

SOUTHASIA JUSTICE CAMPAIGN

Anti-Discrimination and Religious Minorities in India: A legal void that needs urgent attention

Resource Guide

This note lays out the anti-discrimination protection gap facing India's religious minorities and highlights the existing legal framework, its institutional enforcement gaps, the empirical evidence of discrimination, especially against Muslims and their experience of seeking justice. References and links throughout point to where further details can be found.

1. Religious minorities in India: profile and constitutional framework

- India's religious minorities number approximately 300 million people, roughly a fifth of the population. Muslims are by far the largest group—172 million (14.2%) in the [2011 Census](#), estimated at over 200 million today ([Pew Research, 2021](#))—followed by Christians (~28 million), Sikhs (~21 million), Buddhists, Jains, and Parsis.
- The Constitution contains strong formal guarantees. Article 14 guarantees equality before law. Article 15 prohibits discrimination on grounds including religion. Articles 25–28 protect freedom of religion. Articles 29–30 safeguard cultural and educational rights of minorities. The term "minorities" is not defined in the Constitution itself; minority status was conferred on five religious groups through executive notification in 1993 (Muslims, Christians, Sikhs, Buddhists, and Parsis), with Jains added in 2014.
- India's position is that this framework is sufficient. At the [Human Rights Committee's 141st session](#) in July 2024, India stated that it had "subject-specific legislation that addressed all Covenant provisions" and that "there was thus no need for comprehensive anti-discrimination legislation." Its [CERD state party report](#) (October 2023) takes the same line.
- However, this position does not hold up against the evidence. Constitutional guarantees have not been translated into enforceable statutory protection for religious minorities. Under the Hindu majoritarian BJP government, the institutional architecture meant to protect them is collapsing. And Muslims and other religious minorities face discrimination across every measurable dimension of life.

2. The protection gap: no anti-discrimination framework for religious minorities

- India has enacted group-specific anti-discrimination statutes for several protected groups—but not for religious minorities. The contrast is worth spelling out, because it shows that India knows how to legislate against discrimination when it chooses to. It has simply not done so for its largest unprotected population.
- **Scheduled Castes and Scheduled Tribes:** the [Prevention of Atrocities Act, 1989](#) criminalises violence and humiliation, provides special courts and victim relief. Enforcement is poor—conviction rates have fallen to 32.4% (2022)—but the statutory framework exists. [Notably, Dalits who convert to Islam or Christianity lose their Scheduled Caste status and associated protections, a discriminatory exclusion flagged by the HRCtee. ([CCPR/C/IND/CO/4](#), Para 15).]

- **Women:** the Protection of Women from Domestic Violence Act, 2005 and the Sexual Harassment of Women at Workplace Act, 2013. **Persons with disabilities:** the Rights of Persons with Disabilities Act, 2016. **Persons with HIV:** the HIV/AIDS (Prevention and Control) Act, 2017. All face implementation gaps, but again, statutory frameworks exist.
- **Transgender persons:** the Transgender Persons (Protection of Rights) Act, 2019, already criticised for contradicting the Supreme Court's self-identification ruling in *NALSA v. Union of India* (2014), was significantly weakened by the Transgender Persons Amendment Bill, 2026 —passed by Parliament without meaningful consultation. OHCHR stated that the amendments "risk setting back hard-won rights of transgender people."
- Thus even the protections that exist for other groups are flawed in implementation, but religious minorities have **nothing comparable at all**. There is no statute prohibiting discrimination on the basis of religion in employment, housing, education, access to services and to criminal justice, among others.
- **India has failed to close this gap, despite several warnings:** (i) The Sachar Committee (2006) recommended an Equal Opportunities Commission. A bill was drafted and approved by the Union Cabinet in February 2014, but the incoming Modi government withdrew that approval. The EOC was never constituted. (ii) The Ranganath Misra Commission (2007) recommended extending Scheduled Caste affirmative action to Dalit Muslims and Christians. Its recommendations were not implemented. (iii) The Post-Sachar Evaluation Committee (Kundu, 2014) found the Sachar recommendations inadequately implemented and recommended comprehensive anti-discrimination legislation. It was not acted upon. (iv) The Anti-Discrimination and Equality Bill, 2016 (Shashi Tharoor MP, introduced March 2017) was a comprehensive private member's bill covering religion, caste, gender identity, and other grounds. It was never debated and lapsed when parliament was dissolved in 2019.
- In its July 2024 concluding observations, the Human Rights Committee (CCPR/C/IND/CO/4, Paras 13–14) recommended India "adopt comprehensive legislation prohibiting discrimination, including intersectional, direct and indirect discrimination in both the public and the private sector."

3. Institutional failures

- **The institutions nominally responsible for protecting religious minorities have been hollowed out—this has accelerated sharply and systematically under BJP rule.** As documented in South Asia Collective's *From Marginalisation to Exclusion* (India chapter, 2024), the BJP government has rolled back even the limited gains of the Sachar committee agenda, through deliberate under-investment in minority welfare and through active institutional hostility toward Muslims. Two distinct failure modes are visible: minority-specific bodies have been systematically weakened, and general human rights bodies do not function effectively for minorities in practice.
- **The National Commission for Minorities (NCM)**, a statutory body established by the NCM Act, 1992 with powers to monitor safeguards, investigate complaints, and make recommendations, has been entirely non-functional since April 2025—all seven positions are vacant. The NCM's powers are purely advisory. Even when staffed, the NCM was chaired by a former BJP spokesman who publicly denied the existence of religion-based atrocities against minorities; and the Commission has not published an annual report since 2009–10. The federal **Ministry of Minority Affairs (MMA)** has been systematically defunded: according to The Wire (February 2026), actual expenditure in 2024–25 was Rs 715 crore (~\$85 million) against a budget of Rs 3,183 crore (~\$380 million). The MMA's share of the Union Budget is 0.064%, against a minority population share of roughly 20%. Key programmes have been scrapped or zeroed out, including for educational support, such as the Maulana Azad National Fellowship (discontinued 2022–23) and the Merit-cum-Means scholarship (cut from Rs 302 crore / ~\$36 million to Rs 0.06 crore / ~\$7,000).
- **The National Human Rights Commission (NHRC)** was downgraded from A-status to B-status by the Global Alliance of National Human Rights Institutions (GANHRI) in March 2025, upheld in December 2025. The ANNU Report 2025 rated it the least effective national human rights institution in Asia, scoring 12.48 out of 100. The Human Rights Committee had already flagged concerns about the NHRC's independence. (CCPR/C/IND/CO/4, Paras 9–10). In practice, the NHRC has not taken up systemic patterns of

discrimination and violence against religious minorities as an institutional priority, and no Muslim has served among its ten chairpersons or seventeen secretaries-general in its 31-year history. In April 2025, a judge of the Allahabad High Court observed that the NHRC had maintained a "conspicuous silence" on lynchings of Muslims, noting that he was unaware of any instance in which the Commission had independently intervened against vigilante violence targeting citizens on the basis of their religious identity.

4. Data and policy regression

- The absence of disaggregated data is itself a structural barrier to anti-discrimination protection for religious minorities. As documented in SAC's *Unable to Protect; Reluctant to Promote* (India chapter, 2018), standardised data disaggregated by religious group for many socio-economic indicators is simply not available in India. Without it, discrimination cannot be measured, outcomes cannot be tracked, and targeted interventions cannot be designed. The Sachar Committee (2006) was India's first systematic attempt to address this. That infrastructure—along with the policy architecture it recommended—has since been dismantled, as mentioned previously. With the decennial census now 15 years out of date, there is no current baseline from which to work. The data gap extends to life and liberty: religion-disaggregated crime statistics are not published, and prison population data is no longer broken down by religion. Civil society efforts to fill the gap—independent hate crime trackers run by media organisations and researchers—have been forced to shut down under political and official pressure. The Supreme Court's *Tehseen S. Poonawala* directions (2018) had mandated dedicated protective infrastructure against hate crime targeting minorities—including district-level nodal officers, state-level task forces, and intelligence-gathering mechanisms. However, no state has meaningfully implemented these measures: mob violence has continued unabated, documented cases show none of the mandated mechanisms activating, and the Supreme Court itself has since described its own directions as "unmanageable".

5. Discrimination in practice

Despite official data gaps, civil society documentation continues to build a substantial evidence base on the discrimination that religious minorities face in practice. Below are key outputs from SAJC and affiliated research, relevant to Muslims in India—we would be happy to elaborate on any of these should it be useful. A longer list is attached at the end of this document.

- South Asia Collective's *From Marginalisation to Exclusion* (India chapter, 2024) compiled the latest available data regarding **poor—and actively worsening under the BJP—minority participation across economic, social, cultural, and political life**, and concluded: *"India's historically marginalised Muslims now seem to be dealing with a vengeful state determined to push them even further to the fringes... Economically marginalised and often denied access to jobs, education and public services on equal terms, many are likely to remain mired in poverty, with little hope of upward mobility. This exclusion deepens as systemic violence, social discrimination and hostile majoritarian attitudes isolate them further from the national consciousness. And the continued lack of political representation leaves them vulnerable to even more state-led persecution."*
- The Panel of Independent International Experts (PIIE) to Examine Information About Alleged Violations of International Law Committed Against Muslims in India—an independent panel comprising Sonja Biserko, Marzuki Darusman, and Stephen Rapp—found, in both its 2022 report (India-wide) and its 2026 report on the states of Assam and Uttar Pradesh, **evidence of widespread and systematic discriminatory practices and human rights violations against Muslims**. The 2026 report examines allegations of **discriminatory treatment faced by Muslims in law enforcement, administration of justice, selective political exclusion, unequal treatment in the social, economic and cultural spheres, and the**

gendered treatment of Muslim women and girls. The report also includes detailed legal analysis applying ICERD and ICCPR standards to the documented patterns, finding the governments of both states in prima facie violation of international obligations on non-discrimination, including in contexts where religious identity has been racialised and used as a basis for exclusion.

- SAJC's quarterly editions of *India Persecution Tracker* continue to document emerging reports of discrimination and human rights violations faced by Muslims and other religious minorities.

6. Access to justice: what happens without an anti-discrimination law

- **Without a comprehensive anti-discrimination statute, victims of religious discrimination in India have no direct legal remedy.** Constitutional writ petitions bind only the state, not private actors. There is no burden-shifting, no statutory definition of indirect discrimination, no enforcement tribunal, and no compensation as of right. Criminal complaints require police cooperation. As noted in Section 5, the police—and other state authorities—themselves are actively hostile to Muslims and other religious minorities, and implicated in many of the violations they face, including mob lynchings, extrajudicial killings, hate speech, and punitive demolitions of Muslim-owned properties. India's courts, led by the Supreme Court, have periodically attempted to fill this gap through binding directions—for instance, on mob violence (2018), encounter killings (2014), hate speech (2023), and demolitions (2024). However, none are being meaningfully enforced; in several states governed by the BJP, they are now openly defied. Most critically, the Supreme Court itself has increasingly retreated from overseeing its own directions. For instance, in February 2025, it declined to monitor compliance with the *Tehseen Poonawala* mob violence framework, calling it infeasible to "micro-monitor" states, and in April 2026 it refused a continuing mandamus on hate speech—in both cases leaving enforcement to the very state authorities implicated in the violations.
- **Judicial independence itself has been significantly compromised under the current government.** SAJC and Guernica 37 Group's *Perception of Judicial Independence and Impartiality at the Indian Supreme Court* (December 2024) found that the Supreme Court is now operating as an "executive court," with a pattern of delaying or avoiding politically sensitive cases affecting minorities a form of "judicial evasion." The report identifies weaknesses in institutional independence and notes how these have been particularly detrimental to religious and ethnic minorities. These findings were further corroborated by the International Commission of Jurists (*Tipping the Scale*, January 2025) and by the UN Special Rapporteur on the Independence of Judges and Lawyers in a communication to India (AL IND 1/2025, February 2025), which raised concerns about executive influence over judicial appointments, punitive transfers, post-retirement political incentives, and the underrepresentation of religious minorities on the bench. The PIIE's 2026 report examined how Indian courts have responded to major violations against Muslims—'encounter' killings by State authorities, mob lynchings and vigilante violence, hate speech and incitement by public officials and non-State actors; discriminatory practices within India's citizenship verification regime, including recent instances of forced expulsion; large-scale forced evictions and punitive home demolitions—and concluded that "the remedial framework appears to be largely ineffective for Muslims" in both Assam and Uttar Pradesh, with affected individuals having "no realistic prospect of securing justice through existing domestic mechanisms."

Further reading

- CCPR/C/IND/CO/4 (Human Rights Committee concluding observations, July 2024) — Paras 13–14 (absence of comprehensive anti-discrimination law); Para 15 (loss of Scheduled Caste protections for Dalit Muslims and Christians); Paras 17–18 (transgender rights); Para 37 (Muslims in the undertrial population); Paras 45, 47–48 (cow vigilante violence, anti-conversion laws, coerced conversions); Paras 55–56 (Citizenship Amendment Act and statelessness risk in Assam)

- [Sachar Committee Report](#) (2006)—the landmark Indian government report on Muslim socio-economic deprivation and the original recommendation for an Equal Opportunities Commission.
- [Anti-Discrimination and Equality Bill, 2016](#) — the most comprehensive anti-discrimination bill introduced in the Indian parliament; see also [CLPR's accessible overview](#)
- Panel of Independent International Experts (PIIE) – Sonja Biserko, Marzuki Darusman, Stephen Rapp
 - [2022 Report](#) — relevant sections: violations of the prohibition of discrimination (p. 35); the right to an effective remedy (p. 59); Exclusion, Discrimination & Stigmatisation of Muslims in India (Annexure I)
 - [2026 Report](#) — relevant sections:
 - Assam: collation of factual evidence relating to denial of equal treatment (p. 84); IHRL analysis of violations of the prohibition of discrimination (p. 151); right to an effective remedy (p. 185)
 - UP: collation of factual evidence relating to denial of equal treatment (p. 230); IHRL analysis of violations of the prohibition of discrimination (p. 303); right to an effective remedy (p. 340)
- India-focused chapters in [South Asia Collective's](#) annual State of Minorities Reports:
 - [Unable to Protect; Reluctant to Promote](#) (2018) — relevant sections: on who India's minorities are, the constitutional framework, and the evolving policy definition of "minority" (p. 132); on the absence of disaggregated data (p. 135)
 - [From Marginalisation to Exclusion](#) — the most comprehensive recent compilation of data on the poor (and worsening) participation of India's religious minorities across economic, social, economic, cultural, religious, political and civic life (p. 102 onwards); also sections on: majoritarian provisions in the Constitution (p. 130), heightened anti-minority persecution under the BJP (p. 133), attempts to dilute affirmative action benefits (136), exacerbation of historically poor efforts aimed at minority upliftment (p. 137)
- South Asia Justice Campaign research and documentation:
 - Quarterly editions of [India Persecution Tracker](#)
 - SAJC and Guernica 37 Group, [Perception of Judicial Independence and Impartiality at the Indian Supreme Court](#) (December 2024)—on the Supreme Court as "executive court," "judicial evasion," and the impact on minorities
- [USCIRF](#) continues to monitor deteriorating conditions for religious freedom in India, publish analyses, and designate India as a "Country of Particular Concern."
- [Article-14 UAPA investigation](#) (February 2026) — recently-published three-year investigation documenting weaponisation of counter-terrorism law against Muslims in Karnataka state
- [The Wire](#) (February 2026) —analysis of the erosion of the budget of the federal Ministry of Minority Affairs (MMA)