

Briefing

India

Anti-Conversion Legislation: Summary of Concerns

NOVEMBER 2006



Christian Solidarity Worldwide **Voice for the Voiceless**

PO Box 99, New Malden, Surrey KT3 3YF

T: 020 8942 8810 **E:** admin@csw.org.uk **W:** www.csw.org.uk

REGISTERED CHARITY NO. 281836

Introduction

State-level Freedom of Religion Acts, known colloquially as anti-conversion laws, are increasingly becoming a hallmark of Hindu nationalist Bharatiya Janata Party (BJP) administrations. Additionally, although the Congress Party has usually strongly opposed the legislation, the Congress Chief Minister of Himachal Pradesh has recently stated that he is considering enacting such a law. In 2006, anti-conversion legislation has become increasingly prominent, with every state in which the BJP holds sole power either passing a new law or strengthening existing anti-conversion legislation. This indicates the urgency with which such discriminatory legislation must be addressed.

Anti-conversion laws have been introduced in seven states: Orissa (1967), Madhya Pradesh (1968), Chhattisgarh (which inherited the Madhya Pradesh law when it was created out of the former state in 2000), Arunachal Pradesh (1978), Tamil Nadu (2002), Gujarat (2003) and Rajasthan (2006).

The status of the respective laws as of November 2006 is as follows:

- *In force*: Orissa, Madhya Pradesh (2006 amendment not yet ratified), Chhattisgarh (2006 amendment not yet ratified), Arunachal Pradesh (1978);
- *Introduced but not yet implemented, pending framing of rules*: Gujarat (2006 amendment not yet ratified);
- *Introduced but pending ratification by governor*: Rajasthan;
- *Undergoing process of repeal*: Tamil Nadu.

Summary of Concerns

With the exception of the Madhya Pradesh and Chhattisgarh anti-conversion laws, which are identical, each of the seven laws and their amendments contain slightly different nuances. However, each law ostensibly aims to prohibit conversions by 'force', 'fraudulent means' and 'allurement' or 'inducement', although these categories are ill-defined. Each law also imposes legal formalities on religious priests conducting 'ceremonies' for conversion and would-be converts.

The following concerns are applicable to each of the laws:

1. Contrary to the justification sometimes given for anti-conversion laws,¹ there is no evidence that they alleviate inter-religious tensions. Indeed, with reference to the Christian community, there exists a correlation between those states with anti-conversion legislation and those with the highest rate of religiously-motivated violence against Christians. In these states, notably Madhya Pradesh, anti-Christian attacks often happen with the complicity or sympathy of police. It is worth noting also that the laws contribute towards stigmatising religious conversions and, by extension, a wide range of religious activities. In Madhya Pradesh state, the majority of attacks against Christians are committed in connection with accusations against alleged 'conversion activities' or 'attempts to convert' on the part of the victims, as though these were serious crimes. Such justifications often appear to guarantee the impunity of the assailants.
2. The laws impose severe restrictions on the constitutionally or internationally protected rights to freely adopt, change, profess, practice, teach and propagate religion. Article 18 of the International Covenant on Civil and Political Rights (ICCPR), which is binding upon India, protects an individual's 'freedom to have or adopt a religion of his choice', which Article 18

¹ 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.'

of the Universal Declaration of Human Rights (UDHR) provides for an individual's 'freedom to change his religion or belief'. Of particular concern are the requirements upon religious priests to either seek prior permission (as in Gujarat) or to send an intimation to the district magistrates, when performing ceremonies for religious conversions, and the imposition of similar legal formalities upon the potential convert. As a result of this, combined with social pressures, the political influence of Hindu extremist groups and the realities of the hierarchical caste system, potential converts may face practically insurmountable obstacles to religious conversions.

3. The conditions under which conversions are construed as illegitimate are defined sufficiently vaguely as to allow a wide range of religious activities, including charity or education, to be portrayed as attempts to convert. This leaves such activities in a position of legal vulnerability and susceptibility to social pressure or, as in many cases, violent assault.
4. The various religious parties and the nature of conversion between them is defined inconsistently and asymmetrically, leaving some religious groups vulnerable to the unequal administration of justice. The recent 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. The Arunachal Pradesh law specifically targets conversions away from 'indigenous' religions, defined as Buddhism, a form of Hinduism and animism. Past legal judgements in India have given an 'open' and flexible definition to Hinduism, leaving it in a dominant position.
5. The terminology of 're-conversion' to Hinduism (*ghar vapsi*; also translated 'homecoming') is widely used within India, including by Hindu fundamentalist groups to describe their own proselytism. However, it is not included in the purview of any anti-conversion law, with the implication that 're-conversions' carry a certain legitimacy lacked by other religious conversions. This is compounded by evidence of state government involvement in the organisation of 're-conversion' ceremonies, such as in Gujarat in January 2006. The arising assumption is that the authorities empowered to give permission for religious conversions would be more sympathetic to these 're-conversions' than to conversions away from Hinduism.
6. The penal provisions are particularly harsh in the more recent laws, exceeding even those given for causing death by negligence. In the Orissa, Madhya Pradesh, Chhattisgarh and Gujarat laws, the penal provisions are increased substantially for those convicted for converting Dalits (Scheduled Castes) and tribals (Scheduled Tribes). This is often adduced as evidence that the prevention of the lower castes from adopting a new faith and thereby leaving the caste system, is a chief aim of this legislation.

Recommendations

CSW requests that the issue of anti-conversion legislation is urgently raised with the Indian government, in light of the proliferation of state-level laws in 2006. Specifically, the issue should be raised in connection with India's ongoing caste discrimination, because it particularly targets the religious freedom of Dalits (Scheduled Castes) and tribals (Scheduled Tribes). It should be also be raised in connection with the widespread problem of religious violence, particularly since many attacks against Christians are justified by appeal to the illegitimacy of the purported conversion activities of the victims.

Background: Caste and Religion in Hindu Nationalist Politics

The ongoing discrimination against Dalits and tribals forms the context for increasing political animosity towards religious conversions in India. Although impinging on all religious groups, the religiously-sanctioned caste system is associated primarily with Hinduism. It is perceived by Hindu nationalist or extremist groups, known collectively as the Sangh Parivar, to be proper to Indian society, and therefore the embracement of other religions by Dalits and 'lower' castes to escape caste discrimination attracts considerable opposition. India's Christian population, in particular, is drawn primarily from among the Dalits and 'lower' castes.

India is a secular state with detailed constitutional provisions for religious rights. Article 25 provides for freedom of conscience and the right to freely profess, practise and propagate religion. Article 19 further protects freedom of speech, expression and association. Article 51 imposes a positive duty on citizens to promote harmony and the spirit of common brotherhood transcending religious boundaries.

However, such ideals remain distant from the political agenda of the opposition Bharatiya Janata Party (BJP), which holds power in the state governments of Chhattisgarh, Gujarat, Madhya Pradesh and Rajasthan and forms part of ruling coalitions in Bihar, Karnataka and Orissa. Each of the states in which the BJP holds sole power has either introduced (in the case of Rajasthan) or strengthened existing anti-conversion legislation in 2006, and there exists a correlation between these states and those in which anti-minority violence is at its worst, prompting widespread suggestions that the nature of BJP governance is facilitating and fuelling anti-minority prejudices and attacks. The ideology of 'Hindutva' espoused by the BJP and its parent organisation, the Rashtriya Swayamsevak Sangh (RSS), encompasses a vision of India as a Hindu nation in which minorities must be assimilated to and revere the Hindu religion, race and culture.

Political commentators in India have increasingly suggested recently that the BJP has developed a special focus on the issue of religious conversions from Hinduism, as part of its strategy to regain political ascendancy. The result, in the states in which the BJP holds power, has been the vilification, alienation, discrimination and persecution of the religious minorities perceived as foreign to Indian culture; that is, Islam and Christianity. Among the chief victims are the Christian minority, who have suffered widespread attacks in BJP-administered states, particularly Madhya Pradesh, Rajasthan, Karnataka and Gujarat, which are often committed with impunity.

The Gujarat government was in early 2006 implicated in the exploitation of religious divisions for political gain in the state's Dangs district. In January 2006, Hindutva groups organised the Shabri Kumbh Mela festival, for the 're-conversion' of tribals to Hinduism. The state government was heavily involved in supporting the festival, whose publicity materials scapegoated and vilified Christians, to the extent of using slogans such as, 'Arise Hindus, throw out the Christians' and claiming that '[Christian missionary activity] has fanned separatist and terrorist activities. The [festival] has been organised to deal a death blow to such anti-dharmic and anti-national activities'. Christian leaders suggested that the Gujarat administration employed such means in order to garner political support in a traditionally unsympathetic area, by promoting a Hindu sense of identity and belonging among the predominant animist and Christian tribal population. This tactic entailed the vilification of Christians, and there arose legitimate fear of a repeat of the widespread anti-Christian violence in the area in 1998, which occurred after similar incitement. The Gujarat administration has also recently offended the Buddhist and Jain communities by classifying these as 'denominations' of Hinduism, and thereby failing to recognise their distinct religious identities, under its recent amendment to the currently inactive state anti-conversion law. Legal judgements on the issue of the religious identity of Buddhism and Jainism have been ambiguous; critics have therefore suggested that this move represented an attempt to legislate on the credibility of different religions, by differentiating between religions perceived by the Gujarat government as 'Indic', and those perceived as 'foreign', namely Christianity and Islam.