

Submission for Report to the UN General Assembly on Eliminating Intolerance and Discrimination Based on Religion or Belief and the Achievement of SDG 16

Submitting Organization: Indian American Muslim Council (IAMC), America’s largest advocacy organization of Indian Muslims with 25 chapters across the US, established in 2002 as a 501c3 nonprofit registered a Washington, DC

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DISCRIMINATION AGAINST RELIGIOUS MINORITIES IN INDIA

Abstract

Article 14 of India’s Constitution says that the “State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.”

Article 15 adds the “State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.”¹

But the Indian State and its law enforcement and criminal justice agencies have systemically and systematically targeted religious minorities with discrimination and persecution. Such assault has worsened under Indian Prime Minister Narendra Modi’s six-year rule, during which “national level policies violating religious freedom across India, especially for Muslims,” have been instituted and violence against minorities allowed to continue “with impunity.” Mr. Modi’s government has “also engaged in and tolerated hate speech and incitement to violence.”²

Structure of Discrimination

India's State-led structure of Discrimination against and Persecution of religious minorities rests on three pillars. They are the Indian Police, the Indian Judiciary, and Non-State Actors.

A majority of the physical attacks against India’s religious minorities — in the main, India’s 200 million Muslims and 30 million Christians — are carried out by non-State actors masquerading as vigilante groups that are connected and affiliated with Mr. Modi’s Bharatiya Janata Party (BJP). As a rule, these actors escape the law because the government allows them near total impunity through the jurisdictional offices of district administrations and the local police.

As a matter of routine, the police refuse pleas of help allowing perpetrators to carry out the violence. Often, the police indulge in the violence themselves. Mostly, they arrest the victims instead of the perpetrators. India’s police are also notorious for carrying out extrajudicial killings of Muslims. This has become state police especially in Uttar Pradesh state, India’s most populous, since BJP leader Yogi Adityanath became its chief minister in 2017.³ Once again, no effort has been made to punish the guilty police officers and bring justice to the victims.

Once considered one of the world’s most independent and progressive judicial systems, the Indian courts have now become integral to the systemic and systematic discrimination against and persecution of India’s religious minorities, especially in the six years of Mr. Modi’s rule.

Anti-Muslim Violence: False Cases

In February, Hindu mobs rioted and attacked Muslim neighborhoods in New Delhi, India's capital. More than 50 people died in that violence, two-thirds of them Muslim. It was widely reported that the police participated in that violence.⁴ Yet, they have carried out a coverup.⁵ Also, while it is widely known that the violence erupted following a public incitement by Kapil Mishra, a local leader of Mr. Modi's BJP, the police refused to arrest him despite court orders.⁶

Instead, the police have arrested hundreds of Muslims on false charges of carrying out that violence despite overwhelming eyewitness accounts reflected in international news reporting that Hindu rightwing mobs and the police had carried out the attacks. Mr. Modi's government, which supervises the capital's police, has overwhelmingly targeted Muslims.⁷ In May, a Delhi judge pointed out the "disturbing fact" that the investigation was "targeted towards one end."⁸

In fact, the decision to falsely accuse Muslims of the violence against their own community has come from the highest quarters: India's Ministry of Home Affairs which is led by Mr. Amit Shah, Mr. Modi's closest confidante who was once accused of masterminding a string of extrajudicial killings of Muslims during 2002-06 when he was Mr. Modi's righthand man in Gujarat state.⁹

After India began a lockdown on March 24,¹⁰ Mr. Shah's Home Ministry ordered the police to accelerate the arrests. By now, over 800 people have been arrested, most of them Muslims or non-Muslim human rights defenders and activists who joined the nationwide protests against the Citizenship (Amendment) Act (CAA), a law brought by the Modi Government in December to provide expedited citizenship to non-Muslim migrants from neighboring countries.¹¹

Those arrested include several women, including Safoora Zargar who three months' pregnant.¹² According to the People's Union for Democratic Rights, a Delhi-based rights watchdog, Muslims who went to file police complaints were instead arrested as accused.¹³

Crackdown on Anti-CAA Protests

Millions hit the streets within days of the CAA's enactment alleging that Mr. Modi's real target with the law was to disenfranchise India's Muslims by combing the CAA with a nationwide headcount called the National Register for Citizens (NRC) to seek from India's 1.3 billion people proof-of-citizenship documents going back decades and generations. The CAA would allow the non-Muslims "a path to restore their citizenship and avoid detention or deportation," while the Muslims alone would "bear the indignities and consequences of potential statelessness."¹⁴

The police responded with attacks on the protesters, including students, women and children,¹⁵ killing at least 25 people. Eyewitnesses and testimonies have established beyond doubt that the police carried out vicious attacks on students at New Delhi's Jamia Milia Islamia, and Uttar Pradesh's Aligarh Muslim University, two of India's leading Muslim-led institutes.^{16,17}

Police attacked the Aligarh Muslim University (AMU) and lobbed stun grenades. A student lost his hand. "Students spoke of soldiers and police persons raising chilling slogans like Jai Shri Ram (Hail Lord Ram)" during the attack. The police set scooters and other vehicles on fire, and called the Muslims students "terrorists".¹⁸ Police in Muzaffarnagar city of Uttar Pradesh rounded up and tortured "hundreds of innocent Muslim residents" in an "unprecedented and ruthless reign of terror."¹⁹ Chief minister Adityanath "pledged to take revenge on protesters."

The police fired indiscriminately into crowds, beat Muslim bystanders in the streets, raided and looted Muslim homes while shouting Islamophobic slurs and Hindu nationalist slogans, and

detained and tortured Muslim children. The police forced the victims to sign confessions, and filed bogus criminal charges against thousands of Muslims who had not been to a protest.²⁰

Police also stormed an Islamic seminary in Muzaffarnagar and brought its Muslim cleric and 35 students, many of them underage, to the police station where the cleric was stripped and a rod was inserted in his anus causing rectal bleeding and the students tortured with bamboo rods.²¹

The police also opened fire on demonstrators with live ammunition, broke into houses and stole money, and threatened to rape women.²² Videos of police assaulting Muslims and vandalizing their properties in Lucknow, the capital of Uttar Pradesh, have emerged. Rana Parveen, a Muslim woman, said the police entered her home and “hit us with sticks and broke everything, including the TV”. The police also beat her paralytic husband.²³ Videos showed police breaking CCTV cameras on the streets and shattering car windows in a Muslim area.²⁴ Another video showed the police assaulting students in a library at Jamia Milia Islamia.²⁵

In Lucknow, police claimed they had arrested four activists at protests, even when two were arrested from their homes and a third was arrested when he went to a police station to ask about another activists who was detained earlier. One activist, Sadaf Jafar, was live-streaming a protest on Facebook when the police caught her. She live-streamed her own arrest.²⁶

In Meerut, 40 miles from New Delhi, police shot at protesters killing five men. In Bijnor, two Muslims died of gunshot wounds. The family of 20-year-old Mohammed Suleman alleged the police shot him as he was on his way to the Friday prayers. First the police denied the allegation but later said a constable shot Suleman in “self-defense”. Video showed policemen dragging an elderly man to a van, firing from rifles and shouting “Kill one or two of them.”²⁷ In Kanpur, police denied firing at protesters but a video emerged showing they had fired shots.²⁸

Another video emerged showing police beating up five injured men lying on a street. The police forced the men to sing the Indian national anthem. One of the men, a Muslim, died.²⁹

While Mr. Modi’s Government contests that the CAA poses any threat to the Muslims, international authorities have roundly condemned the law. The United Nations High Commissioner for Human Rights (UNHCHR) called it “fundamentally discriminatory”³⁰ and moved India’s Supreme Court against it.³¹ The Supreme Court has refused to stay the law.³²

In December, the United States Commission on International Religious Freedom (USCIRF), a bipartisan autonomous federal commission that advises US Congress and US President, recommended that the US Government sanction Home Minister Shah for bringing the CAA.³³

Extrajudicial Killings

Extrajudicial killings by police of Muslims have continued to rise. In September 2019, it was reported that the Uttar Pradesh government had given “encounter targets” to police stations and that the police had “helped” incarcerated “criminals” get bail and then killed them in “encounters,” which is a euphemism for extrajudicial killing.³⁴ In December, Uttar Pradesh Police tweeted it had carried out “5,178 encounters since 2017” killing 103 “criminals”.

In January 2019, four UN Human Rights Experts said they had written to the Indian Government of 15 cases of police killing Muslims but not heard back.³⁵ They were concerned “over statements issued by high ranking state government and police officials seeming to incite, justify or sanction killings... We are extremely concerned at the pattern: individuals abducted or arrested before killing, their bodies bearing injuries indicative of torture.”

Non-State Actors: Lynchings & Assaults

Non-State Actors affiliated with Mr. Modi's BJP have escalated their vigilante attacks on Muslims after Mr. Modi was re-elected in 2019.

In June 2019, a mob in Jharkhand state tied a Muslim man, Tabrez Ansari, to a tree, forced him to chant Hindu slogans and beat him through the night. The police arrived only to charge him with theft. He died five days later. An outcry forced the arrest of 11 perpetrators. Two policemen were suspended for failing to "register a case of lynching on the very same day".³⁶ A probe accused the doctors of "negligence" saying they had failed to see the skull injuries.³⁷

But two months later, the police removed the charge of murder citing the autopsy report that said Ansari died of a cardiac arrest.³⁸ An independent investigation by government doctors had reported that Ansari's skull had a "grievous injury caused by a hard [and] blunt object" and that the cardiac arrest was the "combined effect of fracture of bone, pale organs and heart chambers full of blood".³⁹ Another outcry forced the police to bring the murder charge back within days.⁴⁰ In December, the Jharkhand High Court granted bail to six of the 11 accused.⁴¹

In November 2019, a mob attacked two Muslims, also in Jharkhand. One was tied to a tree and beaten before he died. Police said a "preliminary investigation suggests" the two had stolen batteries.⁴² This was the 22nd lynching in Jharkhand in five years. In September 2019, a mob lynched a Muslim to death in West Bengal state. His body was found with hands and feet tied. The police said he was attacked because he had vandalized a pharmacy.⁴³

A group of Muslims in Assam were assaulted and forced to chant Hindu slogans like Hail Lord Ram, Hail Mother India, and Death to Pakistan. In Mumbai, India's financial capital, a group of men assaulted Faizal Usman Khan, a cab driver, and forced him to chant Jai Shri Ram.

Judicial Complicity

India's Supreme Court has fallen short of challenging the government for its various violations of Articles 14 and 15 of Indian Constitution, such as the crackdown on Kashmir's 8 million overwhelmingly Muslims residents placed for months under a brutal lockdown since August 2019 and arrested en masse in their thousands while being denied basic human rights.⁴⁴

The Supreme Court has even failed to respond adequately in cases of obvious police biases and violence during the anti-CAA protests, such as the killings by police of 25 Muslims.⁴⁵ In March, a Delhi High Court judge who ordered the police to register a First Information Report (FIR) against BJP leader Mishra was transferred out to another jurisdiction within 24 hours.⁴⁶ The FIR against Mr. Mishra was never registered. The court is yet to rule finally in that case.

In February, a judge in Karnataka bailed 21 Muslim men charged with rioting and "roundly condemned the police for fabricating evidence against them."⁴⁷ He noted the police had failed to register a case basis claims from witnesses that the police had shot dead two people during anti-CAA protests. He called the case "a deliberate attempt to cover up police excesses." Two weeks later, the Supreme Court struck down the ruling, "sending the men back to prison."

For more than two months, the Supreme Court has also failed to uphold a lower court's ruling against a decision of the government in Uttar Pradesh state, which is run by Mr. Modi's BJP, to put up giant billboards with photos, names and addresses of dozens of people whom the government had fined for damages to public properties when none of those people had been

involved in that vandalism. In fact, CCTV footage had captured police vandalizing Muslim homes and properties, but both the government and the court failed to punish the police for it.

In August 2019, a court in Rajasthan state acquitted six men charged with the murder of a Muslim man, Pehlu Khan, in April 2017, by Hindu vigilantes. Khan had purchased cattle from a fair and was going home when he and his sons and other co-travelers were waylaid by a Hindu rightwing mob and accused of intending the cattle for slaughter, which is banned in that state.

Before he died at a hospital Khan named six of his attackers. But police never arrested them, concluding in an investigation not made public that those men were not involved. Three of those six were members of the local BJP-RSS units. The police instead charged six other men with the crime, who were acquitted in August as the court found no evidence against them. The court also rejected a video recording of the attack as evidence. The court also refused to accept the post-mortem report that had stated Khan had died of the wounds from the attack.⁴⁸

In August 2019, a court gave bail to seven men from BJP affiliate Bajrang Dal, a militant youth outfit⁴⁹, accused of killing a police officer in Uttar Pradesh. As they left prison BJP-Bajrang Dal members chanting Hindu slogans welcomed them with garlands.⁵⁰ The slain officer's widow, Rajani Singh, later said she feared for her family's safety following the release of the accused.⁵¹

In August 2019, Uttar Pradesh government announced it would withdraw 74 cases against its members, including state Ministers, Members of Parliament and state legislators, earlier accused of inciting/ committing sectarian violence against Muslims in 2013. That violence, in Muzaffarnagar district of the state, had claimed over 60 lives, 2/3rd of them Muslim. In July 2019, courts allowed 20 such to be recalled. The accused in these cases had been charges with rioting, being armed with deadly weapon, and attempts to cause death.⁵²

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