

Indian Supreme Court grants trial in Gujarat riot case

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Nearly two years after anti-Muslim pogroms in the Indian state of Gujarat in 2002 claimed the lives of more than 2,000 men, women and children, the Indian Supreme Court has taken tentative steps to bring to some of the culprits to account.

The widespread riots were carried out by various Hindu chauvinist organisations, including the World Hindu Council (VHP) and Bajrang Dal, with tacit support of the Bharathiya Janatha Party (BJP) state government. The state police force was widely accused of standing by while Hindu mobs attacked, raped and killed Muslims and destroyed their homes and businesses.

Gujarat Chief Minister Narendra Modi and sections of the BJP leadership seized on the riots as the means for intensifying communal tensions. The BJP won the state elections in December 2002 by appealing directly to Hindu chauvinism in what was a highly charged communal atmosphere.

Gujarat police dropped most of the cases against those charged over the violence, claiming there was insufficient evidence. Those cases that went to court were marked by clear signs of bias on the part of the police and court officials in favour of the accused, and the intimidation of prosecution witnesses.

The Indian Supreme Court became involved after the National Human Rights Commission filed a petition seeking the transfer of several cases from Gujarat to prevent the intimidation of witnesses. The Modi government sought to block the move by making its own appeal to the Gujarat High Court in the high profile Best Bakery case. The Supreme Court deferred to the state court.

However, on January 30, the Supreme Court finally accepted the application of Zahira Sheikh to have her case heard outside Gujarat. Zahira was an eyewitness in the Best Bakery case, which involved the murder of 14 people—11 Muslims and three Hindus—who were burnt alive when a mob set fire to her father's business, Best Bakery in Vadodara. Her father was among those killed.

In the course of trial last year, all the witnesses, including

Zahira, unexpectedly retracted their statements. Without probing why, the trial judge, H.U. Mahida, freed all 21 accused, declaring there was no evidence against them. On July 7, a few days after the verdict, Zahira told a press conference in Bombay that she and other witnesses had changed their testimony after receiving death threats. She directly accused BJP MP Madhu Shrivastav and his cousin, Congress politician Chandrakant "Bhattu" Shrivastav, of intimidating her.

The Supreme Court decision came after the Gujarat High Court dismissed the state government appeal in late December and upheld the original not-guilty verdict. In a blatantly political decision, the High Court rejected Zahira's claims that she had been intimidated into changing her testimony. The court declared there was "a deep-rooted conspiracy to misuse this witness" and that she had "played into the dirty hands of anti-social and anti-national elements."

Even Harish Salve, the Supreme Court-appointed representative at the trial and a former Indian solicitor-general, was compelled to declare the High Court decision as "a shame on the system."

In her application to the Supreme Court, Zahira stated that she would not fight the case in Gujarat but was "ready to fight it anywhere else in India." Her petition described the Best Bakery case as a classic miscarriage of justice on all levels. "[T]he investigation was defective, the witnesses were not protected, the public prosecutor glossed over his job of effective representation of the victims and the judge mechanically applied his mind to the facts of the case..."

"The prosecution witnesses who are victims of the ghastly offence were all throughout threatened by the accused and their relatives, and ultimately they had to succumb to the pressure from the accused side more particularly because they had close relatives in the ruling political party," the petition explained.

While the Supreme Court has accepted the petition, a new trial is yet to begin. In a hearing on February 27, the Supreme Court called on the government in New Delhi to

provide police protection for witnesses in the case. It called for a response by March 15.

Further evidence of the involvement of the Gujarat police in covering up for atrocities came to light in February in a separate case involving a young woman, Bilkus Yakub Rasool. She has named 12 people alleged to have brutally murdered 14 of her family members, including four children, in March 2002. The family was set upon by a group of thugs. Bilkus was raped, along with other women, and left for dead.

Bilkus made a statement to local police at the time, but she was dismissed as “mentally unstable” and the case closed. With the support of the National Human Rights Commission, she appealed to the Supreme Court, which ordered the Central Bureau of Investigation (CBI) to inquire. The CBI investigation presented to the Supreme Court late last month found that the local police had failed to carry out basic procedures and had been involved in disposing of the bodies. A police inspector has since been arrested.

The involvement of the Supreme Court in the Gujarat cases is a clear indication that sections of the Indian ruling elite are concerned over the impact of the continuing outrage, inside India and internationally, over the riots and their aftermath. The obvious lack of justice is not only a source of ongoing communal tension inside Gujarat and elsewhere but it tarnishes the image of India that the government and big business want to sell to international investors.

Prime Minister Atal Behari Vajpayee, whose BJP-led government has called early national elections to be completed in May, has sought to distance himself from the Gujarat violence, while at the same time not alienating Modi and other state BJP leaders. In January, Vajpayee pledged that “those guilty will be punished” but his government has done everything to ensure that the cases remain in Gujarat, under Modi’s supervision.

Within Gujarat, the Modi government is continuing to stir up anti-communal sentiment in a bid to divert attention from the state’s deteriorating economy. During the election campaign in 2002, he accused neighbouring Pakistan of encouraging “terrorist” infiltration into the state. Since returning to power, his administration has used the country’s draconian Prevention of Terrorism Act (POTA) to target “Islamic terrorists.”

An Amnesty International report entitled “Abuse of the law in Gujarat: Muslims detained illegally in Ahmedabad,” issued last November highlighted the fact that of 240 people detained between March 2002 and September 2003, only one was a non-Muslim. Amnesty condemned Ahmedabad police for the “arbitrary and illegal detention” of Muslims and “the torture and ill-treatment of detainees.”

It warned that these developments reinforced “concerns about the breakdown of the rule of law in relation to the Muslim minority in the state and the increase in human rights violations facilitated by the use of POTA.”

Another report published last December by the International Initiative for Justice in Gujarat (IifjiG), a panel organised by human rights organisations, reported ongoing violence against the state’s Muslim minority. According to one victim, gangs of thugs act with impunity telling Muslims: “Before we killed you in daytime, now we kill you at night. Now this is our government. We will make this whole area Hindu.”

Many Muslims were forced to flee their homes in 2002. In some cases, families were allowed to return to their homes only if they promised to withdraw legal cases against the violence that occurred in 2002. If individuals refuse to do so, they can face bogus counter-charges.

The IifjiG report described one case: “Suleman from BV13 village in Anand district had a kerosene depot that was damaged during the pogrom due to which he suffered huge financial losses. Naturally he filed a case.” Now Suleman faces allegations by the attacker “that he (the complainant) broke the boundary of a temple and destroyed or stole the idols in it.”

Muslim communities in Gujarat suffered massive economic losses as a result of the destruction of their businesses, shops and homes. Since then, they have faced a continuing economic boycott. One Muslim woman told the IifjiG commission that local officials and Hindu gangs are making farming impossible. “They are cutting the electricity and do not give the water. If a Hindu talks to us they threaten to boycott them as well,” she said.

While a handful of cases may now be heard in courts outside Gujarat, the communal oppression of Muslims is continuing unabated inside the state. At the same time, the underlying economic and social crisis facing masses of ordinary working people, whatever their religion, continues to worsen as a result of government policies both at the state and national level.



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