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Aftermath of a Riot Foretold:
Violence, Impunity and Sovereignty in Gujarat, India

By

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Advisor: Bruce Knauff, Ph.D.

An abstract of
A dissertation submitted to the Faculty of the
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Abstract

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This dissertation examines sociolegal processes that allow Hindu nationalists and state officials to perform mass, public, anti-minority violence in Gujarat in ways that expand and deepen their power. I argue impunity is not merely the breakdown of law and order but a systematic and ongoing process of legitimizing and performing Hindu sovereignty in India. Based on ethnographic and archival research conducted over eighteen months in Gujarat, I describe long-term official and unofficial practices by which political violence against Muslims is denied and authorized within a liberal secular state. This research delineates legal trials that declare victims' testimony inconsistent and exaggerated, police documents that transform anti-minority violence into a generic 'riot,' and a legal apparatus that renders mass violence often unaccountable. Through an investigation of legal technologies, state writing practices, and everyday techniques of Hindu nationalist activists in Ahmedabad, I uncover the legal and political infrastructure of impunity that outlives recurring episodes of anti-minority violence in contemporary India.

I take as my ethnographic entry point one of India's most gruesome episodes of anti-Muslim violence in Gujarat, a Western state in India, often called the "laboratory of Hindutva" or militant Hindu nationalism. The perpetrators, armed groups of Hindu nationalists with the support of the local police, politicians, and government attacked and killed Muslims in 2002. The attacks were justified as 'reaction' to the deaths of 59 Hindu activists killed by a Muslim mob in Godhra. Subsequently, the police told Muslims "we have no orders to save you." About 1000 people, mostly Muslims, were killed in the attacks. Around 150,000 were displaced and forced to take shelter in relief camps. In 2014, Narendra Modi, who was the Chief Minister of Gujarat during the attacks against Muslims and widely criticized for allowing the violence, won a historic mandate in the national elections to become the Prime Minister of India.

Scholars, civil society, and activists often describe the recurrent exoneration of perpetrators of public violence against minorities as the failure of the rule of law. I suggest that legal frameworks of modern states sometimes function very effectively to confer impunity on perpetrators of state-abetted violence. I demonstrate that these state practices of exonerating violence are better understood as a technique of governance – a form of state authority based on the ability of those in power to control, subdue, and punish minorities within postcolonial states. Traditionally, legal processes and law-enforcement agencies are expected to address and rectify such wrongs. In contemporary India, however, legal practices frequently impede accountability after everyday and extraordinary violence against minorities. This generates an urgent problem in Indian society: Why is political violence against minorities most often legally unaccountable?

In 2010-13, I spent eighteen months attending criminal trials, interviewing survivors, paralegals, NGO workers, Hindu nationalist activists, and analyzing police and legal documents in Ahmedabad, Gujarat. My fieldwork included both Muslim and Hindu communities, activists, courts and NGOs. By embedding modes of unaccountability in the heart of everyday legal and state practices, I show why 'spectacular violence' does not disturb everyday politics, but is an important force to claim public legitimacy and strengthen state power.

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Acknowledgements

In May 2002, I boarded the Ahmedabad bound Ashram Express on a hot afternoon at the bustling Old Delhi Railway station in Delhi. I reached Ahmedabad early next morning, but I had no idea then that my journey would end in May 2015. Like the rest of what follows, I have drafted this acknowledgment many times in my head, and this is my last draft. I did not make sense of what I have written here alone. In the last thirteen years, my friends and family have happily shared the burden of a project that had its own life.

I have opened the folder “Thesis Drafts” in Bangalore, Delhi, Atlanta, Bombay, Dubai, and Ahmedabad, surrounded by new faces, friends, scenes, and sounds. A few people have supported my dissertation no matter where I found myself. Since 2007, my advisor Bruce Knauff has guided this dissertation with his characteristic generosity, warmth, and *joie de vivre*. Given me freedom to experiment with theoretical models, field sites, methods, classes and writing strategies, and make my own path. His support is not limited to this dissertation, but informs my experience of graduate study in Emory.

My advisors Gyan Pandey and David Nugent are the other two pillars that supported this dissertation, especially when writing or rather rewriting seemed impossible. While my peers made writing groups with graduate students, I inflicted multiple drafts on my committee, and they read each draft with equal enthusiasm. Gyan’s graceful writing remains an unachieved ideal, but has guided my attempts to write more elegantly. Since my M. Phil. days in Delhi School of Economics, I have been inspired by Gyan’s work on violence and history. I am very grateful that he allowed me to become an honorary member of Emory’s History department, South Asia Research Group, and the Postcolonial Studies Workshops and Conferences, which gave me numerous opportunities to meet and learn from an interdisciplinary group of scholars. David Nugent’s door is always open to students, especially after 6 pm on Friday. Prof. Nugent’s frank comments and critique often forced me to undo what I had done over several months, but that has helped me remain faithful to my fieldwork. Post three hour-long marathon discussions with Prof. Nugent, I saw my project in a new light, outside the clichés that I imposed on it. During one of many crises that marked my experience of graduate school, he said, “One day we’ll make an anthropologist out of you.” I hope he succeeded.

Ram Narayan Kumar, human rights activist and researcher, taught me that the best work in the aftermath of violence begins with listening to the survivor. My stay in Gujarat, since 2002, was possible because of the generosity and warmth of the staff and director of the Behavioral Science Center at St. Xavier’s College, Ahmedabad. I took refuge in their library on days when fieldwork seemed impossible; hiding under the tall shady trees of the hostel, watching evening football and basketball matches, and soaking in the tranquility of Sunday mass in the parish, are some of my fondest memories of Ahmedabad. I thank Mr. Jayantibhai and his wife, who made learning Gujarati a joy. I would like to thank the Wenner-Gren Foundation for supporting my main doctoral fieldwork between 2010 and 2013.

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risk, helped me negotiate the minefield of egos and agendas that characterize fieldwork with survivors and perpetrators of public violence. Sharing a cup of tea and maska bun with him, I felt that Ahmedabad could be home. Speaking of home, many civilians, I mean non-anthropologists, helped me live away from friends and family in Ahmedabad. Terrace parties, evening walks, midnight milkshakes, Luna rides, weekend getaways, and when everything failed, going to the Mall – Anumeha, Samantha, Bimal, Yuanjin, Shahid, Shardul, Ankon, Hannah, and Niharika, were like brief gusts of cool breeze during my stay in Ahmedabad. Growing up in Delhi, I could not help but make ‘colony friends’ in Paldi – Pashabhai, Ganesh, Ramit, and Anoop helped me deal with my drunken landlord and ‘tiffin meals’ that were a form of slow poisoning. Janhavi Dave opened her house and kitchen to me when I had neither. Rahul fed me stories and myths.

My school friends, happily dismissive of academia, fed, cajoled, consoled, attacked and supported my dissertation by being rude about it. Prashant Jha in Delhi and Nepal; Sambuddha and Piyu in Dubai and A-32 CR Park; Sukhleen in Bombay; Uday in Philadelphia, New York, and Civil Lines; Samar, inside and outside the Delhi Gymkhana; and Swara in Delhi, who telephoned me in 2002 to ask me if I wanted to go to Ahmedabad as a relief volunteer, and accompanied me to Ahmedabad in 2005. Ashis followed me to Gujarat to find out if I was really doing any fieldwork there, and has shaped my research with his curiosity and faith in the larger project.

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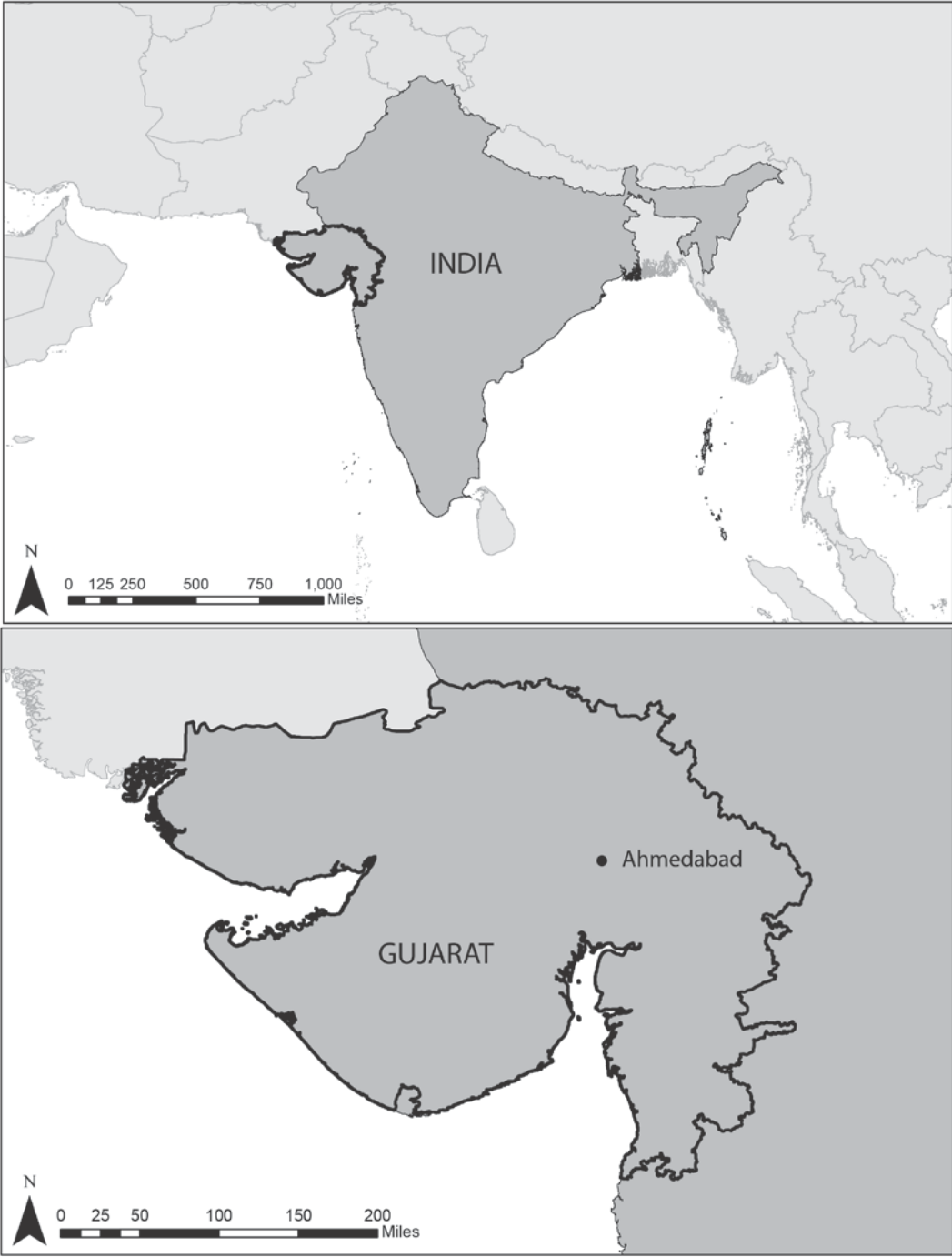
Friends and peers in Emory, especially members of the Emory Woods crew – Guirdex, Sunandan, Durba, Ajit, Debjani, Shruthi, Navug, Husseina, Aditya and Sanal Mohan – were my family in Atlanta. But more recently, Claire, Shunyuan, Dinah, Des, Shatam, Tenzin, Shreyas, Adeem, Bisan, and Sydney made the last lap special.

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Map: Emory Center for Digital Scholarship.

CHAPTER ONE

Chapter One: INTRODUCTION

In the summer of 2002, I spent my days reading novels, like other English majors in Delhi University. One afternoon when it was too hot to think, sleep or step outside, my phone rang, and on the other end an old school friend said that *Jagori*, a Delhi based feminist NGO, was sending volunteers to help victims of the ongoing riots in Gujarat. Friends from school and college had already left. Should we follow them? Now, thinking back to that moment twelve years ago, I realize that the decision was already made for us.

Gory images of mass public attacks against Muslims in the state of Gujarat in western India filled the front pages of all major Indian newspapers. Photographs in newspapers and reporters indicated government inaction and police connivance with armed mobs. We felt we had to act and act now. The killings continued even as television anchors streamed 'live' images of arson into our genteel middle-class homes in Delhi. Horror stories and rumors of what was happening seeped into our conversations with friends and family.

A prominent Congress Muslim politician, with connections to the highest levels of the local and national government, was pulled out of his house by his Hindu neighbors, and butchered in front of his wife¹, along with 59 Muslims he was sheltering in Gulberg

¹ This case was one of several grievous cases monitored by the Supreme Court of India through a Special Investigation Team (SIT). The widow of the politician, Ms. Ehsan Jafri accused the then Chief Minister of Gujarat and current Prime Minister of India, Narendra Modi and 62 other high-ranking state officials of conspiracy and abetment in the massacre of her husband and other Muslim residents of Gulberg society in Ahmedabad. The Special Investigation Team found there was "no prosecutable evidence" against the

society in Ahmedabad. Muslim judges of the Gujarat High Court were moved to safety under military escort. No Muslim, however powerful, was safe in Gujarat. A macabre joke doing the rounds in Ahmedabad declared, “the only bearded man safe in Gujarat is the Chief Minister, Narendra Modi.”

The attacks on Muslims was immediately justified by Hindu nationalist politicians, including the then Prime Minister of India, as a “reaction” to the alleged burning of 59 Hindu *karsevaks* (Hindu nationalist activists) at the Godhra railway station. On February 27, 2002, Sabarmati Express returning back from Ayodhya (western U.P) to Ahmedabad (capital of Gujarat) caught fire or was deliberately burned, depending on different interpretations of what happened, which lead to the horrific death of 59 Hindu activists who had pledged to contribute their labor to build a Ram (Hindu God) temple.

Two different government commissions of inquiry (one instituted by the Gujarat government and the other by the Railway ministry) reached opposite conclusions on the cause of the fire in the train that killed the 59 Hindus. The railway commission of inquiry found that the fire was an “accident.” On the other hand, the Nanavati commission of inquiry observed that it was a premeditated act by Muslim conspirators, reaffirming the state government’s version that the death of 59 Hindus (commonly known as the “Godhra incident”) was an act of premeditated terrorism. Despite a court judgment and two commissions of inquiry, the Godhra incident is mired in conspiracy theories and there is still no credible account of what caused the fire on the 27th February (Ramakrishnan 2014).

Chief Minister and other politicians and closed the case in 2012. Ms. Jafri challenged the closure of the case and appealed the decision in 2013. In December 2013, a lower court in Ahmedabad agreed with the SIT and accepted its closure report.

The anti-Muslim riots in Gujarat after the Godhra tragedy came at the end of my school education that was spent debating the success and failures of Indian secularism with teachers, family, and friends. So much of what we learned in school, like memorizing the definition of secularism for weekly political science tests, summer holiday homework on the Partition of India seemed urgent and alive now. The fraught question of Hindu-Muslim relations in India escaped the textbook and began unfolding before us. My friends and I boarded a fast overnight train Ashram Express to Ahmedabad.

We didn't know the local language, Gujarati, and had no friends or relatives to stay with in Ahmedabad. In the first meeting of relief volunteers, I looked around and couldn't help but notice that many of us belonged to a generation of upper-caste, middle-class Hindus who had never seen a riot. Unlike our parents and teachers, we were too young to remember the anti-Sikh violence in Delhi in 1984. I never *saw* the public burning or murder of Sikhs by crowds instigated by local policemen and politicians in Delhi, except in one grainy black and white photograph of some men dancing around a burning Sikh truck driver. Neither had we ever felt that unmistakable mix of fear and panic that hangs in the air even after the violence stops.

I thought I understood what was happening in Gujarat much before we stepped foot in Ahmedabad. We had read it in the papers, seen it in the films, debated it in the schoolroom, and heard it being discussed in our homes for several years now, till the imagery and characters of the riot had become a part of our experience. Categories like the riot, ethnic violence, and communal violence preceded those who came to help, document, analyze, critique, report, and uncover what was happening in Gujarat. Our

textbooks were replete with stories of Hindu-Muslim riots, of thousands living as refugees in relief camps, and chilling descriptions of violence against women and children.

For past school projects, I had collected photographs and newspaper clippings of charred bodies on nameless Indian streets, thousands of survivors with blank desolate faces peering out of refugee camps, and regal army flag marches in empty burned out streets across India – the mise-en-scene of communal violence in India. Inside the classroom, riots sparked off the loudest debates: Hindu nationalist sympathizers decried minority appeasement and vote-bank politics, and we the secularists, praised the Indian constitution and its secular vision. Both sides recognized that peculiar Indian disease we called communalism: the so-called root of Hindu-Muslim animosity and violence.

As our overnight train to Gujarat ploughed through vast wheat and sugarcane fields, we kept vigil all night, afraid that someone on the train would notice our brown-paper bags. We carried dozens of copies of People's Union for Democratic Rights (PUDR) pamphlets titled "*Maaro, Kaapo, Baalo* (Kill, Hack and Loot): State, Society and Communalism in Gujarat" published in Delhi, and other materials "unavailable" in Gujarat. These small black and white pamphlets felt like contraband in our hands. We looked suspiciously at the passengers around us in the train; a few discussed the riots, others listened to the news, and some feasted, gossiped, and played card games until dawn.

The first 72 hours after the morning of February 28th onwards were the worst: Muslim businesses, places of worship, houses and shops were openly looted and burned

by crowds in many parts of Gujarat. Even after the first 72 hours, looting, burning, and killing went on for several months; the army arrived too late to make a difference; and civil society and NGOs helped the Muslim community to set up relief camps for the over 100,000 Muslims displaced in the violence.

“So what should we do? Do we setup relief camps? Should we open baby-producing centers?” said Narendra Modi, the Chief Minister of Gujarat, at a political meeting on the 9th September². His political party, the right-wing BJP, widely considered responsible for instigating and leading the violence against Muslims won the 2002 elections with a record margin, and has since won three consecutive elections in Gujarat. Narendra Modi, who was initially castigated by national and international human rights organizations, media, and civil society organizations for allowing the massacres, became the Prime Minister of India in 2014.

With the landslide victory of Hindu nationalists in the recent elections, Gujarat 2002 and its aftermath is an extraordinary case study to understand not only how perpetrators organize and get away with mass violence in broad daylight, but also how anti-minority violence reinforces political legitimacy and state power. Scholars have observed that politicians who have the power to prevent “ethnic violence” often encourage it because of political rewards in terms of electoral results (Wilkinson 2005). Such studies show communal violence and riots polarize voters along religious lines and

² Quoted in *Outlook*, September 30th 2002. Full speech available online at <http://www.outlookindia.com/article/Should-We-Run-Relief-Camps-Open-Child-Producing-Centres/217398>. When the National Commission of Minorities (NCM) wanted a copy of this speech, Mr. Modi’s principal secretary told the commission, “Since the government has neither any tapes nor a transcript of the Chief Minister’s speech, it is not in a position to send the same to the NCM.”

directly profits political parties that claim to represent a particular religious community (like the Hindu nationalists). A similar trend can be observed in Gujarat. Mr. Modi had been the Chief Minister of Gujarat for only a year in 2002, but since then he has become the longest serving Chief Minister in the history of Gujarat. While these studies mostly focus on why governments “tolerate” so-called communal violence, the real question in Gujarat is how the legitimacy and power of Hindu nationalists expanded and deepened among the wider public and the state apparatus in the aftermath.

Even though the riot was a part of our experience much before we set foot in Ahmedabad, nothing prepared us for what saw, heard and felt once we reached there. But it was not the egregious destruction of life and property that shocked us. Black holes – erstwhile shops, garages, and businesses – surrounded us as we crossed the Sabarmati River to enter the affluent western part of the city. Unharmed shops, businesses, and garages with smiling shopkeepers inside stood beside gutted, bombed out gaping holes in the streets. I wish I had a camera so that I could have taken this photograph: two shops beside each other; one of them a burned out hole in the wall and the other a brightly lit square draped in fairy lights bustling with customers.

A loose conglomerate of activists and NGOs hosted volunteers like us in St. Xavier’s College, and we slept on the floor like soldiers in two huge dorms lined with mattresses. The monsoons were approaching and thousands of Muslim survivors were sleeping under the open sky with nothing except a few utensils and the clothes on their body. They could not return to their homes, and there was nothing to return to, anyway. Most Muslims fled their houses, shops, mosques, businesses, garages, and warehouses and found out later that nothing remained of what they had left behind.

In their absence and sometimes in front of them, armed groups looted, burned and destroyed their mosques, businesses and shops. In Ahmedabad, we collected medical supplies sent from Delhi, distributed clothes, wrote official applications for food and medicines, recorded estimates of what survivors had lost in the violence, and conducted house to house surveys to note the number of injured, dead, and missing.

I sat in a circle with other volunteers from across India and our team leaders christened us *Amanpathiks* (peace volunteers): a motley crew of undergraduates and veteran activists, third-year law school students from the south, educationists and bureaucrats, human rights lawyers and local Muslims. We were divided into groups and assigned to different “relief camps” across Ahmedabad. According to government estimates, as many as 98,000 displaced persons were living in 100 makeshift relief camps in different parts of Gujarat.

I spent the summer of 2002 working in the *Qutb-e-Alam* dargah (shrine) relief camp, located on the grounds of the shrine of a famous Muslim saint, converted into a relief camp by local Muslim leaders. The camp was in the outskirts of Ahmedabad, where every evening the air turned yellow and acidic and nearly gagged you when you passed the factories. The men left the camp in the morning with hopes of finding some work, women and children lay about the camp in small heaps, sitting with their belongings, a few pots, pans and clothes. One day, a man standing in a queue for a meal from the common kitchen told me, “I would not feed this to my animals in better days.” Some survivors lived in relief camps for a few weeks, most of them stayed a couple of months, and still others lived in the camp for as long as two years. For some “camp life” never

ended because even today they still live in relief colonies: permanent structures in the outskirts of the city that have no civic amenities.

Why Gujarat?

Gujarat has been described as the “laboratory of Hindutva” – a Hindu supremacist ideology that casts religious minorities in India as outsiders and second-class citizens. The political movement to build a Hindu temple at the site of a medieval mosque marked the ascendancy of Hindu nationalism in India. Gujarat is exceptional because since 1998, the BJP has been repeatedly voted in power. And Hindu fundamentalist organizations have over the years seeped into and entrenched themselves *within* the state apparatus.

In an insightful study of the relationship between state institutions and the communal violence, Ward Berenhot, in fact, argues that communal violence is performed through the same channels as other political goods and services in Gujarat. His study shows that “as wide-ranging networks of various brokers and intermediaries have formed to facilitate the interaction between state institutions and ordinary citizens, politicians have acquired the necessary local authority, contacts and incentives to foment violence” (2011:10).

Scholars have also analyzed the political history of Gujarat to explain how different organs of the state – political, executive and the legal – and the wider public turned against Muslims. Siddhartha Varadarajan writes that “One reason for violence against Muslims being so well-organized was the degree to which the Sangh Parivar (conglomerate of militant Hindu organizations) has communalized the state administration and society since the BJP returned to power under Keshubhai Patel’s

leadership in 1998” (2002:10). But even before the advent of the long rule of the BJP in Gujarat, there were large-scale “riots” in 1969 and 1985 under the Congress government. Therefore Gujarat has a long history of collective violence, even before BJP rule, which strengthens the argument of my dissertation that public political violence against minorities is not the provenance of a single political party or regime of power, but is a technique of governance – a mode of performing Hindu sovereignty that reinforces state power.

In the light of recent ethnographies of state authority and violence, Hansen and Stepputat explore what they call “de facto sovereignty, i.e., the ability to kill, punish, and discipline with impunity... rather than sovereignty grounded in formal ideologies of rule and legality” (2006). The key move they propose is to “abandon sovereignty as an ontological ground of power and order, expressed in rule or in enduring ideas of legitimate rule, in favor of a view of sovereignty as a tentative and always emergent form of authority grounded in violence that is performed and designed to generate loyalty, fear and legitimacy from the neighborhood to the summit of the state” (297:2006).

In such a context, the exposure of past violence does not promote accountability and closure because violence against minorities and political power are closely linked. In fact, violence against minorities can provide an excellent means for political forces, like Hindu nationalists in India, to strengthen public legitimacy and official control of the state apparatus.

The rise of collective violence against minorities, especially events of mass violence called “riots” largely parallel the history of the rise of the Hindu nationalist

movement in India, and its remarkable growth in Gujarat (Shani, Shah?). Institutionally, the Hindu nationalist movement has often been traced to the establishment of the RSS (National Volunteer Corp) in 1925. Over the years this social and political movement has transformed into a conglomerate of different organizations, ideologically and politically linked to each other, popularly called the *Sangh Parivar* (Family of Hindu-Nationalist Organizations) with the common aim of uniting Hindus and transforming India into a *Hindu Rashtra* (Hindu Nation) – a polity based on Hindu supremacy, or in their words, “Hindu values.” Hindu nationalists have largely defined themselves against Islam and Muslims, posing them and other religious minorities as outsiders who threaten Hindus.

The Hindu nationalist “family” includes the ‘founding’ RSS (volunteer-based organization that runs schools, hospitals, and performs charitable works), VHP (World Hindu Council) that maintains ties with Non Resident Indian (NRI) Hindus and promotes Hindu religious values, and the political party BJP (second-largest party in India after the Congress) that is the political wing of the Hindu nationalist movement in India. Apart from these major organizations, the VHP has produced more openly aggressive outfits like the youth-based group *Bajrang Dal* and an exclusively women’s wing called *Durga Vahini*. This loose network of Hindu nationalist organizations has propelled their political party, BJP, to the center of mainstream politics in contemporary India. Across Gujarat, media, eyewitness and human rights accounts describe how these organizations and their activists led the attack on Muslims. Newspapers and the electronic media carried pictures of Hindu nationalist activists brandishing swords and leading mobs.

Over the last thirty years, the Hindu nationalist movement has gained strength across India (Jaffrelot 1998) and their poster child is Gujarat, both in terms of electoral

success and grassroots mobilization and organization (Berenschot 2011). Beginning with an aggressive campaign to build a Hindu temple at the site of a mosque in the North-Indian town of Ayodhya, Hindu nationalist politics dominated the politics of North India in the 1980s and 1990s. Hindu nationalists argued that the mosque was built at the exact site of the birth of the Hindu god Ram. According to them, Muslim invaders had destroyed the ‘original’ temple in the 16th century, and a mosque at the site of the birth of a Hindu god was a sign of Muslim domination over Hindus. To correct this historical wrong, Hindu nationalist volunteers stormed and vandalized the mosque in full public view on 6th December 1992. Ten years later, on 27th February 2002, a similar group of Hindu activists died in a train while returning to Gujarat from Ayodhya, outside the Godhra railway station. And soon after the incident, large groups of Hindu nationalist activists and the general public began attacking Muslims across Gujarat.

Ahmedabad: A Divided City

Ahmedabad is a divided city. In 2002, I learned that saffron flags flapping in the wind on top of a temple, house, or a shop marked the beginning or end of a Hindu “area.” Mosques, green flags, and meat shops similarly marked Muslim neighborhoods. The east and the west sides of the river Sabarmati corresponded to the dominantly Muslim and Hindu parts of the city. The Sabarmati River divided the two parts of the city, separating the ex-mill workers from the middle-class shopkeepers, the historical “gates” and forts from shiny new malls and giant apartments. Thousands of residents cross the river everyday to get to work, to shop, to pray, catch a train, or even grab a midnight snack – but the river arguably divides two different ways of living in the city.

I experienced this division, not on the map, but in conversations with strangers while waiting for the bus, eating at a restaurant, and trying to find a place to stay during the beginning of fieldwork. The split was visceral in 2002, when I first arrived in Ahmedabad. The Muslims were afraid, terrorized, and isolated in relief camps and Muslim majority areas, interacting mostly with relief agencies and activists; and life went on as usual for most Hindus, who were smug and happy, discussing politics on their evening walk. Most of the violence was concentrated on the eastern side and the outskirts of the city. Depending on the religion of our auto rickshaw driver, he would take us to our destination through only Hindu or Muslims neighborhoods. Our auto drivers taught us to see the city, “Look, that saffron flag near the drain, that means we are entering a Hindu neighborhood. Goats usually mean we are in Muslim neighborhood.” Other signs were less subtle, like the ones planted by the *Bajrang Dal*, youth-wing of the VHP – “Hindu *Rashtra* (Hindu Nation) welcomes you.”

Ahmedabad is the seventh largest metropolis in India with 3.51 million residents in 2001, according to the official census. It is also the largest city in the Gujarat state. Darshini Mahadevia describes the paradoxes of Gujarat’s capital city “that was once so wealthy that it financed the trade of the Mughal Empire; or from where Gandhi started his engagement in India’s freedom movement; or a city whose elites invited Gandhiji to the city and assured him their continuous support; or a city whose industrialization started with indigenous capital and not British capital” (2002:450) – the list of Ahmedabad’s achievement are endless. But scholars grapple with its startling transformation from the “Manchester of India” to “one of the most violence prone urban areas in all of India”(Varshney 2002:220).

Historians of Gujarat write that Hindus and Muslims have come to represent “two religious communities simply unable to get along and finding it impossible to resolve their differences through any means other than increasingly barbaric violence” (Yagnik and Sheth 2005:193). Gujarati scholars, editors, and academics point out the increasing polarization and ghettoization of Ahmedabad with each fresh incident of violence – 1969, 1985, 1992, and 2002 (Spodek 2011:14).

But widely circulated ideas about the eternal and seamless enmity between Hindus and Muslims are shared across popular and official domains. In one chapter, I analyze how the police show “communal mobs” emerging from Hindu and Muslim majority neighborhoods within the city in order to obfuscate and efface agency and organization of violence by well-known perpetrators and criminals in what is subsequently called “Hindu-Muslim” violence. The divided city does not only mean the spatial segregation and organization of social life in Ahmedabad, it is also a technique of police writing; a form of neighborhood politics actively nurtured and fostered by Hindu nationalist activists; and a part of the infrastructure of violence (Rajagopal 2010). In many ‘mixed’ neighborhoods of the city, Hindus describe their Muslim neighbors as ‘Pakistanis,’ and Muslims in turn frequently refer to Hindus in conversation as ‘Gujaratis.’

In my experience, the division of the city along Hindu-Muslim lines is crucial to understanding the relationship between the local and the national across neighborhoods in Ahmedabad. The religious “coding” of property – commercial and residential – means those Hindu houses, shops, parks, and businesses have unambiguously Hindu-sounding names like “*Radhey Shyam*,” and Hindu owners frequently use names of gods and

goddesses. It is expected that Hindu crowds won't attack these properties during so-called routine bouts of 'rioting.' Political slogans and graffiti are also used to code neighborhoods.

In 2004, a young Muslim boy told me that in the Hindu neighborhood there was wall-length graffiti of a train being burned by skullcap wearing men accompanied with highly inflammatory slogans. On reaching the wall, I noticed it had had been freshly white washed. But the next wall said: "The Pride of 50 Million Gujaratis – Narendra Modi."

Collecting stories of the transformation of intercommunity relations within a specific neighborhood in 2004, I heard remarkable tales of inter-religious amity, friendship and peace. Sitting in a Muslim owned teashop, right outside the erstwhile relief camp, one enthusiastic customer overheard my discussions on Hindu-Muslims relations with the owner and promised to look for a newspaper article praising this neighborhood for maintaining peace and harmony while there were riots elsewhere.

The government even presented Vatwa (where I did volunteer work and fieldwork in 2002 and 2004) a gold medal for staying peaceful in 1969, when the rest of the city was burning. The subsequent transformation in the relationships between Hindus and Muslims in Vatwa, and its decline, was the subject of my initial research in Ahmedabad.

One story, according to my informants, summed up the transformation of relationships in the last 30 years. The main accused, conspirator, and organizer of the 2002 violence turned out to be the nephew of one of the most-well respected (among Muslims) Hindu leaders of a previous generation. The decline from a golden age of

intercommunity amity to the age of political opportunism was the most common explanation for the 2002 attacks on Muslims in Vatva. Especially older Muslims, farming and laboring in Vatva for more than a generation, gave nostalgic accounts of the steady decline of a syncretic relationship between Hindus and Muslims in Gujarat that culminated in the anti-Muslim pogrom in 2002.

Action and Reaction

On 27th February 2002, the Sabarmati Express arrived at its scheduled stop in Godhra, in the western state of Gujarat, four hours late at about quarter to eight in the morning. In February, thousands of Hindu nationalist activists (*karsevaks*) had gone to Ayodhya as part of a VHP (World Hindu Council) organized religious ceremony aimed at forcibly constructing a temple at the site of an erstwhile mosque. The controversy surrounding the construction of a temple at the site of a mosque, which was destroyed by Hindu activists in 1992, had led to communal violence in the past as well.

The activists were returning after having conducted religious prayers at the disputed site. According to eyewitness reports, some of them got into arguments and scuffles with the Muslim vendors at the railway station. They refused to pay for tea and snacks, made a failed attempt to abduct a young Muslim girl, forced Muslim vendors to chant Hindu slogans, and tried to beat them up. Three minutes later, when the train tried to leave, someone pulled the emergency chain to allow passengers left behind to board. By now, both sides were stoning each other, and Muslim vendors on the station were stoning the train (Punyani 2002, Nussbaum 2007, Varadarajan 2002)

Someone pulled the emergency alarm a second time, and the train came to a stop. Two state commissions of inquiry, numerous newspaper reports, and a trial have analyzed what happened next, but there is no credible account of what caused the fire in the train. The railway guards say that they saw a large mob of Muslims surround the train and stone it. The train had stopped near a Muslim slum, and its residents and the Hindu activists on the train began pelting each other stones.

Within seven minutes, the S-6 coach of the train erupted in flames. By the time fire trucks came to douse the fire, fifty-nine Hindu men, women and children were dead. Later, despite the reservations of the police and administration, the dead bodies of the Hindu activists were handed over to the VHP (World Hindu Council) cadres, who carried them in a public procession across Ahmedabad. Muslim shops and houses were burned and attacked along the route of the procession, even as the police accompanied it.

The Chief Minister described the Godhra incident as a “pre-planned conspiracy of collective terrorism” and suggested that the death of Hindu passengers was a preplanned act by local Muslims incited by Pakistan (Varadarajan 2002:8). In an interview to another newspaper, Modi said, “The Godhra incident was not communal violence but terrorism.”³

Later he issued a public statement on state television:

I want to assure the people that Gujarat shall not tolerate any such incident. The culprits will get full punishment for their sins. *Not only this, we will set an example that nobody, not even in his dreams, thinks of committing a heinous crime like this.*” (Emphasis in the original, Varadarajan 2002:9).

³ Quoted in *The Tribune*, March 9th 2002.

Hindu nationalist politicians echoed the chief minister's statement and described the Godhra incident as "terrorism." On cue, vernacular media started circulating inflammatory images of mutilated and charred bodies and rumors as "news." For instance, on February 28, the front page of Gujarati newspaper *Sandesh* carried a fictitious report on the abduction and rape of Hindu women by Muslims in Godhra titled, "Religious mob abducts 10-15 Hindu girls out of train bogies" (Sundar 2002: 80-81, Ghassem-Fachandi 2012: 66). The fictitious report described, "In an act of inhumanity that would make even a devil weep, both girls had their breasts cut off. It is evident from the dead bodies that the victims had been repeatedly raped. There is speculation that the girls might have died because of gross sexual abuse (Concerned Citizens' Tribunal 2002: 133, their translation). Ghassem-Fachandi analyzes such reports to make the crucial point that "although the police eventually found all these rumors to be entirely baseless, their efficacy did not rest in their veracity" (2012:76).

Mobs carrying stones, swords, and copies of *Sandesh* in their hands were later seen on the streets demanded "blood for blood" (CCT: 2002). Prominent journalists, part of a fact-finding commission met the editor of *Sandesh* and found that he "is honest to a fault," because he openly told them, "The English media had sided with the minority community, but the Gujarat papers were "pro-Hindu" (Padgaonkar 2002). He justified the "reaction" to the Godhra incident saying, "Can a 20 percent minority take the majority for a ride?" Along with newspaper, local television channels played inflammatory speeches of Hindu nationalist leaders and images of charred bodies in Godhra for several days after.

The VHP (Vishwa Hindu Parishad) called for a Gujarat *bandh* (strike or shut down) on 28th February and an India *bandh* (All-India strike) on 1st March, and the ruling BJP government supported it. While the so-called all India strike was not successful, the government supported shut down of Gujarat effectively gave Hindu nationalist cadres unfettered space to attack, loot, murder, and rape Muslims with impunity. Human rights reports and other activists have repeatedly asked if the pogrom was spontaneous, what explains the one-day delay between the largely peaceful 27th and full-fledged violence after the *bandh* on the 28th.

The Hindu nationalist strategy to shut down the city, by announcing a *bandh*, was essential to the performance of the anti-Muslim riots. The PUDR (People's Union for Democratic Rights) argued, "It took a day for organized 'retaliation' to begin. 28 February and 1 March were declared 'Gujarat Bandh' and 'India Bandh' respectively. The Bandh, it turns out, was only for law-abiding citizens – VHP and Bajrang Dal (militant youth wing) mobs had full control over the streets" (PUDR 2002).

The government-supported *bandh* ensured that there was no public transportation and shops and businesses were closed when "riots" magically erupted across Gujarat. During previous VHP *bandhs* in Gujarat, like the one in 2001, Muslim businesses and places of worship had been attacked and burned across major cities in Gujarat (Varadarajan 2002: 11). The police and government were fully aware of *bandh's* potential and effects in the aftermath of Godhra. Like other aspects of the Gujarat pogrom, the violence followed the familiar plot of the deadly but anticipated communal riot.

The Home minister of Gujarat said, “We will teach a lesson to those who have done this.” Within 24 hours, 133 Muslims were killed in Ahmedabad alone. During the peak of violence, the Chief Minister of Gujarat, Narendra Modi, famously told a news channel that “the process of action and reaction is on. We want that there should be no action or reaction.”(TOI). Even though Gujarat, and especially Ahmedabad has periodically witnessed communal conflict, the attack in 2002 is widely considered as exceptional for its “organization” and “brutality.” Remarkably, but in hindsight not surprisingly, so called riots erupted in Gujarat around the same time on the 28th morning, and large mobs led by Hindu nationalist leaders, cadres and politicians started attacking Muslims.

The *bandh* was partly carnivalesque, in so far as the police and the government allowed Hindu nationalist activists and rioters to take over the streets and ‘take revenge,’ murder, rape, molest, assault, burn, and roam the streets with impunity for a limited period of time, but ironically this was not a violation of rule, but an assertion of Hindu supremacy and sovereignty. Parvis Ghassem-Fachandi, an anthropologist who witnessed the pogrom, writes, “The *bandh* call facilitated logistical preparation and psychological mobilization of various kinds. It allowed a large part of a poor and despondent city population, who work as daily earners and can ordinarily ill afford to abstain from work or skip income, to engage in street activities” (2012: 56).

The police told Muslims, “We have no orders to save you,” and mobs shouted slogans, “*Yeh Andar Ki Baat Hai, Police Hamare saath hai*” (This is an inside job, the police is on our side) (Setalvad in Varadarajan 2002: 176). The national media reported that the police often attacked Muslims instead of quelling the violence; and Gujarat

government, for good reasons, was unwilling to release official figures of deaths by police firing. In the initial days of the pogrom, out of 184 people killed in police firing, 104 were Muslims, according to official reports that emerged in the media (The Hindustan Times, 3rd May). Another newspaper report described 40 Muslim men were shot dead near a police station in Ahmedabad on the day that witnessed the worst attacks on Muslims (The Indian Express, 9th April 2002).

Muslim judges of the Ahmedabad High Court had to be moved to safety by the army, presumably because the Gujarat police couldn't be trusted. Instances of police brutality and targeting of Muslims can be found at random in any of the half a dozen independent civil society human rights reports. Activist reports, eyewitness testimony, the National Human Rights Commission, and the Supreme Court judgments are full of references to the partisan role of the Gujarat police in abetting the 2002 attacks on Muslims.

The police pushed Muslims out of hiding spots telling them "it was their night to die" (Setalvad in Varadarajan 2002: 183). The police commissioner in a television interview said, "These people (policemen), also, they somehow get carried away by the general sentiment. That's the whole trouble. The police are equally influenced by general sentiments" (Star News, 28 February 2002). In other words, perpetrators, government officials, politicians, editors, Hindu activists leaders made no serious attempt to disguise their intention or motivation; at least not until the advent of human rights activist, national media and international agencies in Gujarat. Two Hindu nationalist ministers stationed themselves inside the Police Control Room in Ahmedabad to "monitor" the response of the police.

A senior Muslim politician, former Member of Parliament (MP), Mr. Ehsan Jafri and 61 Muslims who took refuge in his house were quartered and burned alive in Gulberg Society in Ahmedabad. Jafri used all his political connections and his wife said that he made over two hundred phone calls that day to the police control room, the police commissioner, the chief secretary, and several top officials in the bureaucracy and police, but to no avail. By the time security forces arrived, 59 Muslims had been killed. Survivors recounted how women and girls were stripped, raped and burned alive.

According to human rights reports and survivors' testimony, sexual violence, especially mass public violation of Muslim women's bodies, including raping, stripping, burning, and maiming is one of the most striking aspects of Gujarat 2002. Ninety-six Muslims were killed in the Naroda Patiya neighborhood in Ahmedabad, and the stomach of a Muslim woman was ripped open, and the fetus paraded on the tip of a sword. This incident became a symbol of the extent and brutality of violence against Muslim women in Gujarat. Historian Tanika Sarkar argued that Gujarat 2002 "can be exemplified in what happened to Muslim women and children on the days of the long knives. Not just their killings, not just the sadism that effected their killings, but the large symbolic purpose behind the deaths sums up the nature of ethnic cleansing, the shape of Hindu Rashtra (2002).

"The Survivor's Speak," a landmark report by an all women fact-finding commission presented victim and witness testimony "of the most extreme form of sexual violence during the first few days of the carnage" (Hameed et al 2002). Vernacular newspaper reports on the 28 February had floated rumors of Hindu women being abducted by communal mobs in Godhra, including false reports of "breasts being cut"

and mass rape. But the falsity of these reports did not diminish their efficacy – mobs were seen waving these reports while attacking Muslims.

Ghassem-Fachandi argues in an insightful psychoanalytical analysis of the vernacular media that the efficacy of such reportage is not in its veracity but in “the fantasies and imaginations of the people participating in them” (76). His distinctive ethnography of Hindu nationalist imaginaries and fantasies underlying the Gujarat pogrom helps to understand how and why the “woman’s body was a site of almost inexhaustible violence, with infinitely plural and creative forms of torture” (Sarkar). And far from being isolated incidents of brutality, the scale and quality of violence against Muslim women and children highlight the centrality of gender and sexuality.

Although the Gujarat government claimed that they quelled the riots in 72 hours, even though the violence lasted over three months. For instance, I analyzed over a hundred police complaints of 2002-related violence in one police station in Ahmedabad, and found attacks on Muslims as late as 10th May. According to official figures, 790 Muslims and 254 Hindus died in the Gujarat riots. But human right organizations estimate more than 1000, mostly Muslims, were killed. Some 20,000 Muslim homes and businesses and 360 places of worship were destroyed, and roughly 150,000 people were displaced (New York Times Gujarat Riots Timeline).

The PUDR report on Gujarat found that the “state does not wish to undertake the responsibility [of rehabilitating those displaced] and incur the cost of proper relief measures” (PUDR: 308). In Ahmedabad’s largest relief camp, run by community organizations, 2,200 families or 8-10,000 survivors shared twenty-two toilets.

Instead of setting up relief camps in the aftermath, Narendra Modi, the chief Minister of Gujarat called them “baby-producing centers” in an election rally in September 2002. And the entire responsibility of giving food, medicine, and refuge to thousands of survivors fell on Muslim religious trusts and NGOs. The government openly discriminated between those affected in the riots: families of Hindus killed in Godhra would receive \$4,000 but Muslims killed in the pogrom \$2,000 – a decision that was later retracted in the face of widespread national outrage. In 2011, the Center for Social Justice, an Ahmedabad based NGO, reported, “Over 5280 families have been permanently displaced by the violence.” After the anti-Muslim pogrom, Modi won three consecutive elections in December 2002, 2007 and 2012, not only consolidating his power as the undisputed leader of the state but also a national level figure known for governance and development.

I write in the wake of Mr. Narendra Modi becoming the 15th Prime Minister of Gujarat. In March 2008, the Supreme Court of India set up a Special investigation team to look into several cases of violence in Gujarat 2002 on the basis of a complaint by Zakia Jafri, widow of Ehsan Jafri, who alleged, among other things, that Chief Minister Narendra Modi and 62 top police and state officials were behind the conspiracy to kill Muslims in the Gulberg Society area of Ahmedabad. In March 2012, the SIT submitted a closure report saying there is no prosecutable evidence against Mr. Modi and other state officials. In December 2013, a lower-court in Ahmedabad agreed with the SIT that there was “no prosecutable evidence” against Mr. Narendra Modi. Mr. Modi tweeted “truth alone triumphs” and many in the media hailed it as a “clean chit” for Mr. Modi, using the

legal verdict to efface the complicity of Hindu nationalists and state officials in the violence against Muslims.

The Paradox of Gujarat 2002

Can one expect a state apparatus implicated – abetting and looking away – in attacking Muslims to prosecute the perpetrators? Human rights lawyer Vrinda Grover asks, “Who will investigate? Who will collect evidence diligently? Who will faithfully record the testimonies of the victims? Who will arrest the accused? Who will prepare a case that will withstand judicial scrutiny and prove the guilt of the accused beyond reasonable doubt?” (Varadarajan 2002: 356). When state officials openly support the attack on Muslims, sometimes in front of the camera, and the accused are well-known leaders and politicians mentioned in countless testimonies and investigation, then it well may be that “the legal outcome is largely a foregone conclusion” (Grover 2002).

Even if the legal outcome of mass violence against minorities is a foregone conclusion, if we discover how mass violence, and subsequent official and unofficial processes of repackaging it, legitimize structural inequalities and strengthen state power, we might better understand why such recurrent violence continues to be so profitable in contemporary India. Or to pose a question which is not exhausted by the dynamic of crime and punishment: What can Gujarat 2002 tell us about contemporary forms of postcolonial rule and state power that outlive the spectacle and horror of mass violence? *How does public violence strengthen political rule? And why does it do so?*

Impunity is even more glaring in the context of Gujarat 2002 because the violence was performed in the open and often in front of journalists and the police. Gujarat 2002 is

often described as India's first televised riot. Local media spread rumors and the wider public cheered even as Muslims were being attacked, looted and burned across Gujarat. Because of both popular and official sanction, perpetrators made no efforts to hide their intentions and motivations, it was not a covert operation, even if it had its share of conspiratorial elements, there was no effort taken by the administration, the perpetrators, politicians, or even the wider public of Gujarat to hide their delight in "teaching Muslims a lesson." One part of the Gujarat paradox is that everyone knows what happened and who are responsible and yet official commissions of inquiry, trials, and special investigation teams frequently find there is no evidence to nail the perpetrators⁴. The other question raised by recurring public violence against minorities is its efficacy as a mode of politics that congeals Hindus under the sign of Hindu nationalism.

If anyone had any doubts about the brazenness of the perpetrators, they were dispelled in October 2007, when an undercover reporter for the investigative weekly magazine *Tehelka* secretly taped interviews with dozens of perpetrators boasting about what their activities during the pogrom. Bajrang Dal (extremist Hindu organization) leader Babu Bajrangi told the reporter, "We didn't spare a single Muslim shop, we set everything on fire and killed them...It has been written in my FIR...there was this pregnant woman, I slit her open...Showed them what kind of revenge we can take if our people are killed... I came back after I killed them, called up the home minister and went to sleep..." (Khetan 2007).

⁴ There have been a few landmark convictions post 2002, but most cases I attended during my fieldwork in the lower courts of Ahmedabad ended in acquittals. A 2014 study by the Stanford Human Rights Clinic calculated the conviction rate as 1.2%.

Others described how they made homemade bombs, ordered truckloads of swords from neighboring states, and distributed them in Gujarat, sometimes with the help of the police. Many perpetrators acknowledged the support and cooperation of the police and the government; the police helped perpetrators carry weapons, looked the other way when they looted and burned Muslim shops and homes, and refused to register complaints or manipulated their reports in ways that made prosecution improbable, if not impossible.

But NGOs, activists, and survivors in Gujarat are still fighting for justice. In 2008, I volunteered with NGOs working on relief, rehabilitation and justice. They defended Muslims charged with the draconian POTA (Prevention of Terrorism Act) law in connection with the burning of the train in Godhra. Their families were not told about their whereabouts for weeks and the men were later charged with conspiracy and terrorism⁵. In contrast no Hindu was charged or arrested under terrorism laws despite the deaths of 2000 Muslims. They were mostly charged under the Indian Penal Code (IPC) for offences like unlawful assembly, rioting, and violating curfew that ensured they got bail (Singh 2007).

At the same time, some NGOs focused on thousands of cases relating to looting, arson, murder, stabbing and rioting, mostly against Muslims. Many local relief volunteers who worked with me in 2002, later moved to working with NGOs involved with schooling, women's rights, and livelihood issues. Justice First paralegals and activists,

⁵ See *India: The Abuse of the Law in Gujarat: Muslims detained illegally in Ahmedabad*, Report of the Amnesty International, 2003.

whom I follow in this dissertation, persuaded and helped Muslim victims to fight frustrating, protracted, and notoriously inefficient legal cases.

A decade later, most of those charged with participation in the violence have been acquitted and the conviction rate is abysmal in the lower courts (Stanford Law School Report 2014), but there have also been a few landmark convictions in the most heinous cases monitored by the Supreme Court of India. The abysmal rate of convictions in the aftermath of Gujarat 2002, and previous instances of mass violence, is not surprising in the light of the evidence meticulously gathered by human rights activists and lawyers who found that the police refused to register First Information Reports, intimidated complainants, and refused to write the names of the accused in official complaints (CCT I and II 2002). The Gujarat government even punished the few policemen who tried to defy the trend to let crowds murder, rape, loot, and burn. Rahul Sharma, a Hindu police officer who saved the lives of 400 Muslim children during the pogrom, and gave crucial evidence of police complicity to investigation agencies, was denied promotion and charge-sheeted by the Gujarat government in 2013.

In cases where the police did register complaints, they wrote that the accused were “anonymous mobs” and “crowds of thousands” – which lacked details needed to secure prosecution. The National Human Rights Commission (NHRC) reported that victims were unable to register complaints with the police even two months after the violence began; the police were deliberately distorting the facts in FIRs and not giving complainants a copy of the FIR as per procedure; most accused charged for heinous crimes like murder and arson obtained immediate bail and were out on the streets. The report concluded, “it is a central principle of criminal justice that those against whom

allegations are made should not be themselves entrusted with the investigation of those allegations.” And yet that is exactly what took place later. This is hardly surprising as the commission noted, “the facts indicate that the [state] response was often abysmal, or even nonexistent, pointing to gross negligence in certain instances or, worse still, as widely believed, to a complicity that was tacit if not explicit” (NHRC 2002: 209).

Despite such criticism from national and international human rights groups, civil society organizations, and even state institutions, “the situation on the ground remained unchanged and a majority of the victims were unable to lodge FIRs with the police” (Grover 2002: 360). The NHRC’s recommendation to hand over the investigation of Gujarat 2002 offences to the Central Bureau of Investigation was rejected by both the local and central government.

Of course, simply recording FIRs did not mean that the police were obliged to actually investigate the crimes or arrest the accused. Meanwhile, the Gujarat police closed 2,032 cases out of 4,252 because the culprits could not be traced or for lack of sufficient evidence. In 2004, acting on the petition of the human rights activists, the Supreme Court ordered the police to review nearly 2000 cases closed by them.

But this is not the first time that a government has simply closed criminal cases relating to mass violence. Another Hindu nationalist government, the Shiv Sena-BJP government in Maharashtra decided to drop 3000 cases relating to the 1992 riots in Bombay (Hosbet Suresh, *The Little Magazine*, 2003). Unfortunately the sequence of events: mass violence against a minority with the abetment of the state apparatus, police refusal to register complaints or deliberate obfuscation of culpability, and finally the

closure or dismissal of criminal cases on account of the lack of evidence, is hardly unprecedented and exceptional in India. Activists and lawyers maintain that the legal aftermath of the Gujarat 2002 follows a familiar script. The Gujarat paradox is not uncommon and found in different parts of India (Zoya Hasan in Roy and Basu 2007). For instance, the parallel between the attacks on Muslims in Gujarat 2002 and Sikhs in Delhi 1984 includes not just the public attack and police complicity, but also impunity in the aftermath. Like Gujarat 2002, in Delhi 1984, politicians led mobs and justified the violence as a spontaneous “reaction” or rioting; the police assisted mobs and disarmed Sikh men; virulent rumors both anticipated and precipitated the murder, arson and looting of Sikh property, and finally the impunity for known perpetrators despite nearly ten official commissions of inquiries and investigations (to investigate the anti-Sikh violence in 1984).

Even though there are many differences between Delhi 1984 and Gujarat 2002, these periodic “state-sponsored” events of mass violence against minorities, often with the active approval of large sections of the general public, “points to a more pervasive problem with the nature and structure of the Indian polity and State” (Varadarajan 2002: 10).

Ironically, the Gujarat government sought to underplay the enormity of the violence in 2002, using the cover of the communal violence-as-usual argument. In response to the NHRC’s queries on its handling of the violence it said:

The State of Gujarat has a long history of communal riots. Major riots have been occurring periodically in the State since 1969. Two commissions of inquiry –

Jagmohan Reddy Commission of Inquiry, 1969 and Dave Commission of Inquiry, 1985 were constituted to go into the widespread communal violence that erupted from time to time...between 1970 and 2002 Gujarat has witnessed 443 major communal riots. Even minor altercations, over trivial matters like kite flying have led to communal violence” (Quoted in NHRC 2002: 13).

Like previous governments, the Gujarat government promptly set up a commission of inquiry, the Nanavati-Shah Commission, under retired Justice Nanavati, to inquire into the facts, circumstances, and course of events that led to the burning of the S-6 coach of Sabarmati Express in the Godhra Railway station. In June 2002, its terms of reference were amended to also include an investigation of the “communal riots” that followed the Godhra incident. Governments across the political spectrum institute commission of inquiries after catastrophic events and mass violence because the findings of these commissions, like the recommendations of the NHRC are not legally binding, and usually appear decades after the event anyway.

Legal scholar Upendra Baxi argues, “Momentarily distressed regimes have used this mechanism, with some success in order to provide the appearance of a short term rule of law oriented state action, which in the long run divests victims of any semblance of effective redress.” Furthermore, Baxi calls these commissions, “powerful devices which organize public oblivion on a scale so massive as to inhibit even the impulse to struggle” (Baxi 2002). The Nanavati-Shah Commission has faithfully followed Baxi’s script; it was supposed to submit its findings in six months, but after more than a decade, one of the presiding judges is dead, two governments have changed, and it has still not made its “findings” public. Yet, one might ask, what can it tell us that we don’t already know? My

dissertation argues that *temporality* is central to the political-judicial structure of impunity and consequently delay, deferral and drag are familiar but under-analyzed aspects of state power (Ferme 2013).

The Gujarat government also set up “fast track” courts that some argue effectively became special mechanisms to acquit the accused as soon as possible [Fieldwork interview]. In its first decision on a major 2002 case, the court acquitted all 21 accused in a case known as the “Best Bakery Case.” A mob killed and burned 14 people inside a small bakery in Baroda. Of the 14, 9 belonged to one family, and a 19-year-old girl, Zahira Sheikh identified the accused that killed her family. Even though she was an eyewitness in the case, she along with 37 other key witnesses turned “hostile” (retracted her pre-trial statements in favor of the accused) during the trial. Of the 120 witnesses, a third never testified, and of those who testified, more than half retracted their statements during the trial. A Hindu nationalist political leader of the BJP accompanied the prosecution’s main complainant and eyewitness, Zahira, to the court who told the judge that she saw nothing during the incident.

Later, Zahira appeared at a press conference organized by an NGO, and said she had been intimidated and retracted her statement fearing the safety of her family. Instantly she became an iconic figure of resistance and hailed as a young Muslim woman willing to speak truth to power. Subsequently, the NHRC successfully petitioned the Supreme Court of India to set aside the acquittal and secured a retrial of her case outside Gujarat.

During the retrial, Zahira retracted her statement again, saying that she had been forced by human rights activists to give false testimony, and reverted to her earlier version that she had seen nothing. The prosecution declared her a hostile witness, and the Supreme Court sentenced her to a year in prison for perjury! In a cruel turn of events, a young woman who saw nine members of her family being slaughtered was labeled a perjurer and sent to jail by the Supreme Court of India. Given that survivors like Zahira Shiekh, supported by top human rights activists and the highest court in India could be so easily and brazenly intimidated, manipulated and bribed by perpetrators in full view of the media, what happens to the survivor in ordinary lower court trials who stands outside the media glare? What message does it send to survivors about the nature of law, violence and rule in India?

Activism and Trials in the Aftermath

...Perhaps these laws that we are trying to unravel they don't exist at all.

- Kafka, *The Problem of Our Laws*

In order to understand the long-term political and legal process that produces unaccountability, when media attention shifts away, international NGOs submit their reports and turn to the next catastrophe, and the spectacle of corpses, blood, and survivors fades away, I volunteered with a local legal aid NGO, Justice First. All NGOs in Gujarat did not pursue the same legal strategy, even if their ends were the same. Christophe Jaffrelot mentions, "Certain difference emerged between the NGOs which wanted to focus on only a few cases and those which wanted to fight them all, and, also, between those who wanted the trial to be held out of Gujarat in order to avoid external pressures

and those who wanted justice to be delivered where the crimes had been committed” (2012: 78).

The human rights activist who started JF in 2006 wanted to take up as many cases as possible, and collected information relating to all 2002-related police cases in Gujarat, its paralegals and lawyers approached hundreds of Muslim victims and witnesses named in the police reports in order to encourage them to pursue their case in court. They hired local lawyers to monitor the progress of the cases in which secured the complainant’s consent. JF’s ethical-political position can be summarized as “justice before reconciliation.”

JF was part of the group of activists and NGOs that convinced the Supreme Court in 2004 to reopen 2107 cases closed by the police. The police had “summarily closed” half of the total cases even before formal charges could be framed in these cases citing the lack of names or the whereabouts of the accused. The Supreme Court made this decision on the basis of activist reports that reported how police officers had refused to record complaints and had not written the names of the accused, choosing instead to file omnibus FIRs (anonymous) that clubbed together different incidents in different places.

Regardless of well-intentioned efforts by many NGOs and activists to prosecute the guilty, I found that in the main, most survivors were more interested in receiving compensation and rehabilitation. Many had never set foot inside a courtroom and could ill-afford missing a day’s worth of wages that entailed each court visit. And yet many survivors were attracted by the free legal services and JF’s idealism and agreed to give statements against the accused in the court. For a year and a half, I followed JF lawyers,

paralegals, and survivors in their struggle for justice inside and outside the courtroom, and tracked their desperate efforts to hold perpetrators legally accountable for the violence in 2002.

I sat behind lawyers on their motorbikes, balancing huge bundles of legal dossiers on the way to court and visited witnesses in their homes as paralegals refreshed their memory of what they said in their police reports. In the evening after paralegals went home, I sat with JF lawyers as they read, checked, and rechecked documents in their legal files. Finally, I secured a kind of study in a room in the JF office with a circular wooden desk, and spend many months working amongst piles and piles of rotting and dusty folders of legal documents, case papers, and dossiers. Fond of routines, I soon established one: I attended trials and met survivors in the morning when it was still cool (understood very loosely), and spent the evenings poring over legal papers and chatting with lawyers.

Witnesses and JF activists encountered various problems when they approached the courts; the issue of what was documented and what the police deliberately erased from the record; and the herculean task of motivating witnesses to attend court over several years on the slender hope of a conviction. For instance, while the legal process largely depended on “paper” evidence, what was on paper was unhelpful or even damaging to the complainants’ case. Indeed, victims’ testimony so meticulously recorded by NGOs and human rights activists, which often included descriptions of the accused and their actions, was almost always “off the record.”

And yet what seemed to be a simple matter of putting what was off the record on the record introduced new problems – how could such “new” statements or evidence,

recorded many years after the event stand judicial scrutiny? As the years passed by, witnesses, paralegals, and lawyers got tired of the legal rigmarole: waiting outside the courtroom for hours, summoned to stand in front of the judge for a few seconds and be dismissed, case adjourned. In the cases I attended, all prosecution witnesses except those supported by JF turned hostile. There was often no one willing to support the survivor's testimony in the courtroom.

The defense had it relatively easy: it was the prosecution's responsibility to make a case "beyond reasonable doubt." However, the police had recovered no weapons, didn't add witnesses, didn't collect onsite evidence, and made no "on the spot" arrests. The Gujarat bar too was divided along ideological lines: except for a small group of Muslim lawyers, who were aligned with NGOs and activists, no one else really defended Muslim accused. On the other hand, since the government appoints public prosecutors, they were in many parts of Gujarat, members of Hindu nationalist organizations; they organized competent and highly motivated lawyers to defend "their people." While television studios debated the culpability of the Chief Minister of Gujarat; I watched the lower courts in Ahmedabad script their own version of Kafkaesque trials.

Waiting for Nothing to Happen: The case of Wahidabano

Wahidabano, a middle aged Muslim woman and her friend stepped out of their house on March 4, 2002, during a brief break after five days of curfew in Ahmedabad. They needed medicines from a nearby dispensary, barely a five-minute walk from their house. While returning from the dispensary, when they were close to but still outside the gate of their Muslim neighborhood, two Hindu men from a nearby tailor shop attacked

them. “Why are Muslim women roaming around? Let’s finish them...” said one of them holding Wahidabano down, while the other stabbed her twice in the back.

Eight years later, I walked Wahidabano home after yet another wasted day in court – her case was adjourned because one of the two accused didn’t show up. We quietly passed the tailor shop where she was attacked. With the help of a good defense lawyer, the accused managed to lessen the charges against them, and stalled the trial by not showing up in court. If one showed up, the other would stop coming for the next six months.

After Wahidabano was stabbed, her husband took her to a private hospital, and later went to the local police station to file a complaint. The police refused to register a complaint and threatened to break his legs if he came again. He tried again, this time with the help of a Muslim army officer patrolling the neighborhood. When the army officer reprimanded the police for refusing to register a complaint, they replied, “We have orders from above.” The army officer and the family eventually forced the police to accept the complaint, but after a decade the trial is still going on.

I accompanied Wahidabano to the Ahmedabad Metropolitan Court on the 29th September 2010. The man who knifed her didn’t attend (his lawyer was present); the other accused came to court. The “courtroom” was a large room with an elevated table and chair for the judge and five rows of cheap plastic chairs arranged in front of him. In one corner of the room, heaps of rotting and dusty files lay next to an abandoned table and chair. On the other side, a large metal cabinet was filled with legal manuals. The judge’s chair sat at the head of the room like a prop in a play: a high backed plush-red-

leather chair. His desk was neatly decorated with small piles of Gujarati and English editions of the Indian Penal Code and the Criminal Procedure Code.

Wahidabano stood in a corner for her turn to come. I stood with a JF paralegal outside. The lawyer kept coming to check with us whether our case had been announced. Suddenly, the clerk announced Wahidabano's name and somewhere from the deep hollow of the room, she walked up a few steps to appear before the judge. Next, the clerk shouted two names, but only one man stood up from his seat. The defense lawyer handed the judge a sheet of paper, and the judge adjourned the court to meet again next month. Three years later, nothing had changed. When I checked in February 2013, the case was still being adjourned, because the knife used to stab Wahidabano has not been transferred from another court.

Another striking aspect of the trials I analyze in my dissertation is also that they were actually being tried at all – most mass violence cases like these are “summarily closed” by the police. The police submit a closure report to the magistrate arguing that there is no information on the accused and close the case. Which is what the Gujarat police tried to do for over 2000 cases before NGOs and activists intervened.

For a year and a half, I attended and tracked such trials in the lower courts of Ahmedabad. Cases were repeatedly adjourned; judges were absent or transferred before key moments in the trial, or the court went on vacation. The accused were absconding (one judge asked the NGO to find their whereabouts and tell the police!) or simply delayed the proceedings with applications for adjournments via their lawyers.

Deferral and delay is a key aspect of trials in India in general, but it played a special role in the unfolding of impunity surrounding Gujarat 2002 cases. The time lag – sometimes over a decade in the case of Gujarat 2002 – punished the survivor for pursuing justice, opened her case up to manipulation by the accused, including out of court “compromise” and made sure that the story of mass acquittals is unreported, unseen and forgotten.

The delay began at the moment of the inscription of violence; the police delayed filing official complaints as long as possible. They also manipulated and distorted FIRs that were made, by rendering targeted violence anonymous. In addition, the police deferred investigation and closed cases on technical grounds; and the process of challenging and reviewing such police actions is itself a hugely time consuming process. The police delayed recovering weapons and deferred recording the statement of witnesses; in the meantime, witnesses and survivors lost interest, moved on, despaired, some even died, or did not wish to disturb their new life.

Why don't you compromise? The legal performance of Hindu supremacy

In 2002, three Hindu boys stabbed Amalibhai, a Muslim factory worker, when he went back from the relief camp to his house to find his bicycle. Eight years later, I saw three visibly poor boys laughing and joking outside the court. Some hours later, we entered the courtroom and sat in front of the judge. Unrepentant and surly, the boys sat in the front row. One of them kept checking to see if their lawyer had come to court. I mixed in the crowd and found a seat somewhere at the back and pretended to wait my turn in some other case.

As soon as the clerk announced our case, the judge deferred the matter to accommodate a more urgent matter. Meanwhile, the defense lawyer and the JF lawyer whispered in a corner. The defense lawyer offered the JF lawyer a ‘compromise’ in lieu of some money. I gathered that the money offered was too little. Both the JF lawyer and Amalibhai didn’t seem to take the offer seriously, at least in front of me. But the defense lawyer kept trying. He approached the judge and whispered a few words as soon as the clerk placed a heap of case papers in front of him. On cue, the judge began a short speech on the value of compromise (*samjhauta*). He said it is better if Amalibhai “reconciles” with the accused. Of course, he went on to say “it is my duty to conduct the trial and give a judgment. But then someone will appeal and it will go to the High Court, and then after another appeal it will go to the Supreme Court. All this will mean unnecessary running around for *you*, so isn’t it better that you simply live together with the accused?” Then he conferred with both lawyers and adjourned the court and gave Amalibhai a month to decide to make up his mind.

Outside the court Amalibhai and I chatted over a cup of tea. After looking at the tattered clothes of the accused (and their lawyer!) he realized that they were poor. But what really irked him was the judge’s speech in court. The speech presupposed that punishment was unlikely and presented a narrative of how the legal process would only defer a wasteful and overwhelming process. Between sips of hot sweet tea, Amalibhai said, “What do you expect from the judge? He’s a Hindu, he’s *their* judge.”

A common off the record feature of many Gujarat 2002 trials is “compromise” or *samjhauta* in Hindi and *samadhan* in Gujarati, colloquially called “compro” by lawyers is a common feature of the Indian legal system. Pratiksha Baxi analyzes the “culture of

compromise” in everyday rape trials in Gujarat to show how formal and informal forms of public secrecy underwrite legal practice in India (Baxi 2014). Similarly, “compro” exists as an unofficial *de facto* practice of enforcing impunity in the aftermath of Gujarat 2002. Witnesses frequently compromise under duress; at other times money or even land is exchanged between the complainants and perpetrators while trials drag on for decades.

Everyday legal practices like “compromise” are useful to understand the mix of formal and informal, legal and illegal processes in the aftermath of Gujarat 2002. Rather than analyze these sociolegal processes as symptoms of the malfunctioning or politicization of the judicial apparatus, I focus on these processes as a part and parcel of legality and state power. Impunity is often practiced and enforced not through exceptional laws and states of emergency, not by suspending laws and acquiescing to the decision of the sovereign, but through formal and informal legal practices and bureaucratic procedures.

For instance, JF lawyers and paralegals spent a lot of time procuring, maintaining, reading, rereading, and producing documentation around Gujarat 2002. No day went by without substantial photocopying of police documents and legal applications. Survivors came to the JF office clutching dog-eared, frail, inscrutable documents as proof that they were indeed “riot victims.” Heated debates between lawyers and paralegals involved the lack of documents; pandemonium erupted in the JF office if someone misplaced a document. Most of the time when lawyers, even activists, referred to evidence, what they really meant was a document. When JF wanted to weed out weak cases, lawyers would often measure the strength of a case, its chance of being successful in court, by re-examining the written record. Police First Information Reports, charge-sheets that

outlined legal charges, witness statements, RTI (Right to Information) records – documents played a key role in what can be said and what can be seen in relation to Gujarat 2002.

As I scrutinized these paradoxical legal and bureaucratic processes by which state officials look away; how the police and the judge see violence only in order to *not* see it, or more precisely, make violence inadmissible, non-prosecutable and anonymous, it became clear that modes of official writing and documentation are fundamental to what I call the *political-juridical structure of impunity*.

During fieldwork, I spent a considerable time ignoring documents, paying more attention to what NGO workers and survivors told me about their cases. But I soon realized that many paralegals and survivors never actually read the documents they so dutifully carried everywhere. Police handwriting was notoriously unreadable, lawyer's arguments and judgments involved convoluted reasoning in legalese; and yet legal and police documents seemed to determine "what really mattered" in a specific case. Because paralegals mostly didn't read these documents, and lawyers were too busy to explain the "technical" aspects of the case, I was forced to read them, even if it sometimes took me hours to decipher a single line. Illegibility is not a metaphor when you encounter the handwriting of Gujarati policemen.

Since the criminal justice system in India begins with the recording of a police First Investigation Report (FIR), I picked at random a police station in Ahmedabad and read all the FIRs recorded during the 2002 pogrom. I soon discovered that most police reports only mentioned anonymous mobs. The first piece of evidence recorded that there

was no evidence. To top it all, in the first 72 hours, when the violence against Muslims was at its peak, the police identified Muslim mobs as perpetrators. Reading the FIR, I realized that these so-called official documents of truth not only reproduced Hindu nationalist rhetoric, but their main function and effect was to mask and conceal violence against Muslims.

Finding such remarkable and unanticipated similarities between vernacular media, political speeches, and state documents led me to explore the role of official documents as not merely representations, false or true, of something outside them called “violence.” Rather they were key practices in making violence intelligible and legible; they were part of the violence itself. Furthermore, their banality, repetitiveness, and mechanical interpretation by officials were in sharp contrast to their devastating effects. I realized that the “big story” of impunity is buried in the “little details;” away from the usual media focus on political decisions of the sovereign (Narendra Modi as chief minister of Gujarat) and ideology (communalism).

Official documents transformed the organized attack against Muslims into yet another “communal riot” in the official archive. Because law has its own citational practices, and “each instantiation of law builds on prior instantiations” (Merry and Coutin 2014), judges used these documents as “facts” to acquit perpetrators. These official documents, themselves part of a larger archive of militant Hindu rhetoric, circulated in the trial, and outside via the media, to ensure that despite copious contemporaneous evidence of state complicity, the attack on Muslims was framed as “rioting.”

By showing the inseparability of how impunity *works* from routine forms of state power like delay, deferral, and official documentation, I also argue that human rights and NGO interventions, however well intentioned, to help survivors secure legal rights through the courts may end up reinforcing impunity by adhering to and mimicking “bureaucratic proceduralism” (Sharma and Gupta 2006). In her analysis of India’s recent Right to Information Act (RTI) in India, a widely celebrated transparency law that forces the government to supply documents to the public, Aradhana Sharma argues that the act’s formalism “forces people to engage and audit the state in its own idiom” (Sharma 2013: 309). If the legal idiom frequently relies on “paper trails” then legal challenges to state power can, I argue, reproduce constitutive silences inherent in the making of documentation.

To understand this process better, we need to analyze forms of attention that produce inattention, or official ways of knowing, debating and adjudicating violence that are simultaneously technologies of denial and falsification that reinforce majoritarian rule. I deliberately do not label such forms of power invisible, hidden, or secret because I found that these modes of power – variously understood as “due process,” formalities, and technicalities, are not only well-known bureaucratic forms of power, but they are often conducted in open court, police station and offices.

There is a disjuncture between the recurring spectacle of riots and clashes and the never-ending rituals of trials, official commissions of inquiry, and everyday court proceedings that play a major role in making impunity imperceptible to those outside the world of the activist and survivor. Impunity turns the survivor’s world upside down and quotidian legal processes often humiliate the survivor, the witness, and the victim. I argue

that forms of state power built on whitewashing and obfuscating targeted violence force us to acknowledge the paradox of legal redress in the aftermath of Gujarat 2002, and reexamine the history of collective violence and its aftermath in India. How do mechanisms and institutions established to address violence become a part of the wider infrastructure of performing Hindu sovereignty?

The Impunity Effect

How does mass violence against minorities in India become unaccountable? Or to turn the question around: How do everyday state practices, including court proceedings and police documentation, in the aftermath of violence write, interpret, and evaluate public violence against minorities in order to make it unaccountable?

In the aftermath of Gujarat 2002, state institutions of redress, like the police and the courts, have mostly acquitted the accused, closed criminal cases before investigation, and declared survivors' and witnesses' testimony unreliable. In the long and bloody history of collective violence in India, impunity rather than prosecution is the widely acknowledged norm (Grover 2011, Basu and Roy 2007) across political regimes and geographical areas. And yet, politicians and state officials accused of such violence are the first to "make a fetish of the rule of law, of its language, and practices, its ways and means" (Comaroff and Comaroff 2006: vii). If we can analyze why the recourse to the "rule of law" strengthens the power of political actors to reassert their power over the state apparatus and its agents (instead of curbing their power and legitimacy), we might better understand the paradoxical and puzzling effects of public violence in postcolonial states.

In my dissertation I show that cherished legal processes – the trial, due process, official documentation, and the paraphernalia of justice and truth of the modern state – strengthens the coordination and overlap between multiple state and nonstate actors in organizing and legitimating political violence. Injustice after mass political violence against minorities is not the perversion of law, but is part of a larger process of asserting political power that builds on legal technologies of erasure and denial. Instead of assuming that violence and order oppose or contradict each other, Gujarat 2002 and recurrent incidents of violence against minorities in India, shows that they fortify each other.

Building on recent scholarship on violence and statecraft, I argue that impunity is an everyday process in the heart of legality, not an absence or breakdown of law and order; it is embedded in existing bureaucratic procedures of ignorance and illegibility that characterize modern statecraft. The legal process gathers together witnesses, documents, testimony and survivors only in order to deny, invalidate and effectively legitimate political violence. This legal process overwrites survivors' testimony with timeless narratives of communal violence and Hindu-Muslim antagonism.

If impunity is performed, enforced, and normalized by legal technologies and bureaucratic procedures, it disturbs classical notions of violence as the breakdown of law and order. It forces us to look at the “routine violence” (Pandey 2006) that operates in the interstices, partly behind the scenes, but also out in the open: police documentation, its legal interpretation by judges, the camaraderie between Hindu nationalist activists and the local police, and in the media reports that categorize and classify violence for wider publics.

By understanding impunity as a process, mundane and inextricable from the everyday functioning of bureaucratic and documentary procedures, I reformulate the concept of impunity beyond unhelpful binaries of the legal and the illegal, and state versus society. In order to understand the paradoxical role of legal processes and documentation in rendering mass harm and injury against minorities officially inadmissible, I suggest that impunity need not be embedded in conspiracy theories or yet another unmasking of “the state,” since it is often on the surface: official paperwork (Hull 2012), state writing strategies (Gupta 2012), and the performance of the trial (Baxi 2014). The process of making widely known and even celebrated violence *unaccountable* strengthens the message of rule and order (Hindu sovereignty in the case of Gujarat 2002) explicit in acts of arson, murder, and rape of member of a particular community.

One of the main paradoxes of Gujarat 2002 is that violence against Muslims was *not* hidden, concealed, and disguised by the perpetrators, including politicians and state officials. They *publicly* proclaimed their intention before, during and after the attacks. The Human Rights Watch report on Gujarat 2002 is aptly titled “We Have No Orders To Save You” – which is what the police told Muslims when they asked them for help. Like Argentina’s Dirty War, the perpetrators in Gujarat could have attacked under the cover of darkness, but did not (Taylor 1997). Instead, they raped, murdered, maimed, burned and looted Muslims in broad daylight for everyone to see and even join in.

This scenario troubles existing anthropological research on violence that generally follows Jeffrey Sluka’s suggestion that, “The only real leverage anthropologists can hope to exercise lies in public exposure in breaking silence that surrounds and nurtures terror” (35). Such an exercise is futile in the aftermath of Gujarat 2002 – or for that matter in

other instances of violence in South Asia, like the attacks on Tamils in Colombo 1983 and Sikhs in Delhi 1984, in all of which there is extensive evidence of state complicity and targeting of a specific minority community.

No doubt anthropological analysis of violence and terror has exposed the “strategic use of uncertainty and mystery around which stalks terror’s talk and to which it always returns” (Taussig 1992:16), but the clarity of unmasked violence has crucial effects on the relationship between witnesses, victims and perpetrators, and their relationship with the state. For instance, Diana Taylor’s analysis of Argentina’s Dirty War focuses on the ability of the military to perform spectacles of violence that rendered the wider population “silent, deaf and blind” (1997).

My concern is with performances of public violence that are orchestrated for the wider public during which the widely challenged distinction between the state and society in fact collapse, and the perpetrators seek to convert such spectacles as performances of majoritarian sovereignty, masculinity and solidarity. Even if the neutrality and objectivity of the state is unmasked during such spectacular violence, and perhaps precisely because of such strategic unmasking by political actors, the power and legitimacy of the state is reinforced not diminished. Such violent performances require us to reverse the usual temporality of cause and effect; what happens afterwards – perpetrators more or less get away with hate speeches, arson, murder and rape, and go on to make major political gains in the future – is as important as what causes such violence. If state sanctioned violence is a theatrical and dramaturgical mode of power (Coronil and Skurski 2006:101), what happens afterwards is equally important to the success of the mass public violence as public performance.

Recent ethnographic approaches to state and state institutions reveal the terror underneath the public discourse of order, and call into question the relationship between the exception and the rule, the “rule of law” and state-sponsored violence, and between “law-preserving” and “law-founding” violence (Pandey 2006, Agamben 2005, Arextaga 2005). Scholars have unhinged any necessary identity between the state and rationality, by showing how states function through confusion, disorder, and excess. Building on Coronil and Skurki’s (2006) argument that anthropologists need to move away from the self-representation of modern states as orderly entities, and need to analyze the role of violence in the formation and transformation of modern states, I argue that Gujarat 2002 and its aftermath constitute important processes (explicit and implicit) by which Hindu nationalists asserted their authority and control over state officials and institutions in Gujarat.

Rather than attempting to unveil the hidden violence underneath the so-called rational order of the state or everyday life in Gujarat, my dissertation examines bureaucratic, procedural, official and unofficial processes that at first glance have nothing to do with the spectacle of burning, raping, and murdering people; and yet these processes play an important role in making such violence acceptable and unaccountable. My investigation of how these official and unofficial processes work and what they produce is the precise link that renders the past unaccountable and the future predictable: new riots, new commissions of inquiry, new investigation reports, new body of testimonial literature, new political regimes, but the same anonymous police reports, mock trials, and mass acquittals.

Therefore, I propose an analytic that does not presume violence and terror are always hidden in “epistemic murk” (Taussig 1984), or part of a grand conspiracy theory, or a priori hidden or repressed. Ironically, I suggest the efficacy of terror, fear, and violence as a mode of claiming and consolidating power and gaining public legitimacy lies as much in paperwork, ordinary court proceedings, the production of legal evidence, and its scrutiny by the judge, as it does in the destruction of life and property.

Beyond Everyday Life

The literature on violence has deftly explored the challenges of representing violence (Kleinman, Das, and Lock 1997), how some voices of violence are silenced or marginalized (Ross 2001, Arextaga 1997), and the psychological, subjective and long-term experience of living with violence (Skidmore 2003, Das 2007). This valuable scholarship has produced a rich and nuanced narrative of how violence, fear and terror become a part of everyday life (Daniel 1996, Das 1990, 2000, 2007, Feldman 1991, Kapferer 1998, Nordstrom and Robben 1995, Scheper-Hughes 1992).

Recent ethnographies of violence have focused on “everyday life” (Das 2007:17). Non-causal and non-instrumental accounts of violence understand it as a social and cultural process rather than a pre-modern remnant in modern societies (Pandey 2006, Feldman 1991). Violence and conflict are no longer understood as simply destructive or annihilating forces, but moments that transform everyday relations, identities, and subjectivities. Recent ethnographies analyze violence as a social force with the capacity to forge new ties, relationships, and endure over long periods of time in memory and interpersonal life that challenge standard fieldwork practices (Nordstrom and Robben 1995).

These ethnographies have focused on the challenges and impossibility of “representing” violence (Kleinman, Das and Lock 1997, Jeganathan 2002) and the ethical and analytical imperative to represent the pain and suffering of survivors and witnesses. This literature analyzes the limits of language to represent pain, suffering, and sociality in the face of violence. However, anthropologists analyzing violence frequently seem constrained to perform a double, even paradoxical move: they set off to interpret, unravel, demystify, contextualize, unveil, and illuminate practices, affects, and discourses of violence; at the same time they chart the limits of representation, confront the unspeakable, bear witness to the incommunicable, and risk amplifying the deep unfathomable darkness of violence even as they “explain” it.

Rather than attempting to uncover the hidden and repressed “truth” of experiences of violence silenced and effaced by dominant and official discourses, in this dissertation my analysis stays on the surface to understand the productive power of seemingly minor details in official documents: the mechanical and “hyperlegal” interpretation of evidence by the judge, the perfunctory performance of the legal trial – the government-as-usual that makes mass violence against minorities non-prosecutable. In doing so, I find that practices of impunity are often unarchived – “the ordinary, the everyday, the ever-present, yet trivialized or trifling: conditions, practices, relationships, expectations and agendas so common as to not even be noticed” (Pandey 2014).

Building on recent approaches to rethink violence not as an event, but a process, I draw on the literature on the everyday state, documentary practices, and bureaucratic procedures (Aradhan and Gupta 2013, Cabot 2012, Hull 2012) to show the process by which violence against minorities is *made* acceptable within the legal and political realm.

My focus on official documentation of mass violence and its effects helps me distance myself from attempts that seem to uncover the hidden psychological, structural or political “secret” of collective violence in India (Ghassem-Fachandi 2012, Berenschot 2011, Brass 2011). Instead I focus on the surface, the visible, and the documented and procedural aspects of law, for what it tells us about how violence against minorities can be systematically denied.

In the context of the anthropology of African conflict, Daniel Hoffman goes beyond “explaining how the extraordinary violence of the conflict zone is related to the ordinary experiences of living,” and conceptualizes violence as a mode of work (2011). Hoffman says, “such analysis poses a challenge for an anthropology of African violence, and indeed for Africanist anthropology as whole, devoted to explicating the cultural terms that make mass violence make sense” (2011:xvi). I think this critical intervention is applicable and relevant to the anthropology of violence in South Asia as well.

Instead of focusing on either causes or secrets of violence, I attempt to carve out an object that appears at first hollow and negative – impunity. By shifting focus to long-term state practices, including documentation and everyday legal proceedings in the aftermath, I take my cue from recent studies of violence that analyze the “productive” aspects of violence and conflict (Drexler 2008), shifting away from anthropology’s conventional focus on contextualizing violence, especially the locally meaningful ways in which violence becomes a part of everyday life (Ferme 2001, Das 2007).

First, rather than analyze Gujarat 2002 as an event or spectacle of the breakdown of law and order, I understand it as building on and transforming everyday state power in

Gujarat, capable of illuminating some often under analyzed aspects of state authority, its relationship with public performances of violence, and its technologies of falsifying, denying and justifying violence. Second, my focus on the aftermath goes beyond the negative – or what ought to happen – to focus on what *does* indeed happen, both inside and outside the court, including the unintended effects of legal aid and human rights activism in strengthening state power.

Communal Violence in India

Many survivors of Gujarat 2002 were reminded of 1969, when over 1000 people were killed in “riots” in Ahmedabad, again mostly Muslims. The history of post-Independence India can be easily recounted as the history of rioting – Moradabad (1980), Bhiwandi (1984), Bhagalpur (1989), Bombay (1992-93), Hyderabad (1990), and Coimbatore (1998). More recently, in 2008, Hindu right-wing activists attacked Christians in Kandmahal destroying 1,400 homes, 80 places of worship, and forcing thousands to flee their homes and live in relief camps.

In August 2013, U.P, India’s most populous state, witnessed Hindu-Muslim riots that led to 43 deaths, and the deployment of the army. Ahmedabad, India’s second most riot-prone city has witnessed rioting in 1941, 1942, 1946, 1956, 1958, 1964, 1969, 1974, 1981, 1985-86, 1990, and 1992-3 (Spodek 1989, Shah 1984, Berenschot 2011). The attack on Muslims in 2002 is hardly the first one in the history of Ahmedabad, or for that matter, India.

Many historians of India have gone back into the pre-colonial past to uncover Hindu-Muslim rioting (Bayly 1985). And in a classic study of communal violence in

colonial India, Gyan Pandey (1990) argued that categories like the communal riot and communal conflict are actually linked to colonial categories of governance and administration. The implications of understanding rioting as part of colonial forms of governance becomes even more powerful when contemporary governments and administration inherit and seamlessly apply these colonial categories in contemporary India.

Remarkably, the Gujarat government used this immutable “history” of communal riots to abdicate its responsibility toward survivors in 2002. In a letter to the National Human Rights Commission, the Gujarat government said, “The State of Gujarat has a long history of communal riots. Major riots have been occurring periodically in the State since 1969... Even minor altercations, over trivial matters like kite flying have led to communal violence.” [(127) in NHRC:13]. The government’s message to the NHRC was clear: this happens all the time in Gujarat, so why hold us responsible? Studies of violence and conflict in South Asia, variously described as communal violence, ethnic conflict and riots have largely focused on the causes of periodic events of deadly collective violence in India, Pakistan, and Sri Lanka. That scholars lack consensus on the appropriate categories to describe violence between religious communities, ethnic groups, linguistic minorities, caste groups, and largely one-sided attacks on minorities, reveal larger analytical and methodological problems involved in classifying and describing violence.

“Communal violence” is a commonly used category in both academic and non-academic contexts in South Asia to describe a wide range of small and large incidents of arson, murder, looting, stabbing, and sexual assault between different religious and ethnic

groups. Riots is another term used by mainstream media, scholarly books, and victims to describe these events involving Hindus, Muslims, Sikhs, Shias, Sunnis, Tamils, and Sinhalese in different parts of South Asia.

As far as the causality of riots is concerned, Paul Brass has meticulously documented riot planning and implementation by “institutionalized riot systems” – politicians, policemen and local criminals. He also points to the problem of using categories like ‘riots’ to describe majoritarian and state-sanctioned forms of violence against minorities; instead he describes events like Gujarat 2002 and Delhi 1983 as “pogroms.” Unlike previous incidents of mass violence in Gujarat, the post-Godhra attack on Muslims has been widely labeled as a “pogrom” and “genocide” (Brass 1996) in order to highlight the largely one-sided, state sanctioned attack on Muslims and the targeting of Muslim women and children.

Activists, scholars, and human rights NGOs have repeatedly used these terms, critiquing the mainstream category ‘riot’ to largely emphasize state complicity in the attacks against Muslims. These terms are extremely important, if not indispensable, because they help secure humanitarian and legal interventions (genocide carries the urgency of international legal intervention missing in categories like the riot or ethnic conflict which can be more easily dismissed as local events). These terms (See Hinton 2002) bring to the fore the organization and execution of violence against a particular group, and separate it from so-called spontaneous violence *between* communities, and make it hard to ignore the participation and complicity of the wider public.

Others have used the term “state violence” to indicate the widely documented role of the police and local politicians in the attacks in 2002, but it risks the danger of displacing all agency on “the state” as the “origin” of violence. The media and activist preoccupation with the guilt or innocence of state officials, especially high-ranking politicians like previous chief minister of Gujarat and the current Prime Minister of India, Narendra Modi, make it difficult to understand the overlapping levels of complicity and cooperation between the wider public, militant Hindu nationalist groups, political parties, and state agents in episodes like 2002. It does not help us understand the “pronounced blurring of boundaries between state, movement, and people” (Ghassem-Fachandi 2012: 9) that is arguably a crucial aspect of any pogrom.

The study of communal violence and riots in South Asia can be divided, very broadly, into studies that focus largely on the causality of violence (Engineer 1984, Brass 2011), and those that are more concerned with its meaning, agency, and effects (Das 1990, Pandey 2006, Mehta and Chatterji 2007). Categories used to understand violence in South Asia are not merely the subject of academic discussion but are linked to accountability and justice in the aftermath. For example, after each fresh round of mass violence, in which often religious minorities are at the receiving end, journalists, scholars, and politicians debate whether ‘riots’ are planned or organized. Why do they persist in India? What is their relationship with modernity and democracy? As Zoya Hasan points out, the larger question is “what does the post-conflict situation tell us about equality of citizenship and justice in India’s democracy?” (In Roy and Basu 2007:199)

My dissertation builds on both the *why* and *how* of communal violence in India in order to argue that impunity and unaccountability in the aftermath provides a unique

glimpse into state practices of writing, legitimization and law making that can help us understand broader political processes of state power, violence and injustice.

The Paper Trail

Quod non est in actis non est in mundo (What is not in the records does not exist) – Latin Proverb.

Recent ethnographies of the state, especially bureaucracy, focus on paperwork and documentation (Hull 2012, Gupta 2012), to show how bureaucratic writing “perpetuates structural violence” (Gupta 2012), and files and writing normatively designed for transparency can equally serve to obviate responsibility and agency. Instead of understanding Gujarat 2002 as an exceptional event instigated by a sovereign decision, which frames impunity in the aftermath as part of a “state of exception,” my dissertation builds on recent anthropological work that argues, “the ongoing nature of governance means that even an exception requires maintenance and administration” (Bernstein 2011:6).

The “ongoing nature” and power of impunity means that I focus on official paperwork and documentation in the aftermath because “it is simply not the case that some parts of the state decide while others carry out those decisions in a humdrum, mechanical fashion” (Bernstein and Mertz 2011: 7). In fact it is precisely such an analytic prejudice in understanding state practices that leads scholars and activists to concentrate mostly on high-profile trials and the culpability of a few politicians in the actors in the aftermath. Like the audit and the census, I argue that paperwork too can be understood as a “technology of truth” because it plays a major role in “making problems visible,

defining their scope, identifying aspects that can be remedied, and implementing and evaluating solutions” (Merry and Coutin 2014:1). Like the measurement systems analyzed by Merry and Coutin, paperwork is one of those “seemingly apolitical techniques” that are “embedded in the ways conflicts become known, debated, and resolved” (1).

Investigations of state documentary regimes (Folch 2013, Nugent 2010, Hoag 2010, Hull 2008) show that documents are part of “the state’s unending iterative production” (Nugent 2010:683) that help establish its authority; but are frequently used to avert responsibility and avoid accountability even as documentation is normatively associated with transparency and clarity (Sharma 2013), and can “entangle even those locked in a combative position or role against the state” (Das 2004:229). Akhil Gupta in his recent work on structural violence in India argues for a perspective “that sees the state as constituted through writing” (143). Gupta argues that bureaucratic forms of writing – files, reports, and complaints – is not simply a “by-product of the activity of state officials,” but constitutive of the state (36).

Scholars have shown that documents may produce fear and uncertainty (Das and Poole 2004), especially among marginal sections of society (Navaro-Yashin 2007), and are used as a technique of governance (Riles 2006), and the paper truths they embody are “malleable and constructed on the one hand yet take on an aura of irrefutability on the other” (Tarlo 2002:9). I focus on how salient features of police and legal documents are part of technologies of official obfuscation and erasure. Aradhana Sharma argues that official writing and state records are “rendered more powerful for what they do not say rather than what they do, ensure that the state continues to be spoken and written under

erasure in the era of transparency” (2013:318). I build on this literature on state writing practices and its effects, in order to focus on the role of writing and paperwork as part of a larger process of asserting state power and technique of governance, which often renders violence against minorities unprovable.

If writing is an inextricable feature of the reproduction of state authority, I want to suggest that state agents deny, transform and erase the violence in Gujarat 2002 by a peculiar form of writing: writing that writes away responsibility and documentation that erases agency. Such forms of writing deserve ethnographic attention not simply to criticize or falsify them, which is easy because of the existing testimonial evidence of their patent falsity, but because they *legitimize* and *authorize* Hindu sovereignty. They inscribe targeted anti-minority violence into categories like the riot and the communal mob, which are often unaccountable in a courtroom.

Building on the insight that shows documents frequently stand in for the realities they supposedly represent (Merry and Coutin 2014), including their constitutive power to make the social world (Riles 2006), I analyze how police and legal documents transform Gujarat 2002 into a “communal riot” and hence fuse the official and unofficial power of Hindu nationalist politicians to systematically *misrepresent* targeted violence against minorities. *In other words, police and court papers authorize Hindu nationalist violence in Gujarat and make minorities, especially Muslims in India, available for future violence.*

Akhil Gupta’s work on the lower bureaucracy in India powerfully illustrates that what is represented on paper, regardless of the reality of what the paper is supposed to

stand for, enables state officials to control their own self-representation within higher orders of the government. Nevertheless, to focus only the constitutive power of documents can give an impression that they operate independently as mere “tools” in the hands of unscrupulous political actors, without showing how they can entangle even those who are fighting the same machinery.

Legal aid NGOs like JF find themselves in this situation by focusing on legal processes for justice. Such approaches often have no choice but to rely on the same due processes, legal documentation, and technologies of truth (and falsity) that they so vehemently oppose. To explore this difficult conundrum – how legal orders both institutionalize inequalities and provide the means of challenging them, I supplement my analysis of documentary practices with the performance of the trial – the space where official documents are both read (e.g. FIR) and written (judgment).

Law and Order in India's “Hindu” State

How do legal trials and court proceedings repeat and reproduce violence against victims rather than punish perpetrators of mass violence? If trials provide the procedural link between crime and punishment, then what do everyday trials in the aftermath of Gujarat 2002 *produce*? And what effects do such trials have on survivors, NGOs, and the struggle for justice?

Political scientist Zoya Hasan nicely sums up the three most common diagnoses of India's “abysmal record of justice in cases of mass violence against minorities” (In Basu and Roy 2007: 214). She identifies the “lack of political will” to either stop the

violence or punish the perpetrators; the “infiltration of communalism into state structures, immobilizing the state and preventing it from being able to provide justice;” and finally “incapacity of a legal system that simply does not work in cases of mass violence” (216).

Most analyses of impunity depend on some combination of these three factors.

Frequently, however, the analysis of institutional injustice against minorities remains confined to “state-centered dichotomies of legality/illegality” (Galemba 2013:275).

Instead, I argue the long-term blurring between the illegal and the legal, the official and the unofficial, is part of a larger ongoing political process in India that intertwines Hindu sovereignty and state power.

In Gujarat 2002, the embeddedness of the trials in the political context of Hindu nationalism is usually considered the most important reason why these trials become mock trials (Jaffrelot) granting impunity instead of prosecuting the guilty. But such ideological analysis cannot explain the recurring pattern of impunity across different political regimes in India and does not analyze their productive aspects. While it is true that “the judicial process has been allowed to become a casualty to political processes, or executive fiat” (Hasan in Basu and Roy 2007: 213), I argue that our analysis must exceed the ambit of specific political actors, parties, and even episodes; it must unshackle itself from normative analyses of how things should be and analyse how legal officials and state agents *produce* unaccountability in the aftermath. By focusing on individual politicians, their decisions, and the failure of the “rule of law,” impunity becomes an aberration – veiling the important role of documentation, legal procedures, and “due process” in both masking mass violence against minorities and reproducing wider social and political orders of Hindu sovereignty.

I suggest that Gujarat trials are better understood as legal technologies of power that normalize, routinize and authorize Hindu sovereignty that lie at the heart of the modern Indian state. Such trials may be farcical but they are not epiphanic or isolated practices of power; they move across legal and illegal orders; they often unfold over long periods of time, sometimes behind the scenes, and lean on due process and everyday administrative-bureaucratic practices, which may not be exceptional, but they also involve coordination and decision (like the Gujarat police closing down over 2,000 criminal cases related to the 2002 attacks).

Everyday court proceedings in Gujarat address targeted and often systematic violence against Muslims *as if* they were isolated and spontaneous incidents of rioting, unlawful assembly, arson, and looting; judges both address the violence and overlook it – this paradoxical process disturbs our conventional understanding of the relationship between power and knowledge (See Nugent 2010). Or perhaps less dramatically and more precisely, I argue that trials are not always “technologies of truth” (Wilson 2001, Merry and Coutin 2014) – but also technologies of obfuscation, ignorance, and erasure.

Trials, and transitional justice mechanisms in general, are widely believed to pave the way for truth and reconciliation in the aftermath of mass violence and genocide. Similar assumptions about law and legal mechanisms motivated legal aid NGOs, activists, and survivors in Gujarat who demanded fair trials, fast track courts, and legal interventions in the aftermath. But the clamour for “justice” often overlooked the local on-the-ground realities within which any legal system must function. Trials are also privileged as part of “a cluster of liberal normative goods, such as the rule of law, peace,

reconciliation, civil society, human rights, combating impunity and justice” (Hinton 2010:1).

Since there have been as yet no official attempts to institute truth and reconciliation commissions, trials are the only form of redress available to survivors. Even when human rights institutions, activists and survivors have managed to make the Supreme Court of India take “unprecedented” decisions like moving trials outside Gujarat in order to prevent the accused to influence the trial – normative assumptions about the role of trials and court proceedings as truth-telling exercises have not been questioned. More trials, retrials, better public prosecutors, more evidence, professional investigation – the list of demands from activists and the survivors they represent only highlight the centrality of the trial as a mode of redressing mass violence in India.

While anthropological attention has focused on the success or failure of transitional justice mechanisms across the world and the local meanings of justice (Drexler 2008, Theidon 2013, Ross 2003, Wilson 2001, Borneman 1997), the relationship between trials as technologies of falsification and misrepresentation has not received the same attention. Of course, historic trials have received a lot of scholarly attention, including the analysis of how trials repeat traumatic violence (Felman 2002); become “show trials” that play an important role in state formation (Kaplonski 2008); and how trials may not be the most effective forum to address structural violence (Ross 2003, Wilson 1997).

Thomas Blom Hansen has analyzed the workings of the Srikrishna commission of inquiry after the 1992 Hindu-Muslim riots in Bombay, as part of exercises that legitimize

the myth of the state. He argues commissions of inquiry and court trials proceedings can be seen as “state spectacles” – public displays of the state as a producer of impartial and universal justice (2001). While Hansen recognizes that such performances affect different sections of the population differently, I have analysed the technologies of writing and interpretation deployed by trials in Gujarat that legitimize Hindu sovereignty over the state apparatus.

Legal accounting of mass political violence is ambiguous also because “courts are only formally independent of the other branches of government, which makes it difficult for them to participate in truth-telling when it may implicate members of the executive or legislative branches” (Borneman 2002:297). This aspect of Gujarat 2002 trials has not escaped the attention of scholars, activists, and even state institutions have questioned the independence of the Gujarat judiciary from its Hindu nationalist executive and legislature. The Supreme Court of India castigated the lower courts for not following due process; appointed a special investigation team to look at allegations of criminal conspiracy; and even transferred trials outside Gujarat to ensure a fair trial. Some of these interventions have worked, but an underlying premise of all these interventions is that the “legal process” and “rule of law” can be separated from everyday politics and state power.

Trials have also been analyzed because they are symbolic events. In contrast, I argue that routine court proceedings – unintended consequences of activist and NGO efforts to legally prosecute the perpetrators – can end up reinforcing the legitimacy of the political regimes and persons responsible for the violence. Building on recent work on transitional justice that question the assumption that legal mechanisms are adequate in the

aftermath of violence (Drexler 2008, Sanford 2003, Ross 2001, Hinton 2002), I analyze the role of trials in the routinization and legitimation of mass violence and therefore legally enforcing impunity.

The irony of waiting for the law to deliver impunity comes across most forcefully when those accused of mass violence in India are only too happy to be held “legally accountable” since most trials linger on for decades and end in an acquittal. Perpetrators are the first to say: *Let the law take its course*. Contra Borneman that “legal accountability is not just desirable but also necessary, although only in democracies,” I show that “judgment rendered through regularized procedures by a recognized court of law” is no guarantee to achieve accountability and in some contexts, the best way to avoid accountability!

That courts frequently legitimize mass political violence and make large-scale “state-sanctioned” targeting of minorities unaccountable help us understand why such events do not disturb democratic politics as usual. Amrita Basu and Srirupa Roy argue, “the structures and discourses of constitutional democracy, civic nationalism, and civil society were used to justify, condone, and allow the violence in Gujarat to continue” (2007:13). While they focus on how “extreme violence” is facilitated by civil society and ideologies of federalism, I focus on state documentation and legal trials as a transformative political process embedded within established processes of “normal law and order” within modern liberal states like India that reinforce the power of Hindu nationalist rule.

My dissertation responds to their provocative question: “How, when and why normal (understood both as familiar and as valued) structures and practices of modern and democratic statecraft engender acts and experiences of violence” (2007:21). What they call “normal structures and practices of modern and democratic statecraft” is, I argue, inseparable from the infrastructure of impunity that ignores, repeats and sanitizes mass political violence in the aftermath. When the governmental and legal machinery expected to respond to violence is examined for what it *produces*, then official modes of accountability appear simultaneously as modes of *unaccountability* and denial.

This turns Jurgen Habermas’s argument that the rule of law “draws its legitimacy from a rationality of legislative and judicial procedures guaranteeing impartiality” on its head (1988:277). Impunity, injustice and unaccountability in the aftermath of Gujarat 2002 draw from precisely these same rational procedures and logics.

Chapter Outline

In Chapter Two, I analyze a Gujarat 2002 related lower court criminal trial in Ahmedabad as a site for analyzing how ordinary court proceedings and legal discourse challenge, attack and ultimately invalidate the testimony of the survivor. With the global spread of human rights discourses and the concomitant valorization of testimony and witnessing in human rights arenas, NGOs and human rights activists in Gujarat support and encourage survivors to testify in the courtroom. But they face the paradox of demanding justice from a state apparatus and political regime that encouraged and justified the attacks against Muslims in the first place.

I show how trials designed to help victims “bear witness” and punish perpetrators end up reinforcing regimes of impunity. I explore the distinction between individual testimony and collective violence, documented and undocumented aspects of legal evidence, and the paper trail of police documentation as three key factors that prevent survivors from making perpetrators accountable for mass violence. While many scholars have shown the inadequacies and elisions in the production of legal truths and the failure of the rule of law, I argue that the very technology of legal truth obfuscates, erases, and ignores violence that is illegal, but nevertheless constitutive of state power.

Paper and paper trails are crucial for how the law *knows* (or ignores) violence. I explore the implications of police documentation as a form of archiving that erases and overwrites targeted violence against Muslims. I explore paradoxical forms of state power, materialized in its form of documentation, by which forms of recording and archiving, harm and injury become the tools through which harm and violence against minorities is systematically erased and denied. Official forms of documentation, or what legal theorists have called legal technologies of truth, must also be examined for their ability to inscribe falsity.

In Chapter Three, I analyze over a hundred police First Information Reports (henceforth FIR) recorded in the Madhavnagar police station in Ahmedabad during Gujarat 2002. I argue that FIRs play a key role in distributing meaning, agency and culpability to mass anti-Muslim violence in ways that make prosecution improbable, if not impossible.

Because official (police and legal) documentation control and shape “what and who is witnessed” during the violence, the FIR, as the most basic artifact of the police bureaucracy, makes targeted violence against Muslims invisible, illegible and unaccountable. In other words, I explore the implications of examining official documentary practices and paperwork *beside* practices of violence like the forced closure of the city (*bandh*), which allowed mass destruction of Muslim commercial and residential property. Paperwork is key to understanding the official production of violence without witnesses. I conclude by arguing that the FIR is not a separate category of legal discourse *outside* the practices of violence it purportedly merely *documents*, but is an integral part of how political forces responsible for violence are able to reassert their power.

If the FIR, a key artifact of the police bureaucracy that initiates criminal investigation, in fact, randomizes, erases and authorizes targeted and organized violence against Muslims, the effects of such official regimes of denial and falsification far exceed the confines of the police station; they have powerful “impunity effects” on what happens in the courtroom several years later.

Human rights reports, media reportage, and scholars have argued that sexual violence is an inextricable part of the Gujarat pogrom. But it is also arguably the most circulated and least analyzed aspect of Gujarat 2002. This raises questions about how violence against women becomes visible, intelligible and culpable both *inside* and outside the legal process. In my earlier chapters, I have showed the legal technologies, narrative modalities, and police documentation, by which only certain kinds of subjects, affects, and events are allowed to appear in official documents and archive of violence. By

controlling what can be *officially* seen and said about the Gujarat pogrom, state documentary practices, including legal discourse, make the targeting of minorities unaccountable.

In Chapter Five, I locate the invisibility around sexual violence in the Gujarat pogrom within larger state documentary practices and the political-judicial structure of impunity analyzed in the dissertation. I do a close reading of legal and police documents alongside the testimony of a survivor, in order to show how the police produce evidence and later judges interpret it *only* in order to dismiss violence against women as an exaggeration. The erasure of violence against women begins at the moment of reporting to the police itself, but the legal process, including the trial and its procedures construct violence against women as an exaggeration.

How do Hindu nationalist activists ‘legalize’ and legitimize everyday violence against Muslims in Gujarat? By analyzing the daily activities of Hindu nationalist activities within a specific “riot-prone” neighborhood in Ahmedabad, in Chapter Six, I argue that public violence against Muslims is embedded in the performance of the “everyday state” in Gujarat.

By shifting our focus on Gujarat 2002 as an exceptional and unprecedented event, and violence as a breakdown of law and order to an analysis of the multiple routine ways in which Hindu nationalist activists anticipate, precipitate and perform anti-Muslim violence even in “normal” times, I go beyond limited and dichotomous understanding of state and society.

The Gujarat pogrom is widely understood as an unprecedented and exceptional event. However rendering the violence in 2002 as ‘exceptional’ obfuscates the precise ways in which nonstate actors, like militant Hindu nationalist organizations, are embedded in ‘the state’ over time, and work beside state agents in Gujarat.

I analyze the everyday techniques of violence used by members of the youth wing of militant Hindu nationalist organization, VHP (World Hindu Council), which is widely held to be one of the main perpetrators of the anti-Muslim violence in Gujarat 2002. What I call techniques of violence operate during periods of ‘normalcy’ when Hindu nationalist activists use certain well-known practices to achieve aims less spectacular than pogroms and riots; for instance, producing Hindu sovereignty within a neighborhood. This helps us answer an important question: How was Gujarat 2002 possible? And also helps us understand the shape and content of everyday legality Gujarat.

In Chapter Six, I analyze how Hindu nationalist activists in Raipur defer, anticipate, and precipitate violence against Muslims as spontaneous “Hindu-Muslim” communal violence and riots. In Chapter Seven, I deepen my examination of the objectivity and stability of the category of the “riot” by examining a particular incident of Hindu-Muslim violence in Ahmedabad and how it gained coherence as a “communal riot” despite conflicting and contradictory reports by witnesses and participants.

How do events of violence, involving Hindus and Muslims, but often one-sided attacks on minorities, get classified as “communal riots or religious conflict”? In this chapter I show that despite victims’ protests and knowledge of the identity and role of

perpetrators; violence involving Hindus and Muslims is often classified as “rioting” by the police and the mainstream media. This chapter argues that mainstream media reportage of violence involving Hindus and Muslims reproduce the narrative strategies of official documents like the police First Information Report (FIR). The police FIR frame/insert actors and events within an *identity theory of violence*: pitting “Hindu” and “Muslim” communities against each other in order to mask the identity and role of well-known actors and networks of violence.

I explore the circulation and mediation of a small-scale event of violence in order to understand how despite competing and irreconcilable accounts of what takes place during so-called “riots” in Ahmedabad, including the open and public refutation of the official account of Hindu-Muslim “riot,” the *narrative* of the riot continues to maintain widespread intelligibility and circulation in mainstream media.

Conclusion

The politics and analytics of exceptionalism puts us in a bind – on closer examination we find that the exceptional is the normal and the normal is the exceptional. The analyses of states of exception, especially in the light of Giorgio Agamben’s (1995, 1999, 2005) studies of law and politics, helps us understand the sovereignty of the decision and the perversity of the law, but it does not help us understand the maintenance and normalization of violence within liberal democracies like India. On the contrary, my dissertation shows that what is often called impunity in the aftermath of recurring mass political violence is part of a larger technique of governance that reinforces and legitimizes Hindu sovereignty through official and unofficial forms of inscription, erasure and denial that are part of everyday state practices in India.

Gyan Pandey calls “routine violence” the pervasive and ongoing process of exclusion and inclusion written into historical narratives and contemporary political arrangements (2007:1). Pandey argues that this form of violence undergirds and enables more spectacular and visible forms of violence, and helps us rethink violence as a part and parcel of contemporary political arrangements, not some primitive remnant of our premodern past. My analysis of impunity, or large-scale legal and political *unaccountability* in the aftermath of mass violence, builds on this insight, in order to show that everyday statecraft and court proceedings play a key role in making mass violence against minorities unaccountable in India.

In my dissertation, I combine theories of everyday statecraft and paperwork with legal trials in the aftermath of mass violence to argue that the production of unaccountability is as important as truth and knowledge in the maintenance of state power. Building on recent studies of bureaucracies, documentation, and state power, I outline the official (and unofficial) and legal (and illegal) process that makes mass targeting of minorities not only possible (and historically, politically profitable), but unaccountable.

Like other anthropologists who study violence (Nordstrom 1997), I cannot separate the analytical from the ethical. Allen Feldman drawing on his fieldwork in Northern Ireland says that it is common, if not inevitable, that anthropologists are asked to “bear witness” in circumstances where victims are eager to communicate their pain and suffering.

Several activists, scholars, and journalists have responded to Gujarat 2002, like previous events of mass violence against minorities in India, and my work stands on their shoulders. Many before me have witnessed and written about what happened and is happening in Gujarat (for an anthropological, first-person, account of the Gujarat pogrom, see Parvis-Ghassem Fachandi 2012). And perhaps for the first time in India, there is a vast body of testimonial literature, including meticulous contemporaneous human rights reports, journalistic accounts and undercover investigative exposés.

A somewhat different problem animates my dissertation: How is mass public violence denied, dismissed and later repeated within democratic regimes like India? In the context of the 1983 anti-Tamil riots in Sri Lanka, Valentine Daniel writes, “the very words “project,” “informants,” “interview,” “evidence,” “description” took on new and terrifying meanings (1996:3). My dissertation turns the same kind of lens on terms like “paperwork,” “evidence,” “record,” and “law.”

I locate my study of sovereignty and unaccountability in the aftermath of violence within what may seem as an unlikely site – official documentation, legal trials and the everyday practices of Hindu nationalist activists. Official documentation, especially police and legal paperwork, may seem distant from the chilling accounts of torture, maiming, sexual assault, and humiliation of Muslims in Gujarat 2002, but I argue that what happens inside and outside the courtroom, not simply what is inscribed inside official documents or the officials who write them, but how they circulate in the court and the media, and subsequently open and close avenues for political action, help us understand the relationship between law, violence and power in liberal democracies like India.

CHAPTER TWO

Chapter Two: Putting Victims on Trial

The perfect crime does not consist in killing the victim or the witnesses ... but rather in obtaining the silence of the witnesses, the deafness of the judges, and the inconsistency of (insanity) of the testimony... You neutralize the addressor, the addressee, and the sense of testimony.

- Jean Francois Lyotard, *The Differend*

In April 2008, on a burning summer afternoon in Ahmedabad, I listened to a human rights activist and Gujarati lawyer discuss legal trials in the aftermath of Gujarat 2002. Six years after the violence, as part of a pan-India project on state impunity, the human rights team interviewed victims, lawyers, local activists, academics and NGO workers in order to understand their perspectives on justice and obstacles in the legal process. They took the help of a local legal aid NGO, Justice First (JF), where I was a volunteer, to set up appointments and reach victims across Gujarat.

I sat in a corner taking notes as a Gujarati lawyer patiently described the twists and turns of the controversial and highly politicized Gujarat 2002 trials. The main topic of discussion was the lack of prosecutions and convictions in 2002 related cases in the last six years. Since 2008, there have been a few convictions in high-profile cases; including a landmark conviction of a high-ranking politician in the Gujarat government. However this does not alter my central argument about the political and juridical structure of impunity because these convictions are mostly special cases monitored by the Supreme Court of India. These cases are also often media trials, not in a pejorative sense,

but because they are extensively reported on both electronic and print media. In my opinion, these high profile show trials belong to a different order from the vast majority of cases being tried in ordinary courts in Gujarat. Because the number of individuals convicted and the associated victims compensated are only a tiny fraction of those in the 2002 Gujarat violence as a whole, the question of justice in the aftermath cannot be exhausted by a few convictions alone.

The lawyer questioned the impartiality of the legal trials, even as the activist bemoaned the lack of legal information and knowledge amongst the plaintiffs he had met so far. They grappled with issues of anti-Muslim and pro-Hindu police bias during investigation, the “illegal” detention of Muslims, and the conflict of interest in expecting state appointed public prosecutors to act against state officials. The conversation seemed to come back to the same, often repeated, but essential paradox.

Activist: We are trying to understand the legal process and its effect on survivors in Gujarat. What is your experience of 2002-related cases?

Lawyer: I have done research on the most heinous cases like Naroda Patiya⁶ and even prepared applications in that case. The Supreme Court of India has taken charge of some nine major riot related cases as part of the ‘National Human Rights Commission vs. The Union Government of

⁶ Naroda Patiya is the name of a neighborhood in Ahmedabad, the capital city of Gujarat, where 96 Muslims were killed. It is considered the largest single case of mass murder and also witnessed mass sexual violence. It is one of the 9 cases monitored by the Supreme Court of India. On 29th August 2012, a Special Court convicted 32 people, including a minister in the right-wing BJP government, and acquitted 29 due to insufficient evidence.

India⁷... Things started to move forward only after the Supreme Court decision in March 2008... You know the petitioners (activists and NGOs) asked the court to transfer 2002 related cases outside Gujarat and get the Central Bureau of Investigation (CBI) to investigate them... They also successfully petitioned the Supreme Court to re-open around 2000 cases that had been closed by the Gujarat police... but victims must get to choose their own lawyer otherwise it is very difficult to do anything in such a situation...

Activist: So despite the order of the Supreme Court to reopen 2000 odd 'riot' cases there is not much hope for success?

Lawyer: In a criminal trial it is assumed that the State will punish the guilty but here we have a situation where the State is a party to the crime. In fact the State is an accused, so in this case for the State to prosecute the guilty is meaningless...

As I have noted in the introduction, according to most eyewitness accounts and human rights reports, the ruling political party in Gujarat, the BJP and its elaborate network of Hindu nationalist organizations, led the attacks against Muslims in 2002. How can the state apparatus involved in encouraging violence against its own citizens now investigate

⁷ As part of a SC judgment, 10 cases were given to a special investigation team (SIT), which was monitored directly by the Supreme Court and was headed by a retired director of the CBI in which there have been a number of convictions including one case in which a high-profile minister was jailed for inciting and conspiracy. The Supreme Court of India also ordered the reopening of nearly 2000 cases when NGOs argued that the Gujarat police and the state government had summarily closed these cases without proper investigation.

itself? This situation put NGOs like Justice First (henceforth JF) and human rights activists in the fraught position of simultaneously demanding the “rule of law” and pointing to its subversion by the Hindu right wing political regime in Gujarat.

Legal accountability in the aftermath of mass violence is often considered desirable, if not indispensable, to the legitimacy and functioning of democratic regimes of power. This may seem especially pertinent in the aftermath of Gujarat 2002, when state and non-state actors publicly destroyed the life and property of marginalized groups, often with the approval of the wider public and state authorities. With the global spread of human rights discourses and the concomitant valorization of testimony and witnessing in human rights arenas, NGOs and human rights activists across the world support and encourage survivors to “bear witness” and speak truth to power both inside and outside the courtroom. Thus, trials, legal procedures, and transitional justice measures are expected to bring clarity if not closure to mass atrocities against marginalized communities and minorities. However, such normative scenarios do not adequately explore contexts in which legal procedures and activist efforts to challenge perpetrators end up reinforcing regimes of impunity.

This chapter examines a single criminal trial in Ahmedabad as a site for analyzing how court proceedings and legal documentation have the opposite effect of accountability; the trial challenges, attacks and invalidates the testimony of the survivor. I argue that the very technology of producing legal truth can in certain political and social contexts end up reinforcing regimes of impunity. I identify three legal *aporias* within trials of mass violence that *produce* such unexpected reversals: the disjuncture between individual testimony and collective violence, documented and undocumented aspects of

evidence, and the paper trail. I conclude by suggesting that such trials reinforce the legitimacy of Hindu sovereignty in the aftermath. While many scholars have shown the inadequacies and elisions in the production of legal truths and the failure of the rule of law, I argue that legal technologies of truth also obfuscate, erase, and ignore violence that is illegal, but nevertheless constitutive of state power.

Meeting the Witness

I first met Abdul on one of my routine trips to meet survivors with Bharat, a JF paralegal. He introduced me to Abdul, whom he had first met in 2006 when JF started working with survivors of the violence in 2002. After meeting Bharat, Abdul agreed to be a ‘consent-witness’ for JF, which meant he received free legal services associated with his arson, looting and rioting 2002-related case if he agreed to give evidence against the accused. After eight years his case had reached the deposition stage, when he had to testify before the judge.

I met Abdul again under very different circumstances. The streets of Ahmedabad were deserted, the JF office to sent its employees home early, and newspapers were full of reports of paramilitary and special police force movement throughout the city. Abdul’s trial had become a footnote within yet another trial.

In the words of the local newspapers, Ahmedabad was “turned into a fortress” in anticipation of an upcoming legal verdict on the controversial Ayodhya dispute. A three-judge bench of the Allahabad High Court would soon deliver a much-awaited verdict on the Ayodhya dispute. On 6th December 1992, Hindu nationalist cadre stormed and destroyed a 16th century mosque in full public view of the police and the media because

they believed that it was built on the remains of a demolished temple. This triggered a protracted legal battle between Hindu nationalists and the Muslim Wakf board on the ownership over the disputed property. A watershed event in the history of Indian politics, the demolition of the mosque led to riots across north India, but marked the growing popularity and subsequent electoral success of the Hindu nationalist political party.

Sixty years after the dispute over the ownership of the land where the mosque had stood first went to court, and countless adjournments, the Allahabad High Court was going to give a 'final' verdict. Everyone I spoke to, Hindus and Muslims, local people, the media, and the police in Ahmedabad were bracing for violence, especially if the court dared to give a judgment in favor of the Muslims. In the specter of impending violence, Muslims who lived in sensitive areas, sites of violence in 2002, locked their houses and left to live with relatives and friends in Muslim parts. Hindus who lived in Muslim areas did the same.

I accompanied Bharat and Yasim, paralegal and lawyer in charge of his case, to Abdul's shop. Abdul's case was at the deposition stage, which meant he had to go to court and give his testimony. The advocate-paralegal team had been in touch with him since 2006, and obviously a lot was at stake. The moment had arrived when as the lawyers put it, "the witness is on his own;" and they can't speak for him or her in court, neither can they face the cross-examination on his behalf; but they must watch silently as the defense confuses, intimidates and challenges their witness. But a different trial occupied Abdul's mind.

Abdul: What will happen after tomorrow's verdict? I have built my shop from nothing twice⁸, and by Allah's grace, it is doing better than what it used to... But I'm not taking any chances this time, I didn't buy any raw material, if something happens to my shop, I don't want to lose my stock along with everything else.

Bharat: No, don't listen to rumors, nothing will happen tomorrow, just be in a safe place when the verdict is announced and make sure everyone is at home.

Abdul feared for his life and shop in the present; and punishing those who had burned his shop eight years ago seemed less urgent than the rumors of 'tension' in the city tomorrow. As Bharat and Abdul chatted, Yasim pulled out a thin folder wedged between the handlebars of his motorbike. It was a dusty file with Abdul's case papers. Waiting for a free moment between customers, Yasim leaned across the counter, with the file open in one hand, and began asking questions. There was too much noise for me to hear anything clearly, and it didn't help that they were whispering, but they were saying something along these lines:

Yasim: Do you remember your statement? Your deposition is at 11 am day after...

⁸ His shop was burned down in communal violence twice – once in 2002 and again in 2010. In Chapter 6, I explore the circumstances under which Abdul's shop was burned down a *second* time on 30th April 2011, when I was doing fieldwork in Ahmedabad.

Abdul: (Handing out bags of milk and small packets of confectionary to customers) I went to... they came to burn my shop... I recognize them, and their names are...

Yasim: Yes, you forgot to mention the name of X and Y...

Abdul: These boys have grown up in front of me; they even stroll across the shop sometimes, I recognize all of them.

Abdul's shop was one of only two or three Muslim shops in the lane. It seemed to do good business. Lots of customers walked in and out, carrying soda bottles and small pouches of tobacco. No one really looked at Yasim's file. But Bharat looked uncomfortable about meeting in a public place. Yasim checked his file and asked Abdul a few more questions. As we prepared to leave, I asked Abdul a few questions.

M: So is everything all right, except your reservations about the verdict tomorrow?

Abdul: Yes, I would chat with you properly but right now I don't have my son to help me. He has left for the evening prayers... I recognize all of them (the accused) and for that matter, even their fathers; they have grown up in this neighborhood.

M: But eight years have passed, do you face any problems because of going to court? Has anybody come and apologized?

Abdul: No one has ever come and apologized. They (the accused) send their friends and acquaintances to my shop... To say they've been framed...and they were not part of the mob that burned my shop...

M: So?

Abdul: I tell them, listen, I know these boys and I have to go to court.

I felt awkward talking about these things in the middle of an open shop. Like many 2002-related cases, the accused in Abdul's case are not faceless, nameless mobs that have no origin and history. Violence arrived at the doorsteps of many Muslims like Abdul with a face and a biography – "I even know their fathers." After this meeting, I decided to attend Abdul's trial, I was impressed with his confidence and looked forward to a spectacular performance of a witness finally "speaking truth to power."

In the course of the next year and half, I grew increasingly frustrated with these trials, which became a painful yet prolonged exercise in waiting, mostly sitting around and hoping for something to happen. To attend these trials meant reaching the court premises in the morning (since most survivors were daily wagers, it meant they lost a day's worth of wage) and waiting for a couple of hours before being called into the courtroom (best case scenario). Nine times out of ten, the accused didn't appear, but their lawyer would submit an application excusing their absence; or the judge would be on leave or transferred mid-trial to another court, or have retired before the proceedings ended; or the court would be on holiday, or the case would be sent back to what lawyers called the "department" that meant further delay as the department reassigned the case to a fresh court and judge.

Because the accused rarely showed up, masking their truancy with applications submitted by their lawyers, the judge would adjourn the court, give a fresh date for hearing, perfunctorily dismiss the witnesses, and move onto the next case. This was the story of most JF monitored cases in the last eight years. Now, finally, after eight years of adjournments and delay, it was Abdul's turn to testify in front of the judge.

Activism as Proceduralism

I argue that well-meaning legal activism reinforce regimes of impunity in the process of countering it by adhering to and mimicking state forms of proceduralism associated with trials and due process. In other words, trials and routine court proceedings – promoted by activist and NGO efforts to legally prosecute the perpetrators – can end up reinforcing structural forces; and in the case of Gujarat, Hindu sovereignty.

Justice First gave free legal aid to Muslim survivors because it believed that the legal process is the ideal and an important way for minorities to reclaim rights accorded by the Indian constitution to *all* its citizens. But along with fighting for the legal rights of the victim, JF like other NGOs also documented the subversion of the “rule of law” by the Hindu fundamentalist state apparatus in Gujarat. For example, activists and NGOs asked the Supreme Court of India to transfer 2002 related cases outside Gujarat and demanded that “federal” authorities like the Central Bureau of Investigation (CBI), instead of the Gujarat police, re-investigate offences. However, even after the Supreme Court transferred a few cases outside Gujarat, and formed a special investigation team (SIT) to look into nine of the most heinous crimes, the majority of the cases were tried and adjudicated in Gujarat.

The 2002 Gujarat riot cases, as the crimes are known in the media, provide significant material for analyzing the political-judicial structure of impunity, and the paradoxical role of well-meaning NGOs in reinforcing regimes of impunity in the process of countering them. NGOs have played a major role in ensuring that these cases are tried in a court at all. However, the widespread acquittal of such cases, and the prolonged humiliation faced by witnesses, is particularly useful for thinking about the role of trials as legal technologies producing official blindness and denial about widely known, contemporaneously documented, and publicly performed spectacles of mass violence against minorities in contemporary India.

In this chapter, I analyze a single criminal trial in the lower courts of Ahmedabad in order to understand how everyday trials invalidate victims' testimony. I combine my experience of court proceedings, the cross-examination of survivors' testimony by the defense, along with the analysis of key documents, and the judge's interpretation of evidence to show how everyday court proceedings challenge, attack and ultimately invalidate survivors' testimony. These cases illuminate much more than simply the incidents of arson, looting, stabbing, and rioting that is explicitly discussed in the courtroom; I use them to analyze official processes that unobtrusively and over long periods of time, make it improbable, if not impossible for survivors' to legally attest the violence committed against them.

JF paralegals first persuaded and then supported survivors going to testify in court. Many survivors didn't remember their 'original' statements to the police, others had misplaced their papers, and most had little knowledge of the legal system. Many enthusiastic and motivated survivors gradually lost interest in their cases, as the days

turned into weeks, and weeks turned into months, and then a decade passed by before they were called to give their testimony in court. The seemingly endless futile court visits, the stream of adjournments, the daily pressure to “compromise” with the accused (and leave the legal process with some dignity), and the bleak chances of a conviction made the work of paralegals and lawyers increasingly difficult as time went by.

If the police refused to record FIRs or deliberately distorted survivors’ statements, then poor and illiterate witnesses were expected to correct them with the help of JF lawyers, by sending notarized copies of their “new” statements (with the name of the accused) to the police commissioner or a magistrate in an application that explained and “justified” the delay in writing to the authorities that were responsible for the distortion, manipulation and erasure in the first place! In almost every 2002-related case, all prosecution witnesses except the ones supported by JF turned hostile in court. Thus, JF paralegals and lawyers focused on the testimony of a handful of “consenting” witnesses in each case.

Lawyers, largely unconcerned with the witness’s life story, but also fully aware of the constraints and loopholes of the Indian criminal justice system, held onto legal truisms and established procedures, even in the face of overwhelming evidence that rules and regulations had been flouted by the Gujarat government and police from the beginning itself (See Chapter Three on the police first information report). They argued that for survivors’ testimony to be credible in court, it must confirm previous statements made to the police and the narrative of the FIR.

Thus, when JF supported witnesses were summoned by the judge, paralegals visited them, read them their statement, and in some cases even conducted mock cross-examinations (that did not happen in the cases discussed in this chapter). Witnesses were given a typed copy of their FIR and asked to memorize it in their spare time. They were expressly instructed *not* to add any content or interpretation to their “original” statements, answer to the point, and only repeat what was already “on-record.” Commonly, however, witnesses who had promised to repeat their police statement frequently changed their narratives in the dock; influenced by the court’s atmosphere, the belligerent tone of the defense lawyer, and the presence of the accused, they ended up saying ‘more’ or ‘less’ than what they were supposed to say.

JF lawyers and subsequently paralegals often reduced the entire process of deposing before the court into a formula. Their testimony should have only *four* facts: date, time, name and role of the accused. Such ostensibly simple instructions were designed to make depositions easy for people not used to legalese or legal machinations. But this made testifying in court an entirely perfunctory exercise, which did not and could not challenge the more fundamental problems of documentation and complicity that undergird these trials. I use the present case to show that mechanically mimicking “due process” and legal procedures fail to address mass political violence.

I frequently accompanied Bharat on daily ‘field visits’ to survivors carrying faded folders with copies of police statements, FIRs, and other case papers. After chatting and sharing a cup of tea with the witness, Bharat reminded them of important court dates, asked if they had received any summons from the court or faced any threats or

intimidation from the accused, and proceeded to quiz the witness on his statement. The main thing to remember, he told them, are the four facts, everything else is superfluous.

Trials in the Hindu nationalist Laboratory

For the last decade, Justice First (JF) paralegals and lawyers have helped Muslim witnesses correct factual errors in their statements, demand further investigation or reinvestigation, add new witnesses to their case, and testify effectively in the courtroom. JF mostly works with survivors who are poor and lower class self-employed Muslims – mechanics, shopkeepers, and laborers – who have little or no familiarity with laws of evidence and court proceedings.

When the organization began in 2006, they gained the support and trust of these survivors (mostly men and a few women) by helping them with mundane and bureaucratic tasks like filling applications for compensation. They worked in an exceedingly difficult environment since many survivors still lived amidst the accused; many of the latter were connected to militant Hindu nationalist organizations. The legal process in India, even under “ideal” conditions, is long-drawn, circuitous, and labyrinthine. It forces plaintiffs (and accused) to come to court multiple times across many years just to mark “attendance,” which is profitable for lawyers but yields nothing for the complainant. In my experience of attending a few select trials over a year and half, court dates ended in adjournments, and were a colossal waste of time and energy for the survivor. Sometimes there would be no change in the status of these cases over the span of a year, or even more. Muslim witnesses of Gujarat 2002 are expected to brave these structural impediments, along with threats of physical violence and intimidation by Hindu

accused; who, are often protected, even legally represented, by persons with connections with Hindu nationalist organizations.

All criminal offences in India, following British law, are formally committed against the State, and NGOs like JF cannot directly represent survivors in the courtroom. Rather they must first file what is colloquially called a VP⁹ (*vakalatnama*) application to “help” the prosecution. Since the government appoints public prosecutors, JF can only “aid” the prosecution. This led to a peculiar situation in Gujarat: the Hindu nationalist government appointed public prosecutors who were also members of Hindu nationalist organizations (like the World Hindu Council, VHP) who went on to secure bail for the accused, when ostensibly they were expected to prosecute their own ideological brethren.

Notwithstanding the role of the government in scuttling any chance of a prosecution, the police had added few or no witnesses in most criminal cases. This meant that most prosecution cases were based on the testimony of a few NGO supported survivors. For over a year and half, I watched a trail of prosecution witnesses (Hindus and Muslims) step into the witness box and mechanically retract or deny their statements against the accused. Police witnesses entered the court to deny their statement and presence at the scene of the violence – no one wanted to get involved in Gujarat 2002 trials. Unfazed, the public prosecutor declared these witnesses ‘hostile’ without ever probing their reasons for turning hostile or even cross-questioning them, and the trials

⁹ This is an application by any person to an advocate to appear on his behalf and conduct the proceedings in any court of law and plead his case. This is the first legal step taken by JF after they get the ‘consent’ of the witness. After which JF lawyers prepare arguments, rectify case details, and prepare the ‘consent witnesses’ for deposition and cross-examination. It is important to note the highly limited role available to the JF lawyers since the State is the main aggrieved party in all criminal cases and all applications and materials must pass through the state appointed Public Prosecutor.

staggered on, weakened and diluted by the lack of corroboration, resting on the testimony of a rapidly dwindling and very tired NGO supported witnesses.

No witness denied that the violence actually took place – there were injury certificates, newspaper reports, television reportage, burned houses, shops, and mosques. Neither did the Gujarat police and perpetrators. But no one knew or *named* the accused, even if many had mentioned names in their pre-trial statements. There was no doer behind the deed. These “hostile” witnesses – those that do not support the prosecution – gave formulaic but plausible reasons for their volte-face: they fled the scene of the offense to save their life, they were not even present at the scene of violence on that day, but the police forcibly took their signature on a blank piece of paper.

Consequently, no one denies Gujarat 2002 happened, but no one names the perpetrators either.

For over a year I attended trial courts in Ahmedabad. Not a single Hindu came forward to give evidence against another Hindu. In other words, judicial proceedings in the aftermath of 2002 are polarized along the same lines that produced a one-sided attack against Muslims in the first place. Lower court trials like the ones I attended take place along side hundreds of non-2002 criminal cases in the lower and Sessions courts on any given day in Ahmedabad. Unlike high-profile cases, they are not part of special fast-track courts or subject to media scrutiny. They are subject to endless adjournments, deliberate delay tactics by the defense, and legal red tape that is part of the Indian criminal justice system, in general.

But NGOs, judges and the police often regard these cases special because of their political consequences. For example, the final arguments of one case were concluded during the local assembly elections in 2011. Since 2002, the Hindu nationalist political party, BJP, has won the local elections *thrice*. And the judge privately told a JF lawyer that it is best if he adjourns his final judgment until *after* the elections are over. He eventually acquitted the accused, but he was clearly aware of the larger consequences of adjudicating Gujarat 2002 cases.

The atmosphere outside the courtroom but inside the court complex captures the banality of impunity: the Hindu accused were neither remorseful nor afraid, they walked in and out of the courtroom with the swagger of those who didn't really care for the peculiar ritual being conducted in front of them. Whereas Muslim complainants were tense, fearful, and needed to be cajoled and escorted by the JF paralegal to even appear for their case.

The demeanor of the accused inside and outside the court, the tone and tenor of Hindu defense lawyers who often shout and scream at witnesses is an important part of victims' experience of what it means to fight for "legal justice" in the aftermath of Gujarat 2002. Ironically, while the accused roamed around unrestrained inside the premises of the court, Muslim witnesses and JF paralegals exercised caution and restraint in the courtroom; the public prosecutor chanted prepared lines and shuffled papers and kept the case moving till it reaches its natural conclusion – acquittal. Because most cases ended in acquittals, the confidence of the accused was not misplaced. People were also relaxed inside the premises of the court because everyone had to wait endlessly, like

in any bureaucratic office in India. In some cases, I saw the accused chatting with witnesses, who were often their neighbors and acquaintances.

Judges, plaintiffs, accused, paralegals, and lawyers changed as I shuffled between courtrooms in the Ahmedabad Metropolitan and JFMC (Judicial Magistrate First Class) courts, but the dull rhythm and pace of the trials remained more or less the same. Scholars who have tracked the legal aftermath of previous “riot” cases (especially anti-Sikh violence in Delhi 1984), encountered the same farce played out in different parts of India, and were quick to point out that the “legal outcome (of Gujarat 2002) is largely a foregone conclusion” because “the present criminal justice system is woefully inadequate to deal with State sponsored genocide. The criminal justice system assumes the existence of an independent investigating and prosecuting agency, insulated from political interference, which is not the case in Gujarat...a case for the total breakdown of the constitutional machinery needs to be made out” (Grover 2002: 384). By the time I finished fieldwork in 2011, JF paralegals and lawyers, got accustomed to my curiosity and naivety, and admitted that they knew fully well that they were going to lose most, if not all, Gujarat 2002 cases.

Breaking the Witness

In November 2010, the men that allegedly burned Abdul’s grocery shop in 2002 were acquitted. A week before the verdict, I sat on the last bench of the courtroom listening to the defense’s concluding oral arguments.

I entered courtroom number 15 of the Civil and Sessions Court in Ahmedabad with a deep bow in the direction of the judge, as did all the lawyers who entered before

me. No one noticed as I entered late and sat quietly at the back of the room. Bharat, who had been “preparing” Abdul for five years for this one day, stood outside the courtroom, for fear of being recognized or associated with the trial. He chatted on his mobile phone like dozens of others milling about outside the room. The courtroom lacked any pomp and show; it was a large, poorly maintained room with five rows of wooden benches. Unlike in courtrooms I had been to before, the judge seemed strict.

I sat on the last bench, farthest from the honorable judge because I was supposed to be waiting for my turn in some other case. The judge sat alone on a long, raised desk, and on his left a clerk examined documents before placing them before the judge. Behind the desk was a with an opening in the wall from where judges would magically appear (and disappear during breaks), everyone in the courtroom would stand for a moment, and begin chatting as soon as the honorable judge sat down. Some judges were ironic, others kept yawning, but this particular judge kept mumbling something to his clerk. I strained to hear what he was saying.

Soft-spoken Abdul looked out of place inside the wooden witness box and spoke in spurts. The only words booming in the courtroom were of one speaker alone, the defense lawyer, who was no ordinary man¹⁰. He was cross-examining Abdul, pacing the small space in front of the judge, gesticulating with his arms, almost scolding him:

¹⁰ Mr Shah is an Ahmedabad-based criminal lawyer, publically affiliated with the Hindu nationalist organization, VHP (World Hindu Council). He came forward to help hundreds of accused procure bail in 2002. In 2003, the Gujarat government appointed him the chief public prosecutor at the Ahmedabad Sessions court, where more than 950 riot-related cases came up for hearing. He was expected to lead the prosecution against the same people he had earlier helped to get bail. This pattern was repeated in other parts of Gujarat as well. The prosecutors were changed after activists and survivors challenged

Defense Lawyer (DL): So how many Muslim shops are there in your lane?

Abdul: There are only a few shops...(inaudible)

DL: Is it true that your shop is in a Muslim area?

BC: Yes there are Muslims shops in my area and there are also Hindu shops...

DL: So why was only your shop attacked? I am sure there are business rivalries in the market, otherwise why would only your shop be attacked? Maybe rival Muslims with whom you had a prior enmity came and burned your shop.

BC: That is not true.

During the cross-questioning, I expected JF lawyers to stand, interject and register their protest against the bizarre accusations made by the defense lawyer, but they simply sat there, unmoved and stoic. Later they justified their reaction structurally. “You see JF is only a party to the case as a “counsel” to the state public prosecutor, so we cant play an active role during court proceedings,” Yasim, the JF lawyer in charge of the case told me, “Since all criminal offences are formally crimes against the state, only the public prosecutor has the power to object or say anything substantial in court.”

Instead, JF lawyers mostly submitted written applications for documents, further investigation, added witnesses with the permission of the public prosecutor, and

sometimes made an oral argument submission before the judge. They claimed anything beyond such circumscribed procedural interventions was impractical and unreasonable.

Abdul's cross-examination ended abruptly, in a single wave beginning with the judge everyone exited the room, and I followed Bharat, Yasim and Abdul down the stairs to the canteen to get a cup of tea. They all looked uneasy, something had happened before the cross-examination.

Yasim: So what happened? Why didn't you identify the accused in the court?

Abdul: This was the first time I had entered a courtroom... I was very scared to stand in the witness box. My heart was pounding when they read the names of the accused and asked me to identify them.

Bharat: It's okay, don't worry, many people feel the same, it's the way he (defense lawyer) shouts at the witnesses... He has scared other witnesses before this...

Yasim: Yes, but why did you say in court that the names in your police statement... you had heard from others?

Abdul: Well, it's been eight years since I have seen the accused and they kept shuffling them before me. I also did not recognize the names by which they called them out... I was afraid of sending someone innocent to jail... My body started to shiver... in the dock... and I was not sure how the names and the faces matched. What if I made a mistake, they could say I

am lying and send me to jail. The defense lawyer was saying that I am lying... I have never entered a courtroom before...

On hearing this conversation I realized that Abdul had *not* identified the accused in court! Instead he had said that he could not recognize the accused in court and had “heard about them from others.” Abdul’s hands trembled as he sipped his cup of tea, something terrible had just happened. Yasim gulped down his tea and left in a huff. He went back to his tiny table outside the court building where he sits and solicits clients all day, outside his part-time work with JF. Bharat continued to comfort Abdul, saying he understood his fear, confusion and anxiety in the courtroom.

But discussing such “surprises” in the courtroom was not easy. The lawyers mostly avoided discussing cases where the witnesses turned ‘hostile,’ and along with the paralegal, preferred to comment on witness’ psychology and temperament. Talking about such cases with an outsider like me, with connections with the NGO leadership, cast aspersions on the quality of witness preparation and training done by the lawyer-paralegal team. So I let things cool down a bit before discussing the case with anyone, and turned instead to the case papers – Abdul’s police statement, his FIR, other witnesses and their testimonies.

I met Abdul a week after he turned “hostile” in court. The image of Yasim leaning across the shop counter reading out the names of the accused was still fresh in my mind. Much had changed since then. Until Abdul entered the court, Bharat and Yasim claimed they had faced no problems in preparing him for his big day, when all he had to do was identify the accused in front of the judge. Now, after his testimony in court, it had

suddenly become important, even for Bharat, to know Abdul's interpretation of the trial. Abdul handed me a soda and asked me to wait for him down the aisle in the storage room at the back of the shop.

Abdul: I feel terrible about what happened that day... Yasim and Bharat put in a lot of hard work... they have been coming here for so many years...

M: Please don't worry... I came here to talk to you about what you felt that day...I hope you're feeling better now.

Abdul: I am much better now...

M: So, what happened that day, you felt uneasy in the court?

Abdul: I'll be honest with you – I did not see the accused with my own eyes. We (Muslim shop owners) fled this area but others managed to see the perpetrators and gave us their names later. We decided to register our complaint with the police accordingly.

M: But you said that you knew them (the accused) very well or at least some of them... from the time they were children...

Abdul: But they (judge) announced names that I did not recognize... When they called the accused out, they kept shuffling them about, and they called them by names that I did not recognize...I was scared to put names to faces, what if I made a mistake? The judge may have accused me of

lying... In a mob, how can I the say the exact number of persons, there could be more or less, I just wanted to name a few...

Abdul had heard of the accused from others – neighbors who had seen the accused. He was no longer an eyewitness, as per his police statement in 2002, but a hearsay witness. As mentioned before, this was certainly not the first time that this was happening in Gujarat 2002 cases: this was the pattern. JF lawyers justified these reversals by saying that once the witness enters the ‘witness box’ they lose control of them. And there was an underlying suspicion that the witness has compromised with the accused in exchange for safety, land or money, without informing JF, which makes sense because it was against such out of court settlements.

Does Abdul’s trepidation and hesitation in court to name the accused reveal *more* than his poor sight, ill health, and old age? Does it tell us something more than the effects of the courtroom as a space for threatening and intimidating Muslim survivors? Did all eyewitnesses have the same reaction to the trial? Why does he say that he “was not sure how to put their faces and names together,” and that “they announced names that he did not recognize”? It is true that witnesses are intimidated by the defense lawyer’s theatrics, his booming accusations, wily questions, and attempts to create fear in the witness. And yet there is a pattern in *how* the defense and the judge challenge and ultimately dismiss the testimony of witnesses in this case. JF paralegals and lawyers are quick to psychologize survivors, and the process of deposing before the court, even though lawyers are acutely aware of the laws of evidence and testimony that structure any trial.

But they frequently use traits like courage, loquaciousness, honesty, and intelligence to describe the strength and efficacy of survivors' testimony in court. According to them, these individual traits can facilitate or impede the ability of witnesses to give credible testimony before the judge. No doubt these personal qualities are important and make a big difference to what is said before the judge; of course the defense lawyer and the trial were successful in intimidating an old and mild mannered survivor. But my interest in this case lies elsewhere: it is in little details (perhaps technical?) that may seem minor, even marginalia. I compare such details, inconsistencies, contradictions, and confusions across Gujarat 2002 trials to show the juridical process that invalidates testimony in the courtroom.

I present the performance, evaluation and dismissal of Idries and Abdul's testimony as paradigmatic of ordinary court proceedings in the aftermath of Gujarat 2002, in order to analyze certain recurrent features of the trial that deny and reject survivors' testimony in the aftermath of mass violence.

Producing the Survivor as Non-Witness

In this section, I ask if Abdul's confusion between names and faces is only the proverbial tip of the iceberg? Or something that goes beyond *his* individual poor health and old age? I follow the gap opened by the "alias" to analyze the political-juridical structure of impunity that underlies everyday trials in the aftermath of mass violence. This involves a reevaluation of the production of legal evidence, especially the effects of legal procedures and police documentation on victims' testimony.

Abdul's confusion between names and faces is a good place for us to broach the question of the disjuncture between collective violence and individual testimony in Gujarat 2002 trials. In fact it helps us understand the structural constraints and limits of witnessing mass political violence of the kind witnessed in Gujarat 2002 (but also Delhi 1984).

JF paralegals and lawyers articulated an ostensibly straightforward method to prepare witnesses to testify in court. They focused on the four main "facts:" date, time, name and the role of the accused – that mattered during the trial. But Abdul's testimony and cross-examination show that even such basic 'facts' like the names of the accused are never unequivocal or entirely isolable what happens outside the courtroom.

After reading the case files, I learned that half of the accused in this case have aliases! And many of them are also accused in other 2002 riot cases in the same area. In fact some of them were well-known criminals and bootleggers, who sported popular nicknames and aliases. While JF lawyers mimicked the formal standardized format of the trial, including developing a one-size-fits all method to prepare witnesses, the question of aliases muddles the simple story they told me to explain Abdul's failed testimony.

Yasim, the lawyer concerned, simply dismissed Abdul as a weak witness. Lawyers frequently describe the cross-questioning as a test of strength between the witness and defense lawyers, where the defense lawyer tries to "break the witness." Bharat, the paralegal, took a more empathetic view of the case: Abdul was an old man in poor health.

At one level, Abdul turned hostile in court like hundreds of other prosecution witnesses – fear, intimidation by the perpetrators, and the lack of a witness protection program play an important role in turning witnesses “hostile.” And yet before the trial he told Yasim and Bharat that he could identify the accused. Once inside the courtroom he said he was “told” the names of the accused and he is “not in a state to identify any of the accused.”

I suggest that it is not simply extra-legal factors, or outside forces that subvert the law, which make witnessing impossible in the courtroom. Many clues of why survivors are not heard by the judge lie buried in legal paperwork; especially the tensions between paperwork and the world and persons it supposedly represents. Paper can frequently materialize and ‘immaterialize’ origins, beginnings, selves and worlds by authenticating or contradicting experience and history, Coutin and Yngvesson have argue “paper trails, which ought to substantiate truth, sometimes plunge their referents into a reality that is incommensurable with their sense of self” (184:2006).

The police FIR recorded nearly a month after the event has Abdul’s first statement of what he saw, and the police record it on the 30th March, after his shop was burned on 28th February. It is striking that the police in fact record the names of the accused in the FIR, something that has not generally happened in the majority of reports. Abdul gives the police eleven names that are part of a “communal mob that destroyed and burned shops belonging to the Muslim community.” Out of the eleven, *four have aliases*, and one is identified only by his brother’s name. All the eyewitnesses give identical narratives and mention the same accused. The only thing that changes in the

reports is the name of the plaintiff, the name of the shop, the date, and the estimate of damages to their shop.

Due to the communal incident (quomi banavana) in Godhra on 27.02.2002, the VHP (World Hindu Council) announced a “Gujarat Bandh” (strike) on 28.02.2002, but I still opened my milk shop for business, but suddenly in the afternoon communal violence (quomi toofan) broke out in X, Y and Z areas of the city and then all the shopkeepers in my line of shops closed their shop and fled toward the mill. In front of our eyes, mobs of several thousand damaged and burned shops, vehicles, cabins, and houses. The communal mob (quomi tola) that destroyed and burned the shops belonging to the Muslim community, including my shop, comprised 1) Mohan alias Dobri Ishwarlal 2) Anand Reva, 3) Jagan alias Bhutti dada, 4) Ganpati Thakur, 5) his brother Dipesh alias Dhoni, 6) Anuj Sanaji, 7) Uday alias Hariyo Muraji, 8) Bhagwan Rama, 9) Govind Maniyo’s brother, 10) Bharat Atmaram, 11) Himesh Chaggan and thousands of others were present in the mob. The above named persons in the communal mob were seen setting fire to the shops. Due to the destruction, my shop suffered losses of 100,000 rupees. (emphasis mine)

All complaints are in the first person plural, and use “our” and “we” instead of the singular ‘I.’ Abdul’s testimony is *not* an individual complaint because it mentions clearly an attack on Muslim shops in the area. It is clear from the reports that the eyewitnesses present the “Muslim community” as the complainant. And it is precisely this collective

targeting of Muslims, which is negated by the trial, in order to make witnessing improbable, if not impossible in the courtroom.

Idries is a Muslim mechanic whose shop was also destroyed with Abdul's. He is the second JF supported eyewitness in the case. He is a taciturn and middle-aged man, who has now opened a small garage like the one he used to have in Madhavnagar, but now he lives and does business in a Muslim majority area of the city. Perhaps the fact that he no longer lives in Madhavnagar helped him to identify the accused in the courtroom. He deposed in court a month before Abdul on the 16th August 2010. And like other eyewitnesses, his police statement mentions four aliases.

On the afternoon of the 28th a mob attacked Idries's garage. He fled towards the nearby mill (like Abdul and other Muslims in this neighborhood) and named seven people in his FIR, and went on to identify four in the courtroom. Three of them had aliases – “A person named Hanuman, Butti *dada*, and a person whose name I don't know but I can identify him when I see him.” One of the men he identifies by an alias is then asked his name by the judge. But he gives a different name, not his alias, recorded in the police report. In response, Idries says, “the accused says his names is Dinesh but we recognized this accused as Hanuman.”

Unlike Abdul, Idries identifies the accused in court, and is subjected to an even more punishing cross-examination. Since he identifies an accused by an alias, he has to add “this accused has given his name (during identification) as Dinesh but we recognize him as Hanuman.”

This is the “we” used by other Muslim eyewitnesses too many of the accused are in fact well-known criminals in the area, known by their alias, not their formal or legal names. During his cross-examination Idries says, “I do not know the proper name of Hanuman.” Instead of reading Abdul’s testimony in isolation, like the lawyers and paralegals in JF, I argue that a horizontal reading (reading testimonies beside each other across cases) of the case helps us understand the limits of witnessing and testimony. Reading Idries’s testimony along with Abdul’s, I argue that the disjuncture between individual testimony and collective witnessing is a key axis in trials of mass violence.

Idries’s cross-examination begins. It is common for many poor workers in the informal sector in Ahmedabad and elsewhere in India to work and live in the same place. Idries too lived inside his shop. The defense lawyer questions Idries’s presence at the scene (and his status as an eyewitness) of the offence by pointing to the lack of any “documentation,” like electricity bills or property tax receipts, to submit before the judge. Idries is made to confess

I have lived inside my shop for 5 years before the incident. I have no documents or a ration card to prove that during the incident I used to live in the shop. I have no documents to prove that I was the owner of my shop. This shop belonged to my father. I have no documents to prove that this shop belonged to my father.

Next, the defense lawyer questions Idries’s credibility by presenting him as an outsider, a non-Gujarati, because his police statement is in Hindi not Gujarati. Even though Idries speaks both languages fluently, his choice of Hindi (as a Muslim witness) is underlined

by the defense to undermine his testimony. But why should the choice of language undermine the credibility of a survivor's testimony? Once again what may seem to lie outside the court, the Hindu nationalist rhetoric of Gujarati 'asmita' (pride)¹¹ informs what happens inside the courtroom. The defense lawyer succeeds in getting Idries to say, "The statement I gave to the police was written down in Hindi." Pratiksha Baxi in her analysis of a high profile trial of a young Muslim girl who lost her entire family in 2002 argues that the constitution of the Gujarati Muslim as Hindi speaking, and therefore not fully 'Gujarati' and lacking credibility is a stereotype that is embedded in local stereotypes about Muslims in Gujarat (13).

The next line of cross-questioning uses the proximity of the site of offence to the nearest police station to question the credibility of testimony. And Idries admits:

It is true that on one side of the Idgah mosque there is a police station...there is police station across the road but I did not register any complaint...for 8 days I stayed near the site of the incident but I did not go to the police station to file a complaint regarding the incident. During those eight days I did not go to the police station. Even after going to Shah Alam¹² I did not file any complaint regarding the incident. I submitted a written complaint regarding the complaint but I did not sign that complaint.

¹¹ The chief minister of Gujarat, Narendra Modi, responded to domestic and international criticism of his handling of the pogrom, including the complicity of the state machinery and politicians in the attack on Muslims, by displacing the criticism as an attack on the people and "pride" of Gujarat. In his electoral speeches in 2002, he said it was attack by outsiders (NGOs and activists) to malign the reputation of Gujarat and its people.

¹² The name of the biggest relief camp in Ahmedabad.

Across Gujarat, Muslim complainants could not approach the police. And the police's response to those who came to report crimes to them is well known. Every extant survivor's testimony repeats the reasons why Muslims were reluctant to approach the police: the police were openly hostile to Muslims, refused to register their complaints, attacked them, and tried to implicate them in 'riot' cases. The National Human Rights Commission of India found that even as late as the 24th April 2002 (two months after the violence), "the victims of atrocities were facing great difficulty in having FIRs recorded, in naming those whom they identified and in securing copies of their FIRs" (28:2002).

The Gujarat government's own official data of deaths in police firing show the police killed more Muslims than Hindus at a time when by their own admission thousands of mobs were destroying Muslims property and life (Hindustan Times, 02/19/2002). This is why the Concerned Citizen's Tribunal acknowledged that "not only did the police not do anything to stop Hindu mobs... they actually turned their guns on the helpless Muslim victims."

Defense lawyers routinely present and use "delay" – the time difference between the offence and its police record – to question the credibility of the witness, and the judge readily accepted this absurdity. Nearly all the acquittal judgments I read during fieldwork questioned the credibility of the witness because he or she did not *immediately* report the offense to the police, and could not justify the "inordinate delay" between the violence and its official record. Helpless, brutalized, often illiterate survivors were expected to submit letters with their testimony to the administration, the courts and the police, and of course, save copies of these letters.

In this case, the original complainant, who turned hostile in court, justified his delay in approaching the police by saying, “The city was very unsafe after the event and curfew was declared, and because there was no security of life, I did not file a complaint till today, there is no other reason.” The People’s Union of Democratic Rights (PUDR) report describing the “role of the police” says, “During the course of the carnage the role of the police, or rather, its absence has been most noticeable. It was so conspicuous because the police was one actor during the carnage which departed significantly and consistently from its assigned role.”

Despite the well-known complicity between the police and the perpetrators in 2002, which is officially recognized even by other state organizations like the National Human Rights Commission, the police create a disjuncture between the temporality of violence and the temporality of evidence which is later interpreted and argued by lawyers and judges to dismiss survivor testimony.

The Verdict

In October 2010, after eight years of adjournments, warrants, court dates, the accused are acquitted. Of the nine prosecution witnesses examined, the main complainant of the case turned hostile, and so did all the on-site witnesses (*panch* witnesses). When the trial began, the case hinged on Abdul and Idries’ testimony, but after Abdul was unable to identify the accused in court, the prosecution declared him hostile, and the entire case rested on the testimony of one eyewitness – Idries.

The narrative of the judge is Rashomon-esque: two opposing interpretations of the offense – the prosecution and defense versions of “what happened” – encounter and

combat each other within the judgment, but finally the judge decides which version is credible and reasonable. But the judgment is at the same time a document that comes at the end of a series of documents – FIRs, police reports, lawyer’s written and oral arguments and written and oral evidence – that precede it. This is important because the judgment is largely a cut-and-paste job: the judge picks up phrases from the defense’s written and oral argument, only to add at the end of the section, “on this point I am persuaded by the learned defense lawyer’s argument.” The judge is nearly invisible from his own judgment: he decides but it is difficult to pin him down because there is very little in first person anyway. In the thicket of narratives within narratives, he juts out for a second to say “I agree” or “I disagree.”

But he must point out what persuades him. He summarizes the main “questions” before him that need to be decided and the main one is, “Has the prosecution established without doubt that the accused were part of an unlawful assembly that destroyed the property of the witnesses and should be punished according the various provisions of law regarding unlawful assembly, damage to property etc?” Most Gujarat 2002 cases, at least within the ambit of the lower courts where I did fieldwork, deal with cases of arson, looting, rioting, and unlawful assembly. And yet the same Gujarat government invoked extraordinary laws like POTA (Prevention of Terrorist Activities) against Muslims accused in the Godhra incident that led to the deaths of 59 Hindu nationalist activists. The official justification is that Muslims had acted with the “intent to threaten the unity and integrity of India” and “to strike terror in the people.”

The acquittal in this case is based on *three* fundamental arguments: the difference between what is on and off the record, the paper trail of police documentation, and the

disjuncture between individual testimony and collective violence. Each axis may be understood as a point of intersection between what happens inside and what happens outside the courtroom. The judge then turns to Idries' testimony:

After reading the entire deposition of this witness in which he has mentioned the accused and mentioned that three of them are present in court today, I cannot accept his words because during his cross-examination he has admitted that he does not know the full name of the three accused and has not given any physical description of the same. In the same manner this witness has claimed that he can identify one accused but he doesn't remember his name and after that has said that he remembers his name and his name is Hanuman, but when the accused was asked his name he has said that his name is Dinesh. Thus I am sympathetic with the defense lawyer's submission that the deposition of the witness does not prove that the accused are connected to the offense.

Idries is unable to identify the accused by his "full name" (*aakha naam*) but names him by his alias, which circulate outside the courtroom and are even recorded in police documents. When NGOs force judges to confront the large-scale attack on Muslims across Gujarat, the judges invoke procedure, fairness, reasonableness, and evidence to officially condone the violence. Like the documents presented before and interpreted by the court, the power of the trial lies in what it knows but willfully denies the status of truth and evidence.

For instance, the judge never pauses to consider or question the en masse volte-face by material witnesses (*panch* witnesses) who were present at the scene of the offense while the police collected on-site evidence. Such glaring anomalies, recur in many 2002 trials, but are simply overlooked in the judgment. The witnesses claim that the police forced them to sign a blank sheet of paper or the police did *not* in fact take them to the scene of the offense. These statements are on record but ignored by the judge, not worthy of further investigation or interpretation.

The judge does not simply overlook what comes up for examination; he makes an argument that uses the size of the mob to make witnessing “impossible” for mass crimes:

One more matter to note is that there is mention (sic) of a mob of 3 - 4000 people stoning each other and that this stoning continued for half an hour and the witness fled to the mill to save his life at this time, therefore it is not possible to maintain that the witness could at that time recognize and identify the accused.

This astonishing argument, repeated in other 2002 cases as well, shows that the judge is unwilling to consider the possibility for witnessing mass crimes that have societal and political sanction. Or inversely, the judge is unwilling to punish perpetrators of mass violence that has societal and political sanction. Also notice how legal reasoning allows the “fact” of the violence (large mobs engaged in deadly violence) to negate the possibility of witnessing it. The judge uses the “nature” of the violence – large-scale and deadly mobs – to make it improbable, if not impossible, to witness the violence. This is an interesting and tautological argument: you fled to save your life so how can you say

that you can recognize the accused. What can the survivor do? He can either stay and die or flee and become a non-witness?

Delay and deferral play a major role in dismissing the testimony of witnesses. This, again, cannot be reduced to the psychological makeup of individual witnesses; it is part of a larger official strategy of weakening testimony by delaying its appearance in the archive. The judge notes that the main complainant files a complaint with the police only “24-25 days *after the event* and there is no explanation for this delay.”

In her insightful analysis of communal riots in juridical discourse in India, anthropologist Pratiksha Baxi has argued “the ‘riot’ is discursively constituted in juridical discourse through specific classificatory practices, which ascribe the *failure* of law in the face of collective violence to the very *nature* of “mob” violence (2007:67). The judge considers Idries “doubtful” because he claims to witness an event that is structurally *produced* as impossible to witness.

And the masquerade in the court continues. The judge quotes the law to authorize his interpretation of the case. Like other “riot” cases, the judge considers whether or not there was an “unlawful assembly” that looted and burned Abdul and Idries’ shops. The defense lawyer in his final written arguments quotes previous legal judgments to argue that it is not enough that the accused are merely present at the site of the offense but there should be clear evidence that the accused had gathered with a motive to commit the offense. On the other hand, JF lawyers had argued that the accused had “unlawfully assembled” with the common aim of destroying and looting the property of the Muslim community.

The judge disagrees with the prosecution's argument that the accused can be prosecuted because "it has not been established that the accused had a common motive to destroy the property of the Muslim community, the connection of the accused to the offense has not been established, and the deposition of two witnesses who have identified a few of the accused are doubtful therefore this provision is not useful for prosecution's case."

The main task of the judge, it seems to me, is to confront violence only to dismiss it, or find it and *paper over* any trace of culpability. And yet I cannot claim that this is some form of judicial blindness because it comes at the end of a long juridical-police process of recording witness statements (in order to *falsify* testimony), gather evidence (in order to *destroy* it), and prosecute crimes (in order to *acquit* perpetrators). Such a process is active, productive and formative, rather than some form of administrative passivity, inefficiency, legal perversion, or some version of the breakdown of "the state." The essence of the trial and legal discourse, as part of what I call the political-judicial structure of impunity, therefore, lies in the *negation* of testimony and the production of ignorance.

Crime and Punishment

Trials, and transitional justice mechanisms in general, are widely believed to pave the way for truth and reconciliation in the aftermath of mass violence and genocide. Similar assumptions about law and legal mechanisms motivated Gujarati NGOs, activists, and survivors who demanded fair trials, fast track courts, and legal interventions in the aftermath. Trials are also privileged as part of "a cluster of liberal normative goods, such as the rule of law, peace, reconciliation, civil society, human rights, combating impunity

and justice” (Hinton 2010:1). But the clamour for “justice” focused on the most heinous cases, and overlooked the on-the-ground reality within which Gujarat’s legal system functions – the right wing BJP government, widely considered as ultimately sanctioning or at least allowing the violence, has been since 2002 thrice re-elected by the people of Gujarat.

Since there have been no official attempts to form truth and reconciliation commissions concerning the violence in Gujarat 2002, trials are the only form of redress available to survivors. Activists and scholars have supported the legal fight for justice, arguing that justice must precede reconciliation in Gujarat.

“There has been injustice and partisanship by state authorities in India in communal situations in the past. But never in independent India have state authorities treated a segment of its citizens with such open consistent and elaborate structured discrimination, as has been observed during the state sponsored pogrom 2002 and its aftermath, in defiance of every civilized principle of justice and rule of law,” said Harsh Mander, a prominent bureaucrat who resigned from government service during the Gujarat pogrom (2006:5).

Mander writes, “Of the 4,252 cases registered in connection with the mass violence, more than 2,107 were closed without even the issue of a charge-sheet to the courts. The extent of the bias of the lower judiciary is evidenced by the fact that more than 200 courts in 17 districts passed these completely illegal orders of closure” (Ibid 2006:5). While Mander is correct to question the closure of so many cases without investigation, the Shiv-Sena BJP government similarly closed nearly 3,000 cases relating

to the 1992 riots in Bombay. A crucial part of the tragedy of Gujarat 2002 is that what happens in the aftermath is *not* unprecedented.

Even though activists and survivors have managed to persuade the Supreme Court of India to take unprecedented decisions like moving trials outside Gujarat in order to prevent the accused from influencing the trial, normative assumptions about trials, due process, and court proceedings have not been questioned. More trials, better public prosecutors, more evidence, and unbiased investigation – the demands of activists and the survivors only highlight the centrality of the trial as a mode of redressing mass violence in India.

Legal accounting of mass political violence is ambiguous because “courts are only formally independent of the other branches of government, which makes it difficult for them to participate in truth-telling when it may implicate members of the executive or legislative branches” (Borneman 2002:297). This aspect of Gujarat 2002 trials has not escaped the attention of scholars and activists; even state institutions have questioned the independence of the Gujarat judiciary from its Hindu nationalist executive and legislature. The Supreme Court of India has castigated the lower courts for not following due process, appointed a special investigation team to look at allegations of criminal conspiracy, and even transferred trials outside Gujarat to ensure a fair trial. Some of these interventions have worked, but an underlying premise of all these interventions is that the “legal process” and “rule of law” must be left undisturbed by politics.

Most scholars attribute the “failure of the rule of law” in Gujarat to “the grip that Hindu nationalism (as an ideology and political movement) holds over the state

machinery (including the judicial system) in Gujarat (Jaffrelot 2008:77). Everyday conduct of lower-court trials, the production and examination of evidence, the quality of police investigation, and the interpretation of the judge is certainly part of a larger story unfolding outside the court: the three-decade long unchallenged political dominance of the Hindu nationalist political party, the BJP, in Gujarat.

However, something else needs to be noted. Even if the accountability of the Gujarat violence is heavily constrained by the continued political power of Hindu nationalist politics in Gujarat, an “ideological” analysis cannot explain the recurring pattern of impunity across different political regimes in India. Or to pose the question of accountability somewhat differently: How is impunity maintained *despite* legal reckoning by multiple courts and official investigation agencies? Focusing on the ideological context and political formations “behind” the failure of the rule of law masks the role of what have been called legal technologies of truth, wherein “a technology for producing “truth” shapes the way problems are understood and managed” (Coutin and Merry 2: 2014). In the context of Gujarat 2002, police documentation, legal procedures, and judicial discourse normalize mass violence against Muslims.

Legal Technologies of Denial

Normatively, the trial is an important site of addressing collective traumas and wounds where survivors can “bear witness” and tell their stories before the judge and jury, and also linked inextricably to notions of evidence based justice. Anthropologists have argued that “bearing witness” is neither straightforward nor unfettered by considerations of gender, language and structural constraints. Fiona Ross has analyzed what women said and did *not* say before the South African Truth and Reconciliation

Commission to argue that the gendered nature of testimony in the TRC elided the experience of women during the apartheid. Similarly, Veena Das has analyzed the legal script of proof and evidence that is part of a trial and the limitations of legal language to encapsulate the subjectivity of the wounding and pain caused by violence. In the context of confessions in expert domains of police practice, law, and medicine, Das writes, “its (confessions) truthfulness becomes completely dependent on the protocols through which the body and mind of the person who is confessing is read” (2007:330).

Trials and transitional justice mechanisms have also been analyzed as part of a repertoire of legal technologies of truth that legitimize state power and play an important role in state formation (Wilson 2001, 2003). But unlike historic trials or transitional justice mechanisms like truth and reconciliation commissions, ordinary trials and court proceedings often deny testimony through technicalities, questions of due process, and the lack of documentation.

Anthropologists have analyzed the limitations of law and legal institutions to reckon with mass violence and conflict. But many analyze the failure of prosecution as a only sign of the “corruption” of legal institutions by “politics” outside it: unsavory social and political relationships of complicity, corruption, and secrecy impede, block, obscure, distort, and subvert “due process.” Like other anthropologists, I too point to the shortcomings of legal institutions in Gujarat to tackle larger social and political contexts that undergird politically violence, but I focus on legal technologies of “truth” and documentation to show how what happens *inside* the courtroom, not simply the politics or ideology behind it, play a major role in reinforcing the power of state officials to deny mass targeted violence.

While anthropological attention has focused on the success or failure of trials and trial-like mechanisms in different parts of the world (Drexler 2008, Theidon 2013, Ross 2003, Wilson 2001), and the local meanings of justice (Shaw 2010, Hinton 2002), the relationship between everyday trials and collective violence has not received the same attention. Of course this does not apply to historic trials, which have received much scholarly attention, including the analysis of how trials repeat traumatic violence (Felman 2002); become “show trials” that play an important role in state formation (Kaplonski 2008); and how trials may not be the most effective forum to address structural violence (Ross 2003, Wilson 1997).

This chapter has focused on the testimony of survivors, and especially the ways in which their testimony is presented by NGOs, cross-examined by the defense, and finally judged by the judges. My submission is legal trials reinforce impunity by *following* normative procedures and due process, which help us to understand the systematic way in which victims’ voice and testimony is excluded, allowing state officials to transform targeted violence into generic riots.

In tracking a single trial, I argue that this case reveals three recurrent legal impasses – the difference between what is on and off-the-record, the disjuncture between collective violence and individual testimony, and the paper trail of police documentation – key elements in the juridical negation of testimony.

Anthropologists have shown that secrecy and arbitrariness is constitutive of state power (Nugent 2010, Sharma 2013, Buur 2011), and also emphasized how the “onstage rationality, visibility, and liberality of bureaucratic bodies, however, is made possible by

whisking away arbitrariness, opacity, and illiberality out of sight” (Sharma 2013:320.) But impunity often lies on the surface: in the aftermath of mass violence, bureaucratic and legal processes of denying, rejecting, and legitimizing violence can become hypervisible, and hence more amenable for analysis.

Conclusion

In the aftermath of Gujarat 2002, with the government having first attacked and then turned its back on its own citizens, NGOs like JF and civil society and human rights activists held that there must be “justice before reconciliation,” and devoted enormous energy and resources to help victims and witnesses to testify before the court. But the legal process and trials in Gujarat have become an institutionalized space for impunity, denial, and even violence; not mere forgetting, but also an absurd performance that attacks the credibility of the witness and turns their world upside down. I argue that the conviviality between legality and impunity is partly embedded in the everyday processes of police documentation and the performance of the trial.

I argue that the unintended consequences of JF’s efforts to use legal instruments, and mimicking the language and practices of proof and evidence (Sharma) unfortunately perpetuated the regime of impunity they wanted to attack. Apart from a few notable exceptions, the trials in the aftermath of Gujarat 2002 reveal, I argue, how the law reinforces impunity, what literary scholar Shoshana Felman has called a “certain complicity of the law with the transgression of law.”

Contra anthropologist John Borneman that “legal accountability is not just desirable but also necessary, although only in democracies,” I show that “judgment

rendered through regularized procedures by a recognized court of law” is not a guarantee to achieve accountability, but in some contexts, the best way to avoid accountability.

That courts deny targeted political violence and make large-scale “state-sanctioned” targeting of minorities unaccountable helps us understand why such events do not disturb democratic politics as usual. This turns Jurgen Habermas’s (1998:277) argument that the rule of law “draws its legitimacy from a rationality of legislative and judicial procedures guaranteeing impartiality” on its head. Impunity and unaccountability in the aftermath of Gujarat 2002 draw from precisely these same procedures and rational logics.

I have analyzed Abdul and Idries’ case to identify at least three axes - the disjuncture between collective violence and individual testimony, the paper trail of police documentation, and on and off the record aspects of legal evidence – in the everyday conduct of legal trials that invalidate the testimony of the survivor. These are not simply points of exclusion or invisibility, and neither do they suspend the law through exceptional legal or political decisions. Instead they are established (because they have been deployed before and after Gujarat 2002, for example in Delhi 1984 and Kandamahal 2008) lines of questioning that seek to make legal witnessing of mass political violence improbable, if not impossible. These are rational, procedural, and documented legal practices that reject, ignore and ultimately negate targeted violence against minorities in India.

Elizabeth Drexler (2008:52) writing about impunity in Aceh, Indonesia argues that the “gap between common knowledge and enforceable truth undermines the

legitimacy of legal institutions” – but in Gujarat 2002, the abyss between what everyone knows and what is legally provable reinforces the legitimacy of Hindu nationalist rule, both locally and nationally. Regardless of well-known institutional and structural weaknesses of the Indian criminal justice system, Hindu nationalist leaders, especially the chief minister of Gujarat, Narendra Modi cite trials and trial like mechanisms (Supreme Court instituted Special Investigation Team or SIT) as proof of innocence and accountability.

Legal trials in the aftermath of Gujarat 2002 are an especially appropriate site to analyze the paradoxical authority and legitimacy of law in the face of its everyday failure. Most scholars, activists, and even litigants are sceptical of the “rule of law” and yet there is an enduring paradox in that common distrust of law does not dent an equally common faith in law.

In the context of secular and religious courts in Egypt, anthropologist Hussein Ali Agrama has powerfully posed this paradox, “On the one hand, it is claimed that law as a rule does not bring justice and is often a condition for the abuse of justice. Law is therefore a source of deep distrust. On the other hand, it is claimed that justice generally cannot be had without law. Law is therefore an indispensable source of legitimacy. It is hard to see how this distrust and legitimacy go together” (2012:34-35).

How, indeed, does such distrust and legitimacy go together? Agrama’s answer is telling: “the law proliferates and becomes increasingly entrenched as suspicion and distrust about it also spread” (35). This proliferation, in his account, is connected to the regulatory capacities of the state as “more and more domains of life become subject to

the possibilities of manipulation and forms of suspicion that come with law and courts” (35). State interventions, “in turn, constantly create situations where it becomes difficult to distinguish legal from nonlegal actions” (35).

My discussion of the legal aftermath of Gujarat 2002 is in general agreement with Agrama’s argument on the role of law in *proliferating* secrecy and suspicion (and its constitutive role in the “rule of law” as such), but I suggest that the proliferation of legal discourse is also aided in significant part by non-state actors, like human rights and NGO interventions. I argue that we must pay attention to legal technologies like paper documentation and bureaucratic proceduralism that reinforce the power of the state to deny, falsify and make unaccountable. In other words, distrust and legitimacy are not simply separate or oppositional: rather, secrecy, unaccountability, and blindness are located at the heart of the ordinary unfolding of law.

Secrecy, distrust, suspicion and manipulation is often considered an integral part of the rule of law, but I argue that its peculiar temporality, use of precedence, reiterative power, and procedures allow it to be both part of and yet separate from wider publics, technologies and actors.

In this way, the production of impunity may help us to think of state power differently. It may help us see the force of what goes on during everyday court proceedings, not spectacular states of exception, but states of denial and impunity that lean on due process and paperwork. Forms of state power based not on “technologies of truth” (Wilson 2001, Merry and Coutin 2014) but legal technologies of denial, ignorance, and erasure.

CHAPTER THREE

Chapter Three: The Paper Trail of Impunity: Tracing the Police FIR

How does the beginning of legal reckoning in the aftermath of Gujarat 2002 also signal its *end*? How can the beginning of legal accountability also be the beginning of unaccountability? In the last chapter, I showed that the very technology of legal truth, especially the trial, denies and challenges victims' testimony. The trial produces survivors of mass violence as unreliable witnesses and reinforces Hindu sovereignty in Gujarat.

In this chapter, I analyze over a hundred police First Information Reports (henceforth FIR) recorded in the Madhavnagar police station in Ahmedabad during Gujarat 2002. I argue that the FIR plays a key role in distributing meaning, agency and culpability to mass anti-Muslim violence in ways that make prosecution improbable, if not impossible.

Because official (police/legal) documentation control and shape "what and who is witnessed" during Gujarat 2002, the FIR, as the most basic artifact of the police bureaucracy, makes targeted violence against Muslims unprovable, unmotivated and unaccountable. In other words, I examine police documentary practices *beside* practices of violence like the forced closure of the city (*bandh*), which ultimately allowed the destruction of Muslim commercial and residential property. Paperwork is key to understand the official production of violence without witnesses. I conclude by arguing

that the FIR is not a separate category of legal discourse *outside* the practices of violence it purportedly merely *documents*, but is an integral part of what gives it intelligibility in ways that make violence unaccountable.

I analyze all 2002-related offences registered in one police station in Ahmedabad, focusing on one key artifact of the police bureaucracy called the First Information Report (henceforth FIR). According to the Commonwealth Human Right Initiative, “the FIR is a written document prepared by the police when they receive information about the commission of a cognizable offence. It is a report of information that reaches the police first in point of time and that is why it is called the First Information Report.”

Thus, the FIR is a key legal document because it sets into motion the criminal justice system. The police begin investigation of a case only after a FIR is registered in the police station, and anyone with the knowledge of a cognizable offence can register a FIR, including the police.

I analyze how policemen in the jurisdiction of the Madhavnagar police station jurisdiction (which has within it a number of sub-police stations or *chowkis*) recorded criminal offences during Gujarat 2002. The FIR, as the name suggests, is supposed to record “information” of a cognizable offence, but like all official documents, they are “not just annals of state facts but are also political artifacts that do not compile truths as much as conjure them” (Sharma 2013: 309). What kind of political artifact is the FIR? And what do the broad patterns of the over hundred-plus FIRs registered in Madhavnagar police station tell us about the state?

All the offences analyzed in this chapter take place in one neighborhood in Eastern Ahmedabad, which I call Madhavnagar. And out of one hundred and eleven offences, fifty-one take place on a single day – the 28th February 2002, the day after the Godhra incident. Of fifty-one, only two are reported on the same day. Only *five* identify Hindu accused in their complaints; offences that take place on the 28th February are recorded as late as the 20th March.

During the attacks on Muslims, survivors fled their homes to live in “relief camps,” and very few had the courage to go to a police station to file a report, especially after they witnessed the openly partisan role played by the police.

According to survivor testimony, the police initially refused to register any FIRs at all. After the castigation by the National Human Rights Commission and the circulation of survivor’s testimony, the police ended up registering 4252 FIRs all across the state. But the police delay (and the inability of witnesses to approach the police immediately) in recording FIRs is a key component in weakening the evidentiary value of the FIR, something that only emerges several years later during the trial. Suffice to say here, the delay in registering FIRs creates a disjuncture between the temporality of police documentation and temporality of violence during the trial. In other words, the FIR is *not* a record of violence as it unfolds in time; it is the trace of its disappearance, manipulation and transformation in the official archive.

In this chapter, I show that police documentation distributes agency, action and affect in ways that make mass violence against Muslims unaccountable. The narrative of the police FIR transforms public spectacles of mass violence into scenes of spontaneous

and generic rioting by unknown and untraceable communal mobs. I call this the “impunity effect” of police documentation.

I argue that the FIR is engaged in a wider (outside the police station and the courtroom) epistemological and narrative struggle to make certain actions visible but render others invisible; *through writing* it transforms an open, systematic, and public attack on Muslims into a symmetrical encounter between frenzied mobs; and it displaces agency and culpability from individual actors and organizations onto affective categories (rage, frenzy and communal passion) that naturalize violence. The overall effect of such inscriptions is the transformation of Gujarat 2002 into a spontaneous encounter between enraged religious communities.

The Beginning is the End

The FIR is a written or typed police document with fixed fields that solicit information about the time, place and relevant penal codes related to any criminal offence in the jurisdiction of a particular police station. It has designated fields to write the name and address of the complainant and the accused; the Indian Penal Codes relevant to the offence; the date, time and location of the offence; and a summary and narrative description of the offence.

The FIR is recorded by the police officer on duty in the police station. He writes an FIR either on the basis of the complaint he receives from others or on the basis of his own knowledge of a cognizable offence committed within the jurisdiction of his police station. After recording a FIR, the police can begin investigation. The registration of the FIR is the first step in the criminal legal justice system, and categorizes and classifies

offences within the Indian Penal Code. The FIR derives its legal authority from Section 154 (1) of the Indian Code of Criminal Procedure, 1973 (CrPC):

Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf.

How the police “reduce to writing” offences committed during Gujarat 2002 in the FIR, then, has important effects on how legal and non-legal institutions understand the nature of criminality during mass violence. Unlike a newspaper article, human rights report, or even a state appointed “commission of inquiry,” the FIR carries the weight of “evidence” in a court of law. Of course it can be amended, quashed, and has to be interpreted by the court, prosecution and the defense, but it is the document and writing *closest in time* to the offence and ostensibly records the “basic facts” surrounding an offence.

The FIR is the positivist historian’s fantasy document because of its proximity to both the event and power. Cornelia Vismann quotes the historian Ranke, who is in pursuit of the “rich active life” of the Prussian state, which he believes lies in the “opportunity for research the archives harboring the documents and letters which contain the most immediate knowledge of events” (Vismann 2008:121).

As can be imagined, the FIR gives the police enormous power to shape and control legal investigation and prosecution; it gives them control over the future interpretation of the events themselves. Even the Supreme Court of India has observed that it is the “basis of the case set up by the informant. It is an extremely vital and valuable piece of evidence for the purpose of corroborating the oral evidence adduced at the trial and can hardly be overestimated from the standpoint of the accused” (quoted in Grover 358 in Varadarajan).

Human rights activists, survivors’ testimony and newspaper reports have documented the extensive manipulation of FIRs by the Gujarat police to subvert the legal system (Jaffrelot, newspaper reference?). The police flatly refused register FIRs, especially if the complainants provided the names of the perpetrators. Instead, the police registered complaints against “anonymous and unknown mobs.” The obvious effect of the police’s initial refusal to officially document the violence against Muslims – or their later inscription of offences in ways that weaken the case – was to let perpetrators off the hook.

As anticipated, this created a vicious circle of impunity: the police later used the lack of names and details in the FIR to close cases. Using such Kafkaesque logic, the Gujarat police went ahead and closed nearly half of all the criminal cases filed during 2002. Later activists challenged this decision in the Supreme Court of India and managed to get many cases reopened.

In chapter six, I show how the police render an attack by a local goon and his gang on Muslims as a “communal riot ” via the FIR. The FIR may be born in the police

station, but I also map its life outside, in order to see its wider effects. The FIR plays an important role in the normalizing Hindu nationalist violence outside Gujarat 2002. In other words, during the attacks in 2002, the police used a technique of writing practiced and perfected during ordinary times – they *displaced* violence by identifiable and often well-known actors and networks onto amorphous Hindu and Muslim mobs.

In this chapter, I analyze the paradoxical role of state documentary practices, like police documentation, that normatively exist to *document* offences but are often used for opposite effect. These paradoxical effects can help us understand the role of legal documents as part of a wider political struggle to control the meaning, visibility and effects of violence, which is integral to accountability and punishment in the aftermath of mass violence.

The Preface: Action and Reaction

As I have noted in my introduction, after an altercation between Hindu nationalist activists and Muslim hawkers on the Godhra Railway station, 59 Hindu nationalist activists died in a fire in the S-6 coach of the Sabarmati Express on the 27th February.

Two different government commissions of inquiry (one instituted by the Gujarat government and the other by the Railway ministry) reached opposite conclusions on the cause for the fire in the train and the subsequent tragedy. The railway commission of inquiry found that the fire was an “accident.” But the Nanavati commission of inquiry observed that it was a premeditated act by Muslim conspirators, reaffirming the state government’s version that the death of 59 Hindus (commonly known as the “Godhra incident”) was an act of premeditated terrorism.

Hindu nationalist groups like the VHP (World Hindu Council) and the government justified the anti-Muslim violence that began the next day as a “spontaneous” reaction to the Godhra incident. Gujarat’s chief minister Narendra Modi described the deaths in Godhra as a “pre-planned, violent act of terrorism” (PTI, 28 February).

On 28th February, a day after the Godhra incident, the Hindu nationalist organization VHP (World Hindu Council) announced a Gujarat *Bandh* (strike or shutdown) to protest the deaths in Godhra. The right-wing political party, BJP, the party in power in Gujarat at the time, also supported the *bandh*. This is the day “when the organized retaliation began” and furthermore “the Bandh it turns out, was only for law abiding citizens – VHP and Bajrang Dal (militant Hindu nationalist groups) mobs had full control over the streets” (PUDR 2002:1).

The FIRs I analyze in this chapter “record” offences spanning the announcement of the *bandh* on the 28th February to 12th May 2002. The bulk of the violence against Muslim life and property took place in the first 72 hours, and the most brutal attacks took place on the 28th February. In certain parts of central and northwest Gujarat, however, the violence continued for as long as three months.

In one of the first FIRs on the day of the *bandh*, a police constable (State Reserve Police) writes that a “mob of 400- 500 Muslims” attacked the police at 6 pm. “Heavy stone pelting by a mob of 400-500 Muslims” injured the author and other policemen. The police used bullets, tear gas and sticks (*lathi*) against the “Muslim mob.” This early report written during the peak of violence against Muslims gives us a clear sense of where the

police positioned themselves in the following days that claimed over a thousand lives, of mostly Muslims, across Gujarat.

The report gives no details to explain why Muslims would stone the police on a day when the entire city had turned against them. But it does insert a crucial preface, a few framing sentences, which repeat themselves across all one hundred and eleven reports registered in this police station (and across Gujarat). Regardless of the accused, complainant, time and place of the offense, all FIRs open identically:

Due to the attack on karsevaks traveling on a train in Godhra yesterday on 27.02.2002, the VHP announced a Bandh on 28.02.2002 during which communal riots started in various parts of Ahmedabad...

At first glance the preface seems rather unremarkable, but it performs a crucial function of aligning police documentation of Gujarat 2002 as a spontaneous reaction and causal effect of “attack” in Godhra. By emphasizing the horrific deaths of 59 Hindu *karsevaks* as an “attack” – without a discussion the of the events in Godhra – the preface *connects* spatially and temporally dispersed acts of arson, looting, murder, rape, and stabbing over several days and across Gujarat to a single ‘trigger’ event, the deaths of the Hindu nationalist activists in Godhra.

In order to achieve such a mammoth task – temporally and sequentially link thousands of criminal offences across Gujarat to their ostensibly stable origin in Godhra – the police repeat this preface each time they record any 2002-related offence. Thus, all violence everywhere in Gujarat happens at the same time for the same reason!

The preface emphasizes the enormity of the origin or cause for the eruption of communal violence: the “carnage” (*hatyakand*) or sometimes “communal riots” (*quomi toofaan*) that resulted in the “large-scale killing of Hindu nationalists.” The terms for the deaths in Godhra do change: terms like carnage, communal violence, and communal riots are found across the one hundred and eleven reports, but the sequence of the narrative does not; an unmotivated attack on Hindus in Godhra, a VHP announced *bandh* and statewide rioting.

The preface is a device or frame that removes agency and organization from the events that the police describe and record *after* it. It links two distant, incommensurable and disparate events (the deaths in one railway station in Godhra and statewide attacks on Muslims across Gujarat) that occur in many different parts of the state, and weaves it into a seamless narrative of yet-another Hindu-Muslim “communal riot.” After all Hindu nationalist activists and politicians maintain – if there was no Godhra, there would be no Gujarat 2002.” Thus, the FIR inserts the horrific deaths of 59 Hindus into a neat linear temporality: Muslims *attack* Hindus on the train (trigger) + Hindus *versus* Muslims (reaction) = Communal Riot.

The function of the FIR’s preface is to frame specific, discrete and disparate incidents of violence across Gujarat into a familiar logic and narrative of “communal violence.” The simultaneous statewide attack on Muslims in 2002 can then become yet another instance of “rioting.”

The preface inscribes and reinscribes the “origin” of the so-called Gujarat riot in the legal archive, and solders it to the wider contemporaneous Hindu nationalist

discourse, media reports and the state's official strategy to justify the violence against Muslims.

The Omnibus FIR

Four police sub-inspectors in different police stations of Madhavnagar register four separate but identical FIRs, one after the other, in chronological order on the 3rd March. Each FIR covers *all* offences between the 28th February and 3rd March 2002 – the crucial 72 hours that witnessed the maximum destruction of Muslim life and property. Each policeman is in charge of a different *chowki* (sub-police station) within the general jurisdiction of the Madhavnagar police station, but they write identical reports of the violence in their area in the span of an hour or so, between 8 30 and 9 45 pm, on the same day. All four FIRs attribute the violence in the last 72 hours to communal mobs (*sampradayik quomi todus*) of “unidentifiable persons numbering between 100 to 2000.”

The four FIRs cover offences across very different neighborhoods, but they are identical except the author (name of the inspector) and the number of accused (the size of the mob). They document the most crucial phase of violence (28th February – 3rd March), without actually documenting anything at all: they give no specific details of any incidents, identify no individuals, recover no weapons, make no arrests, and mention no witnesses. Years later, when some of these cases come for trial, and I discussed these cases with criminal lawyers, they said the same thing, there is no possibility of legal prosecution without the evidence of *specific* crimes by *specific* individuals – no judge can hold a “mob of unidentifiable persons numbering between 100-2000” culpable.

The omnibus FIR's preface is identical to non-omnibus FIRs. It begins with the attack in Godhra that lead to "the large scale deaths of Hindu nationalists" (*moti sankhyama kar sevakona maut nipjavta*). And then all four police officers carefully un-document the violence against Muslims in their area (and this preface is repeated *across* Gujarat):

I (name of police inspector) along with other members of the staff were patrolling the area around our chowki in the requisite vehicle when during the Gujarat Bandh on the 28.02.2002, a number of communal mobs with deadly weapons and explosive substances, numbering between 100 to 2000, attacked, damaged, burned and destroyed the property, religious places, and households of residents at different places near the police station area causing heavy damages. To protect the life and property of people, the police after adequate warning resorted to lathi charge, tear gas, and firing.

Unknown communal mobs are the *agents* of violence, and they destroy the "property, religious places, and households" of unidentified "residents." Only if you read eyewitness testimony, human rights reports, and FIRs registered by victims many days (and sometimes months) after the incident does it become clear that most "religious places" are actually Muslim shrines (*dargahs*) and mosques and it is almost always Muslim residential and commercial property that is targeted and destroyed (with a few exceptions in certain areas).

The accused are an indeterminate group of unknown persons (numbering between 100 – 2000) that magically appear and disappear across Gujarat. In the omnibus FIR there is no space for *individuals*, individual action or agency, or specific targets of violence – *Muslim* shops, vehicles, businesses, religious places, and houses. Instead “communal violence” like the communal riot is a timeless, ahistorical, and uniform foreground, a curtain that masks the actors behind the stage, the doer behind the deed.

I want to emphasize that the police *inscribe* a curtain over their own eyes; later, they will cite these reports to close cases and magistrates will allow the closure because there is no specific information in most police documentation. Because FIRs are public documents that must be submitted to the magistrate, and signed by individual police officers, they are legal technologies of impunity. Despite the disapproval of certain judges, not one police inspector in Gujarat was prosecuted for writing omnibus FIRs, even though activists insist that it is illegal. The police use the FIR to also cover their tracks, and imbue rationality and stability to their actions during the open attack on Muslim; the report then reads like a page from a police manual:

The police announced with a mike necessary warning to disperse, then lathi charged the mob, fired tear gas, and in aid of protecting the property and life of people, fired in the air and at the mob.

This self-representation of the police during the “riot” bears a striking resemblance to what Gyan Pandey has called the colonial “communal riot narrative;” the rational, orderly colonial police bring order and dispel irrational and frenzied violence by communal mobs. In other words, faced with the mob, the police enforce *procedure*: graded actions

(sticks, tear gas, and then, firing) that follow each other in accordance with previously established rules, and therefore the violence of the police is inscribed as the enforcement of law. During the Gujarat pogrom, the government initially refused to release religion-wise breakdown of those killed in police firing, because “official” statistics, as revealed in subsequent newspaper reports, showed that more Muslims were killed in police firing (93 out of 170).

According to human rights activists the “omnibus or running FIR” has a dubious legal status. But the omnibus FIR is *not* an invention of the Gujarat police or only found in the archive of Gujarat 2002; however much we might like to believe that impunity in the aftermath of Gujarat 2002 is “exceptional,” it builds on existing “legal procedures and techniques.” For instance human rights lawyer and scholar Vrinda Grover shows that in filing omnibus FIRs the Gujarat police acted according to a “familiar pattern” first noticed in the anti-Sikh violence in Delhi 1984:

As in Delhi, 1984, the police adopted an innovative and illegal method of registering FIRs. Instead of registering a separate and distinct FIR with regard to each and every cognizable offence, a single omnibus FIR is recorded. The contents are general, vague and bereft of details. The incidents reported therein relate to different places, time and accused persons... Such FIRs will ensure that the investigations and prosecution of criminal offences would be no more than an exercise in futility” (Grover, 363).

JF in its manual to help paralegals understand the criminal legal system defines the omnibus FIRs as those “where several offences by different accused at different places at

different times are clubbed together into one FIR omitting details of the accused and particulars about time or space or victims or the damage.” Human rights investigations, newspaper reports, and activists show that the omnibus FIR has been deployed *across* Gujarat, and beyond. Grover’s “innovative and illegal” formulation is helpful to understand impunity as part of a larger juridico-political structure that *legalizes* so-called illegal practices like the omnibus FIR through repetition and innovation.

The omnibus FIR’s impunity effect is also a consequence of what it excludes from the state archive – the testimony of the survivor. For instance, when the violence subsided in Gujarat and Muslims mustered the courage go to police stations to register complaints, identify the accused, and give their testimony, the police refused to file specific complaints (which would include names of specific individuals) arguing that such incidents were *already* covered by the omnibus FIR for the entire neighborhood.

Analyzing omnibus FIRs in Kalol district in Gujarat, legal scholar Arvind Narrain says that it shows the failure of legal discourse in the face of “unimaginable violence” and argues that genocide rather than ‘rioting’ should be used to understand the events in 2002. “Omnibus FIRs construct ‘partial’ truths because they do not include the victims’ perspective, and do not mention the motivation behind the violence, hence making the violence random” (217). Further, “the legal truth of the FIR elided the significant question of naming the accused and instead produced the anonymous figure of the mob” (219). The erasure of individual identity and the production of the “amorphous figure of the mob” are part of the same police FIR.

I am in general agreement with Grover and Narrain's analysis of the constitutive power of the FIR, its production of the anonymous mob; but outside the bias of individual officers and the inadequacies of Indian criminal law (lack of genocide laws) there are issues of state power and documentation that far exceed Gujarat 2002: police writing begins a longer process that makes anti-Muslim violence legally unaccountable. Akhil Gupta writes, "forms of bureaucratic writing – routinized, repetitive, and mundane – need the same scrutiny in anthropology that they have received from historians and historical sociologists" (142). In his own insightful study of bureaucratic writing in the context of poverty alleviation schemes in India, and the relationship between state writing and structural violence, Gupta argues that state writing is important precisely because of "writing's constitutive function in forming and informing the state" (142). While Sharma focuses on the impact of state writing on the poor in India, he notes, "even if one thinks of action-oriented departments of the state like the police, the first thing police officers usually do is to take out their notebooks" (143). In other words, writing is constitutive of the power of state officials to take or refuse action, delay or expedite processes, and mystify or erase what surrounds them. In such a situation,

In sum, the omnibus FIR erases individual action (omitting details of name and role of specific perpetrators), in lieu of "generality of description" (omission of specifics regarding time, location, victims etc), inscribes police action as established procedure, and excludes victims' testimony.

Gujarat Bandh: The Erasure of Witnesses

Over half of the total FIRs (51 out of 111) registered in the Madhavnagar police station refer to events on the day of the Gujarat *bandh*, but most are registered many days later. It is an officially and unofficially acknowledged truth that the attacks on Muslims and the partisan role of the police kept most survivors away from police stations, and many had fled their homes and taken refuge in community run “relief camps” across Ahmedabad.

When the attacks began on the 28th, many Muslims moved to safer areas: relief camps, relatives’ houses and Muslim majority areas. They often returned home or checked on their shops and businesses much later. That is one reason why many offences that occurred on the day of the *bandh* (28th February) are registered as late as the 15th March.

When Muslim businessmen and shopkeepers eventually registered FIRs, they gave elaborate lists of objects and machinery destroyed and the financial loss incurred as a result, but mentioned no perpetrators or witnesses. How does the FIR “record” this massive destruction of Muslim commercial, residential and religious property?

The *bandh* – public announcement by a political group to shut down the city – is a common form of political agitation in India, but it has a special place in the history of “communal violence” in India. The *bandh* can be likened to its official counterpart, the “curfew” – when the police and the administration impose emergency restrictions on the movement of people and goods. The Gujarat *bandh* was announced and enforced by Hindu nationalist activists with the support of the state. In light of his magisterial work of

collective violence in India, Paul Brass argues that curfews are a “means of control, victimization, and outright violence against targeted groups rather than as devices to bring peace for the benefit of all” (2006:324).

Similarly in contemporaneous human rights reports, the *bandh* appears as an illegal event that receives government sanction. Instead of preventing the shutdown of the city by Hindu militant groups, the Hindu nationalist political party in power, the BJP, gave it official sanction by supporting it. This official support becomes “evidence of state complicity right at the start” (PUDR: 7). In this section, I attempt to elaborate and unpack the meaning of the proposition about “state complicity right at the start.” Regardless of the *bandh*'s legality what is its effect on impunity?

The *bandh* is frequently, though not always, against the government in power, and it has a coercive element to it: activists force shopkeepers to close their shops, disrupt public transport, and harass those who defy the *bandh*. In Gujarat, the BJP, the Hindu nationalist political party in power, supported the VHP (World Hindu Council) *bandh*, which gave it both political and state sanction. Predictably, the *bandh* shut down public transport and business across the state.

Once the streets were cleared by the *bandh*, the perpetrators went about destroying and looting Muslim property; around “10,000 shops, businesses, factories, and vendor carts” were destroyed and “rough estimates of economic losses that were published in the English and Gujarati press” suggest a 600 crore (6 Billion USD) loss to the hotel industry; 230 mosques, *dargahs* (shrines) and *mazhars* were damaged in the first seventy-two hours across Gujarat (Report to the Nation, Appendix 4, 44, CC).

Because the *bandh* enjoyed official support, it was especially successful: schools, businesses, shops, and colleges remained closed. Most people stayed at home, but the streets were not empty. The *bandh* had a clear effect: it gave militant Hindu nationalists and the wider public unfettered space and time (the first 72 hours) to target Muslims. This much is obvious from eyewitness testimony and human rights reports.

But this space and time for unfettered destruction of Muslim property and life is further reinforced by police documentation. Nearly half of the total FIRs in Madhavnagar during this time include long lists of destruction, registered by individual owners who reported these incidents several days after they took place, but there is no trace of any witnesses or accused. Under the cover of the *bandh*, the state was able to produce, with the help of the police, violence that cannot be officially witnessed. The power of the *bandh* is inextricable from police writing, because it is the police inscription of the shutdown of the city which

Specifically, from the 7th March onwards, after the initial spate of police omnibus FIRs, individual Muslims – shopkeepers, caretakers of religious places, and businessmen – register FIRs with the police, which contain lists of objects and materials destroyed and damaged in the violence but mention no names of accused. It is as if there was no one there. A typical *bandh* FIR reads like this (emphases mine):

When the VHP announced a Gujarat Bandh on the 28.02.2002, I did not open my restaurant and stayed home during the Bandh. During the Bandh, communal riots broke out in different parts of Ahmedabad city and communal mobs indulged in stone throwing and arson with explosive

substances because of which curfew was imposed on the city. Because of which I did not go to my restaurant and stayed at home, and only found out late at night that during the Bandh on the 28.02.2002 communal mobs of 2000 or more threw stones, looted and burned my restaurant. Because of the curfew and the tense conditions prevailing at the time, I did not go to my restaurant till the 4th March...

This is the description of the *bandh* in more than half of all FIRs registered in Madhavnagar. The VHP's (World Hindu Council) *bandh* shuts down the city; all shops, businesses and offices are closed; owners and workers stay back at home. Now that the streets are "empty," Hindu nationalist activists under the supervision of the police target Muslim property; the administration imposes curfew; the city burns but there are no witnesses to this bonfire. No one, of course, except the perpetrators and the police.

Regardless of whether the property destroyed is a Muslim restaurant, shop, warehouse, or religious structure, this is what appears in the police record forty-one times: *Bandh* → owner/complainant absent from the scene of offence → no witnesses/accused. During the most destructive phase of the violence, in terms of sheer number of Muslim properties destroyed, desecrated and looted, there was "no one" to see the violence. The police often leave the space to write the name of the accused empty.

The *bandh* and the curfew are practices used to control the perception of mass violence; they ensure the systematic erasure of witnesses and perpetrators of mass public violence. In the context of police documentation, the *bandh* is a crucial device to control both what can be seen, and later what can be said about the 2002 violence. Forty-one

FIRs registered by individual Muslim victims give minute and detailed lists of the damage to their houses, warehouses, shops, and businesses, but mention only unknown communal mobs as perpetrators.

I have already shown that the “unknown communal mob” makes its first appearance in police omnibus FIRs. Using the *bandh* as a cover, the police displace agency onto unidentifiable and untraceable communal mobs. Yet, other sources provide considerable leads into the question of who was out on the streets those days and what were they doing.

What do we see if we step outside the FIR? On the day of the *bandh*, anthropologist Parvis Ghassem-Fachandi walking through Ahmedabad found himself “in the middle of peculiar scenes” like policemen smoking cigarettes with their backs to the rampage, even as “cars are set on fire” and “youths with orange headbands” (typically worn by Hindu nationalist activists) enforce the *bandh* by closing shops and preventing commuters to go to work.

The public destruction of Muslim property is monitored and passively observed by the police: “A group of ten policemen with water jugs, their rifles leisurely leaning against a brick wall” silently watch a group 50-100 youngsters burn cars in the middle of the street.” Children help these youths, “bringing stones, bricks, plates and iron rods.” The FIR performs the hard labor of erasing these scenes and replacing them with generic scripts of the riot in the police archive. The FIR alters and shapes the official and legal perception of Gujarat 2002: it shows mobs but *makes invisible* the youths, children and women who unabashedly participate in the destruction and looting.

The *bandh* allows the perpetrators to wear “neither masks nor helmets.” By clearing the city of witnesses, the perpetrators gave themselves a free hand. Ghassem-Fachandi watches the destruction of property with other eyewitnesses, “Here we were sitting on the street and people were rioting right in front of us. Many people bought a paper and the seller made good business. Turning our faces away from the heat of the burning shops, we started to read. No one seemed to find this moment rather extraordinary’ (39).

Eyewitness accounts like the one above show how the streets were cleared by the *bandh* to allow the performance of public violence: stoning, looting, burning, and destroying Muslim property and life. But this violence is neither random nor faceless. Because such mass violence across the city and the state would not be possible without “leaders, big men, or men of the moment, who rushed to specific shops and gave signs with their hands for others to come” (Ghassem-Fachandi).

It is clear then that the FIR documents only to erase; it makes only certain kinds of agents, like ‘communal mobs of 100-1000,’ visible in the archive, in order to render the organization and performance of violence invisible. But it is not outside the practices of mass violence. I suggest that the *bandh* is simultaneously a practice of organizing mass violence and controlling its perception and (in)visibility. My analysis so far suggests that police modes of inscribing violence are an integral part of the pogrom itself.

Languages of Violence

If the FIR plays a key role in what can be officially *seen* and held accountable, I have so far emphasized its mechanical (template-like) and stable (repetitive) qualities. But that does not mean that the FIR is only a template with no flexibility. It *differently* inscribes violence against Hindus and Muslims. Because the Gujarat pogrom was largely a one-sided attack on Muslims, most complainants were obviously Muslim, but there are also cases when they were the accused. This produces a rare type of Gujarat 2002 FIR – one that records Muslims attacking Hindus.

On 28th March, a Hindu man registers a FIR about his brother's murder by a mob. The next day a Muslim man registers a FIR about his brother's death. But the FIRs read very differently. (Emphasis in the following translations is mine):

1. Due to the attack on *karsevaks* in Godhra on the 27.02.2002, the VHP announced a Gujarat *Bandh* and the city was tense ... The people next door informed me that *my brother* fled the municipal quarters when *a mob of about 100 Muslims gathered* ... then suddenly a car appeared whose number I don't know, and *some Muslims emerged from the car with daggers and swords* and murdered him. At which time the police dispersed the mob with tear gas shells and firing. *At present I do not know the name of the Muslims.*
2. Due to the attack on *karsevaks* in Godhra on the 27.02.2002, the VHP announced a Gujarat *Bandh* and the city was tense ... I along with all my brothers went to stay at my uncle's house. Because we left behind our 5 goats and 8 hens, my brother went back at 8 am to feed them. When he did not return back quickly, our

neighbors informed us that near Ishwarnagar a *mob* of 15-20 *unidentified men* *burned and murdered my brother*. Out of fear we did not step out but went straight to identify the body in the civil hospital.

The two FIRs begin with the usual preface of the Godhra attack, the *bandh*, and the spontaneous eruption of rioting. In both cases, the complainants are *not* eyewitnesses but hear about the murder from others.

But when the complainant is a Hindu, the murder is not by an unknown communal mob, according to the usual pattern, but a “Muslim mob of 15-20 men.” The murder of the Hindu man is meticulously recorded: the weapons used by the perpetrators, their precise mode of transportation, and the possibility that the complainant may recognize the accused in the future is included in the report itself. It has all the details of a motivated murder, and not some random act by a frenzied communal mob; the victim fled but “suddenly a car emerged” and some “Muslims” killed him with “swords and daggers.”

In contrast, the death of the Muslim man is an anonymous murder by “unidentified men.” No one *sees anything else*; there is no *modus operandi*, no actors, and no weapons. Both FIRs describe how a man hears about the death of his brother, but there is a stark difference in the inscription of murder, especially the detailing of culpability, agency and action.

FIRs registered *against* Muslims reappear during the last phase (15th March onwards) of the police documentation of Gujarat 2002. I have shown that in most cases the police do *not* write the name of the accused and the neither do they arrest anyone at

the scene of the violence. This pattern changes from the 15th March onwards, when the police write three FIRs: two of these specifically *name* Muslims as perpetrators. In the last phase of police documentation, the FIR stops being an inventory of anonymous destruction by communal mobs, but records “fresh violence” in Ahmedabad that coincides with events organized by the Hindu militant nationalist organizations like the VHP (World Hindu Council) in Ayodhya.

Ayodhya, a Hindu pilgrim town in the northern Indian state of U.P, is the site where Hindu nationalists destroyed a 16th century mosque in 1992. They claimed that the had been built on the site of a temple that marked the birth of the popular Hindu deity, Ram, and started a movement to construct a new temple at the same site. The demolition and controversy over the ownership of temple/mosque has been a matter of litigation and political agitation for Hindu nationalists political parties in India ever since.

On the 15th March 2002, the VHP organized a *shila daan* (ritual act of placing an idol in a temple) in Ayodhya that accompanied similar ‘religious’ events in Ahmedabad. “VHP performs *aarti* (prayers) in Ahmedabad for the success of *shila daan*” reads the headline of a Gujarati newspaper. The newspaper article doesn’t mention fresh violence but reports, “Ahmedabad too [along with Ayodhya] is tense. Hindu organizations have put up public notices urging the community to perform prayers and blow conch shells for the success of the *shila dan* programme in Ayodhya.” Other articles mention “prayers” accompanied by the “blowing of conch shells.”

Against the background of these charged VHP actions, which the police and the government allow even though the violence against Muslims has not yet subsided, the

police report that a mob of “around 5000 Muslims” using “provocative communal language that hurt Hindu sentiments that lead to a confrontation between the two communities.” Unlike the by now familiar faceless unknown communal mobs that destroy Muslim property and life, the police record *Muslims* emerging from a “mosque,” carrying “swords, daggers, and pipes,” shouting slogans like “Praise Allah” and “Kill! Chop!” The police even mention the areas from where Muslim mobs emerge and note that the mob used provocative words that hurt Hindu sentiment (*hinduni lagni dubhay taevi quomi ushkaerni janak shabdo*).

The police don't use the same kind of general and undefined categories to describe violence against Hindus during Gujarat 2002. The VHP use religious language of Hindu prayers (*shilapuja*) and donation (*dan*) to justify highly provocative and inflammatory events. But the police do not disallow these public events of militant religiosity, but they record Muslim mobs hurting “Hindu sentiment” at this time of statewide anti-Muslim violence. It is not surprising that according to human rights reports, this phase of police documentation coincides with the mass arrest of Muslims protecting their area or obstructing the violence (PUDR).

I have shown the difference in how the police inscribe violence against Hindus and Muslims during Gujarat 2002. I suggest that state documents like the FIR are not only esoteric instruments of police bureaucracy but *agents and strategies* that make violence visible, intelligible and visceral; they are not only mechanical or obdurate objects of the police bureaucracy, but are in fact highly malleable devices that allocate motivation, affect and agency to criminal offences in ways that influence the outcome of any legal case.

The Trace

FIRs randomize, naturalize and generalize targeted and organized violence against Muslims. I have suggested that the main task of these FIRs lies justifying (violence as a seamless reaction to the Godhra incident), mystifying agency (mobs of 2000 people), and making targeted violence unaccountable and symmetrical (Hindu and Muslim mobs attack each other). Most of the FIRs, in general, follow what the same pattern: the accused are neither named nor arrested, and in lieu of prosecutable offences all we see is the sudden eruption of violence, like a natural disaster, by unknown mobs that magically appear and then disappear.

The evisceration of individual culpability and agency in the FIR is interrupted on the 9th March. Five out of a hundred and eleven reports actually record the *names* of (Hindu) the accused. These five FIRs are buried under the mechanical refrain of unknown communal mobs and they appear on the same day; a day when a total of seventeen reports (16 by Muslims, 1 by a Hindu) are registered in the police station. All five Muslim complainants live in the same tenement (*chali*).

One after the other, in the span of an hour, these five men register FIRs against *the same accused*. Like other nameless and faceless FIRs, they begin with the usual preface, but then proceed to name the accused and their place of residence:

I was at my garage at around 1 in the afternoon when 1. B.Thakore 2. R. Thakore 3.M. Thakore 4. N. Thakore 5. J. Thakore 6. V. Thakore 7. Amritlal, who is B. Thakore's son-in-law, and 8. Mahesh alias Tikko – all residing in BB

colony, led a mob armed with swords and dagger of around 40 other persons with them.

All five share certain common characteristics. First, the accused belong to the same family and caste. Second, the accused and the complainant live in the same neighborhood; the FIR even mentions kinship relations and “aliases.” After mentioning the names of six accused, the identity of one accused is revealed through marriage, and hence the additional detail, “B. Thakore’s son-in-law.” One complainant describes the accused as “5-6 boys from our colony.” Finally, all five FIRs mention the same group of perpetrators.

Not only is the violence not anonymous in these reports, it shows an implicit level of *leadership* and organization that is missing in earlier reports. The accused “led a group of around 40 other persons;” individuals, even as a part of a mob, no longer vary wildly between “100 – 2000” like the omnibus police FIR, but mention smaller groups of 30-40 persons “led” by identifiable individuals.

These five FIRs support eyewitness testimony, including Ghassem-Fachandi’s observation that specific men ‘guided’ groups of young men burning Muslim shops and property during the *bandh*. All five complainants are eyewitnesses who identify the accused before fleeing to a nearby relief camp. They *see* the accused burning their house, vehicles and garage. By mentioning the name, residence, and weapons carried by the accused, these reports break with the general pattern of anonymity that characterizes most FIRs.

By allocating agency to individuals, neighbors in the same space, these FIRs leave a trace within official documentation that organization and mobilization are not extrinsic to so-called ‘mob’ violence (Das, Tambiah et al). Of course simply naming individuals in a police FIR does not guarantee prosecution, but here is a hitherto unseen relationship between victims and perpetrators. Unlike the *bandh* FIRs that describe ‘anonymous’ destruction of Muslim commercial property, or the absolute anonymity of the police omnibus FIR, we see for the first time that the perpetrators of Gujarat 2002 can also be neighbors with faces, nicknames, and families.

Conclusion

My analysis of the 111 FIRs shows that individuals are *disappeared* from the scene of violence with the aim of making mass destruction of Muslim property and life spontaneous and unaccountable. *Before* survivors can muster the courage to register complaints, *before* lawyers and activists can challenge its veracity in court several years later, *before* complainants can contest and challenge state documentation, and *before* judges can castigate the police for manipulating the legal process, the police through a routine, banal, and repetitive process of documentation and non-documentation make criminal prosecution for mass violence improbable, if not impossible.

The FIR is an artifact of police bureaucracy that endows agency, meaning and culpability to individual and collective forms of violence. I have analyzed FIRs both horizontally (along with Hindu nationalist political rhetoric and media reports) and vertically (their own form and content) to argue that police documentation *transforms* targeted anti-Muslim violence into spontaneous communal rioting; it shields perpetrators,

thwarts investigation, threatens victims, and turns the criminal justice system on its head, even before it begins. The beginning – *first* information report – is quite often the end.

However, I hope my analysis of the FIR does more than reiterate the well-known and widely acknowledged complicity between the Gujarat police and the perpetrators of anti-Muslim violence in 2002. It raises broader questions about the effect of state documentation to blind, legitimize and transform publically performed violence. Police documentation plays a key role in allocating agency to unknown mobs and enforcing what can be *officially* seen and said about Gujarat 2002. In other words, the FIR makes mass violence against Muslims officially and legally intelligible as a ‘riot.’ The pattern is a movement from the Godhra incident → communal mobs → communal riots erases individual culpability, the complicity of the police, and the dynamics of mass violence. This invisibility of public and targeted forms of anti-Muslim violence in police documentation is in turn part of a larger discursive web that includes vernacular media and Hindu nationalist rhetoric.

The brazen “subversion of the law” in Gujarat 2002, emphasized and challenged by activists and human rights workers, I argue, proceeds mechanically, iteratively, and routinely; there is no way to analytically isolate procedures and processes of official impunity from official legality. FIRs are part of routine police bureaucracy and that play an important role in the larger, long-term, infrastructure of impunity in the aftermath of Gujarat 2002.

In line with scholarship that shows that bureaucratic documents are often written to “avert accountability and preserve anonymity” (Sharma, Hull), I argue that FIRs are

part of everyday and routine bureaucratic proceduralism. My analysis of police documentation turns on its head the normative function and the role of the state documentation; the FIR is a public document (it ‘must’ be provided to the complainant and anyone can ask to see it) that is no doubt a part of modern criminal law’s effort to limit the power of the state by forcing it to *document* its working in records accessible to the public (Sarat and Scheingold 2001). However, the police omnibus FIR is not exceptional but constitutive of police modes of documenting criminal offences only in order to make them unaccountable; this paradoxical but rigorous form of documentation is hardly evidence of the breakdown of the state; it is in fact the materiality of state power.

Many recent developments in India, including the recent “Right to Information Act” are part of the “buzzwords of the moment – from transparency to accountability” which are in “practical terms calls to documentation” (Riles 6, Rosga 2005, Sharma). How can we square such normative understandings of documentation with my analysis of police documentation as integral to what I have called the impunity effect? The FIR does not simply record the unfolding of violence in Gujarat; it intervenes, erases, reinforces, and builds on existing archives and languages of Hindu sovereignty (See Chapter 6).

Thousands of people poured out on the streets of Gujarat and publicly attacked Muslim property and life in broad daylight under police supervision during the Gujarat *bandh*. This much is obvious. I show in addition how the *bandh* and the police curfew erase the possibility of *officially* witnessing spectacles of mass destruction, when they are reinforced by police documentation, which becomes an archive of natural destruction.

I compare FIRs with contemporaneous media reports and political rhetoric to show that the power of police documentation does not derive solely from the law; it also draws upon and proliferates wider public discourses that surround it. The FIR shares, incorporates, attests, and embeds narratives that circulate in the media and Hindu nationalist rhetoric. The Gujarat police, along with politicians and journalists, *produce* the deaths of 59 *karsevaks* as the origin and justification for subsequent anti-Muslim violence by inserting a mandatory preface in 2002 related FIRs. This shows that legal documents are not insulated from the political rhetoric that surrounds them, but in this context, actively join it.

Even while drawing out the general patterns in police documentation of Gujarat 2002, I have found traces of its malleability and transformation. Accused (Hindus) are in fact named and recorded by the police in *five* FIRs, breaking the general pattern of the FIR. These rare FIRs offer a glimpse of the possibility of a different narrative of Gujarat 2002, shifting our perspective from mobs to individuals, from anonymity to familiarity, and from the absence of witnesses to eyewitness accounts.

While FIRs do not in general identify individuals as perpetrators, there is a sharp difference in how they treat Muslims; Muslims are often shown in sharp relief, with weapons, shouting clichéd religious slogans, and emerging from mosques with the dull predictability of Hindu nationalist fears and fantasies. The FIR has constitutive effects: the vocabulary of the communal riot, Hindu and Muslim mobs, the “tense city,” religious slogans, and even ‘Hindu sentiment.’ The police attribute these objects to the event itself via the FIR.

My analysis of police documentation, its features, its rhetoric, and its narrative suggests that such writing practices in the aftermath must be thought along with the practice of mass violence; both violence and its erasure must be thought together at the scene of violence. This requires us to abandon the old signifier-signified dualism and take into account the agency of documents – their ability to shape legal perception, guide judge’s interpretation, and contradict and undermine witnesses’ testimony – aspects that I analyze further in the next chapter.

CHAPTER 4

Chapter Four: Exaggeration and Contradiction: Violence against Women

How does violence against women become visible, intelligible and accountable in the aftermath? Human rights reports, media reportage, and scholars have argued that sexual violence is an inextricable part of the Gujarat pogrom. Yet it is arguably the most circulated and least analyzed aspect of the violence. In my earlier chapters, I have showed the legal technologies, narrative modalities, and police documentation by which only certain kinds of subjects, affects, and events are allowed to appear in official documents and archive of violence. By controlling what can be *officially* seen and said about the Gujarat violence, state documentary practices, including legal discourse, make the targeting of minorities unaccountable.

In this chapter, I locate the invisibility and denial surrounding sexual violence in the Gujarat pogrom within the larger political-judicial structure of impunity analyzed in the dissertation. I begin with a close reading of legal and police documents alongside the testimony of a survivor, in order to show how the police produce evidence and later judges interpret it *only* in order to dismiss violence against women as an exaggeration. The erasure of violence against women begins at the moment of reporting to the police itself, but the legal process, including the trial and its procedures construct violence against women as an exaggeration.

My goal is to make visible again, not the invisible or imagined, but that which is clearly there but not allowed to be seen.

- Diana Taylor, *Disappearing Acts*

It was an odd and strangely disturbing sight. A small group of human rights and NGO activists, including myself, faced our reflection in the wide mirror that made up one side of a small barbershop. We stood across Shahana, a young Muslim woman who told us her experience of what happened in 2002.

The shop was in a corner plot at the end of a long road that had on one side the Gomilpur police station and fire station, and on the other side there were rows of small tenements, or slum-like houses. Shahana's brother-in-law didn't say a word throughout our over two hour-long interview, but kept looking out of the shop, waiting for something to happen. Amir, the *nyayapathik* (the JF paralegal) who was in charge of Shahana's legal case whispered into my ear as soon we reached, "wait for the crowd that will gather here."

Shahana has a child and looks slightly older than she actually is. But she was only twenty-two when she was assaulted by her Hindu neighbors and saw her house burned down before her eyes. Kumar, veteran human rights activist and team leader, asked her to tell us her story from the beginning. He insisted she tell us something about her childhood, her parents, and her siblings.

She spoke with her back to the mirror, rested one hand on a tall swivel chair, while turning a ring on her index finger. Her nails are painted bright red; she gave the impression of a feisty and spirited young woman. Her eyes swelled in the middle of her

story, the tale of a young Muslim woman and eldest daughter (in a family of six sisters and one brother) fighting a legal case against all odds. Two months after we finished our interview, her trial had concluded, judgment passed, and the accused acquitted of all charges.

In 2002, she lived with her family in a small two-room house adjoining the barbershop. It is the only Muslim house in the middle of a Hindu Dalit neighbourhood. The nearest Muslim family is more than a mile away.

On 27th February 2002, Shahana returned home with her mother late at night, around 10 pm, after selling the day's collection of scrap. Everything was almost normal. But the television showed gory images of a burning train in Godhra on loop – Muslims had attacked and killed Hindus in Godhra. Her father decided that they would pass the night here and leave in the morning.

On her way back she had noticed some men from the neighbourhood hanging around their house. The local cable guy saw them watching the news when he passed by and soon they lost cable. "If we had been watching the news, we would have had a better sense of what was going around," she said. Someone cut the power cable at the back of the house and they lost power too. Her parents had always found her excitable, they ignored her warnings that something dangerous may happen in *their* neighbourhood. The whole night she kept vigil. Nothing happened.

She sat in the balcony that looked out on the main road, which was now filled with men from the nearby neighbourhood. "They filled the street like beads on a necklace, not an inch of the road was visible," she said. The family got scared and tried to

leave the house by hailing some auto-rickshaws; they tried three times, but each time the scooters tried to reach the house, the men outside blocked and abused them, and told them to go away.

The men simply sat there facing her house. Just imagine, she said, “a street full of these men simply sitting on the road, staring at the only Muslim house in their neighbourhood. Doing nothing, saying nothing, simply watching.” Trailing off from her narrative, she wondered aloud whether her parents knew about the danger all along but simply suppressed their fear and anxiety, to prevent all out panic. “Perhaps my parents knew, but couldn’t do anything, just think about it, six young girls and elderly parents, and no escape.”

She saw M. (the main accused in the case) a local kerosene seller walking around the house with a (*tola*) group of men carrying cans of fuel¹³. And yet her mother insisted, “they will do nothing to us, we have lived here for years and these boys have grown up in front of my eyes.” Shahana knew they would do something today.

She recalled the image of the burning train and inflammatory language on television that described the “brutal burning of Hindu nationalists by Muslims.” The images of the burning train and charred Hindu bodies playing on loop; they tried to leave from the backdoor that did not face the main road, one at a time, so that the men outside don’t get to know. In fact, Shahana deliberately sat on the porch, visible from the main road, pretending to observe the street to give the impression that they were still at home.

¹³ When Shahana and her mother described the role of M, including the can of kerosene he was carrying, the defense alleged ‘material improvement’ because their police statement taken in 2002 does not mention the can of kerosene.

Her father moved them one by one to a friend's house, a Hindu man from the same village. Later, when others found out that he had given refuge to them, they broke his legs and sent him back to his village. Her father started to leave with her younger sisters. "He first left with my eighteen year old sister and dropped her off in a neighboring area, which is half a kilometer away. Every half an hour or so he was taking one person and dropping them off to his friend's house. Before our turn came, it was time for our afternoon prayers (*namaz*). Until then the men sat and did nothing. Finally, my pregnant sister left with my father and we told him that my mother and I would follow him shortly." And then they attacked.

A group of around thirty men led by the main six, who became the main accused in the case, charged toward the house. They threw acid bombs, looted the shop, and set everything on fire. Her mother almost ran back to the house when it caught fire before their eyes.

They were not alone when this happened. The local (PI) police inspector Joshi¹⁴ was "patrolling the area" but refused to stop, even as the mob got ready to burn the house. Shahana jumped in front of his jeep, and urged him to come out and stop the mob. He stopped and stepped out of the jeep, turned to the mob, and said, "what are you waiting for, burn these f*****s!" He left after making sure the house had burned down. When a Hindu neighbour saw this, he folded his hands and requested her to flee the neighbourhood, "you could always rebuild your house," he said.

¹⁴ The same police inspector subsequently "investigated" this case and appeared in court as a "witness" for the prosecution!

Shahana and her mother tried to hide in the house of their immediate neighbor. The attackers reached there and began abusing them. Her mother stumbled and took longer to scale the small wall in the backyard through which they tried to escape, but the men caught up with them. They knocked Shahana down, pulled her *dupatta*¹⁵, and tried to tear her clothes off. Six years later, Shahana paused, cursed the men, challenged them to come and confront her *now*. “What would have happened that day if I hadn’t escaped” she asked us.

“M abused me before attacking,” he said, “she is very arrogant with Hindus so let’s finish her off.” He was among those who threw her on the ground. Others included a man who drives a rickshaw, and two brothers who also live in the same neighborhood. Shahana and her mother escaped and ran till they reached an abandoned mill, adjoining a Muslim majority area.

Her father and sisters were also attacked. They were attacked in the early morning and someone threw a stone at her eight months pregnant sister. Later, she gave birth to a mentally challenged young girl. The family was separated for six days and reunited only at the relief camp. A temple with idols of Hindu gods (*Jognimata* and *Hanuman*) was installed where their house used to be.

Shahana and her father began visiting the police station, which is opposite their house, to file an official complaint. The police abused them and refused to file a complaint for ten days.

¹⁵ Scarf worn around the shoulders that also covers the upper body.

“You are still alive? How did you manage that?” asked Amaliar, the police officer in charge of the Gomalipur police station. When her father replied, “it’s all in *His* hands,” he was hit with a police baton. “Give us proof that you lived there,” the police told them when she tried to report the destruction of her house and the construction of a “temple” on it.

On the tenth day a tall and light eyed policewoman told the others, “this girl has been coming here for ten days, whether you want to do something or not, at least take her complaint?” They took her handwritten complaint on the 5th April¹⁶, of which there is of course no trace in the legal record, but beat them with sticks while they left. Because she was hurt and angry, Shahana shouted back at the policemen, and they told her father, “your daughter talks too much, tell her to shut up, or I’ll shove my stick in her mouth.”

Despite her frankness and boldness, she shuddered as she recalled their abuses; they dislodge her from the flow of her story. “The police here have openly abused Muslim women; they have used every abuse they know for Muslims on us. This is the state of the police in this place,” she said.

Through the intervention of the ACP (Assistant Commissioner of Police) Satish Sharma, who she contacted with the help of a women’s organization, Shahana managed to get the police to recognize the “illegal construction” at the site of her house. After Jyoti

¹⁶ Thus, according to Shahana’s testimony, the police accept a ‘handwritten’ complaint nearly a month after the event, but there is no record of this ‘handwritten’ complaint in the trial. Neither the handwritten note nor its contents are discussed in the trial. In fact, as will become clearer, the ‘inordinate delay’ in filing an official report to the police station is used by the judge as one of the reasons (like in many Gujarat 2002 cases) to question the credibility of the witness.

Sangh, a feminist NGO, petitioned the ACP to help Shahana; he passed immediate orders to remove the temple built at the site of their house.

In the evening many police cars arrived in front of her house, including policewomen, and under the cover of a strong security cordon, the temples were removed. Her Hindu neighbors protested and there was a lot of tension when the idols were removed, but the police chased away the men and women who gathered to protest the demolition. Ironically, it was police inspector Amaliar who struck the first blow with the hammer. He joined his hands in prayer before the idols and said, “Forgive me, it is because of these people that I have to remove you from here!” (*mane maaf karjo aaloko ni lidhe tamne hatava pade che*).

That night the police came to record their official statement¹⁷. And they were angry for being forced to remove the temple; they scribbled something and left. When the family returned home from the relief camp, they saw “unmentionable abuses” written on the walls of their house. Even though Shahana chose not to describe the abuses, we can get a sense of the kind of things that were written from other sources, like fact-finding reports that photographed and recorded testimonies soon after the violence ended. For example, an all women fact-finding committee was shown video footage of the violence where “they saw slogans like – Muslims Quit India – or we will f*** your mothers – written on the walls of charred houses” (Citizen’s Initiative Report 2002:9).

¹⁷ In the trial, this police statement (under section 161?) taken in the relief camp by the police, especially the same officers who have been implicated in the violence numerous times in the testimony, is considered to be the **first official record** of the violence. Subsequently Shahana and her mother are considered unreliable for not mentioning the ‘attempt to rape’ or the exact role of the accused on that day.

One of the accused told her father, “you escaped this time, but next time we will hang all of you inside the house so that everyone knows that Muslims can’t live in this neighborhood.”

Sexual violence in the Gujarat pogrom

Sexual violence, especially mass public violation of Muslim women’s bodies, including, rape, stripping, burning, and maiming is one of the most striking and discussed aspects of Gujarat 2002. Babu Bajrangi, leader of the Bajrang Dal, a Hindu nationalist organization, attacked and ripped open the stomach of a pregnant woman¹⁸ in Naroda Patiya, paraded the fetus on the tip of a sword, and later “called up the home minister and went to sleep” (Khetan 2007).

Even though such acts became a symbol of the extent and brutality of violence against Muslim women in Gujarat, he was arrested and released on bail. Until his conviction in 2012, partly based on investigative media reports, he stayed out of jail and gave lengthy interviews to journalists (Jha). Later, civil society and human rights investigations collected testimonies of victims and survivors to highlight the Hindu nationalist targeting of Muslim women and children. On the basis of a testimonial evidence, these reports called attention to the gendered aspect of the Gujarat pogrom.

Scholars of collective violence have shown that sexual violence against women is an integral part of communal violence and riots in India. George Fernandes, the defense

¹⁸ Subsequently Hindu nationalist politicians questioned the existence of this woman, even though 11 members, including family members and others corroborated the description of her murder given to a citizen’s commission by her husband. The perpetrators often destroyed the evidence of sexual violence by burning the bodies, a widespread phenomenon in the Gujarat violence.

minister of India during the Gujarat pogrom, refreshed the nation's memory in order to justify the targeting of Muslim women. He said, "there is nothing new in the mayhem let loose in Gujarat... A pregnant woman's stomach being slit, a daughter being raped in front of a mother isn't a new thing... Such things have been happening for 54 years in India and happened even on the streets of New Delhi in 1984¹⁹."

In the context of the Partition of India, feminist scholars have analyzed the abduction of women, and their subsequent forcible "return" to India and Pakistan as important in the construction of the nation. Partition survivors have described the systematic targeting of women to "injure" and "humiliate" the community. Because women are construed as symbols of national honor, sexual violence is often used as a political tool to attack nation-states. These studies have also showed how the bodies of women became the space on which male rioters inscribed political slogans. Scholars and activists have found similar patterns of violence against Muslim during Gujarat 2002.

Veena Das analyzes juridical silence around sexual violence and "rape trials during normal periods" to show how the state engages in separating normal from pathological women in rape trials. Sexual violence against women is normalized by the separation of women into categories like the normal and pathological, which use the woman's body to read her "sexual past," rather than focusing on the protection of the bodily integrity of women.

¹⁹ Lok Sabha debate on Gujarat, April 30, 2002, reported on May 1 in *The Hindu*, *The Indian Express*, the *Deccan Herald* and *The Times of India*.

The question of gender and sexuality is implicit but key to understanding several chapters of my dissertation. I discuss the masculine self-fashioning by neighborhood-level Hindu nationalist activists, their desire to “conquer” Muslim women and related self-fashioning as “protectors” of Hindu women from Muslim men. Arunbhai, leader of the Bajrang Dal said that “rescuing” Hindu women (forcibly rehabilitating Hindu women are in relationships with Muslims) from Muslim men, often with the help of the police was a common part of their everyday work in Ahmedabad.

In my analysis of police information reports related to Gujarat 2002, I was struck by the near absence of violence against women in police documentation. The absence of women as both witnesses and victims in the official record and the subsequent impunity around violence against women show that their “invisibility” is carefully constructed and produced, and hence needs further investigation. In other words, when gender and sexuality are at the heart of the Gujarat pogrom then why does violence against women become invisible in the official archive?

Why are there so few prosecutions of such offenses? In my analysis of a limited police archive, I found, for example, that out of more than a hundred offenses “registered” in one police station in Ahmedabad, only a single report recorded violence against a woman.

Thus the challenge of understanding sexual violence in the Gujarat pogrom is inextricably linked to the question of official documentation and the inscriptionary logics of state writing. How certain forms of violence enter the official archive (Arondekar, Pandey, Mehta, Stoler) is an important part of what kinds of violence against women

become visible and prosecutable within legal institutions. In this chapter, I suggest that legal and police processes of documentation, interpretation, and evidence making are inseparable from larger social logics of invisibility around violence against women.

I resist the common tendency to construe the question of violence against women as *necessarily* a story of a few exceptional women who have found the courage and support, institutionally and societal, to make “public” the record of their “rape.” As Shahana’s narrative amply demonstrates, sexual violence is not a stable category reducible to rape and neither is it an exceptional aspect of Gujarat 2002.

There is now a deep and rich archive of testimonial evidence around sexual violence, and the facts of brutality against Muslim women in Gujarat are now fairly well known. But I suggest there dimensions to the story that still need investigation. There is an important need to address key questions of how violence against women does or does not enter the legal record, and the role of legal protocols, reasoning, procedures, and epistemology in framing and denying such violence, often in the process of examining “the facts of the case.” In other words, it is not necessary that the “experience” of victims per se will make explicit the techniques of impunity surrounding violence against women.

As many feminist scholars have noted, sexual violence is often reduced to rape (Agnes); it is considered to be “shameful” and “dishonorable” that makes women reluctant to “speak out.” Yet, one might ask what happens when survivors speak out? It becomes clear from Shahana’s testimony and subsequent trial that the appearance, import

and status of violence against women cannot be isolated from the juridico-police production and management of “evidence.”

In an insightful study of public spectacles of violence in Argentina Diana Taylor writes, “my goal is to make visible again, not the invisible or imagined, but that which is clearly there but not allowed to be seen” (27). Similarly, I argue that we need to revise our understanding of violence against women, away from the conventional focus on rape or first-person testimony and the barbarity and inhumanity of the perpetrators, all of which are of course important but do not specifically address the question of how legal institutions deny and negate violence against women during events like Gujarat 2002.

Elizabeth Drexler while analyzing official documents of state violence in Aceh describes such an analytic as focusing on *form and logic*; “in contrast to filling in silences, exploration of logics and form reveal both the conditions in which silencing and violence become possible and how certain disclosures fail to produce accountability” (2006:315).

My focus is not simply to show how the police and the trial exclude Shahana’s testimony or conversely pit her testimony against the “evidence” produced by the legal process. Rather I ask, how is the targeting of women during mass violence become an exaggeration? How do survivors attempt to articulate sexual violence without becoming a part of sexualized spectacles inside the courtroom?

In the next section, I analyze the languages used to understand sexual violence by NGO and human rights activists in Gujarat by reading two prominent (local and

international) human rights reports that focus exclusively on the impact of violence on women in Gujarat.

The Unspeakable?

Human rights and NGO reports, civil society investigations, and scholarly analyses grapple with questions of silence, invisibility and the unsayable around sexual violence. Social and cultural norms like “honor” and “shame” are used to explain the reluctance of victims to speak out marking the abyss between experience and its articulation. I suggest that this abyss is also constituted by political-juridical structure of impunity, which includes police documentation and legal technologies of truth. In this section, I analyze the two main human rights reports on sexual violence in Gujarat 2002 in order to understand the multiple logics that produce invisibility around violence against women.

Both reports meticulously record the experience of women, men and children who witnessed or were victims of sexual violence. Citizen’s Collective produced the first report “How has the Gujarat Massacre affected Minority Women?” soon after the violence subsides. “It records incidents of “most bestial forms of sexual violence – including rape, gang rape, mass rape, stripping, insertion of objects into their body, stripping, and molestations. A majority of rape victims have been burnt alive.”

Even though the report focuses on rape, it acknowledges the wide range of actions that are part of sexual violence. It opens by acknowledging and saluting the women-survivors “who had the will to live, and the courage *to speak the unspeakable* [my emphasis].” It finds “there is compelling evidence of sexual violence against women.

These crimes against women have been grossly underreported and the exact extent of these crimes – in rural and urban areas – demands further investigation.” The lack of an “official” archive of such violence is therefore a part of the problem of analyzing the prevalence, extent and effects of gendered forms of violence on survivors, to say nothing about its implications for accountability.

Despite meeting and interviewing numerous survivors and human rights workers, the authors find only five detailed testimonies, but many more statements by witnesses. While the activists “hear” of numerous rapes, there is “official evidence” for only one such incident in the entire district. They understand this disjuncture between the prevalence of sexual violence and the availability of testimony through the question of evidence and reportage. “In Panchmahals district only one rape FIR has been filed, though we heard of many other cases. There has been a complete invisibilisation of the issue of sexual violence in the media” (3).

Yet the invisibility of sexual violence is *not* uniform across the Gujarat pogrom and the Godhra incident that preceded it. They add, “ironically, while false stories about the rape of Hindu women have done the rounds, there has been virtual silence in the media, including the English language papers, about the real stories of sexual violence against Muslim women” (12).

Ghassem-Fachandi has analyzed this dichotomy between real sexual violence against Muslim women as revenge for the “imagined” sexual violence against Hindu women in psychoanalytical terms, and forcefully illustrated how the alleged sexual assault on Hindu women in Godhra (“reported” by vernacular newspapers and proven

false) became the template and justification for the subsequent sexual violence against Muslim women.

This difference between the circulation of violence between Hindu and Muslim women shows that there are processes, discourses, and logics at work that make certain acts “unspeakable” that are outside the patriarchal shame/honor paradigm. For instance the report mentions the media’s “self-censorship about rape stories.” It finds “senior journalists in Ahmedabad say that they can be accused of rumor mongering if they carry stories about rape, given that a bulk of the victims are either dead, or if alive have neither had medical examinations nor lodged FIRs.” This self-censorship is again closely linked to juridical notions of “evidence,” the medico-legal procedures used to establish rape, and the paper trail of police documentation. In other words, if the police refuse to register an official complaint or the survivor refuses to approach the police, widespread targeting of women disappears.

In response the authors of the report ask, “Why has it not been possible for these papers to carry stories saying that women on the run from rampaging mobs cannot be expected to undergo medical examinations within 72 hours? When no Muslim victim in Gujarat today can enter a Police Station confident that he/she will get a hearing or leave with a copy of their FIR, how does a rape victim manage to get an FIR lodged? Why is it not possible for the Press to carry such perspectives?” (12).

An international committee of feminists produced the second important report titled, “Threatened Existence: A Feminist Analysis of the Genocide in Gujarat 2002” trying to understand “sexual violence against women and how this can be effectively

addressed by a legal system not equipped to deal with crimes of this nature and scale” (5).

Like the previous report it emphasizes, “Rapes were not the only form of sexual assault. There were many others like verbal abuses, molestation and taunts that continue till today and a humiliation that knows no bound” (25). This understanding of sexual violence suggests going beyond the conventional binary of sexual violence (the presence or absence of rape) and a broader understanding of the whole range of words and actions that were used against Muslim women.

It analyzes the question of silence and invisibility surrounding sexual violence at multiple levels. First, some women choose to keep silent, “because it is shameful to proclaim sexual violence against one’s own body in traditional ethos. In the patriarchal family structure and system of values, the violation of women’s bodily integrity becomes a source of shame not only for the women as individuals but for them as members/symbols of family and community” (33). Second, in addition to the honor and shame, male members of the family and community frequently do not support survivors to speak up. Third, there is a “community aspect” to silencing, “the shared patriarchal value systems of both communities led to many women survivors not being able to talk about their pain and violation” (34). The “State’s refusal to listen, to take action or provide a gender sensitive support system that would encourage women to come forward” (34) is an institutional impediment for survivors.

Adding to the analysis offered in these reports, I suggest that the intelligibility of sexual violence is *not* independent of the methods and techniques of producing evidence

out of violence. The challenges faced by survivors and witnesses in approaching the police, the police's refusal to register official complaints, and the role of the juridico-police apparatus in constituting "prosecutable" evidence.

In the next section, I analyze the precise procedures or techniques – legal and documentary – that make the violence against Shahana invisible, and when it appears in court, an "exaggeration." I delve into the minute steps that lead to not only invisibility in Shahana's case, but the use of sexual violence to dismiss the entire testimony of the survivor.

Unmaking Evidence

The police register an "omnibus" FIR (First Information Report) for the entire Gomilpur neighborhood on the 1st March at 12 30 am. It is supposed to cover *all* 2002-related offences in the jurisdiction of their police station²⁰. But it has no description of a specific incident, murder, looting, assault or any other offence; it has no details of what happened to Shahana and her family. Instead the omnibus FIR fuses together different incidents that take place at different times and places into a single narrative. It includes the names of forty accused persons, both Hindus and Muslims, but has only two witnesses, Shahana and her mother. But it does *not* include their statements.

Later the police file a charge sheet reporting that two people died in police firing and twenty were injured. Between the 1st and 10th March, it records the statements of seventy-four policemen, who repeat the same thing.

²⁰ See Chapter 3 for a detailed examination of the omnibus FIR and its impunity effects.

The police FIR subsumes all incidents within a general narrative that describes the movement of the police through the neighborhood quelling “mob violence,” responding to wireless messages, and using tear gas, sticks etc to disburse riotous crowds. It mentions nothing about Shahana, the destruction of her house, or the attacks on family, including the attempt by her neighbors to publically strip her. The invisibility of violence against women is part of a general attempt to make the *targeting* of the Muslim community itself invisible.

The police station responsible for registering FIRs, recording witnesses’ statements, recovering on-site and material evidence, adding witnesses, conducting investigation is barely thirty feet away from Shahana’s house. And there is a fire station adjoining the police station. Not only is the police station opposite Shahana’s house, but is also a site for the police lines or police quarters (government accommodation for police personnel). One of the NGO workers estimated that over a hundred police officers stay behind the police station.

Shahana’s testimony and trial must be understood against her extraordinary proximity to the police; but what happened to her is not exceptional, survivors in different neighborhoods pointed to egregious acts of public arson, rape, and looting in the vicinity of police stations, including the office of the police commissioner of Ahmedabad. Such narratives are further evidence, if any was needed, that Gujarat 2002 is not about the breakdown of law and order; in fact it could not be performed without the support of state officials.

In Shahana's case, the police follow the general pattern of how they have recorded 2002-related offenses across Gujarat; they refuse to register an individual complaint with the names of the accused and exclude Shahana and her family's testimony. They file an omnibus FIR for the entire area that becomes the *first* official record of what happened here and against which all subsequent statements will be measured, especially during the trial.

According to Shahana's testimony, the police accepted a handwritten note from her on the 5th April, more than a month after the incident, but the note has since then disappeared. It left no "paper trail" in the legal archive – the police did not record a copy and the prosecution could not trace it, it cannot achieve the status of evidence.

Shahana's testimony is as much about the police as it is about the men who assaulted her and burned their house; the police provoke the mob, refuse to register a FIR, allow a temple to be built on their house – none of this leaves a paper trail. To anticipate and reiterate a broader point I make in this dissertation: the abyss between experience and evidence in the aftermath is produced, regulated, and maintained by official paperwork. The unspeakable is often also the undocumented, unwritten, and unarchived.

As bureaucrats, the police and state officials are acutely aware of the effects of manipulating paper records; violence and injury become visible in the trial or considered evidence when they leave a trail of documents, attested by official authorities. These documents, I suggest, mark a break between the event of violence and its legibility and circulation within the trial that is forgotten and concealed in everyday bureaucratic

practice²¹. The police refuse to record what they don't want to investigate, but they *overwrite* reality with what Dery calls papereality – “a world of symbols or written representations, that take precedence over the things and events represented” (1998).

Time plays an important role in the *unmaking* of evidence. In general, the further away statements and actions are from the offense, the less credible and more suspect and open to questioning is their status. Following the law's suspicion of contamination by time, delay can be fatal in achieving the status of evidence (in fact numerous cases have been dismissed simply on the basis of too long a delay between a judgment and its appeal or the offense and its reporting). In this sense, the evaluation of evidence is indifferent to the complainant's exigencies, whose life and property is systematically and publicly targeted across days, even months, but its reporting is expected to follow due process.

Despite attempts by Shanana's mother to highlight the pernicious role played by the police in their case, the trial turns a blind eye to what happens *before* it (temporally): the documentation and production of evidence is a part of the violence itself. Similarly, what happens *after* the offences is also invisible.

In Shahana's interview that opens this chapter, even after the police accept her handwritten complaint, they delay filing a formal complaint or a FIR (First Investigation Report). Nearly five weeks after the event, after the demolition of the temple, on the 5th April 2002, the police (the same officers who are implicated in the violence) come to the

²¹ Even while I stress the role of official documents in this chapter, the recent Naroda Patiya judgement under the Special Investigation Team has set a new precedent by taking note of a series of extra-judicial sources (media expose and video recordings) as evidence. See *Outlook* (online) for full text - <http://www.outlookindia.com/article/Naroda-Patiya-Trial-Judgment/282159>

relief camp to collect the statements of the family. On the basis of these statements, the police file a separate supplementary charge sheet, *for the first time* there is a separate complaint of the destruction of Shahana's house (not the sexual assault) and the names of the accused are added.

The accused are arrested on the 2nd December 2002 and released on bail in less than a month. One of the accused released on bail stabs Shahana's mother on the 19th August 2006, while the trial is still on. The police yet again refuse to file an FIR (with the appropriate charge of attempt to murder) but file a chapter case. When Shahana's mother is attacked, an NGO lawyer files a bail cancellation plea that is subsequently rejected in by the trial court. When with the help of the same NGO, they appeal the High Court to cancel bail; it is refused on grounds of delay. Time, then, is of the essence, and there are provisions of 'condoning delay' in the criminal trial, but those appeals and arguments are entangled within 'paper trails' of evidence and the disposition of individual judges.

In sum, the unmaking of evidence is an active process that builds on routine (prescribed course of action followed across events) legal technologies of delay, erasure and documentation.

The Question of Rape

Unexpectedly, despite all attempts by the police, prosecution, and even activist lawyers to ignore the attempt by the attackers to disrobe and assault Shahana, it leaves an indelible mark on the trial. In fact, the master trope of sexual violence, rape, is uttered, heard, examined, and dismissed during a trial that has officially – on record – nothing to do with violence against women.

Instead of debating the validity or merits of the term rape as a description of what happened to Shahana, or the inadequacies of law to address sexual violence in general, I analyze the effects of the *appearance* of rape in this case. In other words, I argue that not only do state officials do their best to wipe away violence against women in Gujarat 2002; they in fact *use* it to dismiss the entire testimony of the survivor.

Shahana's mother deposed before the judge on the 12th September 2008. She described what she saw from the verandah after finished her prayers. She named six accused (one of them had a can of kerosene in his hand) as part of a mob of twenty-five men. One of them poured fuel on the shop and the others torched it with burning sticks. They proceeded to loot the barbershop next to the house, where the dowry of her three daughters was stored, and finally burned down the shop and the house before their eyes. She hid and watched the entire event.

Later when she fled her house, one of the accused stabbed her, and she turned around to see that "the mob had knocked her daughter Shahana down, was abusing her badly, and tried to rape her."

This is the first appearance of rape or the attack on Shahana in this case. Attempted rape is a description of the combined violence of a certain language (unmentionable verbal abuse) and action (knocked her down). When I asked the NGO paralegals and the lawyer about this sudden revelation in court, they said, "She got emotional, and spoke more than necessary."

Since the attempt to rape Shahana is not in her police complaint, the defense lawyer asks her mother why she did not say this to the police in the cross-examination.

“In my complaint, the police wrote down what I said except certain statements. The police did not record the attempt to rape my daughter and the can of kerosene carried by the accused.” Contrary to my expectations, such declarations in the court, across Gujarat 2002 cases only weakened the plaintiff’s case, with little or no effect on the status of the investigation agencies. Invariably, if the complainant argued that the police did not accurately record their statement, then the defense lawyer asked them if they made “written applications” to any official agency – magistrate or police commissioner are the recognized authorities – to correct their statement. In other words, did the survivor have any documents to prove why they don’t have documents?

And therefore Shahana’s mother must admit, “I did not file any application that the police did not write my complaint according to my wishes... It is true that the rape attempt on my daughter is not mentioned in my police complaint. It is true that the police station is right opposite my house.” These ominous words close her cross-examination.

Shahana deposed three days after her mother on the 15th September 2009, and she did not utter the word rape. Six years have passed, a schoolgirl at the time of Gujarat 2002, she is married and a mother of a young girl now. Like her mother, she described how she watched the accused burn her house and shop, and pursued them when they tried to flee. And then she said, “The men (in the courtroom today) sitting here knocked me on the ground (*mane dhakka marinay neeche pade dhigale*). Anyhow my mother and I escaped them and fled...”

Her cross-examination traverses a familiar arc: the defense notes that her deposition is different from the police narrative. She admits, like her mother, “It is true

that my police statement does not mention that the accused knocked me on the ground or that he was leading the mob.” Shahana’s cross-questioning ends with the statement that “the police station is 25-30 steps away from their house.” In both cross-examinations the proximity of the scene of violence to the police station is emphasized.

The main aim of the cross-examination is to show that the witnesses are making statements different from those attributed to them in the police record. In the course of the cross-examination, the question of the targeting of women becomes that of timing and record. Complainants’ depositions are placed along with police documentation to render the latter inconsistent and contradictory. The next section will show how questions of individual culpability are denied the status of evidence because they were not reported to the police at the right time and place.

Gendered Violence as Exaggeration

The learned Ahmedabad sessions court judge concluded after a twelve page judgment that, “the evidence which is tendered by the prosecution is suffering from the (sic) basic infirmities, exaggeration, and improvement which is not found to be free from the dust of doubt and therefore, this Court hesitates in holding the accused persons guilty to the charge. The accused persons are exonerated from the charges by extending the benefit of doubt.”

Six years after Shahana and her family was attacked, her house burned down before her eyes, and two years after her mother was knifed, Shahana and her mother lost their case on the 17th September 2008.

How does the judge justify the acquittal? What is the interpretation and logic by which he diagnoses infirmities, exaggeration and improvement in this case? What is at stake in this six-year long process, from initial police documentation to the final judgment is the repeated and repeatable process by which the law interprets, ignores, and invalidates survivors' testimony and experience in the aftermath? When violence against women persists and endures police erasure, the legal trial intervenes, using legal categories and interpretation to ignore and deny such violence.

The narrative of the police inspector who wrote the omnibus FIR opens the judgment: "After post Godhra Episode, VHP had called Gujarat Bandh and accordingly the city was under tense (sic) and the complainant himself was patrolling. Since the situation was not within control and *mobs of both the castes* were causing physical atrocities to each other the curfew was imposed... it was reported that there was heavy stone pelting *from both sides*."

In place of targets, namely Muslim men and women, their bodies and property, the police write "physical atrocities" between "both the castes"; and in the place of perpetrators, specifically neighborhood men and the police, we see the police doing their duty.

Out of eleven witnesses examined by the court, *only* Shahana and her mother testify against the accused. The judge writes that "though (the rest) have supported the case of the prosecution during the course of investigation have preferred to say good bye (sic) to the case of the prosecution when they are called upon to depose on oath."

The lack of witnesses willing to testify against perpetrators is a common reason for many acquittals in Gujarat 2002-related cases, including the high profile media trials. Most prosecution witnesses, for a variety of reasons, including the absence of a witness protection program, change their statements before the court in favour of the accused. Such witnesses are declared as “hostile” by the prosecution²². Not only does this practice significantly skew the trial, it reflects the polarized context within which the trials take place in Gujarat.

The lack of witnesses is key and the public prosecutor “concedes that the prosecution is not having (sic) any strong evidence except the evidence of two witnesses by which the involvement of accused can be established beyond reasonable doubt.” This statement stresses the importance of victims’ testimony: the entire case rests on the testimony of Shahana and her mother. But while this statement gives the impression that evidence flows seamlessly from testimony, I have tracked the procedures of the trial and the role of police documentary practices that govern the production of evidence. Witnessing to become evidence must be embedded within a legal and paper archive.

The judge finds Shahana and her mother’s narratives inconsistent, “The evidence of the witnesses PW 9 and 10 is found to be away from the ring of truth for the reason that *both the witnesses have exaggerated their deposition and their evidence recorded on oath is not found to be consistent with the case of the prosecution they have improved*

²² Most prosecution witnesses turn hostile in mass violence and rioting cases like Gujarat 2002. Often, no one other than a handful of NGO supported witnesses support the case. In Gujarat, NGO lawyers and paralegals claimed that no Hindu would testify against another Hindu in court.

their deposition and has (sic) *given two inconsistent statement (sic) about one fact* for which reasonable doubt arises in the mind of the court” [italics mine].

What is the proof of exaggeration? How have they “improved” their deposition? The judge calls violence against women a “fact” he found to “be away from the ring of truth.” What the judge calls ‘one fact’ is in fact the attack on Shahana and its re-inscription as an exaggeration by the judge. But what it exaggerates remains unnamed in the judgment. The targeting of women in the Gujarat pogrom *can* cross the threshold of legal interpretation, once it is transformed into an exaggeration and a belated accusation.

The strongest comments of the judge are reserved for the cross-examination of Shahana and her mother. In the cross-examination the defense focused on the difference between their police statement and deposition before the court. This was in response to Shahana’s mothers’ statement in open court that the police did not accurately record their statement. It is remarkable to see how in the course of the trial such revelations are turned against the witnesses. Let me quote in full the exact paragraph where we can see such a reversal enacted [italics mine]:

These two witnesses have been tested by searching cross-examination. These witnesses have admitted that fact that the attempt to commit the rape has not been disclosed by them before the police. The facts stated by them in examination-in-chief have not stated (sic) before the police. These witnesses are making inconsistent statement before the Court on oath. Looking to the statement recorded by the Investigating Agency the presence of the accused persons with the mob is stated but overt act or the involvement in causing damage to their property

has not been specified by these witnesses before the police but when they have appeared before the Court and deposed on oath they have created material improvement in their deposition. It is worth to mention that the incident has taken place in the month of February 2002 and the statement of these witnesses came to be reported by the Investigating Agency in the month of April 2002 with inordinate delay. When their statement came to be recorded by the police they were lodged with the relief camp. No immediate F.I.R. has been lodged by P.W.9 and P.W.10 for the alleged loss caused to them by the accused persons.

In a series of short declarations, the judge focuses on questions of *record* and *timing* of declarations before state authorities (police and the judge), and not the substantial content of testimony. It is not *what* was said, but *before who* was it said and *when*, which is at stake here. What the witnesses say outside the police paper trial is not only of no import because it hasn't been recorded, but it is false because it is inconsistent with the paper record of the case. This hyperlegal and procedural approach to documentation puts the survivor of political violence in a bind out of which there seems to be no escape.

This brings me to the second point, one that the judge does not pose, but that obviously needs to be posed: What could Muslim survivors and witnesses say before the police in Gujarat 2002? From the entire evidence of testimonial literature, including human rights reports and official inquiry commissions, being *before the police* is in fact part of the fear, abuse, and humiliation experienced by survivors of Gujarat 2002. From Shahana's narrative we know that the police were not merely passive bystanders who

failed to provide protection to the single Muslim house and shop in the entire neighborhood, but actively supervised the attack on Muslims.

Timing is key. “Delay” in reporting becomes “material improvement.” In Chapter 3, I have discussed the temporality of police documentation during Gujarat 2002 and why so few survivors could register complaints with the police – refusal by the police, curfew, and the continuing violence over months, there are many reasons why such questions of delay must be investigated to prevent them from becoming absurd. And the immediate FIR in most cases is the police “omnibus” FIR, which is often worse than no FIR at all.

The judge utilizes a well-used category of impunity called the “communal mob” to justify the presence of the accused at the crime scene. Because even the police statement mentions the presence of the accused (only their names, not what they were doing or what they were carrying), the judge cannot disregard this vital piece of “documentary” evidence on the basis of either delay or documentation.

But the police inscription of the “mob” allows the judge to argue, “The mob may be gathered (sic) to see as to what is happening. Simply because the accused persons were present in the mob, it cannot be said that they were members of unlawful assembly.” This is another instantiation of what I have elsewhere called the impunity effect of the mob and the riot. In other words, the presence of the accused *in a mob* does not entail culpability because they may be witnesses rather than perpetrators of violence. This is the second important reversal performed by the trial: the survivor becomes the accused and the accused becomes the witness – not to belabor the point, but this is a *legal* effect.

The judgment does not stop at questioning the credibility of the witnesses; it attributes specific motivations to them: “Perhaps some ill feeling or because of communal feeling the witnesses have preferred to exaggerate the prosecution version...” The reversal is complete: the survivor of anti-Muslim violence has malafide and “communal” intent. In the political context of Hindu nationalist rule in Gujarat, and the triumphant and open politics of Hindu rule, terms like exaggeration, contradiction, inconsistency and improvement constitute the specifically legal discourse of negating survivors’ testimony.

The question of violence against women is not exhausted by the binaries of presence and absence, the speakable and the unspeakable, and shame and honor. Legal categories like delay, inconsistency, the lack of a paper trail, and the communal mob play a critical role in making violence against women unaccountable, even if it uttered and understood.

The judge does not hesitate to say, “It is true that the fateful incident has taken place. It was unfortunate period for the State wherein so many persons have lost their lives and properties.” There is no paradox between the fact that the incident took place and there is no one responsible for it.

The trial plays an instrumental role in producing the discursive context in which witness statements and actions are recognized (or not) as having an evidentiary value. Instead of analyzing or reproducing survivor testimonies in isolation or only along with social logics of honor/shame, the investigation of how the targeting of women may be visible and known and yet negated and denied, I argue, requires the insertion of such

survivor testimony within an understanding of the operation of the trial and the constitution of its archive.

How Law Denies

I have examined the bureaucratic and documentary procedures by which the targeting of women during mass violence becomes an exaggeration and contradiction. We can see the erasure of actions and languages that constitute verbal and physical violence against women in the very steps of the criminal legal system: the strategies of the defense, the template used by them for cross-questioning, the legal reasoning of the judge, and police investigation. Such entanglement produces impunity for actions and discourses that target women, and challenge us to think the specifically *legal* characteristic of such forms of denying violence.

It is not simply juridical silence but juridical discourse and practice that must be the object of investigation. The performance of the trial, the trail of documentation produced by police investigation, and the categories of legal interpretation deployed by the judge gather together to form a specific image of Gujarat 2002.

The way in which sexual violence is written or not into legal processes has the singular effect of impunity. This impunity effect is not limited to only cases of sexual violence but can be tracked in related criminal cases, as I have done in Chapter One. Impunity surrounding violence against women is *embedded* within general modes of legal reasoning, police documentary practices (archival logics), and categories that characterize other trials of the Gujarat pogrom. In other words, it is part of a larger political-judicial structure of impunity.

While the trial is a site for the production of legal truths about violence, I suggest that it also has the paradoxical effect of transforming the appearance of sexual violence into a mode of inducing a crisis of witnessing. Certain types of reversals – the plaintiffs are accused of harboring ill feeling against those they have accused of assault and arson – become possible through a series of steps that are embedded in the trial.

I identify at least two characteristic features of the trial, across this dissertation, which produces impunity effects. First, the absence of paper documentation, combined with the effects of the narrative strategy of the omnibus police FIR. Second, time or the delay between the event and its entry into the legal record casts a suspicion on subsequent statements offered by witnesses and victims.

Conclusion

The question of impunity surrounding violence against women in the aftermath mirrors the double life Gujarat 2002: if you follow the paper trail, the signed and attested documents of the police and the court, and the trial, you reach the familiar dead end of impunity. There is no evidence. You see nothing but mobs; perpetrators, abusive policemen, and key witnesses disappear into thin air. But testimony and witnessing is not outside this official discourse but folded within it. Thirty feet away from Shahana's house, the police station is both the archive and the site of its destruction. The challenge of holding together these twin aspects of the aftermath without relegating the latter to the status of the exceptional (which it is not) requires a careful delineation of the process, the performance, the writing, and the passage between these two orders of reality.

By reading legal documents, like the FIR and the judgment, along with the performance of the trial, I have shown how widely known and documented violence against women becomes an exaggeration and a contradiction. Shahana's case, once aligned horizontally with other Gujarat trials, is part of a larger story of how recurring forms of mass political violence become unaccountable before the law.

The journey of Shahana's case, its circulation and paper trail, its entanglement in the legal process helps us to understand the halo of silence around sexual violence in the Gujarat pogrom. The metaphor of silence and invisibility is hardly *innate* to practices of sexual violence. The silence or general invisibility of sexual violence cannot be reduced to well-worn ideas of shame and honor. The paper trail of police documentation and the making of legal evidence are equally important factors in understanding impunity around sexual violence.

Even as scholars and activists highlight, support and circulate testimonies of sexual violence, I suggest we need to investigate legal technologies of truth and ignorance, and categories that constitute evidence, interpret testimony and approve witnessing. In other words, the presence or absence of sexual violence does not rest solely on the victim, her subjectivity, and individual will. It is implicated in a whole network of legal processes that do not permit intelligibility or credibility to forms of violence that *target* women and their bodies.

CHAPTER 5

Chapter Five: What Kind of Hindu Are You? Everyday Techniques of Hindu**Nationalism**

How do Hindu nationalist activists ‘legalize’ and legitimize everyday violence against Muslims in Gujarat? By analyzing the daily activities of Hindu nationalist activities within a specific “riot-prone” neighborhood in Ahmedabad, I argue that public violence against Muslims is embedded in the performance of the “everyday state” in Gujarat.

By shifting our focus on Gujarat 2002 as an exceptional and unprecedented event, and violence as a breakdown of law and order to an analysis of the multiple routine ways in which Hindu nationalist activists anticipate, precipitate and perform anti-Muslim violence even in “normal” times, I go beyond limited and dichotomous understanding of state and society.

The Gujarat pogrom is widely understood as an unprecedented and exceptional event. However rendering the violence in 2002 as ‘exceptional’ obfuscates the precise ways in which nonstate actors, like militant Hindu nationalist organizations, are embedded in “the state” over time, and often work beside state agents in Gujarat.

In this chapter, I analyze the everyday techniques of violence used by members of the youth wing of militant Hindu nationalist organization, VHP (World Hindu Council), which is widely held to be one of the main perpetrators of the anti-Muslim violence in Gujarat 2002. What I call techniques of violence operate during periods of ‘normalcy’ when Hindu nationalist activists use certain well-known practices to achieve aims less

spectacular than pogroms and riots; for instance, producing Hindu sovereignty within a neighborhood. This helps us answer an important question: How was Gujarat 2002 possible? And also helps us understand the shape and content of everyday legality Gujarat.

Beyond the Exception

The perpetrators of violence against Muslims in Gujarat 2002 freely roam the streets of Ahmedabad today. Hindu nationalist activists and their leaders have publicly recounted the meticulous ways in which they looted and burned Muslim property across the city with complete impunity. This is the Gujarat paradox: the perpetrators of 2002 killed, maimed, raped, looted and attacked Muslims in broad daylight for everyone to see and take part in. State agents, especially the police, did not help the Muslims and sided with the perpetrators. If impunity in the aftermath of Gujarat 2002 rests on the relationship between perpetrators and state officials, then it is crucial to know what perpetrators do when they are *not* killing, raping, maiming and looting.

Activists, scholars, and journalists describe Gujarat 2002 as a “genocide” and “pogrom” to distinguish it from previous incidents of “rioting” in Gujarat and other parts of India. These terms are used to emphasize the scale and brutality of violence in 2002 compared to previous incidents of Hindu-Muslim violence. And yet, both old and new terms – the riot, the pogrom and the genocide – *separate* and *sequester* the attacks on Muslims from everyday life in Gujarat and they reinforce the unhelpful distinction between the state and society. Is such an analytical separation between the state and nonstate actors in everyday violence against Muslims viable? Or how do we distinguish between what is routine and what is exceptional in events associated with Gujarat 2002?

The statewide attack on Muslims was organized and performed with the help of grassroots Hindu nationalist organizations, but most explanations of the violence rely on executive decision (sovereign act to allow the violence by the chief minister of Gujarat) or communal ideology (historical and structural forces that exacerbate the antagonism between Hindus and Muslims). The most chilling and controversial explanation for impunity in the aftermath of Gujarat violence takes us back to the sovereign: the political leadership of the Chief Minister of Gujarat, Narendra Modi, who allegedly gave illegal oral orders in a secret meeting on the 27th February that Hindus must be allowed to vent their feelings in the aftermath of the deaths of 59 Hindu nationalists in Godhra. Such an explanation, irrespective of its veracity in the courtroom, reinforces a lingering exceptionalism in the analysis of Gujarat 2002, despite the well known, acknowledged, and extensively documented “complicity” between perpetrators and state officials in Gujarat 2002. It is easy to dismiss the violence against Muslims by acknowledging that Gujarat is after all the “laboratory of Hindutva,” or the only state in India where Hindu nationalists have been in power since 1995, with only a break of eighteen months.

While the complicity of Hindu right wing organizations, including VHP (World Hindu Council), RSS (National Volunteers Association) and Bajrang Dal (youth wing of the VHP) activists has been widely documented in commission of inquiry reports and eyewitness testimonies, such violence on the whole is still considered as exceptional and extraordinary. The question of complicity and connivance between perpetrators and state officials in Gujarat 2002 is fairly well known and documented; investigative reports, journalists, and civil society groups have documented the role of the Hindu nationalist activists leading and organizing mob attacks against Muslim life and property, with the

passive or active support of the police. As the shocking expose by the magazine *Tehelka* showed as far back as 2007, these perpetrators openly boasted about the attacks and bragged about the “official impunity” they enjoyed in Gujarat. One of the most notorious mass murderers, local leader of the Bajrang Dal, telephoned the “Home Minister” after the killings and went off to sleep after boasting about his attacks on Muslims living in the neighborhood.

In Gujarat, it is not so much the *identity* of the perpetrators that is a mystery. What remains puzzling is how state officials and the wider public looked away or participated in attacks against Muslims, while often well-known Hindu nationalist activists and criminals led groups of armed men; when the police did not attack Muslims themselves, they looked on passively, telling the survivors “we don’t have orders to save you.” While human rights activists have used this slogan to show how “policemen became criminals in uniform,” this comment actually masks entrenched structures of anti-Muslim violence in Gujarat.

In this chapter, I show that the connivance between state officials and Hindu-nationalist activists was neither exceptional nor extraordinary. It was not simply a question of political ideology (communalism) and passion (they were angry about the deaths of 59 Hindus) either, even if the Police Commissioner of Gujarat has said so. Even though Hindu nationalist politicians and activists capitalized on the Godhra incident, especially the brutal death by burning and asphyxiation of 59 Hindu nationalist activists – violence against Muslims in Gujarat is part of the “everyday state” and its popular legitimacy. I show that the violence against Muslims in Gujarat is processual: repeated, performed, tested and reinforced over time through mundane practices like building

illegal street temples, rescuing cows from Muslim neighborhoods, and producing pure “Hindu” spaces²³.

Certain well-established Hindu nationalist techniques (formalized and structured) of violence – for example the “communal mob” are used to intimidate, harass, and attack Muslims in Ahmedabad (which does not mean that these techniques are mechanical or simply Machiavellian). They may or may not involve physical force, but are used to assert Hindu supremacy in Gujarat. In my experience of fieldwork with Bajrang Dal boys, it became clear that these forms of violence rely on the coercive power of the police and are entangled with the everyday Hindutva state in Gujarat.

In order to understand what is arguably “exceptional impunity” – impunity in the face of obvious guilt – in the aftermath of Gujarat 2002, I begin my dissertation by documenting and analyzing the routine impunity enjoyed by Hindu nationalist activists in Gujarat. Gyan Pandey has analyzed “routine violence,” including the construction of categories like the majority and minority as processes that are as important as more spectacular events of violence. Similarly, I analyze structures of violence that do not lie so much underneath but beside spectacular violence like riots and pogroms.

In my analysis of Hindu nationalist activists, I explicitly move away from the heat and clamor of 2002 and its urgency and turn my attention to what was happening in Ahmedabad during the so-called post-conflict period or “normalcy.” In this chapter, I describe the narratives of militant Hindu activists in 2011, almost a decade *after* the

²³ Rescuing Hindu women from Muslim men is an important part of the everyday work of Hindu nationalist activists in Ahmedabad – which is linked to gendered forms of violence witnessed in Gujarat 2002. The mass, sexual attack on Muslim women is frequently cited as an important reason to call the violence in 2002 as “genocidal.”

Gujarat pogrom. It is during so-called “normalcy” that impunity for mass violence against minorities is produced, strengthened, and reinforced by Hindu nationalist activists and state agents. Gujarat 2002 appears exceptional only if you remove it from what happened before and after it.

In this dissertation, I use the distance between the event and its aftermath (the period of fieldwork and analysis) to reflect on long-term legal, illegal, political and state processes that endure and perdure – what may be called the conditions of possibility for Gujarat 2002.

There is rich cultural, historical and psychological explanations for the rise of Hindu nationalist ideology and Hindu-Muslim enmity in India; scholars have analyzed the role of history and myth in organizing a deadly cadre of volunteers who play an instrumental role in recurrent episodes of anti-minority violence across India (Brass et al). But their everyday practices are relatively understudied (For notable exceptions Valliani, et al). Perpetrators of chilling acts of mass public violence often appear in academic and popular literature as beasts and demons that overnight transform into blood thirsty mass murderers or join more spontaneous “communal mobs.” Subsequently, state officials use categories like the mob to paper over accountability and agency in police and legal documents.

Based on my fieldwork with a group of Bajrang Dal boys, members of one of the most fierce and deadly Hindu nationalist organization, I isolate three everyday techniques of violence that help us to understand how public violence against Muslims may be illegal but legitimate in Gujarat. Even more crucially for our purposes here, it shows how

impunity is embedded within the fabric of everyday life in Gujarat. I argue that such violence is “productive” because it allows modes of collective mobilization and Hindu solidarity, which can also take the form of a “violent mob” and even a “riot.” Such practices of violence are performed along with state agencies like the police are routinely engaged within a neighborhood to produce a certain Hindu sovereignty within a neighborhood. These techniques of violence, substantially draw upon, and are yet independent of the state-apparatus.

How do Hindu-nationalist activists position themselves and engage with the law and state officials on a routine basis? What can this tell us about order and state power in the aftermath of Gujarat 2002? By looking at small scale, low intensity, and everyday practices of militant Hindu nationalist activists, I contextualize Gujarat 2002 as part of an ongoing performance of Hindu sovereignty in Gujarat.

Bajrang Dal and the VHP

Newspapers, human rights reports, and even official commissions of inquiry have documented the role of Hindu nationalist organizations in 2002. As soon as the violence started on the 28th February morning, newspapers reported “Gujarat was virtually handed over today to frenzied mobs of the VHP and Bajrang Dal who left a trail of murder, loot and arson” (IE, 1st March 2002). The television media beamed live images of men wearing saffron bandanas (which carried the name of their organization) burning and looting Muslim shops across the state. Some activists attacked journalists but others posed for the camera with an occasional sword in their hand.

The state government supported a VHP announced Gujarat “Bandh” (strike) that led to the closure of shops and public transport across the state but “VHP and Bajrang Dal mobs had full control over the streets” (PUDR, 1). This pattern of public violence by well-known anti-minority groups, encouraged and abetted by the local government, is not unprecedented, but activists and scholars have pointed to the extensive “organization and planning” behind the violence in Gujarat 2002. Eyewitness testimony and media footage describe the same pattern of killings, murder, rapes, and looting: VHP and Bajrang Dal activists, frequently wearing saffron colored bandanas and scarves, shouted slogans and led the attacks on Muslims.

Seeking to avenge the deaths of 59 Hindu nationalist activists attacks in Godhra, VHP and Bajrang Dal leaders did not hide their intention, but couched it in the language of spontaneous “Hindu” grief and anger. “The violence during the bandh was a natural outpouring of the anger and grief over the Godhra massacre,” said the Vice-President of the VHP. Pravin Togadia, the more strident International General-Secretary of the VHP was forthright, “Hindu society will avenge the Godhra killings. Muslims should accept the fact that Hindus are not wearing bangles. We will respond vigorously to all such incidents” (CC, 16). Togadia’s reference to bangles, traditional ornaments worn by women in India, is aimed to create a crisis of masculinity among Hindus. Those Hindu men, according to this narrative of Hindu nationalism, who do not participate in violence against Muslims, can then be labeled as effeminate and traitors.

The organizations also published and circulated thousands of pamphlets in the aftermath, which sometimes mentioned the name and full address of the author, seeking contributions and life subscription memberships for the VHP, which is registered with

“the income tax and charity commissioners so you can get 50% deduction under 80G.” The VHP asked for “15,000 rupees for each family of those arrested. Give the traitorous Muslims a taste of patriotism by boycotting them socially and economically” (CC). In a tape recorded interview, the Chairman of the VHP told the Concerned Citizen’s tribunal that the “VHP has formed a panel of 50 lawyers to help release the arrested people accused of rioting and looting. None of the lawyers will charge any fees because they believe in the RSS ideology” (A report to the nation, pg 9).

VHP’s militant youth wing, Bajrang Dal’s in the pamphlet titled “Specially for Hindu Youth” announces that “all over the country, you see aimlessness and anarchy because Hindu, Hindu culture, Hinduism, and Hindu religion are being continuously eroded...And an Islamic jihad is being carried out to establish an Islamic state in Hindustan.” And “every young man must join Bajrang Dal today because “it is the largest group of Hindu youth” and “in eight months it has saved 100 Hindu girls from the irreligious;” it has a presence in all “3321 villages in Gujarat,” where it makes an army of “20 boys in every village” and “gives physical training to the youth for self-protection and protection of Hindus.” And this is one of the more sober pamphlets because others (which are anonymous) exhort their readers to burn, rape, kill Muslims; hardly veiled attempts to wage a war against minorities in the name of Hinduism.

Veteran Gujarat scholar and political scientist Ghanshyam Shah identifies four types of actors in the mobs of Gujarat 2002. The organizers plan and strategize before the attacks. The “skilled and experienced personnel constituting the core who have mastered the craft of breaking shutters and doors, pulling down ceilings and walls, using electrical devices for setting fire and burning people, using swords and weapons.” He adds that the

leaders of the groups [VHP and RSS] mostly belong to upper and middle caste, and “some of them are professional goons routinely involved in criminal activities.” The third group are the men I discuss in this chapter, they “comprise of agent provocateurs engaged in spreading rumors, shouting slogans instigating and directing mobs. They are activists of the various Sangh Parivar [Hindu Nationalist Conglomerate] outfits.” And then there is the wider public, or the “fourth segment who lose their individual identity and submerge into the mob” (Shah in Varadarajan, 419). This four-part categorization, like Paul Brass’s theory of “institutionalized riot systems” [which include specialists in “riot-production”] helps to understand the structural role of Hindu nationalist activists at the heart of collective violence in India. Not only in Gujarat 2002, for instance, Shah’s categories are “based on his observations of 1969, 1973, and 1992 in Gujarat.”

The VHP (World Hindu Council) and its youth wing, Bajrang Dal (Hanuman’s Army), are part of the larger family of Hindu nationalist organizations called the “Sangh Parivar,” of which the oldest organization, the Rashtriya Swayamsevak Sangh (RSS or Association of National Volunteers) was started in 1925. The VHP (established in 1964) started a youth wing (Bajrang Dal) in order to facilitate its transformation from a fringe group of the larger Hindu nationalist family into mass-based grass root organization in the 60s and 70s (Katju 335). Their stated objectives, printed in the header of the pamphlets I quoted above are threefold: service, defense and culture. In 1996, they made the cow-protection movement their main agenda, along with organizing Hindu public rituals (336).

Political leaders of the BJP (political wing of the Hindu right) have long declared Gujarat as the ‘laboratory of Hindutva’ in order to publicize the spectacular and unbroken

ascendancy of the Hindu nationalist movement in the state since the late 1980's, and especially since 1995, when except a period of eighteen months, all Chief Ministers of Gujarat have been BJP members.

Since Indian National Congress's (The Indian National Congress) waning power in the 1980s, scholars have described the growth of the Hindu nationalist network of organizations in the government, local municipal councils, and even village level organizations across the state. Ward Berenschot in his insightful ethnography of Hindu-Muslim violence in Ahmedabad focuses on "the everyday mediation of the state" and argues "the control of Hindu-nationalist organizations over the distribution of state resources, and their capacity to help people gain access to the state, have greatly contributed to the polarization of the Gujarat's society along religious lines" (2011:72). This broader political context, I argue, is encapsulated at the level of the techniques of anti-Muslim violence used by the Bajrang Dal.

The Concerned Citizen's Report on Gujarat 2002 quotes Professor Shastri, 96-year-old Chairman of the Gujarat unit of the VHP, saying in a tape-recorded interview "what had to be done, had to be done... The rioters were well-bred Hindu boys... Our boys were charged because in Godhra women and children were burnt alive. The crowd was spontaneous. All of them were not VHP people." Responding to the brutality of attacks against innocent Muslims, he said, "The youngsters have done even those things which we don't like. We don't support it. But we can't condemn it because they are our boys. If my daughter does something, will I condemn it?"

Meeting the “Boys”

On a cool February morning in 2011, I met Kunal at the City Civil and Sessions Court in Ahmedabad, where I was attending 2002-related trials. I was with an old friend who was helping me understand the schedule of the lower courts in Ahmedabad. Every morning I went to a different court, met the relevant JF lawyer, paralegal and the witness, and waited to be called into the courtroom.

After reaching the court in the morning, I realized that the judge was on leave yet again, and stepped out to get a cup of tea. As my friend and I left the main court building and walked to the teashop, he suddenly shouted greetings to a young man. Maybe in his mid 20s, the man walked toward us with a broad grin and shook our hands vigorously. He had closely cropped hair and wore tight-fitting shirt and jeans; the top three buttons of his shirt were undone and his palm were thick and muscular; huge biceps encircled his arms and he stood in front of us with his chest puffed out, as if he had simply paused to look at the mirror in the middle of his workout. “This is *the* Kunal that I have been meaning to introduce you to for so long, and finally we bump into him!” said my friend. The young man beamed at us approvingly. We decided to meet later at leisure in the evening. Before we parted, my friend asked him what was he doing in court. “Oh I just came to help [*seva*] someone in my neighborhood.”

This was how I met Kunal, a warm and affectionate young man who is also a Bajrang Dal activist. During fieldwork, I went on long walks with him and his younger brother; we ate street food with his friends and spend hours sitting on a public bench outside a makeshift temple discussing life and politics late into the night. He was also my

closest link with the “other side” of my decade long engagement with Gujarat – a VHP activist, one of the main perpetrators of the violence in 2002.

My initial serious attempt to talk to Hindus about Gujarat 2002 was in 2005, part of a research project on narratives of violence in a *mixed* neighborhood of Dalits (ex-untouchable caste), Muslims and Hindus in the outskirts of Ahmedabad. In response to my questions about their Muslim neighbors, Hindus said they don't cross the “border” into Pakistan referring to a field that marked the separation between Hindu and Muslim areas. In stark contrast, since my days as a volunteer in relief camps, I had easy access to Muslim colonies and survivors. As soon as Muslim survivors found out that I was not from Gujarat, I could tell them openly that I was a Hindu.

Muslims were eager to tell their stories to as many people as possible, especially English educated types, who seemed to be in a position to help them; their Hindu neighbors were wary of “outsiders.” A few months after the violence subsided, the Chief Minister of Gujarat, Narendra Modi, led a political procession called “Gaurav Yatra” [Tour of Pride] to tell the world about Gujarat's pride and that “Gujarat was not a state of murderers and rapists.” His target was always the “outsider:” NGOs, activists, and human rights workers had besmirched Gujarati pride and identity by documenting anti-Muslim violence and demanding punishment for the perpetrators.

The World Hindu Council (Vishwa Hindu Parishad [VHP]) and its youth wing, Soldiers of Hanuman (Bajrang Dal) have an elaborate network of activists and leaders across Gujarat and India. Even though these organizations had an official and public institutional presence (offices, vehicles, posters, literature, and events) in the state,

meeting them was extremely risky and difficult for me in the immediate aftermath of 2002. There were multiple reasons why I was not successful in making informants within Hindu nationalist organizations in the initial years of fieldwork in Ahmedabad.

My friends warned me of physical violence if members of these militant organizations found out that I was associated with relief, rehabilitation and justice efforts for Muslim survivors. My work with Justice First, an NGO helping Muslims fight legal cases, put me in a delicate position regarding what kind of people I could be seen with in Ahmedabad. Second, the magazine *tehelka* published an explosive investigative report²⁴ that contained chilling narratives of VHP and Bajrang Dal members bragging about raping, burning and killing Muslims with impunity. After this these activists began to look at all journalists and researchers with suspicion; especially because the reporter who secretly recorded these confessions, which were admitted in court as evidence, posed as a PhD researcher! Lastly, I had serious moral qualms working with the “perpetrators” of violence in a city that I had been visiting for almost a decade as a relief volunteer with NGOs that were trying to help Muslims rebuild their life.

In the face of such ethical and methodological obstacles I had given up hope of working with members of Hindu fundamentalist organizations until my chance meeting with Kunal. It was 2011, nine years had passed since I first arrived in Gujarat, things were different now, or at least that’s what I thought.

My Gujarati friends briefed me that I should never meet these activists in a group, of course never tell them about my work with JF, but also never meet any of the

²⁴ Tehelka

leaders. So I planned to “hang out with the boys” in small groups of one or two activists at most. With these instructions in mind, I drove my bottle green Luna to Kunal’s house in the old city, the eastern part of Ahmedabad, in a neighborhood I call Raipur²⁵. He was sitting with a friend, who he introduced as Raju. His house was in the middle of a busy intersection; we had to shout above the manic honking and screeching traffic. “Let’s chat at a peaceful spot like *our* Hanuman temple, it’s only a ten minute walk from here, and we can sit there at leisure.”

The Rule of the Mob

Raju, Kunal and I walked down a small winding street that opened into a major street and stopped at a small white hole-in-the wall mini street temple. It faced a row of bustling shops across the street. We were on a busy street that connected the eastern and western parts of the city. The street glistened with fresh tar. The “temple” was a tiny room with space barely enough to fit three persons, three tiny steps led to its threshold, and there was a bench next to it. Respectfully, as if we were inside a “real” temple, Kunal and Raju removed their shoes and kept it a few feet away from the bench. A small red flag on top of the temple flapped in the cool evening wind.

A man dressed in a Hindu priest’s clothes was sitting on the bench. As soon as he saw us approaching, he shifted to one corner making space for us; it was a tight fit but we

²⁵ Raipur is a ‘riot-prone’ neighborhood, where Hindus and Muslims live next to each other, but in segregated neighborhoods of Raipur and Jaliwadi respectively. According to the newsletter of the BJP (the current Hindu right government in power), this was an erstwhile Hindu majority area that has significant number of Muslims living there now. The fear of Muslims ‘taking over’ a Hindu area was repeated by the Bajrang Dal men, despite the fact that a Hindu nationalist BJP candidate won the local municipal elections from this ward, while I was doing fieldwork there.

squeezed in. A small shrine with an idol of the god Hanuman dressed in all red stood inside the temple with a couple of unlit incense sticks and a half a coconut.

Such street temples dot the city of Ahmedabad, many smaller than this one, and anthropologist Ghassem-Fachandi nicely captures their ubiquity by calling them “mushroom temples” (238). This one, like many others, is an “illegal” construction. Street temples “seem to have a will of their own” because “they chaotically expand into the middle of streets and on street corners...impede traffic or recede back to the margins at the side of the street” (Ghassem-Fachandi: 238).

After we exchanged polite greetings with the priest, he gave us offerings [*prasad*] of sweets from the temple. Kunal handed some money to his friend and told him to bring a round of tea for us. Sitting back soaking in the light evening breeze, Kunal told me the history of “their” temple. Kunal and other Bajrang Dal members rebuilt it after it was demolished in the process of widening the street. There were no plans to build a new temple here until the Bajrang Dal intervened. Kunal pointed to a few rocks placed unevenly in a circle around the temple. They had seemed more or less unremarkable to me until Kunal explained their significance.

Kunal: You see these large stones around the temple, we put them there so that no Miyانبhai [literally Muslim brother, but used pejoratively in this context] can park his scooter or spit and dirty the vicinity of the temple. We built this temple with our hands! We shifted it from there (pointing to a space where the street must have ended before it was widened) to here when the street was being

widened. The BJP (political wing of the Hindu right) councilor²⁶ here said there is no way you can have the temple at this spot, remove it to Arjun Park. So we entered his office ready to fight him saying, what kind of Hindu are you who can't protect his god? He offered us two bags of cement for the reconstruction when we wanted ten! We said thanks, but no thanks.

The first thing that strikes you about Kunal and the boys is that they are ready to fight. This is both a part of their self-representation, but also a threat and technique, cultivated daily, to get things done. Kunal's antipathy to Muslims is not extraordinary; it is a well-known aspect of the Hindu nationalism's official ideology (references). What is remarkable is how "the boys" use the "mob" and the threat of physical violence to arm-twist an elected politician, who belongs to the same Hindu nationalist family of organizations, to bend the law.

Bajrang Dal members use certain techniques to "get things done" – it was mass attacks on Muslim life and property in 2002, but at other times, it can be building temples in *mixed* neighborhoods (where both Hindus and Muslim live close to each other). But certain techniques of violence persist.

They form a group (the anonymous "mob" of the riot?) and force their way into the office of a locally elected councilor, and question his claims to being a *real* Hindu leader or politician. Their direct target, in this case, is not a Muslim but a Hindu politician. Their threat has the desired effect: the temple is built and the councilor tries to placate them. While there may have been several reasons for the politician to not want a

²⁶ Local elected representative in the Ahmedabad Municipal Corporation (AMC).

temple there, they said it was probably because this is a very busy street, and creates traffic problems.

Why *this* temple? The temple occupies a strategic location within Raipur. It is on one side of a main street that faces Muslim shops and houses. Across the street lies “their” area: a predominantly Muslim neighborhood of Jaliwadi. The temple marks the threshold or “border” between the two areas. This is a common and widespread function of street temples in Ahmedabad, especially in the Eastern part of the city. When we speak about his Muslim neighbors, Kunal stresses that ‘Hindus’ are in a minority in this area. Despite the fact that a Hindu politician represents this municipality in the state assembly, there is a large Muslim locality, Jaliwadi, which is dotted with mosques, Muslim businesses, charitable organizations, and residential areas.

Gyan Pandey has argued that the construction, maintenance and reproduction of categories like majority and minority is a part of “routine violence.” As scholars of Hindu nationalism have shown the language of a ‘vulnerable Hindu majority’ is an important part of the rhetoric of Hindu nationalism. The rhetoric of Hindu nationalism consistently represents the Hindus, a ‘vulnerable majority’ to take the rights that belong to a ‘majority.’ This is how Raju justified the need for Bajrang Dal:

If you slap one Muslim, all Muslims rally around but we Hindus don't have any such organization, so we have this group of boys.

According to the Bajrang Dal, Hindus are not only a minority in Raipur, but they also lack the essential solidarity of the Muslims. The language of majority and minority is not just rhetoric that justifies violence; the mentality of a besieged minority is actively

produced and reproduced by building street temples within a specific neighborhood and locality. The production of exclusive *Hindutva* space, which is both in need of construction and of protection from Muslims, is a part of Bajrang Dal's everyday work. We get a glimpse of this when Kunal explained why rocks must be used to cordon off the space leading to the temple.

While most of the scholarship on Hindu nationalist activists has stressed their ideology and subjectivity, I am more interested in the techniques they use to establish and assert their impunity on a daily basis; their activities that position them *in a special relationship* to the law. I argue that part of this special relationship with state officials and the law is that of impunity and immunity.

As I got to know Kunal and his boys better, a motley crew of young Hindu men in the early twenties living in Raipur, they would call me in the evening after finishing work, to come and relax with them near the temple. Instead of a plain hello, they said “*Jai Shri Ram*” [Hail Lord Ram] when I answered their telephone calls.

Despite his willingness to pick a fight, Kunal was polite and warm with his neighbors, and bowed respectfully in front of every temple we crossed on our walks. If you saw him on the streets of Ahmedabad, you could hardly distinguish him from other groups of young men who roam the streets in the evening, drinking endless cups of tea. Yet he is also a member of the ubiquitous “unknown communal mobs” of Ahmedabad that figure in everyday speech, official documentation, and eyewitness testimony. The mob and its members are in the foreground of the city: neither invisible nor visible.

Bajrang Dal boys gather and mobilize around certain key sites, like temples, by which they rehearse techniques of violence, of which the most notoriously difficult to pin down is the “the mob.” Activists, scholars, police, judges, and even the leaders of Hindu nationalist groups identify the “communal mob” as the main agent of communal violence. My argument is that the “communal mob” is not spontaneous nor exceptional because it is a technique of violence used by groups like the VHP and Bajrang Dal to produce a certain kind of locality and structure of feeling on a routine basis. The ability to mobilize collectively is both an end (threaten the politician) and a means (build Hindu solidarity).

Kunal, and other Bajrang Dal members lived with an overwhelming sense of being a minority in the Muslim-majority area of Raipur. They lived as if they were under siege from all sides. At one level, this allowed them to justify their violence as defensive, as the last resort of a helpless minority.

Bajrang Dal’s violence is neither irrational nor spontaneous even in “normal times” – outside the context of mass violence; they choose targets, represent them within Hindu nationalist discourse, and most importantly for my argument, *mobilize as a mob* to give themselves immunity and impunity. The mob is a recurrent technique of action (that does not *always* end in physical violence) but masks the agency of individual perpetrators of violence.

Spaces of Violence

Spatially it matters that Kunal and his boys live adjacent to the Muslim majority neighborhood of Jaliwadi. In fact it is remarkable how close Muslim and Hindu

neighborhoods are to each other in Raipur. In evening walks with Kunal and his friends, we would walk past mosques and Muslim owned businesses that was a lane away from Hindu houses. Such a 'mixed' topography within the compact density of the architecture in the old city of Ahmedabad makes it 'impossible' for Bajrang Dal members to feel secure and inviolable.

Nitin is a Bajrang Dal activist and a migrant from M.P. (a state in Central India), and like his grandfather, ekes out a living selling street food. While taking me to visit Nitin's street food stall, Kunal showed me a bustling street – "from here (referring to an street intersection) it's *all* Muslim area. Nitin worked in a *total* Muslim area without any problems." On reaching his street cart, Nitin served us some fried snacks and described his work place as a site of great danger because his customers are mostly Muslims.

"Even in 2002 (at the height of the violence) I wanted to come and sell food at my regular spot here but my father said no... but they [Muslims] can't even move a hair on my head...I came here during the riots."

The relatively unfettered porosity of the architecture of the old city or the Eastern part of Ahmedabad, especially where neighborhoods where streets are narrow and houses densely packed next to each other, does not allow one to remain anonymous and invisible, as one might be in parts of the new city. Even if Bajrang Dal members have succeeded in marking Hindu spaces by making street temples, there is no way for them to prevent the flow of people and goods across such boundaries. Like other neighborhoods in the Eastern part of Ahmedabad, there are unofficial "borders" that mark the end of a

Hindu area and the beginning of a Muslim area and vice-versa. During the “riot” these spaces become the thresholds of violence.

Parvis Ghassem-Fachandi distinguishes two kinds of “sensitive city spaces” in Ahmedabad. Mixed areas where Hindus and Muslim share physical space, rub shoulders, buy from each other, and cross each others houses and shops. And where a “predominantly Hindu area is immediately adjacent to a predominantly Muslims area” (231). Raipur is the second type of neighborhood but the border zones are also the areas where Kunal and his boys take evening walks and drink cups of tea, sometimes right under a mosque.

It is unhelpful to think of Gujarat as a “state of exception” because such violence is also anticipated and precipitated with alarming regularity in specific areas; what Shubb Mathur writes about Hindu nationalists in the western state of Rajasthan can also be said about Gujarat, “one can easily predict where the attacks will occur, who will be targeted, the modus operandi of the rioters, how the police will react; who will be arrested and how they will be charged – in short all the pieces are in place before the violence can happen” (reference? Paul Brass?). I deliberately never asked the boys about what they were doing during Gujarat 2002. Frankly, I didn’t think there was much of a mystery there. But that didn’t stop them from showing me their “work’ as we strolled through Raipur.

Kunal: Look – pointing to a mosque on the “border” of the Hindu neighborhood – my boys and I burned this mosque in 2002. This is a completely Muslim area. There are Muslims everywhere here. During a riot (dhamaal) you can’t step into this place. We stay in our area, locked down.

Kunal both brags about the mosque they burned in 2002, while we walk past it, and at the same time expresses the danger of straying into a Muslim area during Hindu-Muslim clashes or a *dhamaal*. In fact, what I describe as techniques of violence against Muslims in this chapter are also practices by which the locality is produced and reproduced as vulnerable to certain forms of violence that are later described within the language of ‘rioting.’ In sum, I argue that rather than assuming the boundedness of Hindu and Muslim as categories that preexist the techniques of militant Hindu nationalism, space as such is the target of the Bajrang Dal.

By delving into the practices of violence, I understand violence as not simply the delusional fantasies of a wayward group of ‘lumpen’ youth but as the mode of performing the hard labor of producing “Hindu-Muslim” antagonism and Hindu power. Not only so-called ‘communal riots’ but also everyday practices of establishing illegal temples or rescuing cows require the cooperation of a wide variety of actors (Paul Brass reference).

‘Hindu’ sovereignty in the mixed neighborhood of Raipur, what Kunal calls a ‘Muslim majority area’ is enacted through everyday practices of violence. Crossing an intersection where two streets intersect each other (*char rasta*) Raju turned toward me and said, “if you try to cross this street during violence, they’ll knife you.” Bajrang Dal activists keenly anticipate violence of the kind witnessed during Gujarat 2002 –stabbings, arson, stoning, and mob violence. Mosques, temples, intersections, entrances, and gates – are both targets and sites of violence.

Temple # 2

In the previous section, I analyzed the role of Bajrang Dal activist in building a street-temple at the border of Raipur and Jaliwadi, predominantly Hindu and Muslim neighborhoods respectively. In analyzing the construction and resurrection of an “illegal” temple, I showed how Bajrang Dal’s everyday work negotiated and blurred the distinction between the illegal and legal. But I realized that temples even within the Hindu area could have a fraught history because they encroach on private property.

Every evening the boys and I met at the same place: a small wooden cot on the small lane in front of Kunal’s house. It was a good spot to feel Ahmedabad’s cool evening breeze and watch the world go by; which is precisely what Kunal and sometimes his family did in the night. If he came late from work, or was not around, I chatted with his brother and father; sometimes he was just a phone call away, chatting with friends near a favorite teashop.

Next to the house a narrow meandering lane led into a labyrinth of small one or two room houses that are called *chalis* (slums). The lanes inside the slums are extremely narrow and impossible for an outsider like myself to breach or navigate. Kunal led the way through narrow entrances, which acted almost like gates. On both sides of these narrow lanes, small rooms beckoned us with dangling naked bulbs and the hiss of televisions.

Kunal showed me “his area,” including his extended family and other Hindus. Even though it was late evening, dinnertime, some men were still drinking tea, but most women squatted on the floor and cooked dinner. The aroma of hot bread wafted through

the narrow lanes, and as soon as the women spotted Kunal, they cried, “Hey, join us for dinner!” Small children, followed us, repeating his name like a chant, ‘Hey Kunal, Hey Kunal.’ He pointed embarrassedly at their obvious poverty, “Look at the condition of our people.” Within his neighborhood, he was no longer the macho street fighter but a caring neighbor. At one point he paused and introduced me to his uncle.

This is my uncle, and he too is very pious [bhagat]... Muslims surround the entire colony, but we only have small thatched roof houses, mere huts... But look around us, they [Muslims] have towers [high-rise apartments] and during violence they throw rocks and petrol bombs at us, but our stones can't reach them...

As I look around, I saw high-rise apartments, not posh but obviously better than the “huts;” indeed “towers” surrounded us. Kunal’s trope of Hindus as a besieged minority gain force when he inscribes us inside this landscape; small huts surrounded by bigger, more powerful Muslims. Within this perspective these small huts pale in comparison to the bigger, modern, and obviously wealthier houses of their Muslim neighbors. Inside the multi-storied apartments, I saw a few rooms lit in harsh white fluorescent light, maybe even a silhouetted figure. I imagine this neighborhood during violence. But a woman’s voice forced me to look down and I saw a face wizened and shrunk with age, and she said, “We are completely surrounded by Muslims.”

Finally Kunal and I reached the end of the lane, the center of the *chali*. Kunal pointed to a knee-high street-temple in the middle of one lane. The caretaker of the ‘temple’ was hailed, and after exchanging greetings, Kunal asked him to tell us the story of the temple.

Inside the structure, a small Hanuman idol flickered in blue and red light. The caretaker explained that the temple is of recent origin, and like the previous one, it too has a controversial past. A fellow Hindu neighbor contested its construction next to his house; he disapproved ‘wastrels’ gathering near his house (presumably boys like Kunal) who created a ruckus (*lookhagiri karo cho, shor karo cho*). When the boys didn’t listen to him, he slapped a legal notice on the structure because it was after all, like the previous one, “illegal.” But the Bajrang Dal resolved the situation:

We (Bajrang Dal) put a lot of pressure on him. The PI (Police Inspector) also told him, ‘What man, you are Hindu, and you protest against a temple?’ The PI was a Muslim at that time but he still supported us, he told the complainant, ‘What kind of Hindu are you?’ In this way, the matter was “resolved.”

While Kunal never explained how he and his boys “pressured” the man who didn’t want the temple, I want to emphasize the everyday entanglement between state officials and Bajrang Dal activists. Notice the language “What kind of Hindu are you?” spoken by the policeman. Regardless of whether the Muslim Police Inspector actually said those exact words, Bajrang Dal was clearly successful in securing the temple, despite its patent illegality.

This example of a *Muslim* police inspector ‘still supporting’ the Bajrang Dal to break the law in the construction of an illegal ‘temple’ is not a conflict between the power of the state and the everyday work of the Bajrang Dal. Instead we can begin to understand the widespread state complicity in the 2002 violence as part of the techniques through which state officials, perhaps over long periods of time, become a part of a

Hindu nationalist agenda. In sum, the techniques of violence used by the Bajrang Dal shows that their routine work, even outside those activities that target Muslims, is already a part of the state apparatus.

This is another illustration of the fact that the everyday activities of Bajrang Dal members are inextricably bound with state officials on the ground level itself; it is no coincidence that because of the anticipation, production, and staging of violence, Bajrang Dal members need to build a good relationship with police officers at the grassroots or neighborhood level.

It is not useful to think in terms of some version of a Weberian fantasy of the state having a monopoly over legitimate violence, instead both examples of Bajrang Dal's activities, even more remarkable because they target fellow *Hindus*, build on certain forms of social legitimacy (a Hindu can never oppose a temple) to blur the distinction between the legal and illegal. These forms of power are state and non-state, licit but illegal, performed in the public with the support of state officials, and as becomes clearer later, encouraged and supported by Hindu nationalist political parties.

Rather than aligning the work of the Bajrang Dal *against* the state, or as an attempt to usurp its monopoly over violence, which maintains the illusion of the state as an autonomous entity hovering above society, I have analyzed techniques that allow the work and language of the Bajrang Dal to become indistinguishable from that of the state apparatus.

Parvis Ghassem Fachandi's (230) analysis of police posts [?] further underscores my point: it shows the crucial role of the police in Hindu Muslim relationships at the

neighborhood level. Hindu-Muslim relationships are not binary oppositions: “The police are incorporated as precarious players in moral, legal and political transgressions” (230). This chapter analyzes precisely *how* the police are “incorporated” into militant Hindu activities of performing Hindu sovereignty, piety, and aggression, and its effect on how I conceptualize impunity in the aftermath of Gujarat 2002.

The story of these two illegal but not illicit temples is important because it gives us a glimpse into the multiple regimes of illegality and legality operate in the establishment of Hindu sovereignty in contemporary Gujarat.

I have argued that the construction and maintenance of street temples is not only an important ideological aspect of Hindu nationalist ideology; their *making* and *maintenance* are an important part of the production and legitimacy of impunity in the everyday. Their visible and public presence may announce that the space around them is Hindu, and for Hindus alone, but it is also the material embodiment of the truth that Hindu nationalist activists share a special relationship with “the state.”

Cow Protection

Once Bajrang Dal’s techniques of violence are conceptualized as modes of power inextricable from the “everyday state” in Gujarat, the synchronization and complicity between the police and perpetrators in 2002 is hardly extraordinary. Like the spontaneous “Hindu revenge” orchestrated by them in 2002, Hindu nationalist organizations depend on the production and reproduction of the feeling of Hindu vulnerability that justifies their violence against Muslims.

The protection of cows is an important goal of the VHP, but it is part of a longer arc of Hindu nationalist movements to incorporate diverse castes, sects, and localities into an abstract “Hindu” community. Political agitations to protect the cow in the late nineteenth and twentieth century in Northern India are “the most researched examples of religious or ‘communal’ violence” (Gould 70). The cow-protection movement successfully combined “various types of diffuse resentment into a sharper focus organized around a dense metaphor, the *gau mata* (mother cow) threatened by the British and the Muslims (Hansen: 38). Gyan Pandey has furthermore linked the cow-protection movement to the construction of communalism in the 19th century, and the lower-castes’ use of the movement to assert a higher status. These dynamics are significant because most of the Bajrang Dal cadre, including Kunal and his boys are poor lower-caste men (references?).

One evening, I was sitting with the boys at the Hanuman temple and Raju recounted a recent Bajrang Dal operation wherein they rescued cows from the clutches of their Muslim neighbors:

Raju: Just two weeks ago, we saved dozens of calves²⁷ from the Muslim area in front of us. You see these rows of shops in front, all these shops, and the houses behind them are owned by Muslims. You know for me, or for us, a cow is like a Mother but for them it’s food [gau mata che pun enkay liye khorak che]. Have you seen a printing press? There is a blade that cuts the paper into two halves, similarly they have an automatic machine where the blade drops down and simply

²⁷ The right-wing BJP government in Gujarat banned cow slaughter in a controversial decision on October 2011, some months after the incident mentioned here. As I write this, the Home Minister of India, wants to to ban cow slaughter in the whole country.

chops the head off. Then you can clean it for food etc. It would give you goose bumps if you saw it...

We made a group and went into their houses and collected all their calves – we kept calling the police and recovered many calves before the festival of Eid [referring to the feast to mark the end of Ramadan, a month of fasting for Muslims].

M: Did you not face any confrontation?

Raju: Of course we did, but we had police protection. The police support us – the PI (police inspector) – knows we are from the VHP and do this work, so he helps us. If for some reason he doesn't then we call our big leaders who sit at Mahalaxmi²⁸ and give him [police inspector] the phone...

This rescue mission is *supported, if not organized* with the Gujarat police. Raju or the boys don't any irony is using "police protection" to save cows from their Muslim neighbors. The message is clear: it is the responsibility of a (Hindu) state to protect cows and prevent cow slaughter. The point to underscore is the technique by which the Bajrang Dal secure the complicity of state officials in everyday violence against Muslims.

One evening I saw Kunal was busy chatting with two men when I reached his house. He saw me from the corner of his eye, but uncharacteristically kept chatting with the men. The three of them were leaned on a motorbike and chatted for a while. Kunal smiled occasionally and the men gently touched his shoulder. Both men were taller than

²⁸ Mahalaxmi refers to the well-known street on which the VHP has its main office in Ahmedabad.

Kunal, fit but not well built like him, and looked several years older than him or any of the boys. Strangely, he didn't ask me to join them. I waited on the cot outside and chatted with his brother.

Kunal left the men for a moment and rushed to greet me; he apologized for making me wait, asked me to sit and relax, and before leaving me, whispered conspiratorially with a hint of pride, "some policemen are chatting with me, they give us very good support so I chat with them. One of them is the API (Additional Police Inspector) of this whole area." I looked at the two policemen again; they were dressed in plain clothes and leaned on their unmarked motorcycle. When Kunal returned, I used the opportunity to ask him directly about the police.

M: Do the police meet you regularly? Do they participate in the VHP activities?

K: No, they can't join us because it's a question of their job. But they support us in their hearts (smiling). They even tell us, go create a disturbance (dhamaal) there; we'll support you. You remember the recently concluded Bakri Eid festival... Remember we told you how we saved so many calves?

M: Yes, I remember...

K: Right... did you know that during the festival of Bakri Eid they [Muslims] cut many cows along with lambs? Anyway, we called the police before we went to save them... we told them x, y, and z – these are the spots where we're going. Then we surrounded them at the spots and led them out with police support.

At least two important aspects of the relationship between the police and the Bajrang Dal members emerge here. First, the Bajrang Dal is able to do their work with impunity because of the larger social and political legitimacy of Hindu nationalism in Gujarat. Second, the cow-rescue missions are *organized* with the help of the police, even though it is the Bajrang Dal that leads the rescue mission. The police for the sake of their “job” must maintain an appearance of being independent. Of course it was different in 2002; Muslim survivors mentioned murderous mobs roaming the streets of Ahmedabad chanting “The inside story is that the police is with us” (*Andar ki baat hai, Police hamare saath hai*) HRW, 2002.

On a walk through the ‘Hindu areas’ of Raipur, Kunal shows me a mid-construction abandoned apartment – disputed property – adjoining the entrance to a lane that leads inside the labyrinthine slum colony. It’s freshly constructed but clearly abandoned before completion. The quality of construction and its architecture marks it as a property that “belongs to them, the Muslims” – it is much bigger and better constructed than the thatched roof huts around it. But no one lives there. It belongs to Muslims, but the Bajrang Dal couldn’t allow a Muslim house to be built so close to Hindus area because it was too dangerous!

When the owners tried to move in, according to Kunal, the Hindus living next to the disputed house got into a scuffle with them; they didn’t want any Muslim hooliganism (*goondagardi*). With the help of their “boss,” a local BJP politician, the Bajrang Dal secured a “court notice” (to halt further construction). When the legal owners moved in – they called the police. The police inspector and D-staff (the inspector appointed team that investigates crimes lodged within a police station) arrived promptly

to prevent the Muslim owners from occupying the apartment, because Kunal told them, “we can’t solve this problem, and it may turn into a Hindu-Muslim riot!”

This episode marks the blurring between the illegal/legal and licit/illicit that operate in the realm of Hindu-Muslim relations in Gujarat. The police assist the Bajrang Dal in avoiding a “communal riot!” Rioting emerges clearly within a structure of what Ward Berenhot calls “maintaining relations” because the “networks engaged in the organization and instigation of violence are to a large extent also patronage networks who help citizens deal with state institutions” (2009:431). In his insightful study Berenhot shows that there is an “overlap between the network of actors that organize communal violence and the local patronage channels that provide access to the state”(431). In the context of my chapter, which does not analyze patronage channels but techniques of violence, I show that impunity in the aftermath of Gujarat 2002 must be understood not simply as an effect of political ideology (communalism) but also one that is prepared and enabled by the everyday practices of Bajrang Dal.

The Bajrang Dal *calls the police* to stop the legal occupants of the house from taking possession of their property (the legal notice justifies their intervention?). Like the construction of illegal temples, the rescue of cows, this act of protecting Hindu neighborhoods from “Muslim encroachment” uses identifiable actors mobilized into a mob, which anticipates and threatens “communal violence,” but acts with police protection and knowledge.

Police officials, a “court order,” and local politicians are galvanized by the Bajrang Dal to get things done – for instance disallowing Muslims from buying and

occupying property next/in to Hindu neighborhoods. In this strange story where the Bajrang Dal threatens the police with communal violence, what is relevant for my purpose is that Hindu militant organizations have developed techniques of violence, the most spectacular of which is perhaps the ‘riot’ that helps us to rethink the production and performance of impunity in Gujarat.

In sum, such complicity between the police and the Bajrang Dal is not exceptional in the everyday life of Hindu nationalist rule in Gujarat. The extraordinary or exceptional violence and impunity in this sense flow out of Hindu nationalist activities practiced and perfected during ‘normalcy.’

Conclusion

What do the perpetrators of mass public violence do on a daily basis? What are their targets? What do they do when they are not killing, burning, maiming, raping and looting? In my introduction, I described the extensively documented evidence of complicity between politicians, police and the Hindu nationalist activists in attacking Muslims. Human rights reports have also challenged the theory of “spontaneous rioting” by pointing to the “one day” difference between the deaths in Godhra and the systematic violence against Muslims across Gujarat.

If the Bajrang Dal’s routine intimidation of Muslims (and Hindus) in Gujarat requires the cooperation and sympathy of the police, then the widely documented complicity between them in Gujarat 2002 is neither a breakdown of the state nor of socially and politically acceptable forms of order in Gujarat.

My analysis of the techniques of militant Hindu nationalism at the neighborhood level – destroying mosques, rescuing cows, segregating property, and building temples – is also the story of complicity between Bajrang Dal activists, politicians, and state officials. It helps us understand impunity in the aftermath of Gujarat 2002 as an ongoing and everyday process that is maintained at a neighborhood level. What I call everyday techniques of Hindu nationalist violence realigns “violence” not as an exception but as a continuation of Hindu nationalist politics-as-usual.

By focusing on the *practices* of violence I undermine the stability and objectivity of categories like the “communal riot;” especially when we observe the protagonists of violence recruit the police in order to defer, anticipate, and precipitate violence against Muslims as spontaneous rioting and communal violence.

Describing the anti-Muslim violence in 2002 as “state violence” can obscure rather than clarify the exact mechanisms by which “the state” legitimizes militant Hindu nationalist practices. Localizing the 2002 violence to an effect of political ideology, however pernicious, misses the materiality of borders, metaphors, structures and symbols, which are at stake in the production and reproduction of impunity in contemporary Gujarat.

Techniques of Hindu nationalist violence – building temples, rioting, evicting Muslims, and protecting cows – are neither the monopoly of the state, nor do they simply stand outside its purview. Instead of trying to figure out who has the monopoly over violence in Gujarat, it is more important to understand legality as “an ongoing source of cultural meaning and authority, making sense of the social world it orders and disorders,

while also creating the conditions by which such ordering and authorizing is always, simultaneously, being made and unmade anew, often in spectacularly violent ways” (2013: 209).

By focusing on techniques of violence, I have emphasized the connections, mechanisms and formations between state officials and Hindu nationalist activists that undergird Gujarat 2002. While numerous reports and journalistic expose have clearly shown that there was nothing spontaneous about the anti-Muslim violence in 2002, the widespread ‘collusion’ of the state with militant Hindu nationalist organizations thrives on everyday processes of making neighborhoods a part of Hindu sovereignty.

Drawing on previous scholarship on communal violence in India, I argue that violence is not a break from normalcy, emphasizing the link between the everyday and violence. I argue that the 2002 must be placed adjacent to everyday life. As Veena Das explains, “violence, even if it appears shocking, shares in the heterogeneity of everyday life” (Das 2007: 136). Furthermore in her work on the anti-Sikh violence, Das marks these linkages in the realm of language and subjectivity. Ward Berenhot has minutely documented the relationship between Hindu Muslim violence and the everyday state in Gujarat, focusing on the mediation of social goods through Hindu nationalist politicians and activists.

By studying physical culture among Hindu nationalist volunteers in Ahmedabad, historian Araafat Valiani has shown the important role played by them in the production of political subject and communities (4). While Valiaani’s insightful study focuses on embodied capacities and regimen of physical violence learned and cultivated by RSS

(National Volunteer Service) workers, I focus on how such violence is performed against Muslims on an everyday basis in one neighborhood of Ahmedabad. Even if an “institutionalized riot system” may well exist in Ahmedabad, its associations go beyond the riot, or even anti-Muslim violence, but can be seen in disparate activities that require the cooperation of state officials in establishing Hindu sovereignty.

CHAPTER SIX

Chapter Six: Once Upon a Riot: Narrative Analysis and the Identity Theory of Hindu-Muslim Violence

How do events of violence, involving Hindus and Muslims get classified as “communal riots” or “religious conflict”? In the last chapter, I analyzed how Hindu nationalist activists in Raipur defer, anticipate, and precipitate violence against Muslims as spontaneous “Hindu-Muslim” tensions and riots. In this chapter, I deepen my examination of the production and circulation of the category of the “riot” by examining a particular incident of Hindu-Muslim violence in Ahmedabad and how it gained coherence as a “communal riot” *despite* conflicting and contradictory reports by witnesses and participants.

I show that despite widespread knowledge of the identity and role of perpetrators, violence involving Hindus and Muslims is often classified as “rioting” by the police and the mainstream media. Mainstream media reportage of violence involving Hindus and Muslims reproduce and reinforce state narrative strategies, especially the police First Information Report (FIR). The police FIR frame and insert actors and events within an *identity theory of violence*: pitting “Hindu” and “Muslim” communities against each other in order to mask the identity and role of well-known actors and networks of violence.

I explore the circulation and mediation of a small-scale event of violence in order to understand how despite competing and irreconcilable accounts of what takes place during so-called “riots” in Ahmedabad, including the open and public refutation of

official accounts of Hindu-Muslim “rioting,” the *narrative* of the riot continues to enjoy widespread intelligibility and circulation in mainstream media.

What Everyone Knows...

On the morning of 2nd May 2011, I opened the newspaper and read that clashes (*toofan* or storm) had erupted in Madhavpura, a neighborhood in eastern Ahmedabad that I had been visiting for over a year now. I had been visiting this neighborhood in connection with JF’s paralegal work with Muslim survivors. I talked to the survivors while Bharat checked their papers, informed them of the status of their legal case, and if the trial had begun, helped them rehearse the statements they were going to make in court. JF workers told me that Madhavpura is “riot-prone,” like other notorious neighborhoods.

I visited Madhavnagar to meet survivors, frequently accompanied by JF paralegal workers. Nestled next to a major arterial road in the Eastern part of the city, this neighborhood has a substantial number of Hindus and Muslims living next to each other. Surrounded by now abandoned textile mills, the neighborhood comprises of mainly of lower-class Muslims and Hindus who are self-employed or engaged in manual labor. There is a concentration of Muslim houses and shops in small pockets, encircled by largely Hindu colonies. Muslim residents had gathered together in one colony in 2002, and were largely successful in minimizing the loss of life, but could not save their shops and businesses.

“Violence [*toofan*] in the area between Idgah Circle and Asarwa Bridge: 15 vehicles – shops burned,” said Gujarat’s largest selling daily²⁹, Gujarat News (*Gujarat Samachar*). The main part of the report is worth quoting in some detail:

Elements that were successful in breaking communal (quami) harmony in the Madhavpura communal build-up on Saturday acted again on Sunday... In the evening violent [toofani] mobs burned around 15 vehicles and shops in the area between Idgah circle and Asarwa Bridge.

Within an hour of the incident on Saturday night between two youths over the exchange of money, two units of the Rapid Action Force and police have been deployed in the area.

On Saturday evening, near the Idgah circle at around 11:30 pm, one man named Dinesh alias Dhoni Nadiya bought a CD from a youth named Allahbraksh, who sells CDs and DVDs there. An argument ensued between them when Dinesh refused to pay. Allahbraksh beat Dinesh for being rowdy and not paying for the CDs. Mobs of both communities confronted each other as soon as people heard about this incident. Between 11 55 pm to 12 20 am, the mobs of both communities pelted stones and damaged shops and carts.

Since there were a large number of people from both communities in the mobs, all the police force available was called in... In about an hour after the riot (dhamaal), the situation was brought under control... 15-20 rioters (toofanio)

²⁹ According to a 2011 Indian Readership Survey

were detained. At 10 in the night, when this was written, an uneasy peace prevailed in the area amidst strict police presence.

The JF office was abuzz with the news of the latest *dhamaal*.³⁰ Bharat, a JF paralegal, was worried about his friends there, and when things cooled down a bit, we decided to check on them. Madhavpura was only 15 minutes away from the Justice First office; we covered our face, arms and neck from the relentless sun outside, we biked through narrow and winding streets of the old city to finally stop in front of a shop. The shop was at the intersection of three busy streets that merged to form a traffic intersection called the “Idgah circle” – where Hindu and Muslim riotous mobs had allegedly clashed. A mosque, which was destroyed in violence in 2002, stood where the three busy roads merged.

We stopped at J’s shop, an elderly Muslim man who owned a successful bottled water business. J was an old associate of Bharat; whenever Bharat and I passed J’s shop while traveling to different parts of the old city, Bharat slowed down his motorcycle before the shop and exchanged greetings with J over the traffic. They knew each other since 2006, when Bharat enlisted J as a community-based volunteer of JF. Such volunteers were not paid by JF but remained close to individual paralegal workers. They were the “locals” who had helped the JF begin work in new and unfamiliar neighborhoods. J was also a member of the Madhavpura “peace committee,” an official recognition of the neighborhood’s notoriety as being “riot-prone;” the committee

³⁰ A Gujarati word with cognates that can signal depending on the context: chaos, outbreak, rioting, altercation, fighting, turbulence, fracas, tumult etc.

comprised of a group of six Hindus and six Muslims appointed by the police to maintain peace in the area.

I noticed two policemen inside a jeep parked adjacent to a charred car outside J's shop. J's shop was more like a garage since it had no doors, only an iron shutter that faced a busy street. In the day, J and his workers sat inside the shop, amidst four-foot high bottles of purified water and electric water coolers. Around me I noticed familiar tell tale signs of "rioting," from the photographs that accompanied the newspaper report: charred and disfigured cars and bicycles, stones, shards of glass on the street, makeshift police posts and broken shop fronts. Drugged by the blazing sun, the policemen were sleeping inside their jeep. Inside the shop, we exchanged greetings, and asked about the charred car outside.

In the last two days, J had lost a motorbike, a car and lots of stock (water bottles). The charred and disfigured piece of metal outside the shop was his new car. As we chatted business went on as usual in the shop; J's sons loaded vehicles with fresh water bottles and customers asked for pocket sized refrigerated plastic bags of water, aptly named "pouch." I sipped my pouch and listened to J:

J: It happened during the night and no one was around. No witnesses.

Bharat kept quiet and looked pensive. But my mind was racing with questions. The irony that J is a member of the neighborhood peace committee struck me. Here was a man who had suffered a huge loss but not eager to blame anyone at all. He said more than once, "After all no one was around in the night, so what can be done?" But suddenly a man who was lifting water bottles spoke up.

Everyone knows it's Dhoni's work, the local hoodlum (goonda) in the area.

Dhoni – the name struck a chord; I had heard stories of his involvement in Gujarat 2002; and his name had come up in police reports. During fieldwork, informants had pointed out an entire row of shops that allegedly gave him “protection” (*hafta*) money. As people started chatting, J joined the conversation:

Man 1: Even the police are afraid of him. He collects money from the entire row of shop we crossed on our way to J's shop. That shop, the one that sells tires (names a shop) is in a street that pays him protection money. He pays the cops off with money because he is a bootlegger³¹ so he makes good money selling liquor. He is an accused in 2002 violence as well.

J: I am a part of the peace committee here. There are 12 members in the peace committee, 6 Hindus and 6 Muslims, and everyone knows him, but the Hindus never give his name to the police. He and his boys came from the Hindu side and burned down some of the shops in this area, including my car. I did give his name and that's why the police stationed a SRP (Special Reserve Police) check post at the circle.

Man 2: Even they (pointing to the drowsy policemen outside) are afraid of him, and everyone knows that. Once he chased a BJP councilor (local politician) down the main road brandishing a sword! His liquor business allows him to pay off the police and even senior police inspectors are scared of him in this area...

³¹ Ahmedabad, the capital city of the Gujarat, is ostensibly one of the three “dry” states in India. “Dry” means that there is a state prohibition to consume and produce liquor in the state. This is, of course, normative, because there is a thriving illegal but licit economy of liquor production, distribution and consumption in Gujarat.

Everyone spoke about Dhoni as if they were merely stating the obvious, and but it had the effect that soon other bystanders joined the discussion. The conversation gathered momentum, and the workers in the shop, including Bharat, swapped stories of this man's notoriety.

As the snippets of the conversation emphasize, the information being circulated were unassigned to any particular person or source. It was something, as the men repeatedly emphasized, "that everyone knew." Everyone, except of course me; I felt like an outsider, not knowing what to make of this man, his actions, or for that matter, how to square the agency and notoriety of an individual with the "riot" narrative of the newspaper report.

Bharat, an anthropologist by passion, had broken the ice, now everyone was talking to us; but oddly the actual events of violence that transpired in the last couple of days had faded in the background. Everyone in the shop was telling each other something that 'everyone knew' but still needed another's affirmation; the conversation began with phrases like "everyone knows" and "it is well known." But what may seem like gossip about a notorious bootlegger and extortionist tell us impunity in the aftermath of Gujarat 2002?

This initial encounter with conflicting and competing explanations of so-called "Hindu-Muslim" violence in Madhavpura, especially narratives that did not neatly align newspaper reports, led me to further investigate the production and reproduction of the riot. The men at the shop, including J, did *not* describe a spontaneous clash between rival religious groups. In their version, no "Hindu mob" clashed with its counterpart "Muslim

mob,” and yet the newspaper article said nothing about what concerned them and who they identified as the chief perpetrator of violence.

Like in Gujarat 2002, there is a disjuncture in Ahmedabad between what everyone knows happens during a *dhamaal* and what circulates official knowledge, including newspaper reports. I have called this the Gujarat paradox: everyone knows something and but something quite different circulates as official knowledge – this disjuncture is crucial to understand impunity in Gujarat.

Rioting and Impunity

To write history is so difficult that most historians are forced to make concessions to the technique of legend – Erich Auerbach, *Mimesis*

The challenge of analyzing impunity in the aftermath of Gujarat 2002 begins at the beginning. What terms do we use to describe the largely one-sided attack on Muslims? Activists and NGO workers use “pogrom” and even “genocide” to describe the egregious violence against Muslims. Gujaratis, both Hindus and Muslims, often describe Gujarat 2002 in vernacular terms like *dhamaal* (chaos) and *toofaan* (storm) that do not correspond to either the activist’s genocide or the politician’s riot. Mainstream media reportage, legal documents, and official reports use the term “riot” despite the extensive evidence that the government and police actively colluded with the perpetrators of violence.

Anthropologists writing in very different contexts have discussed the challenges of naming, defining and classifying violence: the performative power of particular labels (Das), the political contestation around the deployment of labels (Brass), the effects of

particular forms of characterization (Briggs), and the social and political contexts that undergird the choice of naming something as violence (Jeganathan, Pandey).

Human rights activists, NGOs and civil society have vociferously refuted the characterization of Gujarat 2002 – large-scale public arson, looting, stabbing, raping, and burning of Muslims in 2002 – as a “communal riot.” The riot suggests that the violence was spontaneous, affected Hindus and Muslims equally, and was an instance of ‘religious’ conflict. It also masks the role of Hindu nationalist activists, state officials, local politicians and the police in the attacks against Muslims.

And yet the category riot enjoys the widest circulation and application in media and popular discourse in Gujarat and beyond. For the most part, previous instances of one-sided attacks against religious minorities continue to be officially and unofficially classified, discussed, and analyzed as riots in contemporary India. In fact the category and *narrative* of the riot is also used to dismiss the question of accountability in the aftermath. Consider Gujarat government’s *official* response to the National Human Rights Commission of India:

The State of Gujarat has a long history of communal riots. Major riots have been occurring periodically in the State since 1969. Two commissions of inquiry – Jagmohan Reddy Commission of Inquiry, 1969 and Dave Commission of Inquiry, 1985 were constituted to go into the widespread communal violence that *erupted from time to time*...between 1970 and 2002 Gujarat has witnessed 443 major communal riots. *Even minor altercations, over trivial matters like kite flying have led to communal violence*” (Quoted in NHRC: 13, Emphasis Mine).

The Gujarat government uses the history of “widespread communal violence” that has “erupted from time to time” to explain the enormity of violence against Muslims in 2002. The narrative of the riot – communal violence sparked off by a trivial event – effectively *naturalizes* Hindu-Muslim violence by arguing that such violence is routine, episodic, and can be triggered by “trivial matters.” What the Gujarat government really wants to say is this: if trivial matters like kite flying can lead to riots, then what do you expect when 59 Hindu nationalists are allegedly murdered by Muslims in Godhra?

Since my dissertation examines the juridico-political structure of impunity in the aftermath of Gujarat 2002, in this chapter I challenge the *stability and objectivity* of the narrative of the riot that is based on the “eruption” of Hindu-Muslim violence after minor trigger events. In order to understand how and why certain events of violence become widely characterized as “riots,” I do *not* approach 2002 directly, at least not in this chapter. Instead, I analyze a small scale and localized incident of violence that took place nine years later during my fieldwork in 2011. The differences between Gujarat 2002 and this event are important: the violence in 2002 spread across 19 districts of Gujarat and led to the deaths of more than 2000 Muslims; whereas the incident in 2011 did not lead to any deaths and was limited to one neighborhood in Ahmedabad. But the smaller scale and greater distance of Ahmedabad 2011 from the heat and controversy surrounding Gujarat 2002 helps me to analyze the role of the police and the media in classifying and crystallizing the “riot” as a part of long-term and everyday processes of impunity. *In other words, the making and dissemination of the narrative of the riot play an important part in masking agency and accountability in the aftermath of violence.*

In both Gujarat 2002 and the case study in this chapter in 2011, witnesses and victims contest the official narrative of the riot and provide conflicting and contradictory narratives (See Das on anti-Sikh 1984). Irrespective of the scale, location and temporality of Hindu-Muslim violence (Gujarat government subsumes all incidents from 1969 to 2002 within the category of the riot), it is remarkable most riots are ‘triggered’ by a set of diverse and yet predictable set of events that effortlessly spark off “rioting” between Hindus and Muslims.

Riots between Hindus and Muslims, according to most historical accounts of Gujarat, are an endemic part of Ahmedabad’s public life (Sheth et al). A recent large-scale comparative study of ethnic violence in India described the capital city of Gujarat, Ahmedabad, as one of the most “riot-prone” cities in India (Varshney, Wilkinson et al). Ahmedabad is in fact India’s second most riot-prone city. The history of Gujarat is often written as a history of Hindu-Muslim riots (Sheth et al); historians find instances of Hindu-Muslim riots in Gujarat as far back as 1714, even though Gyan Pandey in his seminal study of communalism argued that such efforts to write a seamless history of violence is not only anachronistic, but it reifies colonial typologies and categories.

Nevertheless, media reportage, scholarly writing, and official reports present an undifferentiated and homogenous list of major “communal riots” in Ahmedabad – 1969, 1985, 1992, and now 2002. The list can be extended: 1941, 1942, 1946, 1956, 1958, 1964, 1969, 1974, 1981, 1985-86, 1990, and 1992-3 (Spodek 1989, Shah 1984, Berenschot 2011).

During fieldwork in Gujarat between 2008 and 2010, I noticed that locals, NGO workers, the police and the local media keenly anticipate such periodic “rioting.” Many even had a sense of the ‘where’ (Eastern part of the city) and ‘when’ (religious festivals, court verdicts) surrounding what they called *dhamaals* and *toofans* (storms). This popular anticipation, the opposite of spontaneous the spontaneous theory of the riot, led me to examine more closely the adequacy of the category ‘riot’ to explain such routine and anticipated violence and the processes by which such violence is framed (and normalized) as ‘rioting.’

In both 2002 and 2011, despite competing versions of why and how the violence took place, mainstream media and official accounts call the violence a *riot*. I ask how and why do incidents of violence repeatedly get classified as riots despite the presence of competing narratives and perspectives?

Writing the Riot

In this section, I examine the multiple ways in which the riot is analyzed, critiqued and contested in recent historical and anthropological literature on violence in South Asia. There are by now a variety of explanations for why riots occur in some places and not others (Varshney, Berenschot, Engineer et al.), how are they organized by politicians and Hindu nationalist activists (Valliani), and how Hindu-Muslim violence taps into psychological and symbolic stereotypes about religious communities.

But these different causes for the riot, frequently presume rather than explain its remarkable coherence and ubiquity across time and space, its ability to subsume competing narratives, so that across different social, cultural, and political context Hindu-

Muslim violence, like prefabricated blocs of interpretation, eventually “crystallize” into an entirely predictable narrative of the Riot.

Most studies of the communal riot in India explain it as yet-another instance of ‘communalism.’ It refers to “political movements and activities based on the proclaimed common interests (economic, cultural, political) of members of a religious community (or communities), in opposition to the politics and activities of members of another religious community, and to the real or imagined threat from these” (Pandey 264, Omnibus).

Despite Gyan Pandey’s analysis of the production of communalism as a category of “colonialist knowledge,” there is still a fondness for the category among scholars, journalists and the wider public. Therefore, the vocabulary of communal riots, communalism, communal violence, and communal ideology is still widespread in academic articles, newspaper reports, and television debates. The communal riot, the focus of this chapter, is an important part of this discourse. Pandey shows the birth of the communal riot in the colonial archive (as a form of colonial governance) in the 19th century; the “master narrative of the riot,” broadly conceived, is a narrative of primordial and irrational hatred between antagonistic religious communities – Hindus versus Muslims.

Therefore, despite the well-known complicity between policemen, politicians and the Congress activists in the anti-Sikh violence in 1984, or similar forms of organized attacks against Muslims in Gujarat 2002 and Bombay 1992-3, collective violence in India is mostly intelligible as riots and rioting.

Clearly the narrative of primordial hatred and innate antagonism between Hindus and Muslims has seeped into the postcolonial present, even as scholars and activists have pointed to the participation of political actors as instigators and benefactors of so-called ‘communal’ violence (Brass, Engineer, etc). Most accounts that analyze the riot focus on its causality, dynamics and performance [See exceptions like Chatterjee and Mehta Riot Discourses, et al], and even the difference between official and unofficial accounts of political violence.

Human rights activists and civil society commissions of inquiry, sometimes conducted in the immediate aftermath of violence, elaborate on how the official discourse of the riot deliberately effaces individual agency in lieu of anonymous mobs to make effective prosecution of alleged perpetrators of such violence near impossible.

Paul Brass has meticulously analyzed the social hierarchies and party politics that undergird events of Hindu-Muslim collective violence to uncover what he calls an “institutionalized riot system”³² in India; wherein “specialists” convert triggers or incidents between different communities into “communal riots.” Brass explains how one

³² Brass has studied another riot-prone city, Meerut over a long period, combining ethnography with more quantitative analysis to argue that “in many parts of India where Hindu-Muslim riots are endemic, especially in the northern and western states, institutionalized systems of riot production have been created... activated during periods of political mobilization or at the time of elections. Explaining the system he writes, “far from being spontaneous occurrences, the production of such riots involves calculated and deliberate actions by individuals, the conveying of messages, recruitment of participants, and other specific types of activities, especially provocative ones, that are part of a performative repertoire” (2006:65). While I agree with Brass’s critique of the spontaneous theory of the riot, I do not think that key individuals and local politics imply institutionalization or warrant the use of the word “system,” in the strong sense of the word. The IRS argument reproduces the idea of a stable entity called the riot that can then be tracked across time and space, whereas I try to understand the political, narrative, and social mediations that produce the entity itself, both in ethnographic and documentary contexts.

social group uses such events as a tool to establish dominance over other social groups (Brass 2003). Other perspectives have proposed structural links between electoral politics and events of violence against minorities (Wilkinson 2004). Structural analysis of “ethnic violence,” a term used by Varshney, uses long-term quantitative and statistical analysis to suggest that ethnic violence is a result of deficient “civic engagement” between social groups (Varshney).

Ravinder Kaur suggests that recent studies of violence have moved away from a general theory of communalism and shifted their focus on “mobilization of local social/religious networks to construct and reiterate a community, organization of actual violence through the evocation of these informal networks, and social/spatial rearrangements to further isolate the minority groups” (Kaur 2005).

Anthropologists Mehta and Chatterjee eschew a general theory of communalism to argue, “that it is through the act of narration that clusters of incidents acquire the status of a critical event. Official documents, investigative reports and oral testimonies are all narrative acts that contribute to the crystallization of the event of violence” (2007:12).

I examine different sources, like regional and national newspapers, oral testimonies, and police documents to show both points of overlap and divergence between them. While these different sources may all be understood as narrative acts that congeal a range of actions and affects into an event of violence, I compare and contrast three different sets of narrative acts – police, media and witnesses/participants – in order to understand the *constant* relationship between elements – plot, time, and identity – and

the privileging of identity in the crystallization and intelligibility of the category and *narrative riot*.

Every riot is like every other riot. Despite the place and time of the riot – from Ahmedabad earliest “riot” in the 18th century to Gujarat 2002 – the riot has a formulaic sequence: it begins with a random, trivial event, what is often called a trigger or spark, which erupts into violence between two antagonistic religious communities, most commonly Hindus and Muslims.

The trigger event is fungible yet predictable; it can be anything from a religious procession to “kite flying.” For instance, on 1st May 2011 newspapers reported that a stray confrontation between a Hindu and Muslim man over the purchase of a CD led to rioting in Madhavpura. According to the official narrative of Gujarat 2002, Muslims killed 59 Hindu nationalist activists in Godhra and sparked off spontaneous arson, loot, rape, and murder across the state. At some stage, the police arrive on the scene and dispel rioters, and peace reigns again. Until, of course, the next trigger event sparks off rioting.

Gyan Pandey has analyzed the communal riot narrative in colonial India and its formulaic elements – origin, frenzied crowd, and the establishment of law and order – as a “master narrative.” Pandey’s insightful analysis shows how colonial accounts of the riot keep changing, including the site of conflict, the number of dead and the causes for the conflict, to show that the “bare facts of the situation were *constructed* – and constructed out of the prejudices, biases and ‘common sense’ of the writers” (Omnibus, Pandey, 32).

Drawing on Pandey’s analysis of the master narrative of the riot (See Benedict Anderson’s analysis of role of the newspaper in the formation of imagined communities)

I analyze how the narrative of the riot is embedded *not* only in state documentary practices [or colonial reports in the 19th century] but it simultaneously circulates in the media as a *narrative form* that embeds subjects within an identity theory of violence whence their actions become part of a timeless, or following Pandey, colonial story of irrational hatred between Hindus and Muslims.

I argue that a popular narrative form, which I call the identity theory of violence, plays an important role in distributing agency to acts of violence in ways that allow it to become fundamentally and structurally unaccountable. Put simply, violence is naturalized as flowing from the religious identity, passion, and beliefs of the participants, who lose their individual identity and subjectivity when they transform into “communal mobs.” To put a “communal mob” on trial is of course legally impossible, what criminal law wants are individually identifiable actions.

This links with my argument that state and nonstate actors produce and circulate narratives of violence that inscribe violence against minorities only in order to make it legally inadmissible; often using a “timeless” plot and a legendary temporality. Victims, scholars, and activists challenge such narratives after nearly every instance of violence, and yet they proliferate and gain intelligibility. The louder victims decry the violence, show that it involves recognizable agents, and are often a part of what Paul Brass calls the “institutionalized riot system,” the more intelligible the riot becomes in contemporary India.

Drawing on recent studies that analyze the discursive emergence of events of violence (Including Brass), I examine the process of crystallization or congealment of the

communal riot as a narrative; a narrative that congeals and crystallizes long-term processes of impunity and unaccountability.

The First Information Report

Just when Bharat and I left J's shop, he handed us a copy of a police report, "keep it, it's a copy, I have the original for insurance" he said. He gave us the police FIR (First Information Report) that contains the details of a cognizable offence, the time and place of incident, the relevant offences (as per the Indian Penal Code) and the name and address of the accused, and the details of person who is reporting these crimes to the police. The author of this FIR was not J but the Assistant Police Inspector (ASI) who sat in a police station walking distance from J's shop. I noticed the report was written on the 1st May.

The police classify the violence under IPC (Indian Penal Code) sections 143 (unlawful assembly), 147 (rioting), 148 (armed rioting), 149, 135, 337, 427(damaging public property) and B.P Act 135 (2). Most of these provisions, especially IPC 143, 147, and 148 are the most commonly used categories to frame offences related to Gujarat 2002. After classifying the offence, the police write what happened (my translation):

This is a complaint of yesterday's incident on 30.4. 2011 at around 2330 when *Hindu Muslim mobs* confronted each other, pelted stones and damaged property related to [*anusandhane*] an incident of fighting regarding the purchase of a cassette at the cassette shop near the Idgah circle...

At around 7 pm members of the Hindu *community* came in a mob from the side of Jugaldas colony and members of the Muslim *community* came in a mob from the Pathan

colony and confronted each other at the Idgah circle... pelting stones at each other and *mobs of both communities numbering around 500 each came* with weapons like pipes and sticks in their hands. While stoning each other they started burning shops and vehicles near the Idgah circle... finally mobs of both communities were dispersed.

The FIR is identical to what Gyan Pandey has called the “master narrative of the communal riot:” the confrontation between Hindu and Muslim *communities* sparked off by a fight “over the purchase of a cassette!” From the first sentence onwards, which localizes the event in place and time, *we only see mobs and communities*, not individuals.

We see two *communities* clashing – Hindus and Muslims – pelting stones at one another and damaging property; like warring armies they assemble at the threshold of their respective territories and begin fighting. There is no explanation needed for why the communities clash; or how a fight over a cassette can lead to the appearance of hundreds of people stoning each other, and burning shops and vehicles. The brevity of the police report is because it is more legend, less report; the inspector joins the two events with a simple noun “relate” (*anusandhane* means in connection with what has gone before) as a conjunction between the two separate events – the altercation and the rioting.

The police narrative rests on the physical contiguity between isolable Hindu and Muslim communities in Madhvpura to position the altercation as the trigger for the violence. It does not even need to mention that the altercation was between a Hindu and a Muslim, what follows the altercation swallows the meaning of the riot. Scholars have shown that in the discourse of the riot, agency lies with mobs not individuals (Baxi,

Mehta). But individual action and motivation is precisely what must be erased for the violence to become a riot.

That is why there is *no* explanation of the trigger event; the individuals who involved are not identified (but they are arrested later along with twenty-nine others), no motivation is attributed to the individuals, or how the violence flared into something *more* than simply fighting between isolated individuals. It is because the first event is there simply to serve as a *means* to an end. It has no meaning in-itself: it is simply there to get you from point A to point B – to complete the neat temporality of the cause and effect.

The FIR organizes the space of violence in the mode of a war: naming the neighborhoods from where Hindu and Muslim mobs *originate* and where they clash. The “mobs” have no motivation or subjectivity (the classic irrational mob?) and identified only by their religious identity, which explains the violence. Yet another mark of the riot’s artificiality is its identifiable plot: 21st century riots read like 19th century colonial reports (Pandey 1990).

Hindus emerge from a “Hindu colony” and Muslims emerge from a “Muslim colony” identified by unambiguous religious identifiers [*Jugaldas* colony vs. *Pathan* colony] to confront each other at the crossroad (*Idgah* circle) that separates Hindu and Muslim spaces. As the narrative of the FIR progresses, space, religious identity and violence become indistinguishable; religious identity is mapped onto specific residential colonies, which in turn blur into violent religious mobs. In other words, the narrative

strategy of the FIR has an important effect: only *religious identity* can explain the motivation of those involved in the violence.

Finally, the FIR is a balancing trick, an achievement in balance and symmetry, and remarkably so, if you recall that it is supposed to be an account of a riot. Part of its symmetry is achieved through numbers, both Hindu and Muslim mobs are “500 each,” carrying identical weapons, and emerge at the same time (7 pm). In this way, a delicate balance is embedded in the FIR, it makes sure that it equally distributes agency between Hindu and Muslim mobs.

The appearance of riotous Hindu Muslim mobs after an altercation over the purchase of a cassette is *arbitrary* and *meaningless* and per se does not automatically become a riot, until these narrative elements, embedded in the FIR, silently and invisibly, weave together spaces, mobs and events into a communal riot.

I call this the “narrative strategy” of the FIR in order to show that the fight over the cassette, an ostensibly minor and irrelevant detail, serves an important and precise function: it transforms the whole narrative into a communal riot. The FIR joins a so-called minor event (altercation) with a major event (public arson and stoning) – erasing the transformations, motivations, and individuals in the middle – to write the story of yet-another communal riot in a “riot-prone” neighborhood.

Is this narrative strategy limited to a single police document? Is it the bias and common sense of the inspector who wrote it? Or can such documents tell us something more? Something about the force of state documentary practices such as the FIR beyond their limited context of policing and of initiating the criminal justice system.

No doubt the FIR analyzed above is an esoteric document used mostly for police and legal purposes, and most informants I interviewed in the neighborhood had neither read nor discussed or debated it amongst themselves. My source for the FIR, J needed the FIR to claim insurance and kept it as a proof of the damages incurred in the violence.

And yet informants and victims question this trigger-happy theory of communal violence between Hindus and Muslims. Like they have in Gujarat 2002. So clearly there are different narratives of Hindu Muslim violence in Madhavpura, and yet the narrative of the riot continues to hold sway in both academic and popular circles.

By rendering the narrative construction of the riot in the FIR explicit, I have highlighted its artificiality, ahistoricity, and *legendary* quality; the police inscribe space, individuals, and communities within an *identity* theory of violence – nothing matters except the religious identity of the *mobs* involved.

Mediating the Riot

I opened this chapter with the newspaper report on “Hindu-Muslim clashes” in Madhavpura. In order to understand the widespread intelligibility, if not hegemony of the riot narrative across local and national contexts, I translate reports of the same incident in another major Gujarati newspaper *Sandesh* (Message) that appeared from the 1st to the 3rd May, in the order of their appearance:

Mobs of both communities clashed with each other yesterday late in the night near Idgah circle, Madhavpura. An altercation between two youths last night took a deadly turn near Idgah circle. After which there was a situation of stoning and

confrontation between the mobs of both communities... the Madhavpura police have lodged complaints of rioting against the mobs of both communities...

Clashes sparked by personal altercation: Yesterday night, a youth named Allahbaksha stood near the Madhavpura Idgah circle selling cassettes on a cart when Dinesh alias Dhoni Nadiya came there to buy cassettes. After an altercation over buying cassettes, mobs of both communities confronted each other. The police filed a complaint of rioting against the mobs.

Unlike the FIR, the newspaper report names the individuals involved in the “personal altercation” by printing their identifiably Hindu and Muslim names. But this additional information does nothing to challenge the narrative strategy of the FIR. Newspaper reports, in terms of their narrative structure, are the mass dissemination of the FIR. They simply reinforce the “reality of communalism:” individuals, and their past, present and future is reduced, like that of the neighborhood, into a blank, depthless surface on which the reporter, following the police inspector, script a cliché – “trivial incident sparks off rioting.”

Of course there are differences and similarities between different newspaper reports in Gujarat. Different newspapers use different cognates of the riot – *dhamaaal* or *toofan* – reporting on the violence on different days, but the narrative structure is the same. Some newspaper mention group clashes (*jooth athdamana*) and write that the “police filed a complaint of rioting against the mobs.” In order to fortify the reality of the riot some mention the exact number of teargas shells (“more than two dozen”) used by the police to quell the violence. But what is most important for my argument here is the

masking of agency and accountability – *again, there is no doer behind the deed*. Sub-sections like “Clashes sparked by personal altercation” affirm the sequence of events: personal clash followed by public violence.

Lest one thinks that this narrative is a weakness of the vernacular Gujarati press, I examine a report published in a *national* English daily. Here is a report published in the English newspaper DNA (Daily News and Analysis) on the 2nd May 2011:

Madhavpura witnesses fresh communal clashes

Following a violent scuffle between two communities late on Saturday night in Madhavpura, fresh violence was reported on Sunday evening as well. The irate mob took over the Idgah circle and started pelting stones at each other, set couple of vehicles on fire and vandalized several shops in the vicinity... On Saturday the communities had clashed with each other at the Idgah circle over a minor monetary dispute. Both the groups had then pelted stones and vandalized shops.

The violence on Saturday was a fall out between two groups of people. Police said between 11:30 pm and 12 am on Saturday, a group of four to five people approached a roadside vendor, Allabaksh, selling cassettes at Idgah circle. The group reportedly picked up a couple of cassettes but refused to pay for the same leading to a verbal fight, Madhavpura police.

Later on, sources said, the group returned with a few more people and began arguing with the vendor. In response, another group supporting the vendor also gathered and in no time, the argument turned violent.”

This is the most detailed report of the violence so far, but the plot is more; mobs are also called “groups” and the so-called “trigger” is described as a “violent scuffle” between two *communities*, rather than specific individuals.

There is no need to identify the two communities involved because by simply mentioning the name of the vendor, Allahbaksh, an identifiably Muslim name, the actual details of the violent scuffle, the motivations of the actors, the role of individual persons, and the enigmatic additional detail about “the reported refusal to pay for the cassette” evaporates in the timeless chemistry of Hindu Muslim antagonism.

I analyzed local Gujarati and English newspaper reports to understand their relationship with informant narratives and the police FIR. I suggest that these newspaper articles in fact reproduce the narrative strategy of the FIR, inserting it into different local and national contexts, depending on the circulation of the papers.

While there are differences between individual newspapers on how they label the violence; their sequence of events, distribution of agency, and masking of agency and subjectivity is seamless with the police FIR. The newspaper report, like the FIR, has no patience for individual agency, historical depth, and transformation – all of which is erased by privileging religious identity over everything else.

Beyond the Riot...

Intrigued by Dhoni’s alleged role in arson and stoning in Madhavpura, I spoke to other eyewitnesses and informants in the predominantly “Muslim colony”³³ from where

³³ Darshini Mahadevia’s article “A City with many Borders – Beyond Ghettoisation in Ahmedabad” in the book ‘Indian Cities in Transition’ (2007) discusses the numerous ‘borders’ in the city that are organized according to “ethnic lines” so much so that she has

the “Muslim community” had emerged, according to the narrative of the police. The Muslims lived in small one or two room tenements under a flyover. Most houses had an auto rickshaw parked outside them, a common mode of self-employment and livelihood for many young Muslim men in Ahmedabad. Those women who could afford to buy sewing machine and learn the basics worked from home. Like anywhere in the city, but especially the eastern part of the city, street teashops bustled with conversation and gossip.

Because of the recent violence, a certain eerie calm hung in the air; I noticed people stared at us as we drove through this usually loud and bustling neighborhood. I was with a friend who was familiar with this neighborhood. Near one of the teashops, we met Shafi, also an eyewitness in a 2002-related case. After exchanging greetings, we chatted a bit about the recent violence:

M: What’s been happening? I was worried...

Shafi: Well, you see Dhoni – a local hoodlum – came to buy a CD here and refused to pay the vendor. Since the guy who sells them was from outside, not from this area, he beat him up. He did that only because he didn’t know Dhoni... Dhoni and his brother came back with more people to beat the vendor up and they started creating trouble – damaging shops and fighting with people. Soon, the vendor also got his (Muslim) boys/friends from Dariapur (a nearby Muslim majority area) to fight Dhoni’s boys. Some time later, the Muslim vendor and his

a separate section on Muslim ‘cities’ in Ahmedabad. The area that I discuss in this chapter, the municipal ward, has been designated ‘mixed’ by Mahadevia since both ethnic groups are present in significant numbers.

boys came running into our [Muslim] colony came shouting and screaming for help... ..That's when the stoning started.

M: So who is this Dhoni guy anyway?

Shafi: Dhoni collects hafta (extortion money) from the market in Prem Darwaja area. He is from a family of waste collectors (ex-untouchable caste). Everyone knows this big shot's mother and sister still go out everyday in the morning to pick waste from the streets! But he is very powerful, threatened the local politician, even the mayor... He is a charge-sheeter [he is an accused in cases relating to anti-Muslim violence in 2002].

I think these [Muslim part of the street] shops here don't give him 'protection money' and once when he tried to forcibly collect money, Muslim shopkeepers beat him up. In this context, this area, especially the Muslim part is not yielding results for him.

Shafi's version of what led to stoning, arson and violence in the neighborhood aligns itself my discussion in J's shop. The "personal altercation" is not a faceoff between a "Hindu" and a "Muslim;" it is a fight that involves a local hoodlum who has an elaborate extortion and illegal liquor business in the area. He also has "influence" with the police and local politicians.

Second, instead of anonymous and amorphous communities of Hindus and Muslims, or Hindus *versus* Muslims, as described in newspaper and police accounts, Shafi *begins* with identifiable individuals and their friends and supporters who gather and stage violence. Of course there are identifiably Hindu and Muslim neighborhoods and

affiliations, yet Shafi speaks of Dhoni's transformation, the complex extortion networks, the illegal liquor economy, the political connections – all this has no space in the narrative of the riot. Even when he mentions the role of Muslims and Hindus in the violence, it is always specific individuals, not as *communities*.

Individuals and their networks of criminals, friends, and relatives are the agents of this narrative of violence. This narrative sheds light on the modular and prefabricated quality of police and media reportage on Hindu-Muslim violence in Gujarat. Police and mainstream media elide the most important question: How did a “personal clash” transform into “public violence”?

But there was no communal clash between “Hindus” and “Muslims” in Madhavpura, much like there were no “riots” in Gujarat 2002 – identifiable actors with larger networks embedded in everyday criminality and violence tried to teach a Muslim vendor a “lesson.” Personal egos, the performance of masculinity, and maintaining “street cred” – or any combination of them seem to be better ways to explain the motivations of both the (Muslim) street vendor and the (Hindu) bootlegger-cum-extortionist.

Full of details and gossip about Dhoni, Shafi's narrative delights in detail, in direct contrast to the perspective of the FIR and the newspaper reports. But the details are not embellishments to the “riot narrative,” but show precisely how Hindu-Muslim violence can be understood as “riots” only *after* masking agency, motivation, history, and everyday life between Hindus and Muslims in Gujarat.

Masoom, a trustee of the Idgah mosque, gave the clearest critique of the identity theory of Hindu-Muslim violence. Masoom waved us down for a chat and yet another

cup of tea. The mosque was attacked and damaged in 2002, but not in the recent attacks in this area. He was clearly agitated by recent events and had a lot to tell us once we started chatting, but one comment gains significance in light of my discussion of the FIR and newspaper reports.

Masoom: This is not a communal riot. We don't pay Dhoni extortion money so he tries to threaten us... This is a situation of Muslims against criminal elements.

Unlike the situation in 2002 when all the Hindus came out on the streets, this time only Dhoni and his boys came out. Hindus did not come out to fight. It's good sign for society that common people are not coming to join this violence. It's just the police; they are making it a communal riot – a big thing out of a criminal incident.

Masoom goes to the heart of the problem or puzzle that I have tried to analyze in this chapter; a puzzle inextricably linked to accountability and impunity in the aftermath of mass violence in Gujarat 2002 – How do attacks by well-known individuals and their networks circulate as Hindu-Muslim rioting? What is the role of the police and the media in making the riot?

Unraveling the “Riot”

I returned to Madhavpura after things had cooled down, the police pickets had been removed, and folks had returned to the teashops – everything was back to normal. I looked for the actors (not communities!) involved in the so-called “personal altercation” that led to the so-called riot. I tried to meet Dhoni but no one helped; I had no contacts with bootleggers in this area! People told me about his illegal liquor dens inside narrow

lanes, but some said his boys operate them, and I would never find him there. I realized there was no way for me to meet him without arousing his suspicion, which was quite unnecessary.

Undefeated, I made casual inquiries about the young Muslim man who sold CDs at the crossroad. People said he no longer sold CDs; some told me he left Gujarat after the violence; others like Shafi said he was never from this neighborhood; but most people knew nothing about him. I tried a more indirect approach.

I met Aasim, a self-appointed leader of one of the Muslim colonies, a garrulous and funny individual, always helpful, possessed an encyclopedic knowledge of Gujarati politics, and specialized in political gossip. He ran an illegal betting scene in the neighborhood and was respected because of his contacts with the police and criminal elements. Just the man I was looking for.

I met him near a teashop and we ended up chatting in his wastepaper recycling shop. As soon as I mentioned the recent incident of violence, he got excited, like everyone else he blamed “Dhoni and his boys.” As luck would have it, he was at the scene of violence that day, listening to music on his phone and enjoying a cup of tea, waiting to catch a late night train. He saw Dhoni (whom he knows for many years now) and his boys walking around with open swords.

I shouted at him: stop this drama and go home. He said someone had hit him at this spot and he must respond. Apparently, there was a scuffle between him and a vendor earlier in the night and everyone thought it had ended there, but he (Dhoni) came back with boys from different parts of the city. He assembled them in a field close by and even

tried to exhort nearby Hindus to join them, but they refused. They came here and burned shops and confronted a group of Muslim boys who had assembled here by then.

He made a phone call in the middle of our conversation; “Someone wants to talk to you, come here for a bit?” After a few minutes, a young man with gelled hair slicked back in the fashion of a popular film star in tight jeans showed up at his shop. He sat guardedly at the edge of the cot and looked suspiciously at my bag and open notebook. Aasim introduced me as part of an NGO that was helping survivors of Gujarat 2002. “He has come to understand what happened between you and Dhoni,” he said.

The young man was Allahbraksh, the Muslim vendor mentioned in all the newspaper reports. He opened up slowly, answered in monosyllables at first but soon realized that I was only asking for information that “everyone knew.”

“That evening, like every evening, I was at my cart selling music CDs at the crossroad. Dhoni and his friend M (the son of a nearby teashop owner) came and stood next to my cart. Their friend came in a car and Dhoni asked me to give him 12 or 13 CDs, which I selected for him; you know, the latest hits. He gave them to his friend who drove away they chatted for a bit.

Since Dhoni and his friend were still there, I didn’t ask their friend in the car for money, but when they started leaving, I asked for my money (30 rupees for each CD). His friend grabbed me and said, “Don’t you know him?” “I know him very well” I said, “he may be a big man (*dada*) in his area, but I have a business to run, which means I buy these CDs from the market and sell them for a profit.” They pulled a knife on me and tried to fight me, but my friends were around, and we gave them a thrashing. *The next*

day he came with 25-30 boys armed with sticks and swords. A police jeep just stood here and watched them without doing anything. Some boys from the other side (Muslim) also came and then both groups started pelting stones at each other.

In this version, at no point of time do “Hindus” or “Muslims” attack each other in “mobs of 500 each” as written in the police FIR. The so-called “riot” is limited to two small groups of mostly young men who throw stones at each other; according to the vendor, Dhoni’s boys burn Muslim shops and vehicles.

Second, the FIR and newspaper reports give the false impression of “spontaneous” violence that erupted after a trivial clash; a sequence of events belied by the time lag between the two incidents, which shows careful planning by Dhoni and his boys. There is in fact a *whole day* between the fight over the CDs and the burning of shops and vehicles. Finally, both Aasim and Allahbraksh emphasized that the “police just stood and watched the armed men.” It was only after policemen from a neighboring police station arrived at the scene that the perpetrators were finally dispersed – like Gujarat 2002, the police play an important role in supervising “communal riots.”

The *narrative* of the riot displaces organized forms of violence by publicly identified individuals (for example Dhoni is both well-known in the area and an accused in multiple 2002-related legal cases) onto amorphous Hindu-Muslim “communal mobs.” This is also the strategy of police FIRs registered during the 2002 attacks on Muslims. In other words, public impunity for political violence as rioting both precedes and exceeds Gujarat 2002. By examining the everyday circulation, mediation and production of

narratives of violence, I show that impunity in the aftermath of Gujarat 2002 is embedded in everyday police documentation and newspaper reportage.

In fact, impunity lies in “little details” like the sequence of events, the narrative of violence, the naming of agents and collectivities – in the very inscription of violence.

My point is not to compare different narratives of violence, in order to simply privilege the victims’ version of events over official sources of violence, or to poke holes in everyday crime reportage in Ahmedabad. I pay attention to the tiny details, slippages, and displacements that underwrite the intelligibility and circulation of the ubiquitous category of the ‘communal riot’ itself. I argue that a close examination of a minor event, like this barely noticed ‘communal clash’ in 2011, can actually tell us a lot about larger processes like ‘communalism’ and ‘communal violence’ in India.

Narratives and Violence

By comparing the circulation, structure and strategies of the narrative of the communal riot, its common elements, and its relationship with state documentary practices, I explore the erasures, displacement and blindness constitutive of the riot. Little details like the timing of violence, the number of participants, and the sequence of events show *how* disparate incidents are sutured into formulaic scripts of Hindu-Muslim violence. These scripts then gain force through circulation and dissemination in mainstream regional and national newspapers as reportage and basic facts.

I show that the riot narrative, embedded in the police FIR, exceeds its immediate context of the courtroom and the police station; the dull files and dusty record rooms of the state. An important part of the police FIR’s *force* lies not in its context, for instance

legal culpability, but in its ability to break out of its context, and be inserted into wider publics; both local and national, English and vernacular, whereby even vernacular Gujarati categories of violence (*toofan* and *dhamaal*) become unequivocal signifiers of a regional and national imagination of “riot-prone” cities and the ineluctability of Hindu-Muslim violence.

Derrida’s understanding of writing, especially the ability of writing to continuously break away from its context, what he calls its ‘iterability’ is a helpful way to understand the circulation of the riot narrative. I have described the narrative structure of the police FIR, which temporally precedes and structurally informs local and national newspaper reports of violence. I argue the FIR *explains* violence through specific narrative elements, which once identified, can be inscribed across a variety of institutions and settings, all of which are not only “official” or circumscribable to ‘the state.’

I have shown that a specific *narrative strategy* transforms events into rioting; this is not simply the power of the police to classify certain offences as riots, even though it is crucial in the courtroom. What about impunity outside the courtroom? How do the larger public in Gujarat, or for that matter elsewhere in India, *know* about the incidents about Madhavpura 2011?

In the newspapers they read this legend: *personal* altercation followed by *communal* mobs. But I have shown that this is simply an official formula to mask the agents, actors and organizations that often produce this violence; and the paradox of inscribing violence only in order to displace it is especially relevant to my analysis of Gujarat 2002.

The same process that makes a small-scale event of violence involving a disparate range of characters, including a well-known extortionist and bootlegger, shopkeepers, and residents into a 'Hindu-Muslim clash' also operates on a much larger scale to make large-scale violence against Muslims into yet another communal riot.

It is not only state officials who are responsible for writing the riot; but mainstream newspapers play an important part in giving certain forms of routine (in certain areas in Ahmedabad) urban violence a specific shape, a recognizable image, and a familiar sequence.

I have used a relatively small incident of violence nearly a decade after Gujarat 2002 to shed light on the framing of Gujarat 2002. And I have engaged with official documentation as an integral aspect of the production of impunity in the aftermath of violence. Even though events in 2002 and 2011 belong to very different registers, the long-term processes of official documentation and media reportage continue to frame contemporary urban violence in Ahmedabad as riots, naturalizing some perennial *religious* antagonism between Hindus and Muslim communities. And at the same time, erasing practices of bootlegging, extortion and local level struggles for power and dominance.

Conclusion

Newspapers in Ahmedabad reported that Hindus and Muslims clashed in "riot-prone" Madhavpura after a "personal altercation" between a Hindu and a Muslim man over a CD. When I went there a couple of days later I saw the detritus of violence: charred cars and shops, wary and suspicious residents, broken glass, disfigured bicycles

and scooters, and gun-toting special police forces. I was looking at the aftermath of yet another communal riot in India's second-most riot prone city. But what had weaved disparate events like "personal fighting" and "communal mobs" into a seamless narrative of rioting?

After examining and comparing how newspaper reports, eyewitness' testimony, victims' narratives, and police documentation, *differently* order and mediate actions, actors and affects into narratives of violence, I suggest that the widespread intelligibility of the "communal riot" to describe events of collective violence involving Hindus and Muslims is based on the circulation of a specific *identity theory of violence* embedded in the police First Information Report. Mainstream local and national newspapers, then, circulate the narrative of the FIR across different publics, even if participants and victims of the violence refute such narratives.

Despite the differences between the events in Gujarat 2002 and Madhavpura 2011, both instances of violence are framed as rioting or spontaneous religious conflict between Hindus and Muslims. In both cases, there are other contradictory and conflicting explanations for violence that refute the spontaneous or "communal" theory of violence, but do *not* achieve the same circulation or intelligibility across domains and publics.

Like Gujarat 2002, Madhavpura 2011 becomes yet another riot, which is based on a specific *narrative* of affect, agency and space. I have located the clearest expression of this narrative of the riot in the police FIR. But, I have not stopped at analyzing the form and content of the police FIR or newspaper reportage; after analyzing its basic elements, I have argued that it circulates across different publics, under different signatures, by

embedding itself in non-official sources, and appears outside its immediate legal-police context; this allows state officials to make routine violence, frequently against minorities, unaccountable, an affliction of specific “riot-prone” neighborhoods and communities.

Anthropologists, historians and political scientists argue that the category ‘riot’ obfuscates rather than clarifies the actual processes of violence, removing agency from political agents, and state officials, giving a veneer of spontaneity to frequently planned and highly organized violence against religious minorities (Brass, Pandey, Das).

Drawing on this literature on collective violence, I argue that the riot does not seamlessly emanate from the events of violence but is constituted by erasing individual agency, the identity of well-known perpetrators, and the role of the police. It is as much about official knowledge as official ignorance. The ubiquity of the riot, I argue, is tied to the circulation of the *narrative strategy* embedded in the police FIR.

However, the process of maintaining impunity – masking the identity of well-known perpetrators of violence and the role of the police – cannot be localized to the state apparatus, like the police or the courtroom, but everyday media reportage often disseminates police narratives as “facts.”

I’m not arguing that the mainstream media mechanically and deliberately replicates police documents, even though that possibility cannot be entirely ruled out in light of the role of the vernacular press in Gujarat 2002. Newspaper reportage often adds new information to the police narrative of events, but nevertheless keeps the narrative structure of the “riot” intact. In fact, I have shown that there are in fact significant differences between different newspaper reports (local and national, Gujarati and

English) and the FIR, including new details and information, and *yet* basic elements of what I call the narrative strategy of the FIR are untouched.

I use the term “identity theory of violence” to describe the recurrent structure of plot, organization of space, point of view, and sequence of events that frame violence as a communal riot or spontaneous religious conflict that ensues after “trivial” incidents. First, such a strategy avoids exploring, elaborating or otherwise analyzing the “minor” arbitrary trigger incident, so that magically “irate mobs” and “communal mobs” can appear and dutifully fight each other until the police intervene. But it does try hard to maintain some symmetry between Hindus and Muslims.

Second, this narrative allocates agency to mobs or groups rather than specific individuals or actors. Third, such narratives exclude history, agency and subjectivity. These narratives are ahistorical: nothing changes or transforms, individuals and collectivities are simply ciphers to hold religious identity; there is no depth to the movement or agency of mobs or individuals, they are ahistorical entities which from time immemorial clash against each other with the dull rhythm of a ritual.

In the next chapter I show how such methods of making riots out of events with identifiable actors and networks played out across over a hundred police FIRs in the Madhavpura police station during Gujarat 2002. It is the small details again, which state officials have developed in their everyday functioning that facilitates mass impunity in the aftermath of Gujarat 2002.

CHAPTER SEVEN

Chapter Seven: CONCLUSION

I have analyzed the sociolegal processes that allow state and nonstate agents to organize, inscribe, authorize, and ultimately profit from mass, public, anti-minority violence in contemporary India. My tryst with Gujarat (and the dissertation) began with an attempt to respond to what was unfolding before our eyes in 2002. But nothing I saw or heard in 2002 prepared me for the unexpected and tortuous path that the anti-Muslim violence and its aftermath have taken since then in India. Contrary to the expectations of human rights activists, NGOs, civil society, journalists and academics, spectacular violence against Muslims in Gujarat deepened the power and legitimacy of the perpetrators. Hindu *Rashtra* (Nation) is no longer the bizarre dream of fringe militant Hindu nationalists, but it assumed an identifiable shape and politics in Gujarat. Twelve years later, Hindu nationalist leaders and politicians are openly proclaiming that India, not simply Gujarat, is a Hindu nation.

Public violence against Muslims transformed the relationship between the state and society in Gujarat: Hindu nationalist politicians used violence to “teach the Muslims a lesson,” but it taught the Hindus, police officers, and judges an even more important lesson about who was in charge and what was the nature of state power in Gujarat. The perpetrators were on the back foot only temporarily when national and international attention focused on the complicity of state officials and the lack of justice in the aftermath. Journalists and NGOs meticulously documented, published and circulated incriminating testimonial evidence of complicity and conspiracy between state officials,

Hindu nationalist organizations, and the wider public involved in the violence against Muslims.

The clarity of the violence against Muslims, its dramatization on the street, and its carnivalesque features, had an unpredictable response in Gujarat. The violence created a new public, a new solidarity and a new regime of governance – that wore its Hindu supremacy on its sleeve. Violence gave publicity and notoriety to previously unknown politicians, produced deeper alliances between Hindu nationalist organizations and the state apparatus, and gave an opportunity to Hindu nationalist activists to perform their ideology of Hindu supremacy and domination (*Hindutva*). Some Hindu nationalists even acknowledged that things had “gone out of hand” in 2002, but were proud of the opportunity to assert Hindu power, masculinity, and solidarity under the incumbent government and administration. Narendra Modi, the Chief Minister of Gujarat in 2002, relatively unknown until then, picked up the gauntlet and emerged as the leader and protector of Hindus. The gamble paid off. Today, he is the Prime Minister of India.

All this is well known. But what *outlives* Gujarat 2002? This dissertation has steered clear from the well-documented horror and brutality of mass violence in order to explore the legal technologies, official writing strategies, and everyday techniques of Hindu nationalist activists – practices that exceed the “Event.” The infrastructure that outlives mass violence, I argue, is made up of everyday practices of denying and justifying violence against minorities, in order to make it unaccountable. Judges listen to victims’ testimony only in order to reject it; perpetrators use legal and illegal modes of intimidating and humiliating survivors on a daily basis over several years; witnesses are sent to jail or turn hostile in the courtroom, while perpetrators become heroes in the eyes

of the wider public and win elections – sending a powerful message about the nature of state power to the wider public.

But mine is not an investigation of the failure of law to provide truth or justice to the survivors of mass political violence, in Gujarat 2002 or elsewhere. Such an analysis of impunity binds us to a normative understanding of the “rule of law.” While scholars have used tropes of victimhood and social suffering to analyze the effects of violence on survivors and communities, its recurring power as a mode of consolidating state power in contemporary India has been largely unanalyzed. My dissertation explores the role of Kafkaesque police documentation and legal processes, often long-term and systematic processes that authorize public spectacles of anti-minority violence and reinforce Hindu sovereignty.

If the story I have told so far describes how everyday state practices make mass violence against minorities unaccountable, then why focus on Gujarat 2002? After all rapists, killers, rioters, looters and arsonists roamed freely in the streets of Argentina, Mexico, Peru, South Africa, Guatemala in the aftermath of mass violence, disappearances, torture, and public executions. Of course impunity is neither a postcolonial disorder nor the absolute privilege of the South, but anthropological attention has largely focused on the failure of law and transitional justice mechanisms, even if the latter have been offered as a better means of uncovering the truth (Minow 1999) because criminal trials often take a narrow approach to crimes or mass atrocity that have wider institutional and societal roots.

I have answered a different question: What can Gujarat 2002 tell us about the role of everyday and spectacular violence against minorities in strengthening state power and reaffirming the nature of “Hindu” rule? If we discover not only *how* perpetrators get away with public violence against minorities, but also why such violence strengthens and deepens their control over the state apparatus, we might better understand the tragic recurrence of such violence as well.

In India, Gujarat 2002 has been surpassed by more recent incidents of violence against religious minorities: in 2008, Hindu nationalist activists attacked Christians in Kandamahal in Eastern India and there were Hindu-Muslim riots in central India that displaced 50,000 people in 2013. Such incidents of “communal violence” and so-called riots are embedded in different socio-political contexts and yet follow a familiar pattern: the so-called provocation or trigger event, the well-known agent provocateurs, inflammatory speeches by local politicians, and the complicity of the police and administration. The perpetrators are often well known and give public speeches against victims and the police are aware that trouble is brewing, and arms and weapons are distributed, but they look away or join the perpetrators. This much is familiar and obvious.

What happens afterwards is equally familiar. Television newsrooms debate who is guilty, play footage of mobs burning tires, shops and brandishing swords, but questions of responsibility and accountability end with the usual cliché: *Let the law take its course*. But this riverine metaphor assumes that there is a unified legal order that is outside illegal, violent and disordering processes.

What is the course of the law? Is it like a river that has a beginning and an end? Who and what determine its course and why do perpetrators (and sometimes even victims) feel so confident in its direction, rhythm, and flow? The assumption that law has its *own* course and unless interrupted or perverted by something outside it, leads to “Justice” gives it a magical force to create order out of disorder. Hence, the perennial demand for judicial probes, special investigations and commissions of inquiry in the aftermath of mass violence that take decades to come up with well-meaning “recommendations” for the government and repeat well-known public secrets like the complicity of the police in violence against minorities. Violence against minorities, especially Muslims, is also a familiar strategy to mobilize Hindu voters.

Apart from a few rare convictions, this cycle of violence, the demand for legal justice, and impunity is familiar and continues. But Gujarat 2002 can tell us something about the importance of analyzing the aftermath of violence because it is arguably the overall success or failure of regimes to repackage, whitewash and deny violence that in retrospect make a violent spectacle like Gujarat 2002 effective or not.

In Gujarat, human rights groups, survivors, journalists and activists successfully identified the actors, organizations, and institutions responsible for the violence. There was no mystery around culpability and responsibility. Hindu nationalist organizations, their activists and leaders openly condoned and provoked the attacks on Muslims across Gujarat; they bragged about how they killed, murdered and raped Muslims and “taught them a lesson.” The public too was aware of the atrocities and violence against Muslims living amidst them, even if many sections of the public denied that the violence was one-sided. The national and local press reported the role of leading Hindu nationalist

politicians in “encounter deaths” of alleged Muslim terrorists, which were later found to be cold-blooded murder.

Like the murder of Santiago Nasar described in the first sentence of Gabriel Garcia Marquez’s novella *Chronicle of a Death Foretold* – a murder announced, repeated and anticipated by the entire town – impunity in the aftermath of communal violence or riots in India is a story *foretold* – the actors are known, the plot is familiar and the end is expected – the lack of prosecutable evidence. What is a secret, I argue, is the subterranean and long-term processes – the reams of police paperwork and the cogs of legal rituals – that keeps spinning in order to make violence officially unaccountable, even justifiable, ironically, through an elaborate system of inscription, interpretation and statecraft. Authorizing, denying, and erasing violence is a process and project that draws on official writing practices, existing bureaucratic procedures, legal technologies, and everyday statecraft.

During and immediately after 2002, the Chief Minister of Gujarat, Narendra Modi, made public inflammatory speeches and statements against Muslims, and refused to even acknowledge the attack on Muslims under his watch. Major newspapers in India published excerpts of speeches in which Mr. Modi referred to Muslim relief camps as “baby-producing centers,” and asked the crowd whether the Gujarat government should open such centers for Muslims. Mr. Modi went on to describe Muslims as “*Ame Paanch, Amara pachees*” [We five, Our twenty-five], a barely veiled reference to Muslim polygamy. In a political masterstroke, Mr. Modi responded to activist and political attacks on his culpability during the anti-Muslim pogrom, by calling it an attack on “Gujarati Pride” and an attack on the whole population of Gujarat.

The anti-Muslim violence in 2002 and Mr. Modi's unflinching refusal to condemn it as targeted violence had its desired effect: Hindus voted en masse for Narendra Modi and Hindu nationalist politicians. Since 2002, the Hindu nationalist party, BJP, has been re-elected in every election in Gujarat. And Mr. Modi, who was already the longest serving Chief Minister in the history of Gujarat in 2007, recently became the 15th Prime Minister of India in May 2014. When human rights groups and survivors demanded an apology from Mr. Modi, after repeated exonerations from courts and finally even a Supreme Court of India appointed Special Investigation Team (SIT) that found there is "no prosecutable evidence" against him. The SIT report has been hailed by the media and Mr. Modi as a final "clean chit" to absolve him. Even though, many activists and human rights organizations, including survivors, raised concerns about the impartiality of the investigation, it has not been analyzed or interrogated in the media (See Mitta 2013). In 2012, Modi told an Urdu newspaper, "There is no question of apologizing because if I have committed this crime, then I should not be forgiven, I should be hanged." On being asked by Reuters in 2012 if he regretted the killings in 2002, he said, "if someone else is driving a car and we're sitting behind, even then if a puppy comes under the wheel, will it be painful or not? Of course it is."

Since his election as Prime Minister of India in May 2014, and long before that, Modi effectively shifted his image away from Hindu nationalism (and Gujarat 2002), to becoming India's only hope to lift the economy, by creating highways, cutting bureaucratic red tape, and delivering power to villages. This image makeover, supervised by public relations giant APCO Worldwide, officially restricted to promoting Gujarat as a destination for investors, successfully promoted Modi's personal achievements as the

Chief Minister of Gujarat. This process culminated in Modi sweeping the general elections in India in 2014 under the banner of “*Sabka Haath, Sabka Vikas*” (Together with all, Development for all.)

If indeed political and legal practices that denied and even authorized the violence against Muslims are part of the everyday state, then Gujarat 2002 may be repeated in the future without resorting to exceptional politics or legislation. And yet in human rights and activist discourses, Gujarat 2002 is often viewed as a perversion of law, the breakdown of “due process,” established procedures to ensure impartiality, and the lack of respect for proof and evidence. My findings suggest that recurring episodes of mass, public anti-minority violence, like in the case of Gujarat 2002, are *not* the breakdown of law and order; anti-minority violence is in fact better understood as an ongoing process by which political actors assert sovereignty and claim political power in postcolonial situations like India.

The anthropological tradition, and especially the work of Victor Turner and Mary Douglas, reminds us that moments of breakdown, transition and ritual are moments of transformation and are generally “good to think with.” I have approached mass violence in this key. Mass violence, however horrific and brutal, is not “exceptional,” in fact more so when people responsible for the violence reap rich political rewards in the aftermath. Such forms of punctuated public terror and violence are not “states of exception.” Agamben’s highly influential studies on law, violence and the state and especially his analysis of the “state of exception” – the only real rule of the camp is that the rule of law was suspended (Durantaye, 228) – has spawned an entire generation of work that focuses

on the blurring between law and lawlessness around the world and the increasing use of exceptions as a form of governance.

My dissertation suggests that this focus on the “exception” cannot help us to understand the long-term, unspectacular, banal, routine, and everyday state practices that make terror and violence within democratic regimes unaccountable and acceptable. Akhil Gupta’s recent formulation of “structural violence” – impersonal and often built into the structure of power – to explain the preventable deaths resulting from poverty in India, offers a more nuanced and ethnographic understanding of political violence within modern states. Gupta argues, “Contra Agamben...the paradox of the violence of poverty in India is that the poor are killed despite their inclusion in projects of national sovereignty and despite their centrality to democratic politics and state legitimacy” (2012:6).

Nasser Hussain, in the context of Guantanamo Bay and the legal regime following 9/11, argues that “the exception as it has historically and theoretically been understood, as a suspension of regular law, even a space of nonlaw, no longer exists” (735). While drawing out the limitations of the concept of the exception in understanding modern governance, Hussain also points out the limitations of the law as a response to “increasingly repressive and undemocratic sovereignty” (735). Carl Schmitt’s analysis of sovereignty – the sovereign is he who decides on the state of exception – disturbs modern liberal understandings of law and authority, but Hussain adds, “While Schmitt’s work offers a profound challenge to the sometimes easy assumptions of a liberal constitutionalist order, the difficulty in using the theoretical paradigm of the state of exception is that its specific substantive and connotative associations are ones of decision

and declaration, abeyance and suspension, and an emptying out of set rules from governance. But this is all at odds with the proliferation of regulations and administrative procedures that mark the daily management of contemporary crises” (2007:740)

Thus, perpetrators often get away with violence against minorities on the street by drawing on routine state practices and procedures that are invented, practiced and perfected in the police station and in the courtroom during “normal” times. For example, during the attacks on Muslims, the Gujarat police delayed and deferred the registration of official complaints against the accused, thereby opening up spaces for contradictions and inconsistencies which question the credibility of the survivor in trials that take place decades later. The accused sabotaged the trial by not showing up until they exhausted the witnesses, paralegal and lawyers, frequently forcing the survivor to “compromise” out of court. Such delays or legal strategies are *not* unique to Gujarat 2002 trials but a routine part of criminal justice in India. In other words, there is no radical separation between A (law) and B (violence). This puts survivors and activists in a bind because they must ask for “the rule of law” even as they show the impossibility of getting justice within existing political regimes.

Building on recent theories of the state that emphasize the fantastical and secretive aspects of the state (Nugent 2010), I argue that impunity helps us put denial, falsification and unaccountability at the heart of statecraft. Not just in the case of so called weak or failed states, but as the Gujarat case shows, in the heart of thriving, functioning and widely admired liberal democratic regimes like India.

Legal and official processes of documentation and investigation in the aftermath of mass violence unfold across long periods of time, and span disparate state institutions and officials: police stations, courtrooms, public prosecutors, judges, and even NGOs. There is of course more than one way to interpret impunity and Hindu sovereignty produced by legal processes and state mechanisms. One way to understand the lack of culpability and increased impunity for the perpetrators is to understand it as “unintended consequences.” As Roger Duthie argues in the afterword to a volume on Transitional Justice, which examines unintended consequences of transitional justice mechanisms in East Timor and Indonesia (Drexler 2008) and Guatemala (Sanford 2003) – this is certainly the position taken by many activists and commentators in India as well. But from the perspective of the survivors who attend such trials; the lawyers who are privy to the stance and interpretation of the judges; and the unofficial and official practices of the Gujarat government –impunity is an intended outcome of the legal process that further reinforces the political power of the perpetrators.

Talking to survivors, activists, and lawyers, I realized that justice was a driving force behind many NGO and civil society efforts in the aftermath. But like other instances of “state sanctioned” violence, activists and survivors faced the paradox of demanding justice from a state apparatus and political regime that encouraged and justified the attacks against Muslims in the first place.

Justice First’s reliance on bureaucratic proceduralism (Sharma and Gupta 2006) and their adoption of mechanical models of evidence and proof led to mass acquittals on the grounds of inconsistent and contradictory testimony and the lack of prosecutable evidence. This, in spite of the fact that evidence and proof of anti-Muslim violence in

2002 has been recorded and published by numerous human rights organizations, it has been published in newspaper reports and played on television, and it has been repeated innumerable times by hundreds of survivors who have lived to tell the tale.

Therefore, this dissertation is not about setting the record right, saying the unsayable, or a grand unveiling of “what really happened” in Gujarat 2002. Several journalists, activists, survivors, and witnesses have already produced powerful accounts of what took place in 2002; what I have analyzed here are processes of reading and writing, interpretation, production, and circulation that transform spectacular violence into a technique of governance – a form of state authority that is based on and reinforces the power of the Hindu majority to control, subdue, punish, and humiliate a section of its population, namely Muslims. By outlining this process over many years, across cases, courts, lawyers, and survivors I have tried to show the larger pattern and structure of Hindu sovereignty, and its relationship with state power and legitimacy.

As I documented the process of impunity in the aftermath of Gujarat 2002, the political landscape of contemporary India has shaped itself around Gujarat. Not out of concern for the wellbeing of survivors who continue to live in areas with no civic amenities, or even the scandal of mass injustice, but because of the landslide victory of Hindu nationalists in the recent 2014 election, and the spectacular rise of Mr. Narendra Modi as the Prime Minister of India. Not only have the alleged perpetrators of mass violence not been punished in this case, but also they are today some of the most popular politicians in India.

My dissertation argues that impunity in the aftermath of political violence is inextricable from the everyday state – legal and police documentation and bureaucratic procedures – and its mechanisms of legibility and illegibility; endless paperwork, illicit and illegal forms of power, informal modes of delay and obfuscation, and the everyday police investigation, and lawyerly strategies.

To analyze this official and unofficial infrastructure that denies and justifies violence, is a bit like finding Edgar Allan Poe's notorious purloined letter. Like Poe's purloined letter, it is invisible because of its conspicuously visibility; police paper trails and legal rituals are not hidden, but often ignored, misshapen, and take years to conclude. In the meantime, judges dismiss victims' testimony, write judgments that reinforce the power of state officials to deny and mask anti-minority violence, and official voices join that of the rioter, the murderer and the looter on the street.

Most narratives of conflict and violence pose the haunting question: What remains? Scholars of the aftermath of violence have focused on questions of memory, trauma, and language (Eng and Kazanjian 2003). In a different vein, Ann Stoler reflects on ruins and ruination, the debris of postcolonial and colonial violence, to argue that affects, structures and practices in the aftermath are hardly stable and congealed. Instead, ruins and ruination are active processes shaping the way in which people live in contemporary postcolonial societies. Veena Das writes of the "descent into the ordinary" that characterizes the lives of survivors and victims rebuilding "ordinary" lives in the aftermath of mass violence. In between silences and gestures, intense agitation and fraught intimacies, survivors rebuild lives with "poisonous knowledge" that can continue

to consume and wound communities and individuals long after the end of physical atrocities and violence.

What remain also are patterns of official writing, reading and interpretation that have a life beyond the vagaries of electoral politics, media attention, and even human rights activism. I am not suggesting in anyway that Hindu sovereignty and power is a self-enclosed stable system in Gujarat; in fact part of its force and efficacy lies in its dynamism or malleability. For instance, at the same time that most of the police documentation in Gujarat erased the violence against Muslims, it also entangled Muslims in anti-terror trials, and implicated the victims of police firing as “rioters.” The practices that allow political actors to justify violence against minorities are based on the dispersal, differentiation, and combination of narrative forms that do not adhere to the state versus society distinction. Or put simply, both the anti-Muslim violence in 2002 and its subsequent whitewashing would be impossible without the help of the vernacular media, Hindu nationalist organizations, intellectuals, and the wider public.

I use whitewashing not only to indicate the official denial of the identity, role, organization and planning of anti-Muslim violence in Gujarat – what Paul Brass calls the institutionalized riot system – but as used analytically by Jean Dennison in the context of settler societies like the US. And the “role of law in establishing authority” and in understanding “how certain populations justify their monopoly over a territory” (2014: 164). Dennison’s case studies of “legal whitewashing” in trials surrounding indigenous territory in Oklahoma and Arizona are useful to understand the precise role of the law in authorizing larger structural inequalities and discrimination. For example, the legal category of the riot in India is often used to whitewash the whole range of official and

unofficial actions, strategies, and propaganda, circulated and performed by identifiable actors and organizations.

Beside spectacular violence like riots and pogroms, there is a larger process by which violence against minorities is ignored, if not justified. For example, the establishment of illegal “street temples,” the protection of cows, and the protection of Hindu women (from Muslim men) are used by Hindu nationalist activists to circulate and entrench anti-minority sentiments in the wider public.

Alpa Shah and Tobias Kelly (2006) discuss how “states use violence in the pursuit of control and legitimacy” and the importance of the distinction between law making and law preserving violence in Walter Benjamin’s critique of violence. Anti-minority violence in Gujarat 2002 was both law founding – it marked the birth of a strident Hindu nationalist streak in governance; and law-preserving – the continuous official and unofficial discrimination against minorities and Hindu domination in everyday politics and life that continues on a daily basis asserts and reinforces Hindu sovereignty.

In sum, I show that recurring anti-minority violence in India and its aftermath is neither wholly within nor outside the law; the structures of effacement, including legitimating and masking violence, allow Hindu nationalist activists to break rules, yet establish Hindu sovereignty at the heart of state power. Ultimately, episodes of public, anti-Muslim violence supported by state officials help us analyze how and why violence produces legitimacy and authority, especially within pluralistic democratic regimes like India. I argue that everyday and spectacular violence against minorities and its

subsequent legal whitewash sends a powerful and unambiguous message about the nature of political rule and state power.

My dissertation offers counterintuitive answers to questions about violence and legitimacy. If public violence against minorities within multicultural polities is not a breakdown of law and order, then what is it? Analyzing trials and everyday state practices that make violence against Muslims unaccountable, I show that Gujarat 2002 reinforced Hindu sovereignty – a public assertion of Hindu power and supremacy in everyday life and politics. Spectacular violence, followed by everyday official unaccountability, consolidated Hindus and isolated Muslims, in ways that made it clear to everyone that Hindu rule and power (*Hindutva*) is the basic premise of governance in Gujarat.

Works Cited

Agamben, Giorgio

- 1995 *Homo Sacer*. Torino: G. Einaudi.
- 1999 *Remnants of Auschwitz: the witness and the archive*. New York: Zone Books.
- 2000 *Means without end: notes on politics*. Minneapolis: University of Minnesota Press.
- 2005 *State of exception*. Chicago: University of Chicago Press.

Agrama, Hussein Ali

- 2012 *Questioning secularism Islam, sovereignty, and the rule of law in modern Egypt*. University of Chicago Press.

Aretxaga, Begoña

- 1997 *Shattering silence : women, nationalism, and political subjectivity in Northern Ireland*. Princeton, N.J.: Princeton University Press.

Aretxaga, Begoña, Joseba Zulaika

- 2005 *States of terror : Begoña Aretxaga's essays*. Reno: Center for Basque Studies, University of Nevada, Reno.

Arvind, Narrain

- 2014 *Sexual Violence and the Death Penalty*. *Economic and Political Weekly* 49(3): 38-42.

Basu, Amrita, and Srirupa Roy

- 2007 *Violence and democracy in India*. Calcutta ; New York, NY: Seagull Books.

Baxi, Pratiksha

2014 Public secrets of law: rape trials in India. New Delhi: Oxford University Press.

Baxi, Upendra

2002 Notes on Holocaustian Politics. *In Seminar*, Vol. 513. New Delhi.

Bayly, C. A.

1985 The Pre-history of 'Communalism'? Religious Conflict in India, 1700–1860.

Modern Asian Studies 19(02):177-203

Berenschot, Ward

2011 Riot politics: Hindu-Muslim violence and the Indian state. New York: Columbia University Press.

Bernstein, Anya, and Elizabeth Mertz

2011 Introduction Bureaucracy: Ethnography of the State in Everyday Life. *PoLAR: Political and Legal Anthropology Review* 34(1):6-10.

Borneman, John

1997 *Settling accounts : violence, justice, and accountability in postsocialist Europe*. Princeton, N.J.: Princeton University Press.

—

2002 Reconciliation after ethnic cleansing: Listening, retribution, affiliation. *Public Culture* 14(2): 281-304.

Brass, Paul R.

1996 *Riots and pogroms*. Washington Square: New York University Press.

Brass, Paul R

1997 *Theft of an idol: Text and context in the representation of collective violence*: Princeton University Press.

-
- 2011 The production of Hindu-Muslim violence in contemporary India: Univ of Washington Press.
- Briet, Suzanne, et al.
- 2006 What is documentation? : English translation of the classic French text. Lanham, Md.: Scarecrow Press.
- Cabot, Heath
- 2012 The Governance of Things: Documenting Limbo in the Greek Asylum Procedure. PoLAR: Political and Legal Anthropology Review 35(1):11-29.
- Clarke, Kamari Maxine, and Mark Goodale
- 2010 Mirrors of justice: law and power in the post-Cold War era. Cambridge ; New York: Cambridge University Press.
- Comaroff, Jean, and John L. Comaroff
- 2006 Law and disorder in the postcolony. Chicago: University of Chicago Press.
- Coutin, Susan Bibler
- 2005 Being En Route. American Anthropologist 107(2):195-206.
- Cover, Robert M., et al.
- 1992 Narrative, violence, and the law: the essays of Robert Cover. Ann Arbor: University of Michigan Press.
- Daniel, E Valentine
- 1996 Charred lullabies: chapters in an anthropography of violence: Princeton University Press.
- Das, Veena

1990 *Mirrors of violence: communities, riots, and survivors in South Asia*. Delhi ; New York: Oxford University Press.

—

1995 *Critical events: an anthropological perspective on contemporary India*. Delhi ; New York: Oxford University Press.

—

2000 *Violence and subjectivity*. Berkeley: University of California Press.

—

2001 *Remaking a world: Violence, social suffering, and recovery*: Univ of California Press.

—

2003 *Trauma and Testimony: Implications for Political Community*. *Anthropological Theory* 3(3): 293-307.

—

2007 *Life and Words: Violence and the Descent into the Ordinary*: Univ of California Press.

Das, Veena, and Deborah Poole

2004 *Anthropology in the Margins of the State*: School of American Research Press Santa Fe.

De la Durantaye, Leland

2009 *Giorgio Agamben : a critical introduction*. Stanford, Calif.: Stanford University Press.

Drexler, Elizabeth F.

2008 Aceh, Indonesia : securing the insecure state. Philadelphia, Pa.: University of Pennsylvania Press.

Engineer, Asghar Ali

1984 Communal riots in post-independence India. Hyderabad India: Sangam Books : Distributed by Orient Longman.

Feldman, Allen

1991 Formations of violence: the narrative of the body and political terror in Northern Ireland. Chicago: University of Chicago Press.

Felman, Shoshana

2002 The juridical unconscious : trials and traumas in the twentieth century. Cambridge, Mass.: Harvard University Press.

Felman, Shoshana, and Dori Laub

1992 Testimony : crises of witnessing in literature, psychoanalysis, and history. New York: Routledge.

Ferme, Mariane C.

2001 The underneath of things : violence, history, and the everyday in Sierra Leone. Berkeley: University of California Press.

—

2013 Introduction: Localizing the State. *Anthropological Quarterly* 86(4):957-963.

Folch, Christine

2013 Surveillance and State Violence in Stroessner's Paraguay: Itaipú Hydroelectric Dam, Archive of Terror. *American Anthropologist* 115(1):44-57.

Ghassem-Fachandi, Parvis

2012 Pogrom in Gujarat Hindu nationalism and anti-Muslim violence in India. Pp. 1
online resource. Princeton N.J.: Princeton University Press,.

Gupta, Akhil

2012 Red tape: Bureaucracy, structural violence, and poverty in India: Duke University
Press Durham, NC.

Habermas, Jürgen

1988 The Tanner Lectures on Human Values: Salt Lake City: Utah University Press.

Hameed, S. S.

2002 How Has the Gujarat Massacre Affected Minority Women?: The Survivors
Speak: Syeda Hameed.

Hansen, Thomas Blom, and Finn Stepputat

2001 States of imagination : ethnographic explorations of the postcolonial state: Duke
University Press.

—

2006 Sovereignty revisited. *Annu. Rev. Anthropol.* 35:295-315.

Hastrup, Kirsten

2003 Violence, Suffering and Human Rights: Anthropological Reflections.
Anthropological Theory 3(3):309-323.

Hinton, Alexander Laban

2002 Genocide: an anthropological reader. Malden, Mass.: Blackwell.

Hoffman, Daniel

2005 Violent events as narrative blocs: the disarmament at Bo, Sierra Leone.

Anthropological Quarterly 78(2):328-353.

Hull, Matthew S

2012 Documents and Bureaucracy*. Annual Review of Anthropology 41:251-267.

—

2012 Government of paper: The materiality of bureaucracy in urban Pakistan:
University of California Pr.

Human Rights Watch (Organization)

2002 India: "we have no orders to save you" : state participation and complicity in
communal violence in Gujarat. New York, N.Y.: Human Rights Watch.

International Human Rights and Conflict Resolution Clinic, Stanford Law School

2014 When Justice Becomes the Victim. International Human Rights and Conflict
Resolution Clinic, Mills Legal Clinic.

Jaffrelot, Christophe

Gujarat 2002: What Justice for the Victims? Economic and Political Weekly.

—

1996 The Hindu nationalist movement in India. New York: Columbia University Press.

—

2005 The Sangh Parivar : a reader. Delhi: Oxford University Press.

Kaplonski, Christopher

2008 Prelude to violence: Show trials and state power in 1930s Mongolia. American
Ethnologist 35(2):321-337.

Kapur, Ratna

2000 Postcolonial Erotic Disruptions: Legal Narratives of Culture, Sex, and Nation in

India. *Colum. J. Gender & L.* 10:333.

Kelly, Tobias

2006 Documented lives: fear and the uncertainties of law during the second Palestinian intifada. *Journal of the Royal Anthropological Institute* 12(1):89-107.

Kelly, Tobias, and Alpa Shah

2006 Introduction - A Double-edged Sword: Protection and State Violence. *Critique of Anthropology* 26(3):251-257.

Khetan, Ashish

2007 Gujarat 2002: The Truth in the Words of the Men Who Did It. *In* *Tehelka*.

Kleinman, Arthur, Veena Das, and Margaret M. Lock

1997 *Social suffering*. Berkeley: University of California Press.

Knaft, Bruce M.

2002 *Critically modern: alternatives, alterities, anthropologies*. Bloomington: Indiana University Press.

Ludden, David E.

1996 *Contesting the nation : religion, community, and the politics of democracy in India*. Philadelphia: University of Pennsylvania Press.

—

2005 *Making India Hindu: religion, community, and the politics of democracy in India*. Delhi: Oxford University Press.

Mander, Harsh

2004 *Cry, my beloved country: reflections on the Gujarat carnage 2002 and its aftermath*. Noida: Rainbow Publishers.

Mander, Harsh, Akanksha Joshi, and Women in Security Conflict Management and Peace
(Program)

2008 Towards healing? : seeking paths for justice and reconciliation in Gujarat. New
Delhi: WISCOMP, Foundation for Universal Responsibility.

Mathews, Andrew S.

2011 Instituting nature: authority, expertise, and power in Mexican forests. Cambridge,
Mass.: MIT Press.

Merry, Sally Engle, and Susan Bibler Coutin

2014 Technologies of truth in the anthropology of conflict: AES/APLA Presidential
Address, 2013. *American Ethnologist* 41(1): 1-16.

Messick, Brinkley Morris

1993 The calligraphic state: textual domination and history in a Muslim society.
Berkeley: University of California Press.

Minow, Martha

1999 Between vengeance and forgiveness: Facing history after genocide and mass
violence: Beacon Press.

Moore, Sally Falk

2005 Law and anthropology: a reader. Malden, MA: Blackwell Pub.

Moyukh, Chatterjee

2014 After the Law. *Economic and Political Weekly* 49(16): 12-15.

Nainar, Vahida, Vrinda Grover, and National Solidarity Forum (India)

2011 Waiting for justice: a report: National People's Tribunal on Kandhamal, 22-24
August 2010, New Delhi. New Delhi: National Solidarity Forum.

Navaro-Yashin, Yael

2007 Make-believe papers, legal forms and the counterfeit Affective interactions between documents and people in Britain and Cyprus. *Anthropological Theory* 7(1):79-98.

Nitya, Ramakrishnan

2014 Sins of Gujarat 2002 and Their Long Shadows. *Economic and Political Weekly* 49(18): 33-35.

1995 *Fieldwork under fire : contemporary studies of violence and survival*. Berkeley: University of California Press.

Nugent, David

2010 States, secrecy, subversives: APRA and political fantasy in mid-20th-century Peru. *American Ethnologist* 37(4):681-702.

Nussbaum, Martha Craven

2007 *The clash within: democracy, religious violence, and India's future*. Cambridge, Mass.: Belknap Press of Harvard University Press.

Pandey, Gyanendra

Unarchived histories : the 'mad' and the 'trifling' in the colonial and postcolonial world.

—

1990 *The construction of communalism in colonial north India*. Delhi ; New York: Oxford University Press.

—

2001 *Remembering partition: violence, nationalism, and history in India*. New York:

Cambridge University Press.

—
2006 Routine violence: Nations, fragments, histories: Stanford University Press.

—
2010 Subaltern citizens and their histories : investigations from India and the USA.
London ; New York: Routledge.

—
2011 Subalternity and difference : investigations from the North and the South. London
; New York: Routledge.

Pandey, Gyanendra, and Centre for Studies in Social Sciences.

1999 Memory, history, and the question of violence: reflections on the reconstruction
of partition. Calcutta: Published for Centre for Studies in Social Sciences by K.P. Bagchi
& Co.

Patel, Aakar, Dileep Padgaonkar, and B. G. Verghese

2002 Rights and Wrongs. Ordeal by Fire in the Killing Fields of Gujarat (Editors Guild
Fact Finding Mission Report, New Delhi.

Pottage, Alain, and Martha Mundy

2004 Law, anthropology and the constitution of the social : making persons and things.
Cambridge, UK ; New York: Cambridge University Press.

Rajagopal, Arvind

2010 Special political zone: urban planning, spatial segregation and the infrastructure
of violence in Ahmedabad 1. South Asian History and Culture 1(4):529-556.

Riles, Annelise

2001 *The network inside out*: University of Michigan Press.

—

2006 *Documents: artifacts of modern knowledge*: University of Michigan Press.

Robbins, Joel

2013 *Beyond the suffering subject: toward an anthropology of the good*. *Journal of the Royal Anthropological Institute* 19(3):447-462.

Ross, Fiona C.

2003 *Bearing witness : women and the truth and Reconciliation Commission in South Africa*. London ; Sterling, Va.: Pluto Press.

—

2003 *On having Voice and Being Heard: Some after-Effects of Testifying Before the South African Truth and Reconciliation Commission*. *Anthropological Theory* 3(3):325-341.

Sanford, Victoria

2003 *Buried secrets: truth and human rights in Guatemala*. New York: Palgrave Macmillan.

Sarat, Austin

2001 *Law, Violence, and the Possibility of Justice*: Princeton University Press.

Sarat, Austin, Lawrence Douglas, and Martha Merrill Umphrey

2005 *The limits of law*. Stanford, Calif.: Stanford University Press.

Sarat, Austin, and Thomas R. Kearns

1992 *Law's violence*. Ann Arbor: University of Michigan Press.

Sarkar, Tanika

2002 Semiotics of Terror. *Economic and Political Weekly* 37(28).

Scott, James C

1998 *Seeing like a state: How certain schemes to improve the human condition have failed*: Yale University Press.

Sharma, Aradhana

2013 *State Transparency after the Neoliberal Turn: The Politics, Limits, and Paradoxes of India's Right to Information Law*. *PoLAR: Political and Legal Anthropology Review* 36(2):308-325.

Sharma, Aradhana, and Akhil Gupta

2006 *The anthropology of the state : a reader*. Malden, MA: Blackwell Pub.

Shaw, Rosalind, Lars Waldorf, and Pierre Hazan

2010 *Localizing transitional justice: interventions and priorities after mass violence*. Stanford, Calif.: Stanford University Press.

Simpson, Edward

2006 *The State of Gujarat and the Men without Souls*. *Critique of Anthropology* 26(3):331-348.

Singh, Ujjwal Kumar

2007 *The state, democracy and anti-terror laws in India*. New Delhi ; Thousand Oaks: Sage Publications.

Sluka, Jeffrey A

2000 *Death squad: the anthropology of state terror*: Univ of Pennsylvania Press.

Spodek, Howard

2011 Ahmedabad : shock city of twentieth-century India. Bloomington, IN: Indiana University Press.

Subramanian, K. S.

2007 Political violence and the police in India. Thousand Oaks: SAGE Publications.

Taussig, Michael

1984 Culture of terror—Space of death. Roger Casement's Putumayo report and the explanation of torture. *Comparative Studies in Society and History* 26(03):467-497.

Taussig, Michael T.

1999 Defacement : public secrecy and the labor of the negative. Stanford, Calif.: Stanford University Press.

Taylor, Diana

1997 Disappearing acts: spectacles of gender and nationalism in Argentina's "dirty war": Duke University Press.

Theidon, Kimberly Susan

2013 Intimate enemies: violence and reconciliation in Peru. Philadelphia: University of Pennsylvania Press.

Thiranagama, Sharika

2011 In my mother's house : civil war in Sri Lanka. Philadelphia: University of Pennsylvania Press.

Concerned Citizens Tribunal

2002 Crime Against Humanity: An Inquiry into the Carnage in Gujarat. Concerned Citizens Tribunal, Citizens for Justice and Peace, Mumbai.

Varadarajan, Siddharth

2002 Gujarat: the making of a tragedy: Penguin Books India.

Varshney, Ashutosh

2002 Ethnic conflict and civic life : Hindus and Muslims in India. New Haven: Yale University Press.

Vismann, Cornelia

2008 Files: law and media technology. Stanford, Calif.: Stanford University Press.

Ward, Berenschot

2014 Muzaffarnagar Riots. Economic and Political Weekly 49(12):15-18.

Wilkinson, Steven

2005 Religious politics and communal violence. New Delhi ; Oxford ; New York: Oxford University Press.

Wilkinson, Steven I.

2002 Putting Gujarat in Perspective. Economic and Political Weekly 37(17):1579-1583.

—

2005 Communal Riots in India. Economic and Political Weekly 40(44/45):4768-4770.

Wilson, Richard

2001 The politics of truth and reconciliation in South Africa : legitimizing the post-apartheid state. Cambridge ; New York: Cambridge University Press.

Wilson, Richard Ashby

2003 Preface to Special Issue on Political Violence and Language. Anthropological Theory 3(3):267-269.

—

2003 Anthropological Studies of National Reconciliation Processes. Anthropological

Theory 3(3):367-387.

Yngvesson, Barbara

2006 Backed by papers: Undoing persons, histories, and return. *American Ethnologist*

33(2):177-190.