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To the attention of the Human Rights Committee - Country Report Task Force on India

Minorities Rights and the Right to Freedom of Religion or Belief in India

Joint report submitted by World Evangelical Alliance and the Religious Liberty Commission of the Evangelical Fellowship of India to the Country Report Task Force on India of the Human Rights Committee, ahead of the consideration of the List of Issues for India during the Committee's 126th session in July 2019.

The World Evangelical Alliance (WEA) was founded in 1846 in London. Today, the WEA is a network of churches in 129 nations that have each formed an evangelical alliance and over 100 international organizations joining together to give a world-wide identity, voice, and platform to more than 600 million evangelical Christians worldwide.

The Religious Liberty Commission of the Evangelical Fellowship of India (EFIRLC) endeavors to facilitate reconciliation, to promote religious liberty and fundamental freedoms, and to seek justice for those who are abused and oppressed in India. Founded in 1951, the Evangelical Fellowship of India is a member of the WEA. EFI is the national representative voice for the Evangelical Church in India representing more than 45000 Churches across India.

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Report Contents

Violence and Incitement Against Christians and Other Minorities	2
<i>Rise in Religiously Motivated Violence</i>	2
<i>Rise in Incitement to Violence, Hateful Discourses and Disinformation</i>	3
<i>Social Boycott of Minorities</i>	5
<i>Lack of an Adequate State Response</i>	5
<i>Recommendations</i>	5
Discrimination and Violations of Minorities Rights	6
<i>Anti-Conversion Laws</i>	6
<i>Recommendations</i>	7
<i>Denial of affirmative action to Christian and Muslim Dalits</i>	7
<i>Recommendations</i>	7
<i>Cow Vigilantism and Food Coercion</i>	8
<i>Recommendations</i>	8
<i>Mistreatment of Minorities and the Indian justice system</i>	8
<i>Recommendations</i>	9

Violence and Incitement Against Christians and Other Minorities

Rise in Religiously Motivated Violence

1. Since 2014, with the ascent to power of the Bharatiya Janata Party's (BJP), violence and hate crimes against the Christian community and other religious minorities in India have increased. This increase has been documented through research of various monitoring bodies, including the Religious Liberty Commission of the Evangelical Fellowship of India.
2. In 2018, the Religious Liberty Commission of the Evangelical Fellowship of India has recorded 325 incidents where Christians have been targeted using violence, intimidation or harassment. This compares to 351 cases of violence in 2017.
3. Two Indian states saw a disturbing sudden spurt of violence in 2018 - Uttar Pradesh, the country's most populous province, and Tamil Nadu in the extreme south of the subcontinent. 40% of EFI's documented incidents (132), took place in the state of Uttar Pradesh making it the state where Christians were targeted the most. The state of Uttar Pradesh is the most populous state of India and is home to almost 17% of the total population of the nation. Christians make up 0.18% of the total population of the state.

4. Research by various organizations on religiously motivated violence and hate crimes is not exhaustive. Much more effort is needed to survey comprehensively the whole of the Indian territory for violent incidents. The government does not issue reports on this matter. Furthermore, most cases go unreported either because the victim and witnesses are terrified, or the police, especially in the northern states, just turn a blind eye and refuse to record the mandatory First Information Report of the crime.

Rise in Incitement to Violence, Hateful Discourses and Disinformation

5. Hate speech inciting violence, including by central government, regional authorities and elected officials, has increased since 2014. Especially hate speech that provokes Hindutva supporters to commit acts of violence against the religious minorities of India particularly Muslims and Christians.
6. Ashok Singhal, Ex International president of the VHP (Vishwa Hindu Parishad) and a lifelong pracharak (propagator) of the Rashtriya Swayamsevak Sangh said of the Muslims in July 2014: *"they must learn to respect Hindu sentiments. If they keep opposing Hindus, how long can they survive?"*¹
7. Uttar Pradesh, which saw a terrible sectarian riot in Muzaffarnagar prior to the 2014 general elections was reported to witness over 600 incidents of religious violence since the election results in May 2014.² Indian Express, a national newspaper while reporting this said that over 60 % of these incidents were in areas where bypolls were scheduled in the near future. The large-scale targeted violence against Muslims in Muzaffarnagar and Shamli³ in Uttar Pradesh in September 2013 ranks only next to the 2002 Gujarat pogrom by its sheer magnitude.
8. Soon after election results came out in May 2014, Christians were targeted in Uttar Pradesh in incidents of Church attacks and physical violence in areas of Jaunpur, Bulandshahr, Ghaziabad and Hapur.⁴ A Shuddhikaran (literally Purification) ceremony was planned (and later cancelled) for December 25, 2014 where in the RSS's Dharma Jagran Vibhag planned to

¹ Muslims must learn to respect Hindu sentiments: VHP leader Ashok Singhal, 17 July 2014, <http://www.dnaindia.com/india/report-muslims-must-learn-to-respect-hindu-sentiments-vhp-leader-ashok-singhal-2002828>

² Express investigation part-I: Over 600 'communal incidents' in UP since LS results, 60% near bypoll seats, 9 August 2014, <http://indianexpress.com/article/india/uttar-pradesh/express-investigation-part-i-over-600-communal-incidents-in-up-since-ls-results-60-near-bypoll-seats/>

³ According to official statistics submitted by the state government to the Supreme Court in September 2013, at least 44 persons were killed, 97 persons injured and 41,829 people displaced across Muzaffarnagar and Shamli districts. According to district administration riots displaced 51,000 people - 27,198 from Muzaffarnagar and the rest from Shamli - from 150 villages. Muslims have been the worst sufferers of communal orgy that swept Muzaffarnagar.

Source: Fact Finding Report: Independent Inquiry into Muzaffarnagar "Riots", 11 January 2014, <http://www.epw.in/journal/2014/2/reports-states-web-exclusives/fact-finding-report-independent-inquiry-muzaffarnagar>

⁴ According to documentation by Evangelical Fellowship of India and other Christian groups.

'reconvert' thousands of Christians back to Hinduism.⁵ Church leaders expressed concern over such plans.⁶

9. During the elections in 2014 and in 2019, Prime Minister Modi has been largely silent on issues that are connected with minorities, religious freedom or freedom of expression. In his election campaigns, Mr. Modi during his participation in a TV show, denied that he had any knowledge of attacks faced by the minority Christian community in India. The Christian leadership in the country promptly challenged this.⁷ BJP leadership is systematically trying to downplay incidents of Hindu violence against minorities.⁸ In the 2019 elections, Mr. Modi chose a woman Pragya Singh Thakur, to run for the parliamentary seat representing the city of Bhopal, despite being charged with helping to orchestrate a bombing that killed six Muslims in 2008.⁹
10. Articles and news reports have indicated how Mr. Modi in the past has conveniently chosen to be silent or ignorant over contentious issues, whether it be the bodies that were paraded after the Godhra violence or the Gulbarg Society Massacre in 2002.¹⁰
11. This silence and reluctance to admit and deal with issues that may have a bearing on the minorities and the freedom of expression and religion in India is more worrisome than the most gruesome and in your face hate speech by his party men and women.
12. Human rights defenders like Dr. John Dayal, Mrs. Teesta Setalvad and Ms. Soni Sori have been targeted time and again by radical Hindu groups and individuals. John Dayal has had a vicious campaign against him on twitter for several years. He has received multiple death threats, has approached the police twice, but no action has been taken.
13. "The middle ground for human rights work throughout India is eroding fast. Social activists, civil society leaders and "right to information" activists—who have always stood against the exploitation of Dalits, tribes and other marginalised communities—are increasingly facing the wrath of the state, despite it being the largest democracy in the world. Instead of treating these activists as partners in a very vibrant democratic process, the state more often perceives them as threats to "national security" and "national interests". As a result, the state is increasingly targeting, harassing, imprisoning—and sometimes even killing—many of these defenders."¹¹

⁵ <http://www.hindustantimes.com/india-news/rss-gets-ready-to-tackle-religious-conversions/article1-1249081.aspx>

⁶ <http://www.ucanews.com/news/delhi-archbishop-calls-for-justice-after-new-attacks-on-christians/71640>

⁷ Church leaders gun for 'utter lie', The Telegraph – India, 14 April 2014, http://www.telegraphindia.com/1140417/jsp/nation/story_18223294.jsp#.U08-iFWSyM4

⁸ Modi returns as the prodigal son of the far right in India, Al-Jazeera, 26 April 2019, <https://www.aljazeera.com/indepth/opinion/modi-returns-prodigal-son-india-190425125545951.html>

⁹ The Indian government's election pitch centres on hounding minorities, 27 April 2019, <https://www.economist.com/asia/2019/04/27/the-indian-governments-election-pitch-centres-on-hounding-minorities>

¹⁰ Graham Staines to Gulbarg Society: What Modi doesn't know, 18 April, 2014 <http://www.firstpost.com/election-diary/graham-staines-to-gulbarg-society-what-modi-doesnt-know-1484801.html>

¹¹ No middle ground: the risks of being a human rights defender in India, 31 May 2016, <https://www.opendemocracy.net/openglobalrights/mathew-jacob/no-middle-ground-risks-of-being-human-rights-defender-in-india>

Social Boycott of Minorities

14. Incidents of social boycott were particularly reported from the tribal areas of the states of Jharkhand and Chhattisgarh where the right-wing Hindu groups have been observed creating a rift within the tribal society and causing a fracture of relationships between tribal Christians and their non-Christian tribal brethren.
15. The small Christian community, 2.3 per cent of the 1.30 billion population, which seems to be targeted on issues of conversion, is also collateral victim of the hate crimes against the much larger Muslim community, which is about 15 percent.

Lack of an Adequate State Response

16. Prevailing Impunity: The failure of authorities to prevent or investigate attacks against religious minorities has created a climate of impunity which, unless urgently addressed, is likely to encourage continued attacks. This is not a recent development. With every episode of communal violence since the 1980s, authorities have failed to bring to justice the perpetrators of violence and murder.
17. Police complicity with the perpetrators: Pastors and lay Christians have been arrested or detained regularly on the pretext of investigations. The arrests, many of them late night, have been a source of harassment rather than help for Christians who are already under much pressure because of opposition from Hindu right-wing groups.
18. Violations by law enforcement officials: India's law enforcement officials have disrupted worship services and indulged in harassing the worshippers. Videos have surfaced on social media, in which the police are seen blocking roads and discouraging people from attending worship services and asking them to go away.
19. Based on what preceded, we believe that India is in violation of Articles 6, 18 and 27 of the ICCPR. Furthermore, India may be in violation of Article 20 of the ICCPR which prohibits advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

Recommendations

20. Enact a comprehensive national legislation against targeted and communal violence.
21. Effectively protect and promote the safety, dignity and privacy of persons who change their faith voluntarily.
22. Enforce rule of law and arrest members of groups promoting sectarian hate, violence and involving in pre-orchestrated programs of leveling false accusations of conversions upon the Christian priests and missionaries in order to feed their political agenda.
23. Ensure stringent action under criminal law against all those who channel hate speech with the intention of inciting violence and hatred against the Christian community and other minority groups.
24. Advise the state governments, especially Tamil Nadu and Uttar Pradesh, to deal with right wing organizations operating in these states whose primary agenda is to create an atmosphere of fear among the Christian community and other religious minorities.

25. Promptly register, investigate and prosecute persons who initiate and conduct forcible conversions against religious and ethnic minorities.
26. Ensuring prosecution and accountability of state security forces and other public officials responsible for fake encounters, extra judicial killings, rape, threats to and harassment of Christians and other minorities.
27. Prosecute police officials who fail in their constitutionally mandated duty to enforce the law of the land, by being complicit in attacks against religious minorities, and by shielding the attackers or otherwise scuttling due process of law.
28. Conduct sensitization programs for the police officials regarding laws on religious freedom as envisaged in the Indian Constitution and on laws related to human rights.
29. Provide adequate preventive and security measures to ensure safety and security of all members of the Christian community in India, Priests and Pastors, worship leaders, Nuns and mission workers, and to their places of worship, prayer halls, home churches and public gatherings.

Discrimination and Violations of Minorities Rights

Anti-Conversion Laws

30. Freedom of Faith is a constitutional provision, but its implementation very much depends on state governments, which control law and order, and education. The ironically titled “Freedom of religion” acts enacted by several states remain a major source of harassment for Christian workers in the country.
31. Eight of the 29 states in India have anti-conversion laws, including Odisha (1967), Madhya Pradesh (1968), Arunachal Pradesh (1978), Chhattisgarh (2000), Gujarat (2003), Himachal Pradesh (2006), Jharkhand (2017) and Uttarakhand (2018).
32. These laws are a major cause of harassment for Christians and churches in the country, despite the fact that there are no documented cases of conviction by a court under these laws. Pastors and Evangelists are arrested, detained and charged under these laws, before being acquitted. Persecution Watch reported several instances of Christians being imprisoned under the ‘Freedom of Religion Act’ in 2018 in the state of Jharkhand. In her 2008 visit report to India, Asma Jahangir, the Special Rapporteur on Freedom of Religion or Belief, expressed deep concern at laws and bills on religious conversion in several Indian states that are being used to vilify Christians and Muslims.¹² She concluded that “The laws and bills on religious conversion in several Indian states should be reconsidered since they raise serious human rights concerns, in particular due to the use of discriminatory provisions and vague or overbroad terminology.” (Paragraph 70)
33. Though these laws are operational in the states encompassing the tribal belt of central India, the presumption in police and lay circles is that it is an all India legislation. So even in states,

¹² Report of the Special Rapporteur on freedom of religion or belief, Mission to India, March 2008, A/HRC/10/8/Add.3, Paragraph 47, <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/10/8/Add.3&Lang=E>

which do not have, formal anti conversion laws, the provisions are implemented in the rural areas as if they were constitutionally sanctified.¹³

34. Apart from religious persecution, the laws are being used for dispossessing the people of their land and other rights, and marginalizing them further in the social narrative.

Recommendations

35. Repeal the anti-conversion laws known as Freedom of Religion Acts, in order to respect the right to Freedom of Religion or Belief as enshrined in article 18 of the ICCPR.

Denial of affirmative action to Christian and Muslim Dalits

36. A major denial of justice for Indian Christians has been denial of affirmative action to Christian Dalits brought in by a discriminatory Presidential order in 1950 that essentially limited the “scheduled caste” rights to Hindus. The third paragraph of the Constitution (Scheduled Castes) Order 1950, popularly known as the Presidential Order, stipulates that "no person who professes a religion different from Hinduism shall be deemed to be a member of Scheduled Caste." Later, after protests, these rights were extended to other ‘Indic’ religions such as Sikhism (in 1956) and Buddhism (in 1990) but the ‘Semitic’ religions: Christianity and Islam specifically excluded.
37. This law has effectively resulted in the denial of the right to freedom of faith to Hindu Dalits. Dalit Hindus cannot convert to any religion other than Buddhism and Sikhism. Millions of them are converting to Buddhism because then they do not lose their jobs or scholarships that would happen if they chose Islam or Christianity.
38. For all practical purposes, this results in an “underground” church of the Dalits – all denominations, including Catholics and Evangelicals – consisting of people who believe in Christ, but are recorded as Hindus on government records. They have employment and educational reservations, even seats in Parliament and the state legislatures, as Hindu Schedule Castes. The estimates of this group range from a ten million to over 20 million.

Recommendations

39. Amend paragraph 3 of the Constitution (Scheduled Castes) Order 1950 to include Christians and Muslims, in order to comply with the right to Freedom of Religion or Belief as enshrined in article 18 of the ICCPR, and to comply with article 26 of the ICCPR which prohibits discrimination on any ground including religion and national or social origin.

¹³ Rajnath pitches for anti-conversion law, The Hindu, 28 April, 2015
<http://www.thehindu.com/news/national/states-should-act-against-communal-incidents-rajnath/article7150757.ece>

40. Where forcible conversions are targeted against Scheduled Castes and Scheduled Tribes, the police should be directed to apply the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Cow Vigilantism and Food Coercion

41. The ban on cow slaughter and trade in beef impacts not just Muslims but also Christians and particularly the Dalit and Tribals. Self-styled Cow protection squads of political workers, often armed with guns and swords, have attacked people on suspicion, lynching several innocent men.¹⁴ Beef is a primary source of food for large numbers of Muslims, Christians, Tribals and Dalits whose nutrition, health and livelihood have been severely impacted. It is an attempt to keep the marginalized away from proper nutrition¹⁵ as well as an obstacle to their economic development.
42. The menace of cow vigilantism has not been subdued but has grown with impunity. Targeting of Minorities, Dalits and Women have visibly increased.
43. Authorities frequently did not prosecute members of vigilante “cow protection” groups who attacked alleged smugglers, consumers, or traders of beef, usually Muslims, despite an increase in attacks compared to previous years.¹⁶

Recommendations

44. In order to protect religious minorities, withdraw or amend rules prohibiting transport of cattle and, storage and consumption of beef in state legislations.
45. Arrest members of cow protection groups and others who attack persons on the suspicion of consumption / storage of beef, and to take stringent action against them as per law of the land.

Mistreatment of Minorities and the Indian justice system

46. India retained many colonial criminal laws after the transfer of power from the British Crown in 1947. Indian Penal Code (IPC), 1860, the Criminal Procedure Code (Cr. PC), 1861, the Evidence Act, 1874 and the Police Act, 1860 were all retained. According to experts, these laws do not contain any specific protective provisions for the minorities. The Indian criminal justice system is yet to incorporate international principles and standards on minority issues.

¹⁴ 10-yr jail, 1 lakh fine: What Haryana’s tough cow protection law says, 19 October 2015, <http://indianexpress.com/article/explained/10-yr-jail-1-lakh-fine-what-haryanas-tough-cow-protection-law-says/>

¹⁵ In India, cattle have always been relished and their meat is a critical source of nutrition for various communities – including Adivasis, Dalits, Christians, Muslims and several other castes (many of whom are too scared to admit they eat beef). (<http://thewire.in/13849/why-the-ban-on-cow-slaughter-is-not-just-anti-farmer-but-anti-cow-as-well/>)

¹⁶ India 2016 International Religious Freedom Report, U.S. Department of State

47. A 2015 report featuring data released by the National Crime Records Bureau (NCRB) says minorities particularly Christians and Sikhs are more likely to be undertrials, detenus and convicts than Hindus. Christians are most likely to be detained and imprisoned.¹⁷
48. Muslims, Dalits and Adivasis — three of the most vulnerable sections of Indian society — make up more than half of India's prison population, according to official reports on prisons released in November 2014¹⁸ and in 2016.¹⁹ Although the proportion of these three communities in India adds up to about 39%, their share amongst prisoners is considerably higher at 53%.
49. These statistics do not reflect the figures of crimes committed by community members. Rather, these figures reflect the situation of economically and socially under-privileged communities, unable to fight costly cases or often even pay for bail.

Recommendations

50. Enact an anti-discrimination law to protect rights of all minorities, in light of grave discriminations that religious and ethnic minorities face in India.
51. Ensure that an active Commission for Human Rights and Commission for minorities is operational in every state, and that members of each commission are appointed by transparent and non-partisan procedures.
52. Prevent and pursue through the judicial process, all violent acts against religious and tribal minorities and Dalits.

¹⁷ Sikhs, Christians More Likely to Be Jailed than Hindus and Muslims, Hindustan Times, 24 October 2015, <http://www.hindustantimes.com/india/hindus-least-likely-to-be-jailed-sikhs-christians-most-likely/story-Og4PhnhYsPIVLJgIKyeOKL.html>

¹⁸ Muslims, Dalits and tribals make up 53% of all prisoners in India, 24 November 2014, <https://timesofindia.indiatimes.com/india/Muslims-dalits-and-tribals-make-up-53-of-all-prisoners-in-India/articleshow/45253329.cms>

¹⁹ India: More than half of undertrials are Dalits, Muslims and tribals, 1 November 2016, <https://www.aljazeera.com/blogs/asia/2016/11/trial-india-dalits-muslims-tribals-161101150136542.html>