

Follow-up table to the country visit of the Special Rapporteur on freedom of religion or belief to India (3-20 March 2008)

Recommendations of the Special Rapporteur's mission report (A/HRC/10/8/Add.3)	Follow-up information from UN documents (e.g. Special Procedures, UPR, Treaty Bodies)	Follow-up information from the Government of India
<p>A/HRC/10/8/Add.3</p> <p>67. The Special Rapporteur appeals to the Indian authorities to take quick and effective measures to protect members of religious minorities from any attacks and to step up efforts to prevent communal violence. Legal aid programmes should be made available to survivor groups and minority communities in order to effectively prosecute and document cases of communal violence. Furthermore, a central telephone hotline might be set up to accept complaints and to register allegations concerning police atrocities. Any specific legislation on communal violence should take into account the concerns of religious minorities and must not reinforce impunity of communalised police forces at the state level.</p>	<p>A/HRC/WG.6/1/IND/3</p> <p>Working Group on the Universal Periodic Review, Summary of 37 stakeholders' submissions, March 2008</p> <p>11. PF for UPR reported that religious minorities in India face persecution, stigmatization and marginalization in the economic, social and political spheres. The Justice Sachar Committee in 2007 also highlighted this. The Islamic Human Rights Commission (IHRC) noted the regrettable trend whereby 'terrorism-related' incidents are blamed on Muslim organizations with the press immediately reporting on it. If the suspicions are not realized, there are no press reports stating that the original report was wrong. Five years since the 2002 communal violence in the Indian state of Gujarat in which more than 2,000 people were killed, AI remained concerned about the ongoing impact of that violence on the Muslim minority in Gujarat, as there are wide-scale reports of social and economic boycotting of Muslim communities in Gujarat and as many as 5,000 families are living in "relief colonies" without basic amenities or recognition from the government of Gujarat. Partners for Law in Development (PLD) reported that the draft Communal Violence Bill of 2005 has been widely debated by civil society members and strongly criticized for its failure to dismantle impunity, state collusion or redress gender based crimes. The PF for UPR noted that the bill does not define genocide. [...]</p> <p>21. SAFHR added that in almost every police station of India 'accused' persons are routinely beaten and abused. Investigations show that the majority of the so-called 'criminals' who are tortured and abused in the police stations are poor, belonging to the communities of Dalits, tribals and minority religions like Islam and Christianity. The TPDF reported that Christians in India face threats, physical attacks, and jail time for sharing their faith. Open Doors (OD) mentioned incidents where members of religious minorities who have been victims of beatings, evictions, looting, amongst others, were refused the right to file a First</p>	

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	<p>Incident Report by local police officers. The TPDF expressed the view that Sikhs are also highly victimized by the Indian government.</p> <p>22. Women in India continue to face physical, sexual, emotional and economic violence according to the PF for UPR. Women, particularly those from tribal, Dalit and religious minorities, face sexual and gender based crimes during/after caste or communal conflict situations.</p> <p>E/C.12/IND/CO/5 Concluding Observations of the Committee on Economic, Social and Cultural Rights, August 2008</p> <p>13. The Committee is deeply concerned that in spite of the Constitutional guarantee of non-discrimination as well as the criminal law provisions punishing acts of discrimination, widespread and often socially accepted discrimination, harassment and/or violence persist against members of certain disadvantaged and marginalized groups, including women, scheduled castes and scheduled tribes, indigenous peoples, the urban poor, informal sector workers, internally displaced persons, religious minorities such as the Muslim population, persons with disabilities and persons living with HIV/AIDS. The Committee is also concerned about the obstacles faced by the victims in accessing justice, including the high costs of litigation, the long delays in court proceedings and the non-implementation of court decisions by government authorities. [...]</p> <p>15. The Committee notes with concern that the recommendations of the 2006 Rajinder Sachar Committee report on the Social, Economic and Educational Status of the Muslim Community of India have not been sufficiently followed-up, and regrets the lack of actions taken by the federal and state union governments in this regard. [...]</p> <p>51. The Committee requests the State party to submit, in its next periodic report, updated annually collected comparative data disaggregated by sex, age, caste, ethnicity, religion and by region, regarding all the provisions in the Covenant, paying particular attention to the disadvantaged and marginalized individuals and groups. The Committee also</p>	

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	<p>requests the State party to include, in its next periodic report, annual comparative data, disaggregated by sex, age, caste, ethnicity, religion and by region, the percentage of the gross domestic product allotted for education, health and housing programmes in the country. [...]</p> <p>58. The Committee requests the State party to include in its next periodic report, in addition to the requests already mentioned in previous paragraphs, a specific section on: (a) The results of the measures taken to combat discrimination of all forms; [...] (e) Annual data, disaggregated by age, sex, caste, ethnicity and religion, as well as specific benchmarks, to enable adequate monitoring and evaluation of the progress achieved.</p>	
<p>A/HRC/10/8/Add.3</p> <p>68. While inquiries into large-scale communal violence should not be done in indecent haste, they should be accorded the highest priority and urgency by the investigation teams, the judiciary and any commission appointed to study the situation. Furthermore, the State could envisage setting up of truth and reconciliation commissions to create a historical account, contribute to healing and encourage reconciliation in long-standing conflicts, such as the one in Jammu and Kashmir.</p>	<p>A/HRC/10/8/Add.1</p> <p>Urgent appeal sent on 29 August 2008 jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions</p> <p>45. The Special Rapporteurs brought to the attention of the Government information they had received concerning attacks on the Christian community in the Kandhamal district of the state of Orissa since 24 August 2008. Reportedly, the context of violence has been triggered by the murder of Swami Lakhmananda Saraswati, a local leader of the Vishwa Hindu Parishad (VHP), as well as four other VHP members, who were shot dead on the night of the 23 August 2008. Before his death, Swami Lakhmananda Saraswati was reportedly active in opposing conversions away from Hinduism and negatively portraying the Christian minority. On 24 August 2008, the State VHP General Secretary Gouri Prasad Radh told the Hindustan Times that “this attack is the handiwork of Christians. There were four home guards at the ashram. Had the attackers been Maoists, they would have first attacked these cops. Swami was fighting the missionaries for four decades. We see a clear Christian conspiracy behind this attack”.</p> <p>46. Although the Christian leadership condemned the killing of the VHP leader and his four associates, attacks on Christians and their places of worship, as well as Christian-ran orphanages and businesses, began on 24 August 2008.</p>	

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	<p>The incidents have been focused on Kandhamal district, but other districts reported to have been affected include Angul, Bargarh, Baudh, Debagarh, Gajapati, Jajapur, Koraput, Rayagada, Sambalpur and Sundargarh. Many mobs reportedly carried out their attacks while chanting slogans in the Oriya language, translating as “Kill the Christians”. At least ten people have been killed so far, and the violence is continuing, putting many others in danger.</p> <p>47. Among the victims, a nun was burnt to death on 25 August 2008, after a mob set fire to an orphanage in Phutpali in Bargarh district. Twenty children, who were at the orphanage, managed to escape but a priest suffered serious burn injuries in the attack. Pastors were also murdered on 25 August 2008. They include Mr. Nayak Samuel, a Seventh Day Adventist pastor from Bakingia, and Mr. Nayak Akbar, a Pentecostal pastor from Mandakia.</p> <p>48. Allegedly, the police delayed taking action and did not enough to protect the district population. Further, though the State Government announced on 25 August 2008 that a special team had been constituted to investigate the murder of the Hindu leader and his associates, this appeared to have had little effect on the violence.</p> <p>Observations</p> <p>49. The Special Rapporteur regrets that she has not received a reply from the Government of India concerning the above mentioned allegations. She would like to recall that the General Assembly resolution 63/181 urged States to step up their efforts to eliminate intolerance and discrimination based on religion or belief, notably by taking all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, discrimination, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility or violence, with particular regard to members of religious minorities in all parts of the world. She also would like to refer to the press statement released at the end of her country visit to India on 20 March 2008, which had already referred to the widespread violence in December 2007 targeting primarily Christian communities in the State of</p>	

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	<p>Orissa. In the press statement, she had expressed concern about organized groups based on religious ideologies which had unleashed the fear of mob violence in many parts of the country and noted that law enforcement was often reluctant to take any action against individuals or groups that perpetuate violence in the name of religion or belief. She emphasized that this institutionalized impunity for those who exploit religion and impose their religious intolerance on others had made peaceful citizens, particularly the minorities, vulnerable and fearful. In her mission report, the Special Rapporteur also analyzes the vulnerable situation of members of religious communities, including Christians (A/HRC/10/8/Add.3, paras. 17-19), as well as the negative impact of laws on religious conversion in several states, including in Orissa (A/HRC/10/8/Add.3, paras. 47-52).</p> <p>A/HRC/10/8/Add.1 Urgent appeal sent on 5 November 2008 jointly with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Independent Expert on minority issues</p> <p>50. The Special Procedures mandate holders brought to the attention of the Government information they had received concerning the eruption of violence between the Bodo tribal and the Muslim communities in the Indian state of Assam. Reportedly, the violence between members of the Muslim community and members of Bodo tribal groups in the Indian state of Assam started on 3 October 2008. The incidents that sparked this wave of violence remain unclear, yet there have been long running tensions between the two communities. Despite the large number of paramilitary officers deployed by the Government and the imposition of a curfew, mobs from both communities armed with machetes and knives fuelled violence between the two communities in the districts of Udalguri, Darrang and Baksa.</p> <p>51. As a result of the communal violence, reportedly more than 50 people were killed, more than 500 houses were burnt</p>	<p>A/HRC/13/40/Add.1 Response from the Government dated 25 June 2009</p> <p>104. By letter dated 25 June 2009, the Government of India informed the Special Rapporteurs that of the 57 persons killed in the communal clashes that occurred in Darrang and Uladguri districts of Assam in the first week of October 2008, 23 persons were killed as a result of police firing and 34 persons were killed during the clashes. The Government emphasized that, at all times, the police opened fire at the mobs only as a last resort, as per the due procedure established under the law, on the orders of the Executive Magistrate who accompanied the police as required under the law, and only after the violent crowds had been given sufficient warning to disperse, other forms of milder tactics like baton charge and use of tear gas did not have any impact on these crowds, and the situation deteriorated to a point where there was no other alternative. The Government indicated that the use of force by</p>

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	<p>and more than 80,000 people, both from the Bodo and the Muslim communities, have been forced to flee from their village and to seek shelter in camps set up by the Government. To counteract the communal violence, the government of the Indian state of Assam has allegedly issued "shoot on sight" orders to the security forces. Indeed, 25 of the more than 50 victims mentioned above were reportedly killed by police fire.</p> <p>52. In addition to the above, coordinated bombings that killed 77 people and wounded more than 320 took place in the Indian State of Assam on 30 October 2008. Prime Minister Dr. Manmohan Singh strongly condemned the blasts and said that the Government would take all possible steps to bring the perpetrators of terror attack to justice. While responsibility still needs to be determined by the authorities, the Islamic Security Force-Indian Mujahideen reportedly claimed to have committed the bombings.</p> <p>53. As far as the inter-communal violence and the attacks of 30 October 2008 are concerned, the Special Procedures mandate holders urged the Government of India to take all necessary measures to ensure the accountability of persons responsible for the violence. They also requested that the Government adopts effective measures to prevent the aggravation of inter communal tensions and to effectively protect individuals against further violence.</p>	<p>the police had been both legitimate and proportional. It also noted that the intensity of the clashes reduced sharply subsequent to the firing by the police.</p> <p>105. The Government indicated that a judicial inquiry, headed by a retired judge of Assam High Court, into the communal clashes had been ordered. Furthermore, the state authorities took all adequate steps to provide humanitarian aid to the affected people and to facilitate the safe return to their homes. Of the approximately 216,000 persons who had been displaced and put up in 98 relief camps, almost all people had returned to their villages and virtually all relief camps had been shut down by early March 2009, except for about 1,040 people who were in the process of being sent to their villages. Apart from providing 2.5 crores Indian Rupees (about USD 500,000) for relief measures in each district, the state authorities sanctioned payment of 3 lakhs Indian Rupees (about USD 6,000) to the next of kin of each person killed in the clashes. An amount of 50,000 Indian Rupees (about USD 1,000) was also sanctioned for each of those grievously injured. The authorities provided food, blankets, mosquito nets and, separately, building material and cash amounts to each family that had lost its home. The Government indicated that separate grants were sanctioned for rebuilding schools and colleges that had been affected by the violence.</p>
<p>A/HRC/10/8/Add.3 69. Concerning vote-bank politics and electoral focus on inter-communal conflicts, the Special Rapporteur would like to reiterate her predecessor's suggestion to debar political parties from the post-election use of religion for political ends. In addition, the Representation of the Peoples Act 1951 should be scrupulously implemented, including the provision on disqualification for membership of parliament and state</p>		

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legislatures of persons who promote feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community or language.		
<p>A/HRC/10/8/Add.3 70. The laws and bills on religious conversion in several Indian states should be reconsidered since they raise serious human rights concerns, in particular due to the use of discriminatory provisions and vague or overbroad terminology. A public debate on the necessity of such laws, more information on their implementation and safeguards to avoid abuse of these laws seem vital to prevent further vilification of certain religious communities. The Special Rapporteur is concerned that such legislation might be perceived as giving some moral standing to those who wish to stir up mob violence. She would like to emphasize that the right to adopt a religion of one's choice, to change or to maintain a religion is a core element of the right to freedom of religion or belief and may not be limited in any way by the State. She also reiterates that peaceful missionary activities and other forms of propagation of religion are part of the right to manifest one's religion or belief, which may be limited only under restrictive conditions.</p>	<p>A/HRC/WG.6/1/IND/3 Working Group on the Universal Periodic Review, Summary of 37 stakeholders' submissions, March 2008 35. According to the Becket Fund (BF) the most troubling legal challenge to religious liberty in India is the existence of "freedom of religion" laws discouraging conversion ("anti-conversion laws"). Currently four Indian states, Orissa, Chhattisgarh, Madhya Pradesh, and Himachal Pradesh, have implemented anti-conversion laws. Gujarat and Arunachal Pradesh have anti-conversion laws that await enforcement regulations, and Rajasthan's anti-conversion law has been forwarded to the President for legal review. Many of India's state anti-conversion laws require a converted person to register their intention to convert to another religion. Some state anti-conversion laws discriminate against specific minority religions or social classes.</p>	
<p>A/HRC/10/8/Add.3 71. The Special Rapporteur would like to recall the recommendation by the Committee on the Elimination of Racial Discrimination (A/62/18, para. 179) to restore the eligibility for affirmative action benefits of all members of Scheduled Castes and Scheduled Tribes having converted to another religion. The Special Rapporteur recommends that the Scheduled Caste status be delinked from the individual's religious affiliation.</p>	<p>A/HRC/WG.6/1/IND/3 Working Group on the Universal Periodic Review, Summary of 37 stakeholders' submissions, March 2008 9. [...] Tripura People's Democratic Front (TPDF) stated that discrimination against Dalits includes education inequality, economic disenfranchisement, religious discrimination, a poor system of medical care, and targeted violence against women. 35. [...] CSW noted that under current legislation, Dalits who convert to Christianity or Islam lose their Scheduled Caste status, and consequently their eligibility for the affirmative action-style system of reservation. It also observed that Dalit perception that religious conversions constitute a means of escaping caste is complicated by the fact that caste is practiced, to some extent, within all religious communities in India. The European Centre for Law and Justice (ECLJ) stated that <i>souvent, ces lois sont invoquées, notamment par la population, afin de contrer la conversion de membres d'une religion majoritaire vers une religion minoritaire.</i></p>	

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	<p>E/C.12/IND/CO/5 Concluding Observations of the Committee on Economic, Social and Cultural Rights, August 2008</p> <p>14. The Committee notes with concern the lack of progress achieved by the State party in combating the persistent de facto caste-based discrimination that continues to prevail in spite of the legal prohibitions in place, most notably the 1989 Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The Committee is particularly concerned at the low rate of prosecution of crimes against persons belonging to scheduled castes and scheduled tribes, and that discriminatory attitudes and prejudices in the enforcement of the law, especially by the police, is a serious obstacle in the victims' access to justice.</p>	
<p>A/HRC/10/8/Add.3</p> <p>72. With regard to religion-based personal laws, the Special Rapporteur would like to recommend that such laws be reviewed to prevent discrimination based on religion or belief as well as to ensure gender equality. Legislation should specifically protect the rights of religious minorities and of women, including of those within the minority communities.</p>	<p>E/C.12/IND/CO/5 Concluding Observations of the Committee on Economic, Social and Cultural Rights, August 2008</p> <p>16. The Committee is deeply concerned that, in spite of the commendable efforts by the State party in promoting equality between men and women, such as the adoption of the National Policy on Empowerment of Women (2001) and the adoption of the amendments to the Hindu Succession Act and the Indian Divorce Act in 2005 and 2001 respectively, widespread gender inequalities, cultural stereotypes and personal laws of minority groups continue to prevail, affecting negatively the equal enjoyment of economic, social and cultural rights by women. The Committee notes with concern that, in particular, all the statistical data available before the Committee indicate the disadvantages disproportionately suffered by women in their enjoyment of economic, social and cultural rights, in particular, those belonging to disadvantaged and marginalized groups.</p>	
<p>A/HRC/10/8/Add.3</p> <p>73. In order to protect and empower members of religious minorities, the State should be proactive and take appropriate measures against all forms of intolerance and discrimination based on religion or belief which manifest themselves in school curricula, textbooks and teaching methods as well as those</p>		

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<p>disseminated by the media and the new information technologies, including Internet. Also in line with the Final Document of the International Consultative Conference on School Education in Relation to Freedom of Religion or Belief, Tolerance and Non-Discrimination (E/CN.4/2002/73, appendix), the Government should favourably consider providing teachers and students with voluntary opportunities for meetings and exchanges with their counterparts of different religions or beliefs as well as facilitating educational study abroad. Furthermore, specific education components on mass media could be envisaged in order to help the students to select and analyse the information conveyed by the mass media concerning religions and beliefs.</p>		
<p>A/HRC/10/8/Add.3 74. Finally, the State, non-governmental organizations and all members of civil society are encouraged to join their efforts with a view to taking advantage of the media and cultural institutions to provide the individual with relevant knowledge in the field of freedom of religion or belief. In this regard, setting up educational institutions for the whole South Asian region or encouraging joint movie productions might contribute to strengthening peace, understanding and tolerance among individuals, groups and nations.</p>		

17 February 2011