

SOUTH ASIA JUSTICE CAMPAIGN

South Asia Justice Campaign (SAJC) welcomes this opportunity to contribute to the Secretary-General's forthcoming report on the implementation of UNGA resolution 80/193, to be submitted to the General Assembly at its 81st session, in the context of the twenty-fifth anniversary of the adoption of the Durban Declaration and Programme of Action (DDPA).

This note focuses on India, a multi-religious country with a population exceeding 1.4 billion, where Hindus constitute a majority and significant minorities include Muslims (over 200 million), Christians, Sikhs, Buddhists, Jains and others. India's Muslim population—the world's third-largest¹—is dispersed across the country, with significant concentrations in states like Uttar Pradesh (~38 million), West Bengal (~25 million), Bihar (~18 million), Assam (~11 million), Jammu & Kashmir (~9 million), and Kerala (~9 million), among others. The Muslim community is itself internally significantly differentiated—across sect², language³, caste-analogous stratification⁴, and regional and economic position. While India has long presented itself as a pluralistic democracy grounded in secular constitutional values and a tradition of interfaith coexistence, the rise to power of the Hindu nationalist Bharatiya Janata Party (BJP)—which has governed at the federal level since 2014—has had serious implications for the rights and security of Muslims. Over the past decade, concerns have intensified about the growing fusion of Hindu nationalist ideology with the state, the mainstreaming of anti-Muslim rhetoric, and the targeting of Muslims through both official policies and acts of violence, often met with institutional inaction and tacit political endorsement.⁵

India's relationship with the international anti-racism framework has been one of formal endorsement paired with substantive disengagement. India has voted in favour of every annual Third Committee omnibus resolution on implementation of the DDPA, most recently A/RES/80/193 in December 2025. Its engagement with the framework's operative architecture, however, is largely formal. The Special Procedures mandate on contemporary forms of racism has never been granted a country visit, including under the current mandate-holder, an Indian Dalit scholar and the first Indian national to hold the office. The Committee on the Elimination of Racial Discrimination (CERD) last reviewed India in February 2007;⁶ India's combined 20th–21st periodic report, due in 2010, was filed only in 2023—thirteen years late—and has not yet been scheduled for review.⁷ India has made no declaration under Article 14 of ICERD accepting individual communications.⁸ It has also not publicly responded to the CERD's recent

¹ After Indonesia and Pakistan.

² Indian Muslims are divided principally between Sunni and Shia traditions, with further sub-sectarian communities. A 2020 Pew survey found that 55% of Indian Muslims identify as Sunni, 6% as Shia, and 37% as 'just Muslim'; 11% identify with Sufism, rising to 37% among northern Muslims. See Pew Research Center, *Religion in India: Tolerance and Segregation* (29 June 2021), Ch. 4.

³ Major languages spoken by Indian Muslims include Urdu, Hindi, Bengali, Malayalam, Tamil, Kashmiri, Assamese, Gujarati and several others.

⁴ Indian Muslim society is internally stratified along the Ashraf–Ajlaf–Arzal hierarchy, a caste-analogous system of inherited social status in which the Ashraf (claiming foreign/elite descent) occupy the top rung, the Ajlaf (occupational or 'converted' castes) the middle, and the Arzal (historically 'untouchable' Dalit Muslims) the bottom. See Imtiaz Ahmad (ed.), *Caste and Social Stratification Among Muslims in India* (1978)

⁵ For detailed documentation of anti-Muslim persecution in India, see quarterly editions of SAJC's India Persecution Tracker.

⁶ CERD/C/IND/CO/19, 5 May 2007.

⁷ CERD/C/IND/20-21, filed 26 July 2023. India's treaty body page reflects no scheduled review as of the date of this submission.

⁸ India's sole reservation to ICERD, lodged on ratification in 1968, concerns Article 22 and requires the consent of all parties before any inter-State dispute can be referred to the ICJ.

engagements under its early-warning and urgent-action procedure (EWUAP): a July 2024 CERD statement on racial discrimination against Rohingya and three further communications issued by the Committee in January 2026—one specifically on racial discrimination against Bengali-speaking Muslims in Assam—have all elicited no reply. India's reading of the Convention is correspondingly narrow on both descent and religion: its 2023 periodic report reiterates a long-standing position that 'caste cannot be equated with race or covered within descent'.⁹ On religion, the Committee's List of Issues Prior to Reporting (LoIPR) asked specifically about the Rohingya Muslim community, Dalit Muslims and Dalit Christians, minorities affected by the 2019 abrogation of Jammu and Kashmir's special status, and religion-disaggregated data on those excluded from the National Register of Citizens in Assam.¹⁰ India engaged none of these as Muslim concerns, instead reporting that 'no separate category of ethnic minorities has been notified' under Indian law, and nowhere addressed Muslims as a community protected under ICERD.¹¹

The submission proceeds in two parts. Part A assesses India's implementation of the DDPA against the three themes of the OHCHR's call for inputs: civil society participation in the DDPA's realisation; State reaffirmation of commitment to combating racism, racial discrimination, xenophobia and related intolerance; and high-visibility awareness and commemoration initiatives. For the purposes of this input, Muslim communities in India are treated as victims of racial discrimination within the meaning of ICERD Article 1(1) and within the ambit of the DDPA. Part B sets out the basis for that treatment, arguing that the targeting of Muslims in India amounts to racial discrimination under ICERD Article 1(1), and develops the case through four illustrations: the Miya (Bengali-speaking) Muslims of Assam and Rohingya refugees, whose treatment in India CERD has already addressed recently under its EWUAP; Kashmiri Muslims, a distinct ethno-national community whose treatment CERD has previously highlighted in its reviews of India; and Muslims in other states like Uttar Pradesh, whose targeting requires a further argument—that the perpetrator's subjective construction of a religious community as ethno-racially distinct brings it within the Convention. The patterns catalogued in Part B must be treated as active DDPA violations by a State party that continues to vote annually in favour of the framework it is failing to implement.

A. India's (non-)implementation of the DDPA

India's implementation of the DDPA is assessed below against the three themes identified in the OHCHR's call for inputs: civil society participation in DDPA realisation; State reaffirmation of commitment to combating racism, racial discrimination, xenophobia and related intolerance; and high-visibility awareness and commemoration initiatives. In each, the pattern flagged previously is visible: formal endorsement paired with substantive disengagement. In the anniversary year itself, there has been no observable Government-led engagement with the DDPA framework.

⁹ CERD/C/IND/20-21, paras 2–5, 16. The position has been rejected by CERD in General Recommendation XXIX (2002) and in its 2007 Concluding Observations on India, but maintained by India in successive international fora, including at Durban I in 2001—where India's delegation dismissed caste-based advocacy as 'highly exaggerated and misleading propaganda'—and at the 2009 Durban Review Conference, where India lobbied to exclude caste and descent-based discrimination from the outcome document. See Human Rights Watch, UN Racism Conference Fails on Caste-Based Discrimination (April 2009).

¹⁰ CERD, *List of issues prior to submission of the twentieth and twenty-first combined periodic reports of India*, CERD/C/IND/QPR/20-21, adopted 25 August 2021, paras 7 (Dalit Muslims and Dalit Christians), 11 (J&K minorities), 13 (Rohingya Muslim community), 19 (religion/ethnicity data on NRC exclusions).

¹¹ CERD/C/IND/20-21, para 10. The report does not elsewhere address Muslims as a protected community; the Rohingya appear only as 'illegal migrants of Rakhine state' (para 143).

1. **Civil society participation in DDPA realisation:** The DDPA's Programme of Action identifies civil society organisations, non-governmental organisations, human rights defenders and national human rights institutions as central partners in the Durban framework's implementation, and calls on States to protect and facilitate their work. India's civic infrastructure has been constricted on each of those dimensions. The Foreign Contribution (Regulation) Amendment Act 2020, operating alongside the Unlawful Activities (Prevention) Act 1967 and the Prevention of Money Laundering Act 2002, has been used to cancel the foreign funding licenses of, and to investigate and prosecute staff at, organisations documenting and litigating discrimination against religious, caste and ethnic minorities. Civil society initiatives documenting and responding to communal violence against Muslims—such as Centre for Equity Studies—have faced sustained official targeting. CIVICUS now officially categorises the state of civic space in India as 'repressed'. India's National Human Rights Commission, after three successive deferrals of its 'A' accreditation in 2016, 2023 and 2024, was downgraded from 'A' to 'B' status by the Global Alliance of National Human Rights Institutions (GANHRI) in 2025. The Commission's loss of 'A' status restricts its right to vote and to make oral interventions at the UN Human Rights Council and at certain treaty-body fora. UN Special Procedures have, over the same period, directed a steady volume of country-specific communications to India on racial discrimination, minority rights, human rights defenders and civic space; India has declined to substantively engage with most of them.

2. **State reaffirmation of commitment to combating racism, racial discrimination, xenophobia and related intolerance:** India has not adopted a National Action Plan against racism, racial discrimination, xenophobia and related intolerance as required under the DDPA Programme of Action—twenty-five years after the framework's adoption. The legislative architecture India cites as evidence of compliance is itself religion-discriminatory in its terms: the Constitution (Scheduled Castes) Order, 1950 excludes Dalit Muslims and Dalit Christians from the protections of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, India's only anti-discrimination statute, which does not offer protection to religious minorities. India also remains outside three core international instruments directly relevant to the racism mandate: it has signed but not ratified the Convention against Torture and the Convention for the Protection of All Persons from Enforced Disappearances, and has neither signed nor ratified the Convention on the Rights of Migrant Workers. The non-ratification of the Convention against Torture, in particular, deprives Muslim victims—who often face religion-based forms of custodial abuse—of a crucial accountability avenue. Although India has maintained a formal standing invitation to UN Special Procedures since 2011, no Special Procedures mandate-holder has been granted a country visit since November 2017; at least 19 visit requests remain pending as of October 2025, including a request first transmitted by the Special Rapporteur on torture in 1999 and reiterated multiple times since. As noted previously, the Special Procedures mandate-holder on racism has never conducted an official country visit to India.

The DDPA's educational and awareness-raising mandate has met with the same pattern of non-implementation. There are no reports of any significant government-driven awareness programmes targeting religious prejudice or promoting inter-religious understanding, and the Ministry of Education has not announced any curriculum initiatives aimed at tolerance education. Recent trends have in fact moved in the opposite direction. Between 2022 and 2025, the National Council of Educational Research and Training (NCERT) progressively removed or recharacterised school

textbook content on the 2002 anti-Muslim violence in Gujarat, the demolition of the historic Babri Masjid by Hindu extremists in 1992, and India's pre-colonial Muslim history; the NCERT Director's stated rationale in 2024 was that teaching about communal violence in schools would produce 'violent and depressed' rather than 'positive' citizens. The institutional infrastructure of minority religious education has, in parallel, been dismantled at State level: for instance, Assam dissolved its State Madrasa Education Board in 2021 and converted over 1,200 government-aided madrasas (Islamic seminaries) into general schools, and Uttarakhand's Minority Education Bill 2025 abolishes the State Madrasa Education Board with effect from July 2026; Uttar Pradesh too has launched a coordinated crackdown against madrasas operating in the state.¹² The trend reflects a concerted effort across BJP-governed States to dismantle minority religious education rather than promote the educational pluralism envisaged by the DDPA.

3. **High-visibility awareness and commemoration initiatives:** General Assembly resolution 75/237 invited Member States to 'organize and support various high-visibility initiatives, aimed at effectively increasing awareness at all levels, to commemorate the twentieth anniversary' of the DDPA. There is no publicly documented record of a national awareness campaign, government-organised commemorative event, or public information programme on the DDPA framework undertaken in India around the 20th anniversary in 2021 or in the years since. India did not co-sponsor General Assembly resolution 79/193 of 17 December 2024 proclaiming the Second International Decade for People of African Descent (2025–2034), and no domestic programme of activities has been announced or launched under either the First Decade (2015–2024) or the Second. The awareness and commemoration obligations under the DDPA framework have received no visible domestic translation.

B. The targeting of Muslims in India as racial discrimination under ICERD and DDPA

Article 1(1) of ICERD defines racial discrimination as 'any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life'.¹³ The enumerated grounds are disjunctive: targeting on any one of them engages the Convention, and the operative scope turns on either the 'purpose' or the 'effect' of the impugned conduct. CERD has consistently read those grounds as overlapping rather than exclusive, and has treated religion-based targeting as engaging ICERD where it intersects with a listed ground. In General Recommendation 32, the Committee observed that racial discrimination is often 'intersectional' and must be assessed on multiple grounds in combination, expressly including 'situations of double or multiple discrimination—such as discrimination on grounds of gender or religion—when discrimination on such a ground appears to exist in combination with a ground or grounds listed in article 1 of the Convention'.¹⁴ In General Recommendation 35 on combating racist hate speech, it went further, identifying 'hate speech targeting persons belonging to certain ethnic groups who profess or practice a religion different from the majority, including expressions of Islamophobia, anti-Semitism and other similar

¹² PIIE, 2026 Report, Chapter 3.

¹³ ICERD, art 1(1)

¹⁴ CERD, General Recommendation No. 32 on the meaning and scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination, CERD/C/GC/32, 24 September 2009, para 7.

manifestations of hatred against ethno-religious groups', as conduct within the Convention's mandate.¹⁵

This interpretation is engaged across Muslim communities in India, including:

1. **'Miya' (Bengali-speaking) Muslims in Assam:** Approximately 11 million Bengali-speaking Muslims live in the north-eastern Indian state of Assam, comprising roughly a third of the state's population. Locally referred to as 'Miya'—historically as a neutral term, increasingly as a slur—the community is descended from agricultural settlers who migrated from what is today Bangladesh, much of it before the Partition of India in 1947 and most of the rest before the Bangladesh Liberation War of 1971. The community is, by every legal measure, Indian; the state's discourse and policies nonetheless treat its members as foreigners by descent.

In May 2025, CERD invoked its early-warning and urgent-action procedure in relation to this community, characterising the conduct in question as racial discrimination 'based on descent, ethno-religious and ethnic origin'.¹⁶ The Committee identified ten distinct areas of concern, including arbitrary deprivation of citizenship through the National Register of Citizens process and the Citizenship (Amendment) Act 2019; systematic forced evictions; mass detention and unilateral expulsion to Bangladesh; excessive use of lethal force by law enforcement; arbitrary arrest; sustained racist hate speech by senior public officials; and discriminatory legislative and policy proposals affecting marriage, land ownership and religious education.¹⁷ CERD reiterated its concerns in a follow-up letter of 19 January 2026, calling on India to adopt all necessary measures to address them.¹⁸ The treatment is asymmetric in ways that confirm it operates on Article 1(1) grounds: Bengali-speaking *Hindus* in Assam—descended from the same waves of migration, sharing the same language and culture—are not subjected to the same hostility, and non-Muslim migrants from Bangladesh, Afghanistan and Pakistan are expressly protected from deportation under successive religion-based exemptions.¹⁹

A panel of international law experts convened to examine alleged violations against Muslims in India (the Panel of Independent International Experts, or PIIE), in a March 2026 report, found the racial-group threshold satisfied on both subjective limbs.²⁰ The Assam government and aligned non-state actors treat Bengali-speaking Muslims as a group distinct from Assamese-speaking Hindus and Muslims and from Bengali-speaking Hindus, characterising them as inherently alien and inferior in a manner used to justify

¹⁵ CERD, *General Recommendation No. 35 on combating racist hate speech*, CERD/C/GC/35, 26 September 2013, para 6.

¹⁶ CERD, Letter to the Permanent Representative of India under the early warning and urgent action procedure, CERD/EWUAP/115thsession/2025/CS/BJ/ks, 12 May 2025, first bullet (available via the OHCHR [Early Warning and Urgent Action Procedure portal](#)).

¹⁷ Ibid. The Committee further recalled General Recommendations Nos. 30 (2005) on discrimination against non-citizens, 31 (2005) on the criminal justice system, 35 (2013) on combating racist hate speech, and 36 (2020) on racial profiling by law enforcement officials.

¹⁸ CERD, Follow-up letter to the Permanent Representative of India under the early warning and urgent action procedure, CERD/EWUAP/2026/CS/BJ/ks, 19 January 2026 (available via the OHCHR [Early Warning and Urgent Action Procedure portal](#)).

¹⁹ *Citizenship (Amendment) Act, 2019*, proviso to section 2(1)(b) of the Citizenship Act 1955; Immigration and Foreigners (Exemption) Order, 2025, notified September 2025, exempting Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan from deportation, detention and related restrictions.

²⁰ Panel of Independent International Experts to Examine Information About Alleged Violations of International Law Committed Against Muslims in India, *Report 2026* (March 2026). The Panel was first convened in 2022 and is composed of international law and human rights experts Sonja Biserko, Marzuki Darusman and Stephen Rapp; its 2026 report focuses on the situation in Assam and Uttar Pradesh between 2022 and 2025.

discriminatory and exclusionary treatment.²¹ The community itself, the Panel noted, conceptualises itself as a distinct ethnicity grounded in shared language, culture and religion, and has reclaimed the term 'Miya' as an affirmative identity marker sustained through poetry, community schools, and a private museum (which the Assam government shut down within 48 hours of its opening in October 2022).²² On that basis, the Panel concluded that the systematic stripping of citizenship, legality and residence from Bengali-speaking Muslims may amount to apartheid as a crime against humanity under the Rome Statute, operating within an institutionalised regime of systematic oppression and domination over a 'racialised group defined by descent, ethnic origin, and perceived national origin intersecting with religion'.²³

2. **Rohingya refugees:** The Rohingya are a stateless ethno-religious Muslim minority from Rakhine State, Myanmar; approximately 22,500 are registered with UNHCR in India, alongside a larger unregistered population.²⁴ Most fled the 2017 Myanmar military campaign that the UN has characterised as having genocidal intent. India has consistently refused to recognise them as refugees: a Ministry of Home Affairs advisory of 8 August 2017 directed all states to identify and deport them as 'illegal immigrants'²⁵, and, as noted previously, India's latest periodic report to CERD describes them only as 'illegal migrants of Rakhine state'.²⁶

CERD flagged India's treatment of the Rohingya under its EWUA procedure as early as December 2018, and substantially expanded that engagement in its Statement of 29 June 2024.²⁷ The Committee characterised the conduct as racial discrimination, identifying racist hate speech by politicians and public figures, mass arbitrary detention including of children, and forcible deportations from 2018 onwards with continuing refoulement risk—tracing the regime to the August 2017 MHA order. It called on India to ensure that legislative guarantees against racial discrimination 'apply to non-citizens regardless of their immigration status' and that immigration and deportation laws 'do not discriminate—in purpose or effect—on the basis of race, colour or ethnic or national origin'.²⁸ National origin and ethnic origin intersecting with religion were thus squarely engaged by CERD.

²¹ PIIE, *Report 2026*, p. 178 (analysis of 'racial group' element of the crime against humanity of apartheid). The Chief Minister of Assam, Himanta Biswa Sarma, and the ruling party deploy the labels 'Bangladeshi' and 'Miya' as applying only to Muslims, including in his recent (late January 2026) public statement that his 'job is to make the Miya people suffer' and his urging of everyday economic discrimination against 'Miya' rickshaw pullers: see *The Wire*, *Maktoob Media*, and *India Today NE* (27 January 2026).

²² Ibid.

²³ Ibid.

²⁴ UNHCR-registered figure: see Refugees International and The Azadi Project, *A Lifetime in Detention: Rohingya Refugees in India* (December 2024) — <https://www.refugeesinternational.org/reports-briefs/a-lifetime-in-detention-rohingya-refugees-in-india/>.

²⁵ Government of India, Ministry of Home Affairs, Letter No. 24013/29/Misc./2017-CSR.III(i) dated 8 August 2017, as referenced in MHA's reply to Lok Sabha Unstarred Question No. 1680 (2 July 2019) — <https://www.mha.gov.in/MHA1/Par2017/pdfs/par2019-pdfs/ls-02072019/1680.pdf>. The earliest engagement of the racism Special Procedures mandate with India's treatment of Rohingya followed shortly thereafter: Working Group on Arbitrary Detention, Special Rapporteur on the human rights of migrants, and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, *UA IND 22/2018* (2 October 2018)

²⁶ CERD/C/IND/20-21, para. 143

²⁷ CERD, Letter to the Permanent Representative of India under the early-warning and urgent-action procedure, CERD/EWUAP/India-Rohingya/2018/JP/ks, 14 December 2018; CERD, *Statement 1 (2024) on the situation of the Rohingya in India*, 29 June 2024 (OHCHR press release, 2 July 2024) — both available via the OHCHR Early Warning and Urgent Action Procedure portal: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Ewua.aspx?Lang=en

²⁸ Ibid.

India's mistreatment of the Rohingya has continued and escalated. In May 2025, Indian authorities detained around forty UNHCR-documented Rohingya refugees in Delhi, flew them to the Andaman and Nicobar Islands, and subsequently forced them off an Indian naval vessel into the sea off Myanmar's coast.²⁹ The UN Special Rapporteur on the situation of human rights in Myanmar opened a formal inquiry, calling the conduct 'unconscionable, unacceptable acts' and a 'blatant disregard for the lives and safety of those who require international protection'.³⁰ A petition before the Supreme Court of India was summarily dismissed as a 'beautifully crafted story'.³¹ A March 2025 Special Procedures communication separately documented widespread indefinite detention of Rohingya in India, including at the Matia detention centre in Assam and the Hirangar holding centre in Jammu, alongside deaths in custody.³² Around 100 Rohingya refugees previously held at Matia are reported to be among the over 2,450 Muslims forcibly and unilaterally deported to Bangladesh from Assam since May 2025, as part of the Indian government's new 'pushback' policy.³³

3. **Kashmiri Muslims:** The Kashmir Valley, home to approximately 9 million people, has a distinct ethno-national identity grounded in its own language, culture and political history; the Valley itself is over 97 per cent Muslim.³⁴ Until 5 August 2019, the region of Jammu and Kashmir held a special constitutional status under Article 370 of the Indian Constitution, with the power to define permanent residence and restrict land ownership, public employment and state scholarships to its own residents. On that date, the central government unilaterally abrogated that status by presidential order—without any consultation with the region's elected representatives or population—and bifurcated the former state into two federally-administered Union Territories. In May 2020, the Ministry of Home Affairs notified the Jammu and Kashmir Grant of Domicile Certificate (Procedure) Rules, extending permanent residence—and with it the right to own land and hold local government employment—to persons who had resided in the region for fifteen years or studied there for seven years, as well as to various categories of central government personnel and their children.³⁵

The UN has engaged these measures directly on ICERD grounds. In its 2021 LoIPR, CERD asked India to 'provide information on measures taken to ensure that the State party's decision to end the special status of Jammu and Kashmir and enact new laws will not lead to discrimination against any minorities on the grounds of race, colour, descent or

²⁹ OHCHR, 'Alarmed by reports of Rohingya cast into the sea from Indian navy vessels, UN expert launches inquiry of "unconscionable, unacceptable acts"' (15 May 2025) — <https://www.ohchr.org/en/press-releases/2025/05/alarmed-reports-rohingya-cast-sea-indian-navy-vessels-un-expert-launches>; Human Rights Watch, 'India: Scores of Rohingya Refugees Expelled' (28 August 2025) — <https://www.hrw.org/news/2025/08/28/india-scores-of-rohingya-refugees-expelled>.

³⁰ Ibid.

³¹ *Mohammad Ismail v. Union of India*, W.P.(CrL) No. 204/2025, oral observations of the Supreme Court of India on 16 May 2025; see *LiveLaw*, "'Beautifully Crafted Story": Supreme Court Questions Claim That Rohingyas Were Thrown Into Sea' (16 May 2025) — <https://www.livelaw.in/top-stories/supreme-court-plea-against-rohingya-deportation-by-throwing-into-international-waters-292431>.

³² Special Rapporteur on the situation of human rights in Myanmar, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and Special Rapporteur on trafficking in persons, especially women and children, *AL IND 14/2024* (3 March 2025) — <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=29597>.

³³ PIIE, *Report 2026*, p. 69

³⁴ Office of the Registrar General and Census Commissioner, *Census of India 2011: the Kashmir Division of Jammu and Kashmir*, comprising ten districts, is 97.16 per cent Muslim.

³⁵ Jammu and Kashmir Grant of Domicile Certificate (Procedure) Rules, 2020, notified by the Ministry of Home Affairs on 18 May 2020 under section 96 of the Jammu and Kashmir Reorganisation Act, 2019.

national or ethnic origin, including with regard to employment and land ownership'—situating the 2019 abrogation and the Domicile Rules squarely within the Article 1 grounds of the Convention.³⁶ The Committee had earlier, in its 1996 Concluding Observations on India, expressed 'serious concern' that 'the Kashmiris, as well as other groups, are frequently treated, on account of their ethnic or national origin, in ways contrary to the basic provisions of the Convention'.³⁷ In February 2021, five Special Procedures mandate-holders, including the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, transmitted a joint communication to India naming Articles 1, 2, 5, 6 and 7 of ICERD, and observing that Jammu and Kashmir is 'the only state in India where Muslims form the greater part of the population' and that 'the provisions may have been singled out because of this'.³⁸ OHCHR's two reports on the situation of human rights in Kashmir (June 2018 and July 2019) engaged ICERD as part of the binding legal framework, and the July 2019 report devoted a dedicated section to the 'Targeting of Kashmiri Muslims outside Jammu and Kashmir' following the February 2019 Pulwama attack—events to which the High Commissioner responded by urging Indian authorities to 'protect people from all forms of harm that may be directed at them on account of their ethnicity or identity'.³⁹ In November 2025, 14 Special Rapporteurs warned of 'discriminatory treatment of Kashmiri and Muslim communities' following India's counter-terrorism response to the April 2025 Pahalgam attack, documenting around 2,800 arrests in Jammu and Kashmir, the surveillance of Kashmiri students studying elsewhere in India under official directives requiring universities to collect their personal data, and the punitive demolition of Muslim homes and expulsion of Muslims and Rohingya refugees across the country.⁴⁰

The racialisation of Kashmiri Muslims by the Indian State and the majority Hindu political imagination is also well established in scholarly literature: Kanjwal (2023) identifies the 'racialization and exotification of Kashmiris in Indian imaginaries' as a constitutive logic of India's rule over the region⁴¹, and scholarship by Bhan, Duschinski, Zia and Osuri, among others, situates these dynamics within a broader settler-colonial frame in which militarisation, gender and racialisation operate as constitutive logics of occupation.⁴² The

³⁶ CERD/C/IND/QPR/20-21, para 11

³⁷ CERD, Concluding observations on the tenth to fourteenth periodic reports of India, CERD/C/304/Add.13, 17 September 1996, para 15.

³⁸ Joint communication by Special Procedures mandate-holders, including the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, AL IND 21/2020 (10 February 2021).

³⁹ OHCHR, *Report on the Situation of Human Rights in Kashmir: Developments in the Indian State of Jammu and Kashmir from June 2016 to April 2018, and General Human Rights Concerns in Azad Jammu and Kashmir and Gilgit-Baltistan* (14 June 2018), para 31 — <https://www.ohchr.org/sites/default/files/Documents/Countries/PK/DevelopmentsInKashmirJune2016ToApril2018.pdf>; OHCHR, *Update of the Situation of Human Rights in Indian-Administered Kashmir and Pakistan-Administered Kashmir from May 2018 to April 2019* (8 July 2019), para 51 and section V(I) — https://www.ohchr.org/sites/default/files/Documents/Countries/PK/KashmirUpdateReport_8July2019.pdf; OHCHR, 'Press briefing notes on Syria and India' (19 February 2019) — <https://www.ohchr.org/en/press-briefing-notes/2019/02/press-briefing-notes-syria-and-india>. The Government of India rejected both OHCHR reports as violating India's 'sovereignty and territorial integrity'.

⁴⁰ Office of the UN High Commissioner for Human Rights, 'UN experts alarmed by Indian counter-terrorism operations violating human rights in Jammu and Kashmir' (joint press release of 14 Special Procedures mandate-holders, November 2025) — <https://www.ohchr.org/en/press-releases/2025/11/un-experts-alarmed-indian-counter-terrorism-operations-violating-human>

⁴¹ Hafsa Kanjwal, *Colonizing Kashmir: State-Building under Indian Occupation* (Stanford University Press, 2023), Introduction. Available at <https://www.sup.org/books/asian-studies/colonizing-kashmir/excerpt/introduction>.

⁴² See, for example, Mona Bhan, Haley Duschinski and Cabeiri deBergh Robinson (eds), *Resisting Occupation in Kashmir* (University of Pennsylvania Press, 2018); Haley Duschinski, Mona Bhan and Cabeiri deBergh Robinson (eds), *The Palgrave Handbook of New Directions in Kashmir Studies* (Palgrave Macmillan, 2023); Goldie Osuri, 'Sovereignty,

selective reconfiguration of the only Muslim-majority region in India, its legal opening to demographic restructuring, and the mass criminalisation of its population engage Article 1(1) of ICERD on multiple and intersecting grounds—ethnic origin, national origin, and religion throughout.

4. **Muslims in Uttar Pradesh and other states:** As mentioned previously, India's 200 million Muslims are internally heterogeneous—differentiated across sect, language, caste-analogous stratification, region and economic position, among other poles. Uttar Pradesh alone is home to approximately 38 million Muslims, close to a fifth of the state's population and roughly 22 per cent of all Indian Muslims.⁴³ Unlike the three communities examined above, Muslims in UP and other states are not linguistically distinct from the Hindu majority, are not of ostensibly foreign origin, and do not self-present as a separate ethno-national group; the overwhelming majority are descended from local converts, speak the same regional languages as their Hindu neighbours, and share their phenotype. The apparent absence of an objective ethno-racial marker has been taken, including by some international lawyers, to place such communities outside the scope of ICERD, which is said to reach religious communities only where they also constitute an ethno-religious group or have a clear link to one of the Article 1 grounds.⁴⁴ On the contrary, this section will show that the systematic targeting of Muslims in UP and across India proceeds through the perpetrator's construction of the community as a racialised descent-based outsider group—through markers of appearance, habitation and imputed foreign ancestry. On the subjective standard that UN mechanisms, international tribunals and the scholarly literature now consistently apply, that construction is what engages Article 1(1) of the Convention.

The subjective/constructivist approach to group identity in international law emerged in international criminal jurisprudence from the late 1990s. In *Akayesu* (ICTR Trial Chamber, 1998), the Tribunal treated Tutsi 'ethnic' identity as a socially fixed category—Tutsis were found to constitute a stable group because they were 'identified as such by all' through Rwandan administrative and cultural practice, not because of any objective biological distinction.⁴⁵ In *Jelisić* (ICTY Trial Chamber, 1999), the Tribunal articulated the subjective test expressly, holding that group status is to be evaluated from the point of view of those persons who wish to single that group out from the rest of the community.⁴⁶ Consolidating this jurisprudence, the International Commission of Inquiry on Darfur, established by the UN Secretary-General and reporting in January 2005, observed that international law had 'evolved from an objective to a subjective standard', and held that the Fur, Masalit and Zaghawa constituted a protected group notwithstanding that they 'speak the same language (Arabic) and embrace the same religion (Muslim faith)' as their perpetrators—because collective identities are 'by their very nature social constructs' to be assessed by whether a targeted population is 'perceived and in fact also treated' as a distinct racial,

vulnerability, and a gendered resistance in Indian-occupied Kashmir', *Third World Thematics: A TWQ Journal* 3(2) (2018), pp. 228–243.

⁴³ Census of India 2011.

⁴⁴ For instance, David Keane, 'Addressing the Aggravated Meeting Points of Race and Religion' (2007) 6(2) *University of Maryland Law Journal of Race, Religion, Gender and Class* 353, arguing that religious communities fall within ICERD only where they constitute an ethno-religious group or have a clear link to one of the Article 1 grounds. See also Nazila Ghanea, 'Intersectionality and the Spectrum of Racist Hate Speech: Proposals to the UN Committee on the Elimination of Racial Discrimination' (2013) 35(4) *Human Rights Quarterly* 935.

⁴⁵ *Prosecutor v. Akayesu*, ICTR-96-4-T, Trial Chamber Judgment, 2 September 1998, paras 511 and 702, finding that the Tutsi constituted 'a stable and permanent group' identified 'as such by all' through Rwandan colonial and post-colonial administrative and cultural practice, rather than on the basis of any objective biological distinction.

⁴⁶ *Prosecutor v. Jelisić*, IT-95-10-T, Trial Chamber Judgment, 14 December 1999, para 70

ethnical or national group.⁴⁷ That framework has since been applied by the Independent International Fact-Finding Mission on Myanmar to the Rohingya—an ethno-religious community racialised as 'Bengali' outsiders by a State that denies their very name;⁴⁸ by the International Court of Justice in *South Africa v. Israel*, where the Court held that 'the Palestinians appear to constitute a distinct national, ethnical, racial or religious group, and hence a protected group';⁴⁹ and by CERD in its engagement with China's treatment of Uyghurs and other predominantly Muslim communities targeted on the basis of their 'ethno-religious identity'.⁵⁰

CERD's own practice, as summarised in the United Nations Audiovisual Library of International Law, now includes within ICERD Article 1 protections 'Muslims subjected to Islamophobia, and more generally persons whose religious identity has been "racialized," that is used as a basis for discrimination (G.R. 32)'—a doctrinal position which, read together with the CERD's long-standing insistence that group identity under ICERD is to be determined on the basis of self-identification rather than ascriptive labels, provides a direct and authoritative answer to the argument that Indian Muslims are excluded from the Convention's reach for want of an objective ethno-racial marker.⁵¹ Lingaas (2020) has developed this framework systematically, arguing that race in contemporary international law 'transcends biology and carries with it a metaphysical dimension, according to which a person's racial group membership is defined by a perception of his otherness'—a perception manifested through the perpetrator's own behaviour towards the targeted group.⁵²

The racialisation of Indian Muslims specifically is also now the subject of a developing scholarly literature. Sikka (2022) argues that Indian Muslims are racialised 'as an undifferentiated group, on the basis of their name and kinship', within a Hindu nationalist project that represents them as foreign to the nation—closely tracking the racialising move that characterises contemporary Islamophobia elsewhere notwithstanding the absence of a phenotypic distinction between perpetrators and victims⁵³; Natrajan (2022) identifies the underlying Hindutva logic as bifurcated, with Dalits ethnicised as the internal Other to be incorporated into a multi-caste Hindu family while Muslims are racialised as the external Other, constructed as permanent outsiders to the Hindu

⁴⁷ Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General, UN Doc S/2005/60 (25 January 2005), paras 498–501 and 508–512 —

<https://www.ohchr.org/sites/default/files/Documents/Countries/SD/ComInqDarfur.pdf>.

⁴⁸ Report of the Independent International Fact-Finding Mission on Myanmar, UN Doc A/HRC/39/64 (12 September 2018), paras 83–87, and the detailed findings in UN Doc A/HRC/39/CRP.2 (17 September 2018), treating the Rohingya as a protected ethno-religious group constructed as such by the Myanmar authorities' sustained denial of their identity.

⁴⁹ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Order on Provisional Measures, 26 January 2024, para 45 — <https://www.icj-cij.org/sites/default/files/case-related/192/192-20240126-ord-01-00-en.pdf>.

⁵⁰ CERD, Concluding Observations on the combined fourteenth to seventeenth periodic reports of China, CERD/C/CHN/CO/14-17 (30 August 2018), paras 40–42; and CERD, Decision 1 (108) on the situation in the Xinjiang Uyghur Autonomous Region, 24 November 2022.

⁵¹ Gay McDougall (former CERD Vice-Chair), 'The International Convention on the Elimination of All Forms of Racial Discrimination', *United Nations Audiovisual Library of International Law* (Introductory Note, February 2021), p. 2 — https://legal.un.org/avl/pdf/ha/cerd/cerd_e.pdf. On self-identification as the determinant of group membership under ICERD, see CERD, General Recommendation No. 8 on the interpretation and application of article 1, paragraphs 1 and 4, of the Convention (1990), affirming that identification with a particular racial or ethnic group 'shall, if no justification exists to the contrary, be based upon self-identification by the individual concerned'.

⁵² Carola Lingaas, *The Concept of Race in International Criminal Law* (Routledge, 2020), pp. 2–5 and 42.

⁵³ Sonia Sikka, 'Indian Islamophobia as Racism', *The Political Quarterly* (2022). DOI: 10.1111/1467-923X.13152. Available at <https://onlinelibrary.wiley.com/doi/10.1111/1467-923X.13152>.

Rashtra (Nation) on the basis of imputed descent from foreign invaders⁵⁴; and Kattiparambil (2024) frames contemporary India as a 'racial state' in which the constitutional and administrative apparatus itself operates to exclude and eliminate Muslimness through 'homogenizing or marginalizing processes'.⁵⁵

The evidence that this construction is operative in India is extensive.

Perpetrators—from the apex of the Indian State downwards, including the Prime Minister, the Home Minister, and the Chief Ministers of key states like Uttar Pradesh and Assam⁵⁶—routinely assign to Indian Muslims a foreign descent they do not possess: as the progeny of the Mughal invader Babur,⁵⁷ as '*ghuspaithiye*' (infiltrators)⁵⁸, or as 'termites'.⁵⁹ The PIIE, in its March 2026 examination of Uttar Pradesh, notes that references to present-day Muslims 'as "descendants" and "remnants" of these "barbaric invaders" have become commonplace in Hindu nationalist parlance within political discourse in the state' and frames the rhetoric as a 'civilisational' construction of Muslims 'as historically alien to India's cultural identity'.⁶⁰ The India Hate Lab recorded 1,318 hate-speech events in 2025, 98 per cent of them targeting Muslims, with Uttar Pradesh the leading state (266 events) and the 'infiltrator' trope the most pervasive discursive frame.⁶¹ The CSDS-Lokniti National Election Study 2024 confirms the reach of this discourse into popular Hindu opinion: 26 per cent of Hindu respondents disagreed that Muslims are 'as patriotic as any Indian', rising to 28 per cent in the Hindi belt where UP is located; and 47 per cent of Hindus agreed that Muslims are 'unnecessarily appeased or pampered' despite consistent empirical evidence of the community's socio-economic decline.⁶²

Appearance-based markers—beard, skullcap, hijab, circumcision and name—operate as legible signs of group membership and as sites of vigilante and police identification. Nationwide surveys have confirmed that over 50 per cent of police personnel across

⁵⁴ Balmurli Natrajan, 'Racialization and ethnicization: Hindutva hegemony and caste', *Ethnic and Racial Studies* 45(2) (2022), pp. 298–318. DOI: 10.1080/01419870.2021.1951318. Available at <https://www.tandfonline.com/doi/full/10.1080/01419870.2021.1951318>.

⁵⁵ Sheheen Kattiparambil, 'Islamophobia in India and the Racial State', *ReOrient* 8(2) (2024). DOI: 10.13169/reorient.8.2.0153. Available at <https://www.scienceopen.com/hosted-document?doi=10.13169/reorient.8.2.0153>.

⁵⁶ See joint allegation letter by three Special Procedures mandate-holders (AL IND 5/2024) highlighting hate speeches by these leaders, dated 24 September 2024, [here](#).

⁵⁷ Yogi Adityanath, Chief Minister of Uttar Pradesh, election speech, Sambhal, April 2019, invoking the Samajwadi Party candidate as '*Babur ki aulaad*' (progeny of Babur): see *The Indian Express*, 'In Sambhal, Yogi Adityanath's "Babur ki aulaad" jibe at SP candidate', April 2019. The trope has been repeatedly deployed by senior officeholders, including at the Vijaydashami addresses of the Rashtriya Swayamsevak Sangh Sarsanghchalak Mohan Bhagwat on 5 October 2022 and 12 October 2024 on 'demographic imbalance' and 'infiltration'.

⁵⁸ Prime Minister Narendra Modi, election rally, Banswara, Rajasthan, 21 April 2024: see *Al Jazeera*, 'Modi accused of anti-Muslim hate speech for calling Muslims "infiltrators"' (22 April 2024) — <https://www.aljazeera.com/news/2024/4/22/modi-accused-of-anti-muslim-hate-speech-for-calling-muslims-infiltrators>; Union Home Minister Amit Shah, Border Security Force Raising Day, Bhuj, Gujarat, November 2025, vowing to 'throw out every single *ghuspaithiye*'.

⁵⁹ Amit Shah (then BJP National President), rally, Delhi, 22 September 2018: see *Al Jazeera*, 'BJP chief slammed for calling Bangladeshi migrants "termites"' (24 September 2018) — <https://www.aljazeera.com/news/2018/9/24/bjp-chief-slammed-for-calling-bangladeshi-migrants-termites>.

⁶⁰ PIIE, 2026 Report, Chapter 3

⁶¹ India Hate Lab / Center for the Study of Organized Hate, *Hate Speech Events in India: 2025 Annual Report* (13 January 2026) — <https://indiahatelab.com/2026/01/13/hate-speech-events-in-india-2025/>

⁶² Christophe Jaffrelot and Hilal Ahmed, 'Indian Muslims: (Self-)Perceptions and Voting Trends in 2024' (2024) 12(2) *Studies in Indian Politics* 289, Tables 1–3. On the empirical record of Muslim socio-economic decline, see Christophe Jaffrelot and A. Kalaiyarasan, 'Indian Muslims: Varieties of Discrimination and What Affirmative Action Can Do', in Ashwini Deshpande (ed), *Handbook on Economics of Discrimination and Affirmative Action* (Springer, 2023)

seventeen states believe that Muslims are 'naturally prone' to violence or 'naturally inclined' to commit crimes,⁶³ and of 44 cow-vigilante killings documented by Human Rights Watch between 2015 and 2018, 36 targeted visibly identifiable Muslims.⁶⁴ The translation of such perception into lethal force is most visible in Uttar Pradesh, where UP Police have conducted over 16,284 'encounter' operations since March 2017, resulting in 266 deaths—at least 48 in 2025, the highest annual toll in the period—and where Muslims have comprised approximately 32 per cent of those killed, nearly double the community's share of the state's population.⁶⁵

Muslim residential concentration in India is the result of repeated post-pogrom displacement, and space marked as Muslim is now systematically targeted for administrative and punitive removal. Across India in 2024, authorities demolished over 7,400 homes, rendering over 41,000 people homeless; 37 per cent of those demolitions targeted Muslims, and Uttar Pradesh alone accounted for 30 per cent of the national total.⁶⁶ Civil society databases record that over 98 per cent of demolitions nationwide between 2020 and 2024 carried out in the aftermath of protests, riots or accusations of dissent involved Muslim-owned properties.⁶⁷ The discriminatory operation extends to nominally neutral redevelopment schemes—Hindu-majority slums are more likely to be upgraded in situ, while Muslim-majority slums are bulldozed and residents relocated to far-off areas with inadequate facilities.⁶⁸

Muslims themselves register the construction. On the CSDS-Lokniti National Election Study 2024, 54 per cent of Muslim respondents reported being 'not as safe as other citizens' and a further 11 per cent 'not at all safe'; 43 per cent reported being treated unfairly by State authorities—a stark perception-reality gap with the 60 per cent of Hindus who claim that Muslims are 'equally safe'.⁶⁹

It is important to note that this same architecture operates across other Indian states, particularly those governed by the BJP. In 2025 alone, at least 23 Muslims were killed by State actors and a further 27 by Hindu extremist non-State actors in religiously-motivated hate crimes; at least 26 episodes of targeted mass violence against Muslims were reported across 13 states; several thousand Bengali-speaking Muslims and Rohingya refugees were arbitrarily detained nationwide, of whom over 1,880—including around 200 Indian citizens—were forcibly expelled to Bangladesh without due process; and major instances of arbitrary and punitive demolitions and evictions targeting Muslims were reported across multiple states.⁷⁰ These patterns reproduce, at nationwide scale, the same descent, appearance and habitation-based construction of Muslims as a racialised outsider group documented in Uttar Pradesh: vigilante and police targeting of Muslims identified by visible markers of faith; and the administrative and punitive erasure of Muslim habitation through demolition and eviction.

⁶³ Common Cause and Centre for the Study of Developing Societies (Lokniti), *Status of Policing in India Report 2019: Police Adequacy and Working Conditions*, August 2019; and *Status of Policing in India Report 2025: Police Torture and (Un)Accountability*, April 2025.

⁶⁴ Human Rights Watch, *Violent Cow Protection in India: Vigilante Groups Attack Minorities* (19 February 2019) — <https://www.hrw.org/report/2019/02/18/violent-cow-protection-india/vigilante-groups-attack-minorities>.

⁶⁵ PII, *2026 Report*, Chapter 3.

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Jaffrelot and Ahmed, *Indian Muslims: Self Perceptions and Voting Trends*, Tables 5 and 6.

⁷⁰ South Asia Justice Campaign, *India Persecution Tracker 2025: Annual Overview* (January 2026) — <https://southasiajusticecampaign.org/ipt2025/>. Earlier annual editions of the Tracker are available at <https://southasiajusticecampaign.org/india-persecution-tracker/>.

The Durban Declaration and Programme of Action identifies ethnic, religious and linguistic minorities among the 'other victims' of racism, racial discrimination, xenophobia and related intolerance at paragraphs 46 to 49 of the Programme of Action;⁷¹ the Durban Review Outcome Document of 2009, at paragraph 12, reaffirms that framing and names Islamophobia within the racism mandate.⁷² On the subjective construction that Indian State and non-State actors in UP and elsewhere have deployed against the country's Muslims—imputed foreign descent, bodily marking and spatial removal—their targeting engages the grounds of descent and national or ethnic origin within the meaning of Article 1(1) of ICERD, and falls squarely within the ambit of the DDPA.

Across these examples, the same mechanism is at work: a religious community is constituted by perpetrators—through descent, appearance, habitation, language or national origin—as a racialised outsider group, and is then subjected to discriminatory treatment on that basis. ICERD's grounds—read disjunctively and in combination as CERD's own practice requires—reach each of these patterns. The targeting of Muslims in India is thus racial discrimination within the meaning of Article 1(1), and falls squarely within the scope of the DDPA.

The twenty-fifth anniversary of the DDPA finds India in a position of widening contradiction. In each year of the period this submission covers, India has voted in favour of the General Assembly's annual omnibus resolution on the framework's implementation; in the same period, every operative dimension of that framework—civil society participation, treaty engagement, treaty-body cooperation, country visits, national action planning, anti-discrimination legislation, awareness-raising and commemoration—has either gone unimplemented or moved in the opposite direction. The patterns documented in Part B, against four Muslim communities of varying linguistic, regional and ethnic profile, active and ongoing violations of the DDPA by a State party that continues to endorse the framework rhetorically while dismantling it operationally.

SAJC respectfully requests the Secretary-General to urge the international community, including UN human rights mechanisms, to clearly and unambiguously treat anti-Muslim discrimination in India as racial discrimination within the meaning of Article 1(1) of ICERD, and accordingly within the ambit of the DDPA.

We also request the Secretary-General to call on India to:

- (1) Adopt, without further delay, a National Action Plan against racism, racial discrimination, xenophobia and related intolerance encompassing all communities targeted on grounds enumerated in Article 1(1) of ICERD, including India's 200 million Muslims;
- (2) Accept a country visit by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance;
- (3) Act on the substantive concerns raised by CERD under its early-warning and urgent-action procedure in 2024 and 2026, including in respect of Bengali-speaking Muslims in Assam and Rohingya refugees;

⁷¹ Durban Declaration and Programme of Action, adopted at the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, UN Doc A/CONF.189/12, 8 September 2001, Programme of Action, Part II ('Victims of racism, racial discrimination, xenophobia and related intolerance'), sub-section 'Other Victims', paras 46–49, pp. 62–63 of the OHCHR-published booklet *Durban Declaration and Programme of Action* (United Nations, 2002) — https://www.ohchr.org/Documents/Publications/Durban_text_en.pdf.

⁷² Outcome Document of the Durban Review Conference, Geneva, 20–24 April 2009, UN Doc A/CONF.211/8, para 12.