

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.’ The State 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.

Local state legislation also undermines India’s constitutional and international commitments on freedom of religion or belief (FoRB). There are currently ten states in India that enforce ‘Freedom of Religion Acts,’ which are repressive and criminalise conversion of religion: Odisha, Arunachal Pradesh, Gujarat, Chhattisgarh, Jharkhand, Uttarakhand, Himachal Pradesh, Haryana, Madhya Pradesh and Uttar Pradesh. On July 30 the Uttar Pradesh Legislative Assembly passed a Bill to make further amendments, adding more stringent provisions into the law. On 18 June 2024 the government of Rajasthan announced its plans to introduce a new law on religious conversion when it submitted an affidavit to the Supreme Court on the matter. 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.

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.

In October 2020, the then UN High Commissioner for Human Rights, Michelle Bachelet said that the Foreign Contribution Regulation Amendment Act 2020 (FCRA) ‘is indeed actually being used to deter or punish NGOs for human rights reporting and advocacy.’¹ The FCRA controls foreign funding for Indian NGOs, but the government has used it to block funds to hamper the activities of organisations that question or condemn the government policies impacting human rights. As a result, the number of NGOs working on human rights and vulnerable minorities in India have had

their funding frozen or licence revoked. As of 9 September 2024, the Ministry of Home Affairs have cancelled 20,708 FCRA licences, which may include entities that have actively promoted human rights.

Hindu nationalist agenda

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 BJP came to power, there has been a notable shift in public discourse, 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 not 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 the 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.

1 United Nations Office of the High Commissioner for Human Rights, ‘Bachelet dismayed at restrictions on human rights NGOs and arrests of activists in India’, 20 October 2020 <https://www.ohchr.org/en/press-releases/2020/10/bachelet-dismayed-restrictions-human-rights-ngos-and-arrests-activists-india>

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>

The 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.

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. In 2023, United Christian Forum (UCF) an India based monitoring group recorded a total of 733 targeted incidents of violence against the Christian community, while as of June 2024, UCF had recorded 361 incidents, with Uttar Pradesh and Chhattisgarh emerging with the highest number of reported incidents over the last few years.

Muslims

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

The nature of hate speech includes fake information such as conspiracy theories about the Muslim agenda to eradicate Hindus and indulge in cow slaughter; arousing distrust and hatred towards Muslims leading to discrimination, harassment and targeted violence against the customs, places of worship, burial sites and villages dominated by Muslims; instigating far-right groups to take up arms against Muslims, including vigilantism; and calling for socio-economic boycott 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 have severely been affected since the BJP came into power. Anyone who criticises the ideological policies of the government are targeted; either arbitrarily detained and charged under draconian anti-terror laws, subjected to intimidation and humiliation, or killed. 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, has been criticised for being a systematic use of draconian 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 draconian law. Many students were arrested by the Delhi police who accused them of inciting communal violence. Human rights activism and the work of civil society organisation in Kashmir have come under severe hardship since the abrogation of Article 370 of the Indian Constitution which gave Kashmir special status.

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.

To the government of the United Kingdom:

- Urge India to repeal the Citizenship Amendment Act (CAA) and anti-conversion laws that target religious minorities, particularly Christians and Muslims.
- Advocate for justice in cases of religious violence, mob attacks, and hate crimes, ensuring perpetrators are held accountable.

- Call on India to protect civil society space and remove restrictions on NGOs, ensuring fundamental freedoms for human rights defenders and journalists.
- Support stronger legislation against hate speech and vigilante violence in line with international standards, particularly against Muslims and Dalits, holding those responsible to account.
- Urge India to implement protective measures for religious minority communities, particularly Christians and Muslims, ensuring legal protection for places of worship.

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