

THE HISTORY AND CURRENT POSITION OF AFGHANISTAN'S HINDU AND SIKH POPULATION

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1 The history of the Sikh and Hindu presence in Afghanistan

Thus far, the history of the Sikh and Hindu presence in Afghanistan has received very little scholarly attention; and as the scale Sikh and Hindu presence in the country has steadily collapsed in the face of neo-fundamentalist intolerance of their very existence, they hardly make a blip on the screen of current concerns. Other more pressing issues – which are in fact the primary cause of the evaporation of Hindu and Sikh presence in Afghanistan – attract far more attention.

Given that that the overwhelming majority of Afghans are Muslims by faith, whilst the Hindu religion and its Sikh variant are routinely identified with the Indian subcontinent, it is easy to conclude that the Hindus and Sikhs found in Afghanistan must by definition be of Indian origin, and who found there was up into the highlands of Afghanistan, and beyond that into the steppes of Central Asia in the more or less distant past. This was certainly Schuyler's assumption when he encountered Hindu merchants in the bazaars of Turkestan (of which contemporary Tajikistan is a component) during the course of his travels in the region in the early 1870s, and the hypothesis has been more explicitly confirmed by Markovits' historical study of the way in which Sikh and Hindu merchants from northern Sindh (now in Pakistan) established trading routes through Kandahar and Kabul and on into Central Asia during this period.

Nevertheless would be quite wrong to assume that this was the only source of the Sikh and Hindu presence in Afghanistan. As Markovits makes clear, the merchants who he studied had a home base in Shikarpur, to where they routinely returned after (often lengthy) trading expeditions. However the Sindhi Shikarpuris need to be distinguished from the Punjabi Khatri. Although their religious commitments were similar to those of the Shikarpuris, the Khatri were long-term residents in West Punjab, as well as in the Pathan-majority areas yet further to the west in what is now North West Frontier Province of Pakistan, as well as in areas beyond the Durand line, the artificial boundary which still divides South Eastern Afghanistan from the NWFP. In these western areas the Khatri have long formed a small minority in a sea of Muslims, within which the Khatri occupied a specific niche: given their high levels of literacy in Farsi no less than in Punjabi, they made their living as merchants, traders, scribes and administrators.

But how did they come to be there? During the course of a recent visit to the University of British Columbia I had an opportunity to talk the matter over with Professor Harjot Oberoi, a

noted Sikh scholar who is also a Khatri, and whose family stems from the NWFP. Since Professor Oberoi, also has a long-standing interest in developments in this area, we took the opportunity to share notes. During the course of so doing he showed me to at detailed account of the condition of the Sikhs in Afghanistan, written by a Sikh visitor to Kabul during in the early 1940s. Printed in Gurmukhi rather than English, his account suggested that at that time Afghanistan supported the Sikh community which was as much as a quarter of a million strong (unfortunately no Census had been taken to confirm those figures) spread across the length and breadth of the country; as well as confirming that Sikhs and Hindus controlled a great deal of long-distance trade within Afghanistan as well as across its borders, the account also indicated that a significant number of Sikhs and Hindus held posts in Zahir Shah's administration.

Nevertheless we were still faced with the issue of how the Khatri – no less in West Punjab and the NWFP than in Afghanistan = actually came to be there. After much discussion we came to the conclusion that there was no meaningful evidence to support the hypothesis that the ancestors of this population were had migrated into this region from the plains of Hindustan – or in other words from India proper. Khatri myths of origin simply suggest that they have lived in this area since time immemorial.

In view of all this we came to the conclusion that those origin myths are historically accurate, and that the Khatri population this region – of which Professor Oberoi is himself a member – are much more likely to be made up of those members of the indigenous population who resisted the process of conversion from Buddhism to Islam which took place in this area between the ninth and thirteenth centuries, and who subsequently aligned themselves with the teachings of Guru Nanak – himself a Khatri and the founder of the Sikh tradition – during the course of the fifteenth century.

If our hypothesis is correct, it follows that the Hindus and Sikhs of Afghanistan are in no sense 'Indian': rather they are a distinct component of the autochthonous population of the core of the region which has recently come to be described as 'Af-Pak', and that at least until very recently they formed an integral component of the social order of this region. Professor Oberoi and I plan to write an academic paper on these matters as and when we find the opportunity to do so.

2 1947 and its consequences

In the run-up to Indian Independence in 1947, there was little if any support for the partition of the subcontinent in the NWFP. However when riots broke out in the Potohar region – in which the local Khatri were the principal target – they precipitated revenge attacks against local Muslims by the Sikhs of east Punjab; as tit-for-tat attacks gradually spread across the whole region, so processes of polarisation between Punjabi Sikhs and Hindus on the one hand, and Punjabi Muslims on the other got completely out of hand – leading to the partition of the province, and processes of comprehensive mutual ethnic cleansing on both sides of the newly established border.

Faced with these developments virtually all the Sikh and Hindu residents of the Potohar, West Punjab, Baluchistan and Sindh abandoned their homelands and fled to east to India, just as their Punjabi Muslims who found themselves on the wrong side of the newly established border fled for their lives in the reverse direction. However in many parts of the NWFP the local Khatri stayed put, since they got on well with their Pathan neighbours. However the dynamics of increasingly Islamicised Pakistan nationalism soon began to undermine that long-established condition of acceptance, so more and more decided that they had little alternative but to pack their bags and leave. But in doing so they had a choice as to the direction in which to move. Some chose to move east to distant India, whilst others chose to remain on familiar ground and to slip westwards across the border to join their well established peers in Afghanistan. I know of no study of how many chose which of these alternatives, but suspect that the decision was strongly influenced by kinship links – such the direction of departure was primarily determined by the availability of kinsfolk who would assist families to re-establish themselves at their chosen destination.

It follows, therefore that one of the immediate consequences the partition of India was to boost, rather than to deplete, the Hindu and Sikh population of Afghanistan

3 Afghanistan under Zahir Shah and his Soviet-backed successors

Although Afghanistan has long enjoyed the benefit – and not infrequently suffered from the curse – of forming the cross-roads which links trade between Iran, the Ferghana Valley, China and India – it has rarely been particularly prosperous in its own right. Nevertheless it enjoyed considerable degree of stability during the reign of Zahir Shah 1933-73, and made substantial economic progress during the 1950s and 60s, during which the regime was very successful in promoting rivalry between Russian and American efforts to implement

development projects throughout the country. Given that the Hindus and Sikhs were for the most part well educated, that many members of the younger generation had begun to gain professional qualifications, and that economic development boosted trading activities of all kinds, members of the local Sikh and Hindu community prospered during this period.

Nor did the overthrow of Zahir Shah, and the increasingly pro-Soviet regimes successively led by Daud, Babrak Karmal and Najibullah significantly undermine their position. Although all hell was breaking loose in the countryside as American backed *mujahadin* waged an increasingly successful *jihād* against the ‘godless’ Russians and their ‘apostate’ Afghan cronies, the urban economy continued to expand thanks to numerous Russian initiatives. Indeed what soon amounted to Russian occupation significantly extended the opportunities for long-distance traders, and opened up many opportunities to gain access to professional training. Not only did a significant proportion of Afghan Sikhs and Hindus become qualified pharmacists during this period, but the Soviet-backed regimes were strongly secular in character, and hence in no way encouraged hostility towards non-Muslim minorities.

4 The collapse of the Soviet presence and the arrival of the Taliban

But the Russian forces wilted in the face ferocious assaults by the *mujahedeen*. When they eventually withdrew with their tails between their legs in 1989, chaos reigned, and the Hindus and Sikhs of Afghanistan found themselves in severe difficulty. In the first instance they found themselves facing economic chaos as the various *mujahedeen* splinters engaged in an internecine civil war, and yet greater difficulties still when the militantly Islamist Taliban swept to power in 1994. The tolerance of diversity which had hitherto been such a characteristic of Afghan Islam rapidly began to evaporate in the face of the hard line *jihadi* and fundamentalist attitudes promoted by the Taliban.

Hence even though the arrival of the Taliban was welcomed by large sections of the Afghan population because they replaced a smash and grab period of warlordism with strictly imposed order – albeit of an exceptionally rough and ready kind – their arrival was in no way welcome members of Afghanistan’s Sikh and Hindu minority. Given their training in *madrasseh* wholly committed to Wahhabi and Deobandi interpretations of the Islamic tradition, the Taliban not only enthusiastically imposed bloody punishments on all those whom they considered to have overstepped their narrow and literalistic interpretations of Quranic injunctions, but also took the view that infidels and idolaters had no place in the Islamic paradise which they had constructed. As a result members of the Hindu and Sikh

minority were required to wear yellow stars on their clothing, Muslims at large were strongly encouraged to avoid using their shops, and ever more vigorous efforts were made to ‘persuade’ them to see the error of their ways and to become Muslims. Such persuasion soon involved much more than verbal threats. Sikhs and Hindus soon found themselves being required to make financial contributions to the *jihad*, and if they failed to pay up, to find themselves faced with even larger ransom demands if they wanted see their kidnapped sons and daughters returned home alive rather than as corpses.

However it would be quite wrong to assume that all Afghan Muslims were in sympathy with these tactics, which ran wholly contrary to their long-standing commitment to plurality-tolerant Sufi interpretations of Islam. In many respects the Taliban ideology was one which had been imported by a neo-fundamentalist group which had its roots in Pakistan. In the face of these assaults Sikh and Hindu families frequently found themselves provided with a modicum of support and shelter by their Muslim neighbours, and most especially those with whom they had sustained relationships or reciprocity over many generations.

5 The overthrow of the Taliban regime – and its consequences

5.1 A brief honeymoon period

In these circumstances the overthrow of the Taliban regime in the spring of 2002 was widely regarded as a welcome development. Many hoped that it would lead to the restoration of the *status quo ante* – perhaps even back to the conditions in the halcyon days prior to the Soviet occupation in 1979. In these circumstances a significant number of those who had sought refuge overseas – Muslims, no less than Sikhs and Hindus – returned to Afghanistan in the hope of building a better future in what was once a relaxed and beautiful country. As we shall see, the hopes which were generated during the course of this honeymoon period, during which the course of which the International Community – in the form of ISAF (International Stabilisation and Assistance Force – engineered the emergence of the Karzai regime, which remains in power to this day. Moreover whilst these honeymoon dreams were still in place that the still-current country guidance case, **SL and Others (Returning Sikhs and Hindus) Afghanistan CG [2005] UKIAT** was determined by the Tribunal.

5.2 SL and others: a critique

In SL and others the Tribunal held that

1. There is no evidence to support the claim that the Afghan Sikh and Hindu minorities in Afghanistan are persecuted or treated in breach of their protected human rights under Article 3 of the European Convention by the State or that the degree of societal

discrimination against them is such as to give rise to any such persecution or treatment of them as a class

2. Following UNHCR guidance their status as Afghan Sikhs and Hindus is a factor to be taken into account in assessing individual claims on a case by case basis

Despite a number of challenges to the validity of the findings in this case, especially in the light of more recent developments both in Afghanistan and the UK, Tribunal has as yet taken no steps either to revise status of this ruling, or to update it.

5.3 The context within which this guidance case was arrived at

I have not been able to track down a copy of the version of the CIPU on which the authors of determination relied, with the result that I have had no alternative to rely on the excerpts of the then-extant version of the report which the Tribunal cited in the course of spelling out the grounds on which they reached the conclusions set out above. These include:

A reference to land disputes and the situation of Sikh and Hindu returnees which quotes paragraph 6.90 CIPU of the then-extant version of the CIPU referred:

“In a report on land issues published in September 2003, UNHCR noted that there were some complicated cases regarding the land of members of ethnic and religious minorities who had returned to Afghanistan. They had been forced to sell their lands or property during the Mujahedeen or Taliban regimes and now wished to recover them. The report noted “Their only legal claim is that they had been coerced to sell their land at the time, which would be difficult to prove. For example, members of the Hindu minority group in the provincial capital of Helmand, Lashkargah claim that they were forced to sell their shops in the main Lashkhargah bazaar to Mujahedeen commanders prior to their expulsion from the area. These groups are currently trying to recover their property, although most of them do not hold documents evidencing their title. Their cases are currently pending with both the District Shura and the district [sic].”

Paragraph 5.128 of CIPU, which noted that in May 2004 the European Council on Refugees and Exiles advised that:

"In Kabul, the security and human rights situation has been, to a limited degree, alleviated by the presence of the International Security Assistance Force (ISAF) and by the significant international presence in the capital. However, the Afghan government continues to lack effective control over Kabul, and efforts to create a new national army and police force and to reform the judicial system throughout the country remain at an embryonic stage. It is clear from human rights and other reports that the militia, which carry out the primary policing function in the capital, offer the population no protection from human rights abuses. Beyond Kabul, the absence of an effective system of law and order means that the various power holders can act within impunity. The population at large is thus subject to the arbitrary use of power and the government is not in a position to accord protection from abuses of such power. Allegations continue that communities are often deprived

of their basic rights and are victims of serious human rights abuses, sometimes by the police themselves."

It then goes on to quote paragraph 5.64 onwards as follows

"The country's legal institutions suffered from lack of resources while the record of laws and regulations has been destroyed and much has disappeared during the years of conflict, leaving practitioners unclear as to the substance of the country's law. Although court systems exist from district and national levels, the influence of commanders and powerful figures often renders it impossible for fair and just decisions to be reached over land disputes".

Nevertheless

"There have been several achievements in justice sector reform. The decree of the reformed code of criminal procedure was issued in mid-February [2004], providing a versatile system under which jurisdiction can be shifted to provincial courts from district courts where necessary. This should enable the gradual transfer of criminal cases to the formal justice system, though it is conditional upon an effectively functioning provincial infrastructure and the rehabilitation of district courts. Construction of provincial courts is under way in nine capitals, while the prioritisation of district courts will be determined by the Provincial Stabilization Strategy. On 21 February [2004] a two week training-of-trainers seminar was initiated with senior judicial and law enforcement personnel on the new criminal procedure code. In addition, 450 judges are being trained by the International Development Law Organization, an inter-governmental organization that promotes the rule of law and good governance."

However

"UNAMA was of the opinion that institutions, which should protect people against assault, are not powerful enough to do so if the perpetrators are warlords or powerful persons from the government or the police force. UNAMA had knowledge of citizens who have outstanding (sic) with powerful individuals and therefore were not safe in Kabul, and have had to flee the country. There are cases where parents and siblings to the persecutors have been involved too. ... the Italian Embassy explained that there are major geographical differences in the ability of the legal system to provide rule of law and justice.

The system is not satisfactory anywhere in the country and even in Kabul, which is regarded as the best functioning area, considerable improvements are necessary. Everywhere in the country Judges are subject to interference in their work. No Judge is free to make a ruling solely according to his own judgement. This lack of independence also applies to the police. The source pointed out that the legal system including the police and other administrative offices are influenced by the general security situation in the country."

"The lawyers Union of Afghanistan stated that the Court system is almost in a state of chaos. When meeting in Court, it is possible to be confronted on the first day with a Judge who has trained only in religious law. On the next day it might be a Judge who has a law degree but uses Shari'a law to protect himself against criticism. As a

consequence, women continue to be imprisoned for infidelity. The source expected that in time the law reforms will have an impact that will change the present situation. The source explained that corruption is so widespread that access to legal institutions and to rule of law do not exist. Only a few percent of the cases come out with a just or correct ruling. Anybody can start a legal case, but it is the most powerful or influential person who will come out as the winner of the case."

On the subject of internal security (CIPU paragraph 5.82 onwards) paragraph 5.85 notes the July 2003 UNCHR position paper as saying:

"The absence of systematic or multi-lateral decommissioning and disarmament, the lack of law enforcement, coupled with the war economy, have given rise to banditry and criminality. Insecurity is high on several roads, including on some of the main road links. Road travel has become more dangerous in certain areas, with money being demanded by bandits and by individual commanders through the establishment of checkpoints or ambushes."

Yet despite these manifestly alarming observations of chaos and malfeasance, when the Tribunal turned its attention to the issue of whether or not SL would have had as a well-founded fear of persecution if he were to return to Kabul, they managed to take a much rosier view of what was going on – at least as far as the Sikhs were concerned:

There is certainly some small risk to the appellant's human rights (see the appellant's bundle at page 40) and there is little on offer for minority groups in Afghanistan (see the appellant's bundle at page 30 and page 57 in the CIPU report paragraph 6.88). However, the mere fact that returning minority groups such as Hindus feel that they can raise proceedings in the District Shura for the return of their land indicates how far things have improved (see CIPU 6.89). The CIPU report at 6.84 states that the EU's special representative and UNCHR, Kabul told a Danish Fact-Finding Mission to Afghanistan in September 2002 that they believed the situation for non-Muslim groups such as Hindus and Sikhs was generally good. Paragraph 6.90 shows that religious freedom has improved although there remain concerns for the future (paragraphs 6.91 and 6.92). Although the situation is not a happy one, it appears that it does not amount to persecution.

It is often unclear as to the period to which these remarks refer. However it is worth noting that the Danish Fact-finding Mission whose report is referred to towards the end of this paragraph took place in September 2002, when Kabul was still enjoying what is commonly agreed to have been a honeymoon period, given that the Taliban regime had fled Kabul less than twelve months beforehand.

By 2005, by when the Tribunal sat to determine SL and others, that honeymoon period had long since evaporated. However the Tribunal did not have the advantage of hearing expert evidence about up-to-date developments in Kabul. Rather it appears to have relied heavily on a statement prepared by a Mr. Roberts, who appears to have been member of the British

Embassy in Kabul, which he prepared on the basis of an informal interview lasting around thirty minutes with an informant whom he identifies solely as RS. So far as I can see Mr. Roberts gave no indication as to the grounds on which he selected RS – nor the date on or the circumstances in which the interview was conducted. In due course he prepared a report which as follows:

Whereas the Sikh and Hindu population in 1992 “totalled 2% of the population (about 30,000)” it had decreased by 2004 to “only 1200 families and about 6,500 Sikhs and Hindus remaining”. He then records RS as saying that cremation is allowed and practised and that RS showed him a letter from the Mayor of Kabul authorising Hindus and Sikhs to continue to cremate their dead; further there was no bar to attending the temple in order to worship and he is recorded as saying that twice a day up to 1,200 Hindus and Sikhs gathered at his Gurudwara to practise their religion.

Mr Roberts noted he was unable to attend RS’s Gurudwara as invited because of a major security alert. He did complain that many Hindus and Sikhs had had property wrongly taken from them by the Mujahedeen but that the majority had documentary evidence of land ownership and could pursue their claims in Court. RS said property theft affected all religions.

As to education, he said the Afghan government had recently founded a Hindu/Sikh school with four teachers. He said that RS sends his children to the Amani High School which is considered by most to be the best school in Kabul and RS stated there were no problems for Hindu or Sikh school children in receiving an education comparable with other Afghans.

On the subject of elections, no Sikh or Hindu encountered any problems in registering or voting in the Presidential election. RS had been a member of the Loya Jirga until recently and intended to stand again at the next election. He welcomed the electoral success of President Karzai. He also recorded RS as saying that until recently there were difficulties in relation to crime and security in the area of Kabul where most Hindus and Sikhs live but that “most of the problems related to general criminality and were not targeted at any religion or ethnic minority”.

Since the present Minister for Defence had moved into the area security had improved by reason of extra security and road blocks. RS is recorded as saying there were now hardly any crimes in this region of Kabul and that Hindus and Sikhs were able to move and travel freely. He was further recorded as saying than any type of criminal act against Hindus or Sikhs tends to go unreported to the police as there was a natural mistrust of any Afghan in authority but he accepted that such reports should be made and said he intended to advise his congregation to begin a process of reporting any wrongdoing. Mr Roberts then concludes as follows:

"From my conversation with [RS], I am unable to find evidence of discrimination by the state or other parties in Kabul. [RS]'s report was written nearly 5 months ago, and security seems to have improved in the area where the majority of Hindus and Sikhs live. However, throughout the length of our conversation, he did not make any comments that suggested that there was discrimination even at the time of his written

statement. In the areas of crime, education, political representation, religious freedom and property rights, [RS] stated that there was no discrimination of Hindus or Sikhs based on their religious or ethnic background."

Having considered the weight of this (hearsay) evidence at considerable length, the Tribunal appears to have decided that it could reasonably given a substantial amount of weight. Indeed so far as I can see what Mr. Roberts had to say about the matter appears to have greatly impressed the decision makers in SL and others, for this was precisely the burden of the determination at which they arrived, and which continues to be enshrined in the CG.

In the light of this state of affairs, the remainder of this report is best read as a commentary on developments in Afghanistan since 2004, given that this was the latest period during which the evidence on which the Tribunal relied in SL and others was generated.

6 Developments since 2004

6.1 The International Crisis Group perspective

Many of those hopes have since been dashed. If Afghanistan does have a better future – and many still hope against hope that it does – then a decade later that future still lies some way off. That is certainly the view of the authors of a whole series of increasingly pessimistic reports published by the much respected International Crisis Group:

The desire for a quick, cheap war followed by a quick, cheap peace is what has brought Afghanistan to the present, increasingly dangerous situation. It has to be recognised that the armed conflict will last many years but the population needs to be reassured now that there is a clear political goal of an inclusive state. Actions to fight the insurgency must be based on and enforce the rule of law with priority given to the reform of the police and judiciary. Short-term measures such as reliance on ill-trained and poorly disciplined militias, harsh, ad hoc anti-terrorism legislation and discredited power brokers from past eras will only undermine the long-term goal of building sustainable institutions.

Political strategy talk seems to focus increasingly on making a deal with the Taliban. That is a bad idea. The key to restoring peace and stability to Afghanistan is not making concessions to the violent extremists but meeting the legitimate grievances of the population – who for the most part have eagerly supported democratisation.

The Bonn Agreement offered a victor's peace with ministries in the Interim Administration distributed as the spoils of war. Determined to tread lightly, the international community turned to notorious Afghan commanders and warlords who had been all but marginalized during the Taliban years, co-opting them to leadership positions at central, provincial and district level. By favouring failed powerbrokers the new set-up failed to make a clean break with Afghanistan's bloody past. In many ways the conflict today is a continuation of almost three decades of war involving nearly all the same players.

Anti-Taliban Pashtun leaders in the south and east, as in earlier years, failed to demonstrate cohesiveness. Commanders raced to establish their own authority, creating a patchwork of predatory, competing fiefdoms. A culture of impunity was allowed to take root in the name of “stability”, with abusers free to return to their old ways as long as they mouthed allegiance to the central government. Human security was sublimated to what was seen as the quickest route to state security. But as a member of Jalalabad civil society lamented, “A wolf is still a wolf”.

6.2 *The Senlis Council Perspective*

A year later a report published by the Senlis Council reached equally gloomy conclusions:

In September 2006, Senlis Afghanistan released a security assessment report detailing the return of the Taliban to Afghanistan, pointing to the increasing hold that the movement has on southern provinces.

Some 14 months later, the security situation has reached crisis proportions. The Taliban has proven itself to be a truly resurgent force. Its ability to establish a presence throughout the country is now proven beyond doubt; research undertaken by Senlis Afghanistan indicates that 54 per cent of Afghanistan's landmass hosts a permanent Taliban presence, primarily in southern Afghanistan, and is subject to frequent hostile activity by the insurgency.

The insurgency now controls vast swaths of unchallenged territory including rural areas, some district centres, and important road arteries. The Taliban are the de facto governing authority in significant portions of territory in the south, and are starting to control parts of the local economy and key infrastructure such as roads and energy supply. The insurgency also exercises a significant amount of psychological control, gaining more and more political legitimacy in the minds of the Afghan people who have a long history of shifting alliances and regime change.

The depressing conclusion is that, despite the vast injections of international capital flowing into the country, and a universal desire to 'succeed' in Afghanistan, the state is once again in serious danger of falling into the hands of the Taliban. Where implemented, international development and reconstruction efforts have been underfunded and failed to have a significant impact on local communities' living conditions, or improve attitudes towards the Afghan Government and the international community.

The current insurgency, divided into a large poverty-driven 'grassroots' component and a concentrated group of hardcore militant Islamists, is gaining momentum, further complicating the reconstruction and development process and effectively sabotaging NATO-ISAF's stabilisation mission in the country¹

Three years later there is no sign of an improvement. The most recent report on the subject by published by the Senlis Council on the subject, entitled *The Struggle for Kabul: The Taliban*

¹ *Stumbling into chaos: Afghanistan on the Brink* Senlis Council November 2007

advance includes a section headed 'The Secret of the Taliban Success' makes the following observations

Of the four doors leading out of Kabul, three are now compromised by Taliban activity. The roads to the west, towards the Afghan National Ring Road through Wardak to Kandahar have become unsafe for Afghan or international travel. By the time travellers reach the entrance to Wardak province, which is about thirty minutes from the city limits. The road south to Logar is no longer safe for Afghan or international travel. The road east to Jalalabad is not safe for Afghan or international travel once travellers reach the Sarobi Junction which is about an hour outside of the city. Of the two roads leaving the city to the north only one – the road towards the Panjshir valley, Salang tunnel and Mazar – is considered safe for Afghan and international travel. The second road towards the north which leads to the Bagram Air Base is frequently used by foreign and military convoys and subject to insurgent attacks.

By blocking the doors to the city in this way, the Taliban insurgents are closing a noose around the city and establishing bases close to the city from which to launch attacks inside it. Using these bases, the Taliban and insurgent attacks in Kabul have increased dramatically – including kidnapping of Afghans and foreigners, various bomb attacks and assassinations. This dynamic has created a fertile environment for criminal activity. The links between the Taliban and criminals are increasing and the lines between the various violent actors becoming blurred. All of these Taliban successes are forcing the Afghan government and the West to the negotiating table.

The Taliban's success can largely be attributed to its use of a wide array of asymmetric measures aimed at negating NATO's technical military superiority. Drawing on a sophisticated array of terror tactics and a complex intelligence network, the Taliban has managed to spread instability across large parts of Afghanistan through a sustained campaign of violence. With kidnappings and bombings increasingly commonplace even in Kabul itself, the war is now being fought not just in the country's fringes, but at its heart. A series of recent attacks, such as the audacious Kandahar jailbreak in June 2008, have also boosted the organisation's prestige and indicated their ability to evade detection by Afghan and Western intelligence networks.

Crucially, the Taliban appears to be also winning on another front – the battle for hearts and minds. By tapping into a variety of local grievances against NATO-ISAF and the Kabul government, from poppy eradication and bombing leading to civilian casualties, to high levels of unemployment and chronic underdevelopment despite billions of dollars of aid, the insurgency has succeeded in attracting sympathy beyond its traditional support base and gained a measure of political legitimacy among many Afghans

This was already apparent in 2007, when ICOS conducted an opinion survey to assess local perceptions of the Taliban and its propaganda campaign. Highlighting a growing lack of faith in NATO and the Afghan government, almost half of all respondents doubted their ability to achieve a decisive victory, and more than a quarter of those interviewed expressed their support for the Taliban.

International failures

Underlying this expansion of Taliban presence is the international community's failure to deliver on the many promises of a better life made to the Afghan people in the wake of the invasion. Seven years on, much of the country still lacks basic amenities and the majority of the population struggles to secure necessities such as food and shelter, let alone a sustainable livelihood. Field research by ICOS has presented a picture of acute hardship and deep uncertainty, with the majority of respondents worried about feeding their families.

Economic outreach to Afghans at a grassroots level, through livelihood creation and microfinance schemes, remain central elements of a successful strategy. Yet developmental expenditure continues to be dwarfed by military spending, resulting in an 'expectations gap' that the insurgency has been able to exploit. The Taliban has managed to make a manifesto out of the shortcomings of the international community and the Afghan government. Even the West's failure to prevent the rise of terrorist violence in the country has paradoxically helped the Taliban present itself in some areas as a provider of law and order, despite its responsibility for the ongoing instability.

http://www.icosgroup.net/documents/Struggle_for_Kabul_ICOS.pdf

None of this suggests that the security situation in Kabul has significantly improved in recent years. Rather it suggests that despite a huge input of military manpower, of arms and of economic aid from ISAF since 2001, the Taliban have steadily been gaining ground since their low point immediately following the collapse of their regime in the aftermath of the ISAF occupation of Kabul, largely for the reasons set out in the Senlis report.

6.3 The Amnesty International Perspective

Neither the ICG nor the Senlis council reports made any specific reference to the experience of Afghanistan's Sikh and Hindu population, doubtless because they had some much bigger fish to fry in the context of the wider scheme of things. However as long ago as 2003, the local office of Amnesty International in Kabul had begun to express its concerns about HMG's repatriation policies, most especially with respect to members of Afghanistan's Sikh and Hindu minority. As an article in the Pakistan-based *Daily Times* recorded in an article dated 30th April 2003:

An Amnesty mission to Afghanistan earlier this month concluded that conditions were still not conducive to the promotion of voluntary return, much less forced returns. It found a lack of coherent assistance, reintegration, and monitoring for refugees returning to urban as well as other areas.

"Given the complexities and challenges in ensuring the sustainability of return, the timing of returns should be informed by human rights standards," the rights watchdog said. Amnesty was seeking assurances from London that there would be effective monitoring of the Afghans following their return.

The British government had rejected the Afghans' applications for asylum. They were the first Afghans to be repatriated by Britain since 1995 when London suspended repatriations due to the turmoil of the civil war in Afghanistan. Britain had hoped to repatriate thousands of Afghans under a voluntary repatriation scheme which offered single returnees 600 pounds (960 dollars) each and families 2,500 pounds but it received just 39 responses.

Amnesty also said Britain should be helping to improve conditions rather than carrying out "symbolic" returns. "Instead of pushing for 'symbolic' returns, the UK government should be concentrating on helping to create the conditions for a genuinely safe Afghanistan, including one where the rule of law is actually upheld." Amnesty said forcible repatriations should not take place unless safety and full respect for human rights could be assured.

Afraid to be back: Jagneeth Singh, a young member of Kabul's tiny Sikh minority, was afraid to be back in overwhelmingly Muslim Afghanistan. "There is definitely a problem for Sikh people. Maybe not for Muslims, but definitely for Sikhs; they don't want Sikhs here. "We have nothing left here, no home, no business. I don't know what to do; we'll see what happens to us," he said. Another returnee, who gave his name only as Hussein, admitted he had left for economic reasons. "If our country was alright we would never have left. We are all poor," he said.

He said British authorities had given him nothing and taken away the money he had and his mobile phone. The returnees spent up to \$15,000 to get to Britain, with the underground journey across Europe taking six months or more. Susie Sanders, a local representative of Amnesty International, said the repatriation was not well handled. "We have pretty serious concerns," she said. "People should not be returned against their will at the moment."

http://www.dailymail.com.uk/default.asp?page=story_30-4-2003_pg4_14

6.4 *The COIR perspective*

The COIR for Afghanistan published in October 2006 contained a lengthy section dealing with the position of Hindus and Sikhs included the following observations:

- 19.16 In comments submitted to the Advisory Panel on Country Information (APCI) in September 2004, UNHCR stated that many Sikhs and Hindus left Kabul following the arrival of the Mujahedeen in 1992:

"This was due to the general increase in insecurity and reported increase in discrimination against the group. Until 1992, they had not suffered from discrimination and exercised their religion freely. Another wave left after 1996 when the Taliban came to power. While in power, the Taliban passed a law that stipulates that Hindus and Sikhs should wear a yellow marker to distinguish them from other Afghans and that they should place a sign over their shops and businesses marking them as Sikhs. The law was never strictly enforced." [11c]

- 19.17 The USSD 2006 Religious Freedom Report stated that "There are five or six gurudwaras, Sikh places of worship, in Kabul, where worshippers generally were free to visit, and few threats were reported. The less distinguishable Hindu population faced little harassment. There were approximately six Hindu temples in

four cities. An additional eighteen were destroyed during the many years of war.”
[2c] (section I)

- 19.18 In comments to the APCI dated September 2004, UNHCR commented on the situation for Sikhs in Ghazni:

“There are currently around 30 houses, totalling 70 Sikhs that are living in Ghazni city. An additional 30 families still remain in asylum, mostly in London and in India. In Ghazni, most of these families live in Shahmir in Plan 3. The majority of these families have their own houses and also their own shops.

“Since the collapse of the Taliban regime, under whom they have suffered, five families returned from India. Two of these returnee families owned property and did not face any difficulty in recovering them. The other three families did not have any property and lived in rented houses. According to them, they are not facing any problems with the authorities or the communities. The three other families that did not have any property are living in rented houses.

- 19.19 On 25 October 2004, the Navhind Times reported:

“The Afghan Sikhs, slowly trickling back to their homeland after the ouster of the fundamentalist Taliban regime, have appealed to the Indian government to allow them travel between the two countries overland via Pakistan. Mr Ravinder Singh, a member of the Afghan Gurdwara Prabhandak Committee, complained to visiting Indian newsmen here recently that most of the Sikh families could not afford direct air travel to India... The Indian government had imposed a ban on overland entry of Afghan Sikhs following warning from intelligence agencies that Pakistani agencies were trying to infiltrate Sikh extremists in the garb of Afghan Sikhs...

“Afghan Sikhs and Hindus were predominant in Afghanistan’s unique ‘money market’ working as commission money changers, while others had shops and trading establishments. However, after the fall of Najibullah regime, the Sikhs and Hindus fell prey to bloody inter-Mujahaddin warfare. ‘For the past few years we have been trickling back and trying to reclaim our properties. We are facing lot of [sic] hardships’, the Sikh leaders said. ‘But we are upbeat. The recent events taking place in the country are very positive’, said Mr Avtar Singh, another prominent Sikh leader.” [84]

- 19.20 The USSD 2005 Report on Human Rights Practices, published on 8 March 2006, recorded that:

“Sikhs and Hindus returning to the country faced difficulties in obtaining housing and land in Kabul and other provinces, and the communities reportedly continued to face acts of discrimination during the year...”

“Non-Muslims faced discrimination in schools. The AIHRC received numerous reports that students belonging to the Sikh and Hindu faiths stopped attending schools due to harassment from both teachers and students, and the government had not implemented measures to protect these children.” [2a] (section 2c)

- 19.21 A UNHCR paper dated June 2005 stated:

“According to available information, there are an estimated 600 Sikh and Hindu families (about 3,700 persons) living in Afghanistan today with small but steady numbers of individuals and families returning, particularly from India. The majority

live in Kabul (185 families), in Jalalabad (160 families) and Kunduz (100 families), others live in Ghazni, Kandahar and Khost. Previously, there may have been as many as 200,000 Sikhs and Hindus living in Afghanistan. Most of eight Sikh and four Hindu temples in Kabul were destroyed or used as military bases during years of fighting. Today, there are three temples operating in Kabul. In Jalalabad, there are two Sikh temples and one Hindu temple.

“The Sikh and Hindu communities complain of experiencing harassment. They face intimidation and verbal as well as, at times, physical abuse in public places. In terms of property, many homes and businesses were lost or occupied during the fighting. The property of some Sikhs and Hindus in Kabul is still occupied by commanders. In both Jalalabad and Kabul, the community representatives have expressed concerns that they will not be able to accommodate returning families. While Hindus and Sikhs do have access to recourse to dispute resolution mechanisms such as the Special Land and Property Court, in practice the community feels unprotected. Particularly where their property is occupied by commanders, Hindus and Sikhs have generally chosen not to pursue matters through the courts for fear of retaliation.”

- 19.23 On 25 August 2005, the Indo-Asian News Service (IANS) reported that seven gurudwaras [Sikh places of worship] destroyed in Afghanistan’s civil war are to be rebuilt in Kabul. The article noted:

“After considerable delay, the authorities have cleared the gurudwaras of both encroachers and rubble. ‘We are thankful to the Hamid Karzai government for giving us all assistance in reclaiming the damaged gurudwaras in Kabul and getting them freed from encroachers’, says Ravinder Singh, president of the Gurdwaras Singh Sabha. ‘It is a huge task to get back these historic gurudwaras’, Singh told IANS, reflecting the happiness of the 4,000 strong Sikh and Hindu residents here...

“Hindus and Sikhs maintain good relations with Muslims and are addressed as ‘Lala’, which in Dari and Pushtu languages means elder brother.² Many Afghans consider Hindus and Sikhs as their elder brothers because the forefathers of many of them were Hindus before they converted to Islam around the 7th century. Under the new constitution, though Afghanistan has been named the Islamic Republic of Afghanistan, it ensures due representation to Hindus and Sikhs and guarantees their religious rights. The Loya Jirga, which drafted the new constitution last year, had five Hindu-Sikh members, including a woman.

The nine-member Election Commission, constituted to conduct the parliamentary elections next month, has a Sikh representative. All this has given confidence to the community and they are re-establishing their trade and business in Kabul as well as in Kandahar, Ghazni and Jalalabad. But they are still waiting to shift their families from India, the US and Europe where they fled during the Taliban regime.” [88]

- 19.25 “After living in Afghanistan for more than two centuries, economic hardship is pushing many in the country’s dwindling Sikh community to emigrate to India, their spiritual homeland... *Sikhs who left Afghanistan since the Taliban was deposed by*

² This point is mistaken: in Dari and Pushtu, as well as Punjabi, Urdu and Hindi, *Lala* is the commonly used term for a shopkeeper – the principal occupation of Afghanistan’s Hindu and Sikh minority.

a US invasion in 2001 cite economic instability and lawlessness – not the threat of communal violence – as reasons for their departure.” (Aljazeera.net, 14 June 2006) [3]

19.26 The USSD 2006 Religious Freedom Report, published on 15 September 2006, stated that:

“Non-Muslim minorities such as Sikhs, Hindus, and Christians continued to face social discrimination and harassment and, in some cases, violence. This treatment was not systematic, but the Government did little to improve conditions in the last year. For example, in early October 2003, a grenade was lobbed at the only functioning Sikh gurdwaras in Kabul.

There were no casualties. Prior to the incident, local police had warned the Gurdwara authorities of a possible attack. Although police and intelligence officials investigated, no suspects had been apprehended by the end of the reporting period. In April 2005, a Sikh Gurdwara in Khost was attacked and robbed by twenty-one armed men. The incident was still under investigation at the end of the reporting period. According to the Sikh community, *in the fall of 2005, there was a report of the disappearance of a Sikh travelling from Kabul to Jalalabad.* There was no additional information available at the end of the reporting period.

“In March 2004, Kabul municipal authorities allocated an alternative cremation site to the Sikh-Hindu community. The Sikh-Hindu community still alleged that they did not have access to the land and were working with the Kabul Municipality to resolve land titling problems. The site was reported to be in use by the end of the period covered by this report.

“Some Sikh and Hindu children were unable to attend government schools due to harassment from teachers and students. The Government did not take sufficient steps to protect these children and reintegrate them into the classroom environment...

“The Government failed to provide funding or assistance for Sikh schools. The Sikh community chose to send its children to its own schools because of reported abuse and harassment in government-run schools. A Sikh school in Kabul now reported having only one full-time teacher for 120 students. Four part-time teachers were assigned to the school for adult education but instead taught the children for two hours a week.”

Several points are worth making about these entries.

- i. There was a period of euphoria in the immediate aftermath of the fall of the Taliban to the forces of ISAF in early 2002, as a result of which large numbers of Afghans who had sought refuge elsewhere returned to their homes. Hindus and Sikhs were also a part of this process.
- ii. During this honeymoon period many observers, both foreign and Afghan, hoped against hope that the status quo ante would be swiftly restored.
- iii. Whilst the weight of systematic oppression from which the Sikhs and Hindus had suffered during the Taliban days was lifted, such that they were even guaranteed representation in newly constituted National Assembly (thanks, it much be said, to strong pressure from the ‘International Community’) these entries nevertheless

provide many indications of underlying difficulties – as can be seen from those sections of the entries which I have highlighted in italics.

- iv. Close inspection reveals that most of these entries refer to observations made between 2002 and 2004, which was still something of a honeymoon period. Moreover this was a period when the international alliance which had taken control of Afghanistan, and whose government agencies were the source of most of these entries, were actively seeking to ‘talk up’ the success of their enterprise.
- v. No reference is made to the Amnesty International 2003 findings with respect to the experiences of Sikh returnees from the UK.

It is also worth noting that Mr. Lloyd prepared his reasons for refusal letter on 28th November 2006, by when the 2006 COIR had been in circulation for a month. Most of the arguments he deployed in his letter of refusal relies on the sources quoted in the 2006 COIR, all of which had been published in earlier years, during which exuberance which followed the departure of the south and east had still not worn off. As a result many (although by no means all) external commentators were still presenting a comparatively rosy view of what was going on.

6.5 Other sources with respect to this period

As we have seen Amnesty International had begun to flag up the fact that Sikh (involuntary) returnees from the UK were encountering exceptionally severe difficulties less than two years after ISAF had established its presence in Afghanistan, and by 2006 both the International Crisis Group and the Senlis Council had begun to cast substantial doubt on the more enthusiastic diagnoses of imminent success of their project as a whole. Subsequent reports began to cast ever-increasing doubt on the validity of the earlier up-beat judgements with respect to the position in which the Sikhs and Hindus found themselves following the overthrow of the Taliban regime:

Hence an article in the Times of India dated 22nd November 2006, based on a Reuters report, reads as follows:

KANDAHAR: Forced to wear yellow patches in the days of the Taliban, the homesick Sikhs of Afghanistan still hide in back alleys and yearn for India. In the Taliban's birthplace, the southern city of Kandahar, their children cannot go to school and locals stone or spit on the men in the streets, who mostly try to hide in the narrow alleys of the mud-brick older quarter of the city.

"We don't want to stay in Afghanistan," says 40-year-old Balwant Singh. "The locals tell us 'you are not from Afghanistan, go back to India'. Sometimes, they throw stones at us, the children. We feel we have to hide. "I am even afraid to go to parts of the city." Their temple, or Gurudwara, in Kandahar is a simple traditional yellow pole capped by the orange Nishan Sahib flag. It sits outside a stark prayer room in an

obscure courtyard reachable only after knocking on two sets of unmarked heavy timber doors down a cramped mud-brick tunnel-way.

There are about 10 Sikh families in Kandahar — fewer than 50 people. Another 22 lonely men, all their families back in India, live as traders in the neighbouring province of Uruzgan, another Taliban stronghold. Similar numbers are scattered across Afghanistan. In the late 1980s, there were about 500,000 Sikhs scattered across Afghanistan, many here for generations. The country's Islam was moderate, based on the Sunni Hanafi sect. But after the mujahedeen civil war and the 1994 rise of the Taliban, most had fled by 1998.

In 2001, the Taliban ordered Sikhs, Hindus and other religious minorities to wear yellow patches, ostensibly so they would not be arrested by the religious police for breaking Taliban laws on the length of beards and other issues.

Meanwhile a Reuters report dated September 17, 2007 indicated that:

KABUL - Around 100 angry Afghan Sikhs carried a coffin to the United Nations headquarters in Kabul on Monday, accusing Muslims of stopping them cremating the dead man. Shouting slogans and punching their fists into the air the turbaned men broke through a hastily assembled police barriers until they reached the gates of the U.N. mission. The protesters said Muslims had beaten them as they tried to cremate community elder Lachman Singh.

"Aren't we human? Isn't God created for us as well? If God is only for Muslims, go ahead and kill us all or hand us over to the UN," Avtaar Singh, parliament's Sikh representative, told Reuters. "Even the Taliban did not oppress us as we are oppressed by the people and government right now." If God is only for Muslims, go ahead and kill us all or hand us over to the UN. We want our rights and freedom," he said. "We weren't even stopped performing our religious ceremonies by the Taliban."

Numbering just a few hundred in Kabul and a few dozen elsewhere, Afghanistan's dwindling Sikh community complains of widespread discrimination from the overwhelming Muslim majority.

Whilst the article goes on to indicate that the protestors did eventually manage to gain a sufficient degree of protection from the police to be able to carry out the appropriate last rites in their long-established cremation ground within the city, this is manifestly a dwindling community whose members find themselves subjected to ever more alarming pressures as a result of the ever-rising influence of the forces of Islamic neo-fundamentalism.

6.6 More recent developments

A more recent article published by a Russian journalist on 8th December 2009 entitled *Sikhs strive for recognition in new Afghanistan* reports that

Decades of fighting has almost wiped out the Sikh and Hindu communities in Afghanistan. Most of them fled the country, and those who are left are struggling to find a place in Afghan society. Sikhs and Hindus have been in Afghanistan for

generations, but whereas once they thrived as a community, three decades of fighting has seen their numbers and influence diminish.

Many of them were killed during the civil war of the 1990s, when their houses, shops and properties were seized by powerful warlords. Later, under the Taliban, they were forced to wear patches, turbans, or yellow veils to identify themselves. Now President Karzai's promises to them are also delivering precious little.

For Sikh children, who cannot attend schools because of the prejudice of their peers, spend their time on the streets of Kabul, where there are plenty of children, and their future looks bleak.

"Every day when I was walking home from school, the children would start hitting me and ask why I put a potato on my head and how much I was selling it for," says Sikh Kulwinder Singh. "I want to go to school, I want to study, but I cannot. There is too much bullying. It is impossible for me to attend class."

Kulwinder's parents took him and his cousins out of school more than a decade ago. They now teach them at home, but it is not easy and most of the children are illiterate.

"For fifteen years our children have not gone to school. We do not have money to send them to private schools and we cannot afford to pay teachers," says Sikh Darminder Singh. "After the Soviet Union collapsed we had lots of difficulties. We are not rich and we cannot leave the country, otherwise we would have done so a long time ago."

Today, one hundred Sikh families live in Kabul, whereas before the civil war there were some 3,000 families. Most left for India, Canada, Belgium, the United Kingdom and even Russia, but aside from problems in education, there are problems with religion.

More recently still the BBC World Service broadcast an interview with Dr. Anarkali Kaur, a leading member of the Sikh community in Kabul. No transcript of the broadcast is available, but a podcast can be accessed at <http://www.bbc.co.uk/programmes/p006zjc4>. In these circumstances I have taken the opportunity to summarise her comments on the current position of the Sikh and Hindu community in Kabul:

- Although the community was living in Afghanistan before the arrival of Islam, they are now widely viewed as outsiders, and as immigrants from India.
- Before the arrival of the Taliban, the community enjoyed a good life in Afghanistan
- War has destroyed many aspects of everyone's lives in Afghanistan, but the Sikhs and Hindus have been particularly vulnerable as result of their being viewed as an alien minority
- Despite an influx of Sikh and Hindu refugees from the countryside, the size of the community in Kabul has continued to shrink as its members have sought refuge elsewhere

- Current problems include: lack of personal security, especially in the form of threats from unknown gunmen; lack of access to educational facilities; a widespread belief that all Sikhs and Hindus are rich (even if most of their businesses have now closed down), rendering members of the community vulnerable to kidnap in search of ransom payments.

At no point in the interview does Dr Kaur suggest that the authorities in Kabul provide members of the community with any significant degree of protection against the forms of harassment which she identifies.

7 The current COIR for Afghanistan³

7.1 The Sikhs and Hindus entry in the 'Freedom of Religion' section

Besides being a good deal less upbeat than its predecessor, the equivalent entry in the current version of the COIR also points to the steadily shrinking scale of the Sikh and Hindu presence in Afghanistan. The UNHCR report quoted in paragraph 19.21 of the 2006 COIR suggests that from a 'previous' level of 200,000, numbers had shrunk to around 3,700 by 2004; but as the entry immediately below shows, by 2008 the USSD estimated that there were only around 500 Sikhs and Hindus left in the country.

- 21.15 A Eurasianet article on 12 January 2010 noted that "For many years, Sikhs were a prominent part of Kabul's commercial scene, occupying prominent positions as traders, entrepreneurs, and, later, currency exchange specialists. But in today's Afghanistan, many Sikhs find themselves marginalized and struggling to maintain their distinct cultural profile in Kabul."
- 21.16 The Annual Report of the United States Commission on International Religious Freedom, published in May 2009, observed an improvement in the situation of Hindus and Sikhs since the fall of the Taliban in 2001. The report stated "...there is no longer any official discrimination. Hindus and Sikhs are allowed to practice their faith and to have places of public worship. However, they are effectively barred from most government jobs, and face societal hostility and harassment. The few Afghan Christians, converts from Islam or their children, are forced to conceal their faith and are unable to worship openly."
- 21.17 The Foreign and Commonwealth Office (FCO) noted in a letter dated 17 March 2008 that less than one per cent of the population of Kabul are Sikh, Hindu or Christian. The Hindu community there, although tolerated, are unable to practise their religion freely and face forms of intimidation from both the public and the authorities. Some are reluctant to send their children to school for fear of mistreatment. The FCO further noted that the Sikh community in Kabul also face forms of intimidation and are reluctant to send their children to school. However, generally they are tolerated and some own and run successful businesses. The Gurudwara in Karte Parwan, Kabul, is a fully functioning temple.

³ I understand that a new edition of the COIR for Afghanistan is in preparation; however it has not as yet been published.

21.18 The USSD IRF Report 2009 stated that:

“... Sikhs, Hindus, and Christians continued to face social discrimination and harassment and, in some cases, violence. This treatment was not systematic, but the government was not able to improve conditions during the reporting period. The Hindu population, which is less distinguishable than the Sikh population (whose men wear a particular headdress), faced less harassment, although Hindus reported being harassed by neighbors in their communities. The Sikh and Hindu communities, although allowed to practice their faith publicly, reportedly continued to face discrimination, including intimidation, causing some to leave the country. Although Hindus and Sikhs had recourse to dispute resolution mechanisms such as the Special Land and Property Court, in practice the communities felt unprotected.

“Some Sikh and Hindu children were unable to attend government schools due to harassment from other students. The government took limited steps to protect these children and reintegrate them into the classroom environment. The AIHRC [Afghanistan Independent Human Rights Commission] reported that members of the Hindu community in Kandahar City faced discrimination in schools and asked the local government to build a separate school for Sikh and Hindu children. The government did not do so during the reporting period.”

21.19 The USSD IRF Report 2009 also noted:

“Members of the Hindu and Sikh communities reported that they no longer apply for government jobs because of past discrimination. President Karzai appointed one Sikh member to the upper house of parliament. The Hindu and Sikh communities have lobbied to have one seat each designated for a Hindu and a Sikh representative in parliament. They point out that ten seats are reserved for the ethnic minority Kuchi community and that their communities should also have reserved representation.”

21.20 The Eurasianet article of 12 January 2010 also noted:

“Senator Avtar Singh, the only Sikh in Afghanistan’s parliament, says that trying to raise awareness about the problems facing the country’s Sikh community is difficult.

“Maintaining cultural traditions has grown increasingly problematic. For example, how to ensure the dead are cremated, as mandated by Sikhism, remains an unresolved issue. Muslims now live on the land where Kabul’s Sikhs previously performed their cremations. ‘That land belonged to use [sic] for 120 years, and now we are forbidden to use it,’ Singh said...

“The plight of Afghanistan’s Sikhs was evident last November 2 [2009], when the community celebrated the birthday of Guru Nanak, the founder of Sikhism. The holiday is considered one of the most sacred in the Sikh calendar, but in recent years the celebration in Kabul has been scaled back so as not to attract too much attention. ‘What this celebration was like before and what it is now – this is a big change I’m seeing. I wondered to myself, what will happen to our community?’ Singh said.”

In a similar manner to that deployed in earlier editions of the COIR, these paragraphs serve to emphasise is two basic points:

- i. That the Afghan authorities are in not in an active sense hostile to its Hindu and Sikh citizens even if they are effectively barred from employment in government
- ii. At a *de facto* level Sikhs and Hindus find that they have no remedy when teachers exclude their children from schools, when powerful (Muslim) leaders occupy their property, and when they find themselves subjected to harassment, discrimination and intimidation.

What is remarkable, however, is that these paragraphs make no mention whatsoever of the prospect that the Sikhs and Hindus might continue to attract the hostile and predatory attentions of the resurgent forces of the Taliban and their ilk, and which the vast majority of Sikh and Hindus seeking asylum in the UK report as having been the cause of their decision to abandon their homelands and to seek refuge overseas.

7.2 *Additional material on Sikhs and Hindus in the most recent COIR*

However three additional paragraphs which appear in the latest COIR, published on 5th November 2010, and which I have set out below, do at least go some way towards remedying this deficiency

21.16 The USCIRF 2010 Report stated “As in the case of Shi’a Muslims, the situation of Afghanistan’s small communities of Hindus and Sikhs has improved since the fall of the Taliban, as there is no longer any official discrimination. Hindus and Sikhs are allowed to practice their faith and to have places of public worship. However, they are effectively barred from most government jobs, and face societal hostility and harassment.” [68a] (p208)

21.19 In July 2010, Reuters reported on Awtar Singh, a senator and the only non-Muslim voice in Afghanistan’s parliament, speaking about the challenges faced by the Hindu and Sikh community. He said “We have no shelter, no land and no authority ... No one in the government listens to us, but we have to be patient, because we have no other options...” [49b]

21.20 The same Reuters article noted:

“Ironically the rise to power of the hardline Islamist Taliban marked an improvement in the lives of those who remained – and some émigrés even started to return. ‘The Taliban did not suppress us – they respected our religion and if we had any problem they would resolve it immediately, let alone delay it until the next day,’ says [Awtar] Singh. Some Afghan Hindus were baffled by Western outrage at one Taliban decree – ordering them to wear a yellow tag to identify their religion – saying in practical terms it spared their clean-shaven faces from the wrath of the Taliban religious police, who insisted Muslim Afghan men must grow beards. The Sikhs escaped scrutiny because they also grow their beards long. Since the Taliban’s fall, Afghanistan’s new constitution promises religious minorities greater freedoms than before, but it is harder to ensure in practical terms.”

7.3 *The wider conspectus on the situation in Afghanistan set out elsewhere in the COIR*

Other sections of the COIR make it quite clear that Afghans without close connections to the powers that be have found themselves increasingly vulnerable on that score. To cite a few relevant paragraphs:

12.03 The HRW Report 2010 stated that:

“Kidnapping of Afghans for ransom is common, including NGO [Non-Governmental Organisations] workers, and businessmen and their children. The most active areas are in the south, east, and central regions, where kidnappings significantly contribute to levels of insecurity, sharply curtailing movement for women and children in particular. Kidnappings are carried out by criminal gangs, and are also used by insurgent groups for money and leverage over prisoner releases. The police seem largely incapable or unwilling to tackle kidnappings or other abuses by powerful interests.”

12.06 The US Department of State *Country Report on Human Rights Practices 2009*, Afghanistan, published on 11 March 2010 (USSD Report 2009), noted that:

“The MOI [Ministry of Interior] reported 368 abductions during the year [2009], at least one of which resulted in the death of a hostage. The Afghanistan NGO Safety Office (ANSO) reported insurgents and others kidnapped 20 aid workers during the year, a decline from 38 in 2008; all abductees were local staff. ANSO reported that most abductions were temporary, and most abductees were released unharmed, usually due to the efforts of community elders. One person was reportedly killed while resisting an abduction attempt. Observers alleged that non-insurgency-related kidnapping was a form of dispute resolution.”

12.07 The HRW Report 2010 stated that:

“In many areas of the country local strongmen and former warlords continue to exert significant power over communities, using intimidation and violence to maintain their control. The Afghan government has continued to lose public legitimacy because of these abuses, widespread corruption, failure to improve living standards, and lack of progress in establishing the rule of law even in areas under its control.”

12.08 An International Crisis Group (ICG) article, *“Dealing with brutal Afghan warlords is a mistake”*, Nick Grono and Candace Rondeaux in the *Boston Globe*, dated 17 January 2010, reported that:

“Three decades of warfare in Afghanistan have produced a multitude of warlords and commanders. Institutions have been supplanted by abusive powerholders, who maintain their control through violence, patronage, corruption, and external backing. There was a real opportunity to fundamentally change this dynamic after the fall of the Taliban in 2001, but it was squandered...”

“A list of power brokers in Afghanistan today reads a bit like a who’s who of commanders responsible for atrocities during the civil war. While warlords like Afghanistan’s current co-vice presidents Mohammad Qasim Fahim and Karim Khalili have reinvented themselves as powerful officials.

...

- 12.10 The HRW Report 2010 also noted that “President Karzai attempted to secure his re-election in 2009 through a series of deals with former warlords from all the main ethnic factions. The choice of Mohammad Qasim Fahim as Karzai’s vice presidential running mate was emblematic of this trend; Fahim has long been implicated in possible war crimes from the 1990s and is widely perceived by many Afghans to be connected to criminal gangs.”

Finally the COIR goes on to conclude the section headed ‘Abuses by Non-government Armed Forces’ (from which I have extracted the paragraphs cited above) with a brief section headed ‘Anti-Government and Anti-Coalition Forces’. It reads as follows:

- 12.14 Anti-Government elements remain responsible for the largest proportion of civilian casualties, demonstrating in their tactics a disregard for the lives of civilians. Civilian deaths caused by anti-Government elements rose from 700 in 2007 to 1,160 in 2008 — an increase of over 65 per cent and they “...continued to threaten, rob, attack, and kill villagers, foreigners, and non-governmental organization (NGO) workers.” (The USSD Human Rights Report 2009)
- 12.15 The UN Secretary-General’s report, dated 10 March 2009, noted that “Two trends identified in the previous report further worsened: attempts by insurgents to destabilize previously stable areas and increased use by insurgents of more sophisticated asymmetric attacks, with an increasing disregard for the lives of civilians.”
- 12.16 The Human Rights Watch World Report 2009, Afghanistan, published in January 2009, stated that “The Taliban and other militants have extended their control into parts of the country previously considered relatively stable, such as Logar and Wardak which border Kabul province, and parts of Herat province in the west. Kabul was a target of several audacious militant attacks in 2008, with several major roads out of the capital becoming dangerous to travel.”

7.4 The official perspective: candid observations or aspirational expectations?

Looking back over all the many versions of the COIR for Afghanistan, both as a whole, and also with respect to the position of the country’s Sikh and Hindu minority, its contents appear to be something of a moveable feast. All I would observe from an academic perspective is that those responsible for compiling the COIR seem regularly to rely on commentaries prepared by official sources (most particularly the US State Department and its off-shoots), and consequently much less attention to more first-hand reports prepared by independent on the ground observers. The result, amongst other things, is that what can best be described as the ‘big picture’ is never seriously addressed.

Hence, for example, whilst the brief three paragraphs cited above begin to go some way towards lifting the lid from the aspirational hopes of silver linings which both ISAF and Karzai regime are so desperate to detect, they do little or nothing to recognise the fact that Afghanistan has found itself wracked by civil war ever since the Soviet Union intervened

militarily to prop up the Babrak Karmal region over thirty years ago. From that perspective little has changed since US forces toppled the Taliban regime in the aftermath of 9/11. Nearly a decade has passed since the latest of ‘international intervention’ began, and despite the presence of overseas military aid from ISAF in the form of well over 100,000 troops, the writ of the Karzai regime to which that intervention gave rise remains exceedingly limited, even in those parts of the country which it claims – at least in principle – to be subject to its jurisdiction.

This state of affairs is deeply embarrassing to all concerned, right through from Governments – led by the United States – who have provided ISAF with its military wherewithal, the Karzai regime. It is well established that the truth is invariably the first casualty of warfare, since an accurate account of what is going on is invariably embarrassing to one side or the other – or both – especially when the news in question is unwelcome. In these circumstances ‘information management’ quickly becomes a part of the battle itself, such that even the most well-meaning accounts of their achievements by the actors in the conflict invariably need to be taken with a substantial pinch of salt.

8 The most recent International Crisis Group report on Afghanistan

8.1 The significance of qawm: an entire community at risk?

Within the greater picture of developments in Afghanistan as a whole, that whilst the Sikhs and Hindus may have found themselves facing particular difficulties as a result of their status as non-Muslim ‘idolators’, during the course of thirty years of civil war a much larger number of people drawn from virtually all country’s Muslim communities have fled for safety in one direction or another in the face of threats of violence. Moreover from this wider perspective they are best regarded as one of the multitude of solidarity networks (*qawm*) of which Afghanistan’s population has long been composed. As a recent International Crisis Group report entitled *Afghanistan: What now for Refugees?* (Asia Report N°175 – 31 August 2009) has emphasised, the ties of *qawm* have become even more significant as vehicles of mutual support in the midst of the disruptions precipitated by decades of civil war:

Solidarity networks, composed of family members, friends and other contacts extending across one or several countries, are vital to Afghan mobility. These networks generally stem from kinship and *qawm*, or tribal affiliations, but are not necessarily mono-ethnic. Based on mutual trust and obligations contracted over generations, they constitute a powerful social and economic support system, thus helping the state to bear the burden

During the decades of civil war, Afghans had relied extensively on these networks to migrate locally, regionally or internationally. Families fleeing their homes sought the assistance of their kin group or *qawm* to seek refuge in the neighbouring valley and, if problems persisted, to settle in Afghanistan's urban areas or in an asylum country. Families from the same *qawm* thus often settled in the same neighbourhoods or camps and maintained close ties even when they were dispersed geographically.

But whilst this neatly encapsulates the ways in which the country's Sikh and Hindu *qawm* have also responded to the chaos of war, as well as to the way in which they have found themselves specifically targeted by neo-fundamentalist insurgents, their *qawm* differs from all others in the sense that it is not a component of any of the Muslim ethnic groups – such as the Pathans, the Tajiks, the Uzbeks and the Hazara – from which all the country's powerbrokers and war lords are drawn. It follows that since they form an educated, urban, commercially oriented and significantly professionally community following what had now come to be regarded as an 'alien' religious tradition, Afghanistan's Hindus and Sikhs now find themselves in a position closely akin to that of the Jews in Nazi Germany – and like them, find themselves forced to flee to the four corners of the globe in search of safety and security.

It is also worth noting that just as the ICG Report notes that 'Families fleeing their homes sought the assistance of their kin group or *qawm* to seek refuge in the neighbouring valley and, if problems persisted, to settle in Afghanistan's urban areas or in an asylum country' with respect to developments in the many *qawm* found within Afghanistan's Muslim majority population, the great majority of whom sought external refuge either in Pakistan or Iran, many members of the of the Hindu and Sikh *qawm* who have fled the country have gathered in Southall, where they have established an extremely active self-help group known as the Afghan Ekta Society, based at the Guru Nanak Darbar Gurudwara in Southall. (See Appendix). Indeed if the Ekta society's calculation of the scale of Afghan Sikh presence in the UK is correct, there are good reasons to believe that the British-based component of this *qawm* is now significantly larger than the rump of its members still resident in their country of origin.

8.2 *Reforming Afghanistan's Broken Judiciary*

Against this background the recently published ICG Report, , published on 17th November 2010, makes for depressing reading, not least because it further underlines the arguments set out and the conclusions reached in earlier reports on the state of the Afghan National Police. As the report's executive summary puts it:

Afghanistan's justice system is in a catastrophic state of disrepair. Despite repeated pledges over the last nine years, the majority of Afghans still have little or no access to judicial institutions. Lack of justice has destabilised the country and judicial institutions have withered to near non-existence. Many courts are inoperable and those that do function are understaffed. Insecurity, lack of proper training and low salaries have driven many judges and prosecutors from their jobs. Those who remain are highly susceptible to corruption. Indeed, there is very little that is systematic about the legal system, and there is little evidence that the Afghan government has the resources or political will to tackle the challenge.

The public, consequently, has no confidence in the formal justice sector amid an atmosphere of impunity. A growing majority of Afghans have been forced to accept the rough justice of Taliban and criminal powerbrokers in areas of the country that lie beyond government control.

To reverse these trends, the Afghan government and international community must prioritise the rule of law as the primary pillar of a vigorous counter-insurgency strategy that privileges the protection of rights equally alongside the protection of life. Restoration of judicial institutions must be at the front and centre of the strategy aimed at stabilising the country. The Afghan government must do more to ensure that judges, prosecutors and defence attorneys understand enough about the law to ensure its fair application. Reinvigoration of the legal review process and the adoption of a more dynamic, coordinated approach to justice sector reform are critical to changing the system. Justice is at the core of peace in Afghanistan

Legal institutions and legal elites have been deeply affected by the political paroxysms of more than three decades of conflict. The judiciary has been scarred by a legacy of political interference by both Afghan powerbrokers and external actors. Judicial independence has, as a result, been one of the main casualties of Afghanistan's protracted war. The courts, for years, have suffered manipulation from an executive branch that has abused the law to fortify its position in the ongoing tussles between the secular and religious, the centre and periphery, the rich and poor. The Afghan government's historic inability and persistent unwillingness to resolve conflicts between state codes, Islamic law and customary justice embedded in the legal culture have further destabilised the country. The critical leverage provided to fundamentalists in the constitution has concurrently had a deep impact on the evolution of legal institutions.

Dysfunction at the provincial level has long been a hallmark of a system unable to resolve tensions between its highly centralised organisation and the diffusion of the population across difficult and often inaccessible terrain. Over the years, the Afghan government and the international community have endeavoured to resolve this problem, most notably through the introduction of regional trainings for Afghan judges and prosecutors. This is not enough. After nearly a decade of financial pledges and promises, neither the government nor the international community have a full picture of the demand for legal services at the provincial and district level. In its desperation to find quick fix solutions, the international community, and the U.S. in particular, has begun to look to the informal justice sector as a means to an undefined end. This is problematic for a number of reasons. While it is true that the use of traditional Afghan jirgas and shuras to resolve disputes, particularly in rural areas, is so widespread that

it cannot be ignored, the current government is a long way from having the capacity to integrate the decisions of such councils into the formal system. Their multiplicity, the plurality of customs and the erosion of the social order during years of violent conflict have degraded the positive influence and real authority of such jirgas.

All I would note here is that a central consequence of the state of affairs is that dispute settlement in contemporary Afghanistan is much more a matter of politics than of law. Those who can establish a connection – most usually on a tribal basis – with the most powerful local political big hitter can normally expect to find disputes settled to their own advantage. Given Afghanistan's small and steadily shrinking Sikh minority stand outside the tribal structure, the prospect of them recruiting any significant indigenous big-hitters to their cause is, in the light of all the available evidence, remote. In other words members of this section of the population have excellent reasons to fear that their prospect of being able to mobilise any significant degree of protection from the properly constituted authorities should they find themselves subject to the aggressive attentions of neo-fundamentalist non-state actors is close to zero.

9 The Demographic Characteristics of Afghanistan's Sikh and Hindu population

9.1 Census data on the Afghan population as a whole

Data with respect to the demographic characteristics on the population of Afghanistan, and especially of its ethnic components, can only be described as patchy in the extreme. The last formal census was carried out in 1979, and produced an overall figure 15,551,358, of whom 85% were living in rural areas, with half the remainder living in Kabul. However even these estimates were in many respects rough and ready; the nomadic population – estimated to be around 2.5 million – was not included in the census, and no attempt was made to disaggregate the 1979 data by ethnicity.

Under pressure from the International Community, the Karzai regime has made considerable efforts to produce more up to date demographic data, but the security situation is such that no attempt has yet been made to implement a planned national census. As a result the only figures currently available can only be described as guesstimates. The information currently set out on the Afghan Government website reads as follows:

During the war with the Soviets the number of Afghan refugees outside the country escalated dramatically, with as many as 2.5 million to 3 million refugees in Pakistan and another 1.5 million in Iran. About 150,000 Afghans were able to migrate permanently to other countries, including the United States, Australia, and various European countries.

Afghanistan has a population growth rate of about 2.6 percent. The growth rate is 2.3 percent in rural areas and 4.7 percent in urban areas, reflecting migration to urban centers. In the beginning of the civil war, the population of Kabul swelled to 2 million people because of the extensive fighting in the countryside. Now that situation has reversed because much of Kabul has been destroyed by rocket attack and other combat. Afghanistan's infant mortality rate is the highest in the world; as many as 38 percent of all newborn children do not survive beyond their first birthday. A more recent population estimate is 25,838,797 (July 2000).⁴

9.2 *The Sikh and Hindu Population of Afghanistan*

Against that background it is hardly surprising that accurate estimates of the size and demographic characteristics of the remainder of Afghanistan's small but once thriving Sikh minority are also unavailable, even if confident estimates regularly appear in print, and in due course find their way into the COIR as 'objective evidence'. Hence, for example, paragraph 19.19 of the November 2009 version of the COIR for Afghanistan read as follows:

The USSD 2008 report noted:

"There were approximately 500 Sikhs and Hindus in the country. Although those communities were allowed to practice their faith publicly, they reportedly continued to face discrimination, including intimidation; discrimination when seeking government jobs; and verbal and physical abuse in public places. Although community representatives expressed concerns over land disputes, they often chose not to pursue restitution through the courts for fear of retaliation, particularly when powerful local leaders occupied their property. The government allocated a plot of land in Kabul for Sikhs to hold funerals.

But having back-tracked to the source on which the compilers of the COIR indicated that they had relied, namely US the International Religious Freedom Report 2008 compiled by Bureau of Democracy, Human Rights, and Labor, I could find no trace of the this figure. The only relevant demographic estimate I could find in that document read as follows:

There are approximately 2,200 Sikh and Hindu believers and more than 400 Baha'is.

However I took the opportunity to track down the estimates set out in subsequent IRF reports. In the 2009 report, the relevant sentence reads

According to self-estimates by these communities, there are approximately 4,900 Sikh and 1,100 Hindu believers, and more than 400 Baha'is. There is a small, hidden Christian community; estimates on its size range from 500 to 8,000.

However the current (2010) IRF report significantly revises these figures downwards

According to self-estimates by these communities, there are approximately 3,000 Sikhs, more than 400 Baha'is, and 100 Hindu believers.

⁴ <http://www.afghanistans.com/information/people/population.htm>

Just where these new figures came from are unclear. Nevertheless by 2010 the compliers of the COIR were playing catchup. They abandoned the figures quoted in the previous edition, and instead accurately quoted the 2009 edition of the IRF report to the effect that

21.07 “The country has an area of 402,356 square miles, and a population of approximately 31 million. Reliable data on religious demography is not available because an official nationwide census has not been conducted in decades. Observers estimate that 80 percent of the population is Sunni Muslim, 19 percent Shi'a Muslim, and other religious groups less than one percent of the population. According to self-estimates by these communities, there are approximately 4,900 Sikh and 1,100 Hindu believers, and more than 400 Baha'is. There is a small, hidden Christian community; estimates on its size range from 500 to 8,000. In addition, there are small numbers of adherents of other religious groups, mostly Buddhist foreigners. There is one known Afghan Jew.”

I do not know whether the 2010 COIR went to press before or after the publication of the 2010 IRF report, which revised these figures down again.

From a scholarly perspective several key points are worth making about Afghan demographics in general, and the demographics of the Sikh and Hindu population in particular.

- i. The IRF note to the effect that “Reliable data on religious demography is not available because an official nationwide census has not been conducted in decades” is unchallengeable
- ii. No-one knows the precise scale of Afghanistan’s remaining Hindu and Sikh and Hindu population.
- iii. It is common knowledge that members of this community have found themselves subjected to steadily rising levels of hostility during the course of the past four decades: they have consequently had even more reason to seek refuge overseas than their Muslim compatriots
- iv. As a result the scale of their presence in Afghanistan has been shrinking steadily, and in the light of current developments there is no reason to suppose that that trend will be reversed in the foreseeable future.

In the light of all this it would appear that the only reliable observation that can be made about the current characteristics of Afghanistan’s Sikh and Hindi minority is that it is now only a small fraction of its former size, and that as numbers shrink, its remaining members are finding themselves ever more vulnerable to aggressive exploitation, against which they have no meaningful defence. Hence their exodus can only be expected to continue.