

# Briefing

## Anti-Conversion Legislation in India

3<sup>rd</sup> edition

NOVEMBER 2006



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## **I Recommendations**

CSW requests that the issue of anti-conversion legislation is raised with the Indian government, urging for its intervention to secure the repeal of Freedom of Religion Acts in Orissa, Madhya Pradesh, Chhattisgarh, Arunachal Pradesh, Gujarat and Rajasthan.

## **2 Introduction**

In light of the introduction of a Freedom of Religion Act in Rajasthan state and the amendments to the laws in Gujarat, Madhya Pradesh and Chhattisgarh, senior religious, legal and secularist spokesmen in India have expressed their concern about the Freedom of Religion Acts in six Indian states. Such legislation has now been enacted in Rajasthan (2006), Gujarat (2003),<sup>1</sup> Madhya Pradesh (1968, amended 2006), Chhattisgarh, which inherited that of its parent state (amended 2006),<sup>2</sup> Arunachal Pradesh (1978) and Orissa (1967). A Tamil Nadu law (2002) is currently inactive, having been repealed in 2004. A similar law may be brought in Jharkhand, and Hindu fundamentalist groups have in 2006 called for a nationwide law to restrict religious conversions.

The law recently passed by the Rajasthan state government and the amendments passed by the Gujarat, Madhya Pradesh and Chhattisgarh state governments are still pending ratification by the respective state governors or the President.

The chief ostensible objective of these laws, grouped together under the collective heading of 'anti-conversion legislation', is the prevention of conversions carried out by 'forcible' or 'fraudulent' means or by 'allurement' or 'inducement'. Article 3 the Orissa Freedom of Religion Act 1967, the first anti-conversion law to be introduced in post-Independence India, stipulates that 'No person shall convert or attempt to convert, either directly or otherwise, any person from one religious faith to another by the use of force or by inducement or by any fraudulent means nor shall any person abet such conversion'. Subsequent legislation has closely reflected this clause.

While minority religious commentators in India have been quick to denounce any unscrupulous, coercive or unethical attempts to convert, which are indeed prohibited in Article 18(2) of the International Covenant on Civil and Political Rights (ICCPR), they have also articulated deep concern about a number of flaws inherent to the legislation (see section 5 below), and about its social impact (section 6).

The various laws are widely considered to be an affront to religious freedom, and in violation both of India's obligations under international law and her domestic constitutional protections with regard to the adoption, practice and propagation of religion. Of particular concern are the loose definitions in the laws, which are seen as creating wide potential for their misuse. The seemingly disproportionate magnitude of punitive provisions is another cause of grave concern.

In some states, harsher penalties are exacted with regard to conversion of Scheduled Castes<sup>3</sup> and Scheduled Tribes.<sup>4</sup> This creates a deeper level of discrimination, which must also be considered; indeed, any issue pertaining to religious freedom in India must be viewed within the context of caste discrimination. Dalit and lower caste adherents to Christianity and Islam are the chief focus of religious persecution and discrimination. The embracement of 'non-Indic' religions by Dalits and

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<sup>1</sup> The rules of the Gujarat and Rajasthan laws are yet to be framed, and therefore neither is yet in force.

<sup>2</sup> The text of the Chhattisgarh law is identical to that of the Madhya Pradesh law.

<sup>3</sup> 'Scheduled Castes' is the legal term used to denote the Dalits, formerly known as 'untouchables', who are estimated to number around 180 million.

<sup>4</sup> This term denotes the tribal population of India, which is estimated to number around 70 million.

tribals is perceived by Hindu fundamentalist groups as undermining the social structure of India, and as providing for their empowerment. From the perspective of many Dalit groups, religious freedom offers an escape from the subjugation associated with caste. With reference to India's Christian population, an estimated 75% is of Dalit or tribal background, and this demographic group is a chief victim of religiously motivated violence. India's Freedom of Religion legislation threatens the religious freedom of Dalits and tribals not only through the higher penal provisions stipulated when offences are committed in respect of a Scheduled Caste or Scheduled Tribe member, but also because the prohibition of conversion by 'allurement' or 'inducement' may impede charitable work among this group, including education and development programmes. Some critics have suggested that the newly-enacted Rajasthan law is more overtly aimed at containing Dalits and tribals within the caste system, by restricting conversions from the religion 'of one's forefathers'.

The most stringent stipulations and punitive provisions have occurred in the most recent anti-conversion bills and amendments, particularly those in Gujarat and Rajasthan. In light of the moves made by the BJP in 2006 to enact or strengthen anti-conversion legislation in every state in which it holds sole power, this is an opportune time for a strong denunciation of anti-conversion legislation from the international community.

It should be noted that this report is designed particularly to reflect the concerns articulated by the Christian community in India, which has played an important role in opposing anti-conversion legislation. Among the particular arguments echoed herein are a legal challenge to the Tamil Nadu Prohibition of Forcible Conversions Act 2002, which was repealed in 2004, and the analysis of a number of groups, including the All India Christian Council and the Public Interest Litigation Support and Research Centre. The concerns pertain not only to the Christian community in India but also to other religious minorities and the overall issue of religious freedom.

### **3 Legal Protections for Freedom of Religion**

#### **3.1 Obligations under international law**

India has acceded to the United Nations International Covenant on Civil and Political Rights (ICCPR), and is therefore bound by its provisions. Article 18 stipulates that: 'Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or 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.'

The Universal Declaration of Human Rights also provides in Article 18 for 'the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.'

The rights to adopt or change and to teach a religion are particularly relevant to the anti-conversion legislation in India.

#### **3.2 Domestic constitutional protections**

Article 25 of the Indian Constitution explicitly enshrines the rights to practise and propagate a religion, according to conscience: '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 to freely profess, practise and propagate religion.' Article 19 of the Indian Constitution further protects freedom of speech, expression and association.

## 4 Violations of International & Domestic Law

There is widespread concern in India about the limitations imposed by anti-conversion legislation on the constitutionally-protected rights to freely practise and propagate a religion, and the right, protected under international law, to freely adopt a religion.

The interpretation of the right to 'propagate' a religion has been the subject of a number of Indian Supreme Court cases. It was defined narrowly in the landmark case of the Rev. Stainislaus vs. State of Madhya Pradesh, 1977. This case followed challenges to the Orissa and Madhya Pradesh anti-conversion laws in their respective high courts; the Madhya Pradesh law had been upheld as constitutional, while the Orissa High Court had declared the Orissa law to be unconstitutional, on the basis that Article 25(1) of the Constitution guarantees the right to propagation of religion, that conversion is natural to the Christian religion and that undertaking conversions by force or by fraud could be covered by the limitations to the right under Article 25. The Supreme Court, however, ruled that the right to propagate does not include the right to convert another person to one's religion, because this violates that person's freedom of conscience. Instead, the right to propagate permits only the transmission of religion by the exposition of its tenets. The Supreme Court further stated that restrictions may be imposed on Article 25 on the ground of public order.

However, this ruling has been the subject of considerable criticism from religious and civil rights groups in India, in particular as being relevant only to 'forcible' or 'fraudulent' conversions. Instead, there ought to be a recognition of voluntary conversions as being legitimate manifestations of a person's freedom of religion. According to the lawyer acting in the 2003 challenge to the now-repealed Tamil Nadu anti-conversion law, '[t]he Supreme Court has completely missed out that where force and fraud are not present, conversion is an act of choice, faith, belief and an expression of one's freedom of conscience'.<sup>5</sup>

This distrust of the legitimacy of voluntary conversions also emerges in Article 5(1) of the Gujarat Freedom of Religion Act, which stipulates that any person who performs or participates in a ceremony for the conversion of another must take prior permission from the District Magistrate. This has generated a fear among the Christian community in Gujarat about the potential for even voluntary conversions to be obstructed by unsympathetic authorities (see further under section 6.2 below).

Article 5(1) of the Gujarat law also constitutes an obstruction of the right to freely practise a religion. In the context of conversion to Christianity, the ceremony for which permission must be sought is taken to be baptism. However, in practice, most Indian churches do not offer baptism until after at least three months' instruction in Christian faith, which itself cannot take place until after a person has adopted the faith. The ceremony of baptism should therefore be regarded as a manifestation of Christian faith, not an act of conversion thereto. The freedom of a religious priest to freely practise his religion is impaired by the requirement upon him to seek permission to baptise a person who is already Christian in belief.

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<sup>5</sup> It is worth making a brief comparison at this point with the case of Kokkinakis vs. Greece in the European Court of Human Rights, in which the Court held that a breach of Article 9 of the European Convention on Human Rights had occurred (the first clause of Article 9 replicates the wording of Article 18(1) of the UDHR and its second follows Article 18(3) of the ICCPR, with the added proviso that any limitations must be 'necessary in a democratic society'). The Court stated that there was a distinction between 'improper proselytism' and 'bearing Christian witness', the latter of which, according to a report of the World Council of Churches to which the Court referred, is 'an essential mission and a responsibility of every Christian and every Church'. Improper proselytism 'reflects a corruption or defamation of it'. In addition to making no recognition of the legitimacy of voluntary conversions, no distinction of proper and improper proselytism was not made by the Indian Supreme Court.

Article 5(2) of the Gujarat law, which is reflected by similar stipulations in the Orissa and Madhya Pradesh/Chhattisgarh laws, requires that an intimation of the conversion must be sent to the District Magistrate by the converted person.<sup>6</sup> This imposition of legal formalities on the newly-converted person constitutes a trespass upon that person's right to freely adopt and practise a religion.

The invocation of Articles 19(2) and 25(1) of the Constitution as a basis for the enactment of anti-conversion legislation, has also been widely criticised. These Articles allow the imposition of restrictions on freedom of speech and expression and freedom of religion, respectively, only in cases where danger to public security is involved. Given that anti-conversion laws are capable of being applied in cases in which no such danger could arise, these clauses provide insufficient ground for the enactment of such legislation on the basis of public security.

## 5 Major Inherent Legal Problems

### 5.1 Imprecise definition of prohibited activities

Among the most important charges brought against the various anti-conversion laws is the lack of precision and clarity in their definitions of the conditions under which conversions are prohibited. This creates the potential for arbitrary interpretation and application of the legislation. While there are no grounds for objection to the prohibition of 'forcible' or 'fraudulent' conversion activity, per se, it is the definitions given to such terms which have given grave cause for concern.

The definitions of the Gujarat law are illustrative of those in other Freedom of Religion Acts in India:

- (a) 'allurement'<sup>7</sup> means offer of any temptation in the form of –
  - (i) any gift or gratification, either in cash or kind;
  - (ii) grant of any material benefit, either monetary or otherwise;
- (b) 'convert' means to make one person to renounce one religion and adopt another religion;
- (c) 'force' includes a show of force or a threat of injury of any kind including a threat of divine displeasure or social ex-communication;
- (d) 'fraudulent' means includes misrepresentation or any other fraudulent contrivance.

Definitions (a), (c) and (d) in particular are open to wide interpretation, which gives rise to the potential for the law to be misused. Under the definition of 'force', for example, the inclusion of 'a show of force' may allow the law to be invoked to prohibit a religious rally. The inclusion of a 'threat of divine displeasure' is both extremely imprecise and contrary to the nature of some religious teaching. Similarly, the definition of 'fraudulent means' as including 'any fraudulent contrivance' is excessively vague to serve with any usefulness as a legal definition.

It is further feared that the clauses prohibiting 'allurement' or 'inducement' to convert, linked to the offer of any material or monetary grants, may be used against charitable activity undertaken by religious groups, which could be portrayed as a form of temptation to convert. Alternatively, this category could be invoked where a convert had expectations of a better education, of support from co-religionists or of certain religious benefits, such as absolution from sins. No theoretical distinction is made between material benefits enjoyed by all adherents to a particular religion, and those offered to new converts; thus, no recognition is given to the possibility that every member of

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<sup>6</sup> Clause 5 of the rules of the Orissa law and Article 5 of the Madhya Pradesh law stipulate that a religious priest (or, in the case of the latter law, a participant in a conversion ceremony) must send an intimation to the District Magistrate about this conversion, though permission need not be sought.

<sup>7</sup> In the Orissa and Arunachal Pradesh laws, the term, 'inducement', is used in the place of 'allurement', though it is defined in almost identical manner.

a religious community may enjoy a higher standard of living or other material privileges, than the convert to that religious community might otherwise expect.

These considerations are particularly relevant to members of the Dalit and tribal communities in India, among whom many Christian organisations undertake charitable and evangelistic activities.

## **5.2 Imprecision of criminalising clauses**

The criminalising clause in section 3 of the Rajasthan law, which closely follows the equivalent clause in other laws, stipulates that:

*No person shall convert or attempt to convert, either directly or otherwise any person from one religion to another by use of force or by allurement<sup>8</sup> or by fraudulent means, nor shall any person abet any such conversion.*

The scope of this clause is extremely wide. Concern has been expressed that a wide range of religious activities, including propagation, could be included under the umbrella of attempts 'to convert, either directly or otherwise'. This clause is therefore capable of impeding constitutionally protected religious activities.

## **5.3 Non-equivalence of religious parties**

Concern has arisen about the lack of clarity in the legislation about the nature of conversion; this arises in part from the absence of clear definitions of religious parties and the lack of equivalence between them.

The Rajasthan Freedom of Religion Act defines 'conversion' as 'renouncing one's own religion and adopting another'. This closely follows the text of the Orissa and Madhya Pradesh/Chhattisgarh laws. The Arunachal Pradesh law defines conversion as specifically 'renouncing an indigenous faith and adopting another faith or religion'. The recent amendment to the Gujarat law clarified its definition of conversions, excluding from its purview any conversions between denominations of the same religion. Highly controversially, the law construed Jainism and Buddhism as 'denominations of the Hindu religion', provoking widespread denunciation from representatives of the two religions.

None of the laws includes 're-conversion' under its definition. This category is used by Hindu fundamentalist groups to describe their own proselytism. Because the legislation does not stipulate conditions for re-conversions, it therefore inherently tends in favour of Hinduism and against minority religions.

Similarly, the definition of conversion as the renunciation of an indigenous religion and adoption of another, as used in the Arunachal Pradesh law, reflects an inherent prejudice against religions perceived as non-Indic, but also therefore restricts the freedom of adherents to 'indigenous religions' to adopt a religion according to choice. Indigenous religions are defined as the religions, beliefs and practices which are 'sanctioned, approved [or] performed' by the indigenous communities of Arunachal Pradesh, including Buddhism, Vaishnavism (a principal division of Hinduism) and 'nature worship'.<sup>9</sup>

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<sup>8</sup> Section 3 of the Orissa, Madhya Pradesh and Arunachal Pradesh laws uses the term, 'inducement' in the place of 'allurement'.

<sup>9</sup> Indigenous religions are defined as 'such religions, beliefs and practices including rites, rituals, festivals, observances, performances, abstinence, customs as have been found sanctioned, approved, performed by the indigenous communities of Arunachal Pradesh from the time these communities have been known and includes Buddhism as prevalent among Monpas, Menbas, Sherdukpens, Khambas, Khamtis and Singaphoos, Vaishnavism preached by Noctes and Akas, and nature worship including worship of Dogi-polo, prevalent among other indigenous communities of Arunachal Pradesh.'

As a result of the lack of definitions given to religious parties in the other laws, the law courts must rely on precedents, in which these definitions are also discordant and unclear. Hinduism has often been given an open definition, while Christianity has usually been defined more rigidly. In one judgement, the Indian Supreme Court stated that Hinduism 'in principle, incorporates all forms of belief and worship without necessitating the selection or elimination of any'.<sup>10</sup> Additionally, in the Bagwan Koer vs. Bose case, the Privy Council stated that a person born a Hindu would not cease to be a Hindu, even by deviating from the principles of Hindu orthodoxy. However, in Maharam vs. Emperor,<sup>11</sup> the judge opined that if a person worships a Hindu god, he could not be treated as a Christian in law. Therefore, to be a Christian, one must adhere exclusively to Christianity, whereas a Hindu could theoretically claim to be both Hindu and Christian.

Given the various fluid definitions of a Hindu, a tribal may, for example, be theoretically treated as Hindu, despite the classification by the Decennial Census Commission of tribal classes as distinct religious communities. The conversion of a tribal to Hinduism need not therefore be regarded as conversion, whereas the adoption of Christianity, a creed-based religion, would be perceived as such.

The disparity inherent in both the open definition given to Hinduism vis-à-vis the more rigid definition of Christianity, and the particular concept of conversion used in the laws, has created the potential for the unequal administration of justice under anti-conversion laws, in violation of Article 14 of the Indian Constitution.

#### **5.4 Caste discrimination in penal provisions** (Orissa, Madhya Pradesh/Chhattisgarh, Gujarat)

Two major concerns have arisen from the penal provisions stipulated in the various laws: the seemingly disproportionate magnitude of the punishments (see section 5.5 below), and the fact that more severe punishments may be exacted where the law is contravened with respect to a woman, a minor or a member of the Scheduled Castes or Scheduled Tribes. In the Orissa, Madhya Pradesh/Chhattisgarh and Gujarat state laws, the punitive provisions (including both prison terms and fines) are extended for any person found guilty of attempting to convert a person belonging to these categories.<sup>12</sup>

Dalit rights groups in India have therefore suggested that a chief aim of anti-conversion legislation is the prevention of Dalits and tribals from embracing a new faith. This alleged goal would closely reflect the agenda of the Hindu fundamentalist 'Sangh Parivar' groups, including the Rashtriya Swayamsevak Sangh (RSS) and its daughter organisation, the Vishwa Hindu Parishad (VHP). Sangh Parivar groups have long been implicated in widespread violence against Christians, particularly those of Dalit background, throughout India. The RSS is affiliated to the Hindu nationalist Bharatiya Janata Party (BJP), which has recently been responsible for introducing the Rajasthan and Gujarat law, and which promised to introduce a nationwide anti-conversion law, before losing power in the 2004 General Election.

#### **5.5 Disproportionality of penal provisions**

The level of punishment stipulated in the most recent anti-conversion laws, in Gujarat and Rajasthan, are particularly severe. The Rajasthan law, which contains no differential in penal provisions with

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<sup>10</sup> 1977, (1) NLJ, Supreme Court of India

<sup>11</sup> AIR 1918, Allahabad, 168

<sup>12</sup> In Indian law, the Scheduled Castes incorporate only Hindus and Sikhs. The Scheduled Tribes may be of any religion, but a majority adhere to ethnic faiths. All non-Christian and non-Muslim Scheduled Tribe members are legally treated as Hindus.

respect to the social circumstances of converts, provides for a prison term of 'not less than two years', and specifies that offences under the law are non-bailable; this further heightens their seriousness. The Gujarat law provides for imprisonment for up to three years and the imposition of a fine up to Rs. 50,000 (approximately £625/€920/\$1080) upon any person convicted of attempting to convert, by means of force, allurement or fraudulent means, an adult male who does not belong to the Scheduled Castes or Scheduled Tribes. These punitive provisions are extended to a prison term of up to four years or a fine of up to Rs. 100,000 when an offence is committed in respect of a woman, a minor or a member of the Scheduled Castes or Scheduled Tribes.<sup>13</sup> The penalty for a priest or participant in a conversion ceremony failing to obtain prior permission for this ceremony, or for new convert failing to notify the District Magistrate of their conversion, extends to a prison term of up to one year and/or a fine of up to Rs. 1,000 (approximately £12/€18/\$22).<sup>14</sup>

The seeming disproportionality of punishments under anti-conversion legislation has been illustrated in India by comparison with punishments for various other offences. For example, the punitive provisions of the Rajasthan and Gujarat laws are greater than those stipulated in the Indian Penal Code for rioting or causing death by negligence. The provision for this level of punishment could deter any legitimate attempts to propagate a religion.

A further concern arises from the provision of an equal punishment for any violation of section 3, which prohibits both converting and attempting to convert others. This is in contravention of the principle of criminal jurisprudence, recognised in the Indian Penal Code, whereby an attempt to commit an offence is less serious than the actual commission of an offence.

## **6 Social Impact of Legislation**

It is important to consider the social impact of the various Freedom of Religion laws alongside the legal analysis thereof. This provides an important test of the restrictions imposed by such legislation on freedom of faith. The importance of this factor is heightened by the fact that nobody has ever yet been convicted under a Freedom of Religion Act in India.

The assessment of the social impact of anti-conversion legislation requires a caste-based analysis of religious freedom in India. Dalits and tribals are the primary victims of religious persecution and discrimination in India, as the agenda of Hindutva, or Hindu fundamentalism, pertains largely to the preservation of the caste order. Religious freedom is perceived among many Dalit and tribal groups as an important factor in their emancipation movement, but it is threatened by discrimination and religiously-motivated violence.

The factor of caste is therefore relevant to the various Freedom of Religion Acts, not only within their provisions but also in terms of their social impact. The Orissa, Madhya Pradesh/Chhattisgarh and Gujarat laws stipulate higher penal provisions when an offence is committed in respect of a member of the Scheduled Castes or Scheduled Tribes, and the Rajasthan law uniquely defines a person's religion as that of their forefathers, which, according to some critics, is aimed at containing Dalits and tribals within the caste system. However, the experiences of religious minority adherents

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<sup>13</sup> Penal provisions for the equivalent article in the other anti-conversion laws, applying to adult males who do not belong to the Scheduled Castes or Scheduled Tribes, in India are as follows. The Orissa law provides for imprisonment of up to one year and/or a fine of up to Rs. 5,000 for the contravention of Article 3 (the prohibition of attempting to convert another by the use of allurement or fraudulent means). The proposed amendments to the Madhya Pradesh and Chhattisgarh laws stipulate an increase from this level to imprisonment of up to three years and/or a fine of up to Rs. 20,000. The Arunachal Pradesh law, which contains no differential in the penal provisions with respect to women, minors or members of the Scheduled Castes or Scheduled Tribes, allows up to two years' imprisonment and/or a fine of up to Rs. 10,000.

<sup>14</sup> The Orissa law allows for a fine of up to Rs. 1,000; the Madhya Pradesh law currently allows for imprisonment for up to one year and/or a fine of up to Rs. 1,000.

in states which have enacted anti-conversion legislation indicates that the laws have created a climate in which their religious freedom is further threatened and impeded.

## **6.1 Legitimisation of opposition to conversions**

An important objection to the various laws relates to the climate of intimidation which they generate, and the consequent vulnerability of minority religious groups. The rhetoric of 'conversions' carried out by 'force' or 'fraud' is used by Hindu extremist groups against Christians in particular; this rhetoric is given credence when enshrined in legislation.

During recent visit to Madhya Pradesh in March 2006, CSW interviewed the victim of an attack by the Bajrang Dal in January, during which the mob accused the victims of undertaking forcible conversions. He conveyed his view that the existence of a Freedom of Religion Act facilitated attacks on Christians accused of converting people. He reported that these attacks may be coupled with pressure on the police to register a case against the victim, though this has never resulted in any convictions.

The states in India in which anti-conversion legislation has been enacted, particularly Orissa, Madhya Pradesh, Chhattisgarh, Gujarat and Rajasthan have continued to see considerable violence against religious minority groups, particularly Christians, through 2005-06. The rationale for many attacks is given as opposition to activities undertaken by the victims, allegedly to convert people.

With reference to the recent promulgation of a Freedom of Religion Act in Rajasthan, this must be viewed in the context of the intensified attacks perpetrated against the Christian minority in the state through in early 2006. In particular, the widespread attacks on various institutions of Emmanuel Mission International, apparently committed with the complicity of the state administration, provide the backdrop for its introduction. The Statement of Objects and Reasons in the Rajasthan law claims that this legislation would serve to defuse inter-communal tensions, though on the evidence of continued violence in other states, this seems unlikely.

## **6.2 Intimidation of potential converts**

(Orissa, Madhya Pradesh/Chhattisgarh, Gujarat)

There is concern that the provisions of Article 5 in the Gujarat and Madhya Pradesh/Chhattisgarh anti-conversion laws, and clause 5 of the rules of the Orissa law, are a source of intimidation, particularly for illiterate and poor priests and converts, and as such constitute an effective obstacle to their freedom of faith.

Article 5 of the Gujarat law stipulates that a religious priest or participant in a ceremony of conversion must seek permission from the District Magistrate for this ceremony, and that the converted person must send an intimation to the District Magistrate about their conversion. The proposed amendments to the Madhya Pradesh and Chhattisgarh laws require an intimation to be sent by the priest and prospective converts to the District Magistrate one month before a conversion ceremony may take place. Clause 5 of the rules of the Orissa law requires that a priest send a prior intimation of the conversion ceremony to the District Magistrate, and stipulates that the District Magistrate must inform relevant police authorities, who 'shall ascertain objection, if any, to the proposed conversion by local inquiry and intimate the same to the District Magistrate'.

The prospect of informing a potentially antagonistic authority about a religious conversion may prove a source of serious intimidation, particularly for those unfamiliar with dealing with political authorities. In particular, certain BJP authorities are reputed to be hostile to religious minorities; the presence of BJP officials at a number of violent attacks perpetrated against Christians in 2005 has done nothing to alleviate this reputation.

In creating an intimidating obstacle to religious conversion, the stipulations of Article 5 in both the Gujarat and Madhya Pradesh/Chhattisgarh laws, and clause 5 in the rules of the Orissa law, is therefore discordant with the right to freely adopt a religion.

It is also feared by Christian representatives in Gujarat that Article 5 could allow for the collection of religious demographic information, which could be used for the monitoring of religious minority communities. Given the close relationship between the BJP state government to the RSS and its daughter groups, it is feared that in the event of inter-communal tensions, extremist groups may be easily able to access this information and to identify the location of minority religious groups, leaving them vulnerable to attack. This concern has existed since 1998, when Gujarati police undertook to gather religious demographic information in the Dangs district, prior to the violent anti-Christian attacks in this area.