

# From Displacement to Internment

A Report of Human Rights Violations  
Experienced by  
L.A.'s South Asian Immigrant Communities





## Acknowledgements

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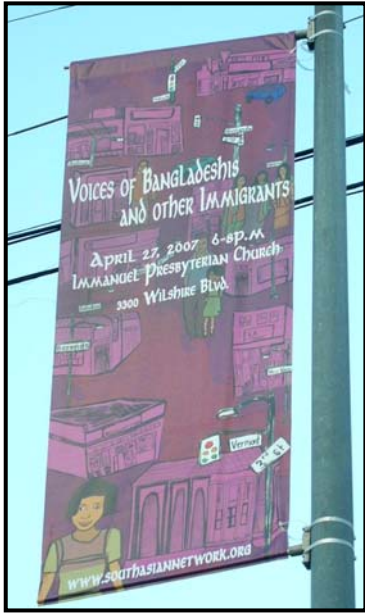
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## About this Report

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Our report tells the story of a pattern of human rights violations experienced by South Asians in Southern California. Told by immigrants themselves, these stories highlight the disparity between the U.S.'s political posturing domestically and abroad, and the social injustice that exists at home. The overarching goal of this report is to challenge the myth that migration to the U.S. is the search for the American Dream, where immigrants will find a "land of opportunity, equality and justice for all." Instead, many immigrants discover that the myth of the American Dream is, in reality, the American nightmare.

We begin our report with a description of four themes that emerged during the gathering of the stories. These themes represent the ties that bind the South Asian community across language, nationality, gender, and religion. We conclude with "Not a Moment in Time, But a Continuation of History." Here we describe the trajectory that SAN follows: the history and analysis that brought us to this moment, what we see as our future direction and the

values and principles from which we view our experiences and that guide our movement forward.

The heart of our report lies in the middle sections, which describe the impacts of the State's human rights violations through the stories told by our community members. This section is structured according to the rights described in international human rights laws and Conventions adopted by the United Nations (U.N.). However, we are well aware of the limitations of the U.N. system, with its own bureaucracy and the politicized manner in which the Conventions are written. For example, the Convention on the Rights of Migrant Workers was originally proposed to include undocumented migrants but the U.S. limited it to only cover legal migrants. As a result, these Conventions do not represent the full extent of the standards we seek to achieve or our ultimate goals. They simply serve as a point of reference.

While gathering our stories, we realized that each of these human rights violations were caused by U.S. laws, regulations, and policies, which, especially since 9/11, have explicitly targeted our communities. We also saw how these State practices created an atmosphere that allows and even encourages violations to be committed by private persons. One of the most blatant examples is the National Security Entry/Exit Registration System (NSEERS), known as "Special Registration," which explicitly and exclusively targeted young men from South Asian, Middle Eastern and predominantly Muslim countries. This sense of "open season" against our communities is further fanned by the government's persistent failure to respond to those who do step forward to demand their rights. While U.S. laws claim to guarantee due process and equal protection, we have instead seen our legal and political systems manipulated, abused and selectively enforced by the State. Our stories demonstrate how easily and often these legal protections are, in reality, nothing but empty promises.

These stories, spanning close to ten years, came to us through phone inquiries, walk-ins, and referrals. They have been told in private consultations with SAN staff and at public forums such as townhalls and community meetings. In selecting stories for this report, we sought to represent the broad spectrum of issues, ethnicities, ages and geographies reflecting the experiences of South Asians living in and around

Los Angeles County. Each of the individuals agreed to tell their story for this report, the majority choosing to give their real names.

SAN offers this report as a vehicle for community voices to be heard, and as a testament to the courage of those who speak out, despite the stigma that can sometimes result. During the report's development, we learned how the very act of telling these stories of human rights violations leads to a deeper understanding of their causes. We hope it contributes to the activism within and among our communities as we struggle for a clearer vision of the world we want and the changes needed to make that vision a reality.



# Overarching Themes of Report

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*As we collected stories for this report, and in looking at SAN's own twenty years in the community, four overarching themes of common ground emerged. These themes capture the pattern and, at the same time, uniqueness of our experiences. This commonality is our strength because it creates the space for us to come together in struggle.*

## Multiple Victimization and Intersectionality

Community members deal with a multitude of issues on a daily basis. While a single incident or problem may prompt a community member to come forward, it quickly becomes evident that many other issues feed into or result from that particular moment. For example, a community member facing an eviction may have fallen behind on rent after being fired for missing work due to an illness she could not seek treatment for because of her immigration status.

Early on in its development, SAN adopted an intersectional analysis after seeing that the oppression people face based on race, ethnicity, gender, sexual orientation, class, and other grounds all intersect. These stories confirm that community members' experiences are compounded because of these multiple oppressions or vulnerabilities.

What also emerged in the gathering of these stories is that each single incident represents a multitude of human rights violations. A survivor of a hate crime, or other form of discrimination, who then seeks redress from a government entity, is further victimized by an inadequate or even hostile response. In determining how to categorize these stories, we chose to highlight the most egregious aspect of the incident.

## Dehumanization as Lived Experience

Many stories in this report represent specific and tangible instances of human rights violations by police, hospitals, judges, court staff, employers and private persons. However, not all violations involve direct physical violence or an arrest by police. Many community members shared with us their feelings of loss and confusion, and a growing sense that their rights and security in their home and even within themselves had been drastically affected by their daily experiences. Oftentimes, it is these moments and feelings of being an "outsider" which cause the most trauma and loss of self-identity.

Driving, entering certain buildings, showing IDs, riding public transportation, eating at restaurants, going to work, just being a public person can cause certain looks, treatment, remarks or incidents. This is what dehumanization looks like, this is what dehumanization feels like for many of the South Asians interviewed for

this report – a shift from going about your daily activities to anxiety that you might encounter some reminder, however small, that you are viewed as "the other." For these reasons, we felt it important to include stories of "everyday," sometimes all day, violations of human rights caused by government actions or inactions.

## "National Security"

Of course, human rights violations against South Asians occurred prior to September 11, 2001. And we are now several years beyond that tragic day. Yet, there is no denying its demarcation and the ensuing cloud that remains and permeates. In its wake, what it means to be a person of South Asian origin in the U.S. has profoundly changed. A new lens of engagement that equates culture, religion, ethnicity, appearance and language with terrorism has caused a fundamental shift in how South Asians are perceived in the private and public domain, and how they perceive themselves and their place in this society. In many ways, this "national security" paradigm has been a convenient hook or justification for policies that legitimize racial and religious profiling. This would not be a first in U.S. history, with Japanese-American internment during World War II as just one of many other examples.

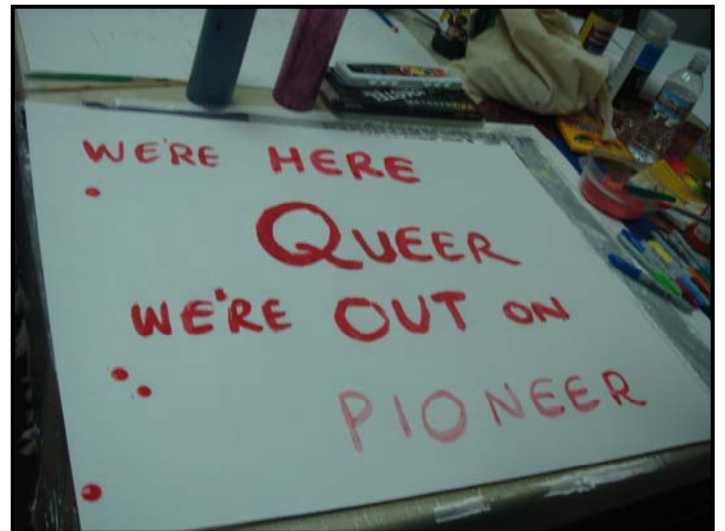
"National security" is commonly pushed as an indispensable mechanism for ensuring that Americans are kept safe and "secure" on their soil. However, the term's definition is constantly expanding. Common, every-day occurrences are now viewed as "suspicious activity" under this new hyper-description of the term, leading quickly to detentions, deportations and increased surveillance of our community members.

Because of this official expansion of "national security" measures and its effect on how our communities are viewed and treated, we do not limit our use of that term solely to instances of government surveillance, racial profiling, discrimination, hate crimes, torture, detention, or government secrecy. Rather, we see the "national security" regime now permeating essentially all aspects of our community members' lives. For that reason, the stories we share include violations of tenants and workers' rights, the unavailability of services for women and children survivors of violence, denial of access to health care, and the marginalization of youth and elderly members of our communities.

## Celebration and Lament

In the course of our work, the community's sense of celebration and lament also emerged as a powerful theme. Regardless of the pain and struggle our community members experienced in these stories and with their cases, they continue to celebrate a sense of self-respect and dignity.

Whether through exhibiting agency in the willingness to speak out against their situation or the pride in struggling on despite the various facets of oppression, the community members in these stories persevere in small and large ways they define and create as empowering. Time and again, this pride of personhood bears witness to our shared histories of oppression and resistance. SAN respects and honors their courage and willingness to speak out, even in the face of all that these stories convey.



## The Impacts of Human Rights Violations

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Human rights are inherent, belonging to every person simply by virtue of having been born. They are not granted, created nor bestowed by governments; they do not change depending on where we live or by our immigration status. We do not leave them behind when we move nor do we gain them by arriving in any particular place. Unlike civil rights, which are sometimes viewed as granted or provided by governments, human rights transcend the State. Governments must be reminded of this whenever they fail to recognize and embrace these rights.

The United Nations (U.N.) adopted the Universal Declaration of Human Rights (UDHR) in 1948. Since then, U.N. member nations have come together several times to further spell out their definitions of human rights. At least seven of their agreements, or Conventions, deal with migrants' rights, and they provide the framework for how the stories below are organized. The fact that these Conventions, even in all their flaws, are not legally binding or enforceable is no accident. When created, the U.N. was, and to a large extent remains, "dominated by the Western imperial countries," and they very carefully guarded their veto powers in the drafting of the U.N. Charter.<sup>1</sup>

This history and background as to its creation make clear that the U.N. was never intended to hold States truly accountable or to serve as a viable protector of rights, even those rights included in U.N. Conventions. We see the U.N. as in fact a "world State," with its own system of rules, procedures and bureaucracy that are difficult for any but the best-resourced non-profit organizations to access. And while we will continue to utilize that space to publicly expose violations and demand accountability and respect, our vision seeks the eventual irrelevance of the State as arbiter of our rights. The power to make respect for rights a reality lies solely in community hands, as does the responsibility to develop alternative forms of self-governance and sustainability.

For us, the U.N. system, including the U.S.'s refusal to ratify most of its Conventions, serves as a stark reminder of the U.S. government's view of itself and its place in the international community. We are also reminded of the task before us as movement builders and agents of change in "the belly of the beast." U.S. "exceptionalism," - the U.S.'s view of itself as exempt from the international human rights standards that other nations agree to strive for - cannot go unchallenged. The reality of our government's values and principles is made clear by, on the one hand, its arrogant claim that no international agreement can ever surpass our domestic civil rights laws, and on the other hand, refusing to acknowledge internationally-developed political, social, cultural and economic rights.

A fitting quote to affirm this exceptionalism comes from International Human Rights scholar Louis Henkin: "In the cathedral of human rights, the United States is more like a flying buttress than a pillar - choosing to stand outside the international structure supporting the international human rights system, but without being willing to subject its own conduct to the scrutiny of that system."<sup>2</sup>

As community organizers, we view the language in the U.N. Conventions as examples of concrete, specific standards, adopted by the international community, and as a framework to help guide our



demands. Therefore, we have structured this next section of our report according to the human rights described in these Conventions. We begin each section with the Convention's language explaining the right, followed by the community stories that embody and exemplify how that right is violated. At the end of each section, we provide an analysis of the U.S. laws, policies and practices that caused or led to these human rights violations, and how U.S. policies violate international law. With or without ratification, we expect and claim these rights, and hold our government accountable for the violations described in these stories.



## RIGHT TO PHYSICAL AND MENTAL INTEGRITY: Hate Crimes; Discrimination; Sexual Harassment

*“Everyone has the right to life, liberty and security of person.”*

*-Universal Declaration of Human Rights*

*“Every person, regardless of immigration status, has...the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution.”*

*-International Convention on the Elimination of All Forms of Racial Discrimination*

### Sher Zeman

*I am Sher Zeman, from Pakistan, and I have lived in Los Angeles working as a taxi driver for over fifteen years. One of the hardest things about my job is how dangerous it is, especially because of working alone and at night. Many of my passengers have made negative comments about my religion and nationality, and I have felt nervous and tense. But one night while driving my taxi, I experienced something I will never forget.*

*On a Saturday night in August 2006, at about 1 a.m., I picked up two passengers outside of a nightclub. Both men were white, in their 30's or 40's. As I was driving, one of them asked me where I was from. I told him I was from Pakistan. I felt myself go cold as the man began to scream, “Holy c\*\*p, another s\*\*t from Pakistan... you f\*\*\*ing... what's wrong with you people... you all are terrorists... do you have a bomb in your cab?” All I could say was, “Hey, everybody is not bad,” but my mind was racing as I tried to drive a bit faster.*

*This man would not stop yelling. “You just leave our country and leave us alone... you Iranians/middle eastern are a piece of s\*\*t.” By now, I was really nervous and confused about what to do. The man screamed, “If you mess with me, I'm going to blow your head off!” The man kept talking. “All you middle easterners are full of c\*\*p, s\*\*t, we should blow up all the middle easterners in one strike.” His friend, the other passenger, just kept laughing the whole time.*

*Just as we were almost at their destination, the man shouted that he was going to urinate in my car. When we finally arrived and I stopped the car, they both got out. I was shocked at what I saw next: the man actually urinated in my back seat, as he had threatened he would. Even his friend kept saying he couldn't believe it, but just watched and kept on laughing. I was shaking as I called my dispatcher and asked him to call the police.*

*Two policemen finally arrived. I explained to them what happened and that I wanted the man who had urinated in my cab arrested. What happened next felt worse than what I had just been through. The police refused to arrest the man because there was “no independent witness,” and would only give him a ticket. The police barely asked me any questions and did not seem interested in what I was describing or writing anything down. I was so humiliated in front of these men who had been so abusive to me.*

*The days that followed were even worse for me. I couldn't sleep and had nightmares. I was alone, thinking about my family back*

*home, how I had been trying for ten years to get them to join me here and now I was wondering if this was a good place for them after all. I thought about not driving a taxi any more, and just leaving the U.S. because it seems things are getting worse for Muslims. But mostly I thought of the humiliation I felt at how I was treated by police. I had to get help from SAN for the police to pay attention to me. We had to fight to get them to see that what had happened to me was a hate crime. They kept excusing the man, saying he was just drunk, and I felt they were not willing to believe me and that it was up to me to prove what I was saying. As I suspected, they had not even included what I told them in their report. We finally convinced the police to charge the man with a hate crime, and he pled guilty. My fellow taxi drivers had told me to expect this but I had to learn for myself.*

### Asha Bahl

*My name is Asha Bahl and I migrated from India. I was able to buy my own condominium in Mission Viejo in Southern California almost thirty years ago. Our gated condo community is mostly white, with just a handful of people of color, and myself the only Indian. In 2003, new Home Owners Association (HOA) Board Directors were selected and I began to regularly encounter racial slurs and harassment. The new Board Directors repeatedly and deliberately mispronounced my name as “Brown” instead of “Bahl” even after I corrected them. I received warning letters and notices of fines from the HOA for hanging laundry to dry on my removable rack and for displaying an Indian flag from my balcony, things I had been doing for years without any problems or complaints. One HOA Board Director would constantly and openly sit in her car in front of my condo, watch what I was doing, and take photos of my flag, my clothes rack, and of me. I heard a Board member say, “Now we live in Calcutta” as they walked by my balcony and saw my Indian flag.*

*I lived this way for almost two years, and my attempts to fight back were either ignored or made things worse. Finally, with SAN's help, I filed a complaint with the Orange County Fair Housing Council, and I believed I would finally get some relief and protection. But I was only further disappointed when more than a year passed, our calls were ignored, and it became clear that this Housing Council was failing me.*

*Six months later, and even with all that I had been enduring, I was shocked to learn of a letter that several homeowners had sent to the HOA, thanking them for having forced me to give in to their complaints. They wrote:*

*“I could not sit on my deck, walk down my staircase or drive out of my garage without looking at this flag, which interesting enough flew day and night so it became dirty and dingy looking (obviously, she has very little respect for her own country flag). I sincerely believe, that not only has Asha Bahl not served this Country, but has freely and flagrantly used the benefits of our Country and all the freedoms and opportunities we have to offer and that she is not sincerely interested in our history or the sacrifices that were made to allow her the benefits she has. Her lack of respect is unconscionable, discriminatory and disrespectful.”*

*It seems that this letter was finally something that went too far and could not be ignored. But it was also clear that it took me getting help from groups like SAN and the Housing Rights Center and filing formal complaints to finally have my rights recognized. I eventually received a letter from the HOA telling me I was free to fly my flag and dry my clothes. And a few months later, the HOA issued a notice that a HOA Director was found to have engaged in “blatant racial discrimination” and removed from the Board.*

*Even though I was relieved by these changes, I could not help thinking that it should not have taken this long and with so much suffering on my part to have my rights respected. I learned that it is almost impossible to be heard without community support, and how the laws can be weak and ignored. The HOA, which is legally responsible for protecting us as homeowners, instead violated my rights, which made other homeowners feel free to do the same. I felt I was fighting from two sides: against the HOA for violating my rights, and with the government agencies that failed to enforce the laws or support me in that struggle.*

## **Sakina Begum**

*My name is Sakina Begum. I came to the U.S. from Bangladesh to work so that I could support my children who I had to leave back home. I was brought here as a domestic worker and after I left that job, I worked mostly as a cook.*

*In June 2008, I started working as a cook at a Bangladeshi restaurant in Artesia, CA. About a year and a half later, a new cook was hired to work in the kitchen as well. On his very first day at work, he started saying things that made me feel very uncomfortable. Later on, it got worse. He began to rub up against me in the small space we had in the kitchen, and doing other vulgar gestures. I felt humiliated, disgusted, angry, and desperate. I dreaded going to work. Although I reported these incidents to my managers, they did nothing about it and let the cook continue to harass me in this way for weeks. I was afraid and ashamed, and when the managers refused to take any action I felt even more helpless.*

*I finally went to SAN to ask for help because I had no other place to go and I do not speak English. When the owners found out that I had gone to SAN, they got very angry and tried to force me to sign some papers. Since I refused to sign any papers that I did not understand, they threw me out and even threatened to hurt my husband and me. After that, I called the police because I felt my life was in danger.*

*I also filed a complaint with a government agency about the harassment and the other things that happened to me at the restaurant. But nothing has been resolved and I have been out of a job for more than 8 months, while the man who harassed me is still working there. On top of that, the owners of the restaurant have filed a lawsuit for defamation against my husband and me because I tried to get help by talking to SAN.*

Analysis: International law quoted above makes clear that governments have an obligation to protect and support anyone whose right to physical and mental integrity has been violated. But, as these stories show, sexual harassment, discrimination and hate crimes go hand-in-hand with the government’s failure to meet this obligation, and, in the process, also violating the survivor’s Right to Effective Protections and Remedies (covered below). In no case where the survivor sought protection or intervention by the government was there an effective or meaningful response. Ms. Bahl, the condo owner, was left with no viable recourse at all when the HOA, a state-incorporated entity legally designated by the State to protect the interests of all homeowners, was itself the violator of her Right to Physical and Mental Integrity. Ms. Begum’s story shows the common situation of abuse, isolation and physical harm that immigrant workers experience, which the State tacitly condones and perpetuates by its failure to monitor and protect.

As is often the case, U.S. laws as written claim to bestow rights such as the freedom from hate crimes. However, the levels and types of proof required to show these incidents occurred, in effect make these laws useless. The government additionally violates the survivor’s rights by treating his/her allegations of hate crimes with suspicion, blaming the victim, and refusing to treat the violence as a hate crime, even in the face of racial epithets and physical violence, such as what Mr. Zeman experienced.

These stories also serve as examples of how the U.S. government bears responsibility for the actions of private individuals. By practicing discriminatory laws against whole communities, the government foments an atmosphere where it is clear to both perpetrators and survivors that hate violence is acceptable by law enforcement as well as other sectors of the State’s justice system. Policies such as the Los Angeles Police Department’s (LAPD) i-Watch Program encourage members of the general public to view communities, including South Asians and Muslims, as suspicious and dangerous groups that must be watched. This program’s materials urging the public to “report behaviors and activities that make you feel uncomfortable or do not look right” in order to “protect our city and our nation from terrorism” can easily serve as the LAPD’s official seal of approval to discriminate, harass or worse.<sup>3</sup>

## RIGHT TO HEALTH CARE AND SOCIAL SERVICES:

### Obstacles in Accessing

*“States undertake...to guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin,...to public health, medical care, social security and social services...”*

*- International Convention on the Elimination of All Forms of Racial Discrimination*

*“States recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health...Special protection should be accorded to the mothers during reasonable period before and after childbirth.”*

*- International Convention on Economic, Social and Cultural Rights*

One of the main activities of SAN’s Health Unit is helping community members understand and navigate the State’s system of health care and other services, and to work with these community members to challenge unfair practices and decisions. These are the stories, as told by SAN staff, of what community members face and attempt to deal with on a daily basis.

### Health Eligibility

*Several years ago, a man came to see us about his daughter who needed medical care. At that time, she had already been living in Downey for about five years, with her father, stepmother, and three siblings in a small one-bedroom apartment, almost like a hotel, with very limited income. Five years earlier, while still in Pakistan, she had been diagnosed with a brain tumor and had surgery. But since arriving in the U.S., she had not received any treatment or medical attention for her condition. We were able to help her get medical help and begin treatment but she was still too ill to work.*

*She eventually went to live with her immigration sponsor and his family but he was not able to support her so she came to see us for help. We had to tell her she was not eligible for assistance because, according to the rules, she had not been an immigrant long enough to qualify. Her sponsor became nervous and fearful for himself and his own family because he had agreed to sponsor her but now found himself unable to support her. It took us a few days to find shelter and donations from a local mosque for her, but when we contacted her to let her know, we learned that they had given up hope. They had sent her back to Pakistan, where she is now in danger of losing her U.S. legal immigration status if she stays away too long. We have not heard from her or her family since then. When she was sent back, she had been close to being eligible for U.S. citizenship.*

### Medical Benefits

*This man came from Pakistan to the U.S. with his family over ten years ago as a legal resident, and started working full time right away. While still in Pakistan, he had been diagnosed with blood cancer, and received some treatment. He thought he would be able to continue treatment here but things have turned out very different from what he had hoped. He works full time as a truck driver for a grocery warehouse but his employer does not offer medical benefits. He makes very little money but it is enough to make him ineligible for Medi-Cal. He and his family have no medical insurance so he has not been to a doctor since coming to the U.S. Now, he is afraid to even start treatment for his condition because he would not be able to work while in treatment and that would leave his family with no support.*

### Unemployment Insurance

*A Bangladeshi man worked at the same place, a gas station, for almost thirty years. He always paid his taxes and has a valid Social Security number but no immigration papers. About three months ago, there was a change in management at his job, and he was fired. He was only told that he was no longer needed. He applied for unemployment insurance benefits but was denied because of his immigration status. He and his wife have no idea what they are going to do now.*

### Medi-Cal Qualifications

*A husband and wife could not find work, so they were living off their small savings until something came up. When she became pregnant, they looked for medical care but the cost of services or health insurance was much more than they could afford. Seeing no other option, she applied for Medi-Cal but was told that the amount of their savings was more than the Medi-Cal program permitted, and that, because they had no income, they had to submit a “letter of support”,*

*which they could not do because they didn't know anyone with a high enough income. So the husband took the first job he could, and they started to spend down their savings faster than they originally planned. In the meantime, the wife was not getting prenatal or any other medical care.*

*They spent down their savings and thought she would qualify for Medi-Cal. But this time they were told that, according to Medi-Cal rules, the husband's income was not enough for their monthly expenses. On top of that, the Medi-Cal program would not count the savings they used toward their monthly expenses, even though their savings were now down to the permitted amount. They were so confused: if their income is low enough to qualify for Medi-Cal, the system questioned how they could survive. If their income is "high," then they don't qualify.*

## **Language Assistance**

*The only language assistance available for South Asians seeking health care or other services is at the first office visit at the Department of Public Social Services. After that, community members are not able to speak directly with their caseworkers by phone because the caseworkers don't speak their language or do not pick up the phone. All follow-up paperwork and mail is only in English so it is difficult to comply with requests, understand deadlines, or even know that they have been denied, usually for failing to respond on time. They find this out only when they try to see a doctor. They come to us because their Medi-Cal is "not working" and they do not understand what is going on.*

## **Medi-Cal Processing**

*A family came to the U.S. from Nepal with their approved lawful permanent resident status stamped into their passports. They were told their green cards would be sent to them in the mail in a few months. They looked into medical services, especially for their children, but were told the stamp in their passport was not enough and that they needed to wait until they had their actual green cards. When they finally received their green cards, they went back to the Medi-Cal office where copies were made, they were given receipts, and told to wait 4-5 weeks. After this time passed and the family had not heard anything, they came to SAN for help. We called the social worker but she refused to talk with us without written permission from the family, even though they were right there trying to give permission over the phone. We sent the written permission, waited a week then called the social worker who told us she did not have the copies of the green cards, even though they had issued receipts for them. We re-sent copies of the green cards, waited another 4-5 weeks then called, only to be told that they again did not have the copies. By now, three months had passed. We sent a third set of copies, called a week later, and were told that written permission from the family was needed before they would speak with us about the case.*

Analysis: These stories paint a stark picture of the lack of a safety net faced by all low-income and working poor families. Equally vivid are the indignities and emotional traumas that seem almost required to be endured when attempting to access services. The result can be a form of self-internment, where community members, feeling guilty, ashamed, or unworthy, step back from asserting their rights. Additionally, the myth of the State's superiority in democracy and justice make it easy, and dangerous, to accept the notion that at least things are better here than in our home countries.

The recent health care reform debate exposed the depth of the State's violation of its obligation under international law to "guarantee the right of everyone...to public health, medical care, social security and social services." In South L.A., thousands of residents were driven to spend months in 2009 to collectively develop a Declaration of Health and Human Rights, the first of its kind in the U.S. This document speaks for communities throughout L.A. and the nation when it states that "(t)he health of individuals and entire communities in South Los Angeles suffers when the right to health and available, accessible, culturally appropriate quality care is denied on the basis of employment, income, race, gender, nationality, sexual orientation, ethnicity or immigration status..."<sup>4</sup> The experiences of our community members described above simply add to the overwhelming evidence of the State's wholesale denial of the right to health care.

In May 2010, the U.N. Special Rapporteur on the Right to Health paid a rare visit to the U.S. "to observe whether governments are protecting and fulfilling the globally recognized human right to health."<sup>5</sup> Following his tour of various sites around L.A. County, the Special Rapporteur spoke of his shock at the "huge inequalities" he saw. He spoke of the World Health Organization 2008 report which, "for the first time, made the observation that inequalities were not only in the third world but also in the so-called first world...because people who are in power, who control the reins of power, believe that they should make as much profits as they can, irrespective of whether other people die or suffer."<sup>6</sup>

Against this backdrop, SAN's Health Unit staff must remain alert to the never-ending changes and contradictions in the State's requirements, procedures, regulations, criteria, policies, and hurdles to accessing health care and social services. For community members, this type of guidance is a necessity when attempting to penetrate a system that seems intended to wear down anyone attempting to exercise their right "to the enjoyment of the highest attainable standard of physical and mental health."

## RIGHT TO FAMILY UNITY: Surviving Domestic Violence; Child Custody

*“States recognize that the widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children.”*

*– International Convention on Economic, Social and Cultural Rights;  
International Covenant on Civil and Political Rights*

### “Maya”

*My name is “Maya.” I am an Indian woman, and I lived in the U.S. from 1989 to 1990. I had a child but was living in an abusive relationship. I was here on a temporary visa that was valid only through my husband’s visa. I was totally dependent on him for everything and he took full advantage of this by keeping me completely isolated. When he started threatening to send me back to India without my child, I became very afraid and returned to my home country. My husband never attempted to visit us in India or to reconcile.*

*After two years of not hearing from my husband and not being able to find him, I filed for a divorce in India based on cruelty. I was granted a divorce and custody of my child in June 1995. Even though the court directed my ex-husband to pay alimony and child support, he only paid it for one year.*

*About two years after my divorce, when our son was around seven years old, my ex-husband suddenly contacted me. After that, he had periodic contact with our son by phone and email. I always encouraged their contact because I did not want to deprive my son of his father. In the meantime, I focused all my energies on raising my son in a positive environment. When my son was granted a full scholarship to a university in the U.S., I was elated. I told my son to contact his father with the thrilling news. However, when my ex-husband learned about our upcoming trip to the U.S., he filed child abduction charges against me, eighteen years after I had returned to India.*

*Incredibly, I was charged with felony child stealing. I soon learned that the justice system in this country would not accept the divorce and custody orders granted by the Indian courts, and that “child abduction” laws have no statute of limitations so they are enforceable at any time. I learned that the system would not let me claim the domestic abuse I had suffered as my defense because there was no proof - I never reported it to the police because I did not know I could do that. I learned that, if convicted, I could be sent to state prison for up to two years.*

*I did not have enough money to pay the legal fees for a trial so my attorney arranged for me to be interviewed by the Probation Department. They recommended 300 hours of community service and no jail time. So I was stunned to hear the judge sentence me to six months of jail time. My attorney told me this happened simply because of my ex-husband’s words to the judge and his pleas for my punishment. I did not have the resources to appeal or fight any more; loans from friends had already reached \$25,000.*

*I still cannot believe that this could have happened to me in the U.S. I know this will affect me for the rest of my life but I am more worried about the impact on my son and our relationship. He is a U.S. citizen and plans to make his life in this country. This incident makes it very difficult for me to remain here or visit him in the future.*

### Rizwana Shaheen

*My name is Rizwana Shaheen and I migrated from Pakistan. I have two small children and was once married but my husband would beat me so I had to divorce him. I am now a single mother living in Anaheim, CA and share custody of my children with my ex-husband.*

*One afternoon, my children and I were watching a movie in my apartment bedroom. Out of nowhere, I saw two police officers on my balcony and suddenly they walked in the door and entered my bedroom! Without explaining why they were there or even asking permission to come into my home, they asked me about the joint child custody court order. They told me that my ex-husband was downstairs, and that they were there because of a complaint from him but they did not ask my side of the story. I tried to explain the situation to them but suddenly, in front of my frightened and crying children, one officer grabbed and twisted both my arms and held them behind my back. I suffer from tendonitis so the pain was unbearable and I screamed out. I had to go to the medical emergency room.*

*Later that day, I went to the police station to file a complaint about how the officers had treated me. But they refused to listen to me, and I had to keep insisting until a supervisor came out. Even with my arm in a sling and an emergency treatment report, the supervisor said I could be faking my injuries and making false accusations against the officers. Later, I received a letter saying my complaint could not be proven so they were closing the case. I remember thinking how it was almost like when my ex-husband would beat me and get away with it.*

**Analysis:** Issues of domestic violence and child custody are always difficult in any community. Immigrant survivors of violence, usually women, confront additional and very powerful realities. An article in the L.A. Times on January 25, 2010 reports: "Immigrants often see peril in reporting domestic abuse. Many victims still face obstacles in reporting abuse and seeking help. She endured abuse because she feared deportation. Language barriers, financial dependence and lack of information keep victims from coming forward. And those here illegally worry about being sent back to their native countries." Shame is compounded by abusers' threats to have the children taken away, or of withholding immigration documents to prevent a survivor from leaving. Because of the potential harm to this most "natural and fundamental group unit of society," international laws require that "States recognize that the widest possible protection and assistance should be accorded to the family." The U.S. falls far short of this obligation.

Time and again, the State violates the Right to Family Life by failing to assist, much less protect survivors and their children, as both "Maya" and Ms. Shaheen experienced. In fact, this same government is, as pointed out by the L.A. Times, actually feared and avoided due to its own abusive treatment of survivors, even acting as an instrument of the perpetrator, as Ms. Shaheen saw. There is also the damage inflicted by the State's criminal justice system based on retribution and incarceration, which fails to address root causes of domestic violence and leaves the perpetrator even more angry and violent after release.

The State's violation of its duty to protect and assist families goes to the extreme when it takes affirmative steps to actually punish survivors of violence. One example is its refusal to assure survivors that immigration status, theirs or the perpetrators', will not be an issue when reporting abuse. Instead, the State claims it "must" enforce deportation laws whenever possible. This threat of deportation is simply a different form of violence being perpetrated against the very survivors it is supposed to be protecting. Another example of the degree of the government's violations is its abuse of the criminal justice system, most egregiously experienced by "Maya." Having violated its duty by creating an atmosphere hostile to survivors, the government then punished this survivor for failing to report her abuser. Once again, the government served the interests of the perpetrator, abused its power and authority, and utilized every tool at its disposal to punish the survivor, including imprisoning her and damaging her relationship with her child.



## RIGHT TO FAIR CONDITIONS OF EMPLOYMENT: Discrimination at Work; Wage Theft

*“The States recognize the right of everyone to the enjoyment of just and favorable conditions of work which ensure, in particular:...fair wages..., a decent living for themselves and their families, safe and healthy working conditions, equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence, rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.”*

*– International Convention on Economic, Social and Cultural Rights*

*“Migrant workers shall enjoy treatment not less favorable than that which applies to nationals of the State of employment in respect of remuneration and other conditions of work.”*

*– International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*

### Basu Pokhrel

My name is Basu Pokhrel and I migrated to the Los Angeles area in 2005. Soon after I arrived, my friend KP, who also had just arrived from Nepal, and I began working at a convenience store in Norwalk, CA. We worked over 60 hours a week, 10-14 hours a day. We worked constantly, without breaks or overtime pay, which we later learned was against the law. Our employer did not keep time cards either, so we had no official record of the hours we worked. We were the only workers made to do the jobs no one else wanted to do, like cleaning the bathroom. We knew we were not being treated fairly and wanted to do something about it but we could not bring ourselves to say anything because we were afraid of losing our jobs. When I finally left after six months is when I learned about my rights and felt I could write a letter to my former boss asking for my back wages for all the overtime I had worked for him. His reaction? He called my new employer and told him bad things about me to try and get me fired.



### Varun Talwar

“Go home, Middle-Eastern!” “All you lazy f\*\*\*ing Middle Easterners, go back where you all came from!” These are the kinds of insults and abuse I endured for almost a year from my co-workers and even my union representative at the public transportation agency where I worked. Sometimes, I would go to our staff lunchroom and find my name scribbled on cartoons of Osama Bin Laden taped to the walls or stuck in my mailbox. I am a naturalized U.S. citizen. My name is Varun Talwar, and I migrated from India.

I applied for a promotion, but, even though I passed the required exam, it was given to someone who had failed the same exam. My supervisor ignored my complaints, and my written complaints were left out of my personnel file. Soon, my supervisor began passing me up for extra-shifts, and the verbal abuse became even more open.

I tried to file a complaint, but the union rules required that I file it with my union representative, the very person who was most actively harassing and abusing me. When my union representative threatened to call ICE on me, I finally filed a complaint directly with the Metropolitan Transportation Authority, and eventually sued them for discrimination. I won my case but things were never the same for me there and I eventually transferred to another job site.

Analysis: The experiences of Mr. Pokhrel, Mr. Talwar, and Ms. Mendez, who shares her story later in this Report, are examples of perhaps the most pervasive and systematic violations of human rights perpetrated by the State: violations of the Right to Fair Conditions of Employment. From the service sector to the professional sector, worker abuse is rampant in part because the State has for all intents and purposes abandoned its duty to protect workers and enforce labor laws. Given the magnitude of labor rights violations, the State is obligated under international law to take affirmative steps to eliminate discrimination and guarantee all workers “the full and equal enjoyment of human rights and fundamental freedoms.”<sup>7</sup>

On the contrary, the State has not only failed to prevent abuses, it has decreased its outreach and enforcement resources, erected barriers to the complaint process such as experienced by Mr. Talwar, and undermined workers’ efforts to assert their labor rights.<sup>8</sup>

In a complete reversal of its duties, the government has instead chosen to enforce laws that are on their face in violation of international rights. Enforcement of employer sanctions, making it illegal to hire undocumented workers, is at an all time high, and now utilizes the resources of multiple federal agencies. Each of these government actions violates its duty to “take appropriate steps to safeguard” the fundamental right to work and serve to create conditions that actually foment employer abuse.

In 2003, the Inter-American Court of Human Rights clarified the State’s duties to undocumented workers under international law. It’s Advisory Opinion 18 (OC-18) states that “undocumented immigrant workers must be allowed the same labor rights as documented workers and citizens.”<sup>9</sup> The Court held that international principles of human rights prohibit discrimination on the basis of immigration status, [... and] that “the migratory status of a person can never be a justification for depriving him of the enjoyment and exercise of his human rights, including those related to employment.”<sup>10</sup> In blatant violation of these principles, the U.S. continues to develop laws, policies and practices that explicitly discriminate against undocumented workers, including threats of deportation, and ineligibility for remedies such as back pay, reinstatement, workers’ compensation insurance, unemployment or disability benefits. In light of the extent of the State’s violations, Mr. Pokhrel’s fears and eventual courage to speak up is the story of countless U.S. workers, both immigrant and native born.

## RIGHT TO ORGANIZE: Resistance

*“Everyone has the right to freedom of peaceful assembly and association. Everyone has the right to form and to join trade unions for the promotion and protection of his economic and social interests.”*

*–Universal Declaration of Human Rights;*

*International Convention on the Elimination of All Forms of Racial Discrimination;*

*International Covenant on Economic, Social and Cultural Rights;*

*International Covenant on Civil and Political Rights*

*“States recognize the right of migrant workers and members of their families to take part in meetings and activities of trade unions and of any other associations established in accordance with law, with a view to protecting their economic, social, cultural and other interests, to join freely any trade union and any such association, and to seek the aid and assistance of any trade union and of any such association.”*

*–International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*

## Ziba Beauty Center Workers

Ziba Beauty Center is one of Los Angeles’s largest chains of beauty salons, with almost a dozen shops throughout Southern California. It is well known for specializing in mehndi (henna) tattoos and eyebrow threading, a common South Asian cultural beauty practice. It has provided these services to the general public and celebrities.

In January 2008, Ziba told their workers that if they wanted to continue to work there, they would have to sign new employment contracts. These contracts stated that henna and threading were Ziba’s “trade secrets,” meaning that they belonged exclusively to Ziba. The contract also forced the workers to promise not to provide these services anywhere else, and reduced their pay and commissions, even though Ziba had recently raised the prices of their services. All of this was on top of never having provided sick days or vacation pay,

*And forced transfers to other Ziba salons. On January 11, 2008, over 35 workers, many of who already had years of experience before starting at Ziba, refused to sign the contracts and staged a walkout. Five of these workers were immediately fired. A few months earlier, several Ziba workers had attended a community Townhall organized by SAN. At the Townhall, they learned about their rights as workers and found support from others with similar experiences. Similar to the exploitation that workers experience around the world, most workers on Pioneer Blvd. in Artesia, L.A.'s "Little India," are paid below minimum wage, receive no benefits, work long hours and are harassed if they demand their rights.*

*On January 15th, 2008, after several attempts to change the harsh contract and after severe harassment by Ziba's management, including threats of lawsuits if they tried to work anywhere else, the "Ziba 5" and their community supporters protested in front of Ziba's Pioneer Blvd. salon. They demanded health insurance, uninterrupted breaks, the elimination of the illegal contract provisions, no forced transfers to other salons, and an end to retaliation against workers fighting for their rights.*

*Within a week, Ziba agreed to discuss their demands. One month later, Ziba workers claimed another huge victory when the company agreed to completely throw out the employment contract and that threading and henna were not Ziba's "trade secrets." On June 19, a group of former Ziba workers filed a class action lawsuit for the overtime pay, meal and rest breaks the company had refused to provide. Since then, more Ziba employees, including former managers, have testified that company policy was to not pay overtime, require workers to work off-the-clock, and pay a flat rate of \$50 for 8-11 hour days. Some employees who spoke out about these abuses were fired.*

*In March 2010, the court agreed that the case would proceed on behalf of over 315 former and current employees. In the meantime, four of the five originally fired workers have opened their own beauty salon, WOW Beauty Center in Culver City, providing threading, henna and other services. When asked about their victories, one worker said "it is a victory for everyone, for all workers at Ziba. This shows us, when we stand together, we can do anything. It is a lesson for the owners that when workers come together and fight for their rights, they will win!" Another worker, who decided to work in another beauty*

*center, said she felt very happy because "we are finally free to work anywhere we want to!"*

## **Los Angeles Taxi Workers Alliance**

*For 18 years, Sentayehu Silassie, a 58-year-old immigrant from Ethiopia, drove a cab in L.A. He wanted to speak out in the face of poverty wages, health problems and abusive working conditions experienced by virtually every taxi driver he knew. Working 72-84 hours per week, earning only \$8 per hour (including tips), receiving no health or workers' compensation insurance, forced to pay thousands of dollars annually to their cab company for the privilege of driving, suffering severe back and leg pain and other health problems from driving long hours, facing retaliation from cab companies for airing grievances-- none of this was acceptable to Silassie and a handful of other fellow taxi workers.*

*One day, in 2007, Silassie spoke up at a Taxi Commission hearing and challenged taxi company practices. The next day, he was summarily told by his taxi company to turn in the keys to his cab and soon after expelled from the company.*

*Silassie did not have to face this latest violation of his rights alone. By then, he and several other taxi workers had helped start the L.A. Taxi Workers Alliance ("LATWA"), a worker-led organization.*

*Fighting the taxicab companies, which are responsible for these abusive working conditions, proved to be just the beginning. Soon Silassie and LATWA found themselves taking on the City of L.A. itself for its failure to responsibly oversee the taxi industry, which the City regulates as a public utility.*

*Since then, LATWA has won two meter-rate increases, plus the creation of a \$15 minimum airport fee, which resulted in significant additional annual income for the 3,500 drivers in L.A. They scored a legal victory when a court threw out a lawsuit that seven taxi companies had filed against them to harass and intimidate drivers. The City's necktie requirement, the only one of its kind in the nation, was eliminated as a safety hazard.*

*In 2010 and beyond, LATWA's campaign continues on how to incorporate due process and other anti-retaliation measures in the City's franchise agreement with the taxi companies.*

**Analysis:** Not only were the Ziba and LATWA workers' Right to Fair Conditions of Employment violated, the State violated the workers' Right to Organize by failing to protect them when they sought to exercise those rights. This violation by the State actually worsened the workers' conditions because they were forced to face subsequent threats, harassment, firings and other forms of employer retaliation on their own. It is to these workers enormous credit that they persevered in exercising their Right to Organize. Following its usual pattern, the State not only fails in its duty to protect but also engages in violations of the right to organize, as LATWA has experienced. One of the most egregious and wholesale violations of workers' rights is the State's facilitation of the subcontracting or independent contracting system, which both LATWA and Ziba workers experienced. The National Employment Law Project (NELP) stated in its Report to the United Nations (2007) that the U.S.'s own Government Accounting Office concluded "employers have economic incentives to misclassify employees as independent contractors because employers are not obligated to make certain financial expenditures for independent contractors that they make for employees, such as paying certain taxes (Social Security, Medicare, and unemployment taxes), providing workers' compensation insurance, paying minimum wage and overtime wages, or including independent contractors in employee benefit plans."<sup>11</sup> NELP concludes: "In an era of non-enforcement, these tax and liability advantages often lead employers to misclassify employees (whose work is controlled by their employer) as independent contractors in order to cut their labor costs." Hence, the State's complicity lies, at the very least, in its utter failure to act in the face of known violations.

## RIGHT TO EDUCATION

*“Education shall be directed to the full development of the human personality and the sense of its dignity, shall strengthen the respect for the human rights and the fundamental freedoms, and shall enable all persons to participate effectively in a free society. Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education.”*

*-International Covenant on Economic, Social and Cultural Rights*

*“The education of the child shall be directed to: i. the development of respect for the child’s own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own; ii. the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin; iii. the development of respect for the natural environment.”*

*-Convention on the Rights of the Child*

*“Everyone has the right to education.”*

*-Universal Declaration of Human Rights*



### **“Saira”**

*My name is “Saira” and I am from the South Asian subcontinent. My parents and I migrated to the U.S. on a temporary visa when I was 11 years old, and our immigration permits eventually expired.*

*I always enjoyed school and I did well in my studies. As it was getting closer to my graduation from high school, I began applying to various four-year colleges, like many of my friends. One day, my parents sat me down and explained that I would not be able to go to a four-year college because my undocumented immigration status meant that I would have to pay the much-higher out-of-state tuition, which we could not afford. As an undocumented student, I also was ineligible for federal funding, scholarships or even loans that might have made it affordable. It was very upsetting to see my friends able*

*to go to the schools of their choice to pursue their dreams without me.*

*After saving for two years, I was finally able to attend a community college because of a new state law allowing undocumented students to be eligible for in-state tuition. I was very excited to be going to school, but I was still ineligible for federal funding or most scholarships. My biggest fear was not knowing whether my family and I would have enough money for me to enroll in the next semester.*

*At school, many counselors did not understand my situation. The state law was so new that when I approached counselors with questions, only a few were helpful or even empathetic. Most acted confused, had no answers, told me to come back later, or that I should not even be allowed to attend school like this.*

*In spite of all this, I was eventually able to transfer to a state university where I met a counselor who connected me to other students in my same situation. The university community was helpful, but I still worried about whether I could afford the next quarter of classes.*

*Later, when I decided to follow my dreams and pursue a Master’s degree, I needed my transcripts from the community college I attended. They refused to release them because they said I had lied to them about my resident status. Luckily,*

*the new school I was applying to understood and accepted my unofficial transcripts. Even years later, after I graduated, this community college still refuses to release my transcripts or acknowledge the courses I had taken and the grades and credit I earned there.*

Analysis: The State's policy of denying equal access to higher education based on immigration status is a blatant violation of international law requiring that "(h)igher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means." Even more fundamentally, the wholesale denial of this particular right has ramifications almost beyond comprehension. As exemplified by the sweeping language of this international law, the denial of education to the millions of undocumented youth in the U.S., plus the 65,000 graduating from high school each year, will assure second-class status to entire communities for generations to come. The State attempts to couch its violation by its round-about policies of denying residency status without proof of legal immigration status, and requiring Social Security numbers for admission, thereby making them ineligible for the more affordable in-state tuition and financial aid. This is a cruel irony to these students, given that most of them are raised in this country having come at a young age, many not even knowing they are undocumented.<sup>12</sup>

The few legislative attempts to rectify this have themselves fallen short of international human rights standards. In California, immigration status is no longer relevant for establishing residency but it still determines eligibility for financial aid or loans, placing mostly insurmountable hurdles on high school students like Saira. Nationally, legislative proposals serve as political footballs in the legislative deal depicting how laws are made in this country, with much less than half of intended beneficiaries now eligible, and military service substituted for community service as a means of qualifying.<sup>13</sup> Given the State's claimed commitment to reversing the perpetually high drop-out rate of high school students of color, especially low income, this policy can only be explained as a particularly shameful instance of State-sanctioned discrimination aimed at one of the most vulnerable and valuable sectors of our communities: our youth.



## RIGHT TO EQUAL PROTECTION AND TREATMENT BEFORE THE LAW: Police Misconduct

*“All are equal before the law and are entitled without any discrimination to equal protection of the law...all are entitled to equal protection against any discrimination in violation of this Declaration...”*

*-Universal Declaration of Human Rights*

*“State[s] undertake...to guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of...[t]he right to equal treatment before the tribunals and all other organs administering justice...”*

*-International Convention on the Elimination of All Forms of Racial Discrimination*

*“Everyone shall have the right to recognition everywhere as a person before the law. All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”*

*-International Covenant on Civil and Political Rights*

*“Migrant workers and members of their families shall have the right to equality with nationals of the State concerned before the courts and tribunals.”*

*-International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*

### **Saima Hosain**

*My name is Saima Hosain and I recently emigrated from Pakistan. I lived in an apartment complex in Downey, CA with my family, including my three young children. All the tenants in the building shared a common outdoor area. When my children were old enough, they started attending religious school at the local mosque. My neighbors' children began to say things and make fun of my children, cursing and calling them “Saddam Hussein or Osama.” One day in August 2005, the harassment and threats got worse, and one of the neighbors hit me. My children called the police but when they came, they only listened to my neighbor's story and not my side. They gave me a citation and I was ordered to appear in court. The police did nothing to the neighbor who had hit me. I felt like the humiliation was worse than the blow.*

### **Omar Chaudhry**

*My name is Omar Chaudhry and my family and I are from Pakistan. My parents, sister, brother Usman and I have lived in Los Angeles for over twenty years. My brother Usman was autistic, but like many other autistic people, was very intelligent and highly functioning. In 2008, my brother was living on his own because he wanted to be independent and he enjoyed his freedom.*

*On April 15<sup>th</sup>, 2008, my family received a call from the Los Angeles Police Department (LAPD) that would change our lives forever. They told us that one of their officers had shot and killed my brother on March 25<sup>th</sup>, 2008, a full three weeks*

*earlier. Our family was shocked, confused and angry. We could not understand why they killed Usman, and why the police had taken so long to notify us.*

*In our search for more information, we learned that the police killed Usman at 4am, while he was sleeping in front of an apartment building. The Coroner's office said that Usman was handcuffed when they got to him, almost five hours after he was killed.*

*After my brother was killed, our family looked for help from SAN and other community organizations. We co-organized a vigil at the spot where Usman was killed three months before. We had this vigil to remember him, to get support from others who have lost their loved ones from police violence, and to encourage witnesses to speak out. We got a lot of support and almost 200 people, many of whom we did not know, came to share our pain and support our family. We were inspired to keep seeking the truth.*

*On April 6, 2009, we filed a lawsuit against the police and the government for the killing of my brother and for taking so long to tell us. Because of this, we were not able to have a burial according to our culture and religion.*

*My family will never stop grieving and we will not give up until we get justice for my brother. He was a kind and gentle soul, who loved animals, always got along with everyone and made them happy. He was just 21 years old.*

Analysis: These stories portray the range of violations of human rights perpetrated by the State's law enforcement arm, from its humiliating discrimination against those they are entrusted to protect to the taking of a human life. In a blatant disregard for the depth of its violation of the Right to Life, the State continued its abuse by failing to notify Mr. Chaudhry's family in a humane manner, conduct a timely and transparent investigation, or hold the officers accountable for the murder.

First, Ms. Hosain and her children's Right to Moral and Physical Integrity were violated by their neighbors. Then, the State not only failed in its duty to protect them but violated her Right to Equal Treatment and Due Process by discriminating against her to the extreme of issuing her a citation, impacting the quality of her life in that community.

In the last few years, police officers across L.A. County have killed 84 other people, particularly young men of color, demonstrating the ways that police practices continue to harm many in the community.<sup>14, 15</sup>

## RIGHT TO EFFECTIVE REMEDIES: (In)Justice System

*“Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.”*

*–Universal Declaration of Human Rights*

*“States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.”*

*–International Convention on the Elimination of All Forms of Racial Discrimination*

*“Migrant workers and members of their families shall have the right to equality with nationals of the State concerned before the courts and tribunals.”*

*–International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*

### Muslim Community Services Mosque

The Muslim Community Services Mosque was established in the La Mirada/Long Beach, CA community in early 2001. Shortly after 9/11, the mosque began receiving hate mail that called the Muslim religion a cult and Mohammad a terrorist. In March 2006, the mosque received a letter that said there was “no future for Muslims in the USA.” The letter called Allah the devil and told the Mosque to leave the community. A few months later, vandals sprayed the mosque with BB gun pellets, destroying two of its glass windows. A few days after that, vandals again fired BB gun pellets at the mosque, this time destroying its glass door.

The police refused to treat these incidents as a hate crime, stating that the attacks against the mosque were part of a wave of random vandalisms in the area. However, the President of the mosque believes that the vandals intentionally targeted the mosque because none of the other storefronts in the building where the mosque is located were hit. In addition, the pellets were shot at the windows and door in almost exactly the same

place: near the word “Muslim” and Islamic symbols. The President of the Mosque verbalized the fears and apprehensions of the Muslim community when he said “this morning, when we went there, everyone felt like someone is trying to scare us out of this place ...”

#### “Tariq”

My name is “Tariq” and I am a middle-aged Bangladeshi man living in Los Angeles with my wife and two children. I became a business owner, running both a Bangladeshi newspaper and a grocery store in the L.A. area.

One day, in November of 2001, two men walked into my grocery store. They walked to the side of the register, and suddenly one of them pulled out a gun! I told them to take all the money. While one man pulled cash from the register, the other held the gun to my stomach, the whole time saying things to me like “bloody f\*ing Arab, I’m going to kill you.” When they were leaving, one of the men yelled, “you f\*ing stupid Muslims, you make a lot of money and give us nothing. Have more ready the next time when we come back.” I told the police all of this, but they refused to consider that my experience could be a hate crime.

## Saroja Mendez

*I never worked in that store again. I could not work at all for years after that, and to this day, I still cannot believe what I went through. I don't think I will ever be the same person again. I have problems sleeping and getting up in the morning; I have headaches. I had to sell my grocery store at a big loss, and I stopped publishing my newspaper. Everything I had worked for was gone.*

*I applied to the State Victim Compensation Program because I heard that they provide money to people like me who lost income due to a crime they survive. I felt good that the government provided this kind of support but I soon learned that it was not as I had thought. First, the application I submitted to the local office was not sent to the State office until eight months later. Then, I had to resubmit documents lost by the local office. Finally, over a year after I applied, I received notice that the amount they decided I should get was about one tenth of what I had lost. It felt like a second assault.*

*I decided I had to fight back, so we appealed several times, and finally, in 2007, more than six years I was robbed and after five years of fighting the State for my right to compensation, I was paid what the law requires. The crime against me remains unsolved.*

*My name is Saroja Mendez and I am from Bombay. My life in the U.S. was short – one year, from 2008 to 2009 – but seems like a lifetime of unexpected experiences. I was offered a job in the U.S. taking care of a young woman's newborn twins for one year. But when I arrived in the U.S., nothing was as I had been told. My employer said I would be staying there day and night, not only taking care of the two babies but also her 8-year old daughter plus cleaning the house, cooking, washing, and ironing. I worked 14-16 hours a day, starting at 7am, with no breaks. I was doing everything, seven days a week, and was paid \$700 a month.*

*I told my employer that this job was too much for too little salary. She began screaming and cursing at me, calling me names, and she and her husband threw me out of the house that very same night! I was shocked. I had nothing, not even my passport; I didn't even know where I was. I turned to the only person I knew, another domestic worker from Mexico. Dora picked me up from the bus stop and took me to her church where they gave me shelter until I found another job.*

*At first, I was glad to have found a job at a restaurant and a place to live in the manager's apartment with some of the other workers. But after a couple of months, things got very bad there too. We worked from 9am until at least 10pm, with ten minutes for lunch and one day off per week. We had to stand all the time, even when there were no customers. I used to cry sometimes because they would give us such an overload of work, like a slave. The owner would yell and shout at me all the time, things like "you are not even as valuable as my slippers." In the apartment, I slept on the floor in the hallway. I wanted to leave but I was helpless in this country and had no other shelter.*

*It was Dora who told me about SAN, and they talked to my employer about my salary and that for months, he had not been paying me the legal amount. At first he denied he owed me any money, saying I was lucky he had given me a job and "free" housing. He finally agreed to pay me, even though it was only a fraction of what he really owed me. So he paid me some of what he agreed to but then, when he learned I had returned to India because my visa expired, he refused to pay me anymore. SAN looked into how I could make the employer pay the rest of what he owes me but it seems nothing can be done without me being in the U.S. The amount of money my former employer still owes me would have a huge impact on my life.*

Analysis: One common theme running through many of the State's violations of human rights is its failure to act, whether to implement existing rights or effectively remedy violations. The abuses described in each of these stories violated not only international but also domestic laws. The State not only prohibits the type of hate crime experienced by the Mosque, the police abuse directed at Ms. Shaheen (see pages 11-12), or the labor violations suffered by Ms. Mendez, it also provides mechanisms for reporting, duties to investigate, and remedies, such as the compensation sought by Mr. Tariq and Ms. Mendez. Yet it seems that domestic laws carry no more weight than international norms in holding the State accountable.

The State's refusal to consider that the Mosque was a target of hate violence or that law enforcement officials could have been abusive towards Ms. Shaheen or the many obstacles to compensation faced by Ms. Mendez and Mr. "Tariq" are examples of a common pattern of its violation of the Right to Effective Remedies. This problem is so pervasive it is on the list of findings and recommendations in numerous reports, for example:

*[The State] should offer protection...by ensuring that law enforcement agencies act promptly and decisively to prevent and respond to all forms of racist attacks...Allegations of racist abuses by law enforcement officials should be effectively investigated;<sup>16</sup>*

## Analysis Cont.

*The City shall address the degree to which it provides equal and effective measures for redress of all forms of unlawful violence and harassment based on race, religion, gender identity, immigration status, or form of employment, whether perpetrated by government actors or private individuals;*<sup>17</sup>

*While federal and state policies aimed at combating hate crimes exist, they are often neither fully enforced nor adequately comprehensive... many state and local law enforcement agencies fail to effectively investigate such crimes due to lack of jurisdiction, will, or resources.*<sup>18</sup>

*When survivors persist in pursuing their Right to Effective Remedy, they face a cumbersome and humiliating process, such as Mr. "Tariq's" dealings with the State Victims Compensation Program, or resistance and hostility, such as the State officer's refusal to accept Ms. Shaheen's complaint of police abuse. Her experience, like so many others, is what led Amnesty International to recommend that the State "require police agencies to provide information on action taken in individual cases, with reason for inaction; publicize the complaints procedure within the community and ensure that it is accessible to the public; information about complaints procedures should be prominently displayed in all police stations." Even a study commissioned by L.A.'s Board of Supervisors found that, after reviewing hundreds of deputy misconduct investigations, just 3% of complaints lead to formal investigations and that investigations were inadequate in about one in five cases.*<sup>19</sup>

San Francisco's proposed Human Rights Ordinance recognizes the State's affirmative duty to enforce and protect human rights, as though it truly believed in them: "This ordinance affirms that, in order to fulfill this commitment, the City and County of San Francisco must...effectively respond to the needs and concerns of all residents[...and] ensure full accountability, transparency and monitoring of human rights standards and practices throughout city government." This Ordinance should serve as a model for Los Angeles and other cities to adopt and practice.

## RIGHT NOT TO BE ARBITRARILY ARRESTED; RIGHTS DURING DETENTION: National Security; Police/ICE Collaboration; Profiling

*"Everyone has the right to life, liberty and security of person. No one shall be subjected to arbitrary arrest, detention or exile."*

*-Universal Declaration of Human Rights*

*"Migrant workers and members of their families shall have the right to liberty and security of person. They shall be entitled to effective protection by the State against violence, physical injury, threats and intimidation, whether by public officials or by private individuals, groups or institutions. They shall not be subjected individually or collectively to arbitrary arrest or detention...Migrant workers and members of their families who are deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person and for their cultural identity."*

*-International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*

### "Ali"

*My name is "Ali." I am from Pakistan and used to work in restaurants. On the evening of May 13<sup>th</sup>, 2008, I was driving in Norwalk, CA when I was pulled over by the Norwalk police. The police told me that I was being pulled over because my back license plate was missing. After running my driver's license, the police told me there was a warrant out for my arrest and that they were taking me in. The police asked me what country I am from, what my religion is, where I worked, where I lived and who I lived with. I answered all their questions.*

*At the police station, the officers showed me my cousin's photo on the computer and said that it was me. I tried to explain that it was not me, but the officers would not listen. I was fingerprinted, photographed, and put in a cell.*

*Later, officers without uniforms took me outside and pointed their guns at me. They asked me whether I worked for Al*

*Queda, whether I knew Osama bin Laden and where Bin Laden was. The officers threatened to put me in jail unless I told the truth. The officers asked me personal questions about my sex life and whether I was gay.*

*After eight hours in custody, the police did not charge me with any crime but they transferred me to an immigration detention center. I got very sick there—I was vomiting, had chest pains and headaches, and couldn't breathe.*

*The Immigration officers kept asking me many questions in a very rude way. They asked me about my prayer routine and my religious customs. They offered me a job if I would give up names. When I asked for an attorney, they continued to push me, saying that I had to tell the truth. I told them that I already told the truth to the police officers.*

*I told Immigration that I was afraid to go back to Pakistan. I told them I had been attacked twice by enemies of my family. After two days, I was released from immigration detention with a monitoring ankle bracelet.*

*Even though I have family in the U.S. and have worked here for many years, Immigration is still forcing me to wear the ankle*

### **“Ahmad”**

*My name is “Ahmad.” I am from Bangladesh and have been living in the U.S. since I was 13 years old. I was arrested for possession of a very small amount, less than one ounce, of marijuana. The charge was so minor that, instead of being sent to jail, I went to a drug counseling program.*

*I had been going to my classes for about a month but, before I could finish the program, ICE came to my home. I had a family member in another state who was arrested on federal “terrorism” charges, and had already been in custody for over a year without a court date. My family suspected that we were all being watched by the government. ICE took me to the detention center in Lancaster, CA.*

*In April 2007, Immigration began deportation proceedings against me. At Lancaster, ICE asked me questions about my family and whether I had any connections to “terrorists.” They asked me many questions about my faith, like where I prayed and who else attended the mosque.*

*I applied for asylum. Even though I had family in the U.S. and there was no evidence that I was a danger to society, the Immigration Judge refused to release me on bond.*

*In August 2007, ICE moved me to the detention center in San Pedro. This made my case take longer, and my final hearing was not scheduled until December 2007.*

*bracelet. People from the ankle bracelet monitoring program visit me at home once a month, and I have to check-in in person twice a month. I have lost several jobs because my bosses will not let me miss three days of work each month. Everything that has happened has left me traumatized – I cannot sleep and I worry everyday whether I will be deported.*

*In October 2007, ICE suddenly closed down the San Pedro detention center and I was taken to a detention center in a small town in Texas. I later found out that it took ICE five days to let my lawyer know what had happened. If ICE had notified my lawyer before moving me, like the law says, she could have fought the transfer, advised me of what could happen if I went ahead with my case without a lawyer, or at least, how to contact her after I was moved.*

*ICE tried to transfer my case to Texas even though my lawyer and witnesses were in Los Angeles. They refused to take me to Lancaster for my court hearings, or to let me appear through videoconferencing.*

*While in Texas, I started to have medical problems. I had a boil on my head that was not going away but they only gave me, antibiotics, which did not help. I asked for a test for staff infection but they refused. I made over ten requests to see a doctor and a dentist but was never able to see either.*

*I was not brought to the Friday Muslim prayer service and was forced to pray in the lunchroom, where other people walked in and out, disrupting my prayer time. They planned to cut kosher meals for Muslim detainees. At Lancaster, there was no Friday prayer service at all, and ICE put me in lockdown for praying in my bunk area.*

Analysis: In a way, the arrests of these two community members were anything but arbitrary. They each occurred as a result of very intentionally directed racial and ethnic profiling by the State. Mr. “Ahmad’s” arrest confirmed the family’s suspicion that they were being illegally surveilled by the State, and Mr. “Ali” was subjected to the infamously stereotypical traffic stop. The State’s conduct in the moments leading up to and after the arrests is a series of violations of international human rights.

The State is quite clear, even boastful, about its official policy to expand its enforcement operations directed at non-citizens, resulting in “dramatic increases in the numbers of immigrants who are detained and removed.”<sup>20</sup> In this effort, ICE actively seeks collaborations with, and provides funding to, state and local law enforcement to detain, obtain information from, and identify non-citizens, and to turn them over to immigration authorities. The types of questions, use of force, intimidation, threats, even the initial stops described in these stories are the direct result of and perpetuated by this State collaboration policy. Additionally, though aware that the vast majority of people detained through these policies have mostly minor criminal convictions, the State foments anti-immigrant perceptions by giving these enforcement operations names such as Enhance Safety and Security, Criminal Alien Program, and Secure Communities. The State doubly punishes people who have already served their time by trying to deport them for life.

State human rights violations stemming from the breadth and depth of its prison apparatus are at critical levels in all low income and communities of color. As reported in the L.A. Times on March, 17<sup>th</sup>, 2009, local governments “have found a growing source of income: immigration detention” paid for by the Federal government. “For some cash-strapped cities, the federal money has become a critical source of revenue,” so it is not surprising that two of our three stories tell of ending up in immigration detention after being stopped by local law enforcement. Once caught up in the incarceration system, State procedures and practices are so contrary to international standards that, in 2008, the U.N. Special Rapporteur on the Human Rights of Migrants reported “serious concerns about the situation of migrants in the country, especially in the context of specific aspects of deportation and detention policies.” Given that just two community members of the tens of thousands in detention on any one day experienced so many violations of both international and

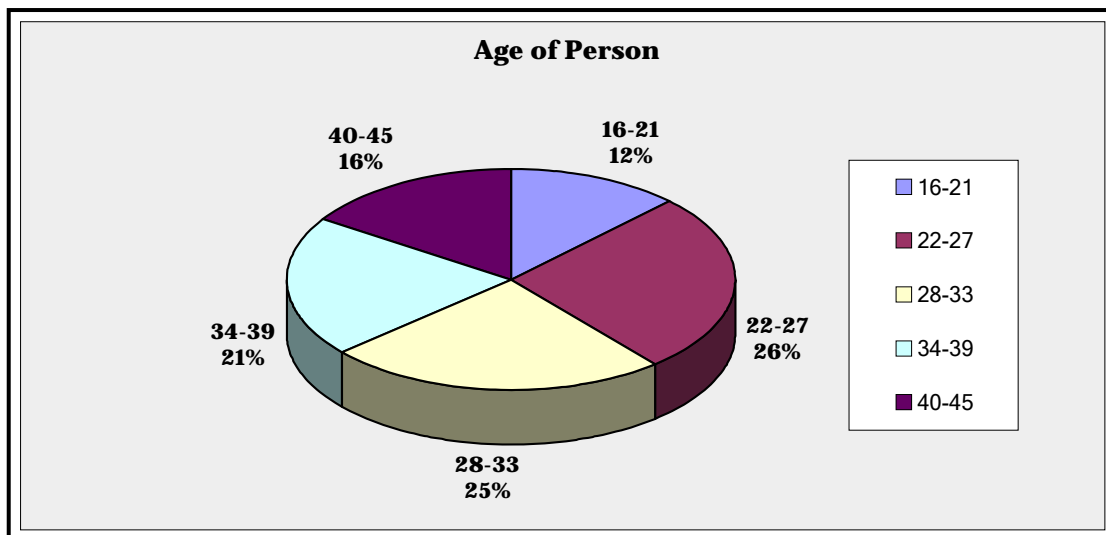
domestic rights –punishment for their religious practice, denial of release from detention, requirement to wear electronic monitoring device, requests to speak to an attorney or for asylum ignored, moved around various detention centers across the country without informing their attorney and resulting in delays in court hearings, denial of medical treatment – it is no wonder that the Special Rapporteur’s report concluded that “the United States has failed to adhere to its international obligation to make the human rights of[...]migrants living in the country[...]a national priority.”

## PROHIBITION OF COLLECTIVE EXPULSION: Special Registration

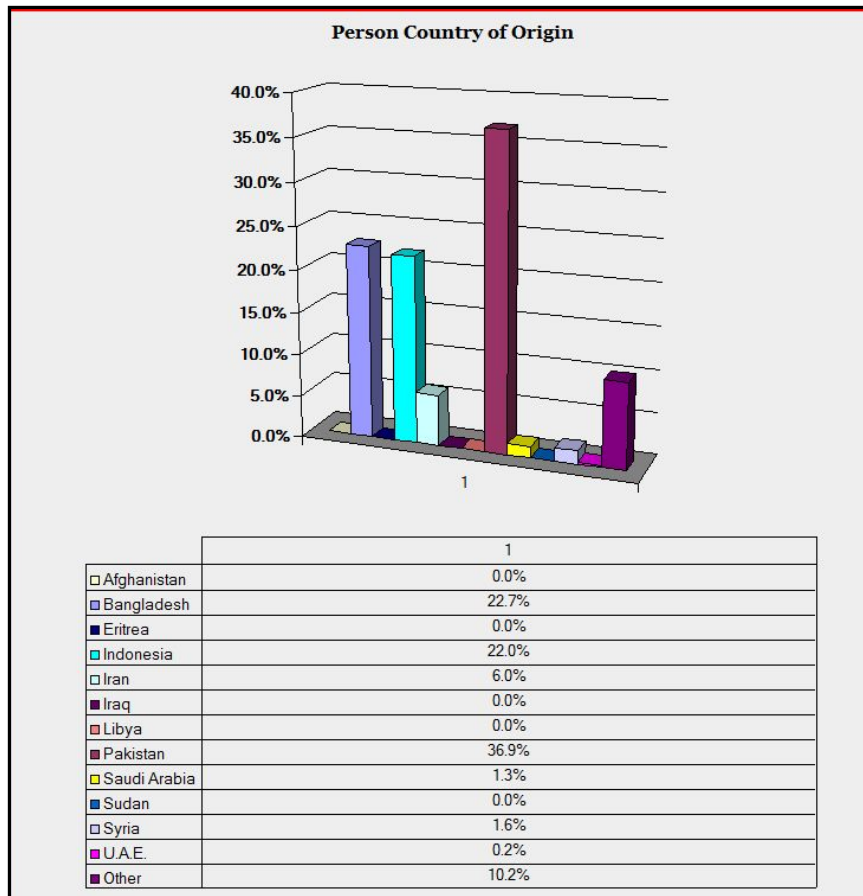
*“Migrant workers and members of their families shall not be subject to measures of collective expulsion. Each case of expulsion shall be examined and decided individually.”*  
*–International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*

In September 2002, the U.S. began an enforcement operation called “Special Registration,” or the National Security Entry-Exit Registration System (NSEERS), that eventually required men, from 25 countries – mostly Arab or South Asian countries with large Muslim populations – over the age of 16 to register with the Immigration and Naturalization Service (now Department of Homeland Security). Men were required to get fingerprinted, photographed, and questioned at an INS office. An ACLU article in 2002 noted that, by the manner in which it was implemented, it was clear this registration process was “not to get information but rather to selectively arrest, detain and deport Middle Eastern and Muslim men in the U.S.” Up to 1/4th of those who registered were arrested.<sup>21</sup>

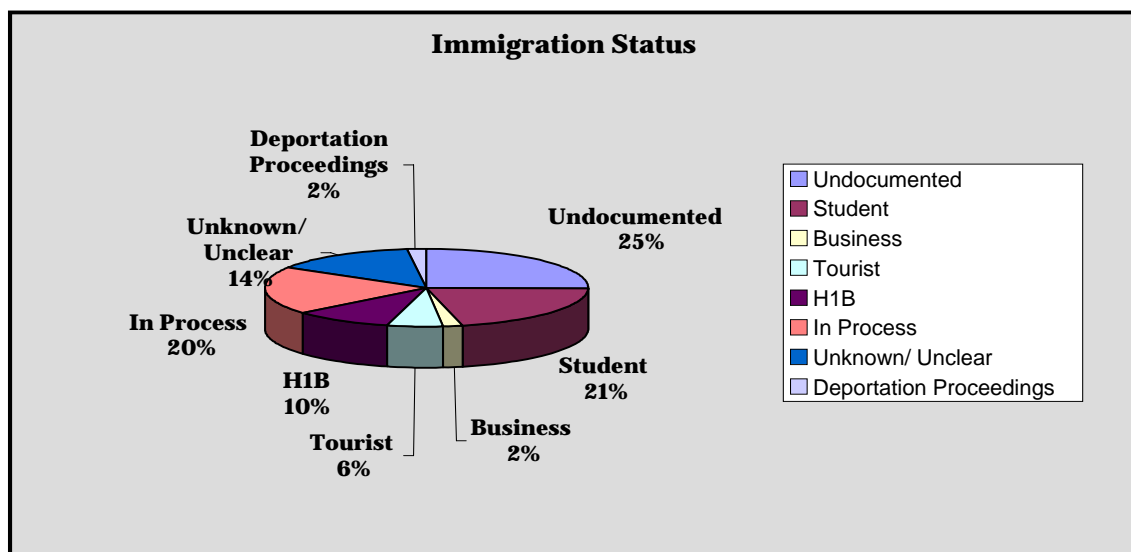
SAN organized Townhalls, legal clinics and set up a table in front of the entrance to the downtown L.A. federal building from January 2003 to April 2003 to provide support and guidance to those about to go in for Special Registration interviews and to track the outcomes as they exited. We noted when someone was put into deportation proceedings, or served with a “notice to appear,” or did not come out at all. SAN volunteers completed an intake with these community members, collecting information such as the person’s name, age, status, date of entry to the U.S., number of family members, language, occupation and health access. Below is SAN’s analysis of 471 of the approximately 700 intakes collected during this period. Our intent is to paint a picture of who was impacted by Special Registration and how they were affected.



Age ranges of registrants were evenly spread across 5-year cross-sections of 16-45. Those impacted by the registration process, then, cut across all ages.



Bangladeshi, Indonesian and Pakistani men represented the highest percentage of men who registered interviewed by SAN.



Since the Special Registration process required non-legal permanent residents to register, SAN also tracked persons' immigration status. While 39% of registrants had valid non-immigrant visas, it is

important to note the number of registrants who were “undocumented” versus those who were “in-process.” SAN feels it is important to call attention to the percentage of community members who currently qualify for legal status and have filed immigration applications that are waiting to be processed. They are kept in an “undocumented” status by a State that considers it more important to its resources into enforcement rather than of application adjudication, and maintain racist and discriminatory quota systems that keep eligible applicants waiting in line for years, sometimes decades.

Analysis: South Asian Americans Leading Together (SAALT) states in a recent report that “as a clear example of profiling based on religion and national origin, with the exception of North Korea, the list (of countries) was exclusively comprised of Arab- or Muslim-majority countries, including Bangladesh and Pakistan.”<sup>22</sup> Special Registration joins previous State policies, such as Chinese exclusion, Japanese internment, and Mexican deportation, as one of the most blatantly racist laws and executive orders passed in this nation’s history.

More than simply leading to or resulting in profiling, this policy was written specifically to profile. A State policy directed at an exclusive group described by the broad criteria of nationality and gender violates international law prohibiting collective measures and requiring that cases be “examined and decided individually.” “Moreover, that nearly every individual identified was Muslim and male should be morally and socially troubling.”<sup>23</sup>

While Special Registration is not on its face a policy of expulsion or deportation, “thousands of special registrants, who voluntarily complied with the domestic phase, have faced deportation.” One State official actually “referred to special registration as basically ‘an immigration sweep.’”<sup>24</sup> To date, over 13,000 community members have been placed in deportation proceedings.<sup>25</sup> Numerous others who failed to register because they were unaware of the policy due to the State’s inadequate outreach are now being put in proceedings or live with that possibility. As stated in an immigration court ruling that stopped the deportation of an Egyptian citizen, the procedures followed in the Special Registration Program violated the individual’s constitutional rights.<sup>26</sup>

That “(t)here has been no evidence to show that any counterterrorism information was obtained through this program” is no surprise. But, that State officials themselves “raised doubts about the benefits of the special registration program” PRIOR to its implementation reveals expulsion as the intended outcome.

## **RIGHT TO SOCIAL SECURITY: Freedom of Expression and Identity**

*“Everyone, as a member of society, has the right to social security and is entitled to realization...of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.”*

*– Universal Declaration of Human Rights*

*“All migrants without exception of any kind have the right to...freedom of thought, conscience and religion.”*

*–International Covenant on Civil and Political Rights*

*–International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*

*My name is Farhana Shahid and I migrated from Pakistan with my family almost twenty years ago. I have three young boys, ages 13, 11 and 3. I am a Community Advocate at SAN and my husband, Shahid Raja, has been a taxi worker for 11 years. There have been many things about our lives here that we would never have thought to expect.*

*One of my most constant fears is my husband’s job. He works throughout the night, and gets questions all the time from passengers asking where he is from, what his religion is, what he thinks about the situation in the Middle East. Once, about two weeks after 9-11, my husband picked up a passenger who began shouting at him that “all Muslims are terrorist, they are responsible for the attacks.” My husband called the police but they said nothing could be done. He knows many other taxi workers who have had these kinds of experiences and even worse. Because of this, each time my husband leaves for work, I am scared for his life, not knowing if he will come home safe that night, or be hurt in some way. I am so afraid of losing my husband and my sons losing their father just because of ignorance and hate.*

*Many of my friends tell me I should not wear shalwar-kameez (our traditional Pakistani clothing) because of the comments and insults we have experienced. Things have never been easy in this country but, ever since 9-11, I have felt less secure or free to show myself, my culture and religion, all the things that make me proud of who I am. My friends and I talk about how, as Muslim women, we are scared of identifying ourselves as Muslim, we are afraid to practice our religion, go to the Masjid (Muslim place of worship), wear a hijab, tell people our names, or even be seen with others in our community.*

*I have several family members who have been questioned or detained by the government. One time, my older brother was traveling from Virginia to Florida. He was detained overnight and interrogated by the airport police and FBI. His first name is Mohammed, and I believe he was targeted by these officials. My brother was not allowed to make any phone calls and no officials called to let us know they had detained him so we had no idea what had happened to him. We did not sleep the whole night. We felt frantic and helpless; all we could do was pray that he was safe. Finally, at 6 a.m. the next day, we made contact with him at the airport, and were able to pick him up.*

*This constant fear that is with us is even harder to explain to my children. We can see that our children are being treated differently and are looked at suspiciously. My children once asked me what they should say when they are asked by others whether they are Muslim. They asked me if they could say that they are African American. I told them they should say that they are Muslim and from Pakistan, because that is the truth.*

Analysis: Unlike our concept of Social Security (the federally funded benefit program), this term is instead equated with Human Security in the international rights context. "Human security...broadens the focus from the security of borders to the lives and communities inside and across those borders. The idea is for people to be secure, not just for territories within borders to be secure against external aggression...Human security in its broadest sense embraces far more than the absence of violent conflict. It encompasses human rights, good governance, access to education and health care, and ensuring that each individual has opportunities and choices to fulfill his or her own potential."<sup>27</sup>

While the right to live with dignity may seem to pale in comparison to, say, the right to humane working conditions, "human rights are indivisible - all rights are of equal value and cannot be separated... No human right can be realized in isolation from other rights."<sup>28</sup> Violations of Social Rights - such as Ms. Farhana's fears for her family's safety or inability to freely express her religion - are often linked with civil and political rights violations. Her full enjoyment of the right to freedom of expression requires concerted efforts to protect her right to be free from violence or even the fear of violence.

The U.S.'s own words confirm the depths of its hypocrisy and the challenges we face in confronting its structural failure: "at best, economic, social and cultural rights are goals that can only be achieved progressively, not guarantees. Therefore, while access to food, health services and quality education are the top of any list of development goals, to speak of them as rights turns the citizens of developing countries into objects of development rather than subjects in control of their own destiny."<sup>29</sup>

## Not a Moment in Time, But a Continuation of History

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*The process of creating this report at SAN's 20-year mark was an opportunity to take stock of this juncture in our "Journey to Justice." To gain perspective on the challenges we face, where we are at and where we need to go, we began with a historical look at the struggles of marginalized communities and the structural foundations of State oppression.*

### The Changing Faces of Hate

In the U.S.'s social, legal and cultural imagination, the idea of the "Other" has historically had a particular "face" attached to it. This "face," invariably defined on the basis of race, refers to a particular group that is painted in the public eye as not only being different but also as a group to be shunned, feared, and viewed with suspicion. In the State's hands, this "trajectory of structural demonization" has many official powers at its disposal, from law enforcement to legal interpretations to its welfare commitments, which are manipulated to violate the "other's" human rights.

Beginning with indigenous peoples, the State created the image of the "savage," a convenient "face" at a time of U.S. colonialism, missionaries, land grabbing and empire building. The rationalizations of "civilizing the uncivil" and "helping to improve" indigenous peoples' way of life were attempts to cover the reality of the State's devastation and displacement of an entire people.

The next "face" to be demonized as "the other" was that of African-Americans (typically male) as "criminals," followed by the Chicana/o face as "illegal," the Asian face as "disloyal,"<sup>30</sup> and the fifth, most recent, face: Arabs/Middle Easterners/Muslims/South Asians as "terrorists."

This is not to say that the demonization of each of these faces has a beginning or an end. On the contrary, the stigmas remain, even while one group or another might temporarily dominate the public imagination. So it is that at any given moment, the government may issue policies and proclamations such as Manifest Destiny, Jim Crow laws, Chinese exclusion, Mexican Repatriation, Japanese American internment or Special Registration, and be able to get away with it. In fact, these official State actions come about precisely because of racist, anti-"other" public sentiments, and, in turn, fuel discrimination, fear, hate crimes, and other forms of violence, implicitly sanctioned by the State's own actions.

It is in this context that SAN was launched in 1990 not solely for the empowerment of South Asians but firmly grounded in the notion of the intersectionality of our issues in solidarity with other communities in struggle.

### Where We Are

Within this broad network of social justice actors lay many layers of divergent, even opposing views. One area of concern is the professionalization of our movement, similar to many other sectors such as

the environmental and LGBTIQ movements. Over the years, this trend has led to an over-reliance on legislative campaigns with an eye toward catering to, rather than changing, negative public opinion or misconceptions. We have seen a shift towards top-down strategies and DC-centric analysis replacing principals with “pragmatism.” This push toward political expediency to gain a perceived sense of victory (even if just for a short term) sacrifices our accountability to the very communities we claim to represent. Though going as far back as the mid-90’s when increased border enforcement first emerged as an acceptable concession by immigration policy advocates, it is the last few years of “comprehensive immigration reform” campaigns that have crystallized our differences. The appeasement to never-ending enforcement measures by some of our colleagues has been so shameful that, during a closed-door meeting where immigration legislation was being negotiated, one anti-immigrant legislator was moved to ask our advocates “don’t you people have a line in the sand?” Aside from the selling out of our role as advocates for short-term goals over long-term social justice, this strategy has done nothing but barter away the rights of our communities toward harsher enforcement measures and forced military enrollment in exchange for a largely illusory legalization program. Our refusal to bring the voices of those who demand more has turned community organizers into lobbyists.

A related issue is the growing role many funders play in shaping our substantive demands and strategies, and in the types of organizations prioritized for funding. Their focus on national coalitions and policy advocacy groups that are focused primarily on legislative “campaigns” and strategies such as polling, focus groups, media-framing, etc., have taken away the platform from the directly affected communities and instead marginalized them by allowing others to speak on their behalf. This selection process is then a reflection of how grassroots movement building and community organizing work is deeply under-valued. While this reality does not dissuade us from our mission and vision, it further emphasizes the need for us to decrease our near complete reliance on foundations and their political agendas.

## Where We Need to Go



We take a critical view not only of colleagues and allies but also of ourselves, as an organization and as individuals. Too often we are guided simply by what we are opposed to, without a clear articulation of what we support, what we see in place of the current system, and how to achieve it.

For SAN, the State represents deeply imbedded racism, white supremacy as well as a certain psyche and mindset in the population that accepts unquestioned power and hierarchy based on race and capitalism. As such, while we work on short-term incremental reforms, we are working towards abolition of inherently unjust State institutions,

such as prisons and borders. In its place, communities should be able to make their own decisions, work within different economic systems, employ community-based solutions and live in a society run based on our principles. In other words, we seek to transform the global economy and develop socially just and economically sustainable communities.

In seeking ways to put these views into practice, SAN was drawn to the model of **Transformative justice (TJ)**, a long-term and pro-active strategy for internal and external transformation. In response to the State's refusal to guarantee justice to individuals or communities, TJ seeks a different approach to dealing with issues of violence in all its manifestations, from hate crimes to denial of health care to violations of labor rights. It seeks safety, accountability and prevention without relying on alienation, punishment, or State violence, such as policing and incarceration.<sup>31</sup> The inspiration that TJ provides is its vision of communities that are self-sustaining and minimize the involvement of or need for the State. In some ways, these alternative approaches are not new concepts but simply use a language transformed by today's realities.

SAN has grappled with putting this approach into practice throughout our community work. Applying this approach with individual community members who are on different sides of a dispute helps begin the process of self-reflection, and an eventual transformation around the larger issues of oppression and injustice. Used in combination with international human rights frameworks, it can help frame our demands and provide support for our positions.

But the TJ approach does not address all aspects of each problem, nor are justice and resolution always clearly identifiable. For example, viewing this approach through the eyes of one who has suffered a human rights violation provides a completely different picture of what "forgiveness" and "resolution" means to that person. It may be that after experiencing a hate crime, the survivor may simply want to see the perpetrator in jail, though that is not what this alternative model proposes. We are also mindful of not promoting or imposing one "system" for another, reminding ourselves to remain grounded in reality by our very real human limitations.

Perhaps most challenging is applying the TJ approach to us as a social justice organization and as individuals; from the manner in which we are structured and governed, to how we view and treat each other. The political and social transformation we seek comes not only from the bottom up but more significantly from within and in our daily lives. We see this as a lifelong work in process.

At this moment in history, South Asians in the U.S. stand at a crossroads with regard to their individual and collective life. While the current climate of fear has the potential to lead to further isolation and fragmentation along entrenched gender, class, national, religious and generational lines, there is also tremendous opportunity for South Asians in the U.S. to recognize their common concerns, bridge their internal divisions and form coalitions among themselves and with other marginalized communities to work toward a future of equity, peace and justice. It is also an opportunity to take stock of what "organizing" and "activism" means in our communities as compared with other sectors of the immigrant rights and social justice movement, to claim our own definitions of those terms in both content and stages of development, and to move forward in bringing that voice to our common goals and aspirations.



## About SAN

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South Asian Network (SAN), founded in 1990, organizes the L.A. South Asian community by raising awareness, providing direct services, advocating with, and empowering members to address the social, economic and political issues that affect them. As the South Asian community continues to grow, SAN, as a grassroots, community based organization, is committed to challenging systems of inequality, building solidarities with other similarly placed communities, and designing strategies to protect economic, political, and human rights of all communities.

Throughout 20 years, **SAN** has established trust and credibility within the South Asian community. The organization has successfully addressed the very issues that typically divide South Asian immigrants – religion, nationality, language, gender and sexual orientation- recasting them as necessary elements of a progressive South Asian American community and a multiethnic Southern California. **SAN** provides a safe and nurturing space for community members to congregate, learn from one another and collectively address the issues that draw them together.

Community Stakeholders have created an intersectional, multilingual, and culturally competent approach to community organizing across three program units: 1) AWAZ Voices Against Violence Unit, 2) Community Health Action Initiative (CHAI) Unit, and 3) Civil Rights Unit (CRU). SAN's programs span L.A. County and focus on three geographic areas with dense South Asian populations: Artesia area, Koreatown, and South Bay.



South Asian Network  
[www.SouthAsianNetwork.org](http://www.SouthAsianNetwork.org)

## About the Southern California South Asian Community

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Los Angeles ranks among the top five metropolitan areas with the largest South Asian populations in the country, estimated at 400,000 persons. (SAALT Nov 2007) The South Asian community in L.A. is diverse, consisting of persons of Bangladeshi, Indian, Nepalese, Pakistani and Sri Lankan origin from Buddhist, Hindu, Jain, Christian, Muslim and Sikh traditions; first generation immigrants and first generation U.S. born; speakers of Bengali, Fiji Hindi, Gujarati, Hindi, Nepali, Punjabi, Singhalese, Tamil and Urdu; persons of varying income and educational experiences, and persons of different sexual orientations. South Asians live in diverse geographies, while concentrated in Artesia/Cerritos/Norwalk/Lakewood, South Bay (Inglewood, Hawthorne, Lawndale, Lomita, Torrance), Koreatown, Long Beach, Palms, San Fernando Valley (Canoga Park, Northridge, San Fernando, Van Nuys), Walnut/Diamond Bar and parts of Orange County.

South Asians make up one of the fastest growing populations in Southern California. While L.A. County's total population grew 7% from 1990 to 2000, its Indian population grew 63%, Pakistani population 50%, Sri Lankan population 93%, and Bangladeshi population 242% over the same period (Census 2000).

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