

TESTIMONY OF

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BEFORE THE

TOM LANTOS HUMAN RIGHTS COMMISSION

ON

CHALLENGES FACING RELIGIOUS MINORITIES IN SOUTH ASIA

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Introduction

I want to thank the Tom Lantos Human Rights Commission for convening this important hearing today on challenges facing religious minorities in South Asia. The U.S. Commission on International Religious Freedom (USCIRF), on which I serve as chair, has monitored religious freedom conditions throughout this region for many years. The picture is as complex as the countries in this vast and densely populated part of the world.

As part of our role in monitoring religious freedom globally and making independent policy recommendations to the President, the Secretary, and the Congress, I will share USCIRF's findings from our 2012 Annual Report, which we released yesterday. In addition to highlighting concerns, I will also discuss USCIRF's recommendations on how the United States can constructively engage these countries to help bring about needed improvements.

As you know, it is the policy of the United States to encourage respect for human rights and freedom of thought, conscience, and religion or belief around the world. While carrying out this policy, the United States is also engaging, particularly in South Asia, in conflicts against actors motivated by violent religious extremism. Religious freedom matters in this context as its absence fosters violent extremism, increases instability, and encourages a range of human rights violations. It also can lead religiously-based groups to retaliate against the state and reject the state's legitimacy. Importantly, research strongly suggests the protection of religious freedom is correlated with less conflict and is a factor central to security, the absence of violent religious extremism, the consolidation of democracy, and socio-economic progress.

The national security implications of religious freedom violations are clear. In many regions of the world, including South Asia, issues of freedom of religion or belief are explicit or implicit factors in civil strife and violent extremism. Given the U.S. commitment in Afghanistan until at least 2014, we will be grappling with these realities for some time. A March 15 *New York Times* article ("When Koran Burnings Incite Riots and a Mass Murder Doesn't") brought home the importance of understanding these issues. The article compared the different reactions of an Afghani with Americans to these two incidents. The reaction of a member of the council of Afghani religious leaders who investigated the Koran burnings was incredulous: "How can you compare the dishonoring of the Holy Koran with the martyrdom of innocent civilians... The whole goal of our life is religion." The quote continued:

That many Americans are just as surprised that what appears to be the massacre of 16 people at the hands of an American soldier has not led to mass protests or revenge killings speaks volumes about a fundamental disconnect with their Afghan partners, one that has undermined a longstanding objective to win the hearts and minds of the population. After more than 10 years, many deaths and billions of dollars invested, Americans still fail to grasp the Afghans' basic values. Faith is paramount and a death can be compensated with blood money.

Due to the work of USCIRF and the IRF Office at the State Department, the United States has unique capabilities to understand these issues and differences and address pressing foreign policy challenges.

Promoting religious freedom is crucial, given that many egregious limitations on freedom of religious practice constitute human rights abuses and also can impact national security. With these concerns in mind, I will first discuss Pakistan and Afghanistan. Pakistan is a country USCIRF has repeatedly recommended be designated as a “country of particular concern.” The International Religious Freedom Act standard for CPC designation requires that the government has either perpetrated or tolerated “systematic, ongoing, and egregious” violations of religious freedom. We certainly found that to be the case in Pakistan. The situation is also deeply troubling in Afghanistan, where limitations on religious freedoms continue and we have placed it on our Watch List. Following, I will highlight issues in India, another one of USCIRF’s Watch List countries, and Bangladesh.

Pakistan

Since 2002, USCIRF has recommended that Pakistan be named a CPC, but the U.S. State Department has not followed that recommendation. Pakistan is perhaps the most glaring omission on the State Department’s CPC list, as the government continues to *both* engage in and tolerate systematic, ongoing, and egregious violations of freedom of religion or belief. Growing religious extremism threatens the freedoms of religion and expression, as well as other human rights, for everyone in Pakistan, particularly women, members of religious minorities, and those in the majority Muslim community who hold views extremists deem “un-Islamic.” Religious extremism also threatens Pakistan’s security and stability.

For instance, the mere allegation of blasphemy has resulted in the lengthy detention of, and occasional violence against, Christians, Ahmadis, Hindus, other religious minorities, and members of the Muslim majority community. The law requires neither proof of intent nor evidence to be presented after allegations are made, and include no penalties for false allegations. Charges are used to intimidate religious minorities or others with whom the accusers disagree or have business or other conflicts. Despite the law’s national application, two-thirds of all blasphemy cases reportedly are filed in Punjab province.

The highest-profile blasphemy case in recent years involved Aasia Bibi, a Christian farm worker and mother of five, who was sentenced to death in November 2010. However, she is not alone, as we are aware of at least 14 others who have death sentences pending or who are in the process of appealing their death sentences. Lengthy prison sentences also were imposed for blasphemy or other conduct deemed offensive to Islam. Two Muslims and a Christian were sentenced to life in prison for defiling the Qur’an, joining at least 16 other individuals who are serving life sentences. In addition, more than 40 individuals currently are in jail for violating the blasphemy law.

Let me speak a moment about our late friend Shahbaz Bhatti, the former Federal Minister of Minorities Affairs, as the one-year anniversary of his assassination recently passed. Shahbaz Bhatti was murdered on March 2, 2011 for daring to oppose Pakistan’s blasphemy law and defending the rights of Pakistan’s religious minorities. Despite Bhatti’s being a cabinet member, the Pakistani government has done virtually nothing to investigate the crime and bring the perpetrators to justice, only issuing an arrest warrant in December 2011. No one currently is in

custody and all of those arrested for suspected involvement have been released. Pakistan's government must end this charade and bring the killers to justice. The United States and the international community must press Pakistan on this case, so that every Pakistani knows that people who commit violence will be held accountable and that individuals can stand up and advocate for religious freedom without risking their lives.

Among Pakistan's religious communities, Ahmadis are subject to the most severe legal restrictions and officially-sanctioned discrimination. Egregious acts of violence have been perpetrated against Ahmadis and anti-Ahmadi laws have helped create a permissive climate for vigilante violence against the members of this community. It is outrageous, but Ahmadis are prevented *by law* from engaging in the full practice of their faith and may face criminal charges for a range of religious practices, including the use of religious terminology.

Also, violent extremists this year repeatedly targeted Shi'a Muslims, justifying their actions on their interpretation of Sunni Islamic doctrine. Shi'a Muslims are a minority within the broader Islamic community in Pakistan, but are not considered a religious minority like Christians and Hindus. However, the sharp spike in violence against them by militants is deeply concerning. In one of the most heinous incidents, militants in September stopped a bus of Shi'a pilgrims near Quetta. The passengers were ordered to disembark, were lined up and shot. 26 were killed. A follow-up attack occurred that same day on relatives trying to collect the bodies and claimed three more lives.

Due to their minority status, Pakistan's Hindus and Sikhs are vulnerable to crime, including robbery and kidnapping for ransom. A Hindu attorney was kidnapped in December in Sindh province, as was a Sikh businessman. Hindus also have been targeted in the province of Balochistan, where they are the largest religious minority; in November, three Hindu doctors were gunned down there.

Recommendations: In light of this challenging environment, what can be done? USCIRF has concluded that designating Pakistan as a CPC would enable the United States more effectively to press Islamabad to undertake needed reforms. The forces that threaten Pakistani and U.S. security interests largely are motivated by a violent extremist ideology that rejects international human rights standards, including freedom of religion or belief. A CPC designation would raise the profile of the issue and increase the United States' ability to encourage changes that are in both our and the Pakistani's interests. As part of this engagement, the U.S. government should urge Pakistan to reinforce the rule of law and align its laws, particularly those regarding blasphemy and the Ahmadis, with international human rights standards; actively prosecute those committing acts of violence against Sufis, Shi'a, Ahmadis, Christians, Hindus, Sikhs, and others; and unconditionally release individuals currently jailed for blasphemy and repeal the blasphemy law.

In November, USCIRF released a study on Pakistan's public schools and madrassas. The study investigated the relationship between education, religious discrimination, and extremism in Pakistan and sought to understand the roots of this country's culture of violent religious extremism. The study found that Pakistan's public schools and madrassas are incubators of extremism that negatively portray the country's religious minorities and reinforce biases, and

that these negative portrayals fuel acts of discrimination, and possibly violence, against these communities. Given these findings, USCIRF recommends that: the United States encourage the Government of Pakistan to set national textbook and curricula standards that actively promote tolerance toward all persons; establish appropriate review and enforcement mechanisms to guarantee that such standards are being met in public schools; take concrete steps to fully implement the 2006 curricular reforms; introduce into the curriculum for all students the “Ethics for Non-Muslims” course in order to promote interfaith understanding; sign into law and implement the madrassa reform agreement made with the National Madrassa Oversight Board and, until that can be accomplished, ensure that a temporary madrassa oversight board is empowered to develop, implement, and train teachers in human rights standards; provide oversight of madrassa curricula and teaching standards; implement guidelines for textbooks used in public schools; and replace current public school textbooks with ones that exclude messages of intolerance, hatred, or violence against any group of persons based on religious or other differences.

Afghanistan

Serious problems remain in nearby Afghanistan, despite gains achieved in human rights since U.S. and international forces ousted the Taliban regime in late 2001, which is why we have placed it on our Watch List. Religious freedom conditions today are exceedingly poor, as dissenting members of the majority faith and minority religious communities face significant restrictions on the free practice of religion. Governmental and non-state actors have taken action against individuals for activity deemed to be “un-Islamic.” Furthermore, the Afghan constitution fails explicitly to protect the individual right to freedom of religion or belief and the Afghan government remains unable, and at times unwilling, to protect citizens against violence and intimidation by the Taliban and other illegal armed groups.

The legal landscape is vague and open to abuse. The Afghan constitution fails explicitly to protect the individual right to freedom of religion or belief and allows ordinary laws to supersede fundamental rights. The government has cited the repugnancy clause in the constitution, which states that no law can be contrary to the tenants of Islam, to limit fundamental freedoms. Individuals who dissent from the prevailing orthodoxy regarding Islamic beliefs and practices are subject to legal actions, including for example prosecutions for so-called religious “crimes” such as apostasy and blasphemy that violate international standards.

In practice, the constitution has been interpreted and applied to establish as the law of the land a restrictive interpretation of Islamic law and prioritizing that interpretation over human rights guarantees. This interpretation and application has resulted in abuses. During a 2010 visit by USCIRF staff to Kabul, government ministers and government-backed religious leaders repeatedly explained that in their view, Islamic law trumped the constitution’s human rights provisions, as those references come later in the document and do not take precedence.

Given that the influence of the Taliban likely will increase if negotiations with insurgents move forward, this widely-held interpretation of the constitution becomes increasingly problematic. The United States and President Hamid Karzai have made respecting the constitution a nonnegotiable plank in the peace talks with anti-government elements. While seemingly

positive, the constitution's undefined notions of Islamic law superseding human rights guarantees could seriously undermine religious freedom and women's human rights in the country. In other words, any potential peace deal could therefore be meaningless, if the protection of human rights for all could be overridden by ad hoc interpretations of religious law.

We are starting to witness this shift with President Hamid Karzai recently expressing support for a document issued by the Ulema Council, a semi-official body of Islamic scholars that promotes segregation of the sexes and allows husbands to beat wives in certain circumstances. Activists accused the Afghan president of reversing improvements in women's rights by endorsing the Ulema Council's nonbinding "code of conduct." It also showed how gains for women's human rights are tenuous and easily reversible. The small Afghani Christian community also is vulnerable: in recent years, that community has experienced a spike in arrests, with Christians being detained and some jailed, but later released, for the so-called crime of apostasy.

Recommendations: In response, promoting religious freedom and religious tolerance should be an integral part of U.S. strategy, particularly as the government of Afghanistan pursues a reconciliation process with anti-government insurgents. U.S. policy should prioritize freedom of religion or belief in Afghanistan and confront the underlying dynamics that continue to lead to religious freedom abuses. USCIRF recommends that the U.S. government take the following steps: 1) clearly state its concern that guarantees ensuring religious freedom and religious tolerance are an essential element in U.S. policy in Afghanistan; 2) create a special interagency working group on religious freedom focused on Afghanistan; 3) co-sponsor with the Afghan government an initiative on interfaith dialogue and religious tolerance that involves official and semi-official religious bodies; and 4) urge inclusion of representatives of civil society, including women and members of minority communities, in any reconciliation talks.

India

India is also a country the USCIRF has reported on, and in our 2012 Annual Report again placed on our Watch List.

India, the world's largest democracy with an estimated 1.22 billion population, has 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 current two-term Prime Minister is Sikh, the past president is Muslim, and the head of the national governing alliance is Catholic.

While there has been no large-scale communal violence committed against religious minorities since 2008 and the Indian government at the state and national levels have created some structures to address past incidents of large-scale communal violence, USCIRF remains concerned that progress in achieving justice for attacks against Christians in Orissa in 2007-08, Muslims in Gujarat in 2002, and Sikhs in 1984 continues to be slow and ineffective. In addition, intimidation, harassment, and occasional small-scale violence against members of religious minority groups continued, particularly against Christians and especially in states that have adopted the "Freedom of Religion" Act that is commonly referred to as anti-conversion laws.

The slow pace of the judicial responses and the anti-conversion laws encourage a climate of impunity. For example this past February marked the 10-year anniversary of the violence committed against Muslims in Gujarat. At that time, the state of Gujarat erupted in communal violence: in response to a train fire that Muslims reportedly set, 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 many churches destroyed. Since then, India's National Human Rights Commission (NHRC) found evidence of premeditated killing by members of Hindu nationalist groups, complicity by state government officials, and police inaction during the violence.

There has been little redress for the victims of the Gujarat violence despite the NHRC's findings. After 10 years, hundreds of court cases relating to the violence remain unresolved or are very slowly moving through the judicial process. Gujarati police have closed a large number of cases, citing the unavailability of witnesses. In a mixed result, a fast-track court in Gujarat in November 2011 sentenced 31 people to life imprisonment for their involvement in the acquitting 42 others. Further developments in Gujarat relating to its Chief Minister, Narendra Modi, highlight the political corruption and religious bias that hampers state and local efforts to provide justice to victims, and helps perpetuate the climate of impunity.

USCIRF's consistent monitoring and active engagement helped lead to the State Department's decision to revoke Modi's U.S. tourist visa in 2005, based on his alleged role in the violence. USCIRF again expressed concern about Chief Minister Modi coming to the U.S. in 2008, and we remain concerned. He has yet to visit the United States.

In one positive note, the Gujarat High Court in early February 2012 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.

Recommendations: Since 2004, the United States and India have pursued a strategic relationship based on shared concerns about the growing threat of terrorism, energy, and security, as well as shared values of democracy and the rule of law. In addition, many of the problems USCIRF raised plague the Indian legal system generally – including the small number of police and judges given the size of the population and an overburdened and antiquated judicial system. However, India can do more to combat their impunity problems.

As one of our most important partners in the region, USCIRF recommends the U.S. government should: 1) integrate concern for religious freedom into all bilateral contacts with India; 2) urge the Indian government to strengthen the ability of state and central police to provide effective measures to prohibit and punish cases of religious violence to the fullest extent of the law while protecting victims and witnesses; and 3) urge India to encourage states that have adopted "Freedom of Religion Act(s)" to repeal them, so as to conform with international standards.

Bangladesh

Lastly, a few words on Bangladesh.

USCIRF continued in 2011 to follow developments in Bangladesh, which was on USCIRF's Watch List from 2005 and 2008. However, after the 2008 general election, USCIRF removed Bangladesh from the Watch List because we were encouraged that the party that came to power, the Awami League, appeared to promote secular policies and would work to protect the human rights of religious minorities. We also were encouraged by Prime Minister Sheik Hasina's announcement that she would implement religious freedom reforms. In addition, USCIRF is encouraged by recent steps the government of Bangladesh has begun to take to rectify past religious freedom violations, including the seizure of Hindu-owned land, and protect vulnerable religious and ethnic minorities from exploitation or violence, especially in the Chittagong Hill Tracts (CHT).

In December 2011, the Bangladeshi cabinet passed the Vested Property Return Act, which established an application process for families or individuals to apply for the return of, or compensation for, property seized under the Vested Property Act. However, this process is available only for citizens of Bangladesh who currently reside in the country, thereby leaving out many possible claimants who have left the country. USCIRF hopes to see progress in this area.

With respect to the Chittagong Hill Tracts Peace Accords, the government has established the Land Commission, the Task Force on Rehabilitation of Jumma Refugees and IDPs (internally displaced persons), and reportedly deferred planned developments on confiscated lands. These developments demonstrate a government effort to resolve long-standing IDP issues, and property confiscation and return. More can be done in this regard.

Finally in the past year, Bangladesh has taken steps to investigate post-2001 election violence, including creating a Commission of Inquiry. The Commission of Inquiry issued recommendations in April 2011 about steps to take to prevent future violence and to ensure perpetrators of religiously-motivated violence are held accountable.

While these initial steps are commendable, USCIRF will continue to monitor how Bangladesh implements these reforms and recommendations.