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## CJA STATEMENT ON INDIA'S FIFTEENTH PRIME MINISTER NARENDRA MODI

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**New Delhi, India.** Yesterday, Narendra Modi of the *Bharatiya Janata Party* (BJP) was sworn in as India's fifteenth Prime Minister. Modi ran on a pro-growth and anti-corruption platform, and his party won a landslide victory in parliamentary elections over the incumbent Congress Party. By electing the BJP by outright majority—282 of 543 seats—India's voters voiced their discontent at chronic corruption scandals, high inflation, poor economic growth, and Nehru-Gandhi dynasty politics.<sup>1</sup>

**However, Modi's appointment is deeply concerning from a human rights perspective.** Modi stands accused of failing to stop communal riots in Gujarat in 2002, when he was Chief Minister of that state. On February 27, 2002, a deadly train fire in the city of Godhra killed 58 Hindu pilgrims. In the weeks that followed, Hindu mobs targeted and killed an estimated 2,000 people, mostly Muslims, and left over 100,000 homeless. Women were raped; pregnant women were disemboweled; infants and children were killed. Even prominent Muslims like former Congress Party Member of Parliament ("MP") Ehsan Jafri were not spared.<sup>2</sup>

India's National Human Rights Commission condemned the Gujarat government for failing to contain the violence.<sup>3</sup> Modi visited the city of Godhra the same day of the train fire and pronounced Muslims and Pakistani intelligence responsible for the Hindu deaths. By contrast, Modi did not immediately visit riot-affected areas in the city of Ahmedabad after Muslims were massacred by Hindu mobs.<sup>4</sup> Instead, Modi called for a day of mourning after the Godhra incident and did nothing to stop an illegal strike (*bandh*) led by the Hindu nationalist organization *Vishwa Hindu Parishad*, which precipitated the riots.<sup>5</sup> It is alleged that Modi asked senior police not to interfere if Hindus sought revenge.<sup>6</sup> Mobs used voter lists to identify and target Muslims, further suggesting state complicity.<sup>7</sup> The Indian Army did not intervene for days, during which the worst of the violence occurred.<sup>8</sup> The Supreme Court of India later lambasted Gujarat's prosecutors and state government for "looking elsewhere when . . . innocent children and helpless women were burning, and . . . probably deliberating how the perpetrators of the crime can be protected."<sup>9</sup> Former Chief Justice of the Supreme Court V.N. Khare stated that if he had been in a position to do so, he "would have lodged an FIR [initial police report] against Narendra Modi on charges of genocide and manslaughter."<sup>10</sup>

In the aftermath of the riots, instead of bringing communities together, Modi stoked religious sentiments. "Every action has an equal and opposite reaction," Modi told reporters. "The five crore [50 million] people of Gujarat have shown remarkable restraint under grave provocation [from the Godhra train fire]."<sup>11</sup> At an election rally several months later, Modi asked a crowd of supporters, "Had nothing happened at Godhra, would anyone have hurled even one stone?"<sup>12</sup> At

another rally, Modi mocked relief camps for Muslim riot victims as “child producing centers.”<sup>13</sup> He won reelection that year and in every election that followed.

At least one member of Modi’s cabinet has been convicted for participating in the riots. Maya Kodnani, appointed Minister for Child Development by Modi in 2007, was convicted in 2012 and sentenced to 28 years in prison for orchestrating the massacre of 95 people at Naroda Patiya, a suburb of Ahmedabad.<sup>14</sup> Babu Bajrangi, a leader of the Hindu nationalist youth organization *Bajrang Dal*, was also convicted and sentenced for the Naroda Patiya massacre. He stated in a 2007 undercover interview that Modi facilitated the attacks and later switched judges to secure Bajrangi’s release on bail.<sup>15</sup>

In 2005, the United States denied Modi a visa for violations of religious freedom, stating that under U.S. law, “any foreign government official who ‘was responsible for or directly carried out, at any time, particularly severe violations of religious freedom’ [is] ineligible for a visa to the United States.”<sup>16</sup> The House of Representatives praised Modi’s visa denial in a November 2013 bipartisan resolution.<sup>17</sup> The visa policy remained in effect until May 16, 2014, when President Obama called to congratulate Modi after the election and invite him to Washington.<sup>18</sup>

For his part, Modi has consistently denied any wrongdoing. The Supreme Court jointly appointed a Special Investigation Team (SIT) and amicus curiae Raju Ramachandran to review the evidence against Modi. In 2012, the SIT and Ramachandran reached opposite results on whether the evidence supported an indictment. The main point of contention was whether to believe the testimony of one police officer.<sup>19</sup> Media reports that the Supreme Court exonerated Modi or gave him a “clean chit” are factually incorrect. The Supreme Court drew no ultimate conclusions from the conflicting SIT and Ramachandran reports and instead instructed Gujarat’s magistrate courts to decide whether to charge Modi.<sup>20</sup> On December 26, 2013, a magistrate court in Gujarat sided with the SIT and declined to indict Modi for the Gulbarg Society massacre, in which Hindu mobs killed politician Ehsan Jafri and 68 Muslims who had sought shelter at his home. The verdict was appealed, and the case is still pending before Gujarat’s High Court.<sup>21</sup>

Against the backdrop of the 2002 riots, Modi’s political rise raises moral concerns. These concerns extend beyond Modi’s role in the riots or the 2002 riots themselves. Modi’s appointment as Prime Minister underscores how, in the absence of accountability, impunity for communal violence extends to the highest ranks of Indian government.

India’s post-independence history is checkered with communal violence, particularly between Hindus and the minority Muslims population.<sup>22</sup> The 2002 riots were not a first for Gujarat; Hindu-Muslim communal violence occurred in Ahmedabad (in 1969, 1985, and 1990), Godhra (1981), Baroda (1982), and Surat (1992).<sup>23</sup> Each of the communal riots across India resulted in mass casualties. Many involved participation by state officials or police, but few state actors have been held to account.

As Modi’s supporters point out, former Congress Party politicians have yet to be held accountable for their role in the 1984 riots in Delhi following Prime Minister Indira Gandhi’s assassination, in which at least 3,000 Sikhs were killed. After his mother’s death, then-Prime Minister Rajiv Gandhi stoked communal sentiments and explained the violence by stating: “[w]hen a great tree falls, the earth is bound to shake.” Former Congress Party MP Jagdish Tytler

remains under investigation for his role in the violence, and India's central intelligence agency appealed former Congress Party MP Sajjan Kumar's acquittal last August.<sup>24</sup> Similarly, politicians and police officers were reportedly involved in the 1992-1993 Mumbai riots, in which 575 Muslims and 275 Hindus were killed.<sup>25</sup> Yet, when Bal Thakeray died in 2012, the *Shiv Sena* leader blamed for anti-Muslim hate speech during the Mumbai riots was given a state funeral with a 21-gun salute.<sup>26</sup>

**Modi's appointment as Prime Minister is not troubling solely because of his actions—or inaction—during the 2002 Gujarat riots. Instead, his appointment signals a broader problem that those linked to mass atrocities evade accountability at the highest ranks of Indian government.** Modi never had to face hard questions about the Gujarat riots. When the topic arose during the campaign, his supporters could simply point to Congress Party leaders who have yet to be held accountable for the 1984 Delhi attacks. Impunity begets impunity: the mass atrocities of 1984 and 1993 are cited to deflect attention from what happened in 2002, while victims of those attacks still wait for justice.

Time will tell what Modi's leadership means for India. Modi's party won a decisive victory in a democratic election, sweeping the long-dominant Congress Party and winning an outright majority in the lower house of Parliament. Modi won on promises of economic reform and received support not only from his Hindu nationalist core but also from the young, urban and educated.<sup>27</sup> In accepting victory, Modi told his supporters, "The government's motto will be to be with everyone and for everyone's development. . . . We want everyone's progress and development but it is as important that we take everybody along with us."<sup>28</sup> The human cost of corruption, underemployment, malnourishment, and poor economic growth has been tremendous, and Modi's calls for inclusive growth are promising.

Yet, Modi has failed to reach out to India's minority Muslim population following his win. Considering Modi's lifelong affiliation with the far-right Hindu nationalist organization *Rashtriya Swayamsevak Sangh* (RSS); Modi's choice to contest elections from Varanasi, a city sacred to Hindus, and to worship after his win at the Ganges, a river sacred to Hindus; the BJP's election platform call to build a Hindu Ram temple at Ayodhya, an issue that precipitated mass Hindu-Muslim riots in the early 1990s; and recent hate speech on the campaign trail by Modi's right-hand-man Amit Shah in riot-affected parts of Uttar Pradesh, Modi has not done enough to put communal fears to rest. Likewise, some raise concerns about the implications of Modi's autocratic style of governance for democracy, free speech, and the rule of law.<sup>29</sup>

As India's Prime Minister, Narendra Modi needs to do more to bridge communal divides and promote transparency and inclusive growth for all Indians. As a nation, India must do much more to combat systemic impunity for those complicit in mass atrocities and communal violence. Narendra Modi must be investigated and, where sufficient evidence exists, face prosecution in full conformance with due process. Others must face justice too, including former Congress Party leaders implicated in the 1984 anti-Sikh violence in Delhi and *Shiv Sena* leaders implicated in the 1993 anti-Muslim violence in Mumbai. Accountability is about more than political score-keeping, and victims of communal violence have waited far too long for justice.

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<sup>1</sup> See, e.g., “India’s strongman,” *The Economist* (May 24, 2014), available at <http://www.economist.com/news/leaders/21602683-narendra-modis-amazing-victory-gives-india-its-best-chance-ever-prosperity-indias-strongman?fsrc=scn/tw/te/pe/indiasstrongman> (last visited May 22, 2014); “India’s corruption scandals,” *BBC News* (Apr. 18, 2012), available at <http://www.bbc.com/news/world-south-asia-12769214> (last visited May 22, 2014).

<sup>2</sup> See, e.g., “Compounding Injustice: The Government’s Failure to Redress Massacres in Gujarat,” Human Rights Watch (July 2003) (hereinafter “2003 HRW Report”), at 4, 10-11, available at <http://www.hrw.org/reports/2003/india0703/India0703full.pdf> (last visited May 22, 2014); “We have no orders to save you,” Human Rights Watch (April 2002) (hereinafter “2002 HRW Report”), available at <http://www.hrw.org/reports/2002/india/gujarat.pdf> (last visited May 22, 2014); Violette Graff & Juliette Golonnier, “Hindu-Muslim Communal Riots in India II (1986-2011),” *Online Encyclopedia of Mass Violence*, ISSN 1961-9898 (Aug. 20, 2013) (hereinafter “Communal Riots in India II”), at 24-25, available at [http://www.massviolence.org/IMG/article\\_PDF/Hindu-Muslim-Communal-Riots-in.738.pdf](http://www.massviolence.org/IMG/article_PDF/Hindu-Muslim-Communal-Riots-in.738.pdf) (last visited May 22, 2014).

<sup>3</sup> Final Order, Case No. 1150/6/2001-2002, National Human Rights Commission (May 31, 2002), ¶ 64, available at [http://nhrc.nic.in/guj\\_finalorder.htm](http://nhrc.nic.in/guj_finalorder.htm) (last visited May 22, 2014) (“There is no doubt, in the opinion of this Commission, that there was a comprehensive failure on the part of the State Government to control the persistent violation of the rights to life, liberty, equality and dignity of the people of the State.”).

<sup>4</sup> Comments of the Chairman of the SIT, Gujarat on the Enquiry Report in SLP (Crl.) 1088/2088 (May 14, 2010) at 13, available at <http://cjponline.org/zakia/Chairman%20Raghavans%20Comments%2014.5.2010.pdf> (last visited May 27, 2014) (“Shri Modi visited Godhra promptly on the same day as the incident. Surprisingly however he took as many as 5-6 days to do the same in the riot-affected areas of Ahmedabad, where Muslims were victims.”).

<sup>5</sup> Comments of the Chairman of the SIT, *supra* note 4, at 9; see also William J. Antholis, “My conversation with Narendra Modi,” *Brookings* (May 15, 2014), available at <http://www.brookings.edu/blogs/up-front/posts/2014/05/15-my-conversation-with-narendra-modi> (last visited May 22, 2014); 2003 HRW Report, *supra* note 2, at 12, 41; NHRC Final Order, *supra* note 3, at ¶¶ 15, 17.

<sup>6</sup> 2003 HRW Report, *supra* note 2, at 12.

<sup>7</sup> 2002 HRW Report, *supra* note 2, at 23.

<sup>8</sup> See, e.g., 2003 HRW Report, *supra* note 2, at 11; Rahul Bedi, “Soldiers ‘held back to allow Hindus revenge,’” *The Telegraph* (Mar. 4, 2002), available at <http://www.telegraph.co.uk/news/worldnews/asia/india/1386725/Soldiers-held-back-to-allow-Hindus-revenge.html> (last visited May 22, 2014).

<sup>9</sup> *Zahira Habibulla H Sheikh And Anr vs State Of Gujarat And Ors* on 12 April, 2004 CASE NO.: Appeal (crl.) 446-449 of 2004, available at <http://indiankanoon.org/doc/105430/> (last visited May 22, 2014).

<sup>10</sup> Sadiq Naqvi Delhi, “I would have lodged an FIR against Narendra Modi on charges of genocide and manslaughter” (Mar. 4, 2013), available at <http://www.hardnewsmedia.com/2012/02/4566> (last visited May 22, 2014).

<sup>11</sup> Scott Baldauf, “Indian government struggles to maintain order; Continuing riots test Hindu-led coalition’s credibility,” *Christian Science Monitor* (Mar. 4, 2002), available at <http://www.csmonitor.com/2002/0304/p07s01-wosc.html> (last visited May 23, 2014).

<sup>12</sup> Rakesh Sharma, Final Solution (VIDEO) at 52:20, available at <https://www.youtube.com/watch?v=2uC278OX9BE#t=309> (last visited May 21, 2014).

<sup>13</sup> “Should we run relief camps? Open Child Producing Centres?” (Excerpts from Modi’s Gaurav Yatra Speech), *Outlook India* (Sep. 9, 2002), available at <http://www.outlookindia.com/article.aspx?217398> (last visited May 21, 2014) (Modi: “So what should we do? Do we go and run relief camps? Should we open child producing centres? We want to firmly implement family planning. *Hum paanch, humare pachees* [We are five, ours 25 – referencing Muslim polygamy] (laughs). . . . If Gujarat is to be developed, then an economic system has to be developed where every child born in Gujarat gets education, manners and employment. And for this, those who are multiplying population at a rapid rate will need to learn a lesson.”); see also U.S. State Department Human Rights Report (2002): India, <http://www.state.gov/j/drl/rls/hrrpt/2002/18311.htm> (last visited May 22, 2014) (“[I]n September Gujarat Chief Minister Narendra Modi allegedly made disrespectful remarks about Muslims in an election rally speech. In the speech, Modi allegedly blamed Muslims living in refugee camps for the state’s population boom, although he denied insulting Muslims.”).

<sup>14</sup> Annie Banerji, “Indian nationalist lawmaker gets 28 years for 2002 massacre,” *Reuters* (Aug. 31, 2012), available at <http://www.reuters.com/article/2012/08/31/us-india-riots-sentencing-idUSBRE87U0EX20120831> (last visited May 22, 2014).

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- <sup>15</sup> Ashish Khetan, “To Get Me Out on Bail, Narendrabhai Changed Judges Thrice,” *Tehleka* (Nov. 3, 2007), available at <http://www.tehelka.com/to-get-me-out-on-bail-narendrabhai-changed-judges-thrice/> (last visited May 22, 2014); *see also* Rakesh Sharma (VIDEO), “Modi, Babu Bajrangji and the Naroda Patia Massacre,” available at <https://www.youtube.com/watch?v=aXLbArGJC6M> (last visited May 21, 2014).
- <sup>16</sup> Statement by David C. Mulford, U.S. Ambassador to India, “Issue of Chief Minister Narendra Modi’s Visa Status (Mar. 21, 2005), available at <http://2001-2009.state.gov/p/sca/rls/rm/2005/43701.htm> (last visited May 22, 2014).
- <sup>17</sup> H.Res.417 (113th Cong.) (Nov. 18, 2013), available at <http://beta.congress.gov/bill/113th-congress/house-resolution/417> (last visited May 22, 2014).
- <sup>18</sup> “Readout of the President’s Call with Prime Ministerial Candidate Narendra Modi of India,” The White House (May 16, 2014), available at <http://www.whitehouse.gov/the-press-office/2014/05/16/readout-president-s-call-prime-ministerial-candidate-narendra-modi-india> (last visited May 22, 2014); *see also* “Indian Elections and Formation of New Government,” Press Statement of Secretary of State John Kerry (May 20, 2014), available at <http://www.state.gov/secretary/remarks/2014/05/226344.htm> (last visited May 22, 2014).
- <sup>19</sup> Report by the Amicus Curiae dated 25.07.2011 submitted pursuant to the Order of this Hon’ble Court Dated 05.05.2011 (Ramachandran Report), available at <http://cjponline.org/zakia/FINAL%20REPORT%20-%20RAJU%20RAMACHANDRAN.pdf> (last visited May 22, 2014); Report in Compliance to the Order Dtd 12.09.2011 of the Hon’ble Supreme Court of India in the Complaint Dtd 08.06.2006 of Smt. Jakia Nasim Ahesan Jafri (SIT Report), available at <http://cjponline.org/> (last visited May 22, 2014).
- <sup>20</sup> *Jakia Nasim Ahesan & Anr. v. State of Gujarat & Ors.*, Criminal Appeal No. 1765 of 2011 (Supreme Court of India Sep. 12, 2011) at ¶9, available at <http://www.cjponline.org/zakia/Zaki%20order%20120911.pdf> (last visited May 23, 2014).
- <sup>21</sup> Saeed Khan & Himanshu Kaushik, “2002 Gujarat riots: Clean chit to Modi, court rejects Zaki Jafri’s plea,” *Times of India* (Dec. 26, 2013), available at <http://timesofindia.indiatimes.com/india/2002-Gujarat-riots-Clean-chit-to-Modi-court-rejects-Zakia-Jafri-plea/articleshow/27968858.cms> (last visited May 22, 2014); Saeed Khan, “2002 Gujarat Riots: Zakia Jafri to move HC against clean chit to Modi,” (Jan. 24, 2014), available at <http://timesofindia.indiatimes.com/india/2002-Gujarat-riots-Zakia-Jafri-to-move-HC-against-clean-chit-to-Modi/articleshow/29317487.cms> (last visited May 22, 2014).
- <sup>22</sup> Outside Gujarat, mass communal riots have occurred in Hyderabad (1948, 1983, 1990); Jamshedpur (1964, 1979); Ranchi (1967); Bhiwandi (1970, 1984); Moradabad (1980); Nellie (1983); Delhi (1984); Meerut (1987, 1991); Bhagalpur (1989); Colonelganj (1990); Ayodhya (1990); Bijnor (1990); Karnataka (1990); Rajasthan (1990); Aligarh (1990, 1992); Varanasi (1991); Mumbai (1992); Sitamarhi (1992); Kanpur (1990, 1991, 1992); Orissa (1991, 2008); Assam (1992); Bhopal (1992); and Muzzafarnagar (1988, 2013).
- <sup>23</sup> *See* Violette Graff & Juliette Golonnier, “Hindu-Muslim Communal Riots in India I (1947-1986),” *Online Encyclopedia of Mass Violence*, ISSN 1961-9898 (Jul. 15, 2013) (hereinafter “Communal Riots in India I”), available at [http://www.massviolence.org/IMG/article\\_PDF/Hindu-Muslim-Communal-Riots-in.736.pdf](http://www.massviolence.org/IMG/article_PDF/Hindu-Muslim-Communal-Riots-in.736.pdf) (last visited May 22, 2014); *Communal Riots in India II*, *supra* note 2.
- <sup>24</sup> *See, e.g.*, Andrew North, “Delhi 1984: India’s Congress party still struggling to escape the past,” *BBC News* (Feb. 18, 2014), available at <http://www.bbc.com/news/world-asia-26235314> (last visited May 21, 2014); “Court admits appeal against Sajjan Kumar’s acquittal,” *The Hindu* (Aug. 28, 2013), available at <http://www.thehindu.com/todays-paper/tp-in-school/court-admits-appeal-against-sajjan-kumars-acquittal/article5065791.ece> (last visited May 22, 2014); Lionel Baixas, “The Anti-Sikh Pogrom of October 31 to November 4, 1984, in New Delhi,” *Online Encyclopedia of Mass Violence*, ISSN 1961-9898 (Jun. 9, 2009), available at [http://www.massviolence.org/IMG/article\\_PDF/The-1984-Anti-Sikhs-pogroms-in-New-Dehli.pdf](http://www.massviolence.org/IMG/article_PDF/The-1984-Anti-Sikhs-pogroms-in-New-Dehli.pdf) (last visited May 22, 2014).
- <sup>25</sup> *Communal Riots in India II*, *supra* note 2, at 21-22. A special investigation led by Justice B.N. Srikrishna concluded that politicians and police officers, including Shiv Sena leader Bal Thackeray, were directly involved in the Mumbai riots.
- <sup>26</sup> “Live: Bal Thackeray laid to rest with full state honours in Mumbai,” *IBN Live* (Nov. 18, 2012), available at <http://ibnlive.in.com/news/live-bal-thackeray-laid-to-rest-with-full-state-honours-in-mumbai/306079-37-64.html> (last visited May 22, 2014).
- <sup>27</sup> “India’s strongman,” *The Economist*, *supra* note 1.
- <sup>28</sup> Text of Narendra Modi’s speech at Central Hall of Parliament, *The Hindu* (May 20, 2014), available at <http://www.thehindu.com/news/national/text-of-narendra-modis-speech-at-central-hall-of-parliament/article6030457.ece> (last visited May 21, 2014).

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<sup>29</sup> *See, e.g.*, Thane Richards, “What a Modi government might mean for freedom of speech,” Quartz (May 18, 2014), available at <http://qz.com/210723/how-a-modi-government-may-affect-freedom-of-speech/#/h/69769.4/> (last visited May 22, 2014); “Narendra Modi: Feeling Vibrant,” The Economist (Jan. 17, 2013), available at <http://www.economist.com/blogs/banyan/2013/01/narendra-modi> (last visited May 22, 2014).