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COMMISSION ON HUMAN RIGHTS  
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Item 11 (b) of the provisional agenda

**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF  
DISAPPEARANCES AND SUMMARY EXECUTIONS**

**Written statement\* submitted by the 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.

[29 January 2004]

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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. The Asian Legal Resource Centre is extremely concerned with the sham trials, shoddy investigation and defective prosecutions arising out of the Gujarat massacres that in February 2002 led to the deaths of over 2000 Muslims. The perpetrators, far from being punished, are not even being properly prosecuted. The Gujarat government's complicity in the genocide is now compounded by its obstruction of justice for the victims.

2. The Asian Legal Resource Centre has in its previous written statement to the Commission outlined the details of the Gujarat genocide and those responsible (E/CN.4/2003/NGO/148). Both the Concerned Citizens Tribunal of Gujarat and Human Rights Watch have published detailed reports holding Gujarat Chief Minister Narendra Modi and his government responsible for the killings and destruction. India is a party to the International Covenant on Civil and Political Rights as well as the Convention on the Prevention and Punishment of the Crime of Genocide. It has specific obligations under international law to prevent and punish the perpetrators of this crime against humanity, and provide redress for the victims. However, in the case of Gujarat the perpetrators themselves are being left to provide redress to the victims. The result has been parody trials and investigations. To illustrate:

- a) Eighty-three persons were killed at Naroda Patiya. So far 54 persons have been arrested, out of which 51 are out on bail and 14 others are absconding. The charge sheets have been filed but at the time of writing, the trial is yet to begin.
- b) In Gulberg Society, Ahmedabad, former Congress MP Ehasan Jafri and 38 others were killed. So far 28 persons have been arrested, out of which 21 are out on bail and 23 others are absconding. The charge sheets have been filed. The case has been committed for trial but the hearing is yet to begin.
- c) Thirty-three people died in Sardarpura, Mehsana. The police arrested 38 persons, and 32 are out on bail. Charge sheets have been filed but the trial is yet to begin. Witnesses are demanding a special prosecutor, since the present prosecutor is a local leader of the Vishwa Hindu Parishad, a political body directly responsible for the carnage.
- d) In Naroda Gaam, Ahmedabad, 12 people were killed. The trial is yet to begin and witnesses who named some politicians as the murderers have been jailed to silence them.
- e) In Chamanpura, Ahmedabad, 67 people were killed. Police conducting the investigation are trying to hush up the names of some 'important personalities' involved in the killings. Witnesses are demanding that their statements be recorded properly and truly.
- f) In Randhikpur, Dahod, 18 people were killed. The case has been closed due to lack of evidence. The witnesses have named the accused, but the police have not arrested them. Instead, the police have declared that the witnesses are unstable.
- g) In Khanpur, Panchmahal, 73 people were killed. The court has acquitted all the accused. During trial, witnesses identified the culprits in court. They did not do so earlier as they feared police intimidation. However, the public prosecutor did bring an application to

charge the real accused in court. The court also did not take any initiative, although it has powers to do so under the Criminal Procedure Code. Instead it acquitted the accused and mentioned in its judgment that the investigation was not conducted properly.

- h) Fourteen people died in the Best Bakery incident, Vadodara. The 21 accused were brought to trial, and acquitted in June 2003 after all the witnesses turned hostile. Neither the judges at the trial nor the prosecutors questioned why all the witnesses went back on their statements. It was only after the acquittal, when some of the witnesses admitted to being threatened and asked for a retrial that the matter was questioned. The witnesses had reportedly received death threats from BJP politicians and others.
- i) In contrast to the above cases, the police have arrested 126 persons in relation to the Godhra train attack, which was blamed on Muslims, where 59 persons were burnt alive. None of the accused is out on bail and 62 others are absconding. The trial has begun and so far four hearings have taken place.

3. The entire Indian justice system has been made a mockery of in Gujarat. The Asian Legal Resource Centre has this year submitted a written statement to the Commission on threats to the entire justice system in India. For their part, the authorities in Gujarat have demonstrated how utterly the system can be brutalized to further violate the rights of victims. In Gujarat, the same police force responsible for the atrocities has been charged with investigating the cases going to trial, and the government responsible for what occurred has been appointing the prosecutors. Although the National Human Rights Commission explicitly recommended that the Government of India permit independent agencies to investigate the cases, hear the trials in other states and provide witness protection, these recommendations were unheeded. Only in September 2003 did the Supreme Court state that it has 'no faith left' in the Gujarat government's handling of the cases arising out of Gujarat. It appointed a former solicitor general to sit as special advisor to the court in the Gujarat trials, and in November 2003, the Court stalled the proceedings in ten cases, including some of those mentioned above, while considering whether they should in fact be heard outside the state.

4. Not content with their attempt at genocide in 2002, Narendra Modi and his supporters are now doing their best to obstruct justice for the victims. It must be asked how the man responsible for a crime against humanity was re-elected in December 2002. The validity of the December elections must also be questioned given that they were held early, at a time when the majority of the state's Muslims were still displaced, and were unable to cast their votes. Narendra Modi and his accomplices must be prosecuted and punished by international standards for the crime against humanity that occurred in Gujarat during 2002. Only then will justice be served. Until then, such crimes against humanity will continue. State officials have blatantly referred to the 'success' of the 'Gujarat experiment' and hinted at its implementation elsewhere in India. Modi has consistently attempted to undermine National Human Rights Commission's attention towards the Gujarat victims, to the extent of labeling it anti-Hindu.

5. In light of the above, the Asian Legal Resource Center calls upon the Commission on Human Rights to:

- a) Demand that the Government of India prosecute and punish the perpetrators of the Gujarat genocide in accordance with the principles of fair trial.
- b) Urge the National Human Rights Commission to monitor all cases and investigations and ensure that redress is given to the victims, and set up schemes for the compensation and rehabilitation of victims. The Commission on Human Rights should examine ways to support the National Human Rights Commission to these ends.
- c) Pressure the Government of India to review and enforce the recommendations made by the National Human Rights Commission regarding independent investigations and prosecutions of the cases, and expand the powers of the Commission to make it more than a mere advisory body.
- d) Recommend that the Government of India investigate and reform its prosecution and judicial systems, ensuring that principles of international law are being adhered to, in accordance with the suggestions of the Asian Legal Resource Centre in its separate statement to the Commission on the Malimath Committee Report.
- e) Recommend that the Government of India reform its police force and ensure its independence from political power, in order for it to function effectively.
- f) Insist that the Government of India respect its international obligations and protect the fundamental rights of all citizens, regardless of religion, culture, sex or race.

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