

PROTECTION OF MINORITIES DURING COVID 19 PANDEMIC- AN INTERNATIONAL LAW PERSPECTIVE

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Abstract

Several constitutions around the world reflect the principle of majority rule and minority rights. Articles in these respective constitutions prohibit the oppression of minorities by the majority. Today, the real meaning of Democratic Government primarily means a government ruled by the people themselves through their chosen representatives. The problem of minority rights remains at the heart of the civil rights movement. As a result, minority defense is based on the assumption that ethnic, cultural, and linguistic affiliations are integral to a civic, just society concept. This paper provides an alternate explanation for why minority rights are essential internationally and more detail on the importance of an international, socially just mechanism for state resource allocation. International minority rights use this approach to address international law injustices by organizing global political facts into a legal order. This article examines the ambiguous impact of religious autonomy in India and the country's democratic outcome. While the Indian Constitution expressly guarantees the religious minorities autonomy and freedoms, the increasing growth of xenophobia and hyper-nationalism, which gradually increasing the threats to religious minorities, has undermined the democratic institution of the country, which was once considered unparallel and in both length and size. During COVID-19, even minorities' protection and religious freedom were jeopardized. These patterns have been evident for decades; however, they have significantly accelerated in recent years, and the administration has chosen to ignore them.

Keywords: International legal framework; the rights of minorities; Religious Rights;

Introduction

Today, the supreme law of the Constitution, which guarantees human rights, both endorses and limits majority rule in any genuine democracy. Many constitutions worldwide, such as the American and Indian constitutions, reflect majority rule and reverence for minority rights. (Jefferson, 1801) Articles of the respective Constitution prohibit the majority from oppressing the Minority. In today's world, democracy refers to a popularly elected government that the people govern. The term "minority" refers to a state of insecurity and inferiority (Gilbert, 1992; Henrard, 2003) that a specific group of people may experience for various reasons. There have been differences between groups throughout history in terms of "minority" and "majority." Some political structures still offer special group rights to minorities, but this is rarely focused on recognizing minority "rights" in general. (Preece, 1998)

The late-eighteenth-century French and American revolutions declared the free practice of religion to be a constitutional right, though neither explicitly discussed the broader question of minority rights.

Freedom of religion is a constitutionally guaranteed right in the U.S. as State in the Constitution's First Amendment. A practice which has been championed by the colonial founders such as Roger Williams, Dr. John Clarke, William Penn, the separation of state and church is also to the religious liberty under the guaranteed under the Constitution.

Zimmerman, 2010) In the year 1815, the Congress of Vienna minority rights were acknowledged to some extent, and because of which we can say that it dissolved the Napoleonic Empire. Also, in 1878 after the commencement of the Treaty of Berlin, which was recognized for the first time, special rights for the Mount Athos religious community. (Ferrari et al., 2014)

A progressively exclusionary definition of national identity based on religion has posed a challenge to India's old philosophy of multicultural and multireligious society. (Tier2_INDIA.Pdf, n.d.) Suppose we follow the re-election of the right-wing government currently in the year 2019 May. The national Government tolerated attacks on minorities, as well as hate speech and incitement to violence. (USCIRF 2020 Annual Report_42720_new_0.Pdf, n.d.) According to the Universal Periodic Review (U.P.R.), the Indian Government, including the current ruling political party, is blamed for anti-minority activity. In the past, there has been an increase in xenophobic bigotry and threats to minorities' religious freedom, primarily targeting Muslims, Christians, and other minorities. Threats and hate speech directed at religious minorities have risen dramatically in recent years. Killing or lynching people in the name of "cow protection/vigilantism" is seen as a heroic act.

Physical, verbal, and psychological warfare has been waged against these minorities since the outbreak of COVID-19, furthering their marginalization in Indian society. (Basu et al., 2008) Unfortunately, ideological animosity has been cloaked in patriotism and nationalism. The Indian Constitution provides religious minorities with autonomy and the right to conduct their religious affairs on their own (Basu et al., 2008) Constitution, which encapsulates one of India's constitutional rights, expressly forbids discrimination based on religion and ethnicity, caste, sex, or place of birth (Basu et al., 2008).

During the most recent global pandemic, some governments blamed minority faith groups for the spread of the coronavirus and used the epidemic to justify further persecution of religious minorities that were already marginalized. COVID-19 has given the national media's hate speech and misinformation toward Indian minority communities a new dimension (Regan et al., 2020). At the same time, government officials were busy exacerbating religious tensions, and official efforts were focused on suppressing religious activities and legal rights rather than battling the virus.

The article briefly overviews India's targeted discrimination against minorities and the legal and political agencies' apathy in protecting them. We believe that none of these views adequately captures the essence of the international legal system, which has its normative architecture.

Protection Of Minorities—Historical Development

Minority defense has its origins in seventeenth-century reforms that, precisely, that we can trace back to the Treaty of Westphalia (1648). Even the Treaty of Oliva, signed in 1660 by Sweden and Poland in favor of Roman Catholics in Livonia, attempted to protect minorities. Non-Muslim religious groups, such as Orthodox Christians, Armenians, Jews, and others, had some cultural and religious autonomy under the Ottoman Empire's millet system (Ágoston & Masters, 2009; Ghana, 2012). The term was used for legally covered ethnolinguistic minority groups during the 19th century as a result of the Tanzimat reforms (1839–1876). Millet is derived from the Arabic word millah, which means "country".

The most outstanding example of Pre-Modern religious pluralism was the millet system (Sachedina, 2007). In this system, each spiritual and ethical group was given official status and a significant measure in the self-government proving as the most sorted and established

pre-modern model of a religiously pluralistic society. Beginning with Sultan Mehmet Fatih (Sachedina, 2007), the Ottoman Empire adopted the millet scheme and strengthened its institutional framework by expressly stating that non-Muslim communities' privileges be discussed in royal decrees (Shaw, 1976). These decrees were known as Ahd-name, and they had the power of a foreign contract since the Sultan's promise followed them (El Fadl, 1994).

After Sultan Mehmet's conquest of Constantinople in 1453, Greek Orthodox Christians were not founded as the first millet, as is widely believed in the literature. Before the conquest of Constantinople in 1453, they had the same communal privileges under the Seljuqs and the Ottomans (Inalcik, 1997). The Orthodox patriarch was given the same rights as other religious figures who had previously been subjected to Islamic law. In both secular and spiritual matters, the patriarch was given the authority to enforce Orthodox rule (Senturk, 2002). After the fall of Constantinople, Sultan Mehmet, who considered himself the Eastern Roman Emperor, granted a charter to the Orthodox Church's patriarch, Genady II.

The millet regime consolidated religious pluralism and multiculturalism, allowing the Jews to create their community and establish separate religious, educational, and legal institutions in Istanbul (Shaw, 1991). Historians also point out that the independence given to minorities within Ottoman territories attracted significant numbers of displaced Jewish communities fleeing persecution in Spain, Poland, Austria, and Bohemia (Braude & Lewis, 1982). Although Jewish communities in Russia, Romania, and most Balkan states faced relentless persecution (pogroms, anti-Jewish laws, and other insults), Jews living in Turkey enjoyed a remarkable climate of peace and justice (Dumont, 2013).

The late-eighteenth-century French and American revolutions declared the free practice of religion to be a constitutional right, though neither explicitly discussed the broader question of minority rights. "*The current minority concerns with which we are acquainted are primarily rooted in the nineteenth century,*" on the other hand (Sigler, 1983). Minority defense clauses were included in treaties defining rights and security of populations that were to be passed to international sovereignty at the three great congresses of the nineteenth century: Vienna (1814–1815), Paris (1856), and Berlin (1878) (Thornberry, 1993). However, for the first time in the history of international law, a more realistic approach can be seen in the measures taken for minority security and rights, which were methodically established in the Treaty of Versailles after World War I (Fink, 1995).

The Paris Peace Conference, which gave birth to the League of Nations in 1919, inspired the international defense of minorities (MacMillan & Holbrooke, 2003). Even though the League of Nations Pact did not include any rules concerning human rights, it did have two related structures of mandates and minorities (Buergethal et al., 2009). The League's inability to create an effective minority structure mirrored the interwar period's economic, social, and political problems, contributing to the failure of Woodrow Wilson's 1919 (Knock, 1995) vision of stability and disarmament, which resulted from World War II. After the Second World War's tragedy (Gibson, 1996), the concept of protecting human rights for peoples that would be considered minorities today grew more robust (Henkin, 1990). Integration of linguistic "nations" based on the principle of self-determination, rather than the security of minority groups as such (Fisch, 2015). People who did not share the majority's cultural, linguistic, or religious identity within their country were increasingly threatened as nationalism increased in popularity (Baycroft, 1998). National or Minority interests were the forefront of international affairs, at least in Europe, when the First World War broke out in 1914 (Baycroft, 1998).

Today, "minority" is a global phenomenon, and the United Nations has constantly been considering the topic, even though its time importance and concomitant elements vary from

country to country. At the United Nations, the term "minority" was described by Francesco Capotorti in 1977 as "a group numerically inferior to the rest of the population of the state, in a non-dominant position, whose members are nationals of the State and show, if only implicitly, a sense of solidarity, whose members are nationals of the state who possess ethnic, religious, or linguistic characteristics differing from those of the rest of the population and now, if only implicitly." (Pentassuglia, 2002).

Minorities Rights Under International Law

Almost every human rights instrument contains provisions relating to the rights of people who are members of minorities. Minority rights are essential to protect those who want to uphold and cultivate traditions and practices that they share with other members of their society. The United Nations has been a champion for minority rights since its founding in 1945. The U.N. protects minority rights under Article 27 of the International Covenant on Civil and Political Rights (ICCPR) (UN Office of the High Commissioner for Human Rights (OHCHR), 2010) and Article 30 of the Convention on the Child's Rights.

Furthermore, the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic Minorities, Religious and Linguistic Minorities is the document that establishes the main principles and guides countries in enacting legislation and other steps to protect the rights of minorities (Henrard, 2003). The Conference on Security and Cooperation in Europe and the Council of Europe, on the other hand, only apply to "national" minorities in their instruments. The Minorities Declaration is the most comprehensive, covering "national or racial, religious, and linguistic minorities," as well as the defense of "cultural" identity (Gellner, 1983).

The United Nations Declaration on Minorities, as the first exclusively devoted to the topic, is perhaps the single most important U.N. instrument on minority rights; however, it is not the beginning nor the end of U.N. efforts to promote and protect minority rights, such as the Convention against Genocide, the International Convention on the Elimination of All Forms of Racial Discrimination, and the United Nations Convention on the Elimination of All Forms of Racial Discrimination (Fink, 1995).

Article 13 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) guarantees all the right to education, specifying in some of its paragraphs that states should allow parents or legal guardians to choose schools for their children that meet specific minimum educational requirements, rather than those set by the Government. Conditions are also required to ensure that their children receive religious and moral education following their own beliefs. The Limburg Principles on ICESCR (Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights, 1987) implementation aim to eradicate all forms of discrimination and take special steps to ensure that vulnerable groups have access to economic, social, and cultural rights (Eide et al., 1995).

Individuals may file complaints with the Human Rights Committee under the first Optional Protocol to the ICCPR. The Human Rights Committee was formed as an expert body to oversee the implementation of the ICCPR and its Protocols in the territory of State Parties. One of its primary responsibilities is to review the reports that the States Parties are required to send every five years on the legislative and compliance steps they have taken concerning the rights acknowledged in the Covenant and progress made in the enjoyment of those rights.

Individual procedure mechanisms, which are tailored for people who argue that their rights and freedoms have been violated by a State that is a party to the Optional Protocol, are another area of expertise for the Human Rights Committee. Minorities are covered by the

International Convention on the Elimination of All Forms of Racial Discrimination. The Committee on the Elimination of Racial Discrimination (CERD), the first body established by the United Nations to track and review States' acts taken in fulfillment of their obligations under a particular human rights agreement, falls under the scope of Article 14.

The Convention defined three procedures to allow CERD to review individual States' legal, judicial, administrative, and other actions to meet their obligations to address racial discrimination. First, all States that ratify or accede to the Convention are required to report to CERD regularly. Second, the Convention allows for appeals from one state to another. Finally, the Convention allows an individual or a group of individuals who claim to have been victims of racial discrimination to file a lawsuit with CERD against their Government.

The Convention on the Prevention and Punishment of Genocide (Genocide Prevention and Punishment Convention) also extends protection to minority groups, with Article 2 defining genocide as an act committed with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, such as killing members of the group; inflicting severe bodily or mental harm on members of the group; or deliberately inflicting conditions of life on the group calculated to bring about its physical demise.

The United Nations Declaration on the Rights of Persons Belonging to National or Ethnic Minorities, Religious and Linguistic Minorities, adopted in 1992, is widely regarded as a result of events following the collapse of communism. It is the primary instrument that directs the United Nations' activities in this area today. The Declaration includes a list of rights for racial, political, religious, and linguistic minorities, and states are obligated to "protect the life and the national or ethnic, cultural, religious, and linguistic identity of minorities within their respective territories, and to promote conditions for the promotion of that identity." The Declaration's weak point is the absence of specific state commitments. However, since it is merely a political declaration and not a legally binding text, it is one of the first foreign documents to promote the defense of minority rights. Some Observations on the Indian Situation from the Universal Periodic Review (U.P.R.), United Nations Human Rights Council. The Universal Periodic Review (U.P.R.) is a one-of-a-kind mechanism that includes a periodic review of all 193 UN Member States' human rights records. The Universal Periodic Review (U.P.R.) is a significant Human Rights Council breakthrough focused on fair justice for all countries. The Universal Periodic Review (U.P.R.) was established when the U.N. General Assembly passed Resolution 60/251—on 15 March 2006, establishing the Human Rights Council.

As has been noted, several recurring communal incidents in India have been linked to attacks on religious minorities. These offer the civil society accounts strength and immediacy, and they highlight the disturbing essence of contemporary religious intolerance:

Terrorism (for example, "in Tamil Nadu, one writer was terrorized into withdrawing his [religious] books. They (writers and artists) are often denied sufficient security and protection, although their abusers are not subjected to any restrictions. The majority of abusers are like this get backing, encouragement, even felicitation by the *Hindutva* organizations and ruling elites"). In order to provide a timely assessment of India's fulfilment of international obligations on religious freedom this article explores the nature and 'issue-salience' of different human rights 'pathologies'. It uses critical frame analysis of the corpus of civil society organizations' (CSOs) submissions to the third cycle Universal Periodic Review (UPR). The findings reveal CSOs' concerns over the weakening of rule of law institutions and restrictions on civil society during the period under study. This has impacted upon the ability of human rights defenders to protect religious freedom. The civil society discourse also highlights a broad range of failings; including communal violence, police

malpractice/ judicial shortcomings, discrimination, oppression and incitement. In contrast, Government's UPR submission fails to acknowledge these issues. In conceptual terms, its disconnect suggests performativity and legitimation are a feature of the post-2014 NDA administration's framing of human rights. It appears to embrace civil society engagement and the promotion of religious freedom in a way that advances political legitimacy, whereas civil society accounts suggest otherwise and point to 'legitimation' – or a disjuncture between rhetoric and reality." (Chaney, 2020);

Harassment— (e.g., "Christians have suffered harassment from both the government and civil society. Their requests for help and protection have also frequently been ignored by authorities");

Stigmatization (e.g., "the authorities have failed to prevent religious violence across the country. Draft legislation aimed at preventing and punishing communal and targeted violence, and ensuring access to justice and reparations for victims, has yet to be passed");

Threats (e.g., "religious minorities, especially Muslims and Christians, are feeling increasingly at risk. Some ruling party leaders have made inflammatory remarks against minorities while militant Hindu groups, threatened and harassed Muslims and Christians, in some cases physically attacking them");

Torture (e.g., "Police use of torture on individuals accused under Maharashtra Control of Organized Crime Act, 1999 (MCOCA) in Maharashtra has been widespread . . . [there are many accounts] detailing the torture to which they had been subjected to extract the confessions");

Killing (e.g., "in March 2015, a trial court in Delhi acquitted 16 policemen accused of killing 22 Muslim men 28 years in the past, arbitrarily picked up from Meerut city of Uttar Pradesh. The Hashimpura massacre is an incident of mass murder, which occurred on or around 22 May 1987 near Meerut in Uttar Pradesh state, India, during the 1987 Meerut communal riots spanning March to June 1987 with a death toll of 350. It is alleged that 19 personnel of the Provincial Armed Constabulary rounded up 42 Muslim youths from the Hashimpura locality of the city, took them to the outskirts of the city, shot them in cold blood, and dumped their bodies in a nearby irrigation canal charges were dismissed due to a 'scanty, unreliable and faulty investigation"); *Force* (e.g., "now again, just before the 2015 Panchayat elections, a Hindu attacked the Muslims, torched their homes and forced them to seek refuge at the Ballabgarh police station"); *Intimidation* (e.g., "Converts are often subjected to violence and intimidation, especially those who leave the Hindu faith for Islam, Buddhism or Christianity").

Minorities In India

Majority rule is a form of Government in which people make democratic decisions freely by electing representatives. By majority rule, the lawmakers with the most votes reflect the people's will. Minority rights are rights that are given to all, regardless of whether or not they are members of the majority. The Constitution guarantees minorities' rights and ensures them that they can trust the majority and that the majority, in turn, will consider minorities' wishes when making decisions that affect all. However, as in Indian democracy and many other nations, this structure could be faulty in reality.

It is important to note that Indian minorities haven't arrived in India from elsewhere; instead, they've lived there for generations. Christians (2.5 percent), Sikhs (2%), Jains (1%), and Muslims (0.5 percent) are the most common minorities in India (14 percent). Muslims in India make up the world's third-largest group. Hindus make up the bulk of India's population, accounting for 80 percent of the country's total. India is technically a secular

state; however, in practice, providing equal status to minority groups in a country where more than 80% of the population adheres to a single religion is challenging. As a result, special rights are granted to these minorities in the Indian Constitution to provide them with equal status. Muslims in India, for example, have a poverty rate of 43%, while the national average is 39% (National Sample Survey Organization, 1999–2000). Muslim landlessness is 51 percent in rural areas, compared to 40 percent for Hindus.

Muslims are denied employment in higher positions in government offices. Various professionals' occupations in the service sector are significantly lower literacy rates, which have made them stay aloof from the opportunities. 60% of the Muslims never attended school in urban areas, compared to 20% in the country. Only 5% of the Muslim women have completed higher secondary education, and the average income is lower than 11% than the national average. In this, we can include the Kashmiri Muslim group as a witness of the betrayal of rights and denial of justice who have assured status of self-rule in the past with a distinct and unique political background. As a result, there is also a need for new regulations to meet the drowning requirements.

The Justice (Retd) Rajinder Sachar Committee Report, commissioned by the Congress government, addressed income, education, and jobs for Indian Muslims. The Prime Minister established the Committee as a High-Level Committee, chaired by Justice (Retd), Rajinder Sachar, to examine the social, economic, and educational status of the Indian Muslim community as of 2006. The Sachar Committee's findings in 2006 demonstrated some levels and types of structural discrimination and official bigotry towards Muslims operating at almost all levels in Indian society, and some of the conclusions shocked the entire world. The Committee compared Hindus and Muslims' educational levels (enrollment, graduates, and above), jobs (workers and the formal sector), and economic status (poverty and land holdings) using data tabulated indices.

According to recent data obtained in 2006 from the National Sample Survey Organization, only about 3.6 percent of Muslims over twenty were college graduates (NSSO). In towns, 54.6 percent of Muslims and 60 percent of Muslims in cities have never attended school. Graduates make up 3.1 percent of the Muslim population in urban areas, while post-graduates make up 1.2 percent. In rural areas, just 0.8 percent of Muslims have completed high school. In Muslim-dominated regions, the Committee discovered an insufficient number of government schools, leading to a low number of Muslim boys and girls attending school.

Minority Rights In The Constitution And Their Protection

The particular rights which the Indian Constitution has granted to the Minority to create educational institutions- (a) Article 30.

"Article 30. Right of minorities to establish and administer educational institutions. —(1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

1[(1A) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority referred to in clause (1), the state shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.]

(2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language."

Article 30 provides rights to minorities to maintain and improve the country's sovereignty and unity. The field of secular education, in general, will increase the commonality of Indian boys and girls. Via the means of education, this is done in the true spirit of liberty, equality, and fraternity.

The Supreme Court stated in the case of Ahmedabad St. Xavier's College v State of Gujarat that the spirit of Article 30(1) is to hold the National Conscience, in that the linguistic and religious minorities have fundamental right to establish and administer educational institutions of their own choice to provide their children with the quality education to make them competent enough to stand in equal terminology with the majority class. As described in the United Nations Year Book on Human Rights, 1950, "minority are non-dominant groups with different religious or linguistic practices than the majority population." It's pretty evident from the definition that the reason to put an 'or' is that a minority may be either religious or linguistic and that it's not necessary that it has to be both at the same time.

Without specifying, the word "minority" is used in the Constitution of India. However, the simple meaning of the word "minority" is a population that comprises less than 50%, the view which the Supreme Court opined in the Re: The Kerala Education Bill. Now, the most important question to consider is, "50% of what?" should we consider the entire population of India or a state or a particular portion? A group can be a minority in one state but the majority in another; it could also be the majority in India as a whole. A Group or a population can be concentrated in one particular part of a state due to their convenience and thus they could form a majority in that part, even though they are a minority in the rest of the state. Even if we take a portion of a state is to be taken just to solve the dilemma, the question is that here and how to draw the line? Should we consider a district, municipality, county, or its wards should be considered.

In the Guru Nanak University case, the Supreme Court upheld the decision in the Kerala Education Bill. In that case, the Supreme Court dismissed the State of Punjab's argument that a religious or linguistic minority should be treated as such in comparison to India's entire population. The Court has ruled that a minority must be formed concerning the law that is being challenged. Minorities must be defined about the state population if it is a state statute. In Punjab, Hindus make up a small religious minority. As a result, the Arya Samajists in Punjab is a religious minority with their language and script.

The fragmented population of the state is the reason that no one religious or linguistic community could account for more than half of the total population. So, in this case, any of these minorities could get covered under the purview of Article 30(1), even if there is not a substantial majority group in the whole country from which the minorities can demand immunity from. The Supreme Court while upholding these rights has endorsed the principle of "No Reverse Discrimination" in the T.M.A.P.A.I. foundation case. The Court opined that the actual essence of Article 30(1) embedded in the Constitution is to ensure fairly and squarely treat both minority and majority institutions.

The Supreme Court has pointed out a very important point that if we see the different sections of Hindus, we can see that there are thousands of sects and sub-sects of Hindus who are considered "minorities" under Article 30(1). There won't be any majority technically. The Court observed that religious minorities cannot be made up of members from the same faith. The phrase "Minority based on faith" should be limited only to religious minorities who have maintained their separate identity from the majority class, namely the Hindus, such as Muslims, Christians, Sikhs, Jains, Buddhists, and others.

In a large country like India, where there is a large gap between the Minority and the majority, special rights should be granted to minorities so that they can establish their personalities. Various clauses in our constitutions and laws are enshrined to support this viewpoint, allowing minorities to contend with the majority.

Article 30(1) of the National Commission for Minority Educational Institutions Act of 2004, for example, gives minorities the right to create, manage, and affiliate themselves with central universities. The validity of the National Council for Minority Educational Institutions (NCMEI) decision to grant minority status to a college was the subject of the case before the Indian Supreme Court. The NCMEI's award of minority status to the college was declared unconstitutional by the High Court, and the decision was appealed to the Supreme Court of India. The Indian Supreme Court's decision was significant since it reaffirmed that no constitutional right, including minorities' rights, can be waived.

However, since the inception of these rights and acts, several flaws have been identified. Several questions are posed by these papers and acts: (1) Is there any legal authority for minorities to establish educational institutions, and if so, under what provisions? (2) What is the unit to decide the status of a religious or linguistic minority under Article 30 of the Indian Constitution, the state, or the nation as a whole? (3) Can the administrative privileges of aided private minority organizations be regulated? The answers to these questions are deceptive and vague.

Laws That Discriminate Against Muslim Minorities And Violence Against Them

In India, new, well-planned, and more diverse types of targeted violence have begun against minorities. This article discusses a number of these laws as well as cases of abuse against Muslim minorities.

Discrimination and Denial of Nationality in the National Register of Citizens

The following are the ICCPR laws which are being violated:

- 1) "Art 2 (non-discrimination),"
- 2) "Art 7 (freedom from cruel treatment)," and
- 3) "14 (right to a fair trial and an independent judiciary)."

On July 30, 2018 the complete Draft of National Register of Citizens in Assam was released, raising serious issues and concerns that it might violate the Constitution and unlawfully deprive over 4 million people of their citizenship and make them stateless which is blatant violation of International Law. The Minority religious, ethnic, linguistic group like the Bengali speaking Muslims and Hindus who are at constant fear, as well as the Nepali speaking minor population with a high number of children, women and daily wage earners. All of whom are mostly excluded and marginalized communities.

Three days of violence erupted in Delhi in February 2020, with crowds targeting Muslim neighborhoods in the wake of the N.R.C. agitation, after the Lok Sabha (one of parliament's houses) passed the Citizenship Amendment Bill in December 2019. There have been allegations of Delhi police failing to stop attacks and even actively engaging in the violence, even though they are under the authority of the Home Ministry. At least 50 people were killed in the attack.

Anti-Cow Slaughter Laws

In the Northern part of India specially Madhya Pradesh, Uttar Pradesh, mob lynching's has become a common scene. On 22 June, 2019, a video went viral where a young Muslim man

ed up, bleeding copiously all over his body, legs tied, hands folded. He was being lynched by a mob of 30 plus people who were forcing him to chant Glory to Hindu lord "Jai Shree Ram". It was later identified that he as a 24-year-old Muslim man named Tabrez Ansari who was beaten for several hours before he died at the hands of the mad mob. This was a case of racial profiling. This trend has persisted, with 30 Indians killed in 63 accidents between 2014 and 2017, according to an India Spend content study of English-language media. Following a series of well-publicized lynching and mob violence events, the majority of which were linked to concerns concerning the cattle trade or beef consumption. Siraj Khan, a Muslim tailor, was battered to death by a cow vigilante mob in May 2018 in Madhya Pradesh after being accused of butchering a bull. Except for Kerala, Goa, West Bengal, and states in India's northeast, 21 states have anti-cow slaughter laws. Gujarat raised the penalty for cow slaughter to life in prison, making it the harshest in the world. Religious minorities, especially Muslims and Christians, but also lower-caste Hindus, including Dalits, who eat beef, are directly affected by a minority. Since 2015, nearly 30 Muslims in India have been lynched on suspicion of cow slaughter and the possession and consumption of beef. In 2018, the Supreme Court urged the federal and state governments to enact tougher legislation to combat lynching's. The national Government and ten states, on the other hand, failed to take effective action by July 2020, and the Supreme Court ordered them to do so again. Instead of complying, the home minister claimed that current laws are adequate and denied that lynching's have increased while instructing the National Crime Records Bureau to leave lynching's out of the 2019 crime data study.

Anti-Conversion Legislation (Officially Called Freedom Of Religion Act)

In major states by passing Anti-Conversion laws, the govt attempted to pass such legislations in more states of the country with the aim to renew the demand for the nationwide implementation of anti-conversion laws. While this law aimed to prohibit the conversion, which take places under fraud, coercion or under any kind of inducement, the right-wing extremist tried to use them in a very particular practice to prohibit conversions from Hinduism to any other religion specially Christianity and Islam, strange circumstance that unduly affects the lower caste Hindus (Dalits) who can get various benefits and conversion could be fruitful for them. Interfaith couples have been harassed, and lynching's have been carried out in the name of so-called "love Jihad"—a rumored Muslim plot to take Hindu women into marriage.

Discriminatory Citizenship (Amendment) Act (International Response) (CAA)

The U.N. High Commissioner for Human Rights office defined the C.A.A. which drew worldwide criticism and reasons for the demonstrations internationally. The U.N. Secretary-General on February 2020, expressed deep concerns about the plight and the future of the religious minorities in India following the passage regarding the C.A.A., stating that "carelessness is a risk." On January 2020, the U.S. Congress held a meeting followed by a hearing on The Issue of Global Religious Persecution. Serious questions were discussed about the questionable and allegedly unconstitutional citizenship law and the process of the citizenship verification. In India, Muslims are being targeted and boycotted as a result of the coronavirus outbreak. Muslims are being blamed for what is being dubbed "corona jihad" by the locals. The Indian Government has also taken advantage of the pandemic to crackdown on political opponents. Migrant jobs have been displaced from vast urban areas as a result of the country's lockdown measures.

Conclusion

The number (*USCIRF 2020 Annual Report_42720_new_0.Pdf*, n.d.) Even before the COVID-19 pandemic, the hunt for scapegoats was centered on the country's significant Minority, a population of 200 million people who felt threatened even before COVID-19 (Chaney, 2020)

Some neighboring governments are using the coronavirus pandemic, such as Myanmar, Sri Lanka, and Pakistan, to draw attention away from the crimes they have committed, and continue to engage against minorities in their countries. The outbreak of COVID-19 in India has provided yet another opportunity to target the Muslim Minority physically, verbally, and psychologically.

There's also proof that there's still a lot of work to be completed. Many minorities face substantial and ongoing violations of their fundamental rights. Unresolved situations and disputes involving minorities mean that further efforts to fix minority concerns and new dispute resolution avenues are required. The successful enforcement of nondiscrimination laws and special privileges and the resolutions and recommendations of the United Nations' various institutions and bodies will help meet minorities' needs and peacefully accommodate different groups within a state. Via human rights education, confidence-building steps, consultation, tolerance, mutual understanding, and pluralism should be nurtured and fostered.

"India can provide more effective protection for human rights defenders by removing legal and social barriers that undermine their legitimate efforts to promote and secure human rights." (Chaney, 2020). This frame's discussion is about legal rights and physical security for those affected by communal abuse. It's the Government's moral duty to pass a special "witness protection" law to safeguard the lives of witnesses in such kind of communal incidents and situations. Across the country, many witnesses usually become rogue in Court. Because of this, conviction rates for collective crimes are low; thus, legal protections for witnesses so that they feel safe are much needed to ensure that justice is not delayed and jeopardized.

REFERENCES

1. Abraham, D., & Rao, O. (2017, June 28). Cow slaughter row: Since 2010, 97% of beef-related violence took place after Modi govt came to power-India News, Firstpost. Firstpost. <https://www.firstpost.com/india/cow-slaughter-row-since-2010-97-of-beef-related-violence-took-place-after-modi-govt-came-to-power-3752479.html>
2. Ağoston, G., & Masters, B. A. (Eds.). (2009). *Encyclopedia of the Ottoman Empire*. Facts On File.
3. Basu, D. D., Manohar, V. R., Banerjee, B. P., & Khan, S. A. (2008). *Introduction to the Constitution of India* (20th ed.). Lexis Nexis Butterworths Wadhwa Nagpur.
4. Baycroft, T. (1998). *Nationalism in Europe 1789–1945*. Cambridge University Press.
5. Braude, B., & Lewis, B. (Eds.). (1982). *Christians and Jews in the Ottoman empire: The functioning of a plural society*. Holmes & Meier Publishers, 1982.
6. Buergenthal, T., Shelton, D., & Stewart, D. P. (2009). *International human rights in a nutshell*. West Saint Paul Publishers.
7. Chaney, P. (2020). India at the crossroads? Civil society, human rights and religious freedom: critical analysis of CSOs' third cycle Universal Periodic Review discourse 2012–2017. *The International Journal of Human Rights*, 24(5), 531–562. <https://doi.org/10.1080/13642987.2019.1656610>
8. Dumont, P. (2013). Jewish Communities in Turkey during the Last Decades of the Nineteenth Century in the Light of the Archives of the Alliance Israelite Universelle. In *Christians and Jews in the Ottoman Empire*. (p. 209). Cambridge University Press.
9. Eide, A., Krause, C., & Rosas, A. (1995). *Economic, social, and cultural rights: A textbook*. M. Nijhoff Publishers; Sold and distributed in the U.S.A. and Canada by Kluwer Academic Publishers.

10. El Fadl, K. A. (1994). Islamic Law and Muslim Minorities: The Juristic Discourse on Muslim Minorities from the Second/Eighth to the Eleventh/Seventeenth Centuries. *Islamic Law and Society*, 1(2), 141–148. <https://doi.org/10.2307/3399332>
11. Ferrari, S., Benzo, A., & Knights of Malta. (2014). *Between cultural diversity and common heritage: Legal and religious perspectives on the sacred places of the Mediterranean*. Ashgate Publishing.
12. Fink, C. (1995). The League of Nations and the Minorities Question. *World Affairs*, 157(4), 157–197.
13. Fisch, J. (2015). *The Right of Self-Determination of Peoples: The Domestication of an Illusion* (A. Mage, Trans.). Cambridge University Press. <https://doi.org/10.1017/CBO9781139805698>
14. Gellner, E. (1983). *Nations and nationalism*. Cornell University Press.
15. Ghanea, N. (2012). Are Religious Minorities Really Minorities? *Oxford Journal of Law and Religion*, 1(1), 57–79. <https://doi.org/10.1093/ojlr/rwr029>
16. Gilbert, G. (1992). The Legal Protection Accorded to Minority Groups in Europe*. *Netherlands Yearbook of International Law*, 23, 73. <https://doi.org/10.1017/S0167676800002191>
17. Henkin, L. (1990). *The Age of Rights* (p. 224 Pages). Columbia University Press.
18. Henrard, K. (2003). Devising an Adequate System of Minority Protection in the Area of Language Rights. In G. Hogan-Brun & S. Wolff (Eds.), *Minority Languages in Europe: Frameworks, Status, Prospects* (pp. 37–55). Palgrave Macmillan UK. https://doi.org/10.1057/9780230502994_3
19. Inalcik, H. (1997). *An Economic and Social History of the Ottoman Empire: Volume 1*.
20. Jefferson, T. (1801). Volume 33 | *The Papers of Thomas Jefferson* (Vol. 33). Princeton University Press. <https://jeffersonpapers.princeton.edu/volumes/volume-33>
21. Knock, T. J. (1995). *To End All Wars: Woodrow Wilson and the Quest for a New World Order* (New Edition). Princeton University Press. <https://press.princeton.edu/books/paperback/9780691191614/to-end-all-wars-new-edition>
22. Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights. (1987). ESCR-Net. <https://www.eser-net.org/resources/limburg-principles-implementation-international-covenant-economic-social-and-cultural>
23. MacMillan, M., & Holbrooke, R. (2003). *Paris 1919: Six Months That Changed the World* (Reprint Edition). Random House Trade Paperbacks.
24. Pentassuglia, G. (2002). *Minorities in International Law* (Vol. 1). ECMI Handbook Series. <https://www.ecmi.de/publications/handbooks/vol-1-minorities-in-international-law>
25. Preece, J. J. (1998). National Minorities and the European Nation-States System. In *National Minorities and the European Nation-States System*. Oxford University Press. <https://oxford.universitypressscholarship.com/view/10.1093/acprof:oso/9780198294375.001.0001/acprof-9780198294375>
26. Regan, H., Sur, P., & Sud, V. (2020). Covid-19 amplifies prejudices against India's Muslims. CNN. <https://www.cnn.com/2020/04/23/asia/india-coronavirus-muslim-targeted-intl-hnk/index.html>
27. Sachedina, A. (2007). *The Islamic Roots of Democratic Pluralism*. Oxford University Press.
28. Senturk, R. (2002). *Towards an Open Science: Learning from the Ottoman Humanities*. Global Humanities Press, 55.
29. Shaw, S. J. (1976). *History of the Ottoman Empire and Modern Turkey: Volume 1, Empire of the Gazis: The Rise and Decline of the Ottoman Empire 1280–1808*. Cambridge University Press.
30. Shaw, S. J. (1991). *The Jews of the Ottoman Empire and the Turkish Republic*. New York University Press.
31. Thornberry, P. (1993). *International Law and the Rights of Minorities*. Oxford University Press.
32. Tier2_INDIA.pdf. (n.d.).
33. UN Office of the High Commissioner for Human Rights (OHCHR). (2010). *Minority Rights: International Standards and Guidance for Implementation* (HR/PUB/10/3). Refworld. <https://www.refworld.org/docid/4db80ca52.html>

34. USCIRF 2020 Annual Report_42720_new_0.pdf. (n.d.).

35. Zimmerman, M. (2010). Symbol of Enduring Freedom. Columbia Magazine, 19.