

The Researcher

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Welcome to the November 2010 issue of The Researcher

For this edition of The Researcher, John Brick, Solicitor with the Refugee Legal Service of Ireland presents a very topical article, in light of the recent UK Upper Tribunal decision which strongly endorses Sprakab Language Analysis Reports for the determination of nationality of asylum seekers.

Fiona Mangan, a research student at Columbia University, New York gives her observations on the recent elections in Somaliland.

Patrick Dowling of the Refugee Documentation Centre of Ireland presents an indepth analysis of sanitary conditions in Pakistan and the issue concludes with a selection of Refugee Documentation Centre query responses on Afghanistan, Bangladesh and Sri Lanka.

We hope that you enjoy the contents. Any letters, comments, news, views or contributions can be sent to us at the addresses below.

Deirdre Houlihan, RDC



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Change of leadership and further democratic progress for Somaliland



By Fiona Mangan, Research Student, Columbia University, New York.

On 27 July 2010 Ahmed Mohamed Silanyo was sworn in as the new President of Somaliland. He is an ageing former chairman of the Somali National Movement (SNM) who fought against repression by Siad Barre's dictatorship. This marks an historic transition of power to the Kulmiye party and defeat for the incumbent President Riyale's UDUB party, who have ruled since democratic transition after the region declared independence in 1991. Peaceful transfer of political power would be an achievement in any African country, but when you consider Somaliland's precarious position as an unrecognised breakaway state on Africa's horn it becomes all the more impressive.

Somaliland has been functioning as an independent and relatively stable entity since the collapse of the Somali state. While Somalia continues to make headlines for violence, humanitarian crises and pirate-infested waters, Somaliland has forged its own very separate story.

The presidential election on June 26 marks the fourth set of peaceful, democratic elections for Somaliland. This peace, however, was not assured. In advance of the elections, al-Shabaab, the southern Somali Islamist insurgency group with links to al-Qaeda, threatened to violently disrupt the elections. Although Somalilanders, politicians and organisers alike were concerned, vigilance from locals and the police helped to foil an alleged terrorist plot and ensured that no large scale violence compromised the vote. Another major concern was that Somaliland's hard-earned stability would be jeopardised if the result were a narrow one. In Somaliland's last presidential election in 2003, Silanyo lost by a mere 80 votes. In that instance he stood aside, putting the stability of the country before his desire to rule. Many

feared that the same calm would not prevail a second time round.

In the run-up to polling day, political parties staged exuberant rallies throughout the country. In a successful measure aimed at averting possible friction, the three main political parties - UDUB, Kulmiye and UCID - campaigned on different days in rotation. Each day supporters dressed in party colours took to the streets and joined fleets of buses, cars and trucks to sing, dance and shout for their candidate. Loudspeakers abounded. The election was a great excuse for a party.

While policy plans sometimes wavered on the campaign trail - one candidate adhered to the 'know your audience' strategy by allegedly making different promises depending on his crowd and location - there was a clear effort by the parties to create new political platforms.

From the early hours of polling day people formed long queues to vote. Aside from one serious incident in the disputed eastern territories, violence was limited to minor pushing and shoving as patience grew strained in the long queues. There was also one report of bullets fired into the air by security forces to quell crowds. Generally though there was an air of excitement and polling station managers coped relatively well in often cramped and chaotic situations.

A number of smart strategies helped to assist in stemming problems on the day, including the appointment of local observers and mediators to each polling centre; a ban on transport for all but authorised vehicles; and switching polling station managers to work in areas away from their hometown, in order to reduce the potential for localised intimidation or collusion.

While the overall picture was positive, the elections have not been without problems. Primary among these were repeated delays to the election date, due to issues with the new voter ID card system and ensuing political disagreements. On polling day observers reported incidents of confusion and disorder, particularly at the beginning of the day, where numbers were high and polling station staff struggled to get to grips with the working procedures. There were also reports of inadequate checking and inking of fingers, and absence of 'help officers' who were supposed to assist confused voters with their queries. Problems of a more serious nature were

reported in the Awdal area, which runs along the western border with Ethiopia - Riyale's home region. Concerns were raised over reports of underage voting, attempts to cast multiple votes, distribution of voter ID cards in the street, and movement of unauthorised vehicles. However, the diligent efforts of polling station managers and rigorous checks did help to curb some issues of concern.



After polling day came a lengthy count. Things suddenly grew quiet again in Somaliland's capital, Hargeisa, and political parties showed impressive restraint during the five long days of tense waiting. By day five a result seemed to have emerged. Kulmiye representatives had assumed a certain strut about town, while the ruling party were becoming less and less visible.

On results day there was a short spell of rain. A good sign in Somaliland. Cleansing. A packed hall greeted the announcement that Silanyo had won by a convincing 88,025 votes. As a festive atmosphere took hold many were aware that this was the real test. In previous days the UDUB ruling party had let slip a few rumblings of discontent and a concession speech from President Riyale was not immediately forthcoming. These concerns were short-lived. With just 33.24% of the vote compared to Kulmiye's 49.59%, it was evident that there was little point in protest. President Riyale was left with the question of what legacy he would leave – would he cling to power, as many have done before, or would he choose a more positive path? Once more Somaliland's leadership demonstrated their ability to put state before self. Riyale duly conceded victory to Silanyo and, in doing so, paved the way for peaceful transfer of power.

Fig 1: The results were declared as follows:

Region	Valid Votes Cast	UDUB	UDUB Share	Kulmiye	Kulmiye Share	UCID	UCID Share	Margin of Victory UDUB Kulmiye
Awdal	81,338	59,605	73.28%	18,452	22.69%	3,281	4.03%	41,153
Maroodi-Jeex	236,651	55,496	23.45%	118,172	49.94%	62,983	26.61%	62,676
Saaxil	29,211	15,553	53.24%	10,548	36.11%	3,110	10.65%	5,005
Togdheer	111,653	21,613	19.36%	75,746	67.84%	14,294	12.80%	54,133
Sool	20,848	4,034	19.35%	15,357	73.66%	1,457	6.99%	11,323
Sanaag	58,515	22,580	38.59%	28,631	48.93%	7,304	12.48%	6,051
	538,216	178,881	33.24%	266,906	49.59%	92,429	17.17%	88,025

Now, with President Silanyo sworn in and his cabinet named, the real work is set to begin. Yet it is worth pausing for a moment to consider the achievements to date. The elections have been hailed as 'a peaceful expression of the popular will'¹ by international observers. International diplomats and world leaders have joined in a chorus of congratulations.

Somaliland has concluded yet another successful democratic election and transfer of power to the opposition - a feat that merely a handful of African states have accomplished since independence. This latest test demonstrates the robust institutional framework and enduring democracy which is flourishing in Somaliland, unmatched in the Horn of Africa.

¹Note. International Election Observation missions from Progressio (see <http://www.progressio.org.uk/blog/news/somaliland-elections-peaceful-expression-popular-will>) and the International Republican Institute (<http://www.iri.org/news-events-press-center/news/somaliland-holds-credible-presidential-election>) were invited to observe by the Somaliland National Election Commission.

Language Analysis for Determination of Origins, in light of the recent UK Upper Tribunal decision.



By John Brick, Solicitor, RLS

As a lawyer practitioner in the area of refugee law and someone with a previous background in language lecturing, translating and interpreting, I noted with particular interest the recent decision of the United Kingdom Upper Tribunal RB - (Linguistic evidence - Sprakab) Somalia v. Secretary of State for the Home Department, [2010] UKUT 329 (IAC), United Kingdom: Upper Tribunal (Immigration and Asylum Chamber), hereinafter called the ‘Decision’ which strongly endorsed Sprakab, the Swedish Language Analysis Company and described the company’s evidence as being ‘of high quality and its opinions [...] entitled to very considerable weight.’

Though I will make numerous references to this Decision, my intention is not to comment on the merits of the case overall. It is the endorsement of Sprakab’s methods, as referred to in the Decision, and the conclusion that language analysis reports and little else besides may be enough to establish nationality that I intend to examine.

This case involved a Somali woman who claimed Bajuni Somali ethnicity. She was the subject of two language analysis interviews which were in turn the subject of four Language Analysis Reports (three of the reports are derived from the first interview). The outcome was that Sprakab (the language analysis company commissioned to do the reports) stated ‘with certainty’ that the appellant was from Kenya and the language she was speaking was coastal Swahili. In such cases the applicant is usually invited to submit a ‘contra expertise report’ to rebut the finding of the government commissioned language analysis report. The author of the contra expertise report in this case, Ms Kumbaka, unfortunately predeceased the Hearing.

I examine this Decision’s comments on Sprakab in light of some of the criticisms that have been levelled at language analysis companies over several years. It is useful to read this article in conjunction with the Decision itself which issued in September of this year. For ease of reader reference, I refer to the various paragraphs in the Decision as UT1, UT2, UT3 etc. I refer in the main to the procedure followed in the first language analysis because in the vast majority of cases only one language analysis report is prepared in the assessment of an asylum claim.

I employ the term ‘linguistics professionals’ in this article to clearly delineate between those who have advanced academic qualifications and who are professionals in the scientific, comparative study of language and other educated people who work in languages – typically interpreters, translators, teachers, lecturers and fluent (possibly native) speakers of more than one language. The latter are often (and sometimes confusingly) also termed ‘linguists’ and this can lead to a confusion of terminology between ‘linguistics professional’ and other language practitioners i.e. here this refers especially to those who analyse languages, but who are unqualified to do the work of the former.

Background

The UKUT329 Decision opens with the line, ‘it is a matter of common experience that it is sometimes possible to tell where people come from by the way they speak.’

But it is the concept that the language analysis company used here (Sprakab) have devised a system to identify an ab origine mode of speaking different from any later socialization or language mixing that may occur which is at issue. While it may indeed be possible to ‘sometimes’ tell where people come from by the way they speak, the ability to state ‘with certainty’ where someone is (or is not) from has been hotly contested by a series of senior linguists and respected linguistic associations. The criticisms I mainly refer to date from Eades et al (2003,2009) to Professor Peter Patrick (2009), and Professor Derek Nurse (2004-2010).

Linguistics professionals have maintained that language analysis cannot be used reliably to determine national origin; they can only indicate (and not with scientific precision) where someone

has been socialised. Eades and Arends (2003)² criticised language analysis reports as being over-generalised, containing the erroneous assumption that an individual is mono-lingual and mono-cultural.

At UT94 of this Decision, the Sprakab manager states that language analysis cannot determine nationality. Yet the conclusions that Sprakab reach in their reports state, ‘that an applicant speaks a variety of their language found ‘with certainty’ in/not in the country or region they purport to come from, but somewhere entirely different . The wording of the report does not state that the applicant speaks a certain dialect or language that cannot establish nationality but may be helpful when considered with a multiplicity of other factors. In practice the ‘with certainty’ qualification is a powerful incentive for decision-makers to consider the report as being determinative of nationality. Here too at UT159 of the Decision this is endorsed: ‘Sprakab provides an honest, serious and useful guide to establishing the location where a person learnt to speak’.

Guidelines

The concerns of senior linguists and respected linguistics organizations that their reputation and the reputation of their discipline was being tarnished by these reports of ‘very poor quality’ (Eades and Fraser 2003)³ and eventually led, by means of a wide consultative process among linguistics professionals, to the production and endorsement of a set of Guidelines in 2004. (full set of Guidelines available on privatewww.essex.ac.uk/~patrickp/lhr/ss16workshop.pdf)⁴

The Guidelines were published in a special issue of the International Journal of Speech Language and the Law – the peer-reviewed journal shared by the International Association for Forensic Phonetics and Acoustics (IAFPA) and the International Association of Forensic Linguists (IAFL) They continue to be endorsed by an impressive list of linguistics professionals and linguistics organizations in Australia, Great Britain, Europe

² Linguistic Identification in the Determination of Nationality: A Preliminary Report , Eades, Arend et Al, 2003.

³ Linguistic Identification in the Determination of Nationality: A Preliminary Report, Eades Fraser et Al 2003

⁴ Guidelines for the use of Language Analysis in Relation to Questions of National Origin in Refugee Cases, Eades, Arend et Al, June 2004

and the United States. A mention of the Guidelines is made at UT121.

Ms Tina Cambier-Langeveld (Cambier-Langeveld 2007) the phonetician,⁵ suggested that an amendment needed to be made to Guideline 3 (language reports should be made only by qualified linguists with recognized and up-to-date expertise). The role of educated analysts in language analysis is important because they can authenticate the utterances as opposed to linguists verifying their presence.

A new resolution was passed at the 2009 IAFPA conference as follows:

“In cases involving the analysis of language and speech for the determination of national identity, IAFPA recognises the contribution to be made by:

- (i) Linguists and educated native speakers with the latter working under the guidance and supervision of the former;
- (ii) Linguists with in-depth research knowledge of the language(s) in question. The conclusion expressed should in all cases reflect not only the strengths and weaknesses of the material analysed but also of the personnel involved.”

Though many linguistics professionals have not endorsed this resolution, I mention it because the Sprakab manager states in evidence at UT95 that the ‘company abides by the IAFPA resolution’

Bajuni people and the languages they speak

Chambers, Trudgill and Schilling-Estes (2004)⁶ state that languages are not monolithic - they are characterised by regional and social variation

At UT96 the Sprakab manager implies that the Bajuni clan continue as before to be monolingual speakers of Kibajuni without any language interference from outside sources.

The eminent Professor Derek Nurse, Professor Emeritus of Linguistics, Memorial University, St John’s, Canada also referred to in UKUT329, responds to the above (Comments on Determination and reasons, 15th September 2010) that while the Bajuni clan would have spoken only

⁵ Language Analysis: how to include both linguistic expertise and native competence and why. Cambier-Langeveld and Samson, 2007

⁶ The Handbook of Language Variation and Change. Oxford: Blackwell 2004 Chambers, Trudgill and Schilling Estes (Eds)

Kibajuni 20 years ago, it is different today. The upheavals and dispersal of Bajuni has resulted in a kind of continuum where there are elderly Bajuni islanders who still speak fluent Kibajuni but there are those – still of Bajuni ethnicity - who speak only Swahili, at the other end of the spectrum. They are usually young and live in Kismayo on the mainland. In between are many variations of Bajuni-Swahili. Responding to the issues raised at UT110, Professor Nurse explains that for comparative purposes, linguistics professionals use a standard (“Swadesh”) list with 100 basic vocabulary words. If the list is filled out for Kenyan Bajuni then Somali Bajuni, the result is identical – there are no differences between the two. It is a false distinction. There are minute local differences between the different islands in Somalia. From the foregoing, it can be seen that the reality of what languages Bajuni speak is a great deal more complicated than simply characterizing an applicant as either Kibajuni or Swahili-speaking.

Use of Bajuni and/ or Swahili interpreters

At UT93 we are given details concerning the first language analysis interview in June 2007. The (Kibajuni speaking) interviewer 240, we are told, uses Swahili ‘because 97% of those claiming to be Bajuni are in fact Swahili’

This approach lacks objectivity as it assumes the appellant not to be Bajuni before she has uttered a word. As the appellant is addressed in Swahili it may be expected she will then adapt her speech to that of the interviewer, making the production of a valid language analysis report very difficult. This seems to be belatedly conceded by Sprakab as the later February 2010 interview is conducted by a Kibajuni speaker.

The Upper Tribunal did not follow Sprakab’s initial approach. At UT53 it is noted they appointed Kibajuni-English interpreter. At UT53 this court-appointed interpreter was then clearly instructed only to communicate in Kibajuni and no other language.

Yet in attempting to explain the apparently fluent communication exchange that followed between two Kibajuni speakers, it is suggested in the Decision at UT151 that the Kibajuni interpreter somehow ignored the direction of the Tribunal. In my own experience, interpreters are appointed by the court services using a known reputable agency.

He or she swears to follow the direction of the court and to faithfully interpret only what is said in the languages to be interpreted. It seems remarkable *ex-post facto*, that the reasoning for the apparently fluent communication between two Kibajuni speakers is that they are not speaking the language that the appellant claims to speak and the interpreter has been ordered by the court to speak.

The appellant at UT52 also points out that her interview in July 2007, lasting 4 hours 25 minutes, was conducted in Kibajuni - the Kibajuni speaker presumably vetted and appointed by a state approved interpreting agency. It is incorrect to draw no inference from the seamless listening and speaking skills of the Kibajuni speaking appellant as is done at UT151.

At UT122 of the Decision it is clear that the Tribunal has been made aware that considerable differences can exist between Kibajuni and Swahili.

This Decision at UT171 clearly endorses the concept that Sprakab has devised and refined a reliable system for finding out where people come from, based on how they talk

“[...] where there is clear, detailed and reasoned linguistic analysis leading to an opinion expressed in terms of certainty or near certainty it seems to us that little more will be required to justify a conclusion on whether an applicant has the history claimed.”

In the following I examine the linguistic analysis (procedure) and the terms of certainty mentioned above in the Decision.

The linguistic analysis procedure

At UT 88 we are told that ‘language analysis at Sprakab is a two-stage process’. It starts with an analyst listening to a specimen of speech. Typically, the analyst converses with the person whose speech is to be analysed. At UT 94 best practice guidelines seem to indicate that the analyst should run through the tape three times, produce a draft report, then discuss this with a linguist.

At UT160 it is suggested that the biggest weakness in the Sprakab system would be the alleged expert in the language saying ‘I do not think people who come from there talk like that’. It goes on to say that using trained linguists to carefully examine the recorded speech and explain the opinion can overcome this.

But at UT94 we see that the procedure was different in this case. The interviewer 240 (not the analyst) talks with the appellant in Swahili not Bajuni. A ‘preliminary indication’ is given to the Home Office ‘straight away’, without any assistance whatsoever from the linguist. The role of the analyst is not clear.

This breaches the 2004 Guidelines, Sprakab’s own two-step procedure (between analyst and linguist) and the IAFPA guideline which Sprakab holds itself to. Accordingly the aforementioned potential major weakness in the Sprakab system are present for this first interview.

Professor Nurse⁷, also referred to in the UKUT329 Decision, has listened to a number of recorded Sprakab interviews of Somali Bajunis. He notes that at the conclusion of several interviews involving Somali-Bajunis, the interviewer can be heard phoning a colleague, saying that he’d phone them back ‘with the result’ in three to five minutes.

It may be the case that the analyst and linguist go on to examine the full recording following that preliminary indication. But there is nothing in language analysis reports to indicate the nexus between preliminary finding and end result.

Quality of language analysis reports

Eades in her description of language analyses carried out in Australia in 2003 (Eades and Arends et al 2003)⁸ described it thus:

‘Typically, an anonymous translator/interpreter providing a highly confident judgment of speaker origin on the basis of a small number of lexical items and poorly described linguistic patterns observed in a short tape-recorded interview’.

The question we need to ask therefore is if anything has changed?

Professor Nurse⁹ has not seen the actual reports that featured in the instant case but has no reason to believe they differ from the countless others he has seen. At UT119 Mr Davison (for the appellant), describes the much later interview and report of February 2010 (just before the Hearing - the original interview and report were in 2007) - as being of a high standard) The Professor describes the reports he has seen as, inter alia, ‘brief,

careless, lacking in supporting evidence, unreliable and unconvincing.’ They do not set out all the data but invariably give just a few examples. He finds that the analyses usually fail to base conclusions on actual data. Their claims at UT93 to make due allowance for dialect and language mixing has never been discussed in any form that would be acceptable to professional linguists.

The ‘with certainty’ qualification

UT159 of the Decision notes that Sprakab doesn’t claim to be infallible. But the ‘with certainty’ qualification suggests the kind of scientific reliability given in fingerprint and DNA evidence which Guideline 4 (2004 Guidelines) advises against.

This Decision defends the ‘with certainty’ qualification because it is open to the analyst to also use a lesser qualification (‘most likely in’, ‘likely in’, ‘possibly in’). Indeed at UT89 it is noted that, following close consultation between analyst and linguist, a report will ‘usually’ select one of the four qualifications. Yet this seems to be rarely, if ever, the case. In my two years of examining language analysis reports, I have never encountered anything other than the ‘with certainty’ qualification. Professor Nurse has confirmed that he has also only encountered the ‘with certainty’ qualification. All the 14 Somali reports examined by Professor Peter Patrick in his study (Sociolinguistics issues in LADO, Peter Patrick, April 2009) carried the ‘with certainty’ qualification.

The Decision FS (Treatment of Expert Evidence) Somalia [2009] UKAIT 00004 ‘found Sprakab ‘less than impressive’ in this regard. The Immigration Judge noted that Sprakab had concluded (again ‘with certainty’) that the appellant spoke a variety of Somali found in northern Somalia. The appellant seemed to be speaking a type of language mixing that resulted in a hybrid variety of Somali spoken nowhere in Somalia (and perhaps arising as a result of physical delocation). True, there were elements of northern Somali, but there were also elements of southern Somali in the speech. The appellant’s unusual language variety was picked up by the author of the contra report but went unacknowledged by the Sprakab report.

⁷ Comments on ‘Determination and Reasons’, Professor D. Nurse, September 15th 2010

⁸ Op cit

⁹ Op cit

Government agencies in this jurisdiction often note that the language analysis reports are only one of several factors to be considered (a recommendation contained both in the 2004 Guidelines and the UKBA guidelines alike).

But the consistent ‘with certainty’ conclusion can be critical when there are little other factors to consider. Often in Somali-Bajuni cases, it can lead judges and decision makers to believe that the definiteness of the conclusion obviates the caveat that language analysis reports alone simply cannot determine nationality.

In this Decision at UT118 Mr Davison (for the appellant) also mentions that immigration judges in the UK often do treat Sprakab analyses as though they are determinative.

In this jurisdiction too, the recent Judgment: J – v- MJELR & Ors [2010] IEHC 251, at paragraph 4 of the Judgment, Cooke J in that case notes:

[...] the present case turned entirely upon the issue of credibility and, in particular upon the question as to whether the appellant was telling the truth when he said that he was from Somalia and spoke the Bajuni dialect of Swahili’.

The comment at UT171 that ‘little more will be required to justify a conclusion on whether an applicant or appellant has the history claimed’ seems not only to treat the analysis report as overwhelmingly determinative but rejects the guideline used by most agencies that a language analysis report must be a part of the overall evaluation of the asylum application.

Expertise and professional abilities

Criticism of Ms Kumbaka’s methods (contra expert)

At UT18,117,161 we are told Sprakab’s methods are superior to those of Ms Kumbaka and that she is not a linguist. At UT 19 the Sprakab manager criticises her for not having visited the islands and for not having proper educational qualifications and a lack of linguistic qualification. She is also criticised for not adhering to the 2004 Guidelines.

It is ironic how the criticisms that the Sprakab manager level at the contra expert here echo those that have been leveled repeatedly at Sprakab themselves!

Professor Peter Patrick¹⁰ in discussing the credentials of analysts examined 14 Somali cases. One of the analysts only possessed a degree in linguistics. This is different to the Sprakab claim of analysts ‘typically having a background in linguistics.’ We are also told that Sprakab literature notes that it trains its linguists to think critically and that the analysts obtain ‘extensive training from linguists’. But we know nothing of the pedagogic methodology employed or what accreditation Sprakab possesses as an educator in the area of linguistics for people they only occasionally employ.

At UT85 the manager states that Sprakab employs ‘linguists’ who have qualifications in various relevant disciplines. In Professor Patrick’s analysis on the 14 Somali cases (op cit), he noted that credentials were cited in maths, chemistry, law and computers. None of the linguistics professionals had any expertise in Somali languages. In this Decision we find that the analysts have worked in Bajuni-speaking areas, have mastered Bajuni to a very high level or speak it to ‘the level of a mother tongue’. These abilities are not precisely defined.

Professor Nurse in his own comments on the Decision¹¹ notes that Sprakab themselves contravene most of the 2004 Guidelines. None of their analysts are actually native Bajuni and none of them have visited the islands in question.

A proper native Kibajuni analyst is required for the language interview and a thorough and up to date knowledge of the islands is required for analysing the applicant’s knowledge of the islands. At UT96 the manager’s claim that ‘not much has changed’ in twenty years on these islands is unsupported by country of origin information. The skills and training of interviewer 240 (the Bajuni speaker) are unknown. How he elicits the linguistic utterances required for analysis is not really clear.

Most Sprakab Bajuni experts are recruited in Sweden and haven’t been to the islands at all and/or haven’t been to Somalia in close on 20 years (EA19 and EA249 both being a case in point here). Hardly surprising given the unstable political situation of that country.

¹⁰ Sociolinguistic issues in Language Analysis for determination of Origins, Professor Peter Patrick, April 2009

¹¹ Comments on ‘Determination and Reasons’, Professor D. Nurse, September 15th 2010

We are not given any basis or further insight into how the manager comes to her opinion on the stasis of the language despite the constant upheavals and dispersal of Bajuni peoples since the early 1990s. Under cross examination she finally concedes that maybe people leaving the islands might have other language influences. Analyst EA19 in cross examination readily concedes that islanders could be influenced by other languages.

The Sprakab system

Sprakab literature¹² informs us that they have conducted 40,000 language analysis reports over the ten years they have been in existence. They have, the Decision concludes at UT154, 'devised and refined a system for analysing language'.

The same literature suggests they have the academic means to explain their system as they maintain a language council of university academics to keep them informed on language matters. Yet there is, to date, no discernible academic output or reasoned explanation of how they have scientifically devised and refined a system that is so at odds with so many of their senior colleagues.

The Decision makes the argument that 'language analysis is a developing discipline and will become subject to more peer review. But at UT98 of the Decision, the Sprakab manager has already stated that their data is not subject to peer review and says nothing about changing this stance at any time in the future.

Expert evidence

A major imbalance in the UKUT329 Decision is the unfortunate absence of Ms Kumbaka, the author of the contra expertise report and a defence of that report. At UT141 the Decision notes that Professor Nurse cannot be treated as an expert witness, as the points of factual dispute would need to be addressed by way of live evidence and cross-examination. It is regrettable that Professor Nurse or someone of similar stature was not present to challenge and rebut the Sprakab expert evidence. Unsurprisingly without that important evidential counterbalance, the Decision finds Sprakab's approach to be 'altogether superior' to Ms Kumbaka's report.

At UT165-166 Professor Nurse's criticisms are discounted. At UT165 it notes that the interview

was conducted 'in a language which he did not approve'. In point of fact Professor Nurse makes the response¹³ that interviews are supposed to be conducted in the interviewees (applicant/appellant's) dialect or language. In this case the interviewer should have spoken Bajuni not Swahili.

At UT166, his overview of Sprakab reports and conclusions is criticised as only commenting on negative reports. Professor Nurse informed me (ibid) that he read 50 Sprakab reports of refugees claiming to be Somali Bajunis. He had no way of knowing how typical those reports were. They happened to be all negative; they were not selected for their negative conclusion. The Upper Tribunal in UKUT329 may have been more mindful here of the (unsupported) Sprakab claim at UT97 that their reports support about 60% of applicants. But at UT93 we are also informed that the first interview was carried out in Swahili because statistically 97% of applicants claiming Bajuni ethnicity are Swahili speaking Kenyans. This would accord with Professor Nurse only encountering reports with negative findings.

At UT156 the Decision differentiates between the applicant and the decision maker - only the applicant wants one particular result whereas the decision maker wants only the right result. At UT98 the manager 'is certain' that the information on the database is accurate because 'otherwise Sprakab's customers (exclusively government agencies) would be 'dissatisfied'.

But Professor Patrick paints the role of the government agencies in a much harsher light. Language analysis is a gate-keeping mechanism 'performed in the context of general government disbelief or hostility to refugees'. As the government agencies are Sprakab's only customers, it is hard to imagine them expressing much dissatisfaction in the light of Professor Patrick's opinion, where the real potential complainant, the applicant or appellant in question, may have been deported and unable to mount any further challenge.

¹² SPRAKAB Language Analysis Information, Sprakab 2010

¹³ Op cit

Conclusion

This Decision makes much of anonymity but Guideline 6 of the 2004 Guidelines agrees that 'linguists should provide specific evidence of professional training and expertise, with the right to require that this information remain confidential'. What is contested is the suggestion at UT154 that language analysis companies can 'self-check' thus obviating any requirement for external scrutiny.

A manifestation in this Decision of the necessity of this requirement is demonstrated by the many assertions and generalisations made by Sprakab on paper and in evidence without any proper backup data. An open and transparent approach to anonymised data, an explanation of how it is processed and used, an ongoing scrutiny of procedure and methodology is surely possible without compromising anyone's safety, security or anonymity in any way. It is not the anonymity that undermines Sprakab reports; it is the perceived lack of professional skills and suspect procedures and systems which are at issue. A system of accreditation and regulation would lead to higher quality reports that, as Mr Davison at UT139 puts it, would be 'suitably detailed, precise, sourced and compiled by experts, and which would have a part to play in that they could establish what language or dialect the applicant spoke, without claiming to establish nationality.

It is clear from the foregoing that until such a system is in place, decision makers must be urged to use caution in reliance of these reports as the only or most important criteria in determining nationality.

With thanks to Professor Derek Nurse, Emeritus Professor of Linguistics, Memorial University, St John's, Canada for his comments on this Decision and his observations on language analysis and Sprakab reports in general.

Also thanks to Yvonne Eames, RLS and Brian Allen for their kind help and assistance.



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Out in the fields: open defecation and sanitation in Pakistan



By Patrick Dowling, RDCI

Introduction

Uzma Bibi recently learned about the health risks associated with open defecation, having previously used the village stream for her sanitary purposes.¹⁴ “Few people in rural areas understand the extent to which household latrines can control disease. Rural people remain shy about using [household] latrines, and prefer to defecate in the open”.¹⁵ For urban inhabitants inadequate waste management and irregular maintenance of municipal sanitation facilities, has left many in Pakistan’s cities lacking proper access to sanitation services.¹⁶ It is estimated that 55 million people in both urban and rural areas do not have access to an adequate sanitation outlet.¹⁷ This article will focus on issues surrounding sanitation and open defecation in Pakistan.¹⁸

¹⁴ IRIN News (21 March 2010) *Pakistan: Sanitation awareness on the rise - WHO report*

<http://www.irinnews.org/report.aspx?ReportId=88501>

¹⁵ IRC International Water and Sanitation Centre & WaterAid (March 2008) *Beyond Construction, Use By All, A collection of case studies from sanitation and hygiene promotion practitioners in South Asia*, p.193

<http://www.irc.nl/page/43966>

¹⁶ IRC International Water and Sanitation Centre & WaterAid (March 2008) *Beyond Construction, Use By All, A collection of case studies from sanitation and hygiene promotion practitioners in South Asia*, p.193; p.96

<http://www.irc.nl/page/43966>

¹⁷ Water and Sanitation Program (May 2005) *Lessons Learned from Bangladesh, India, and Pakistan, Scaling-Up Rural Sanitation in South Asia*, p.17

http://esa.un.org/iys/docs/san_lib_docs/Scaling%20Up%20Rural%20Saniltation.pdf

The overall population of Pakistan is estimated at over 177 million people (CIA World Factbook (24 June 2010) *Pakistan*

<https://www.cia.gov/library/publications/the-world-factbook/geos/pk.html>

¹⁸ Issues concerning sanitation and IDPs are not within the scope of this paper

Pakistan

Pakistan’s Environment Minister said in 2010 that sanitation conditions in the country were “not very encouraging”.¹⁹ The Pakistan Institute of Development Economics states that most “...of the regions...are deprived of having toilet facilities”.²⁰

¹⁹ Daily Times (12 February 2010) *Sanitation, drinking water issues top priority, says Afridi*

http://www.dailytimes.com.pk/default.asp?page=2010%5C02%5C12%5Cstory_12-2-2010_pg11_3

²⁰ Pakistan Institute of Development Economics (2007)

Delivering Access to Safe Drinking Water and Adequate Sanitation in Pakistan, p.28

<http://www.pide.org.pk/pdf/Working%20Paper/WorkingPaper-30.pdf>

Putting a percentage on this issue, a report published by Save the Children UK & Society for the Protection of the Rights of the Child in 2009 states:

“As a whole, 43% of households do not have any toilet”.

Save the Children UK & Society for the Protection of the Rights of the Child (2 March 2009) *Alternative Report on the State of Child Rights in Pakistan*, p.10

http://www.crin.org/docs/Pakistan_SPARC_NGO_Report.pdf

Looking at this percentage from the opposite viewpoint, a report by IRIN News in 2008 states:

“In Pakistan an estimated 54 percent of the population has access to sanitary latrines (86 percent urban and 30 percent rural), according to government statistics”

IRIN News (3 March 2008) *Pakistan: Mindset change key to changing rural toilet habits*

<http://www.irinnews.org/Report.aspx?ReportId=77069>

A report published by the World Health Organisation & the United Nations International Children’s Fund in 2010 on worldwide issues concerning sanitation and water includes an array of statistics on sanitation matters in both rural and urban Pakistan-

World Health Organization & United Nations International Children’s Fund (2010) *Progress on Sanitation and Drinking Water, 2010 Update*, p.47

http://whqlibdoc.who.int/publications/2010/9789241563956_eng_full_text.pdf

Alternatively a report published by the Water and Sanitation Program notes the difficulty of acquiring statistics on sanitation in Pakistan-

Water and Sanitation Program (May 2005) *Lessons Learned from Bangladesh, India, and Pakistan, Scaling-Up Rural Sanitation in South Asia*, p.124

http://esa.un.org/iys/docs/san_lib_docs/Scaling%20Up%20Rural%20Saniltation.pdf

This report also notes that:

“All too often, sanitation coverage figures are overestimates based on the number of toilets built by previous sanitation programs, without allowances for incomplete projects, or for collapsed and abandoned toilets”.

Water and Sanitation Program (May 2005) *Lessons Learned from Bangladesh, India, and Pakistan, Scaling-Up Rural Sanitation in South Asia*, p.17

http://esa.un.org/iys/docs/san_lib_docs/Scaling%20Up%20Rural%20Saniltation.pdf

And while there is a greater availability of latrines individually in urban areas than in the countryside,²¹ residents in cities and towns have to contend with limited municipal sewage services and a lack of public toilets which can result in open defecation; open defecation is even more prevalent in rural areas.²² Pakistan's cities due to ill-managed drains have become notorious for unpleasant stench and "...the sanitary condition of rural areas...has been degraded to an unimaginable extent".²³

Defecation

Addressing the issue of open defecation in Pakistan, the Water and Sanitation Program notes the need to raise awareness and how people's behaviour needs to change.²⁴ The World Health Organization "...estimates that the average person can produce as much as 1.5 kilos of faeces and urine per day..." which means a village like Kamra in Punjab province with a population of over 1,800 would produce "...close to 3,000 kilos of waste daily or upwards of 20,000 kilos a week - all out in the open".²⁵ In 2008 Pakistan continued to lack ongoing adequate provision of sanitation facilities and compared unfavourably internationally.²⁶ The World Bank in 2010 said that the practice of open

²¹ IRIN News (3 March 2008) *Pakistan: Mindset change key to changing rural toilet habits*

<http://www.irinnews.org/Report.aspx?ReportId=77069>

²² Asian Development Bank (2007) *Country Paper Pakistan, Asian Water Development Outlook 2007*, p.4

<http://www.adb.org/Documents/Books/AWDO/2007/cr08.pdf>

The World Health Organization defines open defecation as: "Open defecation: Defecation in fields, forests, bushes, bodies of water or other open spaces, or disposal of human faeces with solid waste".

World Health Organization (Undated) *The Purpose of this report*, p.6

http://www.who.int/water_sanitation_health/monitoring/sanitation.pdf

²³ IRC International Water and Sanitation Centre & WaterAid (March 2008) *Beyond Construction, Use By All, A collection of case studies from sanitation and hygiene promotion practitioners in South Asia*, p.193

<http://www.irc.nl/page/43966>

²⁴ Water and Sanitation Program (5 June 2009) *The Story of Pakistan's Barefoot Sanitation Consultants*

http://www.wsp.org/index.cfm?page=page_disp&pid=20420

²⁵ Global Vision (12 March 2008) *Improving Sanitation in Pakistan*

<http://www.globalenvision.org/library/9/1877>

²⁶ Dawn (15 May 2008) *Community: Talking toilets*

http://www.dawn.com/weekly/review/archive/080515/review_7.htm

defecation in Pakistan was "quite high".²⁷ The World Health Organization describes open defecation as "...the last recourse for those without any form of sanitation – those at the bottom of the sanitation ladder who must endure the daily indignity of defecating in open, often publicly accessible, spaces".²⁸

Health

Access to household sanitary latrines varies between urban and rural areas with the latter comparing unfavourably - though for the country overall, average household access is just over 40%.²⁹ The lack of adequate water supply and sanitation provision has resulted in increased disease and deaths.³⁰ The World Health Organization noting a high infant mortality rate includes diarrhoea among the health concerns in its profile for Pakistan.³¹ Research in 2009 states that in Pakistan diarrhoea is the leading cause of mortality among children under 5.³² In one part of Karachi city where sanitation access is severely

²⁷ Dawn (17 March 2010) *Rapid decline in open defecation since 1990*

<http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/national/rapid-decline-in-open-defecation-since-1990-730>

²⁸ World Health Organization (Undated) *The Purpose of this report*, p.18

http://www.who.int/water_sanitation_health/monitoring/sanitation.pdf

²⁹ United States Agency for International Development (30 April 2007) *Pakistan Safe Drinking Water And Hygiene Promotion Project, Behavior Change Strategy (Bcs) And Behavior Change Communication Plan (Bccp)*, p.4

<http://www.eawag.ch/organisation/abteilungen/siam/lehre/alltagsverhaltenII/pdf/PBehaviorChangeStrategy.pdf>

³⁰ IRC International Water and Sanitation Centre & WaterAid (March 2008) *Beyond Construction, Use By All, A collection of case studies from sanitation and hygiene promotion practitioners in South Asia*, p.28

http://www.wateraid.org/documents/plugin_documents/beyond_construction.pdf

³¹ World Health Organization (Undated) *Pakistan Country Profile*

<http://www.whopak.org/pakprofile.htm>

A report by the United Nations in 2009 includes diarrhoea as being one of the most common health problems worldwide caused by "exposure to human excreta"-

United Nations Secretary-General (24 July 2009)

International Year of Sanitation, 2008, p.3

[http://www.reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDocUnidFilename/MYAI-7XF3TU-full_report.pdf/\\$File/full_report.pdf](http://www.reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDocUnidFilename/MYAI-7XF3TU-full_report.pdf/$File/full_report.pdf)

³² Daily Times (9 November 2009) *Children in city's 2nd largest slum battling with diarrhoea*

http://www.dailytimes.com.pk/default.asp?page=2009\11\09\story_9-11-2009_pg12_6

lacking, an outbreak of diarrhoea in 2009 was considered an “epidemic”.³³

Children

The United Nations International Children’s Fund in 2008 said that over 1,000 children under the age of five die each day in Pakistan “...of diarrhoea and diseases related to water, sanitation and hygiene”.³⁴ Child deaths due in such a manner account for 60% of child mortality cases nationwide.³⁵ In the Punjab village of Kamra in Pakistan, Mohammad Nafees was no different to most children...in relieving himself out of doors. “I used to poop outside. Just over there,’...‘We didn’t have a latrine in our house. I thought everyone did that,’...”.³⁶ A report by the United Nations Committee on the Rights of the Child in 2009 called the sewage situation in Pakistan “alarming”.³⁷ Pakistan overall “...faces innumerable problems pertaining to the health and survival of children. Some of the challenges...include a high rate of preventable diseases, exacerbated by poor health infrastructure...inadequate sanitation and hygiene...These are symptoms of an inadequate and poorly functioning Primary Health Care system”.³⁸

³³ Daily Times (9 November 2009) *Children in city’s 2nd largest slum battling with diarrhoea*
http://www.dailytimes.com.pk/default.asp?page=2009\11\09\story_9-11-2009_pg12_6

³⁴ United Nations International Children’s Fund (5 May 2008) *Child Health and Sanitation Week in Pakistan promotes hygiene to save young lives*
http://www.unicef.org/wash/pakistan_43797.html

³⁵ United States Agency for International Development (30 April 2007) *Pakistan Safe Drinking Water And Hygiene Promotion Project, Behavior Change Strategy (Bcs) And Behavior Change Communication Plan (Bccp)*, p.4
<http://www.eawag.ch/organisation/abteilungen/siam/lehre/alltagsverhaltenII/pdf/PBehaviorChangeStrategy.pdf>

³⁶ IRIN News (6 March 2008) *Pakistan: Open defecation-free communities - one village at a time*
<http://www.irinnews.org/Report.aspx?ReportId=77155>

³⁷ United Nations Committee on the Rights of the Child (2 October 2009) *Consideration Of Reports Submitted By States Parties Under Article 44 Of The Convention, Concluding observations: Pakistan*, p.21
<http://www.crin.org/docs/CRC-C-PAK-CO4.pdf>

³⁸ Child Rights Desk (Undated) *State of Health Standards in Pakistan*
<http://pakistan.childrightsdesk.com/?p=247>

Urban

Sewage systems and water treatments facilities in urban Pakistan suffer from chronic neglect.³⁹ Every day that Shakila Aslam “...steps outside her Lahore home, she must tread carefully. Treacherously slippery, sewage-soaked mud greets her. Broken sewage lines leave huge pools of filthy water on the road...”.⁴⁰ The Minister for the Environment said in 2009 that half “...of our latrines may not be sanitary or worse and [a] large proportion of human waste is being discharged into the environment. Our systems for waste-water disposal and solid waste management are inadequate acting as transfer systems rather than treatment systems...”.⁴¹ Consequently the contamination of water in urban Pakistan is high and diseases related to water common.⁴² In Lahore, the capital of the Punjab province “...leaking sewage pipes are allowing dirty water to seep into drinking water pipes, causing an increase in water-borne diseases”.⁴³ Presently in urban Pakistan “...municipal water supply and sanitation systems are... inadequate...Severe urban water problems—shortages, disease, floods, deteriorating

³⁹ The World Bank (21 August 2006) *Pakistan, Strategic Country Environmental Assessment, (In Two Volumes) Volume I: Main Report*, p.56

http://www.boell-pakistan.org/downloads/Strategic_country_assessment.pdf

⁴⁰ IRIN News (12 July 2007) *Pakistan: Contaminated water a threat to millions in Punjab*

<http://www.irinnews.org/Report.aspx?ReportId=73205>

⁴¹ Dawn (29 May 2009) *Waterborne diseases cost nation Rs120 billion*

<http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/national/waterborne-diseases-cost-nation-rs120-billion-959>

The Pakistan Institute for Environment-Development Action Research adds that:

“Only half of the wastewater in the urban areas of Pakistan is disposed off through underground or covered drains. The remainder is discharged through open drains into waterways, or fascies are dumped directly onto the roadside or mixed with solid waste for disposal”.

Pakistan Institute for Environment-Development Action Research (Undated) *Pakistan Situation*
<http://www.piedar.org/wash.html>

⁴² Woodrow Wilson International Center for Scholars (2009) *Running On Empty, Pakistan’s Water Crisis*, p.6
http://www.wilsoncenter.org/topics/pubs/ASIA_090422_Running%20on%20Empty_web.pdf

⁴³ IRIN News (12 July 2007) *Pakistan: Contaminated water a threat to millions in Punjab*

<http://www.irinnews.org/Report.aspx?ReportId=73205>

infrastructure, and degrading aquatic ecosystems—are already chronic”.⁴⁴

Rural

Latrines are less common in the greater populated rural than in urban Pakistan.⁴⁵ It is estimated that almost 70% of those in rural areas lack latrines.⁴⁶ “Defecation in the open is the norm in the rural areas of the country”.⁴⁷ Open defecation plays a part in the pollution of waterways and a major issue in rural Pakistan is the concurrent development of waterborne diseases.⁴⁸ In the Punjab village of Kamra a newly arrived resident commented on the local prevalence of open defecation in this rural village. She “...took some time...to get used to residents’ ways. ‘I had never gone outside in the open air,’...”⁴⁹

Males

A male rural resident of Pakistan describes his behaviour regarding open defecation: “I remember the time when I'd get up...walk across to a nearby field, relieve myself in the fresh, open air...go to the nearby canal, take a bath... before going off to work in the fields...”.⁵⁰ Research from one Pakistani village describes how “old habits”

⁴⁴ Woodrow Wilson International Center for Scholars (2009) *Running On Empty, Pakistan's Water Crisis*, p.129
http://www.wilsoncenter.org/topics/pubs/ASIA_090422_Running%20on%20Empty_web.pdf

The United States Agency for International Development adds that:

“Pesticides, fertilizers, untreated urban wastewater, and industrial effluents are polluting surface water and groundwater on a large scale... More than 90 percent of untreated and often toxic municipal and industrial wastes are dumped in open drains leaching to aquifers...”

United States Aid for International Development (March 2009) *Pakistan's Food and Agriculture Systems*, p.26
http://pdf.usaid.gov/pdf_docs/PNADO507.pdf

⁴⁵ IRIN News (6 March 2008) *Pakistan: Open defecation-free communities - one village at a time*

<http://www.irinnews.org/Report.aspx?ReportId=77155>

⁴⁶ IRIN News (3 March 2008) *Pakistan: Mindset change key to changing rural toilet habits*

<http://www.irinnews.org/Report.aspx?ReportId=77069>

⁴⁷ Pakistan Institute for Environment-Development Action Research (Undated) *Pakistan Situation*

<http://www.piedar.org/wash.html>

⁴⁸ IRIN News (21 March 2010) *Pakistan: Sanitation awareness on the rise - WHO report*

<http://www.irinnews.org/report.aspx?ReportId=88501>

⁴⁹ IRIN News (6 March 2008) *Pakistan: Open defecation-free communities - one village at a time*

<http://www.irinnews.org/Report.aspx?ReportId=77155>

⁵⁰ IRIN News (14 December 2008) *Pakistan: Stopping open defecation through behavioural change*

<http://www.irinnews.org/PrintReport.aspx?ReportId=81949>

regarding personal hygiene are preventative to the adoption of indoor sanitation facilities.⁵¹ The Water and Sanitation Program reveals how even in cases where latrines are present in rural households, males still continue to defecate out in the open.⁵² In Sindh province, a farmer from Mir Ghulam Shah village, although purchasing a toilet for the family household, still “...defecates in the field, believing that the latrine in his house is for the womenfolk”.⁵³

Society

In the rural village of Raza Mohammed in Sindh province, a survey revealed that primary among local peoples’ concerns was poverty. “Satisfying basic needs, such as obtaining a daily supply of food for the family, seemed to diminish the perceived necessity to treat water”.⁵⁴

Almost half the population of the country in 2010 were described as being “chronically food insecure”.⁵⁵ In rural Pakistan, a semi-feudal structure remains, which lies outside of the bailiwick and concerns of the dominant political parties. “As a result, governments have treated welfare and social security as low-priority areas...social safety nets are still informal, based on...families or clans. These can compensate for poverty, old age, sickness and unemployment to only an increasingly limited extent”.⁵⁶ Tenant farmers are subject to the considerable financial

⁵¹ United States Agency for International Development (December 2008) *Experiences in Haiti, Ethiopia, and Pakistan: Lessons for future water treatment programs*, p.37
http://pdf.usaid.gov/pdf_docs/PDACN883.pdf

⁵² Water and Sanitation Program (May 2005) *Lessons Learned from Bangladesh, India, and Pakistan, Scaling-Up Rural Sanitation in South Asia*, p.42
http://esa.un.org/iys/docs/san_lib_docs/Scaling%20Up%20Rural%20Sanitation.pdf

⁵³ IRIN News (3 March 2008) *Pakistan: Mindset change key to changing rural toilet habits*

<http://www.irinnews.org/Report.aspx?ReportId=77069>

⁵⁴ United States Agency for International Development (December 2008) *Experiences in Haiti, Ethiopia, and Pakistan: Lessons for future water treatment programs*, p.37
http://pdf.usaid.gov/pdf_docs/PDACN883.pdf

⁵⁵ Dawn (3 June 2010) *Over 48 per cent of Pakistani people are food insecure*

<http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/front-page/Swiss-report-on-Pakistan-Over-48pc-of-people-are-food-insecure-360>

⁵⁶ Bertelsmann Transformation Index (2009) *Pakistan*

Country Report, p.12

http://www.bertelsmann-transformation-index.de/fileadmin/pdf/Gutachten_BTI2010/ASO/Pakistan.pdf

and political influence of their feudal lords. These feudal lords can also overtly influence the local judicial processes, thereby increasing the subservience of the farmers.⁵⁷

The writ of the state has declined in the past few years as alternative bastions of force have emerged.⁵⁸ In 2009 Pakistan was described as being on the verge of “civil war”.⁵⁹ A report released in 2010 rated only conflict-ridden Iraq,

⁵⁷ BBC News (12 February 2008) *Feudal shadow over Pakistan elections*

http://news.bbc.co.uk/2/hi/south_asia/7239466.stm

The Bertelsmann Transformation Index adds on civic society that:

“There is no shortage of interest groups in Pakistan. However, independent, well-organized and effective associations such as the Citizen Police Liaison Committee, Lawyers for Civil Rights or the Women’s Action Forum are rare. Most address only a small range of concerns, usually those affecting mainly the urban population. The interests of the majority population are not accounted for, except by clan-based political entrepreneurs or religiously motivated groupings with dubious democratic credentials”.

Bertelsmann Transformation Index (2009) *Pakistan Country Report*, p.9

http://www.bertelsmann-transformation-index.de/fileadmin/pdf/Gutachten_BTI2010/ASO/Pakistan.pdf

The United States Agency for International Development commenting on the law states:

“A fundamental challenge to the rule of law in Pakistan is the weakness of the legal profession. The poor quality of legal education, the lack of professional standards and the absence of continuing legal education contribute to the deficit of qualified and ethical judges and lawyers, and undermine public confidence in the law in general”.

United States Agency for International Development (November 2008) *Pakistan Rule Of Law Assessment – Final Report*, p.27

http://pdf.usaid.gov/pdf_docs/PNADO130.pdf

A paper produced for the Institute for Social Policy and Understanding commenting on the police states:

“The police infrastructure is one of Pakistan’s most poorly managed organizations. It is aptly described as ill-equipped, poorly trained, deeply politicized, and chronically corrupt”.

Institute for Social Policy and Understanding (2009) *Pakistan Can Defy the Odds: How to Rescue a Failing State*, p.22

<http://ispu.org/files/PDFs/ispu-pakistan-can-defy-the-odds.pdf>

⁵⁸ Bertelsmann Transformation Index (2009) *Pakistan Country Report*, p.5

http://www.bertelsmann-transformation-index.de/fileadmin/pdf/Gutachten_BTI2010/ASO/Pakistan.pdf

⁵⁹ Dawn (10 June 2010) *Pakistan ranked fifth most unstable country*

<http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/front-page/pakistan-ranked-fifth-most-unstable-country-060>

Somalia, Afghanistan and Sudan as being less stable than Pakistan.⁶⁰ Included in the human rights concerns facing Pakistan is the treatment of women where “...torture, extra-judicial killings and rape...” are accompanied by the weakness of protective state institutions.⁶¹ Women’s role in Pakistan is regimented by religious and cultural mores where in the household - particularly in the countryside - restrictions on their participation in domestic matters such as in water and sanitation issues are curtailed.⁶²

Women

The United Nations Committee on the Elimination of Discrimination against Women reported concerns about women in rural Pakistan including health issues such as access to “clean water and sanitation services”.⁶³ In 2009 the World Health Organization delineated the “average Pakistani woman” as illiterate, anaemic, working 15 hours each day, with an average of 5 children, with those under 3 malnourished.⁶⁴ Traditionally women and girl children undertake the role of collecting water which has the consequence of not only limiting their capacity in other realms such as education (because of the time taken in collecting water) but also exposes them to contaminated water and human detritus.⁶⁵ There is also the potential risk to the safety of women and young girls when

⁶⁰ Dawn (10 June 2010) *Pakistan ranked fifth most unstable country*

<http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/front-page/pakistan-ranked-fifth-most-unstable-country-060>

⁶¹ Asian Human Rights Commission (July 2010) *The State of human rights in Ten Asian Nations 2009*, p.170

<http://www.ahrchk.net/pub/pdf/TheStateofHRin10AsianNations2009.pdf>

⁶² Water and Sanitation Program (May 2005) *Lessons Learned from Bangladesh, India, and Pakistan, Scaling-Up Rural Sanitation in South Asia*, p.124

http://esa.un.org/iys/docs/san_lib_docs/Scaling%20Up%20Rural%20Sanitation.pdf

⁶³ Committee on the Elimination of Discrimination against Women (11 July 2007) *Concluding comments of the Committee on the Elimination of Discrimination against Women: Pakistan*, p.8

<http://www.unhcr.org/refworld/pdfid/468b60722.pdf>

⁶⁴ Dawn (12 January 2009) *Most Pakistanis have poor health services, says report*

<http://www.dawn.com/2009/01/12/top16.htm>

⁶⁵ United Nations Human Settlement Programme (2007) *Manual on the Right to Water and Sanitation*, p.7

<http://www.unhabitat.org/content.asp?cid=2467&catid=1&typeid=24&subMenuId=0>

defecating out in the open in Pakistan.⁶⁶ A woman and her daughters from Mir Ghulam Shah village in Sindh described how her day began "...by getting up...walking...to a filthy enclosed communal space, digging a small hole and relieving themselves. The alternative was to find some thick bushes and tell someone to watch out for prying eyes".⁶⁷ The United Nations Development Programme says that defecating in the open in "...often publicly accessible spaces is the last recourse for people without any form of sanitation. The practice not only jeopardizes one's own health and that of his or her family, but those who live nearby...In addition, seeking private areas in which to defecate can put the safety of girls and women at risk".⁶⁸ In the Sindh village of Ahmed Khaskheli, a woman describes how "...the village women would all share communal open patches, enclosed on all sides...to provide privacy from prying male eyes...'We would first dig a small ditch, then after the job is done, cover it with loose earth. It was horrible and the place would always be stinking and swarming with flies. And if you were not careful, you'd soil your feet' ".⁶⁹

Education

The link between spread of disease and unsafe sanitation practises has not always been to the fore in Pakistan.⁷⁰ "Open defecation is a practice that is centuries old in most rural areas. To many villagers, it appears to cost nothing and to do little harm".⁷¹ Water is used and re-used for purposes

such as livestock, drinking and sanitation.⁷² "It is only recently that I learned that using a stream as a toilet could be dangerous. Villagers who live upstream also do the same and we get sick as a result..."⁷³ noted a villager in rural Pakistan. Many of the residents of Kamra in Punjab were educated to see the connection between outdoor defecation and health. The village has "...piles of excrement in [the] ...surrounding fields, [and] the risk that germs could be brought back into...homes and find their way into...food, either on...shoes, or through other sources, including livestock or local springs from which residents drink, was soon understood [by the villagers]".⁷⁴ One resident of Kamra stated how: "we simply weren't aware that these unhygienic practices led to diseases or that we could prevent them..."⁷⁵

Women have been to the forefront in campaigning for latrines to be built in many of Pakistan's rural communities, leading to areas of rural Pakistan being declared "open defecation free".⁷⁶ The campaign to bring an end to open defecation, has been national policy since 2006 and residents of Kamra in Punjab have been building latrines, as part of this educational programme, since 2008.⁷⁷ The United Nations Secretary General reported how in 2008 – declared as International Year of Sanitation – the authorities in Pakistan reached over 11 million people during one week alone of campaigning.⁷⁸ A World Health Organization report released in 2010 complemented raising

⁶⁶ United Nations Human Settlement Programme (15 December 2009) *Pakistan, UN-HABITAT host workshop on Gender in Water and Sanitation*
<http://www.unhabitat.org/content.asp?cid=7676&catid=59&ypeid=6&subMenuId=0>

⁶⁷ IRIN News (3 March 2008) *Pakistan: Mindset change key to changing rural toilet habits*
<http://www.irinnews.org/Report.aspx?ReportId=77069>

⁶⁸ United Nations Development Programme (2009) *The Millennium Development Goals Report*, p.45
<http://undp.org.pk/images/publications/mdg2009.pdf>

⁶⁹ Inter Press Service (18 December 2007) *For Village Women an Indoor Latrine Is Heaven*
<http://ipsnews.net/news.asp?idnews=39302>

⁷⁰ Inter Press Service (2007) *For Village Women an Indoor Latrine Is Heaven*
<http://ipsnews.net/news.asp?idnews=39302>

⁷¹ Water and Sanitation Program (May 2005) *Lessons Learned from Bangladesh, India, and Pakistan, Scaling-Up Rural Sanitation in South Asia*, p.66
http://esa.un.org/iys/docs/san_lib_docs/Scaling%20Up%20Rural%20Sanitation.pdf

⁷² United States Aid for International Development (March 2009) *Pakistan's Food and Agriculture Systems*, p.28
http://pdf.usaid.gov/pdf_docs/PNADO507.pdf

⁷³ IRIN News (21 March 2010) *Pakistan: Sanitation awareness on the rise - WHO report*

<http://www.irinnews.org/report.aspx?ReportId=88501>

⁷⁴ IRIN News (6 March 2008) *Pakistan: Open defecation-free communities - one village at a time*

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⁷⁵ IRIN News (6 March 2008) *Pakistan: Open defecation-free communities - one village at a time*

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[http://www.reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDocUnidFilename/MYAI-7XF3TU-full_report.pdf/\\$File/full_report.pdf](http://www.reliefweb.int/rw/RWFiles2009.nsf/FilesByRWDocUnidFilename/MYAI-7XF3TU-full_report.pdf/$File/full_report.pdf)

awareness and education as reasons behind the substantial reduction in open defecation in Pakistan, from over half the population in 1990 to over a quarter in 2008.⁷⁹

Conclusion

Women from Haji Yacoub, a village in Khyber Pakhtunkhwa province, have lauded the advantages of privacy and security that having an enclosed latrine brings. “But they were also pleased that what was a matter of dignity for them, translated itself into better health for the family. They noticed fewer cases of diarrhoea among their children. Lack of access to basic sanitation facilities is a major cause of the high number of infant deaths and poor health of Pakistani children and women”.⁸⁰ The United Nations Human Settlement Programme estimates that infant deaths can be reduced by more than 30% by the presence of an indoor flushing toilet.⁸¹ An NGO representative working for the United Nations International Children’s Fund in a rural Pakistani village says that: “A latrine for every household has changed the whole village’s life...”.⁸² A women from Ahmed Khaskheli village in Sindh, having openly defecated until a few months before installing a household latrine, exclaimed that never “...in her wildest imagination did she think...one day...that she and her three daughters would have a toilet for their exclusive use”.⁸³

⁷⁹ IRIN News (21 March 2010) *Pakistan: Sanitation awareness on the rise - WHO report*

<http://www.irinnews.org/report.aspx?ReportId=88501>

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⁸¹ United Nations Human Settlement Programme (2007) *Manual on the Right to Water and Sanitation*, p.6

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⁸² United Nations International Children’s Fund (29 February 2008) *Children and women lead the way to ‘total sanitation’ in Pakistan earthquake zone*

http://www.unicef.org/infobycountry/pakistan_43052.html

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Bangladesh – Researched and compiled by the Refugee Documentation Centre of Ireland on 20 September 2010

Information on the Rapid Reaction Battalion (BAT) in Bangladesh.

In a section titled “Political Rights and Civil Liberties” the 2010 *Freedom House* report on Bangladesh states:

“Many abuses are perpetrated by the Rapid Action Battalion (RAB), a paramilitary unit composed of some 4,500 military and police personnel that was formed in 2004 to combat widespread lawlessness. Although initially popular, the RAB and other units engaged in anticrime campaigns have been criticized for excesses like extrajudicial executions.” (Freedom House (3 May 2010) *Freedom in the World 2010 – Bangladesh*)

A *BBC News* report on the RAB states:

“Human rights lawyers in Bangladesh say they are becoming increasingly concerned about the number of suspects dying in the custody of the elite anti-crime force, the Rapid Action Battalion (RAB). They say 190 people have been killed in less than two years. The government admits to a figure of around 150. The RAB was set up in April 2004 amid concerns about rising crime. It draws its personnel from the police and the military.” (BBC News (13 December 2005) *Bangladesh's feared elite police*)

A *New Age* article states:

“According to the available statistics, the RAB has killed as many as 536 people in the last four years, in circumstances euphemistically known as ‘encounters’ or ‘crossfire’. The over 8000-strong RAB members are drawn from the army, navy, air force and police department and is being supervised by the home ministry. Although the number of so-called ‘crossfire’ incidents decreased in the initial period of the assumption of power by the army-backed interim administration of Fakhruddin Ahmed in January last year, the recent trend shows that the number of extrajudicial killings is rising.” (New

Age (15 July 2008) *RAB's extrajudicial killings under US microscope*)

In a section titled "Introduction and Overview" a *Human Rights Watch* report states:

"The Rapid Action Battalion, commonly known as RAB, is Bangladesh's elite anti-crime and anti-terrorism force. Since its creation in March 2004 this special unit has been implicated in the unlawful killings of at least 350 people in custody, and the alleged torture of hundreds more." (Human Rights Watch (14 December 2006) *Judge, Jury, and Executioner: Torture and Extrajudicial Killings by Bangladesh's Elite Security Force*)

This section of the report also states:

"Many of the deaths for which RAB is responsible resulted from summary executions. Others came after extreme physical abuse. RAB's torture methods include beatings with batons on the soles of the feet and other parts of the body, boring holes with electric drills, and applying electric shock. The government in power until October 27, 2006, defended the killings by saying the victims – people it called 'wanted criminals' or 'top terrors' – died when they resisted arrest or when they were caught in the crossfire during an armed clash between RAB and a criminal group ('crossfire' killings). But witnesses, family members, and journalists frequently reported that the victims died in RAB custody, either in the station or outside where an extrajudicial execution took place. The cases documented in this report support those claims. Even Bangladesh government officials recognize that RAB is killing detainees. In private conversations some admit the government gave RAB a mandate to kill as a way to combat the country's endemic crime. One top official told Human Rights Watch that the government drafted a list of most-wanted criminals for RAB to kill. An October 2006 article in the Bangladeshi press, citing a RAB document and RAB officials, claimed the force compiles profiles of criminals with recommendations of punishment, including death by 'crossfire.'" (ibid)

In a section titled "Formation of RAB" this report states:

"On June 2, 2003, the Cabinet Committee on Law and Order decided to replace RAT with RAB – the Rapid Action Battalion.²³ Eight months later, in March 2004, the government formally created RAB, although the force did not begin full operations until June of that year.

The government presented RAB as a composite force comprising elite members from the military (army, air force and navy), the police, and members of Bangladesh's various law enforcement groups.²⁴ Members were seconded from their parent organizations, to which they returned after serving time with the new force.

RAB's operations are based on the Armed Police Battalions (Amendment) Act 2003, passed by parliament in July 2003, amending the Armed Police Battalions Ordinance, 1979. The new law placed RAB under the command of the inspector general of the police and, by extension, the minister of home affairs. The law requires RAB to be commanded by an officer not below the rank of deputy inspector general of the police or someone of the equivalent rank from the army, navy, air force, or other 'disciplined force.' The main tasks of the RAB, according to the law, are to:

- Provide internal security
- Conduct intelligence into criminal activity
- Recover illegal arms
- Arrest criminals and members of armed gangs
- Assist other law enforcement agencies
- Investigate any offense as ordered by the government." (ibid)

A *Human Rights Watch* report on killings allegedly committed by members of RAB states:

"The military-backed interim government should take prompt action to end a wave of unlawful killings by Bangladesh's elite crime-fighting force, Human Rights Watch said today. Since June 1, 2008, officials from the elite Rapid Action Battalion (RAB) and the police have killed at least 50 individuals under suspect circumstances. 'Despite overwhelming evidence of RAB and police responsibility for unlawful killings, the interim Bangladeshi government seems unwilling to address the problem,' said

Brad Adams, Asia director at Human Rights Watch. ‘Instead, Bangladesh’s security forces continue to get away with murder.’ After strong national and international criticism of the Rapid Action Battalion for its poor human rights record, RAB killings decreased in 2007 and early 2008. However, this trend has been abruptly broken in recent months and the number of killings has surged, Human Rights Watch said.” (Human Rights Watch (11 August 2008) *Bangladesh: End Wave of Killings by Elite Forces*)

See also *Human Rights Watch* report which states:

“The RAB announced on April 10, 2009, that it had arrested Nasiruddin Suman, an alleged criminal, on April 9 and claimed that in the middle of the night he was taken to recover hidden arms in Dhaka's Dakkhin Keraniganj district. There, the RAB claimed, he was killed in a shootout between the anti-crime unit and his accomplices. ‘RAB's own announcement makes it clear that this case fits the pattern of execution-style killings that the unit has carried out since its inception,’ said Brad Adams, Asia director at Human Rights Watch. ‘This is a challenge to the government's promise to end these killings, and the government needs to make clear they will not be tolerated.’ Since RAB was established in mid-2004, its members have killed more than 550 people in what it usually refers to as ‘crossfire’ or ‘encounter’ killings or ‘shootouts.’” (Human Rights Watch (15 April 2009) *Bangladesh: Investigate Killing by Anti-Crime Unit*)

In a section titled “Impunity since Independence” a *Human Rights Watch* report states:

“The longstanding problem of killings in custody assumed endemic proportions after the creation of the Rapid Action Battalion (RAB), a paramilitary law enforcement agency, in 2004. RAB started the trend of so called ‘crossfire killings’—apparent extrajudicial killings that officials purport were legitimate or accidental killings where the victims (people RAB called ‘wanted criminals’ or ‘top terrors’) died when they resisted arrest or when they were caught in the crossfire during an armed clash between RAB and a criminal group. But the police also adopted these methods soon after. Since June 2004, well over 1,000 people have been killed

by the police, RAB, and other security forces. It is widely believed that the vast majority of these killings in reality are thinly-disguised executions, often preceded by torture.” (Human Rights Watch (18 May 2009) *Ignoring Executions and Torture: Impunity for Bangladesh's Security Forces*, p.13)

A *Human Rights Watch* report refers to the response of the Bangladeshi government to accusations of extrajudicial executions as follows:

“Since the Awami League-led government came to power in January 2009, Prime Minister Sheikh Hasina and several other government officials have repeatedly stated their commitment to put an end to extrajudicial executions by the security forces and have said that those responsible for such killings will be held to account. However, in recent months there has been a dramatic increase in alleged ‘crossfire’ killings and there are no indications that the government is moving toward holding anyone to account for them.” (Human Rights Watch (23 October 2009) *Bangladesh: Bring Paramilitary Unit Torturers to Justice*)

In a section titled “Arbitrary or Unlawful Deprivation of Life” the 2010 *United States Department of State* country report for Bangladesh states:

“According to media reports, local and international human rights organizations, and the government, the RAB killed 41 persons during the year, from 68 the year before, a nearly 40 percent drop. The average number of such deaths dropped from six per month in 2008 to three per month during the year. Combined security units consisting of RAB members and police, however, killed 25 persons during the year. The deaths, some under unusual circumstances, occurred during raids, arrests, and other law enforcement operations, or in some cases while the accused were in custody. The government often described these deaths as ‘crossfire killings,’ ‘gunfights,’ or ‘encounter killings,’ terms it used to characterize exchanges of gunfire between the RAB or police and criminal gangs.” (United States Department of State (11 March 2010) *2009 Human Rights Report: Bangladesh*)

This section of the report also states:

“According to media reports, local and international human rights organizations, and the government, law enforcement officials were responsible for 154 deaths, 129 of which were attributed to crossfire. According to reported figures, this total represented a 3 percent increase from the previous year. The RAB accounted for 38 crossfire killings; members of the police were responsible for 63; combined security units consisting of the RAB and police were responsible for 25; and the army committed three crossfire killings. Since 2004 when the minister for law, justice, and parliamentary affairs stated crossfire deaths under RAB or police custody could not be considered custodial death, the government has not disclosed publicly any prosecution of a RAB officer for a killing.” (ibid)

In a section titled “Role of the Police and Security Apparatus” this report states:

“The RAB received human rights training sponsored by foreign governments, the UN Development Program, and a local NGO, the Bangladesh Society for Enforcement of Human Rights (BSEHR). Although the RAB continued to commit serious human rights violations, the number of incidents involving the RAB dropped from the previous year.” (ibid)

In a section titled “Ongoing extra-judicial killings and impunity” a report published by the *Asian Human Rights Commission* states:

“The Home Minister’s claim on November 17 that ‘no “crossfire” killing [has] occurred since her party has assumed office’ came two and a half months after the chief of the Rapid Action Battalion (RAB) admitted that his force conducts ‘crossfire’ killings in the country. The Director General of the RAB, Mr. Hassan Mahmud Khandker admitted in a press briefing on September 3, 2009 that 577 persons were killed in ‘crossfire’ in 472 incidents until August 2009, since the inception of the RAB on 26 March 2004.” (Asian Human Rights Commission (December 2009) *The State of Human Rights in Bangladesh 2009*)

In a section titled “Extra-judicial Killings and Impunity” a report published by the Bangladeshi human rights NGO *Odhikar* states:

“During the year 2009, 154 people have reportedly been killed extra-judicially by law enforcement agencies. It is alleged that of these people, 41 were reportedly killed by RAB, 75 by police, 25 jointly by the RAB-Police, 3 by Army, 2 by Ansar, 1 by Jail Police and 1 by Forest Guards, 5 were under the custody of BDR and 1 was a coast guard. Of the 154 killed, 35 were killed while they were in custody of the law enforcement agencies.” (Odhikar (1 January 2010) *Human Rights Report 2009: Odhikar Report on Bangladesh*, p.19)

An *Inter Press Service* article states:

“Extrajudicial killings in Bangladesh became rampant after the formation of the Rapid Action Battalion (RAB), an elite police force, in 2004. Such killings have been mainly blamed on RAB. The battalion was formed as a special anti-crime unit comprising members of the army, navy, air force and police to combat crimes. Local human rights groups claim that none of the responsible cops, either from the regular police forces or the RAB, have been charged for the extrajudicial killings. At a recent press conference at the RAB headquarters in Dhaka, the battalion's director general, Hasan Mahmud Khandaker, defended the killings, which he said were ‘lawful’ and that the battalion members were compelled to open fire in self-defence. In 2008, a total of 83 people were killed in ‘gunfights’ with the battalion members, he said. Of the 60 incidents of killings recorded in 2009, 57 also died in ‘gunfights’ and similar incidents.” (Inter Press Service (21 January 2010) *Bangladesh: No End in Sight for Extrajudicial Killings*)

An *Amnesty International* report states:

“Bangladeshi security forces used excessive force during a raid on the house of a senior opposition politician on 27 June, Amnesty International said today. The Bangladesh Rapid Action Battalion (RAB) carried out a violent attack on those gathered peacefully inside the house of Mirza Abbas, a leading Bangladesh National Party (BNP) politician and former mayor of Dhaka, according to testimony given

to Amnesty International. Victims of the raid described sustained and unprovoked beatings of activists and Mirza Abbas' family members, denial of medical treatment after arrests, and the eliciting of signatures on blank forms as a condition of release, which Amnesty International suspects are for the purpose of falsifying confessions." (Amnesty International (1 July 2010) *Bangladesh: Security forces used excessive force during raid*)

In a section titled "Repression of human rights defenders and NGOs denouncing violations committed by security forces" the 2010 *World Organisation Against Torture* report for Bangladesh states:

"Torture at the hands of law-enforcement agencies in Bangladesh is nothing new and continued unabated as an endemic problem, including against human rights defenders, who remained particularly targeted when denouncing human rights violations committed by security forces. On October 22, 2009, Mr. F. M. Masum, a journalist at the New Age newspaper, was arrested and allegedly tortured by officers of the Rapid Action Battalion (RAB, the elite crime-fighting force) [6]. They took Mr. Masum to the headquarters of the RAB-10, where he was detained for around ten hours and was brutally tortured. As a result of the torture, Mr. Masum sustained serious wounds, into which the RAB personnel rubbed salt. They also told him he would be killed in 'crossfire'. Only after the intervention of Home Minister, Ms. Sahara Khatun, and several high officials of the Government was Mr. Masum released." (World Organisation Against Torture (OMCT) / International Federation for Human Rights (FIDH) (13 September 2010) *Steadfast in Protest – Annual Report 2010: Bangladesh*)

This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre 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. Please read in full all documents referred to.

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Sri Lanka – Researched and compiled by the Refugee Documentation Centre of Ireland on 22 September 2010

Part 1: Information regarding the treatment of Muslims in Sri Lanka by society and the authorities.

In a section titled “Abuses of Religious Freedom” the 2009 *United States Department of State* religious freedom report for Sri Lanka states:

“Since 1983, the Government had battled the Liberation Tigers of Tamil Eelam (LTTE), a terrorist organization fighting for a separate state for the country's Tamil, and mainly Hindu, minority. In 2001 the Government and the LTTE each announced a unilateral cease-fire, and in 2002 they agreed to a joint cease-fire accord. The peace process stalled in late 2005 following an escalation in violence. In 2006 renewed fighting broke out, and in January 2008 the Government terminated the cease-fire agreement. The conflict formally ended in May 2009. Adherence to a specific set of religious beliefs did not play a significant role in the conflict, which was rooted in linguistic, ethnic, and political differences. The conflict affected Buddhists, Hindus, Muslims, and Christians.” (United States Department of State (26 October 2009) *International Religious Freedom Report 2009*)

See also section of this report titled “Abuses by Rebel or Foreign Forces or Terrorist Organizations” which states:

“In 1990 the LTTE expelled approximately 46,000 Muslim inhabitants, virtually the entire Muslim population in the area, from the northern part of the country. Most of these persons remained displaced and lived in or near welfare centers. Although some Muslims returned to the northern city of Jaffna in 1997, they did not remain there due to the continuing threat the LTTE posed. There were credible reports that the LTTE warned thousands of Muslims displaced from the Mannar area not to return to their homes until the conflict was over. It appears that the LTTE's actions against Muslims were not due to Muslims' religious beliefs but rather that these actions were part of an overall strategy to clear the north and east of persons unsympathetic to the LTTE. The LTTE made some conciliatory statements to the

Muslim community, but many Muslims viewed the statements with skepticism. The LTTE later encouraged Muslim internally displaced persons (IDPs) in some areas to return home, asserting they would not be harmed. Although some Muslim IDPs returned home, the majority did not and waited for a government guarantee of safety in LTTE-controlled areas. Since the 2002 Ceasefire Agreement, the LTTE also carried out a number of attacks in the east in which Muslims were killed. No arrests had been made in these cases by the end of the reporting period. Although the Government defeated the LTTE militarily in May 2009, it remained unclear whether these Muslim citizens would soon be able to return to their former homes.” (ibid)

The most recent *United States Commission on International Religious Freedom* report on Sri Lanka states:

“Moreover, for years, entire communities of Sri Lankan Muslims in the north and northeastern parts of the country were displaced by LTTE forces seeking to consolidate Tamil hold over certain areas. Since the government defeated the LTTE, many of the more than 100,000 Muslims who were displaced have still not returned. Many fled as long ago as 1990 and do not have the proper documentation required to reclaim their homes and ancestral lands.” (United States Commission on International Religious Freedom (29 April 2010) *USCIRF Annual Report 2010 - Additional Countries Closely Monitored: Sri Lanka*)

The 2010 *Freedom House* annual report for Sri Lanka states:

“Conditions for Muslims in the north and east improved with the demise of the LTTE, which had discriminated against them in the past, but relations between Muslims and the predominantly Hindu Tamils remained somewhat tense.” (Freedom House (1 June 2010) *Freedom in the World 2010 - Sri Lanka*)

An *Internal Displacement Monitoring Centre* report states:

“In western Sri Lanka, over 60,000 Muslim IDPs remained in displacement in Puttalam, 20 years after being forced out of the north and north-west by the LTTE in 1990. Many still faced poverty and difficult living conditions.

With the end of conflict, the older generation of IDPs was keen to return but the younger generation, which had not known life outside the camps and the region, was uncertain about this option.” (Internal Displacement Monitoring Centre (17 May 2010) *Internal Displacement: Global Overview of Trends and Developments in 2009 - Sri Lanka*)

An *IRIN News* report states:

“Resettlement efforts are under way for thousands of displaced Muslims from Sri Lanka’s north who have been languishing in refugee camps for nearly two decades, officials say. The internally displaced people (IDPs) were forcibly evicted in October 1990 from the northern districts of Jaffna, Mannar, Kilinochchi, Mullaitivu and some parts of Vavuniya by the insurgent Liberation Tigers of Tamil Eelam (LTTE). About 75,000 Muslims are estimated to have fled, making their way towards government-controlled areas in Vavuniya and Anuradhapura, as well as to Puttalam District on the northwestern coast, according to the International Crisis Group (ICG).” (IRIN News (26 March 2010) *Sri Lanka: Difficult homecoming for Muslim IDPs*)

In a paragraph headed “Overlooked” this report states:

“The minority Muslim community comprises about 8 percent of Sri Lanka’s population of 20.2 million, according to the Department of Census and Statistics. Rights groups say their plight of the Muslim IDPs has been largely ignored throughout most of the conflict. While international attention has focused recently on the thousands of ethnic Tamil IDPs displaced near the end of Sri Lanka’s 26-year conflict, analysts and aid workers have expressed concern that the Muslim IDPs will continue to be overlooked.” (ibid)

In a section titled “Overview” an *International Crisis Group* report states:

“The return by the end of 2009 of most of the displaced to their home districts, and the increased freedom of movement for the nearly 100,000 still in military-run camps, are important steps forward. However, the resettlement process has failed to meet international standards for safe and dignified

returns. There has been little or no consultation with the displaced and no independent monitoring; many returns have been to areas not cleared of mines and unexploded ordnance; inadequate financial resources have been provided for those returning home; and the military continues to control people's movements. These and other concerns also apply to the estimated 80,000 Muslims forcibly expelled from the north by the LTTE in 1990, some of whom have begun to return to their homes." (International Crisis Group (11 January 2010) *Sri Lanka: A Bitter Peace*, p.1)

A *Minority Rights Group International* report states:

"Muslims make up 8 per cent of the Sri Lankan population. The government did not make clear its plans to resettle Muslim displaced who have been living in camps for nearly 20 years. Some Muslims began to return to their homes during 2009, but they received no assistance from the government, Muslim NGOs reported. The community also feared that they would be neglected in plans to redevelop areas affected by the conflict." (Minority Rights Group International (1 July 2010) *State of the World's Minorities and Indigenous Peoples 2010 - Sri Lanka*)

Issues affecting returning Muslims are referred to in a section of this report titled "Long-Term Muslim IDPS" which states:

"Any returns by northern Muslims are likely to raise complicated property rights and political issues. A transparent and integrated process of return, in which Muslims and Tamils originating from the same areas return at the same time, is vital to reducing future conflicts. Muslims should be allowed to inspect their properties as soon as possible, prior to any new housing being built. Other mechanisms are also needed to resolve the inevitable land disputes. Local and national politicians must be prevented from manipulating the return of Muslims to sow the seeds of new conflicts between Tamils and Muslims. Many Muslims attempting to return to Mannar district are already complaining that they are not being treated fairly by Tamil government officers who control access to government assistance and public facilities and

who are seen as giving priority to Tamils more recently displaced." (ibid, p.6)

See also *IRIN News* report which states:

"About 75,000 Muslims were evicted in October 1990 from the northern districts of Jaffna, Mannar, Kilinochchi, Mullaithivu and some parts of Vavuniya by the now-defeated Liberation Tigers of Tamil Eelam (LTTE), who were fighting for an independent Tamil homeland. Since the end of the war in May last year, the question of their return or resettlement has gathered momentum. 'Issues that need to be addressed include the kinds of infrastructure and services, such as schools and health services, that need to be in place,' said Farzana Haniffa, a University of Colombo anthropologist and member of the Citizen's Commission, which includes civil society and Muslim organizations, and is leading efforts to help the displaced Muslims." (IRIN News (29 April 2010) *Sri Lanka: Muslims and Tamils deal with the past*)

In a paragraph headed "Traumatic departure" this report states:

"Other challenges to reconciliation include more competition for resources and livelihoods as those returning look for jobs, and property ownership disputes, because the Muslims were forced to abandon their homes. And since the expulsion took place nearly 20 years ago, a generation of Muslims and Tamils has grown up without experiencing the event, potentially testing communal relations. 'Given the passage of time, the local Tamil population in these areas don't know the Muslims that are returning, they don't have the memory of interaction that an earlier generation had. So any potential for fresh conflict needs to be mitigated,' Haniffa warned." (ibid)

Part 2: Information regarding treatment of members of the Muslim National Congress (SLMC) political party.

In a section headed "Political Parties/Alliances" a report on the January 2010 election published by the *Commonwealth Secretariat* states:

"The United National Front (UNF), with the UNP as its major constituent party, was the opposition electoral alliance formed to support General Fonseka's bid. Other members of the UNF include the Sri Lanka Muslim Congress

(SLMC) – led by Rauf Hakeem, the Sri Lanka Freedom Party (Mahajana) (formed by former senior adviser to President Rajapaksa, Mangala Samaraweera), and the Democratic People's Front – a Tamil party led by Mano Ganeshan.” (Commonwealth Secretariat (26 January 2010) *Report of the Commonwealth Expert Team: Sri Lanka Presidential Election, p.4*)

In a section headed “Election-Related Violence” this report states:

“Elections in Sri Lanka have historically been violent events. Political parties seem willing to tolerate the use of violence by their supporters against each other. Unfortunately, this election proved to be no exception. According to figures released by the Police Elections Desk,⁷ by 25 January, election-related incidents cumulatively numbered 809, of which 55% were classified as Major Incidents, including 5 murders, 99 acts of assault and 108 instances of threat and intimidation. In comparison, 48% of incidents in the 1999 presidential election, and 37% in the 2005 presidential election were classed as Major. On 21 January, the Secretaries-General of the UPFA and UNP issued a joint statement calling on their supporters to desist from violence. This was a welcome act, although it came too late to make any tangible difference to the actions of their supporters in the campaign period.” (ibid, p.14)

A *Daily Mirror* article states:

“There were also reports from Batticaloa, District of assaults on several people: an SLMC supporter had been assaulted and a shop owner threatened with death for supporting common Opposition candidate Sarath Fonseka.” (Daily Mirror (27 January 2010) *Annul Kathariya Vidyalaya Polling : CMEV*)

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Sri Lanka Muslim Congress

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United States Department of State



Afghanistan – Researched and compiled by the Refugee Documentation Centre of Ireland on 14 September 2010

Evidence of the targeting of interpreters used by the military or aid agencies/NGOs in Afghanistan in the past 2 years by the Taliban and the methods employed by the Taliban in threatening/attacking murdering such workers.

A report published by the *United Nations Assistance Mission in Afghanistan*, in a section headed “Assassinations, Threats and Intimidation”, states:

“Persons were most often assassinated or executed due to AGE suspicions that the targeted individuals had acted as informants or ‘spies’ for the GoA or IM forces; for working with the IM forces as interpreters, truck drivers or security guards at military bases; for actively supporting the Government; or for belonging to the ANSF. The majority of assassinations took place in the south, southeast and central regions

of Afghanistan.” (United Nations Assistance Mission in Afghanistan (UNAMA) (January 2010) *Annual Report on Protection of Civilians in Armed Conflict, 2009*, p.12)

See also *United Nations Assistance Mission in Afghanistan* report which, in a section headed “Intimidation Tactics: Abductions, Assassinations, Executions, Illegal Checkpoints and Night Letters”, states:

“AGEs targeted community and tribal elders, Government officials, civilians working for the international military as interpreters, construction workers, and those civilians perceived to be supporting or associated with the Government. They also targeted teachers, health care workers, shop keepers and staff of Afghan and international NGOs. These acts of intimidation and killing are an extremely effective means of spreading fear among communities and exerting control over the civilian population. The tactics also undermine support for the Afghan Government and are facilitated by the Government's frequent inability to protect civilians from such activities and abuses by AGEs.” (United Nations Assistance Mission in Afghanistan (UNAMA) (August 2010) *Annual Report on Protection of Civilians in Armed Conflict, Mid Year Report 2010*)

An article published by *The Guardian* states:

“Some who leave government employment find that it is already too late: former interpreters for Nato soldiers have been targeted and killed, in one case more than a year after leaving the job.” (The Guardian (9 May 2010) *Kandahar braces itself for a bloody summer offensive*)

A *New York Times* article states:

“our Afghan interpreters, one on his wedding day, apparently because they worked for the United States military and a Western contractor.” (New York Times (15 May 2010) *Taliban Say They Killed 4 Afghan Interpreters*)

This article also states:

“Local villagers in the Alisher District of Khost Province identified the bodies and said that one of the dead, Lal Badshah, who worked as an interpreter at the coalition’s Forward Operating Base Salerno, was the groom. Two others, including Mr. Badshah’s brother, Yaqoot Shah,

worked for the United States military, while the fourth victim worked for a construction company in Kabul.” (ibid)

A *New York Times* article on the killing of nine members of the Hazara ethnic group states:

“Afghan law enforcement officials said they believed that the ambush and assassination took place because the Hazaras are viewed as spies and informants to NATO troops and Special Operations forces in the area. Mr. Himat said he understood that the Taliban had accused the Hazara men of being spies for the NATO coalition. Many interpreters for NATO and Special Operations forces are Hazaras, according to the police chief and the intelligence representative.” (New York Times (25 June 2010) *Taliban Kill 9 Members of Minority in Ambush*)

This article refers to the alleged method of killing as follows:

“Although there were reports that the men were beheaded, the area is so remote that both Mr. Himat and the intelligence representatives said they had not been able to verify the account. One man survived the attack, but they had not yet spoken to him, Afghan security officials said. ‘We have not seen the bodies, but we have reports that some were shot, some were stabbed and some of their bodies were mangled, in pieces,’ the national intelligence representative said.” (ibid)

An *Inter Press Service* report on the risks to interpreters states:

“Murtaza ‘Jimmy’ Farukhi was killed while on patrol with the U.S. Marine Corps on Sep. 9, 2008, at the age of 23. He was not a soldier, but a local translator employed by Columbus, Ohio-based Mission Essential Personnel (MEP). Farukhi was one of 24 MEP translators killed and 56 injured since the company’s contract with the U.S. military began in September 2007, according to company statistics.” (Inter Press Service (14 August 2009) *Military Translators Risk Low Pay, Death*)

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