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STATE PARTY: INDIA



Jointly Submitted by
National Dalit Christian Watch (NDCW)
INDIA

Introduction:

1. This stakeholder's report on "Status of Dalit Christians in India" is jointly¹ prepared by the National Dalit Christian Watch (NDCW)². This submission highlights key concerns regarding discrimination and human rights violations faced by Dalit Christians³ as a significant minority. Constituting between (14 million⁴ to 19 million⁵) of (the 24 million) Indian Christian population, Dalit Christians (DCs) are victims of intersectional vulnerabilities as Dalits and as Christians.
2. An analysis of the National Crime Records Bureau (NCRB)⁶ data in India from 2018 to 2022, as reported in their "Crime in India" reports, reveals a troubling rise in crimes against Scheduled Castes (SCs). The number of registered incidents began at 42,793 in 2018 and

¹ Endorsed by NCDHR, New Delhi

²NDCW- organization working for promoting core values of equality, justice and dignity for Dalit Christians. Has been advocating for recognition of Scheduled Caste Status for Dalit Christians to have access to entitlements through the affirmative action policy of the State. Secondly, the NDCW monitors and intervenes in cases of caste-based discrimination and exclusionary practices in the Church, Institutions, as well as monitors violation of rights and dignity of 'Dalit Christians.

³Dalit Christians were part of untouchable Hindu caste ladder, and were considered as 'outcast' owing to their birth into a particular untouchable group. With each caste group being pre-assigned descent-based work (profession) to fulfil the dharma. They did not have access to decision making in terms of their education, employment or profession; leading to their socio-economic backwardness, and poverty. Over the centuries, a few of depressed caste community members exercised their choice of freedom of religion and belief as guaranteed by the Indian Constitution in accordance with the fundamental right in Article 25 to freedom of religion; primarily to have access to dignity and equal treatment in their newfound belief system. For some it was Islam, Christianity, or Buddhism. The Dalit Christians are a minority within the religious minority owing to their past untouchable identity and their new found identity as Christians.

⁴ According to NCCI there are about 14 million plus Dalit Christians in India, the exact population is not known as the Government of India did not release caste census for religious groups. <https://www.christianitytoday.com/ct/2001/februaryweb-only/56.0c.html>.

⁵Estimated All India Population of Dalits in Major Religions (NSSO estimate of caste shares applied to Census religion totals), NSSO 2004-05 cited by Satish Deshpande and Geetika Bapna in the Muslim and Christian Communities A Status Report on Current Social Scientific Knowledge (2008). Page 25.

⁶ NCRB, Crime/Atrocities against Scheduled Castes (SCs), Ministry of Home Affairs, 2022, <https://ncrb.gov.in/uploads/nationalcrimerecordsbureau/custom/1701607577CrimeinIndia2022Book1.pdf>

steadily climbed to 57,582 in 2022, with a total of 247,527 offenses recorded over the five-year period. This law provides protection to Dalit Hindus, Buddhists, and Sikhs from caste-based violence and discrimination. However, Dalit Christians are excluded from protection under this law. Dalit Christians (DCs) continue to face threefold discrimination; by the State, Society at large, and within the Faith due to intersectional religious and caste identity.

3. Christian Dalits experience discrimination at simultaneous levels. First, the non-recognition of identity as “Scheduled Castes” by the Indian State⁷ secondly, the difference in treatment-experienced even after adopting Christianity. DCs are not treated equally by Christians and Caste Hindus as they are viewed from their past identity; as member of a depressed caste or (untouchable), which the “state tends to neglect”. This triple(multiple) oppression of Christians from SC origin has led to the denial of their dignity, rights, and entitlements.
4. DCs are further pushed into socio-economic hardships, and are vulnerable to caste-based discrimination and violence; with no special legal protection to address this gap. This is primarily due to a discriminatory *Presidential order(1950 paragraph 3)*⁸ which grants ‘Scheduled Caste’ status for Dalits under ‘Hindu’ religion, later extended to Dalit Sikhs and Buddhists. Thus, basing SC categorization ‘solely on religion’. Yet continues to exclude Dalits who converted to Christianity & Islam.
5. The Persistence of local traditions, mostly Hindu traditions, among Christians, points to the fact that conversions have not significantly changed existing structures. Consequently, caste practices and ceremonies continue. Christians of SC origin continue to engage with local social groups and remain part of the very social hierarchical (power) structures. The conversion only changed religious identity; the caste component remained even after conversion due to the predominance of the Hindu environment (Fuller,1992).⁹ Dalit Christians and Dalit Muslims fare worse in terms of economic conditions. In urban centers, DCs fare better than in rural India; however, remain economically challenged, and are engaged in descent-based work such as Washers(dhobis), dead body Cremators in burial grounds, Drummers, Cobblers, agricultural laborers, manual scavengers, rickshaw pullers and so on.¹⁰ DCs in rural areas remain landless and largely dependent on dominant caste community for their livelihood; this is mainly due to the strong caste-based occupations that still continue.

⁷Govt of India Act 1935 and Simon Commission termed untouchables as Scheduled caste. The Govt of India (Scheduled Casts Order) 1936 defined the castes to be included in the SC List. Post- Independence the Indian Constitution Articles 341 and 342 gave the mandate to the President of India to compile the SC List.

⁸1950 Presidential Order, identifies caste communities who have experienced extreme social, educational and economic backwardness arising out of the traditional practice of untouchability.

⁹ Several studies and commissions point towards similar discriminatory untouchable practices faced by DCs as other Dalits, including being prevented from using upper-caste streets, sharing sources of drinking water and other public resources, and made to walk without sleepers and continue to face atrocities. Thus, the prevalence of caste-based discrimination and exclusion with universal forms of untouchability are still being practiced.

¹⁰ Deshpande, Satish and Geetika Bapna, “Dalits in the Muslim and Christian Communities A Status Report on Current Social Scientific Knowledge, Prepared for National Commission for Minorities GOI, Published by CBI Commission for SC/ST/BC, Commission for Dalits NCCI, and Centre for Dalit Subaltern Studies, New Delhi, 2010. This study was commissioned by the National Minority Commission in the year 2007. http://ncm.nic.in/ncm/research_studies/dalit_muslim_christian.pdf

6. India is a State Party to International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on Elimination of Discrimination Against Women (CEDAW), Convention on the Rights of the Child (CRC), Convention on the Elimination of All Forms of Racial Discrimination (CERD) and Convention on the Prevention and Punishment of the Crime of Genocide, all of which guarantee various dimensions of FoRB rights.¹¹

UN Observations on India's Freedom of Religion or Belief

- **Repeal Presidential Order (1950) to make Affirmative Action Religion Neutral:** Asma Jahangir, Special Rapporteur on Freedom of Religion (Belief) in her HUMAN RIGHTS COUNCIL 10th session 3A/HRC/10/8/Add.3 26 January 2009 Mission to India stated, *'The legal link between Scheduled Caste status and affiliation to specific religions seems problematic in terms of human rights standards'*. Recommends *"recall recommendation by Committee on the Elimination of Racial Discrimination (A/62/18, para. 179) to restore the eligibility for affirmative action benefits of all members of Scheduled Castes and Scheduled Tribes having converted to another religion. The Special Rapporteur recommends that the Scheduled Caste status be delinked from the individual's religious affiliation"*.
- **Negative Impact of Laws on Religious Conversion:** Special Rapporteur, Mission to India Report states (it) *'is deeply concerned that laws and bills on religious conversion in several Indian states are being used to vilify Christians and Muslims; prohibition of conversion by a State necessarily enters into conflict with applicable international standards. Laws and bills on religious conversion in several Indian states should be reconsidered since they raise serious human rights concerns, due to the use of discriminatory provisions and vague or overbroad terminology'*.
- **Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill 2005:** Asma Jahangir, Special Rapporteur recognises importance of The Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill 2005; calls for a provision whereby the concerned state government should rebuild or cause to have rebuilt the religious property or place of worship damaged or destroyed during sectarian violence' to prevent and control communal violence in India.

Constitutional Frameworks in India

India constitution provides each citizen basic constitutional and fundamental rights as enshrined in PART III and Part IV of Indian Constitution and thus is accountable to protect and promote rights and entitlements of all:-

- *Right to Equality (Art 14-18),*
- *Right to Freedom (Art 19-22),*
- *Right Against Exploitation (Art 23-24),*
- *Right to Freedom of Religion (Art 25-28),*
- *Cultural & Educational Rights (Art 29-30),*
- *Right to Constitutional Remedies (Art 32),*
- *Educational & Economic Rights (Art 46/335),*
- *Employment & Political Rights (Art 330/332) and Protection from Social Disabilities (Art 338).*

¹¹ For details, see India's ratification status of various human rights conventions here: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=79&Lang=EN

Equal protection of law and prohibition against Discrimination, Protection of rights of minorities (Article 26, 27):

Fundamental rights frameworks violated by Federal State-1950 presidential order (Para3):

7. *Exclusion of Dalit Christians from Presidential Order, 1950:* The Constitutional (Scheduled Caste) Order 1950 known as Presidential Order originally restricted the Scheduled Caste net to Hindus and later opened it to Sikhs and Buddhists, still excludes Christians and Muslims. Thereby, linking religion to the Scheduled Caste Status that provides benefits and affirmative actions for members of the Scheduled Caste. This Order has acted as a tool of exclusion and discrimination against Dalit Christians in multiple ways. *The 1950 & 1975 Orders deny Fundamental Rights to Dalit Christians* as enshrined in the Constitution of India; particularly Right to Equality and non-discrimination (Arts: 14-32 especially art 25) which provides for equal treatment of everyone before the law, prevents discrimination on various grounds, treats everybody as equals in matters of public employment, and abolishes untouchability.
8. *Contradictions in Paragraph 3 and Paragraph 2 (Presidential Order 1950):-* Para 2 bases affirmative action on the *Principle of Equality* whereas Para 3 grants SC status on religious basis which is discriminatory.¹²
9. *Exclusion from receiving affirmative schemes and policies:* Most persistent form of structural violence faced by Dalit Christians is denial of rights and protections as they are excluded from receiving benefits of affirmative action under various government schemes and policies - *education, jobs, electoral privileges, and political reservations*. Several writ petitions have been filed in the court of law against the discriminatory Para 3(article 341) of 1950 order and referring to caste discrimination faced by Dalit Christians.^{13 14 15} These benefits are available to their Hindus, Buddhist and Sikh counterparts.
10. *Denial of protection under Special Laws:-* Christians of (SC) origin are excluded from protection under the Protection of Civil Rights Act 1955 and The Scheduled Castes and

¹² Para 2“Subject to the provisions of this Order, the castes, races or tribes or parts of, or groups within, castes or tribes specified in 2[Parts to 3{XXII} 7{XXIII}8XXIV of the Schedule to this Order shall, in relation to the States to which those Parts respectively relate, be deemed to be Scheduled Castes so far as regards member thereof resident in the localities specified in relation to them in those Parts of that Schedule”. Para 3 “No person who professes a religion different from Hinduism shall be deemed to be a member of a Scheduled Caste”

¹³ Writ petition filed in Supreme Court of India by T. Franklin Caesar and Centre for Public Interest Litigation under article 32 of the Constitution of India challenging the Para 3 of Article 341 (scheduled Caste) Order 1950. This petition was supported by NCCI and CBCI. More petitions have filed similar petitions in state high courts.

¹⁴ Another petition filed in Madras High Court, by a Christian of Scheduled Caste Origin requested for equality in the Church function and activities without any caste discriminatory and untouchability mindset practice -violative as per the Indian Constitution Article 17. (Madras High Court G. Stephen Doss vs The District Collector on 27 November 2017 Before the Madurai Bench of Madras High Court dated: 27.11.2017. Coram the Honourable Mr. Justice S. S. Sundar W.P.(MD)Nos.21189 of 2017 and 21503 of 2017 W.P.(MD)No.21189 of 2017 G. Stephen Doss Vs Petitioner 1.The District Collector, Trichy District and Others ... Respondents)

¹⁵ Among the notable petitions was one filed by the National Council for Dalit Christians in the Supreme Court of India seeking an end to the practice of considering religion to extend SC status to religious minorities. This matter was forwarded by the Court to the GOI.

Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Amended 2015) - a criminal law that prescribes punishment for a range of caste-based atrocities and provides relief and rehabilitation to victims of such atrocities.

11. *Denial of Cultural and Religious Rights*: Order prevents DCs from exercising “the right to freedom of belief”, at the cost of constitutional privileges upon adopting Christianity. This serves as a serious impediment to DCs’ freedom of faith. This violates Article 25 of Indian Constitution, “**all persons are equally entitled to freedom of conscience and right to freely profess, practice, and propagate religion**”.¹⁶
12. *Ministry of Home Affairs order curtailing religious freedom*: Further, 1975 order by MHA’s¹⁷ stated, “*Where a Scheduled Caste person gets converted to a religion other than Hinduism or Sikhism; and then reconverts himself back to Hinduism or Sikhism, he will be deemed to have reverted to his original Scheduled Caste status, if he is accepted by member of caste as one among them.*” **Therefore, this order reveals an allurements tactic by the State, reflects double standards to curtail religious freedom as guaranteed by Indian Constitution to choose their faith.**
13. *The Claim V/s. Observations by Various Commissions and Supreme Court of India*: -The claim as propagated by Brahminical common sense is based on two premises: - *first*, Dalit Christians are in a better economic and social situation upon conversion. *Secondly*, Christianity as a religion propagates equality. However, this claim has been proven to be false by several Government Appointed Commissions namely, the Elayaperumal Commission (1969)¹⁸, Mandal Commission (1980)¹⁹, National Commission for Religious and Linguistic Minorities (2005),²⁰ and National Commission for Minorities (2008). Consequently, all commissions have submitted recommendations on the matter to extend Scheduled Caste status to Dalit Christians and Muslims; stating “affirmative action should NOT be based on religion”.
14. *Parliamentarians rising voice for Dalit Christians in Parliament*: - Member of Parliament Mr. P. M. Anandan (Villupuram) raised the issue of extending SC status to DCs due to continued caste experience.²¹ ²²MP Mr. M. Selvaraj, during the Motion of consideration of

¹⁶ Article 25 Indian Constitution resonates with the International Covenant on Civil and Political Rights (ICCPR) which provides for the “right to freedom of thought, conscience and religion,” which includes the freedom of a person “to adopt a religion or belief of his/her choice, and freedom ... to manifest his/her religion or belief in worship, observance, practice, and teaching.”

¹⁷ Ministry of Home Affairs Order Circular Letter No: 35/ 1/ 72- RU (SCTV) dated 2nd May, 1975 regarding the Issue of Scheduled Castes and Tribes Certificate - Points to be observed; Cases of conversion and reversion.

¹⁸ The committee appointed in 1969 <https://indianculture.gov.in/report-committee-untouchability-economic-and-educational-development-scheduled-castes-and-connected>

¹⁹ In 1979, President of India by an Order, under Article 340 appointed the second backward commission, which is known as "Mandal Commission" to investigate conditions of socially and educationally backward classes.

²⁰ Misra Commission was setup by United Progressive Alliance (UPA) Government to study and report on socio-economic condition of SC who converted to Christianity and Islam. Justice Ranganath Mishra Commission headed the commission to suggest various welfare including reservations for minorities. The Justice Misra Commission report was submitted on May 22, 2007. UPA Government delayed to give its consent to the Supreme Court of India has been long pending. <https://www.minorityaffairs.gov.in/reports/national-commission-religious-and-linguistic-minorities>

²¹ Lok Sabha: Discussion on Motion For Consideration Of The Constitution Title: Discussion on the motion for consideration of the Constitution (Scheduled Tribes) Order (Second Amendment) Bill, 2012 (Discussion concluded and Bills passed). on 24 August, 2013.

²² Hon. Chief Minister of Tamil Nadu Late Ms. Jayalitha had written to Hon. Prime Minister Mr. Manmohan Singh in 2013 and to PV Narsimha Rao in 2009 for inclusion of Dalit Christians in the List of Scheduled Castes.

the Constitution (127th) Amendment Bill, 2021 raised the issue of Dalit Christians and Dalit Muslims to be included in SC List²³. MP. Mr. K Premachandran highlighted the condition of Nadar SC Christian community in Kerala.²⁴ MP. Mr. P. Venugopal demanded for 3% to 5% reservation for deprived Scheduled Caste Christians due to their marginalized status.²⁵

legal protection and prohibition against Discrimination, religion, Protection of rights of minorities (Article 18, 26, 27)

Anti-Conversion Laws curtails Right of Dalit Christians to Freedom of Religion.

15. The act of choosing one's religion of choice²⁶ has been politicized by fundamentalist groups and criminalized by laws since 1960s. Around 11 Indian states have enacted anti-conversion laws that make religious conversions difficult and cumbersome through procedural requirements.²⁷ Ironically, many of the state legislations are euphemistically named Freedom of Religion Act, or are justified on grounds of upholding freedom of religion, while the impact is contrary.²⁸ Politically motivated Media houses are instrumental in building a false narrative of forced conversions. These laws are leading to persecutions of Christians based on the propaganda that the Christian community seeks to forcibly convert Hindus to Christianity.²⁹ Several reports have critiqued the laws as they impinge upon freedom of religion and they are used as tools to persecute Christians.³⁰
16. Contents of State legislations are similar. They seek to prevent religious conversions that take place through the force, coercion, influence/allurement (all of which are broadly defined) as well as by marriage, and make such conversions a criminal offence punishable with imprisonment and fine.³¹ Any state inquiry into substantive beliefs and motivation for conversion is highly problematic as it has the potential to interfere with private realm of an individual's freedom of conscience and belief.

²³ accessed from <http://loksabhaph.nic.in/Debates/Result17.aspx?dbsl=7058>

²⁴ lbib 11.

²⁵ http://loksabhaph.nic.in/Business/sp_mention16.aspx?dbsl=15514

²⁶ Even Dr. B.R. Ambedkar exercised his right to freedom of faith and belief and so did 6 lakh people who converted to Buddhism, an act of personal choice and political position to claim dignity.

²⁷ Arunachal Pradesh (1978), Chhattisgarh (1968, amended in 2000), Gujarat (2003), Haryana (2022), Himachal Pradesh (2006), Jharkhand (2017), Karnataka (2021), Madhya Pradesh (2021), Odisha (1967), Uttarakhand (2018) and Uttar Pradesh (2020).

²⁸ Odisha Freedom of Religion Act 1967; Chhattisgarh Dharma Swatantraya Adhinyam, 1968; The Gujarat Freedom of Religion Act 2003; and The Madhya Pradesh Freedom of Religion Act 2021. The recently enacted legislation in Haryana, Karnataka and UP.

²⁹ See Nilay Saiya and Stuti Manchanda, 'Anti-Conversion Laws and Violent Christian Persecution in the States of India: a Quantitative Analysis' [2019] 20 Ethnicities 587; see also Open Doors International, Submission for the Report to the General Assembly on Eliminating Intolerance and Discrimination Based on Religion or Belief and the Achievement of Sustainable Development Goal 16 (SDG 16), 1 June 2020, available at <https://www.ohchr.org/Documents/Issues/Religion/Submissions/CSOs/54.open-doors-international.pdf>

³⁰ See Meghan Grizzle Fischer, Anti Conversion Laws and the International Response, ADF International, 2018; Ahmad, T. & Law Library of Congress, U. S. G. L. R. D. (2018) State Anti-conversion Laws in India. [Washington, D.C.: Law Library of Congress, Global Legal Research Directorate] Retrieved from the Library of Congress, <https://www.loc.gov/item/https://hdl.loc.gov/loc.law/lglrd.2018298841>; United States Commission on International Religious Freedom, Limitations on Minorities' Religious Freedom in South Asia, November 2018, available at <https://www.uscifr.gov/sites/default/files/Limitations%20on%20Minorities%20Religious%20Freedom%20in%20South%20Asia.pdf>; Tehmina Arora, India's Defiance of Religious Freedom: A Briefing on 'Anti-Conversion' Laws, International Institute of Religious Freedom, IIRF Reports Vol. 1, pp. 1–16 = No. 2, February 2012, available at https://www.iirf.eu/site/assets/files/92149/iirf_reports_2012_02.pdf

³¹ Detailed comparative analysis of anti-conversion laws, see 'State Anti-Conversion Laws in India', The Law Library of Congress, Global Legal Research Centre, June 2017, available at <https://www.loc.gov/law/help/anti-conversion-laws/india-anti-conversion-laws.pdf>, accessed on 10December2020.

17. More stringent punishments are prescribed for conversions of Dalits, Adivasi and women; thereby infantilizing them with the presumption that they are susceptible to forcible conversions. Their freedom of choice with regard to religious conversions is often not considered, thereby undermining their dignity, autonomy and citizenship rights. These laws violate constitutional guarantee of freedom of religion, by providing a tool for State to dictate what religion one must profess and follow, and whom to marry.

Discrimination , Freedom of thought, conscience and religion, Equality before the law, Rights of Minorities (Article 2, 18, 26, 27:

Targeting based on religion(belief) by state and non-state actors

18. Religious minorities especially Scheduled Caste Christians in particular face multiple discriminations based on religious freedom. Both State and Non-state Actors discriminate DCs based on Freedom of Religion or Belief, as majority Christians are Dalits; hence they face the brunt of being targeted as Christians.
19. There is an increase in violence against DCs by fundamentalist forces, nature of violence includes murder, physical assault, damage of personal-church properties, false conversion charges, harassment, disruption of worship, rape, and public humiliation.³²Recent Data, by UCF ³³ reveals increased cases over the years; 127(2014), 142(2015), 226(2016), 248(2017), 292(2018) and 328(2019). 486 incidents of violence against Christians in 2021, up by 75% since 2020 with 4 states-Uttar Pradesh (102), Chhattisgarh (90), Jharkhand (44) Madhya Pradesh (38); recording 274 incidents (56 percent). In 2021, of 505 cases only 34FIRs could be registered.³⁴ Year 2022 (Jan-Feb) recorded 53 incidents.³⁵
20. Freedom of Association impacted NGOs working for Dalit, Adivasi and Minorities: Indian government in September 2020, amidst Covid-19 pandemic, further amended the FCRA Law through the Foreign Contribution (Regulation) Amendment Act 2020, with a view of making the eligibility and procedures for receiving foreign funding more stringent and severe consequences of non-compliance.³⁶ The latest amendments were made without deliberations in Parliament, reflect a deeply flawed understanding of democracy.³⁷ One

³² Similar forms of atrocities were reported from Odisha, Madhya Pradesh, Rajasthan, Haryana, Uttar Pradesh, Andhra Pradesh and Tamil Nadu.

³³ United Christian Forum is a collective of Christian individuals mapping the rising violence against Christians particularly Dalit Christians in India.

³⁴ John Dayal, 'Kandhamal's Long Wait for "Justice"' National Herald (New Delhi, 22August2021)

<https://www.nationalheraldindia.com/india/kandhamals-long-wait-for-justice> accessed 21March2022.

41 For details, see *ibid*.

³⁵ Similar forms of atrocities were reported from Odisha, Madhya Pradesh, Rajasthan, Haryana, Uttar Pradesh, Andhra Pradesh and Tamil Nadu.

³⁶ See, Shankhyaneel Sarkar, 'NGOs Intending to Receive Foreign Funding to Face Govt's Strict New Rules' Hindustan Times (New Delhi, 11November2020) <https://www.hindustantimes.com/india-news/govt-tightens-rules-for-ngos-intending-to-receive-funds-from-abroad/story1emUmigDFyfvBGXABI0ErM.html> accessed 21March2022.

³⁷ Amitabh Behar, 'Choking the NGO Sector: The FCRA 2020 Amendment Deepens a License Raj That Could Throttle Civil Society' The Times of India (New Delhi, 1 October 2020) <https://timesofindia.indiatimes.com/blogs/developing-contemporary-india/choking-the-ngo-sector-the-fcra-2020-amendment-deepens-a-licence-raj-that-could-throttle-civil-society/> accessed 21March2022; see also Gurbir Singh, 'Choking NGO Sector with the FCRA Amendment' The New Indian Express (New Delhi, 4 October 2020) <https://www.newindianexpress.com/opinions/2020/oct/04/choking-ngo-sector-with-the-fcra-amendment-2205446.html> accessed 21March2022.

justification for these amendments pertains to propaganda against church-based and Christian organizations, that they receive foreign funds and misuse the same for proselytization and illegal conversions.³⁸ FCRA has been misused as a tool for constraining NGOs' human rights work pertaining to empowering marginalized communities.

Case Study

Justice for Kandhamal Survivors of Anti-Christian Violence:

In 2007-2008, the Christian community in Kandhamal (Odisha), faced targeted communal violence. Over a hundred people murdered; more than forty women faced sexual assaults; 395+ churches and prayer halls were destroyed, 6500 houses damaged, more than 75,000 people displaced.³⁹ Till now victims have not been received reparative justice, including adequate compensation to facilitate them to live a dignified life. The conviction rate is as low as 5.13% of the charge-sheeted cases, resulting predominantly in acquittals.⁴⁰ In August 2016, the Supreme Court of India ordered a review of 315 cases that had been closed without conducting any investigation; four years later, the cases are yet to be reopened.⁴¹ Many have received inadequate to no compensation for damage and destruction of houses, educational institutions, charitable organizations, and places of worship during the violence.⁴² There is an urgent need to ensure victims and survivors are rendered justice, in full implementation of the Supreme Court's directives of 2016.

21. In incidents of communal violence in India, the offences are prosecuted under various sections of the Indian Penal Code. India has no special legislation. Delhi High Court judgment highlighted the absence of domestic laws as a loophole that needs to be addressed.⁴³
22. A vibrant civil society-led advocacy campaign led to the introduction of Communal and Targeted Violence (Access to Justice and Reparations) Bill 2013 to punish perpetrators and provide justice to victims of communal violence in the Parliament in 2005 by the previous United Progressive Alliance (UPA) government.⁴⁴ After several rounds of amendments in 2014, the passage of the Bill was prevented by current government which was then in opposition, on grounds "*it was anti-Hindu and pro-minorities, divisive, discriminatory and a "threat to India's communal harmony"*".⁴⁵

³⁸ Behar (n 105).

³⁹ Apoorvanand, 'On the Anniversary of Kandhamal Violence, the Least We Can Do Is Remember' The Wire (New Delhi, 25August2020) <<https://thewire.in/communalism/kandhamal-violence-anniversary-remembrance>> accessed 21March2022.

⁴⁰ ibid.

⁴¹ John Dayal, 'Kandhamal's Long Wait for "Justice"' National Herald (New Delhi, 22August2021) <<https://www.nationalheraldindia.com/india/kandhamals-long-wait-for-justice>> accessed 21March2022.

⁴² For details, see ibid.

⁴³ State Through CBI v. Sajjan Kumar & Others, Delhi High Court judgment delivered on 17 December 2018 in Crl.A. 1099/2013.

⁴⁴ For more details, see Mihir Desai, 'The Communal and Targeted Violence Bill' [2011] 46 Economic and Political Weekly 12; Varun Nambiar, 'India Needs Legislation to Combat Religious Violence' Jurist (New Delhi, 21 January 2019) <https://www.jurist.org/commentary/2019/01/india-needs-legislation-to-combat-religious-violence/> accessed 21March2022; Press Trust of India, 'Narendra Modi Junks UPA's Communal Violence Bill' Financial Express (New Delhi, 25June2014) <https://www.financialexpress.com/archive/narendra-modi-junks-upas-communal-violence-bill/1263924/> accessed 21March2022; India Today, 'Communal Violence Bill is an Obnoxious Piece of Legislation, Says BJP' India Today (New Delhi, 7December2013) <https://www.indiatoday.in/india/story/communal-violence-bill-targets-majority-obnoxious-legislation-bjp-219992-2013-12-07> accessed 21March2022.

⁴⁵ For details, Sunil Prabhu, 'After fierce debate, anti-communal violence bill is dropped. Here's why' NDTV (5February2014, <http://www.ndtv.com/cheat-sheet/after-fierce-debate-anti-communal-violence-bill-is-dropped-heres-why-549881>) accessed 21March2022.

23. The third UPR for India, in 2017, countries recommended enactment a Communal Violence Bill,⁴⁶ this recommendation is yet to be acted upon by the State.

Right to life, legal protection and prohibition against discrimination, protection of rights of minorities (Article 2, 6, 26, 27)

Rising violence against Dalit Christians:

24. *Impunity and Rise in Violence against Dalit Christians by Hindutva Groups:* DCs have been attacked for changing their religion. There are several incidents that shows that law and order machinery in most of the cases was largely ignored or remained inactive in taking action against the culprits. The Hindutva groups attacked their houses and involved in physical violence, as DCs struggled for their rights and entitlements in all spheres of life and tried opposing suppression, exclusion and all forms of violence against them.

25. *Violence against Dalit Christian Women:* Dalit Christian women are subjected to triple oppression due to caste, gender, and religious identity; they continue to face Casteist slurs, abuses and violence, particularly in rural-semi-rural areas. In Orissa, 7 Dalit women, who embraced Christianity were physically abused, heads tonsured, and forcibly “reconverted” to Hinduism.⁴⁷ A group of Dalit women were intimidated from celebrating Christmas in their home by Bajrang dal (fundamentalist group). The Women stood their ground, defended themselves, and called the police. Yet, the police did not register a case.⁴⁸ A DC Woman was murdered in detention at Yadadri-Bhongir Police Station; she was arrested at night⁴⁹ on charges of theft which was never investigated.⁵⁰

Discrimination in Indian Churches and Institutions:

26. Dalit Christian activists argue the recruitment and policies in all denominations are biased as the data on the composition of the populace and positions reveal. Even now the majority of bishops, priests, and lay leaders across different churches in India are from the dominant caste- 30% occupies 70% of decision-making processes in churches.⁵¹ Leadership is not chosen by local dioceses; but nominated by Church hierarchies that breach into fairness of selection. This calls for self-introspection for all Church heads in India to truly promote Christ’s teaching on equality.

⁴⁶ A/HRC/36/10, dated 17July2017, para 161.49 – recommendation by the United Kingdom of Great Britain and Northern Ireland.

⁴⁷ [http://www.pucl.org/Topics/Religion communalism/ 2004/kilipal.htm](http://www.pucl.org/Topics/Religion%20communalism/2004/kilipal.htm) (accessed February7,2022).

⁴⁸ <https://www.thenewsminute.com/article/women-fight-hindutva-vigilantes-who-disrupted-christmas-prayers-karnataka-159320> accessed March 17th, 2022.

⁴⁹ Another violation of Section 46 (4) of Code of Criminal Procedure, 1973 enumerates women shall not be arrested after sunset and before sunrise.

⁵⁰ <https://www.licas.news/2021/06/23/dalit-christian-woman-killed-while-in-police-detention-in-india/> accessed 17March2022.

⁵¹ Dr. Hermit, Jyoti, Contextualising Caste Identity: Double Marginalisation of Dalit Christians in India. International Journal of English language, Literature and Humanities. Volume IV, Issue IV, April 2016. ISSN 23217065.

Discrimination during Worship:

27. Segregation is being practiced during prayer service; DCs are made to sit on floors. In Tamilnadu, in many villages, there are separate Dalit churches. Processions like Corpus Christi and Palm Sunday are not carried out through Dalit areas.

Burial apartheid:

28. Even after death this exclusionary practice seems to exist with separate cemeteries for dead bodies of DCs. In Trichy (Tamil Nadu) a Catholic cemetery had a Wall separating burial grounds for Caste Christians and Dalit Christians⁵². This case was in the Madras High Court.

Discrimination in social interactions:

29. Inter-dining and inter-marriages between communities is still considered a taboo. In Kerala, Dalit Christian Youth was murdered for marrying a dominant caste Syrian Christian girl.⁵³ In many states, the dominant caste Christians discriminate by forbidding marriage between the two. Non-verbal prohibition of intermingling is practiced. In Kerala, DCs are addressed with caste name and are still not *allowed in homes of dominant caste Syrian Christians*.⁵⁴

Discrimination in accessing education:

30. Dalit Christian Children are not adequately admitted in Christian schools; and institutions of Higher Education while children from other castes both in Christianity and other religions get more space in institutions.

KEY RECOMMENDATIONS

The Human Rights Committee should recommend Government:

Recommendation 1: Conduct a thorough review of Para 3 of the Presidential Order (1950) and its implications on Dalits and repeal Para 3 of the Presidential Order (1950) and establish a new definition of "Scheduled Castes" to make it religion-neutral, thereby extending the benefits of affirmative action to all Dalits, regardless of their religious beliefs or affiliations.

⁵² Indian Dalits find no refuge from caste in Christianity By Swaminathan Natarajan BBC Tamil Published 14 September 2010 <https://www.bbc.com/news/world-south-asia-11229170> accessed 16 February 2022. This matter went to the Madras High Court, and the court ordered breaking wall to which the Caste Christians objected too.

⁵³ Kevin Joseph was killed by the girl's family <https://www.independent.co.uk/news/world/asia/india-christian-honour-killing-kerala-kevin-p-joseph-southern-dalit-a8375891.html>

⁵⁴ Deshpande, and Geetika Bapna (2010), document the experience of DCs in Kerala stating that there is Lack of integration between Syrian Christians and Converts from lower-castes. This is both at social and denominational levels. Old Christians are known as Syrian Christians, whereas Harijan Converts are known as Putu Christians (neo-Christians), Chermar Christians, *Pulaya Christians* etc.

Recommendation 2: Effectively implement and protect the Rights of Minorities by Repealing all state-enacted anti-conversion laws, and further prohibit the enactment of such laws and Enact a national law that prohibits the enactment of any new anti-conversion laws within the next 36 months to ensure that individuals are protected from persecution and discrimination.

Recommendation 3: Extend the protection and benefits under the Protection of Civil Rights Act 1955, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 (Amended 2015), and The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act (Forest Rights Act) 2006 to Dalit Christians.

Recommendation 4: Enact the Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill, 2013 which was approved by the Indian cabinet in December 2013.