

Communalism Combat & Citizens for Justice and Peace

March 2006

Battle for Reparation from the Gujarat State

A Backgrounder

In March **2003**, *Communalism Combat* and *Citizens for Justice and Peace* filed a writ petition in the Gujarat HC asking for accountability for compensation/reparation being paid to the victims of the Gujarat carnage.

After declaration of the initial scheme of the state and central governments, where **Rs 100 crore** had been offered by shri Vajpayee's government, in February 2003, the Gujarat minister for Food and Civil Supplies stated that as no money was needed about 70 crores plus was being returned to the centre!!!

Our petition was accompanied by over 700 affidavits and data that belied government claims of adequate compensation being paid.

In **July 2003**, when the matter came up for hearing before the Gujarat HC, we [Citizens for Justice and Peace] was authorized to inspect and co-relate collector records as opposed to victims' claims.

We conducted surveys in over 12 districts and have now annexed these to our replies.

These were the prayers to that petition:

08. The petitioners therefore prays as under:-

- (A) **YOUR LORDSHIPS** be pleased to issue appropriate writ order or direction and be pleased to direct the respondents to give sufficient compensation to all the victims as per their applications and be further pleased to appoint a monitoring committee comprising of the petitioners or retired Judge of this Hon'ble Court to monitor the funds of the compensation to the victims in the interest of justice;

- (B) **YOUR LORDSHIPS** be pleased to appoint an independent committee consisting of non political persons to supervise and report to this Hon'ble Court the implementation and progress in respect of prayer (a) above;
- (C) **YOUR LORDSHIPS** be pleased to direct the respondents to issue a fresh circular by increasing the amount of compensation to Rs. 2 Lac from 50,000/- as mentioned in the circular dated: 20th March, 2002 in the interest of justice;
- (D) **YOUR LORDSHIPS** be pleased to grant such other and further relief as are deemed fit in the interest of Justice;

Meanwhile in **2004**, when the issue of reparation/compensation was brought out by Shri Salve amicus curae in the SC, we intervened, pointing out that a petition is pending in the Gujarat HC. On that Justice Ruma Pal and others passed an order *authorizing us to suggest an alteration of the compensation scheme*.

In August 2005, we have filed an amendment petition, arguing constitutional breakdown of machinery that is pending in the Gujarat HC. It comes up in **June 2006**.

Text of the Compensation Petition

1. Citizens for Justice & Peace
Through its Trustee Shri Vijay Tendulkar
2. Communalism Combat
Through its Editor Ms. Teesta Setalvad,
Both having their office address
At "Nirant", Juhu Tara Road, Juhu,
Mumbai.

...Applicants
(Ori. Petitioners)

V/s

1. District Collector, Ahmedabad
having its new office at
besides R.T.O Office,
Nr. Subhash Bridge, Ahmedabad.
 2. The secretary to the Govt. of Gujarat,
Revenue department, Sachivalaya,
Gandhinagar.
 3. Union of India,
(to be served through its Secretary,
Home Department, North Block,
New Delhi].
- ...Opponents
(Ori. Respondents)

To

The Hon'ble the Chief Justice & all other Hon'ble Judges of the Gujarat High Court at
Ahmedabad

Applicants, above named, most respectfully submit that:-

1. The present applicants have filed the above mentioned Special Civil Application No. 3217 of 2003 for compensation of victims in the year 2002. The above petition has been fixed for final hearing and, therefore, this separate Civil Application is being filed for adding certain facts by way of this Draft Amendment after Para: 8, as Para: 8.1 onwards, as under :
8. The applicants submit that during the pendency of Special Civil Application No. 3217 of 2003, the present applicants have approached the Hon'ble Court Supreme Court by filing Criminal MP No.3740 of 2004 in WP (Cri) No. 109/03 and WP No. 530/02, TP No.544/04 and WP No. 221/04 for transferring the above petition with other petitions which are pending before the Hon'ble Supreme Court with regard to compensation to the victims of the riots and the Hon'ble Supreme Court by order dated 17/8/2004 was pleased to dispose of the said petitions by directing all the petitioners to

raise the contentions with regard to framing of a proper and comprehensive scheme with regard to the compensation considering the Judgment reported in (1999) 6 SCC 26 and [MRS. CHANDRIMA DAS & ORS v/s Chairma, Railway Board and Others, dated 28/01/2000, the Hon SC has held that even in the case of the offence of rape by a railway employee on a migrant Bangladeshi woman, *compensation must be adequately paid*. Therefore, the present applicants crave leave of this Hon'ble Court to amend the petition memo Annexed hereto and marked as **ANNEXURE : "T"** is the copy of impugned order dated 17/8/2004. Specifically, no scheme of compensation or reparation was envisaged or outlined by the State of Gujarat for women who had been victims of sexual violence. The story of the post-Godhra Gujarat carnage was a story of a venomous and targeted attack on women of the minority Muslim community by brigands of outfits like the VHP and the Bajrang Dal. The assaults were carried out in the cities and villages over many hours and a vast majority of the victims of gang sexual violence were mutilated and murdered thereafter. Besides, the Gujarat government scheme for those others who were seriously injured, through gunshots, sharp instruments, burns and acids etc is woefully inadequate considering the gravity of the injury. This lacunae in the scheme[s] that in no way take into account the issue of loss of dignity, loss of livelihood and time in years in which a normal life could have been led, needs to be remedied, swiftly. This is the stand of the highest court in the land regarding the serious crime of rape and sexual assault, and never mind the fact that the victim was a migrant from a foreign land, compensation *had to be paid*. In the case of the women victims of the Gujarat carnage, it was a systematic and brutal violent crime perpetrated in full public view while the State in and through itself, its administration and its police completely abdicated its primary Constitutional duty and obligation.

- 8.1 The applicants submit that the scheme formulated by the Hon'ble Apex Court for composition of the Authority, the manner in which the claim

applications have to be invited, received and dealt with, have been reproduced in the Judgment of *RANGATHAN & ANR. V/s. UNION OF INDIA & ORS* reported in **(1999) 6 SCC 26**. The present applicants humbly urge and request this Hon'ble Court to constitute such an Authority and give appropriate directions so as to enable smooth and judicious disbursement of adequate and just compensation. The applicants state that in most of the cases the compensation amount has not been calculated in an honest and realistic way and is therefore unsatisfactory. In most cases, the applications and claims for compensation of the victims has not been accepted.

8.2 The applicants submit that during the systematic violence that raged in several districts of Gujarat, between February & July, 2002, there was a complete break down of the entire State machinery. The applicants submit that Article 21 of the Constitution of India read as under :

“No person shall be deprived of his life of personal liberty except according to procedure established by law”

That in the Judgment reported in **1981 (Supp) SCC 87** in the case of *S.P.Gupta V/s. UNION OF INDIA, Para : 17*, reads as under :

“Where a legal wrong or a legal injury is caused to a person or to a determinate class of persons by reason of violation of any constitutional or legal right of any burden is imposed in contravention of without authority of law or any such legal wrong or legal injury or illegal burden is threatened and such person or determinate class of persons is by reason of poverty, helplessness or disability on socially or economically disadvantaged position, unable to approach the court for relief, any member of the public or social action group can maintain an application for an appropriate direction, order or writ in the High Court under Article 226 and in case of breach of any fundamental right of such person or class of persons, in this Court under

Article 32 seeking Judicial redress for the legal wrong or injury caused to such person or determinate class of persons.”

The applicants submit that there was a complete break down of law and order machinery and the State wide “Bundh” organized by the Vishva Hindu Parishad and vocally backed by the ruling Bhartiya Janata Party, aggravated the situation. One of the worst incidents took place in Gulbarga Housing Society in Chamanpura Area of Meghaninagar Police Station in Ahmedabad, where a mob entered into the cluster of houses and butchered and burnt alive more than 60 people, including the former Member of Parliament Shri Ahsan Jaffrey. Similarly, in different parts of the state of Gujarat, including Naroda Gaon and Pattiya outside Ahmedabad, different villages of Panchmahal district, parts of Sabarkantha district, Mehsana district, Anand district, Abasana, Banaskantha, and Vadodara incidents of mass-murder have occurred. The applicants submit that in a shocking and startling revelation Prof. Keshavram Kashiram Shastri, the chairman of the Gujarat unit of Vishva Hindu Parishad told rediff.Com, the day after the carnage began, that the list of the shops owned by Muslims within Ahmedabad city that were plundered by individuals belonging to the VHP, was available to them, on the morning of February 28, 2002, itself. He is further reported to have also said that it was evident from newspaper reports that the leader of certain fundamentalists organization were busy chalking out strategies to coercively enforce the Gujarat *bandh* on 28/2/2002 and, as part of this, the mass funeral of the Godhra arson victims was being converted into a massive mobilisation. Thus, from this report on the website of rediff.com, it was clear that there was not only a complete break down of law and order machinery in the state at the relevant time i.e. 27/2/2002 until the end of May, 2002 but a connivance of functionaries of the state administration and police with unlawful outfits bent on violence and terror. As importantly, despite the fact that certain outfits had expressed a premeditated intent to fan violence and terror, there was no resolve or desire

on the part of the Gujarat state machinery to take effective preemptive action under the provisions of criminal law and restrain them. The applicants crave leave to rely upon and annex the copies of the website report down loaded from the Inter-net and annex the same as **ANNEXURE : II** to this Application.

The applicants, therefore, submit that given the utter and complete breakdown of the constitutional machinery in the state of Gujarat, and given the failure of the executive to protect the lives and properties of its citizens, it is the duty of the State Government to adequately compensate the victims who were adversely affected. Thus, the respondents are required to be directed to pay sufficient and adequate compensation in consonance with the loss(es) assessed by the police machinery of the State in the *panchnamas* drawn on each and every particular registered offence.

8.3 The applicants say and submit that the *Concerned Citizens Tribunal---Gujarat 2005* headed by Justices VR Krishna Iyer and PB Sawant led some disturbing evidence directly from the testimony of a then functionary [minister] of the Gujarat government that indicated the connivance and planning at the very highest level of the government in actively interfering with the constitutional duties of the state police and administration in preventing the outbreak of violence and the subsequent brutal loss of life and property. The applicants crave leave to annex the excerpts of the Concerned Citizens Tribunal Report, making this observation as **ANNEXURE- III** to this petition. This piece of evidence had earlier appeared in the form of newspaper reports that showed that from on and about February 28 till about March 1, 02 two senior ministers of the Gujarat cabinet were actually present at the Ahmedabad city control and Gandhinagar state control rooms directly subverting constitutional duties of the state police receiving a stream of distress calls. The applicants crave leave to annex as **Annexure- IV** these newspaper reports.

8.3 The applicants submit that the Affidavit as well as the deposition of Mr. R.B. Sreekumar, I.P.S., Additional Director General of Police (Police Reforms), before Justice G.T. Nanavati (Retd) & Justice K.G. Shah (Retd) Inquiry Commission, inquiring into the communal disturbance after the incident of train burning at Godhra on 27/2/2002 were very revealing. The Report at Appendix : 11 submitted that the said affidavit contains the fact that the police had deliberately *not* arrested persons belonging to certain outfits and happening to hail from the Hindu community. Also, in many of the critical criminal cases of the mass carnages, the public prosecutors appointed by the state have far from conducting themselves as officers of the court, actually taken partisan stands *by not* opposing the bail applications of those accused of serious crimes in various courts and who's names figures in both the police statements, FIRs and investigations. The secret report given by Mr. R.B. Sreekumar to Mr. K.P.S. Gil also contended as under:

“It can be safely presumed that at least 10 people in each affected family would be nurturing high voltage ill-will and hatred against the State Government and majority community. On that account there would be nearly 6860 persons bent upon indulging in Anti-Hindu and Anti-Government Activity.” It further went on to state that “... the Muslim community, the major victims of the recent riots had, of-late, started developing a severe murder against the criminal justice and system much to be heavy biased against muslims, judging from the line of action taken by the IPS Officer of their criminal compliant system. Annexed hereto and marked as **ANNEXURE : V** is the copy of Affidavit and deposition, along with annexure submitted by Mr. R.B. Sreekumar, IPS, Addl. Director General of Police (Police Reforms) before the Inquiry Commission, submitted on 6/10/2004.

8.4 Considering the above facts, especially the notings of the Report submitted by Mr. R.B. Sreekumar to the effect that “it can be safely presumed that at least 10 people in each affected family presumed that at nurturing high voltage ill-will and hatred against the State Government and majority community. On that account there would be nearly 6860 persons bent upon indulging in Anti-Hindu and Anti-Government activities. ” (para II of the report].

8.5 The said report by Mr. R. B. Sreekumar further reads as under:-

“Whenever the members of the minority community go for any type of jobs in Hindu dominated areas, they are not only threatened by the VHP/Bajrang Dal activists but also driven away to minority inhabited localities. The consequent frustration, economic loss, job alienation, and availability of leisure time lead them to the camp of Muslim communalists.” [para VI].

“Whenever the minority community members try to restart their business, in the original areas, from where they were driven out, they are prevented from resumption of their business and also even re-construction of their shops and business establishments, destroyed in the riots. This criminal activity is also undertaken by the active workers of V.H.P. and B.D.” [para VII].

“There are many communally inciting pamphlets, handbills etc issued by Hindu and Muslim communalists, without any indication about the identity of publishers, printers and other details. But it is noticed that the Vishwa Hindu Parishad [VHP] VHP has recently issued a pamphlet containing elements of communal instigation. A proposal has been made by this office to the Director General of Police for examining [the possibility] legal action against publishers. It is also relevant to note that, the issues of ‘SADHNA’ weekly, mouth piece of VHP since March 1st, 2002 contains many articles spreading communal hatred against the minorities in the minds of majority

community. The objectionable role of vernacular news papers towards inflaming communal passions, has been graphically brought out in a special report submitted by C.P. Ahmedabad City vide C.P., Ahmedabad office letter No: V/SHA/Communal/1204/2002 dated: 19/04/2002. Further legal action in this matter is requested”[para IX]

The applicants submit that the report submitted on Current Law and Order situation by the DIG Shri E.Radhakrishnaiah to Shri P.S. Shah, Addl. Secretary to Home Department dtd 20th August, 2002 including following observations:-

“ An estimate of about communal riots victims migrated from various districts indicate that over 75, 500 persons from 13 districts have been shifted to other places. We are yet to get data from other districts. It is learnt that large chunk among them has not returned to their original habitats on account of a feeling of insecurity. These persons would remain practically disenfranchised in the event of an election held before their return to their native places. There is information that interested political parties will collect such persons in large number and insist upon their voting rights on the polling day. This would lead to confrontation of rival political groups and resultant disruption of public order.” [para 5].

“During the communal riots 10, 472 houses, 12, 588 shops, 2724 larry/ galas were damaged or destroyed due to arson while 1333 shops were ransacked. In this process thousands of people have lost all their documents of identity. Unless remedial measures are taken they would also pose a problem in the process of their enumeration as electors and subsequent exercise of their franchise. “ [para 6].

It was the pious duty of the State Government to wipe the tears and assuage the wounds of the innocent victim of both the communities who suffered

during the violence of 2002. The state government is solely responsible for its failure in protecting the lives and properties of innocent people. It was the ruling political party in the state of Gujarat that supported the 'bandh' call.

8.6 The applicants submit that the State Government had issued various resolutions [GRs] with a view to help adversely affected the victims monetarily. However, the said resolutions and circulars revealed schemes that were woefully inadequate and far from adequate reparation or compensation for those who had lost everything. The resolution dated 4/3/2002, issued by the Dy. Secretary, Revenue Department, Government of Gujarat, issued in pursuance of the Resolution dated 18/12/1992, RHL; 1092-1077 : S.4 ensures Rs. 2000/- for an injured person upto 10% permanent disablement, Rs. 3000/- for disablement upto 10% to 30% and Rs. 5000/- for disablement between 30% and 40%. The amount of compensation would be Rs. 10,000/- if the extent of disablement is beyond 40% and in case of a permanent disablement the extent of compensation would be Rs. 50,000/-. Thus, the maximum amount of compensation to a person suffering permanent disability is Rs. 50,000/-. Annexed hereto and marked as **ANNEXURE : VI** is the copy of said Resolution/Circular dated 4/3/2002. The applicants say and submit that the scheme for the injured is so inadequate that it has simply no bearing at all on the grave degrees of injuries inflicted on hapless victims by criminals in full state view.

8.7 The applicants state that the Resolution dated 23/4/2002 issued by the Dy. Secretary, Revenue Department, State of Gujarat, the heirs of the deceased was to get Rs. 1,50,000/- which would again be divided into two parts i.e. Rs. 90,000/- to be given in cash and Rs. 60,000/- to be invested by way of "SHRI NIDHI NARMADA BOND". Thus, the value of a person's life, in the state's view, apparently, was reduced to Rs. 90,000/- to be given in cash and Rs. 60,000/- to be given after a period of about 5 years by way of

Government Bond. The applicants submit that keeping in mind the provisions of the Constitution of India, especially Art. 21, the Hon'ble Delhi High Court, recently in a writ Petition (Civil) No. 2338 of 2001 (GITA MITTHAL) in the case of MANJIT SINGH SAWHNEY v/s. UNION OF INDIA & ORS., was pleased to direct the payment of compensation amount of Rs. 1,23,000/- to the petitioner of the said petition within a period of the one month. Annexed hereto and marked as **ANNEXURE : VII** is the copy of impugned Judgment and order. In the case of the carnage of Gujarat 2002, the state must make good this minimal amount of compensation in full and with interest.

8.8 The applicants submit that as per the Resolution dated 11/3/2002 being RHL-232002/513(4)-8.4 the amount of compensation for loss of business properties would be Rs. 5000/- in case of fixed assets and Rs. 10,000/- in case of destruction of vehicle, etc. Annexed hereto and marked as **ANNEXURE : VIII** is the copy of said Resolution dated 11/3/2002.

8.9 The applicants submit that to the best of the knowledge of the applicants no compensation, whatsoever, has been announced for the victims of sexual assault, including victims of rape. The state Government has completely ignored and for the reasons best known to the respondents, no circular or resolution has been issued for those victims who were raped, assaulted, injured or molested. It is under these circumstances the present respondents are required to be directed to pay adequate and sufficient compensation to all these victims who were adversely affected.

8.10 The applicants would at this stage in this amendment draw attention of this Hon'ble Court to the report of the Ninth Report of the Committee on 'Violence Against Women during Riots'. The applicants say and submit that this committee of all party women parliamentarians visited various relief camps, interviewed victims. We crave leave to attach a copy of the

report as **Annexure- IX**. It is important to note that despite all the state of Gujarat's posturings on the subject the question of violent and grave sexual violence against women in Gujarat during the carnage of 2002 did without take place. In this report the observation is made that , "The State Government have stated that in the carnage which erupted in various parts of the State from 28th February, 2002 onwards, thousands fled from their homes either due to fear, insecurity and apprehension, or because their houses were looted or set on fire by rioting mobs. The State Home Department has recorded 185 cases of attacks on women of which 100 are registered in Ahmedabad City, and a total of 57 attacks on children of which 33 are registered in Ahmedabad City. In terms of persons killed during the riots the police have registered 225 women and 65 children. Rape cases of 11 women have also been registered." Besides, this report makes some important observations and recommendations such as:

"From the material placed before the Committee and as a result of interactions held with affected women, supervisors of the camps, NGOs and State Government officials, the Committee are constrained to make the following observations : In any type of riots, women are the most affected. They lose their husbands, children, their kith and kin and in many cases the only earning member of the family leaving them destitute and vulnerable. Destruction or damage to households or earning assets compound their woes and sufferings. They have to bear not only the burden of managing the physical needs of the dependants but also bringing up their traumatized children.

"The Committee note that 185 cases of attacks on women have been registered of which 100 are in Ahmedabad City. A total of 57 attacks on children have also been registered of which 33 are registered in Ahmedabad City. Rape cases of 11 women have also been registered. Of these 3 cases

are from Dahod, 1 from Anand, 4 in Panchmahals and 3 in Ahmedabad City.

“ The Committee feel that it is the bounden duty of every State machinery to take pre-emptive steps to prevent spread of violence. For this purpose, the intelligence services have to always remain vigilant and cautious. In case of perceived danger, the causes must be nipped in the bud. The Committee regret to note that the failure to anticipate the potential dangers of the situation by the Intelligence services was responsible for the violence, death and destruction of the magnitude that was witnessed in Gujarat.

“ The Committee feel that effective and preventive steps ought to have been taken to ensure that riots of such intensity did not spread. When such a situation arises, necessary effective measures should always be taken to contain the situation and prevent the spread of violence. It is in this context that immediate action ought to have been taken to organise meetings of political and religious leaders of all the communities and prominent NGOs, to sort out problems/issues amicably. But, this did not happen. Instead the violence was sought to be explained as a fall out of Godhra.

“ The Committee note that the number of relief camps in the State of Gujarat during the peak of the riots was 121, out of which 58 were in Ahmedabad city alone. These relief camps accommodated 1,32,532 persons. The State Administration has stated that it made adequate arrangements through the Collectors, for a) additional shade/mandaps/pandals alongwith carpeting material (b) additional safe drinking water facilities (c) additional toilets/bathrooms (d) medical/health check up facilities (e) adequate ration/foodgrains and other essential commodities (f) grants in cash (Rs. 7/- per head per day) to meet miscellaneous expenditure.

“The Committee were told that in cases of death, *ex-gratia* death relief of Rs. 1.50 lakh has been given to the dependents. Of this Rs. 1.50 lakh, Rs. 90,000 has been paid in cash the rest of Rs. 60,000 is given in the form of Government Bonds. As per information made available to the Committee, out of 977 deaths reported so far, *ex-gratia* death relief has been paid in 758 cases. But the women in the camps seemed totally ignorant/unaware of this compensation package. In fact many complained that there had been discrimination in the processes used.

“A number of houses are stated to be greatly damaged and in some cases totally destroyed. The Committee have been informed that as on 21st June, 2002 Rs. 7.62 crores have been disbursed in 4954 cases (2023 in urban areas and 2931 in rural areas) for completely destroyed residential houses, while Rs. 15.55 crores have been disbursed in 18294 cases (11199 in urban areas and 7095 in rural areas) for partial damages. The compensation paid on account of damage of houses, the Committee were told had been made from Rs. 1000/- to Rs. 50,000/- depending upon the extent of the damage. But several cheques ranging from Rs. 40/- to Rs. 200/- were produced before the Committee which showed that there was discrimination. Many complained that surveys had been conducted in their absence and in an arbitrary manner while others claimed that the landlords had been paid the compensation ignoring the real victims who had lost all their belongings.

“The Committee note that in comparison with the figures of number of Relief Camps and the inmates in the peak period in April, 2002, there is reduction of Relief Camps by 111 Camps and reduction in the number of inmates by 1,19,839. Relief Camps have been closed down in Anand, Kheda, Panchmahal, Sabarkantha, Vadodara and Mehsana. As on 2nd July, 2002, 10 Relief Camps were operating only in Ahmedabad city and even these were to close shortly. We had reports from NGOs that the

closure took place despite their protests and the unwillingness of the inmates to return to their localities, due to fear or totally destroyed habitations.

“The Committee are of the opinion that though a number of measures have been taken by the State Government to provide basic necessities in the relief camps and to ensure rehabilitation of affected persons especially women, in association with NGOs and voluntary organisations, much more needs to be done. The Committee would urge upon the Department of Women and Child Development, Government of India to impress upon the State Government the need to take appropriate steps to provide much needed relief, security and rehabilitation to the affected women and their families.

“... Though ex-gratia death relief amounting to Rs. 1.5 lakh is claimed to have been paid in respect of 767 cases, most of the women the Committee met in the Ahmedabad Camps did not know anything about it. Out of 983 death cases, the payment has not been made in the balance of 216 cases, (the Committee were told) for various technical reasons like lack of proof of death, failure to identify the bodies in morgues etc. The Committee hope that efforts would be made to complete the process of payment for the remaining cases including the cases of unidentified dead bodies.

- iv) It has been brought to the notice of the Committee by the affected women that no ex-gratia payment has been made in respect of missing persons. The Committee feel that a sympathetic attitude needs to be taken in respect of these cases and after necessary affidavits are obtained from the dependents/near relatives of the victims, the compensation to them must be paid at the earliest.

“,,, Another fact which was brought to the notice of the Committee was the inadequate compensation that has been paid for damaged/destroyed houses by the State Government, the upper limit of which is Rs. 50,000/-. Further, earning assets of many families had been destroyed during the riots and very few of them have received the compensation and those who got it said it was absolutely inadequate. Moreover, the surveys were made in an ad hoc manner when the affected families were in camps. They also complained of discrimination based on the community they belonged to. In many cases the landlords had claimed the compensation and were now refusing to let the tenants return. The Committee were informed that fresh surveys are being conducted to ascertain the exact extent of damage to the houses of the victims and their earning assets.

“ The Committee hope that the fresh surveys in this connection would be completed soon and fair compensation to the victims paid. If the victims need more financial help over and above the compensation they are paid as per the revised survey, the help of agencies such as Banks, HUDCO, and other Financial Institutions should be taken to extend loans on easy terms to them.

“The houses of the majority of the affected persons have not yet been repaired/reconstructed so far. With the monsoon season on and the camps being closed they have no shelter and nowhere to go. The Committee hope that the camps which are still operating would be closed only after the monsoons so that the affected persons are able to get their houses repaired/reconstructed.

“Another matter of concern was that though they are eager to go back to their villages/areas, the security aspect still haunts them. Though the State Government claimed that it had taken steps to provide security to the affected persons when they move back to their localities, the Committee

are of the view that the confidence building process in the affected areas has not been seriously initiated. Women complained of threats meted out to them when they returned, forcing them to take shelter in the camps again. It is necessary to ensure that victims who have left the camps and returned to their localities are provided proper security.

“....As a part of Rs. 150 crore rehabilitation package announced by the Prime Minister, the Department of Women and Child Development is said to be providing assistance in various forms to the Government of Gujarat. The State Government is stated to be working with NGOs to prepare livelihood proposals under the NORAD and STEP programmes for submission to the Government of India. The Committee desire that all these schemes for rehabilitation of the affected women, should be formulated and expeditiously implemented with the involvement of banks, donor agencies, NGOs and Voluntary Organisations.

“.....The Committee have noted with regret that no efforts have been made to confiscate the hate literature that has been widely circulated in the State or to identify those responsible for its preparation, printing and circulation. The Committee hope that the law enforcement machinery acts effectively in this regard.

“.... There are recommendations made by several Commissions and Panels of important citizens including the National Commission for Women. Many of these have not yet been implemented like for instance, the establishment of Special Courts and an impartial inquiry by an agency from outside the State, to investigate the acts of violence during the riots, especially against women. The Committee hope that the investigations will be impartial and fair, so that the faith of the people in the police and the government machinery can be restored and Gujarat can ensure peace and tranquility to all its citizens in the future.

- 8.11 The applicants say and submit that this report was made in the aftermath of the genocide over there years ago and yet the conditions and plight of the victims endures till today. The applicants who have been involved in this litigation since the anniversary of the carnage have been engaged, with no state resources, in conducting district wise surveys of the claims made by victims as opposed to the claims made by the State. We crave leave to annexe hereto as **Annexure- X** is the data related to some of the districts in the State. A verification of this data with no delay and subsequent compensation and reparation to victims who have been denied their basic fundamental right is essential to ensure a bare modicum of a return to the rule of law.
- 8.11 The applicants say and submit that they are in the process of conducting a district wise survey to establish that even today, 65,000 residents of the state of Gujarat belonging to the minority community *are unable to return to their place of birth, livelihood and residence simply because of terror and fear that prevails in Gujarat even today*. The applicants crave leave to provide this detailed data to the Hon'ble Court to further emphasise and establish it's argument that there is a continuing failure of the Constitutional machinery in the land of the Mahatma.
- 8.12 The applicants state that the applicants have no other alternative efficacious remedy except filing this application for amendment and that the applicants have not filed any other application either before this Hon'ble Court or before Hon'ble Supreme Court in this subject matter except as mentioned specifically in this petition memo.
- 8.9 The prayer clause Para : 12, by adding following prayers as : 12(BB), as under :

12 (BB) YOUR LORDSHIPS may be pleased to issued appropriate writ, order on directions and be pleased to direct the respondents to formulate the schemes as suggested in the Judgment reported in (1999) 6 SCC 26 and be further pleased to direct the respondents to re-haul and thereafter enhance the amount of compensation to the victims of the communal riots that occurred between February & May, 2002.

12(CC) YOUR LORDSHIPS may be pleased to direct the respondents to formulate the schemes to rehabilitate and compensate adequately the victims of the riots that occurred between February & May, 2002 and be further pleased to direct the respondents to formulate separate schemes for sexually assaulted women, temporary disabled, and permanently disabled in the interest of justice;

12(DD) YOUR LORDSHIPS may be pleased to address the issue of inadequate house compensation as also the complete inadequacy of

compensation for the loss of business establishments or livelihood in
the interest of justice;

12[EE] YOUR LORDSHIPS may be pleased to direct that the entire process of granting
compensation, revising the compensation package in both structure and spirit and
re-constituting this as reparation be done with utmost transparency and
accountability and that details be made freely available to the public through the
government website;

12[FF] YOUR LORDSHIPS may be pleased to order that the
petitioners who have invested time and resources in conducting detailed and
authentic surveys may be continued to be allowed to monitor the compensation
process;

12[GG] YOUR LORDSHIPS may be pleased to order that in view of
the entire issue of a systematic and perpetrated breakdown
of the Constitutional Machinery and subsequent assault at
various levels on a section of Gujarat's population and be
pleased to direct the respondents to provide for full and

adequate reparation for loss of life, dignity, livelihood, business and economic activity, religious and cultural freedoms, in the interest of justice;

The petitioners crave leave to file additional documents to support the above prayers as and when the need may arise.

Date : August/September _____ 2005

(JIGAR RAVAL)

Place : Ahmedabad

Advocate for Applicants