

Refugee Review Tribunal

AUSTRALIA

RRT RESEARCH RESPONSE

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This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

Questions

- 1. Can you provide information on the interaction between the Shiv Sena, BJP and the Congress Party, and the current status of these parties in the state of Gujarat?**
- 2. Please provide any information as to whether the police are politically partisan.**

RESPONSE

- 1. Can you provide information on the interaction between the Shiv Sena, BJP and the Congress Party, and the current status of these parties in the state of Gujarat?**

Gujarat state is currently under the control of the Bharatiya Janata Party (BJP) with the Indian National Congress Party (INC; or Congress) in opposition. According to the current listings on the Official Portal of the Gujarat Government website, the BJP control 130 of the 182 seats of the Eleventh Gujarat Legislative Assembly while the Congress controls 48 seats. The *Shiv Sena* (SHS) presently holds no seats in the Gujarat Legislative Assembly, though is a leading opposition force in the legislative assembly of the neighbouring state of Maharashtra. Prior to the October 2004 Maharashtra state election, which saw a Congress alliance win power, the *Shiv Sena* and the BJP had governed Maharashtra in coalition and the *Shiv Sena*–BJP combine has been maintained in opposition. The *Shiv Sena* and the BJP generally arrange to contest power according to their relative strengths and the Maharashtra based *Shiv Sena* – whose support base is much more localised than the support base of the more national BJP – has reportedly sought to expand into Gujarat only where electoral victory would not come at the expense of its Hindu nationalist ally. In the most recent Gujarat state elections, which were held in December 2002, the *Shiv Sena* announced that it would not contest the seat of the Gujarat BJP leader, Narendra Modi, and that the *Shiv Sena* would field candidates only in those areas in which it was felt that “the BJP is on a sticky wicket”. One such area

was “Vijapur in Mehesana district. Vijapur had been held, since the previous 1998 elections, by Congress; however, the December 2002 elections ultimately saw the seat go to the BJP (the seat was also won by the BJP in the Gujarat state election of 1995). (For the current balance of power in the Gujarat Legislative Assembly, see: ‘The Eleventh Gujarat Legislative Assembly consists of 182 MLAs’ 2003, from the Official Portal of the Gujarat Government website, 25 May <http://www.gujaratindia.com/government/govt4.htm> – Accessed 8 August 2006 – Attachment 1; for information on the *Shiv Sena*–BJP loss of power in Maharashtra state, see: Ahmed, Z. 2004, ‘New Maharashtra chief appointed’, *BBC News* website, 29 October http://news.bbc.co.uk/2/hi/south_asia/3966067.stm – Accessed 24 July 2006 – Attachment 2; for the report on *Shiv Sena*’s policy on the fielding of candidates in December 2002 Gujarat state elections, see: Mishra, A. 2002, ‘Sena will contest 12 seats in Gujarat’, *Times of India*, 8 December – Attachment 3; for information on the more general arrangements by which the BJP and *Shiv Sena* have shared electoral contests, see page 1498 of: Palshikar, S. 2004, ‘Shiv Sena: A Tiger with Many Faces?’, *Economic and Political Weekly*, 3-10 April <http://www.epw.org.in/articles/2004/04/7040.pdf> – Accessed 20 June 2006 – Attachment 4; for information on electoral results in the seat of Vijapur, see: ‘Gujarat: 85 – Vijapur Assembly Constituency’ (undated), Election Commission of India (ECI) <http://www.eci.gov.in/ElectionAnalysis/AE/S06/partycomp85.htm> – Accessed 8 August 2006 – Attachment 5.)

The lead up to the December 2002 elections did see violent clashes between the opposing parties in the district of Mehsana:

BJP office at Mandhi village in Mehsana district of Gujarat was set on fire during a clash between Congress and BJP workers on Saturday, police said.

The trouble started when BJP activists allegedly threw stones at the vehicle of Congress candidate Naresh Rawal, contesting the assembly elections from Vijapur constituency, they said.

Angry Congress workers allegedly ransacked and set on fire the party office, they said, adding CRPF was deployed in the area where the situation was “tense but under control”.

Senior Police officials have rushed to the spot and were keeping a strict vigil in Vijapur in view of Chief Minister Narendra Modi’s Gaurav Yatra in the district (‘BJP, Congress workers clash in Gujarat’ 2002, *Hindustan Times* website, source: *Press Trust of India*, 30 November http://www.hindustantimes.com/news/5905_111859.001600050001.htm – Accessed 24 June 2005 – Attachment 6).

The security situation in Mehansa during the more recent state elections, in April 2004, was reportedly quite different:

Quite unlike December, 14, 2002 Assembly poll, saffron was strikingly missing on Tuesday in tens of villages north and north-east of the state capital.

It is not known what’s the reason, but the BJP cadre couldn’t be seen moving around in saffron caps or saffron scarfs. There were no saffron flags anywhere. A lone triangular flag with “Jai Sri Ram” written on it on the road from Vijapur to Kalol, falling under the Mehsana constituency in North Gujarat, epitomised the reality of the region.

In Mansa town, about 30 km from here and falling under Mehsana, claimed senior district BJP functionary Navin Vyas, “Why get unnecessarily exploded? In our town there no Congress workers. We are the only one to mobilise the people to the polling booth.” As he said this, 80-year old Narayanbhai Patel walked out of a polling booth proudly telling TNN how he would once attend “Mahatma Gandhi’s Congress rallies”. “One can’t say who will win, but things are not as simple for the BJP”, he asserted.

Surrounded by lush-green farms, in Charada village, just in the neighbourhood, which the local BJP leaders standing around a polling booth claimed was a “party stronghold”, a Dalit BJP worker was upset. Alleged Baldev Shrimali, local BJP scheduled caste cell chief, “Our caste brethren have all been bought over. They are not voting for the party. The Congress has created problems for us.”

A few yards away, Jayanti Patel, a cooperator, said, “The votes are divided on caste lines. Only five per cent Patels are with the Congress, while OBC Thakores and Chaudhris and Dalits are with the Congress.”

There was a fear in the Congress camp that if the backward classes do not come out to vote in heavy numbers, things might be difficult. Coming out of the polling booth, said ex-RJP minister Vipul Chaudhri, now in the Congress, “This mobilisation is crucial.”

In Kalol, another town under Mehsana, there was brisk polling by Muslims, forming one-third in a city with 65,000 voters. Said eye-witnesses, BJP candidate Nitin Patel was found rushing to the Vakharia area, where the Patels live, and openly raprimanded the cadre finding extremely low polling. The Patels, said people there, were divided – the Congress candidate Jivabhai Patel belonged to the “respected” Betalis Samaj, which met to tell Nitin that they would not support him.

Indeed, things were not good for the BJP in the non-Patel villages. In Balva, about 25 kilometres in the north, falling under Mehsana, the Chaudhris complained that their vote for the BJP in 1999 went waste. Said Mohanbhai Chaudhri, “We were getting just three hour power till the elections were declared. Now suddenly thing have improved. It was all poll gimmick.” He said, at Rs 850 per horse power three hour power means it’s a Rs 3,600 payment! BJP candidate Nitin Patel had dared not visit the village (Shah, R.J. 2004, ‘Saffron colour missing in villages’ *Times of India*, 21 April – Attachment 10).

2. Please provide any information as to whether the police are politically partisan.

Reports of partisan police behaviour in the state of Gujarat generally tend to reflect claims that the BJP, and the Hindu nationalist movement generally, have operated in Gujarat state with the tacit support of elements of the Gujarat police. Nonetheless, it should be noted that the nexus between politicians and police in India can be highly localised and that the district of Vijapur, Mehesana, has been an area of contestation between the BJP and the Congress. As is noted above, the state seat of Vijapur was in the hands of Congress and is now in the hands of the BJP. At the national level, the seat of Mehesana is presently in the control of Congress. (For information on the relationship between the Gujarat police and the BJP, see: Dasgupta, M. 2002, ‘Saffronised police show their colour’, *The Hindu*, 3 March <http://www.hinduonnet.com/2002/03/03/stories/2002030303170800.htm> – Accessed 8

August 2006 – Attachment 16; see also: Dasgupta, M. 2004, ‘Ex-Gujarat intelligence chief alleges political pressure on police’ *The Hindu*, 2 September – Attachment 13; for information on the national seat of Mehesana, see: ‘12-Mehsana Constituency of Gujarat’ (undated), Election Commission of India website <http://archive.eci.gov.in/GE2004/pollupd/pc/states/s06/Pconst12.htm> – Accessed 8 August 2006 – Attachment 7; for information on “strong nexus between the police and politicians and political interference in matters of policing”, see: Asian Human Rights Commission 2004, ‘Update (India): Police pressure torture victim’s family to withdraw complaint’, 17 July <http://www.ahrchk.net/ua/mainfile.php/2005/996/> – Accessed 8 August 2006 – Attachment 8).

A number of news bulletins were located which referred to police or judicial matters of a political nature, or of questionable nature, in Gujarat. Some examples follow:

- On 14 July 2006 it was reported that corruption charges had been filed against senior members of the police in the Mehesana area (Mukherjee, S. 2006, ‘Cops caught on the wrong side of law’, *Times of India*, 14 July – Attachment 12).
- On 7 May 2005, it was reported that “[f]orty-five persons accused of setting a Muslim couple on fire in Ladol in Vijapur taluka during the post-Godhra riots were acquitted by a local court in Mehsana district for lack of evidence. The 45 accused include BJP taluka pramukh Prahlad Patel and several VHP and RSS members” (for further details, see: ‘Indian Express: 45 accused in riot murder walk free’ 2005, *Indian Express*, 7 May – Attachment 9).
- On 8 January 2004, it was reported that corruption charges had been filed against “head constable Ganpat Tarsibhai of Vijapur police station” and “police sub inspector K N Makwana of Vijapur police” (for further information see: ‘2 held for cheating insurance firms’ 2004, *Express News Service* website, 8 January <http://cities.expressindia.com/fullstory.php?newsid=72726> – Accessed 8 August 2006 – Attachment 15).
- A *Times of India* report provides further details about the role of the police in intervening to protect the offices of the BJP during the clashes with Congress supporters in Vijapur in December 2001 (‘Cong workers ransack BJP office in Vijapur’ 2002, *Times of India*, 1 December – Attachment 14).
- On 16 September 2001 it was reported that a “[c]urfew was imposed on Vijapur town in Mehsana district on Saturday following clashes between members of two communities”. According to this report “Town BJP chief Raju Sindhi” had been “beaten up by some youths and had to be hospitalised”. Following this, “[a] public meeting was addressed by several BJP and VHP leaders where provocative speeches were made, according to the police”. “Home secretary S Nityanandam said, ‘The situation did not warrant a curfew but we imposed it as a precautionary measure’” (‘Curfew imposed on Vijapur town Sunday’ 2001, Gujaratplus.com website, source: *Times News Network*, 16 September

<http://www.gujaratplus.com/news/Mehsana/38685.html> – Accessed 8 August 2006 – Attachment 11).

Internet Sources:

Government Information & Reports

Election Commission of India (ECI) website <http://www.eci.gov.in/>

India National Human Rights Commission (NHRC) website <http://nhrc.nic.in/>

Official Portal of the Gujarat Government website <http://www.gujaratindia.com>

Non-Government Organisations

Asian Human Rights Commission website <http://www.ahrchk.net>

International News & Politics

BBC News website <http://news.bbc.co.uk>

Region Specific Links

Express News Service website <http://cities.expressindia.com>

Gujaratplus.com website <http://www.gujaratplus.com>

The Hindu website <http://www.hinduonnet.com>

Hindustan Times website <http://www.hindustantimes.com>

Search Engines

Google search engine <http://www.google.com.au/>

Stagger[nation] Google API Proximity Search (GAPS) <http://www.staggernation.com/cgi-bin/gaps.cgi>

Databases:

FACTIVA (news database)

BACIS (DIMA Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Country Research database, including Amnesty International, Human Rights Watch, US Department of State Reports)

RRT Library Catalogue

List of Attachments

1. 'The Eleventh Gujarat Legislative Assembly consists of 182 MLAs' 2003, from the Official Portal of the Gujarat Government website, 25 May <http://www.gujaratindia.com/government/govt4.htm> – Accessed 8 August 2006.
2. 'New Maharashtra chief appointed', *BBC News* website, 29 October http://news.bbc.co.uk/2/hi/south_asia/3966067.stm – Accessed 24 July 2006.
3. Mishra, A. 2002, 'Sena will contest 12 seats in Gujarat', *Times of India*, 8 December. (FACTIVA)
4. Palshikar, S. 2004, 'Shiv Sena: A Tiger with Many Faces?', *Economic and Political Weekly*, 3-10 April <http://www.epw.org.in/articles/2004/04/7040.pdf> – Accessed 20 June 2006.

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6. 'BJP, Congress workers clash in Gujarat' 2002, *Hindustan Times* website, source: *Press Trust of India*, 30 November
http://www.hindustantimes.com/news/5905_111859,001600050001.htm – Accessed 24 June 2005.
7. '12-Mehsana Constituency of Gujarat' (undated), Election Commission of India website <http://archive.eci.gov.in/GE2004/pollupd/pc/states/s06/Pconst12.htm> – Accessed 8 August 2006.
8. Asian Human Rights Commission 2004, 'Update (India): Police pressure torture victim's family to withdraw complaint', 17 July
<http://www.ahrchk.net/ua/mainfile.php/2005/996/> – Accessed 8 August 2006.
9. 'Indian Express: 45 accused in riot murder walk free' 2005, *Indian Express*, 7 May. (FACTIVA)
10. Shah, R.J. 2004, 'Saffron colour missing in villages' *Times of India*, 21 April. (FACTIVA)
11. 'Curfew imposed on Vijapur town Sunday' 2001, *Gujaratplus.com* website, source: *Times News Network*, 16 September
<http://www.gujaratplus.com/news/Mehsana/38685.html> – Accessed 8 August 2006.
12. Mukherjee, S. 2006, 'Cops caught on the wrong side of law', *Times of India*, 14 July. (FACTIVA)
13. Dasgupta, M. 2004, 'Ex-Gujarat intelligence chief alleges political pressure on police' *The Hindu*, 2 September. (FACTIVA)
14. 'Cong workers ransack BJP office in Vijapur' 2002, *Times of India*, 1 December. (FACTIVA)
15. '2 held for cheating insurance firms' 2004, *Express News Service* website, 8 January
<http://cities.expressindia.com/fullstory.php?newsid=72726> – Accessed 8 August 2006.
16. Dasgupta, M. 2002, 'Saffronised police show their colour', *The Hindu*, 3 March
<http://www.hinduonnet.com/2002/03/03/stories/2002030303170800.htm> – Accessed 8 August 2006.