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INTELLIGENCE INDICATORS

Marriage of Convenience: India

May 2013

Migration Intelligence Section,
Intelligence Operations and
Analysis Division

Enforcement and Intelligence
Operations Directorate

Protected B



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Link to the Canada Border Services Agency's *Integrated Enforcement & Intelligence Priorities 2012-2013* and Implications for the Canadian Border

The Canada Border Services Agency's (CBSA) current intelligence priorities stem from those of the Government of Canada, and guide the workflow of the CBSA Migration Intelligence Section (MIS) within the Intelligence Operations and Analysis Division. One of these priorities is combatting marriages of convenience (MOC), a sub-set of immigration fraud. In order to maintain the integrity of Canada's immigration program, the CBSA must be vigilant in identifying and preventing this form of fraud.

Product Context

This product is being developed at the request of CIC as MOCs, as a means to circumvent lawful immigration processes, have become a threat to the integrity of Canada's immigration program. As this trend is increasing, it is important that CBSA and CIC officers are informed about this issue, and equipped with the necessary tools to identify this illicit activity.

Target Audience and Recommended Distribution

This document contains detailed operational intelligence and is geared towards front-line officers and decision-makers, including visa officers, liaison officers, border services officers, inland enforcement officers, and hearings officers. As such, it is highly recommended that this screening aid be widely distributed within the CBSA and Citizenship and Immigration Canada (CIC). MIS should be contacted prior to distributing this report outside of CBSA or CIC.

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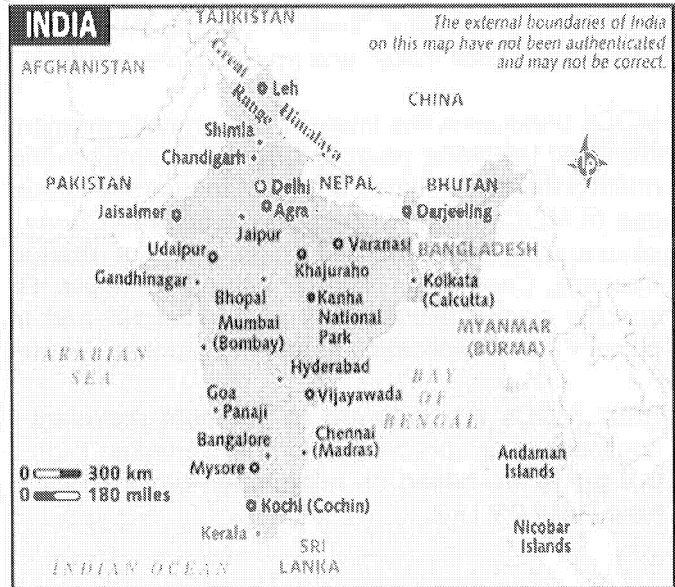
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HIGHLIGHTS

- The Republic of India is a high-risk country for marriages of convenience (MOC). (Protected A)
- It has been estimated that as much as 36% of the spousal caseload may be fraudulent. (Protected A)



Source: Lonely Planet – No date cited – Map of India

PURPOSE

These intelligence indicators provide information on trends in marriage fraud involving Indian nationals, including a list of possible indicators, which may assist officers in the screening of spousal applicants from India, and information on FC1 fraud investigations in Canada. (Protected A)

BACKGROUND

The *Immigration and Refugee Protection Act* (IRPA) permits eligible Canadian Citizens and Permanent Residents (PR) to sponsor family members, including spouses, common-law and conjugal partners, for immigration to Canada. MOCs, or "bad faith" relationships, are prohibited under the Act. These include relationships "entered into for the purpose of acquiring any status or privilege under the Act." While the majority of spouses and partners who are sponsored to immigrate to Canada are in legitimate relationships, the spousal sponsorship process has been targeted for fraud as a means to immigrate to Canada. Estimates of the prevalence of marriage fraud are as high as one in six, with the majority of the fraud believed to be concentrated in about 10 to 15 countries, including India. (Protected A)

The following report is a guide to assist in the screening spousal (FC1) applicants from India. The guide is based on information from: CBSA Liaison Officer (LOs) posted in India (New Delhi), in consultation with the CIC Family Class Units; CBSA Regional Intelligence and Criminal Investigations officers

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(Pacific, Prairies and Greater Toronto Area, GTA); CBSA Intelligence Management System (IMS); CBSA MIS email inbox; and open source materials.

MOCs undermine the integrity of Canada's immigration system. As such, both CIC and the CBSA have identified the issue as an intelligence priority for fiscal years 2011/12 and 2012/13. In response to this priority, the MIS initiated a project to improve the detection of high risk spousal applicants to prevent the use of MOCs to gain status or privilege in Canada. The result of this project is a series of guides for several countries deemed "high risk" for marriage fraud (i.e., China, India, Pakistan, Sri Lanka, Vietnam, Cambodia, Nigeria, Ghana, Ethiopia, Guyana, and Haiti, among others). These country-specific guides include lists of "indicators" and trends related to marriage fraud, which may assist officers in the application screening process. (Protected A)

Note: MOCs are believed to be most prevalent in I All FC1 applications are processed by the Canadian High Commission in New Delhi. Many of the indicators in this guide are based on information provided by the CBSA LO in New Delhi, in coordination with the New Delhi PR Unit.

TRENDS ASSESSMENT

The following table provides an overview of decisions made on spousal sponsorship applications of Indian nationals between 2008 and 2011.

Figure 1: India National Spousal Applications (2008-2012)

	Approved	Refused	Refusal Rate*	Missing/ Pending/ Withdrawn	Total
2008	5019	796	14%	76	5891
2009	5737	774	12%	117	6628
2010	5133	809	14%	77	6019
2011	3855	632	14%	61	4548
2012 (extrapolated)	4515	905	17%	93	5513
2012 (Q1- Q3**)	3386	679	17%	70	4135

Source: Cognos Cubes data [extracted March 26, 2012 and February 5, 2013] (Protected A)

*Refusal Rate = Refused/ (Refused+Approved)

** 2012 (Q1- Q3) = January 1, 2012 to September 30, 2012

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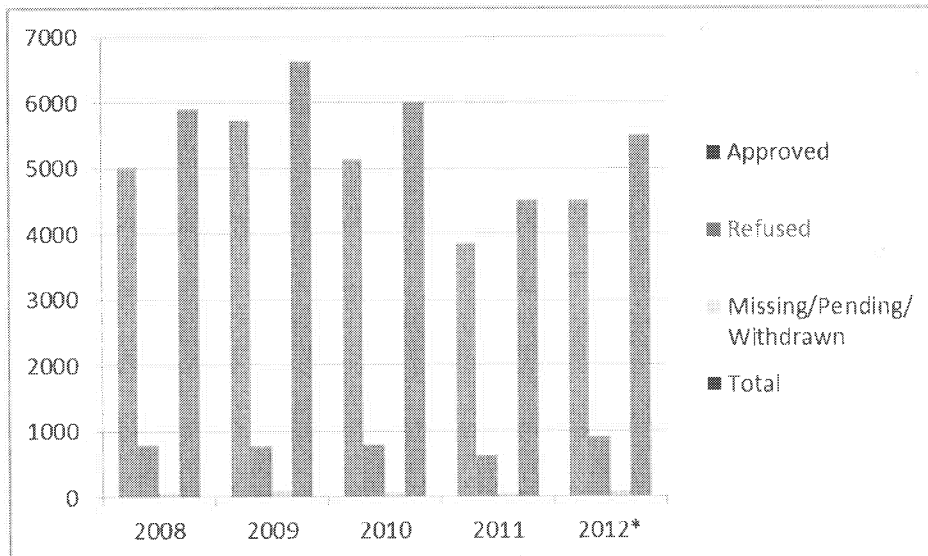
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Between 2008 and 2011, CIC processed an average of approximately 5772 Indian spousal applications per year. The refusal rates between 12% and 17% over the four years are strong indicators of fraud. (Protected A)

Figure 2: India National Spousal Applications (2008-2012)



*2012- data extrapolated from Q1-Q3 data, therefore is subject to change.

Source: Cognos Cubes data [extracted March 26, 2012 and February 5, 2013] (Protected A)

Snapshot of spousal fraud and indicators

Unlike cases involving nationals from other countries where there are limited trends and patterns in marriage fraud, marriages of convenience involving Indian nationals are constantly evolving and creatively testing the bounds of the Canadian immigration system. Due to the large population of India and a dispersed diaspora community there is no one-size-fits-all pattern of marriage of convenience fraud. There are, however, eight generalized scenarios that are seen in this population in our visas overseas which provide a snapshot of spousal fraud.

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Marriage fraud involving Indian nationals is an international phenomenon with indicators obtained from authorities of the United States, Australia, and United Kingdom (which along with New Zealand and Canada make up the "Five Eyes"), in addition to Canadian regional intelligence officers. At this time we do not have the statistics for cases seen by the other members of the Five Eyes.

In a 2007 report, New Delhi reported the idea of Canada exerts a powerful attraction for marriages are often arranged, and are part of the larger picture of family migration to Canada. "Fake marriages" are few, but the marriages tend to be performed in bad faith where the relationship is not genuine and the principal interest of the applicant is in immigrating rather than in the marriage.

The *Rakshak Foundation* created the following list outlining the motivations for Indian individuals to engage in a fraudulent marriage:

Concealment of material facts - marital status, education, age, medical / health conditions

To seek easy **immigration** to foreign shores for self and family (parents and siblings)

Fulfilling **academic ambitions** of acquiring a foreign degree

Leading a **lavish lifestyle** marked with extravagance

Flaunting an **NRI status** in community

To draw from the **source(s) of funds** made available through overseas Indian spouse's income

To gain an entry into foreign lands to **reunite with their paramours**

Extort money by filing false and frivolous charges / cases

To seek **hefty alimony** by resorting to divorce thereby facilitating easy money for a lavish lifestyle

The dynamics and changing demographics of Indian marriage

The overall birthrate for India is in decline with a 3.9% decrease in birthrates between the 1991 to 2001 decade and the 2001 to 2011 decade. There were five million less children between the ages of zero and six years old in 2011 versus 2001. There is a well-documented preference for the birth and care of boys over girls in India, and the sex ratio of females to males in India was 940:1000 versus the global ratio of 984:1000 in 2011. The overall sex ratio was at its lowest in 1991 in India at 927 females per 1000 males. In some regions in India, such as Punjab, in 1991 it was 882 females, and 875 for females between the ages of 0-6. In 2001 the number dipped even lower at 874 for all females and 793 for females between the ages of 0-6 (a 9% decrease in females in this age group over a 10 year period). The 100 million plus females missing in the world are a result of three factors coalescing: the ancient

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preference for sons; a modern desire for smaller families; and ultrasound scanning and other technologies that identify the sex of a fetus.

Majority of family class applications are so this changing demographic will have implications for Canada's immigration policy and also community within Canada (and possibly other Indian communities within Canada). There are already reports of less Indian females being born within Canada's borders, and given that the Indo-Canadian communities have strong preferences for intra-cultural marriage, there will be more competition for men to find opposite-sex marriage partners leading to possible increased family pressure on Indo-Canadian females to marry Indian men from Canada or abroad, as the children who were born after the sonogram revolution come to be of marriageable age.

Possible consequences of

- Polyandrous marriages of females to more than one man from the same family;
- Polyandrous marriages to males who are unrelated to each other;
- Increased sex trafficking specifically for the purpose of marriage (forced marriage);
- Increased sexual violence and abuse against women and female children;
- Increased number of child marriages;
- Increased maternal deaths due to abortions and early marriages.

The implications for Canada's immigration program of the above consequences are possible increased instances of the

Canadian society-at-large.

The rest of the list would be potential consequences to

Another disturbing trend is that of *mut'a* (an Arabic word relating to joy and fulfillment of enjoyment and compliance when used in terms of marriage and observing the requirements of the marriage contract in Islam) where women are purchased and forced to marry wealthy Muslim men from the Middle East and Africa for short periods of time for sexual purposes and then divorced in short order. One article refers to it as "Islamic sexual tourism." The practice happens in southern India because the cost to do so is one-third of the price in the men's homeland

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Investigations in Canada

No investigations into large organized fraud schemes involving Indian nationals were identified by the CBSA's regional inland enforcement offices at this time. Responses were received from Pacific, Prairie and Greater Toronto Area Regions were rolled into the report in other sections, primarily in the *APPENDIX A: POSSIBLE MARRIAGE OF CONVENIENCE INDICATORS (Protected B). (Protected A)*

Links to organized crime

Anecdotally, it is known that the Indian MOC movement has links to human smuggling and human trafficking.

Although forced marriages are known to exist in Canadian society, the extent of the problem is largely unknown due to lack of data. The only evidence of forced marriage other than what is being reported in the media is through court cases dealing with nullification of marriage or refugee asylum cases. There are also statistics, testimonies, and other information available through non-governmental organizations. Many factors discourage reporting by victims, including strong emotional ties to their perpetrators. Despite underreporting, evidence that this crime is affecting Canadians continues to surface in the media, and according to the Department of Foreign Affairs and International Trade (DFAIT), Canadians have been forced into marriages abroad in various countries including Afghanistan, Algeria, Bangladesh, Egypt, Ethiopia, India, Libya, Morocco, Pakistan, Somalia, and Sudan. (U)

Of note, honour-based violence and forced marriage can affect second or third generation members of a community. Individuals in question are, therefore, Canadian with respect to their status, their self-perception, and their values. According to DFAIT, an increasing number of Canadian citizens are becoming victims of marriage-related crimes overseas. In many countries, a husband can legally impose travel restrictions on his spouse and children to prevent them from returning to Canada. (U)

The Forced Marriage Project, an initiative of the South Asian Legal Clinic of Ontario, has also revealed that every year dozens of Canadian girls, and sometimes boys, are forced into marriages; the majority of which involve families of South Asian origin, but also include Middle Eastern and African countries. Canadians have also reportedly been taken abroad and subjected to honour killings, and some members of extended families have come to Canada to kidnap or kill a Canadian family member believed to have shamed the family. (U)

It is presumed that there are also links between organized crime and MOCs to Canada, however, like the link between MOCs and human smuggling and trafficking, the extent of the problem is largely unknown due to lack of data. (Protected A)

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Refusals

Over the past five years, the overall number of FC1 applications for Indian nationals has increased, decreased and then increased again, however the overall refusal rate as a percentage of approved and refused cases has remained in the mid-teens (12% to 17%). Given that the application numbers being used in this bulletin are extrapolated for 2012 based on the first 3 quarters of 2012, it is unclear whether the dip in application numbers in 2011 (to 4548) or the rise in application numbers in 2012 (to approximately 5500) is the anomaly. (Protected A)

Appeals

Figure 3: India appeals filed and finalized (2008-2012)

	Cases Refused	Appeals Filed***	Appeals Filed as % of Cases Refused	Appeals Finalized ¹				
				Total Appeals Finalized	Allowed	Dismissed	Abandoned	Withdrawn/ Other
2008	796	505	63%	517	330	96	18	73
2009	774	545	70%	516	315	86	25	90
2010	809	477	59%	550	311	132	23	84
2011	632	474	75%	496	235	142	19	100
2012	905**	458	51%**	432	222	100	10	100

* Note: Table represents appeals filed from 2008-2012; Cases refused at the visa office and appeals finalized (IRB) were not necessarily filed in the same period. Files are refused at the visa office and the sponsor has thirty (30) days to file the appeal with the Immigration Appeal Division (IAD) of the Immigration and Refugee Board (IRB). An FC1 case could be refused in December 2009 and be counted as a 2009 refusal by the visa office, and then be filed as an appeal in January 2010 and counted as a 2010 Appeal filed for the IAD. The same case could be finalized by the IAD in 2011. This time lag in processing is not considered to be a concern for this bulletin because of the length of time (5 years) used for the statistics.

**2012- data extrapolated from Q1-Q3 data, therefore is subject to change.

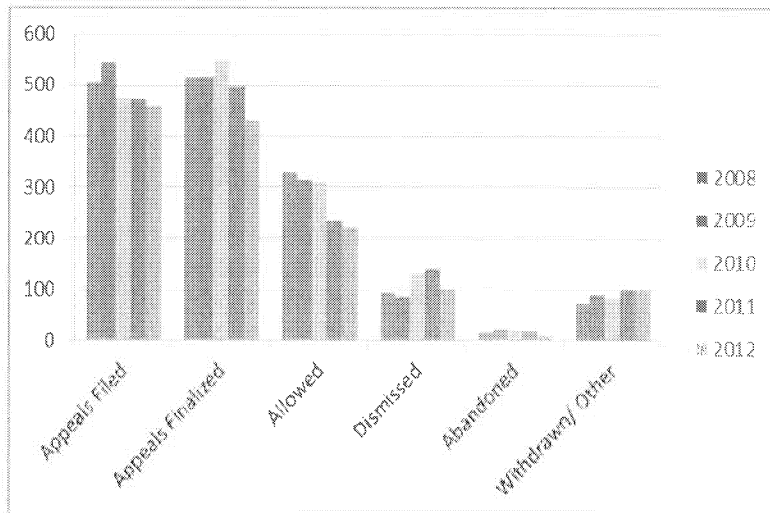
***Number of appeals filed, appeals finalized and outcomes are actual.

Source: Standards, Analysis and Monitoring Unit, Immigration Appeal Division (IAD), Immigration and Refugee Board (IRB) (Protected A)

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Figure 4: India appeals filed and finalized (2008-2012) (Graphic representation)

Source: Immigration Appeal Division of the Immigration and Refugee Board [extracted March 13, 2013] (Protected A)

The percentage of sponsors whose spouses' cases were refused who chose to appeal between 2008 and 2011 is very high at between 59% and 75%. Indian nationals in the FC are highly motivated to immigrate to Canada and will use all possible avenues at their disposal, including the appeals process, to do so. Only approximately 51% of sponsors chose the same in 2012 despite what appears to be an increased refusal rate of 17%. The graph in Figure 4 shows an overall decrease across all possible outcomes of the appeal process other than withdrawals/other which appears to be increasing. (Protected A)

The average number of spousal applications per year from 2008 to 2011 for India and China, respectively, was 5772 and 5398. The percentage of sponsors of PRC applicants who chose to appeal between 2008 and 2011 is 49-54%.

It is commonly believed amongst immigration officers across CIC and CBSA that for all countries the majority of cases which go to appeal are allowed because the hearings are *de novo*, and Figure 5 shows that for the Indian nationals this assumption is true as just over 56% of cases which have gone to appeal over the past five years have been allowed. (Protected A)

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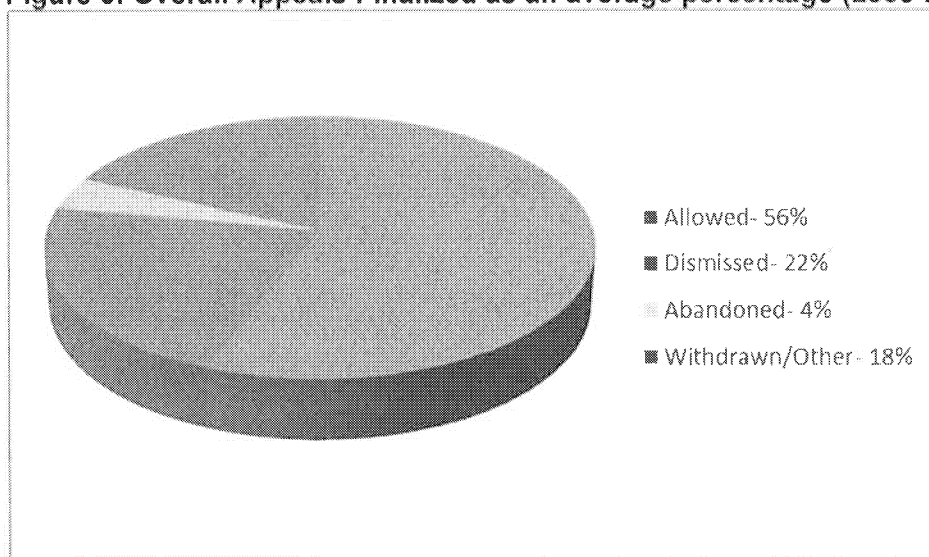
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Figure 5: Appeals Finalized as percentages (2008-2012)

	Appeals Finalized								
	Total Appeals Finalized	Allowed	Allowed as % of Appeals Finalized	Dismissed	Dismissed as % of Appeals Finalized	Abandoned	Abandoned as % of Appeals Finalized	Withdrawn/ Other	Withdrawn as % of Appeals Finalized
2008	517	330	64%	96	19%	18	3%	73	14%
2009	516	315	61%	86	17%	25	5%	90	17%
2010	550	311	57%	132	24%	23	4%	84	15%
2011	496	235	47%	142	29%	19	4%	100	20%
2012	432	222	51%	100	23%	10	2%	100	23%

Source: Immigration Appeal Division of the Immigration and Refugee Board [extracted March 12, 2013] (Protected A)

Figure 6: Overall Appeals Finalized as an average percentage (2008-2012 combined)



Source: Immigration Appeal Division of the Immigration and Refugee Board [extracted March 12, 2013] (Protected A)

CONCLUSION

- MOCs have become increasingly well organized and complex, making them difficult to detect. (Protected A)
- India has been identified as a “high risk” country for marriage fraud. (Protected A)

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- Based on a review of suspected MOC files in 2011, MIS has compiled possible indicators (Appendix A) that may be used to identify fraud. It must be noted that the list is not definitive and should be considered in combination with the particular facts and circumstances of each case. (Protected A)

Please notify the Migration Intelligence Section (Intell_Migration-Rens_Migration@cbsa-asfc.gc.ca) of suspected MOC cases involving Indian nationals.

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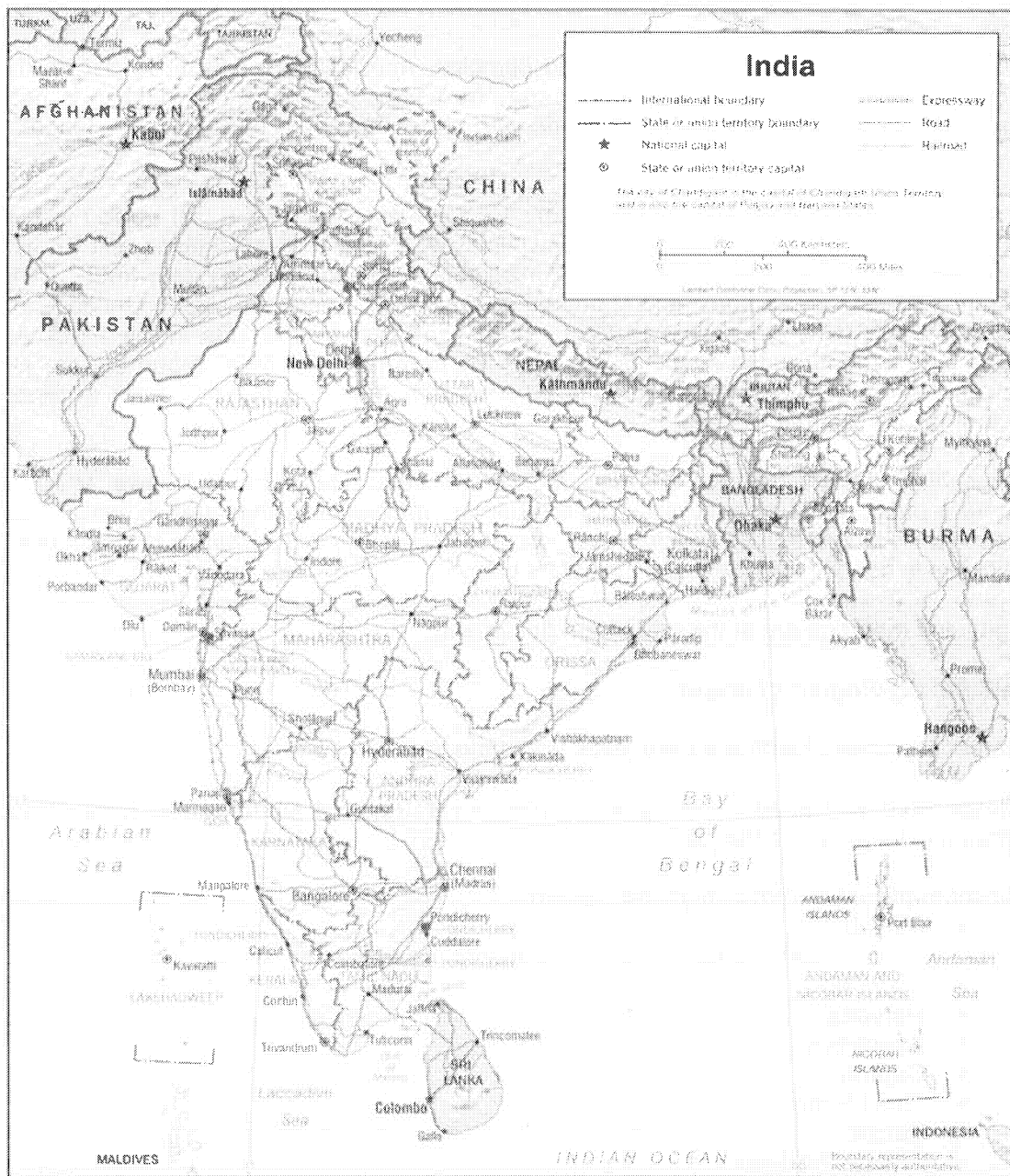
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Source: CIA World Factbook- December 31, 2011- Map of India (showing states)

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