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COMMISSION ON HUMAN RIGHTS  
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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:  
DISAPPEARANCES AND SUMMARY EXECUTIONS

Written statement\* submitted by Asian Legal Resource Centre (ALRC), a non-governmental  
organization in general consultative status

The Secretary-General has received the following written statement which is circulated  
in accordance with Economic and Social Council resolution 1996/31.

[3 February 2003]

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\* This written statement is issued, unedited, in the language(s) received from the  
submitting non-governmental organization(s).

India: Genocide in Gujarat

1. Beginning on 28 February 2002, over 2000 Muslims in the Indian state of Gujarat are believed to have been murdered, over 80 of them burned alive, and over 35,000 internally displaced by the dominant caste and community groups there. Independent investigators have pointed to the evidence of state complicity in the violence, in premeditation and planning behind the attacks on the lives, dignity, livelihoods, businesses and properties of the Muslim population, and a selective assault on their religious and cultural places of worship. Muslim women were targeted for a particularly inhuman level of violence and sexual crimes. An economic and social boycott of the community was openly encouraged and continues in many parts of Gujarat to date. Agricultural land holdings of Muslims, small and large, have been taken over by dominant community and caste groups. The livelihoods of Muslims have been snatched away, and there is a clear-cut and ongoing design to economically cripple the community and drive out the community. In sum, what has occurred in Gujarat can only be described as an act of genocide.

2. After the Second World War, the Convention on the Prevention and Punishment of the Crime of Genocide was introduced to deal with this most odious crime. Article 2 of that Convention defines the crime of genocide as

"Any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such:

Killing members of the group;

Causing serious bodily or mental harm to the members of the group;

Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

Imposing measures intended to prevent births within the group;

Forcibly transferring children of one group to another group."

3. Under the Convention, the acts that are punishable are genocide, conspiracy to commit genocide, the direct and public incitement to commit genocide, the attempt to commit genocide and complicity in genocide. Anyone committing one of these acts can be punished for their crimes, whether constitutionally responsible rulers, public officials or private individuals. Under the Convention, member states must make legislation to give effect to its provisions, and provide penalties for convictions arising from a competent state tribunal or appropriate international tribunal.
4. To prove the crime of genocide, there has to be evidence of the physical destruction of a community, racial or ethnic group, as well as the evidence of mental harm. At the crux of it all, there must be an intention to destroy and harm;

it is a crime not computed numerically but in the desire to commit it--the sheer planning, premeditation, extent and thoroughness of the killings.

5. With regards to the atrocities in Gujarat, the Asian Legal Resource Centre entirely agrees with the findings of the Concerned Citizens Tribunal, which investigated the violence there during the latter part of 2002. The eight member people's tribunal, headed by the eminent retired Supreme Court judge, Justice V R Krishna Iyer, collected 2094 oral and written testimonies, and issued its findings on 21 November 2002.
6. The Asian Legal Resource Centre concurs with the findings of the Concerned Citizens Tribunal that the chief minister of Gujarat, Shri Narendra Modi, was directly responsible--along with cabinet colleagues and organizations that he leads and patronises, including the Bharatiya Janata Party (BJP), Rashtriya Swayamsevak Sangh (RSS), Vishva Hindu Parishad (VHP) and Bajrang Dal (BD)--for the crime against humanity committed in Gujarat. Statements and pamphlets from the VHP and the BD in the past establish that they have been consistently against the Muslim community, making them the target of verbal and physical attacks and provoking people to economically and physically attack Muslims and, thereafter, subject them to an economic and social boycott. Ample evidence also exists to prove that the VHP and the Bajrang Dal led the violence committed from February 28 onwards.
7. The carnage was at six levels: physical destruction of a part of the community, economic destruction, sexual violence and rape of a large number of Muslim women, cultural and religious destruction, resistance to rehabilitation and a publicly declared desire to physically and morally destroy the Muslim community of Gujarat. These offences continue at a lower intensity under the same political dispensation even today.
8. The Asian Legal Resource Centre concurs with the Concerned Citizens Tribunal that the chief minister is liable for prosecution for genocide for his
  - a. Refusal to protect the lives and property of Muslims.
  - b. Connivance in, and facilitation of, the carnage.
  - c. Transfer of good police officers away from areas of violence.
  - d. Inaction against erring police officers or party functionaries who were named by victims.
  - e. Persistent threats to close down privately run relief camps for victims.
  - f. Abusive comments against the affected and victimised community that amount to hate speech.
  - g. Refusal to comply with recommendations by the National Human Rights Commission.

h. Total failure to assist in relief and rehabilitation of victims.

i. Inaction against media groups and other organisations that provoked the atrocities.

j. Influencing of the criminal investigation by omission of the names of VHP, RSS and BJP functionaries from charge sheets, although their names appear in First Information Reports.

9. In light of the above, the Asian Legal Resource Centre calls on the Commission on Human Rights to

a. Demand that those responsible for the crimes against humanity in Gujarat, and in particular the chief minister, be held to account.

b. Examine India's failure to comply with the Convention on the Prevention and Punishment of the Crime of Genocide. India signed the Convention in 1948 and ratified it in 1958, but to date has not effectively acted upon it nor complied with it in domestic law.

c. Urge the Government of India to ratify other key instruments for the prevention of atrocities such as have occurred in Gujarat, notably the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment.

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