

Crimes Against Women and Children

The most unreported fact of the carnage in Gujarat in February, 2002 was the systematic sexual crimes and offences committed on women of the minority community. A further, travesty has been the continuous effort by the state machinery and its allied forces to proclaim that these offences did not occur or have blown out of proportion and sensationalised by the media and Human Rights organisations.

The insensitivity and lack of initiative to bring the perpetrators to justice is morally inexcusable. In factual and statistical terms too, the the below mentioned statistics released by the Gujarat State Intelligence Bureau (SIB) clearly dismisses any attempt to cover up these heinous crimes.

Details of attacks on women and children (numbers) from 27-2-2002 (information in Numbers)

Sr. No.	Name of District	No. of Women attacked	No. of Children attacked	Total	Total No. of attacks/offences registered	No of cognizable offences in cities/ No. of cognizable offences registered
1.	Ahmedabad city	100	33	133	30	567
2.	Ahmedabad village	1	-	1	1	67
3.	Banaskantha	18	4	22	1	59
4.	Anand	2	-	2	2	184
5.	Bhavnagar	1	-	1	1	286
6.	Dahod	4	-	4	1	86
7.	Gandhinagar	2	-	2	1	62
8.	Godhra	10	5	15	4	160
9.	Kheda	4	-	4	3	157
10.	Kutch Bhuj	1	-	1	1	15
11.	Rajkot city	2	-	2	2	199
12.	Valsad	1	-	1	1	1
13.	Vadodara city	3	4	7	1	465
14.	Patan	2	-	2	2	35
15.	Mehsana	25	11	36	6	144
16.	Sabarkantha	8	-	8	5	334
17.	Surat city	1	-		1	103
	TOTAL	149	44	193	63	2924

Discrepancy between Crimes that Occurred and Cognisable Offences Registered

(Source: Gujarat State Intelligence Bureau)

A perusal of the above mentioned data shows that, not only were a large number of women and children victims of cruel sexual offences but also the discrepancy between the number of women who were attacked and the number of cases that were eventually registered.

The case of Kauserbano:

The Advocates for the state of Gujarat, attempted to suggest before the Supreme Court and on television interviews (in April-May 2009) that the alleged tragic and inhuman incident of Kauserbano, a nine month pregnant woman who's womb was allegedly slit open by some of the powerful accused who enjoy state protection and her nine month old live foetus was swirled on a sword before being killed was a story concocted by human rights activists. Ironically a media savvy Bharatiya Janata Party (BJP) and its closely affiliated saffron brigade did not pin any blame on national newspapers like the Times of India, Indian Express, Deccan Herald (among so many others) who had reported this incident in 2002. The media too remained quiet when faced with such distortions by the Hindu rightwing.

Five eye-witnesses have given their statements before the Special Investigation Team and testified to the ghastly incident of Kauserbano's womb being slit open and her male foetus being pulled out on a sword. The five witnesses are Javed Ismail, Jannatbi, Reshma Saiyed, Khalique Noor and Raziyanano. At least two witnesses have already deposed about the incident, on oath before the Court. Yet the baseless unsubstantiated canards continue.

Below is a summary of the annexure filed relating to the above mentioned case by CJP before the Special Investigative Team on May 29, 2008

No	Witness No	Witness Name	Accuse Name	Remarks
1	427	Javed Ismailbhai	Babu Bajrangi	- Three Accused attacked Muslims and injured them, Burnt them pouring kerosene. And thrown children in fire. -Offence committed at 7.30 p.m. - At that time one of the Accused cut the stomach of Kausarbanu. - He threw out the child in Kausarbanu's embryo and pulled the child on sword.
2	133	Reshmabanu Nadim Sharfuddin Saiyed	Suresh Langda – Sword Guddu Chara – Sword Bhawani Singh – Trishul	Kausarbanu was pregnant, One of the accused brought out an unborn child and thrown it in the fire.
3	135	Jannatbibi Kallubhai Shaikh	Suresh Langda – Sword Bipin Auto – Pistol	One of the accused cut open the stomach of Kausarbanu and brought out unborn child and

			Sehzad Chara- Sword Guddu Chara – Sword	pulled the child on sword and burnt her and child alive.
4	123	Khaliq Noor Moh. Shaikh	Mob	My daughter Kausarbanu was pregnant. A man cut the stomach of Kausarbanu and brought out unborn child and thrown in fire
5	119	Raziyabanu Anwarhussain Shaikh	Mob	Kausarbanu was surrounding by the mob. And her stomach cut open and they brought out her unborn child and pulled the child on sword. And burnt them alive.

(Source: Annexure filed by CJP before the SIT on May 29, 2008 which contains details of the discrepancies in investigation into the Naroda investigations since 2002)

Moreover, the photographs of the brutally dismembered bodies of unnamed victims of the Gulberg and Naroda massacres available with CJP are clear evidence of the unspeakable violence that had been committed on innocent children, women and men. Official Photographers of the Gujarat Police are bound under Law and Circulars of the Gujarat Government related to Communal Violence to ensure that the Scene of the Crimes, Overall Destruction, Ravaged Bodies are Photographed to use as Evidence. Witness Survivors and CJP have demanded that the Government of Gujarat and its Police Release these Official Photographs and Videos to the Special Courts Appointed by the Supreme Court to Adjudicate on the Major Carnages. To date, no Photographic Evidence of the Bodily Remains of the Dead has been Submitted to the Courts.

[Photographs of Dismembered Bodies of Victims of Naroda Patiya, Gaam and Gulberg Society Ahmedabad taken by Private Photograoher attached TO Daria Khan Gumbat Relief Camp that will be Verifiedwith Photograph taken by Officiak Police Photographer during Trial](#)
[These Bodies were buried in a Mass Grave on March 3, 2002 at Kalandari Kabrastan, Ahmedabad](#)

[Booklet on Guidelines on how to tackle Communal Riots, Gujarat, 19.11.1997](#)

This Booklet makes it Mandatory for the Gujarat Police to Follow Certain Guidelines on Prevention, Collection of Evidence etc when Communal Violence Breaks Out.
All these were violated in 2002

Several accused have boasted of these dreadful crimes against women on camera in Tehelka's *Operation Kalank* which has been authenticated by the CBI.

Evidence of Jannatbi Kallubhai Shaikh and Reshmabano Saiyed has been given on oath before the Trial Court wherein both have deposed in detail about this incident.

Authenticity of Tehelka's Tapes

By its ordered dates 5th March, 2008 the NHRC directed the CBI to investigate into the authenticity of the Tehelka tapes.

[To see the complete order of the NHRC click here: NHRC order on Tehelka Tapes](#)

In view of the incriminating evidence provided in the Tehelka tapes and the lack of any action taken against the persons believed to be guilty for the massacres in Gujarat in 2002, the NHRC directed the CBI to look into the matter. The order by the NHRC to the CBI was made after the NHRC's initial request to the State Government wherein it requested the State Government to give the CBI permission to probe the authenticity of the tapes. The state government refused to do so on the grounds that the Nanavati- Shah Commission had already been set up to investigate into all matters relating to the communal violence in 2002.

Unsatisfied with the response of the state, the NHRC issued this order, directly asking the CBI to investigate into the authenticity of the tapes. Excerpts from its order are as follows:

"The Commission has thoroughly deliberated on the submissions made by the State Government of Gujarat and it had bestowed careful thought on all aspects of the issue.

Section 12 (1) of the Protection of Human Rights Act, 1993 (for short 'the Act') mandates the Commission to enquire into any violation of human rights or negligence in preventing such violation. The status of the Commission conducting the enquiry under the Act is that of a Civil Court (Section 13 of the Act). It is not an administrative or fact-finding Commission such as those constituted under the Commission of Enquiry Act 1952, but a quasi-judicial body whose jurisdiction cannot be easily ousted. The bar to the exercise of jurisdiction by NHRC is provided by Section 36 (1) of the Act which lays down as follows :-

"The Commission shall not inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force."

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"Any other Commission' contemplated by Section 36 (1) has to be akin to State Commission or National Human Rights Commission and it must have functions and powers similar to the State Commission or NHRC"

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"Thus, we are convinced that the jurisdiction of NHRC is not ousted merely because the Justice Nanavati and Justice Shah Commission is seized of cognate issues."

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"While making investigation u/s 14 of the Act CBI works under the direction of NHRC and it exercises limited powers enumerated in Subsection 2 of Section 14. Therefore, the term 'concurrence' in Section 14 (1) of the Act has a different connotation. It simply means concurrence in respect of borrowing and utilizing the services of any officer or investigation agency."

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"Since CBI is an investigation agency of the Central Government, the Commission was only required to ask the Central Government to give its concurrence to lend services of CBI and it was not legally bound to obtain the concurrence of the State Government of Gujarat before requisitioning the services of CBI for investigating the authenticity of the tapes of 'Operation Kalank' and the allegations contained therein."

Pursuant to the NHRC order dated March 5, 2008, the CBI conducted detailed investigations to determine the authenticity of the Tehelka Tapes. **Thereafter, the CBI asserted the**

“authenticity” of the tapes. To see the important aspects of the CBI Report of the Authenticity of the Tehelka Tapes

[Click here: CBI Authentication of Tehelka tapes](#)

The CBI Report clearly stated: *“The CBI Report clearly stated: “Video signals in the footage of the DVDs P-V/D-1 to P-v/D-15 match in respect of speech, utterances, laughter, stray ringing tones of mobile hand sets, movements of body parts and body language of the persons appearing in the recorded events.*

No Evidence of editing, alteration and tempering has been detected in the audio video recordings and their respective voice track recorded in the DVDs, exhibits P-V/D 1 to P-V/D-15.”

The shocking confessions and boastful admissions on the Tehelka tapes are not only indicative of the horrifying atrocities committed on women of the minority community by the RSS, VHP, BD and other such organisations but also clearly spells out the inaction and collusion of the Gujarat government including the CM in supporting and thereafter applauding the horrific crimes. Below is an excerpt from one such confession.

Suresh Richard Chara: accused in Naroda Patia Massacre

Richard: [On the day of the massacre] we did whatever we did till quite late in the evening... at around 7.30... around 7.15, our Modibhai came... Right here, outside the house... My sisters garlanded him with roses...

TEHELKA: Narendrabhai Modi...

Richard: Narendra Modi... He came with black commandos... got down from his Ambassador car and walked up here.... All my sisters garlanded him... a big man is a big man after all...

TEHELKA: He came out on the road?

Richard: Here, near this house... Then he went this way... Looked at how things were in Naroda...

TEHELKA: The day the Patiya incident happened...

Richard: The same evening...

TEHELKA: February 28...

Richard: 28...

TEHELKA: 2002...

Richard: He went around to all the places... He said our tribe was blessed... He said our mothers were blessed [for bearing us]...

TEHELKA: He came at about 5 o'clock or at 7?

Richard: Around 7 or 7.30... At that time there was no electricity... Everything had been burnt to ashes in the riots...

Richard: We'd finished burning everything and had returned... That was when the police called us... They said some Muslims were hiding in this sewer... When we went there, we saw their houses had been completely burned down but seven or eight of them had hidden in the gutter... We shut the lid on it... If we'd gone in after them, we might have been in danger... We closed the lid and weighted it down with big boulders... Later, they found eight or ten corpses in

there... They'd gone there to save their lives, but... they died of the gases down there... This happened in the evening... the *dhamal* [killing spree] went till night, till about 8.30...

TEHELKA: So you went in again...

Richard: We were inside... By evening, things had cooled down... We were tired also... After all, a man gets tired out... Hurling stones, beating with pipes, stabbing, all this... The way we came out from inside could only be done by a man of strong heart...

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Richard: Mayaben was moving around all day in an open jeep...

TEHELKA: On the day of the Patiya massacre...

Richard: [She was saying] Jai Shri Ram, Jai Shri Ram... wearing a saffron headband... She kept raising slogans... She said, carry on with your work, I'm here [to protect you]... She was wearing a white sari and had on a saffron band... I had also tied on a saffron band...

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TEHELKA: It is being said the Chharas also committed rapes...

Richard: Now look, one thing is true... *bhookhe ghuse to koi na koi to phal khayega, na* [when thousands of hungry men go in, they will eat some fruit or the other, no]... *Aise bhi, phal ko kuchal ke phak denge* [in any case, the fruit are going to be crushed and thrown away]... Look, I'm not telling lies... Mata is before me [*gesturing to an image of a deity*]... Many Muslim girls were being killed and burnt to death anyway, some people must have helped themselves to the fruit...

TEHELKA: There must have been a couple of rapes...

Richard: Might even have been more... then there were the rest of our brothers, our Hindu brothers, VHP people and RSS people... Anyone could have helped themselves... who wouldn't, when there's fruit?... The more you harm them, the less it is... I really hate them... don't want to spare them... Look, my wife is sitting here but let me say...the fruit was there so it had to be eaten... I also ate... I also ate... I ate once

TEHELKA: Just once?

Richard: Just once... then I had to go killing again... [*turns to relative Prakash Rathod and talks about the girl he had raped and killed*]... That scrap-dealer's girl, Naseemo... Naseemo that juicy plump one... I got on top...

TEHELKA: You got on top of her...

Richard: Yes, properly...

TEHELKA: She didn't survive, did she

Richard: No, then I pulped her... Made her into a pickle

To view the complete transcript see :

http://www.tehelka.com/story_main35.asp?filename=Ne031107The_RSS_will.asp

The case of Nanumiya Malek and Madina Arif Malek:

There has been a sustained effort by the Gujarat government to locate discrepancies in the affidavits filed in these cases by victim survivors and eye-witnesses before the Supreme Court. This is also a part of the sinister plot to discredit human rights defenders and legal rights groups who have facilitated accessing justice to the victims.

Nanumiya Malek and Madina Arif Malek had both filed affidavits before the Hon'ble Supreme Court in 2003. In her affidavit before the court, Madina does not speak of gender violence (rape) whereas Nanumiya does. Nanumiya's statement before the SIT clarifies that the incident he saw was of brutal rape committed on another woman. Both these persons are witnesses in the case of the Naroda Gaam case. Neither of the two witnesses have yet deposed before the Court. Before their testimonies, for the state of Gujarat to selectively pull these out before their testimonies in court is clearly an attempt to obfuscate the actual matter at hand. The affidavits themselves state that they were affirmed by the victims and the victims would be best placed to answer any discrepancies if they arise especially in relation to the 161 statements recorded by the SIT. Taking advantage of the protracted time period in the struggle for justice, the state of Gujarat, as also the national level money and muscle power of the Bharatiya Janata Party (BJP)—the party to which perpetrator chief minister belongs is using misinformation to manipulate public opinion.

In December 2008, while investigations were still on by the Special Investigation Team (SIT) defence counsel appearing for the accused in the Naroda Gaam case leaked some of the 161 statements contained in the charge sheet (not yet filed by the SIT in the Trial Court at the time), selectively to sections of the media (*The Indian Express*) after which CJP had protested this selective leak to the SIT Chairperson Dr RK Raghavan and also issued a press release.

Neither of the two witnesses, deliberately quoted out of context in the media reports (through the selective leakage of 161 statements) have yet been examined in the Trial Court and for the defence to leak out statements made to the SIT to the media as far back as December 2008 is a conscious and deliberate effort to thwart the due process of justice. It is also a brazen attempt by the accused at one level and the state of Gujarat at another to influence the judiciary while the process of justice delivery is afoot.

On April 24, 2002, the National Commission for Women (NCW) accused the Gujarat government of "*failing to perform its constitutional duty.*" NCW expressed concern over the state of fear and insecurity in the state, particularly among women, adding that much more needed to be done for the relief and rehabilitation of women, particularly those that had lost family members or were victims of sexual violence.

(*"Women Commission indicts Gujarat Govt," Press Trust of India, April 24, 2002*)

Evidence of Naumiya Malek has now been led before the Trial Court where the entire truth about the affidavits has been placed by this eye-witness on oath.