

A JOINT SUBMISSION BY CSCFRSPI ON FREEDOM OF RELIGION OR BELIEF IN INDIA

CONTENTS

	Page Number
1. Introduction	1
2. Communal Incidents in Recent Years	2
3. Government Apathy	2
4. Incessant Structural Violence	3
5. Emerging Patterns of Symbolic Violence	6
6. Challenges before the Government	8
7. Previous Recommendations of UPRs	8
8. Recommendations to HRC for the UPR 2017 Process (Third Cycle)	9
9. End Notes	12

A JOINT SUBMISSION ON FREEDOM OF RELIGION OR BELIEF

1 Introduction

1.1 The Republic of India¹, the world's largest democracy with more than 1.3 billion people², is a country with diverse religious and other socio-cultural backgrounds. Religious diversity and pluralism in India are both established as well as protected by laws³ and customary practices. The Preamble to the Constitution proclaims India as a "Sovereign-Socialist-Secular-Democratic-Republic" and also has solemnly resolved to secure for all its citizens – "the liberty of thought, expression, belief, faith and worship".

1.2 According to the Census of India⁴:

The total population stood at 1.21 billion in 2011

79.8% -- Hindus -- 966.3 million

14.2% -- Muslims -- 172.2 million

2.3% -- Christians -- 27.8 million

1.7% -- Sikhs -- 20.8 million

0.7% -- Buddhists -- 8.4 million

0.4% -- Jains -- 4.5 million

0.9% other belief systems

1.3 The Constitution of India guarantees equality to all persons before law and the fundamental right of religious freedom⁵. Despite India being a pluralistic secular democracy, it has been struggling to protect the rights of minority religious communities⁶ and provide justice to them. The National Human Rights Commission (NHRC) had in July 2016⁷ told the Supreme Court of India that it had no powers to act against persons or authorities who did not follow the guidelines laid down by it nor does it have the power to issue directives or pass orders but could only make recommendations. Such structural and functional limitations over the decades have perpetuated a climate of impunity⁸ in favour of the violators. Consequently, since 2012 communal violence⁹ recur more frequently particularly in federal states like Uttar Pradesh, Maharashtra, Madhya Pradesh, Karnataka, Bihar, Rajasthan and Gujarat.

2 Communal Incidents in Recent Years

2.1 According to the Ministry of Home Affairs¹⁰ (MHA) Government of India (GOI), a total of 3466 communal incidents had occurred in the country during 2011-2015. This is an average of nearly 58 incidents a month. The lowest number of incidents occurred in 2011 (580) and the highest in 2013 (823). The number of such incidents in 2012, 2014 and 2015 is 668, 644 & 751 respectively. The number of people killed or injured in these incidents was more or less proportional to the number of incidents. This unusual rise just before the 2014 general election could be attributed to the sectarian politics of various political parties. However, incidents of violence (post-elections) in 2015 were nearly 17% higher than in 2014.

2.2 According to the latest available National Crime Records Bureau (NCRB) report (2015), there were 1,227 communal incidents in 2014 and 789 communal incidents in 2015, which blatantly contradicts the Home Ministry statistics¹¹. Moreover, there are still a substantial number of communal incidents that go unrecorded formally by any government agency.

2.3 Both the government data (NCRB & MHA) since 2012 as well as the study carried out by the NCCI (2016)¹² show that apart from religion, caste and ethnic backgrounds are also reflected in communal violence. Often the victims of communal violence are Dalits¹³, Adivasis¹⁴ and “lower” castes.

3 Government Apathy

3.1 The government’s tacit role has been alleged in all riots from the anti-Sikh riots (1984) to the Gujarat riots (2002), to the Kandhamal violence (2008), to the recent Muzaffarnagar riots (2013). Various reports¹⁵ suggest that the law enforcement and security agencies have also allegedly failed to protect¹⁶ the members of minority, marginalised sections, and civil society campaigners. The series of killings¹⁷ of important social activists and rationalists since August 2013 like Govind Pansare, Narendra Dhabolkar, Prof M.M. Kalburgi and others had shocked the entire civil society of the country.

3.2 The victims of communal violence in Kandhamal, Odisha particularly the Christians, still await for justice.¹⁸ The Supreme Court on 3 August 2016¹⁹ asked the

Odisha government to re-investigate the closure of cases related to the violence and “see that the offenders are brought to book.” The Supreme Court noted as “disturbing” that only a few of the completed trials resulted in conviction. 3232 criminal complaints were filed of which the police acknowledged 1541 and only 828 FIRs (First Information Reports) were registered; 593 cases were charge-sheeted; 327 cases were put before FTC (Fast Track Courts); 255 cases are still pending, only 257 cases were disposed off, of which 182 were acquitted and only 78 were convicted. In case of murder charges 27 verdicts were given, of which 25 were acquitted and only 2 were convicted.

3.3 Similarly, it was widely reported in the media that the Commission²⁰ investigating the communal violence against the Muslims in Muzaffarnagar, Uttar Pradesh²¹, submitted a report which originally held the members of political parties, the police and senior administrative officials responsible, but later inaudibly exonerated the political leaders. On 26 March 2014, the Supreme Court in its judgment had blamed the Uttar Pradesh government for negligence²².

4 Incessant Structural Violence

4.1 Christians and Muslims continue to suffer from material deprivations too. Almost a decade ago, seven-member Prime Minister’s High Level Committee, chaired by Justice Rajindar Sachar²³, clearly brought out the vicious circle the Muslims are caught in, which renders them as victims of prolonged structural violence. They are poor, have low levels of education, and have marginal representation in the organized sector employment especially in government sector. They are mostly self-employed or employed in the unorganized sectors. Generally, they have poor access to credit facilities and have no economic safeguards. Christian population too is predominantly rural poor, and engaged in low-prestige occupations all over the country. They however are better placed in terms of access to basic education and health as compared to the Muslims.

4.2 Further, the institutions run by the minority communities too face frequent government interference especially in appointment of staff, getting recognition as a minority institution, in providing grants and benefits, designing curriculum²⁴, etc. In April 2013, the Catholic Association of Goa expressed its anguish that students were

forced to take part in events that involved mass yoga display or “surya namaskar”²⁵. The Catholic Association²⁶ claimed that this was harassment and violated their religious freedom. Similarly the Church-run government-aided schools in Goa²⁷ are almost at the verge of shutting down due to financial crisis created by the changes in the policies of the Goa government.

4.3 Further, in the context of Dalit Muslims and Dalit Christians, the protection laws are not applicable. The ‘Constitutional (Scheduled Caste) Order’ of 1950, states that no person who professes a religion different from the Hindu religion shall be deemed to be a member of a Scheduled Caste²⁸ (Dalit). However, the order was amended to include Dalit Sikhs (1956) and Dalit Buddhists (1990) under beneficiaries of Scheduled Castes. As a result, the Dalits following Islam or Christianity do not get any benefits of affirmative action or legal protections from the state.

4.4 A serious issue among the Dalit Christians and Dalit Muslims is the absence of protection mechanisms related to the atrocities against them unlike the other Dalits. The situation in Siruthondamadevi village, Tamil Nadu²⁹ that has been cited as a case in the annexed study report to this joint-submission, is an illustrative example of systematic and deliberate assaults faced by the Dalit Christians. Despite the attacks the Dalit Christians do not get any relief due to the legal limitations and government inactions. Dalit Christians all over India have been repeatedly petitioning with the governments to extend the protection mechanisms to all Dalits cutting across all religions.

4.5 In the name of ‘development’ projects, Christian homes, churches and other establishments have been encroached upon by government agencies or razed down by civic authorities. For example in Gollavanitippa village, Andhra Pradesh³⁰ in the name of road widening, the local authorities demolished three churches in that area. The Lutheran church was in no way an obstruction to widening of the road but the authorities claimed that in order to also build a drainage they had to demolish the church. This action was carried out only with the churches and not with the Hindu temples in the similar alignment in the locality. Such incidents occur as a pattern in other states like Telangana and Maharashtra as well. The Human Rights Council

through its Resolution 6/37, Point 9 (e) had urged the States, *"to exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights and humanitarian law, to ensure that religious places, sites, shrines and symbols are fully respected and protected and to take additional measures in cases where they are vulnerable to desecration or destruction;"*. Similarly, Point 9 (g) of the Resolution urges States *"to ensure, in particular, the right of all persons to worship or assemble in connection with a religion or belief and to establish and maintain places for these purposes [...]"*

4.6 In Assam³¹ too Muslims have been subjected to severe destitution. While revising its voter lists, the Election Commission of the government had the letter "D" suffixed next to more than 2.3 lakh (0.23 million) names. "D" stood for "doubtful" or "dubious" voters, people whose citizenship was suddenly in question. Strangely most D-voters are Muslims³². The government does not tell the D-voters why their names are on the list. To be on that list is to be barred from the rights and benefits of citizenship. Not only does one lose his /her voting rights, but also cannot access any government aid, open bank accounts or get jobs. This has been one of the foremost issues of discrimination and torture faced by the Muslims in Assam.

4.7 In states like Gujarat, Rajasthan, Odisha, Madhya Pradesh and Chhattisgarh, the rules related to conversion, and the processes related to baptism have been made complicated. Christians face intimidation when they attempt to formalise their identity as Christians by official registrations. People who convert religion are mandated to seek permission from government agencies³³, which is clearly against the right to freedom of religion. There are quite a few international instruments³⁴ against negative bias or discrimination based religion. However according to the Indian Constitution as well as the UDHR *"everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his/her religion or belief [...]"*. Even the Article 18 (1) of ICCPR says *"everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his/her choice [...]"*.

5 Emerging Patterns of Symbolic Violence

5.1 In last three decades Muslims have been subjected to increased symbolic violence.³⁵ They have been chronically stigmatized on the basis of their way of life, the way they dress, their appearances, their eating habits, their worship patterns, etc. Christians too experience similar symbolic violence but mainly on three accounts – (i) they are looked at as the products of colonialism; (ii) they are perceived to have embraced Christianity for petty benefits; and (iii) they are said to be indulging in fraudulent proselytization. The biggest symbolic violence against both Christians and Muslims is that they are portrayed as cultural outsiders.

5.2 The year 2013 saw rise of speeches inciting violence against minorities with a view of polarizing the electorates during the run-up to the 2014 (national) general elections. The regularity of such polarised news – spoken, written and via the mainstream media as well as social media – ensured hatred was generated and maintained against the minorities. Even the government's Home Ministry, in its note circulated³⁶, to members of the Parliamentary Standing Committee in November 2015, had mentioned that there were increasing instances of misuse of social media and mobile applications for circulation of objectionable, blasphemous and derogatory contents³⁷.

5.3 Religion, communalism along with jingoism³⁸ suddenly came to be among the most discussed and debated issues everywhere. The narrow notion of nationalism³⁹, which the Hindu fundamentalist organisations are propagating on the streets, is creating a wave of communal feeling among both the religious majority group as well as the minorities. There is fear and apprehension among all minority communities and marginalised social groups that the new government has a hidden agenda of ending diversity and trying to establish a nation-state with a monolithic culture as the Hindu extremist groups run campaigns with impunity on issues such as "*ghar vapasi*"⁴⁰, "*love jihad*"⁴¹, "*beti bachao bahu lao*"⁴², "*Muslim Mukht Bharat*"⁴³, "*Kairana migration*"⁴⁴, etc. The issue of disrespecting Hinduism by eating beef also has become a burning issue since last two years and cattle traders in several states have become easy targets of the Hindu extremists⁴⁵.

Such forms of symbolic violence are in conflict with the Art. 18 (3) of ICCPR which says that *“the freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals, or the fundamental rights and freedoms of others.”* Moreover, such campaigns polarize communities and lead to institutionalization of hatred and violence. This spells adverse repercussion on social harmony and leads to shrinking of democratic spaces.

5.4 Similarly, Christians have been reported to be more frequently harassed including disruption of religious services, desecration of churches and religious scriptures. There were reported cases of aggressive attempts to Hinduize the Christian Adivasis in the name of traditions and practices, particularly in states like Jharkhand, Chhattisgarh and Odisha.

5.5 Since 2014, even Christmas Day has been manipulated into a “working” day by declaring it as “Good Governance Day”⁴⁶, which strongly hurts the religious sentiments of Christians. This is in conflict with the 1981 Declaration of the General Assembly, Article 6 (h) which says that the right to freedom of thought, conscience, religion or belief includes *“the freedom to observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief”*. Similarly, the Human Rights Committee general comment 22, Para 4 says that *“the concept of worship extends to [...] the observance of holidays and days of rest.”*

5.6 Even the civil society members have expressed serious concerns over the increasing incidents of intolerance and symbolic violence. The top film stars of Bollywood like Shahrukh Khan and Aamir Khan had expressed in media⁴⁷ (November 2015) that there was a sense of depression, a sense of despondency, a feeling of insecurity and increasing intolerance in society. More than 40 writers and 12 filmmakers have returned their Sahitya Akademi awards⁴⁸, national awards or quit their posts in top literary bodies on alleged rising intolerance in the country. Eminent personalities like Punjabi writer Dalip Kaur Tiwana, Kannada writer Devanuru Mahadeva and writer Jayanta Mahapatra from Odisha returned their *Padma Shri* awards⁴⁹ while scientist PM Bhargava returned his *Padma Bhushan* award.

5.7 The government has taken several steps and established special structures, such as Fast-Track courts, Special Investigation Teams, independent commissions, etc to investigate and adjudicate crimes stemming from such situations. However, their impact has not been meaningfully realised at the ground level. As a result, a climate of impunity continues to persist.

6 Challenges before the Government

6.1 The Indian state is obliged to protect against any discrimination or bias based on religion that negatively affects a minority community's access to the services of the state like education, health care, employment, contracts, etc. Every citizen's right to freely choose one's religion, profess, practice, and propagate in line with the Constitution of India should be pro-actively protected and explicitly promoted through legislative and executive measures, both at national and federal levels. Any act of intimidation or violence targeting any minority religious community should effectively and swiftly be prosecuted.

6.2 Since 2014, the Hindu communal groups are aggressively pursuing two kinds of interventions in the Indian society. One kind of intervention seeks to generate a monolithic unity amidst the vast diversity within the community of Indians embracing the Hindu religion, and the other kind is attempting to breed hatred against communities outside of the Hindu faith, particularly Muslims and Christians. It is important that government and the civil society are always alert to counter any such communal threats. India does not have an official state religion. This essentially means that in the context of all state affairs, the majority religion should have no advantage over other minority religions or non-believers.

7 Previous Recommendations of Universal Periodic Reviews (UPRs)

7.1 At India's first and second Universal Periodic Reviews (UPRs) in 2008 and 2012, the government received numerous recommendations for the improvement of human rights in the country. The earlier two cycles of UPRs, i.e., the 2008 recommendations⁵⁰ and the 2012 recommendations⁵¹, clearly expressed concerns on various issues like, anti-conversion laws, violence against minorities, socio-economic conditions of minorities, impunity of security agencies, etc. However, despite such emphasis, not much has translated into meaningful transformations at

the ground level. For example: The government has made no substantial effort to maintain the disaggregated data with regard to communal violence, caste violence, related discriminations though this was recommended in the First Cycle (2008).

8 Recommendations to HRC for the UPR 2017 Process (Third Cycle)

- 8.1 The Government should issue an immediate advisory to the concerned (federal) states to repeal all the anti-conversion laws (promulgated as the 'Freedom of Religion Acts'). *Reconsidering the federal laws related to anti-conversions in context of freedom of religion was recommended by Germany, Italy, Austria, Netherland and the Holy See in the Second Cycle (2012).*
- 8.2 The Government should explicitly ensure equality of persons, especially Dalit Christians and Dalit Muslims as enshrined in the Constitution of India, and amend 'Para 3' of "The Constitution (Scheduled Castes) Order, 1950 [C.O.19]" - which restricts the Scheduled Caste benefits and protections to Hindus, Sikhs and Buddhists. The Constitution Order should completely delink the Scheduled Castes status from religion and make the Scheduled Castes fully religion-neutral like that of the Scheduled Tribes.
- 8.3 The Government should enact legislation on "the prevention of communal violence", to make the state machinery including politicians accountable for any damage control measures taken or not taken during the communal incidents. The government should also legally initiate transparent actions on individuals who incite violence. Victims of such violence and their dependants should be entitled to obtain prompt reparation from the state including restitution, fair and adequate financial compensation, and appropriate medical care, and rehabilitation, and fair trial. The domestic (national) law should be in conformity with India's obligations under the United Nations Convention⁵² on the Prevention and Punishment⁵³ of the Crime of Genocide⁵⁴, 1948 to which it is a signatory⁵⁵. *Enacting national legislation on the prevention of violence was recommended by Iran and the Holy See in the Second Cycle (2012).*

- 8.4 The Government should enact a special ‘witness protection’ law to protect the lives of witnesses associated with cases of communal incidents. Across the country, a large number of witnesses turn hostile in courts and conviction rates for communal crimes are low, and therefore there is a need to create legal provisions⁵⁶ for witnesses to feel secure so that justice is not compromised.⁵⁷
- 8.5 The Government should amend the “*Whistle Blowers Protection Act, 2011*” to also include human rights defenders, by enacting special instruments for their protection, with particular emphasis on those facing greater risks⁵⁸, including those working for the rights of minorities, Dalits, Adivasi, women, Transgender citizens, adults who choose inter-religious marriages, and Right to Information (RTI) activists. The existing Act does not provide penalties for attacking a whistle blower or a human rights defender. Further, it does not cover the state governments and the private sector. *Enacting a legislation on the protection of human rights defenders was recommended by the Czech Republic, USA, Norway and Germany in the Second Cycle (2012)*
- 8.6 The Government should ratify the ‘UN Convention against Torture (CAT)’ and ‘the International Convention for the Protection of All Persons from Enforced Disappearance’ and enact domestic legislations on the prevention of harassment, intimidation, torture and other ill-treatment of citizens, particularly the under-trials.⁵⁹
- 8.7 The Government should put in place an “equal opportunities” commission, to work towards the elimination of discriminations against various marginalised communities and ensure equality of opportunity. The equal opportunities commission should ensure that no minority community or social group is negatively discriminated⁶⁰ against on religious grounds. *Putting in place appropriate mechanisms with resources to ensure welfare and protection of the vulnerable sections was recommended by Ghana, Vietnam and Japan in the Second Cycle (2012).*

- 8.8 The Government should further strengthen the domestic (national) human rights bodies and minority protection institutions like the National Human Rights Commission (NHRC), National Commission for Minorities (NCM)⁶¹ and National Commission for Minority Educational Institutions (NCMEI)⁶². The government should provide more autonomy, powers and resources⁶³. The Government should ensure that the recommendations and decisions made by the Commissions are immediately made enforceable by both the central and state (federal) governments. It is essential that the Commissions function⁶⁴ as a 'complaints authority'⁶⁵ and maintain clear transparency and accountability to the citizens.
- 8.9 The Government should ensure fairness and inclusion in educational systems both at central and federal levels by strengthening human rights training in all educational institutions particularly in the context of religious harmony and pluralism. Special attention should also be given to teach the Constitution of India at multiple levels in the educational institutions of the country. *Strengthening human rights education to effectively address gender-based and caste-based discrimination was recommended by Italy in the First Cycle (2008) and by Japan in the Second Cycle (2012).*
- 8.10 The Government institutions like the National Human Rights Commission (NHRC), National Commission for Minorities (NCM), National Crimes Record Bureau (NCRB), National Commission for Scheduled Castes (NCSC), National Commission for Scheduled Tribes (NCST), etc at the national level, and state (federal) institutions like the State Human Rights Commission, State Commission for Minorities, etc should maintain disaggregated data on religious, ethnic, gender and caste violations including the victims of such violence, and ensure access to such data by citizens. *To maintain disaggregated data on caste and related discriminations were recommended by Belgium, Luxemburg and Canada in the First Cycle (2008) and by Mexico in the Second Cycle (2012).*

- 8.11 The Government should invite ‘the UN Special Rapporteur on Freedom of Religion or Belief’ at the earliest to visit India and facilitate his/her meetings with different stakeholders in the country to get an in-depth understanding of specific contexts and domestic practices, and also to provide constructive feedbacks on strengthening ‘the Freedom of Religion or Belief and Conscience’ in India.

ENDNOTES:

- ¹ India became a sovereign, democratic, republic after its constitution came into effect on 26 January 1950. The three words 'socialist', 'secular' and 'integrity' were added later with the 42nd Constitution Amendment 1976.
- ² Details available at <http://www.worldometers.info/world-population/india-population/>
- ³ Specific Provisions in Indian Constitution: Article 25(1), Article 26, Article 27, Article 28, Article 29(1), Article 29(2), Article 30(1), Article 30(2), Article 14, Article 15 (1) & (2), Article 15 (4), Article 16(1)&(2), Article 16(4)
- ⁴ Census of India 2011 available at <http://www.censusindia.gov.in/2011census/c-01.html>
- ⁵ In India “Right to Freedom of Religion” is a fundamental constitutional right which includes freedom of conscience and free profession, practice, and propagation of religion, freedom to manage religious affairs, freedom from certain taxes and freedom from religious instructions in certain educational institutes
- ⁶ Six religious communities viz, Muslims, Christians, Sikhs, Buddhists, Zoroastrians (Parsis) and Jains have been notified as “minority” communities by the Government of India
- ⁷ SC to consider whether NHRC is ‘Toothless Tiger’, *The Hindu*, 9 July 2016 available at <http://www.thehindu.com/news/national/supreme-court-to-consider-whether-nhrc-is-toothless-tiger/article8825289.ece>
- ⁸ “Corrosive Impunities”, Satish Deshpande, *The Indian Express*, 13 September 2016, available at <http://indianexpress.com/article/opinion/columns/una-flogging-dadri-lynching-rohith-vemula-dalit-atrocities-hindutva-bjp-rss-3027981/>
- ⁹ The word ‘communal’ or communal tendencies or communalism in the context of South Asia refers to conflicts between different communities, especially those having different religions or ethnic origins. This violence is generally against minority communities.
- ¹⁰ Ministry of Home Affairs, Government of India available at <http://mha1.nic.in/par2013/par2016-pdfs/ls-190716/35%20E.pdf>
- ¹¹ “Communal Incidents – NCRB contradicts Home Ministry yet again”, Rakesh Dubbudu 01 September 2016 available at <https://factly.in/communal-incidents-ncrb-contradicts-home-ministry-yet/>

- 12 A detailed study on “*the Discrimination and Violence against Christians and Muslims in India (2013–15)*” by the National Council of Churches in India (NCCI), September 2016 is attached as annexure-1 to this Joint Submission to HRC
- 13 Dalit means “broken-people” and are members of the “untouchable” castes in the traditional Indian caste system. Dalits form 16.6% of India’s population according to the 2011 Census.
- 14 Adivasi is an umbrella term for a heterogeneous set of ethnic and tribal groups considered the aboriginal population of South Asia. Adivasi make up 8.6% of India’s population or 104 million, according to the 2011 census.
- 15 More details available at http://www.business-standard.com/article/current-affairs/govt-muzzled-critics-failed-to-protect-minorities-report-116012800029_1.html
- 16 According to experts communal violence could have been controlled if the administrations took adequate measures to quell them. More details: “Misreading the Riot Act”, *Tehelka*, 30 October 2013 available at <http://www.tehelka.com/2013/10/misreading-the-riot-act/>
- 17 “Darkness At Dawn - The murders of Narendra Dabholkar, Govind Pansare and MM Kalburgi”, *The Caravan*, 1 August 2016 available at <http://www.caravanmagazine.in/reportage/darkness-dawn-dabholkar-pansare-kalburgi>
- 18 Case Study No 3.2 (Odisha) in annexed report – “*Discrimination and Violence against Christians and Muslims in India (2013–15) - A Study*”, Page35
- 19 “*Activists elated at Supreme Court’s Kandhamal ruling*”, Santosh Digal, 4 August 2016 available at <http://mattersindia.com/2016/08/activists-elated-at-supreme-courts-kandhamal-ruling/>
- 20 Justice (retd.) Vishnu Sahai Inquiry Commission set up to probe into the Muzaffarnagar violence had submitted its report in the UP government on 23 September 2015.
- 21 Case Study No 3.3 (Uttar Pradesh) in annexed report – “*Discrimination and Violence against Christians and Muslims in India (2013–15) - A Study*”, Page39
- 22 “*SC holds Akhilesh govt guilty of negligence, orders arrest of all Muzaffarnagar accused*”, 26 March 2014 *The Indian Express* available at <http://indianexpress.com/article/india/india-others/sc-holds-akhilesh-govt-guilty-of-negligence-orders-arrest-of-all-muzaffarnagar-accused/>
- 23 The Committee submitted its final report to the Prime Minister on 17 November 2006
- 24 “Sangham: How the RSS is charting out changes in education”, *India Express*, 23 November 2014 available at <http://indianexpress.com/article/india/india-others/sunday-story-sangham/>
- 25 Surya Namaskar literally means Sun Salutations. “Compulsory Surya Namaskar in Mumbai Schools a Ploy to Saffronise Education”, 25 August 2016 *The Wire* available at <http://thewire.in/61818/mandate-of-surya-namaskar-in-mumbai-schools-an-imposition-of-sanghs-saffron-agenda/>
- 26 “Complaint filed by Catholic association of Goa against compulsory surya namaskar in schools”, *Times of India*, 21 April 2013, available at <http://timesofindia.indiatimes.com/city/goa/Complaint-filed-by-Catholic-association-of-Goa-against-compulsory-surya-namaskar-in-schools/articleshow/19660024.cms>

27 Case Study No 3.4 (Goa) in annexed report – “*Discrimination and Violence against Christians and Muslims in India (2013–15) - A Study*”, NCCI 2016, Page44

28 Scheduled Castes (SC) is an official designation given to a group of historically disadvantaged indigenous people in India, also referred to as ex-untouchables or Dalits

29 Case Study No: 3.1 (Tamil Nadu) in annexed report – “*Discrimination and Violence against Christians and Muslims in India (2013–15) - A Study*”, NCCI 2016, Page32

30 Case Study No: 4.2 (Andhra Pradesh) in annexed report – “*Discrimination and Violence against Christians and Muslims in India (2013–15) - A Study*”, NCCI 2016, Page60

31 Case Study No 4.1 (Assam) in annexed report – “*Discrimination and Violence against Christians and Muslims in India (2013–15) - A Study*”, NCCI 2016, Page55

32 In the state of Assam, the voting rights of D-Voters were taken away, some were pitched into detention camps and their cases were referred to the foreigners’ tribunals set up by the state after the Assam Accord of 1985. D-Voters had to be cleared by these tribunals before they could be declared Indian citizens again. As of January 2014, there were about 1.43 lakh (0.14 million) D-Voters in Assam.

33 “Propagation without proselytisation: what the law says”, 21 December 2014, *The Hindu* available at <http://www.thehindu.com/sunday-anchor/propagation-without-proselytisation-what-the-law-says/article6711440.ece>

34 International Instruments against discriminations on the basis of religion or belief: (I) ICCPR: Art. 2 (1), Art. 5 (1), Art. 26, Art. 27, (II) ICERD: Art. 5, (III) ICESCR: Art. 2 (2), CRC: Art. 30, (IV) 1981 Declaration of the General Assembly: Art. 2 (1), Art. 3, Art. 4 (1), Art. 4 (2), (V) Commission on Human Rights Resolution 2005/40 No.4 (g), No.7, No.8, No.9, No.10, (VI) Human Rights Committee General Comment 22: Para 2

35 According to Pierre Bourdieu (1998), symbolic violence is an imposition of systems of symbolism and meaning upon groups or classes, accepted as legitimate. More details available at [http://www.ajssh.leena-luna.co.jp/AJSSHPDFs/Vol.2\(3\)/AJSSH2013\(2.3-18\).pdf](http://www.ajssh.leena-luna.co.jp/AJSSHPDFs/Vol.2(3)/AJSSH2013(2.3-18).pdf)

36 Communal clashes killed fewer people this year than in 2014, claims MHA report, *The Times of India*, 24 November 2015 available at <http://timesofindia.indiatimes.com/india/Communal-clashes-killed-fewer-people-this-year-than-in-2014-claims-MHA-report/articleshow/49900717.cms>

37 It also said that besides creating bitterness and communal harmony, such content in cyber-space led to violent protests and also resulted in fatalities and loss of property.

38 Jingoism serves as the ground for the operative ideology of communalism to advance a theory of the nationhood which is based on a common fanatic political consciousness of the majority community.

39 The concept of ‘Hindu-Rashtra’ (similar to ‘Hindu-nation’) is derived by clubbing a breed of fanatic Hinduism with jingoism.

40 “Ghar Vapasi” is a vague Hindu religious activity, organized by Hindu organizations like VHP, RSS and Arya Samaj, to convert Christians and Muslims to Hinduism. Ghar Vapasi literally means “Home Coming”.

41 “Love Jihad” is an alleged activity under which Muslim youth are said to reportedly targeting young girls belonging to non-Muslim communities for conversion to Islam by feigning love

42 Another idea from Hindutva lab: ‘bahu lao-beti bachao’ *The Indian Express* 27 December 2014 available at <http://indianexpress.com/article/india/india-others/another-idea-from-hindutva-lab-bahu-lao-beti-bachao/>

43 “‘Muslim Mukt Bharat’ row: Complaint filed against Sadhvi Prachi”, *Times of India*, 8 June 2016 available at <http://timesofindia.indiatimes.com/city/chandigarh/Muslim-Mukt-Bharat-row-Complaint-filed-against-Sadhvi-Prachi/articleshow/52657571.cms>

44 “Kairana migration probe has ‘exposed’ BJP claims: UP CM Akhilesh”, *The Indian Express* 21 June 2016 available at <http://indianexpress.com/article/india/india-news-india/kairana-migration-probe-bjp-akhilesh-yadav-2865557/>

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48 “Jayanta Mahapatra returns Padma Shri protesting ‘intolerance’”, *Hindustan Times*, 23 November 2015 available at <http://www.hindustantimes.com/books/jayanta-mahapatra-returns-padma-shri-protesting-intolerance/story-JRTZHWq1fjJClAEzoM3SoO.html>

49 One of the highest civilian awards the “Padma” awards were instituted in 1954 to be awarded to citizens of India in recognition of their distinguished contribution in various spheres of activity

50 UPR First Cycle (2008) had 6 Recommendations in the context of Freedom of Religion and Minorities issues. More details available at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/INSession1.aspx>

51 UPR Second Cycle (2012) had 16 Recommendations in the context of Freedom of Religion and Minorities issues. More details available at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/INSession13.aspx>

52 India also has a duty to try persons charged with genocide or any of the related acts, through “a competent tribunal” (Article VI). This duty clearly casts a further obligation to put in place or designate tribunals competent to try such persons.

⁵³ The prosecution should not rest exclusively at the discretion of the Government or a Government official, as is currently the case with the Geneva Conventions Act, 1960.

⁵⁴ India has recognised genocide as an international crime which it has "undertaken to prevent and punish" (Article I). India has undertaken to enact "the necessary legislation to give effect to the provisions" of the Convention, "and, in particular, to provide effective penalties for persons guilty of genocide or any of the other acts" related to genocide (Article V). The legislation should be such that all perpetrators of genocide; be they individuals, groups or the constitutional rulers, can without exception be readily punished.

⁵⁵ Since it acceded to the Convention in 1959, India has taken no steps to comply with the Convention obligations by effecting necessary changes in its internal law. Article 51 (c) of the Indian Constitution requires the state to endeavour to "foster respect for international law and treaty obligations". Keeping this in view, Article 253 mandates Parliament to make any law "for implementing any treaty, agreement or convention".

⁵⁶ Already the Law Commission of India had released a report on this matter after the Supreme Court emphasised the need for such legislation on the subject in 2006.

⁵⁷ In August 2014, the Madras high court expressed the need for at least statutory witness protection, given the low conviction rates and multiple instances of witnesses turning hostile.

⁵⁸ The terminologies used in the Act like victimisation, disclosures, etc should be clearly defined.

⁵⁹ As impunity enjoyed by policing institutions has fuelled violations, the prohibition of torture and other ill-treatment, and the essential safeguards for their prevention must not be suspended under any circumstances, including the state of war or other public emergency.

⁶⁰ It has to make binding recommendations that people from minority communities find adequate representation in both government and organised private sector employment as well educational institutions.

⁶¹ The National Commission of Minorities (NCM) has been in existence since 23 October 1993. Only eighteen federal states have set up State Minority Commissions in their respective states. More details available at http://ncm.nic.in/Profile_of_NCM.html

⁶² The National Commission for Minority Educational Institutions (NCMEI) was established on 11th November 2004. More details available at <http://ncmei.gov.in/>

⁶³ Supreme Court of India had in July 2016 observed that it did not augur well for a democracy like India to have a NHRC which was helpless to redress human rights violations as states seldom implemented its recommendations.

⁶⁴ This is particularly critical in cases of serious misconduct, including custodial death, grievous hurt, or rape in police custody, thereby ending the cultures of impunity and nourishing the culture of accountability. 35% of the complaints received by the NHRC annually are against the police.

⁶⁵ According to the NHRC-India submission to the HRC for India's Second Universal Periodic Review (2012). More details available at <http://www.nhrc.nic.in/disparhive.asp?fno=2523>