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India: Government Policies, Actions Target Minorities

Year After Delhi Violence, Bias Against Muslims Taints Investigation

(New York) – Authorities in [India](#) have adopted laws and policies that systematically discriminate against Muslims and stigmatize critics of the government, Human Rights Watch said today. Prejudices embedded in the government of the ruling Hindu nationalist Bharatiya Janata Party (BJP) have infiltrated independent institutions, such as the police and the courts, empowering nationalist groups to threaten, harass, and attack religious minorities with impunity.

February 23, 2021 marks the one-year anniversary of the communal violence in Delhi that killed 53 people, [40 of them Muslim](#). Instead of conducting a credible and impartial investigation, including into allegations that [BJP leaders incited violence](#) and [police officials were complicit in attacks](#), the [authorities have targeted activists and protest organizers](#). The authorities have lately responded to another mass protest, this time by farmers, by vilifying minority Sikh protesters and opening investigations into their [alleged affiliation with separatist groups](#).

“The BJP’s embrace of the Hindu majority at the expense of minorities has seeped into government institutions, undermining equal protection of the law without discrimination,” said [Meenakshi Ganguly](#), South Asia director at Human Rights Watch. “The government has not only failed to protect Muslims and other minorities from attacks but is providing political patronage and cover for bigotry.”

The February 2020 attacks in Delhi had followed months of peaceful protests by Indians of all faiths against the government’s [discriminatory citizenship law and proposed policies](#). BJP leaders and supporters attempted to discredit protesters, particularly Muslims, by accusing them of conspiring against national interests.

Similarly, after hundreds of thousands of farmers of various faiths began protesting against the government’s new farm laws in November 2020, senior BJP leaders, their supporters on social media, and pro-government media, began blaming the Sikhs, another religious minority. They accuse Sikhs of having a “[Khalistani](#)” agenda, a reference to a Sikh separatist insurgency in Punjab in the 1980s and 90s. On February 8, Prime Minister Narendra Modi [spoke in parliament](#), describing people participating in various peaceful protests as “parasites,” and calling international criticism of increasing authoritarianism in India a “foreign destructive ideology.”

Following violent clashes on January 26 between the police and protesting farmers who broke through police barricades to enter Delhi, the authorities filed [baseless criminal cases](#) against journalists, ordered the internet to be [shut down](#) at multiple sites, and [ordered Twitter](#) to block nearly 1,200 accounts, including of journalists and news organizations, some of which Twitter later restored. On February 14, the authorities [arrested a climate activist](#), accusing her of sedition and criminal conspiracy for allegedly editing a document providing information on the protests and how to support them on social media, and issued warrants against two others.

The latest arrests come amid [increased targeting of activists](#), academics, and other critics, by the government in recent years. The authorities have especially harassed and prosecuted those protecting the rights of minorities and vulnerable communities. BJP leaders and [affiliated groups](#) have long [portrayed minority communities](#), especially Muslims, as a threat to national security and to the Hindu way of life. They have raised the bogey of “[love jihad](#),” claiming that Muslim men lure Hindu women into marriages to convert them to Islam, labeled Muslims [illegal immigrants](#) or even [extremists](#), and accused them of hurting Hindu sentiment [over cow slaughter](#).

Since Modi’s BJP came to power in 2014, it has taken various legislative and other actions that have legitimized discrimination against religious minorities and enabled violent Hindu nationalism, Human Rights Watch said.

The government passed a [citizenship law in December 2019 that discriminates against Muslims](#), making religion the basis for citizenship for the first time. In August 2019, the government also [revoked the constitutional autonomy](#) granted to the only Muslim-majority state, Jammu and Kashmir, and [imposed restrictions](#) in violation of people’s basic rights. Since October 2018, Indian [authorities have threatened](#) to deport [Rohingya Muslim refugees to Myanmar](#) despite the risks to their lives and security, and have already repatriated over a dozen. States use [laws against cow slaughter](#) to prosecute Muslim cattle traders even as BJP-affiliated groups attack Muslims and Dalits on rumors that they killed or traded cows for beef. Most recently, three BJP-ruled states have passed an [anti-conversion](#)

[law](#), which in practice is [used against Muslim men](#) who marry Hindu women.

These actions violate domestic law and India’s obligations under international human rights law that prohibit discrimination based on race, ethnicity, or religion, and require the governments to provide residents with equal protection of the law. The Indian government is also obligated to protect religious and other minority populations, and to fully and fairly prosecute those responsible for discrimination and violence against them, Human Rights Watch said.

“The BJP government’s actions have stoked communal hatred, created deep fissures in society, and led to much fear and mistrust of authorities among minority communities,” Ganguly said. “India’s standing as a secular democracy is at serious risk unless the government rolls back discriminatory laws and policies and ensures justice for abuses against minorities.”

For additional details, please see below.

Discriminatory Laws and Policies

In November, India’s Uttar Pradesh state government passed a law aimed at curbing interfaith relationships. The phrase “[love jihad](#)” is used by BJP politicians to promote a baseless theory that Muslim men lure Hindu women into marriages to convert them to Islam. The law, [Prohibition of Unlawful Religious Conversion Ordinance](#), requires anyone wishing to convert to seek approval from the district authorities and carries a punishment of up to 10 years in prison for converting another person through coercion, fraud, misrepresentation, or inducement. While this law ostensibly applies to all forced religious conversions, enforcement has largely targeted Muslim men in Hindu-Muslim relationships.

Since the law came into effect, Uttar Pradesh authorities have filed cases against 86 people, [79 of whom are Muslim](#), accusing them of “enticing a woman” and forcing her to convert to Islam. Seven others are accused of coercing women to convert them to Christianity. The government has even unlawfully used the law [retroactively](#), and sometimes even brought cases against [families of the accused](#) Muslim men. In most cases, the complainant is not the woman but [her relatives](#), who oppose an interfaith relationship.

The law has created considerable fear among interfaith couples already at risk of censure from families and Hindu nationalist groups. In November, the Allahabad High Court in Uttar Pradesh had to grant protection to 125 interfaith couples. Hindu nationalist groups, including those affiliated with the BJP, have openly harassed and attacked interfaith couples and filed cases against them.

On December 5, men from the militant Hindu group Bajrang Dal, which supports the BJP, forcibly took a [22-year-old Hindu woman married to a Muslim man](#) to the police. The police sent the woman to a government shelter, and arrested her husband and his brother under the anti-conversion law. The woman alleged that she suffered a miscarriage at the shelter due to medical negligence. She was reunited with her husband after she told the court that she was an adult and had married by choice.

BJP-ruled [Madhya Pradesh and Himachal Pradesh](#) states passed similar laws and [other BJP-ruled states](#), including Haryana and Karnataka, are considering it. Several states – Odisha, Madhya Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Arunachal Pradesh, and Uttarakhand – already have [anti-conversion laws](#) that have been [used against minority communities](#), especially Christians, including from Dalit and [Adivasi communities](#).

In December 2019, the Modi administration achieved passage of the [discriminatory Citizenship \(Amendment\) Act](#), which fast-tracks asylum claims of non-Muslim irregular immigrants from the neighboring Muslim-majority countries of Afghanistan, Bangladesh, and Pakistan. Coupled with the government’s push for a nationwide citizenship verification process through a National Population Register and a proposed National Register of Citizens, aimed at identifying “illegal migrants,” it has heightened fears that [millions of Indian Muslims](#) could be stripped of their citizenship rights and disenfranchised.

Before the government passed the law, [Home Minister Amit Shah said](#) at an election rally in Delhi in September 2018: “Illegal immigrants are like termites and they are eating the food that should go to our poor and they are taking our jobs.” He promised that “if we come to power in 2019, we will find each and every one and send them away.”

Justice System Bias

In many states, the criminal justice system increasingly reflects the discriminatory views of the BJP, targeting religious and other minorities and critics of the government, and shielding its supporters.

Delhi Riots

The government’s citizenship policies sparked weeks of nationwide protests beginning December 2019. During the protests, police in several cases [did not intervene](#) when BJP-affiliated groups attacked protesters. In at least three BJP-governed states, police used [excessive and unnecessary lethal force](#), killing at least 30 people during protests and injuring scores more. Some BJP leaders called the protesters anti-national and pro-Pakistan, while others led

chants to “[shoot the traitors.](#)”

On February 23, 2020, after a [BJP leader, Kapil Mishra](#), advocated forcibly dispersing peaceful protesters, many of them Muslim, BJP supporters gathered in the area, leading to clashes between the groups. The situation was aggravated as [Hindu mobs](#) armed with swords, sticks, metal pipes, and bottles filled with gasoline, targeted Muslims in several neighborhoods in northeast Delhi. While most of the 53 [people killed were Muslim](#), a policeman and government official were among the Hindus who also died.

An independent [investigation](#) by the Delhi Minorities Commission found that the violence was “planned and targeted” and that some [policemen actively participated](#) in the attacks on Muslims. In a February 24 [video](#), several policemen are seen beating five grievously injured Muslim men lying on the street, forcing them to sing the Indian national anthem to prove their patriotism. The police then detained them. One of the men, Faizan, 23, died from his injuries two days later. A year later, the [police say](#) they are still trying to identify the policemen in the video. The authorities have yet to investigate other [allegations of police complicity in the violence](#).

In contrast, the Delhi police have filed [politically motivated charges, including terrorism and sedition](#), against 18 activists, students, opposition politicians, and residents – 16 of them Muslim. The [police case](#) relies extensively on disclosure statements that are suspiciously similar and WhatsApp chats and social media messages about organizing and announcing peaceful protests as evidence of complicity in a [larger conspiracy to defame the Indian government](#), hatched by those who organized the protests against the Citizenship (Amendment) Act.

The authorities have filed charges under the draconian Unlawful Activities (Prevention) Act, related to unlawful activity, terrorist funding, and planning and committing acts of terrorism. They have also accused protest organizers and activists of sedition, murder, attempted murder, promotion of religious enmity, and damage to public property, among other alleged offenses. All those charged have been critical of the BJP government and the citizenship law. They include members of Pinjra Tod, an autonomous collective of women students; United Against Hate, a group that works to protect religious minorities; and the Jamia Coordination Committee, which led the student protest at Jamia Millia Islamia University.

The courts have granted bail to only two people charged in this case. While granting bail to one of them, the [Delhi High Court observed](#) that the police had failed to produce any evidence to show that the accused had committed a terrorism-related offense.

Police in Delhi have [denied allegations of bias](#) in investigations, saying that the numbers of people charged are nearly identical from both communities. In addition to the case against activists, of the [1,153 people](#) against whom rioting charges have been filed in court, 571 are Hindu and 582 Muslim. However, activists say that the police have focused more on [investigating allegations against Muslims](#) and arresting them. Muslim victims of abuses and witnesses said that the police initially turned them away, refusing to file their complaints, and that even when police filed the cases based on their accounts, they [omitted names of BJP leaders or police officials](#) allegedly complicit in the attacks. The police have also implicated Muslim victims in these cases.

In several cases in which Muslims were arrested, [Human Rights Watch found](#) that the police did not follow criminal code requirements, such as producing an arrest warrant, informing the person’s family of the arrest, and providing them a copy of the First Information Report (FIR), the official police case, or ensuring that those arrested have access to legal counsel, including during interrogation. In some cases, Muslim families who had succeeded in identifying [BJP leaders](#) and [police officials](#) when they filed complaints said they [faced increasing pressure](#) to withdraw the complaints.

Lawyers representing riot victims also allege that the police have them under scrutiny. In December, the Delhi police raided the office of a prominent [Muslim lawyer, Mehmood Pracha](#), who is representing several riot victims. The police accused Pracha of forging documents and instigating a man to depose falsely in a Delhi violence case. A day after the police raid on Pracha’s office, some riot victims held a news conference [accusing the police](#) of forcing them to submit a statement saying that Pracha coerced them to file false complaints. The raid has [prompted condemnation](#) from hundreds of lawyers who called it an attack on attorney-client privilege, and said it was aimed at intimidating Pracha and his clients.

Meanwhile, the Delhi police told a court in July that it has [no “actionable evidence” against BJP leaders](#) even though there are videos showing BJP leaders advocating violence, [complaints by witnesses](#), and transcripts of [WhatsApp conversations](#) the police have submitted in court showing [Hindu rioters took inspiration from BJP leaders](#).

Earlier, in February 2020, the Delhi High Court, while hearing petitions about the riots, had questioned the Delhi police [decision to not file cases against BJP leaders](#) for advocating violence, saying it sent the wrong message and perpetuated impunity. Instead of responding to court orders, the government fast-tracked orders [transferring the presiding judge](#) to another state, taking the riot-related cases away from him, raising questions over the timing of the transfer. Under a new judge, the [court accepted the submission](#) of the government’s attorney that the situation was not immediately “conducive” for registering police complaints.

In several riot-related bail hearings, courts have raised doubts over police investigations that targeted riot victims; in [at least five cases](#) the courts refused or were reluctant to accept eyewitness accounts of police officials.

Jammu and Kashmir

In August 2019, after the Indian government revoked the constitutional autonomy of Jammu and Kashmir state, it imposed broad restrictions and [arbitrarily detained thousands of people](#), including elected officials, political leaders, activists, journalists, and lawyers. The authorities detained many of these people without informing their families about their whereabouts; several were even transferred to jails outside the state. Hundreds of [habeas corpus petitions](#) were filed in the courts by families seeking information about those detained and challenging unlawful detention.

Although habeas corpus, a legal action seeking judicial review of the lawfulness of detention, is recognized as a core human right in both Indian and international law, courts delayed hearing the petitions for over a year in the majority of cases. Of the [554 habeas corpus petitions](#) filed in the Jammu and Kashmir High Court after August 5, 2019, the court had passed judgment in only 29 cases by September 2020. Over 30 percent of the cases became moot because the government had released the detainee by the time their petition was heard in court, while 65 percent of the cases remained pending a year later, in many cases a year after the person was detained. The [harsh and discriminatory restrictions](#) on Muslim-majority areas in Jammu and Kashmir remain in effect, with scores of people detained without charge and critics threatened with arrest.

In August 2019, the government ordered a [blanket internet shutdown](#) across the state. In January 2020, it allowed broadband and slow-speed 2G internet only to [access limited websites](#). In March, the authorities lifted restrictions to websites, but only at [2G speed](#) for mobile internet services, which does not allow services such as video calls, emails, or access to web pages with photos or videos. The government finally restored mobile internet services at 4G speed in February 2021, [18 months after](#) it was suspended.

The government continues to clamp down on journalists and human rights activists, including bringing [politically motivated charges of terrorism under the Unlawful Activities \(Prevention\) Act](#) and using [counterterrorism operations](#) to harass and intimidate them.

Empowering Vigilantes

‘Cow Protection’ Groups

BJP leaders have made strong statements about the need to protect cows, considered sacred by many Hindus. Beef is consumed mostly by religious and ethnic minorities, and such statements have in some cases encouraged violence against them.

Several BJP-ruled states have passed stricter laws to prohibit killing cows and adopted cow protection policies, promoting Hindu nationalism and [disproportionately harming minority communities](#). Many of the new legal provisions make cow slaughter a cognizable, non-bailable offense, putting the burden of proof on the accused in violation of the right to be presumed innocent. Communal rhetoric by BJP leaders along with policies around cow protection by BJP-led state governments have emboldened violent vigilante groups.

Since May 2015, at least 50 people have been killed, mostly Muslims, and hundreds injured in attacks by these so-called cow protection groups, many claiming affiliations with militant Hindu groups that often have ties to the BJP. [Police have often stalled prosecutions](#) of the attackers, while several BJP politicians have publicly justified the attacks. In a number of cases, police have filed complaints against victims’ family members and associates under laws banning cow slaughter, leaving witnesses and families afraid to pursue justice.

The authorities have even used the National Security Act – a repressive law that permits detention without charge for up to a year – against those suspected of illegally slaughtering cows. In 2020, the Uttar Pradesh government [arrested at least 4,000 people](#) over allegations of cow slaughter under the law banning it, and used the National Security Act against 76 people accused of cow slaughter.

Fueling Islamophobia

For several weeks following the outbreak of Covid-19 in March, the BJP government singled out a mass religious congregation in Delhi, organized by the international Islamic missionary movement [Tablighi Jamaat](#), to explain a spike in cases. This led to a [surge in Islamophobia](#) with some BJP leaders calling the meeting a “[Talibani crime](#)” and “[Corona Terrorism](#),” and pro-government television channels and [social media](#) accusing those who attended the gathering and Indian Muslims in general of not just being responsible for the outbreak but deliberately spreading it.

Fake videos contending that Muslims were deliberately spreading the virus went viral on social media and WhatsApp, leading to weeks of [abuses against Muslims](#), boycotts of their [businesses](#) and of individuals, and numerous physical attacks on Muslims, including volunteers distributing relief supplies.

State governments across the country also filed [cases against over 2,500 foreign nationals](#) for allegedly violating visa terms and intentionally disregarding Covid-19 guidelines to attend the Jamaat meeting. Courts in several states cleared the accused, strongly criticizing the authorities for “malicious” prosecutions devoid of evidence. While quashing cases against 35 people who attended the Jamaat congregation, 29 of them foreign nationals, the [Bombay High Court](#) stated in August that the cases appeared to have been filed to [warn Indian Muslims](#) who had been protesting against the citizenship policies across the country: “*This action indirectly gave warning to Indian Muslims*

that action in any form and for anything can be taken against Muslims.”

Claiming ‘Hurt Religious Sentiments’

The government’s discriminatory policies and practices have empowered its violent supporters to commit unlawful acts with impunity. Government supporters file baseless complaints against critics and at the same time pro-BJP mobs threaten, harass, and attack minority community members.

[Uttar Pradesh police](#) in January detained Nasir, 26, a Muslim street vendor after members of the militant Hindu group Bajrang Dal accused him of offending them by selling a shoe branded “Thakur,” an upper-caste name. Following much criticism on social media and elsewhere, [police denied](#) detaining Nasir and dropped charges against him of promoting enmity between groups, but said they are still investigating allegations of causing hurt and intentional insult.

A high-end jewelry chain, Tanishq, withdrew an advertisement in October, fearing violence after a [Hindu nationalist backlash](#). The advertisement depicted a Muslim family throwing a baby shower for their Hindu daughter-in-law; those opposing it said it promoted “love jihad” or interfaith marriages. The company faced vicious trolling on social media, [threats of attacks](#) against their staff at one of their stores, and boycott campaigns.

Legal provisions such as [section 295A](#) of the Indian Penal Code, which criminalizes “deliberate and malicious” speech intended to outrage religious feelings, are increasingly used by the [majority to silence](#) those with whom they disagree. Police make arrests based on spurious complaints even though the [Supreme Court has clarified](#) that the law does not punish every act of insult to religion. It must be proved that the act was malicious or deliberate, and only an aggravated form of insult to religion that also has a tendency to disrupt public order can be punished. Human Rights Watch has long called for the [repeal of section 295A](#), which uses overbroad language that does not meet international standards.

In November, Hindu nationalists took exception to an interfaith couple kissing in a temple in a television production of *A Suitable Boy*, based on the novel by Vikram Seth, set in newly independent India. The BJP state home minister in Madhya Pradesh ordered an investigation into “[extremely objectionable content](#)” and the police [filed a criminal case under section 295A](#) for insulting religious feelings against two executives of Netflix, the platform that streams the program.

In several cases in which police have arrested Muslims based on spurious cases filed by Hindu nationalist groups, courts have failed to adequately protect the rights to freedom of expression and opinion. In November, when granting bail to a news anchor sympathetic to the government, the Supreme Court reiterated that bail is the rule and jail is the exception and observed that [criminal law should not be used for “selective harassment of citizens.”](#) However, the police have continued to harass activists, journalists, and critics of the government by filing unjustified cases against them for dissenting views, protesting, or covering protests, most recently during the [farmers protests](#) in Delhi, and argued against bail in the courts.

Courts in Madhya Pradesh denied bail to a [Muslim standup comic, Munawar Faruqui](#), who was arrested under section 295A for jokes he apparently did not perform that allegedly hurt Hindu sentiments, with [police subsequently admitting they had no evidence of the performance](#). Faruqui and his five associates – including three Hindus, a Muslim, and a Christian – were arrested on January 1 by state police based on a complaint made by the son of a BJP politician, who also leads a Hindu nationalist group.

A mob of men from the organization disrupted Faruqui’s show, saying he made “indecent” and “vulgar” remarks against Hindu deities. During Faruqui’s bail hearing, the judge [reportedly remarked](#) that “such people must not be spared.” Faruqui appealed to the Supreme Court, which [granted him bail](#) on February 5, noting that the allegations in the case were vague and that the police had failed to follow [proper procedure before his arrest](#).

However, in another case, the [Supreme Court](#) refused protection from arrest to makers of the web series *Tandav* after police in six states opened investigations based on complaints under section 295A and others that it had [hurt Hindu religious sentiment](#). The judges refused bail, [saying](#), “You cannot play a role hurting religious sentiments of others.”

The International Covenant on Civil and Political Rights, which India has ratified, encourages bail for criminal suspects. Article 9 states that, “It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial.”

ecoi.net summary:

Article on increasing repression of minorities and government critics (discriminatory laws and policies; judicial harassment; revocation of autonomy of Jammu and Kashmir state; etc.)

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