



HUMAN RIGHTS SITUATION IN THE REPUBLIC OF INDIA

Submission to the 126th Human Rights Committee by CSW (Christian Solidarity Worldwide)

Introduction

1. Christian Solidarity Worldwide (CSW) is a human rights organisation specialising in the right to freedom of religion or belief (FoRB).
2. CSW has been monitoring and researching developments in the Republic of India for over 20 years. During this time CSW has conducted regular fact-finding visits and this submission draws on the evidence documented during these visits, as well as from information provided by human rights defenders and others working in India.
3. CSW wishes to bring the following concerns and recommendations to the Committee's attention, in reference to the International Covenant on Civil and Political Rights (ICCPR).

Legal framework

4. Article 18 of the ICCPR guarantees the right to freedom of religion or belief (FoRB), which includes "the freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching."
5. The 42nd amendment of India's constitution states in the preamble that India is a secular republic and that the freedom to choose and change one's religion is a fundamental right of every citizen. Article 25(1) declares that 'all persons are equally entitled to freedom of conscience and the right to freely profess, practise and propagate religion'.

Anti-conversion legislation

6. Despite legal protections for FoRB, numerous states in India have adopted anti-conversion laws which contravene the constitution and Article 18 of the ICCPR. These laws are ambiguous and imply that individuals are incapable of making informed decisions regarding matters of faith.
7. Anti-conversion laws are routinely used to justify violence against Christians and to create hostility towards minorities. The former UN Special Rapporteur on freedom of religion or belief, Asma Jahangir, visited India in 2008 and wrote that she was "deeply concerned" that anti-conversion laws were "being used to vilify Christians and Muslims", and that these laws "should be reconsidered since they raise serious human rights concerns."
8. On 5 September 2017 Jharkhand State became the seventh state to pass an anti-conversion law. These laws, known as Freedom of Religion Acts, were already fully enforceable in Uttarakhand, Gujarat, Himachal Pradesh, Chhattisgarh, Madhya Pradesh, Arunachal Pradesh and Odisha States. Anti-conversion laws remove the right of free choice and give the state the power to decide whether someone may change their religion. The vague wording of the laws has enabled fundamentalist groups to act with impunity, often causing

disruption to places of worship and violence against religious minorities.

9. The Jharkhand Law is identical to that in Gujarat, which criminalises conversion through allurement, force and fraud, but lacks a clear definition of these terms. Conviction carries a prison sentence of up to three years and/or a fine up to INR50,000 (approximately GBP600). The prison term and fine increases when the person converting is a minor, a woman or member of a scheduled caste or tribe – communities which have been historically disadvantaged. It also states that converting one's religion requires the prior permission of the District Magistrate.
10. On 29 May 2018 four Christians in the district of Simdega, Jharkhand, were arrested on false charges of conversion. At the time of writing, the four Christians are out on bail.
11. On 19 April 2018 a Christian labourer from the District of Coimbatore, Tamil Nadu was attacked by a neighbour who accused him of sharing his faith with Hindus. The Christian sustained severe injuries to his head and shoulders in the attack.
12. On 9 April 2017 three pastors were arrested while they were conducting worship in the village of Sitabedi in Madhya Pradesh, after they were accused by Hindu fundamentalists of conducting conversions by force and allurement.
13. It has also been widely reported in the media that large-scale 'homecoming' ceremonies, or ghar wapsi, have taken place across the country, where converts from Hinduism are forcibly converted back to Hinduism. These ceremonies are spearheaded by offshoots of the Rashtriya Swayamsevak Sangh (RSS) who claim to be 'protectors' of Hinduism. They attempt to justify these ceremonies by claiming that all Indians were once Hindus, but were later converted to Christianity and Islam through force or allurement. The rhetoric behind these statements is that the Hindu nation is a victim of conversion by foreign intruders; that the nation must therefore reclaim what it has lost and that the only way to preserve the identity and culture of Hinduism is to carry out these 'homecoming' ceremonies.

Disruption of religious services

14. CSW has received regular reports of the disruption of religious meetings in India, which violates the right to practise a religion or belief either individually or in community with others and in public or private enshrined in Article 18 of the ICCPR.
15. Furthermore, Article 17 (1) of the ICCPR states that "No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence." However, on numerous occasions religious gatherings held in private homes have been disrupted by large groups of Hindu militants.
16. On 19 March 2019 approximately 15 people from Hindu nationalist groups disrupted a meeting of four Christians being held at the home of a student in Kurubatti, Hosur, Tamil Nadu. The Christians were manhandled, dragged down the stairs and taken to the middle of the street outside where one of them was forced to set fire to the Bibles and hymn books that members of the mob had taken from the student's home.
17. On 17 February 2019 a women's prayer meeting in Vairichettipalayam village, Trichy District, Tamil Nadu, was disrupted when approximately 35 Hindu hardliners broke up a gathering at held in a private home. The prayer meeting was attended by 30 women aged between 35 and 45, who were verbally abused and threatened with further attacks if they continued to meet for prayer. CSW sources report that the same perpetrators had disrupted a church service in Kottampatty village, Tamil Nadu, earlier the same day and threatened to close it down.

18. On 7 February 2019 six Christians were seriously injured in a planned ambush by Hindu militants on a prayer meeting in a private home in Chapar village, Sultanpur District, Uttar Pradesh. The meeting was being held in the home of a Pastor Ranjit and was attended by approximately 40 Christians. It was interrupted by 25 Hindu militants, who subjected the Christians to verbal abuse and physical assault.
19. On 13 September 2018 a prayer meeting being held at Jeevan Marg Charitable Trust's premises in the village of Karmahi, Jaunpur, Uttar Pradesh was attacked by a violent mob. All those participating in the meeting, including Pastor Ravindra Maurya, were forced to flee.
20. On 8 July 2018 Pastor Paul Stephen was badly beaten and his wife, Prathiba Stephen, was assaulted in an attempted rape that took place during an attack on their house church by Hindu nationalists in Paguthampalayam, Tamil Nadu.
21. On 2 July 2018 Yeshu Darbar Church in Pratapgarh District, Uttar Pradesh was attacked by a mob of 20 men identified as belonging to a Hindu nationalist group. The group was armed with sticks and firearms, and reports indicate that eight members of the church were injured, including women and children.
22. On 1 May 2018 a Bible school in Palavanatham village, Virudhunagar District, Tamil Nadu, attended by approximately 50 children aged between four and twelve was disrupted by two men belonging to a Hindu nationalist group who demanded that the programme be stopped, threatening everyone present and preventing anyone from leaving the premises.
23. On 9 April 2017 three churches located on the outskirts of Raipur, Chhattisgarh were disrupted by Hindu fundamentalists groups. According to reports, groups of approximately 20 fundamentalists on motorcycles entered the premises of the churches during their morning services and began to cause a disturbance, threatening the worshipers by shouting phrases such as "in India you have to bow to our religion or get beheaded."
24. The Indian authorities' response to these disruptions is often inadequate. On several occasions when such incidents have been reported to the police there have been delays in the registering of a First Information Report (FIR), which is needed to open an investigation, and reports have also emerged of authorities' involvement in the disruption of religious services.
25. On 24 March 2019 police in Tamil Nadu ordered the shutdown of a prayer meeting which had been held in Tiruppur District since December 2018. The prayer meeting was organised by the Family of Jesus church, pastored by Allen Gobi which has approximately 25 attendees. The church is one of 38,000 churches across the state overseen by The Synod of Pentecostal Churches. Ten police officers arrived just as the prayer meeting was about to start and refused to allow the service to continue, demanding that the meeting be closed immediately on the basis that the Christians did not have permission to conduct worship services there. The pastor reported that he had faced continual harassment by the police to obtain permission to conduct the prayer meetings or face closure.
26. On 9 April 2017 a 24-hour prayer meeting attended by approximately 25 people in Dindigul District, Tamil Nadu, was disrupted by the Revenue Inspector (RI) and Village Administrative Officer (VAO). Although according to a 2012 Madras High Court ruling, no prior permission is required for conducting home prayer meetings, the RI and VAO insisted that permission was needed for conducting prayers at home. The Christians who were gathered there were informed that they would not be allowed to continue their prayers until permission from the District Collector was granted. Pastor Gunasekharan, who led the prayer meeting, was

forced to promise that he would not hold future prayer meetings and to sign a letter to that effect.

Discrimination

27. Article 26 of the ICCPR states: “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground.”
28. As well as designating FoRB as a fundamental right, the Article 25 of the Constitution also prohibits discrimination on the basis of religion.
29. Paragraph 3 of the Constitution (Scheduled Caste) Presidential Order 1950, stipulates that ‘no person who professes a religion different from Hinduism, Sikhism and Buddhism shall be deemed to be a member of a Scheduled Caste.’ Christians and Muslims of Scheduled Caste origin thereby lose their access to benefits that are available to Scheduled Castes. Following a Supreme Court Order the government set up the National Commission for Religious and Linguistic Minorities (NCRLM) in 2007 to address this issue. The NCRLM recommended the removal of Paragraph 3, and proposed disassociating Scheduled Caste status from religion altogether. The NCRLM Report volume 1, p.141, sub division A notes that the ‘Presidential Order 1950 is unconstitutional and is a black letter written outside the constitution introduced through the back door by an executive order. Para 3 of the presidential order is anathema which disfigures the beauty of the written Constitution of India.’¹

Hate speech

30. Article 22 (2) of the ICCPR states that “Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.”
31. Section 153(A) of the Indian penal code criminalises the promotion of ‘enmity between different groups on the ground of religion’. Section 153(B) further affirms that ‘imputations and assertions prejudicial to national integration’ are equally a crime. Despite this, groups that subscribe to Hindu nationalist ideologies have made inflammatory remarks and fallacious allegations about Muslims and Christians, in meetings, through social media and in their publications, which have been met with impunity.
32. In September 2018 the UN Special Rapporteur on contemporary forms of racism, xenophobia and related intolerance, Tendayi Achiume, released a report which found that the “use of inflammatory remarks by Bharatiya Janata Party (BJP) leaders against minority groups” was linked to incidents of violence against religious minorities.²
33. Public statements made by officials include describing the need for forced sterilisation of

¹ The National Commission for Religious and Linguistic Minorities, ‘Demands for Amending Constitution (Schedule Castes) Order 1950’, April 2010 <https://sabrang.com/cc/archive/2010/apr10/chapter9.pdf>

² United Nations General Assembly, Contemporary forms of racism, racial discrimination, xenophobia and related intolerance, pp.9-10, paragraph 23 <https://undocs.org/en/A/73/305>

Muslims and Christians,³ exhorting conversions into Hinduism through marriage,⁴ blaming the rise of communal tensions in western Uttar Pradesh on the increase of a particular minority religion in the state,⁵ calling for Hindus to fight back, calling for Muslim voting rights to be revoked, stating that mosques are not religious places of worship and may be demolished at any time, that India is facing a battle between *asuras* (demons) and *devs* (gods), and that Indian society is under attack from Muslims and Christians.

Civil society and human rights defenders

34. Article 19 of the ICCPR guarantees the right to freedom of expression, stating that “this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”
35. The space for Indian journalists, writers and other human rights defenders has shrunk since 2015. Since then, many writers, filmmakers and artists across India have voiced their concerns about the everyday acts of violence in the name of religion, with more than two dozen writers returning their awards as a mark of protest against the rising culture of intolerance towards freedom of expression and opinion.
36. On 5 September 2017 outspoken human rights activist and writer Gauri Lankesh was shot and killed by three unidentified assailants outside her home in Rajarajeshwari Nagar, Bengaluru. Her murder followed those of other eminent Indian writers including Govind Pansare and M. M Kalbugi in 2015. These writers often questioned Hindu right-wing politics, and wrote about attacks on freedom of expression, and their murders have resulted in self-censorship among others.
37. India’s Foreign Contribution (Regulation) Act (FCRA) 2010 restricts the work of human rights defenders, as do income tax regulations. The US government has expressed its concerns over the crackdown on the activities of both local and international NGOs using the FCRA. Three UN human rights experts – the Special Rapporteur on human rights defenders, Michael Frost; the Special Rapporteur on freedom of association, Maina Kiai; and the Special Rapporteur on freedom of expression, David Kaye – have all called on India to repeal the FCRA, as it is increasingly being used to obstruct civil society.
38. Human rights defenders report facing constant harassment and surveillance from authorities, including through social media. In April 2018 five members of civil society including a professor, a human rights activist and a lawyer, were arrested under the Unlawful Activities Prevention Act (UAPA) 1967 after being falsely accused of belonging to a Maoist organisation. The UAPA is an anti-terror law, which gives sweeping powers to law enforcement agencies. The law is vaguely worded and has been misused to silence dissenting views of activists and intellectuals who are critical of the government.

³ Times of India, ‘Hindu Mahasabha leader advocates forced sterilization to restrict Muslim, Christian population’, 12 April 2015 <https://timesofindia.indiatimes.com/india/Hindu-Mahasabha-leader-advocates-forced-sterilization-to-restrict-Muslim-Christian-population/articleshow/46895042.cms>

⁴ India Today, ‘Love Jihad row: Yogi Adityanath's hate speech caught on camera’, 27 August 2014 <https://www.indiatoday.in/india/story/love-jihad-row-yogi-adityanath-provocative-speech-205846-2014-08-27>

⁵ Hindustan Times, ‘BJP leader Adityanath makes hate speech again’, 8 September 2014 <https://www.hindustantimes.com/india/bjp-leader-adityanath-makes-hate-speech-again/story-AjZpzOEIjHIDuBr4k7STEJ.html>

Conclusion

39. While the Indian constitution contains multiple articles which are in line with the ICCPR, the enforcement of the rights enshrined in these is weak in many states. Particularly concerning is the presence of anti-conversion laws in several states which are in violation of Article 18 of the ICCPR and lead to communal violence. India also notably falls short of several other stipulations of the ICCPR including guarantees of freedom from discrimination and freedom of expression, as well as the prohibition of hate speech. We also note with disappointment India's failure to submit a State Party report to the Human Rights Committee; the latest of which was due in 2010.
40. CSW urges the Committee to note the contents of this report and to act in accordance with international obligations to ensure measure are put in place to ensure the Indian government protects and upholds the rights of all of its citizens.

Recommendations

41. Urge India to prevent violence committed in the name of religion, and other forms of oppression related to religion or belief.
42. Urge India to repeal anti-conversion legislation currently in force in seven states, namely Gujarat, Himachal Pradesh, Chhattisgarh, Madhya Pradesh, Uttarakhand, Odisha and Jharkhand.
43. Urge India to reverse the culture of impunity that leads to communal violence by ensuring that perpetrators are brought to justice and adequate levels of compensation are granted to victims.
44. Urge India to continue to work towards the introduction of a comprehensive framework to deal adequately with communal and targeted violence.
45. Urge India to pursue policies to reform its law enforcement agencies, including establishing mechanisms to increase the accountability of law enforcement officers, and ensuring that First Information Reports are effectively investigated and prosecuted.
46. Urge India to adopt the recommendation of the NCRLM, removing religion as a criterion for Scheduled Caste status.
47. Urge India to uphold the rights to free speech and freedom of expression, and protect civil society and journalists who exercise these rights, by investigating and prosecuting the perpetrators of crimes against these groups.
48. Urge India to ensure human rights defenders and NGOs have a safe environment in which to operate, one which is based on a national framework adequately supported by the appropriate legislative and regulatory texts.
49. Urge India to repeal or amend the Foreign Contribution (Regulation) Act 2010.
50. Urge India to provide more effective protection for human rights defenders, by removing the legal obstacles and societal repression undermining their legitimate activities to promote and protect human rights.