

# briefing

## India

*Communalism, anti-Christian violence and the law*

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MAY 2010



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REGISTERED CHARITY NO. 281836

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*“The prevention of communal tension should be one of the primary duties of the district magistrate and superintendent of police. Their performance in this regard should be an important factor in determining their promotion prospects”.*

Prime Minister’s Fifteen Point Programme for the Welfare of Minorities

## I. Executive summary

This briefing is concerned principally with recent trends of communal violence against Christians, state responses (sections 5-6), and ongoing infringements of religious freedom in law (section 4). India has a long history of religious diversity, and compulsions towards mutual respect and violent intolerance exist in parallel. Violence and discrimination against religious minorities are most commonly fostered by the extremist Hindu nationalist movement and are justified by their strong opposition to religious conversions.

Communal violence against religious minorities is seen as being most likely to occur in the context of long-standing antagonism along religious lines, with a sense among perpetrators that violence is justifiable and that police reactions would be absent, partisan or ineffective.

The worst case of communal violence faced by Christians in post-independence India took place in Orissa state in 2008, including brutal murders and rapes, widespread destruction of churches and property, and forcible conversions to Hinduism. The situation in the aftermath of this violence still gives considerable cause for concern, three aspects in particular (section 5). The first is rehabilitation: most relief camps closed through 2009, but many victims continue to live in poor conditions in makeshift shelters or displacement camps with no clear idea of whether or when they will be able to return, and while government compensation has been delivered to some extent, it is rarely commensurate with needs, a factor which could accentuate the disenfranchised status of victims. The second is impunity: this is the result of endemic bias and dereliction of duty among police, granting of bail in important cases, and the judicial system being ill-equipped to deal with the contingencies of the situation. The third is reconciliation: there is no viable means of community reconciliation, and many victims still live in fear.

Religiously-motivated attacks against Christian targets continued throughout 2009, most frequently in Karnataka, Andhra Pradesh, Madhya Pradesh and Chhattisgarh states. Although there was no concentrated period of mob violence, the regular, frequent attacks nevertheless amounted to a significant problem of communal violence. Avenues of legal redress are theoretically strong in India, but the implementation of the law is weak, and negligent police responses are particularly common in cases of religiously-motivated violence. Absent, ineffective or negligent police responses have reinforced a culture of impunity, which needs to be reversed in order to ensure that inciters and perpetrators of communal violence expect to be brought to justice.

The government should address systemic problems underlying this pattern of violence, including by investigating the activities of extremist organisations responsible for instigating the widespread violence against religious minorities, and by tackling the failings of law enforcement authorities in response to such violence. The government has introduced a bill to prevent, control and deal with the aftermath of communal violence (section 4.5), which is welcomed in principle, but there are legitimate concerns over the substance of this proposed legislation, and a need for further consultation with religious minority groups affected by communal violence.

Overall, India boasts an excellent constitution and a strong body of legislation providing for the right to freedom of religion and belief, proscribing discrimination based on religion, and protecting the rights of religious minorities. However, there are a number of problematic areas of legislation. These include the *de facto* penalisation of Dalits who convert to religions other than Hinduism, Sikhism or Buddhism (section 4.3), which several Indian bodies and two UN committees have recommended be changed, and state-level 'anti-conversion laws' (section 4.4), described by the UN Special Rapporteur on freedom of religion or belief as raising "serious human rights concerns".

## 2. Recommendations

### 2.1. To the government of India

As an emerging economic superpower, India has a well-established and growing reputation for strong democratic values. With respect to freedom of religion and belief, the national government has a clear commitment to secularism, and to the welfare and social inclusion of religious minorities. However, in order to pursue this agenda most effectively, it is recommended that the government of India should implement the recommendations of the UN Special Rapporteur on freedom of religion or belief given in the report of her 2008 mission to India.<sup>1</sup>

CSW specifically recommends that the government of India should:

1. Adopt and implement the recommendations of the Justice Ranganath Misra National Commission for Religious and Linguistic Minorities, specifically that the eligibility for membership of the Scheduled Castes should not be linked to religious status;
2. Encourage the state governments of Arunachal Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Madhya Pradesh, Orissa and Rajasthan to repeal their respective anti-conversion laws, and to protect “right to freedom of thought, conscience and religion” as defined by Article 18 of the International Covenant on Civil and Political Rights, subject only to such limitations as are prescribed by General Comment 22 of the UN Human Rights Committee. The rights enunciated in Article 18 include the following:
  - a. The right of a person “to have or to adopt a religion or belief of his choice” (Article 18), including the right “to replace one’s current religion or belief with another or adopt atheistic views” (General Comment 22);
  - b. The freedom of a person “either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching” (Article 18), including the right “to persuade others to believe in a certain religion”;<sup>2</sup>
3. Hold additional consultations with representatives of communities affected by communal violence, and ensure their concerns are addressed in the final draft of the Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill;
4. Strongly urge the state government of Orissa to implement the following measures in response to the communal violence:
  - a. Invite the Central Bureau of Investigation (CBI) to carry out an investigation into the assassination of Swami Lakshmananda Saraswati and the subsequent anti-Christian violence, paying specific attention to the root causes of this violence;
  - b. Ensure that police unfailingly assist victims of violence to submit First Information Reports (FIRs) and investigate these thoroughly;<sup>3</sup>
  - c. Investigate reports of police officers failing to register cases or showing complicity in attacks, and bring prosecutions against offending officers;
  - d. Implement a basic witness protection scheme, and provide assistance and remuneration to victims in order to ensure they are able to testify in court;

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<sup>1</sup> “Report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir: Addendum: Mission to India”, A/HRC/10/8/Add.3, 26 January 2009 (<http://www2.ohchr.org/english/bodies/hrcouncil/10session/reports.htm>).

<sup>2</sup> “United Nations General Assembly: Human rights questions: human rights questions including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms”, A/60/399, 30 September 2005 ([http://www2.ohchr.org/english/issues/religion/docs/A\\_60\\_399.pdf](http://www2.ohchr.org/english/issues/religion/docs/A_60_399.pdf)), paragraph 59.

<sup>3</sup> Writ Petition (Criminal) No. 68 of 2008 (Lalita Kumar vs. Government of U.P.)

- e. Establish police outposts not more than 20kms apart, towards ensuring long-term peace;
5. Implement the following measures in response to the communal violence in Orissa:
  - a. Provide compensation for individuals, institutions and churches, which is fully commensurate with needs;
  - b. Conduct a specific investigation into the activities of extremist groups implicated in the incitement of the violence;
  - c. Investigate the legitimacy of the election of Manoj Pradhan to the Orissa state legislative assembly;
6. Take measures to ensure the full, consistent and effective implementation of legislation protecting minorities from religiously-motivated violence, and thereby to tackle impunity for perpetrators of such violence. This should involve reform of the policing system in order to address negligence and communal bias, including by reforming or replacing the Police Act of 1861 and implementing the following specific measures:<sup>4</sup>
  - a. Ensuring the proper registration of FIRs in all cases, by removing structural disincentives, disciplining negligent officers, and conducting monitoring visits;
  - b. Establishing internal and external mechanisms for increasing police accountability, including state- and district-level police complaints authorities;
  - c. Increasing the capacity of police, through recruitment, training and appropriate resourcing;
  - d. Improving working and living conditions for police;
7. Grant constitutional status to the National Commission for Minorities;
8. Ensure that an active Commission for Human Rights and Commission for Minorities (in the model of their national counterparts), is operational in every state, and that members of each commission are appointed by transparent and non-partisan procedures;
9. Carry out a full investigation into the nationwide activities of all extremist groups accused of instigating or perpetrating violence against religious minorities;
10. Promote media compliance with the 2005 Press Council 'Norms of Journalistic Conduct'<sup>5</sup> and investigate allegations where they arise against media for inciting or fostering communal grievances, bringing prosecutions where appropriate.

## **2.2. To states and regional actors**

It is recommended that states and regional actors should use appropriate means of dialogue to engage the government of India on issues affecting religious freedom, particularly to encourage the implementation of the recommendations given in section 2.1 above, and the recommendations of the UN Special Rapporteur on freedom of religion or belief in the report of her 2008 mission to India.

It is further recommended that states and regional actors should consider implementing specific projects or offering assistance to address the aftermath of cases of mass communal violence, including in Orissa in 2008, or to address systemic problems in these areas, including police and judicial ineffectiveness.

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<sup>4</sup> This echoes a much more detailed set of recommendations on police reform made by Human Rights Watch in its report, "Broken System: Dysfunction, Abuse and Impunity in the Indian Police", August 2009 (<http://www.hrw.org/en/reports/2009/08/04/broken-system-0>). On 22 September 2006, the Supreme Court issued instructions in Writ Petition (Civil) No. 310 of 1996 (Prakash Singh vs. Union of India). The National Police Commission also issued detailed recommendations in 1981.

<sup>5</sup> Press Council of India, "Norms of Journalistic Conduct" (<http://presscouncil.nic.in/norms.htm>).

### 3. Introduction

As a federal state which is home to one in six of the world's population, with a highly complex ethnic and caste make-up, approximately 1,600 languages,<sup>6</sup> a third of the world's poor,<sup>7</sup> 43 per cent of its children under-nourished,<sup>8</sup> and the fourth largest number of billionaires in the world,<sup>9</sup> India does not lend itself to generalisations.

The Indian subcontinent also has a long history of religious and communal diversity, with Christianity having been brought to south India in the first century, and Islam having entered the subcontinent in the eighth century. Hinduism, Sikhism, Buddhism and Jainism originated in India, and innumerable traditional religious beliefs have long been practised among indigenous groups. It is also not possible to generalise about relations among religious communities: throughout her history, including since independence, these relations have been marked both by tolerance and inter-penetration, and by ghettoisation and communal violence. Compulsions towards mutual respect and violent intolerance continue to exist in parallel.

This briefing is concerned principally with recent trends of violence against Christians, state responses to such violence, and ongoing infringements of religious freedom in law. Avenues of legal redress are theoretically strong in India, but the implementation of the law is weak, and negligent police responses are particularly common in cases of religiously-motivated violence. There is a clear need for the government to address systemic problems underlying this pattern of violence, including by investigating the activities of extremist organisations responsible for instigating the widespread violence against religious minorities, and by tackling the failings of law enforcement authorities in response to such violence. The government has introduced a bill to prevent, control and deal with the aftermath of communal violence (see section 4.5 below), which is welcomed in principle, but there are legitimate concerns over the substance of this proposed legislation.

#### 3.1. Religious and caste demography

At the most recent census, in 2001,<sup>10</sup> Hindus accounted for 80.5 per cent of the population and Muslims for 13.4 per cent. Christians were the third largest religious community, with 2.3 per cent. Sikhs, Buddhists and Jains together accounted for 3.1 per cent, and 0.6 per cent belonged to other religions or persuasions. 0.1 per cent did not state their religion.

Scheduled Castes (SCs), the legal category for Dalits, formed 16.2 per cent of the population. Dalits constitute the base of the hierarchical caste system, which continues to shape Indian society and social attitudes to a large extent, and they face grievous patterns of discrimination, exploitation and violence. Scheduled Tribes (STs), or *adivasis*, constituted 8.2 per cent of the population. Many converts to non-Hindu religions, particularly Buddhism, Christianity and Islam, are drawn from among the Dalits, *adivasis* and 'low' castes. It is among these groups that the most serious assaults on religious freedom occur.

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<sup>6</sup> The 1991 census recognised 1,576 "mother tongues".

<sup>7</sup> 'DFID India Country Plan 2008-15' ([http://www.dfid.gov.uk/Documents/publications/india-cap\[1\].pdf](http://www.dfid.gov.uk/Documents/publications/india-cap[1].pdf)), p. 2.

<sup>8</sup> Ibid, p. 4. This figure is considerably higher than the 29 per cent of children under-nourished in sub-Saharan Africa.

<sup>9</sup> Forbes magazine, 'Special Report: The World's Billionaires' ([http://www.forbes.com/2010/03/10/worlds-richest-people-slim-gates-buffett-billionaires-2010\\_land.html](http://www.forbes.com/2010/03/10/worlds-richest-people-slim-gates-buffett-billionaires-2010_land.html)), 3 March 2010.

<sup>10</sup> 2001 census of India, 'Religious Composition' ([http://www.censusindia.gov.in/Census\\_Data\\_2001/India\\_at\\_glance/religion.aspx](http://www.censusindia.gov.in/Census_Data_2001/India_at_glance/religion.aspx)).

### **3.2. Hindu nationalist movement: India's largest threat to religious pluralism**

Violence and discrimination against religious minorities in India are most commonly fostered by the extremist Hindu nationalist movement, espoused by the groups known collectively as the Sangh Parivar, comprising the Rashtriya Swayamsevak Sangh (RSS) and its subsidiary and associated organisations. In its most recent annual report, the RSS claims to have held 39,823 daily meetings in over 27,000 locations.<sup>11</sup> The Vishwa Hindu Parishad (VHP) is the religious and cultural wing of the Sangh Parivar; it effectively operates as an agency for grassroots mobilisation and was heavily implicated in the 2008 anti-Christian violence in Orissa. The Bajrang Dal, the youth wing of the VHP, is often involved in anti-Christian violence. The Bharatiya Janata Party (BJP) is the principal political wing of the Sangh Parivar. It performed poorly in the general election of May 2009, but continues to hold power singly in Chhattisgarh, Gujarat, Himachal Pradesh, Karnataka, and Madhya Pradesh, and to form part of coalition governments in Bihar, Jharkhand, Nagaland, Punjab and Uttarakhand.

The Hindu nationalist movement has its roots in nineteenth-century Hindu revivalism, during a time of rising communal tensions with India's Muslims. At its heart is the concept of the 'Hindu rashtra', a term which encapsulates the essence of a Hindu nation, to the exclusion of non-Hindus. One of the early ideologues of Hindu nationalism was V D Savarkar, who drew a distinction between Hindus, for whom India was 'Holy-Land', and Muslims or Christians, for whom India could never be more than a 'Father-Land'. The religious affiliation of Muslims or Christians called into question their national loyalty: "Their holyland is far off in Arabia or Palestine. Their mythology and Godmen, ideas and heroes are not the children of this soil. Consequently their names and their outlooks smack of foreign origin. Their love is divided".<sup>12</sup> M S Golwalkar, the second supreme head of the RSS, concluded that, "All those not belonging to the national i.e. Hindu Race, Religion, Culture and Language, naturally fall out of the pale of the real 'National' life".<sup>13</sup>

The Hindu nationalist ideology is strongly opposed to religious conversions. The ideology makes a distinction between conversions *away from* Hinduism, which are treated as illegitimate, and conversions *to* Hinduism, which are described by the term *ghar vapsi*, translated as 'homecoming' or 're-conversion'. This distinction is based on the view that Hinduism is the default 'way of life' for Indians; religious conversion is therefore seen as a threat to the national integrity of India.

## **4. Religion and the law**

India boasts an excellent constitution and a strong body of legislation providing for the right to freedom of religion and belief, proscribing discrimination based on religion, and protecting the rights of religious minorities. However, there are a number of problematic areas of legislation, including the *de facto* penalisation of Dalits who convert to religions other than Hinduism, Sikhism or Buddhism, and state-level 'anti-conversion laws'. Legitimate concerns have also been raised over the substance of a proposed law to combat communal violence.

### **4.1. Obligations under international law**

India acceded to the International Covenant on Civil and Political Rights (ICCPR) on 10 April 1979, and is therefore bound by its provisions. Article 18 provides that:

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<sup>11</sup> 'RSS pratinidhi sabha starts at Kurukshetra', India Today, 26 March 2010 (<http://indiatoday.intoday.in/site/Story/89997/India/RSS's+pratinidhi+sabha+starts+at+Kurukshetra.html>).

<sup>12</sup> V D Savarkar, *Hindutva: Who is a Hindu?*, Poona: S.R. Date, 2<sup>nd</sup> ed., 1942, p. 92.

<sup>13</sup> M S Golwalkar, *We or Our Nationhood Defined*, in Jaffrelot, *Reader*, pp. 115-16.



1. *Everyone shall have the right to freedom of thought, conscience and religion. This right shall include 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.*
2. *No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.*
3. *Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.*
4. *The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.*

UN Human Rights Committee General Comment 22 interprets the right to “have or to adopt a religion” as necessarily including the right “to replace one’s current religion or belief with another or adopt atheistic views” (clause 5). General Comment 22 also narrowly restricts the limitations permitted in Article 18(3): “The Committee observes that paragraph 3 of article 18 is to be strictly interpreted: restrictions are not allowed on grounds not specified there ... Limitations may be applied only for those purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated.”

Article 27 of the ICCPR provides for the rights of persons belonging to minority religions:

*“In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.”*

India is also bound by its provisions of the Convention on the Rights of the Child (CRC), which it ratified on 2 December 1992. Article 2 guarantees that the rights enunciated in this covenant must be exercised without discrimination as to religion; Article 14 provides that “States Parties shall respect the right of the child to freedom of thought, conscience and religion”; and Article 30 extends to children belonging to religious minorities the right “to profess and practise” their own religion.

#### **4.2. Constitutional protections for religious freedom**

The constitution was enacted in January 1950. Its 42nd amendment, passed in 1976, added the word “secular” to the preamble, which now describes India as a “sovereign socialist secular democratic republic”. The preamble also resolves to constitute “liberty of thought, expression, belief, faith and worship”.

Article 15 prohibits discrimination, including on grounds of religion:

15. (1) *The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.*
- (2) *No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to—*
  - (a) *access to shops, public restaurants, hotels and places of public entertainment; or*

*(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.*

Article 25(1) protects the right to freedom of religion:

*“Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.”*

Article 26 protects the freedom to manage religious affairs, including the right of every religious denomination “to establish and maintain institutions for religious and charitable purposes”, “to manage its own affairs in matters of religion”, and to own, acquire and administer property. Article 27 provides that no tax proceeds shall go towards the promotion or maintenance of any particular religion.

### **4.3. Religious discrimination against Scheduled Castes**

Legislation in India has created a set of remedial measures to address the socio-economic disenfranchisement and discrimination faced by Dalits and *adivasis*. These include a system of quotas, or reservations, in government public sector education and employment, and a law designed to protect Dalits and *adivasis* from the particular forms of violence, humiliation and exploitation which they face, the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

However, the designation of Scheduled Castes, the legal category for Dalits eligible for these remedial measures, is linked to religious affiliation: Scheduled Castes include only Hindus, Sikhs and Buddhists. Dalits who convert to other religions, usually Christianity or Islam, lose their status as Scheduled Castes and consequently their eligibility for these measures. There is no equivalent religious conditionality attached to the designation of Scheduled Tribes.

Since caste-based discrimination continues to be practised to some extent in all religious communities, and Dalit converts are typically regarded and treated as Dalits, irrespective of their religious faith, this effectively imposes social and economic penalties for those embracing Christianity and Islam. In practice, it has also resulted in the concealment of religious affiliation by beneficiaries of reservations who are afraid of losing their jobs. It also means that acts of violence against Dalit Christians or Dalit Muslims cannot be prosecuted under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.

This configuration is being challenged through a Supreme Court case, brought in 2004.<sup>14</sup> In response to the court’s request for an opinion, the government appointed the National Commission for Religious and Linguistic Minorities (NCRLM) to undertake a study and issue a recommendation. In May 2007, the NCRLM recommended that Scheduled Caste status should no longer be linked to religious identity, and the National Commission for Scheduled Castes and the National Commission for Minorities (NCM) have also issued recommendations to the same effect.<sup>15</sup> The NCRLM report was presented to the Lok

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<sup>14</sup> Writ Petition (Civil) No. 180 of 2004, filed by the Centre for Public Interest Litigation with Mr Franklin Caesar Thomas. This has been combined with three other writ petitions from 2005-06, two of which concern Dalit Christians and one of which concerns Dalit Muslims.

<sup>15</sup> The National Commission for Minorities report, “Dalits in the Muslim and Christian Communities”, January 2008, is available at <http://ncm.nic.in/pdf/report%20dalit%20%20reservation.pdf>. The National Commission for Scheduled Castes gave its recommendation with the caveat that reservations for Dalit Christians and Muslims should not encroach upon the existing 15% reservations for Scheduled Castes, which would constitute a serious challenge, given that additional proposed reservations for the Other Backward Classes would take the total quotas to just below the 50% limit set by the

Sabha (the lower house of parliament) by the Ministry of Minority Affairs on 18 December 2009, but it was not debated or implemented before the end of the parliamentary session, and the government did not table an Action Taken Report (ATR), which suggests it is unlikely that the recommendations would be implemented. The Supreme Court case continued to await the response of the government, and was repeatedly adjourned.

The recommendations made by the NCRLM remain politically contentious. Firstly, they would increase competition for Scheduled Caste reservations. Secondly, the removal of a link between Scheduled Caste status and religious affiliation has been condemned by Hindu nationalist groups, including the RSS, since the adoption of the NCRLM recommendations would remove a significant socio-economic disincentive to conversions away from Hinduism.

However, two recent UN reports have echoed the recommendation for a change in the law to restore the eligibility for Scheduled Caste status to those who convert to another religion. These are the report of the UN Special Rapporteur on freedom of religion or belief on her 2008 mission to India (paragraph 71)<sup>16</sup> and the Concluding Observations of the UN Committee on the Elimination of Racial Discrimination (paragraph 21)<sup>17</sup>.

#### **4.4. State-level anti-conversion legislation**

India's seven state-level Freedom of Religion Acts, known informally as 'anti-conversion laws', pose a threat to freedom of religion through their restriction of religious conversions and their damaging normative effect on religious minorities. In the report of her 2008 mission to India, the UN Special Rapporteur on freedom of religion or belief indicated that she was "deeply concerned that laws and bills on religious conversion in several Indian states are being used to vilify Christians and Muslims" (paragraph 47). She concluded that these "should be reconsidered since they raise serious human rights concerns" (paragraph 70).

Anti-conversion legislation reflects Hindu nationalist antipathy towards conversions away from Hinduism. Although they have recently tended to belong within the agenda of the BJP and its political forebears, it was the Indian National Congress-appointed Niyogi Committee Report on Christian Missionary Activities in Madhya Pradesh in 1956 that paved the way for the passage of the earliest anti-conversion laws, and the Orissa, Madhya Pradesh (out of which was created the state of Chhattisgarh) and Himachal Pradesh laws were passed by non-BJP governments.

##### **4.4.1. Status of laws**

The status of the respective laws at the end of 2009 was as follows:

- Orissa (1967): in force;
- Madhya Pradesh (1968): in force, but 2006 amendment not ratified;
- Chhattisgarh (1968): in force, but 2006 amendment not ratified;
- Arunachal Pradesh (1978): introduced, but not implemented;
- Gujarat (2003): in force;

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Supreme Court in 1963. Reservation quotas are currently set as follows: 15% for Scheduled Castes; 7.5% for Scheduled Tribes; 27% for Other Backward Classes, excluding the 'creamy layer'. The latter was recommended by the Mandal Commission in 1980 and became highly controversial; it was upheld by the Supreme Court in 1993. The current reservation quotas total 49.5%, leaving room of only 0.5% under the 50% limit.

<sup>16</sup> "Report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir: Addendum: Mission to India", A/HRC/10/8/Add.3, 26 January 2009

(<http://www2.ohchr.org/english/bodies/hrcouncil/10session/reports.htm>).

<sup>17</sup> "Concluding Observations of the Committee on the Elimination of Racial Discrimination", CERD/C/IND/CO/19, 5 May 2007

(<http://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.IND.CO.19.doc>).

- Himachal Pradesh (2006): in force;
- Rajasthan (2008): introduced, but pending ratification by governor.

There were no changes in the status of the laws in 2009, although in February 2009, speculation grew that the BJP state government of Karnataka might attempt to introduce an anti-conversion law. Shri S. Suresh Kumar, Minister of State for Law, Justice and Human Rights, Parliamentary Affairs and Urban Development, gave an interview to the Hindutva newspaper, *Organiser*, in which he stated that, “Karnataka Government is set to frame Anti-Conversion Law as the Hindu innocents are getting converted to other religions. Poor and uneducated Hindus are becoming victims for the false propaganda against Hinduism.”<sup>18</sup>

#### 4.4.2. Summary of concerns

With the exception of the Madhya Pradesh and Chhattisgarh laws, which are identical, each of the seven laws and their amendments contain slightly different nuances. However, each of the anti-conversion laws prohibit a person from converting another person by means of “force”, “fraud”/“fraudulent means” or “allurement”/“inducement”. Each law also imposes legal obligations on religious priests conducting a conversion “ceremony”, and on would-be converts to a new religion.

The main areas of concern applicable to each of the anti-conversion laws are as follows:

1. There is no specific need for these laws. There is no evidence among any religious minority of forced or fraudulent conversions, indicated by the lack of any prosecutions under anti-conversion laws. Any coercive techniques employed to bring about conversions, such as assault, battery or fraud, could be addressed under the existing provisions of Indian law, including sections 295A and 298 of the Indian Penal Code (IPC).<sup>19</sup>
2. There is no evidence to support the view that the laws alleviate inter-religious tensions. Instead they appear to have a damaging normative effect for religious minorities and they contribute towards stigmatising religious conversions and, by extension, a wide range of religious activities. This is contrary to the justification sometimes given for these laws.<sup>20</sup> Religiously-motivated violence against Christians in states both with and without anti-conversion legislation is often justified with accusations that the victims were attempting to convert others, and it is not uncommon that such attacks receive the complicity of police while the perpetrators enjoy impunity. In the 2008 report of her visit to India, the UN Special Rapporteur on freedom of religion or belief found that “such laws or even draft legislation have had adverse consequences for religious minorities and have reportedly fostered mob violence against them” (paragraph 50).
3. The laws violate the freedom of an individual “to have or to adopt a religion or belief of his choice”, as enshrined in Article 18 of the ICCPR, which is binding upon

<sup>18</sup> “Interview: Karnataka government to bring anti-conversion law”, *The Organiser*, 22 February 2009 (<http://www.organiser.org/dynamic/modules.php?name=Content&pa=showpage&pid=278&page=9>).

<sup>19</sup> Section 295A of the IPC criminalises “Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs”. IPC section 298 criminalises “Uttering words, etc., with deliberate intent to wound the religious feelings of another person”. This argument is developed further by the Becket Fund for Religious Liberty in its briefing, “United Nations Human Rights Council Universal Periodic Review: India: Submission of The Becket Fund for Religious Liberty, 20 November 2007” (<http://www.becketfund.org/files/cc4a8.pdf>), p. 2.

<sup>20</sup> The “Statement of Objects and Reasons” in the Rajasthan Freedom of Religion Bill 2006 states that: “In order to curb such illegal activities [as unlawful conversions] and maintain harmony amongst persons of various religions, it has been considered expedient to enact a special law for the purpose”.

India. UN Human Rights Committee General Comment 22 defined the right to “have or to adopt” a religion as necessarily including the right “to replace one’s current religion or belief with another or adopt atheistic views” (clause 5). As the UN Special Rapporteur on freedom of religion or belief noted:

*“there is a clear prohibition under international human rights law of coercion to change or maintain one’s religion ... the term ‘coercion’ in article 18, paragraph 21, is to be broadly interpreted and includes ... prohibition of conversions. Since the choice of religion or belief is part of the forum internum, which allows for no limitations, a general prohibition of conversion by a State necessarily enters into conflict with applicable international standards. A law prohibiting conversion would constitute a State policy aiming at influencing individual’s desire to have or adopt a religion or belief and is therefore not acceptable under human rights law. A State also has the positive obligation of ensuring the freedom of religion or belief of the persons on its territory and under its jurisdiction.”<sup>21</sup>*

The Special Rapporteur reiterated this point in the report on her 2008 mission to India: “according to universally accepted international standards, the right to freedom of religion or belief includes the right to adopt a religion of one’s choice, the right to change religion and the right to maintain a religion ... these aspects of the right to freedom of religion or belief have an absolute character and are not subject to any limitation whatsoever” (paragraph 51). The anti-conversion laws impose burdensome restrictions on the freedom to change religion, including:

- the requirement upon those “performing” or taking part in any “ceremony” for conversion to seek prior permission (as in Gujarat) or to send an intimation to the district authorities with details about the conversion;
- a similar requirement upon the person intending to convert to notify the district magistrate of his/her intention to convert, with the magistrate to enquire into the matter in Himachal Pradesh law or Rajasthan bill.

As a result of these requirements, combined with social pressures, the political influence of extremist Hindu nationalist groups, the hostility of Hindu nationalist authorities to conversions and the realities of the hierarchical caste system, potential converts often face practically insurmountable obstacles to religious conversions. The significance of these obstacles has been confirmed by testimony which CSW has heard consistently in several states.

4. The laws impose problematic and ill-defined restrictions on the freedom to propagate religion. The definitions are sufficiently vague as to allow a wide range of activities undertaken by religious groups, including charitable services and education, to be portrayed as conversionary. For example, each of the laws include in the definition of “allurement” or “inducement”, the offer of “any gift or gratification”. The definition of “force” includes “a threat of divine displeasure”, which could be applied to a doctrinal statement of faith. These vague definitions leave legitimate religious activities in a position of legal vulnerability. As the UN Special Rapporteur on freedom of religion or belief has stated:

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<sup>21</sup> “United Nations General Assembly: Human rights questions: human rights questions including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms“, A/60/399, 30 September 2005 ([http://www2.ohchr.org/english/issues/religion/docs/A\\_60\\_399.pdf](http://www2.ohchr.org/english/issues/religion/docs/A_60_399.pdf)) , paragraphs 51-52.

*“The question of missionary activities and other forms of propagating s (sic) religion has been at the centre of the mandate on freedom of religion since the beginning. In one of his reports, Special Rapporteur Amor considered ‘constitutional provisions prohibiting proselytism to be inconsistent with the 1981 Declaration and stresse[d] the need for greater respect for internationally recognized human rights norms, including freedom to convert and freedom to manifest one’s religion or belief, either individually or in community with others, and in public or private, except where necessary restrictions are provided for by law’ (A/51/542/Add.1/para. 134).”*

Additionally, ICCPR Article 19 provides for the “freedom to seek, receive and impart information and ideas of all kinds”. The Special Rapporteur has noted:

*“while not explicitly including religious rights, article 19 of ICCPR, which protects freedom of expression, is formulated in a way that also covers missionary activities: “[T]his 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 [one’s] choice”. The Human Rights Committee’s constant jurisprudence has deemed the protection afforded by article 19 extremely strong.”<sup>22</sup>*

5. Indian case law has created inconsistent and unclear definitions of different religious parties, and the nature of conversion between them, leaving religious minorities vulnerable to the unequal administration of justice. The principal problem concerns the overly broad legal definition of Hinduism (under which Article 25 of the constitution): a 1995 Supreme Court decision said in part, “When we think of the Hindu religion, we find it difficult, if not impossible, to define the Hindu religion or even adequately describe it ... It may broadly be described as a way of life and nothing more”.<sup>23</sup> The distinction which is made in Hindu nationalist discourse between ‘conversion’ away from Hinduism, and *ghar vapsi* (‘homecoming’ or ‘re-conversion’) to Hinduism, is reflected in the laws. The Himachal Pradesh law exempts from its remit any person who “reverts back to his original religion”, in what appears to be a reference to ‘re-conversions’; the Rajasthan law defines a conversion as renouncing the “religion of one’s forefathers” and “adopting another”; and the now-withdrawn 2006 amendment to the Gujarat law defined the Buddhist and Jain religions as ‘denominations’ of Hinduism, thereby exempting them from the conditions imposed by the law but failing to recognise their distinct religious identities (this attracted widespread criticism from Jain groups before it was rejected as unconstitutional by the state governor). The nature of conversion is also defined in an unclear manner. Cases against the Orissa and Madhya Pradesh laws reached the Supreme Court, where they were combined in ‘Rev Stainislaus vs. State of Madhya Pradesh and Ors’, and the resultant judgement on 17 January 1977 ruled that Article 25(1) “does not grant right to convert other person to one’s own religion but to transmit or spread one’s religion by an exposition of its tenets.”<sup>24</sup> This made a distinction between ‘propagation’ and ‘conversion’, which is highly problematic in practical terms.

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<sup>22</sup> Ibid , paragraph 61.

<sup>23</sup> Appeal (Civil) No. 2836 of 1989.

<sup>24</sup> ‘Rev. Stainislaus vs. State of Madhya Pradesh and Ors.’

6. The penal provisions are grossly disproportionate in the more recent laws, exceeding even those given for causing death by negligence. In the Orissa, Madhya Pradesh, Chhattisgarh, Gujarat and Himachal Pradesh laws, the penal provisions are increased substantially for those convicted for converting Scheduled Castes and Scheduled Tribes. This is often adduced as evidence that of the chief aims of anti-conversion legislation is the prevention of these socially excluded groups from adopting a new religion.

#### **4.5. Proposed law on communal violence**

The government has proposed a law to prevent, control and deal with the aftermath of communal violence, which would include caste-based or religiously-motivated violence. Communal violence is recognised as a problem which runs deeper than simply undermining law and order. The UN Special Rapporteur on freedom of religion or belief echoed the NCM in emphasising that communal violence is most likely to occur in a situation in which the following elements are present:<sup>25</sup>

- Long-standing antagonism along religious lines;
- A specific occurrence triggering an emotional response among members of religious communities;
- A sense among perpetrators and the religious community to which they belong that communal violence is justifiable;
- A sense among perpetrators that the reaction of police to communal violence would be absent, partisan or ineffective.

The Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill, 2009, was first introduced on 26 November 2005, and has undergone a series of revisions, which include the adoption of a number of recommendations issued by the NCM. It is expected to be introduced in the Lok Sabha in 2010, having received cabinet approval in December 2009.

##### **4.5.1. Provisions**

The purpose of the bill is outlined in the Statement of Objects and Reasons:

*“Communal violence threatens the secular fabric, unity, integrity and internal security of a nation. With a view to empowering the State Governments and the Central Government to take effective measures to provide for the prevention and control of communal violence and to rehabilitate the victims of such violence, for speedy investigation and trial of offences including imposition of enhanced punishments, than those provided in the Indian Penal Code, on persons involved in communal violence and for matters connected therewith, it has been decided to enact a law by Parliament.”*

The current version of the bill sets out a series of measures to these ends, and includes the following provisions:

- Article 3(1) groups a number of offences under the Indian Penal Code (IPC) and other laws in a schedule. If one or more of these offences are committed “in such manner and on such a scale which involves the use of criminal force or violence against any group, caste or community, resulting in grievous hurt, loss of life, or extensive damage or destruction of property” and where “such use of criminal force or violence is committed with a view to create disharmony or feelings of enmity, hatred or ill-will between different groups, castes or communities”, resulting in an

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<sup>25</sup> “Report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir: Addendum: Mission to India”, A/HRC/10/8/Add.3, 26 January 2009 (<http://www2.ohchr.org/english/bodies/hrcouncil/10session/reports.htm>), paragraph 31.

imminent “threat to the secular fabric, integrity, unity or internal security of India”, a state government is required to notify this as a “communally disturbed area”.

- Article 4 specifies that a state government may request the central government to deploy armed forces in these circumstances.
- Article 5 provides for preventative measures to be taken by a district magistrate prior to any outbreak of communal violence.
- Articles 6-10 provide for preventative measures to be taken by the “competent authority” after an area has been designated as communally disturbed.
- Articles 11-16 proscribe and stipulate punishments for certain acts associated with communal violence, including possessing weapons or threatening witnesses;
- Article 17 stipulates punishments for public servants or competent authorities who act in a *mala fide* manner or wilfully fail to exercise lawful authority, and thereby fail to prevent communal violence.
- Article 19 provides that punishments stipulated for scheduled offences must be doubled if the offences are committed on a scale and in a manner which constitute communal violence.
- Article 21 provides for the declaration of police stations within the scheduled area, and for the provision of women police officers to investigate scheduled offences committed against women or children.
- Article 22 provides for the review of cases where the investigating officer does not file a charge sheet within three months of a First Information Report (FIR) being registered.
- Article 23 provides for the constitution of “Special Investigation Teams” if the state government believes the investigation of offences was not carried out in a fair and impartial manner.
- Articles 24-37 provide for the establishment and procedure of “Special Courts” for the trial of scheduled offences, and for the appointment of public prosecutors. Article 32 provides for concealing the identities of witnesses testifying before a special court.
- Articles 38-41 provide for the creation and functions of a “State Communal Disturbance Relief and Rehabilitation Council” by the relevant state government, including several *ex officio* members and several members nominated by the state government, including representatives of all major religious communities. Article 40 stipulates the functions of the council in planning relief efforts, including advising the state government on compensation and the establishment of relief camps, taking a range of remedial measures for the welfare of victims and the reparation of damage, recommending measures for activating a “district communal harmony committee” and reporting to the government on shortcomings in remedial measures. Article 41 stipulates the preparation of a plan “for promotion of communal harmony and prevention of communal violence” to be recommended for adoption by the council to the state government.
- Articles 42-44 provide for the creation and functions of a district equivalent of the state committee, to act as the implementing body for relief and rehabilitation measures.
- Articles 45-48 provide for the creation and functions of a national equivalent of the state committee, with responsibilities including advising relevant state governments on relief, rehabilitation and compensation and making recommendations to the central government.
- Articles 49-52 provide for state governments to establish schemes for the compensation of victims of communal violence.
- Articles 53-54 provide for the payment of compensation for damages by offenders.
- Articles 55-56 set out special powers of the central government to deal with communal violence. These include directing the relevant state government to take



appropriate measures, and declaring a “communally disturbed area” if the state fails to do so when necessary, and deploying armed forces under the authority of the central government.

- Article 58 provides that there should be no discrimination in the provision of relief or compensation “on the ground of sex, caste, community, descent or religion”.

#### 4.5.2. Critique

The principle of a communal violence bill has been welcomed by religious minorities in India, and it has the potential to add positively to India’s excellent body of legislation protecting against acts of discrimination or prejudicial violence. However, there exist legitimate concerns about the effectiveness of the 2005 and the 2009 drafts of the bill, which have been voiced by civil society and religious minority organisations,<sup>26</sup> by the NCM<sup>27</sup> and by the UN Special Rapporteur on freedom of religion or belief in the report of her 2008 visit to India.<sup>28</sup> The Special Rapporteur recommended specifically that the legislation “should take into account the concerns of religious minorities” (paragraph 67).

The most serious, substantive and prominent concerns about the bill in its current form include the following:

1. The bill does not define “communal violence” adequately, and therefore cannot protect against it effectively. Firstly, it construes communal violence as disharmony between two different communities, or mass rioting by one community against another, but it does not recognise the process by which communal tension or hatred is incited, and it does not recognise the phenomenon of state complicity in the incitement or execution of communal violence. Secondly, the premise of the “communally disturbed area” does not do justice to the reality of communal violence as experienced by some religious minorities, especially Christians: certain states see frequent, well-targeted, single incidents of religiously-motivated violence, which are often orchestrated by extremist organisations, and this pattern of violence would not be addressed under the provisions of the bill. Thirdly, the bill inadequately covers the possible range of offences which might constitute “communal violence” (including specific forms of sexual violence), and the implications of this context for evidentiary standards in the investigative process.
2. The bill does not provide for sufficient safeguards against the poor or discriminatory exercise of power by those responsible for protecting the rights of victims, which is a recurrent problem in cases of communal violence. The Special Rapporteur noted that civil society organisations have “voiced their concern that the sweeping powers given by the Bill to state governments could be misused to intimidate members of the minority community” (paragraph 40). Article 17 provides for the prosecution of public servants for the dereliction of duty, but this requires the prior sanction of the state government, and if the state government is complicit in (or not unfavourable towards) the communal violence, it becomes extremely unlikely that discriminatory behaviour or the dereliction of duty by public servants will be prosecuted. Article

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<sup>26</sup> The most recent include the statement issued at the “National Consultation on The Communal Violence (Prevention, Control & Rehabilitation of Victims Bill, 2009”, facilitated by Anhad and the Institute for Peace Studies and Conflict Resolutions on 12-13 February 2010, and a letter written by the aicc to Prime Minister Singh on 8 March 2010.

<sup>27</sup> “Suggestions of NCM on Communal Violence Bill 2005” (<http://ncm.nic.in/suggestion.html>). These recommendations pertained to the 2005 draft of the bill, and a number were adopted in the 2009 draft.

<sup>28</sup> “Report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir: Addendum: Mission to India”, A/HRC/10/8/Add.3, 26 January 2009 (<http://www2.ohchr.org/english/bodies/hrcouncil/10session/reports.htm>).

22 of the bill provides for the review of every case in which the investigating officer does not file a charge sheet within three months of an FIR being registered, but this may be circumvented by the common tactic whereby police officers fail to register FIRs according to proper procedure. Article 57, the so-called “good faith” clause, provides immunity for officials; however, the standard of *mens rea*, or command responsibility, should be enshrined in the bill, so that superior authorities are held accountable for the unlawful activities of their subordinates. The NCM made a number of relevant additional recommendations to increase accountability: That the reports of any commissions of inquiry should be made public as a matter of course; that the National Human Rights Commission should be mandated to monitor the performance of special courts; and that those found guilty of involvement in communal violence should be debarred permanently from government jobs and from contesting any office.

3. The bill should provide additional measures to protect witnesses or victims from intimidation. Article 15 criminalises acts which threaten witnesses, and Article 32 provides that the identity of witnesses may be concealed. However, the bill should draw upon the guidelines of the Supreme Court and recommendations of the Law Commission. It would be strengthened considerably by providing for the police protection of witnesses at risk of threat or intimidation. Incentivising witnesses by providing travel and maintenance expenses (as recommended in Article 21(2)(ii) of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act), would further protect against witnesses preferring to stay silent rather than risking intimidation as a consequence of giving evidence. In addition, the rights of persons displaced into camps as a result of communal violence, as outlined in Article 40(b), should be in line with the UN Guiding Principles on Internal Displacement,<sup>29</sup> including the provision of education to displaced children (principle 23) and ensuring that camps continue until the establishment of suitable conditions and the means for the displaced persons to return voluntarily, in safety and with dignity, to their homes, or to resettle voluntarily (principle 28).
4. The bill should set out a uniform, binding scheme for the provision of compensation to victims of communal violence, to address the inconsistencies shown in previous cases. It should establish the rights of victims or their dependents to financial compensation, and should also provide compensation to rebuild places of worship damaged or destroyed as a result of communal violence. This was among the recommendations of the NCM not included among the amendments in the 2009 version of the bill.

## **5. Aftermath of 2008 anti-Christian violence in Orissa**

### **5.1. Background**

#### **5.1.1. Summary of violence**

In August to October 2008, Orissa witnessed the worst spate of communal violence ever faced by the Christian community in post-independence India, including brutal murders and rapes, widespread destruction of churches and property, and forcible conversions to Hinduism. The attacks, centred in Kandhamal district, were catalysed by the assassination on 23 August 2008 of Swami Lakshmananda Saraswati, local figurehead of the radical Hindu nationalist group VHP, by assailants believed to have been Maoists. On 24 August, when his

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<sup>29</sup> ‘Guiding Principles on Internal Displacement’ (<http://www.unhcr.ch/html/menu2/7/b/principles.htm>).

remains were paraded around the district, mobs began setting up roadblocks, shouting Hindu nationalist and violent anti-Christian slogans, openly blaming Christians for the murder and calling for revenge as they attacked Christian targets. Although rural poverty and underlying issues of ethnic tensions over entitlements in Kandhamal played a role in the violence, these were not the primary causes but provided a context for the radicalisation of one community and the incitement of violence. The Orissa chief minister publicly acknowledged the role of extremist Hindu nationalist organisations in the violence in the legislative assembly for the first time in November 2009.

The violence which started in August 2008 continued for over eight weeks. At least 50,000 were displaced and 70 were killed; among the victims were Hindus opposing the rioters. Widespread anti-Christian attacks had also taken place in Kandhamal in December 2007, impunity for which laid the foundations for the second more serious wave of violence in 2008. The state government failed to implement detailed recommendations made by India's NCM in early 2008.

The government is to be commended for actions taken in the aftermath of the violence, including dispatching a consignment of the central reserve police force and establishing two fast-track courts, but contrary to official statements, the situation now is scarcely 'normal'.

#### *5.1.2. Social context*

Rural poverty is endemic in southern Orissa, the area in which the violence was centred, and the rural poverty ratio actually increased in this area during the period 1983-2000.<sup>30</sup> There exist deep underlying issues of entitlement in Kandhamal, which created a context for the instigation of the 2008 violence: one such issue is the classification of Scheduled Caste and Scheduled Tribe communities, which was formalised in 1950. Both communities trace their ancestry to the indigenous inhabitants of the land, and constitute a single ethnic, linguistic and cultural group. However, Kandhamal is designated as a 'Scheduled Area' under the provision of the fifth schedule of the constitution, and as such, certain entitlements are reserved for the Scheduled Tribes, including freehold (patta) ownership of land. This is a potential cause of tension between Scheduled Castes and Scheduled Tribes. Moreover, Christians of Scheduled Caste background or ancestry are not eligible to the same entitlements as Scheduled Castes (see section 4.3 above). It is in the interest of those Scheduled Castes who profess Christianity to be reclassified as Scheduled Tribes, as this would reverse their double disenfranchisement, so tensions among Scheduled Castes and Scheduled Tribes can therefore take on a religious colouring in the right circumstances.

Although these factors of ethnicity and entitlement provided a context for the violence, it is important to emphasise that Christians in the area have been drawn from both Scheduled Caste and Scheduled Tribe communities. During the violence, Christians from both communities were attacked.<sup>31</sup>

The extremist Hindu nationalist presence in Kandhamal has played upon existing sensitivities, and co-opted them onto a religious nationalist template. Extremist Hindu nationalists have been operational in the area for around 40 years, and they originate from a non-indigenous, caste Hindu, trader community. Their agenda has been the preservation of Hindu purity, including the prevention of cow slaughter and of religious conversions. Christians, as the largest religious minority in the area, constitute a threatening 'other', and provide a ready scapegoat.

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<sup>30</sup> Chapter 2, 'Growth, Poverty and Livelihood' in 'Orissa Human Development Report 2004', (<http://www.orissa.gov.in/p&c/index.htm>), Table 2.6, p. 22.

<sup>31</sup> Informal polls taken by CSW among the victims of the violence consistently showed Christians of both SC and ST background to be present.

The local prominence of Naxalites, or Maoist insurgents, creates an additional layer of complication. Naxalites were almost certainly responsible for the assassination of Swami Lakshmananda Saraswati, which precipitated the mass violence against Christians. There are numerous theories about the Naxalites' motivation for the murder, one of which is that it was an act of retribution against his activities, and that it was calculated to gain support from disenfranchised people in the area, including Christians. The palpable absence of state machinery from the area, means that the scene has been set for something of a 'turf war' between Hindu extremists and Naxalites.

It appears that the problems in Kandhamal will not be resolved, without these underlying issues being tackled. For example, where a church has been destroyed, the government will only provide compensation on the basis of an undertaking that the church will be built on land owned by Scheduled Tribes. Additionally, the current classification of Scheduled Tribes and Scheduled Castes creates a ready context for the stoking of religious or caste violence. The absence of the state means that stability cannot be guaranteed effectively, and aggressive strategies to root out Naxalites risk galvanising local support for the insurgents, if they do not go hand-in-hand with effective rural development programmes to address the mass disenfranchisement and poverty of the local population.

## **5.2. Current situation**

### **5.2.1. Rehabilitation and compensation**

Most official relief camps gradually closed through 2009, but many victims were unable to return to their villages, usually due to animosity from villagers from the majority community. According to best estimate of local NGOs, by the end of 2009, just under half those who were originally displaced were living in tents, makeshift shelters or the remnants of their damaged homes. Around ten per cent of the victims had moved from the area, and between 200 and 300 families continued to reside in non-official displacement camps.

Many of the victims living in makeshift shelters or displacement camps have no clear idea of whether or when they will be able to return home. The camps offer very little security and poor living conditions: residents live in tents provided either by the state government or by NGOs, and have no sustained supply of food or healthcare. In September 2009, a woman in one camp told CSW that she had no choice but to sell her rice in order to purchase medication. The provision of security at these camps is inconsistent at best, and some of the most vulnerable are left without any security, susceptible to threats from nearby villagers. The welfare of women and children in these camps gives particular cause for concern.

Compensation promised by the government has been delivered to some extent, but it is rarely commensurate with needs. Routinely, a house with little more than half a wall remaining is categorised as 'partially damaged' and receives a low level of compensation that does not match the cost of rebuilding, especially given that demand has considerably pushed up the price of building materials. The fact that many Christians are ostracised by their Hindu neighbours mean that they struggle to gain any employment as daily labourers and, with no other means of income or any government provision of food or other basic necessities, they use their compensation to meet these needs. As a consequence, they fail to meet the criterion of displaying evidence that they are rebuilding their homes, and therefore do not receive the second instalment of compensation. If the current system is left unchanged, it could greatly accentuate the impoverished, disenfranchised and landless status of victims.

### *5.2.2. Risk of large-scale impunity*

Despite the establishment of two fast-track courts to handle cases associated with the communal violence, there are legitimate fears of impunity on a large scale in Orissa. Impunity has repeatedly marred state responses to outbreaks of mass violence against religious minorities in India.

In particular, there is evidence of endemic bias and dereliction of duty in the investigation and prosecution of offences, and the majority of cases that have reached the courts have resulted in acquittals. Police have either failed to register FIRs, the necessary prerequisite for a case to be investigated and brought to trial,<sup>32</sup> or they have registered 'group FIRs', for instance covering all incidents in a particular village. This suggests that they lack the will to investigate individual allegations, and seriously damages transparency. Police stand accused of sabotaging attempts by victims to register FIRs and refusing to investigate them properly, such as by failing to obtain the complainant's signature or providing duplicate copies to the complainant. Some FIRs have been stultified by simple inaction, or by the failure of the police to interview material witnesses. In some cases, public prosecutors have been accused by lawyers of lacking impartiality and failing to remedy defects in the investigatory process, such as by not opposing bail for the defendants.

The granting of bail to high-profile defendants has done little to assuage fears of impunity; for example, Manoj Pradhan, who was charged in fourteen cases including murder and arson and elected to the Orissa Legislative Assembly from prison in May 2009, was given bail in all cases on 29 October 2009. On 1 March 2010, news emerged that 52 people had been acquitted, despite lawyers claiming that there was strong evidence against them.

The judicial system in place has been partially successful, but the realities of trying cases in a rural situation amid widespread fear, combined with poverty and illiteracy, create special needs which the current system is failing to address adequately. Many witnesses or victims are reluctant to testify in court for fear of retribution and lack of confidence in the efficacy of the system, and they have been intimidated and threatened, sometimes by mobs outside courtrooms. Judges have refused to order the protection of witnesses, instead merely notifying the police of alleged cases of intimidation. Where witnesses are willing to testify, they often require thorough preparation. Lawyers in the area believe that the courts need to be more sympathetic to these problems, and that many cases have been thrown out for arbitrary reasons or for lack of proper investigation and evidence. This problem may be indicative of the difficulties that witnesses face in articulating their evidence in the courtroom context. Many victims are dependent on comprehensive assistance from legal NGOs, which includes assistance with registering an FIR, preparing them to give testimony, providing transportation to and from the police station or court and providing remuneration to cover the lost earnings needed to sustain their families. There is a chronic shortage of capable legal assistance, despite commendable efforts from certain groups. Some lawyers believe that the judicial process would benefit from major trials being held outside Kandhamal (as after the 2002 anti-Muslim violence in Gujarat), and police protection or relocation being offered to victims.

### *5.2.3. Reconciliation*

Fear is widespread among the victims, and has been compounded by the lack of effective action to secure justice and peace. Many victims continue to live in fear of further attacks, and perpetrators of violence remain free to threaten them and demand their conversion to Hinduism as a condition for peaceful coexistence.

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<sup>32</sup> In late 2009, lawyers operating in Kandhamal said that, of 3,223 complaints submitted to the police, only 831 had been registered as FIRs.

There is also widespread concern about the implications of mass impunity, and a lack of confidence in the will of the authorities to deliver justice. In 2009, one man in a temporary displacement camp told CSW, “Only if the culprits were arrested would we feel confident to go back to our village”. There is still no viable means of community reconciliation; several interviewees have reported to CSW that peace meetings have not been attended by the aggressors, or that they have been used as forums for insisting upon conversions to Hinduism. Many victims appear to assume that they will need to convert in order to live peacefully in the area, but they are unwilling to do this. The consequence of this is a widespread sense of utter helplessness and fatalism; as one man in a displacement camp told CSW, “We are not sure about going back to our village. Maybe this is our fate. We cannot become Hindu and go back”.

However, among some sections of the population, there are signs of a will for reconciliation to take place. For example, on 8 March, Hindu and Christian women together held a demonstration calling for justice for the victims of violence, inter-communal harmony, and the implementation of government welfare schemes in the area.

## **6. Communal violence against Christians in 2009**

### **6.1. Communal violence and impunity**

Religiously-motivated attacks against Christian targets continued throughout 2009, most frequently in Karnataka, Andhra Pradesh, Madhya Pradesh and Chhattisgarh states. Although there was no concentrated period of mob violence, as had happened in Orissa and Karnataka states in 2008, the regular, frequent attacks nevertheless amounted to a significant problem of communal, or sectarian, violence being carried out against Christians.

Typically, unsubstantiated accusations of ‘forcible conversions’ are used to justify violence, or minor controversies are given a religious colouring. Absent, ineffective or negligent police responses, especially in Karnataka and Chhattisgarh states, have reinforced a culture of impunity. Even where police take the side of the victims, prosecutorial action is almost never brought against the perpetrators. The UN Special Rapporteur on freedom of religion or belief noted in her 2008 report that “the system of impunity emboldens forces of intolerance” (paragraph 30). As implied by points 13-14 of the prime minister’s Programme for the Welfare of Minorities,<sup>33</sup> the culture of impunity needs to be reversed in order to ensure that inciters and perpetrators of communal violence expect to be brought to justice.

### **6.2. Anti-Christian violence by state**

This briefing does not purport to provide an exhaustive catalogue of religiously-motivated violence against Christians. It was not possible to obtain independent verification for all reports which CSW received. It is also highly likely that further attacks took place which were not reported owing to numerous factors, including communication difficulties, deficiencies in the reporting mechanisms in some states and the occasional reticence of church leaders in notifying police or NGOs for fear of further reprisals. However, this section does provide an overview of the nature, extent and geographical distribution of religiously-motivated violence against people and property, targeted at the Christian community across India.

#### **6.2.1. Karnataka**

Karnataka saw the highest rate of religiously-motivated violence against Christians, with the majority of cases justified with reference to accusations of forcible conversions, reflecting

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<sup>33</sup> “Prime Minister’s New 15 Point Programme for the Welfare of Minorities”, amended October 2009 ([http://minorityaffairs.gov.in/newsite/pm15points/amended\\_guidelines.pdf](http://minorityaffairs.gov.in/newsite/pm15points/amended_guidelines.pdf)).

the continuing perception of conversions as illegitimate. In some cases, police promised protection to Christians, but impunity for attacks was ubiquitous.

The following incidents were verified:

- Malebennur village, Davangere district, 2 January: the house church of Pastor Gangadhar was burnt down. The family escaped unhurt, but all their personal belongings were destroyed. One person was arrested in connection with the attack, but was later released. Police provided the pastor with protection.
- Kanakapura, Bengaluru Rural district, 4 January: a number of Christians were physically assaulted, following a church meeting. Pastor Paul was taken to the police station and allegations were made against him by RSS members, which the police found to be false. A compromise was reached, and police protection was extended to the church.
- Bengaluru district, 5 January: police detained three Christians, Rama Reddy, Micoh Barbosa and Asmira Barbosa, on false charges of forcible conversion under sections 34, 153(a), 295(a) and 448 of the IPC. FIR No. 3/2009 was filed, and the Christians were later released on bail.
- Merlapadavu village, Dakshina Kannada district, 7 January: four suspected Hindu extremists physically assaulted Christian teacher James Victor Menezes. A complaint was filed at Kankanady police station.
- Gangawati, Belgaum district, 9 January: police arrested Pastor Iswar Albannavar and his wife Renuka, along with other Christians, following a false complaint of forcible conversion, by Hanmant Gargoti. FIR No. 9/2009 was filed, and five were detained under section 153(a) of the IPC. They were sent to Belgaum Central Jail before being released a week later on bail.
- Amruthmahal Kavel village, Tumkur district, 11 January: Hindu extremists accused Pastor Joy Jacob and three other Christians of forcible conversions, and warned them not to go to church. Police refused to file the pastor's complaint and instead brokered a compromise whereby the Christians forgave their attackers.
- Vidyaranya village, Bengaluru district, 27 January: Hindu extremists led by Shiva Rama falsely accused Pastor G Kiram Kumar of forcible conversion, and physically assaulted him and his father. They took the two men to the local police station, where police arrested Kumar under sections 503 and 153(a) of the IPC. Kumar was released on bail on 31 January.
- Mangalore, Dakshina Kannada district, 2 February: Bajrang Dal members attacked a Christian, Albert D'Souza, and damaged his car. The Bajrang Dal denied involvement in the attack, although police suggested it was communally-motivated. Five people were arrested in relation to the attack, but nobody is known to have been convicted.
- Ravuru village, Chikmagalur district, 24 February: Hindu extremists falsely accused two Christian women, Mary and Sangamma, of forcible conversion. Police arrested the women, but then released them without charge and just gave them a warning against evangelism in the future.
- Gangoli village, Udupi district, 1 March: Hindu extremists allegedly damaged a grotto of Mary and a cross. No arrests are known to have been made.
- Bengaluru, 6 March: around 30 Hindu extremists forcibly entered a prayer meeting, and then locked the premises and warned the Christians against conducting any further prayer meetings or Sunday worship. The Christians took a complaint to the police, but no FIR was filed, and no action is known to have been taken.
- Chennarayapatna village, Hassan district, 12 May: over twenty Hindu extremists forcibly entered a prayer meeting, where they accused Pastors K K Ramesh and P S

- Anjaneya of forcible conversions, and attacked them and three other men. Police arrested the five victims, but released them without charge later that night.
- Bengaluru, 18 July: Hindu extremists made false accusations of forcible conversions against four Christians, named as Madan Kumar, Amar Singh, Munendra and James Wesley, and physically assaulted them. Police arrested the Christians and held them in Bangalore Central Jail before later releasing them.
  - Pillingiri village, Shimoga district, 19 July: around twenty Hindu extremists forcibly entered the house of a Christian named Shantamma, during a prayer meeting, where they accused the Christians of forcible conversions. The attackers lodged a police complaint under the name of Shri R. Ganesh, and the police arrested Pastor Chinnadurai and five others under sections 143, 149 and 295(a) of the IPC, but released them the next day. Police warned Christians in strict terms not to visit this house again for prayer meetings.
  - Sakleshpur taluk, Hassan district, 26 July: at around 9.30pm, ten Hindu extremists forcibly entered St Thomas Evangelical Church of India, where they damaged church property and physically assaulted Pastor Basanth Kumar. They forcibly took him to the local police station, and filed a complaint of forcible conversion against him. The police released him, but then arrested him the following evening under section 107 of the IPC. He was released on bail on 28 July, following the intervention of local Christian leaders.
  - Kutrupadi village, Dakshina Kannada district, 29 July: the naked body of Fr James Mukalel was found by the roadside, the morning after he had disappeared while returning home from an evening funeral. The body was taken for post-mortem examination. The Catholic Bishops' Conference of India claimed that the death appeared suspicious, but the Dakshina Kannada superintendent of police, Subramayeshwar Rao, said that he died of food poisoning, and that there were no obvious marks on the body. This contradicted with the claim of the diocesan social work director that he observed signs of suffocation. Fr Mulakel's family insisted on a second post-mortem and GCIC demanded an inquiry by the Central Bureau of Investigation (CBI). No further action is known to have been taken.
  - Mosarukunte village, Tumkur district, 4 August: Hindu extremists and the village head objected to a Christian-run medical camp, for which they claimed the Christians had not obtained permission. They filed a police complaint, and Pastor M Shivanna and Vijay Kumar were arrested under section 109 of the IPC, but released on bail.
  - Gobur village, Gulbarga district, 9 August: around twenty Hindu extremists interrupted a worship service of the Indian Missionary Service, physically attacking Pastor V James and accusing him of forcible conversions. The pastor fled to Ganigapura police station, where he filed a report. At around 9.30pm, extremists went to the pastor's house, assaulted him again, and chased him and his family into hiding. The extremists filed an FIR and the police took action against the Christians.
  - Annigere village, Dharwad district, 11 August: Hindu extremists broke into a teacher training programme at 11.30pm, physically assaulted the Christians, and stole property from them. They also locked some Christians in a room. The Christians subsequently complained to Annigere police station, but police supported the extremists, arresting Vasanth and Simon Rathnappa and six partners under sections 120(b), 143, 147, 149 and 295(a) of the Indian Penal Code (IPC). Another Christian, Krishna Paul, and the vice-president of Dharwad district pastors' fellowship, were also physically assaulted the following morning when they went to help. The Christians were released on bail on 18 August.
  - Hubli, 17 August: Hindu extremists launched a series of attacks on church property and Christian homes during the night, causing widespread fear among the Christian community. The extremists said this was in response to a Christian rally. No action was taken by police.



- Mavunakatte Palay and Krupashraya villages, Tumkur district, 28 August: Hindu extremists, led by Rangantha, Ramalingayya Gowda and Ramesh, attacked the Gypsy Prayer Hall in Mavunakatte and the Baptist church in Krupashraya. They accused Pastor Hanuma Naik and Rama Naik of forcible conversions, physically attacked them and forcibly took them to the police station. They also threatened another pastor's wife and confiscated church literature. Police arrested the two Christians under sections 153(a) and 295(a) of the IPC, and forced them to sign blank pieces of paper before releasing them on bail.
- Adarshnagar layout, Pavagada taluk, Tumkur district, 10 September: around twenty RSS and Rama Sena extremists forcibly entered the house where Pastor Ramanjanah was praying during the evening. They physically assaulted him, paraded him around the village, and confiscated Christian literature. A local person notified the Pavagada police, who intervened quickly, and questioned both parties. The pastor was eventually released at 11.50pm, and was promised police protection in the future.
- Gowdigere village, Kundugol taluk, Dharwad district, 10 October: around 30 Hindu extremists forcibly entered the house of Ms Venkatamma, and accused two Christians who were praying there of carrying out forcible conversions. Pastor Murthy Nayak Ganesh and Chandrakanth Gopanna Lambani were forcibly taken to a Hindu temple, and officers from Kundugol police station arrested the Christians under sections 120(b) and 205(a) of the IPC. The Christians were released from Hubli Sub Jail after intervention by the Global Council of Indian Christians (GCIC).
- Sirsi, Karwar district, 12 October: the window above the main entrance of St John Bosco's Church was stoned. Police registered a case and promised protection for the Christians.
- Undedasarahalli, Chikmagalur district, 21 October: Christian Kumar Nayak was fined 500 rupees (approximately £7.40/€8.50/\$11.20) for refusing to contribute to a Diwali collection. A group of Hindu extremists, led by Prakash Nayak, then entered a prayer meeting and forced the Christians to give them money, before accusing them of forcible conversions. The families of Kumar Nayak and another Christian, Lalitha Bai, were then taken forcibly to the Banavara police station, before GCIC intervened for the release of the Christians.
- Hubli, 22 October: around 25 Hindu extremists forcibly entered the Adarsha Children's Education Centre, where they damaged property, destroyed literature, and accused the school authorities of forcible conversions. Under pressure from the extremists, police asked the school to postpone its activities until they received fresh permission from the district commissioner.
- Ageri Colony, Old Hubli, 25 October: around 50 Hindu extremists from the Bajrang Dal and Rama Sena, and led by Jayathirtha Kati and Santosh, attacked the Assemblies of God Church. They threatened Christians worshipping there, burnt Christian literature and forcibly took five Christians to Old Hubli police station in a police jeep. The outcome of the case is not known.
- Udupi, 1 November: under pressure from Hindu extremists, the parents of two girls at the Christian Outreach Ministry hostel accused the manager, Mrs Saroja Margaret, of forcible conversions. Police filed FIR No. 210/2009 against her, and she was arrested under Sections 153(b) and 298 of the IPC. That evening, she was sent to Mangalore district prison, before being released on bail on 3 November.
- Attavar, Bengaluru, 3 November: around twenty Hindu extremists from Bajrang Dal attacked a church, accusing the Christians of forcible conversions and forcibly removing all Christian literature. They also physically attacked a Christian, Manjunath.
- Bhadravathi, Shimoga district, 7 November: around twenty Hindu extremists and two police officers forcibly entered a prayer meeting, where they made accusations

against Pastor Ramesh and threatened two other Christians, who were then detained at the police station.

- Attibele, Bengaluru district, 10 November: around twenty Hindu extremists physically assaulted Pastor Chandrachari Gangadhari and another Christian, Chandra Gowda. They seized and burnt their Christian literature and accused them of forcible conversions. Other villagers notified officers at Sarjapur police station, who detained the two Christians but later released them.
- Hoasamane, Shimoga district, 12 November: VHP extremists falsely accused Pastor K Manjunath of forcible conversions. They stopped construction of his church building, but after police investigated, the pastor was allowed to continue the build.
- Vamanjoor, Dakshina Kannada district, 15 November: extremists, allegedly from the Bajrang Dal, physically attacked five students from Vivekananda Junior College, because of their inter-religious friendships. The incident was reported to the police but no action was taken.
- Humanabad, Bidar district, 17 November: at around 3am, extremists desecrated the Beersheba Church of God. Locals informed the police, who filed an FIR at Humanabad police station. On 15 December, police falsely accused Pastor Vasanth D of the destruction, and charged him under sections 120(b) and 295 of the IPC. They detained the pastor at Basavakalyan jail.
- Nangali, Mulabagilu taluk, Kolar district, 24 November: around 30 Hindu extremists forcibly took five Christians from the Friends Missionary Prayer Band to the police station. They were accused of forcible conversions, and detained overnight before being released the next day.
- Madhugiri, Tumkur district, 24 November: over 30 Hindu extremists burnt Christian literature, threatened four Operation Mobilisation (OM) workers and forcibly took them to the local police station. Under pressure from extremists, police detained them, before releasing them without charge after the intervention of the aicc.
- Anekal taluk, Bengaluru Rural district, 6 December: Inspector Chathan and four officers forcibly entered a church service led by Pastor C John Christopher of the Grace Gospel Church Saythagiri. They searched the premises and took the pastor and some other Christians to the police station for questioning. No case was filed, but the Christians were warned against holding prayer meetings.
- Chikkaballapur, Kolar district, 9 December: Hindu extremists forcibly took Pastor Simon Prakash, of Divya Darshanam Ministries, and other Christians in his prayer group, to the police station, falsely accusing him of forcible conversions. The Christians were released after the intervention of the aicc.
- Bengaluru, 12 December: a group of Hindu extremists accosted the choir of St Paul's Methodist Church, and accused them of forcible conversions.
- K R Nagar, Mysore district, 14 December: Hindu extremists forcibly entered the house of Pastor H T Manjunath and his wife Saraswati, and physically assaulted them. Pastor Manjunath went to file an FIR against the extremists, but police filed one against him instead and detained him in K R Nagar prison. Saraswati was denied medical help and sent to Mysore prison under sections 295(a) and 298 of the IPC. However, GCIC secured their release on bail on 17 December.
- Kodlagiri, Udupi district, 15 December: Hindu extremists vandalised the Sacred Heart Jesus Church at dawn. Father Jerome Monpeiro filed a complaint at Brahmavar police station, but no action is known to have been taken.
- Kodlagiri, Udupi district, 16 December: St Antony Church was vandalised by unknown persons, but local police intervened quickly.
- Chikmagalur, 19 December: after complaints from Rama Sena and Bajrang Dal extremists, police interrupted a Christmas service, where they issued false allegations against Pastor S David for forcible conversions.

- Mudugere, Tumkur district, 20 December: police detained fifteen Christians from the Immanuel Baptist Church, including Pastor N Nagesh and Pastor Jilani, after Sunday worship. Police filed FIR No. 165/2009, and charged the Christians under sections 153(a) and 295(a) of the IPC. The Christians were detained overnight in Mudugere sub jail.
- Koppa, Chikmagalur district, 27 December: police, led by Veerabadrappa, forcibly entered the India People Ministry Church and forced Pastor D M Kumar to stop the service. They accused the pastor of forcible conversions and praying without government permission, and threatened to make arrests if services were held the following week.

### 6.2.2. Andhra Pradesh

Andhra Pradesh state saw an increased number of anti-Christian attacks in 2009 against previous years. Retribution for alleged forcible conversions was still the motivation for many assaults. Police responses were often hostile towards the minority Christian community, and impunity was the norm.

The following incidents were verified:

- Gunpula village, Karimnagar district, 16 January: six masked people physically assaulted Pastor Yakobu Jacob from India Mission; they shaved his head and burnt his possessions. Christians filed an FIR with Potkpalli Police Station and the case was investigated. No convictions are known to have been made.
- Kadiri village, Anantapur district, 26 January: a crowd physically assaulted nuns at St Mary's School, and destroyed furniture. Police refused to file an FIR so the aicc intervened, and a compromise was brokered between the two parties.
- Kawadipally village, Rangareddi district, 14 February: Hindu extremists physically assaulted three Christians, named as K Anand Kumar, Mudi Jacob and Swami Das, and issued death threats against them unless they left the village. A police complaint was filed at Hayath Nagar police station. No arrests were known to have been made.
- Gabbilalpet village, Rangareddi district, 22 February: a group of people led by Rokalbanda Ramulu, a community leader, physically assaulted Pastor K Krupanamdham of True Wine Church during a service. Police called for backup to control the situation. The pastor registered a complaint, but no FIR was filed.
- Chennuru village, Khammam district, 1 March: a group of 'high' caste Hindu extremists attacked a church, physically assaulting the pastor and other Christians, including women and children, and damaging the furniture and sound system. An FIR was filed but no convictions are known to have been made.
- Pathur village Medak district, 11 March: a group of around 30 to 40 Hindu extremists physically assaulted Pastor Erra Krupanamdham, who was treated in intensive care for fractured ribs and a spinal injury. Four attackers were arrested under sections 341, 324, 153(a) and 34 of the IPC.
- Renigunta village, Chittoor district, 24 March: Hindu extremists burned a church building, destroying the thatch structure, Bibles, and furniture. The pastor had received several threats from members of the Bajrang Dal, warning him to stop conducting services there. He filed a complaint but no arrests were made. The case was moved into the High Court.
- Dhanasari village, Warangal district, 28 March: a VHP member threatened Pastor G Timothy with death if he did not leave the village within 48 hours. A complaint was filed with the police, but no action was taken. Previously, Hindu extremists had threatened two newly-converted Christians that they must not attend church. A few days later, the same group stole the church's PA system.

- Dharmapuri city, Karimnagar district, 6 April: a group led by BJP leaders falsely accused Pastor Prabhu Dass of forcible conversions, and physically assaulted him. The pastor was detained at the local police station, with three Christian women. They were released on bail three days later. No action is known to have been taken against the attackers.
- Hyderabad, Rangareddi district, 27 April: three Hindu extremists falsely accused Pastor Pramodam Joshua, his son, and another Christian identified as Yaeeru, of forcible conversions. They physically assaulted them on their return from a prayer meeting. The attackers also threatened the landlord of the house where the prayer meeting had taken place. The pastor was hospitalised for internal injuries. Police refused to file a complaint.
- Sidapuram village, Warangal district, 5 May: the Holy Spirit Church of God ministry was set on fire at 2am. The furniture, carpet, roof and electrical equipment were destroyed. Pastor Emaddi Clinton filed an FIR, and police investigated.
- Dundigal village, Rangareddi district, 26 May: villagers physically attacked Pastor David as he was driving to find his brothers, who had previously been attacked by the same villagers. The villagers also filed a case of forcible conversion against the pastor and other believers. The attack was in opposition to a gospel meeting that had been held on 18-20 May and attracted many people to the area. A compromise was reached between the parties.
- Kammadanam village, Mahbubnagar district, 28 May: Hindu extremists made accusations of forcible conversions against Anjeneyulu, a Christian facilitating a World Vision life skills programme for children, and physically assaulted him. They then filed a complaint at the local police station under sections 295 and 295(a) of the IPC. Local Christian leaders filed a counter complaint later that day, and a compromise was reached between parties.
- Shad Nagar, Mahbubnagar district, 28 May: RSS and VHP extremists falsely accused three Christians, Pastor David, Narasimhalu and Ramesh, of forcible conversions. The extremists lodged a police complaint, and the Christians were held until the evening, then released without charges. However, the Vacation Bible School they were running stopped immediately.
- Ippallapally village, Mahbubnagar district 29 May: three Hindu extremists, named as Lavareddy, Rajender Reddy and Nagender, physically attacked six Christian teachers, Vara Prasad, Pushpa, Raj Kumar, Anil, Balraj and Geetha. The teachers were accused of forcibly converting children while advertising for their school. The teachers filed a written complaint against the attackers with the police, but no further police action is known to have been taken.
- Medchal, Rangareddi district, 4 June: Hindu extremists forcibly entered the Jesus Christ Prayer House during a prayer meeting and accused Christians, including Pastor Stephen, of forcible conversions. They physically assaulted the Christians. The pastor and aicc members filed a complaint at the police station.
- Hanwada village, Mahbubnagar district, 4 June: village elders and youth from BJP and VHP followed twenty Christian students who were distributing Christian literature around the village. They took thirteen of the students to the police station and threatened to kill the students if they returned to the village again. The police sent the students away to avoid further conflict.
- Mangalagiri village, Guntur district, 7 June: twenty Hindu extremists from RSS physically attacked Pastor David Raju and accused him of forcible conversions on his arrival at a Christian meeting. The police arrested the pastor, but he was released following intervention from the aicc. The police then arrested the attackers, but a crowd, including local Indian National Congress leaders, formed outside the police station. A compromise was reached between the parties, with the pastor returning to conduct a prayer meeting undisrupted.

- Dandupalli village, Medak district, 8 June: 30 youths interrupted the screening of a children's film by a team led by Pastor Bangar Raju from Day Spring India. The youths accused the team of forcible conversions. The team decided to leave, but their van was attacked and stones thrown at the windscreen. No action was taken by police.
- Jedcherla village, Mahbubnagar district, 1 July: Hindu extremists attacked St Agnes School, following the disciplining of a student for misbehaving. The student complained to her brothers, and they along with members of ABVP attacked the school shouting Hindu nationalist slogans. The following day Christians protested against the attack, demanding that the government protect Christian schools and institutions in the area.
- Tirupati, Chittoor district, 19 July: a Christian named Hymavathi was arrested under the Andhra Pradesh Propagation of Other Religion in the Places of Worship or Prayer (Prohibition) Ordinance, 2007,<sup>34</sup> which prohibits the propagation of religion in certain areas of the state, and held by the police for distributing Christian literature at the premises of SV Ayurvedic Medical College. A member of the college staff, Paravathi Devi, informed members of the BJP and filed a complaint at Alipiri Police Station. Large numbers of RSS and BJP members protested outside of the police station for an end to Christian activity in the area. Hymavathi, who was known to have a mental health problem, was released on bail on 21 July.
- Vemulawada village, Karimnagar district, 19-24 July: Hindu extremists, allegedly belonging to the RSS, physically assaulted Pastor Devadass on 19 July. They accused him of distributing Bibles, and forcibly took him to the police station. He was released on the condition that he returned on 20 July, which he did, and the police took statements from both parties. On 24 July, police arrested Pastor Devadass in his home under section 295(a) of the IPC and he was sent to the district jail in Karimnagar. No action is known to have been taken against the attackers.
- Musheerabad, Rangareddi district, 23 July: students at Gandhi Medical College, allegedly instigated by the VHP, accused Prof Anthony David, Dr Sudhakar and Dr Uday Kumar of forcible conversions in a letter to the principal. The principal formed an investigatory committee, which found that no forcible conversions had occurred on college premises. The extremists angrily questioned Sudhakar and Kumar, and two of them physically attacked David. Tension on the campus continued.
- Mahasamudram village, Chittoor district, 20 August: Hindu extremists burnt down a church during the night.
- Mudinepalli village, Krishna district, 30 August: around 30 Hindu extremists attacked Pastor Solomon Raju during a worship service, after he asked a Ganesh festival committee to remove a microphone they had attached to the church. The pastor's wife filed a police complaint, so the extremists pressured some Dalits to make false accusations against the pastor, who fled into hiding.
- K Samudram, Warangal district, 13 September: Hindu extremists disrupted a worship service and attacked the pastor. Other Christians rescued Pastor Pilly Kumara Swamy. The pastor tried to file a complaint with K Samudram police station but Superintendent Santhosh refused to accept it, as it was a religious issue.
- Yellareddygudam and Narketpalli villages, Nalgonda district, 20 September: three Hindu extremists physically assaulted Pastor Vanamala Parishuddam in a near-fatal incident. The pastor required intensive care at Kamineney hospital, and FIR No. 190/2009 was filed at Narketpalli police station. No arrests were made.

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<sup>34</sup> The text of the ordinance is reproduced by the aicc ([http://indianchristians.in/news/images/resources/pdf/andhra\\_pradesh\\_propagation\\_prohibition\\_ordinance-text\\_only.pdf](http://indianchristians.in/news/images/resources/pdf/andhra_pradesh_propagation_prohibition_ordinance-text_only.pdf)).

- Hamamguda, Maheswaram, Rangareddi district, 25 September: Hindu extremists, including four identified as Venkat Reddy, Balaraju, Ramesh, Danamjaya, physically assaulted a Christian worker called Abishek, and accused him of forcible conversions. Abishek belonged to Hebron Church, Santoshnagar, and was running a children's Bible school. The extremists filed a police complaint against him.
- Vadavalli village, Krishna district, 10 October: Sai Kumar raped a Christian girl at approximately 7pm. By 10.30pm, the incident was reported to Mudinepalli Police station, but local sources believe the ensuing significant delay in police action may have been because Karuna was a Christian. Police eventually filed FIR No. 161/2009 on 15 October. No further action is known to have been taken.
- Jukala mandal, Nizamabad district, 13 October: the village head, or 'sarpanch', Vital Reddy, with the help of Kishan Rao and Venkatrao, halted construction work on a church and attacked the pastor, who complained to the police. The sarpanch then said he would not oppose construction, if the pastor chose not to continue his police complaint.
- Hyderabad, 18 October: around fifteen RSS members disrupted a prayer meeting and physically attacked Pastor Siluvai Kumar, Pastor Timothy, Pastor Philip and Pastor Philip's heavily pregnant wife and young daughter. They also damaged Bibles and church property, and forcibly took Pastor Timothy and Pastor Philip to Kukatpally police station, where they tried to file false charges against them. Police arrested the pastors, but the next day, they brokered a compromise between the parties.
- Utnur, Adilabad district, 24 November: around twenty Hindu extremists accused an Australian Christian, Paul Jemison, of forcible conversion. They took him to a police station where he was detained for several hours, and the extremists also warned Premanandam, a local pastor, and his daughter against inviting any further foreign pastors to the area. The parties reached a compromise.
- Metpalli village, Karimnagar district, 8 December: at around 2am, Hindu extremists belonging to the RSS and BJP burnt down the Jesus Lights Manna Church. Pastor Mengu Elia reported the incident to Metpally Police Station and filed an FIR. Police arrested BJP leader Gangaram.
- Marikkal mandal, Mahbubnagar district, 9 December: Hindu extremists physically assaulted Pastor Nidanapu Moses and other Christians from M B Zion Church, and the pastor required hospitalisation. The extremists falsely accused the Christians of forcible conversions, but a compromise was reached between parties with aicc intervention.
- Malayala mandal, Karimnagar district, 15 December: around twenty Hindu extremists, led by VHP leader Y Lakshminayaran Gowda, physically assaulted Pastor Devavaram and five other Christians. Local Christians informed Malayala mandal police station, and officers intervened. The Christians were released by police after showing they had police permission for their activities.
- Thirumalagiri, Rangareddi district, 20 December: a police complaint was filed against Pastor P Benjamin after he conducted a Christmas programme at a youth group. Police accused him of forcible conversions, and charged him under section 295(a) of the IPC, in FIR No. 237/09. The pastor was released on bail and the case progressed to court.
- Devarakonda village, Nalgonda district, 21 December: three Hindu extremists physically assaulted Pastor R Timothy and his wife, Nirmala. Police filed FIR No. 327/09 under section 324 of the IPC against the extremists.
- Balanagar, Mahbubnagar district, 23 December: a Hindu extremist, named Satyanarayana, threatened two Christians, Pastor Prabhudas and Dr Nehemiah, before a prayer service, telling them to give up their Christian activities and leave the area. However, tensions calmed after aicc intervention.

### 6.2.3. Madhya Pradesh

Madhya Pradesh state saw a continuation of anti-Christian violence from the previous year, although reporting mechanisms are weak and it is likely that additional attacks also took place. Numerous attacks were perpetrated in connection with unsubstantiated allegations of forcible conversions, but there were no convictions under the state anti-conversion law. Impunity continued to be the norm.

The following incidents were verified:

- Bhopal, 2 February: around 25 youths from the Akhil Bharti Vidyarthi Parishad (ABVP) attacked St Thomas' School, following the suspension of a pupil. The police investigated, but the outcome is not known.
- Tundavata village, Dewas district, 24 May: around ten RSS members physically assaulted Pastor Ramesh Mandevey on his way home from visiting another Christian. His friend, who escaped the attack, returned and took the pastor to the police station. The pastor required hospitalisation, and GCIC filed an FIR with the police. The pastor moved out of the area.
- Rampuria village, Ratlam district, 14 June: around 70 to 80 Hindu extremists, associated with the RSS and Bajrang Dal, forcibly entered Beersheba Church and physically assaulted Christians, including children. Pastor Kuldeep Singh Daniel filed an FIR at Alkapuri police station. Four people were arrested, but they were released on bail and went unpunished.
- Bajag village, Dindori district, 7 July: Hindu extremists threatened a Christian, Rakesh Kumar, and attacked his house under the mistaken assumption that he was building a church. Kumar denied the claims, but on 12 July received written death threats. The pastor filed an FIR, but no action is known to have been taken.
- Bittan market area, Bhopal, 26 July: around 30 Bajrang Dal and VHP members forcibly entered the Assemblies of God Bethel church during a Sunday morning baptism service. They accused church missionaries of the forcible conversions of two women, Kunti and Vinita. Both women denied the accusations, and Kunti said that she had chosen to become a Christian through her own free will. The police persuaded the extremists to leave. Hindu extremists tried to file an FIR but the police would not accept it.
- Katni, 12 September: railway police apprehended eight Christians who were travelling to the Blessing Youth Mission hostel. The Christians were arrested under section 295(a) of the IPC, and held for twenty hours before being released on bail.
- Jabalpur, Jabalpur district, 27 September: police detained 45 Catholic pilgrims, including Father Anto Mundamany. They interrogated them, and the Catholics were only released after police questioned each individual in an attempt to find evidence of forcible conversions.
- Adharthal, Jabalpur district, 28 September: around fifteen Hindu extremists, allegedly from ABVP, forcibly entered the Rhema Gospel Church, where they caused property damage and threatened further attacks.
- Balaghat, 24 November: around twenty members of the Bajrang Dal physically assaulted Pastor Ghanshyam Chowkse and another Christian, Dhuarey. They carried a gas canister with them, and seemingly intended to burn the pastor alive. Dhuarey had suffered another attack four months previously. The Christians submitted a written complaint, but the police took no action and did not file an FIR.
- Gwalior, 20 December: a group of Hindu extremists associated with the BJP vandalised a local Christmas exhibition. Father Anand Muttungal, public relations officer of the Catholic diocese, reported the incident to the police, who arrested four people.

#### 6.2.4. Chhattisgarh

Chhattisgarh state saw an increased level of anti-Christian violence in 2009, particularly in Bilaspur district. However, weak reporting mechanisms in Chhattisgarh suggest that the actual number of incidents in all districts is likely to be considerably higher than indicated below; a number of reported incidents could not be verified independently. In one known case, an attack was perpetrated in connection with an accusation under the state anti-conversion law. Police responses to incidents were typically negative, and, in some cases, severely negligent.

The following incidents were verified:

- Fatakpur village, Surguja district, 17 February: Hindu extremists, allegedly led by Renuka Singh, a BJP Member of the Legislative Assembly (MLA), disrupted a Christian meeting, and physically assaulted the participants. Police arrived and took eleven pastors from the Believers Church to the police station, for security reasons. They lodged a complaint against the pastors under the state anti-conversion law, despite their having obtained prior permission for the event.
- Pratap Chowk, Bilaspur district, 15 April: BJP members accused a group of Christian social workers, who were travelling in vehicles used for election campaigning, of carrying Christian literature and anti-Hindu stickers. The social workers denied all charges, and argued that the evidence had been planted in order to implicate them falsely. The police registered a case against the social workers under section 149 of the IPC. They were detained for eight hours, then released on bail.
- Dalli Rajhara, Durg district, 20 April: a group of Sikhs forced entry into a Christian meeting and physically assaulted four Sikh converts who were guest speakers. The police arrived and escorted the pastors to safety. The Sikh community of Durg submitted a memorandum against the Christians to the chief minister, asking him to ban Christian preaching. No action was taken against the converts.
- Raipur, 30 April: at 10pm, approximately 50 members of the Chhattisgarh Sikh Youth Federation forcibly entered the house of a Christian man, Jaspal Singh Saluja, accused him of forcible conversions and physically attacked him. Police arrived and the extremists fled. The same happened on the following day. Saluja said he forgave the extremists and decided not to file a complaint.
- Bara Koni, Bilaspur district, 3 May: about twelve Hindu extremists, allegedly from the Bajrang Dal, disrupted a prayer meeting, burning Christian literature, breaking crockery and threatening the Christians with more serious consequences if they continued to conduct meetings in the area. An FIR was filed. No police action is known to have been taken.
- Pendra, Bilaspur district, 4 October: Hindu extremists, allegedly BJP members, physically assaulted Pastor Markus Das. They falsely accused the pastor of smuggling wood, and planted false evidence in his jeep to back up their case.
- Bilaspur, 8 November: around 50 extremists forcibly entered the house of a Christian, Tekchand, at 8pm. They physically attacked him, and two other Christians, Keshup and Suneeta Baghel, and forcibly took these two to the police station.

#### 6.2.5. Maharashtra

Maharashtra saw some of the most egregious incidents of anti-Christian violence in 2009, and although police responded well in some cases, still no punitive action is known to have been taken against the perpetrators. Numerous additional reported attacks could not be verified independently.

The following incidents were verified:



- Gangapur Dam, Nasik district, 26 January: around ten extremists disrupted a baptism service at the Navjivan Fellowship Church; they physically assaulted the Christians and damaged one car. Several victims required hospital treatment, including Winston Daniel and Suresh Patil for head injuries, Himmit Wagh for a fractured hand and Sanjay Pandit for a broken leg. A complaint of rioting was filed with police against the unidentified men.
- Saoner village, Nagpur district, 19 April: around 25 members of the Bajrang Dal, armed with sticks, swords and knives, disrupted a Sunday service and physically attacked some of the Christians. They vandalised the church, and damaged furniture, instruments, Bibles, hymn books and the mission school bus. An FIR was filed, and seven arrests made under sections 141, 142, 147, 149, 427, and 295 of the IPC.
- Mumbai, 5 May: about 30 Hindu extremists from the Swami Narendra Maharaj forcibly entered a Christian meeting, barred all the exits, and forced the 250 Christians to chant the Hindu devotional “Jai Sri Ram”. Those who refused were physically attacked. Pastor James Samuel required hospitalisation, and around ten others, including a five-year-old child, sustained minor injuries. Five extremists were arrested and charged under sections 147, 148, 326, 323, 427 of the IPC.
- Vasai village, Thane district, 28 November: a group of ten to fifteen people threw stones at Christians travelling to the Ashirwad Prayer Centre. The Christians had previously warned police of a threat against them, which police failed to take seriously.
- Kalewadi, Pimpri-Chinchwad, Pune district, 5 December: Hindu extremists, allegedly from the Bharatiya Vidyarthi Sena, physically assaulted Father Benny and Sister Mary, the manager and principal of the Christian-run, English-medium Alphonsa School.
- Manchar, Pune district, 20 December: around 100 Hindu extremists from the Bajrang Dal threatened and stole film equipment from a group of OM workers.

#### 6.2.6. *Tamil Nadu*

Tamil Nadu saw a number of attacks, especially against buildings associated with Christians, although it was not possible to verify all reports which were received. Police responses were typically more positive than in other states.

The following incidents were verified:

- Chithode, Erode district, 8 May: RSS members forcibly entered the house of Pastor Kandhaswamy, because he was showing a Christian film, and accused him of forcible conversions. The police interrupted the film and confiscated the equipment. No complaints were filed, but the Christians were made to state in writing that they would obtain prior police permission for any future Christian activities.
- Boomikandanbatti, Theni district, 12 May: Hindu extremists from the RSS forcibly entered a Bible school, where they falsely accused Pastor S Immanuel of forcible conversions, destroyed literature and threatened both the pastor and the children.
- Kottervillai village, Kanniyakumari district, 14 May: around ten Hindu extremists physically attacked Fr Joseph Karippayil, who required hospitalisation as a result. Priests from the Malankara Catholic Church, with additional public support, blocked the road at Melpuram village junction, and demanded the arrest of those who had attacked the pastor. Police arrived and assured the protestors that the correct action would be taken. No further action is known to have been taken.
- Mela Ramanputhur, Kanniyakumari district, 5 November: a man vandalised the shrine of St Michael at the Holy Family Church. Christians alerted the police, who arrested the man, but he could not be charged as police deemed him to be mentally unwell.

- Kaluvanthittai, Kanniyakumari district, 6 November: the Assemblies of God church was forcibly entered and ransacked, and the communion wine was stolen. Pastor Jabamani filed a police complaint and the case was investigated. No further action is known to have been taken.

#### 6.2.7. Other states

Sporadic anti-Christian attacks took place in several additional states. The following incidents were verified:

- Meenangady taluk, Wayanad district, Kerala state, 12 January: three RSS members physically attacked Pastor T T Abraham and his wife, accusing them of forcible conversions. Pastor Abraham required hospitalisation, but decided to forgive the attackers.
- Pardiha village, Rohtas district, Bihar state, 8 March: Rajesh Kumar Singh forcibly entered a church, where he opened fire and threw some crude bombs. Pastor Vinod Kumar James was rushed to hospital as a result of the attack, and women and children were injured. During an ensuing police investigation, the attacker said he was against conversions and the spread of Christianity.
- Unnao district, Uttar Pradesh state, 8 March: Hindu extremists falsely accused the Rev Vimal of damaging a neighbour's car and of forcible conversions. At 11 pm, they attempted to enter his house by force, and threatened to destroy his church. The extremists lodged a police complaint and returned with police officers to Sanjay's house. The police found the accusations to be false, and dropped the case. However, they are not known to have taken any action against the attackers.
- Shimla, Himachal Pradesh state, 14 March: around 30 extremists forcibly entered the home of two Gospel for Asia (GFA) missionaries, Murari Jay and Atul Rajesh, and burnt their belongings. Both Christians were then stripped naked and physically assaulted. Police took them into custody, allegedly for their security. No complaint was filed by either party and a compromise was reached.
- Shah Pura, Ganganagar district, Rajasthan state, 20 March: a group of people set fire at night to Fr E Sequiera's orphanage, which was completely destroyed. The same orphanage was burnt down in August 2008. A compromise was brokered by police between those involved.
- Udaipur, Rajasthan state, 21 March: the vehicle of a group of Christians distributing Christian literature was hijacked by members of the VHP, and used to drive the Christians to a remote place where they were physically assaulted, and their literature destroyed. No complaint was made, but an agreement was later reached between the two parties.
- Kidwai Nagar, Kanpur Urban district, Uttar Pradesh state, 28 May: police arrested Pastor Shyam Kumar on false allegations of drug dealing. He was taken to Kidwai Nagar police station by a contingent of seven police officers, including Raj Pal Singh, the station chief. The aicc contacted the police officer in charge who refused to listen, and then the Deputy Inspector General of Kanpur, who intervened for the release of Pastor Kumar.
- Capo de Rama, Goa state, 2 August: statues were removed and furnishings vandalised at St Anthony's Church. Mr Piedade Fernandes informed the police who registered the incident under sections 295(a) and 153(a) of the IPC. No arrests are known to have been made.
- Amtola village, South 24 Parganas district, West Bengal state, 20 August: around eight VHP members attacked two young Christians, accusing them of conversion activities. They filed a police complaint against the Christians, after forcibly collecting signatures from the villagers.

- Chok Borhampur village, Darjiling district, 20 August, West Bengal state: around fifteen extremists from Moukahali Gram Panchayat attacked three Christians, Khagen Majhi, Manik Jana and Mrs Jharna Pradhan. The extremists threatened death if they continued to practice Christianity, and warned of a repeat of the events of Orissa in 2008. An FIR was filed, but the Christians reported that police failed to provide them with any protection.
- Pratapgarh, Pratapgarh district, Uttar Pradesh state, 15 October: VHP Hindu extremists accused Pastor Sunil Singh, of the Full Gospel Church, of forcible conversions, and filed a police complaint. They also threatened to kill him if his church should continue to meet for worship.
- Kunta village, Paschim Singhbhum district, Jharkhand state, 27 October: members of the Adivasi Maha Sabha and village leaders asked Christians present at the church to convert to Hinduism. They threatened to boycott the Christians, and removed the handle of the water pump, their only water source. The Christians reported the incident to Chaibasa police station, but were given no assistance. Local people repaired the pump.
- Faridabad, Haryana state, 7 December: between fifteen and twenty Bajrang Dal extremists accused the Comademat Charitable Trust of forcible conversions. They tried to forcibly enter the building where the children were staying, and physically assaulted the caretaker, B K Mishra. The extremists also tried to file an FIR with the police, but it was not accepted. However, police would not register a case against the extremists, and the trust was shut down.

### 6.3. Notes

#### 6.3.1. Sources and acknowledgements

This briefing owes a great deal to numerous organisations and individuals, particularly for their provision and verification of the details of incidents and their analysis of legislation. Special acknowledgement is due to the contributions of CSW partner, the All India Christian Council (aicc), to the Catholic Archdiocese of Bhubaneswar-Cuttack, the Christian Legal Association (CLA) and the Human Rights Law Network (HRLN). Staff at the aicc, with training in documentation, verified each of the attacks listed above. Many incidents were reported by a number of sources, among which the most significant were: Assist News Service, CLA, Compass Direct News Service, Evangelical Fellowship of India (EFI), Global Council of Indian Christians (GCIC) and Persecuted Church of India.

#### 6.3.2. Acronyms

aicc	All India Christian Council
BJP	Bharatiya Janata Party
CBI	Central Bureau of Investigation
FIR	First Information Report
IPC	Indian Penal Code
NCM	National Commission for Minorities
NCRLM	National Commission for Religious and Linguistic Minorities
RSS	Rashtriya Swayamsevak Sangh
SC	Scheduled Caste
ST	Scheduled Tribe
VHP	Vishwa Hindu Parishad