

## **Statement of Asma Jahangir, the Special Rapporteur on freedom of religion or belief of the United Nations Human Rights Council**

*Asma Jahangir, the Special Rapporteur on freedom of religion or belief of the United Nations Human Rights Council, made the following statement on 20 March 2008 in Delhi at the end of her visit to India:*

"I wish to thank the Government of India for inviting me here and for giving me this unique opportunity to study the situation with regard to freedom of religion or belief. India is a diverse country, where religions and beliefs are abundant and find respect in a secular framework. My mission started on 3 March 2008 in Amritsar and subsequently I visited Delhi, Jammu, Srinagar, Ahmedabad, Mumbai, Thiruvananthapuram, Bhubaneswar and Lucknow. Now I am again in Delhi and with this press conference I am concluding my mission to India.

During my country visit, I had the opportunity to meet with several Government officials, including the Ministers of External Affairs, Minority Affairs and Culture as well as with the Chief Ministers of Delhi, Jammu and Kashmir, Gujarat, Kerala and Orissa. In addition, I met with the Solicitor General, several Supreme Court Justices and High Court Judges as well as with members of various Human Rights and Minority Commissions. Further meetings with the civil society included leaders and members of the religious communities in India, academics, journalists, human rights activists, lawyers and professionals of the visual arts industry. I would like to acknowledge the high level of cooperation I received both from the Government and from the citizens of India.

Indeed, due to the religious diversity of India, this country visit has been an enriching experience for the mandate I hold since 2004. I will be submitting a detailed report with conclusions and recommendations to the United Nations Human Rights Council, therefore this press statement will only cover some preliminary impressions that I have formed during the past 2½ weeks. In this press statement it would be impossible to make a general assessment of the current state of freedom of religion or belief in the whole of India. In fact, this was not the first visit of the mandate, as my predecessor undertook a mission to India in 1996 (see UN Doc. E/CN.4/1997/91/Add.1). Consequently, my forthcoming report will also be a follow-up on developments during the past twelve years, in order to analyze what has changed and why.

Concerning the legal framework, I am well aware of the fact that the political system of India is of a federal nature and that the States have wide powers, including in the field of law and order. Thus the level of action of the Government to protect its citizens in terms of freedom of religion or belief varies according to the States concerned. I also acknowledge that there are democratic safeguards within the system and that the institutions have accumulated a vast experience in protecting human rights.

Many of my interlocutors have pointed to the positive impact of Indian secularism as embodied in the Constitution. By and large, Indians do value secular principles and I was told time and again that the term "secularism" does not necessarily mean the same as in other countries. Historically, there have been believers of a whole range of religions and beliefs living in India. The central Government has developed a comprehensive policy pertaining to minorities, including religious ones. In this context, I would like to compliment various recent reports on religious minorities,

for example drafted by the Committees headed by Justice Rajender Sachar in 2006 and by Justice Renganath Misra in 2007. Such Committees mandated by the Government are a good example of mechanisms put in place to analyse the situation and put forward recommendations for the Government to take action upon.

The National Commission for Minorities, too, has taken up several challenges. Their members took prompt action and issued independent reports on incidents of communal violence with concrete recommendations. However, the performance of various Human Rights Commissions depends very much on the selection of its members and the importance various Governments attach to their mandates. It is vital that members of such commissions have acute sensitivity to human rights issues and must reflect the diversity – particularly in terms of gender – as women are one of the worst sufferers of religious intolerance. At the same time, I noticed that women's groups across religious lines were the most active and effective human rights advocates in situations of communal tensions.

All individuals I met recognised that a comprehensive legal framework to protect their rights exists, yet many of them – especially from religious minorities – remained dissatisfied with its implementation. By and large, the Indians respect the diversity of religions and beliefs. At the same time, organised groups based on religious ideologies have unleashed the fear of mob violence in many parts of the country. Law enforcement is often reluctant to take any action against individuals or groups that perpetuate violence in the name of religion or belief. This institutionalised impunity for those who exploit religion and impose their religious intolerance on others has made peaceful citizens, particularly the minorities, vulnerable and fearful.

I have received numerous reports of attacks on religious minorities and their places of worship as well as discrimination of disempowered sections of the Hindu community. The following are only a few examples that are well publicised.

In Uttar Pradesh, I received concrete reports of violence and rapes as a reaction to cases of intermarriage between believers of different religions or castes. Acts of violence continue to occur while perpetrators are dealt with some sympathy by the law enforcement agents. This bias is deep-rooted in society which makes the protection of the victims even more difficult. Some of the cases I was informed about are still under investigation and I hope that justice will prevail.

Less than three months ago, there was widespread violence in the Kandhamal district of Orissa, targeting primarily Christians in Dalit and tribal communities. I received credible reports that members of the Christian community alerted the authorities in advance of the planned attacks of 24-27 December 2007. The police, too, had warned Christian leaders about anticipated violence. The National Commission for Minorities stated in a recent report: "Destruction on such a large scale in places which are difficult to access could not have taken place without advance preparation and planning." Even today, the tensions are prevalent and the anti-conversion legislation is being used to vilify Christians in general.

Concerning the 2002 Gujarat massacre, I have read numerous reports, both of official bodies and civil society organisations and I met a large number of eyewitnesses and people who visited Gujarat during the trouble. The State Government reported that, prior to the Godhra incident, Gujarat had witnessed 443 major communal incidents between 1970 and 2002. As such, the

warning was there. However, the massacre that took place after the tragic deaths at Godhra in 2002 is all the more horrifying since by all accounts at least a thousand people were systematically killed. Even worse, there are credible reports that inaction by the authorities was evident and most interlocutors alleged complicity by the State Government. In my discussions with victims I could see their continuing fear which is exacerbated by the distress that justice continues to evade most victims and survivors. Even today there is increasing ghettoization and isolation of Muslims in certain areas. The assertion of the State Government that development by itself will heal the wounds does not seem to be realistic. It is crucial to recognise that development without a policy of inclusiveness of all communities will only add to aggravate resentments.

Furthermore, I am disturbed that at various meetings with members of the civil society during my visit in Gujarat, plain-clothed Government agents took names of all my NGO interlocutors and also made their presence felt afterwards. On several occasions, I had to insist that police officers leave the room during my NGO meetings. The terms of reference of fact-finding missions by Special Rapporteurs (see UN Doc. E/CN.4/1998/45, Appendix V) are very clear in this regard. These terms of reference guarantee confidential and unsupervised contact with witnesses and other private persons as well as assurance by the Government that no persons, official or private individuals who have been in contact with the Special Rapporteur in relation to the mandate will for this reason suffer threats, harassment or punishment or be subjected to judicial proceedings.

I am also concerned at the extended timeframe of investigations in cases involving communal riots, violence and massacres such as those which occurred in 1984, 1992 and 2002. All of these incidents continue to haunt the people affected by them and impunity emboldens forces of intolerance. It is important to draw lessons learnt from these events in order to prevent communal violence in the future. While an inquiry into large-scale communal violence should not be done in indecent haste, it should be accorded the highest priority both by the investigation, the judiciary and any Commission appointed to study the situation. Unreasonable protraction of the inquiry only keeps tensions simmering and devalues justice. I was astonished to learn that just before I arrived in India, the Liberhan Commission – probing the circumstances leading to the 1992 demolition of the Babri Masjid in Ayodhya – got the 44th extension to conclude its inquiry.

My predecessor, Mr. Abdelfattah Amor, unfortunately was prophetic when he expressed his fears that something in the nature of the 1992 Ayodhya incident will recur in the event of political exploitation of a situation.

In my opinion, there is today a real risk that similar communal violence might happen again unless incitement to religious hatred and political exploitation of communal tensions are effectively prevented.

It is a challenge both for the Government and for non-State actors to defuse tensions and address the root causes ahead of time. The sincerity of the Central Government to implement the Sachar Committee report will be very much seen on the ground because State Governments have been given direction to follow-up on the recommendations of the report. During my visit I have noticed that – while the State of Kerala has already undertaken the assignment seriously – many States have not even set up the relevant Committees.

I was deeply touched to hear of the exodus of the Kashmiri Pandits in 1990s following a campaign of threats and violence. They remain dislocated to this day despite the fact the de-escalation of violence in Jammu and Kashmir has had a positive impact on religious tolerance. There have been public statements inviting the Hindu Pandits to return to Kashmir. Places of worship are now more accessible and the tensions are reducing. At the same time, many interlocutors have confirmed a continuing bias amongst security forces against Muslims who also face problems with regard to issuing of passports and security clearances for employment purposes. There are also reports of discrimination against them outside of Jammu and Kashmir, such as the refusal of hotel bookings.

At all places where I met with members of the Muslim community in India, I was informed that a number of them have been arrested on ill-founded suspicions of terrorism. They are disturbed that terrorism is associated with their religion despite various public statements from Muslim leadership denouncing terrorism. There was though recognition of the Government's efforts in ensuring that Indian Muslims' rights are protected when arrested abroad.

The visual arts industry in India has played an important role in public education regarding religious tolerance. For this reason it remains a target of mob pressure. Films are effectively banned by non-State actors through intimidation. Regrettably, professionals seem to routinely seek the approval of self-appointed custodians of religious sentiments before going ahead with a film which touches upon communal issues. While any advocacy of religious hatred that constitutes incitement to violence needs to be prosecuted, this subtle form of self-censorship begs the question how the State could prevent the build-up of an atmosphere of fear of repercussions and mob pressure.

There are other issues of concern with regard to my mandate. These include the legal link between Scheduled Caste status and religious affiliation, the impact of "anti-conversion laws" in several States as well as the concerns voiced by Sikhs, Buddhists, Jains and atheists. I intend to discuss these issues in my report to the Human Rights Council.

The vast majority of Indians respects secular traditions and keenly follows the teachings of the nation's founding fathers. I have noticed encouraging signs in the fight against religious intolerance and I am impressed by the outstanding degree of human rights activism in India. There are innumerable examples where individuals have come to each other's rescue, crossing all religious boundaries. Indeed, in Gujarat, a large number of victims recognised the positive role played by some national media and other courageous individuals who effectively saved lives. It is a crucial – albeit difficult – task for the State and civil society to challenge the forces of intolerance."

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