Banglar Manabadhikar Suraksha Mancha (MASUM)

**Submission to the Special Rapporteur on Freedom of Religion or Belief**

Atrocities and discrimination against religious minorities, especially Muslims, has become rampant in India under the rule of the Bharatiya Janta Party (BJP) since 2014. The BJP is a right leaning political party that promotes ‘Hindutva’ which proposes the belief that India originally belongs to the Hindus while religious minorities such as Muslims and Christians are foreign invaders on the Indian soil. Given that Hindus constitute more than 80% of India’s population, the Party has consistently enjoyed a majority leadership in the Parliament, has thwarted limited opposition and has implemented legislations and policies that openly disregard the constitutional ideals of equality and secularism.

**Observations from MASUM’s work**

At the Indo-Bangladesh border which is the focal point of MASUM’s work, increasing hostility has been observed against Muslims. **From January 2018 to April 2020, MASUM monitored incidents of torture, physical assault, illegal detention, extrajudicial execution and other infringement of civil liberties involving 702 victims out of which 543 were Muslims**. The perpetrators of most of these human rights violations are the personnel of the Border Security Force (BSF), a paramilitary force under the command of the Central government. In almost all the cases, the **police refrained from filing a complaint against the perpetrators and in some cases, filed false complaints against the victims** instead, for crimes such as cattle smuggling across the border to Bangladesh.

Our work is largely focused on three districts of West Bengal that share their borders with Bangladesh and have about 27.01% Muslims residing in them. These people live in utmost penury and mainly derive their income from agriculture, farming, fishing and so on. They are consistently exposed to **arbitrary restrictions imposed on their livelihood** by the Border Security Force (BSF). **Muslims from the erstwhile enclaves in India[[1]](#footnote-1) still do not possess valid identity documents** proving their nationality even though the Land Boundary Agreement[[2]](#footnote-2) clearly recognizes them as citizens of India. They live under perpetual fear of being written out of the process of National Register of Citizens (NRC), one of BJP’s major political agendas. **Thousands of erstwhile enclave residents currently face the risk of statelessness.**

**Discrimination in law and practice**

**Access to Public Spaces**

Access to public spaces for Muslims has been shrinking with the rise in hate crimes against them. These crimes constitute physical assault, mob violence, threats, harassment, hate speech, lynching and attacks on religious infrastructure. Many of these attacks have been associated with **cow vigilantism wherein right wing groups often affiliated with the BJP threaten, humiliate and attack those who they suspect of cow slaughter/trade.** According to news reports, **at least 50 people have been killed in such attacks since 2015 while 250 have been injured**.[[3]](#footnote-3) In most cases of cow-related violence, the police have often sided with the attackers by charging the victims under laws that penalize cow slaughter, indicate that such violence motivated by hate is condoned by the State. Article 48 of Indian Constitution provides that cows are considered sacred for Hinduism. The Article along with **most Indian states (24 out of 29) specifically restrict or ban cow slaughter.**

Muslim men who marry Hindu women are often targeted by Hindu extremists who accuse them of “love jihad” or forcibly marrying Hindu women with an intention of converting them to Islam. Moreover, Muslims are often forced by Hindu mobs—often through violent means—to prove their patriotism to the country by chanting “Jai Shri Ram” or “Bharat Mata ki Jai”.[[4]](#footnote-4)

While the attacks against Muslims has attracted most media and civil society attention, data reveals that in 2019, **328 violent attacks against Christians in India were reported.** The Alliance Defending Freedom (ADF), a Christian NGO says more than 300 Christians were detained without trial for their faith and countless businesses, homes and schools were looted, burnt down and vandalized. Churches have also been torched. Out of the 328 violent attacks, only 36 resulted in police filing a case but not one incident has yet resulted in prosecution. Instead, the police commonly arrest the victims and charge them with trying to convert Hindus - a charge which can be punishable by seven years imprisonment. India was ranked in the tenth place in Open Doors International’s 2020 Watch List for Christian persecution. Before the BJP came to power, India was ranked outside of the top 30 nations. The ADF has also recorded **a 220 per cent increase in violent attacks on Christians since 2014 when the BJP formed the government at the Centre**.[[5]](#footnote-5)

**Human rights violations and Communication blockade in Kashmir**

In August 2019, the **Central government abrogated Article 370 of the Constitution of India that had granted a special status to the state of Jammu & Kashmir.** The former Muslim-dominated state was bifurcated into two Union Territories—Jammu & Kashmir and Ladakh. This was an autocratic decision taken by the Centre which involved infiltrating Kashmir (which is already the world’s most densely militarized zone) with army troops overnight, shutting down the internet and communication services and putting Kashmir’s political leaders under house arrest for months on end. **There were reports of torture, illegal detention, enforced disappearances and other human rights abuses committed on civilians (including children) by the armed forces.**[[6]](#footnote-6) Even during the lockdown imposed in the wake of COVID-19 when internet services became extremely essential, only 2G internet services have been allowed in Kashmir.[[7]](#footnote-7) During the lockdown, **the state has initiated a crackdown on Kashmiri journalists to crush the presence of Press freedom in Kashmir.** Photojournalist Masrat Zahra and Journalist Gowhar Geelani have arbitrarily been booked under the Unlawful Activities (Prevention) Act, India’s draconian counter-terrorism legislation.[[8]](#footnote-8)

**Prison Statistics**

According to the National Crime Records Bureau, **Muslims constituted 30% of detainees and 20% of undertrials in Indian prisons in 2018 whereas their total population in India amounts to merely 14.2%.**[[9]](#footnote-9) This is not because of high delinquency rates amongst Muslims but due to their poor socio-economic status, lack of access to legal services and the prejudice of the criminal justice system against them.

**CAA-NRC and the risk of Statelessness**

After the implementation of the National Register of Citizens (NRC)—a citizenship verification process—in Assam, the BJP’s next agenda is to implement it throughout the country. **The NRC in Assam has rendered 19 lakh former citizens stateless which includes both Hindus and Muslims.** India’s Home Minister Amit Shah has expressed hostile sentiments against ‘illegal immigrants’ calling them “termites” to be thrown out of the country.[[10]](#footnote-10)

However, it is with enacting the Citizenship Amendment Act (CAA) of 2019 that the Centre has orchestrated a plan to specifically strip Muslims off their Indian citizenship. **The Act has provisions for ensuring citizenship to immigrants of all religions except Islam from Muslim-dominated countries—Afghanistan, Pakistan and Bangladesh.**[[11]](#footnote-11) This is the first Act in independent India that blatantly discriminates against a particular religion and makes religion a criterion for citizenship. Combined with the NRC, the CAA puts the entire population of Indian Muslims at the risk of statelessness.

**Anti-CAA protests and crackdown of the state on Muslims**

Protests erupted all over the country in the wake of the enactment of CAA by the government. Students, activists and women regardless of their religion were at the forefront of these protests. In New Delhi, the government with help of the Delhi Police responded to the protests with violence and brutality. **The Police opened fire at unarmed students in Jamia Milia Islamia University who are overwhelmingly Muslim, lathi-charged protestors and broke the University’s infrastructure, gravely injuring many**.[[12]](#footnote-12) During Delhi’s election campaign in January 2020, the BJP party spokespersons including the Home Minister focused all their attention towards peddling hate towards the protesters, specifically towards Shaheen Bagh, a protest site led by Muslim women. Slogans such as “shoot the country’s traitors” were raised by BJP’s leaders.[[13]](#footnote-13)

Day after the BJP lost the Delhi elections, **a state sponsored pogrom broke out in Northeast Delhi in which many Muslims were killed, their shops, houses and businesses were burnt and mosques were demolished**. The violence was followed by a BJP leader’s public and violent threat to put an end to the anti-CAA protests in Northeast Delhi.[[14]](#footnote-14) The Delhi police was a mere onlooker while right wing mobs ransacked the area and took lives. **More than 50 people were killed in the pogrom while another 200 were gravely injured**.[[15]](#footnote-15) The State also ordered an overnight transfer of a Delhi High Court judge that had ordered the police to lodge FIRs against the political leaders who incited the violence and conduct an unbiased investigation of the violence.[[16]](#footnote-16) Many Muslim leaders of the anti-CAA protests were arrested by the police and allegedly tortured in custody following the violence instead of arresting the BJP leaders for hate speech and instigation of riots.[[17]](#footnote-17)

**Post-lockdown arrests of Anti-CAA Activists**

After Prime Minister Narendra Modi announced the nationwide lockdown in the third week of March, the Delhi Police have started making arbitrary arrests in the name of investigating the pogrom in Delhi. Unsurprisingly, **they have arrested the Muslim student activists, journalists and youth leaders at the forefront of the anti-CAA protests including many women activists.** **Most of these people have been charged under the Unlawful Activities (Prevention) Act (UAPA), allowing detention without trial for up to 180 days.** Safoora Zargar, a Muslim woman who participated in the protests has also been charged with the UAPA and put under solitary confinement in the middle of her pregnancy.[[18]](#footnote-18) News reports also narrate that **Muslims who were victims of Delhi violence and had filed complaints with the police have been accused instead of rioting and instigating violence and have subsequently been arrested**.[[19]](#footnote-19) The state is using the lack of access to legal services and the curtailment of freedoms of association during the lockdown as a devious tool to launch a systemic attack on the country’s Muslims and crush the voices against its divisive policies.

**Attack on educational and democratic institutions**

Apart from the violence inflicted on religious and caste minorities, the country has seen the suppression of dissent, crackdown on democratic institutions and interference in public education. The Supreme Court of India, the principal body for ensuring justice in India has now become increasingly complacent with the government’s legislations and policies. **The Court has delivered many judgments in the favour of the ruling party and the majoritarian sentiment including in the Ayodhya-Babri Masjid dispute, the Triple Talaq judgment, the process of NRC in Assam and the abrogation of Article 370 and internet shutdown in Kashmir.** Public universities such as Jawaharlal Nehru University, Jamia Milia Islamia University and Delhi University have seen **infiltration of right-wing fringe elements** and interference by the Centre in relation to their educational curriculum.[[20]](#footnote-20) It is important to read these actions of the ruling party as an attempt to corrupt the secular ideals of the Constitution of India.

**India’s anti-Pakistan stance**

The BJP’s idea of nationalism feeds on the historic rivalry between India and Pakistan. **BJP leaders have shown extreme hostility towards Pakistan along with shaming Indian Muslims by deeming them to be supporters of Pakistan**. India’s foreign policy towards its neighbor has become increasingly hostile over the years. In 2016, militants in Kashmir attacked an Indian Army brigade headquarters in Uri, killing 17 soldiers. In response, India troops crossed the Line of Control on September 29 in a move that was widely dubbed a “surgical strike” in the Indian media. Again, in February, 2019, over 40 Central Reserve Police Force soldiers were killed in Pulwama, Kashmir by a car bomber. Twelve days later, **Indian Air Force crossed into Pakistan for what the government called a “non-military preemptive strike” on a terrorist camp of the Jaish-E-Mohammed**, which had taken responsibility for the Pulwama attack.[[21]](#footnote-21) This breach of the Line of Control is an extremely sensitive issue for bilateral relations and international law, which the BJP government has little regard for. Any opposition to the display of political and military clout towards Pakistan meets with the ire of BJP leaders and the accusation of being “anti-national”.

**Socio-economic status of Muslims**

According to a 2016 evaluation of the Sachar Committee Report (a committee that established Muslims as a socially and economically backward community in India in 2006), the status of Muslims has further deteriorated in terms of their participation in political, social and economic arenas.[[22]](#footnote-22)

Muslims have seen a marginal rise in their monthly per capita income as the work participation rate for Muslim men has increased from 47.5% to 49.5% while for Muslim women the rate was even slower—from 14.1% to 14.8%. **Representation of Muslims in Police forces has fallen from 7.63% to 6.27%.** A survey conducted by the Ministry of Minority Affairs shows that the proportion of Muslims in the government services is just 2.5 per cent. In the central paramilitary forces, the figure is 3.2 per cent. Minority groups made up just 6.24 per cent of employees in government institutions like banks, public sector units, railways and paramilitary forces.[[23]](#footnote-23) The report reveals that Muslims earn even less than Hindu Dalits who themselves are an exceptionally marginalized community in India.[[24]](#footnote-24)

According to the census of 2011, Muslims constitute 14.2% of India’s population and are the largest religious minority in the country. In spite of this, **the number of Muslim members of Parliament has been less than 5% since 2014.** In 10 years, the Muslim population has seen an increase from 13.4% to 14.2%. This growth in population is the smallest ever recorded for the community.

*Banglar Manabadhikar Suraksha Mancha (MASUM) is a human rights organization based in West Bengal and is committed to the strengthening of the state and judicial mechanisms for the benefit of citizens, especially the marginalized and vulnerable sections of society. Since our inception in 1997, our primary work revolves around the atrocities committed by the State, including torture, extrajudicial executions, failure of the criminal justice system, impunity, custodial deaths, illegal arrests and detention.*

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2. <https://www.mea.gov.in/Uploads/PublicationDocs/24529_LBA_MEA_Booklet_final.pdf> [↑](#footnote-ref-2)
3. <https://www.hrw.org/world-report/2020/country-chapters/india> [↑](#footnote-ref-3)
4. <https://www.hrw.org/report/2019/02/18/violent-cow-protection-india/vigilante-groups-attack-minorities> [↑](#footnote-ref-4)
5. <https://www.telegraph.co.uk/news/2020/02/16/narendra-modis-hindu-nationalism-gives-rise-vigilante-attacks/> [↑](#footnote-ref-5)
6. <https://www.telegraph.co.uk/news/2019/09/25/young-boys-tortured-kashmir-clampdown-new-figures-show-13000/> [↑](#footnote-ref-6)
7. <https://www.newindianexpress.com/nation/2020/may/28/only-2g-mobile-internet-services-across-jammu-and-kashmir-to-continue-till-june-17-2149078.html> [↑](#footnote-ref-7)
8. <https://thewire.in/media/use-of-uapa-against-journalists-is-last-nail-in-coffin-for-press-freedom-in-kashmir> [↑](#footnote-ref-8)
9. <https://timesofindia.indiatimes.com/india/in-a-minority-but-a-major-presence-in-our-prisons/articleshow/73266299.cms> [↑](#footnote-ref-9)
10. <https://www.thehindu.com/elections/lok-sabha-2019/infiltrators-are-termites-will-throw-them-out-amit-shah/article26805646.ece> [↑](#footnote-ref-10)
11. <https://www.telegraphindia.com/opinion/border-of-unreason-caa/cid/1751891> [↑](#footnote-ref-11)
12. <https://thewire.in/government/jamia-millia-islamia-caa-protest-police-firing> [↑](#footnote-ref-12)
13. <https://www.hrw.org/report/2020/04/09/shoot-traitors/discrimination-against-muslims-under-indias-new-citizenship-policy> [↑](#footnote-ref-13)
14. <https://www.tribuneindia.com/news/nation/bjps-kapil-mishra-gives-ultimatum-to-delhi-police-clear-the-streets-in-three-days-46682> [↑](#footnote-ref-14)
15. <https://www.theatlantic.com/ideas/archive/2020/02/what-happened-delhi-was-pogrom/607198/> [↑](#footnote-ref-15)
16. <https://www.livemint.com/news/india/row-erupts-over-transfer-of-judge-hours-after-he-pulls-up-delhi-cops-11582853787313.html> [↑](#footnote-ref-16)
17. <https://scroll.in/article/954538/two-anti-caa-activists-arrested-by-delhi-police-were-tortured-in-custody-allege-family-members> [↑](#footnote-ref-17)
18. <https://indianexpress.com/article/cities/delhi/umar-khalid-uapa-delhi-police-jamia-violence-6372997/> [↑](#footnote-ref-18)
19. <https://scroll.in/article/962526/in-delhi-violence-investigation-a-disturbing-pattern-victims-end-up-being-arrested-by-police> [↑](#footnote-ref-19)
20. <https://www.newsclick.in/students-movement-needs-renewed-focus-education-issues-fight-back-bjps-policy-attacks> [↑](#footnote-ref-20)
21. <https://scroll.in/article/914369/the-modi-years-where-does-indias-pakistan-policy-stand> [↑](#footnote-ref-21)
22. <https://indianexpress.com/article/explained/ten-years-after-sachar-report-no-major-change-in-the-condition-of-indias-muslims-4444809/> [↑](#footnote-ref-22)
23. <https://www.freepressjournal.in/india/govt-jobs-still-a-dream-for-muslims> [↑](#footnote-ref-23)
24. <https://indianexpress.com/article/opinion/columns/muslims-socio-economic-development-5144318/> [↑](#footnote-ref-24)