

1. Introduction

1.1 India is a Constitutional, Secular Democracy and its Constitution provides equal rights to all citizens, irrespective of religious, linguistic, regional, caste or any other identity. India's constitution also guarantees citizens the freedom of religion and conscience¹ and a host of minority rights define its secularism: linguistic and religious minorities have the right to preserve and nurture their culture, institutions, and modes of worship and being. Accordingly, the State also takes it as its responsibility to preserve, protect and assure the rights of minorities in matters of language, religion and culture.² This, along with a host of other charter to which India is signatory to; the Universal Declaration of Human Rights (UDHR), and the International Covenant on Civil and Political Rights (ICCPR), to name two- form the bedrock of India's commitment to constitutionalism, minority rights and the Freedom of Religion and conscience.

1.2 India is home to a vast plurality of religions, languages and cultures. Looking at the plurality from a religious point of view, as per the 2011 Census³, 79.80% of the total population are stated as Hindus by the state, including Dalits (16.5%) and Adivasis (8%), a colonial enumerations which is disputed⁴. All other religious communities are considered officially as minority groups: Jains [4.5 million, 0.37%], Buddhists [8.4 million, 0.70%], Sikhs [20.8 million, 1.72%], Christians [27.8 million, 2.3%], Muslims [172.2 million, 14.2%] and Others [0.9%] which includes Jews (less than 26,000), Zoroastrians (less than 1 million) and Baha'is (less than 400,000).

1.3 The concern addressed in this Report is the violation of rights of one religious minority – Muslims. Out of all religious minority groups, Muslims presently face the most severe violations pertaining to dispositions, discrimination, incarceration, hate, and even the withdrawal of citizenship rights. A focus on the targeting of Muslims clearly brings out what several studies have pointed out: The de facto majoritarianism of the Indian state, premised on the dispossession of minority rights.

2. Legally Sanctioned Persecution

2.1 During UPR 2017, India supported the recommendation on making continuous efforts for protecting religious freedoms, however, the government has either enacted new laws, or amended existing ones- making them more stringent, or used existing extraordinary laws and policies against religious minorities, especially Muslims. This has gone unquestioned by the judiciary, and occasionally found active support for the same.

2.2 In July 2019, the Muslim women (Protection of Rights on Marriage) Bill was passed by the parliament. This legislation essentially criminalises Triple Talaq by making it a criminal offence. Posed as human rights issue, the state encroached upon minority rights to personal laws while furthering an arena to possibly criminalize Muslim men.

- 1) In August 2019, the BJP government abrogated Art 370 of the Constitution that constituted the state of Jammu & Kashmir (J&K) as a Muslim majority state with a special status and protections under the Indian Union. With the Abrogation the state of J&K was divided into three union territories directly administered from Delhi, thus abolishing all parliamentary processes.
- 2) In 2019, The BJP government in Assam alongwith the Central government notified 1.6 million people, of which 1.1 million were Muslims, as doubtful citizens, thus stripping them of their citizenship and making them 'doubtful citizens' of the state. status and associated rights.
- 3) In August 2019, the Indian government amended UAPA, expanding the power of central government to notify individuals as terrorists, in addition to an organisation (Section 35 UAPA).⁵ The amendment,

pending constitutional challenge before the SC, predetermines guilt without due process. The amendment also empowers the NIA to attach properties acquired from proceeds of terrorism, which earlier had to be done with the permission of respective state police chief,⁶ another example of the agency's encroachment upon federal principles.⁷

- 4) In November 2019, the Supreme Court offered the long standing and disputed Babri Mosque to Hindu claimants to build a Ram temple, thus dispossessing Muslims of a land that has become symbolic of the Hindu nationalist movement.
- 5) In December 2019, the parliament passed the Citizenship Amendment Act, 2019. The Act amended the law to fast-track citizenship for religious minorities, specifically Hindus, Sikhs, Buddhists, Jains, Parsis and Christians, from Afghanistan, Bangladesh and Pakistan who entered India prior to 2015. The act excludes Muslims.
- 6) In UP, between November 2020 and August 2021, Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021 which replaced an Ordinance passed in November 2020, the UP police registered 108 cases.⁸ The government is known to have passed these laws with a view to curb what it calls 'love jihad', as was evident from public statements by BJP office holders,⁹ including the Chief Minister of UP.¹⁰ While no legal definition of 'love jihad' exists, it is popularly understood to connote forceful conversion of women from non-Muslim communities by Muslim men, who allegedly coerce these women into marrying them under the pretext of love.¹¹ An act of similar nature has been passed in 05 BJP ruled states. Currently, 10 States in India have passed anti-conversion laws,¹² which, though have been given a religion-neutral tenor, have been used to criminalise minorities.
- 7) In March 2022, the Karnataka High Court upheld the restriction on wearing Hijab in classrooms and educational institutions in Karnataka. The order enables outright discrimination against Muslim women in public institutions in Karnataka, and creates an unsafe atmosphere overall for hijab wearing women, rendering them vulnerable in a time of increased mob violence and repression.

3. Fundamental Freedoms, Right to Life & Liberty and Security of the Person

3.1 India is yet to ratify the Convention against torture, despite accepting the recommendation across three UPR's. Torture¹³ and CIDT,¹⁴ and arbitrary detention under counter-terrorism laws¹⁵ continue to be used by Indian police and military forces as a means to quell dissent against minority prisoners¹⁶. Latest government statistics point to a disproportionate presence of Muslims in prisons in relation to their population.¹⁷

- 1) In 2018, a total of 1,182 new cases were brought under Unlawful Activities (Prevention) Act [UAPA], a step up from 2017's 901 cases. Additionally, cases pending from previous years kept consistently growing every year since 2014 and reached almost 4,000 in 2018.¹⁸ The year 2019 witnessed the biggest jump in cases filed under the UAPA, as 1,226 people were arrested, a 33% increase from 2016. Only 155 of the 7,840 people arrested on charges of terrorism were convicted by the trial courts between 2014-19,¹⁹ which is less than 2%. The steep rise in anti-terrorism cases, in a time when government statistics report the lowest number of terrorism crimes, relate to the targeting of activists and minority and dissent under anti-terrorism laws.²⁰
- 2) During the anti-CAA protests in December 2019, in the State of UP, more than 1100 people were arrested and 5558 kept in preventive detention,²¹ including human rights defenders and lawyers. Police firing resulted in 23 deaths - all Muslims.²² Moreover, 41 Muslim minors were detained for longer than 24 hours, in violation of provisions of Juvenile Justice Act 2000 requiring their production before the JJ Board. They were also subjected to physical, psychological torture, and CIDT.²³

- 3) In February 2020 in North East Delhi, mosques,²⁴ businesses and houses of Muslims²⁵ were burnt by Hindu mobs. In its immediate aftermath, Delhi police arbitrarily detained Muslim youth from the localities afflicted with violence.²⁶ Victims who had filed complaints in local police stations, were subsequently implicated in rioting offences.²⁷ Moreover, 18 people, including HRDs who protested against CAA, have been booked by Delhi Police under UAPA, all but two of whom are Muslims, on the allegation that they were responsible for the violence. Out of these, 6 have been released on bail, while 12 continue to be in prison on the basis of controvertible²⁸ electronic²⁹ and oral³⁰ evidence, compounded by stringent bail conditions under UAPA.

4. Hate Speeches and Communalism Against Muslims in India

4.1 Since 2014, incidents of hate speech show an increase by 500% in India, most of them attributable to BJP politicians, and directed at Muslims³¹. 91% of the hate crimes have also occurred in the same period, and primarily on the grounds of religious bias³². Analysis of hate speech and crimes and its link with the BJP also shows the emergence of religious animosity in federal states with little or no previous records- once the BJP formed government in those states³³.

4.2 The prevalence of Hate Speech can be gauged by the recent three-day public conference where members of the ruling BJP and associated Hindu militant groups openly called for genocide of Muslims and advocated the atrocities committed against Rohingya Muslims in Myanmar as a model which should be followed.³⁴ On a more local level, in the backdrop of elections in the state of Uttar Pradesh, several Members of Legislative Assembly (MLAs) passed communal remarks and called for violence against Muslims during election rallies.³⁵

4.3 Authorities have been severely reluctant in taking any action against the perpetrators and the Government has retained a deafening silence on the issue.³⁶ The police authorities have shown extreme reluctance in charging those accused for making hate speeches in the Delhi Violence.³⁷ Courts have also passed verdicts with absurd reasoning to protect the rights of those who spread hate speech.³⁸

5. Violence Against Muslim Women

5.1 Violence against Muslim women has taken a planned and a measured turn since the last few years. During the North East Delhi Pogrom in 2020, as well as during anti-CAA protests, Muslim women were sexually harassed and physically attacked by the Hindutva mob, and the Delhi Police.³⁹ Women who had visible markers of 'Muslimness' were attacked even more, including hijabs and burkhas being pulled off.

5.2 In July 2021, photographs and details of prominent Muslim women who are journalists and activists were taken from their social media accounts, and placed on a web application called, 'Sulli Deals'⁴⁰ for online auction. Several complaints were filed by the affected women in different parts of the country; however, the investigation was not carried out properly and no arrests were made.⁴¹

5.3 In January 2022, a similar app called, 'Bulli Bai'⁴² was created for auctioning 100 Muslim women. The application was functional for over three months in Hindu right wing groups, but only publicly released on the 1st January 2022. The code used for the creation of this application suggests that it was the same code as Sulli Deals.⁴³ In the chargesheet filed by Mumbai Police on the same, it was stated that arrested individuals belong to the 'TRAD' Hindutva right wing groups. [6] On 29th March 2022, two of these individuals were given bail on 'humanitarian grounds' by a Delhi Court.

5.4 In January 2022, as colleges started to reopen after Covid 19 imposed lockdown, six Muslim students were denied entry in their government Pre-University (PU) college in coastal Karnataka as they were wearing hijabs. This soon spread to around sixty-seven colleges in Karnataka, leading to protests by Muslim girls, some of them minors. In several districts, the girls faced harassment and heckling by the media, Hindutva vigilante groups, and

college administration. In some cases, even their family members faced harassment and attacks. In February 2022, a 19-year-old Muslim woman student in Mandya district, Karnataka faced a crowd of Hindutva men who heckled and harassed her with chants of Jai Shri Ram, as she was on her way to college in a burkha. In March 2022, an 18 year old Muslim woman who resisted Akhil Bharatiya Vidyarthi Parishad (student wing of ruling BJP Party) members on her college gates, denying her entry as she was wearing a hijab was booked by the Karnataka police under criminal charges.

As the Karnataka High Court passed an interim order, more than 400 Muslim women have not been able to appear for their examinations or attend classes.⁴⁴ Even though the order does not apply to teachers, more than 7 Muslim women teachers have also been suspended for wearing hijabs and burkhas in educational institutions. The violence against Muslim women have taken a sharp rise in the country, as in other states as well, physical attacks on visibly Muslim women have risen in 2022.⁴⁵

6. Hate Crimes Against Muslims in North East India

6.1 In the state of Assam, currently the government is running six detention centres which have the capacity to detain more than 3000 individuals. Between 2016 and 2022, a total of 31 individuals have died in detention centres, out of which, 14 are Muslims.⁴⁶ In Assam, a 45 day old Muslim infant also died inside the detention centre.⁴⁷ In September 2021, in Darrang district, the Assam state police carried out mass evictions as those living in these mud houses were termed, 'Illegal Bangladeshis.' In this process, 800 families were evicted, all of them Muslim. The police action led to the killing of a 12-year-old Muslim boy, Sheikh Farid.⁴⁸ It also led to the killing of a 33-year-old daily wage labourer, Moinul Haque. After his killing, the police also razed his family house. A photographer associated with the district administration was also seen jumping on Moinul Haque's body in media visuals. This was carried out after all these individuals went through the two- year long process of proving themselves to be Indian citizens, and were declared citizens by the state.⁴⁹

6.2 In October 2021, the Vishwa Hindu Parishad (VHP) took out violent rallies in the state of Tripura. The Hindu crowds attacked, and vandalised 16 mosques in the state,⁵⁰ and several shops owned by Muslims were burned down.⁵¹ Religious books, including the Quran were also burned by the crowd.

7. Socio-Economic Exclusion of Muslims

7.1 From 2019 to 2022, the hate crimes database [DOTO](#) recorded 103 such incidents in different parts of India, including several instances of housing discrimination⁵², educational discrimination⁵³ and Hindutva-affiliated groups organising targeted neighbourhood-level boycott of Muslim traders, hawkers and shops.⁵⁴

7.2 There was also increased vitriol against Muslims during the covid induced lockdown in March 2020 which can be directly linked to the ruling BJP. The party's IT Cell⁵⁵ circulated propaganda videos portraying Muslims licking utensils, sneezing/spitting on food items for sale, and physically assaulting medical personnel, insinuating that Muslims were deliberately attempting to infect others with Covid-19.⁵⁶ Hindutva outfits called for them to be "shot dead" and BJP ministers enforced a social and economic boycott of the community,⁵⁷ and a refusal to extend covid treatment. Immediately following an Islamic congregation in mid-March 2020⁵⁸, top BJP leaders and politicians labeled the congregation as "terrorist", "talibani" and an act of "Islamic insurrection".⁵⁹

8 Recommendations

8.1 Reform of Domestic Legislation

- Repeal the discriminatory and unconstitutional anti-conversion laws in the states of Uttar Pradesh, Madhya Pradesh, Chhattisgarh, Odisha, Gujarat, Maharashtra, Haryana, Himachal Pradesh and Jharkhand that discriminate against religious minorities and criminalize inter-faith marriage.
- Enact a comprehensive law for the protection of religious minorities from discrimination in

education, employment and housing.

- Ratify the U.N. Convention Against Torture. Allow a country visit to India by the U.N. Special Rapporteur on Torture.
- Repeal the UAPA and NIA Acts which make provisions for indefinite denial of bail, secret witnesses, warrant-less search, seizure and arrest, 180-day detention without being charged and the treatment of ordinary financial misdemeanors as terrorist offences, and encroach upon principles of federalism.
- Repeal the AFSPA and the PSA, as well as bring amendments to the National Security Act to ensure that preventive detention laws are strictly brought within the purview of judicial scrutiny.

8.2 Addressing Accountability and Impunity

- Investigate and prosecute government officials, political leaders, and others who incite and are involved in acts of hate speech and violence. Setup an inquiry into the activities of RSS-BJP affiliates and other Hindutva groups who are involved in acts of incitement to violence and genocide against religious minorities.
- Create an independent commission of enquiry to investigate the extent of malicious prosecution and prejudiced proceedings under UAPA, MCOCA, NSA and PSA.

8.3 Rehabilitation of victims and survivors

- Provide rehabilitation through employment commensurate with qualifications to victims of illegal detention and torture, and create national policy to pay adequate financial compensation to such victims and to the family of those killed in fake "encounter killings".
- Create a national policy for providing financial compensation, a certificate of character and rehabilitative employment to individuals who have been wrongfully accused and subsequently acquitted of terrorism.
- Create a scheme for rehabilitation and compensation of the survivors of hate crimes and their families.

8.4 Reform of the National Human Rights Commission

- Amend the statute to empower NHRC to investigate encounter killings, custodial torture and other forms of human rights violations by law enforcement agencies and prison authorities, and make its findings and recommendations for prosecution legally binding.
- Reduce politicisation of the NHRC by requiring a transparent appointments process that includes public hearings and participation from civil society groups.
- End the NHRC practice of using serving or retired police officers on investigative teams and create a legal mandate for the NHRC to train and develop a cadre of its own officers that specialise in the investigation of human rights violations.

¹ The Preamble to the Constitution of India reads, "*We, the people of India, having solemnly resolved to constitute India into a sovereign, socialist, secular, democratic republic and to secure all its citizens justice – social, economic and political; liberty of thought, expression, belief, faith and worship, equality of status and of opportunity; and to promote among them all fraternity assuring the dignity of the individual and the unity and integrity of the nation...*"

² Articles 25 to 30 of the Constitution – Article 25: Every citizen of India has the freedom to profess, practice and propagate his/her own religion, subject to public order, morality and health; Article 26: Religious groups or denominations are given four rights – right to establish and maintain institutions for religious and charitable purposes, to manage its own affairs in matters of religion, to own and acquire movable and immovable property, and to administer such property in accordance with law; Article 27: No citizen will be compelled by the state to pay any taxes for promotion or maintenance of particular religion or religious institutions; Article 28: No religious instruction would be

imparted in state funded educational institutions; Article 29: The state shall not impose on a minority community any culture other than its own; and Article 30: Grants the minority communities the right to establish and administer their own educational institutions.

³ Census of India 2011 available at: [Religion Data - Population of Hindu / Muslim / Sikh / Christian - Census 2011 India](#)

⁴ Suraj Yengde, Adivasis are Not Hindus. Lazy Colonial Census Gave them the Label, (March 9, 2021): <https://theprint.in/opinion/adviasis-are-not-hindus-lazy-colonial-census-gave-them-the-label/618051/>

⁵ Unlawful Activities (Prevention) Act 1967 <<https://egazette.nic.in/WriteReadData/2019/210355.pdf>>

⁶ President gives assent to amendments to UAPA; individuals can now be declared as terrorists, Economic Times (2019)

<<https://economictimes.indiatimes.com/news/defence/president-gives-assent-to-amendments-to-uapa-individuals-can-now-be-declared-as-terrorists/articleshow/70603448.cms>>

⁷ Abdul Khader Kunju, S.Explainer: Here's How Handing Over UAPA Cases to NIA Affects the Federal System, The Wire (2020) <<https://thewire.in/government/uapa-nia-act-centre-state>>

⁸ Bismee Taskin, 1 year of UP anti-conversion law — 108 cases, chargesheet filed in 72, 'lack of proof' in 11, The Print (November 2020) <<https://theprint.in/india/1-year-of-up-anti-conversion-law-108-cases-chargesheet-filed-in-72-lack-of-proof-in-11/770763/>>.

⁹ Ministers of 5 BJP ruled States had recently issued public statements about their plan to introduce laws to prevent 'love jihad'. 'Love Jihad' Laws: What Are the Five BJP-Ruled States Planning?, The Quint (November 2020) <https://www.thequint.com/news/india/love-jihad-laws-what-are-the-5-bjp-states-up-mp-karnataka-haryana-assamplanning#read-more>

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¹⁰ Yogi's love jihad warning: 'Your Ram Naam Satya journey will begin if you don't mend ways', Indian Express (October 2020)

<<https://indianexpress.com/article/cities/lucknow/yogi-adityanath-love-jihad-law-uttar-pradesh-6911537/>>

¹¹ Right wing groups in India have used the ban on conversion as a legitimate cover for harassing Muslims. This legitimacy is derived from laws that ban religious conversion, and have come to be used as a tool to criminalise religious minorities. See USCIRF 2013 Annual Report (2013) <https://perma.cc/2QJX-KLEB>

¹² Shweta Velaudhan, Shreyam Sharma, Anatomy of Anti-Conversion Laws – Part I, The Leaflet (March 2022)

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¹³ Atman Mehta, New Report Cites 432 Torture Cases In Kashmir From 1990-2017, 70% Victims Civilians, Indiaspend (September 2019)

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¹⁴ Citizens Against Hate, The Dismantling of Minority Education (November 2020) <https://citizensagainsthate.org/wp-content/uploads/2020/12/Dismantling-of-Minority-Education-Violence-against-JMI-and-AMU.pdf>

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¹⁶ Leah Verghese, NCRB 2019 data shows 165% jump in sedition cases, 33% jump in UAPA cases under Modi govt, The Print (October 2020), <<https://theprint.in/opinion/ncrb-2019-data-shows-165-jump-in-sedition-cases-33-jump-in-uapa-cases-under-modi-govt/521861/>>

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¹⁸ Katharina Buchholz, Number of Active UAPA Cases on the Rise, Statista (Sep 2020) <<https://www.statista.com/chart/22931/number-of-active-cases-uapa-india/>>

¹⁹ Rahul Tripathi, Below 2% of those arrested under UAPA convicted in 2015-19: NCRB, Economic Times (June 2021)

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²⁰ See, Assessments by South Asia Terrorism Portal, <<https://www.satp.org/terrorism-assessment/india-islamistotherconflicts>>

²¹ Anti-CAA protests: 1,113 arrests, 5,558 preventive detentions, 19 dead in UP, Time of India (December 2019)

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²³ Anthony Rozario, CAA Protests | UP Cops Beat Detained Children for Sleeping: Report, The Quint (February 2020)

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³³ Ibid.

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