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REVIEW AUTHORITY: Archie Bolster, Senior
Reviewer

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 Subject: Gujarat Activists Determined to See Justice Served in 2002 violence

1. (SBU) Summary: On September 11, Javed Anand and Mihir Desai of the NGO Citizens for Justice and Peace (CJP) told Ambassador Powell that they will continue to seek justice for the victims of the 2002 anti-Muslim violence in Gujarat. In contrast to other episodes of communal violence in India's history, this is the first time any organization has successfully pursued justice through the Indian legal system. Anand and Desai predicted that the legal battle will be protracted and hard. So far, six out of 10 cases sent to special courts have resulted in convictions. The recent conviction of one of Chief Minister Modi's former cabinet members in the judgment known as the Naroda Patiya case (ref A) has helped reveal further evidence linking Modi and his associates to the violence, the activists said. Their goal is to convict Modi, as they believe he should be held responsible for holding back police during the killing spree. End Summary.

The Gujarat Violence, and the Long, Drawn-Out Justice Process

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2. (U) Between February 28 and May 2002, rioters throughout Gujarat killed over 1,200 people (almost 80 percent of them Muslims), injured more than 2,500, damaged or vandalized more than 500 Muslim religious structures, and destroyed property in reprisal for the deaths of 59 Hindu pilgrims in a train fire in the town of Godhra on February 27. Various civilian inquiries concluded that Gujarat government and police officials were complicit in the violence and did not provide enough protection to Muslim victims. Unlike previous episodes in which religious minorities were targeted (such as the 1984 anti-Sikh attacks in Delhi, and 1992-93 anti-Muslim violence in Mumbai), in Gujarat human rights groups made sustained efforts to bring perpetrators to justice through the courts. CJP is the most prominent amongst such groups and has assisted victims and their families in nearly 68 post-riot cases.

3. (U) In 2008, the Indian Supreme Court (SC) appointed a Special Investigation Team (SIT) to re-investigate eight major incidents, including the train fire, after the SC concurred with the human rights groups' claims that the Gujarat police did not investigate the incidents seriously, and the Gujarat government interfered in trial proceedings, which subsequently led to acquittals of Hindu defendants. The SC ordered expedited trials in special courts for these cases in 2010. To date, six judgments in these trials have resulted in long prison terms for nearly 140 Hindus convicted in the violence. In addition, a special court sentenced to death several Muslim youth convicted of burning the railcar in Godhra. The August 29 Naroda Patiya judgment resulted in the conviction of an elected member of a state legislature (Maya Kodnani of Modi's Bharatiya Janata Party [BJP]) of murder for the first time in India's history (ref A).

The Effort to Indict Modi and Senior State Officials

4. (U) Anand reported that the "*Indian People's Tribunal on Gujarat*," a civilian inquiry headed by a retired Supreme Court judge specially constituted to look into Gujarat violence, concluded in May 2002 that "Chief Minister Modi was the chief author and architect of the violence" that engulfed the state after the railcar fire. Since 2006, the CJP and Zakia Jafri, the widow of a Congress MP killed in the violence, have attempted to bring charges of conspiracy and pre-meditation against Gujarat chief minister Narendra Modi and 61 other state officials. In 2009, the SC asked the SIT to examine Jafri's complaint, and in May 2010, the SIT gave a final report to the SC that concluded that there was no evidence to

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prosecute Modi. The SC asked lawyer Raju Ramchandran to study the SIT report and advise the court as an "*amicus curiae*" [friend of the court]. Ramchandran concluded that Modi and certain police and Home Ministry officials can be prosecuted for conspiring to commit mass murder. The SC instructed a trial court to look at all the evidence SIT gathered, the *amicus curiae*'s report, and the two reports produced by the SIT to determine whether charges can be filed against Modi. In February 2012, the magistrate ordered the SIT to share all the evidence and its reports with the petitioners Zakia Jafri and CJP. The SIT partially complied with the magistrate's order in April 2012, and then again in June 2012. However, Jafri and CJP have been arguing in the magistrate's court that SIT has withheld vital parts of the information.

5. (SBU) Anand and Desai explained that the CJP is locked in various legal battles with the SIT to get all the evidence, and they think the court should question the SIT's conclusion that there is insufficient prosecutable evidence against Modi and others. They expect that the effort to file the protest petition will likely go all the way to the SC regardless of how the magistrate rules because inevitably the other side would appeal any decision. Desai said, "We are looking at several years of judicial proceedings, not months, but we will persist."

6. (SBU) Comment: The CJP is a trailblazer. This is the first time any Indian group has been successful at methodically using the Indian legal system and the rule of law to hold elected officials accountable for complicity in communal violence. They are optimistic that in the end, justice will be served and Modi himself will be convicted for allowing the bloodshed to happen, if not actually fomenting it.

Signature: HAAS

Drafted By: MUMBAI:Mundlay, Arundhati
Cleared By: Consular:Haas, Peter D
POL\ECON:Carlson, Robert W (Mumbai)
CONS/NIV:Kania, James J
Approved By: AMB:Powell, Nancy J
Released By: MUMBAI:Carlson, Robert W (Mumbai)
Info: NEW DELHI, AMEMBASSY *ROUTINE*; KOLKATA, AMCONSUL *ROUTINE*;
CHENNAI, AMCONSUL *ROUTINE*; HYDERABAD, AMCONSUL *ROUTINE*;

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