

Legal framework

The constitution of India mandates a secular state and Article 25 guarantees the ‘freedom of conscience and free profession, practice and propagation of religion.’ India is a party to the International Covenant on Civil and Political Rights (ICCPR).

Paragraph 3 of the constitution (Scheduled Castes) Order 1950 discriminates against Dalits, as anyone who professes a religion different from the Hindu Sikh or Buddhist religion shall not be deemed to be a member of the Scheduled Caste. Therefore, Dalits who adopt other religions lose their legal status as Scheduled Castes, and eligibility for related socio-economic support.

The Citizenship Amendment Act 2019 (CAA) determines eligibility for citizenship based on a person’s religion, allowing Hindus, Sikhs, Buddhists, Jains, Parsis and Christians resident in India before 2014 to claim citizenship. The law excludes Muslims, including minority sects who have taken refuge in India. The law violates Article 14 of the Indian constitution which guarantees the right to equality before the law and prohibits discrimination based on religion. On 11 March 2024 the Ministry of Home Affairs announced the Citizenship Amendment Rules 2024 which enables the implementation of the CAA.

Local state legislation also undermines India’s constitutional and international commitments on freedom of religion or belief (FoRB). There are currently eleven states in India that enforce ‘Freedom of Religion Acts,’ which are repressive and criminalise religious conversion: Odisha, Karnataka, Arunachal Pradesh, Gujarat, Chhattisgarh, Jharkhand, Uttarakhand, Himachal Pradesh, Haryana, Madhya Pradesh and Uttar Pradesh. On 30 July 2024 the Uttar Pradesh Legislative Assembly passed a bill to make further amendments, adding more stringent provisions into the law. In February 2025 the government of Rajasthan passed the Prohibition of Unlawful Conversion of Religion Bill. While imposing heavy penalties and providing ambiguous definitions, the provisions in all these laws raise serious concerns about autonomy of the citizens that evidently affects their freedom to choose or change their religion or belief.

In July 2024, after holding hearings on India’s adherence to the International Covenant on Civil and Political Rights (ICCPR), the UN Human Rights Committee expressed ‘concerns about discrimination and violence against minority groups including religious minorities.’¹

Hindu nationalist agenda (Hindutva)

As well as government policies and laws, India’s religious diversity is under threat from the spread of religious intolerance by non-state actors who act with impunity.

Since 2014 when the Bharatiya Janata Party (BJP) came to power, there has been a notable shift in public discourse, accompanied by increasing hostility towards religious minorities. The Rashtriya Swayamsevak Sangh (RSS), the ideological arm of the BJP that promotes a Hindu nationalist agenda, has sought to polarise Indian society by relentlessly dividing communities based on religious grounds, leaving religious minorities in the nation unsettled about their future.

Prime Minister Modi has remained largely silent on the hate campaigns, threats, violence and attacks against religious minorities. He was criticised by human rights groups for labelling Muslims as ‘infiltrators’ at an election campaign in Rajasthan on 22 April 2024.

Communal violence

In a September 2018 report to the UN General Assembly, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance noted that communal violence has been linked with inflammatory remarks made by BJP officials.²

Right-wing groups are emboldened by a culture of impunity due to state negligence or complicity. The perpetrators of communal violence in Gujarat (2002), Kandhamal (2008), and Muzaffarnagar (2013) have never been penalised. Such impunity is a leading reason for continuing communal violence across India. The northeastern Delhi riots in 2020 following the introduction of the CAA witnessed targeted attacks on Muslims and Dalit university students.

The build-up to communal violence is normally aided by derogatory slogans about the minority community. The mob is usually mobilised by a systematic projection of ‘fear’ that if minority religious community are not kept in check the majority religious community will be overridden or that the propagation of religions professed by the minority community pose a serious risk to the culture and traditions of the majority religious community. Human rights groups have found that in most of the communal violence, state and police machinery have allowed the attacks to take place, and on some occasions the police have aided the perpetrators of violence.

The regular nature of communal violence means that these are not isolated incidents. Studies have shown that incidents that build up to full blown violence originated from systematic discrimination, hate mongering, isolated incidents of targeted violence over a long period of time.

1 United Nations Human Rights Committee, Concluding observations on the fourth periodic report of India, 2 September 2024 <https://docs.un.org/en/C/CCPR/C/IND/CO/4>

2 United Nations General Assembly, Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, 6 August 2018 <https://documents.un.org/doc/undoc/gen/n18/251/48/pdf/n1825148.pdf>

Targeting of religious minorities

Christians

Christians experience violations such as false accusations leading up to arbitrary police detention, arrests and prosecution, forced conversion, hate campaigns, assault, death threats, illegal occupation of churches, forced displacement, acts of public humiliation, disruption of religious gatherings, and the looting and destruction of Christian homes, church buildings, and other church owned properties. According to United Christian Forum (UCF) an India based monitoring group that provides helpline service to Christian experiencing FoRB violations, the number of reported attacks against Christians rose from 127 in 2014 to 834 incidents in 2024, with Uttar Pradesh and Chhattisgarh States emerging with the highest and second highest number of reported incidents, respectively, over the last few years.

Muslims

Hate speech is a major threat facing Muslims, perpetrated by the Vishva Hindu Parishad (the religious arm of the RSS) and the Bajrang Dal (the youth wing of the RSS) and other hostile fringe groups. While social media platforms are used to spread hate, live events in BJP ruled states are inclined to witness higher incidents of incitement to violence, raising further concerns about complicity of local authorities and the police.

The Hindutva narrative emphasises the portrayal of Muslims as interlopers, whose agenda is to destroy the Hindu culture and tradition. Misinformation against Muslims about cow slaughter, inter-religious marriage, conversions and historical events have aroused distrust and hatred towards them. This has led to discrimination, harassment and targeted violence against the customs, places of worship, burial sites and villages dominated by Muslims; and has emboldened far-right groups to take up arms against Muslims, including through vigilantism; and calling for socio-economic boycotts on Muslim owned businesses.

Incidents of mob lynchings in the name of protecting cows and as punishment for alleged beef consumption are frequently reported. On 7 June 2024 two Muslim men were beaten to death and another sustained critical injury after a mob suspected them of cattle smuggling in Raipur District, Chhattisgarh.

Shrinking space for civil society

The space for individuals and civil society organisations has been severely affected since the BJP came into power. Anyone who criticises the ideological policies of the government is targeted, either through arbitrary detention under draconian anti-terror laws, intimidation and humiliation, or murder. With space for free speech curtailed, dissenters are labelled 'anti-nationals.' The arrest and incarceration of 16 human rights defenders in relation to the Bhima Koregaon violence, including Father Stan Swamy

who died in judicial custody on 5 July 2021, is an example of the systematic use of oppressive laws to target civil society who advocate for human rights, including FoRB.

Following the enactment of the CAA in 2019, northeast Delhi experienced riots in February 2020 following peaceful protests opposing the problematic law. Many students involved in the peaceful demonstrations were arrested by the Delhi police who falsely accused them of inciting communal violence. Human rights activism and the work of civil society organisations in Kashmir have come under severe hardship since the 2019 abrogation of Article 370 of the Indian constitution which gave Jammu and Kashmir special autonomy status.

This change has broad implications on FoRB as, for example, the BJP now has complete control of a region predominantly occupied by Muslims. Human rights defenders are concerned that there will be increased surveillance of religious practices justified under the guise of 'security measures'. There are also fears of the forcible displacement of Muslims, with Hindus being given preference to own land and businesses, alongside the imposition of restrictions on the religious practises of Muslims.

Recommendations

To the government of India:

- Revoke the Citizenship Amendment Act, which is exclusionary in nature and raises concerns about religious discrimination.
- Reform law enforcement agencies, including establishing mechanisms to increase the accountability of law enforcement officers, and ensuring that First Information Reports are effectively investigated and prosecuted.
- Repeal the anti-conversion legislation currently in force in ten states.
- Increase efforts to reverse the culture of impunity that leads to communal violence by ensuring that perpetrators are brought to justice and adequate levels of compensation are granted to victims, in line with recommendations accepted during India's 2022 Universal Periodic Review (UPR).
- Uphold the right to freedom of expression and protect civil society and journalists who exercise these rights by investigating and prosecuting the perpetrators of crimes against them.
- Adopt a national plan on human rights to address FoRB violations and prevent violence committed in the name of religion, in line with recommendations given during India's 2022 Universal Periodic Review (UPR).
- Introduce a comprehensive framework to deal adequately with communal and targeted violence.
- Implement the recommendations of the National Commission for Religious and Linguistic Minorities that religion should no longer be used as a determining factor for inclusion in the Schedule Caste list.

- Extend official invitations to the various US, UN and EU specialists for FoRB to visit India and provide assurance that members of the civil society can independently engage with them without any interference.

To the government of the United States:

- The State Department should designate India as a Country of Particular Concern for systematic, ongoing and egregious violations of freedom of religion or belief in line with recommendation from the US Commission on International Religious Freedom (USCIRF).
- Enforce the Global Magnitsky Human Rights Accountability Act by sanctioning officials or members of the Rashtriya Swayamsevak Sangh (RSS) and their affiliates who are involved in severe human rights violations.
- The State Department should designate the RSS as an Entity of Particular Concern under the International Religious Freedom Act (IRFA).
- The Ambassador-at-Large for International Religious Freedom and USCIRF commissioners should request an invitation to visit India with unhindered access to all parts of the country.
- The US Embassy in India should engage diplomatically and consistently with the Indian government on FoRB to encourage collaborative ways to address concerns. This could include sharing the findings of the State Department's annual religious freedom report with Indian government officials prior to its publication.

To the United Nations and Member States:

- Urge the OHCHR and all relevant UN mechanisms, including Special Procedures and Treaty Bodies, to include the right to freedom of religion or belief in their monitoring and reporting on India, addressing the specific vulnerabilities and violations faced by religion or belief communities and those seeking to defend them.
- Encourage UN Special Procedures to request country visits to India and ensure that members of civil society can freely meet with them without reprisal.
- Utilise the Universal Periodic Review process, Human Rights Council sessions and other key international human rights instruments to hold India accountable for freedom of religion or belief violations and to offer recommendations to advance freedom of religion or belief.
- Encourage open dialogue on India to enable the full participation of civil society and support the establishment of a safe environment for human rights

lawyers, civil society actors and human rights defenders, enabling them to carry out their work without fear of reprisals.

- Urge the government of India, at every level and appropriate opportunity, to make the reforms highlighted in the recommendation section above 'To the government of India'.

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