



Universal Periodic Review (UPR) for India

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Joint NGO Submission by

International Association for Religious Freedom (IARF)

(international NGO with General Consultative Status with the UN ECOSOC¹)

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Unitarian Universalists of India
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¹ IARF, the world's first interfaith organization, began work in India since 1979 and enjoys General Consultative Status with the UN ECOSOC since 1995. For more information on IARF activities in India, visit <http://www.iarfsacc.org/index.htm>

Introduction

1. This stakeholder's report is a joint submission of the above-mentioned organizations. The first section of this submission relates to the following human rights situation on the grounds: ***Freedom of Religion and Beliefs, Religious Intolerance and Persecution of Religious Minorities, Indigenous & Tribal Peoples Rights and Human Rights Education***. The second section looks into the implementation of the accepted recommendations by the Indian Government during its 1st UPR in June 2008. IARF highlights the following three of the five accepted recommendations:²

- *Share best practices in the promotion and protection of human rights taking into account the multi-religious, multi-cultural and multi-ethnic nature of Indian society (Mauritius);*

- *Continue energizing existing mechanisms to enhance the addressing of human rights challenges (Ghana);*

- *Take into account recommendations made by treaty bodies and special procedures, especially those relating to women and children, in developing a national action plan for human rights which is under preparation (Mexico)*

The third section of the submission conveys IARF specific recommendations to the Indian Government.

2. The data and information obtained for this submission came from various sources and includes information from IARF member organization in various parts of India.

I. Human Rights Situation on the Ground

Freedom of Religion and Beliefs, Religious Intolerance & Persecution of Religious Minorities

3. Although India is known as secular State and that freedom of religion and beliefs are guaranteed under its Constitution,³ laws and policies, IARF member organizations and their partners in the country have reported religious violence and intolerance between religious groups and organized communal attacks against religious minorities and their properties.

4. IARF is saddened by the fact that in many states of India, religious minorities especially Islam and Christianity, including indigenous and tribal peoples and Dalits have come under serious attack in recent years. It is reported that Hindu religious fundamentalists groups have been carrying out malicious propaganda and violent attacks on various religious minorities in several states. In the states of Gujarat, Rajasthan, and Madhya Pradesh and in parts of the state of Maharashtra and Karnataka, states police and other security agencies allegedly victimise members of Muslim community because most of them are seen as 'terrorists'. In the past 5 years, there have been an increasing violent attacks on Christians reported from different parts of India, especially in Northern East India and the States of Gujarat and Karnataka. These attacks includes sexual assault to religious women orders, burning of churches, vandalism of church property, desecration of religious symbols, illegal detention and abduction.

5. No less than India's Ministry of Home Affairs (MEA), reported in its Annual Report 2009-2010 that *826 communal incidents occurred in 2009, in which 125 persons died, compared to 943 incidents in*

² A/HRC/8/26/Add.1

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)

2008 in which 167 persons died.⁴ As such, the protection of freedom of religion and beliefs has been compromised due to religious intolerance in certain regions of the country.

6. 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. It is also reported that religious fundamentalists have targeted Minority faiths and Dalit communities⁵. 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.

7. Another issue causing alarm among religious minorities in India is the "anti-conversion laws" that now exist in seven⁷ of India's twenty-eight States. 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.

8. Related to the issue mentioned above is the rise of "*Hindutva extremism*- India is Hindu only." This has resulted in a hate campaign against other religions, specifically against Muslims and Christians in India. Cases have been reported of 'forced re-conversion', instigated by extremist groups in the States of Orissa, where most victims were indigenous and tribal peoples.⁸

9. Moreover, IARF is deeply concern with reports received that many of the attacks on religious minorities were not effectively investigated and offenders were not prosecuted due to weak law enforcement, lack of trained police force and an overburdened judiciary, thus encouraging religious extremists to perpetrate such violence with impunity.

10. Police and local authorities where these cases reported seem to have allegedly shown complicity by sheer inaction in most of such attacks on the minority community. In this regards, the Government of India has failed to ensure the basic and fundamental rights to freedom of religion, conscience and free profession and practice and religion 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.

⁴ 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

⁵ 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

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

⁷ The seven States are as follows: Orissa, Chhattisgarh, Madhya Pradesh, Himachal Pradesh, Gujarat, Arunachal Pradesh and Rajasthan.

⁸ The World Wide Religious News 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>

Rights of Indigenous and Tribal Peoples

10. There are over 84 million indigenous and tribal peoples 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 of them have been facing extinction⁹ while others such as the indigenous peoples in Nagaland who are predominantly Christians, have been continuously harassed and persecuted by Government forces including the police and the military.

11. 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**, where it recognizes indigenous peoples rights to *self determination* and by virtue of that right, indigenous peoples are free to determine their political status and freely pursue their economic, social and cultural development.¹⁰

12. The Declaration also provides the right to free, prior and informed consultation (FPIC) and required Government to respect FPIC when development projects such as dam and mining would 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 occasions¹¹ and, therefore, the rights of indigenous and tribal peoples to practice their beliefs, spirituality and religion are violated.

13. 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 Chattisgarh, Jharkhand and Orissa cannot be allowed to legitimize the dispossession of citizens in contravention of India's human rights commitments. Foreign corporate entities must respect religious traditions of indigenous and tribal peoples.

Human Rights Education

14. In response to the UPR Recommendation of the Government of Italy on Human Rights Education and Training during the Universal Periodic Review of India in 2008, even though the Government of India did not explicitly accept the said recommendation, IARF has taken the initiative to take this recommendation seriously. Through its South Asian Regional Coordinating Council (SARCC) based in Kerala, IARF has taken the initiative to implement this specific recommendation in collaboration with its chapter members and with various local and State level agencies of the Indian Government.

15. IARF has conducted 104 Human Rights Education and Training (HRET) workshops and trained around 5,500 youths, college students, grassroots-level social workers and teachers in Tripura,

⁹ 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.

¹⁰ It should be noted that the Government of India is one of the 143 States that supported the adoption of the UN Declaration of the Rights of Indigenous Peoples | September 2007 at the UN General Assembly.

¹¹ Uranium Minings in **Andra Pradesh**, see more at <http://www.wise-uranium.org/upinap.html#LAMBAPUR>; **Menghalaya**, see more <http://www.wise-uranium.org/upinml.html#DOMIAS> and **Jharkand**, see more at <http://www.wise-uranium.org/umopjdg.html>

Meghalaya, West Bengal, Maharashtra, Andhra Pradesh, Goa, Madhya Pradesh, Delhi, Haryana, Tamil Nadu, Kerala and Karnataka. These two-day workshops focus on local religious issues and discuss solutions through interfaith activity, training young adults in teamwork for religious freedom and harmony.

16. Collaboration has been made with the Chairman of the Human Rights Commission of Tamil Nadu, the Chairperson of the National Commission for Women, Tamil Nadu, religious leaders from all major religions of India, human right activists, senior police officers, members of Parliament, State ministers, State Assembly members, and leaders of the National Commission for Minorities. IARF is very pleased to work with the above-mentioned Government agencies which have extended their support and commitment.

II. Implementation of Accepted Recommendations

Sharing of Best Practices in the promotion and protection of human rights

17. In view of this experience in India mentioned above, our submission relates primarily to **Recommendation by the Mauritian Delegation** to India's first UPR, to **“Share best practices in the promotion and protection of human rights taking into account the multi- religious, multi-cultural and multi-ethnic nature of Indian society”**. In this connection, IARF wishes to highlight the response of the Government of India to the non-specific aspect of the recommendation made by the Italian delegation which had specific reference to gender and caste-based discrimination during the first UPR of India. The government's response did not explicitly accept this recommendation, but rather sought to qualify it by claiming progress in the promotion of human rights nationally across four areas.

18. However with regard to the first and most specific of these areas, a National Action Plan for Human Rights Education (first mooted as part of the observance of the UN Decade for Human Rights Education 1995-2004), as has already been noted by the Working Group on Human Rights in India and the UN (WGHR):

There is no official proof of a national action plan of action for human rights education being in place. The government did not respond to the evaluations after the UN Decade for Human Rights Education, as well as after the implementation of the first phase of the UN World Programme on Human Rights Education in 2010 (“Preliminary Assessment of the Implementation of the Recommendations made to the Government of India in its first Universal Periodic Review. October 2011”, 21 October 2011).

19. As regards the other three areas of professed achievements by the State, IARF wishes to commend the efforts of the National Human Rights Commission (NHRC) in holding regular training programmes, sensitizing Government officials, armed forces, prison officials and law officers, and integrating HRE into the school curricula.

20. Throughout our HRET programs, we have noted that even the educated may be ignorant of the Universal Declaration of Human Rights and the guarantees provided by the Indian Constitution to its citizens. The introduction by the National Human Rights Commission of Human Rights Education faculties in many universities and colleges in India is a positive step towards developing a cadre of professionals to inform common women of the legal basis of equality.

21. But as the Government of India's response noted in its final point, “Awareness campaigns are also run by NGOs”, and IARF, as one such NGO, wishes to place on record that such campaigns currently struggle with a lack of adequate materials for the various social, linguistic and educational contexts in which programs are conducted.

22. For NGOs to assist the State in furthering the goals of the successor to the UN Decade for HRE – the World Programme for Human Rights Education, Second Phase (2010-2014, on human rights education for higher education and on human rights training programmes for teachers and educators, civil servants, law enforcement officials and military personnel) – there is a clear need for state resources to be dedicated to such basic aspects of a national HRET strategy as *materials provision*, inter alia. This includes making materials available in all the national languages, and through not only conventional internet, but the new mobile media platforms that are rapidly becoming established throughout the country.

23. It is essential that literate citizens, whom this technology is currently empowering, be afforded access to the legislation relevant to their struggle for their rights. This access should include legibility in a linguistic form which is legible to this literate segment, since the information obtained may then become available to their wider, para-literate communities through an oral multiplier effect. This kind of service entails the information provider (relevant ministries, NHRC) creating synopsis of the full complement of legal provisions relating to human rights, in a form that makes them fully comprehensible to the layman.

24. This informational empowerment of citizens will mean that law enforcement and military personnel who have become emboldened in the course of their duties to deny or even violate the rights of citizens (many documented cases exist) can be challenged by those citizens and communities now enabled to quote specific textual provisions and articles of their rights as specified in law. In this way officials cannot easily assume impunity and choose to ignore the training they are receiving in human rights protection.

25. What applies to Kerala with regard to that State's attainment of education levels in general would arguably apply with regard to human rights education if applied countrywide: the high level of educational attainment is reflected in a lower incidence of human rights violations.

Energizing Existing Mechanism to Address Human Rights Challenges

26. As per **Recommendation by the Representative of Ghana to continue energizing existing mechanisms to enhance the addressing of human rights challenges**, IARF is very pleased that there is a plethora of existing national and state level human rights mechanisms such as the National Human Rights Commission, its Ministry of Minority Affairs, and its National Commissions for Minorities; for Women; for Protection of Child Rights; for Scheduled Castes & Scheduled Tribes.

27. This exemplifies the resolve of the executive and legislature to ensure that human rights defenders have legislative recourse. However, IARF is deeply concerned about the lack of staff and resources in running such agencies, which in the end affects their effectiveness.

Taking into account Recommendations made by Treaty Bodies and Special Procedures

28. **Mexico's recommendation on taking into account recommendations made by treaty bodies and special procedures, especially those relating to women and children, and the development of a national action plan for Human Rights**, has rightly highlighted the issues relating to non-cooperation by the Government of India with the UN human rights mechanisms.

29. While the January, 2011, visit of the UN Special Rapporteur on the situation of human rights defenders to India has demonstrated a commendable openness and support from the Government of India, the Special Rapporteur on freedom of religion or belief remains among the nine other Special Procedures waiting for a positive response for a country visit, including among others, the UN Special Rapporteur on Torture (since 1992), Special Rapporteur on Extrajudicial, Summary or Arbitrary Execution, Special Rapporteur on Racism and the UN Special Rapporteur on Indigenous Peoples.

30. IARF is deeply concerned about India's pending submission of its 4th periodic report to the UN Human Rights Committee. The said report has been pending since December 2001.

III. IARF's Recommendations:

31. IARF is aware of the significant pledges and voluntary commitments that the Government of India has outlined and provided before its election as member of the Human Rights Council in June 2011 in accordance to the membership criteria agreed at the UN General Assembly.¹² As the largest democracy in the world, we believed that India has so much to offer and IARF looks forward to working with the Governemnt to further the protection and promotion of human rights in the country.

In this regard, IARF calls the Human Rights Council to urge the Indian Government to:

1. Draft without delay a **National Action Plan for Human Rights Education** which takes into account inter alia, the need to provide materials in the national and vernacular languages of India. Such action plan should be aligned and in accordance with government's obligations under international law which includes the accepted recommendation during the 1st cycle of the UPR and concluding observations and recommendations by the Treaty Bodies and Special Procedures.
2. Related to the above recommendation, the government should **engage civil society** through dialogues and consultation in the drafting of the National Action Plan for Human Rights Education in accordance with the objectives of the Universal Periodic Review as agreed among UN member States.
3. Strengthened the presence of State Human Rights Commission (SHRC) in the current seven states where they are operation and establish more if not throughout the country. This is to ensure the effectiveness and synergy of the work among state level (SHRC) and the National Human Rights Commission (NHRC) in India.
4. Consider the manner in which the topic of religion is presented from the earliest phase of educational instruction through to lower secondary level. (Approaches which focus on the specifically Indian forms of the country's various religious communities and which emphasize their longevity and relatively harmonious co-existence with one another and the majority religion, are preferable to the teaching of religions as historical and monolithic).
5. Introduce modules into the higher secondary and college levels that will inculcate a familiarity with fundamental human rights such as the right to freedom of religion and beliefs.
6. Consider incentives for the Indian film industry to engage the issue of religion-based intolerance, in order to carry to mass audiences the message of national unity above divisive sectarianism.

¹² UN General Assembly resolution 60/251 states that members of the Human Rights Council "*shall uphold the highest standards in the promotion and protection of human rights*" and "*fully cooperate with the Council.*"

7. Declare a National Day for interfaith activities and inter-religious dialogue, which would enhance trust between the various religious communities, specifically targeting young people and children, education and religious institutions.
8. Introduce a separate department under the Human Resources Ministry for interfaith and interreligious dialogue, to encourage harmonious relations between the various faith communities.
9. Document and carry out a thorough investigation of all the cases of religious intolerance and persecution of religious minorities in India and prosecute those involved, compensate and rehabilitate the victims.
10. 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).
11. Create a body within the National Human Rights Commission that monitors the implementation of the UN Declaration on the Rights of Indigenous Peoples within the country.
12. Provide report to the Human Rights Council on the implementation of the concluding observations and recommendations of the UN Treaty Bodies & Special Procedures specifically the recent concluding observations and recommendations of CEDAW and CERD (provided in January and March 2007 respectively) where issues related to caste based discrimination, Dalit women and women from minority communities were highlighted and discussed.
13. Improve cooperation with the Special Procedures by responding quickly to their outstanding requests for country visits. The following Special Procedures have been waiting for response :
 - Special Rapportuer on Torture since 1993
 - Special Rapporteur on Summary Executions since 2000, renewed in 2005
 - Special Rapporteur on Toxic Waste since 2005
 - Working Group on Arbitrary Detention
 - Special Rapporteur on the Sale of Children since 2004
 - Working Group on Enforced Disappearances since 2005
 - Special Rapporteur on Contemporary Forms of Racism since 1997, renewed in 2006
14. 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).
15. In pre-identified flashpoints for religion-based strife, introduce rapid-response early warning system and 'rescue forces' with special powers for immediate deployment when violence erupts.