

**Hindus in South Asia and the  
Diaspora:  
A Survey of Human Rights  
2013**



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*June 5, 2013*



*"All human beings are born free and equal in dignity and rights."*  
**Universal Declaration of Human Rights, 1948, Article 1**

*"One should never do that to another which one regards as injurious to one's own self. This, in brief, is the rule of dharma. Yielding to desire and acting differently, one becomes guilty of adharma."*  
**Mahabharata XII: 113, 8**

*"Thus, trampling on every privilege and everything in us that works for privilege, let us work for that knowledge which will bring the feeling of sameness towards all mankind."*  
**Swami Vivekananda, "The Complete works of Swam Vivekananda," Vol 1, p. 429**

*"All men are brothers; no one is big, no one is small. All are equal."*  
**Rig Veda, 5:60:5**



**Endorsements of Hindu American Foundation's Seventh Annual  
Report  
*Hindus in South Asia and the Diaspora: A Survey of Human  
Rights 2010***

*"As the founder and former co---chair of the Congressional Caucus on India and Indian Americans, I know that the work of the Hindu American Foundation is vital to chronicle the international human rights of Hindus every year. The 2010 report provides important information to members of Congress, and I look forward to continuing to work with HAF to improve the human rights of Hindus around the world."*

**U.S. Congressman Frank Pallone (D-NJ)**

*"As Chairman of the Subcommittee on Terrorism and the co---chair of the Congressional Caucus on India and Indian Americans, I applaud the hard work of the Hindu American Foundation in producing their annual Human Rights Report. The first step in addressing the persecution of religious and ethnic minorities is shedding light on these abuses - and the report does just that."*

**U.S. Congressman Ed Royce (R-CA)**

*"I support the Hindu American Foundation's devoted efforts toward bringing attention to religious freedom across the globe. As a member of the United States House Committee on Foreign Affairs, I commend the work being done by this organization spreading awareness of this issue to the international community."*

**U.S. Congressman Joe Wilson (R-SC)**



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The Hindu American Foundation (HAF) is an advocacy organization for the Hindu American community. The Foundation educates the public about Hinduism, speaks out about issues affecting Hindus worldwide, and builds bridges with institutions and individuals whose work aligns with HAF's objectives. HAF focuses on human and civil rights, public policy, media, academia, and interfaith relations. Through its advocacy efforts, HAF seeks to cultivate leaders and empower future generations of Hindu Americans.

The Hindu American Foundation is not affiliated with any religious or political organizations or entities. HAF seeks to serve Hindu Americans across all *sampradayas* (Hindu religious traditions) regardless of race, color, national origin, citizenship, caste, gender, sexual orientation, age, and/or disability.

## Acknowledgements

This is HAF's ninth annual Hindu human rights report. Persecution against groups and communities in nation states usually occurs in the context of some version of state-sponsored, state-abetted, or state-countenanced discrimination. While that still continues to be the main focus of this report, we also acknowledge that in many instances non-state actors create conditions in a country or region that lead to rampant human rights violations. Often this occurs with the tacit support of the ruling establishment, as is the case in Pakistan.

It is also difficult to ignore certain situations where race, ethnicity, and religion are intertwined. Attacks against a particular group because of its ethnicity, for example, may also be fueled by its religious identity or vice versa. Thus, the case of Sri Lanka continues to present a major dilemma. Was the LTTE terrorist group, which was defeated in 2009 by the Sri Lankan national army after 33 years of conflict, a Tamil group or a Hindu group? Was the Sri Lankan response, which included allegations of severe war crimes, against Hindus and Tamils or just a terrorist group? Unfortunately, the answer is highly convoluted and further complicated by the emergence of Sinhala-Buddhist nationalism following the conclusion of the war

Similarly, other countries and regions, such as Afghanistan, the Indian State of Jammu and Kashmir, and Saudi Arabia pose further challenges in addressing and documenting human rights violations. In Saudi Arabia, for instance, the Hindu population is comprised almost entirely of South Asian migrant workers, and thus not officially recognized by the state. As a result, specific reports of persecution against Hindus are difficult to obtain.

Accounts of general conditions for migrant workers and legal restrictions on non-Muslims are, however, available. These reports have led both the U.S. Commission on International Religious Freedom (USCIRF) and the U.S. Department of State to consistently designate Saudi Arabia as a *Country of Particular Concern* (CPC). Despite being labeled as a CPC, America has been reluctant to sanction the Saudi regime or hold them accountable for widespread repression, due to close relations between the two countries.

Afghanistan, on the other hand, presents a different issue, as the current population of Hindus has dwindled to a few hundred families. Nonetheless, those Hindus remaining in this conflict-ridden nation face considerable discrimination. At the same time, there are large numbers of Afghan Hindus living outside of Afghanistan, who encounter difficulties as refugees.

And India's state of Jammu and Kashmir is an equally intricate situation, with Hindus being minorities at the state level, but a majority at the national level. Moreover, it raises important questions regarding responsibility for the current status of Kashmir's Hindu

community, many of whom have been internally displaced from their homes, while remaining within India.

Cognizant of these complexities, this report attempts to provide a detailed account of events and conditions in countries and regions where attacks against Hindus are of primary concern, as well as those that have sizeable Hindu communities, or have generated substantial Hindu refugees or internally displaced persons. Furthermore, given the varying degree of persecution faced by Hindus in each country, the 2012 report categorizes each country based on their respective violations against Hindus.

Therefore, Afghanistan, Bangladesh, Malaysia, and Pakistan have been labeled as *Egregious Violators*; Bhutan, the Indian State of Jammu and Kashmir (J&K), and Sri Lanka as *Countries of Serious Concern*; and Fiji, Saudi Arabia, and Trinidad and Tobago (T&T) as *Monitored Countries*. Each category will be explained in greater detail.

As in the past, numerous grass-roots organizations were involved in collecting data about the violation of human rights of Hindu minorities, and HAF thanks them for sharing the information they have collected. Chief among these organizations are Bangladesh Minority Watch (BDMW), Human Rights Congress for Bangladesh Minorities (HRCBM) and Bangladesh Hindu Buddhist Christian Unity Council USA (BHBCUC-USA) – organizations that have been at the forefront of publicizing the plight of Hindus in Bangladesh; “Odhikar” – a human rights organization in Bangladesh doing extraordinary work on publicizing human rights abuses in the country; the Indo-American Kashmir Forum and the Kashmir Taskforce – which have worked to bring the attention of the United States government and media to the plight of Kashmiri Hindus; Panun Kashmir – working tirelessly to recover the lost properties and homes of Hindus forced to leave the Kashmir Valley; Hindu Rights Action Force (HINDRAF), also known as Human Rights Party (HRP) Malaysia – working for the human rights of Hindu minorities in Malaysia; Human Rights Commission of Pakistan (HRCP) – an independent voice in the struggle for human rights and democratic development in Pakistan; Global Human Rights Defense (GHRD) – seeking to educate European media and government about the status of human rights worldwide; and Asian Centre for Human Rights (ACHR) – which keeps track of human rights abuses in Asia.

HAF acknowledges the work of global human rights organizations like Amnesty International, Freedom House, and Human Rights Watch in bringing to our attention the denial of human rights around the world. Also, important historical information and contemporary updates were obtained from the U.S. Department of State’s annual reports on religious freedom and human rights, and the U.S. Commission on International Religious Freedom’s annual reports. Our thanks to the Hindu Vivek Kendra for the extensive media archives covering Bangladesh, Pakistan, and Sri Lanka that continue to provide us easy access to media reports and other archival data.

Samir Kalra, Esq.

# Hindus in South Asia and the Diaspora: A Survey of Human Rights – 2012

## EXECUTIVE SUMMARY

*The human rights of Hindu citizens are consistently violated in nine countries and one state in India where Hindus constitute a minority: Afghanistan, Bangladesh, Malaysia, Pakistan, Bhutan, the Indian state of Jammu and Kashmir, Sri Lanka, Fiji, Saudi Arabia, and Trinidad and Tobago. This report documents the ongoing violations of human rights in these countries.*

### HINDUS ACROSS THE DIASPORA

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- Hindus, numbering nearly one billion, constitute the third largest religious group in the world.
- Hinduism is one of the oldest surviving religions with its origins tracing back to at least the third millennium BCE.
- Hindus are pluralistic in their beliefs and accept the myriad means of worship and prayer available to human beings seeking spiritual enlightenment.
- Hindus in South Asia, and many of the twenty million Hindus living outside of India, are subject to discrimination, terror, murder, sexual violence, forced conversions, ethnic cleansing, temple destruction, socio-political ostracization, and economic and political marginalization. In some countries, fundamentalists from other religions advance a discriminatory and non-inclusive agenda, and promote hatred of religious and ethnic minorities in league with politicians and other government officials.

## ***EGREGIOUS VIOLATORS:***

COUNTRIES DESIGNATED AS *EGREGIOUS VIOLATORS* HAVE EITHER ENGAGED IN OR ALLOWED RAMPANT AND SYSTEMATIC HUMAN RIGHTS VIOLATIONS TO TAKE PLACE AGAINST THEIR MINORITY HINDU POPULATIONS. HAF HAS CATEGORIZED THE FOLLOWING COUNTRIES AS EGREGIOUS VIOLATORS IN 2012: (1) ISLAMIC REPUBLIC OF AFGHANISTAN, (2) PEOPLE'S REPUBLIC OF BANGLADESH, (3) MALAYSIA, AND (4) ISLAMIC REPUBLIC OF PAKISTAN.

### **ISLAMIC REPUBLIC OF AFGHANISTAN**

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- The vast majority of Afghanistan's population is Muslim. The Hindu community has become nearly extinct, with barely an estimated 3,000 Hindus and Sikhs remaining in the country. Notwithstanding its recent decline, Afghanistan is considered one of the oldest centers of Hindu civilization and was once home to a thriving Hindu population.
- The Taliban and other terrorist groups continue to pose a substantial security risk and threaten the stability of Afghanistan. Additionally, the Afghan government remains weak and is unable to protect its citizens from violence and intimidation by the Taliban and religious extremists.
- The general disregard for human rights by the government, as well as non-state actors, has seriously impeded the establishment of the rule of law and democracy throughout the country.
- Afghanistan's constitution and legal system are highly problematic and institutionalize discrimination against non-Muslims. Specifically, Islam pervades all aspects of the Afghan constitution and is firmly established as the state religion.
- Religious minorities, including Hindus, Christians, and Sikhs continue to endure violence and social discrimination, and they are often forced to hide their religious beliefs to avoid persecution.
- A large number of Afghan Hindus and Sikhs who fled Afghanistan several years ago continue to endure problems while living as refugees in other countries.

#### ***HAF Recommendations:***

- 1) The international community should: (1) work with the Afghan government to reform its legal system and constitution to provide greater safeguards for religious freedom

and human rights, and (2) urge the Afghan government to protect religious minorities from violence and discrimination.

- 2) The international community should provide refuge to Hindu and Sikh minorities forced to flee Afghanistan due to persecution. In particular, countries such as Belgium, Germany, India, and the UK should grant asylum to Afghan Hindu and Sikh refugees under the Geneva Convention, considering their inability to return to Afghanistan.

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### **PEOPLE'S REPUBLIC OF BANGLADESH**

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- In 1947, Hindus constituted nearly 30% of Bangladesh's population. By 1991, an estimated 20 million Hindus were "missing" from Bangladesh. Today, Hindus comprise less than 10% of the population.<sup>i</sup>
- Bangladesh passed the Vested Properties Return (Amendment) Bill in 2011 and the Vested Property Return (Second Amendment) Act in 2012, which enable Hindus to reclaim land and property confiscated by the government or looted and occupied by Muslims after the passage of the 1965 Vested Enemy Property Act (by Pakistan) and subsequently, the 1974 Vested Property Act. The measures identified in the new legislation have not yet been fully implemented and properties have not been returned to their rightful Hindu owners.
- Nearly 1.2 million, or 44% of the 2.7 million Hindu households in the country, were affected by the Enemy Property Act 1965 and its post-independence version, the Vested Property Act 1974. Hindu owned land continues to be illegally confiscated with the tacit or active support of government actors.
- Hindus of Bangladesh continue to be victims of ethnic cleansing waged by Islamic fundamentalists that include daily acts of murder, rape, kidnapping, forced conversions, temple destruction, and physical intimidation. There were several large-scale incidents of violence in 2012, including at Nandirhat-Hathazari, Sathkira, and Dinajpur.
- The International Crimes Tribunals established in 2010 to prosecute those accused in the rape, murder, and genocide of ethnic Bengalis (mostly Hindus) during Bangladesh's struggle for independence in 1971 indicted several leaders of Jamaat-e-Islami (Jel) and the main opposition Bangladesh Nationalist Party (BNP) in 2012.
- In the early months of 2013, the Tribunals convicted three Jel leaders, leading to violent riots by Jamaat and their student affiliate, Islami Chhatra Shibir, and the destruction of more than 50 Hindu temples and 1,500 Hindu homes.

- The commission inquiring into the attacks by the BNP-Jamaat alliance against Hindus during the 2001 elections found that 26,352 people, including 25 ministers and lawmakers of the BNP-Jamaat alliance government, were involved in perpetrating the violence. The commission said there had been more than 18,000 incidents of major crimes, including murder, rape, arson, and looting by members of the then ruling BNP-Jamaat alliance in the 15 months following October 2001.

*HAF Recommendations:*

- 1) The Awami League government, led by Sheikh Hasina, must continue to take substantial and verifiable measures to ensure that attacks on Hindus and their institutions cease, rehabilitate past victims of violence, and bring to swift justice those political and radical religious elements that have led the assault on Hindus and other minorities.
- 2) Based on their long-standing involvement in violence against religious minorities, Jamaat-e-Islami and Islami Chhatra Shibir should be declared illegal organizations and prohibited from participating in politics.
- 3) Bangladesh's government must undertake legal and constitutional reforms by removing any reference to Islam from the Constitution. In addition, the Vested Property Return (Second Amendment) Act promulgated in September 2012 should be fully implemented and properties returned to their rightful Hindu owners.
- 4) The United States and other donor nations must demand accountability from the Bangladesh Government, and all aid to Bangladesh should be contingent on the improvement of the human rights situation. The United States should further support the International Crimes Tribunal and preemptively ban members and elected officials from Jamaat-e-Islami from entering the U.S. based on the party's involvement in orchestrating large-scale anti-minority violence.
- 5) Finally, international institutions and human rights groups should monitor the upcoming elections to ensure that they are fair and democratic, and that minorities are not targeted by extremist groups.

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**MALAYSIA**

- Malaysia is a self-declared Islamic Republic, and Islam is the official religion of the country, despite it being a multi-ethnic and multi-religious country in which Hindus, Christians, and Buddhists are significant minorities. Minorities struggle to maintain and practice their religions.

- The right to religious freedom has been progressively deteriorating in recent years, and there have been several cases forcing Hindus and other minorities to deal with the Islamic Sharia courts where they face severe disadvantages.
- The Hindu population faces discrimination and intimidation, including the destruction of its temples and places of worship. The government continues to treat pre-independence era Hindu temples differently than mosques from the same era and gives preference to mosques in the allocation of public funds and lands.
- Discriminatory constitutional provisions, such as the *Bumiputra* (son of the soil) policies, remained in place, while the government continued to suppress free speech and other civil liberties.
- The ban on HINDRAF was lifted and exiled human rights leader, Waytha Moorthy, was allowed to return to Malaysia. None of the major political parties, however, have shown any inclination to address the issues facing the Indian-Hindu minority.

*HAF Recommendations:*

- 1) All political parties should address the economic, social, and political marginalization of the Indian-Hindu minority.
- 2) Religious minorities should not be forced to deal with the country's Islamic Sharia courts.
- 3) Hindu temples must be protected from desecration and destruction. Hindu places of worship that existed prior to independence should be designated as temple property, and the title to the land should be handed to the respective temple trustees/committees as has been done for pre-independence era mosques.
- 4) The U.S. should work with the United Nations and international human rights organizations to exert pressure on the Malaysian government to (1) provide religious freedom and equal rights to non-Muslims through constitutional and legal reform and (2) end repression of political dissent.
- 5) The U.S. should revisit its trade ties with Malaysia and restrict any future appropriations unless the government protects the human rights of its ethnic and religious minorities, repeals repressive security policies, and ends its affirmative action policies favoring the majority Muslim Malays (*bumiputras*).

## ISLAMIC REPUBLIC OF PAKISTAN

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- In 1947, Hindus were approximately 25% of the population of Pakistan. Now, Hindus constitute less than 2% of the population.
- Pakistan officially and routinely discriminates against non-Muslims through a variety of laws and constitutional provisions that favor Islam.
- School textbooks and curriculum continue to promote Islam alongside hatred and intolerance towards non-Muslims, particularly Hindus.
- Islamist militants continue to attack civilians with impunity, while the Pakistani state and society are becoming increasingly Islamized. Pakistan remains the epicenter of global terrorism and utilizes terror as an instrument of state policy.
- Recurring reports point to an alarming trend of Hindu girls being kidnapped, raped, held in *madrassas* (Islamic seminaries), and forcibly converted to Islam.
- Hindu temples continued to be attacked and illegally occupied. The Hindu community lacks independent control over their places of worship.
- Poor Hindus continue to be economically exploited and subjected to inhumane conditions through the bonded labor system.
- In recent years, large numbers of Pakistani Hindus have sought refuge in India to escape religious persecution. HAF visited Pakistani Hindu refugee camps in Jodhpur, India in early 2013 on a human rights fact-finding and medical mission.

### *HAF Recommendations:*

- 1) The Government of Pakistan must take immediate steps for the protection of Hindus from violence, rape, kidnapping, and forced conversions.
- 2) Religious minorities must be allowed to independently manage their own religious institutions free from government interference and representatives from the Hindu and Sikh communities should be given full control over the Evacuee Trust Property Board (ETPB).
- 3) Pakistan should reform its education system in order to remove inflammatory and negative depictions about other religions, and it should promote tolerance and pluralism.

- 4) HAF supports the repeal and/or revision of all discriminatory and inequitable laws and constitutional injunctions, and the implementation of hate crime legislation to protect religious minorities.
- 5) The United States should demand that Pakistan stop all support and financing of Islamic militant groups operating in the subcontinent. The United States must place strict conditions on any financial assistance to Pakistan and demand accountability for human rights violations.
- 6) The U.S. Department of State should classify Pakistan as a *Country of Particular Concern* (CPC) due to its blatant disregard for human rights and religious freedom.
- 7) Pakistan should establish a truly independent Human Rights Commission and a new National Minorities Commission to monitor the human rights condition and enable minorities to enjoy the rights provided to the majority population. Alternatively, the existing Minorities Commission should be strengthened and given broader policy making powers.
- 8) A durable and long-term solution must be found to address the needs of Pakistani Hindu refugees, including the accordance of refugee status under international law.

### ***COUNTRIES OF SERIOUS CONCERN:***

COUNTRIES LABELLED AS *SERIOUS CONCERN* HAVE COMMITTED SEVERE HUMAN RIGHTS VIOLATIONS AGAINST THEIR HINDU MINORITY, BUT NOT RISING TO THE LEVEL OF *EGREGIOUS VIOLATORS*. THESE COUNTRIES OR REGIONS INCLUDE THE FOLLOWING: (1) KINGDOM OF BHUTAN, (2) INDIAN STATE OF JAMMU AND KASHMIR (THIS DESIGNATION IS BASED ONLY ON THE TREATMENT OF THE HINDU MINORITY IN THE STATE AND NOT HUMAN RIGHTS IN GENERAL IN INDIA), AND (3) DEMOCRATIC REPUBLIC OF SRI LANKA.

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#### **KINGDOM OF BHUTAN**

- Bhutan is a Democratic Constitutional Monarchy and comprises a multi-religious, multi-cultural, multi-ethnic, and multi-lingual society.
- Under the “One Nation, One People” policy, Bhutan implemented various ethnically, religiously, and linguistically discriminatory policies aimed at forced homogenization of the country. This culminated in the eviction of over 100,000 Hindu minority Lhotsampas (ethnic Nepalis) and Nyingmapa Buddhists from southern and eastern Bhutan in the early 1990s (nearly one sixth of the kingdom’s total population of 700,000).

- The Bhutanese government has refused to make any concessions towards rehabilitating the Bhutanese refugees or affirming their right to return. Several countries, however, have agreed to resettle the refugees. Approximately 69,000 Bhutanese refugees have been resettled to date, including more than 37,000 in the United States.
- The resettled Bhutanese Hindu community in the U.S. reported facing a number of challenges in their new home, including a high incidence of mental illness and suicide, trouble obtaining employment, and difficulty retaining their cultural and religious traditions in an attempt to assimilate.
- When the “resettlement movement” first started in 2007, there were approximately 108,000 Bhutanese refugees in United Nations High Commissioner for Refugees (UNHCR) administered camps in Nepal. As of 2012, UNHCR estimated that there were still 44,000 Bhutanese refugees living in Nepal.
- At the start of 2012, a team of HAF doctors led a fact-finding mission to the UNHCR camps in Damak, Nepal, where they conducted a detailed medical assessment on the needs of the refugees. Dental care and mental health emerged as the two areas of greatest concern and required urgent assistance.
- The lack of basic fundamental human rights continues to be an ongoing problem for minorities in Bhutan as well as Bhutanese refugees that have now spent more than 20 years living in squalid refugee camps.

*HAF Recommendations:*

- 1) HAF urges Bhutan to accept and repatriate all those who are able to prove their nationality through reasonable means, while Nepal should make a similar offer to integrate some refugees. Moreover, those Bhutanese Hindus living in India should be accorded official refugee status and provided with basic government assistance. We support other human rights agencies’ calls that “ultimately, each and every refugee should have the right to choose their own future.”<sup>iii</sup>
- 2) The government of Bhutan must revise its constitution and legal framework to remove any preferential language for Buddhism, and adopt equitable policies towards all religions. Furthermore, the ruling government’s attempt to forcibly homogenize the cultural identity of the country must end, thereby allowing all ethnic and religious minorities to assert their independent identities.

- 3) Donors, UN agencies, and Bhutan's other partners should insist on measures to eliminate discrimination against the Hindu Lhotshampas and ensure the protection of their fundamental human rights and their rights to participate as full citizens of Bhutan.

### **INDIAN STATE OF JAMMU AND KASHMIR**

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- The Maharaja of Kashmir legally ceded his kingdom to India in 1947 when Pakistan invaded Kashmir in order to conquer the kingdom. Pakistan occupies about 35% of the region, India governs approximately half, and China occupies the remainder, including a portion ceded to it by Pakistan.
- India and Pakistan have fought major wars over Kashmir. Pakistan continued to foment cross-border terrorism in Kashmir, maintaining a terrorist infrastructure and training camps on its side of the border.
- Since the mid to late 1980s, Islamist terrorists, supported and trained by Pakistan, have targeted Kashmir and are guilty of large-scale ethnic cleansing of Hindus from India's Kashmir Valley. Moreover, over 170 Hindu temples in Kashmir have been destroyed or damaged since 1989.
- Nearly 400,000 Kashmiri Hindus are Internally Displaced Persons (IDPs), sheltered in temporary camps in Jammu and other parts of India. Many suffer from ongoing mental and emotional trauma and are both economically and politically marginalized.
- Despite a reduction in terrorism in the state in 2012, there was no significant resolution to the plight of Hindu refugees from Kashmir. Attempts to redress the situation by the Central and State Governments seem desultory in nature, and Kashmiri Pandits continue to live in abject conditions in "refugee camps."
- The State Government failed to enact legislation to protect and preserve Hindu temples and shrines in Kashmir, despite the ongoing encroachments and illegal sales of temple properties.

#### *HAF Recommendations:*

- 1) Kashmiri Hindus must be allowed to return to their homes, have their property restored to them, and receive protection from the Indian government and the Kashmir State Government.

- 2) The Jammu and Kashmir State Legislature should pass the Hindu Shrines (Management and Regulation) Bill without further delay and thereby, provide Kashmiri Hindus independent control over their places of worship.
- 3) India must abrogate Article 370 of the Constitution, which has allowed the State's residents to live under a separate set of laws, benefiting its Muslim population, who enjoy political power to the detriment of Kashmir's religious minorities. The State must end the economic and political marginalization of Hindus and Buddhists in the state.
- 4) U.S. policy makers and the international community must exert economic and diplomatic pressure on Pakistan to end its use of terrorism as an instrument of state policy, leveraging the large amount of financial assistance annually provided to the country.

#### **DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA**

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- Sri Lanka is a multi-ethnic, multi-religious nation that was plagued by years of ethnic conflict. The violent conflict between the Sinhala-majority Sri Lankan government and the Tamil groups was the result of a combination of religious, ethnic, and linguistic factors. Tensions between the Sinhalese majority and Tamil separatists in northern Sri Lanka erupted into war in 1983. The civil war came to an end in May 2009 and both sides were guilty of severe human rights violations and war crimes.
- Not all Tamils are Hindus, and the LTTE, the primary Tamil-terrorist outfit, was not a Hindu organization.
- The prolonged conflict was detrimental to all Sri Lankans, especially the large Hindu minority population, which experienced an undue share of violence and displacement.
- Following the war, the Sri Lankan government has not made serious efforts to investigate war crimes, or pursue accountability and justice for the victims of military excesses. Additionally, the government has shown little interest in pursuing genuine reconciliation and a political settlement with the minority Tamil population.
- Sinhala-Buddhist nationalism has emerged as a destructive force after the war and led to the repression of minority rights.

#### *HAF Recommendations:*

- 1) The Sri Lankan government must implement substantive measures to protect the rights of minorities and end religious persecution and ethnic discrimination, including the destruction of minority places of worship.
- 2) The government must confront an increasingly aggressive Sinhala-Buddhist nationalism that continues to threaten the rights and safety of minorities. Similarly, the government and military must not allow the Sinhalization of ethnic Tamil areas.
- 3) More than 90,000 civilians are still displaced from the war, despite government contentions to the contrary, and must be resettled and rehabilitated in a timely manner.
- 4) It is critical that the government establishes a truly independent war crimes tribunal to inquire into the abuses committed by the Sri Lankan armed forces. The government also has to act on the recommendations of the Lessons Learnt and Reconciliation Commission (LLRC) and the UN Human Rights Council and engage in meaningful dialogue with Tamil political parties.
- 5) The Tamil Diaspora must play a constructive role in the rehabilitation of Tamils in Sri Lanka, the welfare of the Tamil minority in particular, and the Sri Lankan state in general.

### ***MONITORED COUNTRIES:***

*MONITORED* COUNTRIES HAVE A HISTORY OF VIOLATIONS AGAINST THE HINDU COMMUNITY, BUT CONDITIONS HAVE IMPROVED IN RECENT YEARS. THE ONE EXCEPTION IS SAUDI ARABIA, WHICH HAS A SMALL POPULATION OF HINDU MIGRANT WORKERS AND A LACK OF AVAILABLE DATA ON VIOLATIONS AGAINST HINDUS. CONSEQUENTLY, *MONITORED* COUNTRIES INCLUDE THE FOLLOWING: (1) REPUBLIC OF THE FIJI ISLANDS, (2) SAUDI ARABIA, AND (3) TRINIDAD AND TOBAGO.

#### **REPUBLIC OF THE FIJI ISLANDS**

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- In Fiji, Hindus constitute approximately 34% of the Christian majority state.
- Fijian Hindus faced hate speech, and Hindu temples were targets of attack until 2008. Such attacks appeared to have ceased in 2009. In 2012, Hindus continued to enjoy respite from religious/criminal attacks.
- Under new restrictive regulations implemented in 2012, Hindus were required to acquire permits to hold events that had more than ten people. Similarly, many Hindu

temples were unable to obtain permits for religious gatherings or festivals.

- The powerful and influential Methodist Church of Fiji has repeatedly called for the creation of a Christian State.
- Prime Minister Bainamirama, who came to power in 2006 in a military coup, has committed his government to the protection of minorities, especially the large Hindu minority. On the other hand, his regime has been accused of committing rampant human rights violations.
- Despite having previously made commitments to improve its human rights record before the United Nations Human Rights Council (UNHRC) in 2010 and accepting 97 (out of 103) of the Council's recommendations, the government continued to repress fundamental rights and freedoms in 2012.

*HAF Recommendations:*

- 1) The Fijian government must respect the rights of all citizens, and must eradicate the inherent political bias against Hindus and ethnic Indians. It should further rescind recently implemented restrictions on Hindu temples and religious gatherings.
- 2) Fiji must continue to be vigilant in protecting Hindus from violence and hate speech, and it must institute permanent safeguards to protect Hindu temples from attacks.
- 3) The Fijian government must distance itself from Christian fundamentalists promoting hatred against Hindus and Hinduism and avoid Christianization of its institutions.
- 4) The government must uphold and protect human rights, take specific steps to enhance human rights protections, and return to democratic rule.

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**KINGDOM OF SAUDI ARABIA**

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- Saudi Arabia continues to be one of the most authoritarian and repressive nations in the world.
- The country's legal framework is based on Sharia (Islamic law), and Saudi law mandates all citizens to be Muslims. In addition, public practice of other religions is prohibited and non-Muslim places of worship, such as temples, synagogues, or churches are expressly forbidden.
- Saudi Arabia's Hindu population is primarily comprised of migrant workers from South Asia. Non-Muslim migrant workers in particular, including Hindus, are

deprived of all basic human rights and religious freedom. In fact, many migrants are frequently forced to sign labor contracts, where they relinquish their rights and agree to adhere to Saudi religious customs and morals.

- Saudi Arabia also exports extreme forms of Wahabbi Islam to other countries through the construction of mosques, provision of educational materials, and support for Islamists.

*HAF Recommendations:*

- 1) Given the Saudi government's unwillingness to address fundamental human rights concerns, the international community, and particularly the U.S., must exert economic and diplomatic pressure on the country's leaders to implement meaningful reforms. Specifically, Saudi Arabia must revamp its legal system to provide religious freedom for minorities, equality for women, and basic civil rights for all its citizens.
- 2) The Saudi regime must end its financial, ideological, and logistical support for radical Islam in various parts of the world.

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**REPUBLIC OF TRINIDAD AND TOBAGO**

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- The country is a multi-ethnic, multi-religious island nation with Hindu Indo-Trinidadians and Afro-Trinidadians accounting for the majority of the population. Roman Catholics and Hindus make up the largest religious groups.
- The racial and religious animosity between Afro-Caribbean and Indo-Caribbeans has been exacerbated over the years. Hindus were frequently subjected to discrimination, hate speech, and acts of violence under previous governments. Afro-Caribbean supremacists continue to promote hatred and intolerance of Indian-Hindus.
- Indo-Trinidadians have been systematically denied government benefits and employment in public sector jobs. Hindu institutions and festivals were previously subject to acts of violence and denied equal access to public funds.
- Under the new government of Kamla Persad Bissessar, an Indian-Hindu, conditions have significantly improved for the Indo-Caribbean community.

*HAF Recommendations:*

- 1) The Trinidadian government should practice parity and equality in government response to and support of various ethnic and religious groups. It is incumbent upon the government to guarantee fundamental rights and freedoms for all citizens and enforce civil and criminal laws in a uniform manner.
- 2) Trinidadian leaders should discourage racial and religious stereotypes and hate speech; recognize Hindus and Indians as equal partners in the rule and governance of the nation; and distance themselves from Christian fundamentalist organizations promoting Christianization of the government and hatred against Hindus and Hinduism.
- 3) Hindus should be protected from violence, hate speech as well as racial and religious stereotyping. Furthermore, the government must safeguard Hindu temples from attacks.
- 4) The United States should encourage the current Trinidad government to abide by the country's Constitution and guarantee safety and security to Hindus and Indo-Trinidadians.

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# Introduction

The Government of India estimated that the Indian Diaspora was nearly 20 million people strong in 2004.<sup>iii</sup> However, of the nearly one billion Hindus in the world today, some reports put the Hindu population living outside India at 55-60 million.<sup>iv</sup> These two numbers are not incompatible because not all Hindus are part of the Indian Diaspora. For example, the population of Nepal is approximately 29 million, of whom 80% are Hindus. Similarly, the Hindu citizens of Bangladesh and Pakistan are not considered part of the Indian Diaspora.

Followers of Hindu traditions constitute the third largest religious group in the world, after Christians (about 2.1 billion) and Muslims (1.4 billion). The majority of Hindus live in the Indian sub-continent. They number nearly 827 million in India alone and constitute 80.5% of the population.<sup>v</sup> However, the Hindu Diaspora reaches beyond the Indian subcontinent to Europe, Africa, Southeast Asia, the Pacific Islands, and North America where it comprises a substantial minority. In Fiji and some Caribbean nations, Hindus make up a significant portion of the population, with representation at the highest levels of government.

In Africa, Hindus make up a very small 0.213%, with the majority of them residing in South Africa, Kenya, and Uganda. In Asia, the overwhelming majority of Hindus (99.266%) reside in South Asia (India, Bangladesh, Nepal, Sri Lanka, Pakistan, and Bhutan), with some identifiable presence in Southeast Asia (Malaysia, Singapore, Myanmar, and Indonesia). In Europe (0.214%), the majority of Hindus live in the United Kingdom, with some sizeable populations in the Netherlands and Germany. In the Americas (North, South, Central, and the Caribbean), Hindus total 0.263%, with the sizeable populations in the U.S., Canada, and the Caribbean nation of Trinidad and Tobago. In Oceania, Hindus make up 0.044% of the total, with Fiji having the largest percentage of them. The top 25 countries<sup>1</sup> of residence for Hindus in ranking order are: India, Nepal, Bangladesh, Indonesia, Sri Lanka, Pakistan, Malaysia, United States, United Arab Emirates, United Kingdom, Mauritius, South Africa, Kenya, Tanzania, Canada, Kuwait, Fiji, Singapore, Trinidad and Tobago, Myanmar, Guyana, Saudi Arabia, Yemen, Zimbabwe, and Australia.<sup>vi</sup>

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<sup>1</sup> Hindus have fled Afghanistan, and the estimated 2007 figures for the number of Hindus in Afghanistan are no longer valid. We have thus removed Afghanistan from the list of the top 25 countries of residence for Hindus.

<sup>2</sup> The Hindu American Foundation published its first report in December 2010 on caste-based discrimination in India. See: <http://www.hafsite.org/media/pr/hinduisinindia> Hindu American Foundation 2013

While Hindus comprise the majority in India and Nepal, Hindus constitute an important minority in a number of countries around the world. These communities, especially in Pakistan and Bangladesh, have experienced a tumultuous history, and at various times, their human rights have been violated with impunity by the majority communities. Such human rights violations have persisted for many generations — with or without the connivance of the ruling governments — but have rarely attracted the sustained attention of human rights agencies. We have, over the past eight years, brought these human rights violations to regular scrutiny. ***This ninth annual report covers human rights conditions in ten nations and regions across the world in 2012: Afghanistan, Bangladesh, Malaysia, Pakistan, Bhutan, the Indian state Jammu and Kashmir, Sri Lanka, Fiji, Saudi Arabia, and Trinidad and Tobago.***

As a “spiritual community” of related religious and cultural practices (the major religious groups within Hinduism are Vaishnava, Smartha, Shaiva and Shakta), Hindus do not adhere to a single scripture, owe allegiance to a single religious institution or authority, follow one religious leader, nor adhere to one set of worship, practices, and ritual. Though Buddhists, Jains, and Sikhs constitute distinct religious traditions themselves, they are included as a part of the broader Hindu family. This report excludes their particular concerns, though the fate of Buddhists in Tibet since 1950 is a matter of tragic historical significance that has been the subject of investigation by various international agencies.

While the issue of human rights is of global significance, this report focuses on ongoing human rights violations in the ten nations/regions listed above. This report does not investigate other human rights violations within India, such as religious conflict, abuse of women, or caste-based discrimination. The Hindu American Foundation believes in the importance of addressing those problems<sup>2</sup> but they are beyond the scope of this report, which focuses on countries and regions where Hindus are a minority.

The Foundation’s first human rights report, published in 2005<sup>vii</sup>, provided a brief summary of the history of the South Asian region. The departure of the British colonialists in 1947 left India divided into a Muslim majority Pakistan (made up of two regions – West and East Pakistan) and a Hindu majority India. India embraced secularism, proclaiming the State neutral between religions, but

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<sup>2</sup> The Hindu American Foundation published its first report in December 2010 on caste-based discrimination in India. See: <http://www.hafsite.org/media/pr/hinduism-not-caste-caste-full-report>

allowed minorities to retain their own sectarian practices in areas like personal law. India established the largest and longest sustained democracy in the region. Pakistan labeled itself the Islamic Republic of Pakistan with the adoption of a Constitution based on Islamic jurisprudence.<sup>viii</sup> It curtailed the political rights of minorities, and Hindus, who constituted approximately 20-25% of the population in West Pakistan<sup>ix</sup> and 30% in East Pakistan, suffered the most. The Hindu population has dwindled to less than 2% in Pakistan (former West Pakistan) and to about 9.6% in Bangladesh (former East Pakistan). East Pakistan seceded from West Pakistan with Indian military assistance in 1971 following the genocide committed by the armed forces of Pakistan against its own citizens. The new country was named Bangladesh. Rapid Islamization of the Bangladesh polity over the last decade has led to a substantial rise in attacks against minority groups -- the largest minority constituency being Hindu.

The Indian State of Jammu and Kashmir is the focus of territorial claims by Pakistan, which has encouraged and abetted terrorism against India.<sup>x</sup> Terrorism in the Kashmir Valley has led to the forced exodus of nearly the entire Hindu population of several hundred thousand from the Kashmir Valley through a campaign of murder, rape, and kidnapping. Pakistani military posturing and the threat of nuclear warfare between the two nations have diverted attention from the reality of atrocities against Hindus in Kashmir since 1989. Successive Indian governments have paid scant attention to the fate of the Hindu minority of Kashmir because they have concluded that attempting to address their legitimate concerns might constitute an avoidable distraction for the political resolution of the dispute over Kashmir. The media in India and abroad have taken the cue from this fateful governmental silence over the human rights violations of Kashmir's Hindus by largely ignoring them. World human rights organizations have also been muted in their response to the tragedy that has befallen Kashmir's Hindus.

HAF's consequent reports reaffirmed the ongoing human rights abuses in the three regions covered in the first report and expanded their scope beyond South Asia.<sup>xi</sup> This ninth annual report will once again demonstrate that Hindu citizens in South Asia and across the Diaspora are targeted victims of grievous violations of universally recognized human rights. The absence of this issue from the global dialogue on human rights, and the manifest absence of substantive documentation by prominent media sources and non-governmental human rights organizations of abuses against Hindus continue to prompt our investigations and reports. We provide further context to our findings by examining the legal

frameworks of individual countries and the UN Human Rights Declaration and various relevant conventions (see *Appendix A*).

# *Egregious Violators:*

## Islamic Republic of Afghanistan



© CIA World Factbook

**Area:** 647,500 sq km

**Population:** 31,889,923 (July 2007 est.)

**Religions:** Sunni Muslim 80%, Shi'a Muslim 19%, other 1% (includes Hindus, Christians, and Sikhs)

**Ethnic groups:** Pashtun 42%, Tajik 27%, Hazara 9%, Uzbek 9%, Aimak 4%, Turkmen 3%, Baloch 2%, other 4%

**Languages:** Afghan Persian or Dari (official) 50%, Pashtu (official) 35%, Turkic languages (primarily Uzbek and Turkmen) 11%, 30 minor languages (primarily Balochi and Pashai) 4%; significant bilingualism exists

**Location:** Southern Asia, north and west of Pakistan, east of Iran

### Introduction

Recent events in Afghanistan have demonstrated the country's continued instability and the fragile nature of its government and institutions. And with no end in sight for the conflict and an expected drawdown of U.S. troops in 2014, prospects for peace and stability remain tenuous at best.

Corruption, moreover, remains endemic as Afghans paid nearly four billion dollars in bribes in 2012, indicating a lack of transparency and institutional governance.<sup>xii</sup>

The Taliban and other terrorist groups also continue to pose a substantial security risk and threaten the stability of Afghanistan. Additionally, the Afghan government remains weak and is unable to protect its citizens from violence and intimidation by the Taliban and religious extremists.<sup>xiii</sup>

Similarly, the general disregard for human rights by the government, as well as non-state actors, has seriously impeded the establishment of the rule of law and democracy throughout the country.<sup>xiv</sup>

According to the U.S. Commission on International Religious Freedom, “The security situation remains serious, exacerbating the religious freedom and human rights problems in many parts of the country.”<sup>xv</sup> As the Berkley Center for Religion, Peace, and World Affairs recently noted, “A combination of contradictory laws, official ambivalence, popular prejudice and ongoing insurgency makes Afghanistan a place that remains largely hostile to religious freedom.”<sup>xvi</sup>

Consequently, religious minorities, including Hindus, Christians, and Sikhs continue to endure violence, social discrimination, and legal inequalities, and they are often forced to hide their religious beliefs to avoid persecution.<sup>xvii</sup>

## **History/Background**

Archaeologists have found stone-age remnants at Aq Kupruk, and Hazar Sum in Afghanistan dating back to 50,000 BCE. It is believed that the first urban centers in the region were Mundigak and Deh Morasi Ghundai, dating back to between 3000 and 2000 BCE. Some historians speculate that the original Hindu or Vedic habitations were in areas of present day Afghanistan. Afghanistan was at the cross-roads of routes between the Indian subcontinent, Iran, and Central Asia, and has seen the growth and establishment of various religions including early Hinduism, Zoroastrianism, Buddhism and Islam, though at this juncture the country is predominantly Muslim.

Alexander the Great conquered Afghanistan (329–327 BCE) during his journey to India. After Alexander’s death, the region became part of the Seleucid Empire. In the north, Bactria became independent, and southern Afghanistan was acquired by the Mauryan dynasty, based in present day India. Bactria expanded southward but fell to the Parthians and rebellious tribes like the Sakhas. Buddhism was introduced by the Kushan dynasty (early second century BCE). The Kushans declined in the third century CE and were supplanted by the Sassanids, the Ephthalites, and the Turkish Tu-Kuie.

Prior to Muslim rule of Afghanistan, a Hindu dynasty, known as the Hindu Shahis, controlled parts of Afghanistan from the end of the sixth century CE until the end of tenth century CE.

The Muslim conquest of Afghanistan began in the seventh century CE. Mahmud of Ghazni, who conquered the lands from Khorasan in Iran to the Punjab in India early in the eleventh century, was the most powerful of Afghanistan's rulers. The lands of Ghazni overlapped with those of the Hindu Shahis, until the Shahis were supplanted from the Afghanistan completely by the end of the tenth century.

Jenghiz Khan (1220) and Timur (late fourteenth century) were subsequent conquerors. Babar, a descendant of Timur, used Kabul as the base for his conquest of India and the establishment of the Mughal Empire in the sixteenth century.

In the eighteenth century, the Persian leader Nadir Shah extended his rule to north of the Hindu Kush mountains (Hindu Kush, some contend, literally means the "slayer of Hindus." The earliest known use of this name was by the famous Arab traveler, Ibn Battuta, who wrote in his famous 14th Century Travels: "Another reason for our halt was fear of the snow, for on the road there is a mountain called Hindu Kush, which means 'Slayer of Hindus,' because the slave boys and girls who are brought from Hind [India] die there in large numbers as a result of the extreme cold and the quantity of snow.")

After the death of Nadir Shah in 1747, his lieutenant, Ahmad Shah established a united state covering most of present-day Afghanistan. His dynasty, the Durrani, gave the Afghans the name Durrani. Subsequently, there were conquests and attempts at conquest of the Afghan region by the British and Russians -- and there is an extensive history of internecine fighting among tribal leaders.

The Russian intervention in Afghanistan in the late 1970's led to a civil war, finally culminating in the rise of the Taliban and their occupation and rule of Afghanistan in the 1990s. In 1997, the Taliban renamed the country the Islamic Emirate of Afghanistan, and its leader, Mullah Omar, assumed the title Amir-ul Momineen (Commander of the Faithful). The Taliban authorities enforced their version of Islamic law, very similar to the strict Wahabi Islamic edicts in Saudi Arabia.

Although the Taliban were formally displaced by the U.S. led invasion in 2001 and a central government under Hamid Karzai was established in Kabul, Taliban militants continue to control large parts of the country.

### ***Hinduism in Afghanistan***

Notwithstanding its recent decline, Afghanistan is considered one of the oldest centers of Hindu civilization and was once home to a thriving Hindu population.<sup>xviii</sup> Hindu history in Afghanistan dates back to the Vedic age with some of the earliest settlements of people

now identified as Hindus. Afghanistan was a center of Buddhism between the second and seventh centuries CE, and thus attracted many pilgrims from the subcontinent. From the end of the sixth century CE to the end of tenth century CE, Kabul and most of South-eastern Afghanistan was ruled by the “Hindu Shahs,” a series of small dynasties of Hindu faith.

The country was home to the headquarters of the Pashupati sect. Among its famous temples was the Sun Temple at Sakawana. Remains of the temples including icons of Ganesha, Lakshmi, Surya, Siva Linga, and other Hindu deities, have been excavated at Amb, Mallot, Ketas, and Baghaniwaiah.

The major Hindu groups that lived in Afghanistan included the Katri, Chawa, Bapla, Kandi, Katal, and Daka. The Katri group was the largest and was also known as the Sardar Khel. Hindus in Afghanistan have traditionally specialized in trade, traditional medicine, the crafts, and music. The Afghan King Shah Shuja, when he returned from exile in India in 1839, brought with him Indian musicians – the trappings of a royal court. He installed these musicians first in the Bala Hissar, his royal residence, and later in Kharabad, the area at the foot of the palace. Over time Kharabad was to become known as the musicians’ quarter. The Hindus were mostly prosperous merchants, dealing in clothes, dry fruits, pharmaceuticals, currency exchange, and Indian tea and spices.

In recent years, however, the Hindu population in Afghanistan has become nearly extinct, with barely an estimated 3,000 Hindus and Sikhs remaining in the country (there are no clear estimates on the numbers of Hindus still living in Afghanistan).<sup>xix</sup> During the 1970s, there were approximately 200,000 Hindus residing in Afghanistan, but due to years of civil war, violence, and persecution, large numbers of Hindus fled for their safety to countries such as India, Germany, and the U.S.<sup>xx</sup> According to the Afghanistan Independent Human Rights Commission (AIHRC), the civil war forced the majority of Hindus and Sikhs to immigrate out of Afghanistan, and “most of their houses and lands were taken by force.”<sup>xxi</sup>

Furthermore, under the Taliban’s reign, Hindus faced pervasive discrimination and were forced to wear a distinguishing yellow stripe on their arm, similar to the Jews in Nazi Germany. The fall of the Taliban and the establishment of a democratic government and a new constitution under President Karzai has not significantly improved the conditions of those Hindus (and Sikhs) still residing in the country. Hindus continue to endure violence, social discrimination, and legal inequalities, and are often forced to hide their religious beliefs to avoid persecution.<sup>xxii</sup>

According to Abdurrab Rasul Sayyaf, a Member of Parliament, “The Sikhs and Hindus of Afghanistan are considered part of the dhimmi [non-Muslim subjects] in line with sharia law. The government has an obligation to protect them, but they are required to pay a poll tax. They can hold civilian occupations, such as doctors, but they cannot be in charge of a governmental body or office. Upon meeting a Muslim, a Hindu is required to greet the Muslim first. If a Muslim is standing and there is a chair, the Hindu is not

allowed to sit down on the chair.”<sup>xxiii</sup> Such attitudes are shared by many other Afghan politicians as well as ordinary citizens and effectively provide a justification for treating minorities as second-class citizens.

Prior to the civil war and the emergence of the Taliban, Hindus and Sikhs purportedly lived peacefully with Muslims in several parts of the country, including Khost, Ghazni, Paktiya, Kandahar, Jalalabad, Laghman, Kabul, Helmand, as well as other provinces. Prem Nagar village in Khost province, for example, was once a prosperous Hindu village with 243 Hindu and Sikh families who enjoyed good relations with Muslims, but now there is only one Hindu living there.<sup>xxiv</sup> Many Afghan Hindus and Sikhs living near New Delhi now want to return to their native village of Prem Nagar. They hope to restore their once-thriving trading community by opening pharmacies, grocery stores, and textile shops in the booming border town.<sup>xxv</sup>

Given the current instability and extent of discrimination in the country, however, it is unclear whether the small Hindu and Sikh minority will be able survive in Afghanistan for much longer.

## **Status of Human Rights, 2012**

### ***Religious Freedom***

Afghanistan’s constitution and legal system are highly problematic and institutionalize discrimination against non-Muslims. Specifically, Islam pervades all aspects of the Afghan constitution and is firmly established as the state religion.

Moreover, Article 3 of the constitution states that no law can contravene Islam, and the constitution in practice establishes a restrictive interpretation of Islamic law, which may govern the rights of non-Muslims in certain situations. As a result, interpretations of Islamic law have been given precedence over human rights protections.<sup>xxvi</sup>

In addition, certain federal offices, such as the Presidency, are restricted to Muslims, while all federal ministers must swear an oath to “protect the Holy religion of Islam.” Similarly, members of the Supreme Court must swear to “attain justice and righteousness in accordance with tenets of the Holy religion of Islam...”<sup>xxvii</sup>

The Afghan constitution also explicitly fails to protect the individual right to freedom of religion and provides that “fundamental rights can be superseded by ordinary legislation.”<sup>xxviii</sup>

Furthermore, under the penal code, courts may subject religious minorities to Islamic law in situations that are not addressed by the constitution or the penal code. And marriage is formally restricted to Muslims. Non-Muslims are only allowed to marry if they refrain from publicly expressing their faith.<sup>xxix</sup>

Beyond the country's formal legal structure, religious minorities face extensive restrictions on their religious freedom from both the government and non-state actors.<sup>xxx</sup> The law is further applied in an inequitable manner and government authorities have failed to equally apply the law for the protection of all Afghan citizens.<sup>xxxi</sup>

Although Afghanistan's Constitution purportedly grants equal rights to all its citizens to practice their religious ceremonies, Hindus and Sikhs face significant obstacles in cremating dead bodies. In some instances, crematoriums have been forcibly occupied by local Muslims, while in other cases Muslims have physically interfered with cremations. Towards the end of 2012, for example, Muslim residents in the Qalacha neighborhood of Kabul, in collaboration with Afghan security personnel, forcibly prevented Hindus and Sikhs from performing cremation ceremonies for their deceased relatives.<sup>xxxii</sup>

Moreover, in Kabul, Hindus and Sikhs used to cremate their dead in an area called "Hindu Suzan" (or Hindu crematory site), but some Muslim residents have recently built houses near the area and are preventing Hindus and Sikhs from cremating dead bodies there.<sup>xxxiii</sup> AIHRC says Kabul municipality has identified another area in Kabul for the cremation of the Hindu dead, but it is not clear whether the land has actually been handed over to Hindu and Sikh communities.

Cremation is an essential funeral rite for both Hindus and Sikhs and integral to the practice of their respective religious traditions. The government's failure to uphold their basic rights is in direct violation of both the Afghan Constitution and international human rights law. Similarly, Hindus lack access to crematoriums and land suitable for conducting cremations and other religious ceremonies.<sup>xxxiv</sup>

### ***Social Prejudice and Institutional Discrimination***

Social prejudice against non-Muslims is commonplace in Afghanistan, and as a result, Hindus and Sikhs have been effectively excluded from most government jobs and face societal hostility and harassment.<sup>xxxv</sup> In addition, Hindu and Sikh children are subjected to discrimination and religious prejudice in schools from Muslim classmates and teachers. For example, there are approximately 70 Hindu and Sikh school age children living in Kabul, but many have been forced to switch schools or drop out altogether as a result of bullying and religious prejudice, according to Cheran Singh of the Hindu and Sikh Association of Afghanistan.<sup>xxxvi</sup>

Religious minorities in Afghanistan are also politically marginalized and lack effective political representation. In the 2010 elections, for example, there were only two Hindu/Sikh candidates out of 600 contending for parliamentary seats. Although a Sikh woman, Dr. Anarkali Honaryar, was elected to the lower house of parliament in the 2010 elections, minority politicians have been unable to significantly improve the conditions of non-Muslim communities in the past. Honaryar was supported by President Karzai, which reportedly angered many of his conservative Muslim supporters.<sup>xxxvii</sup>

In addition, according to the Afghanistan Independent Human Rights Commission (AIHRC), there have been several cases of illegal seizure and occupation of Hindu owned lands by Muslims in Kabul and Khost province. In these cases, Hindus have been unable to reclaim their lands and have received little assistance from the government or law enforcement. “There were even cases that after the final decision of the High Court, Hindus have not re-owned their lands,” said Shamsullah Ahmadzai, regional head of AIHRC.<sup>xxxviii</sup> Similarly, Charan Singh, the former Hindu representative in the Afghan parliament, maintains that Hindu and Sikh homes had been recently seized by a Muslim woman in Khost province.<sup>xxxix</sup>

## **Refugees**

A large number of Afghan minorities who fled Afghanistan several years ago continue to endure problems while living as refugees in other countries. In India’s capital city of New Delhi, for instance, many Afghan Hindu and Sikh refugees have not been granted official refugee status and live on the margins of society. Out of an estimated 25,000 Afghan refugees, only 9,094 have been officially recognized as refugees and issued “blue cards” by the United Nations Human Rights Council (UNHCR).<sup>xi</sup>

Moreover, since 1981, thousands of Hindus and Sikhs have fled to India, but only 650 of them have become naturalized Indian citizens. Many others are still waiting for Indian citizenship. According to Nayana Bose, Associate External Relations Officer of UNHCR, more than 90% of Afghan refugees living in India are Sikhs or Hindus.<sup>xii</sup> Many of the refugees feel frustrated and insecure and complain that both the Indian government and Afghan embassy in New Delhi are insensitive to their problems.

Afghan refugees have also faced lengthy delays in asylum applications and in some cases faced deportation proceedings. In Belgium, for instance, a number of Afghan Hindu and Sikhs were recently denied asylum and potentially face deportation proceedings. Similarly, many more continue to endure difficulties with their asylum claims, which have been pending for years.<sup>xiii</sup>

Despite meeting the criteria for refugee status under the Geneva Convention and given both the extent of persecution endured by religious minorities in Afghanistan and the Afghan government’s inability to protect them, these Afghan Hindus and Sikhs in Belgium remain at risk of deportation.<sup>xiiii</sup>

In fact, the European Court of Human Rights recently accused Belgian authorities of failing to adequately investigate the asylum claims of Afghan Hindus and Sikhs.<sup>xv</sup>

Similarly, in Britain, a Hindu family faced possible deportation to Afghanistan, where they fear religious persecution by the Taliban. Arti Kumar fled Afghanistan in September 2007 with her two sons, Akash and Ravi, after being targeted by the Taliban. She said they decided to leave after a Taliban guard attacked older son Ravi, who was then 17, by hitting him on the head with a rifle. The assault left him brain damaged. They sold the

family textile business to raise money to pay an agent to take them out of Afghanistan. But they were told he could only take three of them. Arti Kumar said that she had not heard from her husband, and her 16-year-old daughter Rekha was abducted by the Taliban. Rekha has never been found.<sup>xiv</sup>

In another case, a 23 year-old Sikh man that fled Afghanistan with his family when he was only 5 years old was recently detained by Afghan authorities after being deported to Afghanistan from the United Kingdom because he was allegedly unable to prove his Afghan citizenship. News reports indicate that he has faced abuse in prison, and other inmates attempted to forcibly convert him to Islam.<sup>xvi</sup>

## **Violations of Constitution and International Law**

### ***Afghan Constitution***

Afghanistan ratified a new Constitution on January 4, 2005. The country's new Constitution pledged to "abide by the UN charter, international treaties, international conventions that Afghanistan has signed, and the Universal Declaration of Human Rights." As noted above, however, the Article 2 of the new Constitution declares Islam as the "sacred religion" of the State. It further provides that "followers of other religions are free to exercise their faith and perform their religious rites within the limits of the provisions of law," thereby limiting the right of minorities to other legislation.

Similarly, this clause purportedly protecting freedom of religion is contradicted by Article 3, which states, "In Afghanistan, no law can be contrary to the beliefs and provisions of the sacred religion of Islam." Consequently, the Afghan constitution is highly problematic and subordinates the rights of religious minorities to those of Muslims and Islam.

### ***International Human Rights Law***

Afghanistan's accession to the UN's International Covenant on Civil and Political Rights took place on April 24, 1983. Afghanistan also agreed to the UN's International Convention on the Elimination of All Forms of Racial Discrimination.

The government's restrictions on religious freedom, inequitable provisions in the constitution, and failure to protect the rights of religious minorities against harassment and social prejudice, are all violations of the above covenants, as well as customary norms of international human rights law.

And finally, although Afghan Hindus living outside of Afghanistan meet the criteria for refugee status under the 1951 Geneva Convention, they have been routinely denied

asylum and have not been accorded refugee status in many countries where they have sought refuge.

## **Conclusion and Recommendations**

Given the current state of affairs for religious minorities in Afghanistan, the international community should: (1) work with the Afghan government to reform its legal system and constitution to provide greater safeguards for religious freedom and human rights, and (2) urge the Afghan government to protect religious minorities from violence and discrimination.

Furthermore, the international community should provide refuge to Hindu and Sikh minorities forced to flee Afghanistan due to persecution. In particular, countries, such as Belgium, Germany, India, and the UK should grant asylum to Afghan Hindu and Sikh refugees under the Geneva Convention, considering their inability to return to Afghanistan.

# People's Republic of Bangladesh



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**Area:** 144,000 square kilometers

**Population:** 158,570,535 (July 2011 estimate)

**Religions:** Muslim 89.5%, Hindu 9.6%, other 0.9% (2004 estimate)

**Ethnic groups:** Bengali 98%, other 2% (includes tribal groups, non-Bengali Muslims) (1998)

**Languages:** Bangla (official, also known as Bengali), English

**Location:** Southern Asia, bordering the Bay of Bengal, between Burma and India<sup>xlvii</sup>

## Introduction

2012 marked a turbulent year for Bangladesh, with several large-scale incidents of anti-minority violence throughout the country, including mass attacks on Hindu and Buddhist villages.

In addition, opposition parties, such as the Bangladesh Nationalist Party (BNP) held mass demonstrations and strikes to protest the disappearance of many of their leaders. During the protests, opposition groups allegedly exploded several small bombs in Dhaka. A locally based human rights group, Odhikar, claims that the Rapid Action Battalion (RAB) has been responsible for the disappearances, and more than 50 people have disappeared since 2010.<sup>xlviii</sup>

The RAB has come under significant criticism from human rights groups in recent years for engaging in disappearances, illegal detentions, torture, and extrajudicial executions.<sup>xix</sup>

Proceedings in Bangladesh's International Crimes Tribunals also dominated the news during 2012 and into the early months of 2013. The Tribunal, which was originally established in 2010 to bring to trial those accused of rape, murder, and genocide during Bangladesh's struggle for independence in 1971, issued several indictments over the course of the year (in conjunction with a second Tribunal, International Crimes Tribunal-2, that was created in March 2012 to expedite the process).

Official government estimates indicate that approximately three million people were killed and 200,000 women raped during Bangladesh's liberation war. Islamist militias, including Jamaat-e-Islami (Jel) (also a political party) and its student wing, Islami Chhatra Shibir (ICS), were allegedly responsible for collaborating with the Pakistani army in committing widespread crimes against Hindus and other ethnic Bengali civilians.

In April 2012, prosecutors presented charges against Abdul Alim, a former minister and lawmaker from the BNP, the country's largest opposition party. Alim, who collaborated with the Pakistani Army in 1971, is accused of ordering an all out attack on Hindu dominated villages on April 26, 1971, where 370 innocent civilians were massacred in a single day. He is also accused of involvement in several other atrocities on minority civilians during the 1971 War.<sup>i</sup>

Similarly, Salahuddin Quader Chowdhury, another leader of the BNP, was put on trial for committing crimes against humanity during the 1971 in July. Chowdhury was allegedly involved in the massacre of approximately 70 Hindu civilians in the village of Unsotturpara on April 14, 1971. A witness testifying at the International Crimes Tribunal-1, told prosecutors that Chowdhury collaborated with Pakistani occupation forces in brutalizing Hindu residents of Unsotturpara. The witness also testified that similar killings took place in other villages, and he reportedly saw the dead bodies of two pregnant women with their half-born babies.<sup>ii</sup>

Several other current and former officials of the BNP and its Islamist political ally, Jamaat-e-Islami (Jel), have been put on trial by the Tribunal for collaborating with the Pakistani army in committing atrocities against Bangladeshi civilians (mostly Hindus). These include Delwar Hossain Sayeedi (Deputy Chief of Jel), Golam Azam (former Jel chief), Motiur Rahman Nizami (current Jel chief), Ali Ahsan Mohammad Mojaheed (Jel General Secretary), Mohammed Quamaruzzaman (Jel Assistant Secretary), Quader Mollah (Jel Assistant Secretary), and former Jel member, Abul Kalam Azad. Azad, who fled the country for Karachi, Pakistan, was indicted in absentia.<sup>iii</sup>

Another Jamaat leader arrested on June 17 for war crimes, Mir Quasem Ali, was investigated by the Bangladeshi government for allegedly using "money laundering and

other illegal activities” to pay a U.S. lobbying firm, Cassidy, to lobby Congressmen and the Administration against the Tribunals. Ali reportedly paid Cassidy \$180,000, and his brother, Mir Masum Ali, who is a U.S. citizen, paid the firm \$320,000.<sup>liii</sup>

The Tribunals delivered three verdicts in early 2013, starting with Abul Kalam Azad in absentia, followed by the convictions of Quader Molla and Delawar Hossain Sayedee. Azad and Sayedee were sentenced to death, while Mollah received life imprisonment. According to a copy Sayedee’s verdict, he was convicted for his involvement in mass killings, rape, arson, and other atrocities during the war. He reportedly led a pro-Pakistani militia in abducting and raping three Hindu sisters over a three day period, forcibly converting at least 100 Hindus to Islam, burning down 25 houses in a Hindu village, and murdering two civilians.<sup>liv</sup>

Although some have criticized the Tribunals for not meeting international standards, others have seen them as vital to ensuring that leaders, such as Sayedee, are held accountable for their actions.

The announcements were met with jubilation from thousands of peaceful protestors gathered in the capital’s Shahbagh Square, who viewed the rulings as long overdue (the protestors also demanded that Mollah also be sentenced to death).<sup>lv</sup>

At the same time, the convictions also led to large-scale violence and rioting by Jel and Shibir supporters throughout the country, resulting in more than 80 deaths and hundreds of injuries. Jel supporters reportedly set off bombs and torched dozens of vehicles in at least four neighborhoods in the capital city of Dhaka, allegedly aimed at causing panic amongst ordinary Bangladeshi citizens.

Hindu villages were systematically targeted, and according to local Hindu community leaders, over 50 temples and 1,500 Hindu homes have been damaged or destroyed by Muslim mobs since late January. Media accounts further indicated that religious extremists also targeted several Buddhist villages and temples.<sup>lvi</sup>

In one account, a 60 year-old Hindu man, Sadhanchandra Mandal, recounted that a mob of more than 3,000 Muslims attacked his home after Friday prayers, stole his valuables and set the house on fire. Mandal added that the mob was chanting slogans, including “We are the Taliban, this Bengal will be Afghan.” They attacked a number of other homes in southern Sathkira district, while the police and paramilitary forces stood by and watched.<sup>lvii</sup>

As Amnesty International noted, “The Hindu community in Bangladesh is at extreme risk...It is shocking that they appear to be targeted simply for their religion. The authorities must ensure that they receive the protection they need.”<sup>lviii</sup> Odhikar also expressed concern for the safety of the Hindu community and demanded that “the government and all political parties ensure the life and security of the Hindu community immediately.”<sup>lix</sup>

Beyond religious minorities, ethnic minorities in the Chittagong Hills Tract (CHT) faced considerable discrimination and violence in 2012. The CHT, which is home to a

collection of non-Muslim indigenous tribes, has been populated by large numbers of Bengali Muslims in recent years, leading to widespread conflict and hostilities with the government. Although a peace accord was signed in 1997 between the tribes and the government, its provisions have not yet been fully implemented.<sup>lx</sup> Consequently, the tribes have become increasingly vulnerable and subject to persecution.

As Human Rights Watch (HRW) notes, “There have been repeated clashes between ethnic and religious minority groups and ‘settlers’ who belong to the majority Bengali community, and there are credible reports of arbitrary arrests, torture and unlawful killings [at the hands of security forces].”<sup>lxi</sup>

These events demonstrate the increasingly fragile nature of the Bangladeshi polity and the mounting danger that Islamist groups pose to the country.

## History/Background

Bangladesh was created in 1971 from the eastern wing of Pakistan. Its predominantly Bengali population won independence from Pakistan after the India-Pakistan War of 1971. The conflict was preceded by the massacre of an estimated two million East Pakistani citizens and the ethnic cleansing of 10 million ethnic Bengalis (mainly Hindus) who fled to India. In the summary of his report on the events dated November 1, 1971, the late U.S. Senator Edward Kennedy (D - Massachusetts) wrote:

*Field reports to the U.S. Government, countless eye-witness journalistic accounts, reports of International agencies such as World Bank and additional information available to the subcommittee document the reign of terror which grips East Bengal (East Pakistan). Hardest hit have been members of the Hindu community who have been robbed of their lands and shops, systematically slaughtered, and in some places, painted with yellow patches marked ‘H’. All of this has been officially sanctioned, ordered and implemented under martial law from Islamabad.*<sup>lxii</sup>

Furthermore, according to then American Consul-General and senior U.S. diplomat in Dhaka, Archer Blood, the Pakistani military was engaged in the “mass killing of unarmed civilians, the systematic elimination of the intelligentsia and the annihilation of the Hindu population.”<sup>lxiii</sup> Quite remarkably, this genocide has been largely erased from public memory and most of the perpetrators have escaped unpunished, though identified in an official report. As mentioned above, the recent establishment of a War Crimes Tribunal is a positive step and hopefully will result in justice for the brutal crimes committed during the 1971 war.

Unfortunately, the Western media still continues to downplay the extent and nature of the 1971 genocide. For example, in January 2011, a BBC report on the War Crimes Tribunal stated, “[T]housands of people are believed to have died in the 1971 war, which culminated in the country's independence from Pakistan,”<sup>lxiv</sup> ignoring the fact that estimates by human rights groups place the number of fatalities upwards of two million, the number of women raped at 200,000, and the number of refugees in the tens of

millions.<sup>lxv</sup> Moreover, 53 different types of crimes were reportedly committed in approximately 5,000 locations throughout the country.<sup>lxvi</sup> Hindus in Gopalganj subdivision of Faridpur district, for instance, fled after their properties were looted and their homes set on fire by local Muslims acting at the behest of the Pakistani army. Hindu students were also hunted down and massacred at Dhaka University, while a young Hindu boy lost his eye after a Pakistani soldier threw a grenade at him in a paddy field. These were but a few examples of the carnage caused by the Pakistani army and their local collaborators.<sup>lxvii</sup>

In addition, a recent book by Professor Sarmila Bose has led to further Western re-evaluation of the 1971 genocide by claiming that only between 50,000 and 100,000 civilians were killed by Pakistani forces and their East Pakistan abettors during the 1971 war.<sup>lxviii</sup> Human rights scholar Naeem Mohaiemen, however, argues, “Bose’s text broadly accepts the Pakistani narrative, without any challenge, and with sympathetic commentary. A close reading of her essays and the book shows that, since 2003, an informal club of retired Pakistan Army officers has successfully been able to charm her. The Bengali side, on the other hand, earned her ire and condescension which comes through in her subtle undermining of their stories.”<sup>lxix</sup> Naeem’s indictment of Bose’s work as “Bangladeshi history, minus Bangladeshis” is in sharp contrast to the praise for Bose’s work received from many Western academics. Bose’s book and the resulting praise, however, implicitly provide justification for the atrocities committed by Pakistan’s military and make calls for accountability and justice increasingly difficult.

After independence, Bangladesh initially adopted a constitution with its basic structure to ensure “Nationalism, Secularism, Socialism and Democracy.” In April 23, 1977, however, Bangladesh renounced its commitment to secularism by amending the Constitution to reflect a greater role for Islam in the national body politic. A new clause was appended to the Constitution, which affirmed, “The state shall endeavor to consolidate, preserve and strengthen fraternal relations among Muslim countries based on Islamic solidarity.” Furthermore, on June 9, 1988, the Constitution was amended again, making Islam the state religion and prescribing that the principle of absolute trust and faith in Allah would be the basis of all action.<sup>lxx</sup> These actions began a steady and gradual move towards Islamization, resulting in increased discrimination and persecution of minorities, particularly Hindus.<sup>lxxi</sup>

The process of Islamization rapidly expanded in 2001 with the election of the Bangladesh Nationalist Party (BNP), led by Khaleda Zia, and its Islamist allies. Following the elections, the BNP coalition and its supporters unleashed a large-scale campaign of violence targeting the Hindu community that lasted more than 150 days. During that period, there were reportedly more than 10,000 cases of human rights abuses committed against minorities.<sup>lxxii</sup> According to Refugees International, “Scores of Hindu women and girls were raped. In some cases, they were gang raped in front of their male relatives. Hindus were also assaulted on the streets, in their homes and at their workplaces. Systematic attacks resulted in a mass migration of Hindus to India and, in particular, to the bordering state of Tripura. The government did little to prosecute or

investigate the violence.<sup>lxxiii</sup> Global Human Rights Defence (GHRD) estimates that approximately 500,000 Hindus sought refuge in India following the election violence.<sup>lxxiv</sup> In May 2009, a Bangladesh high court ordered the government to institute a commission to inquire into this violence, and the Hasina government created a three-member commission to investigate the attacks against minorities after the BNP's 2001 election victory.<sup>lxxv</sup>

Notably, in 2011, a judicial commission tasked with probing the post election violence of 2001 found that 26,352 people, including 25 ministers and lawmakers of the previous BNP-Jamaat alliance government, were involved in perpetrating the violence.<sup>lxxvi</sup> According to the commission, there were more than 18,000 incidents of major crimes, including murder, rape, arson, and looting by members of the then ruling BNP-Jamaat alliance in the 15 months following the elections in October 2001.<sup>lxxvii</sup> The commission's findings demonstrate the extensive nature of state sponsored violence against the Hindu community in Bangladesh.

During the five-year rule of the BNP-led coalition, Bangladesh witnessed the increased role of Islam in politics and an explosion of *madrasas* (Islamic seminaries) teaching the same fundamentalist version of Islam that inspired the Taliban.

The massive proliferation of *madrasas*, estimated at 64,000, was seen as an intentional effort to change "Bangladesh's culture of religious tolerance."<sup>lxxviii</sup> Moreover, activity by Muslim militants and radical organizations significantly increased during the Khaleda regime.

The election of Sheikh Hasina and her Awami League party on January 6, 2009 was hailed as a victory for secular forces and a defeat for the pro-Islamist BNP led by Khaleda Zia.<sup>lxxix</sup> It was also expected to bring about a significant change in the conditions of minorities. This led the U.S. Commission on International Religious Freedom (USCIRF) to remove Bangladesh from its list of "Countries of Particular Concern" in May 2009,<sup>lxxx</sup> although HAF argued that the ground realities had not substantially changed.

In 2011, for instance, Parliament passed the 15th amendment to the Constitution, which retains Islam as the state religion and makes explicit reference to the Koranic invocation, *Bismillah-Ar-Rahman-Ar-Rahim*, or "In the name of Allah (God), Most Merciful, Most Gracious."<sup>lxxxi</sup> This occurred despite Hasina's election promises that she would return the country to its secular character.

Moreover, while there has been an overall reduction in the number of incidents of violence against minorities since Hasina came to power, Hindus and other non-Muslims continue to be plagued by many of the same issues. According to GHRD, since coming to power, Awami League officials have also been involved in persecuting minorities and have been directly involved in attacks on Hindus and other non-Muslims.<sup>lxxxii</sup>

Similarly, the Awami League government has not clamped down on radical Islamist groups, such as Jel and its affiliates, who have been allowed to operate with impunity.

### ***Decline of the Hindu Population***

At the time of Partition in 1947, the Hindu population in what is now Bangladesh was approximately 31%.<sup>lxxxiii</sup> By 1961, Hindus comprised 19% of the population, and by 1974, the Hindu community had further declined to 14%. According to Saleem Samad, a journalist and human rights observer, in 1991, the Hindu population in Bangladesh should have been 32.5 million, considering normal rates of growth.<sup>lxxxiv</sup> The actual population was only 12.5 million. By this calculation, the number of Hindus missing from Bangladesh over the two decades ending in 1991 is 20 million. This figure includes both those persons killed or forced to flee the country. The number of Hindus who fled Bangladesh between 1964 and 1991 was estimated at “5.3 million people or 535 people per day.”<sup>lxxxv</sup> Brutalized, targeted, and forced to emigrate to India or elsewhere, Hindus were then labeled as disloyal. Naeem Mohaiemen says, “In this sinister rhetoric, Hindus are leaving because they fail to integrate themselves with a ‘Bangladeshi’ citizenship concept. This helps foster an attitude of permanent ‘outsider’ status for the nation’s minority communities, further weakening the Bangladeshi state’s commitment to diversity.”<sup>lxxxvi</sup>

Bangladesh now has a total population of approximately 158.6 million people, only about 9% of who are Hindus.<sup>lxxxvii</sup> The percentage of the Hindu community in Bangladesh has dropped from 31% to 9% (or less) in the span of 60 years. A seminal study by Professor Abul Barakat of Dhaka University, “Living with Vested Property,” looks at official population statistics as well as local administrative office records. Prof. Barakat concluded that the Hindu population, as a share of the total population, dropped from 18% in 1961 to 12% in 1981, and finally to 9% in 2001. The decline was most pronounced in six districts: Chandpur, Feni, Jamalpur, Kishoreganj, Kushtia, Pabna and Narayanganj. In the districts that historically had high Hindu populations (Khulna, Dinajpur, Faridpur, Sunamganj, Jhenaidah, Barisal), there was an average decline of 12% over a forty year period for each district. Prof. Barakat also looked at the rate of population growth, checked the actual number of Hindus living in Bangladesh, and concluded that the total missing Hindu population from 1964-2001 was 8.1 million – a number equivalent to 218,819 missing Hindus each year. He believes that the pressure on the Hindu population to leave Bangladesh was primarily due to the Vested Property Act.<sup>lxxxviii</sup>

Violence and the continued illegal appropriation of Hindu owned land have caused further migration to India in recent years, as the Hindu population continues to steadily decline.

## **Status of Human Rights, 2012**

2012 was marked by several attacks on both the Hindu and Buddhist communities in Bangladesh. In particular, Jel and BNP affiliated groups were involved in orchestrating large-scale violence against these two vulnerable minorities. Moreover, incidents of sexual violence, kidnappings, forced conversions, and land seizures were widely reported throughout the year.

The continued attacks against Hindus and other minorities demonstrate the systematic use of violence as a means to intimidate Hindus and force them to leave Bangladesh.<sup>lxxxix</sup> Hindus still face significant economic and social disadvantages with continued under-representation in government and military jobs.<sup>xc</sup> On a positive note, the government announced plans to make the registration of Hindu marriages mandatory and provide for property and inheritance rights to married Hindu women, in line with India's Hindu personal law.<sup>xcj</sup>

The remainder of this section provides an overview of the nature and extent of persecution faced by the Hindu community in Bangladesh.

### ***Religious Freedom***

#### **Islam and the Legal System**

Bangladesh's Constitution gives preeminence to Islam over other religions. For example, as noted above, the Constitution proclaims Islam as the official state religion. Moreover, Article 8(1A) states that the fundamental principles of state policy and all actions are rooted in, among other things, faith in Almighty Allah. Section 2 further provides that the principles rooted in Almighty Allah should be "fundamental to the governance of Bangladesh, shall be applied by the State in the making of laws, shall be a guide to the interpretation of the Constitution and of the other laws of Bangladesh, and shall form the basis of the work of the State and of its citizens."<sup>xcii</sup> And Article 25(15) stipulates, "The State shall endeavor to consolidate, preserve and strengthen fraternal relations among Muslim countries based on Islamic solidarity."<sup>xciii</sup>

Beyond the Constitution, the legal system and courts apply Islamic law to Muslims in cases involving family and personal law. In addition, the civil court system's reach is limited in many parts of the country, especially rural areas, where Islamic fatwas (Islamic rulings by religious leaders) are enforced in a wide range of matters through traditional dispute resolution methods. The types of punishments imposed have included whipping; lashing; publicly humiliating women and girls by forcibly cutting their hair or blackening their faces; ostracizing women, girls, and families; and imposing fines.<sup>xciv</sup> Although a July 2010 High Court order banned the enforcement of fatwas and Sharia based extrajudicial punishments, the government has failed to take any credible steps to stop them.<sup>xcv</sup> The promotion of Islam and Islamic law through these official and unofficial

means undermines secularism in Bangladesh and threatens religious freedom in the country.

### **Attacks on Temples/Religious Sites**

The right to worship free from physical attack or violence is a core principle enshrined in the concept of religious freedom. This right, however, has been repeatedly violated by Islamic extremists and the Government in Bangladesh. As in previous years, Hindu temples, festivals, and religious sites came under attack in 2012. Other minority places of worship, including Buddhist temples, were targeted as well. In many instances, the Government and police failed to take appropriate action to arrest and prosecute those responsible for the crimes.

The following recent examples from 2012 illustrate the extent and scope of attacks on Hindu (and Buddhist) religious sites and symbols:<sup>xcvi</sup>

- A Hindu religious devotional event (Sri Krishna Lila Kirton) was attacked by Muslim fundamentalists with the assistance of a local government official in Singair Upazila on January 21. Several statues of deities were destroyed and more than 10 women and children were injured and required hospitalization.
- On January 21, a group of unknown perpetrators broke into a Hindu temple in Chormordon village, Serajdi Khan Upazila in Munshigonj District, and desecrated the temple and demolished a statue of the temple's main deity (Goddess Kali). This was reportedly one of several such incidents in the locality, leaving the Hindu community fearful and apprehensive. No suspects have been arrested.
- A religious altar with a statue of the deity Saraswati Devi (Goddess of Knowledge and Learning) in a secondary school in Uzirpur Upazilla in Barisal District was destroyed by a group of armed men on January 27. Similarly, on the following day in the town of Chandpur, statues of the same deity were destroyed prior to planned annual celebrations and rituals for Saraswati Devi.
- A Buddhist meditation center in Kaptai was attacked by a group of 20-30 Bengali Muslims settlers in the CHT, on January 28, after the death of a settler.<sup>xcvii</sup>
- Hindu cremation grounds in Shikdarbari, Motbaria Upazila in Perojpur District containing statues of Hindu deities were attacked with several of the statues destroyed and set on fire by a group of Muslims on February 3.
- While preparations for a yearly festival were underway, the Sree Sree Burakali Mata Temple in Nowgaon District was attacked in February by a group of men attempting to forcibly occupy the temple land. The attackers attempted to demolish the temple structure and were later arrested, but released by police shortly thereafter. The temple committee had also been allegedly threatened by local government officials to give up the land.
- During March, in three separate locations, a Kali Temple, Rajoir Temple, and Lohagora Horimondir (temple) were attacked with significant damage caused at all three sites and 11 deities were destroyed
- On March 23 and 24, a group of armed Muslims illegally trespassed on the property, where the Narayan Thakur Durga temple was located and demolished several statues of deities, resulting in damage of 80,000 Taka. The attackers reportedly then took control of the land and continued to destroy the temple.

## **General Violence**

### **Attacks on Minorities**

Hindus and other minorities in Bangladesh face widespread persecution and religiously motivated violence. Government and police authorities have done little to protect minorities and are often complicit in acts of violence. For example, the commission probing acts of violence during the 2001 elections has confirmed the role of political parties in the violence. It is now estimated that over 26,000 people participated in committing more than 18,000 crimes, the majority of them against Hindus.<sup>xcviii</sup> Of the 5,571 complaints lodged with the commission, 3,625 were probed, and they included 355 incidents of political murder, while 3,270 involved arson, rape, looting, and other crimes.<sup>xcix</sup>

Similarly, in subsequent years, Hindus were routinely attacked in a wide-range of incidents. Partial data indicates that there were more than 2,000 reported incidents of violence against Hindus between 2004 and 2011.

2012 was also marked by rampant violence against religious minorities, with several orchestrated large-scale attacks on the Hindu community throughout the year.

On February 9 and 10, several thousand Muslims attacked, vandalized, and burned down at least 13 Hindu temples and dozens of houses and shops in the Nandirhat-Hathazari areas of Chittagong. Police reportedly reacted slowly to the violence, but eventually filed two cases against more than 800 Muslim suspects allegedly involved in the violence. The violence was reportedly pre-planned by local leaders of the BNP, Islami Oikka Jote (Amini faction), Jamaat-e-Islami (JeI) and its student affiliate Islami Chhatra Shibir.<sup>c</sup>

The attacks were initially fueled by Muslim anger at a Hindu religious devotional procession that passed by a mosque. Although Hindu and Muslim leaders met to discuss the issue, later that night, mobs of Muslims systematically attacked temples, shops, and homes. Moreover, the next day, the same mobs blocked the streets and threatened to take revenge against Hindus after a false rumor spread indicating that Hindus had destroyed a mosque. After prayers, Muslim clerics inflamed their congregants to attack Hindus, leading to further violence.<sup>ci</sup> Following the violence, a Muslim man named Mohammed Jasim Mechanic was arrested and admitted that he was bribed by Muslim leaders to break the wall of the mosque, in order to blame Hindus for the act.<sup>cii</sup>

According to Bangladesh Minority Watch, the Bangladesh High Court Division of the Supreme Court ordered the Government of Bangladesh to take immediate steps to restore the damaged properties and provide Hindus in the area from further attacks, although it is unclear that the government compensated the victims for their loss. The High Court also criticized the police for their inaction during the violence.<sup>ciii</sup>

Shortly following the anti-Hindu pogrom in Nandirhat and Hathazari, fresh attacks were reported on the Hindu community in Sathkira at the end of March and beginning of April. Specifically, Muslim fundamentalists attacked, vandalized, and burned down dozens of Hindu homes in Sakhira district. Islamist activists from the Jel party instigated the violence after rumors spread that a school play allegedly portrayed the Prophet Mohammed in a negative manner. At least four people associated with the BNP and Jel have been arrested in connection with the violence.<sup>civ</sup>

Global Human Rights Defence (GHRD) summarized the violence as follows:

*In late March, in Sathkira District, local Jamaat-e-Islami leaders mobilised some thousand supporters to 'defend their religion against enemies of Islam' in response to a school play based on a traditional Bengali text, that was then alleged to insult the prophet Mohammad. Fuelled on by imams and a local newspaper, spreading false and inflammatory information, rioters burned down houses and looted mainly Hindu homes in two villages. Witnesses have reported that the mob also included activists from the AL, the BNP and the JP (Jatiya Party). Hundreds of Hindus were rendered homeless, and GHRD interviewed one woman who admitted that she was sexually assaulted. Police stood passively by, as the rioters hindered the fire brigades coming to the people's rescue. Despite many prior warnings, no action was taken to prevent the attacks, or to arrest the perpetrators in the immediate aftermath. Rather, the headmaster and school teacher were initially arrested.<sup>cv</sup>*

Moreover, in August, a Hindu village in Dinajpur District was attacked by thousands of Muslims who vandalized and destroyed 50 homes, injured 57 people, and sexually assaulted at least one woman. Local authorities publicly blamed Hindus for hindering the construction of a mosque in the Hindu majority area, resulting in the widespread violence.<sup>cvi</sup>

And in one of the worst attacks on the Buddhist community in Bangladesh in recent memory, mobs of Muslims attacked Buddhist villages in Cox Bazar area of Chittagong in late September. The attacks occurred following rumors that a Buddhist man allegedly defamed the Koran in a Facebook posting. According to news reports, approximately 30 Buddhist homes and shops were set on fire, while more than 100 buildings were vandalized. The Asian Centre for Human Rights (ACHR) asserts that 22 Buddhist temples and two Hindu temples were attacked in the violence.<sup>cvi</sup>

The violence was reportedly pre-planned, and supporters and leaders of multiple political parties made speeches encouraging violence against Buddhists. The police failed to act in a timely manner to prevent the violence, demonstrating their inability and/or unwillingness to protect minorities.<sup>cvi</sup>

Additional examples of attacks on minorities in 2012 include the following.<sup>cix</sup>

- A 15 year-old Hindu student was kidnapped and murdered by a group of unknown men in January. Three suspects have been arrested.
- The Superintendent of Police in Khulna ordered the illegal destruction of several Hindu (Harijan) homes and temples at the beginning of 2012. Twenty families were rendered homeless as a result of the police's action. Following an application by GHRD and BDMW, the High Court ordered the police to show cause and submit a report dealing the legal authority for the destruction.
- A Hindu teacher, Puurnimoya Chakma, was shot to death on February 24 at his home. It is unclear whether anyone has been arrested in connection with the case.
- A Hindu family was attacked by a group of Muslims in the village of Tetlab, Tarab Municipality in Rupganj Upazila, after refusing to pay five lakh Taka in extortion money. Three family members were seriously injured in the assault on March 31.
- On September 14, 30-40 armed Muslims attacked a Hindu home, reportedly sexually assaulted the women and girls living there and abducted one man, Robin Chandra Das. The intruders allegedly stole personal property and money worth approximately 500,000 Taka. Das was later recovered by police, but it appears no additional action was taken against the perpetrators.
- Two human rights activists, Rabindra Ghosh and Rabindra Baral, from Bangladesh Minority Watch (BDMW), were physically assaulted in November by the Superintendent of Police in Perojpur District. The activists, who were investigating several recent attacks on Hindus in the district, were attacked by the Superintendent and other police officers.. BDMW was specifically investigating cases involving the illegal occupation of Hindu owned land and temples, as well as the alleged gang rape of a Hindu girl. Government officials and police have failed to take any action in any of the cases.

### **Violence against Women**

Violence against women is a common weapon used to intimidate and harass minority communities across the world. It has similarly been used in Bangladesh as a means to attack Hindus. In the period immediately following the 2001 elections, approximately 1,000 Hindu women and girls were raped.<sup>cx</sup> And figures released towards the end of 2011 put the number of Hindu women and girls gang raped at about 200.<sup>cx</sup> A commission inquiring into the 2001 violence found that ministers in the Khaleda Zia government and Members of Parliament belonging to the BNP and its Muslim extremist allies were involved in the violence against Hindus, including sexual violence.<sup>cx</sup>

According to a recent report from GHRD: "In Bangladesh, gang rape has become a major tool of political terror, forcing minorities to flee and has proven more effective than murder. The victims have all been women belonging to either of the ethnic/religious minorities. Neither little girls nor pregnant women and the elderly are spared. The perpetrators are men belonging to various branches of Muslim extremist political parties, including direct branches to the ruling party BNP (e.g. various student wing's of BNP like JCD [Jatiyatabadi Chhatra Dal], Jubo Dal)."<sup>cx</sup> The report goes on to state that rape has been used to shame Hindu society and as a genocidal device to drive Hindus out of Bangladesh. In addition, government officials have failed to take adequate measures to prevent and prosecute such crimes.<sup>cx</sup>

While Hindu women and girls have been disproportionately targeted in Bangladesh, sexual violence transcends religious identity and plagues women from all faith backgrounds. Between January 2001 and November 2012, for instance, there were 9,149 recorded incidents of rape across the country, according to Odhikar.<sup>cxv</sup>

In 2012 alone, Odhikar reported that 760 women/girls were raped. This number was slightly higher than 2011, when there were 711 recorded rapes. Among those raped in 2012, 281 were adult women, 447 girls, and 32 whose age could not be ascertained. Of the adults, 30 were killed after being raped, and 97 were victims of gang rape. Of the 447 young girls victimized, 34 were killed after being raped, 79 were victims of gang rape, and ten committed suicide.<sup>cxvi</sup>

This report, however, focuses on the systematic kidnapping, rape, forced conversion, and murder of Hindu women, who remain particularly vulnerable.

Below are a few specific examples of incidents involving sexual violence or attacks against Hindu women/girls (and to a lesser extent other minorities) in 2012:<sup>cxvii</sup>

- A Hindu college girl, Pallabi Biswas, was kidnapped, tortured, and killed by a group of Muslim boys in Ullapara Upazila of Serajgonj district. Her mutilated body was found on nearby railway tracks in February 2012. Apparently, one of the boys involved in the incident has previously harassed Biswas.
- In January 2012, Parbati Rani, a 36 year-old married Hindu woman was raped and forcibly converted to Islam by Harun-ar- Rashid, a local political official in Comilla district. Rani's 14 year-old daughter was allegedly converted by Rashid before he was arrested by police.
- An 85 year-old Hindu widow was attacked and sexually assaulted by three Muslims in an ashram in February 2012. The police delayed taking any action, and the perpetrators have yet to be apprehended.
- A 16 year-old Hindu girl, Lovely Rani Das, was held captive and sexually assaulted repeatedly between February and October by a group of Muslim men. The girl was impregnated by her rapists, and her parents appealed to the police and Bangladesh Minority Watch for assistance.
- While on her way to college on December 30, a Hindu girl was forcibly kidnapped by a group of at least three Muslim men. Her whereabouts are currently unknown.
- Several indigenous tribal girls from the Chittagong Hills Tract (CHT) were raped by Bengali Muslim settlers in 2012. For instance, a 13 year old Jumma (CHT tribe) girl was abducted and raped at a hotel in the Rajshahi District. Moreover, in February, a 15 year old Jumma girl was attacked and gang raped by a group of several men in the Laxmichari Upazilla/ Khagrachari district. And on March 23, an 11 year old Jumma girl was raped by two men in the forest in nearby Makikchari Upazila.
- In May 2012, a 25 year-old married Christian woman was raped by a Muslim man in her own home. Her assailant has not yet been prosecuted for the incident.

## **Social Persecution**

### **Land Encroachment/Evictions**

Land encroachment is another major issue faced by the Hindu minority in Bangladesh and includes the illegal occupation of land, homes, businesses, and temple property. Initially instituted by the Government of Pakistan in 1965, the Enemy Property Act (EPA) encompassed a series of discriminatory property laws targeting primarily Hindus and tribal communities in the eastern portion of the country (Bangladesh). The Act officially designated Hindus as “enemies” and was used to confiscate land and property belonging to Hindus. Subsequently, after the independence of Bangladesh in 1971, the EPA remained in effect and was simply renamed in 1974 as the Vested Property Act (VPA). As a result, nearly 1.2 million Hindu families, or 44% of all Hindu households in Bangladesh, were affected by the EPA and its post-independence version, the Vested Property Act.<sup>cxviii</sup>

In an effort to return “vested” properties to their original Hindu owners, the Vested Property Return Bill (VPRB) was passed in 2001, and the VPA was abolished. But the Bill, the language of which remains relatively the same as the VPA/EPA and maintains the same discriminatory effect, brought little relief to Hindus, who continued to be deprived of their property in large numbers. According to a study by Abul Barkat of Dhaka University, nearly 200,000 Hindu families have lost or been robbed of 122,000 bighas of land (one bigha equals 1333.33 sq.metres/1594.65 sq. yards/0.33 acres), including their homes, in the six years since the Vested Property Act was annulled.<sup>cxix</sup> The most recent legislation, the Vested Properties Return (Amendment) Bill 2011, intends to return confiscated properties to their original Hindu owners, but the government has not yet implemented its provisions.

Overall, Hindus have been robbed of a combined 2.2 million acres of land. At the current market price, the value of those 2.2 million acres is Taka 2.52 billion (US \$36 million at a rate of \$1 = 70 Taka), which is more than half of the country’s gross domestic product.<sup>cxx</sup>

Land-grabbing in Bangladesh operates through a system of force and deception, supported and patronized by influential politicians and political organizations. Between 2001 and 2006, “[f]orty-five percent of the land grabbers were affiliated with the BNP, 31% were Awami League members, 8% were affiliated with the Jamaat-e-Islami and 6% were with the Jatiya Party and other political organizations.”<sup>cxxi</sup>

A new Vested Properties Return Act was passed in November 2011, while the Vested Property Return (Second Amendment) Act was promulgated in September 2012, but the measures identified in the new legislation have not yet been fully implemented and properties have not been returned to their rightful Hindu owners. Furthermore, the government has not taken any steps to curtail the ongoing appropriation of Hindu-owned

land, and local officials from all major political parties are often complicit in the practice.<sup>cxxii</sup>

In 2012, there were once again several incidents of land encroachments, highlighting the enormity of the problem faced by minorities in general, and Hindus in particular. For instance, in one case in December, a group of 19 armed Muslims attempted to illegally seize land owned by several Hindus, leading to the serious injuries of 9 Hindu men and women. During the incident, a 22 year-old Hindu girl was kidnapped and property worth 150,000 Takas was stolen. The girl has not yet been returned to her family.<sup>cxxiii</sup>

Similarly, there were several other reported illegal land seizures or attempted forceful occupations of Hindu owned land in 2012.

Additionally, the properties of other non-Muslims were targeted for illegal seizures. In one incident, eleven Chakma (indigenous, mostly Buddhist tribe in the CHT) villagers sustained injuries and 2 woman were sexually assaulted, while a group of Muslims tried to forcibly occupy their land with the assistance of local police at the end of May. The attack was the latest in a series of attempts to occupy Chakma land.<sup>cxxiv</sup>

Furthermore, local political leaders targeted those that attempted to speak out against this practice. For example, novelist Salam Azad was arrested after criticizing a leading official from the ruling Awami League for forcibly occupying Hindu properties. The arrest warrant was allegedly for defaming the Prophet Mohammed in a book he wrote in 2003, which was subsequently banned. Azad contends that the book was merely a pretext for arresting him, and his vocal criticism of the political official was the real reason. The official reportedly filed a separate case against the author as well.<sup>cxxv</sup>

### **Islamic Extremism**

Islamic extremism grew exponentially while the BNP-led coalition government was in power, including a proliferation in the number of madrassas (Islamic schools) and increased activity by radical Muslim organizations. Islamists have actively advocated the creation of an Islamic state under Sharia law. Notable among them are the Jamaat-e-Islami (Jel), the previously mentioned Islamist political party involved in committing “crimes against humanity” against Hindus in 1971, pogroms targeting Hindus following the 2001 elections, and large-scale violence against minorities in recent years.

Jel, which is closely aligned with the BNP, is a region wide organization with branches throughout South Asia and extensive links to the Islamist militant network. It has been the ideological center and recruiting base for several terrorist groups in Bangladesh and the rest of the sub-continent as well.<sup>cxxvi</sup> Jel also reportedly receives funding and support from Pakistan’s Inter-Services Intelligence (ISI) spy agency and from countries in the Middle East, including Saudi Arabia.<sup>cxxvii</sup>

Similarly, Jel's student wing, Islami Chhatra Shibir (ICS), enjoys the patronage of the ISI and Saudi Arabia and has also been intimately involved in planning and participating in political and religious violence. In recent protests, its members were arrested for planting small bombs.<sup>cxxviii</sup>

ICS, one of the largest Islamist student organizations in South Asia, strives to establish a Taliban style regime in Bangladesh and has close ties with extremist groups throughout the region.<sup>cxxix</sup>

Beyond Jel and ICS, Islamic militant groups, such as Harkat-ul-Jihad-al-Islami (HuJI) and Jama'atul Mujahideen Bangladesh (JMB), have been responsible for several large-scale terrorist attacks in Bangladesh.<sup>cxxx</sup> HuJI is on the U.S. State Department's list of designated terrorist organizations.<sup>cxxxi</sup>

While Bangladeshi security forces have arrested several extremists from Islamist terrorist groups over the past year,<sup>cxxxii</sup> groups such as Jel continue to wield considerable political power and operate with impunity.

*For a list of Islamic groups in Bangladesh, see Appendix B.*

## **Violations of Constitution and International Law**

### ***Constitution of Bangladesh***

The Constitution of Bangladesh is designed to protect the human rights of all persons living in the country, regardless of race, religion, or sex. Article 11 of the Constitution explicitly states: "The Republic shall be a democracy in which fundamental human rights and freedoms and respect for the dignity and worth of the human person shall be guaranteed."<sup>cxxxiii</sup> Article 28 further provides that: "The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth," while Article 31 declares that the protection of the law is "the inalienable right of every citizen, wherever he may be."<sup>cxxxiv</sup>

Despite constitutional assurances of equal protection, minorities, human rights activists, and journalists continue to face violence and persecution. Rape is used as a weapon to subjugate and terrorize Hindu and tribal women. Additionally, the state's failure to protect members of minority communities from mass violence, such as the recent attacks on Hindus in Nandirhat-Hathazari, Satkhira, Dinajpur, and following the war crimes verdicts, violates their right to life and liberty. Similarly, law enforcement's inaction prior to the pogrom against Buddhists in Cox Bazar in late September infringed the constitutional rights of the Buddhist community.

The Constitution also provides freedom of religion to all of its citizens under Article 41, which states, "Every citizen has the right to profess, practice or propagate any religion [and] every religious community or denomination has the right to establish, maintain and

manage its religious institutions.”<sup>CXXXV</sup> The attacks on Hindu and Buddhist temples, destruction of Hindu deities, and disruption of Hindu festivals are in direct violation of this basic constitutional guarantee of religious freedom.

Moreover, the recent passage of the 15th amendment to the Constitution, retaining Islam as the state religion, weakens the protection of religious freedom provided under Article 28.<sup>CXXXVI</sup> Additionally, provisions in Article 8 providing that state policies and governance should be rooted in faith in “Almighty Allah” subordinate the rights of minorities to Muslims.

Finally, the National Human Rights Commission established in 2008 and reconstituted in 2009 as a national advocacy institution for the promotion and protection of human rights must be strengthened to support constitutional guarantees of religious freedom and equal protection.<sup>CXXXVII</sup>

### ***International Human Rights Law***

In addition to Bangladesh’s constitutional human rights guarantees, it is bound by international treaties and customary international law. For instance, its accession to the United Nation’s International Covenant on Civil and Political Rights (ICCPR) occurred on September 6, 2000.<sup>CXXXVIII</sup> According to Article 2 of the ICCPR: “Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”<sup>CXXXIX</sup> Similar to Article 41 of Bangladesh’s Constitution, ICCPR Article 18 states, “Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.”<sup>CXL</sup> And most importantly, Article 27 maintains, “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.”<sup>CXLI</sup>

Bangladesh has also agreed to the United Nation’s International Convention on the Elimination of All Forms of Racial Discrimination, which defines “racial discrimination” as “any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.”<sup>CXLII</sup> Article 2 of the Convention states in part that “each State Party undertakes to engage in no act or practice of racial discrimination against persons,

groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation.”<sup>cxliii</sup>

Far from being protected, ethnic and religious minorities in Bangladesh continue to face harassment, violence, rape, and eviction from their lands and homes with little or no corrective action by the police and civil government, in violation of the above Conventions.

The right to property, equal protection under the law, and freedom of religion are also some of the basic norms and principles that are widely recognized and accepted as state practice by most civilized nations around the world. Therefore, the Bangladeshi government is further culpable under international customary law.

## **Conclusion and Recommendations**

Bangladesh was created after the India-Pakistan War of 1971, which was preceded by the massacre of an estimated two to three million East Pakistani citizens and the ethnic cleansing of nearly 10 million Bengalis (mostly Hindus) who fled to India. The Hindu population in Bangladesh has steadily declined over the years, from 31% in 1947 to 9% or less today. During the reign of the BNP-led coalition government, Hindus became increasingly vulnerable with the ascendancy of Islamist parties and radical Muslim organizations.

Even under the secular Awami League government, minorities have been routinely attacked with several large-scale incidents of violence occurring in 2012 and the beginning of 2013. While Islamist groups, such as Jel and ICS, have been primarily responsible for the violence, Awami League officials and law enforcement have failed to prevent the attacks through inaction or delayed responses. Moreover, minorities have not been provided with adequate protection or sufficiently rehabilitated.

Consequently, the government must take immediate steps to compensate the victims, prosecute those responsible for the crimes, and ensure that religious minorities receive the necessary protection from further attacks. Given that several additional war crimes trials are scheduled over the next few months and elections are planned for later this year, law enforcement must remain vigilant and closely monitor the situation. At the same time, the government should continue with the war crimes trials, while ensuring that they are consistent with due process of law.

Furthermore, based on their long-standing involvement in violence against religious minorities, Jamaat-e-Islami and Islami Chhatra Shibir should be declared illegal organizations and prohibited from participating in politics.

Bangladesh’s government must also undertake legal and constitutional reforms by removing any reference to Islam from the Constitution. In addition, the Vested Property

Return (Second Amendment) Act promulgated in September 2012 should be fully implemented and properties returned to their rightful Hindu owners.

Specifically, in order to address the mass appropriation of Hindu owned land in Bangladesh, Rabindra Ghosh of Bangladesh Minority Watch has recommended the following steps:

- A list containing details (name, address, amount of land and other assets dispossessed by type and year of dispossession, and current status) of those affected by Enemy Property Act (EPA/VPA) must be published by the Government;
- All activities related to the identification and enlistment of any property as vested must be banned;
- All vested property under government custody must be returned to the original owners or their legal heirs who are permanent residents of Bangladesh;
- Property must not be seized from any non-Muslim in Bangladesh under the vested property administration if the owners of the property or their legal inheritors are in possession of that property;
- All 99 year leases of vested properties must be declared null and void, and the ownership rights of the original owners or their inheritors restored;
- All vested temple property and places of cremation must be un-vested and brought under public trust;
- The law of inheritance must be enforced with adequate provision for inheritance by female heirs.

The United States and other donor nations must also demand accountability from the Bangladesh Government, and all aid to Bangladesh should be contingent on the improvement of the human rights situation. The United States should further support the International Crimes Tribunal and preemptively ban members and elected officials from Jamaat-e-Islami from entering the U.S. based on the party's involvement in orchestrating large-scale anti-minority violence.

Finally, international institutions and human rights groups should monitor the upcoming elections to ensure that they are fair and democratic and that extremist groups do not target minorities.

# Malaysia



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**Area:** 329, 750 square kilometers

**Population:** 28,728,607 (July 2011 estimate). Malaysia has a young population today with approximately 29.6% under the age of 15 years. <sup>cxliv</sup>

**Religions:** Muslim 60.4%, Buddhist 19.2%, Christian 9.1%, Hindu 6.3%, Confucianism, Taoism, other traditional Chinese religions 2.6%, other or unknown 1.5%, none 0.8% (2000 census). Islam is the official religion of the country.

**Ethnic groups:** Malay (Bumiputra) 53.3%, Chinese 26%, indigenous 11.8%, Indian 7.7%, others 1.2% <sup>cxlv</sup>

**Languages:** Bahasa Melayu (official), English, Chinese (Cantonese, Madarin, Hokkien, Hakka, Hainan, Foochow), Tamil, Telugu, Malayalam, Punjabi, Thai, several indigenous languages (Iban and Kadazan)

**Location:** Southeastern Asia, peninsula bordering Thailand and northern one-third of the island of Borneo, bordering Indonesia, Brunei and the South China Sea, south of Vietnam <sup>cxlvi</sup>

## Introduction

Malaysia has successfully portrayed itself as a model Muslim democracy with a thriving economy in the heart of South East Asia. This perception, however, fails to acknowledge the deeply divisive government policies that have institutionalized

discrimination and sanctioned restrictions on religious freedom against the country's non-Muslim population. The Indian-Hindu minority, in particular, has been economically, politically, and socially marginalized by a complex set of highly prejudicial and inequitable laws and constitutional provisions. Furthermore, the suppression of basic civil liberties and the use of repressive tactics have been hallmarks of the government and security forces.

Despite purported reforms by the ruling government there was no significant change in the status of human rights in 2012. As Human Rights Watch (HRW) noted in its annual report, "Press restrictions, the use of excessive force against peaceful demonstrators, and intimidation of rights groups exposed the limits of government adherence to internationally recognized human rights..."<sup>cxlvii</sup>

In April, for instance, the Malaysian government and police utilized water cannon, tear gas, beatings, and mass arrests to suppress large protests by democracy activists demanding electoral reforms. The protests were organized by Bersih, an umbrella organization representing a coalition of 84 groups seeking to promote free and fair elections in Malaysia. Malaysian authorities arrested approximately 400 people.<sup>cxlviii</sup>

Following the Bersih protests, a government official from the Barisan Nasional ruling coalition, Mohamed Aziz, called for Bersih's chairperson, Ambiga Sreenevasan, to be hanged for treason. Charles Santiago, opposition member of parliament from the Democratic Action Party (DAP), speculated that Ambiga was an easy target because she was an Indian-Hindu and a woman.<sup>cxlix</sup>

Another incident reflective of the government's interference with free speech occurred when the Home Ministry censured an English language newspaper, *The Daily*, for publishing pictures of American pop star Erikah Badu with an Allah tattoo on her arm. Muslims believe that tattoos of Islamic religious script are an insult to Islam. The Ministry issued a show-cause letter to editors of the paper, demanding a written explanation for the pictures, while Muslim groups called for legal action to be taken against *The Daily*.<sup>cl</sup>

In addition, while Prime Minister Razak Tun Najib rescinded a number of oppressive laws in 2012, they were merely replaced with similar regulations that had the same practical impact. For instance, the abolishment of the Internal Security Act (ISA), used to silence political dissent, was supplanted by the Security Offences (Special Measures) 2012 Act (SOSMA), legislation that continues to contain a number of regressive provisions.

Prime Minister Najib also claimed to take steps towards improving ethnic equality and inclusion, but simultaneously asserted that he would "...uphold the Malay race, fortify faith and safeguard Islam." Moreover, some of Najib's colleagues in the ruling coalition urged action against citizens involved in "homosexuality, pluralism, and liberalism."<sup>cli</sup>

His promises proved hollow, as the government took no meaningful steps to improve the conditions of Malaysia's ethnic and religious minorities, who continued to be treated as second-class citizens. Particularly, the country's *Bumiputra* (Sons of the Soil) policies, enshrined in Article 153 of the Federal Constitution remained intact. The policies provide economic and social benefits to ethnic Muslim Malay citizens, while explicitly discriminating against minorities. Similarly, the conflict between the secular civil law courts and the Sharia (Islamic law) courts persisted as non-Muslims were subjected to the jurisdiction of the Sharia courts in several instances. Moreover, the government preference for Muslim places of worship endured, and many Hindu temples were destroyed or forcibly relocated by the state apparatus.

As a result, a leading Malaysian human rights group, the Hindu Rights Action Force (HINDRAF), unveiled a comprehensive blueprint towards the end of 2012 to specifically address the numerous issues facing the Indian-Hindu minority

The blueprint sought to address widespread institutional discrimination and inequality, as well as promote equal opportunities in employment, education, and business for the Indian minority. Moreover, it recommended creating a Ministry for Minority Affairs responsible for developing legislation and implementing policies to improve minority rights.<sup>ciii</sup>

Despite discussions with the opposition and a meeting with the Prime Minister about the blueprint plan, neither the ruling Barisan Nasional coalition nor the opposition Pakatan Rakyat have shown a willingness to endorse any of the suggestions in the plan, ahead of scheduled elections in June 2013.

In response to the political ambivalence to the blueprint's recommendations, HINDRAF's chairman, Waytha Moorthy, initiated a hunger strike on March 10, 2013 to focus on the plight of the Indian community. Several candlelight vigils in support of Waytha Moorthy were held around the world on March 22, 2013, including in London, United Kingdom and the San Francisco Bay Area in the U.S. Mr. Moorthy subsequently ended his hunger strike after 21 days when he collapsed at a temple on April 1.

HINDRAF previously led mass demonstrations of thousands of Indian-Hindus in 2007 to protest the Malaysian government's discriminatory policies against its ethnic Indian-Hindu minority. Simultaneously, HINDRAF filed a lawsuit against the British government for neglecting its responsibility to provide equal rights to Malaysia's minorities upon its departure from the country in 1957. Ethnic Indian Hindus were forcibly brought to Malaysia in the 1800s by British colonialists to work as indentured laborers. After the British departed in 1957, they left a legal system and institutions in place that continued to treat the ethnic Indian-Hindu community as second-class citizens. The lawsuit, which

was refiled in July 2012, attempted to raise awareness about the marginalization of Malaysia's minority Indian community.<sup>cliii</sup>

HINDRAF was officially proscribed until the beginning of 2013, when the ban was finally lifted after nearly five years. Similarly, Mr. Moorthy was only allowed to return to Malaysia in August 2012, after his passport was revoked and he received political asylum in the United Kingdom in 2009.

## History/Background

The Indian and Chinese influence in the Malay-speaking world dates back to at least the third century BCE when traders from both regions arrived at the archipelago. Hinduism and Buddhism were both established in the region by the first century CE. Between the seventh and fourteenth centuries, the Indian Hindu culture reigned in the Malay world. During the tenth century, however, the arrival of Islam supplanted the Hindu empire and led to the conversion of most of the Malay-Indonesian world.

The sixteenth century saw the arrival of European colonialists, beginning with the Portuguese, followed by the Dutch, and ultimately the British. In 1824, the Anglo-Dutch created a border between British Malaysia and the Dutch East Indies, which is now Indonesia. This phase of occupation was followed by the mass immigration of Chinese and Indians, who entered the country as workers in the colonial British economy. Between 1942 and 1945, the Japanese occupied the region, detracting power from the British in East Asia. Although short-lived, this occupation triggered feelings of nationalism, ultimately leading to the establishment of an independent Federation of Malaya in 1957. Upon the acquisition of British territories in North Borneo and Singapore, Malaya became Malaysia in 1963.<sup>cliv</sup>

Malaysia is a “federal constitutional elective monarchy,” and the head of state is the king, who is elected to a five-year term of office by and from among the nine hereditary rulers of the Malay states. Parliament consists of a lower and upper house, and the 222-member lower house is elected for a five-year term. The upper house has 70 senators, who are elected to a three-year term.<sup>clv</sup> The United Malays National Organisation (UMNO) is Malaysia’s largest political party and is a founding member of the Barisan Nasional coalition, which has played a leading role in Malaysian politics and governance since independence.<sup>clvi</sup>

The Malaysian Constitution theoretically guarantees freedom of religion and equality, but includes a number of provisions that favor Muslims and ethnic Malays. These discriminatory provisions have been in place since Malaysia’s independence and provide a foundation for systematic discrimination and oppression of ethnic and religious minorities. A recent Wall Street Journal opinion article noted that nearly 500,000 Malaysians left the country between 2007 and 2009, and “[i]t appears that most were

skilled ethnic Chinese and Indian Malaysians, tired of being treated as second-class citizens in their own country and denied the opportunity to compete on a level playing field, whether in education, business, or government.”<sup>clvii</sup>

Similarly, the increasingly pervasive role of Islam in Malaysian society and in the formulation of government policy has led to the inequitable treatment of non-Muslims and the suppression of non-Muslim culture.

Towards the end of 2008, the National Fatwa Council, Malaysia’s top Islamic body, issued a fatwa (edict) banning the practice of yoga for Muslims. The Council’s ruling that “Yoga involves not just physical exercise but also includes Hindu spiritual elements, chanting and worship,” effectively denied Muslims the freedom of religion.<sup>clviii</sup> Moreover, the Kelantan state government, ruled by the Islamic Party of Malaysia (PAS), imposed a ban on the ancient performing arts of Mak Yong (Malay dance form) and Wayan Kulit (shadow puppetry) for their animist and Hindu influences, respectively.<sup>clix</sup>

Moreover, Islamic extremists have gained considerable power and influence in recent years. For example, following a High Court decision ruling that the “government’s ban on the use of ‘Allah’ in non-Muslim publications infringed constitutional rights, including freedom of expression and freedom to practice one’s religion,” several non-Muslim places of worship were attacked, including at least ten Christian churches and a Sikh gurudwara.<sup>clx</sup>

After years of suffering discrimination and persecution in silence, Hindus began to challenge the government’s discriminatory practices in 2007. On November 25, 2007, nearly 10,000 Hindus, led by Hindu Rights Action Force (HINDRAF) leaders, organized a peaceful rally to protest the religious apartheid policies pursued by the Malaysian government. The Malay authorities broke up the rally using tear gas and chemical-laced water under the pretext of maintaining national security. Following the event, the Malaysian government began to crack down on the Indian and Hindu communities, and hundreds of Hindus, including five HINDRAF leaders, were arbitrarily detained and arrested for asserting their basic democratic rights.<sup>clxi</sup> The arrested HINDRAF leaders included P Uthayakumar, M Manoharan, R Kenghadharan, V Ganabatirau, and T Vasantha Kumar. Immediately following the arrests, they were moved to the Kamunting detention center in Taiping, Perak, where they were detained for 514 days under the Internal Security Act (ISA) and faced sedition charges.

Uthayakumar, 49, younger brother Waytha Moorthy, 44, and V Ganabatirau, 37, were charged at the Klang Sessions Court on Nov 23, 2007, with allegedly inciting a crowd on November 16, 2007. Ten days later, the Sessions Court ordered the three to be discharged, after ruling that the charge was improperly framed. However, on December 10, 2007, the High Court reversed the decision after allowing the prosecution’s application to review the order of the Sessions Court. The Court of Appeal rejected their

appeal on July 7, 2010 and upheld the High Court's decision to order the trio to stand trial on the charge.

Uthayakumar, Waytha Moorthy, and Ganabatirau were charged under Section 4 of the Sedition Act 1948 (Revised 1969) and were liable to a maximum RM 5,000 fine or three years jail upon conviction.<sup>clxii</sup>

The leaders were finally released on May 9, 2009.<sup>clxiii</sup> The maximum fine for sedition in Malaysia is 5,000 Malaysian ringgits, however, in the case of the HINDRAF leaders bail was set at 50,000 Malaysian ringgits. After Uthayakumar posted bail, he was immediately rearrested and brought to Pudu prison, where he languished for more than 500 days.<sup>clxiv</sup> The government also outlawed HINDRAF in October 2008, and that order was finally rescinded in January 2013.

Subsequent to their release, Uthayakumar and others have filed a 200 million RM (about \$65 million) suit for wrongful detention. The Prime Minister and five other government officials named as defendants in the suit have argued for dismissal of the case.<sup>clxv</sup> The current status of the case is unclear at this time.

Moreover, Waytha Moorthy's Malaysian passport was revoked in 2008 for his involvement in leading the protests, and he was granted political asylum by the United Kingdom in 2009. The Malaysian government rejected Moorthy's petition in 2010 to return to Malaysia from his exile in London.<sup>clxvi</sup> In fact, he was prohibited from returning to Malaysia to attend his mother-in-law's funeral when she passed away in September 2011. As noted above, he was unable to return to the country until August 2012.

Political activism by Hindus and Indians, however, has impacted the political dynamic in recent years. Their willingness to challenge systematic discrimination along with disenchantment among the ethnic Chinese population led, in part, to the ruling National Front Coalition and Prime Minister Abdullah Ahmad Badawi losing the Parliamentary majority and control in five state assemblies in March 2008.<sup>clxvii</sup> Unfortunately, these electoral changes have thus far not resulted in concrete improvements for Malaysia's ethnic and religious minorities. Moreover, it is doubtful that meaningful change can be affected without altering the country's current constitutional and legal framework.

## **Status of Human Rights, 2012**

The status of human rights for ethnic and religious minorities in Malaysia showed little improvement in 2012. Specifically, discriminatory constitutional provisions and inequitable state policies remained in place, while the government continued to suppress free speech and other civil liberties. Furthermore, widespread restrictions on religious freedom and the destruction (or forced relocation) of non-Muslim places of worship continued unabated.

The following section highlights the major areas of human rights violations, with a particular focus on the Indian-Hindu minority.

### ***Religious Freedom***

Non-Muslims represent approximately 45% of the population (12.5 million people) and include Buddhist, Christian, Hindu, Sikh, and nature worshipping communities. Hindus, along with other minorities, face increasing religious discrimination as Malaysia becomes more Islamized. From discriminatory constitutional provisions to the expanding jurisdiction of the Sharia Courts to government preference for Muslims and Islamic places of worship, non-Muslims confront a number of challenges.

In an incident reflective of the religious intolerance present in Malaysia, a deceased Hindu woman's ashes were taken from a crematorium by officials from the Penang Islamic Affairs Department (an official governmental body) and police, who claimed that she had converted to Islam in 2006 prior to her death. The woman's family, however, contends that she was a Hindu her entire life and that the Department lacked proper evidence and removed the ashes without the family's consent.<sup>clxviii</sup>

In addition, Muslims who belong to non-Sunni sects also experience considerable restrictions on their religious freedom. For example, the government has proscribed a number of "deviant" sects, as they allegedly pose a risk to national security and Muslim unity. While the exact number and names of all the proscribed sects are unknown (the list is not publicly available), the State Department estimates that there are more than 50 groups that have been officially banned, including Shias and Ahmadiyyas. Moreover, these sects are not allowed to freely profess their faith or publicly assemble.<sup>clxix</sup>

### **Legal Framework and Judicial System**

Malaysia's Federal Constitution explicitly gives preference to Muslims and establishes Islam as the official state religion. Article 3(1), for instance, recognizes that Islam is the official religion of Malaysia and provides that other religions may be practiced in "peace and harmony" in the Federation.<sup>clxx</sup>

Article 11 guarantees the right to practice and profess one's religion, but simultaneously protects only the right of Muslims to freely propagate their religion, while prohibiting other religious groups from propagating their religion amongst Muslims.<sup>clxxi</sup> Additionally, while it is illegal for Muslims to convert out of Islam, a non-Muslim must convert to Islam in order to marry a Muslim and have their marriage officially recognized by the state.<sup>clxxii</sup>

Furthermore, Article 160 affords a special status to ethnic Malays by defining "Malay" as a "person who professes the religion of Islam, habitually speaks the Malay language, [and] conforms to Malay custom..."<sup>clxxiii</sup>

Islamists have also steadily gained influence over the judicial system since the 1990s. The Federal Constitution was amended in 1988 to give recognition to Sharia laws. Moreover, it is estimated that more than 90% of the judiciary is filled with Malay-Muslim Judges.<sup>clxxiv</sup>

In addition, the Constitution establishes a parallel court system, with secular civil and criminal courts, and Islamic Sharia courts. The Sharia courts have authority over Muslims in issues such as religion, marriage, divorce, inheritance, apostasy, and religious conversion. Federal courts have no jurisdiction in matters that fall within the purview of the Sharia courts.<sup>clxxv</sup> There are still several unresolved jurisdictional conflicts between the Sharia courts and civil courts, however, impacting a number of cases. In particular, civil court judges have often refused to rule on matters involving non-Muslims, who are entangled between the two systems.

Although the Sharia courts are not constitutionally authorized to exercise jurisdiction over non-Muslims, Hindus and other minorities have recently been forced to deal with the Islamic courts where they have faced severe disadvantages. In fact, there have been several instances where non-Muslims suffered outright religious discrimination, particularly in intra-family disputes, through the Islamic court system.

As the State Department noted, there have been a number of cases where minor children were converted to Islam by a Muslim parent without the consent of the non-Muslim parent. In these instances, the Sharia courts typically found in favor of the Muslim parent and sanctioned the conversion, thereby violating the non-Muslim parent's rights.<sup>clxxvi</sup>

In one case, a Hindu mother, Subashini Rajasingam, lost an appeal to prevent her husband, a recent Muslim convert, from changing their 4 year old son's religion to Islam. The highest court in Malaysia subsequently affirmed the ruling of a lower federal court, granting the Muslim husband a right to use the Islamic Sharia courts to seek a divorce, and also upheld his right to convert their child to Islam without the mother's consent.<sup>clxxvii</sup>

There have been numerous other cases where the courts have upheld religious conversions of minorities and their children, including the following:

- Banggama (Siti Hasnah Vangarama Abdullah) asserts that she was born into a Hindu family, but converted to Islam by state religious authorities (forced to recite an affirmation of the Islamic faith and renounce Hinduism) as a 7 year-old child, while living at a welfare home in Kepala Batas, Penang in 1989.<sup>clxxviii</sup> Upon becoming an adult, she challenged the conversion and sought a court pronouncement that the conversion was invalid and asking for a court order to change her name back to her Hindu birth name, and remove her religion as Islam from her identity card. After her conversion was initially upheld and the Penang High Court (state civil court) ruled that only the Sharia Court has jurisdiction over the case, she filed an appeal. At the beginning of January 2012, an appeals court

- overruled that decision and stated the civil courts have jurisdiction to hear the case. The case is still pending.<sup>clxxxix</sup>
- Another Hindu woman, Indira Gandhi, had her three children taken from her by her husband, Patmanathan, who had converted to Islam.<sup>clxxx</sup> Following a legal challenge, a High Court finally granted her custody, reversing the Shariah court order that had granted her husband custody over the children.<sup>clxxxi</sup> Patmanathan appealed the decision, but had not returned the youngest child to the mother, in contravention of a court order. Patmanathan recently lost his right to appeal to the Federal Court, and it is unclear whether he has handed over physical custody of the youngest child.<sup>clxxxii</sup>
  - In the case of Siti Mariam, her Muslim mother married a Hindu who converted to Islam. After giving birth to Siti, the mother left the family. Siti's father then married a Hindu woman, and both he and Siti reverted to Hinduism. Siti also married a Hindu and has three children, Ariata (17), Vanithan (18), and Vanitha (19). The two elder children were registered as Hindus on their identity cards. The problem arose with Ariata, whose birth certificate did not include any information about the father, despite him being present. Ariata was registered as a Muslim on her identity card, and her father died in 2001. Siti legally challenged the registration authorities in an effort to have her and her daughter, Ariata, recognized as Hindus. As of the publication of this report, however, it is unclear whether there has been any resolution to her case.<sup>clxxxiii</sup>
  - On another occasion, Regina and her younger brother wanted to change their religious status to Hindu, but were unable to do so and are still classified as Muslims. Regina's father was a Hindu, who converted to Islam and mother was a Hindu. Her father died when she was four years old, and she was raised as a Hindu. Regina also married a Hindu, and her difficulties began when she was unable to register the birth of her son, Thinas, with the registration department.<sup>clxxxiv</sup>
  - Rani, whose birth parents gave her away to their Hindu neighbor when she was 16 days old, married her Hindu husband, Muniandy, when she was 16. Her husband was later allegedly forced to convert to Islam. They had four children -- two daughters and two sons. Their eldest daughter (who is 27 years old now) was named Aishah Mustapha Muniandy on her birth certificate, but the parents were able to change her name to Vijaya Letchumy Muniandy on her identity card. However, the other three children, Abdul (26), Hamzah (24), and Citra Devi (16), still carry their Muslim names on their identity cards. Rani has made sworn declarations before a commissioner of oaths that she wanted Abdul to be known by his Hindu name of Ganesan and Hamzah as Nagendran, but the registration department allegedly refused to make the changes.<sup>clxxxv</sup>

### **Official Government Preference for Islam**

In addition to the constitutional and judicial impact on religious freedom, the government has adopted policies favoring Muslims and Islam. For instance, it is official government policy to "infuse Islamic values" into the administration of the country.<sup>clxxxvi</sup>

Moreover, the government has demonstrated favoritism towards Muslim places of worship in the distribution of funds, and state officials frequently obstructed the establishment or renovation of non-Muslim religious structures through zoning and building ordinances.<sup>clxxxvii</sup>

A parliamentary inquiry recently found that the government allocated 428 million ringgit (approximately \$125.9 million) to build Islamic places of worship, while only 8.1 million ringgit (\$2.4 million) to build Christian, Buddhist, Hindu, and other minority places of worship between 2005 and the end of 2008.<sup>clxxxviii</sup>

Similarly, a U.S. State Department report noted the following:

*The federal and state budgets fund Muslim places of worship because Islam is considered the religion of the federation. Government funding for non-Muslim places of worship comes from a special allocation within the prime minister's department or state governments. State governments, however, have exclusive authority over allocation of land and the construction of all places of worship and land allocation for all cemeteries. Minority religious groups asserted that non-Muslim places of worship were poorly funded and that the government made funding decisions on an arbitrary basis. Both federal and state governments often substantially delayed permission to build or renovate non-Islamic places of worship, although they granted approvals to build mosques relatively quickly, according to local nongovernmental organizations (NGOs).*<sup>clxxxix</sup>

In addition, the Malaysian government has failed to grant equal rights to non-Muslim places of worship. For example, approximately 23,000 Hindu temples/shrines in Malaysia have been denied legal status since independence in 1963, many in existence since the pre-independence era, while Muslim mosques built in the same period have been granted land titles.<sup>cxc</sup>

The absence of land titles has also made the government sponsored demolition and forced relocation of Hindu temples significantly easier to accomplish.

### **Destruction of Temples/Religious Sites**

Minority places of worship and religious institutions have often been attacked or destroyed by both Islamic extremists and the government. Since independence, 10,000 Hindu temples/shrines have been demolished or desecrated (includes private shrines located on plantation estates).<sup>cxc</sup> For example, during a one week period in December 2001, four Hindu temples were reportedly destroyed, according to documentation by the Human Rights Party (HRP) Malaysia. Moreover, in August 2010, a Hindu deity was beheaded and a temple destroyed by government authorities, as reported in a regional Malaysian Tamil newspaper.<sup>cxcii</sup> Similarly, in June 2010, Islamic extremists threatened to blow up the historic Sri Subramaniam Swamy Devasthanam temple at the Batu caves along with several other temples in Penang.<sup>cxciii</sup>

Perhaps, one of the most disturbing incidents in the past few years occurred in late August 2009, when Malay Muslims protested against the relocation of a Hindu temple to their locality in Shah Alam by stepping and spitting on the severed head of a cow (Hindus hold cows as sacred), in an attempt to intimidate the Hindu community.<sup>cxciv</sup>

When HINDRAF leaders held a peaceful candle light vigil in protest, 16 of them, including their legal adviser P Uthayakumar, were arrested.<sup>CXCV</sup> Almost a year later, a Malaysian court sentenced only one Muslim to one week in prison for the threat against Hindus and desecration of a sacred Hindu symbol and fined 11 others for the same.<sup>CXCVI</sup> The biased manner in which the HINDRAF leaders were treated compared to the Muslims involved in the incident reflects the discriminatory nature of the Malaysian justice system.

Furthermore, many temples have been forcibly relocated by the government or appropriated for “public use” under special laws.<sup>CXCVII</sup> The Kaliaman temple near Semambu had to be moved three times over the course of a few years to avoid being demolished. Hindu burial grounds have also been appropriated or demolished by the government, such as the recent destruction of the Hindu cemetery at Ladang Batu Pekaka.

The destruction or attempted removal of non-Muslim places of worship continued in 2012, and the following serve as representative examples.<sup>CXCVIII</sup>

- The Selangor State Government issued a decision to convert 3.38 hectre of Hindu burial land in Teluk Piai, Kuala Selangor, into a Muslim cemetery.
- In November 2012, government officials were set to demolish the 124 year old Seafield Sri Maha Mariamman Devasthanam temple in Subang Jaya.
- A Hindu alter located within a private residence was demolished in November 2012 by the Sepang Municipal Council after the Council sent the homeowner notice that the shrine would be destroyed as the structure was allegedly in violation of council bylaws. The homeowner was denied appeal rights by the Council. The destruction caused widespread anger amongst the Hindu community in Malaysia, and the homeowner said the move indicated that the government was intolerant towards Hindu culture.
- The 101-year old Sri Muneswarar Kaliyaman Hindu temple in Kuala Lumpur’s Golden Triangle business district received notice from the Kuala Lumpur City Hall (DBKL) in July 2012 that it would be demolished in five days. The temple was established prior to the creation of the DBKL and before any of the surrounding buildings were erected. The temple’s caretakers and others from the Hindu community protested the planned destruction, but the current status of the temple is unclear.
- On March 16, 2012 a mixed Buddhist/Taoist temple and a Hindu temple that were situated next to each other near Bandar Puteri Jaya were both issued a two-month notice of evacuation by a land developer. The Buddhist/Taoist temple was subsequently demolished on May 17, but it is unclear whether the Hindu temple was also destroyed.
- A 40-year-old Hindu shrine near the checkpoint of the Prai Port bulk cargo terminal in Penang was demolished by port authorities in April 2012. The temple, which was frequented by many Hindu port workers, was allegedly destroyed without any prior notice. On a positive note, the Penang Chief Minister called on port authorities to rebuild the temple on an alternative site and pay the entire construction cost. It is not clear whether the port authorities have taken any action towards rebuilding the shrine.

- In March 2012, the Sri Angalamma Hindu temple was illegally demolished by a private developer. The government failed to take any action against the developer.
- The Om Sri Muniswaran temple was demolished in February 2012 by a local landowner (without a valid court order) and with the assistance of Malaysia police and DBKL authorities. The temple had been there for nearly 64 years, when the land was still a rubber estate and prior to the landlord's purchase of the land.

### ***Institutional Discrimination***

The Indian Hindu minority suffers from economic, social, and educational discrimination, while the majority Malaysian Muslims (*bumiputras*) benefit from an affirmative-action policy, enshrined in Article 153 of the Constitution, that provides them with discounts on housing, quotas on educational institutions, and preference for government jobs.<sup>cxix</sup> It also affords Muslim Malays with selection of government run mutual funds available only for *bumiputra* purchase, and projects that require tenders to be *bumiputra* owned. Likewise, companies listed on the Kuala Lumpur Stock Exchange, including foreign companies, must have *bumiputras* with at least 30% minimum equity in order to satisfy listing requirements. This further leads to the unequal distribution of wealth, leaving the Hindu minority at an increased economic disadvantage.<sup>cc</sup>

Furthermore, government projects are primarily given to Malay Bumiputra individuals and organizations, while all government procurement requires the involvement of or outright Malay equity participation in the supplying organization. The Finance Ministry, which licenses contractors for government projects, also gives preference to ethnic Malay contractors. Similarly, Malays are disproportionately promoted in the Civil service to assure that the highest policy-making positions are filled by Malays, regardless of objective performance standards. For instance, almost all Secretary Generals of ministries and Directors-Generals of professional departments are Malays. The same is true of their deputies. And virtually all senior officials in public universities, from school deans upwards to chancellors, are ethnic Malays.

Overall, more than 77% of government employees are ethnic Malays. Notwithstanding the 20% of Indian teachers and 60% of Chinese teachers employed in government schools, the number of Malay government employees is nearly 85%. The proportion of Malay employees in the government administration further increases the higher the level of the positions.

In terms of education, Malaysian Indians lack opportunities and face numerous hurdles in acquiring higher education. University admission standards, for instance, are more difficult for non-Malays compared to ethnic Malays. Consequently, an estimated 90% of deserving Indian students are denied admission to the 20 government run universities in Malaysia. One government university, the Universiti Teknologi Mara, with a student population of 172,000, is exclusively for *bumiputras*. The other 19 public universities all

reserve 60% of their seats for *bumiputra* students, making 80% of the total seats available in public universities reserved entirely for Malay *bumiputras*.<sup>ccci</sup>

Moreover, Indians and non-Malays are almost completely excluded from several elite schools, such as the Royal Military College, Aminuddin Baki Institution, and the Malay College Kuala Kangsar. Additionally, budgetary allocations for education worth billions of dollars have largely been used for the benefit of ethnic Malays, at the expense of funding for Chinese, Indians, and other minorities. According to HRP, only 1% of the monies spent on higher education has gone towards supporting citizens of Indian descent. In 2010, RM 2.8 billion was allocated in the government budget for student scholarships, but only an estimated 5% may reach non-Malay students.<sup>ccii</sup>

Indian primary and secondary schools have also been under-funded and lack resources, thereby producing under-achieving students. Half the country's Indian children go to such schools. And in mixed schools, non-Muslim Malay students frequently face discrimination and harassment from teachers and school administrators. In May 2012, for instance, a secondary school teacher allegedly singled out a group of Indian students talking after an examination and told them: "Hei Hindu diam (Hindu shut up)," after which she called them "Hindu Pariahs." The students were subsequently given demerit points equivalent to those given for stealing or drugs. Following complaints by the students and their parents, school administrators defended the teacher's actions, and education ministry officials investigating the incident intimidated and threatened the students in an attempt to silence them.<sup>cciii</sup>

Institutional discrimination in Malaysia extends beyond economic and educational opportunities.

State development programs have resulted in the "massive forced displacement" of Indian rubber estate workers without compensation, land, or other economic or employment opportunities. A 2000 Malaysian Centre for Public Policy Studies analysis found that approximately 600,000 Indian estate workers had been displaced throughout the country. Waytha Moorthy recently asserted that this number may now be as high as 800,000.<sup>cciv</sup>

Furthermore, nearly 200,000 Malaysians of Indian ethnicity have been denied citizenship, despite having roots in Malaysia for several generations. They further lack birth certificates and identity documents, resulting in a denial of basic rights to education, healthcare, jobs, driving licenses, and formal marriages. These ethnic Indians have been rendered virtually stateless.<sup>ccv</sup> Eleven year-old Darshini, for instance, was denied her birth certificate because her mother had not registered her birth within the required 42 day period. Her application was reportedly rejected by Malaysian authorities so many times, she stopped applying. In another example, a fourth generation Malaysian Indian family in Kulim Kedah has been rendered effectively stateless due to a lack of any

official documents. Both husband and wife do not have state ID cards, making them ineligible for legitimate jobs. Additionally, their marriage is not registered, and their three children have no birth certificates.

While the government has neglected or willfully failed to legitimize the status of these Indians, many Muslim immigrants from neighboring Indonesia and the Philippines are able to obtain citizenship papers with relative ease, according to a 2009 HINDRAF report. HINDRAF has taken up the case of “stateless” Malaysian Indians with the British immigration authorities, arguing that in fact these are still British subjects. The claim is based on declassified colonial and British government documents available at the National Archives in London.<sup>ccvi</sup>

As a consequence of their socio-economic marginalization, the Indian community suffers the highest suicide rate in Malaysia. In particular, low income, illiteracy or lack of education, family disputes, indebtedness, alcoholism, alienation, and hopelessness are reasons cited for such a high rate of suicides.<sup>ccvii</sup>

HINDRAF’s five-year blueprint plan addressed many of the above issues, including displaced estate workers, stateless persons, lack of access to education and job opportunities, and institutionalized racism, among others.<sup>ccviii</sup>

A central feature of the discriminatory Malaysian system is the requirement to constantly proclaim one’s Bangsa (race) and Uagama (religion) when obtaining government services. For instance, declaration of race and religion is mandatory at birth, at school registration, in the applications for ID cards, driver’s licences, bank accounts, passports, marriages, deaths, and burials. This reliance on racial and religious identification results in the inequitable distribution of government benefits.<sup>ccix</sup>

### **Government Suppression of Civil Liberties**

As noted above, the current government proposed a number of legal reforms in 2012, particularly to revise archaic laws that have been used to suppress basic civil liberties. Most of the revisions, however, have been deceptive and failed to bring about meaningful change. The replacement of the ISA with SOSMA was a prime example.

The ISA, which was enacted in 1960 to deal with communist insurgents, was perhaps the most regressive of the country’s laws and was rescinded in 2012. Over the years, the ISA was used as an instrument of oppression and a means to stifle free speech and political opposition to the government. Under the Act, persons suspected of threatening national security were subject to arrest and indefinite detention without charges or trial. According to Human Rights Watch, the ISA provisions “violate fundamental international human rights standards, including prohibitions on arbitrary detention, guarantees of the right to due process, and the right to a prompt and impartial trial.”<sup>ccx</sup> The ISA was disproportionately used to target the Hindu/Indian community.

The Malaysian Centre of Public Policy Studies noted that more than 10,000 citizens were “deprived of their liberty and have been mentally and physically tortured under the ISA” since its enactment. Those detained were “often Malaysian political activists, rather than military and para-military agents that threaten the nation,” according to a report.<sup>ccxi</sup> Journalists, academics, activists, religious leaders, students, and politicians were detained for participating in public protests or writing critically of the government. The report also stated that the ISA was “used to create an atmosphere of fear that curtails citizens’ participation in legitimate discussions on public issues.”<sup>ccxii</sup>

HINDRAF was previously declared an illegal organization in 2008 under the aforementioned ISA, stating that it would “continue to pose a threat to public order, the security and sovereignty of the country as well as the prevailing racial harmony.”<sup>ccxiii</sup>

Despite initial elation over the repeal of the ISA, reforms have proven elusive under its legislative replacement, SOSMA. Specifically, the new statute “coupled with amendments to other laws, tightened restrictions or banned outright activities already under constraint, added limits to previously unrestricted activities, and broadened police apprehension and surveillance powers in new and innovative ways. Moreover, the SOSMA definition of a security offense—‘an act prejudicial to national security and public safety’--is overly broad, as it gives the government sufficient power to bring partisan politics into decisions as to what is or is not a security breach.”<sup>ccxiv</sup>

In addition, Prime Minister Razak announced plans in July 2012 to abolish the Sedition Act, a law ratified in 1948 to regulate speech deemed to be “seditious” or that encouraged tensions between the country’s races. The chairman of the opposition Democratic Action Party was previously charged under the Sedition Act for offending the Sultan of Perak state.

The statute will be replaced by the National Harmony Act, which intends to retain provisions that criminalize speech provoking religious or ethnic hatred. The complete draft of the new Act has not yet been seen by human rights groups, who remain skeptical of the legislation.<sup>ccxv</sup>

Another area of concern was the arbitrary power exercised by the Registrar of Societies, which enjoyed “absolute discretion” to register or declare unlawful an organization or society believed to be a threat to national security or against “public order or morality.” Similarly, registered societies must support Islam as the religion of Malaysia.<sup>ccxvi</sup>

Media censorship has also been a significant problem in Malaysia. The mainstream media, for example, has routinely censored, demonized, and distorted information regarding criticism of government policies. Moreover, opposition leader Lim Kit Siang has accused the media of providing “a daily staple of falsehoods that stoke racial

hatred.” HINDRAF alleges that reporting on minority issues has been selective censored, or highly prejudicial.<sup>ccxvii</sup>

Media ownership is also strictly controlled and the print media is consequently monopolized by publications connected to the government. Any news publications must first acquire government authorization and a permit before publishing. In October 2012, however, a court ruling stipulated that the right to publish is encompassed within the freedom of expression and should be protected as a fundamental liberty.<sup>ccxviii</sup>

Another piece of legislation introduced to purportedly ease restrictions on political expression was the Peaceful Assembly Act (PAA). The PAA, which was passed by Parliament in November 2012, actually placed further limitations on the freedom of assembly. For instance, the Act gives the police extensive power to restrict the time, date, and location of protests, while prohibiting children under the age of fifteen from attending rallies and banning “moving” assemblies. The law has drawn strong criticism from human rights groups and the Malaysian Bar Association.<sup>ccxix</sup>

The police have become the primary instrument of repression used to enforce the policies of the ruling government. Police violence and abuse of power are commonplace, and according to Human Rights Watch, the Royal Malaysia Police “have continued to use unnecessary or excessive force to shut down protests, obtain coerced confessions, and mistreat persons in custody...”<sup>ccxx</sup>

Similarly, HINDRAF contends that police abuse has disproportionately impacted the socially and economically marginalized Indian community, and there have been several cases of ethnic Indians dying in police custody.<sup>ccxxi</sup> The custodial death of Gunasegaram Rajasundrum in 2009 was reflective of this trend. Although witnesses testified that Rajasundrum was physically beaten by the police, no one has been found culpable for his death. His family subsequently brought a civil suit against the police, the government, and a hospital, but the case is still pending.<sup>ccxxii</sup>

## **Violations of Constitution and International Law**

### ***Constitution of Malaysia***

Malaysia’s Constitution upholds Islam as “the religion of the Federation,”<sup>ccxxiii</sup> but provides for the practice of other religions “in peace and harmony.” Part II of the Constitution defines the fundamental liberties of people, which include the right to equality before the law; the right to freedom of speech and peaceful assembly; and individual’s right to “prove and practice his religion.”<sup>ccxxiv</sup> The Constitution also guarantees that every religious group may “manage its own religious affairs, establish and maintain institutions for religious or charitable purposes, and acquire and own property and hold and administer it in accordance with law.”<sup>ccxxv</sup>

Clearly, state-sponsored temple destruction and the systematic infringements on personal religious freedom were direct violations of the aforementioned guarantees enshrined in the nation's Constitution. Moreover, the continued use of repressive security measures violated constitutional protections for freedom of speech and assembly.

In addition, the subjection of non-Muslims to the Sharia Courts contravened the constitutional limits of the Sharia courts and violated the separation between the civil law and Islamic law court system.

The existence of protections and individual rights in Malaysia's Constitution are limited in scope and subject to national security and the position and status of Islam. As a result, the Constitution proved futile in safeguarding the rights of ethnic and religious minorities.

### ***International Human Rights Law***

Malaysia continues to violate basic principles of human rights law enshrined in the Universal Declaration of Human Rights (1948). For instance, the government's suppression of HINDRAF's peaceful activities restricts the Freedom of Peaceful Assembly and Association, contrary to Article 20 of the Declaration. Other forms of discrimination and persecution, including the use of repressive security measures, the destruction of temples, and economic policies favoring the majority Malaysian Muslim community, are all in contravention of international human rights standards.

Similarly, the explicit constitutional preference for Islam in conjunction with the inequitable treatment of non-Muslim places of worship and the application of Sharia law continued to subordinate the rights of religious minorities, thereby violating their basic human rights to equality and religious freedom.

Unfortunately, Malaysia has not taken any action toward signing or ratifying the United Nation's International Covenant on Civil and Political Rights (ICCPR) or the International Convention on the Elimination of All Forms of Racial Discrimination. However, it must still respect the civil and political rights of all Malaysians under customary international law.

## **Conclusion and Recommendations**

Over the past decade, the rights of minorities in Malaysia have progressively eroded as the government shifts from a seemingly secular state to one that is rooted in conservative Islam. The most pressing concerns include discriminatory government policies, lack of religious freedom, ongoing destruction and inequitable treatment of non-Muslim places of worship, and suspension of basic civil liberties. Despite the extent of

inequality and oppression present in Malaysia, none of the major political parties have shown any inclination to address these issues.

Consequently, the U.S. should work with the United Nations and international human rights organizations to exert pressure on the Malaysian government to provide religious freedom and equal rights to non-Muslims through constitutional and legal reform and to end repression of political dissent. In addition, non-Muslim places of worship, particularly Hindu temples, which are the primary institutions for the Hindu community in Malaysia, must be protected from further destruction, desecration, and appropriation by the Government. And legal titles should be granted to pre-independence Hindu temples on par with pre-independence Muslim mosques.

Furthermore, Malaysia's continued membership on the UN Human Rights Council should be made contingent upon its signing and abiding by all international conventions and treaties on human rights.

And finally, the U.S. should revisit its trade ties with Malaysia and restrict future appropriations, particularly military and economic assistance, unless the government protects the human rights of its ethnic and religious minorities, repeals repressive security laws, and ends its affirmative action policies favoring the majority Muslim Malays (*bumiputras*). Alternatively, if humanitarian or economic assistance is disbursed, it should be for the benefit of the marginalized and religiously persecuted Hindu minority.

# Islamic Republic of Pakistan



© Compare Info Base<sup>ccxxvi</sup>

**Area:** 803,940 square kilometers

**Population:** 187,342,721 (July 2011 estimate)

**Religions:** Muslim 95% (Sunni 75%, Shi'a 20%), other (includes Christian and Hindu) 5%

**Ethnic groups:** Punjabi, Sindhi, Pashtun (Pathan), Baloch, Muhajir (immigrants from India at the time of partition and their descendants)

**Languages:** Punjabi 48%, Sindhi 12%, Siraiki (a Punjabi variant) 10%, Pashtu 8%, Urdu (official) 8%, Balochi 3%, Hindko 2%, Brahui 1%, Other 8% (mainly English and Burushaski)

**Location:** Southern Asia, bordering the Arabian Sea, between India on the east and Iran and Afghanistan on the west and China in the north<sup>ccxxvii</sup>

## Introduction

2012 marked another turbulent year of sectarian violence, political instability, and the flagrant violation of human rights and religious freedom in the Islamic Republic of Pakistan.

There were several important political developments in Pakistan during 2012, including the incarceration of Shakil Afridi, the doctor who assisted the CIA locate Osama bin Laden in 2011. After Afridi was tried for treason and jailed, a U.S. Senate panel cut \$33 million dollars of aid to Pakistan in May, a largely symbolic move.<sup>ccxxviii</sup>

The relationship between the U.S. and Pakistan had begun to deteriorate in 2011 with the covert operation to kill bin Laden, along with a number of other events, including the accidental killing of 24 Pakistani soldiers. The incident led to Pakistan closing NATO supply lines to Afghanistan, which were not re-opened until the U.S. apologized in July, 2012.<sup>ccxxix</sup>

On the domestic political front, Prime Minister Gilani was removed from office after being disqualified by the Supreme Court on a corruption charge in June. He was replaced by Water and Power Minister Raja Pervez Ashraf.<sup>ccxxx</sup> The episode only highlighted the weakness of democratic governance in Pakistan and emphasized the role of the military as the dominant force in the country.

2012 also saw the persistence of violent terrorism throughout the country, as Islamist militants operated with impunity. Estimates from the South Asian Terrorism Portal (SATP) indicated that there were approximately 6,211 terrorism-related fatalities during the year.<sup>ccxxxi</sup> The sheer number of fatalities demonstrates Pakistan's unwillingness and/or inability to disrupt the vast network of militant groups that its own military establishment created and nurtured for so many years.

Epitomizing the growing power and influence of Islamist militants was the Taliban's barbaric attack on Malala Yousafzai, a 14 year-old girl and outspoken proponent of girls' rights. Yousafzai, who was shot in the head by the Taliban in the Swat Valley, eventually recovered from the attack and became a rare symbol of courage in a country dominated by violence, corruption, and religious intolerance. The incident, which generated indignation amongst the country's liberals and civil society activists, also signified the Pakistani military's unwillingness to confront the Taliban and other terrorist groups across the country.<sup>ccxxxii</sup>

In its annual assessment of Pakistan, SATP noted that "the Army and the state continued to maintain their dual policy on terrorism, targeting domestically active groups, even as it allowed terrorist leaders such as Lashkar-e-Toiba (LeT) founder Hafiz Muhammad Saeed and Hizb-ul-Mujahideen (HM) chief and head of United Jihad Council (UJC) Mohammed Yusuf Shah *alias* Syed Salahuddin, and others, to thrive under implicit state protection. These terrorist groups openly staged several rallies in different parts of the country, issuing threats to various 'enemies of Islam', including the US, India and Israel."<sup>ccxxxiii</sup>

Further confirming the intimate relationship between the Pakistani state and terrorist groups, Admiral Mike Mullen, the former head of American military services, testified before a U.S. Senate committee in 2011 that Pakistan was exporting terror: "In choosing

to use violent extremism as an instrument of policy, the government of Pakistan – and most especially the Pakistani Army and ISI – jeopardises not only the prospect of our strategic partnership, but also Pakistan's opportunity to be a respected nation with legitimate regional influence.... By exporting violence, they have eroded their internal security and their position in the region.<sup>”CCXXXIV</sup>

Mullen went on to describe the Haqqani network, one of the most dangerous militant groups operating on both sides of the Afghanistan-Pakistan border, as a “veritable arm of the ISI.” On September 19, 2012, the U.S. Department of State designated the Haqqani network as a Foreign Terrorist Organization (FTO), subjecting it to sanctions. The Haqqani network enjoys close ties to the Taliban and al-Qaeda and has launched several high profile attacks against U.S. troops in the region.<sup>CCXXXV</sup>

In addition, Islamist radicals carried out a number of large-scale attacks on Shia Muslims in 2012, including massacres of Shias in Gilgit-Baltistan and Balochistan province.<sup>CCXXXVI</sup>

Commenting on the spate of anti-Shia violence, Senator Iqbal Haider, Pakistan’s former Minister for Human Rights, Law and Justice, condemned what he described as the “unchecked, unrestrained and repeated barbaric killings of Shia Muslims” across the country.<sup>CCXXXVII</sup>

Beyond the ongoing threat of terrorism and extremist violence, human rights for minorities continued to worsen throughout the year. Senator Haider, for instance, criticized the “continuing harassment, victimisation, killings and forced conversions of Ahmedis, Sikhs and Hindus, who have been forced to leave their places of residence for protection of their lives.”<sup>CCXXXVIII</sup>

Furthermore, a recently released report from the Jinnah Institute described the situation facing minorities as follows:

*These most recent attacks on religious minorities and the state’s tolerance towards this persecution are part of a longer-term pattern of state complicity at all levels – judicial, executive and legislative – in the persecution of and discrimination against minorities. The findings of this report confirm that the legislature, executive and judiciary have historically played a foundational role in creating two-tiers of Pakistani citizenship, which are defined by whether a person is a Muslim or a non-Muslim.*

*Furthermore, both democratic processes and martial rule have been used to institute discriminatory laws and practices. It is also clear that the heightened threat of extremism and the ascendancy of armed extremist militant groups confronting the Pakistani state have created a situation of “double jeopardy” for Pakistan’s religious minorities who now face the multiple assaults of vigilante*

*attacks, increased physical threats and social persecution from extremist groups, as well as the discriminatory legal frameworks of the state and failure of the state to punish hate crimes. Indeed, the situation for Pakistani minorities has never been more dire than it is today.*<sup>ccxxxix</sup>

In particular, Hindus, estimated at 4.5 million, face discrimination and widespread violence, including attacks on temples, kidnappings for ransom, and the abduction of Hindu girls.<sup>ccxi</sup> The level of fear prevalent in Pakistan's Hindu community is so extensive that it even affects Hindu parents, who fear giving their babies identifiable Hindu names, as they would become the target of Muslim extremists.<sup>ccxii</sup> Furthermore, as a recent report by the US Commission on International Religious Freedom (USCIRF) on Pakistan's education system demonstrates, public schools and madrasas persist in teaching intolerance and hatred towards non-Muslims, especially Hindus, while glorifying violence and jihad.<sup>ccxiii</sup>

The abject failure of government authorities to protect and address the concerns of Hindus, has led large numbers of them to seek refuge in India in recent years. Nearly 120,000 Pakistani Hindus now live in India, and approximately 1,000 annually migrate to the northwestern state of Rajasthan alone.<sup>ccxiiii</sup>

Despite facing systematic persecution, many Hindus remain reluctant to leave their ancestral land. As one Hindu man arrested, court martialed, and detained for one year by the Pakistani military on suspicion of being an Indian spy, observed: "I am committed to this land. My heart says to leave Sindh for Hind [India], but I can't."<sup>ccxlv</sup>

## **History/Background**

Pakistan is bordered on the south by the Arabian Sea, India on the east, and Afghanistan and Iran on the west. It has a number of diverse ethnic groups, including Punjabis, Sindhis, Balochis, Pashtuns, and Muhajirs. Punjabis comprise the largest group and dominate the ranks of the government and military. The pre-eminence and political power of the Punjabis has led to resentment from other ethnic groups, particularly Balochis and Sindhis, and at times, resulted in ethnic conflict. Pakistan has also been plagued by sectarian violence between the majority Sunni and minority Shi'a Muslim communities.<sup>ccxlv</sup>

The modern Pakistani state was created through the partitioning of the subcontinent in 1947, following the British withdrawal from India. Partition and the accompanying violence forced millions of Hindus and Sikhs to flee Pakistan for the safety of India. As a result, the number of Hindus in Pakistan began to rapidly decline. For instance, at the time of Partition in 1947, the Hindu community in Pakistan was approximately 25% of the population. By 1998, it was only 1.6%.<sup>ccxvi</sup> In the city of Karachi alone, the Hindu

population decreased from 51% in 1947 to only 2% in 1951, while the Muslim population in the city went from 42% to 96% during that same period.<sup>ccxlvii</sup> Notwithstanding its recent decline, Hindu civilization and culture flourished in Pakistan for thousands of years.

At independence, Pakistan proclaimed itself an Islamic Republic. Since then, Islam has become a central part of the country's national ideology and legal framework. Although the Constitution provides for freedom of religion, that freedom is severely limited and "subject to law, public order and morality." Consequently, actions or speech deemed derogatory to Islam or the Prophet Mohammed are not protected. Moreover, the Constitution requires that laws be consistent with Islam and imposes elements of Koranic law on both Muslims and non-Muslims alike.<sup>ccxlviii</sup>

In addition, there has been a recent proliferation of Islamic schools, or *madrasas*, in the past fifty years. Current estimates show that there are over 10,000 *madrasas* in Pakistan, whereas in 1956, there were only 244. Many of these schools teach extreme and intolerant interpretations of Islam to children as young as five years old.<sup>ccxlix</sup> USCIRF's new report on the education system found that Pakistan's public schools and *madrasas* negatively portray the country's religious minorities and reinforce biases which fuel acts of discrimination, and possibly violence, against these communities." The report further said that Hindus were depicted in especially negative terms.<sup>cccl</sup>

Pakistan has a long history of training, supporting, and using radical Islamic groups as an extension of official state policy, resulting in the deaths of thousands of innocent civilians in India and Afghanistan. These extremist groups have now turned their sights on Pakistan itself, including military/government and civilian targets, with their stated intent of turning the country into an Islamic state.

During the last several years, the rights of Pakistani minorities have deteriorated at an alarming rate. I.A. Rehman, Director of the Human Rights Commission of Pakistan (HRCP), associated this erosion with the continued Islamization of the country initiated by former President General Zia-ul-Haq in the 1980s. Consequently, minorities live in constant fear of threats to their lives and property, desecrations of their places of worship, and punishment under the Blasphemy Act.<sup>cccli</sup> Nuzzhat Shirin of the Aurat Foundation added: "It's Muslims winning by intimidation. It's Muslims overcoming a culture by threatening it, by abducting young girls so that an entire community moves out or succumbs to the Muslim murderers."<sup>ccclii</sup> Noted human rights activist Suhas Chakma went even further by describing the current system in Pakistan as "religious apartheid."<sup>cccliii</sup>

Despite rampant human rights violations and war crimes committed by numerous Pakistani regimes, Pakistan's actions have been repeatedly tolerated by the international community due to the country's strategic location and perceived importance in the

region. According to one report, the 1971 War of Independence was among “the genocides of human history, the highest number of people killed in the small span of time is in Bangladesh in 1971. An average of 6,000 to 12,000 people were killed every single day. This is the highest daily average in history.”<sup>ccliv</sup> The majority of those killed, raped, and maimed by Pakistani military forces were Hindus. A commission of inquiry appointed by the Pakistan government, the Hamoodur Rahman Commission,<sup>cclv</sup> recorded testimonies of Pakistani army officers, who quoted General Amir Abdullah Khan Niazi asking, “How many Hindus have you killed today?” as a matter of routine.<sup>cclvi</sup> Nonetheless, Pakistan has escaped international accountability for the atrocities committed in Bangladesh’s 1971 War of Independence. Fortunately, leaders of Islamist militias in Bangladesh responsible for collaborating with Pakistan’s army during the War are now being prosecuted by that country’s internal International Crimes Tribunals.

American lawmakers, who have provided billions of dollars in aid to Pakistan for its “support” in fighting the war in Afghanistan, have now come to realize that Pakistan’s military has misdirected the funding for other purposes. A report says that of the \$12 billion given to Pakistan in aid between 2002 and 2008, including \$6.6 billion in military assistance, only \$500 million reached the military to fight terror. The rest was diverted to strengthen the military, bolster terror against India, and subsidize President Musharraf’s failing economy.<sup>cclvii</sup>

The covert U.S. operation that killed Osama bin Laden in 2011 best exemplified the duplicitous nature of Pakistan’s military establishment. Bin Laden was living in close proximity to a large Pakistani military facility at the time of his death,<sup>cclviii</sup> in what became an embarrassment for Pakistan’s security apparatus, suspected of protecting him for many years. While the strike complicated relations and heightened tensions between the U.S. and Pakistan, the two countries continue to maintain diplomatic and military cooperation. At the same time, however, Pakistan’s ISI and military undermine U.S. and NATO military efforts in Afghanistan by providing support to the Taliban and Haqqani Network.

## **Status of Human Rights, 2012**

There was a further deterioration in the status and rights of religious minorities in 2012.<sup>cclix</sup> As an Islamabad-based scholar, Pervez Hoodbhoy, noted, “Minorities have no place in Pakistan today.”<sup>cclx</sup>

Hindus, in particular, continued to be the target of kidnappings, rape, and intimidation in Pakistan as in previous years. The pernicious bonded labor system, which primarily affects Hindus, also persisted with the complicity of law enforcement and political officials.

Furthermore, government regulations and laws shaped by Islamic Sharia injunctions played a significant role in the lives of all Pakistani citizens. For instance, Islamic

blasphemy laws continued to disproportionately affect non-Muslim citizens, with several high-profile cases involving Christians in 2012. With mainstream political parties beholden to Islamic extremists, it is unlikely that the blasphemy laws and other discriminatory statutes will be repealed or revised any time soon.

On the other hand, the draft marriage bill to register Hindu marriages was an encouraging development. There was some disagreement within the Hindu community over whether to include a divorce clause in the legislation. Specifically, Clause 13 is considered problematic and states that any Hindu can divorce his wife or her husband at any time and in any court.<sup>ccclxi</sup> The potential implications of this clause are vague, and it is not clear whether it would allow a Sharia court to decide on a Hindu marriage. Nevertheless, to date, no marriage act has yet been passed or introduced into law.

Moreover, in July, Sindh's Chief Minister, Syed Qaim Ali Shah, announced that a law would be passed in the provincial assembly to protect the Hindu community, given the recent spate of kidnappings and increased violence.<sup>ccclxii</sup> The contents of the proposed law and whether it has been in fact passed or implemented are unclear, however.

In addition to religious minorities, women, human rights activists, and journalists came under frequent attack in 2012. According to the *South Asia Media Commission's* (SAMC) Media Monitor, for instance, Pakistan was the most dangerous nation for journalists in South Asia in 2012.<sup>ccclxiii</sup>

Furthermore, terrorist attacks on innocent civilians also remained a major human rights issue in 2012, including the high-profile attack on Malala Yousafzai. Similarly, sectarian massacres of Shias, primarily by groups such as Lashkar-e-Jangvi (LeJ), were widespread throughout the country.

### ***Religious Freedom***

The HRCP has correctly observed that the affiliation of a state to a religion leads to discrimination against those who profess a different faith. The Commission has further noted that "discrimination by the state, duly enshrined in the constitution and the laws of the land, encourages additional social discrimination, virtually reducing religious minorities to second-class citizens whose rights and welfare are easily ignored and violated both by the majority community and the state."<sup>ccclxiv</sup>

In Pakistan, Islam has become institutionalized and pervades all aspects of the legal system. For instance, Article 2 of the Constitution proclaims that Islam is "the State religion of Pakistan" and recognizes that the Koran and Sunnah as the highest sources of law, not to be contradicted by secular laws.<sup>ccclxv</sup> Furthermore, Article 41(2) expressly provides that an individual must be Muslim in order to hold the office of President of Pakistan.<sup>ccclxvi</sup>

The Constitution also provides that high office holders must take the oath of office by invoking an Islamic prayer, regardless of whether they are Muslim. On March 24, 2007, a Hindu judge, Rana Bhagwandas, was sworn in as acting Supreme Court Chief Justice, following the suspension of sitting Chief Justice Iftikhar Muhammad Chaudhry.<sup>cclxvii</sup> The Hindu judge was required to take the Islamic oath, “[i]n the name of Allah, the most Beneficent, the most Merciful,” and ended with “May Allah Almighty help and guide me, (A’meen).”<sup>cclxviii</sup>

Furthermore, Article 203A - 203J establishes the power and jurisdiction of the Federal Shariat Courts, while Articles 227 - 231 provide that all laws must be in conformity with Islamic injunctions and create an Islamic Council to advise Parliament and Provincial Assemblies on whether laws contradict Islamic injunctions.<sup>cclxix</sup>

These constitutional mandates, as well as other statutory laws favor Muslims and directly and indirectly discriminate against religious minorities, thereby making them second-class citizens.

In addition to these inequitable provisions, there is still no legal mechanism to officially recognize Hindu marriages, resulting in widespread discrimination against Hindu women (as mentioned earlier, legislation has been proposed, but has not yet been passed). Without registered marriages, Hindu women face numerous obstacles obtaining identification cards as well as other documents and are subject to kidnappings and forced conversions.

On a positive note, in April, the Supreme Court ordered the National Database and Registration Authority (NADRA) to issue computerised national identity cards (CNICs) to Hindu women. In May, NADRA added a regulation, requiring married Hindu women to submit an affidavit (along with their husband’s signature) as evidence of marriage in order to obtain an identity card. This provision is intended to streamline the process, but it is unclear whether it will in fact assist poor and uneducated Hindus.<sup>cclxx</sup>

And finally, Pakistan’s current legal regime fails to protect the country’s minorities. According to Pakistani American comparative law expert, Waris Husain, Pakistan currently lacks effective legislation that clearly defines discrimination, and it fails to provide adequate legal redress to victims of discriminatory acts or violent hate crimes.<sup>cclxxi</sup>

Along with the creation of an administrative agency to adjudicate claims of discrimination by state actors, Husain suggests the introduction of hate crime legislation to protect religious minorities. He further contends that there should be a law that provides a basis for minorities to file civil suits for monetary damages against private citizens for acts of discrimination.<sup>cclxxii</sup>

In May 2010, the European Parliament passed a resolution urging religious freedom and changes in Pakistan's laws.<sup>cclxxiii</sup>

Hindus and other minorities face a number of additional restrictions on their religious freedom and attacks on their places of worship, which are outlined below.

### **Blasphemy Laws**

The blasphemy laws, which are part of Pakistan's Penal Code, impose severe punishments for insults to the Prophet Mohammed or desecration of the Koran. Five Sections 295 B, 295 C, 298 A, B, and C, commonly known as blasphemy laws, were made part of the Pakistan Penal Code, between 1980 and 1986, mainly through Presidential Orders by the former military dictator Gen. Zia al-Haq.<sup>cclxxiv</sup> These Sections of the Criminal law were intended to presumably protect the honor of the Prophet Mohammad, the Quran, and the companions and wives of the Prophet. They further prohibit Ahmadiyas from using Islamic terminology and symbols and from "preaching their faith or pos[ing] as Muslims."<sup>cclxxv</sup>

While the punishment for offenses under Sections 298 A, B, and C (concerning the insult against companions and wives of Prophet Mohammad and imposing restrictions on Ahmadiyas) is imprisonment for three years and a fine, Section 295-B (showing disrespect to the Quran) sanctions life imprisonment, and Section 295-C (insulting the Prophet Mohammad) carries mandatory capital punishment. Pakistan's Supreme Court recently confirmed a Federal Sharia Court ruling that death is the only allowable punishment for blasphemy under Islamic law, causing renewed concern amongst human rights organizations, Pakistani minorities, and people worldwide.<sup>cclxxvi</sup>

These archaic laws have harmed all sections of Pakistani society, but have had the greatest impact on religious minorities, particularly Hindus, Christians, and Ahmadiyyas. In many instances, the mere allegation of blasphemy is used as a pretext to attack minorities.

There are currently dozens of blasphemy cases pending in the court system, while the accused languish in jail under oppressive conditions.<sup>cclxxvii</sup> According to the U.S. State Department, lower courts in Pakistan often did not require adequate evidence in blasphemy cases, "which led to some accused and convicted persons spending years in jail before higher courts eventually overturned their convictions or ordered them freed. Original trial courts usually denied bail in blasphemy cases, claiming that because defendants could face the death penalty, they were likely to flee."<sup>cclxxviii</sup>

In addition, since 1988, HRCP estimates that there have been approximately 1,000 cases that have been recorded for desecration of the Koran, while another 50 have been registered for defaming the Prophet Mohammed.<sup>cclxxix</sup>

A 2012 Centre for Research and Security Studies (CRSS) report on the blasphemy laws asserts that since the laws' inception, 52 people were murdered, while facing blasphemy charges. Out of that total, 22 were non-Muslims, with 15 Christians, five Ahmadiyyas, one Hindu, and one Buddhist.<sup>cclxxx</sup>

According to Pakistani analysts:

*In most cases, the accused languish in prison until their cases are decided, but even behind bars, they live in fear of violence against them by other inmates. The fears of being set upon only increase after acquittal and release...In its 2008 annual report, the [Human Rights Commission of Pakistan] comments that a growing number of Muslims in Pakistan had begun to feel that the only true version of Islam is the one they practise and as the State had failed in its duty to protect the interests of the religion 'that it is their religious duty to enforce it on all and sundry by deploying all possible means, including the use of force against those who do not fall in line.'<sup>cclxxxii</sup>*

As in past years, there were a number of blasphemy cases in 2012. For example, in November, the owner of a girl's school in Lahore was arrested on blasphemy charges after a teacher allegedly circulated "blasphemous" material to sixth grade students. The school was also set on fire by a mob of more than 200 Muslim extremists. In an attempt to distance itself from the act, school management subsequently took out an ad in a local newspaper condemning the act and calling on the police to arrest the teacher.<sup>cclxxxii</sup>

In August 2012, a 14 year-old mentally challenged Christian girl (some reports of her age vary), Rimsha Masih, was arrested and charged with blasphemy for allegedly burning pages from the Koran. After being imprisoned in a high security prison, she was finally acquitted by the Islamabad High Court in November after finding that she was falsely accused. In fact, an Imam (Islamic cleric) was arrested in September for fabricating evidence against her.<sup>cclxxxiii</sup>

Similarly, in July, Ghulam Mohiuddin was beaten to death and his dead body was set on fire by a mob of 2,000 men, after being accused of burning pages from the Koran. Mohiuddin, was reportedly mentally ill, was removed from the police station by the mob in the city of Bahawalpur in Punjab province. He was previously arrested and held in custody at the local police station.<sup>cclxxxiv</sup>

In another recent high-profile case, Aasia Bibi, a Christian woman, was sentenced to death for blasphemy by a court in the Punjab province in November 2010. President Zardari ordered a ministerial inquiry, which concluded that there were no grounds for the verdict and that a presidential pardon be given to her. Dangerously, however, the courts stepped in again, with the Lahore High Court barring the president from using the constitutional privilege of awarding a pardon.<sup>cclxxxv</sup> Moreover, Salman Taseer, the Governor of Punjab province was assassinated in 2011 for his vocal advocacy on Bibi's

behalf. Taseer, an outspoken critic of Pakistan's blasphemy laws, was murdered by one of his own bodyguards opposed to Taseer's liberal views.<sup>cclxxxvi</sup>

As *The Washington Post* reported, instead of condemning the assassination, many Muslim clerics and even lawyers praised the brutal murder: "A group of 500 Muslim clerics, meanwhile, praised his assassin, 26-year-old Mumtaz Qadri, and warned people against mourning Taseer. In Islamabad, lawyers tossed rose petals on Qadri as he was produced in a court, where a judge remanded him in custody."<sup>cclxxxvii</sup> Many women and religious minorities viewed Taseer as a powerful and influential ally, and with his death, they witnessed the country slide further towards Islamic extremism.

Following Taseer's assassination, Shahbaz Bhatti, a Christian and the first federal Minister for Minority Affairs, was also brutally murdered for his fierce opposition to the blasphemy laws.<sup>cclxxxviii</sup> Bhatti's assassination was aided by the government's refusal to provide him with a bullet-proof vehicle and by ignoring his request to have his own trusted men as bodyguards. The two killings created an environment of fear in the country and emboldened Islamic extremists. As a result, the government claimed that the blasphemy laws were not the cause of the violence and declined to amend them.<sup>cclxxxix</sup>

The blasphemy laws have successfully remained in place for several decades now due to widespread support from not only radical Islamist organizations, but also purportedly mainstream political parties. For example, in September 2009, Chaudhry Shujaat Hussain, president of the centrist Pakistan Muslim League Qaid-e-Azam (PML-Q), said that his party would protest any change to the existing blasphemy laws. He claimed that it was the duty of every Muslim to defend the blasphemy laws.<sup>ccxc</sup> Similarly, the head of the Jamiat Ulema-e-Pakistan (Assembly of Pakistani Clergy) said that his party would not allow the blasphemy laws to be challenged.<sup>ccxci</sup> Additionally, a recent BBC report noted that "[a] large majority of Pakistani people support the idea that blasphemers should be punished..."<sup>ccxcii</sup>

### ***Religious Identification Laws***

On March 24, 2005, Pakistan restored the discriminatory practice of mandating the identification of religion of individuals in all new passports. The Pakistan federal cabinet, with Prime Minister Shaukat Aziz in chair, directed the Ministry of Interior to reintroduce the rule after its repeal under the Zafarullah Khan Jamali government in 2004. The move was seen as a concession to the Muttahida Majlis-e-Amal (MMA), a coalition of hard-line religious parties that supported General Musharraf.<sup>ccxciii</sup> Religious Identification laws tend to promote discrimination against non-Muslims, as they separately identify minorities from the majority Muslim population. This further establishes their inferior status and also leaves them vulnerable to religious persecution and harassment at the hands of government officials.

## Temples/Pilgrimage Sites

Pakistan is home to several ancient Hindu temples and pilgrimage sites, but there has been a drastic decline in the number and condition of Hindu temples since Partition. Thousands of temples have been destroyed or converted into mosques since 1947, and there are only an estimated 360 - 428 temples remaining (with only a small number still functioning).

Many first-hand accounts from Pakistani Hindu refugees in India indicated that large numbers of temples were destroyed following a dispute over an abandoned mosque, known as Babri Masjid, in India in 1992.<sup>ccxciv</sup>

For example, Kashi Ram, a refugee from Rahim Yar Khan in southern Punjab province, explained that a temple administered by his uncle was demolished, while many others in the area were attacked, vandalized, or burned down.<sup>ccxcv</sup>

Similarly, another refugee, Jogdha, recounted that local Muslims broke into a number of Hindu homes in southern Punjab and destroyed shrines and personal altars. He also noted that Hindus in his neighborhood were publicly attacked in the street by Muslim mobs, forcing many to seek safety in rural villages.<sup>ccxcvi</sup>

And Kishanbhai added that many temples were destroyed in his native town of Bahawalpur in Punjab in 1992, and Hindus were attacked and “told to become Muslims or be ready to die.” This led many of his extended family members that lived in Pakistan to apply for a visa and migrate to India.<sup>ccxcvii</sup>

While it is difficult to ascertain the exact number of temples attacked, there have been numerous reports from Hindu community groups, human rights organizations, and the media indicating that a large number of temples were in fact destroyed during that period.

Moreover, many of the existing temples in Pakistan suffer from decay and neglect (from a lack of funds/government support) and are subject to attacks and illegal encroachments.<sup>ccxcviii</sup> For example, in the northwestern city of Peshawar, there are only two remaining Hindu temples. And temples near Islamabad and the surrounding areas are in dilapidated conditions, and some temples near the capital no longer exist.<sup>ccxcix</sup>

Even in the rare instances when the government has taken steps to renovate temples, it has not necessarily benefitted the Hindu community. A recent example is the famous Kataraj temple complex in Chakwal, which has been renovated in order to promote it as a World Heritage Site, rather than as a sacred Hindu religious site for use by the community.<sup>ccc</sup>

The continued demolition and encroachment of Hindu temples in Pakistan is often accomplished with the tacit support of government authorities and police. For instance,

the Shri Rama Pir Mandir, along with several nearby homes in the predominantly Hindu Doli Khata neighborhood of Karachi, was demolished by a private developer with the support of the police and Pakistani Army Rangers in late 2012. The developer's actions rendered nearly 40 Hindu men, women, and children homeless, and reportedly resulted in the physical assault of a partially paralyzed Hindu man protecting the temple. The temple was destroyed despite a pending petition before the Sindh High Court requesting a stay on any attempts by the developer to demolish the temple. Furthermore, the Scheduled Caste Federation of Pakistan notes that the government itself had previously restored the in 2000, indicating that it was formally registered and accorded legal status.<sup>ccci</sup>

In addition, the 1,500 year-old Shri Panchmuki Hanuman Mandir (the oldest in Karachi) has faced increasing land encroachments, and intimidation and harassment by those trying to illegally occupy the property. In the midst of these challenges, the Hindu community is trying to renovate the temple, despite a lack of funds.<sup>cccii</sup>

And on September 21, the declared the "Day of Love for the Prophet" and a national holiday by the Pakistan government, another Hindu temple was attacked by violent mobs in a Hindu neighborhood of Karachi. During nationwide protests in Pakistan against a film mocking the Prophet Mohammed, assailants broke several sacred religious statues of Hindu deities, destroyed a copy of the Bhagavad Gita, a Hindu scripture, and physically assaulted the temple's priest. In a separate incident on the same day, St. Paul's Lutheran Church and the adjoining school were desecrated and set on fire by protesters in the northwestern city of Mardan.<sup>ccciii</sup>

In many parts of the country, Hindus are also prevented from building new temples and/or freely practicing their religion. For example, according to a report by Pastor Rafiq Bhatti of the Stephens Shaheed Foundation, an organization that works primarily with Christians, even in Hindu villages in rural Sindh Province, Hindus are refused permission to build places of worship.<sup>ccciv</sup>

Pakistan also has a number of sacred pilgrimage sites, which are visited by thousands of pilgrims every year, including the famous Mata Hinglaj Temple, located in a mountain cave on the banks of the River Hingol in Baluchistan province. Hindu pilgrims have previously come under attack by Muslim extremists, including an incident in 2006, where two pilgrims were killed and seven wounded after militants attacked a caravan carrying Hindu pilgrims in Sindh.<sup>cccv</sup>

And at the beginning of 2012, a Hindu religious leader and the chairman of the temple committee that manages Hinglaj Mata was kidnapped prior to the start of the shrine's annual pilgrimage in April. The Hindu leader, Maharaj Ganga Ram Motiyani, was reportedly abducted by two men in police uniforms from Lasbela in Balochistan. Motiyani's whereabouts are still unknown and his kidnappers have not yet

demanded a ransom. Hindu community leaders believe the abduction was intended to further intimidate the small Hindu minority.<sup>cccvi</sup>

The inability to independently control many of their places of worship is another major issue for the Hindu community in Pakistan. Currently, the Evacuee Trust Property Board (ETPB), a government body, is responsible for managing a large number of Hindu properties, including temples, left behind by Hindus who fled for India at the time of partition in 1947. The ETPB also controls 135,000 acres of land belonging to Hindu farmers, of which 125,000 acres are fertile land suitable for cultivation.<sup>cccvii</sup> The Trust Board, however, lacks adequate Hindu representation and has consistently failed to consult Hindu organizations, such as the Pakistan Hindu Council, before making decisions regarding Hindu properties and places of worship.<sup>cccviii cccix</sup>

A 2011 report demonstrated that the Hindu community's lack of control over their religious sites, led to many Hindu temples being converted into picnic areas, hotels, schools, and business centers.<sup>cccx</sup>

According to Haroon Sayab, chairman of the Pakistan Hindu Rights Movement, "Hindus are left behind in every walk of life. They don't have possession of their sacred places and other properties. If Hindus were given the possession of their assets, their misery could be alleviated."<sup>cccxi</sup>

In a rare victory for the Hindu community, a 160-year-old Hindu temple in Peshawar prepared to welcome worshippers after a lengthy legal battle. The Goraknath Temple, situated in Peshawar's archaeological complex Gor Kattri, opened for worship for the first time in 60 years on the Hindu festival of Diwali on October 26, 2011.<sup>cccxii</sup> Unfortunately, according to local contacts, shortly after the temple was re-opened it was broken into and vandalized. It was subsequently attacked again in 2012 by a group of eight unidentified men. The attackers reportedly vandalized the temple and burnt several images of Hindu deities and sacred books. According to the shrine's caretaker, this was the third attack on the temple in the past two months.<sup>cccxiii</sup>

Although the current temple was built 160 years ago, the site has been a place of Hindu pilgrimage for centuries, and was associated with a Hindu yogi, Gorakhnath, who was believed to have lived in the 11th or 12th century.

The ETPB's control over Hindu properties has further caused problems for Hindus in cremating their dead, an essential funeral rite for Hindus. Community leaders allege that land previously used by Hindus as cremations grounds was illegally sold by the Evacuee Trust Property Board (ETPB), a governmental body. In the northwestern city of Dera Ismail Khan in Khyber Pakhtunkwa province, for instance, Hindus have been unable to cremate their dead since Pakistan's creation in 1947 and thus, have been forced to bury deceased relatives. They recently called on the government to provide them with appropriate cremation grounds.<sup>cccxiv</sup>

Community leaders contend that there is no useable crematorium throughout Khyber Pakhtunkwa, and Hindus and Sikhs have to either bury their dead or travel long distances to conduct cremation rites.<sup>cccxv</sup>

Similarly, many of the Pakistani Hindu refugees HAF spoke with noted the difficulties Hindus faced in cremating their dead in Sindh province. Chetan Ram, a refugee from Sindh province, stated that Hindus were often unable to cremate their dead due to the unavailability of cremation grounds. Consequently, Chetan Ram explained that Hindus were often forced to bury deceased family members in Muslim cemeteries. Since Hindus were considered “kafirs” (infidels) by their Muslim neighbors, they even faced obstacles and harassment in burying their dead.<sup>cccxvi</sup>

## **General Violence**

### **Attacks on Minorities**

Religious minorities in Pakistan are routinely attacked and live in constant fear for their safety. Fueling the violence against Hindus, Pakistan’s religious leaders and commentators continue to use inflammatory language to cast aspersions on Hindus. For example, the editor of The Nation newspaper and the Nazaria-i-Pakistan Trust chairman, Majid Nizami, claimed, “Hindus have never accepted Pakistan ever since its creation in 1947, and India, America and Israel want to disintegrate the country.”<sup>cccxvii</sup>

In one particularly disturbing incident, Mohabat Mal, the son of Veero Mal, was pursued by a group of Muslim religious leaders of the Madani mosque in Mirpurkhas, Sindh in an attempt to convert him to Islam and arrange his marriage with a Muslim girl. After being abducted, Mohabat was locked in a house adjacent to the mosque for nine months, forced to sign papers declaring he was a Muslim, and purportedly sodomized by the mosque’s cleric. On April 4, 2011, he managed to escape and notified his parents, who tried to file a complaint against the perpetrators. The police, however, informed the mosque leader, who led more than 100 individuals in attacking Veero Mal’s house.<sup>cccxviii</sup>

Subsequently, Mohabat Mal contacted a Hindu human rights organization in Hyderabad, 70 kilometers from Mirpurkhas. The organization sent a lawyer who prepared a petition for the Sindh High Court in Hyderabad against Mal’s forced conversion and rape during his nine months of captivity. A day before filing the petition, Veero Mal’s house was attacked again by a large group of Muslims. The police then proceeded to arrest Veero Mal and Mohabat’s two maternal uncles, Pyaro Mal and Parro Mal, based on the mosque cleric’s complaint that Mohabat had converted to Islam but had been abducted by his parents. Mohabat was then abducted again from the police station by a religious mob led by the mosque cleric, while making a statement to the police. The victim’s mother and other family members are now in hiding.<sup>cccxix</sup>

The frequent abductions of Hindus for ransom are also of significant concern and have left the Hindu community in Pakistan in a continuous state of insecurity, with little protection from law enforcement authorities. The failure of government authorities to protect Hindus has forced many to pay local gangs “protection money” to avoid being kidnapped for ransom. Often times, however, a family is unable to pay “protection money” and cannot afford the demanded ransom, resulting in the abducted victim being murdered.<sup>cccxx</sup> Hindu community leaders claim that kidnappings have become common and that “highwaymen and kidnappers” have been given a “free hand.” They further allege that police and other law enforcement agencies are patronizing the kidnappers.<sup>cccxxi</sup>

In addition, a Hindu activist recently informed the HRCP that those who tried to resist kidnapping attempts were killed. He also told HRCP that religious minorities were even hesitant to attend social gatherings for fear of being robbed.<sup>cccxxii</sup>

Furthermore, an HRCP report on Balochistan indicates a rise in violence against Hindus in the southwestern province, including a substantial increase in abductions. A recent media account in the Express Tribune newspaper, for instance, reported that there were at least 55 cases of abductions for ransom of Hindus in Balochistan in 2011, while there have already been 25 cases in the early months of 2012. As a result of increasing attacks and a lack of protection from the provincial government, Hindus are starting to migrate out of the province in large numbers.

Ansar Burney, chairman of the Ansar Burney Trust International and former Federal Minister for human rights, confirmed that more than 100 Hindu families in Balochistan had migrated out of the province after being targeted by extremists.<sup>cccxxiii</sup> Moreover, a conference organized by the Supreme Court Bar Association of Pakistan, while examining the overall situation in Balochistan, estimated that twenty percent of the Hindu population had fled the province.<sup>cccxxiv</sup> The Hindu community in Balochistan is estimated at 200,000.<sup>cccxxv</sup>

The following examples serve to provide a representative picture of the abductions and violent attacks against Hindus in 2012:

- In November, a Hindu family from Sindh province was attacked and robbed while traveling on a highway in Punjab province. The family was on its way to Nankana Sahib to celebrate the birth anniversary of Guru Nanak, the first Sikh Guru.<sup>cccxxvi</sup>
- Dhayan Chand Bhagri, a Hindu cattle dealer, was murdered in October by armed robbers while travelling home from cattle market in Latifabad, Sindh. His attackers also stole 720,000 rupees from him. The incident and law enforcement’s slow response in investigating the case caused uproar in the Hindu community.<sup>cccxxvii</sup>
- A Hindu trader, Ramesh Kumar, was abducted and taken to an unknown location by 15 armed robbers while traveling from Jacobabad, Sindh on the National Highway. Kumar was in a passenger wagon with several other Hindus, when they were attacked in

October. The other Hindu passengers were robbed of their money and valuables. Police registered a case, but Kumar's whereabouts are still unknown.<sup>cccxxviii</sup>

- In September, several armed men kidnapped two Hindu businessmen, Suno and Rao Kumar, from Bolan district in Balochistan, while they were returning from a wedding. The police have not recovered either victim or apprehended their assailants.<sup>cccxxix</sup>
- Ganga Ram Sharma, a shop owner in Lasbela, Balochistan was kidnapped in April by two men dressed as police officers. Fortunately, Sharma was found alive by police in June. It is unclear whether Sharma's family paid a ransom to the abductors.<sup>cccxxx</sup>
- In early 2012, armed men kidnapped three prominent Hindu businessmen who were traveling from Karachi to Jacobabad in Sindh province. The abducted Hindus included Ramesh Lal, president of a Hindu local council; Ashok Kumar, president of the Rice Mills Association; and Hari Ram, a trader. Their whereabouts are still unknown, and no ransom has yet been demanded.<sup>cccxxxi</sup>
- In February, two Hindu businessmen were kidnapped from Khuzdar district in Balochistan. It is unclear whether they have been released.<sup>cccxxxii</sup>

As a result of widespread violence and abductions, many Hindus have fled to India. As a Pakistani Hindu writer lamented, "The Hindu community is peaceful — so what is its biggest sin? It is a minority in a land where there is no rule of law. All that is needed is the political will to go after those involved in these kidnappings — the incidents will stop and our Hindu compatriots will stop fleeing to India."<sup>cccxxxiii</sup> Similarly, a Hindu leader, Muki Raday Sham, said that many Hindu families had already migrated to other countries, and if the abductions were not stopped, the remaining would also migrate.<sup>cccxxxiv</sup>

Rampant violence has also displaced many Hindus and Sikhs from the Khyber Agency in northwestern Pakistan. In June, for instance, more than 70 Hindu and Sikh families fled fighting by Islamist militants in the area and took refuge in Sikh temples in the city of Peshawar. The families were reportedly in dire need of basic necessities. Many Hindus and Sikhs had previously left Khyber after the imposition of an Islamic tax (jazia) on non-Muslims by Muslim militants controlling the region.<sup>cccxxxv</sup>

### **Violence against Women**

Violence against women is a serious problem throughout the world, but more so in Pakistan and particularly against Hindu women. Every year, thousands of Pakistani women are the victims of forced prostitution, honor killings, rapes, kidnappings, sexual harassment, and domestic violence. Oppressed not only because of their gender, but also because of their religious beliefs, women from minority communities are especially vulnerable to such patterns of abuse. Often times, gender based violence is used as a weapon of subjugation, and a means to intimidate and harass minority communities in Pakistan.

According to a recent National Commission for Justice and Peace report, 76% of minority women in Pakistan reported that they had been subjected to sexual harassment or abuse.<sup>cccxxxvi</sup>

Although violence is disproportionately used against Hindu women, the crimes transcend religion, and Muslim women are frequent targets of Islamic extremists. For example, in August 2009, the Pakistani Taliban's moral police executed two Muslim women for engaging in allegedly "immoral behavior." A note left on their dead bodies threatened other women with similar consequences for such behavior. According to the Taliban and other Islamists, "immoral behavior" includes talking to men outside of their families.<sup>cccxxvii</sup>

Every year, thousands of Pakistani women are the victims of honor killings, rapes, kidnappings, and domestic violence. Young Hindu women and girls, along with other minorities, are particularly vulnerable to gender based violence.

The Aurat Foundation reported a slight increase (seven percent) in the cases of violence against women between January and June 2012, compared to the same time period in 2011. A total of 4,585 cases were reported, as compared to 4,269 cases during the first six months of 2011 (there were 8,539 total cases in 2011). Of the 4,585 cases, 3,153 cases were reported from Punjab, 1027 from Sindh, 283 from Khyber Pakhtunkhwa, and 78 from Balochistan. The remaining cases were reported from other regions across the country (i.e., Pakistan Occupied Kashmir and Federally Administered Territories).<sup>cccxxviii</sup> Of the 4,585 cases, 1,086 cases involved abduction and kidnapping, 792 murders, 435 rapes/gang rapes, 349 cases of suicide, 346 cases of "honor killing," 289 cases of domestic violence, in addition to a number of cases of sexual assault, acid attacks, incest, custodial violence, child marriages, and sex trafficking.<sup>cccxxix</sup>

### ***Hudood Ordinance***

The Hudood Ordinance in Pakistan, enacted in 1979 and replaced/revised by the "Women's Protection Bill," is a medieval law used to oppress and intimidate women. It has been used to imprison thousands of women who report rapes. Under the ordinance, in order to prove rape charges, a female rape victim is required to present the testimony of four male witnesses. If she is unable to do so, she herself may then be punished for committing adultery.<sup>cccxi</sup> This law effectively silences rape victims since they face the possibility of being charged with adultery, as the probability that a woman is able to produce four male eyewitnesses is miniscule.

The Women's Rights Bill, introduced in November 2006, slightly amended the Hudood Ordinance by reducing the required male eyewitnesses for a rape conviction from four to two. Although this was hailed a positive step forward, it still presented substantial obstacles for rape victims to achieve justice. And at the end of 2010, relevant provisions of the Act intending to reform the Hudood Ordinance were struck down by the Shariat (Islamic law) Court.<sup>cccxi</sup>

Despite repeated calls by women's rights and human rights group to repeal the ordinance entirely, the Pakistani government has yet to take action.

In addition to the Hudood Ordinances, the *qisas* (retribution) and *diyat* (compensation) ordinances allow an honor killing to be forgiven by the victim's relatives in exchange for monetary compensation. Moreover, the compensation for an honor crime against a woman is only half that of a male victim.<sup>cccxi</sup>

### ***Rape/Kidnapping/Forced Conversions***

Among the many disturbing trends in Pakistan is the abduction and forced conversion to Islam of Hindu girls, particularly in Sindh province. Several Islamic seminaries in Sindh incite their Muslim students to convert Hindu girls, telling them that it is the equivalent of *Haj-e-Akbari*, or the greatest religious duty for Muslims.<sup>cccxiii</sup> Wasim Shahzad, the former Minister of State for Interior, believes that kidnappings and forced conversions “are taking place to force the Hindus to leave Pakistan where they have been living for the past 5,000 years.”<sup>cccxiv</sup>

The Society for the Protection of the Rights of the Child (SPARC), for instance, contends that close to 2,000 non-Muslim women and girls were forcibly converted to Islam in 2011 alone.<sup>cccxl</sup>

Similarly, a new HRCP report warns of the dangerous rise of kidnappings and forced conversions of young Hindu girls. Amarnath Motumal, an advocate and HRCP member, recently indicated that as many as 20 to 25 girls from the Hindu community in Pakistan are abducted every month and converted forcibly to Islam. He added, “[I]n Karachi alone, a large number of Hindu girls are being kidnapped on a routine basis and converted to Islam.”<sup>cccxvi</sup> Motumal further alleged, “Many more occur in rural areas of Sindh but not all families want to talk about them.”<sup>cccxvii</sup> Bherulal Balani, another legislator, stated: “Once the girls are converted, they are then sold to other people or are forced into illegal and immoral activities.”<sup>cccxviii</sup> And in October 2010, a committee of the Pakistani Senate expressed concern over reports that Hindu girls in Sindh province are being abducted for forced conversion to Islam.<sup>cccxi</sup>

A recent *L.A. Times* article summarized the process of such cases as follows:

- *“The victim, abducted by a young man related to or working for a feudal boss, is taken to a mosque where clerics, along with the prospective groom's family, threaten to harm her and her relatives if she resists. Almost always, the girl complies, and not long afterward, she is brought to a local court, where a judge, usually a Muslim, rubber-stamps the conversion and marriage... Often the young Muslim man is accompanied by backers armed with rifles. Few members of the girl's family are allowed to appear, and the victim, seeing no way out, signs papers affirming her conversion and marriage.”*<sup>ccc</sup>

The recent high-profile and politically charged case of three Hindu girls, Rinkel Kumari, Asha Devi, and Lata Kumari, epitomized this trend. The girls were abducted, forcibly converted to Islam, and married against their will in early 2012. The case attracted international attention after a conservative Muslim politician and Member of Pakistan's National Assembly from Sindh province, Mian Mitthoo, was suspected of orchestrating

the kidnappings. Mitthoo has been accused by HRCP of being in the “business of not only converting and encouraging forceful marriages, but also selling Hindu girls.”<sup>cccli</sup>

From the beginning, Mitthoo and his armed associates created an atmosphere of fear and intimidation by repeatedly threatening and coercing the girls and their families. Despite several court hearings, including highly prejudicial and questionable Supreme Court proceedings, the court system failed to deliver justice to the girls. Specifically, the courts accepted the girls’ conversions as voluntary without question, all but ignored the underlying kidnapping charges, and largely disregarded the girls’ own testimony. The court’s decision resulted in the girls being sent to live with their abductors, or alleged “husbands.” Minority rights advocates and human rights groups have sharply criticized the courts’ handling of the case and its outcome.<sup>ccclii</sup>

After the conclusion of the case, two members of the Sindh Assembly, Saleem Kursheed Khokar, a Christian, and Pitanbar Sewani, a Hindu, received death threats for their outspoken stand against the continued kidnappings and forced conversion of Hindu girls.<sup>cccliii</sup>

The following are additional examples illustrative of recent incidents of kidnappings, forced conversions, rapes, and sexual assaults:

- On December 4, 2012, a six year old Hindu girl, Vijanti Meghwar, was "raped and tortured" by Muhammad Mangrio, a political worker from the Pakistan Muslim League-Functional, and "found unconscious lying in a street" in Umerkot District of Sindh province. The alleged perpetrator has also reportedly threatened journalists for reporting on the case, but has not been arrested by the police.<sup>cccliv</sup>
- A 14 year-old girl, Manisha Kumari, was kidnapped from Jacobabad, Sindh on August 7, 2012, according to Pakistan Hindu Council president Jethanand Doonger Mal Kohistani. She was subsequently forcibly converted to Islam.<sup>ccclv</sup>
- In May 2012, three men abducted a 19 year-old Hindu girl from Tandojam, Sindh after she left her house to wash clothes. She was then taken to Karachi, forcibly converted to Islam and married to one of the men, Sarwar Solangi. The girl was held captive in a room for more than two months and repeatedly raped by Solangi, before she finally escaped on July 30. Although the Solangi later claimed that she converted and married him out of her free will, the Hindu girl disputed his assertion in court. In a rare victory, the Sindh High Court (Hyderabad circuit) accepted her testimony and ordered Sarwar to be taken into police custody.<sup>ccclvi</sup>
- At the end of 2011, a 15-year-old Hindu girl, Bharati, was abducted, converted to Islam and forcibly married off in the Lyari area of Karachi. Her father claimed that she has been converted and married off against her will.<sup>ccclvii</sup>
- A 16 year-old Hindu girl, Rachna Kumari, was kidnapped by a police officer guarding a Hindu temple administered by Kumari’s father in August 2011. The officer, Barkat Talani, allegedly kidnapped Rachna and forced her to convert to Islam and marry him. Although Talani was initially arrested and suspended from his job, he was later reinstated after a court affirmed the conversion and marriage. Rachna’s family alleges that she was coerced to sign papers accepting the marriage and conversion.<sup>ccclviii</sup>

- A 14-year old Hindu girl, Rekha, was kidnapped near the southern port city of Karachi. Rekha and her family had recently migrated to Karachi after being displaced from their homes in rural Sindh by severe floods. In November 2011, Rekha was abducted from a manufacturing factory, taken to a Muslim seminary, forcibly converted to Islam, and married to a Muslim man against her will. The police initially refused to register a criminal complaint, and then waited five days before finally filing a report. Subsequently, a local judicial magistrate legally sanctioned the forced conversion and marriage, despite knowing that she was a minor and well below the legal age for marriage. Following the court's decision, Rekha's abductors took her to the tribal areas on the border with Afghanistan, and Rekha's parents have not seen or heard from her since then.<sup>ccclix</sup>
- At the beginning of 2011, Radha (Ameena) was kidnaped from Karachi by a group of Muslim men who forced her into a van. Radha was then coerced to marry one of the men, Ahmed Salim, and was converted to Islam by a cleric after being forced to recite from the Koran and wear a veil. She was later taken by Salim to his parents house in southern Punjab.<sup>ccclx</sup>

Furthermore, a number of the refugees interviewed by HAF in India recounted stories of family members being kidnapped. For instance, an unidentified refugee from Rahim Yar Khan, in southern Punjab province, revealed that his wife had been forcibly kidnapped, converted to Islam and married to another Muslim man. He also reported that he had been threatened by his wife's abductors, while the police refused to help, claiming that she had willingly converted and agreed to the marriage. His two children, including a six month old daughter, were also taken, although they were eventually returned to him. Consequently, he migrated to India only with his two children, while his wife remained in the captivity of her abductors.<sup>ccclxi</sup>

Hindu children are also the victims of kidnapping. A recent three-year study revealed that Hindus suffer the brunt of child kidnappings. Between January 2010 and December 2010, at least 23 children – some as young as three years old– were kidnapped for ransom. Of the 23, nine were Hindus, including four girls. The report says that the number of kidnappings could be even higher because many of the cases go unreported due to the threats by the kidnappers to harm the children if the parents complain.<sup>ccclxii</sup>

Although some Pakistani politicians have spoken out on the issue and a Parliamentary Committee was formed in September to investigate the rise in kidnappings and forced conversions, no meaningful steps have been taken to protect the Hindu community, institute legislation, or crack down on mosques that promote such activities. The Parliamentary Committee's report did recommend the adoption of a federal law against forced conversions, but no statute on the issue has yet been passed.<sup>ccclxiii</sup>

### ***Islamic Extremism***

Pakistan continues to be the epicenter of global terrorism and violent Islamic extremism. There are a number of groups operating freely throughout the country, who promote Islamic rule, violent *jihad* (holy war), and hatred towards non-Muslims.

For instance, according to SATP's 2012 assesment:

*Reports indicate that Pakistan still remains a major destination for radicalised Muslims committed to jihadi terrorism. The number of foreign recruits smuggled into the north western tribal belt is believed to be increasing, with recruits coming in from a multiplicity of countries. Estimates indicate that there could be around 2,000 to 3,500 foreign fighters in Pakistan's border areas, drawn from some 30 countries. These terrorists, presently operating principally in Afghanistan, continue to support the Inter-Services Intelligence's (ISI) strategy of backing Afghan militant formations in their fight against the NATO-led International Security Assistance Force and the Afghan National Security Forces (ANSF).*<sup>ccclxiv</sup>

SATP further provides, "Through 2012, Pakistan continued to face the brunt of the Islamist extremism and terrorism that it has long produced and exported...[T]he country recorded a total of at least 6,211 terrorism-related fatalities, including 3,007 civilians, 2,472 militants and 732 Security Forces (SF) personnel in 2012..."<sup>ccclxv</sup>

Statistics from 2012 also demonstrate that there were 39 suicide attacks leading to 365 deaths, 451 major terrorist attacks resulting in 3,396 deaths, and 652 explosions.<sup>ccclxvi</sup>

Amongst the active groups who enjoy the support of Pakistan's intelligence agencies are Lashkar-e-Taiba, Tehreek-e-Taliban (Pakistani Taliban), Lashkar-e-Omar (a loose coalition of several militant groups), Tehreek-e-Nafaz-e-Shariat-e-Mohammadi, Muslim United Army (an umbrella organization consisting of several extremist groups), Hizb-ul-Mujahideen, Jaish-e-Mohammed, and Afghan Taliban groups (ex: Quetta Shura and the Haqqani Network)

According to Hafiz Muhammed Saeed, the founder of Lashkar-e-Taiba, "The purpose of Jihad is to carry out a sustained struggle for the dominance of Islam in the entire world." In addition, there are several militant sectarian Sunni and Shia groups, such as Sipah-e-Sahaba, Lashkar-e-Jhanghvi, Sipah-e-Mohammed, and Tehreek-e-Jaferia Pakistan (For a list of Islamic militant groups, please see *Appendix B*).<sup>ccclxvii</sup>

There was also a sharp rise in sectarian violence in 2012, with Sunni extremist groups targeting Shia civilians en masse. Nearly 400 Shias were killed in approximately 113 attacks in 2012, and many believe that the Pakistani establishment was directly or indirectly complicit in the violence. Human Rights Watch recently noted: "As Shia community members continue to be slaughtered in cold blood, the callousness and indifference of authorities offers a damning indictment of the state, its military and security agencies. Pakistan's tolerance for religious extremists is not just destroying lives and alienating entire communities, it is destroying Pakistani society across the board."<sup>ccclxviii</sup>

Al Qaeda also maintains several bases in Pakistan and functions with the tacit assistance of the Pakistani military establishment.

The Wikileaks cables also establish the extent of cooperation between Pakistan and Islamist militant groups in the region. Specifically, the documents reveal that the ISI worked with the Taliban to organize militants in order to fight American soldiers in Afghanistan and formulate plans to assassinate Afghan leaders.<sup>ccclxix</sup> David Rohde, the New York Times reporter who was kidnapped by the Taliban, said in an interview following the leak, “These cables confirm what myself and other reporters have suspected for years, and what I saw firsthand on the ground, and that is that Pakistan is aiding the Haqqani network — a major and one of the most deadly Afghan Taliban factions. And it’s sort of been an open secret. The positive side from an American perspective on these cables is that they show that the U.S. government is sort of on top of what’s happening in Pakistan, and they do understand the dynamics at work there.”<sup>ccclxx</sup>

Islamists have also increasingly started to impose Islamic law in areas under their control, particularly in the Khyber Pakhtunkwa Province and the tribal areas. According to reports from the region, “Taliban militants are beheading and burning their way through Pakistan’s picturesque Swat Valley and residents say the insurgents now control most of the mountainous region outside the lawless tribal areas where jihadists thrive.”<sup>ccclxxi</sup>

In addition, a fact-finding mission by the HRCP found that in Charsadda District, “[s]everal video shops were bombed and even bank employees were warned to wear Islamic dresses and female workers [were ordered] to stop working in banks.”<sup>ccclxxii</sup> Furthermore, the Pakistani Taliban destroyed approximately 150 schools in northwestern Pakistan and ordered all privately administered schools in the Swat Valley to close.<sup>ccclxxiii</sup> The brutal attack on 14 year-old Malala Yousafzai was a prime example of the Taliban’s power and influence in these areas.

Moreover, in July 2009, Taliban militants in Khyber Pakhtunkwa forced religious minorities to pay a punitive tax known as *jizya* (a tax historically imposed on non-Muslims living under Islamic rule) in return for their protection.<sup>ccclxxiv</sup> The head of the Karachi Hindu Panchayat said, “We are under more and more of a threat because of these extremists, but we ourselves feel if we take the wrong step, even to tell of the wrong things, then it will be death for us. We worry about the future of our families and our children here in Pakistan - all of us (minorities) do today because of these extremists.”<sup>ccclxxv</sup>

The reach of extremists has now extended far beyond the tribal areas, with Islamists targeting civilians, human rights activists, and military targets in major cities throughout the country.<sup>ccclxxvi</sup>

Equally troubling is the increasing Islamization of society and attempts by religious groups to erase all aspects of non-Muslim culture from Pakistani life. This includes shared Indian and Pakistani cultural festivals, such as the spring festival of Basant, recently banned by the Punjab provincial government due to its Hindu roots.

Similarly, the burgeoning popularity of Islamic themed television shows and “Islamic TV evangelist[s]” that preach religious intolerance are cause for serious concern.<sup>ccclxxvii</sup>

The live television broadcast of a Hindu boy's conversion to Islam was a particularly disturbing example of this phenomenon. The conversion occurred on a special Ramadan (a month considered holy to Muslims) program hosted by anchor Maya Khan and was featured on the popular ARY Digital channel. During the show, the Hindu boy, Sunil, was officially converted to Islam by a Muslim cleric, Maulana Mufti Muhammed Aqmal, after reciting the Kalimah Tayyibah (a prayer frequently used to affirm one's faith in Islam). Although Sunil claimed that he converted out of his own free will, it is unclear whether there were threats or intimidation prior to the show. Regardless, Sunil's conversion was flaunted in a display of religious triumphalism, and greeted with celebrations from the audience, accompanied by suggestions for new Muslim names. After Sunil was renamed Muhammed Abdullah, the program's host said she hoped Sunil "would become a good Muslim."<sup>ccclxxviii</sup>

## ***Social Persecution***

### ***Bonded Labor***

The bonded labor system in Pakistan systematically enslaves an estimated 1.7 million people, many of whom are young children. This modern day form of slavery primarily affects poor Hindus, who constitute the majority of bonded laborers, particularly in rural Sindh province where they work for Muslim landowners. Although the system is found primarily in Sindh, it is also practiced in parts of Punjab province.<sup>ccclxxix</sup> Agriculture, brick kiln, mining, and household are the major sectors that use bonded labor.<sup>ccclxxx</sup>

According to the UNHCR, “Estimates of bonded labor victims, including men, women, and children, vary widely, but are likely well over one million. In extreme scenarios, when laborers speak publicly against abuse, landowners have kidnapped laborers and their family members. Boys and girls are also bought, sold, rented, or kidnapped to work in organized, illegal begging rings, domestic servitude, prostitution, and in agriculture in bonded labor. Illegal labor agents charge high fees to parents with false promises of decent work for their children, who are later exploited and subject to forced labor in domestic servitude, unskilled labor, small shops and other sectors.”<sup>ccclxxxi</sup>

The U.S. Department of Labor maintains that the debt bondage system in Pakistan operates by “giving advances of *peshgi*” (bonded money) to a person. As long as all or part of the *peshgi* debt remains outstanding, the debtor/worker is bound to the creditor/employer. In case of sickness or death, the family of the individual is

responsible for the debt, which often passes down from generation to generation. In the case of children, the *peshgi* is paid to a parent or guardian, who then provides the child to work off the debt.<sup>ccclxxxii</sup> The system is characterized by patterns of abuse, detention, and exploitation.<sup>ccclxxxiii</sup> While describing their conditions, a group of released bonded laborers reported, “[T]hey were kept in illegal confinement by owners of brick kilns and worked there at gunpoint. They further told that owners of the brick kilns had also threatened to sell them in Quetta.”<sup>ccclxxxiv</sup>

In 1992, Pakistan passed the Bonded Labor (Abolition) Act, outlawing all forms of bonded labor and forgiving any outstanding debt owed by laborers to their employers.<sup>ccclxxxv</sup> Despite this legislation, local government officials have been uncooperative in ending the practice and securing the release of bonded laborers. Moreover, the police are often unwilling to register complaints against abusive landowners. Although human rights groups, particularly the HRCP, have helped release thousands of debt laborers, the laborers are frequently recaptured by their landlords.<sup>ccclxxxvi</sup>

Notwithstanding these efforts by human rights organizations and the passage of the Bonded Labor (Abolition) Act, the practice of debt labor continues to thrive and plague poor Hindus and other marginalized segments of Pakistani society. In one recent incident, a Muslim landlord burned alive his Hindu laborer, Roop Chand Bheel, for allegedly stealing cotton.<sup>ccclxxxvii</sup> Similarly, in another case, a Hindu peasant family has been incarcerated in their landlord’s private jail for more than 13 years. The family has yet to be released, as the Muslim landlord is influential and politically connected.<sup>ccclxxxviii</sup>

Many of the Pakistani Hindu refugees in India confirmed the prevalence of the bonded labor system and exploitation by feudal landlords, or *jagirdars*. Specifically, they stated that they were at the mercy of powerful Muslim landowners and subjected to oppressive working conditions.<sup>ccclxxxix</sup>

Desperate to pay off their debts and unable to access legal remedies, many vulnerable Hindu bonded laborers have been induced into converting to Islam by mosques and Islamic organizations who pay off their debt in return for their conversion.<sup>cccxc</sup>

## ***Institutional Discrimination***

### **Economic/Political Discrimination**

Hindus, along with other minorities, face systemic economic and political discrimination in Pakistan. The majority of Hindus in Pakistan are poor and economically marginalized, with large numbers enslaved in the bonded labor system. For example, during his visit with Hindu villagers, Pastor Rafique Bhatti of the Stephens Shaheed Foundation found that Hindus suffered from a lack of education and job opportunities. According to the villagers he met, the government failed to provide Hindu villages with basic facilities,

including regular water supply, electricity, medical treatment, and schools.<sup>cccxcxi</sup> Moreover, following the devastating floods of 2010 and severe monsoon rains in 2011, Hindus were reportedly turned away from government run food distribution centers and denied aid and shelter at charitable relief camps.<sup>cccxcii</sup>

Hindus are also severely underrepresented in government jobs. With the exception of former Supreme Court Justice Rana Bhagwandas, Hindus rarely hold top civilian or military positions.<sup>cccxciii</sup> According to a census of federal civil servants taken in 2006, only 0.21% of available civil service positions were held by Hindus. This is well below their overall population, which is approximately 1.6%.<sup>cccxciv</sup>

Hindu women are particularly marginalized in Pakistan with 87% of scheduled caste Hindu women illiterate.<sup>cccxcv</sup> Moreover, only 47% of minority women are educated, lower than the national average of 57 %, and far behind urban literacy among women, which was above 65%. And non-Muslim women in Pakistan suffer a higher infant mortality rate compared to the national ratio.<sup>cccxcvi</sup>

In addition, Hindu women have reportedly faced challenges when applying for computerized national identification cards (CNIC), as Hindu marriages are not recorded in the same manner as Muslim marriages. For example, Pram Sri Mai, a married Hindu woman who applied for a CNIC, was not only turned down by the National Database and Registration Authority, but also charged with “having an illicit relationship with a man and bearing illegitimate children.”<sup>cccxcvii</sup> As noted above, the Supreme Court recently ordered NADRA to issue identity cards to Hindu women and eased regulations on demonstrating proof of marriage.

Beyond economic discrimination, religious minorities, including Hindus, are politically disenfranchised and lack genuine representation. An HRCP report from 2007, for instance, found that a significant number of minority voter names was left off of voter lists in Sindh province.<sup>cccxcviii</sup>

Until recently, Pakistani Hindus had not organized politically. Beginning in the 1990s, however, Hindus became more assertive and joined alliances with other religious minorities. In 2002, they joined Christians and other groups to form the All Pakistan Minorities Alliance (APMA).

Hindus and other minorities achieved a rare political victory in 2002 with the removal of separate electorates for Muslims and non-Muslims. The separate electorate system had marginalized non-Muslims by depriving them of adequate representation in the assemblies. The Pakistan Hindu Welfare Association was active by convening a national conference on the issue in December 2000. And in 2001, Hindus, Christians, and Ahmadiyyas successfully conducted a partial boycott of the elections, culminating in the abolishment of the separate electorate system in 2002. This allowed religious minorities to vote for mainstream seats in the National and Provincial assemblies, rather

than being confined to voting for only minority seats.<sup>cccxcix</sup> Despite the victory, however, Hindus still remain largely disenfranchised.

Moreover, organizations such as the Pakistan Hindu Welfare Association, Pakistan Hindu Council, and coalitions of Hindu *panchayats* (local councils of elders) have led in political organizing.<sup>cd</sup>

With the upsurge in violence, kidnappings, and forced conversions, Hindu community organizations have also been more vocal in holding protests, demanding stronger legislation to protect minorities, and intervening in cases before the courts. For instance, Hindu leaders have advocated for new laws to prevent kidnappings and forced conversions, as well as measures to safeguard places of worship. After the demolition of a temple in Soldier Bazar in Karachi at the end of the 2012, Dr. Ramesh Kumar Wankwani of the Pakistan Hindu Council declared: “We want stringent laws against such criminals, so that punitive actions can be taken against those desecrating holy places.”<sup>cdi</sup>

Similarly, a September 2012 convention, held by the Hindu Welfare Panchayat of Pakistan and attended by more than 1,000 people in Umerkot, Sindh, called for an international commission to probe the persecution against Hindus in Pakistan.<sup>cdii</sup>

While many community organizations have become more active in recent years, many Hindus also allege that elected Hindu politicians have done little to represent the interests of the community and have instead pursued their own personal political interests.

### ***Educational Discrimination***

Systematic intolerance and hatred for non-Muslims is entrenched in Pakistan’s education system. Pervez Hoodbhoi, a well-known Pakistani scholar, recently told a seminar at King’s college in London that schools in Pakistan promote extremist and anti-India views, contributing to militancy and terrorism in the country. Hoodbhoi presented several examples, including the use of the alphabet to encourage violent extremism, including A for “Allah,” B as “bandook [gun],” and J as “jihad,” among others. He also showed images used in Pakistani classrooms condemning items considered “sinful, such as kites, guitars, chess and carom (a popular board game in South Asia) boards, and musical instruments.”<sup>cdiii</sup>

Similarly, a recently released report by USCIRF confirmed the highly inflammatory content embedded in Pakistani textbooks and school curricula. The report utilized a study conducted by the International Center for Religion and Diplomacy (ICRD) and the independent Pakistani think tank, Sustainable Development Policy Institute (SDPI), which reviewed more than 100 textbooks from grades 1 through 10 from Pakistan’s four provinces. Students and teachers from public schools and madrasas were also interviewed in Khyber Pakhtunkhwa province, Balochistan, Sindh, and Punjab. Specifically, 37 middle and high schools were visited, with 277 students and teachers

interviewed individually or in group settings. Researchers also interviewed 226 madrasa students and teachers from 19 madrasas.<sup>cdiv</sup>

The study's findings show that social studies textbooks were rife with negative comments regarding India and Britain, but Hindus were particularly singled out for criticism in the books, as well as in the interview responses. Hindus were repeatedly described as extremists and the eternal enemies of Islam. Moreover, Hindu culture and society were portrayed as unjust and cruel, while Islam was portrayed as just and peaceful.<sup>cdv</sup>

The report also found that public school teachers were more favorably disposed towards "People of the Book" (i.e. Jews and Christians) "than they were toward the non-monotheistic traditions" (p. 15), implying Hinduism.<sup>3</sup> Furthermore, it indicates that the curriculum and textbooks for grades 1-3 "often integrate Urdu, Social Studies, and Islamic Studies into one textbook. A careful examination of the first grade textbook used for the integrated curriculum, titled *Meri Kitab*, or 'My Book,' which is compulsory for students, revealed that seven of the 16 total chapters contained Islamic sermons" (p. 41).<sup>cdvi</sup>

The study further noted, "Hindus are portrayed as enemies of Pakistan and Muslims in Urdu and Social and Pakistan Studies textbooks.... Hindus are often singled out as particularly inferior or evil" (p. 42).<sup>cdvii</sup> "Negative depictions of Hindus are manifested through both historical distortions and the framing of concepts through religious language that promotes the superiority of Islam over Hinduism..." (p. 44).<sup>cdviii</sup> In addition, the majority of public school teachers expressed the opinion that religious minorities must not be allowed to hold positions of power, in order to protect Pakistan and Muslims (p. 56).<sup>cdix</sup> Even more dangerously, "all of the (public school) teachers believed the concept of jihad to refer to a violent struggle, compulsory for Muslims against the enemies of Islam. Approximately 90% mentioned only violent struggle when referring to jihad, while the remaining teachers extended the understanding of jihad to encompass both violent and nonviolent struggle.... It is important to note that while many expressed the importance of respecting the practices of religious minorities, simultaneously 80% of teachers viewed non-Muslims, in some form or another, as the "enemies of Islam" (p. 57).<sup>cdx</sup>

Several previous studies on Pakistan's education system support the findings of the new USCIRF report. For example, the *Christian Science Monitor* cited a study managed by two British-Pakistanis, which found that social science and history textbooks contained "disturbing" themes such as "Pakistan is for Muslims alone," "[t]he world is collectively scheming against Pakistan and Islam," and "Muslims are urged to fight Jihad against the infidels." The study also said that textbooks portrayed Hinduism as an inherently iniquitous religion: devoid of equality.<sup>cdxi</sup>

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<sup>3</sup> This characterization of Hinduism as a non-monotheistic faith is simplistic and inaccurate and ignores the Hindu concept of "Brahman" – the supreme or cosmic consciousness.

Similarly, a National Commission for Justice and Peace (NCJP) report found that “Government-issued textbooks teach students that Hindus are backward and superstitious, and given a chance, they would assert their power over the weak, especially Muslims, depriving them of education by pouring molten lead in their ears...”<sup>cdxii</sup> The report added that students were taught that Islam brought peace, equality, and justice to the subcontinent, to check the sinister ways of Hindus. “In Pakistani textbooks Hindus rarely [appear] in a sentence without adjective[s] such as politically astute, sly or manipulative,” the report concluded.<sup>cdxiii</sup>

SDPI also showed that the education system contributed to the “culture of sectarianism, religious intolerance and violence.” SDPI found that the current curriculum and textbooks were “impregnating young and impressionable minds with seeds of hatred” to serve a self-styled ideological straitjacket. It also noted that there existed “substantial distortion of the nature and significance of actual events in Pakistan's history; insensitivity to the existing religious diversity of the nation; promotion of perspectives that encourage prejudice, bigotry and discrimination towards fellow citizens, especially women and religious minorities and other nations; a glorification of war and the use of force; and incitement to militancy and violence, including encouragement of loaded concepts like jihad and martyrdom.”<sup>cdxiv</sup>

Even basic references to minorities and their culture were removed from school textbooks. For instance, a paragraph describing the festivals of non-Muslims was removed from a chapter in an English language textbook.<sup>cdxv</sup>

The following extracts (translated from Urdu to English) from government-sponsored textbooks approved by the National Curriculum Wing of the Federal Ministry of Education provide additional examples of the derogatory and inflammatory portrayal of Hinduism to the children of Pakistan.<sup>cdxvi</sup>

- Grade IV: “The Muslims of Pakistan provided all facilities to the Hindus and the Sikhs who left for India. But the Hindus and the Sikhs looted the Muslims in India with both hands and they attacked their caravans, buses and railway trains. Therefore, about one million Muslims were martyred on their way to Pakistan... The Hindus treated the ancient population of the Indus Valley very badly. They set fire to their houses and butchered them...The religion of Hindus did not teach them good things, [and the] Hindus did not respect women.”
- Grade V: “The Hindu has always been an enemy of Islam.”
- Grade VI: “Before the Arab conquest the people were fed up with the teachings of Buddhists and Hindus...The Hindus who had always been opportunists cooperated with the British...The Hindus used to please the goddess Kali by slaughtering people of other religions...The Hindu setup was based on injustice and cruelty.”
- Grade VII: “Hindus always desired to crush the Muslims as a nation [and] several attempts were made by the Hindus to erase Muslim culture and civilization...Some Jewish tribes also lived in Arabia. They lent money to workers and peasants on high

rates of interest and usurped their earnings. They held the whole society in their tight grip because of the ever-increasing compound interest.”

- Grade VIII: “Before Islam people lived in untold misery all over the world.”
- Grade IX: “In connivance with the (British) government the Hindus started communal riots and caused loss of life and property. At the time of prayers the Hindus tortured the Muslims by playing music in front of the mosques.”
- Grade IX – X: “One of the reasons of the downfall of the Muslims in the sub-continent was the lack of the spirit of jihad.”
- Grade X: “Islam gives a message of peace and brotherhood...There is no such concept in Hinduism.”

Since 2002, the United States Agency for International Development (USAID) has invested more than \$600 million dollars to reform Pakistan’s education system, including modernizing and improving the curriculum and textbooks. Pakistan’s Ministry of Education, however, has failed to implement significant reforms or remove inflammatory language from textbooks that demonize minorities.

In addition, several government run schools, particularly in Sindh, force Hindu students to take Islamic studies classes. Hindu students and other minorities are denied the opportunity to take classes in their own religions and often struggle in the Islamiyat courses. These schools include N.A. Bechar Government Primary School, also known as Syed Mahmood Shah Gazi and Sindh Madrasatul Islam School, in Karachi. Although the education board has technically implemented an alternative ethics course, in reality the schools and teachers still force non-Muslim students to take the Islamiyat classes.<sup>cdxvii</sup>

Many Pakistani Hindu refugees in India confirmed the compulsory Islamiyat lessons in schools in Sindh and southern Punjab. In fact, several parents indicated that they took their students out of schools because there were forced to learn about Islam and read the Koran. Furthermore, they contended that their children were frequently bullied by their Muslim peers and harassed by teachers.<sup>cdxviii</sup>

### ***Pakistani Hindu Refugees***

In recent years, there have been growing reports from Hindu community organizations, media outlets, and human rights groups of an upsurge in the migration of Pakistani Hindus to India. The Pakistan Hindu Council, for instance, now asserts that more than 50 Hindu families are migrating to India from Pakistan every month due to ongoing fear and insecurity amongst the community.<sup>cdxix</sup>

While some groups dispute these figures and claim that only a handful of Hindus have migrated to Pakistan, the consistent reports of migration from various sources tend to

substantiate the high estimates. In August, 60 Hindu families (250-300 people) from Balochistan and Sindh reportedly left for India after selling their properties.<sup>cdxx</sup>

Moreover, another group of Hindus that arrived in India in August on religious pilgrimage visas indicated that they had no intention of returning to Pakistan. They also contended that hundreds, if not thousands of Pakistani Hindus are waiting to migrate to India.<sup>cdxxi</sup> And in September, an additional contingent of 204 Hindus arrived in the northwestern city of Jodhpur from Pakistan's Sindh province.<sup>cdxxii</sup>

Similarly, community organizations in India working with the refugees confirm that large numbers of Hindus are taking refuge in India.<sup>cdxxiii</sup>

Although there has been a steady flow of Hindus crossing the border into India in the post-partition period, there have been three primary phases of migration, in addition to the latest which began in 2009: (1) 1965, (2) 1971, and (3) the post-1992 era. In 1965, for example, 8,000 Pakistani Hindus migrated to the state of Rajasthan alone, while approximately 90,000 arrived in 1971, and nearly 20,000 in the post-1992 period. A fourth period of migration appears to have emerged around 2009, when more than 6,000 Pakistani Hindus sought sanctuary in India.<sup>cdxxiv</sup> Since then, approximately 1,000 Pakistani Hindus have settled in Rajasthan annually, notwithstanding migration to other Indian states. And this number is likely to continue unabated, if not significantly increase, according to Hindu Singh Sodha, Chairman of Seemant Lok Sangathan (SLS), the primary community-based organization assisting Pakistani Hindu refugees in western Rajasthan.<sup>cdxxv</sup>

With the exception of those arriving during the 1971 Indo-Pakistan War, Pakistani Hindus have not been formally recognized as "refugees" by the Indian government or the United Nations High Commissioner for Refugees (UNHCR). Despite the absence of this official recognition, however, they meet the criteria for refugee status under international law due to their well-founded fear of persecution and Pakistan's failure to protect them.<sup>cdxxvi</sup> Unfortunately, in early 2013, the Indian government announced that it would not accord refugee status to Pakistani Hindus.<sup>cdxxvii</sup>

In India, Rajasthan has seen the largest influx of Hindu refugees, and there are now at least 400 refugee settlements scattered throughout the western parts of the state. Amongst cities in Rajasthan, Jodhpur has the highest concentration of Pakistani Hindus, followed by Jaisalmer, Bikaner, Ganganagar, and Jaipur. Moreover, SLS volunteers contend that Pakistani Hindus can be found in almost every district of Rajasthan.<sup>cdxxviii</sup>

Other areas of India, such as Punjab, Haryana, Gujarat, Madhya Pradesh, and the capital of New Delhi also host sizeable Pakistani Hindu populations. In Madhya Pradesh, for instance, there are approximately 10,000 Pakistani Hindus living across the state. During 2012, one thousand Pakistani Hindus migrated to the city of Indore

alone.<sup>cdxxxix</sup> Additionally, there is a settlement in the city of Khanna, Punjab that houses an estimated 1,200 refugees.<sup>cdxxx</sup>

In early 2013, HAF visited three refugee camps in Jodhpur to conduct an independent human rights fact-finding trip and medical mission. Specifically, from January 14 to January 19, 2013, HAF's Director/Senior Human Rights Fellow, Samir Kalra, Esq., accompanied by a team of Hindu American doctors, toured three Pakistani Hindu refugee settlements in Jodhpur. The visit was hosted by Hindu Singh Sodha and other SLS volunteers.

The majority of refugees met in the camps originated from Pakistan's Sindh province, or the districts of Rahim Yar Khan and Bahawalpur in southern Punjab province. Moreover, they primarily belonged to the Bhil and Meghwar tribal communities. Regardless of tribal affinity or provincial origin, the Pakistani Hindus we encountered in Jodhpur presented similar narratives of persecution and religious intolerance in Pakistan, some of which are described in earlier sections of this report.<sup>cdxxxii</sup>

The refugees lived in appalling conditions in makeshift camps that lacked basic infrastructure, including clean water, sanitation systems, toilets, and appropriate shelter. They were also in dire need of adequate food supply, health care, employment opportunities, education, and legal status.<sup>cdxxxiii</sup> Legal status, in particular, was a significant concern for the refugees, most of whom lacked Indian citizenship or refugee status. As a result, they were unable to access government benefits and unable to move freely throughout India on their provisional visas.<sup>cdxxxiii</sup>

The refugees further suffered from a wide array of medical conditions, such as psychosomatic symptoms (physical manifestations of mental or psychological issues), respiratory disease, hypertension, diabetes, and metabolic syndrome, which is defined as a "cluster of conditions — increased blood pressure, a high blood sugar level, excess body fat around the waist or abnormal cholesterol levels — that occur together, increasing your risk of heart disease, stroke and diabetes."<sup>cdxxxiv</sup>

Similarly, malnutrition and other lifestyle disorders, including obesity, elevated blood pressure, and cardiovascular disease associated with a lack of health awareness were also frequently encountered. And finally, infectious disease and common infections, such as coughs and colds were noted with regular frequency amongst both adults and children.<sup>cdxxxv</sup>

While HAF's visit was limited to refugee camps in Jodhpur, the conditions confronted were likely reflective of the situation facing other Pakistani Hindus across India. The refugees, however, were by and large grateful to be living in India free from religious persecution.

Given Pakistan's unwillingness to address the plight of its minorities in a meaningful way, it is likely that Hindus will continue to migrate to India in large numbers.

## **Violations of Constitution and International Law**

### ***Constitution of Pakistan***

Articles 20, 21 and 22 of Pakistan's Constitution guarantee religious freedom and safeguards to its citizens.<sup>cdxxxvi</sup> For example, Article 20 states, "Every citizen shall have the right to profess, practice and propagate his religion; and every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions."<sup>cdxxxvii</sup> However, Article 19 of the Constitution asserts: "Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defense of Pakistan," thus subordinating basic fundamental rights to the supremacy of Islam.<sup>cdxxxviii</sup> Consequently, despite the assurances provided in Articles 20-22, Article 19 establishes justification for the persecution of Hindus, Christians, and Ahmadiyyas, including the destruction and desecration of their places of worship and punishment under the blasphemy laws.

Article 25 of the Constitution maintains: "All citizens are equal before law and are entitled to equal protection of law...There shall be no discrimination on the basis of sex alone."<sup>cdxxxix</sup> Contrary to this constitutional guarantee of equal protection, women regularly face rape, honor killings, and domestic abuse without adequate protection from Pakistani laws. Moreover, they continue to face a myriad of inequalities in the judicial system, and will continue to do so, as long as the Hudood Ordinance remains in effect.

Article 35 mandates, "The State shall protect the marriage, the family, the mother and the child."<sup>cdxli</sup> Article 36 states, "The State shall safeguard the legitimate rights and interests of minorities, including their due representation in the Federal and Provincial services."<sup>cdxlii</sup> In reality, however, neither the rights of families nor minorities are being protected by Pakistan; kidnappings and forced conversions of Hindu girls continue to occur at a high rate.

### ***International Human Rights Law***

The Government of Pakistan ratified the International Covenant on Civil and Political Rights (ICCPR) on June 23, 2010. However, while doing so, the Government entered numerous reservations to the Covenant, making its implementation subject to numerous Islamic provisions in its Constitution. The reservations pertained to key provisions of the ICCPR, such as freedom of opinion, right to life and – importantly for the country's democratic development – elections and participation in public affairs.<sup>cdxliii</sup> Despite its reservations, Pakistan is still bound by the principles enshrined in the ICCPR under customary international law.

Several of the Articles encompassed in the ICCPR have been repeatedly violated by Pakistan. For instance, Article 18 protects the basic "right to freedom of thought,

conscience and religion."<sup>cdxliii</sup> The blasphemy laws and their application to minorities, clearly violate this article. Moreover, under Articles 26 and 27, religious minorities are guaranteed equality before the law and freedom of religion without discrimination.<sup>cdxliv</sup> Contrary to Articles 26 and 27, however, the constitutional preference for Islam, religious identification laws, and depiction of Hinduism in school textbooks, all promote discrimination against Hindus. Additionally, the forced marriage of kidnapped Hindu girls to Muslims clearly contravenes Article 23(2), which states, "No marriage shall be entered into without the free and full consent of the intending spouses."<sup>cdxlv</sup>

Other international covenants and human rights treaties are also relevant to the situation in Pakistan. For instance, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, applies to Pakistan's treatment of its religious minorities, particularly Hindus. The Declaration mandates that each person has the right to practice the religion of his/her choice and should not be subject to persecution based on his belief system.<sup>cdxlvii</sup> The institutionalization of Islam by the government, however, has led to the social, economic, and political discrimination of Hindus and other religious groups. Moreover, contrary to the Declaration, Hindus have been subjected to violence, conversions, and other acts of intolerance at the hands of Muslim extremists with the active or inactive support of government officials.

Furthermore, the Convention on the Elimination of All Forms of Discrimination against Women requires the equal treatment of men and women before the law and calls for an end to discrimination against women in all aspects of life.<sup>cdxlviii</sup> In addition, according to Article 4 of the Declaration on the Elimination of Violence against Women, "States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women."<sup>cdxlviii</sup> The continued use of the Hudood Ordinance, abduction and conversion of Hindu girls and systematic oppression and violence against women are flagrant violations of these two conventions.

The Slavery Convention of 1926 strove to bring about "the complete abolition of slavery in all its forms."<sup>cdxlix</sup> Similarly, under the Abolition of Forced Labor Convention, countries are required to take all necessary steps to suppress and completely abolish the practice of debt bondage or any other type of "forced or compulsory labor."<sup>cdl</sup> The Pakistani government has violated the tenets of both the Forced Labor Convention and the Slavery Convention of 1926 by failing to take adequate measures to end the bonded labor system. Although the practice was officially outlawed in 1992 through the Bonded Labor (Abolition) Act, government officials have refused to enforce it and are often complicit in allowing the practice to continue. Moreover, since debt bondage is the modern equivalent of slavery, Pakistan's actions have also violated the Slavery Convention.

Regardless of whether Pakistan has signed or ratified all relevant human rights treaties, it is still bound by their provisions under customary international law, which holds nations accountable for the protection of basic universal human rights.

The forced displacement of Hindus, as a result of persecution and religious discrimination, across Pakistan's international border entitles them to refugee status under the 1951 Geneva Convention.

## **Conclusion and Recommendations**

As in previous reports, we once again express serious concern over the Pakistani government's continued failure to protect minorities and its complicity in perpetuating human rights violations. However, we realize that the present government is weak and therefore, unable to institute any real meaningful change without the consent of the military establishment. Nonetheless, HAF calls on the Government of Pakistan to take immediate steps for the protection of religious minorities from violence, rape, kidnapping, and forced conversions. In addition, the Pakistani government should institute changes to the education system, and textbooks that promote discrimination and glorify violent jihad should be discarded. Religious minorities must also be allowed to independently manage their own religious institutions and places of worship free from government interference, and representatives from the Hindu and Sikh communities should be given full control over the Evacuee Trust Property Board.

Furthermore, current legislation and constitutional provisions have proven ineffective in protecting minorities from discrimination and violence. HAF thus supports the repeal and/or revision of all discriminatory and inequitable laws. We also advocate the recommendations of Pakistani American comparative law expert, Waris Husain, who calls for the creation of an administrative agency to adjudicate claims of discrimination by state actors. Additionally, Husain suggests the introduction of hate crime legislation to protect religious minorities, as well as a law that provides a basis for minorities to file civil suits for monetary damages against private citizens for acts of discrimination.

It is also imperative that the Pakistani government creates an independent human rights body and a new minorities' commission to investigate and effectively address all forms of violence and discrimination against minorities. The current National Commission on Minorities has failed to protect the rights of minorities and is considered ineffective by human rights groups.

In the alternative, the existing Commission should be strengthened and given greater policy making powers. Currently, the Commission can make recommendations to the government, but implementing the Commission's suggestions is not required. For instance, in May, the Commission recommended the enactment of a new statute, preventing girls newly converted to Islam from being married to a Muslim man for at least six months. The proposed law further requires a judicial magistrate, rather than a

police officer, to record the statement of the convert. This was intended to curtail the high number of forced conversions and marriages, but there is no indication that the government plans on introducing such a law. Similarly, the Commission suggested that the chairman of the ETPB should be a non-Muslim to preclude the illegal occupation or illegal sales of Hindu and Sikh places of worship.<sup>cdli</sup>

Finally, the U.S. and the international community must continue to exert pressure on Pakistan to rescind its discriminatory laws, ensure equality for all its citizens, and protect minorities from rampant violence.

Unfortunately, America's long-term support of Pakistan and the supply of billions of dollars in military aid have convinced Pakistan's military leadership that it need not implement serious reforms or address human rights violations.<sup>cdlii</sup> The U.S. government has provided more than \$20 billion in civilian and military aid to Pakistan since September 11, 2001. Of that, nearly \$5 billion was in civilian assistance to help rebuild Pakistan's civil society, reform education, and provide relief to the poor, women, and the marginalized. However, little of the money has been used for its intended purpose.<sup>cdliii</sup> Additionally, much of the military aid has been redirected towards attempting to destabilize India.

Consequently, HAF recommends that the provision of any future military aid should be conditional on Pakistan ending all support for Islamic extremist groups and verifiable steps by the government to dismantle the terrorist infrastructure in the region. Furthermore, the Pakistani military must provide strict accounting for every dollar it receives, and it must not divert any funds to terrorist groups who seek to destabilize India. Civilian assistance to Pakistan should be contingent on meaningful constitutional and legal reform to provide equality and religious freedom for minorities. Alternatively, humanitarian and economic assistance should be provided for the benefit of the country's marginalized minorities.

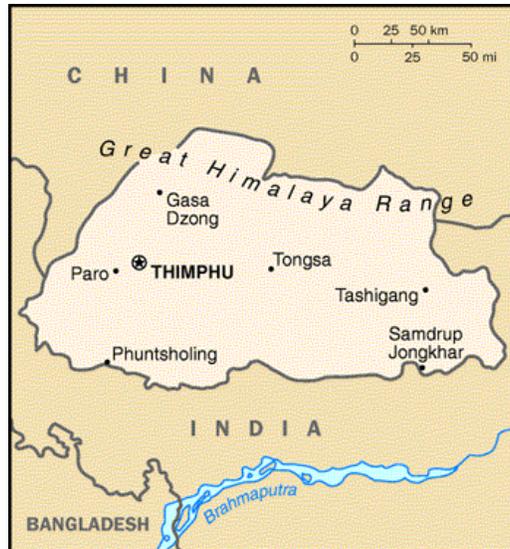
The U.S. Department of State should classify Pakistan as a *Country of Particular Concern* (CPC) due to its blatant disregard for human rights and religious freedom. This would be consistent with USCIRF's recommendation over the past several years.

The international community must similarly exert diplomatic and economic pressure on Pakistan to improve its human rights record, protect minorities, reform its legal framework, and strengthen democratic institutions. The United Nations, for instance, should censure Pakistan through resolutions, while the International Monetary Fund and the World Bank should place preconditions on future loans.

In addition, India ought to bring up the issue of Pakistani Hindu refugees at regional and international forums, given that the influx of Pakistani Hindus across the border significantly impacts India as well. A durable and long-term solution must be found to address their needs, including the accordance of refugee status under international law.

# Countries of Serious Concern

## Kingdom of Bhutan



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**Area:** 47,000 square kilometers

**Population:** 708,427 (July 2011 estimate)

**Religion:** Lamaistic Buddhist 75%, Indian and Nepalese-influenced Hinduism 25%; Buddhism is the state religion; Hinduism is officially recognized but discouraged; Christianity was not recognized but the government was preparing, at the end of 2010, to give Christianity official recognition.<sup>cdliv</sup>

**Ethnicity:** Sarchokpas (40% -- Buddhist), Lhotshampas (35% -- Hindus who speak Nepali and Hindi), Ngalungs/Ngalongpa (20%), Brokpas, Doyas, Bumthangpas, Khengpa and Adivashis.<sup>cdlv</sup>

**National Language:** Dzongkha (official); Bhotes speak various Tibetan dialects, while Nepalese speak various Nepalese dialects.<sup>cdlvi</sup>

**Location:** Southern Asia, between China and India

## Introduction

Bhutan is a multi-religious, multi-cultural, and multi-lingual society. However, according to its former King, “Pluralism [is] only practical for a larger country where a diversity of customs, traditions and culture enriches that nation. A small country like Bhutan cannot afford the luxury of such diversity which may impede the growth of social harmony and unity among its people.”<sup>cdlvii</sup> This attitude led to a series of official government policies aimed at forced ethnic and religious cohesion, which resulted in systematic persecution of the minority Hindu Lhotshampa (ethnic Nepali) population. As a result, an estimated 113,000 Bhutanese refugees (mostly Hindus) were forced out of their homeland and sought refuge in neighboring countries, including India and Nepal.

In 2012, the Bhutanese government continued to remain obstinant and refused to make any concessions towards rehabilitating the Bhutanese refugees or affirming their right to return. Several countries, however, have agreed to resettle many of the refugees. More than 69,000 Bhutanese refugees have been resettled to date, including over 37,000 in the United States.<sup>cdlviii</sup> The resettled Bhutanese Hindu community in the U.S. reported facing a number of challenges in their new home, including a high incidence of mental illness and suicide, difficulty obtaining employment, and difficulty retaining their cultural and religious traditions in an attempt to assimilate.

When the “resettlement movement” first started in 2007, there were approximately 108,000 Bhutanese refugees in the camps. As of July 2012, the United Nations High Commissioner for Refugees (UNHCR) estimated that there were still 44,000 Bhutanese refugees living in Nepal.<sup>cdlix</sup>

At the start of the year, a team of HAF doctors led a fact-finding mission to United Nations High Commissioner for Refugees (UNHCR) administered camps in Damak, Nepal, where they conducted a detailed medical assessment on the needs of the refugees. Based on their findings, dental care and mental health emerged as the two areas of greatest concern and required urgent assistance. Consequently, HAF and UNHCR formed a joint partnership to address both these needs over the next three years.<sup>cdlx</sup>

Beyond the refugee issue, there was little improvement in the human rights situation for minorities within Bhutan itself. With the exception of the construction of a new Hindu temple in the capital city of Thimpu, Hindus continued to face inequitable policies, discrimination, and arbitrary restrictions on religious freedom.

According to the Centre for Protection of Minorities and Against Racism and Discrimination in Bhutan (CEMARD-Bhutan), the “human rights situation in Bhutan began to deteriorate from the early 1990s,” and the genesis of the present political crisis in Bhutan is the result of “fundamental weaknesses arising from the socio-political institutions and feudal attitudes.”<sup>cdlxi</sup> CEMARD claims that these institutions and attitudes have worked towards creating a national identity based on the narrow Drukpa

Kargyudpa tradition of Mahayana Buddhism and the imposition of a Drukpa Kargyudpa culture and values on a multi-cultural and multi-ethnic society.<sup>cdlxii</sup>

On December 4, 2009, Bhutan presented its first human rights report to the Universal Periodic Report Review Committee of the United Nations Human Rights Council (HRC) in Geneva.<sup>cdlxiii</sup> In the course of its review, the Council made 99 recommendations to Bhutan to improve the human rights situation in the country. Amongst its recommendations was a call for the Bhutanese government to enhance efforts to implement a durable solution for those refugees still living in camps on the Bhutan-Nepal border.<sup>cdlxiv</sup> The Council further emphasized the need for Bhutan to demonstrate “that its commitment to resolving the [refugee] issue is not mere rhetoric and that it is not depending on other countries to take full responsibility through third country resettlement.”<sup>cdlxv</sup>

During the Geneva session, the refugee issue was raised by a number of European countries including Bhutan’s major donors -- The Netherlands, Denmark, and Norway. Bhutanese official delegates failed to effectively address the issue.<sup>cdlxvi</sup> The U.S. delegate also raised the issue of the unsolved refugee crisis as well as Bhutan’s failure in implementing several necessary acts and protocols, including the citizenship act.<sup>cdlxvii</sup>

Although the Bhutanese government accepted a majority of HRC’s recommendations, it has thus far failed to take any meaningful steps towards resolving the plight of refugees still remaining in the camps.

The Bhutanese government has also failed to establish an independent human rights body per the Council’s recommendations and said the matter is under “active consideration.” Bhutan’s next review by the Council will take place in 2013, where the government must report on its progress on the recommendations it has accepted.<sup>cdlxviii</sup>

Ironically, in a nation touted as “heaven on earth” and world renowned for its “gross national happiness” index, the rights and religious freedom of Bhutanese minorities continue to be curtailed.

## **History/Background**

An absolute monarchy since 1907, Bhutan unveiled its first draft Constitution in 2005, which was subsequently accepted by the Parliament. According to the draft Constitution, Bhutan would be a “Democratic Constitutional Monarchy” indicating that power would remain with the King, thereby preventing the establishment of a true democracy.

On March 24, 2008, Bhutan held its first general elections for the National Assembly.<sup>cdlxix</sup> Two parties – the Druk Phuensum Tshogpa (DPT) and the People’s Democratic Party (PDP) – registered and contested the elections. The third political party, the Bhutan National Party (BNP), had its registration papers rejected allegedly because its policies

were contrary to the “spirit of the constitution.”<sup>cdlxx</sup> This move demonstrated the limits of democratic reform in Bhutan.

Moreover, within the Democratic Constitutional Monarchy framework, real power still lies with the royal dynasties and is passed through hereditary blood lines. For example, the fourth hereditary King Jigme Singye Wangchuck shifted power to his heir Crown Prince Jigme Khesar Namgyel Wangchuck on December 9, 2006. Prior to the Wangchuck dynasty coming to power, the country was under the administrative control of the Buddhist theocratic leader, Zhabdrung Ngawang Namgyel.

Bhutan is home to a number of ethnic and religious groups, including Drukpa Buddhists and Hindu Lhotshampas. Although Drukpa Buddhists are politically and religiously dominant, Lhotshampas comprise a substantial minority. The Lhotshampas are descendants of Nepalese who moved to the southern lowlands of Bhutan in the nineteenth century. The Hindu Lhotshampas remained largely unintegrated with Bhutan’s Buddhist Druk majority. However, under Bhutan’s Nationality Law of 1958, they were allowed to hold government jobs and enjoy Bhutanese citizenship.

By the 1980s, however, Bhutan’s king and the ruling Druk majority expressed concern over the rapidly growing Lhotshampa population. There was also apprehension about the influx of Nepali migrants into Bhutan and the higher birth rate of the Lhotshampas. The Druks feared that this demographic population shift threatened their predominance in society and Buddhist culture.<sup>cdlxxi</sup>

During the 1980s, the Bhutanese authorities adopted a series of nationalist policies that sought to undermine the influence of the ethnic Nepalis. In 1985, the government established new eligibility requirements for Bhutanese citizenship that disenfranchised many ethnic Nepalis, depriving them of their citizenship and civil rights despite their longstanding residence in Bhutan. In addition, the government introduced measures to rigidly enforce the Drukpa dress code and forbid the use of Nepali in the educational curriculum.<sup>cdlxxii</sup>

In the name of national integration, the government implemented various ethnically, religiously, and linguistically discriminatory policies such as the “One Nation, One People” policy aimed at forced homogenization of a multi-ethnic society. This policy was designed to annihilate the culture, religion, and language of Lhotshampas (ethnic Nepalis) and other minority ethnic, religious, and linguistic groups. Under its regulations, all other ethnic and minority groups are required to disregard their distinct social and cultural identities and conform to the socio-religious framework created by the politically and economically dominant Drukpa Kargyudpa, to which the royal family belongs. This dangerous ideology has already led to the expulsion and deprivation of rights of the Hindu Lhotshampas and other dissidents through intimidation and the use of force.

The government pursued an increasingly violent pogrom of intimidation of the Lhotshampas in southern Bhutan. Their property was destroyed, and activists were arbitrarily detained and tortured. Individuals were forced to sign “voluntary migration certificates” before being expelled from the country. In December 1990, the authorities announced that Lhotshampas, who could not prove they were residents of the country before 1958, must leave the country. This made tens of thousands of Lhotshampas stateless, forcing them to flee to Nepal and the Indian state of West Bengal. It is estimated that more than 100,000 Bhutanese citizens, approximately one-sixth of the kingdom’s total population of around 700,000, have been forced to leave.<sup>cdlxxiii</sup>

Dilli Ram Dhimal, a 73 year old Hindu Lhotshampa, recently recounted how he and his family were forced to leave Bhutan. According to an American journalist for *The Nation*, who spoke with Dhimal in a refugee camp in Nepal:

*Dhimal describes the day in June 1992 when Tshring Togbe, the district magistrate, arrived in Lali accompanied by Bhutanese soldiers. Togbe called the villagers to assemble and then announced over a loudspeaker that they had seven days to pack up their belongings and leave the country. He spoke to them in Nepali. When a few of the peasants protested, an army officer shouted, ‘This is a hunting ground, and we can take you like monkeys.’*

*Dhimal, his wife and five young children decided to leave. They had heard of people being killed in neighboring villages. He thought he would return in a few weeks, when things settled down. Before trekking toward the Indian border, he released his cattle.<sup>cdlxxiv</sup>*

In addition, Bhutan has used Buddhism as a political tool in a manner that suits the interests of the ruling elite. Consequently, over the years, the Bhutanese polity has become increasingly communalized. Politics is practiced along ethnic lines and has been monopolized by members of Drukpa Kargyudpa.

Although the former monarchy is now seemingly transitioning to a democracy, many of the discriminatory policies favoring Buddhists and Buddhist culture remain in place.

## **Status of Human Rights, 2012**

As reported in previous years, a number of human rights issues facing Bhutanese minorities remained unresolved in 2012, including forced ethnic and religious assimilation, institutional discrimination, and widespread restrictions on religious freedom. Government permission for the construction of a new Hindu temple in Thimpu was largely seen as a positive move, but was also emblematic of the government’s arbitrary power to authorize new places of worship and its preference for Buddhist religious sites.

Moreover, Amnesty International expressed concerned about continuing reports of discrimination against Lhotsampas living in Bhutan.<sup>cdlxxv</sup>

Similarly, there was also no significant improvement in the conditions of thousands of Bhutanese Hindu refugees still languishing in the refugee camps on the Bhutan-Nepal border.

The Bhutanese Advocacy Forum in Europe as well as other Bhutanese organizations continued to raise concerns over the current human rights situation in the country and the ongoing plight of exiled Bhutanese citizens. For example, Bhutanese rights activists addressed the Hague on December 7, 2011 and the European Parliament on December 8, 2011, and provided an overview of the prevailing human rights situation in Bhutan, and the status and fate of the refugees.<sup>cdlxxvi</sup>

In particular, they requested the European Union to send an independent monitoring team to observe “the effective implementation of those recommendations accepted by Bhutan during the Sixth Universal Periodic Reviews in March 2010,” and that another team should be sent to Damak, Nepal to monitor the screening of the Bhutanese refugees’ resettlement process.<sup>cdlxxvii</sup> In addition, the activists alleged that the Bhutanese government’s decision to change the names of villages and towns in southern Bhutan was an attempt to remove any sign of Lhotsampa culture and should consequently be viewed as “a form of ethnic cleansing.”<sup>cdlxxviii</sup>

Furthermore, a new report, *Human Rights and Justice in Bhutan*, summarizes the plight of minorities in Bhutan and specifically asserts that the Bhutanese government has delayed repatriation of Bhutanese refugees, restricted voting rights of the nearly 80,000 Nepali-speaking people still living in the country, and failed to set up a human rights mechanism to monitor the condition of minorities, and the population at large.<sup>cdlxxix</sup> The report also provides that there are no independent human rights organizations in Bhutan and that the state has denied education to thousands of children as parents failed to provide a “no objection certificate” (this certificate states that neither the applicant nor their relatives are involved in the democracy movement and other ‘anti-national’ activities and is extremely difficult to obtain).<sup>cdlxxx</sup>

The following sections provide an overview of the human rights situation in Bhutan.

### ***Religious Freedom***

Bhutan’s constitution and legal framework express explicit preference for Buddhism by indicating that Buddhism is the state’s “spiritual heritage.” This has led to state favoritism for Buddhism over other religions.<sup>cdlxxxi</sup>

Similarly, although the constitution provides that “[n]o one shall be discriminated against on the grounds of race, sex, language, religion, politics, or other status” and purportedly allows for freedom of religion, in practice, the government’s policies actively discriminate against non-Buddhist minorities, including the Hindu Lhotshampas. Additionally, the

government possesses the power to arbitrarily restrict religious freedom in order to protect the country's Drukpa Buddhist identity or ensure stability.<sup>cdlxxxii</sup>

For example, the Bhutanese government officially subsidizes Buddhist temples, monasteries, and institutions and provides financial aid to large numbers of the country's Buddhist monks and nuns. On the other hand, non-Buddhist religious leaders do not receive financial assistance from the government.<sup>cdlxxxiii</sup>

Moreover, government authorization is necessary to build places of worship and reports from Non-Governmental Organizations (NGOs) indicate that Hindus are routinely denied permission to build new temples and no longer receive financial assistance for temple renovation or construction. Hindu groups suggest that they have been unable to build new temples since the early 1990s, although the government claims it recently approved the construction of a new temple in Thimpu.<sup>cdlxxxiv</sup>

Regardless, it appears evident that the construction of Buddhist places of worship has received government preference in comparison to Hindu temples.

Bhutan's government established a religious regulatory body in 2009 to "protect and preserve the spiritual heritage of the country" and register religious organizations. Known as the Chhoedey Lhentshog, this regulatory body has registered several Buddhist organizations, but only one non-Buddhist legal entity. The Hindu Dharma Samudaya (Hindu Religious Community) of Bhutan is the sole representative entity for Bhutan's entire Hindu minority, which is estimated at approximately 22% of the country's total population.<sup>cdlxxxv</sup>

By limiting the registration of non-Buddhist religious groups, the government is demonstrating state preference for Buddhism and restricting the rights of religious minorities.

In addition, Bhutanese law mandates the reservation of ten seats in the 150-seat National Assembly and two seats in the 11-member Royal Advisory Council for Buddhist monks. Although non-Buddhists may work for the government, there are no similar statutory provisions reserving seats for Hindus or other minorities.

Furthermore, according to the U.S. State Department, "Subtle pressure by the government on non-Buddhists to observe the traditional Drukpa values existed, including asking non-Buddhist students to participate in Buddhist prayer sessions and Buddhist rituals in schools."<sup>cdlxxxvi</sup>

Christianity is not officially recognized in Bhutan, and the government was still considering whether to provide the religion with official status.<sup>cdlxxxvii</sup> The government's concerns regarding the recognition of Christianity are based on trepidation of the vast amounts of money being poured into South Asia by Western Christian organizations for

the purposes of proselytization and building churches. According to Dorji Tshering of the Bhutan government, “Conversion must not be forced, because it causes social tensions which Bhutan cannot afford to have. However, the constitution says that no one should be forced to believe in a religion, and that aspect will be taken care of. We will ensure that no one is forced to convert.”<sup>cdlxxxviii</sup>

## ***Social Persecution***

### **Refugees/Third Country Resettlement**

In the early 1990s, Bhutan forcibly evicted more than 100,000 ethnic Lhotshampas, the vast majority of whom were Hindu, and comprised nearly one sixth of the kingdom's total population of approximately 700,000. As noted above, the majority initially fled to India and Nepal, with many still living in UNHCR administered refugee camps.

Foreign governments have spent approximately \$20 million per year on assistance and protection programs for the refugees. Children in the camps are provided with education up to the secondary-school level, and the Lhotshampa leadership takes an active part in administering the camps. However, there is considerable frustration among the refugees over their prolonged exile. These frustrations are especially pronounced among the younger generation who constitute the highest proportion of the refugee population and lack opportunities for further education, employment, and advancement. Health conditions are also difficult, with many refugees suffering from psycho-social issues and basic dental care.

Efforts toward arriving at a solution for the protracted refugee situation have faced challenges despite attempts at negotiation between neutral third parties and the governments of Bhutan, Nepal, and India. The government of Nepal opposed local integration and pushed towards the refugees' eventual repatriation to Bhutan, while offers of third-country resettlement from the international community created serious division and debate within the refugee communities. The majority of refugee leaders in Nepal, who view repatriation as the only durable solution, have opposed the resettlement plan. According to many international observers, particularly human rights organizations, Bhutan's behavior towards the Lhotshampas is tantamount to ethnic cleansing given the Bhutanese government's refusal to pursue any resolution of this crisis.<sup>cdlxxxix</sup>

As of 2012, more than 69,000 Bhutanese refugees had been resettled in other countries since the resettlement program first began in November 2007.<sup>cdxc</sup> The U.S. has accepted the largest number of refugees – nearly 42,000 – and the Bhutanese resettlement program is now the third-largest resettlement operation in the United States. Other countries that have resettled Bhutanese refugees and offered them citizenship include Canada, Australia, New Zealand, Norway, Denmark, the Netherlands, and the United Kingdom.

A number of Bhutanese refugees have also been living in India without refugee status. Consequently, they have been unable to avail themselves of the protections and benefits normally accorded those with refugee status. They are forced to work as manual laborers to survive and live on the margins of society.<sup>cdxcxi</sup>

In the U.S., Bhutanese refugees have been resettled in all 50 states and receive support from U.S. federal and state governments as well as non-governmental organizations. However, approximately 44,000 Bhutanese refugees remain stranded in Nepal as refugees under the care of the United Nations and dependent on food aid from around the world.<sup>cdxcii</sup>

Refugees who continue to be resettled throughout the U.S. have faced a number of challenges assimilating to their new homes. For instance, the Bhutanese refugee community in the U.S. has a high incidence of mental health issues and high suicide rates. The Office of Refugee Resettlement (ORR) reported that there were sixteen suicides by Bhutanese refugees between 2009 and 2012. Moreover, according to the ORR study, 43% of those surveyed reported difficulty maintaining their cultural and religious traditions.<sup>cdxciii</sup>

In Seattle, a number of them shared horror stories of being forced out of Bhutan, not being wanted in Nepal, and waiting long years to be resettled elsewhere.<sup>cdxciv</sup> Some of these newly resettled Bhutanese have complained that they are under tremendous pressure from local missionary groups to convert to Christianity. Many Christian groups, including Bhutanese and Nepali Christians, in the guise of helping Bhutanese Hindus, have been active in compelling these Hindus to listen to the “story of Jesus,” and to be accepted and loved by “God.”<sup>cdxcv</sup>

Similarly, Bhutanese community members in Denver, Colorado described how members of a Christian church in their neighborhood were actively trying to convert Hindus, particularly targeting teenagers, who were particularly impressionable.<sup>cdxcvi</sup>

And during conversations with community leaders last June in Oakland, several of them narrated stories of Christian missionary groups preying upon them and taking advantage of their vulnerable socio-economic status.<sup>cdxcvii</sup>

Furthermore, a member of the local Hindu community in Cleveland, Ohio, who tutored Bhutanese Hindus, retold the story of two refugees committing suicide after being deceptively converted to Christianity. He specifically noted:

*They met a Pastor that guided them to a Church where they could get married, even though the Pastor knew they were Hindu. The Bhutanese thought it was part of the American culture to get married in the Church. The Pastor told the Bhutanese that they need to be Baptized in order to get married, to which again the Bhutanese thought it was part of the American culture. The Bhutanese just wanted to be accepted in the community and get married but did not know that*

*they were being converted to Christianity. Upon realizing this after a conversation with their own Bhutanese community, the Bhutanese felt ashamed and betrayed. The result was suicide.*<sup>cdxcviii</sup>

On the other hand, Bhutanese refugees have also found support in various cities across the country. For instance, in Dallas, Texas, Sewa International, a Hindu charitable organization, has provided assistance to the refugees, and approximately 400 Bhutanese refugees resettled in the Cleveland, Ohio area were provided support by the local Hindu community.<sup>cdxcix</sup> Similarly, in Philadelphia, Pennsylvania, in conjunction with the Hindu American Foundation, the Bhutanese refugees established the Bhutanese American Project and recently founded a community center.

### ***Institutional Discrimination***

Institutional discrimination remains pervasive in Bhutan, with conformity to the state's cultural and religious identity required of all citizens. In fact, under the Kingdom's laws, the King has the mandate to protect this Drukpa Buddhist identity, leading to inequality for ethnic, linguistic, and religious minorities.

In recent years, minorities have faced discrimination in access to education, employment, health care, land ownership, and voting rights. For example, during the elections in 2008, thousands of Lhotsampas were arbitrarily denied voting rights based solely on their ethno-religious background and affiliation with relatives living in refugee camps in Nepal and/or involvement in the 1990 anti-government demonstrations.<sup>d</sup> Additionally, many ethnic Nepalis were denied citizenship cards following the 2005 census, effectively rendering them stateless.<sup>di</sup>

Similarly, Lhotsampas confront inequality in employment opportunities and are not entitled to employment in the national airlines, the postal service, the ministries of home and foreign affairs, and the police and army.<sup>dii</sup> The government has also discriminated against minorities by denying them the security clearance necessary to obtain business licenses and other government facilities. Moreover, Bhutan has still not rectified the flaws in the system of birth registration for children born after 1990 (Bhutan ratified Convention on the Rights of the Child [CRC] in 1991), resulting in problems accessing education and health services for minority children.<sup>diii</sup>

Moreover, the Lhotshampas reportedly feel alienated and "culturally and politically discriminated against by the ruling Drukpas."<sup>div</sup>

In response to the widespread persecution and discrimination faced by Bhutanese minorities, some ethnic Nepali groups have pursued the use of violence against the government and are suspected of orchestrating several bomb attacks in the country. There have also been reports of police abuse and arbitrary arrests of Lhotshampas suspected of involvement with violent anti-government activities.<sup>dv</sup>

The roots of the current institutional discrimination and repression can be traced back to January 6, 1989, when the King issued a royal decree called *Driglam Namzha* as part of the promotion of a distinct national identity and the “One Nation, One People” policy. The policy deals with matters such as how to eat, sit, speak, dress, and bow down before authorities in true, medieval, feudalist style. The dress code, which came into enforcement on May 1, 1989, strictly banned both men and women from wearing any dresses other than the type worn by the royal elites: *Gho* for men and *Kira* for women (robe like dresses).<sup>dvi</sup>

The guidelines, set forth by the former King, imposed the Drukpa Kargyudpa traditions and customs on the multi-ethnic and multi-cultural society. The *Driglam Namzha* decree had its greatest impact on the minority Hindu Lhotshampas. For instance, the teaching of the Nepali language, spoken by the Lhotshampas, was removed from the school curriculum and the Dzonkha language, developed in the 1980s, made compulsory. Moreover, naturalization of citizens was based on the ability to speak and write Dzonkha.

According to CEMARD, “The feudalistic attitude of the royal regime has imposed and prescribed strict adherence to the set of Buddhist dogmas and beliefs among the Bhutanese population. *Driglam Namzha* designed within the traditional attire of Drukpa Kargyudpa tradition directly attacks the custom and values of non-Drukpa Kargyudpa followers. The theocratic ideology of clerics profoundly influences the administration and poses a challenge to the creation of a modern secular nation-state. The regime’s bogey of preserving traditions and culture through the newly drafted constitutional provisions seems to be a shield for protecting feudal and despotic rule.”<sup>dvii</sup>

## **Violation of Constitution and International Law**

### ***Constitution of Bhutan***

According to Article 3 of the Bhutanese Constitution, “Buddhism is the spiritual heritage of Bhutan, which promotes the principles and values of peace, non-violence, compassion and tolerance,” and the King is the protector of all religions in Bhutan.<sup>dviii</sup> By officially recognizing Buddhism in the Constitution, Hinduism and other religions are relegated to an inferior status and subject to discriminatory policies.

Article 7 guarantees all Bhutanese “the right to life, liberty and security of person,” and “the right to freedom of speech, opinion and expression.”<sup>dx</sup> Moreover, Article 7, section 4 guarantees Bhutanese citizens “the right to freedom of thought, conscience and religion,” and assures that “no person shall be compelled to belong to another faith by means of coercion or inducement.”<sup>dx</sup> Despite the assurances contained in Article 7, religious intolerance has forced nearly 100,000 Lhotshampas out of Bhutan.

Section 15 of the Constitution guarantees every citizen equality before the law without discrimination based on “race, sex, language, religion, politics or other status.”<sup>dxii</sup> The

government's support for the "One Nation, One People" policy and favoritism towards Buddhists and Buddhist institutions, however, systematically violates the provisions guaranteed under Section 15.

### ***International Human Rights Law***

The Bhutanese government has signed and ratified the following six international human rights covenants, treaties and conventions:

- Convention on the Elimination of All Forms of Discrimination against Women (1979)
- Convention on the Rights of the Child (1989)
- Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (1949)
- Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (1949)
- Geneva Convention relative to the Treatment of Prisoners of War (1949)
- Geneva Convention relative to the Protection of Civil Persons in Time of War (1949)

The government, however, has failed to sign a number of other significant human rights treaties protecting civil, political, and religious rights. Despite this, the government should be held accountable for providing fundamental human rights to all its citizens, as enshrined in the International Bill of Human Rights (1948) and required under customary international law.

Unfortunately, Bhutan's nationalist policies violate basic norms of international law by institutionalizing discrimination against minorities, restricting religious freedom, and marginalizing the more than 100,000 Lhotshampa refugees forced out of the country. Moreover, the government's continued refusal to repatriate exiled Lhotsampa citizens is a violation of their fundamental human rights

In addition, although Bhutan ratified the Convention on the Rights of the Child in 1989, its citizenship requirements that both parents must be of Bhutanese nationality exclude thousands of Lhotsampa children who are effectively stateless – a violation of Article 7 and 8 of the Convention. Similarly, since none of the refugees have been allowed to return to Bhutan, the separation of families caused by the forced expulsion is a violation of Article 10. And the right to education under Article 28 has not been realized as the Nepali language is still forbidden in schools, and ethnic Nepalis continue to experience difficulties in obtaining admission into schools.

## Conclusion and Recommendations

The lack of basic fundamental human rights continues to be an ongoing problem for minorities in Bhutan as well as Bhutanese refugees that have now spent more than 20 years living in squalid refugee camps. According to the exiled Bhutan leader, Rongthong Kuenley Dorji (R.K. Dorji), New Delhi-based President of the Druk National Congress (DNC): “The real sense of human rights exists only on paper post 2008... The real sense of democracy is absent, so the real sense of human rights is also absent.”<sup>dxii</sup>

For thousands of refugees, resettlement in foreign nations is still the only available option and they are now being resettled in countries where they face huge challenges acclimating to the local cultures. HAF urges Bhutan to accept and repatriate all those who are able to prove their nationality through reasonable means, while Nepal should make a similar offer to integrate some refugees. Moreover, those Bhutanese Hindus living in India should be accorded official refugee status and provided with basic government assistance. We support other human rights agencies’ calls that “ultimately, each and every refugee should have the right to choose their own future.”<sup>dxiii</sup>

The Asian Centre for Human Rights (ACHR) alleges that Bhutan has not provided a written commitment to take back the refugees who have proven their citizenship, and joint verification was conducted only in one out of the seven refugee camps. Without a written commitment, there is no guarantee that Bhutan will take back its nationals.

The government of Bhutan must also revise its constitution and legal framework to remove any preferential language for Buddhism, and adopt equitable policies towards all religions. Furthermore, the ruling government’s attempt to forcibly homogenize the cultural identity of the country must end, thereby allowing all ethnic and religious minorities to assert their independent identities.

HAF also supports the following recommendations previously made by ACHR and other human rights agencies, such as Human Rights Watch and Amnesty International:<sup>dxiv</sup>

- “Bhutan must take practical and concrete steps to demonstrate its stated commitment to a just resolution of the longstanding refugee crisis.”
- “Bhutan, Nepal and UNHCR should adopt a Memorandum of Understanding (MOU) for voluntary repatriation that includes a clear statement of rights and entitlements upon the refugees’ return to Bhutan - including full citizenship rights and human rights protections.”
- “An accelerated and simplified verification exercise needs to be carried out in the six camps which have not yet been screened, based on two categories only: Bhutanese and non-Bhutanese.”
- “Donors, UN agencies and Bhutan's other partners should insist on measures to eliminate discrimination against Lhotshampas who have remained in Bhutan since

the exodus of refugees, and to ensure the protection of their fundamental human rights and their right to participate as full citizens of Bhutan.”

- “Bhutan’s development partners should urge the [Government]...to regularize the nationality status of Lhotshampas who have no prospect of claiming any nationality other than Bhutanese...and [d]onors should provide increased support for new programs and projects in the south of Bhutan and the east of Nepal to create new economic and educational opportunities which do not discriminate in purpose or effect, including on the basis of race or ethnicity; and to facilitate voluntary repatriation and local integration.”

# Indian State of Jammu and Kashmir



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**Area:** 85,807 square miles

**Population:** 12,548,926 (2011 estimate<sup>4</sup>),<sup>dxvi</sup> Muslims (66.97% in 2001), Hindus (29.63% in 2001), Sikhs (2.03% in 2001), Buddhist and others, including Christians (1.36% in 2001)

**Religions:** Islam, Hinduism, Sikhism, Buddhism, and Christianity; majority Muslim with a large Hindu minority and smaller Sikh and Buddhist communities; close to 400,000 Hindus and Sikhs currently live as refugees in other parts of India

**Languages:** Kashmiri, Urdu, Gojri, Dadri, Dogri, Pahari, Balti, Ladakhi, Punjabi

**Location:** Northern India, bordered by Pakistan on the west and China on the east

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<sup>4</sup> The estimated population is that of the Indian part of Jammu and Kashmir and does not include the population of "Azad Kashmir" and "Gilgit and Baltistan," both of which are contested areas between Pakistan and India. "Azad Kashmir" has an estimated population of 4.6 million and "Gilgit and Baltistan" an estimated population of 1.8 million. The population figures presented above also do not include the population of "Aksai Chin," the eastern part of Jammu and Kashmir occupied by China. The population of "Aksai Chin" is considered minimal.

## Introduction

2012 marked the second consecutive year with a decline in terrorism related violence in India's state of Jammu and Kashmir. The reduction in violence led to an upsurge in tourism as 1.5 million tourists visited the state during the year, leading the British government to remove a travel advisory to the region in place for a number of years. Similarly, as the South Asia Terrorism Portal (SATP) noted, "There are indications, moreover, that public sentiment is changing, with the enthusiasm for the secessionist cause, and in favour of Pakistan, diminishing sharply. Nevertheless, lingering irritants persist."<sup>dxvii</sup>

Despite these improvements, Pakistan continued to foment cross-border terrorism in Kashmir, maintaining a terrorist infrastructure and training camps on its side of the border.<sup>dxviii</sup> As a result, Pakistani supported militants attacked innocent civilians and Indian security forces in Kashmir throughout 2012. For instance, on March 22, a car bomb in Srinagar killed at least one person and injured 23. While no specific group claimed responsibility for the attack, police recovered evidence pointing to the involvement of local militants.<sup>dxix</sup>

Militants also targeted several local self-governing village councils in an attempt to derail elections in the state, with at least six village council leaders killed since the end of 2011. Known as Gram Panchayats, the councils were created to encourage grass-roots democracy and elected four representatives for the state legislature in December 2012, recording a 96% voter turnout.<sup>dx</sup> These and other attacks reinforced the need for the Armed Forces Special Powers Act (AFSPA) to remain in place in the State until the security situation has been fully resolved. The Act, however, has drawn considerable criticism from human rights groups and Kashmiri political parties for giving law enforcement overly broad powers. On the other hand, it has been supported by minority groups in the state, especially Kashmiri Hindus.<sup>dxxi</sup>

In response to Pakistan's ongoing support for the insurgency, the British government called on Pakistan to "end all external support for violence in Kashmir..." and urged "the government of Pakistan to take action against the presence and activities of militant groups in Pakistan-administered Kashmir."<sup>dxxii</sup>

Instead, Pakistan intensified its cross-border attacks in Indian Kashmir through the beginning of 2013. In January 2013, for instance, its military personnel in conjunction with several militants crossed the internationally recognized Line of Control dividing the two countries and attacked an Indian army patrol, killing two soldiers. The Indian soldiers, Lance Naik Hem Raj and Lance Naik Sudhakar Singh, were captured and

beheaded by the Pakistani intruders, causing significant uproar in India. The Indian government, however, refrained from retaliating militarily.<sup>dxxiii</sup>

In addition to direct involvement in the militancy, Pakistan has actively waged a propaganda war on the Kashmir issue in an attempt to manipulate U.S. and international policy makers. Specifically, the arrest and conviction of the Kashmiri American Council (KAC) executive director, Syed Ghulam Nabi Fai, for engaging in illegal lobbying activities on behalf of Pakistan's ISI, demonstrated the extent of ISI activities in the United States. According to the U.S. Department of Justice, KAC, otherwise known as the Kashmir Center, was created by the ISI to specifically promote Pakistan's agenda on Kashmir amongst U.S. government officials and policy makers. Similar centers were also set up by Pakistan in London and Belgium to disseminate anti-India and pro-Kashmiri separatist propaganda on the Kashmir issue.<sup>dxxiv</sup>

Fai, who was sentenced to two years in prison in 2012, is also being sought out by the Indian government for his connection to the insurgency. Indian law enforcement and intelligence agencies are preparing the groundwork to obtain an Interpol Red Notice (similar to an international arrest warrant) for Fai, as well as Lashkar-e-Taiba (LeT) chief Hafiz Saeed and Hizbul Mujahideen leader Syed Salah-ud-din.<sup>dxxv</sup>

Beyond Pakistan's meddling in Kashmir, the situation has been further complicated by attempts by outside parties to interfere in the state's affairs. For instance, the Wikileaks diplomatic cables show that both Saudi Arabia and Iran have supported or tried to influence Muslim elements in the Kashmir Valley.<sup>dxxvi</sup> The Indian government reportedly expressed deep concern over Saudi funding of extremist groups in Kashmir.<sup>dxxvii</sup>

A recent report alleged that Saudi Arabia has promoted Wahhabism through a local organization known as Jamiat Ahl-e-Hadith and funded more than 700 mosques in the Kashmir Valley. According to Indian intelligence sources, Saudi charities have funneled large sums of money to Wahhabi groups in Kashmir through illegal hawala networks. Local Kashmir groups, such as the Jammu and Kashmir Peace Foundation (JKPF), are worried by the influx of Saudi influence in the state, and believe that Saudi funded madrassas and schools are indoctrinating their students in Islamic extremism.<sup>dxxviii</sup>

Similarly, the Organization of the Islamic Conference (OIC) recently named a special envoy to Kashmir.<sup>dxxix</sup> And there were reports that even Libya was involved in trying to influence politics and promote pro-Pakistan sentiments in the Kashmir region. Despite such external intrusions, however, a survey published by the Royal Institute of International Affairs and Kings College, London found that 98% of Kashmiris on the Indian side of Jammu and Kashmir did not wish to be a part of Pakistan; and 50% of the people in Pakistan occupied Kashmir did not wish to remain with Pakistan either.<sup>dxxx</sup>

Meanwhile, 21 years after Islamic extremists ethnically cleansed nearly 400,000 Kashmiri Hindus (known as Pandits) from their homeland in the Kashmir Valley using

threats, intimidation, and murder, the central and state governments have failed to safely rehabilitate the Pandits back to their homes or adequately address their needs. Successive governments in both Srinagar and New Delhi have demonstrated neglect, apathy, and futility in resolving the plight of the Kashmiri Pandits.<sup>dxv</sup> The total Kashmiri Hindu Pandit population is now estimated at only 700,000 and is scattered throughout the world, with many still living in refugee camps and only approximately 3,000 remaining in the Valley.<sup>dxvii dxviii</sup> According to U.S. Senator Sherrod Brown, Kashmiri Pandit culture is on “the verge of extinction and can prosper only in its native land of Kashmir Valley.”<sup>dxix</sup>

A recent Indian media report profiled the lives of several traumatized Kashmiri Pandits living in exile, including Vinod Dhar, whose entire family of 23 members was massacred when he was only 14 years-old, leaving him as the lone survivor.<sup>dxv</sup> Similarly, another Kashmiri Pandit refugee, living in poor conditions in a camp in Jammu, observed: “This is the Kashmir we had nurtured with our blood and look how they [Muslims] hated us. Wasn't what we experienced a genocide?”<sup>dxvii</sup>

The Indian Supreme Court further criticized the state government's ineffectiveness in helping the Kashmiri Pandits when it asked: “Tell us what have you (state government) done with your promise of providing 15,000 jobs? Have you given a single job? Or, for that matter, have you given them a single house.”<sup>dxviii</sup> The court also asked the state government to explain whether it had invalidated even a single house sale, since hundreds of Kashmiri Pandit houses had been auctioned and sold illegally between 1990 and 1997, after the Pandits fled the Valley.<sup>dxix</sup>

2012 also witnessed demonstrations and hunger strikes by Kashmiri Pandits “against the alleged illegal sale of temple properties and encroachments in Kashmir Valley and in support of setting up of temple and shrine properties trust in Jammu and Kashmir.”<sup>dxv</sup> Similarly, the All Parties Migrant Coordination Committee (APMCC), an apex body representing Pandit interests, also called on the government to arrange for Kashmiri Hindus to visit the pilgrimage site of Sharda Peeth Temple in Pakistan Occupied Kashmir, amongst other demands.<sup>dxvii</sup>

Despite widespread agitation by Kashmiri Hindu groups to pass legislation to protect and preserve Hindu temples and shrines, the government had still not made any progress towards the end of 2012. As a result, Kashmiri Hindus are still unable to control their own temples and religious institutions.<sup>dxviii</sup>

The lack of support from the central Indian and Jammu and Kashmir state governments has also led Kashmiri Pandits to appeal to the international community and the U.S. government for assistance. For example, in 2010, Kashmiri Pandit leaders met top Obama administration officials and legislators from both parties to plead their case.<sup>dxvix</sup> Moreover, on August 1, 2011, U.S. Congressman Frank Pallone (D-NJ) sponsored U.S. House of Representatives Resolution 387 (H. Res. 387), which recognizes the violations Indian State of Jammu and Kashmir

of religious freedom and human rights faced by the Kashmiri Pandits since 1989, and demands the terrorist infrastructure in the region be dismantled. H. Res. 387 has been co-sponsored by Representatives Rush Holt (D-NJ), Joe Wilson (R-SC), Ed Royce (R-CA), Mike Honda (D-CA), Gus Bilarakis (R-FL), John Garamendi (D-CA), Gary Peters (D-MI), Pete Stark (D-CA), Steve Rothman (D-NJ), and Joe Walsh (D-IL).<sup>dxliii</sup>

## History/Background

Kashmir, once known for its idyllic beauty, has historically been inhabited by Hindus and Buddhists, and had a majority Hindu population until the 14th century when Islamic invaders entered the region. Ancient Kashmir was renowned as a center for Hindu and Buddhist learning and was ruled by Hindu kings until 1339. Hindus indigenous to the Kashmir Valley, known as Kashmiri Pandits, are the original inhabitants of Kashmir and have a unique ethno-religious culture that dates back more than 5,000 years.<sup>dxliiv</sup>

Following waves of Islamic invasions, numerous foreign origin Muslim rulers occupied Kashmir until 1819. Under Muslim rule, Hindus faced periods of persecution resulting in several mass migrations of Hindus from Kashmir.<sup>dxliv</sup> Sikhs gained control over the region in 1819 and ruled Kashmir until 1846, followed by the Hindu Dogra (an ethnic group native to the Jammu region in the state) reign from 1846 to 1947.<sup>dxlvi</sup>

Modern Kashmir has been claimed by both Pakistan and India since partition of the subcontinent in 1947.<sup>dxlvii</sup>

The Princely State of Kashmir, which was ruled by the Dogra king Hari Singh at the time of partition, joined the Indian Union after Pakistan's armed forces orchestrated an invasion of Kashmir using Pashtun "tribesmen" and regular military personnel. Following the Pakistani offensive, Hari Singh signed the Instrument of Accession formalizing Kashmir's legal accession to India.<sup>dxlviii</sup> The Instrument of Accession was the standard legal mechanism used by the Princely States of British India to join either India or Pakistan at the time of independence in 1947.<sup>dxlix</sup> The accession was also approved by the largest and most popular Kashmiri political party, the All Jammu and Kashmir National Conference, led by the charismatic Muslim leader, Sheikh Mohammed Abdullah.

Once Kashmir legally joined India, Indian forces were deployed to stop the advancing Pakistani military, leading to an all out war between the two countries.<sup>dl</sup>

India then sought the intervention of the United Nations (UN), and the UN Commission for India and Pakistan (UNCIP) was established to examine the situation. In April 1948, the UN Security Council passed Resolution 47 which required (1) the demilitarization of the region, and (2) a plebiscite to decide the future of the princely state. The Resolution, however, clearly required that Pakistan must first withdraw all its military personnel and

“tribesmen” from the state as a necessary pre-condition to holding a plebiscite.<sup>dli</sup> According to the UNCIP’s findings in August 1948, Pakistan not only failed to abide by the Resolution, but actually increased its military presence in Kashmir.<sup>dlii</sup> Despite Pakistan’s military aggression and flagrant violation of Resolution 47, the Security Council failed to take appropriate action against the government of Pakistan.

After a ceasefire was agreed to in January 1949, Pakistan remained in control of approximately one-third of the state while the remaining two-thirds were incorporated into India under Article 370 of the Indian Constitution. The Indian Constitution, which came into effect on January 26, 1950, granted special status to Kashmir through Article 370. Article 370 is a special clause that made “Jammu and Kashmir a country within a country, with its own flag, emblem, constitution and Sadr-i-Riyasat (Prime Minister).”<sup>dliii</sup> Moreover, it restricted the Indian Parliament’s legislative power over J&K to defense, foreign affairs, and communications. Thus, in order for the Parliament to apply other laws to J&K, it required the State’s concurrence. Perhaps, the worst consequence of Article 370 is its restriction on people moving from other parts of India to the state. Although there was considerable opposition to granting special status to the state, India’s first Prime Minister Jawaharlal Nehru insisted on the inclusion of Article 370 to accommodate Kashmiri Muslims.<sup>dliiv</sup>

Subsequently, local elections were held in Indian Kashmir in 1951 where Sheikh Abdullah’s National Conference won a resounding victory. And in 1956, the Jammu and Kashmir Constituent Assembly voted to approve the merger of Kashmir with India.<sup>dliiv</sup>

The former princely State of Jammu and Kashmir has a total area of 85,807 sq. miles and is now divided between three countries.<sup>dlivi</sup> Pakistan occupies approximately 28,160 sq. miles, known as Pakistan occupied Kashmir (PoK), or the supposed Azad (free) Jammu and Kashmir (AJK) and the Northern Areas. PoK comprises eight administrative districts (Muzaffarabad, Mirpur, Neelum, Kotli, Poonch, Sudhanoti, Bhimber, and Bagh), with an area of 5,134 sq. miles and an estimated population of 3.5 million.<sup>dliiii</sup> The people of PoK are mostly Sunni Muslims, who speak a mix of Punjabi, Pahari, and Pushto. ***There are virtually no Hindus left in PoK.*** The Northern Areas have a Shia Muslim majority population, with significant numbers of Ismailis and Nurbakshis (a Sufi sect). Shia-Sunni tensions have frequently run high here, and there have been periodic riots. In PoK, the Pakistani government has failed to provide basic rights and democratic representation to the Kashmiri people. Moreover, local Kashmiris are discriminated against, while Pakistanis are given preferential treatment.<sup>dliiii</sup>

China controls a total of 16,500 sq. miles, of which 2,000 sq. miles in the Shaksgam Valley was ceded to them by Pakistan in a 1963 boundary settlement (which India does not accept). The remaining 14,500 sq. miles, known as Aksai Chin was seized by China during the 1962 Indo-China war. Chinese occupied Kashmir is predominantly Buddhist.<sup>dlix</sup>

And finally, the remaining territory forms the Indian state of Jammu and Kashmir, which is divided into three main parts: Kashmir Valley, Jammu, and Ladakh. The Kashmir Valley has six districts, with an area of 6,157 sq. miles and a population of just over four million. The main language is Kashmiri, with Gojari being spoken to a lesser extent. Most Valley Muslims are Sunni, with concentrations of Shias in certain areas. The Jammu region also includes six districts, with a total area of 10,151 sq. miles. In Jammu, Hindus comprise 65.23% of the population, Muslims 30.69%, and Sikhs 3.57%. Ladakh, which includes the districts of Leh and Kargil, has an area of 37,337 sq. miles. Buddhists enjoy a slight majority in Ladakh (45.87%), with a substantial Muslim population of 47%, and Hindus, Sikhs, and others at 6.2%.<sup>dlx</sup>

Starting in 1989, Islamic terrorism gripped the Kashmir Valley, and a brutal campaign of violence and ethnic cleansing was directed against the state's minority Hindu population. As a result, between 1989 and 1991, more than 300,000 Hindus were driven out of the Valley by Muslim extremists (some estimates put the figure at close to 400,000), who engaged in brutal ethno-religious cleansing. These Hindus (Kashmiri Pandits) now live in refugee camps throughout Delhi and Jammu.<sup>dlxi</sup> Although the violence initially targeted Kashmiri Pandits in the Valley, Islamic militants subsequently expanded their operations to attack Hindu civilians throughout the state. It is estimated that since 1989, nearly 105 educational institutions run by Kashmiri Hindus were burned down or destroyed, 103 temples and religious sites demolished, 14,430 businesses and shops destroyed, and more than 20,000 Kashmiri Hindu homes destroyed, looted, or occupied.<sup>dlxii</sup> There has also been a concerted effort to erase other signs of Kashmir's Hindu history. For instance, in March 2009, a Muslim member, Peerzada Manzoor Hussain, introduced a bill in the Jammu and Kashmir Legislative Assembly to change the name of historic Anantnag town to Islamabad.<sup>dlxiii</sup> Muslim politicians in the Kashmir Valley are reportedly already referring to Anantnag as Islamabad in official communication.<sup>dlxiv</sup>

The Islamic extremists in Kashmir were recruited, trained, funded, and given refuge by Pakistan's military and powerful Inter-Services Intelligence (ISI) agency. According to former scholar and the current Pakistani ambassador to the U.S., Husain Haqqani, the violence in Kashmir was "rooted in the ideology of Pakistani Islamists, carefully nurtured for decades by the Pakistani military."<sup>dlxv</sup> In fact, the founder and former head of the outlawed Lashkar-e-Taiba affirmed that "killing Hindus" was the best solution to resolve the six-decades-old dispute between Pakistan and India over Kashmir.<sup>dlxvi</sup>

Haqqani further asserted that the objectives of Pakistan's support for the insurgency were two-fold: (1) destabilize India through asymmetric warfare by fomenting violence in Jammu and Kashmir through militant groups, and (2) spread global jihad.<sup>dlxvii</sup>

Supporting jihad in Kashmir became an instrument of official Pakistani state policy, and the ISI organized and centrally controlled the insurgency, while dictating the operations

and targets of the militants groups. A separate Kashmir cell was created within the ISI that was responsible for recruiting, training, and arming militants.<sup>dlxviii</sup>

Terrorists operating in Kashmir also have ties with Al-Qaeda in the Pakistan-Afghanistan border areas, which continues to be the center of Islamist terror networks, fundamentalism, drug trafficking, illicit trade in small arms, and international terrorism.<sup>dlxix</sup>

For a complete list of Pakistani militant groups operating in J&K, please see *Appendix B*.

Since its inception, the Pakistani fueled insurgency has resulted in the loss of thousands of lives. Separatists Kashmiri politicians and leaders assert that more than 100,000 Kashmiri civilians have been killed by security forces since 1989. Carefully documented evidence and data, however, indicate the following: In the last 21 years, 43,460 people have been killed in the Kashmir insurgency. Of these, 21,323 were terrorists or “militants,” 13,226 were civilians killed by “militants,” 3,642 were civilians killed by security forces, and 5,369 policemen killed by “militants.” The 21,323 “militants” were killed in operations by security forces and include both Kashmiri and foreign “terrorists.” Of the 5,369 security forces killed, approximately 1,500 were Kashmiri policemen.<sup>dlxx</sup>

Considering the Pakistani military/government’s preoccupation with promoting jihad in Kashmir and the explosion of Islamic fundamentalism, the future of peace in Kashmir remains tenuous.

## **Status of Human Rights, 2012**

During the course of 2012, Hindus and other minorities continued to face challenges throughout Jammu and Kashmir, including discrimination, lack of religious freedom, and violent attacks. Moreover, the vast majority of Kashmiri Pandits remain displaced with government plans to rehabilitate and resettle Pandits in the Valley inadequate and incomplete. In fact, Pandit organizations have been critical of both the central and state governments for their failure to fully implement rehabilitation proposals, as well as inability to help those still living in the Valley.

In addition, groups such as Panun Kashmir, have reiterated their demand for a separate Kashmiri Pandit homeland carved out of the Kashmir Valley (and within India), as they believe their interests would not be protected under current resettlement plans.<sup>dlxxi</sup>

Furthermore, those Kashmiri Hindus still living in squalid refugee camps continue to be economically and politically disenfranchised. Similarly, they suffer from ongoing mental and emotional trauma, including high rates of dementia, insomnia, depression, and hypertension.<sup>dlxxii</sup> Separatist leaders and ordinary Kashmiri Muslims, however, have

shown little concern for the rights and needs of the Pandits and remain largely silent when Islamic extremists carry out acts of terrorism.<sup>dlxxiii</sup>

Human rights agencies have also accused Indian security forces of committing human rights abuses against Kashmiri Muslims in the state.<sup>dlxxiv</sup> In response, the Human Rights Cell of the Western Command of the Indian Armed Forces presented a detailed report of all allegations of human rights violations against the Army in Jammu and Kashmir during the last two decades. The report specifically shows that out of a total of 1,508 allegations of human rights violations received between 1990 and 2008, only 35 cases were found to be accurate, while the remaining 1,453 charges (97.70%) were "baseless and without an element of truth." It further mentions that strict action was taken in all cases where Army personnel were found to be guilty of human rights violations.<sup>dlxxv</sup>

Moreover, in 2011, the chief spokesman of the separatist Hurriyat Conference, Abdul Ghani Bhat, publicly acknowledged that many of the state's moderate separatist leaders, including Mirwaiz Mohammed Farooq, Abdul Gani Lone, and Abdul Ahad Wani, had not been killed by "the [Indian] army or police but [by] their own people."<sup>dlxxvi</sup> This assessment indicating that many Kashmiri leaders had been targeted and murdered by other hardline Kashmiri separatists was in stark contrast to what had been previously reported by the media and human rights organizations for several decades.

On a positive note, terrorism in Jammu and Kashmir generally declined during 2012, with a total of 117 people killed in terrorist related violence. Out of that total, 16 were civilians, 17 were security force personnel, and 84 terrorists.<sup>dlxxvii</sup> This represents a decrease in the number of fatalities recorded in 2011 (183) and is significantly less than a decade ago: in 2001 there were 1067 civilian fatalities, 590 security personnel fatalities, and 2850 terrorist fatalities.<sup>dlxxviii</sup>

The continued presence of security personnel in the state combined with a sustained campaign to curtail the movement of terrorists into the state has led to the drastic reduction in terrorism related fatalities. The demands by some to abrogate the Armed Forces Special Powers Act (AFPSA), however, would deprive the security forces of the ability to effectively counter both cross-border terrorism as well as internal attempts at destabilizing the state and country and likely result in a renewed increase in violence. Kashmiri Hindu Pandits have opposed any move to curtail the AFPSA, arguing that it is necessary to maintain security in the state.<sup>dlxxix</sup>

While there are a number of complex dynamics at play in the state, including the viability of the AFPSA, the following section focuses on the human rights issues facing Hindus and other minorities in Kashmir.

## **Religious Freedom**

### **Hindu Pilgrimage Sites/Temples**

The basic right to worship freely without fear of persecution or attack is essential to the concept of religious freedom. Equally important is the right to access basic accommodations and facilities for pilgrims and devotees. Unfortunately, Hindus in Jammu and Kashmir have not enjoyed such religious freedom as they have frequently come under attack from Muslim fundamentalists, and many of their pilgrimage sites and temples continue to lack rudimentary facilities and accommodations. Furthermore, the Hindu Pandit community continues to lack the right to exercise independent control over their own religious institutions.

Since the start of the violence in 1989, over 170 Hindu temples in Kashmir have been destroyed or damaged.<sup>dlxxx</sup> Moreover, following the mass exodus of Hindus from the Kashmir Valley in 1989-1990, more than 100 religious sites have been illegally occupied by local Muslims. For instance, according to a recent fact-finding mission, the cremation site and temple land of Karihama-Gutingu in Kupwara district, Batpura, the Kapalmochan temples in Shopian district, and the Shiv temple at Thejiwara have all been illegally seized.<sup>dlxxxi</sup>

Similarly, Kashmir is home to numerous ancient Hindu pilgrimage sites located throughout the state, which are visited by millions of devotees every year. In previous years, Islamic extremists have attacked pilgrims traveling to Vaishno Devi and Amarnath shrine, the two most frequented Hindu pilgrimage sites in Kashmir. Additionally, in 2008, Kashmiri Muslims held riots and violent protests in an effort to prevent planned improvements to Amarnath shrine necessary to accommodate pilgrims and enhance basic facilities.

In response to the unrest, the state government declared plans to set up a shrine board exclusively for administering, managing, and regulating Hindu shrines and other places of worship in the Valley. The Kashmiri Pandit Sangharsh Samiti, an organization representing the Hindu Pandits still remaining in the Valley, expressed doubts about the move and questioned whether the government and separatist leaders were sincere in protecting and preserving the Valley's Hindu temples.<sup>dlxxxii</sup>

More than four years later, the state government has yet to create a shrine board or pass a proposed ordinance in the Jammu and Kashmir State Legislature for the protection and management of Hindu temples. Panun Kashmir, one of the groups representing the interests of displaced Kashmiri Pandits, recently called on the state government to immediately pass the Hindu Shrines (Management and Regulation) Bill, which has been pending for several years. Panun Kashmir and other Pandit groups have also led protests and hunger strikes to urge the government to address the issue.<sup>dlxxxiii</sup>

Panun Kashmir spokesman, Virender Raina, explained, “In the absence of any institutional mechanism for the preservation of the temples and shrines in Kashmir, the land mafia is free to indulge in the annexation of the said properties with impunity and without fear of law.”<sup>dlxxxiv</sup>

## **General Violence**

### **Attacks on Civilians/Security Forces**

One of the specific strategies of Pakistan’s ISI sponsored insurgency included plans to complete a “communal cleansing” of Kashmir by attacking non-Muslim indigenous Kashmiris in order to change the demographics and create a minority free Kashmir.<sup>dlxxxv</sup> Between 1988 and 2003, for instance, approximately 1,490 Hindus were killed in Kashmir, although Kashmiri Pandit groups estimate that the numbers are much higher.<sup>dlxxxvi</sup> Moreover, there were several subsequent attacks and massacres of Hindus throughout the state. Although Hindus were the initial targets of the ISI’s strategy of communal cleansing, Muslim civilians have suffered the highest number of casualties in terrorist related violence.<sup>dlxxxvii</sup>

Violence has generally declined since the start of the insurgency, but still threatens the safety and security of the state’s residents. As noted above, there were a total 117 fatalities from terrorist related violence in 2012. According to the South Asia Terrorism Portal, some of the significant incidents in 2012 involved known Pakistan-based militant groups and included the following.<sup>dlxxxviii</sup>

- March 28, 2012: Five militants from the Pakistan-based Lashkar-e-Toiba (LeT), including a 'district commander', were killed in two separate encounters with Indian security forces, one in Panjwani forests and second in a nearby Laribal village, in the Handwara area of Kupwara District.
- May 10, 2012: Indian security forces killed six militants and prevented a major attempt by Pakistan-based militatants to infiltrate across the border at the Line of Control in Uri sector of Baramulla District.
- July 5, 2012: Three militants were killed by Indian security forces in a gun-battle in the Bungas valley of Kupwara District.
- October 1, 2012: Security forces killed five militants from Hizbul Mujihadeen (HM) in Ganderbal District. A stockpile of weapons and ammunition was also recovered at the site of the encounter.
- December 18, 2012: Six LeT militants were killed by security forces in the village of Saidapora in Baramulla District.
- December 24, 2012: Two militants from LeT were killed in a gun-battle with police in Kulgam District after reportedly attacking a hotel in Srinagar.

## ***Institutional Discrimination***

### **Economic/Political Discrimination**

Despite significant populations in the Jammu and Ladakh regions of the State, Hindus and Buddhists remain politically marginalized and severely underrepresented in government positions. Muslim politicians and political parties, particularly from the Kashmir Valley, have continuously dominated the state government, ignoring the economic and political interests of Jammu and Ladakh and Hindus and Buddhists, respectively.

The political disenfranchisement of Hindus and Buddhists can be traced back to the assembly elections of 1951, when Sheikh Abdullah allocated 43 seats in the 75 member Legislative Assembly for the Kashmir Valley, 30 for Jammu, and only two for Ladakh. This was in sharp contrast to the demographic realities of the state, wherein Jammu and Ladakh accounted for more than 50% of the population and 90% of the land. The allocation effectively placed political power in the hands of Muslims from the Valley. Similarly, in 2002, when the Legislative Assembly grew to 87 members, 46 seats were set aside for the Kashmir Valley, while only 37 seats were created for Jammu and four for Ladakh.<sup>dxix</sup> Currently, none of the 87 members in the Assembly are representatives of the Kashmiri Pandit community.<sup>dx</sup>

In addition, redistricting and the creation of new Muslim majority constituencies in Jammu and Ladakh have resulted in further dilution of Hindu and Buddhist votes. Buddhists have viewed these policies as attempts to alter the religious balance in Ladakh. For instance, in 2000, Lama Lobzang, an influential Buddhist leader in Ladakh, stated, “The NC (National Conference) Government is deliberately settling a large number of people from the Valley with a view to reducing the Buddhist majority in Ladakh into [a] minority.”<sup>dxci</sup> Similarly, Hindus from Jammu have long complained of political and economic domination by Kashmiri Muslims.<sup>dxcii</sup>

Furthermore, as HAF reported in 2011, thousands of Kashmiri Pandit refugees have been systematically disenfranchised and prevented from voting. For example, in 1996, there were 147,000 voters among Kashmiri Hindus throughout India; in 2002, the number went down to 117,000; now there are approximately 77,000, out of which only 11,000 were able to vote in the 2009 general (parliamentary) elections.<sup>dxciiii</sup> When many Pandit refugees living in the camps protested being left off the election voter lists in 2009, they were assaulted by the police for demanding their right to vote.

The refugees must also undergo a cumbersome process to obtain voter ID cards and must fill out an M-Form (Migrant Form) to be considered eligible to vote. 40,000 Pandit refugees applied for voting rights using the M-Form, but only 26,000 were certified by the authorities to vote, with 11,000 ultimately voting. Unlike other Indians, these Pandits

have to fill out an M-Form, even though they are not technically migrants, but rather victims of ethnic cleansing.<sup>dxciiv</sup>

Furthermore, the few Kashmiri Pandits remaining in the Kashmir Valley also suffer from severe economic and political discrimination. According to a study appearing in the Journal of Immigrant and Refugee Studies, "The primary problems the KPs [Kashmiri Pandits] in the Valley face today are that of unemployment and inadequate rehabilitation. Approximately 125 Pandit families in Kashmir live below the poverty line. According to a survey taken by the Hindu Welfare Society Kashmir in 2003, there were more than 500 educated youth who were unemployed and over 200 of these individuals were no longer eligible for government jobs due to their age."<sup>dxciiv</sup> The same study found that a number of Pandit families had been relocated by the state government to isolated locations in the state, without providing adequate rehabilitation or provisions. The families were presumably relocated for security concerns, but the government failed to take care of their basic living needs.<sup>dxciiv</sup>

On a positive note, the long neglected Kashmiri Pandits formed their first political party, the Jammu Kashmir National United Front, and fielded 15 candidates during the 2008 Jammu and Kashmir Assembly elections to highlight the suffering of the displaced Hindus.<sup>dxciiv</sup>

Similarly, as mentioned above, some Kashmiri Hindu groups continue to advocate for a separate Pandit homeland within the Kashmir Valley.

In addition, on September 15, 2009, an "Apex Committee" comprising of 30 – 35 Kashmiri Pandits was formed by the State Government to address the community's political and economic aspirations. A list of Common Minimum Demands (CMD's) was drafted by the Committee with the primary focus on the following eight demands:<sup>dxciiv</sup>

- The Apex Committee should be consulted on all government initiatives before either the Central or State government proposes any legislative bill or approves any executive or administrative order related to the rehabilitation and return of Kashmiri Pandits to the Valley.
- The reservation of 6,000 jobs for Pandits and enhancement of cash relief to displaced families should take place within the next six months as a Confidence Building Measure (CBM) while long-term issues are being resolved.
- The financial and economic benefit package must extend to Valley-based Pandits (so called "non-migrants"), who have received only marginal assistance from the State government and local civil society so far. The Pandit population in the Valley continues to steadily decline, and reversing that trend should be one of the highest priorities.
- Political rights of the community, including representation in the State Cabinet, Legislative Assembly, and the Indian Parliament must be guaranteed through changes in appropriate State and Union laws.

- Kashmiri Pandits must receive equal consideration as full-fledged constituents in the political dialogue that the Central government plans to hold with various Kashmiri entities.
- The State Government must agree, in principle, to implement the recommendation of the National Commission for Minorities (NCM) regarding granting minority status to Pandits.
- The State government must secure legislative approval of the Kashmiri Hindu Shrines and Religious Places (Management and Regulation) Bill (2008) without further delay.
- The Central government must establish a Commission of Inquiry to examine the events that led to the forced exodus of Pandits in 1989-1990 and implement appropriate recommendations to prevent a similar calamity in the future.

To date, however, the Central and State Governments have failed to implement all the recommendations of the “Apex Committee.”

### ***Social Persecution***

#### **Internal Displacement**

Internally Displaced Persons (IDPs) are defined as “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internally recognized state border.”<sup>dcix</sup>

By far the greatest tragedy to befall Kashmiri Hindus was their forced displacement from Kashmir. Over 95% of the Hindu population in the Kashmir Valley (350,000 people) became internally displaced between 1989 and 1991, when they were forced to flee their historic homeland by Muslim extremists. This was only the latest in a series of historical mass migrations by Hindus from Kashmir.

An organized and systematic campaign to cleanse Hindus from Kashmir, including massacres, rape, threats, and intimidation, took place. Public announcements were placed in newspapers, sermons made in mosques, and posters hung on houses ordering all Kashmiri Hindus to leave the Valley, threatening violence if they did not, and calling on Muslims to take up jihad against non-Muslims.<sup>dc</sup>

Moreover, Col. Tej Kumar Tikoo wrote in his recent book that mobs of tens of thousands of Kashmiri Muslims took to the streets chanting slogans, including death to Kafirs (non-Muslims or non-belivers), and armed members of militant groups marched publicly to intimidate the Pandit community.<sup>dci</sup>

Similarly, according to journalist Hillary Brenhouse, Kashmiri Pandits became easy targets for Islamist militants, and “[a]nti-Hindu rhetoric was broadcast at weekly prayers, [while] dozens were murdered.”<sup>dcii</sup>

In the words of noted journalist Rahul Pandita, who fled Kashmir with his family in the early 1990s, “It is not only the Islamist Muslim with a gun in his hand who [was] responsible for the brutalization of Kashmiri Pandits. Not all ordinary Kashmiri Muslims took part in this ethnic cleansing, but a substantial number of them did. Otherwise, how would have so many people come out of the mosques on one night in January 1990 and raised frightening slogans against Kashmiri Pandits? And it wasn’t just that one day. All of us know how so many of us were killed.”<sup>dciii</sup>

After their initial displacement between 1989 and 1991, 160 of the remaining 700 Hindu families in the Valley were also forced to leave after increased violence and attacks occurred between 2003 and 2004.<sup>dciv</sup>

In order to accommodate the large numbers of Hindus fleeing the Valley, the Indian government set up semi-permanent camps for the displaced in Jammu and New Delhi. There are approximately eight camps in the Jammu/Udhampur area and 14 of them in the vicinity of Delhi/New Delhi.<sup>5</sup> These camps, however, are overcrowded and lack adequate facilities and basic necessities. There is no regular supply of drinking water, a shortage of medicines, and poor sanitation. In one particular camp, the government admitted that it has failed to install a planned water filtration system to provide access to clean water.

Despite being forced to live in dilapidated camps, the Jammu and Kashmir state government recently asked Hindu refugees at the Jagti camp in Jammu to pay electricity bills for more than 6 crore rupees.<sup>dcv</sup>

Additionally, education and employment opportunities are severely lacking. As a result of the substandard conditions, the Kashmiri Pandits, after years of displacement, have faced serious health problems, including high incidence of disease, depression, stress-related problems, and a high death rate.<sup>dcvi</sup>

The Indian government, however, refuses to label Kashmiri Hindus as internally displaced persons (IDP) despite the fact that the United Nations categorizes them as such.<sup>dcvii</sup> The Indian government is weary of granting the Pandits IDP status, as it would allow international aid agencies, such as the Red Cross, UNICEF, and others to visit the refugee camps.<sup>dcviii</sup>

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<sup>5</sup> The camps in the Jammu/Udhampur area include Muthi Camp, Transport Nagar, Purkhoo Camp, Stadium Camp, Jhiri Camp, Nagrota Camp, Mishriwala Camp, and Battalbalian Camp; the camps in the Delhi area include those in Nandnagri, Sultanpuri/Kailash Colony, Maviya Nagar, South Extension, Palika Dham, Lajpat Nagar, Ali Ganj, Babu Dham, Amar Colony, Mangal Puri, Patel Nagar, Moti Nagar, and Begum Pura.

Although the central Indian government and the state government in Kashmir have discussed proposals and plans to rehabilitate the displaced Pandits to the Valley, not all have been fully implemented. Furthermore, while Hindus are keen to return, Pandit leaders are skeptical of the government's rehabilitation plans and its ability to provide protection to Hindus upon return.<sup>dcix</sup> One Pandit group, the Hindu Welfare Society of Kashmir (HWSK), recently alleged that the government has not spent any of the money (Rs 1,600-crore) earmarked for rehabilitation of the Pandits. HWSK further contended that the government was not serious about assisting Hindus in Kashmir and had not carried many of its rehabilitation plans.<sup>dcx</sup>

Islamic militant groups have also rejected the Pandits' right to return and have issued threats against Hindus if they return. For example, one extremist group publicly stated, "We impose a ban on the return of Kashmiri Pandit migrants to the Valley."<sup>dcxi</sup> Similarly, separatist leader Ali Shah Geelani criticized the central government's plans to resettle Pandits in Kashmir last July.<sup>dcxii</sup>

Moreover, Kashmiri Hindus continue to be targeted by extremists. On May 4, 2012, Islamic militants attacked a police post guarding one of the few remaining Pandit villages in Shopian district of South Kashmir.<sup>dcxiii</sup>

Despite the continued threats of violence, many young Pandits who fled the Valley as children are now eager to take advantage of government rehabilitation plans. For instance, since 2010, 1,500 young Kashmiri Hindus have returned to the Valley to take up government jobs. These positions were made available as part of a government package to allocate 6,000 government jobs to displaced Pandits.<sup>dcxiv</sup>

Anil Sapru is one of those young Pandits who returned to the Valley, after leaving as his child, following the murder of his father by Islamists militants. Sapru now lives in a temple complex and has a teaching job in a government school, but feels conflicted about being back. On the one hand, he has bad memories of the violence and his father's death, but conversely feels happy to be back in his "motherland."<sup>dcxv</sup>

Large numbers of Hindus, however, have not yet returned and according to state Chief Minister, Omar Abdullah, will not until their "sense of security is restored."<sup>dcxvi</sup>

In addition to Pandits from the Valley, thousands of Hindus from remote mountaneous villages in Jammu region have been displaced by Islamist violence and forced to live in camps near larger cities. One man, identified as Chowkidar, recalled that militants massacred 27 people in his village in one night in April 1998.<sup>dcxvii</sup>

Many of the Jammu migrants have complained of neglect from both the central and state governments and live in miserable conditions in overcrowded camps. At one camp in Talwara, Reasi district (72 kilometres from Jammu city), for instance, there are

approximately 994 families (each family consists of several extended members, reaching up to 35 people in some cases) living in dilapidated 10x10 structures.<sup>dcxviii</sup>

As a recent news report on the displaced Hindus observed, “The emotionally shaken migrants rue the fact that no one from the government ever visited them. The blood-stained memories still haunt them. The feelings of homelessness, post-traumatic stress, depression, [and] anxiety worsen their capacity to deal with the uncertainties life throws at them...”<sup>dcxix</sup> India’s Supreme Court also criticized the state administration for not providing adequate assistance to the displaced migrants from Jammu.<sup>dcxx</sup>

## **Violations of Constitution and International Law**

### ***Indian Constitution***

Despite India’s secular Constitution, Hindus in Jammu and Kashmir have been constant targets of violent Islamist militants. Article 15 prohibits discrimination “against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.” Life and personal liberty are protected by Article 21, which maintains, “No person shall be deprived of his life or personal liberty except according to procedure established by law.”<sup>dcxxi</sup> The life and liberty of Hindus in the Kashmir Valley have neither been protected nor preserved by the Indian Government. As noted above, militants in the Valley have terrorized and ruthlessly murdered Hindus, and the ongoing security threat hinders their return to their homeland.

Article 38 states, “The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.”<sup>dcxxii</sup> Once again, the Indian Government has failed to uphold the provisions of Article 38. The welfare of the Hindus still living in Kashmir and those living in refugee camps has not been supported by the Indian government. Many of the nearly 400,000 individuals who fled the Kashmir Valley continue to live in abysmal conditions in refugee settlements and have been deprived of social, economic, and political justice.

And finally, the exclusivist policy of Article 370 is inconsistent with the tenets of India’s secular democracy and only applies to Kashmir. For instance, there are no equivalent provisions in other Indian states, where Hindus have the ability to prevent non-residents from moving to their states. Moreover, the forced exodus of Hindus from Kashmir has already irreversibly changed the religious demography in Kashmir, and those displaced Pandits that have difficulty obtaining voter identification cards with their place of origin would be unable to return to Kashmir under Article 370.

Moreover, unlike other religious communities in India, Kashmiri Hindus (as Hindus in many other states) have been unable to exert independent control over their places of worship.

### ***International Human Rights Law***

Pakistan's use of state sponsored terrorism and support for Islamic militants in Indian Kashmir is a violation of U.N. Covenants governing terrorism, such as the International Convention for the Suppression of Terrorist Bombing and the International Convention for the Suppression of the Financing of Terrorism.<sup>dcxxiii</sup> A number of these Pakistan-based groups have been labeled as terrorist organizations by the United Kingdom and the United States. For instance, the UK has banned five militant organizations -- Harakat-ul-Jihad-ul-Islami (HUJI), Jundallah, Khuddam ul-Islam, Lashkar-e-Jhangvi (LeJ), and Sipah-e-Sahab Pakistan (SSP).<sup>dcxxiv</sup> The United States has also designated LeJ, Harakat ul-Mujahidin (HuM), Jaish-e-Mohammed (JeM), and Lashkar-e-Taiba (LeT) as terrorist organizations.<sup>dcxxv</sup>

Furthermore, these militant groups have violated the basic human rights of ordinary Kashmiri civilians, including the right to life, liberty, and security. Although they are non-state actors, they should still be held accountable under international law, as should their Pakistani state sponsors.

India's accession to the UN's International Covenant on Civil and Political Rights (ICCPR) occurred on July 10, 1979, and its ratification of the International Convention on the Elimination of All Forms of Racial Discrimination took place on March 2, 1967.<sup>dcxxvi</sup> Once again, the Indian government has failed to uphold either of these UN covenants. Most importantly, Article 27 of the ICCPR, which protects the rights of "ethnic, religious or linguistic minorities...to enjoy their own culture, to profess and practise (sic) their own religion [and] to use their own language," has been violated time and again in the Kashmir Valley as Hindus have been systematically driven out of the region.<sup>dcxxvii</sup> The destruction of temples, frequent attacks on Hindu pilgrimage sites, and inability to control religious institutions are further indications of the failure to protect Kashmiri Hindus under the ICCPR.

Finally, the UN Guiding Principles on Internal Displacement encompass the protections of international human rights law and humanitarian law, as applied to internally displaced persons. The legal protections afforded to IDPs, however, are substantially weaker than those for refugees who benefit from specialized international refugee law. Substantively, the Guiding Principles prohibit the arbitrary displacement of persons based on their religious and ethnic background and affirm IDPs' basic rights to food, water, shelter, dignity, and safety. The principles also emphasize the "importance of voluntary and safe return, as well as the need to assist the displaced to recover their property and possessions."<sup>dcxxviii</sup>

The responsibility for preventing internal displacement and protecting the rights of the displaced persons lies with a country's "national authorities," according to the Guiding Principles. Consequently, the Indian government, as the responsible "national authority," has failed to protect the rights of the Kashmiri Pandits under this legal framework.<sup>dcxxix</sup> Hindus living in displacement camps still face deplorable conditions and have not been safely rehabilitated to their homes in the Valley. In addition, the Indian government refuses to label them as IDPs, instead referring to them as "migrants." The term "migrant" is problematic as it implies that Hindus left Kashmir of their own volition and denies the fact that they were forced to flee.<sup>dcxxx</sup>

## Conclusion and Recommendations

The ethnic cleansing of Kashmiri Pandits from the Kashmir Valley is virtually complete with a nominal number of Pandits remaining in the Valley.<sup>dcxxxi</sup> Hindus forced from the Valley continue to live in refugee camps in decrepit conditions in violation of their fundamental rights to shelter and dignity.<sup>dcxxxii</sup>

Although terrorism related violence and the insurgency has declined over the past several years, the fate of the Kashmiri Pandits continues to be in limbo as the Indian government strives to curtail the influx of Islamic militants from across the border. The unwillingness of Pakistan to end its support for Islamic terrorists carrying out attacks in the region will only prolong the conflict and the suffering of ordinary Kashmiris, including the Hindu minority. It is incumbent upon the Pakistani Government to cease moral and material support to all terrorists in the Kashmir Valley.

Similarly, the Central and State Governments continue to demonstrate ineffectiveness in implementing rehabilitation and resettlement plans, and finding a long-term durable solution for the Kashmiri Pandits. India must create an atmosphere in the Kashmir Valley conducive to the return and safe resettlement of Hindus to their original homes throughout Jammu and Kashmir, and further dialogue with Pakistan must be predicated on the return of the Valley's original Hindu residents.

Furthermore, the state government must end the economic and political marginalization of Hindus and Buddhists in the state and provide full protection and accommodation to Hindu pilgrims and pilgrimage sites. In particular, the Jammu and Kashmir State Legislature should pass the Hindu Shrines (Management and Regulation) Bill without further delay and provide Kashmiri Hindus independent control over their places of worship. India must also abrogate Article 370 of the Constitution, which has allowed the State's residents to live under a separate set of laws, benefiting its Muslim population, who enjoy political power to the detriment of Kashmir's religious minorities.

And finally, U.S. policy makers and the international community must exert economic and diplomatic pressure on Pakistan to end its use of terrorism as an instrument of state

policy, leveraging the large amount of financial assistance annually provided to the country.

# Democratic Socialist Republic of Sri Lanka



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**Area:** 65,610 square kilometers

**Population:** 21,283,913 (July 2011 estimate)<sup>6</sup>

**Ethnic groups:** Sinhalese 73.8%, Sri Lankan Moors 7.2%, Indian Tamil 4.6%, Sri Lankan Tamil 3.9%, other 0.5%, unspecified 10% (2001 census provisional data)

**Religion:** Buddhist 69.1%, Muslim 7.6%, Hindu 7.1%, Christian 6.2%, unspecified 10% (2001 census provisional data)

**Languages:** Sinhala (official/national language) 74%, Tamil (national language) 18%, other 8%. English is used in government and is spoken by about 10% of the population.

**Location:** Southern Asia, island in the Indian Ocean, south of India <sup>dcxxxiii</sup>

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<sup>6</sup> Note: Since the outbreak of hostilities between the government and armed Tamil separatists in the mid-1980s several hundred thousand Tamil civilians fled the island and more than 200,000 Tamils have sought refuge in Europe, the United States and Canada, Australia, and elsewhere.

## Introduction

The end of the longstanding civil war between the Sinhalese dominated government and the ethnic Tamil Liberation Tigers of Tamil Eelam (LTTE) in 2009, has thus far failed to achieve political reconciliation for the country's two primary ethnic groups. In particular, the Sri Lankan government's unwillingness to pursue post-conflict justice and conduct a meaningful investigation into the crimes committed during the war, or adopt recommendations from the international community, has prevented genuine reconciliation between the Sinhalese and Tamil communities.

For instance, following the United Nations Human Rights Council (UNHRC)'s passage of a resolution "Promoting reconciliation and accountability in Sri Lanka" in 2012, the government has taken few steps towards resolving the "Tamil question."<sup>dcxxxiv</sup>

Moreover, according to the South Asian Terrorism Portal (SATP), since the end of the conflict, there have been a number of problems "arising out of a strident politics of Sinhala triumphalism and President Rajapaksa's growing authoritarianism, his personalized vendettas against critics and opponents, and the progressive undermining of institutional governance."<sup>dcxxxv</sup>

In fact, as the International Crisis Group (ICG) recently noted, "Prospects for a lasting political settlement have worsened considerably since mid-2012, with little chance that the government will offer reforms that meet the aspirations of even the most moderate Tamil political constituencies. Since breaking off talks with the TNA in January 2012, the government has made no serious efforts to return to the negotiating table."<sup>dcxxxvi</sup>

Describing the government's obstinacy in reaching a settlement with the Tamil minority, a recent comment in the Institute for Defence Studies and Analyses (IDSA) asserted the following:

*"The rise of the ultra-radical Sinhalese constituency in Sri Lanka has not helped matters in this regard. [President] Rajapakse has been nurturing this constituency through his frequent references to the defeat of terrorism and by branding anybody expressing sympathies for Tamil rights either within Sri Lanka or elsewhere as terrorist sympathisers who are masquerading as rights protagonists whose only ambition is to divide the country. Contrary to his assurances of building a national consensus in favour of a political solution acceptable to the Tamils, he has been doing everything possible to strengthen the hands of Sinhala ultra-nationalists, who do not approve of any concession of any kind to the Tamils. In the process he has emerged as a 'dutugemunu', the Sinhala king, who defeated the Tamil king Elara nearly 2,500 years ago. Victory in the so-called war against terrorism has itself emerged as the solution for the Tamil issue and there is no need to consider Tamil rights. Today, any articulation in favour of Tamil rights in Sri Lanka is being labeled as an act of treason..."*

*Civil society activists are being targeted by the state and kidnapped by what is popularly referred to as 'white vans' in Colombo...The government has tried to portray the issue of investigation into the war crimes during the last phase of the war as a conspiracy of the Tamil diaspora and the NGO lobbies. The Tamil diaspora has in fact emerged as the new enemy of the Sri Lankan state. The legitimate Tamil political aspiration is now being made synonymous with the illegitimate ambitions of the LTTE. Since the end of the war, the issue of violation of human rights raised by the Tamil National Alliance (TNA) has been routinely dismissed by the Sri Lankan government which instead accuses the TNA as being sympathisers of the LTTE and sponsored by the Tamil diaspora.*<sup>dcxxxvii</sup>

On the other hand, a report released by the US Department of State on August 18, 2011, claimed that overseas cadres of LTTE continue to procure weapons, while the LTTE's supporters in the diaspora remain persistent in supporting the organization financially. It alleged that despite its military defeat in Sri Lanka at the hands of Government Forces, the LTTE's international network of financial support continue to exist.<sup>dcxxxviii</sup> This assessment was reinforced by the International Crisis Group, which stated, "[M]ost Tamils abroad remain profoundly committed to Tamil Eelam, the existence of a separate state in Sri Lanka."<sup>dcxxxix</sup>

However, there is now a divide between the diaspora Sri Lankan Tamils and the Tamils who continue to live in Sri Lanka. The Crisis Group's report concludes that the gap between the diaspora and Tamils in Sri Lanka has widened: "Most in the country are exhausted by decades of war and are more concerned with rebuilding their lives under difficult circumstances than in continuing the struggle for an independent state. There is no popular support for a return to armed struggle."<sup>dcxl</sup>

Similarly, there have also been reports that the LTTE is attempting to reconstitute in India's southern state of Tamil Nadu, which shares ethnic affiliation with Tamils in Sri Lanka. As a result, the Indian government extended a ban on the LTTE (in place since 1992 under the Unlawful Activities (Prevention) Act, 1967), despite the organization's dismantling in 2009.<sup>dcxli</sup>

Moreover, Sri Lanka has not heeded the UNHRC's call to "address serious allegations of violations of international law by initiating credible and independent investigations and prosecutions of those responsible for such violations."<sup>dcxlii</sup>

According to human rights groups and the United Nations, both the government and LTTE were guilty of mass atrocities and war crimes, as thousands of Tamil civilians were killed, seriously injured, or displaced. Sri Lanka's final military offensive against the LTTE in the closing months of the war, in particular, resulted in up to 40,000 civilian deaths, two-thirds of which allegedly occurred in supposed safe zones created by the government.<sup>dcxliii</sup>

Tamil political leaders also claimed that there were a number of mass graves of murdered Tamils, including civilians, concealed across the north of the country. There were also accusations that Sri Lankan security forces engaged in extrajudicial killings of Tamil LTTE prisoners towards the end of the war in 2009. A British news documentary, for example, presented images of “Sri Lankan soldiers executing several naked, presumably Tamil, prisoners.” Sri Lanka’s government denied the charges, contending that the images used in the documentary were “fake.”<sup>dcxliiv</sup>

Moreover, a large number of Hindu temples and religious institutions were reportedly destroyed during the course of the war.

The UN and other international bodies previously conducted their own investigations into the conflict. For instance, a three-member Panel of Experts, headed by Marzuki Darusman, was appointed by UN Secretary-General Ban Ki-moon in 2010 to advise him on human rights and humanitarian law violations during the last phase of the civil war.<sup>dcxliiv</sup> The Darusman Panel submitted its report on April 12, 2011, accusing both the LTTE and the Sri Lankan Army of committing war-crimes. The panel found that there were “credible allegations” of serious violations of international law.<sup>dcxlivi</sup> Ban Ki-moon, however, said that he could not order an international investigation into the deaths but would hold an inquiry into the events in the final months of the war.<sup>dcxlvii</sup> The Panel of Experts’ report was dismissed by many in Sri Lanka as biased and partisan.<sup>dcxlviii</sup>

Sri Lanka also established an internal truth commission in 2010, the Lessons Learnt and Reconciliation Commission (LLRC), to inquire into the civil war and provide recommendations for healing and peace building. The effort has proven futile, however, as the government has ignored many of its recommendations.<sup>dcxlix</sup> For example, “[despite LLRC’s calls to investigate child soldiers] [t]here has not been a single prosecution in any of the hundreds of cases of alleged forced conscription of children during the civil war by the LTTE and by various branches of the pro-government Tamil Makkal Viduthalai Pulikal (TMVP)...”<sup>dccli</sup>

Many international observers, such as the ICG, have also asserted that the Sri Lankan government has not yet resettled approximately 90,000 civilians, who remain displaced.<sup>dccli</sup>

In addition, some contend that the government has delayed the reconciliation and resettlement process and has not been transparent in its actions.

Contrary to the ICG’s account, other sources, including the government, claim that more than 97 percent (approximately 270,000) of the displaced Tamil civilians had been resettled to their places of origin in the Northeast by November 17, 2011 under the government’s National Resettlement Strategy. Moreover, of the 11,500 LTTE soldiers who surrendered or were arrested at the end of the war, 8,500 have been rehabilitated and reintegrated, while roughly 3,000 accused of war-crimes remain under detention.<sup>dcclii</sup>

Sri Lankan Tamil groups, such as the Tamil National Alliance (TNA), an umbrella organization for Tamil political parties, have also accused the government of attempting to alter the demographic profile of the northern and eastern parts of the country, where ethnic Tamils are a majority. Despite the government's denial of these allegations, the increased interference by Sinhala-Buddhist soldiers in the daily life of Tamils, "continued land seizures by the military," and establishment of Buddhist monuments in Tamil majority areas all lend credence to the TNA's claims.<sup>dcliii</sup>

A particularly disconcerting development from 2012 was the revelation that the UN failed to meet its "protection and humanitarian responsibilities," towards the end of the war.<sup>dcliv</sup>

Specifically, a recent report released by the UN Secretary-General's Internal Review Panel, known as the Petrie Report, found that the UN personnel failed to protect Tamil civilians and prevent atrocities during the civil war through its inaction and by suppressing information regarding mass human rights violations by the government.<sup>dclv</sup>

Similarly, Amnesty International provided that "UN officials repeatedly failed civilians they were entrusted to protect, while ignoring or downplaying mounting evidence of war crimes compiled by their own staff as they struggled to appease Sri Lankan authorities intent on restricting humanitarian space."<sup>dclvi</sup>

As the BBC noted, "Despite a 'catastrophic' situation on the ground, this report bluntly points out that in the capital Colombo 'many senior UN staff did not perceive the prevention of killing of civilians as their responsibility - and agency and department heads at UNHQ were not instructing them otherwise.' It says there was 'a sustained and institutionalised reluctance' among UN personnel in Sri Lanka 'to stand up for the rights of people they were mandated to assist'..."<sup>dclvii</sup>

The Petrie Report also revealed that despite knowledge that the majority of civilian deaths occurred as a result of government shelling, the UN chose not to publish this information. In addition, the UN failed to adequately confront the government over the obstruction of humanitarian assistance and aid workers.<sup>dclviii</sup>

Beyond the failure to address lingering issues from the war, the continued government suppression of minority rights and human rights abuses by security forces have further exacerbated already existing tensions between the Sinhalese and Tamil communities.

Human Rights Watch, for instance, has documented evidence that "politically motivated sexual violence [against Tamils] by the military and police continues to the present."<sup>dclix</sup> Moreover, state security forces have allegedly continued to "torture, rape, and otherwise violently abuse Tamils."<sup>dclx</sup>

Given the enduring intricacy of the situation, only a combination of meaningful and substantive actions by the Sinhala political leaders in Sri Lanka, and careful, non-

partisan support from international agencies and actors can pave the way for a truly multi-ethnic, multi-party democracy in Sri Lanka.

## History/Background

Sri Lanka's complex political, religious, and ethnoc-linguistic dynamics can be traced back thousands of years to this island nation's early history.

The ethnic Sinhalese arrived in Sri Lanka in the sixth century BCE, most likely from northern India. Buddhism was introduced around the mid-third century BCE, and a great civilization developed at the cities of Anuradhapura (from circa 200 BCE to circa 1000 CE) and Polonnaruwa (from about 1070 to 1200 CE). The original inhabitants of the island were believed to be the aboriginal Veddahs. The Sinhalese believe they are descendants of King Vijaya who came from eastern India with a small army, conquered the island, and settled there around the 6<sup>th</sup> century BCE.

Between 237 BCE to 1070 CE, Sri Lankan Buddhists and various Indian kings, mainly Tamils, fought for control of the nation, with Indian kings and Hinduism dominating the period. King Vijayabahu drove the Cholas, a south Indian Hindu dynasty, out of Sri Lanka and reestablished the preeminence of Buddhism on the island. Subsequently, it became mandatory for the Sinhalese king to be a Buddhist. Later the country was divided and ruled by separate kings, including a Tamil kingdom in the north, until the Europeans conquered the island.<sup>dclxi</sup>

Occupied by the Portuguese in the 16th century and by the Dutch in the 17th century, the island was ceded to the British in 1796, became a crown colony in 1802, and united under British rule by 1815. The Europeans established tea, coffee, sugar, cinnamon, rubber, and indigo plantations on the island, and the British brought nearly one million Tamil laborers from India to work in the tea plantations.

In the 1900s, the Ceylonese (or native population of Sri Lanka) initiated a struggle for independence from the ruling British and won independence on February 4, 1948. In 1970, the country's name was changed to Sri Lanka and it became a republic in 1972. Tensions between the Sinhalese majority and Tamil separatists in northern Sri Lanka erupted into war in 1983.

The violent conflict between the Sinhala-majority government and Tamil terrorist groups was not a religious conflict per se, but rather a deeply complex problem involving a combination of historical, geographical, ethnic, linguistic, and religious factors. For example, the LTTE, the primary Tamil militant organization, did not identify itself as a religious-based organization and included members of several religious denominations.

The LTTE fought for an independent state (Tamil Eelam) in the north and east regions of the island. A cease-fire was declared by both parties in December 2001. Norwegian-brokered peace talks led to a ceasefire agreement between the government and Tamil

rebels in late 2002, but both the government and Tamil rebels violated the truce. Renewed hostilities broke out again in late 2005 with increased intensity. Both sides claimed that they were willing to abide by the ceasefire agreement, eventually leading to a settlement.

The Sri Lankan government ended its truce with the LTTE on January 2, 2008, causing great concern among international arbiters. The civil war took a heavy toll on this island nation, with nearly 100,000 fatalities in the three decades of conflict. Moreover, the fighting left hundreds of thousands of civilians, primarily Tamils, displaced from their homes, while more than 100,000 were forced to flee in March 2007 alone.<sup>dclxii</sup> The 300,000 refugees at the end of the final battle in 2009 were put in military camps that some termed “internment camps,” although the Sri Lanka government claimed they were refugee camps.<sup>dclxiii</sup> Throughout the years, both parties committed extrajudicial killings, abductions, participated in communal violence, and intentionally attacked civilians.<sup>dclxiv</sup>

### ***Sinhala-Tamil Divide***

The island's population is approximately 74% Sinhalese and about 8% Tamils. The south, west, and central regions of the island are primarily inhabited by the Sinhalese, while the Tamils reside in the north, east, and plantations in the central hills. The Tamil northeast covers an area of an estimated 7,500 square miles. The Sinhalese majority is Buddhist, while most Tamils are Hindus, with Christian and Muslim minorities.

The foundation for the present divide between the primarily Buddhist Sinhalese and Tamil Hindus (and to a lesser extent other minorities), can be found in part in a Sinhala-Buddhist document written in the sixth century CE. Known as the *Mahavamsa*, this historical narrative on Sri Lanka lends credence to the idea that only the Sinhala-Buddhist people are the rightful heirs to the island nation.<sup>dclxv</sup>

According to journalist, Sudha Ramachandran: “The *Mahavamsa* mindset lies at the core of Sinhala-Buddhist hardline arguments that the island is ‘theirs’ and religious and ethnic minorities are ‘guests’, who stay in Sri Lanka on the sufferance of the Sinhalese-Buddhists. Their continued stay here is on the condition of ‘good behavior’.”<sup>dclxvi</sup>

The *Mahavamsa* has given rise to a toxic form of ethno-religious supremacy and contributed to Buddhist revivalism in the late 19<sup>th</sup> and 20<sup>th</sup> centuries. Furthermore, as Ramachandran notes, since this period, “violence has been directed against the *asinhala* (un-Sinhala) and the *abaudha* (un-Buddhist)...”<sup>dclxvii</sup>

Similarly, prior to independence from the British, Buddhist activists and ideologues -- monks and laypersons, educators, and politicians -- accused the British of “betraying” Buddhism and spoke of a need to restore Buddhism to its rightful place in the life and governance of the country.<sup>dclxviii</sup> Sinhala Buddhist revivalism and nationalism was supported by and served the interests of a rising Sinhala Buddhist middle class and

businessmen, some of whom were implicated in the anti-Muslim riots of 1915, which were directed against Muslim shopkeepers and businessmen.<sup>dclxix</sup>

Buddhist nationalism was also fueled by resentment with the disproportionate number of Tamils occupying positions of prominence in post-independence Sri Lanka, such as doctors and lawyers in the civil service. This led to a Sinhalese perception that the British gave preferential treatment to the Tamils.<sup>dclxx</sup>

Subsequent to independence, the power and influence of Buddhists in politics expanded significantly, at the expense of minorities. In particular: "It is in the Buddhist revivalism of this period that the beginnings of the conflictual relationship between the Sinhalese and Tamils can be traced. The role of political monks in obstructing a federal solution to the ethnic conflict, by unleashing violence if necessary became apparent in the 1950s. It would plunge Sri Lanka into bloody civil war."<sup>dclxxi</sup>

The Jaffna Association (JA) was the only political organization of Jaffna Tamils. They wanted self-determination for Tamils in the north and east of the island. The JA was involved directly in much of Jaffna's social and economic development and Tamil political aspirations. In 1915, the British agreed to nominate a JA leader as the Tamil member of the Legislative Council. In 1919, the Ceylon National Congress (CNC) was formed for obtaining greater autonomy for the people.

Initially, the JA wanted to negotiate separately with the British to protect minority rights. However, Sir P. Arunachalam, a close colleague of JA leaders, persuaded Tamils to forge a united front with the Sinhalese to achieve more authority for the entire island. The Sinhalese assured the Tamils of an agreed number of conditions, including a separate Tamil nation, or Tamil Eelam, but ultimately, they refused to keep their promises. This led to a feeling of disillusionment and betrayal among the Tamil Leadership, and in 1921, the Tamils formed the Tamil Mahajana Sabham (TMS).

Ceylon won its independence from the British in 1948.<sup>dclxxii</sup> When the British departed, power was transferred to the Sinhala majority, although Tamil leaders were in the forefront of the freedom movement. In 1949, the government of D.S. Senanayake passed legislation that stripped the citizenship of a sizable number of Tamil descendants of plantation laborers from India, leaving them stateless. This reduced the Tamil voting power in Parliament from 33% to 20%. Furthermore, in 1962 and again in 1965, several hundred thousands of Tamils who worked in the estates were expelled by the Sri Lankan government. Many of these Tamils were not granted full citizenship rights until 2003.<sup>dclxxiii</sup>

Successive governments pursued resettlement policies, bringing Sinhalese from the south and settling them into Tamil areas in the north and east. This became a further source of tension between Sinhalese, Tamil, and Muslim communities. The Trincomalee district was colonized by the Sinhalese with the help of the government in 1948, and again in the 1950s and 1960s. The Sinhalese population grew from 4.4% in 1946 to

29.1% in 1981. There was an official plan in the mid-1980s to settle 30,000 Sinhalese in the Northern Province, giving each settler land and funds to build a house. Each community was armed with rifles and machine guns for protection. And in the 1990s, Tamils were driven out from Weli Oya, or Manal Aru, in the Northern Province, while the Sinhalese settled there under the protection of the Special Task Force.<sup>dclxxiv</sup>

The Sinhala majority government continued to pursue discriminatory policies, including the Sinhala Only Act of 1956 that replaced the official language from English to Sinhala and excluded Tamil. As a result, countless Tamils serving in government employment, who were well versed in English but not in Sinhalese, became unemployed. In practice, the business of government continues to be carried out in English, though Sinhalese is preferred.<sup>dclxxv</sup>

While the Sinhala Only Act passed in 1956, Prime Minister Bandaranaike worked with the Tamil Federal Party Chief Chelvanayakam to make Tamil the administrative language in the Tamil-speaking north and east regions through the Bandaranaike-Chelvanayakam Pact of 1957. However, Bandaranaike reneged under pressure from Sinhalese nationalists. The Federal Party politicians launched a peaceful protest against this decision and planned to hold a convention in Vavuniya. To disrupt the convention, on May 22, 1958, Sinhalese mobs attacked the convention participants traveling by trains.

In response to the attacks by Sinhalese extremists, Tamils rioted in the east and killed 56 Sinhalese fishermen. Moreover, in Jaffna, the Buddhist Naga Vihara temple was destroyed, and some Sinhalese owned businesses were burned. Overall, the 1958 riots led to between 150 and 200 Tamil deaths, with thousands more assaulted. The violence also resulted in the looting of Tamil owned properties and the displacement of more than 25,000 Tamil refugees, who were relocated to the north.<sup>dclxxvi</sup>

In 1970, the government began to suppress Tamil culture by banning the importation of Tamil language films, books, magazines, and journals from India. Additionally, Tamil political organizations, such as the Dravida Munnetra Kazhagam (DMK) and the Tamil Youth League (TYL), were banned. Foreign exchange programs for Tamil students going to Indian universities were stopped and external degree programs, including those of London University, were abolished.<sup>dclxxvii</sup> The official name of the country was also changed from Ceylon to Sri Lanka, which had Sinhalese origins. All of these steps alienated large segments of the Tamil population.

The idea of a separate nation -- Tamil Eelam -- emerged in 1972 with the formation of the Tamil United Liberation Front (TULF). TULF, however, was prohibited from contesting parliamentary elections.

Tamils continued to be targeted by Sinhalese extremists, and between May 31 and June 2, 1981, a Sinhalese mob went on a rampage, burning the market area of Jaffna, the office of a Tamil newspaper, the home of the Member of Parliament from Jaffna, and the

Jaffna Public Library, and killing four people. The destruction of the Jaffna Public Library was the incident that appeared to cause the most distress to the people of Jaffna, as it was South Asia's largest library at the time. The 95,000 volumes in the Public Library destroyed by the fire included numerous culturally important and irreplaceable manuscripts. In 1991, the then president of Sri Lanka publicly admitted that his party members, Lalith Athulathmudali and Gamini Dissanayake, were directly involved in the burning of the library.<sup>dclxxviii</sup>

The next significant event was the "Black July" riots, which began after the failure of 25 years of negotiations for autonomy for Tamil speaking areas under a federal framework. Starting on July 23, 1983, the riots led to the killing of between 1,000 and 3,000 Tamils. More than 18,000 homes and numerous commercial establishments were destroyed and hundreds of thousands of Tamils fled the country to India, Europe, Australia, and Canada. The widespread violence led thousands of Tamil youths to join various Tamil militant groups, including the LTTE.

Many young Tamils favored using violent means to achieve their ends and in 1972, the Tamil New Tigers (TNT) was founded, led by Velupillai Prabhakaran. The TNT was responsible for several high profile assassinations in 1975, including Alfred Duraiappah, the Mayor of Jaffna, as well as some police officials. They committed bank robberies to fund their activities. In 1976, TNT joined the Subramaniam group to form the Liberation Tigers of Tamil Eelam (LTTE), also known as the Tamil Tigers, which was later joined by Anton Balasingham. On July 23, 1983, LTTE ambushed and killed 13 government soldiers in Jaffna. Two days later, the 13 soldiers were to be buried in Colombo. Sinhalese civilians, who had gathered at the cemetery, started killing Tamils and looting and burning property. The violence directed against Tamils in Colombo soon spread throughout the country. Initially, 20,000 Tamils in Colombo became displaced, and the figure gradually rose to 50,000.<sup>dclxxix</sup>

Over the next 25 years, there would be many more casualties, ceasefires, and undermined ceasefires; one failed peacekeeping mission during the Rajiv Gandhi-led Government of India; and the introduction of suicide bombings as a lethal weapon for the first time in modern history. A suicide mission allegedly by an LTTE sympathizer took the life of Indian Prime Minister Rajiv Gandhi in 1985. The violence escalated in 2009 with the final military offensive by the Sri Lankan military, leading to the death of the LTTE leader, the final capitulation and decimation of the LTTE, and the internment of nearly 300,000 Tamils in "refugee camps." These camps or "safe-zones" came under attack by government forces resulting in the deaths of large numbers of Tamil civilians.

Despite the end of the war, divisions continue to persist between the country's two largest ethnic groups.

## Status of Human Rights, 2012

### *Religious Freedom*

Religious freedom in Sri Lanka has long been an issue of contention and it is often difficult to differentiate between religious and ethnic discrimination since the two are frequently intertwined. For instance, Sri Lanka's majority Sinhala community primarily follows Theravada Buddhism, while the Tamil community is predominantly Hindu. These two groups were the primary antagonists during the civil war.

Further complicating the country's ethnoc-religious dynamics is the presence of significant Muslim and Christian populations. The Muslim population is primarily Sunnis, but there is a small minority of Shi'a, including members of the Bohra community. Almost 80% of Christians are Roman Catholics, with Anglican and other mainstream Protestant churches also present in a number of cities. Moreover, Evangelical Christian groups have grown in recent years. The Ministry of Religious Affairs has four departments that deal specifically with Buddhist, Hindu, Muslim, and Christian affairs.<sup>dclxxx</sup>

Despite a separate department for each religious tradition, in practice, non-Buddhist faiths do not enjoy equitable treatment on par with Buddhism. For example, unlike Buddhist holidays, Maha Sivaratri (one of the most important religious days for Hindus) has not been accorded the status of a Full Holiday (i.e., it's a Public and Bank Holiday, but not a Mercantile Holiday).<sup>dclxxxi</sup>

Reflective of the country's religious demographics, Sri Lanka's Constitution accords Buddhism "the foremost place" and states that "it shall be the duty of the State to protect and foster the Buddha Sasana [religion]."<sup>dclxxxii</sup> While this language does not explicitly establish Buddhism as the state religion, it implicitly relegates other religions to an inferior status and demonstrates government preference for one religion over others.

Moreover, although the Constitution provides religious freedom to other religions, by dedicating an entire chapter of the Constitution to Buddhism (Chapter II), it effectively affords a privileged status to Buddhists in the country.<sup>dclxxxiii</sup>

The Constitution's deference to Buddhism has also provided a tacit endorsement of Sinhala-Buddhist nationalism, often resulting in discrimination and violence against religious minorities. This was particularly true during the war, and has continued in the post-conflict period.

According to a recent article in Foreign Affairs Magazine:

*Militant Buddhism was a driving force behind the 25-year war between the majority Sinhalese (74 percent of the population) and the minority Tamils (18 percent), who were fighting for an independent state in the island's north and*

*east. (Muslims, who make up six percent of Sri Lanka's population, were often caught in the middle.) During the war, monks repeatedly undercut efforts to work out a peace agreement. The sangha, as the clergy is collectively referred to in Theravada Buddhism, has historically exercised political power from behind the scenes, embodying a broad form of religious nationalism. But in the later years of the war, it became more overtly politicized. In 2004, the hard-line National Heritage Party (known as the JHU) elected seven of its members to Parliament; all were monks, and the party ran on a platform calling for a return to Buddhist morality in public life...*

*Monks declared that Sri Lanka had always been a Sinhalese kingdom, that autonomy violated the near-mystical idea of a unitary state, and that there was no option other than a military one. Peace negotiations simply made the Tamil Tigers stronger, as one of the party's more outspoken clerics, Athuraliye Rathana, whom the Sri Lankan media dubbed the War Monk, argued. "If they give up their weapons, then we can talk," he said. "If not, then we will control them by whatever means necessary. We should fight now and talk later." In the spring of 2006, monks attacked an ecumenical group of peace marchers and led a long sit-in against a cease-fire agreement that soon came apart, leading to another round of fighting. As the bloodshed wore on, much of the Buddhist clergy gave its blessing to a final offensive on the separatist Tamil Tigers. Since the war ended, Buddhist clerics have been at the forefront of promoting punitive triumphalism. The Sinhalese majority widely views its victory over the Tamils as a ratification of its scripturally ordained dominion, with other groups occupying a subordinate position...*<sup>dclxxxiv</sup>

Subsequent to the War, this assertion of Sinhala-Buddhist nationalism has led to "cultural and demographic Sinhalisation" in historic Tamil areas and has been accompanied by the destruction of Hindu, Christian, and Muslim religious sites. And in some cases it includes the physical assault of religious clergy members, such as a December attack on a Christian pastory by a mob of Buddhist monks, attempting to forcibly shut down a church.<sup>dclxxxv</sup>

The promotion of Sinhala Buddhist identity has further manifested itself in increasing Sinhalization of signboards, and village and street names, as well as in the proliferation of Buddha statues and Buddhist temples.

A recent report by ICG stated that Buddhist temples are being built near military installations, but also "without permission on private land." "New constructions" are emerging over destroyed Hindu temples. "There are also fears," the ICG report said, "that the government's archaeological department, long under the influence of Sinhalese

nationalists and heavily lobbied by influential Buddhist groups, would use 'discovered' ancient Buddhist sites in the north" to build new Buddhist temples there.<sup>dclxxxvi</sup>

As a Tamil community activist told the ICG: "[A]t latest count, 27 *dagobas* [Buddhist shrines] have come up in Kilinochchi, Mullaitivu, Mannar and Jaffna. But how many Sinhalese are there in these districts? This count doesn't include temples in police and military camps. These are just the huge ones.... The whole Tamil identity in these areas is being changed. The military is forcefully taking over a community's visible identity."<sup>dclxxxvii</sup>

Tamil groups further contend that the establishment of these new Buddhist temples in close proximity to Hindu shrines or destroyed Hindu temples has been sanctioned by the military and often occurs with its assistance. Additionally, the military has permitted Buddhist monks to illegally occupy Tamil land near military cantonments for their own use.<sup>dclxxxviii</sup>

Tamil sources also allege that there have been a series of attacks on Hindu religious sites and priests and the destruction of several temples in the northeast region of the country.<sup>dclxxxix</sup>

In many instances, Hindu temples have been destroyed under the pretext of development projects or due to their location within a Buddhist sacred zone. For example, the government announced plans to demolish a Hindu temple and Muslim mosque after Buddhist monks agitated for their removal from an area near the Dambulla Buddhist temple.<sup>dcxc</sup>

Additionally, recent media reports indicated plans to demolish an estimated 27 Hindu temples and religious sites in Jafna, Kankesanthurai to accommodate road construction projects. A number of Tamil organizations view this move as not only a violation of their religious freedom, but also as an attempt to erode their cultural identity.<sup>dcxci</sup>

Similarly, a number of Hindu temples and religious institutions were targeted and destroyed during the course of the civil war. According to Human Rights Defence International (HRDI), "It is estimated that 2500 Hindu temples and 400 churches have been destroyed. The Sinhala forces do not permit the people to reconstruct these worship places and many are in a dilapidated state."<sup>dcxcii</sup>

And despite demands by the Tamil National Alliance (TNA) that temples destroyed during the conflict be restored, the government has thus far failed to reconstruct them.<sup>dcxciii</sup>

Beyond the destruction of religious sites, there has also been government interference with the free exercise of religion. On November 27, the Sri Lankan government reportedly prohibited rituals in Hindu temples and violently interfered with private

celebrations on the Hindu festival of Karthiaai Vilakkeedu. The festival coincides with Maaveerar Naal, or a day to remember Tamils killed during the civil war.<sup>dcxciv</sup>

### ***General Violence and Repression***

As noted above, the conflict between the Sri Lankan military forces and the LTTE involved war crimes by both sides and resulted in thousands of deaths, refugees, and the destruction of religious institutions. The systematic recruitment or abduction of young child soldiers, some as young as 12, was a common practice employed by government forces, pro-government militias, and Tamil rebel groups alike. The pro-government militias, for instance, were allowed to operate freely in areas controlled by government forces and the Sri Lankan army often actively assisted them in kidnapping young boys.<sup>dcxcv</sup>

Since the end of the war, international institutions and human rights groups have called for independent investigations into the conduct of government forces, especially towards the end of the war. During the Sri Lankan military's final offensive in the closing months of the war, the UN estimates that up to 40,000 civilians were killed. Moreover, a British news documentary, *Sri Lanka's Killing Fields*, claims that the military executed large numbers of LTTE prisoners in their captivity.<sup>dcxcvi</sup>

Even with the end of hostilities between the Sri Lankan military and the LTTE, Tamil civilians continued to face arbitrary violence and repression at the hands of Sinhalese Buddhist soldiers. Amnesty International (AI) asserted that Sri Lanka failed to uphold its commitments under international human rights law and "arbitrary arrest and detention, torture and other ill-treatment and custodial killings remain hallmarks of Sri Lankan policing."<sup>dcxcvii</sup>

Similarly, a recent Human Rights Watch (HRW) report alleged that Sri Lanka made no progress in addressing basic human rights concerns in 2012. Additionally, the report found that rape and sexual violence were routinely used on detained Tamils suspected of being members or supporters of the LTTE. HRW Asia Director, Brad Adams, further contended that sexual violence was specifically utilized by Sri Lankan security forces as a means of eliciting information on LTTE activities and to intimidate the Tamil population.<sup>dcxcviii</sup>

HRW also accused the Sri Lankan government of disregarding calls for justice and accountability and human rights protections contained in an UNHRC resolution from March 2012. Moreover, the government explicitly rejected 100 recommendations made during a Universal Period Review by UNHCR member states in November 2012, indicating it was unwilling to pursue genuine reconciliation.<sup>dcxcix</sup>

In addition, following the conclusion of the war, the military increasingly interfered with all aspects of civilian life in former warzones in the northeastern parts of the country.

Noted journalist William McGowan wrote “The military has established large cantonments in Tamil areas, treating civilians with a heavy hand. According to the International Crisis Group, ‘When challenged by public protest, the military has shown itself willing to physically attack demonstrators and is credibly accused of involvement in enforced disappearances and other extrajudicial Punishments.’”<sup>dcc</sup>

Similarly, a recent Washington Post article summarizes the increasingly pervasive role of the military as follows:

*The army has grabbed vast expanses in the north, either to set up military bases, farm for profit or, many Tamils fear, resettle Sinhalese from the south and change the demographics. The construction of Buddhist monuments where no Buddhists live reinforces those fears. Late last month, the Sri Lankan government announced that it would hold provincial elections around the country except in the Tamil-dominated north. It says electoral rolls are not ready there after the extensive disruption of the war, even though presidential, parliamentary and local government elections have taken place since then. But Tamil politicians from the north say the government is unwilling to hand over political rights to areas where Tamils are in the majority...Gathering in a spot that they judged safe enough to speak freely, a group of Tamil women recounted the daily humiliation of life under the victorious Sri Lankan army — almost exclusively made up of ethnic Sinhalese Buddhists. Twice a month, the women said, soldiers enter their homes to photograph everyone. Permission from the military is required for even the smallest gathering or just to collect firewood in the nearby forest. Today, without any fighting to do, soldiers attend meetings at Hindu temples and functions at primary schools. The military has inserted itself into almost every aspect of economic life in the north of the country — farming and selling vegetables, running hotels, restaurants and even barbershops.”<sup>dcci</sup>*

The government has also utilized repressive tactics to quell dissent amongst Tamils and members of civil society. For instance, political rallies, meetings, and religious gatherings are often prohibited or suppressed by security forces. As a consequence, the LLRC pressed the government to “ensure people, community leaders, and religious leaders have the freedom to organize peaceful events and meetings without restrictions.”<sup>dccii</sup>

In November 2012, protests and lamp-lighting ceremonies held on Martyrs’ Day (Martyrs’ Day is illegal under the country’s terrorism prevention laws), commemorating the deaths of civilians and LTTE members killed during the civil war, were violently

dispersed by law enforcement authorities. Moreover, a number of students were arrested and detained for their involvement in the protests, while four students were arrested for allegedly fire-bombing the office of a Tamil political party.<sup>dcciii</sup>

Furthermore, the government continued to harass, intimidate, and shut down news websites and other media organizations critical of its policies. Many journalists claim they are subject to threats and intimidation from unknown sources.<sup>dcciv</sup> The Lanka-e-News offices, for instance, were set on fire by unidentified attackers in January 2011.<sup>dccv</sup> And in March, the editor of Lanka-e-News, Bennett Rupasinghe, was arrested by the police. Journalists believe that the arrest was intended to intimidate independent journalists.<sup>dccvi</sup> In addition, Gnanasundaram Kuhanathan, news editor of the Tamil-language daily Uthayan, was attacked by a group of men wielding iron bars near his home. At least four journalists working for the Uthayan newspaper have been killed since May 2006 because of its alleged pro-nationalist Tamil stance.<sup>dccvii</sup>

Numerous websites, including Lanka-e-News, have also been blocked by internet service providers following government orders. Moreover, a Lanka-e-News cartoonist, Prageeth Eknaligoda, has been missing since January 24, 2010 - two days before the presidential polls in Sri Lanka. Eknaligoda purportedly supported the candidacy of presidential challenger and former army chief, General Fonseka. According to recent news reports, Eknaligoda's body was dumped in the sea by men hired by the Sri Lankan Defence Secretary and close to Member of Parliament Duminda Silva.<sup>dccviii</sup>

## **Violations of Constitution and International Law**

### ***Constitution of Sri Lanka***

The Constitution of Sri Lanka declares that the country is a “democratic socialist republic” and provides Buddhism “the foremost place,” while assuring “all religions the rights granted by Articles 10 and 14 (1)(e).”<sup>dccix</sup> Article 10 provides “freedom of thought, conscience and religion” to every individual, and Article 14 (1)(e) provides every citizen the freedom “to manifest his religion or belief in worship, observance, practice or teaching.”<sup>dccx</sup>

As noted above, however, the Constitution's stated preference for Buddhism has led to restrictions on minorities' religious freedom and interference with the individual right to practice their faith. Moreover, the government and military have demonstrated inequitable treatment towards non-Buddhist places of worship in comparison to Buddhist temples. In addition, the substantial involvement of Buddhist religious clergy in the affairs of the state has resulted in the influence of Buddhist conceptions of morality on all aspects of public life, thereby impinging on the rights of religious minorities.

Furthermore, Article 14's guarantee of freedom of speech, peaceful assembly, and association, as well as the freedom "to enjoy and promote [one's] own culture and to use [one's] own language," was clearly not upheld by the government.<sup>dccxi</sup> Specifically, the use of repressive tactics to silence dissent and criticism of the government's policies and prevention or interference with peaceful protests all violated the protections embedded in Article 14. In addition, the forced Sinhalization in the northeastern regions of the country and preference for a national Sinhala-Buddhist ethos has obstructed the ability of Tamils to assert their cultural and linguistic identity.

And finally, the Constitution's assurances of equality before the law and prohibition of discrimination based on race, religion, caste, or language were frequently ignored by Sri Lanka's government and security forces. Tamils, for instance, were subjected to discriminatory policies and inequitable treatment based on their ethnic and religious identity. This was particularly true in the heavily militarized former warzones in the northeast, where Sinhala-Buddhist soldiers interfered with the daily life of Tamil civilians.

### ***International Human Rights Law***

Sri Lanka has not upheld its responsibilities under human rights law, although it is party to the UN's International Covenant on Civil and Political Rights (ICCPR) and the UN's International Convention on the Elimination of All Forms of Racial Discrimination. The government's systematic persecution of its Tamil and Hindu minority specifically violates Article 18 of ICCPR, which protects the basic "right to freedom of thought, conscience and religion," and Articles 26 and 27 where religious minorities are guaranteed equality before the law and freedom of religion without discrimination.

Furthermore, the conduct of the government and rebel groups during the civil war, where large numbers of civilians, primarily Tamils/Hindus, were killed or displaced, violated all basic standards of human rights law.

In particular, the government has consistently failed to address systematic human rights abuses and war crimes committed during the conflict and ignored recommendations from its own internal truth commission as well as the international community.

Amnesty International succinctly summarized Sri Lanka's failures, when it stated:

*The Human Rights Council and UN member states must persevere in encouraging Sri Lanka to improve respect for human rights through domestic reforms and to deliver justice for the victims of human rights violations. The UN must be prepared to act independently to end the cycle of impunity in Sri Lanka if the Government of Sri Lanka fails to do so. To date, Sri Lanka has not demonstrated that it has either the capacity or the political will to adequately account for alleged war crimes committed in the last stages of the armed conflict with the LTTE. Amnesty International remains convinced that only an impartial*

*international investigation into allegations of crimes under international law committed by both sides in the country's armed conflict will do that.*<sup>dccxii</sup>

## **Conclusion and Recommendations**

It is important to reiterate that the conflict between the Sri Lankan government and the LTTE was not a religious dispute, but rather a highly complex and multi-dimensional issue, requiring international intervention and mediation to resolve. That being said, religious dynamics, particularly those manifested through Sinhala-Buddhist nationalism, played a significant role in fueling the conflict.

Notwithstanding the various factors underlying the war, both the government and the LTTE were responsible for widespread human rights abuses and did little to alleviate the plight of ordinary civilians. Moreover, following the conclusion of the war, the Sri Lankan government has neither made serious efforts to investigate crimes committed during the war nor pursue accountability and justice for the victims of military excesses. Additionally, the government has shown little interest in pursuing genuine reconciliation and a political settlement with the minority Tamil population. In fact, Tamil civilians have continued to face widespread abuses, discrimination, and restrictions on religious freedom.

Consequently, HAF calls on the Sri Lankan government to implement substantive measures to protect the rights of minorities, and end religious persecution and ethnic discrimination. Furthermore, it is critical that the government establishes a truly independent war crimes tribunal to inquire into the abuses committed by the Sri Lankan armed forces. The government also has to act on the recommendations of the Lessons Learnt and Reconciliation Commission (LLRC) and the UN Human Rights Council.

The LLRC has recognized that Sri Lanka is suffering “from a crisis of institutionalized impunity for human rights violations by state forces and those working in collaboration with the state,” and it is therefore incumbent on the government to vigorously and transparently commit itself to bringing about the required changes in its functioning.<sup>dccxiii</sup> LLRC’s recommendations that the government investigate and hold to account those responsible for abductions, disappearances, and attacks on journalists – including those committed by armed pro-government Tamil parties should also be pursued. Furthermore, the more than 90,000 civilians still displaced, despite government contentions to the contrary, must be resettled and rehabilitated in a timely manner.

Now that the LTTE has been defeated and the civil war has come to an end, the Sri Lankan government should immediately begin setting up mechanisms that will decide the formation of autonomously governed regional states within a larger federal framework to prevent a resurgence of violence. Without an adequate power-sharing

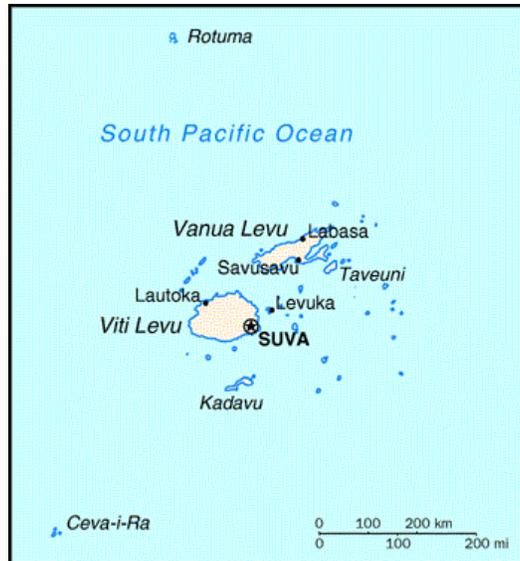
agreement and addressing Tamil grievances, experts warn that a military victory will not bring lasting peace.<sup>dccxiv</sup>

It is also important, indeed necessary, that the Tamil Diaspora play a constructive role in the rehabilitation of Tamils in Sri Lanka, the welfare of the Tamil minority in particular, and the Sri Lankan state in general. Without such a commitment, there will be a tendency to continue the old battles and undermine peace efforts. The Diaspora had a major role in fundraising for the Tamil Tigers, including extortion and blackmail of donors.<sup>dccxv</sup> Such activities must end, and serious efforts have to be made to engage constructively in the political and civic life of Sri Lanka.

Finally, HAF concurs with the International Crisis Group's recommendation that urges Sri Lanka to: "Comply with current and future [UN Human Rights Council] HRC resolutions, including by implementing the core recommendations of the LLRC on governance, the rule of law, accountability, devolution of power and reconciliation, through a process that includes opposition political parties and independent civil society representatives of all ethnic communities."<sup>dccxvi</sup>

# Monitored Countries

## Republic of the Fiji Islands



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**Area:** 18,270 square kilometers

**Population:** 883,125 (July 2011 estimate)

**Religions:** Christian 64.5%, Hindu 27.9%, Muslim 6.3%, Sikh 0.3%, other or unspecified 1.0%

**Languages:** English (official), Fijian, Hindi

**Ethnic groups:** Fijian 57.3% (predominantly Melanesian with a Polynesian admixture), Indian 37.6%, Rotuman 1.2%, other 3.9% (European, other Pacific Islanders, Chinese) (2007 census)

**Location:** Oceania, island group in the South Pacific Ocean, about two-thirds of the way from Hawaii to New Zealand<sup>dccxvii</sup>

## Introduction

2012 commenced with severe floods in Nadi, Lautoka, Ba, Sigatoka, and Rakiraki in Viti Levu, resulting in several deaths and the displacement of approximately 4,000 Fijians. Subsequently, a cyclone in March caused further damage with five deaths and 11,000 more displaced from their homes. Moreover, the economic costs of the floods and cyclone were estimated at several million dollars in damage to the island nation's infrastructure.<sup>dccxviii</sup>

Beyond the impact of natural disasters, there were no significant changes in governance or improvement in the status of human rights in Fiji in 2012. Despite having previously made commitments to improve its human rights record before the United Nations Human Rights Council (UNHRC) in 2010 and accepting 97 (out of 103) of the Council's recommendations, the government continued to repress fundamental rights and freedoms.<sup>dccxix</sup>

The UNHRC report specifically noted that Fiji's "infrastructure, judicial system and systems of accountability have all remained under-developed and unproductive." Moreover, it recommended that in order to ensure "democracy has a real chance of survival in Fiji's future, serious and principled reforms must be implemented to build roads, institutions and values."<sup>dccxx</sup>

According to Human Rights Watch (HRW), "The military and police have arbitrarily arrested and detained human rights defenders, labor leaders, journalists, and others perceived to be critical of the government. Media remains heavily censored and rule of law is hampered by a judiciary that is highly politicized and not independent."<sup>dccxxi</sup> Moreover, HRW alleged that the interim government of Prime Minister Voreqe Bainimarama continued to "deny Fiji's citizens their rights to freedom of speech and expression, a free press, assembly, and association."<sup>dccxxii</sup>

As noted in HAF's 2011 report, Commodore Bainimarama came to power following a military coup in 2006 and stayed on as the country's interim Prime Minister. On April 10, 2009, President Ratu Josefa Iloilo announced that he had suspended the Constitution, dismissed all judges and constitutional appointees, and assumed all governance in the country after the Court of Appeal ruled that the government of Prime Minister Bainimarama was illegal. Fiji was then placed under a "Public Emergency Regulation," putting the country under emergency rule for 30 days. Announcing that Fiji would hold democratic elections in September 2014, the president reappointed Bainimarama as interim prime minister, and in turn, he reappointed all the previous cabinet ministers to the positions they previously held.<sup>dccxxiii</sup>

The Emergency Regulations, however, stayed in place until January 2012, when they were finally lifted.<sup>dccxxiv</sup> Originally implemented in 2009, the Emergency Regulations had placed restrictions on the right to public assembly and freedom of expression and gave the military and other law enforcement personnel broad powers of arrest and

detention.<sup>dccxxv</sup> The Regulations also empowered security forces “to prohibit processions and meetings, to use such force, including lethal force, as considered necessary, to enter and remain in any building where there is reason to believe three or more people are meeting, and to regulate the use of any public place.”<sup>dccxxvi</sup> Under these regulations, Fiji's former prime minister and Labour Party leader, Mahendra Chaudhry, and five others were arrested in October 2010 for reportedly meeting with sugar cane farmers. Mr. Chaudhry was released on bail soon after.<sup>dccxxvii</sup>

While rescinding the Emergency Regulations was an encouraging step, reports continued to emerge of government repression and human rights abuses throughout the year.

Although the Bainimarama regime has been accused of human rights abuses and constitutional violations,<sup>dccxxviii</sup> conditions for the ethnic Indian and Hindu populations have generally improved since he took power. Under previous democratically elected governments, minorities, especially Hindus, faced widespread discrimination and violent attacks. Democracy without safeguards for minorities is as problematic as a military junta that restricts freedom but protects minority rights. As the former publisher of Fiji's *Daily Post* has astutely noted, “[M]ere elections do not deliver democracy.”<sup>dccxxix</sup>

With elections scheduled for 2014, the Bainimarama government did announce the initiation of consultations to draft a new constitution, thereby making progress towards the restoration of democracy.<sup>dccxxx</sup>

## History/Background

Fiji consists of over 300 islands, only 100 of which are inhabited. Most of the population is concentrated on the main island of Viti Levu. The first inhabitants of Fiji reportedly arrived 3,000 years ago from Southeast Asia. The first European, Dutch explorer Abel Tasman, arrived in Fiji in 1643, but it was not until the 19th century that Europeans permanently settled on the islands. The islands came under British control as a colony in 1874 and gained independence in 1970.

Fiji is home to a diverse multi-ethnic and multi-religious population. The population is split primarily between two main ethnic groups: Indigenous Fijians (Melanesians) constitute approximately 57%, and Indo-Fijians constitute 38%. Religion runs largely along ethnic lines and most Indo-Fijians practice Hinduism, while the majority of indigenous Fijians follow Christianity. In addition, the European community is predominantly Christian. The largest Christian denomination in Fiji is the Methodists, although the Roman Catholic Church and other Protestant denominations also have significant membership. The Methodist Church is supported by the majority of the country's leaders and remains influential in the ethnic Fijian community, particularly in rural areas. Other ethnic communities include the Chinese, Rotumans, and other Pacific Islanders.<sup>dccxxxi</sup>

According to the 2007 census, there are 313,798 Hindus in Fiji. Hindus are the second largest religious community in Fiji, comprising approximately 30% of the total population and approximately 76% of the Indian community. The largest faith community in Fiji is Christians at 52% of the total population, while Muslims account for another 7%.<sup>dccxxxi</sup>

Reflective of the country's religious diversity, the government observes the Hindu festival of Diwali as a national holiday, along with several Christian holidays and the birth of the Prophet Mohammed.<sup>dccxxiii</sup>

Hindus were initially brought to Fiji in 1879 by the British colonists as part of the indentured labor system to work on sugar cane plantations.<sup>dccxxiv</sup> This brutal practice, akin to slavery, was finally abolished in 1916, but discrimination against Hindus has continued, abetted by the state.

During colonial rule, the British pursued a policy of separate communal developments to prevent Indian laborers and indigenous Fijians from becoming a unified community and posing a threat to colonial rule. As a result, both communities lived and grew separately for over 70 years under British rule. The disparities were further reinforced by religious and linguistic differences. When British colonial rule ended, the large Indian minority was left at the political will of the majority native Fijians. Though Indians constituted 40% of the population, 87% of the land was given to the native Fijians under the colonial system. The political mantle was exclusively transferred to the Fijian political elite, which declared Christianity as the State religion and instituted a constitution that allowed only native Fijians to hold political office. The progressive Prime Minister, Dr. Timoci Bavadra, temporarily abrogated this practice in 1987.

Since Fiji's independence in 1970, the country has experienced three coups. The first coup of May 1987 overthrew the cabinet of Prime Minister Ratu Sir Kamisese Mara. The coup, carried out by a disgruntled militarist, Lt. Colonel Rabuka, with military loyalists, justified their violent overthrow of Kamisese Mara's democratic regime by citing his friendliness with Indians and Hindus as undermining Fijian interests. Lt. Colonel Rabuka also issued an order for Indians to convert to Christianity during the coup. Many temples were destroyed in the unrest of 1987.

In 1990, a new constitution provided for native Melanesian control of Fiji and led to large numbers of Indians leaving the island nation. The significant population loss resulted in economic difficulties, but ensured that Melanesians became the majority. The 1990 Constitution, under Sitiveni Rabuka, effectively barred any Hindu from holding the office of Prime Minister. However, continued international pressure and domestic unrest resulted in amendments to the Constitution in 1997, making it more equitable. The Constitutional review, led by Sir Paul Reeves, removed the discriminatory practices embedded in the Constitution, thereby paving the way for a new era in Fijian political history.

Elections in 1999 saw the emergence of the first Hindu Prime Minister, Mahendra Chaudhary, who was overthrown a year later by a Fijian fanatic and U.S.-educated businessman, George Speight. Subsequently, violence against Hindus increased and threatened their fundamental right to practice their faith. A 2006 report on Fiji also noted, “Discrimination against ethnic minorities was evident in plans for an indigenous Trust Fund and in the appointment of indigenous Fijians to almost all chief executive posts in the public service.”<sup>dccxxxv</sup>

Furthermore, the former publisher of the Daily Post newspaper analyzed the role of the media, particularly the *Fiji Times* and the *Fiji Sun*, in fomenting opposition to Chaudhry’s government. The former Daily Post publisher argued that the ethnic Fijian newspaper editors were clearly opposed to Mahendra Chaudhary and that they projected the Chaudhry government as an “Indo-Fijian” government which could not be trusted to safeguard the interests of the itaukei, or the ethnic Fijians. The editors also failed to inform readers about the safeguards enshrined in the 1997 Constitution which stipulated that no Prime Minister could implement changes affecting native land and laws protecting the rights of the indigenous people. The publisher also claimed that the *Fiji Times* did not edit treasonable and seditious material or hate-speech that would be considered derogatory by any intelligent reader.<sup>dccxxxvi</sup>

Subsequent Parliamentary elections held in August 2001 provided Fiji with a democratically elected government and gave a mandate to the government of Prime Minister Laisenia Qarase. Re-elected in May 2006, Qarase was later ousted in a military coup led by Commodore Bainimarama, who initially appointed himself acting president and dissolved the Parliament, paving the way for the military to assume power. On January 4, 2007, the military announced that it was restoring executive power to President Iloilo, who in turn endorsed the actions of the military. The next day, Iloilo named Bainimarama interim Prime Minister.<sup>dccxxxvii</sup> Commodore Frank Bainimarama, current Prime Minister of Fiji, justified the overthrow of the Qarase regime as an attempt to curb state sponsored racism against Indians and Hindus and general political corruption.

## **Status of Human Rights, 2012**

As HAF reported in 2011, although the number of attacks on Hindus and Hindu temples has decreased over the past few years, Fijians of Hindu descent continue to face a number of challenges. Consequently, the Hindu population in Fiji has been steadily declining, with heavy migration to the United States, Australia, and New Zealand.<sup>dccxxxviii</sup> In addition, the lack of skilled employment opportunities and government preference for ethnic Melanesians in a Christian majority nation has resulted in an Indian or Hindu brain-drain from Fiji.<sup>dccxxxix</sup>

According to Freedom House, “Race-based discrimination is pervasive. Indigenous Fijians receive preferential treatment in education, housing, land acquisition, and other

areas. Discrimination, economic hardship, and political turmoil have prompted many Indo-Fijians to leave Fiji. A December 2011 study reported that an estimated 250,000 Fijians—many of them educated and skilled Indo-Fijians—had left the country in the last 25 years.<sup>dccxi</sup> Since the vast majority of Indo-Fijians are Hindu, religious identity likely also plays a role in racial discrimination against Indo-Fijians in general. Additionally, in 2012, there were some indications that the government increased restrictions on the religious freedom of minorities, including Hindus.

Furthermore, under the military government of Commodore Bainimarama, the basic human rights and freedoms of all Fijians have been routinely violated. Human Rights Watch (HRW), for instance, recently wrote to Commodore Bainimarama regarding the widespread restrictions on “freedom of expression, assembly, and association.” HRW further noted that through the Public Order (Amendment) Decree 2012 and subsequent revisions, the government has suppressed free speech, particularly of those that have been critical of the government. Moreover, the government has failed to “uphold the rule of law” and interfered with the independence of the judiciary.<sup>dccxli</sup>

The government has also been accused of censorship and attempts to silence its critics through intimidation and criminalization.<sup>dccxlii</sup> Additionally, there were allegations of torture by the military and other forms of repression against opponents of the government.<sup>dccxliii</sup>

And finally, the government increased pressure against civil society groups and trade unions. For instance, in September 2012, the International Labour Organization (ILO) was prevented from conducting a fact-finding mission into worker complaints of violations of their freedom of association. The Public Order (Amendment) Decree was also utilized to deny permits for trade union to hold public meetings.<sup>dccxliv</sup>

### ***Religious Freedom***

The right to freely worship without fear of attack or discrimination is an intrinsic and fundamental aspect of religious freedom. Under the Bainimarama administration, the Fijian government has generally supported the free practice of religion. In 2012, however, certain measures were implemented restricting the religious rights of Hindus.

Under new regulations, Hindus were required to acquire permits to hold events that had more than ten people. Similarly, many Hindu temples were unable to obtain permits for religious gatherings or festivals unless they were registered with one particular Hindu religious body, the Shree Sanatan Dharam Pratinidhi Sabha of Fiji.<sup>dccxlv</sup>

Moreover, private religious institutions have become increasingly intolerant of religious diversity and pluralism and have pushed to erase the line separating politics and religion. Fiji’s Methodist Church, for instance, openly advocated for Fiji to officially become a Christian state, claiming that “Fiji was given to God...When we say that Fiji is a Christian

state we say it was decided by our chiefs who ceded Fiji to Great Britain that Fiji be a Christian country...When it was given to God, it has already established its covenant relationship with God, and that covenant relationship is eternal - it cannot be withdrawn." The majority of Fiji's Christian population is Methodists and the Church wields considerable influence and power in the island nation.<sup>dccxvi</sup>

Although there were no reported attacks on Hindu temples in 2012, in previous years, Hindus were singled out for violence and temple desecration by suspected Christian fundamentalists. In fact, attacks and desecration of Hindu temples have been a feature of Fiji's religious landscape, especially since 1987. For instance, according to a January 2011 report, a Hindu temple was broken into and cash and electrical items stolen.<sup>dccxvii</sup> Similarly, according to a U.S. State Department report on religious freedom in 2008: "In August 2008, a private temple in Ba was reportedly destroyed by arsonists. Following a string of temple desecrations in October, Prime Minister Frank Bainimarama ordered a special investigation. Bainimarama stated that ending racism against Indo-Fijians was a priority for his administration."<sup>dccxviii</sup> And on October 16, 2008, the Shiu Hindu Temple near Nadi was burnt down, and Fiji Police confirmed that the fire was a deliberate act of arson.<sup>dccxlix</sup>

The religious tension between Hindus and Christians is entwined in the historical racial differences between native Fijians and Indians, which date back to the colonial era. As the Reverend Akuila Yabaki, Head of Fiji's Citizens Constitutional Forum, said in a recent interview: "There is a general feeling amongst the indigenous people that they have a superior religion, and I think that tends to be at the root of sacrilege. In times of political instability, this sense of superiority comes to the fore, or when this is a standoff between Indo-Fijians and indigenous Fijians, the feelings of superiority are shown up in the burning of temples and mosques, desecration of holy books of Hinduism and Islam. And this has become common expression of religious intolerance since 1987."<sup>dccli</sup>

Besides attacks on places of worship, there have been recent examples of government and police officials using their positions of power to promote their Christian religious beliefs. According to the U.S. State Department, "In 2008 and 2009, under the direct leadership of the police commissioner, the Fiji Police Force partnered with Souls to Jesus (commonly known as the New Methodists), a Christian group led by the police commissioner's younger brother, to host evangelistic events at all police divisions and major police stations in the country in an effort to foster community policing and reduce crime. All officers and their families were effectively required to attend the rallies, regardless of religion."<sup>dccli</sup>

The report went on to state that Hindu and Muslim police officers joined the commissioner's church for fear of being denied promotions or losing their jobs. The State Department also noted, "While the crusades have ceased, the Souls to Jesus congregations continued to use official police premises to hold their weekly services for

police families, and all police stations and offices held weekly Christian services for one hour, during working hours.”<sup>dcclii</sup>

Furthermore, in February 2009, the police commissioner accused Indo-Fijian police officers of being liars and backstabbers. The commissioner also told the officers to support the Christian rallies or leave the police force.<sup>dccliii</sup> And in June 2009, the Fiji police were again involved in promoting Christianity in conjunction with the New Methodist Church, led by Atu Vualono, the brother of Fiji Police Commissioner, Esala Teleni. While some Hindu leaders claim that they have no problems with such official involvement in a religious crusade, others were not so sanguine.<sup>dccliv</sup>

In response to complaints and criticism, in December 2009, the government administration issued a directive calling for public officials to stop using their official positions to promote their Christian beliefs. While HAF commends the Bainimarama administration’s initiatives to curb the misuse of agencies by government and police officials for the endorsement of Christian activities, HAF continues to be concerned by increasing restrictions on Hindu temples and religious gatherings. These restrictions in conjunction with the Methodist Church’s determination to create a theocratic state are worrying trends that need to be closely monitored.

## **Violations of Constitution and International Law**

### ***Constitution of Fiji***

Fiji’s constitution prior to the military coup in 2006 explicitly established the separation of religion and state, but as noted above, in recent years there have been systematic attempts by some government officials and the Police Commissioner to sponsor Christianity through official channels, such as starting the day with Christian prayers.

Section 30 of the Constitution limits the right of freedom of expression to protect “the reputation, privacy, dignity, rights or freedoms of other persons, including the right to be free from hate speech, whether directed against individuals or groups” and to “prevent attacks on the dignity of individuals, groups or communities or respected offices or institutions in a manner likely to promote ill will between races or communities or the oppression of, or discrimination against, any person or persons.”<sup>dcclv</sup> Unfortunately, the Fijian government has not upheld this constitutional guarantee as Christian groups condemn Hindus as “idol worshippers” and promote anti-Hindu sentiment that clearly advances “ill will between communities.”

Section 35, which is not supported by the Methodist Church states, “(1) Every person has the right to freedom of conscience, religion and belief; and (2) Every person has the right, either individually or in community with others, and both in public and in private, to manifest his or her religion or belief in worship, observance, practice or teaching.”<sup>dcclvi</sup> The destruction and desecration of Hindu temples and institutions threatens the ability of Hindus to enjoy the protections of Section 35 of the Constitution.

With consultations underway for the creation of a new constitution, it will be critical that basic human rights, religious freedom, and the strict separation of church and state are provided for in any constitutional framework.

### ***International Human Rights Law***

Although Fiji has not taken any action toward ratifying or signing the U.N. International Covenant on Civil and Political Rights (ICCPR), it has agreed to the International Convention on the Elimination of All Forms of Racial Discrimination. Moreover, it is bound to uphold commonly accepted human rights principles under customary international law. As noted earlier, the condition of Hindus has improved in recent years, and credit for the improvement has been given to Interim Prime Minister Bainimarama's initiative in strictly enforcing laws and publicly guaranteeing the protection of Hindus.

Addressing the UN Human Rights Council in June 2010, Fiji's Ambassador Peceli Vocea said that Fiji was ready to accept 97 of the 103 recommendations and that "Fiji deems it to be her obligation to ensure that it ratifies all core Human Rights convention to ensure the safeguarding of the Rights of its Citizens." Fiji rejected the call for elections in 2010 and stayed with the road map of having elections in 2014.<sup>dcclvii</sup>

### **Conclusion and Recommendations**

Despite improvement in the conditions of the Indian-Hindu minority, human rights abuses remain prevalent. In addition, recent government measures restricting the rights of Hindu temples indicate a potential setback for religious freedom. Consequently, the drafting of a new constitution and elections in 2014 will be vital to ensuring civil rights and religious freedom for all Fijians going forward.

In the interim, the Fijian government should rescind recently implemented restrictions on Hindu temples and religious gatherings, and practice parity and equality in its response to and support of various ethnic and religious groups. Moreover, law enforcement should continue to protect Hindus from violent attacks, closely monitor hate speech, and institute permanent safeguards to protect Hindu temples and institutions.

The Fijian government should also distance itself from Christian fundamentalists who promote hatred against Hindus and Hinduism and should avoid Christianization of its institutions, as advocated by the Methodist Church. Finally, the government must uphold and protect human rights, take specific steps to enhance human rights protections, and return to democratic rule.

# The Kingdom of Saudi Arabia



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**Area:** 2,149,690 sq. km

**Population:** 27,601,038 (July 2007 est.)

**Religion:** Exact numbers are unavailable. Saudi government claims all citizens are Muslim, of these 85 percent are Sunni and 15 percent are Shiite. Non-Muslim migrant workers within the state unofficially practice mainly Hinduism or Christianity.

**Ethnicity:** 90 percent are ethnically Arab, 10 percent are Afro-Asian. This does not include the 7 million migrant workers who are predominantly South Asian in descent.

**Languages:** Arabic

**Location:** Middle East, bordering the Persian Gulf and the Red Sea, north of Yemen.

## Introduction

Saudi Arabia continues to be one of the most authoritarian and repressive nations in the world. Despite persistent international criticism of its human rights record, the Kingdom's leadership has remained obstinate and refused to implement meaningful reforms. As a result, there continued to be a complete disregard for fundamental human rights, suppression of political dissent, restrictions on religious freedom, and an absence of basic women's rights.

Summarizing the current state of affairs in the country, Human Rights Watch (HRW) recently noted, "Saudi Arabia has stepped up arrests and trials of peaceful dissidents, and responded with force to demonstrations by citizens. Authorities continue to suppress or fail to protect the rights of 9 million Saudi women and girls and 9 million foreign workers. As in past years, thousands of people have received unfair trials or been subject to arbitrary detention, and public and other executions continue. Human rights defenders and others regularly face trial for peaceful expression or assembly, or for demanding political and human rights reforms."<sup>dcclviii</sup>

## History/Background

In the late eighteenth century, Saudi tribal ruler Muhammad bin Saud and Wahhabi cleric Muhammad Abd Al-Wahhab merged to form a new political union on the Arabian Peninsula. Over the course of the next century, the Saud family struggled to maintain power against Egypt, the Ottoman Empire and other tribal bodies. In 1902, King Abdul Aziz Al-Saud engaged in a successful military campaign to retake Riyadh and other prominent cities. His nascent state was founded and recognized by the United Kingdom in 1927 with the Treaty of Jeddah. The three regions of Al-Hasa, the Nejd, and Hejaz officially became the Kingdom of Saudi Arabia in 1932.

Vast reserves of oil were discovered in March 1938. This triggered development programs in the late 1940s bankrolled by Western states, particularly the United States. Today, Saudi Arabia is the leading petroleum producer and exporter. Oil constitutes 75% of government revenues and 90% of all exports.

King Abdullah has led the country after the death of his half brother Fahd in August 2005. The monarch is the head of all the branches of the government. He appoints the two legislative bodies, including the Council of Ministers and the Majlis-al-Shura (Consultative Council) and the judicial branch as well. The king also appoints emirs to administer the state's regions. Political parties are forbidden, and traditionally, neither men nor women possess the right to vote. In October 2003, the government allowed elections for half of the members of the powerless municipal councils, but elections were not held until 2005. Only male citizens over the age of 21, with the exclusion of military personnel, were allowed to participate.

The country is an Islamic monarchy with a legal system based on the Koran and Islamic Sharia law. As an Islamic state, religious clerics and authorities play a leading role in all aspects of the government.

The demographic composition of Saudi Arabia has transformed dramatically in the past twenty years. Though 90% of Saudis are ethnically Arab, globalization has created an increasingly religiously and ethnically diverse society. When King Saud abolished slavery in 1962, a large demand for workers was created, leading to the steady influx of migrant workers from poor and developing countries. Currently, there are an estimated

7 million migrant workers, including 1.5 million Indians, 1.5 million Bangladeshis, 1.2 million Filipinos, 1 million Pakistanis, 1 million Egyptians, 600,000 Indonesians, 400,000 Sri Lankans, 350,000 Nepalese, 250,000 Palestinians, 150,000 Lebanese, and 100,000 Eritreans. There are approximately 100,000 American and European workers in Saudi Arabia as well. Foreigners comprise 67% of the workforce and hold 90 to 95% of private-sector jobs.

## **Status of Human Rights, 2012**

### ***Religious Freedom***

The country's legal framework is based on Sharia (Islamic law), and Saudi law mandates all citizens to be Muslims and does not provide any constitutional protections or rights for religious minorities. In addition, public practice of other religions is prohibited and no non-Muslim places of worship, such as temples, synagogues, or churches are expressly forbidden. Public worship is strictly limited to a state sponsored version of Sunni Islam, and proselytizing by non-Muslims is illegal.<sup>dccclix</sup>

Saudi laws also provide for disparate judicial rules, favoring Muslim males and discriminating against non-Muslims and women. For example, a Jewish or Christian plaintiff can only recover half the compensation a Muslim male would in a favorable court judgment, while certain other religious groups, such as Hindus, Buddhists and Sikhs are only allowed to recover 1/16 the amount. In addition, judges may reject the testimony of non-Muslims during court proceedings. Children of all male citizens are also considered Muslims, regardless of the religious tradition in which they are raised or born.

Furthermore, visitors and non-residents to the Gulf kingdom often complain that the police and customs authorities routinely confiscate private religious material, including books and symbols, upon entry in the country. As a result, all major human rights organizations, along with the US Commission on International Religious Freedom (USCIRF), have severely criticized Saudi Arabia's human rights record. And since 2000, USCIRF has repeatedly labeled Saudi Arabia as a *Country of Particular Concern*.<sup>dccclx</sup>

While all non-Muslims face restrictions on religious freedom in Saudi Arabia, Islamic law characterizes Hindus as polytheists and consequently places them in the same category as those who practice "black magic" or "sorcery." There are an estimated 165,000 to 300,000 Hindus living in Saudi Arabia, many working as poor laborers.<sup>dccclxi</sup> Nearly 70% of Indian workers in Saudi Arabia are semi-skilled or unskilled workers and are the victims of a variety of human rights abuses. And according to a new report, these poor workers are treated inhumanely and managed like "cattle."<sup>dccclxii</sup>

Similarly, a recent HRW report on domestic workers in Saudi Arabia detailed the "slavery-like conditions" endured by expatriate workers in the Gulf Kingdom.

Specifically, it documented the physical and sexual abuse, and in some instances, cases of trafficking and forced labor.<sup>dcclxiii</sup>

Non-Muslim migrant workers in particular, including Hindus, are deprived of all basic human rights and religious freedom. In fact, many migrants are frequently forced to sign labor contracts, where they relinquish their rights and agree to adhere to Saudi religious customs and morals.<sup>dcclxiv</sup>

Notwithstanding the right to public displays of religion, even the private religious practice of non-Muslim workers is severely restricted. Although the Saudi government proclaimed that non-Muslims were allowed to worship in private, that right has not been clearly defined. Consequently, religious vigilantes and police frequently harass, assault, and batter non-Muslims.

Enforcing the Kingdom's interpretation of Islamic law falls under the mandate of the Commission to Promote Virtue and Prevent Vice (CPVPV), which was created in 1927 to monitor a range of activities including: "Mixing of the two sexes; men's advances toward women; practicing or displaying non-Muslim faiths or disrespecting Islam; displaying or selling media contrary to Islam, including pornography; producing, distributing, or consuming alcohol; venerating places or celebrating events inconsistent with Islamic practices; practicing magic for profit; and committing or facilitating of lewdness, including adultery, homosexuality and gambling." The CPVPV's mandate is enforced through the religious police, known as the mutawwa'in.

In several cases, the CPVPV's mutawwa'in have interfered with the private worship and rituals of non-Muslim workers. Some reports also indicate that non-Muslim migrant laborers have been subject to surveillance by the mutawwa'in and constantly fearful of raids by the police.<sup>dcclxv</sup>

A recent case emblematic of the human rights violations faced by non-Muslims in Saudi Arabia was the imprisonment of a Hindu female doctor, Shalini Chawla, on false allegations of murder. Chawla, 36, was accused of murdering her husband, Ashish Chawla, and jailed by Saudi authorities for ten months before being released.<sup>dcclxvi</sup> Shalini was put in prison after her husband's Muslim colleagues accused her of poisoning her husband after he allegedly converted to Islam. Shalini, however, said that her husband never discussed his intention to embrace Islam.

Despite medical reports and autopsies confirming that Ashish died in his sleep, Shalini remained in prison, where she was forced to care for her newborn baby. She was finally released and sent back to India after intervention from the Indian Consulate and was forced to sign an agreement to bury her husband according to Islamic rites.<sup>dcclxvii</sup> The incident symbolized the institutional animus towards non-Muslims prevalent in Saudi Arabia and the arbitrary nature of the kingdom's justice system.

## ***Islamic Extremism***

The Institute for Gulf Affairs asserts, “The religious policies of the Saudi government have contributed to the rise of extremism and terror groups worldwide, including Al-Qaeda and others. Moreover, Saudis are leading contributors of money and support to international terrorist groups and make up the highest numbers of suicide bombers around the world, which often occurs with either the direct support or the tacit approval of Saudi authorities.”<sup>dcclxviii</sup>

Saudi Arabia also exports extreme forms of Wahabbi Islam to other countries through the construction of mosques, provision of educational materials, and support for Islamists. As the USCIRF report recently noted, “The government continues to be involved in supporting activities globally that promote an extremist ideology, and in some cases, violence toward non-Muslims and disfavored Muslims.”<sup>dcclxix</sup>

Intolerance of other religions is also embedded in the Kingdom’s educational institutions and schools that teach Islamic law.<sup>dcclxx</sup> A 2011 report by the Hudson Institute’s Center for Religious Freedom, found that Saudi textbooks promoted “violent jihad and hatred and violence against Jews, Christians, and infidels.”<sup>dcclxxi</sup>

This report was contrary to the Saudi government’s stated policy of plans to revise the textbooks and remove religiously inflammatory language.

## **Violations of Constitution and International Law**

### ***Constitution of Saudi Arabia***

Saudi Arabia’s Constitution proclaims the kingdom to be “a sovereign Arab Islamic state with Islam as its religion” and “God’s Book and the Sunnah of His Prophet” to be its “constitution.” It further declares Arabic to be the national language of the nation. Article 7 states that the government “derives power from the Holy Koran” while Article 8 declares the basis of the government to be “in accordance with the Islamic Shari’ah.”

Furthermore, the Constitution states that education should instill “the Islamic faith in the younger generation” and that “the state protects Islam.” Human rights are protected by Article 26 but only in accordance with Shari’ah law. Non-Muslims minorities, however, are not officially recognized by the Constitution and thus have no fundamental rights or protections. Consequently, Saudi Arabia’s constitution sanctions religious discrimination and disregards the basic human rights of its citizens, particularly those of its religious minorities.

## ***International Human Rights Law***

Saudi Arabia has not signed or ratified most international human rights treaties, including the UN's International Covenant on Civil and Political Rights (ICCPR). The lone exception is its accession to the UN's International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), which took place on September 23, 1997.

The explicit discrimination inherent in Saudi Arabia's constitution, the government's systematic restrictions on religious freedom, and abuses by the CPVPV violate the country's responsibilities under ICERD. Moreover, it is bound to uphold commonly accepted human rights principles under customary international law, even though it is not a signatory to other international human rights conventions.

## **Conclusion and Recommendations**

Given the Saudi government's unwillingness to address fundamental human rights concerns, the international community, and particularly the U.S., must exert economic and diplomatic pressure on the country's leaders to implement meaningful reforms. Specifically, Saudi Arabia must revamp its legal system to provide religious freedom for minorities, equality for women, and basic civil rights for all its citizens.

Furthermore, the Saudi regime must end its financial, ideological, and logistical support for radical Islam in various parts of the world.

# Republic of Trinidad and Tobago



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**Area:** 5,128 square kilometers

**Population:** 1,227,505 (July 2011 estimate)

**Religions:** Roman Catholic 26%, Hindu 22.5%, Anglican 7.8%, Baptist 7.2%, Pentecostal 6.8%, Muslim 5.8%, Seventh Day Adventist 4%, other Christian 5.8%, other 10.8%, unspecified 1.4%, none 1.9% (2000 census). Almost all Hindus are of Indian descent.

**Ethnic groups:** Indian (South Asian) 40%, African 37.5%, mixed 20.5%, other 1.2%, unspecified 0.8% (2000 census)

**Languages:** English (official), Caribbean Hindustani (a dialect of Hindi), French, Spanish, Chinese

**Location:** Caribbean, islands between the Caribbean Sea and the North Atlantic Ocean, northeast of Venezuela<sup>dcclxxii</sup>

## Introduction

The election of Kamla Persad-Bissessar and her multi-ethnic People's Partnership (PP) coalition in 2010 significantly improved conditions for the country's Hindu community. As in 2011, there were no significant restrictions on religious freedom or attacks on Hindu temples in 2012. On the other hand, Hindus continued to be disproportionately affected

by violence. It is not clear, however, whether the violence was religiously or racially motivated or simply general criminal activity. Moreover, pervasive racial tension between the Indian and Afro-Caribbean communities continued, despite the recent change in government.<sup>7</sup>

Bissessar, who is of Indian and Hindu descent, became Trinidad and Tobago's first female Prime Minister in 2010. She heads the PP, a five-party coalition that came to power in May 2010 after defeating Patrick Manning and the People's National Movement (PNM). In the 2010 elections, the People's Partnership won 29 seats and the PNM 12. During the PNM regime, Trinidad and Tobago experienced high rates of crime and public corruption.<sup>dcclxxiii</sup>

The PNM had previously ruled the country for five decades and drew its main base of support from citizens of African origin. Upon coming into office, the new Prime Minister declared that she would make the country a successful multicultural society. And Bissessar has endeavored to create an inclusive government with representation from all ethnic and religious groups, as her cabinet includes a number of ethnic Afro-Caribbean ministers. In contrast, the prior ruling PNM had largely marginalized Hindus and Indians from positions in the government. Moreover, Bissessar's People's Partnership won the elections by attracting voters from across the ethnic and racial divide.

Under previous governments, citizens of Indian and Hindu descent faced widespread discrimination, economic and political marginalization, social prejudice, and harassment.<sup>dcclxxiv</sup> In July 2009, opposition Member of Parliament, Tim Gopeesingh, accused the PNM government of carrying out a policy of political discrimination, that was specifically targeting Indo-Trinidadians.<sup>dcclxxv</sup>

Similarly, Satnarayan Maharaj, Secretary General of the Santan Dharma Maha Sabha, Trinidad and Tobago's largest Hindu organization, recently reflected on the PMN's overt discrimination against the Indian-Hindu community:

*"[T]he People's National Movement (PNM), continued the religious, cultural and even racial discrimination against the Indian community and more especially the Hindus of Trinidad and Tobago. South of the Caroni River [where a large percentage of the Hindu community lives] was regarded by the PNM government who ruled Trinidad and Tobago for 30 consecutive years (1956-1986), as foreign territory. The roads were left unpaved and impassable, water to the households was at a premium and other services that were available to citizens elsewhere were denied the people south of the river. Even secondary schools for our*

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<sup>7</sup> In Trinidad and Tobago, it is often difficult to determine whether acts of discrimination or violence are ethnically or religiously based, or some combination of the two. Therefore, although this report attempts to avoid conflating religion and ethnicity, the terms Hindu and Indian are often used interchangeably or in conjunction with one another, given that the majority of the country's Indians are also Hindu.

*children did not come to County Caroni and elsewhere in the countryside until a change of government in 1986.*<sup>dcclxxvi</sup>

Moreover, the Indo-Trinbago Equality Council (ITEC) claimed that there was systematic discrimination against Indo-Trinidadians in the areas of nursing, state housing, military, police, public service, and elsewhere. According to Devant Maharaj of the ITEC, the only field where Indo-Trinidadians were overrepresented was in the medical profession (as doctors) because the field was based on merit and education.<sup>dcclxxvii</sup>

A recent report further supports the contention that Indo-Trinidadians were underrepresented in most professions and government positions, despite comprising nearly 40% of the population. The report traces the unequal rates of employment opportunities and representation in various areas over several years. It refers to a study from 1970 that showed, “[O]f the 100 employees of the Central Bank of Trinidad and Tobago, 84 were Afro-Trinidadians, 10 were Indo-Trinidadians, 3 were of Chinese descent, 2 were of Portuguese descent, and 1 was white.”<sup>dcclxxviii</sup>

This unequal employment situation was further evident in 1989, when statistics showed that of the total number of persons employed in all government organizations, 29% were Indo-Trinidadians. In the police force, Regiment of the Defense Force, Coast Guard, and Port Authority, the percentage of Indo-Trinidadians was 25%, 5%, 16%, and 6%, respectively. At that time, census data indicated that Indo-Trinidadians made up 40.3% of the country's population, while Afro-Trinidadians comprised 39.6%, thereby demonstrating the wide disparities.<sup>dcclxxix</sup> The report further found that Indo-Trinidadians reached and surpassed the equity ratio in the areas of medicine and finance, “but that the criteria for employment and advancement in these two areas was clearly technical skill,” supporting the claims of the ITEC.<sup>dcclxxx</sup>

Moreover, Hindus faced restrictions on religious freedom, state preference for Christianity, and inequitable funding of religious activities in comparison to Christians. As an example of the previous government's institutionalized preference for Christianity, former High Court judge Herbert Volney reportedly claimed that a judge “must know [his] benediction and must be known for [his] piety,” in order to ascend to the Court of Appeal.<sup>dcclxxxi</sup> Incidentally, Judge Volney is now the Minister of Justice in the Bissessar Cabinet.<sup>dcclxxxii</sup>

Consequently, the election of Bissessar brought optimism and hope for the ethnic Indian and Hindu communities and expectations of a new socio-cultural-political dynamic. In a symbolic and significant gesture, the new leadership gave TT \$1 million for the celebration of the Hindu festival, Diwali, which costs nearly TT \$15 million. On the other hand, the previous PNM government had provided only TT \$10,000.<sup>dcclxxxiii</sup> As the new Attorney General Anand Ramlogan stated, “People think of Trinidad as a predominantly African country...We want to rectify this mis-perception. The majority is of Indian

descent.<sup>”dclxxxiv</sup> Previously there was “discrimination manifest in subtle ways,” one of which was the allocation of state funding.<sup>dclxxxv</sup>

However, the new Prime Minister must also ensure that in redressing previous grievances, her government does not discriminate against non-Indians and/or non-Hindus. Thus far, it appears that Bissessar has not shown state preference for Indians and Hindus and has created an inclusive government.

Nonetheless, there still remains a high level of mistrust and mutual suspicion between the Indian/Hindu and Afro-Caribbean communities. For example, a recent article by Professor Selwyn Cudjoe, one of Trinidad and Tobago’s well-known writers, seems to reflect the continued ambivalence, if not outright hostility to the citizens of Indian descent in the country. In the article, entitled “Hindu ethics and morality,” Cudjoe questions Hindu morality and ethics itself and effectively instigates ethnic Africans against Indians/Hindus. He writes: “Speak to any non-Indian in Trinidad and Tobago and one is asked the same question: What dese Indians want? It may be an unfair question, a paranoid response, or just the reflection of feelings of anxiety. Yet, there lingers in the minds of many non-Indians that there can be no pleasing Indians in Trinidad and Tobago. Do they yearn for equality or do they seek dominance?”<sup>dclxxxvi</sup>

Similarly, at the Emancipation Day dinner in 2009, acknowledging the arrival and slavery of people of African descent, Professor Cudjoe warned of “turbulent times” for people of African origin “because they are now a minority in this country...If ethnic trends in voting continue, it is likely that in the next ten years we might see that same pattern that has emerged in Guyana in which the dominant group will hold power in perpetuity.”<sup>dclxxxvii</sup> And in 2006, he claimed, “[A]ll the turmoil that we see in our society today not only represents a relentless struggle on the part of the East Indians to dominate the society; it also suggests that the agents of their group are prepared to utilise any means—be they legal, political, academic or religious—to achieve ethnic dominance.”<sup>dclxxxviii</sup>

Professor Cudjoe’s inflammatory rhetoric continues to exacerbate tensions between Trinidad and Tobago’s two largest communities and ignores the widespread discrimination ethnic Indians and Hindus have encountered for several decades.

After the PP’s election in 2010, there have been indications that the country is still plagued by violent crime, accusations of corruption, and the mishandling of certain top government appointments.<sup>dclxxxix</sup> In August 2011, Bissessar declared a state of emergency in an attempt to deal with the surge in violent gang-related activity. In the two months after the emergency was declared, more than 7,000 people were arrested, and large quantities of drugs and weapons were seized.<sup>dccxc</sup> Subsequently, in November, Bissessar alleged that the police had thwarted an assassination attempt on her and members of her cabinet by “criminal elements” in an apparent reprisal against her Government’s declaration of a state of emergency.<sup>dccxci</sup>

## History/Background<sup>dccxcii</sup>

The Republic of Trinidad and Tobago is an archipelagic state in the southern Caribbean. The country consists of two main islands, Trinidad and Tobago, and 21 smaller islands. Trinidad is the larger and more populous of the main islands; Tobago is much smaller, comprising about 6% of the total area and 4% of the population.

Originally settled by Amerindians of South American origin at least 7,000 years ago, Trinidad and Tobago was occupied by Arawakan-speaking and Cariban-speaking peoples at the time of European contact in 1498. A history of slavery and indentured labor has left the country with a population of African, Indian, European, Middle Eastern, Chinese, and mixed-race descent. All these groups have left a significant impact on the country's national culture.

Britain consolidated its hold on both islands during the Napoleonic Wars and combined them into the colony of Trinidad and Tobago in 1899. As a result of these colonial struggles, Amerindian, Spanish, French, and English influence are all common in the country. Subsequently, African slaves and Chinese, Portuguese, Indian, and free African indentured laborers arrived to supply labor in the 19th and early 20th centuries. Emigration from Barbados and Lesser Antilles, Venezuela, Syria, and Lebanon also affected the ethnic makeup of the country. Trinidad and Tobago elected for independence in 1962. And in 1976, the country severed its links with the British monarchy and became a republic within the Commonwealth.

Trinidad and Tobago is a democratic republic. The Head of State is the President and the Head of Government is the Prime Minister. The President is elected by an electoral college consisting of the full membership of both houses of Parliament, while the Prime Minister is appointed by the President.

Political parties are generally divided along ethnic lines, with the People's National Movement (PNM) supported primarily by Africans and the United National Congress (UNC) drawing its constituency largely from Indians. Recently, there have been three elections in three years contested by these two main, ethnic-based parties. However, support for political parties is not completely polarized along racial lines. In the most recent elections, for example, the PNM fielded Indian candidates for election, while the main financial benefactor of the UNC is an Afro-Trinidadian. The PNM has dominated politics in Trinidad and Tobago for much of the country's post independence history.

Dr. Eric Williams, the country's first Prime Minister and a member of the PNM, referred to Indians as the "recalcitrant minority." The racial and religious animosity between ethnic Africans (primarily Christian) and Indo-Caribbeans (mostly Hindu) was exacerbated over the years and manifested particularly in the media and government. Prominent Hindu leader and Secretary General of the Hindu Maha Sabha, Satnarayan Maharaj, stated in 2006: "This year marks 50 years since Trinidad and Tobago attained

the right to internal self-government (1956-2006). Out of this 50-year period an Indian-based political party held power for six years. The People's National Movement (PNM) ruled for 30 consecutive years without appointing a single Hindu as a government minister. The cry of rural neglect, alienation, marginalization and discrimination affected the political psychology of Indians as they lost hope of ever winning a general election.<sup>dccxciii</sup>

Maharaj went on to point out that despite the PNM being in political office since 1956, Afro-Trinidadians continued to agitate for affirmative action and preferential treatment.

Furthermore, according to the book, *The Indian Struggle for Justice and Equality against Black Racism in Trinidad and Tobago (1956-1962)*, "The 1956 election was won by the PNM headed by Eric Williams on the institution of a resurgent Negro nationalism. Since then, Indians in Trinidad have been subjected to widespread social prejudice spurred by PNM racialism."<sup>dccxciv</sup>

As noted above, the election of Kamla Persad-Bissessar in 2010 brought considerable change for the Indian-Hindu community, although racial tensions between Indians and Afro-Caribbeans continued unabated.

## **Status of Human Rights, 2012**

In the recent past, Hindus in Trinidad and Tobago faced a multitude of human rights issues, including physical attacks, temple desecration, economic/political discrimination, and the inequitable distribution of government funds. Although conditions are starting to improve under the Bissessar government, Hindus and ethnic Indians continue to confront a number of challenges.

Moreover, the country continued to experience a high rate of crime. According to a UN report, Trinidad and Tobago had the second highest crime rate in the region, after Jamaica. One out of every two persons living in Trinidad and Tobago is fearful of being victimized of violent crime.<sup>dccxcv</sup>

Gender-based violence and discrimination was particularly widespread in Trinidad and Tobago. Police statistics from 2012 demonstrated the prevalence of sexual crimes, with 933 reported rapes, incest, and other sexual offenses.<sup>dccxcvi</sup>

Similarly, discrimination based on sexual orientation was common in 2012, with legislation still in place criminalizing same-sex relationships. Specifically, the Trinidadian Sexual Offences Act punishes same-sex relationships with up to 25 years imprisonment, and under the Immigration Act, "homosexuals" are banned from entering the country. As a result, these statutes legitimize discrimination against lesbian, gay, bisexual, and transgender individuals, although they are not consistently enforced. Human rights

groups, consequently, welcomed Prime Minister Bissessar 's public pronouncement "to put an end to all discrimination based on gender or sexual orientation."<sup>dcxcvii</sup>

### ***Religious Freedom***

The Constitution of Trinidad and Tobago guarantees equal protection under the law and freedom of religion for all citizens. Furthermore, religious groups possess the same rights and obligations as most legal entities, can own land, and hire employees. The Government subsidizes both public and religiously affiliated schools. It also permits religious instruction in public schools, setting aside a time each week when any religious organization with an adherent in the school can provide an instructor. Attendance at these classes is voluntary and the religious groups represented are diverse. Parents may enroll their children in private schools for religious reasons. As a result, there are thriving Hindu, Muslim, and Christian schools. The Government has also established public holidays for every religious group with a large following. In addition, the Government grants financial and technical assistance to various organizations to support religious festivals and celebrations, including Indian Arrival Day. The level of state funding for such activities, however, has been inequitable in the past and generally favored Christian groups.

Although Hindus were underrepresented in government positions in the past, under the current government, there are Ministers, Members of Parliament, and public figures representing every religious group and denomination and the broad spectrum of religious beliefs in the country. The government also supports the activities of the Inter-Religious Organization (IRO), an interfaith coordinating committee for public outreach, governmental and media relations, and policy implementation. And it provides the prayer leader for several official events, such as the opening of Parliament and the annual court term.

In response to wariness over past colonial experiences, the government limits the number of foreign missionaries allowed in the country to 30 per denomination at any given time. Moreover, missionaries must meet strict entry standards and cannot remain in the country for more than three years per visit. Additionally, there were no reports of forced religious conversions in the island nation.

### **Temples/Festivals**

There are over 300 Hindu temples in Trinidad and Tobago. While attacks on Hindu temples were relatively common in previous years, no major incidents of vandalism and desecration of Hindu temples were recorded in 2012. The following section, therefore, provides recent examples of discrimination towards Hindu festivals, religious practices, and places of worship.

Although there are several Hindu temples in Trinidad, Hindu temples were non-existent on the small island of Tobago. Until recently, the Tobago House of Assembly refused to allow the Hindu community to construct a *mandir* (temple) on land purchased on the island. The Sanatan Dharma Maha Sabha (SDMS) had sought to build a temple in the Carnbee area, where they owned lands, but the Assembly declared that temple construction is prohibited in residential areas. SDMS, however, noted that there was a Christian Church approximately 150 feet away from the land it wanted to build on. They also pointed out that in other residential areas, such as Bethany and Four Roads Bon Accord, churches had been recently built.<sup>dccxcviii</sup>

In addition, while refusing to fund a *kirtan* (Hindu religious concert) on the island, churches on Tobago were funded and the Assembly promoted a Christian gospel concert.<sup>dccxcix</sup> Complaints from the Hindu community regarding the overt religious prejudice by the Assembly members had little immediate impact on the Tobago House of Assembly's discriminatory policies.<sup>dccc</sup> After a five-year struggle, the first Hindu *mandir* in Tobago finally began construction in the summer of 2007, with a \$250,000 grant from the National Commission for Self Help Limited (NCSH).<sup>dccci</sup>

Hindus have also faced challenges with religious festivals, including yearly Diwali celebrations and the annual *Ramleela* (religious performance in honor of revered Lord Rama). The largest Diwali celebrations are held each year at the Diwali Nagar, Chaguanas, in Trinidad. This event has grown from a modest affair to an international fixture in the Hindu calendar, attracting Hindus from around the world. Each night, over a 14-day period, thousands of Hindus and non-Hindus congregate at this famous location to enjoy and participate in *pujas* (sacred rituals), concerts, art, craft, and social activities. In 2006 and 2007, however, the police refused to provide additional security unless they were paid. During the first few nights when the police stayed away, several vehicles were stolen and vandalized. It was only after protests by Hindus that security was increased.

In several parts of country, Hindus have even been prevented from holding Diwali and *Ramleela* celebrations. Recently, the head of the Sugarcane Feeds Centre refused permission for workers to hold their annual Diwali celebrations. And in another instance, Hindu police officers were prohibited from celebrating Diwali at their workplaces in South Trinidad.

Religious discrimination against Hindus has also been an issue in the educational system. Although Hinduism is the second largest religion in Trinidad and Tobago, there were no sixth-form Hindu secondary schools to prepare students for university, while there were eighteen Christian and two Muslim sixth-form facilities. Moreover, an Indian community leader recently alleged, "Certain denominational schools are forcing all students to study the religion of the school, without introducing the appropriate religious

instruction for students of other religions...The Ministry of Education needs to correct these discriminatory practices, especially in the denominational school."<sup>dcccii</sup>

Furthermore, many primary and secondary schools and colleges violated the religious rights of Hindu students by preventing them from wearing Hindu clothing, *rakshas* (protective amulet), and other symbols. For instance, in March 2008, Hindu high school students were prohibited from wearing the *raksha*, "a Hindu religious symbol consisting of a colored string worn on the wrist during the performance of sacred rituals and removed within seven days after the prayers,"<sup>dccciii</sup> and were forced to remove them by school security guards. The Ministry of Education later apologized to the students.<sup>dccciv</sup>

### **General Violence**

Violent crime continued unabated in 2012. According to police statistics, there were nearly 18,000 reported crimes in 2012, with 379 murders, slightly higher than the 354 recorded in the previous year.<sup>dcccv</sup> In addition, there were 4,321 burglaries and break-ins reported, for a monthly average of nearly 360 incidents.<sup>dcccvi</sup> And the number of kidnappings during the year was 179.<sup>dcccvii</sup> The upsurge in violence has also resulted in accusations of police abuse and the use of excessive force. Amnesty International recently indicated that such police abuse was rarely investigated.<sup>dcccviii</sup>

Violence directed against Indians and Hindus in Trinidad and Tobago is not uncommon. According to Freedom House, "Many Trinidadians of East Indian descent, who are disproportionately the targets of abduction, blame the increase in violence and kidnapping on government corruption and police collusion. Most abuses by the authorities go unpunished."<sup>dcccix</sup>

Indians and Hindus have also been subjected to verbal and physical assaults by mobs of non-Indians from neighboring villages and from the northern urban areas of Trinidad where the population is predominantly African. For example, the Hindus of Felicity were recently attacked by Afro-Trinidadians from the adjacent village of Boot Hill. The Hindu residents of Felicity were unable to commute to work and schools after Afro-Trinidadians from Boot Hill blocked the main road with piles of burning debris and broken bottles.<sup>dcccx</sup>

### **Institutional Discrimination**

Institutional discrimination against Hindus and Indians in Trinidad and Tobago was rampant until recently and included economic/political discrimination, inequitable distribution of government funds, and prejudice in the education system. The PP coalition government has largely curtailed state sponsored discrimination under the leadership of Prime Minister Bissessar.

The previous PNM governments, on the other hand, overtly pursued policies that intended to marginalize the Indian Hindu community.

According to one observer, the “Indo-Trinidadian community [witnessed] a ‘shock and awe’ programme with this state-sanctioned policy that directs significant state resources to one ethnic group at the exclusion of other groups. The lowering of qualifications for state employment, house padding, the establishment of the University of Trinidad and Tobago, the elevation of criminal elements to community leaders...are all examples of the programme conceived to push the Indian out of the space that is shared in Trinidad and Tobago.”<sup>dcccxi</sup>

For example, despite comprising approximately 40% of the population, inhabitants of Indian descent were severely underrepresented in government sectors jobs, including the Protective Services, the Civil Service, State Companies, Statutory Boards and Commission, the High Commissions and Diplomatic Missions, the Central Bank and Board, and executive membership at decision-making levels of the State. This began to slowly change after 2002, but continued through successive PNM administrations.

One report found that Indians were “heavily under-represented, except in areas where merit and technical criteria must prevail, as in the judicial and professional sectors, where Indians were more than adequately represented.”<sup>dcccxi</sup> For instance, prior data from the Service Commissions Department indicated that there are only 18 Indians serving as department heads in the nation, compared to 87 non-Indians, and there are no Indians on the executive of the police service or army.<sup>dccciii</sup>

Additionally, in the Promotional and Advisory Board of the Police, the five members of the promotion board are all of African descent, which in turn affects the promotional prospects of Indians. Moreover, none of the ten Assistant Commissioners of Police or three Deputy Commissioners are of Indian origin.<sup>dccciv</sup> When Nizam Mohammed, a Muslim of Indian descent and chairman of the Police Commission, pointed out these inequities, he was effectively forced out of his position by the People’s Partnership government for fear of losing the support of the Afro-Trinidadian community.<sup>dcccv</sup>

Similarly, Police Captain Gary Griffith, commenting on the imbalance in the police and security forces stated, “The Police Service should reflect the ethnic composition of the society that they are assigned to protect and serve. There have also been numerous reports of East Indians being rejected by our Defence Force and then reapplying to other foreign armed forces and excelling by leaps and bounds, which means a loss of talent to our nation because of poor selection processes.” As a result of his critical comments, Griffith was compelled to leave his position, like Nizam Mohammed.<sup>dcccvi</sup> Discrimination against Indians and underrepresentation in the police and security services of the country has persisted, despite the election of the Bissessar government.

In addition to prejudice in the police and security forces, Hindus and Indians have confronted bias in employment opportunities. For instance, High Court judge Maureen Rajnauth Lee recently found that the Education Ministry had discriminated against two

Hindu-Indian teachers, Vijesh Mahadeo and Vashti Maharaj, in wrongfully denying them teaching positions. The Education Ministry did not even come to court to challenge the case against them.<sup>dcccxvii</sup>

Hindus have also encountered challenges in obtaining business licenses. For example, the Sanatan Dharma Maha Sabha of Trinidad and Tobago (SDMS) was forced to fight a seven year long legal battle to finally acquire a broadcast license for a Hindu radio station, Radio Jaagriti, on 102.7FM. SDMS originally initiated their application in 1999, but the government consistently refused to award the organization a radio license for seven years, while granting another group a radio frequency for its station.

On July 4, 2006, SDMS was victorious in its appeal to the Privy Council. In a landmark 19-page judgment, Lord Justice Mance said, that “in light of the exceptional circumstances” of the case, the Privy Council would order Trinidad and Tobago Attorney General John Jeremie to do all that is necessary to ensure that a license is issued forthwith to the Hindu organization. The State was also ordered to pay SDMS's legal costs for all court proceedings.<sup>dcccxviii</sup> In September 2009, the decade old discrimination case ended with an award to the Sanatan Dharma Maha Sabha of almost TT \$3 million. The compensation was ordered on September 22 by Justice Ronnie Boodoosingh, who said, “What this case showed was discrimination, plain and simple.”<sup>dcccxix</sup>

Citizens of Hindu and Indian origin were further discriminated against by the Ministry of Foreign Affairs in the distribution of service awards. Moreover, the highest award for public service, formerly known as the “Trinity Cross,” was “perceived as a manifestation or symptom of what was, in substance if not form, a Christian state that tolerated non-Christians. It was a powerful psychological reminder of the fact that [Hindus] were merely ‘tolerated.’”<sup>dcccxx</sup>

The Maha Saba, a Hindu organization, along with a Muslim group, instituted legal action against the State regarding the use of the title “Trinity Cross.” In reference to the case, Justice Peter Jamadar stated: “This general prohibition against non-discrimination thus prohibits laws that differentiate between people on the basis of their inherent personal characteristics and attributes. Such discrimination undermines the dignity of persons, severely fractures peace and erodes freedom. Courts will not readily allow laws to stand, which have the effect of discriminating on the basis of the stated personal characteristics.”<sup>dcccxxi</sup> In response to the Court’s decision, the “Trinity Cross” was officially changed to the “Order of the Republic of Trinidad and Tobago” in August 2008.

### **Inequitable Distribution of Government Funds**

Similar to other areas described above, the inequitable distribution of government funds has not been a significant issue under the current government.

The previous PNM government, however, often provided preferential treatment to particular ethnic and religious groups in the distribution of public funds. For example, a

Joint Select Committee of Parliament meeting, chaired by Independent Senator Parvatee Anmolsingh-Mahabir, found that the National Social Development Programme (NSDP), a State agency, was responsible for explicit discrimination against Hindus, Muslims, Catholics, and Anglicans, while favoring predominantly Afro-Trinidadian Christian denominations. The Indo-Trinbago Equality Council (ITEC) also alleged inequitable treatment in the distribution of land to Hindu religious groups. According to the Indo-Trinbago Equality Council (ITEC), the Tobago House of Assembly allocated land to the Baptist Church in order to build a place of worship and gave \$9 million to fund the Gospel Fest, while the Hindu community in Tobago continued to be marginalized.<sup>dcccxxii</sup>

In addition, millions of taxpayers' dollars were spent on St Peter's Baptist Church, the Jesus Elam Ministries, Febeau Open Bible, Revival Time Assembly, Gospelfest, and other small politically affiliated churches, while Hindu celebrations, such as *Ramleela*, were denied adequate funding.<sup>dcccxxiii</sup>

Similarly, the US State Department's 2009 report on international religious freedom indicated: "A Hindu group that organizes the celebration of Phagwa (also known as Holi), a joyous celebration that marks the start of the Hindu New Year, complained about the level of government funding it received. The organization objected to the reduction of state funding from approximately \$12,500 (TT\$75,000) in 2007, to \$10,000 (TT\$60,000) in 2008, and finally to \$800 (TT\$5,000) in 2009. The group returned the 2009 grant in protest."<sup>dcccxxiv</sup>

Indo-Trinidadians also believed that the allocation of public housing by the National Housing Authority (Home Development Corporation) and the disbursement of compensation following natural disasters, disproportionately benefitted Afro-Trinidadians under the PNM government. For example, TT \$36 million was provided in immediate assistance to flood victims from Port City and Toco, in comparison to south and central farmers (nearly all Hindus), who did not receive any government aid and lost millions in flood damage.<sup>dcccxxv</sup>

## **Violations of Constitution and International Law**

### ***Constitution of Trinidad and Tobago***

Trinidad is a democratic state that "acknowledge[s] the supremacy of God [and] faith in fundamental human rights and freedoms." Chapter 1 of the Constitution recognizes an individual's right to "equality before the law" and freedom of religion, thought, and expression. It also guarantees the "freedom of the press," although it does not expand upon what this freedom entails.<sup>dcccxxvi</sup> Furthermore, the Constitution states that Parliament may not "deprive a person of the right to a fair hearing," nor deprive a person of the right "to be presumed innocent until proved guilty according to law."<sup>dcccxxvii</sup> Despite these protections, Hindus have experienced attacks on their places of worship,

government sanctioned discrimination, and societal abuse until the formation of the new government in 2010 headed by Kamla Persad-Bissessar.

### ***International Human Rights Law***

Trinidad and Tobago signed the UN's International Convention on the Elimination of All Forms of Racial Discrimination on June 7, 1967 and ratified it on October 4, 1973. Its accession to the UN's International Covenant on Civil and Political Rights (ICCPR) occurred on December 21, 1978. In 1998, however, Trinidad and Tobago withdrew its ratification of the first Optional Protocol to the ICCPR and of the Inter-American Convention of Human Rights.<sup>dcccxxviii</sup>

Prior Trinidadian governments have repeatedly violated these UN Covenants, by failing to protect Hindu and Indian citizens and discriminating against them on ethnic and religious grounds. Moreover, although the PP coalition government has improved its record of respecting international human rights conventions, it should re-accede to the Optional Protocol of the ICCPR and the Inter-American Convention of Human Rights.

### **Conclusion and Recommendations**

Despite constitutional protections ensuring “equality before the law” and freedom of religion, Indians and Hindus have faced systematic discrimination, harassment, and abuse. With the change in government in 2010 and an Indian-Hindu heading the new government, the conditions of the Indian-Hindu population are improving.

However, it is also incumbent upon the government to guarantee fundamental rights and freedoms for all citizens and enforce civil and criminal laws in a uniform manner. Furthermore, Trinidadian leaders should discourage racial and religious stereotypes and hate speech; recognize Hindus and Indians as equal partners in the rule and governance of the nation; and distance themselves from Christian fundamentalist organizations promoting Christianization of the government and hatred against Hindus and Hinduism.

The racially and religiously intolerant rhetoric of African-Caribbean supremacists and other Trinidadian leaders, such as Professor Cudjoe, remains a threat to a truly multi-religious and multi-ethnic society built on mutual respect and pluralism.

# Appendix A

## International Acts, Conventions, Covenants, and Declarations

### Bangladesh Enemy Property Act/Vested Property Act<sup>dcccxxix</sup>

After the outbreak of war between India and Pakistan in 1965, Pakistan's military government imposed a state of emergency under the Defense of Pakistan Ordinance. The Ordinance, which authorized the use of measures to "ensure the security, public safety, interest and defense of the state," gave expansive and wide-ranging powers to the country's military rulers. Simultaneously, the military regime implemented the Defense of Pakistan Rules, enabling the Governor of East Pakistan to promulgate the Enemy Property (Custody and Registration) Order II on December 3, 1965.

The Enemy Property Order, commonly known as the Enemy Property Act, comprised several key components, including proclaiming India as an enemy state. Specifically, the Act declared that "all interests of the enemy (i.e., the nationals/citizens of India, those residing in the territory occupied/captured/controlled by India) in firms and companies, as well as in the lands and buildings situated in Pakistan, were to be taken over by the custodian of Enemy Property for control or management," and "the benefits arising out of trade, business, or lands and buildings were not to go to the enemy, so as to not affect the security of the state of Pakistan or impair its defense in any manner."

In practice, however, the Government designated Hindus as "enemies" of the state by characterizing them as supporters of India during the War, making Hindu owned properties the clear target of the Order. On the other hand, Muslims leaving for India or those Muslims residing in Pakistan that were Indian citizens were not considered "enemies" for purposes of the EPA, thus reinforcing the Order's prejudicial intent. In addition, a circular disseminated by the Government indicated that if properties owned by Muslims were seized, they would be returned to them or their legal heirs upon their request. Conversely, any minority whose land was classified as "enemy property" would lose any legal right to ownership forever.

Accordingly, the EPA, was used as an expedient mechanism to appropriate land belonging to Hindus that had temporarily fled to India in fear of their lives, or those that never left East Bengal, but were accused of supporting India during the War and labeled as "enemies" of Pakistan. Therefore, the language, intent, and application of the Act were discriminatory in nature and disproportionately impacted Hindus.

Although the Indo-Pakistan War lasted only seventeen days, the Order persisted until 1969 when it's inequitable provisions were continued through the Enemy Property (Continuance of Emergency Provision) Ordinance 1969 (Ordinance No. I of 1969).

Consequently, the EPA remained in effect through the Bangladesh War of Independence in 1971, and was subsequently adopted by the new Government of Bangladesh as the Vested Property Act.

After independence from Pakistan, the EPA was preserved by the Government of Bangladesh through the Laws Continuance Enforcement Order 1971.

The following year, the government passed the Vesting of Property and Assets Order, 1972 (Order No. 29), whereby the Government of Bangladesh vested itself with the “enemy” properties previously seized since the 1965 War. The Order further stipulated that its provisions shall not be subjected to judicial review, preventing challenges to the Order’s legality in any court of law in Bangladesh. The Order also sought to combine the “abandoned” property of those ethnic Biharis who resided in Bangladesh prior to the 1971 War of Independence and East Bengali Hindus who had left for India, into one category of “enemy” property. The “vast majority” of land appropriated under the Order, however, was owned by Hindus.

Subsequently, in 1974, the government enacted the Vested Property Act (VPA), officially known as the Vested and Non-resident Property (Administration) Act (Act XLVI of 1974), “an Act to provide for the Administration of certain properties vested in the Government or belonging to non-residents.” The VPA specifically vested “enemy” properties in the Government of Bangladesh, and thus became the formal successor to the EPA. Significantly, since Hindus were the “enemy” for purposes of the EPA, this new Act implied that Hindus would remain the primary target of such legislation, and it was accordingly used by the government to continue appropriating Hindu owned land. In many instances, when a person left the country for any reason, whether temporarily or permanently, they were designated as an “enemy” under the VPA and their property was “vested” or seized by the state. And frequently, when one Hindu member of a family left the country, the family’s entire property was confiscated.

The VPA also created Management Committees throughout the country to take control of and administer “vested” properties in their respective jurisdictions, and empowered them with “all the powers, rights and liabilities of the Government in respect of such property...” Once a non-resident’s property had vested in the Committee, his/her rights over the property ceased to exist, notwithstanding permission from the Committee to sell or transfer the land. Permission was not granted, however, unless a person paid to the Committee “all sums due in respect of such property.” In effect, the Act inexplicably required a “non-resident” person to seek permission to control his own property, and obligated him to pay additional sums to the Committee in order to obtain the right to transfer his own land.

According to the Association for Land Reform and Development (ALRD), an NGO based in Dhaka, the estimated total Hindu households affected by the EPA/VPA has been

1,048,390, and the estimated area of dispossessed land has totaled 1.05 million acres. About 30% -- 10 out of every 34 -- of the Hindu households (including those that are categorized as missing households) have been the victims of EPA\VPA. These estimates, although based on some debatable assumptions, should be considered as sufficiently indicative of the gravity of the law's impact.<sup>dcccxxx</sup>

## **Chittagong Hill Tracts (CHT) Peace Accord of 1997**

Chittagong Hills Tract is in southeast Bangladesh and is the homeland to the Jumma peoples, 14 tribes of Sino-Tibetan origin. As their language, religion, social system, and economic practices differed from those of the majority of Bangladesh's population, the Jumma peoples became victims of ethnic discrimination, forced relocation, land eviction, rape, torture, and judicial executions. The CHT peace accord was an effort to ease the struggle between the Jumma peoples and the government of Bangladesh.<sup>dcccxxxi</sup>

## **United Nations International Convention on the Elimination of All Forms of Racial Discrimination**

On December 21, 1965, the United Nations adopted the International Convention on the Elimination of All Forms of Racial Discrimination. The fundamental provisions of the Convention are as follows:

### Part I

- Defines racial discrimination as, "any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin"
- Condemns racial discrimination and segregation
- Promotes the right to equal justice and protection by the law, marriage and choice of spouse, own property, education and freedom of religion, opinion, and thought

### Part II

- Establish a Committee on Elimination of Racial Discrimination
- Report annually to the General Assembly on its activities and provide recommendations

### Part III

- Open for signature by any State Member of the UN

The full text of the Convention can be found at:

[http://www.unhchr.ch/html/menu3/b/d\\_icerd.htm](http://www.unhchr.ch/html/menu3/b/d_icerd.htm)

## **United Nations International Covenant on Civil and Political Rights**

On December 16, 1966, the United Nations adopted the International Covenant on Civil and Political Rights. The significant parts of the Covenant are as follows:

- Every human being has the right to life that shall be protected by law
- No one shall be subjected to torture or inhuman treatment
- Slavery and slave trade shall be prohibited
- Everyone has the right to liberty and security
- Everyone shall be free to leave any country, including his own
- Everyone will be equal in front of the law
- Everyone shall have the right to freedom of thought, conscience and religion
- No marriage shall be entered into without the free and full consent of the intending spouses
- There shall be an established Human Rights Committee

The full text of the Covenant can be found at:

[http://www.unhchr.ch/html/menu3/b/a\\_ccpr.htm](http://www.unhchr.ch/html/menu3/b/a_ccpr.htm)

## **The 1951 Refugee Convention**

In July 1951, a diplomatic conference in Geneva adopted the Convention relating to the Status of Refugees ('1951 Convention'), which was later amended by the 1967 Protocol. The significant parts of the Convention include the following:

- The right not be returned to a country where he or she faces serious threats to his or her life or freedom (Article 33)
- The right not to be expelled, except under certain, strictly defined conditions (Article 32);
- The right not to be punished for illegal entry into the territory of a contracting State (Article 31);
- The right to work (Articles 17 to 19);
- The right to housing (Article 21);
- The right to education (Article 22);
- The right to public relief and assistance (Article 23);
- The right to freedom of religion (Article 4);
- The right to access the court (Article 16);
- The right to freedom of movement within the territory (Article 26); and
- The right to be issued identity and travel documents (Articles 27 and 28).

The full text of the Convention can be found at:

<http://www.unhcr.org/pages/49da0e466.html>

## **United Nations Universal Declaration of Human Rights**

On December 10, 1948, the United Nations adopted the Universal Declaration of Human Rights. The fundamental provisions of the Declaration are as follows:

- All humans are born free and equal in dignity and rights and have the right to life, liberty and security
- Slavery and slave trade shall be prohibited
- All humans are equal before the law and entitled to equal protection by the law
- Everyone has the right to own property
- Everyone has the right to freedom of religion, including the right to change religions
- Everyone has the right to work and the right to equal pay for work
- Everyone has the right to education

Following this act, the UN called upon all Member countries to publicize the text of the Declaration and “to cause it to be disseminated, displayed, read and expounded principally in schools and other educational institutions, without distinction based on the political status of countries or territories.”

The full text of the Declaration can be found at:

<http://www.un.org/Overview/rights.html>

# Appendix B

## Islamic Extremist Groups in South Asia<sup>dcccxxxii</sup>

### People's Republic of Bangladesh<sup>dcccxxxiii</sup>

#### Militant Organization

#### Description

Jamaat-e-Islami (Jel)

Islamist political party that was part of the Bangladesh Nationalist Party (BNP) coalition that came to power in the 2001 election, and was involved in violent attacks on Hindu supporters of the opposition Awami party; Its ultimate goal is to create an Islamic state in Bangladesh.

Islami Chhatra Shibir (ICS)

Youth wing associated with Jel, and has contact with Muslim youth extremist groups around the world. ICS has been involved in political and religious violence, and has been implicated in a number of bomb blasts throughout Bangladesh; Islami also controls a number of *madrasas* across the country.

Islami Oikyo Jote (IOJ)

Small Islamist party, and was also part of the BNP coalition government; Has supported violence against Hindus.

Jama'atul Mujahideen Bangladesh (JMB)

JMB has been implicated in a number of suicide bomb blasts across Bangladesh; A number of its leaders were previously affiliated with Jel and ICS.

Harkat-ul-Jihad-al-Islami (HuJI-B) Largest militant Muslim organization operating in Bangladesh, and has an estimated 15,000 members, recruited primarily from *madrasas*; Involved in a number of attacks. On the U.S. State Department list of designated terrorist organizations.

## Islamic Republic of Pakistan<sup>dcccxxxiv</sup>

Militant Organization	Description
Harakat-ul-Jihad-ul-Islami (HuJI)	Islamic extremist group trying to establish Islamic rule in Pakistan through violence; Accession of the Indian state of Jammu and Kashmir to Pakistan; Spread terror throughout India; Has affiliate in Bangladesh (HuJI-B)
Jundallah	Rejects democracy of even the most Islamic-oriented style; Establish Sharia law; Accession of the Indian state of Jammu and Kashmir to Pakistan
Khuddam ul-Islam	Accession of Indian state of Jammu and Kashmir to Pakistan; Radical Islamist state in Pakistan; "Destroy" India and the U.S.
Lashkar-e Jhangvi (LeJ)	Violently transform Pakistan into a Sunni state under the complete control of Sharia law; Declare all Shia as <i>kafirs</i> (infidels), and responsible for several attacks on Shias; Destruction of other religions, notably Hinduism, Judaism, and Christianity; Its

leader is Muhammad Ajmal, alias Akram Lahori; The group has links to SSP, Taliban, HuM, JeM, Al Qaeda

Sipah-e Sahab Pakistan (SSP)

Violently transform Pakistan into a Sunni state under the complete control of Sharia law; Declare all Shia as *kafirs* (infidels), and responsible for several terrorist attacks on Shia civilians; Destruction of other religions, notably Hinduism, Judaism, and Christianity; SSP has links to LeJ, HuM, Taliban, JeM, Jel, and Jul; Its leader is Maulana Mujibur Rehman Inqilabi

Harkat ul-Mujahidin (HuM)

Previously known as Harkat-ul-Ansar

Targets Indian troops, civilians in the Indian state of Jammu and Kashmir, and Western interests; Masterminded the Kandahar hijacking of an Indian airlines in December 1999

Jaish-e-Mohammed (JeM)  
(Army of Mohammed)

Stated goal is the accession of the Indian state of Jammu and Kashmir with Pakistan and to take control of the Babri Masjid in Ayodhya, Amritsar and Delhi; Targets include Indian government/political leaders, and civilians; Has links to HuM, Pakistan's Inter-Services Intelligence, Taliban, Al Qaeda and several Sunni groups like SSP and LeJ; Its leader: Maulana Masood Azhar

Lashkar-e-Taiba (LeT)  
(Army of the Righteous)

Stated goal is to restore Islamic rule over India, take control of Kashmir, and unionize the Muslim regions in countries that surround Pakistan; Considers India, Israel and the U.S. prime enemies; Attacks primarily in J&K and other parts of India, including the recent terror attacks in Mumbai; Operates under the charity of Jamaat-ul-Dawa; Has links to Inter-Services

Intelligence, Taliban, Al Qaeda, Al Muhajiraun, International Sikh Youth Federation and various international Islamist terrorist groups; Its leader is Hafiz Muhammad Saeed

Lashkar-e-Omar (LeO)  
(Army of Omar)

A loose coalition of terrorist organizations: LeT, JeM, and LeJ; Believes in Islamic fundamentalism and fascism, hatred towards the West; Carried out attacks against Western targets and non-Muslims

Tehreek-e-Jaferia Pakistan (TJP)

Shia extremist group whose goal is to create a society based on “pure Islam” and protect the social, political and religious rights of Shiites; Also claims to fight against imperialism, and obtain Islamic egalitarianism and social justice; Has links to Pakistani Parliament and Iranian clergy; Its leader is Allama Syed Sajid Ali Naqvi

Tehreek-e-Taliban

Tehrik-e Taliban Pakistan (TTP) is an alliance of militant groups in Pakistan formed in 2007 to unify groups fighting against the Pakistani military in the Federally Administered Tribal Areas and Khyber Pakhtunkhwa. TTP leaders also hope to impose a strict interpretation of Qur’anic instruction throughout Pakistan and to expel Coalition troops from Afghanistan. TTP maintains close ties to senior al-Qa’ida leaders, including al-Qa’ida’s former head of operations in Pakistan.

Tehreek-e-Nafaz-e-Shariat-e-Mohammadi

An extremist group whose goal is the militant enforcement of Islamic law (totalitarianism view), and transform Pakistan into a “Taliban style” country; It operates most of Swat Valley and

neighboring districts, and has links to the Taliban; Its leader is Maulana Fazalullah

Nadeem Commando

Small terrorist group whose members are Mohajirs (Muslims who left India in 1947); Its stated goal is to protect the rights of Mohajirs, and operates primarily in Karachi and Hyderabad; Terror tactics include random shootings of selected targets and staging violent incidents during political strikes; It has links to Muttahida Quami Movement Altaf (MQM-A)

Sipah-e-Muhammad Pakistan (SMP)  
"Army of Muhammad"

Shia extremist group, whose goal is to protect the Shiite community from Sunni extremist groups; Has links with Shia regime in Iran; Its leader is Ghulam Raza Naqvi and it is a rival of LeJ

Popular Front for Armed Resistance

Its goal is to advocate the secession of all Baluch regions from Pakistan; also involved in drug trafficking; Has links to Taliban

Haqqani Network

Insurgent group fighting against US-led NATO forces and the government of Afghanistan. Originating from Afghanistan during the mid-1970s, it was nurtured by the U.S. Central Intelligence Agency (CIA) and Pakistan's Inter-Services Intelligence (ISI) during the 1980s Soviet war in Afghanistan. Maulvi Jalaluddin Haqqani and his son Sirajuddin Haqqani lead the group, which operates on both sides of the Afghanistan-Pakistan border but U.S. officials believe is based in Pakistan's Waziristan tribal frontier It is allied with the Taliban

Muslim United Army

An umbrella group consisting of, “all the rightwing organizations including LeJ.” Its stated goal is to organize groups against America and to launch a war against anti-Islam forces and non-Muslims; Its leader is Sheikh Ahmed

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