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THE IMPACT OF EXTREME HINDUTVA IDEOLOGY ON FREEDOM OF SPEECH IN INDIA

by Meher Shah*

In the last decade, India has seen a rise of extreme far-right nationalism often referred to as the “Hindutva movement.” While the movement existed even before India obtained its independence in 1947, it recently gained unprecedented popularity and support among Indian citizens and non-resident Indians. Among the factors responsible for the Hindutva movement’s current popularity is blatant support and affiliation from the ruling political party, the Bharatiya Janta Party (BJP). The BJP has been a leading endorser of the Hindutva ideology, bringing it back to the center stage of Indian politics.¹ The rise and spread of the ideology and its resulting policies and discourse changes violate the human rights of many people in India, including but not limited to, individuals belonging to non-Hindu minorities.

The rise and support for the Hindutva movement has a direct correlation to the violations of the fundamental right to freedom of speech and expression. These violations impact all religious and ethnic groups, including Hindu citizens who disagree with the tenets of the Hindutva ideology. The state-sponsored endorsement of extreme Hindutva nationalism in India adversely impacted citizens’ right to free speech and expression within the country by disallowing citizens to express any narrative

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1 Milan Vaishnav, *Religious Nationalism and India’s Future*, CARNEGIE ENDOWMENT FOR INT’L PEACE, (Apr. 4, 2019), <https://carnegieendowment.org/2019/04/04/religious-nationalism-and-india-s-future-pub-78703>.

contrary to its ideology. Further, India has obligations to prevent these violations of the right to freedom of speech and expression under international and domestic Indian law.

India is a unique heterogeneous society that houses multiple religions. In 2020, its religious percentage breakdown was estimated to be 72.4 percent Hindu, 14.2 percent Muslim, 2.3 percent Christian, 1.8 percent Sikh, and less than 2 percent of other groups including, Buddhists, Jains, Parsis, Jews and Bahá’í.² Within these religious groups, there is a plethora of linguistic diversity, differing customs, and individual identities. While this plurality among communities and religious groups has historically never been devoid of tensions, the BJP’s affiliations with Hindu majoritarianism greatly shifted the status quo of the balance between these communities.

I. What is “Hindutva”?

The BJP has, since its inception as a political party, had roots in the Hindutva ideology.³ The definition of what “Hindutva” implies has differed over time. Some called Hindutva “Hindu fascism and fundamentalism”⁴ and described it as a “separatist ideology,”⁵ while others like the Supreme Court of India stated that “Hindutva is related more to the way of life of the people in the sub-continent... and in the abstract cannot be assumed to mean and be equated with narrow fundamentalist Hindu religious bigotry.”⁶ In reference to “Hindutva,” this argument does not explore the various interpretations of its original ideology. Instead, it notes the manifestation of Hindutva ideology over the past four to five decades; highlighting its association with extreme right-wing nationalism.

Hindutva in its current form, and the activities attributable to it, advocate for Hindu-majoritarianism

2 Office of International Religious Freedom, *India 2022 International Religious Freedom Report*, U.S. DEP’T OF STATE, at 4, <https://www.state.gov/wp-content/uploads/2023/05/441219-INDIA-2022-INTERNATIONAL-RELIGIOUS-FREEDOM-REPORT.pdf>.

3 Rahul Verma, *The Emergence, Stagnation, and Ascendance of the BJP*, CARNEGIE ENDOWMENT FOR INT’L PEACE, (Apr. 4, 2019), <https://carnegieendowment.org/2019/04/04/religious-nationalism-and-india-s-future-pub-78703>.

4 Prabhat Patnaik, *The Fascism of Our Times*, 21 SOC. SCIENTIST, 69, 69-77 (1993).

5 SIDHARTH VARADARAJAN, GUJRAT: THE MAKING OF A TRAGEDY 20 (Siddharth Varadarajan eds., 2003).

6 Ramesh Yeshwant Prabhoo v. Shri Prabhakar Kashinath Kunte, (1996) 1 SCC 130 (India).

in the policies and spaces in India.⁷ It equates the Indian identity with that of a Hindu.⁸ According to extreme Hindutva ideology, the communities that are “non-Hindu” and, in its view non-Indian, are the Muslim, Christian, Parsi and Jew citizens within India.

II. Collective Punishment against Muslims

In recent years, state and non-state actors have used diverse tools to target non-Hindu communities in India. Just as recent as June 2022, the UN Special Rapporteur on adequate housing, the Special Rapporteur on minority issues, and the Special Rapporteur on freedom of religion or belief, collectively wrote a mandate to the Indian Government outlining the role of several high-level BJP government officials, who ordered home demolitions of all Muslims within specific areas as collective punishment for the role of a few individuals.⁹ The home demolitions occurred following clashes between Hindus and Muslims during two Hindu festivals in April 2022.¹⁰ Several armed groups were recorded playing anti-Muslim songs and openly encouraging violence against Muslims outside mosques and Muslim localities.¹¹ The Rapporteurs in their letter detailed how the police failed to curb such demonstrations before violence broke out, and instead engaged in collective punishment against Muslim communities for their alleged role in the clashes.¹²

III. Cow Vigilantism

A report by the Human Rights Watch outlined that the BJP used communal rhetoric to fuel a violent vigilante campaign against anyone linked to the consumption of beef, since the cow is considered sacred to the Hindu religion.¹³ The report linked the

7 P.M. JOSHY & K. M. SEETHI, *STATE AND CIVIL SOCIETY UNDER SIEGE: HINDUTVA, SECURITY AND MILITARISM IN INDIA* 77 (Sage Publications India Pvt, Ltd., 1st ed. 2015).

8 *Id.*

9 Balakrishnan Rajagopal (Special Rapporteur on the right to adequate housing), *Mandates of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on minority issues and the Special Rapporteur on freedom of religion or belief*, U.N. Doc. AL IND 5/2022 (Jun. 9, 2022).

10 *Id.* at 2.

11 *Id.*

12 *Id.* at 3.

13 *Violent Cow Protection in India: Vigilante Groups Attack*

Hindutva movement to cow protection and highlighted the role of BJP officials in endorsing, stalling, and covering up extreme attacks of violence on Muslims and lower-caste Hindus (Dalits).¹⁴ This endorsement has often included public statements made by BJP state officials openly calling for or justifying violence against anyone who consumes beef in the name of protecting the cow.¹⁵ BJP officials “We will hang those who kill cows”¹⁶ or, “I had promised that I will break the hands and legs of those who do not consider cows their mother and kill them” are just a few examples.¹⁷

IV. Anti-Conversion Laws

As of 2023, twelve Indian states have legislation that criminalizes religious conversion.¹⁸ Multiple elements of the legislation inherently violate the internationally protected human right to freedom of religion or belief and are being challenged within Indian courts.¹⁹ However, violations of minority rights using these laws continued in ways that impact more than the right to religious freedom. The BJP-led states of Uttar Pradesh and Madhya Pradesh recently passed anti-conversion laws which disproportionately impacted Muslim and Christian communities.²⁰ These laws require individuals who want to convert to notify the government and have a public call for objections, among other requirements.²¹ Such notification has often been used by government officials and non-state vigilante groups to harass, discriminate, or subject individuals to violence.²² Many argue that these laws

Minorities, HUM. RTS. WATCH (Feb. 18, 2019) <https://www.hrw.org/report/2019/02/19/violent-cow-protection-india/vigilante-groups-attack-minorities#:~:text=While%20cow%20protection%20is%20an,for%20that%20matter%2C%20faith.%E2%80%9D>.

14 *Id.*

15 *Id.*

16 *Id.*

17 *Id.*

18 Luke Wilson, *India's State-level Anti-Conversion Laws*, U.S. COMM'N ON INT'L RELIGIOUS FREEDOM, (Mar. 2023), <https://www.uscirf.gov/sites/default/files/2023%20India%20Apostasy%20Issue%20Update.pdf>.

19 *Id.*

20 Anoop Ramakrishnan, *Anti-Conversion Legislation: Comparison of UP Ordinances with Other State Laws*, PRS LEGIS. RSCH. (Dec. 17, 2020), <https://prsindia.org/theprsblog/anti-conversion-legislation-comparison-of-the-up-ordinances-with-other-state-laws>.

21 Wilson, *supra* note 18.

22 Mariyam Alavi, *How UP's New Anti-Conversion Law is Being Used to Harass Hindu-Muslim Couples*, NDTV (Dec. 2023, 3:15 PM) <https://www.ndtv.com/india-news/how-uttar-pradesh->

were created to combat the conspiracy theory known as “Love-Jihad” thus giving these laws the colloquial name of “Anti-Love Jihad Laws.”²³

V. The Conspiracy of Love Jihad

“Love Jihad” was originally a fringe extremist theory that claimed Muslim men were luring Hindu women into marriage by using false pretenses to ultimately convert them to Islam, thereby ensuring Muslim domination over Hindus in India²⁴. Due to the rise of the Hindutva ideology, “Love-Jihad” became a part of India’s mainstream political discourse.²⁵ While on paper, anti-conversion laws criminalize only forced conversions, the laws openly create a space where extremist Hindu vigilante groups can work alongside law enforcement officials to break apart consensual inter-faith marriages and detain Muslim men without evidence.²⁶ Mob lynchings, public torture, and harassment of Muslim men and boys increased in the name of “Love Jihad”.²⁷ The United States in its 2023 International Religious Freedom Report on India, highlighted several instances in which anti-conversion laws were misused to target Muslim and Christian individuals under false pretenses.²⁸ India rejected the findings of the report.²⁹

VI. Legal Sanction

The Human Rights Watch in its 2022 Annual

new-anti-conversion-law-is-being-used-to-harass-hindu-muslim-couples-2336819.

23 Chander Uday Singh, *Lies Insistence and Disregard For Evidence The Journey of Love Jihad Laws*, THE WIRE (Dec. 30, 2022) <https://thewire.in/communalism/lies-insistence-and-disregard-for-evidence-the-journey-of-love-jihad-laws>.

24 Hannah Eliis-Peterson & Ahmer Khan, *They Cut Him Into Pieces, India’s ‘Love Jihad’ Conspiracy Theory Turns Lethal*, THE GUARDIAN (Jan. 21, 2022, 12:00 AM), <https://www.theguardian.com/world/2022/jan/21/they-cut-him-into-pieces-indias-love-jihad-conspiracy-theory-turns-lethal>.

25 *Id.*

26 *Id.*

27 Oishika Neogi, *How a ‘Love Jihad’ Case Was Manufactured in Uttar Pradesh*, AL JAZEERA (Jul. 26, 2022), <https://www.aljazeera.com/news/2022/7/26/manufacturing-a-love-jihad-case-in-indias-uttar-pradesh-state>.

28 Annual Report, U.S. COMM’N ON INT’L RELIGIOUS FREEDOM, 7 (2019).

29 Geeta Mohan, *Flawed, Motivated, Biased: Govt Rejects US Religious Freedom Report that Criticised India for “Attack” on Minorities*, INDIA TODAY (May 2023, 10:42 PM), <https://www.indiatoday.in/world/story/india-us-religious-freedom-report-flawed-motivated-bjp-28-times-minority-communities-2380179-2023-05-17>.

Report on India stated that “Critics of the [BJP-led] government in India including activists, journalists, peaceful protesters, poets, actors, and businesses increasingly risked politically motivated harassment, prosecutions, and tax raids.”³⁰ Among the different laws used by the government to curb critique, the most notorious is the Unlawful Activities Prevention Act (UAPA). The law, through a 2019 amendment passed by the BJP government³¹ gives the government the power to designate any dissenter or challenger of its policy as a “terrorist” due to the broad and ambiguous definition of the term, in turn restricting a dissenter’s legal remedies under the guise of national security.³² The enumerated acts and policies are part of the BJP’s political agenda, which is aligned with Hindutva ideology and tied to grave human rights violations. The impact of these incidents in different regions of India created widespread fear among all groups³³ that may seek to challenge and question the notions of Hindu hegemony. Individuals belonging to all religious groups, including Hindus, are not free to speak out against the Hindutva narrative. The significance of the right to freedom of opinion and freedom of expression to the functioning of society is paramount as these rights are the foundational stones for a free and democratic society.³⁴ These rights form the basis for the full enjoyment of a wide range of other rights.³⁵

However, these rights do not exist in a vacuum. They are closely connected in law to guarantees contained in other rights like the right to freedom of thought, conscience, and religion, as they all protect an individual’s personal sanctum of thoughts and beliefs.³⁶ While this article restricts

30 *World Report, India Events of 2021*, HUMAN RIGHTS WATCH (2022), <https://www.hrw.org/world-report/2022/country-chapters/india/>.

31 The Unlawful Activities (Prevention) Amendment Act, 2019, § 28, (Aug. 8, 2019).

32 *Misused, Abused’: India’s Harsh Terror Law Under Rare Scrutiny*, AL JAZEERA (Aug. 16, 2021), <https://www.aljazeera.com/news/2021/8/16/india-uapa-terror-law-scrutiny>.

33 Mahatb Alam, *India’s ‘Extraordinary’ Laws need to be Revoked Not Revamped*, THE WIRE, (Feb 16, 2020) <https://thewire.in/rights/uapa-sedition-psa-nsa-extraordinary-laws>.

34 Hum. Rts. Comm., No. 1173/2003, *Benhadji v Algeria*, UN Doc. CCPR/C/90/D/1173/2003 (Sept. 26, 2007).

35 Hum. Rts. Comm., *General Comment No. 34, Article 19: Freedoms of Opinion and Expression*, UN Doc. CCPR/C/GC/34, (Sept. 12, 2011).

36 Heiner Bielefeldt, *Rep. of the Special Rapporteur on Freedom of Religion or Belief*, U.N. Doc. A/HRC/31/18 (Mar. 9, 2016). At this time, Bielefeldt was acting as a Special Rapporteur on Free-

itself to mainly analyzing the violations of the right to freedom of opinion and freedom of expression, it is important to keep in mind that the impact of the rise in far-right extremism can be understood as violative of several internationally recognized rights including the right to life, liberty, religious freedoms, and conscience. This article focuses on right to freedom of speech and expression as its violation has been pervasive and impacted all groups in India.

A. Legal Standards and Analysis

India ratified the International Covenant for Civil and Political Rights, (ICCPR) in 1979 and is bound by the rights and obligations laid down under it.³⁷ Article 19(1) of the ICCPR states that “Everyone shall have the right to hold opinions without interference.”³⁸ Article 19(3) clarifies that this right is subject to only those restrictions prescribed by the law that respect the reputation of others or protect national security, public order, and public health or morals.³⁹ Article 20(2) states “Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.”⁴⁰

Under the Indian Constitution, the right to free speech and expression is a fundamental right under Article 19(1)(g).⁴¹ The exercise of this right is not absolute and can be subject to reasonable restrictions as laid down by Article 19(2).⁴² These restrictions include the “interest of security and sovereignty of India” and “public order” among others.⁴³

i. Right to Hold Opinions

Article 19(1) of the ICCPR refers to the right to hold opinions “without interference.”⁴⁴ It is held as an absolute right and interpreted to “permit no restriction” whether “by law or other power.”⁴⁵

dom of Religion or Belief.

37 OHCHR, United Nations Human Rights Treaty Bodies: Ratification for CCPR - International Covenant on Civil and Political Rights, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CCPR&Lang=en (last visited Feb. 12, 2024).

38 G.A. Res. 2200A (XXI), at 11 (Dec. 16, 1966).

39 *Id.*

40 *Id.*

41 India Const. art. 19.

42 Nirmalendu Rakshit, *Mutilated Liberty and the Constitution*, 38 ECON. AND POL. WK. 1548, 1549 (2003).

43 *Id.*

44 G.A. Res. 2200A (XXI), at 11 (Dec. 16, 1966).

45 Hum. Rts. Comm., *Article 19: Freedoms of Opinion and Ex-*

The Human Rights Committee concluded that this right requires freedom from undue coercion in the development of an individual’s beliefs, ideologies, reactions, and positions.⁴⁶ The Committee further clarified that harassing, intimidating, or stigmatizing a person for an opinion they hold is a violation of Article 19, Paragraph 1.⁴⁷ This means that if an individual fears a credible threat to exercising their opinion with repercussions such as legal sanction, mob violence, or vigilantism, the individual’s right to hold opinions is violated.

Moreover, when a heterogenous and diverse population is compelled to conform to a singular narrative promoting the exclusionary ideas of Hindu majoritarianism across India, and any dissent is met with punitive legal measures, the freedom to express a contradictory opinion is effectively curtailed. Hence the climate of fear created by the state’s endorsement of the Hindutva ideology makes it unsafe for anyone to hold a contrary opinion, thus violating the right to freedom of opinion.

ii. Freedom of Expression

Article 19 (2) of the Covenant guarantees an expansive right to “seek, receive and impart information and ideas of all kinds.”⁴⁸ The UNHRC has on multiple occasions clarified that the exercise of this right requires an independent and free media of journalists, civil rights groups, and human rights groups who are not being intimidated or silenced by the state for disseminating information that the state does not approve of.⁴⁹ However, the tactics of harassment and the credible threats faced by anyone who does not fall in line with the BJP’s endorsed Hindutva ideology highlight that only state-sponsored ideas can be propagated, violating the right to expression.

The UAPA, which curtails the freedom of speech and expression, is posited to fall under the exception of a lawful restriction to the fundamental right to freedom of speech and expression in India, as it is meant to protect the sovereignty and security of the Indian state.⁵⁰ However, there are pending

pression Report, UN Doc. CCPR/C/GC/34 (Sept. 12, 2011).

46 Yong Joo-Kang v. Republic of Korea, UNHRC Comm’n No. 878/1999, (Jul. 16, 2003) U.N. Doc. CCPR/C/78/D/878/1999.

47 *Id.*

48 G.A. Res. 2200A (XXI) 1966, *supra* note 39.

49 Hum. Rts. Comm., *Article 19: Freedoms of Opinion and Expression Report*, *supra* note 45.

50 Arun Ferreira & Vernon Gonsalves, *Fifty Years of Unreason-*

constitutional challenges to various provisions of the UAPA as well as a 2019 amendment to the law passed under the BJP government,⁵¹ which are deemed “excessive” and beyond a “reasonable” restriction on free speech and the right to life and liberty among other fundamental rights.⁵² Several UN Special Rapporteurs in a letter addressed to the government of India highlighted their concerns with the law in so far as it vaguely defined the term “terrorist”, transferred broad and excessive powers to the executive branch, undermined principles of fair trial, and had immense potential to discriminate against minorities and civil society actors.⁵³

The UNHRC, in its General Comment 34, states that treason laws which impose restrictions on freedom of speech and expression cannot be used to prosecute journalists, researchers, environmental activists, human rights defenders, etc.⁵⁴ In contravention to General Comment 34, the BJP used excessive enforcement of the UAPA in the past few years against protesters, students, dissenters, and journalists who question its policies.⁵⁵ Since individuals charged under the UAPA are eligible to get bail only in exceptional circumstances,⁵⁶ there are many instances of accused individuals having spent over a decade in jail only for the Court to acquit them and acknowledge they were wrongfully jailed.⁵⁷ The case of 84-year-old jurist priest and tribal rights activist Father Stan Swami is one such case that caused outrage both internationally and in India and led several Indian Supreme Court judges

able Restrictions Under the Unlawful Activities Act, THE WIRE (Mar. 2017) <https://thewire.in/rights/uapa-anti-terrorism-laws>.

51 Hum. Rts. Comm., *Article 19: Freedoms of Opinion and Expression Report*, *supra* note 45.

52 Balu Nair & Jai Brunner, *Brief History: Challenges to the UAPA*, SUP. CT. OBSERVER (May 11, 2020) <https://www.scobserver.in/journal/brief-history-challenges-to-the-uapa/>.

53 Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism et al., UN Doc. OHCHR OL IND 7/2020 (May 6, 2020).

54 Hum. Rts. Comm., *Article 19: Freedoms of Opinion and Expression Report*, *supra* note 45.

55 ‘Misused, Abused’: India’s Harsh Terror Law Under Rare Scrutiny, AL JAZEERA, *supra* note 32.

56 Vakasha Sachdev, *Bail in UAPA Cases*, THE QUINT (Oct. 19, 2021, 5:24 AM), <https://www.thequint.com/news/law/bail-not-impossible-uapa-cases-high-courts-supreme-court-section-43d5#read-more>.

57 Murali Krishnan, *UN Slams Anti-terror Laws*, DW (Dec. 6, 2021), <https://www.dw.com/en/india-un-slams-anti-terror-laws-amid-controversial-arrests/a-60034650>.

to call for a re-examination of the UAPA.⁵⁸ Father Swami was denied bail as the National Investigating Agency continued to oppose his release despite his deteriorating medical health, and as a result, he died in judicial custody.⁵⁹ Noting that several of those charged under the UAPA include Kashmiri journalists, human rights defenders, caste activists, students, etc., the Human Rights Watch, Amnesty International, and several international human rights groups collectively called for an end to the misuse of the law.⁶⁰

Irrespective of whether the law is constitutional, the BJP instrumentalized the UAPA to stifle free speech as opposed to finding actual “terrorists.” Hence the usage of the UAPA as a legal sanction serves as a deterrent for any individual who expresses an opinion that does not align with that of the BJP.

Furthermore, Article 20 states that “Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.”⁶¹ The UNHRC also clarifies that Articles 19 and 20 complement each other.⁶² Article 20 is *lex specialis*, and for the acts addressed in Article 20, the Covenant indicates the specific action required by the state – prohibition by law.⁶³ However, the circumstances in India highlight that far from prohibiting incitement, discrimination, and violence on religious lines, the state is directly connected to such incitement and uses legal sanctions and lack of action to contribute to the climate of fear. The right to freedom of expression includes the transmission and receiving of ideas related to political discourse, public affairs, discussion of human rights, journalism, cultural and artistic teachings, and religious discourse.⁶⁴ This indicates that the conception of expression is widely interpreted to include expression beyond merely speaking. Freedom of expression requires being free from being criminalized and harmed for consensually

58 *Id.*

59 *Stan Swamy: Jailed Activist Dies at 84*, BBC (Jul. 5, 2021), <https://www.bbc.com/news/world-asia-india-57718356>.

60 Joint Statement by FORUM-Asia, *Deteriorating Human Rights Situation in India Require Urgent Attention, Say Rights Groups at UN Human Rights Council*, HUMAN RIGHTS WATCH (Mar. 27, 2023, 8:07 AM) <https://www.hrw.org/news/2023/03/27/deteriorating-human-rights-situation-india-requires-urgent-attention-say-rights>.

61 G.A. Res. 2200A (XXI), *supra* note 38.

62 Hum. Rts. Comm., *Article 19: Freedoms of Opinion and Expression Report*, *supra* note 45.

63 *Id.* at 13.

64 *Id.* at 3.

loving someone from a different religion. It includes the right of a Hindu female to counter the narrative of “Love Jihad,” which views her as a victim of a political conspiracy unable to exert her own agency in willingly choosing a partner from a different religion. The right to expression includes the right of every citizen to question why the state’s policies favor one religion over the others. However, such a freedom of expression in India is violated as expressions are met with punitive legal sanctions or mob violence.

B. State Responsibility

The responsibility of the state to respect and protect freedom of opinion and expression is binding on all government authorities across all levels (national, state/regional, or local).⁶⁵ Hence the misuse or deliberate actions of regional authorities in instrumentalizing laws and policies to disproportionately target Muslim and Christian communities, and silence critics of the Hindutva ideology, are actions that are attributable to the state. Therefore, the Indian state is currently not fulfilling its legal international responsibility by failing to protect such freedom of expression. Additionally, while mob lynching and other violence affiliated with the Hindutva movement cannot be directly attributed to the state, under the ICCPR, states are obligated to ensure that individuals are protected from any acts by private actors that directly impair the enjoyment of right to freedom of opinion and expression.⁶⁶ However, the BJP government’s role in failing to take proactive effort to prevent such crimes and actions gives a green light to individuals to act on their racist and Islamophobic tendencies without fear of consequences. In the absence of an unequivocal prohibition of such violence, the state is directly flouting its obligations under Article 20 and its positive obligations to give citizens the right to freedom of speech and expression. The actions of the state, vigilante groups, and mobs collectively impacted Indian citizens’ right to freedom of speech and expression by creating conditions of fear within the country. Such fear has directly impacted non-Hindu minorities and anyone critical of the ideology from expressing their opinion freely in fear of public retribution and active targeting by the

state or groups affiliated with the state.⁶⁷ Hence, the state’s endorsement of the extreme far-right Hindutva movement in India comes at the cost of freedom of speech and expression for all its citizens.

VII. Conclusion

The right to freedom of expression and speech is fundamental to a democracy. It allows citizens to dissent, challenge the popular discourse, and hold an elected government accountable to the people it is meant to serve. When this right is slowly but intentionally curbed by a singular narrative backed by the state, the repercussions impact more than just the right to free speech. In many instances, attacks on the freedom of expression directly impact an individual’s right to life and play an active role in dismantling the elements integral to a democratic political system. The BJP party through its use of legal tools like the UAPA, is stifling free speech to an extent that surpasses the standard of reasonable restrictions. Furthermore, the state is creating an atmosphere of fear within the country that prevents any opponents of the Hindutva ideology and any affiliated state action from exercising their opinions through its creation of religiously motivated Hindu-majoritarian state laws and connections with violence against minorities.

The Indian government must take immediate action to curb such violence and distance itself from religious extremism that ties the secular identity of India to that of a Hindu majoritarian nation. This includes analyzing its policies of cow vigilantism and anti-conversion laws, considering the state’s human rights obligations, and discontinuing collective punishment to target minority religions in India. It must immediately stop its crackdown on journalists, human rights organizations, and critiques of its policies while simultaneously acting against its party members for inciting communal violence.

⁶⁵ *Id.* at 2.

⁶⁶ Hum. Rts. Comm., General Comment No. 31., *The Nature of the General Legal Obligation Imposed on States Parties to the Covenant Report*. UN Doc CCPR/C/21/Rev.1/Add. 13 (Mar. 29, 2004).

⁶⁷ *India: Government Policies, Action Target Minorities*, HUMAN RIGHTS WATCH (Feb. 19, 2021, 9:00 AM), <https://www.hrw.org/news/2021/02/19/india-government-policies-actions-target-minorities>.