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FREEDOM OF RELIGION OR BELIEF AND ALLIED HUMAN RIGHTS Vis-a-Vis THE CHRISTIAN COMMUNITY IN INDIA

Joint the UPR submission of VIVAT International and Edmund Rice International

with local partners:

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VIVAT International is a non-governmental organization with ECOSOC Special Consultative Status, uniting the voices of its members around the world. Its members throughout the world run schools, hospitals, Justice and Peace offices among other works, and specialize in services for the poor.

Edmund Rice International is an international non-governmental organization, founded in 2005 with Special Consultative Status with ECOSOC since 2012. ERI is supported by two Catholic Religious Congregations, the Christian Brothers, and the Presentation Brothers. It works with network of like-minded organizations and in the countries where the two Congregations are present. ERI has a special interest in the rights of the child, the right to education and in eco-justice.

INTRODUCTION

1. This is a report prepared by the Christian Collective – a coalition of organizations and individuals on the situation of Freedom of Religion or Belief (FoRB) for submission to the United Nations Office of the High Commissioner for Human Rights (OHCHR) in view of the fourth cycle of India’s Universal Periodic Review. It is prepared on the basis of consultation held in different parts of India.

2. This report contains details of violations against the Indian Christian community in India, within a larger context of erosion of the secular polity, Hindu majoritarianism and nationalism, and violations faced by all minority communities.

THE CONTEXT

3. Religious Demography: As per the 2011 Census of India, the last held, Hindus constitute 79.8% (966,257,353), Muslims 14.23% (172,245,158), Christians 2.3% (27,819,588), Sikhs 1.72% (20,833,116), Buddhists 0.7% (8,442,972), Jains 0.37% (4,451,753), and other religions’ adherents, including Parsis and Jews, constitute 0.6% (7,937,734) of the population. The legal definition of a ‘Hindu’ includes Buddhists, Sikhs and Jains, as well as any person who is not a Christian, Muslim, Parsi or a Jew, thereby bringing agnostics and atheists into the Hindu fold. The Christian community has many denominations. Many Adivasis, originally animists, and Dalits (oppressed castes) also converted to Christianity, Sikhism and Buddhism to escape oppressive discriminatory caste system. The Christian population, therefore, comprises a large proportion of Dalit and Adivasis.

109 National Census of India 2011, available
110 Hindu Marriage Act 1955, s 2; Hindu Succession Act 1956, s 2.
111 These include the Roman Catholic Church, the Christian churches within the Anglican Communion, the Evangelical Church of India, the Indian Pentecostal Church in God, and so on
112 John CB Webster, Religion and Dalit Liberation (Manohar Publications 2002)
4. **Constitutional framework of Freedom of Religion or Belief (FoRB)** – The Preamble to the Constitution of India envisages India as a sovereign, socialist, secular, democratic republic. The Supreme Court of India has stated that religious tolerance and equal treatment of all religious groups and their protection formed essential aspects of secularism.\(^{113}\) FoRB comprises: freedom of conscience (Article 25), right to freely profess, practice and propagate religion (Article 25), freedom to establish, maintain and manage religious and charitable institutions (Article 26), freedom from paying tax promoting any religion (Article 27), and freedom from religious instruction in state-funded educational institutions (Article 28). India seeks to “synthesise religion, religious practice or matters of religion and secularism.”\(^{114}\)

5. **Legal Framework:** Freedom of religion is also dealt with in the Indian Penal Code (IPC), Religious Institutions (Prevention of Misuse) Act 1988, the Places of Worship (Special Provisions) Act 1991 and the Representation of the People Act (ROPA) 1951 which disqualifies a person convicted of the IPC offences from elected office.\(^{115}\) Communities are entitled to specific personal laws on marriage and family.\(^{116}\) The current ruling party, the Bharatiya Janata Party [BJP] and its ideological source the Rashtriya Swayamsewak Sangh [RSS] often call for a Uniform or Common Civil Code,\(^{117}\) Law but the Commission of India has maintained it is neither necessary nor desirable.\(^{118}\)

6. **International Human Rights Standards:** India is a State Party to the International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, Convention on Elimination of Discrimination Against Women, and Convention on the Rights of the Child, Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Prevention and Punishment of the Crime of Genocide.\(^{119}\) India submits periodic reports to UN treaty bodies.\(^{120}\) In its three cycles of the United Nations Universal Periodic Review (UPR)\(^{121}\) various countries have raised concerns over violations of FoRB rights.

7. **Political Context:** The Indian National Congress (INC) ruled a substantial part of the post-independent period, followed by several short-lived coalition governments. INC proclaimed

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\(^{113}\) S.R.Bommai v Union of India (1994) 3 SCC 1


\(^{115}\) Representation of the People Act 1951, s 8.

\(^{116}\) These statutes include Hindu Marriage Act 1955; Hindu Succession Act 1956; Hindu Minority and Guardianship Act 1956; Hindu Adoption and Maintenance Act 1956; Indian Christian Marriage Act 1872; Indian Divorce Act 1869; Muslim Personal Law (Shariat Application) Act 1937; Dissolution of Muslim Marriages Act 1939; Muslim Women (Protection of Rights on Divorce) Act 1986; Parsi Marriage and Divorce Act 1936; Special Marriage Act 1954; and Indian Succession Act 1925. Only the last two of these statutes are secular laws applicable to multiple religious communities.


\(^{121}\) Details of the three cycles of UPR and documents related to the same are available at https://www.ohchr.org/EN/HRBodies/UPR/Pages/INIndex.aspx, accessed on 16 December 2020.
secular nationalism, but often succumbed to the demands of religious extremists. The Bharatiya Janata Party (BJP), a Hindu nationalist party, came to power first under the prime ministership of Mr Atal Behari Vajpayee [1998-2004], and later Mr Narendra Modi who won in 2014, winning again in 2019. BJP aggressively promotes Hindutva, the political ideology of the Hindu right. This Hindu majoritarian politics is damaging the social fabric by placing Muslims and Christians as second-class citizens. Minority Rights Group noted that this is not only exclusionary towards minorities, but aggravated intolerance in India”. Several states adopted laws and policies to target Christians, Muslims, Dalits, and Adivasis.

8. Inter-linkages Between Status of Religious Minorities: Coercion and violence by Hindutva groups against one minority has adverse ramifications on other religious communities, including Christians.

VIOLATIONS OF RIGHTS OF DALIT CHRISTIANS

9. Double Marginalisation: Dalit converts to Christianity, Buddhism, Islam, and Sikhism continue to face caste-based discrimination, becoming “doubly marginalized”. The Supreme Court has acknowledged this. Converts to Christianity also suffer discrimination within the religion, and in society.

123 For more details, see ibid; Ram Puniyani, Indian Nationalism Versus Hindu Nationalism (Pharos 2013).
127 For more details, see ibid; Ram Puniyani, Indian Nationalism Versus Hindu Nationalism (Pharos 2013).
130 Indira Sawhney v Union of India 1992 Supp (3) SCC 217, para 220
131 Prakash Louis, ‘Dalit Christians: Betrayed by State and Church’ [2007] 42 Economic and Political Weekly 1410
10. **Presidential Order of 1950:** The Indian Constitution empowers the President of India to specify “the castes, races or tribes or parts of groups within castes, races or tribes which be deemed to be Scheduled Castes in relation to that State or Union Territory.”[133] The Constitution (Scheduled Castes) Order, 1950 was enacted, listing groups entitled to educational, employment and other benefits. Sikhs and Buddhists were included in the Order in 1956 and 1990 respectively.[134]

11. **Ramifications:** Para 3 of the Presidential Order 1950 has acted as a tool of exclusion and discrimination against Dalit Christians in multiple ways:

   a) it denies them the benefits of policies of affirmative action in education, employment and political processes available to Hindu, Buddhist and Sikh counterparts;

   b) they are excluded from Protection of Civil Rights Act 1955 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1986; and

   c) it acts as a deterrence to any Dalit from converting to Christianity[135] lest they lose such benefits, restricting their FoRB rights.

12. **Concerns Raised:** In 2007, the government-appointed National Commission for Religious & Linguistic Minorities recommended the deletion of Para 3 to make the 1950 Order religion-neutral.[136] Subsequently National Commission for Scheduled Castes sought inclusion of Dalit Muslims and Christians in the SC list.[137] Church groups say Christians are victimised by caste practices.[138] Studies show Dalit Christians need policies of affirmative action.[139] In 2008,

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[133] The Constitution of India, art 341(1)
[134] Presidential Order 1950, para 3 reads as follows: “…no person who professes a religion different from the Hindu the Sikh or the Buddhist religion shall be deemed to be a member of a Scheduled Caste.”
[138] Tehmina Arora, ‘For 70 years, Dalits have been denied freedom of religion – through a presidential order’ Scroll.in (New Delhi, August 21, 2020) https://scroll.in/article/970613/for-70-years-dalits-have-been-denied-freedom-of-religion-through-a-presidential-order, accessed 21 March 2022. See also Liz Mathew supra n. 25
the UN Special Rapporteur on FoRB recommended the Scheduled Caste status be delinked from religious affiliation.\textsuperscript{140}

13. **‘Cow Protection’ Laws:** On the ground that Hindus worship cows, ‘cow protection’ laws have been enacted in 22 out of 31 states in India\textsuperscript{141} prohibiting the slaughter of the cow and its progeny, and making sale, purchase, storage, and consumption of beef punishable.\textsuperscript{142} Hindu vigilante groups called \textit{gau rakshaks} operate with impunity,\textsuperscript{143} lynching many Muslims in the cattle trade.\textsuperscript{144} Police have shielded perpetrators, with biased investigation.\textsuperscript{145} Political patronage has also fostered impunity.\textsuperscript{146} Cow protection laws are used to target the lives and livelihoods of Dalits, Muslims, Christians and Adivasis and foist a Hindu food culture.\textsuperscript{147} This is termed ‘food fascism’.\textsuperscript{148}

14. **Impact on Land Ownership:** Landless Dalits are at the bottom of the social hierarchy where power and domination is expressed through the threat of rape, abuse and

\textsuperscript{140} A/HRC/10/8/Add.3, para 71
\textsuperscript{144} ibid
\textsuperscript{146} ibid
beating\textsuperscript{149} Dalits own only 9\% of total agricultural land,\textsuperscript{150} 71\% Dalits work on land they do not own, and 58.4\% households do not own any land.\textsuperscript{151} Dalit Christians do not have protection under The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

15. Recommendations:

15.1 Repeal para 3 of the Presidential Order 1950.


15.3 Prosecute ‘cow protection’ vigilante groups.

VIOLATIONS OF LAND RIGHTS OF ADIVASI CHRISTIANS

16. Land of Adivasi Christians: Indigenous people, Scheduled Tribes, or Adivasis, enjoy political, educational and employment reservations, as is the case with Scheduled Castes, and ownership of land, in specified areas, irrespective of their religion or belief. Some states are now listing Adivasis following the Christian faith under a separate category “Adivasi-Christian”. This is accompanied by a strong political demand from the Hindu Right that Adivasi Christians be denied land ownership.

Recommendations:

16.1 Ensure that land records are made religion neutral.

VIOLATIONS OF RIGHTS OF CHRISTIAN WOMEN

17. Targeted Religion Violence: Christian women are vulnerable to violence and discrimination due to their intersectional identities. Women’s bodies have been the site of communal and targeted violence since 1948.\textsuperscript{152} Sexual and gender-based violence on

\textsuperscript{149} Lourduswamy, S., Towards Empowerment of Dalit Christians: Equal Rights to all Dalits (Centre for Dalit/Subaltern Studies 2005).


\textsuperscript{152} For details, see Uma Chakravarti, ‘From the Home to the Borders: Violence Against Women, Impunity and Resistance’ [2020] 50 Social Change 199; see also Zara Ismail, ‘The Communal
particularly Muslim women has been documented in many contexts including subsequent to the destruction of Babri Masjid (1992),


Attacks on Women in Kandhamal: Sexual and gender-based violence against Christian women in 2008 in Kandhamal, state of Odisha, follows a similar pattern. At least 41 incidents of a range of sexual assault on Christian women and girls were documented. 12 out of 17 narratives of dissimilarly placed women, refer to sexual assault, threat/fear of the same. In the violence, a young Hindu woman was also gangraped to “teach a lesson” to her uncle who was a Christian. In 2016, the trial court acquitted all accused. A nun was gang-raped in the same violence in 2008. Of 33 persons arrested and prosecuted, only one was convicted of rape in 2014 and sentenced to eleven years’ imprisonment. In 2016, he was released on bail after seven years in prison.


Saumya Uma, Breaking the Shackled Silence – ibid, 95-100

ibid 12–28

19. **Targeting of Nuns**: Catholic nuns, conspicuous by their dress, are often attacked deliberately to intimidate the Christian community. Some reported attacks in recent years include:

- In June 2017, a Nun accompanying four tribal girls was detained at a railway station in Madhya Pradesh and arrested after 50 members of Bajrang Dal alleged forced conversion.\(^{161}\)

- In April 2019, following the suicide by student of a catholic school in Tamil Nadu a mob of 200 vandalized the institution,\(^ {162}\) and tried to strangle four nuns with their Rosaries.\(^ {163}\)

- In March 2021, four nuns, including two postulants, traveling in a train to Odisha were attacked by members of Bajrang Dal, forced to get off the train in Jhansi,\(^ {164}\) and falsely accused of forcibly converting the two postulants. They were taken into police custody and questioned for several hours before being released.\(^ {165}\) The attack was seemingly pre-meditated.\(^ {166}\)

- In October 2021, two nuns waiting at a bus stop in Mau in Uttar Pradesh were taken to a police station by vigilante groups and detained there the entire day.\(^ {167}\)

- In January 2022, after a 17-year-old girl ended her life in a Catholic hostel in Tamil Nadu, 62-year-old Sister Sahaya Mary was arrested, and accused of forcibly converting the deceased prior to her death.\(^ {168}\) She was granted bail several weeks later.\(^ {169}\)

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• In January 2022, in Tamil Nadu a RSS activist was arrested for harassing nuns, snatching their vehicle and mobile phones, after accusing them of forcible conversion.170

20. Recommendations:

20.1: Prosecute vigilantes who harass or attack Nuns.

20.2: Extend victim and witness protection for attacked women, through a policy that acknowledges Christian women’s intersectional marginalization.

TARGETED VIOLENCE AGAINST THE CHRISTIAN COMMUNITY

21. **Hate Crimes:** The bogey of proselytization is used to justify horrific violence against Christians. Institutions are targeted and Christians harassed, attacked, threatened, intimidated, arrested on false allegations, and in some cases, face fatal assaults.171 In December 2021, Hindu groups called for genocide of Muslims.172 Hate speeches were made against Christians in a large meeting in Chitrakoot in Uttar Pradesh. The government’s silence provided an indirect encouragement to such hate-mongers.173 Violence peaks during Christmas.174

22. **Typology of Violence:** The Religious Liberty Commission of the Evangelical Fellowship of India (EFI) collates, analyses, and annually publishes data on targeted violence against the Christian community. The data published by EFI for 2018-2021 has been compiled for the present report. [Table] providing a comparative analysis of the typology of violence perpetrated against the Christian community over four years.175

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175 Hate and Targeted Violence Against Christians in India: Yearly Reports 2018-2021, available at https://efionline.org/category/rlc-reports/
Table 1: Typology of Violence Against the Christian Community in India 2018-21

<table>
<thead>
<tr>
<th></th>
<th>2018</th>
<th>2019</th>
<th>2020</th>
<th>2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Threats / harassment</td>
<td>44</td>
<td>73</td>
<td>87</td>
<td>137</td>
</tr>
<tr>
<td>2. Physical violence</td>
<td>53</td>
<td>67</td>
<td>*</td>
<td>84</td>
</tr>
<tr>
<td>3. False accusations / arrests</td>
<td>32</td>
<td>41</td>
<td>66</td>
<td>81</td>
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<tr>
<td>4. Stoppage of worship</td>
<td>81</td>
<td>62</td>
<td>17</td>
<td>65</td>
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<tr>
<td>5. Social opposition / boycott</td>
<td>12</td>
<td>29</td>
<td>26</td>
<td>36</td>
</tr>
<tr>
<td>6. Hate campaign</td>
<td>6</td>
<td>7</td>
<td>9</td>
<td>34</td>
</tr>
<tr>
<td>7. Vandalism</td>
<td>26</td>
<td>15</td>
<td>15</td>
<td>18</td>
</tr>
<tr>
<td>8. Arrested</td>
<td>38</td>
<td>41</td>
<td>5</td>
<td>17</td>
</tr>
<tr>
<td>9. Physical violence / arrested</td>
<td>17</td>
<td>8</td>
<td>81</td>
<td>11</td>
</tr>
<tr>
<td>10. Gender based violence</td>
<td>1</td>
<td>7</td>
<td>4</td>
<td>7</td>
</tr>
<tr>
<td>11. Forced conversions</td>
<td>3</td>
<td>4</td>
<td>6</td>
<td>7</td>
</tr>
<tr>
<td>12. Church demolished</td>
<td>5</td>
<td>3</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>13. Church burnt</td>
<td>3</td>
<td>4</td>
<td>1</td>
<td>*</td>
</tr>
<tr>
<td>14. Theft</td>
<td>1</td>
<td>1</td>
<td>*</td>
<td>*</td>
</tr>
<tr>
<td>15. Murder</td>
<td>2</td>
<td>4</td>
<td>5</td>
<td>3</td>
</tr>
<tr>
<td><strong>Total cases for the year</strong></td>
<td><strong>325</strong></td>
<td><strong>366</strong></td>
<td><strong>327</strong></td>
<td><strong>505</strong></td>
</tr>
</tbody>
</table>

* – No data available in this category

23. **Increased in Violence**: As Table 1 indicates, the total number of attacks against Christians has increased sharply in 2021. Threats and harassment, stoppage of worship, social boycott and hate campaigns have seen more than a two-fold increase in 2021. Covid-19 did not deter perpetrators. EFI’s 2020 report noted the inability of civil society activists to identify and provide socio-legal assistance to victims in villages. With courts being virtually closed, affected Christians had little access to justice.

24. **Communal Violence**: Communally targeted violence is not unknown independent India. But during the rule of the current government, the frequency has certainly increased. In 2019, the National Crime Records Bureau (NCRB) recorded 438 cases of communal violence.

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177 ibid

178 For history, dynamics and current trends in communal violence in India, see Minority Rights Group International, A Narrowing Space: Violence and Discrimination Against India’s Religious Minorities, Minority Rights Group International, 2017
violence, while in 2020, despite the Covid lockdown, the incidents almost doubled to 857 cases.\(^{179}\) NCRB has reportedly stopped collating data on communally motivated killings.\(^{180}\)

25. **Failure of Justice:** Contributing factors to the failure of reparations and justice for victims, and accountability of perpetrators, include police complicity in the violence, biased investigation and prosecution, and insensitive, unrealistic judicial analysis during trial.\(^{181}\) A People’s Tribunal for communal violence in Northeast Delhi found government failed miserably in providing adequate compensation to victims.\(^{182}\) Police allegedly framed people and filed biased charge sheets.\(^{183}\)

26. **Absence of justice in Kandhamal:** In 2007 and 2008, the Christian community in Kandhamal, Odisha, faced massive targeted violence. Over hundred people were killed; more than forty women faced a range of sexual assaults; 395 churches and prayer halls were destroyed, nearly 6500 houses damaged, and more than 75,000 people displaced.\(^{184}\) Thirteen years later, the victims have still not been rendered reparative justice. The conviction rate is as low as 5.13%, resulting predominantly in acquittals.\(^{185}\) In August 2016, the Supreme Court ordered review of 315 cases closed without conducting any investigation; four years later, the cases are yet to be reopened.\(^{186}\) Many victims have received inadequate or no compensation.\(^{187}\)

27. **Need for a Law Providing Justice and Reparations:** Although they constitute crimes against humanity and genocide, India has no special legislation for communal violence. A Delhi High Court judgment highlighted the absence of domestic laws to be addressed urgently.\(^{188}\) A civil society campaign in 2005 led to the introduction of Communal

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\(^{181}\) These have been discussed in detail in Warisha Farasat and Prita Jha, Splintered Justice: Living the Horror of Mass Communal Violence in Bhagalpur and Gujarat (Three Essays Collective 2016); Saumya Uma, Kandhamal: Law Must Change its Course, edited by Vrindna Grover (Multiple Action Research Group 2010).


\(^{183}\) ibid


\(^{185}\) ibid


\(^{187}\) For details, see ibid.

\(^{188}\) State Through CBI v. Sajjan Kumar & Others, Delhi High Court judgment delivered on 17 December 2018 in Crl.A. 1099/2013.
Targeted Violence (Access to Justice and Reparations) Bill 2013. The Bill was scuttled by the opposition BJP on specious grounds that it was anti-Hindu. In the third cycle of UPR for India in 2017, countries recommended the enactment of the Communal Violence Bill.

28 Anti-Conversion Legislation: Eleven Indian states have enacted anti-conversion laws that make religious conversions difficult and cumbersome through procedural requirements and administrative oversight mechanisms. The euphemistically named Freedom of Religion Act severely impact FoRB. The contents of the state legislations are similar in nature: they seek to prevent religious conversions that take place through force, fraud, coercion, undue influence and/or inducement/allurement, as well as by marriage, making a punishable with imprisonment and fine. “Allurement” is often defined to include even free education. These bestow on state machinery unfettered discretion and arbitrary powers to accept or reject an intended conversion. Failure to apply for, and get a permission to change religion, entails imprisonment and fine.


196 The Madhya Pradesh law requires a declaration of intention to convert to be issued 60 days in advance; the Chhattisgarh law mandates the filing of such a declaration 30 days in advance
29. **Ramifications on Adivasis, Dalits and Women:** More stringent punishments are prescribed for non-consensual conversions of women, Adivasis and Dalits, undermining their dignity, autonomy, and citizenship rights, and even choice in marriage.\(^{197}\)

30. **Tools of Persecution:** Anti-conversion laws lead to persecution of Christians based on the propaganda that the community seeks to forcibly convert Hindus to Christianity.\(^{198}\) Several reports critique them as tools of persecution.\(^{199}\)

31. **Violation of International Human Rights Standards:** Internationally, the right to freedom of religion or belief includes the right to change one’s religion.\(^{200}\) UN Special Rapporteur Abdelfattah Amor said it is not the business of the State to act as the guardian of people’s conscience.\(^{201}\) UN mechanisms have also expressed grave concern.\(^{202}\) UN Special Rapporteur on FoRB Asma Jahangir said these have been used to vilify Muslims and Christians.\(^{203}\) In UPR’s third cycle (2017), countries asked to abolish anti-conversion laws.\(^{204}\)

32. **Recommendations:**

32.1 **Take action against those who call for violence against minorities.**

32.2 **Implement Supreme Court directives for reparative justice Kandhamal violence victims.**


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\(^{200}\) Universal Declaration of Human Rights, art 18; International Covenant on Civil and Political Rights, art 18.


\(^{203}\) ibid para 47

\(^{204}\) Countries include Canada, Holy See, Italy, Kazakhstan, Kenya, Netherlands and Pakistan. A/HRC/36/10/Add.1, paras 161.126, 161.127, 161.128, 161.129, 161.130, 161.133 and 161.73.
32.4 Repeal state anti-conversion laws in existence and prohibit future the enactment of such laws.

VIOLATION OF FREEDOM OF ASSOCIATION

33. Misuse of FCRA Act: A license under the Foreign Contribution Regulation Act (FCRA) 2010 is mandatory for NGOs that receive funding from foreign donors for their work. Between 2014 and 2016, the FCRA licences of at least 20,000 organizations were cancelled. In 2019, FCRA of 1807 NGOs was cancelled. In September 2020, Amnesty International was forced to halt its human rights work in India its bank accounts frozen. In 2015, the UN Special Rapporteur on Freedom of Peaceful Assembly and Association said FCRA provisions contravened International Covenant on Civil and Political Rights, to which India is a party.

In UPR for India in 2017, countries recommended FCRA be amended to allow civil society organizations to access foreign funding, lest NGOs have to shut down.

34. FCRA Amendments of 2020: In September 2020, amidst the Covid-19 pandemic, eligibility and procedures were made even more stringent. These reflect a deeply flawed

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209 A/HRC/36/10, dated 17 July 2017, paras 161.135 – 161.139

210 ibid para 161.139

understanding of democracy and government’s acceptance of propaganda that such funds were for proselytization. Ironically, in the pandemic, NGOs assisted millions of Indians.

35. **Using FCRA against minority organisations:** In September 2020, four Christian-run NGOs’ FCRA license were suspended, with officials saying “Concerns have been raised regarding the impact of U.S.-based evangelical donors.” In December 2021, FCRA of three NGOs were cancelled. The government refused to renew the FCRA license of Missionaries of Charity founded by Mother Teresa. Weeks earlier, nuns from its Vadodara unit were booked for ‘forcible conversion.’ FCRA of Jamia Milia Islamia university and India Islamic Cultural Centre were revoked. India also blacklisted several foreign donors.

36. **Recommendations:**

36.1 **Repeal the FCRA.**

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216 ibid


37. **Misuse of Provisions Declaring a Curfew:** The government routinely uses Section 144 of the Criminal Procedure Code (CrPC) 1973 to declare a curfew and prevent peaceful public gatherings, restrict protests, and stifle people’s movements. There were curfews even during the Covid-19 pandemic with police highhandedness.

38. **Suspension of Internet Services:** On 5 August 2019, the government abrogated Article 370 of the Indian Constitution stripping Jammu and Kashmir from its special status. Excessive force was used on protests, and internet services suspended indefinitely. There were 93 orders for internet shutdown. India suspends internet services more than any other country in the world. Of 548 internet shutdowns since 2012, 317 were in Kashmir. A Parliamentary Committee noted this affected life and liberty of people.

39. **Application of Draconian Laws:** Other laws used to curb freedom of expression include the colonial-era legal provision of sedition (S. 124A IPC) and Unlawful Activities Prevention Act (UAPA) 1967. Under these people including 84-year-old Jesuit priest Stan Swamy, a tribal rights activist, and 21-year-old environment activist Disha Ravi were detained in custody.

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226 Qureshi (n 118).

227 Ibid

Stan Swamy, who had Parkinson’s Disease, arrested in October 2020, contracted Covid-19 in prison. His applications for medical bail were rejected. Critically ill, he was finally shifted to a private hospital where he died. \textsuperscript{229}NCRB data indicates that between 2016 to 2019, there was a 160\% increase in sedition charges with a conviction rate of just 3.3 per cent, while only 2.2\% of cases registered under UAPA between the years 2016-2019 ended in convictions\textsuperscript{230}.

40. Recommendations:

40.1 Refrain from misuse of S. 144 Cr PC to declare curfews.
40.2 Refrain from suspending internet services.
40.3 Bring communication surveillance laws in conformity with international Standards.
40.4 Repeal S. 124A of the Indian Penal Code.
40.5 Comprehensively amend UAPA to prevent misuse, and
40.6 Enact a law for protecting the rights of human rights defenders.

DISCRIMINATORY LAWS AND POLICIES

41. National Education Policy 2020: The government introduced a New Education Policy in 2020 to “instil among the learners a deep-rooted pride in being Indian, not only in thought, but also in spirit, intellect, and deeds.”\textsuperscript{231} The policy trivialises historic oppression of Dalits and Adivasis.\textsuperscript{232} It promotes privatization, thereby reinforcing structural disadvantages faced by marginalized communities.\textsuperscript{233} “Secularism” finds no mention in the Policy, with its emphasis


\textsuperscript{231}National Education Policy 2020, Ministry of Human Resource Development, Government of India, p. 6. Available at \url{https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf}

\textsuperscript{232}Anil Sadgopal, ‘Decoding the agenda of the new National Education Policy’ Frontline (New Delhi, 28 August 2020) \url{https://frontline.thehindu.com/cover-story/decoding-the-agenda/article32306146.ece}, accessed 21 March 2022

\textsuperscript{233}For details, see Disha Nawani, ‘NEP 2020 fails those trapped in vicious cycles of disadvantage’ The Indian Express (New Delhi, 25 September 2020) \url{https://indianexpress.com/article/opinion/columns/national-education-policy-2020-nep-6609564/}, accessed 21 March 2022.
on duties rather than rights and entitlements. Gujarati and Karnataka governments recently announced that Bhagavad Gita will be mandatorily taught in primary schools.

42 Citizenship Amendment Act (CAA), National Population Register (NPR) and National Registration of Citizens (NRC): In 2019, the government enacted the Citizenship Amendment Act (CAA) which effectively fast-tracked citizenship for pre-2014 migrants who are Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan. CAA blatantly discriminates against Muslims. The National Population Register (NPR) was a preliminary step culminating in the National Registry of Citizens (NRC), listing all people residing in India. Non-Muslim can obtain citizenship under the CAA 2019, while non-verified Muslims can potentially be stripped of their citizenship, while redefining the constitutional basis of both Indian nationhood and citizenship. The UN OHCHR called it “fundamentally discriminatory in nature.”


238 ibid

43. Responses to CAA: Christians are not immediately impacted, but it “rouses fears”\textsuperscript{240} that “We could be next.”\textsuperscript{241} Many people were arrested in anti CAA protests\textsuperscript{242} United Nations Special Rapporteurs warn that NRC could lead to large-scale “statelessness, deportation and prolonged detention.”\textsuperscript{243} In October 2020, the UN cited CAA for discriminating against the Muslims.\textsuperscript{244}

43. Recommendations:

43.1 Comprehensively amend the New Education Policy 2020 to provide secular education.

43.2 Address structural disadvantages faced by marginalised communities in accessing education.

43.3 Amend the Citizenship Amendment Act in compliance with the secular ethos of the Indian Constitution.

INSTITUTIONAL RESPONSES TO THE VIOLATIONS

44. Institutional Responses: The National Human Rights Commission has been termed a “toothless tiger” subservient to the government.\textsuperscript{245} The National Commission for Minorities is both toothless and politicised, as evidenced by its dubious claim that there are no religion-

based atrocities against minorities in India. The police have assumed unbridled, arbitrary powers under draconian laws. Budgetary allocation for various schemes for the welfare of minorities are described as “discriminatory” and “disappointing.”

44. Recommendations:

44.1 Strengthen the independent functioning of the National Human Rights Commission and give Constitutional status to the National Commission for Minorities.

44.2 Address casteist and communal bias among the police force in India.

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248 MNS Qadri, ‘Only 0.23 % Allocation In The Union Budget For 19.3% Minorities: Minority Coordination Committee’, India Tomorrow, 6 February 2022. https://indiatomorrow.net/2022/02/06/only-0-23-allocation-in-the-union-budget-for-19-3-minorities-minority-coordination-committee/