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**United States Commission on International Religious Freedom**  
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Front Cover: KHUSHPUR, Pakistan, March 4, 2011 – Pakistanis carry the coffin of Shahbaz Bhatti, Pakistan's slain minister of minorities, who was assassinated March 2 by the Pakistani Taliban for campaigning against the country's blasphemy laws. Bhatti, 42, a close friend of USCIRF, warned in a Washington visit just one month before his death that he had received numerous death threats. More than 15,000 persons attended his funeral. (Photo by Aamir Qureshi/AFP/Getty Images)

Back Cover: JUBA, Sudan, January 9, 2011 – Southern Sudanese line up at dawn in the first hours of the week-long independence referendum to create the world's newest state. The referendum vote was the final milestone in the implementation of the 2005 Comprehensive Peace Agreement, which ended more than 20 years of north-south civil war in Sudan. (Photo by Roberto Schmidt/AFP/Getty Images)

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The 2011 Annual Report is dedicated to the memory of Shahbaz Bhatti, the Pakistani Federal Minister for Minorities Affairs. Shahbaz was a courageous advocate for the religious freedoms of all Pakistanis, and he was assassinated on March 2 by the Pakistani Taliban for those efforts.

## India

**FINDINGS:** India is a critically important country in terms of religious freedom. It is the world's largest democracy, has an extensive and deeply religious plural society, and occupies a key geopolitical position. While there has been no large-scale communal violence against religious minorities since 2008, India's progress in protecting and promoting religious freedom during the past year continued to be mixed. The Indian government at various levels has recognized past problems of communal violence and has created some structures to address these issues. Also, the national government and several state governments have taken positive steps to improve religious freedom. However, as a whole, justice for the victims of large-scale communal violence that took place in Orissa in 2007-2008, in Gujarat in 2002, and against Sikhs in 1984 remains slow and often ineffective. In some regions of India, law enforcement and judicial officials have proven unwilling or unable to seek redress consistently for victims of religiously-motivated violence or to challenge cultures of impunity in areas with a history of communal tensions, which in some cases has fostered a climate of impunity. In the reporting period, small-scale attacks on and harassment of Christians and Muslims and their places of worship continued. Further, several states have adopted "Freedom of Religion Act(s)," commonly referred to as "anti-conversion laws," that purportedly prohibit "forced," "induced," or "fraudulent" religious conversions away from Hinduism, but not towards it.

Because justice for past communal violence continues to be slow and ineffective and because of concerns about the state "Freedom of Religion Act(s)," USCIRF again places India on its Watch List for 2011.\* India has been on USCIRF's Watch List since 2009.

The infrastructure for investigating and prosecuting cases of religiously-motivated violence or harassment exists, such as Fast Track courts and Special Investigative Teams (SITs), in India, but its capacity is severely limited, it is utilized inconsistently, and it is hampered by political corruption and religious bias, particularly at the state and local levels. These deficiencies have resulted in a culture of impunity that gives members of vulnerable minority communities few assurances of their safety, particularly in areas with a history of communal violence, and little hope of perpetrator accountability. In a number of states, anti-conversion laws infringe on activities protected under India's own constitution and international human rights law. These laws contribute to an atmosphere of hostility, and sometimes violence, against religious minorities, and are used by local authorities to harass and sometimes detain individuals perceived to be proselytizing or who convert to another religion, mostly Christianity.

USCIRF is encouraged by India's actions prior to the Ayodhya mosque verdict in September 2010. Federal authorities took proactive steps, such as issuing public appeals, placing advertisements in newspapers urging respect for the rule of law, and mobilizing tens of thousands of security forces to prevent violence between Hindus and Muslims. As a result of these steps, the verdict over the disputed religious site occurred without incident. USCIRF also is encouraged by India's support and increased budgets for the Ministry of Foreign Affairs, the National Minorities Development Finance Corporation, the National Foundation for Communal Harmony, and the National Commission on Minorities. Collectively, these governmental bodies provide financial support for minority welfare programs, programs for inter-faith dialogues, special consideration for minorities for employment in all sectors of the government, and assistance to victims of violence, including past incidents of communal violence. USCIRF encourages programs that will improve inter-faith tolerance and the societal conditions for minorities and thereby improve religious freedom throughout India.

**PRIORITY RECOMMENDATIONS:** USCIRF urges the U.S. government to encourage and assist the government of India to make more vigorous and effective efforts to halt violent attacks against members of religious minorities, as well as women and individuals deemed to be of lower caste; conduct timely investigations and prosecutions of individuals alleged to have perpetrated violence; hold state governments and officials accountable for violence and unlawful acts in their states; remove “anti-conversion” laws and enact policies that encourage religious tolerance in accordance with India’s rich history of religious pluralism. USCIRF also urges the U.S. government to integrate concern for religious freedom and related human rights into all bilateral contacts with India and the U.S. ambassador to India to speak out against, and seek to visit sites of, communal violence. The U.S. government also should encourage India to accept delegations from non-governmental organizations and U.S. governmental agencies, including USCIRF. Additional recommendations for U.S. policy towards India can be found at the end of this chapter.

\*Commissioners Gaer and Shaw dissented from the placement of India on the Commission’s Watch List. The full dissent can be found at the end of this chapter.

## Religious Freedom Conditions

### *Challenges Facing Democratic India*

Unlike many of the other countries of concern to USCIRF, India has a democratically elected government with a tradition of secular governance. A country with a Hindu majority, India has the third largest estimated Muslim population in the world, and its Christian population, according to India’s 2001 census, is estimated at over 25 million (2.3% of the total population). India’s large and religiously-diverse population makes it arguably the most pluralistic society in world. The current two-term Prime Minister is Sikh, the past president is Muslim, and the head of the national governing alliance is Catholic. Buddhist, Christian, Hindu, Muslim, Sikh, and Parsi holidays are recognized as public holidays. India also has an independent judiciary, an independent media that is relentlessly critical of the government, and a dynamic civil society with numerous non-governmental organizations (NGOs) that provide oversight of government activities. However, India faces several challenges as it attempts to protect and promote religious freedom.

USCIRF’s reporting about religious freedom conditions in India began in 2002, based on a disturbing increase in communal violence against religious minorities, which appeared to be associated with the rise of organizations with Hindu nationalist agendas, including the Bharatiya Janata Party (BJP), one of the country’s major political parties. Under the national leadership of the BJP (in power from 1998 to 2004), USCIRF found the Indian government’s response to violent attacks against religious minorities to be inadequate. In response to severe riots in the state of Gujarat and elsewhere, the Commission recommended that India be designated as a “country of particular concern” (CPC) in 2002 and 2003.

India was removed from USCIRF’s CPC list following the election in 2004 of the Congress Party, as the new government espoused an inclusive platform and pledged its commitment to religious tolerance. This commitment was reiterated by the Congress Party in the 2009 general elections for the lower house of Parliament, in which the Congress Party emerged victorious.

Despite the 2009 election and the Congress Party’s electoral win, India’s democratic institutions, most notably state and central judiciaries and police, fall short in their capacity to uphold the rule of law. In some regions of India, these entities have proven unwilling or unable to seek redress consistently for

victims of religiously-motivated violence or to challenge cultures of impunity in areas with a history of communal tensions, which in some cases has helped foster a climate of impunity.

Following sectarian incidents and reprisals that started in December 2007 and continued into 2008, USCIRF placed India on its Watch List in 2009. The murder of an influential Hindu leader in August 2008 sparked a prolonged and violent campaign targeting Christians in the state of Orissa. Over several weeks, at least 40 individuals were indiscriminately killed and church properties and thousands of homes were destroyed. Tens of thousands, the vast majority of whom were Christians, fled their homes, seeking refuge in the jungle or in government relief camps. An inadequate police response failed to quell the violence, and central government intervention had little initial impact. Mass arrests following the Orissa violence did not translate into the actual filing of many cases, and the courts prosecuting the claims absolved a high percentage of cases for lack of evidence.

The failure to provide justice to religious minorities is not a new development. In 1984, thousands were killed in anti-Sikh riots that erupted in Delhi following the assassination of Prime Minister Indira Gandhi by Sikh bodyguards. In the late 1990s, there was a marked increase of violent attacks throughout India against members of religious minority communities, particularly Muslims and Christians, including incidents of killings, torture, rape, and property destruction. In 2002, Hindu-Muslim riots in Gujarat left an official death toll of 1,272 (with some groups estimating double that number of actual fatalities), the majority of whom were Muslims. In all of these cases, justice has been slow and inadequate. Also, numerous NGOs, including the Indian American Muslim Council and the All India Christian Council and religious communities believe that the masterminds of violence are often vindicated and set free, or if convicted, released with minor monetary fines, and that police are influenced by religious bias and state politics. The failure to provide swift and adequate justice to religious minorities perpetuates a climate of impunity, which allows the harassment of and violence against religious minorities to continue unabated.

Hindu nationalist organizations retain broad popular support in many communities in India. 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, a “family” of over 30 organizations that includes the Vishwa Hindu Parishad (VHP), Bajrang Dal, Rashtriya Swayamsevak Sangh (RSS), and the BJP. Sangh Parivar entities aggressively press for governmental policies to promote a Hindu nationalist agenda, and adhere in varying degrees to an ideology of *Hindutva*, which holds non-Hindus as foreign to India. It appears that Indian states that have or are contemplating “Freedom of Religion” Acts and that are governed by Hindu nationalist political parties have higher incidents of violence and harassment against religious minorities.

#### *Legal Climate – Justice for Past Large-Scale Communal Violence*

Reported police and judicial bias, corruption, low ratios of police and judges to the population, and an overburdened and antiquated judicial system hinder the process to redress past large-scale communal violence and create an environment perpetuating harassment and violence against India’s religious minority population. According to India’s Supreme Court Web site, the court had more than 54,000 cases, ranging from civil cases to communal violence cases, to be heard in February 2011. According to a 2009 report by Supreme Court Chief Justice A.P. Shah, it would take 466 years to clear the pending 2,300 criminal appeals cases alone. The same report indicated that over 600 cases were still pending that were over 20 years old. In the same year, the United Nations Development Program reported some 20 million legal cases were pending throughout India.

In an attempt to reduce the backlog, the Indian national government and some state governments have created special structures to address cases relating to past large-scale communal violence. These

structures, including Special Investigative Teams (SITs), fast track courts, and special commissions have had varying degrees of success in achieving justice for victims of the 2007-2008 Orissa violence, the 2002 Gujarat violence, and the 1984 anti-Sikh violence.

### *Orissa Violence in 2007 and 2008*

The Kandhamal district of the state of Orissa has been the site of repeated attacks by Hindu extremists against Christians. Kandhamal is one of the country's poorest districts, with over 80 percent of the population living below the internationally-recognized poverty line; and unlike the rest of the state, which is estimated at 20 percent Christian, the Kandhamal district is estimated at 25 to 27 percent Christian.

In December 2007, violence in Kandhamal between Christians and Hindus resulted in several deaths, dozens of injuries, the destruction of at least 20 churches and hundreds of homes, and the displacement of hundreds, many from minority religious communities. Reportedly, the influential local VHP leader Swami Lakshmanananda Saraswati played a central role in fomenting and encouraging the violence against Christians. Swami Saraswati was murdered on August 23, 2008, with Maoist extremists claiming responsibility. However, the murder sparked a violent campaign targeting Christians in Orissa. The State Department reported 40 individuals were killed and 134 injured, although some Christian groups report more. In addition, thousands of church properties and homes were destroyed; at least 24,000 fled their homes to government-run relief camps, and thousands more hid in jungles. There was no immediate police or state government reaction. Indian Christian leaders, other religious leaders and aid agencies were denied access by state and/or district officials to refugees in the hardest-hit areas. India's central government paramilitary forces did not arrive in Orissa until August 27, but were reportedly prevented from reaching the most sensitive areas because of the strategic felling of trees across key access roads.

Since then, India has implemented structures to investigate, prosecute and convict those who committed crimes during the 2007-2008 violence. Special Investigative Teams (SITs) are responsible for investigating reported crimes, including interviewing witnesses, gathering evidence, and writing and filing First Information Reports. SITs can be formed by local police or political leaders in a state, or by state judicial branches. They can also be formed by the national government or the nation's high court. The state police formed one SIT to examine the murder of the Hindu leader, Swami Lakshmanananda Saraswati. However, some SITs were accused by numerous NGOs, religious leaders and lawyers representing Christian communities of religiously-motivated bias, corruption, intimidation of witnesses, and generally shoddy work. In April 2009, the Orissa state government set-up two "fast track" courts, which function outside of India's normal and overburdened judicial system, to adjudicate the cases relating to the violence. However, the effectiveness and results of these structures are unclear, due to the limited availability of information on the cases registered and heard and their results. This lack of transparency makes it very difficult to ascertain whether justice was fairly rendered.

According to the U.S. State Department, 956 cases relating to the 2007-08 Orissa violence were registered by the police or SIT. Of those cases, 38 were immediately dismissed due to a lack of evidence or were found to be without merit; 216 cases were heard and judgments delivered; and 196 are still being heard. Of the judgments delivered, 1484 people were acquitted and 311 people were convicted in 59 registered cases. The sentences for those convicted ranged from one to 10 years in jail and/or fines ranging from 1000 rupees (US \$22) to 12,000 rupees (US \$266). The State Department reports that at least eight cases have been appealed to the state High Court.

According to information provided to USCIRF from the All India Catholic Union, 3,232 complaints were filed, but only 831 cases were registered and, after preliminary investigations, 133 cases were dropped. Further, according to Compass Direct, among those accused in the violence were 85 members of the RSS, 321 members of the VHP, and 118 members of Bajrang Dal.

Manoj Pradhan, a BJP leader and member of the Orissa state legislature, has been charged with numerous crimes, and the Christian community believes him to be one of the masterminds of the violence in Kandhamal. In June 2010, a fast track court sentenced Pradhan to seven years of hard labor for the culpable homicide of one person, but the Orissa High Court released him after he paid a small fine. In January 2011, India's Supreme Court overturned the Orissa's High Court's decision to release Pradhan and he was returned to jail. However, in March 2011 the Orissa High Court again released him on bail, pending his appeal.

In another high profile case, the trial of eight individuals accused of beating and gang-raping a nun, Sister Meena Lalita Barwa, during the Orissa violence began again in December 2010. Reportedly, the Orissa High Court ordered the case be moved in 2010 from Kandhamal to a Sessions Court in Cuttack because the Sister was being harassed and intimidated by Hindu nationalists. The trial originally started in July 2008, but there were numerous delays due to alleged political bias of lawyers, lawyers not paying fees, and alleged witness tampering. At the end of the reporting period, the case was ongoing.

The Indian central government and Orissa state government appropriated funds to rebuild some of the damaged homes and churches, as well as to provide assistance to families whose family members were killed. According to the U.S. State Department, 500,000 rupees (US \$11,100) were paid to 52 family members of individuals killed during the riots; 70,000 rupees (US \$1,550) were paid to those whose homes were destroyed; and 20,000 rupees (US \$667) was paid for damaged homes. Reportedly, it costs on average 85,000 rupees to construct a new home. The State Department reports that the Indian government says all 4,800 victims of property damage have received full or partial compensation; Christian groups say that only half that number has received any compensation.

In late 2008, the state government of Orissa commissioned Justice Mohapatra, a retired judge of the Orissa High Court, to investigate the Kandhamal violence. His interim report in July 2009 found that the "sources of the violence were deeply rooted in land disputes, conversion and fake [caste recognition] certificates" and recommended that the government take steps to resolve land issues. He also reported that the state government should expedite the freeing of tribal land in possession of non-tribals, clear the fake certificate cases, and be vigilant about conversion and reconversion. Hindu nationalists have focused on land disputes as the main cause of the violence, minimizing religious factors.

NGOs and religious groups have also conducted their own investigations and released reports on the Orissa violence. In August 2010, the National Solidarity Forum (NSF) – a New Delhi-based group of civil society organizations – established a National People's Tribunal (NPT), to assess the role of the government and police before, during, and after the 2007-2008 Orissa violence. The Tribunal's 14-member "jury," which included former judges, activists, journalists and political analysts, concluded that institutional bias on the part of the state, its police, and its judicial system, led to their collusion in the violence and connivance in efforts to block justice and accountability. The report also found the effectiveness of the fast-track courts to be limited because the prosecuting attorneys generally do not speak Oriya, the local language in which the trials are conducted, are inexperienced in prosecuting cases of communal violence, and have an excessively large case load.

### *Gujarat Violence in 2002*

In February 2002 in the state of Gujarat, a train fire reportedly set by Muslims resulted in the death of 58 Hindus returning from the disputed holy site of Ayodhya. Consequently, Hindu mobs killed 1,200 to 2,500 Muslims across Gujarat, looted or destroyed thousands of mosques and Muslim-owned businesses, and forced more than 100,000 people to flee their homes. Christians were also victims in Gujarat, and many churches were destroyed. India's National Human Rights Commission (NHRC), an official

government body, found evidence of premeditation in the killings by members of Hindu nationalist groups, complicity by Gujarat state government officials, and police inaction in the midst of attacks on Muslims. In 2007, the investigative newsmagazine *Tehelka* revealed further evidence of state government and police complicity in the riots, including the complicity of the Gujarat Chief Minister, Narendra Modi. Chief Minister Modi has been re-elected twice since the riots.

In August 2004, the Indian Supreme Court ordered the Gujarat government to reopen its investigation of the 2002 violence, criticizing the local police officials for poor investigative practices and inadequate follow-up. This was corroborated by the January 2009 report of the UN Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir, who visited India in March 2008 and noted the systemic economic and social marginalization of members of Gujarat's Muslim community.

In response to a complaint filed by the widow of Congress MP Ehsan Jaffri, who was killed in the 2002 riots, the Supreme Court in 2009 ordered the Gujarat police to register a complaint against Chief Minister Modi and 60 other high-level officials of the Gujarat government regarding their alleged involvement in her husband's murder. In January 2010, a Special Investigative Team (SIT) established by the Supreme Court disclosed that the Gujarat government had been uncooperative and did not relinquish copies of speeches that Chief Minister Modi made in the immediate aftermath of the riots and other requested documents. That same month, the Supreme Court ordered the Gujarat state government to release immediately to the SIT copies of these materials to facilitate the probe. The SIT summoned Chief Minister Modi to appear before the Indian Supreme Court in March 2010. Initially, he failed to appear on the date specified, claiming he had not been summoned. However, he did appear before the Supreme Court several days later, and was questioned for 10 hours about his role in the Gujarat violence. The result of the Supreme Court's questioning of the Chief Minister has not been made public.

In the years since the 2002 violence, the SITs' investigations and the fast track courts established by the Supreme Court to investigate and prosecute crimes have had mixed success. Nearly 4,000 First Information Reports (FIRs) were filed, but by 2003 the Gujarat police had closed 1,851, citing insufficient evidence. The Supreme Court ordered the Gujarat police to review the closed cases. However, the Gujarat police reopened only 183 cases and, by the end of 2010, no charges had been filed against any perpetrators named in those cases. Most cases relating to the Gujarat violence are heard by district or sessions courts, not fast track courts, which means they will be appealed or reheard by the Gujarat High Court and later, India's Supreme Court. As with Orissa, specific information about these cases is hard to acquire, making it difficult to determine whether justice was applied fairly. Observers have noted that in the cases heard by district and sessions courts (not fast track courts), many of the Hindu alleged attackers were acquitted. There also are reports that several complaints have been filed with the Supreme Court and the Gujarat High Court alleging that SITs intimidated witnesses, produced fake witnesses and evidence, and were politically biased against victims of the violence. In April 2010, the Supreme Court ordered the removal of two high level officers from one SIT in response to a complaint.

In February 2011, a local fast track court convicted 31 people and acquitted 61 for the train burning that triggered the 2002 Gujarat violence. Among those acquitted was Maulana Umarji, whom many believe was one of the masterminds; two other leaders in the planning, Haji Billa and Rajjak Kurkur, were convicted. The following month, the court sentenced 11 people to death. Reportedly the case began in 2009 and involved as many as 253 witnesses and over 1,500 pieces of evidence. A representative of the Indian American Muslim Council expressed to USCIRF that the death sentence for the 11 individuals was unduly harsh as those individuals were not the masterminds or planners of the train burning, but rather, just accomplices.

In 2002 the Gujarat government established the two-person Nanavati-Mehta Commission to examine the Godhra train fire and the violence that followed. In September 2008, after numerous extensions, the

Commission released the first part of a two-part report. The first part focuses on the train fire, while the second will focus on the subsequent violence. The report states that the fire was a premeditated conspiracy by Muslims. The report also absolved the Modi administration of any complicity in the train incident, despite documentation to the contrary gathered by journalists and official Indian government bodies. The Commission's final report was due on December 31, 2010, but the state government granted the Commission another extension. The second half of the report is now expected to be released in June 2011.

In February 2009, seven years after the riots, the Gujarat state government declared that the 228 (predominantly Muslim) individuals still missing would be presumed dead. Family members petitioned the Gujarat high court to direct the state government to release compensation. Compensation for all next of kin, including the 228 people who were presumed dead, was paid 350,000 rupees (\$8,333 U.S. dollars) per person. Also, some compensation has been paid for injuries and for homes or businesses that were damaged. Currently, organized survivor groups are seeking more compensation for homes and businesses. Also, the Gujarat High Court reportedly has asked the state government to decide by May 2, 2011 if compensation will be paid to victims of rape.

### *The 1984 Anti-Sikh Riots*

In 1984, anti-Sikh riots erupted in Delhi following the assassination of Prime Minister Indira Gandhi by Sikh bodyguards. Over four days, nearly 3,000 Sikhs were killed, allegedly with the support of Congress Party officials. Few perpetrators were ever held accountable, and then only years after the fact. According to the 2010 Amnesty International annual report, only 20 people have been convicted of crimes associated with the riots.

In April 2009, the Congress Party dropped two individuals, Jagdish Tytler and Sajjan Kumar, from its roster of general election candidates over their suspected role in the 1984 riots. In December 2009, amendments were made to the Code of Criminal Procedure, making it easier for victims of religious persecution to appeal judgments in court. Ten days after the amendment was enacted, the High Court accepted an appeal from a victim of the 1984 anti-Sikh riots, Gurbakshish Singh, naming Tytler and Kumar. As with many cases regarding the prosecution of alleged perpetrators of communal violence, Mr. Kumar and Mr. Tytler have been accused of delaying the trial and intimidating witnesses and their families. In late 2010 the Central Bureau of Investigation (CBI) requested that the Delhi Additional Sessions Court begin criminal proceeding against Kumar and five others for their alleged role in the 1984 anti-Sikh riots. After pressure from the national government, the court accepted the CBI's request and proceedings have begun.

### *Violence in Karnataka State*

In September 2008, shortly after the outbreak of violence in Orissa, more than a dozen prayer halls and churches in three Karnataka state districts were attacked by individuals allegedly associated with the Bajrang Dal, a Hindu nationalist organization. In one district, six individuals were injured after attacks on two New Life Church prayer halls. The New Life Church has been accused of distributing pamphlets denigrating Hinduism. The state response to these attacks has been inconsistent. The police have registered cases following some but not all of the incidents. Karnataka Chief Minister BS Yeddyurappa did not order additional state security for churches and prayer halls until over a week after the first attack. State police did arrest the Karnataka state leader of the Bajrang Dal, Mahendra Kumar, in September 2008 after he publicly announced his group's leading role in the attacks. Mr. Yeddyurappa has attributed the violence to conversion activity and has blamed the attacks on groups seeking to tarnish the image of the BJP.

As a response to the 2008 incidents, the BJP-led Karnataka state government appointed a commission of inquiry, headed by Justice B.K. Somashekara, to probe the attacks. Although the commission's interim report, released in February 2010, found state, police, and BJP officials to be responsible for and/or complicit in the various church attacks, its January 2011 final report reversed these findings. While the report addresses the church attacks individually, it concluded overall that police provided adequate protection before, during and after the attacks, that neither the BJP government, nor Bajrangdal, nor Sangh Pariwar had any direct or indirect hand in the attacks, and that several resulted from the perpetrators' anger over Christian conversion practices.

Critics have accused the commission of political bias in favor of the BJP, and Christian leaders have demanded that the CBI perform its own investigation. For example, two NGOs, the People's Union for Civil Liberties (PUCL) and Transparency International (Karnataka), also conducted an inquiry into the 2008 Karnataka church attacks. PUCL is India's oldest and largest non-governmental human rights organization. The inquiry was conducted by Justice Michael F. Saldanha, a former judge on the Bombay and Karnataka High Courts. His report, released in early 2011, covered only the incidents that occurred in Dakshina Kannada, Udupi, and Bangalore, concluded that "every one of the[se] attacks and incidents . . . were instigated and pre-planned. They were State sponsored and not only supported by the State but were covered up for by the State."

Since the Indian government has not allowed USCIRF to visit India, the Commission has been unable to verify independently the contradictory information provided in these various reports.

#### 2007-2008 Bomb Attacks

In late 2007 and in 2008, a series of bomb attacks were perpetrated against Muslim places of worship including a mosque, Sufi shrine and cemetery, in Andhra Pradesh, Goa and Maharashtra. At the time, the bombings were attributed to Muslim terrorist groups. Dozens of young Muslim men were arrested and reportedly tortured. Later, a Hindu cleric, Swami Aseemanand, told a local magistrate that the bombings were perpetrated by Hindu radicals. The CBI began its own investigation. In 2010 eleven individuals were arrested and charged in conjunction with the various bombing, including Swami Aseemanand, senior RSS leader Indresh Kumar as well as other senior RSS leaders. However, nine Muslims remain in jail despite the arrests of the Hindu nationalists.

#### *"Freedom of Religion" Acts/Anti-Conversion Laws*

The harassment and violence against religious minorities appears to be more pronounced in states that have adopted "Freedom of Religion" Acts or are considering such laws. These laws, which are commonly referred to as "anti-conversion" laws, are written to protect against religious conversions deemed coercive due to the use of incentives or benefits. While the Indian Constitution protects the right of citizens to change and propagate their religion, five Indian states, including Chhattisgarh, Himachal Pradesh, Gujarat, Madhya Pradesh, and Orissa, have enacted controversial "Freedom of Religion Act(s)." Since 1978, Arunachal Pradesh has had an anti-conversion law on the books, but it has not been fully promulgated, causing it to be unenforceable. Rajasthan has passed a law through its state assembly, but it has not been signed by the state governor. An eighth state, Jharkhand, is poised to pass a similar law and the state of Karnataka reportedly is currently debating one. In some of these states, anyone intending to change his or her religion must give the government prior notice of a conversion away from Hinduism, but not toward it. In Andhra Pradesh the law goes a step further – it prohibits the propagation of a religion in or near another religion's places of worship or prayer.

Proponents of these laws allege that financial, educational, and/or other service-based benefits take advantage of economically-depressed or marginalized communities, particularly low-caste and tribal

peoples. The anti-conversion laws generally require government officials to assess the legality of conversions and provide for fines and imprisonment for anyone who uses force, fraud, or “inducement” to convert another. However, many provisions in the anti-conversion laws, in particular their terminology regarding inducements or coercive acts, are ill-defined and open to abuse. This lack of specificity allows religiously-biased governmental and police officials to apply the laws with little evidence needed. The vague language also promotes societal harassment.

These laws have led to few arrests and reportedly no convictions. According to the U.S. State Department, between June 2009 and December 2010 approximately 27 arrests were made in Madhya Pradesh and Chhattisgarh, but resulted in no convictions. Compass Direct reported that in March 2011, police arrested 12 tribals in Orissa’s Mayurbhanj district for violating the Orissa “Freedom of Religion Act” by converting to Christianity without a permit issued by the authorities.

Despite their limited application, human rights and Christian advocacy groups have expressed concern that these laws create a hostile atmosphere for religious minorities. States with such laws seem to have more reported cases of attacks on and harassment of religious minority communities, and greater problems of impunity, than elsewhere in India. The former UN Special Rapporteur on Freedom of Religion or Belief also expressed concern over these laws’ impact on religious minorities and their inconsistency with international norms guaranteeing the freedom to change one’s religion, and called for their repeal.

The issue of alleged “forced conversions” has played a significant role in violence in several states, including Kandhamal. For example, a National Commission on Minorities’ (NCM) report on the December 2007 violence in Orissa concluded that an important factor behind the attacks was the “anti-conversion” campaign carried out by groups associated with the Sangh Parivar. However, according to the NCM, there have been no cases of forced conversions registered in Kandhamal in the past 40 years. Further, the NCM reported widespread forced conversions of Christians to Hinduism in villages and relief camps in Orissa following the 2008 attacks. Insecurity and the threat of harassment, property destruction, and/or additional violence allegedly have caused many Christians to partake in “reconversion” ceremonies. According to a report by the NCM, even retired high-ranking officials were “threatened with every sort of retaliation if they did not forthwith change their religion and embrace Hinduism.” As recently as February 2011, Hindu nationalists organized a reconversion rally in Madhya Pradesh; Christians feared harassment and intimidation and obtained an order from the state High Court mandating police protection of their churches and community. While the rally included highly intolerant speech, there were no reports of physical violence or forced conversions.

In November 2010, Hindu nationalists disrupted a frequently held Christian youth gathering in the state of Chhattisgarh. Reportedly, approximately a dozen Hindu nationalists along with police stormed the Central India Youth Festival, which had about 900 in attendance, and accused organizers of forcible conversion. While no one was arrested, the festival organizers were forced to provide a list of participants. In another example, the Global Council of Indian Christians (GCIC) reported that on December 26, 2010, Hindu nationalists beat a Christian who was distributing gospel tracts in Madhya Pradesh. For nearly two hours, the extremists physically abused the man, forced him to the Kotwali police station, and accused him of being a convert who was forcing others to convert. The police made no arrest and provided him with medical attention; however, they did not arrest his attackers, either.

Asia News reported that Hindu nationalists made four separate attacks in December 2010 in the state of Karnataka. In one incident, 10 Hindu nationalists disrupted a prayer meeting and falsely accused the pastor and the Christians that were present of forcible conversion. Four Christians were verbally abused and dragged to the Gonilkoppa police station, where the extremists pressured police to arrest them. The Christians were released without charges, but were warned not to conduct future worship meetings at their

homes. Sajan George, president of the GCIC stated, “Police, however, did not take action against the extremists for attacking the Christians.”

In a positive development, in January 2011, the Supreme Court upheld the life sentence imposed by Orissa High Court on Dara Singh, a Hindu nationalist, for the 1999 murder of Australian missionary Graham Staines and his two minor sons, who were burnt to death. Although viewed as a victory by religious communities and NGOs, the case, which took 12 years, highlights the slow judicial process.

### *Scheduled Tribes and Castes*

Article 17 of the Indian Constitution outlaws untouchability, and the Indian government continues to implement various affirmative action schemes such as reserved quotas for government jobs and university education. However, these quotas are for Scheduled Tribes and Castes that belong to Hindu, Sikh or Buddhist religious communities; currently they do not apply to Muslims, Christians, or converts from Scheduled Castes either to Islam or Christianity. Christians and Muslims from Scheduled Castes do not qualify because they are considered to have removed themselves from the caste system. While affirmative action is not an internationally-recognized right, the quota system is frequently applied in a discriminatory manner. Disadvantaged Christians and Muslims are excluded from benefits, despite the economic and social challenges they face. The former UN Special Rapporteur on Freedom of Religion or Belief condemned this discriminatory system and called for the abolition of links between religion and caste or tribal status. In 2004, Christian groups filed a case with the Supreme Court to allow Dalit Christians and Dalit Muslims to access the same reservations as other Scheduled Castes. The Court was considering the case at the end of the reporting period.

### *Terrorism*

Threats and fear of terrorism in India, perpetrated or threatened by domestic actors, including Maoists, and foreign regional actors, particularly Pakistanis and Bangladeshis, remain high. However, there have not been large-scale terrorist acts in India in the last reporting period. India has labeled 34 domestic groups as terrorist organizations and in May 2010 banned 100 al-Qaeda- affiliated international groups.

In February 2010, a bomb exploded in the German Bakery in Pune, Maharashtra, killing 17 and injuring over 50. The bakery was a popular meeting place for locals and tourists alike, prompting suspicion to fall on terrorist groups such as Lashkar-e-Taiba. This was the first major terror attack in India since the 2008 Mumbai attacks. Although the investigation is ongoing, the newspaper *The Hindu* reported that a spokesman for a group called Lashkar-e-Taiba al-Almi, an offshoot of Lashkar-e-Taiba, had claimed responsibility and asserted that the attack was in response to India’s “‘refusal’ to discuss the disputed region of Kashmir.”

In November 2008, 163 people were killed in coordinated attacks on ten prominent Mumbai sites, including two luxury hotels and a Jewish center. These attacks were carried out by members of the extremist organization Lashkar-e-Taiba, a group active in Kashmir and understood to have linkages with Pakistan’s intelligence agency. Lashkar-e-Taiba has been designated by the State Department as a foreign terrorist organization. The attackers purposefully sought out an American-born rabbi and his Israeli wife residing in the upper floor of an apartment building as targets for their murder, the first time India’s small Jewish community was so targeted.

### *Jammu and Kashmir*

The Jammu Hindu majority area and the Kashmir Muslim majority area have seen intense religious-political tension and violence for decades. In the last few years, the State Department has reported that

the “levels of societal and insurgent violence declined in Jammu and Kashmir,” but militant insurgents continued to kill individuals associated with the government or rival factions, as well as civilians. Because of the violence, over the past decade, thousands of Kashmiri Pandit Hindus have left for other regions of India. In 2009, the state government of Jammu and Kashmir reportedly provided approximately 16 billion rupees (\$32 million) for the return and rehabilitation of Kashmiri Pandit Hindus. Large public gatherings, including religious gatherings, have been banned since 1989; authorities allow only small mourning rallies and processions in areas with sizable Shi’a populations, leading to annual friction between police and mourners during Muharram commemorations. Over the summer of 2010, there were massive anti-India protests in the region. Reportedly, over 100 people, mostly young men, were killed in the clashes and several hundred people were arrested by Kashmiri security forces. In a positive development, in July 2010, India announced a commission of inquiry to review the deaths of civilians in Kashmir. In January 2011, the Indian government announced it may reduce troops in Indian-administered Kashmir by one quarter.

### *Ayodhya Mosque Verdict*

In September 2010, the Supreme Court of India released its Ayodhya mosque verdict. The disputed 2.77-acre site in the city of Ayodhya, located in the state of Uttar Pradesh, has been claimed by both Hindus and Muslims since the early 20<sup>th</sup> century. Hindus believe that the site is the birthplace of Lord Rama, and Muslims have claimed the site since the 1500s when the Babri Mosque was built. In 1992, Hindu extremists destroyed the mosque, setting-off violent riots in several cities, which left an estimated 2,000 people, mostly Muslims, dead.

As the verdict approached, the federal government feared widespread riots from both Hindus and Muslims. The federal authorities took proactive steps to lessen the potential for violence, such as 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. The issuance of the verdict over the disputed religious site occurred without incident, largely because of the proactive actions of the central government of India. The verdict ruled that the site would be shared between two Hindu sects, each receiving one-third of the disputed area and Muslims receiving the final one-third. A Hindu national political party, Akhil Bharatiya Hindu Mahasabha, and Sunni Wakf Board, a statutory body, constituted by the government of Uttar Pradesh in 1995, as well as several other Hindu and Muslims groups and organizations, have filed challenges with the Supreme Court against the Allahabad High Court verdict.

### **U.S. Policy**

Since the end of the Cold War, India and the United States have enjoyed increasingly closer ties, with India now described as a “strategic” and “natural” partner of the United States, especially considering the two countries represent the two largest democracies in the world. India is a rising international power, with its economy growing rapidly over the past decade despite large-scale challenges of poverty, overpopulation, and corruption. Since 2004, Washington and New Delhi have pursued a strategic relationship based on common concerns regarding the growing threat of terrorism, energy security, and global warming, as well as on the shared values of democracy and the rule of law.

The first state visit hosted by President Obama was for Prime Minister Singh in November 2009. In November 2010, President Obama made a three-day state visit to India. Discussions focused primarily on energy, relations with Pakistan, and counter-terrorism. In his speech to a joint session of parliament President Obama stated, “Faced with such gross violations of human rights, it is the responsibility of the international community – especially leaders like the United States and India – to condemn it. And if I can be frank, in international fora, India has often shied away from some of these issues. But speaking up for those who cannot do so for themselves is not interfering in the affairs of other countries. It’s not

violating the rights of sovereign nations. It is staying true to our democratic principles. It is giving meaning to the human rights that we say are universal.”

President Obama also publically supported India as a permanent member of the U.N. Security Council. In the same speech given to a joint session of parliament President Obama stated that “with increased power comes increased responsibility” and said that the United States “look[s] forward to working with India – and other nations that aspire to Security Council membership – to ensure that the Security Council is effective; that resolutions are implemented, that sanctions are enforced; [and] that we strengthen the international norms which recognize the rights and responsibilities of all nations and all individuals.” The President did not publicly address specific issues involving human rights or religious freedom in India.

In 2009, Secretary of State Hillary Clinton traveled to India to launch the “Strategic Dialogue,” which called for greater collaboration in a number of areas, including energy, climate change, trade, education, and counterterrorism. However, human rights and religious freedom were not a part of the stated agenda.

Three decades of U.S. nonproliferation policy toward India were reversed through an initiative launched by President Bush in 2005 and finalized by the 110th Congress in 2008, the U.S.-India Civil Nuclear Cooperation Agreement. In March 2010, India and the United States successfully concluded negotiations allowing India to reprocess spent nuclear fuel, a development which will further open commercial opportunities for U.S. nuclear energy companies.

The United States views as important India’s role in its efforts of fighting and disrupting terrorist networks of al-Qaeda and other militant groups on the subcontinent, such as Lashkar-e-Taiba. Military-to-military ties have increased, especially after the signing in 2005 of a 10-year defense framework agreement expanding bilateral security cooperation. India purchased \$25 million worth of arms through the Foreign Military Sales programs in 2006 and \$93 million in 2007. Bilateral tensions between India and Pakistan increased dramatically after the Mumbai bombings. India was concerned, and remains concerned about increased U.S. military aid to Pakistan. New Delhi fears the aid bolsters the Pakistani military capabilities against India. In February 2011, India and Pakistan announced they would renew bilateral peace talks, which stalled after the 2008 Mumbai bombings. The talks will include the topics of terrorism and Kashmir. In March 2011, India and Pakistan announced that the two countries would establish a “Counter-Terrorism Hotline.” India’s home secretary and Pakistan’s interior secretary said publically that the hotline would help “facilitate real-time information sharing with respect to terrorist threats.”

India also has concerns about the Obama administration’s desire to increase relations with China and President’s Obama’s proposed protectionist and anti-outsourcing policies that may affect India’s economy. U.S. aid programs to India continue.

## **Recommendations**

Various levels of the Indian government have taken positive steps to provide redress for past communal violence, including by creating SITs, fast track courts and commissions of inquiry. The success and effectiveness of these entities have been limited by police and judicial bias, corruption, insufficient police and judicial personnel, and an overburdened and antiquated judicial system. In addition, some states continue to have worrying levels of religiously-motivated harassment and violence and have passed laws, such as the so-called “Religious Freedom Act(s),” that run counter to the national government’s inclusive and religiously tolerant platform. Because justice for past communal violence continues to be slow and ineffective and because of concerns about the state “Freedom of Religion Act(s),” USCIRF recommends that the U.S. government in all diplomatic talks urge India to strengthen its law enforcement and judicial

structures so victims from past incidents of communal violence have their cases heard free of religious or political bias, corruption and in a timely manner.

## **I. Advancing Religious Freedom through U.S. diplomacy**

The U.S. government should:

- integrate concern for religious freedom and related human rights into all bilateral contacts with India, such as with the follow-up work from the 2009 Strategic Dialogue and President Obama's 2010 visit;
- make clear to the Indian public the high priority the U.S. government gives this issue by directing the U.S. ambassador to publicly denounce attacks against any religious community, be it in the majority or the minority; seek to visit the sites of communal violence, and meet with state and local officials to raise these concerns; and
- encourage India to accept delegations from non-governmental organizations and U.S. governmental agencies, including USCIRF, so they may independently assess religious freedom conditions in India.

## **II. Strengthening Law Enforcement and the Judiciary**

The U.S. government should urge the government of India to:

- strengthen the ability of the state and central police and other law enforcement bodies to provide effective measures to prohibit and punish cases of religious violence, and protect victims and witnesses by:
  - ensuring that standardized procedures for documenting and collecting evidence are promptly followed in instances of communal conflict and other religiously motivated crimes; including that complainants are able to file "First Information Reports" (FIRs);
  - ensuring adequate protection for witnesses and complainants after an FIR has been filed;
  - ensuring that all complainants are able to obtain legal representation, regardless of religion or caste status;
  - ensuring that cases relating to religious violence are processed in a timely manner, including by ensuring that a sufficient number of investigators and public prosecutors are supplied to districts in which acts of communal violence have occurred, and that all such individuals are impartial and adequately trained on human rights and religious freedom standards;
  - ensuring that prosecutors have a working knowledge of the language of the court to which they are assigned; and
  - ensuring that trials at all levels of the justice system are impartial, including by investigating allegations of corruption or official complicity in any acts of alleged religious violence;
  - ensuring survivors of communal violence are made aware of their rights and avenues for legal recourse, for example by establishing free or low-cost community legal aid clinics in riot-hit areas;

- ensure that the state and central police and other law enforcement agencies have the training and resources necessary to avert future communal violence, including by sharing information among central and state law enforcement bodies about measures that successfully prevented outbreaks of violence in previous high-tension situations;
- provide training on human rights and religious freedom standards and practices to members of the state and central police and judiciary, particularly in areas with a history or likelihood of communal violence;
- ensure that the perpetrators of terrorist attacks are brought to justice, and the victims and their families are provided aid and counseling; and
- fulfill a pledge made in 2004 to enact a law criminalizing inter-religious violence.

#### *Regarding Orissa*

The U.S. government should urge the government of India to:

- continue to pursue, investigate, and bring charges against the perpetrators of the killings and arson in Orissa, as well as any forced reconversions [see specific recommendations above under II. Strengthening Law Enforcement and the Judiciary];
- allow aid groups, regardless of religious affiliation, access to internally displaced persons still unable or unwilling to return to their home communities;
- establish appropriate mechanisms to ensure that all compensation schemes, including those promised by Prime Minister Manmohan Singh soon after the outbreak of the Fall 2008 violence, are carried out in a timely manner and any families unable to produce the body of an individual killed by rioters are not excluded from compensation schemes;
- take steps to ensure police access to Kandhamal district and other areas that may be prone to communal violence, including by improving road infrastructure and building capacity;
- mobilize the necessary security forces over the timeframe necessary to ensure that internally displaced persons residing in government relief camps or elsewhere are allowed to safely return to their villages, without the threat of violence or harassment;
- ensure that the use or threat of violence or harassment to bring about forced conversions or “reconversions” are prosecuted promptly under existing laws prohibiting harassment and violence; and
- recognize the unique link between poverty, tribal identity, and communal violence in Orissa, and implement development schemes to address poverty, disadvantages associated with tribal or caste status, the lack of economic opportunity, and the lack of adequate education and health infrastructure.

#### *Regarding Gujarat*

The U.S. government should urge the government of India to:

- continue to pursue, investigate, and lay charges against any individuals responsible for killings, sexual violence, and arson in Gujarat in 2002;
- urge the Supreme Court to look into allegations of its Special Investigative Team's having disregarded evidence;
- ensure that any efforts to bring a case against Gujarat Chief Minister Narendra Modi are allowed to proceed in accordance with the law;
- send a central government investigative team to Gujarat to assess the security of individuals displaced by the 2002 riots and look into reports that such individuals are systematically economically and socially marginalized, and provide recommendations for improving communal harmony in Gujarat; and
- facilitate relocation of people still displaced from the riots by assuring their safety.

### **III. Reforming Existing Legislation That May Undermine Freedom of Religion or Belief**

The U.S. government should urge the government of India to:

- establish an impartial body of interfaith religious leaders, human rights and legal experts, and other civil society representatives to study religious conversion activity and any allegations of forced, induced, or otherwise illegal or improper conversions in states with legislation regulating conversions, and to make recommendations as to if and how such laws should be changed to comply with international standards on the freedom of thought, conscience, and religion or belief; and
- investigate job allocation and government benefit schemes for Scheduled Tribes and Castes to assess whether religion is used unfairly to provide or deny access to benefits.

### **IV. Taking New Measures to Promote Communal Harmony, Protect Religious Minorities, and Prevent Communal Violence**

The U.S. government should urge the government of India to:

- call on all political parties and religious or social organizations, including entities of the Sangh Parivar, including, but not limited to the Bharatiya Janata Party, Rashtriya Swayamsevak Sangh, Bajrang Dal, and Vishwa Hindu Parishad, to: publicly denounce violence against and harassment of religious minorities, women, and low-caste members; acknowledge that such violence constitutes a crime under Indian law, and communicate to all members and affiliates that acts of violence or harassment will not be tolerated and will be prosecuted to the full extent of the law;
- take immediate legal action against any charitable, social, or political organizations, or individuals associated with such organizations, about whom evidence of participation in acts of communal violence is found;
- establish effective State Minority Commissions charged with the responsibility for examining minority affairs, including minority religious communities, issuing recommendations, and serving as a repository for minority grievances in those states that do not currently have such commissions, including Orissa, and ensure that these commissions are transparent, adequately funded, inclusive of women and minorities, and subject to periodic independent review; and

- establish measures to build confidence among religious communities in areas with a history or likelihood of communal violence, including truth and reconciliation councils and social and cultural programming.

**Dissenting Statement of Commissioners Felice D. Gaer and William J. Shaw:**

As troubled as we are by religiously-based violent incidents in India that have resulted in loss of life, physical abuse, displacement or other abuse, we respectfully express the view that the Commission’s categorization of India as a “Watch List” country this year is inappropriate.

As the Commission itself has noted, India is unlike the other countries on its Watch List. India is a respected constitutional democracy with religious traditions that coexist and flourish under extreme economic and other conditions; it is a country whose judiciary is independent, highly regarded, albeit slow-moving, but that can work effectively to hold the perpetrators responsible; it contains a vibrant civil society with many vigorous, independent non-governmental human rights organizations that have investigated and published extensive reports about religiously-motivated violence; and it is home to a free press that has widely reported on and strongly criticized the situation on the ground in Orissa and Gujarat, and elsewhere.

In identifying India for “Watch List” status this year, the Commission has cited two particular concerns – “justice for past communal violence continues to be slow and ineffective” and concern about state-level laws called “Freedom of Religion Acts.” The Commission has also questioned the capacity and will of the Indian government, criticizing what it terms a “culture” or a “climate” of impunity.

In our view, however, the Commission’s decision to place India on the 2011 Report’s Watch List is ill-advised. It ignores the logic of its own observations – namely, that the Indian national government and Supreme Court have taken a range of commendable and significant steps demonstrating the will to prevent new outbreaks of large-scale religiously motivated communal violence, to reign in excesses or to correct insufficient action at the state level, to ensure accountability of those responsible for past cases, and to provide rehabilitation and restitution to victims.

The Indian national government and Supreme Court have offered visible, effective and proactive interventions that have made clear that there is both the will and capacity to take action to ensure justice. Prior to the Ayodhya mosque verdict, Indian authorities issued public appeals, placed advertisements in newspapers urging respect for the rule of law, and mobilized tens of thousands of security forces to prevent violence.

In its findings, the Commission affirms that “there has been no large-scale communal violence” in the past year but that “progress” in ensuring religious freedom “continued to be mixed.” But inexplicably it does not credit the national government for the very measures that demonstrate the capacity and will of the government to be proactive and to prevent such large-scale violence.

For example, the Commission’s report cites new structures created at the national level and actively functioning to address cases relating to past large-scale communal violence in Orissa, Gujarat and elsewhere – special investigative teams, fast-track courts, and special commissions – but then it claims these are hampered by limited capacity, inconsistent use, political corruption and religious bias. While the functioning of some of these structures in such local settings may indeed reveal such inconsistencies, the results of them, taken together, should be understood to be substantial. The riots that followed the August 2008 murder of Swami Saraswati left 40 dead and tens of thousands of Christians displaced, but there has been a concerted effort by national authorities to ensure accountability

through the courts, as well as restitution and rehabilitative training to victims, through local and development agencies. In January 2011, India's official National Human Rights Commission called for more, including a full report from the Orissa state government, but acknowledged that the number of convictions by the courts in the past year – reportedly 279 persons had been convicted in 56 cases by two special courts – outpaces anything achieved elsewhere in the country in the past decade. USCIRF's chapter on India identifies even more convictions, citing 311 convicted in 59 cases according to the U.S. State Department, with nearly 200 cases still being heard. Even though many of those initially accused in Kandhamal have been acquitted or had charges dropped, and more remains to be done, such results are neither a "slow" nor "ineffective" response.

The Commission also raises, as decisive for Watch List status, the existence of 'freedom of religion' laws that prohibit coercion or allurement or fraud in decisions on changing religion. At issue is whether the laws themselves are abusive, or whether they are used for impermissible purposes. The Commission reports that the laws are "used by local authorities to harass and sometimes detain individuals perceived to be proselytizing..." and "contribute to an atmosphere of hostility." NGO reports also claim misuse of these laws – for example, the "jury" from the "National People's Tribunal" found that "communal forces have used religious conversions as an issue for political mobilization and to incite horrific forms of violence and discrimination against the Christians of Scheduled Caste origin and their supporters in Kandhamal."

Hindu and other groups point out that the laws prohibit *coercive* measures or *forced conversion*, not all acts of conversion per se, and that there have been no convictions in Orissa and few in the other localities where they are in force. The Hindu-American Foundation has written to the Commission about so-called "predatory proselytization," claiming that the measures taken by Christian missionary organizations seeking converts in parts of India has denigrated individual believers and the Hindu religion itself and gives vent to added religious intolerance.

Considering international human rights law norms, the UN Special Rapporteur on Freedom of Religion has expressed concern about the vague and overbroad terms in the so-called "anti-conversion laws," which have enabled local authorities to use "unfettered discretion" in interpreting and applying them. She called for authorities to "reconsider" them, and to take a number of pro-active measures, from promoting public debate to developing specific safeguards to avoid abuse of the laws, to other preventive steps such as creating a central telephone hotline for allegations against police. USCIRF, in its recommendations, calls for an impartial public commission to study the matter of religious conversion including allegations of forced conversion in those states that have such laws. A public commission and further forthright discussion of the issue, including at the national level, could also help to clarify whether these laws, in themselves, and their application in the states where they exist, are so arbitrary and restrictive as to merit national action.

India has the legal and democratic traditions to deal with religious intolerance and should be strongly encouraged to continue to do so. Its central government has demonstrated both will and capacity to bring about accountability for violent abuses. Its vibrant civil society is uniquely placed to urge sustained efforts to strengthen the ability of the national authorities and central police to prohibit and punish cases of religious violence, and to monitor those responses in the public arena.

**Statement of Chairman Leonard Leo, with whom Vice Chair Elizabeth H. Prodromou and Commissioner Nina Shea Join:**

To be sure, progress has been made in terms of bringing to justice the perpetrators of the religiously-related violence that took place in Gujarat in 2002 and in Orissa in 2007 and 2008. But is it progress

sufficient to remove India from the Watch List? Some have suggested that the delay in justice surrounding these and other cases of religious violence is no different from all other aspects of the court system. Perhaps that is so. But try as we might, we were unable to assess the number of prosecutions and convictions from those incidents in relation to the overall functioning of the justice system in India; the data is scant, and, unfortunately, the government of India has not responded to our requests for help in rounding out and interpreting the data.

Assuming, however, that we did in fact receive such cooperation, and that the data revealed that the sluggishness of legal action respecting religiously-related violence is not all that different from the way justice is handled in other cases, this begs yet another question: in light of India's near-uniquely pluralistic and diverse population, as well as its history of periodically-explosive ethnic and religious tensions, shouldn't the Indian government have given greater priority to prosecuting those legal cases expeditiously? Where resources are scarce and capacity is lacking, governments need to place a premium on addressing the matters that pose the greatest threat to peace, stability, and security. There is evidence that this has not happened with regard to such cases in India. Absent better information from the government of India, it is hard to see why the Watch List determination should be reversed.

Finally, the anti-conversion laws in a growing number of Indian states are problematic even though they do not result in many convictions. Not only do they burden India's justice system but they appear to encourage religious violence against minorities. They give rise to the reported arrests of alleged proselytizers so that their mere presence on the books creates a more hostile atmosphere for Christians and Muslims. In states with these laws, incidents of religious violence are greater and the problem of impunity from such violence is heightened -- confirming again that vaguely-worded, state-enacted blasphemy, apostasy, and anti-conversion laws serve to embolden extremists rather than create a climate of religious harmony.