

Joint Stakeholder Report (India 4th UPR)

Freedom of Religion or Belief

30th of March, 2022

The Religious Freedom Collective – India



YHRD

Youth for Human Rights Documentation



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A. INTRODUCTION

1. India has become an increasingly hostile environment for religious minorities since the election of the current government, ruled by the Bharatiya Janata Party (BJP) in 2014, and which was re-elected in 2019 with an increased majority. This has manifested in forms of systemic discrimination, a rise in acts of direct violence, and documented incidents of omission and commission by those in positions of authority. The religious minorities most targeted during this period have been Muslims and Christians, which are regarded as 'foreign faiths' within the Hindu majoritarian vision advanced by the current Government of India (GOI).
2. Perpetrators of violence include Hindu right-wing vigilante groups, which have proliferated in the last several years¹. These groups receive tacit, and sometimes overt, support from State actors at various levels, extending to those in high-ranking positions within the ruling BJP. They similarly receive support from the Rashtriya Swayamsevak Sangh (RSS), the principal Hindu nationalist organisation, which has a long-standing affiliation with the BJP. Since 2019 there has also been a clearer pattern of direct targeting by State, coupled with the escalation of overtly discriminatory changes to laws and procedures.
3. All this is taking place in the context of the creeping of Hinduism as state religion, de facto, if not de jure.²
4. This submission is made on behalf of the Religious Freedom Collective - India, a coalition of Indian faith and non-faith based groups and individuals that stands for freedom of religion and belief, in its entirety, for all individuals, regardless of faith (or no faith). In the submission we draw on Freedom of Religious Belief (FoRB) framework³ and documentation from a range of sources to help illustrate the situation for minorities in India since its last UPR review. India has, besides having merely 'noted' many 3rd cycle UPR recommendations relevant to religious freedoms and to minorities, also failed

¹ These include newer groups such as Hindu Jagrana Vedike, Hindu Munnani, Hindu Yuva Vahini, along with older groups such as Vishwa Hindu Parishad, Bajrang Dal etc (<https://www.wired.com/story/indias-frightening-descent-social-media-terror/>; <https://www.theguardian.com/world/2020/feb/20/hindu-supremacists-nationalism-tearing-india-apart-modi-bjp-rss-jnu-attacks>)

² Besides legislative and policy changes enumerated below, a telling example is the behaviour of senior most public officials in relation to faith groups. On 5th August 2021, Prime Minister Modi (along with Chief Minister of Uttar Pradesh, Yogi Adityanath) presided over the ground-breaking ceremony of the proposed Ram temple at Ayodhya in Uttar Pradesh. Also attending as a principal guest was Mohan Bhagwat, head of RSS. Speaking at the event, Prime Minister Modi said that the Ayodhya site had been "liberated", and a "grand house" would be finally constructed for Lord Ram
<https://www.hindustantimes.com/india-news/pm-modi-uses-silver-brick-to-lay-the-foundation-stone-of-ram-mandir/story-SdjaznicaNTMBh4WSxk8OK.html>.

Other examples include Prime Minister Modi's recent inauguration of the refurbished Kashi Vishwanath temple in Varanasi, and the swearing in ceremony of the Uttar Pradesh cabinet, after the recent elections in that state. (<https://caravanmagazine.in/politics/hindu-symbolism-adityanath-oath-rashtra>. Prime Minister Modi, or other authorities have not been reported to visit any churches or mosques and offer prayers there.

³ <https://srforb.org/international-standards-2-0/>

to make progress on the recommendations it ‘supported’⁴. Instead, as this report will show, authorities in India have contributed to creating a situation where incitement and violence against religious minorities has become rife, and minority communities face increasing marginalization.

B. FREEDOM OF RELIGION OR BELIEF

Freedom to adopt, change or renounce religion or belief - Freedom of Religion Acts

5. While India is bound by international⁵ and domestic⁶ commitments and frameworks to uphold FoRB, provisions of Freedom of Religion legislations that are in effect anti-conversion laws, are undermining these rights. Anti-conversion laws are in place in 11 of India’s 28 states, having spread and become more stringent in recent years.⁷ India’s anti-conversion laws have a stated objective of prohibiting conversions by force, fraud, or allurement. Yet in practice, these laws are designed and invoked to deter conversions away from Hinduism.⁸ Various UN mandate holders have pointed to the dangers of

⁴ In its 3rd cycle review in 2017, India received a total of 249 recommendations. Of these, 15 related specifically to FoRB and minority rights. India ‘noted’ key recommendations related to combating religious intolerance, violence and discrimination (Nos. 161.73, 161.129, 161.130, 161.133); guaranteeing FoRB, including abrogating anti-conversion laws (Nos. 161.126, 161.127, 161.128); enacting laws to prevent communal violence (161.49), and undertaking human rights awareness raising (No. 161.71). India ‘supported’ only 6 recommendations on minority rights, including those concerning protecting minorities (No. 161.72, 161.144); providing human rights training for police forces (161.66); and acting against anti-minority violence (No. 161.99). Working Group on Human Rights in India and UN. Universal Period Review (UPR) Mid Term Report 2020. Assessing India’s Implementation of UPR – III Recommendations.

⁵ Article 18 of the Universal Declaration of Human Rights and Article 18 of the International Covenant on Civil and Political Rights (“ICCPR”) guarantee the right to freedom of thought, conscience, and religion for everyone. India ratified the ICCPR in 1979.

⁶ Article 25 of the Indian Constitution protects freedom of religion and belief because it guarantees the freedom of conscience, the freedom to profess, practice and propagate religion to all citizens. Yet, notably, this is subject to “public order, health and morality.”

⁷ The latest state to pass an anti-conversion law was Haryana in March 2022. In August 2019, Himachal Pradesh passed an anti-conversion law that increased punishments for violations from three years to seven years. Two other states—Jharkhand, and Uttarakhand—have enacted their anti-conversion laws just since 2017⁷. In December 2021, Karnataka also tabled and passed an anti-conversion bill.

⁸ The terms used in the laws—“force, fraud, and allurement”—are left undefined, and are so vague that providing charitable assistance, for example, can be seen as a violation. Additionally, these laws often require registration with the government prior to the conversion. This information is often leaked to Hindu nationalists, who then harass, threaten, and intimidate the registered individual to prevent his or her conversion. While convictions under these laws are rare, the low conviction rate simply highlights that these laws do not address any real concerns of forced conversions, but instead are primarily intended to harass and intimidate religious minorities.

these laws.⁹

6. These laws carry excessive punishments for what are termed “fraudulent religious conversions”. For example, the Uttar Pradesh Ordinance introduced in 2021 casts the burden of proof on the accused, rather than the prosecution, to prove that they have not violated provisions of the state’s anti-conversion laws. It similarly punishes “unlawful” religious conversions with imprisonment for a term of at least five years and a fine of 15,000 Rupees. The punishment for religious conversions of women or members of Scheduled Castes (SCs) or Scheduled Tribes (STs) deemed unlawful is greater, with an imprisonment term at least ten years.
7. These laws have also lent to greater hostility against minority communities who it presents as engaging in widespread, illegitimate acts of forced conversion. For instance, there has been a significant increase in hostility and violence towards Christians in the Uttar Pradesh since an anti-conversion bill was tabled 2021.¹⁰ Notably, coercive campaigns of ‘reconversion’ to Hinduism – known as ‘ghar wapsi’, literally ‘homecoming’– remain out of the ambit of anti-conversion legislation.

Freedom against Coercion in religion or belief

8. In December 2021, the chief of the RSS asked Hindus to take a pledge to ensure the ‘ghar wapsi’ of those who had been ‘converted’ out of Hinduism¹¹. In effect, this call signals legitimisation of threat or coercion to convert Christians and Muslims in particular to Hinduism.
9. Indian Christians have continued to come under sustained attack on the issue of conversions. In February, 2022, forty members of the Shalom Kalashya Church in Phuldavidi village in the Jhabua district of Madhya Pradesh were reportedly forced to convert to Hinduism after they were

⁹ The former UN Special Rapporteur on freedom of religion or belief, Prof. Heiner Bielefeldt, has strongly condemned anti-conversion laws and noted that “any generalized State limitation (e.g. by law) conceived to protect ‘others’ freedom of religion and belief by limiting the rights of others to conduct missionary activities should be avoided.” Similarly, the current UN Special Rapporteur on freedom of religion or belief has argued that “such laws often violate both *forum internum* and *forum externum* aspects of the right to freedom of religion or belief.” (XXX) Another former UN Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir, noted in a report after her mission to India that “even in the Indian states which have adopted laws on religious conversion, there seem to be only few, if any, convictions for conversion using force, inducement, or fraudulent means. In Orissa for example, not a single infringement over the past ten years of the Orissa Freedom of Religion Act of 1967 could be cited or adduced by district and senior officials in the State Secretariat... However, such laws or even draft legislation have had adverse consequences for religious minorities and have fostered mob violence against them.” XXXX The report further stated that “there is a risk that Freedom of Religion Acts may become a tool in the hands of those who wish to use religion for vested interests or to persecute individuals on the grounds of their religion or belief. While persecution, violence, or discrimination based on religion or belief needs to be sanctioned by law, the Special Rapporteur would like to caution against excessive or vague legislation on religious issues which could create tensions and problems instead of solving them.” XXX

¹⁰ <https://theprint.in/india/486-incidents-of-violence-against-christians-in-2021-up-75-since-2020-christian-rights-body/792328/>

¹¹ <https://www.deccanherald.com/national/national-politics/rss-vows-ghar-wapsi-of-hindus-who-converted-mahakumbh-seers-allege-attempt-to-erase-culture-1061110.html>

threatened by radical Hindu nationalists.¹² Muslims too have been the object of ‘ghar wapsi’ campaigns led by members of right-wing Hindu groups¹³.

The right to manifest one’s religion

(i) Attacks on freedom to worship:

10. During the reporting period there have been numerous reports of attacks on Christian¹⁴ prayer services which have forced many prayer services to go into hiding, and fines on those who allow Christian prayer services in their homes¹⁵. There have also been reports of prayers and events around the Christmas period in December 2021 being disrupted by right-wing Hindu groups across various states, which involved vandalism of religious symbols¹⁶

11. In the state of Haryana, due to a shortage of Muslim places of worship in the city of Gurugram Muslims engage offering namaz (prayers) in designated public spaces as per orders by the local administration.¹⁷ During the reporting period, members of right-wing groups have led protests against this practice, resulting in the harassment of worshippers.¹⁸ In December 2021 the Haryana Chief Minister lent legitimacy to these groups and undercut the freedom of worship of Muslims by declaring that public prayers would not be tolerated.¹⁹

(ii) Attacks against places of worship

12. Attacks on churches have been reported in the states of Karnataka, Chhatisgarh, Bihar, and Madhya Pradesh²⁰. This is paired with a wider environment of intimidation: in January 2021, members of the right-wing Hindu group, ‘Vishwa Hindu Parishad’, demanded the immediate closure of all churches in Madhya Pradesh and arrest of pastors and priests.²¹ In February 2022, state authorities in Karnataka demolished a 20-foot-tall statue of Jesus built in 2004, citing claiming it was built on land reserved for an animal pasture

¹² Rajeshwar Singh is one of the leaders of Rashtriya Swayamsevak Sangh (RSS), a militant Hindu nationalist group, whose political wing, Bharatiya Janata Party (BJP) is in government. He has promised to make India free of Christians and Muslims by 31 December 2021 through forced conversions and a state-wide assault on religious freedoms.

(<https://www.christiantoday.com/article/indian.christian.forced.to.reconvert.among.hindu.extremists.crackdown/91647.htm>)

¹³ <https://scroll.in/article/838416/yogi-effect-rss-men-convert-43-muslims-in-uttar-pradesh-to-hinduism>

¹⁴ <https://www.nytimes.com/2021/12/22/world/asia/india-christians-attacked.html>

¹⁵ <https://www.christianitydaily.com/articles/15327/20220321/pastor-who-defended-christians-against-hindu-nationalists-killed-in-central-india.htm>

¹⁶ <https://thewire.in/communalism/seven-incidents-across-india-where-the-hindutva-brigade-disrupted-christmas-celebrations>; <https://www.theguardian.com/world/2021/dec/27/jesus-statue-smashed-in-spite-of-attacks-on-indias-christian-community>

¹⁷ There have also been reports of authorities refusing to permit additional sites, despite a rising population. <https://www.thequint.com/videos/gurgaon-namaz-disruption-following-a-muslim-on-friday#read-more>

¹⁸ <https://www.aljazeera.com/news/2021/12/7/india-gurgaon-muslims-friday-prayers-hindu-groups-islamophobia-haryana>

¹⁹ <https://www.hindustantimes.com/cities/delhi-news/offering-namaz-at-public-places-will-not-be-tolerated-haryana-cm-khattar-in-gurugram-101639162164560.html>

²⁰ <https://www.bbc.co.uk/news/world-asia-india-59724425>

²¹ <https://www.ucanews.com/news/shut-down-all-churches-in-indias-tribal-areas-hindu-group-demands/91017>

and leading to claims of discriminatory treatment against Christians.²²

13. Attacks on mosques have been reported across several states in India. Recent incidents include the vandalism of mosques in Tripura in October 2021, in alleged retaliation against attacks on Hindus in Bangladesh²³. In June 2021 a mosque was bulldozed in Uttar Pradesh, allegedly for being an illegal structure²⁴.

14. In November 2019 Supreme Court of India delivered its judgment in the Babri Masjid – Ram Janmabhoomi title suit concerning the disputed site in Ayodhya. The verdict granted title to the 16th century mosque to Hindu parties that the court acknowledged were complicit in its destruction in 1992. The judgement has been criticised by legal experts for applying a differential standard of proof for majority Hindus and minority Muslims.^{25 26} This verdict is thought to have emboldened more recent motions in courts to target other historical mosques – such as in Mathura and Varanasi- and convert them into temples.²⁷

(iii) Restrictions against religious symbols

15. In January, 2022, Muslim girls wearing the hijab at a government college in Udipi in Karnataka, were reportedly denied entry on the basis.²⁸ Other colleges in the state began to enforce similar bans, which included restrictions on their ability to appear for their exams.²⁹ On 5 February, the Karnataka state government issued directions, banning hijab deemed as “clothes which disturb equality, integrity and public law and order should not be worn”³⁰. On 15 March, the High Court of Karnataka upheld the ban, ruling that wearing hijab was not an essential religious practice of Islam while school uniforms promoted harmony and spirit of common brotherhood. The High Court order has been challenged in the Supreme Court but not heard yet, even as students continue to be kept off classrooms and taking exams.³¹

(iv) Denying observance of holidays and days of rest

²² <https://www.christianpost.com/news/20-foot-tall-jesus-statue-destroyed-by-govt-in-india.html>

²³ <https://www.aljazeera.com/news/2021/11/5/india-tripura-muslims-mosques-violence-bjp-vhp>

²⁴ <https://www.theguardian.com/world/2021/jun/01/india-mosque-demolition-officials-accused-of-filing-false-report-on-muslim-leaders>

²⁵ <https://thewire.in/law/watch-parts-of-ayodhya-judgment-laughable-different-standards-of-proof-unfair>

²⁶ Scholars note how “the extrajudicial purge (of the historical monument) that Hindu extremist mobs enacted in December 1992, the Supreme Court “finished, through judicial opinion”

(<https://caravanmagazine.in/religion/ayodhya-babri-masjid-ram-mandir-supreme-court-audrey-truschke>)

²⁷ <https://www.barandbench.com/news/sri-krishna-janmabhoomi-allahabad-high-court-restores-plea-for-handover-of-mathuras-shahi-masjid-mosque-site-to-hindus>

²⁸ [Muslim girls wearing hijab barred from classes at Indian college](https://www.aljazeera.com/news/2022/1/18/muslim-girls-wearing-hijab-barred-from-classes-at-indian-college) (Al-Jazeera, 18 Jan 2022)

²⁹ <https://www.bbc.com/news/world-asia-india-60328864>

³⁰ <https://www.indiatoday.in/india/story/hijab-row-karnataka-bans-clothes-disturb-public-order-harmony-schools-colleges-1909241-2022-02-05>

³¹ <https://www.thenewsminute.com/article/hijab-ban-aftermath-over-400-muslim-girls-udupi-colleges-stay-out-class-162127>

16. Since 2014, Christmas has been designated as Good Governance Day³². The day is no longer an official holiday for government officials. This had impeded the celebration of a key holiday for Christians and led to calls from Christian groups to separate the two days.³³
- (v) Preventing teaching and disseminating material including missionary activity
17. In March 2020, news of an outbreak of COVID-19 among international delegates of the Muslim missionary movement, Tablighi Jamaat, in Delhi, led to Islamophobic campaigns under the banner of “#CoronaJihad”, accusing the group of spreading the virus. Beyond stoking anti-Muslim sentiment, this culminated in detention and cases files against hundreds of its members³⁴. By December 2020, Indian courts had acquitted 36 foreign nationals charged with violating COVID-19 protocols³⁵.
18. In June 2021 the Uttar Pradesh Anti-Terrorist Squad filed a case against clerics and members of an organisation providing legal support to people converting to Islam. The accused were booked for ‘waging war against the country’ through forced conversions to make India an ‘Islamic state’. Interviews with those in the list of ‘forced converts’ have challenged this version of events, stating they converted of free will while being provided support and guidance by the accused.³⁶
19. Charitable organisations, accused of ‘forced conversions’ have been denied renewal of licence under the Foreign Contribution Regulation Act (FCRA). In September 2019, the Central Government issued a notification under the FCRA requiring every office bearer of an entity to declare that no one has been prosecuted or convicted for indulging in forced conversions. In September 2020 the FCRA was further amended to restrict how NGO funds can be and introduce greater scrutiny to the renewal process³⁷. Due to contested allegations of failure to comply with provisions, several NGOs have lost this FCRA accreditation, which is a critical component to their operations assisting millions of Indians in pursuing their civil, cultural, economic, and social rights.³⁸ Among the organisations was Mother Teresa’s Missionaries of Charities in December 2021.³⁹ Although international outcry led to a reversal of this decision, such measures and intimidation have called into question the future operations of various groups.⁴⁰

³² <https://scroll.in/article/1018066/modi-governments-actions-against-the-christian-minority-reveal-a-deep-malaise-within-our-society>

³³ <https://indianexpress.com/article/india/mizoram-churches-appeal-state-govt-not-to-observe-good-governance-day-on-christmas-4439732/>

³⁴ <https://www.aljazeera.com/news/2021/3/25/tablighi-jamaat-members-held-for-spreading-covid-stuck-in-india>

³⁵ <https://www.aljazeera.com/news/2020/12/16/court-acquits-foreigners-who-attended-tablighi-jamaat-event>

³⁶ <https://theprint.in/india/5-lakh-forced-into-islam-funds-from-gulf-uk-what-up-ats-found-in-conversion-racket-probe/750310/>

³⁷ <https://idronline.org/article/fundraising-and-communications/growing-anxiety-around-fcra-renewals/>

³⁸ At the beginning of 2020, the Ministry of Home Affairs cancelled the licences of several Christian NGOs for allegedly “indulging in religious conversion.” In several instances however, these allegations were vague and unsubstantiated. There were no reported cases filed against any of the NGOs, let alone convictions for such allegations

³⁹ <https://www.nytimes.com/2021/12/28/world/asia/india-mother-teresa-charity-crackdown.html>

⁴⁰ <https://www.bbc.co.uk/news/world-asia-india-59920213>

20. Rules have also been enacted to prevent particular foreign missionaries from their work. According to changes to visa and Overseas Citizen of India (OCI) requirements, foreign nationals will need special permission to take up any 'missionary' or 'Tablighi' activities, implying Christian and Muslim missionary work.⁴¹ No such restriction has been imposed on Hindu missionary activity or that of any other faith. Work visas are reportedly being denied to Christian priests visiting India.⁴²

(vi) Denying parents the right to ensure the religious and moral education of their children

21. The State of Gujarat announced recently that the Hindu religious scripture 'Bhagwad Gita' will be a part of the school curriculum for grades 6-12 (ages 11-18), beginning with the 2022-23 academic year. All students irrespective of their religious orientation will be required to study the text under this change, and no other religious texts are included in the school curricula.⁴³

22. In April 2021, all government-funded madrassas providing Islamic education in Assam, were converted to regular schools, dropping all theological components from their syllabi.⁴⁴

23. In June 2021 Dalit man in Rajasthan was beaten after he complained against a Hindu prayer Hanuman Chalisa being distributed in schools⁴⁵. He later succumbed to his injuries.

Recommendations: Freedom of Religion or Belief

- (i) Take urgent measures to seek the repeal of state-level "Freedom of Religion Laws" which criminalise religious conversion
- (ii) Take the necessary measures to protect the rights of individuals to freely practice and profess their faiths, and manifest their religions, in accordance with international standards.
- (iii) Ensure children in schools have access to curriculum that is diverse and plural, drawing from all faith backgrounds
- (iv) Amend the Foreign Contribution (Regulation) Act to ensure the right to freedom of association, which includes the ability of civil society organizations to access foreign funding, and protects minority religious organisations against intimidation and shutdown

⁴¹ <https://www.ndtv.com/india-news/oci-card-holders-need-permission-for-tabligh-journalistic-activities-says-home-ministry-2384122>

⁴² <https://thewire.in/politics/church-getting-sucked-meghalayas-electoral-politics>

⁴³ <https://www.thehindu.com/news/national/other-states/gujarat-to-introduce-bhagavad-gita-for-classes-6-to-12/article65235296.ece>

⁴⁴ <https://www.aljazeera.com/features/2021/3/11/shut-down-of-madrassas-in-indias-assam-could-see-girls-drop-out>

⁴⁵ <https://www.news18.com/news/india/dalit-man-who-objected-to-hanuman-chalisa-in-schools-killed-after-brawl-over-ambekar-poster-3829184.html>

C. DISCRIMINATION IN LAW AND POLICY

Nationality and Citizenship

Citizenship Amendment Act, 2019 & The National Register of Citizens in Assam

24. The GOI has introduced a series of laws and procedures concerning citizenship which have had disproportionately negative impacts on minorities, in particular Muslims. **The Citizenship (Amendment) Act, 2019** (CAA 2019)⁴⁶ passed in December 2019 stipulates that “persons belonging to minority communities, namely, Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan...shall not be treated as illegal migrants for the purposes of this Act”. It also opens an expedited route to citizenship for these populations in the name of minority protection, while excluding Muslims in general and persecuted minorities from countries including Sri Lanka and Myanmar.⁴⁷ The CAA 2019 was met with widespread protest and legal challenges, including on the grounds that it is discriminatory on the basis of religion and nationality, and in contravention notably excluding domestic and international law.⁴⁸ Despite over 150 challenges against the CAA in the Supreme Court, including by several state governments, and the passage of over 2 years, the CAA 2019 has not yet received a substantive hearing.⁴⁹
25. In August 2019 the final **National Register of Citizens (NRC)** for Assam was published, excluding a total of 1,906,657 or about 6% of the state’s population , leaving them at risk of statelessness⁵⁰. Fundamental concerns around the

⁴⁶ <https://www.hrw.org/report/2020/04/09/shoot-traitors/discrimination-against-muslims-under-indias-new-citizenship-policy>
<https://www.uscirf.gov/news-room/releases-statements/uscirf-releases-new-factsheet-indias-citizenship-amendment-act>
https://law.unimelb.edu.au/_data/assets/pdf_file/0005/3769484/Citizenship-Amendment-Act-and-International-Law.pdf

IND 2/2019, 13 February 2019

⁴⁷ [New citizenship law in India ‘fundamentally discriminatory’](#) (UN human rights office, 13 December 2019); OHCHR [Amicus Brief](#) on CAA before the Indian Supreme Court (3 March 2020)

⁴⁸ The UN High Commissioner for Human Rights called the CAA ‘fundamentally discriminatory’ (<https://news.un.org/en/story/2019/12/1053511>) and has sought to intervene in the legal challenge against the legislation in the Supreme Court of India (https://www.thehinducentre.com/resources/article30979486.ece/binary/pdf_upload-370845.pdf).

The European Parliament has debated a resolution against the CAA (https://www.europarl.europa.eu/doceo/document/RC-9-2020-0077_EN.html)

⁴⁹ <https://theprint.in/judiciary/caa-case-comes-up-just-thrice-in-1-year-in-sc-despite-140-pleas-including-from-un-body/579837/>

⁵⁰ Office of State Coordinator NRC, [Publication of Final List 2019](#) (31 August 2019)

NRC process have been raised by affected groups⁵¹ and human rights bodies⁵² relating to poor and discriminatory procedures.⁵³ These procedures, directly supervised by the Supreme Court India, have led to the exclusion of religious and linguistic minorities, disproportionately affecting children⁵⁴ and women⁵⁵ from minority groups (particularly linguistic minorities, including Bengali-speakers). Muslims among those excluded from the Assam NRC will bear the direct impact of the CAA 2019. Although those excluded have the right to appeal, this process remains stalled and appeals are yet to be heard by Foreigners Tribunals (FT).⁵⁶ The National Human Rights Commission has found that detainees who have been declared 'foreigners' are kept in sub-standard, prison-like conditions and that children are separated from their parents.⁵⁷

26. The dangers of CAA go far beyond Assam.⁵⁸ With the CAA in place, Muslims would primarily bear the punitive consequences of exclusion from the all-India NRC that the central government has been seeking to finalise⁵⁹.

Access to affirmative action

30. 250 million Indians are estimated to be members of the Scheduled Castes (SCs), or Dalits, and Scheduled Tribes⁶⁰. Article 17 of the Constitution seeks to secure the abolition of untouchability. The presidential **Constitution (Scheduled Castes) Order 1950** (10 August 1950) provides special

⁵¹ <https://timesofindia.indiatimes.com/city/guwahati/aamsu-to-move-sc-against-order-to-delete-ineligible-names-from-nrc/articleshow/78908630.cms>

⁵² Human Rights Watch, “[Shoot the Traitors](https://www.hrw.org/report/2020/04/09/shoot-traitors/discrimination-against-muslims-under-indias-new-citizenship-policy)’: Discrimination Against Muslims under India’s New Citizenship Policy,” (April 2020).

<https://www.hrw.org/report/2020/04/09/shoot-traitors/discrimination-against-muslims-under-indias-new-citizenship-policy>

See OHCHR, [OL IND 13/2018](https://www.ohchr.org/en/press-releases/2018/06/ol-ind-13-2018) (June 2018); OHCHR, [OL IND 29/2018](https://www.ohchr.org/en/press-releases/2018/12/ol-ind-29-2018) (December 2018)

⁵³ The UN High Commissioner for Refugees, for example warned that NRC could leave “large numbers of people without a nationality” and be an ‘enormous blow to global efforts to eradicate statelessness’ [UN High Commissioner for Refugees expresses alarm at statelessness risk in India’s Assam](https://www.unhcr.org/press-releases/2019/09/un-high-commissioner-for-refugees-expresses-alarm-at-statelessness-risk-in-india-s-assam) (1 September 2019)

⁵⁴ There have been complaints of documents provided to prove date of birth of children rejected arbitrarily especially of children from minority backgrounds. <https://scroll.in/article/935823/in-assam-many-women-children-fail-to-make-nrc-even-as-their-family-members-are-counted-as-citizens>

⁵⁵ Women who traditionally move to the husband’s place of residence find themselves additionally discriminated against during the NRC process in Assam as around 2.25 million Bengali and Nepali-speaking married women who submitted local village certificates as proof of residence were put through an additional, discriminatory and more rigorous two-step verification process after they were identified as ‘non-original inhabitants’ of Assam (OL IND 29/2018 (pg. 3); Also see Amnesty, ‘Designed to Exclude’ (pg. 30) for profiles of women affected by the NRC process, and Human Rights Watch, “Shoot the Traitors” (pg. 26))

⁵⁶ These quasi-judicial bodies unique to Assam have the authority to declare individuals ‘foreigners’ and order their confinement in detention centres, and have been criticised by human rights bodies as “designed to exclude” https://www.amnesty.be/IMG/pdf/rapport_inde.pdf

⁵⁷ <https://cjp.org.in/wp-content/uploads/2018/11/NHRC-Report-Assam-Detention-Centres-26-3-2018-1.pdf>

⁵⁸ <https://www.uscirf.gov/news-room/releases-statements/uscirf-releases-new-factsheet-indias-citizenship-amendment-act>

⁵⁹ [Lok Sabha elections 2019: BJP promises NRC replication across India in poll manifesto](https://www.thehindu.com/news/national/assam/BJP-promises-NRC-replication-across-India-in-poll-manifesto/article17444447.ece) (The New Indian Express, 9 April 2019); [NRC Necessary for National Security, Will Be Implemented: Amit Shah in Kolkata](https://www.thehindu.com/news/national/assam/NRC-Necessary-for-National-Security-Will-Be-Implemented-Amit-Shah-in-Kolkata/article17444447.ece) (The Wire, 1 October 2019).

⁶⁰ https://www.censusindia.gov.in/Census_Data_2001/India_at_Glance/scst.aspx

protection and affirmative action measures to members of Scheduled Castes, including social welfare benefits, quotas for educational and employment opportunities, and the right to seek election in the reserved constituencies. Yet this Order has only recognized Hindus, and later members from other 'Indic' religions including Sikhs (1956) and Buddhists (1990), as SCs. Christian and Muslim Dalits therefore do not have access to affirmative action measures available to SCs, with dire effects on their socio-economic and political rights.

Targeting minority concentrated areas disproportionately

31. On 5 August 2019 the Government of India revoked Article 370, stripping the state of Muslim-majority **Jammu and Kashmir** of its special autonomous status and removed Article 35A removing guarantees for the state's indigenous population without consultation.⁶¹ These moves reduced the state to a Union Territory, undermining its autonomy as compared to other states. In October 2020, the GOI enacted regulations open the region for purchase of land by 'outsiders', making it for the armed forces to acquire private land.^{62 63} Earlier in June 2018 Jammu and Kashmir had been brought under direct central rule, and as a result it has been without popular representation for over 3 years.

32. The island of **Lakshadweep** which is the other Muslim majority province, has recently come under a slew of changes, that locals see as an attack on their culture, identity religion and way of life⁶⁴ – including ban on eating beef and removing a longstanding ban on liquor shops, among others.⁶⁵ Critics and

⁶¹ [Full text of document on govt.'s rationale behind removal of special status to J&K](#) (The Hindu, 5 August 2019); [Jammu & Kashmir After Article 370 is Revoked Archived](#) (last accessed 28 January 2022)

⁶² [Explained: What land laws have changed in J&K? How have parties responded?](#) (Indian Express, 18 November 2020); Material Consequences and Political Ramifications [Land Laws of Jammu and Kashmir](#) (Economic and Political Weekly, Vol. 56, Issue No. 4, 23 Jan, 2021)

⁶³ These changes in laws, along with a set of administrative measures aimed at preventing democratic rights, have targeted specifically Muslim-majority Kashmir valley of the now Union Territory. Five UN mandate-holders, in their letter to Government of India, noted that “while other states have been allowed to preserve their special autonomy status under the Constitution with protections for their native ethno-linguistic groups, the former state of Jammu and Kashmir, as the only state in India where Muslims form the greater part of the population, may have been singled out because of this. They raised concern that the abolition of J&K constitutional autonomy under Art 370 and implementation of Domicile Rules and other legislations, “may lead to reduced level of political representation and participation of native groups”, besides also “cause demographic changes, and risk undermining the linguistic and cultural rights and the freedom of religion or belief of the people of Jammu and Kashmir...”. [AL IND 21/2020](#) (10 February 2021).

⁶⁴ <https://www.theguardian.com/global-development/2021/jun/04/trouble-in-paradise-indian-islands-face-brazen-new-laws-and-covid-crisis>

⁶⁵ There are four draft regulations — the Prevention of Anti-Social Activities Regulation (<https://cdn.s3waas.gov.in/s358238e9ae2dd305d79c2ebc8c1883422/uploads/2021/01/2021012971.pdf>), (PASA), the Animal Preservation Regulation (<https://cdn.s3waas.gov.in/s358238e9ae2dd305d79c2ebc8c1883422/uploads/2021/02/2021022547.pdf>), and the Panchayat Regulation (<https://cdn.s3waas.gov.in/s358238e9ae2dd305d79c2ebc8c1883422/uploads/2021/02/2021022552.pdf>), and , Lakshadweep Development Authority Regulation (<https://cdn.s3waas.gov.in/s358238e9ae2dd305d79c2ebc8c1883422/uploads/2021/04/2021042854.pdf>). PASA gives police powers to jail suspects without trial, and without full evidence, for up to a year. The Animal Preservation Regulation bans slaughter of cows, calves, bulls or bullocks. The Panchayat Regulations disqualifies those with more than two children from becoming gram panchayat members. The Development Authority Regulation will empower the administration to acquire land on the islands, irrespective of its ownership, for “development” purposes.

opposition parties have claimed⁶⁶ that these changes will impact the island's residents and ecology irreparably⁶⁷.

Recommendations: Discrimination in law and Policy

- (i) Reaffirm commitment to secularism, equality and non-discrimination provisions of the Constitution, including Arts. 14, 15 and 16, and to eliminate inequality [Art. 38(2) and promote harmony and value diversity [Art. 51(a)].
- (ii) Amend the Citizenship Amendment Act 2019, to remove discriminatory provisions based on religious criterion, and bring it in line with international human rights and humanitarian law standards
- (iii) National Register of Citizens in Assam:
 - Commence appeals process, within a timebound calendar
 - Ensure Foreigners Tribunals (FT) follow set procedures and protocols for hearing appeals and weighing the evidence.
 - Facilitate equal access to justice for affected persons undergoing appeals before FT and provide legal aid, in particular to vulnerable groups
 - Ensure that detention orders and grounds stipulated by FT are in full compliance with international legal standards, to prevent arbitrary detention
 - Ratify UN Statelessness Convention
 - Ratify UN Refugee Convention
- (iv) Scheduled Castes among religious minorities:
 - Remove all religious references to the application of the 'Scheduled Caste' Constitutional Order 1950 to allow all Dalits – irrespective of religion - to benefit from affirmative action.
 - Enumerate Christian and Muslim communities that identify as Dalits, in the Scheduled Class list.
- (v) Kashmir:
 - Restore Article 370 and Art 35A of the Constitution, and the protection of indigenous rights
 - Restore J&K's status as a state of the Union
- (vi) Lakshadweep:
 - Take steps to protect the rights of citizens to identity, culture and religion

D. INTERSECTION OF RELIGION OR BELIEF AND OTHER HUMAN RIGHTS

⁶⁶ <https://theprint.in/india/these-are-the-3-lakshadweep-draft-laws-that-have-triggered-controversy/667336/>

⁶⁷ <https://www.theguardian.com/global-development/2021/jun/04/trouble-in-paradise-indian-islands-face-brazen-new-laws-and-covid-crisis>

Right to life, right to liberty

33. The reporting period witnessed systemic patterns of attacks on minorities, constituting grave violations of the right to life. These included killings of Muslims and Christians in mob lynchings, extrajudicial killings by police, and deaths in incidents of communal violence.
34. **Mob lynchings** by Hindu vigilante groups targeting minorities on suspicions of cow slaughter⁶⁸, sale and consumption of beef⁶⁹, interfaith marriage/relationship⁷⁰, theft and child theft among others, which emerged as a recurring trend since 2014, continued during this reporting period.⁷¹ Enough evidence points to the active support of the ruling BJP in the range of anti-minority attacks⁷² and the omission if not commission of police and authorities.⁷³

⁶⁸ Most states in India impose either a partial or complete legal prohibition on cow slaughter. Since 2014, members of the BJP have increasingly used communal rhetoric that has spurred a violent vigilante campaign against cow slaughter and beef consumption. Following this, states like Rajasthan, Maharashtra and Haryana made their cow protection laws stricter to include new offences (transportation of cattle and/or beef, sale and possession of beef) and substantially increased penalties. This was seen as a deliberate attempt to create a shadow of illegality and criminality around anything to do with cow slaughter and beef eating. The narrative of illegality surrounding cow slaughter and beef consumption, fed by Hindu nationalistic politics and supported by law, creates the context and provides the justification for violence against vulnerable minorities. For instance, in UP, the BJP led government issued orders to close ‘illegal’ slaughterhouses. Although the illegality pertained to environmental and other regulations, the public perception sought to be created was of rampant existence of slaughterhouses stealthily slaughtering cows. See - <https://thewire.in/politics/cow-slaughter-laws-vigilantes-victims> and <http://www.firstpost.com/india/up-slaughterhouse-crackdown-here-is-all-you-need-to-know-about-the-laws-regulating-abattoirs-3356182.html>

⁶⁹ India: Vigilante ‘Cow Protection’ Groups Attack Minorities.

<https://www.hrw.org/news/2019/02/19/india-vigilante-cow-protection-groups-attack-minorities>

⁷⁰ The Year of Love Jihad in India.

<https://www.newyorker.com/culture/2017-in-review/the-year-of-love-jihad-in-india>

⁷¹ See, Hunted- India’s Lynching Files.

<https://www.thequint.com/quintlab/lynching-in-india/> and Is India descending into mob rule?

<https://www.bbc.com/news/world-asia-india-40402021>

⁷² Lynch mobs comprising of cow protection groups, many claiming to be affiliated to militant Hindu groups such as the Bajrang Dal and Vishwa Hindu Parishad (VHP) which have ties with the BJP, carry out these attacks in public, with the violence being filmed and shared widely on social media.

‘The Rise of a Hindu Vigilante in the Age of WhatsApp and Modi’.

<https://www.wired.com/story/indias-frightening-descent-social-media-terror/>

⁷³ Across many incidents, the police were either complicit in the killings and the cover-up, or played a partisan role by stalling investigations and ignoring procedures. A common trend across cases is that instead of investigating and arresting those accused of mob violence, the police routinely file complaints against the victims, their families, and witnesses under recently amended cow protection laws with increased penalties. For instance in May 2018, a Muslim man was killed and his friend severely injured after they were assaulted by a group of men who accused them of cow slaughter. The police registered two cases in connection with the incident. The first case was filed against the victims, charging them with cow slaughter and later, a case of murder and attempt to murder was filed against the alleged assaulters. See -

<https://scroll.in/article/879771/madhya-pradesh-police-book-dead-man-for-cow-slaughter-before-filing-case-against-his-attackers> For other instances, see - <https://thewire.in/rights/jharkhand-lynching-police-books-3-advaisis-injured-in-attack-for-cattle-slaughter>;

Madhya Pradesh police book murdered man for cow slaughter before filing case against his attackers. <https://scroll.in/article/879771/madhya-pradesh-police-book-dead-man-for-cow-slaughter-before-filing-case-against-his-attackers> ; Muslim Meat Trader Attacked in UP, Police File FIR Against Him. <https://thewire.in/communalism/muslim-meat-trader-attacked-in-up-police-file-fir-against-him>

35. Government data is not available.⁷⁴ According to civil society estimates, between May 2015 and December 2018, at least 44 people, including 36 Muslims, were killed in such attacks.⁷⁵ As per media reports, 107 incidents of mob lynchings occurred in 2019, and 23 incidents leading to 22 deaths in 2020⁷⁶, with seven cases pertaining to suspicions of cow slaughter alone.⁷⁷ Between 2017 and 2021, an estimated of 350 violent incidents against Christians or their property have been documented. While methods vary, key organizations documenting violence against Christians, including by Evangelical Fellowship of India, Open Doors, Aid for the Church in Need, and Persecution Relief, have noted tangible and significant increase of mob violence against Christians and attacks on property of Christians since 2014. Rhetoric by political leaders, such as around as anti-conversion legislation, have incentivized lynchings and attacks.
36. **Mass targeted violence:** In February 2020 violence broke out in New Delhi, in which more than 53 people, mostly Muslims, were killed.⁷⁸ Over 200 were injured, properties and places of worship destroyed, and communities displaced in targeted attacks by Hindu mobs. There were reports of Delhi Police, overseen by the Home Ministry, failing to halt attacks and even directly participating in the violence.⁷⁹ In October, 2021, the north-eastern state of Tripura witnessed attacks on mosques and properties owned by Muslims,⁸⁰ with the Vishwa Hindu Parishad (World Hindu Council or VHP), and other Hindu groups allegedly attacking mosques and other places of worship⁸¹.
37. In the reporting period, the number of **extrajudicial killings** in particular Indian states has steadily risen, with a disproportionate number of victims from religious minorities. The states of Uttar Pradesh (UP) and Assam have shown worrying trends of killings in the course of police “encounters”.⁸² Since

⁷⁴ In December 2021, the Ministry of Home Affairs stated in Parliament that they are not collecting data on lynchings See - <https://rajyasabha.nic.in/rsnew/Questions/QResult.aspx> and <https://pqars.nic.in/annex/254/Au1005.pdf>. ‘No data on people injured, killed by vigilante groups, mobs or crowds in country: Govt.’ <https://indianexpress.com/article/india/no-data-people-injured-killed-vigilante-groups-mobs-country-govt-7674736/>

⁷⁵ Ibid.

⁷⁶ Mob Lynching in 2020: Misleading Exception than a Norm, Irfan Engineer and Neha Dabhade, available at : <https://csss-islam.com/secular-perspective/mob-lynching-in-2020-misleading-exception-than-a-norm/>

⁷⁷ The decline in number of cases in 2020 can be attributed to the Coronavirus pandemic and consequently prolonged lockdowns.

⁷⁸ <https://www.ohchr.org/Documents/Issues/Religion/Islamophobia-AntiMuslim/Civil%20Society%20or%20Individuals/RitumbraM2.pdf>

⁷⁹ “Shoot the Traitors” - Discrimination Against Muslims under India’s New Citizenship Policy. <https://www.hrw.org/report/2020/04/09/shoot-traitors/discrimination-against-muslims-under-indias-new-citizenship-policy>; Jeffrey Gettleman, Sameer Yasir, Suhasini Raj and Hari Kumar, “How Delhi’s Police Turned Against Muslims,” New York Times, March 12, 2020, <https://www.nytimes.com/2020/03/12/world/asia/india-police-muslims.html>

⁸⁰ Tripura: Anti-Muslim violence flares up in Indian state.

<https://www.bbc.com/news/world-asia-india-59047517>

⁸¹ Tripura: Mosque vandalised, two shops set on fire during VHP rally.

<https://indianexpress.com/article/north-east-india/tripura/tripura-mosque-vandalised-two-shops-set-on-fire-during-vhp-rally-7592208/>

⁸² Alleged shootouts where the police claim the victim was shot dead in self-defence, but credible sources indicate that the victims did not pose any threat, thus these in fact are extra-judicial killings. In UP the state government presents such killings as “crime control”.

<https://scroll.in/article/1005307/thok-do-adityanath-governments-zero-tolerance-of-crime-leaves-a-trail-of-victims>

March 2017, 8,472 instances of police firings have taken place, leading to the deaths of 146 men and bullet injuries to 3,302 more.⁸³ Data released by the UP Police shows around 37% of those killed between March 2017 and March 2021 were Muslims.⁸⁴ Reports⁸⁵ by civil society organisations claim that these are staged killings, with marks of torture on bodies. The National Human Rights Commission has failed to hold police to account.⁸⁶ In Assam, between May and December 2021, most people killed or injured in police shootings belonged to ethnic or religious minorities.⁸⁷

38. Arbitrary and prolonged detention.

There has been a pattern recently of arbitrary and prolonged detention of students, HRDs and citizens, mostly minorities, peacefully protesting against discriminatory laws and policies. This includes 18 students and activists, including 16 Muslims, in Northeast Delhi district protesting against CAA in 2020, of whom 13 continue to be in detention for over 2 years, denied bail.^{88, 89} In Uttar Pradesh, between 800 to 4500 persons, mostly Muslims, were detained, in 2019 in anti-CAA protests.⁹⁰ In Kashmir, close to 8000 persons - journalists, politicians, civil society members and human rights defenders - were held in preventive detention, in wake of abrogation of Art 370 there in 2019.^{91 92 93}

39. Security laws - namely terrorism and preventive detention – have been the weapon of choice to affect these detentions. In Uttar Pradesh, invocation of Unlawful Activities (Prevention) Act – UAPA, increased significantly since 2017 itself, with over 100 cases being reported every year,⁹⁴

⁸³ Operation Langda: In UP encounters, 3,300 ‘criminals’ shot at.

<https://indianexpress.com/article/india/operation-langda-in-up-encounters-3300-criminals-shot-at-7451222/>

⁸⁴ See <https://scroll.in/article/1005307/thok-do-adityanath-governments-zero-tolerance-of-crime-leaves-a-trail-of-victims>

⁸⁵ The Report “Extinguishing Law and Life: Police Killings and Cover-up in the State of Uttar Pradesh” documents 17 instances of such killings by the police in Uttar Pradesh since 2018. The report lays bare how the state circumvents the safeguards laid down by the Supreme Court and the National Human Rights Commission (NHRC). It also exposes the complicity of the NHRC in turning a blind-eye to the cover-up. The report can be accessed here - <https://yhrd.in>

⁸⁶ Extrajudicial Killings in UP Being Covered Up, Even NHRC Flouting Norms: Report.

<https://thewire.in/rights/extrajudicial-killings-in-up-being-covered-up-even-nhrc-flouting-norms-report>

⁸⁷ In BJP rule, 31 killed in Assam’s alleged encounters – most belong to ethnic or religious minorities.

<https://scroll.in/article/1012903/framed-most-people-killed-in-assams-alleged-encounters-belong-to-ethnic-or-religious-minorities#:~:text=A%20list%20compiled%20by%20the,been%20confirmed%20by%20the%20police.>

⁸⁸ CIVICUS, [India: Ongoing targeting of activists under anti-terror laws for their protests against citizenship law](#) (26 January 2022); National Campaign Against Torture, [Unprovoked Police beatings, Unwarranted Deaths, and Uninterrupted Repression](#) (June 2020) See section on misuse of counter-terrorism laws and for more factual

⁸⁹ In June 2020, UN special Rapporteurs and the Working group on Arbitrary Detention highlighted 11 cases of detention of anti-CAA protestors in Delhi Communication by UN mandate holders to the Government of India (11 June 2020) [AL IND 10/2020](#)

⁹⁰ <https://theprint.in/india/no-rectal-bleeding-but-police-thrashed-us-and-said-drink-urine-up-madrassa-students/344634/>

⁹¹ ‘Thousands detained in Indian Kashmir crackdown, official data reveals’ (Reuters, 12 September 2019)

⁹² This included three former elected Chief Ministers (CMs), members of all political parties and heads of traders’ associations (Human Rights Watch, [India: Free Kashmiris Arbitrarily Detained](#) (16 September 2019))

⁹³ ‘609 people currently under detention in J&K: Home ministry’ (India Today, 20 November 2019)

⁹⁴ National Crime Records Bureau - <https://pqars.nic.in/annex/253/AU1830.pdf>

disproportionately targeting Muslims.⁹⁵ Assam too has witnessed a similar pattern of abuse of counter-terrorism laws against Muslims.⁹⁶ Recently UAPA was invoked by authorities in eastern Tripura state against 102 persons, including journalists and advocates reporting anti-Muslim violence in October 2021 on social media.⁹⁷ The National Security Act (NSA), a preventive detention legislation⁹⁸, has also been invoked disproportionately in Uttar Pradesh and other states, against Muslims often for minor offences without any reasonable security implications, such as cow slaughter.⁹⁹ IN Kashmir, Public Security Act (PSA), is used to stifle dissent.¹⁰⁰ Charges under UAPA as well as NSA, and sedition provisions of the Indian Penal Code (IPC), are used to intimidate victims from among minority community and frame human rights defenders as terrorists. There have been allegations of custodial torture too, against minors¹⁰¹ and women Human Rights Defenders¹⁰², besides others.

40. Sexual harassment of minority women: In cases of brutal crackdown on peaceful anti-CAA protests discussed above, on several occasions women have reported being sexually harassed by the police or private actors. The National Federation of Indian Women (NFIW) released a fact-finding report on the attack, detailing sexual assault of 15 female students of Jamia Milia Islamia University, by police personnel during the anti-CAA protests in Delhi.¹⁰³ Similar incidents were recorded by Delhi Minorities Commission in their report on the targeted violence in northeast Delhi in February 2020, where anti-CAA protestors were allegedly disrobed by the police.¹⁰⁴ Disturbing reports of a pregnant Muslim woman being beaten up in Northeast Delhi were also brought to our attention.^{105 106}

⁹⁵ A widely reported recent instance was the arrest of Siddique Kappan, a Muslim journalist, along with three other Muslims in October 2020, while on their way to interview the family of a Dalit woman who had been gang raped and murdered by “upper” caste men in Hathras, Uttar Pradesh. [5,000-Page UAPA Charge Sheet Filed Against Journalist Siddique Kappan](#) (Quint, 4 April 2021)

⁹⁶ [UAPA slapped, 15 held in Assam for ‘pro-Taliban’ posts](#) (Indian Express, 22 August 2021)

⁹⁷ <https://www.firstpost.com/india/editors-guild-says-deeply-shocked-by-uapa-against-journalists-reporting-tripura-communal-violence-10118511.html>

⁹⁸ With authorities empowered to determine whether the accused are threat to national security or law and order, no formal charge is required, and with only limited judicial intervention.

⁹⁹ Recently it was revealed that the NSA was invoked against 139 people until August that year, of whom, 88 were Muslims. 76 of these for cow slaughter and 12 for anti-CAA protests. [Indian state uses draconian law to detain those accused of killing cows](#) (Reuters, 11 September 2020)

¹⁰⁰ <https://thewire.in/rights/psa-detentions-kashmir>

<https://www.article-14.com/post/no-crime-no-lawyer-no-appeal-kashmir-s-lawless-law-awaits-sc-decision>

¹⁰¹ <https://theprint.in/india/no-rectal-bleeding-but-police-thrashed-us-and-said-drink-urine-up-madrassa-students/344634/>

<https://www.telegraphindia.com/india/uttar-pradesh-police-accused-of-stripping-cleric/cid/1731127>

¹⁰² P Nair, “I felt like a Jew in Hitler’s Germany” Sadaf Jafar on Police Detention”. Outlook, January 15, 2020, quoted in Jaffrolet, C. (2021:383)

¹⁰³ <https://nfiw.files.wordpress.com/2020/08/for-press-corrected-final-fact-finding-report-jamia.pdf>; <https://indianexpress.com/article/cities/delhi/delhi-anti-cao-nrc-npr-protesters-jamia-police-clash-6261139/>; <https://scroll.in/latest/952754/delhi-more-than-10-jamia-students-injured-as-police-stop-cao-protest-march-to-parliament>

¹⁰⁴ Delhi Minorities Commission, [Report of the Fact-Finding Committee on Northeast Delhi Riots](#) (July 2020)

¹⁰⁵ <https://citizensagainsthate.org/wp-content/uploads/2021/03/Darkness-at-Noon.pdf> p.18

¹⁰⁶ Delhi Minorities Commission, [Report of the Fact-Finding Committee on Northeast Delhi Riots](#) (July 2020)

Recommendations: Right to Life and Liberty

- i. Strengthen efforts for the prevention of systemic right to life violations against religious minorities such as through mob lynchings and extrajudicial killings
- i. Take all necessary preventive and punitive measures to ensure incidents of targeted violence are prevented and responded to in a lawful, nonpartisan manner
- ii. Pursue rigorous and independent investigations against police and security force officials complicit in grave human rights violations against religious minorities
- iii. Review Indian Penal Code and other substantive laws to strengthen provisions for accountability of perpetrators of gross human rights violations, in line with international standards, including state officials.
- iv. Conduct comprehensive review of terrorism and preventive detention laws, to bring them in conformity with international standards, including the right to bail and to fair trial, as well as the right to compensation and reparations.
- v. Ratify the Convention for the Protection of all Persons against Enforced Disappearance and its Optional Protocol, and ensure that domestic legislation defines enforced disappearance in line with international standards.
- vi. Legislate a just and fair programme of restitution for victims of violence and human rights abuses and their families, including relief, compensation and rehabilitation, that is easily accessible.

Prohibition of torture and other cruel and degrading treatment

41. There are several serious allegations of **custodial torture** and cruel, inhuman or degrading treatment from the state of Uttar Pradesh, of Muslims, including human rights defenders, students, and protesters.¹⁰⁷ There have been reports of custodial torture of children by police from various districts in the state.¹⁰⁸ These included students at a Muslim seminary in Muzaffarnagar district¹⁰⁹,

¹⁰⁷ Citizens Against Hate, [Everyone has been silenced – Police excess against anti-CAA protesters in Uttar Pradesh, and post-violence reprisal](#) (2 March 2020);

¹⁰⁸ 'CAA: UP Police Tortured Children Swept Up In Citizenship Law Protests' (Huffington Post, 24 December 2019).

¹⁰⁹ In Muzaffarnagar, students of the *Sadaat Madrasa* (residential Muslim seminary), minors, were reported detained by the police, and school principal and staff members forced to spend a night in custody, at great physical and mental harm to themselves and the students. Similar reports have come from Bijnore. students as young as 15 years old were allegedly subjected to beatings in custody, resulting in bruises and broken limbs. They were deprived of sleep and water, and reportedly abused and humiliated. <https://theprint.in/india/no-rectal-bleeding-but-police-thrashed-us-and-said-drink-urine-up-madrasa-students/344634/> The principal was released from custody with a broken arm and bruised legs <https://www.telegraphindia.com/india/uttar-pradesh-police-accused-of-stripping-cleric/cid/1731127>

student leaders.¹¹⁰ and social activist, in custody in capital Lucknow.¹¹¹ Several arrests of minors did not meet the necessary requirements of domestic criminal procedural law, e.g. minors were not presented to the Juvenile Justice Board within the first 48 hours and some individuals were added to a FIR only after they were arrested, or there was no reasonable basis for the arrest.

42. Reports of custodial torture in Kashmir - in the lead up to and following the abrogation of Art 370 and 35A in August 2019 - show these are even more widespread there. According to the National Federation of Indian Women, 13,000 children were detained in Kashmir in the early months of the lockdown.¹¹²

Recommendations

Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, ensure that domestic legislation defines torture in line with international standards, and extend an invitation to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment for an official visit to India.

Freedom of expression, including questions related to religious intolerance and extremism

Restriction on free speech of minorities

43. The past years have seen blanket bans on protests, internet shutdowns, and surveillance. These measures have often disproportionately affected minorities and minority-led organisations. At the same time, human rights organizations, journalists as well as media houses who speaks of the concerns of the minorities, and human rights more broadly, have been subjected to physical, financial, and social reprisals.

44. Journalists reporting to the protest movement against the CAA 2019 were repeatedly attacked and harassed. In several high-profile incidents, 'raids' by serious crimes agencies of the central government, including Enforcement Directorate, and Central Bureau of Investigation were carried out at the offices of news outlets critical of government, without any evidence of alleged crimes. These include NewsClick, and NDTV. In Assam, police forces barged into offices of private news channel and assaulted their staff with batons for reporting anti-CAA protests.¹¹³

¹¹⁰ For instance, in Sambhal district police arrested a Muslim student (name unknown). When they found that he was a student of Jamia Millia Islamia – where largescale anti-CAA protests had been ongoing – he was stripped naked and beaten with batons and belts, including on his genitals. Karwan-e-Mohabbat, '[A State at War with its People: Report on State Action in UP Targeting Dissent and Muslim Minorities](#)' (February, 2020).

¹¹¹ Sadaf Jafar was kicked in the stomach, slapped repeatedly, had her hair pulled and was called Pakistani to mean anti-national. "My Muslim identity is the only reason that such treatment was meted out to me", she claimed. P Nair, "I felt like a Jew in Hitler's Germany" Sadfaj Jafar on Police Detention". Outlook, January 15, 2020, quoted in Jaffrolet, C. (2021:383)

¹¹² '[Young boys tortured in Kashmir clampdown as new figures show 13,000 teenagers arrested](#)' (The Telegraph, 25 September 2019) [Kashmir Caged](#) (NewsClick, 14 August 2019).

¹¹³ [Guwahati: Assam Police Beat up Local TV News Channel's Staff](#) (The Wire, 13 December 2019)

45. In Kashmir, journalists have also been repeatedly targeted, many charged under the anti-terrorism UAPA or sedition laws¹¹⁴, most recent being Fahad Shah of Kashmirwallah.¹¹⁵ Pro-Government journalists and police recently forcibly took over the independent press club in Srinagar, and authorities later shut down the club.¹¹⁶ In November 2021, nine simultaneous 'raids' were conducted in by the National Investigation Agency (NIA) on the houses and offices of several human rights defenders, non-governmental organizations and newspapers in the state,¹¹⁷ a matter noted with concern internationally.¹¹⁸ The raids came a day after the government enacted a series of new rules allowing non-locals to buy land in Kashmir, suggesting an attempt to silence critics.¹¹⁹

Restrictions on peaceful assembly

46. December 2019 witnessed authorities imposing blanket curfews banning assembly of over 4 people across regions, in Uttar Pradesh, Delhi, Assam, ahead of anticipated protests against the enactment of the CAA.¹²⁰ Areas under curfew were mostly Muslim concentration areas.¹²¹ The curfews deprived them of their legitimate democratic right to protest against a law that was seen as being fundamentally discriminatory.¹²² Police instructed cellular companies to cut communications in key areas where they apprehended largescale protests.

47. In Kashmir, authorities imposed severely restrictive communication shutdown from August 2019 to January 2020 effectively blocking all means of communication, completely alienating Kashmiris from the wider world¹²³, preventing any form of democratic dissent impossible. and preventing.¹²⁴ The

¹¹⁴ UN mandate holders have termed these as a 'broader pattern of silencing independent reporting in Jammu and Kashmir, which may ultimately deter other journalists from and civil society from reporting on issues of public interest and human rights in the region. [AL IND 9/2021](#) (3 June 2021)

¹¹⁵ <https://thewire.in/media/uapa-fahad-shah-jammu-and-kashmir-police-media>

¹¹⁶ <https://www.theguardian.com/world/2022/jan/17/kashmir-independent-press-club-shut-down-in-media-crackdown>

¹¹⁷ [India: Simultaneous NIA raids on human rights defenders' home, NGOs and newspaper's offices](#) (FIDH, 28 October 2020)

¹¹⁸ On 22 Dec 2020, UN experts wrote to India on intimidations, searches and confiscations by national security agents in Kashmir, pursuant to the enforcement of counterterrorism measures, against HRDs and journalists IND 20/2020. [DownloadPublicCommunicationFile \(ohchr.org\), 22 Dec. 2020](#)

¹¹⁹ [Explainer: What exactly are the changes to land laws in Jammu and Kashmir?](#) (Scroll, 29 October 2020)

¹²⁰ Police order [tweeted](#) by ANI, [India muzzles citizenship law protests, detaining thousands and shutting down Internet in several cities](#) (The Washington Post, 19 December 2019)

¹²¹ Police order [tweeted](#) by ANI, [India muzzles citizenship law protests, detaining thousands and shutting down Internet in several cities](#) (The Washington Post, 19 December 2019)

¹²² The UN had already issued a statement sharing concerns over the discriminatory law. [New citizenship law in India 'fundamentally discriminatory'](#) (UN human rights office, 13 December 2019)

¹²³ [India's Internet shutdown in Kashmir is the longest ever in a democracy'](#) (The Washington Post, 16 December 2019). [Kashmir Has Become an Open Air Prison, Says Iltija Mufti, Mehbooba Mufti's Daughter'](#) (Gulf News, October 3, 2019); 'Internet Shutdown Tracker', Software Freedom Law Center, accessed July 16, 2020, <https://internetsutdowns.in>.

¹²⁴ UN mandate holders have characterised the shutdown as 'inconsistent with the fundamental norms of necessity and proportionality' violating their right to assembly amounting to 'a form of collective punishment of the Kashmiri people...without even the pretext of a precipitating offence'

'[UN rights experts urge India to end communications shutdown in Kashmir](#)' (United Nations Office of the High Commissioner for Human Rights, 22 August 2019)

restrictions on social media have continued in some form or another¹²⁵, raising concerns internationally.¹²⁶

Recommendations

- i. Ensure that prosecution under Security or similar laws are not targeting religious minorities/ Minorities rights to freedom of expression, assembly, association are not especially targeted
- ii. Guarantee freedom of expression, association and peaceful assembly for religious minorities and an end to the curbing of these rights through the misapplication of security laws

Incitement to hostility, discrimination and violence against religious minorities

48. Senior political leaders, including state ministers and individuals associated with the BJP and their ideological front, RSS, regularly engage in incitement to discrimination, hostility, and violence against religious minorities in public spaces as well as through online platforms such as Twitter, Facebook etc. They falsely accuse Muslims, Christians or Dalits of acts such as smuggling cattle, possessing beef, forced or paid religious conversion, attempts at religious intermarriage.

49. Following the anti-CAA movement, from December 2019 to February 2020, Delhi witnessed a campaign of inciteful speeches by the BJP electoral candidates, party leaders, and senior ministers of the central government were targeted against Muslims and the anti-CAA protestors.¹²⁷ Kapil Mishra's speeches are emblematic¹²⁸, of many such.¹²⁹

¹²⁵ 'UN Rights Chief Highlights Concern Over CAA, Anti-Muslim Violence, Police Force' (The Wire, 27 February 2020) <<https://thewire.in/rights/caa-kashmir-violence-unhcr>> accessed 18 September 2021.

¹²⁶ In August, 2021, UN experts raised concerns regarding "severe restrictions on freedom of expression and freedom of peaceful assembly and of association, as well as the arbitrary arrests and detention of political figures, journalists, members of civil society and human rights defenders in the state, and violations to the right to life".

Reference IND 16/2019, [Internal Communication Clearance Form \(ohchr.org\)](https://www.ohchr.org/)

¹²⁷ [Narendra Modi](#), [Amit Shah](#), [Subramanian Swamy](#), [Anurag Thakur](#), [Giriraj Singh](#), [Yogi Adityanath](#), [Tarun Chugh](#), [Kapil Mishra](#), [Parvesh Verma](#), [Abhay Verma](#), [Tajinder Bagga](#), [Somasekhar Reddy](#).

¹²⁸ Kapil Mishra, a senior BJP politician popularized the violent slogan ("*Desh ke ghaddaron ko, goli maaron saalon ko*") (Shoot dead the bastards, traitors to the nation) in Delhi through large public rallies, tweets (shared by millions), and physically leading Hindu mobs in Northeast Delhi, sparking the violence that would leave over 53 dead in February 2020 [The Roots of the Delhi Riots: A Fiery Speech and an Ultimatum](#) (New York Times, 28 February 2020)

[AL IND 15/2020](#) (pg. 2); [Video of the Speech and Ultimatum](#) (Scroll, 21 December 2019); Citizens Against Hate, [Darkness at Noon](#) (2020)

¹²⁹ The scale of these speeches led the UN Special Adviser on the Prevention of Genocide, Adama Dieng, in May 2020, expressing his concern over reports of increased hate speech and discrimination against Muslims in India [Note to Media on India by Under-Secretary-General Adama Dieng, United Nations Special Adviser on the Prevention of Genocide](#) (18 May 2020)

This was followed by a group of UN experts, in October 2020, raising concern about "hate speech, violent attacks and harassment of peaceful anti CAA protesters, disproportionately targeting Muslim religious minority", in Uttar Pradesh in December 2019 and in Delhi in February 2020.

50. With the onset of COVID-19 in March- April 2020, Muslims across India became the target of hate, vilification, and incitement, with orchestrated campaigns¹³⁰ by BJP leaders and pro-BJP TV channels¹³¹, together with social media platforms, blaming Muslims for spreading the virus, and calling for direct action against them. This anti-Muslim targeting spilled over into real-world violence, economic boycotts, and denial of public services.¹³²
51. In Assam, during the state legislative assembly elections in 2021, BJP candidates were reported repeatedly made incendiary speeches against the Bengali-speaking Muslims in the state equating them as ‘termites’ or illegal migrants, or encroachers.¹³³
52. Most recently, at Hindu religious conferences across several sites, senior leaders have been pledging the destruction of the Muslim community and urging their followers to take to arms.¹³⁴ Calls for “cleanliness drive” against Muslims and to kill “at least 2 million” have been repeated in these ‘religious parliaments’ (Dharam Sansads) by some of the most prominent faces, all with strong links to the ruling BJP. They also called to “rape and impregnate” Muslim women.¹³⁵ Separately, hundreds of prominent Muslim women were, on New Year day, sold in mock auctions on social media, in an obvious attempt to dehumanise them.¹³⁶ ¹³⁷ These have resulted in real life physical consequences for minorities – including mob violence resulting in murder, besides attacks¹³⁸, arson, social¹³⁹ and economic boycott¹⁴⁰, denial of services.¹⁴¹
53. **Online abuse against minority women:** On 1 January 2022, Muslim women were reported to be put on ‘auction’ via an app called ‘Bull Bai – your deal of the day’. This was second instance in the last one year where pictures of prominent Muslim women surfaced on an auctioning app. The names of the

¹³⁰ <https://www.bbc.co.uk/news/world-asia-india-52147260>

¹³¹ <https://www.newslaundry.com/2020/04/27/audit-of-bigotry-how-indian-media-vilified-tablighi-jamaat-over-coronavirus-outbreak>

¹³² <https://strongcitiesnetwork.org/en/coronajihad-covid-19-misinformation-and-anti-muslim-violence-in-india/>

¹³³ [‘Stress on Hindu identity’: BJP hate campaign in poll-bound Assam](#) (Al-Jazeera, 25 March 2021)

¹³⁴ [Hindutva Leaders at Haridwar Event Call for Muslim Genocide](#) (The Wire, 22 December 2021)

¹³⁵ <https://m.thewire.in/article/communalism/sadhvi-vibhanands-call-to-rape-muslim-women-with-impunity-shows-hindutvas-politics-of-fear/amp>

¹³⁶ <https://time.com/6140574/muslim-women-india/>

¹³⁷ This climate of hatred and intolerance empowers vigilantes to engage in acts of violence and discrimination against members of religious minorities as well as incite others to imitate their example. Apart from regular incidents of mob-lynching, daily life for many religious minorities is now marked by fear and a sense of abandonment from the government. So far, the Indian government has been silent on condemning violence against religious minorities and has not attempted to counter narratives inciting violence and discrimination, nor it has taken any action against its party members who made these threats on public fora.

¹³⁸ [‘Boycott Muslim Vendors’: Chhattisgarh Villagers Seen Taking Oath in Viral Video \(thewire.com\)](#)

¹³⁹ [UP: Bajrang Dal Workers Create Ruckus, Shut Muslim Shop Alleging ‘Love Jihad’ \(thewire.in\)](#)

¹⁴⁰ <https://thewire.in/communalism/madhya-pradesh-dhar-communal-clash-raze>

¹⁴¹ A database records 212 instances of hate crime between 2014 and 2020. Of these, more than 50 per cent were against Muslims. Almost 30 per cent of all cases resulted in death, over 80 per cent of which were Muslims. In a remarkable 71 per cent of the cases where information was available, police investigated victims for crimes, rather than the perpetrators. Over 2/3rd of all cases occurred in states ruled by BJP or BJP-led coalitions. Perpetrators in 3/4th of the cases in which information was available, belonged to Vishwa Hindu Parishad, Bajrang Dal or Shiv Sena, all with close links to BJP and part of the RSS family.

https://reutersinstitute.politics.ox.ac.uk/sites/default/files/2022-01/RISJ_Final%20Report_Rachel_2021_Final.pdf

apps, Bulli Bai and Sulli Bai, are derogatory terms used for Muslim women.¹⁴² These incidents are sign of the organized nature of virtual bullying, with threats of sexualized violence aimed at silencing the outspoken women.¹⁴³ No arrests or prosecutions followed the first incident in July, 2021. The second one, after being reported widely, led to initiation of investigations and arrests.¹⁴⁴

54. Whilst authorities have only rarely taken any action against perpetrators of anti-minority vilification and incitement, penal provision on “hurting religious sentiments” are more often instrumentalised against the minorities – the case of the Muslim comedian Munawar Faruqui being a case in point.¹⁴⁵ There has been growing criminalisation of free speech¹⁴⁶ and political criticism¹⁴⁷ and even more frequent censure of minority voices.¹⁴⁸

Recommendations:

- (i) Authorities must publicly condemn incitement to discrimination, hostility and violence against minorities, and take exemplary action against perpetrators
- (ii) Pursue independent investigations against incitement, prosecute the guilty without delay
- (iii) Review the legal framework on speech crimes that meet the threshold for preventing such speech, to ensure those are in conformity with international standards. This to include speech on social media and TV channels.

Cross cutting recommendations

¹⁴² [Bulli Bai: India’s Muslim women again listed on app for ‘auction’](#) (Al-Jazeera, 2 Jan 2022)

¹⁴³ [Clubhouse and the Fantasy of Sexual Violence Against Muslim Women](#) (The Wire, 20 Jan 2022); [Sulli Deals: Indian Muslim women offered for sale in ‘auction’](#) (Al-Jazeera, 12 July 2022)

¹⁴⁴ [Alleged creator of app ‘selling’ Muslim women arrested in India](#) (Al-Jazeera, 7 Jan 2022)

¹⁴⁵ In January 2021, a young Muslim comedian, Munawar Faruqui was arrested by the Indore Police in the State of Madhya Pradesh after complaints by local Hindu vigilantes who claimed that he was ‘going to’ crack jokes ‘offensive’ to Hindus during a show. Despite no jokes having actually been cracked, Faruqui, along with five of his friends and fellow-organisers of the show were arrested and had to spend over a month in jail. Subsequently a warrant against him was issued by the Uttar Pradesh police

As Indore Police Admits It Has No Evidence Against Comedian, UP Police Moves to Make Arrest

<https://thewire.in/rights/comedian-munawar-faruqui-up-police-custody>

¹⁴⁶ 19 arrested for cheering Pakistan's Champions Trophy victory

<https://timesofindia.indiatimes.com/india/19-arrested-for-cheering-pakistans-champions-trophy-victory/articleshow/59243368.cms>; Rajasthan: Police arrest teacher who celebrated Pakistan's T20 win against India.

<https://www.indiatoday.in/india/story/rajasthan-teacher-arrest-celebrated-pakistan-t20-win-against-india-1870152-2021-10-27>

¹⁴⁷ Arrest over a Facebook status: 7 times people landed in jail for posts against politicians.

<https://www.hindustantimes.com/india-news/arrested-over-a-facebook-status-7-times-people-landed-in-jail-for-posts-against-politicians/story-ON1jukoStfV6T8aYcJEVGJ.html>

¹⁴⁸ Arrest of tribal teacher over post on beef eating triggers outrage in Jharkhand’, NewsClick, May 27, 2019

<https://www.newsclick.in/Jharkhnad-Activist-Arrested-Jeetrai-Hansda-Facebook-Remarks>

Rishav Raj Singh, ‘Muslim student in Madhya Pradesh arrested for calling RSS men ‘pigs’ on Facebook’, The Wire, July 23, 2020

<https://thewire.in/rights/muslim-student-in-madhya-pradesh-arrested-for-calling-rss-men-pigs-on-facebook>

- Absence of data disaggregated by religion across the range of issues (violence, speech crimes, representation in public institutions, coverage of groups in social security and developmental schemes) : Collect and make data disaggregated by religion to the public.
- Invest in training and sensitising public officials (police, civil services, and judicial officers) in human and minority rights.