

# Universal Periodic Review (UPR) NGO Alternative Report

## India

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Rights Commission (UK)



Islamic Human Rights Commission (IHRC) is a not-for-profit campaign, research and advocacy organisation founded and based in the United Kingdom. It was set up in 1997 and works for redress of human rights violations and a better understanding of rights and norms across confessional, ethnic, national, political and other boundaries.

IHRC has consultative status with the UN – ECOSOC.

202 Preston Road Wembley HA9 8PA

United Kingdom Tel: +44 2089044222

Email: [info@ihrc.org](mailto:info@ihrc.org)

Web: [www.ihrc.org.uk/ihrc-at-un/](http://www.ihrc.org.uk/ihrc-at-un/)

## Executive Summary

India's ideologically driven Hindu supremacist ruling party, the BJP, has continued its discriminatory and delegitimising policies against the country's Muslim minority by means of enacting legislation, vilification, and promoting hatred and violence at national and regional levels. The accelerating Islamophobia threatens genocide against Muslims with the aim of engineering a Hindu *rashtra* (nation).

### Relevant recommendations from the UPR 3<sup>rd</sup> cycle:

#### Constitution and legislative framework

161.72 Ensure that laws are fully and consistently enforced to provide adequate protections for members of religious minorities, scheduled castes, tribes and other vulnerable populations (United States of America)

#### Professional training in human rights

161.66 In the spirit of its Constitution, which guarantees equal rights to all minorities, further invest in dedicated human rights training of police officials to register and investigate cases of discrimination and violence and to hold them accountable when they fail to do so (Finland)

#### Equality and non-discrimination

161.75 Adopt laws and implement policies to suppress all forms of de facto discrimination against any person or group (Guatemala)

161.69 Adopt a comprehensive national plan on inclusion in order to combat persisting inequality, paying particular attention to persons in vulnerable situations such as women, children, persons with disabilities and minorities (Honduras)

161.99 Prevent and pursue through the appropriate judicial means all violent acts against religious and tribal minorities, Dalits and lower castes (Holy See)

161.100 Strengthen efforts for the prevention of cases of intercommunal violence (Russian Federation);

#### Freedom of conscience, thought and religion

161.144 Continue its efforts to protect religious freedom and the rights of minority groups based on its Constitution and other relevant laws (Republic of Korea);

161.132 Continue to develop laws and make efforts to ensure freedom of religion and belief (Lebanon);

#### Administration of justice & fair trial

161.88 Continue facilitating equal access to justice for all and provide legal aid, in particular to vulnerable groups, minority groups and marginalized people (Angola);

#### Right to education

161.183 Continue to take steps to provide inclusive and quality education for all (Myanmar);

#### Hijab harassment and bans

#### Advancement of women

161.205 Continue strengthening institutions to eliminate discrimination and violence against women, in particular sexual violence, and adopt specific measures to achieve gender equality in the labour market (Chile);

Ban on hijab in education and sexual violence (sale of Muslim women on apps)

#### Right to self-determination

161.247 Immediately stop its atrocities and violations of human rights against the Kashmiri people, and allow them to exercise their right to self-determination through a free and fair plebiscite in accordance with the United Nations Security Council resolution (Pakistan);

#### Impunity

161.49 Bring into law the Prevention of Communal and Targeted Violence bill (2013) (United Kingdom of Great Britain and Northern Ireland);

<https://www.ndtv.com/cheat-sheet/after-fierce-debate-anti-communal-violence-bill-is-dropped-heres-why-549881>

<https://www.deccanherald.com/national/communal-violence-bill-remained-untouched-in-parliament-for-9-years-810482.html>

Theme: D25 Prohibition of torture and cruel, inhuman or degrading treatment

161.249 Immediately ban the use of pellet guns and hold accountable perpetrators who have used lethal force against unarmed civilians in “Indian-Occupied Kashmir” (Pakistan);

Freedom of thought conscience and religion

161.126 Strengthen efforts to guarantee freedom of religion and belief, especially by retracting so-called anti-conversion laws (Holy See);

161.127 Take all necessary measures to protect the rights of persons belonging to religious minorities, and repeal laws which restrict religious conversion (Netherlands);

161.130 Take visible policy and other measures to ensure the freedom of religion and belief and address the alarming trend of racism, racial discrimination, xenophobia and related intolerance including mob violence committed, incited and advocated by right-wing parties and affiliated extremist organizations against minorities, particularly Muslims, Christians, Sikhs and Dalits (Pakistan);

161.128 Abolish anti-conversion laws and grant access to justice to victims of religious violence and discrimination (Italy);

161.73 Take effective measures to combat rising instances of religious intolerance, violence and discrimination (Kazakhstan);

161.133 Guarantee freedom of religion or belief by implementing existing laws to better protect individuals belonging to minority groups from hate speech, incitement to religious violence, discrimination on religious grounds and forcible conversions (Canada);

## Legislative discrimination in India

### Citizenship Amendment Act

In 2019 India passed the Citizenship Amendment Act. For the first time, religion became a basis for granting citizenship. Under the Act, members of the Hindu, Christian, Sikh, Buddhist and Zoroastrian communities who arrived in India before December 31, 2014 from Pakistan, Bangladesh and Afghanistan are not treated as illegal immigrants and given Indian citizenship on the grounds that they are fleeing religious persecution. It also relaxes the provisions for "Citizenship by naturalisation" reducing the duration of residency from 11 years to five years for people belonging to the same six religions and three countries. However, the Act makes no such provision for Muslims from other neighbouring countries such as China or Myanmar where they are facing persecution or members of persecuted Muslim sects in the three specified countries.

Recommendation: Repeal Citizenship Amendment Act or reform it to include Muslim minorities

### Revocation of Article 370

In 2019 the Indian Parliament voted to revoke Article 370 of the constitution which guaranteed the special status, or autonomy, to the state of Jammu and Kashmir. In practical terms, this means that Jammu and Kashmir no longer has a separate constitution and must abide by the Indian constitution. This change is intended to advance the BJP's aim of fully absorbing the disputed region into India and Hinduising the Muslim majority region by allowing Hindus to buy property and settle there.

Recommendation: Restore Article 370 and make immediate efforts to organise a free and fair referendum to enable the inhabitants of Jammu and Kashmir to determine their own future.

### National Register of Citizens

In August 2019, India published the final version of its National Register of Citizens for the state of Assam. The register was the outcome of a 1985 peace agreement and a subsequent 2014 Supreme Court ruling to address grievances, protests, and violence by Assamese groups over irregular migration, mainly of Bangladeshi origin. Ostensibly, it sought to verify the nationality of residents in the north eastern state. However, the register is actually another majoritarian stick with which to beat Muslims and delegitimise their presence in India. In Assam, speaking Bengali and practicing Islam — the predominant language and religion of neighbouring Bangladesh — have long been conflated with being foreign.

To be included on the register and therefore qualify as a citizen residents of the state needed to prove that their ancestors entered India before March 24, 1971, the eve of the Bangladesh War. The rules seem straightforward enough but many residents, even those who have lived in India their whole lives, through circumstances outside their control, do not possess documentation that can prove their presence or links to deceased parents or grandparents. Those who do not qualify as citizens face deportation to their "ancestral" homeland and failing that imprisonment. Of the 1.9 million people excluded from the register and thereby deemed illegal over 700,000 were Muslims, 500,000 Hindus and approximately 600,000 of other faiths. Since Muslims form 34% of the population of Assam (2011 census) this would appear to be a glaring over-representation.

The discriminatory nature of the NRC is further exposed by the fact Bengali Hindu migrants from Bangladesh who were excluded from the register can apply for citizenship under the Citizenship Amendment Act as members of persecuted religious group. Muslims however have no such recourse and must appeal to a “foreigner's tribunal”.

According to a survey of cases heard by foreigner’s tribunals prior to the publication of the new register by the US based media organisation [Vice News](#), “data gathered from several tribunals and interviews with nearly 100 people who’ve faced the courts illustrate a biased process barely resembling India’s traditional legal system.

We requested judgements issued in the last six months of 2018 from all of Assam’s 100 Foreigners Tribunals. Only five courts complied, although all were required to do so under India’s transparency laws. Four were in the district of Kamrup [Rural].

In those tribunals, nearly nine out of 10 cases were against Muslims. Almost 90% of those Muslims were declared illegal immigrants — as compared with 40% of Hindus tried. While it wasn’t possible to discern exactly how many people were Bengali speakers, every person VICE News found who had faced the tribunals was from that ethnic group.”

BJP leaders have made no secret of their desire to extend the NRC to the whole of the country, using hateful inflammatory dog-whistle politics to garner support from their political base. Minister of Home Affairs Amit Shah has variously described residents who cannot prove their status as [termites infiltrators and intruders](#), playing to the Hindu supremacist trope that Muslims are not indigenous and to be seen as an enemy within and outsiders, while reiterating that members of the six religious groups protected by the CAA will never be declared illegal. [“The analogy of the “termite” that Shah has used time and again has precisely such a connotation this is nothing less than an insidious invasion that expands exponentially and hollows out the nation.”](#)

Recommendations: Suspend the NRC in Assam, free all who have been detained under its provisions and immediately halt all efforts to draw up a national NRC.

## Anti-conversion laws

In the febrile climate of hate whipped up by the ruling government and its foot soldiers in the Sangh Parivar, several BJP-ruled states have enacted, or are in the process of enacting, so-called “anti-conversion” laws ostensibly with the aim of halting forced conversions from Hinduism to other faiths.

However, their main target is the halting of conversions by Hindu women in order to marry Muslim men. Since 2020, Uttar Pradesh, Himachal Pradesh, Gujarat and Madhya Pradesh have introduced this type of anti-Muslim legislation. Karnataka is currently in the process of doing so while Maharashtra has proposed one. These steps have been taken notwithstanding the fact that the laws violate India’s constitutional guarantees of freedom of conscience, religion and proselytization. The legislation is premised on the unfounded Hindu majoritarian accusation that Hindu women are tricked or coerced into converting to Islam in order to marry Muslim men. Pejoratively known as “love jihad” the trope is employed to advance the perception of a treacherous Muslim community actively and concertedly seeking to eat into the country’s Hindu majority.

Another intended target of the legislation is to stem the conversions of Dalits (mainly to Islam and Christianity) who leave Hinduism in order to escape its rigid caste system in which they occupy the lowliest category and in which they are trapped from birth till death.

Conversely, the legislation protects those converting to Hinduism from other faith by exempting reconversions made to a person's immediate previous religion. Hindu nationalists see Hinduism as the true religion of India, so when an Indian 'returns' to Hinduism, it is not seen as a 'conversion' from another faith, but a 'ghar wapsi' or 'homecoming': so they are exempt from the anti-conversion laws.

Recommendations: The government of India must uphold domestic and international guarantees to freedom of belief and conscience.

### Hijab ban in Karnataka

In early 2022, several schools in Karnataka banned Muslim girls from wearing headscarves. Hindu supremacist vigilantes manned the gates of schools to forcibly stop those who refused to abide by the decision from entering the schools. Videos were shared of Hindu mobs harassing and intimidating Muslim girls. The hijab ban was given legislative legitimacy in March 2022 when the Karnataka High Court ruled that the headscarf is not an essential religious practice, against the almost unanimously held Islamic position that it is.

The ban, using school uniform as a pretext for attacking Muslim beliefs, smacks of a calculated Hindutva plot built on years of communal polarisation. Much like the anti-conversion laws, it sets a worrying precedent that will embolden Hindutva nationalists to push for copycat laws in other states, laws which could easily be widened to other public arenas. The ban is an exclusionary measure deliberately designed to push Muslim women out of public spaces and 'otherise' the Muslim community. Hindutva nationalists are already using the ban to attack and harass Muslim women in public spaces.

Recommendations: The government of India must uphold domestic and international guarantees to freedom of belief and conscience.

The state and national government must arrest and prosecute those who intimidate and harass Muslim women going about their lawful business.

### Conclusion

There is no doubt that anti-Muslim legislation is gathering pace in India, carried along by the stiffening wind of Hindutva. Islamophobic sentiment and speech has not only become mainstreamed but institutionalised as Hindutva views increasingly infect the body politic. Since it came to power in 2014, the BJP has campaigned relentlessly on a Hindu supremacist platform that seeks to elevate one religion over all others and denigrate Islam as an alien, detrimental force. Spurred by their success, calls for violence have led to killings of Muslims including the mass killings of Muslims in

Delhi in 2020. The frequency of Hindutva inspired attacks on Muslims, including murders, has increased, often under the pretext that Muslims have eaten cattle or sold cattle for consumption. Hindu leaders routinely call for boycotts of Muslims owned businesses to isolate the community. Hindutva groups have placed loudspeakers next to mosques playing religious chants to drown out the Muslim call to prayer. Hindutva leaders routinely incite violence against Muslims and one has even publicly called for a pogrom. Yati Narsinghanand Giri, an outspoken supporter of far-right nationalists was charged earlier this year for inciting religious violence after he [called for the "genocide"](#) of India's Muslims at a meeting of right-wing supporters. Much more commonly however, those who incite violence against Muslims in India avoid arrest or prosecution. With the politics of hate so deeply entrenched and so pervasive it is hard to conclude that India is not already well on the road to genocide.