

THE PLIGHT OF RELIGIOUS MINORITIES IN INDIA

HEARING

BEFORE THE

TOM LANTOS HUMAN RIGHTS COMMISSION

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED AND THIRTEENTH CONGRESS -- SECOND SESSION

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WITNESSES

Dr. Katrina Lantos Swett established the Lantos Foundation for Human Rights and Justice in 2008 and serves as its President and Chief Executive Officer. This human rights organization is proudly carrying on the unique legacy of the late Congressman Tom Lantos who, as the only survivor of the Holocaust ever elected to Congress, was one of our nation's most eloquent and forceful leaders on behalf of human rights and justice. In addition to managing the Lantos Foundation, Dr. Lantos Swett teaches human rights and American foreign policy at Tufts University. She also taught at the University of Southern Denmark while her husband, former Congressman Richard Swett, was serving as the U.S. Ambassador in Copenhagen.

Robin Phillips is the Executive Director of The Advocates for Human Rights. She formerly served as the Director of the Women's Human Rights Program and the Deputy Director of the organization. She has written extensively about human rights, including trafficking in women, employment discrimination, sexual harassment and domestic violence. She has taught courses on human rights at the University of Minnesota Law School and University of St. Thomas Law School. Robin has organized international conferences and trainings on human rights and NGO development issues. She has conducted fact-finding missions to document human rights violations throughout Central and Eastern Europe and the former Soviet Union, as well as Nepal and Mexico. She also led delegations to Ghana and Liberia as part of The Advocates work with Liberia's Truth and Reconciliation Commission. Prior to Minnesota Advocates, Robin practiced law with the firm of Briggs and Morgan in St. Paul, Minnesota. She received her law degree from Northwestern University School of Law and her B.A., *magna cum laude*, from Pepperdine University.

John Sifton is Human Rights Watch's Asia Advocacy Director. He has worked on human rights issues in South Asia for over 12 years. In 2000 and 2001, Sifton worked for the International Rescue Committee, primarily in Afghanistan and Pakistan, and from 2001 to 2005 Sifton served as a Human Rights Watch researcher in the Asia division, where he worked on Afghanistan, Pakistan, and India. He then served as Human Rights Watch's senior researcher on terrorism and counterterrorism until late 2007. Starting in 2008 he served as the director of One World Research, a public interest research and human rights investigation firm, and returned to Human Rights Watch in 2011. Mr. Sifton's organization, Human Rights Watch, has worked on human rights issues in India for decades, and has written seminal reports on religious and communal violence, including a key report on the 2002 riots in Gujarat, entitled "We Have No Orders to Save you." Mr. Sifton has also worked in the Balkans, Egypt, and the Philippines. Mr. Sifton holds a law degree from New York University and a bachelor's degree from St. John's College, Annapolis.

John Dayal is one of India's foremost voices on human rights, and particularly the situation of religious minorities, having been a writer and activist for the past four decades. He has spoken on Indian Human Rights, Dalit Issues, Civil Society and Civil Liberties issues at various forums of the United Nations, the US Government, UK, European Community and Asian forums, and Church and Civil platforms. He has been a member of several governmental bodies, including the National Integration Council, and holds senior roles in numerous non-governmental organisations and networks, including as co-founder and Secretary General of the All India Christian Council, National President of the All India Catholic Union, founded 1919, and a member of Justice and Peace Commission of the Catholic Bishops' Conference. He has had a long and distinguished career in the media and in academia. He has authored and contributed to several books, published in India and internationally, and regularly writes on human rights issues in India.

HEARING ON THE PLIGHT OF RELIGIOUS MINORITIES IN INDIA

FRIDAY, APRIL 4, 2014

U.S. HOUSE OF REPRESENTATIVES
TOM LANTOS HUMAN RIGHTS COMMISSION
WASHINGTON, D.C.

The commission met, pursuant to call, at 10:30 a.m., in Room 2322 Rayburn House Office Building, Hon. Joseph R. Pitts [Executive Member of the commission] presiding.

Mr. PITTS. This hearing will come to order. I apologize for starting late. We have been in a series of votes so the Members are on their way over. So we will get started. Thank you for all of you for attending this hearing entitled the Plight of Religious Minorities in India. And I would to thank Chairmen Wolf and McGovern for allowing me to chair this morning. I do so under my capacity as an Executive Commissioner and I also will be joined today by Congressman Ellison who is also an Executive Commissioner.

We are here to examine the plight of religious minorities in India because we are told that in many contexts the voices, rights, and minorities are being ignored or threatened or marginalized. And this being the case, we are providing a platform for our experts to testify and speak out on their behalf.

India is an officially secular nation and is one with a long tradition of religious tolerance. Freedom of religion is protected under its constitution. As its population is largely Hindu, it also hosts the world's third largest Muslim population, as well as roughly 25 million Christians, as well as millions of others, Sikhs, Buddhists, and Jains.

It is also the birthplace of several religions and the composition of religions in its current ruling government strongly reflects the population's religious diversity.

Despite all of this, however, India has been marked by historic communal and religious violence. The Babri Masjid attacks and its ensuing communal riots, the Gujarat riots of 2002, the Odisha riots of 2007, all exposed the vulnerability of India's religious minorities. Upon the thousands of lives that were lost as a result of these acts of violence, countless thousands have been displaced.

At issue today, however, is that we observe a troubling trendline. Instead of broader reconciliation in Indian society since these attacks, we are witnessing deeper divisions. Instead of conclusions of justice for the victims of large scale communal violence, we are instead witnessing signs of a climate of impunity developing within the Indian judicial system. Instead

of a rise in secularism, we are witnessing signs of intimidation and harassment. Instead of a commitment to strong laws and enforcement mechanisms to protect the rights of religious minorities, we witness a rise in anti-conversion laws that, although engineered to blight communal violence and forced conversions, instead create environments with increased instances of harassment and intimidation. And these trends are troubling indeed, and have been verified by numerous organizations.

The United States Commission on International Religious Freedom contends that “in the past year, progress in achieving justice through these structures for the victims of past incidents continued to be slow and ineffective.” It also finds that members of religious minority communities, especially Christians and Muslims, reported an increase in intimidation, harassment, and violence during the reporting period, particularly in states with anti-conversion laws.

India’s Home Ministry reported a major surge in communal conflict in 2013, attributed in part to impending 2014 elections when 823 incidents left 133 people dead. Furthermore, a 2012 report by the Pew Research Center’s Forum on Religion and Public Life found that India falls into a high category for government restrictions on religion and a very high category for religious social hostilities.

Our government has noticed these unrests in the most recent large-scale act of communal violence after lethal attacks on Christians erupted in Odisha in 2008. In an apparent retaliation for the murder of a Hindu leader, mobs burned churches and Christian buildings, leaving at least 38 dead and 50,000 more homeless by one estimate. At that time, U.S. officials urged the Indian Government to protect religious freedom throughout the country.

Perhaps even more disturbing we have witnessed alarming instances of terrorism by both the Muslim Indian Mujahideen and militant Hindu nationalist groups. Clearly, all of Indian society is being affected by indisputable rise in religious intolerance at the very least and religious violence at the very worst. Given these trends, it is right and responsible and of a better strategic interest to our government to examine these incidents and recommend policies that can help alleviate harm being done.

In the context of India’s elections, the trends of harassment, intimidation, impunity, and violence harm the participation of minorities. Decades of communal violence have left many marginalized from society. Furthermore, it is at this time when political parties may use religious divides to bolster their political platforms and energize their voting base that our administration engage with the Indian Government. Our government should not turn a blind eye to any religiously motivated harassment or violence intended because it is being perpetrated during an election. Doing so does nothing to ensure India’s elections are free from influence. It only discourages that prospect.

I have been to India and witnessed blood-spattered walls as a result of communal violence. I have met with countless victims of riots and I have yet to come to the conclusion that justice has been done. Thus, I have yet to conclude that our work in pressing the Indian Government on these issues is done.

I am glad to be joined by our witnesses here today and I look forward to hearing their testimonies and recommendations. I will introduce them at this time. Dr. Katrina Lantos Swett is the President and Chief Executive Officer of the Lantos Foundation for Human Rights and Justice. She is also Vice Chair of the United States Commission on International Religious Freedom. In addition to managing the Lantos Foundation, Dr. Lantos Swett teaches Human Rights and American Foreign Policy at Tufts University. Thank you for joining us this morning, Doctor.

Mr. John Sifton, this is the order I have and not necessarily the order that they will speak, Mr. John Sifton is the Asia Advocacy Director for Human Rights Watch. He has worked on human rights issues in South Asia for over 12 years. Mr. Sifton's organization, Human Rights Watch, has worked on human rights issues in India for decades and has written seminal reports on religious and communal violence including a key report on the 2002 riots in Gujarat entitled "We Had No Orders to Save You."

Robin Phillips is the Executive Director of the Advocates for Human Rights. She has written extensively about human rights including trafficking and women, employment discrimination, sexual harassment, and domestic violence. She has taught courses on human rights at the University of Minnesota Law School and University of St. Thomas Law School.

And lastly, John Dayal is a noted writer and activist from India. He is a member of the Indian Government's National Integration Council. He is also the Secretary General of the All-India Christian Council, as well as the National President of the All-India Catholic Union.

So thank you all for joining us. It should be noted that the witnesses here today have been invited to reflect the scope of this hearing and to reflect the voices of minorities that may find difficulty raising concerns elsewhere, which is in keeping with prior practices of this Commission. Others have asked to be heard and I am submitting for the record statements from Congressman Faleomavaega and Congresswoman Edwards and entering for the record statements from the Hindu American Foundation, the United States India Political Action Committee, and the Sikh Coalition.

And with that I would recognize the co-chair, the gentleman from Minnesota, Mr. Ellison for an opening statement.

Mr. ELLISON. Chairman Pitts, thank you for chairing the hearing today and for your long work on behalf of human rights around the world. I would also like to extend my gratitude

to Congressman McGovern and Congressman Frank Wolf for being the chairs of the Tom Lantos Human Rights Commission and agreeing to this important hearing.

We have an excellent group of witnesses and I am particularly pleased to acknowledge Robin Phillips from the Advocates for Human Rights, an organization in Minneapolis, Minnesota which reflects the high value my constituents place on human rights in Minnesota and around the world. Thank you for being here. Let me thank all of the panelists for being here. I hope you won't begrudge me for having a special hello for my hometown buddy.

And also let me begin by saying how much I value the United States' strong relationship with India. India and the United States have close ties, are allies and friends because we both share democracies and are blessed with rich diversity. Both of our countries have struggled against colonialism to gain independence and freedom. Indian leaders and humanitarians like Gandhi inspired my own path toward public service.

It would be a mistake to view this hearing or any hearing by the Lantos Commission as a way to criticize a particular government or individual. That is not why we are here today. The purpose of the Commission is to investigate whether universal standards of human rights are upheld around the world. Recent Tom Lantos Commission hearings have focused on human rights issues in Turkey, Vietnam, Northern Ireland, and Burma.

Today, we turn to the status of religious minorities in India. I personally became interested in this issue by a friend and coworker who happened to be in Gujarat in 2002. He witnessed the religious riots that happened and claimed the lives of more than a thousand people, and traveled through makeshift checkpoints where our men asked if there were any Muslims in the car. On a visit to Ahmedabad a decade later, he found the city was still deeply divided and that the population was still polarized.

The purpose of today's hearing is to better understand unfortunate incidents of religiously-motivated violence around the world — and that includes the United States and it includes India — in the recent past, and to examine the current status of religious minorities in the country including that of Christians, Sikhs, Muslims, and others.

No country has a perfect human rights record, including the United States. There are a number of issues in our own country that I think bear examination and scrutiny and I have raised these issues, and I look forward to the testimony today. Thank you.

Mr. PITTS. The chair thanks the gentleman and now recognizes the gentlelady from Hawaii, Ms. Gabbard, for such time she may consume.

Ms. GABBARD. Thank you very much. I appreciate the opportunity to be here and to be able to provide some commentary on this resolution and this hearing. I have grave concerns about the timing of this hearing, considering that the national elections in India begin on Monday

and continue through until May 12th. I feel that the goal of this hearing ultimately is to influence the outcome of this election which is something that I don't feel is appropriate for us here in the United States Congress to do. I think when we look to the opportunity to strengthen our relationship with India, this is something that could potentially undermine the shared interests and the shared values of democracy that we have.

The United States of America should always stand up for freedom of religion for all people in all countries and we will always work towards that end. In that regard, we need to be especially careful not to directly or indirectly contribute to sectarian strife in India or in other countries. I am concerned that an outcome or effect of this hearing could begin to foment such fear and loathing used for political purposes that we have seen occur in other places and that it is being done in the end to influence the outcome of India's elections.

I look forward to the conversation that we have in a way that will be constructive, both for our shared interests with India, but also to make sure that we are fighting against religious persecution in all countries. Thank you very much.

Mr. PITTS. The chair thanks the gentlelady and now goes to our first witness, Dr. Swett. Welcome, thank you for coming and you are recognized for your opening statement.

STATEMENT OF KATRINA LANTOS SWETT

Dr. LANTOS SWETT. Thank you so much, Congressman. I want to thank the Tom Lantos Human Rights Commission for holding this hearing on the plight of India's religious minorities and of course, I must add that for me it is always a very special and deeply meaningful occasion to testify before this particular congressional body.

India is a religious and pluralistic society with a Hindu majority, the world's largest Muslim population, and a Christian population exceeding 25 million. And it is home to numerous Sikhs, Buddhists, Jains, Zoroastrians, Jews, and Baha'is. India and the United States share a commitment to democracy and multi-ethnic, multi-religious societies. And India is an important ally with economic, political, and regional value to our nation.

Yet, India has serious human rights and religious freedom problems. The State Department's 2013 human rights report details police and security force abuse, torture and rape, and widespread corruption and impunity because of a lack of accountability due to weak law enforcement, and an over-burdened and under-resourced court system, among other factors.

Regarding religious freedom, NGOs in religious communities report increasing religiously-motivated violence and harassment and that some politicians deploy religiously divisive language to mobilize constituencies for the upcoming general election and religious violence and corruption hinder the protection of and justice for religious minorities.

USCIRF's concerns about religious freedom in India are reinforced by reports this past year of increases in communal violence including Hindu Muslim violence in Uttar Pradesh and violence at a Christian and Muslim Dalit rally, an attack on a Buddhist complex along with Pakistani Hindus seeking safe haven, being ill-treated, and facing serious governmental discrimination.

Also troubling are anti-conversion laws known officially and ironically and frankly misleadingly as Freedom of Religion Acts, implemented in states which together comprise one third of India's massive population. The U.N. Special Rapporteur on Freedom of Religion or Belief, Heiner Bielefeldt, has rightly deemed these laws as "an obstacle to religious freedom." They violate international standards and inappropriately allow the government to assess the validity of individual faith decisions. They are one-sided and discriminatory, imposing burdens and penalties for converting out of Hinduism, but not towards it. And they trigger increased intimidation, harassment, and violence, particularly against Christians and Muslims. With few arrests and no convictions, they foster a climate of impunity, and have led to police harassment. Accusations of forced conversion often are used against religious minority communities on issues unrelated to religion such as land disputes.

Also troubling are periodic outbreaks of large-scale violence against religious minorities with justice delayed or denied for past incidents targeting Muslims, Christians and Sikhs, further fueling the climate of impunity and exacerbating social and religious tensions.

To address the Gujarat and Odisha violence of 2002 and 2007 and 2008, respectively, India established fast-track courts, special investigative teams, and independent commissions. However, they have been used inconsistently and their impact remains limited by corruption, an insufficient capacity to investigate and prosecute cases, an antiquated judiciary and religious bias particularly at the state and local levels. In addition, there remains little movement toward prosecuting perpetrators of the 1984 Anti-Sikh Riots.

This is a critical time for India. Newly-elected parliamentary representatives will select India's next Prime Minister and President. Many religious minority communities fear religious freedom will be jeopardized if the BJP wins and the Gujarat Chief Minister, Narendra Modi, becomes Prime Minister. We hope that is not the case.

USCIRF has a long-standing concern about the BJP's and Modi's association with Hindu ultra-nationalist groups, as well as allegations of his complicity in the Gujarat riots. In 2005, the U.S. Department of State agreed with USCIRF and others to utilize an IRFA provision to revoke Modi's tourist visa. While the lower Gujarat court found Minister Modi not responsible for the death of a Muslim Congress Party leader who was burned alive in 2002, other cases implicating him for involvement or complicity in the 2002 violence continue.

While USCIRF's concerns about Minister Modi are on-going, our ultimate focus is not on him, but on India's broader and continued failure to uphold religious freedom and its responsibility to remedy the situation.

I would like to briefly touch on a few recommendations. USCIRF has reported on India for some years, but we have never been granted the requisite visas to visit. USCIRF was denied visas in June 2009 and since then has made inquiries about traveling there, but to no avail. USCIRF had recommended from 2002 and 2004 that the State Department designate India a Country of Particular Concern or a CPC, which is the highest designation we can give in terms of our concerns about religious freedom in a country. And that was for its systematic, ongoing, and egregious religious freedom violations. From 2005 to 2008, it was neither a CPC nor a Tier 2 country and from 2009 to the present India has been on USCIRF's Tier 2 list of violators. When USCIRF releases its 2014 annual report by May 1st, we will announce India's current listing at that time.

Since 2004, the U.S. and India have pursued a relationship based on shared energy, security, and terrorism concerns, and shared values of democracy and rule of law. Within the context of this very important relationship, we believe the U.S. Congress should first encourage the State Department to elevate religious freedom concerns in the relationship, particularly in the on-going U.S.-India bilateral strategic dialogue.

Second, during delegation visits, examine religious freedom conditions for all faiths and beliefs and meet with individuals and organizations that promote religious freedom as well as targeted religious communities and we hope that people will visit areas as it sounds you have, Chairman Pitts, that have been affected by religiously-motivated violence.

Third, we encourage and we welcome hearings such as this supporting religious freedom that underscores many dimensions and we encourage you to support legislation promoting religious freedom. HR Res 417 rightly praises India's religious diversity and commitment to tolerance and equality and rightly reaffirms India's need to protect religious minority rights.

My written testimony includes additional recommendations. Let me conclude by saying that because of the values and interests we share we should boldly and firmly encourage the Indian Government to uphold and protect religious freedom and related rights for all of its people. Thank you very much.

Mr. PITTS. The chair thanks the gentlelady and now we have been joined by the gentleman from Arizona, another Executive Committee member, Trent Franks, gentleman from Arizona. The chair recognizes Mr. Franks for anything he would like to say.

Mr. FRANKS. You know, I come to a lot of these meetings simply because I believe that religious freedom is the foundation of all other freedoms and so it is always pretty impressive that I see some of the same faces. There is a great deal of commitment in this area and I want

you to all know that we take your concerns as seriously as anything that we consider here because without freedom, without religious freedom, there is no freedom. And without freedom, the human spirit is contained and I really appreciate what you are doing here. I am somewhat familiar. I have traveled to India. I am very familiar with the situation in Gujarat and I am grateful for your ongoing and deep and abiding commitment and I wish so badly that we could only do one thing around here at a time, but I do have a classified hearing that I have to go to very soon. So please don't consider that any lack of commitment to what you all are doing.

I am convinced that there are people across the world now and in the future that will walk in a greater light of freedom, religious and otherwise, because of the gallant commitment and effort that you have all put forward here today and continue to do so as we have been able to see for so long. So God bless you and thank you.

Mr. PITTS. The chair thanks the gentleman, and thanks him for his leadership on this issue.

Now recognizes Ms. Phillips for your opening statement and such time that you may consume.

STATEMENT OF ROBIN PHILLIPS

Ms. PHILLIPS. Thank you very much. I would like to echo thanks to the Tom Lantos Human Rights Commission for holding this hearing today. It is an honor to be here. My name is Robin Phillips. I am the Executive Director of the Advocates for Human Rights.

For 30 years, the Advocates has worked with diaspora communities, people living outside their country of origin or ancestry who retained ties and interests to that country. Some come to the United States seeking asylum after fleeing religious persecution. Others come as professionals or students or to join family members. And some are second- or third-generation immigrants. They are part of our communities, they are your constituents, and their voices should help inform our policies towards their countries of origin.

The Indian diaspora groups with whom we work have consistently expressed concern about religious freedom in India. We share their concern including communal violence, impunity for the instigators of such violence and those in government who may be complicit, anti-conversion laws, vague anti-terrorism laws that facilitate profiling and persecution of Muslims, police and armed forces practices such as encounter killings and torture targeting Muslims, and a culture of impunity for such practices. These practices, which are described in greater detail in my written statement, violate international human rights standards.

Consistent with the concerns we hear, the Pew Research Center recently ranked India as a country with very high social hostilities involving religion and high government restrictions on

religion. Indian diasporans around the world have been sounding the alarm as the elections approach. In the first 8 months of 2013, there were 451 incidents of communal violence up from 410 in all of 2012. The U.N. Special Rapporteur on Freedom of Religion or Belief cautions that political exploitation of communal distinctions presents a real risk that large-scale communal violence might happen again.

Impunity fuels communal violence. This impunity is multi-faceted. Officials do not hold private parties accountable for communal violence. Courts do not hold government officials accountable for sanctioning or encouraging that violence. Political parties rally behind leaders who are implicated in communal violence. Obstruction of justice and witness intimidation are commonplace in court procedures. Immunity laws shield security forces from accountability. And officials accept torture and extrajudicial killings as the norm.

Some examples raised by Indian diasporans highlight these points. Cases brought against officials alleged to be complicit in the 2002 Gujarat violence have been dismissed for lack of evidence after witnesses were intimidated and prosecutors and judges effectively stood in as defense counsel.

U.N. human rights bodies have described the proceedings as flawed from the outset, reflecting concerns of religious bias and high levels of corruption.

Whistle-blowers in Gujarat law enforcement have faced threats and arrests. The U.N. Special Rapporteur on Violence Against Women visited India last May. She observed that communal violence in India is frequently explained away by implying that equal aggression was noted on both sides. By characterizing this violence as riots, the government denies the lack of security for religious minorities, disregarding their right to equal citizenship. This issue is of particular concern to many, the Special Rapporteur noted at the end of her visit last May, as the wounds of the past are still fresh for women who were beaten, stripped naked, burnt, raped or killed because of their religious identity in the Gujarat massacre of 2002.

In some communal attacks, police reportedly arrest victims and protect the attackers, and the government has been negligent in its duty to displace victims by communal violence who are afraid to return home. These internally displaced persons continue to languish in sub-human conditions in isolated settlements. Human rights defenders report serious problems with increased police harassment and arbitrary arrests and detention of Muslims based on false charges of terrorism. Religious minorities have been targeted under an anti-terrorism law that expands the definition of terrorism, authorizes warrantless search, seizure, and arrest, and allows detention without charge for up to 180 days.

While in custody, many suspects are also subject to torture and ill-treatment. The Independent Ravi Chander Commission reported that Muslim men were held without charge for several weeks at illegal detention centers and tortured to extract forced confessions of terrorism offenses. In my own personal discussions with Indian police officers, they have been alarmingly

candid about their use of torture as a legitimate interrogation technique, signifying a complete disregard for international standards and confidence of impunity for these human rights violations.

Not surprisingly, the U.N. Special Rapporteur on Torture's request for permission to visit India has been pending for more than 20 years.

The due process rights of accused religious minorities have been further diminished by interference with obtaining legal counsel. Attorneys representing Gujarat victims have faced threats, intimidation, and hostility from colleagues. Multiple bar associations have issued official or unofficial resolutions instructing members not to represent terrorism suspects. There have also been reported incidents of harassment and physical violence against lawyers who represent Muslim defendants. In addition, encounter killings or killings that occur during staged clashes between security forces and alleged armed suspects are becoming increasingly common.

The U.N. Special Rapporteur on extra-judicial, summary, or arbitrary executions reported last year that encounter killing have become virtually a part of unofficial state policy. As the U.N. Special Rapporteur on Freedom of Religion or Belief observed after a 2008 visit to India, impunity emboldens forces of intolerance. There is a serious possibility of increased violence against religious minorities in India in connection with the upcoming elections. India cannot abrogate its obligation to protect the human rights of its citizens in the name of national security. The United States and India stand as democratic and pluralistic nations. As such, we must hold each other accountable to the highest standards of human rights protection.

We encourage the United States to take strong bilateral and multilateral action to ensure that the rights of religious minorities in India are adequately protected and that India complies with all of its international human rights obligations. Thank you.

Mr. PITTS. The chair thanks the gentlelady and now will recognize the gentleman, Mr. Sifton for his opening statement.

STATEMENT OF JOHN SIFTON

Mr. SIFTON. Mr. Chairman, thank you also for inviting me to testify today at this very well-timed hearing. As both you and my co-panelists have already noted, India like many other countries in the world is home to a diverse set of religious and ethnic groups, and on most days and in most places in India members of these diverse groups typically enjoy their basic civil and political rights and their freedom to pursue their beliefs, but unfortunately, that is not always the case. Tensions among communities do exist for various reasons and these tensions can devolve into violence.

What I think is useful to talk about today is how that happens and what can be done after those devolutions occur. In the run-up to this year's elections, it appears that tensions have escalated, in particular between Hindu and Muslim communities. And as both Representative Pitts and others on the panel have noted, there have been increases in the incidents of communal violence.

One of the worst, most recent incidents of course involved the mass violence in September 2013 in Uttar Pradesh, events in which at least 60 people died. The events began, of course, with an altercation on September 7th which led to the deaths of two Hindus and a Muslim, and inflammatory speeches by right-wing Hindu leaders and allied groups then led to the three days of violence which spread to neighboring districts. The violence only ended after a curfew was imposed and the Indian Army was deployed to restore law and order.

In addition to the 60 people killed, at least six cases of gang rape and sexual violence were reported and Muslim citizens from over 150 villages were compelled to flee. How many people are displaced right now is a matter of some dispute. The government claimed in December that it is 5,000. Many groups on the ground are saying it is over 27,000. In the aftermath of that, the government, of course, has failed to provide adequate care for many of the displaced. One of my colleagues visited some of the remaining camps a few months ago and as we reported at the time, she found displaced Muslims still living in absolutely deplorable conditions and facing shockingly high rates of childhood mortality.

This March, the Supreme Court actually issued a ruling that the Uttar Pradesh State Government had been negligent during the violence by not taking the necessary steps to stem it and they ordered the government to investigate and prosecute persons involved in the violence.

I should note here, I should insert, however, the government's failure to address communal violence and displacement after communal violence doesn't just extend to religious minorities and non-Hindus. The government has even failed to ensure the safe return of Hindus in Jammu and Kashmir, people who were displaced in the 1990s and that should be mentioned as well.

But regardless of how violence is started, and we can talk more about how it is started, whether it is whipped up by politicians or it erupts and government forces don't do enough to stop it from escalating, it is clear that threats of communal violence increase when local forces wait for orders before they act or worse, when they are not instructed to act. These governments are compounded when responsible officials after the fact are not held accountable.

So India as other co-panelists have noted has suffered three very major spates of communal violence in recent history, the 1984 attacks on Sikhs in Delhi following the assassination of the Prime Minister; the 1992 and 1993 communal violence in Mumbai; and more recently the 2002 violence in Gujarat. And in all of these cases, accountability after the fact has proved disappointingly elusive. Indian authorities all too often fail to properly

investigate and prosecute suspects involved in the violence, but also government officials were complicit either by negligence or direct complicity for taking part. And this pattern of impunity is unfortunately continuing although the incidents haven't been as great as the three I just mentioned. I mean consider, for instance, the violence that occurred in Orissa in 2008 which Dr. Swett mentioned just now.

The recurring theme in all of these is impunity, in all these incidents, impunity, when state authorities fail to investigate these incidents properly, typically what happens is courts or government human rights commissions then step in. They document potential complicity and they recommend or order state authorities to redouble their efforts to hold people accountable. But even then, the results are often anemic and only partial incomplete justice at best. So for instance, for many years after the violence in Gujarat, the state government completely failed to press forward with any comprehensive investigations and the prosecutions only began after extensive pressure from human rights activists and victims' families and finally interventions by India's Supreme Court and the National Human Rights Commission.

An investigation that was ordered by the Supreme Court to look into Gujarat Chief Minister Modi's role in the violence found no prosecutable evidence of his direct complicity, a conclusion that officials from his party are now using to suggest that he has received a clean chit from the courts. But there are still current legal processes underway in Indian courts initiated by activists and victims' families seeking accountability. And independent of the question of Modi's personal complicity there are issues of culpability of the state government in failing to protect Muslim citizens.

And so outside of India, this lack of accountability has led to condemnations, but even travel restrictions for alleged perpetrators including for Chief Minister Modi based on the allegations regarding his potential complicity. And Modi is, as others on the panel have noted, now a top candidate to be India's next Prime Minister. And several countries that have previously suspended any meetings with Modi have now met with him, including the now former, but then current U.S. Ambassador Nancy Powell who met with him in February.

We believe that it is appropriate for the United States to continue to press forward with pressing the Indian Government for comprehensive accountability. Not just for the 2002 events in Gujarat, but for those other serious cases mentioned today.

In my written testimony, I have also discussed other matters including the arbitrary arrests of Muslims in terrorism cases which was just mentioned, as well as military abuses. These issues are just as important as everything I have already discussed, but I am going to skip them in the interest of time. I would be happy to answer questions about the testimony.

The main issue for the United States Government is how to press forward with its concerns with this pattern of impunity I have talked about. The United States has for many years expressed concern over violence against minorities in India and Human Rights Watch believes it

is important for the United States to reinforce this message even after a new government is elected. So Human Rights Watch urges the Obama administration now, and after the election, to continue to press India on a number of points. And I am going to flag three particular ones now.

One is India needs to enact a stronger law to prevent communal violence. There is a draft prevention of communal violence bill currently before the Indian Parliament, but it is floundering because some political parties want to dilute many of its provisions. It is very important that that law move forward and not be diluted.

The second is to strengthen the existing Human Rights Commissions which exist in India, such the National Commission for Minorities and the National Commission for Scheduled Castes. These are groups which monitor the rights of religious minorities and Dalits and tribal groups, and there are others that I haven't mentioned. But in some cases the effectiveness of these commissions has been compromised because the government has staffed them with nonexpert or political appointees. It is very important that these commissions have expert commissioners who know how to advance the committee's work.

And then third, this matter of disciplining or prosecuting members of the security forces regardless of their rank, who fail to stop violence or do not act impartially during events of communal violence. One of the best things about the pending bill on communal violence in India's Parliament is that it would increase the legal culpability, the legal liability on government actors who fail to stop violence when it occurs. Independent of whether violence breaks out because of local concerns or crime, or whether it is whipped by political parties or other groups, it is ultimately the government's obligation and responsibility to step in and stop. And you can judge the government's complicity by how long after violence breaks out it is subdued. If it is a few hours, it suggests a certain amount of government responsibility. If it is several days, it suggests government complicity. It is very important that new laws be enacted to put those local actors on the hot seat and have them be held legally liable. So it will be good if the United States continues to press forward and convince the Indian Government that it is in their best interest to pass that type of legislation.

I would be glad to take more questions. I will stop there. Thank you for inviting me to testify.

Mr. PITTS. The chair thanks the gentleman and now recognizes Dr. Dayal for his opening statement.

STATEMENT OF JOHN DAYAL

Mr. DAYAL. Thank you, Honorable Chairman and Members. My co-panelists have spoken about most of the situation prevailing in India. I come from India to speak and it is not

easy to come from India to speak, apart from distances and money. For the past one week, my mail box has been full of hate mail which calls me a traitor for having accepted your invitation to come and speak.

Last time I spoke here was in 2000 and when I went back home, there was a police case waiting for me on charges of treason. It was thrown out because speaking for the truth is not treason, whether you speak at home which I do on a daily basis, or you speak in Rayburn Congress Hall in Washington.

I am not going to focus on the issues because my three co-panelists have focused on all of them. I am going to focus on what are the challenges India will face when elections portend to present a result which is prophesied in newspapers and television columns: what happens if Mr. Modi comes to power. I think we now in India face serious challenges to the secular and pluralistic traditions of a country and religious minorities such as Christians, Muslims, Sikhs, and Adivasis are generally fearful of what the future portends.

These fears are compounded by increasing radicalization of the political discourse including rhetoric about disenfranchising religious minorities. I wish to bring to the attention of the honorable Members of Congress the realities of the situation of religious minorities on the ground in India. We have spoken of the anti-Sikh massacres, the Christian massacres in Orissa and the recent violence in Muzaffarnagar. But in the past 12 months preceding these elections, Christians have themselves faced 153 cases of violence against us. My colleague Vijayesh Lal, sitting behind me, is one of the forces noticing, recording these cases. And this is just the proven cases. The numbers may be ten times or more because it is so difficult for people to say that they have been violated, that they have been beaten up because the police will just not listen to them.

Second, a ruthless and draconian law known as the Unlawful Activities Prevention Act, has been used and led to incarceration without trial of hundreds of Muslims and Christian youth in civil states on charges either of terrorism or of Maoism or acting in any other way which seems to disturb the government of the day and political parties. And wherever the BJP is in power, in those states these cases are many more than other places.

We also have seen a very rapid rise in the normally very high rhetoric of the Hindutva Parivar, as we call it. This is not Hinduism. This is a radical, highly politicized form of right wing extreme forces for whom Hitler was a good man. This is what today is pushing forth and they are supporting and emphasizing the political party, the BJP, as it comes, as it races towards what it thinks is political power in the country and this is terrible.

Under a situation or in a situation where this group were to come to power, what does it portend? They have promised already in writing and in their arguments presented in political discourse: they will institute anti-conversion laws across the nation along the lines that already exist in five states. These states also see a large scale of forcible conversions from Christianity to Hinduism under pretty terrible conditions. Heads are tonsured, you are made to drink cow

urine and cow dung, and so on and so forth. We fear that these cases will increase multi-fold as we have seen and experienced when these groups came to power in 1998 and were again in power till about 2004. There were many, many, many cases of this sort and these cases may increase.

The use of state, missionary and law enforcement apparatus to harass, intimidate and disenfranchise religious minorities, indulge in mass violence against minorities followed by the extension of impunity to the perpetrators of violence the Government of India itself, in Parliament, has acknowledged 30,000 cases of violence in the last 60 years on record. Most of these cases have seen no persecution of the perpetrators including the police and other forces that I have mentioned. This could increase many-fold.

The government in Gujarat has already scrapped affirmative action and financial aid to students of Christian and Muslim faith. This may become national law and who knows how much damage and injury this may bring to the people of the country, particularly those espousing the Christian and Muslim faith.

I will take this opportunity therefore to urge the United States Government and the U.S. Congress and indeed all people of the world to engage in the dialogue with the Government of India on issues of human rights and freedom of faith. These rights are guaranteed under the Indian constitution but are violated with impunity all too often. India is a huge market and investment destination and this has so far successfully managed and encouraged the government to ignore or rebuff the scant concerns shown by the international community including some countries that took part in the Universal Periodic Review hearings in Geneva in 2008 and 2012 to protect the rights of religious minorities.

Human rights are universal and the international community has a special role in ensuring the rule of application. May I point out you are not influencing the Indian elections by holding this hearing today. You are putting on the international limelight the reality of India. We are not exaggerating. We are not saying anything which is not happening. In fact, for want of our own inability to authenticate on the ground because we are not allowed to move, the police will not help us, the judges are debilitated. What we tell you is but the very tip of a very massive iceberg and we would therefore recommend that these concerns be incorporated in the U.S.-India relationship and the U.S. policy vis-a-vis the United States-India Strategic Dialogue which is the framework of engagement of the U.S. State Department has devised to define its relationship with India. Currently, human rights and religious freedom are excluded from this framework. Although counterterrorism is part of the framework it must be brought in mind that counterterrorism laws in India are implicated in a manner that is repressive toward to the minorities, especially the Muslim minority, I may add, but also against the Christian minority and states ruled by the BJP.

Also, this position is in contrast to the U.S. policy with respect to China where the U.S. Strategy Dialogue does include human rights. The primary aim of House Resolution 417 is to include human rights as part of the Strategic U.S.-India dialogue.

The RSS which I spoke of, the Hindutva group, has also an International Agenda that is based on a jingoistic concept of undivided India that includes the incorporation of present-day Pakistan and Bangladesh. These hardliners pose a heightened risk to the geopolitical stability of human rights in the South Asian region and in fact, the stability and peace in this region. We therefore hope that the U.S. will not allow its soil to be used by dissident activists who are also involved in the hate campaigns and in collecting funds for the RSS which has been proven beyond a shadow of a doubt in researches in the past.

We are in prayer that the people of India and the international community will do what is right in order to safeguard India's tradition of pluralism and secularism. Thank you very much. I think these are very, very important hearings and will have bearing on how the U.S. looks at human rights. We in India, minorities suffer, but we prayer and we work very hard to see that India continues to be a country where we can live in peace and our children can live in peace in the future. I thank you.

Mr. PITTS. The chair thanks the gentleman. And thank you for your courage and speaking out.

I will begin questioning. I will do the first round and then I will go to my co-chair and we will just alternate until we finish.

Let me begin with you, Dr. Swett. You are the Vice-Chair of the United States Commission on International Religious Freedom. What are USCIRF's recommendations to the administration in regards to India?

Dr. LANTOS SWETT. Well, our key recommendations have to do with more fully integrating, frankly, concern for religious freedom into our bilateral contacts with India at both the federal and the provincial level. And we strongly urge the strengthening of the ability of state and central police to implement effective measures to prohibit and punish cases of religious violence and protect victims and witnesses.

We encourage our ambassador to India, as well as other U.S. officials traveling to India, to visit the areas where communal violence has occurred, to meet with religious minority community leaders, local governments, to discuss international religious freedom standards. I think in a broad sense, we feel very strongly that this whole sector of concerns is somewhat sidelined in our dealings with India and that that is a huge mistake, both for our interests in terms of upholding our values, but also in terms of abdicating the role we can have in encouraging India to confront these very serious problems.

We recognize and appreciate that India is the world's largest democracy. It is an extraordinary thing to contemplate that 800 million people will be eligible to go to vote in these upcoming elections. It is not easy to democratically govern a society of that size and that complexity and that diversity. But the fact is that democracy is not the end point and the complete answer to the protection of human rights. That is why in our own democratic experiment, our system of government wasn't complete until we had enacted a Bill of Rights that sets parameters, limits on what the government can do, and sets a hedge of protection around certain fundamental rights for the individual. So our interest in promoting religious freedom for India is an interest in enhancing, not interfering in their democracy.

A couple of other things if I may be specific again. We also as one of our recommendations would like to see our government urge India to increase training on human rights and religious freedom standards and practices for the police and the judiciary. We certainly see as we look at the situation in India that where practice breaks down has to do with security forces, the police, and with the judiciary. And this is particularly true in states with a history of or likelihood of communal violence.

We would urge our government to urge the Indian Government to press states that have adopted these really problematic anti-conversion laws to repeal or amend them to conform to international standards.

And finally one recommendation we would make to our government is to encourage the Indian Government to establish an impartial body of interfaith religious leaders, human rights advocates, legal experts and government officials to discuss and recommend actions to promote religious tolerance and understanding.

Mr. PITTS. Thank you. Ms. Phillips, just to follow that response a little bit, to what extent, if any, are Indian law enforcement personnel trained in human rights and religious freedom standards and if these efforts are under way, are they focused on regions especially vulnerable to communal violence?

Ms. PHILLIPS. I don't know that. I can't list out that. I can research that a little bit more and follow up. I don't know the way the training works. I only know from my own discussion that there is, as I mentioned, an alarming candor about why and how torture is used as an appropriate form of interrogation, which leads me to believe they are certainly not given a directive not to, in any form of training, and that they are very confident in the impunity associated with that. So I think that it would take more than training, but a shift in culture where the understanding that international human rights standards do not allow torture in any situation, and that it shouldn't be ever used. The symbolism of police officers speaking that way publicly and in individual conversations with human rights activists, I think, is reflective of the lack of training and commitment to that.

Mr. PITTS. Thank you. Mr. Sifton, one direct result of communal violence is the economic marginalization of the victims. Many victims have lost property. They have lost their livelihood or have been severely injured or in some cases, the head of the house has been killed leaving women and children with no means of supporting themselves. The inability of groups to provide for themselves creates a dependence on charity or worsens the cycle of poverty. Has the government's response and compensation for victims in the wake of communal violence been adequate? If not, what can be done to improve that situation?

Mr. SIFTON. The answer to the first question is no. It hasn't been adequate. In many, many cases people have been displaced whether it is Hindus from Jammu and Kashmir or most recently Christians from Orissa or Muslims from Uttar Pradesh. It has not. But that raises an interesting point which is critics of this hearing or of these concerns that are being raised might see the underlying motivations as political. There are concerns about the BJP and some of the groups that stand behind it like the RSS, but the fact of the matter is Congress itself has seen some very, very big problems and a poor record on religious violence. We have spoken today about the violence about Sikhs in 1984. I can add to that the disturbing counterinsurgency record of the Congress government against the Sikh rebellions that ran from the early 1980s through the 1990s in which tens of thousands of Sikhs were disappeared. These are Congress Party obligations that were not met. And the failure of accountability in those events is a stain on the party's record and its human rights record. So this really isn't a political issue. This is about the government taking more seriously their obligations to protect religious minorities, whoever they are.

On what the U.S. should do, I have to say it is no secret that U.S.-India relationships right now are not wonderful. It is in a very bad spot right now. But it is very vital in that context that that doesn't translate into a diplomatic posture by the United States where the U.S. Government soft-pedals or pulls punches. There is a lot the United States can do even with a bad relationship to voice these concerns and also to coordinate with other capitals. The State Department is not very good at this, but doing better and coordinating with Brussels and the EU External Affairs folks, the foreign policy of the EU so that they also are pressing on these issues and other governments are singing from the same song sheet about these concerns. It is not just about the U.S. and India. It is about every country and democracy in the world that is concerned about human rights in India and religious liberty in India saying to India the same thing which is that we want to see the record on this issue get better.

Mr. PITTS. The chair thanks the gentleman. Mr. Ellison has to make a phone call, but let me briefly yield to him for his first round of questions and then I will go back to mine.

The chair recognizes Mr. Ellison for questions.

Mr. ELLISON. Thank you, Mr. Chairman. I just want to apologize to the panel. I do have to take a phone call in a few minutes, but I will return. This is a very important matter, of

course, and I do appreciate your time in coming here. Of course, Dr. Dayal, coming so far away to testify, we are very gratified by your efforts, sir.

I would just like to ask you a question, preliminarily. You know, today is the anniversary of the assassination of Martin Luther King who represented a group of minorities in the United States and who fought for equality for those minorities, and, as a matter of fact, paid with his life in that effort. The world Martin Luther King saw and lived in is very different from the one we live in today. I think Americans across this nation of whatever political party are very proud that the United States is a country that can elect a person who is of African descent. And he won first in Iowa which is almost an all-white state.

And yet, Martin Luther King would probably be amazed, not surprised, but amazed to see that kind of development in that short a period of time. And I guess my question to you is this: when you arrived and you had to answer charges that questioned your loyalty and love for India, did you ever get the sense that what you were doing is actually the greatest patriotic act for India, to try to help India be the best India it could possibly be?

Mr. DAYAL. I so believe and therefore here I am. I love Hindus. My brother and my sister are married to Hindus and so is my son. But I also have a grandson called Kabir. He is a Catholic like me. I worry about his future in the India that he will grow up in. And that gives me courage to speak. Will he grow up in a country where there is hatred, which can never dream of a Muslim prime minister? You can dream of a president of African descent. Are we not living in a country where state after state have no Muslim representation in the BJP, where Muslims are grossly underrepresented in Parliament, in the police force, in the secret service, but grossly over represented in jails as are Christians? Three times of the population our youth are in jail under the Unlawful Activities Act. I live in that country. But I am proud of its tradition and I worry about this contradiction. The greatest democracy with a terrible record, a country with free speech and human rights defenders are in terrible plight. Teesta Setalvad is threatened with jail. Shabnam Hashmi is harassed. Harsh Mander is abused. Seema Mustafa is abused. Vijayesh Lal is abused. John Dayal is threatened. We live in a country of contradictions. But we don't want to continue to live in a country of contradictions. We want there to be peace.

You want this India to hold its head high with a distinguished human rights record, not live in a situation where you define Indic religions and alien religions. I am an alien in my country, am I? I refuse to be an alien in my country.

I would like to live with honor. I would like Kabir to live with grace and with hope, and therefore I speak.

Mr. ELLISON. Another quick question. I think that some people who would accuse a person like you of disloyalty or something like that, they are laboring under the false impression that to sort of root out these real problems is -- or for the country to have problems is a dishonor to the country. But in fact, there is no country that has not had serious problems.

Mr. DAYAL. Indeed.

Mr. ELLISON. And so what would you say to those people who are under the impression that somehow you are jeopardizing India's image by bringing these problems to light and trying to seek justice?

Mr. DAYAL. Every time a Sikh is troubled for his turban in France, the Prime Minister of India speaks and phones up the President of France. Every time a Sikh is killed in a hate crime in the U.S., there is an outcry in India. We are one large village, the U.S. and India and the whole world and we have a right, in fact, a duty to speak with anybody from any faith or any color or any dispensation of curly hair or not. I am more of dark complexion than you are. We must speak for each other. And therefore, I don't deem myself -- they call me a traitor. I don't call myself a traitor. I call myself a patriot and I remember that if Luther was killed, Gandhi was killed long before him, by people who foment hate who loved Hitler. They loved Hitler. They hated Gandhi.

Mr. ELLISON. I would like to ask the panel to excuse me for a moment. I will take a call and be right back.

Mr. DAYAL. Thank you indeed.

Mr. ELLISON. Yes, sir.

Mr. PITTS. The chair thanks the gentleman and I recognize the gentleman from California, Mr. Sherman, for any opening statement or questions he would like to make.

Mr. SHERMAN. Thank you. I want to commend my two colleagues who have been able to devote more of their day to this hearing. I want to commend Katrina Lantos Swett for everything she has done for human rights. It was an honor to sit next to her father for so many years and his record on human rights is known around the world. He focused with particular attention on the Jewish people around the world. I think that India has had a very good record as far as treating its small Jewish population and unlike some other Asian countries that have virtually no Jewish population, we haven't seen anti-Semitic comments from leaders of any stripe as we have in other parts where the comments are made even by leaders who have not met a Jew in their own country.

Every country can improve its treatment of religious minorities. I don't know if we have mentioned it, Mr. Chairman, but the bill to create to a special envoy in our State Department to focus on Religious Minorities in South Asia and the Middle East would be helpful to our policy.

Let me see, my eyes are not as good as they used to be, but John, can you comment about how India's treatment of religious minorities compares to others in the South Asian region?

Mr. DAYAL. John Sifton or John Dayal?

Mr. SHERMAN. John Sifton.

Mr. SIFTON. I think it is a very tough question. Working on all of South and Southeast Asia we see a lot of troubled countries, Malaysia, Indonesia, against even their own Muslim Shia and Ahmadiyya faith. We don't get into the matter of comparing countries. It doesn't really help advance the concerns that outsiders have. What I would say is that the promise of India, its unique historical background, its constitution, would almost dictate that it have one of the best records in the region. And yet sadly, that is not the case.

Mr. SHERMAN. You are saying it doesn't have one of the best records in its own region or --

Mr. SIFTON. Yes. I mean what I am saying is given its historical background, its constitution, and the way it was founded, and everything else, you would hope that it would be a leader in the region. I am not saying it is the worst of the region, but I am saying it hasn't been a leader in setting an example.

Mr. SHERMAN. If the region is South Asia, I mean I have served on the Foreign Affairs Committee for almost 18 years, we have heard about religious discrimination in the other parts of South Asia, that is to say, Afghanistan, Pakistan, and Bangladesh. Are you saying -- and that is a region that is quite large in terms of the number of people when you include India, but it is not large in terms of the number of countries. But are you saying that India doesn't compare favorably to Pakistan and Afghanistan?

Mr. SIFTON. No. I am saying it is not living up to its promise based on its historical background. It could be a leader. It could set an example for the entire region. And in this it has singularly failed.

The promise, though, has been betrayed in many different ways. From the Congress Party's deplorable record with respect to violence against Sikhs, to its failure of economic stewardship which has hurt Muslim and other religious minorities disproportionately, although it has hurt, frankly, all Indians, to the BJP's ideological background which is as my co-panelist says, quite frightening. It has been a huge disappointment, given the history and given the background.

Mr. SHERMAN. Well, the history it shares with Bangladesh and Pakistan where I think its record is considerably better, but I agree, we have India as the largest democracy in the world and we are looking for leadership from India in so many ways including treatment of religious minorities.

What do you think, what changes do you think and I will address this to the entire panel could be made in -- look, every country, even if it achieves the best possible statutes and I think our first amendment does a pretty good job, doesn't achieve complete equality and absence of

discrimination and hate crimes on the ground, but you try to improve the statutes, what statutory change and I will address this to the other John, but to everyone also on the panel, what statutory changes could be made by the Parliament in Delhi to improve protection of religious minorities?

Mr. DAYAL. Congressman, first I would like to answer the question you addressed to my colleague here. It is no honor to be compared to Pakistan or Bangladesh or Sri Lanka in South Asia. India must be judged for itself. Point one.

Point two. The numbers in India are huge. If you say all Hindus are very good and I totally concur, 99 percent of the Hindus are excellent. But that 1 percent or .01 percent of a billion is millions of lunatics out there and that won't do. India, I think, today must be judged for itself, for its record. Why are there no Muslims in the senior echelons of the police? It is a question that needs to be addressed. And I think it needs to be told to the government of India by us and we tell it every day and so must you. We must bring out the criminal violence and targeted violence, Provincial Bill, because that holds people responsible. It ends impunity and immunity to the government. It asks for a transparency in its treatment of minorities and it asks for reparations and relief.

On a scientific basis, why is one widow given a million dollars, the next one given \$100,000 and the last widow given only a few hundred dollars? Is one widow more grieved than the other widow? And they are victims of the same violence. There must be a national law and this comprehensive law was supposed to be that. It has been murdered. It has not been allowed to come before Parliament in India.

Mr. SHERMAN. Let me interrupt you and address the other panelists. Do you see parliamentary proposal as helpful? It is up to the Indian legislature to adopt laws for India, but do you have any comments on it to either propose improvements or general support? Go ahead.

Ms. PHILLIPS. Yes, I would like to first say I think that all of the laws that are a result of looking at gaps in human rights protection are hugely important and should be supported, but that being said, India has very strong laws that are being violated every day: murder, rape, assault, all the things that are wrapped into communal violence. There are laws against those. There are laws under which all of these people who have committed the crimes could be prosecuted. And so I think talking about full implementation of the laws, the constitution, those are all hugely important, and that sometimes in looking at law reform we get sidetracked with hand wringing if only there was a law, when there are so many laws that can be used to protect the human rights of people and we spend enormous amounts of time trying to work with judges and police officers and prosecutors in our work to implement the laws that are there. So I would like to just encourage the discussion of that.

And if I could just add one thing not in response to your question, I just would like to say if there is a way to elevate the discussion I am very concerned about Dr. Dayal and all the others that he mentioned in India. And that I think the United States can be a very good example of

how we can be enormously proud of our democracy, enormously proud of the diversity and culture and art and things that are important to us in this country and still shine a light on our own human rights violations, strengthen the civil society organizations that protect that. And if we can do that, if we can have an elevated discussion that honors the beauty and the wonderfulness of India, but looks at the human rights violations, I think that is important and will help protect the human rights defenders there who play such an important role.

Dr. LANTOS SWETT. Yes. I would like to just bring up one point that I think you might not have heard, Congressman, because Robin brought it up before you joined us and that relates to this question of how does India match up in its neighborhood. The Pew Research Center earlier this year maintained India on its list of countries with very high social hostilities involving religion and actually on a ten-point scale I think their most recent rating of India on social hostilities, these are not governmental restrictions relative to religious freedom, but the tenor of the society, was 9.6 on a scale of 10. So I think that does indicate that while not all of this is government driven, the impunity, the lack of accountability that my colleagues have spoken about has created the scenario where India is not yet off the chart, but it is right there at the top of the chart in terms of the seriousness and the threat posed by these social hostilities.

I also would like to just say a word, we have said many times and it really bears repeating that no country is perfect. My late father who came to this country out of the horrors of the Holocaust and also the horrors of communism, repressive communism in his native Hungary, nonetheless often described American history as a process of gradually closing what he referred to as the hypocrisy gap, the gap between our extraordinary high ideals and the reality. But it is the mark of a society that is moving in the right direction that they seek to close that gap. That they are step-by-step, year-by-year, wanting to close that gap.

India shares with us as a democracy a responsibility to be committed to closing the hypocrisy gap, to be committed to living up to their high ideals and we do them no favor by giving them a pass when they have fallen short. I think all of us are incredibly moved by the testimony of Dr. Dayal and by the personal risks that he is willing to take. But India, you know, again, just taking a little insight into what I believe is an undue defensiveness about some of the issues being raised, USCIRF, long before my joining the Commission and you know, so this predates my participation as a USCIRF Commissioner, has sought the opportunity to go to India to meet with groups, to make an assessment on the ground, and we have been sort of absolutely shut down. That, to me, indicates a degree of defensiveness that we don't find in other societies with frankly even worse records, but they at least are willing to sort of say okay, come, look around, talk to people, we will meet with you.

So I think that those of us who have great admiration for India and great mindfulness of the extraordinary challenges faced by Indian society, in a way do them the honor of saying there are standards you should choose to live up to because they are embedded in who you are.

Mr. SHERMAN. No country is going to achieve the ideal. We tend to focus here on trying to improve governments rather than the souls and hearts of individuals. And the Government of India has a tough job. You have got a society with, as you point out, a 9.6. It is harder to govern India than it is to govern Canada. It is harder to create ethnic harmony in Rwanda than it is in Switzerland. So you have a history on the subcontinent, a culture on the subcontinent that has been difficult for India to achieve harmony among religions. And then you look at Pakistan and I am not sure they are even trying.

I know that Tulsi Gabbard was here earlier and was concerned about the timing of these hearings. I think any attempt by us in this room to have any effect on the Indian election would backfire and that -- I would say the U.S. Commission on International Religious Freedom lists as Countries of Particular Concern, Tier 1, virtually every country that India shares a border with. They list as Tier 2 Afghanistan which is the only country in the South Asian region, as defined by many, that India doesn't have a border with. And the Indian Government inherits a situation where you have a number of religious groups that do not have a history of always living peacefully together, although there are many periods in time when they have -- when they do indeed have a history of harmony. But a 9.6 is hard for a government to deal with.

I will place in the record, I don't know if it has already been done, a statement by this HAF. It presents a pro-Indian Government view. I do that knowing that it is not the only thing in the record at this hearing.

Mr. PITTS. It has been placed.

Mr. SHERMAN. Oh, it already has been placed in the record. Okay, and that no one document submitted can present all the relevant views on this important issue.

Mr. Chairman, I thank you for the time. I wish I could spend more time here and I want to commend those of my colleagues who have spent more time here. I want to commend the Lantos Commission and especially his daughter, Katrina, and yield back.

Mr. PITTS. The chair thanks the gentleman. And let me now go to Dr. Dayal. You brought this up in your testimony, the BJP party, originally, the political arm of the RSS. And they have advocated Hindutva, or India based on Hindu culture, and views this as key to nation building. And in 2002, the BJP-led federal and Gujarat state governments both came under harsh criticism for playing allegedly enabling roles in the large-scale anti-Muslim violence, and states with BJP governments are far more likely to have anti-conversion laws.

How might be a BJP government in New Delhi affect the course of communal relations in India in the coming years? Are you concerned that India's long-held identity as a secular pluralist nation could come under threat, why or why not and what specifically might Members of Congress or the administration do to address this issue?

Mr. DAYAL. I am deeply concerned. Not only I. Very large numbers of very sane and very conscientious Hindus are deeply concerned on the BJP's thirst for power. It was in power in India between 1998 and 2004 and what happened? Thirty-six churches were burned in Gujarat. The 2002 riots took place in Gujarat. In Orissa, the Australian missionary, Graham Stuart Staines, and his teenage sons Timothy and Philip, were burned alive. Father [inaudible] of the Catholic Church was gored to death. We have experience of what the BJP does when it is government. Groups penetrate the police. Groups penetrate the judiciary. Groups penetrate the media and their impact is there long after the government has ceased to be, another government has taken to power, but the seeds it has sown of hatred, of impunity continue.

At this juncture, if they were to go back to power it would be fractitious to society. In 2002, justice is still a major cry. In Kandhamal in 2008, justice is still not there at all. I have listed what we anticipate would happen. It is not just that the anti-conversion laws, so-called, would be made national. For Christians, we are a small minority and we are all used to this. But what is going to happen to the millions of youth? They are likely to end up in jail under all sorts of charges. What is going to happen there? What is going to happen for opportunities? Don't they have a share in the growth and development of India?

I have demanded repeatedly and my colleagues have demanded in India an Equal Opportunity Commission and nobody wants it, only the people want it. Why don't we have an Equal Opportunity Commission in India? Why can't we in transparency ask what is the representation of Muslims and Dalits, the untouchables, in government? What is the ratio in industry and trade and business? The Congress is not the most holy or the cleanest of governments, but still there is a hope. There is hope even under communist governments. But governance without ethics, without emotions, without justice is not the governance we want. Development which adds to these things is not a development we want. Justice, equality, inclusiveness, we are all citizens of this great country and it is a great country. Let it remain great.

Mr. PITTS. Thank you. Dr. Swett, in your written testimony you mention India's fast-track courts. Can you elaborate on the effectiveness in addressing religious freedom violations or communal violence in India of these courts?

Dr. LANTOS SWETT. I think, unfortunately, the verdict is that the courts have not been terribly effective and some of the elements contributing to that lack of effectiveness that have been identified are that they are plagued by a degree of religious bias and a degree of corruption. The courts have been used inconsistently and they have had really insufficient capacity to investigate and prosecute cases.

And more broadly, you look at India and they have a pretty creaking and antiquated judiciary system and when we have, on occasion, had the opportunity to have informal conversations with folks from the Indian Government they will themselves point to that and say:

we have a problem with our judiciary, it is not functioning the way we need it to function for a society of our complexity. But we would identify political corruption, religious bias very often at the local level that has hampered the effectiveness of these fast-track courts.

And then there are more concerning aspects. There have been suggestions that witnesses are intimidated, that evidence is lost, that there is a lack of cooperation and transparency in some of these prosecutions. And whenever you see this lack of transparency, a lack of cooperation, it raises a red flag inevitably when records are destroyed relative to an investigation, phone records and other evidence that could help establish facts and prove a case. When those elements disappear, then it does not raise one's confidence level that justice is being done and that the full facts are coming forward.

So I think the intent behind establishing fast-track courts was the right intent, but the execution and the implementation has fallen short for some of the reasons that I have suggested. And probably some of my colleagues may know even more than I do about this.

Mr. PITTS. Okay, we will go to the rest of the panel and maybe expand in what ways India is trying to combat religious extremism and communal violence and are their methods effective. Who would like to respond? Dr. Dayal?

Mr. DAYAL. I wish to speak a sentence or two on this issue of the fast-track courts and justice in Orissa and Gujarat. The fast-track courts became a farce because the victims, there was no witness protection program. The police investigation was extremely shoddy. In thousands of cases, the cases that were actually brought before the courts were very, very few. Out of 120 murders that took place, only 40 were taken cognizance of. Of that, 32 were actually tried and there was conviction in only 2 cases and only in one case of murder was there a conviction. I and my groups have taken these cases to the Supreme Court of India, asking for a retrial, asking for a situation where the victims can also speak in court, that they can be represented by counsel which was not done in the past.

We have to go to the Supreme Court for every little thing because the local courts, the lawyers are not there. The local courts will not try. In the case of the rape of the nun, the Catholic nun, it had to go to the Supreme Court because the recording magistrate was trying to play funny. He was chastised by the Supreme Court. Ultimately the high court intervened and then the girl got justice. People were sentenced, two of them were sentenced, one for the actual rape, the rest for them. But even there just for want of witness protection, these fast track courts are fast, but fast in acquitting, not fast in investigating. The investigation was extremely shoddy and we have asked that all those cases be retried, tried again.

Mr. PITTS. Mr. Sifton?

Mr. SIFTON. Yes, I would add just a general point about what -- some of the things India is suffering from that needed change and I would discuss it by discussing some of the things that

have to change in the United States. Both India and the United States are both very insular countries. Neither of them like outsiders coming in and telling them what to do and how to do it. And that is reflected in the United States not always being entirely open to U.N. Special Rapporteurs coming here. And it is relevant for India in the same way that it prevents outsiders from coming in and allowing a cross fertilization of efforts.

Consider for the fact there has been talk of Martin Luther King. There has been talk of civil society in India. Consider for the moment that no social justice in any country happens without civil society pushing it, through lawyers and civil society groups pushing the government to improve itself. And yet, in India, there are laws like the Foreign Contributions Regulation Act which make it extraordinarily difficult for outsiders to help fund Indian nonprofits. It is an incredibly tangled set of laws and regulations which make life very difficult for civil society groups in India. As a result, although you have a very vibrant civil society in India, it is less centralized, less unified, and a little bit more anemic than it otherwise would be if there wasn't this law which is why we have pressed the United States and other countries to press India on this.

But on the U.S.-India relationship, generally, I think both countries could learn a lot from each other. There is a statement from the Sikh Coalition today here. The Sikh Coalition is a group here in the United States which presses the United States Government to improve its treatment of Sikhs in America and advocates for change from law enforcement agencies and federal agencies. Groups like that in India and in the United States, cross-fertilizing is something that both countries could improve. Generally, the U.S.-India relationship could be strengthened by more exchanges, encouraging both civil societies and governments to learn from each other.

I am always surprised when I see how anemic the cross-fertilization is among the U.S. and Indian judiciaries, law enforcement. I mean it takes place. Don't get me wrong, but it is much more anemic than you would expect from two great democracies. So that is something that I would really encourage the State Department and the Indian Ministry of Foreign Affairs to work together on. In the midst of this quite bad relationship that has cropped up in the last couple of months, this might be a way forward into strengthening the relationship.

Mr. PITTS. Ms. Phillips.

Ms. PHILLIPS. And I would just like to add building on that that a lot of attention is paid to the more dramatic incidents of communal violence and that the statute that Mr. Sifton mentioned, there are other things that are -- that feel less dramatic for people to look at, but cause huge problems and are part of what builds the pressure between these big incidents I believe, things like the interference with counsel and detention without charge and the other due process rights that don't get as much attention. And so building on these connections and supporting the groups within India that are looking at how to bridge the gap, how to fix the issues of these day-to-day due process problems that aren't getting enough attention.

Mr. PITTS. Thank you. Well, this has been a very, very informative hearing, many constructive suggestions. I would like to thank the witnesses for all of your testimony. I would like to thank Mr. Ellison for co-chairing. And I would like to thank you for all of your important work, both here and abroad.

Having heard the testimony, I must reiterate the need for our administration to engage with India at this time. The grievances of victims do not wash away with a new government or an election and as our State Department has continued to express that the Indian Government must continue to seek justice for victims of communal violence, let it not stop. Let the Indian Government stop this decline of vigilance against communal violence and ask that it root out this growing impunity that we heard of today.

The recommendations and policy changes for both governments are at their disposal. Members of this Congress will be vigilant and ready and willing to work with any government that the Indian Government people choose. And so we thank you for your testimony for the record and we are being called to another vote on the floor. So unfortunately, at this time, we must adjourn. So without objection, this hearing is adjourned.

[Whereupon, at 12:35 p.m., the Commission was adjourned.]

APPENDIX

MATERIALS SUBMITTED FOR CONGRESSIONAL HEARING RECORD

TESTIMONY OF

KATRINA LANTOS SWETT

VICE CHAIR

U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

BEFORE THE

TOM LANTOS HUMAN RIGHTS COMMISSION

ON

THE PLIGHT OF RELIGIOUS MINORITIES IN INDIA

APRIL 4, 2014

I want to thank the Tom Lantos Human Rights Commission for holding this hearing today and inviting me to testify on behalf of the U.S. Commission on International Religious Freedom (USCIRF).

I commend the Lantos Commission for providing this opportunity to focus on the plight of religious minorities in India. This is an especially important period of time for India. The Indian people shortly will start to go to the polls to elect their parliamentary representatives to the Lok Sabha – the lower house of parliament – and the Rajya Sabha – the upper house, for the next five and six years respectively. The newly elected parliament then will elect the next Prime Minister and President.

The Indian election is a remarkable undertaking. The world's largest demonstration of democracy will bring nearly 800 million people to the polls, about three times the total population of the United States. India is a deeply religious and pluralistic society. A country with a Hindu majority, India is estimated to have the third largest Muslim population in the world and a Christian population of over 25 million. The country is also home to numerous Sikhs, Buddhists, Jains, Zoroastrians, Jews, and Baha'is. The current two-term Prime Minister is Sikh, the past President is Muslim, and the head of the national governing alliance is Catholic. India also has an independent judiciary, independent media, and a dynamic civil society. Furthermore, India has created several governmental bodies that monitor human rights violations and fund minority welfare programs.

India and the United States have a long and proud partnership. We share uncommon commonalities given our robust commitment to democracy and multiethnic, multi-religious societies. India also is an important ally that holds key strategic economic, political and regional value to the United States, since it is the second most populous country in the world, situated between the Middle East and the Asia-Pacific region, and a neighbor to a troubled Pakistan.

Yet, USCIRF is concerned by the religious freedom violations, including religiously-motivated violence and the harassment of members of minority communities during electioneering, that have taken place in the lead-up to the elections, which may tarnish this massive undertaking. These actions are deeply troubling and add to other longstanding concerns, such as the implementation of anti-conversion laws in some Indian states (which together constitute roughly 1/3 of India's total population) and a climate of impunity in which minority community members have been violently attacked and many have not received justice for past large-scale communal violence, including in Gujarat (2002) and Odisha (2007-2008).

It is important to note that India has taken some steps to address justice for past communal violence and other religious freedom violations, including establishing Fast-Track Courts, Special Investigative Teams, and independent commissions. Unfortunately, the effectiveness of these initiatives has been limited due to religious bias and corruption. Yet India has demonstrated the capacity to act effectively, including anticipating and responding to outbreaks of communal violence. For example, in advance of the decision in the September 2010 case of the Ayodhya mosque (which both Hindus and Muslims claimed), federal authorities took proactive steps to lessen the potential for violence, including issuing public appeals, placing advertisements in newspapers urging respect for the rule of law, and mobilizing tens of thousands of security forces to prevent sectarian violence. Because of these actions, the verdict in the case was not followed by significant violence.

Overview

India is a constitutional democracy. Article 25 of the constitution guarantees that every person in India shall have the freedom of conscience and the right to profess, practice and propagate religion. However, despite the religious freedom language in the Indian constitution, the constitution also subjects these guarantees to restrictions that the state may impose on the following grounds: “(1) public order, morality and health; (2) other provisions of the Constitution; (3) regulation of non-religious activity associated with religious practice; (4) social welfare and reform; and (5) throwing open of Hindu religious institutions of a public character to all classes of Hindus.” Government officials, police officers and judges reportedly have abused these restrictions which the constitution leaves undefined.

The Indian government, at the national and some state government levels, has adopted laws that limit the full expression of religious freedom, including the Foreign Contribution Regulation Act (FCRA), the Unlawful Activities Prevention Act (UAPA), and the previously mentioned anti-conversion laws, officially referred to as Freedom of Religion Acts. Moreover, individuals or communities often claim public order disturbances or falsely accuse religious minority communities of denigrating Hinduism to stop religious adherents from public worship or practices, such as proselytizing.

Serious periodic outbreaks of large-scale communal violence against religious minorities have taken place in India. Christian communities report harassment and violent attacks in the states that have adopted anti-conversion laws. To address the aftermath of the Gujarat violence of 2002 and the Odisha violence of 2007-2008, India established Fast-Track Courts, Special Investigative Teams, and independent commissions, as noted earlier. However, they have been inconsistently used and their impact limited by insufficient capacity to investigate and prosecute cases, an antiquated judiciary, political corruption, and religious bias, particularly at the state and local levels. As a result, a climate of impunity continues to exist in some Indian states, exacerbating the social and religious tensions among communities.

The State Department’s 2013 Human Rights Report noted significant human rights problems with police and security force abuse, torture, and rape; widespread corruption at all levels of government that has led to denial of justice; and separatist, insurgent, and societal violence. The report also noted that the judiciary remained overburdened, and court backlogs led to lengthy delays or the denial of justice. The report also noted that widespread impunity at all levels of government remained a serious problem, and that investigations into individual cases and legal punishment for perpetrators occurred, but in many cases a lack of accountability due to weak law enforcement, a lack of trained police, and the overburdened and under-resourced court system contributed to this atmosphere of impunity. These problems provide the context for the religious freedom violations that take place in

India. The State Department's 2013 report on religious freedom violations is expected to be issued shortly.

In summary, despite positive attributes as a democracy with a deeply diverse religious demographic and a robust civil society, India has serious religious freedom issues. The Pew Research Center's Religious Restrictions report has found that India scores in the "High" category on government restrictions and "Very High" on social hostilities, the highest category a country can be placed on the Pew scale.

USCIRF's Work

USCIRF has reported on India for some years. To analyze religious freedom conditions in India, USCIRF engages with U.S. government and foreign government officials, NGOs, human rights advocates, religious leaders, and laity. USCIRF has never been provided the requisite visas to allow for a visit to India.

From 2002 to 2004, USCIRF recommended that India be named a "Country of Particular Concern" (CPC) for its "systematic, ongoing and egregious violations of religious freedom," the standard in the International Religious Freedom Act (IRFA); from 2005 to 2008, while included in USCIRF's Annual Report, it was neither a CPC nor Tier 2 country, and from 2009 to the present India has been on USCIRF's Tier 2. (Tier 2 is a category USCIRF created that includes countries in which the violations the government engages in or tolerates are serious and characterized by at least one of the elements of the "systematic, ongoing, and egregious" standard, but do not fully meet the CPC standard.) USCIRF will release its 2014 Annual Report by May 1, and India's listing will be announced at that time.

USCIRF would welcome a more fulsome engagement with the Indian government, including the Indian embassy here in Washington, D.C. And the fact that USCIRF Commissioners have never travelled to India is not because of any lack of desire on our part or attempts to do so. In fact, USCIRF in 2009 delayed its Annual Report chapter on India given the Commission's strong belief at that time that India would accept a delegation, after which we could update our report based on the findings of the visit. However, USCIRF was denied visas in June of that year. Since then, USCIRF has made inquiries about traveling to India, but to no avail. In contrast, USCIRF delegations have been permitted to visit many countries over the years, including Saudi Arabia, Uzbekistan, and Sudan. A visit to India would allow the Commission to better understand the complexities, nuances, and challenges facing both federal and state governments, hearing directly from Indian officials and religious groups.

Additionally, each year USCIRF, as part of our Annual Report process, invites relevant embassies to submit information for the Commission's consideration and to further inform us on religious freedom conditions in their countries. India has never responded to this request.

Meanwhile, USCIRF has been hearing more frequently from NGOs and religious communities that religiously-motivated violence and harassment is increasing in India, and that some politicians are using religiously divisive language to gain favor with constituencies in the lead-up to the general election. These NGOs and religious communities also have told USCIRF that religious bias and corruption, especially in some states, hinder the protection of and justice for religious minority communities that are victims of religiously-motivated violence and harassment.

Religious Freedom Conditions 2013-2014

USCIRF concerns are not based on our own research alone. In 2013, the Indian Ministry of Home Affairs reported a 30 percent increase in the number of communal violence incidents from 2012. In February of this year, the Ministry reported that in 2013 there were 823 incidents, up from 668 incidents in 2012. Additionally, the Ministry reported that 133 people died and 2,269 were injured in communal violence in 2013 versus 94 and 2,117 respectively in 2012. These incidents included 479 acts of Hindu-Muslim violence in which 107 people were killed and 1,700 injured.

Uttar Pradesh, the state with the largest population in the country and fifth in geographic size, had the highest number of recorded incidents: 247 in 2013 as compared to 118 in 2012. Other states also reported an increased number of incidents from the prior year. The state of Bihar reported 63 cases in 2013 versus 21 in 2012; Gujarat reported 68 incidents in 2013 versus 57 in 2012; Tamil Nadu reported 36 incidents in 2013 as compared to 14 in 2012; and in Rajasthan, 52 incidents were reported in 2013 versus 37 in 2012. The states of Karnataka, Maharashtra and Madhya Pradesh also reported increases in 2013 over 2012.

Hindu-Muslim Violence in Uttar Pradesh: In late August 2013, communal violence erupted in the Muzaffarnagar district of Uttar Pradesh (UP). While the federal and state governments deployed army troops, provincial military personnel, and federal Rapid Action Force officers to the areas, between 40 and 60 people were killed; at least a dozen women and girls were raped, often by gangs; nearly 100 people were injured; and about 50,000 were displaced to “relief camps.” As of early 2014, several thousand people, mostly Muslims, remained displaced in deplorable conditions and fear returning to their homes. Sixteen local governmental officials from several different political parties were arrested in September 2013 and charged with inciting communal violence, as were several local parliamentarians and community leaders. Their cases remain pending. In addition, 570 cases related to this incident, implicating over 6,000 people (including local governmental leaders and police) have been filed.

Christian and Muslim Dalit Rally: In mid-December 2013, the Catholic Bishops’ Conference of India, the National Council of Dalit Christians, the National Council of Churches in India, and the Church of North India organized a rally in New Delhi to protest the treatment of Christian and Muslim Dalits, as compared to Hindu Dalits. When some protestors crossed police lines, the police responded with water cannons and attacked protestors with canes and batons, injuring scores of people. Police also arrested dozens of protestors including the General Secretary for the Church of North India, Alwan Masih; the Roman Catholic Archbishop of New Delhi, Anil Couto; and dozens of nuns, monks, and others of both the Christian and Muslim faiths. The following day Prime Minister Manmohan Singh promised a full investigation, but to date the outcome is unknown.

Indian church leaders, as recently as March 2014, have expressed alarm over the dramatic increase in the state of Andhra Pradesh (India’s fifth most populous state) of attacks against Christians. Recently, one pastor was murdered, others beaten, and churches demolished. This recent violence highlights a deeply concerning trend: the increase from 39 large-scale incidents in 2012 to 72 large-scale incidents in 2013 of anti-Christian violence and hostility.

Attack on Buddhist Religious Complex: On July 7, 2013, nine explosives were detonated in the Bodhi Gaya Buddhist religious complex located in the Indian state of Bihar. A temple and sacred tree sustained minor damage and two monks were injured in the attack. On August 14, the Indian National Investigation Agency (NIA) arrested Arup Brahmachari, a Hindu priest. Protests ensued and the NIA released Brahmachari, saying they made an error. The NIA has not made any other arrests.

Anti-Conversion Laws: State-level anti-conversion laws, officially known as “Freedom of Religion Act(s),” are deeply problematic, as they violate international standards and place the government in the inappropriate position of determining the validity of individual decisions regarding religious faith. They are one-sided and discriminatory, placing hurdles and penalties for converting out of Hinduism, but not towards it. In addition, these laws have led to higher incidents of intimidation, harassment and violence against religious minority communities, particularly Christians and Muslims, with few arrests and no convictions. Yet these accusations are rarely true, which the incredibly low conviction rates under these laws prove. However, while not leading to large-scale arrests, these laws have fostered a climate of societal impunity against minorities and have led to police harassment. Accusations of forced conversion often are used against religious minority communities, particularly Christian adherents and their religious leaders, when there are disputed issues unrelated to religion including, for example, if a religious leader or adherent speaks out against a particular political issue or local politician or if there is a land dispute.

Seven Indian states – Chhattisgarh, Himachal Pradesh, Gujarat, Madhya Pradesh, Arunachal Pradesh, Rajasthan and Odisha – have anti-conversion laws that each is implementing differently. These laws generally require government officials to assess the legality of conversions and provide for fines and imprisonment for those who use force, fraud, or “inducement” to convert another.

The UN Special Rapporteur on Freedom of Religion or Belief, Heiner Bielefeldt, has been especially critical of Gujarat’s anti-conversion law, noting as recently as March 2014 that Gujarat’s law “carries a high penalty of three years’ imprisonment based on such loosely defined terms. This doesn’t do justice even to the rule of law, in which laws need to be clear, especially in criminal law.” He continued, noting that “India’s laws restricting religious conversions – intended to protect people from being forced to change their beliefs – are an obstacle to religious freedom.” The Madhya Pradesh Legislative Assembly in August 2013 approved an amendment to the state’s 1968 anti-conversion law that would make the law more stringent. Under the amendment, both the converter and would-be convert must obtain state permission at least 30 days prior to a conversion ceremony, or face one year in prison and a 1,000-rupee fine. That state’s governor has yet to sign this measure into law. However, in a positive development in September, Himachal Pradesh’s High Court found that that state’s anti-conversion law – requiring people to notify the authorities within 30 days of the intention to convert to a religion other than Hinduism and requiring the state to investigate conversions – was unconstitutional.

Redress for Past Large-Scale Violence: Justice for past incidents of sectarian violence targeting Muslims, Christians, and Sikhs has not been achieved fully. Indian courts still are adjudicating cases stemming from large-scale Hindu-Christian communal violence in Odisha in 2007-2008 and large-scale Hindu-Muslim communal violence in Gujarat in 2002. NGOs, religious leaders, and human rights activists allege religious bias and corruption in the investigations and adjudications related to Gujarat and Odisha. There have been few developments relating to prosecuting perpetrators of the anti-Sikh riots. The passage of time should not diminish the urgency of seeking justice for the victims of this violence.

- Gujarat: Communal violence broke out in Gujarat in February 2002. Hindu mobs killed between 1,200 and 2,500 Muslims, forced 100,000 people to flee, and destroyed homes. Christians also were killed and injured and churches destroyed. India’s National Human Rights Commission found evidence of premeditated killing by members of Hindu nationalist groups, complicity by

state government officials, and police inaction. Many allege that violence was possible because of the complicity of the state police and Gujarat Chief Minister Narendra Modi. Notably, in early February 2012, the Gujarat High Court strongly chastised the Gujarat government and Chief Minister Modi for “inaction and negligence” during the violence. The court also has ordered the government to pay compensation for the over 500 houses and businesses that were destroyed during the violence. The state has begun to pay compensation to next of kin who had a family member killed, and rebuild houses and businesses, although funds reportedly are insufficient to do so.

In 2005, the U.S. State Department agreed with USCIRF’s recommendation and that of others to revoke a tourist visa for Minister Modi, thereby preventing him from entering the United States. The State Department utilized the provision in IRFA that makes a foreign government official who is responsible for particularly severe violations of religious freedom ineligible for an American visa for a private trip.

In 2013, a lower court in Gujarat found Gujarat Chief Minister Modi not responsible for the death of a prominent Muslim Congress Party leader who was burned alive in 2002. The case was brought by the leader’s widow, and she reportedly has appealed. Several other cases in which Minister Modi has been implicated for involvement or complicity in the 2002 violence continue.

- Odisha: In December 2007, in Kandhamal, Odisha, violence between Christians and Hindus resulted in several deaths, dozens of injuries, churches and homes destroyed, and thousands displaced. The State Department reported 40 deaths, 134 injuries, and over 10,000 fleeing the state. There was no immediate police or state government reaction, and religious leaders and aid agencies were denied access. An August 2008 murder of a Hindu political leader sparked a violent campaign against Christians, although Maoist extremists claimed responsibility.

In October 2013, a lower court acquitted 54 individuals of crimes relating to the Odisha violence (including burning down a Baptist church and dozens of homes and businesses) due to lack of evidence and witnesses. Also in October, the court convicted seven Christians for murdering Hindu leader Laxamananda Saraswati, whose death triggered the violence, despite the fact that Maoist rebels twice have claimed responsibility for the murder.

- 1984 Anti-Sikh Riots: In November 1984, anti-Sikh riots erupted following Prime Minister Indira Gandhi’s assassination. Nearly 3,000 Sikhs were killed, allegedly with the support of Congress Party officials. There have been few developments relating to the prosecution of the perpetrators of these Sikh riots. The Sikh community continues to urge the United Nations Human Rights Council (UNHRC) in Geneva to open an investigation into these riots, including alleged mass graves found in Hond Chillar in Rewari district Haryana in 2011 and in Gudha and Kanina Mandi Khas villages in the Mahendergarh district in 2012.

Two Congress Party leaders, Sajjan Kumar and Jagdish Tytler, have been implicated in cases stemming from the 1984 riots. The Karkardooma district court in Delhi in April 2013 acquitted Kumar, while convicting five others, leading to protests of inciting violence. In August 2013, the Delhi High Court accepted an appeal the Central Bureau of Investigation (CBI) filed against Kumar’s April acquittal, stating that the trial court “erred in acquitting Sajjan Kumar as it was he who had instigated the mob during the riots.” Several cases in which Kumar has been charged with various crimes, including one in which he has been charged with murder, are ongoing.

In another case currently pending, Resham Singh, a Sikh who was a taxi driver in 1984, alleges that he witnessed Congress Party leader Jagdish Tytler, and current parliamentary candidate for the Lok Sabha, leading a mob of rioters. However, as of March 2014, the CBI reportedly is attempting to locate three witness, at least one of whom is believed to be living in the United States, to corroborate Singh's allegation to allow the case against Tytler to proceed. Tytler has been implicated in other cases.

Hindu Refugees: Pakistani Hindus have been fleeing Pakistan at an increasing rate, as the conditions for religious freedom and human rights continue to deteriorate. The Human Rights Commission Pakistan (HRCP), an independent body campaigning for human rights, reported that between 600 and 1,000 Pakistani Hindus fled Pakistan between 2012 and 2013. Unfortunately, after arriving in India, these Pakistani Hindus face official discrimination by the Indian government. India does not recognize Pakistani Hindus as "refugees" as defined by the UN 1951 Refugee Convention. While India is not a signatory to the convention, it does offer assistance to asylum seekers from other countries including Afghanistan, Sri Lanka, Burma, and Sudan, but does not extend assistance to Pakistani Hindus. Hindus fleeing Bangladesh also face the same official discrimination by the Indian government.

The Upcoming Election in India

Many across the world will be monitoring India's general election that will take place from April 7 through May 12. During this election, the Indian people will select their national parliament, which will then elect the country's next Prime Minister and President.

USCIRF also will be closely monitoring the situation. Many religious minority communities have reported to USCIRF that they fear that a Bharatiya Janata Party (BJP) win, and the election of Narendra Modi as the country's Prime Minister, will be detrimental to them and religious freedom. The BJP last led the national government between 1998 and 2004. Between 2002 and 2004 USCIRF had recommended that the State Department designate India a "Country of Particular Concern" (CPC) for the government's systematic, ongoing and egregious violations of religious freedom.

USCIRF long has been concerned about the BJP's and Narendra Modi's close association with Hindu nationalist organizations. The activities of these groups, especially those with an extremist agenda or history of using violence against minorities, often negatively impact the status of religious freedom in the country. Many of these organizations exist under the banner of the Sangh Parivar, some 30 organizations including the Vishwa Hindu Parishad (VHP), Bajrang Dal, and Rashtriya Swayamsevak Sangh (RSS). Sangh Parivar entities aggressively press for governmental policies that would promote a Hindu nationalist agenda, and adhere in varying degrees to an ideology of Hindutva, which holds non-Hindus as foreign to India.

Recommendations

Since 2004, the United States and India have pursued a strategic relationship based on shared concerns about energy, security, and the growing threat of terrorism, as well as shared values of democracy and the rule of law. As part of this important relationship, the U.S. government should:

- Integrate concern for religious freedom into bilateral contacts with India, at both the federal and provincial level, and urge the strengthening of the ability of state and central police to implement effective measures to prohibit and punish cases of religious violence and protect victims and witnesses;
- Encourage the U.S. Ambassador, as well as U.S. government officials travelling to India, to visit areas where communal violence has occurred or is likely to occur, and meet with leaders of religious communities and local governments, and police to discuss international religious freedom standards;
- Urge India to increase training on human rights and religious freedom standards and practices for the police and judiciary, particularly in states and areas with a history or likelihood of communal violence;
- Urge the central Indian government to press states that have adopted anti-conversion laws to repeal or amend them to conform with international standards; and
- Encourage the establishment of an impartial body of interfaith religious leaders, human rights advocates, legal experts, and government officials to discuss and recommend actions to promote religious tolerance and understanding.

The U.S. Congress should:

- Encourage the State Department to make religious freedom concerns a larger part of the bilateral relationship;
- During delegation visits abroad, examine conditions of religious freedom for all faiths/beliefs and meet with individuals and organizations that promote religious freedom and related human rights as well as targeted religious communities;
- Hold hearings in support of religious freedom in India that underscore the many dimensions of the issue; and
- Support legislation that promotes freedom of religion or belief. H. Res. 417 praises India's rich religious diversity and commitment to tolerance and equality, and reaffirms the need to protect the rights and freedoms of religious minorities.

APPENDIX: Facially Neutral Laws that Have Been Used to Discriminate against Religious Minorities

- 1. Foreign Contribution Regulation Act:** *The Bill was introduced in the Rajya Sabha 12/18/2006, which referred it to the Standing Committee on Home Affairs. The committee submitted its report on the Bill on 10/21/2008. The Bill was subsequently passed by the Lok Sabha on 08/27/2010 and the Rajya Sabha on 10/19/2010, and was enacted in May 2011.*

The Act regulates the acceptance and use of all foreign funds that come into India through donations, gifts, or grants. The Act requires all persons with a cultural, economic, educational, religious, or social program to register with the central government if they want to receive foreign contributions. It grants the government the right to deny or cancel certification upon certain conditions; for example, (1) if the registrant has engaged in activities aimed at directly or indirectly inducing conversion from one religion to another, (2) if the registrant has created communal tension, (3) if allowing the registrant to receive the funds would likely have a negative effect on harmony between religious groups, or (4) if allowing the registrant to receive the funds would likely prejudice “public interests.”

See: <http://www.dnaindia.com/india/report-new-foreign-contribution-regulation-act-comes-into-force-1538714>

- 2. Andhra Pradesh Propagation of Other Religion in the Places of Worship or Prayer (Prohibition) Ordinance (2007)**

The Ordinance establishes that no person may propagate any religion in a place of worship or prayer other than the religion traditionally practiced at such a place. Propagation is defined to include the use of speech, the written word, and symbols. The Ordinance states that it is founded on a concern to maintain public order. It also makes some reference to the right to be free from coercion, although it does not explain the way in which the Ordinance prevents coercion. Violation of the Ordinance is punishable by up to three years in prison and 5,000 rupees.

- 3. Unlawful Activities Prevention Act (1967)**

The Act grants the central government the power to declare any association unlawful if the association encourages or aids unlawful activity, or has as its objective the questioning or disrupting of the sovereign and territorial integrity of India. Once an association is declared unlawful, a tribunal assesses the matter. The government may freeze the funds of any association declared unlawful and may quarantine the unlawful association’s premises. Members of associations deemed unlawful are liable to punishment not to exceed two years in prison and a fine. Questioning or disrupting the sovereign and territorial integrity of India, or intending to do so, or supporting those who do so, is punishable by up to seven years in prison and a fine.

- 4. Religious Institutions (Prevention of Misuse) Act (1988)**

The Act generally prevents religious institutions and their managers from fostering, encouraging, or participating in political or martial activity that might threaten the government’s control. The Act has a few overly broad provisions (as is common in Indian law) that could be used for religiously discriminatory purposes. Section 3(g), for instance, prohibits religious institutions and their managers from undertaking “any activity which promotes or attempts to promote disharmony or feelings of enmity, hatred, or ill-will between different religions... or

communities.” Every party connected to a violation of the Act is subject to punishment of up to five years in prison and a fine of 10,000 rupees. In addition, section 8(1)-(2) allows courts to discharge any manager or employee of a religious institution against whom such charges have been filed if a prima facie case exists. If a manager is convicted, that manager not only is discharged, but barred from any appointment at a religious institution for six years.

5. Foreigners Act (1946, amended in 2004)

The Act grants the central government the power to exercise complete control over who comes into the country, what they can bring in with them, how long they can stay there, where they go while in the country, with whom they can interact, and what they do while in the country. The Act also allows the central government to mandate that foreign groups, including NGOs and religious groups, register with the government, and that foreigners carry proof of identification while in the country.

Written Testimony of Robin Phillips
Executive Director, The Advocates for Human Rights

Tom Lantos Human Rights Commission Hearing
The Plight of Religious Minorities in India
April 4, 2014

For more than 30 years, The Advocates for Human Rights has worked with diaspora communities—people living outside their country of origin or ancestry who retain ties to and interest in that country. Some come to the United States seeking asylum after facing religious persecution in their country of origin. Others come as professionals or students, or to join family members who are already here. And some are second or third generation diasporans. They are part of our communities, they your constituents, and their voices should inform our policies toward their countries of origin and ancestry.

The Indian diaspora groups and individuals with whom The Advocates for Human Rights works have consistently expressed concern about religious freedom in India. Those concerns, which we share, include: communal violence; impunity for the instigators of such violence and those in government who may be complicit; restrictions on religious freedom in the form of anti-conversion laws; vague anti-terrorism laws that facilitate profiling and persecution of Muslims; police and armed forces practices such as encounter killings, torture, and coerced confessions that target Muslims; and a culture of impunity for such practices. These practices violate international human rights standards.

Consistent with the concerns we hear from the Indian diaspora, the Pew Research Center earlier this year maintained India on its list of countries with “very high social hostilities

involving religion” and with “high” government restrictions on religion.¹ From 2007 baseline scores of 4.8 and 8.8 out of 10, respectively, India now scores 5.5 on government restrictions and 9.6 on social hostilities.²

Indian diasporans are sounding the alarm as elections approach, echoing the U.S. Commission on International Religious Freedom’s 2013 Annual Report, which identified India as one of the 23 worst countries in the world for religious freedom.³ India’s Tier 2 designation means that the Commission has concluded that it is a country “where religious persecution and other violations of religious freedom engaged in or tolerated by the government are increasing.”⁴ “The Tier 2 designation provides advance warning of negative trends that could develop into severe violations of religious freedom, thereby giving policymakers an opportunity to engage early and increasing the likelihood of preventing or diminishing the violations.”⁵

India has a history of brutal communal violence. The U.S. Commission on International Religious Freedom’s 2013 report notes that “periodic outbreaks of large-scale communal violence targeting religious minorities . . . impac[t] the religious and political landscape of the country.”⁶ Such notable outbreaks cited in the report include the 2002 attacks in Gujarat, which resulted in the deaths of an estimated 1,100 to 2,000 Muslims as well as deaths of Christians and destruction of churches, and the 2007–2008 attacks against Christians in Odisha, which resulted in 40 deaths and 134 injuries.⁷

¹ Pew Research Center, *Religious Hostilities Reach Six-Year High*, Jan. 14, 2014, at 15, 53, available at <http://www.pewforum.org/files/2014/01/RestrictionsV-full-report.pdf>.

² *Id.* at 62.

³ U.S. Commission on International Religious Freedom, *2013 Annual Report*, at i–ii, <http://www.uscirf.gov/sites/default/files/resources/2013%20USCIRF%20Annual%20Report%20%282%29.pdf>.

⁴ *Id.* at 1.

⁵ *Id.* at 3.

⁶ *Id.* at 230.

⁷ *Id.* at 230–232; UN Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns: Mission to India*, UN Doc. A/HRC/23/47/Add.1, Apr. 26, 2013, ¶ 92;

Further, according to the State Department’s 2013 country report, “more than 115,000 internally displaced persons (IDPs) remained from . . . incidents of communal violence dating back to 1993.”⁸ The report cited a study finding that there are 3,964 internally displaced families in 86 settlements in Gujarat, all of whom are Muslim.⁹ The Gujarat government initially claimed there were no IDPs, and it has continued to hold back compensation for victims, defying directions from the central government.¹⁰ The Gujarat government also denied IDPs their entitlements under various social welfare programs, and camps lack basic amenities such as drinking water and sanitation.¹¹

The U.S. Commission on International Religious Freedom has also reported that many “NGOs and religious communities believe that religiously-motivated harassment and violence will increase before India’s upcoming 2014 general election, as political parties use religious divides to bolster their political platforms and energize their voting base.”¹² The UN Special Rapporteur on Freedom of Religion or Belief cautions that “political exploitation of communal distinctions” presents “a real risk that [large scale] communal violence might happen again.”¹³

Over the past year, communal violence has been increasing. In the first eight months of 2013, according to Indian Government estimates, there were 451 incidents of communal violence, up from 410 in all of 2012.¹⁴ In August and September of 2013, communal riots broke out in the Muzaffarnagar area in the state of Uttar Pradesh. Clashes between the Hindu and

⁸ U.S. Dep’t of State, Dept. of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2013: India*, 20 (2014), available at <http://www.state.gov/documents/organization/220604.pdf>.

⁹ *Id.* at 29.

¹⁰ *Ibid.*

¹¹ *Id.* at 29–30.

¹² U.S. Commission on International Religious Freedom, *supra* note 3, at 233.

¹³ U.N. Human Rights Council, Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, *Report of the Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir: Mission to India*, Jan. 26, 2009, UN Doc. A/HRC/10/8/Add.3, ¶ 64.

¹⁴ Human Rights Watch, *India Country Summary*, Jan. 2014, at 3, available at http://www.hrw.org/sites/default/files/related_material/india_6.pdf.

Muslim communities resulted in more than 60 reported deaths and hundreds of injuries,¹⁵ including sexual assault.¹⁶ Communal violence was further escalated during the weekend of September 7-8 by “inflammatory speeches by Hindu political leaders ... that encouraged attacks on Muslims.”¹⁷ A curfew was imposed and the Indian army was deployed to restore law and order,¹⁸ but in the end more than 42,000 people were displaced by the violence.¹⁹

Relief camps for riot victims were organized by state governments in Muzaffarnagar and Shamli Districts,²⁰ but conditions were woefully inadequate. An assessment by the Indian National Human Rights Commission reported in December that approximately 40 children had died due to extreme cold in the relief camps.²¹ On December 27, the state government began relocating riot victims from the camps²²; Human Rights Watch, which conducted a fact-finding visit to the camps in January 2014, has called the removals “forced evictions” as those remaining in the camps still fear return.²³

¹⁵ U.S. Dept. of State, *supra* note 8, at 62; *India: Stop Forced Evictions of Riot Victims*, Human Rights Watch, Jan. 17, 2014, <http://www.hrw.org/news/2014/01/17/india-stop-forced-evictions-riot-victims>. According to the government of Uttar Pradesh, 128 communal incidents occurred between August 27 and September 16, and, through the first week of October; 46 Muslims and 16 Hindus were killed in communal riots. Ravish Tiwari, *Uttar Pradesh BJP Wants Tickets for Four Riot-accused MLAs*, *The Indian Express*, Mar. 10, 2014, <http://indianexpress.com/article/cities/lucknow/uttar-pradesh-bjp-wants-tickets-for-four-riot-accused-mlas/>.

¹⁶ *India: Stop Forced Evictions of Riot Victims*, *supra* note 15.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ U.S. Dept. of State, *supra* note 8, at 28, 62.

²⁰ *Id.* at 28.

²¹ *Id.* at 28–29. “In October and December of 2013, a team from the Indian National Human Rights Commission team assessed the state government efforts for relief and rehabilitation of displaced persons. The NHRC reported that approximately 40 children died due to extreme cold in the relief camps and made several recommendations to the state governments. The recommendations included providing compensation to families of those who died in the camps, providing adequate clothing and blankets, registering the names and addresses of all displaced persons, providing drinking water, improving sanitation, and providing regular medical checkups. State government officials claimed that they provided proper compensation to the displaced families as well as blankets, drinking water, medical check-ups, and free medicine to those in the camps. The media and civil society activists, however, reported that conditions in the camps were “unhygienic and subhuman.”

²² *Id.* at 29. “Some of those affected alleged that they were being forcefully evicted from their camps without being provided proper alternative shelters or due compensation. A journalist who visited the area stated that bulldozers demolished approximately 30 tents in the Loi relief camp. According to official sources, 4,783 persons were living in the relief camps in Muzaffarnagar and Shamli at year’s end.”

²³ *India: Stop Forced Evictions of Riot Victims*, *supra* note 15.

The Supreme Court of India has stated that it holds “the state government responsible for being negligent at the initial stage and in not anticipating the communal violence [in Uttar Pradesh] and for taking necessary steps for its prevention.” And it rebuked the central government, saying that the violence could have been prevented if Indian intelligence agencies had alerted the district administration in advance.²⁴

Impunity and anti-conversion laws fuel and perpetuate communal violence. This impunity is multifaceted: officials do not hold private parties accountable for communal violence; courts do not hold government officials accountable for sanctioning or encouraging communal violence; political parties rally behind political leaders who are implicated in communal violence; obstruction of justice and witness intimidation are commonplace in court procedures tasked with identifying officials complicit in communal violence; immunity laws shield security forces from accountability; and officials accept torture and extrajudicial killings as the norm.

Some examples raised by Indian diasporans highlight these points. Cases brought against officials alleged to be complicit in the 2002 Gujarat violence have been dismissed for lack of evidence after witnesses were intimidated and prosecutors and judges effectively stood in as defense counsel.²⁵ During the 2002 Gujarat riots, a Hindu mob attacked a Muslim neighborhood

²⁴ *Supreme Court criticizes Uttar Pradesh Govt for Muzaffarnagar Riots*, Live Mint & the Wall Street Journal, Mar. 27, 2014, <http://www.livemint.com/Politics/3yUYjIuP1GmLtWGqLDikDP/Supreme-Court-criticizes-Uttar-Pradesh-govt-for-Muzaffarnaga.html>. “We prima facie hold the state government responsible for being negligent at the initial stage and in not anticipating the communal violence and for taking necessary steps for its prevention,” an apex court bench headed by chief justice P. Sathasivam said.”

²⁵ U.S. Commission on International Religious Freedom, *supra* note 3, at 231–232; Committee on the Elimination of Discrimination against Women, 47th Session, Consideration of reports submitted by States parties under article 18 of the Convention, *Concluding Observations of the Committee on the Elimination of Discrimination against Women: India*, Nov. 3, 2010, ¶¶ 13, 15; *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, supra* note 7, ¶ 48; *Gulberg [sic] riot case: Two special public prosecutors resign*, Indian Express, Mar. 3, 2010, at <http://archive.indianexpress.com/news/gulberg-riot-case-two-special-public-prosecutors-resign/586066/>; Saba Naqvi, *Nero Hour: The SIT has summoned him in a Guajrat '02 case. But the trail is muddied*, Outlook India, Mar. 29, 2010, at <http://www.outlookindia.com/article.aspx?264745>. See generally Human Rights Watch, *Compounding Injustice: The Government's Failure to Redress Massacres in Gujarat*, vol 15, no. 4 (July 2003).

in Chamanpura, Ahmedabad.²⁶ At least 65 victims were killed, including MP Ehsan Jafri.²⁷ In 2006, Jafri's widow filed a complaint alleging that members of the Gujarat Government had been involved in a conspiracy to allow the massacre of Muslims.²⁸ In 2009, the Supreme Court of India appointed a Special Investigation Team to investigate Zakia Jafri's case.²⁹ As the trial progressed, the special public prosecutor and his assistant resigned after accusing the trial judge and the investigation team of being soft on the accused and trying to browbeat witnesses.³⁰ In 2012, the team submitted its final report to a Gujarat magistrate's court.³¹ Last month, Jafri filed a petition with the Gujarat High Court appealing the magistrate's decision to accept the Special Investigation Team's closure report stating that there was no prosecutable evidence for the 60 Gujarat officials and others named in Jafri's complaint.³² The court will hold its next hearing on April 11, 2014.³³

In 2012, the former Gujarat Minister for Women and Child Welfare was sentenced to 28 years in jail for her involvement in the Gujarat violence.³⁴ However, according to the U.S. Commission on International Religious Freedom, the media widely reported that many in the Muslim community believe she was the "fall guy" for Narendra Modi, the Chief Minister of Gujarat.³⁵ In February 2012, the Commission noted, the Gujarat High Court strongly chastised

²⁶ Human Rights Watch, *Compounding Injustice*, *supra* note 25, at 19–20.

²⁷ *Id.* at 19.

²⁸ *Timeline: SIT probe of Gulbarg society massacre*, Hindustan Times, Apr. 10, 2012, <http://www.hindustantimes.com/india-news/timeline-sit-probe-of-gulbarg-society-massacre/article1-838512.aspx>.

²⁹ *Ibid.*

³⁰ *Gulberg riot case: Two special public prosecutors resign*, *supra* note 25; Naqvi, *supra* note 25.

³¹ *Timeline*, *supra* note 28.

³² Rohit Bhan, *2002 Riots Case: Zakiya Jafri moves Gujarat High Court against Clean Chit to Narendra Modi*, NDTV, Mar. 18, 2014, <http://www.ndtv.com/article/india/2002-riots-case-zakiya-jafri-moves-gujarat-high-court-against-clean-chit-to-narendra-modi-497034>.

³³ *2002 Gujarat Riots: Hearing on Zakia's Plea Adjourned to April 11*, India TV News, Mar. 20, 2014, <http://www.indiatvnews.com/crime/news/latest-news-gujarat-riots-hearing-zakia-plea-adjourned-5668.html>.

³⁴ U.S. Commission on International Religious Freedom, *supra* note 3, at 231–232.

³⁵ *Ibid.*

the Gujarat government and Chief Minister Modi for “inaction and negligence” during the violence.³⁶

The UN Committee on the Elimination of Discrimination against Women describes the Gujarat proceedings as “flawed from the outset” and criticizes government officials for “perverting the investigations” and “the course of justice.”³⁷ The UN Special Rapporteur on extrajudicial executions reports concerns of religious bias and high levels of corruption in these proceedings.³⁸ Whistleblowers in Gujarat law enforcement have faced threats and arrests.³⁹ When the Special Rapporteur on Freedom of Religion or Belief met with members of civil society in Gujarat, plain-clothes government agents took down names and otherwise made their presence felt.⁴⁰

A leader of the Bharatiya Janata Party (BJP) charged with 11 counts of murder for the communal violence in Odisha was convicted on just one count, ordered to pay a small fine, and released on bail.⁴¹ Despite a Supreme Court order overturning his release, he was again released on bail, and allowed to return to his post in the state parliament.⁴²

The BJP plans to field four state legislators to run for election in the lower house of parliament who have been charged with fueling the recent communal violence in Muzaffarnagar.⁴³ In some communal attacks, police reportedly arrest the victims and protect the

³⁶ *Ibid.*

³⁷ *Concluding Observations of the Committee on the Elimination of Discrimination against Women: India, supra* note 25, ¶¶ 13, 15.

³⁸ *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, supra* note 7, ¶ 50.

³⁹ UN Human Rights Council, *Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, Mission to India (10–21 January 2011)*, UN Doc. A/HRC/19/55/Add.1, Feb. 6, 2012, ¶ 130; Human Rights Watch, *India: A Decade on, Gujarat Justice Incomplete*, Feb. 24, 2012, at <http://www.hrw.org/news/2012/02/24/india-decade-gujarat-justice-incomplete>.

⁴⁰ *Report of the Special Rapporteur on Freedom of Religion or Belief, supra* note 13, ¶ 38; Special Rapporteur on Freedom of Religion or Belief Concludes Visit to India, Press Release, Mar. 20, 2008, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=9400&LangID=E>.

⁴¹ U.S. Commission on International Religious Freedom, *supra* note 3, at 231.

⁴² *Ibid.*

⁴³ Tiwari, *supra* note 15.

attackers.⁴⁴ Local authorities have acted in coordination with a Hindu nationalist organization that enters private homes to enforce a morality code based on a desire to keep Hindu and Muslim youths from fraternizing.⁴⁵ And the government has been negligent in its duties to thousands of IDPs, who languish in isolated settlements, some of which are described as “unhygienic and subhuman.”⁴⁶

Human rights defenders and Muslim community members in India and the United States report to The Advocates serious problems with increased police harassment, arbitrary arrest, and detention of Muslims based on the pretext of their purported involvement in terrorist activities.⁴⁷ The basis for this increased profiling of religious minorities is the 2008 amendments to the Unlawful Activities Prevention Act (UAPA), which expanded the overbroad definition of “terrorism,” authorized warrantless search, seizure and arrest, as well as allowing detention without charge for up to 180 days.⁴⁸

While in custody, many suspects are also subject to torture and ill-treatment.⁴⁹ The Ravi Chander Commission, charged by the Andhra Pradesh State Minorities Commission with investigating the cases of 20 Muslim suspects, reported that the men were held without charge

⁴⁴ U.S. Dep’t of State, Bureau of Democracy, Human Rights and Labor, *India 2012 International Religious Freedom Report*, at 7, <http://www.state.gov/documents/organization/208640.pdf>.

⁴⁵ *Id.* at 9.

⁴⁶ U.S. Dep’t of State, *supra* note 8, at 28–29.

⁴⁷ This information is consistent with that reported by the U.S. Commission on International Religious Freedom, *supra* note 3, at 233 (“Since July and September 2011 terrorist attacks in Mumbai and New Delhi respectively, there have been reports of increased police harassment and detentions of Muslims on unfounded allegations of terrorist activities and membership in terrorist groups.”). The UN Special Rapporteur on Freedom of Religion or Belief included similar information in her report on her mission to India. *Report of the Special Rapporteur on Freedom of Religion or Belief*, *supra* note 13, ¶¶ 20–21.

⁴⁸ Human Rights Watch, *Back to the Future: India’s 2008 Counterterrorism Laws* (July 2010), at 2, http://www.hrw.org/sites/default/files/reports/india0710webwcover_1.pdf.

⁴⁹ While abuses happen throughout the country, Human Rights Watch has identified the Ahmedabad Crime Branch of the Gujarat state police as the location of some of the worst abuses. Here, suspects testify that they were “blindfolded and shackled with their arms crossed over their knees from morning to night.” Suspects also claimed to have been denied proper food and water and some were tortured with electric shocks. Human Rights Watch, *Anti-Nationals: Arbitrary Detention and Torture of Terrorism Suspects in India* (February 2011), at 4, available at <http://www.hrw.org/sites/default/files/reports/india0211W.pdf>.

for several weeks (without appearing in court within 24 hours as required by law and without notification to families for several days, in spite of the families filing missing persons reports) at illegal detention centers and tortured to extract forced confessions of involvement in the Hyderabad bombings.⁵⁰ Tellingly, the UN Special Rapporteur on Torture’s request for permission to visit India has been pending for over 20 years.⁵¹

The due process rights of accused religious minorities are further vitiated by difficulty in obtaining legal counsel. Attorneys representing Gujarat victims have faced threats, intimidation, and hostility from colleagues.⁵² Multiple bar associations have issued official or unofficial resolutions instructing members not to represent terrorism suspects;⁵³ there have also been reported incidents of harassment and physical violence against lawyers who represent Muslim defendants.⁵⁴

In addition, extrajudicial executions of religious minorities occur in the context of “encounter killings”⁵⁵ or killings that occur during clashes between security forces and alleged

⁵⁰ Ravi Chander Commission Report, submitted to Andhra Pradesh Minorities Commission (October 2008), http://www.twocircles.net/files/report_ravi_chander.pdf. See also Report by the Fact Finding Commission appointed by the National Commission for Minorities, <http://ncm.nic.in/pdf/Hyderabad%20report.pdf>; Report by the Fact Finding Committee to conduct an independent assessment of the Hyderabad Torture cases. This report is archived here:

http://www.indianmuslims.info/reports_about_indian_muslims/hyderabad_blast_report_arrests_detention_muslim_youths.html.

⁵¹ Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Country visits: Pending visit requests, accessed Apr. 1, 2014,

<http://www.ohchr.org/EN/Issues/Torture/SRTorture/Pages/Visits.aspx>.

⁵² *Report of the Special Rapporteur on the situation of human rights defenders*, *supra* note 39, ¶¶ 130–131.

⁵³ Human Rights Watch, *The “Anti-Nationals”* (Feb 2011), <http://www.hrw.org/node/95609/section/10>. See also *Jaipur High Court Bar Association has defended its call*, Times of India, Jan. 26, 2009, http://articles.timesofindia.indiatimes.com/2009-01-26/jaipur/28053471_1_serial-blasts-bar-associations-lawyers.

⁵⁴ The Advocates for Human Rights, *Submission for the Universal Periodic Review of India*, (Nov.2011), ¶ 22, http://lib.ohchr.org/HRBodies/UPR/Documents/session13/IN/JS12_UPR_IND_S13_2012_JointSubmission12_E.pdf.

⁵⁵ *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, *supra* note 7, ¶ 12. There is also a serious problem with “fake encounter killing” or extrajudicial execution by security personnel that is staged in order to appear as if it were an “encounter killing”. In response to activist Afroz Sahil’s Right to Information request, the National Human Rights Commission stated that 1,224 of the 2,560 “encounter killing” cases between 1993 and 2009 were discovered to be fake. *Half of encounters fake, says NHRC*, Hindustan Times, Mar. 26, 2010, <http://www.hindustantimes.com/India-news/NewDelhi/Half-of-encounters-fake-says-NHRC/Article1-523361.aspx>.

armed suspects. Increasingly, the practice of “encounter killing” has shifted from targeting alleged criminals to targeting alleged terrorists.⁵⁶ The UN Special Rapporteur on extrajudicial, summary or arbitrary executions reported in 2013 that encounter killings “have become virtually a part of unofficial State policy.”⁵⁷

As the UN Special Rapporteur on Freedom of Religion or Belief observed after a 2008 visit to India, “impunity emboldens forces of intolerance.”⁵⁸ In the months leading up to the 2014 elections, there is a serious possibility of increased violence against religious minorities in India. India cannot abrogate its obligation to protect the human rights of its citizens in the name of national security. The United States and India stand as democratic and pluralistic nations. As such, we must hold each other accountable to the highest standards of human rights protection. The United States must take strong bilateral and multilateral action to ensure that the rights of religious minorities in India are adequately protected and that India complies with all of its international human rights obligations.

ANNEX OF ADDITIONAL REPORTS

The Advocates for Human Rights, *Submission for the Universal Periodic Review of India*, (Nov.2011),

http://lib.ohchr.org/HRBodies/UPR/Documents/session13/IN/JS12_UPR_IND_S13_2012_JointSubmission12_E.pdf.

Internal Displacement Monitoring Centre/Norwegian Refugee Council, *India: National and State Authorities Failing to Protect IDPs*, (Sept. 2, 2010), <http://www.internal-displacement.org/asia-pacific/india/2010/national-and-state-authorities-failing-to-protect-idps/>.

Only sixteen of the total 1,224 faked encounters have resulted in grants of compensation by the NHRC. Amnesty International, *Submission for the Universal Periodic Review of India*, Nov. 28, 2011, at 3.

⁵⁶ Lydia Polgreen, *Questions on Executions Mount in India*, New York Times, Oct. 3, 2009, <http://www.nytimes.com/2009/10/04/world/asia/04ahmedabad.html?pagewanted=all>. “In cities like Mumbai, which was for decades gripped by violent organized crime syndicates, officers who killed notorious gangland figures were often seen as dark fold heroes, selflessly carrying out the messy business of meting out justice.” Many officers even bragged about the number of criminals they had killed. *Id.*

⁵⁷ *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, *supra* note 7, ¶ 17.

⁵⁸ *Report of the Special Rapporteur on Freedom of Religion or Belief*, *supra* note 13, ¶ 30.

UN Human Rights Council, *Report of the Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir: Mission to India*, UN Doc. A/HRC/10/8/Add.3 (Jan. 26, 2009), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/104/62/PDF/G0910462.pdf?OpenElement>.

UN Human Rights Council, *Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekagya, Mission to India* (10–21 January 2011), UN Doc. A/HRC/19/55/Add.1 (Feb. 6, 2012).

UN Human Rights Council, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns: Mission to India*, UN Doc. A/HRC/23/47/Add.1 (Apr. 26, 2013), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/134/53/PDF/G1313453.pdf?OpenElement>.

**Testimony of John Sifton
Asia Advocacy Director**

Human Rights Watch

Tom Lantos Human Rights Commission

Hearing of April 4, 2014

“The Plight of Religious Minorities in India”

Mr. Chairman, Committee members:

Thank you for inviting me to testify today at this well-timed hearing. National elections in India will begin later this month, and critical issues relating to the protection of minority rights will confront the government coming into office in May 2014.

Violence between Communities

As you know, India—like many other countries in the world—is home to a large and diverse set of religious and ethnic groups. On most days and in most places in India, members of diverse groups enjoy their basic civil and political rights and the freedom to pursue their beliefs.

But unfortunately, that is not always the case. Tensions do exist, and for varying reasons, sometimes these tensions devolve into violence. Tensions may be aggravated by struggles over access to limited resources, particularly land, or by political rivalries. Sometimes localized incidents—street fights, local crime—can escalate into riots.

In the run-up to this year’s elections, it appears that growing tensions between Hindu and Muslim communities have led to a 30 percent increase in incidents of communal violence as compared to 2012. The central government’s Ministry of Home Affairs reported 823 incidents of communal violence in 2013, in which 133 people died and over 2,000 were injured.

One of the worst of these incidents was the September 2013 riots in Muzaffarnagar district in Uttar Pradesh—a spate of violence in which at least 60 people died. The violence began with an altercation on September 7 which led to the deaths of two Hindus and a Muslim. Inflammatory speeches by right-wing Hindu leaders and allied groups led to three days of violence, which spread to neighboring districts, until a curfew was imposed and the Indian army was deployed to restore law and order. In addition to the 60 people killed, at least six cases of gang rape and sexual violence were reported. Muslim citizens from more than 150 villages were compelled to flee their homes and even today thousands of them remain displaced, fearful to return. The state

government claimed in December that 5,000 people were then still displaced, but local aid groups have said the number is more than five times that, about 27,000 people.

In the aftermath of this violence, the state government failed to provide adequate aid to the displaced, and have in fact forcibly closed down some of the camps set up for the displaced, many of whom have now relocated to various villages and are living in tents on other people's property, or on scraps of otherwise unused land.

One of my colleagues visited some of the remaining camps in January, and as we then [reported](#) at the time, she found displaced Muslims living in deplorable conditions, and facing shockingly high rates of childhood mortality. According to one government commission, as of January at least 34 children had died in camps since September. In January we released a statement noting that the government had no real rehabilitation or safe return policy for the displaced, and were only offering compensation to families after they signed affidavits promising not to return to their villages, live in a relief camp, or occupy government land.

This March, the Supreme Court issued a ruling that the Uttar Pradesh state government had been negligent during the September 2013 violence, by not taking necessary steps to stem the rising violence. The court then ordered the government to undertake rigorous efforts to investigate and prosecute persons involved in the violence.

Government failures to address communal violence extend beyond religious minorities and non-Hindus. The government has also failed to ensure the safe return of Hindus from Jammu and Kashmir state displaced in the 1990s after being targeted by militant groups.

Impunity in Communal Violence Cases

Threats of communal violence increase when local forces wait for orders before acting, or worse, are instructed not to act. These problems are compounded when responsible officials are not held accountable after the fact.

India has suffered three major spates of communal riots in recent history: first, the 1984 attacks on Sikhs in Delhi following the assassination of Prime Minister Indira Gandhi by her Sikh bodyguards, during the uprising by separatist Sikh groups in Punjab; second, the 1992-93 communal riots in Mumbai following the demolition of the Babri Mosque, and third, the 2002 violence against Muslims in Gujarat state after a mob attack on a train killed 59 Hindu activists. Thousands of people were killed in each of these attacks.

In all of these cases above, accountability has proved elusive. Indian authorities have all too often failed to properly investigate and prosecute suspects after major spates of violence, even after reports by independent inquiries implicating officials and members of law enforcement.

The pattern of impunity continues to the present day. There was, for instance, the violence that occurred in Orissa in 2008 after a Hindu leader there was assassinated, allegedly by Maoists. After members of an extremist Hindu group incited riots against the area's Christian population, nearly 40 Christians were killed, thousands of homes were burned, and over 10,000 were

displaced. Although many perpetrators were later prosecuted, many were given only minor punishments, such as fines.

The recurring theme in the aftermath of all these tragic events is impunity. When state authorities fail to investigate incidents properly, courts or government human rights commissions step in, document potential complicity, and recommend or order state authorities to redouble efforts to hold people responsible. The results are often anemic—only partial, incomplete justice at best.

For many years after the Gujarat riots, the state government failed to press forward with any comprehensive investigations. Prosecutions began only after extensive pressure from activists and victim families, and interventions by India's Supreme Court and the National Human Rights Commission. An investigation ordered by the Supreme Court to look into Gujarat Chief Minister Narendra Modi's role in the violence found no prosecutable evidence of his direct complicity—a conclusion that officials from his Bharatiya Janata Party (BJP) are now using to suggest that he has received a “clean-chit” from the courts. Independent of the question of complicity in violence, the culpability of the state government in failing to protect Muslim citizens has received far less attention.

Outside of India, the lack of accountability for repeated instances of serious violence has led to condemnations and even travel restrictions for alleged perpetrators of abuses. As the committee is aware, in March 2005 Chief Minister Modi applied for a diplomatic visa to visit the United States. Because of allegations regarding his complicity in the 2002 Gujarat riots, the United States denied his application and revoked an earlier visitor visa.

Modi is now of course a top candidate to be India's next prime minister, and his BJP party leads in several polls. Several countries that had previously suspended meetings with Modi because of the 2002 allegations have since met with him, including then-US Ambassador Nancy Powell, who met with him this February.

Arbitrary Arrests of Muslims in Terrorism Cases

Many Muslim men have been arbitrarily detained, interrogated and tortured after bombing attacks, especially between 2006 and 2008. (Later investigations found that members of Hindu extremist groups were actually responsible for some of these attacks.) Authorities have also used draconian and abusive laws, including the Sedition Law and Unlawful Activities (Prevention) Act, to target Muslims.

Indian human rights groups have repeatedly expressed concerns over profiling of Muslims and the use of prolonged detention. In September 2013, after growing concerns were raised in parliament, Home Minister Sushil Kumar Shinde called on all state governments to ensure that Muslims are not subjected to arbitrary arrests on suspicions of terrorism.

Not only do Muslims frequently fear arbitrary arrest, they can also fear for their lives. In July 2013, the Central Bureau of Investigation filed charges against senior Gujarat police and intelligence officials for the extrajudicial killing of four Muslims, including a 19-year-old woman. The police had initially claimed that the four, who were suspected of conspiring to

assassinate Chief Minister Modi, were intercepted and killed in an exchange of gunfire. A later independent investigation found that the four were taken into custody and later executed by members of the Gujarat police. Some of the policemen are now being investigated in other cases of extrajudicial killings. In September, D.G. Vanzara, a senior official arrested along with 31 others from the Gujarat police for their alleged role in extrajudicial killings, wrote a letter claiming the killings took place while they were implementing Gujarat government policy.

Impunity for Military Forces

The Indian armed forces continue to commit human rights violations in Muslim-majority Jammu and Kashmir state, and in the northeastern states that are home to many ethnic minority groups.

Human rights groups have long documented serious abuses by members of the Indian military, including torture, extrajudicial killings, and enforced disappearances. But members of the military are rarely investigated or prosecuted. Indian military personnel are effectively shielded from prosecution for incidents in Jammu and Kashmir and the northeast under the Armed Forces Special Powers Act, which provides military personnel immunity from prosecution when deployed in areas under emergency rule. Despite repeated domestic and international condemnations calling for repeal of the law, it remains in force, due largely to military opposition.

Recommendations

The United States has for many years expressed concern over violence against minorities in India. It is important that the United States reinforce the message after a new government is elected. Human Rights Watch continues to urge the Obama administration to press India to:

- Enact a stronger law to prevent communal violence. A draft Prevention of Communal Violence Bill is floundering because some political parties want to dilute its provisions.
- Strengthen existing human rights commissions such as the National Commission for Minorities and the National Commission for Scheduled Castes, which monitor the rights of religious minorities, Dalits, and tribal groups. In some cases, the effectiveness of these commissions has been compromised after the government has staffed them with non-expert, political appointees.
- Repeal the Armed Forces (Special Powers) Act.
- Discipline or prosecute as appropriate members of the security forces, regardless of rank, who unjustifiably fail to stop violence or do not act impartially during communal riots.
- Enact a strong law against torture that conforms with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. (A pending Prevention of Torture bill is under consideration in India's parliament.)

Thank you for inviting me to testify today.

Presentation of Dr. John Dayal, India, at the hearings of the Tom Lantos Human Rights Commission with the House Foreign Affairs Committee

Washington DC, 4th April, 2014

This deposition deals with the situation of religious minorities, specially the Christian community, in India on the eve of the General elections, and our fears and anxiety at what the future portends in case a National Democratic Alliance under Mr. Narendra Modi, currently the Chief Minister of the state of Gujarat, comes to power. Mr. Modi has been projected as the Prime Minister if this alliance is voted to office. In the months leading up to India's 2014 national elections, there has been a rise in repeated acts of violence targeting religious minorities and an increase in discriminatory rhetoric that has polarized national politics along religious and class lines.

1. Situation on the ground

As per Census 2001, Hindus¹ constitute 80.5% (827,578,868), Muslims 13.4% (138,188,240), Christians 2.3% (24,080,016), Sikhs 1.9% (19,215,730), Buddhists 0.8% (7,955,207), Jains 0.4% (4,225,053) and other religions and persuasions constitute 0.6% of 1,028,610,328 population in India. The data of the 2011 is yet to be published. The government is reluctant to publish desegregated religious data. There is no official data for India's many indigenous native religions that predate Hinduism, Buddhism and Jainism. The desegregated data of the 2011 census is not yet made public.

Religious minorities are economically poorer and socially discriminated. Only 6.5% have access to institutional finance, 40% [by habitation] do not have health facilities, 35% do not have education facilities and 65.02% live in huts or temporary shelter. Christian Solidarity Worldwide notes that the Constitution of India defines it as a secular state; but the laws discriminate on the grounds of religion and caste. Scheduled Castes, the former untouchable castes, who are given reservation in education, employment and politics, lose these if they chose to profess Christianity or Islam.² The legality of the Presidential Order 1950 on which this denial rests, has been contested in the Supreme Court of India in 2004, but is still in force as the government delays its response to a court notice.

¹ The term use of the term Hindu as a religious identity has been questioned in recent years by scholars. A Supreme court judgement says emphasizes that the term does not only refer to a religion but is a way of life. In earlier times it designated a geographical space beyond the River Sindhu, and was first used by the British in administration. On the workings of the 1930s Indian Franchise committee Ambedkar writes that the "Hindus were opposed to the move which was calculated to increase the population of the Depressed Classes".

² Presidential Order of Scheduled Castes and Scheduled Tribes Order 1950

Change of religion / faith has been a part of Indian reality. In Manipur, entire communities became Vaishnav Hindus when their King changed his faith. In Punjab and other States, many changed their faith from Hinduism to Sikhism in the early Twentieth century. Jainism and Buddhism had challenged the caste hierarchy in Hinduism, much before the advent of Christianity and Islam in India,³ leading to conversions to these religions. Mass change of faith of Hindus to Buddhism and Islam have taken place in recent Indian history.⁴ The Vishwa Hindu Parishad (VHP) has launched a *Ghar Vapasi* [home-coming] political campaign specially among indigenous groups who are primarily animists. These *Adivasis* are one of India's most deprived and marginalized communities, have been a major target of attempts at forced religious conversion, often with overt and covert forms of violence, by Hindu religious right wing.⁵

Religious minorities have been victims of targeted violence since India's independence on 15th August 1947. In February 1983, in Nellie town of Assam, thousands of Muslim civilians were killed, on the suspicion that they were illegal Bangladeshi immigrants. The anti-Sikh attacks in Delhi in 1984, Sikh men, women and children were brutally attacked, tortured, raped and killed.⁶ Following the demolition of the historic Babri Mosque by Hindu right wing activists in 1992, anti-Muslim attacks followed in many parts of the country, including Mumbai and Surat. A spate of incidents related to anti-Christian violence took place in the late 1990s.⁷ In the Gujarat carnage of 2002, Muslim civilians in Gujarat were targeted for attacks, many having been killed, and their shops / properties looted or burnt down. The violence in Kandhamal, Orissa in December 2007 and August 2008 targetted *dalit* [former untouchable groups officially listed as Scheduled Castes] and *adivasi* [indigenous or Tribal] Christians.⁸ While these are some

³ Dr. Ram Puniyani, 'Manufacturing History', 23 November 2003, available at <http://www.countercurrents.org/comm-puniyani231103.htm>., accessed on 13 March 2010

⁴ For example, a mass conversion of '*shudras*' to Buddhism took place under the leadership of Dr. Ambedkar in 1956. In the 1980s, there were mass conversions of dalits to Islam in Meenakshipuram and other places.

⁵ See for example, the description of 'ghar vapasi' ritual in **From Kandhamal to Karavali: The Ugly Face of the Sangh Parivar, A fact-finding report of nine human rights organizations that visited Orissa & Karnataka in Sept. – Oct. 2008**, (March 2009) at pp. 21-22

⁶ Uma Chakravarti and Nandita Haksar, **The Delhi Riots: Three Days in the Life of a Nation** (New Delhi: South Asian Books, 1987); see also Madhu Kishwar, 'We Share Their Agony – Sikh Women Victims of 1984', **Manushi** and Parvinder Singh, **1984 Sikhs' Kristallnacht**, 2009, available at www.ensaaf.org/pdf/reports/kristallnacht.pdf, accessed on 5 April 2010; Manoj Mitta & H S Phoolka, **When a Tree Shook Delhi: The 1984 Carnage and its Aftermath** (New Delhi: Lotus Collection, 2007)

⁷ See Communalism in Orissa: Report of the Indian People's Tribunal on Environment & Human Rights (Mumbai: Indian Peoples' Tribunal Secretariat, 2006) at pp. 23-28

⁸ This has been documented in reports including **From Kandhamal to Karavali: The Ugly Face of the Sangh Parivar**, A fact-finding report of nine human rights organizations that visited Orissa & Karnataka in Sept. – Oct.

of the major incidents of religion-based, targeted violence that have blotted the Indian history. Mr Ajay Maken, then Minister of State for Home, told Indian Parliament there were over 6,000 cases of such violence in the first decade of the 21st century. On a lower scale, attacks take place on a regular basis in various parts of the country. In such attacks, violence against women is not incidental. Gender-based violence has played a fundamental role as an engine for mobilizing hatred and destruction against religious minorities.⁹ A major area of concern is the complicity of state and public officials through culpable actions and failure to act.

2. Growing Intolerance and polarisation:

The root cause of our fear is the stranglehold that the notorious Rashtriya Swayamsewak Sangh of RSS [National Volunteers Group] has achieved on the political discourse, and the apparatus of the Bharatiya Janata Party, the main political entity challenging the Congress which is in power at present as the lead of the United Progressive Alliance. The RSS, which holds Hitler in high esteem, was briefly banned after an associate assassinated Mahatma Gandhi, the Father of the Nation. Since then, the organisation has been indicted by Judicial commissions of enquiry in many acts of mass violence against Muslims and Christians. In 2008, its members and associates were mainly responsible for the murder of Christians in Kandhamal in the state of Orissa and the torching of 6,000 homes and more than 300 churches. The RSS and its associate organisation lead the hate campaign against Christians, which now is also through the social media. Nationally, the RSS is a suspect in almost every one of the more than 30,000 acts of violence against religious minorities in the last 60 years.

The RSS chief, Mr. Mohan Bhagwat, chose the president of the BJP, Mr. Rajnath Singh, and the party's prime ministerial candidate, Mr. Narendra Modi. As Mr. Siddharth Varadarajan, a senior political commentator, has noted, the cult-like following Mr. Modi has amongst the RSS faithful and a wider section of the Hindu middle class is due to the image he has of a leader who knows how to "show Muslims their place". For these supporters, his refusal to do something so simple – and tokenistic – as express regret for the killings that happened under his watch is seen not as a handicap but as further proof of his strength. The three have chosen the other candidates for the elections. They have launched an unprecedented and aggressive campaign which instills fear of not just

2008, (March 2009); **Kandhamal in Chaos: An Account of Facts** (Ahmedabad: Janvikas, 2009); see also Saumya Uma, **Kandhamal: The Law Must Change its Course** (edited by Vrinda Grover) (New Delhi: Multiple Action Research Group, 2010)

⁹ The report **Threatened Existence: A Feminist Analysis of the Genocide in Gujarat** speaks of the centrality of sexual violence to the Hindutva project, at pp. 33-45; see also Tanika Sarkar and Urvashi Butalia (eds.), **Women and the Hindu Right** (New Delhi: Kali for Women, 1995)

an outburst against minorities and dissidents, but threatens peace in the subcontinent with its hyper-nationalist rhetoric.

If this group comes to power, we fear they may enact national laws to ban religious conversions, specially those to Christianity. This is on the party and RSS agenda. Such laws exist in six states are a main cause of terror for pastors, priests and catholic Nuns in states administered by the BJP such as Madhya Pradesh and Chhattisgarh. [See 3 below]. The party is expected to kill proposals to enact laws against hate crimes, specially against religious minorities. The party will also restrict affirmative action currently benefitting Muslims and Christians. Mr. Modi has refused to implement even small national schemes of scholarships for Muslims and Christian students. The party has said it opposes the restoration of constitutional rights of freedom of faith to Dalit Christians, converts from the former untouchable castes of Hinduism. We remember that the last time the BJP was in power between 1998 and 2004, India witnessed some of the worst violence against religious minorities. The BJP was in government of Orissa when the pogrom was launched against the Christians of Kandhamal.

3. Issues of religious freedom of the Christian community

Law experts have faulted the so-called anti-conversion laws enacted by seven states including Orissa, ironically titled the Freedom of Religion Act, for violating freedom of religion guaranteed by the Indian Constitution.¹⁰ These laws are being used to harass and intimidate those who voluntarily change their faith from Hinduism. But the same laws do not address forcible conversions to Hinduism. In the violence in Kandhamal, the National Commission for Minorities (NCM) recommended that the provisions of the Orissa Freedom of Religion Act be used against *“the pernicious threats to Christians to convert forcibly to Hinduism or lose all their property and their right to return to their home.”*¹¹ Despite such directives, the state agencies have deliberately failed to register, investigate and prosecute persons who initiated and conducted such forcible conversions. For more details, please see 8.2.

Coercive Religious conversions are violative of the fundamental rights enshrined in the Indian Constitution, and also of international law. UN Special Rapporteur on Freedom of Religion or Belief has pointed out in her report that international human rights law clearly prohibits coercion that would impair the right to have or adopt a religion or

¹⁰ See for example Dr. Ram Puniyani, ‘Question of Faith: Anti-Conversion Legislation in Tamil Nadu’, available at <http://www.nilacharal.com/news/view/v74.html>, accessed on 12 March 2010; John Dayal, ‘Hindutva Conspiracy Clear in Rajasthan Freedom of Religion Bill’, 6 April 2006, available at http://www.milligazette.com/dailyupdate/2006/20060406_hindutva_rajasthan.htm, accessed on 14 March 2010

¹¹ Report of the Visit of the Vice Chairperson NCM to Orissa, 11th to 13th September 2008, available at ncm.nic.in/doc/Tour%20Report%20VC%20Orissa%20Sep.%202008.doc, accessed on 1 March 2010, at para 13

belief, including the use or threat of physical force or penal sanctions to compel believers or non-believers to adhere to their religious beliefs and congregations, to recant their religion or belief or to convert. Similarly, a general prohibition of conversion by a State necessarily enters into conflict with applicable international standards.¹²

4. Physical violence : Security of Religious Minorities:

The Christian community had felt itself very safe in India since Independence, and the formative years of the democracy under Jawaharlal Nehru, and then under the premiership of Lal Bahadur Shastri, Indira Gandhi and Rajiv Gandhi. But after a spurt of violence in 1998-1999, hate crimes against the Church and the Christian community have been increasing alarmingly since 1997, averaging about 250 incidents a year. But 2007 and 2008 have seen such violence reach an unprecedented level. The violence has not been confined to Orissa where the BJP was in power as a coalition partner. Fourteen other States were affected, seven seriously.

5. Lack of justice Lack of political will to prosecute perpetrators, inadequacy of laws and procedures to deal with mass crimes, lack of impartial investigation and prosecution and a lack of sensitivity to survivors' experiences and needs have been among some of the major hurdles in victims' and survivors' access to justice and accountability¹³

6. Impunity : Enforcing rule of law, ending Impunity of state, Police and criminal justice dispensation system in assuring Freedom of Faith: In State after State, the community has watched in utter helplessness uniformed policemen accompany assailants attacking institutions, churches and house churches. In States such as Manipur, even villages have dared pass laws against Christians, banning conversions and excommunicating people. Pastors and Priests have been arrested on false charges, denied bail, and harassed. Often, the police have stood by while Priests, pastors and Lay persons were beaten up, often in the glare of Television Cameras. The Subordinate magistracy and judiciary have often been partisan in their conduct. This impunity must end.

7. Complicity / bigotry of police, lower judiciary: The criminal justice system has failed to respond promptly and positively to targeted violence against religious minorities. One

¹² Report of the Special Rapporteur on Freedom of Religion or Belief, A/HRC/10/8/Add.3 dated 26 January 2009. The report is available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/104/62/PDF/G0910462.pdf?OpenElement>, accessed on 14 March 2010 at para 52

¹³ See Vrinda Grover, 'The Elusive Quest for Justice: Delhi 1984 to Gujarat 2002' in Siddharth Varadarajan (ed.), **Gujarat: The Making of a Tragedy** (New Delhi: Penguin Books, 2002) at pp. 355-388, where she discusses in detail the scuttling of justice through failure to register FIRs and deliberate, inaccurate registration of FIRs in contexts of communal violence.

major concern is the complicity, connivance, participation in and support to the violence by public officials through acts of omission and commission.¹⁴ Deliberate sabotage by the police through a combination of refusal to register crimes, shoddy investigations, diluted chargesheets, failure of the judiciary to appreciate the available evidence in the context of realities on the ground, and rampant intimidation of victims and witnesses makes justice for victims and survivors of religion-based targeted violence illusive. Public officials enjoy legal immunity and cannot be prosecuted under the CrPC¹⁵ without prior government as well as under other laws.¹⁶ This creates hurdles for securing accountability, since the Executive seeks to shield the guilty. There are inordinate delay of several years in providing justice to victims.¹⁷ Judicial inertia is a manifestation of a deeper problem – the need for a different legal regime to deal with mass crimes such as communal violence.¹⁸

There is a poor articulation of victims' / survivors' rights under criminal law which assumes that the interests of the victim are synonymous with that of the State. Hence the premise that the state represents the victim. This assumption cannot apply in cases of state-sponsored communal violence. A state that has, in myriad ways, been complicit in the violence, is unlikely to pursue rigorous prosecution against the accused.¹⁹ There is also an urgent need for a legal regime on protection of victims and witnesses.

¹⁴ See for example, Human Rights Watch report titled 'We Have no Orders to Save You', highlighting state participation and complicity in the Gujarat carnage 2002.

<http://www.hrw.org/reports/2002/india/>, accessed on 26 November 2011

¹⁵ S. 132 of Cr.PC deals with law enforcement agencies and the armed forces of India for whom the sanction is required to be taken before commencing any criminal prosecution and it also gives them immunity under certain circumstances; S. 197 of Cr.PC makes it mandatory to obtain sanction of the government for prosecution of public servants and judges, where such a person is accused of any offence alleged to have been committed in discharge of his official duty. The sanction is to be issued by the authority that has powers to remove the public servant by office - the Central government in cases of members of armed forces or officers of the Central government; and the state government in all other cases.

¹⁶ Provisions similar to S. 197 of Cr.PC feature in S. 19 of Prevention of Corruption Act 1988 and S.

6 of the Armed Forces (Special Powers) Act 1958

¹⁷ 19 police officials of UP's Provincial Armed Constabulary (PAC), charged with killing 43 Muslims in Hashimpura and throwing their bodies into canals in 1987, have successfully prolonged the trial for 22 years, during which time witnesses have died or become untraceable, crucial evidence has been lost, original documents destroyed and memories blurred, drastically weakening the prosecution's efforts to ensure accountability of the perpetrators. On 8 February 2010, the Delhi High Court directed all trial courts to conclude cases pertaining to the 1984 anti-Sikh violence within six months. In the Hari Masjid firing case that took place during the Mumbai communal violence 1992-93, it was only in 2009 that the court ordered the CBI to investigate the case.

¹⁸ Discussed more elaborately in Saumya Uma, **Kandhamal: The Law Must Change its Course** (edited by Vrinda Grover) (New Delhi: Multiple Action Research Group, 2010) at pp. 155-166

¹⁹ For example, the Gujarat government's appointment of public prosecutors associated with *Hindutva* forces to conduct prosecution of communal violence cases related to the Gujarat carnage 2002, and the partisan nature of prosecutors' work in those cases have been well documented. See for example, Smita Narula, 'Overlooked Danger:

8. Discriminatory laws: Erosion of Minority rights under Article 30: Various State governments and political parties have tried to infringe upon Article 30, and have made persistent efforts to erode the rights of Minorities to run and administer educational institutions. Christian educational institutions have frequently had to approach the Supreme Court of India to try to protect these fundamental rights.

8.1 Freedom of Religion Acts: Several states of India have enacted laws ironically titled “Freedom of Religion Acts.” They are popularly known as anti-conversion laws. These laws claim to merely purge the use of force, fraud and inducement from religious persuasion in the interest of public order. But they clearly violate some key components of religious freedom and are used as a pretext for serious human rights violations against religious minorities. They are targeted against Christian church and its priests, nuns and pastors, but condone conversions, often under duress, to Hinduism. They also condone conversions to Sikhism and Buddhism, which are deemed to be “Indic religions” in contrast to “semitic” Islam and Christianity. These laws - enacted in the states of Orissa, Madhya Pradesh, Arunachal Pradesh, Chhattisgarh, Gujarat and Himachal Pradesh - give the district administration wide and sweeping powers to inquire into religious conversions, but carry no provisions for protection against discriminatory action by the authorities. As per the Rules, the District Magistrate shall get the matter enquired into but no timeframe is prescribed for the conduct of such an enquiry and nor have its modalities been defined. The Acts cast an onerous burden on the converted person and the persons seeking to propagate their faith, without providing the required checks and balances to ensure protection against their misuse. The Acts require the converting person to give details of his or her conversion to the district magistrate, either prior to the conversion “ceremony” or subsequent to it. The law in Gujarat state requires that the person seeking to convert to another religion must take prior permission from the district magistrate before any conversion “ceremony” is performed. The Acts greatly impinge on the freedom of conscience of prospective converts, and also on their right to privacy. The law renders the person incapable of taking the final decision with regard to his or her faith, and instead requires approval of the district authority. This is an invasion of the privacy and violation of both international law and the Constitution of India. This is violation of the right to freedom of association, the right to privacy and the freedom of conscience. The laws undermine the agency of the convert and make every religious conversion suspect and liable for scrutiny. Repeatedly, these laws have been used to target and harass Christians. Ms. Asma Jahangir, the then Special Rapporteur on Freedom of Religion or Belief, noted in her report after a visit to India that: *“Even in the Indian states which have adopted laws on religious conversion there seem to be only few – if any – convictions for conversion by the use of force, inducement or fraudulent means. In Orissa, for*

The Security and Rights Implications of Hindu Nationalism in India’, **Harvard Human Rights Journal**, Vol. 16, Spring 2003 at p. 50

example, not a single infringement over the past ten years of the Orissa Freedom of Religion Act 1967 could be cited or adduced by district officials and senior officials in the State Secretariat... However, such laws or even draft legislation have had adverse consequences for religious minorities and have reportedly fostered mob violence against them.” ‘There is a risk that Freedom of Religion Acts may become a tool in the hands of those who wish to use religion for vested interests or to persecute individuals on the grounds of their religion or belief. While persecution, violence or discrimination based on religion or belief need to be sanctioned by law, the Special Rapporteur would like to caution against excessive or vague legislation on religious issues which could create tensions and problems instead of solving them.” A fact-finding team of the National Commission for Minorities visited the states of Madhya Pradesh and Chhattisgarh between June 13 and 18, 2007, and noted in its report that Hindu extremists frequently invoked the anti-conversion law in Madhya Pradesh as a means of inciting mobs against Christians or having them arrested without evidence. They noted in their report: *“Obviously, the life of Christians has become miserable at the hands of miscreants in connivance with the police. There are allegations that when atrocities were committed on Christians by the miscreants, police remained mere spectators and in certain cases they did not even register FIRs [First Information Reports].”*

In September 2012, the High Court of Himachal Pradesh struck down Section 4 of the Himachal Pradesh Act which made it obligatory for a person to give a 30-day prior notice to the district magistrate about his or her intention to convert. The Court held that the procedure is oppressive as it will deter a person from changing his or her religion due to unnecessary revelation of an individual’s personal choice and belief to the public at large along with the stigma of having a police inquiry in matters relating to one’s belief and conscience. However similar provisions remain in the other state laws.

8.2 The Situation of Dalit Christians: The Constitution of 1950 provided for affirmative action for Scheduled Castes, the official term for former untouchable castes, without reference to religion. But Paragraph 3 of the Constitution (Scheduled Castes) Order 1950 creates statutory discrimination against Dalits who are not Hindu, Buddhist, or Sikh in the allocation of public sector benefits. This is subject to a long-running Supreme Court challenge, and successive government commissions and international human rights mechanisms have recommended a change in the law.] The socio-economic discrimination and disadvantage experienced by Dalits and adivasis in India has been addressed through legislation in a number of ways. This includes a system of quotas (reservations) in public sector education, employment and welfare allocations,²⁰ and a law designed to protect Dalits and adivasis from the particular forms of

²⁰ Reference

violence, exploitation, and humiliation which they face.²¹ Eligibility for these measures derives from membership of the [Scheduled Castes](#) or the [Scheduled Tribes](#), which were designated in two presidential orders of 1950.²² However, the Scheduled Castes now specifically only include Hindus, Sikhs, or Buddhists. Dalits who adopt other religions, usually Christianity or Islam, lose their status as Scheduled Castes and consequently their eligibility to access benefits available to Dalits of a different religious background. According to paragraph 3 of the presidential order relating to Scheduled Castes, *“Notwithstanding anything contained in paragraph 2, no person who professes a religion different from the Hindu, [the Sikh or the Buddhist] religion shall be deemed to be a member of a Scheduled Caste”*.²³ This classification effectively imposes penalties on Dalits choosing to adopt Christianity or Islam. In practice, beneficiaries of reservations often conceal their religious convictions, afraid of losing their jobs or homes. Acts of violence against Dalit Christians or Dalit Muslims cannot be prosecuted under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. Additionally, Dalit Christians and Dalit Muslims are not counted as Scheduled Castes in the 2011 census count of caste, religion, and poverty, which has provided disaggregated data relevant to tackling social exclusion. There is no mention of religious identity in the classification of Scheduled Tribes, although in practice, local authorities in some adivasi-majority areas are known to deny to non-Hindu adivasis their rightful entitlements. These include land ownership rights, educational scholarships, access to public amenities, and “Below Poverty Line” (BPL) cards. Leaders of the BJP have consistently opposed the deletion of Article 340’s para 3.

8.3 The situation of Christian tribals and abuse of Forest laws: Strident and frightening statements have been made in right wing Hindutva groups in Jharkhand, Madhya Pradesh and Chhattisgarh, among others, threatening to deny Christian Tribals their statutory rights in Education, land and employment, and to restrict Tribal rights to only those who convert to Hinduism. This violates Constitutional guarantees, and divided the Tribal people. Recent experience in Orissa’s Kandhamal and other districts have shown how Supreme Court guidelines are being ignored in the implementation of the Forest Act, and traditional forest dwellers, many of them Dalits, are being deprived of their land, livelihood and even liberty as false cases are being brought against them. This, of course, must cease forthwith. The right of all indigenous dwellers must be protected according to the guidelines of the Supreme Court and witch-hunt and harassment must end.

²¹ The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, often abbreviated to the SC/ST (POA) Act

²² The Constitution (Scheduled Castes) Order (<http://lawmin.nic.in/ld/subord/rule3a.htm>) and the Constitution (Scheduled Tribes) Order (<http://lawmin.nic.in/ld/subord/rule9a.htm>)

²³ The inclusion of Sikh and Buddhist religions were due to subsequent amendments.

8.5 Other Laws: Freedom of religion is also dealt with in the Indian Penal Code (IPC), Unlawful Activities (Prevention) Act (UAPA) 1967, the Religious Institutions (Prevention of Misuse) Act 1988, the Places of Worship (Special Provisions) Act 1991 and the Representation of the People Act (ROPA) 1951. Acts related to promoting enmity between different groups on the ground of religion are punishable offences under the IPC.²⁴ Under the UAPA, an association that has an object of promoting enmity between different groups on the basis of religion can be considered an 'unlawful association' and its members subjected to prescribed punishments. A large number of youth of minority religions have been incarcerated under UAPA without trial for long periods.

8.6 Evolving legislation: Though provisions of the Indian Penal Code exist to tackle individual and group violence, conspiracy and creating enmity between groups, there is no legislation to deal with the particular circumstances in which violence is perpetrated against religious minorities. The National Advisory Council of the Government of India evolved a draft law, provisionally called the Targeted Violence [Prevention, Control and Reparations] Bill 2011 to replace a controversial Bill moved in the Upper house of Parliament in 2005.²⁵ The 2011 Bill, revised in 2013 but not enacted, addresses issues of hate speech, impunity and rehabilitation, resettlement and reparations.

8.7 Other Repressive Laws: The Armed Forces Special Powers Act and anti-terror legislations have been misused primarily against the religious minorities. AFSPA acts as a legal protection for the soldiers acting deployed in areas where armed struggles are being wedged for right to self determination, especially in Kashmir and Manipur. Anti-Cow Slaughter laws are used as a basis for violence against dalits and minorities in vulnerable areas. Thee BJP has strongly supported these laws and opposed any move to revise them, read them down, or abrogate them as has often been demandng by human rights groups.

9. Recommendations:

We would recommend that these concerns be incorporated in the US-India relationship and US policy vis-a-vis the US-India Strategic Dialogue, which is the framework of engagement that the US State Department has devised to define its relationship with India. Currently, human rights and religious freedom do not form part of this framework even though counterterrorism is very much part of the framework. Also, this position is in contrast to the US policy w.r.t China where the US-China strategic dialogue does include human rights. The primary aim of the house resolution House Resolution 417 is to include human rights as part of the strategic US India dialogue. We hope that in future, human rights and religious freedom issues will be part of the

²⁴ S. 153A and S. 504 of the IPC.

²⁵ For details and draft of the Bill, see http://nac.nic.in/communal/com_bill.htm, accessed on 26 November 2011

US-India strategic dialogue. High level delegation of the US that meet with their Indian counterpart must in future raise the issue of human rights. This is the reason why Hindutva groups in the US are dead opposed to it.

We also hope that the US will not allow its soil to be used by resident well off Indian activists who are also involved in the hate campaigns and in funding the activities of the RSS and its associates. These activities, as I have said, not just hurt the religious minorities, but threatens national and regional peace.

In future, an international scrutiny would be useful to ensure that organisations spewing hate do not terrorize the minorities, and human rights defenders.

[The author of this note gratefully acknowledges the permissions of Ms Tehmina Arora, Counsel, Alliance Defending Freedom [India] and Mr David Griffiths, formerly of Christian Solidarity Worldwide, for the incorporation of significant parts of their reports. Other sources include: Report of the United Nations Special Rapporteur on Freedom of Religion and Belief, Ms. Asma Jehangir, 2008; National Solidarity Forum report to the United Nations for the Universal Periodic Review of India in Geneva, 2012. Christian persecution reports 2013 of the Evangelical Fellowship of India and Open Doors; Statement of the All India Christian Council to the delegation of the European Union to Orissa, 2013, Statements before the United States Commission on International Religious Freedom, and Testimony before the Committee on Foreign Affairs U.S. House of Representatives, Subcommittee on Africa, Global Health, Global Human Rights and International Organizations 2014.]

**STATEMENT OF THE HONORABLE ENI F.H. FALEOMAVEGA
BEFORE THE TOM LANTOS HUMAN RIGHTS COMMISSIONS
REGARDING THE PLIGHT OF RELIGIOUS MINORITIES IN INDIA**

Friday, April 4, 2014

2322 Rayburn HOB

Commissioners:

As the former Chairman and current Ranking Member of the House Foreign Affairs Subcommittee on Asia and the Pacific which has broad jurisdiction for U.S. foreign policy affecting the region, including India, and also as a Member of the Tom Lantos Human Rights Commission, I question the Commission's intent in holding a hearing about the rights and freedoms of religious minorities in India on the cusp of India's general election.

I feel so strongly that hearings like this do little to help strengthen U.S.-India relations or protect and promote U.S. interests abroad, especially in the Asia Pacific region, that I had hoped to present my testimony in person but I have resumed limited office hours.

While I have the utmost respect for my colleagues and for the late Tom Lantos whose name this Commission bears, I express disappointment that the Commission, as a courtesy, sought no input from the Subcommittee on Asia and the Pacific. I am also disappointed that, in this instance, the Commission is acting contrary to its purpose. The purpose of the Commission is "to promote, defend and advocate internationally recognized human rights norms in a nonpartisan manner, both within and outside of Congress, as enshrined in the Universal Declaration of Human Rights and other relevant human rights instruments."

By inviting a panel of witnesses that give voice to only one side of an issue, I believe the Commission drifts from its mission, whether intentionally or not. And so, for purposes of providing a fair and balanced view, I ask that the statement I am submitting for and on behalf of USINPAC also be included for the record.

Given that India is a multi-cultural and multi-religious democracy, where the leader of the ruling party is of Italian heritage, the Prime Minister is a Sikh and the Vice President is a Muslim in an 80% Hindu country, it is my sincere hope that today's hearing is not being held in response to activists who were unable to get the U.S. House of Representatives to act on H. Res. 417, a Resolution which purported to praise India's rich religious diversity and commitment to tolerance and equality while reaffirming the need to protect the rights and freedoms of religious minorities.

In part, thanks to the successful efforts of USINPAC which mobilized the Indian-American community in opposition to the Resolution, H. Res. 417 has not been considered by the House.

However, the timing of this hearing, like H. Res. 417, invokes the name of the U.S. House of Representatives for purposes of influencing India's upcoming elections by focusing on the 2002 Gujarat riots some 12 years after the fact.

For this reason, I feel the need to speak out and reiterate what I am on record as saying shortly after the riots and ever since. Like any other Member of Congress committed to human rights, I see eye to eye with the national and international community that what happened in Gujarat calls for justice and accountability. But India, like the United States, has an independent and transparent Judiciary and, after an investigation that has been ongoing for more than a decade, India's Supreme Court and its Special Investigation Team have not found any evidence against Shri Narendra Modi. In fact, Shri Modi has been cleared by the Court of any and all allegations that he intentionally failed to protect Muslims during religious violence in Gujarat.

And so I say, enough is enough. Unlike many who will testify or participate in this hearing today, I have personally met Shri Narendra Modi. We have had open and frank discussions. I know him to be a sincere man, fit to lead and lift up the masses and assure social justice that is long overdue. Chief Minister Modi is a democratically elected leader and has been elected three times by the majority of some 60 million constituents. I fully believe he will be India's next Prime Minister, but it is our responsibility to let the people of India decide who will be their man of destiny.



**Hindu American Foundation (HAF)
Written Statement for the Record**

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Director/Senior Fellow for Human Rights

Suhag A. Shukla, Esq.
Executive Director and Legal Counsel

Submitted to the United States House of Representatives
Tom Lantos Human Rights Commission
April 3, 2014

"The Plight of Religious Minorities in India"
2322 Rayburn House Office Building
April 4, 2013



The Hindu American Foundation (HAF) is a 501(c)(3) advocacy organization for the Hindu American community. Since its inception, HAF has made human rights advocacy one of its main priorities and is the only Hindu American organization to publish an annual human rights report comprehensively detailing human rights violations against Hindu minorities globally. The Foundation regularly hosts Congressional Briefings, actively engages with religious freedom advocates on the International Religious Freedom (IRF) Roundtable, participates in domestic and international forums on human rights, and conducts on the ground fact-finding missions.

The Foundation has also addressed issues in India, ranging from terrorism, to human rights and equality, to homosexuality and sexual violence. HAF, for instance, criticized the Indian Supreme Court's decision to uphold Section 377 of the Indian Penal Code, which criminalizes consensual homosexual conduct, and condemned the Delhi gang-rape in 2012.¹ And in 2011, the Foundation testified before the U.S. Commission on International Religious Freedom (USCIRF) to provide a Hindu perspective on human rights in India.²

The Foundation does not, however, take positions on politics or elections in India, but has opposed highly prejudicial and biased resolutions intended to interfere with India's political process. In particular, HAF and many leading Congressmen recently spoke out against U.S. House Resolution 417 (H. Res. 417), a resolution that undermines U.S. - India relations and contains misleading and inflammatory language.³ Specifically, H. Res. 417 selectively highlights certain incidents of violence in India to portray Hindus as the only perpetrators of religious riots. It further ignores India's unprecedented religious accommodations for minorities, while criticizing Freedom of Religion or "anti-conversion" laws,⁴ which were created to protect poor and vulnerable populations from predatory efforts seeking religious conversion in exchange for educational, medical, and other humanitarian aid. Of particular concern is the resolution's call to empower religious minority courts to conduct trials and hear appeals – a suggestion which threatens to undermine the secular Indian judicial system, and one which the co-sponsors would never tolerate in our nation's secular democracy.

Similar to H. Res. 417, the stated scope and purpose of this Hearing is equally problematic. The timing of the Hearing is also questionable and appears intended to influence next week's national elections in India.

The following testimony, therefore, seeks to provide a balanced perspective on religious minorities in India and past incidents of violence.

Background

India is home to unparalleled religious, cultural, and linguistic diversity. Although Hindus comprise the majority in India (80 percent), religious minorities encompass nearly 20 percent of population.⁵ In addition,

¹ "Hindu American Foundation Disappointed by Indian Court Verdict on Homosexuality," December 11, 2013, HAF Press Release, http://www.hafsite.org/HAF_Disappointed_by_Indian_Court_Verdict_Homosexuality; Shukla, Suhag A., "From the Huffington Post: International Women's Day - Arise! Awake! My Hindu Sisters," The Huffington Post, reproduced at <http://www.hafsite.org/media/pr/huffington-post-international-womens-day>.

² "USCIRF Hearing - March 10, 2011," <http://www.hafsite.org/media/pr/uscirf-hearing-testimony>.

³ "Hindu American Leaders Applaud Rep. Perry's Withdrawal of Support for Anti-Hindu Resolution," http://www.hafsite.org/Perry_withdraws_from_HRes_417.

⁴ "H. Res. 417," 113th Congress, Congress.gov, <http://beta.congress.gov/bill/113th-congress/house-resolution/417/text?q=%7B%22search%22%3A%5B%22hres417%22%5D%7D>; "Stop Further Damage to U.S. - India Relations - Oppose H. Res. 417," HAF Action Alert, <http://www.hafsite.org/media/pr/stop-further-damage-us-india-relations-oppose-h-res-417>.

⁵ "Census of India: Religion," 2001, Government of India, Ministry of Home Affairs, http://censusindia.gov.in/Census_And_You/religion.aspx.

India has the world's second largest Muslim population (approximately 176 million or 14.4 percent)⁶ and substantial numbers of Christians (2.3 percent), Sikhs (1.9 percent), Buddhists (0.8 percent), and Jains (0.4 percent). Religious minorities, either as a single community or collectively, comprise majorities in eight states – Punjab, Jammu & Kashmir, Nagaland, Mizoram, Manipur, Arunachal Pradesh, Lakshadweep, and Meghalaya.⁷ Similarly, in many other states, minorities represent significant and influential segments of the population.⁸

India has a unique brand of secularism which provides unprecedented religious accommodations to its religious minority populace, including pilgrimage subsidies (e.g., India spends nearly \$110 million annually to subsidize the Hajj pilgrimage for Muslims)⁹ and generous affirmative action benefits in many states.¹⁰ Moreover, in 2012, close to \$586 million was earmarked for the Minorities Affairs Ministry to benefit the country's religious minorities, reflecting an increase of 12 percent over the previous year.¹¹

The constitution and legal system protect religious freedom and ensure equality for all citizens, regardless of religious identity.¹² Additionally, minorities enjoy autonomy over their institutions and places of worship free from government intrusion (excluding Hindu institutions), as well as religion-based personal laws, some of which contain discriminatory provisions against women.¹³ Religious minorities have also attained the highest echelons of power in the Indian military, government, judicial system, civil service, bureaucracy, and private sector. These include Supreme Court Justices, Prime Ministers and Presidents, heads of the Indian Armed Forces, and leading industrialists and CEOs.

While there have been sporadic outbursts of religious violence in recent years, the causes have been complex and the culprits varied. According to Sadananad Dhume, a resident fellow at the American Enterprise Institute, in "...places like Assam, West Bengal and Uttar Pradesh, rapidly growing Muslim populations are no longer always a beleaguered minority. The reality of contemporary conflict is often messier, and much less one-sided, than in the past."¹⁴ For instance, Hindu-Muslim riots in the state of Jammu and Kashmir in 2013 disproportionately impacted Hindus,¹⁵ while violence between Muslims and the

⁶ Dhume, Sadananad "A Better Deal for India's Muslims," April 21, 2013, The Wall Street Journal, <http://online.wsj.com/news/articles/SB10001424127887324165204579026292455938628>; "World's Muslim Population More Widespread Than You Might Think," June 7, 2013, Pew Research Center, <http://www.pewresearch.org/fact-tank/2013/06/07/worlds-muslim-population-more-widespread-than-you-might-think/>

⁷ *Id.*

⁸ *Id.*

⁹ "Abolish Haj Subsidy in 10 Years: Supreme Court to Government," May 9, 2012, The Times of India, <http://timesofindia.indiatimes.com/india/Abolish-haj-subsidy-in-10-years-Supreme-Court-to-government/articleshow/13059420.cms>

¹⁰ Dhume, Sadananad "A Better Deal for India's Muslims," April 21, 2013, The Wall Street Journal, <http://online.wsj.com/news/articles/SB10001424127887324165204579026292455938628>

¹¹ Shukla, Madhuri, "Muslims are still Better off in Gujarat," July 20, 2013, Governance Now, <http://www.governancenow.com/news/blogs/muslims-are-still-better-gujarat>

¹² "The Constitution of India," <http://lawmin.nic.in/olwing/coi/coi-english/coi-indexenglish.htm>

¹³ *Id.*; "Law of Maintenance in India under Personal Laws: An Analysis," Lawyers Club India, <http://www.lawyersclubindia.com/articles/Law-of-Maintenance-in-India-under-Personal-Laws-An-Analysis--5551.asp#.Uz0o3Pn7dWY>

¹⁴ Dhume, Sadananad "A Better Deal for India's Muslims," April 21, 2013, The Wall Street Journal, <http://online.wsj.com/news/articles/SB10001424127887324165204579026292455938628>

¹⁵ "Jammu and Kashmir Assessment – Year 2014," SATP, <http://www.satp.org/satporatp/countries/india/states/jandk/index.html>; Nelson, Dean, "Kashmir: Violence Escalates Between Hindus and Muslims," August 11, 2013, The Telegraph, <http://www.telegraph.co.uk/news/worldnews/asia/india/10236064/Kashmir-Violence-escalates-between-Hindus-and-Muslims.html>; "The Kishwar Cauldron," August 16, 2013, India Today, <http://indiatoday.intoday.in/story/kishwar-violence-jammu-and-kashmir-omar-abdullah-national-conference/1/299803.html>



tribal Bodo population in Assam affected both communities.¹⁶

And in the run-up to the national elections, scheduled to commence on April 7, 2014, there have been no major reported incidents of religious violence or instances of inflammatory anti-minority rhetoric from the major political parties. This is in stark contrast to the systematic targeting of Hindus and other religious minorities in neighboring Bangladesh during recently conducted elections.¹⁷

The Indian government has also responded to previous bouts of religious violence by instituting investigations, fast-track courts, trials, and relief programs for the victims.

1984 Anti-Sikh Riots

In 1984, more than 3,000 Sikhs were killed in anti-Sikh riots in Delhi following the assassination of Prime Minister Indira Gandhi by her two Sikh bodyguards. Prime Minister Gandhi's murder came in the aftermath of Operation Blue Star, an Indian army operation aimed at flushing out Sikh militants, who had occupied the Golden Temple (Sikhism's holiest shrine) in the midst of a violent terrorist campaign to create a separate Sikh state of Khalistan.¹⁸

The Khalistan movement in the northern state of Punjab, where Sikhs comprise a majority, peaked in the 1980s and 1990s and involved bombings, political assassinations, kidnappings, selective killings, and massacres of civilians. According to the South Asia Terrorism Portal (SATP), there were approximately 21,631 fatalities from terrorism related violence since the insurgency began in 1981, of which 11,783 were civilians.¹⁹

Between 1984 and 2005, ten commissions and committees were created to investigate the anti-Sikh riots, including the role of government officials from the ruling Congress Party, as well as the police.²⁰ Collectively, 442 people were convicted by Delhi courts for their involvement in the riots, and the Nanavati Commission indicted several Congress Party leaders in 2005.²¹ Indeed, many high-level Congress Party officials have not yet been brought to justice, and the Congress Party has been accused of attempting to suppress evidence and of protecting accused party members.²² In a positive development, in January 2014, the newly elected

¹⁶ "The Indian State of Assam: Causes and Origins of Conflict," HAF Policy Brief, http://www.hafsite.org/sites/default/files/Assam_Cause_Origin_Conflict_Brief.pdf.

¹⁷ Allchin, Joseph, "The Hindus of Bangladesh Fear for their Future," (January 14, 2014), Time World, <http://world.time.com/2014/01/14/the-hindus-of-bangladesh-are-fearing-for-their-future/>.

¹⁸ "Backgrounder - Punjab," South Asia Terrorism Portal, <http://www.satp.org/satporgtp/countries/india/states/punjab/backgrounder/index.html>

¹⁹ *Id.*

²⁰ "DNA Edit: Cases Relating to 1984 Riots are not Proceeding in Delhi's Trial Courts," February 1, 2014, DNA India, <http://www.dnaindia.com/analysis/editorial-dna-edit-cases-relating-to-1984-anti-sikh-riots-are-not-proceeding-in-delhi-s-trial-courts-1958613>.

²¹ "Several Cong Leaders Indicted for Anti-Sikh Riots," August 8, 2005, Express India, <http://www.expressindia.com/news/fullstory.php?newsid=52345>; "DNA Edit: Cases Relating to 1984 Riots are not Proceeding in Delhi's Trial Courts," February 1, 2014, DNA India, <http://www.dnaindia.com/analysis/editorial-dna-edit-cases-relating-to-1984-anti-sikh-riots-are-not-proceeding-in-delhi-s-trial-courts-1958613>.

²² "DNA Edit: Cases Relating to 1984 Riots are not Proceeding in Delhi's Trial Courts," February 1, 2014, DNA India, <http://www.dnaindia.com/analysis/editorial-dna-edit-cases-relating-to-1984-anti-sikh-riots-are-not-proceeding-in-delhi-s-trial-courts-1958613>.



Aam Aadmi Party government in New Delhi ordered a Special Investigative Team (SIT) to re-open and examine several cases in connection with the riots.²³

HAF believes that a complete and thorough investigation of the riots is necessary and that those responsible for the violence, including all political leaders, should be held accountable for their alleged crimes. The failure to provide justice to the Sikh riot victims, however, should not be viewed as religiously motivated, but rather as a political attempt to protect Congress Party leaders. In fact, the Congress Party Prime Minister is a Sikh, the President a Muslim, and the head of the Party a Catholic, with several high-level officials from minority communities.

Moreover, there is no evidentiary link between the riots and the purported social and economic marginalization of the Sikh community, as claimed by some groups. Sikhs enjoy independent control of their religious institutions, are overrepresented in the ranks of the military and civil service, and are economically, politically, and socially dominant in the state of Punjab.²⁴ While some Sikh farmers are currently facing economic hardship in Punjab, it is unrelated to their religious identity. Indeed, many Hindu farmers across the country have faced similar challenges in recent years, particularly in Maharashtra.²⁵ Moreover, ceding to Sikh demands, Jatt Sikhs (farmers and landowners) in Punjab were recently classified as a backward class by the Government of India, making them eligible for reservations in government jobs.²⁶

Human rights groups have further accused security forces in the state of committing abuses against Sikhs, suspected of being part of the Khalistan separatist movement. Although law enforcement has been guilty of committing excesses over the years, they have been done under the auspices of a Sikh controlled state government and a Sikh dominated police force. Additionally, any security response to an insurgency will necessarily result in some excesses/abuses by security forces, such as has occurred in other parts of India, where many of those involved have been Hindu (e.g., the Maoist insurgency in central India). Thus, to claim that any crackdowns have been the result of inherent religious bias against Sikhs is both inaccurate and misleading.

Finally, there is no evidence of religiously motivated attacks on Sikhs in recent years. In contrast, Sikh religious institutions and political parties have been involved in instigating violence and suppressing speech by minority sects in the state. For instance, a sect known as Dera Sacha Sauda, comprised of both Sikhs and Hindus, was accused of heresy by Sikh religious bodies. The Akal Takht, "the highest temporal seat of the Sikhs," called for a "social boycott" of Dera Sacha Sauda members and of their leader, and called for a "closure of all 'deras' of the Sacha Sauda in the Punjab."²⁷ The Punjab state government further arrested the leader of the sect for "hurting Sikh sentiments" by dressing in the garb of a 17th century Sikh guru. Sikhs

²³ Nelson, Dean, "Delhi to Reopen Inquiry in to Massacre of Sikhs in 1984 Riots," January 30, 2014, The Telegraph, <http://www.telegraph.co.uk/news/worldnews/asia/india/10607451/Delhi-to-reopen-inquiry-in-to-massacre-of-Sikhs-in-1984-riots.html>.

²⁴ "Seeking Answers: Some Facts About the Sikh Religion and its History, Role Today in India," August 11, 2012, published by the Associated Press and reproduced in the Desert News, <http://www.deseretnews.com/article/765596170/Seeking-answers-some-facts-about-the-sikh-religion-and-its-history-role-today-in-india.html?pg=all>; Shiromani Gurdwara Parbandhak Committee, <http://new.sqpc.net/about-sqpc/>.

²⁵ Anand, Geeta and Sharma, Amol, "Punjab, Star of India's Rise, Faces Steep Fall," May 15, 2011, The Wall Street Journal, <http://online.wsj.com/news/articles/SB10001424052748703730804576322330472250792>; Ghosh, Deepshikha, "In Maharashtra, 22 Farmer Suicides in Three Weeks: Report," March 18, 2014, NDTV, <http://www.ndtv.com/article/india/in-maharashtra-22-farmer-suicides-in-three-weeks-report-497018>.

²⁶ "Punjab Gives BC Status to Jat Sikhs," March 5, 2014, The Hindu, <http://www.thehindu.com/news/national/other-states/punjab-gives-bc-status-to-jat-sikhs/article5754237.ece>.

²⁷ United News of India, March 22, 2009, reproduced on UNHCR website.



groups also attacked followers of the Dera Sacha Sauda, leading to violent clashes between the groups in Punjab and neighboring Haryana.²⁸

2002 Gujarat Riots

On February 27, 2002, a compartment of the Sabarmati Express, a train that runs from the Hindu pilgrimage city of Ayodhya, Uttar Pradesh to Ahmedabad, Gujarat, was attacked and burned by a throng of over a thousand Muslims in the city of Godhra in Gujarat, according to official reports. Fifty-eight Hindus, most of them pilgrims, were killed in the burning, including 25 women and 15 children.²⁹ In reaction to the burning, riots broke out in a number of major cities in Gujarat, including Ahmedabad, Godhra, and Surat. The violence lasted for approximately three days, by the end of which approximately 1000 people, 790 Muslims (75%) and 254 Hindus (25%), were dead.

In response to allegations of state indifference and collusion against Muslim victims during the violence, India's Supreme Court in 2008 formed a Special Investigation Team (SIT). After a four year investigation, the SIT issued a detailed 541 page closure report in May 2012 that found that Mr. Modi took all possible steps to control the violence.³⁰ A Gujarat magistrate upheld the SIT report as accurate, on December 26, 2013.³¹ Specifically, the report noted that Mr. Modi repeatedly called law and order meetings to control the situation, called in the army to prevent rioting, and established relief camps for the riot victims. Further, the court noted the arrest and conviction of a number of state officials in connection with the riots, and found that there was no evidence to connect Modi to their actions.³² At least, 249 people have been convicted for their role in the riots, including senior politicians.³³

The report further determined that several activists and witnesses exaggerated accounts and evidence presented in court, including Police Inspector Sanjiv Bhatt, who accused Mr. Modi of allowing the violence. Mr. Bhatt's testimony was not accepted by an Ahmedabad Magistrate.³⁴ In addition, the SIT has accused social activist Teesta Setalvad, founder of an India-based NGO, Citizens for Justice and Peace (CJP), and frequent witness on the U.S. Capitol Hill, of falsifying evidence in court complaints and manipulating witnesses into giving hundreds of falsified statements in the 2002 riot cases.³⁵ A former aide of Ms. Setalvad, Rais Khan, also accused her and her associates of intentionally presenting a one-sided narrative of the riots, refusing to mention attacks on Hindu homes and businesses or the thousands of Hindus that

²⁸ "India's Sikhs: Heresy and History," July 5, 2007, The Economist, <http://www.economist.com/node/9444533>

²⁹ "Death for 11, Life Sentence for 20 in Godhra Train Burning Case," March 1, 2011, The Times of India, <http://timesofindia.indiatimes.com/india/Death-for-11-life-sentence-for-20-in-Godhra-train-burning-case/articleshow/7600059.cms?referral=PM>.

³⁰ "How SIT Report on Gujarat Riots Exonerates Modi: The Highlights," May 11, 2012, IBN Live, <http://ibnlive.in.com/news/how-sit-report-on-gujarat-riots-exonerates-modi-the-highlights/256848-3.html>.

³¹ "Court Rejects Zakia's Petition Against Clean Chit to Modi," December 27, 2013, India West, http://www.indiawest.com/news/15885-court-rejects-zakia-s-petition-against-clean-chit-to-modi.html?utm_source=Newsletter+-+2013+-+December+27&utm_campaign=DNL+-+December+27%2C+2013&utm_medium=email.

³² "How SIT Report on Gujarat Riots Exonerates Modi: The Highlights," May 11, 2012, IBN Live, <http://ibnlive.in.com/news/how-sit-report-on-gujarat-riots-exonerates-modi-the-highlights/256848-3.html>.

³³ "Gujarat Govt to Seek Death for Maya Kodnani," The Hindu, <http://www.thehindu.com/news/national/other-states/gujarat-govt-to-seek-death-for-maya-kodnani/article4626829.ece>.

³⁴ *Id.*; "With Narendra Modi Verdict, Former Cop Sanjiv Bhatt's Testimony Rejected," December 26, 2013, NDTV, <http://www.ndtv.com/article/india/with-narendra-modi-verdict-former-cop-sanjiv-bhatt-s-testimony-rejected-463441>.

³⁵ Mahapatra, Dhananjay, "NGOs, Teesta Spiced up Gujarat Riot Incidents: SIT," April 14, 2009, The Times of India, <http://timesofindia.indiatimes.com/india/Teesta-doctored-evidence-Ex-aide-to-SC/articleshow/10936983.cms?referral=PM>.



were rendered homeless.³⁶ Ms. Setalvad and her husband, Javed Anand, are currently being investigated for illegally misappropriating funds intended for the benefit of Muslim victims.³⁷

Subsequently, there have been no religious riots in the state nor has there been violence during the current election campaign. Moreover, surveys on the status of Muslims in Gujarat conducted in the post-riots period have consistently demonstrated that Muslims in Gujarat have fared far better than in any other state on several socio-economic indicators in both rural and urban areas. The Sachar Committee report, for example, which was commissioned by the ruling Congress Party to examine the status of Muslims in India in 2006, found that the monthly per capita income of Muslims in rural Gujarat (668 Rupees) was higher than that of Hindus (644 Rupees). And in urban Gujarat, the per capita income of Muslims was 875 Rupees per month compared to 804 Rupees per month for Muslims in urban India as a whole. The report also noted that Muslims in Gujarat enjoy a higher literacy rate (73.5 percent) than the national average (64.8 percent).³⁸

2008 Odisha Violence

In December 2007, a Hindu religious leader, Swami Lakshmananda, along with four of his followers, was assassinated in the eastern state of Odisha. The incident sparked retaliatory riots against Christians in 2008 in the state's Kandhamal district, which left an estimated 38 people dead and approximately 4,000 homes destroyed.³⁹ Although the murder of Swami Lakshmananda appeared to be the immediate cause of the riots, there were several other longstanding factors that reportedly led to the conflagration.

Resentment and anger against aggressive proselytizing activities by Christian missionary groups has been cited as one such factor leading to the violence.⁴⁰ Prior to the riots in 2008, for instance, the "Christian growth rate in the district [was] 66 percent as against 18.6 percent for the overall population growth in the district."⁴¹ Moreover, pre-existing tensions between the Kandha and Pannas tribes over resources in this tribal dominated district fueled the violence.⁴²

Following the violence, there have been several investigations, the creation of a state judicial commission, the

³⁶ Kishwar, Madhu Purnima, "Modi, Muslims, and Media," p. 42

³⁷ "Teesta Setalvad Minting Money in Riot Victims' Name," March 1, 2013, Zee News, http://zeenews.india.com/news/gujarat/teesta-setalvad-minting-money-in-riot-victims-name_832249.html; "Cops Seek Gulbarg-NGO Letters," June 1, 2013, The Times of India, <http://timesofindia.indiatimes.com/city/ahmedabad/Cops-seek-Gulbarg-NGO-letters/articleshow/20373966.cms?referral=PM>; "Teesta Setalvad Cheated Godhra Riots Victims: Gujarat Police Tells HC," March 11, 2014, The Times of India, <http://timesofindia.indiatimes.com/india/Teesta-Setalvad-cheated-Godhra-riots-victims-Gujarat-police-tells-HC/articleshow/31848873.cms>; "Teesta Setalvad Misused Funds Meant for Museum at Gulberg Society: Ahmedabad Police," March 19, 2014, DNA India, <http://www.dnaindia.com/india/report-teesta-setalvad-misused-funds-meant-for-museum-at-gulberg-society-ahmedabad-police-1970336>.

³⁸ Shukla, Madhuri, "Muslims are still Better off in Gujarat," July 20, 2013, Governance Now, <http://www.governancenow.com/news/blogs/muslims-are-still-better-gujarat>.

³⁹ "Kandhamal Riots Probe Commission Issues Notice," October 21, 2012, The New Indian Express, http://www.newindianexpress.com/states/odisha/article1309345.ece#_UzxR-7uPKW8.

⁴⁰ Samantaray, Maitreya Buddha, "Ethnic Violence and Communal Polarisation in Orissa's Kandhamal District," Institute of Peace and Conflict Studies, January 8, 2008, <http://www.ipcs.org/article/india/ethnic-violence-and-communal-polarisation-in-orissas-kandhamal-district-2462.html>

⁴¹ "Over 42,000 Converted to Christianity in Kandhamal, Only Two Followed Law (Lead)," October 25, 2008, Thaindian News, http://www.thaindian.com/newsportal/uncategorized/over-42000-converted-to-christianity-in-kandhamal-only-two-followed-law-lead_100111671.html.

⁴² Samantaray, Maitreya Buddha, "Ethnic Violence and Communal Polarisation in Orissa's Kandhamal District," Institute of Peace and Conflict Studies, January 8, 2008, <http://www.ipcs.org/article/india/ethnic-violence-and-communal-polarisation-in-orissas-kandhamal-district-2462.html>.



Justice A.S. Naidu Commission, and fast track courts.⁴³ Collectively, there have been nearly 3,000 individuals tried for their role in the violence with 361 convictions.⁴⁴ Victims of the 2008 violence have also received relief aid from the government in order to compensate them for their personal and property losses.⁴⁵ In addition, eight people were convicted for the murder of Swami Lakshmananda in October 2013, more than five years after the killing. Those convicted were reportedly Christians and had ties to Maoist extremist groups operating in central India.⁴⁶

There have been no reported major incidents of communal violence in Odisha since 2008.

Freedom of Religion Laws

“Freedom of Religion Laws” or “Anti-Fraudulent Conversion Laws,” are currently in use in only five out of 29 states in India, including Madhya Pradesh, Chhattisgarh, Odisha, Gujarat and Himachal Pradesh. The laws were primarily formulated to prevent vulnerable populations, such as children and those that are poor, uneducated, and illiterate from being preyed upon and converted through unethical means, involving fraud, force, or coercion.⁴⁷

Many in India have fallen victim to predatory efforts seeking religious conversion in exchange for or with the allurements of medical and humanitarian aid, education, or employment. Foreign missionaries often fraudulently misuse visitor visas to conduct missionary activities in India, according to Indian government sources,⁴⁸ and in some cases are encouraged to do so by missionary organizations.⁴⁹ Former USCIRF Commissioner, Felice Gaer, also noted in 2012 that there were “reports that some proselytizing groups use tactics that Hindus perceive as coercive or offensive.”⁵⁰

Furthermore, these laws do not supersede protections for religious freedom guaranteed by the Indian Constitution, including the right to freely profess, practice, and propagate religion.⁵¹ Additionally, they have seldom been enforced, have resulted in few arrests and no convictions, and do not prevent individuals from converting out of their own free will.⁵²

⁴³ “Kandhamal Riots Probe Commission Issues Notice,” October 21, 2012, The New Indian Express, http://www.newindianexpress.com/states/odisha/article1309345_ece#.UzxR-7uPKW8.

⁴⁴ “2008 Odisha Riots Probe Hits Dead End,” September 9, 2013, Hindustan Times, <http://www.hindustantimes.com/india-news/2008-odisha-riots-probe-hits-dead-end/article1-1119364.aspx>.

⁴⁵ “Govt Disburses Rs 1.05 Crore to Kandhamal Riot Victims,” July 7, 2009, Hindustan Times, <http://www.hindustantimes.com/news-feed/orissa/govt-disburses-rs-1-05-cr-to-kandhamal-riot-victims/article1-429758.aspx>.

⁴⁶ “Swami Lakshmananda Saraswati Murder Case: All Convicts get Rigorous Life Imprisonment,” October 3, 2013, IBN Live, <http://ibnlive.in.com/news/swami-lakshmananda-saraswati-murder-case-all-convicts-get-rigorous-life-imprisonment/426100-3-234.html>.

⁴⁷ “Dissenting Statement of Commissioner Felice D. Gaer,” US Annual Report 2012, p. 307-308, USCIRF, [http://www.uscifr.gov/sites/default/files/resources/Annual%20Report%20of%20USCIRF%202012\(2\).pdf](http://www.uscifr.gov/sites/default/files/resources/Annual%20Report%20of%20USCIRF%202012(2).pdf).

⁴⁸ Kanth, Vijay, “Kerala to Monitor Tourist Visa Misuse,” October 11, 2011, The Times of India, <http://timesofindia.indiatimes.com/city/kochi/Kerala-to-monitor-tourist-visa-misuse/articleshow/10435464.cms>.

⁴⁹ “Guide to Short-Term Trips to India and Haiti,” Love and Hope Ministries http://www.loveandhopeministries.org/wp-content/uploads/mission_trip_info_packet.pdf.

⁵⁰ “Dissenting Statement of Commissioner Felice D. Gaer,” USCIRF Annual Report 2012, p. 307-308, USCIRF, [http://www.uscifr.gov/sites/default/files/resources/Annual%20Report%20of%20USCIRF%202012\(2\).pdf](http://www.uscifr.gov/sites/default/files/resources/Annual%20Report%20of%20USCIRF%202012(2).pdf).

⁵¹ “The Constitution of India,” <http://lawmin.nic.in/olwing/coi/coi-english/coi-indexenglish.htm>; “Relations Between the Union and the States,” The Constitution of India, [http://lawmin.nic.in/olwing/coi/coi-english/Const_Pock%20Pg_Rom8Fsss\(16\).pdf](http://lawmin.nic.in/olwing/coi/coi-english/Const_Pock%20Pg_Rom8Fsss(16).pdf).

⁵² “Dissenting Statement of Commissioner Felice D. Gaer,” USCIRF Annual Report 2012, p. 307-308, USCIRF, [http://www.uscifr.gov/sites/default/files/resources/Annual%20Report%20of%20USCIRF%202012\(2\).pdf](http://www.uscifr.gov/sites/default/files/resources/Annual%20Report%20of%20USCIRF%202012(2).pdf).



In reality, the laws have been ineffective in protecting vulnerable populations from being forcibly or fraudulently converted, as thousands of missionaries continue to enter and work in India. The Houston-based Central India Christian Mission, for instance, claims that it has planted 1,100 churches in India and proselytized to 265,000 people.⁵³ Similarly, in October 2010 alone, Joyce Meyer Ministries reportedly converted 1,300 Indians to Christianity during a one week medical outreach mission in the eastern city of Kolkata.⁵⁴

Conclusion

India is the world's largest secular democracy and is home to unparalleled religious diversity. Minorities are represented in all levels of government, the military, judicial system, and civil service. Furthermore, the country's constitutional framework and legal system afford special rights and privileges to religious minorities, while socially and economically uplifting them through government programs and institutions.

Religious freedom is enshrined in the constitution and supersedes state-level freedom of religion laws, which have rarely been utilized or enforced. These laws have had a negligible impact on the activities of missionaries, who continue to operate freely within India.

Although there have been bouts of religious violence in recent years, the federal and state governments and the judiciary have launched robust investigations, created special commissions, set up fast-track courts, and appointed Special Investigative Teams to inquire into the causes of the violence. These investigations have led to numerous arrests and convictions, including of high profile political leaders. In some cases, such as the 1984 anti-Sikh riots, further investigations are still necessary to provide justice to the victims. This failure is not based on an inherent religious bias against Sikhs, but is instead rooted in political expediency.

The stated scope and purpose of the Hearing before this Commission, however, ignores these ground realities in portraying specific past incidents of communal violence. It also makes unsubstantiated and misleading claims regarding the impact of prior riots on the current socio-economic status of religious minorities in the country. Such assertions immediately prior to Indian national elections appear to be a blatant attempt to influence the outcome of India's democratic processes and to undermine U.S. - India relations. The decision to choose India's next leader should be left to the Indian people without interference from U.S. Congressmen.

⁵³ Central India Christian Mission, <http://indiamission.org/where-we-work/>.

⁵⁴ Joyce Meyer Ministries, <http://www.joycemeyer.org/OurMinistries/HandofHope/Outreaches/medical.htm>.

**Statement for the Record of the Sikh Coalition
Tom Lantos Human Rights Commission
United States Congress
Hearing on the Plight of Religious Minorities in India
April 4, 2014**

As the largest Sikh American civil rights organization in the United States, the Sikh Coalition respectfully requests inclusion of this statement and the accompanying enclosure into the official hearing record for the above-referenced hearing on the plight of religious minorities in India.

The rights of many of our constituents were directly or indirectly affected by the anti-Sikh pogroms of November 1984, which claimed the lives of at least 3,000 Sikh civilians in New Delhi alone¹ and an indeterminate number of Sikh civilians in cities throughout India. Despite the magnitude of the killings, the widespread rape of Sikh women, and the destruction of Sikh Gurdwaras (Sikh Houses of Worship)—and despite overwhelming evidence that the violence was planned by Indian government officials and facilitated by Indian police—successive governments in India during the last 30 years have consistently failed to prosecute the architects of this violence.²

In this context, we urge the Tom Lantos Human Rights Commission to:

- Organize a public hearing on the anti-Sikh pogroms of November 1984;
- Support efforts to prosecute the organizers of the pogroms; and
- Exercise its authority to promote accountability and the rule of law in India.

We are grateful to the Tom Lantos Human Rights Commission for the opportunity to provide written testimony for the hearing record. Please let us know if you require additional information, and thank you for your consideration.

¹ Manoj Mitta and H.S. Phoolka, *When a Tree Shook Delhi: The 1984 Carnage and its Aftermath* 8 (2007)

² Jaskaran Kaur, *Twenty Years of Impunity: The November 1984 Pogroms of Sikhs in India* (2d ed. 2006), available at <http://www.ensaaf.org/publications/reports/20years/20years-2nd.pdf>.

USINPAC Opposes The Tom Lantos Human Rights Commission for its views on human rights norms in a nonpartisan manner

The United States India Political Action Committee (USINPAC) which is the political voice of 3.2 million Indian-Americans. As a bipartisan organization, USINPAC works on impacting policy on issues of concern to the Indian-American community in the United States. USINPAC has enhanced the community's presence and its issues on Capitol Hill and given Indian-Americans a stronger voice in the legislative process in a bipartisan manner. USINPAC's activities focus on strengthening a grassroots network to work on issues concerning the community.

USINPAC has been working to promote fair and balanced policies, and create a platform to enable the entry of Indian-Americans in the political process. Over the past 12 years, USINPAC has persistently worked to influence policy decisions and act as a watchdog for the Indian-American community, and strong US India relations.

It was in December 2013 that USINPAC successfully led a grassroots lobbying effort in Washington DC to stop the House Resolution 417 (H. Res. 417) from going to the House Floor for a vote. H. Res. 417, a resolution that undermines U.S - India relations and contains misleading and inflammatory language. Specifically, H. Res. 417 selectively highlights certain incidents of violence in India to portray Hindus as the only perpetrators of religious riots. It further ignores India's unprecedented religious accommodations for minorities, while criticizing Freedom of Religion or "anti-conversion" laws, which were created to protect poor and vulnerable populations from predatory efforts seeking religious conversion in exchange for educational, medical, and other humanitarian aid. Of particular concern is the resolution's call to empower religious minority courts to conduct trials and hear appeals -- a suggestion which threatens to undermine the secular Indian judicial system, and one which the co-sponsors would never tolerate in our nation's secular democracy.

India is home to unparalleled religious, cultural, and linguistic diversity. Although Hindus comprise the majority in India (80 percent), religious minorities encompass nearly 20 percent of population. In addition, India has the world's second largest Muslim population (approximately 176 million or 14.4 percent) and substantial numbers of Christians (2.3 percent), Sikhs (1.9 percent), Buddhists (0.8 percent), and Jains (0.4 percent). Religious minorities, either as a single community or collectively, comprise majorities in eight states -- Punjab, Jammu & Kashmir, Nagaland, Mizoram, Manipur, Arunachal Pradesh, Lakshadweep, and Meghalaya. Similarly, in many other states, minorities represent significant and influential segments of the population.

In a country of over a billion people religion is one of the common binding factors. As a pluralist country India takes pride in being a country where every religion is given equal importance. The basic characteristic of a contemporary cultured society is that people who come from different ethnic or religious society should be able to live in harmony and respecting each other's rights. One's culture should not be a subject of ridicule for any society and therefore everyone should be treated equally irrespective of their caste, religion or creed. In an ideal society, people must respect each other and should encourage free growth of ideas, amalgamation of minds which alone generates an atmosphere conducive to national growth and integration. Hatred and intolerance will slowly but surely vitiate the atmosphere and stifle economic growth.

India just like other nations is working towards building an equitable and just society for all. The last thing India needs is unwarranted interference from the US Congress.

On the cusp of India's general elections, a hearing of the Tom Lantos Human Rights Commission is extremely unjustified and untimely. The Tom Lantos Human Rights Commission (formerly known as the Congressional Human

Rights Caucus) is a bipartisan caucus of the United States House of Representatives. Its stated mission is to "to promote, defend and advocate internationally recognized human rights norms in a nonpartisan manner, both within and outside of Congress, as enshrined in the Universal Declaration of Human Rights and other relevant human rights instruments. The hearing is set to focus on the human rights situation for religious minorities in India and will also invite witnesses to provide recommendations on US foreign policy from the Indian perspective.

According to The Tom Lantos Human Rights Committee there has been a dramatic increase in acts of violence targeting religious minorities and an increase in discriminatory rhetoric that has polarized national politics along religious and class lines. John Dayal, a member of India's National Integration Council, has been invited to testify before the congressional committee for its hearing on "The Plight of Religious Minorities in India". The timing of the panel is also cause for concern - given the proximity to the Indian elections. The Hindu American community clearly sees it as an attempt to influence the elections, which are the largest democratic elections in human history. Both Pitts and Ellison have expressed vitriol against Chief Minister of Gujarat, Narendra Modi, a leading prime ministerial candidate.

The panel itself is problematic. First, it has no Hindu representation. Second, take the example of panelist Katrina Lantos Swett, who has publicly expressed her support of Modi's visa ban as well as John Dayal, the Secretary-General of the All India Christian Council, who has vociferously opposed Hindu groups. John Sifton, Asia Advocacy Director for Human Rights Watch, generally seems to ignore the plight of Hindu minorities in South Asia. Human Rights Watch disproportionately focuses on India even though it's a secular democracy with rule of law, the only country that espouses these values in South Asia. In Sifton's recent testimony on Bangladesh in November 2013, he never mentioned Hindus once, despite the extreme violence perpetrated by Islamist forces targeting religious minorities.

Ranking Member Eni Faleomavaega of the Subcommittee on Asia and the Pacific which has broad jurisdiction for U.S. foreign policy affecting the region, including India announced today that he will not support The Lantos Human Rights Commission. "I think this hearing will negatively impact U.S. - India relations and is in direct contradiction to the State Department's recent pronouncements of not commenting on or attempting to influence the upcoming Indian elections.

An initiative like this might create more tribulations among the minority community in India. Similar to H. Res. 417, the stated scope and purpose of this Hearing is equally problematic. The timing of the Hearing is also questionable and appears intended to influence next week's national elections in India".

India is the world's largest secular democracy and is home to unparalleled religious diversity. Minorities are represented in all levels of government, the military, judicial system, and civil service. Furthermore, the country's constitutional framework and legal system afford special rights and privileges to religious minorities, while socially and economically uplifting them through government programs and institutions.

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arrests and convictions, including high profile political leaders. In some cases, such as the 1984 anti-Sikh riots, further investigations are still necessary to provide justice to the victims. This failure is not based on an inherent religious bias against Sikhs, but is instead rooted in political expediency.

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Tom Lantos Human Rights Commission Hearing

The Plight of Religious Minorities in India

Friday, April 4, 2014

10:30 AM-12:30 PM

2322 Rayburn HOB

Please join the Tom Lantos Human Rights Commission for a hearing on the rights and freedoms of religious minorities in India.

In the months leading up to India's 2014 national elections, there has been a rise in acts of violence targeting religious minorities and an increase in discriminatory rhetoric that has polarized national politics along religious and class lines. Underlying problems have been exacerbated by the implementation of 'Freedom of Religion Acts' across five Indian states, which have led to higher reported incidents of intimidation, discrimination, harassment, and violence against minorities. Severe outbreaks of communal violence against religious minorities, including the 2002 Gujarat riots targeting Muslims, the 2007 mob attacks against Christians in Odisha, and the anti-Sikh riots of 1984 have socially and economically marginalized large pockets of religious minority communities. As the 2014 Indian elections draw closer, it is important to examine the implications of this polarization in the context of the US-India relationship.

The hearing will focus on the human rights situation for religious minorities in India. In addition, the witnesses will provide recommendations for U.S. foreign policy in relation to India.

Witnesses to testify:

- Dr. Katrina Lantos Swett, Vice Chair, United States Commission on International Religious Freedom
- John Sifton, Asia Advocacy Director, Human Rights Watch
- Robin Phillips, Executive Director, The Advocates for Human Rights
- John Dayal, Member, National Integration Council, Government of India

**The list of witnesses subject to change*

For any questions, please contact the Tom Lantos Human Rights Commission at 202-225-3599 or tlhc@mail.house.gov.

James P. McGovern
Co-Chair, TLHRC

Frank R. Wolf
Co-Chair, TLHRC

Joseph R. Pitts
Executive Committee Member, TLHRC