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# Overlooked Danger: The Security and Rights Implications of Hindu Nationalism in India

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Smita Narula\*

## INTRODUCTION

As a region, South Asia has gained significant prominence in the eyes of the international community as a focal point for the U.S.-led war against terrorism. So-called Islamic fundamentalism in South Asia and the Middle East is the subject of much debate and analysis and the justification for racially and religiously charged immigration and detention policies in the West. Much overlooked is the dramatic rise of Hindu nationalism in India and the dangerous and even violent policies espoused by the ruling Bharatiya Janata Party ("BJP") and its sister organizations—policies that have already resulted in considerable violence against India's Muslim, Christian, and Dalit, or "untouchable," minorities.

While *madrassas*, or Islamic schools, have come under scrutiny for their recruitment and training of future *jihadis* in Afghanistan, Pakistan, and more recently Bangladesh, the mushrooming of hundreds of thousands of *shakhas*, or Hindu training camps in India, has been dangerously overlooked. India's shift away from secular democracy and toward the militarization of a growing Hindu nationalist cadre poses a significant threat to the human rights of India's lower castes and religious minorities and, in a region with two long-term and now nuclear foes, to the security of the region as a whole. If the activities of these groups remain unchecked, violence may spread to other parts of the country. When compounded with the growing political influence of the Islamic right and the military in Pakistan and Bangladesh, Hindu militarization may destabilize the region as a whole.

This Article will examine the rise of Hindu nationalism in India and provide an overview of its already devastating consequences. In February and March 2002, over 2000 people were killed in state-supported violence against Muslims in the western state of Gujarat, led by the Hindu national-

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ist BJP that also heads a coalition government at the center. The attacks were carried out with impunity by members of the BJP, the Rashtriya Swayamsevak Sangh (“RSS,” National Volunteer Corps), the Vishwa Hindu Parishad (“VHP,” World Hindu Council), and the Bajrang Dal (the militant youth wing of the VHP). Collectively, these groups are known as the *sangh parivar*, or family of Hindu nationalist organizations. Police and state officials were directly implicated in many of the attacks. The BJP is the political wing of the sangh parivar.<sup>1</sup>

Violence and other abuses against marginalized groups in India are part of a concerted campaign of these and related organizations—whose leadership is dominated by upper-caste Hindus—to promote and exploit communal tensions in order to retain political and economic power. Nationwide violence against India’s Muslim community in 1992 and 1993 and against India’s Christian community since 1998, including in the state of Gujarat, has also stemmed from the violent activities and hate propaganda of these groups. Human rights groups have long warned of the destructive potential of the sangh parivar’s agenda—an agenda that exerts considerable influence over the nation’s educational, social, defense, and anti-terrorism policies. The Indian government continues to exploit rhetoric surrounding the global war on terror to silence political dissent while the sangh parivar invokes the threat of Islamic terrorism in the aftermath of September 11 to justify the persecution of Muslims. Operating under the guise of patriotism, the proponents of Hindu nationalism are achieving mainstream credibility. This Article also discusses the “communalization” of education by the Hindu right: a battle to shape the minds of today’s youth and tomorrow’s leaders.

The promotion of Hindu nationalism as a legitimate political and cultural force has consequences beyond its impact on the lives of India’s lower castes and religious minorities. Attacks on Muslims in India have their corresponding effect on Hindus in Bangladesh and Pakistan. Similarly, atrocities against Hindus in Bangladesh and Pakistan-supported militancy in Kashmir are often cited as justifications for the persecution of Muslims in India. As the religious right gains significant footholds in electoral politics in Bangladesh and Pakistan, attacks on religious minorities in those countries have also reached alarming proportions.

## I: HINDU NATIONALISM’S HISTORY AND TACTICS

### A. *The Rise of Hindu Nationalism in India and Abroad*

The RSS was founded in the city of Nagpur in 1925 by Keshav Baliram Hedgewar with the mission of creating a Hindu state. Since its founding, it has promulgated a militant form of Hindu nationalism as the sole basis for

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1. The BJP is not the only political party complicit in large-scale episodes of communal violence in India. In 1984, following the assassination of Prime Minister Indira Gandhi by her Sikh bodyguards, the then-ruling Congress (I) Party was charged with complicity in the killing of over 2000 Sikhs in Delhi.

national identity in India. According to the RSS, both the leaders of India's nationalist movement and those of post-independence India failed to create a nation based on Hindu culture.<sup>2</sup>

While efforts to hasten political independence were being pursued in various forms, there were few or no sustained efforts for restoration of the Hindu psyche to its pristine form. Indeed, it is the latter which should constitute the content or core of freedom. Such was the backdrop for envisioning a country wide movement such as the Rashtriya Swayamsevak Sangh.<sup>3</sup>

The ideology of Hindutva, or a movement for Hindu awakening, is a political strategy rooted in the teachings of the founders of the RSS. To be clear, Hindutva is not Hinduism, nor can its proponents legitimately claim adherence to Hinduism's principles of nonviolence and tolerance. To the contrary, the RSS ideologue, M. S. Golwalkar, based much of his teachings on the race theories of Nazi Germany. A now infamous passage from his book *We, or Our Nationhood Defined*, published in 1939, states:

German national pride has now become the topic of the day. To keep up the purity of the nation and its culture, Germany shocked the world by her purging the country of the semitic races—the Jews. National pride at its highest has been manifested here. Germany has also shown how well-nigh impossible it is for races and cultures, having differences going to the [root], to be assimilated

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2. Tapio Tamminen, *Hindu Revivalism and the Hindutva Movement*, 32 *TEMENOS* 221-238 (1996), at <http://www.abo.fi/comprel/temenos/temeno32/tamminen.htm>. The RSS did not play an active role in the nationalist struggle for independence, as it had several ideological differences with the Indian National Congress. While the nationalist struggle centered on ending British rule, the RSS believed that restoring Hinduism should be the cornerstone of the movement. The RSS was particularly critical of what it termed the Congress' policy of "appeasement of Muslims" and was vehemently opposed to the partition of India and the creation of Pakistan. In the aftermath of Mahatma Gandhi's assassination by Nathuram Godse, a Hindu nationalist and allegedly a former RSS member who shared its views, the RSS was officially banned in India. Following its ban, and partly to remove the stigma of being a paramilitary outfit, the RSS became more active in the political and social welfare arena. The Indian government recognized its community service contributions and allowed the RSS to participate in the Republic Day parade in 1963. Between 1975 and 1977 the RSS was banned again, along with many other organizations, when Prime Minister Indira Gandhi declared a state of emergency. Apart from this two-year period, the RSS and its sister organizations have been in the mainstream of Indian politics since the 1960s. *Id.* See generally CHRISTOPHE JAFFRELOT, *THE HINDU NATIONALIST MOVEMENT AND INDIAN POLITICS: 1925 TO THE 1990S* (C. Hurst & Co. trans., Penguin Books India 1999) (1993).

3. RASHTRIYA SWAYAMSEVAK SANGH, *Antidote to Self-Oblivion*, in *WIDENING HORIZONS*, at <http://www.rss.org/books/WideningHorizons/ch3.html>. The official Web site of the RSS states the following as its mission, reproduced in part:

The R.S.S. stands for the spread of Hindu culture . . . . The mission of the R.S.S. is to unite and rejuvenate our nation on the sound foundation of Dharma. This mission can be achieved by a strong and united Hindu society. Therefore the R.S.S. has undertaken the task of uniting the Hindus. Rejuvenation of the Hindu nation is in the interest of the whole humanity.

<http://www.rss.org/mission.htm>.

into one united whole, a good lesson for us in Hindustan to learn and profit by.<sup>4</sup>

More than fifty-five years after independence, the RSS still sees itself as the antidote to what it considers the dangerous tendencies of modern-day India:

The erosion of the nation's integrity in the name of secularism, economic and moral bankruptcy, incessant conversions from the Hindu fold through money-power, ever-increasing trends of secession, thought patterns and education dissonant with the native character of the people, and State-sponsored denigration of anything that goes by the name of Hindu or Hindutwa.<sup>5</sup>

The RSS wanted "the entire gamut of social life" to be designed "on the rock-bed of Hindu nationalism,"<sup>6</sup> a goal that inspired the creation of the RSS political, social, and educational wings, a family of organizations that is now referred to collectively as the sangh parivar.<sup>7</sup> What began as a fringe movement has become a formidable force whose members are well represented in the wide spectrum of Indian political, social, and cultural life, both within the country and among Indians abroad.

The BJP is the political wing of the sangh parivar.<sup>8</sup> It heads a coalition government at the national level and, in January 2003, controlled the state legislatures of Gujarat, Goa, Himachal Pradesh, and was part of the ruling coalition of the government of Uttar Pradesh. Many of the activities of sangh groups have aimed to consolidate a Hindu vote bank to support the BJP's bid for political power at the state and federal level.

The Vishwa Hindu Parishad was formed in 1964 to cover the social aspects of the RSS activities.<sup>9</sup> The VHP organizes and communicates the RSS message to Hindus living outside India and holds conferences for Hindu

4. Marzai Casolari, *Hindutva's Foreign Tie-Up in the 1930s: Archival Evidence*, *ECON. & POL. WKLY.*, 218, 224 (2002), at <http://www.ercwilcom.net/%7Eindowindow/sad/godown/secular/fascirss.htm>. While current sangh parivar leaders have distanced themselves somewhat from Golwalkar's teachings in order to maintain broad-based legitimacy, the so-called virtues of fascism and Nazism continue to be extolled in some Indian textbooks. A 1999 article in the periodical *Communalism Combat*, for example, reported that tenth grade textbooks in Gujarat contained sections on the "Ideology of Fascism" and the "Ideology of Nazism." The sections detail strong national pride associated with both ideologies, efficiency in bureaucracy, and other "achievements," but ignore the horrific brutality meted out by the regimes, including the Holocaust. Sabrang Communications and Publishing Pvt. Ltd., *On Fascism and Nazism*, COMMUNALISM COMBAT, Oct. 1999, at 18, available at <http://www.sabrang.com/cc/comold/oct99/cover2.htm>.

5. RASH'TRIYA SWAYAMSEVAK SANGH, *Sangh: A Dynamic Powerhouse*, in *WIDENING HORIZONS*, at <http://www.rss.org/books/wideninghorizons/ch2.html>.

6. RASH'TRIYA SWAYAMSEVAK SANGH, *Sangh-Inspired Organisations*, in *WIDENING HORIZONS*, at <http://www.rss.org/books/WideningHorizons/ch7.html>.

7. *Id.*

8. The Jana Sangh Party was formed in 1951 as the political wing of the RSS. It was replaced by the Bharatiya Janata Party in 1980.

9. See [http://www.vhp.org/englishsite/a-origin\\_growth/whyvhp.htm](http://www.vhp.org/englishsite/a-origin_growth/whyvhp.htm).

religious leaders from across the country. It is actively involved in Sanskrit education, the organization of Hindu rites and rituals, and converting Christians, Muslims and tribals (animists) to Hinduism.<sup>10</sup>

The Bajrang Dal is the militant youth wing of the VHP. It was formed in 1984, during the Babri Masjid conflict,<sup>11</sup> in order to mobilize youth for the Ram temple campaign.<sup>12</sup> A young women's association, the Durga Vahini, was also founded at this time.<sup>13</sup> With its loose organizational structure, the Bajrang Dal initially operated under different names in different states. Bajrang Dal activists have been involved in many acts of violence carried out by Hindutva organizations, including the spate of attacks against the Christian community in India since 1998 and the communal violence in Gujarat in 2002.<sup>14</sup>

The Vidya Bharati (or the Vidya Bharati Akhil Bharatiya Siksha Sansthan) was established in 1978 with the objective of organizing the RSS activities in education. Similar organizations at the state and regional levels have existed since the 1940s. The Vidya Bharati reportedly runs over 20,000 schools in India, serving 2.4 million children, many with recognition and funding from the state. Over 1000 schools have been added each year in the last decade.<sup>15</sup>

The sangh parivar has successfully expanded its operations overseas, inviting influential and affluent Indian expatriate communities into its fold. The RSS Web site proudly boasts that "similar work is going on in over 100 countries where volunteers are busy organizing Hindus under different organizations."<sup>16</sup> In addition to forming an ideological bridge across continents, sangh-affiliated organizations in countries such as the United States also provide financial support for RSS activities in India. A November 2002 report, *The Foreign Exchange of Hate: IDRF and the American Funding of Hindutva*, documents the financial ties between the Indian Development and Relief Fund ("IDRF"), a U.S.-based charity, and Hindu nationalist groups in India that have been linked to attacks against Muslims and Christians, forcible conversions of tribals to Hinduism, and other atrocities.<sup>17</sup> The study found that

10. See [http://www.vhp.org/englishsite/b-objectives/aim\\_object.htm](http://www.vhp.org/englishsite/b-objectives/aim_object.htm).

11. See *infra* text accompanying note 22.

12. N. K. Singh and U. Mahurkar, *Bajrang Dal: Loonies at Large*, INDIA TODAY, Feb. 8, 1999.

13. For more on women's activism within the Hindu right, see WOMEN AND THE HINDU RIGHT: A COLLECTION OF ESSAYS (Tanika Sarkar & Urvashi Butalia eds., 1995).

14. See generally HUMAN RIGHTS WATCH, POLITICS BY OTHER MEANS: ATTACKS AGAINST CHRISTIANS IN INDIA (1999) [hereinafter ATTACKS AGAINST CHRISTIANS]; HUMAN RIGHTS WATCH, "WE HAVE NO ORDERS TO SAVE YOU": STATE PARTICIPATION AND COMPLICITY IN COMMUNAL VIOLENCE IN GUJARAT (2002) [hereinafter NO ORDERS TO SAVE YOU].

15. Somini Sengupta, *Hindu Nationalists are Enrolling and Enlisting India's Poor*, N.Y. TIMES, May 13, 2002; Interviews with Vidya Bharati officials, in Uttar Pradesh, Goa, and Gujarat (Dec. 2002–Jan. 2003).

16. <http://www.rss.org/rsshoh.htm>.

17. SABRANG COMMUNICATIONS AND PUBLISHING PVT. LTD. & THE SOUTH ASIA CITIZENS WEB, THE FOREIGN EXCHANGE OF HATE: IDRF AND THE AMERICAN FUNDING OF HINDUTVA (2002), at

less than 20 percent of the funds sent to India by IDRF go to organizations that are not openly non-sectarian and/or affiliated with the Sangh. More than 50 percent of the funds disbursed by the IDRF are sent to Sangh related organizations whose primary work is religious 'conversion' and 'Hinduization' in poor and remote tribal and rural areas of India. Another sixth is given to Hindu religious organizations for purely religious use. Only about a fifth of the funds go for disaster relief and welfare-most of it because the donors specifically designated it so. However, there is considerable documentation indicating that even the relief and welfare organizations that IDRF funds, use the moneys in a sectarian way. In summary, in excess of 80 percent of IDRF's funding is allocated for work that is clearly sectarian in nature.<sup>18</sup>

IDRF has rejected the allegations contained in the report and has asserted that it "does not subscribe to any religious, political, or sectarian agendas."<sup>19</sup> Many who donate to IDRF and other such groups do so for charitable and humanitarian purposes and are arguably unaware of some of the uses of their funding.

An increasingly influential Indian lobby in the United States has also thwarted attempts by the U.S. Congress to raise concerns over human rights violations in India. The Indian American community effectively blocked, for example, a congressional resolution expressing concern about the violence against Muslims in Gujarat. According to an article in the *Far Eastern Economic Review*,

As word of the pending resolution spread, Indian-American groups inundated Senate offices with e-mails and phone calls opposing the resolution. 'We did not move on this because we were buried' [by messages], says a congressional aide. Senators had hoped to pass the resolution ahead of Secretary of State Colin Powell's visit to India in late July [2002].<sup>20</sup>

### B. Communal Violence as a Political Strategy

As Hindu nationalism gains legitimacy abroad, recent electoral wins by the BJP have emboldened its sangh parivar affiliates to continue to pursue their communally divisive strategies at home. In December 2002, the BJP won a decisive victory in state-assembly elections in Gujarat, handing the political party its only conclusive win in recent years. Employing a hardline

<http://www.mnet.fr/aiindex/2002/FEH/>.

18. *Id.* at § 1.4.

19. Press Release, India Development and Relief Fund, IDRF Dismisses Hate Campaign Against IDRF Launched by Leftist Groups (Nov. 22, 2002), at <http://www.idrf.org/pressrelease112202.html>.

20. *Indian-Americans Stall Resolution*, FAR E. ECON. REV., Aug. 8, 2002.

Hindutva platform, the BJP gained the most seats in areas that were affected by communal violence in February and March 2002, and in which members of the BJP were implicated. The elections were considered critical to the political future of the party that had suffered a series of election losses in key states.

Soon after the Gujarat win, VHP International General Secretary Praveen Togadia asserted that the experiment of the "Hindutva lab" would be repeated elsewhere in the country, raising concerns that violence would again be deployed as a political strategy. Togadia went on to state that "[a] Hindu Rashtra [state] can be expected in the next two years . . . . We will change India's history and Pakistan's geography by then."<sup>21</sup> Nine states were set to go to the polls in 2003, followed by national elections in 2004 in which the BJP hopes to gain enough seats to rule outside the constraints of a coalition government.

While Gujarat could be the harbinger of things to come, it is also the end result of years of grassroots rabble-rousing by the sangh parivar. The centerpiece of its strategy is a campaign to build a temple to the Hindu God Ram at the site of the destroyed sixteenth-century Babri Masjid (mosque) in the city of Ayodhya in the north Indian state of Uttar Pradesh. The temple campaign, the *Ram Janmabhoomi* movement, is led by the Vishwa Hindu Parishad. The VHP claims that the site of the mosque was actually the birthplace of Ram and that a temple at that site had been destroyed in order to build the mosque.<sup>22</sup>

On December 6, 1992, the mosque was destroyed. In the months preceding the demolition, the BJP, the RSS, the VHP, and the Shiv Sena<sup>23</sup> had called for the construction of a temple on the site of the mosque as integral to their struggle to achieve Hindu rule in India. Over 150,000 supporters converged on Ayodhya, and, using hammers and pick-axes, reduced the mosque to rubble. The police did not intervene. The incident sparked violence across the country in which at least 1700 people were killed, thousands were injured, and an unknown number of women and girls were raped. The majority of the victims were Muslim. The focal point of the violence was the city of Bombay, the capital of Maharashtra state. For the ten days following December 6, much of the violence took place between the police and Muslims protesting the destruction of the mosque. Police fired on demonstrators, entered and burned Muslim homes, and fired on their residents. Hindus marching in support of the destruction of the mosque were

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21. Rediff.com, '*Hindu Rashtra*' in Two Years: *Togadia*, (Dec. 15, 2002), at <http://www.rediff.com/election/2002/dec/15guj13.htm>.

22. See [http://www.vhp.org/englishsite/e.Special\\_Movements/dRanjanambhumi%20Muti/historyoframjanambhoomi.htm](http://www.vhp.org/englishsite/e.Special_Movements/dRanjanambhumi%20Muti/historyoframjanambhoomi.htm).

23. The Shiv Sena is a Hindu party based in the state of Maharashtra. See <http://www.shivsena.org/profile.htm>.



left alone. In the latter days of the violence, members of the Shiv Sena attacked Muslim households alongside the police.<sup>24</sup>

The Srikrishna Commission was established in response to the violence in Bombay. The Commission's report, presented to the government of Maharashtra in February 1998, more than five years after the violence took place, determined that the attacks were the result of a deliberate and systematic effort to incite violence against Muslims. It singled out Shiv Sena leader Bal Thackeray and Chief Minister Manohar Joshi as responsible. The Shiv Sena-BJP-led government refused to adopt the Commission's recommendations, and instead labeled the report "anti-Hindu."<sup>25</sup>

The campaign to build the Ram temple is ongoing and continues to raise the specter of further violence in the country. The recent revival of the campaign in 2002, corresponding to BJP election losses in key states, centered on the March 15, 2002 deadline set by the VHP to bring stone pillars to the site in order to initiate the temple's construction.<sup>26</sup> In the weeks preceding the violence in Gujarat, Hindu activists had been traveling to and from Ayodhya on the Sabarmati Express train. On February 27, 2002, following weeks of rising tensions between Hindu activists and Muslim vendors at the train station, a Muslim mob attacked Hindu activists riding in a train car of the Sabarmati Express. Two train cars were set on fire, killing at least fifty-eight people, including women and children.

Between February 28 and March 2, 2002, a three-day retaliatory killing spree by Hindus left hundreds of Muslims dead and tens of thousands homeless and dispossessed throughout Gujarat, marking the country's worst religious bloodletting since the Bombay riots a decade earlier. The looting and burning of Muslim homes, shops, restaurants, and places of worship was also widespread. Tragically consistent with a longstanding pattern of attacks on minorities, tribals, and Dalits in India, and with previous episodes of large-scale communal violence, scores of Muslim girls and women were brutally raped before being mutilated and burnt to death.

Numerous Indian and international human rights organizations, as well as the Indian media, reported that the attacks were planned well in advance of the Godhra incident, with extensive support from state officials. A report released by Human Rights Watch in April 2002 stated that the Hindu mobs were

guided by computer printouts listing the addresses of Muslim families and their properties, information obtained from the Ahmedabad municipal corporation among other sources, and em-

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24. See generally HUMAN RIGHTS WATCH, *INDIA: COMMUNAL VIOLENCE AND THE DENIAL OF JUSTICE* (1996), at <http://www.hrw.org/reports/1996/India1.htm>.

25. *Thackeray Slammed by Report, Saved by CM*, INDIAN EXPRESS, Aug. 7, 1998.

26. *India's Supreme Court Bans Religious Ceremony in Ayodhya*, AGENCE FRANCE-PRESSE, Mar. 13, 2002. A Supreme Court order issued two days before the March 15 deadline halted the planned construction. *Id.*

barked on a murderous rampage confident that the police was with them. In many cases, the police led the charge, using gunfire to kill Muslims who got in the mobs' way. A key BJP state minister is reported to have taken over police control rooms in Ahmedabad on the first day of the carnage, issuing orders to disregard pleas for assistance from Muslims. Portions of the Gujarati language press meanwhile printed fabricated stories and statements openly calling on Hindus to avenge the Godhra attacks.<sup>27</sup>

The police and various state officials were implicated in many of the attacks, in some cases as passive observers and in others as participants in the burning and looting of shops and homes and the killing of Muslims. In many cases the police came ahead of the mobs, aiming and firing at Muslim youth that got in the way.<sup>28</sup>

In July 2002, results of an official investigation by the Ahmedabad-based Forensic Science Laboratory stated that the fire on the Sabarmati Express in Godhra could not have been set by the mob from the outside as had been alleged; the fire, it claimed, was set from inside the train.<sup>29</sup> Allegations have also emerged that the Godhra victims may not have all been Hindu activists, whose deaths were allegedly avenged in the retaliatory killing of Muslims. Railway authorities have also consistently refused to publish the list of passenger names.<sup>30</sup> These and other reports have cast a shadow on the events of February 27. Investigations into the attack were ongoing at this writing.

In the aftermath of the violence, Muslim victims have been denied equal protection of the law and equal treatment in the disbursement of relief and rehabilitation services. An estimated 100,000 people, a majority of them Muslim, were internally displaced in the state following the massacres. For months they lived in makeshift relief camps throughout Gujarat. The state failed to provide them with adequate security or relief. The burden of providing much needed food and medical supplies rested largely with Muslim charities and nongovernmental organizations.<sup>31</sup> By October 2002, most of the camps had been closed, forcing Muslims to return to what was left of their homes or seek shelter elsewhere, fearing ongoing violence at home.<sup>32</sup>

Perpetrators continue to enjoy ongoing impunity for the attacks. The Human Rights Watch report adds:

27. NO ORDERS TO SAVE YOU, *supra* note 14, at 5.

28. *Id.* at 21–27. See also Sabrang Communications and Publishing Pvt. Ltd., *Police: Criminals in Uniform, COMMUNALISM COMBAT*, (Mar.-Apr. 2002), at <http://www.sabrang.com/cc/archive/2002/marapril/police.htm>; Citizens for Justice and Peace, *Police: Dereliction of Duty, CRIME AGAINST HUMANITY* (Vol. I), at <http://www.sabrang.com/tribunal/voll/annex/annex9.html>.

29. *Godhra Bogie Burnt from Inside, says report*, TIMES OF INDIA, July 4, 2002.

30. Rajesh Ramachandran, *Godhra Victims May Not Have Been Kar Sevaks*, TIMES OF INDIA, Aug. 6, 2002.

31. NO ORDERS TO SAVE YOU, *supra* note 14, at 57–58.

32. Investigations by the author, in Gujarat (Jan. 2003).

Eyewitnesses filed numerous police First Information Reports (FIRs), the initial reports of a crime recorded by the police, that named local VHP, BJP, and Bajrang Dal leaders as instigators or participants in the attacks. Few if any of these leaders have been arrested as the police, reportedly under instructions from the state, face continuous pressure not to arrest them or to reduce the severity of the charges filed. In many instances, the police have also refused to include in FIRs the names of perpetrators identified by the victims. Police have, however, filed false charges against Muslim youth arbitrarily detained during combing operations in Muslim neighborhoods that have been largely destroyed. The state government has entrusted a criminal probe into the deadliest of attacks in Ahmedabad, in the Naroda Patia and Gulmarg Society neighborhoods, to an officer handpicked by the VHP, the organization implicated in organizing and perpetrating these massacres.<sup>33</sup>

By February 2003, almost a year since the violence began, not a single trial related to the events had resulted in a conviction. Lawyers representing Muslim victims were losing faith that justice could be served in a state where the BJP was in power. Eyewitnesses, still under continuous threat, had bartered their security and the security of their loved ones in exchange for turning "hostile" as witnesses, or simply not showing up when the case went to trial. Even when witnesses would take the stand, the public prosecutor and the judge, in league with the defendants, ensured that the cases ended in acquittal.<sup>34</sup> The justice machinery has, in effect, been stacked against Muslims, a process that began years before the massacres.

The BJP first came to power in Gujarat in 1995. The state has since been dubbed a Hindutva "laboratory." Through years of intense political, social, and even educational activity, the BJP has sought to infiltrate the state's law enforcement, civil, and judicial administration with those sympathetic to the Hindutva cause. A ten-day spate of violence against Christians in Dangs district, Gujarat, between December 25, 1998 and January 3, 1999, gave some indication of the extent of this infiltration. Members of the RSS, the VHP, the Bajrang Dal, and the Hindu Jagran Manch ("HJM")<sup>35</sup> were responsible for the attacks. Local police refused to register complaints by Christian victims.<sup>36</sup>

Christian leaders, individuals, and institutions nationwide came under attack in India soon after the BJP came to power at the federal level in March 1998. While a majority of the reported incidents that year occurred in Gujarat, attacks were also reported in Maharashtra, Kerala, Madhya Pradesh, Bihar, Orissa, Andhra Pradesh, Haryana, Tamil Nadu, Karnataka, Manipur,

33. NO ORDERS TO SAVE YOU, *supra* note 14, at 6.

34. Investigations and interviews by the author, in Gujarat (Jan. 2003).

35. The HJM is an offshoot of the sangh parivar, consisting of people who belong to the Bajrang Dal, VHP and RSS.

36. ATTACKS AGAINST CHRISTIANS, *supra* note 14, at 27.

West Bengal, Uttar Pradesh, and New Delhi. Attacks included the killing of priests and missionaries and the raping of nuns. Christian institutions, including schools, churches, colleges, and cemeteries, were also destroyed.<sup>37</sup> The intensity and frequency of attacks increased in September and October 1999, just before national parliamentary elections. Corresponding closely to particular electoral contests in which Hindu nationalist groups pursued major strategic goals, the attacks also continued in the periods following electoral victory. Years later, these attacks are still ongoing.<sup>38</sup>

In part, Christian institutions and individuals have been targeted for their role in promoting health, literacy, and economic independence among Dalit and tribal community members. With upper-caste Hindu economic privilege at stake, keeping Dalits and tribals in a state of economic dependency is a motivating factor in anti-Christian violence and propaganda. As a result, the sangh parivar has also accused Christians of converting Dalits and tribals by coercion or force. Many tribals and Dalits have converted to Christianity in an effort to escape their impoverished state and abusive treatment under India's caste system.<sup>39</sup> India's National Commission for Minorities has found no evidence to back up the charges that Dalits and tribals are being converted by force.<sup>40</sup> Animists or spirit worshippers by nature, many tribals do not practice Hinduism. Much like Dalits, they traditionally fall outside the Hindu fold and are the prime targets of the VHP's "reconversion" campaigns.<sup>41</sup>

The VHP has begun to find legislative support for its endeavors. On October 31, 2002, the state government of Tamil Nadu passed the controversial Prohibition of Forcible Conversion of Religion Bill, aimed largely at curbing Dalit conversions to Christianity. Ordered by the All India Anna Dravida Munnetra Kazhagam ruling government of Chief Minister Jayalalitha Jayaram, the bill found support with the BJP; the party would like to see similar legislation in all other states.<sup>42</sup>

37. *Id.* at 3.

38. On January 13, 2003, for example, an American missionary, along with others, was attacked, with swords, sticks, and iron bars in the southern state of Kerala. Police reportedly arrested RSS activists in relation to the attack. *US Missionary Attacked in India*, BBC NEWS, at [http://news.bbc.co.uk/2/hi/south\\_asia/2659785.htm](http://news.bbc.co.uk/2/hi/south_asia/2659785.htm). See also HUMAN RIGHTS WATCH, *WORLD REPORT 2003*, at 239 (Jan. 15, 2003) [hereinafter *WORLD REPORT*].

39. Dalits, a population of nearly 160 million people, continue to suffer from extreme social discrimination, exploitation, segregation, and violence because of their rank at the bottom of India's caste system. Though not the focus of this Article, violence and discrimination against lower castes and Dalits ("untouchables") also helps to maintain exploitative economic arrangements that favor higher castes. See generally HUMAN RIGHTS WATCH, *BROKEN PEOPLE: CASTE VIOLENCE AGAINST INDIA'S "UNTOUCHABLES"* (1999).

40. Interview with Tahir Mahmood, then-Chairperson, National Commission for Minorities, in New Delhi (May 3, 1999).

41. *ATTACKS AGAINST CHRISTIANS*, *supra* note 14, at 12–13.

42. *Anti-Conversion Bill Passed in T.N.*, HINDU, (Nov. 1, 2002), at <http://www.hinduonnet.com/thehindu/2002/11/01/stories/2002110107030100.htm>; P. Radhakrishnan, Opinion, *Conversion Politics II*, HINDU, (Nov. 7, 2002), at <http://www.hinduonnet.com/2002/11/07/stories/2002110700301000.htm>. As the sangh parivar continues to thrive on funding from Indians living abroad, the government of India

Moves to ban religious conversions, the increased recruiting of Dalits and tribals into the RSS fold, and the “reconversion” of Dalits and tribals to Hinduism are parts of a broader strategy to recast these traditionally marginalized groups into a Hindu identity and deploy them in anti-Christian and anti-Muslim violence. They have succeeded in part: Dalit and tribal groups were also implicated in some of the attacks against Muslims in Gujarat. Politically, the vilification of Christians and Muslims is also a synthesizing feature of Hindutva that helps to consolidate the Hindu vote bank while stemming the tide of defecting Dalit and tribal voters to opposition parties. The vilification is also seeping into mainstream discourse—most powerfully, through the medium of education.

### C. Teaching Hate

The violence in Gujarat, while large in scale and methodical in its organization, was also barbaric in its execution. Young children, the elderly, and even the handicapped were not spared. Several eyewitnesses recounted incidents in which pregnant women’s bellies were cut open. The fetuses were pulled out and hacked before mother and child were burned. Muslim women and girls were brutally gang raped in front of their male relatives and, once killed, their bodies were burnt and charred beyond recognition.<sup>43</sup>

For such inhuman acts of violence to become routine, the demonization of entire communities must first take place. In India this has been effectively achieved through the medium of education that is increasingly being entrusted by the state to the *sangh parivar*. The Indian government supports, through official recognition and financial assistance, a large network of private schools run by Hindu nationalist organizations that effectively attempt to indoctrinate children in religious intolerance. When seen in the context of ongoing communal violence, the work of these private schools amounts to not only a denial of a child’s fundamental right to education, as described below, but also an incendiary tactic that ensures the spawning of a future generation of haters, perhaps even killers, mobilized as patriots and equipped with extensive military and ideological training.

According to a 1996 assessment by India’s National Council for Educational Research and Training, textbooks used by the Vidya Bharati, the edu-

has launched an offensive to cut off foreign financial support to nongovernmental organizations, particularly human rights organizations, and those that the government claims are involved in forced conversions of Hindus to Christianity. The RSS has called on the government to expel all missionaries from the country and stop the flow of foreign funding to “proselytizing agencies working under the various humanitarian garbs.” *Meeting the Threat of Conversion, in R.S.S.: A VISION IN ACTION* (H. V. Seshadri ed., 1988), at <http://www.rss.org/books/Vision/ch3.html>. The following is among the “Points of Hindu Agenda” drawn up by the VHP as a call for action to political parties in India: “All foreign remittances to non-governmental agencies, social, religious or service organizations or individuals will be stopped, so that the money and material so received is not misutilised for religious conversion and other divisive conspiracies.” For a complete list of points, see VISHWA HINDU PARISHAD, POINTS OF HINDU AGENDA (1997), at [http://www.vhp.org/englishsite/f.Hindu\\_Agenda/HinduAgenda\\_E.htm](http://www.vhp.org/englishsite/f.Hindu_Agenda/HinduAgenda_E.htm).

43. NO ORDERS TO SAVE YOU, *supra* note 14, at 16–20.

cational wing of the RSS, were “designed to promote bigotry and religious fanaticism in the name of inculcating knowledge of culture in the young generation.”<sup>44</sup> Children in these schools are indoctrinated in religious intolerance, the inferiority of non-Hindus, and the collective blame of Muslims and Christians for wrongs against Hindus at various points in Indian history, as interpreted by Hindu nationalists.<sup>45</sup> Western thought and civilization are perceived and propagated as enemies of Hindu culture. Religions such as Islam and Christianity are depicted as alien to India, as they are the religions of foreign invaders—the Mughals and the British.<sup>46</sup> Both Islam and Christianity were in fact introduced to India long before Mughal and British rule.

The historical reconstruction of Muslim and Christian atrocities and their projection onto the present as a threat to the integrity and security of India are powerful weapons in legitimizing ongoing violence against Christians and Muslims. Stated differently,

If the motif of infinite, elastic revenge unifies past, present and future, then the production of an appropriate historical memory is crucial for the generation of the new political culture. History teaching, textbooks and historical scholarship have been special targets of Sangh attacks. They need to assert their monopoly over historical truth, for there is a strange symmetry between their historical allegations and their present violence. They assert that Muslims broke temples, and then they demolish mosques. They allege forced conversion, and then they command victims to utter the name of Ram or to convert. Legends of rapes of Hindu women abound, and Muslim women are then raped freely.<sup>47</sup>

The influence of the sangh parivar’s takeover of India’s secular educational space has been greatly augmented since the BJP reached national power in 1998. Of particular concern is the passing of control over state schools to sangh parivar organizations in states where the BJP is in power, such as Goa and Gujarat, and, at the national level, the increasing involvement of members of these groups in the redrafting of India’s national curriculum. In 2002, the national BJP-led government released a new national curriculum

44. Venkitesh Ramakrishnan, *A Spreading Network*, FRONTLINE, Nov. 7–20, 1998, at <http://www.flonnet.com/fl1523/15230100.htm>.

45. See generally Safdar Hashmi Memorial Trust, *The Saffron Agenda in Education: An Exposé* (2001); Safdar Hashmi Memorial Trust and Sabrang.com, *Against Communalisation of Education: Essays, Press Commentary, Reportage* (2001).

46. The caste system is also glorified in sangh parivar-inspired education. In Gujarat, for example, the Gujarat State Board social studies textbook for the ninth grade characterizes the caste or *Varna* system—a significant source of human rights violations in India and elsewhere—as a “precious gift of the Aryans to the mankind,” adding that “the importance of the ‘Varna’ system as an ideal system of building the social and economic structure of a society cannot be overlooked.” ‘*Caste is a Precious Gift*,’ COMMUNALISM COMBAT, Oct. 1999, at 10.

47. Tanika Sarkar, *Semiotics of Terror: Muslim Children and Women in Hindu Rashtra*, ECON. & POL. WKLY., July 13, 2002, at <http://www.mnet.ft/aiindex/TanikaSarkarJUL02.html>.

largely drafted by members of the RSS and seen by many as a means of injecting religious instruction into education.<sup>48</sup>

The RSS also reportedly runs upwards of 300,000 *shakhas*—local cells organized on the principle that only a militant and powerful Hindu movement can counter threats from so-called outsiders. Shakhas recruit young boys and men, fifty to one hundred for each cell, providing them with extensive physical training and indoctrinating them with the Hindutva ideology.<sup>49</sup> An article in *The Hindu*, a respected English daily in India, states:

The RSS shakhas started functioning in 1925. Every day, they have 'boudhik' sessions that train members in imagined "histories" of outrage against Hindus. A documentary on shakhas for infants depicts a favourite game that enacts the "reconquest" of Kashmir through battles. We were proudly told by the headmaster of an RSS-run school in Delhi that he held forth on the Babri mosque saga at the assembly everyday: five-year-olds would clench their fists in fury and swear vengeance under the influence of his oratory. Night schools and sanskar kendras [cultural centers] take these messages beyond regular schooltime. The RSS itself is acknowledged to be the classroom for all its affiliates and sub-affiliates: BJP, VHP, Bajrang Dal and hand-picked cadres, trained in daily shakhas over years, come to these fronts to teach RSS values and intentions. Pedagogy is an essential tool for the Sangh Parivar.<sup>50</sup>

Hate propaganda is also disseminated by Hindutva's foot soldiers through the powerful medium of the local-language media and the distribution of hate literature on village and city streets. Anti-Christian and anti-Islamic propaganda has become commonplace in states such as Gujarat.

A week and a half before the Hindu rally in Ahwa town, Gujarat that precipitated ten days of violence against Christians in December 1998, pamphlets promoting the rally and containing anti-Christian propaganda were distributed in Ahwa and neighboring villages. The English translation of a Gujarati pamphlet distributed by Hindu Jagran Manch read in part:

The priests of the Christian religion are scared of the awakening of patriotic Hindus and have begun insulting holy people and volunteers of the "Hindu Jagran Manch" through daily papers. This is an insult to the whole of Hindu society. It is indeed the sacred duty (dharmanu kaam) of the Hindu religion to teach the bold Christian priests a lesson and to put them in their place.

48. WORLD REPORT, *supra* note 38, at 239.

49. Shakhas have long been operational in Gujarat and since the events of February and March 2002 have experienced increased enrollment. Anil Pathak, *RSS Shakhas Poised to Swell in State*, TIMES OF INDIA, May 29, 2002.

50. Tanika Sarkar, *Hindu Rashtra or Secular State?*, HINDU, Nov. 24, 1998, at <http://www.mnet.fr/aiindex/tsarkar.html>.

The conspiracy of converting gullible tribals by giving money, goods, black magic and also through threats is unearthed now. Hence, the "Hindu Jagran Manch" is determined to stop the conversions and curb all activities of Christian priests.<sup>51</sup>

Leaflets depicting Muslims as terrorists intent on destroying the Hindu community were also in circulation years before the 2002 attacks. RSS and HJM fliers circulated in August 1998 proclaimed: "India is a country of Hindus . . . . Our religion of Rama and Krishna is pious. To convert [or] leave it is a sin." Another flier by the VHP in Bardoli, Gujarat, warned, "Caution Hindus! Beware of inhuman deeds of Muslims . . . . Muslims are destroying Hindu Community by slaughter houses, slaughtering cows and making Hindu girls elope. Crime, drugs, terrorism are Muslim's empire."<sup>52</sup>

Leaflets calling for an economic boycott of Muslims surfaced in 2002, financially crippling Gujarat's Muslim community. One such leaflet distributed by the Vishwa Hindu Parishad read:

WAKE UP! ARISE! THINK! ENFORCE!

SAVE THE COUNTRY! SAVE THE RELIGION!

Economic boycott is the only solution! The anti-national elements use the money earned from the Hindus to destroy us! They buy arms! They molest our sisters and daughters! The way to break the back-bone of these elements is: An economic non-cooperation movement.<sup>53</sup>

The local language media also played a role in fanning the flames of communal violence in Gujarat. In April 2002, the People's Union for Civil Liberties and Shanti Abhiyan, both nongovernmental organizations, issued a report analyzing the role of the vernacular press, including the Vadodara city

51. *ATTACKS AGAINST CHRISTIANS*, *supra* note 14, at 18.

52. *Id.*

53. The leaflet continued with the following ten-point agenda:

Let us resolve—1. From now on I will not buy anything from a Muslim shopkeeper! 2. I will not sell anything from my shop to such elements! 3. Neither shall I use the hotels of these anti-nationals, nor their garages! 4. I shall give my vehicles only to Hindu garages! From a needle to gold, I shall not buy anything made by Muslims, neither shall we sell them things made by us! 5. Boycott wholeheartedly films in which Muslim hero-heroines act! Throw out films produced by these anti-nationals! 6. Never work in offices of Muslims! Do not rent them! 7. Do not let them buy offices in our business premises, nor sell or hire out houses to them in our housing societies, colonies or communities. 8. I shall certainly vote, but only for him who will protect the Hindu nation. 9. I shall be alert to ensure that our sisters-daughters do not fall into the "love-trap" of Muslim boys at school-college-workplace. 10. I shall not receive any education or training from a Muslim teacher. Such a strict economic boycott will throttle these elements! It will break their backbone! Then it will be difficult for them to live in any corner of this country.

Anosh Malekar, *Silence of the Lambs*, *WEEK*, Apr. 7, 2002. See also Concerned Citizens Tribunal—Gujarat 2002, *Annexure 11: Hate Writing*, in 1 *CRIME AGAINST HUMANITY* (2002), at <http://www.sabrang.com/tribunal/voll/annex/annex11.html>.



edition of *Sandesb*, a Gujarati-language newspaper. The report concluded that articles carried by *Sandesb* fed on “the prevalent anti-Muslim prejudices of its Hindu readership and provoke[d] it further by sensationalizing, twisting, mangling and distorting news or what passes for it.”<sup>54</sup> On February 28, 2002, for example, a day after the attack on Hindus in Godhra, a *Sandesb* front-page report read: “AVENGE BLOOD WITH BLOOD.”<sup>55</sup>

#### D. Patriot or “Anti-Hindu”: Creating a False Dichotomy

The dissemination and consumption of hate literature and slanted inflammatory news articles are indicative of the increasing popularity of a sentiment systematically honed by the sangh parivar over the last several decades: that India is a country for Hindus. Perhaps the greatest achievement of the Hindu right has been to recast the Indian identity as one exclusively reserved for its Hindu citizens. Muslims, Christians, and others are tolerated minorities whose best interests lie in toeing the majority line.<sup>56</sup> These are the religions of foreign invaders whose current followers must pay for the alleged and often constructed sins of their forefathers and whose allegiance, it is claimed, rests with governments in foreign lands.<sup>57</sup>

The Gandhian ethic of nonviolence, the cornerstone of the Indian independence struggle, has lost its legitimacy. In its place is an increasingly class-cutting movement where even large-scale massacre is justified as a patriotic act. Then–Vishwa Hindu Parishad Secretary B. L. Sharma characterized the gang rape of four nuns in the state of Madhya Pradesh in September 1998 as the “anger of patriotic Hindu youth against the anti-national forces.” The nuns were accused of trying to convert local Hindus to Christianity.<sup>58</sup> On March 1, 2002, at the height of the violence in the state, Gujarat Chief Minister Narendra Modi, an RSS propagandist, declared that he would control the “riots resulting from the natural and justified anger of the people.”<sup>59</sup>

54. PEOPLE’S UNION FOR CIVIL LIBERTIES VADODARA-BARODA AND SHANTI ABHIYAN, THE ROLE OF NEWSPAPERS DURING THE GUJARAT CARNAGE: A BRIEF ANALYSIS FOR THE PERIOD FEBRUARY 28 TO MARCH 24, 2002 (2002), at <http://www.pucl.org/Topics/Religion-communalism/2002/gujarat-media.htm>.

55. *Id.*

56. On March 17, 2002, for example, the RSS passed a resolution titled “Godhra and After,” warning Muslims that their safety lay in the goodwill of the majority. *Hindu Goodwill Key to Muslims’ Safety—RSS*, HINDUSTAN TIMES, Mar. 18, 2002.

57. Ghettoized Muslim neighborhoods in Ahmedabad separated by a wall are colloquially referred to as Pakistan. It is argued that their allegiance, and that of Muslims as a whole in India, is to Pakistan, a country to which they chose not to migrate during the partition of India and the creation of the Islamic Republic of Pakistan in 1947. Interview with residents of Ahmedabad, in Ahmedabad, Gujarat (Mar. 21, 2002). The phrase “*Pakistan ya kabristan*” (Pakistan or the graveyard), a popular Hindu nationalist slogan of the 1980s and 1990s, was zealously revived during the 2002 massacres in Gujarat. Pankaj Mishra, *Murder in India*, N.Y. REV. OF BOOKS, Aug. 15, 2002 (reviewing NO ORDERS TO SAVE YOU, *supra* note 14.); Interviews with witnesses and activists, in Ahmedabad, Gujarat (Mar. 21, 2002).

58. *Hindu Militants Justify Attacks on Nuns*, AGENCE FRANCE-PRESSE, Sept. 29, 1998.

59. *Gujarat Used as Hindutva Laboratory*, ASIAN AGE, Mar. 25, 2002, cited in NO ORDERS TO SAVE YOU, *supra* note 14.

Referring to Newton's laws of physics while discussing the Godhra massacre, Modi told reporters: "Every action has an equal and opposite reaction." Further, Modi remarked, "the . . . people of Gujarat have shown remarkable restraint under grave provocation."<sup>60</sup>

As in the United States, where since September 11 political dissenters have been labeled as unpatriotic, in India, patriotism has also been seamlessly co-opted by the right. Activists, journalists, and citizens of any faith who publicly criticize the divisive policies of the sangh parivar or expose atrocities against religious minorities and Dalits are deemed anti-Hindu and, hence, anti-national.<sup>61</sup> The critique is insidiously recast as an assault on Hinduism, which in turn is an assault on the nation. Lost in the debate is the notion that religion itself has been co-opted by political forces claiming to represent its ideals and its followers.

To demand equal protection of the law for all or to protest when the government kills its own citizens is deemed a threat to the integrity of the nation and an attempt to defile India in the eyes of the international community. Conversely, outright murder or rape in the name of avenging past and present attacks on Hindus (whether fact or fiction), or constructing a Hindu temple where a Muslim mosque once stood, are all patriotic acts in the service of one's country.

In the governmental arena, patriotism cloaks itself in the garb of national security. In an age in which even extrajudicial state action is condoned in the name of fighting terror and in which terrorism has become the involuntary monopoly of the non-state (and often Islamic) actor, political opponents and religious minorities become easy targets. The Indian government continues to exploit rhetoric surrounding the global "war against terrorism" in order to target religious minorities and political opponents. Most notably, the long debated anti-terrorism legislation, the Prevention of Terrorism Act ("POTA"), was pushed through parliament in March 2002.<sup>62</sup> Its close resemblance to the much misused and now lapsed Terrorists and Disruptive Activities (Prevention) Act of 1985 (amended 1987) foreshadowed a return to the widespread and systematic curtailment of civil liberties.<sup>63</sup>

60. Scott Baldauf, *Indian Government Struggles to Maintain Order: Continuing Riots Test Hindu-led Coalition's Credibility*, CHRISTIAN SCI. MONITOR, Mar. 4, 2002.

61. Movements to promote Dalit rights or raise a voice against attacks on religious minorities are also de-legitimized as foreign-funded or part of a Western conspiracy, once again effectively uniting the Indian polity against a constructed outside force. Ultimately, it suggests that those raising a voice on behalf of the marginalized or calling on the government to enforce its own laws can only be doing so as a means of garnering funds for their work or under the influence of a foreign anti-national agenda.

62. Deborah Kuan, *India: Tough Act*, 49 WORLD PRESS REVIEW 6, June 2002, at <http://www.worldpress.org/Asia/555.cfm>.

63. HUMAN RIGHTS WATCH, OPPORTUNISM IN THE FACE OF TRAGEDY: REPRESSION IN THE NAME OF ANTI-TERRORISM (Nov. 14, 2002), at <http://www.hrw.org/campaigns/september11/opportunismwatch.htm#India>. These and other forms of national security legislation have a long history of abuse in India, as well as in Pakistan and Bangladesh, where such laws have been used to subject minorities and political opponents to arbitrary arrest, preventive detention, torture, and death in custody. Increasingly, these laws are being recast and redeployed in the name of fighting "terror."

The POTA creates an overly broad definition of terrorism, while expanding the state's investigative and procedural powers. Moreover, under the POTA, suspects can be detained for up to three months without charge, and up to three months more with permission by a special judge.<sup>64</sup> As of January 2003, the government had already selectively used the POTA against political dissenters in Kashmir and Tamil Nadu,<sup>65</sup> yet not against members of the sangh parivar, including those in Gujarat.

Muslims arrested following the killing of Hindus in Godhra, Gujarat were quickly charged under the Prevention of Terrorism Ordinance that preceded the Prevention of Terrorism Act. Those arrested for the ensuing attacks against Muslims did not face the same charges. Many have been released on bail, while others, including BJP, VHP, and RSS officials identified by eyewitnesses as ringleaders of the attacks, have escaped arrest altogether.<sup>66</sup> After much protest, the POTA charges against the Godhra arrestees were eventually dropped. But the message from the state was clear: attacks against Hindus are the actions of terrorists and a threat to the integrity of the state. Conversely, economic boycotts, widespread violence, and gang rape of Muslims in the name of avenging Hindu deaths are deemed the spontaneous and even justified acts of patriotic Indians reacting to a terrorist threat.<sup>67</sup>

## II: HINDU NATIONALISM AND ITS BROADER CONSEQUENCES

The increasing dominance of Hindu nationalism as a political and social force in India has consequences beyond its impact on the lives of India's religious minorities. In addition to subverting the rule of law within the country, it helps fuel a cycle of retaliatory communal violence across borders. When combined with rising religious fundamentalism in Bangladesh and Pakistan, it also threatens regional security. The second Part of this Article explores these broader consequences of an unchecked Hindu nationalist agenda.

64. Neelesh Misra, *India Moves To Curtail Terrorism*, CBS NEWS, Mar. 26, 2002, at <http://www.cbsnews.com/stories/2002/03/26/attack/main504660.shtml>.

65. WORLD REPORT, *supra* note 38, at 241. The newly elected government of the state of Jammu and Kashmir announced in October 2002 an action plan to curb human rights abuses by Indian security forces, adding that the POTA would no longer be used in the state. AMNESTY INTERNATIONAL, INDIA: JAMMU/KASHMIR GOVERNMENT SHOULD IMPLEMENT HUMAN RIGHTS (Nov. 25, 2002), at <http://web.amnesty.org/ai.nsf/Index/ASA200222002?OpenDocument&of=Countries\IndiaProgram>.

66. NO ORDERS TO SAVE YOU, *supra* note 14, at 18.

67. Terrorism again took center stage during the December 2002 state assembly elections in Gujarat. Chief Minister Narendra Modi equated opposition to the BJP with support to 'Mian Musharraf' of Pakistan (Mian is a derogatory term for Muslim), adding that a victory for the BJP would mark an end to Pakistan-sponsored terrorism. Modi effectively cast the opposition Congress (I) Party, which was heavily favored by Muslim voters, as anti-national and pro-terrorist. Neena Vyas, *We Shall Replicate 'Gujarat Experience': BJP Chief*, HINDU, Dec. 24, 2002, at <http://www.hinduonnet.com/2002/12/24/stories/2002122404900100.htm>.

### A. Nullification of Indian and International Law

The complicity and direct participation of state officials in episodes of communal carnage in India and the ongoing impunity for campaigns of orchestrated violence undermine legal protections afforded to religious minorities under international and Indian law. International human rights law, India's constitutional provisions, and domestic legislation together impose on the government of India a duty to guarantee certain basic rights to minority populations, to prosecute those who participate in communal violence, and to punish state officials who, having the power and duty to stop the violence, do not intervene.

The preamble of the Indian constitution openly declares India as a "sovereign socialist secular democratic republic" which ensures to all citizens "liberty of thought, expression, belief, faith and worship." In the Indian context, secularism implies equality of rights for all regardless of religion, the exercise of religious freedom and tolerance, and the rejection of discrimination based on religion or belief.

Under Articles 14, 15, and 16 of the Indian constitution, discrimination on the grounds of religion is prohibited, and all citizens are guaranteed the right to equal treatment before the law and the right to equal protection of the laws. Article 25 guarantees the right to practice freely and propagate religion while Articles 26, 28, and 30 ensure the freedom of citizens to manage religious affairs, to attend religious instruction or religious worship in certain educational institutions and the rights of minorities to establish and administer educational institutions. Article 28 also prohibits religious instruction in any educational institution wholly maintained out of state funds.<sup>68</sup>

India is also party to several international treaties that impose human rights obligations. Article 18 of the International Covenant on Civil and Political Rights establishes the right to freedom of thought, conscience, and religion.<sup>69</sup> Articles 2 and 26 bar discrimination on the grounds of religion while Article 27 dictates that "[i]n those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of the their group,

68. Select provisions of the Indian Penal Code make punishable acts of violence or discrimination based on religion. The Religious Institutions (Prevention of Misuse) Act, 1988, prevents the misuse of religious places for political and criminal activities. The Places of Worship (Special Provisions) Act, 1991, prohibits the conversion of any place of worship of any religious denomination into a place of worship of a different religious institution and for the maintenance of the religious character of places of worship as it existed on August 15, 1947. And the Representation of the People Act, 1951, prohibits the use of religion or religious symbols to promote one's candidacy or to affect adversely the election of another candidate as a corrupt practice that debases the election and is a punishable offense. INDIA CONST., available at <http://alfa.nic.in/const/const.html>.

69. India acceded to the convention on April 10, 1979. OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, STATUS OF THE RATIFICATIONS OF THE PRINCIPAL HUMAN RIGHTS TREATIES (2002), at <http://www.unhchr.ch/pdf/report/pdf>.

to enjoy their own culture, to profess and practice their own religion, or to use their own language.”<sup>70</sup>

The principle of non-discrimination is also a cornerstone of the right to education as framed by international law. Where state-sponsored public education or state-sanctioned private education promotes hatred and bigotry towards a particular group, students from that group suffer discrimination in violation of international law. The prohibition of discrimination applies specifically to the right to education. The Committee on Economic, Social and Cultural Rights has stated: “The prohibition against discrimination enshrined in article 2(2) of the International Covenant on Economic, Social and Cultural Rights is subject to neither progressive realization nor the availability of resources; it applies fully and immediately to all aspects of education and encompasses internationally prohibited grounds of discrimination.”<sup>71</sup>

Where non-Hindu children are limited to schools which use the Vidya Bharati curriculum, they are restricted to education of an inferior standard in that the instruction they receive discriminates against them by stigmatizing them as inferior citizens, and failing to take into account their culture or religion. For the majority of Hindu children, an education in hate, framed by falsified teachings of history, is not an education. They too are deprived of an education free from intolerance and bigotry.

The Indian government has largely failed in delivering these protections and fulfilling its obligations. The RSS and its affiliates are allowed to operate openly, with impunity, and, increasingly, with state funding and support. The constitutional principle of a secular democracy is continually subverted as the rule of law takes a dangerous second to the promotion of a Hindu state. Ultimately, as the state actively participates in undermining its own laws, the evisceration of domestic and international standards and the ensuing corruption among law enforcement officials weakens access to justice for citizens of all faiths.<sup>72</sup>

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70. The right to freedom of religion and prohibitions on discrimination on the grounds of religion are further elaborated upon in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. Although not a treaty, this declaration, proclaimed by the General Assembly of the United Nations in 1981, provides authoritative guidelines to UN member states on ways to eliminate religious intolerance and discrimination. Article 4 of the declaration proclaims that, “All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life,” and that “[a]ll States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter.” OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (2002), at [http://www.unhcr.ch/html/menu3/b/a\\_cpvr.htm](http://www.unhcr.ch/html/menu3/b/a_cpvr.htm).

71. India acceded to the convention on April 10, 1979. OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, *supra* note 69.

72. Portions of the above analysis of Indian constitutionalism draw heavily on the analysis of international and Indian law by the author in *ATTACKS AGAINST CHRISTIANS*, *supra* note 14.

### B. Communal Retaliation Across Borders

Just as thousands of Muslim community members in Gujarat were punished for the actions of a few, violence against Muslims in India has its corresponding effect on Hindus in Bangladesh and Pakistan. These attacks are based on the perverse logic that holds an entire community responsible for the actions of a few. Whether it plays itself out on the pages of a history textbook or as a justification for day-to-day assaults, the conclusion drawn is the same: the sum is guilty of all the misdeeds of its parts, even across continents and borders.<sup>73</sup>

In Bangladesh, Hindus were attacked following the demolition of the Babri mosque in India in December 1992.<sup>74</sup> The Hindu minority in Pakistan, already marginalized, has been further targeted as a result of heightened tensions in Kashmir. According to Minority Rights Group International, in 2002, violence against Muslims in Gujarat "served to further stigmatise the Hindu minority in Pakistan and led to increased communal tensions."<sup>75</sup>

The logic comes full circle when members of the sangh parivar present the ongoing persecution of Hindus in Bangladesh and Pakistan's support of Islamic militancy in Kashmir as arguments in support for and in defense of the persecution of Muslims in India.<sup>76</sup> Following the attack on Hindu activists in Godhra, VHP International General Secretary Praveen Togadia fanned Hindu insecurity and vengefulness by claiming that the events of Godhra would be repeated all over India if the actions of terrorists from across the border (in Pakistan) were not immediately contained.<sup>77</sup> For his part, Indian Prime Minister Atal Bihari Vajpayee invoked the threat of Is-

73. Hate crimes against Muslims, Arabs, and those of South Asian or Middle Eastern descent in the United States also rose dramatically in the months following the September 11 attack on the World Trade Center. Anti-Muslim hate crimes in the United States rose 1700% during 2001. See HUMAN RIGHTS WATCH, "WE ARE NOT THE ENEMY": HATE CRIMES AGAINST ARABS, MUSLIMS, AND THOSE PERCEIVED TO BE ARAB OR MUSLIM AFTER SEPTEMBER 11 at 4 (2002).

74. The subject of the acclaimed Bangladeshi author Taslima Nasrin's book *Lajja* (Shame) is the violence against Hindus in Bangladesh in 1992, following the destruction of the Babri Masjid in India on December 6 of that year. It is told through the eyes of a fictionalized Hindu family. *Lajja* was published in February 1993 and banned by the Bangladeshi government five months later for disturbing the communal peace. In September 1993 a *fatwa* was issued against Nasrin by a fundamentalist organization and a reward was offered for her death. TASLIMA NASRIN, *LAJJA* ix (Tutul Gupta trans., Penguin Books 1994) (1993).

75. MINORITY RIGHTS GROUP INT'L, PAKISTAN URGED TO ACT TO DEFEND RELIGIOUS MINORITIES (Oct. 9, 2002), at <http://www.minorityrights.org>. On May 12, the government of Bangladesh issued a note verbale to the Indian high commissioner claiming that "several hundred Bengali-speaking families from India [were] trying to flee the communal violence in Gujarat and [were] attempting to illegally cross into Bangladesh." The note added that despite ongoing communal violence in Gujarat, "the situation in Bangladesh [had] been calm." Reports in the Bangladeshi press stated that the refugees had in fact left Bangladesh for Gujarat about a decade ago and were now returning for fear of their safety. V. Sudarshan, *Wretched of the Earth*, OUTLOOK, June 17, 2002, at <http://www.hvk.org/articles/0602/148.html>.

76. *Dilemma over Hindus in Bangladesh*, TIMES OF INDIA, May 7, 2002.

77. *Godhra Incident Could be Repeated Elsewhere—Togadia*, TIMES OF INDIA, Sept. 9, 2002.

lamic terrorism in the aftermath of the September 11 attacks and stated: "Where there are Muslims, they do not want to live in peace with others. Instead of living peacefully, they want to propagate their religion by creating terror in the minds of others."<sup>78</sup>

Regardless of the rhetoric deployed, the actions of one country can and do affect the lives of minorities in another—more so in the case of the Indian subcontinent where the drawing of borders along religious lines<sup>79</sup> foreshadowed decades of ill-treatment of migrants and of religious minorities left behind. Muslims who migrated to Pakistan during the partition, collectively referred to as Mohajjirs, continue to suffer discrimination. Hindus who left Pakistan for India also faced years of hardship and discrimination though they arguably have fared better in their long-term assimilation. More perilous in contemporary South Asia has been the lot of Muslims in India who did not migrate to Pakistan (see above), of Hindus in Bangladesh and the disputed territory of Kashmir,<sup>80</sup> and of religious minorities in the Islamic Republic of Pakistan. Recent abuses against Hindus in Pakistan and Bangladesh have only exacerbated their already tenuous legal and political standing. The following Section briefly explores the vulnerability of religious minorities in both countries.

### C. Religious Minorities in Pakistan and Bangladesh

Pakistan's parliamentary elections in October 2002, the first of their kind since the military coup that brought then-General, now President, Pervez Musharraf to power in October 1999, ushered in the dramatic and unprecedented rise of religious parties. The Mutahidda Majlis-a-Amal, a coalition of six Islamic parties opposed to U.S. presence in the region and Pakistan's participation in the war on terror, won 60 of the 342 seats in the national as-

78. Editorial, *Gandhi's Horror*, FIN. TIMES, Apr. 16, 2002. Both Vajpayee and Deputy Prime Minister L.K. Advani are longtime RSS members.

79. The partition of India and the creation of Pakistan in 1947 have undoubtedly left deep scars in the minds of the millions who were uprooted during the world's largest forced mass migration. Hundreds of thousands were killed in inter-religious violence. Almost a quarter of a century later, on March 26, 1971, East Pakistan attained independence and became the sovereign state of Bangladesh. It took nine more months for Pakistani troops to leave the state. BBC NEWS, *Timeline: Bangladesh*, Aug. 7, 2002, at [http://news.bbc.co.uk/1/low/world/south\\_asia/1160896.stm](http://news.bbc.co.uk/1/low/world/south_asia/1160896.stm). An estimated three million people were killed and 300,000 women raped by the Pakistani army and local collaborators during the nine-month liberation war. *Musharraf Regrets 'Excesses' by Pak Troops in 1971*, INDIA ABROAD, July 30, 2002, at <http://www.rediff.com/news/2002/jul/29bang1.htm>.

80. The tug-of-war over Kashmir, twice the cause of full-fledged wars between India and Pakistan, continues to bring the two countries to the brink of war. The last war ended with a cease-fire resulting in a 1972 partition along what is called the line of control. Pakistan controls about a third of Kashmir's 86,000 square miles; India holds most of the rest. Although this Article does not focus on the situation of religious minorities in Kashmir, abuses against the Hindu minority in the state at the hands of militant insurgents have been tremendous. Beginning in 1988 Hindus in the Kashmir valley were made the targets of threats and acts of violence by militant organizations. A wave of killings that left thousands dead led to the large-scale displacement of Kashmir's Hindu population, many of whom continue to live as internally displaced persons elsewhere in the country and the state.

sembly, reflecting a strong undercurrent of resentment over the U.S. war in Afghanistan.<sup>81</sup>

The Pakistani government's continuing support of U.S. efforts against al-Qaeda also led to targeted violence against foreign nationals and religious minorities, Christians in particular. Using grenades and gunfire, attacks were directed at Christian churches, schools, and humanitarian organizations, and resulted in many deaths. The government moved slowly to arrest those responsible. In many cases, attackers have escaped prosecution altogether.<sup>82</sup>

Blasphemy laws continue to be employed in Pakistan to persecute religious minorities. The laws, introduced by General Zia-ul Haq in 1985, make it punishable by death to make derogatory comments about the Prophet Mohammed or other holy Islamic figures. Arrests under the law can be made upon complaint, even without an investigation, leading to numerous false charges, used by complainants to settle scores with those accused.

In April 1998, Ayub Masih, a Christian man, was sentenced to death for allegedly speaking favorably of Salman Rushdie.<sup>83</sup> In August 2002, the Supreme Court of Pakistan overturned Masih's conviction, noting that the complainant had been involved in a land dispute with Masih and that shortly after his 1996 arrest, the complainant had moved onto Masih's land and secured a transfer of title to his name.<sup>84</sup> On July 27, 2002, a judge sentenced twenty-six-year-old Wajihul Hassan to death for allegedly making phone calls and writing letters to the complainant that contained derogatory remarks about the Prophet Mohammed.<sup>85</sup>

Until January 2002, religious minorities in Pakistan were also deprived of many of their political rights. On January 16, 2002, President Musharraf abolished a sixteen-year-old system of separate electorates for Pakistan's religious minorities. Minorities have long claimed that a separate electorate, introduced by General Zia-ul Haq in 1985, effectively marginalized them from mainstream politics, and welcomed the decision to restore joint elections. Under the separate electorate system, religious minorities were re-

81. *Pro Taliban Faction Wins in Pakistan Elections*, United Press Int'l, October 11, 2002, at <http://www.newsmax.com/archives/articles/2002/10/11/74602.shtml>.

82. DR. IFTIKHAR H. MALIK, MINORITY RIGHTS GROUP INT'L, REPORT: RELIGIOUS MINORITIES IN PAKISTAN (2002), at <http://www.minorityrights.org/admin/Download/pdf/MRGPakistanReport.pdf>. For information on the treatment of Ahmadis (members of a Muslim sect who are by law classified as a non-Muslim minority) and sectarian violence between majority Sunni Muslims and minority Shiite Muslims, see SOUTH ASIA HUMAN RIGHTS DOCUMENTATION CENTRE, THE RELIGIOUS INTOLERANCE IN PAKISTAN (Feb. 12, 2001), at <http://www.hrdoc.net/sahrdc/hrfeatures/HRF31.htm>.

83. SOUTH ASIA HUMAN RIGHTS DOCUMENTATION CENTRE, *supra* note 82.

84. WORLD REPORT, *supra* note 38, at 264.

85. *Id.* In 2000, Musharraf's proposal to restrict application of the Blasphemy laws was abruptly withdrawn following widespread protests by religious groups. According to the U.S. State Department's 2002 Report on International Religious Freedom, "When blasphemy and other religious cases are brought to court, extremists often pack the courtroom and make public threats against an acquittal." U.S. DEP'T OF STATE, INTERNATIONAL RELIGIOUS FREEDOM REPORT 2002: PAKISTAN (Oct. 7, 2002), at <http://www.state.gov/drl/rls/irf/2002/14026.htm>.



stricted to voting for candidates contesting limited seats reserved for their religious group, and from running as candidates in Muslim electorates.<sup>86</sup>

Bangladesh, a nation that at its birth defiantly rejected Islam as the basis of statehood, is starting to lose its secular credentials. In October 2001, general elections brought the Bangladesh National Party to power in coalition with an alliance of Islamic parties including the *Jamaat-e-Islami* party. *Jamaat-e-Islami* staunchly fought against the liberation of Bangladesh from Pakistan<sup>87</sup> and now advocates for the strict implementation of Islamic *Shari'a* law in Bangladesh, as it was applied in Afghanistan by the Taliban.<sup>88</sup> The ruling Bangladesh National Party is led by Khaleda Zia, widow of Pakistan's General Zia-ul-Haq who, in addition to legalizing discrimination against religious minorities in Pakistan, amended the original constitution of East Pakistan replacing secularism with the "Sovereignty of Allah."<sup>89</sup> In 1988, the constitution of Bangladesh was modified to make Islam the state religion (Article 2A).<sup>90</sup> A report in the *Far Eastern Economic Review* claimed that in the last decade *madrassas*, religious schools, have mushroomed in Bangladesh, adding that an estimated 64,000 such schools now are operating throughout the country.<sup>91</sup>

Following the October 2001 elections, violence became a defining hallmark of the Hindu experience, much of it reportedly at the behest of the government.<sup>92</sup> An Amnesty International report released in December 2001 documented the involvement of cadres from both the *Jamaat-e-Islami* party and the BNP in crimes against Hindus.<sup>93</sup> Christians, Buddhists, and dissenting Muslims were targeted as well, many for their perceived support of the opposition Awami League.<sup>94</sup> Hindu homes were looted, vandalized, and

86. Australian Catholic Social Justice Council, *Social Justice Body Welcomes End Of Separate Electorates In Pakistan*, Jan. 21, 2002, at [http://www.socialjustice.catholic.org.au/content/media\\_releases/2002\\_01\\_21\\_1021862697.html](http://www.socialjustice.catholic.org.au/content/media_releases/2002_01_21_1021862697.html).

87. See *Musharraf Regrets 'Excesses' by Pak Troops in 1971*, *supra* note 79.

88. Ruth Baldwin, *The "Talibanization" of Bangladesh*, *THE NATION*, May 18, 2002, at <http://www.thenation.com/doc.mhtml?I=20020527&s=baldwin20020527>.

89. *Id.*

90. BBC NEWS, *supra* note 79.

91. Bertil Lintner, *Bangladesh: A Cocoon of Terror*, *FAR E. ECON. REV.*, Apr. 4, 2002, at [http://www.asiapacificms.com/articles/bangladesh\\_terror/](http://www.asiapacificms.com/articles/bangladesh_terror/).

92. AMNESTY INT'L, *BANGLADESH: ATTACKS ON MEMBERS OF THE HINDU MINORITY 1-2* (Jan. 12, 2001).

93. *Id.*

94. As in India, dissenters, journalists, and activists in Bangladesh have also suffered a backlash for being outspoken on what they see as an erosion of the ideals of tolerance and democracy and, in the case of Bangladesh, the growing political power of the military and of Islamic groups. Those attempting to expose atrocities against Hindus, including journalists, have themselves faced harassment and in some cases arrest. One example is that of filmmaker Shahriar Kabir. In November 2001, upon returning to Dhaka after filming Hindu refugees from Bangladesh for his documentary *Cry for Amity*, Kabir was arrested on charges of treason and detained under the Special Powers Act of 1974. After spending fifty-nine days in the Dhaka Central Jail, Kabir was granted six months' interim bail, though his life was continually threatened by religious extremists in the country. A member of parliament, also a leader of the *Jamaat-e-Islami* party, issued a *fatwa* against Kabir, and declared him a *murtad*—a person eligible to be killed. Baldwin, *supra* note 88.

burned and Hindu temples and sacred sites were destroyed. Scores of Hindu women and girls were raped, confirming once again that as in India and other parts of the world, rape is a potent weapon in religious and ethnic conflict. In some cases, they were gang raped in front of their male relatives. The attackers then asked the victims to leave their homes. Hindus have also been assaulted on the streets, in their homes, and at their workplace. Systematic attacks have resulted in a mass migration of Hindus to bordering Indian states. Abuses against Hindus are not a new phenomenon, however. They have endured discrimination, violence, and harassment by the governments of East Pakistan and Bangladesh, including under the recently defeated Awami League government.<sup>95</sup>

In 1965, following the Indo-Pak war, the government of East Pakistan passed the Enemy Property (Custody and Registration) Order II, legalizing economic discrimination against Hindus. The order was used to take away land from Hindus who were identified as enemies of the state and characterized as supporters of India.<sup>96</sup> Following the independence of Bangladesh, the president passed Order No. 29 of 1972 and changed the name of the 1965 Order to the Vested Property Act ("VPA") under which the government vested itself with so-called enemy properties. Nothing contained in the order could be called into question by any court and to date there has been no judicial review of the Act. Bangladeshi NGOs contend that implementation of these laws has accelerated a process of mass exodus of Hindus from Bangladesh since the 1960s. A loss of land leads to a loss of livelihood, pushing affected Hindus into poverty. According to census estimates, upwards of 5.3 million Hindus may have left Bangladesh between 1964 and 1991.<sup>97</sup>

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95. See *Bangladeshi Hindus Cross into India's West Bengal*, PRESS TRUST OF INDIA, Nov. 7, 2001; see also SOUTH ASIA HUMAN RIGHTS DOCUMENTATION CENTRE, *ATTACKS ON HINDU MINORITIES IN BANGLADESH: THE INSURGENCY FALLOUT IN NORTH EAST INDIA* Dec. 12, 2001, at <http://www.hrhc.net/sahrdc/hrfeatures/HRF48.htm>.

96. SOUTH ASIA HUMAN RIGHTS DOCUMENTATION CENTRE, *THE HINDU MINORITY IN BANGLADESH: LEGALLY IDENTIFIED ENEMIES* (Jan. 11, 2000), at <http://www.hrhc.net/sahrdc/hrfeatures/HRF13.htm>.

97. *Id.* On April 9, 2001, the Parliament of Bangladesh passed the Vested Properties Return Act 2001 to restore vested properties to their original owners. Critics of the law charge that a plethora of restrictions and exceptions to the bill render it meaningless for most of those affected by the VPA. For more see SOUTH ASIA HUMAN RIGHTS DOCUMENTATION CENTRE, *BANGLADESH: THE VESTED PROPERTIES RETURN ACT, 2001* (Apr. 18, 2001), at <http://www.hrhc.net/sahrdc/hrfeatures/HRF35.htm>. Likewise, Hindus in Pakistan have been pushed into desperate poverty through exploitative economic relationships that ensure their continued bondage. In Pakistan, bonded labor is most prevalent in the agricultural provinces of southern Punjab and Sindh where most laborers are minority Hindus from lower castes. Dexter Filkins, *Serfs Cast off Chains in Pakistan*, L.A. TIMES, Aug. 20, 1999, at A1. Though illegal, the practice of keeping laborers in bondage remains largely unprosecuted. In a pattern similar to that practiced in India, Nepal, and other parts of the subcontinent, the charging of exorbitantly high interest rates ensures that loans from landowners are never repaid. While the loan agreement is often made between the landowner and the male head of the peasant household, the work to pay off the loan is performed by the entire family, including women and children. HUMAN RIGHTS WATCH, *CONTEMPORARY FORMS OF SLAVERY IN PAKISTAN* 12–13 (1995). Women have also been held in custody by landowners when bonded male members of the family leave the land or area, and have even been sold into marriage or prostitution when the male family member has failed to return. *Id.* at 66. As with bonded labor cases

*D. Undermining Security in South Asia*

The flow of refugees across borders and the increasing influence of the religious right in the governance of India, Pakistan, and Bangladesh pose serious threats to the security of the region as a whole. This has been most vividly illustrated in the case of Kashmir, where ongoing abuses and human rights violations by Islamic militants and Indian security forces continue to escalate the potential for nuclear conflict.

The jingoistic policies of both Pakistan and India vis-à-vis Kashmir have turned the lives of ordinary Kashmiris into living nightmares. Attacks by Pakistan-supported militants and Indian security forces, the placement of landmines along the Indo-Pak border on both sides, election-related violence, and periodic exchanges of fire across the Line of Control have led to thousands of civilian casualties in the last few years alone. In May 1998, Pakistan and India tested nuclear weapons in succession, putting the world on notice that any future war between the two states may be a nuclear one. While the possible threat of nuclear war is serious and deserving of attention, aggressive posturing over Kashmir also helps to draw attention away from grave abuses by both states against their own citizens.

Abuses by the military regime and the religious right in Pakistan have largely been overlooked in a tacit exchange for Pakistan's support for the U.S.-led war in Afghanistan. India has moved quickly to point out the irony of rewarding Pakistan, monetarily and diplomatically, for its role in fighting terror as it continues to sponsor violence in Kashmir. In India, international scrutiny over the massacre of Muslims was quickly sidelined when India threatened another standoff with Pakistan within months of the Gujarat violence.

Jingoism over Kashmir also satisfies the domestic political agendas of both governments as the BJP hopes to overcome key losses in state elections in 2002 and secure victory during national elections in 2004. In Pakistan, where military regimes have long needed the backing and support of the religious right, there can be no backing down on Pakistan's claim to the majority Muslim state.

Government-sponsored persecution of minorities in Bangladesh also has a corresponding effect on security in northeast India. According to the South Asia Human Rights Documentation Centre, a prominent human rights NGO based in Delhi, the insurgency movements in the Indian state of Tripura "are directly related to the uncontrolled illegal migration [of Bangladeshi Hindus] into Tripura, the marginalisation of the indigenous Tripuris and unwillingness of New Delhi and Agartala to take cognisance of the

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in India, Nepal, and Bangladesh, children often inherit their families' debts and remain trapped in a cycle of debt bondage.

problem.” The insurgency led by the United Liberation Front of Assam, the NGO adds, is also rooted in anti-foreigner agitation in Assam state.<sup>98</sup>

The failure to prosecute those responsible for campaigns of orchestrated attacks against religious minorities in India, Pakistan, and Bangladesh serves only to embolden the attackers and sends the signal that while the killer of one may be punished, the killer of hundreds, even thousands, in the name of fighting so-called enemies of the state can continue to do so with impunity. Impunity also sows the seeds of further violence against those seeking justice.

On September 24, 2002, for example, two gunmen stormed the Akshardham Hindu temple of the Swaminarayan sect in Gandhinagar, Gujarat, killing thirty-two people and injuring fifty-three. According to officers investigating the attacks, notes found in the gunmen’s pockets identified the attackers as members of a “movement for revenge,” presumably for the violence against Muslims in Gujarat in February and March 2002.<sup>99</sup> Investigations into the attack were ongoing at this writing.

With virtually no access to justice and little in the way of economic rehabilitation, the victims of the Gujarat pogrom could conceivably turn to terror tactics as acts of desperation. Standing in front of a mass gravesite where several members of his family were buried in Ahmedabad, Gujarat, one victim commented, “They keep talking about terrorism in Sri Lanka and Pakistan. But isn’t what [the sangh parivar] did worse than terrorism? Now this is what gives birth to terrorists, now terrorists will be born.”<sup>100</sup> Ironically, invoking the threat of Islamic terrorism to justify attacks against Muslims may well give rise to a form of Islamic militancy in India that has so far been limited to the conflict in Kashmir. The government’s response to terrorism, in India and the world over, will also continue to ensnare many innocent civilians or dissenting citizens in its wake.

#### CONCLUSION

The ideal of a secular democracy, enshrined in the Indian constitution as equal respect for all religions, is not a self-fulfilling prophecy. Violence against Christians in 1998, against Muslims in Bombay in 1992 and 1993

98. SOUTH ASIA HUMAN RIGHTS DOCUMENTATION CENTRE, *supra* note 95. The article adds: “there is no denying that most Hindus migrate to India permanently due to the insecurity and repression they face in Bangladesh. New Delhi’s silence and tacit approval of Hindu fundamentalist organisations in India have encouraged Hindus to migrate to India, and have forestalled the seeking of a permanent resolution of the status of millions of Hindus in Bangladesh.” *Id.*

99. Investigations by the author, in Gandhinagar, Gujarat (Jan. 2003).

100. Interview by the author, in Ahmedabad, Gujarat (Mar. 21, 2002). Terrorist attacks mounted by young Sikh separatists in north India through the late eighties and early nineties were partly a result of the 1984 anti-Sikh violence in Delhi that claimed 2000 lives. See *supra* note 1. In response, the Indian government sought to crush the separatist movement through a campaign of torture, arbitrary arrest, and the forced disappearances of thousands of Sikhs in Punjab whose families are still seeking answers to their whereabouts. See generally Jaskaran Kaur, *A Judicial Blackout: Judicial Impunity for Disappearances in Punjab, India*, 15 HARV. HUM. RTS. J. 269 (2002).

or Gujarat in 2002, and in countless places before and in between these defining communal events, are easily depicted as riots, inevitable clashes between two disagreeable communities with equal blame and equal loss on both sides. Less obvious to the outside world, though increasingly well-documented by India's human rights community, is that these so-called riots are guided by the goal of creating a Hindu state, and executed in close cooperation with state officials.

There is hope to be found in the mobilization of civil society against the excesses of power, and in the face of the tremendous backlash that silences dissent in the name of defending national security. The condemnation of events in February and March 2002 in India was swift, decisive, and came from all quarters, including civil society, the national media, the National Human Rights Commission, and the central government. Moreover, Gujarat is not India: a country that in the more than five decades of its independent existence has enjoyed a largely peaceful coexistence between members of multiple faiths.

The secular fabric is, however, beginning to tear, and its impact is being felt across borders. In a region prone to conflict, where military options are increasingly exercised in consultation with the religious right, the rise of Hindu nationalism cannot be ignored.