

# Briefing

## India

### Religious Discrimination by Hindu Nationalists

A Submission to the UK Foreign Affairs Committee

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**Christian Solidarity Worldwide**  
**Voice for the Voiceless**

PO Box 99, New Malden, Surrey KT3 3YF

**T:** 020 8942 8810 **E:** [admin@csw.org.uk](mailto:admin@csw.org.uk) **W:** [www.csw.org.uk](http://www.csw.org.uk)

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CSW welcomed the commitment issued in the Political Declaration on the EU-India Strategic Partnership, promulgated under the UK Presidency in September 2005, to 'work together to uphold human rights in a spirit of equality and mutual respect'. The document also iterated a shared high regard for democracy, pluralism and the rule of law. However, it is deeply concerning that the religious prejudices inherent within Indian politics have continued to severely damage the societal participation and legal protection of religious minorities, particularly those of a lower-caste background. This trend appears to have intensified in recent months, and CSW urges that this issue be given high priority in the relations of the UK and EU with India.

### **Context: Caste Discrimination**

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.

Caste discrimination continues to blight India's political scene and economic development, adversely affecting her population of around 160-180 million Dalits and 70 million tribals. The suppression of Dalits is considerable and wide-ranging, and is well-documented. Not only are Dalits compelled to perform the most menial and hazardous tasks in Indian society, but Dalits are also the chief victims of human rights violations such as human trafficking, bonded labour and child labour. The careers of educated, more influential Dalits are hampered by their caste. Dalits are widely subjected to brutal and degrading assaults on a broad scale.

The repression of Dalits has a number of different dimensions: political, economic, educational and religious.

### **The Function of Religion for Hindu Nationalists**

The ideology of 'Hindutva' espoused by the Bharatiya Janata Party (BJP) and its parent organisation, the Rashtriya Swayamsevak Sangh (RSS), continues to deleteriously affect minority religions, particularly Christians and Muslims. This ideology encompasses a vision of India as a Hindu nation in which minorities must assimilate to and revere the Hindu religion, race and culture.

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 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.

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 has recently been 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' (literally 'homecoming') 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 a positive statement of differentiation between religions perceived by the Gujarat government as 'Indic', and those perceived as 'foreign', namely Christianity and Islam.

### **Anti-Conversion Legislation**

State-level Freedom of Religion Acts, known euphemistically as anti-conversion legislation, are increasingly becoming a hallmark of BJP administrations. This legislation, all of which is framed according to a similar pattern, ostensibly aims to prohibit conversions by 'force', 'fraudulent means' and 'allurement' or 'inducement', but these categories are defined sufficiently loosely that a wide range of legitimate religious activities may be targeted. The laws also impose legal formalities on religious priests conducting 'ceremonies' for conversion and would-be converts.

In April 2006, the Rajasthan state government passed an anti-conversion law. In July, the Madhya Pradesh government amended its law to require potential converts to notify district authorities one month in advance. In August, the government in Chhattisgarh state, which was carved out of Madhya Pradesh and inherited its anti-conversion law, passed an identical amendment. In September, the Gujarat government passed an amendment designed to overcome certain legal issues in the inactive anti-conversion law passed in 2003, and thereby to expedite its implementation.<sup>1</sup>

In its campaigns for upcoming state elections in Himachal Pradesh and Punjab, the BJP platform includes a promise to introduce anti-conversion legislation.

Anti-conversion legislation is open to a number of criticisms:

1. It imposes restrictions on the constitutionally or internationally protected rights to freely adopt, change, profess, practice, teach and propagate religion. Of particular concern are the

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<sup>1</sup> In each case, the formal sanction of the respective state governor or national President is still pending.

- requirements upon religious priests to either seek prior permission or to send an intimation to district magistrates when performing ceremonies for religious conversions, and the imposition of similar legal formalities upon the potential convert.
2. 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 construed 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.
  3. 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.
  4. The widely-used category of 're-conversions' to Hinduism is excluded from all anti-conversion laws, with the implication that these 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.
  5. 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 and tribals. 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.

### **Religiously-Motivated Anti-Christian Violence**

CSW recorded over 90 religiously-motivated violent attacks against Christians between January and September 2006. Many others are thought to have gone unreported for a variety of reasons. Of those documented, 23 were in Madhya Pradesh and 18 in Karnataka. Rajasthan has seen a sustained campaign, supported by the state government, against the institutions of the Emmanuel Mission International, and inter-communal tensions have persisted in Gujarat. Extremely violent attacks on Christians have also taken place in Chhattisgarh and Orissa states.

Many attacks have occurred in connection with accusations of forcible conversion, often resulting in the arrest of the victims under the respective state anti-conversion laws with impunity for the perpetrators. Christian leaders in Madhya Pradesh have suggested to CSW that the law has contributed to legitimising violent opposition to any minority religious activities which can be framed as attempts to convert.

Among the most egregious assaults on Christians in India in 2006 have been the following:

In Matiapada village, Orissa, on 16 January, a group of around fifteen Hindu extremists, incited and led by the BJP village head, attacked Pastor Kulamani Mallick and his family before setting fire to their home. The home was destroyed, along with seven adjacent houses (six of which belonged to Christians). Other Christians in the village were beaten with sticks and stones or bricks. Kulamani Mallick, with his cousin Gunanidhi Mallick, attempted to register a case against their attackers at the local police station. However, police officer Jagannath Pareda told them to remove the name of the village leader from the First Information Report (FIR), and became very angry when they refused to do so. They were detained and questioned under the Orissa Freedom of Religion Act, accused of

conversion activities. Their interviewer insulted and threatened them because of their Christian faith. The village leader was never charged for the attack.

In Nadia village, Madhya Pradesh, on 28 May, two Christian women (one of whom was seven months pregnant) were gang-raped at the instigation of a Hindu village leader, after their husbands refused to surrender their Christian faith. The day after a rape case was filed, the two women, their husbands and one other were charged under the Madhya Pradesh Freedom of Religion Act, while the police initially refused to register a case against the alleged rapists until the intervention of higher authorities.

In Kosa Nala, Chhattisgarh, on 18 June, Hindu extremists tried to kill Pastor David Raj by hanging a burning tyre around his neck. The attackers then dragged him to the police station where he was charged with attempted forced conversion. His wife was also arrested and charged. Reportedly, two women in the church were tricked into signing a statement accusing Raj and his wife of offering them cash and a motorcycle if they converted to Christianity; police had told the fearful women that they were simply signing a statement to confirm their attendance at church that morning. However, local Christian sources claimed the accusation was ridiculous, as they were extremely poor and could not afford to make such an offer. The couple were on bail but were required to report regularly to the police station. Three men were arrested for the attack but immediately and unconditionally released on bail.

### **Recommendations to the UK Government**

In light of the commitment made between the EU and India to ‘work together to uphold human rights in a spirit of equality and mutual respect’, CSW requests that the UK government:

- Strongly encourages the Indian government to proactively uphold the rights of individuals to ‘freely profess, practise and propagate religion’, in accordance with Article 25 of the Indian Constitution, and to proactively uphold the rights of religious minorities;
- Urges for the repeal of anti-conversion legislation in six states across India;
- Supports the Indian government in urging state governments to fully investigate and, where appropriate, to convict those implicated in religiously-motivated violence;
- Fully supports current attempts to reform the Indian police force in order to safeguard its independence from political prejudice and to increase its transparency.