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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the International Association for Religious Freedom, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2012]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

The alarming state of fundamentalist intolerance and associated religious violence against religious minorities, Dalits & Indigenous Peoples in India**

General introduction

The International Association for Religious Freedom (IARF), in collaboration with over fifteen of its member and partner organizations in India, welcomes the report of the UN Special Rapporteur on Freedom of Religion or Belief⁷ (SR on FoRB) and his ongoing commitment to dialogue and engagement with civil society. His work and mandate is central to the whole human rights work at the UN, and no less than the General Assembly has recognized this, through a resolution (64/164) urging States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief.¹

However, despite such bold statements and commitment to the issue and the mandate at the GA and at the Human Rights Council, specifically through the Universal Periodic Review (UPR), the situation on the ground shows a sobering reality. According to the OHCHR's recent analysis of the key human rights issues discussed during the first cycle of the UPR (shared during an NGO Briefing Session on the UPR), OHCHR discovered that the rights to freedom of religion and belief, along with issues related to sexual minorities, were the two least discussed during the interactive dialogue, and received the fewest recommendations.

This is despite the fact that the last four years, which coincide with the first cycle of the UPR, have been marked by gross human rights violations related to the right to freedom of religion or belief. In India alone, the last five years have shown a spike in religious intolerance and communal violence committed against religious minorities, including Dalits and Indigenous Peoples.

IARF would like to draw the attention of the Human Rights Council to this increasingly alarming fundamentalist intolerance shown toward, and violence inflicted upon, religious minorities in India.²

India is known as a secular state in which freedom of religion and beliefs are guaranteed under the constitution³ and in law, however IARF member organizations and their partners in the country have reported intolerance and violence between religious groups, and organized communal attacks against religious minorities, Dalits and Indigenous Peoples.

** The Mahabodhi International Meditation Centre, Inter faith Fellowship for Peace and Development, National Spiritual Assembly of the Bahai's of India, All India Christian Association, Doni Polo Mission, Sadharan Brahma Samaj, Sankardev Institute of Culture International, Unitarian Union of North Eastern India, Seng Khasi, Tenkasi Harmony (Interfaith Council for Religious Freedom Service Organisation), World Zarathushti Cultural Foundation, Forum for Harmony and Peace, All India All Religious Federation, Caussanel Inter Religious Students Movement, Indian Christian Association, Interfaith Fellowship for Peace and Progress, Ramakrishna Mission Lokasiksha Parishad, Balavikas Foundation for Peace and Harmony, NGOs without consultative status, also share the views expressed in this statement.

¹ See paragraph 11 of General Assembly resolution 64/164.

² It should be noted that the UN Special Rapporteur on Freedom of Religion or Beliefs has visited India in two occasions already (1996 & 2008).

³ See Indian Constitution. Article 25 Section 1, available at <http://lawmin.nic.in/olwing/coi/coi-english/coi-indexenglish.htm>. By the same token, discrimination based on religion is also explicitly prohibited by the Constitution (see Article 15).

IARF is very concerned by the fact that in many states of India, religious minorities - especially Muslim and Christian but including indigenous and tribal peoples and Dalits - have come under serious attack in recent years. It is reported that Hindu fundamentalist groups have distributed malicious propaganda and carried out violent attacks on various religious minorities in several states.

In the states of Gujarat, Rajasthan and Madhya Pradesh, and in parts of the states of Maharashtra and Karnataka, state police and other security agencies allegedly victimise members of Muslim communities because most of them are seen as 'terrorists'.

In the past five years there has been an increasing number of violent attacks on Christians reported from different parts of India, especially the North East and the states of Gujarat and Karnataka. These have included: sexual assault on religious women's orders; burning of churches; vandalism of church property; desecration of religious symbols; illegal detention and abduction.

It should be noted that religious violence and intolerance, along with caste-based discrimination, were some of the key human rights issues that were highlighted during the Universal Periodic Review (UPR) of India in 2008 by various stakeholders.⁴

Religious violence & intolerance against religious minorities and Dalits

No less than India's Ministry of Home Affairs reported in its Annual Report 2009-2010 that 826 communal incidents occurred in 2009, in which 125 persons died, compared to 943 incidents in 2008 in which 167 persons died.⁵ Clearly the protection of freedom of religion and beliefs has been compromised due to religious intolerance in certain regions.

Other specific cases of religion-based rights violation reported since 2008 are: desecration of places of worship; destruction of property and institutions run by minorities in Karnataka and Madhya Pradesh states; denial of genuine entitlements and concessions in the name of religion; restrictions on converting to the religion of one's choice (introduced by the state governments of Madhya Pradesh, Orissa, Gujarat, Chhattisgarh, Himachal Pradesh and Rajasthan) and religious riots and pogroms.

In addition to this, inter-caste violence has claimed hundreds of lives, especially in Uttar Pradesh, Bihar, Rajasthan, Madhya Pradesh, Andhra Pradesh and Tamil Nadu⁶.

It is also reported that religious fundamentalists have targeted minority faiths, scheduled caste and Dalit communities⁷. India's scheduled caste are poorer, less educated, more malnourished and in lower-paying jobs than people belonging to "upper" castes. Crimes against Dalit based on their caste alone leads to ostracism and humiliation⁸ particularly in

⁴ A/HRC/WG.6/1/IND/3

⁵ See US Department of State, Bureau of Democracy, Human Rights and Labor, July- December, 2010, International Religious Freedom Report: India (released on September 2011) at http://www.state.gov/g/drl/rls/irf/2010_5/index.htm

⁶ For example, a survey conducted during 2001 by the Protection of Civil Rights wing of the Tamil Nadu Adiravidar (indigenous peoples) Department identified 191 villages in Tamil Nadu where caste-based oppression and violence, and the practice of untouchability were prevalent.

⁷ For instance, fifteen out of 97 men belonging to dominant Jat community were convicted of burning alive a 70-year-old Dalit man and his physically-challenged daughter at Mirchpur village of Haryana States's Hisar district on April 21, 2010; seven Dalits were killed in Paramakudi, Tamil Nadu by police firing during a conflict between upper-caste Thevars and Dalits

⁸ It is very common in rural villages in India the existence of so called "Dalit Village and Street". This is the only area in which Dalits are allowed to live and move. Dalits are often expected to carry out traditional roles for which they receive no compensation. For example, they must play the drums in religious ceremonies and must remove dead animals. Their participation in such acts only works to

rural areas. Unfortunately, they also face difficulties in filing police complaints or getting a fair trial.

A survey conducted by the National Law School, Bangalore (July 2009) in six states of India has revealed that untouchability is still prevalent in rural India even though dalit participation in social activities has improved. The above study pointed out that dalits were not allowed inside many temples, were not allowed on main roads in villages and expected to talk with folded hands before the upper castes. However, it is to be pointed out here that although untouchability still exists, it is gradually on the wane.

IARF is very concerned at the “anti-conversion laws” that now exist in seven of India’s twenty-eight States, and are causing alarm among religious minorities⁹. The anti-conversion law “requires that an individual planning on converting obtain prior permission from district authorities.” However, such an amendment does not equally apply to religious minorities intending to “re-convert” to Hinduism. This means that the law favors Hinduism over other religions, which poses a challenge to Indian secularism.

Related to the issue mentioned above is the rise of Hindutva extremism (“India is Hindu”). This has resulted in a hate campaign against other religions in India, specifically Muslims and Christians. Cases have been reported of ‘forced re-conversion’ instigated by extremist groups in the state of Orissa, where most victims have been indigenous and tribal peoples¹⁰.

IARF is extremely concerned at the alleged complicity of the police, and their frequent sheer inaction shown during many such attacks on minority communities. In such cases the Government of India has failed to ensure the basic and fundamental rights to freedom of religion, conscience and free profession and practice of religion that are enshrined under Articles 21 and 25 of its own Constitution, along with Articles 18 and 27 of the International Covenant on Civil and Political Rights to which the Government of India is a party.

Persecution and violence against Indigenous and Tribal Peoples

There are over 84 million indigenous and tribal people in India, commonly known as Schedules Tribes. Since the 1950s, over 9 million ‘tribals’ have become landless and displaced, entirely without rehabilitation, due to displacement in the name of development. Many have been facing extinction¹¹ while others - such as the predominantly Christian indigenous peoples of Nagaland - have been continuously harassed and persecuted by Government forces including the police and the military.

Indigenous and tribal peoples living in their ancestral lands in India are underpinned by a religious cosmology deriving directly from their intimate relation to the land and their living environment. India is both a party to the ILO Convention No. 107 on Indigenous and Tribal Peoples and the United Nations Declaration of the Rights of Indigenous Peoples,

perpetuate the discrimination against them. For example, the Dalit communities in south Tamilnadu are not allowed to cross the village by carrying the dead bodies of their love ones to their burial ground. Instead they have to go around and may walk about 4 kilometers to reach the graveyard in other direction.

⁹ The seven States are as follows: Orissa, Chhattisgarh, Madhya Pradesh, Himachal Pradesh, Gujarat, Arunachal Pradesh and Rajasthan.

¹⁰ World Wide Religious News (WWRN) under section “Sectarian Violence” has a compilation of cases of religious intolerance in India. On the Orissa case, see <http://wwrn.org/articles/27621/?&place=india§ion=sectarian-violence>

¹¹ Such communities include the Great Andamanese, Onges, Shompens, Jawaras and Sentineles of the Andaman and Nicobar due to the Andaman Trunk Road that runs along and through the Jarawa Tribal Reserve.

which recognizes indigenous peoples' rights to self-determination. By virtue of those rights, indigenous peoples are free to determine their political status and freely pursue their economic, social and cultural development.

The Declaration also provides the right to free, prior and informed consultation (FPIC) and requires Government to respect FPIC when development projects such as dams and mining affect indigenous peoples in their territories, directly or indirectly. IARF is concerned that the Government of India has not complied with international obligations on several occasions¹², and therefore the rights of indigenous and tribal peoples to practice their beliefs, spirituality and religion have been violated.

IARF urges the Government of India to recognize the link between a State's alienation of citizens from their religion as well as their material base, and those citizens' inevitable militant resistance to that State. The urgency of developing the wealth of natural resources in Chhattisgarh, Jharkhand and Orissa cannot be allowed to legitimize the dispossession of citizens in contravention of India's human rights commitments. Certainly foreign corporate entities must be obliged to respect religious and related traditions of indigenous and tribal peoples.

Future steps & recommendations

Considering the ever-intensifying phenomenon of fundamentalist intolerance of religious minorities in India, and violence shown toward them, the International Association for Religious Freedom urges the Human Rights Council to call upon the Indian government to:

- Provide the Human Rights Council with a report on the implementation of the recommendations provided by the UN Special Rapporteur on Freedom of Religion or Belief following visits to India in 1996 & 2008 respectively.
- Urgently revise the "anti-conversion laws" that exist in seven States of India in the light of the principle of rule of law and ensure that the anti-conversion laws comply with international human right law.
- Undertake a thorough investigation and prosecution of all cases of disappearances, and develop a witness protection program that is independent of the police and military in order for victims to enjoy confidence and feel safe in the process.
- Document and carry out a thorough investigation of all the cases of religious intolerance and persecution of religious minorities in India; prosecute those involved; compensate and rehabilitate the victims; and develop a witness protection program independent of the police and military.
- Provide capacity-building and training for officials and staff of National, State and Local Government Agencies that deal with human rights issues (e.g. judiciary, penitentiary and prison system, National Commissions on Scheduled Tribes, Women & Children, Minorities and De-notified Tribes).
- Create a body within the National Human Rights Commission that monitors the implementation of the recommendations of the UN Special Rapporteur on Freedom of Religion or Beliefs, and of the concluding observations of the UN human rights treaty body recommendations related to the protection of the right of religious minorities, including Dalits and indigenous peoples.

¹² Uranium Minings in Andhra Pradesh, see more at <http://www.wise-uranium.org/upinap.html#LAMBAPUR>; Meghalaya, see more <http://www.wise-uranium.org/upinml.html#DOMIAS> and Jharkhand, see more at <http://www.wise-uranium.org/umopjdg.html>

- "Create a body within the National Human Rights Commission that monitors the implementation of the Declaration on the Rights of Indigenous Peoples within the country.
- Appoint more courts to speed up the legal process. (Free legal advice, while it is working well, has resulted in long delays in the administration of justice, due to the large backlog of cases in the courts).
- In pre-identified flashpoints for religion-based strife, introduce rapid-response early warning systems and 'rescue forces' with special powers for immediate deployment when violence erupts.
