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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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Evangelical Fellowship of India Council of Churches
Social Justice and Ecology Secretariat South Asia (SJES, SAsia)
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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.¹ 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.² The Christian community has many denominations.³ Many *Adivasis*, originally animists, and Dalits (oppressed castes) also converted to Christianity, Sikhism and Buddhism to escape oppressive discriminatory caste system.⁴ The Christian population, therefore, comprises a large proportion of Dalit and Adivasis.

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.⁵ 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.”⁶

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.⁷ Communities are

¹ National Census of India 2011, available

² Hindu Marriage Act 1955, s 2; Hindu Succession Act 1956, s 2.

³ 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

⁴ John CB Webster, Religion and Dalit Liberation (Manohar Publications 2002)

⁵ S.R.Bommai v Union of India (1994) 3 SCC 1

⁶ A.S.Narayana Deekshitulu v State of A.P. (1996) 9 SCC 548, para 89.

⁷ Representation of the People Act 1951, s 8.

entitled to specific personal laws on marriage and family.⁸ 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,⁹ Law but the Commission of India has maintained it is neither necessary nor desirable.¹⁰

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.¹¹ India submits periodic reports to UN treaty bodies.¹² In its three cycles of the United Nations Universal Periodic Review (UPR)¹³ 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 secular nationalism, but often succumbed to the demands of religious extremists.¹⁴ 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

⁸ 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.

⁹ Sten Widmalm, 'Behind BJP's Pursuit of a Uniform Civil Code Is a Deep-Rooted Resentment of Minorities' The Wire (New Delhi, 6 September 2017) <https://thewire.in/politics/behind-bjps-pursuit-uniform-civil-code-deep-rooted-resentment-minorities>, accessed 21 March 2022

¹⁰ Law Commission of India, Consultation Paper on Reform of Family Law, 2018, available at <https://lawcommissionofindia.nic.in/reports/CPonReformFamilyLaw.pdf>

¹¹ For details, see India's ratification status of various human rights conventions here: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=79&Lang=EN

¹² E/CN.4/1997/91/Add.1; A/HRC/10/8/Add.

¹³ 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.

¹⁴ Milan Vaishnav, 'Religious Nationalism and India's Future' (Carnegie Endowment for International Peace, 4 April 2019) <https://carnegieendowment.org/2019/04/04/religious-nationalism-and-india-s-future-pub-78703> For more details, see *ibid*; Ram Puniyani, *Indian Nationalism Versus Hindu Nationalism* (Pharos 2013).> accessed 21 March 2022.

¹⁵ For more details, see *ibid*; Ram Puniyani, *Indian Nationalism Versus Hindu Nationalism* (Pharos 2013).

Hindutva,¹⁵ the political ideology of the Hindu right.¹⁶ This Hindu majoritarian politics is damaging the social fabric by placing Muslims and Christians as second-class citizens.¹⁷ Minority Rights Group noted that this is not only exclusionary towards minorities, but aggravated intolerance in India”.¹⁸ Several states adopted laws and policies to target Christians, Muslims, Dalits, and Adivasis.¹⁹

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.²⁰

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”.²¹ The Supreme Court has acknowledged this.²² Converts to Christianity also suffer discrimination within the religion, and²³ in society.²⁴

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

¹⁵ For more details, see *ibid*; Ram Puniyani, *Indian Nationalism Versus Hindu Nationalism* (Pharos 2013).

¹⁶ For a deeper understanding of differences between Hinduism and Hindutva, see Arvind Sharma, ‘On Hindu, Hindustan, Hinduism and Hindutva’ [2002] 49 *Numen* 1; Avijit Pathak, ‘A Hindu Critique of Hindutva’ *The Hindu* (Chennai, 23 December 2019) <https://www.thehindu.com/opinion/op-ed/a-hindu-critique-of-hindutva/article30374493.ece>, accessed 21 March 2022; Rudolf C Heredia, ‘Gandhi’s Hinduism and Savarkar’s Hindutva’ 44 *Economic and Political Weekly* 62

¹⁷ See S Raghotham, Geetima Krishna Das and Venkatesh Nayak, ‘Modi’s 5 years: A Report Card’ *Deccan Herald*, (Bengaluru, 31 March 2019) <https://www.deccanherald.com/specials/sunday-spotlight/modi-s-5-years-a-report-card-726064.html>, accessed 21 March 2022; John Dayal (edited), “100 Days Under the New Regime: The State of Minorities”, A Report by ANHAD, 2014.

¹⁸ Centre for Study of Society & Secularism and Minority Rights Group International, ‘A Narrowing Space: Violence and discrimination against India's religious minorities’, *Minority Rights Group International*, 2017, p 3.

¹⁹ Human Rights Watch, *India: Dangerous Backsliding on Rights*, 13 January 2022, available at <https://www.hrw.org/news/2022/01/13/india-dangerous-backsliding-rights>.

²⁰ *Resham v State of Karnataka*, W.P. No. 2347/2022, judgment delivered by Chief Justice Ritu Raj Awasthi, Justices Krishna S Dixit and J M Khazi of Karnataka High Court on 15 March 2022.

²¹ Gail Omvedt, ‘Doubly marginalized’ 602 *Seminar* 71.

²² *Indira Sawhney v Union of India* 1992 Supp (3) SCC 217, para 220

²³ Prakash Louis, ‘Dalit Christians: Betrayed by State and Church’ [2007] 42 *Economic and Political Weekly* 1410

²⁴ Liz Mathew, ‘First Time, Church Says: Dalit Christians Face Untouchability’ *The Indian Express* (New Delhi, December 19, 2016) <https://indianexpress.com/article/india/church-says-dalit-christians-face-untouchability-discrimination-4427658/>, accessed 21 March 2022.

deemed to be Scheduled Castes in relation to that State or Union Territory.”²⁵ 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.²⁶

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 Christianity²⁷ 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.²⁸ Subsequently National Commission for Scheduled Castes sought inclusion of Dalit Muslims and Christians in the SC list.²⁹ Church groups say Christians are victimised by caste practices.³⁰ Studies show Dalit Christians need policies of affirmative action.³¹ In 2008, the UN Special Rapporteur on FoRB recommended the Scheduled Caste status be delinked from religious affiliation.³²

²⁵ The Constitution of India, art 341(1)

²⁶ 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.”

²⁷ Diarmaid MacCulloch, *A History of Christianity: The First Three Thousand Years* (Allen Lane 2009) 184

²⁸ Report of the National Commission for Religious and Linguistic Minorities, Ministry of Minority Affairs, Government of India, 2007, available at <http://minorityaffairs.gov.in/sites/default/files/volume-1.pdf>, accessed on 15 September 2016

²⁹ ‘Dalits in the Muslim and Christian communities, A status Report on current social scientific knowledge’, prepared for the National Commission for Minorities, Government of India by Satish Deshpande with assistance of Geetika Bapna, on 17th January 2008

³⁰ 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

³¹ Yesu Suresh Raj & R Mani, ‘A Study on Socio – Economic Status of Dalit Christians in Villupuram District of Tamil Nadu’, [2014] 1 International Journal of Research (IJR) 693; John R., ‘Regional Socio-economic Scenario and Economic Upliftment of Dalits in India: What Does Contemporary Evidence Say?’ [2017] 9 Contemporary Voice of Dalit 13; Dalits in the Muslim and Christian communities, A status Report on current social scientific knowledge’, prepared for the National Commission for Minorities, Government of India by Satish Deshpande with assistance of Geetika Bapna, on 17th January 2008.

³² A/HRC/10/8/Add.3, para 71

13. ‘Cow Protection’ Laws: On the ground that Hindus worship cows, ‘cow protection’ laws have been enacted in 22 out of 31 states in India³³ prohibiting the slaughter of the cow and its progeny, and making sale, purchase, storage, and consumption of beef punishable.³⁴ Hindu vigilante groups called *gau rakshaks* operate with impunity,³⁵ lynching many Muslims in the cattle trade.³⁶ Police have shielded perpetrators, with biased investigation.³⁷ Political patronage has also fostered impunity.³⁸ Cow protection laws are used to target the lives and livelihoods of Dalits, Muslims, Christians and Adivasis and foist a Hindu food culture.³⁹ This is termed ‘food fascism’.⁴⁰

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 beatings⁴¹ Dalits own only 9% of total agricultural land,⁴² 71% Dalits work on land they do

³³ For a gist of state legislation on cow slaughter, see Department of Animal Husbandry and Dairying, Government of India, available at <https://dahd.nic.in/hi/related-links/annex-ii-8-gist-state-legislations-cow-slaughter>, accessed on 18 December 2020.

³⁴ CJP Team, ‘Cow Slaughter Prevention Laws in India: How the Law not just protects Cow Vigilantes, but Sanctifies Lynchings’ (Centre for Justice and Peace, 2 July 2018) <https://cjp.org.in/cow-slaughter-prevention-laws-in-india/>, accessed 21 March 2022

³⁵ Varun B Krishnan, ‘The Cow Vigilante Menace: U.P. Records Highest Number of Incidents’ The Hindu (Chennai, 5 December 2018) <https://www.thehindu.com/data/data-point-the-cow-vigilante-menace/article25666768.ece>, accessed 21 March 2022; see also Kaushik Deka, ‘Mob Lynching India's Shocking War within, a Challenge Narendra Modi Must Confront’ India Today (New Delhi, 14 July 2017) <https://www.indiatoday.in/magazine/cover-story/story/20170724-lynching-india-beef-ban-muslims-india-jharkhand-delhi-mathura-1023999-2017-07-14>, accessed 21 March 2022

³⁶ *ibid*

³⁷ For more details, see Human Rights Watch, Violent Cow Protection in India – Vigilante Groups Attack Minorities, 18 February 2019, available at https://www.hrw.org/sites/default/files/report_pdf/india0219_web3.pdf, accessed on 18 December 2020

³⁸ *ibid*

³⁹ Ajaz Ashraf, ‘Beef Ban is an Attempt to Impose Upper-caste Culture on Other Hindus: Kancha Ilaiah’ Scroll.in, (New Delhi, March 19, 2015) <https://scroll.in/article/714661/beef-ban-is-an-attempt-to-impose-upper-caste-culture-on-other-hindus-kancha-ilaiah>, accessed 21 March 2022

⁴⁰ See for example, ‘Lynchings Will Stop if People Don’t Eat Beef: RSS’ Indresh Kumar’ The Quint (New Delhi, 24 July 2018) <https://www.thequint.com/news/india/lynchings-will-stop-if-people-dont-eat-beef-rss-leader-indresh-kumar>, accessed 21 March 2022; see also Soutik Biswas, ‘Is India’s ban on cattle slaughter “food fascism”?’ British Broadcasting Corporation (New Delhi, 2 June 2017) <https://www.bbc.com/news/world-asia-india-40116811>, accessed 21 March 2022; Samanwaya Rautray, ‘Cannot Direct Entire Country to Turn Vegetarian, Says Supreme Court’ The Economic Times (New Delhi, 13 October 2018) <https://economictimes.indiatimes.com/news/politics-and-nation/cannot-direct-entire-country-to-turn-vegetarian-says-supreme-court/articleshow/66189978.cms>, accessed 21 March 2022.

⁴¹ Lourduwamy, S., Towards Empowerment of Dalit Christians: Equal Rights to all Dalits (Centre for Dalit/Subaltern Studies 2005).

⁴² All India Report on Agricultural Census 2015-16, Ministry of Agriculture and Farmers Welfare, New Delhi 2020, available at https://agcensus.nic.in/document/agcen1516/ac_1516_report_final-220221.pdf

not own, and 58.4% households do not own any land.⁴³ 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.

15.2 Extend to Dalit Christians protection and benefits under the Protection of Civil Rights Act 1955, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1986 and Forest Rights Act) 2006.

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 1948.⁴⁴ Sexual and gender-based violence on particularly Muslim women has been documented in many contexts including subsequent to

⁴³ Suraj Yengde, ‘Landlessness Takes away Dalits’ Legal and Official Validity as Indian Citizens’ Hindustan Times (New Delhi, 1 July 2019) <https://www.hindustantimes.com/analysis/landlessness-takes-away-dalits-legal-and-official-validity-as-indian-citizens/story-1QeT0Tjwp3dbdJjI93OXQJ.html>, accessed 21 March 2022

⁴⁴ 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 Violence Bill: Women’s Bodies as Repositories of Communal Honour’ [2020] 21 Journal of International Women's Studies 50

⁴⁵ Sahiyar, ‘Report of women delegates to Bhopal, Ahmedabad and Surat, by AIDWA, CWDS, MDS, NFIW’ in Tanika Sarkar and Urvashi Butalia (eds), *Women and the Hindu Right* (Kali for Women 1995).

⁴⁶ See *Threatened Existence: A Feminist Analysis of the Genocide in Gujarat*, International Initiative for Justice in Gujarat, Mumbai: Forum Against Oppression of Women, pp 33-45, (2003)

the destruction of Babri Masjid (1992),⁴⁵ Gujarat pogrom (2002),⁴⁶ Muzaffarnagar (2013)⁴⁷ and North-East Delhi (2020).⁴⁸

18. Attacks on Women in Kandhamal: Sexual and gender-based violence against Christian women in 2008 in Kandhamal, state of Odisha, follows a similar pattern.⁴⁹ At least 41 incidents of a range of sexual assault on Christian women and girls were documented.⁵⁰ 12 out of 17 narratives of dissimilarly placed women, refer to sexual assault, threat/fear of the same.⁵¹ 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 gangraped 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

⁴⁵ Sahiyar, ‘Report of women delegates to Bhopal, Ahmedabad and Surat, by AIDWA, CWDS, MDS, NFIW’ in Tanika Sarkar and Urvashi Butalia (eds), *Women and the Hindu Right* (Kali for Women 1995).

⁴⁶ See *Threatened Existence: A Feminist Analysis of the Genocide in Gujarat*, International Initiative for Justice in Gujarat, Mumbai: Forum Against Oppression of Women, pp 33-45, (2003)

⁴⁷ Hasina Khan and Saumya Uma, ‘Battered and Betrayed: A Report of Visit to Muzaffarnagar’ (SACW, 31 January 2014) <http://www.sacw.net/article7472.html>, accessed 21 March 2022; Teesta Setalvad, ‘And No Justice for Women: Muzaffarnagar Gangrape Survivors are Not the Only Ones Losing Hope’ Scroll.in (New Delhi, 18 February 2017) <https://scroll.in/article/829361/and-no-justice-for-women-muzaffarnagar-gang-rape-survivors-are-not-the-only-ones-losing-hope>, accessed 21 March 2022; Amnesty International, *Losing Faith – the Muzaffarnagar Gangrape Survivors’ Struggle for Justice* (17 February 2017) <https://www.amnesty.org.in/images/uploads/articles/Losing-Faith-AI-Briefing-Feb-17.pdf>, accessed 21 March 2022.

⁴⁸ Aiman Khan and Arpita Jaya, ‘Burkhas, All “Markers of Muslimness” Targeted, Report Details Women’s Plight in Delhi Riots’ *The Wire* (New Delhi, 19 July 2020) <https://thewire.in/rights/delh-riots-delhi-minorities-commission-report>, accessed 21 March 2022; Bismee Taskin, ‘15 women, 30 men sexually assaulted by Delhi Police at February CAA clash in Jamia, report says’ *ThePrint* (New Delhi, 12 August 2020) <https://theprint.in/india/governance/15-women-30-men-sexually-assaulted-by-delhi-police-at-february-cao-clash-in-jamia-report-says/479788/>, accessed 21 March 2022; NH Web Desk, ‘Delhi Riots, 2020: 12-point Indictment of BJP, Delhi Police and AAP Govt’ *National Herald* (New Delhi, 16 July 2020) <https://www.nationalheraldindia.com/india/delhi-riots-2020-12-point-indictment-of-bjp-delhi-police-and-aap-govt>, accessed 21 March 2022. See Delhi Minorities Commission, *Report of the DMC Fact-finding Committee on North-East Delhi Riots of February 2020*, July 2020, available at <https://ia601906.us.archive.org/11/items/dmc-delhi-riot-fact-report-2020/-Delhi-riots-Fact-Finding-2020.pdf>, accessed on 16 December 2020

⁴⁹ Saumya Uma, *Breaking the Shackled Silence: Unheard Voices of Women from Kandhamal*, National Alliance of Women – Odisha chapter, Bhubaneswar, 2014; National Solidarity Forum, *Waiting for Justice - Report of the National People’s Tribunal on Kandhamal* (New Delhi: 2011); Saumya Uma, *Kandhamal: The Law Must Change its Course*, edited by Vrinda Grover, Multiple Action Research Group, pp 123-124, (2010).

⁵⁰ Saumya Uma, *Breaking the Shackled Silence* – *ibid*, 95-100

⁵¹ *ibid* 12–28

released on bail after seven years in prison.⁵²

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.⁵³
- In April 2019, following the suicide by student of a catholic school in Tamil Nadu a mob of 200 vandalized the institution,⁵⁴ and tried to strangle four nuns with their Rosaries.⁵⁵
- 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,⁵⁶ and falsely accused of forcibly converting the two postulants. They were taken into police custody and questioned for several hours before being released.⁵⁷ The attack was seemingly pre-meditated.⁵⁸
- 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.⁵⁹
- 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

⁵² Binita Jaiswal, 'Prime accused of Kandhamal Nun-rape Case Granted Bail' The Times of India (Cuttack, 20 January 2016) <https://timesofindia.indiatimes.com/city/bhubaneswar/prime-accused-of-kandhamal-nun-rape-case-granted-bail/articleshow/50657826.cms>, accessed 21 March 2022

⁵³ Amarjeet Singh, 'Nun & Four Girls Detained by GRP After Bajrang Dal Alleges Conversion Bid' The Times of India (Bhopal, 14 June 2017) <https://timesofindia.indiatimes.com/city/bhopal/nun-four-girls-detained-by-grp-after-bajrang-dal-alleges-conversion-bid/articleshow/59134119.cms>, accessed 21 March 2022

⁵⁴ The Scroll Staff, 'Tamil Nadu Bishops' Council condemns attack on Catholic school in Kallakurichi district' Scroll.in (Chennai, 5 April 2019) <https://scroll.in/latest/919101/tamil-nadu-bishops-council-condemns-attack-on-catholic-school-in-kallakurichi-district>, accessed 21 March 2022

⁵⁵ Asia News, 'Tamilnadu: Nuns Beaten by Hindu Radicals Released from Hospital' Asia News (Delhi, 6 April 2019) <https://www.asianews.it/news-en/Tamil-Nadu:-Nuns-beaten-by-Hindu-radicals-released-from-hospital-46707.html>, accessed 21 March 2022

⁵⁶ The Special Correspondent, 'Nuns Accused of Conversion, Forced to Get Off Train in Jhansi' The Hindu (Lucknow, 24 March 2021) <https://www.thehindu.com/news/national/other-states/nuns-accused-of-conversion-forced-to-get-off-train-in-jhansi/article61922849.ece>, accessed 21 March 2022

⁵⁷ Scroll Staff, 'Four nuns detained from train in UP after Bajrang Dal harassment for alleged forceful conversions' Scroll.in (New Delhi, 24 March 2021) <https://scroll.in/latest/990426/up-police-question-four-kerala-nuns-after-bajrang-dal-alleges-forceful-conversions>, accessed 21 March 2022

⁵⁸ *ibid*

⁵⁹ CJP Team, 'Christian nuns, congregation attacked in UP: CJP approaches NCM' (Citizens for Justice and Peace, 14 October 2021) <https://cjp.org.in/christian-nuns-congregation-attacked-in-up-cjp-approaches-ncm/>, accessed 21 March 2022

deceased prior to her death.⁶⁰ She was granted bail several weeks later.⁶¹

- 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.⁶²

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.⁶³ In December 2021, Hindu groups called for genocide of Muslims.⁶⁴ 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.⁶⁵ Violence peaks during Christmas.⁶⁶

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

⁶⁰ Nirmala Carvalho, ‘Tamil Nadu, Nun Arrested on (False) Charges of Inciting Suicide and Conversion’ (Delhi, 22 January 2022) [https://www.asianews.it/news-en/Tamil-Nadu,-nun-arrested-on-\(false\)-charges-of-inciting-suicide-and-conversion-54974.html](https://www.asianews.it/news-en/Tamil-Nadu,-nun-arrested-on-(false)-charges-of-inciting-suicide-and-conversion-54974.html), accessed 21 March 2022

⁶¹ *ibid*

⁶² Express Web Desk, ‘Man associated with RSS arrested for harassing nuns’ The Indian Express (Chennai, 31 January 2022) <https://indianexpress.com/article/cities/chennai/man-associated-with-rss-arrested-for-harassing-nuns-7749959/>, accessed 21 March 2022

⁶³ See Ziya Us Salam, ‘Christians as Target During the Lockdown’ Frontline (Chennai, 19 August 2020) <https://frontline.thehindu.com/the-nation/christians-as-target/article32284946.ece>, accessed 21 March 2022

⁶⁴ Avaneesh Mishra, ‘Haridwar Hate Speeches Target Minorities, Call for Violence’ Indian Express (New Delhi, 24 December 2021) <https://indianexpress.com/article/india/haridwar-meet-seeks-weapons-for-hindus-war-on-muslims-ex-bjp-spokesperson-among-speakers-7686714/>, accessed 21 March 2022

⁶⁵ Sumedha Pal, ‘“Arrest Genocide Mongers”: Civil Society, Student Groups Protest Against “Dharam Sansad”’ The Wire (New Delhi, 28 December 2021) <https://thewire.in/communalism/arrest-genocide-mongers-civil-society-student-groups-protest-against-dharam-sansad>, accessed 21 March 2022

⁶⁶ Religious Liberty Commission of the Evangelical Fellowship of India, Hate and Targeted Violence Against Christians in India: Yearly Report 2021, available at <https://efionline.org/wp-content/uploads/2022/02/RLC-Yearly-Report-2021.pdf>, p. 1

perpetrated against the Christian community over four years.⁶⁷

Table 1: Typology of Violence Against the Christian Community in India 2018-21

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

* – 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.⁶⁸ With courts being virtually

⁶⁷ Hate and Targeted Violence Against Christians in India: Yearly Reports 2018-2021, available at <https://efionline.org/category/rlc-reports/>

⁶⁸ Evangelical Fellowship of India, Hate and Targeted Violence Against Christians in India: Half Yearly Report 2020, available at www.efionline.org/2020/07/10/efi-rlc-half-yearly-report-2020/, accessed on 13 December 2020

closed, affected Christians had little access to justice.⁶⁹

24. Communal Violence: Communally targeted violence is not unknown independent India.⁷⁰ 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, while in 2020, despite the Covid lockdown, the incidents almost doubled to 857 cases.⁷¹ NCRB has reportedly stopped collating data on communally motivated killings.⁷²

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.⁷³ A People's Tribunal for communal violence in Northeast Delhi found government failed miserably in providing adequate compensation to victims.⁷⁴ Police allegedly framed people and filed biased charge sheets.⁷⁵

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.⁷⁶ 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.⁷⁷ In August 2016, the Supreme Court ordered review of 315 cases closed without conducting any investigation; four years later, the

⁶⁹ *ibid*

⁷⁰ 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

⁷¹ Press Trust of India, 'Communal, religious rioting cases nearly doubled in 2020: NCRB' *Business Standard* (New Delhi, September 17, 2021) https://www.business-standard.com/article/current-affairs/communal-religious-rioting-cases-nearly-doubled-in-2020-ncrb-121091601629_1.html, accessed 21 March 2022.

⁷² Deeptiman Tiwary, 'NCRB leaves out data on lynchings, khap and religious killings' *Indian Express*, 22 October 2019 <https://indianexpress.com/article/india/ncrb-leaves-out-data-on-lynchings-khap-and-religious-killings-6081188/>, accessed 21 March 2022

⁷³ 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 Vrinda Grover (Multiple Action Research Group 2010).

⁷⁴ The Wire Staff, "'Abject Failure of Delhi Police, Govt': People's Tribunal on Riots Probe, Compensation' *The Wire* (New Delhi, 1 March 2022) <https://thewire.in/government/abject-failure-of-delhi-police-govt-peoples-tribunal-on-riots-probe-compensation>, accessed 21 March 2022.

⁷⁵ *ibid*

⁷⁶ Apoorvanand, 'On the Anniversary of Kandhamal Violence, the Least We Can Do Is Remember' *The Wire* (New Delhi, 25 August 2020) <https://thewire.in/communalism/kandhamal-violence-anniversary-remembrance>, accessed 21 March 2022

⁷⁷ *ibid*

cases are yet to be reopened.⁷⁸ Many victims have received inadequate or no compensation.⁷⁹

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.⁸⁰ A civil society campaign in 2005 led to the introduction of Communal and Targeted Violence (Access to Justice and Reparations) Bill 2013.⁸¹ The Bill was scuttled by the opposition BJP on specious grounds that it was anti-Hindu.⁸² In the third cycle of UPR for India in 2017, countries recommended the enactment of the Communal Violence Bill.⁸³

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.⁸⁴ The euphemistically named Freedom of Religion Act severely impact FoRB.⁸⁵ 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

⁷⁸ John Dayal, 'Kandhamal's Long Wait for "Justice"' National Herald (New Delhi, 22 August 2021) <https://www.nationalheraldindia.com/india/kandhamals-long-wait-for-justice>, accessed 21 March 2022.

⁷⁹ For details, see *ibid.*

⁸⁰ State Through CBI v. Sajjan Kumar & Others, Delhi High Court judgment delivered on 17 December 2018 in Crl.A. 1099/2013.

⁸¹ For more details, see Mihir Desai, 'The Communal and Targeted Violence Bill' [2011] 46 Economic and Political Weekly 12; Varun Nambiar, 'India Needs Legislation to Combat Religious Violence' Jurist (New Delhi, 21 January 2019) <https://www.jurist.org/commentary/2019/01/india-needs-legislation-to-combat-religious-violence/>, accessed 21 March 2022; Press Trust of India, 'Narendra Modi Junks UPA's Communal Violence Bill' Financial Express (New Delhi, 25 June 2014) <https://www.financialexpress.com/archive/narendra-modi-junks-upas-communal-violence-bill/1263924/>, accessed 21 March 2022; India Today, 'Communal Violence Bill is an Obnoxious Piece of Legislation, Says BJP' India Today (New Delhi, 7 December 2013) <https://www.indiatoday.in/india/story/communal-violence-bill-targets-majority-obnoxious-legislation-bjp-219992-2013-12-07>, accessed 21 March 2022.

⁸² For details, see Sunil Prabhu, 'After fierce debate, anti-communal violence bill is dropped. Here's why' NDTV (5 February 2014, <http://www.ndtv.com/cheat-sheet/after-fierce-debate-anti-communal-violence-bill-is-dropped-heres-why-549881>), accessed 21 March 2022.

⁸³ A/HRC/36/10, dated 17 July 2017, para 161.49 – recommendation by the United Kingdom of Great Britain and Northern Ireland.

⁸⁴ These include Arunachal Pradesh (1978), Chhattisgarh (1968, amended in 2000), Gujarat (2003), Haryana (2022), Himachal Pradesh (2006), Jharkhand (2017), Karnataka (2021), Madhya Pradesh (2021), Odisha (1967), Uttarakhand (2018) and Uttar Pradesh (2020).

⁸⁵ For instance, The Odisha Freedom of Religion Act 1967; Chhattisgarh Dharma Swatantraya Adhinyam, 1968; The Gujarat Freedom of Religion Act 2003; and The Madhya Pradesh Freedom of Religion Act 2021. The recently enacted legislation in Haryana

⁸⁶ For a detailed discussion and comparative analysis of anti-conversion laws, see 'State Anti-Conversion Laws in India', The Law Library of Congress, Global Legal Research Centre, June 2017, available at <https://www.loc.gov/law/help/anti-conversion-laws/india-anti-conversion-laws.pdf>, accessed on 10 December 2020

imprisonment and fine.⁸⁶ “Allurement” is often defined to include even free education.⁸⁷ 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.⁸⁸

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.⁸⁹

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.⁹⁰ Several reports critique them as tools of persecution.⁹¹

31. Violation of International Human Rights Standards: Internationally, the right to freedom of religion or belief includes the right to change one’s religion.⁹² UN Special Rapporteur Abdelfattah Amor said it is not the business of the State to act as the guardian of people’s conscience.⁹³ UN mechanisms have also expressed grave concern.⁹⁴ UN Special Rapporteur on FoRB Asma Jahangir said these have been used to vilify Muslims and

⁸⁶ For a detailed discussion and comparative analysis of anti-conversion laws, see ‘State Anti-Conversion Laws in India’, The Law Library of Congress, Global Legal Research Centre, June 2017, available at <https://www.loc.gov/law/help/anti-conversion-laws/india-anti-conversion-laws.pdf>, accessed on 10 December 2020

⁸⁷ For instance, such a provision is included in the Karnataka Protection of Right To Freedom Of Religion Act 2021, as discussed in Shweta Velaudhan and Shreyam Sharma, ‘Anatomy of Anti-Conversion Laws – Part 1’ The Leaflet (New Delhi) <https://theleaflet.in/anatomy-of-anti-conversion-laws-part-i/>, accessed 21 March 2022.

⁸⁸ 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

⁸⁹ Saumya Uma and Niti Saxena, ‘Rights and Wrongs of Anti-Conversion Laws: Juxtaposing ‘Honour’ with Women’s Agency’ [2021] 56 Economic and Political Weekly 15.

⁹⁰ See for instance UN Human Rights Council, *Report of the Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir : addendum : mission to India*, 26 January 2009, A/HRC/10/8/Add.3, paras 47-52, 70.

⁹¹ See Meghan Grizzle Fischer, *Anti Conversion Laws and the International Response*, ADF International, 2018; Ahmad, T. & Law Library of Congress, U. S. G. L. R. D. (2018) *State Anti-conversion Laws in India*. [Washington, D.C.: Law Library of Congress, Global Legal Research Directorate] Retrieved from the Library of Congress, <https://www.loc.gov/item/https://hdl.loc.gov/loc.law/lglrd.2018298841>; United States Commission on International Religious Freedom, *Limitations on Minorities’ Religious Freedom in South Asia*, November 2018, available at <https://www.uscirf.gov/sites/default/files/Limitations%20on%20Minorities%20Religious%20Freedom%20in%20South%20Asia.pdf>; Tehmina Arora, *India’s Defiance of Religious Freedom: A Briefing on ‘Anti-Conversion’ Laws*, International Institute of Religious Freedom, IIRF Reports Vol. 1, pp. 1–16 = No. 2, February 2012, available at https://www.iirf.eu/site/assets/files/92149/iirf_reports_2012_02.pdf;

⁹² Universal Declaration of Human Rights, art 18; International Covenant on Civil and Political Rights, art 18.

⁹³ E/CN.4/1997/91, para.

⁹⁴ See for instance UN Human Rights Council, *Report of the Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir : addendum : mission to India*, 26 January 2009, A/HRC/10/8/Add.3, paras 47-52, 70.

⁹⁵ *ibid* para 47

Christians.⁹⁵ In UPR's third cycle (2017), countries asked to abolish anti-conversion laws.⁹⁶

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.

32.3 Enact the Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill, 2013 approved by the Indian cabinet in December 2013.

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.⁹⁷ In 2019, FCRA of 1807 NGOs was cancelled.⁹⁸ In September 2020, Amnesty International was forced to halt its human rights work in India its bank accounts frozen.⁹⁹ 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.¹⁰⁰ In UPR for India in 2017, countries recommended FCRA be amended to allow civil society organizations to access foreign funding,¹⁰¹ lest NGOs have to shut

⁹⁵ *ibid* para 47

⁹⁶ 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.

⁹⁷ Deya Bhattacharya, 'FCRA Licenses of 20,000 NGOs Cancelled: Act Being Used as Weapon to Silence Organisations' Firstpost (New Delhi, 30 December 2016) <https://www.firstpost.com/india/fcra-licences-of-20000-ngos-cancelled-act-being-used-as-weapon-to-silence-organisations-3181560.html>, accessed 21 March 2022

⁹⁸ Press Trust of India, FCRA Registration of 1,807 NGOs Cancelled in 2019 for Violation of Laws, The Economic Times, 12 November 2019. <https://economictimes.indiatimes.com/news/politics-and-nation/fcra-registration-of-1807-ngos-cancelled-in-2019-for-violation-of-laws/articleshow/72020138.cms?from=mdr>

⁹⁹ 'Amnesty International India Halts Its Work On Upholding Human Rights in India Due to Reprisal From Government of India', Amnesty International India, 29 September 2020, available at <https://amnesty.org.in/news-update/amnesty-international-india-halts-its-work-on-upholding-human-rights-in-india-due-to-reprisal-from-government-of-india-2/>, accessed on 25 December 2020

¹⁰⁰ G Sampath, 'Time to Repeal the FCRA' The Hindu (New Delhi, 27 December 2016) <https://www.thehindu.com/opinion/lead/Time-to-repeal-the-FCRA/article16946222.ece>, accessed 21 March 2022; see also Gaurav Vivek Bhatnagar, 'UN Special Rapporteur Maina Kiai Slams India's FCRA Rules' The Wire (New Delhi, 28 April 2016) <https://thewire.in/diplomacy/un-special-rapporteur-maina-kiai-slams-indias-fcra-rules>, accessed 21 March 2022.

¹⁰¹ A/HRC/36/10, dated 17 July 2017, paras 161.135 – 161.139

¹⁰² *ibid* para 161.139

down.¹⁰²

34. FCRA Amendments of 2020: In September 2020, amidst the Covid-19 pandemic, eligibility and procedures were made even more stringent.¹⁰³ These reflect a deeply flawed understanding of democracy and ¹⁰⁴ government's acceptance of propaganda that such funds were for proselytization.¹⁰⁵ Ironically, in the pandemic, NGOs assisted millions of Indians.¹⁰⁶

35. Using FCRA against minority organisations: In September 2020, four Christian-run NGOs' FCRA license were suspended,¹⁰⁷ with officials saying "Concerns have been raised regarding the impact of U.S.-based evangelical donors."¹⁰⁸ In December 2021, FCRA of three NGOs were cancelled.¹⁰⁹ The government refused to renew the FCRA license of Missionaries of Charity founded by Mother Teresa.¹¹⁰ Weeks earlier, nuns from its Vadodara unit were booked for 'forcible conversion.'¹¹¹ FCRA of Jamia Milia Islamia university and

¹⁰² *ibid* para 161.139

¹⁰³ For further details, see Shankhyaneel Sarkar, 'NGOs Intending to Receive Foreign Funding to Face Govt's Strict New Rules' *Hindustan Times* (New Delhi, 11 November 2020) <https://www.hindustantimes.com/india-news/govt-tightens-rules-for-ngos-intending-to-receive-funds-from-abroad/story-1emUmigDFyfvBGXABj0ErM.html>, accessed 21 March 2022.

¹⁰⁴ Amitabh Behar, 'Choking the NGO Sector: The FCRA 2020 Amendment Deepens a License Raj That Could Throttle Civil Society' *The Times of India* (New Delhi, 1 October 2020) <https://timesofindia.indiatimes.com/blogs/developing-contemporary-india/choking-the-ngo-sector-the-fcra-2020-amendment-deepens-a-licence-raj-that-could-throttle-civil-society/>, accessed 21 March 2022; see also Gurbir Singh, 'Choking NGO Sector with the FCRA Amendment' *The New Indian Express* (New Delhi, 4 October 2020) <https://www.newindianexpress.com/opinions/2020/oct/04/choking-ngo-sector-with-the-fcra-amendment-2205446.html>, accessed 21 March 2022

¹⁰⁵ Behar (n 105)

¹⁰⁶ Surojit Gupta, 'Govt Taps 92,000 NGOs to Help Feed and Shelter Lockdown-hit Migrants' *The Times of India*, (New Delhi, 1 April 2020) <https://timesofindia.indiatimes.com/india/govt-taps-92000-ngos-to-help-feed-and-shelter-lockdown-hit-migrants/articleshow/74921947.cms>, accessed 21 March 2022

¹⁰⁷ Vijaita Singh, 'Government Suspends FCRA Clearance of 4 Christian Groups' *The Hindu* (New Delhi, 6 September 2020) <https://www.thehindu.com/news/national/government-suspends-fcra-clearance-of-4-christian-groups/article32535766.ece>, accessed 21 March 2022

¹⁰⁸ *ibid*

¹⁰⁹ Vijaita Singh, 'FCRA license of 3 minority NGOs revoked' *The Hindu* (New Delhi, 18 December 2021) <https://www.thehindu.com/news/national/fcra-license-of-3-minority-ngos-revoked/article37981576.ece>, accessed 21 March 2022.

¹¹⁰ Deeptiman Tiwary and Sweetly Kumari, 'Centre "refuses" to renew Mother Teresa charity's FCRA status, cites "adverse inputs"' *Indian Express* (New Delhi, 28 December 2021) <https://indianexpress.com/article/india/mother-teresa-ngo-missionaries-of-charity-fcra-renewal-christmas-7693365/>, accessed 21 March 2022

¹¹¹ Aditi Raja, 'Weeks Before Govt's FCRA Move, Missionaries of Charity Nuns Booked for "Forcible Conversion"' *Indian Express* (New Delhi, 4 January 2022) <https://indianexpress.com/article/india/missionaries-of-charity-gujarat-fir-fcra-7703510/>, accessed 21 March 2022.

India Islamic Cultural Centre were revoked.¹¹² India also blacklisted several foreign donors.

36. Recommendations:

36.1 Repeal the FCRA.

VIOLATION OF RIGHT TO PEACEFUL ASSEMBLY & FREEDOM OF SPEECH AND EXPRESSION

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 pandemic¹¹³ with police highhandedness.¹¹⁴

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 indefinitely¹¹⁵ There were 93 orders for internet shutdown.¹¹⁶ India suspends internet services more than any other country in the world.¹¹⁷ Of 548 internet shutdowns since 2012, 317 were in Kashmir.¹¹⁸ A Parliamentary Committee noted this affected life and liberty of people¹¹⁹.

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

¹¹² Press Trust of India, 'IMA, IIT Delhi, Jamia Milia Among 6,000 Entities Whose FCRA Licence Deemed To Have Ceased' The Economic Times (New Delhi, 1 January 2022) https://economictimes.indiatimes.com/news/india/ima-iit-delhi-jamia-milia-among-6000-entities-whose-fcra-licence-deemed-to-have-ceased/articleshow/88632094.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst, accessed 21 March 2022

¹¹³ Sanjay Ghose, 'Is The National Lockdown In India Constitutionally Valid?' The Wire (New Delhi, 28 March 2020) <https://thewire.in/law/is-the-national-lockdown-in-india-constitutionally-valid>, accessed 21 March 2022.

¹¹⁴ For details, see K Ramanujam, 'Amid Section 144 And Curfew, Rule of Law Should Not Decay In Times Of Pandemic' Outlook (New Delhi, 28 June 2020) <https://www.outlookindia.com/website/story/opinion-amid-section-144-and-curfew-rule-of-law-should-not-decay-in-times-of-pandemic/355593>, accessed 21 March 2022

¹¹⁵ Areeb Uddin Ahmed & Mohd Humail Haider, 'Internet Lockdown in Kashmir, 281 Days and Counting', The Leaflet, 16 May 2020. <https://theleaflet.in/internet-lockdown-in-kashmir-281-days-and-counting/>

¹¹⁶ Scroll Staff, 'Jammu and Kashmir: 93 internet shutdown orders issued after SC ruling on communication restrictions' Scroll.in (New Delhi, 3 December 2021) <https://scroll.in/latest/1011995/jammu-and-kashmir-93-internet-shutdown-orders-issued-after-sc-order-on-communication-restrictions>, accessed 21 March 2022

¹¹⁷ Shakir Mir, 'Kashmir Residents Are Now Facing Unannounced, Unaccounted for Internet Restrictions', The Wire, 30 October 2021. <https://thewire.in/rights/kashmir-residents-are-now-facing-unannounced-unaccounted-for-internet-restrictions>. See also Mehab Qureshi, 'Decoding India's dubious distinction as world's 'internet shutdown capital'', The Indian Express, 4 December 2021. <https://indianexpress.com/article/technology/tech-news-technology/india-ranks-highest-in-internet-suspensions-7654773/>

¹¹⁸ Qureshi (n 118).

¹¹⁹ ¹¹⁹ *ibid*

tribal rights activist, and 21-year-old environment activist Disha Ravi were detained in custody.¹²⁰ 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.¹²¹ 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 convictions¹²²

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.”¹²³ The policy trivialises historic oppression of Dalits and Adivasis.¹²⁴ It promotes privatization, thereby reinforcing structural disadvantages faced

¹²⁰ For more details on the discriminatory application of such draconian provisions, see Kapil Sibal, ‘When Laws Turn Oppressive’ Hindustan Times (New Delhi, 30 June 2020) <https://www.hindustantimes.com/analysis/uapa-when-laws-turn-oppressive/story-d9d7OEO50LQjLZs3Ba5pzI.html>, accessed 21 March 2022; Arun Ferreira and Vernon Gonsalves, ‘Fifty Years of Unreasonable Restrictions Under the Unlawful Activities Act’ The Wire (New Delhi, 9 March 2017) <https://thewire.in/rights/uapa-anti-terrorism-laws>, accessed 21 March 2022 ; Faizan Mustafa, ‘Why the Draconian Sedition Law Must Go’ The Indian Express (New Delhi, 4 June 2021) <https://indianexpress.com/article/opinion/columns/supreme-court-sedition-law-vinod-dua-case-modi-govt-freedom-of-press-7343120/>, accessed 21 March 2022

¹²¹ Swati Deshpande, ‘Jailed under UAPA in October, Activist Fr Stan Swamy (84) Dies Waiting for Bail’ The Times of India (Mumbai, 6 July 2021) <https://timesofindia.indiatimes.com/india/stan-swamy-accused-in-elgar-parishad-case-passes-away-today/articleshow/84138459.cms>, accessed 21 March 2022

¹²² Special Correspondent, ‘Parliamentary Proceedings | 2.2 % of Cases Registered Under The UAPA from 2016-2019 Ended in Court Conviction’ The Hindu (New Delhi, 10 February 2021) <https://www.thehindu.com/news/national/22-of-cases-registered-under-the-uapa-from-2016-2019-ended-in-court-conviction/article33804099.ece>, accessed 21 March 2022; Mustafa (n _).

¹²³ National Education Policy 2020, Ministry of Human Resource Development, Government of India, p. 6. Available at https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf

¹²⁴ Anil Sadgopal, ‘Decoding the agenda of the new National Education Policy’ Frontline (New Delhi, 28 August 2020) <https://frontline.thehindu.com/cover-story/decoding-the-agenda/article32306146.ece>, accessed 21 March 2022

by marginalized communities.¹²⁵ “Secularism” finds no mention in the Policy, with its emphasis on duties rather than rights and entitlements.¹²⁶ Gujarat and Karnataka governments recently announced that Bhagavad Gita will be mandatorily taught in primary schools.¹²⁷

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.¹²⁸ 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,¹²⁹ while redefining the constitutional basis of both Indian nationhood and citizenship.¹³⁰ The UN OHCHR called it “fundamentally discriminatory in nature.”¹³¹

¹²⁵ For details, see Disha Nawani, ‘NEP 2020 fails those trapped in vicious cycles of disadvantage’ The Indian Express (New Delhi, 25 September 2020) <https://indianexpress.com/article/opinion/columns/national-education-policy-2020-nep-6609564/>, accessed 21 March 2022.

¹²⁶ National Education Policy 2020, Ministry of Human Resource Development, Government of India, p 16. Available at https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf; see also Basant Kumar Mohanty, ‘Out: Secularism In: Gita ideal: “New” education policy’ The Telegraph (New Delhi, 2 August 2020) <https://www.telegraphindia.com/india/new-education-policy-secularism-in-gita-ide> UN News, New citizenship law in India ‘fundamentally discriminatory’: UN human rights office, 13 December 2019, available at <https://news.un.org/en/story/2019/12/1053511.al/cid/1788008>, accessed 21 March 2022.

¹²⁷ The Wire Staff, “‘What’s Wrong with Saffronisation of Education?’: Vice President Venkaiah Naidu’ The Wire (New Delhi, 19 March 2022) <https://thewire.in/government/whats-wrong-with-saffronisation-of-education-vice-president-venkaiah-naidu>, accessed 21 March 2022.

¹²⁸ Human Rights Watch, “Shoot the Traitors’: Discrimination Against Muslims Under India’s New Citizenship Policy, 2020, available at https://www.hrw.org/sites/default/files/report_pdf/india0420_web_0.pdf, accessed on 18 December 2020. See also United States Commission on International Religious Freedom, ‘Legislation Factsheet India: The Citizenship (Amendment) Act 2019, February 2020, available at https://www.uscirf.gov/sites/default/files/2020%20Legislation%20Factsheet%20-%20India_0.pdf, accessed on 18 December 2020.

¹²⁹ See for example V Suresh, ‘CAA-NPR-NRC – Why is there so much controversy? Should citizens worry?’ (Citizens for Justice and Peace, 24 February 2020) <https://cjp.org.in/caa-npr-nrc-why-is-there-so-much-controversy-should-citizens-worry/>, accessed 21 March 2022; see also Prabhash K Dutta, ‘CAA, NPR and NRC: Confusion and connection explained’ India Today (New Delhi, 26 December 2019) <https://www.indiatoday.in/news-analysis/story/caa-npr-nrc-confusion-connection-explained-india-1631534-2019-12-26>, accessed 21 March 2022.

¹³⁰ *ibid*

¹³¹ UN News, New citizenship law in India ‘fundamentally discriminatory’: UN human rights office, 13 December 2019, available at <https://news.un.org/en/story/2019/12/1053511>.

¹³² Special Correspondent, ‘Citizenship Amendment Act is good for Christians, says National Commission for Minorities Vice-Chairman’ The Hindu (New Delhi, 17 December 2019) <https://www.thehindu.com/news/national/citizenship-amendment-act-is-good-for-christians-says-national-commission-for-minorities-vice-chairman/article30332028.ece>, accessed 21 March 2022

43. Responses to CAA: Christians are not immediately impacted, but it “rouses fears”¹³² that “We could be next.”¹³³ Many people were arrested in anti CAA protests¹³⁴ United Nations Special Rapporteurs warn that NRC could lead to large-scale “statelessness, deportation and prolonged detention.”¹³⁵ In October 2020, the UN cited CAA for discriminating against the Muslims.¹³⁶

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.¹³⁷ The National Commission for Minorities is both toothless and politicised, as evidenced by its dubious claim that there are no religion-

¹³² Special Correspondent, ‘Citizenship Amendment Act is good for Christians, says National Commission for Minorities Vice-Chairman’ The Hindu (New Delhi, 17 December 2019) <https://www.thehindu.com/news/national/citizenship-amendment-act-is-good-for-christians-says-national-commission-for-minorities-vice-chairman/article30332028.ece>, accessed 21 March 2022

¹³³ Monadipa Banerjee, “‘We Could Be Next’: Christian Priests Protest Citizenship Act in Kolkata’ NDTV (Kolkata, 21 January 2020) <https://www.ndtv.com/india-news/christian-priests-protest-citizenship-act-in-kolkata-could-be-us-next-2167620>, accessed 21 March 2022.

¹³⁴ Vakasha Sachdev, ‘It’s Frightening’: Judges, UN Experts on Targeting CAA Protesters’ The Quint (New Delhi, 16 July 2020) <https://www.thequint.com/news/india/frightening-targeting-of-anti-cao-protesters-cases-police-retired-judges-un-experts-s-darapuri-lokur-shah>, accessed 21 March 2022

¹³⁵ These are the UN Special Rapporteurs on Freedom of Religion, Racism and Minority Issues, along with the Vice-chair of the UN Working Group on Arbitrary Detention, who reportedly wrote twice to the Indian government – in June and December 2018 respectively. For further details, see US Commission on International Religious Freedom report 2020 – Recommendations for Countries of Particular Concern (CPC) – India, available at <https://www.uscirf.gov/sites/default/files/India.pdf>, accessed on 20 December 2020; The Wire Staff, ‘UN Special Rapporteurs Re-Emphasise Concern Over NRC in Second Letter to Indian Govt’ The Wire (New Delhi, 17 December 2018) <https://thewire.in/rights/nrc-assam-united-nations>, accessed 21 March 2022.

¹³⁶ Peter Kenny, ‘UN Urges India to Better Protect Human Rights Defenders’ Anadolu Agency (Geneva, 21 October 2020) <https://www.aa.com.tr/en/asia-pacific/un-urges-india-to-better-protect-human-rights-defenders/2013395>, accessed 21 March 2022.

¹³⁷ Sanjoy Hazarika, ‘Is the NHRC a Toothless Tiger?’ (Human Rights Initiative) [https://www.humanrightsinitiative.org/blog/nhrc-a-toothless-tiger; Mahtab Alam, ‘India’s National Human Rights Commission is Defeating its Own Purpose’ The Wire \(New Delhi, 14 October 2019\) <https://thewire.in/rights/nhrc-amit-shah-khushboo-chauhan-human-rights>, accessed 21 March 2022](https://www.humanrightsinitiative.org/blog/nhrc-a-toothless-tiger; Mahtab Alam, ‘India’s National Human Rights Commission is Defeating its Own Purpose’ The Wire (New Delhi, 14 October 2019) https://thewire.in/rights/nhrc-amit-shah-khushboo-chauhan-human-rights)

based atrocities against minorities in India. ¹³⁸The police have assumed unbridled, arbitrary powers under draconian laws. ¹³⁹Budgetary allocation for various schemes for the welfare of minorities are described as “discriminatory” and “disappointing.”¹⁴⁰

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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¹³⁸ Ismat Ara, ‘NCM Claims There Are “No Religion-Based Atrocities Against Minorities in India”. How True Is it?’ The Wire (New Delhi, 18 December 2021) <https://thewire.in/rights/ncm-claims-there-is-no-religion-based-atrocities-against-minorities-in-india-how-true-is-it>, accessed 21 March 2022.

¹³⁹ S R Darapuri, ‘The Police in India is Both Casteist and Communal’ The Wire (New Delhi, 9 September 2020) <https://thewire.in/caste/police-casteist-communal>, accessed 21 March 2022

¹⁴⁰ 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/>