

RELIGIOUS MINORITIES IN INDIA: TARGETTED HATE AND VIOLENCE BY NON STATE ACTORS, AND ISSUES OF IMPUNITY

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RELIGIOUS MINORITIES IN INDIA: TARGETTED HATE AND VIOLENCE BY NON STATE ACTORS, AND ISSUES OF IMPUNITY

A Status Report of 2012-16 for the Universal Periodic Review 2017

This report is a joint submission by the EVANGELICAL FELLOWSHIP OF INDIA, New Delhi, and other groups, on the issue of freedom of religion or belief, related to the 3rd cycle of Universal Periodic Review for India, scheduled to be held in April – May 2017. This report focuses on the status of freedom of religion or belief with respect to the Christian community in India.

Brief description of Evangelical Fellowship of India

1. The Evangelical Fellowship of India (EFI), established 1951, is a central network and umbrella body of Evangelicals in India. The constituency of EFI includes Churches, Christian and humanitarian institutions, and individuals. EFI represents more than 65000 Churches all across India. EFI is a charter member of the World Evangelical Alliance, an accredited NGO with the Economic and Social Council of the United Nations.
2. EFI has been documenting hate crimes against the Christian community since the late 1990's and releases every year a partial list of hate crimes committed against the Christian community in India. The constituency of EFI is most affected by the hate speech inciting acts of violence against the minority Christian community, including member Churches, institutions and FORB defenders.

India and the UPR process

1. India is a signatory to the several international human rights covenants. However India's resistance to international standards is reflected in its rejection of many of the recommendations of UPR 2012, particularly those relating to Freedom of Religion or Belief.¹¹ This resistance is also evident in India's refusal to grant Visas to UN and other organizations wishing to probe matters of Human Rights and Religious Freedom violations. [Please see Annexure - V]

India - religious profile

1. India is characterized by a diversity of religious beliefs and practices. The 2011 census says 79.8% of the population of India practices Hinduism in various sects and denominations, while 14.2% adheres to Islam. The remaining 6% follows other religions (Christianity 2.3 %, Sikhism about 2%, and Buddhism, Jainism and various indigenous

¹¹ "India's 2012 UPR examination: No commitment on enhancing human rights but a mountain to climb."

<http://www.achrweb.org/UN/HRC/IndiaUPR2012.pdf>.

ethnically-bound faiths). Though India is constitutionally secular “ and equidistance from all religions, but with close to 80 percent of its population, Hinduism is the deemed default religion of India, as can be seen in the illumination of the first copy of the Constitution and the use of Hindu liturgy and symbols in most government and publicly financed events including founding of new cities and launching of new military aircrafts.² The Hindu idiom overwhelms the state, from such small things as temples within police stations and many public offices. Police permission is required to hold a midnight Mass, or a public Christian or Muslim meeting.

Christianity in India

2. Christianity is the 3rd largest religion in the country tracing its roots to the First Century, and is concentrated largely in the southwestern coast and in the hills of the North East. This results in large-scale political and economic disempowerment on the one hand, and on the other, the growth of an underground Church, which seeks to practice its faith and survive in the face of aggressive persecution by state and non-state actors. Christian converts from former untouchable castes,” covered under the legal term of Scheduled Castes and the popular term Dalit Christians, are subject to targeted violence and profiling, and are specifically disempowered economically and politically under the Presidential Order 1950. is well known. The Dalits may constitute as much as 60 per cent of the country’s Christian population.

Minorities and the Indian justice system

1. India retained many colonial criminal laws after the transfer of power from the British Crown in 1947. Indian Penal Code (IPC), 1860, the Criminal Procedure Code (Cr. PC), 1861, the Evidence Act, 1874 and the Police Act, 1860 were all retained. According to experts, these laws do not contain any specific protective provisions for the minorities. The Indian criminal justice system is yet to incorporate international principles and standards on minority issues.
2. A recent report featuring data released by the National Crime Records Bureau (NCRB) says minorities particularly Christians and Sikhs are more likely to be undertrials, detenus and convicts than Hindus. Christians are most likely to be detained and imprisoned.³

² Andhra Chief Minister Chandrababu Naidu laid the foundation of the proposed capital of the state according to Vedic rituals. The newspapers reported that Naidu, his wife Bhuvaneshwari and son Nara Lokesh, performed the pooja (worship) amidst Vedic chants. In another display of Hindu symbolism, the aircraft carrier, Tejas, was inducted into the service of the Indian Air Force amidst the chanting of Vedic Mantras. <http://www.thehindubusinessline.com/news/naidu-performs-bhoomi-pooja-for-new-capital-city-of-amaravati/article7288949.ece>

³ “Sikhs, Christians More Likely to Be Jailed than Hindus and Muslims | India | Hindustan Times.” <http://www.hindustantimes.com/india/hindus-least-likely-to-be-jailed-sikhs-christians-most-likely/story-Og4PhnhYsPIVLJlKyeOKL.html>.

3. Muslims, Dalits and adivasis — three of the most vulnerable sections of Indian society — make up more than half of India's prison population. Although the proportion of these three communities in India adds up to about 39%, their share amongst prisoners is considerably higher at 53%.
4. “Most experts say that this disturbing trend is not because these communities commit more crimes. Rather, it arises because they are economically and socially underprivileged, unable to fight costly cases or often even pay for bail. Some say that these communities are targeted with false cases.”⁴
5. The National Human Rights Commission (NHRC) has stated that 60% of the arrests made are unjustified or unnecessary and that 75% of all the complaints received by the commission were against the police.

Growing Religious Nationalism

1. The situation of Religious Minorities in India has worsened since the last UPR was conducted in 2012. The present government, of the Bhartiya Janata Party led National Democratic Alliance, since May 2014, is ideologically aligned and governed by the Rashtriya Swayamsevak Sangh (RSS). The RSS is a supremacist outfit that espouses a commitment to overthrowing the Indian Constitution. Hence the worsening of the situation for minorities has to be understood in the background of the present government.⁵ Hate speech inciting violence, by members of the Central Council of Ministers and Members of Parliament, has increased since May 2014. Especially hate speech that provokes throngs of Hindutva supporters to commit acts of violence against the religious minorities of India particularly Muslims and Christians.⁶

⁴ Muslims, Dalits and Tribals Make up 53% of All Prisoners in India:
<http://timesofindia.indiatimes.com/india/Muslims-dalits-and-tribals-make-up-53-of-all-prisoners-in-India/articleshow/45253329.cms>.

⁵ <http://scroll.in/article/689584/how-the-sangh-parivar-systematically-attacks-the-very-idea-of-india>;

⁶ Annexure--List of Hate Speech since May 2014 till May 2015

2. As soon as the election results were declared in May 2014, M G Vaidya, an ideologue of the RSS (Rashtriya Swayamsewak Sangh) called on the BJP to 'tackle' the issues of Ram Mandir (on the disputed site of the Babri Mosque) and Article 370.⁷
3. Ashok Singhal, Ex International president of the VHP (Vishwa Hindu Parishad) and a lifelong pracharak (propagator) of the RSS said of the Muslims in July 2014: "*they must learn to respect Hindu sentiments. If they keep opposing Hindus, how long can they survive?*"⁸
4. In states where the Bharatiya Janata Party (BJP) is ruling, a new threat is felt to the life, security and rights of the minorities even as members of the RSS are now entering the civil services and the police in those states.⁹
5. **According to the government data released by the Ministry of Home Affairs in February 2014, there had been noticed a "steep 30 per cent rise in the number of communal violence incidents in 2013 as compared to 2012, with the maximum number of cases being reported from Uttar Pradesh."**¹⁰ **The first ten months of 2013 saw more bloodshed for religious and sectarian reasons than the entire three-year period of 2010-2012.**¹¹
6. Uttar Pradesh, which saw a terrible sectarian riot in Muzzafarnagar in the wake of the upcoming general elections was reported to witness over 600 incidents of religious

⁷ Article 370 of the Indian constitution is a law that grants special autonomous status to Jammu and Kashmir.

⁸ Muslims must learn to respect Hindu sentiments: VHP leader Ashok Singhal:
<http://www.dnaindia.com/india/report-muslims-must-learn-to-respect-hindu-sentiments-vhp-leader-ashok-singhal-2002828>

⁹ Chhattisgarh: Government staff may join RSS; no service rules under violation:
<http://indianexpress.com/article/politics/government-staff-may-join-rss-no-service-rules-being-violated-chhattisgarh/>

¹⁰ <http://indianexpress.com/article/india/india-others/communal-incidents-up-by-30-up-tops-list/>

¹¹ Communal violence spooks Centre: Home Ministry data reveals 725 incidents across India in just 10 months:

<http://www.dailymail.co.uk/indiahome/indianews/article-2524854/Communal-violence-spooks-Centre-Home-Ministry-data-reveals-725-incidents-India-just-10-months.html>;
<https://theadvocatespost.org/2014/10/02/hold-modi-accountable/>

violence since the election results in May 2014.¹² Indian Express, a national newspaper while reporting this said that over 60 % of these incidents were in areas where bypolls were scheduled in the near future. The large scale targeted violence against Muslims in Muzaffarnagar and Shamli¹³ in Uttar Pradesh in September 2013 ranks only next to the 2002 Gujarat pogrom by its sheer magnitude.

7. Soon after election results came out in May 2014, Christians were targeted in Uttar Pradesh in incidents of Church attacks and physical violence in areas of Jaunpur, Bulandshahr, Ghaziabad and Hapur.¹⁴ A Shuddhikaran (literally Purification) ceremony was planned (and later cancelled) for December 25, 2014 where in the RSS's Dharma Jagran Vibhag planned to 'reconvert' thousands of Christians back to Hinduism.¹⁵ Church leaders expressed concern over such plans.¹⁶

8. The Prime Minister has been largely silent on issues that are connected with minorities, religious freedom or freedom of expression. In his election campaigns, Mr. Modi during his participation in a TV show, denied that he had any knowledge of attacks faced by the minority Christian community in India. The Christian leadership in the country promptly challenged this.¹⁷

¹² <http://indianexpress.com/article/india/uttar-pradesh/express-investigation-part-i-over-600-communal-incident-in-up-since-ls-results-60-near-bypoll-seats/>

¹³ According to official statistics submitted by the state government to the Supreme Court in September 2013, at least 44 persons were killed, 97 persons injured and 41,829 people displaced across Muzaffarnagar and Shamli districts. According to district administration riots displaced 51,000 people - 27,198 from Muzaffarnagar and the rest from Shamli - from 150 villages. (http://twocircles.net/2014feb05/battered_and_betrayed_report_visit_muzaffarnagar_camps.html) Muslims have been the worst sufferers of communal orgy that swept Muzaffarnagar. (<http://www.epw.in/journal/2014/2/reports-states-web-exclusives/fact-finding-report-independent-inquiry-muzaffarnagar>)

¹⁴ According to documentation by Evangelical Fellowship of India and other Christian groups.

¹⁵ <http://www.hindustantimes.com/india-news/rss-gets-ready-to-tackle-religious-conversions/article1-1249081.aspx>

¹⁶ <http://www.ucanews.com/news/delhi-archbishop-calls-for-justice-after-new-attacks-on-christians/71640>

¹⁷ http://www.telegraphindia.com/1140417/jsp/nation/story_18223294.jsp#.U08-iFWSyM4

9. Articles and news reports have indicated how Mr. Modi in the past has conveniently chosen to be silent or ignorant over contentious issues, whether it be the bodies that were paraded after the Godhra violence or the Gulbarg Society Massacre in 2002.¹⁸
10. This silence and reluctance to admit and deal with issues that may have a bearing on the minorities and the freedom of expression and religion in India is more worrisome than the most gruesome and in your face hate speech by his party men and women.

The food coercion

11. The ban on cow slaughter and trade in beef impacts not just Muslims but also Christians and particularly the Dalit and Tribals. Self styled Cow protection squads of political workers, often armed with guns and swords, have attacked people on suspicion, lynching several innocent men.¹⁹ Beef is a primary source of food for large numbers of Muslims, Christians, Tribals and Dalits whose nutrition, health and livelihood have been severely impacted.²⁰ It is an attempt to keep the marginalized away from proper nutrition²¹ as well as an obstacle to their economic development.

NEP – Long term disempowerment of communities

12. The proposed New Education Policy (NEP) clearly violates the fundamental rights of India's minorities as it prejudices, silences and invisibilises their contribution to the historical narrative, excludes cultural and languages of the minorities, denies them cultural and political rights. Manipulation of Textbooks and the Subversion of Research Bodies of the Central Government as Withdrawal of the Works of Historians are evidence of this shift.²²

¹⁸ <http://www.firstpost.com/election-diary/graham-staines-to-gulbarg-society-what-modi-doesnt-know-1484801.html>

¹⁹ 10-yr jail, 1 lakh fine: What Haryana's tough cow protection law says:
<http://indianexpress.com/article/explained/10-yr-jail-1-lakh-fine-what-haryanas-tough-cow-protection-law-says/>

²⁰ http://peoplesdemocracy.in/2016/0807_pd/gau-raksha-and-war-against-indias-poor

²¹ In India, cattle have always been relished and their meat is a critical source of nutrition for various communities – including Adivasis, Dalits, Christians, Muslims and several other castes (many of whom are too scared to admit they eat beef). (<http://thewire.in/13849/why-the-ban-on-cow-slaughter-is-not-just-anti-farmer-but-anti-cow-as-well/>)

²² The manipulation of History and Social Studies text books to reflect a supremacist, mythological (communally biased) worldview rather than rational and dynamic disciplines has been evident in the appointments to key Research Bodies of the Central Government and Withdrawal of Books by Well Known Historians. It is a manner of moulding minds to a supremacist and exclusivist vision that barter incitement which is dangerous.

Hate Speech targeting violence against Human Right Defenders

13. Human rights defenders like Dr. John Dayal, Mrs. Teesta Setalvad and Ms. Soni Sori have been targeted time and again by radical Hindu groups and individuals. John Dayal has had a vicious campaign against him on twitter now for almost two years. He has received multiple death threats, has approached the police twice, but not action has been taken.
14. “The middle ground for human rights work throughout India is eroding fast. Social activists, civil society leaders and “right to information” activists—who have always stood against the exploitation of Dalits, tribes and other marginalised communities—are increasingly facing the wrath of the state, despite it being the largest democracy in the world. Instead of treating these activists as partners in a very vibrant democratic process, the state more often perceives them as threats to “national security” and “national interests”. As a result, the state is increasingly targeting, harassing, imprisoning—and sometimes even killing—many of these defenders.”²³
15. National Legal and International advocacy and scrutiny become difficult because both Government of India and the non-state actors connected with the ruling parties connect religion as the sole identity of India and any criticism of their violence as an attack on nationhood and treason²⁴ therefore in the past individual human right defenders and civil society organizations which have been involved in advocacy in UPR 2012 and other international fora have suffered threats²⁵, punitive actions²⁶ in the guise of FCRA and other legal excuses.
16. It is difficult to campaign against religious nationalism particularly Hindutva in an atmosphere of Islamophobia with the state defending heads and activists of one religion only. This is also reflected in the policies of the state with regard to visas, refugee policy vis-à-vis citizenship to Pakistani Hindus, religious ceremonies on state functions, and suspicion of religious screening in employment (a case in point being the under representation of Muslims in the police force²⁷ and Muslim and Christian under

²³ No middle ground: the risks of being a human rights defender in India:

<https://www.opendemocracy.net/openglobalrights/mathew-jacob/no-middle-ground-risks-of-being-human-rights-defender-in-india>

²⁴ Seditious Has Become an Easy Tool to Stifle Dissent: Aakar Patel: <http://thewire.in/60027/sedition-has-become-an-easy-tool-to-stifle-dissent-aakar-patel/>

²⁵ Abuse And Death Threat To John Dayal: Is Democracy Dying In India?: <http://www.countercurrents.org/aisf140915.htm>

²⁶ Stifling dissent: CBI's targeting of Teesta Setalvad has put Indian democracy itself on trial: <http://scroll.in/article/754509/stifling-dissent-cbis-targeting-of-teesta-setalvad-has-put-indian-democracy-itself-on-trial>

²⁷ Not enough Muslim policemen in country according to new data released by NCRB

representation in political and legislative appointments). A critical case is government impunity and refusal to stop arms training of non-state actors and encouragement of these elements to join government service. The religious minorities therefore are worried at recent efforts to enforce a common civil code and a national education policy antithetical to the secular constitutional ethos.

17. The Supreme Court of India remains the only hope of the religious minorities of India despite past benches giving several adverse judgments impacting religious minorities including one upholding anti-conversion laws known as Freedom of Religion acts.

Escalating trend of targeted violence against Christians

1. Though the Indian Church has always seen opposition and persecution, the late 1990s really brought it out into the public domain with the burning of the many Churches in Dangs, Gujarat in 1998 and the killing of Graham Stewart Staines and his two sons in Mayurbhanj, Orissa in 1999²⁸.
2. Since then the cases of incidents against the Christian community have been growing steadily, reaching their peak during 2008 with Christians being targeted systematically in Orissa and Karnataka respectively.
3. Today some of the states where Christians continue to experience the most violent opposition are: Chhattisgarh, Karnataka, Odisha, Madhya Pradesh, Rajasthan, Maharashtra and Uttar Pradesh.
4. An ominous and all-permeating impunity and occasional complicity of the administrative and police personnel mark the spurt in violence against Christians in these states. Uttar Pradesh tops the list of hate crimes against Christian in India in the first half of 2016, the second year of the government of Prime Minister, Mr. Narendra Modi.
5. A review of the incidents recorded by the Evangelical Fellowship of India's Religious Liberty Commission [EFIRLC] from New Year Day 2016 to 30th June, and confirmed in independent fact-finding surveys by important civil society groups, source this violence, coercion and statements intimidating Christians to village and town units of the Bajrang

<http://www.dailymail.co.uk/indiahome/indianews/article-2176774/Not-Muslim-policemen-country-according-new-data-released-NCRB.html>

²⁸ Burning Shame: <http://indiatoday.intoday.in/story/staines-killing-murder-of-australian-missionary-and-his-two-sons-in-orissa-shocks-india/1/253086.html>

Dal, Vishwa Hindu Parishad, Akhil Bharatiya Vanvasi Kalyan Ashram and several newly formed groups affiliated to the Rashtriya Swayamsewak Sangh. The political wing of the RSS, the Bharatiya Janata party, is now in power in the Union government in New Delhi and in most major states.

6. According to the data available, and it needs be made clear that this is carefully corroborated and authentic data and may be just a fraction of the violence on the ground, There were 134 separate incidents of violence in the first six months of 2016 across in 21 of the 29 States and seven Union Territories of the country. March was the most violent month, and vandalizing and burning of churches and prayer halls and forcibly preventing worship were the most rampant crime against the community. Inevitably, the church members were assaulted, brutalized, and the women molested. One person was murdered. [See Annexure]
7. While Chhattisgarh and Madhya Pradesh have a history of anti Christian policies and violent non-state agencies targeting the community, there has been a startling rise in such targeted violence in Uttar Pradesh, which faces elections early in 2017, and in the southern State of Tamil Nadu, governed by Mr. Modi's ally, the All India Anna Dravida Munnetra Kazhagam with Miss Jayaram Jayalalithaa as the Chief Minister. Undivided Madhya Pradesh, of which Chhattisgarh was then part, was among the first ones to enact laws proscribing and criminalizing evangelization and conversions, Miss Jayalalithaa enacted a similar law, but later withdrew it in the face of a strong protest from the Christian community which had a political sway in some districts.
8. In June 2016, the All India People's Forum, AIPF, a major civil society group, sent a team to Chhattisgarh and especially to the region of Bastar. In its report, the AIPF team quoted testimonies of several Christians in the Bastar district that spoke of systematic attempts to persecute Christian minorities; foment communal division and violence in Adivasi villages; bend pro-Adivasi laws to communal ends; and allow Hindutva groups to dictate to the police and administration. [See Annexure]
9. AIPF's investigators, who included academics and other experts, found several villages in Bastar district – including Karmari, Bade Thegli, Sirisguda and Belar – resolutions adopted under Section 129 (c) of Chhattisgarh Gram Panchayat Act have been wrongly invoked in violation of the spirit of the law to restrict non-Hindus from residing in the village, practicing and propagating their religion, or building places of worship, even though the Bilaspur High Court has quashed such gram sabha [village council] resolutions in the case of both Karmari and Sirisguda.

10. Section 129 (c) of the Chhattisgarh Gram Panchayat Act, in keeping with the model of self-governance mandated by the Panchayats (Extension to Scheduled Areas) Act 1996 (PESA), says, “The Gram Sabha shall have the power to safeguard and preserve the traditions and customs of the people, their cultural identity and community resources and customary mode of dispute resolution.” Instigated by the Bajrang Dal and VHP, this provision is being used to equate Adivasi customs and culture with the Hindu religion and prohibit non-Hindu practices. Section 55 of the same Act has provisions to prevent land alienation in Scheduled Areas, stipulating that prior permission of the panchayat is needed to build new houses, change the design of houses and so on. This too is being misused to withhold permission for construction of churches, community *bhawans* and so on.”
11. The Bilaspur High Court on 16th October 2015 had struck down such interpretations, ordering that “the impugned resolution shall not come in (sic) exercise of fundamental right to preach and propagate of (sic) religion and their faith” (W.P.(C.) No.1759 of 2014 CG Christian Forum and others Vs. State of CG and others).
12. AIPF said, “It is evident from the testimonies that the role of the police and administration is extremely lax. On some occasions the police have openly sided with the Bajrang Dal, refusing to protect the Christians “
13. EFIRLC’s own field workers, and those responding to a National Helpline co-founded by the EFIRLC have given chilling narratives of attacks, molestations and arson from many regions.

Targeting of Christians in Tribal Areas

14. Christians in India’s tribal belts especially in the states of Madhya Pradesh, Chhattisgarh, Rajasthan, Jharkhand, Orissa, South Gujarat etc. regularly report incidents of Pastors being attacked, Churches being targeted, demolished, burnt, and congregations being attacked by Hindu radical groups that have spread throughout these areas. Much physical violence in these tribal areas goes unreported.
15. Since 2014, even private and family prayers in tribal Christian homes are not safe. Out of 17 incidents targeting Christians in India, reported by the Evangelical Fellowship of India on September 13, 2015 for the period between August 1 – September 10, 2015, 13 incidents took place in Tribal belts of Madhya Pradesh, Chhattisgarh, Jharkhand and Orissa.

16. It was reported in July 2014 that 52 Christian families in Sirisguda village, Chhattisgarh were reportedly denied ration for over two months due to the interference of the VHP and BJP. According to reports in the media they were attacked on June 15, 2014, when they sought help from the administration to rectify their situation. 10 Christians were admitted in the local hospital with one critically injured. Immediately afterwards the VHP called for a Gram Sabha (village council meeting) during which a resolution outlawing non-Hindu religions was passed under section 129 (G) of the Chhattisgarh Panchayat Raj Act.²⁹
17. Soon other villages followed suit, helped by the VHP, and according to reports, more than 60 villages have passed similar resolutions. While Christian organizations have appealed to the authorities to intervene in the situation,³⁰ little has come out of it.
18. A similar pattern has also been reported from Madhya Pradesh from the Jhabua and Dhar regions and from Arunachal Pradesh in the North East India, where Christian Tribals have been denied Tribal certificates on grounds that they have changed their religion.³¹
19. There are also reports of massive indoctrination³² of the Tribals to counter the 150 year old Christian influence found in the areas.

Misuse of Anti-Conversion Laws

20. Freedom of Faith is a constitutional provision, but its implementation very much depends on state governments, which control law and order, and education. The

²⁹ <http://www.thehindu.com/news/national/in-bastar-50-villages-ban-nonhindu-missionaries/article6180825.ece?ref=relatedNews>

³⁰ <http://www.thehindu.com/news/national/other-states/christian-bodies-demand-revocation-of-ban-on-nonhindu-missionaries-in-bastar/article6200857.ece>

³¹ Report on Persecution of Christians in India presented to govt.: <http://www.milligazette.com/news/9891-report-on-persecution-of-christians-in-india-presented-to-govt>

³² Promotion of the religious-political ideology of Hindutva as opposed to the religion Hinduism. Hindutva aspires for 'one nation, one culture and one people' and aspires for a Hindu nation. Tribals are traditionally animists but are being given a strong religious political identity as Hindus by a strong promotion of Hindutva ideology in Tribal areas.

ironically titled “Freedom of religion” acts enacted by several states remain a major source of harassment³³ for Christian workers in the country³⁴.

21. Though these laws are operational in the states³⁵ encompassing the tribal belt of central India³⁶, the presumption in police and lay circles is that it is an all India legislation. So even in states, which do not have, formal anti conversion laws, the provisions are implemented in the rural areas as if they were constitutionally sanctified. ³⁷.
22. Though the law is also on the statute books of Arunachal Pradesh and Himachal Pradesh in the Himalayan belt, its main operation is in the central Indian states of Madhya Pradesh, Chhattisgarh, Orissa, and Gujarat. It was normal for Pastors and Evangelists to be arrested and detained and then charged under this act, but now even children and women are regularly being arrested and charged as well. In December 2014, in Khandwa, Madhya Pradesh, an eight-month-old child and two girls who were both less than 6 years, were sent to judicial custody and were forced to stay in prison along with

³³ Asma Jahangir, the Special Rapporteur on Freedom of Religion or Belief points out in her 2009 report: “*Even in the Indian states which have adopted laws on religious conversion there seem to be only few - if any - convictions for conversion by the use of force, inducement or fraudulent means. In Orissa, for example, not a single infringement over the past ten years of the Orissa Freedom of Religion Act 1967 could be cited or adduced by district officials and senior officials in the State Secretariat. However, such laws or even draft legislation have had adverse consequences for religious minorities and have reportedly fostered mob violence against them. There is a risk that “Freedom of Religion Acts” may become a tool in the hands of those who wish to use religion for vested interests or to persecute individuals on the ground of their religion or belief. While persecution, violence or discrimination based on religion or belief need to be sanctioned by law, the Special Rapporteur would like to caution against excessive or vague legislation on religious issues which could create tensions and problems instead of solving them.*” UN Human Rights Council, *Report of the Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir : addendum : mission to India*, 26 January 2009, A/HRC/10/8/Add.3, available at: <http://www.refworld.org/docid/498ae8032.html>

³⁴ Anti-Conversion Laws: Challenges to Secularism and Fundamental Rights

<http://www.epw.in/journal/2008/02/special-articles/anti-conversion-laws-challenges-secularism-and-fundamental-rights>

³⁵ These laws are enacted in Madhya Pradesh, Chhattisgarh, Arunachal Pradesh, Odisha, Gujarat and Himachal Pradesh and claim to prevent and eliminate the use of fraud, coercion and inducement to facilitate conversion from one faith to the other in the interest of public order. However these laws infringe upon some basic characteristics of religious freedom and are often use to restrict the religious freedom of minorities particularly the Christian minority.

³⁶ Anti-conversion law being misused in MP: Archbishop

<http://indianexpress.com/article/india/india-news-india/archbishop-says-anti-conversion-law-misused-in-madhya-pradesh/>

³⁷ Rajnath pitches for anti-conversion law: <http://www.thehindu.com/news/national/states-should-act-against-communal-incidents-rajnath/article7150757.ece>

their guardians for almost 5 days after they were charged under the provisions of the “Freedom of Religion act”.³⁸ There are instances of other children being booked and charged under the act as well.

23. Civil society surveys conclude that apart from religious persecution, the laws are being used for dispossessing the people of their land and other rights, and marginalizing them further in the social narrative.

24. Sections 295 (A) and 153 (A) of the Indian penal code, known in neighbouring Pakistan as the Ant Blasphemy Laws, also remain favorite instruments of the police and the non state groups. These are non-bailable offenses.^{39 40} It is common for members of Hindu extremist groups to beat up Christians found praying or going to a prayer meeting in the full glare of the media⁴¹ and then getting the police to arrest them. The police do not entertain complaints by the Christian victims.⁴²

Denial of affirmative action

25. But the biggest denial of justice for Indian Christians has been denial of affirmative action to Christian Dalits brought in by a discriminatory Presidential order in 1950 that essentially limited the “scheduled caste” rights to Hindus.⁴³ Later, after protests, these rights were extended to other ‘Indic’ religions such as Sikhism and Buddhism but the ‘Semitic’ religions: Christianity and Islam specifically excluded.

³⁸ MP: 10 Christians arrested for insulting Hinduism in Khandwa: <http://indianexpress.com/article/india/india-others/10-christians-arrested-for-insulting-hinduism-in-khandwa/>

³⁹ Indian evangelists arrested and accused under anti-conversion law: <https://www.barnabasfund.org/news/Indian-evangelists-arrested-and-accused-under-anti-conversion-law>

⁴⁰ India's Christians are under attack: <https://www.worldwatchmonitor.org/2015/09/4008171/>

⁴¹ Christian preacher attacked in Jaipur: <http://www.thehindu.com/todays-paper/christian-preacher-attacked-in-jaipur/article1835667.ece>

⁴² Police in India Threaten to Fine Christians Attacked by Hindu Extremists: <http://morningstarnews.org/2016/06/police-in-india-threaten-to-fine-christians-attacked-by-hindu-extremists/>

⁴³ The Unending Struggle of Dalit Christians and Dalit Muslims for Equality

<https://kafila.org/2011/07/28/the-unending-struggle-of-dalit-christians-and-dalit-muslims-for-equality-s-japhet-and-y-moses/>

26. This law has effectively resulted in the denial of the right to freedom of faith to Hindu Dalits. Dalit Hindus cannot convert to any religion other than Buddhism and Sikhism. Millions of them are converting to Buddhism because then they do not lose their jobs or scholarships that would happen if they chose Islam or Christianity.

27. For all practical purposes, this results in an “underground” church of the Dalits – all denominations, including Catholics and Evangelicals – consisting of people who believe in Christ, but are recorded as Hindus on government records. They have employment and educational reservations, even seats in Parliament and the state legislatures, as Hindu Schedule Castes. The estimates of this group range from a ten million to over 20 million.

Other Laws

28. The misuse of Foreign Contribution Regulations Act against developmental activities of the Church⁴⁴ and the misuse of other laws such as the Juvenile Justice Act to harass Christian orphanages has been one of the other ways in which laws have been selectively used against the Christian community.

Visa Denials

29. Generally India has not issued missionary visas since the 1960's. Visas have often been denied to journalists⁴⁵ and advocacy groups particularly religious freedom advocacy groups.⁴⁶ Visa denials to Church⁴⁷ or advocacy groups have a negative effect on social trainings, seminaries, conferences, freedom of expression, religious training and international scrutiny. Similarly, barring of permission to leave the country impacts human right defenders⁴⁸, international scrutiny and freedom of expression.

⁴⁴ Church 'strictly' follows FCRA rules, says Delhi Archbishop:

<http://www.christiantoday.co.in/article/church.strictly.follows.fcra.rules.says.delhi.archbishop/7129.htm>

⁴⁵ India's Recent History of Denying Visas to Foreign Journalists: <http://thewire.in/53835/indias-recent-history-denying-visas-foreign-journalists/>

⁴⁶ US group studying religious freedom denied visa to India: <http://timesofindia.indiatimes.com/india/US-religious-commission-denied-visa-for-India-visit/articleshow/51249565.cms>

⁴⁷ Archbishops from Vatican denied India visa: <http://www.outlookindia.com/website/story/catholic-priests-from-vatican-denied-indian-visa/293276>

⁴⁸ Greenpeace activist stopped at airport: <http://www.thehindu.com/todays-paper/tp-national/greenpeace-activist-stopped-at-airport/article6778880.ece>

Lack of adequate compensation for victims of violence

30. “You know Mr Gonzalves, most of the churches get funds from foreign governments. So it is not proper for you to ask for chairs in the church or church bells,” Justice H.L. Dattu, heading a three-judge bench, told Attorney Colin Gonzalves, who was appearing for the victims of the targeted violence against Christians in Odisha (then Orissa).⁴⁹
31. A report titled “Unjust Compensation: An Assessment of Damage and Loss of Private Property during the Anti-Christian Violence in Kandhamal, India,” noted that though the State government provided relief, compensation for ‘damaged houses’ and death, it did not enumerate and provide compensation for the loss of property (other than housing) such as, vital documents (like educational certificates, land records), agricultural equipment and forest produce, and livelihood-related losses.⁵⁰
32. The Supreme Court in a verdict on a petition filed by the late Archbishop Rachel Cheenath directed the Odisha government to pay additional compensation to victims of the 2008 anti-Christian violence in Kandhamal. The bench comprising Chief Justice T.S. Thakur and Justice U.U. Lalit said the earlier compensation was inadequate.⁵¹

RECOMMENDATIONS AND SUGGESTIONS

- 1. Direct the Indian government to ensure that the fundamental rights of tribals, including tribal Christians, are respected, protected and promoted; in particular, right to life and livelihood should be respected.**
- 2. Remind India it is duty-bound to discharge its constitutional mandate of upholding rule of law and ensuring prosecution and accountability of state security forces and other public officials responsible for fake encounters, extra judicial killings, rape, threats to and harassment of tribal and other Christians**

⁴⁹ No compensation for Kandhamal churches: Supreme Court: <http://www.ucanindia.in/news/no-compensation-for-kandhamal-churches:-supreme-court/25571/daily>

⁵⁰ Report seeks full compensation for victims of Kandhamal riots: <http://www.thehindu.com/todays-paper/tp-national/tp-otherstates/report-seeks-full-compensation-for-victims-of-kandhamal-riots/article4794140.ece>

⁵¹ Give Kandhamal victims more compensation: Supreme Court: <http://www.thehindu.com/news/national/other-states/give-kandhamal-victims-more-compensation-supreme-court/article8934162.ece>

- 3. Direct the Indian government to provide adequate preventive and security measures to ensure safety and security of all members of the Christian community in India, Priests and Pastors, worship leaders, Nuns and mission workers, and to their places of worship, prayer halls, home churches and public gatherings.**
- 4. Direct the Indian government to protect the right of an individual to change one's faith should as a fundamental right. The state should take steps where necessary to effectively protect and promote the safety, dignity and privacy of persons who change their faith voluntarily.**
- 5. Direct the Union government to advise the state governments of Arunachal Pradesh, Orissa, Madhya Pradesh, Chhattisgarh, Gujarat and Himachal Pradesh to repeal the anti conversion laws known as Freedom of Religion Acts.**
- 6. Direct the Indian government to abandon efforts towards a national anti-conversion law which would only curb the fundamental right to freedom of religion or belief, particularly of religious minorities in India;**
- 7. Direct the Indian government amend paragraph 3 of the Constitution (Scheduled Castes) Order 1950 to include Christians and Muslims.**
- 8. Where forcible conversions are targeted against Scheduled Castes and Scheduled Tribes, the police should be directed to apply the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.**
- 9. Direct the Union government to advise the state governments to withdraw or amend rules prohibiting transport of cattle and, storage and consumption of beef in state legislations.**
- 10. Direct the Indian government to enforce rule of law and arrest members of cow protection groups and others who attack persons on the suspicion of consumption / storage of beef, and to take stringent action against them as per law of the land.**
- 11. Direct the Indian government to prosecute those police officials who fail in their constitutionally mandated duty to enforce the law of the land, by being complicit in such attacks against religious minorities, and by shielding the attackers or otherwise scuttling due process of law.**
- 12. In the eventuality of a sexual assault or a gender-based attack against a nun or other Christian woman takes place, the Indian government should ensure prompt action, arrest of suspects, a thorough investigation by the police, efficient prosecution and a speedy trial.**
- 13. Direct the government of India to ensure state agencies should promptly register, investigate and prosecute persons who initiate and conduct forcible conversions against religious and ethnic minorities.**

- 14. Direct the government of India to ensure stringent action under criminal law against all those who deliver hate speech with the intention of inciting violence and hatred against the Christian community.**
- 15. Direct the Indian government to consider enacting a law on communal violence, that provides reparations and prosecutes perpetrators, in consultation with civil society.**
- 16. Recommend to the Government of India to Enact an Anti Discrimination Law to Protect Rights of All Minorities.**
- 17. Recommend to the Government of India to ensure independent Monitoring of Cases Related to Minority Violence Must be undertaken by the Higher Courts.**