

South African Hindu Maha Sabha. Testimony before the Truth and Reconciliation Commission, East London, 18 November 1999. [disclaimer](#)

MR A TRIKAMJEE: When one talks about lawyers and justice and so on, somehow or the other, as lawyers are inclined to be, and I am no exception, we like to brag about ourselves and when I think about the submissions that have been made up until now by many South Africans across the political spectrum, across the social spectrum and now across the religious spectrum, one can't help avoiding telling you this little story. Because of some of the confessions that have been made, some true, some untrue, of three accused persons being charged for murder appearing in a court of law. And when asked by the presiding Judge which one of them was pleading guilty two of them raised their hands and said we're pleading not-guilty. The third one who was the smallest in size of the three, simply said: "Excuse me your Lordship, I want to plead guilty". And the Judge looked at him and said: "Are you guilty of murder?" He says: "No, no I choose perjury" and the Judge asked him why and he said: "The sentence to lie is so much more lenient than the sentence for murder".

Mr Chair, I must preface my presentation by making the comment, and I think Professor Meiring will confirm this, that the Hindu community was advised rather late, through no fault of anybody, these things happen, in making this submission. And our submission inasmuch as we've made them to you were made under a great deal of hurry and rush and we hope that we have done as good a job as we would have like to have done, in the circumstances. We thank you for inviting the South African Hindu Community, represented by the South African Hindu Maha Sabha, to make submissions to the Faith Communities Hearing here in East London today.

As and by way of an introduction, we want to state that South Africans of Indian origin came to this country from about the 16th November 1860 onwards as migrant labourers to work in the sugar industry in Natal. By 1910, three years before the immigration was finally stopped, 133 437 persons had arrived in Natal. Ninety five percent of these were members of the Hindu faith. Today, their descendants form the core of the South African Indian population of 1 million, the largest Indian group outside India. There was another group as well that arrived here and they were known as the passenger Indians who were basically traders and merchants. The Indian immigrants laboured under slave-like conditions on the sugar farms, working long hours from sunrise to sunset and sometimes over 12 hours on a daily basis. They lived in unfurnished barracks and on rations. Children were not provided with education, nor were proper health and hospital care arranged for sick people. It was therefore not surprising that thousands of sugar workers on the farms and mills, together with their women folk joined coal miners from Northern Natal and crossed the Natal/Transvaal border in defiance of the provincial barriers and in protest against the three pound poll tax imposed on all adult immigrants free from their indenture and who still remained in this country. And then of course, we had Mahatma Gandhi. There were many Hindus, both in Natal and the Transvaal, who took part in the first

passive resistance campaign of the 1906 and 1914 era which was launched by Mahatma Gandhi soon after his arrival as a lawyer in South Africa. He later was to develop Satyagraha, a non-violent passive resistance movement in his struggle for equality, justice and human dignity.

On freedom, Gandhi's conception was the co-existence with the freedom of man. To him, truth was that there was the higher nature in every human being which is the reflection of truth or God. He had implicit trust in the goodness of human nature. Gandhi told us of the bravery and sacrifice of the ordinary Indian labourer, mainly Hindus, but also of other faiths who fought with courage and bravery during the campaign of protest and voluntary jail, of assaults on the resisters by the police and of cruel jail conditions under which they served their imprisonment. As a preamble to this presentation, it is important to note that Hindus regard all forms of life as being endowed with supreme spirit, but at different levels of manifestation. The Hindus firmly uphold the doctrine of Ahimsa, which means non-injury in any form. Thus it can be concluded from this assumption that they are strongly opposed to any form of violence against any living being. Hindus, together with all self-respecting human beings, opposed and still oppose all forms of discrimination. Every Hindu, generally, has his own personal relationship with God of his understanding. He or she prefers to work and worship without putting strong emphasis on his or her Hinduism. It is also a proselytising religion, seeking individuals to convert into his or her own fold. Some of the frustration and anger aroused in Hindus was that they did not get the support from the State insofar as its religion and cultural aspirations were concerned. Even up to the recent past, Hindus were not allowed to invite religious scholars or cultural artists to promote their values. Hindu marriages were, and are still not given status, and are considered to be illegitimate. The legal system was practised with some measure of bias. Punishment depended on the colour of the skin. Such was the order of the day.

As a community, Hindus opposed human right violations of any kind. After the departure of Mahatma Gandhi in 1914 a number of members of the community deeply involved in the struggle against discrimination and human rights violations, and some of them, and I don't mean to have an exhaustive list here, were Dr Monty Naiker, Nana Seetha, Debbie Sing, J.M. Sing, Mac Maharaj, Soonabjee Rastanjee, Thumbie Naidoo, Dr Kay Gwinum, P.S. Joshee, just to name a few. This does not mean that the Hindu community was not without problems. The Indian community neither supported nor condoned the actions of the apartheid regime. In the period between 1946 and 1948, they launched the second passive resistance campaign after the passing of the pegging act in 1943 and the Asiatic Land Tenure Act of 1946 when over 2000 men and women resisted passively and went to jail. However, when the tricameral system was established, most Hindus did not offer any support to those who took up positions in that parliament. The voting pattern during the elections was a sufficient indication of the lack of support given by the community to that system. However, we regret that some Hindus chose to serve in that parliament. In its early history, colonial power responsible for Indian immigration did not anticipate that Indians would become an economic threat to white settlers. The land procured by

Indians after the expiry of the indenture was soon to be efficiently tilled and farmed. In a short time, they became prosperous market gardeners, providing vegetable requirements for the whites. Debates soon ensued in government and local circles to repatriate the Indians back to India. This feeling resulted in the signing of the Cape Town agreement in 1927, between India and South Africa which provided that should Indians remain in South Africa, education would be uplifted, but this remained in breach. And those who wished to return to India would be assisted with a free passage.

From as far back as 60 years or so, the life of the community became severely affected by the introduction of the periodic laws governing land tenure. Each new enactment deprived its people of existing property rights and radically reducing areas in which Indian occupation and ownership was permitted. The most serious and painful of legislation was the Group Areas Act passed in 1950. Settled communities who had built little schools and temples were rudely uprooted by the ruling class and relocated to some distant areas or new areas with very little facilities. Kato Manor in Durban was one of the many affected areas where Indians settled, built homes, started their own market gardening and worked as unskilled labourers. When this area was declared a white area, under the Group Areas Act, the Indian Community received the biggest blow to its survival. To name one of many, the Arian Benevolent Home, which started as a home for the homeless in 1921, was badly affected in the grand settlement plan. It took about 15 years to find an alternative for re-settlement at a much higher cost. In the process, the old, the disabled and the affected children had to endure immeasurable hardships. In all such areas, including Johannesburg, where the Group Areas applied, temples, schools and cultural centres had to be left behind. Some such temples were ...[inaudible] temple in Kingsgate, the ...[inaudible] temple in Umbilo and the ...[inaudible] in College Road, Overport.

It took the Hindu community a long time to rebuild their places of worship. Again, since priority had to be given to providing much needed homes which were relatively small, giving birth to the dismantling of the joint family system and the disruption of the traditional family life. To compound the problem, religious sites in the new areas were generally purchased by the Christian churches because they had the necessary funds. This led to many conversions to other faiths, especially Christianity. No adequate provision was made for the education of the Indian child by the State, mainly because of its policy of indifference. Through self-help and by contributions from their meagre earnings, 261 State aided Indian schools were built by the Indian community. In this regard, the indentured labourers went through severe hardships in the schooling of their children, because they had to make the effort to make contributions. It is of interest to note that three high schools, Sustri College, Verulam Secondary, and Umzinto Secondary were built by Indian contribution and handed to the State. All along the state aided schools suffered from inadequate funding. A small grant per child had to cover the salaries of caretakers, telephone expenses if any and the maintenance of the building and purchase of furniture which was always inadequate. There were no science and library facilities during those difficult years.

Prior to 1984, no Indian languages, Hindi, Tamal, ...[inaudible], and Arabic were introduced in primary schools. Even after this period, Indian languages remained as optional subjects and are not given serious attention. They remain as a non-examination subject and are taught in primary schools, depending on the number. Another serious setback arose in the cultural life of the Hindu community by the imposition of the cultural boycott by the Indian government for almost fifty years as a result of the discriminatory laws that were passed by parliament in this country. Hence, serious cultural deprivation occurred, affecting the lives even to this day. A great deal of resentment and hurt lies in the manner in which Indians were deprived access to schools which had some of the best facilities and entry into so-called white universities. There were many students, who at great financial sacrifice, had to study medicine and obtain a higher education of their choice, at universities in India, Ireland and England. If justice had prevailed, many more would have qualified locally and been added to the list of academics holding important positions in our society. The first university to open its doors to Indians was Fort Hare in the Cape. Dr A.D. Lazarus became the first Indian graduate in South Africa.

In South Africa the majority of holidays are in conformity with Western Christianity. All of us observe Christmas day, Easter and Sunday as a day of rest. These days are all Christo centric. If we consider that our country is a secular one, then every religion must have its main religious day observed side by side with others. Alternatively, there should be only one national holiday. On the Hindu holiday of Diwali, which falls during the months of October or November, our children at tertiary institutions are still writing examinations on this day, which goes against the religious spirit of Diwali. In a country with a religious majority, minority group rights must be protected. How far do we go in attaining? As a community we are fully in line with the principles of affirmative action. The constitution of this country states that we are a non-racial democracy which is to us all, is in keeping with the highest noble spirit of the land. This spirit needs to be protected at all times and in this overall spirit of non-racial society, concern arises in the minds of our community when one group might be placed in favour over another. This view needs to be addressed for the future.

Even today, we are experiencing gross human rights violations. Sadly, these violations are being classified under the terminology of the word crime. Any society with a high moral and ethical behaviour does not need the strong arm of the law for the enforcement of strict penalties. On the other hand, when the morality of individuals is so low, the laws must be firmly and strictly applied to protect the rights of everyone. Therefore, the secular laws have to be inversely proportional in punishment to the level of morality of individuals. Although our human nature goes against this view, harsher forms of punishment for serious transgressions and violations of the law are essential. Any severe punishment in relation to the crime committed will act as a deterrent to other offenders, than merely an appeal to the moral consciousness. We therefore need to embark, together both from the government and from our side to conscientise on our brothers and sisters on the negative impact that crime had on us. Therein lies our hope for future stability.

In conclusion may I wish to state that we have great faith and hope in our new found democracy. Our strength lies in the way in which we can forget and forgive. The healing of the past undoings, which in some cases will no doubt take time, but our strong belief in the almighty God who protects and sustains us, will give us his guidance and mercy to overcome the challenges that lie ahead. Although we are a nation with differing religious, cultural and ethnic backgrounds, our commitment and love for our country and respect for all its diversities will lead us to peace and prosperity. Let light always shine in our hearts and may we constantly walk the path of truth. God bless the Truth and Reconciliation Commission!

CHAIRPERSON: Thank you very much.

MR ASHWIN TRIKAMJEE: Mr Chairman, may I just add one or two comments which I feel are necessary to be made in the light of the submissions that have been made?

It is correct and it is only fair that in all honesty we have to accept that in the past so-called leaders of the Hindu community, and I emphasise so-called Hindu leaders, failed hopelessly and miserably in voicing their protest against apartheid. The few who did, did so passively and not actively or for that matter even militantly, while other Hindus who were not able to compromise their beliefs, distanced themselves from the Hindu community leaders and in the process, from Hindu organisations and as much as one hates at a Truth Commission Hearing to talk about oneself, I would be unfortunately one of those, who distanced myself from the Hindu organisations for the very same reasons. And as Hindu leaders they, far from protesting, in many instances supported and condoned the actions of the then ruling government. For this I must apologise on behalf of my community because the community failed to remove these leaders when they were openly failing to exercise their Hindu duty, forget about anything else.

Of course there were perceptions that were created that Hindus were part of the system and these perceptions I would like to submit, were created by the manipulations of the then ruling order, cleverly disguised to create the impression, so that hostility would ferment [TAPE 2]...and particularly the black community in this country.

I would like to conclude by saying and by submitting that these people that I have just spoken about on behalf of whom I have apologised, were a minority few in the Hindu community. Thank you.

CHAIRPERSON: Thank you very much. I don't know whether your colleague...please switch off your...thank you. Whether there is anything you want to add? Please just say again who you are.

MR R KALLIDEEN: My name is Kallideen, Secretary of the South African Hindu Maha Sabha. I would just like to add that in spite of the difficulties and the hardship

that the Hindu community suffered over the years, many of our major affiliates have thought of the difficulties experienced by those who suffered in the townships and in those disadvantaged areas. I would like to say that three of our major organisations from a long time have been involved in the Food for Life, and are still involved and on a daily basis, each of these three organisations are handing out hampers in the region of about 5000 daily to those unfortunate people and even in the Transvaal, a Hindu organisation there, on each Sunday is distributing food hampers at Atteridgeville and together with the traditional church of South Africa, Independent Church of South Africa, it is also busy distributing blankets and clothing to the unfortunate people in that part of the world. Thank you.

CHAIRPERSON: Thank you very, very much. We are very deeply grateful to you for your contribution. Virginia Gcabashe?

MS V GCABASHE: Thank you your Grace. I would first like to thank you for the presentation that you have made today. It was quite clear to us and I am also grateful that you have two presentations here and the first speaker concentrated on the first presentation, but the second speaker has touched on the second presentation so I'm sure we will be able to engage you in both presentations. And what I would like to say is that it is surprising that in both presentations, they are almost similar, so both of you should be able to be comfortable with both.

My first question is that I do realise how you as people who have come from India have suffered in this country and maybe you have suffered just in the same way as Africans have suffered in this country, although it was their country of birth. I would first like to ask you about the distinction that you make on affirmative action. Both papers seem to indicate that you are not quite happy with affirmative action. Maybe you could explain this a little bit more?

MR ASHWIN TRIKAMJEE: I think it needs an explanation and I'm glad you're giving me an opportunity to giving me an opportunity to do so.

I think that it's not a question of being unhappy as opposed to the perception that has been created in the community out there. The perception being that affirmative action applies to everyone other than black people, and that is a perception that we need to address. As a Hindu community we address it constantly, at every opportunity that we get, in trying to point out that you can't try to compare 35 million disadvantaged people who have been completely deprived, and you try to compare that against the rights of a million people who are a minority. Our submission there is based on perceptions and we need to address it to correct that perception, because if it's not corrected, we feel that it's going to actually create animosity and unpleasantness, which we can ill-afford at this stage. So that is the basis on which that submission has been made.

MS V GCABASHE: You also make a comment about...this is in your presentation, that a society with a high moral and ethical behaviour does not need the strong arm of the law for the enforcement of strict penalties. Could you also indicate...?

MR ASHWIN TRIKAMJEE: I think that is a moral argument and it's really a moral teaser for the Truth and Reconciliation Commission. I'd hoped that you were not going to ask me that question, but since you have, I must confess that it's a teaser for you. You have, as religious people with strong religious background, you have this belief that, you know, out there you don't really need to punish people and put them in jail, if you can through the medium of our religious institutions, like the churches, like the temples, like the Mosques and everything else, instil a high moral sensitivity within them. If you do that, then we don't have to cry to the courts and to our poor ministers who've got other problems, insisting that they keep changing the laws every day to try and create the impression that the government is getting tougher. If our religious teachings are as strong as they ought to be, we feel that punishment would be a natural consequence and not one where the pressure is being brought on the government, almost on an hourly basis, let alone a daily basis, to continue to change the law to seem as if there is a stronger attitude. So that is basically what we submit.

MS V GCABASHE: You mentioned also that most of the Indian children had to go outside the country for their tertiary education. And then somewhere there is also a fear that you raised that maybe this same thing might have to happen in the post apartheid situation. Could we hear what you are basing this fear on?

MR ASHWIN TRIKAMJEE: That's not a submission that was made by ourselves. I think it is a submission made by Professor Joshee. I can, if you want me to deal with it since it's there, I could deal with it on the basis that that is again a perception. It is an unwarranted perception which needs to be corrected. I think it's unfair for people to cry now and say well, we are going to be deprived. I think you need to look at the overall context of how many people were deprived in this country, to the extent that which they were, it's a relative issue. I think that is a submission which I certainly wouldn't support.

MS V GCABASHE: Would the Secretary like to respond to that? I am asking because you made reference to the feeding schemes in Mamelodi and other African areas, and this statement comes from the same document.

MR R KALLIDEEN: Yes, the document that you are referring to is the document submitted by one small church organisation in the Transvaal and does not represent the views of the Hindu community of South Africa, including that of East London to.

MS V GCABASHE: My last question then is could you indicate what you as the Hindu community would contribute concretely towards reconciliation in this country. In this post apartheid country of ours?

MR ASHWIN TRIKAMJEE: You know, the whole approach of Hinduism as I pointed out in the presentation is one of non-violence and tolerance and we feel that that is basically the road you're going to go through, we have to go through that road again. I hate to echo what my predecessor emotionally and strongly submitted earlier on, that's my brother from the Muslim community, about the bitterness that seems to still prevail in people. I think that that's something that we've got to get rid of because we can't go on a reconciliation if we still harbour levels of bitterness. But I think that your commission will have a two fold purpose. As Hindus we feel that firstly, you've got to remove the bitterness that exists and you can only do so by what you're doing quite correctly and that is getting the truth out into the open. As far as reconciliation is concerned, the Hindu community's approach is a very simple one and that's the level of tolerance of all of us. It is something that we are born with and if we can pursue you to try and inculcate in your report which we don't doubt is going to be the most important document that is going to help this country towards a proper reconciliation. Inculcate in it the whole question of tolerance for the future, then I think that you will go a long way. So the Hindu community is there to pursue, preach and practice that level of tolerance. We do so, because our scriptures teach us that on a daily basis. So it's very easy for us to tell our communities out there what we mean by tolerance. I hope I have helped you in some way.

MS V GCABASHE: Thank you Mr Trikamjee. You seem to pin your hopes on the report that will finally come out of the Truth Commission. You have mentioned it a number of times. Thank you.

MR ASHWIN TRIKAMJEE: Maybe I should tell you why. Maybe it's because I have...this is the second time that I am appearing, making submissions before your commission. As a lawyer I made a submission on behalf of the lawyers, and that's why I keep talking about your final report.

Despite what others say, I remain very, very optimistic about not only the quality and the content, but the impact of your report. I have complete confidence in you.

CHAIRPERSON: Maybe we should get you to come a bit more frequently. But thank you very, very much indeed, we are very deeply grateful and we are grateful for the contribution that your community has made to the country. Thank you very much.

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