

The Minorities Human Rights in India

Gurdeep Singh, Manpreet Kaur

Assistant Professor

A.S.B.A.J.S. Memorial College Bela, Ropar, India

Abstract: Today's world it is almost impossible to open a newspaper or see the evening news without human rights being mentioned. Often, violations and abuses are in focus. Even if human rights have become part of our modern vocabulary, many of us do not know what they really are. How do they function and how can they influence our societies?

Human rights are fundamental rights that every human being is entitled to. The underlying ethical values behind the vision of human rights are human dignity and equality. The idea that all human beings are entitled to some fundamental human rights dates far back into history. The need for people to formulate human rights grew out of the need to protect individuals from arbitrary abuse, violations, and discrimination perpetrated by those in power.

India's diversity and traditional ethos of tolerance have been marred by hostility and hate along caste and religious lines. Millions of Dalit or "lower" castes and Adivasis (the indigenous tribal people) have suffered centuries of systemic repression, exclusion, and stigma at the hands of "upper" castes. The same forces that have perpetuated caste discrimination are also spearheading India's seemingly relentless drift away from secularism and religious pluralism, especially over the course of the last three years. In 2016, a global index of human rights and social and religious freedoms by Pew Research Centre placed India among the worst 10 of the world's 198 countries when judged for "social hostilities." The situation of religious minorities in India has seen a steady decline during much of independent India's history, on account of their cynical manipulation by various political parties, as well as the onslaught of a hateful and divisive ideology that has sought to impose Hindu political and cultural hegemony. The victory of the present ruling Party in India's national elections in May 2014 brought to power a party that has openly espoused Hindutva, an ultranationalist ideology marked by extreme animus towards Muslims, Christians and other religious minorities. The result, over the last three years, can only be termed as an assault on human rights and religious freedom of minorities that is shocking both in its intensity and its brazenness. The human rights violations of religious minorities cover a broad spectrum, from illegal detention, torture and fake encounter killings of detainees to open assault against individuals, their sources of livelihood and in many cases their places of worship. Hundreds of Muslims have been arrested on trumped up charges of terrorism, and have spent several years in prison before being finally acquitted. Laws curbing religious conversion, the ban on sale and possession of beef in many states and the curbs placed on NGOs represent the state's response to forced conversions, the brutal violence of "cow protection" groups and the harassment and intimidation of human rights defenders respectively. In all cases, the state has become an enabler of repression, often going to great lengths to defend and normalize the abuse. While multiple international bodies have called out the RSS and its affiliates for their violence and extremism, Hindutva's stranglehold on Indian polity continues to tighten. The culture of impunity that has taken hold in India bodes ill for the rule of law and for India's continued ascendancy on the world stage. The international community has an obligation to take cognizance of human rights violations in India and to influence the Indian government to take necessary steps to safeguard the rights of Dalits, Adivasis, and religious minorities.

Keywords: Historical Background, Police and Security Forces, Torture, Illegal Detention, and Extrajudicial Killings, Terrorism Cases, Pressures on Judiciary and Prosecution, Attacks on Minorities.

1. Spectrum of Violations

Human rights abuses against India's social and religious minorities have been on the ascendance since the BJP government came to power. This grim reality is already being acknowledged within India as well as internationally.

The "International Religious Freedom Report" ¹ of the U.S. Department of State released in August 2016 notes occurrences of "religiously motivated killings, assaults, riots, coerced religious conversions, actions restricting the right of individuals to change religious beliefs, discrimination, and vandalism. Incidents [targeting Christians] included assaults on missionaries, forced conversions, and attacks on churches, schools, and private property. Attacks by majorities on Muslims [were] due to alleged cow slaughter [and] their traditional livelihoods selling beef."

The U.S. Commission on International Religious Freedom (USCIRF) noted in a report titled "Constitutional and Legal Challenges Faced by Religious Minorities in India"² that "religious freedom violations" had increased and "religious tolerance" had decreased in India. Indian authorities have used "repressive laws to curb freedom of expression and silence critics," a report from Amnesty International says³. "Human rights defenders and organizations continued to face harassment and intimidation." It said Dalits and Adivasis face "widespread abuses" with official statistics from August 2016 showing that more than 45,000 crimes committed against the Scheduled Castes and almost 11,000 against the Scheduled Tribes. The situation in conflict-ridden regions such as Jammu and Kashmir and Chhattisgarh states have worsened. In August 2016, UN High Commissioner for Human Rights Zeid Ra'ad al-Husseini regretted that India had refused a fact-finding mission from his office access to Kashmir, where security forces are accused of gross human rights abuses ⁴

2. Police and Security Forces

Most state violations are by law enforcement agencies, notably the police. Since the formed the federal government in 2014, there has been an uptick in the practice by the police and law enforcement of arbitrary and unlawful detention; torture, and cruel, inhuman and degrading treatment of terrorism suspects in police custody; extrajudicial killings; harassment of human rights defenders at the behest of the political executive; framing and arrests of innocents from the social and religious minorities; and fabrication as well as destruction of evidence.

Even as attacks by Majority Fundamentalist vigilantes on Muslims, Sikh and Christians have ratcheted up, police across India are pushing back against the demand to act against the perpetrators. Perversely, the police, who are often in collusion with the attackers, file cases against the very victims of such attacks to both intimidate those victims and muddy what are clear cut cases of hate crimes. Further survivors are now saddled with a struggle to both clear their names and bring their attackers to justice.

According to The Hindu newspaper, nearly 36,000 cases were registered against the police with the National Human Rights Commission (NHRC), an autonomous statutory body, during 2015-16, “a figure that experts say is highly under-reported.”³ The newspaper found that only 94 first information reports (FIRs) were registered in 2015 against the police for human rights violations, according to data from the National Crime Records Bureau (NCRB).

Attacks by security forces in Muslim-majority Kashmir, where a secessionist insurgency has raged for nearly three decades, too, have increased sharply. In July 2016, mass protests broke out in Kashmir after the killing of a popular young militant leader the government deemed a terrorist. Security forces responded by killing over 90 people, at least 10 by birdshot or pellets, which have also blinded hundreds of Kashmiris. The region saw the longest curfew in its history.

Despite widespread national and international criticism of their use of lethal birdshot, the Central Reserve Police Force, a paramilitary unit, told the Jammu and Kashmir High Court that “it was difficult [for it] to follow the standard operating procedure given the nature of the protests.”⁴

3. Torture, Illegal Detention, and Extrajudicial Killings

The most egregious human rights violations perpetrated by the police include illegal detention of suspects and torture of detainees, arrestees and convicts, as well as extrajudicial killings, called “encounter killings.” These “encounter killings” are staged by the police who insist that those killed had taken the first shot. Not only have torture and the killings spiraled, but the government has also refused to act against their perpetrators. In November 2016 a detailed HRW investigation into nearly 600 custodial deaths from 2010 through 2015 reported that the “police used sexual abuse, forms of waterboarding and beatings with a ‘truth-seeking belt’⁵. No police officer accused of those killings has been convicted.

4. Pressures on Judiciary and Prosecution

NHRC guidelines prescribe that all cases of deaths from police actions be reported to it within 48 hours. But most state governments do not adhere to the guidelines. The states also repeatedly refuse to given compensatory payouts to the families of victims despite orders from the NHRC. Armed forces don’t even need to report custodial deaths to the NHRC.

In a newspaper interview in April 2017, retired judge Abhay Thipsay, who presided over one such case transferred out of Gujarat, made an alarming claim about the judiciary. Especially with regard to cases of “national security” and “national interest”, he said, “Magistrates feel it’s more convenient to avoid friction with the police because you can get things done with their help.

“The trouble is, many a magistrate’s CR [confidential report] is affected because you grant bail. But if you remand a person to custody without evidence, no adverse remarks are made against you! Even the press doesn’t criticize you.” He added: “If you affirm the state’s actions, your integrity is never suspected. But if you release an accused, there’s a huge clamor.”⁶

In 2015 a former Gujarat judge, Himanshu Trivedi, alleged that Mr. Modi’s administration wanted the judiciary to act “against the minority community, albeit with no written orders but definitely communicated in loud and clear messages to us.” Mr. Trivedi, who resigned from the judiciary in 2003 and moved to New Zealand, said he saw lawyers and judges display prejudiced opinions⁷. In June 2015, Rohini Salian, a former government prosecutor in Maharashtra, told a newspaper that an officer with the National Investigation Agency (NIA), a federal body that probes terror case, had asked her to “go soft” on the 14 Hindus accused in a 2008 bombing that killed seven Muslims⁸. The accused, including two retired army officers, have been linked to the RSS-BJP. Ms. Salian said the communication to her was made by the NIA officer barely a month after Mr. Modi had become prime minister in May 2014. When she refused, she was removed as a government prosecutor. In October 2015, she named that officer in an affidavit she gave the Bombay High Court and, when the matter kept being postponed, the Supreme Court⁹.

But the NIA carried out no investigation based on Ms. Salian’s allegation and simply denied it. In February 2017, a key Hindu accused, Pragma Thakur, was acquitted in a murder case in the neighboring Madhya Pradesh state after NIA found no evidence to prove her involvement in it. In the Maharashtra bombing of 2008 case that is still under trial, when Ms. Thakur sought bail in November 2016, on grounds of ill health, the NIA told the court that it would not oppose her bail plea. In January 2017, the NIA lawyers told the Bombay High Court the agency did not have any evidence against her in this case. In February, the High Court granted her bail.

5. Harassment of Human Rights Defenders

India has a tradition to humiliated and declare anti-national to Human Right Defenders. Many human Rights Defender face violence.

Jaswant Singh Khalra was a human rights defender, who was a bank employee in Amritsar during the 1980s. After Operation Blue Star, the assassination of Indra Gandhi, and the 1984 Anti-Sikh Riots in which thousands of innocent Sikhs died at the hands of crazed (some apparently organized) Mobs after the Prime Minister was assassinated by her trusted Sikh bodyguards. In the Punjab police were empowered to detain Sikhs for any reason, ostensibly as suspected terrorists. Seeing that many of his friends and colleagues had gone missing, he researched information which eventually led him to find files from the municipal corporation of Amritsar which had information containing the names, age, and addresses of thousands of Sikhs who had been killed and illegally cremated by the Punjab Police.

In 1995, Jaswant Singh was last seen washing his car in front of his house, when he disappeared. Witnesses gave statements implicating the police and implicated, 'the butcher of Punjab' - KPS Gill, but the Punjab Police denied that they arrested him, and claimed they knew nothing about his whereabouts. In 1996, the Central Bureau of Investigation found evidence that he was held at a police station in Tarn Taran and recommended the prosecuting of nine Punjab police officials for his murder and kidnapping. The case concerning the "disappearance" of hum later several police officials were charged and eventually given life sentences. Apparently one of those involved in his death committed suicide before his accomplices were brought to justice. On November 18, 2005, six Punjab police officials were convicted and sentenced to seven years imprisonment for Khalra's abduction and murder. On October 16, 2007, a division bench of the Punjab and Haryana High Court, chaired by Justices Mehtab Singh Gill and A N Jindal, extended the sentence to Life imprisonment for four accused Satnam Singh, Surinder Pal Singh, Jasbir Singh (all former Sub Inspectors) and Prithipal Singh (former Head Constable).

In September 2016, security forces arrested human rights defender Khurram Pervez in Kashmir as he was about to leave to speak before the UN Human Rights Council in Geneva.¹⁰ Even though UN experts called on the Indian government to release Mr. Pervez immediately, he was detained for two months and was freed only after a court ruled his detention illegal.

Un-Authorized so-called movements these are violent the rights of Minorities

Cow Protection Vigilantism

Religious Hindus traditionally revere the cow as sacred. The goal of a nationwide ban on cow slaughter is enshrined in India's Constitution as an aspiration, a guiding principle but not a fundamental right to be forced into adherence. Yet, state governments across India are increasingly legislating bans on cow slaughter as well on the procurement, sale, and consumption of beef.

Muslims have also been attacked on mere suspicion of cooking or eating beef. The public lynching in September 2015 of a man named Mohammad Akhlaq about 60 km from New Delhi by a mob of 200 Hindu hardliners who stormed his home and beat him to death became international news.

"Love Jihad"

Bajrang Dal, Hindu Yuva Vahini, and similar outfits have turned vigilantes against marriages between Muslim men and Hindu women, which they have fancifully termed "love jihad". Allegations of Muslim youth trapping Hindu women through love to convert to Islam has been their potent propaganda tool. It has been easy to inflame sentiment as converting to marry outside her faith is seen as a family dishonor by some in the conservative Hindu society. This propaganda dovetails with the rabble-rousing about the fears of "breeding" Muslims set to overtake the Hindu population in India. Since Yogi Adityanath became Chief Minister in March 2017, the Hindu Yuva Vahini has struck at mixed religion couples across Uttar Pradesh.

So many incidents where we see violation from some fundamentalist those opposed inter-religion marriages with slogan Love Jihad.

In December 2016 when a woman officer of the Indian Administrative Service (IAS) who had topped the entrance exam in 2015 announced her decision to marry the second rank-holder, a Muslim, the Hindu Mahasabha wrote to her father demanding that she "cancel" her wedding plans as it would "promote love jihad" across India. 100 They said she could be allowed to go ahead with the wedding only if her Muslim husband-to-be be converted to Hinduism.

"Ghar Wapasi" or Conversions to Hinduism

The RSS and its offshoots also use threat, violence and even allurements of money - the very accusations they level against Christians and Muslims when Hindus convert to those religions -to convert non-Hindus, both Muslims and Christians, to Hinduism. The RSS repeatedly asserts that the ancestors of all Indian Muslims and Christians were once Hindus and, therefore, it is "technically" only "reconversion", which it has termed "Ghar wapasi", or homecoming.

Recommendations to Indian Government

1. Reverse course on the massive abuses of human rights being carried out both by state and non-state actors.
2. Devise a mechanism to prosecute and punish police officers who falsely frame innocent people in terror cases.
3. Compensate and rehabilitate the victims of such fraudulent criminal cases.
4. Ensure that the judiciary strictly implements the law's mandates in cases of national security and terrorism to weed out bogus cases.

5. Increase training of legislature, law enforcement, and security agencies, and the judiciary on human rights and religious freedom standards and practices.
6. Ratify the U.N. Convention Against Torture and legislate punishment for the use of torture by government agencies.
7. Stop the harassment of NGOs and human rights defenders, including religious freedom and freedom of expression activists.
8. Ban private vigilante groups for cow protection, “love jihad” and such operations, and prosecute them for their various criminal acts.
9. Legislate punishment for sectarian violence by individuals or groups, including propagating violence or threats of violence against minorities.
10. Deny officials accused of human rights violations promotions, wage increases, and service awards.

Annotations

1. <https://www.state.gov/documents/organization/256517.pdf>
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