

Refugee Review Tribunal

AUSTRALIA

RRT RESEARCH RESPONSE

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This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

Questions

1. Is the POTA Act still current?
2. Is the BJP still in power? Who is in opposition?
3. What is *Janata Dal* and which party is it aligned to, if any?
4. Please provide information about *Shiva Sena*.
5. Is it against the *Janata Dal* and/or Muslims?
6. Are Muslims subjected to harassment in India?
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8. Is there fighting amongst Muslims and Hindus at the anniversary of the Babri Mosque incident?

RESPONSE

1. Is the POTA Act still current?

The Prevention of Terrorism Act (POTA) remains a current feature of India's legal proceedings in spite of its September 2004 repeal by the ruling United Progressive Alliance (UPA) coalition. In March 2006, the US Department of State noted that "[i]n June [2005] the POTA review committee reported that there were 11,384 persons wrongfully charged under POTA who instead should be charged under the regular law". Further to this, reports of arrests and trials being made and conducted under POTA powers have continued to be reported by India's press in recent times. According to the US Department of State, the "POTA contained a sunset feature, which gave the central POTA review committee one year to review all existing POTA cases", and which "also allowed the government to make new arrests under POTA, despite its repeal, if the arrests were tied to an existing POTA case" (for information on the "sunset feature" of the POTA, see: US Department of State 2006, *Country Reports on Human Rights Practices for 2005 – India*, 'Section d. Arbitrary Arrest or Detention', 8 March <http://www.state.gov/g/drl/rls/hrrpt/2005/61707.htm> – Accessed 9 March 2006 – Attachment 1; for reports of recent arrests made, and trials conducted, under

POTA powers, see: 'POTA detainees seek revoking of cases against them' 2006, *Hindustan Times*, 26 June http://www.hindustantimes.com/news/181_1729330,000900020001.htm – Accessed 21 July 2006 – Attachment 2; Thomas, S. 2006, 'Raja Bhaiya acquitted of Pota charges', *Times of India*, 4 June – Attachment 3; 'DMK govt withdraws petition against POTA panel's findings' 2006, *OutlookIndia.com* website, 14 July http://www.outlookindia.com/pti_news.asp?id=398844 – Accessed 21 July 2006 – Attachment 4).

The recent Mumbai bombings, of 11 July 2006, saw calls from some opposition groups, such as the *Bharatiya Janata Party* (BJP), and some local government groups for the official reinstatement of the POTA. (Reports indicate that the ruling government has not been receptive to such demands.) A report published by *The Christian Science Monitor* notes that a politician linked with previous episodes of communal violence against Muslims, the chief minister of Gujarat state, Narendra Modi, has been particularly vocal in this regard. Although previous bombings in Mumbai have seen POTA powers "used with particular force against Muslims, resulting in arbitrary arrests, harsh interrogations, and detention without charge", according to this report "police tactics over the past week haven't been as sweeping". It is worth noting that the report makes mention of the suburb of Mumbra: "Mumbra, a suburb 25 miles from Mumbai, saw an influx of Muslims after Hindu-Muslim riots in Mumbai in 1992 and blasts in 1993. Mumbra's squalid quarters, dubbed derisively as 'mini Pakistan,' are notorious havens for criminals – and, police allege, terrorists". Relevant extracts follow:

After bomb attacks in Mumbai three years ago, India's stringent antiterrorism law – the Prevention of Terrorism Act (POTA) – had been used with particular force against Muslims, resulting in arbitrary arrests, harsh interrogations, and detention without charge. POTA was repealed in 2004, and so far police tactics over the past week haven't been as sweeping. Many of the hundreds interrogated were let go in a few hours; only a few remain in detention.

Given the charged debate over POTA's repeal, Indian politicians may be loathe to reinstate it. But the controversial chief minister of Gujarat state traveled to Mumbai to publicly challenge Delhi to do just that – or allow state governments to pass their own versions.

"If we are allowed to enact such an antiterrorism act, Gujarat will be the first state to do so, and I will be the first chief minister who will show this country how terrorism is curbed and how to hang terrorists," Chief Minister Narendra Modi told an assembly Monday.

The timing and message of Mr. Modi's visit is seen as provocative by those who view him as complicit in communal riots that gripped Gujarat in 2002, leaving some 1,000 dead, mainly Muslims.

...In 2003, Mr. Qazi was arrested following a set of bombings. He had been mistaken for a SIMI activist because of his work with the Students Islamic Organization (SIO), part of the Jamaat-e-Islami Hind, a moderate religious social organization working for Muslim uplift and at one time associated with SIMI. "The word 'Islamic' in my organization's name makes all the difference."

"They [Mumbai's police] came in large numbers at 1:30 a.m., in pitch darkness, and arrested me," he recalls. "My neighbors thought I was a terrorist."

...Outbreaks of communal violence in recent years have caused some Muslims to relocate to Muslim-majority areas.

Mumbra, a suburb 25 miles from Mumbai, saw an influx of Muslims after Hindu-Muslim riots in Mumbai in 1992 and blasts in 1993. Mumbra's squalid quarters, dubbed derisively as "mini Pakistan," are notorious havens for criminals – and, police allege, terrorists (Chopra, A. 2006, 'Mumbai probe eyes local Muslim group', *Christian Science Monitor*, 19 July <http://www.csmonitor.com/2006/0719/p06s01-wosc.html> – Accessed 21 July 2006 – Attachment 5; see also: 'POTA not the answer to terrorism, says Cong' 2006, WebIndia123.com website, 17 July <http://news.webindia123.com/news/Articles/World/20060717/394148.html> – Accessed 21 July 2006 – Attachment 6).

A report published in *The Hindu* in August 2006 is less upbeat about the relative improvement in police attitudes towards Muslims following the recent July 2006 bombings. According to this more recent report, the police did undertake broad sweeps in Muslim areas during subsequent weeks in July 2006 and "in some Muslim-dominated pockets, there is fear, anger, and even resignation following the 'combing' operations being conducted by the police" (Sharma, K. 2006, 'Why Mumbai escaped a flare-up', *The Hindu*, 5 August <http://www.hindu.com/2006/08/05/stories/2006080504921100.htm> – Accessed 9 August 2006 – Attachment 7).

For information on the POTA arrests and detentions which took place in Mumbai in September 2003, see Attachment 8 and Attachment 9 (Iyer, S. 2003, 'Five arrested for Mumbai blasts', *The Tribune*, 1 September <http://www.tribuneindia.com/2003/20030901/main2.htm> – Accessed 9 August 2006 – Attachment 8; 'Four arrested in Mumbai blasts case' 2003, *Rediff.com* website, 1 September <http://www.rediff.com/news/2003/sep/01blast.htm> – Accessed 9 August 2006 – Attachment 9).

2. Is the BJP still in power? Who is in opposition?

The BJP remains in power in the city of Mumbai as the junior partner in the *Shiv Sena* led local government (the Municipal Corporation of Greater Mumbai or MCGM). The office of mayor is held by the *Shiv Sena*'s Datta Dalvi while the office of deputy mayor is held by the BJP's Dilip Patel. At the level of Maharashtra state, however, the BJP is no longer in power. The *Shiv Sena* and the BJP lost power at the state level in October 2004 to an Indian National Congress Party (INC; or Congress (I); or, simply, Congress) and Nationalist Congress Party (NCP) coalition. Earlier that same year in May, the BJP had also lost power at the national level; with the Congress led United Progressive Alliance (UPA) coalition government winning control of the *Lok Sabha*. Prior to this "the Bharatiya Janata Party (BJP) had led a ruling National Democratic Alliance (NDA) coalition of more than 20 parties working under the leadership of Prime Minister Atal Bihari Vajpayee" since 1998 (for information on the re-election of the BJP's Dilip Patel as deputy mayor of Mumbai, see: 'Shiv Sena man elected Mumbai mayor' 2005, *Rediff.com* website, 19 February <http://www.rediff.com/news/2005/feb/18mumbai.htm> – Accessed 24 July 2006 – Attachment 10; for information on the *Shiv Sena*–BJP loss of power at the level of Maharashtra state, see: Ahmed, Z. 2004, 'New Maharashtra chief appointed', *BBC News* website, 29 October http://news.bbc.co.uk/2/hi/south_asia/3966067.stm – Accessed 24 July 2006 – Attachment 11; for information on the 2004 national elections, see: Kronstadt, K.A. 2004, *India's 2004 National Elections*, US Department of State website, 'Congressional Research Service – The

Library of Congress', 12 July <http://fpc.state.gov/documents/organization/34484.pdf> – Accessed 24 July 2006 – Attachment 12).

The principal security force in Mumbai, the Mumbai Police, is administered by the Home Department of the Maharashtra state government; a portfolio presently headed by Deputy Chief Minister R.R. Patil of the NCP. There have also been recent reports of political friction between the Mumbai Police Commissioner and *Shiv Sena*–BJP politicians; suggesting that the relationship between the police and the *Shiv Sena*–BJP combine may be strained at present. Following the institution of new censorship laws in 2005, the “Shiv Sena–Bharatiya Janata Party assailed the Police Commissioner for taking a dictatorial step that would ‘shame even Hitler’”; and in the aftermath of the July 2006 Mumbai bombings the BJP called for the removal of “Mumbai Police Commissioner A.N. Roy”. Recent street actions undertaken by the *Shiv Sena* on 9 July 2006 saw Mumbai’s police deployed to contain and arrest *Shiv Sena* supporters with tear gas being fired on the Hindu nationalist demonstrators. In February 2006 a demonstrator at a *Shiv Sena*–BJP protest was shot and killed “when police opened fire on [the] protesting crowd of farmers at Chargarh Dam in Maharashtra’s Amravati district”; and on 6 December 2005 it was reported that “[m]ore than 300 activists of Shiv Sena and Kranti Shiv Sena were arrested under different police stations while proceeding towards Kashi Vishwanath Temple in Dashashwamedh” to march on the anniversary of the 1992 destruction of the Babri mosque in Ayodhya. November 2005 also saw the arrest of large numbers of *Shiv Sena* activists. (For information on the administration of the Mumbai Police, see: ‘Police Organisation of Maharashtra’ (undated), Government of Maharashtra website <http://www.maharashtra.gov.in/english/homedept/policeShow.php> – Accessed 24 July 2006 – Attachment 13; for an illustration of the currently strained relationship between the Mumbai Police command and the *Shiv Sena*–BJP leadership, see: ‘BJP moves privilege motion against Maharashtra DGP’ 2006, *The Hindu*, 15 July <http://www.hindu.com/2006/07/15/stories/2006071506411400.htm> – Accessed 24 July 2006 – Attachment 14; and also: ‘Mumbai police chief clamps down on information’ 2005, *The Hindu*, 7 April <http://www.thehindu.com/2005/04/08/stories/2005040803681301.htm> – Accessed 24 July 2005 – Attachment 15; for information on the 9 July 2006 arrest of *Shiv Sena* cadres by the Mumbai Police, see: ‘*Shiv Sena* activists go on rampage after statue’s desecration’ 2006, *India eNews.com* website, 9 July <http://indiaenews.com/2006-07/14210-shiv-sena-activists-rampage-statues-desecration.htm> – Accessed 24 July 2006 – Attachment 16; and: Badam, R.T. 2006, ‘Indian police fire tear gas at rioting Hindu nationalists in Bombay’, *Associated Press*, 9 July – Attachment 17; for information on the February 2006 shooting, see: ‘One killed in police firing in Chargarh’ 2006, *Hindustan Times*, 21 February – Attachment 18; for information on the 6 December 2005 arrests, see: ‘Peace prevails on Ayodhya anniv’ 2005, *Hindustan Times*, 6 December – Attachment 19; for information on the November 2005 arrests of *Shiv Sena* activists, see: ‘Bandh observed in Sindagi town’ 2005, *The Hindu*, 29 November – Attachment 20.)

Nonetheless, other sources, including figures in the Maharashtra state government and a delegation of Muslim MPs at the national level, have claimed that a nexus of support does exist between sections of the Maharashtra police force and the *Shiv Sena*–BJP combine. On 31 July 2006 it was reported that “a group of Muslim MPs” had called for the task of investigating the July 2006 Mumbai bombings to be transferred from the Maharashtra Police to the national Central Bureau of Investigation (CBI); claiming that “the probe into the Mumbai blasts has been communalised and led to a witch-hunt”. “The MPs were critical of combing operations in Muslim-dominated areas, which they felt targeted [*sic*] ‘poor and innocent’ people. The delegation said the city police encouraged the *Shiv Sena* to hold the

city to ransom during a day-long bandh a couple of weeks ago.” There have also been claims that, in instances where the security forces have been deployed against *Shiv Sena* street actions, the police have failed to properly enforce the law. Narayan Rane (a former *Shiv Sena* leader who defected to Congress in mid-2005) has made a number of such claims and, on 12 July 2006, it was reported that he had “accused the police of dealing with the rioters with kid gloves” during the action of 9 July 2006. On 13 November 2006, it was reported that Congress “senior party leader Margaret Alva” had similarly claimed that “the police who were playing favourites”. “Echoing Rane’s sentiments ...she made accusations against the state police machinery – a thinly-veiled attack on the Nationalist Congress Party (NCP) and Deputy Chief Minister R.R. Patil, who heads the home department. ... ‘If people reject the Shiv Sena, then it is not our candidate’s duty to protect them. Let them seek police protection,’ she added”. Although the Congress and the Nationalist Congress Party govern in coalition in Maharashtra, the two have clashed over allegations by Rane that the NCP is not doing enough in its administration of the police to protect Congress supporters from *Shiv Sena* activists. (For the accusations of the Muslim MPs, see: ‘Muslim MPs say it’s a witchhunt, seek CBI probe’ 2006, *Times of India*, 31 July – Attachment 21; for Rane’s recent claims, see: ‘Shiv Sena decries Rane’s betrayal’ 2006, *Times of India*, 12 July – Attachment 22; for Alva’s claims, see: ‘Malvan Bypoll – Alva echoes Rane: Cops biased’ 2005, *Hindustan Times*, 13 November – Attachment 23; for information on the rift between Congress and the NCP over police protection, see: ‘Rane charges NCP with favouring Shiv Sena’ 2005, *The Hindu*, 4 October – Attachment 24.)

Historically there is much evidence of complicity between the Mumbai Police and the *Shiv Sena*. During the ’90s a great deal was written about the manner in which the Bal Thackeray-led *Shiv Sena* had enjoyed the tacit support of the police in the conduct of criminal activities and in numerous episodes of ethno-sectarian violence. Notable amongst the latter type of incident is the *Shiv Sena*’s role in orchestrating the anti-Muslim violence that took place during Bombay’s January 1993 riots. In September 1993 the Department of Foreign Affairs and Trade (DFAT) observed that “the Police Commissioner at the time, Srikant Bapat (who has since been replaced), was a known *Sena* sympathiser and failed to come to the aid of Muslims as violence spread and Thackeray’s edicts, exhorting his followers to arson and worse, continued. Around 500 people died before the violence eventually subsided”. Despite the removal of Srikant Bapat from the post of Police Commissioner at this time it was still, according to DFAT, “generally acknowledged that *Shiv Sena* sympathisers constitute a majority of the Bombay police, including senior inspectors”. (For DFAT’s advice of September 1993, see: DIMIA Country Information Service 1993, *Refugee Application Information Request. Cable ND 931*, (sourced from DFAT advice of 21 September 1993), 21 September – Attachment 25; for historical information on the tacit police support once enjoyed by the *Shiv Sena* cadres, see: Human Rights Watch 1996, ‘India: Communal Violence and the Denial of Justice’, April, vol.8: no.2 <http://hrw.org/reports/1996/India1.htm> – Accessed 20 June 2006 – Attachment 26; and: Seabrook, J. 1998, ‘Very political crimes in Bombay’, *Le Monde diplomatique* (English edition) website, June <http://mondediplo.com/1998/06/10india2> – Accessed 20 June 2006 – Attachment 27).

3. What is *Janata Dal* and which party is it aligned to, if any?

Janata Dal is the title of a political grouping which first brought together a number of political factions into one party in October 1988. Though little different from Congress in terms of its politics, and containing a number of former Congress figures, its anti-corruption

platform saw it emerge as the most significant opposition force against the Congress led government at the time. In November 1989 national elections the *Janata Dal* Party led the National Front coalition to victory as a minority government; toppling the incumbent Congress Party and installing the *Janata Dal*'s leader, V.P. Singh, as India's prime minister with the support of the BJP's *Lok Sabha* MPs (the BJP was not itself an active participant in the National Front government). V.P. Singh remained in power for less than a year. In August 1990 Singh attempted to implement affirmative action lists for other backward classes (OBCs) and in doing so lost the support of the BJP. Seeing his chance, "Chandra Shekhar, a frustrated rival of V.P. Singh who had been scheming against the prime minister from the inception of the government, announced that he would try to form a new government with 58 *Dal* dissident MPs and with the outside support of Rajiv Gandhi's Congress Party". Shekhar was sworn in as prime minister on 10 November 1990 but lasted only until June of 1991 when his minority government lost the support of the Congress Party. His breakaway group came to be known as the ***Janata Dal Socialist*** (or *Samajwadi Janata Dal*) Party (for extensive background on the early history of the *Janata Dal* Party between 1988 and 1992, see: Fickett, L.P. 1993, 'The Rise and Fall of the *Janata Dal*', *Asian Survey*, December, vol.33: no.12, pp. 1151-1162 – Attachment 28).

The *Janata Dal* did poorly in the subsequent 1991 elections and "[a] further split in 1994 eventually led to the formation of the BJP-allied ***Samata Party***. The rump *Janata Dal* led the United Front (UF) to a plurality in the 1996 general elections, although its seat tally fell to 45". Its term in office again proved to be brief. H.D. Deve Gowda was installed in the office of prime minister in June 1996 through the support of the Congress Party but "Congress (I) withdrew their support in less than a year, hoping to gain power with the support of various United Front constituent groups". In the aftermath a caretaker government was established in April 1997 with the *Janata Dal*'s Inder Kumar Gujral as prime minister. "His government fell in a few months, and in February 1998, the *Janata Dal*-led coalition lost power to the BJP". The *Janata Dal* subsequently underwent further fragmentation: splitting into the Gowda-led ***Janata Dal Secular (JD-S)*** Party and the Sharad Yadav-led ***Janata Dal United (JD-U)*** Party, with both "claiming to be the 'real *Janata*'". (For information on *Janata Dal* and the 1991 and 1994 elections, and for information on the competing claims of the JD-S and JD-U to the *Janata Dal* mantle, see: Banks, A.S., Muller, T.C. & Overstreet, W.R. (Eds.) 2006, *Political Handbook of the World: 2005–2006*, CQ Press, Washington DC, p.514 – Attachment 29; for information on the collapse of the 1996–1997 *Janata Dal* governments, see: 'Janata Dal(U) and Janata Dal(S)' (undated), *Zee News* website http://www.zeenews.com/znew/spesial_art.asp?aid=153130&sid=ZNS – Accessed 1 July 2006 – Attachment 30).

The fragmentation of the *Janata Dal* Party has continued over the years and there are now a number of *Janata Dal* derived parties on the Indian political landscape. Several of these parties are vehicles for specific personalities with support bases in specific states. All have unique and sometimes shifting political allegiances. For instance, the ***Samajwadi Party (SP;*** or Socialist Party) – which is itself an offshoot of Shekhar's breakaway *Janata Dal* Socialist – draws most of its support from Uttar Pradesh. The SP won 36 seats "at the 2004 *Lok Sabha* election" and "backed formation of the Congress-led government"; though it is not itself a listed party in the Congress led United Progressive Alliance (UPA). The ***Rashtriya Janata Dal (RJD;*** National People's Party), on the other hand, is listed as a UPA party and "[i]n 2004 the RJD took 21 *Lok Sabha* seats as a Congress ally". "Formed in 1997, in the state of Bihar", the RJD won the February 2000 Bihar state election but lost power there in February 2005 when the BJP combined with the JD-U to form a National Democratic Alliance (NDA)

government. The JD-U is listed as an NDA party at the national level also and in December 2003 the JD-U merged the *Samata* Party (another pro-BJP *Janata Dal* splinter) into its ranks. In spite of this the JD-U did poorly in the most recent national elections and “won only eight seats” in the lower house. Separate from the JD-U but also on the BJP-led NDA list is the ***Biju Janata Dal (BJD)*** Party. Formed in December 1997, The BJD is an Orissa based splinter of the *Janata Dal* which “left the parent grouping in protest over the party’s failure to ally with the BJP”. The “BJD took 11 *Lok Sabha* seats” in the last national election and it presently controls Orissa state in partnership with the BJP. The BJP is also working at the state level with the JD-S; and together they presently govern Karnataka state. The JD-S is not, however, a listed NDA party, and until recently it had been governing in Karnataka with the support of the Congress Party. The alignment of the JD-S with the BJP has subsequently seen the possible re-unification of the JD-S with the JD-U mooted at recent talks which took place between the JD-S and the JD-U in Mumbai in May 2006. (For an overview of India’s various *Janata Dal* parties, see: Banks, A.S., Muller, T.C. & Overstreet, W.R. (Eds.) 2006, *Political Handbook of the World: 2005–2006*, CQ Press, Washington DC, pp.512-516 – Attachment 29; for information on the JD-U and BJP combine in Bihar, see: ‘JD(U)-BJP Bihar win signals end of UPA: Mahajan’ 2005, *Rediff.com* website, 23 November <http://www.rediff.com/news/2005/nov/23bpoll3.htm> – Accessed 2 July 2006 – Attachment 31; and also: Ramakrishnan, V. 2005, ‘A New Era in Bihar’, *Frontline*, vol.22: iss.25, 5-18 November <http://www.flonnet.com/fl2225/stories/20051216006500400.htm> – Accessed 2 July 2006 – Attachment 32; for information on the JD-S’s recent switch in loyalties in Karnataka state, see: Sharma, R. 2006, ‘Far from finished’, *Frontline*, vol.23: iss.2, 28 January – 10 February <http://www.flonnet.com/fl2302/stories/20060210006002400.htm> – Accessed 2 July 2006 – Attachment 33; and also: ‘Karnataka: Siddaramaiah joins Congress’ 2006, *Rediff.com* website, 22 July <http://in.rediff.com/news/2006/jul/22jds.htm> – Accessed 2 July 2006 – Attachment 34; for information on the recent talks between the JD-S and the JD-U, see: ‘Efforts on to merge Janata Dal splinter groups’ 2006, *newKerala.com* website, 24 May <http://www.newkerala.com/news2.php?action=fullnews&id=64692> – Accessed 2 July 2006 – Attachment 35.)

A March 2003 report, published by the US military’s Asia-Pacific Center for Security Studies (APCSS), provides an overview of the splintered history of the *Janata Dal* as background to the shifting political fortunes of the BJP. The study’s author, Dr Arun R. Swamy (presently of Williams College, Massachusetts), discusses the manner in which the BJP has benefited from the *Janata Dal* (and its splintered derivatives) as a means of generating expedient alliances; and also argues that the BJP has won over sections of the *Janata Dal*’s former electoral support base. The following extracts from Swamy’s study look first at the emergence of the *Janata Dal* Party and its early power sharing deals with the BJP during 1989 to 1990. The middle paragraphs argue that the BJP’s subsequent opposition to the *Janata Dal*’s policy on the implementation of affirmative action lists for other backward classes (OBCs) saw the BJP erode the *Janata Dal*’s electoral support base in the elections of 1991. The final paragraphs consider the manner in which the *Janata Dal* came to splinter into the variety of organisations which have allied themselves, variously, with and against the BJP and Congress over the subsequent years.

The *Janata Dal* was formed when the *Janata* Party (or what was left of it) merged with two factions of the *Lok Dal* and a breakaway faction of the Congress led by Rajiv Gandhi’s former finance minister, V.P. Singh. The *Janata Dal* struck separate deals with the BJP, the two communist parties, and various regional parties to ensure that the vote against Congress was united in as many parliamentary constituencies as possible. During the 1989 elections, the campaign focused on the corruption of the Gandhi government and a *Janata Dal* promise

to waive loans owed by farmers to government-owned banks. These were also the issues the BJP ran on. The election saw the Congress party drop to its second lowest seat tally since independence but, with 197 seats in the lower house of parliament, remain the largest party in the country. The Janata Dal emerged as the second largest party with 143 seats followed by the BJP with 86 and the two communist parties at around fifty.

What is crucial to realize, however, is that the BJP's electoral alliance with the Janata Dal helped it at least as much in the 1989 elections as had Ramjanmabhoomi movement [the Hindu nationalist campaign which sought to reclaim the Babri Mosque in Ayodhya city as a Hindu temple]. At the national level, while the BJP increased its seat tally from two seats in 1984 to 86 in 1989, its share of the votes increased only from 7.4% to 11.5%. The 1984 figure was probably lower than it might have been, as a result of the pro-Congress 'wave' following the assassination of Indira Gandhi, while the 1989 figure is not much higher than the Jan Sangh's peak of 9.4 per cent in 1967. Significantly, the state where Ayodhya is located, Uttar Pradesh, saw virtually no change. By contrast, the Janata Dal with 17.8% of the vote received a higher share of the national vote than any party in Indian history other than the Congress or the original Janata Party, and also increased its share of the vote in a number of major states.

After the 1990 state elections, the BJP needed to ally with the Janata Dal, usually as a junior partner, in every major state where it won a share of power, except one. These were largely the Hindi-speaking states of the northern plain. In the 1990 state elections, it was the Janata Dal that came to power in the two largest states in the country, Uttar Pradesh – the state where Ayodhya is located – and Bihar. In two other states, Rajasthan and Gujarat, the BJP and Janata Dal were almost evenly divided, and agreed to let the BJP form the government in Rajasthan leaving Gujarat to the Janata Dal. In Maharashtra, the BJP emerged as a significant opposition force only because of its alliance with the Shiv Sena. Only in Madhya Pradesh, a state where it had established an early presence and the Janata Dal was weak, did the BJP take power by itself. An examination of the eight states where the BJP has established a presence in recent years confirms that the major increase in BJP votes came between 1989 and 1991, at the expense of the Janata Dal. Only in two states, Gujarat and Maharashtra, did the BJP vote increase significantly between 1989 and 1991. (See Table I in Appendix).

These observations are important as it is sometimes argued that the BJP's 1988 campaign for the construction of a temple at Ayodhya helped the party significantly expand its base. In fact, there is little reason to think it did any such thing. It was only in the 1991 election, after the collapse of the Janata Dal, that the BJP reached 20 percent of the national vote and became a contender for power on its own in Uttar Pradesh, Gujarat and Rajasthan.

Rather than expanding as a direct result of Hindu Nationalist mobilization, the BJP was able to capitalize on its prominent position following the 1989 elections to exploit various other grievances in Indian society. Principal among these was the introduction of affirmative action quotas ("reservations") for the Other Backward Castes (OBCs) in 1990, which opened up many more fissures in Hindu society than are generally recognized. Secondary factors include the resentments of neglected regions within many Indian states, the persisting breadth of the Congress party's electoral support which led many regional parties to prefer to ally with the BJP, which did not challenge them on their home turf, and the perception among the urban middle classes that India was not receiving the international respect it deserved.

The turning point came in October 1990. Following the December 1989 elections, the Janata Dal had formed a minority coalition government in alliance with regional parties, with V.P. Singh as prime minister. The BJP and communist parties both supported the coalition in parliament, allowing it to claim a majority, but did not join the government themselves. Factional disputes erupted in the Janata Dal between V.P. Singh and Devi Lal, a farmers' leader who was Deputy Prime Minister and V.P. Singh decided to cement his own political

base by unilaterally announcing the government's decision to implement a long-standing government report that recommended affirmative action programs for OBCs.

The Indian Constitution had guaranteed national affirmative action quotas to the lowest-ranked social groups, the ex-"untouchables" or "Scheduled Castes," while allowing states to identify other relatively disadvantaged groups, or "Other Backward Classes" who also deserved affirmative action at the state level. In the late 1970s the Janata Party government appointed a commission, the Mandal Commission, to identify a national list of OBCs in order to create national quotas for them. The Mandal Commission used a combination of social and economic criteria by which to identify groups that fell below the state's mean for socio-economic advancement and its list consequently excluded a large number of prosperous peasant groups who were politically dominant in many states. The Mandal Commission's report was shelved when the Congress party returned to power in 1980.

When V.P. Singh announced that he was going to implement the Mandal commission report, riots broke out in cities across north India. (The south had had OBC reservations for some time and was not as affected.) Shortly thereafter the BJP announced that it was reviving the movement for Ayodhya and Advani started to lead a march of activists toward the site. Janata Dal state governments in Bihar and Uttar Pradesh blocked the march, arresting Advani and even ordering police to shoot on marchers at Ayodhya. The BJP withdrew support from the government and the Janata Dal split shortly thereafter with one faction governing briefly with the support of the Congress. When elections were held in 1991, the Janata Dal's share of the vote had collapsed and the BJP had benefited tremendously, increasing its vote share to over 20 percent and its seats to 120. (See Table I in Appendix)

The most likely explanation for the expansion of the BJP's vote share between 1989 and 1991 is that many voters from upper or "dominant" peasant castes, who had supported the Janata Dal because of its agrarian emphasis but were not eligible for OBC affirmative action benefits, defected to the BJP as a result of the V.P. Singh government's decision to implement the Mandal Commission Report.

...In years following 1991, the BJP was able to expand further in some states, notably India's largest state, Uttar Pradesh, by exploiting other conflicts arising from the reservations issue, especially those between more and less disadvantaged segments. The BJP also began to champion the cause of neglected regions within some of the larger Hindi-speaking states, calling for these states to be divided, and was consequently able to expand its appeal in some other states.

Even with all of these tactical forays, however, the BJP's share of the vote largely hit a plateau after 1991. In 1992 the party launched a movement centered on the Ayodhya conflict again, but the consequent destruction of the mosque by a Hindu Nationalist mob, and subsequent riots, led in 1993 to the party's defeat in three of the four states it ruled. In 1996 its vote share was unchanged, and the Congress received more votes, although the BJP won 161 seats to the Congress' 140 and emerged as the single largest party in the parliament. Following the 1996 elections it was the Congress' turn to support a Janata Dal-led coalition government without joining it. When this arrangement collapsed in 1998, the Janata Dal fragmented again, and some factions allied with the BJP. Both the alliances, and the fact that the BJP was the only remaining viable vehicle for antiCongress votes allowed the party to increase its vote share to 25.8% but this was still less than the Congress, although again the BJP won more seats. The government's decision to test nuclear weapons and build a nuclear arsenal was popular with the urban middle class but later that year the Congress defeated the BJP in two major states on the issue of prices. When the BJP's first coalition government fell in 1999, the following elections demonstrated that the relative vote shares were still virtually unchanged and the Congress again regained some states in which it had been out of power. However, by now the BJP had largely cemented its alliance with a large number of regional

parties, including former factions of the Janata Dal and Congress (Swamy, A.R. 2003, 'Hindu Nationalism – What's Religion Got to Do With It?', Asia-Pacific Center for Security Studies website, March, pp.9-11
<http://www.apcss.org/Publications/Ocasional%20Papers/OPHinduNationalism.pdf> – Accessed 17 July 2006 – Attachment 36).

4. Please provide information about *Shiva Sena*.

As is noted above, in response to Question 2, the *Shiv Sena* Party is currently sharing power in Maharashtra with the BJP as the senior partner in the local government that administrates the city of Mumbai. The *Shiv Sena*–BJP combine have also governed together at the state level but lost power in Maharashtra in October 2004. (For information on the re-election the *Shiv Sena*'s Datta Dalvi as mayor of Mumbai, see: '*Shiv Sena* man elected Mumbai mayor' 2005, *Rediff.com* website, 19 February <http://www.rediff.com/news/2005/feb/18mumbai.htm> – Accessed 24 July 2006 – Attachment 10; for information on the *Shiv Sena*–BJP loss of power at the level of Maharashtra state, see: Ahmed, Z. 2004, 'New Maharashtra chief appointed', *BBC News* website, 29 October http://news.bbc.co.uk/2/hi/south_asia/3966067.stm – Accessed 24 July 2006 – Attachment 11.)

Extensive historical background on the *Shiv Sena* is provided by Suhas Palshikar's April 2004 study, '*Shiv Sena: A Tiger with Many Faces?*'. Palshikar's study looks at: the transformation of the *Shiv Sena* from a "social forum" into a political party; the shifting alliances which the *Shiv Sena* held with Congress formations before it cemented its partnership with the BJP; the power sharing arrangements between the *Shiv Sena* and the BJP; the "informal organisational structure" by which *Shiv Sena*'s leader and founder Bal Thakare (or Bal Thackeray) coordinates the movement's wards; the intersections between the *Shiv Sena* and an array of trade union groups, and various other front organisations and protection schemes; and the *Shiv Sena*'s "aggressive position on Hindu-Muslim issues".

There is probably only one party in the National Democratic Alliance (NDA) that shares the ideological position of the Bharatiya Janata Party (BJP). It has also been one of the earliest allies of the BJP: the *Shiv Sena* of Maharashtra. Formed in 1966 as a small, Mumbai-based outfit to pursue the interests of the Marathi-speaking job seekers of that city, *Shiv Sena* has indeed come a long way, being one of the more indispensable partners of the BJP and in fact, senior partner in the politics of the state. The story of the *Shiv Sena* is therefore, a story of the growth of a para-political outfit into a state-level political player...

...When the *Shiv Sena* was formed, the founder leader, Bal Thakare pledged that the organisation was only a social forum and had nothing to do with politics...the *Sena* departed from this avowed non-political stand within one year of its formation and started participating in city elections of Thane and Mumbai from 1967 onwards.

...Between 1967 and 1972 *Shiv Sena* emerged as a prominent party in both Thane and Mumbai. Its popularity in these cities derived from two factors: an unconventional, near-violent espousal of the sons-of-soil policy and an informal network of social service activity based on the principle of neighbourhood circles of youth. The *Shiv Sena* also earned publicity for its involvement in many riots against the south Indian establishments and non-Maharashtrian officials. Besides, *Shiv Sena* was actively engaged in anti-Communist propaganda and violence. *Shiv Sena* effectively destroyed the trade union movement of Mumbai, which was under the control of the Left and the Socialists.

...The 1970s saw the Shiv Sena involving itself in electoral politics on a more regular basis. In 1971, it allied with the Congress(O) [Indian National Congress (Organisation)] and fielded three candidates for Lok Sabha from Mumbai and Konkan, losing in all the three constituencies. In 1972, Shiv Sena fielded 26 candidates for the assembly election and could win only one seat from Mumbai city.

...In 1978, when attempts to enter into alliance with the Janata Party failed, Shiv Sena allied with the Congress (I) and fielded 33 candidates for the assembly election, losing in all constituencies. Again, in 1980, the party did not contest from any seats but supported the Congress (I). In 1984, Shiv Sena allied with the BJP for the Lok Sabha polls and contested two seats from Mumbai losing both in the process. This put brakes on its alliance with the BJP.

...On the eve of the 1989 Lok Sabha polls, the BJP-Shiv Sena alliance took shape again. In the mean time, BJP's national level ambitions had grown and Shiv Sena, too, had come out of the Mumbai city and become popular in many parts of Maharashtra.

...Since then, the two parties have remained steadfastly in alliance, contesting all Lok Sabha and assembly elections together. In fact, they have also contested most of the local elections as alliance partners. The formula adopted by these parties for seat sharing is realistic and reflects the scope of political ambitions of both: For Lok Sabha, the BJP gets a larger number of seats, and for the assembly, the Shiv Sena contests more seats than the BJP.

...At the assembly level, Shiv Sena's success has been more evident. It emerged as the largest opposition to Congress in 1990 and finally wrested power from the Congress Party in 1995, installing its own leader as the chief minister. Its alliance with the BJP ensured that when the BJP-led National Democratic Alliance (NDA) came to power at the centre, Shiv Sena shared power at the centre as well.

...Since its formation in 1966, Shiv Sena had only an informal organisational structure. Under its founder and undisputed leader, Bal Thakare, Shiv Sena evolved a wardwise structure in Mumbai and later in Thane, for purposes of better coordination. Within first five years of its formation, Shiv Sena functioned through around a hundred 'branches' [Morkhandikar 1967: 1903 and Joshi 1970: 970-71]. By the end of 1988, it had about 40,000 branches spread all over Maharashtra (Marmik, special issue, January 1-7, 1989: 5). But even before the Shiv Sena set out to its state level expansion, it had already put in place a large number of front organisations that were functioning in different fields and creating a base for the Sena in the urban centres of Mumbai and Thane. A quick look at the list of these front organisations is enough to convince us that the Shiv Sena was seriously trying to occupy the socio-political space in the cities of Mumbai and Thane while most of the press was focusing exclusively on its unconventional and violent tactics. In the field of trade unions, Shiv Sena operates through Bharatiya Kamgar Sena, Shramik Sena, Cotton Workers' Sena, Shramjivi Kamgar Sena, Municipal Workers' Union, Cooperative Bank Employees' Union, S T Workers' Union, BEST Employees' Union, Cine Workers' Union, and so on. Much of Shiv Sena's base in Mumbai and Thane can be explained in terms of the work of these organisations, because they cater to the vast sections of workers in various sectors of the economy. Besides, Shiv Sena also floated a consumer protection front, women's front and a student union. As an organisation that began with the issue of the rights of the Marathi-speaking job seekers, Shiv Sena has also been running the 'Sthaniya Lokadhikar Samiti' an organisation that protects the rights of the 'locals' in employment. This means that Shiv Sena maintains a record of job seeking Marathi speaking youth and manages to get them jobs either through negotiations or intimidation. In any case, this activity endears the Sena no end to the job seeking youth.

...In the 1980s, Shiv Sena came out of this hibernation by adopting a set of strategies: it severed its links with the Congress and adopted a strident anti-Congress stand which was its

characteristic in the earlier period. Secondly, it sought to ally with the opposition forces in the state, particularly Sharad Pawar, who was then the main opposition leader in the state. Thirdly, Shiv Sena took up a more aggressive position on Hindu-Muslim issues as compared to the BJP and the RSS (Palshikar, S. 2004, 'Shiv Sena: A Tiger with Many Faces?', *Economic and Political Weekly*, 3-10 April, pp.1497-1499 <http://www.epw.org.in/articles/2004/04/7040.pdf> – Accessed 20 June 2006 – Attachment 37).

5. Is it against the *Janata Dal* and/or Muslims?

The *Shiv Sena* and Muslims

As is noted above, and in response to Question 2, the *Shiv Sena* movement has achieved widespread notoriety for its historical antipathy to Muslims and, in particular, for its involvement in orchestrating communal violence against Muslims in Mumbai the early '90s. In recent months a number of Indian political commentators have expressed concern that the July 2006 Mumbai bombings could trigger a return to the kind of communal violence which took place in Mumbai in the early '90s. Sudha Ramachandran, of the *Asia Times*, has observed that “[t]he terror attacks are likely to provide the Sena with an ideal excuse for going back to violence”. In *The Hindu*, Foqia Sadiq Khan observed that “[i]f the Mumbai attacks were indeed carried out by pro-Kashmir Muslim extremists, they have done a great favour to Hindu extremists such as the Shiv Sena”; “[a]n obvious reaction to the Mumbai blasts could be a backlash against Muslims in the State of Maharashtra”. Local Muslims told *Rediff.com*'s Syed Firdaus Ashraf that that police in Mumbai already treat Muslims with suspicion and that the Muslim community is fearful of a *Shiv Sena* orchestrated backlash. One interviewee pointed out that “Mumbai municipal election is due next year” and that “[i]f communal harmony in the city is disturbed, then it is obvious that the Shiv Sena will benefit from it”. In the weeks prior to the bombings there had occurred disturbing incidents of Hindu-Muslim communal violence in Mumbai and *Shiv Sena* is suspected of involvement. Nonetheless, in the aftermath of the bombing it was widely reported that *Shiv Sena* officials had praised local Muslims who had turned out in great numbers “to give blood to their Hindu neighbours wounded in the Mumbai train bombings”. According to a *Reuters* report: “[a]nalysts and community leaders say weariness after decades of conflict as well as rising prosperity from the country's booming economy have helped cool tempers between Hindus and Muslims” (Ramachandran, S. 2006, 'Mumbai attacks: A new spiral of violence', *Asia Times*, 13 July http://www.atimes.com/atimes/South_Asia/HG13Df02.html – Accessed 8 August 2006 – Attachment 39; Khan, F.S. 2006, 'Moderates on both sides must assert themselves', *The Hindu*, 17 July <http://www.thehindu.com/2006/07/17/stories/2006071704761100.htm> – Accessed 9 August 2006 – Attachment 40; Ashraf, S.F. 2006, 'Why the common Muslim is scared', *Rediff.com* website, 14 July <http://www.rediff.com/news/2006/jul/14spec.htm> – Accessed 9 August 2006 – Attachment 41; for information on the communal violence which preceded the bombings, see: Kumar, A. 2006, 'Terror bombs cause mayhem on Mumbai's lifeline: Over 160 killed, 600 injured', *Dawn* website, 12 July <http://www.dawn.com/2006/07/12/top1.htm> – Accessed 9 August 2006 – Attachment 42; Majumdar, B. 2006, 'Muslims give blood to Hindu victims', *Dawn* website, source: *Reuters*, 13 July <http://www.dawn.com/2006/07/13/int15.htm> – Accessed 9 August 2006 – Attachment 43).

The relationship between the *Shiv Sena* and Maharashtra's Muslim communities is a complex and discontinuous one. Gerard Heuze's study of the *Shiv Sena*, published in 2000, provides an overview of the manner in which the *Shiv Sena* cadres have come to engage in violent

attacks upon communities which the movement has identified as being alien to, or unwanted by, Maharashtra's Marathi culture. In the early years of the *Shiv Sena* movement this led to campaigns fought against "immigrants from Karnataka, Tamil Nadu, and the Gangetic Plain". In more recent times it is Dalits and Muslims who have become the targets of *Shiv Sena* campaigns.

The Shiv Sena, literally "Shivaji's army," is in many respects very different from the BJP and the numerous RSS organizations with which it maintains highly ambiguous relations. It was formed on the initiative of a nucleus of convinced Hindu nationalists in the wake of the movement for the accession of Maharashtra to the status of a state (1954-1960).

...Maharashtrians, limited to manual labor and domestic service, carried no weight compared to Gujarati, Sindhi, and Parsi entrepreneurs, Marwari and Punjabi merchants, Tamil administrators, qualified labor from Kerala, or even in comparison to artisans and restaurant owners (Muslim and Hindu) from Andhra Pradesh and Karnataka. ...In 1965, 60,000 unemployed were registered, primarily Marathi-speaking youth, in the two employment agencies of the city. It was thus this atmosphere...that encouraged a group of declassé intellectuals in 1966 to found the Shiv Sena at Shivaji Park in Dadar. ...The first battle which the Shiv Sena led was against Hindus rather than Muslims in the name of the right of the native inhabitants ("sons of the soil") to manage their affairs themselves and to benefit from jobs and housing. For years, immigrants from Karnataka, Tamil Nadu, and the Gangetic Plain represented more important enemies than did the Muslims, although the Shiv Sena, with a leader who speaks in a high and mighty tone and is given to abusive language, had at an early date adopted and developed the tirades of the Hindu nationalists who wanted all Muslims understood as potential traitors and agents of Pakistan.

Beginning in 1984 the Shiv Sena appeared to be organizing itself on the national level. It was a rather ambiguous process. Branches, bearing the Shiv Sena's name and symbols but devoid of any serious connections with one another appeared in Madhya Pradesh, then in the Punjab, Uttar Pradesh, Haryana, and finally in Karnataka and Gujarat." The new organizations were loosely, that is altogether informally, connected with the parent organization. Thakre always refused to leave Maharashtra to make the rounds of his movement. He relied on the spontaneity of the militants and was on his guard against outside influences. He has never been concerned to exactly define his organization, which is simultaneously a political party of the masses, a social movement, and a self-defense militia. This indeterminacy became greater, and the new branches fell into an increasingly unbridled activism, provocative and without principles. The assertion of collective identity and the wish to fight Muslims occupied a growing place in the movement which, on the other hand, abandoned its animosity towards Tamils, Keralites, and Bhaias (from the Gangetic Plain) to adopt a Hindu ecumenicalism (Heuze, G. 2000, 'Populism, religion and Nation in Contemporary India: the Evolution of the Shiv Sena', *Comparative Studies in South Asia, Africa and the Middle East*, vol.20: no.1, pp.4-6 – Attachment 38).

The *Shiv Sena's* attitude towards such groups are thus rarely continuous or all encompassing; and *Shiv Sena* attitudes towards subgroups within a given identity are often modified by the manner in which the *Shiv Sena* perceives the given subgroup relation to Maharashtra society and to the *Shiv Sena's* own political agenda. This is said to also be true of *Shiv Sena* attitudes towards Maharashtra's Muslim communities:

Even in the midst of the 1992-1993 riots, heads of branches made distinctions, sometimes highly subtle, between "our (good and allegiant) Muslims," the Marathi-speaking Muslims from the Konkan Coast (south of Mumbai), the "less good" elements from Aurangabad or Belgaum ("the Marches" of the mythico-historical kingdom), and those "who can be assimilated" or already were relatively assimilated (with whom it was possible to enter

alliances, generally coming from Kerala or Tamil Nadu). All these Muslims are, moreover, considered by the leaders imbued with Savarkar's theories and RSS propaganda as Hindu converts, "impregnated" even against their will with the "genius of the national soil.

In the same framework, sects like the Khojas and the Bohras, considered the product of the conversion of "sons of the soil," are objects, at least rhetorically, of favored treatment. It is the culturo-nationalist conception that is thereby taken into account. An interesting nuance is introduced by popular discourse, in the shakhas and in the street, when one speaks of applying to Muslims the "treatment of a younger brother." The metaphor is related to hierarchies within the familial world, also known to Muslims, which connote a more or less severe benevolence towards the younger. These widespread conceptions, set forth also in the columns of *Saamna* [the *Shiv Sena* mouthpiece], overtly imply the adherence of the minority to the whole (be it India, the nation, the people) for whom one has the perception of being the legitimate representative. Those who are "hostile" or potential traitors are comprised of the vast group, in reality very heterogeneous, of those Muslims culturally articulated around the use of the Urdu. Among them are the numerous inhabitants of the Gangetic Plain who threaten the electoral positions of the Shiv Sena in Mumbai. Finally, the absolute enemies are the more or less fantasized Pakistanis and Bangladeshis, towards whom no concession can be envisioned. The persistent complexity of representations of the Other partially explains why protective attitudes and appeals to fraternize constantly co-exist with the most brutal admonitions (Heuze, G. 2000, 'Populism, religion and Nation in Contemporary India: the Evolution of the Shiv Sena', *Comparative Studies in South Asia, Africa and the Middle East*, vol.20: no.1, p.32 – Attachment 38).

According to Heuze, "[t]here are, in fact, numerically limited but symbolically very important contingents of Parsis, neoBuddhists, Christians, and even Muslims in the movement".

The logic of citizen integration, which occupies an important place for heads of branches, a section of high level cadres, and a noteworthy fringe of active militants in the workers' milieu as well as employees, aims to deny religion and communitarian differences. Its importance, combined with the "neo-feudal" mentality, is sufficient for Muslims in the Shiv Sena to occupy major functions. S. Sheikh of Kalyan occupies the very important post of minister for housing in the present state government of Maharashtra. Several heads of branches are Muslims. Great insistence is placed on the fact that the Shiv Sena does not "act exclusively" and considers as "Bombayite," Maharashtrian, or Indian (this mobility of levels is characteristic) all those who are born there and express positive sentiments towards the territory, the people, and the culture (Heuze, G. 2000, 'Populism, religion and Nation in Contemporary India: the Evolution of the Shiv Sena', *Comparative Studies in South Asia, Africa and the Middle East*, vol.20: no.1, p.32-3 – Attachment 38).

The Shiv Sena and the Janata Dal

A number of *Janata Dal* parties are active in Maharashtra state politics, including: the *Samajwadi* Party, the *Samajwadi Janata Party* – Maharashtra (or SJP-M), the *Samajwadi Janata Party* – Rashtriya (or SJP-R), the JD-U and the JD-S. All of the aforementioned parties contested seats in the October 2004 Maharashtra state election but none were successful in winning any seats in the present legislative assembly. In the previous election, in 1999, the SP won two seats, as did the JD-S, and the SJP-M won one seat. None of the *Janata Dal* parties were successful in winning any Lok Sabha seats in the state of Maharashtra in the national election of 2004. In the previous national election, in 1999, JD-S did have a victory in the state of Maharashtra, winning one Lok Sabha seat. (For information on the 2004 Maharashtra State election see pages 1-2 and 12-14 of: Election Commission of India 2004, *Statistical Report on General Election, 2004 to the Legislative Assembly of*

Maharashtra, pp.1-2, 12-14 <http://www.eci.gov.in> – Accessed 9 August 2006 – Attachment 44; for information on the 1999 Maharashtra State election see pages 2-12 of: Election Commission of India 2000, *Key Highlights of General Election 1999, to the Legislative Assembly of Maharashtra*, pp.2-12 <http://www.eci.gov.in> – Accessed 9 August 2006 – Attachment 45; for information on Maharashtra's seats in the 2004 national election see pages 154-155 of: Election Commission of India 2004, *Statistical Report on General Elections, 2004 to the 14th Lok Sabha*, vol.1, pp.154-155 <http://www.eci.gov.in> – Accessed 9 August 2006 – Attachment 46; for information on Maharashtra's seats in the 1999 national election see pages 135 to 136 of: Election Commission of India 2000, *Statistical Report on General Elections, 1999 to the 13th Lok Sabha*, vol.1, pp.135-136 <http://www.eci.gov.in> – Accessed 9 August 2006 – Attachment 47.)

As is noted above, in response to Question 3, there is much variance in the relationships which have existed between the various *Janata Dal* parties and the BJP led NDA parties. Little information is available in relation to the question of the relationship between the *Shiv Sena* and the various *Janata Dal* parties operating in the specific locale of Maharashtra. There have, however, been recent reports in the news media which suggest that there is a significant political confrontation that is currently being waged between the *Shiv Sena* and the Muslim support base of the *Samajwadi* Party, and that violent clashes have ensued. Background on this developing situation follows below sourced from a *Dawn* news report of 12 July 2006:

Riots broke out last week in the powerloom city of Bhiwandi, about 75 km north-east of here, and home to thousands of Muslims. Local Muslim organisations had objected to the authorities constructing a police station adjacent to a mosque and a graveyard. When demonstrators tried to pull down the station, the police fired, killing three Muslims. Two policemen were later lynched by a mob.

The Hindu communal party, Shiv Sena, accused the Samajwadi Party of fomenting trouble in Bhiwandi. On Sunday, Shiv Sena leaders claimed that a statue of Meena Thackeray, wife of Bal Thackeray, the founder of the right-wing party, had been defiled.

Sena hooligans took to the streets, setting buses aflame, attacking shops, and forcing the closure of the city. In the suburb of Andheri, there were clashes between members of the Hindu right-wing party and workers of the Samajwadi Party.

Muslim traders in Andheri were targeted by the Shiv Sena. A senior minister in the state government accused the Shiv Sena of stage-managing the entire episode, and also charged the police of being partial towards the Sena hooligans.

Police sources here on Tuesday feared there could be backlash in Mumbai following the blasts. Thousands of paramilitary troops have been inducted into the city, even as Mumbai police have launched a hunt for militants with links to suspect organisations (Kumar, A. 2006, 'Terror bombs cause mayhem on Mumbai's lifeline: Over 160 killed, 600 injured', *Dawn* website, 12 July <http://www.dawn.com/2006/07/12/top1.htm> – Accessed 9 August 2006 – Attachment 42).

According to a 2003 *Frontline* report, Muslim support in Maharashtra has tended, in recent times, to follow the *Samajwadi* Party. The extract below provides further details and also provides information on the heterogenous make up Mumbai's Muslim population and the manner in which this complicates politics in Maharashtra.

Politically, Muslims in Mumbai are isolated from the rest of the city. Post-1993, they temporarily moved away from the Congress. Abdul Ansari, a resident of Mominpura, says:

“Earlier it seemed the Congress was an alternative for us but after the Babri Masjid demolition it was obvious that it was doing lip service when calling itself a party for Muslims.” After 1994, the Samajwadi Party has emerged as a realistic alternative to the Janata Dal or the Congress. It has been projecting itself as a party that seeks to represent ordinary Muslims of the mohalla, who have been marginalised, impoverished and neglected by the Congress, the state and the community’s leadership. The emphasis is less on portraying the plebeian on the basis of religion. However, the Samajwadi Party has not been successful in Mumbai owing to the segmented nature of the Muslim community. Although the government increasingly deals with Muslims as a cohesive unit, the community does not have a homogeneous social character. As a result, it does not have a strong political base.

The demonisation of Muslims as the ‘other’ has taken place despite the fact that there are multiple linguistic groups and sects among them. Historically, Muslims of Mumbai have been one of the most heterogeneous groups in India. The oldest Muslim communities in Mumbai are the Bohras and the Khojas, who are relatively small, wealthy trading communities of the Shia persuasion, and the Sunni Memons. The city also has a large number of Konkani Muslims, who hail from the coastal region south of Mumbai and constitute a Marathi group that is well-integrated into Mumbai’s industrial economy. The majority of the Muslims of Mumbai have come from U.P. and Bihar, since the 1920s, in search of jobs. The Ansaris, who are Muslim weavers from U.P., came in large numbers to work in the textile mills. Since the 1970s, there has been a steady inflow of impoverished Muslims from Bihar; they do many of the lowest-paid jobs, as coolies, sweepers and so on. Finally, there are smaller groups of Muslims from South India. The divisions between the older Muslim population of Mumbai and the newer migrants from North India are manifested not only through sectarian differences (Shia and Sunni) but also through class differences. The more recent migrants dominate the mill districts such as Nagpada and Madanpura, which have numerous small and informal businesses and workshops.

While these distinctions continue to divide Muslims, the state and several political parties project them as the ‘other’ and continue to handle them as a ‘unified problem.’ In fact, certain political parties, particularly the Shiv Sena, thrive on this propaganda. For a long time after the riots, there was a feeling that the Muslims would be safe only if the Shiv Sena was in power. Many believed that the Shiv Sena would harden its stance against Muslims in order to consolidate the Hindu vote, if it was out of power. Ram Punyani, a member of the EKTA Committee for Communal Amity, says: “People used to say it humorously. The people who are the cause of the riots should remain in power so that they remain occupied and do not resort to riots. The element of seriousness in this argument is that it is the political parties, whether they are in power or not that cause riots. This holds true for Mumbai as anywhere else” (Kaur, N. 2003, ‘Mumbai: A decade after riots’. *Frontline*, vol.20: iss.14, 5-18 July <http://www.hinduonnet.com/fline/fl2014/stories/20030718002704100.htm> – Accessed 9 August 2006 – Attachment 48; see also: Ramachandran, S. 2006, ‘Mumbai attacks: A new spiral of violence’, *Asia Times*, 13 July http://www.atimes.com/atimes/South_Asia/HG13Df02.html – Accessed 8 August 2006 – Attachment 39).

RRT Country Research completed research on the relationship between the *Samajwadi Party* and the *Shiv Sena* in October 2003 and *Research Response IND16215* provides information on reports of violent confrontations between *Samajwadi Party* and BJP workers outside of Maharashtra in the state of Uttar Pradesh (RRT Country Research 2003, *Research Response IND16215*, 13 October – Attachment 49).

6. Are Muslims subjected to harassment in India?

A number of Muslim communities in India have experienced harassment and even violent attack over recent years. Circumstances for Muslim communities in India vary according to their specific circumstances. An overview of situation at large follows below sourced from the US State Department's most recent report on religious freedom in India.

The status of religious freedom improved in a number of ways during the period covered by this report, yet problems remained in some areas. The United Progressive Alliance (UPA) espoused an inclusive and secular platform, pledging to respect the country's traditions of secular government and religious tolerance, and respect the rights of religious minorities. The UPA coalition government also took steps to address the failures of the government of Gujarat to halt expeditiously Hindu-Muslim riots there in 2002. Minority rights activists reported that instances of communal violence decreased during the reporting period as a result. The Government repealed the controversial Prevention of Terrorist Act (POTA), often criticized by Muslim groups as a tool used to target them, and replaced it with a law considered by numerous nongovernmental organizations (NGOs) to be fairer to minorities. The Government also withdrew controversial school textbooks that had been condemned for espousing a Hindu nationalist agenda and replaced them with more moderate versions, although problems linger in some states controlled by the opposition. The National Human Rights Commission also intervened in the ongoing legal battles surrounding the 2002 Gujarat riots, resulting in the reopening of 2000 cases.

Tensions between religious groups were a problem in some places and attacks on religious minorities occurred in several states. However, improvements were observed during the period covered by this report, and the vast majority of Indians of every religious creed lived in peaceful coexistence. Despite the UPA government's rejection of "Hindutva," the ideology that espouses politicized inculcation of Hindu religious and cultural norms above other religious norms, the ideology continued to influence governmental policies and societal attitudes in some regions at the state and local levels, especially in areas governed by the opposition Bharatiya Janata Party (BJP). However, such political views are subjected to court review to test whether or not their implementation is in harmony with India's secular constitution. The BJP/NDA rejects accusations that it is trying to enforce Hindu norms for all; rather, it asserts that it seeks only to remove from law and regulations what it claims are pervasive discriminatory treatments inherited from past foreign rulers that harm or disadvantage Hindus.

...With a Muslim President, Sikh Prime Minister – the first time a member of a religious minority ever held the post – and a Christian head of the governing parliamentary party, the UPA government demonstrated its commitment to a policy of religious inclusion at its highest levels and throughout this generally tolerant and highly diverse society.

...Some laws, such as the repealed Prevention of Terrorism Act (POTA), while not specifically written to target minorities, affected particular ethnic or religious groups. A study carried out by the NGO "People's Tribunal" in 10 states in July 2004 found that 99.9 percent of those arrested under POTA were Muslims. A 2003 report also showed that 124 of 126 persons arrested for the Godhra train arson, predominantly Muslims, were charged under POTA, while no Hindus arrested in connection with the riots in Gujarat were similarly charged. However, on June 22, the Central POTA Review Committee stated that there was not enough evidence to support the use of POTA against those accused in the Godhra train massacre case and recommended that the charges be dropped. The POTA court has yet to follow through on the recommendation.

...Some Members of the BJP, the RSS, and other affiliated organizations (collectively known as the Sangh Parivar) have been implicated in incidents of violence and discrimination against Christians and Muslims.

...In 2003, a Hindu mob attacked a peaceful Muslim protest in Hyderabad, Andhra Pradesh, on the eve of the anniversary of the demolition of the Babri Masjid. Two Hindus were stabbed to death; police arrested and charged approximately 35 persons from both communities.

Communal violence sparked by a traffic accident occurred in Bhopal, Madhya Pradesh, in October 2004. Police attempting to quell the violence were pelted with stones and responded with gunshots, killing one person and injuring three.

In February, activists from the Hindu nationalist Bajrang Dal attacked and beat a group of Christians in the Rajasthani town of Kota while they were attending a Christian graduation ceremony. The victims claimed that the local government was unsympathetic to their concerns and sided with the attackers, and that 275 persons were assaulted. Groups of Bajrang Dal activists subsequently set up checkpoints in the area to harass Christians attempting to leave by bus. The district government said it ended the harassment and took 37 Bajrang Dal members into custody. The NCM sent a two-member team to Kota to investigate and negotiate peace between the opposing sides.

In March, Christian groups in Rajasthan expressed concern over the state BJP government's plan to introduce an anti-conversion bill. However, by the end of the reporting period, Rajasthan had not introduced any such legislation.

In the Balmikinagar jungles bordering Nepal, police and the RSS have accused missionaries and Oraon tribal Christians of having "links" with the Maoist Communist Center (MCC), an insurgent group on the State Department's "Other Selected Terrorist Organizations" list. As a result, priests have been detained and asked to leave the area. On June 15, police detained two priests and questioned them regarding alleged MCC ties. During the year, police detained more than 100 Oraon tribals for suspicion, causing a number of them to leave the area.

Some of the most severe anti-Muslim violence since India's independence occurred in Gujarat from February to May 2002. On February 27, near Godhra, a fire broke out in two train cars of the Sabaramati Express, killing 58 Hindu passengers. A Commission headed by Justice Banerjee determined in its interim report, issued in January, that the fire may not have been arson, as opposed to what Hindu groups and the Gujarat government have alleged. Over the next 3 months, Hindu mobs in Gujarat, angered by the attack on the train (allegedly by Muslims) and incited and organized by members of the Sangh Parivar, destroyed Muslim businesses and raped Muslim women. The violence resulted in an estimated 2,000 deaths, a majority of them Muslims. In addition, 100,000 Muslims were forcibly displaced into makeshift camps throughout Gujarat. The Government closed the camps in mid-June 2002, forcing the displaced to return to burnt houses and destroyed property, with the perpetrators still at large. Human rights organizations and religious groups remain concerned about the increasing displacement and "ghettoization" in the Gujarati Muslim community (US Department of State 2005, *International Religious Freedom Report for 2005 – India*, 8 November <http://www.state.gov/g/drl/rls/irf/2005/51618.htm> – Accessed 9 November 2005– Attachment 50).

7. Please provide details of states where Muslims are most numerous and/or where they have the greatest percentage of the population.

Census data on India's population dispersal by faith was most recently released by the government in September 2004. Reporting on the findings, *Rediff.com* website noted the following:

...Muslims form a high proportion in the 'border' states of India. The highest proportion of Muslims are in the tiny islands of Lakshadweep in the Arabian Sea: 97 per cent of a population of around 60,000. Then comes Jammu and Kashmir, where Muslims form 67 per cent of the 10 million souls. Next is Assam where Muslims comprise 31 per cent and are a majority in three districts; then comes West Bengal where Muslims form 25 per cent of the population; followed by Uttar Pradesh with 18.5 per cent and Bihar with 16.5 per cent (Diwanji, A.K. 2004, 'Census: Figuring out the Truth', *Rediff.com* website, 17 September <http://www.rediff.com/news/2004/sep/17spec.htm> – Accessed 9 July 2006 – Attachment 51).

Advice on issues relating to relocation in India for marginalised minority faiths was most recently received from the Department of Foreign Affairs and Trade (DFAT) in October 2003. Some relevant extracts follow:

Indian citizens have the freedom to relocate from one area of India to another, with two exceptions: in the state of Jammu and Kashmir, Indian citizens from other states are not allowed to buy property, but can stay in any part of the state without seeking official permission. Indian citizens who are not residents of the particular area are required to obtain a permit to visit some border areas of Jammu and Kashmir, and border areas in the north-eastern states of India. The permits are valid for six months. Indian citizens who have been arrested and released on bail are required to report regularly to local police authorities. In these instances judicial permission is required to relocate to another part of the country.

...While most Muslims and Christians are generally able to live a normal life in India, well respected human rights organisations point to an increase in recent years of harassment, ill treatment, and on some occasions the use of extreme violence against these religious minority groups. The perpetrators are often members or supporters of Hindu extremist groups, and, according to media reports, often are not held to account. The trial and conviction of those responsible for the murder of Australian missionary, Graham Staines and his two sons, has been viewed by respected Indian human rights activists as a significant exception to what they believe is an increasing climate of impunity under which Hindu nationalist extremists act. In the view of these observers, the core political party in the coalition national government, the BJP, depends heavily on the resources of these groups and the votes they are able to mobilise at elections. Harassment and ill treatment of Muslims and Christians has not been restricted to particular states in India.

With the exception of the killings and violence in Gujarat in 2002, instances of violence tend to be localised events, rather than widespread organised campaigns of violence targeting religious minorities. Violent incidents that have occurred in 2003 include the burning of a church in the state of Tamil Nadu in March, an attack on an American missionary in the state of Kerala in January and the killing of Hindus in Kerala in May by a Muslim group. This event was widely viewed as a revenge attack, to pay back killings of Muslims the previous year.

There is a climate of unease, and often hostility in relation to people converting from Hinduism to Christianity and Islam (this does not extend to those converting to Buddhism, which is considered an off-shoot of Hinduism). Low caste Hindus and Dalits (formerly known as Untouchables) are the most likely candidates for religious conversion. Among a range of reasons for conversion, the primary one is considered to be in order to escape the social inequalities of the Hindu caste system.

...Eight Saudi Arabian nationals were arrested in Gujarat in July 2003 for preaching Islam after entering India on a tourist visa (tourists are prohibited from religious preaching) (Department of Foreign Affairs and Trade 2003, DFAT Report 254 – *RRT Information Request: IND16042*, 13 October – Attachment 52).

8. Is there fighting amongst Muslims and Hindus at the anniversary of the Babri Mosque incident?

The anniversary day of the Babri Mosque incident has seen outbreaks of communal violence in the past. “[A] Mumbai-based doctor named Jalees Ansari helped set off a series of 43 explosions in Mumbai and Hyderabad and seven separate explosions on trains on December 6, 1993, the first anniversary of the Babri Masjid’s demolition”. In 2002 in Mumbai a restaurant bombing was also thought to be linked to the Babri Mosque anniversary. “In 2003, a Hindu mob attacked a peaceful Muslim protest in Hyderabad, Andhra Pradesh, on the eve of the anniversary of the demolition of the Babri Masjid. Two Hindus were stabbed to death; police arrested and charged approximately 35 persons from both communities.” Recent years have been relatively peaceful but the Babri Mosque anniversary always sees mass demonstrations staged by both Hindu and Muslim groups across the country and, even when events are otherwise peaceful, there is tension and there are frequently arrests. As is noted above, in response to Question 2, December 2005 saw “[m]ore than 300 activists of Shiv Sena and Kranti Shiv Sena...arrested under different police stations while proceeding towards Kashi Vishwanath Temple in Dashashwamedh” to march on the anniversary of the 1992 destruction of the Babri mosque in Ayodhya. (For information on the 2001 bombings, see: Swami, P. 2006, ‘Harvest of hate’, *Frontline*, vol.23: iss.5, 11-24 March <http://www.hinduonnet.com/fline/fl2305/stories/20060324005001900.htm> – Accessed 9 August 2006 – Attachment 53; for information on the 2002 Mumbai bombings, see: ‘Mumbai police yet to ascertain blast cause’ 2002, *Hindustan Times*, 8 December – Attachment 54; for information on the 2003 events in Hyderabad, see: US Department of State 2005, *International Religious Freedom Report for 2005 – India*, 8 November <http://www.state.gov/g/drl/rls/irf/2005/51618.htm> – Accessed 9 November 2005– Attachment 50; for information on the 2004 anniversary, see: ‘India – Over 1000 Muslim protestors arrested in City on Babri anniversary’ 2004, Conflict and religion website, source: Newindpress.com, 6 December [http://conflict-religion.boker.tv/news/conflicts/hinduism/india over 1000 muslim protestors arrested in city on babri anniversary](http://conflict-religion.boker.tv/news/conflicts/hinduism/india%20over%201000%20muslim%20protestors%20arrested%20in%20city%20on%20babri%20anniversary) – Accessed 9 August 2006 – Attachment 55; for information on the 2005 anniversary, see: ‘Babri Masjid demolition anniversary peaceful’ 2005, *The Hindu*, 7 December – Attachment 56; for information on the December 2006 arrest of *Shiv Sena* activists, see: ‘Peace prevails on Ayodhya anniv’ 2005, *Hindustan Times*, 6 December – Attachment 57; for information on the November 2005 arrests of *Shiv Sena* activists, see: ‘Bandh observed in Sindagi town’ 2005, *The Hindu*, 29 November – Attachment 20.)

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US Department of State website <http://www.state.gov>

International News & Politics

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BBC News website <http://www.bbc.co.uk>

The Christian Science Monitor website <http://www.csmonitor.com>

Dawn website <http://www.dawn.com>

Zee News website <http://www.zeenews.com>

Region Specific Links

Frontline website <http://www.frontlineonnet.com>

India eNews.com website <http://indiaenews.com>

The Hindu website <http://www.hinduonnet.com>

The Hindustan Times website <http://www.hindustantimes.com>

OutlookIndia.com website <http://www.outlookindia.com>

Rediff.com website <http://www.rediff.com>

Topic Specific Links

Debating India website <http://india.eu.org/>

Search Engines

Google search engine <http://www.google.com.au/>

Library Networks

Sydney University Library website

Databases:

FACTIVA (news database)

BACIS (DIMA Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Country Research database, including Amnesty International, Human Rights Watch, US Department of State Reports)

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