

India

Stakeholder Report for the United Nations Universal Periodic Review

Submitted by:
Foundation The London Story,
a non-governmental organization,

in collaboration with
The Indian American Muslim Council (IAMC), India Justice Project,
International Solidarity for Academic Freedom in India (InSAF India)
for the 41st Session of the Working Group on the Universal Periodic
Review November 2022



Submitted 31st March 2022

Table of Contents

- 02** I. Stakeholder Organisations
- 03** II. Executive Summary
- 04** III. Summary of Previous UPR Recommendations
- 05** IV. Review of India's Commitment to Core International Human Rights Standards
- 06** V. Legislative Changes and Decline of Democracy
 - A. Decline in Freedom of Religion
 - B. Decline in Freedom of Expression
 - C. Decline in Civic Space and Political Participation
- 10** VI. Police Action and State Impunity
- 11** VII. Hate Speech Targeting Religious Minorities
- 12** VIII. Communal Violence, Pogroms, Mob Lynchings and Impunity of Non-State Actors
- 13** IX. Failure of judicial institutions
- 14** X. Recommendations

I. Stakeholder Organisations

Foundation The London Story (TLS) is an Indian diaspora-led non-profit organization based in The Hague, Netherlands. Founded in 2020, TLS investigates the landscape of disinformation and hate speech to provide evidence-based policy, advocacy and technical solutions. We analyze and document hate speech and hate crimes against Indian minorities, and advocate for justice, peace, and collective action against grave human rights violations. For this UPR cycle Foundation TLS is a stakeholder given its expertise on hate speech in India.

Indian American Muslim Council (IAMC) is a Washington D.C.-based apolitical and non-profit organization dedicated to promoting peace, pluralism and social justice through advocacy and outreach across communities. Founded in August 2002, IAMC is the largest advocacy organization of Indian Muslims in the United States, with 16 chapters across the country. IAMC strives to strengthen India's secular institutions and promote peaceful ethnic and religious co-existence.

India Justice Project is a collective of individuals from different walks of life residing in Germany. IJP aims to build a strong solidarity network for India in Germany and offer a counternarrative to the RSS-BJP's fascist narrative of hate. Through an array of means, the IJP collective seeks to mobilise and act against the systematic dismantling of democracy in India, raise awareness about the deteriorating political situation and human rights violations, and build pressure on the German and other European governments to make human rights non-negotiable.

International Solidarity for Academic Freedom in India (InSAF India) is a diverse group of diasporic Indians located in different parts of the world. InSAF India aims to highlight the increasing assaults on academic freedom in India, in particular the attacks on anti-caste academics and scholars from minority backgrounds. InSAF considers it their obligation to raise our voices and participate in various actions to direct international attention to the increasing infringements on academic freedom in India. They stand against the proliferation of anti-intellectual and regressive political thinking in the name of a narrowly conceived Indian culture and history. InSAF also believes that academic freedom is inextricably linked to social justice, and that knowledge production is bound to the fostering of our social selves.



II. Executive Summary

1. India is witnessing a steep marginalization and curtailment of rights of its religious minorities through the incorporation of Hindutva nationalist policies in its functioning and by actively allowing discrimination and harassment of minorities by state institutions and non-state actors. State governments in India are increasingly adopting legislations and policies that discriminate and criminalise Indian Muslims while emboldening hate speakers and hate inciters. This stakeholder report emphasises the Indian government's adverse use of legislation and the judicial insensitivity to the Muslim community which is potentially marginalizing the Muslim community in Indian society. India has failed to uphold constitutional rights as well as its obligations under international law to prevent discrimination against religious minorities.[1]

2. There has been an increase in the prevalence of hate speech and religiously motivated hate crimes targeting the Muslim community in India. The State is also complicit in these increasing hate crimes. The Special Adviser on the Prevention of Genocide, Adama Dieng, expressed his concern over increased hate speech and discrimination against minority communities in India since the adoption of the Citizenship Amendment Act in December 2019.[2] Dr. Gregory Stanton and other genocide discourse experts identified 'signs and processes' of an approaching genocide in India against the Muslim community.[3] This report also brings attention to the regressive laws used by the Indian government to crack down on dissenting voices and the continuing restrictions on civil societies. Additionally, this report highlights the Indian government's failure to adequately investigate and effectively prosecute perpetrators of human rights violations against members of minority groups.

3. This report is based on research from verified sources of information including media reports, government, international organizations, records from the DOTO[4] database, fact-finding reports, and academic publications available in the public domain.

III. Summary of Previous UPR Recommendations

4. India supported the recommendation to ratify the international conventions to which it has committed itself.[5] India also supported multiple recommendations to ratify the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.[6] Despite the law commission's analysis of India's readiness to ratify CAT, the government of India has taken no effective steps to ratify the convention despite the mounting evidence of torture in police custody.[7]

5. India also supported the recommendations to ensure that laws are consistently enforced to provide adequate protection for members of religious minorities and vulnerable populations;[8] recommendations to reduce discrimination,[9] and intercommunal violence.[10] However, India has not taken any steps toward providing adequate protection to religious minorities, in fact, persecution of minorities is on a rise and concerning over the course of last year. India's blind eye towards religious freedom is also visible in its official response to UPR monitoring process. National Human Rights Commission in its 2020 monitoring status submission report does not mention religious freedom, Muslims, or minority rights despite supporting the recommendations made during 2017 cycle.

6. India also supported recommendations to respond positively to visit requests by the Special Procedures of Human Rights Council and to accept requests for country visits from Special Rapporteurs.[11] Conversely, the government has not accepted the request from the Special Rapporteur on Torture to visit India, pending since 1993;[12] India also has pending requests for visit by the Special Rapporteurs on Freedom of Assembly and Association,[13] and Right to Privacy.[14]

7. India ratified the Convention on the Prevention and Punishment of the Crime of Genocide in 1959 but has not yet enacted national legislation to prevent, prosecute and punish crimes of genocide. The criminal provisions under the Indian Penal Code (IPC) relating to rioting, unlawful assembly, and 'promoting enmity between different groups' only provide ad hoc protection against incitement to genocide by state and non-state actors. Actors with specific intent to incite destruction of a particular identifiable group have made genocidal calls and have caused vigilante mobs to assemble are allowed impunity in absence of strong commitment of the state against genocide.[15]

8. India has taken a hostile and highly discriminative policy on Rohingya refugees who are predominantly Muslims reaching the country fleeing persecution.[16] The Indian Government considers Rohingya refugees as illegal immigrants and as a threat to national security[17] and had directed State authorities to identify and deport Rohingyas staying in India. [18] Based on a Supreme Court order to do so, the government of India started deporting Rohingya Muslims back to Myanmar.[19]

9. India is a non-signatory to the Refugee Convention 1951, but under International Human Rights Law is still obliged to protect the rights of refugees.[20] However, the Supreme Court of India refused to stop the deportation of Rohingya refugees observing that the Government has the power to pursue such deportations.[21] India is also a signatory to the Global Compact for Migration and has pledged to engage to facilitate safe, orderly, and regular migration.[22] However, India chose not to submit the voluntary national review concerning the status of implementation of the Global Compact for Migration at the Asia-Pacific Regional Review held in 2021.[23]

10. India has also failed to ratify and internalise the UN Convention against Torture (CAT) and the International Convention for the Protection of All Persons from Enforced Disappearance (CPPED), despite reported cases of custodial violence, enforced disappearances, extrajudicial killing, unlawful detention, and torture.

IV. Review of India's Commitment to Core International Human Rights Standards

V. Legislative Changes and Decline of Democracy

A. Decline in Freedom of Religion - Supported, not implemented

11. State Legislations Banning the Slaughter of Cows: 23 out of 29 states in India have introduced laws criminalizing cow slaughter, trade, and consumption of beef.[24] In several states the laws are made through an ordinance process and administrative rules, bypassing the legislative process of a democratic society.[25] Police officers not below the rank of Sub-Inspector have the power to inspect and seize vehicles on mere suspicion of cow or beef smuggling.[26] In the State of Gujarat, the punishment for cow slaughter was increased to life imprisonment.[27] Additional Chief Secretary of the State of Uttar Pradesh stated that in 2020, up to August 19, the UP Police had invoked the National Security Act against 139 people in the state, 76 of them for cow slaughter. [28] The cow protection laws in India violate India's obligations under the Indian constitution as well as its obligations under International Human Rights law[29] while the associated harsh criminalisation defeats the test of necessity and proportionality.[30] The laws have also emboldened violent cow vigilante groups in India to act with impunity.[31] Despite the Supreme Court of India issuing specific directions to the State Governments in 2017 to ensure no incidents of cow vigilantism could take place,[32] several incidents of violent and targeted lynching have occurred, as highlighted in paragraphs 29 to 31 of this submission.[33]

12. Anti-Conversion Laws and Anti-Love Jihad Laws: States where the Bhartiya Janta Party (BJP) is leading the government, anti-conversion laws are expanding to include laws targeting inter-faith marriages, especially those involving Muslim men.[34] On 4th February 2020[35], the Ministry of Home Affairs in India has expressly denied that Love Jihad occurs, referring to the mainstream theory that Muslim men are luring Hindu girls into marriage for the purpose of religious conversion in Indian society.[36] The Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021' (Anti-Love Jihad Act) further criminalises conversion by marriage.[37] Under these laws, prior permissions are necessary for religious conversions for marriage, violating an individual's autonomy to choose a partner, as well as the right to freedom of religion.[38] The Supreme Court of India has refrained from intervening on petitions challenging the constitutionality of such laws. [39]

13. Hijab Ban in the State of Karnataka: The Southern Indian State of Karnataka witnessed the denial of entry to girls wearing hijab to educational institutions.[40] The BJP-led State government issued a swift directive prescribing this uniform, stating "clothes which disturb equality, integrity and public law and order should not be worn", claiming the ban is for public safety.[41] The High Court of Karnataka upheld the hijab ban observing that wearing hijab is not essential to Islam, while at the same time giving no regards to the women's right to determine their appearance.[42] The hijab ban forcing Muslim girls to choose between religion and education[43] violates India's obligations under international human rights law which guarantees the right to freely manifest one's religious beliefs,[44] to freedom of expression,[45] and to education without discrimination.

continued

14. Criminalisation of Irregular Triple Talaq Divorce: Despite the Indian Supreme Court declaring instant “triple talaq” divorce as unconstitutional and invalid in 2017,[46] the Government of India enacted The Muslim Women (Protection) of Rights on Marriage Act, 2019 making the triple talaq divorce a cognizable and non-bailable offence penalised with imprisonment for up to three years. [47] The Act has been criticised as the government’s actions criminalise “Muslim men in the guise of protecting Muslim women”. [48]

15. Citizenship Amendment Act and Nation-wide National Register of Citizens

a. *The Citizenship Amendment Act 2019 (CAA):* The Act allows the Union government to fast-track asylum claims of irregular immigrants from the Hindu, Sikh, Buddhist, Jain, Parsi or Christian communities of Afghanistan, Bangladesh, and Pakistan.[49] The UN High Commissioner for Human Rights and European Parliament Resolution[50] termed the CAA ‘fundamentally discriminatory in nature’, as it specifically excludes Muslims from accessing the same provisions as other religious groups.[51] The lack of legislative competence of the Bill was also raised during the parliamentary debate as it violates the fundamental rights and basic features of the Indian Constitution.[52] While the Act itself is sub judice, the Government of India has no plans to repeal it.

b. *National Registry of Citizens (NRC):* The NRC process conducted in Assam caused 1.9 million citizens to become stateless. The Home Minister Amit Shah announced the plan to impose the implementation of NRC for the whole of India.[53] The CAA coupled with NRC has the potential to create statelessness of Muslims and other marginalised groups who do not belong to Hindu, Sikh, Buddhism, Jainism, or Christianity.

B. Decline in Freedom of Expression - Supported, not implemented

16. Targeting Journalists: Indian government targeted journalist and media houses critical of the Government policies during the COVID-19 pandemic.[54] The Uttar Pradesh police arrested Siddique Kappan, a freelance reporter, in October 2020 while he was on his way from New Delhi to Hathras district to cover the Hathras gang rape case. He is still held in pretrial detention on sedition, incitement, and terrorism charges.[55] The ‘Media Policy 2020’ introduced in Jammu and Kashmir, a year after the revocation of Article 370,[56] accelerated the intimidation and harassment faced by journalists reporting on Kashmir.[57] The government has placed over 22 journalists on lists instructing immigration authorities to stop them from traveling abroad, several of these journalists have faced raids, threats, and detention.[58]

continued

17. Internet Shutdown: In 2020 and 2019, India imposed the highest number of internet shutdowns in the world.[59] The government in Jammu and Kashmir imposed the longest internet shutdown in a democratic country lasting seven months.[60] In Jammu and Kashmir, the police also registered a first information report under the UAPA (see Para. 19-21) against social media users who used VPNs to circumvent the prolonged internet ban.[61] Internet shutdowns were also arbitrarily imposed during protests against the CAA and farm laws to curb dissent.[62] Despite the Supreme Court of India's judgement declaring Rights to access internet as a fundamental right,[63] the Indian government has inadvertently denied the right to millions of Indians without due diligence or due process. Furthermore, the Government of India has no data on the impact of internet shutdown on revenue, freedom of speech, dissemination of information, and online socialization.[64]

18. Media shutdown: India also witnessed media blackouts to suppress concerns regarding socio-political situation in the country. Two Malayalam-language news channels, Asianet and MediaOne TV were suspended for 48 hours over their coverage of the Delhi Pogrom against Muslims, wherein the Ministry of Information and Broadcasting accused the news channels of siding with Muslims.[65] In February 2022, the central government banned the transmission of MediaOne TV citing 'national security concerns', without disclosing reasons for the ban.[66]

C. Decline in Civic Space and Political Participation – supported, not implemented

19. Abuse of Anti-Terror and Sedition Laws to Stifle Political Dissent: The Unlawful Activities (Prevention) Act 1967 (UAPA) an anti-terror law has been widely used to curb dissent against government actions.[67] The 2019 Amendment to the UAPA allows the central government to name any individual a terrorist without these acts actually being committed.[68] Due to the broad and vague scope of this anti-terrorism legislation, the UN Special Procedure experts warned about the potential for discrimination due to the Act being contrary to the principles of legality, necessity, and proportionality.[69] In the aftermath of protests against the CAA, student activists were arrested under UAPA to stifle dissent across the country. Delhi-based activists leading protests against the CAA have been charged under the UAPA.[70] As of end of March 2022, 12 of the 18 arrested in 2020 remain in jail. All of those presently in jail are from the minority Muslim community.

continued

20. India also witnessed targeting of human rights defenders[71] under anti-terror laws, including the widely criticised death of Jesuit priest Father Stan Swamy in custody under sedition laws. Article 14's sedition database found a surge of 77% in sedition cases in Uttar Pradesh during the anti-CAA protests, after the rape of a Dalit teen at Hathras, after the Pulwama attack, and also India's loss in 2017 international cricket.[72] The database also reported that 96% of sedition cases were filed against 405 citizens for criticising governments and politicians after 2014, which included the accused being critical of and/or making derogatory remarks against Prime Minister Modi and Uttar Pradesh's Chief Minister Yogi Adityanath.[73] The Central government on 28th March 2022 tabled the Criminal Procedure (Identification) Bill, 2022 to authorise storing of recorded measurements of convicts and detainees under any offence punishable under Indian law, for 75 years.[74] The proposed Bill exceeds the necessity and proportionality principles as it proposes to collect samples even from protestors engaged in political protests.[75]

21. Freedom of Peaceful Assembly: In order to deter people from public protests, the Bihar and Uttarakhand police in 2021 issued circulars warning individuals participating in protest demonstrations with dire consequences including difficulties getting passports, government jobs, financial grants, bank loans or government contracts.[76] Both Bihar and Uttarakhand police also started monitoring social media for objectionable and indecent comments against the State government and 'anti-national' posts.[77] The Uttar Pradesh government sent money recovery notices to protestors for alleged damage caused to public properties during the anti-CAA protests.[78] Additionally, violating privacy rights, the police put up public billboards displaying names, photos, and residential addresses of persons liable to pay.[79] The notices were withdrawn after the Supreme Court of India struck them down for lack of judicial oversight.[80] Thereafter, the Uttar Pradesh government enacted the Uttar Pradesh Recovery of Damage to Public and Private Property Act, 2020 which allows the government to collect damages arbitrarily without judicial oversight.[81]

22. Restrictions on Civil Society: India continues to use the Foreign Contribution (Regulation) Amendment Act to destabilise the strong civil society in India. Between 2015 and 2018, there has been a decline of 40 percent in funding to non-governmental organizations (NGO) in India.[82] In September 2020, the government of India amended the Foreign Contribution (Regulation) Amendment Act (FCRA), adding onerous governmental oversight and additional administrative requirements restricting access to foreign funding for small NGOs.[83] The Enforcement Directorate raided the home and NGOs run by Harsh Mander[84] and the Amnesty International (AI) India office.[85] AI also suspended its operations in India in 2020 after the government froze the organisation's bank accounts for alleged violation of FCRA rules. AI stated that the freeze constituted reprisal from the government for its human rights work in the country.[86] In a continuing effort to vilify People's Watch, a program run by Henry Tiphagne, the Central Bureau of Investigation filed a First Information Report for alleged 10-year-old FCRA violations.[87]

VI. Police Action and State Impunity

Supported, not implemented

23. Arbitrary Detention and Torture: In Uttar Pradesh, police arbitrarily detained 41 minors who were subjected to custodial torture including severe beatings with police batons and were denied basic rights of access to drinking water and food.[88] The Delhi police[89] also tortured and ill-treated the student leaders who were arrested for organizing protests and speeches against CAA.[90] Many of the student leaders have been denied bail repeatedly.[91] The COVID-19 pandemic in India was also misused by the police authorities to persecute Muslims in India.[92] These incidents violate India's obligations under its own national laws and international human rights law.[93]

24. Extrajudicial Killings: The security forces and police in India have been engaging in extrajudicial killings or fake encounter killings.[94] The culture of extrajudicial killings is normalised in India.[95] Between, 2017 and 2021, there had been 655 cases of death in police encounters, with the States Chhattisgarh and Uttar Pradesh having the highest number of recorded killings.[96] In Uttar Pradesh, after the launch of "Operation Clean" by Yogi Adityanath, over 1100 police shootings were reported between February 2017 and February 2018[97], with the Muslim community predominantly targeted. During the anti-CAA protests, 25 Muslims were reportedly extrajudicially killed by the police in Uttar Pradesh.[98] In a massive eviction drive conducted by the Assam Government to remove illegal settlers, two civilians were killed extrajudicially by the Assam police.[99] Encounter killings continue to be used in Kashmir to silence dissent and curb any anti-state sentiment. In 2018 alone, 160 civilians were extrajudicially killed, 31 of whom were children.[100] The ambiguities and gaps in investigation procedure of police encounter translate into impunity for killings.[101]

VII. Hate Speech Targeting Religious Minorities

25. Hate Speech and Incitement to Violence by State Actors: In 2020, Anurag Thakur, a Minister of State for Finance, Government of India, in a now infamous slogan said: “Desh ke Gaddaron ko, goli maaron saalon ko” (shoot the traitors of the country).[102] Following the incitement, a radicalised minor fired a gunshot at anti-CAA protesters at Jamia Millia Islamia, injuring one person.[103] In a separate incident, Kapil Gujar, a 25-year-old man, fired two rounds of gunshots at Shaheen Bagh, where a sit-in protest against the CAA and NRC process was taking place.[104] Despite the Delhi High Court's direction to take a conscious decision to register a First Information Report against the legislators, Anurag Thakur, Pravesh Verma, Abhay Verma[105] and BJP politician Kapil Mishra, for hate speech inciting violence at the Delhi pogrom,[106] no criminal cases have been filed against them. Yogi Adityanath, the Chief Minister of Uttar Pradesh, made more than 100 distinct instances of hate speeches during election campaign in over three months.[107] Several legislators from the BJP, including Prime Minister Narendra Modi and Home Minister Amit Shah have engaged in Islamophobic diatribe and hate speech targeting Muslims.[108]

26. Social media platforms like Facebook, WhatsApp, Telegram are weaponised by BJP political leaders as well as bureaucrats for spreading Islamophobic content and hate rhetoric.[109] During an outbreak of COVID cases at a religious congregation in a mosque in Delhi, BJP leaders openly termed the gathering a “Talibani Crime” and “CoronaJihad”.[110] Since October 2021, The Wire's Heartland Hate Watch documented 89 instances of reported hate crimes and hate speeches that took place across Uttar Pradesh, Madhya Pradesh, Uttarakhand, Bihar and Haryana.[111] The Delhi Minority Rights Commission found that public speeches made by Kapil Mishra, a prominent BJP leader, incited violence in words and intent preceding the Delhi pogroms.[112] Yet, no criminal action has been taken against him.[113] The sitting legislators from the BJP, such as Raja Singh, not only incite violence they actively maintain and support vigilante groups engaged in hate crimes.[114]

27. Hate Speech and Incitement to Violence by Non-State Actors: In December 2021, open calls for Muslim genocide and ethnic cleansing were made at a Dharam Sansad (Hindu Parliament) where multiple Hindutva leaders also incited the public to use weapons against Muslims.[115] A video of Yati Narasinghanand, an extremist Hindutva monk, calling for extermination of Indian Muslims is publicly available on Facebook, was shared by a BJP party-worker and have been viewed over 32 million times.[116] The Indian police has not taken criminal cognisance in this matter. The vigilante networks of Yati Narasinghanand and Pinky Chaudhary along with Karni Sena leaders openly propagate hate speech as well as engage in radicalising youth and young children to incite violence against Muslims and other minorities in India.[117]

28. Indian Media as Mouth Piece of Violence: A section of Indian media is complicit in the accelerating violence against Muslims.[118] When Indian media outlet Republic TV aired in the UK, it was fined by the Ofcom because of its hate speech against Pakistan.[119] At the beginning of the COVID-19 outbreak, media coverage incited anti-Muslim sentiments by peddling 'corona-jihad' narrative and dehumanising Indian Muslims.[120] Far-right news-channels like Sudarshan TV and Republic TV are continuously flaming anti-Muslim sentiments through the accusations of 'Love Jihad'[121], 'Land Jihad', [122] and 'UPSC Jihad.'[123] Despite the intervention of the Supreme Court,[124] the Ministry of Information and Broadcasting has neither revoked the telecasting licenses of such programs nor provided any guidelines against communal incitement through media.[125]

VIII. Communal Violence, Pogroms, Mob Lynchings and Impunity of Non-State Actors

29. There has been an increase in the number of cases involving communal tension.[126] Emboldened by state inaction and with support from political leaders, mobs in India have acted with complete impunity to terrorise, humiliate and in extreme cases murder Muslim minorities. Since 2014, according to the DOTO database, of all people who lost their lives during communal violence, Muslims are an overbearing majority, and the highest number of attacks were carried out by the Hindutva Right-Wing.[127] As per the DOTO database, there have been at least 140 instances of communal tension and violence since 2017.[128] However, no official data is collected on mob violence or on religious killings.[129]

30. On 23rd February, 2020, Muslim neighbourhoods were targeted in East Delhi, and 53 people were killed including children, 200 injured and approximately 2000 displaced, the majority of which were Muslims.[130] A fact-finding mission initiated by the Delhi Minorities Commission (DMC) reported that the Delhi pogrom was a result of the “repeated incitement to violence” during the Delhi elections campaigns by the BJP.[131] DMC found that the violence was “planned, organised and targeted”; different groups of armed vigilante actors fanned out to the Muslim majority localities in North East Delhi, while the Delhi police stood to watch as the mob openly displayed weapons with the intention of damaging property and harming persons from minority groups.[132] The violence also led to targeted looting and arson of homes, shops, businesses and other properties belonging predominately to Muslims.[133]

31. Mob Lynching: In just the first six months of 2017, 20 cow-terror attacks were reported, which included mob lynching, harassment, assault and gang rape.[134] The criminal accountability in mob lynching cases is inadequate. In one third of reported cases, instead of investigating attacks by vigilante groups, the police have filed complaints against victims’ family members and associates.[135] The witnesses have also turned hostile because of intimidation by both the authorities and the accused.[136] In the case of the mob lynching of Pehlu Khan on a National highway by Gau Rakshaks (cow vigilantes) affiliated with the Vishwa Parishad and Bajrang Dal, while his sons were severely attacked for transporting cows, the trial court acquitted all the perpetrators.[137] In another incident in 2018, Akbar Khan was beaten to death by a mob on alleged accusations of cow smuggling. The police took the cow to a shelter before tending to the victim who had passed away in the meantime.[138] In 2018, a cow vigilante mob set fire to a police station and vehicles, killing two people, including one police officer.[139] In June 2019, a Muslim man, Tabrez Ansari, accused of motorcycle theft was mob lynched while being forced to chant Hindutva slogans like ‘Jai Shri Ram (Hail Ram)’. The mob mistreated him for several hours before giving him over to the police, where he later died.[140] Islamophobia during COVID-19 has also resulted in mob attacks on Muslims, such as the dragging and beating of Mehboob Ali in North-West Delhi by a Hindu mob.[141] The State police also cooperate with Hindu vigilante actors in order to prevent interfaith marriages.[142] In an accusation of love jihad, on 21st January 2022, Abraaz Aftab Mullah was murdered and his body was cut up into pieces for the ‘crime’ of falling in love with a Hindu girl.[143]

IX. Failure of judicial institutions

32. The Supreme Court and subordinate courts in India are increasingly under pressure for their application of law and constitutional guarantees.[144] The reluctance in hearing constitutional matters involving discrimination and denial of fundamental freedoms, hate speech, genocidal incitement can be seen in the Supreme Court cause list, leading to pending urgent matters kept in pendency for an indefinite period.[145] A Public Interest Litigation filed seeking a probe into hate speech against religious minorities at Haridwar and Delhi events[146] is not listed in the cause list. The Supreme Court Registry also has become selective in the allocation of cases among the judges and is using judicial transfers to obstruct justice. Justice S Muralidhar from the Delhi High Court was transferred to the Punjab and Haryana HC a day after ordering the registration of First Information Reports against political leaders for hate speech.[147] Promotion and political benefits on the other hand are being afforded as favours for judges supportive of the BJP. Former Chief Justice of India, Ranjan Gogoi, who acted as his own judge in a suo moto proceeding relating to sexual harassment allegations made against him;[148] was nominated as a Rajya Sabha member by the Government of India immediately after his retirement.[149]

X.

Recommendations

33. The authors of this joint stakeholder report suggest the following recommendations for the Government of India:

International Human Rights Law and Standards and Domestic Legislation

- Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which India signed in 1997 and committed to ratifying in its 2012 and 2017 UPR;
- Implement previously supported recommendations;
- Enact a comprehensive national law to prevent, prosecute and punish crimes of genocide targeting individuals of religious minorities; incorporating the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide;
- Ratify the Convention for the Protection of All Persons from Enforced Disappearance and enact domestic law to address enforced disappearance in line with international standards;
- Ratify the Refugee Convention and uphold international law obligations by incorporating the principle of non-refoulement in domestic law;
- Accept the requests to visit India from the Special Rapporteurs on Torture, Right to Privacy, Right to Freedom of Assembly and Association.

Religious Minorities

- Repeal laws that discriminate against religious minorities, such as the discriminatory and unconstitutional anti-conversion laws and anti-Love Jihad State laws in India;
- Repeal or amend cow slaughter laws that allow use of force by police and citizens for cow protection, and bring it in line with the international standards of necessity and proportionality;
- Enact a law providing for the punishment of sectarian violence by individuals or groups, including propagating violence or threats of violence against religious and social minorities;
- Enact laws to hold accountable public officials advocating hate speech against religious minorities.

Freedom of Expression, Peaceful Assembly, and Association

- Repeal or revise criminal law, including special laws such as the Unlawful Activities Prevention Act (UAPA) and sedition law to prevent the undermining of freedom of expression;
- Drop all charges and release human rights defenders, journalists and student protesters who are detained for peacefully exercising their rights to freedom of expression, peaceful assembly or association;
- Repeal or revise the Foreign Contribution (Regulation) Act to ensure freedom of association and enable civil society organisations to access foreign funding for human rights and development projects.

Revising Criminal Justice System

- Sign into law criminal procedure amendments passed by the Indian Parliament in 2010 that require the police to record a formal reason under law for making a warrantless arrest;
- Enact national law to prevent the impunity of police and security officials for torture and arbitrary detention by police and other law enforcement agencies in line with international standards;
- Make legally binding rules for investigation procedures on encounter killings, based on Supreme Court guidelines;
- Repeal or amend the latest UAPA provisions designating individuals as terrorists prior to committing acts of crime;
- Remove from the UAPA provisions for in-camera proceedings, secret witnesses, warrant-less search, seizure and arrest, and 180-day detention without being charged, and institute a judicial inquiry into its abuse and misuse by police across states;
- Drop or revise the Criminal Procedure (Identification) Bill, 2022 and address privacy concerns to bring it line with international standards.

Addressing Accountability and Impunity

- Release a comprehensive white paper on the problem of “encounter killings”;
- Drop all politically and religiously motivated arrests of student protesters and human rights defenders.
- Investigate all allegations of human rights violations during extrajudicial or ‘encounter’ killings, and prosecute those found responsible regardless of position;
- Create an independent commission of enquiry to investigate the extent of malicious prosecution and prejudiced investigations under the Unlawful Activities Prevention Act and National Security Act;
- Investigate, prosecute, and end the practice of awarding promotions, wage increases and service awards to government officials, police officers, and military personnel accused of violating human rights;
- Investigate and prosecute government officials, political leaders, and others who incite violence against religious minorities;
- Ensure that police training receives human rights education including respecting due process, non-discrimination, and humane treatment;
- Incorporate compulsory human rights education into the national education policy and National Curriculum Framework.

Rehabilitation of Victims

- Provide rehabilitation through employment commensurate with qualifications to victims of illegal detention and torture;
- Create a national policy to pay financial compensation to victims and to the family of those killed in “encounter killings”;
- Create a national policy for providing financial compensation, a certificate of character and rehabilitative employment to individuals who have been wrongfully accused and subsequently acquitted of sedition and terrorism charges.

Reform of the National Human Rights Commission (NHRC)

- Reduce politicisation of the NHRC by requiring a transparent appointment process that include public hearings and participation from civil society groups;
- End the NHRC practice of using serving or retired police officers on investigative teams.

References

- [1] Article 2(1), Article 5(1), Article 26, Article 27 under International Covenant on Civil and Political Rights, International Covenant on Elimination of Racial Discrimination, Article 5 of Convention of Child Rights. Article 2(2) of International Covenant on Economic, Social and Cultural Rights. Article 30 of UN Convention on Child Rights, Article 2(1), Article 3, Article 4(1) and (2) of Declaration of the General Assembly, 1981, Human Rights Committee General Comment 22.
- [2] United Nations, 18th May 2020, Note to Media on India by Under-Secretary-General Adama Dieng, United Nations Special Advisor on the Prevention of Genocide.
- [3] <https://thelondonstory.org/2022/03/02/the-process-of-genocide-is-well-underway-in-india-experts-say-at-final-day-of-global-summit/> Dr. Stanton had also issued a genocide warning in December 2021. See also, <https://www.genocidewatch.com/single-post/india-genocide-emergency>
- [4] Documentation of the Oppressed, <http://dotodatabase.com/>
- [5] Human Rights Council, Report of the Working Group on the Universal Periodic Review, India, A/HRC/36/10, Recommendation 161.41 (Madagascar)
- [6] Human Rights Council, Report of the Working Group on the Universal Periodic Review, India, A/HRC/36/10, Recommendation 161.8 (Bulgaria), Recommendation 161.5 (Botswana), Recommendation 161.6 (Norway), Recommendation 161.7 (Czechia), Recommendation 161.9 (Greece) (Guatemala) (Italy) (Lebanon) (Montenegro) (Mozambique) (South Africa) (Sweden) (Turkey) (Ukraine) (United States of America), Recommendation 161.11 (Australia), Recommendation 161.16 (Republic of Korea), Recommendation 161.17 (Israel), Recommendation 161.18 (Chile), Recommendation 161.19 (Burkina Faso), Recommendation 161.20 (Russian Federation), Recommendation 161.21 (Denmark), Recommendation 161.22 (Indonesia)
- [7] See paragraph 23.
- [8] A/HRC/36/10, Recommendation 161.72 (United States of America)
- [9] A/HRC/36/10 Recommendation 161.70 (Iraq), 161.75 (Guatemala)
- [10] A/HRC/36/10 Recommendation 161.100 (Russian Federation)
- [11] A/HRC/36/10, Recommendation (138.45.) Latvia
- [12] The Special Rapporteur, Juan Mendez, noted India's non-cooperation, "we have been asking to go to India last 25 years and repeating our requests. We get no answer whatsoever." The Economic Times, "Not averse to visits by UN Special Rapporteurs: India," accessed Mar. 12, 2015, <http://economictimes.indiatimes.com/news/politics-and-nation/not-averse-to-visits-by-un-special-rapporteurs-india/articleshow/46541336.cms>.
- [13] Freedom of Assembly and Association, <https://www.ohchr.org/EN/Issues/AssemblyAssociation/Pages/CountryVisits.aspx>
- [14] Pending invitations to India can be found here: <https://spinternet.ohchr.org/ViewCountryVisits.aspx?visitType=all&country=IND&Lang=en>
- [15] Priya Pillai, The Hindu, Preventing Genocide, 19th January 2022, <https://www.thehindu.com/opinion/op-ed/preventing-genocide/article38288753.ece> Also see, The Quint, 22nd December 2022, <https://www.thequint.com/news/india/haridwar-yatinarisinghanand-organises-hate-speech-conclave>
- [16] For a timeline of discriminatory events, see, Manuvie R, Dhote S, Status of Rohingyas in India, Submission to the Office of High Commissioner for Human Rights, Call for input. Status of Persecuted Minorities. The London Story, 2021. (Annexure 1) and The Indian Express, Here is how various refugee communities have fared in India, 14th September 2017, <https://indianexpress.com/article/india/rohingya-muslims-refugee-myanmar-india-bangladesh-4843379/>
- [17] Reuters, India calls Rohingya refugees 'threat to national security, 14th September 2017, <https://www.reuters.com/article/us-myanmar-rohingya-india-idUSKCN1BP24M>
- [18] The Hindu, India firm on deporting Rohingya, 5th September 2017, <https://www.thehindu.com/news/national/other-states/india-firm-on-deporting-rohingya/article19625028.ece>
- [19] First deportation <https://www.hrw.org/news/2018/10/04/india-7-rohingya-deported-myanmar> and Second deportation <https://thewire.in/rights/five-rohingya-deportation-assam> Also, the UNHCR agency was not allowed to make an assessment of informed voluntariness of the returned Rohingya Muslims. The Wire, dated 5th January 2019, <https://thewire.in/rights/voicing-concern-for-group-of-rohingya-unhcr-seeks-clarification-over-their-repatriation-to-myanmar>
- [20] Article 14, Universal Declaration of Human Rights, 1948 (UDHR), International Covenant on Civil and Political Rights (ICCPR), Convention on the Rights of the Child, and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.
- [21] Mohammad Salimullah and Another versus Union of India and others, LL 2021 SC 202 https://main.sci.gov.in/supremecourt/2017/27338/27338_2017_31_1502_27493_Judgement_08-Apr-2021.pdf
- [22] India Statement <https://www.un.org/en/conf/migration/assets/pdf/GCM-Statements/india.pdf>
- [23] <https://www.unescap.org/intergovernmental-meetings/asia-pacific-regional-review-implementation-global-compact-safe-orderly>
- [24] Prevention of Cruelty to Animals (Regulation of Livestock Market) Rules, Ministry of Environment, Forest and Climate Change, No. 3961 of 2017, <http://www.egazette.nic.in/WriteReadData/2017/176216.pdf>;
- [25] Karnataka Prevention of Slaughter and Preservation of Cattle Ordinance, 2020, https://prsindia.org/files/bills_acts/bills_states/karnataka/2021/KA_Prevention%20of%20Cow%20Slaughter%20Ordinance%202020.pdf
- [26] Gujarat Animal Prevention Act, 1954, Bombay Act No. LXXII of 1954, Article.12 https://lpd.gujarat.gov.in/assets/downloads/act_31052012_a10.pdf; Maharashtra Animal Prevention Act, 1976, Maharashtra Act No. IX of 1977, Article. 13, [http://bwcindia.org/Web/Info&Action/Legislation/MaharashtraAnimalPreservationAct1976\(AmendedMarch2015\).pdf](http://bwcindia.org/Web/Info&Action/Legislation/MaharashtraAnimalPreservationAct1976(AmendedMarch2015).pdf); Karnataka Prevention of Cow Slaughter and Cattle Preservation Act, 1964, Act No. 35 of 1964, Article.15, [http://dpal.kar.nic.in/pdf_files/35%20of%201964%20\(E\).pdf](http://dpal.kar.nic.in/pdf_files/35%20of%201964%20(E).pdf)., Haryana Gauvansh Sanrakshan and Gausamvardhan Act, Article 18 2015 https://prsindia.org/files/bills_acts/acts_states/haryana/2015/2015HR20.pdf

- [27] The Gujarat Animal Preservation (Amendment) Act, 2017
- [28] The Indian Express, dated 11th September 2020, <https://indianexpress.com/article/india/in-uttar-pradesh-more-than-half-of-nsa-arrests-this-year-were-for-cow-slaughter-6591315/#:~:text=More%20than%20half%20of%20these,of%20them%20for%20cow%20slaughter>
- [29] Articles 14, 15, and 16 of the Indian Constitution guarantee all citizens the right to equal treatment before the law and the right to equal protection of the laws. Article 19 of the Constitution guarantees all citizens the right to carry out any legitimate occupation, trade, or business. In *Olga Tellis v. Bombay Municipal Corporation*, Supreme Court of India, 1986 AIR 180, 1985, The Supreme Court also held that right to life under article 21 of the Constitution includes the right to livelihood. India has obligation under International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) prohibit discrimination based on race or ethnicity. ICERD article 4 requires governments to declare "all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin" as offenses punishable by law.
- [30] Crawford, Emily. "Proportionality." In *The Max Planck Encyclopaedia of Public International Law*. Edited by Rüdiger Wolfrum. Oxford: Oxford University Press, 2012.
- [31] Aljazeera, 3rd January 2019, <https://www.aljazeera.com/opinions/2019/1/3/how-cow-vigilantism-is-undermining-the-rule-of-law-in-india/>
- [32] *Tehseen S. Poonawalla V Union of India & others*. Writ Petition No. 754 / 2016, Supreme Court of India, see also <https://www.livelaw.in/sc-notice-to-centre-states-on-pil-seeking-ban-on-cow-vigilante-groups/>
- [33] A contempt notice was issued by the Supreme Court for violating specific directions in *Tehseen S. Poonawalla V Union of India & others*. See the Order at <https://www.livelaw.in/cow-vigilante-violence-sc-issues-contempt-notice-rajasthan-haryana-govts-read-petition/?from-login=462306>
- [34] Ten states in the country have laws restricting religious conversions. The Orissa Freedom of Religion Act, 1967 (Orissa), M.P. Dharma Swatantrya Adhiniyam, 1968 (Madhya Pradesh), the Arunachal Pradesh Freedom of Religion Act, 1978 (Arunachal Pradesh), Chhattisgarh Religion Freedom (Amendment) Act, 2006 (Chhattisgarh), Gujarat Freedom of Religion Act, 2003 (Gujarat), The Himachal Pradesh Freedom of Religion Act (Himachal Pradesh), Jharkhand Freedom of Religion Act, 2017 (Jharkhand), Rajasthan Freedom of Religion Act (Rajasthan), The Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance, 2020 (Uttar Pradesh) and Uttarakhand's Freedom of Religion Act, 2018 (Uttarakhand, Act No: 28 of 2018)
- [35] Ministry of Home Affairs, Lok Sabha Starred Question No.23 and answer, answered on the 4th February 2020.
- [36] Article 14. 'Love Jihad': Made In Kerala, Exported Nationwide. 30th March, 2021. <https://www.article-14.com/post/love-jihad-made-in-kerala-exported-nationwide>
- [37] Section 3 of the Act prohibits one person from converting the religion of another person by marriage. Thus making religious conversion by marriage unlawful. Violation of this provision is punishable with imprisonment for a term which is not less than one year but which may extend up to 5 years and a fine of minimum rupees fifteen thousand. If the person converted happens to be a woman, the punishment is double the normal term and fine. Act 3 of 2021. Dated 4th March 2021. Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021' (Anti-Love Jihad Act), The Uttarakhand Freedom of Religion Act, 2018, The Gujarat Freedom of Religion (Amendment) Act, 2021, Madhya Pradesh Freedom of Religion Act 2020; See also, The Quint. 'Love Jihad' Laws: What Are the Five BJP-Ruled States Planning? 19th November, 2020 <https://www.thequint.com/news/india/love-jihad-laws-what-are-the-5-bjp-states-up-mp-karnataka-haryana-assam-planning#read-more#read-more>; Al Jazeera. India's 'love jihad' laws: Another attempt to subjugate Muslims. 15th January, 2021. <https://www.aljazeera.com/opinions/2021/1/15/indias-love-jihad-laws-another-attempt-to-subjugate-muslims>
- [38] Article 21 and 25 of the Constitution of India, Article 18(1) of ICCPR, Declaration of the General Assembly, 1981, Human Rights Committee general comment 22 upholds the freedom of an individual to adopt, change or renounce religion or belief.
- [39] Live Law. 'Love Jihad' Laws: Supreme Court Issues Notice On Pleas Challenging UP, Uttarakhand Laws Against Religious Conversion For Marriage. 6th January, 2021. <https://www.livelaw.in/top-stories/love-jihad-supreme-court-notice-up-uttarakhand-laws-religious-conversion-marriage-168007>
- [40] The Tribune India, 9th February 2022, <https://www.tribuneindia.com/news/nation/hijab-row-prohibitory-orders-clamped-in-karnataka-district-after-violence-erupts-368136>
- [41] The Indian Express, dated 6th February 2022, <https://indianexpress.com/article/cities/bangalore/karnataka-hijab-controversy-clothes-ban-harmony-public-order-7758633/>
- [42] *Resham v. State of Karnataka*, W.P No: 2347/2022, dated 15th March 2022, 2022 LiveLaw (Kar) 75
- [43] Rappler, 12th February 2022, <https://www.rappler.com/world/south-central-asia/indian-muslim-students-hijab-ban-forces-choice-religion-or-education/>
- [44] Article 18(1), Article 18(3), Article 26, Article 27 under International Covenant on Civil and Political Rights, International Covenant on Elimination of Racial Discrimination, Article 1(1), Article 1(3), of Declaration of the General Assembly, 1981, Human Rights Committee General Comment 22.
- [45] Article 19 and 20 of ICCPR
- [46] *Shayara Bano Vs. Union of India & others*, Writ petition no:118 of 2016, Supreme Court of India
- [47] Muslim Women (Protection) of Rights on Marriage Act 2019, Act no. 20 of 2019.
- [48] Faizan Mustafa, 15th December 2017, *The Wire*, <https://thewire.in/gender/why-criminalising-triple-talaq-is-unnecessary-overkill> Aakar Patel, 2021, Price of the Modi Years
- [49] Section 2, The Citizenship (Amendment) Act, 2019, Act no.47 of 2019
- [50] European Parliament, European Parliament resolution on India's Citizenship (Amendment) Act, 2019, 2020/2519(RSP)
- [51] New Citizenship law in India 'fundamentally discriminatory': UN Human rights office, <https://news.un.org/en/story/2019/12/1053511>
- [52] The latest amendment violates the right to equality guaranteed under Article 14 of Indian Constitution and right to religion applicable to all citizens and non-citizens. Citizenship Amendment Bill, Lok Sabha debate, 2019 Seventeenth Series, Vol. VI, Second Session, 2019/1941 (Saka) No. 16, Monday, December 09, 2019/Agrahayana 18, 1941 (Saka) Also see, Gautam Bhatia, *The Hindu*, It is everybody's Constitution, 1st January 2020, <https://www.thehindu.com/opinion/lead/it-is-everybodys-constitution/article30446190.ece>
- [53] *Times of India*, 21st November 2019, <https://timesofindia.indiatimes.com/india/nrc-will-be-conducted-across-india-repeated-in-assam-shah/articleshow/72151491.cms>

[54] CPJ, dated 28th May 2020, Authorities in India continue to investigate, detain journalists amid COVID-19 pandemic, <https://cpj.org/2020/05/authorities-in-india-continue-to-investigate-detain-journalists-amid-covid-19-pandemic/>

[55] CPJ, Siddique Kappan, <https://cpj.org/data/people/siddique-kappan/>

[56] Media Policy 2020 with the aim to “ensure a synchronized and effective use of all forms of media to build public trust, foster a genuinely positive image of the Government based on performance” <http://new.jkdirinf.in/images/MediaPolicy.pdf>

[57] Article 14. The Dangerous Profession Of Journalism In Kashmir. 22nd September, 2020. <https://www.article-14.com/post/the-dangerous-profession-of-journalism-in-kashmir>

[58] Since the introduction of the policy a number of journalists have been summoned by the authorities for questioning, such as The Hindu correspondent Peerzada Ashiq, the Economic Times correspondent Hakeem Irfan, Basharat Masood of the Indian Express, and the Outlook correspondent Naseer Ganai. HRW. India: Kashmiri Journalist Held Under Abusive Laws. 8th February, 2022. <https://www.hrw.org/news/2022/02/08/india-kashmiri-journalist-held-under-abusive-laws>

[59] India witnessed internet shut downs 109 times in 2020 and 121 times in 2019. Access Now, #keepitonline: India shuts down internet more than any other nation on earth, dated 3rd March 2021; UN human rights experts also urged India to end the communications shutdown in Kashmir which included internet access, mobile phone networks, landlines, cable and Kashmiri television channels. OHCHR, UN rights experts urge India to end communications shutdown in Kashmir, dated 22nd August 2019.

[60] Al Jazeera. India restores internet in Kashmir after 7 months of blackout. 5th May, 2020. <https://www.aljazeera.com/news/2020/3/5/india-restores-internet-in-kashmir-after-7-months-of-blackout>

[61] Scroll.in. J&K: UAPA invoked against social media users for defying the government's internet ban. 18th February 2020. <https://scroll.in/latest/953500/j-k-uapa-invoked-against-social-media-users-for-defying-governments-internet-ban>

[62] SFLC.IN, Submission on internet shutdowns to UN OHCHR, dated 10th February 2022.

[63] Faheema Shirin. R.K v State of Kerala, Writ petition No. 19716 of 2019, dated 19th September 2019.

[64] Government of India, Ministry of Home Affairs, Lok Sabha, Unstarred question no. 921, Internet shutdowns, 8th February, 2022.

[65] CPJ, 6th March 2020, <https://cpj.org/2020/03/india-temporarily-bans-2-news-channels-over-covera/>

[66] The Supreme Court has given stay on the High Court judgment which upheld the media ban, based on documents produced by the Ministry of Home Affairs in a sealed cover. Madhyamam broadcasting Limited v Union of India & others, SLP (C) 3964 of 2022, dated 15th March 2022.

[67] Hindustan Times. Anti-terror law should not be used to quell dissent: SC judge DY Chandrachud. 13th July, 2021. <https://www.hindustantimes.com/india-news/antiterror-law-should-not-be-used-to-quell-dissent-sc-judge-dy-chandrachud-101626162172968.html>

[68] Section 5, The Unlawful Activities (Prevention) Amendment Act, 2019., Act No.28 of 2019

[69] OHCHR, dated 6th May 2020, Comments to the Unlawful Activities Amendment Act 2019 and the 1967 Unlawful Activities Prevention Act, OL IND 7/2020.

[70] The Print, 26th June 2020, <https://theprint.in/india/caa-protesters-arrest-designed-to-send-chilling-message-un-asks-india-to-free-activists/449401/> Civicus, India: Ongoing targeting of activists under anti-terror laws for their protests against citizenship law. 26th January 2022. <https://civicus.org/index.php/media-resources/news/5561-india-ongoing-targeting-of-activists-under-anti-terror-laws-for-their-protests-against-citizenship-law>

[71] UN human rights experts have condemned the targeting human rights defenders and to release them from prisons in the case of Kashmiri human rights defender Khurram Parvez, Dr. G.N. Saibaba, Mr. Surendra Gadling, Mr. Rona Wilson, Ms. Shoma Sen, Mr. Sudhir Dhawale, Mr. Mahesh Raut, Ms. Sudha Bharadwaj, Mr. Vernon Gonsalves, Mr. Arun Ferreira, Mr. Varavara Rao. OHCHR, UN experts urge Indian authorities to stop targeting Kashmiri human rights defender Khurram Parvez and release him immediately, 22nd December 2021, OHCHR, India: UN experts call for release of human rights defender Saibaba, 30th April 2019 , OHCHR, India: Terrorism charges are pretext to silence human rights defenders, say UN experts, 5th October 2018, OHCHR, India: Death in custody of priest Stan Swamy is devastating – UN expert, 15th July 2021,

[72] Article 14. Our New Database Reveals Rise In Sedition Cases In The Modi Era. 2nd February 2021. <https://www.article-14.com/post/our-new-database-reveals-rise-in-sedition-cases-in-the-modi-era>

[73] Article 14. Our New Database Reveals Rise In Sedition Cases In The Modi Era. 2nd February, 2021. <https://www.article-14.com/post/our-new-database-reveals-rise-in-sedition-cases-in-the-modi-era>

[74] Section 3, Criminal Procedure (Identification) Bill, 2022. Bill No.93 of 2022
The bill allowing the collection of biometric data has been criticised for violating the right to privacy, and the right to be forgotten at Lok Sabha. Lok Sabha debate on 28th March 2022.

[75] NDTV, "Unconstitutional": Opposition Slams New Criminal Identification Bill , dated 28th March 2022, <https://www.ndtv.com/india-news/the-criminal-procedure-identification-bill-opposition-slams-it-as-unconstitutional-direct-violation-of-fundamental-rights-2848083>

[76] The Wire. Bihar and Uttarakhand to 'Monitor' Protesters, Could Face Difficulty in Getting Jobs. 4th February, 2021. <https://thewire.in/government/bihar-uttarakhand-police-monitor-protesters-anti-national-posts>

[77] Indian Express. Bihar warns of action for online posts against govt; Opp calls it draconian. 23rd January, 2021. <https://indianexpress.com/article/india/bihar-warns-of-action-for-online-posts-against-govt-opp-calls-it-draconian-7157949/>

[78] Scroll, dated 26th February 2022, <https://scroll.in/article/1018050/how-uttar-pradesh-played-judge-jury-and-executioner-with-caa-protestors>

[79] The Hindu, dated 7th March 2020, Details of anti-CAA protesters on display <https://www.thehindu.com/todays-paper/tp-national/up-banners-display-photos-details-of-anti-caa-protestors/article31005797.ece>

[80] The Leaflet, SC orders UP government to refund money recovered from anti-CAA protestors 18th February 2022, <https://theleaflet.in/sc-orders-up-government-to-refund-money-recovered-from-anti-caa-protestors/>

[81] The Uttar Pradesh Recovery of Damage to Public and Private Property Act, 2020, Act 11 of 2020, 31st August 2020; See also, Scroll, dated 22nd February 2022, <https://scroll.in/article/1018050/how-uttar-pradesh-played-judge-jury-and-executioner-with-caa-protestors>

[82] Bain & Company, India Philanthropy Report 2019, Embracing the field approach to achieve India's Sustainable Development Goals, 2019 See also, Aljazeera, Indian law on foreign funding a 'tool to silence' civil society, dated 13th November 2020, <https://www.aljazeera.com/news/2020/11/13/restrictions-on-funding-of-indian-civil-society>

[83] The Foreign Contribution (Regulation) Amendment Act, 2020, No. 33 of 2020, dated 28th September 2020. Also, since 2019, 2309 registrations, 445 renewals and 123 prior permissions of NGOs have been rejected in India under FCRA. Ministry of Home Affairs Reply, Lok Sabha, Unstarred Question NO. 958 on rejections under FCRA, 8th February 2022

[84] The Quint, dated 16th September 2021, <https://www.thequint.com/news/india/ed-raids-ex-ias-officer-and-activist-harsh-manders-home-and-office>

[85] <https://www.amnesty.org/en/latest/news/2020/09/amnesty-international-india-halts-its-work-on-upholding-human-rights-in-india-due-to-reprisal-from-government-of-india/>

[86] The Wire, Amnesty International India shuts down, blames Government's Reprisal, dated 29th September 2020, <https://thewire.in/rights/amnesty-international-india-shuts-down-inquiries-investigating-agencies-ed-cbi>

[87] The Leaflet, dated 9th January 2022, <https://theleaflet.in/cbi-files-fir-against-madurai-based-human-rights-ngo-peoples-watch-for-alleged-10-year-old-fcra-violations/>

[88] Quill Foundation, Citizens against Hate, HAQ: Centre for Childs Rights, January 2020, Brutalising Innocence, Detention Torture and criminalisation of Minors by UP Police to quell anti-CAA protests, Minors are mostly residents of Muzzaffarnagar, Bijnor and Varanasi in UP.

[89] Delhi Police registered FIR number 59/2020 by a sub-inspector quoting his sources that communal riots were part of a preplanned conspiracy. Though initially FIR was registered under bailable offences, serious criminal charges under sedition and anti-terror UAPA was added.

[90] OHCHR, 26th June 2020, UN experts urge India to release protest leaders, <https://www.ohchr.org/en/news/2020/06/un-experts-urge-india-release-protest-leaders>, Scroll, dated 27th February 2020, <https://scroll.in/article/954538/two-anti-cao-activists-arrested-by-delhi-police-were-tortured-in-custody-allege-family-members>

[91] Scroll, 16th March 2022, <https://scroll.in/latest/1019692/delhi-violence-court-rejects-bail-for-gulfisha-fatima-and-tasleem-ahmad-in-uapa-case>

Times of India, 24th March 2022, <https://timesofindia.indiatimes.com/city/delhi/delhi-riots-case-former-jnu-student-umar-khalids-bail-plea-rejected/articleshow/90415537.cms>

[92] Foundation The London Story, Communalisation of Covid-19 in India, available at <https://thelondonstory.org/2020/04/01/communalisation-of-covid-19-in-india/> (Annexure 2)

[93] Section 3 of the Juvenile Justice (Care and Protection of Children) Act, 2015. India has ratified UN Child Rights Convention (UNCRC). India is a signatory to the UN Convention against Torture.

[94] OHCHR, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns: Mission to India, dated 26th April 2013, A/HRC/23/47/Add.1

[95] For instance, the UP Chief minister Yogi Adityanath stated that criminals will be either jailed or killed in encounters. Firstpost, dated November 19th 2017, Yogi Adityanath says criminals in Uttar Pradesh 'will be jailed or killed in encounters', <https://www.firstpost.com/india/yogi-adityanath-says-criminals-in-uttar-pradesh-will-be-jailed-or-killed-in-encounters-4217325.html> and Assam Chief Minister Himanta Biswa Sarma on Monday told the officers-in-charge of all police stations in the state that shooting at criminals who try to escape should become a 'policing pattern'. 6th July 2021, <https://www.indiatoday.in/india/assam/story/shooting-criminals-trying-escape-should-be-policing-pattern-assam-cm-1824463-2021-07-06>. Similarly, A 2018 survey of 15,563 people conducted across 22 Indian states and UTs by Common Cause and Centre for Study of Developing Societies (CSDS), revealed that one out of two people condoned the use of violence by the police. The Status of Policing in India Report (SPIR) 2018 (add citation) The SPIR 2019 survey of police personnel revealed that One in five police personnel felt that killing criminals is better than a legal trial, and three in four believed that it was justified for the police to be violent towards criminals.

[96] Government Of India, Ministry Of Home Affairs, Lok Sabha, Unstarred Question No. 991, To Be Answered On The 08th February, 2022/ Magha 19, 1943 (Saka), Encounter Killing. Also, according to the Nation Human Rights Commission (NHRC) in 2018, 44 cases of deaths were reported in police encounters in UP and 90 in the year 2020. Data from statement furnished by NHRC indicating the number of cases registered on the basis of intimations received about deaths in police encounters, State wise for the period 2014-15, 2015-16, 2016-17, 2017-18 and 2018-19 (upto 20.01.2019) Government Of India, Ministry Of Home Affairs, Rajya Sabha Unstarred Question No. 370, To Be Answered On The February 6th, 2019/Megha 17, 1940 (Saka), Record Of Fake Encounter Cases See also, <https://www.article-14.com/post/crime-as-punishment-how-india-s-public-backs-extrajudicial-killings-by-the-police-617f5cd47964d>

[97] Indian Express. In Uttar Pradesh, the law is misused to target minorities. 25th March, 2019. <https://indianexpress.com/article/opinion/columns/lok-sabha-elections-uttar-pradesh-yogi-adityanath-up-police-law-and-order-5640693/>

[98] The Wire. These Are the 25 People Killed During Anti-Citizenship Amendment Act Protests. 23rd December, 2019. <https://thewire.in/rights/anti-cao-protest-deaths>

[99] Foundation The London Story, Assam Dossier: Submission on the State of Affairs in Assam, India, 2021 (Annexure 3)

[100] FIDH. Key human rights issues of concern in Indian-Administered Jammu & Kashmir. March 2019. https://www.fidh.org/IMG/pdf/20190315_kashmir_briefing_note_-_final.pdf

[101] Youth for Human Rights Documentation (YHRD), "Extinguishing Law and Life: Police Killings and Cover Up in the State of Uttar Pradesh" October 2021. A report examining the death of 18 young men in these 17 instances of alleged extrajudicial killings by UP police, which were investigated by the NHRC analysed the failure of criminal justice system to ensure accountability for police killings.

[102] The Wire. Anurag Thakur Leads Crowd to Chant 'Shoot the Traitors'. 27th January, 2020. <https://thewire.in/politics/anurag-thakur-delhi-chants>

[103] The Wire, dated 30th January 2020, <https://thewire.in/rights/jamia-millia-islamia-gun-incident>

[104] The wire, dated 1st February 2020, <https://thewire.in/communalism/shaheen-bagh-shooting>

[105] On 25th February, Mr. Abhay Verma, MLA also repeated inciting goli marron salon ko slogan. Youth ki Awaaz, 26th February 2020, <https://www.youthkiawaaz.com/2020/02/bjp-mla-again-chants-goli-marro-slogan/>

[106] Harsh Mander & another vs. GNCT of Delhi & others, Writ Petition (CrI): 565/2020 Order dated 26th February 2020

[107] The Wire, dated 3rd March 2022. <https://thewire.in/communalism/100-instances-of-hate-speech-religious-polarisation-hindutva-supremacy-in-adityanaths-poll-speeches>

[108] In 2019, the Home Minister of India, Amit Shah, during an election campaign openly called the irregular Muslim immigrants from Bangladesh as termites, and vowed to throw them into Bay of Bengal see at, Reuters, dated 12th April 2019, <https://www.reuters.com/article/india-election-speech-idUSKCN1RO1YD>

During the ongoing widespread protests following the passing of Citizenship Amendment Bill, Prime Minister of India at an election rally in Jharkhand, said that the people "creating violence could be identified by their clothes" referring to members of the Muslim community. The Quint, 17th December 2019, <https://scroll.in/article/947024/as-modi-talks-of-identifying-violent-protesters-by-their-clothes-indian-muslims-face-a-double-bind>

Shri Somasekhara Reddy, a Member of the Legislative Assembly of the BJP from Karnataka "cautioned" Muslims against participating in anti-CAA protests and warned of serious repercussions in blatantly divisive and dangerous terms, at a pro-CAA rally in Bellari district saying: "It's just a caution for those who are protesting against the CAA (Citizenship Amendment Act). We are 80 per cent and you (Muslims) are 18 per cent. Imagine what will happen if we take charge...Beware of the majority when you live in this country. This is our country. If you want to live here, you will have to, like the Australian Prime Minister said, follow the country's traditions...So, I warn you that

CAA and NRC are made by Modi and Amit Shah. If you will go against these acts, it won't be good...If you wish, you can go to Pakistan. We don't have any issues. Intentionally, we would not send you... If you will act as enemies, we should also react like enemies." BJP MLA 'warns' anti-CAA protesters, says 'we are 80% and you just 17%', India TV, 4 January 2020 – <https://www.indiatvnews.com/news/india/bjp-ballari-mla-somashekar-reddy-threatens-anticaa-protesters-says-we-are-80-percent-576220>

Yogi Adityanath addressing an election rally in Delhi asked voters to install a BJP government in Delhi, which would promote all religions, but added that where "boli" (words) don't work, "goli" (bullet) does. <https://theprint.in/politics/shaheen-bagh-biryani-bullets-pakistan-what-yogi-adityanath-said-at-delhirallies/358759/>

The sitting MLA Raghvendra Pratap Singh from UP told the supporters that "If you make me MLA again, Muslims will stop wearing skullcaps and start putting tilaks. The Wire, 15th February 2022, <https://thewire.in/communalism/up-bjp-mla-says-no-more-skull-caps-muslims-will-put-tilaks-if-he-is-re-elected>

Raja Singh, a sitting Member of Legislative Assembly, Hyderabad part of BJP has made several speeches making direct threats, incitement to violence and dehumanising speech against the Muslim community. List of Hate speech made by the sitting MLA, Raja Singh <https://www.altnews.in/dear-bjp-hyderabad-mla-t-rajasingh-still-party/>

[109] R.Manuvie, Face of Hatebook, The London Story, 2021 (Annexure 4); Punyajoy Saha et al, Short is the Road that Leads from Fear to Hate: Fear Speech in Indian WhatsApp Groups", arXiv preprint arXiv:2102.03870v1 (2021); Soundararajan, T., Kumar, A., Nair, P., Greely, J., Facebook India: Towards The Tipping Point of Violence Caste and Religious Hate Speech. Equality Labs, USA., 2019; Megaphone For Hate: Disinformation and Hate Speech on Facebook during Assam's Citizenship Count, Avaaz, October, 2019; and

[110] HRW. Coronajihad is Only the Latest Manifestation: Islamophobia in India has Been Years in the Making. 1st May, 2020. <https://www.hrw.org/news/2020/05/01/coronajihad-only-latest-manifestation-islamophobia-india-has-been-years-making>

[111] The Wire, The Heartland Hatewatch, 1st October 2021 – 5th March 2022, <https://tools.thewire.in/hatewatch/crime>

[112] Speech by Kapil Mishra in the presence of the Deputy Commissioner of Police for North East District on 23rd February 2020, This is what they wanted. This is why they blocked the roads. That's why a riot-like situation has been created. From our side not a single stone has been pelted. DCP is standing beside us. On behalf of all of you, I am saying that till the time [US President] Trump goes back [from India], we are going to go forward peacefully. But after that, we will not listen to the Police if roads are not cleared after three days. By the time Trump goes, we request the Police to clear out Jafrabad and Chaand Bagh. After that, we will have to come on the roads. Bharat mataki jai! Vande Mataram!" Delhi Minorities Commission, Report of the DMC Fact-finding committee on North-East Delhi Riots of February 2020

[113] The Wire. 'Delhi Riots Began With Kapil Mishra's Speech, Yet No Case Against Him': Minority Commission Report. 16th July, 2020. <https://thewire.in/communalism/delhi-riots-kapil-mishra-minority-commission-report>

[114] In 2019, Raja Singh, a sitting MLA announced to create vigilante army to deal with traitors' opposing Hindu Nation, and has conducted camps for young Hindu men. The News Minute, dated 18th September 2019 <https://www.thenewsminute.com/article/hyd-bjp-mla-rajasingh-announces-vigilante-army-deal-anti-nationals-109097>

Kapil Mishra, the BJP leader has been leading Hindu Ecosystem, an online network to generate hate content and misinformation against minority communities and spread them to trend online. The NewsLaundry, dated 15th February 2021, <https://www.newslaundry.com/2021/02/15/we-infiltrated-the-telegram-groups-of-the-bjp-leaders-online-network-to-see-what-they-do>

[115] The Quint. Narsinghanand Organises 3-Day Hate Speech Conclave in Haridwar. 22nd December, 2021. <https://www.thequint.com/news/india/haridwar-yati-narsinghanand-organises-hate-speech-conclave#read-more>

[116] <https://www.facebook.com/hanumansinghsirana/videos/1951535514949751/>

[117] The Wire. Beyond Blasphemy: Inside Yati Narsinghanand's Militant Hindutva Machinery. 17th April, 2021. <https://thewire.in/communalism/beyond-blasphemy-inside-yati-narsinghanands-militant-hindutva-machinery>

[118] Our own study on far-right media house Op India revealed that OpIndia fed a narrative of 'Hindus being in danger between 2017 and 2018. From 2019, there was also a measurable increase in the frequency of articles using toxic terminologies to demonise Indian Muslims. Manuvie, R, Muarya, S., The atmosphere of Hate- Case Study: OpIndia', Foundation The London Story, The Netherlands, July 2020. (Annexure 5)

See also, Time, It Isn't Just Modi. India's Compliant Media Must Also Take Responsibility for the COVID-19 Crisis. 3rd May, 2021. <https://time.com/6033152/india-media-covid-19/>

[119] The Guardian, 23rd December 2020, <https://www.theguardian.com/media/2020/dec/23/indian-news-channel-fined-in-uk-for-hate-speech-about-pakistan>

[120] Sudarshan TV ran a show titled 'Corona jihad se desh bachao'—Save the country from the corona jihad. Republic TV journalist Arnab Goswami, while covering the COVID-19 crisis and "During this lockdown, why does everyone gather only near mosque?" and India Today Channel's news anchor Rahul Kanwal hosting a show titled 'Madrassa Hotspot. Maktoob Media, 7th April 2020, <https://maktoobmedia.com/2020/04/07/indian-muslims-the-propaganda-between-news-and-views/> Zee News, DNA: Tablighi 'Jamaat', Sudhir Chaudhary ,Corona Jihad, Eyewitness, Live show with description, 'In this segment of DNA we will analyse how 'tablighi thinking' puts India in trouble?' Available at: https://www.youtube.com/watch?v=9wByz5Q33_A

Zee News India, 3rd April 2020, Taal Thok de episode When will the 'Maulana' of the epidemic be arrested? <https://zeenews.india.com/video/india/taal-thok-ke-when-will-the-maulana-of-the-epidemic-be-arrested-2273689.html>

[121] Republic World, 16th August 2017, Arnab Goswami EXPOSES Love Jihad | The Debate, <https://www.youtube.com/watch?v=za2vWNDNELI>, Republic World, 31st October 2017, Why Is India In Denial On "Love Jihad"? The Debate With Arnab Goswami <https://www.youtube.com/watch?v=9mS5NwD0xJs>, Republic World, 25th November 2020, If No 'Love Jihad', Why Oppose Law? Arnab Goswami Debates , <https://www.youtube.com/watch?v=XvcOVqOnev4> Sudarshan News, Love Jihad debate streamed live, https://www.youtube.com/watch?v=-6_fy8xQmRE

[122] News Nation ran an episode on Bengal Election : Exposing the Land Jihad of Nadiya district in Bengal, 18th March 2021 <https://english.newsnationtv.com/videos/india/bengal-election-exposing-the-land-jihad-of-nadiya-district-in-bengal-8/74285>

[123] The Wire. A List of All the False Claims Made in Sudarshan TV's 'UPSC Jihad' Show. 24th September, 2020. <https://thewire.in/communalism/sudarshan-news-tv-show-upsc-jihad-suresh-chavhanke-fact-check>

[124] Supreme Court Order dated 15th September 2020, Firoz Iqbal Khan v Union of India & others, Writ petition (civil) no: 956 of 2020

[125] Livelaw, 19th November 2020, <https://www.livelaw.in/top-stories/supreme-court-to-hear-plea-against-sudarshan-tvs-upsc-jihad-show-today-centre-says-future-episodes-can-be-allowed-166041>

[126] The NRCB recorded total of 71,107 cases of offences against public tranquility were registered under various sections of IPC during 2020, out of which rioting (51,606 cases) accounted for 72.6% of total such cases. The cases of offences against public tranquility have increased by 12.4% in 2020 over 2019 (63,262 cases). National Crime Records Bureau, Ministry of Home Affairs, Crime in India, 2020.

[127] <https://dotodatabase.com/report>

[128] DOTO, Documentation of the Oppressed. The Doto database is a fair accounting of all reported incidents of hate crimes against religious minorities in India, but it is by no means a complete accounting of all such hate crimes happening in the country. <http://www.dotodatabase.com/>

[129] The crime data collected by the National Crimes Record Bureau do not publish the data on mob violence or religious killings. Ministry of Home Affairs, Lok Sabha, unstarred question no.1129 on incidents of mob vigilantism, 8th February 2022

[130] Al Jazeera. Why the 2020 violence in Delhi was a pogrom. 24th February, 2021. <https://www.aljazeera.com/opinions/2021/2/24/why-the-2020-violence-in-delhi-was-a-pogrom>

[131] Delhi Minorities Commission, Report of the DMC Fact-finding committee on North-East Delhi Riots of February 2020

[132] ibid

[133] ibid.

[134] News Laundry. Mob lynchings in India: A look at data and the story behind the numbers. 4th July, 2021. <https://www.newslaundry.com/2017/07/04/mob-lynchings-in-india-a-look-at-data-and-the-story-behind-the-numbers>

[135] HRW, 18th February 2019, Violent Cow Protection in India: Vigilante Groups Attack Minorities, <https://www.hrw.org/report/2019/02/18/violent-cow-protection-india/vigilante-groups-attack-minorities>

[136] ibid.

[137] Livelaw, 14th August 2019, <https://www.livelaw.in/news-updates/pehlu-khan-lynching-case-trial-court-acquits-all-6-accused-147191>

[138] Dotodatabase, <https://dotodatabase.com/view/akbar-khan-lynched-by-mob-in-rajasthan-alwar>

[139] The Indian Express, dated 14th January 2019, <https://indianexpress.com/article/india/bulandshahr-violence-nsa-invoked-against-seven-arrested-for-cow-slaughter-5538131/>

[140] dotodatabase, <https://dotodatabase.com/view/lynched-by-mob-forced-to-chant-jai-shri-ram>

[141] The Guardian, 13th April, 2020. Coronavirus conspiracy theories targeting Muslims spread in India <https://www.theguardian.com/world/2020/apr/13/coronavirus-conspiracy-theories-targeting-muslims-spread-in-india>

[142] The Intercept. Hindu Vigilantes work with Police to enforce "Love Jihad" law in North India. 3rd July, 2021. <https://theintercept.com/2021/07/03/love-jihad-law-india/>

[143] The Guardian. They cut him into pieces': India's 'love jihad' conspiracy theory turns lethal. 21st January, 2022. <https://www.theguardian.com/world/2022/jan/21/they-cut-him-into-pieces-indias-love-jihad-conspiracy-theory-turns-lethal>

[144] The Wire, dated 26th October 2021, Comment by Supreme Court Bar Association President Dhustyant Dave, <https://thewire.in/video/watch-lower-judiciary-failings-india-police-state-dushyant-dave-karan-thapar-aryan-khan> . The right to fair and public hearing by a competent, independent and impartial tribunal established by law is guaranteed by Article 14, International covenant on civil and political rights. See Human Rights Committee, General Comment No.32.

[145] The following incidents are in violation of Right to equality before courts provided in Article 14 of International Covenant on Civil and Political Rights. While dismissing an application seeking urgent intervention after the death of 16 migrant labourers during covid pandemic, a three judge Bench at Supreme Court observed " How can we stop them from walking? It is impossible for this Court to monitor who is walking and who is not walking?" And "Every advocate reads something suddenly and then you want us to decide issues under Article 32 of the Constitution of India based on your knowledge of newspapers? Will you go and implement government directives? We will give you a special pass and you go and check". Alakh Alok Srivastava v Union of India, Interlocutory Application filed in Writ Petition(civil) no: 468 of 2020. I.A was dismissed. LiveLaw, 15th May 2020, 'How Can We Stop Them From Walking?' : SC Refuses To Entertain Plea For Migrants On Road. In petitions challenging the constitutional validity of anti-conversion and anti-love jihad Acts, the Chief Justice of India commented "The challenge is already pending in High Courts. Why don't you go there? We are not saying you have a bad case. But you must approach the High Courts in the first instance instead of coming to SC directly". LiveLaw, 6th January 2021, 'Love Jihad' Laws : Supreme Court Issues Notice On Pleas Challenging UP, Uttarakhand Laws Against Religious Conversion For Marriage

[146] Supreme Court of India issued notice on 12th January 2022, Qurban Ali & Anr vs Union of India & Ors, Writ petition (civil) no: 24/2022

[147] New Indian Express, dated 27th February 2020, <https://www.newindianexpress.com/nation/2020/feb/27/judge-hearing-delhi-riots-case-moved-to-punjab-and-haryana-hc-congress-hits-out-at-modi-government-2109003.html>

[148] The Hindu, dated 21st April 2019, <https://www.thehindu.com/news/national/sexual-harassment-allegation-cji-ranjan-gogoi-presence-on-bench-raises-eyebrows/article26900497.ece>

[149] The Hindu, 19th March 2020, <https://www.thehindu.com/news/national/former-cji-ranjan-gogoi-takes-oath-as-rajya-sabha-member/article31106321.ece>



INDIA
JUSTICE
PROJECT

