

MINORITY RIGHTS VIOLATIONS IN INDIA

A Report By
Alliance for Justice & Accountability

Endorsed By
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Executive Summary

India's diversity and traditional ethos of tolerance has been marred by hostility and hate along caste and religious lines. Millions of Dalit or "lower" castes and Adivasis (the indigenous tribal people) have suffered centuries of systemic repression, exclusion and stigma at the hands of "upper" castes. The same forces that have perpetuated caste discrimination are also spearheading India's seemingly relentless drift away from secularism and religious pluralism, especially over the course of the last three years. In 2016, a global index of human rights and social and religious freedoms by Pew Research Center placed India among the worst 10 of the world's 198 countries when judged for "social hostilities."

The situation of religious minorities in India has seen a steady decline during much of independent India's history, on account of their cynical manipulation by various political parties, as well as the onslaught of a hateful and divisive ideology that has sought to impose Hindu political and cultural hegemony. The victory of the Bharatiya Janata Party (BJP) in India's national elections in May 2014 brought to power a party that has openly espoused Hindutva, an ultranationalist ideology marked by extreme animus towards Muslims, Christians and other religious minorities. While votaries of Hindutva are actually a minority among Hindus, the BJP rode to power on promises of inclusive development, while also satisfying their core base of Hindu supremacists led by the RSS and its many affiliates. The result, over the last three years, can only be termed as an assault on human rights and religious freedom of minorities that is shocking both in its intensity and its brazenness.

The human rights violations of religious minorities cover a broad spectrum, from illegal detention, torture and fake encounter killings of detainees to open assault against individuals, their sources of livelihood and in many cases their places of worship. Hundreds of Muslims have been arrested on trumped up charges of terrorism, and have spent several years in prison before being finally acquitted. Laws curbing religious conversion, the ban on sale and possession of beef in many states and the curbs placed on NGOs represent the state's response to forced conversions, the brutal violence of "cow protection" groups and the harassment and intimidation of human rights defenders respectively. In all cases, the state has become an enabler of repression, often going to great lengths to defend and normalize the abuse.

While multiple international bodies have called out the RSS and its affiliates for their violence and extremism, Hindutva's stranglehold on Indian polity continues to tighten. The culture of impunity that has taken hold in India bodes ill for the rule of law, and for India's continued ascendancy on the world stage. The international community has an obligation to take cognizance of human rights violations in India and to influence the Indian government to take necessary steps to safeguard the rights of Dalits, Adivasis and religious minorities.

Historical Background

Social Exclusion

Human rights abuses of social and religious minorities have occurred arguably throughout human history. In India, the religious, social and ethnic diversity of its populace has often been challenged by practices of systematized oppression of its most marginalized and disadvantaged sections, including Dalits, Adivasis (the indigenous tribal people), other oppressed castes and religious minorities. The infamy of India's caste-based discriminatory system that is akin to apartheid, and concomitant evils like untouchability and religious bigotry, not only exist to this day, they threaten to exacerbate India's rapidly widening caste and class divide and an environment of increasing intolerance towards religious, caste, and gender minorities.

One of the results of such deeply entrenched social repression, especially for the victims at the lowest rungs of the caste "apartheid", has been their exclusion, rejection and debilitating poverty, a state of affairs that many in the "upper" castes are comfortable perpetuating. Extreme violence, including against women and children, forms a bulk of the history these victims have ever known. This violence is key to maintaining the social hierarchy of caste apartheid, as many caste crimes are reprisal acts aimed to keep Dalits and others in their place.

The Indian Constitution that came into effect in 1950 incorporated many Constitutional guarantees and legislations to end discrimination and affirm equality for the former "untouchables", now called Dalits and officially known as the Scheduled Castes. However caste apartheid has continued because of a culture of impunity and a lack of political will of several administrations to implement the rule of law to protect Dalits and ensure the freedoms to engage in society. This impunity has grown to include all who are vulnerable and therefore exploitable within Caste apartheid. This includes Dalits, Adivasis and other religious and gender minorities.

Religious Animus

Over time, the "upper" castes' animosity towards the Dalits and Adivasis also extended to Muslims and Christians, who are today India's second and third largest religious minorities respectively, not least because millions of Dalits and other lower castes have chosen to convert in a bid to escape their exploited fate under Hinduism. They have converted to Buddhism, Islam, Christianity, Sikhism, or Ravidassia communities as a form of resistance and resilience. For the historical record is clear, caste has its origins in Hindu scripture, while other faiths either formed in direct resistance to caste or

represented faiths that provided a safe space of dignity and respite from the violence. The architect of India's Constitution, Dr. B. R. Ambedkar, a Dalit, himself had converted to Buddhism, and exhorted fellow Dalits to do the same.

That spillover animosity towards these religious minorities continues to this day. From well before India's freedom, social and political forces representing sections of Hindu "upper" castes have relentlessly demonized India's Sikhs, Muslims, and Christians for their faiths. India's Partition that created a Muslim-majority Pakistan in the wake of massive killings of both Hindus and Muslims, worsened attitudes towards the Muslim and Sikh minorities in India. Discriminatory treatment of the Hindu minority in Pakistan also exacerbated inter-religious tensions within India.

While there are countless examples of interfaith harmony among the masses, the relentless demonization of Muslims, Sikhs, and Christians by Hindutva supremacists (who are actually a minority, albeit a powerful one, among the Hindus) has often resulted in mass violence against both communities, often engineered to affect specific outcomes in local or national elections. Over the decades, the Hindu supremacists have developed a politico-religious ideology that has come to be known as Hindutva, as distinct from Hinduism, the religion.

This ideology of Hindutva has now becoming a rallying cry for repeated attacks against both communities across India. Mass violence against Muslims has abounded, such as the killing of over 2,000 Muslims 15 years ago in Gujarat state, ruled then by Narendra Modi who is now India's Prime Minister. Muslims are constantly under attack in myriad other ways also.

Hindu supremacists have similarly terrorized the Christian laity and clergy alike, deploying physical attacks, rapes and murders, vandalizing churches and private properties. The Hindu supremacists' campaign against Christians has made another Indian minority vulnerable: the Adivasi, who are officially called the Scheduled Tribes.

Historically, outside Hinduism, sections of the Adivasis have over time converted to Christianity. Seeing this as a threat, Hindu supremacists are using violence and intimidation to convert these Adivasis to Hinduism as also prevent their conversions to Christianity. The supremacists have also long run hate campaigns against India's only Christian-majority regions in its northeast, where a large number of Dalits too, have been targeted for converting to Christianity.

March Towards Neo-Fascism

It is no secret that the Rashtriya Swayamsevak Sangh (RSS), a Hindu ultranationalist organization set up in 1925, is the fountainhead of Hindu supremacism and anti-minority politics. Its ideologues, leaders and rank and file have openly touted their goal of creating a "Hindu" India where non-Hindus would have second class status

with fewer rights and freedoms. Most anti-minority campaigns over the decades can be directly or indirectly traced to the RSS and its various affiliates, or to a few other organizations ideologically affiliated to it. Even so, avowedly secular parties formed the federal governments for much of free India's early decades and thus at least expressed commitment to upholding the Constitution's secular mandate.

The RSS's political influence began rising as its political wing, the Bharatiya Janata Party (BJP), began improving its electoral performance in the late 1980s. In 2014, Mr. Modi led the BJP to a dramatic win in national elections, bringing it its first-ever parliamentary majority. The BJP now also rules 13 of India's 29 states and is a partner in the governments in two more.

This unprecedented success of the BJP has provided a tremendous fillip to Hindu supremacist forces who form a significant portion of its base. The latter's attacks on religious minorities have amplified. State agencies, including law enforcement and the bureaucracy are Constitutionally mandated to act against such bigotry and supremacism. Alarming, these institutions are now under the control of the very Hindu ultranationalist forces who have run anti-minority campaigns.

As it were, the record of India's law enforcement and security agencies, including that of India's military when deployed against domestic insurgencies, has been far from exemplary, and allegations of human rights violations against them have been as old as the republic. However, their relative inaction in the face of persecution of minorities has virtually spawned impunity for perpetrators. Increasingly, the State appears to be complicit in the burgeoning hate agendas.

Our Report

It is in this context that various civil society organizations that are working to uphold pluralism and human rights in India have come together to prepare this report on the "State of Minority Rights in India" under the BJP-led federal government, which completes three years on May 26, 2017.

Spectrum of Violations

Human rights abuses against India's social and religious minorities have been on the ascendance since the BJP government came to power. This grim reality is already being acknowledged within India as well as internationally.

The "International Religious Freedom Report"¹ of the U.S. Department of State released in August 2016 notes occurrences of "religiously motivated killings, assaults, riots, coerced religious conversions, actions restricting the right of individuals to change religious beliefs, discrimination and vandalism. Incidents [targeting Christians] included assaults on missionaries, forced conversions, and attacks on churches, schools, and private property. Attacks by Hindus on Muslims [were] due to alleged cow slaughter [and] their traditional livelihoods selling beef."

The U.S. Commission on International Religious Freedom (USCIRF) noted in a report titled "Constitutional and Legal Challenges Faced by Religious Minorities in India"² that "religious freedom violations" had increased and "religious tolerance" had decreased in India. Indian authorities have used "repressive laws to curb freedom of expression and silence critics," a report from Amnesty International says³. "Human rights defenders and organizations continued to face harassment and intimidation." It said Dalits and adivasis face "widespread abuses" with official statistics from August 2016 showing that more than 45,000 crimes committed against the Scheduled Castes and almost 11,000 against the Scheduled Tribes.

The situation in conflict-ridden regions such as Jammu and Kashmir and Chhattisgarh states have worsened. In August 2016, UN High Commissioner for Human Rights Zeid Ra'ad al-Hussein regretted that India had refused a fact-finding mission from his office access to Kashmir, where security forces are accused of gross human rights abuses.⁴

Not all attacks on the minorities were by non-State actors. The U.S. Department of State report notes the police have "disrupted church services and arrested Christians on charges of forced conversions and disturbing the peace... Government officials at the federal, state, and local level [have] made discriminatory statements against members of religious minority groups."

In its report⁵ on the status of human rights in India in 2016, Human Rights Watch said "limits on free speech" and attacks on religious minorities, being carried out by those who claim to be supporters of the BJP, are an "increasing concern" in India. "Students were accused of sedition for expressing their views; people who raised concerns over challenges to civil liberties were deemed anti-Indian; Dalits and Muslims were attacked on suspicion they had killed, stolen, or sold cows for beef; and NGOs came under pressure due to India's restrictive foreign funding regulations," it said.

The EU's "Annual Report on Human Rights and Democracy in the World"⁶ that the European Council adopted in September 2016 said "deeply entrenched societal practices" that affirmative action alone cannot overcome are the "root cause" of India's human rights violations. Also in 2016, a global index of human rights and social and religious freedoms by Pew Research Center placed India among the worst 10 of the world's 198 countries when judged for "social hostilities."⁷ In that list it gave company to Nigeria, Pakistan, Syria and Afghanistan.

In March 2017, at an interactive dialogue at the UN Human Rights Council at Geneva, Special Rapporteur on Minority Issues Rita Izsák-Ndiaye quoted The Advocates for Human Rights, a U.S.-based legal resource center for human rights with a global footprint, to emphasize that communal violence in India had increased and that "attacks against Muslims had been encouraged by political leaders, and law enforcement agencies fabricated terrorism cases where Muslims were often targets."⁸ The Indian government is yet to allow a visit by her to India.

Earlier, in June 2016, three UN Special Rapporteurs in charge of human rights defenders, freedom of expression and freedom of association, took the extraordinary step of issuing a joint statement saying they were "alarmed" that provisions of the law governing foreign funding of NGOs was being used "more and more to silence organizations involved in advocating civil, political, economic, social, environmental or cultural priorities" differing from the government's.⁹

The BJP government's own figures released last year showed that the trajectory of violence against the minorities has been on the rise. Incidences of religious violence jumped 17% in 2015 over the previous year, as 97 people were killed and over 2,200 injured. Moreover, government data does not even track incidents of more low-key violence, such as torture, harassment, lynching by cow protection militias, violence related to anti-conversion laws, etc.¹⁰

States that have significant instances of communal violence are Uttar Pradesh, Bihar, Maharashtra, Madhya Pradesh, Karnataka, and Gujarat, of which four are BJP ruled. The Government of India has not demonstrated a sense of urgency to adequately investigate and effectively prosecute perpetrators of human rights violations against members of minority groups. If anything, the government's actions seem to actually protect the perpetrators.

In a bid to end impunity, the previous Indian government had in 2011 introduced in Parliament a Prevention of Communal and Targeted Violence (Access to Justice and Reparation) Bill with a view to criminalizing "any act or series of acts, whether spontaneous or planned, resulting in injury or harm to the person and or property, knowingly directed against any person by virtue of his or her religious or linguistic identity."¹¹ However, the BJP had opposed the bill then and it was ultimately dropped.

Police and Security Forces

Most state violations are by law enforcement agencies, notably the police. Since the BJP formed the federal government in 2014, there has been an uptick in the practice by the police and law enforcement of arbitrary and unlawful detention; torture, and cruel, inhuman and degrading treatment of terrorism suspects in police custody; extrajudicial killings; harassment of human rights defenders at the behest of the political executive; framing and arrests of innocents from the social and religious minorities; and fabrication as well as destruction of evidence.

Even as attacks by Hindu vigilantes on Muslims and Christians have ratcheted up, police across India are pushing back against the demand to act against the perpetrators. Perversely, the police, who are often in collusion with the attackers, file cases against the very victims of such attacks to both intimidate those victims and muddy what are clearcut cases of hate crimes. Further survivors are now saddled with a struggle to both clear their names and bring their attackers to justice.

The U.S. Department of State report says corruption in the police and security forces has “contributed to ineffective responses to crimes, including those against women, children, and members of SCs or STs; and societal violence based on gender, religious affiliation, and caste or tribe.” It notes the prevalence of “disappearances, hazardous prison conditions, arbitrary arrest and detention, and lengthy pretrial detention.”

According to The Hindu newspaper, nearly 36,000 cases were registered against the police with the National Human Rights Commission (NHRC), an autonomous statutory body, during 2015-16, “a figure that experts say is highly under-reported.”¹² The newspaper found that only 94 first information reports (FIRs) were registered in 2015 against the police for human rights violations, according to data from the National Crime Records Bureau (NCRB).

In the Adivasi-majority Chhattisgarh state, where outlawed Maoists have mounted an armed insurgency for decades, allegations of brutalities and excesses by police and paramilitary forces against innocent Adivasis (tribals) have sharply gone up over the past three years. Within days of Mr. Modi becoming Prime Minister, an officer earlier removed as police chief in an insurgency-ridden district for alleged excesses against innocent people was redeployed in the same area at a higher position.

In January 2017, the NHRC said there was prima facie evidence that Chhattisgarh policemen had raped and sexually assaulted at least 16 women in the state, and possibly 20 more, in three separate incidents during 2015 and 2016, thus “grossly” violating the human rights of the women. It said the state was “vicariously responsible” for the conduct of the policemen.¹³

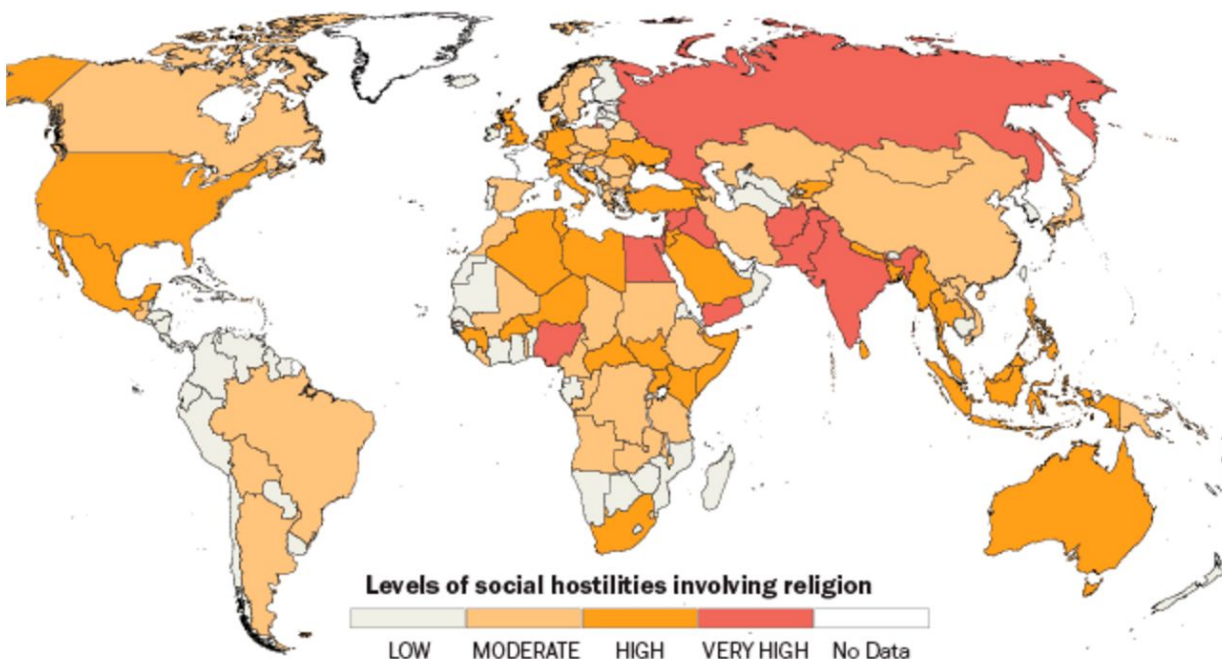
Chhattisgarh Police have claimed to have killed 133 “Maoists” in 2016, the highest number for any calendar year of the 21st century.¹⁴ But human rights defenders from the region have dismissed those claims saying the police have murdered only innocent people. Human Rights Watch says “impunity for police and security forces [has] largely continued amid new allegations of torture and extrajudicial killings, including reports of sexual assault” in Chhattisgarh.

Attacks by security forces in Muslim-majority Kashmir, where a secessionist insurgency has raged for nearly three decades, too, have increased sharply. In July 2016, mass protests broke out in Kashmir after the killing of a popular young militant leader the government deemed a terrorist. Security forces responded by killing over 90 people, at least 10 by birdshot or pellets, which have also blinded hundreds of Kashmiris. The region saw the longest curfew in its history.

Despite widespread national and international criticism of their use of lethal birdshot, the Central Reserve Police Force, a paramilitary unit, told the Jammu and Kashmir High Court that “it was difficult [for it] to follow the standard operating procedure given the nature of the protests.”¹⁵

Social hostilities involving religion around the world

Level of social hostilities involving religion in each country as of December 2015



Source: Pew Research Center analysis of external data. See Methodology for details.
“Global Restrictions on Religion Rise Modestly in 2015, Reversing Downward Trend”

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Torture, Illegal Detention and Extrajudicial Killings

The most egregious human rights violations perpetrated by the police include illegal detention of suspects and torture of detainees, arrestees and convicts, as well as extrajudicial killings, called “encounter killings.” These “encounter killings” are staged by the police who insist that those killed had taken the first shot. Not only have torture and the killings spiraled, the government has refused to act against their perpetrators.

In November 2016 a detailed HRW investigation into nearly 600 custodial deaths from 2010 through 2015 reported that the “police used sexual abuse, forms of waterboarding and beatings with a ‘truth-seeking belt’”.¹⁶ No police officer accused of those killings has been convicted.

Extrajudicial Killings

One of the most prominent cases of extrajudicial killings with multiple fatalities occurred in Madhya Pradesh state on October 31, 2016 when police killed eight suspected members of an outlawed organization of Muslim students claiming that they had murdered a prison guard and escaped from a high-security prison. After the NHRC issued a formal complaint against the state government, police, and prison authorities, expressing concern about deaths, the Madhya Pradesh police appointed a special investigation team to investigate the killings.

In July 2016, security forces shot dead five people, including an infant, in the Kandhamal district of Odisha, a state that has long seen both violent and nonviolent protests against the government’s appropriation of farmlands for industry. Security forces claimed the deaths had occurred during crossfire in an encounter with the outlawed Maoist groups. Human rights defenders said there is reason to believe the victims had been shot in cold blood.

In another case, involving one of the largest number of fatalities in decades, police in the Andhra Pradesh killed 20 woodcutters in April 2015 claiming they had fired in self-defense, but the evidence suggested the victims had been unarmed and had been tortured before their deaths. A special probe, conducted by the police themselves, said the “complaint [of fake encounter] was false” and closed the investigation.

Just a day apart police in the adjoining Telangana state killed five terrorism suspects while bringing them to a court hearing. The police claimed the victims snatched weapons from the guards and opened fire at them, prompting the latter to fire in self-defense. But photographic evidence suggested the victims were handcuffed, tied to their seats and the weapons planted on their bodies.

The U.S. State Department's report on human rights in India notes that the NHRC registered 104 police "encounter deaths" in 2015. "The Bombay High Court [also] addressed a two-fold rise in reported custodial death and police torture cases [in Maharashtra] from 2014 to 2015 and directed the Maharashtra government to submit a report to the court," the report said.

In a historic ruling in July 2016 the Supreme Court of India ordered an investigation into 1,528 extrajudicial killings in Manipur state in the northeast over decades.¹⁷ It ruled that an indefinite deployment of the Armed Forces (Special Powers) Act (AFSPA) "mocks India's democratic process." AFSPA has been in operation for six decades in some places. It provides immunity to the security forces when they kill civilians.

The government had strongly opposed the petition that had sought such an order from the court. In their arguments government lawyers defended the killings saying they were "part of the sovereign function discharged by the Union of India through the army."¹⁸ The government and the security forces have maintained the "encounters" were genuine and cannot be prosecuted.

The federal as well as the state governments have virtually ignored a directive from the Supreme Court given in September 2014 establishing a 16-point set of guidelines for encounter killings.¹⁹ The court said that regardless of the circumstances of death in an encounter, officials must file an FIR (police report) immediately and conduct independent investigations. The court barred out-of-turn promotions or awards for those policemen until the that inquiry was over. The guidelines are observed more in their breach than in their adherence. Probes lead to dead ends.

Custodial killings, rampant across India for decades, have also seen an uptick in India. And these are without doubt a consequence of torture by police officers and prison officials. In another set of guidelines, the Supreme Court of India has made it mandatory to medically examine an arrestee immediately upon arrest and for the doctor to list any injuries on the person.²⁰ By law, anyone arrested must be produced before a magistrate within 24 hours of the arrest.

"Bypassing these procedures facilitates abuses in custody," says HRW. In 67 of 97 custodial deaths in 2015 either the police did not produce the suspect before a magistrate in 24 hours or the suspect died in 24 hours of being arrested. A magistrate in Tamil Nadu told HRW: "Police has their own code of police procedure. They don't follow the Code of Criminal Procedure."

Of the 97 deaths, police listed only six from physical assault; 34 were suicides, 11 died of illnesses, nine natural deaths, and 12 during hospitalization for treatment. "However, in many such cases, family members allege that the deaths were the result of torture." Judicial inquiries were held in only 31 deaths. Only 26 bodies were autopsied. In only 33 deaths were cases against police officials registered, the HRW said in a report released in November 2016. Former NHRC member Satyabrata Pal told HRW: "[The]

intention in a police internal investigation is to whitewash so they deliberately do not look at what you need to find the truth.”

Torture and Detention

Particularly likely to experience both fates are the accused in terrorism and sedition cases. Human rights defenders have reported “increased police harassment, arbitrary arrest, and detention of Muslims based on the pretext of their purported involvement in terrorist activities,” notes a report by U.S.-based NGOs, The Advocates for Human Rights (AHR) and the Indian American Muslim Council (IAMC), submitted to the UN Human Rights Commission at Geneva in 2016.²¹

“The law prohibits arbitrary arrest and detention, but both occurred during the year. Police also used special security laws to postpone judicial reviews of arrests. Pretrial detention was arbitrary and lengthy,” the Department of State report India notes.

In a book he published in 2016, a former accused in a serial bombing case that had killed more 180 people in Mumbai city in 2006, Abdul Wahid Shaikh, who was acquitted eventually, details the atrocities and torture he had to endure as a detainee, accused and prisoner.

“I have been made to suffer all three degrees of torture that the police use to force false confessions out of people,” Shaikh said in an interview with scroll.in, a news website.²² The police first used verbal abuse and threats and stripped him naked. “[The] second degree is when they beat you with belts, force you into hunger or solitary confinement, tie you up and force you to stand for days,” he said. The “third degree” involves extreme physical torture including waterboarding, electric shocks on private parts, or forcing the legs into 180-degree splits.

“They also make rape threats towards the wives and sisters of the accused, or molest female relatives in front of you.” Shaikh said one of his co-accused was forced to watch as police officers molested his sister-in-law. “Through these means, the police managed to get false confessional statements from everyone.” He says nearly everyone shares his experience.

In April 2016, police in Tamil Nadu state arrested and detained 17 adivasis for alleged theft. Quoting a local NGO, The Times of India reported that police beat, tortured and sexually assaulted the detainees over 63 days and forced them to admit to crimes they reportedly did not commit.²³ Those detained included five children under 12 years old and four women. The men were allegedly chained, hung upside down and beaten as the children watched while the women were forced to beat the men, too.

G. N. Saibaba, a Delhi University professor convicted for being an outlawed Maoist in March 2017 says he saw prison inmates “beaten at the slightest provocation, paraded completely naked and then tortured. Did you know the number of prison deaths is the

highest in Maharashtra? The one year I was in jail, 98 prisoners died.”²⁴ Human rights defenders have said Saibaba was denied due process and his conviction is based on highly dubious evidence.

Saibaba, who is 90 per cent handicapped and is wheelchair-bound, endured months of harrowing time in prison as an under-trial before the Supreme Court of India freed him on bail in April 2016. “You have been extremely unfair to him especially knowing his medical conditions,” the judge told the government lawyer. “You are unnecessarily harassing the petitioner.”²⁵ Saibaba has been returned to prison since his conviction. In giving him a life sentence the trial judge said Saibaba’s being handicapped did not qualify him to deserve any leniency.

In 1996 the Supreme Court of India had provided for an 11-point directive, known as the “D.K. Basu guidelines”, for the protection of the human rights of detainees. These required that police officers submit a memo of the arrest signed by the arrestee and a witness; that a friend or relative of the arrestee be informed of the arrest; and that the arrestee’s medical examination be conducted and signed upon arrest and repeated every 48 hours. These are rarely followed.

Due to this failure to adhere to the Supreme Court’s guidelines, torture by law enforcement and prison officials is rampant, custodial deaths abound, and, worse, there are “hundreds of unresolved disappearances,” notes the U.S. Department of State report. “... Prison guards sometimes required bribes from families to confirm the detention of their relatives.”

Survivors as well as NGOs reported cases of disappearances of civilians by police and paramilitary forces, and insurgents, especially in areas of armed conflict, in both 2015 and 2016. Even though Indian law does not sanction torture it is most widely used. Beatings at police stations as also in prisons have caused hundreds of deaths of detainees, accused or convicts. Even though confessions given to police officers are not admissible as evidence in the court, except for under special laws, the practice of using torture to force confessions to the police goes on. Allegations that the police use torture to extort money have also been made.

A “Death Penalty India Report” released by the National Law University of Delhi in 2016 said two-thirds of India’s 385 death row inmates belonged to the backward classes and religious minorities or were Dalits or adivasis. Four in five remanded in police custody were tortured. Most said they confessed to their crime in police custody.²⁶

The police are also accused of sexual assault and rape of both male and female detainees. The government authorized the NHRC to investigate rape cases involving police officers. But efforts by the NHRC have been largely ignored or stonewalled as it has no authority to compel officials to testify and its recommendations are nonbinding. Human rights defenders say the NHRC vastly underestimates the extent of these rapes.

Terrorism Cases

Social and religious minorities, especially Muslims and Adivasis, have continued to be targeted under terrorism and national security laws under the new government, note human rights defenders. At the same time, a number of Hindus linked to the RSS-BJP and being tried for bombings and other acts of terrorism have been freed as prosecutors did an about-turn. Countless others have spent years in prison, many without bail, on unsubstantiated charges of terrorism, sedition, anti-nationalism, waging war against the state, gun-running, conspiracy to kill top political leaders, etc. Few of them have been able to secure judicial relief.

For years, the victims of such frame-ups have been urging the government to prosecute the police officers who have deliberately framed them, as well as provide for damages and reparations to the victims who have seen years of their lives waste away in prison. However, the government refuses to acknowledge that the police and prosecution have been behaving badly, even though courts from the trial levels to the highest in the land have called the police out.

In a landmark judgment, ironically given on the day — May 16, 2014 — on which Mr. Modi was declared the winner of parliamentary elections, the Supreme Court of India blamed his administration in Gujarat for falsely implicating six innocent Muslims for a terror attack by armed gunmen at a Hindu temple in the state in 2002 in which 33 people had been killed. This came to be known as the infamous Akshardham case, after the name of the temple that was attacked. In 2006, the trial court in Gujarat had found all six guilty and sentenced four to death. Four years later, the Gujarat High Court had upheld death for three of them.

But the Supreme Court acquitted all saying that “the story of the prosecution crumbles down at every juncture...”²⁷ In an unusually strong rebuke of law enforcement agencies and their political masters, it stated, “We intend to take note of the perversity in conducting this case at various stages, right from the investigation level to the granting of sanction by the state government” to charge the accused under the Prevention of Terrorism Act (enacted in 2002 but repealed in 2004). The Court further added it cannot “afford to sit with folded hands when such gross violation of fundamental rights and basic human rights of the citizens of this country were presented before us.

“We intend to express our anguish about the incompetence with which the investigating agencies conducted the investigation of the case of such a grievous nature, involving the integrity and security of the nation. Instead of booking the real culprits responsible for taking so many precious lives, the police caught innocent people and got imposed the grievous charges against them which resulted in their

conviction and subsequent sentencing.”

Such “perversity” has actually been widespread for a long time. Human rights defenders have repeatedly established a very clear pattern in the deliberate frame-ups and fabrication of evidence by the police and the prosecution. In February 2017, the Supreme Court of India acquitted four Muslims from Gujarat who had been in prison for 14 years on charges of carrying out bombings.²⁸ Shockingly, the lower trial and high courts had held four of them guilty and sentenced them to many years in prison.

In January 2017, a trial court in Delhi acquitted two Muslims arrested 11 years previously allegedly with arms and ammunitions which, the police said, they aimed to use for terrorism.²⁹ The court said the prosecution had failed to prove their case “beyond reasonable doubt.” The judge noted that the police had not even taken fingerprints from the ammunition seized.

The police used private vehicles in making the arrest. They claimed the accused were arrested as they stepped off a state-run bus after an intercity journey. But the prosecution neither brought any witnesses to prove that nor did it furnish their bus tickets. The court said “no credible effort” was made to get witnesses despite a gas station, a bus terminus and a police post being nearby.

Also in January 2017 a court in Lucknow, the capital of Uttar Pradesh, acquitted five men accused of raising pro-Pakistan slogans inside a courtroom in 2008 as the police could not prove that had happened.³⁰ The men had been arrested in 2007 and accused of being members of a banned terror organization; that case too fell apart in 2015. Yet they spent years in jail. In May 2016, a trial court in Maharashtra acquitted nine Muslims accused of a bombing in 2006 in Malegaon city that had killed 37 people.³¹ They had spent on an average a decade in prison.

Veteran journalist Seema Mustafa writes: “A pattern is emerging: a terror blast; police move in to arrest scores of Muslim youth in the city, or locality; they are tortured and interrogated; some are freed; cases are filed against the others for terrorism and related sections; they spend years in jail; in between a few are acquitted by the lower courts occasionally; others are given life imprisonment, being lucky if they do not get death; a lifetime later, the higher courts acquit them.

“Their lives are destroyed, their families usually lower middle class rendered destitute, they emerge from jail unemployable. And no one is held accountable. The policemen who arrested them remain with impunity. There is no compensation for the years lost, for the torture and for the imprisonment. There is no rehabilitation. That they have been freed is supposed to be enough compensation, and most of the time they are so grateful, and so broken from within, that all they want is to remain quiet, away from the cops and the law if they are so allowed.”³²

One of those acquitted in February 2017 in the Gujarat bombing case said the

government had “no system of rehabilitation. It's easy for people to say things get normal after acquittal. That's not true... Most of those acquitted face financial problems when they want to start a new life.”³³

And yet, despite overwhelming evidence of a pattern of false arrests, arrests of Muslims and other minorities has continued. In January 2017 the NIA said it recorded the “largest number of cases linked to the dreaded ISIS” in 2016.³⁴ Of the 35 arrested included 20 engineers, it said. The agency claimed that the “average profile of these terror suspects is that of young, educated middle-class men with access to the internet,” NDTV, a leading news network, reported.

“Of 52 people named as accused, 12 are diploma holders and three post-graduates. More than half of them are below 25. They are all young professionals and students with access to the internet and many come from middle class homes,” an officer told the news network. The only evidence the news report suggested against those arrested was that “the suspects believe in the Ahl-i-Hadith, which is considered one of the most rigid Islamic schools of thought in the country.” The report does not clarify that the sect is followed legally by millions in India.

The report noted that “as many as 10 suspects are just from Hyderabad which, along with Bengaluru, is the tech hub of the country. The most arrests were from Maharashtra — a dozen. Kerala, Karnataka and [West] Bengal come next.” It is striking that in dozens of cases from all these states the police have been found to have falsely implicated Muslims in the past. The NIA acknowledges that all those arrested on charges of working with or sympathizing with ISIS had not succeeded in “executing any act of terror till now.”



Abuse of Draconian Laws

The extensive abuse of draconian national security laws has continued apace causing massive human rights violations. These laws include the AFSPA, the National Security Act (NSA), the Public Safety Act (PSA), the Unlawful Activities Prevention Act (UAPA), the Maharashtra Control of Organized Crimes Act (MCOCA) and the Chhattisgarh Special Public Security Act (CSPSA).

UAPA

Written in 1967, the UAPA loosely defines terrorism as “any act with intent to threaten or likely to threaten the unity, integrity, security or sovereignty of India or with intent to strike terror or likely to strike terror in the people or any section of the people.” It gives the government discretion to designate, by simple notification, any organization as “unlawful” if the government sees it as a threat or potential threat to the country’s “sovereignty and integrity,” or as promoting “enmity between different groups” or as making “imputations prejudicial to national integration.”

The law allows a judicial tribunal to confirm or reject the designation, but it does not specify the standards for adjudication. UAPA also criminalizes membership of or “helping” an “unlawful” or terrorist organization. The law’s application has resulted in successive governments often proscribing organizations arbitrarily and virtually transferring the burden of proof on the accused. Unlike the regular criminal laws under which police must file charges in court within 60 days of the arrest of the accused, UAPA lets a detainee be in prison for 180 days without being charged.

In practice, this definition lumps together political dissenters and members of the banned Maoist insurgents. The U.S. State Department notes that UAPA presumes the accused to be guilty if the prosecution can produce evidence of the possession of arms or explosives, or the presence of fingerprints at a crime scene, “regardless of whether authorities demonstrate criminal intent.” The UAPA provides a legal basis for warrantless searches as also use of evidence obtained from intercepted communications in terrorist cases. In Jammu and Kashmir, Punjab and Manipur, security officials have special authorities to search and arrest without a warrant.

NSA/ PSA/ CSPSA

Under the NSA, anyone deemed a security risk can be detained without charge or trial for up to a year. Its counterpart, the PSA, which applies only to J&K where NSA is not applicable, allows detention without charge or judicial review for two years without

visitation from their families. “Police in Jammu and Kashmir allegedly routinely employed arbitrary detention and denied detainees access to lawyers and medical attention,” the State Department report notes. “According to media reports, approximately 440 individuals in Jammu and Kashmir have been detained without trial since the beginning of large-scale protests in July [2016].”

In September 2016, the federal government denied a request to visit Jammu and Kashmir by the Office of the UN High Commissioner for Human Rights and the NHRC.

The CSPA too, allows police to detain a person without charge for up to 90 days. With a sharp increase in the counterinsurgency operations in Chhattisgarh, the law has been abused to detain, among others, journalists, accusing them of complicity in a deadly attack on police by Maoist insurgents. A local court acquitted one of the two journalists in July, 2016.

AFSPA

The government continues to defend the AFSPA rejecting international calls for its repeal to amendment. At its Universal Periodic Review (UPR) at the UN Human Rights Council at Geneva in 2008, 2012 and 2017, India has repeatedly cited a Supreme Court ruling that has upheld the AFSPA as necessary to combat terrorism and insurgencies in border states. This flies in the face of overwhelming evidence that security agencies and armed forces have abused AFSPA to carry out human rights violations of civilians for decades with total impunity.

The AFSPA is in effect in the northeastern states of Nagaland, Manipur, Assam and parts of Mizoram. It authorizes government to designate any region as a “disturbed area” and empowers military personnel and police with wide discretion to use force against civilians, including to shoot to kill, raid houses and destroy any property “likely” to be used by insurgents. Anyone who has committed or is “about to commit a cognizable offense” can be “arrested without warrant” even on “reasonable suspicion” without needing to be informed of the grounds for their arrest. The law provides security forces immunity from civilian prosecution.

The government has ignored recommendations by two high-level official committees led by former Supreme Court judges that had found AFSPA “facilitated sexual violence and extrajudicial executions.”³⁵ One commission was established by the Supreme Court to probe six of the 1,528 alleged extrajudicial killings in Manipur. The commission found the deaths were extrajudicial executions, and that AFSPA was widely abused by security forces in Manipur. It said implementation had made a “mockery of the law” and recommended its repeal.

However, the government and the armed forces have pushed back. In June 2016, the army officer in charge of India’s Eastern Command, Lieutenant General Praveen

Bakshi, dismissed allegations of abuse under AFSPA. “In Eastern Command, during the time I have spent there, there has not been a single incident which has been reported where AFSPA has not been used for the right reason,” he said in a newspaper interview, arguing that the law must remain on the statute. The government has even refused to allow the NHRC to send a team to Manipur.³⁶

In July 2015 The New York Times said AFSPA had “fostered a culture of impunity among India’s armed forces that has led to repeated, documented human rights abuses against Indian civilians”. The editorial called for an end to AFSPA, saying the law had “hardened resentment against a military that has too often abused the extraordinary powers conferred by the act.”³⁷

In January 2016, the confession of a Manipuri policeman that he had acted on orders to kill more than 100 suspected militants during 2002-09 illegal practices of the police long associated with the army and paramilitary forces, writes HRW. The confession has done little to spur the government or the armed forces to investigate.



Adityanath heads the government in India’s largest state. He also founded a private anti-Muslim militia. He has vowed to install Hindu idols in every mosque in India. He has criminal cases against him for arson, kidnapping and even murder.

Culture of Impunity

Impunity for police and security officials has touched a new high in India in recent years. Impunity has also extended to BJP politicians, including those in elected offices, and supremacist groups that have been carrying out campaigns of vigilantism against the minorities. Legal challenges against police officials are rare; their prosecutions rarer and convictions next to nil. Trials are delayed. Threats of violence invariably force families and witnesses to withdraw complaints and reverse testimonies. The Indian State has made a mockery of provisions in the Indian Penal Code (IPC) for strict punishment for excesses by law enforcement officials.

Section 330 of the IPC prescribes seven years' imprisonment for police officers for "voluntarily causing hurt" to anyone. Using torture to obtain a confession or information about stolen property is a crime. If the harm is grievous, the punishment can extend up to 10 years in prison. However, police officers investigating deaths in custody are "more concerned about shielding their colleagues than bringing those responsible to justice," HRW found in an investigation of detailed in November 2016, its South Asia Director, Meenakshi Ganguly, has said.

In several cases, many individuals responsible for acts of communal violence have not been brought to justice. Although there are court cases pending for these incidents, NGOs have reported religious bias, corruption and intimidation of witnesses in the court proceedings. Efforts to pay compensation are also derailed. When the NHRC ordered the federal government in August 2015 to pay 500,000 rupees (\$7,500) as compensation for an extrajudicial killing by the paramilitary Border Security Force, the government rejected it and refused to pay up.

In Gujarat, many of the 32 police officers arrested earlier for a series of extrajudicial killings during Mr. Modi's state administration of 2001-2014 saw their fortunes turn for the better after he became prime minister. One officer, P.P. Pandey, was made Director General of Police (DGP) in Gujarat in 2016, becoming the first accused in an encounter killing to head a state police.

Indeed, in February 2015, Mr. Pandey was appointed as an additional DGP within four days of being bailed. Usually, a DGP is appointed only when an incumbent retires. But the Gujarat government of Mr. Modi's successor transferred the incumbent to make Mr. Pandey the DGP. Mr. Pandey's ties to the BJP are well known. When he had surrendered in 2013, RSS-BJP leaders had accompanied him to the court. Mr. Pandey spent a year and a half in prison.

After Mr. Pandey was forced to step down in April 2017 following a plea against him in the Supreme Court, the Gujarat government appointed Geeta Johri as the new police

chief. It was Ms. Johri whose investigation had found that police officials had carried out the extrajudicial killings of a Muslim couple in 2006, leading to the arrest of Deputy Inspector General of Police Mr. D. G. Vanzara and others. She was later accused of botching further inquiry, and the CBI filed charges against her, too. She could not be prosecuted as the Gujarat government refused to sanction her prosecution.

Especially alarming is the impunity given to ministers and members of Parliament and state legislatures in cases of communal violence. Sanjeev Baliyan, a minister in Mr. Modi's government who became a first-time MP in 2014, is a key accused in large-scale violence against Muslims in August 2013 in Muzaffarnagar district of Uttar Pradesh state in which more than 60 people were killed. Charged with making hate speeches, Dr. Baliyan was given bail.

The most glaring example is that of Amit Shah, a close confidante of Mr. Modi, who was arrested in 2010 on charges of masterminding the extrajudicial killings by the police officers. He was then a junior interior minister in Mr. Modi's state administration, and later spent three months in jail before being bailed. He was made a prime accused once the charges were filed.

One of the imprisoned officers, D. G. Vanzara, threatened to implicate Mr. Modi in 2013. In a public letter he said the policemen accused of the extrajudicial killings "simply acted in compliance with the conscious policy of the government."³⁸ The prosecution had said that police officers were in constant telephonic contact with Mr. Shah as the victims were being killed. Therefore, Mr. Vanzara's testimony should have strengthened that case against him.

Shortly after Mr. Modi became Prime Minister, the judge refused to weight the charges against Mr. Shah and discharged him before the trial. The judge said the charges were politically motivated, but did not disclose how he reached that conclusion. Mr. Shah was later made BJP president. Mr. Vanzara was given bail in February 2015.

Pressures on Judiciary and Prosecution

NHRC guidelines prescribe that all cases of deaths from police actions be reported to it within 48 hours. But most state governments do not adhere to the guidelines. The states also repeatedly refuse to give compensatory payouts to the families of victims despite orders from the NHRC. Armed forces don't even need to report custodial deaths to the NHRC.

In a newspaper interview in April 2017, retired judge Abhay Thipsay, who presided over one such case transferred out of Gujarat, made an alarming claim about the judiciary. Especially with regard to cases of “national security” and “national interest”, he said, “magistrates feel it's more convenient to avoid friction with the police, because you can get things done with their help.

“The trouble is, many a magistrate's CR [confidential report] is affected because you grant bail. But if you remand a person to custody without evidence, no adverse remarks are made against you! Even the press doesn't criticize you.” He added: “If you affirm the state's actions, your integrity is never suspected. But if you release an accused, there's a huge clamor.”³⁹

In 2015 a former Gujarat judge, Himanshu Trivedi, alleged that Mr. Modi's administration wanted the judiciary to act “against the minority community, albeit with no written orders but definitely communicated in loud and clear messages to us.” Mr. Trivedi, who resigned from the judiciary in 2003 and moved to New Zealand, said he saw lawyers and judges display prejudiced opinions.⁴⁰

In June 2015, Rohini Salián, a former government prosecutor in Maharashtra, told a newspaper that an officer with the National Investigation Agency (NIA), a federal body that probes terror cases, had asked her to “go soft” on the 14 Hindus accused in a 2008 bombing that killed seven Muslims.⁴¹ The accused, including two retired army officers, have been linked to the RSS-BJP. Ms. Salián said the communication to her was made by the NIA officer barely a month after Mr. Modi had become prime minister in May 2014. When she refused, she was removed as a government prosecutor. In October 2015, she named that officer in an affidavit she gave the Bombay High Court and, when the matter kept being postponed, the Supreme Court.⁴²

But the NIA carried out no investigation based on Ms. Salián's allegation and simply denied it. In February 2017, a key Hindu accused, Pragya Thakur, was acquitted in a murder case in the neighboring Madhya Pradesh state after NIA found no evidence to prove her involvement in it.

In the Maharashtra bombing of 2008 case that is still under trial, when Ms. Thakur

sought bail in November 2016, on grounds of ill health, the NIA told the court that it would not oppose her bail plea. In January 2017, the NIA lawyers told the Bombay High Court the agency did not have any evidence against her in this case. In February, the High Court granted her bail.

In July 2016 the trial court had criticized the NIA for suggesting that the previous investigation in the case, by the Anti-Terrorism Squad (ATS) of Maharashtra Police, had to be discounted as it was based on forced confessions. When asked by an “intervenor” in the case, a Muslim victim of the bombing in the case, why the NIA did not press charges against the ATS officers who broke the law on confession, the NIA did not have answer. The judge had then refused bail.

For years, leaders from the BJP and its Hindu ultranationalist allies such as the Shiv Sena have openly criticized the police as well as the NIA for accusing such Hindus for terror cases. Never have any governments or courts reprimanded such influential politicians for making such statements. Photographs of top BJP leaders, such as Madhya Pradesh Chief Minister Shivraj Singh Chauhan’s with Pragya Thakur before her arrest, have long circulated. But such politicians have never been investigated for possible links with the terror accused.

At the time Mr. Modi led Gujarat’s administration, its judiciary had faced considerable flak for denial of due process. So much so that the Supreme Court of India had deemed it necessary to move out of Gujarat trials of several criminal cases against BJP-linked accused charged with mass killings of Muslims. Such taint on the judiciary may well have widened.

Religious Supremacists

As noted in the first section on “Historical Background,” the RSS and its affiliates and offshoots, such as the BJP, have long been serial violators of the human rights of India’s social and religious minorities. Since Mr. Modi became prime minister there has been a sharp uptick in attacks on religious minorities by vigilantes suspected to be connected with the RSS.

However, Mr. Modi’s administration has refused to act strongly against the culprits. When 34 U.S. Congresspersons and Senators wrote to Mr. Modi in 2016 to “relay their concerns about the increasing intolerance and violence experienced”⁴³ by India’s religious minorities, a government spokesperson said it was “unfortunate” they had “chosen to focus on just a few incidents.”⁴⁴

The various Hindu hardliner groups from the RSS family include the Vishwa Hindu Parishad (World Hindu Council) and the Bajrang Dal (both of which numerous reports from the Department of State have identified as extremists organizations), the Gau Rakshak Dal (Cow Protection Unit), and the Akhil Bharatiya Vidyarthi Parishad (All India Students’ Council). While these organizations work across India, there are others region- or state-specific ones, too, such as the Hindu Yuva Vahini (Hindu Youth Corps) in Uttar Pradesh and the Sri Ram Sene (Ram’s Army) in Karnataka.

Then there are other Hindu supremacist organizations, both political and nonpolitical, which are not directly descended from the RSS, and are sometimes critical of the BJP on political issues, but nonetheless are ideologically very much aligned with the RSS family. These include the Hindu Mahasabha, which is over a century old, and the Shiv Sena, centered in Maharashtra.

Their mothership, the RSS, has millions of members across India who regularly march through towns brandishing machetes and swords. Its members have been involved in terrorism. Two ex-RSS leaders were sentenced to life imprisonment in March 2017 in Rajasthan for a 2007 bombing at a centuries’ old mausoleum of a Muslim saint that had killed three people.⁴⁵ In April 2017, 16 RSS members were arrested for the lynching of a teenager in Kerala state.⁴⁶

These organizations have long been involved in organized violence against the minorities often causing deaths of their victims. Thousands of VHP and Bajrang Dal members have been accused for decades for such attacks, but few are ever prosecuted and even fewer convicted.

The VHP gained notoriety in the 1980s when it launched a campaign to convert a mosque in Uttar Pradesh into a temple claiming that it was the birthplace of Hindu god,

Rama. In that campaign a mob of tens of thousands of Hindu extremists eventually razed the mosque in 1992. The ensuing violence nationwide claimed hundreds of lives, most of them Muslim. The VHP has also been in the forefront of violence against Christians, including coordinated attacks on Odisha state in 2008 in which dozens died as churches, homes and farms were burnt down by mobs.

While the VHP has been focused on issues such as the mosque-temple and religious conversions, the Bajrang Dal has behaved more as the retail militant arm of the RSS, for years carrying out regular attacks against minorities, both Muslims and Christians, for a host of outcomes such as stopping, through violent means, Muslim men from marrying Hindu women and celebration of Valentine's Day because it is an "alien" festival not part of the "Indian culture." Members of both have been convicted for mass killings of Muslims in Gujarat in 2002.

The cow vigilantes have shot to the front of the row by escalating a campaign of violence since Mr. Modi became Prime Minister. Similarly, the Hindu Yuva Vahini has let loose terror against Muslims and Christians in Uttar Pradesh, where it is located, since its founder, BJP MP Yogi Adityanath, was made Uttar Pradesh chief minister in March 2017. Within days of his elevation photographs showed the Vahini members were roaming in a hijacked police vehicle.

A government-appointed commission by a high court judge had found the Shiv Sena complicit in mass killings of Muslims in 1993 in Mumbai city. But the politicians and activists it named for their roles in those killings were never prosecuted. The Shiv Sena is now a member of Mr. Modi's government at the Center and of the BJP-led government in Maharashtra state.

The Hindu Mahasabha, an unabashed campaigner for creating a "Hindu nation" in India, has long advocated for curtailed rights and freedoms for non-Hindus. It has taken to publicly honoring the memory of Nathuram Godse, the Hindutva fanatic who assassinated Gandhi in 1948.

RSS-BJP leaders have a long record of encouraging, verbalizing and even blatantly carrying out an anti-minority agenda. Even Mr. Modi himself, has engaged in incendiary rhetoric against the minorities since becoming Prime Minister. While campaigning during Uttar Pradesh legislative elections in 2017, he claimed that the then government in Uttar Pradesh gave land for Muslim cemeteries but not for Hindu cremation grounds and supplied uninterrupted electricity during Muslim festivals but not during Hindu ones. Both claims have been fact checked as false.

As Gujarat chief minister Mr. Modi constantly demonized the Muslims. Just before the 2014 parliamentary elections that he won when Reuters asked him during an interview if he regretted the mass killings of Muslims in 2002 on his watch, Mr. Modi said he regretted it as much as he would regret the death of a puppy — using the Hindi word for it which is considered a pejorative — if it was crushed under his car.⁴⁷

India's Culture and Tourism Minister, Mahesh Sharma, said in 2015 that while Hindu scriptures such as [Bhagwad] Gita and Ramayana reflect India's soul" the Bible and the Koran were "not central to India's soul."⁴⁸ He said the Gita and the Ramayana should be taught in Indian schools. He, like many of his colleagues, has championed a ban on sale of meat during Hindu festivals.

Uttar Pradesh Chief Minister Yogi Adityanath has never been nuanced about his bigotry. He has infamously said, "I will not rest till I turn India into a Hindu nation."⁴⁹ He has had several criminal charges slapped on him over the years, including for rioting, attempt to murder, criminal intimidation, unlawful assembly, trespassing on burial grounds, and endangering life and safety. Before he became chief minister Adityanath had said if the "other side does not stay in peace we will teach them how to stay in peace in the language they understand."⁵⁰ He has also warned that if "one Hindu girl is converted [to Islam] we will convert 100 Muslim girls [to Hinduism]." He has also said that those who oppose Yoga should leave India.

The RSS-BJP leaders are forever threatening to force their opponents out of India, labelling them as "anti-Indian" and "pro-Pakistani." Campaigning before Bihar state elections in 2015, BJP president Shah had said "firecrackers will be burst in Pakistan" if the BJP lost.⁵¹ Incidentally, the BJP did lose that election. A BJP MP from Bihar had threatened to send everyone who opposed Mr. Modi to Pakistan.

In October 2014, another minister in Mr. Modi's cabinet, Sadhvi Niranjana Jyoti, also a self-styled ascetic in saffron robes, had said that while Hindus were "Ramzade," or children of Lord Ram, non-Hindus were "haramzade," or bastards. The government was forced to distance itself from her comments and chastise her for the remark. She had to apologize in Parliament.⁵²

A favorite Hindu extremists' view is that there is an urgent need to restrict the civil rights, including the right to have families, of the religious minorities. RSS-BJP leaders and their fellow travelers repeatedly demand that Muslims be forced to have fewer children. In 2016, RSS "supremo" Mohan Bhagwat, himself a bachelor, publicly called for Hindus to have more children, saying, "What is stopping them when [the] population of others is rising?"⁵³ The RSS has long alleged that Muslims have more children because they want to overtake the Hindus' numbers.

Sakshi Maharaj, who is a self-styled saffron-clad ascetic and is also a BJP MP, said at public meeting in January 2017 that India's problems "are not due to Hindus but because of the increasing population of those who talk about four wives and 40 children," an insinuation against Muslims.⁵⁴ This statement came weeks before Uttar Pradesh elections that the BJP eventually won. India's Election Commission called for a report against him but no action has been taken. Sakshi Maharaj has also said he was "ready to kill and get killed" to protect the cow. He has called Gandhi's assassin Godse "a patriot;" alleged that Islamic seminaries, the madrasas, teach "terrorism" to

Muslim children; and promised that cow slaughter and conversion to Islam and Christianity would be punishable by death. In May 2016, a video emerged showing him ask a girl to lower her jeans to show him injuries she claimed the police gave her.

In 2000, Sakshi Maharaj had been accused of raping a woman with his associates. He had spent weeks in prison on those charges. A few years later, too, an inmate at his ashram alleged that he had raped her. But the police rejected that claim in their report to the judge. Twice, in 1997 and in 2013, he has also been accused of involvement in murders. Sakshi Maharaj went underground as police looked for him in the second case. He was later acquitted in the case.⁵⁵

In 2016, Mr. Modi nominated Subramanian Swamy, a controversial far right politician, to become a Member of Parliament. Dr. Swamy's economics courses at Harvard University were terminated in 2012 after he published an op-ed in an Indian newspaper calling to raze mosques across India and deny Indian Muslims voting rights.⁵⁶ In April 2017 he tweeted that Kashmir should be "depopulated" of its Muslims who should be sent to refugee camps in south India. Even small-time BJP leaders have been emboldened. In April 2017, one such in Uttar Pradesh publicly announced a bounty of Rs. 1.1 million (\$17,000) for the beheading of West Bengal Chief Minister Mamata Banerjee, accusing her administration of favoring Muslims over Hindus.⁵⁷



Attacks on Minorities

Violence has traditionally visited India's religious minorities in the form of "communal riots", an euphemism employed to describe targeted and organized violence against these minorities. The recent escalation in violence has prompted the U.S. Commission on International Religious Freedom (USCIRF) to characterize India as being on "a negative trajectory in terms of religious freedom."

Data released by the Ministry of Home Affairs (MHA) on sectarian violence shows that 38 people were killed in over 275 incidents of communal violence in the first five months of 2016.⁵⁸ In all of 2015, there had been 97 fatalities in 750-odd incidents. Alarming, violence is spreading in rural areas as well as in regions where it had traditionally been far lower. In West Bengal state, social media posts were blamed for seven of the 27 incidents during January-May 2016.

The most incidences of communal violence — more than 75% of all — took place in the states of Uttar Pradesh, Bihar, Maharashtra, Jharkhand and Madhya Pradesh. Today, the BJP rules four of these five states and is the principal opposition in the fifth state, Bihar, which too has seen a rise in communal violence after non-BJP political coalition defeated the BJP in 2015.

Muslims

While such traditional occurrences have increased since the BJP came to power, many new forms of issue-based violence have also emerged. These include violence against Muslims and Dalits for possessing and/or transporting beef or cattle; violence for not expressing patriotism and refusing to say "Bharat Mata Ki Jai" (Goddess India is great); violence following accusation that a Christian or Muslim has converted a Hindu to their faith; violence against Muslim men falling in love with Hindu women, which has been termed "Love Jihad", etc.

In March 2017, a Hindu mob attacked a Muslim neighborhood in Gujarat killing one person.⁵⁹ Over 50 Muslim families fled as their homes were burnt. "They were armed with country-made revolvers, sharp-edged weapons," a nephew of the man killed told NDTV news station. "They started attacking my uncle. After killing him, they ran after me, but I ran for my life."⁶⁰ Victims said the police refused to intervene to save them. Families continue to stay away from the village.

A fact-finding team of human rights defenders reported five days after the incident that the attack appeared to have been planned in advance. "[The mob] arrived with barrels of petrol, private guns and other weapons, etc... [and] started damaging and looting

the gold and silver ornaments and burning vehicles of the Muslim houses,” their report said. “The young Muslim men who tried to resist were attacked with swords and gun firing and were grievously injured.”⁶¹

In July 2016, members of a right-wing Hindu group were charged with trespassing at a Karnataka school and disrupting Arabic class. “The individuals reportedly accused the teacher of spreading extremism and seized textbooks from the children,” writes the U.S. Department of State report. The school suspended Urdu and Arabic classes after threats of more protests.

Other forms of discrimination against Muslims has included social boycotts and demands for their expulsion. In June 2016 it was reported that residents of a Hindu neighborhood in the Gujarat city of Vadodara had written to the municipality protesting a move to relocate 300 Muslim families there. They wrote that the step would “hamper the peace-loving nature here.”⁶²

Christians

In April 2017 police in a town in Uttar Pradesh stopped a church prayer of about 150 people at the behest of the Hindu Yuva Vahini who had alleged, falsely, that the church meeting had been called to convert Hindus to Christianity.⁶³ There were ten American citizens at that prayer, and reports said they were detained by the police for hours. Uttar Pradesh is India’s most populous state with 220 million people, of whom Christians are less than 0.2%, or under half a million.

Speaking before the Tom Lantos Human Rights Commission of the U.S. Congress in June 2016, Jeff King, President of the International Christian Concern, an NGO, said that his organization had documented “109 separate attacks on Christians and their places of worship, affecting more than 2,400 individuals” in India in just the first five months of that year.⁶⁴ In 2015, there was a 20% rise in Christian persecution over the previous year with 365 major attacks.

Indeed, “2015 marked the worst year for Christians in India’s independent history,” Mr. King said in his testimony. “These incidents are not aberrations, as the BJP government has claimed... [Mr.] Modi and his administration refuse to confront the religious intolerance.” He pointed out that though Christians were targeted across India, Chhattisgarh saw the bulk of the violence. These attacks range from vandalism of churches, to the beating of church leaders and parishioners, to entire Christian communities being socially boycotted by their Hindu neighbors.”

In April 2016, two Hindu extremists held a pastor and his seven-month-pregnant wife hostage outside their church demanding that they worship the Hindu deity Ram. “With a sword to his neck, [the] pastor... refused. The attackers then set fire to the church.”

In June 2014, barely a month after Mr. Modi had become India's prime minister, Hindu radicals had forced a ban on any non-Hindu religious activity in a village in the Bastar region of Chhattisgarh, denying over 300 Christian families their constitutional right to practice their faith. "Christians living in this area... face a stark choice of converting to Hinduism or being socially boycotted in the village in which they live," Mr. King told the Tom Lantos Commission.

"This social boycott means that Christians in many villages are no longer allowed to access water wells, purchase goods at local stores, work and receive pay, cultivate their fields, graze their livestock, or even talk to Hindu members of their village without being assaulted or fined." Christians in the village have said Hindu hardliners attack them on a daily basis.

In May 2016, VHP activists brutally attacked a 22-year-old woman for practicing Christianity. "She was dragged from the field where she was working after attending Sunday worship services and beaten until she lost consciousness." In most such cases, no arrests are made. A month earlier, in April, two Bastar villages banned the practice of "non-Hindu religions" although the state High Court had in 2015 ruled outlawing of non-Hindu religions as unconstitutional. "[Mr.] Modi continues to ignore these clear constitutional violations."

Dalits

According to government statistics released in August 2016, more than 45,000 crimes against members of Scheduled Castes and almost 11,000 crimes against Scheduled Tribes were reported in 2015.⁶⁵ NCCB data shows that violence against Dalits had gone up fivefold in the five years preceding 2016. Most violence was seen in Uttar Pradesh, Rajasthan, Bihar, Madhya Pradesh and Andhra Pradesh, which accounted for seven in every ten crimes. Few cases have been properly investigated or the perpetrators arrested, say human rights defenders.

Acts of violence against the Dalits have continued across India, with governments making little effort to seek justice for the victims. In a district adjoining India's capital, New Delhi, a nine-month-old baby and a two-year-old child were burnt to death in 2015.⁶⁶ In March 2016, a 17-year-old student training to be a teacher was allegedly raped and murdered by drowning at her college in Rajasthan.⁶⁷ While the accused were arrested, the government went back on a promise to bring in the Central Bureau of Investigation (CBI), a federal agency, to complete the probe.

In July 2016, Hindu hardliners stripped and assaulted seven Dalit men in Gujarat for skinning dead cows.⁶⁸ Police arrested 35 persons for the attack and suspended four police officers for negligence. The assaulters even recorded their act on video, which is available on the Internet. The incident led to a massive backlash by the Dalit community in the state, but the government responded by arresting the protesters.

In June 2016, a mob of Hindu upper-caste allegedly burned 11 Dalit homes reportedly because some Dalits had acted in a play caricaturing the "upper" castes. "Dalit families faced a boycott and were denied access to shops and sources of potable water," the U.S. Department of State notes in its report. Police lodged an FIR against 19 persons but no arrests were made.

In May 2015, also in Rajasthan, "upper" caste Jats killed three Dalits in their village by running a tractor over them.⁶⁹ The next month a 21-year-old Dalit man was killed in Tamil Nadu by an "upper" caste self-styled vigilante against inter-caste relationships.⁷⁰ The Dalit was waylaid when he was at a temple with a woman from a higher caste. His dead body was later found on rail tracks. When the accused vigilante surrendered before the police, he was given a hero's welcome.

The most infamous incident was the "suicide," widely considered an institutional murder, of a Dalit student at the University of Hyderabad. Rohith Vemula was found hanging to his death in his hostel room in January 2016.⁷¹ This was after weeks of victimization by university authorities on pressure from BJP-linked supremacists who were objecting to Mr. Vemula's vocal opposition to Hindu hardline student politics.

Mr. Vemula was forced to take this extreme step after the university suspended him and withdrew the scholarship that was his economic lifeline. His death created a nationwide uprising of students belong to the Dalit and Adivasi communities as well as other oppressed castes, compelling the Telangana state government to file a criminal case. It was disclosed that at least two ministers in Mr. Modi's government, then Minister for Human Resources Development Smriti Irani and Labour Minister Bandaru Dattatreya, had pressured the university authorities to punish Mr. Vemula.

Mr. Vemula had been under attack from the Akhil Bharatiya Vidyarthi Parishad (ABVP), the student organization affiliated with the RSS-BJP, which has been at the forefront of violence on students opposed to hardline Hindu ideology and politics. Incredibly, though the police named Mr. Dattatreya as well as the university vice-chancellor in the FIR, neither was ever arrested.⁷²

While Mr. Dattatreya has continued to serve as a minister without being tried in that case, the vice-chancellor, Appa Rao Podile, who had been asked to go on leave after Mr. Vemula's suicide, has since returned to his job. In January 2017, Mr. Modi personally gave a national award for science and technology to Mr. Podile at a public function, ignoring widespread protests.

Rather than address the troubling issues of caste discrimination on college campuses the response of Mr. Modi's government has been to exonerate the officials who were involved, and even worse to cynically pursue an invasive and emotionally ravaging investigation into Rohith Vemula's death trying to assert that he was not a Dalit.⁷³ A new wave of Dalit student suicides has followed Rohith's death as the administration

continues to crack down on Dalit, Adivasi and religious minority students in universities by slashing their funding and admittance numbers to keep them out of campuses.

In other forms of discrimination reports said some schools barred Dalit children from morning prayers, asked them to sit at the back of the class, or forced them to clean toilets which, ironically, they are not allowed to use. Some teachers refused to look at the homeworks of Dalit children. Others refused to provide them with midday meals. The government does not even maintain data on atrocities against Dalits in education institutions, as Mr. Modi's Social Justice and Empowerment Minister of State Vijay Sampla told members of Parliament in April 2016.

"Each of these cases represent the alarming lawlessness that is growing towards our vulnerable community," a Dalit activist in the U.S., Raj Cherukonda, told the Tom Lantos Commission at the June 2016 hearing. "Much of this is rooted again in a failure to implement the rule of law."⁷⁴ More than 85% cases under the Prevention of Atrocity Act are still pending trial across India.

Adivasis

The tribal or Adivasi people are spread across India and violence against them continues to be pan-Indian. The worst instances are however, recorded in Chhattisgarh, certainly because it is the focus of the government's counterinsurgency operations against the outlawed Maoists.

As noted above, the NHRC has concluded that prima facie there is evidence that security forces raped at least 16 tribal women. During January 11-14, 2017, tribal women alleged rape and sexual assault by security forces during search operations there. According to the HRW report, numerous tribal villagers have been "arbitrarily" arrested as Maoist sympathizers.

In July 2016, security forces killed five tribal villagers, including a two-year-old child, in a village in Odisha state, which adjoins Chhattisgarh.⁷⁵ The forces claimed they were killed in "crossfire" during anti-Maoist operations, but the National Commission of Scheduled Tribes disputed that. In June 2016, family members as well as human rights defenders from Chhattisgarh challenged the security forces' claim that a 21-year-old tribal woman named Madkam Hidke died in an alleged gunfight with armed Maoists in Chhattisgarh. In fact, the HRW report notes that the family believes security personnel had "forcibly picked her up from her home, gang raped her, and then killed her."

Killings of individuals or groups of individuals has continued unabated. In August 2016, security forces killed a 19-year-old in Bastar region in Chhattisgarh in an alleged extrajudicial killing. Despite such routine occurrences, the government has refused to conduct meaningful inquiries.

In the case referred earlier in which the NHRC has found 16 women prima facie victims of rape and sexual and physical assault, the autonomous body has also issued notices to the Chhattisgarh government to show cause why the women should not be paid monetary relief totaling Rs. 3.7 million (\$57,300). The state government has refused to accept that recommendation.

Whereas the NHRC had reacted on its own on the basis of a report in The Indian Express newspaper to begin the investigation in the alleged assault and rape, the state government had not been moved by the same report to order a probe. The newspaper report stated that security forces had destroyed, stolen or scattered villagers' belonging as they passed through villages. The government, however, continued to deny that the incidents had occurred.

Sikhs

Successive Indian governments have failed to bring justice to victims of mass violence against Sikhs in 1984 following the assassination of India's then prime minister Indira Gandhi by two Sikh bodyguards. In the days after her death, rampaging mobs, many led allegedly by functionaries of Ms. Gandhi's Congress party, killed thousands of Sikhs, a majority of them in the national capital of Delhi.

"In four days, over 3,000 people were slaughtered, raped and rendered homeless," a report by Amnesty released in 2016 said. In Delhi alone, the official death toll was 2,733. Civil society groups, the People's Union for Civil Liberties (PUCI) and the People's Union for Democratic Rights (PUDR), visited the affected areas and published a report, "Who Are The Guilty?", naming Congress party leaders and claiming that they found evidence that the carnage was orchestrated.

Another report, "Truth About Delhi Violence: Report to The Nation", published by an NGO Citizens For Democracy, found patterns in the violence and said the violence was not spontaneous but organized by the Congress party, and "was meant primarily to arouse passions within the majority community – Hindu chauvinism – in order to consolidate Hindu votes." Both reports said the police in many cases had instigated the violence or stood by passively.

An inquiry led by a top police officer in Delhi, at least two judicial commissions of inquiry and nine committees were set up to conduct further probes. And yet, after over more than three decades, prolonged and often frustrating legal battles to bring the perpetrators to justice have met with little success. For years Mr. Modi himself has raked the 1984 anti-Sikh violence in his public speeches as proof of Congress party's sectarianism and anti-minority bias, but since he assumed India's premiership his government, too, has failed in securing justice for the Sikhs.

In February 2015, Mr. Modi's government accepted the recommendations of a retired

Supreme Court Judge and set up a Special Investigation Team (SIT) to reinvestigate cases of Sikh killings that had been closed over the years. “But the SIT’s lack of transparency so far has been disturbing,” the Amnesty report said. The SIT was supposed to give a report by August 2015. However, its term has been extended three times and its latest deadline is August 2017.

The experience of the victims with the SIT has been far from satisfactory. One survivor told Amnesty a SIT representative telephoned her in September 2016 but, instead of asking for the details of the killing of her husband, it wanted to know if she at all wanted to pursue the case.

According to a status report submitted to the Supreme Court of India, the SIT has scrutinized 293 cases and pursued investigations in 59. Of these, it has completed investigation in 42. However, charge-sheets have been filed only in four cases, whereas 38 have been closed again. “It is beyond baffling that a team of 68 people, including an Inspector General of Police, a retired judge, an additional Deputy Commissioner of Police, four Assistant Commissioner of Police-ranked officers and 10 Inspectors, has made such little progress,” the Amnesty report says.

“The carnage of 1984 remains a national shame, and the continuing impunity for the massacre has made a mockery of justice. The SIT provided a critical opportunity to set things right, but it seems to be wasting its chance.” H. S. Phoolka, a prominent Supreme Court lawyer who has spent decades fighting for justice, said: “The SIT has nothing to show. They are not doing anything at all. One victim went to lodge a report. They said no, we don’t take complaints.”

In December 2015, India’s Ministry of Home Affairs (MHA) informed Parliament that Delhi courts had convicted 442 people of the crimes against Sikhs. Not one of these are Congress party leaders accused of leading the mobs that killed, or the complicit police officers. When Amnesty filed a Right to Information (RTI) application — akin to the Freedom of Information Act in the U.S. — to ask why the SIT’s term was extended, the MHA said the information was not covered under RTI. In December 2016, Amnesty filed another RTI asking to know in how many cases had the SIT filed charges as it was empowered to do. The answer was zero.



Cow Protection Vigilantism

Religious Hindus traditionally revere the cow as sacred. The goal of a nationwide ban on cow slaughter is enshrined in India's Constitution as an aspiration, a guiding principle but not a fundamental right to be forced into adherence. Yet, state governments across India are increasingly legislating bans on cow slaughter as well on the procurement, sale and consumption of beef.

Self-styled cow vigilantism has soared on Mr. Modi's watch. Hindu ultranationalist mobs directly linked to the RSS-BJP and armed with guns, batons and swords, conduct witch-hunts across major cities as well as highways to nab people transporting cattle or possessing, consuming or selling beef. They have mercilessly beaten Muslims and Dalits transporting or herding cows. At least 10 people have been publicly lynched across India. Many of the men were stripped, forced to abuse Islam, beaten and tortured. In one incident in Haryana, two Muslims were forced to eat cow dung. Videos of the assaults were uploaded to YouTube or Facebook.

Muslims have also been attacked on mere suspicion of cooking or eating beef. The public lynching in September 2015 of a man named Mohammad Akhlaq about 60 km from New Delhi by a mob of 200 Hindu hardliners who stormed his home and beat him to death became international news.⁷⁶ The police however, promptly filed a case

against Akhlaq and his family on charges of keeping beef in their refrigerator. A national outrage led to arrests of BJP-linked people. Yet Mr. Modi did not condemn the incident.

When one of the arrestees in the case died a natural death in prison, his dead body was draped in India's national flag and thousands attended his funeral, including Mr. Modi's Tourism Minister Mahesh Sharma. Mr. Sharma is referred to elsewhere in this report as the individual who stated on record to a newspaper interviewer that the Bible and the Koran were not "central to India's soul." Less than a month after Akhlaq's murder, another Muslim named Zahid Rasool Bhat, was burnt to death for transporting cows allegedly for slaughter in Jammu and Kashmir.⁷⁷ Days earlier, a 22-year-old Muslim man transporting cows was lynched in Himachal Pradesh.⁷⁸

Mr. Modi, silent on the killings of Muslims, was forced to denounce and order the arrest of the cow vigilantes who assaulted Dalits.⁷⁹ But Pravin Togadia, an ultranationalist from Gujarat linked to the RSS-BJP and a former close ally of Mr. Modi's, rejected Modi's call as an "insult." He said these very cow vigilantes had helped Mr. Modi get elected.⁸⁰ Hindu ultranationalist organizations had campaigned for Mr. Modi during the 2014 elections using slogans such as "Vote for Modi, give life to the cow" and "BJP's message: the cow will be saved, the country will be saved." They also put down cow protection as a key condition to back Mr. Modi's candidature for prime ministership.

In April 2017, a mob beat a 55-year-old Muslim man, Pehlu Khan, to death in Rajasthan after accusing him of transporting cows for slaughter.⁸¹ An exposé by a television news station showed the attackers belonged to the BJP and its affiliates.⁸² The attackers made a video of the incident and put it on the internet. Reports said Mr. Khan had bought a cow at a cattle fair and was bringing it home with him. Rajasthan's Home Minister Gulab Katheria, a BJP leader, said "both sides" were to blame, implying that Mr. Khan was illegally transporting cattle, though he was not.⁸³

In August 2016, a 20-year-old Muslim woman in Haryana alleged that four Hindu men raped her and her 14-year-old niece and beat her uncle and aunt to death after accusing them of eating beef.⁸⁴ Though the police arrested the accused and charged them with rape and murder, they told reporters there was "no evidence to suggest" cow vigilantes were involved, the BBC reported.⁸⁵

In July 2016, a video emerged showing cow protection vigilantes beating two Muslim women in Madhya Pradesh even as the police watched.⁸⁶ The police later arrested the women for possession of beef. Although the meat was later determined to be buffalo's, a local court charged the women with unlawful possession of meat. Only later were they released on bail. In August 2016, cow protection vigilantes led by a locally well-known leader of the Bajrang Dal stopped a Muslim in Karnataka while he was transporting cows and beat him to death.⁸⁷

In March 2016, vigilantes hanged a Muslim cattle trader, Mohammed Mazlum Ansari, 35, and a 12-year-old boy, Mohammed Imteyaz Khan, from a tree in Jharkhand, their hands tied behind their backs.⁸⁸ Police said it was being investigated as a case of “business rivalry.” Instead of condemning the hate killing, Jharkhand Chief Minister Raghuvar Das, a BJP leader, said, “Those who consider India as their country, for them cow is their mother.”⁹⁰ He said he believed cow “smugglers” were involved in the case and had asked the police to check cow smuggling.

Cow slaughter has been banned in 25 of India’s 29 states. The Economic Times reports that 99.38% of India’s population lives in states where cow slaughter is banned.⁹⁰ Four of these, Gujarat, Haryana, Jharkhand and Uttarakhand, prescribe punishments of up to 10 years in prison. Haryana legislated its ban in 2015 after the BJP won a thumping electoral win there. The government also decided to set aside a generous cash purse (estimated at Rs 200 million Indian Rupees, or USD 3.1 million) for a Cow Commission and providing ID cards to cow vigilantes. Gujarat amended its law in March 2017 to not only increase the tenure of imprisonment but also a fine of Rs. 500,000 (\$7,740), the highest across India. The state now holds the “mantle” of the state with the strictest laws in the country to protect cows, bullocks, the newspaper writes.

The BJP’s government in Maharashtra has called for volunteers engaged in “animal welfare activities on religious grounds” to apply for honorary positions as welfare officers to monitor the beef ban. The requirement is that they should have no political affiliations. Those selected will get official ID cards to monitor and report any act of cruelty to animals. Many of the applications cleared are from those belonging to Hindutva outfits such as the VHP, Bajrang Dal, Shiv Sena, ABVP and RSS.⁹¹

This is really giving cow vigilantes legitimacy to harass people under the guise of carrying out “official” duties. This has been taken as licence by vigilantes to monitor the transport of cattle, the disposal of carcasses and to examine any meat either being carried or stored that they deem suspicious. This scheme, which has no clear guidelines or recruitment criteria will create more fear and anxiety among minorities who are automatically under suspicion when it comes to cow protection.

The impact of the beef ban has deepened rural distress. Millions of farmers already suffering bad harvests from years of droughts and unseasonal rains are struggling to sell animals they can no longer feed or water. According to data from the Indian government’s National Crime Records Bureau (NCRB), there was a 42% increase in farmer suicides between 2014 and 2015. According to The Economic Times, over 80% of the states enacting new cow slaughter ban laws in the last four decades have done so under BJP or BJP-supported rule. “Cow protection laws enacted or amended in the last 23 years in 10 of 11 states are especially more stringent.”

In three out of every four states that have prohibited cow slaughter the offense is cognizable — that is, on par with crimes such as murder, rape, kidnapping and killing

for dowry. “In such cases, the police can make an arrest without a warrant and start investigation without a magistrate's permission.” In half the states banning cow slaughter, the offense is non-bailable. Only the four northeastern states of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland, and the federally-administered Lakshadweep, have no laws related to cow slaughter. Mr. Modi’s office has publicly said cow slaughter banning laws are “models for other states to emulate.” It is now illegal in many places to transport cows from one state to another. India’s Home Minister Rajnath Singh has ordered the paramilitary Border Security Force to enforce the ban on intrastate transportation of cows as a top priority.

After becoming Uttar Pradesh Chief Minister in March 2017, Yogi Adityanath began shutting down slaughterhouses, triggering statewide protests by millions of people whose livelihoods are dependent on the trade. When affected people brought a suit against the government on this issue before the state’s High Court, the government said it was only shutting illegal slaughterhouses. The court ordered the government to write a clear cut policy on slaughterhouse and revert in weeks. No such policy had emerged by the time of the writing of this report.⁹²

The U.S. Department of State report notes that minority rights activists call the cow slaughter ban as “food fascism”. “Beef is a critical source of nutrition for various minority communities, including Dalits, Christians, and Muslims,” the report says. Their members work in the cattle transportation and beef industries, including slaughter for food consumption, hauling items and producing leather goods, and are, therefore, particularly vulnerable to attacks.

“Love Jihad”

Bajrang Dal, Hindu Yuva Vahini and similar outfits have turned vigilantes against marriages between Muslim men and Hindu women, which they have fancifully termed “love jihad”. Allegations of Muslim youth trapping Hindu women through love to convert to Islam has been their potent propaganda tool. It has been easy to inflame sentiment as converting to marry outside her faith is seen as a family dishonor by some in the conservative Hindu society. This propaganda dovetails with the rabble rousing about the fears of “breeding” Muslims set to overtake Hindu population in India. Since Yogi Adityanath became Chief Minister in March 2017, the Hindu Yuva Vahini has struck at mixed religion couples across Uttar Pradesh.

In April 2017, members of the Hindu Yuva Vahini stormed a private home in Meerut town and dragged out a couple who it claimed were not married to each other but were, it said, “having sex” inside the house.⁹³ The police accompanied the vigilantes instead of stopping them, and reports have said that the Muslim man was actually charged with “obscenity”. The Yuva Vahini defended its action. Neither Mr. Modi’s government nor Yogi Adityanath’s reprimand the vigilantes.

In March 2017, RSS-VHP-Bajrang Dal leaders called a massive gathering of Hindus from several villages in Rajasthan which decided to boycott Muslims in the villages because a Hindu woman had eloped with a Muslim man a night before she was to be married off to a Hindu.⁹⁴ The police traced the runaway couple in New Delhi and then took the man in custody, reports said.

In January 2017, vigilantes barged in at a court in Madhya Pradesh to stop a marriage from being registered. They said the groom was a Christian as he had once “played guitar at a church, and claimed that the bride had refused to “pray to Hindu gods” as she had converted to Christianity.⁹⁵ They left only when convinced that both the groom and the bride were Hindus. In November 2016, Bajrang Dal activists in an Uttar Pradesh town thrashed a couple on the suspicion that while the man was a Muslim the woman was a Hindu, which she was not. As they beat the couple they accused them of “polluting Hindu areas,” as can be seen in a video.⁹⁶

In April 2016, Bajrang Dal and VHP members stormed the house of a Hindu woman in a Karnataka town after they learnt she was going to marry a Muslim man. As her father complained to the government, the woman spoke strongly against the vigilantes. “My life is mine and others have no business in it,” she said. Yet, the Bajrang Dal and VHP called for a citywide shutdown to protest their marriage. Her family got threatening calls that she will be killed.⁹⁷

The NDTV investigative report on Love Jihad cites a police report that exposes the

Love Jihad myth.⁹⁸ The report claims that the police investigations did not find any evidence of an organized "Love Jihad" campaign. The Police report says sporadic cases of trickery by unscrupulous men are not evidence of a broader conspiracy. In Uttar Pradesh, police found no evidence of attempted or forced conversion in five of six reported Love Jihad cases. "In most cases we found that a Hindu girl and Muslim boy were in love and had married against their parents' will," said state police Chief A.L. Banerjee. "These are cases of love marriages and not Love Jihad."

The expose by Cobrapost and Gulail (both investigative portals) confirms Love Jihad campaign to be a fabrication.⁹⁹ The video clips captured Hindutva leaders engaged in false propaganda that Hindu girls are in danger and needs to be rescued from Muslim boys. Cobrapost and Gulail, both investigative journalism networks, published a report bogey of Love Jihad, based on a year-long investigation called Operation Juliet, it exposes how the Hindutva outfits (Sangh Parivar) and its splinter groups use violence, intimidation, emotional blackmail, duplicity and drugs to split the married couples. The report reveals a systematic effort across pan-India, engaged in the campaign to spread sectarian hatred between two religious communities with the objective to win elections.

In December 2016 when a woman officer of the Indian Administrative Service (IAS) who had topped the entrance exam in 2015 announced her decision to marry the second rank-holder, a Muslim, the Hindu Mahasabha wrote to her father demanding that she "cancel" her wedding plans as it would "promote love jihad" across India.¹⁰⁰ They said she could be allowed to go ahead with the wedding only if her Muslim husband-to-be be converted to Hinduism.

The vigilantes are demanding legislation to stop inter-religious marriages. The Bajrang Dal wants Hindu women marrying Muslims prohibited from converting to Islam. However, they also run campaigns to encourage Hindu men to marry Muslim women. Indeed, the Hindu Yuva Vahini and the have allegedly carried out a "reverse Love jihad" in an Uttar Pradesh region.

According to a report published in DNA India newspaper in January 2017, police in Kushinagar in east Uttar Pradesh registered cases of 389 missing underage girls, that is, under the age of 18, between 2014 and 2016.¹⁰¹ Many of them were allegedly abducted by the Hindu Yuva Vahini and married off to Hindus. In most villages of the district Muslims are a minority and live on "the periphery;" in some places the Muslim houses are actually separated by a physical wall.

The newspaper report cited a case in which a Muslim girl was allegedly raped by four men of the Hindu Yuva Vahini but her family was threatened with violence into withdrawing the police complaint against them, who continued to live in the village and "roamed around freely." The report said the number of missing Muslim girls in the district had climbed each year: from 116 in 2014 to 137 in 2015 and 136 before October-end in 2016, until when the data was available.

“Ghar Wapasi” or Conversions to Hinduism

The RSS and its offshoots also use threat, violence and even allurements of money — the very accusations they level against Christians and Muslims when Hindus convert to those religions — to convert non-Hindus, both Muslims and Christians, to Hinduism. The RSS repeatedly asserts that the ancestors of all Indian Muslims and Christians were once Hindus and, therefore, it is “technically” only “reconversion”, which it has termed “ghar wapasi”, or homecoming.

In April 2017, the RSS announced that 53 Christian families in Jharkhand had “reconverted” to Hinduism. An RSS leader told a newspaper that the conversions, carried out in the previous month, were part of a campaign to “free” the area of Christians. He said the effort would continue.¹⁰²

After Mr. Modi became prime minister the Dharm Jagran Samiti (Religious Awakening Council), an RSS-VHP affiliate dedicated to converting Muslims and Christians to Hinduism, said it would expedite its Ghar Wapasi campaign. “Muslims and Christians don’t have any right to stay here [in India],” one of its leaders said in December 2014. “Our target is to make India a Hindu nation by 2021... Muslims and Christians must convert to Hinduism “if they want to stay in this country.”¹⁰³

He was speaking shortly after his organization claimed it had converted 57 Muslim families to Hinduism in Uttar Pradesh. The conversions led to panic among Muslims and many fled their homes. The Uttar Pradesh minorities panel termed the conversion “an act of fraud” as many families claimed they were tricked by promises of government subsidies and other benefits.

A VHP leader later claimed the RSS had converted more than six million Muslims and Christians into Hinduism since 1966. In its annual report presented of 2015, the VHP claimed to have converted nearly 34,000 people to Hinduism over a year and “prevented” nearly 49,000 Hindus from converting to other religions.¹⁰⁴ These conversions and “preventions” were carried out in the states of Odisha, Gujarat, Chhattisgarh, Jharkhand and Assam. The Dharm Jagran Samiti also distributed pamphlets for its fundraising drive where the cost of converting a Muslim was fixed at Rs. 500,000 (\$7,500) and of converting a Christian at Rs. 200,000 (\$3,000). BJP MP Satish Gautam welcomed the announcement.

P. P. Pandey (R) is one of several police officers accused of the cold-blooded murder of Ishrat Jahan (below; inset) and three other Muslim men in 2004. Pandey was arrested and spent 18 months in prison, but was freed on bail in 2015 after Narendra Modi became prime minister. Gujarat government made Pandey head of state police even though he is still an accused in the murder case.



Anti-Conversion Laws

Although the BJP had promised to bring a national anti-conversion law if voted to power it has yet not been able to do as it does not have a majority in the Upper House of Parliament. Application of anti-conversion laws to Christians and Muslims have nonetheless increased under the current federal and state dispensations governed by the BJP and its allies.

In April 2017, a minister in the BJP-led Maharashtra government announced in the state legislature that it would initiate a debate on the “necessity of [bringing] an anti-conversion law.” His comment followed claims by BJP legislator that missionaries were attempting to convert tribals to Christianity in parts of the state by “distributing Christian prayer books.” The legislator demanded action against such groups for “trying to woo poor people into Christianity by propagating thoughts of Hindu saints as that of Jesus Christ,” a news report said.¹⁰⁵

In May 2016, Archbishop Leo Cornelio, a high-level Christian priest, said the “anti-conversion” laws in the various states were “unjust and against our fundamental rights as citizens of this democratic country.”¹⁰⁶ He was speaking a day after a Christian pastor, his wife and another member of their denomination were arrested on charges of “inducing” religious conversions.¹⁰⁷

Another priest who witnessed their arrest said the police were accompanied by ultranationalist Hindus who roughed up the arrestees and were also present at the police station and the courthouse. The judge refused bail to the arrested Christians. “The whole idea of so-called “inducement” is a questionable clause because anyone can make false charges against someone else, if he has some grudge against that person,” the archbishop later said. In January 2016, authorities in Karnataka state detained 15 Christians clearly under pressures from Bajrang Dal and VHP who alleged that their conversions had been “improper.”

Even as the RSS family carries out a full-blown campaign to convert Muslims and Christians to Hinduism, an increasing number of Indian states have been writing laws that make it virtually impossible for Hindus to convert to those religions. Such anti-conversion Laws, ironically named Freedom of Religion Acts in most places, have been passed by legislatures in Chhattisgarh, Himachal Pradesh, Gujarat, Rajasthan, Madhya Pradesh, Arunachal Pradesh and Odisha.

Each of these laws purport to outlaw “improper” conversions without defining clearly, perhaps deliberately, what amounts to an “improper conversion.” The laws disbar conversions by use of “force,” which is defined as a “show of force or threat of injury or threat of divine displeasure or social ex-communication.” The law thus targets

Abrahamic faiths as conversion to any religion that has the concept of hell or heaven is implicitly assumed to be a forcible conversion.

Further, “inducement” or “allurement” that disqualify conversions are defined to include “the offer of any gift or gratification, either in cash or in kind and shall also include the grant of any benefit, either pecuniary or otherwise.” These specifically target Christian missionaries whose schools, hospitals and other charitable works provide free services to all, including non-Christians.

Hindus wanting to convert to Islam or Christianity must have authorization from government officials, who use the ambiguity in the term “improper” to often deny permission. The UN Special Rapporteur on Freedom of Religion or Belief has said these laws and draft laws “have had adverse consequences for religious minorities and... fostered mob violence against them.”¹⁰⁸

Indian civil society has long debated if the “right to freedom of conversion” is associated with the “right to freedom of religion” in Article 25 of the Constitution, USCIRF says in its report. “Although the anti-conversion laws do not explicitly ban conversions, in practice these laws both by their design and implementation, infringe upon the individual’s right to convert, favor Hinduism over minority religions, and represent a significant challenge to Indian secularism.”

That these anti-conversion laws are a fig leaf is clear in that they are applicable only in case of conversion from the “original religion,” and keep out of their purview reconversion to “the religion of one’s ancestors,” which is code speak for Hinduism. Hindu hardliners claim that nearly all of India’s Christians and Muslims are descended from Hindus. In practice, these laws do not contain evidentiary requirements and are not applied to prohibit forceful conversion to Hinduism.

Most laws requires that government be notified of the conversions 30 days in advance. If the government official determines that the conversion was forced then the guilt are liable to a punishment of up to three years’ imprisonment, which is seven years in the case of tribals. Despite thousands of Christians and Muslims being converted to Hinduism, not one case of forced conversion is known to have been applied to conversions into Hinduism. Christian population that was ethnically cleaned out of Kandhamal in Odisha in 2008 by Hindu ultranationalist militias was allowed to return only on the condition that they renounce Christianity. Yet no case of forced conversion was applied on the Hindu groups or individuals.

Restrictions on Freedom of Expression

The assault on freedom of expression has worsened in India in the last three years. Federal and state governments have increasingly used archaic legislation that criminalizes sedition to crack down on the opponents — including university and college students — of the government and its policies. “In certain cases local authorities arrested individuals under laws against hate speech for expressions of political views,” the U.S. Department of State report notes.

Judicial interventions in favor of free speech have been patchy. In 2016, the Supreme Court of India ruled that the government could not bring charges of sedition against someone merely because she or he had criticized the government and its policies. The court was however, not so liberal when petitioned to strike down India’s dubious defamation law. In another case, the court upheld the government’s claim that defamation must invite criminal penalties.

Some of the worst crackdowns are seen in regions where law enforcement and security forces are combating insurgencies. In March 2016, Chhattisgarh police arrested journalist Prabhat Singh for allegedly sharing on WhatsApp a message that criticized the police.¹⁰⁹ Mr. Singh is widely cited for his courageous exposés of fraudulent arrests and encounter killings.

Days before his arrest Mr. Singh had filed a complaint over death threats from by people who he alleged were vigilante backed by the police. The police refused to file an FIR. The Hindustan Times reported the regional police chief had once at a press conference singled out Mr. Singh and threatened him with reprisals if he did not stop his investigative reporting against the police.¹¹⁰ Less than a week after his arrest, police arrested another journalist who had asked questions about Mr. Singh’s arrest. Each spent a month in custody before courts granted them bails.

Another journalist named Santosh Yadav, who Chhattisgarh police arrested in 2015 and accused of being linked to Maoist insurgents, was in prison for 17 months before he was bailed by the Supreme Court of India in February 2017.¹¹¹ Both the U.S.-based Committee to Protect Journalists (CPJ) and Reporters Without Borders (RSF) took up his case. Human rights defenders say Mr. Yadav was targeted because he had written extensively against the state police and administration often exposing official assaults on innocent civilians. The police claimed that he had been seen with a top Maoist “commander” during an ambush. But the person who allegedly saw him there failed to point him out in an identification lineup.

In February 2016, a TV news station anchor received more than 2,000 abusive calls and death threats after she moderated a live discussion on Hinduism. Five people were

arrested.¹¹² In January 2016, a Muslim man in Kerala was charged with sedition because he had written comments on a social media platform against a Indian military officer killed during a counterterrorism operation at an Air Force Base in north India.¹¹³ In March 2016, two students were arrested in Karnataka because they allegedly texted “Hail Pakistan” on the phone.¹¹⁴

The Indian government also places requests before internet companies to provide it with data. “According to Facebook’s January 2016 transparency report for the second half of 2015, the government made 5,561 requests,” notes the U.S. Department of State report. “Facebook complied with 51 percent of those requests. Google also highlighted in its most recent transparency report an increase in government requests to share user data.”

The most prominent case, of course, that gained international headlines was the arrest of three students at New Delhi’s Jawaharlal Nehru University in February 2016 on charges of sedition after they were accused of raising slogans and making speeches that were “anti-national.”¹¹⁵ The arrests were made following complaints by the ABVP, the student wing of the RSS-BJP, which gave it a decidedly political color. The ABVP has long tried to gain a foothold among the students in JNU, who have traditionally tilted towards Left-oriented student politics.

The arrests of these students, including Kanhaiya Kumar, then JNU students’ union president, triggered nationwide protests over the arbitrary use of the sedition law. They spent weeks in custody before being bailed. Minister for Home Affairs Rajnath Singh, India’s top internal security official, called a press conference where he even accused the union president of being linked with a Pakistan-based militant leader, before walking back that comment days later.¹¹⁶

The government also pressured the JNU administration to announce disciplinary action against the students, which further spiraled protests, bringing in the teaching faculty, too. In widely publicized pictures and TV reports, ultranationalist Hindus, including BJP leaders, attacked and physically assaulted Mr. Kumar when he appeared at the court for a bail hearing.¹¹⁷

After the suicide of Dalit student Rohith Vemula at the University of Hyderabad, police had responded to protests by teachers and students against the university administration by using “disproportionate force.” They had even detained two teachers and 36 students. In August 2016, police in Karnataka state filed a sedition case against Amnesty International India, again based on a complaint by ABVP which alleged that “anti-India” slogans were raised at a meeting called by Amnesty to debate the human rights abuses in Kashmir.¹¹⁸ But the police later said they did not have enough evidence to follow through with a case against Amnesty.

Around the same time in that state, Ramya, a former MP of the Congress party and a film actor, faced sedition charges after she praised the friendship and courtesy she

received in Pakistan.¹¹⁹ After India's then Defense Minister had publicly said that "going to Pakistan was worse than going to hell," Ms. Ramya had said that on her visit to Pakistan she had found the people there "warm and good-natured... like us." In Madhya Pradesh, police slapped sedition charges against some people for publishing a map of India that did not show some parts of Kashmir as Indian territory.

Journalists, human rights defenders and lawyers have been attacked, assaulted and murdered but the government has failed to respond adequately. In February 2016, a journalist who had been writing against illegal soil mining was shot dead in Uttar Pradesh. In May that year, another journalist who had faced threats from political leaders was killed in Bihar.

Journalist, Malini Subramaniam, was forced out of Chhattisgarh "following an attack on her home and pressure from police on her landlord," Amnesty reported. "Bela Bhatia, a researcher and activist, faced intimidation and harassment from vigilante groups in Bastar. Adivasi activist Soni Sori had a chemical substance thrown at her face by unidentified assailants. A group of human rights lawyers who provided free legal aid to Adivasi pre-trial detainees were also forced to leave their home in Chhattisgarh, following police pressure on their landlord."

In June 2016, Tamil Nadu police arrested a Dalit author on what turned out to be a false charge of assault. The next month, state police arrested three environmental activists protesting the construction of a railway bridge and also booked them on charges of sedition. One of them, Piyush Sethia, has seen several other cases filed against him. A judge refused him bail even though his environment work is renowned.¹²⁰

In Jammu and Kashmir, where, as noted earlier in this report, the killing of a popular militant in July 2016 triggered widespread protests, the government suspended private landline, mobile and internet service providers for weeks, which "undermined a range of human rights. Residents reported being unable to reach medical assistance in cases of emergencies." The state government also prevented the publication of local newspapers in Kashmir for three days.

Various agencies of the government, even when autonomous, have taken positions that clearly amount to a curtailment of freedom expression. In August 2015, the Central Board of Film Certification (CBFC), the government agency that certifies films before they can be released for public viewing, refused to certify a film that portrays Tamil life in post-war Sri Lanka, on the pretext that it "glorified war." The ban was lifted after the filmmakers won on legal appeal. In Andhra Pradesh, the government forced a television news station off air in June 2016 because it had covered a hunger strike by a political personality. The government defended its decision saying the continuing coverage of the hunger strike imperiled public security.

Restrictions on Foreign Funding

One of the prominent tactics increasingly used by the Indian government to suppress criticism of its policies by civil society organizations is to restrict or outrightly deny them their right to source donations from outside India. In this the government is aided by a draconian law, the Foreign Contributions Regulation Act (FCRA), which was written in 1976 and amended in 2010.

The law prohibits “organizations of a political nature” from receiving funds under, and the government has abused it to label any criticism of its policies and actions as being of this nature, even though political parties are legally allowed to receive foreign funding. Section 5 of the law authorizes the federal government to term an organization as being of a political nature “having regard to the activities of the organization or the ideology propagated by the organization.”

The government has used the broad definition to abuse the law to suspend licenses and launch criminal cases against individuals and organizations. The law limits access to overseas funds for charities as well as missionaries and religious organizations. “[The] government has used it to block funds to hamper the activities of NGOs that question or condemn the government or its policies,” notes the USCIRF report.

The most prominent case of this abuse is that of the activist couple, Teesta Setalvad and Javed Anand, whose two NGOs, Citizens for Justice and Peace and Sabrang Trust, have done pioneering work in Gujarat in bringing to justice ultranationalist Hindus linked to the RSS-BJP who massacred Muslims in the state in 2002. Human rights defenders accuse Mr. Modi of carrying out a vendetta against Ms. Setalvad and Mr. Anand after becoming prime minister.¹²¹

The government has accused both of violating the FCRA and receiving funds unlawfully. Ms. Setalvad “is renowned for her supportive endeavors” for the Gujarat violence victims, and has been campaigning to seek “criminal charges against Indian officials, including Prime Minister Narendra Modi, for their alleged involvement in the anti-Muslim riots,” the HRW writes.

The government also put the New York-based Ford Foundation on a “watch list” as it once funded one of Ms. Setalvad’s projects. The U.S. Department of State has “raised concerns over the constraints that were put on the Ford Foundation.”¹²² In May 2015, the U.S. ambassador to India Richard Verma expressed concerns over challenges faced by civil society organizations in India and the “potentially chilling effects” of the regulatory measures focused on NGOs. Yet, in June 2016, the government brazenly cancelled the registration of Sabrang Trust under the FCRA.

In another example of extreme cynicism the Modi Administration shut down India's largest Dalit NGO, the Navsarijan Trust, alleging that it was inciting caste tensions by speaking out about it.¹²³ This clampdown followed immediately after the Trust played a leading role in widespread protests by Dalits in Gujarat against cow vigilantes which mobilized tens of thousands.

The government has in fact taken a battering ram to the civil society. In 2015, after it came to power, it cancelled and/or suspended the licenses of approximately 8,000 NGOs under the FCRA, invoking a clause that allows it to reject foreign donations by NGOs where it "is satisfied that the acceptance of foreign contribution... is likely to affect prejudicially... public interest."¹²⁴

In November 2016, the Ministry of Home Affairs rejected FCRA registration renewals of 25 NGOs, including Lawyer's Collective, a legal resource NGO run by a former Additional Solicitor General of India, Indira Jaising.¹²⁵ In addition, some NGOs were placed on a "prior permissions" list that requires government pre-approval of any transfer of funds from abroad. "Several NGOs stated these actions threaten their ability to continue to operate in the country," says HRW. The license of Greenpeace India to raise foreign funds was also cancelled, leading to its shutdown.

A legal analysis by the UN special rapporteur on Freedom of Assembly and Association published in April 2015 said the FCRA did not conform to "international law, principles, and standards."¹²⁶ In June the UN Special Rapporteurs on Human Rights Defenders; on Freedom of Expression; and on Freedom of Association called on India to repeal the FCRA. Their call was triggered by the cancellation of the license of Lawyers Collective.

"We are alarmed by reports that the suspension was politically motivated and was aimed at intimidating, delegitimizing and silencing Lawyers Collective for their litigation and criticism of the Government's policies," they said.¹²⁷ "We are also concerned about procedural irregularities surrounding the order, including repeatedly leaked information to the press of suspension notices against the Lawyers Collective months before those were formally served to the NGO.

"We strongly urge the Government to reverse its decision and embrace the invaluable contribution of the two prominent human rights defenders in upholding constitutional values in India," the experts said. "We encourage the authorities to ensure a safe and enabling environment for human rights defenders and civil society, which play a critical role in holding the Government to account and buttressing the Indian democracy."

The statement said FCRA "provisions were increasingly being used...to silence organizations involved in advocating civil, political, economic, social, environmental, or cultural priorities, which may differ from those backed by the Government." The government has ignored that plea.

Serious criticism has also been leveled by UN Special Rapporteur on the Rights to

Freedom of Peaceful Assembly and of Association Maina Kiai. “Access to resources, including foreign funding, is a fundamental part of the right to freedom of association under international law, standards, and principles, and more particularly part of forming an association,” she has written.¹²⁸

“Therefore, any restriction on access to foreign funding must meet the stringent test for allowable restrictions for the right to association developed by the international human rights bodies. Given this narrow test, restricting access to foreign funding for associations based on notions such as “political nature,” “economic interest of the State” or “public interest” violates the right because these terms or definitions are overly broad, do not conform to a prescribed aim, and are not a proportionate responses to the purported goal of the restriction.

“Such stipulations create an unacceptable risk that the law could be used to silence any association involved in advocating political, economic, social, environmental or cultural priorities which differ from those espoused by the government of the day. These restrictions as defined by the Foreign Contribution Regulation Act (2010) and Rules (2011), do not meet the obligations of the Union of India under international law, standards and principles.”

In March 2017, the government proposed in Parliament to bring a new law, without attempting to amend the FCRA, that would allow unlimited and anonymous foreign funding of political parties. Exactly a year previously, the government had introduced an amendment to the FCRA to legalize funding by foreign entities to political parties, coming into effect retroactively from 2010.

Human rights defenders have alleged that these changes in the laws would make it easier for ultranationalist Hindu groups located outside India to fund further radicalization of the BJP-linked vigilantes that indulge in hate violence against India’s social and religious minorities.

As the government has cracked down on the NGOs, it has never brought the BJP-linked groups, beginning with the RSS and including the VHP and the Bajrang Dal, into its scrutiny. To enable foreign companies to route their funding through Indian subsidiaries, the amended law says such subsidiary would be considered to be Indian companies for funding under FCRA.

Harassment of Human Rights Defenders

The BJP-led government has launched a series of direct and indirect assaults on a number of human rights defenders across the country. As noted in the previous section, internationally renowned personalities, including lawyers and activists, as well as NGOs have been targeted. The government's case against Ms. Jaising, the founder of the Lawyers' Collective, is that the Collective illegally accepted 110 million rupees (\$1.64 million) in international funding during 2009-12 because she also served in that period as the previous government's Additional Solicitor General, which made her a public official and therefore ineligible for such funding.

Human rights defenders have said that Ms. Jaising is being targeted because the Collective had legally challenged the discharge of BJP President, Mr. Shah, as an accused in the case of encounter killings in Gujarat. She has also represented Ms. Setalvad at the Supreme Court. While Mr. Modi was Gujarat Chief Minister, his police charged Ms. Setalvad, her husband, Mr. Anand, and four others alleging that they embezzled Rs. 1.5 million (\$22,500) they had collected as donations to build a memorial to victims of the 2002 Gujarat riots. The Supreme Court granted defendants anticipatory bail after several denials in lower courts in Gujarat. The Gujarat government had frozen her NGO's bank accounts in January 2014.

After Mr. Modi became Prime Minister, the CBI launched its own investigation of Ms. Setalvad and Mr. Anand in September 2015 for alleged misuse of grants from foreign donors. The Supreme Court of India once again granted them bail against arrests. The activists say the cases are Mr. Modi's retaliation for their work on behalf of the victims in the Gujarat 2002 riots.

In January 2015, government officials barred Greenpeace India activist Priya Pillai from flying out to London to make a presentation before British Members of Parliament on the human rights abuses in Madhya Pradesh in a case relating to the taking of poor people's lands for an industrial project.¹²⁹ An immigration official told her that she could not be allowed to go as her name was on a "database". "Have I been clubbed together with drug peddlers and smugglers?" she asked. "This government can't treat people who disagree with their viewpoint."

The government told the Delhi High Court that she was stopped because to allow her to speak in Britain would have created a "negative image" about India and "whittle[d] down foreign investments". The court rejected the government's reasoning criticism "may not be palatable... [but] cannot be muzzled." Wrote the judge: "The state may not accept the views of the civil right activists, but that by itself, cannot be a good enough reason to do away with dissent."¹³⁰

The judge also rejected the government's contention that Ms. Pillai was involved in "anti-national activities." He ordered the government to remove Ms. Pillai's name from the said watch list, expunge the word "offloaded" from her passport, and allow her to travel abroad.

In an earlier section this report has documented the case of Delhi University professor G. N. Saibaba, who is one of the strongest critics of the government's counterinsurgency operations, most notably in Chhattisgarh, against outlawed Maoists. Prof. Saibaba has over the years systematically exposed, by way of writings and investigations, the government's dubious practices such as falsely accusing innocents of being Maoists or of being their supporters.

In September 2016, security forces arrested human rights defender Khurram Pervez in Kashmir as he was about to leave to speak before the UN Human Rights Council in Geneva.¹³¹ Even though UN experts called on the Indian government to release Mr. Pervez immediately, he was detained for two months and was freed only after a court ruled his detention illegal.

Alarming, the hatred towards human rights defenders has now been allowed to seep deeper into the body of the government. In October 2016, members of Chhattisgarh police and security forces posted publicly burned effigies of several human rights defenders, after some officers were charged with attacking and burning Adivasi homes in the state in 2011.¹³²

Recommendations to Indian Government

1. Reverse course on the massive abuses of human rights being carried out both by state and non-state actors
2. Devise a mechanism to prosecute and punish police officers who falsely frame innocent people in terror cases
3. Compensate and rehabilitate the victims of such fraudulent criminal cases
4. Ensure that the judiciary strictly implements the law's mandates in cases of national security and terrorism to weed out bogus cases
5. Increase training of legislature, law enforcement and security agencies, and the judiciary on human rights and religious freedom standards and practices
6. Ratify the U.N. Convention Against Torture and legislate punishment for the use of torture by government agencies
7. Comply with the U.N. Declaration on the Rights of Persons Belonging to National or Ethnic, Religious, and Linguistic Minorities
8. Stop the harassment of NGOs and human rights defenders, including religious freedom and freedom of expression activists
9. Remove the ambiguous and vague provisions in FCRA that are the reason for the arbitrary misuse and abuse of the law to punish vocal opponents
10. Repeal the anti-democratic and anti-Constitutional anti-conversion laws and ensure that equal standards apply to conversions and so-called "reconversions"
11. Ban private vigilante groups for cow protection, "love jihad" and such operations, and prosecute them for their various criminal acts
12. Identify and outlaw ultranationalist Hindu groups detailing their criminal activities such as communal violence, arson, rapes and murders
13. Repeal its anti-democratic laws banning cow slaughter and end action against consumption of beef that discriminates against religious minorities
14. Legislate punishment for sectarian violence by individuals or groups, including propagating violence or threats of violence against minorities

15. Allow Scheduled Castes and Scheduled Tribes to retain eligibility for affirmative quota reservations even after converting out of Hinduism
16. Sign into law criminal procedure amendments passed by Parliament in 2010 that require the police to record a formal reason for making a warrantless arrest
17. Amend UAPA to do away with in-camera proceedings; secret witnesses; warrant-less search, seizure and arrest; and 180-day detention
18. Repeal AFSPA, PSA and NSA and similar laws that provide impunity to law enforcement and armed forces for action against civilians
19. Criminalize public threats and retaliatory action by lawyers associations, political parties, politicians or individuals against lawyers defending terrorism suspects
20. Allow country visit by the U.N. Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
21. Following the Supreme Court's ruling of July 2016, conduct time-bound inquiry into encounter killings of over 1,500 citizens in Manipur by security forces
22. Investigate all allegations of human rights violations during counterterrorism operations, including "fake encounter" killings and other extrajudicial executions
23. Set up a framework for the prosecution of officials with the various law enforcement agencies and armed forces for human rights abuses
24. Deny officials accused of human rights violations promotions, wage increases and service awards
25. Inquiry into the activities of political leaders and members of the RSS-BJP and their affiliates who incite violence against religious minorities
26. Implement the Supreme Court of India's five-point directive of 2006 towards bringing "police reforms"
27. Codify as law the "D. K. Basu guidelines" instituted by the Supreme Court with regard to arrests and detention to prevent illegal detention and torture
28. Provide financial compensation and employment to victims of illegal detention and torture, and false cases; as also families of those killed in fake encounters
29. Legislate privacy and free speech as non-negotiable rights and stop shutting down Internet to silence dissent.

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