

## INDIA

### CSW SUBMISSION TO THE 41st SESSION OF THE UNIVERSAL PERIODIC REVIEW



#### Introduction

1. CSW (Christian Solidarity Worldwide) is a human rights organisation specialising in the right freedom of religion or belief (FoRB) for all through research and advocacy.
2. This submission seeks to draw attention to concerns regarding the right to FoRB in India ahead of the state's fourth Universal Periodic Review (UPR).

#### UPR commitments to freedom of religion or belief

3. During the third UPR cycle in 2017, India supported 162 recommendations out of 263. Of the 12 recommendations which focused on the right to FoRB, India accepted four and noted eight.<sup>1</sup>
4. India agreed to the protection of FoRB and minorities' rights based on the constitution; ensuring laws were fully and consistently enforced to provide adequate protection for members of religious minorities, scheduled castes, tribes and other vulnerable populations; continuing to develop laws and make efforts to guarantee FoRB; and preventing and pursuing through the appropriate judicial means all violent acts against religious and tribal minorities, Dalits and lower castes.
5. However, CSW regrets that India noted eight key recommendations relating to FoRB, including calls to strengthen efforts to repeal anti-conversion laws. The state also rejected recommendations to take greater measures to stop rising religious intolerance, violence, and discrimination against religious minorities; to increase access to justice to victims of religious violence and discrimination; and to tackle mob violence committed, incited and advocated by right-wing parties and affiliated extremist organisations against minorities, particularly Muslims, Christians, Sikhs and Dalits. India also noted a recommendation to guarantee FoRB by implementing existing laws to better protect minority groups from hate speech, incitement to religious violence, discrimination on religious grounds and forcible conversions.
6. India failed to support recommendations calling for revisions to the Foreign Contribution (Regulation) Act and better safeguards for civil society, human rights defenders (HRDs) and journalists. India's lack of support for several recommendations relating to freedom of assembly and association, and freedom of expression is also of concern, as is the state's failure to implement over 20 accepted recommendations to ratify the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (UNCAT).

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<sup>1</sup> United Nations, 'Report of the Working Group on the Universal Periodic Review: India', A/HRC/36/10, 17 July 2017, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/193/56/PDF/G1719356.pdf?OpenElement>; United Nations, 'Report of the Working Group on the Universal Periodic Review: India. Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review', HRC/36/10/Add.1, 6 September 2017 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/260/43/PDF/G1726043.pdf?OpenElement>

Recommendations:

7. ***To implement outstanding recommendations accepted in previous UPR cycles.***
8. ***Ensure civil society participation in the UPR consultation, to enable civil society organisations to continue collecting information on violations of FoRB in India, and to use the information to develop an early warning system.***

### Constitutional and international legal obligations

9. The preamble of the constitution defines India as a secular state. The constitution designates freedom of religion as a fundamental right and prohibits discrimination based on religion (Article 25), while Article 26 protects the freedom to manage religious affairs.
10. India has human rights obligations under international law on rights of persons belonging to minority religions, including Article 18 of the International Covenant on Civil and Political Rights (ICCPR), which protect the right to FoRB and to which India is party.
11. CSW is concerned by the ongoing impact of discriminatory legislation and targeted attacks of minority communities, particularly Muslims, Christians, Adivasis and Dalits, exacerbated by religious intolerance spread by state and non-state actors who act with impunity.

### Targeted attacks and hate campaigns

12. The Rashtriya Swayamsevak Sangh (RSS), the ideological arm of the Bharatiya Janata Party (BJP) that promotes a Hindu nationalist agenda, has used its influence to polarise Indian society since the BJP came to power in 2014 by relentlessly dividing communities based on religious grounds, leaving religious minorities unsettled about their future. Prime Minister Modi has remained largely silent on the wide-spread use of hate campaigns, threats, intimidation, violence, and attacks against religious minorities.
13. Despite accepting a recommendation during the third cycle of the UPR aimed at strengthening efforts to prevent communal violence, the targeting of religious or belief minorities in India has continued unabated, fuelled by hate speech.
14. In a September 2018 report to the UN General Assembly, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia, and related intolerance noted that communal violence is linked to inflammatory remarks made by BJP officials. The perpetrators of communal violence in Gujarat in 2002, in Kandhamal in 2008, and in Muzaffarnagar in 2013, have not been penalised, nor has appropriate justice and reparations made to the victims and their families.
15. CSW is concerned that statements made by public officials have led to xenophobia and discrimination of religious minorities. The Chief Minister of Uttar Pradesh, Yogi Adityanath, has called for forced sterilisation of Muslims and Christians, for Hindus to fight back against the perceived attack from Muslims and Christians, for Muslim voting rights to be revoked, and asserting that India is facing a battle between demons and gods. In December 2021, a "religious parliament" (Dharam Sansad) of Hindu groups called for mass violence against

Muslims.<sup>2</sup>

16. On 11 August 2021 a video of a Muslim man in Kanpur, Uttar Pradesh being beaten up and paraded by a mob while his young daughter pleaded with them to spare his life went viral on social media.<sup>3</sup> It shows the mob, allegedly belonging to the Bajrang Dal, assaulting the man while the police looked on. The victim was accused of attempting to forcefully convert a Hindu woman in the locality. However, the victim's family claim that the accusation is a lie and believe that he was targeted because of his faith.<sup>4</sup>
17. Muslims are often subjected to hate speech with incitement to violence. Muslim communities frequently face socio-economic boycotts and vigilantism and targeted violence for alleged cow slaughter and for committing 'love jihad,' a term used to refer to Muslim men alleged to have allured Hindu girls to marriage.
18. The COVID-19 pandemic has increased communal polarisation in India, particularly affecting the Muslim community. In March 2020, an Islamic missionary organisation called Tablighi Jamaat (TJ) held an event which was attended by approximately 8,000 Muslims. The event was singled out by the police and government officials as being responsible for the spread of the virus, although prior approval for the event was given. In April 2020, a 22-year-old from Bhopal was dragged through the street and lynched for attending the Jamaat, during which he was asked "who were the others behind the conspiracy to infect Hindus." Since then, Muslims have continued to be targeted as a perceived source of COVID-19, and in many cases have been denied medical treatment because of this rhetoric.
19. In November 2021, two Muslim girls were harassed by a mob of more than 40 people, who, according to the father of one of the girls, were members of a local right-wing Hindu organisation. The girls, both students of Sacred Heart School, were approached by the mob at a bus stop in Shanivarasanthi, who harassed them about their burqas and physically attacked them. One girl's burqa was torn, and she sustained scratches to her back. A video of the girls being harassed went viral on social media. The families of the victims filed a FIR in the Shanivarasanthi Police Station and the police have registered it under the POCSO Act (Protection of Children from Sexual Offences).
20. CSW is also concerned by the ongoing violations experienced by Christians in India, including false accusations and arrests, forced conversion to Hinduism, hate campaigns, assault, murder, illegal occupation of churches, forced displacement, public humiliation, disruption of religious gatherings, and vandalism of Christian homes, churches and other church-owned properties.
21. On 27 January 2021, a prayer meeting in the village of Bagholi, Balaghat District in Madhya Pradesh, was interrupted by a mob who accused the Christians of "alluring" people to convert to Christianity. While the police interrogated some of the Christians at the police station, the remaining Christians were locked inside the prayer meeting hall.

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<sup>2</sup> The Wire, 'Hindutva leaders at Haridwar event call for Muslim genocide, 22 December 2021

<https://thewire.in/communalism/hindutva-leaders-dharma-sansad-muslim-genocide>

<sup>3</sup> NDTV, 'Muslim man assaulted in public in Kanpur, little daughter begs for mercy', 12 August 2021

<https://www.ndtv.com/video/news/news/muslim-man-assaulted-muslim-man-assaulted-in-public-in-kanpur-little-daughter-begs-for-mercy-597640>

<sup>4</sup> CSW, 'Muslim Man attacked by members of right-wing Hindu group', 20 August 2021,

<https://www.csw.org.uk/2021/08/20/press/5376/article.htm>

22. On 8 July 2018, a pastor was badly beaten, and his wife assaulted in an attempted rape that took place during an attack on their house church by Hindu nationalists in Paguthampalayam, Tamil Nadu. The attack on the Pentecostal house church followed a year-long campaign of harassment and threats by Hindu nationalists. Following a police report, four people were arrested who in turn submitted a complaint against the pastor and his family, accusing them of assault. It is not uncommon for the victims of religiously-motivated violence to find their cases undermined by counter-accusations by their attackers.
23. A 50-year-old Christian pastor was murdered by a group of around 50 masked men in the Bijapur district of Chhattisgarh on the evening of 17 March 2022. The mob forced entry to the pastor's home, dragged him out and stabbed him with a sharp weapon. The attack took place while the Hindu festival of Holika Dahan (a celebration of good over evil) was being celebrated. Prior to leading the church, the pastor had served as the head of the village panchayat (village council), where he was a vocal advocate for the rights of Christians and helped those who had experienced rights violations to seek justice. Local sources told CSW that he had received several threats to his life in the past, including demands that he abandon Christianity and accept Hinduism. An FIR was registered with the Madded Police station on 18 March and police are investigating.
24. The cases listed in this submission are illustrative of the concerning rise in violations against Christians in India. The United Christian Forum (UCF) recorded 505 violent incidents against Christians in 2021 alone.<sup>5</sup>

### Anti-conversion laws

25. At least eleven states (Gujarat, Himachal Pradesh, Chhattisgarh, Madhya Pradesh, Jharkhand, Uttar Pradesh, Arunachal Pradesh, Uttarakhand, Karnataka and Odisha, Haryana), have anti-conversion laws which are used to justify intimidation and violence against Christians and Muslims. The lack of clarity in the laws give state authorities arbitrary enforcement powers, leading to disinformation about conversions, resulting in harassment and targeted attacks against religious minorities.

### Recommendations:

26. ***Guarantee the right to FoRB for all, in law and in practice, in line with Article 18 of the ICCPR, to which the State is party.***
27. ***Condemn and address hate speech and discrimination, while ensuring that the right to freedom of expression is fully respected.***
28. ***Prosecute those responsible for perpetrating hate speech against religious or belief minorities and introduce legislation to address it, maintaining protection and enhancement of freedom of expression.***
29. ***Implement the tools to counter religious hatred, including the Rabat Plan of Action and other international programmes.***

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<sup>5</sup> Twitter: Copy of report by United Christian Fellowship, 15 February 2022  
<https://twitter.com/ACMichael1/status/1493455273964425220/photo/1>

30. ***Ensure law enforcement intervenes swiftly to stop acts of violence committed against individuals, groups and places of worship, including against religious or belief minorities.***
31. ***Reform law enforcement agencies by introducing legislation to reduce political interference, establishing mechanisms to increase accountability; providing human rights training; and significantly improving working conditions.***
32. ***Take proactive steps against hate campaigns planned by Hindutva forces within the state, especially those inciting violence against religious minorities.***
33. ***Address significant gaps in the delivery of justice and compensation to victims of communal violence by examining the legal and judicial process, including ensuring that all First Information Reports (FIRs) are effectively investigated and prosecuted. This includes reports of sexual and gender-based violence, providing protection to victims and witnesses before, during and after trial.***
34. ***Increase efforts to reverse the culture of impunity that leads to communal violence by bringing perpetrators to justice and ensuring victims are adequately compensated.***
35. ***Ensure anti-conversion laws currently in force in eleven states are repealed or amended to conform with internationally recognised human rights standards.***
36. ***Adopt a national plan on human rights to prevent violence committed in the name of religion, and other forms of oppression related to religion or belief, in line with recommendations in India's 2017 UPR.***
37. ***Issue a standing invitation to all UN Special Procedures including the Special Rapporteur on FoRB, the Special Rapporteur on minority issues, and the Special Rapporteur on freedom of expression.***

#### **Citizenship (Amendment) Act (CAA) and the National Register of Citizens (NRC)**

38. In September 2019 the Indian government declared its intention to implement a National Register of Citizens (NRC), requiring all individuals to provide proof of their citizenship via a set of yet to be finalised documents. Local monitoring groups fear that the documents will not be protected from tampering and corruption, paving a way for the removal of citizenship of Muslims and other minority groups.
39. The Citizenship (Amendment) Act (CAA) came into effect on 10 January 2020. It fast tracks eligibility for citizenship based on a person's religion, allowing Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Pakistan, Bangladesh, and Afghanistan to claim asylum if they entered India on or before 31 December 2014.
40. The selective nature of the CAA has been criticised by the Office of the UN High Commissioner for Human Rights as "fundamentally discriminatory". Local human rights monitoring groups criticise the law for violating Article 14 of the constitution which guarantees equal protection to everyone residing in India. The CAA exposes deep-rooted biases towards Muslims and other minority communities. CSW is concerned that the law's

departure from a commitment to the values of equality guaranteed within the constitution will aggravate religious-based communal tensions.

### The Foreign Contribution (Regulation) Amendment Act (FCRA)

41. The Foreign Contribution (Regulation) Act 2010 makes it mandatory for NGOs to have a licence to receive foreign funding.
42. In September 2020, during the Covid pandemic, the Indian parliament passed an amendment to further restrict eligibility to receive foreign contributions. The law gives State authorities arbitrary power to refuse the renewal of licence of any organisations that it considers against "national interest". Organisations that are considered as being critical of government policies that violates human rights standards, particularly entities run by Muslims<sup>6</sup> and Christians<sup>7</sup> are targeted.
43. In its new form, the FCRA's vague provisions has removed organisations dependent on foreign contributions for project implementation at grass-roots level.

Recommendations:

44. ***Conduct a review of the CAA and NRC, to ensure that they are aligned with constitutional commitments.***
45. ***Conduct an independent inquiry into police responses to anti-CAA/NRC protests, to verify reports of disproportionate use of force, arrests and deaths of civilians.***
46. ***Conduct an independent review of FCRA legislation and ensure that it is aligned to constitutional provisions and international human rights obligations.***

### Shrinking space for civil society

47. Critics of the far-right ideological policies of the government are threatened with arbitrary detention and charges under draconian anti-terror laws. Civil society actors have been subjected to intimidation, humiliation, and death, curtailing space for free speech, with dissenters labelled as "anti-nationals."
48. The arrest and incarceration of 16 HRDs in relation to the Bhima Koregaon violence, including Father Stan Swamy, who died in judicial custody on 5 July 2021, is a poignant example of the way draconian laws, such as the Unlawful Activities (Prevention) Act, are used to target civil society who advocate for the right to FoRB.

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<sup>6</sup> The Economic Times, 'FCRA, IMA, IIT Delhi, Jamia Milia among 6,000 entities whose FCRA licence deemed to have ceased', 1 January 2022 <https://economictimes.indiatimes.com/news/india/ima-iit-delhi-jamia-milia-among-6000-entities-whose-fcra-licence-deemed-to-have-ceased/articleshow/88632094.cms>

<sup>7</sup> The Hindu, 'Government suspends FCRA clearance of 4 Christian groups', 7 September 2020 <https://www.thehindu.com/news/national/government-suspends-fcra-clearance-of-4-christian-groups/article32535766.ece>

49. The UN Special Rapporteur on the situation of HRDs noted that India does not “properly protect human rights defenders.”<sup>8</sup>
50. CSW is also concerned about the crackdown on journalists reporting on FoRB violations. On 13 November 2021, two young female journalists from Assam state were arrested by police in Tripura state for reporting on anti-Muslim riots, leading to several arson attacks on mosques in Tripura. The women were detained at their hotel, accused of instigating communal disharmony, before returning home. They were re-arrested hours later and brought back to Tripura before being granted bail by a court on 15 November after they tweeted images of burnt mosques. The police accused them of spreading fake news based on a written complaint filed by a member of the Vishwa Hindu Parishad, the religious arm of the RSS.

Recommendations:

51. ***Uphold the right to freedom of expression and prosecute the perpetrators of crimes against civil society and journalists who exercise this right.***
52. ***Provide more effective protection for HRDs by removing the legal obstacles and societal repression undermining their legitimate activities to promote and protect human rights.***
53. ***Establish a safe environment for human rights lawyers, civil society actors and HRDs, within a national framework supported by the appropriate legislative and regulatory texts, enabling them to carry out their work without fear of reprisals.***

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<sup>8</sup> Scroll, 'India does not protect human rights defenders properly, says UN Representative', 16 January 2021

<https://scroll.in/latest/984202/india-does-not-protect-human-rights-defenders-properly-says-un-representative>

<sup>9</sup> Twitter: Samridhi K Sakunia's video of vandalised mosque, 13 November 2021

[https://twitter.com/Samridhi0809/status/1459501095399559171?ref\\_src=twsrc%5Etfw%7Ctwcamp%5Etweetemb%7Ctwterm%5E1459501617477128199%7Ctwgr%5E%7Ctwcon%5Es2\\_&ref\\_url=https%3A%2F%2Fpublish.twitter.com%2F%3Fquery%3Dhttps3A2F2Ftwitter.com2FSamridhi08092Fstatus2F1459501617477128199widget%3Dtweet](https://twitter.com/Samridhi0809/status/1459501095399559171?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetemb%7Ctwterm%5E1459501617477128199%7Ctwgr%5E%7Ctwcon%5Es2_&ref_url=https%3A%2F%2Fpublish.twitter.com%2F%3Fquery%3Dhttps3A2F2Ftwitter.com2FSamridhi08092Fstatus2F1459501617477128199widget%3Dtweet)