

# Religious Minorities

## SUMMARY OF KEY ISSUES FROM PREVIOUS UPR CYCLES

During its second Universal Periodic Review in 2012, India received 14 recommendations addressing the issue of freedom of religion and protection of rights of minorities. India accepted 5 recommendations which included recommendation no: 125 by Holy See advising Indian government to strengthen efforts to guarantee freedom of religion to everyone. India did not accept recommendations nos: 48, 49, 50, 123, 124 proposed by Germany, Netherlands, Austria and Italy calling India to adopt the Prevention of Communal and Targeted Violence Bill which addressed issues such as accountability of civil servants, standards of compensation for victims and abolish anti-conversion laws to ensure every person's right to freely choose one's religion in line with the Indian Constitution.

However the UPR II recommendations have seen very poor implementation since 2012. In the first six months of 2015, the Indian Home Ministry reported 330 violent incidents against minorities and 51 deaths, an increase over the 252 incidents and 33 deaths recorded over the same period during the previous year. In the last 4 years India also witnessed several incidents of hate speech, religious intolerance, attacks on churches, mass reconversion campaigns, and violence against religious minorities, by invoking dormant Cow Protection Laws. The Indian government failed to enact the draft legislation Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill, 2013 for preventing targeted violence based on religion and for providing access to justice and reparations to the victims of targeted violence. No attempts were made to revise the "anti-conversion laws" that exist in several Indian States.

## NATIONAL LEGAL/POLICY FRAMEWORK

The Right to Cultural Freedom constitutes one of the cornerstones of minority rights under Article 27 of International Covenant on Civil and Political Rights (ICCPR), under which India is accountable to the UN Human Rights Committee. Article 25 of the Indian Constitution guarantees freedom of conscience and right to freely profess, practice and propagate religion. Article 26 guarantees freedom to every religious denomination to manage its religious affairs. Article 29 offers protection to cultural rights of minorities and Article 30 (1) gives right to establish and administer educational institutions. These fundamental rights

cannot be violated by the government. (Article 14 and 21 of Indian Constitution). The Indian government has constituted the National Commission for Minorities, constituted under the National Commission for Minorities Act in 1992 and the National Commission for Minority Educational Institutions Act, 2004 to safeguard the educational rights of the minorities enshrined in Article 30(1) of the Constitution. In January 2017, the Indian Supreme Court ruled that candidates cannot ask for votes in the name of religion during elections.

## CHALLENGES

Religious minorities and targeted violence

The figures from the Indian Ministry of Home Affairs in February 2014, reveal a steep 30 per cent rise in incidents of communal violence nationwide. In 2015, there was a further 17% increase in religious violence in India compared to 2014. According to civil society reports, more than 600 incidents of targeted violence against Christians and Muslims took place in India between May 2014 to september 2014

In September 2013, large scale targetted violence mainly against Muslims took place in Muzaffarnagar and Shamli districts of western Uttar Pradesh, in which at least 44 persons were killed, 97 persons injured and 41,829 people displaced.

In 2015, an Indian citizen, Mohammad Akhlaq was lynched to death by a mob in Dadri town in Uttar Pradesh over rumors of storing beef in his home. In 2014, 24 year old Mohsin Shaikh was beaten to death in Pune city after returning from prayer and 14 people from a right wing radical outfit called Hindu Rashtra Sena were arrested for his murder. In March 2016, bodies of two Muslim cattle traders including a minor, were found hanging from a tree in Jharkhand's Latehar district. The National Human Rights Commission of India issued a show cause notice to Jharkhand governemnt in the case.

An aggressive and sustained campaign to unleash violence on minorities has been carrying on in the name of cow protection. In July 2016, four Dalit youth, were attacked as a 'punishment' for skinning the carcass of a cow in Gujarat's Una town, by 'cow vigilantes' leading to widespread protests by Dalits, including Muslim and Christian Dalits. Media reports have also emerged on training camps providing firearm training to youth by militant rightwing organisations.

Attacks on Christians have been justified using the propaganda about conversion. In March 2016 a group of youth raising slogans attacked and vandalized a Church Situated in Kachana colony in Raipur in Chhattisgarh. In March 2015, a 71-year-old nun was gang raped in West Bengal. Christian missionaies blamed rising religious intolerance for it. In 2014-15 numerous cases of churches being vandalised and pastors assaulted were documented nationwide.

Wilful abdication of responsibility to enact a national legislation to protect minority rights

The Indian government failed to enact the Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill, 2013 which was approved by the Indian Cabinet in December 2013. India wilfully abdicated its responsibility to enact a national legislation in compliance with Article V of the International Convention on the Prevention and Punishment of the Crime of Genocide, 1948. India ratified the Genocide Convention in 1958.

**CHALLENGES**

Complicity and inaction of police, inadequacy of laws and procedures to and judicial delays hamper access to justice to victims and survivors of targeted violence

Harassment and intimidation of religious minorities by existing and proposed laws

**ISSUES AND IMPACTS**

Access to Justice evades survivors of large-scale ethnic violence. The impunity enjoyed by the violent mobs is a big cause for concern. Many victims of violence complain about the lack of police action. Criminal Cases where minorities are survivors are left to collapse. Youth from minority groups, are targeted in cases related to terror. Many or most of them are acquitted after years being incarcerated. No reparation is paid, nor the policemen responsible for wrongful arrest, confinement ever prosecuted.

The anti-conversion laws, passed by some Indian states, violate freedom of religion guaranteed by the Indian Constitution and the UN Declaration on Minorities. These provide opportunities for both local officials and Hindu supremacist organizations to harass and intimidate the minorities. But the same laws do not address forcible conversions to Hinduism such as "Operation Ghar Wapsi" (Operation Return Home) ceremonies conducted by the right wing groups.

Proposed amendments of central laws also threaten the secular and non-discriminatory foundations of the Indian state. The 'Enemy Property (Amendment and Validation) Bill threatens to appropriate properties of Muslims who stayed behind after the vivisection of India. After strong Opposition protests, the proposed amendments have been referred to a Select Committee of Parliament. A bill to amend India's Citizenship laws, to privilege those migrants who are not Muslims; has also been referred to a Parliamentary Committee.

**RECOMMENDATIONS**

**The Government of India should take immediate steps to enact the 'Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill 2013' approved by the Indian Cabinet in December 2013.**

**Urgently revise the "anti-conversion laws" that exist in seven States of India in the light of the principle of rule of law and ensure that the anti-conversion laws comply with international human right law.**

**Implement existing provisions in the law to prevent hate speech, acts of religious hatred, incitement to religious violence and political exploitation of religion-based distinctions.**

**The right of an individual to change one's faith should be protected as a fundamental right and the state should effectively protect and promote the safety, dignity and privacy of persons who change their faith voluntarily.**

**Government should formulate a national policy for dignified reparations for individuals acquitted in terror related cases.**

**Ensure that anti-terror legislations and anti-cow slaughter laws are not misused to target minorities and vulnerable sections. State should take punitive action against public officials who do so.**

**The cow vigilantes or any private armed training by right wing groups should be banned.**

**Establish a comprehensive and adequately resourced victim and witness protection programme at the central and state levels, which is independent of state agencies such as the police.**

**Hold accountable public and police officials found complicit in shielding criminals involved in intimidating and unleashing violence against the minorities and those who advocate religious hatred.**

**Indian government should abjure from its moves to de-privilege religious minorities with its planned amendments to the Enemy Property laws and the Citizenship Act.**

**Create a body within the National Human Rights Commission that monitors the implementation of the recommendations of the UN Special Rapporteur on Freedom of Religion or Beliefs, and the concluding observations of the UN human rights treaty body recommendations related to the protection of the right of religious minorities.**

**Enact a legislation or policy providing for Equal Opportunity Commission to investigate discriminations, if any, against any Socio-Religious Categories (SRC) by the state or by the private sector.**

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