

South Asia State of Minorities Report 2021

HATE SPEECH AGAINST MINORITIES



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Report 2021**

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HATE SPEECH AGAINST MINORITIES

THE SOUTH ASIA COLLECTIVE

The
South Asia
Collective



South Asia State of Minorities Report 2021
Hate Speech Against Minorities

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Foreword

South Asia has long grappled with hate and anti-minority speech and incitement. This is true of all countries in the region, and has devastating consequences for its citizens. Minorities—religious, caste, sexual and linguistic, among others—suffer the brunt of this hostility, discrimination and violence.

This fine report brought out by the South Asia Collective, brings out the enormity of this phenomenon in each of the six south Asian countries—viz. Afghanistan, Bangladesh, India, Nepal, Pakistan and Sri Lanka—in its grim details. The findings are sober:

Drivers of hate are multifarious and entrenched. Religious, caste and ethnic bigotry and supremacy, are trends with deep roots in each country in the region, with anti-minority content filtering down to education curricula too. In countries like India, Pakistan, and Sri Lanka, extremist religious sentiments have been fuelled by state authorities promoting populist majoritarian agenda and policies. Critical moments such as elections, or emergencies like a pandemic, provide opportunity and excuse for speech targeting of minorities. Several legislations create a permissive environment for anti-minority bashing. A hardening throughout the region, of the ‘national security’ framework, has resulted in introduction of laws restricting freedoms (of speech and assembly) and weakening due process. The proliferation / misuse of online platforms across South Asia, has contributed to the intensification of hateful speech and incitement. COVID-19 has further aggravated the hate speech crisis, with minorities targeted disproportionately. Example are Muslims in India, Sri Lanka and Nepal, and Shias and Hazaras in Pakistan besides Dalits in Nepal.

The consequences of hate speech and incitement against minorities has been severe across South Asia. Throughout the region, politicians resorting to rhetoric on religion, ethnicity and language has adversely affected the region’s already brittle social cohesion, besides sharpening discrimination, marginalisation, and exclusion of minorities. Hateful and discriminatory narratives

have tended to dehumanise religious, caste, ethnic and linguistic minorities, and women among them, whilst reinforcing bias and prejudice against them.

As upshot, minorities have suffered economic and political marginalization, in addition to physical attacks and serious human rights violations that see a rise then. Ultimately, as the report insightfully argues, sustained anti-minority hate campaigns have toxic consequences for states and societies. South Asian societies are more polarised than before, vulnerable evermore to further conflicts. Alongside, politicians and state actors, the principal purveyors of hate, have hardened impunity and weakened the rule of law, throughout the region.

State led responses to hate and incitement, the report informs, has delivered little. Legislations framed for protecting minorities are not only inadequate to counter hate speech but in fact aid to it, through acting as a carrier. No country, the report informs, has national laws to prevent hate and penalise perpetrators that conform to UN standards, including provisions of ICCPR, among others. The legislations are used less to combat efforts at targeting minorities, more to penalise and silence minorities and dissenters that speak out against hate and incitement. Social media companies too have been complicit in either not paying attention to the human rights implications on minorities of hate playing out on their platforms, or have tended to privilege parties in power.

In the absence of state led efforts to count and report hate, civil society have led the way. There have been initiatives locally by minority and civil society groups to document hate, raise awareness, seek redress and justice for victims, and for action against perpetrators. This is South Asia's redeeming feature. It is these features and capacities of regional civil society, besides changes in laws and reforms in enforcing them implementing the laws, that the report recommends as a way out, complemented by invoking the UN to better monitor hate and inciteful speech in the region.

Hina Jilani

Former Special Representative of the United Nations Secretary
General on the Situation of Human Rights Defenders

Executive Summary

South Asia has a long history of hatred being perpetuated through means of incitement and violence against the region's many minorities. Political leaders and other public functionaries as well as private individuals often openly incite hatred against minorities, with grave consequences for purported victims. Most countries in the region have increasingly witnessed a shrinking of the civic space including through the promotion of hyper-nationalism. Latest trends suggest that across South Asia, hate speech is being used as a weapon to continue the oppression and subordination of groups who have been discriminated against politically, socially and economically. With increasing spread and access of social media platforms, spreading misinformation and inciting violence against minorities have become even more commonplace, and with the identity of perpetrators remaining hidden, a low-cost activity as well. COVID-19 has provided the latest opportunity for disinformation and vilification of minorities, with incidents reported from across the region targeting minorities.

This report focuses on the prevalence of hate speech in six countries in South Asia—Afghanistan, Bangladesh, India, Nepal, Pakistan and Sri Lanka—specifically against minorities, viz, religious, ethnic, caste, linguistic and women and girls among them. Hate Speech as defined by the UN Strategy and Plan of Action on Hate Speech includes 'any kind of communication in speech, writing or behaviour, that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor'. To understand and report the phenomenon in its entirety, as is the purpose of this report, it is important to focus on, besides the incidence of hate and incitement and its trends, i) the drivers and causes of hate speech, ii) legislative and regulatory framework

in place and whether or not they are adequate, considering also international standards and obligations, and iii) the working of the regulatory regime. It is also important to shed light on civil society efforts to document, track and report disinformation, hate and incitement as well as on examples of positive stories countering hate and polarisation in communities across South Asia. This report seeks to provide country level and regional, mapping and analysis on these counts.

Key Findings

Country-level dynamics

In *Afghanistan*, during the earlier rule of the Taliban between 1996 and 2001, the targets of hate were religious minorities, namely, Shia Hazaras, Sikhs and Hindus. The degree of antagonism towards these minority groups abated somewhat after the Taliban were driven from power—although episodic violence against minorities continued. With the country’s already brittle social cohesion already under threat, the return of the Taliban to power is likely to worsen the situation further in Afghanistan. Early signs of the Taliban rule in Afghanistan confirm the worst fears of the already persecuted Afghan minorities.

The situation of minorities is not very different in *Bangladesh* with hate speech serving as a common tool to instigate violence against religious and ethnic minorities. The Internet, particularly the use of social media, has facilitated the spread of hateful speech, including the use of specific terms for those targeted. Hindus have borne the brunt of such attacks along with the Ahmadiyya and Dalits. Also targeted are ‘Biharis’, a term of hate used for Urdu-speakers.

India and Sri Lanka share the commonality of demonising minorities, in particular Muslims, starting at the highest levels of state itself. Senior public leaders frequently resort to dog whistles and vilification of minorities, resulting in a normalisation of hateful speech in society and consequent impunity that smaller hate actors enjoy. In *India*, the trend became much more pronounced after the election of the Hindu nationalist Bharatiya Janata Party

(BJP) in 2014, with several federal and state legislators belonging to the ruling party leading the hate speech pack. Social media is one of main purveyors of hate speech with Muslims as the main target, mainstream TV channels, too, being part of the ecosystem. Christians and Sikhs, the other significant religious minority community also face frequent attacks, as do Dalits.

The venom being directed against *Nepal's* minority religions, i.e., Muslims and Christians, has a long history and has continued unabated. Hateful expressions against other minority groups such as Madhesis and Dalits is common, on the pretext, of a supposed lack of patriotism against the former and driven by plain caste-based prejudice against the latter. Added to the mix are sexual minorities who are subjected to homophobic slurs in real life as well as the online world.

In *Pakistan*, the groups under attack are Muslim minorities of Shias and Ahmadiya along with Christians and Hindus. Hate mongers have become increasingly skilful at using social media to mobilise anti-minority incitement, a process which is helped by public figures often making inflammatory statements. With the education system compromised as well—school texts with historical facts distorted and religious minorities dehumanised—there is quick uptake of hateful content in the public sphere, with grave consequences for victims.

In *Sri Lanka*, Muslims had long been subjected to hate speech by the majority community, with incidents of anti-Muslim riots having broken out on the basis of rumours. After the April 2019 bombing of Christian churches by a group of extremists, anti-Muslim bias became even more pronounced and escalated further with the comeback to power of the Rajapaksas, who have not only targeted minority communities historically but also encouraged other groups to do likewise.

Regional trends

COVID-19 pandemic has intensified hate speech against minorities in the region. Three out of six South Asian countries covered in this report where Muslims are a minority, namely, India, Nepal and Sri Lanka, all experienced an outpouring of hate aimed at

Muslims during the Covid-19. They were falsely blamed in all three countries for spreading the disease with anti-Muslim rhetoric and even calls for physical violence against them were quite common. Hazaras and Shias too have been targeted similarly in Pakistan and Afghanistan, and Dalits in Nepal and Bangladesh.

Drivers of hate and incitement against minorities in each country show some common trends: religious, caste and ethnic bigotry and supremacism, are trends with deep roots in each country in the region, with anti-minority content filtering down to education curricula as well. In countries like India, Pakistan, and Sri Lanka, extremist religious sentiments have been fuelled by state authorities promoting populist majoritarian agenda and policies. Competitive politics driven by majoritarian nationalism exacerbate these trends, with minorities 'othered' and frequently made objects of hate and vilification. The upshot has been polarisation of communities leading to sectarian rifts, hatred and violence. Critical moments such as elections, or emergencies like a pandemic, provide opportunity and excuse for speech targeting minorities. Several legislations create a permissive environment for anti-minority bashing, prominent among them blasphemy laws in Pakistan, cow protection and anti-conversion laws in India and Nepal. A hardening throughout the region, of the 'national security' framework, has resulted in introduction of laws restricting freedoms (of speech and assembly) and weakening due process. These impact minorities disproportionately, while they embolden anti-minority forces besides authorities as they target minorities.

Legislations framed for protecting minorities are not only inadequate to counter hate speech but in fact aid to it. This phenomenon has triggered smear campaigns, hate messages and abuse on media platforms, in particular, social media. Widespread disinformation has been an additional challenge which legislation has exploited rather than provided protections against. The chapters in this report have highlighted how Muslims in India, Nepal and Sri Lanka, are often called anti-national, terrorist, and criminals. Similarly, Christians in Nepal and Bhutan have been stigmatised; Dalits, women, and gender and sexual minorities, throughout the region are called degrading names, as are ethnic

minorities such as Madhesis in Nepal, ‘Biharis’ and indigenous tribes of the Chittagong Hill Tracts in Bangladesh, and Tamils in Sri Lanka.

The proliferation of online platforms, primarily social media across South Asia, has contributed to the driving and intensification of hateful speech and incitement. Social media has made it seemingly easier for the majority community to direct venom against minority communities while being hidden behind anonymous screens. There is also a degree of intersectionality in the drivers of hate, with some groups being targeted on the basis of more than one attribute they are deemed to possess.

Consequences of hate and incitement on minorities

The consequences of hate speech and incitement against minorities has been severe across South Asia. Throughout the region, politicians resorting to rhetoric on religion, ethnicity and language has adversely affected the region’s already brittle social cohesion, besides sharpening discrimination, marginalisation, and exclusion of minorities. Hateful and discriminatory narratives have tended to dehumanise religious, caste, ethnic and linguistic minorities, and women among them, whilst reinforcing bias and prejudice against them. These tendencies have created an enabling, permissive environment for economic and political marginalisation of minorities in addition to triggering physical attacks and serious human rights violations. And they have resulted often in physical violence against minorities. Hate campaigns have directly impacted the overall wellbeing and particularly the security of life and liberty of vulnerable minorities in the South Asian region. Ultimately sustained anti-minority hate campaigns have toxic consequences for states and societies. South Asian societies are—as a consequence—more polarised than before, vulnerable evermore to further conflicts. Politicians and state actors have, through acts of omission as well as commission, enabled hate campaigns, have emboldened impunity and weakened the rule of law, with grave consequences for democratic norms and practices. The region as a whole, is the poorer for this.

Challenging hate and incitement

Laws and regulations to prevent hate and incitement are either not adequate or are not enforced. None of the six countries covered in this report has national laws to prevent hate and penalise perpetrators that conform to UN standards, including provisions of International Covenant on Civil and Political Rights, among others. None has taken steps to align their legal and policy framework with the UN Strategy and Plan of Action on Hate Speech. Most have colonial-era legislations on speech to check their misuse to foment social disorder. These are used less to combat efforts at targeting minorities and more to penalise and silence minorities and dissenters that speak out against hate and incitement. This is true to India and Pakistan. In Bangladesh, India and Pakistan, laws on digital security serve this purpose of penalising dissenters and shutting out freedom of speech. In Sri Lanka and India, national security laws are leveraged to target minorities and dissenters. As a result, when human rights activists and civil society have raised their voices in protest, there has been strong state surveillance authorised through extra-judicial means, arrests, abductions and the tag of being anti-state with an influenced or funded agenda. Social media platforms, too, have been complicit in either not paying attention to the human rights implications on minorities of hate playing out on their platforms, or have tended to privilege ruling party interests.

Civil society efforts at pushback

In the absence of state-led efforts to count and report hate and take effective corrective action, civil society has led the way. There have been initiatives locally by minority and civil society groups to document hate, raise awareness, seek redress and justice for victims, and for action against perpetrators. Several human rights organisations in Afghanistan; Human Rights Forum Bangladesh in Bangladesh; United Christian Forum, Centre for Justice and Peace, Karwan-e-Mohabbat, Documentation of the Oppressed, and Citizens Against Hate, among others, in India; Nepal Monitor, Jagaran Media Centre and the National Human Rights Commission in Nepal; Human Rights Commission of Pakistan and Centre for Social Justice in Pakistan; and Women's Action Network, the Centre

for Human Rights and Development and INFORM Human Rights Documentation Centre in Sri Lanka, all seek to make demands for justice and accountability, in the face of insurmountable odds against the might of the state and the sophistication of majoritarian hate machinery—and at grave risks to their own selves.

There are also attempts at public campaigns against hate and minority targeting. Examples include #StopHazaraGenocide in Afghanistan, Human Rights Forum Bangladesh in Bangladesh; Not in My Name, United Against Hate, and Shaheen Bagh Campaigns in India; the Aurat March and Women’s Action Forum in Pakistan. Often, such campaigns have faced state reprisal, with organisers and human rights defenders targeted, including with criminal proceedings. Overall, the space for resistance by civil society against the politics of hate in South Asia is limited and constrained.

Recommendations

To the United Nations and wider international community

- Continue to provide an inclusive, safe and constructive space for reflection, review and thought leadership on combating the pandemic of hate, with all stakeholders—national governments, UN and other multilateral, business and civil society groups—working together to devise solutions and create consensus.
- Encourage national governments to adopt laws against hate and incitement in keeping with international standards while ensuring freedom of speech and information is protected. Undertake monitoring and reporting of hate and incitement against minorities in the region, disaggregated by protected characteristics, including by supporting civil society initiatives regionally and at country levels
- Where possible, organise in-country visits to monitor the situation on the ground and engage with national governments on the issue, including applying pressure for the persecution of those guilty of violating the rights of minority groups.
- Encourage and support initiatives for inter-group dialogue and understanding

To national governments

- Set up robust mechanism for recording, counting and reporting hate speech and incitement disaggregated by protected characteristic
- Adopt laws against hate and incitement in keeping with international standards and best practices, while ensuring protection of freedom of speech and information
- Create robust, independent and fair framework for regulation of social media platforms that align with global best practices.
- Enable in-built mechanisms to ensure (hate speech and/or social media regulation) laws are not used to further marginalised and target minorities. Training to law enforcement and judicial officials on the rights of minorities.
- Create greater awareness about minority communities and their right to respect and dignity while emphasizing the need for tolerance and freedom of religion and belief.

To in-country and regional civil society

- Lobby national governments to introduce legislation against hate speech in all its forms while playing the role of watchdog against such laws being misused against minorities.
- Track and analyse the existence and extent of hate speech directed towards minorities and publicise the results through multiple sources.
- Initiate programmes to celebrate diversity working with educational institutions and the media while also targeting the broader society. Further outreach activities could include sustained inter-ethnic and inter-religious dialogue.
- Pressure media outlets to develop and follow a code of ethics for self-regulation that could contribute to prohibiting hate speech and reporting on speech that could cause harm to one or more groups.
- Engage in better coordination and collaborative advocacy among civil society actors across borders.

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Note on the South Asia Collective

A group of human rights activists and organisations that dream of a just, caring and peaceful South Asia came together in December 2015 to document the condition of the region's minorities—religious, linguistic, ethnic, caste and gender, among others—hoping this would help in bettering outcomes for South Asia's many marginalised groups. We call ourselves the South Asia Collective.

We have since been able to rally other like-minded groups and platforms to our cause. Building on this initial success, we have also begun experimenting with small-scale practical support to minority groups across borders, to nurture their capacity for better outcomes for minority communities, working at local and regional levels. This coming together of like-minded groups is particularly gratifying given the otherwise political environment in the region, which militates against any serious regional effort by state parties on minority and human rights. It is then left to civil society initiatives to try to pave the way in the hope for more formal efforts, going forward. Eventually, we want to see the establishment of a South Asia charter of minority and human rights, and regional and national mechanisms to enforce those.

The members of the South Asia Collective are:

- Formation, Awareness & Community Empowerment Society (FACES) Pakistan, Lahore
- Law and Society Trust (LST), Colombo
- Minority Rights Group International, London
- Nagorik Uddyog, Dhaka
- Social Science Baha, Kathmandu
- Citizens against Hate, India

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Abbreviations and Acronyms

ACJU	All Ceylon Jamiyyathul Ulama
AFP	Agence France-Presse
BJP	Bharatiya Janta Party
BNP	Bangladesh Nationalist Party
CAA	Citizenship Amendment Act
CCA	Computer Crimes Act
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CID	Crime Investigation Department
COVID	Coronavirus Disease
CPS	Central Bureau of Statistics
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSAS	Centre for South Asian Studies
CSOs	Civil Society Organisations
CTNA	Cable Television Network Act
DMC	Delhi Minorities Commission
DOTO	Documentation of the Oppressed
DSA	Digital Security Act
FIDH	International Federation for Human Rights
ICCPR	International Covenant on Civil and Political Rights
ICECSR	International Convention on Economic, Social and Cultural Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICJ	International Commission of Jurists
INC	Indian National Congress
INGO	International non-governmental organization
IPC	Indian Penal Code
JNU	Jawaharlal Nehru University
JUI	Jamiat Ulema-e-Islam

KAICIID	King Abdullah bin Abdulaziz International Centre for Interreligious and Intercultural Dialogue
LGBTQI	Lesbian, Gay, Bisexual, Transgender, Queer and Intersex Community
LTTE	Liberation Tigers of Tamil Eelam
MLA	Member of the Legislative Assembly
MP	Member of Parliament
NCEASL	National Christian Evangelical Alliance of Sri Lanka
NDA	National Democratic Alliance
NDTV	New Delhi Television
NRC	National Register of Citizens
NGO	Non-governmental organization
NHRC	National Human Rights Commission
NMEO	Nepal Muslim Ettehad Organisation
NPR	National Population Register
NTJ	National Thowheeth Jama'ath
OBC	Other Backward Castes
OHCHR	Office of the High Commissioner for Human Rights
PBUH	Peace Be Upon Him
PECA	Prevention of Electronic Crime Act
PEMRA	Pakistan Electronic Media Regulatory Authority
PHI	Public Health Inspector
PML-N	Pakistan Muslim League-Nawaz
PPC	Pakistan Penal Code
PSO	The Public Security Ordinance
PTA	Prevention of Terrorism Act
PTI	Pakistan Tehreek-e-Insaf
RSS	Rashtriya Swayamsevak Sangh
RSF	Reporters Without Borders
SAC	South Asia Collective
SC	Scheduled Caste
SHRC	State Human Rights Commissions
SLPP	Sri Lanka Podujana Peramuna
SRO	Sub Registrar's Office
ST	Scheduled Tribe
TAF	The Asia Foundation
TLP	Tehreek-e-Labbaik Pakistan

UAPA	Unlawful Activities (Prevention) Act
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNGA	United Nations General Assembly
UNSPAHS	United Nations Strategy and Plan of Action on Hate Speech
UPR	Universal Periodic Review
UPSC	Union Public Service Commission
USCIRF	United States Commission on International Religious Freedom
WJP	World Justice Project

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Introduction

Hate Speech Against Minorities

Hate speech has long been used as a weapon to continue the oppression and subordination of groups who have been discriminated against politically, socially and economically. Hate speech not only targets a group or individual's psychological and emotional state, but also their personal freedom, dignity, and personhood. Since, by definition, minorities are easy targets of hate speech—both online and offline—spreading of misinformation against them and inciting violence against them have become even more commonplace, simpler and anonymous with the advent of social media.

As the Special Rapporteur on Minority Issues noted in his report to the 46th session of the Human Rights Council in early 2021, 'the overwhelming majority of cases of hate speech in social media involve minorities as victims and targets'.¹ However, national governments across the world that have enacted hate speech laws have often abused them to clamp down on dissent and minorities, prompting the Special Rapporteur to note: 'Much existing hate speech laws are vague in ways that can be used, and indeed are used, to restrict the freedom of expression of minorities and human rights defenders, including by preventing them from expressing legitimate grievances'.

South Asia is no exception to this worldwide trend. In fact, the region has a long history of hatred being perpetuated through means of violence against national minorities. Intolerance of

¹ Special Rapporteur on Minority Issues, 'Hate Speech, Social Media and Minorities' (United Nations Human Rights Council, March 3, 2021), https://www.ohchr.org/_layouts/15/WopiFrame.aspx?sourcedoc=/Documents/Issues/Minorities/SR/A_HRC_46_57.docx&action=default&DefaultItemOpen=1.

minorities wins votes and political leaders often openly espouse against minorities. Their speeches contain racist undertones while their constituents welcome the hatred being propagated and cheer them on. As a Minority Rights Group Report put it: 'Political leaders scapegoat minorities to galvanize their supporters, or leaders of ethnic or religious groups jockey for political power by pitting their followers against one another.'²

This report outlines the prevalence of hate speech in six of the countries in South Asia. It begins with a brief discussion of global attempts to proscribe use of speech that incites hatred and the various provisions that have been agreed upon internationally. That is followed by short summaries of the individual country chapters presented in full later in the volume, highlighting the manner in which minorities are targeted in each and how they have all been failed by their respective governments. The introduction ends with a set of recommendations from a regional perspective.

The International Regime

According to the UN Strategy and Plan of Action on Hate Speech, hate speech is defined as 'any kind of communication in speech, writing or behaviour, that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor'.³ Likewise, of a number of indicators identified by the UN's Committee on the Elimination of Racial Discrimination that account for 'factors known to be important components of situations leading to conflict and genocide' are 'the widespread use and acceptance of speech promoting hatred and/or inciting violence against minority groups, particularly in the media and

² Minority Rights Group International, *Freedom from hate: State of the World's Minorities and Indigenous Peoples 2014*, 2014, <https://minorityrights.org/wp-content/uploads/old-site-downloads/mrg-state-of-the-worlds-minorities-2014.pdf>.

³ United Nations, 'United Nations Strategy and Plan of Action on Hate Speech', May 2019, <https://www.un.org/en/genocideprevention/documents/UN%20Strategy%20and%20Plan%20of%20Action%20on%20Hate%20Speech%2018%20June%20SYNOPSIS.pdf>.

grave statements by leaders that express support for affirmation of superiority of a race or ethnic group, condone or justify violence against a minority'.⁴

The international law on hate speech that put restrictions on individuals are contained in various binding treaties and charters, principally:

- the Universal Declaration of Human Rights (UDHR) (1948), which prohibits discrimination and incitement to discrimination (Article 7);
- the International Covenant on Civil and Political Rights (ICCPR) (1966), which in addition to prohibiting discrimination (Article 26), also directly prohibits incitement to discrimination, hostility or violence (Article 20(2));
- the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) (1965), which prohibits discrimination based on race, and incitement to the same; and
- the Convention on the Prevention and Prohibition of the Crime of Genocide (1948), which criminalises incitement to genocide.

According to international law, these restrictions have to be constrained by the wider and fundamental right of all humans to freedom of opinion and expression. As the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression pointed out in his 2019 report to the General Assembly (A/74/486), the freedoms of opinion and expression should be viewed as a default starting point with only very strictly constructed restrictions.⁵ Yet, provisions for restrictions in international law are strong. The ICCPR, which guarantees freedom of expression [Article 19(2)], specifies that this freedom is subject to certain restrictions [Article 19(3)] in addition to

⁴ United Nations, 'International Convention on the Elimination of all Forms of Racial Discrimination', 14 October 2005, https://www.ohchr.org/Documents/HRBodies/CERD/indicators_for_genocide.doc.

⁵ Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, 'Report on Online Hate Speech (A/74/786)' (United Nations General Assembly, October 9, 2019), <https://www.undocs.org/A/74/486>.

specific prohibitions on incitement to discrimination, hostility or violence [Article 20(2)]. Accordingly, the ICCPR requires all states to adopt legislations prohibiting any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

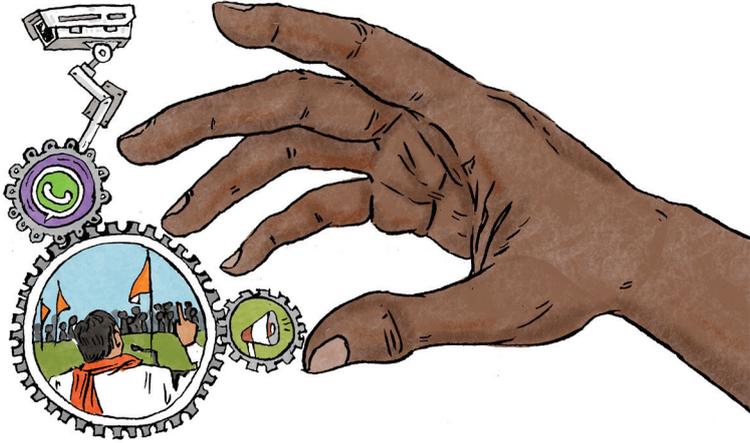
The human rights organisation, Article 19, has unpacked these terms in the context of how they can serve as drivers of hate speech.⁶

- ‘Hatred’ and ‘hostility’ are ‘intense and irrational emotions of opprobrium, enmity and detestation towards the target group’ [Principle 12.1(i)];
- ‘Incitement’ refers to ‘statements about national, racial or religious groups which create an imminent risk of discrimination, hostility or violence against persons belonging to those groups’ [Principle 12.1(iii)]; and
- ‘Advocacy’ is understood as requiring ‘an intention to promote hatred publicly towards the target group’ [Principle 12.1(ii)].

The Rabat Plan of Action has addressed the need for a balance between freedoms and restrictions in speech, and recommended that restrictions must be made only if they are provided by law, necessary and proportionate.⁷ The Plan further set forth a six-part threshold test to evaluate whether a speech amounts to a criminal offence, suggesting that it must take into account: i) the social and political context, ii) the position and status of the speaker, iii) the speaker’s intent to incite, iv) content and form of the speech, v) the extent of its dissemination, and vi) the likelihood of harm, including imminence. Less severe forms of hate speech, according to the Plan, should be addressed using means such as civil or administrative restrictions.

⁶ Article 19, ‘The Camden Principles on Freedom of Expression and Equality’ (London, April 2009).

⁷ United Nations High Commissioner for Human Rights, ‘Report of the United Nations High Commissioner for Human Rights on the Expert Workshops on the Prohibition of Incitement to National, Racial or Religious Hatred,’ January 11, 2013, <https://www.ohchr.org/en/issues/freedomofopinion/articles19-20/pages/index.aspx>.



A recent UN guidance note picks up on these elements of international law to make a distinction between three categories of hate speech—and the corresponding obligations of states to deal with hate speech in their national laws:⁸

- ‘Bottom Level’: speech that may be offensive, shocking, or disturbing—such as blasphemy, insults to religious beliefs, or genocide denial. These must be protected, unless they constitute incitement to hostility, discrimination, or violence.
- ‘Intermediate Level’: speech such as those amounting to threats of violence or harassment based on victims’ identity, in specific contexts (such as in the run-up to elections, or in the broadcast media) that may be prohibited under international law, provided such restrictions are in pursuit of a legitimate aim, such as the protection of the rights or reputation of others, the protection of national security, or of public order, public health or morals.
- ‘Top Level’: speech including incitement to genocide; national, racial or religious hatred constituting incitement to discrimination, hostility or violence; and ideas based on racial

⁸ United Nations, ‘Strategy and Plan of Action on Hate Speech,’ May 2019, https://www.un.org/en/genocideprevention/documents/advising-and-mobilizing/Action_plan_on_hate_speech_EN.pdf.

superiority or hatred, incitement to racial discrimination, and incitement to such acts. These must be prohibited.

Hate Speech in South Asia: Key Findings

Following trends the world over, in South Asia, too, hate speech is used by majority groups against those viewed as the Other. The perceived difference can be based on religion, ethnicity, or linguistic background, with some of the victimised groups in turn victimising others at the same time. The common denominator driving hate speech in the region currently are the ubiquitous online platforms, primarily social media. There is also a degree of intersectionality in the drivers of hate, with some groups being targeted on the basis of more than one attribute they are deemed to possess. The end result is the same in every case, with various minority communities forced to live in a state of perpetual uncertainty and unsure of when and how instances of hate can be directed towards them.

South Asia has possibly seen some of its highest levels of, and in some ways, state-sponsored, hate speech through legislative and legal enforcements. Most of the countries in the region have increasingly witnessed a shrinking of the civic space through the promotion of hyper-nationalism. The agenda and sentiment have reflected both in policy and practice and have been manifest in online and offline spaces. Vandalising places of worship and false allegations targeting religious minorities is a common practice in the South Asian region.

In the light of a 'national security' backdrop, some legislative actions have taken place such as the introduction of laws restricting freedom of speech in the guise of protecting citizens against hate speech and violence. In countries like India and Pakistan, hardline extremist religious sentiments have been fuelled by the state promoting a populist agenda and follow-up policies. The overall result has been polarisation of communities leading to sectarian rifts, hatred and violence. Hate material in education curricula is also one of the key drivers of anti-minority hate.

In Afghanistan, during the earlier rule of the Taliban between 1996 and 2001, the targets of hate were religious minorities,

namely, Shia Hazaras, Sikhs and Hindus. The degree of antagonism towards these minority groups abated somewhat after the Taliban were driven from power but made a comeback with the rise of politics driven once again by ethnicity, religion, and language. With the country's already brittle social cohesion already under threat, the return of the Taliban to power is likely to worsen the situation further in Afghanistan.

The situation of minorities is not very different in Bangladesh with hate speech serving as a common tool to instigate violence against religious and ethnic minorities. The internet, particularly the use of social media, has facilitated the spread of hateful speech, including the use of specific terms for those targeted. Hindus have borne the brunt of such attacks along with the Ahmadiyya and Dalits. Also targeted are 'Biharis', a term of hate used for Urdu-speakers, for having opposed Bangladesh's independence half a century earlier.

Similar is the case in Pakistan, with the groups under attack being the Muslim minorities of Shias and Ahmadiya along with Christians and Hindus. In fact, the kind of hate being taught has even filtered into school texts with historical facts distorted and religious minorities dehumanised with the use of stereotypes.

India and Sri Lanka share the commonality of demonising minorities, in particular Muslims, starting at the highest levels of state itself. In India, the trend became much more pronounced after the election of the Hindu nationalist Bharatiya Janata Party (BJP) in 2014, with cases of hate speech pending against a large number of both federal and state legislators. Social media is one of main purveyors of hate speech with Muslims as the main target but two other main religious minorities of Christians and Sikhs also attacked. At the same time, Dalits continue to face the brunt of hate crimes.

In Sri Lanka, Muslims had long been subjected to hate speech by the majority community, with even anti-Muslim riots having broken out on the basis of rumours. After the April 2019 bombing of Christian churches by a group of extremists, anti-Muslim bias became even more pronounced and escalated further with the comeback to power of the Rajapaksas, who have not only targeted

minority communities historically but also encouraged other groups to do likewise.

The venom being directed against Nepal's minority religions, i.e., Muslims and Christians, has a long history and has continued unabated. Hateful expressions against other minority groups such as Madhesis and Dalits is common, driven as it is by a supposed lack of patriotism against the former and plain caste-based prejudice against the latter. Added to the mix are sexual minorities who are subjected to homophobic slurs in real life as well as the online world.

Hate Speech in the Context of COVID-19

The onset of COVID-19 has also been unique to the events this year, especially with regard to enhancing the visibility of polarisation of communities and highlighting anti-minority hate. The three South Asian countries covered in this report where Muslims are a minority, namely, India, Nepal and Sri Lanka, all experienced an outpouring of hate aimed at Muslims during the Covid-19 pandemic. They were falsely blamed in all three for spreading the disease with anti-Muslim rhetoric and even calls for physical violence against them being quite common.

In India, the Covid-19 pandemic coincided with the ongoing protests against the 2019 Citizenship Amendment Act (CAA), which was viewed as being a tool by the majoritarian government against Muslims. What began as a portrayal of Muslims (and others who stood against the CAA) as conspiring against the state morphed effortlessly into Muslims as being deliberately responsible for spreading the disease. The most egregious case of blaming Muslims came via an international congregation of the Tablighi Jamaat movement in Delhi in March 2020. This included some foreigners who brought the virus with them and when attendees dispersed throughout India following the national lockdown that came into force later in the month, hatemongers spread rumours that Muslims were deliberately spreading the virus. At the forefront were leaders of the ruling party who called for discrimination, and even violence, against Muslims.

The pattern was similar in Sri Lanka where anti-Muslim

sentiments stoked by politicians after the 2019 Easter bombings was converted into hatred against Muslims for the baseless charge of spreading Covid-19. Rumours were rife and fuelled by prominent public figures while anti-Muslim themes on social media ignited further hatred. Even a later outbreak that occurred in apparel factories to a major Sri Lankan company was attributed to Muslims for the sole reason that they figured among its senior management.

Whether by design or otherwise, when the first wave of the coronavirus struck, the government decided to cremate the bodies of those who had been felled by the disease. This move affected the Muslim community disproportionately, and any protestation was met by an inflammation of anti-Muslim sentiments. And when the government finally bowed to pressure from, among others, the scientific community to allow for Muslim burials to take place, it was followed by another round of online Muslim bashing.

Nepal also saw anti-Muslim sentiments expressed in the initial phase of the pandemic, which was mainly a fallout of events in India around the Tablighi Jamaat incident which had also been attended by some Nepali Muslims. There were rumours about infected Muslims and foreigners hiding in mosques in Nepal, which sparked some discriminatory actions against Muslims followed by much online commentary being directed towards them. However, it did not reach the stage of further unpleasantness and dissipated after the initial weeks of the pandemic.

Legislation of Hate Speech

Hate speech and laws framed to counter it have become a grey area with more loopholes allowing for the heinous attacks on the dignity of life and freedom of religion or belief, especially related to religious minorities. Much has to do with the shrinking of civic space under the garb of protecting national security. The shifting of the narrative from freedom of speech and freedom of religion to one of 'protecting the national identity' undermines the freedoms and protections guaranteed by the international legal framework. Although domestic laws also grant significant freedoms to all citizens, legislation has influenced radical steps to control social media and other media outlets. In some instances, media is

increasingly controlled by state-led factions that typically control the narrative through coercion or other means.

While derogatory speech requires action by state authorities, in most instances it ignores the hate campaigns on social media against religious minorities. Where human rights activists and civil society have raised their voices in protest, there has been strong state surveillance authorised through extra-judicial means, arrests in some cases, abductions and the tag of being anti-state with an influenced or funded agenda. Not only have religious and ethnic minorities been a target of such regression and violence, journalists and bloggers have also faced curbs and coercion, leading to a strong sense of insecurity, both physical and financial, where some have been forced to quit their jobs.

The overall situation has not been promising, especially when poverty and populism act together in determining how society acts in its treatment of the vulnerable and marginalised. The state narrative has perpetuated social violence and justifications to tag and hate minorities, making it all the more difficult to make space for rights-based voices. The demand for the right to freedom now comes with added costs of further exclusion, marginalisation and a new sense of fear and hopelessness in ‘the system’ which rests on the populist nationalist ideology.

Legislation on Protection of Minorities

The crafting of laws and other actions by parliaments, including speeches made in legislative bodies, have served to trigger polarisation towards sectarian identities. These have not only resulted in an onset of violent conflict in some countries of South Asia such as Sri Lanka, India and Pakistan but also triggered smear campaigns, hate messages and abuse on media platforms, in particular, social media. Even as protection of minorities has diminished in priority, parallel legislation promoting specific populist ideologies, including in terms of faith, and legislation of dissent have forced minorities in South Asia to live in fear. Statements on social media by state official handles have begun to take sides and have the potential to spark public outrage against minorities. This has particularly been the trend when incidents or

events from western countries have been politically exploited by the South Asian states.

Legislation such as blasphemy laws have been exploited on social media without any checks and balances or means of verification where minority communities have been a target. On the other hand, laws such as the Digital Security Act in Bangladesh and the ban on certain social media applications, websites and content reinforce the state narrative and fan religious supremacy rather than actually criminalising hate speech against the human rights and dignity of life of religious, ethnic and linguistic minorities.

Such legislation has also been used by governments for surveillance and charging individuals and other free speech organisations for acting against the state. Legal recourse for such violations is fraught with fear that state authorities will take further action. Widespread disinformation has been an additional challenge which legislation has exploited rather than provided protections against.

Impact of Hate Speech

The impact of hate speech and incitement against minorities has been severe across South Asia. Throughout the region, politicians resort to rhetoric on ethnicity, religion and language in their political campaigns—increasingly using social media—and this has adversely affected the region’s already brittle social cohesion, besides sharpening discrimination, marginalisation, and exclusion of minorities. Hateful and discriminatory narratives have tended to dehumanise minorities, whilst reinforcing bias and prejudice against them. These tendencies have created an enabling, permissive environment for economic and political marginalisation of minorities in addition to triggering physical attacks and serious human rights violations.

Dehumanisation of minorities is common, with slurs and hateful speech frequently deployed against them both offline and online. *Kafir* and *wajib-ul-qatal* (worthy of murder) are often used against Hindus, Sikhs and Christians as well as against Muslim minorities such as the Shia, Hazara and Ahmadiya in Pakistan, Bangladesh and Afghanistan. Similarly, Muslims in India, Nepal

and Sri Lanka, are often called ‘anti-nationals’, ‘terrorists’ and ‘criminals’. Christians in Nepal and Bhutan have been stigmatised. Dalits, women, and gender and sexual minorities, throughout the region are called degrading names, as are ethnic minorities such as Madhesis in Nepal, ‘Biharis’ and indigenous tribes of the Chittagong Hill Tracts in Bangladesh, and Tamils in Sri Lanka. The non-stop dehumanisation of minorities in the region has the effect of reinforcing existing anti-minority stereotypes and prejudices, hardening bias against vulnerable communities. The consequences of this on the region’s minorities has been devastating, reinforcing discrimination, exclusion and loss of life and freedoms of minorities.

In Nepal, for example, in the wake of the COVID-19 pandemic, many from the Dalit community have been facing double discrimination after testing positive for the virus as they are ostracised both for being infected and for being a Dalit. Dalit women in particular suffer from intersectional discrimination as they are the bottom of Nepal’s caste, gender, and class hierarchy. Similarly in Afghanistan, Hindus and Sikhs, as well as Hazaras, in particular, have faced discrimination, been effectively omitted from political participation, and lack basic freedoms. In India, recent research is demonstrating that sustained campaigns of hate have worsened discrimination against religious minorities, in the social, economic, and political spheres—including in education, employment and livelihoods, and access to services such as housing, through discriminatory practices by providers and economic and social boycott by social actors.

Hate campaigns have directly impacted the overall wellbeing and particularly the security of life and liberty of vulnerable minorities in the South Asian region. In Pakistan, for example, campaigns of hate against Shias and the Ahmadiyya community have resulted in multiple attacks against their life and liberty—minority congregations have been attacked, minority members have been murdered and injured, malicious prosecutions have been initiated against the victims themselves. In Sri Lanka, online hate speech is used as a rallying cry for violent ethno-nationalists, and online spaces are used to mobilise rioters to attack minority



communities. When these riots occur in the physical world, intervention by law enforcement is usually lacking. The outbreak and spread of the COVID-19 pandemic led to an intensification of anti-minority rhetoric, disinformation and harassment online.

Similar trends exist in Bangladesh, where since 2012, several violent incidents have been triggered against religious minorities in reaction to posts on social media that impact religious sentiment. Many of these campaigns have been shown to be driven by political and economic factors, including land grabs and political control. In India, campaigns of hate and vilification, with ruling party politicians at the forefront, affiliated anti-minority vigilante groups as foot soldiers, and mainstream and social media generously used as hate amplifiers, have led to and been accompanied by physical attacks on minorities. State forces have been complicit both in

the attacks as well as in the use of law and procedure to further victimise minorities.

Ultimately, sustained anti-minority hate campaigns have toxic consequences for states and societies. Across South Asia, by using rhetoric on ethnicity, religion, and language in their political campaigns, and leveraging ideologies and infrastructure of anti-minority hate, politicians have adversely affected not only the life and wellbeing of minorities but also severely compromised the already brittle social cohesion in societies and communities. South Asian societies are—as a consequence—more polarised than before, vulnerable evermore to further conflicts. Politicians and state actors have, through acts of omission and commission, enabled hate campaigns, have emboldened impunity and weakened the rule of law, with grave consequences for democratic norms and practices. The region as a whole, is the poorer for this.

The Fightback: Response of Minority Groups, Civil Society and International Community

This section deals with the question of how victims, minority groups, civil society and regional and international entities have responded to the campaigns of hate and incitement against minorities in South Asia. The failure of states to meaningfully engage with this serious phenomenon, both on account of the omissions and commissions by authorities and institutions, means that it is in these ‘non-state’ spaces that examples of responses must be sought. This is also crucial given social media platforms, the other ‘duty bearer’ in this case, with established obligations, have been slow at best, to take action on hate speech and incitement playing out over their platforms. Although the capacity of victims, minority groups and local civil society to raise demands is still at an incipient stage, it provides the only glimmer of hope.

Any preventive and punitive action requires the availability of robust data disaggregated by useful categories. Across the region, there is no formal (official) system in place, anywhere, to collect information on hate speech and hate crimes. Rather, states themselves have taken to denying the violations, or in some cases, promoting disinformation, in an effort to obfuscate the facts on

anti-minority hate and incitement, and deny responsibility. There are some examples of civil society groups, including the media, academia and NGO-led efforts, being more effective in some countries than in others in tracking incidents and violations to fill the data gap. Lack of capacity, resources and, crucially, targeting by authorities, means these efforts are only weak at best and often weakening. India's is a good example where a 'chilling effect' has caused the host of media and civil society tracking initiatives dying out fast.⁹

Other civil society initiatives for counting, fact-checking and advocacy against hate campaigns have continued to do what is possible. In India, Alt News, BOOM and Fact Checker have attempted to fight misinformation. Etisalat Roz Daily Newspaper in Afghanistan, BD Fact Check in Bangladesh, Bytes for All in Pakistan and Hashtag Generation in Sri Lanka, have been making similar brave efforts against hate, disinformation, and surveillance in the region. Despite their limited reach (compared to some of the more majoritarian platforms patronised by powerful groups), and a hostile environment, they have led the way to count and amplify voices. These local groups have been supported by INGOs—Amnesty International, Human Rights Watch, Minority Rights Group International, Avaaz, Equality Lab, Open Door, among others—and the international media that have extensively covered hate speech and incitement campaigns across several pockets in the region, especially on social media.¹⁰

There have also been small advocacy initiatives locally by minority and civil society groups to document hate, raise voice, seek redress and justice for victims, and for action against perpetrators. Several human rights organisations in Afghanistan; Human Rights Forum Bangladesh in Bangladesh; United Christian Forum, Centre for Justice and Peace, Karwan-e-Mohabbat, Documentation of the

⁹ These included *Hindustan Times* (2017), Hate Crime Watch by India Spend (2017-2018), Halt the Hate by Amnesty (2015-2019) and Map violence, by a mix of Christian groups (2020)—all victims of strongarm tactics of authorities against the counting of hate.

¹⁰ Sri Lanka and India particularly, reporting failures of social media platforms (Facebook and WhatsApp mostly) to act, besides covering anti-minority hate campaigns in Pakistan and Bangladesh.

Oppressed, and Citizens Against Hate, among others, in India; Nepal Monitor, Jagaran Media Centre, Collective Campaign for Peace and the National Human Rights Commission in Nepal; Human Rights Commission of Pakistan and Centre for Social Justice in Pakistan; and Women's Action Network, the Centre for Human Rights and Development and INFORM Human Rights Documentation Centre in Sri Lanka, all seek to make demands for justice and accountability, in the face of insurmountable odds against the might of the state and the sophistication of majoritarian hate machinery—and at grave risks to their own selves.

There have also been attempts at public campaigns and protests against hate and minority targeting. Examples include #StopHazaraGenocide in Afghanistan, Human Rights Forum Bangladesh in Bangladesh; Not in My Name, United Against Hate, and Shaheen Bagh Campaigns in India; and the Human Rights Commission of Pakistan, the Aurat March and Women's Action Forum in Pakistan. Often, such campaigns have faced the brunt of the state machinery, with organisers and human rights defenders targeted, often with criminal proceedings.

Overall, the space for fight-back by civil society against the politics of hate in South Asia is limited and constrained. Of late, with instances of hate and targeting increasing, and global social media companies playing a big part in enabling the phenomenon, multilateral bodies, primarily the United Nations as well as, sometimes the European Union, are beginning to show more interest in the region. The Office of UN High Commissioner for Human Rights, particularly their mandates on Minority Issues and on Freedom of Religion or Belief, have sought to include South Asia more extensively in their processes, also helping South Asian local and regional groupings, to build capacity and networks, both to document and analyse violations, and to raise voice before key stakeholders.

While the demand for justice and accountability must begin locally and within each country's context, the trans-regional dynamic of much of the politics behind anti-minority hate and targeting across South Asia, means that local efforts must be complemented by regional ones. This includes the framing of

questions, the use of tools of analysis, seeking of solutions, and the actors and agents involved. International actors and institutions, especially those with the wherewithal as well as potential for traction with state parties such as the UN could play a leading role in this search for resilience against hate and targeting.

Summary of Country Chapters

Afghanistan¹¹

Diversity of ethnic and religious identities in Afghanistan has always been politicised and used as a tool to ignite conflicts and violence among ethnic and religious communities, leading to their marginalisation, exclusion and discrimination throughout the country's contemporary history. For instance, the 1989-92 civil war resulted in thousands of people being killed and more injured or displaced with ethnicity-based hate speech and inter-ethnic conflict continuing in its aftermath.

During the Taliban regime, hate speech was widely practised specifically towards religious minorities such as Shia Hazaras and Sikh and Hindu communities. After the Taliban collapsed in 2001, and as a nascent political establishment took shape, conflict along ethnic lines diminished comparatively. In recent years, however, Afghan politicians had begun resorting to using rhetoric on ethnicity, religion, and language in their political campaigns, adversely affecting the country's already brittle social cohesion.

One of the causes of the Afghan civil war between various ethnic and religious groups in Afghanistan was the lack of national cohesion and non-tolerance towards diversity. Evidence of hate speech leading to violence has been numerous and excessively experienced by Afghans, especially minorities, during the civil war. A number of massacres, such the Afshar massacre in 1993, which claimed the lives of hundreds of Hazaras, shows how minorities were gravely affected.

During the Taliban regime (1996-2001), Shia Muslims, Hindus and Sikh experienced hateful and discriminatory narratives due

¹¹ Note: The country chapter on Afghanistan was prepared prior to the takeover of Afghanistan by the Taliban in August 2021.

to their religious beliefs. According to the Taliban, Shia Muslims were considered infidels, and this view subjected them to violence. Senior Taliban leaders have also uniformly given anti-Shia and anti-Hazara speeches.

Hate Speech and Elections in Afghanistan

Political campaigns in Afghanistan have been structured and run on the basis of ethnicity, religion and language which has caused massive divisions among ethnic groups in the country. Hate speech and slurs are also common among Afghan parliamentarians, targeting each other on the basis of ethnicity and language. Out of the four presidential elections in Afghanistan in the past two decades, the 2014 and 2019 were the most contested ones during which ethnic and religious hatred were widespread. Following the dispute over the results of the 2014 presidential elections, supporters of the two frontrunners frequently resorted to ethnicity- and language-based vitriol, including making fun of Hazaras for their appearance.

Hate Speech in Afghan Legislation

Hate speech is not directly criminalised in Afghanistan, but the country is committed to international human rights regimes, including the Universal Declaration of Human Rights. Although the constitution does not directly prohibit the expression of ideas that promote hatred and damage the national cohesion of society, it does require the government to take steps to address actions impinging on a citizen's essential rights which are undermined by hate speech.

The Afghan constitution also allows for restrictions on freedom of expression. While Article 34 notes that 'freedom of expression shall be inviolable', Article 24 iterates that 'liberty is the natural right of human beings. This right has no limits unless affecting others freedoms as well as the public interest, which shall be regulated by law'.

Media Law and Hate Speech

Article 45 of the Afghan Mass Media Law states that the media has to avoid publishing works and materials offensive to other

religions and sects. The Afghan Penal Code clearly prohibits vitriolic and inflammatory speech that stirs up discrimination based on religious, racial, ethnic, linguistic, and regional background. However, the law fails to comprehensively encapsulate gender, people with disabilities, or the political dimensions of hate speech in Afghanistan.

Similarly, Afghanistan's Political Parties Law states that political parties shall not engage in provocative activities that trigger religious and ethnic tensions. The electoral code of conduct also calls on candidates not to use social characteristics such as ethnicity, race, religion, language and gender in their electoral campaigns. Nevertheless, politicians continue to resort to language that generates hatred, and to date no legal action has been taken against candidates who adopt such campaign rhetoric.

Hate Speech towards Sikhs and Hindus

Hindus and Sikhs of Afghanistan, in particular, have faced discrimination, been effectively omitted from political participation, and lack public liberties. The International Religious Freedom Report notes that the constitution and other laws of Afghanistan explicitly restrict religious freedom. Article 3 of the Constitution provides that no law shall be contrary to Islamic law, while Article 2 states that Islam is the religion of the state. Afghanistan's civil law, which regulates the private life and transactions of citizens, has been developed on the basis of Islamic law and, therefore, leaves out non-Muslims.

Bangladesh

Minorities in Bangladesh have faced numerous adversities, including human and religious rights violations, that derive from intolerance from the mainstream majority group. Hate speech is a very common tool to generate communal violence against religious and ethnic minorities. Spreading hate speech has increased substantially through the use of the internet. Since 2012, several violent incidents in Bangladesh have been triggered in reaction to posts on social media that impact religious sentiment.

Legal Framework

The Constitution of Bangladesh guarantees equal rights of all citizens irrespective of sex, caste, creed, or race. It also decrees ‘special provision for backward sections’ although without clarification of what this entails. Bangladesh has also ratified most major international human rights treaties and conventions. There is no specific law to control hate speech or hate-related crimes although the Digital Security Act (DSA) 2018 has some provisions to address hate speech. Article 28 of the DSA prohibits publication and broadcast of information on any website or in any electronic format that hampers religious sentiments. However, the DSA has faced severe criticism for its use to curb freedom of speech rather than to combat crimes conducted on digital platforms.

Hate Speech and Social Media

Religious, ethnic and other minorities constitute 11 percent of Bangladesh’s population of 165 million. Muslims deliberately use various words against Hindus to humiliate them. Along with the use of slurs, Hindus are also termed to be pro-Indian supporters and even as temporary citizens of Bangladesh.

Hindus and Buddhists are both most vulnerable to hate speech and fake information. There have been several instances of communal violence targeting Hindu and Buddhist communities on the basis of social media posts. Usually, these posts are made under pseudonyms or by hacking accounts of members of minority groups. Threats to individuals belonging to minority communities on social media is also commonplace, which also results in violence against members of these communities.

There are between 5.5 and 6.5 million Dalits and members of similarly excluded groups in Bangladesh. Accounting for 3-4 percent of the population, they remain in the lower strata of society and are branded as ‘impure’ and ‘untouchable’ due to their caste and the occupations they rely on while also being subjected to derogatory terms.

Anti-Discrimination Act

The Law Commission of Bangladesh had recommended that the government formulate laws to prevent discrimination and accordingly prepared a draft Elimination of Discrimination Act in 2014 and submitted to the Law Ministry. After three years it was sent to the National Human Rights Commission of Bangladesh (NHRC) for further development. The NHRC had sent the draft back in 2018, and it has remained under review for the last three years.

The Ahmadiyyas

Bangladesh's Ahmadiya Muslim community is particularly vulnerable and faces harassment since Islamist groups claim their way of practising the religion is wrong and has been advocating with the government to declare them to be non-Muslim. There is evidence that the police have been instructed to surveil the activities of the Ahmadiyas nationwide, including by approaching members of the community outside of their mosques to collect personal details. According to the Ahmadiya Muslim Jamaat Bangladesh, about 100 attacks on the Ahmadiya community have been recorded since 2000. Ahmadiyas have also been attacked when trying to arrange annual conferences specific to their religion. Furthermore, lectures at schools and madrasas have also depicted the Ahmadiyas as an anti-Islamic group.

Role of Religious Conferences in Spreading Hate Speech

Modern-day religious speakers' speeches are jarred with populist hate remarks about other religions, marginalised communities, and minorities, with internet accessibility in Bangladesh making the spread of such comments easier and faster. This has resulted in mob violence and an overall barrage of hate speech towards minorities. In a recent move, the government identified 15 Islamic scholars of the country for spreading communalism, religious fanaticism, hatred against women, militancy and anti-state, anti-democracy, and anti-cultural sentiments in their speeches at different religious conferences.

The Underlying Causes of Hate Speech

Behind every communal violence instigated by social media posts and the like, there remains the motive of grabbing Hindu land and properties. Members of majority religions use hatred as a tool to provoke fear among the minorities and thus oust the minorities and occupy their land forcefully. Being too weak to resist, non-Muslims and non-Bengali Bangladeshis simply suffer, flee or die without any redress. Many of them sell their properties (at a nominal price) and migrate.

Since Bangladesh's independence in 1971, anti-Indian sentiment has developed due to many socio-political reasons and manifested in an anti-Hindu feeling. A faction of Muslims also tries to take advantage of any Hindu-Muslim conflict in India (such as the Babri Masjid incident of 1992 and the Gujrat killings of 2002) and instigate its supporters into violence against Hindus by spreading fake news and other forms of propaganda. This type of violence is thus more to do with politics and economics sponsored by vested interests rather than being merely a form of communal conflict.

India

Since the Hindu nationalist BJP-led government assumed power in 2014, influential figures within it—from its top leadership down to local-level leaders across the country—have been accused of contributing to campaigns of hate against India's religious minorities, particularly Muslims. The government has established domineering control over print, broadcast and social media, where a large number of BJP-allied actors now work in coordination to spread anti-minority hate messaging. At the same time, institutions of democracy, which have historically been weak, have been further eroded by the strongarm tactics the BJP often resorts to, resulting in an absence of checks against runaway hate. The consequences of this on India's minorities have been devastating, ranging from hardening of anti-minority prejudice in society; reinforcing of discriminations as well as frequently, loss of life—in low-intensity individuals as well as mass violence episodes. Indian democracy also stands significantly diminished.

Anti-Minority Hate and Incitement in India

According to an analysis (by IndiaSpend in 2016) of self-disclosed crime records of candidates who contested various elections nationwide over the previous 12 years, as many as 70 Members of Parliament (MPs) and Members of the Legislative Assemblies (MLAs) had hate-speech cases pending against them. According to the report, 399 candidates with hate speech cases had been fielded by different political parties in various parliamentary and state legislative elections over the 12-year period. In 2018, NDTV, an English-language television news channel, revealed that there was a 490 per cent increase in hate speeches by top Indian politicians in the four years since the BJP came to power compared to the last five years of the previous government.

The phenomenon has only worsened in the years since, progressing up the UN's hate speech chain from 'bottom' level offensive or disturbing content to 'top' level incitement to hostility, discrimination and violence. In December 2019, the violent slogan 'shoot dead the bastard traitors to the nation' was popularised by a BJP leader in Delhi, as part of a wider campaign in response to Muslim-led protests against India's changes to its citizenship law, widely seen as being discriminatory. In March 2020, as the COVID-19 pandemic took hold, India witnessed yet another deluge of hate content and misinformation, falsely blaming the country's Muslims for the outbreak and calling for social and economic boycotts, and even physical violence against them.

A great deal of hate in India plays out on social media. A study by Equality Labs in 2019 revealed that Islamophobic content was the biggest source of hate speech on Facebook, amounting to 37 per cent of the content reviewed. Adherents of other faiths such as Christianity have also faced localised and targeted hate and misinformation campaigns in several parts of the country, usually centred around allegations of proselytisation. Sikhs, too, have faced hate campaigns in the past and in recent times over allegations of separatism. Caste-based hate speech is also common, accounting for 13 per cent of the Facebook content reviewed by Equality Labs.

According to Amnesty International, a total of 902 alleged hate crimes were reported between September 2015 and June

2019, resulting in 303 deaths. Of the 902 documented instances, 621 were reported to have been motivated by caste, with the victims of these being overwhelmingly Dalits (99.5%). Of the rest, 217 were reported to have been primarily motivated by religion, with Muslims (89%) and Christians (8%) being the main targets. Religiously motivated hate crimes resulted in a total of 91 deaths, of which 87 percent were of Muslims. A total of 113 hate crimes were traced directly to the ruse of ‘cow protection’. Amnesty’s numbers, derived from English and regional-language media reports, are almost certainly an undercount.

Actors of Hate Speech in India

The NDTV study, which limited itself to elected representatives and holders of other high offices, found that of all the instances recorded since 2014, hate speeches by BJP leaders amounted to 90 per cent of the total. That BJP leaders are the worst offenders is underlined by another study conducted the same year by the Association for Democratic Reforms (ADR), which found that of the 15 sitting parliamentarians at the time with hate speech-related cases pending against them, 10 belonged to the BJP. In the years since, the BJP has added even more hate speech-linked individuals to its list of parliamentarians, including a woman who is also facing charges of involvement in a terrorist bombing plot that had led to the deaths of 10 Muslims in 2006. Top BJP leaders have played a central role in post-2018 hate campaigns as well.

Prime Minister Narendra Modi and Home Minister Amit Shah have repeatedly alluded to Muslims as being, among other things, violent rioters, mass breeders, and unfair beneficiaries of government handouts. Such speeches, which tend to peak around elections, may not meet the intent and imminence thresholds of the Rabat Test, and are hence protected under international law, but still have the effect of dehumanising minorities and perpetuating dangerous stereotypes about them. The use of such language by Modi, Shah and other top BJP leaders has also encouraged lower-level perpetrators to engage in more open incitement to hostility, discrimination and violence.

Hate Speech and the Media

A study by Reporters without Borders (RSF) noted that the production of media content and distribution are increasingly combined and concentrated in the hands of a few, and that many leading outlets at both the national and regional levels are controlled by individuals with direct political ties to the BJP, or by corporate conglomerates who have been openly supportive of the BJP. Furthermore, Indian newsrooms have minuscule-to-non-existent minority representation in managerial and editorial positions. This has resulted in a barrage of sensationalised, pro-BJP and often anti-minority content on the national airwaves, marked by hyperbole and, in many instances, outright misinformation.

By varying degrees of severity, online media outlets also spread untrue, stereotypical, divisive, and, often, incendiary content targeted at minorities. Online social networking platforms such as Facebook and Twitter and instant messaging services such as WhatsApp, all of which have hundreds of millions of Indian users, have also become important channels through which anti-minority hate content is spread. The top leadership of the BJP has, on several occasions, openly endorsed such tactics. In the lead-up to the 2019 national elections, Shah, then the BJP President, boasted about the presence of over 3 million people on its WhatsApp groups, and the party's capability to 'spread any message among people, whether sour or sweet, real or fake'.

Complicit Social Media Companies

Unlike existing Indian legislation, social media giants such as Facebook and Twitter possess detailed terms, conditions and user regulations concerning the scourge of online hate speech. Despite this, the companies have failed to act in India. Facebook has also been widely criticised for its double standards after banning the account of former US President Donald Trump while giving a free pass to hateful and incendiary speech against minorities in India. The social media companies fear reprisal if they do not comply with government or even vigilante diktats. Most damningly, under the existing IT Act along with the newly introduced 2021 IT Rules, social media companies are now held liable to take action as

directed by the government, and it is mandatory for ‘social-media intermediaries’ such as WhatsApp to enable the identification of the first originator of information.

Absence of Legal Framework

Hate speech has not been defined in any law in India. However, multiple provisions in the Constitution and in statutory legislation provide for curbs and regulations on unqualified speech and expression. Article 19(2) of the Indian Constitution enlists certain ‘reasonable restrictions’ to citizens’ freedom of speech and expression, for reasons of sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, contempt of court, defamation or incitement to an offence.

The bulk of what can be considered as India’s hate speech legislation falls under the Indian Penal Code (IPC), 1860, which makes any act or words a punishable offence if it promotes ‘enmity between different groups on grounds of religion, race, place of birth, residence, language, etc’ and is ‘prejudicial to maintenance of harmony’. Similarly, the IPC also criminalises any act by anyone with ‘deliberate and malicious’ intention to ‘outrage religious feelings of any class (of citizens) by insulting its religion or religious beliefs’. In practice, most of these laws have been weaponized to target dissenters—members of civil society, human rights defenders, journalists, lawyers, artists, comedians and other public figures.

The Representation of People’s Act, 1951, which provides the legal framework for the conduct of elections, has provisions that come closest to a hate speech law in India. It prohibits the promotion of enmity on the grounds of religion, race, caste, community or language in connection with elections and disqualifies anyone convicted for any ‘illegitimate use of freedom of speech and expression’. Regardless, the Election Commission of India has repeatedly failed to curb hate speech. During the 2019 national elections, the Election Commission refused to impose any bar to Prime Minister Modi’s campaign speeches that violated their rules regarding political speech.

Civil Society as a Silver Lining

To address the issue of lack of authoritative data relating to hate speech and hate crimes, several civil society entities have attempted systematic tracking efforts to fight misinformation by fact checking popular claims made on social and mainstream media. However, these initiatives have limited reach and many have since reportedly been scuttled by the government.

Hardened Majoritarianism

Indian society is a very divided house now with a substantial chunk of the Hindu population—particularly ‘upper castes’, but also increasingly many ‘lower castes’ in the BJP’s corner, while support for BJP among religious minorities has fallen further. While some analysts have attributed the BJP’s dominance to the personal appeal of its top leadership, there is some evidence beyond election results to suggest that there is also wide acceptance and enthusiasm for the specific policies the BJP has pursued.

Nepal

Although not as pronounced as elsewhere in the region, Nepal has not been totally immune to the growing incidence of using words, spoken or written, against individuals or groups based on their particular identity. In fact, there are several warning signs that warn of the path Nepal could follow in line with the rest of South Asia.

Religious minorities

In May 2006, Nepal was declared a secular state. However, actions such as the continued prohibition of slaughtering of cows, which is sacred only in Hinduism, and the alignment of official holidays with Hindu festivals were examples of the continued importance placed on Hinduism in Nepal. Due to the inability of the state to define secularism in terms of equality for all religions, simply declaring the country secular has done little to provide recognition to religious minorities. Secularism was also opposed by groups who believe that it was enforced in Nepal due to the interests of international agents, and by religious-political groups who

argue that there was no need for Nepal to be secular, as religious minorities had never been prosecuted. Some minority groups have also opposed secularism either to prevent other religious minorities from gaining ground, or to avoid any potential religious conflicts that can be attributed to the introduction of secularism.

According to the Constitution of Nepal, the right to freedom of religion or belief does not include the right to choose or change a religion, or to impart religious teachings, and it bars proselytisation and ‘any act or conduct that may jeopardise the other’s religion’. This prohibition is directly contrary to relevant international human rights law and standards, the ICCPR, which guarantees the right to freedom of religion or belief, including one’s freedom to impart teaching on one’s religion or belief. Similarly, the 2019 Criminal Code also imposes punishment on those who hurt the ‘religious sentiments of any caste, community or ethnic groups by using texts, writing, verbal, symbols or any other means’, a provision open to broad and potentially harmful interpretations to the detriment of religious minorities. Further, while the constitution guarantees every religion the right to operate and protect its religious sites, there are no legal provisions for the registration of churches.

The Nepali media also tends to depict Nepali Christians not as believers of the religion but as people who have left Hinduism to escape economic or social difficulties, or as pawns of a foreign agenda, sentiments which are echoed by comments in news articles. That hate speech can quickly escalate to potential physical violence is seen in the case of a pastor who received death threats once a previously private video of him sharing his experience of converting to Christianity became public on YouTube.

As many as 2,500 to 3,000 full-time madrassas continue to be unregistered in Nepal. The government has also stepped up scrutiny of the source of funds and nature of programmes in the madrassas. More pressingly, the presence of disproportionately Muslim Rohingya refugees has resulted in a smattering of anti-Muslim and anti-refugee sentiments. The Covid-19 pandemic, too, has seen an increase in scrutiny of Muslims. News of Nepali Muslims being in quarantine in Nepal after the Tablighi Jamaat

congregation in Delhi in early 2020 led to a spike in suspicion, disdain, and paranoia towards Muslims in Nepal.

Madhesi

Due to their relatively darker skin tone of the inhabitants of the Tarai, and the many common cultural characteristics they have with the population of Northern India, Madhesi face a level of otherness in Nepal that no other group faces. The issue of citizenship remains a problematic one for people of the Tarai as they frequently have to prove their identity to be considered citizens since they are looked upon as having a threatening 'Indian-ness'.

Madhesi have been routinely harassed and violently suppressed by the Nepali security forces. And Madhesi appeals for rights, inclusion, and recognition as Nepali are often labelled as 'secessionist' and pro-Indian to be summarily dismissed. Political developments over the past one and a half decade have further increased the rhetoric against Madhesi. This includes events around the adoption of the Constitution of Nepal in 2015. Since the constitution was promulgated without addressing their many grievances, the Madhesi rose up in opposition. India's imposing a blockade along the border in support of Madhesi demands only further hardened the discourse of Madhesi as India-centric and anti-national.

Gender and Sexual Minorities

While Nepal's legal regime has been lauded as one of the most progressive with regard to the protection of LGBTIQ+ rights, the persecution and abuse of Nepal's gender and sexual minorities continues, including being 'compelled to hide their sexual orientation or gender identity'. On several occasions, individuals from Nepal's LGBTIQ+ community have reported facing 'countless humiliations', including being subjected to harassment in public transportation, and being asked personal questions by government officials about their 'genitals and much more'. Videos, photos, articles and other content featuring individuals from Nepal's LGBTIQ+ community, posted on various mainstream social media platforms, are rife with vitriolic and derogatory comments.

Dalits

Despite an overhaul of the country's legal system, violence against Dalits is still rampant across Nepal. Dalits are subjected to exclusion from houses, temples, hotels, restaurants, dairy farms, water sources, feasts, festivals, and discrimination in jobs. Since 2011, at least 11 cases of Dalit deaths, involving issues of caste prejudice, have been recorded. In a high-profile incident in May 2020, five men were killed in western Nepal after a Dalit man tried to elope with a 'high-caste' girl he wanted to marry. In the wake of the COVID-19 pandemic, many from the Dalit community have been facing double discrimination after testing positive for the virus as they are ostracised both for being infected and for being a Dalit. Dalit women in particular suffer from intersectional discrimination as they are the bottom of Nepal's caste, gender, and class hierarchy. Dalit women are often labelled as 'loud-mouthed and verbally abusive in nature'. As such, even the educated and politically active Dalit women advocating for their rights tend to be dismissed as 'angry Dalit women'.

Pakistan

Pakistan was declared to be an Islamic Republic, and Islam declared the state religion in the 1973 constitution, which pitted the scales against religious minorities by reframing Islamic provisions as the metric to decide the harm to the sentiments of religious minorities, and therefore redefining the metric of judging hate speech. This reframing gave birth to two key bodies: the Council for Islamic Ideology and the Federal Shariat Court, whose powers include prosecution of, and lobbying for Islamic laws, and therefore, inciting prejudice towards religious minorities. This institutionalisation of Islam's supremacy was key in legitimising the use of hate speech against religious minorities.

Legal Gaps

The Pakistani Penal Code has provisions of penalties for promoting or inciting, or attempting to promote or incite, on grounds of religion, race, place of residence; deliberate and malicious acts intended to outrage religious feelings of any class by insulting its

religion or religious beliefs; uttering words, etc, with deliberate intent to wound religious feelings. The National Action Plan 2014 details strict action against literature, newspapers and magazines promoting hatred, extremism, sectarianism and intolerance. The Prevention of Electronic Crimes Act 2016 decrees both glorification of an offence and hate speech as well as preparation or dissemination of information, through any information system or device, that advances or is likely to advance interfaith, sectarian or racial hatred, to be punishable.

However, the implementation of these laws can be negated by the gaping power differential between the state-sponsored facilitation of religious majoritarian groups in the form of lack of political will, discrimination by the police and the courts, and the effective use of fear-mongering to threaten the lives of religious minorities. The government has advocated for and introduced clauses that actively promote dehumanisation of and aggression towards religious minorities. The jurisdiction, too, is arbitrary as the government has allowed the Pakistan Telecommunication Authority to remove any 'unlawful' content from online platforms, leaving a lot of space for its misuse. The Senate also voted out the Protection of the Rights of Religious Minorities Bill, which sought to guarantee more safe spaces and add more provisions for safety of their religious places along with reaffirming the criminalisation of hate speech.

The Prevention of Electronic Crimes Act has been nationally criticised by civil rights activists for its draconian and anti-humanitarian framework, enabling agents to demand that citizens hand over data if thought to be 'reasonably required' while also containing a number of provisions related to data privacy. Furthermore, despite a Supreme Court order to 'take steps to ensure that hate speech in social media is discouraged and delinquents are brought to justice,' there has been a lack of political will to do so.

Incidence and Impact of Hate Speech

Some of the slurs used to refer to non-Muslims are *kafir* and *wajib-ul-qatal*, loosely translated respectively as 'infidel' and 'worthy of murder'. *Churha* generally refers to 'low caste' and those

regarded as ‘untouchables’—usually used to refer to the Christian community. The word ‘Qadiani’ is a religious slur used to refer to Ahmadiyya Muslims and has even been used in official Pakistani documents like the Pakistan Penal Code.

A report published by National Commission for Justice and Peace states that textbooks, being used in Punjab and Sindh in Grades 1-10 for the academic year 2012-13, had about 55 chapters containing hate speech against Hindus and Christians, not including the deliberate distortion of historical facts and events that stereotyped and dehumanised religious minorities. Religious minorities, and politicians of minority communities are both at the receiving end of hate speech, as well as instances of violence.

Online Hate Speech

From the Prime Minister to members of the Shia community to expatriates, all have been targeted in online hate speech if they seek to speak about minority rights. Anti-Ahmadiyya and anti-Shia hashtags were the most common anti-minority hashtags used within the past year (April 2020 onwards).

The holy month of Muharram for the Shia community activated vitriolic hate speech against them. The 2020 Muharram was especially concerning for the Shia community, with increasing hatred and animosity towards them as there were huge rallies planned against the Shia community throughout the months. Karachi, the financial hub of Pakistan, witnessed at least four big anti-Shia rallies held by different Sunni groups. At least five Shias were killed in different parts of Pakistan, more than 30 blasphemy cases have been registered against Shias, at least one religious congregation was attacked, 150 police cases filed against them, and several videos appeared in which Shias were forced to accept the Sunni historical account on the caliphs. On social media, anti-Shia hashtags periodically trended as well. The Shia community’s religious leaders were also targeted online, and attempts made to damage their credibility. Some instances of hate speech were not only online, but also translated into offline spaces such as the walls being littered with graffiti declaring the Shia community to be *kafir*.

Although the National Commission for Minorities was established in May 2020, the Ahmadiyya were denied representation on it despite being one of the most heavily persecuted minorities in Pakistan, creating ripe grounds for hate speech directed at them. There were more than 5,000 tweets using the hashtag ‘qadianis are the worst apostates in the world’. Ahmadiyas are very likely to come across anti-Ahmadiyya content almost everywhere on these platforms which includes portraying them as mentally imbalanced. The AhmadiAreNotMuslims tag was the most trending hashtag on Twitter on 11 May 2020, along with Expose_Qadyani_ProMinisters.

Instances of hate speech co-opted the very strategies being used to spread Islamophobia. Islamophobia generalises the actions of terrorist organisations as implicating all Muslims, aiming to create the perception that any follower of Islam is irrational and ‘crazy’. Some of the hate speech references Shia terrorist organisations use the same justification for the violence directed towards them.

Sri Lanka

Sri Lanka has demonstrable evidence of hate speech—in mainstream and social media—leading to violence against minority groups. Online hate speech is used as a rallying cry for violent ethno-nationalists, and online spaces are used to mobilise rioters to attack minority communities. When these riots occur in the physical world, intervention by law enforcement is usually lacking.

Gaps in Legislation

There are several statutory enactments that have the potential to control hate speech in Sri Lanka: the International Covenant on Civil and Political Rights Act (2007), the Penal Code and of the Prevention of Terrorism (Temporary Provisions) Act. But the laws meant to protect citizens from violent speech and action in Sri Lanka have long been used to target dissenters, especially from minority communities, who are critical of the government. The Constitution of Sri Lanka provides for the freedom of speech and expression as a fundamental right, subject to restrictions in the interests of racial and religious harmony, or in relation to parliamentary privilege, contempt of court, defamation or incitement to an offence, for

national security, public order and the protection of public health or morality, or to secure due recognition and respect for the rights and freedoms of others, or to meet the just requirements of the general welfare of a democratic society.

Incidence of Hate Speech

The 2014 Aluthgama riots were one of the first large violent incident of its scale in which social media's role in perpetuating ethno-religious incitement to violence and discrimination, and the use of such tools to mobilise violence in real time has been documented. Since those riots, there have been pockets of ethno-religious tension and violence, before and after which there has been widespread circulation of both incitement to violence and inflammatory speech and violent speech targeting the Muslim community on social media. The Sri Lankan government enforced a block on social media in the immediate aftermath of the 2019 Easter Sunday bombings. Following the attacks, for which an Islamist group took responsibility, there was a rise in collectivised derogatory speech towards the country's Muslim minority, which also translated into physical violence.

The outbreak and spread of the COVID-19 pandemic led to an intensification of anti-Muslim rhetoric, disinformation and harassment online. Between March and December 2020, 26 per cent of all recorded dangerous speech content was targeted at the Muslim community. The behaviour of mainstream media platforms along with the statements made by prominent figures fuelled anti-Muslim sentiments. By the end of the first week of April, there were 4,800 posts on Facebook around various themes based on anti-Muslim keywords, including statements categorising Muslims as bio-terrorists and super spreaders of the virus.

The decision to impose mandatory cremation rules for all victims of coronavirus was taken by the state despite protests from the Muslim community that cremation was a violation of Islamic burial practice, and that the WHO permitted either burials or cremations of those who died of COVID-19. After dissent by the Muslim community, their allies and civil society organisations, the Prime Minister announced in February 2021 that burials of

COVID-19 victims would be allowed, sparking further anti-Muslim content that was mainly observed on YouTube.

In the run-up to the 2019 Presidential election, false news updates were amplified, using paid advertising on Facebook. Some of these narratives also had the potential to cause racial tensions. That was followed up in the 2020 Parliamentary election. Disinformation on COVID-19 and minorities who had tested positive was also rampant.

Response of Social Media Platforms

In the aftermath of the anti-Muslim riots in Digana, Facebook was blocked in Sri Lanka for a few days, given the proliferation of hate speech on the platform, and as mobs were using Facebook and WhatsApp to mobilise on the ground. Representatives of the company interacted with civil society organisations to discuss moderation and content removal. However, the platform still faces issues in removing implicit hate posts and misses nuances and colloquialisms of vernacular languages. There is also no interaction between social media platforms to ensure that content removed from one is also not uploaded onto another.

Key Recommendations

To national governments

- Where legislation is lacking, introduce laws to ban hate speech in all its forms, including prohibiting incitement to discrimination on the basis of nationality, ethnicity, religion, language, gender or sexual orientation.
- Ensure that national laws on hate speech conform to internationally agreed standards as outlined in various provisions of the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention), the Rabat Plan of Action (on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or

violence) and the United Nations Strategy and Plan of Action on Hate Speech.

- Regulate social media platforms in line with national legislation on hate speech. This includes requiring social media platforms to adopt policies and protocols to identify hate speech on the grounds of nationality, ethnicity, religion, language, gender or sexual orientation. Commit social media platforms to prevent such posts as far as possible by stringent moderation of content, including in the various vernacular languages used in the country.
- In order to counter fake accounts often used to create incendiary posts, strengthen its monitoring and take steps before it provokes any communal violence. Negotiate with social media platforms to ensure multiple levels of identity verification of users.
- Enable in-built mechanisms to ensure these laws are not used to further marginalise and target minorities, or suppress the voice of citizens or invade their privacy. In order to prevent the misuse of such laws, training should be provided to law enforcement and judicial officials on the rights of minorities. In particular, take steps to prevent selective use of these laws against minority groups.
- Create greater awareness about minority communities and their right to respect and dignity while emphasising the need for tolerance and freedom of religion and belief. This can be done through school education as well as by using mainstream media. Where relevant, revamp the curricula at all levels to root out distortions in the teaching of history that contribute to an atmosphere of hate speech. Work with religious leaders to foster a climate of tolerance.

To the international community

- Push national governments to craft laws against hate speech in keeping with international standards while monitoring the situation on the ground and providing periodic assessments of the role of hate speech in discriminatory practices, including in reports to the United Nations.

- Where possible, organise in-country visits to monitor the situation on the ground and engage with national governments on the issue, including applying pressure for the persecution of those guilty of violating the rights of minority groups.
- Support initiatives that create awareness about and celebrate diversity in different countries.

To civil society

- Lobby national governments to introduce legislation against hate speech in all its forms while playing the role of watchdog against such laws being misused against minorities.
- Initiate programmes to celebrate a country's diversity working with educational institutions and the media while also targeting the broader society. Further outreach activities could include sustained inter-ethnic and inter-religious dialogue.
- Track and analyse the existence and extent of hate speech directed towards minorities and publicise the results through multiple sources.
- Pressure media outlets to develop and follow a code of ethics for self-regulation that could contribute to prohibiting hate speech and reporting on speech that could cause harm to one or more groups.

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Hate Speech and Incitement to Violence in Afghanistan

Hafizullah Saeedi

Introduction

Afghanistan is home to dozens of diverse ethno-religious groups. As described by Nassim Jawad, an Afghan academic, 'Afghanistan is a "nation of minorities"'.¹ However, the diversity of ethnic and religious identities in Afghanistan has been politicised and used as a tool to mobilise ethno-religious communities against one another, rather than unify them around shared values. The politicisation of ethno-religious identities in the multicultural society of Afghanistan has led to conflicts and violence among ethnic and religious communities. The increased inter-ethnic tensions, along with hate speech used, have also caused the marginalisation and exclusion of, and discrimination against, minority communities throughout the contemporary history of Afghanistan. The massacre of the Hazara ethnic group during the Taliban rule in the 1990s,² and the widespread public hatred and abuse against non-Muslim communities such as Sikh and Hindu communities and Jews are other examples of this. Moreover, in recent years, increasing access to social media platforms like Facebook, Twitter, and TikTok and mass media such as television and radio have exacerbated dissemination of hate speech. Overall, although hate speech has played a critical role in fuelling conflicts among ethnic groups in Afghanistan, the concept of hate speech itself remains under-researched in the existing scholarship on Afghanistan.

¹ Jawad, Nassim. 'Afghanistan: A nation of minorities'. In *Minority Rights Group International Report*, Manchester Free Press, 1992.

² William Maley, *The Afghanistan Wars*, Palgrave Macmillan, 2002.

Scholars have rather studied hate speech indirectly by exploring its consequences such as ethnic discrimination and violent conflicts.

Research Objectives

This study aims to investigate the prevalence of hate speech in Afghanistan, the main drivers of hate speech, and its impact on the lives of ethno-religious minorities in the country. The research also seeks to provide recommendations for preventing and countering hate speech—both in law and in practice—and the consequent violence in Afghanistan.

The specific objectives of this research are as follows:

- To examine national legislations of Afghanistan and related international conventions on the prevention of hate speech targeted at ethno-religious minorities;
- To analyse the causes and consequences of hate speech directed at ethno-religious minorities;
- To explore the role of ethnic divisions (as a driver of hate speech leading to violence) among ethno-religious minorities during and after the 1989-92 civil war in Afghanistan;
- To analyse Afghanistan's electoral politics and the role of election campaigns in relation to hate speech;
- To study social media and mass media channels as platforms for promoting hate speech in Afghanistan; and
- To provide policy recommendations to develop a comprehensive strategy to counter hate speech and its prevention of hate speech in Afghanistan.

What is Hate Speech?

In the existing scholarship on hate speech, there is no single agreed-upon and no one international legal definition of hate speech. Describing what hate speech or hateful speech is remains a contested and controversial topic. Nonetheless, one comprehensive conceptualisation of hate speech comes from the United Nations Strategy and Plan of Action on Hate Speech, according to which it consists of 'any kind of communication in speech, writing or



behaviour, that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor'.³ As such, the practice and use of hate speech can have severe consequences, violating one's rights and freedoms which are protected within the framework of the human rights regime. While addressing hate speech does not necessarily completely diminish the right and freedom of speech, the spread of hate speech would rather increase vulnerability of marginalised minority communities through exclusion, hatred, incitement to discrimination, violence, and hostility, all of which are prohibited under international law.

³ United Nations Strategy and Plan of Action on Hate Speech, accessed 20 August, 2021, <https://www.un.org/en/genocideprevention/documents/UN%20Strategy%20and%20Plan%20of%20Action%20on%20Hate%20Speech%2018%20June%20SYNOPSIS.pdf>.

As much as hate speech endangers principles of human rights, universal human rights instruments have declared certain restrictions for preventing and countering hate speech and this is briefly described in the forthcoming section. It is important to note that the range of hate speech usage is not limited to just hateful verbal communications. The medium and usage of hate speech veer into non-verbal actions as well such as violent physical conflicts which can also have psychological impacts. It is for this reason that scholars such as Simpson Robert Mark argues that hate speech can include ‘any expression or statement which promotes malicious mentalities or action based on a group’s identity, like identity-based prejudicial abuse, slurs and epithets, and extremist political and religious slogans’.⁴ These factors, in fact, can cause more serious issues such as inequalities, exclusion and dominance of some over others, of the majority over the minority. Reflecting on the implications of hate speech, the United Nations Secretary General, Antonio Guterres, says:

Hate speech is in itself an attack on tolerance, inclusion, diversity and the very essence of our human rights norms and principles. More broadly, it undermines social cohesion, erodes shared values, and can lay the foundation for violence, setting back the cause of peace, stability, sustainable development and the fulfilment of human rights for all.⁵

Because hate speech can become a dangerous phenomenon with so many societal implications, different countries and state institutions across the world have developed strategies to counter hate speech, including by drawing up policies and laws. However, as previously mentioned, there is no globally agreed-upon document and/or approach to counter hate speech.

In the absence of an internationally recognised law on countering hate speech, in 2020, Guterres launched the United

4 Simpson, Robert Mark, ‘Dignity, Harm, and Hate Speech’, *Law and Philosophy* 32(6):28-201. 2013, <https://doi.org/10.1007/si>.

5 United Nations Office on Genocide Prevention and Responsibility to Protect, accessed 20 August, 2021. <https://www.un.org/en/genocideprevention/hate-speech-strategy.shtml#:~:text=The%20Strategy%20and%20Plan%20of,the%20national%20and%20global%20level.&text=Tackling%20hate%20speech%20is%20the,with%20individual%20women%20and%20men>.

Nations Strategy and Plan of Action on Hate Speech. While there is no guarantee on the functionality and/or global effectiveness of this strategy, this UN strategy is aimed at two specific objectives: ‘first, to enhance United Nations efforts to address root causes and drivers of hate speech; and second, to enable effective United Nations responses to the impact of hate speech on societies’.⁶

In existing human rights instruments, hate speech is officially recognised as a detrimental phenomenon and certain strategies are defined for its prevention. Several international conventions also oblige their signatories and/or party states to, directly or indirectly, prohibit hate speech, and to fulfil their commitments to the principles of those documents.⁷ Article 19 of the International Covenant on Civil and Political Rights (ICCPR) states that everyone has the freedom to hold and express opinions of any kind, providing that the opinions and their expression do not interfere or violate others’ freedoms.⁸ Article 20 of the same instrument also asserts ‘any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.’ Whether or not there are laws to prohibit the spread of hatred as described, remains unclear, under this specific article. Moreover, Article 4 of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) forbids dissemination of any discriminatory idea either based on racial superiority or based on racial hatred. It also prohibits incitement to racial discrimination and acts of racially motivated violence.⁹

6 Ibid.

7 The Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Rights of Persons with Disabilities (CRPD), and the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) all call for the protection and promotion of an individual’s rights and freedoms.

8 The International Covenant on Civil and Political Rights, 1966, accessed August 20, 2021, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

9 UNGA, ‘International Convention on the Elimination of All Forms of Racial Discrimination’, 1965, accessed August 20, 2021, <https://bit.ly/382oAcq>.

Hate Speech in Afghan Legislation

Given the provisions of international human rights instruments and existing universal conventions, many countries across the world, including Afghanistan, have shown their commitment to the implementation of principles of those documents. However, the Afghan government itself has done little to formally recognise, define and prevent hate speech in particular. In a country like Afghanistan, with ongoing conflicts and high level of violence, such a gap can increase chances of further escalation of violence, especially those driven by hate speech.

While hate speech has been widely practised in Afghanistan ever since the 1990s civil war, Afghanistan's legislation, including the Afghan constitution, does not address the issue of hate speech. Afghanistan's national legislation has not directly criminalised hate speech, although the State and the 2004 Constitution of Afghanistan (Article 7 for example) has committed to comply with the principles of international human rights, including the Universal Declaration of Human Rights.¹⁰ Article 34 of the constitution notes that 'freedom of expression shall be inviolable. Every Afghan shall have the right to express thoughts through speech, writing, illustrations as well as other means in accordance with provisions of this constitution'.¹¹ Additionally, Article 24 of the Constitution reiterates:

Liberty is the natural right of human beings. This right has no limits unless affecting others' freedoms as well as the public interest, which shall be regulated by law. Liberty and human dignity are inviolable. The state shall respect and protect liberty as well as human dignity.¹²

While the Afghan constitution does not directly prohibit hate speech or the expression of opinions that spread hatred, it still does require the government to take steps to respect, protect and defend a citizen's essential rights, such as rights to dignity and safety, which

¹⁰ The Constitution of the Islamic Republic of Afghanistan, 2004.

¹¹ Ibid.

¹² Ibid.

could be undermined by hate speech. This is to say that Afghan national laws have covered the issue of hate speech only indirectly. Afghanistan's constitution and other legal documents lack in paying attention to the fact that the prevalence of hate speech can provide grounds for physical violence and social division.

Afghanistan is a party state to many human rights instruments and conventions. However, its national legislations lack a comprehensive mechanism for the definition and protection of citizens' rights against the prevalence of hate speech. This is a critical issue and opens a venue for further research on the causality of this important legal gap.

Social media platforms and mass media play crucial roles in expressing slurs of any kind and hate speech is one of those. In Afghanistan, however, social media platforms like Facebook and Twitter and mass media such as television and radio, are some of the tools which are widely used and consumed by people. Therefore, these tools can be used to mobilise people and incite them to violence against one another. According to the Mass Media Law, all media channels in Afghanistan are required to ascertain their publications and or postings according to the law. Article 45 of the law states that Afghan mass media must avoid publishing and broadcasting works and materials, which are offensive to other religions and sects.¹³

The Afghan Penal Code also clearly bans the spread of biased and discriminatory speeches that are based on religious, racial, ethnic, and linguistic prejudices and or backgrounds. Article 256 of the Penal Code states that 'a person who invites or incites another to religious, racial, ethnic, linguistic, and regional discrimination shall be sentenced to moderate imprisonment of one to five years'.¹⁴ Article 678 of the Code certifies that a person who addresses another using derogatory and dismissive words is considered a perpetrator of insult.¹⁵

¹³ Afghanistan's Modern Media, A Short History, 21 January, 2015, accessed August 20, 2021, <https://www.hrw.org/report/2015/01/21/stop-reporting-or-well-kill-your-family/threats-media-freedom-afghanistan#>.

¹⁴ Ministry of Justice of Afghanistan. 'Penal Code', May 15, 2017, accessed 20 August, 2021, <https://bit.ly/34f4tb5>.

¹⁵ Ibid.

Given that there are past instances of political parties spreading hate speech in the country, Afghanistan has also passed the Political Parties Laws which exclusively restricts the involvement of political parties in spreading provocative thoughts and actions causing religious and ethnic tensions among the people. As such, Article 6 of the law says that political parties shall not ‘incite to ethnic, racial, religious, and sectional violence’.¹⁶ Similarly, according to the Independent Electoral Commission Code of Conduct for Candidates, candidates are required not to use diversities based on ethnicity, race, religion, language, gender and other factors in their electoral campaigns.¹⁷

Hate speech is also practised in Afghanistan’s presidential and parliamentary elections, during which political leaders and election candidates, using the existing ethnic divisions, refer to ethnic and religious identities in order to gain more interest from specific ethnic and religious communities. This pattern of destabilising political behaviour was evident during the presidential elections of 2014 and 2019. During these two elections, Afghan politicians consistently triggered sentiments of hatred and prejudice on the basis of ethnicity, religion, and language, encouraging the public to view their grievances through this social prism.¹⁸ This approach during elections results in hot debates that do include hateful content, against ethno-religious groups. Yet, the Afghan Electoral Law remains silent in this regard and so far, no legal measures have been taken against electoral candidates who use such harmful campaign rhetoric.

Hate Speech in Afghanistan

Existing scholarship on Afghanistan pays little attention to the existence and prevalence of hate speech in the country. However, one way to study and analyse the causes and consequences of hate

16 Ministry of Justice of Afghanistan. ‘Political Parties Law’, June 3, 2009, accessed 20 August, 2021, <https://bit.ly/30WbZFB>.

17 Independent Electoral Commission, ‘Code of Conduct for Candidates’, 2014, accessed 20 August, 2021, <https://bit.ly/3mbfbo5>.

18 Gabriel M. Piccillo, “Prolonged Patience, Elections in Afghanistan”, *The Diplomat*, 2019, accessed <https://thediplomat.com/2019/11/prolonged-patience-elections-in-afghanistan>.



speech in Afghanistan is to dig deep into the inter-ethnic conflicts in Afghanistan, wherein hate speech has been used as a driver of mobilisation of people against each other. In fact, throughout the contemporary history of Afghanistan, the dominant atmosphere of ethnic divisions, non-tolerance and hatred among different ethno-religious groups have caused severe violence and bloody conflicts. For instance, during the 1989-92 civil war, a conflict that flared largely along with ethnic divisions in Afghanistan, thousands of people were killed, and more were injured or displaced.¹⁹ As a result, in the aftermath of the civil war, ethnicity-based hate speech and derogatory rhetoric, which was already produced during the civil war, further contributed to inter-ethnic conflict as the two phenomena largely reinforced each other.

Later, during the Taliban regime, hate speech was widely practised specifically towards ethnic and religious minorities such as Hazaras as well as non-Muslim like Sikhs, Hindus and even Jewish communities. All of these non-dominant minority communities have experienced abusive treatments by being called; Hazaras as ‘infidels’,²⁰ Sikhs and Hindus as ‘others’ (Indians and

¹⁹ Conrad Schetter, *Ethnicity and the Political Reconstruction in Afghanistan*, Center for Development Studies (ZEF), University of Bonn, Germany, <https://www.files.ethz.ch/isn/129100/schetter.pdf>.

²⁰ Ibrahim, Niamatullah. *The Hazaras and the Afghan State: Rebellion*,

Pakistanis),²¹ and Jews, too, as infidels.²² Sikhs and Hindus were singled out based on their ethnicity by having to wear yellow scarves.²³ Among many factors, the spread of hatred and the ‘othering’ of these communities had led to the normalisation of their exclusion from and marginalisation within Afghan society.

It is also important to understand that alongside religion-based hate speech, ethnic hate speech has also been used against ethnic minorities in Afghanistan. For example, Rashid Dostum, an Uzbek leader, in an interview with 1TV said, ‘We are an ethnic group that has long been discriminated against and used to live with humiliation and insult. Knowingly or unknowingly, we were insulted referring to our [Uzbeki] language; asking us to speak in a “Muslim” language. They used to call us “Uzbeks without a book”.’²⁴ This is an example of how hateful speeches are practised against the Uzbek ethnic group, although it is unclear by which group of people in particular.

At the same time, in another TV interview, Kamal Nasir Osuli, a member of the Afghan parliament, attacked other ethnic groups in Afghanistan, claiming, ‘If Tajiks, Hazaras and Uzbeks want to live in this country [Afghanistan], they must accept Pashtuns as the majority. This is our land and if one day we cannot tolerate them [non-Pashtuns] further, we would ask them to leave our country. Afghanistan is the land of Pashtuns.’²⁵ Unfortunately, due to lack of legal provision to combat such remarks, even Afghan politicians such as parliamentarians contribute to the practice and spread

Exclusion and the Struggle for Recognition. Hurst & Company, 2017.

21 United Kingdom: Home Office, *Country Policy and Information Note – Afghanistan; Hindu and Sikhs*, Version 3.0, 2017, accessed 21 October 2021 available at: <https://www.refworld.org/docid/589c78314.html>.

22 Terry Friel, ‘Afghanistan’s Hated Sikhs Yearn for India’, *Reuters*, 2007, accessed 20 August, 2021, <https://www.reuters.com/article/us-life-afghan-sikhs-idUSSP13957620061124>.

23 Jay Deshmukh and Usman Sharifi, ‘Fearing the return of Taliban, Afghanistan’s last Jew plans to move to Israel’, *Times of Israel*, 2021, accessed 20 August, 2021, <https://www.timesofisrael.com/expecting-return-of-taliban-afghanistans-last-jew-plans-move-to-israel>.

24 Exclusive interview with Marshall Abdul Rashid Dostum, 1TV, 2021, accessed 20 August, 2021, <https://www.youtube.com/watch?v=gjM8inmRoxA>.

25 TV interview with Kamal Naser Osuli, accessed 20 August, 2021, <https://www.facebook.com/428939901250834/videos/351438705375352>.

of hateful remarks in their public addresses, especially on social and mass media. The spread of hate speech and slurs by Afghan politicians and parliamentarians targeting each other based on ethnicity and language is undeniable and widely experienced. As tensions among Afghan politicians on different points of the political spectrum have risen since 2014, the use of blistering and violent rhetoric by members of parliament has become normal.²⁶

Hate Speech during the Afghan Civil War (1989-92)

Contemporary literature on Afghanistan has not paid sufficient attention to the issue of hate speech, whether it played a role in fuelling inter-ethnic conflicts and violence in Afghanistan's civil war. Instead, the literature does provide evidence on the prevalence of violent conflicts among those groups. The 1990s Afghan civil war, which took place between the ethnic and religious groups in Afghanistan, had several internal causes. One is the issue of lack of national cohesion and non-tolerance towards the diversity of ethno-religious communities, the politicisation of ethno-religious identities and mobilisation of people against one another. This lack of unity can be seen in the structure of each warring party during the civil war. The identity-based composition of each warring party and the fact that certain ethnic and religious groups were lined up against one another can be taken as proof of the existence of non-tolerance and non-acceptance in Afghanistan, which on several occasions have led to violent conflicts. This opposition of ethnicities to each other, indeed, formed the ground for long-term hatred and disputes resulting in geographical divisions of ethnic groups in Afghanistan. As an example, Thomas Barfield argues, 'As a result of these [inter-ethnic and or tribal] oppositions and disputes, the country was divided into several regions; Ismail Khan secured Heart and the west (including Badghis, Farah, and Ghor); Dostum ruled the north from Mazar in alliance with the Hazara Hizb-i-Wahdat; and the Ismailis in the Baghlan. Masud controlled Kabul and the northeast.'²⁷

²⁶ Ibid.

²⁷ Thomas Barfield, *Afghanistan in the Twentieth Century: State and Society in Conflict*, Princeton University Press, p 252.

On the other hand, according to Conrad Schetter, the warring parties and ethnic leaders in Afghanistan have played important roles in spreading hatred among ethno-religious communities of Afghanistan during the civil war. In his words,

The leaders of the warring factions made their supporters aware of their social and economic deprivation on the basis of their ethnic belonging in past and present. They claimed at least that the survival of the 'own ethnic group' was endangered through the aggressive behaviour of 'other ethnic groups'. Nevertheless, by means of the ethnic moment the warring factions stirred up a collective anxiety as well as hate and jealousy. Also, the parties demanded economic and political resources of the state and society in the name of their ethnic groups.²⁸

Evidence of hatred and hate speech leading to violence have been numerous and excessively experienced by Afghans, especially minorities, during the civil war. William Maley describes the sufferings as, 'Once war began in earnest, there were a number of grisly massacres during the course of combat in the city. One was the Afshar massacre of 11 February 1993, which claimed the lives of hundreds of Hazaras'.²⁹ According to the Special Rapporteur of the UN Human Rights Commission report, 'between 200 and 300 people were killed in west Kabul'.³⁰

Identity politics and divisions across ethnic and religious lines in the multi-ethnic society of Afghanistan, by itself, shows how and to what extent ethnic differences have played a role in creating grounds for hatred leading to violence among ethnic groups. This came to the fore during the Taliban rule when Hazara Shia communities were subjected to severe discrimination and violence because of their religious identity labelling them 'infidels'. As

²⁸ Conrad Schetter, 'Ethnicity and the Political Reconstruction in Afghanistan', Center for Development Studies (ZEF), University of Bonn, Germany, <https://www.files.ethz.ch/isn/129100/schetter.pdf>.

²⁹ William Maley, *The Afghanistan Wars*, (New York, Palgrave Macmillan, 2002).

³⁰ Ibid.

Niamatullah Ibrahim says, ‘Towards the 1990s, the Hazaras were persecuted on similar grounds by the Taliban.’³¹

‘In a religious edict that mirrored Emir Abdul Rahman’s, the Taliban declared, ‘Shias are infidels. There is no doubt in their infidelity...We demand that the Shia shall be declared a non-Muslim minority on the basis of their non-Muslim beliefs.’³² In a similar case in 1998 in the northern city of Mazar-e-Sharif, with the Taliban invading the city, the locals fought against them that led to a large number of Taliban casualties. ‘In retribution, the Taliban slaughtered 8,000 civilians who were massacred systematically in a six-day campaign targeting primarily Hazaras.’³³ Additionally, as Francioni Francesco and Federico Lenzerini put, ‘other than massacres, the Taliban also destroyed and targeted the cultural identity of the Hazara. They detonated the ancient Buddha statues in Bamiyan and destroyed hundreds of historically significant artefacts and cultural sites, such as the mausoleum built in the memory of Abdul Ali Mazari, a political figure considered as the spiritual father of the Hazaras.’³⁴

Religious-based Hate Speech and Minorities in Afghanistan

One of the main ways to study hate speech in Afghanistan is to examine the issue of religion-based hate speech. Unfortunately, the religious diversity of Afghanistan has not been protected and promoted enough in Afghanistan, neither by the people nor by Afghan politicians. As a result, with the politicisation of religious identities, some religious minorities have been subjected to hatred, discrimination and exclusions. As previously described, Shia Muslims as well as non-Muslim communities such as Hindu and

31 Ibrahim, Niamatullah. *The Hazaras and the Afghan State: Rebellion, Exclusion and the Struggle for Recognition*. Hurst & Company, 2017.

32 *ibid.*

33 Human Rights Watch, “Massacre at Robatak Pass, May 2000, Report”, 2000, accessed on 20 August 2021, <https://www.hrw.org/reports/2001/afghanistan/afghan101-04.htm>.

34 Francioni, Francesco, and Federico Lenzerini. “The Destruction of the Buddhas of Bamiyan and International Law”, *European Journal of International Law*, vol. 14, no. 4, Sept. 2003, pp. 619–51, accessed 20 August, 2021, <https://committees.parliament.uk/writtenevidence/11165/html>.

Sikh minorities in Afghanistan, have a long history of persecution in the country. Hindus and Sikhs of Afghanistan, in particular, have not only faced discrimination, but also lack public liberties. A survey conducted by Porsesh Research and Studies for example shows that, when asked about their personal experience of discrimination in public places, 34.9 per cent say they have been discriminated against often or sometimes at school while 40.1 per cent have never gone to school. More than two-thirds of respondents (69.4 per cent) say they did not go to university upon graduation from school, and 20.4 percent of them say they have been discriminated against while studying at university. Furthermore, 23.6 per cent of respondents say they face discrimination in their neighbourhoods often or sometimes. Similarly, 20.2 percent say they are often or sometimes discriminated against in public transport.³⁵

The marginalisation of non-Muslim communities in Afghanistan such as Hindus, Sikhs and Jews, is evident from Afghanistan's exclusive legislations ever since the 1960s. For example, Article 2 of the first Constitution of Afghanistan (1964) stated that, 'Islam is the sacred religion of Afghanistan. Religious rites performed by the State shall be according to the provisions of the Hanafi doctrine. Non-Muslim citizens shall be free to perform their rituals within the limits determined by laws for public decency and public peace.'³⁶ Accordingly, followers of other religions—Hindus, Sikhs and Jews, for example—had been entitled to the full protection of the state provided they do not disturb 'public peace'. Indeed, conditionalizing State protection is by itself a double standard for followers of the 'other' religious beliefs in the country. At the same time, referring to non-Muslims religious identity as a 'disturbance to the public peace' can basically question their freedoms and fundamental human rights and dignity. Nonetheless, although it is difficult to blame lack of inclusive national legislation for the prevalence of religious-based hate speech in Afghanistan, such legal

³⁵ Ehsan Shayegan, Mahdi Frough, and Sayed Masood Sadat, Survey of the Afghan Sikhs and Hindus, 2019, accessed 20 August, 2021, <https://www.porseshresearch.org/porseshv2/wp-content/uploads/2019/04/Survey-of-the-Afghan-Hindus-Sikhs-English.pdf>.

³⁶ Afghanistan Constitution, 1964.

gaps and exclusive laws can definitely make it easier to practise and spread hate speech towards religious minority communities.

Moreover, Afghanistan's Civil Law, which regulates private life and the principles of their activities, has been developed on the basis of Islamic law. Therefore, non-Muslims are left out of the circle. For instance, Paragraph 2 of Article 1 of the Civil Law states, 'in cases, where there is no law, the court will resort to the general principles of Hanafi Islamic jurisprudence to attain justice in the best possible manner.'³⁷ Additionally, Article 2 of this law states: 'In cases where general principles of Islamic Hanafi law jurisprudence do not exist, the court will issue a judgment in accordance with common practice provided that this practice is not contrary to the provisions of law or the principles of justice.'³⁸

While Muslims form the majority of the population of Afghanistan, non-Muslim minority communities are left out of the circle of the laws and regulations designed and ratified solely to run citizens day-to-day affairs according to Islamic laws. As such, there is no existing legal procedure for Hindus and Sikhs to proceed with their disputes and or legal-judicial cases, as non-Muslims who might have different practices and traditions in their social lives. As an example, the Independent Advisory Group on Country Information—Afghanistan shows that 'they encounter hatred and are still unable to cremate their dead according to their traditions as most of the cremation sites are captured by warlords, and people living in the neighbouring areas prevent them by means such as throwing rocks'.³⁹

In essence similar vein, the 2019 International Religious Freedom Reports noted: 'Sikhs, Hindus, Christians, and other non-Muslim minorities reported continued harassment from Muslims, although Hindus and Sikhs stated they continued to be able to publicly

³⁷ Ministry of Justice of Afghanistan, Civil Code, 1977, accessed August 20, 2021, <https://www-cdn.law.stanford.edu/wp-content/uploads/2015/10/Civil-Code-of-Afghanistan-ALEP-Translation.pdf>.

³⁸ Ibid.

³⁹ Country Policy and Information Note Afghanistan: Hindus and Sikhs, 2021, accessed August 20, 2021, <https://www.justice.gov/eoir/page/file/1381101/download>.

practise their religions.’⁴⁰ According to Dr. Jhutti-Johal, ‘The last four decades, whether it was under the Mujahedeen, Taliban, or leadership of President Karzai, or President Ashraf Ghani, Sikhs and Hindus have seen their non-Muslim “Kafir” religious identity result in violence.’⁴¹

Unfortunately, with the exclusion applied to Sikh and Hindu religious minorities since the rule of the Taliban, these communities continue to be discriminated against and mistreated by other Afghans as well. Recently, a member of the Hindu community said, ‘The locals tell us, “You are not from Afghanistan, go back to India.” Sometimes, they throw stones at us, [to our] children. We feel we have to hide...’⁴² Additionally, another study by the Independent Advisory Group on Country Information shows that Afghan Hindus and Sikhs felt they were perceived as foreigners and more often regarded as Indian or Pakistani. A 2016 Reuters article similarly stated that they were viewed as outsiders.⁴³

The survey conducted by Porsesh Research and Studies Organization, reported:

Despite living in large cities, almost all (96.8 per cent) Hindu and Sikh respondents report having always, often, or sometimes fear for their or their families’ safety. Comparatively, 71.1 percent of the general population report having always, often, or sometimes fear, according to the Survey of the Afghan People. Majority (70.5 per cent) of Hindu and Sikh respondents report fearing always, which is considerably higher compared to the rest of Afghans (13.2 Per cent). Looking at the provincial

40 US Department of State (USSD), ‘2019 Report on International Religious Freedom: Afghanistan’, 10 June, 2020, accessed October 20, 2020, <https://www.state.gov/wp-content/uploads/2020/06/AFGHANISTAN-2019-INTERNATIONAL-RELIGIOUS-FREEDOM-REPORT.pdf>.

41 Country Policy and Information Note Afghanistan: Hindus and Sikhs, 2021, accessed August 20, 2021, <https://www.justice.gov/eoir/page/file/1381101/download>.

42 Terry Friel, “Afghanistan’s Hated Sikhs Yearn for India”, *Reuters*, 2007, <https://www.reuters.com/article/us-life-afghan-sikhs-idUSSP13957620061124>.

43 Country Policy and Information Note Afghanistan: Hindus and Sikhs, 2021, accessed August 20, 2021, <https://www.justice.gov/eoir/page/file/1381101/download>.

breakdown, extreme fear (always) is reported the highest by Hindu and Sikh respondents living in Nangarhar province (80.6 per cent), followed by Ghazni (67.5 percent), and Kabul (64.2 per cent). However, taking into account often and sometimes fear, almost every respondent from Kabul province reported fear (99.1 per cent). Furthermore, the majority of respondents in Nangarhar (97.8 per cent) and Ghanzi (90.6 per cent) also reported the same level of fear.⁴⁴

The survey also shows that, 18.2 per cent of non-Muslim Afghan Sikhs and Hindus have been forced to convert to Islam and 6.5 per cent say they have paid *jazy*a tax (a head-tax paid by non-Muslims population to the Muslim rulers).⁴⁵ Among all dominant groups suppressing these communities, the major one is said to be the Taliban collecting *jizya* tax from Sikhs and Hindus in Afghanistan.⁴⁶

Similar to the Hindu and Sikh communities of Afghanistan, there is also a small forgotten stateless minority group known as Jogi or Chori Frosh. 'Jogi and Chori Frosh communities are discriminated against on account of their ancestral origins and related social and economic practices, including high levels of female labour participation rates.'⁴⁷ These communities are settled in the outskirts of Kabul and Northern provinces, and are targeted on the basis of their particular social traditional values. Among this minority, men are commonly responsible for household chores, but their women work outside to sustain livelihood. And yet, other people call them 'coward' simply because their men stay at home and their women are in charge of the families' livelihoods. Given that in mind, the words 'Jogi' and 'coward' are used interchangeably to label someone who does not work hard and stays at home.⁴⁸

44 Ehsan Shayegan, Mahdi Frough and Masood Sadat 'Survey of the Afghan Hindus and Sikhs', 2019, Porsesh Research and Studies Organization.

45 Ehsan Shayegan and Yahya Ammar, 'Ignored Identities, The Status of Sikhs and Hindus in Afghanistan's Legal System', Porsesh Research and Studies Organization.

46 Ibid.

47 Lima Hadi, Noorullah Shayan and Abubakar Siddique, Gandhara, 2019, accessed August 20, 2021, <https://gandhara.rferl.org/a/jogis-afghanistan-s-tiny-stateless-minority-strives-to-survive-without-rights-services/30216120.html>.

48 Mohd. Ahsan, The Ignored Minority of Afghanistan, Daily Outlook

Hate Speech, Minorities, and the Taliban

With the Taliban takeover in Afghanistan in 1996, certain restrictions were imposed by the regime, some of which were in clear violation of fundamental rights and freedoms of minority communities. In fact, the Taliban sanctioned religious freedoms on Shia and Hazara Muslims and non-Muslim Sikhs and Hindus. According to the Taliban, Shia Muslims were considered infidels (*kafir*) and this view directly subjected them to killing.⁴⁹ Accordingly, towards the end of the civil war in Afghanistan, when the Taliban occupied the northern city of Mazar-e-Sharif in August 1998, they embarked on a days' long massacre.⁵⁰ The most conservative estimate put the number killed at 2,000 and others much higher.⁵¹ In an article Rupert Colville of UNHCR, although writing in his personal capacity, thus described the massacre:

In one of the most poignant events of the massacre, a Pushtun woman who had hidden eight Hazara women was shot along with all of those she had tried to help. The massacre was supervised by Mulla Abdul Manan Niazi, a fanatical Pushtun chauvinist from the Shindand area who incited his troops to further action through incendiary speeches over loudspeakers in which he denounced Shiite Muslims as unbelievers. In a step reminiscent of Mengele at Auschwitz, Niazi personally oversaw the selection of prisoners to be moved in containers (Human Rights Watch, 1998). This frenzy of killings was in all probability the worst single massacre in the entire history of modern Afghanistan.⁵²

Moreover, since the second day of Taliban's rule on Mazar-e-Sharif, Mulla Manon Niazi publicly and frequently, in speeches against Hazaras, blamed them for the killing of Taliban prisoners earlier. It is also claimed that the Taliban leader publicly shared

Afghanistan, 2012, http://outlookafghanistan.net/topics.php?post_id=3407.

49 Ibrahimi, Niamatullah. *The Hazaras and the Afghan State: Rebellion, Exclusion and the Struggle for Recognition*. Hurst & Company, 2017.

50 William Maley, 2002.

51 Human Rights Watch, 1998, in William Maley, 2002.

52 William Maley, 2002.

hatred towards Shia Hazaras and pressured them to convert. In his speeches, he also warned the public not to even try to protect the Hazara communities by any possible means.⁵³ Virtually, every witness who stayed in Mazar-e-Sharif after the first day heard one or more of these speeches. As described by William Maley, almost all of the speeches by Taliban were uniformly anti-Shia and anti-Hazara and consistently held Hazaras responsible for the 1997 killings.⁵⁴

In a similar act, as alluded to earlier, in 2001, the Taliban ordered Sikhs, Hindus to wear yellow patches, ostensibly so they would not be arrested by the religious police for breaking Taliban laws on the length of beards and other issues.⁵⁵ This is a direct exclusion and discrimination of these specific ethno-religious community. Sikhs and Hindus have historically had to pay the *jizya*, wear a piece of yellow cloth in public, or mark their homes and businesses with a yellow label/mark to identify their religious identity.⁵⁶

Hate Speech and Elections in Afghanistan

After the collapse of the Taliban regime, a new political space emerged in Afghanistan. Since the formation of an interim government of Afghanistan in 2001, the country has experienced four rounds of elections. Given the ethnic division within different communities in Afghanistan, elections have provided a venue for political leaders and election candidates to mobilise their followers and communities of certain ethnic identity in their favour. In doing so, political leaders have used biased and discriminatory speeches in election campaigns. During each election, either presidential or parliamentary, they have widely practised hate speech in their public campaigns and when competing with one another. Their political campaigns have been fully structured and run on the basis

53 Ibid.

54 Ibid.

55 Terry Friel, "Afghanistan's hated Sikhs yearn for India", *Reuters*, 2007, accessed August 20, 2021, <https://www.reuters.com/article/us-life-afghan-sikhs-idUSSP13957620061124>.

56 Country Policy and Information Note Afghanistan: Hindus and Sikhs, UK, 2021, accessed August 20, 2021, <https://www.justice.gov/eoir/page/file/1381101/download>.

of ethnicity, religion, and language factors bringing about huge divisions among ethnic groups of Afghanistan.⁵⁷

Of the four presidential elections in Afghanistan in the past two decades, the ones in 2014 and 2019 were the most contested ones during which ethnic and religious hatred were most played on. Following the political crisis over the 2014 presidential election results, ethnicity-based narratives and speeches appeared more and more in the public discourse since political leaders and election teams tried to deliver provocative remarks in online and offline space, further promoting hatred and ethnic divisions among their followers. For instance, in 2019, when the result of the election was announced, the two popular presidential candidates and their supporters blamed one another for massive fraud. Consequently, in their effort to reject one another's claims they referred to ethnic and language-based vitriols as described below.

During the debate over the results of the 2019 election, Ashraf Ghani's vice-presidential nominee, Amrullah Saleh, quoted and shared a discriminatory and racist speech against Hazaras from a group discussion on stability and partnership on his Facebook account, which brought a huge wave of criticism.

Amrullah Saleh said:

One of the core members questioned whether Hazara ethnic group participation in administrations may be lesser. The top core member answered that their presence or absence is a separate matter but their right is at the scale of their nose. When God was distributing noses among humans, Hazara received a small nose in his turn and was told, you wish to have a nose or not, it is up to you. All were laughing and this was the example of people who want to display partnership.⁵⁸

57 Rabia Nasimi, "Ethnicity and Politics in Afghanistan, an Analysis of 2014 Presidential Election", London School of Economics, London, 2016, accessed 20 August, 2021 via, <https://blogs.lse.ac.uk/southasia/2016/10/05/ethnicity-and-politics-in-afghanistan-an-analysis-of-the-2014-presidential-election>.

58 Pazhwok Afghan News, 2019, accessed 20 August, 2021, <https://factcheck.pajhwok.com/en/2019/11/24/facebook-tension-between-saleh-mohaqq-heightens>.



... اشتراکگذاری | دنبال می‌کنید | پسندیده شد

Amrullah Saleh
۲۲ ساعت ·

در هسته بحران تیم ثبات و همگرایی :
"یکی از اعضای هسته بحران می پرسد که شاید قوسهای هزاره در تطاهرات کمتر اشتراک کنند. سر هسته جواب میدهد که اشتراک کنند یا نکنند حرف جداست اما حق هزاره به اندازه بینی اش است. وقتی خدا بینی تقسیم میکرد نوبت هزاره که رسید برایش بینی کوچک داد و گفت دلت میگیری یا که بی بینی می باشی". همه میخندند. این است کسانی که میخواهند همگرایی را تشویل نمایند.

نوت : اگر مارنوالی یا محکمه خواسته باشد این مکالمات نژاد پرستانه و تعصب انگیز را بخاطر پیگیری عدلی بدست آرد در اختیارشان قرار خواهیم داد. در آن تیم هرچیز است به جز از ثبات و همگرایی. با این ادبیات، بمتغفن دعوی سیاست کردن شرم مطلق است. اشتراک کننده ها شامل وکلای پارلمان سنا و چند مقام دولتی بودند.

۳۸۸ اشتراکگذاری | ۳۴۹ هزار نظر | ۵۶ هزار نفر | Ab Wahed Wahid و ۲ | ۳۹۹ | ۳۸۸

صفحه اصلی
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Saleh's social media posts with racist remarks led to serious and widespread reactions from members of the Hazara community. Mohammad Mohaqiq, an influential political leader of the Hazaras, who became the second Vice-President for the Office of Chief Executive led by Abdullah Abdullah, countered Amrullah Saleh saying that [Ghani's team] 'should tell newly matured member that honour is not linked with the nose but morals and humanity'.⁵⁹ Mohaqiq termed Saleh's remarks as an attack on Hazara people aimed to wage a psychological war in a bid to suppress Hazaras so that they give up campaign for their rights.⁶⁰

Conclusion

Afghanistan encompasses a large population of diverse ethno-religious groups. Throughout the country's contemporary history, inter-ethnic tensions, including hate speech, have led to violent conflicts and bloody wars. Examples of such cases can be seen in the civil war during which the dominant warring parties were composed of and lined up against different ethnic and religious groups. As a result of the civil war, thousands of people were killed and more injured and displaced. In the aftermath of the civil war, ever since the 1990s up to now, in almost all national and

59 Ibid

60 The Khaama Press News Agency, 2019, accessed August 20, 2021, <https://www.khaama.com/salehs-claims-about-alleged-insult-of-hazara-people-spark-furor-amid-election-tensions-04392>.

even local processes such as elections people have been mobilised and divided based on ethnicity, religious practices and spoken language(s) across the country. While such division has, in fact, led to violence and conflicts at specific periods, the existing scholarship and the Afghan government have paid little or no attention to the issue of hate speech as a driver of inter-ethnic tensions leading to violence. Given this, a common practice among scholars studying Afghanistan has been analysis of the hate speech consequences such as conflicts and ethnic clashes, but the causes of hate speech itself, such as non-tolerance or non-violent communication, lack of awareness on the proper use of media, ineffective legal foundations for countering hate speech and so on are ignored in a way.

The Afghan state, by itself, hugely lacks policies to counter hate speech policies. The Afghan constitution for instance does not cover penalising or criminalising the practice and spread of hate speech. As such, the overall public space in Afghan society remains fertile ground for hate speech, specifically those targeted at historically marginalised communities and minorities. Of the many ethnic and religious minorities in Afghanistan, the Shia and non-Muslim Hindu and Sikh communities have been primarily targeted for hate speech. Thousands of Shia Hazaras were massacred during the Taliban rule in the 1990s, and similarly, Sikhs and Hindus have been constantly discriminated against, hated, and excluded from society generally, and from political participation in particular. Nonetheless, although Afghan legislation lacks a specific strategy or set of laws to prevent and counter the prevalence of hate speech, there are several legal reforms adopted that can help prevent the spread of hate speech indirectly, especially towards minorities. These reforms include amending Afghanistan's Political Parties Law so that it prohibits political parties from engaging in provocative activities triggering religious and ethnic tensions.

Recommendations

For the Afghan government:

- Given the fact that the Afghan legislation has not specifically and directly prohibited hate speech, the spread of hate

speech has become very challenging endangering lives and security of vulnerable minority communities particularly religious and ethnic minorities. Therefore, Afghan state institutions, especially the legislative branch, have to pay serious attention to formally recognise and define hate speech and criminalise it;

- The Afghan government should implement awareness-raising programmes on the causes and consequences of hate speech in the country. This could be done through offline and online means and can include reforms in educational curriculum or social media campaigns and public dialogues; and,
- The Afghan government should develop specific policies and protection mechanisms aiming to preserve the diversity of ethnic and religious communities of Afghanistan, especially religious minority communities such as Shi'a Muslims, Sikhs and Hindus.

For civil society organisations:

- The civil society organisations (CSOs), possibly in a coordinated way with the government and international organisations, should develop a society wide study of hate speech in Afghanistan such that it encompasses people from all walks of life and ultimately benefits them;
- Since the Afghan government does not have a comprehensive counter hate-speech strategy, CSOs should consider a local and bottom-up approach to raise awareness on the definition, causes, and consequences of hate speech in Afghanistan; and,
- CSOs should mobilise the Afghan public to advocate for the criminalisation of hate speech in the Afghan constitution and other legislative institutions.

To the international community:

- The international community should push the Afghan government, especially Afghan legal institutions, in developing counter hate speech principles and implementing preventive measures;
- The international community should pressurise the Afghan

government to punish individuals and or groups that violate principles of human rights and fundamental freedoms respected under the international human rights instruments; and,

- The international community should help raise awareness on the cultural and religious diversity in the pluralist society of Afghanistan. They should pay specific attention to the protection of minorities and their ability to assert their rights and freedoms.

Hate Speech and Incitement to Violence against Minorities in Bangladesh

Monjurul Islam & Zakir Hossain

Introduction

‘As the world is ever more interconnected and as the fabric of societies has become more multicultural in nature, there have been a number of incidents in recent years, in different parts of the world, which have brought renewed attention to the issue of incitement to hatred. It should also be underlined that many of the conflicts worldwide in past decades have also—to varying degrees—contained a component of incitement to national, racial, or religious hatred’.¹ This statement from the United Nations’ Rabat Plan of Action describes the situation in Bangladesh very well. Hate speech against religious and ethnic minorities is very common in Bangladesh. Recent trends of spreading hate speech and intolerance through social media have further strained communal harmony and given rise to violence, especially against minorities.

Communal violence in the subcontinent is inextricably linked with religion, especially between Hindus and Muslims dating back to even before the colonial era even though the British are often blamed for the divide-and-rule policy that gave further boost to

¹ Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the expert workshops on the prohibition of incitement to national, racial or religious hatred* (‘Rabat Plan of Action’) 11 January 2013, A/HRC/22/17/Add.4, p-7, https://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat_draft_outcome.pdf.

religious hostility.² The partition of British India at independence added new dimensions to the issue.³ Likewise, secularism, which had been one of the principles of Bangladesh's struggle for independence, disappeared within a few years through the fifth amendment of the constitution, paving the way for the rise of communalism. In this context, this paper explores hate speech and the incitement to violence against minorities (especially religious minorities), identifies underlying causes, and charts a way forward.

Although minorities in Bangladesh can be divided into two categories—religious and ethnic—and some of the ethnic minorities are also religious minorities, This paper focuses on different minorities, especially Hindus, as they are the most significant minority group in terms of number and socio-political situation. Some other communities like Ahmadiyas, Biharis and Dalits are also considered, considering the severity of hate speech against them.

The paper's objective is to explore the processes and drivers, and consequences of hate speech, especially against religious minorities, and chart a way forward by:

- studying the evolution of hate speech/hatred activities against minorities, including the current trends;
- analysing how hate speech affects minority communities;
- reviewing the legislative framework, and national and international obligations in addressing civic space for the minority rights; and
- recommending measures to cope with the hate speech and combat its possible consequences on minorities.

Information presented here has been collected from both primary and secondary sources. Reports from government and private

2 Akhilesh Pillalamarri, 'The Origins of Hindu-Muslim Conflict in South Asia, What are the historical origins of animosities between South Asia's two largest religions?', *The Diplomat*, March 16, 2019, <https://thediplomat.com/2019/03/the-origins-of-hindu-muslim-conflict-in-south-asia>.

3 Amena A. Mohsin, 'Religion, Politics and Security: The Case of Bangladesh' in Satu Limaye, Robert Wirsing and Mohan Malik (eds), *Religious Radicalism and Security in South Asia* (Hawaii: Asia-Pacific Center for Security Studies, 2004).

institutions, published and unpublished research documents, seminar/conference papers and proceedings, articles, presentations, digital documents available in social media and daily newspapers have been consulted for the collection of secondary information. Primary information has been collected from direct interviews with those affected through focus group discussions (FGD), in-depth interviews and consultations. Due to the COVID-19 situation, these interactions were conducted online. An online survey on the status and impact of hate speech against minorities was also conducted.

Hate Speech Leading to Violence against Minorities

While there is no exact legal definition of ‘hate speech’, it is generally defined by the United Nations as, ‘any kind of communication in speech, writing or behaviour, that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor’. When left unaddressed, it can lead to violence or hate crimes against marginalised groups. While some statements may not immediately incite violence, they can spread seeds of intolerance and anger that lead to legitimising acts of hate.⁴

Who are the minorities?

Though the term ‘minority’ is contested, there are religiously, culturally, ethnically distinct groups that can be called the minority population. As per the 2011 census, Bangladesh has a population of 144 million of which the Muslim population was approximately 130 million, constituting an overwhelming 90.4 per cent of the country’s population.⁵ Other religious, ethnic, and other minorities constitute about 10 per cent of the total population while there are also small Muslim subsets of Ahmadiyas and ‘Biharis’⁶.

⁴ ‘What is Hate Speech?’, *KAICIID Dialogue Centre*, October 21, 2019, <https://www.kaiciid.org/news-events/news/what-hate-speech>.

⁵ Population and Housing Census 2011, National Report, Volume -1, Analytical Report, Bangladesh Bureau of Statistics, <http://203.112.218.65:8008/WebTestApplication/userfiles/Image/PopCenZilz2011/NRV-1Report2011.pdf>.

⁶ A pejorative term for Urdu-speakers who mostly migrated from Bihar in India during and after Partition in 1947.

There are around 12.73 million Hindus in Bangladesh according to the 2011 census. They constitute 8.5 percent out of the population. Buddhists form about 0.9 percent of the population of Bangladesh. Over 65 per cent of the Buddhist population is concentrated in the Chittagong Hill Tracts region, where it is the predominant faith of the Rakhine, Chakma, Marma, Tanchangya, and other Jumma people. The remaining 35 per cent are from the Bengali Buddhist community.⁷ Christians in Bangladesh accounts for 0.4 per cent (approximately 600,000) of the population.

Bangladesh is home to more than 50 ethnic groups.⁸ According to the 2011 census, the total indigenous population is 1.6 million, representing 1.8 per cent of the total population. Indigenous people, however, claim that their population comprises at least twice this figure.⁹ The ethnic minorities are of two distinct identities—indigenous peoples living in the hilly areas (the Chittagong Hill Tracts, Sylhet and Mymensingh region) and those living in the plains. In terms of religion, they follow Buddhism, Hinduism, Christianity, animism, and other faiths.

The Ahmadiyas follow a variation of the Muslim faith but believe that the Promised Messiah (also referred to as the Mahdi in some texts) of the latter days has arrived and he established the Ahmadiya Muslim Community in 1889.¹⁰ The Ahmadiya Muslim community became officially established in Bengal in 1913 and there are 120 local chapters of the Ahmadiya faith, comprising 425 *jamaats* operating and about 500 clusters spread all over Bangladesh. The majority of the Ahmadiyya live in Brahmin Baria, Kishoreganj and Mymensingh districts.¹¹

7 Buddhism in Bangladesh, see: <https://artsandculture.google.com/entity/buddhism-in-bangladesh/m011b7yvf?hl=en>.

8 Gazette Ministry of Cultural Affairs, Government of the Republic of Bangladesh, S.R.O. No- 78/Act/2019 (Dhaka: Gazette Ministry of Cultural Affairs, March 19, 2019).

9 Kamal M (ed.), *Parliamentary Caucus on Indigenous Peoples (Bangladesh): A Genesis of Parliamentary Advocacy in Bangladesh*, February 2010- January 2014, (Dhaka: Research and Development Collective, 2014).

10 Al Islam, 'What is the Difference between Ahmadi Muslims and other Muslims?', *Al Islam*, n.d., <https://www.alislam.org/question/difference-between-ahmadi-muslims-others>.

11 Mahmud Tarek, 'How Ahmadiyya Faith Found Space in Bangladesh', *Dhaka*

The pejorative term, 'Bihari', is commonly used for a specific group of people who are Muslims but easily identified by their distinct language and culture. Urdu speakers in Bangladesh came largely, though not exclusively, from the Indian state of Bihar, and for their anti-liberation role in 1971, they have been termed traitors and the term 'Bihari' used with hatred. At present, there are some 300,000 non-Bengali Urdu-speaking Bangladeshis, or 'Biharis', stranded in 116 camps, popularly known as 'Geneva Camps', in 13 urban settings across Bangladesh.¹²

Prevalence of hate speech against minorities

Hate speech and the related violence are inextricably linked with religion, socio-political culture, and hegemony.¹³ The partition in 1947 increased animosity between the people of the two newly independent (India and Pakistan) states and impacted the inter-state security of the two newly independent states. It also affected the security of the minorities within the states concerned.¹⁴ During the British era, non-Muslims made up nearly a quarter of the total population of East Bengal, the area that is roughly what is Bangladesh now. Minorities, especially Hindus were politically, economically, and socially dominant in East Bengal. The establishment of Pakistan reversed that dominance, and the Hindu minority in East Bengal began life in the new political system with a sense of communal hatred and distrust.¹⁵

Though the state of Bangladesh started its journey on a secular basis of nationhood, religion soon became an important component. In its preamble, the 1972 constitution of Bangladesh

Tribune, June 16, 2017, <https://www.dhakatribune.com/bangladesh/2017/06/12/ahmadiyya-faith-found-space-bangladesh>.

¹² *Human Rights Situation of Urdu-speaking Community in Dhaka City 2016* (Dhaka: Islamic Relief Bangladesh, 2016).

¹³ Tapos Kumar Das, 'Minority Exodus in Bangladesh Trends and Causes', *ResearchGate*, November 2016, https://www.researchgate.net/publication/331771677_Minority_Exodus_in_Bangladesh_Trends_and_Causes.

¹⁴ Amena A. Mohsin, *Religion, Politics and Security: The Case of Bangladesh, Religious Radicalism and Security in South Asia* (Hawaii: Asia-Pacific Center for Security Studies, Honolulu, 2004), p. 467.

¹⁵ Muhammad Ghulam Kabir, 'Minority Politics in Bangladesh', (New Delhi: Vikash Publishing House, 1980), p. 1-7.

accepted ‘nationalism’, ‘socialism’, ‘democracy’, and ‘secularism’ as state principles.¹⁶ The essence of secularism, which was the spirit and principle of the Liberation War was tarnished in the very decade of its promulgation, beginning with the fifth amendment in 1979, which removed the principle of ‘secularism’, and later in 1988 adopted Islam as the state religion.¹⁷ The active role Islamist parties play in current Bangladesh politics is also an indicator of the demise of secularism and the impossibility of peaceful co-cultural coexistence of the Muslim population with religious minorities.¹⁸

Over the years, minorities in Bangladesh have faced numerous adversities, including human and religious rights violations, that have roots in intolerance by the mainstream majority group. Hate speech is a very common tool to generate communal violence and atrocities against religious and ethnic minorities. Spreading hate speech against minority communities has increased substantially through the use of the internet. Social media has been used as a key medium to harass people, spread rumours, and even incite conflict among the various groups within society. Since 2012, several violent incidents have occurred in Bangladesh, triggered by activities on Facebook. In most cases, the violence started in reaction to posts on social media that allegedly offended religious sentiments.

All incidents of violence follow similar patterns and include the destruction of temples and homes of religious minorities, and in some instances even deaths. Another popular medium of spreading hate speech against religious, ethnic minorities as well as secular thinkers is Waz-Mahfil (Islamic public gathering). The Ahmadiya community, though belonging to the Muslim faith, has

16 The Constitution of the People’s Republic of Bangladesh, Preamble, <http://bdlaws.minlaw.gov.bd/act-367.html>.

17 ‘Evolution of Fundamental Principles of 1972’, *Liberation War Museum*, accessed August 4, 2021, <https://www.liberationwarmuseumbd.org/evolution-of-fundamental-principles-of-1972>; Bhuiyan, Jahid Hossain, ‘Secularism in the Constitution of Bangladesh’, *The Journal of Legal Pluralism and Unofficial Law*, June 2017, 49(33):1-24.

18 Md. Sayeed Al-Zaman, ‘Digital Disinformation and Communalism in Bangladesh’, *ResearchGate*, 15(2), 2019, P-72, https://www.researchgate.net/publication/333310094_Digital_Disinformation_and_Communalism_in_Bangladesh.

been termed by fundamentalist groups as *kafir* (enemy of Islam) and these groups have also been advocating with the government to declare them as non-Muslim.¹⁹ The term ‘Bihari’ is also used as a hateful term to identify some Urdu-speaking people who once opposed the independence of Bangladesh.

Bangladesh has a progressive constitution, which guarantees equal rights of all citizens irrespective of sex, caste, creed, or race. Articles 27, 28, 29, and 31 seek to establish equality and non-discrimination based on religion and ethnicity, and Article 41 states religious freedom for all. Bangladesh was also established as a secular state as noted in its preamble, though Islam has been made the state religion through a constitutional amendment. Bangladesh has ratified most of the major international human rights treaties and conventions. The recently adopted Digital Security Act (DSA) 2018 has some provisions to address hate speech. However, the DSA has been severely criticised for its use to curb freedom of speech rather than of its use to combat hate speech and other crimes through digital platforms.

Types of Hate Speech

According to respondents, minorities of Bangladesh come across numerous humiliating words used by the mainstream population. Hindus face the most of such words relating to their religion, profession and culture. Among them, *malaun* or *malu* is the most common word used spontaneously against Hindus. This derogatory term originated from Arabic meaning ‘accursed’ or ‘deprived of God’s mercy’.²⁰ Dalit respondents said they face hate-motivated behaviour as Hindus from Muslims and as ‘untouchables’ from ‘upper-caste’ Hindus. Other hate words used for Hindus are: *kafir* (non-believer), *nomo* (lower caste), *bidhormi* (non-believer), *hindur*

19 Stephan Uttom and Rock Ronald Rozario, ‘Clic Demands Bangladesh Ahmadis Be Declared ‘Non-Muslim’, Union of Catholic Asian New , April 18, 2019, <https://www.ucanews.com/news/cleric-demands-bangladesh-ahmadis-be-declared-non-muslim/85004#>.

20 Md. Sayeed Al-Zaman, ‘Digital Disinformation and Communalism in Bangladesh’, *ResearchGate*, 15(2), 2019, p. 72, https://www.researchgate.net/publication/333310094_Digital_Disinformation_and_Communalism_in_Bangladesh.



jat (meaning Hindus are a lower grade of people), *rendia* (agent of India), *varoter dalal* (agent of India), *beiman* (traitor), *nastik* (atheist), *go-matar sontan* (son of the cow), and *go mutrokhor* (cow urine drinker); Dalits are also called *methor* (sweeper), *chamar* (leather workers), *muchi* (shoe mender), *nomo* (lower caste), and *chondal* (lower caste engaging in cremation of dead bodies). Hate words used against Urdu-speaking linguistic minority groups are: Bihari and Pakistani; against Adivasis: Chakma (though Adivasis belong to various tribes, but ethnic people of hill region are often

called Chakma with its humiliating connotation), Rohingya, China, etc. These hate words are purposefully used against the minorities either seriously or to ridicule them, and have thus become ethnic slurs.

Hindus are also widely termed as pro-Indian and often regarded as temporary citizens of Bangladesh who will migrate to India sooner or later. A common saying is: 'Bangladeshi Hindus are traitors. They eat here, make money here, but all they think of is India.' Other vulgar comments against Hindu communities relate to their culture such as terming *uludhoni*²¹ as the crying of dogs, criticising women for wearing the *sindur*, the vermilion powder on the head as a mark of being married, the mocking of the number of Hindu deities (33 crore), etc.

Among the survey respondents, 87.8 percent mentioned that they or their relatives/friends/acquaintances have experienced hate speech and violence in multiple forms and at multiple levels. In answer to the question of the types of hate speech and violence faced, 83.1 per cent mentioned hate words referring to their religion, caste and profession, 25.4 per cent experienced abuse referring to their religion and caste, 11.3 per cent, physical assault, 31 per cent, organised attacks on the community, 35.2 per cent, hate-motivated behaviour in schools and colleges, 40.8 per cent, derogatory remarks on their culture, customs and rituals, and 26.8 per cent said they had been served food separately.

Hate Speech in the Digital Platform

Social media has now become a part of human life. It is a platform where people are easily harassed or targeted by others with hate speech mixed with sexism, racism, political insults and other forms of violence.²² Bangladesh has been ranked a fast-growing country of social media users with exceptional growth in users in the past

21 Ululating sounds made during weddings and other auspicious occasions by Hindus, especially Bengalis.

22 Amit Kumar Das, Abdullah Al Asif, Anik Paul and Md. Nur Hossain, 'Bangla Hate Speech Detection on Social Media Using Attention-Based Recurrent Neural Network', *Journal of Intelligent Systems*, 2020, <https://doi.org/10.1515/jisys-2020-0060>.

year. Of a total population of over 160 million.²³ There were 112.713 million internet users in Bangladesh till January 2021.²⁴ The number of people who joined a social media platform in the country increased by nine million between 2020 and 2021.²⁵ The number of Facebook users is 43 million as of April 2021.²⁶ Arguments or debates on Facebook often turn towards intolerance of others' opinions, which often leads to abusive or hate speech towards a person, community, culture, or religion. Different studies indicate that Facebook pages are potential sources for spreading hateful speech on political, religious, cultural spheres.²⁷

Of the online survey respondents, 50.6 per cent said the incidence of hate speech is on the rise while 7.6 per cent said it has decreased. The remaining 41.8 per cent said it remains the same as in the past. Moreover, 79 per cent of the respondents agreed that social media has contributed to an increase in hate speech against minorities. Social media during any communal tension overflows with fake information and doctored images that often incite mobs into communal violence. Some years ago, the Bangladesh Police identified around 2500 Facebook pages responsible for spreading communal hatred.²⁸

23 <https://www.worldometers.info/world-population/bangladesh-population>.

24 Bangladesh Telecommunication Regulatory Board (BTRC) <http://www.btrc.gov.bd/content/internet-subscribers-bangladesh-january-2021>, * Internet Subscriber means subscribers/subscriptions who have accessed the internet at least once in the preceding 90 days.

25 'Digital 2021:Bangladesh', *Data Reportal*, February 11, 2021, <https://datareportal.com/reports/digital-2021-bangladesh>.

26 Bangladesh Telecommunication Regulatory Board (BTRC), Number of Facebook users, *Statista*, <https://www.statista.com/statistics/268136/top-15-countries-based-on-number-of-facebook-users/> April 2021.

27 Ishman, Alivi and Sadia Sharmin, 'Hateful Speech Detection in Public Facebook Pages for the Bengali Language', *ResearchGate*, December 2019, https://www.researchgate.net/publication/339328460_Hateful_Speech_Detection_in_Public_Facebook_Pages_for_the_Bengali_Language.

28 '2,500 Facebook Pages Spread Communal Hatred in Bangladesh', *Dhaka Tribune*, November 16, 2017, <https://www.dhakatribune.com/bangladesh/2017/11/16/hundreds-facebook-pages-spreading-communal-hatred-bangladesh>.

Analysis of Hate Speech Inciting Violence against Minority Communities

Facebook is flooded with fake information and tampered images to create communal tensions that often lead to violence. Some cases of violence that originated from hate speech on social media are presented below.

Communal violence through Facebook post against Buddhist community in Ramu, Cox's Bazar

The biggest ever incident of communal violence through a Facebook post occurred in Ramu Upazila (sub-district) of Cox's Bazar District in Bangladesh in 2012. A Facebook post was tagged with one 'Uttam Kumar Barua' of the Buddhist community. Another Facebook user, using a pseudonym, posted a burning Quran image on Uttam Kumar Barua's Facebook wall. Some people took a screenshot of the image and shared it with a wider section of people. They also printed the image and distributed it in the neighbourhood. Vested interest groups incited a larger group of people to attack a Buddhist village, destroying 12 temples and around 50 houses.²⁹ The violence later spread to other areas of Cox's Bazar and Chittagong district. However, it was later found that the Buddhist man had been falsely accused of posting the photo and that the controversial image was a doctored one. The media also reported that members of the ruling party were involved in the attack and the administration, including the police, did not take proper steps to prevent the attack, though they were fully informed about the incident.

Violence against Hindu minorities in Nasirnagar following Facebook posts

On 30 October, 2016, a mob of nearly 3000 destroyed 17 temples and looted 58 houses of the minority Hindu population of Narsinagar, reportedly over an allegedly defamatory post on Facebook by a Hindu youth named Rasraj Das.³⁰ It was reported that more than

²⁹ Star report, 'Extremists linked', *The Daily Star*, October 1, 2012, <http://www.thedailystar.net/news-detail-251955>.

³⁰ '10 Temples Destroyed in Brahmanbaria, Over 100 Injured', *Dhaka Tribune*,

100 people, including women, were injured in the incident.³¹ Victims blamed influential local leaders for being involved in the incident. It was later discovered that Rasraj's account had been hacked before the attack. By then, temples had been vandalised in at least seven other districts. Eight cases were filed over the 2016 Nasirnagar attacks, but all accused persons were released on bail. In November 2019, a police investigation report said several people had taken advantage of the factional conflict within the district and sub-district level units of the Awami League to stoke communal hatred.³²

Media investigations revealed the involvement of websites and Facebook pages run by Islami Chhatra Shibir, the student wing of Jamaat-e-Islami (the largest Islamic parties in Bangladesh), in the attack.³³ The website, www.banglamail71.com, was found to publish provocative content on the alleged blasphemous Facebook posts shared from the timeline of the accused Rasraj Das condemning the 'arrest of six Muslims' for their involvement in the attacks and violent protests. The news also contains a link to a Facebook profile where the post hurt religious sentiments.³⁴ According to media reports, the news item was seen on the website when fresh attacks were launched on Hindus in Nasirnagar, burning at least six houses to ashes. After October 30, temples and Puja pavilions were vandalised and looted in at least seven districts.

October 30, 2016, <https://www.dhakatribune.com/bangladesh/nation/2016/10/30/least-10-temples-demolished-brahmanbaria>.

31 Kamrul Hasan, 'Nasirnagar Violence Case: No Visible Progress Yet', *Dhaka Tribune*, November 7, 2017, <http://www.dhakatribune.com/bangladesh/crime/2016/11/07/nasirnagar-violence-case-no-visible-progress-yet>.

32 Ashif Islam Shaon, 'Justice Eludes Victims of Hate Attacks Over Fake Facebook Posts', *Dhaka Tribune*, November 15, 2017, <https://www.dhakatribune.com/bangladesh/2017/11/15/justice-eludes-victims-hate-attacks-facebook-posts>.

33 Probir Kumar Sarker and Manik Miazee, 'Shibir-Run Website Incites Nasirnagar Attacks', *Dhaka Tribune*, November 5, 2016, <https://www.dhakatribune.com/bangladesh/crime/2016/11/05/shibir-website-incites-nasirnagar-attacks>.

34 A shrine in near the centre of the Great Mosque in Mecca, considered Islam's holiest place.

Communal attack on Hindu village in Rangpur district³⁵

A similar incident of vandalising of Hindu houses occurred in Thakurpara village of Rangpur district following a Facebook post. Local people alleged that one Titu Roy, a Hindu youth, posted a derogatory comment about the Prophet Muhammad (PBUH), which incited thousands of villagers from nearby localities to organise and launch an attack on the Hindu village on 10 November 2017, torching at least 30 houses. When the police intervened, the attackers clashed with them, leaving one dead and 20 injured. Titu Roy's family members have claimed that he is illiterate and could not have written or commented on social media. It was also found that the particular Facebook account did not belong to Titu Roy.

Fake news through Facebook takes the lives of four people in Bhola district³⁶

On 20 October 2019, communal violence following a Facebook post took place in Borhanduddin Upazila of Bhola district. On that day, hundreds of Muslims took to the streets to protest a derogatory Facebook post about Prophet Muhammad (PBUH) that was allegedly written by one Biplob Chandra. Before the violence took place, Chandra had gone to the local police station and informed the police that his Facebook ID had been hacked to spread an anti-religious message. In the meantime, the local Islamist group got furious and demanded tougher action against the accused. To control the situation, the police detained Chandra for questioning and arrested two Muslim men suspecting of hacking his Facebook account, allegedly for extortion. The mob, using the banner of Touhidi Janata (Meaning united people for the rights), turned violent as protesters defied a police ban against mass gatherings over the issue and allegedly attacked a Hindu temple. Police opened fire on the mob, which left four people dead and injured many. Police had already identified two hackers who spread

35 'Mayhem Over Facebook Post', *The Daily Star*, November 11, 2017, <https://www.thedailystar.net/frontpage/mayhem-over-facebook-post-1489402>.

36 '4 killed, 100 injured: Borhanuddin Tturns into battlefield during rally organised by Tawhidi Muslim Janata', *The Daily Star*, October 21, 2019, <https://www.thedailystar.net/frontpage/clash-in-bhola-4-killed-100-injured-1816540>.

the message, but the religious extremists took advantage of the situation targeting houses and property of Hindus in the locality.

Communal attack on Hindu village in Comilla following Facebook post³⁷

On 1 November 2020, five houses belonging to Hindus, including the office of a Union Council chairman, came under attack following Facebook comments posted by a Hindu man of the village who lives in France. The comment was in support of the French president's action against the killing of a teacher by extremists in France in October 2020. In the meantime, local people made the post viral and an organised extremist group led local residents to attack the residence of the accused in Korbanpur village in Muradnagar Upazila of Comilla district. The miscreants vandalised and torched some houses and property in the area.

Threatening individuals from religious minorities and free thinkers for their opinions on social media³⁸

On 30 April 2016, some assassins of a militant group hacked a Hindu tailor to death in Gopalpur Upazila of Tangail district. The police had suspected that the victim, Nikhil Joarder, of making a 'derogatory' comment about Prophet Muhammad (PBUH) in 2012 and that could have been the reason for the attack. Being threatened with his life, Joarder left his village for years. He apologised for his comments and returned to the village and started a normal life for a few months.

A female student of Jagannath University, Dhaka, was arrested on 11 November 2020 for her derogatory comment on Facebook that hurt religious sentiments.³⁹ On 23 October, 2020 some screenshots

37 Masud Amal, Comilla, 'Hindu Households Vandalised, tTorched in Comilla', *Dhaka Tribune*, November 1, 2020, <https://www.dhakatribune.com/bangladesh/nation/2020/11/01/hindu-households-vandalised-torched-for-showing-support-to-france>.

38 Star Report, 'Tailor killed in Tangail, 'IS claims responsibility', *The Daily Star*, April 30, 2016, <https://www.thedailystar.net/country/hindu-tailor-stabbed-dead-tangail-1216852>.

39 Staff Correspondent, 'Missing JnU Sstudent in CID custody', *The Daily Star*, November 13, 2020, <https://www.thedailystar.net/backpage/news/missing-jnu-student-cid-custody-1993629>.

of her Facebook posts and comments hurtful to Muslim religious sentiments had gone viral. The victim notified the Pallabi Police Station stating her Facebook account had been hacked. She went missing in the morning of 25 October after leaving home for the local police station till her arrest on 11 November, 2020.

On 28 October 2020, a communal conflict was about to take place in Parbatipur sub-district of Dinajpur district following a Facebook post allegedly hurting religious sentiments.⁴⁰ It was alleged that a college girl from a minority community had made a derogatory comment relating to Muslims' religious sentiments on another's Facebook post on 27 October 2020. The accused, along with her family, was summoned to the police station where the girl apologised for the post (though she repeatedly said that she did not make the post). However, some interest groups incited the local residents again by making the post viral and clashed with the police. In such circumstances, police had to arrest the girl that night and file a case under the Digital Security Act.

Caste-Based Hate Speech

Dalits, also known as 'untouchables', are members of the lowest social group of the Hindu caste system. Though they are an integral part of the Hindu community, they are treated as a separate group in this report because they face more hate speech and hate-speech-related discrimination in their everyday life than other communities in Bangladesh. Both the dominant 'upper-caste' Hindus as well as Muslims use hate speech and discriminatory practices against Dalits. Caste hate speech is not associated with organised communal violence, but respondents said that in any communal violence against Hindus, Dalits are the first and the worst victims.

There are between 5.5 and 6.5 million Dalits and members of similarly excluded groups in Bangladesh and they are estimated to comprise as much as 70 per cent of the Hindu population in

⁴⁰ Staff Correspondent, 'Hurting' religious sentiment: College girl held in Dinajpur', *The Daily Star*, October 30, 2020, <https://www.thedailystar.net/backpage/news/hurting-religious-sentiment-college-girl-minority-community-arrested-dinajpur-1986433>.

Bangladesh.⁴¹ Generally, Dalits remain in the lower strata of society and are branded as impure and untouchable because of their caste and so-called menial occupations. Their social segregation is strongly linked with untouchability. When breaking social norms imposed on the Dalits, they often have to face discriminatory and hated-motivated behaviour.

Untouchability, Social Segregation, and Hate speech

From dawn to dusk, a Dalit has to face hate-motivated behaviour and discrimination in exercising his/her social, economic, political, or cultural rights. Dalits' claiming rights and dignity has often resulted in organised violence against them. Dalits face hate-motivated behaviour at educational institutions and this include refusal of admission, being forced to sit on separate benches or on the floor, being forcibly made to clean school rooms, and even toilets, etc. A study conducted in 2016 revealed that 26 per cent of Dalit students face obstacles in getting admission into schools, 30 per cent experienced hate-motivated behaviour from teachers and classmates, 6 per cent had to sit on separate benches. Some cases of hate speech and discrimination faced by Dalits are mentioned herewith according to the fact-finding reports of Bangladesh Dalit and Excluded Rights Movement (BDERM) – a platform of the Dalit community in Bangladesh.

In 2016, 35 Dalit students of Baliadhanga Government Primary School of Kesobpur Upazila of Jessore district were told by the headmaster that as they were the sons of cobblers they should learn shoe repairing instead of continuing their education.

In 2020, Virat Bashfore (6) was admitted into Class I in the Agroduct Kindergarten in Maulavibazar district. But the other guardians opposed his admission since he is a Dalit.

Babul Robidas, a lawyer from the Dalit community, was prohibited in the court's canteen of Joypurhat district. The

41 Ibid.

canteen owner was forced to change the cutlery after Babul and some other Dalits and those from the indigenous community used them. And it was Babul who had to pay for the new cutlery.

Rajesh Bashfore, a young Dalit of Gaibandha district, was refused service in a restaurant. When he protested, he was physically assaulted by the restaurant owner and staff. Rajesh went to the Upazila administration; but they could not ensure Dalit's discrimination-free access to hotel restaurants referring to the absence of any law in this regard.

In many places, Dalits are not allowed to have food sitting inside restaurants. They are also served food on paper or they have to carry cups, plates, or glasses from home.

In May 2017, a government official in Khansama Bazar decided to try and take steps to eliminate the stigma surrounding Dalits. He called a few boys from the Dalit community and invited them to eat at one of the many sweet shops in the market. The move initially seemed to be successful. For the next two days, many from the Dalit community were allowed to come into the shops and eat sweets. However, two days later, the owners of the sweet shops got together and called a strike. They also had political backing, and as a result, the official was forced to drop the issue.

Respondents of the survey for this report said that in many places Dalits usually do not have access to Hindu temples or direct participation in religious rituals. The priest throws 'prasad' to them from afar to avoid physical contact. In some places, Dalits have their temples but the priest belongs to a 'higher caste' and never conducts puja there.

Dalits votes are very valuable during national elections, but other than that they have no space in the civil and political arena. In Tala Upazila of Satkhira district, Dalits constitute the majority, but during elections, non-Dalit Bengalis get united to prevent Dalit candidates from participating in elections, adopting slogans

such as ‘Muchi thekao’ (Prevent the cobblers). It is common in Bangladesh for Dalits to face deadly post-election violence that includes killings, rapes, abductions, displacements, vandalising of house and wealth, etc, after elections.

Hate Speech against Ahmadiyas

Bangladesh’s Ahmadiya Muslim community is particularly vulnerable and faces harassment as Islamist groups claim their way of observing religion is wrong and advocates with the government to declare them as non-Muslim.⁴² The Ahmadiyya community lives in perpetual fear in Bangladesh. The main proposition against the Ahmadiya community is that they are non-Muslims as they do not recognise the Prophet Muhammad (PBUH) as the last prophet with Maulana Shah Ahmed Shafi, head of Hefazat-e-Islam, an umbrella organisation of radical Islamist groups, making a call in April 2019 for the government to officially declare Ahmadiyas to be ‘non-Muslims’.⁴³

According to the Ahmadiya Muslim Jamaat Bangladesh, since 1963, 13 Ahmadiyas have been killed, and since 2000, around 100 attacks on the Ahmadiya community recorded.⁴⁴ During the BNP regime (2001-2007), the government banned Ahmadiyya publications while several Ahmadiyya mosques were besieged and signboards with hostile slogans paraded in different parts of the country. Some recent attacks on Ahmadiyya are mentioned below.

Ahmadiyas in Panchagarh district came under attack in February 2019 when they were arranging a Jalsha [annual conference of Ahmadiya Muslim Jamat].⁴⁵ Three organisations

42 Stephan Uttom and Rock Ronald Rozario, ‘Cleric Demands Bangladesh Ahmadis be Declared ‘Non-Muslim’’, *Union of Catholic Asian News*, April 18, 2019, <https://www.ucanews.com/news/cleric-demands-bangladesh-ahmadis-be-declared-non-muslim/85004>.

43 Stephan Uttom and Rock Ronald Rozario, ‘Cleric Demands Bangladesh Ahmadis Be Declared ‘Non-Muslim’’, *Union of Catholic Asian News*, April 18, 2019, <https://www.ucanews.com/news/cleric-demands-bangladesh-ahmadis-be-declared-non-muslim/85004#>.

44 Tarek Mahmud, ‘A history of repression’, *Dhaka Tribune*, June 16, 2017, <https://www.dhakatribune.com/bangladesh/2017/06/12/a-history-of-repression>.

45 Sazzadur Rahman Sazzad, *The Dhaka Tribune*, ‘50 Ahmadiyyas injured

jointly urged the government to ban the conference along with the implementation of their demand to declare them as non-Muslim. Police failed to resist the attackers when around 500 people from Islamist groups attacked Ahmednagar village of Panchagarh Sadar Upazila, vandalised houses, and looted the Ahmadiyas.

Ahmadiyas faced a similar attack on 13 September 2019 when an under-construction mosque in the town of Netrakona was vandalised by supporters of some Islamic organisations.⁴⁶ Around 400 people, including students from nearby madrassas, destroyed the mosque despite the presence of the police as claimed by the Netrakona Ahmadiya Muslim Jamaat.

On 14 January 2020, Masjid Baitul Wahid, a mosque of the Ahmadiya Muslim Jamaat in Brahminbaria district, was attacked. According to media reports, the incident started when a group of students of the Jamia Islamia Yunisia Madrasa tried to enter a religious programme of the Masjidul Baitul Wahid owned by the Ahmadiyya⁴⁷. Failing to enter the Ahmadiyas' mosque, they rallied the support of more madrasa students along with other people and damaged the mosque's windows. Later, Islamist groups brought out a procession at Brahminbaria town, demanding a law declaring Ahmadiyas as non-Muslims.

While members of the Ahmadiyya community are being attacked countrywide, exams and lectures at schools or madrassas depict the Ahmadiyas as an anti-Islamic group. An Ahmadiyya student shared that his Religious Studies teacher used to insult him in the

iInjured in cocCo-ordinated attack Aattack on the community Ccommunity in Panchagarh', *Dhaka Tribune*, February 13, 2019, <https://www.dhakatribune.com/bangladesh/nation/2019/02/13/sunnis-attack-ahmadiyyas-in-panchagarh>.

46 Staff Correspondent, 'Under-construction Ahmadiyya mosque vandalised in Netrakona', *New Age*, September 15, 2019, <https://www.newagebd.net/article/84607/under-construction-ahmadiyya-mosque-vandalised-in-netrakona>.

47 Staff Correspondent, 'Ahmadiyya mosque, houses attacked in Brahmanbaria', *New Age*, January 16, 2020, <https://www.newagebd.net/article/96747/ahmadiyya-mosque-houses-attacked-in-brahmanbaria>.

class every day, calling him a *kafir*.⁴⁸

The state has taken a 'see- no-evil' policy in addressing the repression of the Ahmadiyya community. It neither responds to the pleas of Islamist groups nor comes forward to ensure the constitutional rights of the Ahmadiyas. According to the Ahmadiyas, the government responds to them only when they have been attacked.

Hate Speech against Bihari Community

'Bihari' is a very common term for a specific group of people who are Muslims but easily be identified for their distinct language and culture, however, they take it disgracefully to be acquainted as 'Bihari'. For their anti-liberation role in 1971, they have been termed as traitors and the term 'Bihari' used with profound hatred. At present, there are 3,00,000 non-Bengali Urdu speaking Bangladeshi or 'Biharis' who mostly remain stranded in camps popularly known as Geneva Camps in Bangladesh. Currently, they are living in 116 camps of 13 regions across Bangladesh in urban settings.⁴⁹ This community was also known as 'stranded Pakistani'⁵⁰ after the independence of Bangladesh and until a decade ago they were stateless.

This community people had to go through a profound hatred atmosphere for their anti-liberation role and even they have the citizenship, still they are taken as collaborator to Pakistani and deprived of various government services. According to Advocate Khaled Hossain, a member of the Urdu speaking community, the rate of education among the Bihari community is very low because they have to confront an atmosphere of hatred at school for their camp (Major part of the Bihari people live in camps after independence of Bangladesh) identity. "Biharir Bachcha, Rajakar', Pakistani- such types of words were very common when I was in school used by the students, and even by the school staff. It is very

48 Ibid.

49 Islamic Relief Bangladesh, Human Rights Situation of Urdu-speaking Community in Dhaka City 2016.

50 During the liberation war of Bangladesh in 1971 Bihari people opposed independence of Bangladesh and assisted Pakistani Military in genocide.

difficult for students to concentrate on studying by hearing such derogatory words every day”. The respondents shared that the ‘Bihari’ is a word that is tagged in their life as permanent stigma. “We are easily identified from our address and whenever our identity is exposed we receive negligence by the other citizens, we are deprived of government or non-government services for our ‘Bihari’ identity- The word ‘Bihari’ is like a trauma to us’- shared by a respondent. The respondent shared that whenever they are deprived of their rights or face violence, generally people say that we deserve it. The government including influential people often try to evict them from their camp and many of their camps in Mirpur areas have already been occupied by Non-Biharis. In 2014, at least nine people including eight members of a family were burnt alive as locals set several houses on fire at Kalshi Bihari camp in Mirpur⁵¹, Dhaka, in a series of clashes with Bihari people over grabbing of land.

Underlying Causes of Hate Speech and Violence

Violence against Hindus in Bangladesh is not merely associated with wider religious intolerance. It is important to understand the political and economic aspects of the phenomenon of Hindu subjugation in the country.⁵² The violence against Hindus was primarily ‘greed-induced, economically motivated political violence’.⁵³ In answer to the question of the underlying causes of hate speech and violence, 68.3 percent of the respondents said that it is to subdue or create fear among the religious minorities, 58 percent cited political interest, 48.8 percent mentioned grabbing of land and properties, 47.6 per cent said fundamentalist groups use hate-motivated activities to show their power and control in

51 The Daily Star, ‘9 burnt dead, another gunned down’, June 14, 2014, <https://www.thedailystar.net/9-burnt-dead-another-gunned-down-28447>.

52 Dr Atanu Mohapatra and Dr Prakash Chandra Sahoo, ‘Violence Against Minority Hindus in Bangladesh: An Analysis’ *Vivekananda International Foundation*, July 28, 2014, <https://www.vifindia.org/article/2014/july/30/violence-against-minority-hindus-in-bangladesh-an-analysis>.

53 Taj Hashmi, ‘Attacks On minorities in Bangladesh: No longer a ‘communal issue’, *The Daily Star*, November 22, 2016, <https://www.thedailystar.net/opinion/stranger-fiction/attacks-minorities-bangladesh-no-longer-%E2%80%9Ccommunal-issue%E2%80%9D-1318237>.

the society while 41.5 per cent said hate speech is used against religious minorities just for fun.

A popular understanding of the structural cause is that during the British regime, Muslims in East Bengal were dominated by Hindus despite Muslims constituting three-fourths of the total population. After the British partitioned India in 1947, their deprivation and frustration were channelised through anti-Hindu communal politics in East Pakistan and thus distorted the socio-political life of Hindus with them having to face constant communal hatred, distrust, and disgrace.⁵⁴

On the other hand, violence against religious minorities is more than political/economically sponsored or mere communal conflict.⁵⁵ Religious, political, or military elites perpetrate, encourage, or benefit from hate speech and identity-based violence.⁵⁶ According to scholar Amena Mohsin, '[t]he Hindu-Muslim divide has been constructed and is being played upon and exploited by the political elite of the country most effectively and almost in a routinised manner for their benefits in the name of "nation" and "state"'.⁵⁷ Since the independence of Bangladesh, the first-ever organised violence against Hindus took place following the incidence of Babari Masjid of India, first in 1990 and then in 1992. It has been alleged that in 1990 the Ershad regime (1983-1990) was under strong pressure from the opposition to hand over power, and he purposefully used the Babri Masjid turmoil to divert the issue of political tension by letting communal forces engage in violence against Hindus.⁵⁸

54 Tapos Kumar Das, 'Minority Exodus in Bangladesh Trends and Causes', *ResearchGate*, November 2016, https://www.researchgate.net/publication/331771677_Minority_Exodus_in_Bangladesh_Trends_and_Causes.

55 Ibid.

56 Jeremy Liebowitz, Geoffrey Macdonald, Vivek Shivaram, and Sanjendra Vignaraja, 'The Digitalisation of Hate Speech in South and Southeast Asia: Conflict-Mitigation Approaches', *Georgetown Journal of International Affairs*, May 5, 2021, <https://gjia.georgetown.edu/2021/05/05/the-digitalization-of-hate-speech-in-south-and-southeast-asia-conflict-mitigation-approaches>.

57 Amena A. Mohsin, 'Religion, Politics and Security: The Case of Bangladesh' in Satu Limaye, Robert Wirsing and Mohan Malik (eds), *Religious Radicalism and Security in South Asia* (Hawaii: Asia-Pacific Center for Security Studies, 2004).

58 Amena A. Mohsin, 'Religion, Politics and Security: The Case of Bangladesh' in Satu Limaye, Robert Wirsing and Mohan Malik (eds), *Religious Radicalism and*

To the minority people, every parliamentary election is a nightmare. In every political transition, hate speech and rumours are frequently used to unleash communal terror on them⁵⁹. Pre- and post-election violence against religious minorities, especially Hindus, are purely political and structural. Hindus are regarded as vote banks of the Awami League, so they were targeted by supporters of the BNP and its alliance partners.

Land-grabbing remains a serious issue for religious minorities in Bangladesh. There has been a popular trend of grabbing land of religious and ethnic minorities since the Partition of the Indian sub-continent. Most cases of communal violence start with the motive of protection of certain religious sentiments but are found politically backed and economically motivated. Neighbours use hate-motivated tools to provoke fear among the minorities and thus oust the minorities and occupy their land forcefully or for a minimal price.⁶⁰

Legal Protection and Obligation to Prevent Hate Speech and Violence

Constitutional provisions

Bangladesh's constitution incorporated 'secularism' as one of its guiding principles. Article 12 of the 1972 Constitution defined secularism as the freedom to practise one's religion and non-use of religion towards political ends. Similarly, Article 38 allowed citizens to form associations or unions, except those that could: i) destroy the religious, social, and communal harmony among citizens; ii) create discrimination among citizens on the ground of religion, race, caste, sex, place of birth or language; iii) organise terrorist acts or militant activities against the country or the citizens of any other country; and iv) thwart the objectives of the constitution. Article 41 guaranteed freedom of religion subject

Security in South Asia (Hawaii: Asia-Pacific Center for Security Studies, 2004).

⁵⁹ Ibid.

⁶⁰ Taj Hashmi, 'Attacks on Minorities in Bangladesh: No longer a 'communal issue'', The Daily Star, November 22, 2016, <https://www.thedailystar.net/opinion/stranger-fiction/attacks-minorities-bangladesh-no-longer-%E2%80%9Ccommunal-issue%E2%80%9D-1318237>.

to law, public order, and morality.⁶¹ Articles 12, 38, and 41 read together conveyed the meaning of secularism as maintaining neutrality amongst religions and eliminating discrimination based on religion. The secular status of the constitution was compromised after the fifth amendment,⁶² and the eighth amendment adopted Islam as the state religion in 1988.⁶³ In 2010, the fifth amendment was declared unconstitutional⁶⁴ and while the 15th amendment retained Islam as the state religion and there was the guarantee of equal status and equal rights to followers of other religions.⁶⁵ Thus, the present constitution pledges to establish a secular society without impairing the presence of religion in the national life of Bangladesh.

Principle of non-discrimination

Non-discrimination is one of the fundamental principles of the Bangladesh constitution. Article 27 provides that all citizens are equal before the law and are entitled to equal protection of the law. The constitution has incorporated both general and particular non-discriminatory clauses. Article 28 of the constitution in general sets out the principle of non-discrimination by providing that no

61 Further, the provision to Article 41 guaranteed an individual the right to refuse to practice a religion or to be compelled to be educated in a religion other than their own. The provision does not say whether a person has the right to 'not to believe in any religion'. This brings the important question about the extent to which an alleged 'non-believer' could be condemned on the ground of offending 'religious feelings', 'public order', or the like. There is constitutional obscurity in this particular aspect of religious freedom.

62 This amendment inserted 'In the name of Allah, the Beneficent, the Merciful' at the beginning of the constitution.

63 The Constitution of the People's Republic of Bangladesh, Article 2A. The provision read as follows: 'The State Religion--The state religion of the Republic is Islam, but other religions may be practiced in peace and harmony in the Republic'.

64 Bangladesh Italian Marble Works Ltd v Government of Bangladesh & Others [2006] 14 BLT (Special) (HCD) 1. On appeal, ABM Khairul Haque's illuminating judgment was affirmed by the Appellate Division with certain modifications.

65 Replacing the old provision (article 2A) under the eighth Amendment, it now reads: 'The State Religion--the state religion of the Republic is Islam, but the State shall ensure equal status and equal right in the practice of the Hindu, Buddhist, Christian and other religion'.

citizen shall be discriminated on the grounds of religion, race, caste, sex, or place of birth. The constitution, in particular, also states that no citizen will be subjected to any disability, liability, restriction, or condition about access to any place of public entertainment or resort or admission to any educational institution on grounds of religion, race, caste, sex or place of birth. However, many of the existing statutory laws of Bangladesh are antithetical to freedom of expression and civic space.

National laws and policies

There is no specific law to address hate speech or hate-related crimes. However, the Digital Security Act (DSA), 2019 has a few sections relevant to hate speech or defamation in any digital platform. Section 28 of the Act prohibits ‘publication, broadcast of anything in any website or in any electronic medium that hampers the sentiment or values’. It further stipulates that any person or group will be considered to have committed a criminal offence under this provision if they ‘intentionally or knowingly, to hurt religious sentiments or values or to provoke, post or broadcast anything using any internet site or any electronic layout which hurts religious sentiment’.

Likewise, the Penal Code of 1860 prohibits ‘deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs and “uttering words”, etc, with deliberate intent to wound religious feelings’.⁶⁶ While Bangladesh’s Penal Code punishes blasphemy with prison time and a fine, the Digital Security Act also criminalises blasphemy as a non-bailable offense and imposes harsher penalties.

International human rights law and Bangladesh’s obligations

Bangladesh has ratified several international treaties or covenants that protect civil and political rights, such as the right to freedom of speech, expression, and opinions such as the International Covenant on Civil and Political Rights (ICCPR), the International Convention

⁶⁶ Penal Code 1860 (Act No. XLV of 1860), Government of the People’s Republic of Bangladesh, <http://bdlaws.minlaw.gov.bd/act-11.html>.

on the Elimination of All Forms of Racial Discrimination (ICERD). However, in March 2020, the United Nations High Commissioner for Human Rights requested the government to ‘urgently revise the Digital Security Act, to ensure that it is in line with international human rights laws and that it provides for checks and balances against arbitrary arrest, detention, and other undue restrictions of the rights of individuals to the legitimate exercise of their freedom of expression and opinion’.⁶⁷

Recommendations

- The government needs to identify and define hate speech both in digital platforms and in real life and incorporate it in the relevant laws and policies along with introducing mechanisms for the implementation of the laws.
- To stop fake accounts and fake posts, the government has to strengthen its monitoring and take steps before it provokes any communal violence. The government should negotiate with social media platforms to ensure multiple levels of identity verification of users. However, no initiative should be diverted to curb the freedom of expression of the citizens in any means.
- Greater awareness needs to be taken regarding the rights, respect and dignity of the minority communities. Students of religious institutions should be made to undergo awareness programmes, especially to incorporate tolerance to other religions, ethnic populations, etc.
- The government should introduce guidelines regarding events such as the Waz-Mahfil (Islamic conference) in consultation with Islamic preachers and civil society groups as well as monitor the speeches delivered in Waz-Mahfil.
- Instead of stifling freedom of expression, the government should amend the Digital Security Act and strengthen it to prevent hate speech and hate-motivated behaviour against religious and other minorities.

⁶⁷ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23699&LangID=E>.

- Educate people on the need for tolerance, freedom of religion and belief, and strength of a pluralistic society, through an education policy aimed at attaining a truly secular state as enshrined in the constitution.
- Implement effective and holistic actions to address the underlying motives that threaten religious minorities and also combat fundamentalist voices that appear to threaten a free and democratic society.
- Take specific actions to finalise and enact the anti-discrimination law and ensure that no discriminatory provisions and languages exist in the law.
- Raise public awareness of the importance of respecting pluralism and of the dangers posed by hate speech. Create awareness to change the social attitudes of the people towards religious harmony and tolerance.
- Revive secularism and equal rights of all religions and ethnic groups as enshrined in the 1972 constitution of the country.
- Empower the National Human Rights Commission (NHRC) and make provisions to allow it to monitor hate speech and incitement of violence against minority communities.
- Ensure implementation of all the commitments made in international conventions, treaties and other mechanisms that Bangladesh is a party to.
- Ensure proper investigation of all incidents of communal violence, bring perpetrators to trial, ensure their punishment and end the culture of impunity.

India's Other Pandemic

Anti-Minority Disinformation, Hate, and Incitement to Violence and Discrimination

Citizens against Hate

Statements such as those expressed by MP Subrahmanyam Swamy that all people are not equal and that Muslims are not an 'equal category' as others, are extremely alarming.

—UN Special Advisor on Prevention of Genocide expressing concern over reports of increased hate speech and discrimination against minority communities in India.

(Note to Press, 18 May, 2020)

In September 2018, a high-ranking politician of the ruling party allegedly referred to Muslim migrants coming to India as 'termites' and 'infiltrators' during his nationally broadcast speech. In April 2019, as general elections started, he repeated these words...

In December 2019... a local ruling party leader allegedly chanted 'shoot the traitors' when referring to those opposing the (Citizenship Amendment) bill.

On 28 January 2020...a member of parliament belonging to the ruling party...said in (another) speech that he would 'not leave even one of [the Mosques] standing' after the elections.

These hate speeches led to violence in January 2020 on university campuses against those protesting against the Citizenship Amendment Act (CAA)...Even after the Delhi elections in early

February, the hate speeches continued and further incited widespread violence in Northeast Delhi.

—UN mandate holders’ communication to Government of India, in a section titled ‘Spread of hate speech against Muslim minority’
(Ref. AL IND 15/2020, dated 9 October, 2020, p1-2)

The Chief Minister in Uttar Pradesh...was previously charged with inciting and leading anti-Muslim violence as the founder of a Hindu youth militia.... He has repeatedly made hateful anti-Muslim remarks in public...

—UN mandate holders’ communication to Government of India, in a section titled ‘Hate speech, killing, arbitrary arrest, detention and harassment of protesters and activists in Uttar Pradesh’ (Ref. AL IND 15/2020, dated 9 October 2020, p. 5).

The Indian government has allowed nationwide campaigns of harassment and violence against religious minorities to continue with impunity and engaged in and tolerated hate speech and incitement to violence against them.

— U.S. Commission on International Religious Freedom while recommending India be designated as a ‘Country of Particular Concern’, 2020.

Introduction and Overview

Since the Hindu nationalist Bharatiya Janata Party (BJP)-led government assumed power in 2014, influential BJP figures—from its top leadership, including Prime Minister Narendra Modi and Home Minister Amit Shah, down to local-level leaders—have been accused of contributing to campaigns of hate against India’s religious minorities, particularly Muslims. This is in line with patterns observed in the past during the BJP’s rise to national prominence when it used sectarian polarisation and periodic outbreaks of violence as central elements of its electoral strategy.¹ Now firmly in

¹ Gareth Nellis, Michael Weaver, and Steven C. Rosenzweig, ‘Do Parties Matter for Ethnic Violence? Evidence from India,’ *Quarterly Journal of Political Science*

power, BJP continues to sow division as it seeks to consolidate its electoral majority as a means to realise its Hindu nationalist goal of refashioning multi-religious, multi-ethnic India into a Hindu *rashtra* (nation). To this end, it has established domineering control over the print, broadcast, and social media, where a large number of BJP-allied actors now work in coordination to spread anti-minority hate messaging. At the same time, institutions of democracy that have historically been weak, have been further eroded by strong-arm tactics that BJP is seen often resorting to, resulting in the absence of checks against the ‘tsunami’ of hate. The consequences of this on India’s minorities has been devastating, ranging from a hardening of anti-minority prejudice in society; reinforcing of discriminations as well as, frequently, the loss of life—in low-intensity individual, as well as mass violence episodes. Indian democracy also stands significantly undermined.

This paper on hate and incitement against religious minorities in India—drawing on secondary sources (media and NGO reports, scholarly works) as well as formal communications by UN experts to the government of India and primary research on tracking of hate and incitement—seeks to throw light on the pandemic of hate that has taken hold of the country since BJP’s rise to power nationally. It also examines the nationwide infrastructure of anti-minority hate that BJP affiliates have created and seek to benefit from, at great cost to Indian society and politics, and to India’s large population of religious minorities. Enablers are not only BJP’s polarising style of politics but also the weak ‘institutional brakes’ of laws, enforcement agencies, regulators and the courts failing to act against campaigns of hate. Ideologies of Hindu supremacy and anti-minorityism play a critical role in the strategic choices BJP makes, privileging polarisation, thus sustaining the ecosystem of hate. Whether changes in political incentives can influence this calculus is therefore a moot point, locking India into a vicious cycle from which an exit seems unlikely in the short term. India’s large and affordable internet coverage—often cited as a boon for bridging the ‘digital divide’—has

11, no. 3 (October 2016): 249–77; Sriya Iyer and Anand Shrivastava, ‘Religious Riots and Electoral Politics in India,’ *Journal of Development Economics* 113, no. C (2018): 104–22.

added fuel to the fire, with social media platforms used cynically and systematically to amplify hate. It is these—often depressing—questions of the ‘what’, ‘who’ and ‘how’ behind campaigns of hate and incitement this analysis seeks to examine.

Following the introduction, the second section briefly defines hate speech, drawing on soft law standards and principles. The third is the most important part of the report and reviews the incidence of anti-minority hate and incitement in India analysing latest trends and patterns to show how recent anti-minority hate content and campaigns are directly aligned to the long-term Hindu nationalist vision for India and to BJP’s shorter-term political and electoral goals. The role of actors aligned to the BJP, including its top leadership, in creating an ecosystem that incentivises hate and fosters impunity is then mapped out. This is followed by an examination of the ideology and infrastructure of hate, including how Hindu nationalists have historically leveraged available technologies of the time to create channels through which they maximise the reach of hate and misinformation. How, in recent years, Hindu nationalists have developed a transmedial, mutually reinforcing template according to which various actors in the Hindu nationalist ecosystem transmit and amplify hate messaging is also examined. The fourth section details how the institutional framework in place to deal with the issue is not fit for purpose, besides being at odds with India’s international commitments. The role of social media companies, as well as of civil society/citizen-led efforts to record and challenge hate, is also looked into. The last section concludes the report by drawing out the impact of the non-stop campaigns of hate on Indian society, and on the life of minorities specifically, before setting out a few recommendations for relevant stakeholders even though a turn back from the abyss seems only a forlorn hope in the current scenario.

Anti-Minority Hate and Incitement in India

The United Nations Strategy and Plan of Action on Hate Speech, defines hate speech as:

...any kind of communication in speech, writing or behaviour

that attacks or uses pejorative or discriminatory language with respect to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor.²

The Incidence of Anti-Minority Hate

Hate speech has been a longstanding problem in public discourse in India. Since just before 2014, alongside BJP's winning national elections decisively, there has been a rapid rise of hate speech, especially in the context of mobilisation against religious minorities, particularly Muslims. Politicians have fuelled this rise with the BJP driving it, and elections being a major arena for campaigns of hate and vilification of minorities. In the absence of any specific law against hate speech aligned with international definitions, and the resultant absence of official counting of incidences of hate speech, trends in hate speech can only be confirmed from non-official sources and/or from anecdotal accounts.

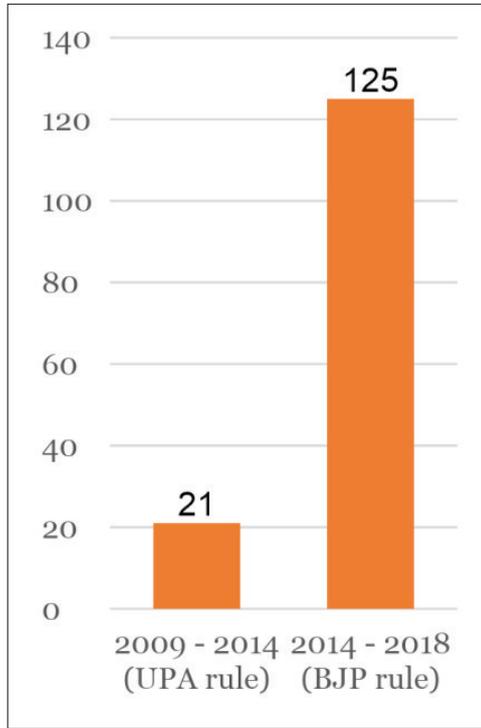
According to a 2016 analysis by IndiaSpend³ of self-disclosed crime records of candidates who contested various elections nationwide over the previous 12 years, as many as 70 federal and state lawmakers had hate-speech cases pending against them. According to the report, 399 candidates charged with hate speech cases had been fielded by different political parties in various parliamentary and state elections over the 12-year period. BJP was over-represented in both categories (28 of the 70 sitting representatives and 97 of the 399 candidates charged with hate speech, with the second highest numbers being respectively, nine and 54), most of them targeting religious minorities in their campaigns.⁴

2 United Nations, 'United Nations Strategy and Plan of Action on Hate Speech': UN General Assembly, May 2019, <https://www.un.org/en/genocideprevention/documents/UN%20Strategy%20and%20Plan%20of%20Action%20on%20Hate%20Speech%2018%20June%20SYNOPSIS.pdf>.

3 IndiaSpend is a non-profit and a project of The Spending & Policy Research Foundation based in Lower Parel in Mumbai, and registered as a Charitable Trust with the Charity Commissioner, Mumbai. See: <https://www.indiaspend.com/about-us>.

4 Bijo P. Abraham, 'Trends in Religion-Based Hate Speech' (New Delhi: Digital Empowerment Foundation, 2017), <https://defindia.org/wp-content/>

Figure 1: Documented instances of hate speech by top politicians in India (2009-2018)



Source: NDTV

Since then this has been the abiding trend. In 2018, NDTV, an English-language television news channel, reported that there had been a 490 per cent increase in hate speeches⁵ by top Indian politicians in the four years since the BJP assumed power at the national level in 2014, compared to the previous five years' rule of the earlier government.⁶

The phenomenon has only worsened over the years since the

[uploads/2017/09/Trends-in-Region-Based-Hate-Speech.pdf](#).

⁵ The study defined hate speech as 'statements that are clearly communal, casteist, or calls to violence'.

⁶ Nimisha Jaiswal, Shreenivasan Jain and Manas Pratap Singh, 'Under Modi Government, VIP Hate Speech Skyrockets - By 500%', NDTV, April 19, 2018, <https://www.ndtv.com/india-news/under-narendra-modi-government-vip-hate-speech-skyrockets-by-500-1838925>.

NDTV study, with India witnessing numerous, major, incendiary campaigns of hate and misinformation—all led by top politicians and amplified by other actors across multiple channels, including print, broadcast, and social media (Table 1). For instance, in February 2019, weeks before national elections, after a suicide bombing in Kashmir’s Pulwama district killed 40 Indian paramilitary personnel, a deluge of false and hateful online content led the head of Facebook India’s disinformation team to publicly remark that he had ‘never seen anything’ like it before.⁷ During the post-Pulwama hate campaign and the 2019 general election campaign researchers recorded 40 instances of hate speech by top politicians over a period of nine weeks.⁸ Several high-profile candidates were called out by the national election watchdog for spreading hate rhetoric.⁹

After the elections, in which the BJP returned to power with a bigger majority, India has continued to witness major hate campaigns. The severity of hate speech has worsened, progressing up the UN’s hate speech chain from ‘bottom’ level offensive or disturbing content to ‘top’ level incitement to hostility, discrimination and violence. In December 2019, the violent slogan ‘*Desh ke gaddaron ko, goli maaro saalo ko*’ (Shoot dead the bastard traitors to the nation) was popularised by Kapil Mishra, a senior BJP leader in Delhi, as part of a wider campaign in response to Muslim-led protests that had emerged against India’s changes to its citizenship law, widely seen as being discriminatory.¹⁰ Two months later, in February 2020, the same slogan was a popular rallying cry among Hindu mobs that unleashed violence upon Muslims in several

7 Aria Thaker, “‘Never Seen Anything like This Before’, Says Facebook India’s Fake-News Buster after Pulwama Attack’, *Quartz India*, February 18, 2019, <https://qz.com/india/1552882/never-seen-anything-like-this-before-says-facebook-indias-fake-news-buster-after-pulwama-attack/>.

8 Citizens Against Hate, ‘Tracking Hate Speech in India’, *Hate Watch 2019*, accessed April 26, 2021, <https://hatewatch2019.home.blog>

9 ‘Elections 2019: EC acts against hate speeches after Supreme Court rap’, *Live Mint*, April 11, 2019, <https://www.livemint.com/elections/lok-sabha-elections/elections-2019-ec-acts-against-hate-speeches-after-supreme-court-rap-1555364684182.html>.

10 Prabhjit Singh, ‘Dead and Buried: Delhi Police Ignored Complaints against Kapil Mishra, Other BJP Leaders for Leading Mobs in Delhi Violence’, *The Caravan*, June 21, 2020, <https://caravanmagazine.in/politics/delhi-police-ignored-complaints-against-kapil-mishra-bjp-leaders-leading-mobs-delhi-violence>.

localities in northeast Delhi, leaving 53 dead.¹¹ Barely a month later, in March 2020, as the COVID-19 pandemic took hold in the country, India witnessed yet another deluge of hate content and misinformation, falsely blaming the country's Muslims for the outbreak and calling for social, and economic boycotts with occasional physical violence against them.¹²

A great deal of hate in India plays out on social media. A study by Equality Labs in 2019 revealed that Islamophobic content was the biggest source of hate speech on Facebook, amounting to 37 per cent of the content reviewed.¹³ Muslims of Kashmir, where a separatist movement against Indian rule has been simmering for decades, are doubly targeted. The post-Pulwama hate campaign specifically targeted Kashmiri Muslims, while other campaigns were aimed at Muslims generally. Adherents of other faiths such as Christianity have also faced localised and targeted hate and misinformation campaigns in several parts of the country, usually centred around allegations of proselytisation. Sikhs, too, have faced hate campaigns, in the past and in recent times, over allegations of separatism.¹⁴

Caste-based discrimination against Dalits, a millennia-old problem, continues to be rampant in India. Caste-based hate speech is also common, accounting for 13 per cent of the Facebook content reviewed by Equality Labs.¹⁵ Some caste-based hate rhetoric was also reported during the violence in northeast Delhi in February 2020, besides reports of Dalits facing heightened discrimination after the onset of the COVID-19 pandemic.¹⁶ But data shows that

11 Ibid.

12 Shakuntala Banaji and Ram Bhat, 'Disinformation against Indian Muslims during the COVID-19 Pandemic', *Media@LSE* (blog), September 24, 2020, <https://blogs.lse.ac.uk/mediase/2020/09/24/disinformation-against-indian-muslims-during-the-covid-19-pandemic>.

13 'Facebook India - Towards a Tipping Point of Violence Caste and Religious Hate Speech', 2019, *Equality Labs*, <https://www.equalitylabs.org/facebookindiareport>.

14 Apoorvanand, "BJP Deploys Its Majoritarian Tactics against India's Farmers," *Al Jazeera*, February 13, 2021, <https://www.aljazeera.com/opinions/2021/2/13/bjp-deploys-its-majoritarian-tactics-against-indias-farmers>.

15 Ibid.

16 Aditya Menon, Asmita Nandy and Aishwarya Iyer, "Bhimti Hai Kya? Kaat Daalo': The Anti-Dalit Side of Delhi Riots", *The Quint*, July 17, 2020, <https://>

Forms of hate: The unending campaigns of anti-minority hate
Table 1: Select list of recent anti-minority hate campaigns

Campaign, date and location	Perpetrators and channels	Hindu nationalist gains
<p>Campaign #1: ‘Politically engineered riots’ against Muslims in Muzaffarnagar in the lead-up to the 2014 national elections.</p> <p>Date and location: August-September 2013, Muzaffarnagar and Shamli districts (Uttar Pradesh)</p>	<p>Fake, incendiary video shared by BJP leader Sangeet Som and circulated widely on social media.</p> <p>Som and other senior BJP legislators also physically delivered incendiary speeches in front of armed Hindu mobs.</p> <p>Impunity for perpetrators.</p>	<p>Electoral gains in Uttar Pradesh—India’s most populous state and sends the largest number of MPs to Parliament—and the rest of India.</p> <p>Long-term communal polarisation against Muslims.</p>
<p>Campaign #2: Hate and misinformation against Muslims and Kashmiris following a suicide bombing that killed 40 Indian armed forces personnel in Pulwama, Jammu & Kashmir.</p> <p>Date and location: February 2019, nationwide</p>	<p>Most vitriolic content is shared through social media; some incendiary content and misinformation also amplified via pro-BJP mainstream TV channels.</p> <p>BJP politicians, pro-BJP social media personalities and celebrities shared incendiary content.</p> <p>A BJP-appointed state governor openly incited the boycott of Kashmiris.</p> <p>Impunity for perpetrators.</p>	<p>Significant electoral gains for BJP in 2019 national elections, despite its reduced pre-election popularity.</p> <p>Mobilisation of public support for forcible integration of Kashmir with India.</p> <p>Long-term communal polarisation against Muslims.</p>

Campaign, date and location	Perpetrators and channels	Hindu nationalist gains
<p>Campaign #3: Dog-whistling and fear-mongering against Muslims and general propaganda against opposition parties during the 2019 national election campaign.</p> <p>Date and location: April-May 2019, nationwide</p>	<p>Politicians of many parties used communal rhetoric in their political speeches. BJP leaders by far (83 per cent), the worst. More open hate, incitement and misinformation common on social media, some of which was amplified by mainstream media outlets.</p>	<p>Immediate electoral gains, and consolidation of BJP's hold over the electorate (vote share increased to 37.4 percent from 31.1 percent in 2014 elections.) Long-term communal polarisation against Muslims.</p>
<p>Campaign #4: Portrayal of Bengali-speaking Muslims in Assam as 'foreigners' and 'infiltrators'.</p> <p>Date and location: Ongoing, Assam</p>	<p>Campaign predates BJP, but has been leveraged by the party. Union Home Minister Amit Shah has repeatedly used the term 'termites' in his political speeches. Other BJP leaders too have used dehumanising language. Social media pages contain much more open incitement to hostility, discrimination, violence and even genocide.</p>	<p>Electoral gains in Assam, West Bengal and the rest of India. Long-term communal polarisation against Muslims, including the mobilisation of public support for their potential mass disenfranchisement.</p>
<p>Campaign #5: Portrayal of opponents of the CAA — Muslims, but also other government critics — as 'traitors' and 'terrorists' who are part of a conspiracy against the state.</p> <p>Date and location: Began in December 2019, still ongoing, countrywide</p>	<p>'Desh ke gaddaro, goli maaro saalo ko' slogan coined by BJP's Kapil Mishra - a notable but not the only part of this campaign. Public speeches of varying degrees of severity on the ground by top BJP leaders; 'Conspiracy' angle amplified further by pro-BJP mainstream media outlets. More blatant incitement to hostility, discrimination, violence and even genocide was carried out via social media, and in some instances, offline by local Hindu leaders.</p>	<p>Shifting of narrative in favour of BJP government after the first major nationwide protests since its assumption of power in 2014. Mobilisation of public support to target government critics Long-term communal polarisation against Muslims, including the mobilisation of public support for their potential mass enfranchisement.</p>

Campaign, date and location	Perpetrators and channels	Hindu nationalist gains
<p>Campaign #6: Portrayal of Muslims as conspiring to spread COVID-19, after a gathering by members of Tablighi Jamaat sect in Delhi was found to have been a COVID-19 hotspot.</p> <p>Date and location: March-May 2020, nationwide</p>	<p>An extension of Campaign #5, so the same channels and actors remained activated. BJP leaders and other pro-BJP figures including social media influencers and other celebrities were again the main perpetrators.</p> <p>Several prominent BJP leaders shared misinformation and communally divisive content, using hashtags like #CoronaJihad, #SpittingJihad, #MadrassaHotspots; at least three elected BJP MLAs in Uttar Pradesh caught on camera openly inciting hostility, discrimination or violence against Muslims. Earlier, some media outlets and BJP leaders had also blamed China for the outbreak.</p>	<p>Deflection of public attention from the BJP government's handling of the COVID-19 outbreak.</p> <p>Long-term communal polarisation and perpetuation of dangerous stereotypes about Muslims.</p>

the bulk of the concerted campaigns of hate speech in recent years have been directed at religious minorities, mostly Muslims.

The Political Economy of Anti-Minority Hate in India

The supply of hate

Entrepreneurs of hate: The men behind the machine

In every one of these major hate and misinformation campaigns, the main enablers are actors who are directly or indirectly linked to the ruling Hindu nationalist dispensation, and thus have considerable influence over the general public. The NDTV study in 2018, which limited itself to elected representatives and holders of other high offices, found that of all the instances recorded since 2014, hate speeches by BJP leaders amounted to 90 per cent (113 instances).¹⁷ That BJP leaders are the worst offenders is underlined by another study conducted the same year by the Association for Democratic Reforms (ADR), which found that of the 15 sitting parliamentarians at the time with hate speech-related cases pending against them, 67 per cent (10) belonged to the BJP.¹⁸ In the years since the conclusion of the two studies, and perhaps emboldened by the scale of its electoral victory in 2019, the BJP has added even more hate speech-linked individuals to its list of parliamentarians, including a woman who is also facing charges of involvement in a terrorist bombing plot that had led to the deaths of 10 Muslims in 2006.¹⁹

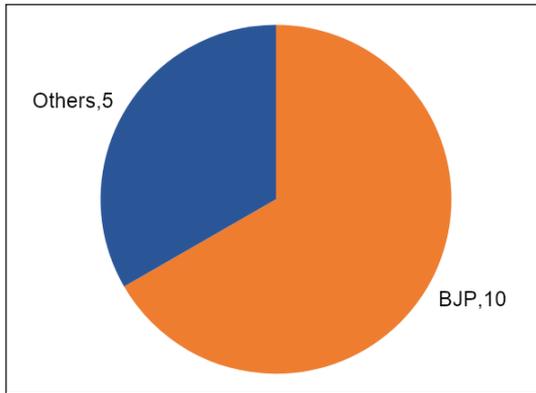
www.thequint.com/news/politics/northeast-delhi-riots-dalits-muslims-hindutva-kapil-mishra-bjp; Priyali Sur, 'Under India's caste system, Dalits are considered untouchable. The coronavirus is intensifying that slur', *CNN*, April 16, 2020, <https://edition.cnn.com/2020/04/15/asia/india-coronavirus-lower-castes-hnk-intl/index.html>.

17 Ibid.

18 '58 Sitting MLAs, MPs Face Hate Speech Cases, Over 50% Are From BJP: ADR', *The Wire*, April 25, 2018, <https://thewire.in/government/58-sitting-mlas-mps-face-hate-speech-cases-over-50-are-from-bjp-adr>.

19 Nishita Jha, 'The Most Toxic Candidate In The World's Biggest Election Is A Holy Woman Who Wants To Start A Religious War With Muslims', *BuzzFeed News*, May 17, 2019, <https://www.buzzfeednews.com/article/nishitajha/india-election-bjp-narendra-modi-pragya-singh-thakur>.

Figure 2: Political party to which instances of VIP hate speech is attributed (2014-2018)



Source: NDTV

Top BJP leaders have played a central role in post-2018 hate campaigns as well. In February 2019, after the suicide bombing in Pulwama, Tathagatha Roy, the then-governor²⁰ of the state of Meghalaya, previously a BJP member, openly called for the boycott of ‘everything Kashmiri’, a clear instance of incitement to discriminate.²¹ During the high-octane general election campaign in April-May 2019, according to civil society hate tracking, BJP leaders were responsible for 83 per cent (33 instances) of the documented hate speech.²² In the weeks leading to the anti-Muslim violence in Delhi in February 2020, Mishra’s violent ‘Desh ke gaddaro...’ slogan was reported to have been used at separate rallies attended by at least three central ministers, including Home Minister Amit Shah.²³ All are senior members of the BJP. And during

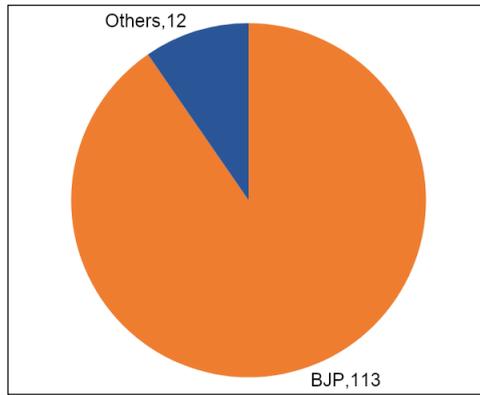
20 Governors of India’s states are appointed by the President of India. They act as nominal heads of the elected, state-level governments. It is common for the party in control of the central (national) government to have the President appoint its preferred candidates as governors of states in which elected governments are ruled by opposition parties.

21 “Boycott Everything Kashmiri”, tweets Meghalaya Governor Tathagata Roy, sparking controversy’, *Scroll.in*, February 19, 2019, <https://scroll.in/latest/913836/pulwama-attack-meghalaya-governor-endorses-call-for-boycott-of-everything-kashmiri>.

22 Citizens Against Hate, ‘Tracking Hate Speech in India’.

23 Delhi Minorities Commission, ‘Report of the DMC Fact-Finding Committee

Figure 3: Political party to which sitting parliamentarians with pending hate speech cases belong (2018)



Source: Association for Democratic Reforms, 2016

the anti-Muslim campaign over COVID-19, at least two senior BJP functionaries—including the BJP’s national secretary²⁴ and the chief of its IT Cell²⁵—were found to have spread misinformation, falsely attributing illegality to an Islamic congregation in Delhi that many had falsely blamed as being the origin of the COVID-19 outbreak in India. Mukhtar Abbas Naqvi, India’s Minister for Minority Affairs, equated the congregation to a ‘Talibani crime’

on North-East Delhi Riots of February 2020’ (New Delhi, July 2020), <https://ia801906.us.archive.org/11/items/dmc-delhi-riot-fact-report-2020/-Delhi-riots-Fact-Finding-2020.pdf>; ‘At Amit Shah’s rally in Delhi, crowd chants ‘Desh ke gaddaron ko...’, youth beaten for anti-CAA slogans’, *India Today*, January 27, 2020, <https://www.indiatoday.in/elections/story/delhi-assembly-elections-road-show-amit-shah-slogans-controversy-1640352-2020-01-26>.

²⁴ Santosh, B.L. (@blsantosh), ‘Markaz in Nizamuddin , Delhi becomes new hot spot of #CoronaVirus. Over 400 people there in illegal congregation of Tabhleegee Jamaat there. No of positive cases may be significantly high .People have travelled to all parts of the country from here. #IndiaFightsCorona #Nizamuddin’, Twitter, March 30, 2020, <https://twitter.com/blsanthosh/status/1244666557365534728?lang=en>.

²⁵ Malviya, Amit (@amitmalviya), ‘Delhi’s dark underbelly is exploding! Last 3 months have seen an Islamic insurrection of sorts, first in the name of anti-CAA protests from Shaheen Bagh to Jamia, Jaffrabad to Seelampur. And now the illegal gathering of the radical Tablighi Jamaat at the markaz. It needs a fix!’, Twitter, April 1, 2020. <https://twitter.com/amitmalviya/status/1245083081305776128?lang=en>.

that ‘cannot be forgiven’.²⁶ A BJP legislator in Karnataka remarked that it would ‘not be wrong to shoot them with a bullet’.²⁷ Two BJP state legislators in Uttar Pradesh state were later caught on camera threatening physical violence and calling for economic boycotts against Muslims.²⁸

The NDTV study also noted a tendency among the BJP’s top leadership to use ‘veiled’ but communally loaded language with reference to minorities.²⁹ Among those who have regularly used such language are Prime Minister Modi and Home Minister Shah, widely acknowledged to be the two most powerful men in the country. Shah, for instance, has repeatedly referred to Muslim immigrants as ‘termites’.³⁰ In the past, Modi has compared Muslim victims of mass violence to ‘puppies’ that inadvertently get caught under a moving car.³¹ Both Modi and Shah have also repeatedly alluded to Muslims as being, among other things, violent rioters,³² mass breeders,³³ and unfair beneficiaries of government handouts.³⁴

²⁶ ‘Tablighi Jamaat is a Talibani crime, not negligence: Mukhtar Abbas Naqvi’, *The Economic Times*, April 2, 2020, <https://economictimes.indiatimes.com/news/politics-and-nation/tablighi-jamaat-is-a-talibani-crime-not-negligence-mukhtar-abbas-naqvi/articleshow/74940835.cms>.

²⁷ ‘BJP MLA Says Tablighi Jamaat Members Can Be ‘Shot Dead’ for Not Seeking Treatment’, *The Wire*, April 8, 2020, <https://thewire.in/communalism/bjp-mla-says-tablighi-jamaat-members-can-be-shot-dead-for-not-seeking-treatment>.

²⁸ ‘Uttar Pradesh BJP MLA harasses, threatens Muslim vegetable vendor’, *The Wire*, April 29, 2020, <https://thewire.in/communalism/up-bjp-mla-anti-muslim>; ‘Was I Wrong?’ BJP MLA says boycott Muslim vegetable sellers, defiant’, *NDTV*, April 28, 2020, <https://www.ndtv.com/india-news/coronavirus-lockdown-on-camera-bjp-mla-suresh-tiwari-says-boycott-muslim-vegetable-vendors-defends-himself-2219589>.

²⁹ Ibid.

³⁰ ‘US State Department Red flags Amit Shah’s ‘termites’ comment on migrants’, *The Wire*, March 21, 2019, <https://thewire.in/rights/us-state-department-india-amit-shah-human-rights-refugees>.

³¹ Sruthi Gottipati and Annie Banerji, ‘Modi’s “puppy” remark triggers new controversy over 2002 riots’, *Reuters*, July 12, 2013, <https://www.reuters.com/article/narendra-modi-puppy-reuters-interview-idINDEE96B08S20130712>.

³² Santosh K. Kiro, ‘“Look at their clothes’: Modi plays communal card on CAA, targets Muslim protestors’, *The Wire*, December 2019, <https://thewire.in/communalism/narendra-modi-citizenship-amendment-act-protests-clothes>.

³³ Ziya Us Salam, ‘Scars of Memory’, *Frontline*, July 21, 2017, <https://frontline.thehindu.com/books/scars-of-memory/article9749694.ece>.

³⁴ ‘Reservation to minority act of treason, says PM Modi’, *Outlook*, accessed



Such speeches, which tend to peak in run up to elections,³⁵ may not meet the intent and imminence thresholds of the Rabat Test,³⁶ and

April 26, 2021, <https://www.outlookindia.com/website/story/reservation-to-minorities-an-act-of-treason-says-pm-modi/321170>.

35 India's federal structure mandates that the national-level government and state-level governments are elected for a term of five years each. These terms are not concurrent, so India witnesses important and high-octane state-level elections every year.

36 United Nations, United Nations Strategy and Plan of Action on Hate Speech:

hence might be protected under international law, but still have the effect of dehumanising minorities, and perpetuating dangerous stereotypes about them.

The use of such language by Modi, Shah and other top BJP leaders has also encouraged lower-level perpetrators to engage in more open incitement to hostility, discrimination and violence. Such perpetrators may be non-state actors in many cases but are nevertheless adherents of the same Hindu nationalist ideology that the BJP propounds. For instance, multiple witnesses have alleged that Modi's, Shah's and Mishra's names were repeatedly and enthusiastically evoked by various violent Hindu mobs in northeast Delhi as they targeted Muslims in February 2020 mass violence.³⁷ Yati Narsinghanand Saraswati, an influential Hindu priest who is widely reported to have radicalised and incited Hindus in the lead-up to the Delhi violence and, to this day, continues to call for the 'extermination' of Muslims, has also openly praised Modi and Shah in his hate speeches.³⁸

With the Hindu nationalist regime continuing to firmly extend its grip over the country and its democratic institutions, these hate speech perpetrators, even those that regularly engage in anti-minority incitement beyond the limits of what is permissible under international law, have largely enjoyed impunity.

***Hindutva* Hate Machine: Ideology and Infrastructure of Hate**

Anti-minority hate speech and incitement is not new to India. While the roles of politicians and political speeches have remained constant, as has *Hindutva* ideology that provides it a wellspring,

Detailed Guidance on Implementation for United Nations Field Presences, September 2020, https://www.un.org/en/genocideprevention/documents/UN%20Strategy%20and%20PoA%20on%20Hate%20Speech_Guidance%20on%20Addressing%20in%20field.pdf.

³⁷ Prabhjit Singh, 'Dead and Buried: Delhi Police Ignored Complaints against Kapil Mishra, Other BJP Leaders for Leading Mobs in Delhi Violence', *The Caravan*, June 21, 2020, <https://caravanmagazine.in/politics/delhi-police-ignored-complaints-against-kapil-mishra-bjp-leaders-leading-mobs-delhi-violence>.

³⁸ Alishan Jafri, Shehlat Maknoon Wani, and Siddharth Varadarajan, 'Just Before Delhi Riots, Militant Hindutva Leader Called Repeatedly for Muslims to Be Killed', *The Wire*, March 3, 2021, <https://thewire.in/communalism/delhi-riots-conspiracy-anti-muslim-cleric-yati-narsinghanand>.

the methods and channels through which these campaigns have been carried out have evolved with the times.

i. The ideology

Hindutva, a form of Hindu nationalism, considers India to be an indivisible geographical entity encompassing India as well as the rest of South Asia. A Hindu is anyone who originates from and worships this geographical entity as their holy land while following a common culture and possessing common racial features. Adherents of 'foreign' faiths such as Islam and Christianity are, according to this belief, aliens of divided loyalty.³⁹ Rashtriya Swayamsevak Sangh (RSS), a paramilitary volunteer organisation that has been noted for its 'fascist undertones',⁴⁰ and of which the BJP is the political wing,⁴¹ along with other affiliated entities⁴² called the Sangh Parivar (RSS Family), is the custodian of *Hindutva*.

This conception of Muslims, and Christians as the 'other' has been reiterated multiple times by senior Hindu nationalist ideologues who have also defended the Indian caste system—which has dictated almost every aspect of Hindu society for centuries and legitimised an oppressive system of social stratification—as, among other things, a 'great bond of social unity' and 'nearly the main identity of our nationality'.⁴³ Aakar Patel, a political commentator, analysed the various speeches and written works of Vinayak Savarkar, Madhavrao Golwalkar and Deendayal Upadhyaya,

39 Vinayak Damodar Savarkar, 'The Essentials of Hindutva', 1923, <https://archive.org/details/hindutva-vinayak-damodar-savarkar-pdf>.

40 Garret W Brown, Iain McLean, and Alistair McMillan, *The Concise Oxford Dictionary of Politics and International Relations* (Oxford University Press, 2018), 381.

41 The BJP originated as the Bharatiya Jana Sangh in 1951, which merged with several other parties to form the Janata Party in 1977. The Janata Party dissolved itself in 1980. Former members of the Jana Sangh reconvened, christening themselves the Bharatiya Janata Party.

42 Walter Andersen and Shridhar D. Damle, 'Appendix II: Organizations Where RSS Swayamsevaks Are Active and Their Area of Work', in *Messengers of Hindu Nationalism: How RSS Reshaped India* (London: Hurst & Company, 2019), 258.

43 Nagesh Chaudhary, 'If Caste Dies, the Dream of a Hindu Nation Dies', Forward Press, April 9, 2019, <https://www.forwardpress.in/2019/04/if-caste-dies-the-dream-of-a-hindu-nation-dies-2>.

all *Hindutva* icons, and concluded that *Hindutva* is a ‘theory of exclusion’: ‘Stripped of the gobbledygook of group mind and science of spirit, what remained in the texts of the so-called Hindu right was first, a defence of caste and second, a hatred of Muslims’.⁴⁴

Hindu nationalist thought is thus clearly antithetical to the multi-religious, multi-ethnic vision for India imagined in its Constitution. Anti-minority assertions in the core of Hindu nationalist ideology have informed and continue to act as the wellspring for the anti-minority hate and incitement that we see in India today, particularly against Muslims and Christians. While the clear ‘upper-caste’ bent of RSS ideologues has also continued to have ramifications for how ‘lower-caste’ Dalits are treated in Indian society, open campaigns of hate and incitement by top leaders against them are rare, perhaps due to the larger goal of pan-Hindu mobilisation.

ii. The infrastructure

For short and medium-term goals, in forms permissible by the available technologies of the times, hate campaigns have preceded and accompanied just about every major episode of anti-minority violence that has been recorded in India’s independent history. For instance, the anti-Sikh pogrom of 1984 in Delhi—led by members of the ostensibly secular Indian National Congress (INC) party, along with the active participation of Hindu nationalists—was preceded by ‘deeply embedded institutional communalism’ against Sikhs in radio and television, both exclusively under government control at the time, and in newspapers.⁴⁵ Regional newspapers were also reported to have played a major role in propagating, via false stories and provocative headlines, blatantly Islamophobic sentiment in the lead-up to the anti-Muslim pogrom of 2002 in Gujarat.⁴⁶

44 Aakar Patel, ‘Hindutva’s Garbled Mantras’, in *Our Hindu Rashtra: What It Is. How We Got Here.* (Westland Publications, 2020).

45 Pamela Philipose, ‘Media-manufactured hate in times of riots’, *The Tribune*, March 8, 2020, <https://www.tribuneindia.com/news/features/media-manufactured-hate-in-times-of-riots-52705>.

46 ‘Role of the Media: How Hate Was Spread in 2002 in Gujarat’, *Citizens for Justice and Peace*, January 29, 2019, <https://cjp.org.in/role-of-the-media-how-hate-was-spread-in-2002-in-gujarat>.

(a) Mainstream media

Since then, India has seen major changes in its media landscape, with an influx of private television news channels, numbering close to 400 in 2019, according to a study by Reporters Without Borders (RSF).⁴⁷ The study noted that the production of media content and distribution is increasingly combined and concentrated in the hands of a few. The study also noted that many leading outlets at both the national and regional levels are controlled by individuals with direct political ties to the BJP, or by corporate conglomerates who have been openly supportive of the BJP.⁴⁸ A particularly telling example is Republic TV, co-founded by Rajeev Chandrasekharan, a businessman and BJP-supported independent parliamentarian who later relinquished his stake and formally joined the BJP, and Arnab Goswami, a news anchor who frequently attacks critics of the BJP, and has been caught touting his access to the Prime Minister's office and other senior BJP ministers.⁴⁹ Republic TV has, since its inception in 2017, been the most-watched English-language news channel in the country.⁵⁰

Apart from ownership, a study conducted in 2019 by Oxfam India⁵¹, an advocacy group, and NewsLaundry⁵², an Indian media

47 'Media Ownership Monitor: Who Owns the Media in India?', *Reporters Without Borders*, May 29, 2019, <https://rsf.org/en/news/media-ownership-monitor-who-owns-media-india>.

48 Ibid.

49 Rakshitha R, "All ministers are with us': Arnab Goswami's alleged WhatsApp chat with ex-BARC CEO reveals cozy relations with govt", *The Logical Indian*, January 15, 2021, <https://thelogicalindian.com/trending/all-ministers-are-with-us-republic-tv-arnab-goswami-on-trp-scam-26162>.

50 Television channel viewership in India is measured by the Broadcast Audience Research Council (BARC). BARC's viewership figures consistently place Republic TV and Times Now as the two most-watched English language news channels in India. Both channels are known for being pro-government. Recently, BARC was embroiled in scandal for allegedly cooking up viewership figures in favour of Republic TV, at the expense of Times Now. See M.K. Venu, 'TRP controversy: BARC has lost credibility, needs complete overhaul', *The Wire*, January 27, 2021, <https://thewire.in/media/trp-controversy-barc-credibility-overhaul-republic-times-now>.

51 Oxfam India is a non-profit organization working to support child education, empowering women and fighting against inequality in India. See: <https://www.oxfamindia.org>.

52 NewsLaundry is a reader-supported, independent news media company. See: <https://www.newslaundry.com>.

watchdog, found that Indian newsrooms have minuscule-to-non-existent minority representation in managerial and editorial positions. This was found to be particularly acute in Hindi and English television news, where ‘upper-caste’ Hindus accounted for 100 percent and 89.3 per cent of such positions respectively.⁵³

This concentration of ownership with BJP-friendly individuals and corporate interests, along with the lack of minority voices in editorial positions, has resulted in a barrage of sensationalised, pro-BJP and often anti-minority content on the national airwaves, marked by hyperbole and, in many instances, outright misinformation. A sting operation in 2018 by a non-profit news organisation revealed that senior journalists and media executives at 23 leading media organisations were, in the lead-up to the 2019 national election, willing to accept bribes and propagate content to ensure that the BJP remained in power, deploying a strategy of conflating Hindu nationalist values as Indian values, attacking the BJP’s political rivals, and publishing generally incendiary and divisive content.⁵⁴ Other studies have confirmed that Indians who consume more news media are more likely to vote for the BJP.⁵⁵ The portrayal of Muslims in particular in these pro-BJP news channels—which are, by far, the most widely watched by all age groups—has been found by independent researchers to be overwhelmingly negative and provocative, perpetuating stereotypes that they are barbaric, misogynistic, regressive, anti-national terrorists or terrorist-sympathisers.⁵⁶

53 Nithya Subramanian, ‘In Charts: India’s newsrooms are dominated by the upper castes – and that reflects what media covers’, *scroll.in*, August 3, 2019, <https://scroll.in/article/932660/in-charts-indias-newsrooms-are-dominated-by-the-upper-castes-and-that-reflects-what-media-covers>.

54 ‘Cobrapost sting: Big media houses say yes to Hindutva, black money, paid news’, *The Wire*, May 26, 2018, <https://thewire.in/media/cobrapost-sting-big-media-houses-say-yes-to-hindutva-black-money-paid-news>.

55 Rukmini S, ‘How India votes: The news media is helping BJP win elections – and the public does not mind’, *Scroll.in*, January 14, 2019, <https://scroll.in/article/909195/how-india-votes-the-news-media-is-helping-bjp-win-elections-and-the-public-does-not-mind>.

56 Onaiza Drabu, ‘Who is the Muslim? Discursive representations of the Muslims and Islam in Indian prime time news’, *Religions* 9, no. 9 (September 2018): 283, <https://doi.org/10.3390/rel9090283>.

(b) Online media

Parallel to the rise of television news, India has also seen a sharp rise in internet access. This, too, has been well leveraged by Hindu nationalists. Several pro-*Hindutva*, self-styled journalistic ventures have opened up, either as digital reinventions of established Hindu right-wing brands such as *Swarajya* and *The Organiser*, in the form of new business ventures such as *OpIndia*, or as popular 'independent' social media pages such as *ShankhNaad*. Similar in function to pro-BJP mainstream media outlets and their online versions, these portals regularly regurgitate pro-government and pro-*Hindutva* content, and systematically attack and discredit BJP's political opponents, including by spreading misinformation. By varying degrees of severity, many of these online media outlets also spread untrue, stereotypical, divisive, and, often, provocative content targeted at minorities.

Online social networking platforms such as Facebook and Twitter and instant messaging services such as WhatsApp, all of which have hundreds of millions of Indian users, have also become important channels through which anti-minority hate content is spread. While all major Indian political parties now have dedicated social media wings, the BJP's IT Cell and other right-wing groups within its ecosystem seem to be far more sophisticated, well-funded and organised than other such units.⁵⁷ Former leaders and members of the IT Cell have given detailed information on how it deliberately stokes communal flames by peddling anti-minority hate and misinformation. In 2015, one of the founders of the IT Cell resigned citing the 'madness' that had gripped the party, and its 'desire to win at any cost'.⁵⁸ In 2018, a data analyst who formerly worked as a political consultant for the BJP revealed how fake videos and graphics are edited and spliced together before being sent to hundreds of WhatsApp groups, from which

⁵⁷ 'Nationalism a driving force behind fake news in India, research shows', *BBC News*, November 12, 2018, <https://www.bbc.com/news/world-46146877>.

⁵⁸ Bhavna Vij Aurora, 'BJP IT Cell founder prodyut bora quits party; attacks PM Modi, Amit Shah's style', *The Economic Times*, February 19, 2015, <https://economictimes.indiatimes.com/news/politics-and-nation/bjp-it-cell-founder-prodyut-bora-quits-party-attacks-pm-modi-amit-shahs-style/articleshow/46294834.cms>.

they are spread more widely by people who believe the content to be true.⁵⁹ In December 2020, after the BJP began a campaign to portray protesting Sikh farmers as separatists and militants, the West Delhi regional head of the IT Cell resigned, accusing the BJP of deliberately misleading citizens by peddling false news.⁶⁰ A few days earlier, a tweet by the national chief of the IT Cell had been first ever to be flagged by Twitter as ‘manipulated media’.⁶¹

The top leadership of the BJP has, on several occasions, openly endorsed such tactics. In 2015, Prime Minister Modi hosted and posed for photographs at his official residence with a group of ‘social media influencers’, several of whom were later revealed to have been directly involved in spreading hate and disinformation.⁶² It is common for such vitriolic ‘influencers’ to have their accounts followed by Modi, Shah and other top BJP leaders, including government ministers.⁶³ In the lead-up to the 2019 national elections, Shah, then the president of the BJP, boasted about the presence of over 3 million people on its WhatsApp groups, and the party’s capability to ‘spread any message among people, whether sour or sweet, real or fake’.⁶⁴ Between 14 November 2018 and 13 February 2019, an investigative journalist analysed the content of over 60,000 messages on 140 such pro-BJP WhatsApp groups,

59 Siddhartha Mishra, ‘How is the fake news factory structured?’, *Outlook*, December 17, 2018, <https://magazine.outlookindia.com/story/how-is-the-fake-news-factory-structured/300965>.

60 ‘BJP IT Cell head from Delhi resigns, claims party is misleading people’, *Indie Journal*, December 9, 2020, <https://www.indiejournal.in/article/bjp-it-cell-head-from-west-delhi-resigns-claims-party-is-misleading-people>.

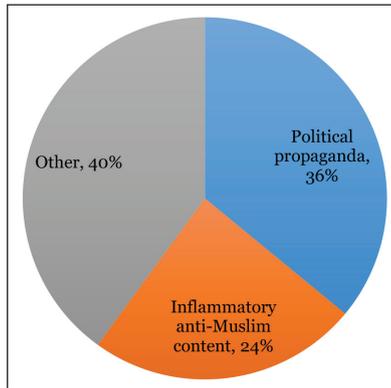
61 ‘Twitter flags BJP’s Amit Malviya’s tweet Manipulated media’, *NDTV*, December 2, 2020, <https://www.ndtv.com/india-news/twitter-flags-bjp-amit-malviya-tweet-as-manipulated-media-2332990>.

62 ‘Twitter trolls among #Super150 invited by PM Modi’, *The Quint*, July 6, 2015, <https://www.thequint.com/tech-and-auto/tech-news/twitter-trolls-among-super150-invited-by-pm-modi>.

63 Sam Jawed, ‘Hall of shame - Serial abusers, sexist bigots, rumour mongers followed by PM Modi on Twitter’, *Alt News*, September 7, 2017, <https://www.altnews.in/hall-shame-serial-abusers-sexist-bigots-rumour-mongers-followed-pm-modi-twitter>.

64 ‘Amit Shah’s poll plans: Spread fire, make even fake messages go viral’, *National Herald*, October 2, 2018, <https://www.nationalheraldindia.com/india/bjp-president-amit-shah-poll-plans-tells-cyber-warriors-to-spread-fire-make-even-fake-messages-go-viral>.

Figure 4: Breakdown of content shared on 140 pro-BJP WhatsApp groups
(14 November, 2018 to 13 February, 2019)



Source: Soma Basu

with self-identified BJP office bearers, and its IT Cell members as members. Political propaganda accounted for 36 per cent of the content while inflammatory anti-Muslim content accounted for 24 per cent (Figure 4).⁶⁵ Inflammatory content spiked up to over 40 per cent in the week following the Pulwama attack (Campaign #2, Table 1). The investigation also revealed that phone numbers of government critics were shared on these groups, with members encouraged to call and harass them.

This domination of mainstream and social media networks by Hindu nationalist actors has meant that the average Indian user of these services is now subject to a daily and carefully constructed barrage of anti-minority hate content, including misinformation.

Harnessing Laws in Aid of Hate

Helping mobilise the ecosystem of hate are laws emanating from the polity in support of, spurred on by, and spurring on this hate speech. They include but are not limited to the amendment to the anti-terror law, the Unlawful Activities (Prevention) Act in 2019,

⁶⁵ Soma Basu, 'Manufacturing Islamophobia on WhatsApp in India', *The Diplomat*, May 10, 2019, <https://thediplomat.com/2019/05/manufacturing-islamophobia-on-whatsapp-in-india>.

allowing the State to characterise any individual as a terrorist with an overly broad definition of what constitutes terrorism; the new laws criminalising cow slaughter and beef possession in a number of states Maharashtra (2015), Haryana (2015), Gujarat (2017), Karnataka (2020); the Uttar Pradesh Recovery of Damage to Public and Private Property Ordinance of 2020, which criminalises protest; anti-miscegenation laws that criminalise interfaith marriage in Uttarakhand (2018), Himachal Pradesh (2019), Uttar Pradesh (2020), Madhya Pradesh (2020); the 2019 amendment to the Gujarat Disturbed Areas Act, which prevents Muslims from purchasing or leasing property outside of their ghettos; the 2019 Muslim Women (Protection) of Rights on Marriage Act, which criminalises an act already deemed not to be valid, triple talaq in a single sitting; the Citizenship Amendment Act of 2019; the 2015 Gujarat Control of Terrorism and Organised Crime Act with overbroad definition of what constitutes organised crime and terrorism. The latest in this arsenal here seems to be moved by BJP governments in Uttar Pradesh and Assam to legislate on population control, seen by experts as a move to ‘keep(ing) the cauldron boiling for communal polarisation’.⁶⁶

Priming the Demand for Hate: Controlling the Narrative

In recent years, the Hindu nationalist ecosystem has tweaked and consolidated the template by which it manufactures and reproduces anti-minority hate and misinformation via mainstream media and social media. A wide range of actors push the same narratives from different sources and through different channels, in differing degrees of severity of harm to minorities. In a 2019 study, researchers at the London School of Economics noted the transmedial nature of this messaging, and how the synchronicity of hate content between social media, and mainstream media has resulted in a mutually reinforcing mechanism, where even Indians who may want to verify some hateful misinformation they

⁶⁶ S.Y. Quraishi, ‘Sudden interest in ‘population control’ in Assam and UP points to political bad faith’, *The Indian Express*, July 15, 2021, <https://indianexpress.com/article/opinion/columns/sudden-interest-in-population-control-in-assam-and-up-points-to-political-bad-faith-7405007>.

encounter on social media would only find confirmation for the same on mainstream media.⁶⁷ Conversely, the preponderance of hateful, sensationalist and stereotypical content on mainstream media means that anti-minority hate content on social media is more likely to be believed, and shared further.

This template of how the Hindu nationalist hate machinery works across multiple channels to spread hate and misinformation and incite violence against minorities has been observed during the recent campaigns to vilify Muslim anti-CAA protesters starting in December 2019 (#5, Table 1), to falsely accuse Muslims of having conspired to spread COVID-19 (#6, Table 1), and in December 2020 to vilify Sikh farmers who began mass protests against the BJP government.”

Institutional Frameworks for Anti-Minority Hate Speech

Legal framework: Not fit for purpose?

Today, more than ever before, regulation of hate speech in India is proving to be a sore legal and institutional challenge. Hate speech is not defined in any law in India. However, there exist multiple provisions in the Constitution and in statutory legislation that curb and regulate unqualified speech and expression.

Of these provisions, Article 19(2) of the Indian Constitution enlists certain ‘reasonable restrictions’ to Indian citizens’ freedom of speech and expression⁶⁸, namely for reasons of sovereignty and integrity of India, the security of the State, friendly relations with foreign countries, public order, decency or morality, contempt of court, defamation or incitement to an offence. The Constitution contains no express mention of ‘hate speech’ as a reasonable restriction, and it must be read in pre-existing bars to speech, such as under ‘public order’ or ‘incitement to an offence’ in Article 19(2).

67 Shakuntala Banaji and Ram Bhat, ‘WhatsApp Vigilantes: An Exploration of Citizen Reception and Circulation of WhatsApp Misinformation Linked to Mob Violence in India’ (London School of Economics and Political Science, November 2019), <https://www.lse.ac.uk/media-and-communications/assets/documents/research/projects/WhatsApp-Misinformation-Report.pdf>.

68 ‘Article 19(2) in The Constitution Of India 1949’, Indian Kanoon, accessed May 7, 2021, <https://indiankanoon.org/doc/493243>.

The bulk of what can be considered as India's hate speech legislation falls under the Indian Penal Code (IPC), 1860, specifically Sections 153A and 153B which make any act or words a punishable offence if it promotes 'enmity between different groups on grounds of religion, race, place of birth, residence, language, etc'. and is 'prejudicial to maintenance of harmony'. Similarly Section 295A of the code criminalises any act by anyone with 'deliberate and malicious' intention to 'outrage religious feelings of any class (of citizens) by insulting its religion or religious beliefs'. Again, no mention is made of hate speech.

In practice, most such laws have been weaponized to target dissenters—members of civil society, human rights defenders, lawyers, artists, comedians and other public figures, besides journalists—and minorities. Since the BJP assumed power, laws such as 295A have effectively become Indian 'blasphemy law',⁶⁹ used by vigilante groups and state machinery to curb free speech and creative expression.⁷⁰ In January 2021, a young Muslim comedian named Munawar Faruqui was arrested in Madhya Pradesh after complaints by local Hindu vigilantes who claimed that Faruqui was 'going to' crack jokes 'offensive' to Hindus during a show.⁷¹ Despite no jokes having actually been cracked, Faruqui, along with five of his friends and fellow-organisers of the show were arrested and had to spend over a month in jail. Several such instances over the years have made it clear that these Indian Penal Code

69 Sarah Imran, 'Section 295A: The Indian blasphemy law in making', *NewsClick*, January 28, 2021, <https://www.newsclick.in/section-295-indian-blasphemy-law-making>; Karan Kumar, 'Vague, unreasonable, constitutionally untenable: Why Indian variant of 'Blasphemy Law' – Section 295A IPC – should go', *The Leaflet* (blog), August 21, 2018, <https://www.theleaflet.in/vague-unreasonable-constitutionally-untenable-why-indian-variant-of-blasphemy-law-section-295a-ipc-should-go>.

70 Shoaib Daniyal, 'A short history of the blasphemy law used against Wendy Doniger and why it must go', *Scroll.in*, February 18, 2014, <http://scroll.in/article/656608/a-short-history-of-the-blasphemy-law-used-against-wendy-doniger-and-why-it-must-go>.

71 Siddharth Shivakumar, 'Munawar Faruqui's Case - Misuse of Section 295A of Penal Code and an Aggravated Insult on Free Speech', *Live Law*, January 23, 2021, <https://www.livelaw.in/columns/munawar-faruquis-case-section-295a-ipc-insult-free-speech-168809>.

provisions tend to curb free speech,⁷² target political criticism⁷³ and is today more frequently being used to censure minority voices,⁷⁴ rather than restrict hate speech.

The Representation of People's Act, 1951 that provides a legal framework for conduct of elections, has provisions that come closest to a hate speech law in India. Sections 123(3A) and 125 of the Act prohibits the promotion of enmity on grounds of religion, race, caste, community or language in connection with elections, as it is a corrupt electoral practice. Section 8 of the Act disqualifies a person from contesting elections if she is convicted for any 'illegitimate use of freedom of speech and expression'. Despite these provisions, and particularly since the BJP assumed power in 2014, the Election Commission of India, India's election watchdog and the authority enforcing the Representation of People Act and the Model Code of Conduct for political parties, has only taken lukewarm action against hate speech by politicians. A 2016 study conducted by IndiaSpend found that candidates with hate speech cases against them were three times more likely to emerge successful in elections.⁷⁵ In the run up to 2019 national elections, the Election Commission in multiple instances refused to impose any bar on Prime Minister Modi's campaign speeches (Campaign #3, Table 1) that violated the Commission's rules regarding political

72 Neeti Nair, 'A 91-year-old law is making a comeback in India due to lynchings and WhatsApp forwards', August 26, 2018, <https://theprint.in/opinion/a-91-year-old-law-is-making-a-comeback-in-india-due-to-lynchings-and-whatsapp-forwards/105387>.

73 'Tale of two sections: On vexatious criminal prosecution', *The Hindu*, April 24, 2017, <https://www.thehindu.com/opinion/editorial/tale-of-two-sections/article18195720.ece>.

74 'Arrest of tribal teacher over post on beef eating triggers outrage in Jharkhand', NewsClick, May 27, 2019, <https://www.newsclick.in/Jharkhand-Activist-Arrested-Jeetrai-Hansda-Facebook-Remarks>; Rishav Raj Singh, 'Muslim student in Madhya Pradesh arrested for calling RSS men 'pigs' on Facebook', *The Wire*, July 23, 2020, <https://thewire.in/rights/muslim-student-in-madhya-pradesh-arrested-for-calling-rss-men-pigs-on-facebook>; Mahim Pratap Singh, 'Modi caricature lands cartoonist in jail', *The Hindu*, September 28, 2011, <https://www.thehindu.com/news/national/modi-caricature-lands-cartoonist-in-jail/article2494467.ece>.

75 Manoj K, 'Hate-speech accused 3 times more successful in elections', *The Wire*, March 28, 2016, <https://thewire.in/communalism/hate-speech-accused-3-times-more-successful-in-elections>.

speech.⁷⁶ The Commission was later hauled up by the Supreme Court for its negligence of hate speech amidst the 2019 elections.⁷⁷

Specialised legislations and their limits

The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act of 1989 (hereinafter, PoA Act), criminalises hate speech directed toward historically marginalised castes (Dalits) and tribal groups with Section 3(1)(x) of Chapter 2 making intentional ‘insults...with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view’ liable to punishment. Besides being narrow in scope—not covering other protected categories such as religious minorities—PoA Act has been marred by poor implementation and a gradual watering down of its core provisions through court judgements.⁷⁸

Other specialised statutes in Indian law include medium-centric regulation of speech via legislation like the Cinematograph Act of 1952 and the Cable TV Networks (Regulation) Act of 1995 (or Cable TV Act) and certain sections of the Information Technology

76 Anjali Mody, ‘Elections 2019: Why is the Election Commission of India giving Narendra Modi special treatment?’, *Scroll.in*, May 3, 2019, <https://scroll.in/article/922121/opinion-why-is-the-election-commission-giving-narendra-modi-special-treatment>; Ritika Chopra, ‘EC over-rules its officers, gives second clean chit to Narendra Modi’, *Indian Express*, May 2, 2019, <https://indianexpress.com/elections/ec-over-rules-its-officers-gives-second-clean-chit-to-narendra-modi-5705845>.

77 ‘SC pulls up EC for ‘sleeping’ on hate speech, cites Yogi Adityanath and Mayawati cases’, *News18*, April 15, 2019, <https://www.news18.com/news/politics/sc-pulls-up-ec-for-sleeping-on-hate-speech-singles-out-yogi-adityanath-and-mayawati-cases-2103137.html>; ‘Herald View: Why the Election Commission of India urgently needs a performance audit’, *National Herald*, April 2, 2021, <https://www.nationalheraldindia.com/opinion/herald-view-why-the-election-commission-of-india-urgently-needs-a-performance-audit>.

78 ‘The SC/ST (Prevention of Atrocities) Act, 1989: Dilution by the Courts - Centre for Law & Policy Research’, *Centre for Law & Policy Research*, April 5, 2021, <https://clpr.org.in/blog/the-sc-st-prevention-of-atrocities-act-1989-dilution-by-the-courts>; Suryakant Waghmore and Hugo Gorringer, ‘SC/ST Act: By diluting it, Supreme Court harms Dalit and Adivasi struggles for dignity’, *Scroll.in*, April 2, 2018, <https://scroll.in/article/873678/by-diluting-sc-st-atrocities-act-supreme-court-harms-dalit-and-adviasi-struggles-for-dignity>; Sravasti Dasgupta, ‘Crimes against SC/ST women, children up 15%, but conviction rate low, says house panel’, *The Print*, March 23, 2021, <https://theprint.in/india/governance/crimes-against-sc-st-women-children-up-15-but-conviction-rate-low-says-house-panel/626548>.

Act of 2000 (IT Act). None of these have been used to deter hate.

The Information Technology Act has been the key legislative tool to govern speech in cyberspace, with upcoming rules such as the 2021 Guidelines for Intermediaries and Digital Media Ethics Code. Prior to 2015, Section 66-A of India's Information Technology Act criminalised any person whose online speech or information was 'grossly offensive' or had a 'menacing character'. Instead of effectively curbing hate speech, this law has been routinely used to target expressions of political dissent, artistic freedom, and criticism of the government.⁷⁹ Such was the scourge of its poor framework that the Indian Supreme Court in *Shreya Singhal v. Union of India* (2015) finally struck down Section 66A on grounds of being vague, overly broad and infringing the right to freedom of speech and expression. However, police across the country continue to make arrests on the basis of the law. In March 2017, a Muslim youth from Uttar Pradesh was arrested and made to spend 42 days in prison for writing Facebook posts critical of a high court according 'living' status to the Ganges river (considered holy by Hindus), and writing about pending criminal cases against Ajay Bisht, chief minister of Uttar Pradesh.⁸⁰ Even today, multiple reports indicate that arrests continue to be made under this scrapped law, almost entirely in cases of political speech, and expressions of dissent, but never for hate speech.⁸¹

79 Nirmalya Dutta, 'Section 66A quashed: 10 Cases where the law was misused!' India.com, March 24, 2015, <https://www.india.com/viral/section-66a-quashed-10-cases-where-the-law-was-misused-328764>; '13 infamous cases in which Section 66A was misused', *India Today*, March 24, 2015, <https://www.indiatoday.in/india/story/section-66a-cases-how-it-curbed-245739-2015-03-24>.

80 Charu Bahri, 'Police continue to make arrests using 'unconstitutional' Section 66A of IT Act, struck down by Supreme Court 3 years ago', *India Spend*, December 3, 2018, <https://www.indiaspend.com/police-continue-to-make-arrests-using-unconstitutional-section-66a-of-it-act-struck-down-by-supreme-court-3-years-ago>.

81 Ashwaq Masoodi, 'Prisoners of Memes, Social Media Victims', *Live Mint*, December 5, 2018, <https://www.livemint.com/Politics/sWTiTg8jScRZpKwSPN25UN/Prisoners-of-memes-social-media-victims.html>; Himanshi Dhawan, '66A: How a dead law is being used to kill dissent', *The Times of India*, May 19, 2019, <https://timesofindia.indiatimes.com/home/sunday-times/66a-how-a-dead-law-is-being-used-to-kill-dissent/articleshow/69390861.cms>; Apar Gupta and Abhinav Sekhri, 'The ghosts of laws past: On the application of Section 66A of IT Act', *The Hindu*, November 5, 2018, <https://www>.

Other provisions of the IT Act include Sections 67 and 69A, which respectively criminalise ‘publishing or transmitting obscene material in electronic form’ and allows the Indian government to block public access to an intermediary ‘in the interest of sovereignty and integrity of India, defence of India, security of the State...’, among others. Not only do these provisions show no express mention of hateful speech or conduct, they have instead been used to curtail political dissent⁸² and minority voices. Similarly, Section 69A has repeatedly been used by the government to block Twitter and Facebook accounts of protesters, political opposition and news media organisations.⁸³

Regulatory bodies: A story of abdication

Several regulatory bodies with mandates that also cover hate speech and hate crimes, including the National Human Rights Commission, its subsidiary State Human Rights Commissions and National Minorities Commission. But they have done little to curb hate speech and hate crimes. The National Human Rights Commission, despite being a statutory body possessing the powers of a civil court for trials as well as investigations, has largely remained toothless, a failure attributed to the lack of a binding character of its decisions/directives, as well as its fraught appointment process which is less than independent.⁸⁴ Television is regulated by the Cable Television Network (Regulation) Act, 1995 with a Code of Conduct for cable television networks in India. While the guidelines under this Code prohibit the broadcast of news which ‘attacks religions

thehindu.com/opinion/op-ed/the-ghosts-of-laws-past/article25419971.ece.

82 ‘19-yr-old Tamil youth’s arrest over ‘filthy’ comments on PM Modi in a Facebook chat attacks our basic freedoms’, *DailyO*, November 1, 2017, <https://www.dailyo.in/variety/tamil-nadu-narendra-modi-section-66a-facebook-chat-bjp-free-speech-mersal/story/1/20352.html>.

83 Taran Deol, ‘All about Section 69A of IT Act under which Twitter had withheld several posts & accounts’, *The Print*, February 2, 2021, <https://theprint.in/theprint-essential/all-about-section-69a-of-it-act-under-which-twitter-had-withheld-several-posts-accounts/597367>.

84 Apurva Vishwanath, ‘NHRC Turns 25 – and that’s pretty much all it has achieved’, *The Print*, October 16, 2018, <https://theprint.in/india/governance/nhrc-turns-25-and-thats-pretty-much-all-it-has-achieved/132716>; Sanjoy Hazarika and Sarthak Roy, ‘NHRC: A Toothless Tiger?’, accessed May 7, 2021, <https://www.humanrightsinitiative.org/blog/nhrc-a-toothless-tiger>.

or communities or visuals or words contemptuous of religious groups or which promote communal attitudes', there is no express provision directed particularly toward hate speech.⁸⁵ An Inter-Ministerial Committee is responsible for taking action in the event of violations of this programme code. In September 2020, the Indian Ministry of Information & Broadcasting (I&B) allowed broadcast of a news programme by Sudarshan TV, an RSS-leaning Hindi-language channel, which targeted Muslims who cleared India's civil services exams as being perpetrators of what it called 'UPSC Jihad' and the Indian Supreme Court refused to censure the broadcast of the offensive programme.⁸⁶ It was only on being challenged in the Supreme Court that the government body submitted to the Court that the programme was violative of India's Cable TV (Regulation) Act and sent the channel a show-cause notice.⁸⁷ The last time the body made it to the news was in March 2020, when the I&B Ministry suspended the broadcast of two Malayalam-language news channels that highlighted how police forces in Delhi had been working along with violent Hindu mobs to target Muslims of northeast Delhi.⁸⁸

Failing international obligations?

In sum, analysis of existing legislations and institutions in India illustrates how they fail to live up to international standards. India

85 'Programme and Advertising Codes', Ministry of Information and Broadcasting, Government of India, accessed 7 May, 2021, <https://www.mib.gov.in/broadcasting/programme-and-advertising-codes>.

86 Amrita Nayak Dutta, 'Modi govt allows Sudarshan News 'UPSC Jihad' episode to air, says can't pre-censor TV shows', *The Print*, September 10, 2020, <https://theprint.in/india/modi-govt-allows-sudarshan-news-upsc-jihad-episode-to-air-says-cant-pre-censor-tv-shows/500048>; Sanya Talwar, 'SC refuses pre-broadcast order to stop Sudarshan TV's alleged communal program on Muslims clearing UPSC', *Live Law*, August 28, 2020, <https://www.livelaw.in/top-stories/sc-refuses-pre-broadcast-order-on-sudarshan-tvs-show-communalising-upsc-recruitment-of-muslims-162111>.

87 Bhadra Sinha, 'Sudarshan TV's 'UPSC Jihad' show violated programme code under Cable TV Act, Centre tells SC', *The Print*, September 23, 2020, <https://theprint.in/judiciary/sudarshan-tvs-upsc-jihad-show-violated-programme-code-under-cable-tv-act-centre-tells-sc/509008>.

88 'Banned for Coverage of Delhi Violence, Asianet News and Media One Are Back on Air', *NewsLaundry*, March 7, 2020, <https://www.newslaundry.com/2020/03/06/critical-towards-delhi-police-rss-ib-ministry-blocks-malayalam-channels-for-delhi-riots-coverage>.

is signatory to the International Covenant on Civil and Political Rights (ICCPR) (1966), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) (1965), and the Convention on the Prevention and Prohibition of the Crime of Genocide (Genocide Convention) (1948), including to their operative provisions. Yet, as is evident, there is little translation of those commitments into domestic law. And whilst the United Nations Strategy and Plan of Action on Hate Speech sets out clear guidelines for states to challenge hate speech, develop appropriate policies, and undertake capacity building, there are no signs India has taken any decision to implement the guidelines. This, despite that several instances of hate speech in India potentially meet all six criteria of the Rabat Plan of Action—requiring urgent action. Instead state authorities have continued to target members of minority communities, human rights defenders and civil society organisations working to challenge hate, and harass advocacy groups such as Amnesty International.

Social Media Companies: Collusion and Complicity

Unlike existing Indian legislation, social media companies such as Facebook and Twitter possess detailed terms, conditions, and user regulations concerning online hate and incitement. Despite this, the companies' attitudinal shifts based on regional and geopolitical demographics have revealed multiple double standards and a failure to act in India. A *Wall Street Journal* report detailed how a senior Facebook executive actively ignored requests to take down hateful and false news spread by BJP politicians on the site, and displayed clear signs of political bias.⁸⁹ Facebook, which boasts of over 400 million users in India, has also been widely criticised for its double standards after banning the account of former US President Donald Trump while giving a free pass to hateful and incendiary speech against minorities

⁸⁹ Jeff Horwitz and Newley Purnell, 'Facebook executive supported India's Modi, disparaged opposition in internal messages', *The Wall Street Journal*, August 30, 2020. <https://www.wsj.com/articles/facebook-executive-supported-indias-modi-disparaged-opposition-in-internal-messages-11598809348>.

(especially Muslims) in India, and other non-Western countries.⁹⁰

Another barrier to protection of human rights is the fear of reprisals faced by global social media companies for failing to comply with government or even vigilante diktats instead of working to strengthen the space for free dialogue. This has been witnessed in the failure of Facebook and Twitter in India to censor or take down right-wing accounts spreading dangerous ‘fake news’, and hateful speech against minorities. Facebook insiders have, in another *The Wall Street Journal* report, admitted to this fear of violence from such vigilante groups in the event they address this problem.⁹¹ A report in *The Guardian* in April 2021 revealed that Facebook halted its plans to remove fake accounts from its platform after it realised that a BJP parliamentarian was directly involved with those accounts.⁹²

Most damningly, under Section 69A of the existing IT Act along with the Indian government’s newly introduced Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021(‘IT Rules’), social-media companies are now held liable to take action as directed by the government.⁹³ The new IT Rules make it mandatory for ‘social-media intermediaries’, such as Whatsapp, Signal, Telegram, etc, to enable the identification of the first originator of information. This essentially mandates traceability as a requirement, going against the norm of end-to-end encryption and user-privacy. The guidelines also seek to enforce deeper regulations on both video-streaming platforms (such as Netflix, Amazon, etc) and even ‘publishers of news and

90 Adam Satariano, ‘After barring Trump, Facebook and Twitter face scrutiny about inaction abroad’, *The New York Times*, January 14, 2021, <https://www.nytimes.com/2021/01/14/technology/trump-facebook-twitter.html>.

91 Jeff Horwitz and Newley Purnell, ‘In India, Facebook fears crackdown on hate groups could backfire on its staff’, *The Wall Street Journal*, December 13, 2020, <https://www.wsj.com/articles/in-india-facebook-fears-crackdown-on-hate-groups-could-backfire-on-its-staff-11607871600>.

92 Julia Carrie Wong and Hannah Ellis-Petersen, ‘Facebook planned to remove fake accounts in India – until it realized a BJP politician was involved’, *The Guardian*, April 15, 2021, <http://www.theguardian.com/technology/2021/apr/15/facebook-india-bjp-fake-accounts>.

93 ‘Latest Draft Intermediary Rules: Fixing Big Tech, by Breaking Our Digital Rights?’, *Internet Freedom Foundation*, February 25, 2021, <https://internetfreedom.in/latest-draft-intermediary-rules-fixing-big-tech-by-breaking-our-digital-rights>.

current affairs content' by using social-media companies (i.e., the 'intermediaries') as proxy. What this effectively means for Twitter, Facebook, WhatsApp, Signal, etc, is that they must comply by government orders, else face liability.⁹⁴ The guidelines undermine both the right to free speech (Article 19(1) (a) of the Constitution, and the right to privacy (Article 21). In effect, they also seek to strengthen the government's ability to track political speech, dissent and protest, and potentially criminalise it, especially by misusing provisions of 'hate speech' laws. These guidelines are under constitutional challenge, including by some of these social media and new media companies.

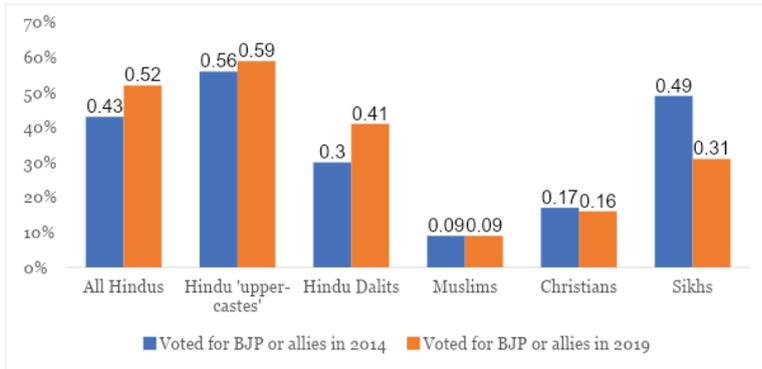
Civil Society Pushback: The Silver Lining!

In the absence of meaningful state-led and institutional action, civil society has stepped up and attempted to address some aspects of anti-minority hate and misinformation. To address the issue of lack of authoritative data relating to hate speech and hate crimes, several civil society entities have attempted systematic tracking efforts. Several of these have reportedly been scuttled by the government. *Hindustan Times*, an Indian English-language daily newspaper, was the first to attempt to create a database of hate crimes. The initiative ended abruptly and its editor was forced to resign, reportedly after a personal meeting between Prime Minister Modi and the newspaper's proprietor.⁹⁵ Hate Crime Watch, a similar initiative by IndiaSpend, was also abruptly taken down. Amnesty International, which published a comprehensive report on hate crimes in India between 2015 and 2019, wound up its operations in India in September 2020, citing continued harassment from the central government. MapViolence, a hate tracking initiative by a network of Christian faith-based organisations that run a helpline for persecuted Christians, is also reported to have come under scrutiny.

⁹⁴ 'Here's what India's new sweeping social media rules mean', *The Week*, April 28, 2021, https://www.theweek.in/news/sci-tech/2021/04/28/here_s-what-indias-new-sweeping-social-media-rules-mean.html.

⁹⁵ 'Hindustan Times Editor's Exit Preceded by Meeting Between Modi, Newspaper Owner', *The Wire*, September 25, 2017, <https://thewire.in/media/hindustan-times-bobby-ghosh-narendra-modi-shobhana-bhartia>.

Figure 5: Percentage of people who voted for the BJP or its allies in 2014 and 2019



Source: Lokniti Post-Poll Surveys in 2014 and 2019

Several online initiatives, such as Alt News, BOOM, and Fact Checker, have attempted to fight misinformation by systematically and actively fact-checking popular claims made on social and mainstream media. However, these initiatives have limited reach.⁹⁶ Some civil society activists have attempted to target the revenues of websites that spread hate and misinformation. Efforts by Stop Funding Hate, a London-based social campaign, resulted in several advertisers ceasing their relationships with OpIndia, a Hindu right-wing online platform accused of hate and misinformation. Similar efforts by Newslaundry, an online media watchdog, resulted in several companies dropping their advertisements from Republic TV and its affiliate channels.

Notwithstanding some definite but limited successes, civil society efforts aimed at curbing hate and misinformation in India face increasingly insurmountable odds against the might of the state, and the sophistication of the Hindu nationalist hate machinery.

⁹⁶ As of May 6, 2021, Alt News, the most popular fact checking service in India has an Alexa rank – a metric of website popularity and engagement – of 4919 nationally, while OpIndia and Republic World, two pro-government websites that are known for spreading anti-minority hate and misinformation, are ranked 739 and 210 respectively. See 'Alexa Rank Checker', Small SEO Tools, accessed May 6, 2021, <https://smallseotools.com/alexa-rank-checker>.

The Wages of Hate: A Divided, Intolerant, Diminished India

Hardened majoritarianism

While communalised tensions have been a regular feature of Indian society, the present BJP regime with its brazen anti-minority hate and incitement has overseen a period of intensifying polarisation, with a substantial chunk of the Hindu population—particularly ‘upper castes’, but also increasingly many ‘lower castes’—now firmly in the BJP’s corner, electorally. At the same time, support for BJP among religious minorities has fallen further⁹⁷ (Figure 5). Polarisation has been entrenched—Indian society is a much-divided house now. It has also experienced a definite majoritarian shift.

Overall, the vote share of the BJP and its allies increased from 38 percent to 45 percent between 2014 and 2019, and the BJP-led coalition now controls 353 (65 per cent) of the total seats in the lower house of parliament. It also controls, by itself or in coalition with regional allies, 18 of India’s 30 state legislative assemblies. This domination by the BJP has resulted in the Overton window⁹⁸ shifting significantly towards an acceptance of Hindu nationalism, with even ostensibly secular political parties now being forced to increasingly toe majoritarian policies, a practice that is known as ‘soft’ *Hindutva*. This has led to the further political alienation of India’s minorities, many of whom see the BJP as an existential threat to their status as equal citizens of India.

While some analysts have attributed the BJP’s dominance to the personal appeal of its top leadership, there is some evidence beyond election results to suggest that there is also wide acceptance and enthusiasm for the specific policies that the BJP has pursued. A nationwide survey conducted by *India Today* in January 2021 revealed that almost half the respondents viewed the stripping of Kashmir’s autonomy and the court verdict handing the site of

97 Lokniti: Programme for Comparative Democracy, ‘The National Election Study 2019’, *Centre for the Study of Developing Societies*, accessed May 6, 2021, <https://www.lokniti.org/NES2019POSTPOLL>.

98 Named after the American policy analyst Joseph P. Overton, the window refers to the range of policies that are politically acceptable to the mainstream population in a country at a given time.



the demolished Babri mosque over to Hindu nationalists—both developments with major anti-minority implications—as the Modi government’s biggest achievements.⁹⁹ Of the survey respondents, 54 per cent expressed their belief in the debunked ‘love jihad’ conspiracy theory and over 60 per cent of the Hindu respondents supported the enactment of discriminatory laws to discourage all inter-faith marriages.¹⁰⁰ The CAA, which had led to nationwide protests, was supported by 53 per cent of the respondents, and only 9 per cent felt that it is discriminatory towards Muslims.¹⁰¹ The National Register of Citizens (NRC), which has left 1.9 million people on the brink of statelessness, has strong support in Assam, where the BJP was re-elected to power in May 2021, winning almost 60 percent of the total seats in the state’s legislative assembly.¹⁰² Kapil Mishra, the BJP leader accused of sparking off and participating in anti-Muslim violence in northeast Delhi, was

99 Karvy Insights, ‘Mood of the nation 2021’, *India Today*, January 2021, <https://www.indiatoday.in/mood-of-the-nation-survey-2021>.

100 Ibid.

101 Ibid.

102 ‘BJP-led NDA retains Power with majority 75 seats in Assam, Congress wins 29’, *Business Standard*, May 3, 2021, https://www.business-standard.com/article/elections/bjp-led-nda-retains-power-with-majority-75-seats-in-assam-congress-wins-29-121050300122_1.html.

recently able to recruit tens of thousands of young Hindus as foot soldiers of a ‘Hindu Ecosystem’ team to work on special ‘areas of interest’ within the Hindu nationalist agenda, almost all of which have dangerous implications for minorities.¹⁰³

Normalisation of anti-minority hostility, violence and discrimination

Scholars who have analysed patterns in contemporary episodes of communal violence have noted that the maintenance of communal tensions—accompanied occasionally by the ‘production’ of mass violence—is essential for the maintenance of Hindu nationalism. They have also argued that the use of terms like ‘communal violence’ and ‘riots’ to refer to such episodes is misleading, as the victims are overwhelmingly minorities, particularly Muslims.¹⁰⁴ This pattern has held true even as Hindu nationalists have assumed and held on to power, and the active or tacit support of a big chunk of the Hindu population for the government has meant that anti-minority violence carried out during the pursuit of Hindu nationalist goals has become increasingly normalised.

Several of the major, recent hate and incitement campaigns highlighted in this report led to major episodes of organised violence against minorities. In Muzaffarnagar in 2013 (Campaign #1 in Table 1), the campaign led to ‘riots’ that resulted in 42 Muslims being killed (out of the 62 dead), and over 40,000 being displaced. In Delhi in 2020 (Campaign #5), the portrayal of Muslims and anti-CAA protesters as traitors resulted in ‘riots’ where 40 Muslims were killed (out of 53 dead) by organised Hindu mobs. On a smaller yet wider scale, campaigns to portray Muslims and anti-CAA protesters as willing spreaders of COVID-19 (Campaign #6), and Kashmiri Muslims as supporters of terrorism against Indian soldiers (Campaign #2) resulted in multiple physical attacks

¹⁰³ Meghnad S and Shambhavi Thakur, ‘Hate Factory: Inside Kapil Mishra’s ‘Hindu Ecosystem’,’ *Newslaundry*, February 15, 2021, <https://www.newslaundry.com/2021/02/15/we-infiltrated-the-telegram-groups-of-the-bjp-leaders-online-network-to-see-what-they-do>.

¹⁰⁴ Paul R. Brass, *The Production of Hindu-Muslim Violence in Contemporary India*, Jackson School Publications in International Studies (University of Washington Press, 2005).

against members of the target communities across the country.

Beyond these targeted hate campaigns, India has also seen a continuing spate of anti-minority hate crimes, many of which can be linked directly to Hindu nationalist goals. The BJP government has refused to divulge data, but some civil society initiatives have attempted to document the phenomenon. According to Amnesty International, a total of 902 alleged hate crimes were reported between September 2015 and June 2019, resulting in 303 deaths. Of the 902 documented instances, 621 were reported to have been motivated by caste, with the victims of these overwhelmingly (99.5 per cent) being Dalits. Of the total, 217 instances were reported to have been primarily motivated by religion, with Muslims (89 per cent) and Christians (8 per cent) being the main targets. Religiously motivated hate crimes resulted in a total of 91 deaths, of which 79 (87 per cent) were of Muslims. A total of 113 hate crimes were traced directly to the ruse of 'cow protection'.¹⁰⁵

Amnesty's numbers, derived from English and regional-language media reports, are almost certainly an undercount. In the year 2019 alone, Christian faith-based organisations that collect data directly from the ground documented a total of 328 instances of violence against Christians. The fact that the vast majority of these were never reported by the media is by itself testament to how much anti-minority violence has become normalised in India.

Discrimination against minorities in the social, economic, and political spheres has worsened as well. Although difficult to quantify and despite the extent of this situation worsening under the present regime, given it is a largely understudied subject, there have been occasional civil society attempts to document major instances that have been reported in the media.

Among religious minorities, Muslims are, again, the main targets. Since 2014, Documentation of the Oppressed (DOTO) has recorded 14 such instances of discrimination in education (13

¹⁰⁵ Amnesty International ceased its operations in India in September 2020, citing harassment from the BJP government. Its website, which contained its report on hate crimes in India, was taken down as a result. A full, archived version of the report is available at: <https://web.archive.org/web/20200823132026/http://haltthehate.amnesty.org.in>.

against Muslims), 15 instances of discrimination in employment (all against Muslims), 45 instances of denial of access to public services (41 against Muslims), nine instances of economic boycott (all against Muslims), and 10 instances of social boycott (nine against Muslims). Although again a likely an undercount of the true extent of anti-minority discrimination, some of the documented instances can be linked directly to specific hate campaigns. For instance, following the hate campaign against Kashmiri Muslims after the Pulwama attack (Campaign #2, Table 1), there were numerous instances of Kashmiris across the country being evicted from their homes, and of Kashmiri students being denied admission to or being suspended from educational institutions. Similarly, the scapegoating of Muslims as willing spreaders of COVID-19 (Campaign #6) directly led to reported instances of economic boycott in two states, denial of access to public services at hospitals in four states, and denial of access to relief material and public water dispensers in one state each.

Anti-minority discrimination in the housing market is a particularly serious problem. Scholars who have studied the ghettoisation of Muslims in India's cities, for instance, have attributed the phenomenon partly to organised violence by Hindu nationalists.¹⁰⁶ In February 2021, researchers found that Muslim tenants across India continue to experience a 'profound, and widespread feeling that Muslims were not welcome outside the so-called Muslim localities'.¹⁰⁷ Exemplifying this were reports from northeast Delhi—the site of large-scale Muslim violence a year earlier—that dozens of Muslim families had resorted to selling off their homes at below-market rates due to the daily humiliation they continue to face from the area's Hindus.¹⁰⁸

106 Ghazala Jamil, *Accumulation by Segregation: Muslim Localities in Delhi* (New Delhi: Oxford University Press, 2017).

107 Mohsin Alam Bhat and Asaf Ali Lone, 'Cities Divided: How Exclusion of Muslims Sharpens Inequality', *Article 14*, February 12, 2021, <https://www.article-14.com/post/cities-divided-how-exclusion-of-muslims-sharpens-inequality>.

108 Tarushi Aswani, 'Muslims in northeast Delhi sell homes below market rate to escape 'continuing harassment'', *The Wire*, October 30, 2020, <https://thewire.in/communalism/muslims-northeast-delhi-sell-homes-harassment-riots>.

Weakened institutions of democracy

Accountability for hate speech, incitement and violence against minorities has historically been poor in India. In recent years, with the senior-most BJP leaders leading the way, impunity has been fortified. After BJP took power in Uttar Pradesh in 2017, it began withdrawing dozens of criminal cases lodged against Hindus accused of rioting, rape and murder in Muzaffarnagar in 2013 (Campaign #1, Table 1). Among those who had cases withdrawn was Sangeet Som, the BJP leader who had shared the fake video that had exacerbated tensions then. Sanjeev Balyan, another BJP leader accused of inciting violence in Muzaffarnagar, was elevated to Modi's Council of Ministers and is now a Minister of State.

Tathagatha Roy, the BJP-appointed state governor who incited people to 'boycott everything Kashmiri' (Campaign #2), faced no action. Home Minister Shah has faced no action for his repeated description of Bengali-speaking Muslim immigrants as 'termites' (Campaign #4). Anurag Thakur, the minister of state who exhorted a crowd to chant '*Desh ke gaddaro ko, goli maaro saalo ko*' (shoot dead the bastard traitors) (Campaign #5), received a temporary campaigning ban from the Election Commission. Kapil Mishra, who popularised the slogan and was later accused of sparking off and participating in the anti-Muslim violence in Delhi, has faced no action. Narsinghanand Saraswati, the Hindu priest who called the genocide of Muslims in the lead-up to the violence, remains a free man. The Islamic congregation that had been the excuse for sparking off the misinformation campaign against Muslims in March 2020 (Campaign #6) was later absolved by numerous courts. The three BJP leaders who were caught on camera inciting hostility, discrimination and violence against Muslims faced no action. None of the major social media or mainstream media actors that spread anti-minority hate, incitement, and misinformation during these campaigns faced any meaningful penalties. All of them remain activated, ready to spring to action on the command of hate entrepreneurs.

Impunity of this scale in serious hate speech and incitement cases is but the combined failure of the galaxy of national

institutions: statutory laws and procedures; enforcers of the laws, including police and investigation agencies; regulatory bodies such as Election Commission of India; protectors of human rights such as National Human Rights Commission and National Commission for Minorities (and their state counterparts); as well as courts, including the apex court. It is this systemic failure, among others, that has contributed to India ranking a poor 69 out of 128 countries in the World Justice Project's Rule of Law Index,¹⁰⁹ and recently being downgraded from Free to Partly Free,¹¹⁰ and as an electoral autocracy.¹¹¹

Recommendations¹¹²

For the Government of India

- i. India must comply with international laws on hate speech and incitement. It must adopt legislation against forms of hate speech, including prohibiting any advocacy of national, ethnic, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, and criminalising incitement to genocide on social media. These prohibitions must meet relevant provisions of the International Covenant on Civil and Political Rights (ICCPR), the International Convention on the Elimination

109 'WJP Rule of Law Index - India Overall Score, 2020', *World Justice Project*, accessed July 16, 2021, <https://worldjusticeproject.org/rule-of-law-index>.

110 'India: Freedom in the World 2021 Country Report', *Freedom House*, accessed July 16, 2021, <https://freedomhouse.org/country/india/freedom-world/2021>.

111 V-Dem Institute, 'Democracy Report 2021: Autocratization Turns Viral' (University of Gothenburg, March 2021), https://www.v-dem.net/media/filer_public/c9/3f/c93f8e74-a3fd-4bac-adfd-ee2cfbc0a375/dr_2021.pdf.

112 Inspired by recommendations of the Special Rapporteur on Minority Issues in his report on hate speech on social media made to Human Rights Council at its 46th session (March 2021). These were themselves the outcome of several consultations of the United Nations Minority Forum, with the participation of state parties, social media companies and civil society, on the subject of online hate, through 2020. The South Asia Collective (SAC) participated in these deliberations and contributed to the development of the Special Rapporteur's report to the Council on the subject, including of his recommendations. We are grateful to the Special Rapporteur on Minority Issues including SAC in these deliberations.

- of Racial Discrimination (ICERD and the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention), besides the Rabat Plan of Action threshold test and the detailed guidance on the United Nations Strategy and Plan of Action on Hate Speech.
- ii. National legislation must require social media platforms to adopt policies and protocols to identify hate speech on the grounds of religion, caste, ethnicity, and language as well as gender and sexual orientation while respecting the right to privacy of individuals.
 - iii. At the same time, India must review and urgently take corrective actions against the discriminatory implementation, mostly systematic, of general as well as hate speech laws against religious minorities.
 - iv. India must put in place procedures and mechanisms for the mandatory collection of data on hate speech, and, at a minimum, on incitement to genocide and advocacy that constitutes incitement to discrimination, hostility, or violence. This must be disaggregated by basis of hatred, including religion.
 - v. India must establish an independent and authoritative specialised institution that meets international standards to carry out work to counter hate speech and accessible mechanisms for civil society organisations to report hate speech online.
 - vi. Law enforcement agencies and the judiciary must be provided adequate and specialised training on minority rights, in particular concerning hate speech against minorities.
 - vii. Relevant agencies must act decisively, quickly, and effectively to address and counter hate speech against minorities in online and offline communications, including by swiftly and effectively investigating and prosecuting those responsible, holding them accountable, and ensuring that victims have effective access to justice and remedy.
 - viii. India must adopt human rights education initiatives on minority rights, including in school curricula; promote diver-

sity and pluralism; and combat discrimination, stereotyping, xenophobia, racism and hate speech by disseminating positive, alternative, and inclusive narratives that invite dialogues..

For social media companies

- i. Social media companies in India must have in place human rights violations review processes that refer to and focus specifically on the groups most susceptible to hate speech—in particular religious minorities, such as Muslims, as well as caste and ethnic minorities, and women and sexual minorities. They must also restrict hate speech with its the human rights implications on their platforms and their products, including algorithms and artificial intelligence programmes.
- ii. Social media’s content moderation systems and community standards and oversight or appeal entity in India must commit to protecting vulnerable and marginalised minorities and other groups. Minorities (religious as well as caste and gender) must specifically be identified as priorities for social media platforms.
- iii. Social media platforms must strictly and impartially apply their Guiding Principles on Business and Human Rights in their operations.
- iv. Social media platforms must include religious minorities, as the most targeted and vulnerable groups, in advisory and other relevant boards, in order to improve their mechanisms and content vetting policies for handling hateful content.

For United Nations/international community

- i. Greater attention must be paid and early warning, early response, and prevention mechanisms on cases of hate speech and incitement in India within the UN system must be used while also adopting resolutions and recommendations to states on prevention and early warning.
- ii. Closely monitor the human rights situation and future human rights violations targeting religious minorities in

India and issue regular updates to the States and relevant UN bodies.

- iii. Request and conduct in-country visits to monitor the situation on the ground and raise awareness together with the government.

For Indian civil society

- i. Greater attention and investment in data collection, tracking, and analysis of anti-minority hate speech and incitement, and their dissemination to multiple audiences is needed.
- ii. Ensure greater cross-group cooperation and collaboration on documentation of hate speech, assistance to its victims, and outreach and advocacy with stakeholders, interfaith, cross-group conversation and dialogue, to counter hate and divisive content, and promote dialogue.

Nepal

Hate Speech against Minorities

Ritika Singh & Sudeshna Thapa

Introduction

Hate speech ‘is any kind of communication in speech, writing or behaviour, that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor’.¹ Hate speech serves two functions—i) to dehumanise and diminish members of minority groups, and ii) to reinforce a sense of solidarity among the perpetrators of hate speech.²

The entire region of South Asia has witnessed growing incidence of violence against people of different groups based on their religion, caste, ethnicity, nationality, race, colour, gender, region or other identity factor, including through the use of words or symbols, spoken or written. Even though Nepal is behind the curve in terms of the level of hate speech and other atrocities, as seen particularly in neighbouring India but also other parts of South Asia, there are several warning signs that Nepal could potentially follow a similar path.

Despite Nepal being constitutionally a secular country, the religion of the majority, Hinduism, has retained its importance symbolically and politically.³ The ‘untouchable caste group’ based

1 ‘What is Hate Speech?’ United Nations Strategy and Plan of Action on Hate Speech, last modified June 20, 2019, <https://www.un.org/en/genocideprevention/documents/UN%20Strategy%20and%20Plan%20of%20Action%20on%20Hate%20Speech%2018%20June%20SYNOPSIS.pdf>.

2 I. Gagliardone, D. Gal, T. Alves, and G. Martinez, *Countering Online Hate Speech* (Paris: United Nations Educational, Scientific and Cultural Organization, 2015).

3 C. Letizia, ‘Secularism and Statebuilding in Nepal,’ in *Two Steps Forward, One*

on the Hindu caste hierarchy, Dalits, remain on the fringe of society, facing discrimination⁴ and violence.⁵ The country has earned an international reputation as a safe haven for sexual minorities but this perception has been undermined in recent years through societal treatment of them and the haphazard, exclusionary, and unnecessarily burdensome legal provisions they are faced with.⁶ Likewise, while Nepal is deemed the safest place in South Asia for Rohingya refugees,⁷ public sentiment exhibit anti-Muslim feelings.⁸ The coronavirus pandemic has exacerbated many of these exclusions.

This chapter outlines the emergence and prevalence of hate speech and discriminatory actions towards minorities in Nepal. It contains a review of national and international commitments that the country has made in order to combat and/or prevent hate speech and the record of its adherence to these. It analyses the vitriol directed towards communities through various media, particularly in cyberspace, including news articles and comments section of online news portals, statements of religious groups on social media, and online transcripts/speeches by political and religious leaders along with some of the counter-narratives that have made its way into the public sphere in recent years.

Minorities in Nepal

The characterisation of a group as a ‘minority’ based only on criteria such as their numerical size or the extent of individual achievements in political decision-making and economic

Step Back: The Nepal Peace Process, eds. D. Thapa and A. Ramsbotham (London: Conciliation Resources, 2017).

4 R. Gahatraj, ‘Banke Dalits discriminated against on Shivaratri festival,’ *The Kathmandu Post*, February 23, 2020, <https://tkpo.st/2uqvDfu>.

5 A.R. Mulmi, ‘Still Untouchable,’ *The Kathmandu Post*, May 28, 2020, <https://tkpo.st/3evOwPh>.

6 Queer Youth Group and Queer Rights Collective, ‘The reality of transgender rights in Nepal,’ *The Record*, September 25, 2020, <https://www.recordnepal.com/perspective/the-reality-of-transgender-rights-in-nepal>.

7 S. Budhathoki, ‘Rohingya Saranarathi Bhanchan, Ki Nepalko Nagartikta Deu, Ki Tesro Muluk Pathau’ [Rohingya Refugees Say: Either Give Us Nepali Citizenship, or Send Us to another Country], *Onlinekhabar*, June 5, 2019, <https://www.onlinekhabar.com/2019/06/771006>.

8 Ibid.

prosperity can result in a skewed perspective of inclusion.⁹ Instead, the definition of a minority that takes into account the criteria of ‘domination’ and ‘discrimination’ rather than mere number or proportion provides a fuller picture of society.¹⁰ In Nepal, males have dominant social status over females and LGBTI individuals; hill ‘upper castes’ over Dalits; caste groups over ethnic groups; hill groups over Tarai groups; and Hindus over other religious groups.¹¹ While intersectionality persists in each of these aforementioned groupings, discrimination and exclusion generally does follow the pattern.

During the Panchayat regime (1960-90), the principle of ‘one language, one dress, one caste, and one country’ was representative of the hegemony of the hill-origin, ‘upper-caste’, Nepali-speaking Hindu male. Thus, large populations such as religious minorities, Madhesis,¹² women, Dalits, and Janajatis¹³ remained excluded.¹⁴ As a result, marginalisation of minority groups remains strong even to this day.¹⁵

9 D.R. Dahal, ‘Ethnic Cauldron, Demography and Minority Politics: The Case of Nepal,’ in *State Leadership and Politics in Nepal*, ed. D. Kumar (Kathmandu: Centre for Nepal and Asian Studies, 1996), 148-70.

10 K.B. Bhattachan, *Indigenous Nationalities & Minorities of Nepal* (London: Minority Rights Group International, 2003).

11 P. Routledge, ‘Nineteen Days in April: Urban Protest and Democracy in Nepal,’ *Urban Studies* 47, no. 6 (May 2010): 1279-1299.

12 The term ‘Madhesis’ refers to the various caste groups who live in the southern plains of Nepal, predominantly in areas bordering India. For a broader discussion on Tarai and Madhesis, see: B. Sijapati, ‘In Pursuit of Recognition: Regionalism, Madheshi Identity and the Madhesh Andolan,’ in *Nationalism and Ethnic Conflict in Nepal: Identities and Mobilization after 1990*, eds. M. Lawoti and S. Hangan (New York: Routledge, 2013), 145–172.

13 ‘Janajatis’ refers to the indigenous groups of Nepal, mostly of the hill and mountain areas and speaking mainly a Tibeto-Burman language. See: L. Bennett, D.R. Dahal and P. Govindasamy, *Caste, Ethnic and Regional Identity in Nepal: Further Analysis of the 2006 Nepal Demographic and Health Survey* (Maryland: Macro International Inc., 2008).

14 K. Hachhethu, ‘Chhetriya Rastrabad Ra Madhesi Dal’ [Regional Nationalism and Madheshi Groups], in *Madhesh Adhyayan [Madhesh Studies]*, eds. R. Maharjan and T. N. Sah (Lalitpur: Nepal Madhesh Foundation, 2013), 27-42.

15 The Asia Foundation (TAF), *A Survey of the Nepali People in 2018* (Kathmandu: TAF, 2019), <https://asiafoundation.org/wp-content/uploads/2019/05/A-Survey-of-the-Nepali-People-2018-revised-8132019.pdf>.

Legal and Constitutional Provisions

In May 2006, Nepal's House of Representatives declared Nepal a secular state and duly endorsed the Interim Constitution that came into force in 2007.¹⁶ However, as the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples wrote in his 2009 report, actions such as the continued prohibition of slaughtering of cows, which is sacred only in Hinduism, and the alignment of official holidays with Hindu festivals were examples of continued importance placed on Hinduism in Nepal.¹⁷ The present constitution of Nepal, promulgated in 2015, upholds the country as secular, but defines secularism as the protection of traditional religions and customs 'practised from ancient times',¹⁸ which is widely seen to refer to Hinduism. Due to the inability of the state to define secularism in terms of equality for all religions, simply declaring the country as secular has done little to provide recognition to religious minorities, namely, Buddhists, Muslims, Kirats, and Christians.¹⁹

While the Constitution of Nepal 2015 protects the right to freedom of religion or belief, the said freedom does not include the right to choose or change a religion, or to impart religious teachings.²⁰ The Constitution bans proselytisation and any act or

16 C. Letizia, 'Shaping Secularism in Nepal,' *European Bulletin of Himalayan Research* 39 (2012): 66-104; Interim Constitution of Nepal, 2007, <https://www.wipo.int/edocs/lexdocs/laws/en/np/np006en.pdf>.

17 J. Anaya, *Report on the Situation of Indigenous Peoples in Nepal* (Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People: UN Doc. A/HRC/12/34/Add.3, 2009).

18 Constitution of Nepal, 2015, https://www.constituteproject.org/constitution/Nepal_2015.pdf.

19 *Alternative Report of the Indigenous Peoples of Nepal to the State: Report Submitted by the Government of Nepal to the Committee on the Elimination of Racial Discrimination* (Lawyers' Association for Human Rights of Nepalese Indigenous Peoples, Nepal Federation of Indigenous Nationalities, National Indigenous Women's Federation, Youth Federation of Indigenous Nationalities, Nepal Indigenous Disabled Association, National Coalition Against Racial Discrimination, Indigenous Women's Legal Awareness Group: Kathmandu, 2018).

20 International Commission of Jurists, *Challenges to Freedom of Religion or Belief in Nepal: A Briefing Paper* (ICJ: Geneva, 2018), <https://www.icj.org/wp-content/uploads/2018/08/Nepal-Freedom-of-religion-brief-Advocacy-Analysis-brief-2018-ENG.pdf>.



conduct that could harm other religions.²¹ Nepal's Criminal Code that came into effect in August 2018 imposes punishment on those who hurt the 'religious sentiments of any caste, community or ethnic group by using texts, writing, verbal, symbols or any other means', a clause open to broad and potentially harmful interpretations to the detriment of religious minorities.²² The Criminal Code further stipulates a fine of up to NPR 50,000 (c. USD 420) for proselytisation and subjects foreign nationals convicted of these crimes to deportation.²³ Even more controversial is the

21 The Constitution of Nepal 2015, Article 26. https://www.constituteproject.org/constitution/Nepal_2015.pdf.

22 United States Department of State Bureau of Democracy, *International Religious Freedom Report for 2018* (Washington D.C.: Bureau of Democracy, Human Rights, and Labour, 2018); *Nepal: Freedom of Religion or Belief (art. 18): Stakeholders Report Submitted to the Human Rights Committee ahead of the consideration of the List of Issues Prior Reporting for Nepal during the Committee's 131st session in March 2021* (The World Evangelical Alliance, The Commission of the Churches on International Affairs of the World Council of Churches, Baptist World Alliance, Nepal Christian Society, National Churches Fellowship of Nepal: Kathmandu, 2021).

23 United States Department of State, *International Religious Freedom Report*

provision that allows ‘any person purporting to have relevant knowledge of the supposed criminal actions, or being in the process of occurring or where there exists a possibility of their occurrence in near future, to file a criminal complaint against those purportedly responsible for the said acts’.²⁴ The vague wording of these clauses, coupled with the possibility of anonymous tips being used to harass religious minorities, leaves them unprotected by the country’s legal system.²⁵

Nepal is also signatory to a number of international covenants and treaties that mandate the upholding of the rights of minorities.²⁶ Nepal’s ban on proselytisation is directly contrary to relevant international human rights law and standards, including Article 18(1) of the ICCPR, which guarantees the right to freedom of religion or belief, including one’s freedom to impart teaching on one’s religion or belief.²⁷

In Nepal, while the constitution guarantees every religion the right to operate and protect its religious sites, there are no legal provisions for registration of churches.²⁸ The government’s Inter-

for 2019 (Washington D.C.: Office of International Religious Freedom, 2019) <https://np.usembassy.gov/wp-content/uploads/sites/79/2019-Nepal-International-Religious-Freedom-Report-.pdf>.

24 Country Criminal Procedure Act, 2017 (2074 B.S.), Section 4, Schedule 1.

25 International Commission of Jurists, *Challenges to Freedom of Religion or Belief in Nepal: A Briefing Paper* (ICJ: Geneva, 2018), <https://www.icj.org/wp-content/uploads/2018/08/Nepal-Freedom-of-religion-brief-Advocacy-Analysis-brief-2018-ENG.pdf>.

26 These include the International Covenant on Civil and Political Rights (ICCPR); Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT); Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); International Convention on Economic, Social and Cultural Rights (ICESCR); Convention on the Rights of the Child (CRC); and Convention on the Rights of Persons with Disabilities (CRPD). See: T. S. Shah, *Nepal Religious Freedom Landscape Report* (Washington D.C.: Religious Freedom Institute, 2020), <https://www.religiousfreedominstitute.org/publication/nepal-religious-freedom-landscape-report>.

27 International Commission of Jurists, *Challenges to Freedom of Religion or Belief in Nepal: A Briefing Paper* (ICJ: Geneva, 2018), <https://www.icj.org/wp-content/uploads/2018/08/Nepal-Freedom-of-religion-brief-Advocacy-Analysis-brief-2018-ENG.pdf>.

28 *Nepal: Freedom of Religion or Belief (art. 18): Stakeholders Report Submitted to the Human Rights Committee ahead of the consideration of the List of Issues Prior*

national Development Cooperation Policy 2019 states that apart from Hindu and Buddhist religious groups, all others ‘must register as NGOs or non-profit organisations to own land or other property, operate legally as institutions, or gain eligibility for public service-related government grants and partnerships’.²⁹ This creates an inherent problem as religious groups must function as an NGO, but NGOs that receive foreign funding cannot undertake religious activities.³⁰

‘Freedom of opinion and expression’ is guaranteed as a fundamental right in the Constitution of Nepal, 2015.³¹ The right, however, is not absolute and applies only to citizens. As such, the Constitution provides for imposing ‘reasonable restrictions’ on acts perceived as undermining the ‘sovereignty, territorial integrity, nationality and independence’ of the country or acts jeopardising ‘harmonious relations between the federal units or the people of various castes, tribes, religions or communities’. Further, the Constitution also provides for imposing restrictions on acts aimed at inciting caste-based discrimination or untouchability or on acts of defamation, contempt of court, and acts ‘contrary to public decency or morality’, among others. The ‘right to communication’ that protects the publication, broadcasting or dissemination of both written news items and audio-visual material against censorship is also qualified by similar restrictions.³²

Similarly, the Press and Publication Act of 1991 also prohibits the publication of matters ‘undermining the sovereignty and integrity of Nepal’, ‘disrupting security, peace and order’ in the country, creating ‘enmity among the people of the various castes,

Reporting for Nepal during the Committee’s 131st session in March 2021 (The World Evangelical Alliance, The Commission of the Churches on International Affairs of the World Council of Churches, Baptist World Alliance, Nepal Christian Society, National Churches Fellowship of Nepal: Kathmandu, 2021).

²⁹ United States Department of State, *International Religious Freedom Report for 2019* (Washington D.C.: Office of International Religious Freedom, 2019).

³⁰ See, for instance, Section 3.10.5 of the Policy. Ministry of Finance, International Development Cooperation Policy, 2019, https://www.mof.gov.np/uploads/document/file/print_copy_IDCMP-2019_Eng-fullpage_20191107071739.pdf.

³¹ Article 17 (2) (a), Constitution of Nepal, 2015.

³² Article 19, Constitution of Nepal, 2015.

tribes, religions, classes, regions, communities and spreading communal disharmony’, and ‘hurting decency, morals and social honour of the people’.³³ The National Broadcasting Act of 1993 prohibits the broadcasting of material ‘of vulgar type’, and material ‘misinterpreting, disregarding, insulting and devaluing any tribe, language, religion and culture’, among others.³⁴

Of late, the Electronic Transactions Act of 2008 has been used consistently by the Nepali government to control and repress allegedly objectionable content in cyberspace. The Act criminalises the publishing or display of material, in the electronic media, that ‘may be contrary to the public morality or decent behaviour’ or material ‘which may spread hate or jealousy against anyone’ or ‘which may jeopardise the harmonious relations subsisting among the peoples of various castes, tribes and communities’.³⁵ It was under this Act that a former government secretary was arrested in 2019 for criticising the then government and its ministers through his social media posts.³⁶ In addition, the Act has also been invoked to arrest musicians, comedians and YouTubers on multiple charges including defamation, libel, expressing ‘sexist and racial remarks’, and promoting ‘anti-social’ values, among others.³⁷

The Online Media Operation Directives of 2017 provides for controls on online journalism whereby the publication and broadcasting of content that is ‘not in accordance with the Constitution and the prevailing laws’ is prohibited.³⁸ The National Penal Code (Act), 2017 also specifies certain limits on what can be expressed in public with penalties for anyone found

33 Section 14, Press and Publication Act, 1991.

34 Section 15, National Broadcasting Act, 1993.

35 Section 47, Electronic Transactions Act, 2008.

36 S. Dhungana, ‘Attorney’s Office File a Court Case against Former Government Secretary Upadhyaya for Cybercrime,’ *The Kathmandu Post*, April 26, 2020, <https://tkpo.st/2S8ZH8a>.

37 Himalayan News Service, ‘Activists Protest against Arrest of a Youtuber,’ *The Himalayan Times*, June 12, 2019, <https://thehimalayantimes.com/kathmandu/activists-protest-against-arrest-of-a-youtuber-pranesh-gautam>; Samuel Chhetri, ‘Rapper VTEN arrested for allegedly promoting “anti-social” values,’ *The Kathmandu Post*, October 24, 2019, <https://kathmandupost.com/art-culture/2019/10/24/rapper-vten-arrested-for-allegedly-promoting-anti-social-values>.

38 Section 11, Online Media Operation Directive, 2017.



guilty of character assassination and a higher one for an offence committed through the means of electronic media or via mass communication.³⁹ In August 2020, a YouTuber was arrested on charges of ‘spreading communal hatred and burning the national flag’, invoking section 151 of the Criminal Code that expressly

³⁹ Section 307 (1), National Penal (Code) Act, 2017.

prohibits individuals from ‘destroying or dishonouring the national anthem, flag or coat-of-arms’.⁴⁰ Purportedly, the song at issue ‘targeted one specific community’ saying people from the community are the real ‘anti-nationalists’ and ‘traitors’ and had ‘hatred-filled’ lyrics against the community.⁴¹

The Information Technology Bill of 2019, widely denounced by the Nepali civil society⁴² and still under consideration in the parliament, has provisions to restrict the publishing of content likely to pose a threat to the country’s ‘sovereignty, security, unity or harmony’, including through the use of any electronic medium such as news sites, blogs and even emails.⁴³ The Media Council Bill of 2019, now passed by the National Assembly but yet to be passed by the House of Representatives, also provides for slamming journalists with a fine of up to NPR 1 million (c. USD 9,000) if found guilty of libel or defamation.⁴⁴ The Mass Communications Bill also under consideration proposes an even harsher punishment of up to 15 years imprisonment for ‘publishing or broadcasting contents deemed to be against sovereignty, territorial integrity and

40 Himalayan News Service, ‘Crew Member of Controversial Music Video Held,’ *The Himalayan Times*, August 19, 2020, <https://thehimalayantimes.com/nepal/crew-member-of-controversial-music-video-held>; See section 151, National Penal (Code) Act, 2017.

41 Ibid.

42 Himalayan News Service, ‘Civil society denounces IT Bill, calls for scrapping it entirely’, *The Himalayan Times*, January 11, 2020, <https://thehimalayantimes.com/nepal/civil-society-denounces-information-technology-bill-calls-for-scrapping-it-entirely>; T.R. Pradhan, ‘Organisations Gear up for Protest against IT Bill Saying It Will Curb Freedom of Expression,’ *The Kathmandu Post*, January 11, 2020, <https://tkpo.st/3a2KkFE>.

43 International Federation of Journalists, ‘Nepal: Parliamentary committee passes controversial IT Bill’, *IFJ*, January 6, 2020, <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/nepal-parliamentary-committee-passes-controversial-it-bill.html>; Amnesty International, ‘Nepal: Information Technology Bill threatens freedom of expression’, January 16, 2020, <https://www.amnesty.org/en/latest/news/2020/01/nepal-information-technology-bill-threatens-freedom-of-expression>.

44 The Rising Nepal, ‘National Assembly passes Media Council Bill’. *The Rising Nepal*, February 6, 2020, <https://risingnepaldaily.com/main-news/national-assembly-passes-nepal-media-council-bill>; National Assembly (2021), Media Council Bill 2075, <https://na.parliament.gov.np/uploads/attachments/o8lmmh8mitfvgdsg.pdf/o8lmmh8mitfvgdsg.pdf>, Section 18.

national unity.⁴⁵ A provision in the proposed Federal Civil Service Bill authorises the government to ‘deprive retired civil servants of their pension if they criticise the government in a manner that can incite hatred, social conflict, and violence’.⁴⁶

Targeting Religious Minorities

Numerically, the percentage of Hindus in the country has decreased compared to Buddhists, Kirats, Christians, and Muslims.⁴⁷ Irrespective of this trend, both the number and power of minorities remain very limited.⁴⁸ Laws as well as practices demonstrate a Hindu-centric tendency. In its 2017 and 2018 reports, the Pew Global Research Report on Freedom of Religion said that levels of social hostilities towards religious minorities in Nepal rose from moderate levels in 2014 to high levels in 2018.⁴⁹

According to the Civil Code of 2018, a person accused of killing a cow can be imprisoned for years. In the year 2018/19 alone, 34 cases of cow slaughter were registered with the Supreme Court in Nepal, of which 51 per cent were against Dalits and 7 per cent

45 B. Ghimire, ‘Government is Working on Mass Media Bill with Harsher Provisions for Media Sector,’ *The Kathmandu Post*, August 10, 2019,

46 R.K. Kamat, ‘NC Opposes Any Move to Deny Pension to Retired Civil Servants,’ *The Himalayan Times*, November 17, 2019, <https://thehimalayantimes.com/nepal/nc-opposes-any-move-to-deny-pension-to-retired-civil-servants>.

47 This decrease is mainly because the 1990 restoration of democracy allowed people to reclaim their non-Hindu heritage. The percentage of Hindus decreased from 86.5 per cent in 1991 to 80.6 in 2001 before inching up to 81.3 in 2011. The percentage of Buddhists increased from 7.8 per cent in 1991 to 10.7 in 2001 and dropped 9.0 in 2011. The percentage Muslims rose from 3.5 in 1991 to 4.2 in 2001 and to 4.4 in 2011. Kirats increased from 1.72 per cent in 1991 to 3.6 in 2001 and dropped to 3.04 in 2011. The percentage of Christians increased from 0.17 per cent in 1991 to 0.4 in 2001 and to 1.4 in 2011. See: Central Bureau of Statistics National Data Portal, accessed June 2, 2020, <http://nationaldata.gov.np/StaticReport?tgId=1001&tsgId=6&tid=1003>.

48 C. Letizia, ‘Secularism and Statebuilding in Nepal,’ in *Two Steps Forward, One Step Back: The Nepal Peace Process*, eds. D. Thapa and A. Ramsbotham (London: Conciliation Resources, 2017).

49 International Commission of Jurists, *Challenges to Freedom of Religion or Belief in Nepal: A Briefing Paper* (ICJ: Geneva, 2018), <https://www.icj.org/wp-content/uploads/2018/08/Nepal-Freedom-of-religion-brief-Advocacy-Analysis-brief-2018-ENG.pdf>; Pew Research Centre, *In 2018, Government Restrictions on Religion Reach Highest Level Globally in More Than a Decade* (Washington D.C.: PRC, 2020).

against Muslims.⁵⁰ Besides being targeted by law, marginalised groups have also faced a barrage of hate speech. For instance, Mohna Ansari, a former member of the National Human Rights Commission of Nepal received vitriolic comments when a Facebook page misquoted her as claiming '[people] should be allowed to eat cow's meat',⁵¹ with comments such:

Just because your face is ugly, your speech is ugly as well. If you feel this way and want cow's meat, go to Pakistan.⁵²

Prostitutes like you should be fed pig's meat. This is Nepal, understood! So don't talk rubbish. You daughter of a prostitute.⁵³

The declaration of the country as a secular state was not without opposition. There are groups who believe that secularism was enforced in Nepal due to the interests of 'international agents'.⁵⁴ Opposition from religious-political groups like Hindu Swayamsevak Sangh and Nepal Shiv Sena rests on the argument that there was no need for Nepal to be secular, as religious minorities had never been prosecuted in the country.⁵⁵ The Hindu-nationalist political party, Rashtriya Prajatantra Party, has also been consistently rallying for the reinstatement of a Hindu state. Even an article by a well-known communist leader, likening the opposition to secularism to an attack on republicanism, garnered comments expressing hate speech towards Islam and Christianity:

50 S.H. Gyawali, 'Criminalisation of Cow-Slaughter Is a Tool of Caste Terror,' *The Record*, June 14, 2019, <https://www.recordnepal.com/podcast/criminalization-of-cow-slaughter-is-a-tool-of-caste-terror>; 'Nepal Court Sentences Man to 12 Years in Prison for Slaughtering Cows,' *The New Indian Express*, June 03, 2018, <https://www.newindianexpress.com/world/2018/jun/03/nepal-court-sentences-man-to-12-years-in-prison-for-slaughtering-cows-1823259.html>.

51 'Janata Ko Awaj' [Voice of the people], Facebook, accessed March 28, 2021, <https://www.facebook.com/jantakoawaj>.

52 R. Yadav, in *Ibid*.

53 S. Sharma, in *Ibid*.

54 A. R. Mulmi, 'The Hindu Swayamsevak Sangh and Hindutva in Nepal,' in *Nepal's National Interests – II: Secularism, Free and Responsible Media and Foreign Employment*, eds. N. N. Pandey and T. Delinic (Kathmandu: Centre for South Asian Studies (CSAS) and Konrad Adenauer Stiftung, 2013), 22–32.

55 *Ibid*.

Christianity and Islam are brainwashing systems for social control. Muslim marauders would rape wives of warriors who lost the war and carry off unmarried girls. Do read the bloody histories of Christianity and Islam.⁵⁶

Comments on an op-ed by another prominent leftist that claimed Nepal was not always a Hindu nation, were equally indignant:

Read the whole thing, what a hogwash. Looks like Christians made them write it.⁵⁷

Such Christian pimps. Fake nationalists.⁵⁸

Interestingly, some minority groups are also calling for the reinstatement of a Hindu state to either prevent other religious minorities from gaining ground, or to avoid any potential religious conflicts that they attribute to secularism:

Turning the country secular is nothing but a design to break the longstanding unity among Muslims and Hindus. There is no alternative to reinstating the country's Hindu identity to allow fellow citizens to live in religious tolerance. We [Muslims] want the Hindu state as this ensures safety and security for all.⁵⁹

As Christian religion has rapidly converted Hindus, how can Muslims be safe? I have started the campaign for a Hindu nation to protect all the Muslims from this.⁶⁰

56 T. Shrestha commenting on M. Singh, 'Dharma-nirapekshyata Ko Birodh Wa Ganatantra Ka Biruddha Akraman' [Opposition to Secularism or Attack against Republicanism], *Onlinekhabar*, July 28, 2015, <https://www.onlinekhabar.com/2015/07/304738>.

57 P. Adhikari in P. Nepal, 'Nepal Janmadai Hindu Rastra Thyo?' [Was Nepal a Hindu Nation from Birth?], *Gorkhapatra*, December 5, 2019, <https://gorkhapatraonline.com/opinion/2019-12-05-5140>.

58 P. L. Gurung Ibid.

59 B. K. Pathan, Chairperson of the Nationalist Muslim Forum Nepalgunj, quoted in 'Muslims in Nepal Demand a Hindu State,' *The Economic Times*, August 12, 2015, <https://economictimes.indiatimes.com/news/international/world-news/muslims-in-nepal-demand-a-hindu-state/articleshow/48456574.cms>.

60 A. A. Siddhiqui, Director of Muslim Society, Rapti, quoted in 'Hindurastra

Christians

Christianity has seen the most dramatic growth in Nepal in recent decades even though officially only 1.4 per cent of the total population is Christian.⁶¹ Activists argue that the actual number of Christians is higher and they have been undercounted to prevent them from making stronger claims to political recognition. Ironically, Hindu nationalists also claim that the number is higher but that the true figure has been hidden to conceal the real impact of proselytisation in the country.⁶² Even former prime minister Pushpa Kamal Dahal 'Prachanda' got into the game despite being among the most influential advocates for secularism and was reported to have said: 'It is dangerous for us to see such an increase in the population of Christians [in Nepal]. It is against our national interest.'⁶³

The Nepali media also tends to depict Nepali Christians as those who quit Hinduism to escape economic or social difficulties, or as pawns of a foreign agenda.⁶⁴ Articles on the increasing number of Christians in Nepal had comments such as the following:

Let's all protect our religion, and respect each other's religion. However, if someone is poking fun at other's identity with the expectation of some money, the punishment is too little even if they are burned alive.⁶⁵

Abhiyan Ma Laage Muslim' [Muslims are Getting into the Movement for a Hindu Nation], *Onlinekhabar*, August 12, 2015, <https://www.onlinekhabar.com/2015/08/310840>.

61 L. Wagner, 'A Rumour of Empire: The Discourse of Contemporary Hindu Nationalism in Nepal,' *Studies in Ethnicity and Nationalism* 18, no. 2 (October 2018): 147-166.

62 Ibid.

63 'Nepalma Christian Badhnu Rastriya Khatra: Prachanda' [Increase of Christians in Nepal a National Threat: Prachanda], *Onlinekhabar*, July 18, 2015, <https://www.onlinekhabar.com/2015/07/300981>.

64 Ryan Conlon, review of *Suffering and Hope: Christianity and Ethics among the Newars of Bhaktapur*, by Ian Gibson, *Studies in Nepali History and Society* 23, no. 1 (June 2018): 215-250.

65 P Giree, in 'Dharmapariwartanko Bandeji Lai Chirdai Fastayo Isaikaran' [Overcoming Obstacles to Religious Conversion, Christianity is Thriving], *Onlinekhabar*, December 24, 2017, <https://www.onlinekhabar.com/2017/12/647902>.

These Nepalis are Christians not because they understand it but because they have sold themselves for money. They say that other religions are the devil. We cannot leave the country in the hands of those who have sold their religion for money.⁶⁶

Christian religion is like the Ebola pandemic.⁶⁷

Christians have no humanity. They just want dollars.⁶⁸

The case of the then British ambassador to Nepal, who wrote an open letter to the Constituent Assembly in 2014, asking it to include the right to conversion in the constitution, is another example of the public sentiment against proselytisation in the country.⁶⁹ The letter led to an outcry with Hindu nationalists protesting the request as a violation of diplomatic norms.⁷⁰ The country also witnessed increased violence against Christians around the time Nepal was declared a secular state. Two churches were bombed on the night of 20 September 2015, as the Constituent Assembly voted on whether to retain Nepal as a secular state.⁷¹ A pro-Hindu group took responsibility for the attacks by distributing pamphlets declaring their ‘commitment to make Nepal’s history Christian-free’, and implored ‘all Christian religious leaders who converted to Christianity to return back to their original *dharma*’.⁷²

66 Lokendra, in ‘Christianlai ‘Rajyaka Sabai Nikay’ Ma Pratinidhitwa Garaune Samjhauta Alapatra’ [Agreement to Represent of Christians in all state Bodies is uncertain], *Onlinekhabar*, September 10, 2014. <https://www.onlinekhabar.com/2014/09/188007>.

67 H. N. Shrestha, in *Ibid*.

68 M. Nepali, in ‘Dashain Bidalai Esari Upayog Garaun, Christianlai Ni Gharma Bolaera Khuwauna Sakincha’ [Utilise Dashain holidays this way, Christians can be invited at home for feasts], *Onlinekhabar*, October 1, 2016, <https://www.onlinekhabar.com/2016/10/485263>.

69 R.R. Subedi, ‘Envoy Sparks Storm of Conversion Controversy,’ *The Rising Nepal*, undated, <http://therisingnepal.org.np/news/568>.

70 L. Wagner, ‘A Rumour of Empire: The Discourse of Contemporary Hindu Nationalism in Nepal,’ *Studies in Ethnicity and Nationalism* 18, no. 2 (October 2018): 147-166.

71 C. Sharma, ‘Hindu Radicals Suspected in Bomb Attacks against Three Protestant Churches,’ *Asia News*, September 16, 2015, <http://www.asianews.it/news-en/Hindu-radicals-suspected-in-bomb-attacks-against-three-Protestantchurches-35324.html>.

72 L. Wagner, ‘A Rumour of Empire: The Discourse of Contemporary Hindu

The criminalisation of proselytisation has led to the persecution of foreign and domestic Christians alike.⁷³ In the year 2019, there were two separate instances of Christians being arrested under the suspicion of forced conversion.⁷⁴ The following comments on online news portals are indicative of at least a section of the population's resentment towards religious conversions.

Religious conversion is treason. Give them life imprisonment!⁷⁵

A year ago, I was in a shop near my house. Some people were trying to convert a person into Christianity. He asked what he would get after converting, and they asked him what he wanted. The person asked for a motorbike. They agreed and he got a bike. After a few days, he left their organisation and became a Hindu again.⁷⁶

Religious wars will start soon in Nepal. In the hands of 3 million Christians, there will be guns soon instead of the Bible as this is their history.⁷⁷

You rascal thieves, Christians. Why do you come with rice,

Nationalism in Nepal,' *Studies in Ethnicity and Nationalism* 18, no. 2 (October 2018): 147-166.

⁷³ US Commission on International Religious Freedom, *Annual Report 2020* (Washington D.C.: USCIRF, 2020), https://www.uscifr.gov/sites/default/files/USCIRF%202020%20Annual%20Report_Final_42920.pdf.

⁷⁴ 'Christians Seized by Police While Training Pastors in Nepal,' *Barnabas Fund*, April 24, 2019, <https://barnabasfund.org/en/news/christians-seized-by-police-while-training-pastors-in-nepal>; 'Three Foreigners Arrested over Religious Conversion Accusations in Nepal,' *New Spotlight Online*, July 24, 2019, <https://www.spotlightnepal.com/2019/07/24/three-foreigners-arrested-over-religious-conversion-accusations-nepal>.

⁷⁵ N. Paneru, in 'Dharmaprachar Gardai Hideka Dui Bideshi Sahit Charjana Pakrau' [Four, Including two Foreigners, Arrested for Publicising their Religion], *Onlinekhabar*, November 4, 2018, <https://www.onlinekhabar.com/2018/11/717528>.

⁷⁶ Kaushal, in 'Mahabhukampa Sangai Ishai Mathi Shadyantra' [Conspiracy against Christians during Earthquake], *Onlinekhabar*, August 17, 2015, <https://www.onlinekhabar.com/2015/08/313472>.

⁷⁷ S. Pandey, in 'Nepalma 30 Lakh Bhandha Besi Christian Chan' [There are more than 3 million Christians in Nepal], YouTube, December 25, 2017, https://www.youtube.com/watch?v=NE_4K520jhg&ab_channel=RamSarMediaPvt.Ltd.

mobile phones, memory cards, clothes? You brainwash simple people, radicalise them, give them rice and meat in your church, and then say that they came because of their own interest.⁷⁸

Even minor incidents are blown out of proportion. For instance, a Nepali celebrity photographed in a Christmas hat surrounded by children wearing similar hats during her philanthropic mission of distributing blankets and essentials to a rural community was accused of spreading Christianity.⁷⁹

You are not Miss Nepal – you are Miss Christian – thank you very much for helping religious conversion.⁸⁰

This was a big mistake. There was no need to give Christmas hats. Be warned.⁸¹

You say you are a Hindu but respect festivals of other religions. But Nepali Christians never respect others' religions. All know that. Tit for tat!⁸²

That hate speech can quickly escalate to physical violence is also seen in the case of a pastor who received death threats once a previously private video of him sharing his experience of converting to Christianity became public. In the video, which was since taken down, he received many derogatory comments that spiralled into threats, forcing him to go into hiding. The pastor said:

Highly abusive and derogatory words were used against me. Calls also started. I immediately discarded my old SIM card and

78 S. Gautam, in Ibid.

79 S. Khatiwada, on Instagram, <https://www.instagram.com/p/BsQMP0-g6m2>.

80 G_d_od, on Instagram, <https://www.instagram.com/p/BsQMP0-g6m2>.

81 Bajarang, on Instagram, <https://www.instagram.com/p/BsQMP0-g6m2>.

82 N. Acharya, in 'Christmas Topi Bare Shrinkhala Le Bhanin: Ramailo Gareko Ho Dharma Prachar Haina' [Shrinkhala Regarding Christmas Caps: This was for Fun, not for Religious Promotion], *Onlinekhabar*, January 9, 2019, <https://www.onlinekhabar.com/2019/01/733215>.

kept the phone away for some days. I have been travelling as my family feels it is unsafe for me to stay in my hometown.⁸³

It does not help that the government's policies also seem aimed at demonising religious minorities. For instance, the afore-mentioned International Development Cooperation Policy 2019 directs foreign NGOs to fund development work, not religious institutions.⁸⁴ Christian faith-based NGOs also report increased scrutiny in their hiring practices, even when they seek co-religionists for tasks that require a knowledge of Christianity.⁸⁵

An online news portal ran the news with the sensationalised heading 'Controversial advertisement of Teach Nepal: Christianity a prerequisite for a job',⁸⁶ and garnered comments from the public such as the following.

Exile such people from the country. They are running business in the name of religion and on top of that asking for tax exemptions too! Shameless!⁸⁷

Cancel the registration of such NGOs! Punish them in such a way that no one can do such misdemeanours in the future!⁸⁸

It is the nature of evil Christianity to attack others' heritage and religion. It is a violent religion with the front of peace. Its core

83 'Social media backlash reflects new era of hostility in Nepal,' *Evangelical Focus*, September 20, 2019, <https://evangelicalfocus.com/world/4768/social-media-backlash-reflects-new-era-of-hostility-in-nepal>.

84 P.M. Shrestha, 'New Policy Aims to Bar Foreign NGOs from Financing Religious and Political Organisations,' *The Kathmandu Post*, June 2, 2019, <https://kathmandupost.com/national/2019/06/02/new-policy-aims-to-bar-foreign-ngos-from-financing-religious-and-political-institutions>.

85 P. Khadka, 'Challenging Time for Nepal NGOs,' *Union of Catholic Asian News*, June 13, 2019, <https://www.ucanews.com/news/challenging-time-for-nepal-ngos/85388>.

86 'Teach Nepal Ko Bibadaspad Bigyapan: Jaagir Khana Christian Hunai Parne Sarta' [Controversial Advertisement of Teach for Nepal: Requirement to be Christian to Get Job], *Onlinekhabar*, December 18, 2018, <https://www.onlinekhabar.com/2018/12/727833>.

87 Shiva, in *Ibid*.

88 K. Duwal, in *Ibid*.

nonsensical doctrine is ‘All Christians go to heaven, no matter how evil, and all others go to hell, no matter how virtuous’.⁸⁹

There have also been reports of the Social Welfare Council, the body responsible for monitoring NGO activities in Nepal, carrying out investigations of organisations for alleged forced religious conversion.⁹⁰ Furthermore, while Hindu, Buddhist and Muslim schools can be registered as religious educational institutions on par with non-religious and community schools, and receive government funding, Christian entities are required to register as a non-governmental or non-profit organisation, which does not allow for the operation of schools or other educational institutions or for the receipt of government funding.⁹¹ A Twitter post by a political activist in February 2021, asking for ‘more schools instead of temples’ led to a barrage of comments on his post:

Can you ask who is funding numerous churches? How many dollars did you get for this Tweet brother?⁹²

Any day now, he will say stop offering milk and water to Pashupatinath,⁹³ and offer holy wine instead.⁹⁴

Muslims

Having earlier been designated ‘low caste’, Muslims were granted equal citizenship only in 1962.⁹⁵ According to the 2011 census,

⁸⁹ T. Shrestha, in *Ibid.*

⁹⁰ C.L. Tiwari, ‘SWC Probing NGOs for Forceful Religious Conversion,’ *myRepublica*, September 17, 2017, <https://myrepublica.nagariknetwork.com/news/27720>.

⁹¹ T. S. Shah, *Nepal Religious Freedom Landscape Report* (Washington D.C.: Religious Freedom Institute, 2020),

⁹² A. Acharya, in M. Pandey, Twitter, last modified on February 1, 2021, <https://twitter.com/MilanPandey/status/1356244599317147650>.

⁹³ A Hindu deity.

⁹⁴ M. Poudel, in M. Pandey, Twitter, last modified on February 1, 2021, <https://twitter.com/MilanPandey/status/1356244599317147650>.

⁹⁵ M. A. Sijapati, ‘Muslim Belonging in Hindu South Asia: Ambivalence and Difference in Nepali Public Discourses’, *Society and Culture in South Asia* 3, no. 2 (2017): 1–22.

there are 1.16 million Muslims in Nepal (4.4 per cent of the national population), the majority of whom reside in Tarai. The number of Muslims in the country is also contested with many claiming it to be much higher.⁹⁶

Unlike Christians, Muslims have been able to practise a level of overt political organising in Nepal. The Nepal Muslim Etehad Organisation (NMEO), formed in 1990, operates as the political wing of a major communist party. Similar political wings exist in many other parties as well.⁹⁷ Muslims became assertive about their identity as a religious minority after 2009 when a government ordinance providing reservations to marginalised groups failed to recognise Muslims as a separate group and instead grouped them with Madheshi. Muslims mobilised with a series of protest programmes demanding constitutional recognition of Nepali Muslims.⁹⁸

NMEO was a voice in favour of secularism in Nepal, organising public agitation and protests to further its agenda.⁹⁹ Yet, some Muslims have claimed that they were 'better off in a Hindu state that is officially Hindu than a Hindu state that is ostensibly secular but remains a Hindu majority'.¹⁰⁰ In the lead up to the promulgation of the 2015 constitution, along with Nepali Hindu nationalists campaigning for Nepal to return to its status as a Hindu state, some Muslim groups also supported the demand ostensibly to protect Islam from a 'growing Christian influence'.¹⁰¹

96 Ibid.

97 H. Kabir, 'Reflection on Muslim Minority's Demands in "New Nepal"', (Hiroshima University Partnership Project for Peacebuilding and Capacity Development: Discussion Paper Series Vol.9, 2011).

98 B. Sijapati, 'In Pursuit of Recognition: Regionalism, Madheshi Identity and the Madhesh Andolan,' in *Nationalism and Ethnic Conflict in Nepal: Identities and Mobilization after 1990*, eds. M. Lawoti and S. Hangan (New York: Routledge, 2013), 145 – 172.

99 H. Kabir, 'Reflection on Muslim Minority's Demands in "New Nepal"', (Hiroshima University Partnership Project for Peacebuilding and Capacity Development (HiPEC): Discussion Paper Series Vol.9, 2011).

100 M. A. Sijapati, 'Muslim Belonging in Hindu South Asia: Ambivalence and Difference in Nepali Public Discourses,' *Society and Culture in South Asia* 3, no. 2 (2017): 1–22.

101 D. Basnet, 'Muslims Want Hindu State to Stop Christian Proselytization,' *myRepublica*. August 12, 2015, <http://myrepublica.com/politics/story/26226/>

Despite some positive steps from the Nepali government such as facilitating the participation of Nepali Muslims in the Hajj pilgrimage, permission to operate madrasas, and the Muslim Commission provided for in the 2015 Constitution, Muslims are still subjected to discrimination. According to the International Religious Freedom Report for 2019, as many as 2,500 to 3,000 full-time madrasas continue to be unregistered.

Muslims have been gratuitously targeted as well. For instance, a Facebook post with the headline ‘Madrasa Education Board to be reinstated in Nepal, Jay Maulana Sarkar’ was incendiary enough,¹⁰² but the comments it drew were highly negative.

Those who want to study in madrasa, please go to Saudi and Pakistan.¹⁰³

Nepal will soon have to face issues as in Afghanistan. Nepali people have not understood what a madrasa is. Madrasa gives birth to Taliban everywhere.¹⁰⁴

The Nepali government has also stepped up scrutiny of the source of funds and nature of programmes in madrasas.¹⁰⁵ The laws against proselytization, too, have an impact on Islam, as Muslim leaders are apprehensive of accepting converts.¹⁰⁶ On an unverified Facebook post, which claimed that poor people in Nepal were rapidly being converted to Islam, there were comments such as:

[muslims-want-hindu-state-for-stopping-christian-proselytising.](#)

102 ‘Janata Ko Awaj’ [Voice of the People], Facebook, last updated October 8, 2020, <https://www.facebook.com/jantakoawaj>.

103 A. Kshetri, in ‘Janata Ko Awaj’ [Voice of the People], Facebook, last accessed March 28, 2021, <https://www.facebook.com/jantakoawaj>.

104 Y. Rayamajhi, in ‘Janakpurma Paisa Faaleko Ghatana: Galat Niyat Nadekhiiko Prahariko Niskarsha’ [The Incident of Thrown Money in Janakpur: No Bad Intent Seen is the Conclusion of the Police], *Onlinekhabar*, April 19, 2020, <https://www.onlinekhabar.com/2020/04/856048>.

105 P.M. Shrestha, ‘New policy for foreign non-governmental organisations aims to address concerns raised by India and China,’ *The Kathmandu Post*, January 12, 2020, <https://tkpo.st/2QMBSm9>.

106 United States Department of State, *International Religious Freedom Report for 2019* (Washington D.C.: Office of International Religious Freedom, 2019).

Hindus cannot stand Christians, but in the days to come Nepal and Nepalis will face grave danger from Muslims.¹⁰⁷

Similar posts on online news sites included:

Be careful with Muslims. First, they will start to split you and once they are in majority, they will attack.¹⁰⁸

Muslims are like cancer. Look around the world at what is happening.¹⁰⁹

Muslims are so radical that they think everything else is insignificant compared to their religion. I think one day they will be destroyed because of this radicalism.¹¹⁰

Mohna Ansari, then a member of the National Human Rights Commission, was targeted based on her religion.

Instead of talking about big things, first remove your burqa and head covering. We have to be afraid that just by saying this we might be killed by your community.¹¹¹

A 2020 news article reporting that the Home Ministry had declared the Muslim festival of Eid as a holiday saw the following comment:

107 B.M. Limbu, in 'Janata Ko Awaj' [Voice of the People], Facebook, accessed March 28, 2021, <https://www.facebook.com/jantakoaawaj>.

108 Bishnu, in 'Mohna Ansariko Tippiyani Mathi Manavadhikar Ayog Kai Apatti' [Human Rights Commission itself has concerned about with Mohna Ansari's Comment], *Onlinekhabar*, July 9, 2020, <https://www.onlinekhabar.com/2020/07/880368>.

109 B. Rooney, in 'Ansari Le Liye Muslim Ayog Ko Adhyaksha Ko Sapath' [Ansari has Taken the Oath of office of chair of Muslim Commission], *Onlinekhabar*, March 21, 2019, <https://www.onlinekhabar.com/2019/03/751717>.

110 S. Bhandari, in N. Neupane, 'Sansmaran: Ma Musalman Bannuparne' [Memories: I should have been a Muslim], *Onlinekhabar*, April 27, 2019, <https://www.onlinekhabar.com/2019/04/761438>.

111 H. Nepali, in 'Ayog Alikati Dayabaya Huna Sakcha, Mulya Manyata Chodna Sakdaina' [The Commission can be a Little Wayward, but cannot Abandon its Principles], *Onlinekhabar*, November 2, 2020, <https://www.onlinekhabar.com/2020/11/906844>.

Why give holidays to these *musalte*? We need to use kicks and bullets to chase them away.¹¹²

Hate speech towards Rohingya refugees

As of January 2020, there were reportedly around 900 Rohingya refugees in Nepal.¹¹³ While the Rohingya think of Nepal as the only safe country for them in South Asia,¹¹⁴ local officials in Kathmandu stopped the flow of aid to them in April 2020.¹¹⁵ There are cases of incendiary news reports as well as online comments against the Rohingya in Nepal.

We are making a huge mistake by letting in these Rohingya. It is necessary to be aware in time – otherwise it is possible that one day Nepal too will become a hub for terrorists.¹¹⁶

Return these Rohingya from Nepal immediately. There are 500 now and there will be more than 50,000 in ten years. Nepal will be another Pakistan or Iran. These people are radical.¹¹⁷

Growth of Islamic population is a threat to Nepal. Islamic presence grows like locusts.¹¹⁸

112 'Musalte' is a derogatory term used for Muslims in Nepal. A.C. Tharu, in 'Aaitabar Sarvajanik Bida Garne Mantri Parishad Ko Nirnaya' [Council of Ministers declares a Public Holiday on Sunday], *News24*, May 23, 2020, <https://www.news24nepal.tv/2020/05/23/660602>.

113 P. Mahat, 'The Rohingya in Nepal,' *The Kathmandu Post*, January 1, 2020, <https://tkpo.st/36mMSw5>.

114 S. Budhathoki, 'Rohingya Saranartha Bhanchan, Ki Nepalko Nagarikta Deu, Ki Tesro Muluk Pathau' [Rohingya Refugees say: Either give us Nepali Citizenship, or Send us to a Third Country], *Onlinekhabar*, June 05, 2019, <https://www.onlinekhabar.com/2019/06/771006>.

115 S. Pandit, 'Rohingya Saranartha Siwirma Nagarpalika Le Rokyo Raahat' [Municipality Stops Aid to Rohingya Refugee Camp], *Onlinekhabar*, April 6, 2020, <https://www.onlinekhabar.com/2020/04/851724>.

116 R. Jha, *Ibid*.

117 P. K. Yadav, in S. Budhathoki, 'Rohingya Saranartha Bhanchan, Ki Nepalko Nagarikta Deu, Ki Tesro Muluk Pathau' [Rohingya Refugees say: Either give us Nepali Citizenship, or Send us to a Third Country], *Onlinekhabar*, June 05, 2019, <https://www.onlinekhabar.com/2019/06/771006>.

118 R. Thapa, in *Ibid*.

These people reproduce like Tilapia fish. The Nepal government and Nepali people need to understand that they are playing with fire.¹¹⁹

In yet another news piece provocatively titled ‘Nepal in danger of becoming safe land for Rohingya refugees’, there were comments such as:

Are Nepali politicians working to make Nepal a hub for Islamic terrorism under the influence of Islamic funding? There are more than four lakhs Rohingya in Nepal and the Muslim community in the country is helping them illegally. Their goal is to increase the population of Muslims in Nepal to turn the country into a centre for Islamic terrorism.¹²⁰

Why are only Muslims violent? Why do they go as refugees to non-Muslim countries? Why are Muslim refugees becoming threats for the very country that gave them refuge? This is a long-term security threat for the country.¹²¹

Using terms such as ‘locusts’, ‘terrorists’ and ‘jihadis’, many are reductively phrasing the delicate issue of refugees in terms of their religion and perceived threat to national security.

Hate speech towards Muslims during the COVID-19 pandemic

There were several reports of Muslims being singled out for their religious practices a few weeks into the COVID-19 pandemic nationwide lockdown in 2020. In April, an altercation took place in a city in southern Nepal, when some Muslim youths allegedly manhandled a police officer who was trying to disperse some Muslims gathered to pray in violation of the lockdown

119 Kaushik, in *Ibid*.

120 K. N. Pokhrel, in *Ibid*.

121 Suresh, in S. Budhathoki ‘Rohingya Saranarthi Ko Laagi Nepal “Safe Land” Banne Khatara’ [Nepal in Danger of becoming ‘Safe Land’ for Rohingya Refugees], *Onlinekhabar*, September 23, 2020, <https://www.onlinekhabar.com/2020/09/898553>.

restrictions.¹²² The contrast becomes visible when one takes into account the lack of polarised reporting of Hindu practices. An annual Hindu gathering in the capital, which also defied the lockdown, did not meet with a similar resistance by the authorities, as the people were just made to return home peacefully.¹²³ In Western Nepal too, thousands defied the lockdown to observe a Hindu religious gathering but the government only imposed nominal fines on the officials of the area as punishment.¹²⁴

Two other cases cemented the disproportionate and discriminatory reaction in the media towards Muslims during the pandemic. The first was the news of Nepali Muslims being in quarantine in Nepal after the Tablighi Jamaat congregation in Delhi in early 2020, which led to a spike in suspicion, disdain, and paranoia towards Muslims in many parts of South Asia.¹²⁵ This led to rumours about infected Muslims and foreigners hiding in mosques in Nepal and discriminatory actions such as Muslim labourers being laid off simply for being Muslim.¹²⁶ Comments on online news sites included:

The Quran virus is more dangerous than coronavirus.¹²⁷

122 'Agitated Youths Manhandle Policeman in Rautahat,' *The Himalayan Times*, April 11, 2020, <https://thehimalayantimes.com/nepal/agitated-youths-manhandle-policeman-in-rautahat>.

123 B. Shrestha, 'Lockdownle Rokena Bhaktapurko Parampara' [Lockdown did not stop the tradition of Bhaktapur], *Onlinekhabar*, April 13, 2020, <https://www.onlinekhabar.com/2020/04/854111>.

124 'Bajhang officials fine local leaders, others for holding festival during lockdown', *Onlinekhabar*, April 10, 2020, <https://english.onlinekhabar.com/bajhang-officials-fine-local-leaders-others-for-holding-festival-during-lockdown.html>.

125 A. Aryal, 'A worrying rise in Islamophobia ever since a number of Muslim men were diagnosed with Covid-19,' *The Kathmandu Post*, April 21, 2020, <https://tkpo.st/2XSTsJg>.

126 M. Habib, 'Muslim workers forced to leave jobs in Rupandehi,' *myRepublica*, April 27, 2020, <https://myrepublica.nagariknetwork.com/news/muslims-forced-to-leave-work-in-rupandehi>.

127 Harihari, in 'Jamatika Karan Badnaam Hunupareko Bhandai Muslim Ayogma Sarwapakshiya Baithak' [All-party Meeting in Muslim Commission claiming disrepute due to Jamati], *Onlinekhabar*, April 19, 2020, <https://www.onlinekhabar.com/2020/04/856053>.

These dogs need to be monitored constantly. They need to be punished severely as they have violated the country's law during the lockdown.¹²⁸

Such superstitious fools. Heard that they follow exactly opposite traditions than Hindus. Do they eat from the mouth or from somewhere else?¹²⁹

Shortly afterwards, two Muslim women in Janakpur, also in southern Nepal, were accused of trying to spread coronavirus with infected currency notes.¹³⁰ An investigation revealed all the allegations to be false,¹³¹ but people continued to express disbelief:

The hiding of COVID -19 infected people in mosques, women throwing money and fleeing in Janakpur; is COVID -19 being used as a suicide bomb? Have they been sent as sleeper cells? There is room for suspicion.¹³²

Muslims are emerging as demons in Nepal. Otherwise, why are so many Muslims becoming infected by COVID-19?¹³³

128 G. Khatri, in 'Delhiko Dharmik Shabhama Gaeko Asankha Ma 11 Janalai Nyantranma Liyi Quarantinema Rakhiyo' [Under Suspicion of Having Gone to Religious Assembly in Delhi, Eleven Placed in Quarantine], *Onlinekhabar*, April 2 2020, <https://www.onlinekhabar.com/2020/04/850266>.

129 Ganes, in 'Jamatika Karan Badnaam Hunupareko Bhandai Muslim Ayogma Sarwapakshiya Baithak' [All-party Meeting in Muslim Commission claiming disrepute due to Jamati], *Onlinekhabar*, April 19, 2020, <https://www.onlinekhabar.com/2020/04/856053>.

130 A. Aryal, 'A worrying rise in Islamophobia ever since a number of Muslim men were diagnosed with Covid-19,' *The Kathmandu Post*, April 21, 2020,

131 'Janakpurma Paisa Faaleko Ghatana: Galat Niyat Nadekhiiko Prahariko Niskarsha' [The Incident of Thrown Money in Janakpur: No Malafide Intent Seen is the Conclusion of the Police], *Onlinekhabar*, April 19, 2020, <https://www.onlinekhabar.com/2020/04/856048>.

132 P. Timalisina, Twitter, last modified on April 17, 2020, <https://twitter.com/prakashujyalo/status/1251168013841121280>.

133 Raj, in 'Janakpurma Paisa Faaleko Ghatana: Galat Niyat Nadekhiiko Prahariko Niskarsha' [The Incident of Thrown Money in Janakpur: No Malafide Intent Seen is the Conclusion of the Police], *Onlinekhabar*, April 19, 2020, <https://www.onlinekhabar.com/2020/04/856048>.

Madhesis

A major social dichotomy in Nepal is between Madhesis and Pahadis, i.e., people with origin in the southern plains or the Tarai and the hills, respectively. The hill 'upper-caste' male is the epitome of privilege, constituting the politically, socially, and economically dominant group since the emergence of the modern Nepali state in the late 18th century.¹³⁴ Ironically though, the Tarai has been the economic centre of the Nepali state as it is both fertile and conducive to industrialisation.¹³⁵ Yet, Tarai dwellers have been one of the most marginalised groups of the country.¹³⁶

The Madhesi are a heterogeneous group, consisting of different castes, ethnicities, languages, and religions. Due to the skin tone of the inhabitants of Tarai, the resemblance of various other languages spoken in the region to Hindi to the unfamiliar, and cultural similarities with Northern India, Madhesis perhaps face a level of otherness in Nepal like no other. The content of an alarming blog page named 'Anti-dhoti Online' demonstrates the extent of vitriol against Madhesis in the form of racist poems and jokes.¹³⁷

The things I hate most in the world, a hen crowing, and a dhoti¹³⁸ laughing.¹³⁹

Rotten butter and the body of a dhoti, they are both always stinking.¹⁴⁰

While the 1854 Civil Code is criticised for codifying the caste system in Nepal as a determinant of social status of its people, many

134 S. Hangen, *Creating a 'New Nepal': The Ethnic Dimension* (Washington D.C.: East-West Center, 2007).

135 F.H. Gaige, *Regionalism and National Unity in Nepal* (London: University of California Press, 1976).

136 The Asia Foundation, *A Survey of the Nepali people in 2018* (Kathmandu: TAF, 2019), <https://asiafoundation.org/wp-content/uploads/2019/05/A-Survey-of-the-Nepali-People-2018-revised-8132019.pdf>.

137 'Mai Chhoro Kale' [I am the Black Son], Anti Dhoti Online, last modified on January 12, 2014, <http://antidhoti.blogspot.com/2014/01/mai-chhoro-kaale.html>.

138 A derogatory slang word used to refer to Madhesis.

139 'Some Anti Dhotis,' Anti Dhoti Online, last modified on January 28, 2014, <http://antidhoti.blogspot.com/2014/01/some-anti-dhotis.html>.

140 Ibid.

groups from the Tarai were not even mentioned in it, reflecting the marginal position of the region and the lack of attention the government placed on them during the period.¹⁴¹ In the Panchayat era, too, the government failed to acknowledge the identity of Madhesis and pressured them into adopting language, traditions, and norms of the dominant hill ‘upper castes’.¹⁴² That difference is felt even today such as on the issue of clothing. A 2018 news item that lawmakers in Province 2, encompassing the heart of the Tarai, of Southern Nepal, would not be allowed to wear *daura-suruwal*—a traditional outfit associated with the male hill population—in the provincial assembly provoked strong reactions:

Today you don’t want to wear *daura suruwal*, tomorrow India will not let you even wear underwear. My advice to the people of Province 2 – do not forget your nationalism.¹⁴³

Upendra Yadav, a former deputy prime minister of Nepal and a Madhesi, was also criticised online for his perceived lack of fluency in Nepali.

How can we call those who do not even speak clear Nepali our leaders?¹⁴⁴

The Citizenship Act of 1964 can be credited with cementing the discrimination towards Tarai-dwellers. The Act outlined two specific requirements to obtain Nepali citizenship: the requirement

141 L. Bennett, D.R. Dahal and P. Govindasamy, *Caste, Ethnic and Regional Identity in Nepal: Further Analysis of the 2006 Nepal Demographic and Health Survey* (Maryland: Macro International Inc., 2008).

142 B. Sijapati, ‘In Pursuit of Recognition: Regionalism, Madheshi Identity and the Madhesh Andolan,’ in *Nationalism and Ethnic Conflict in Nepal: Identities and Mobilization after 1990*, eds. M. Lawoti and S. Hangen (New York: Routledge, 2013), 145 – 172.

143 Dibya, in ‘Pradesh 2 Ka Maryadapalakle Daura Suruwal Lagauna Napaune’ [Marshals of Province 2 not allowed to Wear Daura Suruwal], *Onlinekhabar*, February 1, 2018, <https://www.onlinekhabar.com/2018/02/656516>.

144 M. R. S. Bichar, in ‘Upendra Yadavle Dekheko Madhesh’ [Madhesh as Envisioned by Upendra Yadav], YouTube, last modified on April 4, 2017, https://www.youtube.com/watch?v=sBW_d0LPvQU&ab_channel=MountainTV.

to speak and write Nepali, and the requirement of a person of Nepali origin residing in the country for at least two years, and of non-Nepali origin for at least 12 years.¹⁴⁵ This placed speakers of regional languages in the country at a disadvantage, and the Madhesis at a further disadvantage by the vague clause of ‘Nepali origin’, which is widely seen as referring to hill origin. This criterion was also present in the Constitution of the Kingdom of Nepal, promulgated in 1990, resulting in the barring of an estimated 3.5 million people from getting citizenship certificates in the country, the majority of whom were from the Tarai.¹⁴⁶ In a 2005 keynote address, the then Vice Chancellor of Purbanchal University, Biratnagar, Nepal shared his own difficulties in obtaining a citizenship.

My official identity as Nepali and my induction into Nepali-hood came the rather hard way. The officer would simply not grant me the Nepali citizenship – no matter what – although a number of refugees from Burma with high cheekbones and flat noses were offered citizenship certificates almost instantly.¹⁴⁷

The issue of citizenship remains a problematic one for people of the Tarai as they frequently have to prove their identity to be considered citizens since they are looked upon as having a threatening Indian-ness.¹⁴⁸ In a recent debate over a proposed new law on citizenship which would grant foreign females naturalised citizenship through marriage with Nepali men on the condition of seven years’ stay in Nepal, while not specifying anything on Nepali women marrying foreign men, voices opposing the Act were mostly ignored.¹⁴⁹ But that did not stop the onslaught of hate

145 F. H. Gaige, *Regionalism and National Unity in Nepal* (London: University of California Press, 1976).

146 B. Sijapati, ‘In Pursuit of Recognition: Regionalism, Madheshi Identity and the Madhesh Andolan,’ in *Nationalism and Ethnic Conflict in Nepal: Identities and Mobilization after 1990*, eds. M. Lawoti and S. Hangen (New York: Routledge, 2013), 145 – 172.

147 An edited excerpt from: R. Yadav, ‘On Being Madheshi,’ *Himalaya, the Journal of the Association for Nepal and Himalayan Studies* 29, no. 1 (2010).

148 K. Jha, *The Madheshi Upsurge and the Contested Idea of Nepal* (Singapore: Springer, 2017).

149 K. Raturi, ‘Toxic nationalism obstructs women’s right to citizenship,’

speech towards those opposed to the Act, primarily those from the Tarai since the law would have mainly affected women from the Tarai where cross-border marriage is common. The comments section following a news article on Matrika Prasad Yadav, a prominent Madhesi communist leader, opposed to the Act had the following:

Why don't our Madhesi brothers understand that you can find women to marry in Nepal? Until nationalism comes before castes in this country, nothing good is going to happen.¹⁵⁰

Matrika Yadav is from India. No wonder he is feeling bad about this.¹⁵¹

Comments on another Madhesi communist leader, Prabhu Sah, included:

You Indian Prabhu – you should go to Bihar now. The party needs to remove this Bihari and send him to Bihar.¹⁵²

Madhesis also have a history of being directly victimised by the state. Madhesis and the indigenous Tharus of the Tarai have been routinely harassed and violently suppressed by Nepali security forces. Hence, although Tharus make up just 7 per cent of the population, over a third of Nepalis who were disappeared by the state between 1996 and 2006 during the decade-long Maoist conflict were Tharu men.¹⁵³ Tharu women, too, faced a high degree

The Record, July 23, 2020, <https://www.recordnepal.com/perspective/toxic-nationalism-obstructs-womens-right-to-citizenship>.

150 K. P. Oli, in 'Nagariktama Saat Barsako Prawadhanma Matrika Yadavko Pani Birodh' [Matrika Yadav Also Opposes the Seven Year Provision in Citizenship], *Onlinekhabar*, June 21, 2020, <https://www.onlinekhabar.com/2020/06/875194>.

151 A. Jha, in *Ibid*.

152 P. Saranam, in 'Nagarikta Bidheyaksambandhi Party Nirnayama Prabhu Sahko Asantusthi' [Prabhu Sah's Dissatisfaction over Party Decision on Citizenship Bill], *Onlinekhabar*, June 21, 2020, <https://www.onlinekhabar.com/2020/06/874974>.

153 International Crisis Group, *Nepal's Divisive New Constitution: An*

of sexual violence at the time, especially from the security forces.¹⁵⁴

Madhesi appeals for rights, inclusion, and recognition as Nepali are often labelled as ‘secessionist’, and frequently as pro-Indian.¹⁵⁵ When a party member, of Madhesi origin, of the Tarai-based Rastriya Janata Party-Nepal opined that it is not advisable to put up barbed wire fence on the India-Nepal border, the comments were unnecessarily vitriolic:

Just yesterday, you entered Nepal to pick garbage and had zero status. Now that you have naturalised citizenship, you want to teach us?¹⁵⁶

The Push for Inclusion

The announcement of the draft Interim Constitution in December 2006 in the aftermath of the decade-long civil war in the country triggered the Madhesh Movement. The government responded with curfews and increased police presence but finally relented and amended the Interim Constitution.¹⁵⁷ Matters came to a head again in 2015 as the Constitution of Nepal was promulgated despite strong opposition from Madhesis. The passing of the constitution followed the imposition of a blockade by India, and only further hardened the discourse of Madhesis as India-centric and ‘anti-national’ as evidenced in the following online comments.¹⁵⁸

Existential Crisis (Brussels: ICG, 2016).

154 Advocacy Forum, *Rise of Torture in 2018* (Kathmandu: Advocacy Forum, 2019), <http://www.advocacyforum.org/downloads/pdf/publications/torture/june-2019-report.pdf>.

155 M. S. Tamang, ‘Social movements and inclusive peace in Nepal,’ in *Two Steps Forward, One Step Back: The Nepal Peace Process*, eds. D. Thapa and A. Ramsbotham (London: Conciliation Resources, 2017), 97 – 106.

156 Nepal, in ‘Simama Taar Baar Lagaunu Madheshiko Hitma Chaina: Mahendra Raya Yadav’ [Mahendra Raya Yadav: It is Not Beneficial to Madheshis to have barbed wire fence on the Border], *Onlinekhabar*, May 18, 2020, <https://www.onlinekhabar.com/2020/05/865254>.

157 For an in-depth description of the Madhesh Andolan, see B. Sijapati, ‘In Pursuit of Recognition: Regionalism, Madheshi Identity and the Madhesh Andolan,’ in *Nationalism and Ethnic Conflict in Nepal: Identities and Mobilization after 1990*, eds. M. Lawoti and S. Hangen (New York: Routledge, 2013), 145 – 172.

158 Ibid.

Madhesis are pawns in the hands of India. They are clearly Indians.¹⁵⁹

No more goodwill to these *dhotis*, now is the time to beat them until their teeth get crooked.¹⁶⁰

Because of some *dhotis*, I feel like beating up all *dhotis*.¹⁶¹

Sections of the mainstream media, which consists largely of hill ‘upper castes’ also presented a distorted picture of the social movements and their demands as divisive and promoting ethnic conflict.¹⁶²

You come to Nepal and you want a part of Nepal? You will be dispersed like insects! Don’t do whatever you want in the Nepali land – because it is the truth. Nepal is not your country.¹⁶³

Hahaha. Giving you guys power and giving it to monkeys is the same. How capable are you guys? You will make Nepal into Bihar very quickly.¹⁶⁴

There has also lately been some countering of the hate speech towards Madhesis. There have been several opinion pieces bashing the use of blackface makeup in Nepali movies and television series to portray people of Madhesi origin.

159 Sodium, in N. Basu, ‘Madhesis back at centre of Delhi-Kathmandu row as they “block bill to change Nepal map”’ *The Print*, May 27, 2020, <https://theprint.in/diplomacy/madhesis-back-at-centre-of-delhi-kathmandu-row-as-they-block-bill-to-change-nepal-map/430499>.

160 S. Bhandari, Twitter, last modified on December 3, 2016, <https://twitter.com/BhandariSudhir/status/805061391216295936>.

161 Ibid.

162 M. S. Tamang, ‘Social movements and inclusive peace in Nepal,’ in *Two Steps Forward, One Step Back: The Nepal Peace Process*, eds. D. Thapa and A. Ramsbotham (London: Conciliation Resources, 2017), 97 – 106.

163 Ujjain, in ‘Samyukta Madhesi Partyko Adhyakshama Mahantako Naam’ [Mahanta’s Name for chair of Combined Madhesi Party], *Onlinekhabar*, January 23, 2014, <https://www.onlinekhabar.com/2014/01/158977>.

164 Sohil. In ‘Oliji, Sarkaar Chalauna Sakdainaun Bhannus, Madhesi Neta Tayar Chan: Mantri Sonal’ [Minister Sonal: Oliji, Tell us you Cannot Run the Government, Madhesi Leaders are Ready], *Onlinekhabar*, December 27, 2020, <https://www.onlinekhabar.com/2020/12/919105>.

Despite the diversity of the Tarai, most Nepali movies and comedy skits tend to portray people from southern plains as vegetable hawkers and uneducated half-wits.¹⁶⁵

Besides showing Madhesi as antagonists who are selfish, cunning, and corrupt, films like 'Bhairav', 'Saruto' and 'Sankrashan' have also shown the Pahade¹⁶⁶ protagonist to be a hyper-nationalist, who teaches the value of the 'Nepali soil' and nationalism to Madhesi characters.¹⁶⁷

A 2017 advertisement released by the Election Commission to teach the Madhesi community to vote also features prominent Nepali actors in blackface. The advertisement received some backlash and was eventually removed from all platforms.¹⁶⁸

Gender and Sexual Minorities

In a landmark ruling in 2007, the Supreme Court of Nepal recognised gender and sexual minorities as equal citizens of the nation, entitled to all constitutional rights, including the right to non-discrimination and equality.¹⁶⁹ Acknowledging LGBTIQ identities as natural, the country's apex court held that gender non-conformity and same-sex orientation were not results of 'mental perversion' or 'emotional or psychological disorders'.¹⁷⁰ Furthermore, the Court held that it was an appropriate time to 'think about decriminalising and destigmatising same sex marriage

165 S. Bajracharya, 'Does blackface have a place in Nepali comedy? Probably not,' *The Kathmandu Post*, September 1, 2019, <https://kathmandupost.com/art-culture/2019/09/01/does-blackface-have-a-place-in-nepali-comedy-probably-not>.

166 'Pahade' is a term used to refer to people from the hills and mountains.

167 Slightly edited version, A. Khadgi, 'When it comes to portraying ethnicity, Nepali pop culture still depends on stereotypical tropes,' *The Kathmandu Post*, July 16, 2020, <https://tkpo.st/2Wmif6K>.

168 'Apan Birgunj' [Our Birgunj], Facebook, last accessed April 7, 2021, <https://www.facebook.com/aapanbirgunj>; S. Bajracharya, 'Does blackface have a place in Nepali comedy? Probably not,' *The Kathmandu Post*, September 1, 2019, <https://kathmandupost.com/art-culture/2019/09/01/does-blackface-have-a-place-in-nepali-comedy-probably-not>.

169 Sunil Babu Pant and Others v. Government of Nepal and Others (2007), accessed May 9, 2021, <https://www.icj.org/wp-content/uploads/2012/07/Sunil-Babu-Pant-and-Others-v.-Nepal-Government-and-Others-Supreme-Court-of-Nepal.pdf>.

170 Ibid.

by amending the definition of unnatural coition'.¹⁷¹ In addition to prohibiting all forms of discrimination on the grounds of sexual orientation, the Court called for amending all discriminatory legal provisions and enacting laws that enable gender and sexual minorities to enjoy all the fundamental rights guaranteed by the Nepali constitution.¹⁷² The Court also held the government responsible for providing identity documents reflecting the self-declared gender identity of individuals.¹⁷³

Subsequently, the national census of 2011 included a 'third gender' category in what was believed to be the 'first attempt by any national government to count its people by three genders'.¹⁷⁴ In another first, in all of Asia, in 2008, an openly gay individual took office as a member of Nepal's Constituent Assembly.¹⁷⁵ In 2015, the government started issuing passports having 'Other' as one of the three official gender categories.¹⁷⁶ That same year, Nepal also became the world's 10th country to enshrine specific protections for gender and sexual minorities in its constitution.¹⁷⁷

Following the 2007 judgement and the developments that ensued, Nepal has been widely hailed as a global LGBTIQ+ rights beacon in both national and international media.¹⁷⁸ While Nepal's legal

171 The Country Code 1963 (Muluki Ain 2020) criminalised 'unnatural intercourse' under the Chapter on 'Bestiality'.

172 See, for example, the Chapter on 'Bestiality', 'Marriage' and 'Husband and Wife', Country Code 1963 (Muluki Ain 2020).

173 Sunil Babu Pant and Others v. Government of Nepal and Others (2007), accessed May 9, 2021, <https://www.icj.org/wp-content/uploads/2012/07/Sunil-Babu-Pant-and-Others-v.-Nepal-Government-and-Others-Supreme-Court-of-Nepal.pdf>.

174 Holly Young, 'Trans rights: Meet the face of Nepal's progressive "third gender" movement', *the Guardian*, February 12, 2016, <https://www.theguardian.com/global-development-professionals-network/2016/feb/12/trans-rights-meet-the-face-of-nepals-progressive-third-gender-movement>.

175 Times of India, 'Nepal gets its first gay representative in parliament', *Times of India*, May 1, 2008, <https://timesofindia.indiatimes.com/world/rest-of-world/nepal-gets-its-first-gay-representative-in-parliament/articleshow/2999871.cms>.

176 The Kathmandu Post, 'Nepal issues 3rd gender PP', *The Kathmandu Post*, August 7, 2015, <https://kathmandupost.com/miscellaneous/2015/08/07/nepal-issues-3rd-gender-pp>.

177 Kyle Knight, 'How Nepal's Constitution Got Queered', *The Los Angeles Review of Books*, October 14, 2015, <https://www.hrw.org/news/2015/10/14/how-nepals-constitution-got-queered>.

178 Kyle Knight, 'How did Nepal Become a Global LGBT Rights Beacon?',

regime has been lauded as one of the most progressive—not only in the region but globally—with regard to protection of LGBTIQ+ rights, several studies have pointed out the persecution and abuse Nepal’s gender and sexual minorities continue to face, including being ‘compelled to hide their sexual orientation or gender identity and are frequently subject to human rights violations, stigma and discrimination’.¹⁷⁹ A Shadow Report submitted to the UN Human Rights Committee by the Blue Diamond Society—Nepal’s pioneer organisation advocating for the rights of gender and sexual minorities and the intersex community—in June 2014 stated that the LGBTIQ+ community in Nepal was receiving an increased number of threatening text messages and phone calls, and being followed, kidnapped, and/or beaten.¹⁸⁰

On several occasions, individuals from Nepal’s LGBTIQ+ community have reported facing ‘countless humiliations’ including being subjected to harassment in public transportation, and being asked personal questions by government officials about their

World Politics Review, August 11, 2017, <https://www.hrw.org/news/2017/08/11/how-did-nepal-become-global-lgbt-rights-beacon>; *The Kathmandu Post*, ‘Safe Haven’, *The Kathmandu Post*, August 12, 2017, <https://kathmandupost.com/miscellaneous/2017/08/12/safe-haven>; Kyle Knight, ‘What We Can Learn From Nepal’s Inclusion of “Third Gender” on its 2011 Census’, *The New Republic*, July 18, 2011, <https://newrepublic.com/article/92076/nepal-census-third-gender-lgbt-sunil-pant>; Holly Young, ‘Trans rights: Meet the face of Nepal’s progressive “third gender” movement’, *the Guardian*, February 12, 2016, <https://www.theguardian.com/global-development-professionals-network/2016/feb/12/trans-rights-meet-the-face-of-nepals-progressive-third-gender-movement>; Kyle Knight, ‘Nepal’s Third Gender Passport Blazes Trails’, *Advocate*, October 26, 2015, <https://www.hrw.org/news/2015/10/26/nepals-third-gender-passport-blazes-trails>.

¹⁷⁹ UNDP, USAID, *Being LGBT in Asia: Nepal Country Report* (Bangkok: UNDP, USAID, 2014), accessed May 9, 2021, <https://www.usaid.gov/documents/1861/being-lgbt-asia-nepal-country-report>; UNDP, Williams Institute, *Surveying Nepal’s sexual and Gender minorities: An Inclusive Approach*, (Bangkok, UNDP, Williams Institute, 2014); and Heartland Alliance, *The Violations of the Rights of Lesbian, Gay, Bisexual, Transgender, and Intersex Persons in Nepal*, (Geneva: Heartland Alliance, 2013), accessed on May 9, 2021, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/NPL/INT_CCPR_NGO_NPL_14738_E.pdf.

¹⁸⁰ Blue Diamond Society, ‘Shadow Report to the UN Human Rights Committee regarding Nepal’s protection of the Rights of LGBTI Persons’, accessed on May 9, 2021, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/NPL/INT_CCPR_CSS_NPL_16421_E.doc.

‘genitals and much more’.¹⁸¹ As reported by a queer rights activist in Province 2, when individuals from the LGBTIQ+ community seek help from the police, they are questioned and even blamed.¹⁸² At government offices, they have to put up with ‘homophobic and transphobic slurs’.¹⁸³

Videos, photos, articles and other content featuring individuals from Nepal’s LGBTIQ+ community, posted on various mainstream social media platforms, are rife with vitriolic and derogatory comments. Some of the comments in a video that captures a transgender woman being harassed with transphobic slurs while walking on the street are as follows:¹⁸⁴

What is wrong with calling a *chhakka* a *chhakka*?¹⁸⁵

Boys are called boys, girls are called girls and gays are called *chhakkas* in the Nepali language. What is the problem in that? This is not harassment. The way she behaves in TikTok videos, that is what she should be called.

Hahahaha... those boys did the right thing. Such [foul words] should be treated like that... Wearing a saree and dancing on TikTok videos doesn’t make you a woman.

In another dramatised video that depicts a transgender woman in a romantic relationship with a man and her giving birth to their baby, many of the comments are exceedingly derisive and cynical.¹⁸⁶

181 D. Pyakurel, ‘How a Transgender Student is Fighting for Her Right To Education’, *Onlinekhabar*, June 18, 2019, <https://english.onlinekhabar.com/how-a-transgender-student-is-fighting-for-her-right-to-education.html>.

182 A. Khadgi, ‘Nepal Might Have Made Progress When It Comes To Queer Rights But It Still Has a Long Way To Go’, *The Kathmandu Post*, May 17, 2020, <https://kathmandupost.com/national/2020/05/17/nepal-might-have-made-progress-when-it-comes-to-queer-rights-but-it-still-has-a-long-way-to-go>.

183 Ibid.

184 See comments, accessed May 9, 2021, <https://www.youtube.com/watch?v=CVa0ozTDOMU>.

185 *Chhakka* is an abusive word commonly used to ridicule and deride LGBTIQ+ individuals.

186 See comments, accessed May 9, 2021, <https://www.youtube.com/watch?v=yKGG8qQPqbo>.

I wish I had died before I ended up watching this video.

I can't stop laughing!

Even more disturbingly, an image of the same woman, digitally altered to show her hanging by a noose around the neck on a tree branch, was posted on a popular social media platform in what one of the commenters referred to as 'heights of cyber bullying'. Similarly, some of the comments on a video of a television interview with Sunil Babu Pant, an LGBTIQ+ rights activist and former national legislator, are also very offensive and trivialise his claims of having converted to Buddhism.¹⁸⁷

Blue Diamond Society has to be shut down. In the name of advocating for LGBTIQ rights, the organisation runs a brothel, seeks out HIV positive cases and embezzles funds from donors.

They say it's the sinners who seek refuge in religion. It must be true.

Why do people go against nature? Maybe dollars made them so.

Caste-Based Minorities

For centuries, 'high-caste' Hindus have enjoyed hegemonic authority over 'low-caste' Hindus.¹⁸⁸ It wasn't until a new Country Code was introduced in 1963 that the practice of untouchability was deemed a punishable offence. In the following decades, various laws have been amended to eliminate provisions that leave room for caste-based discrimination.¹⁸⁹ In addition, a separate statute has been enacted to the effect of prohibiting caste-

¹⁸⁷ See comments, accessed May 9, 2021, <https://www.youtube.com/watch?v=EVEKW4MnPt4>.

¹⁸⁸ *Ibid.*

¹⁸⁹ For example, in a landmark judgement in the case of *Man Bahadur Bishwakarma v. HMG* (1994), the Supreme Court of Nepal declared unconstitutional a provision in the Country Code of 1963 that legitimized traditions that prohibited certain groups from entering temples and other religious and public places.

based discrimination and untouchability.¹⁹⁰ Further, the present Constitution of Nepal enshrines special protections for Dalits, including affirmative action in various sectors such as education, public sector jobs, social security and political representation as well as the establishment of an independent constitutional body, the National Dalit Commission, to ensure the protection of the rights of this marginalised and underprivileged community

Despite an overhaul of the country's legal system, violence against Dalits is still rampant across the country. Since 2011, at least 11 recorded cases of Dalit deaths, involving issues of caste prejudice, have been recorded.¹⁹¹ The most prominent recent case saw five men killed in western Nepal after a Dalit man tried to elope with a 'high-caste' girl he wanted to marry.¹⁹² Allegedly, villagers 'chased and beat the young men, then threw some of them in the Bheri river', killing five men, four of whom were Dalits.¹⁹³ Comments on online news portals exhibit sentiments publicly acquitting the perpetrators with statements such as:

Dalit are not because of caste, but because of their mindset.

What difference does it make that they said they would not get their daughter married to a lower caste? Everyone in Nepal from the king to the pauper will check caste before marriage.

Dalits across the country are still subjected to discrimination and social stigma in various public settings. The many forms of discrimination Dalits are subjected to on a daily basis include exclusion from houses, temples, hotels, restaurants, dairy farms, water sources, feasts, festivals, and discrimination in jobs.¹⁹⁴ The

¹⁹⁰ See the Caste-Based Discrimination and Untouchability (Offence and Punishment) Act, 2068 (2011).

¹⁹¹ S. Manandhar, D. Rai, 'Dalit Deaths and the Longevity of Caste', *The Record*, June 15, 2020, <https://www.recordnepal.com/dalit-deaths-and-the-longevity-of-caste>.

¹⁹² *Ibid.*

¹⁹³ Human Rights Watch, 'Nepal: Ensure Justice for Caste-Based Killings', *Human Rights Watch*, June 1, 2020, <https://www.hrw.org/news/2020/06/01/nepal-ensure-justice-caste-based-killings>.

¹⁹⁴ UNDP, 'The Dalits of Nepal and a New Constitution' (Kathmandu: UNDP,

discrimination Dalits are subjected to also restricts them from engaging in certain businesses such as operating tea shops and hotels, and from having an active socio-political life.¹⁹⁵ Furthermore, Dalits are routinely subjected to insults and emotional and physical abuse.¹⁹⁶ A study conducted by the United Nations office in Nepal in 2020 has pointed out that the situation of caste discrimination against Dalits is still dire.¹⁹⁷

In an incident reported in June 2018, the school mid-day meal programme had to be suspended in a school in southern Nepal after the school appointed a Dalit woman as the cook and the head teacher, an 'upper caste' male, refused to hand over the kitchen key to her.¹⁹⁸ Similarly, many Dalit students and workers in several parts of the country encounter difficulties in renting rooms.¹⁹⁹ Given the situation, many students who migrate internally for education are compelled to quit their studies and return home.²⁰⁰ In an incident in June 2021, the Kathmandu police detained, and subsequently released an 'upper-caste' house owner for refusing to rent rooms after the caste of the would-be tenant was revealed as Dalit, when the latter filed a case against the landlord.²⁰¹ On an Instagram page, where the audio recording of the landlord admitting that the tenant's caste was a factor in the refusal was public, there were comments such as:

2008), <https://idsn.org/uploads/media/DalitsOfNepalAndTheNewConstitution.pdf>; B. Paswan, 'Jahaa Paila Pailama Jaatiya Bibhed Chha,' [Where there is caste-based discrimination in every step] *Naya Patrika*, June 30, 2021, <https://www.nayapatrikadaily.com/news-details/66375/2021-06-30>.

195 P. B. Nepali, *Access of Dalit Community to Land and Dalit Inclusion: An Analysis from Intersectionality Perspective*, (Kathmandu, Samata Books, 2019), p. 168.

196 Ibid.

197 B. Paswan, 'Jahaa Paila Pailama Jaatiya Bibhed Chha [Where there is caste-based discrimination in every step]' *Naya Patrika*, June 30, 2021, <https://www.nayapatrikadaily.com/news-details/66375/2021-06-30>.

198 See Editorial, 'Shameful Act', *The Himalayan Times*, June 15, 2018, <https://thehimalayantimes.com/opinion/editorial-shameful-act>.

199 S. L. Subedi, 'Renting Room a Big Challenge For Dalits in Gulmi', *Republica*, June 12, 2019, <https://myrepublica.nagariknetwork.com/news/renting-room-a-big-challenge-for-dalits-in-gulmi>.

200 Ibid.

201 'Police nabs landlord in Babarmahal for caste-based discrimination', *KhabarHub*, June 20, 2021, <https://english.khabarhub.com/2021/20/192087>.

The landlord was right. If they give rooms to people like these,
who knows what will happen next!²⁰²

File a case of loss of reputation on that pig!²⁰³

They say they are Dalits themselves when applying on quota
to medical and engineering schools, but when others say it to
them, it is offensive?²⁰⁴

In the wake of the COVID-19 pandemic, many from the Dalit community have been facing double discrimination after testing positive for the virus as they are ostracised both for being infected and for being a Dalit.²⁰⁵ A recent study on the impact of COVID-19 on Nepal's Dalit community suggests that caste-based discrimination and untouchability also affected the relief distribution process in the wake of the COVID-19 pandemic.²⁰⁶

Comments on posts regarding Dalits in social media platforms and online video streaming platforms unveil the deeply entrenched casteism in the Nepali society:

Dalits are not Hindus. They are the slaves of Hindus.²⁰⁷

Keep shut...Do not forget your limits. If you forget your limits,
you will also face the same fate as Nawaraj Kami.²⁰⁸

202 S. Saswotman, on Instagram, <https://www.instagram.com/p/CQeGsO9II59>.

203 M. Manandhar, in Instagram, <https://www.instagram.com/p/CQeGsO9II59>.

204 R. Uprety, on Instagram, <https://www.instagram.com/p/CQeGsO9II59>.

205 U. Chaudhary, 'COVID-19 Sharpens Caste Discrimination in Nepal', *Nepali Times*, August 11, 2020, <https://www.nepalitimes.com/here-now/covid-19-sharpens-caste-discrimination-in-nepal>.

206 Samata Foundation, 'Summary Report on the Research: Impact of COVID-19 on Dalit Community of Nepal', (Kathmandu: Samata Foundation, 2021), accessed August 15, 2021, https://samatafoundation.org/wp-content/uploads/2021/05/Summary-report_impact-of-COVID-19-on-Dalits.pdf.

207 See comments, accessed May 10, 2021, <https://www.youtube.com/watch?v=uT7djc3luSs>.

208 See post, accessed May 10, 2021, https://www.facebook.com/groups/285685575367074/permalink/630331544235807/?comment_id=630436894225272. Nawaraj BK was the deceased Dalit youth murdered with four of his friends mentioned in the earlier section. The use of the term 'Kami', denoting his background as a blacksmith, was deliberately derogatory.

Dalit women in particular suffer from intersectional discrimination as they are the bottom of Nepal's caste, gender, and class hierarchy. Dalit women are often labelled as 'loud-mouthed and verbally abusive in nature'.²⁰⁹ As such, even the educated and politically active Dalit women advocating for their rights tend to be dismissed as 'angry Dalit women'.²¹⁰

Causes and Drivers of Hate Speech

Hate speech can cause or inspire serious harm by frightening, offending, humiliating, or denigrating individuals of minority groups, and can also lead to majority groups' radical ideas of identity being validated and solidified as they see others expressing similar sentiments.²¹¹ Hate speech has particularly disastrous consequences when individuals in positions of power demonstrate sentiments, actions, and hate speech towards minorities, enabling the normalisation of such marginalisation.²¹² This chapter demonstrates that Nepal is also witnessing rising instances of hate speech and violence towards minorities based on simply their identity, their faith, and their perceived otherness. Even though at present, these instances are comparatively few and far between, much needs to be done to ensure that Nepal does not move in the same trajectory as its South Asian counterparts.

In Nepal, hate speech is mostly driven by a sense of othering and dehumanising of that which is not familiar or considered as one's own; and said speech has received an amplifier in the form of social media and comments section of online news portals. There have been cases of Dalits being described as 'slaves of

209 International Dalit Solidarity Network, 'Report of Dalit Women of Nepal on CEDAW Convention' (Kathmandu: IDSN, 2018), accessed May 10, 2021, https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/NPL/INT_CEDAW_CSS_NPL_32516_E.pdf.

210 Ibid.

211 S. Benesch, 'Defining and diminishing hate speech,' in *State of the World's Minorities and Indigenous Peoples 2014* (Minority Rights Group International; 2014), <https://minorityrights.org/wp-content/uploads/old-site-downloads/mrg-state-of-the-worlds-minorities-2014-chapter02.pdf>.

212 Ibid.

Hindus',²¹³ 'pigs',²¹⁴ and as 'opportunists' for seeking quotas and also branded as 'making a big deal about their own caste'.²¹⁵ Not only does this demonstrate a tendency to turn a blind eye to both history and reality but is a fearful reminder of the extent to which discrimination can be reinforced simply by adhering to a herd mentality of not questioning empty rhetoric. Christianity has been deemed 'Ebola pandemic'²¹⁶ and Christians described as seekers of dollars.²¹⁷ Muslims are deemed 'radical'²¹⁸ and both Christians and Muslims have been scapegoated as spreaders of COVID-19.²¹⁹ Madhesis have been ridiculed for their language²²⁰ and clothes,²²¹ and are frequently dubbed as 'Indians'.²²²

In addition to statements and remarks riddled with words that are ostensibly hateful and derogatory, it is also important to understand how the Nepali language, with its vast repertoire of proverbs and idiomatic expressions can allow for the use of the

213 See comments, accessed May 10, 2021, <https://www.youtube.com/watch?v=uT7djc3luSs>.

214 M. Manandhar, in Instagram, <https://www.instagram.com/p/CQeGsO9II59>.

215 R. Uprety, on Instagram, <https://www.instagram.com/p/CQeGsO9II59>.

216 H. N. Shrestha, in 'Christianlai 'Rajyaka Sabai Nikay' Ma Pratinidhitwa Garaune Samjhauta Alapatra' [Agreement to Represent Christians in all Government Bodies is Stranded], *Onlinekhabar*, September 10, 2014. <https://www.onlinekhabar.com/2014/09/188007>.

217 M. Nepali, in 'Dashain Bidalai Esari Upayog Garaun, Christianlai Ni Gharma Bolaera Khuwauna Sakincha' [Utilise Dashain holidays this way, Christians can be invited at home for feasts], *Onlinekhabar*, October 1, 2016, <https://www.onlinekhabar.com/2016/10/485263>.

218 S. Bhandari, in N. Neupane, 'Sansmaran: Ma Musalman Bannuparne' [Memoirs: I should have been a Muslim], *Onlinekhabar*, April 27, 2019, <https://www.onlinekhabar.com/2019/04/761438>.

219 A. Aryal, 'A worrying rise in Islamophobia ever since a number of Muslim men were diagnosed with Covid-19,' *The Kathmandu Post*, April 21, 2020, <https://kathmandupost.com/national/2020/04/21/a-worrying-rise-in-islamophobia-ever-since-a-number-of-muslim-men-were-diagnosed-with-covid-19>.

220 M. R. S. Bichar, in 'Upendra Yadavle Dekheko Madhesh' [Madhesh as Envisioned by Upendra Yadav], YouTube, last modified on April 4, 2017, https://www.youtube.com/watch?v=sBW_d0LPvQU&ab_channel=MountainTV.

221 Dibya, in 'Pradesh 2 Ka Maryadapalakle Daura Suruwal Lagauna Napaune' [Dignitaries of Province 2 not allowed to Wear Daura Suruwal], *Onlinekhabar*, February 1, 2018, <https://www.onlinekhabar.com/2018/02/656516>.

222 P. Saranam, in 'Nagarikta Bidheyaksambandhi Party Nirnayama Prabhu Sahko Asantusthi' [Prabhu Sah's Dissatisfaction over Party Decision on Citizenship Bill], *Onlinekhabar*, June 21, 2020, <https://www.onlinekhabar.com/2020/06/874974>.

language in a way that insinuates hatred and has derogatory connotations, cloaked in its ambiguity. In a remark that was met with widespread criticism, K.P. Oli, then prime minister of the country had used the term *makhesanglo* to refer to the Madhesi peoples' human chain formed in protest of the 2015 Constitution. While the term was widely understood by its literal meaning 'a string of flies', those supporting Oli claimed that he had used the phrase figuratively to refer to a quagmire that one cannot get out of, an assertion many considered implausible.²²³

Of these statements and trends, perhaps two are the most worrying. One, that even in a position of power as lawmakers and public figures, individuals belonging to minority groups are reductively viewed by these online commentators on the criteria of their identity.²²⁴ This exists in the offline world as well, as seen in cases of Dalit lawmakers being denied residence or facing discrimination.²²⁵ Two, that news portals and social media sites are not regularly monitored, and harmful comments not culled is indicative of how little the government is concerned with curbing hate speech against minorities.

223 A. Giri, 'Observers call Oli's bid to woo Madhes with 'dhoti rally' a farce', *The Kathmandu Post*, January 10, 2021, <https://kathmandupost.com/national/2021/01/10/observers-call-oli-s-bid-to-woo-madhes-with-dhoti-rally-a-farce>; Timothy Aryal, 'What's in a word? A tweet by the prime minister's advisor sends Nepalis to the dictionary', *The Kathmandu Post*, July 8, 2019, <https://kathmandupost.com/politics/2019/07/08/whats-in-a-word-a-tweet-by-the-prime-ministers-advisor-sends-nepalis-to-the-dictionary>.

224 M. R. S. Bichar, in 'Upendra Yadavle Dekheko Madhesh' [Madhesh as Envisioned by Upendra Yadav], YouTube, last modified on April 4, 2017, https://www.youtube.com/watch?v=sBW_d0LPvQU&ab_channel=MountainTV; H. Nepali, in 'Ayog Alikati Dayabaya Huna Sakcha, Mulya Manyata Chodna Sakdaina' [The Commission can be a Little Wayward, but cannot Abandon its Principles], *Onlinekhabar*, November 2, 2020, <https://www.onlinekhabar.com/2020/11/906844>.

225 B. Ghimire, 'People refuse to rent me a room when I tell them my surname', *The Kathmandu Post*, July 19, 2019, <https://kathmandupost.com/national/2019/07/19/people-refuse-to-rent-me-a-room-when-i-tell-them-my-surname>.

Conclusion

Nepal has been hailed as a progressive country for minorities, with the country being declared secular in 2006,²²⁶ gender and sexual minorities being recognised as equal citizens of the nation in 2007,²²⁷ and criminalisation of caste-based discrimination and untouchability in 2011, among other measures.²²⁸ However, the reality is far from idyllic and crumbles under further scrutiny.

While the 2015 Constitution protects the right to freedom of religion or belief, citizens do not have the right to choose or change a religion, or to impart religious teachings.²²⁹ The constitution bans proselytisation and the statute contains a number of clauses that can be interpreted to the detriment of religious minorities.²³⁰ Likewise, despite a landmark ruling in 2007 wherein the Supreme Court asked the government to think about 'decriminalising and destigmatising same sex marriage',²³¹ this has yet to become a reality even after a decade and a half. Furthermore, even though caste-based discrimination has been criminalised by law, the lackadaisical and selective implementation of the law has meant that acts of discrimination have continued. Hence, the historically marginalised women and sexual and gender minorities, Dalits, Janjatis, Madhesis, Muslims, and Christians continue to be at the receiving end of different forms of discrimination, including being

226 C. Letizia, 'Shaping Secularism in Nepal,' *European Bulletin of Himalayan Research* 39 (2012): 66-104; Interim Constitution of Nepal, 2007, <https://www.wipo.int/edocs/lexdocs/laws/en/np/np006en.pdf>.

227 Sunil Babu Pant and Others v. Government of Nepal and Others (2007), accessed May 9, 2021, <https://www.icj.org/wp-content/uploads/2012/07/Sunil-Babu-Pant-and-Others-v.-Nepal-Government-and-Others-Supreme-Court-of-Nepal.pdf>.

228 Caste-Based Discrimination and Untouchability (Offence and Punishment) Act, 2068 (2011).

229 International Commission of Jurists, *Challenges to Freedom of Religion or Belief in Nepal: A Briefing Paper* (ICJ: Geneva, 2018), <https://www.icj.org/wp-content/uploads/2018/08/Nepal-Freedom-of-religion-brief-Advocacy-Analysis-brief-2018-ENG.pdf>.

230 The Constitution of Nepal 2015, Article 26. https://www.constituteproject.org/constitution/Nepal_2015.pdf.

231 Sunil Babu Pant and Others v. Government of Nepal and Others (2007), accessed May 9, 2021, <https://www.icj.org/wp-content/uploads/2012/07/Sunil-Babu-Pant-and-Others-v.-Nepal-Government-and-Others-Supreme-Court-of-Nepal.pdf>.

targets of hate speech, particularly with the spread of the internet and the increasing use of social media.

Nepal has already begun to witness a degree of polarisation, as the many excerpts cited in the chapter indicate, and has also had instances where hate speech has led to acts of violence against minority communities.²³² This makes it abundantly clear that there is an urgency to further study and counteract such instances of hate speech so as to minimise divisions and enable the transformation into a society which works to embrace, and not eliminate its diversity.

Recommendations

Based on the findings the following set of recommendations have been made for the government to take heed of.

- Promulgate and enable proper and just implementation of laws to ban hate speech in all its forms, including prohibiting incitement to discrimination on the basis of nationality, ethnicity, religion, language, gender or sexual orientation.
- Ensure also that the laws are implemented in a way that does not further the victimisation of minorities.
- Create conditions for all the organs of the state provide universal access to its citizens, and remain specifically vigilant of misuse of power by the government authorities while ensuring that instances of abuse are sufficiently and swiftly punished.
- Where extant, ensure that the laws are equitable, just, and in conformity with internationally agreed standards.
- Place safeguards so that the media remains independent of interference, whether from state or non-state actors. Enable an environment where the media can conduct independent

232 'Social media backlash reflects new era of hostility in Nepal,' *Evangelical Focus*, September 20, 2019, <https://evangelicalfocus.com/world/4768/social-media-backlash-reflects-new-era-of-hostility-in-nepal>; Freedom Forum, 'Threat of Attack on Singer Thapa,' *Freedom Forum*, July 21, 2020, <http://nepalpressfreedom.org/main/issue-single/1203>.

research and present issues of human rights violations at will and demand justice for the same.

- Regulate social media platforms to ensure that they do not become a mouthpiece for incendiary members of the community. Raise awareness on internet etiquette and ensure that individuals from all walks of life are aware of the ways in which the internet can be misused.
- Support and enable initiatives that create awareness about and celebrate diversity in the nation.

Charting Hate Speech against Religious Minorities in Pakistan

Elaine Alam

Introduction

Religious minorities in Pakistan face an onslaught of violence, discrimination, and hate speech that deteriorates their quality of life and perpetuates a culture of fear. According to the 2017 census, Muslims make up 96.2 percent of Pakistan's population, Hindus 1.6 per cent, Christians 1.6 per cent, Scheduled Castes 0.25 per cent, Ahmadiyas 0.22 percent, and other minorities 0.07 per cent.¹ Most Christians live in the Punjab, while Hindus and Scheduled Castes are overwhelmingly located in Sindh as well as South Punjab. Ahmadiyas are evenly spread throughout the country with some concentration in Islamabad. Pakistan's Shia community, which is not counted as a religious minority in the census due to its being an Islamic sect rather than a different religion, makes up around 20 per cent of the total population, with estimates varying widely from 15 per cent to 25 percent.

The Pakistani constitution grants everyone the right to practise one's religion, with Article 20 stating that 'every citizen shall have the right to profess, practice and propagate his religion; and (b) every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions'.²

1 Maria-Magdalena Fuchs and Simon Wolfgang Fuchs, 'Religious Minorities in Pakistan: Identities, Citizenship and Social Belonging', *South Asia: Journal of South Asian Studies* 43, no. 1 (2019): 52–67. <https://doi.org/10.1080/00856401.2020.1695075>.

2 https://www.constituteproject.org/constitution/Pakistan_2015?lang=en.

However, the Pakistani state being an Islamic one the constitution has an inherent and gives a wide berth for discrimination against other religions. The 1973 Constitution that declared Pakistan to be an Islamic Republic and Islam as the state religion was guided by the Objectives Resolution of 1949 that had long conflated sovereignty of the state with the Islamic doctrine of God's sovereignty over the entire world.³

These internal contradictions further manifest in the Pakistani state's and government's inability to uphold its international commitments. There is a gap between the international image Pakistan wants to project and the efforts of the state to realise those commitments. The Universal Declaration of Human Rights (UDHR) has been interpreted to allow national systems to ban hateful expressions.⁴ The 2017 Universal Periodic Review (UPR) of the United Nations Human Rights Council asked Pakistan to do more to protect its religious minorities. Among its recommendations was to 'make greater efforts to investigate complaints and prosecute those that commit crimes against ethnic and religious minorities, such as the Hazaras, Dalits, Christians, Hindus and Ahmadiyas'.⁵ Pakistan supported this recommendation, implying acceptance of its shortcomings on the issue.

This paper examines the legal gap in Pakistani laws on hate speech, analyses the scale of offline and online hate speech, followed by an analysis of anti-minority Twitter hashtags that trended. It ends with recommendations to curb hate speech in online and offline spaces.

Methodology

As part of the research for this paper, primary content analysis of three anti-minority hashtags was conducted. The focus on

³ The Objectives Resolution, accessed July 20, 2021, <https://www.jstor.org/stable/20839154>; 'Chapter 1: 'Fundamental Rights' of Part II: 'Fundamental Rights and Principles of Policy',' Pakistani Constitution, accessed March 30, 2021, <http://www.pakistani.org/pakistan/constitution/part2.ch1.html>.

⁴ *Universal Declaration of Human Rights*, United Nations, accessed March 30, 2021, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

⁵ 'Universal Periodic Review – Pakistan', OHCHR, accessed March 30, 2021, <https://www.ohchr.org/en/hrbodies/upr/pages/pkindex.aspx>.

digital spaces was due to several reasons: i) the increasing use of social media as a primary mode of contact due to the COVID-19 pandemic; ii) comparatively greater accessibility to data; iii) lack of a comprehensive analysis of online hate speech against religious minorities; and iv) a recognition of the porous boundary between online and offline spaces. The popularity of hashtags, the type of accounts at the forefront of disseminating them, and the content of the tweets were examined. Four hashtags that trended in the previous six months were selected. Two of the hashtags are anti-Ahmadiyya, while two of them are anti-Shia. Two of the hashtags are in Urdu, and were chosen because a large proportion of Pakistanis feels more comfortable communicating using it rather than English. This also ensures a more comprehensive insight into different kinds of anti-minority abuse. Secondary data collected via desk research has also been used; content analysis has been formally employed to filter and gather data from NGOs, think tanks, research papers, reports, and news publications.

Historical Overview

This section details some of the key moments within the Pakistani discourse trajectory that informed the national understanding of hate speech and defined its parameters. These include developments before 2010 and even though this section evaluates the pre-1947 roots of hate speech laws, the current legal framework is also analysed in the subsequent section.

Colonial roots

Prior to 1929, there was no law in the subcontinent prohibiting offence or insult to religious sentiments, but after the murder of the Hindu book publisher, Mahashe Rajpal, by Ghazi Ilmuddin Shahid for publishing a sacrilegious book against the Holy Prophet, the Indian Muslim community demanded a law against insult to religious feelings.⁶ The British Government enacted Section 295(A)

⁶ Osama Siddique and Zahra Hayat. 'Unholy Speech and Holy Laws: Blasphemy Laws in Pakistan - Controversial Origins, Design Defects, and Free Speech Implications', *Minnesota Journal of International Law*, 25 (2008); Z.A. Chaudhary, "Hate Speech' in Pakistan", *Daily Times*, 2019, October 5, <https://>

(deliberate and malicious acts to outrage any person's religious feeling) to which the Zia ul-Haq regime (1978-88) added provisions prohibiting the defiling of the Holy Quran, banning blasphemy against the Holy Prophet, using derogatory remarks against holy personages, forbidding Ahmadiyahs from using Islamic epithets, etc.⁷ Further, the Pakistan Penal Code (PPC) also criminalised hate speech that promotes 'disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities'.⁸

Declaring Pakistan an Islamic State

Pakistan was declared an 'Islamic Republic' and Islam declared as the state religion in the 1973 Constitution. This development pitted the scales against religious minorities and reframed Islamic provisions as the metric for deciding the harm to the sentiments of religious minorities.⁹ This reframing gave birth to two key bodies: the Council for Islamic Ideology and the Federal Shariat Court.¹⁰ Both serve the same purpose: to ensure that legislative bodies are in line with Islamic law. Their powers include prosecution of and lobbying for Islamic laws, and therefore, inciting prejudice against religious minorities. The changes these bodies propose are an attempt to preserve their idea of a homogenous Sunni Islam, restricting the religious freedom of other sects and minority religious communities. This institutionalisation of Islam's supremacy is the key tool in legitimising the use of hate speech against religious minorities. The implementation of the blasphemy law, for instance, only recognises the religious sentiments of Sunni Muslims rather than of all the religious communities.

These developments are significant in light of the analysis

dailytimes.com.pk/479203/hate-speech-in-pakistan.

7 Patel, Aakar. 'Pakistan's Blasphemy Law.' *The Express Tribune*, August 26, 2012. <https://tribune.com.pk/story/426498/pakistans-blasphemy-law>.

8 Antoine Madelin and Michelle Kissenkotter, *Minorities under Attack: Faith-Based Discrimination and Violence in Pakistan*, FIDH - International Federation for Human Rights, 2015, <https://www.refworld.org/pdfid/57fb91e54.pdf>.

9 Z.A. Chaudhary, "'Hate Speech' in Pakistan", *Daily Times* 2019, October 5, <https://dailytimes.com.pk/479203/hate-speech-in-pakistan>.

10 Amber Darr, 'The road to Sharia courts' *The Dawn*, <https://www.dawn.com/news/446253/the-road-to-sharia-courts>.

.of empirical data from a large-scale study comprising 3,729 observations from 157 countries over 1990-2014 which concludes that religious minorities are indeed likely to face more religious discrimination under Islamic constitutions, even if the relevance of Islam in society such as the share of the Muslim population is not taken into account.¹¹ It has also been argued that adopting Sharia law correlates with greater disdain towards the principles and adjudication of the International Court of Justice.¹² These include, but are not limited to, precedents related to hate speech against minority communities.

Legal Gap Analysis

The Pakistan Penal Code (PPC) is an overarching and primary criminal code comprising offences that are recognised and penalties that might be imposed for offences related to hate speech in both offline and online spaces.¹³ The code, originally introduced during the colonial period, following amendments by different Pakistani governments, is a mixture of English and Islamic Law.

Table 1: Provisions against Hate Speech in the Pakistan Penal Code

Section	Prohibition
Section 153A	Promoting or inciting, or attempting to promote or incite, on grounds of religion, race, place of birth, residence.
Section 295A	Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs.
Section 298	Uttering words, etc, with deliberate intent to wound religious feelings.

The other laws that address hate speech faced by religious minorities are as follows:

11 Moamen Gouda and Jerg Gutmann, 'Islamic Constitutions and Religious Minorities', *Public Choice*, 186, 243-265 (2021)

12 Emilia Justyna Powell, 'Islamic Law States and the International Court of Justice', *Journal of Peace Research*, 50 (2), 203-217, 2013..

13 Pakistan Penal Code (Act XLV of 1860), accessed July 20, 2021, <http://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html>.

Table 2: Provisions against Hate Speech in Other Laws

Law	Prohibitions
National Action Plan 2014: Point 5	Literature, newspapers and magazines promoting hatred, extremism, sectarianism and intolerance.
Prevention of Electronic Crimes Act 2016: Section 9	Prepare or disseminate information, through any information system or device, with the intent to glorify an offence and the person accused or convicted of a crime relating to terrorism or activities of proscribed organisations.
Prevention of Electronic Crimes Act 2016: Section 11	Prepare or disseminate information, through any information system or device, that advances or is likely to advance interfaith, sectarian or racial hatred.

Implementation of these laws is infamously negated by the huge power differential between the state-sponsored facilitation of religious majoritarian groups, mainly due to lack of political will, discrimination by the police and the courts, and the effective use of fearmongering to threaten the lives of religious minorities.¹⁴ This section seeks to highlight legal tools which, although available, are quite ineffective in providing protection. The gap analysis is contextualised with the lack of any definition of hate speech in Pakistani criminal or civil law, which creates an alarming level of subjectivity and lack of transparency.

Government bodies that are supposed to facilitate minority rights, like the re-constituted National Commission for Minorities (which excludes groups like the Ahmadiyya community and Dalit Hindus), are without any independence or autonomy. Further, the Commission is under the Ministry of Religious Affairs and has no statutory powers despite the fact that it was supposed to have been formed through parliamentary act. Another criticism

¹⁴ Antoine Madelin and Michelle Kissenkotter, *Minorities under Attack: Faith-Based Discrimination and Violence in Pakistan*, FIDH - International Federation for Human Rights, 2015, <https://www.refworld.org/pdfid/57fb91e54.pdf>; 'Discrimination against Religious Minorities in Pakistan: An Analysis of Federal and Provincial Laws', n.d., <https://appgfreedomofreligionorbelief.org/media/RESEARCH-DOCUMENT-1-discrimination-against-religious-minorities.-Analysis.pdf>.

is regarding the inclusion of Muslim members, who do not even count as minorities and are given undue influence over matters concerning the religious minorities, rendering the Commission's independence illusory.

Government Assault on Advocacy against Hate Speech under PTI

Voting out Minority Rights Bill

Recognising the gap created by current laws, a private member's bill, the Protection of the Rights of Religious Minorities Bill, was presented in early 2021.¹⁵ The bill sought to guarantee more safe spaces for minorities and added more provisions for the safety of their religious places, along with reaffirming the criminalisation of hate speech, including highlighting 'the issue of inciting people to kill and harm others'. But the Senate rejected it.

PECA: Anti-free speech, pro-hate speech¹⁶

Even though the Prevention of Electronic Crime Act (PECA) has provisions that seemingly guarantee protection against hate speech, it has been criticised by civil rights activists for its draconian and anti-humanitarian framework.¹⁷ Provisions in the law actually serve to deter pluralist religious discourse and erode due process.¹⁸ Section 31 of the Act dictates that an authorised agent can demand a citizen to hand over data if thought to be 'reasonably required', with no defined parameters of this phrase.¹⁹ This allows rampant

15 The bill was presented by Pakistan Muslim League-Nawaz (PML-N) Senator Javed Abbasi. 'Senate panel 'turns down' bill on minorities rights', *The Express Tribune*, February 02, 2021, <https://tribune.com.pk/story/2282277/senate-panel-turns-down-bill-on-minorities-rights>.

16 Eesha Arshad Khan, 'The Prevention of Electronic Crimes Act 2016: An Analysis', *LUMS Law Journal*, 5, 117-126 (2019), <https://sahsol.lums.edu.pk/law-journal/prevention-electronic-crimes-act-2016-analysis>.

17 Waqqas Mir, 'A Case against Banning 'Hate Speech': Special Report', *thenews* (TNS, February 24, 2019), <https://www.thenews.com.pk/tns/detail/567289-case-banning-hate-speech>.

18 Fariha Aziz., 'Pakistan's Cybercrime Law: Boon or Bane?', Heinrich Böll Stiftung, February 14, 2018, <https://www.boell.de/en/2018/02/07/pakistans-cybercrime-law-boon-or-bane>.

19 Eesha Arshad Khan, 'The Prevention of Electronic Crimes Act 2016: An

and arbitrary use of this clause, circumvents the accountability demanded of the government by the judiciary, and can be used to violate the fundamental human rights outlined by previous laws, including, but not limited to, hate speech. PECA also contains a number of provisions related to data privacy. However, these are intended to grant government agencies access to the private data of citizens and to restrict citizens from gaining access to government data.²⁰

Besides journalists and whistleblowers, who might transmit unauthorised data in the public interest, the harmless behaviour of the average internet user has also been criminalised under the Act. For example, Article 9 (on the glorification of an offence) can lead to the arrest of an innocent blogger wanting to inform the public on the prosecution of a suspect, or on blasphemy cases, and the term ‘unsolicited’ in Article 25 (on spamming) can criminalise the act of sending an email without the recipient’s prior consent.²¹

Implementation of the 2014 Jilani Judgement

The 2014 Jilani judgement is a landmark Supreme Court order that issued guidelines on demanding reports and subsequent follow-up on the protection of religious minorities.²² One of the orders issued in the judgement directly addresses hate speech: ‘Take steps to ensure that hate speech in social media is discouraged and delinquents are brought to justice’.

In the 2018 follow-up hearings, the Court had to repeat the orders to curb hate speech towards religious minorities and on the Punjab government’s three-yearly follow-up reports the Court stated that compliance to the legislative measures criminalising or problematising hate speech was the province’s responsibility.

Analysis’, LUMS Law Journal, 5, 117-126 (2019), <https://sahsol.lums.edu.pk/law-journal/prevention-electronic-crimes-act-2016-analysis>.

²⁰ Ibid.

²¹ ‘A Bill to Make Provisions for Prevention of Electronic Crimes as Passed by The National Assembly’, n.d., http://www.na.gov.pk/uploads/documents/1462252100_756.pdf.

²² Human Rights Commission of Pakistan, ‘Progress needed urgently on Tassaduq Jilani judgement’, accessed July 20, 2021, <http://hrcp-web.org/hrcpweb/progress-needed-urgently-on-tassaduq-jilani-judgement>.



However, no report on law's implementation and challenges was included, indicating a lack of political will. Even though some efforts have been made to remove hate speech from textbooks, it has been largely inadequate, and other policies such as the Single National Curriculum have further Islamised the curriculum, reaffirming hateful stereotypes of religious minorities.²³

²³ Jacob, Peter. "Justice Yet Afar." Centre for Social Justice Pakistan. Centre for Social Justice, May 2021, <http://www.csjpak.org/pdf/Justice%20Yet%20Afar%20BOOK.pdf>.

Incidence and Impact of Hate Speech

Typography of slurs

Some of the slurs used to refer to non-Muslims are kafir and wajib-ul-qatal. Kafir loosely translates as ‘infidel’ with anyone who does not fit the majority’s expectation of a perfect Muslim is characterised as an infidel and consequently also declared wajib-ul-qatal, a term that justifies murder (in some exceptional cases) if decreed so by an Islamic scholar. The Ahmadiyya and Shia communities are referred to as kafirs by radical Islamists online.²⁴

In Pakistan, radicalism is legitimised by religious bodies (clerics and scholars) by issuing decrees known as fatwa. The categorisation of the Ahmadi community as wajib-ul-qatal implies that the murderer is justified in this act. This also explains the mass support for Mumtaz Qadri, the assassin of a provincial governor who had spoken out in favour of religious minorities, characterising it as an act of heroism.

Churha generally refers to the ‘low castes’ or ‘untouchables’ in the Hindu caste system who have historically been associated with the profession of sweeping.²⁵ This slur is usually referred to the Christian community since many of the latter are ‘low castes’ converts from Hinduism.

The word Qadiani is a religious slur used to refer to Ahmadiyya Muslims and has even been used in official Pakistani documents like the Pakistan Penal Code.²⁶ Pakistan’s Second Amendment to the Constitution in 1974 officially declared Ahmadiya to be non-Muslims.²⁷ Another law, Ordinance XX of 1984, officially labels

²⁴ Bytes for All, Pakistan. (n.d.). *Online Hatred Pushing Minorities To The Periphery - An Analysis Of Pakistani Social Media Feeds Sept 2019 – Jun 2020*, <https://minorityrights.org/wp-content/uploads/2021/03/CCJP-Policy-Brief-on-Hate-Speech-Punjab-1.pdf>.

²⁵ Haroon Khalid, (2016, October 2) ‘The language curse: How proud community names have been reduced to insults in Pakistan’, *Scroll.in*, October 2, 2016, <https://scroll.in/article/817821/the-language-curse-how-proud-community-names-have-been-reduced-to-insults>.

²⁶ The Government of Pakistan. (1860). *Pakistan Penal Code (Act XLV of 1860)*, <https://www.fmu.gov.pk/docs/laws/Pakistan%20Penal%20Code.pdf>.

²⁷ Constitution (Second Amendment) act, 1974, <http://www.pakistani.org/pakistan/constitution/amendments/2amendment.html>.

Ahmadiya Muslims as Qadiani and prohibits them from following any religious or social practices of the Muslim faith.²⁸ These measures followed sustained attacks over the decades against Ahmadiyas such as the books, *The Qadiani Problem* (1953) and *al-Qadiyaniyat* (1976).

Textbooks

A 2013 report from the National Commission for Justice and Peace found that textbooks in Punjab and Sindh provinces in Grades 1-10 had around 55 chapters containing hate speech against Hindus and Christians, including the earlier-mentioned slurs.²⁹ The textbooks also distorted historical facts and events while stereotyping and dehumanising religious minorities. What was alarming was that such content had seen a steep rise from 2009 to 2012/13.³⁰ A US government study on Pakistani textbooks highlighted how narratives around religious minorities paint them as existential ‘enemies of Islam’, promoting intolerance.³¹

Mainstream media

Luqman Ahad Shehzad, a member of the Ahmadiyya community, was shot dead in Gujranwala after a cleric denounced the Ahmadiyya community on a TV show in December 2014 as the ‘enemy of Pakistan’.³² This was the second time when a human life was lost due to provocative hate speech over electronic media. In another TV talk show in 2008, some religious scholars had

28 Linda J. Berberian, ‘Pakistan Ordinance XX of 1984: International Implications on Human Rights’, *9 Loy. L.A. Int’l & Comp. L. Rev.* 661 (1987), <https://digitalcommons.lmu.edu/ilr/vol9/iss3/5>.

29 Yousaf Benjamin, *Hate Speech and Hate Material*, trans. Xari Jaleel, South Asia Partnership, 2015, https://sappk.org/wp-content/uploads/publications/eng_publications/Hate_Speech_and_Hate_Material.pdf.

30 Minority Rights Group International, *State of the World’s Minorities and Indigenous Peoples 2014 - Case study: Pakistan: countering hate content in textbooks*, 3 July 2014, <https://www.refworld.org/docid/53ba8dbe5.html>.

31 United States Commission on International Religious Freedom, *2017 Annual Report*, United States Commission on International Religious Freedom, Washington, DC, 2017, https://www.uscirf.gov/sites/default/files/2017_USCIRFAnnualReport.pdf.

32 ‘Geo apologises for hate speech against Ahmadis in Amir Liaquat’s show’, *The Dawn*, December 30, 2014, <https://www.dawn.com/news/1154052>.

called for Ahmadiyas to be killed, and within a day, two prominent Ahmadiyas were killed.³³

The dangers of hate speech within mosques and sermons

An angry mob of thousands burnt down three churches, a convent, a missionary school, a girls' hostel, and a pastor's house in Sangla Hill in Punjab province in 2005.³⁴ A Christian was alleged to have burnt the pages of the Quran in the town. Hundreds of Christian families living in Sangla Hill left the town due to increasing vitriol against Christians being spouted from loudspeakers.

That was followed by the Gojra riots of 2009, also in the Punjab, in an act of incitement by a cleric.³⁵ During these riots, a church and 40 houses were burnt down; six Christians also lost their lives in the fire.³⁶ Likewise, in 2011, around 200 houses of Christians in Joseph Colony in Lahore were set ablaze following an alleged blasphemy allegation against a Christian man with loudspeakers in the community mosque reportedly misused for this violent attack.³⁷

The world reacted with shock in 2014 after a pregnant Christian woman and her husband were brutally murdered by throwing them into a brick kiln in a village near Kot Radha Kishan in the Punjab.³⁸ It was revealed that they were accused of desecrating the Quran and around 1500 people from neighbouring villages had

33 Reuters, 'Ahmadi man gunned down in Gujranwala' *The Dawn*, December 27, 2014, <https://www.dawn.com/news/1153496>.

34 Declan Walsh, 'Attacks leave churches gutted and religious minorities living in fear', , November 28, 2005, <https://www.theguardian.com/world/2005/nov/28/pakistan.declanwalsh>.

35 '9 killed in Gojra riots', *The Nation*, August 2, 2009, <https://nation.com.pk/02-Aug-2009/9-killed-in-gojra-riots>.

36 Ben Quinn, 'Six Christians burned alive in Pakistan riots', *The Guardian*, August 2, 2009, <https://www.theguardian.com/world/2009/aug/02/christians-burned-alive-pakistan>.

37 Sonya Rehman, 'Joseph Colony: Attacked and Unprotected', April 5, 2013, <https://thediplomat.com/2013/04/joseph-colony-christian-community-in-lahore-attacked-and-unprotected>.

38 Xari Jalil, "'They have burnt Mummy and Papa': What happened to the children of Shama and Shahzad Masih?", *The Dawn*, January 11, 2019, <https://www.dawn.com/news/1456442>.

gathered to beat and kill them after a local mosque was used to make an announcement urging attacks on the couple.

Hate speech against minority politicians

Politicians from minority religious groups are also targets of hate speech. Tariq Gill, the Christian parliamentary secretary for human rights and minorities recounted how, during a heated discussion of the budget, Muslim lawmaker Arif Abbasi called him churha.³⁹ An uproar followed with the hashtag '#I_am_churha' trending on social media.

Supporting Ahmadiyas or other minorities leads to instant backlash. Such was the case with Assistant Commissioner Jannat Hussain Nekokara, an Ahmadiyya, who spoke in favour of equal rights for minorities during an event to mark the International Human Rights Day in the city of Attock. Several protesters stormed the building and coerced her to apologise on video in which she was also forced to declare that Ahmadiyas are non-Muslims and declare that her son is a non-Muslim, a kafir.⁴⁰ An Ahmadiyya woman forced to equate her son's existence to a derogatory slur to escape the mob's threat speaks volumes about the normalisation of mob accountability.

Online hate speech

A close analysis of responses to tweets that centre around religious minorities, even when not tweeted by minority members, shows the extent of public sentiment against minorities. In February 2020, Prime Minister Imran Khan tweeted in support of religious minorities living in Pakistan, stating: 'I want to warn our people that anyone in Pakistan targeting our non-Muslim citizens or their places of worship will be dealt with strictly. Our minorities are equal citizens of this country.' There was a subsequent spike in hate recorded in response to the tweet with nearly 15,000

³⁹ Kamran Chaudhry, 'Pakistani politician draws censure for Christian slur', *UCA News*, May 21, 2018, <https://www.ucanews.com/news/pakistani-politician-draws-censure-for-christian-slur/82356>.

⁴⁰ Arshi Aggarwal, 'Students force woman officer to apologise for calling Ahmadi as people', *India Today*, December 12, 2019, <https://www.indiatoday.in/world/story/pakistan-minority-rights-pas-apology-ahmadi-1627815-2019-12-12>.

responses recorded by the beginning of the following week.⁴¹

In 2020, there was an increase in expressions of hatred towards the Shia community in the digital platform during the Shia holy month of Ashura. The Pakistan Hate Speech Monitor documented a massive wave of anti-Shia hate speech online, specifically between 26 August and 20 September 20. On a sentiment algorithm, the overall conversation was negative at 46 per cent, far higher than the positive conversation (10 per cent).⁴² On 12 September, tens of thousands of protesters participated in a rally in Karachi organised by two Islamist parties that have been responsible for violent protests against those convicted of blasphemy.⁴³ The slogans raised called Shias 'infidels'. In the run-up to and after the rally, there was a massive spike in the online use of the Urdu term for 'infidel' to refer to the Shia community with the number of users exceeding 500,000.⁴⁴

In another instance, a Pakistani national married to a Sikh and currently living in Europe was heavily criticised and threatened for not converting his wife to Islam. The threats got severe; the couple still hesitated to contact legal authorities due to the pronounced lack of trust between government institutions and vulnerable communities. According to the victim, the couple received messages, calls, and comments full of hate and life threats, because of a fatwa issued against him by a local imam falsely accusing him of blasphemous remarks.⁴⁵

41 Bytes for All, Pakistan, *Online Hatred Pushing Minorities The Periphery - An Analysis Of Pakistani Social Media Feeds Sept 2019 – Jun 2020*, n.d., <https://minorityrights.org/wp-content/uploads/2021/03/Hate-speech-targeting-minority-faiths-report-090321-EW-1.pdf>.

42 Ibid.

43 AFP, 'Anti-Shia protesters march for second day in Karachi', *The Hindu*, September 12, 2020, <https://www.thehindu.com/news/international/anti-shia-protesters-march-for-second-day-in-karachi/article32589745.ece>.

44 AFP, 'Anti-Shia protesters march for second day in Karachi', *The Hindu*, September 12, 2020, <https://www.thehindu.com/news/international/anti-shia-protesters-march-for-second-day-in-karachi/article32589745.ece>; Minority Rights Group, 'Shi'a become latest target of Pakistan's extremist Islamic factions; murders, hate speech and numerous blasphemy allegation sow seeds of long-term religious tension', October 20, 2020, <https://minorityrights.org/2020/10/20/shia-statement>.

45 R. Umaima Ahmed, *Turning on the hate*, Digital Rights Monitor, January 17,



A 2019 report said that online news media platforms reported hate speech, hostility and organised targeting against religion, religious minorities and human rights faced threats, abuse, trolling, hacking, blocking, and charges of treason from various threat actors, including individuals, political parties, religious groups, unknown organised groups, and even official sources.⁴⁶

In-depth Look at Twitter Hashtags

The chosen hashtags for further analysis were:

- #Qadyani_dunya_ka_badtareen_kafir (translates in English as ‘Ahmadis are the world’s worst infidels’)
- #AhmadiyasAreNotMuslims
- #ShiaKafir
- #Gustakh_sahiba_kab_giraftar_ho_ga (translates in English as ‘When will the Insulter to Prophet be jailed’)

2020, <https://www.digitalrightsmonitor.pk/turning-on-the-hate>.

⁴⁶ Adnan Rehmat and Muhammad Aftab Alam, *Hate Speech Versus Free Speech - Shrinking Spaces for Voices Online*, Institute of Research, Advocacy and Development, 2019, [https://irada.org.pk/wp-content/uploads/2019/07/Hate%20Speech%20Versus%20Free%20Speech%20-%20Shrinking%20Spaces%20for%20Minority%20Voices%20Online%20\(1\).pdf](https://irada.org.pk/wp-content/uploads/2019/07/Hate%20Speech%20Versus%20Free%20Speech%20-%20Shrinking%20Spaces%20for%20Minority%20Voices%20Online%20(1).pdf).

Anti-Ahmadiyya and anti-Shia hashtags were chosen because they were the most common anti-minority hashtags used within the past year (April 2020 onwards). Muharram, which fell in September 2020, is a holy month for the Shia community and vitriolic hate speech spiked against them then. Also notable is the fact that the long-awaited National Commission for Minorities was established in May 2020 and the Ahmadiyya community was denied representation on it despite their being one of the most heavily persecuted minorities in Pakistan. This was another opportunity for a spike in hate speech directed at the Ahmadiyas.

Two of the hashtags are in Urdu, the national language of Pakistan. Urdu hashtags were chosen since a huge proportion of the population feel more comfortable communicating in the language using it rather than English. The tweets in Urdu were included to ensure a more comprehensive insight into a different kind of anti-minority abuse.

The popularity of these hashtags, the type of social media accounts at the forefront of disseminating them, and the content of the tweets were analysed. That served to identify some of the common characteristics shared by those at the forefront of the Twitter trends, and gauge the nature and significance of the rhetoric employed in popular tweets.

Hashtag no.1: #Qadyani_dunya_ka_badtareen_kafir

Qadyani_dunya_ka_badtareen_kafir roughly translates as 'Qadyanis are the worst apostates in the world' with qadyani being

Figure 1: Number of tweets under hashtag #Qadyani_dunya_ka_badtareen_kafir



a slur used for Ahmadiyas, aimed at signifying their rejection from the ranks of Muslims altogether given that the name Ahmad has significant Islamic connotations since it is used as one of the Prophet Muhammad's names. The hashtag was at its peak on 19 March, 2021. More than 5000 tweets used this hashtag on that day:

Figure 2: Prominent accounts tweeting under hashtag #Qadyani_dunya_ka_badtareen_kafir



Characteristics of hashtag users

The visual above has been taken from PakPolStats, which analyses Pakistani Twitter trends on a daily basis. In order to get an idea of the users' profiles, the profile of the one most popular was examined. Qasim Ali Rizvi added a suffix to his Twitter name inspired by his idealisation of Khadim Rizvi, the deceased leader of the far-right Tehreek-e-Labbaik Pakistan. With around 1,500 followers, his account asks for the French ambassador to be kicked out of the country and targeted campaigns against certain individuals. Other users also have profile pictures of Khadim Rizvi.

Predominant narratives within the hashtag

Some of the ways in which the tag has been used are detailed below.

Creating a 'chilling effect'

This builds a narrative that the Ahmadiyya are scared of maulvis, and that the term which is otherwise to be used by Muslims from all

sects, including the Ahmadiyya sect, is a source of terror for them. It is foreboding towards some unknown, overpowering influence that maulvis can use to eradicate 'the threat of Ahmadiyyas'. This further authorizes the Ahmadiyas as non-Muslims, thus taking away their agency to own their religion.

Figure 3: Sample tweet no. 1 using hashtag #Qadyani_dunya_ka_badtareen_kafir



The image within the tweet reads: 'Maulvi is a scary threat for the Qadianis. They are scared of them. Mirza Qadyani was sick, the maulvi was blamed. Mirza Qadyani used to pee a hundred times in a day, the maulvi was blamed, Mirza Qadyani couldn't get a Muhammadi wife, the maulvi was blamed'.

The image is then further captioned: 'Why is the Qadyani infidel so scared of the maulvi? We only need a single maulvi to deal with the qadiani threat.'

Hate speech everywhere

The hashtag also shows how hate speech against the Ahmadiyya does not need to be ‘triggered’ by any specific event. It also indicates how social media platforms can generally be an unsafe place for all Ahmadiyas since they are very likely to come across anti-Ahmadiyya content at random almost everywhere on these platforms.

Figure 4: Sample tweet no. 2 using hashtag #Qadyani_dunya_ka_badtareen_kafir



Figure 4 show a Twitter user writing, ‘We are present to protect the honour of the Prophet at any time #Qadyani_dunya_ka_badtareen_kafir’, in response to TV anchor Mansoor Ali Khan’s tweet about Prime Minister Imran Khan rigging the elections.

Figures 5 and 6 shows the same Twitter user writing, ‘We are present to protect the honour of the Prophet at any time #Qadyani_dunya_ka_badtareen_kafir’, responding respectively to politician Ansar Abbasi’s tweet about the importance of science for progress and to TV anchor Hamid Mir’s tweet asking the audience about Pakistani traits they would take pride in and identify as communal flaws.

The age-old trope of ‘craziness’

Quranic verses are quoted in hate speech aimed at the Ahmadiyas and also include graphics. This shows the effort put into spreading

Figure 5: Sample tweet no.3 using hashtag #Qadyani_dunya_ka_badtareen_kafir



Figure 6: Sample tweet no. 4 using hashtag #Qadyani_dunya_ka_badtareen_kafir



anti-Ahmadi sentiments. It also signifies a certain level of planning and coordination. One hashtag used was 'Mirza_personality_disorder'. This plays on the age-old trope of portraying minority groups as mentally imbalanced, and crazy in order to delegitimize their agency claiming that their religious belief is so 'unnatural' that only 'crazy' people would choose to adopt it.

In Figure 7, the title reads: 'You are a kafir even though you think you are a Muslim.' The text says: 'Qadyani Mirza commonly argues that the Hadith says that whoever calls

themselves a Muslim is one, and whoever calls them a kafir will themselves become one. Let's see the answer the Quran has given us regarding this.' A Quranic verse in Arabic follows.

Figure 7: Sample tweet no. 5 using hashtag #Qadyani_dunya_ka_badtareen_kafir)



Paranoia via interlinked social media platforms

Videos ‘exposing’ Ahmadiyas were also used under the hashtag, showing the integrated nature of the hate speech aimed at the community with tweets linked to YouTube channels. Overlain with dramatic music, they create paranoia by instilling suspicion towards anyone who does not fit the stereotype of the Sunni Muslim.

The tweet shown in Figure 8 is linked to a YouTube channel. The hashtags used in the image are: ‘#Long live the final prophethood’, ‘#Exposing Qadiani Ahmadi Plague’, and ‘#Qadiani Ahmadi Are Not Muslims’.

Figure 8: Sample tweet no. 6 using hashtag #Qadyani_dunya_ka_badtareen_kafir



Maligning political opponents

This hashtag is also used to malign political opponents, creating a conspiracy theory of their support for the Ahmadiyya population.

Figure 9 shows a tweet depicting Prime Minister Imran Khan as a Hindu deity, which is another way of calling him a ‘kafir or ‘infidel’. The text reads: ‘Non-Muslims have no custom or religion; they only have Imran Khan as their god.’

Figure 10 paints a caricature of Imran Khan wearing a cap that says ‘Traitor of Islam’ depicting hate sentiments for his support for religious minorities.

Hate-mongers’ attitude towards international coverage of religious minorities

The hashtag is also used when international or national news outlets report on the violence inflicted on the Ahmadiyya. For example, when the BBC reported on the Ahmadiyya mosque being

Figure 9: Sample tweet no. 7 using hashtag #Qadyani_dunya_ka_badtareen_kafir



Figure 10: Sample tweet no. 8 using hashtag #Qadyani_dunya_ka_badtareen_kafir



destroyed in Gujranwala and the complicity of the police in it, people started justifying the violence.

Figure 11: Sample tweet no. 9 using hashtag #Qadyani_dunya_kabadtareen_kafir



The tweet (Figure 11) describes a radical Islamist replying to @BBCUrdu, saying: ‘What is your problem? Why don’t you call everyone to London if you are so concerned about this community? Stop interfering in Pakistan’s affairs...’

Hashtag no. 2: #AhmadiyasAreNotMuslims

The second hashtag chosen was ‘#AhmadiyasAreNotMuslims’, which is also a typically overused one employed in hate speech targeting the Ahmadiyya community. It was the most trending hashtag on Twitter on May 11, 2020, along with ‘#Expose_Qadyani_ProMinisters’ a close third. While such opinions have been espoused on social media earlier as well, the trigger for these particular hashtags was media reporting that some members of the federal cabinet had pushed for the inclusion of Ahmadiyas in the National Commission for Minorities, news that was subsequently confirmed by the Minister for Religious Affairs.

Characteristics of hashtag users

Figure 12 depicts the top trends on May 11, 2020, showing that the hashtag ‘#AhmadiyasAreNotMuslims’ trending along with other derogatory religious slurs. According to a study by Soch, an alternative news media outlet, it garnered at least 58,000

tweets, of which 12,000 were original tweets.⁴⁷ But while a total of 5,700 accounts tweeted using the hashtag, a mere 570 of them were responsible for just under half of all the tweets using the hashtag,⁴⁸ which once again hints at coordinated online assault on the minority community.

Figure 12: Prominent accounts tweeting under hashtag #AhmadiyasAreNotMuslims



An examination of the accounts revealed visible affiliations with Jamiat Ulema-e-Islam (JUI-F), a mainstream political party. The most retweeted account on the hashtag stated JUI-F Sindh in its bio, while three of the five accounts that tweeted most frequently were also affiliated with JUI-F. In fact, one of the accounts, Zafar Ali Shah (@ZafarAl63520145), was the same account that sent out the most tweets on the hashtag ‘#Expose_Qadyani_ProMinisters’. It was not alone. Nearly a quarter of all the tweets using the hashtag ‘#AhmadiyasAreNotMuslims’ also contained the ‘Qadiyani_Ministers’ hashtag, showing a significant overlap in accounts that popularized this hashtag.

47 Asad Pabani, ‘Anti-Ahmadi hashtags: Initiated by Jamiat Ulema Islam, supported by all’, *Soch Writing*, May 29, 2020, <https://www.sochwriting.com/anti-ahmadi-hashtags-initiated-by-jamiat-ulema-islam-supported-by-all>.

48 Ibid.

Figure 13: Table published by Soch analysing the hashtag #AhmadiyasAreNotMuslims tweets and retweets

USER PROFILE LINK	NUMBER OF TWEETS POSTED	NUMBER OF TIMES TWEETS WERE RT'D
http://twitter.com/TANIA_572	116	604
http://twitter.com/ZafarAI63520145	88	505
http://twitter.com/amin_mohmand	69	54
http://twitter.com/maqsood_khaksar	59	10
http://twitter.com/AbarGhazwi	59	182
http://twitter.com/zahid_tweets	49	137
http://twitter.com/mearbazkhan	43	22
http://twitter.com/mohsinn86543	41	0
http://twitter.com/DON_1143	41	863
http://twitter.com/Muhamma26690405	40	124

Figure 14: Sample tweet no. 1 using Hashtag #AhmadiyasAreNotMuslims



However, while JUI-F may have played an instrumental role in boosting the use of these hashtags, it was not the only one. Anti-Ahmadiyya prejudice cuts across party lines; some of the earliest accounts to use the hashtag ‘#AhmadiyasAreNotMuslims’ were supporters of the Tehreek-e-Labbaik Pakistan (TLP); a tweet from a Pakistan Muslim League (PML-N) party worker’s account was one of the most retweeted , while many supporters of the the hashtag. Even social media celebrity Waqar Zaka got in on

Figure 15: Prominent accounts tweeting under the hashtag #AhmadiyasAreNotMuslims



Figure 16: Twitter profile of prominent hashtag user, detailing his official political affiliation



Pakistan Tehreek-e-Insaf (PTI) were also prominent in boosting the act, tweeting twice using the hashtag, and posting a (since

deleted) video about it on both Facebook and YouTube that generated many thousands of views and served to boost the hashtags (Figure 14).

Not only JUI-F but members of mainstream political parties also took part in the trend, as signified by the Twitter account of Safiullah Gill, son of Afzal Gill, a prominent leader of the PML-N (Figure 16). This shows the rampant normalisation of hate speech and the gaping lack of accountability for actively inciting hate speech against religious minorities.

**Figure 17: Sample tweet no. 2 using hashtag
#AhmadiyasAreNotMuslims**



Predominant narratives within the hashtag

Some of the most popular contents under the hashtag had content similar to the hashtag ‘Expose_Qadyani_ProMinisters’.

Otherising Ahmadi religious scholars

Personal attacks were launched against religious leaders of the Ahmadiyya community who have settled abroad, and their credibility as scholars questioned. That criticism did not need to be logical, but efforts were made to otherwise their credibility relative to other Islamic scholars. This particular tweet challenged the way the Quran is recited by Ahmadiyya religious scholars (Figure 17).

Spreading misinformation about the beliefs of the Ahmadiyya

Ahmadiyya doctrines are misrepresented as not believing in one God. This type of disinformation creates greater misunderstanding, which can translate into more online and offline hate speech towards them.

Figure 18: Sample tweet no. 3 using hashtag #AhmadiyasAreNotMuslims



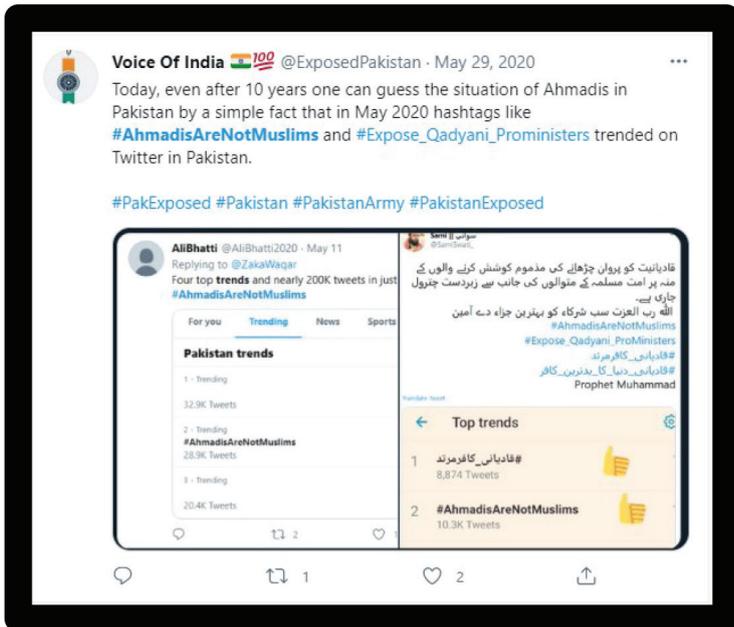
Figure 18 shows a tweet about Ahmadiyas: ‘Whoever doesn’t believe in God and the Prophet Muhammad (P.B.U.H), they aren’t Muslims. That’s all. End of debate.’

Indian outlets condemning the mistreatment of the Ahmadiyya

Some Indian outlets also use this opportunity to condemn the treatment of the Ahmadiya community, which can further become ammunition to launch hate speech against the community by citing it as proof of their illegitimate place in Islam and Pakistan.

The tweet depicts an Indian media house, Voice of India, spreading awareness about the situation of Ahmadiyas in Pakistan by revealing the hashtags of May 2020.

Figure 19: Sample tweet no. 4 using hashtag #AhmadiyasAreNotMuslims



Hashtag no. 3: #ShiaKafir

As mentioned above the month of Muharram in 2020 was especially concerning for the Shia community, with increasing animosity

towards them.⁴⁹ The hatred against Shia Muslims was unprecedented and alarming. This is the first time that three prominent groups within Sunni Islam—Deobandi, Sufi Barelvis, and Salafists—have concurrently held public rallies in a single week, openly calling the Shia sect ‘heretical’, its followers ‘infidels’ and demanding violent action against them.⁵⁰ The anti-Shia campaign in 2020 started on August 24 when a Shia orator, Asif Raza Alvi, in a private gathering in Islamabad referred to a controversial historical incident in which the daughter of Prophet Muhammad, Fatima, was denied her father’s inheritance by the first caliph, Abu Bakr.⁵¹ Between August 30 and September 14, 2020, at least five Shias have been killed in different parts of Pakistan in sectarian violence, more than 30 cases of blasphemy have been registered against Shias, at least one religious congregation was attacked, 150 cases have been filed against them and several videos appeared in which Shias were forced to accept the Sunni historical account on the caliphs.⁵² On social media, anti-Shia hashtags periodically trended with the one consistently used being ‘#ShiaKafir’.

Predominant narratives within the hashtag

Challenging the credibility of Shia religious leaders:

The Shia community’s religious leaders were targeted, and their credibility damaged. Because of the context of this hashtag, pictures of religious scholars wearing black were incorporated into the hashtag (Figure 20). Hate campaigns were launched against them, and swear words used. Circulating pictures in an attempt to draw out and doxx individuals was a common form of hate speech and violence used against the Shia community.

49 Roohan Ahmed, ‘Anti-Shia rallies raise alarm bells over group’s sectarian ambitions’, September 21, 2020, *Samaa TV*, <https://www.samaa.tv/news/2020/09/anti-shia-rallies-raise-alarm-bells-over-groups-sectarian-ambitions>.

50 Jaffer A. Mirza, ‘The Changing Landscape of Anti-Shia Politics in Pakistan’, *The Diplomat*, September 28, 2020, <https://thediplomat.com/2020/09/the-changing-landscape-of-anti-shia-politics-in-pakistan>.

51 Anonymous, ‘Why are anti-Shia sentiments on the rise in Pakistan?’, *The Express Tribune*, September 14, 2020, <https://tribune.com.pk/article/97167/why-are-anti-shia-sentiments-on-the-rise-in-pakistan>.

52 Ibid.

Figure 20: Sample tweet no. 1 using hashtag '#ShiaKafir'



Figure 21: Sample tweet no. 2 using hashtag #ShiaKafir



Inflexibility in accepting the existence of different sects in Islam

The hate speech targeted at the Shia community was triggered by the inflexibility to acknowledge that differences can exist within Islam. Any sort of difference is taken as a personal affront and disrespect that demands punishment. A lot of hate speech starts by quoting the Hadith and Quranic verses, which underlies the belief that difference equalises disrespect. A moral justification given for the abuse hurled at the Shia community is because of their 'abuse' of the companions of the Prophet Muhammad (Figure 21).

Use of dehumanising terminology for religious minorities:

Some of the hate speech demanded that Asif Raza be arrested, and swear words were also used against him, with him being referred to as a 'dog' (Figure 22).

Figure 22: Sample tweet no. 3 using hashtag #ShiaKafir



Hate speech in public spaces

Some of the hate speech was not only online, but also in offline spaces such as the walls being littered with graffiti, declaring the Shia community to be kafir. Hashtags and online spaces do not only exist in their own bubble but can literally escape on to the streets (Figure 23).

Figure 23: Sample tweet no. 4 using hashtag #ShiaKafir



Support for anti-Shia rallies qualifies as hate speech:

Pictures of the large-scale anti-Shia rallies being shared and appreciated also counts as hate speech since it gives space to and celebrates the threat endangering the lives of the Shia community (Figure 24). The fear and paranoia felt by the latter, along with concerns about the safety of their relatives, is being condoned by celebrating the act that is spreading the fear.

Sipah-e-Sahaba, referred to in the tweet, is a banned sectarian terrorist organisation in Pakistan, and also blacklisted by various international terror watchdogs, including the United Nations.⁵³

⁵³ Daniel Cassman, "Sipah-e-Sahaba Pakistan," Mapping Militants (Center for International Security and Cooperation, Stanford University), February

Figure 24: Sample tweet no. 5 using Hashtag no. 3 (#ShiaKafir)



Figure 25: Sample tweet no. 6 using hashtag #ShiaKafir



15, 2012), <https://web.stanford.edu/group/mappingmilitants/cgi-bin/groups/view/147?highlight=April%2B19#>.

Islamophobic tendencies of hate-mongers:

Some of the hate speech has co-opted the very strategies being used to spread Islamophobia. Islamophobia generalises the actions of terrorist organisations towards all Muslims, aiming to create the perception that any follower of Islam is irrational and ‘crazy’ (Figure 25). Some of the hate speech references Shia terrorist organisations and uses that as a justification for violence.

Recommendations to Address Hate Speech

Considering the scale, nature and impacts of hate speech towards religious minorities, this section details a series of recommendations that institutionalise accountability. The recommendations serve to provide some guidelines on addressing the harm created by the rampant hate speech experienced by religious minorities.

Filtering out hate via from education

Effective complaint procedures

Implement effective complaint procedures and accountability mechanisms to ensure that all educational establishments, including primary and secondary schools, higher education colleges and universities, protect all students from discrimination on the grounds of their religion. Hate speech should be publicised as a reportable offence.

Regulating madrassas

Foster parliamentary consensus for regulating Islamic madrassas and mosques to prevent their use for the promotion and propagation of anti-minority propaganda and hate speech against non-Muslims.

Revising national curriculum

Revise and screen national curricula and all textbooks from elementary to college levels to ensure no appearances of hate speech or distortions of history that discriminate against minority groups, and to ensure that religious studies at elementary and secondary schools cover all religions.

Fair admission criteria

Eliminate religious or faith-based questions on forms for admission to educational institutions to avoid discrimination on the basis of religious affiliation.

Politics: enhancing the capacity of parliamentarians from minority communities

Representation of minorities in key decision-making

Parliamentarians from minority communities nominated by political parties are not accountable to the communities they are supposed to represent. Any legislation on hate speech or pressure to implement the existing laws cannot happen without the autonomous and proportional presence of minority communities in key decision-making bodies. The quota system in the legislature should, therefore, be updated to make them proportional to the population of minorities.

Addressing co-option of National Commission for Minorities in Pakistan

There is a lack of transparency regarding the selection of members to the National Commission for Minorities, and that limits the extent to which the Commission can be held accountable for its dismal record in working in a government that is already against minorities. Besides there is no information on how to access the forum, which limits the minorities' political and social access to push for their representatives to be part of the Commission. It also becomes difficult for religious minorities to, therefore, reach out to the Commission when facing hate speech, and to expect it to take action, or to make long-term plans on how to address the desensitisation of violence they face.

Media Accountability

Effective monitoring by PEMRA

The Pakistan Electronic Media Regulatory Authority (PEMRA) should develop an effective system to monitor and penalise

violations of its Code of Conduct for Media and Broadcasters and Cable TV operators.⁵⁴ PEMRA should take stronger action against the many media channels that actively instigate hatred towards religious minorities.

Internal accountability mechanisms in media houses

Media houses should set up mechanisms to monitor their content to avoid irresponsible and inaccurate reporting while taking note of public incitements to violence or hate speech against all segments of society, particularly religious minorities.

Documentation of hateful social media trends

Data should be systematically gathered on trends on different social media platforms that victimise and target religious minorities on a daily basis. The Social Media Wing of Pakistan Tehreek-e-Insaf (PTI), or other government agencies should collect data on how long these dangerous hashtags trend on Twitter, the accounts at the forefront of it and the political affiliations of the perpetrators. There are organisations gathering statistics on violence faced by religious minorities, but that should also be done by government bodies.

⁵⁴ The Code of Conduct states: 'No programme shall be aired which contains an abusive comment that, when taken in context, tends to or is likely to expose an individual or a group or class of individuals to hatred or contempt on the basis of race or caste, national, ethnic or linguistic origin, colour or religion or sect, sex, sexual orientation, age or mental or physical disability.'

Online Hate Speech in Sri Lanka 2019-2021

Trends, Challenges and Recommendations

Harindrini Corea & Amalini De Sayrah

Introduction

There is a phrase used in Sinhala language social media: *yuddhe nathuwa paalui*, or ‘bored without war’. It is invoked when users witness conflict between groups along ethno-religious lines, or attempts to create conflict between such groups in both online and offline spaces. Journalist Amantha Perera says¹ that even after the war came to an end, ethnicity and religion have remained at the centre of political dialogue, and this focus continues today.

Sri Lanka has demonstrable evidence of hate speech—in mainstream media and social media—leading to real-life violence against minority groups and government critics, to the extent that the line between online and the offline is blurred, or non-existent. Online hate speech is used as a rallying cry for violent ethno-nationalism, and online spaces are used to mobilise rioters to attack minority communities. When these riots take place in the physical world, the lack of intervention by law enforcement agencies and the impunity enjoyed by perpetrators leads to cycles of violence seen in contemporary Sri Lankan history where violence is perpetrated against minority communities.

MinorMatters, an initiative of the National Christian Evangelical Alliance of Sri Lanka (NCEASL), has exhaustively documented

¹ ‘Reporting on Identity in The Sri Lankan Media: Ethics and Errors’, *Groundviews*, December 1, 2019, <https://groundviews.org/2019/01/12/reporting-on-identity-in-the-sri-lankan-media-ethics-and-errors>.

violence against religious minorities² in the post-war period. The violence that will be discussed throughout this paper follows from years of low-level attacks on places of worship of Muslims and Christians and attempts to restrain the construction of such places through legal and administrative obstruction.³

In the aftermath of the anti-Muslim riots in Aluthgama⁴ and Beruwala,⁵ (2014) a study by Shilpa Samaratunge and Sanjana Hattotuwa brought into focus the growth of online hate speech in Sri Lanka, focussing on the speed at which information could be disseminated on social media and the irretrievability of that information, and even mis-information, but noted that there was 'no technical solution to what is a socio-political problem' in Sri Lanka.⁶

Hashtag Generation authored a report on the impact of social media on social cohesion in Sri Lanka.⁷ They noted that the combination of misleading information and hate speech on widely-shared ethno-nationalist Facebook pages deepened social divisions, thereby endangering cohesion. Hashtag Generation's report on the 2019 presidential election and the 2020 parliamentary election also points to the increase in hate speech content during elections.⁸

2 Mark Schubert, *Restrictions and Violence Against Religious Minorities: An Incident Analysis*, MinorMatters (National Christian Evangelical Alliance of Sri Lanka (NCEASL), Colombo, 2019), <https://www.minormatters.org/storage/app/uploads/public/5d3/7fb/10c/5d37fb10ce12e404095654.pdf>.

3 MinorMatters, *Fact Sheet | 2008 Circular*, <https://www.minormatters.org/storage/app/uploads/public/5b5/5a4/4be/5b55a44be214a270694958.pdf>.

4 'Sri Lanka Muslims Killed in Aluthgama Clashes with Buddhists', *BBC*, June 16, 2014, <https://www.bbc.com/news/world-asia-27864716>.

5 Dinouk Colombage, 'In Pictures: Sri Lanka Hit by Religious Riots', *Al Jazeera*, June 18, 2014, <https://www.aljazeera.com/gallery/2014/6/18/in-pictures-sri-lanka-hit-by-religious-riots>.

6 Shilpa Samaratunge and Sanjana Hattotuwa, *Liking Violence: A Study of Hate Speech on Facebook in Sri Lanka*, (Centre for Policy Alternatives, Colombo, September 2014), <https://www.cpalanka.org/wp-content/uploads/2014/09/Hate-Speech-Final.pdf>.

7 Democracy Reporting International, 'Social Media Analysis What Facebook Tells Us about Social Cohesion in Sri Lanka', *Briefing Paper 97*, February 2019, This was particularly within the context of election campaigns intersecting with the public perception of politicians via the engagement on their official social media accounts.

8 'Findings from the Social Media Monitoring Exercise during the 2019 Sri Lankan Presidential Election', Hashtag Generation, 2019, <https://hashtaggeneration.org/wp-content/uploads/2020/01/social-media->

Laws meant to protect citizens from violence in speech and action have continuously been used to target dissenters, especially those from minority communities, who are critical of the government. A new gazette to address deradicalisation was issued in March 2021 as an extension of the draconian Prevention of Terrorism Act (PTA).⁹ The misgivings with the new gazette are related to concerns with the legislation itself, and to the potential for further abuse of the PTA which has been recorded over the decades.¹⁰ The continued use of broad terms and the lack of definitions for words such as ‘extremism’ allow for the targeting of minority communities.¹¹

This language feeds into long-standing fears and biases, often stoked by political actors and the media, towards minority communities as a whole, and the conflation of extremists with the rest of the population. The constant narrative of ‘national security’ upon which this government was elected in the aftermath of the 2019 Easter bombings and 30 years of conflict preceding it ensure that people are not likely to question laws under which members of minority communities or those seen to be critical of the state are arrested.

Objectives

This paper explores the prevalent trends in the types of anti-Muslim hate speech and disinformation expressed primarily on social media platforms in Sri Lanka between October 2019 and July

[monitoring-report.pdf](#); and ‘Sri Lanka: Social Media and Electoral Integrity’, Hashtag Generation, 2020, https://drive.google.com/file/d/1qQKubeK1HtAtom3J5v2BKoQ5hToH9ma_/view.

⁹ Sanjaya Wilson Jayasekera, ‘Deradicalization Regulations: Anti-Democratic Executive Legislation Targeting Minorities and Political Opponents’, *The Republic*, April 13, 2021, <https://therepublic.lk/2021/04/13/deradicalization-regulations-anti-democratic-executive-legislation-targeting-minorities-and-political-opponents>.

¹⁰ Human Rights Commission of Sri Lanka, *Prisons Study by the Human Rights Commission of Sri Lanka*, (Human Rights Commission of Sri Lanka, Colombo, November 2020), <https://www.hrcsl.lk/wp-content/uploads/2020/01/Prison-Report-Final-2.pdf>.

¹¹ Ermiza Tegal, *Understanding Rule of Law, Human Security and Prevention of Terrorism in Sri Lanka*, (Law & Society Trust, Colombo, February 2021), https://lstlanka.org/images/publications/reports/2021/Understanding_Rule_of_Law_Human_Security_and_Prevention_of_Terrorism_in_Sri_Lanka_English.pdf.

2021. It draws on a growing trilingual (Sinhala, Tamil and English) archive of hate speech on social media. This is an essential step towards analysing the trends of hate speech and the resulting issues. Studying and analysing the patterns and messaging around hate speech helps readers place what may appear to be an offhand social media post in the context of a larger historical narrative and contemporary political climate.

The paper also aims to contribute to the ongoing conversation about legal reform to address hate speech and to highlight existing legal frameworks to deal with hate speech and which instead have been used to target and discriminate against minority groups.

Scope/Limitations

There has been significant research looking at the dynamics of patterns of hate speech in Sri Lanka, and the effectiveness of laws enacted to tackle it. This paper analyses the patterns of hate speech at a particular political moment in Sri Lankan history. While the focus is on a series of events, they are naturally intertwined with each other. The re-election of the Rajapaksa regime in 2019, a regime that has historically targeted minority communities and endorsed other groups that do so, signalled a roll-back of the marginal relief brought about by the national unity government (2015-2019), ostensibly based on the principles of 'good governance'.

The paper focuses on data gathered by Hashtag Generation between October 2019 and July 2021. The events covered during this period primarily include the elections in 2019 and 2020 and the first and second waves of the COVID-19 pandemic in 2020 and 2021. The impact of the Easter Sunday attacks in shaping online and offline discourses are also considered.

Due to this defined timeframe and the data gathered, the key focus here is on online hate speech against the Muslim community which exists within a larger eco-system of hate speech directed at many minorities and vulnerable groups in Sri Lanka. Though post-war violent speech towards Muslims has been increasingly reported on, hate speech against the Tamil community remains within the broader discourse. Though the lesbian, gay, bisexual, trans/transgender, intersex, queer/questioning, and asexual



(LGBTIQA+) community has used digital spaces as safe spaces for self-expression and identity, the community remains subject to hate and discriminatory speech as well. Human rights defenders are also regular targets of hate speech, the common narrative being that they are ‘traitors’ to the country for raising wartime human-rights abuses, and are also subjects of death threats.

Methodology

The findings presented are based on a study of key political events in Sri Lanka and the simultaneous extraction of data gathered through ongoing social media monitoring conducted by Hashtag Generation. This process focuses on the identification, collection, and analysis of content that would amount to harmful speech, including hate speech and disinformation.

As the most popular social media platforms in Sri Lanka, Facebook¹² and YouTube¹³ were monitored regularly. Facebook in particular hosts the highest degree of political discourse of the country while YouTube and other platforms are also becoming increasingly politicised. Likewise, since the spaces occupied by digital and mainstream media are no longer as distinct as they once might have been because mainstream media has now increased its digital presence, content that might have once been featured on broadcast news or print is now available through constant social media feeds. Mainstream news providers such as Derana, HiruTV and NewsFirst are also among the top-ranked social media pages in Sri Lanka. It is, therefore, important to note that no distinction is drawn between whether the source is a mainstream media channel or a solely digital media outlet.

A dedicated team of social media analysts with trilingual capability in Sinhala, Tamil and English conducted the monitoring exercise. Analysts used several social listening and monitoring platforms for data analytics. Keyword searches on these platforms were conducted to understand the levels of reach/engagement that harmful narratives receive. Monitoring via these tools is supplemented with searches based on keywords from a comprehensive list (of slurs, insults, smear campaigns, etc) as well as proactively monitoring ‘actors of concern’. In order to undertake the keyword-based searches, a comprehensive list of keywords was developed based on words and phrases that could be used in harmful

12 According to Article One study in 2018, Facebook has 6.85 million monthly active users and 4.4 million daily active users in Sri Lanka, <https://about.fb.com/wp-content/uploads/2020/05/Sri-Lanka-HRIA-Executive-Summary-v82.pdf>. This figure amounts to 32.6% of Sri Lanka’s entire population.

13 Alexa’s list of top Sri Lankan websites, YouTube was ranked number two, accessed 22 July 2021, <https://www.alexa.com/topsites/countries/LK>.

speech including slurs, commonly used derogatory terms, and code words. The keyword repository has been maintained across all languages—English, Tamil, and Sinhala as well as ‘Singlish’ and ‘Tanglish’ (i.e., Sinhala and Tamil in English transliteration).

The keyword repository is updated regularly to include keywords that arise based on emerging narratives and ground realities. The names and links of pages and groups potentially involved in disseminating harmful content such as hate speech and disinformation is also listed and these ‘potential violators’ are actively monitored. After conducting the monitoring exercise and determining what content constitutes harmful speech, such content is recorded and archived. Finally, the documentation process captures disaggregated demographic data where such data is publicly available.

The documentation process also records the source of the content and notes whether the harmful speech is generated by individual users or by pages. Other forms of disaggregated data that may be recorded and documented include data on the targeted individuals or communities (for example, whether the target of such content was a particular identity group, such as the Muslim community or women, or a particular individual, such as a political actor). Recording data in this manner enables the compilation of a comprehensive database. It also enables comparative analysis, trend analysis, the identification of perpetrators of harmful speech, and the identification of ‘hotspot’ locations for harmful speech.

Definitions

Harmful speech is defined and categorised based on Facebook’s Community Standards.¹⁴ Part I of the Community Standards deals with violence and incitement.¹⁵ Part II of Facebook’s Community

¹⁴ <https://www.facebook.com/communitystandards>.

¹⁵ These include threats that could lead to death (and other forms of high-severity violence), statements of intent to commit high-severity violence, calls for high-severity violence including content where no target is specified but a symbol represents the target and/or includes a visual of an armament or method that represents violence. Further, this also includes statements advocating for high-severity violence and aspirational or conditional statements to commit high-severity violence.

Standard aims to ensure the safety of users.¹⁶ Part III deals with objectionable content. Accordingly, the following set of definitions have been used to determine if content online amounted to harmful speech:

- Hate speech is an attack on people based on identity categories, such as (but not limited to) race, ethnicity, religious affiliation, sexual orientation, gender identity, caste, sex, gender or disability. Such content includes incitement to violence, dehumanising speech, statements of superiority and inferiority, and calls for exclusion or segregation.
- Misinformation is false or inaccurate information.
- Disinformation is that which is false and created to harm a person, social group, organisation or country.¹⁷

Legal Gap Analysis

The Constitution of the Democratic Socialist Republic of Sri Lanka

The Constitution provides for the freedom of speech and expression as a fundamental right.¹⁸ This fundamental right is also subject to restrictions, as prescribed by law, in the interests of racial and religious harmony, or in relation to parliamentary privilege, contempt of court, defamation, or incitement to an offence. Furthermore, restrictions may also be based on national security, public order and the protection of public health or morality, or to secure due recognition and respect for the rights and freedoms of others, or to meet the just requirements of the general welfare of a democratic society.

¹⁶ It includes content amounting to bullying or harassment. A distinction, however, is made between public figures and private individuals in order to allow for critical commentary on public figures. Harassment also includes gendered and sexualised content, targeted swearing, calls for death or serious disease or disability, manipulated images, and derogatory statements.

¹⁷ Fact checks are also relied on or conducted to determine whether information is false.

¹⁸ Article 14(1) (a), The Constitution of the Democratic Socialist Republic of Sri Lanka.

International Covenant on Civil and Political Rights (ICCPR) Act, No. 56 of 2007

Sri Lanka ratified the ICCPR in 1980 and enacted the ICCPR Act to give effect to certain articles of the ICCPR that were not incorporated in domestic law. Section 3 of the ICCPR Act gives effect to Article 20 of the ICCPR and criminalises the propagation of war or the advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence. The attempt or threat to attempt, or aiding or abetting in committing this offence is also an offence.

Section 3 of the ICCPR Act incorporates different types of incitement into one offence. However, the Rabat Plan of Action states that only the most severe forms of incitement must be criminalised.¹⁹ Penal offences should be ‘precisely defined to avoid ambiguity and ensure proportionality in the imposition of penalties’.²⁰ Broadly-defined offences may lead to different or controversial content being treated as ‘hate speech’ and subjected to penal sanctions.

The use of the ICCPR Act to stifle freedom of speech and expression on the pretext of preventing incitement to violence has raised serious concerns.²¹ The abuse of the law has been seen in a number of arrests in recent years.²² In a bid to raise its

19 Rabat Plan of Action, para. 34.

20 Verité Research, *Ambiguity and Abuse: The Law on Hate Speech in Sri Lanka Briefing Note* (October 2019), p. 3.

21 ‘Abuse of ICCPR has “chilling effect” on fundamental rights’, *Sunday Observer*, June 16, 2019, <http://www.sundayobserver.lk/2019/06/19/news-features/abuse-iccpr-act-has-%E2%80%98chilling-effect%E2%80%99-fundamental-freedoms>.

22 ‘A case of selective enforcement’, *The Morning*, July 15, 2019, <https://www.themorning.lk/a-case-of-selective-enforcement>; ‘Sri Lanka: Charges Against Author Shakhthika Sathkumara Are Dropped’, *Freedom Now*, Feb 9, 2021, <https://www.freedom-now.org/sri-lanka-changes-against-author-shakhthika-sathkumara-are-dropped>; ‘Sri Lanka: Muslims Face Threats, Attacks Authorities Should Act Against Incitement by Buddhist Nationalists’, Human Rights Watch, July 3, 2019, <https://www.hrw.org/news/2019/07/03/sri-lanka-muslims-face-threats-attacks#:~:text=Abdul%20Raheem%20Masaheena%2C%20a%2047,Buddhist%20sacred%20symbol%2C%20the%20dharmachakra.&text=Such%20police%20abuses%20have%20long,Lanka%20but%20have%20remained%20unaddressed>; ‘Ramzy Razeek: An extraordinary struggle for an ordinary life of service upended by a Police arrest’, *Daily FT*, May 9, 2020, <http://www.ft.lk/opinion/Ramzy-Razeek-An-extraordinary-struggle-for-an-ordinary-life-of->

concern, in a letter to the Acting Inspector General of Police, the Human Rights Commission of Sri Lanka (HRCSL) noted that the interpretation of Section 3 of ICCPR Act must be carried out in light of the international jurisprudence on Article 20 of the ICCPR and, therefore, the decisive factor in incitement to violence is whether there was intention.²³

HRCSL also noted the lack of action taken by law enforcement agencies to apply the ICCPR Act to deal with ethno-religious violence.²⁴ HRCSL also recommended that the failure to enforce the ICCPR Act amounts to state inaction and even tacit state approval of hate speech.

The Penal Code, No. 2 of 1883

Section 120 of the Penal Code makes it an offence to ‘attempt to raise discontent or disaffection amongst the people of Sri Lanka or to promote feelings of ill-will and hostility between different classes of people’. The Supreme Court has held that the ‘essence’ of Section 120 ‘is whether the words in question incite the people to commit acts of violence and disorder and not whether the words are defamatory or not’.²⁵ Regardless, Section 120 has been relied on heavily to suppress expressions of discontent against the

[service-upended-by-a-Police-arrest/14-699917](https://www.hrcsl.org.lk/press-releases/service-upended-by-a-Police-arrest/14-699917).

23 Human Rights Commission of Sri Lanka, ‘Letter to the Acting Inspector General of Police’, May 23, 2019, <https://srilankabrief.org/wp-content/uploads/2019/09/HRCSL-letter-to-Acting-Inspector-General-of-Police.pdf>. The scope of intent as contained in the Rome Statute of the International Criminal Court adopted by the UN Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on 17 July 1998, in force since 1 July 2002 is as follows: Article 30 para. 2 of the Rome Statute: a) in relation to conduct, that a person means to engage in the conduct; b) [in relation to a consequence, that a person means to cause that consequence or is aware that it will occur in the ordinary course of events. A mens rea that is less than intent {such as recklessness or negligence} would not, therefore, meet the threshold of Article 20{2}.

24 This was seen in 2014 in Aluthgama, where there were no convictions for violence against Muslims. Nor were there convictions for similar violence in Gintota in 2017 and in Amapara and Kandy in 2018.

25 *Sisira Kumara Wahalathanthri and Another v. Jayantha Wickramaratne and Others*, SC(FR) Application 768/2009 (Supreme Court of Sri Lanka) judgment delivered on 5 November 2015, www.supremecourt.lk/images/documents/sc_fr_768_2009.pdf.

government.²⁶ This is reflected in the recent arrests for the spread of alleged false information in relation to COVID-19, including criticisms of government actions and for reports claiming that the President was infected with COVID-19 on Facebook.²⁷

Further, uttering words deliberately intended to wound religious feelings and deliberate and malicious acts intended to outrage the religious feelings of any class, by insulting its religion or religious beliefs are criminal offences under Sections 291A and 291B of the Penal Code. However, there is a lack of jurisprudence on sections 291A and 291B of the Penal Code.²⁸ This compounds the lack of clarity on the exact scope and interpretation of specific terms such as ‘outrage religious feelings’, in these provisions. Terms in these provisions which are not specifically defined can lead to misuse of the law and infringement of the freedom of expression, particularly when they are arbitrarily interpreted by law enforcement agencies.²⁹

Police Ordinance, No. 16 of 1865

The Police Ordinance vests the police with several powers to control situations where there is a threat to public peace and public order. Section 79(2) of the Police Ordinance grants the police the power to arrest a person without a warrant when any person in a public place or meeting uses ‘threatening, abusive or insulting words or behaviour intending to provoke a breach of the peace or where the breach of the peace is likely to be occasioned’. Section 98 of the

²⁶ See ‘Penal Code is being used fraudulently: JVP’, *Daily Mirror*, February 22, 2012, https://www.dailymirror.lk/breaking_news/penal-code-is-being-used-fraudulently-jvp/108-17020 [last accessed 29 April 2020]. See also Article 19, ‘An Agenda for Change: the right to freedom of expression in Sri Lanka, 27 October 1994, at <https://www.refworld.org/publisher.ART19..LKA.475418a40.0.html> [last accessed 29 April 2020], p. 26, which refers to a case in 1992 when section 120 was used to ‘silence peaceful criticism’.

²⁷ ‘Sri Lanka government intensifies crackdown on social media’, *World Socialist Web Site*, April 9, 2020, <https://www.wsws.org/en/articles/2020/04/09/medi-a09.html>.

²⁸ Confronting Accountability for Hate Speech in Sri Lanka (CPA 2018), op. cit., p. 30-35.

²⁹ This is reflected in the arrest of Shakthika Sathkumara over his fictional short story, *Ardha*, about sexual abuse involving a member of the Buddhist clergy. He was arrested under Section 3 of the ICCPR Act as well as Section 291 of the Penal Code.

Ordinance provides that any person who spreads false reports with the view of alarming the inhabitants of any place within Sri Lanka and creating ‘a panic’ will be guilty of an offence.³⁰

Public Security Ordinance, No. 25 of 1947

The Public Security Ordinance (PSO) provides for the enactment of emergency regulations or other measures in the interests of public security and the preservation of public order and for the maintenance of supplies and services essential to the life of the community. Following the Easter Sunday attacks of April 2019, the government declared a state of emergency and issued new emergency regulations. There were instances of abuse of the regulations during this period which This included several Muslim men been taken into custody for owning a copy of the *Quran* and, in a spate of false charges, for attending a prayer session.³¹

Regulation 32 of the PSO states that ‘no person shall, by word of mouth or by any other means whatsoever, communicate, disseminate or spread any rumour or false statement which is likely to cause public alarm or public disorder’.³² News reports suggested that any propaganda or misleading information could be penalised under the 2019 emergency regulations.³³ It was also reported that a special investigation unit had been established to identify and enforce the law against individuals who spread extremist content on social media that incited hatred amongst

30 The punishment is ‘a fine not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for any period not exceeding twelve months; and if he shall be convicted a second time, or shall persist in the offence after warning to desist, he shall be liable to corporal punishment not exceeding twenty lashes’. Note: A sentence of whipping as a punishment was repealed through section 3 of Corporal Punishment (Repeal) Act, No. 23 of 2005.

31 Marisa de Silva, *PTA: Terrorising Sri Lanka For 42 Year, Socio-Economic and Psychological Impact on Families of PTA Detainees Following the Easter Sunday Attacks*, (Law & Society Trust, Colombo, 2020), https://lstlanka.org/images/publications/reports/2020/PTA_Terrorising-Sri-Lanka-for-42-years-English.pdf.

32 Extraordinary Gazette No. 2120/5, issued on 22 April 2019, <http://documents.gov.lk/en/exgazette.php> [last accessed 17 April 2020].

33 ‘Desist from fake propaganda activities, warns Defence Ministry’, *Daily News*, April 29, 2019, <http://www.dailynews.lk/2019/04/29/local/184092/desist-fake-propaganda-activities-warns-defence-ministry>.

communities.³⁴ Publishing or even sharing such content was reportedly considered an offence.

These restrictions were said to amount to ‘excessive regulation’ of the media.³⁵ The emergency regulations also granted the security services extensive powers to detain and question suspects without court orders for up to 90 days.³⁶

Prevention of Terrorism (Temporary Provisions) Act (PTA), No. 48 of 1979

Section 2(1) (h) of the Prevention of Terrorism Act makes it an offence for any person to cause or intend to cause the ‘commission of acts of violence or religious, racial or communal disharmony or feelings of ill-will or hostility between different communities or racial or religious groups’.³⁷ The Act also penalises persons who abet, conspire, or incite the commission of offences identified in Section 2.³⁸ Furthermore, Section 14 prevents the publication of any matter which would cause disharmony or hostility between people without the approval of a competent authority.

The Act gives broad powers to law enforcement officials in relation to the powers of entry, search, seizure, and arrest and detention orders. The Act remains inconsistent with international human rights law.³⁹ Yet, the state has yet to repeal the legislation and enact a new counter-terrorism law.⁴⁰

³⁴ ‘Police to establish special unit to penalise social media users who spread content inciting communal hatred’, *Sunday Times*, May 13, 2019, <http://www.sundaytimes.lk/article/1087840/police-to-establish-special-unit-to-penalise-social-media-users-who-spread-content-inciting-communal-hatred>.

³⁵ ‘Amid gov’t disarray, Sri Lanka emergency powers ‘ripe for abuse’ *Al Jazeera*, April 26, 2019, <https://www.aljazeera.com/news/2019/4/26/amid-govt-disarray-sri-lanka-emergency-powers-ripe-for-abuse>.

³⁶ US Embassy, ‘Sri Lanka 2019 Human Rights Report’, <https://lk.usembassy.gov/wp-content/uploads/sites/149/SRI-LANKA-2019-HUMAN-RIGHTS-REPORT.pdf>.

³⁷ This could be by words, signs, visible representations or otherwise.

³⁸ Section 3, Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979 (PTA).

³⁹ N. Manoharan, *Counterterrorism Legislation in Sri Lanka: Evaluating Efficacy*, *Policy Studies 28* (East-West Center, Washington, 2006), <https://www.files.ethz.ch/isn/35329/PS028.pdf>.

⁴⁰ European Parliament, ‘Motion for Resolution’, https://www.europarl.europa.eu/doceo/document/B-9-2021-0358_EN.html.

Computer Crimes Act, No. 24 of 2007

The Computer Crimes Act (CCA) defines what constitutes computer crimes and provides for the procedure for the investigation and prevention of such crimes. It is an offence under the CCA for a person to intentionally cause a computer to perform any function, knowing or having reason to believe that such a function will result in danger or imminent danger to national security, the national economy, or public order. Therefore, where a person uses a computer to create or share content that advocates national, religious, or racial hatred constituting incitement to hostility or violence, such person shall be guilty of an offence. All offences are cognisable and are investigated under the provisions of the Code of Criminal Procedure Act, No. 15 of 1979.⁴¹ The CCA vests powers in the police to make arrests⁴² and also to carry out searches and seizures with a warrant.⁴³

Findings

Ethno-religious violence online

The incidents logged during the period of monitoring and analysis take place in a background of increased anti-Muslim hate speech on mainstream media and social media platforms. On any given day, certain social media pages and even mainstream print and electronic media could be found engaging in reporting or publishing content that was either openly violent speech against ethno-religious minorities or contained phrasings that contribute to the existing damaging stereotypes about the said communities. There was also widespread disinformation, especially rumours and conspiracy theories that fed into these already existing tensions.

The 2014 Aluthgama riots⁴⁴ were one of the first large violent incidents of its scale where social media's role in perpetuating

41 Sections 15 and 16, CCA.

42 Section 21, CCA.

43 Section 18, CCA.

44 Ayeshea Perera, 'Aluthgama Riots: Social Media Breaks SL Media's Shameful Silence', *First Post*, June 17, 2014, <https://www.firstpost.com/world/social-media-breaks-sl-medias-shameful-silence-on-aluthgama-riots-1572793.html>.

ethno-religious incitement to violence and discrimination, and the use of such tools to mobilise violence in real time has been documented.⁴⁵ Since those riots, Sri Lanka has experienced incidents of ethno-religious tension and violence, before and after which there has been widespread circulation of both incitements to violence and inflammatory and violent speech targeting the Muslim community on social media.

The Easter Sunday attacks

On 21 April 2019, Sri Lanka witnessed a series of well-planned, coordinated suicide bombings which left 269 people dead and close to 500 injured. The targets of the attacks were churches where devotees had congregated for Easter services and luxury hotels. All seven attackers were Sri Lankan citizens, associated with a hitherto largely unknown militant Islamist group named National Thowheeth Jama'ath (NTJ).

The Sri Lankan government blocked all social media for around 10 days in the immediate aftermath of the Easter Sunday bombings.⁴⁶ Following the attacks, Sri Lankan Muslims were essentialised by some as *ipso facto* co-conspirators and collaborators in the attacks by virtue of their sharing the Muslim identity with the attackers. In the weeks following the attacks, a young Muslim man's comment on a Facebook post was misinterpreted as a threat to violence, leading to mobs vandalising, desecrating and burning Muslims' places of worship, residences, and Muslim-owned businesses in several localities in the North-Western Province.⁴⁷ That was a clear example of how online behaviour can spur offline violence.⁴⁸

45 Shilpa Samararatunge and Sanjana Hattotuwa, *Liking Violence: A Study of Hate Speech on Facebook in Sri Lanka* (Centre for Policy Alternatives, Colombo, September 2014), <https://www.cpalanka.org/wp-content/uploads/2014/09/Hate-Speech-Final.pdf>.

46 Matt O'Brien and Stephen Wright, 'Sri Lanka Blocks Social Media After Easter Sunday Bombings', *The Diplomat*, April 22, 2019, <https://thediplomat.com/2019/04/sri-lanka-blocks-social-media-after-easter-sunday-bombings>.

47 'Sri Lanka Blocks Social Media after Facebook Post Sparks Anti-Muslim Riot', *NDTV*, May 13, 2019, <https://www.ndtv.com/world-news/sri-lanka-blocks-social-media-after-worst-unrest-since-easter-bombings-2036732>.

48 The damage in May 2019 is estimated to include the destruction of 14 mosques, 86 houses, and 96 shops, with at least one dead and several injured.

The terror attacks were used as grounds for a crackdown on the Muslim community.⁴⁹ This included a temporary ban on any type of face covering that prevented or hindered facial identification.⁵⁰ A notable incident was the accusations against Dr S.S.M. Shafi of sterilising 4000 Sinhalese women. Dr Shafi was arrested under the PTA on suspicion of illegally amassing wealth. However, after two months' detention, Dr Shafi was released on bail as national police investigators told the court they have found no evidence of any of the charges made against Dr Shafi and accused the local police, the magistrate, and hospital officials of falsifying documents.⁵¹

There were also demands that asylum-seekers from Muslim-majority countries—a population consisting of Christians and Muslims victimised by Islamic extremists such as the Taliban—be sent back to their countries of origin.⁵²

COVID-19-related anti-Muslim sentiment

The outbreak and spread of the COVID-19 pandemic in Sri Lanka in 2020 led to an intensification of anti-Muslim rhetoric, disinformation, and harassment online.⁵³ The increasing normalisation of anti-Muslim sentiment as well as the widespread circulation of rumours and conspiracies against the Muslim community inten-

49 'Human Rights Commission issues guidelines to acting IGP on arbitrary arrest', *EconomyNext*, July 3, 2019, <https://economynext.com/human-rights-commission-issues-guidelines-to-acting-igp-on-arbitrary-arrests-43723/>; International Crisis Group, 'After Sri Lanka's Easter Bombings: Reducing Risks of Future Violence', <https://www.crisisgroup.org/asia/south-asia/sri-lanka/302-after-sri-lankas-easter-bombings-reducing-risks-future-violence>.

50 'Sri Lanka attacks: Face coverings banned after Easter bloodshed', *BBC News*, April 29, 2019, <https://www.bbc.com/news/world-asia-48088834>.

51 'Sri Lanka magistrate grants bail to illegally detained Muslim doctor', *EconomyNext*, July 25, 2019; 'Dr. Shafi to file damages against "witch-hunters"', *The Sunday Observer*, August 4, 2019. Sri Lanka's top obstetricians have cast doubt on the accusations against Dr Shafi. 'Delving into "Sterilisation Story"', *Daily Mirror*, June 7, 2019.

52 Ruki Fernando, 'Refugee crisis in Sri Lanka after the Easter Sunday bombings', *Groundviews*, May 4, 2019, <https://groundviews.org/2019/05/04/refugee-crisis-in-sri-lanka-after-the-east-sunday-bombings>.

53 Dilanthi Ameratunga et al., 'The COVID-19 Outbreak in Sri Lanka: A Synoptic Analysis Focusing on Trends, Impacts, Risks and Science-Policy Interaction Processes', *Public Health Emergency COVID-19 Initiative*, November 11, 2020, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7836425>.

sified accusations against the community for the spread of the coronavirus.

The government's decision during the first wave of the COVID-19 pandemic to cremate bodies of all those who had passed away, irrespective of whether they were infected with the coronavirus or not, disproportionately affected the Muslim community.⁵⁴ Anti-Muslim rhetoric online was recorded reaching a peak following a statement issued by the leader of the Sri Lanka Muslim Congress, Rauff Hakeem, against the cremation of the second victim of COVID-19, who was a Muslim.⁵⁵

A report on social media of an incident in which an individual had visited a temple in Kekirawa and coughed on the face of a Buddhist monk⁵⁶ trended on Facebook in the last week of April and had a total of 160 posts amounting to around 14,000 interactions. Many observations on the incident suggested that it was a 'bio-terrorist move by a Muslim national' who had entered the temple by force and subsequently fled the scene even though there was no mention of the ethnic or religious background of the suspect in the police complaint filed by the monk. In April 2020, the chairperson of the Public Health Inspectors' (PHI) Union of Sri Lanka suggested that the spread of COVID-19 could be attributed to three individuals from three Muslim-majority areas in Sri Lanka (i.e. three Muslims), which attracted significant attention on social media.⁵⁷

The behaviour of mainstream media platforms along with the statements made by prominent figures fuelled anti-Muslim sentiments.⁵⁸ By the end of the first week of April 2020, there

54 'Distressing cremation of Muslim COVID-19 victims', *Daily FT*, November 6, 2020, <https://www.ft.lk/opinion/Distressing-cremation-of-Muslim-COVID-19-victims/14-708520>.

55 Yohan Perera and Ajith Siriwardana, 'Civic Resistance If Govt. Does Not Allow Burial of Muslim COVID-19 Victims: Hakeem', *Daily Mirror*, April 23, 2021, http://www.dailymirror.lk/breaking_news/Civic-resistance-if-Govt-does-not-allow-burial-of-Muslim-COVID-19-victims-Hakeem/108-201586.

56 <http://www.colombotoday.com/ganewalpola-temple-kekirawa-2020-4-25>.

57 Ayesha Zuhair, 'Disinformation Is Damaging Sri Lanka's COVID-19 Response', *Daily FT*, April 13 2020, <http://www.ft.lk/columns/Disinformation-is-damaging-Sri-Lanka-s-COVID-19-response/4-698822>.

58 Omar Suleiman, 'Like India, Sri Lanka is using coronavirus to Stigmatise Muslims', *Coronavirus Pandemic News | Al Jazeera*, <https://www.aljazeera.com/opinions/2020/5/20/like-india-sri-lanka-is-using-coronavirus-to-stigmatise->

were 4,800 posts on Facebook around various themes based on anti-Muslim keywords including that of statements made on the compulsory burials,⁵⁹ and Muslims being categorised as bio-terrorists⁶⁰ and ‘super spreaders’⁶¹ of the virus. These posts garnered 292,500 interactions in total. In comparison to the figures from the last week of March (2,400 posts, 234,000 interactions), there was a relatively higher number on both posts and interactions in April.

The resurgence of the COVID-19 pandemic in October 2020 was attributed to a cluster of cases arising out of apparel factories belonging to Brandix Apparel Limited.⁶² Amidst concerns and criticism regarding the emergence of the ‘Brandix Cluster’, there was widespread anti-Muslim content on social media, which targeted Muslim members of the senior management team of the company. Some of the content circulated suggested that they were ‘more evil than Zahran’, referring to the alleged leader of the group that perpetrated the Easter Sunday Attacks of 2019.

Mandatory cremation policy

On March 30, 2020, the first Muslim to die of COVID-19 was cremated in Negombo.⁶³ Until this date, the Ministry of Health

muslims; S. Qazi, & A. Thasleem, ‘Anguish As Sri Lanka Forces Muslims to Cremate COVID-19 Victims’, Coronavirus Pandemic News | *Al Jazeera*, April 3, 2020, <https://www.aljazeera.com/news/2020/4/3/anguish-as-sri-lanka-forces-muslims-to-cremate-covid-19-victims>.

59 Arjuna Ranawana, ‘Hakeem Calls Cremation of Muslim COVID19 Victim “Reprehensible”’, *EconomyNext*, March 31, 2020, <https://economynext.com/hakeem-calls-cremation-of-muslim-covid19-victim-reprehensible-63220/>.

60 ‘කැකිරුවහිමිනමකඩදාගෙනමුණටකැප්පුද්ගලයාපිළිබඳපොලීසියවිමර්ශකරයි’, *NewsNow*, April 25, 2020, <https://www.newsnow.lk/news/2020/04/25/kakiruvahimithanamakadagayenamunonokapappuddegayalayaapilidabedepolisiyavimorshakarisi>.

61 Meenakshi Ganguly, ‘Sri Lankan Officials Stoke Covid-19 Communal Hate’, Human Rights Watch, May 19, 2020, <https://www.hrw.org/news/2020/05/19/sri-lankan-officials-stoke-covid-19-communal-hate>.

62 ‘Brandix Cluster Passes 1,000 Confirmed Cases In Sri Lanka’s Biggest COVID-19 Outbreak Yet’, *EconomyNext*, October 7, 2020, <https://economynext.com/brandix-cluster-passes-1000-confirmed-cases-in-sri-lankas-biggest-covid-19-outbreak-yet-74514>.

63 Research Interview with family of the deceased, September 2020 by Amalini De Sayrah

webpage had listed burial as a safe option for COVID-19 victims. The revised rules, in the form of a Gazette, making cremation mandatory, was only made public on April 11, 2020. Shreen Saroor, an activist working closely with Muslim families who were forced to cremate loved ones, wrote that ‘the speed of the change and the overnight removal of the previous guideline suggests it was done to justify the wrongdoing on the 30th’, referring to the cremation.⁶⁴

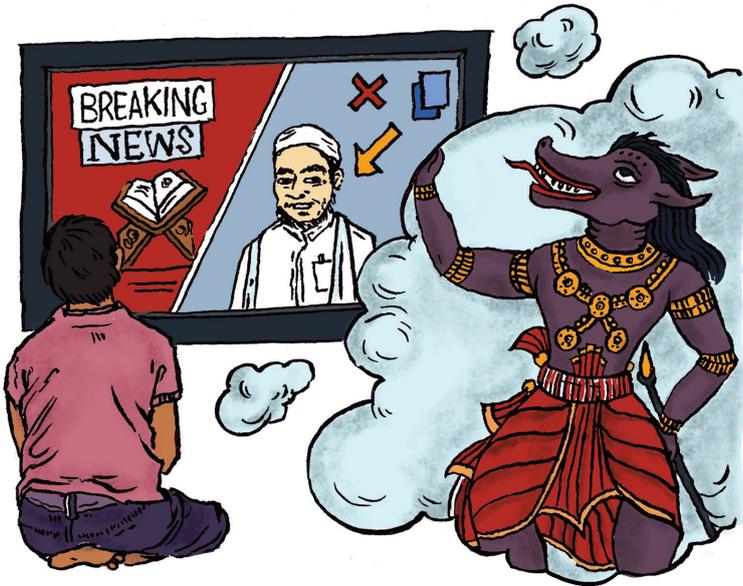
The decision of mandatory cremation for all victims of COVID-19 was taken by the state despite protests from the Muslim community that cremation was a violation of Islamic burial practices.⁶⁵ The World Health Organization had permitted either burials or cremations for those who died from coronavirus infection as best practices.⁶⁶ The mandatory cremation policy has since been at the centre of anti-Muslim narratives related to the COVID-19 pandemic.⁶⁷ The existing narratives, in both online and offline spaces, were that there was an ‘Islamic invasion’ in Sri Lanka with the Muslim community seeking to establish a demographic majority in the island through ‘sterilisation’ and ‘invasion’ of the Sinhala motherland, were intensified to include content that alleged that the Muslim community is ‘always asking for special treatment’, ‘Muslims are not willing to make any sacrifices during a national emergency’, and that ‘President Gotabhaya Rajapaksa has a democratic mandate from 6.9 million Sri Lankans that voted for him during the 2019 presidential election to continue the mandatory cremation policy as this is what his constituents

64 Shreen Abdul Saroor, ‘Scapegoating the Muslims: From Aluthgama to Post-Easter Sunday to Covid-19’, *EconomyNext*, May 14, 2020, <https://economynext.com/scapegoating-the-muslims-from-aluthgama-to-post-easter-sunday-to-covid-19-69929>.

65 ‘Sri Lanka Makes Cremations Compulsory for Coronavirus Deaths’, *Al Jazeera*, April 12, 2020, <https://www.aljazeera.com/news/2020/4/12/sri-lanka-makes-cremations-compulsory-for-coronavirus-deaths>.

66 ‘Infection Prevention and Control for the Safe Management of a Dead Body in the Context of Covid-19’, World Health Organization, 2020, https://apps.who.int/iris/bitstream/handle/10665/331538/WHO-COVID-19-IPC_DBMgmt-2020.1-eng.pdf.

67 Office of the High Commissioner for Human Rights, OHCHR, ‘Sri Lanka: Compulsory Cremation of COVID-19 Bodies Cannot Continue, say UN Experts’, January 25, 2021, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26686&LangID=E>.



desire'.⁶⁸ A doctor even went on record stating that Muslims wanted to bury COVID-19 victims' bodies so that they could later be used as a bio-weapon.⁶⁹

The unscientific rationale for the policy was amplified across social media and in mainstream print and electronic media. The presence of mainstream players such as Derana and HiruTV on social media increased their reach in amplifying the voice of individuals who were spreading misinformation around the possible impact of the burial of COVID-19 victims.⁷⁰ The two spaces fed off each other to increase doubts among the population around the viability of burials. A video⁷¹ created by Professor Malik

⁶⁸ <https://www.facebook.com/kolabinratawenaskaramuda/posts/198919815213593>.

⁶⁹ 'Small fear whether the dead bodies with the virus can be used as biological weapons - Dr. Channa Perera tells BBC', *Lanka Leader*, April 16, 2020, <https://english.theleader.lk/news/690-small-fear-whether-the-dead-bodies-with-the-virus-can-be-used-as-biological-weapons-dr-channa-perera-tells-bbc>.

⁷⁰ Ada Derana, 'Burying COVID-19 victims adversely affects environment geology expert tells court', <http://www.adaderana.lk/news/64508/burying-covid-19-victims-adversely-affects-environment-geology-expert-tells-court>.

⁷¹ Virologist Prof. Malik Peiris on the burial of COVID-19 victims in Sri Lanka and its implications <https://youtu.be/ZyDQOpivrHY>.

Peiris,⁷² A virologist, explaining the possibility of burials, slowly began to gain traction across both spaces, where it was quoted by those producing content on social media and even in mainstream media as ‘expert opinion’.

Two expert committees to assess the issue were appointed, with one ruling that cremations should remain compulsory.⁷³ However, experts from the scientific community, including the Sri Lanka Medical Association, the College of Community Physicians of Sri Lanka, and the second expert panel appointed by the Ministry of Health subsequently confirmed that both cremation and burial are acceptable in accordance with the recommendations of the World Health Organization.⁷⁴

In response to the mandatory cremation policy and, in particular, the cremation of a 20-day-old infant, against the wishes of the parents, there has been organised dissent by Muslim community organisations, their allies, and civil society groups.⁷⁵ This includes a campaign to tie white handkerchiefs at the entrance of the Borella Kanaththa Crematorium in Colombo.⁷⁶

72 Hong Kong University, ‘Joseph Sriyal Malik Peiris: Biography’, 2021, <https://sph.hku.hk/en/Biography/Peiris-Joseph-Sriyal-Malik>.

73 ‘Only cremation covid dead permitted Minister’, *Daily News*, January 8, 2021, <http://www.dailynews.lk/2021/01/08/local/238237/only-cremation-covid-dead-permitted-minister>.

74 ‘Sri Lanka Can Bury its Covid Victims’, *NewsFirst*, January 3, 2021, <https://www.newsfirst.lk/2021/01/03/sri-lanka-can-bury-covid-19-victims-slma>; ‘CCPSL Says, No Solid Evidence Indicating Burial of Covid-19 Victims Increases Spread of Virus’, *Daily FT*, January 1, 2021, <http://www.ft.lk/news/CCPSL-says-no-solid-evidence-indicating-burial-of-COVID-19-victims-increases-spread-of-virus/56-710986>; ‘Cremation Vs. Burial: Expert Panel Revises Recommendation to Include Both Cremation And Burial of Covid-19 Dead Bodies’, *Colombo Telegraph*, January 2, 2021, <https://www.colombotelegraph.com/index.php/cremation-vs-burial-expert-panel-revises-recommendation-to-include-both-cremation-and-burial-of-covid-19-dead-bodies>.

75 ‘Covid-19: Sri Lanka Forcibly Cremates Muslim Baby Sparking Anger’, *BBC*, December 26, 2020, <https://www.bbc.com/news/world-asia-55359285>; ‘Sri Lanka: Covid-19 Forced Cremation of Muslims Discriminatory’, *reliefweb*, 18.2021, <https://reliefweb.int/report/sri-lanka/sri-lanka-covid-19-forced-cremation-muslims-discriminatory>.

76 ‘White Handkerchiefs Tied Around The Gate of Borella Cemetery to Commemorate Forced Cremation Of 20-Day Infant Removed Overnight’, *Asian Mirror*, December 14, 2020, <https://asianmirror.lk/news/item/32647-white-handkerchiefs-tied-around-the-gate-of-borella-cemetery-to-commemorate-forced-cremation-of-20-day-infant-removed-overnight>.

This form of silent protest tying a piece of white clothing around the wrists, on gates of people's homes, and at the entrance of some government offices was also adopted in other parts of the country and was documented almost entirely on social media.⁷⁷ The hashtag #StopForcedCremations, for the ongoing wider conversation around the issue, recorded over 2,000 posts on Facebook. On the other hand, it was also reported that the Sri Lanka Police removed the white handkerchiefs, violating the right to peaceful protest.

The announcement by Prime Minister Mahinda Rajapaksa in February 2021 that burials of COVID-19 victims would be allowed and the subsequent publication of an Extraordinary Gazette notification officially allowing the burial of COVID-19 victims led to further anti-Muslim content that was mainly observed on YouTube.⁷⁸ While most Muslim users welcomed the move, many others criticised it, citing it as a deviation of the government's 'one country one law' concept. Several pages and groups posted satirical posts suggestive of the opposition mocking this decision, which only fuelled anti-Muslim backlash.

Interaction between harmful speech and dis/misinformation

Content that is classified as harmful speech can often take the form of dis/misinformation. For example, anti-Muslim rumours masquerading as 'facts' can be considered to be a form of hate speech. These are mostly fabricated claims rooted in ethno-nationalism and discrimination. One narrative of ethno-nationalism is that Muslims are sterilising women of the majority Sinhala community through food served or clothing items sold at Muslim-owned businesses.⁷⁹ Another common piece of disinformation is around

⁷⁷ <https://twitter.com/Amaliniiii/status/1339097556702404608>.

⁷⁸ 'Sri Lanka to Allow COVID Burials for Muslims after Outcry', *Al Jazeera*, February 10, 2021, <https://www.aljazeera.com/news/2021/2/10/sri-lanka-allows-first-covid-burial>; 'Gazette Published Allowing Burial of Covid-19 Victims', *Ada Derana*, February 25, 2021, <http://www.adaderana.lk/news/71873/gazette-published-allowing-burial-of-covid-19-victims>.

⁷⁹ 'When The Uneducated Are... Nourished on A Diet of Myths And "Infertility Pills"', *Daily Mirror*, March 23, 2018, <http://www.dailymirror.lk/expose/When-the-uneducated-are-Nourished-on-a-diet-of-myths-and-infertility-pills/333-147668>; 'Women's Bodies, Masculinities and Economic Insecurities',

the growth of the Muslim population in recent years, and how they are attempting to outnumber the Sinhalese in the country.⁸⁰ These two myths are coupled with prejudices that ‘shrewd’ Muslims are successful in their business ventures.⁸¹

During the COVID-19 pandemic, in April 2020, many local news sites, especially ‘gossip pages’ reported that the Governor of the Emirate of Sharjah, in the United Arab Emirates (UAE), has ‘banned burials of those who die of COVID-19’. This ‘news’⁸² was shared widely along with captions suggesting that Sri Lankan Muslims are making ‘unreasonable’ demands to bury their dead when even ‘Muslim countries’ are being more ‘accommodating’. However, the UAE embassy in Colombo subsequently clarified that the restriction on burials was only imposed in a specific area ‘due to the lack of space’ but no blanket ban had been imposed.⁸³

In December 2020, a video featuring a popular biology tuition teacher discussing ‘the COVID-19 virus’s potential to transmit itself via dead bodies’ was widely viewed.⁸⁴ The teacher is a well-known figure with a large social media following, particularly among young people-as of January 31, 2021, his Facebook page had 576,937 likes and his YouTube Channel had 486,000 subscribers. By the end of January, the video in question had recorded over 370,700 views on Facebook and 216,824 views on YouTube. Of the reactions to the video on Facebook, the vast majority were positive with over 13,000 ‘likes’ and 2000 ‘heart’ reactions. His status as a teacher gave him what many regard as an authoritative voice, enabling

Daily FT, March 22, 2018, <http://www.ft.lk/columns/Women-s-bodies--masculinities-and-economic-insecurities/4-651751>.

80 Srinivas Mazumdaru, ‘Islamophobic Narratives’ Inflamm Sri Lanka Communal Tensions’, *Deutsche Welle* (DW), March 7, 2018, <https://www.dw.com/en/islamophobic-narratives-inflame-sri-lanka-communal-tensions/a-42868563>.

81 Deepanjali Abeywardana, ‘Muslims and Market Monopolies: Unpacking a Prejudice’, *Groundviews*, April 21, 2021, <https://groundviews.org/2021/04/21/muslims-and-market-monopolies-unpacking-a-prejudice>.

82 <https://www.facebook.com/groups/690018724851269/>
[permalink/1043985379454600](https://www.facebook.com/groups/690018724851269/permalink/1043985379454600)

83 UAE Embassy Denies Reports of Banning the Burial of COVID-19 Victims’, *The Morning*, April 6, 2020, <https://www.themorning.lk/uae-embassy-denies-reports-of-banning-the-burial-of-covid-19-victims>.

84 <https://www.facebook.com/348830071892457/posts/3612091628899602>.

disinformation to legitimise anti-Muslim hate speech related to the ‘burial controversy’.

Online hate speech as a reaction to mainstream media reports

Online and offline violence act in a vicious cycle, reinforcing each other, and strengthening existing biases against minority communities. The example below about a Muslim-majority village named Atalugama from Kalutara District demonstrates how dangerous speech emerges and proliferates online as a reaction to news reports from mainstream media platforms.

In March 2020, media reports on Atalugama highlighted that the village had been put under lockdown after family members of a COVID-19 patient from the area were showing symptoms of having contracted the virus, drawing a violent reaction online. Similarly, media reports emerged in May that a group of journalists covering Eid celebrations in Atalugama were assaulted by some residents of the area, drawing responses that included inflammatory speech. In October, mainstream media reported that a group of residents had attacked some police officers on duty, drawing a similar reaction online. In December, there was more hate online when reports emerged that the residents of Atalugama were ‘not cooperating’ with the decisions taken by the government to control COVID-19 pandemic. These reports included a statement by a public health inspector that he was ‘spat on’ by a resident of the village.⁸⁵

Dis/misinformation leading to racial tensions around elections

Dis/misinformation with the potential to cause racial tension, hate speech/derogatory speech promoting ethno-nationalism, and coordinated disinformation campaigns were prevalent during the presidential election of 2019 and the parliamentary election of 2020. Some examples of this are discussed below.

⁸⁵ ‘COVID-19 patient who spat on PHI’s face, arrested and remanded’, *NewsFirst*, December 4, 2020, <https://www.newsfirst.lk/2020/12/04/covid-19-patient-who-spat-on-phis-face-arrested-and-remanded>.

Dis/misinformation amplified with paid advertising

In the run-up to the 2019 presidential election, false news updates were amplified, using paid advertising on Facebook. Some of these narratives also had the potential to cause racial tensions. A key example of this was the controversy surrounding the Tamil parliamentarian, M.A. Sumanthiran. In this incident, mainstream newspapers such as *Mawbima* and *Ceylon Today* carried headline stories on their front pages attributing Sumanthiran with the statement, ‘The Sinhalese can be defeated only by voting for Sajith [Premadasa, the president’s opponent].’ Extracts of the said ‘news’ report were widely shared online and were also promoted using sponsored Facebook advertisements. MP Sumanthiran has since denied that he made such a statement and submitted official complaints to the National Elections Commission (NEC) and the Acting Inspector General of Police and also sent letters demanding retraction of the ‘news’ to the newspapers concerned.⁸⁶

Going into the parliamentary election of 2020, the content and nature of the false news narratives disseminated were more. False news narratives focused on discrediting the NEC, making controversial allegations against a member of the NEC, targeting opposing parties and candidates as well as religious leaders. An analysis of the ‘creators’ of false news based on the data captured through this monitoring exercise showed an overwhelming majority of false news originating from supporters of the ruling Sri Lanka Podujana Peramuna, accounting for nearly 72 per cent of the total.

Hate speech

Before and after the presidential election, hate speech/derogatory speech from ethno-nationalist pages targeting minorities, especially Muslim and Tamil politicians, received substantial traction, including allegations of links between Muslim politicians and the perpetrators of the 2019 Easter Sunday attacks. The attacks

⁸⁶ Sumanthiran Files Complaint Over “Fake News” In Sri Lankan Newspapers’, *Tamil Guardian*, April 23, 2021, <https://www.tamilguardian.com/content/sumanthiran-files-complaint-over-%E2%80%98fake-news%E2%80%99-sri-lankan-newspapers>.

themselves were regularly invoked, either through physical posters bearing the date, asking ‘Remember 21/4?’, or in social media posts bearing photos of the carnage.

Hate speech content recorded during the parliamentary election was lower than during the presidential election, with both a lower volume and extent of interactions. However, the nature and content of hate speech was far more overt. Reliance on hate speech formed the entirety of campaign platforms of certain candidates, with a marked increase in the spread of naked ethno-nationalist sentiments. In contrast to the relatively peaceful and calm parliamentary election campaign on the ground the online rhetoric was divisive and sometimes hateful.

The vast majority of online hate speech was anti-Muslim. Some of these narratives were directed at specific Muslim candidates, with much of that based on perceived fears of ‘Muslim expansionism’ and the ‘theft’ of ‘our’ natural resources and opportunities by ‘them’. Such narratives were often accompanied with exclusionary ‘calls to action’ such as calls to boycott Muslim-owned businesses and calls for a ban on Islamic religious institutions (such as madrasas) and symbols (such as face veils).⁸⁷ One example is of Athuraliye Rathana Thero and Galabadaaththe Gnanasara Thero, members of the political party Ape Jana Bala Pakshaya/Our Power of People Party, who handed over a letter titled ‘Nullifying social divisions triggered by religious extremism’ to the All Ceylon Jamiyyathul Ulama (ACJU), stating ‘that the activities of the ACJU’ were ‘responsible for the surge in recent mistrust and disharmony between communities’. The monks also called for a ban of the burqa, madrasas, and Qazi courts as they are ‘incompatible with Sri Lankan law’. Further, the monks issued a threat that they would call for a boycott of Muslim-owned businesses if they do not receive a favourable response to their demands.⁸⁸

Amith Weerasinghe, widely identified as a key organiser of the violence against the Muslim community in the Kandy district in

⁸⁷ Lanka: Social Media and Electoral Integrity’, Hashtag Generation, 2020, https://drive.google.com/file/d/1qQKubeK1HtAtom3J5v2BKoQ5hToH9ma_/view.

⁸⁸ Ibid.

2018,⁸⁹ represented an independent group and stated that there was a ‘Muslim invasion’ of Sri Lanka underway and that the Muslim ‘other’ has been making economic gains while the Sinhalese and Tamils were distracted with the 30-year-long ethnic conflict. Sri Lanka Podujana Peramuna (SLPP) Gampaha District candidate, Madu Madhawa Aravinda, gave a series of interviews and statements that were widely shared over Facebook and YouTube, inciting violence against the Muslim community.

While results were being announced, there were two noteworthy prevalent trends of hate speech.⁹⁰ First, when initial results showed that Sajith Premadasa was ahead of Gotabaya Rajapaksa in the Negombo electoral district, several posts referred to the bomb detonated at St Sebastian’s Church there with pages supporting Rajapaksa stating that ‘they hadn’t been bombed enough’ and that the people of Negombo were ‘as bad as the suicide bombers responsible for the attacks’ for voting for Premadasa. Second, when the final results showed that Premadasa had overwhelmingly won the Northern and Eastern provinces, which are populated by mainly Tamil and Muslim communities, the posts compared the election maps to the proposed map of the state of ‘Tamil Eelam’ offered by Tamil nationalist parties and the defeated Liberation Tigers of Tamil Eelam (LTTE), and made claims that Premadasa had the support of ‘separatists’.

Coordinated disinformation campaigns and inauthentic behaviour

‘Coordinated inauthentic behaviour’ is where several pages were seen to be amplifying a single harmful narrative.⁹¹ It was observed that certain pages and groups published the same or related posts

⁸⁹ Weerasinghe posted a video where he was walking through the town of Digana, pointing out how many Muslim-owned shops there were and asking Sinhala Buddhists to do what was needed to defend their nation. This video had been posted immediately before the anti-Muslim riots in Kandy of 2018. His Facebook account was subsequently banned but he still maintains a strong YouTube presence.

⁹⁰ Interview with social media monitors at an election monitoring watchdog.

⁹¹ Nathaniel Gleiche, ‘Coordinated Inauthentic Behavior Explained’, December 6, 2018, <https://about.fb.com/news/2018/12/inside-feed-coordinated-inauthentic-behavior>.

at the same time amplifying each other's contents. The content focused on key political issues, with targeted and well-coordinated campaigns aimed at spreading inauthentic content. In addition to coordinated posts, bots (applications that perform automated tasks) and inauthentic accounts were also used to fuel ethnic tensions. For instance, bot accounts with seemingly Muslim names were used to make 'laugh reactions' on news updates of national significance (such as the crash of a Sri Lanka Air Force aircraft).⁹²

Whilst the majority of anti-Muslim hate speech was directed at the Muslim community in general, Minister of Justice and President's Counsel Ali Sabry was the main individual target of anti-Muslim hate speech (described below), as part of a pattern of coordinated inauthentic behaviour.⁹³ On January 12, 2021, a number of Facebook pages, including one named Thambapanni, with close to 60,000 followers and administered from Sri Lanka, Australia, and the United Arab Emirates, began circulating an image alleging that Minister Sabry was beginning a 'Jihad police' in Sri Lanka. Within hours, several individual Facebook profiles began to share this image on Facebook groups. Later, the same day, many ethno-nationalist pages including Jana (41,000 followers and managed by administrators based in Italy and Sri Lanka) and Sinha Handa (62,000 followers and administered from Sri Lanka) also shared the same image.

Response of social media platforms

In many instances, when explicit anti-Muslim content is posted on social media platforms, such as Facebook, there is quick action taken by such platforms to remove such content. However, where the content only implicitly amounted to anti-Muslim dangerous/hate speech, it is not removed or removed only after some time.

A significant limitation in the ability of platforms such as YouTube and Facebook to remove harmful content online relates

⁹² 'Racism Among Sri Lankan Facebook Users', *Colombo Times*, December 16, 2020, <http://colombotimes.com/well-planned-bot-operation-to-stoke-racism-among-sri-lankan-facebook-users>.

⁹³ Minister of Justice Mohamed Ali Sabry was portrayed as an 'advocate' for only the interests of the Muslim community within the government.

to language. Although these platforms claim to consider language and the context in which it is used, nuances and colloquialisms in vernacular languages are often missed. Sri Lankan social media users and civil society watchdogs have regularly pointed out how long it takes for platforms to remove violent content, if they remove them at all.⁹⁴ Moderation processes and algorithms that are reviewing the content at face value are unlikely to flag them as problematic. The lack of a holistic Sinhala-language moderation capacities ensures that problematic content remains on the platform, even as violence unfolds offline as a result of it.⁹⁵ Content that implicitly amounts to hate speech or violations of the social media platform's Community Standards/Guidelines is often treated as complying with them and are not removed.

Finally, there is no interaction between social media platforms to ensure that content that is removed from Facebook is not uploaded on YouTube. Therefore, content that is in violation of Facebook's Community Standards/Guidelines and which is, thus, removed from Facebook is still available on YouTube.⁹⁶

Summary and Conclusion

On the one hand, the proliferation of hate speech online must be seen within the context of majoritarian and exclusionary rhetoric along with increasing authoritarianism and worsening human rights situation. This has been compounded by the reversal of constitutional safeguards, militarisation of civilian government functions, political obstruction of accountability for crimes and human rights violations, and surveillance and intimidation of civil

⁹⁴ 'Open letter to Facebook: Implement Your Own Community Standards', Centre for Policy Alternatives, April 10, 2018, <https://www.cpalanka.org/open-letter-to-facebook-implement-your-own-community-standards>.

⁹⁵ Amanda Taub and Max Fisher, 'Where Countries Are Tinderboxes and Facebook Is a Match', *New York Times*, April 21, 2018, <https://www.nytimes.com/2018/04/21/world/asia/facebook-sri-lanka-riots.html>.

⁹⁶ Amith Weerasinghe's Facebook account was banned in 2019 as a result of it being used to incite anti-Muslim violence in 2018. However, Weerasinghe has invited his supporters to join and follow him on YouTube. Amith Weerasinghe's YouTube channel currently has 195 videos and 14.5 thousand subscribers. At present, the content posted through the YouTube channel seems to be disinformation that is misleading and could lead to panic among the public.

society.⁹⁷ It is within this context that statutes such as the ICCPR Act have become ‘a repressive tool used for curtailing freedom of thought or opinion, conscience, and religion or belief’.⁹⁸

On the other hand, the political weaponization of hate speech must also be explored. The Parliamentary Select Committee, which was given the mandate to look into the Easter Sunday attacks of 2019, made the following observation in its report:

In such a setting, some pertinent questions must be asked—Were attempts made by sections in the intelligence community with the possible support from some politicians to undermine ongoing investigations, prevent arrests of alleged perpetrators and not share valuable information? Was the unrest and communal violence since 2018 a way to exacerbate the uncertainty and create further fear among communities, especially the Muslim community? Was this to demonstrate the lack of control by the Sirisena-Wickremesinghe government and to amplify calls for a change of regime?⁹⁹

Recommendations

- Urgently address the arbitrary and discriminatory use of legislative provisions on hate speech and the use of hate speech itself as a political tool.
- Increase mainstream media and digital literacy education that would empower citizens with the tools to critically assess the media they consume.
- Create counter-narratives to hate speech and disseminate them with an innovative approach to compete with the reach of hate speech.
- Enforce and mainstream the Sri Lanka Editors’ Guild Code

⁹⁷ ‘Promotion reconciliation, accountability and human rights in Sri Lanka’, Report of the Office of the High Commissioner for Human Rights, January 27, 2021.

⁹⁸ ‘Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, Report of the Special Rapporteur on freedom of religion or belief’, 25 August 2020, <https://undocs.org/A/HRC/43/48/Add.2>.

⁹⁹ The Report of the Select Committee of Parliament to look into and report to Parliament on the Terrorist Attacks that took place in different places in Sri Lanka on 21st April 2019’, 23rd October 2019, at <https://www.parliament.lk/uploads/comreports/sc-april-attacks-report-en.pdf>.

of Ethics for mainstream media publications to minimise reporting that carries harmful speech.

- Establish an independent body consisting of actors that span the media industry—encompassing digital and mainstream, traditional and new media—where self-regulation becomes the norm.
- Make social media platforms commit to addressing shortfalls in the removal of hate speech online, and have them demonstrate this through an increase in their moderation capacity in terms of language and socio-political context. This also includes taking steps to address the widespread circulation of disinformation on YouTube.¹⁰⁰

¹⁰⁰ False news reports on YouTube are not subjected to any form of verification. YouTube's current Community Guidelines also do not directly cover disinformation.

State of South Asian Minorities 2021

Ritika Singh

Afghanistan

With the increase in violence and a sense of insecurity across the country since the February 2020 agreement between the Taliban and the United States and the subsequent withdrawal of the last of the American troops from Afghanistan in May,¹ minorities have been exposed to further marginalisation, exclusion, and hate speech. While the deal was signed under the pretext of ending the war in Afghanistan with the Taliban agreeing to not allow terrorist groups to operate in the country, the reality—as the following sections demonstrate—is very different. In addition, the COVID-19 pandemic has further exacerbated the difficulties faced by minorities in the country.

On 8 May, 2021, at least 90 girl students and more than 250 people were injured in a bombing of a school in an area in Kabul with residents mostly belonging to the Shia-Hazara ethnic minority group. Even more disturbingly, the school taught boys in the morning and girls in the afternoon, and the bomb was set off at a time when the girls would be leaving the school premises.² This is in accordance with widespread fear, mostly among women

1 Joan E. Greve and Joanna Walters, 'Joe Biden says US to pull its forces out of Afghanistan by 31 August,' *The Guardian*, July 8, 2021, <https://www.theguardian.com/us-news/2021/jul/08/joe-biden-afghanistan-military-pullout-ahead-of-schedule>.

2 Thomas Gibbons-Neff, Najim Rahim, 'Bombing Outside Afghan School Kills at Least 90, With Girls as Targets,' *The New York Times*, May 8, 2021, <https://www.nytimes.com/2021/05/08/world/asia/bombing-school-afghanistan.html>.

in Afghanistan, that a Taliban resurgence will mean giving up whatever little freedom they have been able to experience in the past two decades since the US invasion toppled the Taliban regime.³ Though the Taliban denied responsibility for the attack and even condemned it on social media, prominent activists believe that a proper investigation of the attack and justice to the victims was not prioritised by the Afghan government.⁴

The Hazaras, a mostly Shiite group, continue to be frequent targets of the Taliban as well as the Islamic State, both of which are Sunni Muslim groups. On 9 June, 2021, masked gunmen shot dead 10 and wounded more than a dozen mine clearers working for the Halo Trust, a non-profit that works to clear weapon debris after wars, in Afghanistan's northern province of Baghlan.⁵ The gunmen had allegedly opened fire on the miners at night when they were in their beds after asking whether the miners belonged to the Hazara community. The Islamic State group claimed responsibility for the attack.⁶

As they lose the protection of American troops after two decades, the country's Sikhs and Hindus, too, worry about an impending genocide.⁷ The so-called 'last Jew of Afghanistan', who is widely thought to be the only remaining Jew in the country since the exodus that began in the 1950s after the creation of Israel and which gained momentum in the 1990s because of the civil war, is

3 Thomas Gibbons-Neff, Fatima Faizi and Najim Rahim, 'Afghan Women Fear the Worst, Whether War or Peace Lies Ahead,' *The New York Times*, April 18, 2021, <https://www.nytimes.com/2021/04/18/world/asia/women-afghanistan-withdrawal-us.html?action=click&module=RelatedLinks&pgtype=Article>.

4 Ehsan Qaane, 'How to Investigate War Crimes? Kabul tells the ICC it is dealing with them, while the AIHRC pleads for help from the UN,' *Afghanistan Analysts Network*, June 15, 2021, <https://www.afghanistan-analysts.org/en/reports/rights-freedom/how-to-investigate-war-crimes-kabul-tells-the-icc-it-is-dealing-with-them-while-the-aihrc-pleads-for-help-from-the-un>.

5 'Halo Trust: Afghanistan mine clearance workers shot dead 'in cold blood,' *BBC News*, June 9, 2021, <https://www.bbc.com/news/world-asia-57410265>.

6 *Ibid*.

7 J. Axelrod, 'Sikhs and Hindus face violence as US troops withdraw from Afghanistan,' *The American Independent*, July 06, 2021, <https://americanindependent.com/afghanistan-us-troop-withdrawal-hindus-sikhs-minorities-safety-resettlement>.

also now preparing to leave the country.⁸ As the Taliban had tried to convert him and imprisoned him four times, the possibility of even a moderate Taliban returning to power has prompted him to leave his homeland fearing for his safety.⁹

During the month of Ramadan from 13 April to 13 May, 2021 alone, the Afghanistan Independent Human Rights Commission documented 130 incidents of violence resulting in 160 dead and 351 injured. There have also been dozens of unclaimed targeted killings in recent months, such as that of the sole female Supreme Court judge.¹⁰ With the escalation of violence, journalists and media workers have also become targets of direct attacks, with many killed in the first six months of this year.¹¹

Afghanistan has not taken any serious measures to fulfil its international commitments for the protection of minorities. The government continues to evade demands for an investigation into alleged war crimes committed during the Afghan war, requesting constant deferrals.¹² Such an attitude has left minorities sceptical of justice in incidents that victimise them.

During the period under review, Afghanistan was also hit by the third wave of the COVID-19 pandemic, with cases surging sharply since mid-May 2021. With people in most provinces struggling for adequate healthcare, the difficulties were exacerbated by a shortage of medical workers and incidents such as a hospital catching fire in the Ghor province.¹³ Similarly, as with other countries in the region, corruption also affected service delivery, specifically in the areas where marginalised communities live.¹⁴

8 Rahim Gul Sarwan and Roshan Noorzai, 'Afghanistan's Last Remaining Jew to Leave Over Taliban Fear,' *VoA*, June 03, 2021, <https://www.voanews.com/extremism-watch/afghanistans-last-remaining-jew-leave-over-taliban-fear>.

9 'After decades, the 'last jew' in Afghanistan mulls exit,' *The Hindu*, April 29, 2021, <https://www.thehindu.com/news/international/after-decades-the-last-jew-in-afghanistan-mulls-exit/article34443262.ece>.

10 Op cit. Qaane

11 'UNESCO observatory of killed journalists – Afghanistan,' United Nations Educational, Scientific and Cultural Organisation, last accessed, July 29, 2021, <https://en.unesco.org/themes/safety-journalists/observatory/country/223649>.

12 Op cit. Qaane

13 'Fire erupts at Ghor Covid-19 Hospital,' *Pajhwok Afghan News*, February 5, 2021, <https://pajhwok.com/2021/02/05/fire-erupts-at-ghor-covid-19-hospital>.

14 Azizullah Hamdard, 'Stop corruption in Covid-19 fund, US Embassy

Bangladesh

In the period under review, there have been reports of Christian Bangladeshis facing unlawful evictions from their ancestral land due to their faith and various forms of attacks on Hindus. A Protestant family had to leave their homestead in northwestern Bangladesh for India because of threats of eviction from Muslims in the area, burning of their house three times, and lack of any support from the local police.¹⁵ Hindus, too, have been at the receiving end of several forms of attack. Unknown assailants attacked multiple homes and a Hindu temple in Satkhira, in southwestern Bangladesh on 13 April, 2021. On 21 July—on the occasion of Eid—a mob of Muslims ransacked shops and houses belonging to Hindus in Gopalganj district, chanting slogans vowing to make the village ‘free of Hindus’.¹⁶ There have also been several instances of Hindu idols being vandalised in the country.¹⁷

Attacks against religious minorities based on social media posts have also continued. In early March, an entire village of Hindu residents was vandalised, and the residents terrorised after a local youth posted comments against a local Muslim leader on his Facebook page.¹⁸ The youth had already been detained by the police a day earlier over the post, yet his fellow villagers were attacked. On 20 March, the Bangladesh Hindu Buddhist Christian Unity Council organised a rally to condemn the attack, stating that religious minorities in the country continue to live in fear even 50

tells Afghans,’ *Pajhwok Afghan News*, February 12, 2021, <https://pajhwok.com/2021/02/12/stop-corruption-in-covid-19-fund-us-embassy-tells-afghans>.

¹⁵ Stephan Uttom, ‘Oppression of minorities hinders harmony in Bangladesh,’ *UCA News*, February 5, 2021, <https://www.ucanews.com/news/oppression-of-minorities-hinders-harmony-in-bangladesh/91291>.

¹⁶ ‘Bangladesh: Football match turns communal, Hindus attacked in Sheikh Hasina’s constituency on Eid. Here is everything you need to know,’ *OpIndia*, July 27, 2021, <https://www.opindia.com/2021/07/bangladesh-football-match-turns-communal-hindus-attacked-in-sheikh-hasinas-constituency-on-eid>.

¹⁷ ‘8 idols vandalised at Kurigram temple,’ *The Daily Star*, January 16, 2021, <https://www.thedailystar.net/crime/news/8-idols-vandalised-kurigram-temple-2028749>.

¹⁸ ‘Hefajat supporters attack Hindu homes,’ *The Daily Star*, March 18, 2021, <https://www.thedailystar.net/backpage/news/hefajat-supporters-attack-hindu-homes-2062373>.

years after independence and that perpetrators of crimes against minorities are rarely brought to justice.¹⁹

In March 2021, the visit of Indian Prime Minister Narendra Modi to Bangladesh to celebrate the country's 50th anniversary of independence led to violent clashes, leaving at least 12 people dead. A group of Islamic organisations held a protest on 26 March, a day after Modi's arrival, which led to clashes and a subsequent call by a hardline Muslim group for a nationwide shutdown.²⁰ Modi is widely viewed as anti-Muslim in the region, owing to several remarks and actions, including the Indian government's passing a contentious citizenship law in 2019 that would give asylum to religious groups except Muslims fleeing persecution from Afghanistan, Pakistan, and Bangladesh.²¹ Unfortunately, these protests also gave way to targeted attacks on Hindus, including the attack on devotees in a Hindu temple, and vandalism of Hindu cremation grounds, temples and idols.²²

Another group that has faced severe discriminatory acts during the period under review are the Rohingya refugees from Myanmar. In late 2019, the Bangladeshi government installed barbed wire fences around several camps in Cox's Bazar, a place where most of the refugees live, essentially cutting them off from the outside world and services.²³ The fencing exacerbated several other issues faced by the refugees. In late March, a fire that broke out in the camp killed at least 15 people, injured hundreds, and left tens of thousands homeless, with many refugees getting caught between

¹⁹ Sumon Corraya, 'Minorities protest in Dhaka against anti-Hindu violence,' *Asianews.it*, March 22, 2021, <http://www.asianews.it/news-en/Minorities-protest-in-Dhaka-against-anti-Hindu-violence-52674.html>.

²⁰ Anbarasan Ethirajan, 'Why Narendra Modi's visit to Bangladesh led to 12 deaths,' *BBC News*, March 31, 2021, <https://www.bbc.com/news/world-asia-56586210>.

²¹ Anbarasan Ethirajan, 'Why Narendra Modi's visit to Bangladesh led to 12 deaths,' *BBC News*, March 31, 2021, <https://www.bbc.com/news/world-asia-56586210>.

²² 'Temples, Hindu houses attacked in several districts,' *The Daily Star*, March 31, 2021, <https://www.thedailystar.net/backpage/news/temples-hindu-houses-attacked-several-dists-2069193>.

²³ 'Bangladesh: Rohingya camps enclosed with barbed wire to "punish refugees",' *The Observers*, May 2, 2021, <https://observers.france24.com/en/tv-shows/the-observers/20210702-bangladesh-rohingya-camps-barbed-wire>.

the fire and the barbed wire fences while trying to escape.²⁴ Again in July, heavy monsoon rains washed away the refugee camps, killing at least 11 people and leaving thousands without shelter again, for the second time in months.²⁵

The COVID-19 pandemic has also impacted the Rohingya disproportionately, with many dying from the virus, and the rest being left destitute from the subsequent lockdowns. Many refugees who earned a meagre income in the informal sector were deprived of it, and health and sanitation services, water supply and building materials provided by NGOs were also drastically cut.²⁶ The country is now planning to roll out vaccinations for the hundreds of thousands of Rohingya in August, but that remains subject to the availability of vaccines.²⁷

The pandemic has also disproportionately impacted the indigenous peoples of both the plains and the Chittagong Hill Tracts as they lose their livelihoods, get attacked, and members of majoritarian groups grab their lands. Rights activists argue that the pandemic has worsened the crisis, with the absence of a vocal media fuelling further human rights violations.²⁸

24 Karan Deep Singh, 'Fire Tears Through Rohingya Camp, Leaving Thousands Homeless Once More,' *The New York Times*, March 23, 2021, <https://www.nytimes.com/2021/03/23/world/asia/bangladesh-rohingya-fire-refugees.html>.

25 Karan Deep Singh and Saif Hasnat, 'They Were Driven from Their Homes. Then Floods Struck Their Camps,' *The New York Times*, July 28, 2021, <https://www.nytimes.com/2021/07/28/world/asia/bangladesh-rohingya-flood.html>.

26 Shafiur Rehman, 'Opinion: Bangladesh is supposed to be a host to the Rohingya refugees, not their jailer,' *The Washington Post*, July 7, 2021, <https://www.washingtonpost.com/opinions/2021/07/07/bangladesh-mismanaging-rohingya-refugee-camps/>.

27 'Bangladesh plans to vaccinate Rohingya against COVID: Official,' *Aljazeera*, July 16, 2021.

28 Zarif Faiaz, 'Attacks, land grabs leave Bangladesh's Indigenous groups on edge,' *Aljazeera*, July 30, 2021, <https://www.aljazeera.com/news/2021/7/30/bangladesh-indigenous-groups-chakma-khasi-santal-land-grab>.

India

In India, the ascension of the Hindu-nationalist Bharatiya Janata Party (BJP) to government in 2014 and their resounding re-election in 2019 has emboldened a majoritarian stance that marginalises and even terrorises minorities.

BJP-led governments in several states have introduced new and discriminatory laws and policies, which adversely affect minorities as well as civil society organisations and human rights defenders across the country. In Karnataka, a state governed by the BJP, an even more stringent anti-cow slaughter legislation than the one before was passed, with a seven-year jail term for offenders, and blatant protection of the ‘cow vigilantes’.²⁹ The latter tend to be Hindu extremists who have frequently resorted to violence against minorities—disproportionately Muslims and ‘low-caste’ Hindus. After its enactment in February 2021, 58 cases were registered against alleged offenders in just 60 days.³⁰ In January, the government of Assam also decided to convert all government-run madrasas into regular schools,³¹ requiring all theological courses to be dropped from the curriculum.³² The anti-conversion ordinance passed in BJP-ruled Uttar Pradesh (UP) in December 2020 to address ‘love jihad’, a baseless conspiracy theory alleging that Muslim men are plotting to seduce and convert Hindu women to Islam, has continued to be misused to target consensual inter-

29 Meher Pandey and Sreenivasan Jain, ‘“Cow Vigilantes Were At Risk”: Karnataka Minister’s Shocker On New Bill,’ *NDTV*, December 11, 2020, <https://www.ndtv.com/karnataka-news/karnataka-cow-slaughter-law-karnataka-minister-cn-ashwath-narayan-defends-beef-ban-law-says-cow-vigilantes-were-at-risk-2337092>.

30 Ashwini M. Sripad, ‘Anti-cow slaughter Act: 58 FIRs filed in 60 days in Karnataka,’ *The New Indian Express*, April 21, 2021, <https://www.newindianexpress.com/states/karnataka/2021/apr/21/anti-cow-slaughter-act-58-firs-filedin-60-days-in-karnataka-2292733.html>.

31 Madrasas are Islamic institutions of learning.

32 Karishma Hasnat, ‘All about Assam’s new bill that will convert govt-aided madrasas to regular schools,’ *The Print*, January 1, 2021, <https://theprint.in/theprint-essential/all-about-assams-new-bill-that-will-convert-govt-aided-madrasas-to-regular-schools/577642>.

faith couples.³³ As of mid-July, a total of 162 people had been booked under the UP ordinance and of them 101 have been jailed.³⁴ The ordinance has also inspired BJP-led governments in several other states, such as Madhya Pradesh and Gujarat, to enact, or declare their intent to enact similar laws.³⁵ The Supreme Court has declined to stay these laws, resulting in several people being booked and imprisoned in these states.³⁶

During the period under review, there were 51 cases of reported violence against Muslims across the country from state and non-state actors.³⁷ Some examples include: two daily wage-earner Muslim men beaten to death by the police for alleged minor violations,³⁸ five Muslim supporters of the principal opponent of the BJP in West Bengal shot dead outside polling booths by paramilitary forces during state legislative elections,³⁹ a Muslim stand-up comedian arrested after an event for allegedly hurting

33 Soutik Biswas, 'Love jihad: The Indian law threatening interfaith love,' *BBC News*, December 8, 2020, <https://www.bbc.com/news/world-asia-india-55158684>.

34 Piyush Rai, '7 Months of UP's Anti-Conversion Law: 162 People Booked in 63 Cases,' *The Quint*, July 8, 2021, <https://www.thequint.com/news/india/7-months-of-ups-anti-conversion-law-162-people-booked-in-63-cases>.

35 Iram Siddique, '3 months of MP 'love jihad' law: 21 cases, couple knew each other in over half,' *The Indian Express*, March 20, 2021, <https://indianexpress.com/article/india/mp-love-jihad-law-7236429>; Mahesh Langa, 'Gujarat Assembly passes 'love jihad' law,' *The Hindu*, April 1, 2021, <https://www.thehindu.com/news/national/other-states/gujarat-assembly-passes-love-jihad-law/article34217780.ece>.

36 Apoorvanand, 'India's 'love jihad' laws: Another attempt to subjugate Muslims,' *Aljazeera*, January 15, 2021, <https://www.aljazeera.com/opinions/2021/1/15/indias-love-jihad-laws-another-attempt-to-subjugate-muslims>.

37 'Documentation of the Oppressed,' last accessed August 7, 2021, <http://dotodatabase.com/search>.

38 Asad Rehman, 'UP: Three Unnao cops charged with murder of 18-year-old vegetable seller,' *The Indian Express*, May 22, 2021, <https://indianexpress.com/article/cities/lucknow/up-three-unnao-cops-charged-with-murder-of-18-year-old-vegetable-seller-7325135>; Aishwarya S. Iyer and Mohammad Sartaj Alam, 'Meat Seller Dies in UP, Wife Blames Police While They Deny Claims,' *The Quint*, May 30, 2021, <https://www.thequint.com/news/india/butcher-in-bulandshahr-uttar-pradesh-dies-wife-blames-up-police#read-more>.

39 Manisha Pande and Parikshit Sanyal, 'Cooch Behar killings: 'Central forces fired at queue of voters, not a mob', *NewsLaundry*, April 14, 2021, <https://www.newslaundry.com/2021/04/14/cooch-behar-killings-central-forces-fired-at-queue-of-voters-not-a-mob>.

Hindu sentiments during his performance.⁴⁰ In Haryana, also a BJP bastion, a young Muslim fitness instructor was lynched to death by militant Hindu gangs.⁴¹ In its aftermath, local Hindus led by BJP leaders organised several mass gatherings in support of the accused.⁴² Even more shockingly, a local leader who had justified the murder while addressing a mass gathering was appointed official spokesperson of the BJP's state unit.⁴³

In addition to direct violence, murder, and unlawful imprisonment, demolition of Muslim places of worship and denial of justice to Muslims are ways in which the Indian state has sanctioned the discrimination against Muslims. In May, a 100-year-old mosque was demolished by authorities in UP, claiming it to be an illegal structure, despite a court order prohibiting the action.⁴⁴ Local Muslims, who resisted the demolition, reportedly faced threats, harassment, and arrests from the authorities.⁴⁵ Similarly, even a year after the violent police crackdown in UP against Muslims who protested against discriminatory changes to India's citizenship law, the families of the 22 men shot dead by police have still not received justice.⁴⁶

40 Devparna Acharya, 'Stand-up comic Munawar Faruqui's arrest in Indore: A brief timeline of what happened,' *Firstpost*, January 5, 2021, <https://www.firstpost.com/india/stand-up-comic-munawar-faruquis-arrest-in-indore-a-brief-timeline-of-what-happened-9170871.html>.

41 Aishwarya S. Iyer, 'Asif Khan Lynched in Haryana's Mewat, 6 Men Arrested by Police,' *The Quint*, May 18, 2021, <https://www.thequint.com/news/india/asif-khan-lynched-mewat-haryana-police-arrests-accused>.

42 Aishwarya S. Iyer, 'Asif's Father on Mahapanchayats: Won't React As Things Will Worsen,' *The Quint*, June 9, 2021, <https://www.thequint.com/news/india/asif-lynched-family-says-mahapanchayats-trying-to-instigate-riots-in-mewat#read-more>.

43 Abhilash Mallick, 'Karni Sena Chief Suraj Pal Amu Named Haryana BJP Spokesperson,' *The Quint*, June 12, 2021, <https://www.thequint.com/news/india/karni-sena-chief-suraj-pal-amu-named-haryana-bjp-spokesperson#read-more>.

44 Seraj Ali and Mukul Singh Chauhan, 'Watch: How a Mosque in UP's Barabanki Was Demolished,' *The Wire*, June 23, 2021, <https://thewire.in/communalism/watch-how-a-mosque-in-ups-barabanki-was-demolished>.

45 Asad Rehman, 'Barabanki mosque demolition: Cops say 8 committee members booked for fraud and cheating,' *The Indian Express*, May 21, 2021, <https://indianexpress.com/article/cities/lucknow/barabanki-mosque-demolition-8-committee-members-booked-for-fraud-and-cheating-say-cops-7323717>.

46 Shadab Moizee, 'Who Killed Shafiq, Harun, Abrar? Year After CAA, Kin Await Justice,' *The Quint*, January 7, 2021, <https://www.thequint.com/videos/>

In Muslim-majority Kashmir, ruled directly by the national government, UN experts expressed concern over the repressive measures and infringement of fundamental rights, highlighting several recent instances of enforced disappearances, extrajudicial killings, arbitrary detentions, and torture of Kashmiris by Indian armed forces.⁴⁷ The Unlawful Activities Prevention Act has also been used systematically to target Muslim Kashmiris,⁴⁸ with even a fifteen-year-old boy being arrested for allegedly raising ‘anti-national’ slogans at a funeral.⁴⁹ The Indian national government has attempted to place restrictions over freedoms of speech and expression in the state, barring several media organisations from receiving state advertising,⁵⁰ and using arbitrary measures to conduct background checks on public employees.⁵¹

Rohingya refugees, who are Muslims, too faced an organised state crackdown across India, with close to 300 being detained in just the month of March 2021.⁵² In recent years, India has also continued to deport Rohingyas back to Myanmar, violating the principle of non-refoulement.⁵³

[news-videos/no-one-killed-shafiq-harun-abrar-a-year-after-anti-caa-protests-kin-
await-justice#read-more.](#)

47 Rifat Fareed, ‘Pro-India Kashmiri politician tortured in custody, say UN experts,’ *Aljazeera*, June 3, 2021, <https://www.aljazeera.com/news/2021/6/3/pro-india-kashmiri-politician-tortured-in-custody-say-un-experts>.

48 Safwat Zargar, ‘For anything and everything’: UAPA cases are rising in Kashmir,’ *Scroll.in*, April 9, 2021, <https://scroll.in/article/991077/for-anything-and-everything-uapa-cases-are-rising-in-kashmir>.

49 Kaisar Andrabi and Zubair Amin, ‘Arrest of a 15-Year-Old Under UAPA in J&K Shows the Govt’s Insecurity,’ *The Wire*, June 4, 2021, https://m.thewire.in/article/rights/kashmir-uapa-15-year-old-arrest/amp?twitter_impression=true&fbclid=IwAR1c1tOKRrPZt8vWhMZ35DRYMRkJAJ-Y9AhoY1Fk0cC3GsUKQYgwOaba6Vk.

50 Bilal Hussain, ‘India Cuts Off Government Advertising to Over 30 Kashmiri Outlets,’ *VoA*, January 25, 2021, https://www.voanews.com/press-freedom/india-cuts-government-advertising-over-30-kashmiri-outlets?fbclid=IwAR3tOuY-17lJkjoV16kCWdckePsbuk8ePA1zpuN_J6rIN30jIEQWVaMYSIlkw.

51 Safwat Zargar, ‘Alarm in Kashmir as government sacks three employees, citing ‘security of the state’,’ *Scroll.in*, May 16, 2021, <https://scroll.in/article/994865/alarm-in-kashmir-as-government-sacks-three-public-servants-citing-security-of-the-state>.

52 Ismat Ara, ‘How Can a Human Being Be Illegal?’: Lawyer for Rohingya Questions India’s Deportation Plans,’ *The Wire*, April 1, 2021, <https://thewire.in/rights/rohingya-refugees-deportation-india>.

53 Non-refoulement is the ‘gentlemen’s agreement’ practice of not forcing

Christians in India continued to face atrocities from various state and non-state actors during the period under review. The United Christian Forum, a network of advocacy groups that runs a hate crime helpline number, documented 154 episodes of violence against Christians during the first half of 2021, of which only 15 per cent were filed with the police.⁵⁴ In Telangana, a Dalit Christian woman accused of theft was allegedly tortured and beaten to death in police custody.⁵⁵ In July, the UP police arrested some 30 Christians for allegedly converting Hindus into Christianity, and violating the controversial anti-conversion law.⁵⁶

The National Dalit Movement for Justice has documented 104 cases of atrocities against Dalits during the period under review.⁵⁷ These include numerous cases of rape, violent attacks, murder, and forced evictions, among others. State actors have also targeted Dalits, as reported in a news report of a Dalit man being allegedly tortured in police custody and forced to drink urine.⁵⁸ In a separate incident in Tamil Nadu in May, three elderly Dalit men were allegedly forced to prostrate themselves before members of the village council for organising a musical function during the COVID-19 pandemic without the permission of the 'upper-caste' council.

During the period under review, India was also hit by a devas-

refugees or asylum seekers to return to a country in which they are liable to be subjected to persecution. Also see: 'India begins deporting more than 150 Rohingya refugees to Myanmar,' *CNN*, March 9, 2021, <https://edition.cnn.com/2021/03/08/asia/india-deport-rohingya-intl-hnk/index.html>.

⁵⁴ Bijay Kumar Minj, 'Indian Christians suffer 154 acts of violence this year,' *Union of Catholic Asia News*, July 12, 2021, <https://www.ucanews.com/news/indian-christians-suffer-154-acts-of-violence-this-year/93248#>.

⁵⁵ 'Telangana HC Orders Judicial Inquiry into Dalit Woman's Custodial Death,' *The Wire*, June 24, 2021, <https://thewire.in/caste/telangana-hc-orders-judicial-inquiry-into-custodial-death-of-a-dalit-woman>.

⁵⁶ 'Some 30 Christians arrested under Uttar Pradesh's anti-conversion law,' *Asianews.IT*, July 23, 2021, <http://www.asianews.it/news-en/Some-30-Christians-arrested-under-Uttar-Pradeshs-anti-conversion-law-53715.html>.

⁵⁷ 'Atrocity Tracking and Monitoring System,' National Dalit Movement for Justice, last accessed August 4, 2021, <http://www.annihilatecaste.in/atrocity-cases/any-title/all-states/all-districts/all-atrocities/2021-1-1/2021-7-30/newer-top>.

⁵⁸ 'Karnataka: Dalit youth forced to drink urine in police custody; PSI booked,' *The Week*, May 23, 2021, <https://www.theweek.in/news/india/2021/05/23/karnataka-dalit-youth-forced-to-drink-urine-in-police-custody-psi-booked.html>.

tating second wave of COVID-19, which not only resulted in great loss of lives and affected the economy of the country—but also left a lasting regional impact.⁵⁹ Political rallies held by senior government members⁶⁰ and mass gatherings of majoritarian Hindus flouting safety concerns contributed to the surge.⁶¹ Instead, the government attempted to paint Eid gatherings,⁶² a single church gathering in Kerala,⁶³ and the farmers' protests near Delhi—led by the Sikhs—as the points of origin of the second wave of the pandemic.⁶⁴

Various forms of pro-Hindu misinformation such as drinking cow urine and using holy smoke to kill the virus also propagated a false sense of security, which might have contributed to more cases and deaths.⁶⁵ Instead of targeting misinformation and focusing on providing services, the government targeted critics and continued to scapegoat religious minorities. Several state

59 Sarah Ferguson, 'South Asia Braces For Health Crisis As India's COVID-19 Case Rate Soars,' *Forbes*, May 10, 2021, <https://www.forbes.com/sites/unicefusa/2021/05/10/as-indias-covid-19-case-rate-soars-south-asia-braces-for-health-crisis/?sh=688f8e75a29f>.

60 Subodh Varma, 'Timeline: How Indian Govt Ignored Warnings and Led People into COVID-19 Catastrophe,' *The Leaflet*, May 6, 2021, <https://www.theleaflet.in/timeline-how-indian-govt-ignored-warnings-and-led-people-into-covid-19-catastrophe>.

61 Geeta Pandey, 'India Covid: Kumbh Mela pilgrims turn into super-spreaders,' *BBC News*, May 10, 2021, <https://www.bbc.com/news/world-asia-india-57005563>.

62 'Hundreds gather at Charminar in Hyderabad for Eid ul Fitr shopping; COVID-19 norms flouted [VIDEO],' *Times Now News*, May 6, 2021, <https://www.timesnownews.com/india/article/hundreds-gather-at-charminar-in-hyderabad-for-eid-ul-fitr-shopping-covid-19-norms-flouted-video/753663>.

63 P S Gopikrishnan Unnithan, 'Over 400 Kerala priests booked for violating Covid norms at Munnar gathering,' *India Today*, May 7, 2021, <https://www.indiatoday.in/coronavirus-outbreak/story/over-400-kerala-priests-booked-for-violating-covid-norms-1799931-2021-05-07>.

64 Neel Kamal, 'Punjab: No Covid at farm protests, look at Kumbh, poll rallies,' *The Times of India*, May 14, 2021, http://timesofindia.indiatimes.com/articleshow/82626441.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst.

65 'Drink cow urine to prevent Covid: BJP MP Pragya Thakur; experts reject remark,' *The Hindustan Times*, May 18, 2021, <https://www.hindustantimes.com/india-news/drink-cow-urine-to-prevent-covid-bjp-mp-pragya-thakur-experts-reject-remark-101621298599190.html>; 'Holy smoke, cow urine, yagna chikitsa: BJP leaders and their unscientific claims on Covid cure,' *The Indian Express*, May 19, 2021, <https://indianexpress.com/article/india/holy-smoke-cow-urine-yagna-chikitsa-bjp-leaders-and-their-unscientific-claims-on-covid-cure>.

governments booked and detained journalists for posting articles critical of the government's handling of the pandemic.⁶⁶ The national government also ordered social media platforms to take down posts by prominent individuals that were critical of the government's response to the pandemic.⁶⁷

Nepal

Despite its reputation as one of the most tolerant countries in South Asia for minorities, Nepal witnessed several events in the past year of violence and acts of discrimination towards minorities portending the potential growth of an increasingly intolerant society. Minorities such as Dalits and sexual and gender minorities remain targeted and discriminated against. Dalits continue to be denied justice from atrocities against them, and LGBTIQ+ individuals and women continue to be victims of violence by individuals, groups and the state. The COVID-19 pandemic, too, has contributed to the othering of minorities in the country in many ways.

In the period under review, news of Dalits, even members of parliament, being denied rental properties in cities, 'upper-caste' individuals sprinkling 'pure' water where Dalits have walked, and Dalits being refused access to tea shops, water sources, and temples were reported.⁶⁸ In May 2020, a 21-year-old Dalit boy and his friends were brutally murdered by a large gathering of mostly 'upper-caste' villagers, including local elected officials in Jajarkot, Karnali Province, because the boy planned to marry an 'upper-

66 Kashif Kakvi, 'MP: 6 Journalists Booked for 'Reporting' COVID-19 Mismanagement,' *Newsclick*, June 5, 2021, <https://www.newsclick.in/MP-6-journalists-booked-reporting-COVID-19-mismanagement-dalit-oppression-2-months>.

67 'India's removal of tweets critical of COVID response 'dangerous',' *Aljazeera*, April 26, 2021, <https://www.aljazeera.com/news/2021/4/26/indias-removal-of-tweets-critical-of-covid-response-dangerous>.

68 Lalit Bahadur Budha, 'Caste discrimination still prevalent in Karnali,' *The Annapurna Express*, April 21, 2021, <https://theannapurnaexpress.com/news/society-caste-discrimination-still-prevalent-in-karnali-3168>.

caste' girl from a neighbouring village.⁶⁹ More than a year later, the families of the victims have not received monetary compensation from the government, and there is still uncertainty as to when, if ever, the perpetrators will be brought to justice as the case is still under trial with 11 of the 34 accused out on bail.⁷⁰

While the Nepali government has repeatedly assured 'low-caste' landless groups of support, even decades since, the promises have not led to any concrete changes. An example is the 16 days' sit-in staged by around 400 people from the Badi community, a Dalit group, in front of the Chief Minister's Office in Karnali Province in March 2021, demanding land for housing and cultivation, which the government had already committed to them in 2009.⁷¹ Even though the protest came to an end after the provincial government pledged to address their demands, concrete steps have yet to be taken.⁷²

In June 2021, Kathmandu police arrested a house owner for refusing to rent rooms to a Dalit.⁷³ Despite an audio recording of a phone call,⁷⁴ in which the owner admits that the tenant's caste was a factor in the refusal, becoming public, she was released after three days as the focus disturbingly shifted towards the would-be tenant 'using her caste' to create communal disturbance or 'seek attention'.⁷⁵ A few 'upper castes' went as far as to claim on social media that they are the ones who are discriminated against due to the system of reservations for marginalised communities.⁷⁶

69 Amish Raj Mulmi, 'Still untouchable,' *The Kathmandu Post*, May 28, 2020, <https://tkpo.st/3evOwPh>.

70 'Chain of injustice,' *The Kathmandu Post*, May 24, 2021, <https://tkpo.st/3fFSXJB>.

71 Kalendra Sejuwal, 'Badi people's sit-in continues for two weeks,' *The Kathmandu Post*, March 7, 2021, <https://tkpo.st/3qlCOFF>.

72 Kalendra Sejuwal, 'Badi people end protest after 16 days,' *The Kathmandu Post*, March 12, 2021, <https://tkpo.st/2OLUVyx>.

73 'Police nabs landlord in Babarmahal for caste-based discrimination,' *Khabarhub.com*, June 20, 2021, <https://english.khabarhub.com/2021/20/192087>.

74 'The Newars,' Instagram, last accessed, August 2, 2021, <https://www.instagram.com/p/CQeGsO9ll59>.

75 Lakshya S. 'Rupa Sunar case and a note to myself,' *Kaagmandu Magazine*, June 25, 2021, <https://www.kmagz.com/rupa-sunar-case-and-a-note-to-myself/?fbclid=IwAR2T2AwQpplSBNu03FktekeUUhRy-uaAlovEdFYBM7lsKcj8IVjJr-GR7mU>.

76 'Routine of Nepal Banda,' Facebook, last accessed August 2, 2021, https://m.facebook.com/story.php?story_fbid=5032879416744811&id=213613352004799

Attitudes towards marginalised communities play a major role in the perpetuation of discrimination but the punitive aspects of law in the country also have a role to play. While on paper, Nepal has criminalised discrimination and untouchability with provisions of imprisonment for up to three years, implementation remains weak.⁷⁷ Nationwide, complaints lodged against caste-based discrimination are already quite low compared to the actually reported instances of such violence. What makes justice even more elusive is the low rates of convictions in such cases.⁷⁸

The LGBTIQ+ community of Nepal has also expressed dissatisfaction with the decision by the Central Bureau of Statistics to add the gender option of 'Other' beyond male and female as a means to include the LGBTIQ+ population in the 2021 census. Activists state that this means the diverse LGBTIQ+ population will be grouped in just one category, taking away their right to self-determine their gender identity and sexual orientation.⁷⁹ Furthermore, in January 2021, police in the capital, Kathmandu, severely beat several transgender women, using abusive language and then taking several of them into custody for 'indecent behaviour' and on charges of harassing people on the streets. The transgender women disputed the claim and rights activists who spoke to the women in custody and collected eyewitness accounts as well as videos and photos that have since surfaced support the women's accounts. Those responsible for the atrocities have not been brought to justice.⁸⁰

A study conducted by the National Planning Commission estimated that 1.57 million people in Nepal lost their jobs and 1.2 million people were pushed below the poverty line during the 2020-21 COVID-19 pandemic and the subsequent lockdown that

&p=30.

77 Binod Ghimire, 'Law implementation remains weak in cases of caste-based discrimination,' *The Kathmandu Post*, March 27, 2021, <https://tkpo.st/31oXHN7>.

78 Ibid.

79 Ankit Khadgi, 'The inclusivity problem with Nepal's census,' *The Kathmandu Post*, May 18, 2021, <https://tkpo.st/33PlfMI>.

80 Ishita Shahi, 'Harassed, beaten, and jailed,' *The Record*, January 25, 2021, <https://www.recordnepal.com/harassed-beaten-and-jailed>.

lasted from 24 March to 21 July 2020.⁸¹ While all Nepalis have felt the economic effects of the closure, minorities have been disproportionately impacted. The difficulties of minorities have been exacerbated by the fact that both local and federal officials have not announced any relief packages while claiming that there are not many people seeking relief.⁸² Violence against women and transgender communities has also increased during the pandemic.⁸³

The most damning stance of the government amid all this has been the targeting of religious minorities during the COVID-19 pandemic. In 2020, at the beginning of the pandemic, the Muslim community was targets of unfounded generalised suspicion after news of some Nepali Muslims being quarantined in Nepal after the Tablighi Jamaat congregation in Delhi broke.⁸⁴ This led to several acts of violence towards Muslim Nepalis, which also spilled over to Christians.⁸⁵ Conversely, when the majority Hindus celebrated their festivals with much more disastrous consequences this year, the same kind of antagonism was absent.⁸⁶

81 Krishna Acharya, 'Durawasta lukaudai Sarkar,' [The Government is concealing poor conditions], *Kantipur*, November 27, 2020, <https://ekantipur.com/news/2020/11/27/160643951607938017.html>.

82 Prithvi Man Shrestha, 'Lockdown drags on but no relief package for the urban poor,' *The Kathmandu Post*, June 19, 2021, <https://tkpo.st/3iPzrxT>.

83 Shuvam Dhungana, 'No let-up in cases of violence against women and children during lockdown,' *The Kathmandu Post*, June 15, 2021, <https://tkpo.st/3goBDdZ>.

84 '18 Nepali Muslims who attended Nizamuddin congregation in Delhi, quarantined in Nepal,' *The Hindu*, April 1, 2020, <https://www.thehindu.com/news/national/18-nepali-muslims-who-attended-nizamuddin-congregation-in-delhi-quarantined-in-nepal/article31227593.ece>.

85 'Christian Woman in Nepal Arrested for Praying for the Sick,' Persecution.org, April 4, 2020, <https://www.persecution.org/2020/04/05/christian-woman-nepal-arrested-praying-sick>.

86 'The Covid tsunami,' *Nepali Times*, April 22, 2021, <https://www.nepalitimes.com/editorial/the-covid-tsunami>.

Pakistan

In the period under review, Pakistan's minorities continued to be targeted and harassed by religious extremists, with major attacks reported against Shias and Ahmadiyas. In February 2021, the Protection of Religious Minorities Bill on the protection of minority rights in the country was turned down by the Senate Standing Committee on Religious Affairs and Interfaith, claiming that Pakistan's minorities enjoyed unprecedented freedom. The Deputy Chairman of the Senate even remarked that Pakistan's extant laws already provided unparalleled religious freedom to minorities and that the suggestions in the bill were already contained in those laws.⁸⁷ This shows how removed the legislation of Pakistan is from the reality on the ground, as violence against religious minorities continues unchecked in the country. Among other atrocities, religious minorities in the country have even claimed that they have been undercounted in the long-delayed census of Pakistan.⁸⁸

In March 2021, a 13-year-old Hindu girl was allegedly kidnapped, forcibly converted to Islam, and married off to her abductor in Sindh province. After her family took legal recourse, the teen was produced in court where she reportedly claimed that she was above the age of 18 and that she had married against her parents' wishes. The case was refiled under the Sindh Child Marriage Restraint Act, which criminalises marriage between adults and minors.⁸⁹ Unfortunately, abduction and conversion of girls belonging to religious minorities is commonplace in Pakistan, with some reports estimating that around a thousand such incidents take place every year.⁹⁰

87 'Senate panel 'turns down' bill on minorities rights,' *The Express Tribune*, February 2, 2021, <https://tribune.com.pk/story/2282277/senate-panel-turns-down-bill-on-minorities-rights>.

88 Nafisa Hoodbhoy, 'Pakistan's Religious Minorities Say They Were Undercounted in Census,' *VoA*, July 1, 2021, <https://www.voanews.com/extremism-watch/pakistans-religious-minorities-say-they-were-undercounted-census>.

89 Roohan Ahmed, '13-year-old Hindu girl kidnapped, married off to Muslim man: family,' *Samaa*, March 10, 2021, <https://www.samaa.tv/news/2021/03/13-year-old-hindu-girl-kidnapped-married-off-to-muslim-man-family>.

90 Kathy Gannon, 'Each year, 1,000 Pakistani girls forcibly converted to Islam,'

Blasphemy laws remain one of the most used tools by religious majoritarians to terrify and intimidate members of minority communities. In April 2021, two Christian nurses in Punjab were accused of blasphemy by their head nurse after the accused accidentally removed an adhesive sticker containing an Islamic devotional phrase while cleaning cupboards in the hospital.⁹¹ One of the two accused was also violently attacked by a hospital staff member in its aftermath. The case is currently being investigated by the police. In a similarly disturbing incident, a group of Muslim nurses allegedly barged into a church where Christian nurses were assembled and threatened them to either convert to Islam or face blasphemy cases.⁹²

In January 2021, 11 coal miners from the Shia-Hazara community were abducted and executed in Quetta, Balochistan. The Pakistan branch of the Islamic State, which has targeted Shia Muslims and their places of worship across the world, claimed responsibility for the attack.⁹³ The Pakistani Prime Minister labelled the victims blackmailers when Shia-Hazaras blocked a major highway with bodies of the slain miners and demanded a meeting with him in the aftermath of the attack.⁹⁴ Shia-Hazaras in Pakistan have been persecuted for decades, with many now believing that leaving the country is the only way for them to survive.⁹⁵

ABC News, December 20, 2020, <https://abcnews.go.com/International/wireStory/year-1000-pakistani-girls-forcibly-converted-islam-74930532>.

91 Shafique Khokhar, 'Faisalabad, two Christian nurses accused of blasphemy. One is injured,' *Asianews.IT*, April 10, 2021, [http://www.asianews.it/news-en/Faisalabad-two-Christian-nurses-accused-of-blasphemy-One-is-injured-\(VIDEO\)-52836.html](http://www.asianews.it/news-en/Faisalabad-two-Christian-nurses-accused-of-blasphemy-One-is-injured-(VIDEO)-52836.html).

92 Shazeya Daudpota, 'Muslim nurses highjack church, Christian nurses threatened to convert,' *InkPak*, May 4, 2021, <https://www.incpak.com/national/muslim-nurses-highjack-church>.

93 Ayaz Gul, 'Gunmen Kidnap, Execute 11 Miners in Pakistan,' *VoA News*, January 3, 2021, <https://www.voanews.com/south-central-asia/gunmen-kidnap-execute-11-miners-pakistan>.

94 'Don't blackmail me, PM tells Hazara protesters,' *Dawn*, January 11, 2021, <https://www.dawn.com/news/1600383/dont-blackmail-me-pm-tells-hazara-protesters>.

95 Shah Meer Baloch, 'Every year we dig mass graves': the slaughter of Pakistan's Hazara,' *The Guardian*, April 5, 2021, <https://www.theguardian.com/global-development/2021/apr/05/mass-graves-pakistan-shia-minority-hazara-slaughter-imran-khan>.

In addition to this blatant and all-pervasive targeting of religious minorities, Pakistan is also being impacted by the rising influence of far-right majoritarian parties. In the events following the October 2020 beheading of a French schoolteacher after he allegedly showed cartoons of the Prophet Mohammed to his students,⁹⁶ the far-right Islamist party Tehreek-i-Labbaik Pakistan (TLP) had demanded the expulsion of the French ambassador.⁹⁷ Not only did this give rise to anti-France protests in the country, but there were also protests against the detention of the leader of the TLP in April.⁹⁸ This resulted in at least one police officer's death and around 40 others injured in violent clashes in Lahore with during which security forces were reported to have used tear gas shells and rubber bullets.⁹⁹ The protests were finally called off on 20 April as the National Assembly session was convened with the government presenting a resolution on the expulsion of the French ambassador.¹⁰⁰

The COVID-19 pandemic has exacerbated pre-existing discrimination and violence. Reports indicate that cases of domestic violence rose significantly during the pandemic.¹⁰¹ Even in the aftermath of a brutal murder of the daughter of a diplomat allegedly after she spurned a marriage proposal, the Parliament failed to pass a bill that seeks to protect women from violence at home, including attacks by husbands.¹⁰²

96 'Teacher beheaded in France after showing Mohammed cartoons,' *The Hindu*, October 17, 2020, <https://www.thehindu.com/news/international/teacher-beheaded-in-france-after-showing-mohammed-cartoons/article32878581.ece>.

97 'Pakistan parliament defers debate on French envoy's expulsion,' *France 24*, April 23, 2021, <https://www.france24.com/en/live-news/20210423-pakistan-parliament-defers-debate-on-french-envoy-s-expulsion>.

98 'Banned: What does the TLP want?' *Dawn.com*, April 20, 2021, <https://www.dawn.com/news/1617844>.

99 Asad Hashim, 'Pakistan: TLP protesters free abducted policemen after violence,' *Aljazeera*, April 19, 2021, <https://www.aljazeera.com/news/2021/4/19/pakistan-tlp-protesters-free-abducted-policemen-after-violence>.

100 'Govt presents resolution for debate on expelling French envoy in NA,' *Dawn.com*, April 20, 2021, <https://www.dawn.com/news/1619319/na-session-to-debate-expulsion-of-french-envoy-begins>.

101 'Domestic violence cases against Pakistani women increased during COVID-19 lockdown,' *ANI*, May 13, 2021, <https://www.aninews.in/news/world/asia/domestic-violence-cases-against-pakistani-women-increased-during-covid-19-lockdown20210513144906>.

102 'Brutal Killing Spotlights Violence Against Women in Pakistan,' *Associated*

Sri Lanka

During the period under review, the Sri Lankan government continued targeting members of minority communities through legislations and actions that profile communities and their practices. In April 2021, the United Nations Human Rights Council (UNHRC) passed a resolution expressing concern over the ‘deteriorating’ human rights situation in the country, detailing that majoritarian and exclusionary rhetoric has become mainstreamed in Sri Lanka while minorities are being further marginalised.¹⁰³ The resolution gave the UN human rights commissioner the mandate to investigate wartime human rights abuses in the country. Before its passage, in February, the Sri Lankan government had urged the Council to reject the resolution, calling it politically motivated, and an ‘unprecedented propaganda campaign’.¹⁰⁴

Even after the resolution was passed, the Sri Lankan envoy to the UN rejected the resolution, stating that it was divisive and would polarise the nation.¹⁰⁵ That the minority community leaders in Sri Lanka had urged the UNHRC to take the exclusion faced by minorities in the country into consideration before voting on the resolution is indicative of the attempts of the government to figuratively sweep these issues under the rug.¹⁰⁶ In its aftermath, President Gotabaya Rajapaksa did appoint a Commission of Inquiry to inquire into the findings of preceding commissions or committees appointed to investigate human rights violations and

Press, July 30, 2021, <https://www.voanews.com/south-central-asia/brutal-killing-spotlights-violence-against-women-pakistan>.

¹⁰³ ‘UN rights office gets mandate to document Sri Lanka war crimes,’ *Aljazeera*, March 23, 2021, <https://www.aljazeera.com/news/2021/3/23/un-rights-office-gets-mandate-to-document-sri-lanka-war-crimes>.

¹⁰⁴ “Political move”: Sri Lanka urges rejection of UNHRC resolution,’ *Aljazeera*, February 24, 2021, <https://www.aljazeera.com/news/2021/2/24/sri-lanka-calls-un-rights-bodys-resolution-a-political-move>.

¹⁰⁵ ‘Human Rights Council strengthens rights office probe into Sri Lanka’s long civil war,’ *UN News*, March 23, 2021, <https://news.un.org/en/story/2021/03/1088122>.

¹⁰⁶ ‘Sri Lanka minorities tell UNHRC members they face discrimination,’ *Aljazeera*, March 22, 2021, <https://www.aljazeera.com/news/2021/3/22/sri-lanka-wooing-muslims-nations-ahead-of-unhrc-vote>.

other offences.¹⁰⁷ But there are concerns that, as in the past, this Commission, too, will be ineffective and unlikely to provide justice to any of the victims.¹⁰⁸

In March 2021, the Prevention of Terrorism Act (PTA) was expanded to allow two years of detention without trial for causing ‘religious, racial, or communal disharmony,’ a provision that is likely to enable the government to easily target religious and racial minorities.¹⁰⁹ The Rajapaksa administration has used the PTA to target members of minority communities, especially Muslims and Tamils, while taking no action against those inciting violence and discrimination against minority groups. For instance, despite evidence of his arrest being under scrutiny, Hejaaz Hizbullah, a prominent Muslim human rights lawyer and poet who had been arrested in April 2020 for alleged involvement in the 2019 Easter Sunday bombings, was charged in March 2021 for ‘inciting communal disharmony’ under the PTA.¹¹⁰ Ahnaf Jazeem, a poet and teacher, has also been detained by the authorities under the PTA since May 2020 without charge or any credible evidence being presented to a court. More than a year later, he continues to be detained and has been denied a fair trial, while his access to legal counsel remains restricted.¹¹¹

The European Union (EU) Parliament has adopted a resolution calling on the EU Commission to consider a temporary withdrawal

107 ‘President appoints CoI to investigate entire gamut of HR probes and findings,’ Press release, Presidential Secretariat, Government of Sri Lanka, last accessed: August 3, 2021, <https://www.presidentsoffice.gov.lk/index.php/2021/01/22/president-appoints-coi-to-investigate-entire-gamut-of-hr-probes-and-findings>.

108 ‘Sri Lanka: newly established Commission of Inquiry is a travesty of justice,’ International Commission of Jurists, January 23, 2021, <https://www.icj.org/sri-lanka-newly-established-commission-of-inquiry-is-a-travesty-of-justice>.

109 ‘Sri Lanka: ‘Religious Disharmony’ Order Threatens Minorities,’ Human Rights Watch, March 16, 2021, <https://www.hrw.org/news/2021/03/16/sri-lanka-religious-disharmony-order-threatens-minorities>.

110 ‘A Year On: Hejaaz Hizbullah Still Imprisoned,’ Sri Lanka Campaign for Peace and Justice, April 14, 2021, <https://www.srilankacampaign.org/a-year-on-hejaaz-hizbullah-still-imprisoned>.

111 ‘Sri Lanka: Poet Detained for One Year without Charge,’ Amnesty International, May 14, 2021, <https://www.amnesty.org/en/documents/asa37/4119/2021/en>.

of Sri Lanka's Generalised Scheme of Preferences (GSP+) status and benefits owing to the government's poor record in enacting human rights reform and failure to repeal the PTA.¹¹² The government has criticised and resisted the resolution, deeming it akin to holding the elected government to ransom.¹¹³ In August, the US Ambassador to Sri Lanka also called on the government to take decisive steps to either repeal or amend the draconian PTA.¹¹⁴

In March, the government declared that it would ban the wearing of the burqa, a full-body veil worn by Muslim women, and close more than 1,000 Islamic schools that were allegedly flouting national education policy.¹¹⁵ A few days later as the news sparked outrage, the decision to ban the burqa was put on hold with the government saying it would take time to consider a proposed ban, without specifying a timeline or making a concrete decision.¹¹⁶ This happened around the time Muslims were re-allowed to bury their kin who had died of COVID-19 in a reversal of the government's previous stance whereby it had made cremations mandatory for victims of COVID-19, a practice that impacted the Muslim community, whose faith prohibits cremations.¹¹⁷ In February 2021, the Prime Minister had stated that forceful cremations would be halted, and burials allowed, after the State Minister of Health declared in Parliament that COVID-19 does not spread from

112 Zulfick Farzan, 'EU wants to lift GSP+ concessions from SL over HR concerns,' *We report you decide*, June 11, 2021, <https://www.newsfirst.lk/2021/06/11/eu-wants-to-lift-gsp-concessions-from-sl-over-hr-concerns>.

113 Aazam Ameen, 'Sri Lanka's rights situation: Government fires back,' *The Sunday Morning*, June 26, 2021, <https://www.themorning.lk/sri-lankas-rights-situation-government-fires-back>.

114 'US Ambassador Teplitz on Sri Lanka's human rights commitment,' *Tamil Guardian*, August 2, 2021, <https://www.tamilguardian.com/content/us-ambassador-teplitz-sri-lanka-s-human-rights-commitment>.

115 'Sri Lanka to ban burqa, shut more than 1,000 Islamic schools,' *Aljazeera*, March 13, 2021, <https://www.aljazeera.com/news/2021/3/13/sri-lanka-to-ban-burqa-shut-many-islamic-schools>.

116 'Sri Lanka says it 'requires time' to consider proposed burqa ban,' *Aljazeera*, March 16, 2021, <https://www.aljazeera.com/news/2021/3/16/sri-lanka-says-it-requires-time-to-consider-proposed-burqa-ban>.

117 'Anguish as Sri Lanka forces Muslims to cremate COVID-19 victims,' *Aljazeera*, April 3, 2020, <https://www.aljazeera.com/news/2020/04/03/anguish-as-sri-lanka-forces-muslims-to-cremate-covid-19-victims>.

groundwater.¹¹⁸ However, it was only since March that the burial of Muslims who died from COVID-19 commenced.¹¹⁹

Tamils, too, continued to face various forms of discrimination and oppression from the government in the period under review. On 8 January, 2021, authorities destroyed the Mullivaikkal Tamil memorial for victims of the civil war at Jaffna University, even as students gathered at the gate to protest.¹²⁰ To condemn the demolition, Tamil civil society groups, political parties, and student unions called for a strike on 11 January across the Northern and Eastern provinces, and also organised hunger strikes. In response, the monument is now going to be restored in the same location.¹²¹

The intolerance of the government to Tamil expressions of solidarity and their practice of citizenship was also evidenced by the response to the rally organised by Tamil groups from 3 to 7 February to raise focus on several demands of the Tamil, Malayaha Tamil, and Muslim communities such as the revoking of the PTA.¹²² The government resorted to oppressive tactics such as arresting those who had participated in the protest¹²³ and even summoning two Members of Parliament for questioning by the

118 'Sri Lanka will allow burial of Covid Victims : Prime Minister,' *Newswire*, February 10, 2021, <https://www.newswire.lk/2021/02/10/sri-lanka-will-allow-burial-of-covid-victims-prime-minister>.

119 Dilanthi Jayamanne, 'COVID-19 burials begin at Oddamavadi,' *Ceylon Today*, March 6, 2021, <https://ceylontoday.lk/news/covid-19-burials-begin-at-oddamavadi>.

120 Meera Srinivasan, 'Removal of war victims' memorial at Jaffna University sparks tension,' *The Hindu*, January 9, 2021, <https://www.thehindu.com/news/international/tense-situation-at-jaffna-university-after-authorities-remove-war-memorial/article33535428.ece>.

121 'Sri Lanka: Tamil war monument to be rebuilt after hunger strike,' *BBC News*, January 11, 2021, <https://www.bbc.com/news/world-asia-55620079>.

122 Meera Srinivasan, 'Analysis | A long march in Sri Lanka – to register protest, forge a new alliance' *The Hindu*, February 9, 2021, <https://www.thehindu.com/news/international/a-long-march-in-sri-lanka-to-register-protest-forge-a-new-alliance/article33792547.ece>.

123 'Tamil youth arrested in Jaffna for participating in P2P protest as Sri Lanka intensifies crackdown,' *Tamil Guardian*, February 18, 2021, <https://www.tamilguardian.com/content/tamil-youth-arrested-jaffna-participating-p2p-protest-sri-lanka-intensifies-crackdown>.

police.¹²⁴ In May, the government also banned several individuals from attending or organising memorials on the Mullivaikkal Commemoration, the day that mourns the deaths of those killed in the last stages of the war.¹²⁵

124 Farook Sihan, 'Summons issued on seven including MPs who attended P2P protest,' *Colombo Gazette*, February 13, 2021, <https://colombogazette.com/2021/02/13/summons-issued-on-seven-including-mps-who-attended-p2p-protest>.

125 'Two MPs among 27 Tamils banned from Mullivaikkal commemorations,' *Tamil Guardian*, May 15, 2021, <https://www.tamilguardian.com/content/two-mps-among-27-tamils-banned-mullivaikkal-commemorations>.

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All over South Asia, hate speech is increasingly used by majority groups against religious, ethnic or linguistic minorities even as some of the latter under attack are found to be victimising others at the same time. Hate speech is being driven primarily by online platforms, mainly social media, while the response everywhere has been the introduction of laws that restrict freedom of speech in the guise of protecting citizens against hate speech and violence. Together with the rise of hyper-nationalism promoted by majority groups and state-sanctioned hate speech through legislative enforcements, the result has been a further shrinking of the civic space to counter such trends.

The *South Asia State of Minorities Report 2021: Hate Speech against Minorities* presents chapters from Afghanistan, Bangladesh, India, Nepal, Pakistan and Sri Lanka to highlight how hate speech has been used in the various country contexts to advocate violence against minority groups and to their further suppression. This volume is planned as a tool for advocacy. It is hoped that these annual reports on outcomes for minorities and the quality of state provisioning will spur public debate in the region and create the conditions for state parties, and regional and international mechanisms to give serious consideration to issues of minorities. The purpose of the initiative is to promote equal citizenship and equal rights for all citizens, a central challenge of the ‘deepening democracy’ agenda in the region, and to highlight the alarmingly narrow civic space for minorities, including human rights defenders, journalists and activists.

This publication is the fifth in the series, following the earlier South Asia State of Minorities Reports: *Mapping the Terrain* (2016), *Exploring the Roots* (2018), *Refugees, Migrants and the Stateless* (2019), and *Minorities and Shrinking Civic Space* (2020). These reports are put together by the South Asia Collective, consisting of organisations and human rights activists that dream of a just, caring and peaceful South Asia by documenting the condition of the region’s minorities—religious, linguistic, ethnic, caste, and gender, among others—hoping it will contribute to better outcomes for South Asia’s many marginalised groups.

The South Asia Collective

