

Communalism & The Secular State

Religious Liberty in Gujarat, Kandhamal & Karnataka.




Written and produced by *Communalism Combat & Citizens for Justice and Peace*

2002

After the tragic burning of 59 passengers in the S-G Sabarmati Express at Godhra, 2,500 innocent members of the Muslim community were massacred in cold blood in what has been described as India's worst example of a state sponsored carnage. Property worth Rs 4,500 crores was destroyed and Mosques and Dargahs (297 in number) were not just desecrated but pulled down. Though the state government to date and the political party that rules Gujarat has, to date justified the violence as a reaction to the Godhra arson, the communal build up in the state, since the late 1990s but especially since December 2001 when "kar sevaks" were being taken to Ayodha has been well documented. The National Human Rights Commission (NHRC,2992), the Supreme Court of India and international bodies have not just condemned the massacre but urged action against the perpetrators. (www.gujarat-riots.com, www.cjponline.org)

2007-2008


In sustained and well planned attacks, Christians and Christian institutions and religious places were attacked by members and office bearers of various wings of Hindu supremacist and racist organisations (Rashtriya Swayamsevak Sangh-RSS/Vishwa Hindu Parishad-VHP, Bajrang Dal-BD) and Bharatiya Janata Party -BJP) on the eve of Christmas 2007, forcing poor Dalit and Tribal Christians to flee to forests. In February of the next year, extremist left organisations wrote communications that the state intelligence bureau accessed declaring their intent vis-a-vis the Hindu rightwing organisations. From August 24,2008 onwards after Swami Lakshmananda was killed in an attack on his ashram, a bloody and vengeful funereal procession covering 220 kilometres was organised and allowed by the state administration, taking his body in a motor cavalcade, in which Praveen Togadia, international general secretary of the VHP and BJP ministers from the state cabinet participated.



The hate-filled speeches inspired bloody mobs to attack and kill 59 persons (list of victims can be accessed at www.cjponline.org) and attack dozens of hamlets and villages on the way. Brutal rapes were also part of the sub-text.; 50,000 were rendered refugees in their own land, 15,000 are still internally displaced.

Like clockwork around the same time, in the southern state of Karnataka where the saffron flag had flown on the state's assembly for the first time in the previously held elections, 57 Churches were attacked systematically in Mangalore, Udipi and other parts of the state. The attacks, thoroughly documented by Justice Saldanha in his report, on an Inquiry requested by Transparency International and PUCL, Karnataka, presents a dangerous tale of how the highest echelons of those in power, assisted by some communally minded policemen, not only allowed mobs to attack Christians at prayer and desecrated their places of worship, but worse also systematically destroy any evidence of the attack as soon as they had taken place. Independent media were also made targets and other sections, wooed through monetary considerations by the state government, were complicit or silent. Action against the perpetrators has not taken place with the state government in a malafide action simply withdrawing all criminal cases against the RSS, VHP, BD and BJP. The officially appointed Justice BK Somasekhara Commission that released its report in January 2011, has been an eye-wash.

Both Orissa, Karnataka and Gujarat have a history of targeted violence against the religious minorities clearly suggesting a deliberate complicity of the State in non-punishment of the perpetrators.



Impunity Against Mass Crimes

2011 marks the onset of Ten Years of the Genocidal Carnage in Gujarat.

The state sponsored massacre in the western Indian state in 2002 was followed with brute anti Christian Violence in Orissa and Karnataka in years 2008 Did these outbreaks happen overnight or were they the culmination of an insidious build up of incidents of persecution, but worse impunity by the State because the perpetrators were not punished.

Evidence gathered by this writer shows how from October 1988 (Phulbani Orissa), 1989 (Kalahandi, Keonjhar and Phulbani) 1991 (Ganjam and Cuttack districts), 1983 (Balasore) the Church leadership had been appealing to the state administration and union government authorities on the issues of mob attacks on Christians and their religious places. Worse venomous hate speech by the leaders of these mobs though monitored by the State and Central Authorities had not been prosecuted under Indian Criminal Law. Even closer to the date, from October 2003 we have been warning about the build up by the *sangh parivar* in Orissa.



TOI-4-10-08

38 days later, Orissa govt admits nun's rape

4 Arrested, Cop Suspended; Patil Writes To CM

TIMES NEWS NETWORK

Bhubaneswar/New Delhi: Yet another shameful chapter in sectarian strife was added when the Orissa government confirmed on Friday that a 28-year-old Catholic nun was raped by a fanatical Hindu gang on August 25, while the police ignored her pleas for help and looked the other way.

After dragging its feet for 38 days, the state government finally woke up to media reports and outrage across the country and abroad to arrest four suspects and suspend the inspector-in-charge of Beldanga police station in Kandhamal, where the rape took place.

Orissa CM Naveen Patraik, who has been keeping a remarkably low profile despite the state being rocked by anti-Christian violence for six weeks now, on Friday describing the rape as a "shameful" and "savage" act and promising "stringent action" against the culprits. But he parried questions on the inordinate delay in the case, saying "action is being taken".

In New Delhi, PM Manmohan Singh told his colleagues at a cabinet meeting that these incidents have tarred India's image abroad.

He directed the Union home ministry to submit a report that will be discussed by the cabinet next week. Several other ministers spoke up, criticising the Orissa government, although none of them has yet sought the government's sack.

Home minister Shivraj Patil has shot off a letter to Patraik asking him to do more to control the violence. He pointed out that despite a 5,000-strong central force presence in Orissa, violence has not been contained in Kandhamal. An MI-17 helicopter was also in Bhubaneswar from August 31, a week after violence began, to September 11, but was hardly used.

Orissa police claimed on Friday they "received" the medical report — which found injuries to the victim's private parts and pointed to sexual assault — only on October 1. But doctors have a different story:

► Docs differ with cops, P 17



TIMES VIEW

A young Catholic nun is raped in Orissa's Kandhamal district and paraded naked by men shouting "Bharat Mata ki jai". In Delhi, Ahmedabad and Jaipur, innocent men, women and children are killed in the name of Allah. Is there a difference? We don't think so. After every round of blasts, the police are quick to name and pursue the "masterminds". But when Christians are hacked to death and their homes and churches torched, state governments have to be goaded to even take notice. The attacks have spread to Karnataka and Tamil Nadu. Six weeks and 25 deaths later, little or no action has been taken. This despite the

"Bharat Mata" army — going by the name of Bajrang Dal and similar fundamentalist groups — bragging before cameras about the fear it has unleashed. You can see why minorities might feel the state is biased against them. This sense of being besieged and abandoned, if seeded, will bear deadly fruit. TOI recently front-paged an analysis establishing that states with the worst record of communal strife are those that have been hit hardest by terror. Violence begets violence. To stem this rising spiral of hatred, the State must deal with all instruments of terror — whether it is the stealthy bomber or the blood-thirsty mob — with zero tolerance.

Why do we wait until it is too late?

Between the late eighties and 2002, the build up in Gujarat at the societal and state level violated Constitutional provisions and Indian Criminal law. Yet we waited until the genocidal carnage that took 2,500 lives spread over 19 districts of the state before we acted/reacted. Selected censuses of Muslims and Christians (1996-1998), driving out Muslims after violent attacks in Randhikpur and Sanjeli (October 1998—*Welcome to Hindu Rashtra, Communalism Combat*). Between 1998-1999 Christians and Christian Institutions were targeted across the state of Gujarat. Remember the attacks on churches in the Dangs that led to a terror filled Christmas in the Dangs in December 1998 when 16 Churches were attacked and Christians were made to live in terror?

Swami Aseemanand was the leading perpetrator his ashram a nest for hate spewing cadres and Dangs in south Gujarat is a district where Christians and their institutions have since lived in terror.

The Shabhri Kumbh here is held every year – a pretext for the *sangh parivar's continuing* terror tactics through "re-conversion" and the land of tribals is being sold by a visceral state government to media corporate

Hate Speech and Venom Precedes Every Attack



Since 1996, media reports have drawn repeated attention to such hate campaigns. But all the vitriol has suspiciously escaped police action under relevant sections of the Indian Penal Code (IPC). Gujarat, and now Uttar Pradesh, are living examples of life for Indians under 'Hindu Rashtra'. Senior officials in the police, like the DGP of Gujarat, CP Singh, have stated on record that "organisations like the VHP and Bajrang Dal are clearly behind the violence" (*see CC, October 1998*). Concrete evidence in specific cases points clearly to the moral and ideological backing that the sangh parivar renders to the assailants. But our watchdogs and institutions fail to make the connection or see the pattern.

In early 2000, the then newly appointed RSS Sarsanghchala, KS Sudarshan, declared that an 'epic war' was in progress in India between Hindus and 'anti-Hindu forces'; in Mumbai, Bal Thackeray's Saamna has been spitting venom since his newspaper came into existence. And yet these persons escape the long arm of the law.

<http://www.sabrang.com/cc/comold/july00/co-story.htm>

**What is responsible for this selective amnesia?
How is it possible for us to react to rights'
violations in individual cases but turn a blind eye
to the bloody and devious design that underlies
them?**

On June 22, 2000 a Bajrang Dal leader, Dharmendra Sharma, sah-sahayojak for the Braj region, makes front page news declaring that Christians are now "bigger enemies" than Muslims. (The Times of India, June 23, 2000).

Clarification, if any were needed, that Muslims remain the Bajrang Dal's and the VHP's enemies! "Maar peet to kya, hum sab kuch karne ke liye taiyar hain" ("We are prepared to use violence. There is no limit"), said Sharma, leaving no room for any confusion.

The remark prompted an expression of outrage from India's then attorney general, Soli Sorabjee. He opined that such elements should be put behind bars. The National Human Rights Commission demanded details of attacks on Christians from the central and state governments. But only weeks earlier, the remark of the all-India Bajrang Dal convenor, Dr. Surendra Jain, calling for "a second Quit India movement" to drive away Christian missionaries had passed unnoticed and unchallenged. (The Afternoon Dispatch and Courier, May 27, 2000).



No criminal action against any of these violators of the law.



Life in Gujarat for a Muslim or a Christian has been a suffocating reminder that he or she no longer enjoys the precious privilege of being regarded as an equal Indian. This is the reality since the late 1980s. Muslims residing in 'cosmopolitan' localities in Gujarat are forcibly evicted; Muslim children have to compulsorily attend school and even give examinations on Id day. Christmas can often not be celebrated in public and Christian Institutions are persecuted by the authorities. Discrimination and bias has insidiously crept into the marketplace of ideas, avenues of livelihood, educational institutions, the administration, the police, the judiciary. All in all, the quality that we used to proudly describe as Indian values has fast eroded.

Similarly before widespread attacks on Christian Churches in 2008, the atmosphere in the southern state for all minorities, Christians and Muslims was being corroded with the then state minister for home GS Acharya proudly acclaiming that "Narendra Modi was is his ideal." . Modi has been named the "sole architect of the state sponsored genocide in Gujarat by the Concerned Citizens Tribunal headed by Justices VR Krishna Iyer and PB Sawant, former retired Judges of the Supreme Court of India, *Crimes Against Humanity—Gujarat 2002*.

“During the months of September to December 2008, and to a large extent in the months that followed, the BJP government in Karnataka had given the Bajrang Dal a free hand to run wild, particularly in the Karavali area..... Groups of young activists would be driving two-wheelers, jeeps and cars prominently flying saffron flags as an intimidatory gesture to all other communities..... What distresses me particularly is the fact that this infection had spread both to the Bar and to the subordinate judiciary in the whole of the area. A good percentage of the lawyers openly proclaimed allegiance to the BJP. ”(*Report of the People’s Tribunal Inquiry, Justice Michael F. Saldanha, retired judge of the High Court*)

We have repeatedly documented and highlighted the divisive, disturbing and violent trends in Orissa and Karnataka from 1999 onwards but specifically after 2006. In December 2007, Christians in the Kandhamals were brutally attacked and several dozen churches were attacked. Relief groups and civil society were barred from the area despite repeated pleas by organisations of the stature of CARITAS, EFICOR and the like, as well as personal appeals by Archbishop Raphael Cheenath of Cuttack-Bhubaneswar. John Dayal and Angana Chatterji, who was reported for *Communalism Combat* on Orissa since 2003 and was also a part of the Indian People’s Tribunal on Environment and Human Rights, also visited Orissa and reported.

"We need to tell civil society in India and abroad that the attack on Christians in Orissa is at par with the repeated mauling of Muslims in Gujarat and other states, and an integral part of the sangh parivar’s ideology." Dayal. We had brought these reports to our readers in the hope that our readers, all flag-bearers of sanity, put their heads together to make our struggle against this divisive politics more coherent and more effective.

2007 Christmas in Orissa



"Before the mob came we heard the sound of people approaching. The sound of hatred. Our lives, our faith, our existence is under attack and neither the neighbours, the police nor the state care." – Dalit Christian woman in Kandhamal

The crowd carried rods, *trishuls* (tridents), swords, kerosene. 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 said: "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."

(January 2008, Year 14, Number 127, *Communalism Combat* www.sabrang.com)

But were the Guilty Punished?

Ignoring the Build Up



The sangh parivar seeks to build a cadre comprised of Hindus, men and women, and targets Christians, Muslims, Adivasis and Dalits and other disenfranchised and progressive and secular groups in Orissa....

The sangh has amassed between 35 and 40 major organisations 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, and Orissa to the 'Hindu nation'..... The sangh has inaugurated various trusts and branches of national and international institutions in Orissa to aid fund-raising, including the Friends of Tribal Society, Samarpan Charitable Trust, Sookruti, Yasodha Sadan and Odisha International Centre.

The RSS operates 6,000 *shakhas* in Orissa with a 1,50,000+ cadre. RSS graduates take an oath affirming allegiance to the RSS as national duty: 'I will devote my body, mind and money (*tana, mana, bhana*) to the motherland.' The sangh also hires paid operatives to undertake mob activity. Led by the RSS, Vidya Bharati (known as Shiksha Vikas Samiti in Orissa) directs 391 Saraswati Shishu Mandir schools in Orissa, including in Balangir, Kalahandi, Koraput, Malkangiri, Nabarangpur, Nuapada, Kandhamal and Rayagada districts, with 1,11,000 students preparing for future leadership.

Training camps in Bhadrak and Behrampur aim at Adivasi youth. Vanvasi Kalyan Ashram runs 1,534 projects and schools in 21 Adivasi concentrated districts. The sangh has initiated 1,200 Ekal Vidyalayas in 10 districts in Orissa to target Adivasis. In March 2000, the Hindu nationalist Bharatiya Janata Party (BJP)-Biju Janata Dal (BJD) coalition came to power. In October 2002, a Shiv Sena unit in Balasore district formed the first Hindu 'suicide squad'. The Hindu Suraksha Samiti organises against Muslims. Revolting slogans, '*Mussalman ka ek hi sthan, Pakistan ya Kabristan* (For Muslims there is one place, Pakistan or the grave)', perforate neighbourhoods. Ignoring Signals at Our Own Peril

<http://www.sabrang.com/cc/archive/2008/jan08/cover2.html>

(Kandhamal: Hindutva's terror, Charting the history of sangh parivar violence in Orissa

<http://www.sabrang.com/cc/archive/2006/sep06/cover.html>



"The violence against Christian minority communities in Orissa in August-October 2008 was not unexpected. In Orissa, since the mid-1990s, a formidable mobilisation 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, organisations has a visible presence in 25 of 30 districts in Orissa. The sangh parivar has amassed between 35 and 40 major organisations 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'... "



"During the 2008 violence in Orissa various militant Hindu nationalist organisations acted with impunity. The violence was led by the following groups – the Bajrang Dal, VHP and RSS. Following the riots and extended violence against Christian communities in Kandhamal district of Orissa in August-October 2008, the Government of Orissa and police, military and paramilitary forces deployed in the state failed to respond effectively, efficiently or appropriately. This posed a serious threat to democratic governance in the state and the ability of government to ensure the security and sanctity of peoples and groups made vulnerable through majoritarian communalism as perpetrated by Hindu nationalist organisations in the state. The central government in New Delhi as well failed to respond in a timely and effective manner and with due concern."

Professor Angana Chatterjee to United states Congressional Task Force on religious Freedom in December 2008 published in February 2009 issue of *Communalism Combat*

A Nation's Shame

Gujarat 2002

Kandhamal Karnataka 2008



Two bouts of targeted anti-Christian Violence in the span of 8 months, where in several innocent tribals and people of the minority community have been killed and several churches have been torched, several villages were burnt to ashes. As a result more than 50,000 families were affected and displaced from the villages and as even the state government has been forced to admit that at least 15,000 people are in relief camps even today.

ORISSA



Report on the Justice Struggle in Orisa (Kandhamals)

Case status of fast Track Court (03.03.09—to--01.12.10)

Complaints lodged-----	3232
Case registered-----	828
Total Number of cases (Vi+No.Vi) committed to the court no-2-----	277
Total Number of violence cases committed to the court-2-----	281
Total Number of No-Violence case committed to the court-2-----	47
Number of case Acquitted (Violence case) -----	128
Number of case Convicted (Violence case) -----	59
Number of case on pending trial (Violence case) -----	44

ACQUITTAL & CONVICTION RATE.

Total Number of accused faced the trial-----	1556
Number of accused convicted -----	269
Number of accused acquitted -----	1287

(Courtesy: Father Advocate Dibakar Parichha, Justice Peace Development and Communications)

Today's Plight of the Victims

The survivors are under threat not to return to their villages unless they agree to change their religion, withdraw cases against their attackers, stop eating beef and dalits stay within limitations imposed by the upper castes. About 15000 people are still living as refugees outside their villages.

Out of 3300 complaints filed by victims in the local police stations only 831 have been registered (as First Information Reports – FIRs). Many cases have not been investigated and the accused not prosecuted. In other cases, shoddy police investigations have already created a crisis in the dispensation of justice. The accused have coerced, threatened, and cajoled the victims and the witnesses. There have been attempts to bribe them, both outside and inside the Fast Track Courts. The real perpetrators, like Mr. Manoj Pradhan (BJP-MLA Member of Legislative Assembly), are moving around scot-free and threatening the witnesses time and again, whereas hardly any steps are taken to protect witnesses or ensure their safety. The victims have expressed their deep distrust of the current justice delivery system.

There is no action against Orissa Administration officials who could not protect the lives of hundreds of Christians and who allowed Hindu extremist mobs to move around the district with an organised and armed crowd and to do arson, burning, killings uninterruptedly in the presence of police or those who allowed RSS leaders like Pravin Togadia to enter the area and deliver hate speeches.



There are major lacunae in the administration of relief to and rehabilitation of the victims of the mass violence. Improper identification and assessment of the houses as fully or partially damaged has been done, damaged houses have been left out of the lists, while lost or damaged household articles are not mentioned at all. Even the 837 families, who lost their houses during December 2007 violence, are yet to get any housing. The government has promised only Rs 50000 as compensation for fully damaged houses; still the actual disbursement till now has only been Rs 10000. Out of 6500 families which lost their houses 60 percent are yet to have a roof to shelter under. Not a single one of the destroyed NGO schools, hospitals, and offices has been compensated.

The administration has not made any visible effort to support a revival of dignified livelihood of the victims, to prevent large-scale migration and pauperisation of victim families, or to bring back dropped out children to school.

The long-standing problem of landlessness and land alienation of the dalits and adivasis has been completely ignored. There have been almost no efforts to provide land rights to landless survivors, who are facing difficulties to get a shelter after they lost their houses during violence.

The State in Orissa was responsible for the violation of Article 14 and 21 and 25 of the Indian Constitution and the situation in Orissa is reflective of an absolute breakdown of the rule of law and Constitutional Governance.

Prayer houses of the minority community have been burnt, a 'nun' was molested and raped while police personnel watched and the entire law and order situation has completely collapsed.

The story of young Rajani Majhi of Padampur, Kanya Ashram, Bargarh, is gory. She was thrown to the fire alive and was burnt to death. The nun was raped in public on August 25, 2008 at 'K. Nuagaon' village under Baliguda police station.

It was not possible for these crimes to have been committed without the open and tacit support of the district administration and the state government; the criminals are reported to be activists of the Bajrang Dal which is a youth wing of sangh parivar and the organization that enjoys the patronage and a symbiotic relationship with the political party, the Bharatiya Janata Party (BJP) which was, until yesterday, a coalition partner in the present government. The entire exercise of burning the churches and killing of innocent people, of minority community savagely, has been masterminded by the sangh parivar with the sanction of the BJP. However the state government as a whole supported these acts.



After the first bout of violence in December 2007, the Naxalites had reportedly written a letter threatening Swami Laxmanananda Saraswati with his life. This is in the possession and knowledge of the state administration. Yet, the State of Orissa, its chief minister, home minister, collector and SP of Kandhamal did nothing to control the anticipated fallout of the violence following the killing of the Swami. Officers of the State Intelligence Bureau, Orissa shared the letter with this author in May 2008. Excerpts:

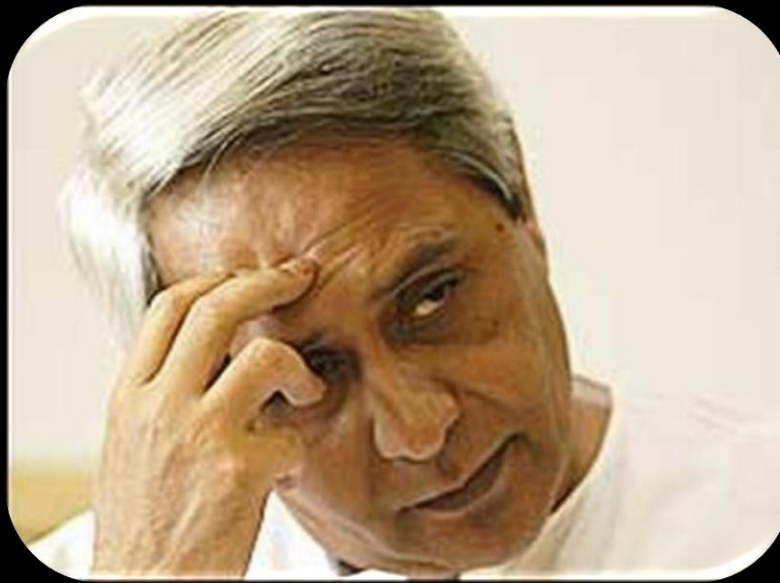
"This communal violence is being fomented by BJP keeping an eye on the coming election and since BJP is the coalition partner in the ruling govt. in Orissa, the Naveen Patnaik led govt. in the State as well as the police administration are extending all help to BJP in carrying out its nefarious designs. This is amply proved from the fact that Laxmananda Saraswati who was the mastermind behind the communal violence was accorded VIP treatment in the hospital although he was not injured during the attack on his vehicle. People must know that number of tribal girls are being regularly sexually harassed by Swami Laxmanananda in his Kanyashram at Tumudibandh..... It is obvious that being influenced by our struggle the dalits, adivasis irrespective of their caste, religion and education took part in the same counter attack on the rioters in Brahmanigaon area. However, the allegation that CPI (Maoist) was directly involved in the attack was not true. If at all our cadres would have joined in the attack then the attack would not have concentrate at Oriya Sahi (Brahmanigaon) which is inhabited by common Hindus, rather we would have targeted the top leaders of Hindu fundamental forces like Laxmananda Saraswati or other leaders of Sangh Parivar/BJP. The communal violence was carried out by the Sangh Parivar activists in order to suppress the emerging new leaders/contractors/businessmen among the dalit and adivasi community so that the exploitation being carried out by upper caste landlords and contractors would remain in force. The VHP as well as its patronisters i.e the upper caste landlords/businessmen fomented the communal violence in Kandhamal district only to safeguard their economic interest. The attack and loss incurred by each member of Hindu or Christian community in this communal violence is really painful, heart touching and needs to be condemned. We would request both the religious groups to refrain from their fundamentalist ideology and should strive to form a secular society."

(marked "SECRET", Appeal by CPI (Maoist), Orissa State Organising Committee)



That when this threat was in their knowledge and the Maoist/Naxalite outfits claimed open and public credit for the massacre of the Swami, the State of Orissa by remaining silent and allowing its coalition partner the Bharatiya Janata Party(BJP) and ministers, their sister organizations like the Bajrang Dal (BD) and Vishwa Hindu Parishad (VHP) to spin their own tale on who was responsible for the violence, amounted to nothing short of barefaced and open collusion in the violence against tribal Christians and Dalit Christians in the Kandhamals. The culpability of the entire administration is shameful and there for any reasonable person to see.

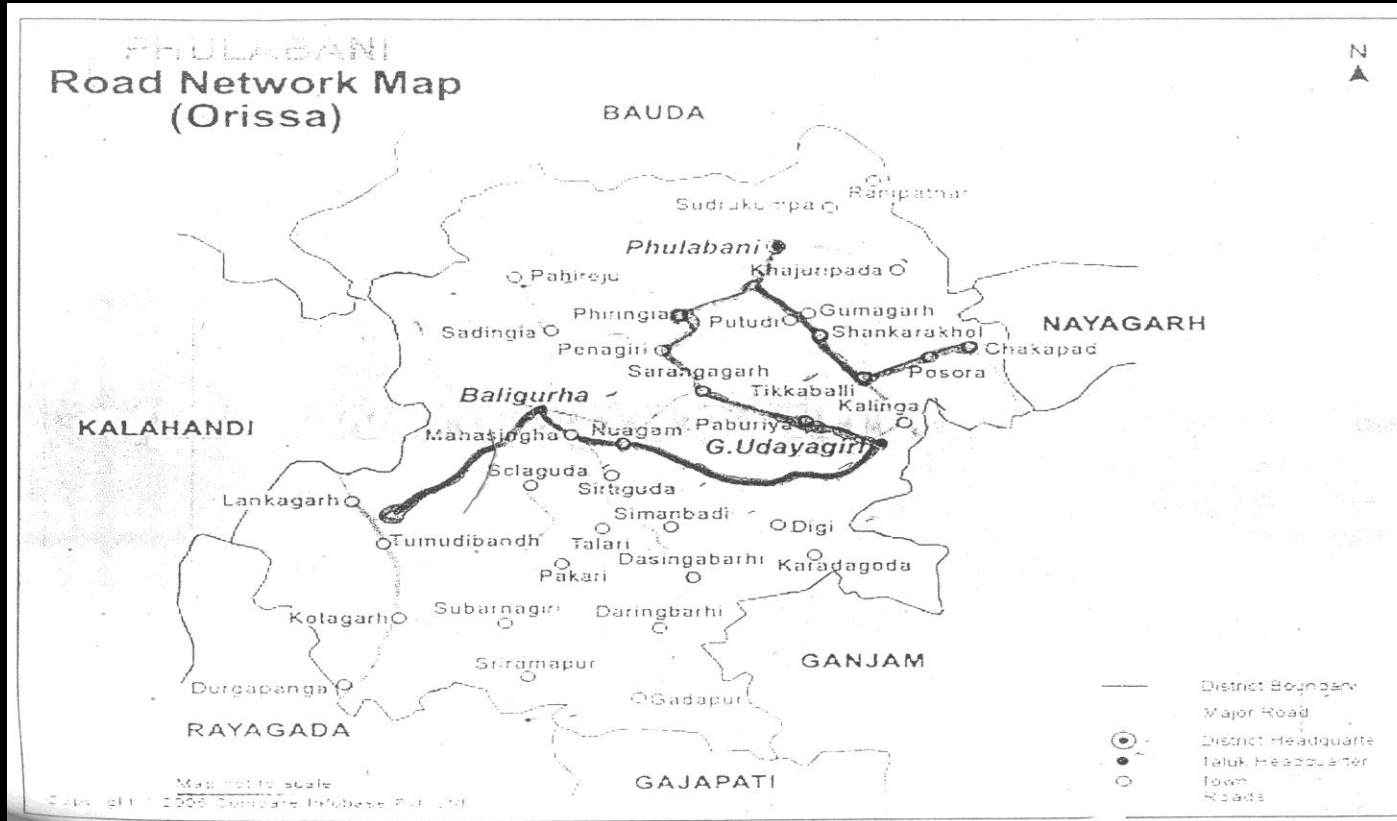
Since December 2007, despite pressure from the BJP, Bajrang Dal and the VHP six platoons of the CRPF had been stationed at Kandhamal and these paramilitary central forces could have been immediately used for the protection of life and property from August 24, 2008 until now but their failure to act was because, in law the Collector (District Magistrate) is empowered to issue the command to enlist their support. The command was not issued by the Collector as a deliberate act of collusion by the Collector to allow violence and atrocities.



The role of the Chief Minister, Shri Naveen Patnaik, the elected head of a Government has betrayed his duties as laid down under Article 163-165 of the Indian Constitution where he is responsible to the Governor for the protection of the fundamental rights of all citizen regardless of caste community, tribe of gender. Besides the Chief Minister as head of an elected Government has failed as the highest in-charge of command and in-charge of Home Ministry and law and order and to provide firm and non-partisan leadership to the state and to give unequivocal instructions to prevent inflammatory processions carrying of Swami Laxmanananda body more than 222 kilometers to inflame passions, allow a 'bandh' from organization whose records in maintaining law and order is bloodthirsty as best.

The Chief Minister is therefore collectively guilty of the following offences: (a) Failing to contain the BJP Ministers in his Cabinet from Participating in the Inciteful Funereal Procession that allowed mobs to commit multiple offences of murder (120B, 114r/w 302 IPC; (b). Allowing DGP and through them the SP and DM to carry the dead body of Swami Lakshamananada and inflame communal passions (153a, 153b, 505 IPC, defiling places of worship 295 IPC, malicious acts to outrage religious sentiments, obstruction public servant in discharge of duties (160 IPC) .

Similarities to Gujarat Genocide of 2002



A procession was allowed on August 24, 2008 that accompanied the dead body of Swami Laxmanananda Saraswati to every nook and corner of Kandhamal, stopping outside churches, shouting incendiary slogans, which sowed the seeds of communal tension against the minority Christians. The rioters went on rampage by destroying the house of the minority community. Similarly the corpses of the unfortunate victims of the Godhra mass arson that took place in S-6 of the Sabarmati Coach were paraded in different parts of Ahmedabad to inflame cadres of the VHP and BD to commit brute violence thereafter.



On the August 25, 2008 a call was given by the Sangh Parivar for Orissa Bandh. The chief minister who is head of Home department, did not take any effective steps to protect the life and property of the people by deploying military force in sensitive places, Instead allowing the things to go on its way. As a result, a well thought out plan was executed for ethnic cleansing. In the process, the innocent lives were savagely smothered like moth without any respect for human values. An innocent girl, Rajani was pushed to the burning Sevashram alive, which proved their fit of insanity and madness to hoist a saffron flag on the cross atop the church, which is a smirch in our Constitutional goal of inserting secular in preamble and antithesis to the solemn wish in article 25 i.e. freedom of conscience and free profession, practice and propagation of religion.



In the medical report submitted by Dr. Sangita Mishra and Smita Marandi in the nun rape case was suppressed for 39 days from the public, The S.P. Kandhamal was forced to admit before the public in a press conference that the medical report reveals that she was raped. Till then neither the accused persons had been nabbed nor any enquiry to that effect has been conducted by the government in power through their investigating agencies and remained as sphinx to the inhumanly bestiality shown by the activists of the Bajrang Dal in killing people and hiding the dead bodies in the dense forest and at the same time successfully manipulating the press report to project before the public at large that every thing is under control and no barbarity was being committed by the rioters.

The mainstream newspapers in the Oriya language particularly the *Dharitri* and the *Samaj*, who have the largest circulation within the state and outside are the privy in hiding the real fact and fanning the communal tension and hatred against the Christian minority and other disadvantaged people, even though a calculated massacre was going on with impunity with a sole motive of ethnic cleansing of Christian minority in the plea of retaliation of the killing of 'Swami Laxmanananda Saraswati'. (For those interested do contact us at sabrang@vsnl.com/teestateesta@gmail.com for a detailed note on Media Review in and around December August 25, 2007 and August 22, 2008) The State administration has remained a mute spectator to this macabre incident.

The result of the state's callousness killed 59 persons and rendered over 50,000 people homeless and out of this 26,000 people are in different relief camps managed by the State. A few hundred if not thousands of the victims fled to other states and some have remained in the houses of relatives in the different part of the state. FIRs have not been registered thoroughly nor investigations carried out thoroughly.



The image shows the Odia word 'ଧରିତ୍ରି' (Dharitri) in a stylized, bold, black font with a white outline and a slight shadow effect, set against a white background.



The image shows the Odia word 'ସମାଜ' (Samaja) in a blue, stylized font with a white outline and a slight shadow effect. Below it, the English words 'The Samaja' are written in a red, cursive font.



When the district of Kandhamal was burning in the aftermath of killing of Swami Laxmanananda Saraswati on August 23, 2008, the state did not feel any pangs of conscience in allowing the V.H.P. leader Pravin Togadia and state level leaders to enter into the Kandhamal to pay homage to late Swami Laxmanananda Saraswati on August 25, 2008 and making provocative statements that ignited violence and hatred and encouraged a spirit of retaliation against the minority.

This was the incitement required to propel the Vishwa Hindu Parishad and Bajrang Dal members to launch an attack on the minority. (Media records of such inflammatory speeches)

This further surcharged the atmosphere and the sangh parivar activists being inspired by the speeches of the Togadia burnt the houses, killed the innocent people of the minority community and burned the churches. When there were reports that a Central Minister, Sri Jaiswal was advised to return to Delhi on the plea of security, how come Togadia was allowed to enter in to the Kandhamal, wherein already communal tensions had been smouldering. The speeches of Togadia acted like a spark and as a consequence, the Hindu fanatics targeted and killed several people and torched the villages and churches on the same day in the different parts of the Orissa and particularly Kandhamal. (Reference: news report in *The New Indian express* dt. August 27, 2008)

Togadia inflamed violence through the calculated use of provocative statements inciting violence against a particular community (Christians) violating Indian law. This led to the widespread massacre of the minority Christians and burning of the prayer hall of the community. Hence he is liable to be prosecuted for giving provocation to the riot under section 153a, 153b and 595 of the Indian Penal Code and section 295 IPC. The State Government through its local SP and police ought to have directed an FIR, to initiate criminal proceedings against him. Perpetrators such as Togadia are in the business of hate incitement (Gujarat, Mumbai, Assam, Rajasthan) and if not prosecuted will spread their venom *ad infinitum*.

It was the BJP who was in 2008 a coalition partner of the BJD who was the beneficiary political front of the sangh parivar and several of its leaders, including ministers in the state cabinet had participated in the procession (*as the video shows*) and the funeral ceremony of the late Laxmananda Saraswati was used to give a green signal to the communal criminals to set fires to homes, entire villages, attack churches and unleash a reign of terror against the Christian minority. The presence of ministers long with the inciters openly encouraged VHP and Bajrang Dal activists to go ahead with the violence in vengeance against the minority without any fear, with the assurance that they will enjoy impunity from protection from the ruling coalition in power.



Even though official reports of the Orissa government state reveals that that 10,000 people have already returned back to their homes from the relief camps to settle in their villages, to date, in 2011, as many as 15,000 persons are homeless still either living in inhuman camps which the state does not admit to or still in other states. In the immediate aftermath of the violence, those who dared leave the relief camps to go home in the forests have been butchered and some young girls even raped. Reports of missing persons have come to the light from the G. Udayagiri relief camp. The claims of the state government that the rehabilitation has been either successfully completed or is being carried out on a war footing are totally misleading. The fact remains that the houses of the people have already been burnt and they have been threatened of dire consequences if they dare to return to their houses. Further more the threat of forceful conversion by shearing their head and drinking cowdung water, is still looming large over their head.

About 62 FIRs have been filed in between 2006-2008 relating to forceful conversion from Christianity to Hinduism in the Kandhamal in violation to the Orissa Freedom of Religion Act, 1967 and Rules. (Photos of death and destruction) Should not those in responsible positions in power and the administration and police and inciters of hatred and violence like Togadia been effectively prosecuted?

The IIC Baliguda was further responsible for suppressing the rape case of the nun for 33 days and also remained a mute spectator to the massacre and burning the villages and Churches. This is empirical proof on the ideological designs and pressures on the district police and administration by the sangh parivar and moreover threatens the basic tenets of transparency and the rule of law that decree that when a crime is committed, the guilty must be punished.



Thus along with the IIC of Baliguda, G Udaygiri, Tikabali, Raikia and Pasara, the S.P. of Kandhamal and D.G. of Police are also liable for penal action for these intentional and calculated lapses that violate a citizens fundamental rights to equal protection before the law under the Indian Constitution; that violate their statutory duties under the Cr PC and the Administrative Service Rules governing IPS and IAS officers.

Hence, they should have been suspended and criminal prosecutions for criminal negligence for the loss of lives of members of the minority community be launched against them. That normal departmental proceeding may be initiated against them but these should not be a camouflage for a full fledged criminal prosecution in full public view that is required to restore the confidence of the people in the state.

The compensation for the relative of the death victims case which has been announced but has not been given in several cases because of the non availability of the post mortem report to the legal heir of the deceased. Since they have lost their earning member of the family, they need should have been paid immediate compensation which can be given without post mortem report with a condition that the relative of the victim will submit an indemnity bond and incident of death could be ensured by the evidence of the eye witnesses.

That apart the compensation of the package declared by the state is paltry sum in commensurate to the trauma, the victims of riot have suffered due to the death of their bread earning member of the family. Commensurate packages should be paid to what has been paid elsewhere. In the case of the Gujarat genocide of 2002, also, the Gujarat government's pathetic package was buffeted by a central government package that gave s 5 lakhs for every life lost and Rs 1.25 lakhs to every injured person. Hence the State Government may be directed to review its package of compensation and re-assess it in view of the severe psychological and socio-economic jolt to the family members of the death victims.

Demands for an Independent Commission were never met.

To restore faith among the victim community. The following specific suggestions are made to create an independent body in the district level and also in each block to facilitate the peace process

- Immediate creation of 'Help Line' and also 'Citizen's Committees' headed by a local (ST/SC/Religious Minority) community leader essentially human rights activists in each block and at district level to collect first hand information
Proper documentation of Victim and Deprived Families
- Appointment of Sensitive Officers from the SC/ST/Minority Communities in all affected areas
- Review and appointment of Officers ST/SC concern sensitive to the issues and make changes as per the advice of he said committees as per ST/SC Atrocity Act 1989 and Rule 1995.

Identifying the Perpetrators in Orissa

Chain of Command Responsibility



- The Political Leadership in Orissa represented by the cabinet of ministers and the chief minister. This includes apart from the person at the helm, those in the cabinet, especially cabinet ministers from the BJP who sanctioned participated in the violent procession following Swami Laxhmanananda's murder under its Constitutional Obligation and Oath to protect the lives and properties of all, irrespective of caste creed or community (Article 21 of the Indian Constitution, Article 163-165 of the Indian Constitution)
- The State of Orissa under its Constitutional Obligation to Protect lives of all irrespective of caste, gender, community and class (Article 21 of the Indian Constitution)
- The Union of India, represented through its Secretary of Home New Delhi under its Constitutional Obligations specifically under Article 355 of the Indian Constitution (Duty of the Union to Protect States Against External Aggression and Internal Disturbance: It shall be the duty of the Union to protect every State against external aggression and internal disturbance **and to ensure that the government of every State is carried on in accordance with the provisions of this Constitution**).

- Individuals in the State Government/Administration who are Culpable Secretary of Home Department Orissa Secretariat Bhubaneswar.
- D.G. & I.G. of Police, Orissa police Head Quarter, Cuttack, Orissa..
- R.D.C. Berhampur, Dist-Ganjam Orissa.
- Collector & Dist Magistrate Kandhamal, at Phulbani, Dist- Kandhamal, Orissa.
- Superintendent of Police, Kandhamal at Phulbani, Dist- Kandhamal.
- Ashok Sahoo, Convenor Hindu Jagaran Samukhy Biswa Sambad Kendra
- Pravin Togodia, International Secretary General of V.H.P
- Madhusudan Padhi, Special Officer, Administration, Dist-Kandhamal. Orissa.
- Officer in Charge, Tikabali Police station, Tikabali, Dist- Phulbani, Orissa.
- Officer in Charge, G Udaygiri Police station, G Udaygiri, Dist- Phulbani, Orissa.
- Officer in Charge, Phiringia Police station, Phiringia, Dist- Kandhamal, Orissa.
- Officer in Charge, Raikia Police station, Raikia, Dist- Kandhamal, Orissa.
- Officer in Charge, Daringbadi Police station, Daringbadi, Dist- Kandhamal, Orissa.
- Officer in Charge, K.Nuagaon, Baliguda Dist- Kandhamal, Orissa

Destruction of Evidence



After committing heinous acts, destroying records that could pin the guilt on powerful perpetrators has been taken note of in the case of the Gujarat Genocide by the Supreme Court.


In the Zakia Ahsan Jafri and Citizens for Justice and Peace (CJP) case (SLP 1088) that has identified chief minister Narendra Modi and 61 others as the main perpetrators it has pulled up its own Special Investigation Team (SIT) stating that: their inferences do not match the evidence". The prayer in our case is that a full fledged criminal investigation for criminal conspiracy to commit mass murder be ordered by the Supreme Court.




In Karnataka, going steps ahead of Gujarat, Justice Saldanha observes:

".....Then comes the nicest part of the operation. The home department had instructed the police to get hold of the local shopkeepers and workmen to immediately restore all the damage that had taken place... The speed at which this counter-operation was undertaken was absolutely amazing. To my mind, this was a brilliant move on the part of the state government because on the one hand, the congregation was beaten up, they were terrorised and in every single instance, items such as *mangalsutras*, gold chains and other valuables, including ladies' handbags, watches and men's purses, were physically looted, the place was vandalised, and after all of this, a pious impression was projected by the police on behalf of the government that the authorities were very concerned over the incident and had decided to make good all the damage. By following such a brilliant procedure the government was able to officially state that not a single incident of this type had taken place and that the allegations with regard to these incidents are not only false but are motivated."

"....Shortly after the attacks, the local RSS chief in his public exhortation before Dussehra incited his followers by stating that "this Dussehra when the Ayudha Puja is done, do not do the puja of your implements of trade, as was the old custom, but do the puja to *trishuls*, knives and *talwars* (swords), as these will have to be used against the Christians and the Muslims. This sensational speech was carried on the front pages of all the dailies in the state and by the TV channels..."



“...Immediately after September 14, 2008, oral instructions had been issued by the home minister personally, which the heads of the police stations admitted on over a dozen occasions to me, that whenever a complaint was received against any member of the Christian community on the allegation that attempts were being made to convert, the person should be arrested, bail should be opposed and that they should be given a good beating while in custody. Whereas prior to September 14, 2008, there had not been a single arrest under these provisions of law anywhere in the state, suddenly, hundreds of cases were being registered. The shocking part of the incidents were that the local courts refused bail for months in every case. ...



“...There were no less than over a hundred incidents within a short period of time where boys and girls belonging to the Muslim and Christian communities were mercilessly beaten up, kidnapped, abducted and terrorised on the ground that they were associating with members of another community. There were as many as 218 such incidents reported from all over the state, the bulk of them from the Dakshina Kannada district. In not even one of these cases was anybody arrested. Anticipatory bail was freely available and in the small number of instances where some limited action was taken by the police, principally under public pressure, the subordinate judiciary was quick to grant bail within minutes with the police and prosecutors actively cooperating. (*Foreword*)

Silencing the media



Only that section of the press and TV who were supportive were liberally fed with funds running into hundreds of crores of rupees by the state government through all sorts of dubious heads. For instance, 17 huge functions were held in honour of Swami Vivekananda all over the state and Rs 870 crore were spent by the state government in just seven weeks. The twofold objective of these activities was aimed at terrorising the local population because those attending would invariably indulge in a show of force on the way to these venues and on the way back. What was characteristic was the fact that apart from the leading politicians of the state government at all levels attending these functions, hundreds of KSRTC (*Karnataka State Road Transport Corporation*) buses and government vehicles were all mobilised for them... *The Times of India*, which is basically a neutral paper, published a news report on August 31, 2008 to the effect that in response to a query under the Right to Information Act, the chief secretary of the state government had admitted that in the preceding period, which covered just five months, the state government had spent Rs 3,118 crore on these activities. This was apart from an amount of Rs 289 crore which the chief minister had personally (again out of state funds) donated to various *math's* and Hindu religious places which he had visited. (*Chapter XVII, The Editor, Seetaram Case – Attacks on the Media*)

Role of the Police

Allegations of police excesses and partisan behaviour have gone unacknowledged with the official report of the Justice BK Somashekara Commission apparently not recommending any stringent action. Eyewitness accounts of the conduct of three officers from Dakshina Kannada, Sathish Kumar, SP, Dakshina Kannada; Jayanth Shetty, DSP, Mangalore (rural); and MK Ganapathy, inspector, Mangalore (east), reveal disturbing aspects of police misbehaviour.

Immediately after the attacks on churches and prayer halls, on September 24-25, 2008, the PUCL, Transparency International India and other human rights groups had called for disciplinary action against these officers as well as the commissioner of police, Bangalore. On September 25, 2008 a report in *The Times of India*, Bangalore, described how Inspector Ganapathy, who claimed that he was acting on instructions from the higher echelons of the force, had begun demanding land records, corporation licenses, etc from churches and prayer halls. The inspector-general of police (western range), Ashit Mohan Prasad, denied that any such instructions had been issued and was quoted by the newspaper as saying that this was probably being done by local officials at the behest of local, vested interests.



Media as collaborators

ವಿಜಯ ಕರ್ನಾಟಕ

The dubious role of the fourth estate

The Kannada daily, *Vijaya Karnataka*, through its editor, Vishweshwar Bhat, has repeatedly published extremely inflammatory editorials and articles targeting the Christian community. The newspaper was rewarded by the Karnataka government with promotional advertisements worth over Rs 100 crore between 2008 and 2010. During that time the government's financial position was so precarious that government employees, particularly in the rural areas, had not received their salaries for months together and many of them were driven to suicide. Yet the government appears to have had enough money to publish full-page colour advertisements of the chief minister and his colleagues every day.

In December 2008 *Vijaya Karnataka* published a particularly offensive article that resulted in countrywide protests by right-thinking citizens belonging to all communities. Referring to this article in an open letter addressed to the Karnataka chief minister, BS Yeddyurappa, in March 2010, Justice Saldanha says:

"I have seen the article which is one of the most vicious, offensive and venomous pieces of writing directed against the Christian community and is sufficient to invoke the maximum jail sentence against the writer, (SL) Bhyrappa, the editor, Vishweshwar Bhat, the printer and the publishers. This was published at a point of time when the police all over the state and particularly in the Karavali area were indiscriminately registering false cases against members of the minority community and against any secular publication that disapproved of religious and human rights atrocities. This misuse of power has invoked strictures from the high court and orders for exemplary damages.

"In sharp contrast, when the head of the People's Union for Civil Liberties (PUCL) filed FIR No. 0343 at the Mangalore South police station on December 27, 2008, the police refused to take cognisance on the grounds that they required to get clearance from your most trusted colleague, Dr VS Acharya, the home minister of the state...



Incidentally, *Communalism Combat's* cover story, 'Bloody Harvest', in September 2006, on the growing communalisation in Karnataka, included an article entitled 'Hindutva's vital organs' by Gauri Lankesh who detailed the criminal and inflammatory role played by the same publication, *Vijaya Karnataka*, around that time.





ACTION PLAN

RECOMMENDATIONS – TO THE UNION GOVERNMENT

- Enacting of the Communal Violence Bill ensuring that it takes care of the concerns of the Christian community which includes a strong monitoring and implementation body --National Authority-- to ensure that the powerful politicians and policemen perpetrators are also punished **and the culture of impunity from punishment is ended**
- Commit the ongoing violence in Orissa and Karnata to the National Investigating Agencies as collectively they amount to nothing short of terror acts
- Over the years the Ministry for Home Affairs (MHA) has sent several advisories on Hate Speech and Hate Writing that Violate Indian Penal; Law; yet given the fact that communal violence is a threat to the secular fabric of our nation, the Union Government should be more proactive, relying on Article 355 to ensure that hate crimes are prosecuted. Stern action against hate Crimes. Hate campaigns are the incubators of communal violence.
- Replace all the officials holding key position in the process non-sensitive to the issues of ST/SC and Minority Communities.
- Comprehensive relief and rehabilitation policies that wipe the tear from the eyes of victims of communal violence and give them the opportunity of creating a new life.

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- Adequate representation to all minorities and underprivileged groups in the Police, Administrative and judicial systems.
 - A thorough revamp of the education system, including a close watch on the recent rash of communally motivated village and rural schools set up by political groups, so that once again secularism, religious and cultural diversity and pluralism become the cornerstone of our nation-building.
 - Above all, the State – Parliament, Supreme Court, and Executive – must ensure that no one remains under the illusion, unfortunately very well founded at present, that communal politics, hate and the demonization of religious minorities can bring them electoral dividends in an India of the Twenty-first Century.
 - Promotion of Feeling of Security among minorities and other vulnerable sections:
 - Minorities seem to be directly isolated as if part of a design and State and Media have both acquiesced in this. Terrorism should not be defined by the religion of the criminal, but by identifying the person who commits the crime. India unfortunately turns a blind eye to hate campaigns, especially those sustained against the Muslim and Christian Communities. This has led to the demonization of communities, making them vulnerable in many ways. The government and society must show uncompromising commitment to the rule of law. There must be a response mechanism, an early warning system, a rapid action force and strategy to nip communal mischief in the bud.

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- The minorities must be able to see their face in every edifice and branch of the state, in every instrument of power – Judiciary, Administration, and police.
 - State culpability must be addressed honestly. Police impunity must be ended. We regret the guilty of most communal riots, and especially those of 1984 anti Sikh violence, the 1993 and 2002 anti Muslim violence and other incidents remain unpunished.
 - Education – Promotion of Education among Minorities, Scheduled castes and scheduled Tribes
 - The state must reclaim its role in the education system which it has ceded to private and big business. Rural education must be closely monitored; text material, pedagogy and personnel must be screened to ensure there is no hate taught to the young Indian citizen.
 - The state must establish an Equal Opportunities Commission.
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Excerpts from Asma Jahangir's Report. She was the Special Rapporteur for Religious Freedom, United Nations, 2009 after her visit to India:

"...11. A number of Indian states have adopted specific laws which seek to govern religious conversion and renunciation. Five states have passed and implemented the so-called Freedom of Religion Acts (Orissa, Madhya Pradesh, Chhattisgarh, Gujarat and Himachal Pradesh). Similar laws have been passed but not yet implemented in two other states (Arunachal Pradesh and Rajasthan). All of these laws stipulate that "no person shall convert or attempt to convert, either directly or otherwise, any person from one religious faith to another by the use of force or by inducement or by any fraudulent means nor shall any person abet any such conversion". The term "force" is defined to "include a show of force or a threat for injury of any kind including threat of divine displeasure or social excommunication". These laws carry penalties of imprisonment and fines with harsher penalties in case children, women or persons belonging to the Scheduled Castes or Scheduled Tribes are forcibly converted. Furthermore, in some states anyone converting another person from one religion to another is required to obtain prior permission from state authorities thirty days before the date of such intended conversion or submit a related intimation . In other states with such laws, anyone intending to change his or her religion needs to give prior notice or intimation after the conversion ceremony.

(a) Christians

18. Widespread violence in the Kandhamal district of Orissa in December 2007 primarily targeted Christians in Dalit and tribal communities. The Special Rapporteur received credible reports that members of the Christian community alerted the authorities and politicians in advance of the planned attacks of December 24-27, 2007. The police, too, had warned Christian leaders about anticipated violence. In its report on the events of December 2007, the National Commission for Minorities confirmed that “destruction on such a large scale in places which are difficult to access could not have taken place without advance preparation and planning”.

19. The situation in Orissa has reportedly deteriorated again after August 23, 2008, when Swami Laxmanananda Saraswati, a local leader of the Vishwa Hindu Parishad (VHP), and four other VHP members were killed. Although a Maoist leader had claimed responsibility and the Christian leadership had condemned the killings, organized mobs subsequently attacked Christians in Dalit and tribal communities. By the end of September 2008, more than 40 people had allegedly been killed in Orissa, over 4,000 Christian homes destroyed and around 50 churches demolished. Around 20,000 people were living in relief camps and more than 40,000 people hiding in forests and other places. The Special Rapporteur was profoundly alarmed by the humanitarian situation in relief camps where access to food, safe drinking water, medical care, proper sanitary arrangements and adequate clothing were reportedly lacking.

(c) Communal violence after the Godhra train burning incident (2002)

36. With regard to the Gujarat massacre in 2002, the Special Rapporteur met a large number of eyewitnesses as well as people who visited Gujarat during the communal violence and she also received numerous reports, from both official bodies and civil society organisations. The Special Rapporteur also met a former Prime Minister of India and Members of Parliament who visited Gujarat soon after the riots in 2002. The state government reported that, prior to the Godhra train burning incident, Gujarat had witnessed 443 major communal incidents between 1970 and 2002. However, the massacre that took place after the tragic deaths in the Godhra train burning incident on February 27, 2002, is all the more horrifying since at least a thousand people were systematically killed. While the Special Rapporteur notes the controversy about the different conclusions of various public enquiries concerning the question whether the Godhra train burning incident was an accident or a deliberate criminal act, she would like to emphasize that there can be no justification for the large-scale killings and violence after February 27, 2002. In addition, there are credible reports that inaction by the authorities was evident and most of the Special Rapporteur's interlocutors, including politicians, alleged complicity by the state government.

37. While discussing the events with victims, the Special Rapporteur could see their continuing fear which was exacerbated by the distress that justice continues to evade most victims and survivors. A large number of criminal cases relating to the communal violence in 2002 remain un-investigated or have been closed by the Gujarat police and the plight of those internally displaced from their home continues. In addition, there is increasing ghettoization and isolation of Muslims in certain areas of Gujarat, for example in one part of Ahmedabad which is colloquially called "little Pakistan". The assertion of the state government that development by itself will heal the wounds does not seem to be realistic. The Special Rapporteur believes that it is crucial to recognise that development without a policy of inclusiveness of all communities will only aggravate resentments.

38. During her visit to Gujarat, the Special Rapporteur was also disturbed that at various meetings with members of civil society, plain-clothed government agents took names of her interlocutors and also made their presence felt afterwards. On several occasions, the Special Rapporteur had to insist that police officers left the room during her non-governmental meetings.

The terms of reference for fact-finding missions by Special Rapporteurs (E/CN.4/1998/45, appendix V) guarantee confidential and unsupervised contact of the Special Rapporteur with witnesses and other private persons. Furthermore, she would like to remind the authorities in Gujarat of the Government's assurance according to these terms of reference "that no persons, official or private individuals who have been in contact with the special rapporteur/representative in relation to the mandate will for this reason suffer threats, harassment or punishment or be subjected to judicial proceedings".



Gujarat at the United Nations

The efforts of human rights and legal rights groups and women rights groups have ensured that the issue of justice for the victim survivors of 2002 and their adequate relief and rehabilitation/reparation is consistently brought to international fora.

In October 2010 the Committee on the Elimination of Discrimination against Women (CEDAW) considering the earlier exceptional report on the Gujarat genocidal carnage of 2002 issues a fresh set of strongly worded recommendations.

They can be accessed in detail at <http://cjponline.org/CEDAWOct2210.pdf>



The end of impunity


Teesta Setalvad

The struggle of man (or woman) against power is the struggle of memory against forgetting. — Milan Kundera

It was not simply the number of lives lost, though the number — perhaps 2,500 — is not insignificant. It was the cold-blooded manner in which they were taken. It was not simply that 19 of Gujarat's 25 districts burned while Neros watched, fiddled and smirked but the sinister similarity in the way they were set alight. Militias were armed with deadly training, weapons, technology and equipment; with a lethal brew of deadly intent, inspired by constructed tales of hate, using the February 28, 2002 edition of a leading Gujarati daily that urged revenge; all combined with a deadly white chemical powder that seared to burn and destroy already killed bodies. And, of course, truckloads of gas cylinders, in short supply for cooking, were used instead to blast mosques and homes. Mobile phones and motorcycles made communications easy and movement swift.

Part of the plan was to humiliate, destroy and then kill. Another was to economically cripple. But at heart the desire was to construct a reality whereby a whole ten per cent of the population lives (and a few even prosper) as carefully whipped into shape, second-class citizens. Most incidents that racked the state, except the famed Best Bakery incident, took place in the glare of the day, not the stealth of the night. Critical to the plan to mutilate and humiliate was to subject women and girls to the worst kind of sexual violence. Tehelka's "Operation Kalank" records victorious testimonies of rapists and murderers who claim to have received personal approbations from the man at the helm. Over 1,200 highway hotels were destroyed, more than 23,000 homes gutted, 350 large businesses seriously damaged (and are still unable to recover) and 12,000 street businesses demolished.

Genocide is about economic crippling as much as death and humiliation. The Concerned Citizens Tribunal — Crimes Against Humanity 2002 called the happenings in Gujarat a genocide, because of the systematic singling out of a group through widely distributed hate writing and demonisation, the economic destruction, the sexual violence and also because over 270 masjids and dargahs were razed to the ground. The bandh calls on February 28 and March 1 by rabid outfits and supported by the party in power enabled mobs free access to the streets while successfully warding off the ordinary citizen.



Eight years on, it is this level and extent of complicity that is under high-level scrutiny. The involvement of high functionaries of the state in Gujarat did not begin, and has not stopped, with the violence. It has extended to destruction of evidence that continues until today, the faulty registration of criminal complaints, the deliberate exclusion of powerful accused and, worst of all, the utter and complete subversion of the criminal justice system by appointment of public prosecutors who were not wedded to fair play, justice and the Constitution — but were and are lapdogs of the ruling party and its raid affiliates. The proceedings in the Best Bakery case in the Supreme Court and the judgment of April 12, 2004 strips our legal system, especially lawyers, of the dignity of their office.

The hasty granting of bail to those involved in the post-Godhra carnage remains a scandal. While over seven dozen of those accused of the Godhra train arson have been in jail, without bail for eight years — and today face trial within the precincts of the Sabarmati jail — powerful men, patronised by the state's political hierarchy who are accused of multiple rapes and murders roam free in “vibrant Gujarat” even as the trials have resumed. The few that are in jail — ten of the 64 accused in the Gulberg society carnage, eight of the 64 accused in Naroda Patiya massacre, two of the 89 in the Naroda Gaam killing, eight of the 73 in the Sardarpura massacres (all the 84 accused of the massacre at Deepda Darwaza roam free on bail) are those with no political godfathers. A vast majority have lived in freedom even after committing unspeakable crimes. All this and more is being investigated under the orders of our apex court on a petition filed by Zakia Ahsan Jafri and the Citizens for Justice and Peace. For the first time in our history criminal conspiracy and mass murder are the charges, the chief minister and 61 others the accused. Will the wealth of evidence be matched by the rigour of investigation? Will the will to prosecute surmount political considerations? Will the Indian system throw a spotlight on what surely must be its darkest hour? As we stood, remembered and prayed in painful memorial, with lit candles at the Gulberg Society this Sunday we did so in both faith and hope.



The writer is the secretary of Citizens for Justice and Peace, 2010