorities in Kashmir, and related to the displacement, dislocation, and rehabilitation of minorities in Jammu and Kashmir, to propose mechanisms for reparation and reconciliation.

xiv. Commissions of Inquiry: Between 2000-2007 only three statutory inquiries have been commissioned and that other inquiries instituted have been magisterial and administrative probes. Various agencies, including military and paramilitary institutions, are not required to cooperate with instituted commissions in order that they may carry out their investigations.

xv. Transparency: International organizations and institutions, that have access to other places, are not permitted to visit Jammu and Kashmir. Thousands of families are denied passports, including human rights defenders and journalists.

Gujarat 2002

The Sangh Parivar, Narendra Modi, and the Government of Gujarat

This information includes material from a report was compiled by Angana Chatterji, Abba Sur, and Lise McKean in 2005.

* Under Narendra Modi's leadership, between February 28 and March 02, 2002, more than 2,000 people, mostly Muslims, were killed in Gujarat, aided and abetted by the state, following which 200,000 were internally displaced.

* The National Human Rights Commission of India held that Narendra Modi, as the chief executive of the state of Gujarat, had complete command over the police and other law enforcement machinery, and is such responsible for the role of the Government of Gujarat in providing leadership and material support in the politically motivated attacks on minorities in Gujarat.

* Former President of India, K. R. Narayanan, stated that there was a "conspiracy" between the Bharatiya Janata Party governments at the Centre and in the State of Gujarat behind the riots of 2002.

* Narendra Modi was a functionary of the Rashtriya Swayamsevak Sangh, a Hindu nationalist organization.

* Nazi and fascistic ideologies motivated founding ideologues of the Rashtriya Swayamsevak Sangh, a Hindu nationalist organization.

* Modi has incorporated the teachings of the Rashtriya Swayamsevak Sangh in his governance of Gujarat.

* Following the events of February 27-March 02, 2002, the Government of Gujarat was grossly and willfully negligent in providing necessary support, security, relief, resettlement and rehabilitation measures to the victims.

Narendra Modi ordered that all relief camps be shut down as of October 30, 2002.

* Under Narendra Modi's leadership, more than 2,000 of the 4,000 and more cases filed by the victims of the violence were never investigated or dismissed, leading the Supreme Court of India to rebuke both the Gujarat judiciary and the Gujarat State Government for its handling of the cases, and transfer several cases out of the state for trial. Two civil suits were filed against Narendra Modi for crimes against humanity and genocide.

* There has been widespread anti-Christian violence in Gujarat.

* Narendra Modi's actions have adversely impacted adivasis (tribals) and dalits (erstwhile 'untouchable' castes).

* In Gujarat, after 2002, 240 people were held under the Prevention of Terrorism Act, 239 Muslims and one Sikh.

* The Citizens Tribunal recorded that Hindu nationalist organizations undertook a series of preparatory actions in Gujarat prior to 2002.

* On February 14, 1999, a Hindu Nationalist-controlled "religious parliament" in Ahmedabad, the city where some of the most extreme anti-Muslim violence took place in 2002, declared "Christianity and Islam as alien religions and therefore against Indian ethos."

* Narendra Modi was nominated Chief Minister of Gujarat in October 2001. Subsequently, in the next elections in December 2002, he was elected Chief Minister, and remains in office.

* There has been non-partisan support in the United States for human rights in Gujarat.

* Narendra Modi is in violation of the International Religious Freedom Act of 1998, and other international laws.

- * The Modi government in Gujarat is culpable in the deaths of thousands of its citizens, organized violence, large-scale displacement of minority populations, and continuing denial of justice.
- * A climate of terror permeates civil society in Gujarat even today.

Summary

Under Narendra Modi's leadership, between February 28 and March 02, 2002, more than 2,000 people, mostly Muslims, were killed in Gujarat, a state in western India, aided and abetted by the state. Sporadic violence against Muslims in Gujarat continued in the months that followed. In the aftermath, 200,000 people have been rendered homeless and internally displaced.

Numerous inquiries and commissions, such as the National Human Rights Commission (NHRC) of India, have held that Narendra Modi, as the chief executive of the state, had complete command over the police and other law enforcement machinery during February 28 through March 02, 2002. They have condemned the role of the Government of Gujarat headed by Modi in providing leadership and material support in the politically motivated attacks on minorities in Gujarat. The European Union, and every major Indian and international human rights organization: Amnesty International, Human Rights Watch, Commonwealth Initiative for Human Rights, Citizen's Initiative, People's Union for Civil Liberties (PUCI), People's Union for Democratic Rights (PUDR), have condemned the Gujarat violence, and pointed to the complicity of the Government of Gujarat in the execution of the event. Coverage in the Indian and international press, including the New York Times (July 27, 2002), Washington Post (June 03, 2002), and Boston Globe (July 12, 2002),⁵ reported the failure of the state machinery in Gujarat.

Former President Narayanan said he had directed sending in the army to Gujarat to stop the violence. "How many instances of the serial killings could have been avoided if the Army had resorted to shooting against rioters? The slaughter could have been avoided if the Army was given the freedom to stem the riots".⁶

In Gujarat, as the International Initiative for Justice identified, the following took place: killing members of the Muslim community through massacre; causing serious bodily or mental harm to members of the group through massacre, rape, burning, stabbing, beating, etc.; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part through massacre, economic boycott, psychic, physical, and social trauma; and imposing measures intended to prevent births within the group through rape, trauma, destruction of family, sexual violence and mutilation.

Background

On February 27, 2002, the Sabarmati Express, a train bound for Ahmedabad,⁷ was carrying kar sevaks (pilgrims, religious workers) from Ayodhya to Gujarat.⁸ The kar sevaks traveled to aid in the construction of the Ram temple at Ayodhya. In 1992, a mob of Hindu militants demolished the Babri Masjid (mosque) in Ayodhya, built in the 16th century, instigating rioting that spread to other parts of the country, and resulted in the death of more than 2,000 people, again mostly Muslims.⁹ They declared that they would build a temple to Ram at the site, in supposed retribution for the Muslim invasion of certain spaces in what is today, centuries later, the nation-state of India.¹⁰ The train stopped at Godhra, a town in Panchmahal district in Gujarat with a history of communal¹¹ tension. During the stop, a fire broke out in Coach S-6 of the Sabarmati Express, which resulted in the death of 59 people. Gujarat Chief Minister Narendra Modi and other leaders belonging to the network of Hindu nationalist organizations collectively known as the Sangh Parivar (or 'Sangh')¹² alleged that the

Godhra tragedy had been a pre-planned Muslim conspiracy to attack Hindus, subvert the state, and damage the economy. In addition, Modi “further sought to stoke religious passions of the majority Hindu community by taking the decision to bring the charred remains of the victims of the tragedy to Ahmedabad in a public ceremony intended to arouse passions.”¹³ Hindutva¹⁴ groups also alleged that Hindu women had been violated in the attack.¹⁵

Events

Hindu nationalists called for a bandh (general strike), to take place on the following day. Despite the fact that bandhs are frequently associated with violence, and have thus been made illegal, the Government of Gujarat, led by Narendra Modi, endorsed the strike. Unlike chief ministers of other states, such as Jharkhand, Bihar,¹⁶ and Maharashtra,¹⁷ Narendra Modi, took no precautionary measures against the imminent violence, such as preemptive detentions, which are legal and effective in India. Nor did he send an appeal to the Prime Minister to ask the news media to exercise restraint while covering the violence, and issuing strict ‘no riot’ instructions to the police force. To the contrary, as the violence ensued, Modi “justified this massacre by calling it a natural reaction to the Godhra violence.”¹⁸ Modi then ordered that Star News and other liberal media that were actively reporting the violence against the Muslim community in detail, leave Gujarat for “airing provocative coverage.”¹⁹

In the three days following the fire in the Sabarmati Express, the Sangh Parivar, with the knowledge of Modi and his cabinet,²⁰ led a campaign of targeted anti-Muslim violence across Gujarat, in which 16 of 24 districts were affected.²¹ Some of the worst violence occurred in rural areas hundreds of miles from the train incident at Godhra. Had the violence been a “spontaneous reaction” as Narendra Modi and several other Gujarat officials claimed, it should have been concentrated only in the areas immediately around Godhra. Moreover, subsequent investigations²² found that only Muslim-owned businesses were destroyed, including hotels with Hindu names, or with Muslim dormant partners, where public registry listed the owner as Hindu. Inventories of Muslim businesses, including hotels with Muslim partners, and Muslim residences were made available to the mobs by BJP, Vishwa Hindu Parishad (VHP), and Bajrang Dal leaders and cadres, and the Gujarat State Police,²³ as were voter registration lists/electoral rolls that aided in the targeting of Muslims in mixed, or dominant Hindu neighborhoods.

In Gujarat, with its history of communal violence, the events of February 28 through March 02 emerge as distinctive based on the scale and scope of sexualized and gendered violence, and the complicity of the state government in enabling the massacre and allowing it to continue.²⁴ There is strong evidence that the anti-Muslim violence following the fire on Sabarmati Express was planned. Witnesses described how Sangh Parivar mobs were armed with liquid gas cylinders, tridents, knives, and sticks. People from rural areas were trucked into neighboring villages and towns to participate in the violence, sporting the uniform of the Sangh -- saffron scarves and khaki shorts. Mob leaders used cell phones to coordinate the movement of thousands of armed men through densely populated areas. Many of the mobs descended upon Muslim neighborhoods, homes, and businesses, hacking and burning people and property. Women and girls were beaten, thrown into wells, targeted for rape, gang rape, and collective rape, sexually mutilated and burnt. Mobs participated in the severing of women’s breasts, the tearing open of women’s vaginas and wombs, forcing the abortion of fetuses and their display on trishuls.²⁵ The elderly and children, even unborn children, were not spared.²⁶

Police participation and complicity with the Sangh Parivar-led violence has been clearly and carefully documented. Much of the violence took place within sight of the local police stations. Witnesses

testified that police officers often refused to come to the aid of Muslims, or took active part in the violence, to the point of shooting and striking at Muslims as they ran from the mobs. Rakesh Sharma's documentary on the Gujarat violence, *Final Solution*, shows footage of police officers shooting tear gas into Muslim sections of town as rioters waited to enter. Frantic calls for help to police and state government offices often resulted in little aid, or a betrayal: "We have no orders to save you."²⁷ Even politicians were not impervious to this onslaught; Ehsan Jafri, a prominent Muslim and a former member of the Indian Parliament, made more than twenty phone calls seeking help for his family and those who had gathered at his home for protection; his pleas remained unanswered, and he and many others were tortured, brutally killed, and burned on the street. The Gujarat Police routinely did not register First Information Reports and refused to take action against the mobs.²⁸

In a survey conducted between March 05 to March 13, 2002, 2,797 Muslim families who were impacted were interviewed from within 17 relief camps in Ahmedabad, and some from villages near Ahmedabad and Sabarkantha. Of the 1,783 families that responded to a specific set of questions about actions taken by the police, 9.8 percent reported that the police had fired on them, 14.2 percent said that the police had acted against the victims, 31.1 percent reported police inaction, and only 2.9 percent reported that the police had been supportive. The Citizen's Initiative report documents some of the responses given by the police: "We don't have orders to protect you" -- To a group of women who were asking help to protect girls being raped on the roof of near by building with the State Reserve Police standing close by; "They have been given twenty four hours to kill you" -- to people who asked them for help; "If you want to live in Hindustan, learn to protect yourself" -- response given to some people who dialed 100 for help; "Why didn't you also die? They should have killed you also" -- to a person who went to lodge a complaint about his kin being killed."²⁹

The violence continued for over thirty-six hours as the Indian national army remained on standby. Modi claimed that the army had been called for on the evening of February 28 and arrived on March 01. Even as approximately 600 troops reached Ahmedabad and other areas on March 01, they were not mobilized. The state government failed to utilize the armed forces and assist them with adequate transportation support, or provide them with information regarding the locations of outbreaks of violence.³⁰ While large-scale attacks ended on March 02, the violence continued into the following weeks, erupting into episodes.

Subsequent forensic investigations have established that Coach S-6 of the Sabarmati Express could not have been set on fire from the outside on February 27, 2002, and that the fire that destroyed compartment S-6 started from within the train compartment. The interim report of the Justice U. C. Banerjee Commission, released on January 17, 2005, has concluded that the fire in Coach S-6 of the Sabarmati Express on February 27, prior to the mass killings which ensued on February 28, was "accidental," and not a "terrorist" attack on Hindu pilgrims as claimed by Narendra Modi and other Hindutva leaders in their attempt to justify the violence that followed.³¹ Narendra Modi declared in August 2002, that: "It wasn't merely a communal riot, it was like a mass agitation," and later in an August interview with Rediff: "What happened in Godhra supports our contention how innocents are being killed ruthlessly. Gujarat has helped India convince the world community how terrorism is damaging us."³² Hindu nationalists continue to maintain, with no factual basis, that Godhra was an act of (Muslim) terrorism.

Haren Pandya, the then Home Minister of Gujarat, testified before a Citizen's Tribunal about a meeting which took place on the evening of February 27, 2002, where Chief Minister Modi asked his officials "not to come in the way of what will occur in the next few days."³³ As a directive from his

position as Chief Minister, such action constitutes an endorsement of violence and the state's complicity in the events that followed. Pandya was forced to resign from government after he testified. On March 26, 2003, Haren Pandya was assassinated in his hometown of Ahmedabad. The death was investigated by the Central Bureau of Investigation, with controversial findings.³⁴

Various investigations (listed in earlier footnotes) have inquired into the precise nature of the epical violence used by Hindutva mobs³⁵ to target Muslim communities in Gujarat. Fact-finding teams have concluded that, based on the reach and impact, the implementation of violence that occurred, including across the districts of Ahmedabad, Dahod, Gandhinagar, Kheda, Mehesana, Panchmahal and Sabarkantha, between February 28 and March 02, must have been premeditated and could not have erupted spontaneously. These investigations have asserted that Narendra Modi, as the head of state of Gujarat, not only failed to take preventative measures against those who were planning the violence with his knowledge, but undertook a series of measures that either tacitly or explicitly condoned the violence.

The horrific breakdown of governance in Gujarat and the Sangh Parivar's infiltration into the state and judiciary have made justice and the hope of reparation, as well as security and healing, impossible. The situation was exacerbated by the endorsement of Modi by then BJP government at the center, and post-election in May 2004, in the absence of intervention on the part of the Congress-led alliance. Three years have passed. Narendra Modi remains the Chief Minister, and many of the perpetrators of the violence walk free. The Government of Gujarat continues to harass and discriminate against its Muslim, Christian, and Sikh minority populations, adivasi,³⁶ dalit,³⁷ and other marginalized groups, as well as secular activists and intellectuals, with new policies and prejudiced application of existing laws such as the Prevention of Terrorism Act (POTA). The Bureau of Democracy, Human Rights, and Labor of the United States Department of State released a report on International Religious Freedom in 2002, pointing to the culpability of the Government of Gujarat in the violence, its violations of human rights and religious freedoms, and the targeting of other minority groups, such as Christians, following the event.³⁸

Narendra Modi was nominated (and not elected) to his first public post in 2001, after the resignation of Keshubhai Patel, the Chief Minister of Gujarat. Modi was not part of electoral politics and participated in his first election in 2002, after becoming the Chief Minister. He held the position of general secretary of the Gujarat BJP unit, and was appointed chief minister based on his reputation and success as an organizer.

Modi has been affiliated with the Rashtriya Swayamsevak Sangh (RSS)³⁹ as a pracharak⁴⁰ since 1972, drawing inspiration from the Sangh Parivar's agenda for a Hindu state in India. The history of the Sangh Parivar is interwoven with complex politics. In response to British colonization, the Sangh's agenda was to build a strong Hindu nation through physical and military training and construction of a fundamental Hindu identity that asserts higher-caste cultural values. It was a political strategy for free-India where upper-caste and -class Hindus could accumulate and maintain social and cultural power and privilege over religious minorities (especially Muslims and Christians) and lower caste and adivasi people. This political strategy and ideology of the Sangh was formulated in the early decades of the 1900s, motivated by Nazi and fascistic ideologies, and German and Italian programs for ethnic cleansing toward nation building.⁴¹ The ideological and paramilitary training in Germany and Italy in the 1920s and 1930s inspired early Hindu nationalist leaders such as Vinayak Damodar Sarvarkar and Balkrishna Shivram Moonje. Madhav Sadashiv Golwalkar, one of the early ideologues of the RSS, expressed his admiration for Nazi agendas very clearly in 1938: "To keep up the purity of the nation

and its culture, Germany shocked the world by her purging the country of the Semitic races -- the Jews. National pride at its highest has been manifested here.” He continued: “The non-Hindu people in Hindustan must either adopt the Hindu culture and language, must learn to respect and revere Hindu religion, must entertain no idea but the glorification of the Hindu nation... in one word, they must cease to be foreigners or may stay in the country wholly subordinated to the Hindu nation claiming nothing, deserving no privileges, far less any preferential treatment, not even citizen’s rights.”⁴²

Modi, as the Chief Minister of Gujarat, incorporated the teachings of the Sangh in his governance of Gujarat. According to a Times of India article, entitled: “In Modi’s Gujarat, Hitler is a textbook hero,” tenth grade school texts: “present[s] a frighteningly uncritical picture of Fascism and Nazism. The strong national pride that both these phenomena generated, the efficiency in the bureaucracy and the administration and other ‘achievements’ are detailed, but the exterminations of Jews and atrocities against trade unionists, migrant laborers, and any section of people who did not fit into Mussolini or Hitler’s definition of rightful citizen do not find mention.”⁴³ Another strategy deployed by Hindu nationalists in Gujarat is to acquire popular support for Hindutva through social, developmental, charitable and cultural work. Sangh members often show up in various villages building schools, constructing wells, and organizing religious functions. They are also usually among the first to arrive at the site of a natural disaster, offering relief and rehabilitation aid. The Sangh utilizes such opportunities to mobilize local communities, including women, adivasis and dalits, for its cadres, involving them in Sangh campaigns against religious minorities.⁴⁴ The participation of Sangh-affiliated, women, of Hinduized, adivasi and dalit communities in the assault on Muslims in Gujarat in 2002 exemplifies this pattern.⁴⁵

Relief and Rehabilitation

Following the events of February 27-March 02, 2002, the Government of Gujarat was grossly and willfully negligent in providing necessary political support, security, relief, resettlement and rehabilitation measures to the victims. Initially, the compensation announced for the primarily Muslim victims was half of the amount declared for the Hindu victims of the Godhra train tragedy. Chief Minister Modi described those who died in S-6 as victims of “terrorist activities.” In response to the Sabarmati Express fire, the Modi Government announced a compensation package of 200,000 rupees for each victim. Modi described those who died in the anti-Muslim carnage following Godhra as victims of “communal violence.” The compensation package for these victims was 100,000 rupees. The inequity in the allocated compensatory amounts, based on religious affiliation for all intents and purposes, violated “provisions of the Constitution contained in Articles 14 and 15, dealing respectively with equality before the law and equal protection of the laws within the territory of India, and the prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.”⁴⁶ The compensation packages were later lowered to a single sum of 100,000 rupees for all victims after intense public protests dissenting the decisions of the Government of Gujarat. However, most victims and survivors have had enormous difficulty in claiming even this amount of compensation, with some being paid as little as 500 to a few thousand rupees.⁴⁷

Relief camps were assembled, marshaled mostly by citizens groups, and *not* by state relief agencies. At a public function on September 09, 2002, Chief Minister Narendra Modi stated: “Do we go and run relief camps? Should we open child producing centers?... those who are multiplying population at a rapid rate will need to learn a lesson.”⁴⁸ The Gujarat Government, acting under the orders of Narendra Modi, ordered that all relief camps be shut down as of October 30, 2002, leaving the 200,000 internally displaced vulnerable and without resettlement and rehabilitation. Relief camps set

up to house the thousands of displaced Muslims were run largely by Muslim and other citizens groups. The camps received little support or aid from the state, and were constantly harassed and threatened with closure even as the victims residing there had been displaced and had nowhere to go. Moreover, it was reported that: “the few camps in Ahmedabad which are hosting [displaced] Hindus are visited more frequently by government authorities and receive more regular rations.”⁴⁹

After the closure of the camps, many survivors fled Gujarat to stay with family in neighboring states rather than return to their villages to face further violence, a process that has led to progressive ghettoization of the Muslim community in cities like Ahmedabad and Baroda. Others, only after agreeing to abandon their cases, returned fearfully to broken homes and often to neighbors who had committed or supported atrocities against them. Economic boycotts of Muslim shops and employees continue to the present day, compounding the trauma and constraining the right to life and livelihood. In addition to the emotional and psychological trauma of the loss of life and the violations of family, dignity, and body, everyday struggles also continue to strain daily life. Muslim youth are discriminated against and denied access to good schools, and teenage boys in particular are vulnerable to police-led search operations and POTA detentions. Testimonies of displacement of Muslims are accompanied by stories of Hindu businesses or individuals who take over spaces and jobs vacated by their former neighbors. Freedom of mobility, especially for women of the Muslim community, has been greatly reduced as the failures of justice have produced a sense of impunity, sanctioning further acts of violence. Hindus who befriend or support Muslims are targeted and ostracized. False cases have been registered against them, and Hindu women married to Muslim men have been singled out for brutal torture and death.⁵⁰

Court Cases

Numerous efforts by various human rights groups to seek justice for the victims of the post-Godhra violence and hold the perpetrators accountable have met with resistance and complete lack of support from the Gujarat Government. A Human Rights Watch report (2004) stated: “Although, the Gujarat government, responding to international outrage, initially boasted of thousands of arrests following the attacks, most of those arrested were acquitted, released on bail with no further action taken, or simply let go.”⁵¹ Under Narendra Modi’s leadership, more than 2,000 of the 4,000 and more cases filed by the victims of the violence were never investigated or else were dismissed, leading the Supreme Court of India to rebuke both the Gujarat judiciary and the Gujarat State Government for its handling of the cases, and transfer several cases out of the state for trial. According to Human Rights Watch, many of the crimes of 2002 have not been reported or the evidence has been doctored to not implicate certain politicians, and the cases that reach Gujarat courts often face a judiciary filled with Sangh members and sympathizers.⁵² Of the cases filed, there are currently two civil suits against Narendra Modi for crimes against humanity and genocide. Some of the cases include:

Dawood Case: Among those attacked by Hindu extremists in February-March of 2002 were four British nationals, Mohamed Aswat, Sakil Dawood, Saeed Dawood, and Imran Dawood, and an Indian national Yusef Palagar, as the vehicle they were traveling in was stopped by a well-organized road-block erected in close proximity to the local police station on a main highway leading into Gujarat. Targeted as Muslims, the group were stabbed and burned. Only Imran Dawood survived. On April 30, 2004, the widows and relatives of the murdered British Muslims filed a Civil Suit in district court in Gujarat against Chief Minister Modi and the state government for crimes against humanity and genocide.

Best Bakery Case: This case was filed to seek redressal for the torching of fourteen persons in the Best Bakery Building in Vadodara, Gujarat, on the night of March 01, 2002. The attack coincided with the India-wide bandh called for by the Sangh Parivar and endorsed by Modi and the Gujarat Government. In 2003, India's high court dismissed a case against 21 people accused of burning 14 Muslims to death at Best Bakery. All 21 of the accused were acquitted due to lack of evidence by the Trial Court, as key eyewitnesses recanted or turned hostile due to coercion, manipulation, and threat of reprisal -- reversing their statements, refusing to speak (or were refused the opportunity to speak), or appear in court, or were absent during court processes determining competency and reliability. The National Human Rights Commission contested the acquittal of the named assailants and called for an investigative cell that would inquire into the actions of the state's high-ranking officials. The NHRC filed a Special Leave Petition (SLP) in the Supreme Court, appealing to change the venue of the case, on the grounds that a free and fair, and impartial trial was not possible in Gujarat, and that witnesses for the prosecution were being systematically intimidated by those affiliated with the Sangh Parivar. Modi contested the appeal. The NHRC also advocated the need for witness protection. Following the changes in testimony pronounced by Zaheera Sheik, who had experienced the trauma of her family's murder and who was present for the Best Bakery ordeal, more than one-half (35 out of 60) of the witnesses for the Best Bakery trial shifted their positions and were, as a result, pronounced hostile. Zaheera Sheik's shift was hyper-visibility in the media. Almost all these witnesses who turned hostile during the trial reported that the police had randomly selected them and forced them to sign on panchnamas (inquest reports). Based on evidence that the case could not proceed in Gujarat, on April 12, 2004, the Supreme Court transferred the Best Bakery case to Mumbai, in the state of Maharashtra. On February 09, 2005, the 43rd witness in the Best Bakery case, whose residence is within forty feet of the Best Bakery site, recanted his statements as eyewitness, and was subsequently declared hostile.⁵³ Following the demands of the NHRC, on February 21, 2005, the Supreme Court granted a three-month extension for its self-appointed high-level committee investigation into allegations and counter allegations of key witnesses and activists seeking to challenge the order of acquittal.⁵⁴

Witnesses and survivors continue to be apprehensive of and endure threats of violence, in the absence of support, and psychological and social care. The Best Bakery case is not unique in how the Sangh Parivar or the Government of Gujarat has threatened witnesses and shaped what evidence may or may not be heard, and what circulates in the public imaginary.⁵⁵ There is a new word, 'compro', short for compromised. Compro families have been coerced/agreed to drop charges against perpetrators of the massacre, in lieu of a promise of safe return to their homes and neighborhoods. Without viable options to gain justice through the judiciary, compromised families remain at risk, open to manipulation and intimidation from the dominant community.

Bilkis Case: Bilkis Yakoob Rasool (or Bilkis Bano) of Randhikpur village was gang-raped during the post-Godhra violence. She was five months pregnant at the time of her rape and lost fourteen family members, including her three-year-old child, mother, and two sisters. She was among a group of seventeen persons attacked by village neighbors, some of whom she has known all of her life. Since then, she has been forced to move twenty times due to the threats made against her. On August 06, 2004, the Supreme Court transferred her case from Ahmedabad to Mumbai, based on evidence generated by the Central Bureau of Investigation that as witness she would be in danger if the trial were to proceed in Gujarat.⁵⁶ On February 22, 2005, she identified 12 of the perpetrators in *in camera* proceedings. Eight others, including police officers and medical doctors, are also accused of protecting the guilty.

Ali Case Sentencing: On February 23, 2005, an Ahmedabad court sentenced three persons, Varyansinh Bhatia, Manjitsinh Varyansinh and Rajesh Koshti, to four years imprisonment for stabbing Naseembibi Safar Ali, a pregnant woman, to death. The murder took place on February 28, 2002, in the Madhavpura area in the city of Ahmedabad.⁵⁷ This case was re-opened for investigation per the directive of the Supreme Court. The Gujarat Court's decision starkly communicates the lack of value given to the life of Naseembibi Safar Ali, a pregnant Muslim woman. To find the male perpetrators guilty of murder and see fit to punish them with four year sentences makes a mockery of justice and aligns the state, perhaps once again, with the organized violence that was Gujarat in 2002.

Anti-Christian Violence

When Keshubhai Patel came to power as the BJP chief minister in 1998, violence against Christians escalated.⁵⁸ Between December 25, 1998 and January 03, 1999, in Dangs district, more than 20 churches were destroyed. Angry mobs assailed and robbed Christians, including in their homes. Human Rights Watch noted that the attacks in December and January were "preceded by escalating violence throughout the state in which many police and state officials were implicated."⁵⁹ Although Muslims were the primary targets of violence in 2002, there are reports of Christians being attacked or robbed during the post-Godhra riots. According to a Human Rights Watch, Christians in Gujarat are still under "legislative, administrative, and physical assault" in 2003. Anti-Christian actions range from anti-conversion legislation in the state government, state-sponsored surveys of Christians, and threats and physical assaults.⁶⁰ Organizations such as Christian Solidarity Worldwide and the All India Christian Council continue to document cases of widespread anti-Christian violence perpetrated by the Sangh.⁶¹

Anti-Adivasi and Anti-Dalit Actions

Narendra Modi's actions have also impacted adivasis and dalits, as dams on the river Narmada have forcibly displaced hundreds of thousands across the states of Madhya Pradesh, Maharashtra and Gujarat, without their consent and without provisions for resettlement and rehabilitation. Sardar Sarovar, which Modi cites as Gujarat's majestic achievement, is a gigantic dam expected to displace 200,000 people and negatively impact another 200,000. Modi has used the dam's apparent 'success' to deflect attention from his government's complicity in the events of 2002.⁶²

The Gujarat massacre was pre-planned and the state government of Gujarat was complicit and culpable at the highest level. Ten years later, the Narendra Modi government is yet to be held accountable for his complicity and instigation of anti-minority violence, and for the injustices and trauma that his actions continue to propagate to this date.

1 Between 1995-2002, I worked with Adivasi and Dalit issues pertaining to landlessness and livelihood.

2 Dalit Christians, under current law, forfeit their right to affirmative action. In current law, Paragraph 3 of the Constitution (Scheduled Castes) Order, 1950, held caste and religion to be mutually exclusive: "no person who professes a religion different from the Hindu [later amended to include the Sikh or the Buddhist] religion shall be deemed to be a member of a Scheduled Caste."

3 A list of such charities must be responsibly developed in consultation with academics, researchers, and independent bodies with relevant expertise on the subject. Following such identification, investigations must be undertaken by relevant authorities into the actions of these organizations operating with charitable status. Note: The categorization of organizations that promulgate divisiveness, hate, and violence must occur with the

utmost care and in a transparent manner, so as to not infringe on the freedoms, rights, and entitlements, or ensue the demonization of vulnerable groups and marginal, even unorthodox, perspectives. The objective is not to further involve the state in public life, but to note that the state is already involved in the ability of these organizations to function. Certain diasporic organizations affiliated with Hindu nationalism, such as the India Development Relief Fund (IDRF, Tax identification number 52-1555563) and Vishwa Hindu Parishad of America (VHP-A, Tax identification number 51-0156325), Sewa International (Tax identification number 20- 0638718), and Ekal Vidyalaya Foundation of USA (Tax identification number 77-0554248) are registered as charity organizations in the United States. As their work appears to be political in nature, they should be audited and recognized as political organizations. A serious concern is whether the activities of these fall within the objectives of their tax-exempt status; whether in fact these organizations should have been registered as 501(c)3 groups given the nature of their activities, whether the monies collected are indeed used for the purposes for which they were collected, and whether illegal and political activities are being carried out in the name of social work. Given these concerns, the charitable status, and the rights and privileges thereof, enjoyed by these groups should be reviewed, and, where appropriate, revoked. Further, their activities should be monitored to determine their role in fomenting hate and undermining the human rights of various individuals and groups in India. Note: The VHP failed to gain recognition at the United Nations as a 'cultural organization' in 1999 because of its philosophical underpinnings, even as the VHP-A continues to function as an independent charity, registered in the United States since the 1970s. The Hindu Swayamsevak Sangh-USA (Tax identification number 52-1647017, an ideological affiliate of the militant Rashtriya Swayamsevak Sangh in India) and VHP-Overseas (Tax identification number 04-3576058) are registered as 501(c)3 groups and operate as cultural organizations, seeking to mainstream and lobby Hindu nationalist concerns in the United States.

4 Section 2G of the Act, "unlawful association" denotes: (1) "that which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or through which the members undertake such activity;" or (2) "which has for its object any activity which is punishable under Section 153A or Section 153B of the Indian Penal Code 1860 ([Central Act] 45 of 1860) or which encourages or aids persons to undertake any such activity; or of which the members undertake any such activity."

5 Celia W. Dugger (2002) 'Religious Riots Loom Over Indian Politics' in The New York Times, July 27, 2002, URL (consulted February 2005): <http://www.genocidewatch.org/Indianriots27July2002.htm>; H. D. S. Greenway (2002) 'Rising Threat of Hindu Extremism' in The Boston Globe, July 12, 2002, URL (consulted February 2005): http://www.dailytimes.com.pk/default.asp?page=story_13-7-2002_pg4_12; and Rama Lakshmi (2002) 'Rapes Go Unpunished in Indian Mob Attacks; Muslim Women Say Claims Are Ignored' in The Washington Post, URL (consulted February 2005): <http://www.muslimnews.co.uk/news/news.php?sub=155>

6 "Gujarat riots a BJP conspiracy: KR Narayanan" in The Hindu, March 02, 2005, URL (consulted March 2005): <http://www.hinduonnet.com/thehindu/holnus/001200503022152.htm>

7 Principal city in Gujarat, located east of the Sabarmati River, approximately 440 kilometers north of Mumbai.

8 Ayodhya, in Uttar Pradesh, a state in northern India, is the mythical birthplace of Ram, a Hindu god.

9 "Rioters defy Indian Army" in BBC News March 02, 2002, URL (consulted February 2005): http://news.bbc.co.uk/1/hi/world/south_asia/1850424.stm

10 Radhika Desai (2002) *Slouching Toward Ayodhya. Three Essays*. New Delhi: Three Essays Collective.

11 In India, the term 'communal' refers to the politicization of religious differences, commonly used to describe tensions between Hindus and Muslims.

12 The Sangh Parivar's major branches are the Rashtriya Swayamsevak Sangh (RSS, National Volunteers Association, cultural wing of Hindutva), the Vishwa Hindu Parishad (VHP, World Hindu Council, the ideological front for Hindutva, see footnote 13 for an explanation of 'Hindutva'), the Bajrang Dal (the paramilitary wing of Hindutva), BJP, the parliamentary wing of Hindutva, and other organizations which claim to do charitable or cultural work.

13 "Bringing Godhra bodies to Ahmedabad was Modi decision" in Indian Express, August 22, 2004, URL (consulted February 2005): http://indianexpress.com/print.php?content_id=53594

14 Hindutva literally means 'Hinduness', and refers to Hindu extremism connected to the battle for a Hindu majoritarian state in India. Hindutva is inspired by Nazi ideology and fascistic beliefs. See, Thomas Blom Hansen (2001) *The Saffron Wave: Democracy and Hindu Nationalism in India*. New Delhi: Oxford University Press, and Christophe Jaffrelot (1996) *The Hindu Nationalist Movement and Indian Politics, 1925-1994: Social and Political Strategies*. London: C. Hurst and Company (Publishers) Limited.

15 See, People's Union for Democratic Rights (2002) 'Maaro! Kaapo! Baalo!' (Kill! Hack! Burn!): State, Society, and Communalism in Gujarat. New Delhi: People's Union for Democratic Rights. May 2002, URL (consulted February 2005): <http://www.onlinevolunteers.org/gujarat/reports/pudr/>

16 "VHP bandh [general strike] passes off peacefully" The Times of India, March 02, 2002, URL (consulted February 2005): <http://timesofindia.indiatimes.com/articleshow/2507416.cms>

- 17 "Ghosts of '93 come to haunt Mumbai" Indian Express. March 01, 2002, URL (consulted February 2005): <http://www.indianexpress.com/ie20020301/ayo1.html>
- 18 "Mr. Modi Must Go" The Hindu, March 13, 2002, URL (consulted February 2005): <http://www.hinduonnet.com/thehindu/2002/03/13/stories/2002031300131000.htm>
- 19 Narendra Modi website (2002) 'They have accepted their mistake - Narendra Modi' March 18, 2002, URL (consulted February 2005): http://news.narendramodi.org/archives/2002/march/march18_2002_2.htm
- 20 Citizens for Justice and Peace (2002) *State Complicity: Government of Gujarat. In Crime Against Humanity: An Inquiry into the Carnage in Gujarat, Volume II*. Pp. 75-80, URL (consulted February 2005): <http://www.sabrang.com/tribunal/>
- 21 Amnesty International (2005) *India Justice, the victim - Gujarat state fails to protect women from violence*, URL (consulted February 2005): <http://web.amnesty.org/library/index/engasa200012005>
- 22 See International Initiative for Justice (IIJ) (2003); and Kavita Panjabi, Krishna Bandopadhyaya, Bolan Gangopadhyay (2002) *The Next Generation: In the Wake of the Genocide. A Report on the Impact of the Gujarat Pogrom on Children and the Young*. Ahmedabad: Citizens' Initiative. July 2002, URL (consulted February 2005): <http://www.onlinevolunteers.org/gujarat/reports/children/>; and People's Union for Democratic Rights (2002). Also see, Communalism Combat (2002) 'Godse's Gujarat' in Year 8, No. 78, URL (consulted February 2005): <http://www.sabrang.com/cc/current/index.html>; Citizens' Initiative (2002) *How has the Gujarat Massacre Affected Minority Women? The Survivors Speak. Fact-finding by a Women's Panel*. Ahmedabad: Citizens' Initiative. April 16, 2002, URL (consulted February 2005): <http://cac.ektaonline.org/resources/reports/womensreport.htm>
- 23 See People's Union for Democratic Rights (2002).
- 24 Paul R. Brass (2003) 'The Gujarat Pogrom of 2002. In Social Science Research Council' in Social Science Research Council, Volume 4, Number 1, Winter 2002-03. New York: Social Science Research Council; and Ashutosh Varshney (2003) 'Understanding Gujarat Violence' in Social Science Research Council, Volume 4, Number 1, Winter 2002-03. New York: Social Science Research Council. URL (consulted February 2005): <http://www.ssrc.org/publications/items/>
- 25 Trishul – trident, used as a symbol of militant Hinduism.
- 26 See International Initiative for Justice (2003); and Kavita Panjabi, Krishna Bandopadhyaya, Bolan Gangopadhyay (2002).
- 27 Human Rights Watch (2002) *"We Have No Orders To Save You": State Participation and Complicity in Communal Violence in Gujarat*. New York: Human Rights Watch. April 2002, URL (consulted February 2005): <http://www.hrw.org/reports/2002/india/>
- 28 See People's Union for Democratic Rights (2002).
- 29 Citizen's Initiative (2002) *Analysis of FIRs [First Information Reports] Filed Between 27 February 2002 to 23 March 2002*. Ahmedabad: Citizen's Initiative.
- 30 Communalism Combat (2002) 'State Complicity: Government of Gujarat.' in Year 9, No. 81-82, URL (consulted February 2005): <http://www.sabrang.com/cc/archive/2002/novdec02/gov.html>
- 31 The former Supreme Court judge, Justice U.C. Banerjee, headed the Commission constituted on September 04, 2004, following a Union Cabinet decision to investigate facets of the Sabarmati Express occurrence. The Commission was appointed by Railway Minister Lalu Prasad. The Commission submitted its report to the Railway Board Chairperson R. K. Singh in New Delhi. See, "Godhra fire an accident, says report. Rules out conspiracy" in The Tribune, January 17, 2005, URL (consulted February 2005): <http://www.tribuneindia.com/2005/20050118/main1.htm>
- 32 "It wasn't merely a communal riot, it was like a mass agitation" in India Today, March 18, 2002, URL (consulted February 2005): <http://www.bjpguj.org/interviews/itwas.htm>; and "The BJP is unstoppable" Rediff, August 27, 2002, URL (consulted February 2005): <http://www.rediff.com/news/2002/aug/27inter.htm>
- 33 "Modi told officials 'not to act'" in The Tribune, August 09, 2002, URL (consulted February 2005): <http://www.tribuneindia.com/2002/20020810/main1.htm>
- 34 Dionne Bunsha (2003) Probe or Persecution? in Frontline, May 18, 2003, URL (consulted March 2005): <http://www.countercurrents.org/comm-bunsha180503.htm>; Leena Misra (2004) 'The sound & silence of Pandya family' in The times of India, March 26, 2004, URL (consulted March 2005): <http://timesofindia.indiatimes.com/articleshow/582686.cms>; and Press Trust of India (2004) 'Trial begins in Haren Pandya murder case' in Outlook, October 08, 2004, URL (consulted March 2005): http://www.outlookindia.com/pti_news.asp?id=254292
- 35 In the report, 'The Survivors Speak', it states that: "The size of the mobs who were encouraged by chief minister Narendra Modi's verbal statements and sanction to roam the streets was between 5-15,000 and the scale of violence and barbarism suggestive of trained trishul-wielding cadres." See Syeda Hameed, Ruth Manorama, Malini Ghose, Sheba George, Farah Naqvi, and Mari Thekaekara (2002) *How has the Gujarat Massacre Affected Minority Women? The Survivors Speak. Fact-finding by a Women's Panel*. Ahmedabad: Citizen's Initiative. URL (consulted February 2005): <http://cac.ektaonline.org/resources/reports/womensreport.htm>
- 36 Adivasi (indigenous, tribal) peoples. Literally -- First dweller.

37 Dalit: erstwhile 'untouchable' caste groups.

38 The following reports provide further information about the violence in Gujarat 2002, see, Amnesty International (2005); Kamal Mitra Chenoy, S.P. Shukla, K.S. Subramanian and Achin Vanaik (2002) *Gujarat Carnage 2002: An Independent Fact-Finding Mission*. URL (consulted February 2005): <http://www.outlookindia.com/specialfeature.asp?fodname=20020411&fname=chenoy&sid=1>; Citizens for Justice and Peace (2002) *Crime Against Humanity: An Inquiry into the Carnage in Gujarat, Volume II*. URL (consulted February 2005): <http://www.sabrang.com/tribunal/>; International Initiative for Justice (2003); and National Human Rights Commission (2002) *National Human Rights Commission Final Order*. URL (consulted February 2005): http://nhrc.nic.in/guj_finalorder.htm

39 Shortly after India's independence, the RSS was banned by the new government of India for its connection with the man who murdered Mohandas Karamchand Gandhi in 1948. The ban was lifted in 1949. On December 10, 1992, the RSS, VHP, and Bajrang Dal were banned for two years for their role in the destruction of the Babri Masjid. The ban on the RSS was lifted on June 04, 1993. See, Naunidhi Kaur and Ravi Sharma (2001) 'Organizations: An ineffective Move' in *Frontline*, Volume 18, Issue 11, May 26-June 08, 2001, URL (consulted March 2005): <http://www.frontlineonnet.com/fl1811/18110360.htm>

40 Literally -- Person who broadcasts information. In the context of the RSS, it refers to a person who devotes her/his life to the work of the RSS.

41 See, Hansen (1999); Jaffrelot (1996); and International Initiative for Justice (2003:169-187).

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