

AMNESTY INTERNATIONAL PRESS RELEASE

AI Index: ASA 20/003/2004 (Public)
News Service No: 045
26 February 2004

India: Gujarat -- Denial of Justice for Victims

On the second anniversary of the massacres in Gujarat (27 February), Amnesty International expresses its solidarity with all the victims of the Godhra and post-Godhra violence and with their families.

The organization reminds the international community that those crimes remain unpunished and appeals for sustained pressure on the Government of India to ensure that justice and reparation are eventually offered to the victims.

"Two years after the massacres took place, most of the victims are still demanding justice, but they are not being heard," Amnesty International said. "Despite the efforts of the human rights community and the scrutiny of the Supreme Court on some of the trials, the Government of Gujarat and elements of the criminal justice system in the state seem to be colluding in denying justice to the victims. This attitude reopens the victims' wounds every day."

The Gujarat police in many cases reportedly failed to record complaints or did it in a defective manner; diluted charges against the accused; omitted their names from complaints, failed to organize identification parades; record witnesses' statements and collect the corroborative evidence necessary to identify the perpetrators. "At the end of this doubtful exercise, half of the more than 4000 complaints filed in the aftermath of the violence had to be unsurprisingly closed by the courts due to lack of evidence presented by the police," the organization said.

The Best Bakery case, first of a few key cases to arrive at trial stage, is a blatant example of how elements of the criminal justice system are often backing each other in the state to ensure impunity for the perpetrators of the violence. It appears that the investigation was defective, the public prosecutor failed to adequately represent the victims, the witnesses were not protected from threats and the judge ended up mechanically acquitting the accused.

The entire trial was conducted in an atmosphere of hostility to the victims' family. The acquittal verdict was shockingly upheld by the High Court. On that occasion, the legitimate activities of human rights defenders who supported witnesses were termed "not permissible under the law". The basic principles of fair trial and of due process were turned upside-down in this case and the entire proceedings turned into a farcical exercise.

The hopes that the Supreme Court would reopen avenues of justice by ordering the transfer of the investigations on the Best Bakery and other key cases onto the Central Bureau of Investigations (CBI) were again shaken in early February when a doubt was cast on the impartiality of this agency. The former

Commissioner of Police of Ahmedabad - identified by eye-witnesses and by fact-finding reports for having failed to protect the victims from their attackers during the massacres - has recently been appointed to the post of Deputy Director of the CBI itself.

"This appointment comes as a further humiliation for the victims and it needs to be urgently reviewed by the Ministry of Home Affairs, to ensure that the credibility of the agency is preserved," Amnesty International added.

Background

Following an attack on a train in Godhra, Gujarat, on 27 February 2002 in which 59 Hindus were killed, violence of unprecedented brutality, targeting the Muslim community, spread in the state and continued in the next three months, leaving more than 2,000 people killed. The state government and police took insufficient action to protect civilians and, in many cases, may have colluded with the attackers and actively participated in the violence.

In June 2003, 21 people accused of the murder of 14 people burned to death in the Best Bakery in Baroda on 1 March 2002, were acquitted. Following the acquittal, key witnesses indicated that they lied in court because they had been threatened with death unless they did so. Following a public outcry, the National Human Rights Commission (NHRC) carried out an investigation and subsequently filed a petition in the Supreme Court. The petition asked the court to provide protection to witnesses, to ensure a retrial of the case in a court outside Gujarat state and to order the transfer of other ongoing key cases to courts outside Gujarat to ensure fair proceedings. During the proceedings, the Supreme Court severely criticized the state government of Gujarat for failing to provide justice to victims of the communal violence and pointed to possible collusion between the state government and the prosecution in subverting the cause of justice.

Following this criticism, the Gujarat Government sought a retrial of the Best Bakery case. In December, the Gujarat High Court dismissed the state government's appeal for a retrial on the basis that the prosecution did not produce sufficient evidence. While the judgement blamed police for failing to record complaints in the case, it also accused human rights defenders working to ensure justice of setting up a parallel investigative agency. On 21 February, the Government of Gujarat, under pressure from the Supreme Court itself, finally filed their appeal in the Supreme Court against the High Court judgement. The next expected date of hearing in the case is 27 February.

Public Document

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