

Seven years after the event:

## India's Supreme Court orders expedited trials for perpetrators of Gujarat pogrom

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Seven years after the anti-Muslim pogrom in the west Indian state of Gujarat, India's Supreme Court has ordered "fast track" or expedited trials of the perpetrators and abettors of the February-March 2002 communal massacre.

Close to 2,000 people, the vast majority of them Muslims, lost their lives, thousands of others were injured, and at least 100,000 more were rendered homeless at the hands of mobs mobilized by Hindu supremacists vowing vengeance for a Feb. 27, 2002, train fire in the town of Godhra. Fifty-seven people perished in the Godhra train fire, many of them right-wing Hindu activists returning from a pilgrimage to Ayodhya.

In its May 1 ruling, India's highest court ordered the previously constituted Special Investigation Team (SIT) to file criminal charges against anyone who played a role in the 2002 anti-Muslim pogrom.

This ruling was preceded by a directive to the SIT on April 27 to investigate the role that Gujarat's Bharatiya Janata Party (BJP) Chief Minister Narendra Modi and 61 other officials played in instigating, organizing, and otherwise facilitating the anti-Muslim pogrom.

That Modi bears political and criminal responsibility for the massacre is incontrovertible. Before any investigation into the Godhra fire had been conducted, he publicly declared it an attack on Hindus, implied that Muslims were collectively responsible for this attack, and called for a day of "protest." All of this is a matter of public record. But there is also a growing body of evidence that shows what many have long suspected—behind the scenes, Modi abetted the massacre by instructing police not to impede the Hindu mobs and by communicating to Hindu supremacist organizations that they were to be allowed to run amuck.

The May 1 ruling came in response to a legal challenge that the National Human Rights Commission (NHRC—a government body) had mounted against the Gujarat government five years before—that is, in 2003. In that challenge, the NHRC asserted that it would be impossible for the victims of the 2002 pogrom to obtain any justice in Gujarat, as all of the institutions in the state—including the courts, the prosecutors, and the police—were complicit in abetting and/or protecting the perpetrators of the most deadly communal attack on India's Muslim minority since the 1947 partition of the subcontinent into a predominantly Hindu

India and a Muslim Pakistan.

The Supreme Court has now directed the Gujarat High Court to set up "fast-track courts" to try cases relating to the Gujarat pogrom, including a dozen or so especially important and contentious cases that have long been held in abeyance. It further directed the SIT to strictly supervise the conduct of the trials and oversee the day-to-day workings of these special courts.

While the Supreme Court spurned the NHRC's call for these key cases to be tried out of the state, its ruling was nonetheless widely seen as a severe indictment of Gujarat courts, police and prosecutors, who have been accused of letting scores of the guilty escape prosecution due to incompetence, corruption, or political bias.

The April 27 directive to investigate Narendra Modi and others came in response to a legal complaint filed by the wife of Iqbal Ehsan Jaffri, a Congress Party member of

India's parliament who was hacked to death by a Hindu mob in February 2002.

Jaffri's widow, Jakia Nasim Ahesan, had demanded in June 2006 that the Gujarat police register criminal cases against more than 60 persons, including Modi, about whom there were credible reports of their having aided and abetted the pogrom. Her demands were based upon sworn affidavits and other accounts from eyewitnesses.

Upon the rejection of her demands by the Gujarat police and later by the Gujarat High Court in November 2007, Ms. Ahesan, in March 2008, took her complaint to the Supreme Court.

Also in March 2008, the Supreme Court, in response to the complaint filed by the NHRC in 2003, constituted a five-member SIT to probe into the dozen or so prominent cases of communal killings that were the focus of the NHRC's action.

The NHRC action had been prompted by the acquittal of all the 21 accused in the infamous Best Bakery case—the burning alive of 14 people in a family-owned bakery.

The acquittal came after several Muslim witnesses, clearly in fear for their lives, retracted their testimony or failed to appear at the trial.

There has been no explanation from the Supreme Court as to why it dragged out the hearing of the NHRC petition for more than five years, and given the gravity of the crimes, there is no legitimate explanation.

On establishing the SIT in March 2008, the Supreme Court directed it to file a report within three months on its recommendations as to what action should be taken in the cases raised in the NHRC motion. The SIT, again for reasons that are not clear, instead took a year, submitting a sealed report in March 2009.

When the NHRC and other organizations requested copies of the SIT report, the Supreme Court summarily dismissed the NHRC attorney's arguments and declared the report a "secret."

Then in the space of four days, beginning with its April 27 call for Modi to be investigated, the Supreme Court displayed a sudden new urgency about rendering "justice" in the Gujarat cases.

Subsequently, the SIT ordered the arrest of Maya Kodnani, who had been forced to resign in March as Gujarat's minister for women's welfare and higher education, after being charged with helping organize communal killings in two areas on the outskirts of Ahmedabad, the state capital

Kodnani had previously been granted bail by the Gujarat High Court despite reliable evidence of her role as a leading instigator of communal atrocities. Eyewitnesses have said she personally led anti-Muslim mobs and distributed kerosene from her vehicle.

The SIT also ordered the arrest of a leader of the Vishwa Hindu Parishad (VHP—World Hindu Council). A rabid Hindu supremacist organization, the VHP is an offshoot of the RSS, the shadowy Hindu communalist organization to which the BJP leadership pays homage and which provides much of the party's organizational muscle.

The Hindu right was quick to attribute the Supreme Court's sudden interest in the Gujarat pogrom to the Indian elections and political interference from the Congress Party-led United Progressive Alliance government.

Modi, in the crude style that is his hallmark, called the ruling that he be investigated a Congress conspiracy. As a result of this remark, Modi now faces a charge of contempt of court.

The Congress—as would be expected in the midst of an election campaign in which it was trying to cast itself as the only true national party, as the only party of all the classes and peoples of India—did use the Supreme Court ruling to attack Modi and the BJP. Congress Party leader and Union Minister of State for Women and Child Development Renuka Chowdhury said that "The BJP should expel Mr. Modi. No one should have any association with him".

But the Congress Party has long blown hot and cold over the Gujarat pogroms. In the December 2002 elections in which Modi cast himself as a Hindu strongman, the Congress mounted an election campaign that even much of the capitalist press described as "Hindutva-lite." (Hindutva is the Hindu supremacist ideology fashioned by V.D. Savarkar in the final decades of British colonial rule.) Five years later, for the December 2007 Gujarat elections, the Congress formed an alliance with BJP defectors including several implicated in the Gujarat pogrom.

Shortly before the 2007 Gujarat election, an Indian news magazine *Tahelka* undertook a painstaking and detailed exposé of the role that the BJP state government and Hindu communal organizations allied with the BJP had played in organizing and abetting the 2002 pogrom. The magazine quoted one of the

organizers of Hindu communal mobs as stating that Modi had given them permission to "do whatever they wanted" for three days. (See: Magazine exposé shows BJP state government organized 2002 pogrom)

The *Tahelka* exposé by itself could have served as a prima facie evidence to arrest high officials of the Gujarat government including Chief Minister Modi. But neither the Supreme Court nor the Congress-led United Progressive Alliance government saw fit to act on this evidence.

Modi has long enjoyed the support and patronage of Indian big business. Only a few months ago, several of India's most prominent and wealthiest CEOs went on record as saying he is a potential future prime minister of India.

The record of the Supreme Court, the Congress Party, and the Congress-led UPA government amply demonstrate that they cannot be relied on to bring justice to the victims of the Gujarat pogrom. The Indian establishment, not just the BJP and the government and institutions of Gujarat, have connived with the Hindu right and are complicit in the promotion of Hindu communalism.

However, there are sections of the Indian elite who are pressing for some exemplary convictions of persons involved in the Gujarat pogrom.

They recognize that the manifest failure of the Indian state to convict even those publicly identified as leaders of anti-Muslim mobs during the Gujarat pogrom is an important element in the growing alienation of the 150 million-strong Muslim minority and is further discrediting the police and courts, institutions vital to the maintenance of the bourgeois order. In a May 3 editorial, the *Times of India* declared, "It is not merely the demand of justice for riot victims that is at stake in Gujarat, the credibility of the criminal justice system will have to be restored by speedy and fair dispensation of the cases."

There are also sections of the Indian bourgeoisie who are wary of the authoritarian, communalist Modi. This isn't to suggest that there is a significant constituency within the ruling elite for unseating Modi or his business-friendly government. All they want to do is cut him down a notch or two.

Such is the state of a country touted as the "world's most populous democracy" by its elite and by a US political establishment anxious to make India a junior partner in its predatory global strategy.



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