

CSW input to the Trade Sustainability Impact Assessment of the EU-India trade and investment agreements

CSW (Christian Solidarity Worldwide) is a human rights organisation specialising in freedom of religion or belief. European Commission transparency register number: 47642067220-88.

Introduction

India's religious diversity is under threat. The ethno-religious nationalist agenda and discourse of current government has sought to polarise society by dividing communities along religious lines. This submission highlights some of the economic dimensions of this discrimination, and therefore the areas where the EU should be alert to the possibility that increased trade activity – facilitated by improved conditions and preferences – may, in some cases, exacerbate, encounter, or be complicit with these issues.

Background

The Preamble of the Constitution of India firmly establishes India as a sovereign, socialist, secular democratic republic, which guarantees the freedom of conscience and free profession, practice and propagation of religion (Article 25). India is also a State Party to several international human rights covenants, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), International Covenant on Civil and Political Rights (ICCPR), Convention of Elimination of Discrimination Against Women (CEDAW), Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Racial Discrimination (CERD) and the Convention on the Prevention and Punishment of the Crime of Genocide.

As a secular state, the right to freedom of religion or belief (FoRB) is a fundamental right that cannot be violated by the Indian government. However, laws and policies exist which discriminate on the grounds of religion and caste, are implemented in a discriminatory manner based on religion, or are deliberately not implemented vis-à-vis religious minority communities. Religious minorities are economically poorer and socially discriminated against. An estimated 6.5% have access to institutional finance, 40% (due to habitation) do not have health facilities, 35% do not have education facilities and 65.02% live in huts or temporary shelters.¹ Members of religious minority communities in India, such as Muslims, Christians – particularly those belonging to the Dalit community and Adivasis – have become victims of targeted violence, hate speech, harassment, and discrimination. This has become a disturbing occurrence, particularly in the last ten years since the Hindu hardline political party, Bharatiya Janata Party (BJP) came into power in 2014.

¹

Sachar Committee Report 2006.

Marginalisation of Adivasis and Dalits

Undermining the Constitutional ideal of social justice, the government has implemented policies that hugely benefit multinational corporations (MNCs) at the cost of basic rights to life and livelihood to its citizens. While tribal communities have, in general, been adversely affected by such policies, Adivasi Christians have faced further violations due to their intersecting identities of religion and ethnicity. Adivasi Christians have been ruthlessly alienated from forests which they have lived in and depend on for their livelihood. The Adivasis are seen as 'anti-development' as they resist a violation of their fundamental right to life and livelihood. A government-appointed High-Level Committee on Socio-economic, Health and Educational Status of Tribal Communities of India, in its 2014 report (page 31), observed:

*"Laws and rules that provide protection to tribes are being routinely manipulated and subverted to accommodate corporate interests. Tribal protests are being met with violence by the State's paramilitary forces and the private security staff of corporations involved."*²

In 2022 CSW found³ that three primary reasons affect the displacement of Adivasis, caused by industries backed by the government. These include the harvesting of forest products, mining and the building of dams on major rivers.

Draconian legal provisions are also applied to curb the freedom of speech and expression, particularly against persons critiquing government policies and laws that impact the Adivasis. This includes the legal provision of sedition (S. 124A of the Indian Penal Code – a colonial era law) and Unlawful Activities Prevention Act (UAPA) 1967, under which people including 84-year-old Jesuit priest, Father Stan Swamy have been arrested.⁴ Father Swamy was arrested under the UAPA in October 2020. He contracted Covid-19 in prison, had Parkinsons disease and applied for medical bail several times, but was rejected by the concerned court. He was finally moved to a private hospital for medical treatment after his health deteriorated, leading to his death.⁵ His activism involved speaking out against the encroachment of tribal lands by corporations, which drew attention to the atrocities that were being committed against the Adivasis in the state of Jharkhand.

Landless Dalits are at the bottom of the social hierarchy, exacerbating their vulnerability to attacks, discrimination and exploitative labour conditions. A survey indicates that more than 85% of the Dalit Christians live in slums; in the villages they are subjugated because of their

²The report is available at <https://ruralindiaonline.org/resources/report-of-the-high-level-committee-on-socio-economic-health-and-educational-status-of-the-tribals-of-india>,

³ [Belief and belonging: Indigenous identity and freedom of religion or belief - CSW](#)

⁴ For more details on the discriminatory application of such draconian provisions, see Kapil Sibal, 'When Laws Turn Oppressive' *Hindustan Times* (New Delhi, 30 June 2020) <<https://www.hindustantimes.com/analysis/uapa-when-laws-turn-oppressive/story-d9d70E050LQjLz3Ba5pzi.html>> accessed 21 March 2022; Arun Ferreira and Vernon Gonsalves, 'Fifty Years of Unreasonable Restrictions Under the Unlawful Activities Act' *The Wire* (New Delhi, 9 March 2017) <<https://thewire.in/rights/uapa-anti-terrorism-laws>> accessed 21 March 2022 ; Faizan Mustafa, 'Why the Draconian Sedition Law Must Go' *The Indian Express* (New Delhi, 4 June 2021)

<<https://indianexpress.com/article/opinion/columns/supreme-court-sedition-law-vinod-dua-case-modi-govt-freedom-of-press-7343120/>>
⁵ Swati Deshpande, 'Jailed under UAPA in October, Activist Fr Stan Swamy (84) Dies Waiting for Bail' *The Times of India* (Mumbai, 6 July 2021) <<https://timesofindia.indiatimes.com/india/stan-swamy-accused-in-elgar-parishad-case-passes-away-today/articleshow/84138459.cms>>

subordination to the landlords for whom they work, and often social power and domination is expressed through the threat of rape, abuse and beatings by the dominant castes.⁶ Landlessness among Dalits is high. The Agricultural Census of 2015-16 indicates that Dalits own only about 9% of total agricultural land.⁷ According to recent data published by the Census of India, 71% of Dalits are landless labourers who work on land they do not own. In rural areas, 58.4% of Dalit households do not own land at all.⁸ It is impossible to ascertain the proportion of Dalit Christians among the landless Dalits, given that official statistics has no disaggregated data on the same. Additionally, Dalit Christians do not have protection under The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Forest Rights Act in short). The religion of the Dalits is often entered into land records, creating insecurity and fear among Dalit Christians that they will be targeted for violence and discrimination.

Cow vigilantism and hate speech

Beef is regularly consumed in India by Christians, Muslims, Dalits of all religions, as well as the Adivasis and other communities in India. It is an affordable, protein-rich source of food for poorer communities. In the state of Kerala, at least 60% of the population (including Muslims, Christians, and Hindus) consume beef, including in West Bengal and Goa. In May 2016, the Bombay High Court upheld the constitutional validity of a provision in state legislation that prohibited the slaughter of cows but allowed people to consume beef imported from other states, observing that a ban on consumption of imported beef would be an infringement of right to privacy of individuals, which is a fundamental right.⁹

However, the present government has sought to prohibit the slaughter of cows, and the possession and consumption of beef through state legislation. Additionally, far-reaching draconian policies such as a ban on the slaughter of cattle, including those that cease to be of use as mulch and draught cattle, affects the livelihood of cattle owners, to whom such cattle become a liability rather than an asset. Cattle traders, are further exposed to risk of being attacked for transporting cattle, impacting their businesses and job adversely. Dalits are also at risk of being accused of cow slaughter because of their traditional caste-related profession of skinning and cleaning carcasses, which are forbidden in the customs of the upper caste.

Various cow protection (*gau rakshaks*) or Hindu vigilante groups 'implement' state laws by publicly humiliating, brutally attacking (and sometimes killing)¹⁰ those suspected of possessing, consuming, slaughtering or transporting cattle. 50-year-old Mohammad Akhlaq was the first to be lynched in Dadri town for allegedly eating beef on Eid.¹¹ On 11 July 2016,

⁶ Lourdeswamy, S., *Towards Empowerment of Dalit Christians: Equal Rights to all Dalits* (Centre for Dalit/Subaltern Studies 2005).

⁷ All India Report on Agricultural Census 2015-16, Ministry of Agriculture and Farmers Welfare, New Delhi 2020, available at https://agcensus.nic.in/document/agcen1516/ac_1516_report_final-220221.pdf

⁸ Suraj Yengde, 'Landlessness Takes away Dalits' Legal and Official Validity as Indian Citizens' *Hindustan Times* (New Delhi, 1 July 2019) <<https://www.hindustantimes.com/analysis/landlessness-takes-away-dalits-legal-and-official-validity-as-indian-citizens/story-1QeTOTjwp3dbdJl93OXQJ.html>>

⁹ *Sheikh Zahid Mukhtar vs. State of Maharashtra*, judgment delivered by Bombay High Court on 6 May 2016 in Writ Petition No. 5731 of 2015, available at <https://indiankanoon.org/doc/153513175/>

¹⁰ [Muslim man killed by cattle vigilantes - CSW](#)

¹¹ For more details, see 'Dadri Lynching: How Events Unfolded', *The Hindu*, 12 November 2015, available at <http://www.thehindu.com/specials/in-depth/the-dadri-lynching-how-events-unfolded/article7719414.ece>, accessed on 15 September 2016

seven members of a Dalit family in Gujarat's Una town, involved in leather trading, were attacked and brutally assaulted, as a 'punishment' for skinning the carcass of a cow brought from a neighbouring village by the self-proclaimed *gau rakshaks*.¹² Retaliating against the oppression, protests by Dalits, including Christian Dalits, broke out throughout Gujarat. The unchecked impunity of non-state actors, backed by prohibition on cow-slaughter, has given the green light for vigilantes to target Muslims and Dalits.

The mobilisation of far-right groups calling for the socio-economic boycott of Muslims has become a regular experience.¹³ As the largest minority group in India, Muslims also face severe hate speech. Destructive narratives about Muslims have been allowed to pervade social media and in political rallies, with far reaching implications for their social and economic wellbeing. Far-right Hindu groups target Muslims on the basis that they are interlopers who are determined on influencing the masses to Islam. Draconian laws such as the Citizen Amendment Act (CAA) and the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance 2020 discriminate against Muslims. The CAA bans Muslims from specific countries in South Asia from seeking refugee status in India. As the result of mass protests targeting Muslims, children from families in the northeast of India have been reportedly dropping out of mainstream schools due to fear for their lives.¹⁴ The Uttar Pradesh law which targets Muslims is based on a conspiracy theory introduced by Hindu far right groups that through campaigns such as 'love jihad' India will be converted into a Muslim nation.¹⁵

Disinformation labelling the community for carrying out 'corona jihad' during Covid-19 pandemic,¹⁶ were followed by calls for boycott of Muslim owned businesses,¹⁷ including a rejection of halal meat sold by Muslim vendors.¹⁸ On 26 February a rally held in a suburb of Mumbai, organised by Sakal Hindu Samaj, called for the economic boycott of Muslims and Christian businesses. The rally was supported by officials from the BJP. Between November 2022 and early 2023, Hindu far right groups have also been holding rallies in Maharashtra urging economic boycott of the Muslim community.¹⁹ Research clearly shows that the marginalisation of based on religious identity risks further disenfranchisement of the community.²⁰

The marginalisation of religious minorities is worsened by key indicators such as education, and participation in the workforce and gender. At a state level, the ban on the use of hijab in Karnataka²¹ has resulted in Muslims living with the threat of social prejudice and leading to school drop-out in the state. Economic hardship is a potential threat to how girls from the minority religious groups are treated. All these are further exacerbated by the Union Budget 2023-2024, whereby the allocation to the Ministry of Minority Affairs dropped nearly 38% from the previous year, impacting welfare schemes allocations on research, educations and skills development of minorities. Evidence shows poor educational achievements has a

¹² 'Gujarat: 7 of Dalit Family Beaten up for Skinning Dead Cow', *The Indian Express*, 20 July 2016

¹³ [Far Right Hindutva Groups Appeal For Socio-Economic Boycott Of Muslims In Meerut, Probe Ordered - IndiaTomorrow](#)

¹⁴ [Fear, Insecurity Push North-East Delhi's Muslim Children to Leave School, Join Madrasas Instead \(thewire.in\)](#)

¹⁵ [Love Jihad And The Prejudice Behind 'Forced Conversion' In Uttar Pradesh \(outlookindia.com\)](#)

¹⁶ [CoronaJihad is Only the Latest Manifestation: Islamophobia in India has Been Years in the Making | Human Rights Watch \(hrw.org\)](#)

¹⁷ [Does Law Allow Calls to Boycott Muslims During the COVID-19 Lockdown? \(thewire.in\)](#)

¹⁸ [Halal-Jhatka Debate: Why Hindutva Outfits Calling for a Boycott of Halal Products is an Attack on Muslim Livelihoods \(thequint.com\)](#)

¹⁹ [4 months, 50 rallies in Maharashtra, one theme: 'Love jihad', 'land jihad' and economic boycott \(The Indian Express\) - Hindutva Watch](#)

²⁰ [Marginalising the already marginalised: Economic Boycott Targeting Muslims | SabrangIndia](#)

²¹ [One lakh hijab-wearing students drop out of college after hijab ban says CPI\(M\) leader | The Hindustan Gazette](#)

correlation with the low economic status of Muslims in India.²² In a recent interview by the Peterson Institute for International Economics (PIIE), the Finance Minister of India, Nirmala Sitharaman, decried claims that Muslims faced violence.²³ However, local monitoring groups have reported that targeted violence against this group has increased since the BJP came into power.²⁴

Foreign Contribution Regulation Act

The Foreign Contribution Regulation Act (FCRA) makes it mandatory for NGOs to have licenses to receive foreign funding from donors or institutions for their work. According to reports, between 2014 (when the BJP came into power) to 2016, approximately 20,000 licences of organisations were cancelled under FCRA, which resulted in the termination of or adverse effects on their human rights activities.²⁵ In 2019, a further 1807 FCRA licenses were cancelled on the grounds that legal procedures were violated.²⁶ Amnesty International was forced to stop their operations in September 2020, after the Enforcement Directorate froze its accounts on charges of violation of the FCRA.²⁷

In September 2020, the FCRA licenses of four NGOs' operated by Christians were reportedly suspended,²⁸ raising concerns about the impact of such decisions on associations registered in India.²⁹ In December 2021, the FCRA of the Missionaries of Charity was cancelled by the Home Ministry the basis of 'adverse inputs' in the application for renewal.³⁰ No explanation was given as to what 'adverse inputs' meant. However, after criticism from civil society groups, the FCRA licence was approved. The Catholic-run charity formed by Mother Theresa in 1950 has been involved in humanitarian work with the blind, the elderly, and leprosy-affected people among the poorest sections of society across India. Jamia Milia Islamia and India Islamic Cultural Centre were also taken off the list of organisations with FCRA license.³¹ Not only are NGOs and institutions managed by religious minorities targeted; foreign donors have also been blacklisted, which has grave ramifications on Indian NGOs. In short, the FCRA has been misused as a tool for constraining NGOs' human rights work pertaining to empowering marginalized communities and raising their voices against violations of human rights. Findings from the International Commission of Jurists highlight that civil society

²² [India's Muslims: An Increasingly Marginalized Population | Council on Foreign Relations \(cfr.org\)](#)

²³ [No minister, all is not well with India's Muslims | SabrangIndia](#)

²⁴ [CMRI-Religious-Minorities-Report-2021.pdf \(cmriusa.org\)](#)

²⁵ Deya Bhattacharya, 'FCRA Licenses of 20,000 NGOs Cancelled: Act Being Used as Weapon to Silence Organisations' *Firstpost* (New Delhi, 30 December 2016) <<https://www.firstpost.com/india/fcra-licenses-of-20000-ngos-cancelled-act-being-used-as-weapon-to-silence-organisations-3181560.html>> accessed 21 March 2022.

²⁶ Press Trust of India, FCRA Registration of 1,807 NGOs Cancelled in 2019 for Violation of Laws, *The Economic Times*, 12 November 2019. <https://economictimes.indiatimes.com/news/politics-and-nation/fcra-registration-of-1807-ngos-cancelled-in-2019-for-violation-of-laws/articleshow/72020138.cms?from=mdr>

²⁷ 'Amnesty International India Halts Its Work On Upholding Human Rights in India Due to Reprisal From Government of India', Amnesty International India, 29 September 2020, available at <https://amnesty.org.in/news-update/amnesty-international-india-halts-its-work-on-upholding-human-rights-in-india-due-to-reprisal-from-government-of-india-2/>

²⁸ Vijaita Singh, 'Government Suspends FCRA Clearance of 4 Christian Groups' *The Hindu* (New Delhi, 6 September 2020)

<<https://www.thehindu.com/news/national/government-suspends-fcra-clearance-of-4-christian-groups/article32535766.ece>> accessed 21 March 2022.

²⁹ Vijaita Singh, 'Government Suspends FCRA Clearance of 4 Christian Groups' *The Hindu* (New Delhi, 6 September 2020)

<<https://www.thehindu.com/news/national/government-suspends-fcra-clearance-of-4-christian-groups/article32535766.ece>>

³⁰ [Indian government cancels Missionaries of Charity foreign funding licence - CSW](#)

³¹ Press Trust of India, 'IMA, IIT Delhi, Jamia Milia Among 6,000 Entities Whose FCRA Licence Deemed To Have Ceased' *The Economic Times* (New Delhi, 1 January 2022) <https://economictimes.indiatimes.com/news/india/ima-iit-delhi-jamia-milia-among-6000-entities-whose-fcra-licence-deemed-to-have-ceased/articleshow/88632094.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst> accessed 21 March 2022.

organisations that challenge government-backed projects that impact the environment and communities have been refused the renewal of their FCRA licenses on the basis that such organisations are involved anti-development activities.³² Collectively the charity sector has been impacted by the arbitrary application of the law, resulting in job loss.³³

Any assessment on the impact of improved trade preferences on human rights in India would not be complete without careful consideration of vulnerable religion or belief communities. This submission has sought to highlight certain areas where trade and the human rights to freedom of religion or belief (FoRB) already interact, and therefore where deeper EU-India trade ties facilitated by an FTA may – in some cases, and if not managed and overseen carefully – exacerbate the perilous environment facing communities who belong to minority religions or beliefs.

³² [India-FCRA-Briefing-Paper-2020-ENG.pdf \(ici.org\)](#)

³³ [Watch | How FCRA Amendment Will Hamper Research, Hurt NGO Work, Impact Jobs \(thewire.in\)](#)