

Joint Stakeholders' Report on Freedom of Belief, Thought & Expression in view of India's UPR III

Introduction

1. This is a Report prepared by the National Solidarity Forum (a coalition of organizations and individuals) and others on the situation of Freedom of Belief, Thought and Expression for submission to the Office of the United Nations High Commissioner for Human Rights (OHCHR) in view of India's third UPR. It is prepared on the basis of 5 regional and one national consultation at different of parts of India.

2. Freedom of Speech and Expression

2.1 Growing Intolerance: Any expression narrating a different point of view is perceived with resentment and hostility and there are high-pitched demands for bans and followed by physical threats, vandalism and abusive campaigns via media. This is not limited with minorities, Dalits or human rights activists even writers, even film artists, painters, dancers, musicians, historians, journalists are being victimized. Fundamentalist and chauvinistic groups mobilize to suppress the writings that are critical of Hindutya or Hindu nationalism and the Union or State governments fail to give any protection to the writers. The most prominent example in 2014 was a publisher's withdrawal—in response to a lawsuit—of U.S. academic Wendy Doniger's book *The Hindus: An Alternative History*. Attempts of this kind appear to be on the rise. One renowned literary critic and Malayalam scholar, Dr. M.M. Basheer was threatened and told to stop his column on Ramayana, Ramayana Jeevithasaramritham. Unable to bear the barrage of aggression of Sangh Parivar elements, Hanuman Sena in particular, he stopped his series. A great Indian painter M.F Hussain had to stay outside India towards the end of his life being unable to stand with threats, abuses and hate campaigns. In Tamil Nadu one writer was terrorized to withdraw his books. Often they (writers & artists) are not provided with adequate security and protection and on the other hand, their abusers are not restricted. Mostly such abusers get backing, encouragement, even felicitation by the Hindutya organizations and ruling elites. The regime has not yet demonstrated any will to rein in rising intolerance and the radical right groups, which have been causing dissatisfaction among the writers, artists, liberals, historians, scientists throughout the country. Hundreds of writers, poets, film personalities, historians, scientists have returned their awards received from the Government in protest against the rising intolerance in the country¹.

¹ <http://www.thehindu.com/specials/civil-society-express-their-concern-over-rising-intolerance/article7844951.ece> and <http://indianexpress.com/article/opinion/columns/why-i-am-returning-my-award/>

2.2 ‘Sedition’ – an instrument to suppress and criminalize opposition views :

Activists, students, writers, cartoonists and others are being regularly targeted and charged with Sedition and Offences against State under the under sections 121, 121A, 122, 123 & 124-A of the Indian Penal Code (IPC) and arrested for their views, writings or art-works that voices critical or opposing views against the government. Even if, the Supreme Court clarified in some notable cases that, advocating revolution, or advocating even violent overthrow of the State, does not amount to sedition, unless there is incitement to violence, and more importantly, the incitement is to ‘imminent’ violence. Thus, words and speech can be criminalized and punished only in situations where it is being used to incite mobs or crowds to violent action. Mere words and phrases by themselves, no matter how distasteful, do not amount to a criminal offence unless this condition is met. In 2014 alone 512 cases registered and 872 persons were arrested². 11 cases were booked against 19 people, in the first three months of 2016³. Criminalizing and harassment by the state prompts mob attacks against the activists, students and others by the jingoist and chauvinist groups⁴.

² <http://ncrb.gov.in/StatPublications/CII/CII2014/chapters/Chapter%2021.pdf>.

³ <https://www.hrw.org/report/2016/05/24/stifling-dissent/criminalization-peaceful-expression-india>

⁴ A list of cases of sedition charges and later released by the Court:-

Cartoonist Aseem Trivedi was charged with sedition for his 'offensive' cartoons. The Kanpur-based artist has been accused of putting up banners mocking the Constitution during a rally of anti-corruption crusader Anna Hazare in Mumbai, he also posted the same on the Social media. He was arrested in Mumbai under IPC Section 124 (sedition), section 66 A of Information Technology Act and section 2 of Prevention of Insults to Nation Honour Act.

Binayak Sen is an Indian pediatrician, public health specialist and activist. He was also the national vice-president of the People's Union for Civil Liberties. Sen was accused of sedition by the Chhattisgarh government for allegedly supporting the outlawed Naxalites, thereby violating the provisions of the Chhattisgarh Special Public Security Act 2005 (CSPSA) and the Unlawful Activities (Prevention) Act 1967.

A noted writer, author and political activist was sought to be charged with sedition for advocating independence for the disputed Kashmir region. Roy along with Hurriyat leader Syed Ali Shah Geelani and others was booked on charges of sedition by Delhi Police for their "anti-India" speech at a seminar in 2010.

In February 2016, police in Delhi arrested Kanhaiya Kumar, president, student union of the Jawaharlal Nehru University along with other five students (Umar Khalid, Anirban Bhattacharya) after members of the student wing of the ruling Bharatiya Janata Party (BJP) accused him of making anti-national speeches during a meeting organized on campus.

There are many other prominent examples of use of the sedition provision to silence political speech. In May 2012, for example, police in Tamil Nadu filed sedition complaints against thousands of people who had peacefully protested the construction of a nuclear power plant in Kudankulam. According to S.P. Udaykumar, founder of the People's Movement Against Nuclear Energy, which led the struggle against the project, 8,956 people face allegations of sedition in 21 cases. A public hearing organized by activists belonging to the Chennai Solidarity Group in May 2012, which included a former chief justice of the Madras and Delhi High Courts, found that the state had denied the protesters both freedom of speech and freedom of assembly.

A [sedition](#) case was filed against actor-turned-politician Divya Spandana, in August, 2016 for praising the people of Pakistan and their hospitality. Outraged by her remarks a lawyer in Karnataka has filed a case of sedition on Spandana also known as Ramya. Her remarks came in response to Defence Minister Mohan Parrikar's comments that going to hell and going to Pakistan was the same, to which Ramya said, "I respectfully disagree, Pakistan is not hell, people there are just like us."

(October 2015) Patel quota agitation leader, Hardik Patel, was booked for sedition charges for allegedly instigating a youth to kill police men rather than committing suicide. "If you have so much courage...then go and kill a couple of policemen. Patels never commit suicide." Hardik had allegedly told Vipul Desai, who was willing to give up his life in support of the Patel quota agitation.

(May 2016) A sedition case was registered against Jat Sangharsh Samiti chief Yashpal Malik and 125 others for allegedly threatening to launch a nother quota agitation. This was after a Jat quota agitation that turned violent in the month of February resulting in the death of thirty people and extensive damage to property in parts of North India.

2.3 State Interference in the autonomy of the educational institutions and Attacks on students free speech and peaceful expression:

2.3.1 Panchjanya, the mouthpiece of RSS in its November 2015 issue prominently carried a piece on Jawaharlal Nehru University which described it as ‘anti-national’. This was rebutted sharply by then Vice Chancellor SK Sopory, students, alumni and teachers. As most of the Ministers including the Prime Minister and most of the MPs from ruling BJP party who claim to be members and well-wishers of RSS and guided by it have, repeatedly, been telling JNU as Anti-National. In February 2016, police in Delhi arrested Kanhaiya Kumar, a student union leader at the Jawaharlal Nehru University and four others, after members of the student wing of the ruling Bharatiya Janata Party (BJP) accused him of making anti-national speeches during a meeting organized on campus. The Delhi police admitted to the court that Kumar had “not been seen” raising any anti-national slogans in the video footage available. The Delhi High Court granted him bail in March. However, despite the police’s admission that they had no evidence of anti-national sloganeering by Kumar, and certainly no evidence of incitement to violence, the government has yet to admit that the arrests were wrong. Kumar’s arrest thus reveals how divided the country remains over the meaning of tolerance and the imperative of legal protection of peaceful, if disfavored, expression.

2.3.2 PhD students, Dontha Prasanth, Rohit Vemula, Vijay Kumar, Sheshaiah Chemudugunta and Velpula Sunkanna, all Dalits, were banned from entering hostels, the administration building and other common places in groups, and were restricted from participating in the Students’ Union elections, following the complaints by ABVP (an wing of RSS and close to BJP) against Ambedkar Students Association (ASA – a platform of dalit students raising voice against caste discrimination & beef ban) on August 3, 2015. The interference by some Union Ministers, continuous harassment and ostracization led to the ‘death’ (forced suicide) of Rohit Vemula. After the death students continued their protest for months together. Then there were such efforts – mostly following letters written by BJP leaders — to curb ‘political activity’ by the Ambedkar Periyar Study Circle in IIT, Chennai and IIT Mumbai.

**A case of sedition was registered against Green Wales School in Burhertown of Shahdol district for allegedly marking Jammu and [Kashmir](#) incorrectly on India’s map in the school diary. The case was registered against the school, its director Mohammad Sharif Niyazi, principal Govind Chand Das and publisher Arun Kumar Agarwal.*

**A sedition case was registered against AIMIM chief and Hyderabad MP Asaduddin Owaisi over his statement that he would provide legal aid to five Muslims arrested by NIA on charges of alleged involvement with the ISIS. The advocate who had filed the complaint had mentioned that such a ‘stand’ of Owaisi will “boost the morale of anti-nationals and give oxygen to terrorists”.*

*(August 2016)*Tasweef Ahmad, resident of Sopore, Kashmir was arrested by the police on charges of sedition. Ahmad has allegedly posted on social media against the state government and had endorsed for Kashmir’s independence. Ahmad had been working in Chhattisgarh for seven years when he was reportedly arrested from a train on his way back to his home in Kashmir.*

**Human rights group Amnesty India International has been booked for sedition for organising an event where allegedly anti-Indian slogans were raised. The people attending the event were chanting slogans of ‘Azadi’ in Kashmir which was taken as spreading national hatred.*

2.3.3 The Film and Television Institute of India (FTII) had seen one of the students protests following the appointment of a little known artiste Gajendra Chauhan as its Chairman because of his closeness to the ruling party. Despite a long and well publicized protest by FTII students, filmmakers and actors, the government did not change its stance and continued to ignore voices of students and film personalities.

2.3.4 The underlying thinking behind the RSS-led campaigns backed by the government — the whisper campaigns, the violent incidents involving even lawyers and party MLAs, the use of the ABVP (RSS' student wing) to try to suppress the voices of students and teachers and resort to violence — is to ensure that academics of different persuasions are purged. Control over universities, colleges, is a key objective in the RSS' brand of attempting to re-engineer India, in their quest to control those who shape and mould public opinion and constitute the intellectual elite. The attempt to replace rational and scientific belief with its version of 'Hindu' discoveries is increasingly emerging at the heart of all small struggles and fights in universities, be it over appointments, termination of contracts, curbing Dalit activism and or using the 'anti-national' card to end all dissent.

2.4 Criminal defamation against critics: The frequent use of criminal defamation charges by the central and various state governments against journalists, media persons and rival politicians is illustrative of how the law can be used to criminalize critics of the government. The Tamil Nadu government reportedly filed nearly 200 cases of criminal defamation between 2011 and 2016. In recent years corporations and businesses have also used criminal defamation laws to suppress critical speech and harass journalists and writers. In May 2016, a two-justice bench of the Supreme Court upheld the constitutionality of India's criminal defamation law, saying: "A person's right to freedom of speech has to be balanced with the other person's right to reputation."

2.5 False tests of patriotism: Numbers of officials holding statutory positions including the Chief Minister of Haryana, the Governor of Assam have publicly announced persons not saying/chanting 'Bharat Mata Ki Jay' should go to Pakistan. One Muslim Legislator of Maharashtra had been suspended from the Assembly for not uttering 'Bharat Mata Ki Jay' as forced by the ruling party MLAs. Even some film actors those expressed their mental agony relating to intolerance were construed as 'not loving the nation' and threatened to leave the country. Many students, activists, minorities have been 'bad-named' as anti-nationals and subsequently victimized by planned mob attacks and filing police cases against them.

2.6 Hate campaigns: Public statements by some public authorities including some CMs, Governors, Union Ministers, MPs, political leaders targeting Minorities, Dalits and others are made regularly. Social Media and internet is being used widely by ultra-nationalists/fundamentalists/extremists backed by ruling parties and politicians to

conduct hate campaigns and threats to liberals and others, but there is no restriction while human rights of others being targeted and violated.

2.7 No protection to Rationalists and Anti-Superstition Activists: Rationalists and social reformers questioning/advocating against superstitions and inhuman traditions are regularly threatened and harassed. One well-known and leading rationalist Narendra Dabholkar and another respected political activist Govind Pansare (politically believing in Marxism) were campaigning for a law to prevent superstitions in Maharashtra had been threatened and later on killed. One eminent writer and poet, a former Senior Government official M M Kalburgi was also threatened and subsequently killed by these Hindutya groups because his writings were challenging caste system and patriarchy. The state did not protect their lives and also did not take necessary steps to nab the culprits and their organizations. As a result, targeting and abusing rationalists, atheists and liberals has become a trend.

2.8 Under the 2nd UPR cycle, the Indian government received 2 recommendations relating to freedom of expression, independence of the media and the protection of journalists and noted both. The government pledged to ensure a safe working environment for journalists, and to take measures to address impunity and carry out swift and independent investigations (proposed by Austria). However, as discussed below, the government has not implemented all these recommendations.

2.9 Article 19 of the ICCPR guarantees the right to freedom of expression and opinion. Article 19 (1a) of the Constitution of India also guarantees the right to freedom of expression. It states that “all citizens have the right to freedom of speech and expression.”⁵ However, in policy and practice, the Indian authorities continue to use restrictive legislation to prosecute journalists and media agencies. Journalists have been brutally assassinated and others physically attacked, intimidated and harassed.

2.7 On 14 May 2016, journalist Pushp Sharma of the *Milli Gazette*, an English language bi-weekly publication was arrested by security forces in Delhi and accused of faking a document used to publish an article on 11 March 2016, in which he accused the government of discriminating against Muslims.⁶ The article titled “We Don’t Recruit Muslims: Modi government’s AYUSH Ministry,” published in the *Milli Gazette* accused the government of not recruiting Muslims for foreign missions.⁷ The authorities accused Pushp of attempting to “bring disharmony and mistrust” and for “forgery with the purpose of cheating.” He was charged under the Penal Code and sent to two days judicial custody in a prison in Tihar.

⁵ “The Constitution of India,” <http://lawmin.nic.in/coi/coiason29july08.pdf>, accessed 22 July 2016.

⁶ “Journalist Pushp Sharma arrested over fake RTI query,” *The Times of India*, <http://timesofindia.indiatimes.com/city/delhi/Journalist-Pushp-Sharma-arrested-over-fake-RTI-query/articleshow/52268768.cms>, accessed 12 July 2016.

⁷ “Reporter who said AYUSH denied jobs to Muslims held for forgery,” *The Indian Express*, <http://indianexpress.com/article/india/india-news-india/ayush-ministry-case-journalist-pushp-sharma-arrested-over-fake-rti-query-2800655/>, accessed 12 July 2016.

2.8 On 13 May 2016, unidentified gunmen shot and killed journalist Rajdev Ranjan who at the time was the Bureau Head of the *Hindustan* newspaper in Siwan in the state of Bihar.⁸ His colleagues noted that he had left the office after receiving a call. He had received death threats before he was assassinated and his family noted that he was targeted for his critical reporting. A day before, on 12 May 2016, another journalist Indradev Yadav also known as Akhilesh Yadav was assassinated by unidentified individuals as he returned to his home in Sadar market area in Chatra district.⁹ He worked as a correspondent for Taaza TV – a Hindi news channel based in Kolkata.

2.9 On 21 March 2016, police arrested journalist Prabhat Singh, a reporter from the Hindi daily newspaper *Patrika* after he posted messages on the social media app whatsapp in which he criticised the police and called for a law that protects reporters in the Bastar region. He was charged with publishing an insulting message under the Information and Technology Act.¹⁰ He was physically assaulted while in custody. On 26 March 2016, police arrested journalist Deepak Jaiswal, a reporter from the Hindi daily newspaper *Dainaddini* in Bastar, Chhattisgarh state. He was arrested for a case against him and Prabhat Singh which was filed seven months by the principal of a school in Geedam. The case was in relation to a report written by Deepak and Prabhat in which they accused teachers in the school in Geedam of being complicit in exam malpractices with students.¹¹

2.10 On 3 October 2015, journalist Hemant Yadav, a reporter for TV 24 was shot dead close to his home in Chandauli district in Uttar Pradesh.¹² His attackers fled the scene after he was shot. Before that, on 18 June 2015, journalist Prasanta Kumar, a correspondent for the Assamese paper *AsamiyaPratidin* was shot by unidentified individuals on his way home. His assailants blind folded him after he was shot and forced him into a car before pushing him out.¹³ He went to a police station after the attack and was rushed to hospital.

2.11 Recommendations:

2.11.1 *Repeal the outdated and anti-people sedition clauses (Section 124a & others) from the Indian Penal Code 1860.*

2.11.2 *'Criminal defamation' that is used to threaten and bully critics should be done away with.*

2.11.3 *Protect the Universities as the spaces for the students and teachers for exercising their rights to free speech and peaceful expression without any restriction.*

⁸ "Journalist KajdevRanjan shot dead in Bihar," *The Indian Express* <http://indianexpress.com/article/india/india-news-india/bihar-journalist-rajdev-ranjan-shot-dead-siwan-2799308/>, accessed 12 July 2016.

⁹ "Journalist shot dead in Jharkhand, CM Raghuraj Das condemns incident," *The Indian Express* <http://indianexpress.com/article/india/india-news-india/journalist-akhilesh-pratap-singh-shot-dead-in-jharkhand-2798835/>, accessed 12 July 2016.

¹⁰ "Chhattisgarh journalist arrested for whatsapp post, accuses cops of torture," NDTV, <http://www.ndtv.com/india-news/chhattisgarh-journalist-arrested-for-sharing-whatsapp-message-on-cop-1289971>, accessed 14 July 2016.

¹¹ "In Chhattisgarh, journalist held from outside court" *The Indian Express*, <http://indianexpress.com/article/india/india-news-india/chhattisgarh-journalist-arrest-from-outside-court/>, accessed 17 July 2016.

¹² "Journalist shot dead in Uttar Pradesh, third incident in four months," NDTV <http://www.ndtv.com/india-news/journalist-shot-dead-in-uttar-pradesh-third-incident-in-4-months-1226081>, accessed 12 August 2016.

¹³ "Prasanta Kumar attack: it's a tough life for reporters in Assam," *Hindustan Times*, <http://www.hindustantimes.com/india/prasanta-kumar-attack-it-s-a-tough-life-for-reporters-in-assam/story-GQMCaAvvHXFKvuxm44WK.html>, accessed 12 August 2016.

2.11.4 Ensure the autonomy of educations and prevent 'political' intimidations.

2.11.5 Enact the "Rohith Act" to curb atrocities on students and to stop inhuman behaviour against students.

3 Freedom of Belief and Religion

The situation of Freedom of Belief and Religion and the status of Religious Minorities in India, has worsened after the last UPR in 2012. This worsening has to be understood in the context of the coming of the present regime to power in the general elections of 2014. ¹⁴ Impunity increased as many elements responsible for targetting minorities in hatr camoaigns and violence were elected to office. One illustration, is the slew of remarks, that incite mobs to violence against India's religious minorities (especially Muslims and Christians), made by

¹⁴[1] Head to Head - Is Modi's India flirting with fascism?

https://www.youtube.com/watch?v=m1W-oXZ_31U, <http://www.aljazeera.com/programmes/headtohead/2015/12/modis-india-flirting-fas...>

[2] Head to head with hate, <http://indianexpress.com/article/opinion/columns/ram-madhav-mehdi-hasan-al-jazeera/>

[3] 'Brit bigots should learn from Hindutva trolls': Al Jazeera anchor on reaction to Ram Madhav interview, <http://scroll.in/article/778421/brit-bigots-should-learn-from-hindutva-t...>

[4]"The Ideology of the Rashtriya Swayamsevak Sangh (RSS) is both Hate-Ridden and Supremacist - Part 1:Three Internal Threats says the RSS: Muslims, Christians, Communists <https://sabrangindia.in/indepth/ideology-rashtriya-swayamsevak-sangh-rss-both-hate-ridden-and-supremacist-part-1>

"Since May 2014, the dominant political regime of the Bharatiya Janata Party (BJP) is ideologically governed by an organisation called the Rashtriya Swayamsevak Sangh (RSS), a supremacist outfit that espouses a commitment to overthrowing the Indian Constitution

In consonance with this supremacist and hegemonic worldview that completely ignores any structural inequalities like caste-driven exclusions, within Indian society, or even within 'Hindu' society, the RSS and therefore the current Indian political dispensation views three segments to Indians as 'threats' to the nation. The 'Hindu nation' as the RSS sees it, has three specific 'internal threats.' Who are these? One, the Muslims; Two, the Christians; Three, the Communists. "The Nation And Its Problems **XVI. Internal Threat, 1. THE MUSLIMS: It has been the tragic lesson of the history of many a country in the world that the hostile elements within the country pose a far greater menace to national security than aggressors from outside...First, let us take the case of Muslims..... Even to this day, there are so many who say, "Now there is no Muslim problem at all. All those riotous elements who supported Pakistan have gone away once and for all. The remaining Muslims are devoted to our country. After all, they have no other place to go and they are bound to remain loyal."**

Let Facts Speak

But what are the facts? Is it true that all pro-Pakistani elements have gone away to Pakistan? ...

Face Reality

Even today, Muslims, whether in high position of the Government or outside, participate openly in rabidly anti-national conferences. Their speeches carry the ring of open defiance and rebellion. A Muslim Minister at the Center, speaking from the platform of one such conference, wamed that unless the Muslim interest was well protected the story of Spain would be repeated here also, meaning thereby that they would rise in armed revolt. "" This is what the RSS and by close organisational bondage, the ruling party the BJP thinks of Indian Muslims

Here are some more of the gems from this archaic and problematic text:

"2. THE CHRISTIANS: *Many leading Christian missionaries have often declared unequivocally that their one single aim is to make this country 'a province of the Kingdom of Christ'. The Archbishop of Madurai has said, as reported in Vedanta Kesari of Madras that their sole aim is to fly the flag of Christ over the whole of Bharat. Even during the recent "Eucharistic Congress" at Bombay, Cardinal Gracias bewailed that after centuries of proselytising in Bharat the Catholics were only six million and the overwhelming majority remained Hindus.*

The Impartial Verdict

Their activities are not merely irreligious, they are also anti-national. Once I asked a Christian missionary why they abused our sacred scriptures, gods and goddess. He said frankly, "Our aim is to knock out the faith from the heart of the Hindus. When his faith is shattered, his nationalism is also destroyed. A void will be created in his mind. Then it becomes easy for us to fill that void with Christianity." (Pages 148-164, MS Golwalkar, Bunch of Thoughts, Part Two, Chapter VI, The Hindu Nation)[5]

[5] <https://sabrangindia.in/reports/we-or-our-nationhood-defined-1947-edition>

<http://sanjeev.sabhlokcity.com/Misc/We-or-Our-Nationhood-Defined-Shri-M-S-Golwalkar.pdf>

[6] India, also known as Bharat, is a Union of States. It is a Sovereign Socialist Secular Democratic Republic with a parliamentary system of government.

The Republic is governed in terms of the Constitution of India which was adopted by the Constituent Assembly on 26th November, 1949 and came into force on 26th January, 1950. The Constitution provides for a Parliamentary form of government which is federal in structure with certain unitary features.

The constitutional head of the Executive of the Union is the President. As per Article 79 of the Constitution of India, the council of the Parliament of the Union consists of the President and two Houses known as the Council of States (Rajya Sabha) and the House of the People (Lok Sabha). Article 74(1) of the Constitution provides that there shall be a Council of Ministers with the Prime Minister as its head to aid and advise the President, who shall exercise his/her functions in accordance to the advice. The real executive power is thus vested in the Council of Ministers with the Prime Minister as its

head. <http://india.gov.in/my-government/constitution-india>; http://india.gov.in/sites/upload_files/npi/files/coi_part_full.pdf

[7] M. S. Golwalkar, *Bunch of Thoughts*, 'Internal Threats' {Chapter 16}, Bangalore: Sahitya Sindhu 1996, p. 193

[8] M. S. Golwalkar, *Bunch of Thoughts*, 'Internal Threats' {Chapter 16}, Bangalore: Sahitya Sindhu 1996, p. 193

[9] M. S. Golwalkar, *Bunch of Thoughts*, Bangalore: Sahitya Sindhu 1996, p. 125-126

[10] M. S. Golwalkar, *Bunch of Thoughts*, 'Internal Threats' {Chapter 16}, Bangalore: Sahitya Sindhu 1996, p. 154

some members of the Central Council of Ministers and Members of Parliament since May 2014.¹⁵ In states ruled by the Bharatiya Janata Party (BJP), the entry of members of their ideological wing¹⁶ into the police and civil services poses a greater threat to the life, security and overall rights of minorities through discriminatory governance.¹⁷

3.1 Data released by the Indian Ministry of Home Affairs in February 2014 reveals a steep 30 per cent rise in the number of communal violence incidents as compared to 2012, with the maximum number of cases being reported from Uttar Pradesh. The first ten months of 2103 have seen more bloodshed for religious and sectarian reasons than the entire three-

¹⁵ List of Inciteful Speech:

"If somebody throws a stone at a dog, then the government is responsible?"

- [VK Singh](#), retired general and Union minister of state for external affairs; in response to the murder of two Dalit children in Faridabad; November, 2015

"If BJP loses Bihar elections, crackers will be burst in Pakistan".

- [Amit Shah](#), BJP president, at an election rally in Bihar, October 2015

"A man can live without food or sleep. He can live when he is thirsty and hungry. But when he is insulted, he can't live. The humiliation has to be avenged".

- [Amit Shah](#), BJP president, at an election rally in violence-torn Muzaffarnagar, UP; April 2014. The Chief Election Commissioner banned him from campaigning in UP but ban was later lifted.

"All those who desperately want to eat beef should go to Pakistan".

- [Mukhtar Abbas Naqvi](#), Union minister of state for parliamentary affairs, during a TV programme; May 2015

"Bhule bhatke jo bhai gaye hain, unko wapas layenge. Woh log apne aap nahin gaye, unko loot kar, lalach de kar le kargaye... Ab hi chor pakda gaya hai. Mera maal chor ke paas hai. Aur yeh duniya jaanti hai. Mein apna maal wapas loonga, yeh kaunsi badi baat hai (We will bring back our brothers who have lost their way. They did not go on their own. They were robbed, tempted into leaving... Now the thief has been caught and the world knows my belongings are with the thief. I will retrieve my belongings, so why is this such a big issue)."

- [Mohan Bhagwat](#), RSS chief, at the Viraat Hindu Sammelan in Kolkata, December 2014.

"People of Delhi have to decide whether they want a government of Ramzaadas (followers of Ram) or haraamzaadas".

- [Sadhvi Niranjana Jyoti](#), Union minister of state, also referred to as 'minister of hate', at a public rally during Delhi elections; December 2014

"Education of terrorism is being given in madrassas. They (madrassas)... are making them terrorists and jihadis...It is not in national interest"

- [Sakshi Maharaj](#), BJP MP; September 2014

"Hindustan is a Hindu nation...Hindutva is the identity of our nation and it (Hinduism) can incorporate others (religions) in itself".

- [Mohan Bhagwat](#), RSS chief, at the golden jubilee celebration of VHP in Mumbai, August 2014.

"If they take one Hindu girl, we will take at least 100 Muslim girls. If they kill one Hindu, we will kill 100 Muslims".

- [Yogi Adityanath](#), BJP MP, at a public meeting against alleged the 'Love Jihad' of Muslims; August 2014.

"Those opposed to Modi should go to Pakistan".

- [Giriraj Singh](#), senior leader and former minister in Nitish Kumar's cabinet; April 2014; a few months later, PM Narendra Modi appointed him minister of state at the Centre

"Take legal advice; use Bajrang Dal to forcibly capture property bought by a Muslim in a Hindu locality."

- [Pravin Togadia](#), VHP international working president; inciting Hindus to prevent a Muslim buying a house in a Hindu majority locality in Bhavnagar, Gujarat; April 2014.

"Behead those who convert Hindus"

- [Pravin Togadia](#), international working president, VHP; November 2011

¹⁶ State governments ruled by the BJP have taken decisions to allow government servants to have membership of the previously banned and supremacist, RSS

¹⁷How can an officer who attends RSS camps be impartial?

<http://www.rediff.com/news/report/how-can-an-officer-who-attends-rss-camps-be-impartial/20150414.htm>

year period of 2010-2012.¹⁸ The large scale targeted violence against Muslims in Muzaffarnagar and Shamli¹⁹ in Uttar Pradesh in September 2013 ranks only next to the 2002 Gujarat pogrom by its sheer magnitude. Form of Attacks: Physical attacks, lynching and murder after fuelling beef hysteria²⁰ Love Jihad²¹ 'GharWapsi'²² False tests of patriotism.²³

3.2 Reports by civil society groups recorded over 147 incidents where Christians were targeted, with many more going unrecorded just in the year 2014. The states of Chhattisgarh, Madhya Pradesh, Jharkhand, Karnataka have recorded the most number of attacks in the past two years. In 2015, over 177 cases of targeting of Christians were reported, [2]. The trend continued in 2016, with over 100 incidents in January- July. These include threats, intimidations and violence. In some cases, churches, places of worship and burial grounds were targeted and desecrated. A sinister phenomenon is the social boycott of Christians in several parts of the country; several village governments in the state of Chhattisgarh imposed fines on Christians for practising their faith²⁴.

2.10 The attack on minorities in the name of trading in and consuming of beef, using of dormant Cow Protection Laws,²⁵ is also an attack on the livelihoods of both

¹⁸Abhishek Bhalla, "Communal violence spooks Centre: Home Ministry data reveals 725 incidents across India in just 10 months", Daily Mail, 16 December 2013.

¹⁹According to official statistics submitted by the state government to the Supreme Court in September 2013, at least 44 persons were killed, 97 persons injured and 41,829 people displaced across Muzaffarnagar and Shamli districts. According to district administration riots displaced 51,000 people - 27,198 from Muzaffarnagar and the rest from Shamli - from 150 villages. Muslims have been the worst sufferers of communal orgy that swept Muzaffarnagar. The real truth about the Muzaffarnagar riots. See: <http://indiafacts.org/the-real-truth-about-the-muzaffarnagar-riots-part-1/>

²⁰These attacks have happened under the guise of cow protection

²¹John Dayal (edited), "100 Days Under the New Regime: The State of Minorities", A Report by ANHAD, 2014

Over 600 incidents of targeted religious minorities have taken place from May to September 2014 in several parts of the country, but especially which have seen, or will soon see, by-elections or elections to the Legislative Assemblies. In the first few weeks of the new government, by its own admission, a total of 113 communal incidents have taken place in various parts of the country during May-June in which 15 people were killed and 318 others were injured. Minister of State for Home Affairs, Mr. Kiren Rijiju told the Rajya Sabha. The extent of fear experienced can be adjudged from the remarks of a senior man of the police establishment, Julio Ribeiro who said in an article to a major national daily, "As a Christian, I am suddenly a stranger in my own country." <http://indianexpress.com/article/opinion/columns/i-feel-i-am-on-a-hit-list/>

²²These false and coercive steps include compelling persons to utter slogans like 'Bharat Mata ki Jai' (Hail to the Mother')

²³In December 2014, Hindu hardliner group the Rashtriya Swayamsevak Sangh (RSS) announced plans to forcibly "reconvert" at least 4,000 Christian families and 1,000 Muslim families to Hinduism under what it calls the 'GharWapsi' (returning home) programme in Uttar Pradesh on Christmas day as part of a so-called 'GharWapsi' (returning home) programme. According to RSS, "Christmas was chosen as the day for conversion because the event is a "shaktipariksha" (test of strength) for both religions. If their religion is better, they can stop them. It is a test for both of us. If they come to us on Christmas, it is the biggest rejection of the faith."

²⁴Links to datasheets showing anti-Christian violent incidents from 2012 to 2016:-

- Indian Christian Atrocities Report 2012;
http://www.indien-allianz-mission.de/Dokumente/Persecution-report_2012.pdf
- Indian Christian Atrocities Report 2013:
<http://www.efionline.org/images/pdf/efiannual2013report.pdf>
- Hated and Targeted Violence Against Christians 2014
<http://www.efionline.org/images/pdf/efi.persecution.watch.annual.report.2014.pdf>
- Christian Hate and Targeted Violence 2015
<http://www.efionline.org/images/pdf/efi%20annual%20report%20hate%20and%20targeted%20violence%20against%20christians%20in%20india%202015.pdf>
- Christian Violence Half Yearly Report 2016
<http://www.efionline.org/images/pdf/efi.halfyearly.report.2016.pdf>

²⁵ Such laws exist in at least 28 Indian States

[1] The Hypocrisy of the BJP and Cow Slaughter <http://www.ndtv.com/opinion/the-hypocrisy-of-the-bjp-and-cow-slaughter-1233789>

Muslims and Dalits²⁷. Instead of addressing this, in 2015 the Indian Union Home Minister called for a unanimous enactment of an anti-conversion law to put an end to oft-repeated questions on communal harmony and 'ghar-wapsi'.²⁸ Places of worship of Muslims and pastors, congregations and churches²⁹ of Christian community were targets of mob violence and state impunity³⁰ in states across the country. The National Commission of Minorities has made recommendations to check this trend.³¹

2.11 In the past three years criminal charges against powerful functionaries of the present regime and policemen have been dropped³². Several terror cases where members of supremacist outfits had been charged have also been closed without following due process.

2.12 Anti-conversion laws enacted by many Indian states have been aggressively invoked, prompting grave insecurities³³ among the religious minorities.³⁴

[2] The economics of cow slaughter <http://www.thehindu.com/opinion/np-ed/the-economics-of-cow-slaughter/article7880807.ece>

²⁶Angered By The Gau Rakshak Now PM must apply the same principle to all crime — including communal crime <http://indianexpress.com/article/opinion/columns/narendra-modi-gau-rakshak-cow-vigilantes-beef-ban-cow-slaughter-gujarat-dalit-2964523/>

²⁷ Ironically profits from beef exports are controlled by the high caste Hindus and Jains (vegetarians)

[1] 95% of beef traders are Hindus, says former chief justice of Delhi high court

<http://timesofindia.indiatimes.com/india/95-of-beef-traders-are-Hindus-says-former-chief-justice-of-Delhi-high-court/articleshow/49866811.cms>

[2] Out of six largest meat suppliers in India four are Hindus <http://muslimmirror.com/eng/out-of-six-largest-meat-suppliers-in-india-four-are-hindus/>

[3] BJP got Rs 2.50 cr in donations from firms exporting buffalo meat <http://timesofindia.indiatimes.com/india/BJP-got-Rs-2-50-cr-in-donations-from-firms-exporting-buffalo-meat/articleshow/50195323.cms>

[4] Meat production doubled in Gujarat in 10 years <http://www.thehindu.com/news/national/other-states/meat-production-doubled-in-gujarat-in-10-years/article5872923.ece>

[5] India on top in exporting beef <http://www.thehindu.com/news/national/india-on-top-in-exporting-beef/article7519487.ece>

[6] Can India afford to ban export of beef? <http://www.dnaindia.com/money/report-can-india-afford-to-ban-export-of-beef-2131979>

[7] Concerns Rise For India's High-Growth Beef Export Market as Hindu Nationalist BJP Likely to Win <http://www.ibtimes.co.uk/tensions-grow-indias-high-growth-beef-export-market-hindu-nationalist-bjp-likely-win-1447270>

[8] Pink boom: India's buffalo meat exports at current rates could impact domestic milk availability <http://indianexpress.com/article/business/business-others/beef-ban-india-bjp-beef-export-domestic-milk-availability-bovine-meat-2912417/>

²⁸<http://www.thehindu.com/news/national/states-should-act-against-communal-incidents-rainath/article7150757.ece>

<http://indianexpress.com/article/india/india-news-india/wont-let-injustice-happen-to-you-rainath-singh-tells-christians/>

²⁹In March 2016 alleged right-wing activists attacked and vandalized a Church Situated in Kachana colony in Raipur in Chhattisgarh injuring five people including two women. A group of youth stormed the prayer hall, raising "Jai Sriram" slogans, and began attacking the worshippers. According to eye witnesses, around 15 people on 8-9 bikes arrived at the spot while the Sunday prayer was going on in the church, a red-coloured small room situated at the end of the road which further had just barren fields. Ishita Mishra, "Raipur church vandalised during Sunday service" TNN | Mar 7, 2016

³⁰See: Report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir, mission to India, 2009, A/HRC/10/8/Add.3, para 63

³¹[1] <http://thewire.in/38163/minorities-commission-sees-brazen-communal-bias-in-jharkhand-police-handling-of-latehar-lynching/> Minorities Commission Sees 'Brazen Communal Bias' in Jharkhand Police Handling of Latehar Lynching

[2] A letter from Latehar-The hangings of a cattle trader and a child in Jharkhand took place in a context — of a politics that stokes insecurity, trades on fear <http://indianexpress.com/article/opinion/columns/jharkhand-latehar-muslim-cattle-owner-killings/>

³²[1] No prosecutable evidence against N K Amin: Court

<http://timesofindia.indiatimes.com/city/ahmedabad/No-prosecutable-evidence-against-N-K-Amin-Court/articleshow/53765616.cms>

[2] <http://scroll.in/article/739017/modi-wants-cbi-to-hand-over-sensitive-division-to-officer-with-controversial-past>

Modi wants CBI to hand over sensitive division to officer with controversial past

[3] CBI U-Turn against its own chargesheet in the Sohrabuddin case, the caged parrot syndrome? <https://sabrangindia.in/article/cbi-u-turn-against-its-own-chargesheet-sohrabuddin-case-caged-parrot-syndrome>

³³As the US State Department's "International Religious Freedom Report 2014" shows (especially in the "Government Practices" section), "anti-conversion" laws, at the state level, have been used by state and local authorities to harass religious minority populations - usually with trumped-up charges. International Religious Freedom Report for 2014, Available at <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2014&dlid=238494#wrapper>

³⁴Violent elements in extremist Hindutva groups such as the Rashtriya Swayamsevak Sangh and its allies such as the Akhil Bharatiya Vanvasi Kalyan Parishad, the Vishwa Hindu Parishad and the Bajrang Dal have, in connivance with local police, used the existence of the Act to attack pastors and house churches accusing them of carrying out illegal conversions. Arguably, more than 75 per cent of the acts of violence against Christians, averaging now about 1,000 a year, are under the guise of stopping fraudulent conversions in villages. See: John Dayal, "Court upholds anti-conversion law, knocks out major clause", August 31, 2012 Available at <http://www.ucanindia.in/news/court-upholds-anti-conversion-law-knocks-out-major-clause/18945/daily>

2.13 The continuance of Part (iii) of Article 341 of the Constitution effectively denies 200 million of Scheduled Castes persons (Dalits) the Rights to Freedom of Faith and Belief by making it compulsory that they remain Hindus to avail of affirmative action. The "Constitution Scheduled Castes Presidential Order 1950, Paragraph 3's religious ban ought to be removed/ deleted or amended by Union of India for the extension of Scheduled Castes privileges to Christians and Muslims of Scheduled Castes Origin people. The Article 341 (iii)/Presidential Order 1950 (3) violates the basic citizens fundamental rights of Schedule Castes of Christians and Muslims origin as enshrined in Articles of 14, 15, 16, 25, 26, 27 & 28. It has deprived and denied basic entitlements of equity and dignity of living.

2.14 Armed private Militias³⁵ by conducting Armed Training Camps, in violation of Police Acts and the Arms Act, have further accentuated the threat to the Life and Security of Religious minorities.³⁶

2.15 Deep rooted prejudice and institutional bias against the religious minorities in India's law and order machinery -- police, federal investigation agencies, para-military, and army needs rigorous correction.³⁷

2.16 Access to justice evades survivors from the Religious Minorities.³⁸ Criminal Cases where Minorities are Survivors are left to collapse. In a recent judgement in WP(Civil) 76/2009 with reference to the communal violence in Kandhamal/Odisha, the state witnessed the largest anti-Christians violence in 300 years, the Supreme Court observed that "The affidavit filed on behalf of the State on 01.03.2013 discloses that out of 827 registered cases, 512 cases resulted in filing of charge-sheets while in 315 cases final reports were submitted. In other words, *in 315 cases either no offence was found to have been made out or the offenders could not be detected. Such large proportion is quite disturbing. The State could do well in looking into all these 315 cases and see that the offenders are brought to book. Similarly, out of 362 trials which stand completed only 78 have resulted in conviction, which again is a matter of*

³⁵Ayodhya: Video allegedly showing Bajrang Dal workers receiving 'self-defence' training in weapons goes viral-The video of a mock drill purportedly showed some volunteers wearing skull caps at the camp held in Karsevakpuram — the VHP workshop in Ayodhya.

<http://indianexpress.com/article/india/india-news-india/bajrang-dal-self-defence-video-ayodhya-ram-naik-vhp-karsevaks-camp-2817657/>

³⁶Ayodhya: Bajrang Dal leader arrested over holding weapons training camp <http://indianexpress.com/article/india/india-news-india/mahesh-mishra-faizabad-bajrang-dal-chief-held-over-holding-weapons-training-camp-2819283/>

³⁷[1]The Lemmings of Hashimpura - Vibhuti Narain Rai, retired officer of the Indian Police Force (IPS

<https://sabrangindia.in/interview/lemmings-hashimpura-vibhuti-narain-rai-retired-officer-indian-police-force-ips>

[2] Then and Now; <https://www.sabrangindia.in/column/then-and-now>

[3]The Importance of Memory" hashimpura <https://www.sabrangindia.in/tags/vibhuti-narain-rai>

<https://sabrangindia.in/article/temples-kerala-be-freed-sangh-sponsored-arms-training>Temples in Kerala to be Freed from Sangh-Sponsored Arms Training; <https://www.sabrangindia.in/indepth/if-bajrang-dal-not-bjp-what-rss-mr-shah>If Bajrang Dal is not BJP, what of the RSS, Mr Shah

³⁸[1]Examples of Sikhs in 1984, Gujarat 2002, Muzaffarnagar 2013 explained in the footnotes detail how the criminal justice system is abused. Gang rape acquittal: <http://indianexpress.com/article/india/india-news-india/shamli-district-burhana-police-2013-muzaffarnagar-riots-4-acquitted-in-gangrape-case-after-victim-family-turn-hostile-husband-says-we-were-threatened/>

[2]Acquittals due to witnesses turning hostile- Feb 2016 <http://indianexpress.com/article/india/india-news-india/muzaffarnagar-case-families-of-boy-woman-killed-in-2013-riots-tum-hostile/>

<http://indianexpress.com/article/india/india-news-india/three-more-muzaffarnagar-riots-cases-end-in-acquittal/>

[3]Other reports on Muzaffarnagar from 2016: <http://indianexpress.com/article/india/india-news-india/muzaffarnagar-riots-no-end-in-sight-for-nine-pending-cases-one-on-fake-video-clip/><http://indianexpress.com/article/cities/lucknow/muzaffarnagar-riots-cases-37-in-jail/>

[4]Even Gujarat 2002 cases after the present Regime came to power have taken a unique turn.

<https://www.sabrangindia.in/indepth/gulberg-massacre-conspiracy-telltale-mobile-call-records-february-2728-2002>

[5]Gulberg Massacre Conspiracy: The Telltale Mobile Call Records of February 27/28, 2002

<https://www.sabrangindia.in/indepth/judge-buys-police-sit%E2%80%99s-claim-private-firing-ahsan-jafri-triggered-gulberg-society-massacre>

[6]Judge Buys Police, SIT's Claim That Private Firing by Ahsan Jafri Triggered the Gulberg Society Massacre

concern. The concerned authorities must see to it that the matters are taken up wherever acquittals were not justified on facts.” (emphasis supplied) (http://supremecourtindia.nic.in/FileServer/2016-08-03_1470223736.pdf)

In a recent case of lynching of a Muslim, Aqhlau, on suspicion he had kept beef in his house, the police at the behest of majority religious groups registered cases against his family instead of vigorously pursuing his killers.³⁹

2.17 There is no substantial improvement in economic and social situation of religious minorities even a decade after the Recommendations of the Sachar Commission and the Rangannath Mishra Commission. They still lack inclusion in employment within government institutions, civil services, police and access to basic public amenities.

2.18 Youth from India's Religious Minorities, both Muslims and Christians, specifically targeted under unlawful activities laws on suspicion of terror. On the other hand, there are moves to dilute cases against members of the ruling political dispensation. No reparation is made to men and women arrested on false charges and subsequently found not guilty.⁴⁰

2.19 A New Education Policy (NEP) clearly violates the fundamental rights of India's minorities as it prejudices, silences and invisibilises their Contribution to the historical narrative, excludes cultural and languages of the minorities, denies them cultural and political rights. Manipulation of Textbooks and the Subversion of Research Bodies of the Central Government as Withdrawal of the Works of Historians are evidence of this shift.⁴¹

2.20 In March 2016 India denied visa to members of a US Commission on International Religious Freedom (USCIRF)⁴² who wanted to discuss and assess “deteriorating” religious freedom conditions in the country.

³⁹[1] In Dadri Lynching Case, Victim Mohd Akhlaq's Mother, Wife Face Charges <http://www.ndtv.com/india-news/police-case-ordered-against-family-of-mohd-akhlaq-lynched-in-dadri-1431453>

[2] Allahabad HC stays arrest of Akhlaque's family in cow slaughter case <http://www.thehindu.com/news/national/other-states/allahabad-hc-stays-arrest-of-akhlaques-family-in-cow-slaughter-case/article9036411.ece>

⁴⁰<http://muslimmirror.com/eng/qyarah-saal-salakhon-ke-peeche-mufti-abdul-qayyum-jail-book-released/>

[1] Gyarah Saal Salakhon Ke Peeche ' - Mufti Abdul Qayyum's jail book release

[2] A Classic Case of the Abuse of Power: Malegaon 2006 blasts <https://sabrangindia.in/article/classic-case-abuse-power-malegaon-2006-blasts>

⁴¹The manipulation of History and Social Studies text books to reflect a supremacist, mythological (communally biased) worldview rather than rational and dynamic disciplines has been evident in the appointments to key Research Bodies of the Central Government and Withdrawal of Books by Well Known Historians. <http://indianculturalforum.in/2016/08/10/saffronising-and-corporatising-indian-education-critique-of-the-national-educational-policy-2016-draft/> Saffronising and Corporatising Indian Education: Critique of the National Educational Policy 2016 Draft

[2] **Student Unity against Commercialisation, Centralisation & Communalisation of**

Education http://peoplesdemocracy.in/2015/08/02_pd/student-unity-against-commercialisation-centralisation-communalisation-education/ It is a manner of moulding minds to a supremacist and exclusivist vision that barter incitement which is dangerous.

⁴²USCIRF is an independent, bipartisan US federal government commission and its principal responsibilities include reviewing, through the lens of international human rights law, the facts and circumstances of violations of religious freedom internationally and making policy recommendations to the US President, Secretary of State, and Congress. India denies visa to members of US religious commission, PTI | Washington, March 4, 2016

2.21 Recommendations:

2.21.1 Repeal Anti-conversion laws that are already enacted in six states

2.21.2 Article 341(iii) should be abrogated with forthwith and propose that "Constitution Scheduled Castes Order 1950, Paragraph 3's religious ban ought to be removed/ deleted or amended by Union of India for the extension of Scheduled Castes privileges to Christians and Muslims of Scheduled Castes Origin people.

2.21.3 Enact an Anti Discrimination Law to Protect Rights of All Minorities

2.21.4 Independent Monitoring of Cases Related to Minority Violence Must be Undertaken by the Higher Courts

2.21.5 Ban Cow Vigilante Squads and Repeal Laws that Justify Violence in the Name of Cow Protection.⁴³

2.21.6 The Indian government failed to enact the Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill, 2013⁴⁴ which was approved by the Indian Cabinet in December 2013.⁴⁵

2.21.7 Federal Investigation Agencies like the CBI and NIA Should be Made Autonomous of Government and Answerable to Parliament⁴⁶

2.21.8 Arms Training of the RSS and Bajrang Dal should be stopped.

2.21.9 Training in Constitutional Rights at Entry and Through Tenure of Service.

2.21.10 The Government of India should (NEP) and to Reverse Steps within Institutions of Research and Education.

⁴³[1]Senior Political leaders of the opposition parties, Sharad Yadav of the Janata Dal United (JDU) and Mayawati of the Bahujan Samaj Party (BSP) have called for a ban on these outfits in Parliament. <https://sabrangindia.in/article/ban-gau-rakshaks-demands-jdu-leader-sharad-yadav>.

[2]The speech can be heard here: <https://youtu.be/paBxErSR3qA?t=1>; <http://www.firstpost.com/india/tyranny-of-gau-rakshaks-the-rise-of-cow-vigilantes-under-the-bjp-govt-2908244.html>

[3]Tyranny of gau rakshaks: The rise of cow vigilantes under the BJP govt; <http://www.catchnews.com/national-news/pudr-demands-action-against-gau-rakshaks-for-allegedly-forcing-men-to-eat-cow-dung-1467199961.html/video-lp.php>

[4]PUDR demands action against 'Gau Rakshaks' for allegedly forcing men to eat cow dung; <http://www.financialexpress.com/india-news/pm-modis-statement-was-politically-motivated-mayawati/341015/> PM [5] Modi slept like 'Kumbhakarna' when 'gau rakshaks' attacked Muslims, Dalits: Mayawati

Bahujan Samaj Party chief Mayawati has attacked the Prime Minister Narendra Modi for his remarks on the "cow protectors."; <http://indianexpress.com/article/india/india-news-india/madhya-pradesh-beef-muslim-women-beaten-video-2938632/>

[6] Gau rakshaks attack two Muslim women; Mayawati, Congress target govt

Madhya Pradesh Home Minister Bhupendra Singh said meat seized from the two Muslim women turned out to be that of a buffalo;

<http://indianexpress.com/article/india/india-news-india/dalit-thrashing-una-violence-rainath-singh-raiya-sabha-gau-rakshaks-modi-govt-2928703/> Dalit anger a ticking time bomb, check gau rakshaks, Opposition leaders tell Centre

[7] BSP chief Mayawati who accused the government of luring Dalits voters with false promises while vigilante groups were committing atrocities against this community in the name of cow protection.

⁴⁴Sunil Prabhu, "After fierce debate, anti-communal violence bill is dropped. Here's why," NDTV, February 05, 2014. <http://www.ndtv.com/cheat-sheet/after-fierce-debate-anti-communal-violence-bill-is-dropped-heres-why-549881>

⁴⁵India wilfully abdicated its responsibility to enact a national legislation in compliance with Article V⁴⁵ of the International Convention on the Prevention and Punishment of the Crime of Genocide, 1948. India has ratified the Genocide Convention in 1958.⁴⁵This wilful abdication of state responsibility for more than five decades has seen the 1984 Anti-Sikh Riots, the 2002 Gujarat massacre, killings of Christians in Kandhamal, Orissa⁴⁵ in 2008 and many other continuing struggle for justice within the inadequate conceptual frame of Indian law.⁴⁵

⁴⁶ A Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, 24th report of the Indian Parliament on March 11, 2008 had recommended this: Para 16.9.17. "Members of the Committee raised an apprehension that since nowadays politics has crept into criminal investigation, adequate safeguards should be put in place to ensure that the Central Government do not resort to arbitrary exercise of power, compromising the autonomy of the States. Taking this into account, the Committee is of the considered opinion that while guaranteeing statutory autonomy to CBI, its accountability has also to be ensured." http://cbi.nic.in/newsarticles/newsreport/poi_reportno24.pdf

2.21.11 *The Report of the Equal Opportunities Commission and the Diversity Index should be implemented.*

2 Freedom of Association and Peaceful Assembly

Human rights organizations operate without any political or religious affiliations or profit motives are not spared. They continue to face threats, legal harassment, excessive police force, and sometimes lethal violence. While India is home to a strong civil society sector and academic community, foreign monitors and journalists are at times denied visas to conduct research trips in the country on human rights and other topics. The government has been accused of abusing this power to target these Human Rights Defenders. Acts such as Societies Registration Act, 1860, Income Tax Act, Foreign Contribution Regulation Act, Lokpal Acts are being misused to target and further restrict NGOs and human rights defenders.

2.1 Officials use the Foreign Contribution Regulation Act (FCRA), which tracks grants from foreign donors, to harass organizations that question or criticize government policies, to prevent their activities, and to cut off funds from abroad, even by either not sanctioning/suspending permissions for receiving foreign funds and income tax exemptions. When the Indian Home Ministry conducts an investigation pursuant to the FCRA, it often freezes the accounts of the NGO being investigated, cutting its source of funding, and forcing it to stop its activities. Such tactics have a wider chilling effect on the work of other groups. In 2014 and 2015, the Government cancelled FCRA registration of about 15000 NGOs in India. The government cancelled/suspended the FCRA registration of Greenpeace India, Sabrang Trust, Amnesty International because they have been exposing HRVs by the Government time and again. Threats have been given to other human rights organizations. The government's regulatory regime for civil society organizations is discriminatory compared to the corporate sector.⁴⁷ The Foreign Contribution Regulation Act (FCRA) and its rules impose restrictions on funding for non-governmental organizations that in practice threatens their rights to freedom of expression and association.⁴⁸ In 2015, the UN Special Rapporteur on Freedom of Peaceful Assembly and Association, Maina Kia analyzed the FCRA and said it appeared to "contravene the Union of India's obligations under the ICCPR." The National Human Rights Commission remains silent on this issue.

2.2 The Indian government routinely uses Section 144 of the Code of Criminal Procedure to prevent peaceful public gatherings, restrict protests and stifle people's

⁴⁷Multiple regulatory laws, and tedious registration and reporting requirements. Organizations with human rights in their name are particularly targeted.

⁴⁸Examples such as Teesta, Greenpeace India, INSAF, Lawyers collective.

movements.⁴⁹The authorities use excessive force during anti-government protests, especially in conflict-zones such as Jammu and Kashmir.⁵⁰

2.3 The authorities use broadly-worded laws such as sedition for speech that is critical of government actions, including on social media.⁵¹ Other overbroad and vaguely worded laws such as criminal defamation and hate speech laws are used to harass and prosecute those expressing dissenting, unpopular, or minority views. There are increased attacks on journalists; especially those covering corruption and exposing government wrong-doing.⁵²

2.4 Indian authorities resorted to blocking access to mobile Internet services across the country during political unrest.⁵³ In 2011, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression Frank La Rue said such action is a violation of article 19 of the ICCPR.⁵⁴

2.5 During India's examination under the 2nd UPR cycle at the 21st Session of the Human Rights Council, the government received 4 recommendations related to the right to freedom of association and creating an enabling environment for civil society organisations. Of the recommendations received, the government accepted 1 and noted 3. These include commitments to cooperate with Special Procedures (proposed by Czech Republic) and to eliminate discrimination against and empower marginalised and vulnerable groups (proposed by Thailand). However, as evidenced below, the government has failed to take adequate measures to realise these recommendations. Of the 4 recommendations on freedom of association, the government has partially implemented 2.

2.6 Article 19 (c) of the Indian Constitution guarantees the right to form associations and unions.⁵⁵ Moreover, article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which India is a state party, also guarantees freedom of association. However, despite these commitments, the government has since 2012 used restrictive legislation and policies to target civil society organisations, suspended the operations of some and cancelled the registration others. The Indian authorities have on several occasions frozen the bank accounts of organisations thereby preventing them from accessing funding to carry out their operations.

2.7 The Foreign Contributions Regulations Act 2010 (FCRA) effectively replaced the Foreign Contribution (Regulation) Act 1976. The FCRA states that an organisation can

⁴⁹Full text of section 144. Dissent is often criminalized, for instance the authorities imposed section 144 at the Mithal dam site in Manipur to prevent protests by affected communities. Data from BPRD shows another instance of increasing criminalization of peaceful protesters. 10,353 people were arrested for participation in agrarian protests in 2015 as compared to 3,500 in 2014. Increasingly, public spaces are off limits for peaceful protests because of frequent and over-broad use of laws such as section 144. Authorities also demand protest organizers to obtain prior police permission or clearance for the right to assemble, impinging on the right to peaceful assembly.

⁵⁰State response to end violent street protests in Kashmir which began in July 2016 led to over 70 protesters being killed and hundreds more injured. The federal paramilitary unit, Central Reserve Police Force, told the Jammu and Kashmir High Court that it had used 1.3 million pellets in 32 days, admitting that "it was difficult to follow the standard operating procedure given the nature of the protests." Indian security forces have been using pellet guns as a nonlethal option for crowd control since 2010 in Kashmir. Use of pellet guns to control protesting crowds in 2016 led to 10 deaths and caused blindness or serious eye injuries to over 100 people.

⁵¹Examples Amnesty, JNU

⁵²CPJ statistics and Impunity Index. Chhattisgarh is another example of journalists being hounded out of Bastar.

⁵³MediaNama has tracked 13 blanket bans on mobile Internet services in India since September 2015. <http://www.medianama.com/2016/07/223-right-to-internet-un-resolution/>. The Software Freedom Law Centre has tracked 30 incidents on Internet being cut off in since 2013. <http://sflc.in/internet-shutdown-tracker-india-2013-2016/>

⁵⁴http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf

⁵⁵Constitution of India, https://drive.google.com/file/d/0B7GU6nn_-IG7c2JJQXVNY3RDdIQ/view, accessed 10 June 2016.

be deemed political if it has objectives of a political nature or makes comments that are political or participates in a political activity. The government has used such broad terms to subjectively target organisations that question government policies. In addition, the Act forces NGOs to use designated bank accounts and keep separate books of accounts when receiving and disbursing foreign funds.⁵⁶ It empowers an inspecting officer to seize the FCRA account of an organisation, if the said organisation violated any provision of the FCRA. In December 2015, the Ministry of Home Affairs published amendments to the FCRA. The amendments increased the reporting requirements of NGOs and made it compulsory for all applications for the registration of NGOs to be made online.⁵⁷ Prior to the amendments, the FCRA required only organisations receiving more than 10 million Rupees (approximately US \$ 150,000) to publicly release details of the funds received and how they were used for the year received and year after. Under the amended FCRA, all organisations that receive funding from foreign sources must publish detailed annual audited statements of what the funds were used for on its official website or website specified by the central government.⁵⁸

2.8 On 1 June 2016, the Ministry of Home Affairs (MHA) suspended the registration of the human rights organisation Lawyers Collective (LC) for a period of 6 months for violating the FCRA.⁵⁹ The authorities accused LC of authorising reimbursements to two of its founding members - Indira Jaising and Anand Grover. LC was also accused of “spending foreign contributions on advocacy with media and members of parliament.”⁶⁰ LC was given a month to provide an explanation why its registration should not be permanently cancelled. LC was created in 1981 and has over the years engaged in human rights advocacy, legal aid and litigation.

2.9 Between 5 May and 9 June 2015, the Home Ministry cancelled the registration of 4470 NGOs for violating the FCRA.⁶¹ The authorities accused the affected NGOs failing to submit their tax returns. This was preceded by the cancellation of the licenses of 9000 NGOs in April 2016 for violation of the FCRA. The authorities indicated that they had handed notice to 10343 NGOs to submit tax returns between 2009 and 2012 and only 229 NGOs responded to this request.⁶²

2.10 On 23 April 2015, the US-based Ford Foundation was included on an official “watch list” by the Indian authorities. The implications were that funds from the Ford Foundation could not be released to beneficiaries in India without the approval of the Home Ministry.⁶³ The actions were linked to Ford’s support to a Trust headed by human rights activist Teesta Setalvad (see 3.9 below) that advocates for the rights of

⁵⁶ “The Foreign Contribution (Regulation) Act 2010, No 42 of 2010,”

[http://lawmin.nic.in/d/regionallanguages/TH%20FOREIGN%20CONTRIBUTION%20\(REGULATION\)%20ACT.2010.%20\(42%20OF%202010\).pdf](http://lawmin.nic.in/d/regionallanguages/TH%20FOREIGN%20CONTRIBUTION%20(REGULATION)%20ACT.2010.%20(42%20OF%202010).pdf), accessed 11 July 2010.

⁵⁷ “Government of India, Ministry of Home Affairs,” https://fcraonline.nic.in/home/PDF_Doc/doc00600120151214130739.pdf, accessed 11 July 2016.

⁵⁸ Government of India, Ministry of Home Affairs,” https://fcraonline.nic.in/home/PDF_Doc/doc00600120151214130739.pdf, accessed 11 July 2016.

⁵⁹ “Indira Jaising’s NGO Lawyers Collective suspended for 6 months,” *Hindustan Times*, <http://www.hindustantimes.com/india-news/govt-hits-out-at-indira-jaising-suspends-fcra-registration-of-her-ngo/story-iBGB8qHU6nKrmthuQ8fn7M.html>, accessed 13 June, 2016.

⁶⁰ Lawyers Collective (LC)’s response to FCRA suspension order, <http://www.lawyerscollective.org/wp-content/uploads/2016/06/LC-Response-to-FCRA-suspension-02-06-2016.pdf>, accessed 13 June, 2016.

⁶¹ “In a fresh crackdown, government cancels licenses of 4470 NGOs,” *Indian Defence News*, <http://www.indiandefensenews.in/2015/06/in-fresh-crackdown-govt-cancels.html>, accessed 11 August 2016.

⁶² Home Ministry cancels registration of 9000 foreign funded NGOs, *Hindustan Times* 28 April 2015, <http://www.hindustantimes.com/india/home-ministry-cancels-registration-of-9-000-foreign-funded-ngos/story-UpnVtpwSrSjzqEdYyqijN.html>, accessed 10 June 2016.

⁶³ Government puts curbs on Ford Foundation funding, puts it on watch list,” *Hindustan Times*, 24 April 2015, <http://www.hindustantimes.com/india/govt-puts-curbs-on-ford-foundation-funding-puts-it-on-watch-list/story-QJCwwEL4iD02GqGmAueQYJ.html>, accessed 10 June, 2016.

riot victims in Gujarat, where Prime Minister Modi was Chief Minister.⁶⁴ On 16 March 2016, ahead of Prime Minister Modi's visit to the US, the Home Office ordered the removal of Ford Foundation from the "watch list." Ford complied with the government's requirement and registered under the Foreign Exchange Management Act (FEMA) 1999. In general, the government's regulatory regime for civil society organisations is disproportionate, and is also discriminatory compared to that of the corporate sector.⁶⁵

2.11 On 9 April 2015, the Minister of Home Affairs instituted an order to freeze the bank accounts of Greenpeace India to prevent the organisation from receiving funds from abroad. The Indian government accused Greenpeace of engaging in activities that were against Indian's economic interests, threatening national security and for inciting protests. It accused Greenpeace India of incurring 50% of foreign donations on administrative costs between 2011-2013 without prior approval. On 27 May 2015, the Delhi High Court granted Greenpeace a temporary relief of some of its funds.

2.12 Article 21 of the ICCPR guarantees the freedom of peaceful assembly. It states that no restriction may be placed on the exercise of this right other than those imposed in conformity with the law. In addition, article 19 of the Indian Constitution also guarantees the right to freedom of assembly. However, the Indian authorities have forcefully dispersed peaceful protests calling for government action against injustices.

2.13 In April 2015, peaceful protests organised by the Kanhar Bandh Virodhi Sangharsh Samiti (KBVSS) and the All Indian Union of Forest Working People (AIUFWP) were forcefully dispersed by security forces at the site of the construction of Kanhar dam in the Sonbhadra district of Uttar Pradesh. The demonstrators were protesting against the acquisition of land for the construction of the Kanhar dam. At least eight protesters were seriously injured and 35 others suffered from minor injuries. In addition, the authorities have often used excessive force during anti-government protests, especially in conflict-affected areas such as Jammu and Kashmir.⁶⁶

2.14 On 13 June 2013, the Indian authorities arrested Anuradha Kapoor and 12 women human rights defenders as they attempted to hand a memorandum denouncing the rape of two students at Barasat and Krishnagani, Nadia West Bengal. They had assembled at the residence of the Chief Minister of the government of West Bengal and carried placards denouncing the rape before they were arrested by security officers. They were accused of violating the Criminal Procedure Code. They were released on bond the same day but refused access to lawyers for the entire duration of their detention. All those arrested are members of the *Maitree*, a women's network based in Kolkata, West Bengal.

2.15 Recommendations:

⁶⁴ "Ford Foundation taken off watch list." <http://www.thehindu.com/news/national/ford-foundation-taken-off-watch-list/article8366862.ece>, accessed 11 July 2016.

⁶⁵ "ANALYSIS ON INTERNATIONAL LAW, STANDARDS AND PRINCIPLES," <http://www.ohchr.org/Documents/Issues/FAssociation/InfoNoteIndia.pdf> accessed on 15 September 2016.

⁶⁶ State response to end violent street protests in Kashmir which began in July 2016 led to over 70 protesters being killed and hundreds more injured. The federal paramilitary unit, Central Reserve Police Force, told the Jammu and Kashmir High Court that it had used 1.3 million pellets in 32 days, admitting that "it was difficult to follow the standard operating procedure given the nature of the protests." Indian security forces have been using pellet guns as a nonlethal option for crowd control since 2010 in Kashmir. Use of pellet guns to control protesting crowds in 2016 led to 10 deaths and caused blindness or serious eye injuries to over 100 people.

- *Respect the right of civil society organisations to have unimpeded access to legitimate funding for their work, including from sources abroad.*
- *Take measures to foster a safe, respectful, enabling environment for civil society, including through removing legal and policy measures which unwarrantedly limit the right to association.*
- *Repeal or comprehensively amend the FCRA particularly sections that restrict the ability of civil society organisations from receiving funding from foreign sources and the cumbersome reporting and administrative requirements for civil society organisations.*
- *Stop the practice of suspending bank accounts and freezing funds of civil society organisations that work on issues that challenge the government.*
- *Desist from arbitrarily cancelling the registration of civil society organisations and those that have been unduly sanctioned or deregistered should be immediately reinstated.*
- *Refrain from acts leading to the closure of CSOs or the suspension of their peaceful activities, and instead promote a meaningful political dialogue that allows and embraces diverging views, including those of human rights defenders, CSOs, journalists, political activists and others.*
- *Review and amend the IPC (particularly Sections 499 and 124 A) and the Information and Technology Act (2000) to ensure that they are in line with the best practices and international standards in the area of freedom of expression.*
- *Take appropriate steps to protect journalists particularly those who complain about threats to their lives and carry out independent investigations in all cases where journalists have been assassinated with a view to bringing the perpetrators to justice.*
- *Ensure that journalists and writers may work freely and without fear of retribution for expressing critical opinions or covering topics that the Government may find sensitive.*
- *Take adequate steps to lift restrictions on freedom of expression and adopt a framework for the protection of journalists from persecution, intimidation and harassment.*
- *Refrain from censoring social and conventional media and ensure that freedom of expression is safeguarded in all forms, including the arts.*
- *All instances of extra-judicial killing and excessive force committed by security forces while monitoring protests and demonstrations should be immediately and impartially investigated.*
- *Recourse for judicial review and effective remedy should be provided including compensation in cases of unlawful denial of the right to freedom of assembly by state authorities.*

ABBREVIATIONS

AVBP	Akhil Bharatiya Vidyarthi Parishad
ASA	Ambedkar Students' Association
BJP	Bharatiya Janata Party
CBI	Central Bureau of Investigation
FTII	Film and Television Institute of India
HCU	Hyderabad Central University
HRD	Human Rights Defender
ICCPR	International Covenant on Civil and Political Rights
IIT	Indian Institute of Technology
IPC	Indian Penal Code
JNU	Jawaharlal Nehru University
MHA	Ministry Of Home Affairs
MLA	Member of Legislative Assembly
MP	Member of Parliament
NEP	New Education Policy
NIA	National Investigation Agency
NGO	Non-Government Organization
Ph.D	Doctor of Philosophy
RSS	Rashtriya Swayamsevak Sangh
USCIRF	US Commission on International Religious Freedom