India’s 190 million Muslims face hostility from the State and targeting through discriminatory laws and violence often instigated by members of the Hindu nationalist BJP government. The re-election of prime minister Narendra Modi and his Hindu nationalist BJP has intensified the persecution of Muslims and India’s internal checks on State violations of human rights have not been effective. The BJP has deliberately marginalised Muslims from politics and of its 303 members of Parliament in the Lok Sabha none is a Muslim. In Modi's previous government (2014-2019), the BJP also had a majority with 282 Lok Sabha seats of which none was held by a Muslim.

The situation deteriorates at an alarming rate with the judiciary being unable or unwilling to prevent the State from brutalising India's minorities, especially its Muslims.

In the Muslim majority former state of Jammu and Kashmir, where civil and political rights have been eroded through the years, the situation has worsened and at the moment its democracy is suspended. The elected chief minister was dismissed and the State brought under direct rule by Delhi.

Two OHCHR reports on Kashmir before this change have already documented the grave human rights situation in the state. (1)(2)

Kashmiris face severe restrictions on their Constitutionally guaranteed freedoms of association, peaceful assembly and free speech.

Internet and telephone connectivity is shut down by the government at will and for extended periods that can go on for several months. India’s ranking of 142 on the World Press Freedom Index is in large measure due to this. Reporters Sans Frontiers has called Kashmir a “vast open prison”. (3)

The State uses excessive force in crowd control measures, including a weapon used nowhere else in India. Twelve-gauge pump action shotguns firing birdshot into protesting crowds are actively used in Kashmir, and have wounded over 6,000 individuals, blinding at least 780 and killing 12. Infants and other children, many who were at home, have also been hit by the pellets which are uncontrollable and have also injured the security forces. (4)

Administrative detention is used, including against children, without meaningful judicial oversight. Habeas corpus pleas sent to India’s Supreme Court after political leaders including the former chief minister went undecided for over a year. Political leaders have been forced to sign a so-called ‘good behaviour’ bond as a condition of their release. (5)

Victims and survivors of alleged crimes by armed forces individuals accused of murder, kidnap, torture and rape over the last three decades have not had access to justice.

Parliament was told on January 1, 2018 that in none of the 50 cases investigated and brought forward had permission been granted for prosecution in a civilian court. (6)

In 2019, India passed a citizenship law that the OHCHR says is “fundamentally discriminatory” against Muslims. (7) The law seeks to expedite citizenship to non-Muslims fleeing persecution in neighbouring nations, but denies this to Muslims.

In the state of Assam, the government carried out a survey of citizenship aimed at identifying and disenfranchising individuals. (8) The law requires individuals to prove their citizenship to the satisfaction of individuals on fixed term government contracts. These temporary officials face a loss of contract extension if they don’t mark more individuals as being ‘foreigners’.

(9)

About 1,000 women, children and men, mostly Muslim, have been jailed in so-called detention centres following these kangaroo courts. India’s home minister has used the word ’termites’ to describe migrants and threatened to extend the Assam exercise to the rest of India. Camps have also been built in several places across India for this. (10)

Peaceful protests led by Muslim women against the citizenship laws have faced hostility from the government and India’s Supreme Court. The BJP’s leaders made speeches which threatened the protestors and ended in riots in Delhi in which the majority of victims were Muslims. (11) (12) Mosques were targeted and vandalised in the city. (13)

Anti-terror laws have been used against many of the protestors, making it difficult for them to get bail. Human rights groups and media reports have found that the Delhi police, which is controlled by the Union government directly, was biased. (14) (15) (16)

The BJP and its provincial governments have pushed the conspiracy of so called love jihad, alleging without evidence that Muslim men are marrying Hindu women in order to convert them. The government has admitted to parliament that no evidence of this exists but its leaders have continued to inflame public opinion. (17)

India’s largest state, Uttar Pradesh, has passed a law punishing Muslim men with 10 years in jail if they marry a Hindu woman who then converts to Islam. (18). Courts have encouraged the State to clamp down on so called forced conversions which are essentially aimed at taking away the agency of Hindu women to marry whom they choose.

This is in violation of Fundamental Rights but has not been defended by the judiciary, which has over the years sought to overturn the right to freedom of religion.

The Supreme Court of India has previously ordered the detention against her will of an adult woman who chose to marry a Muslim man after her father moved court. (19)

The BJP’s state legislations and rhetoric on cattle slaughter have resulted in atrocities against Muslims, including lynchings and vigilante violence against them. The BJP’s leaders have publicly felicitated those convicted of vigilante violence. (20)

India has reached a position where its society is being deliberately pushed into polarisation. Violence, economic and social boycotts against Muslims are not only tolerated, they are encouraged by the State itself. The internal checks and balances, whether democratic politics or the judiciary, have not been effective in preventing the atrocities and they continue to accelerate. India remains a democracy and in some ways is sensitive to external criticism and pressure, especially from multilateral bodies.

The position is alarming and external interest in and intervention in India is both necessary and urgent and we hope through this submission to encourage it.

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(We have served in Amnesty International in the past as its Secretary General, South Asia Director and Director for India respectively)

(1)

https://www.ohchr.org/Documents/Countries/PK/DevelopmentsInKashmirJune2016ToApril2018.pdf

(2)

https://www.ohchr.org/Documents/Countries/PK/KashmirUpdateReport\_8July2019.pdf

(3)

https://rsf.org/en/india

(4)

https://amnesty.org.in/news-update/postcard-campaign-calls-end-use-pellet-firing-shotguns-kashmir-1/

(5)

https://www.thehindu.com/news/national/other-states/504-jk-separatist-leaders-signed-good-behaviour-bond-before-release-from-detention-says-dgp/article32286027.ece

(6)

https://amnesty.org.in/wp-content/uploads/2018/01/RS-AFSPA-QA-JAN-2018-3.pdf

(7)

https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25425&LangID=E

(8)

https://cjp.org.in/wp-content/uploads/2018/11/NHRC-Report-Assam-Detention-Centres-26-3-2018-1.pdf

(9)

https://amnesty.org.in/wp-content/uploads/2019/11/Assam-Foreigners-Tribunals-Report-1.pdf

(10)

https://timesofindia.indiatimes.com/city/bengaluru/karnataka-opens-its-1st-detention-centre-for-illegal-immigrants/articleshow/72946908.cms

(11)

https://www.theguardian.com/commentisfree/2020/feb/26/the-guardian-view-on-delhis-violence-modi-stoked-this-fire

(12)

https://thewire.in/communalism/editorial-1984-2002-2020

(13)

https://scroll.in/article/955713/in-photos-fifteen-muslim-shrines-in-delhi-that-were-burnt-by-hindutva-vigilantes-in-three-days

(14)

https://www.hrw.org/news/2020/06/15/india-end-bias-prosecuting-delhi-violence

(15)

https://scroll.in/article/968841/delhi-polices-hindu-resentment-order-is-yet-another-glimpse-of-bias-guiding-riots-investigation

(16)

https://thewire.in/communalism/delhi-riots-2020-victims-allege-police-bias

(17)

https://www.thequint.com/news/politics/bjp-in-parliament-no-cases-of-love-jihad-bjp-outside-fight-love-jihad

(18)

https://indianexpress.com/article/india/up-clears-love-jihad-law-10-year-jail-cancelling-marriage-if-for-conversion-7064474/

(19)

https://scroll.in/article/859460/out-of-her-fathers-custody-supreme-court-sends-hadiya-back-to-tamil-nadu-to-resume-her-studies

(20)

https://www.indiatoday.in/india/story/union-minister-jayant-sinha-garlands-8-convicted-for-ramgarh-mob-lynching-1279601-2018-07-06