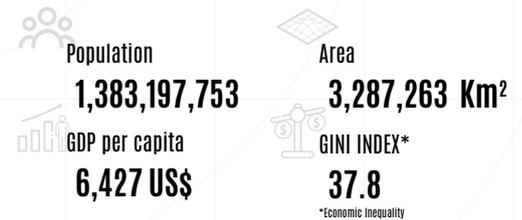
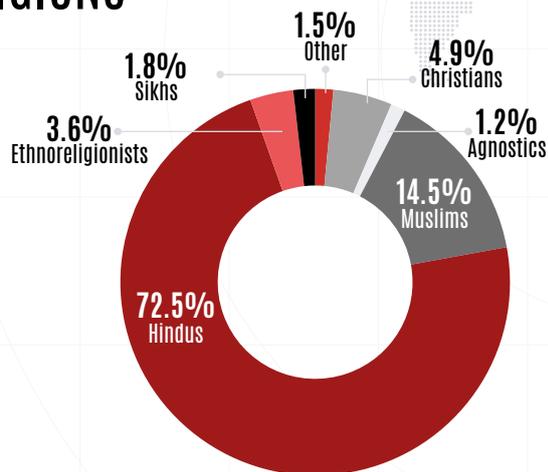




# INDIA

## RELIGIONS



## LEGAL FRAMEWORK ON FREEDOM OF RELIGION AND ACTUAL APPLICATION

India's constitution<sup>1</sup> guarantees religious freedom, and the country has a distinct form of secularism that strives to treat religious traditions equally. However, the influence of Indian secularism has waned since Prime Minister Narendra Modi and his Bharatiya Janata Party (BJP) came to power in 2014.

Although interreligious tensions have been a major issue in India dating back to the independence movement and the 1947 partition that created the independent nations of India and Pakistan, the political, social and cultural influence of Hindu nationalist groups, collectively known as Sangh Parivar (family organisation or association), like the Rashtriya Swayamsevak Sangh (National Volunteer Organisation, RSS), has grown dramatically since Modi's election. Members of various Sangh Parivar organisations now hold senior positions in the government, the military, and academia.

According to the Constitution of the Republic of India, religious freedom is guaranteed by Article 25, which states that "all persons are equally entitled to freedom of conscience and the right to freely profess, practise and prop-

agate religion." Furthermore, Article 27 states that no one may be compelled to pay taxes intended for the promotion or financing of a particular religious denomination. The constitution devotes a distinct clause, Article 26, to safeguarding the freedom of "every religious denomination" to "establish and maintain institutions for religious and charitable purposes" and to "manage its own affairs in matters of religion." In addition, Article 30 defines the right of minorities, including religious minorities, to establish and administer their own educational institutions.

Despite India's official secular status, various governments, at both federal and state levels, have enacted laws that restrict the religious freedom of individuals and groups. One of the areas in which governmental and administrative restrictions on the freedom of religious institutions have become significantly more severe in recent years is foreign funding for religious groups, specifically the Foreign Currency Regulations Act (FCRA).<sup>2</sup>

With increasing frequency since 2014, Indian authorities have frozen the bank accounts of different organisations, using the 2010 Foreign Contributions Regulations Act (FCRA) to prevent them from accessing funding to carry out their operations. Many activists believe that the current government has used the 2010 FCRA selectively to target

non-governmental organisations affiliated to minority religious communities, shutting down, for example, Christian humanitarian and development organisations.<sup>3</sup> Existing regulations based in the Indian Penal Code allow the government to treat religious NGOs with greater - and inequitable - severity.

In 2020, the central government used FCRA regulations to further extend its control over civil society groups; specifically, the Ministry of Home Affairs (MHA) revoked the foreign currency licences of four Protestant organisations and one Catholic institute, the Don Bosco Tribal Development Society. The society, founded in 1976 by the Salesians, serves the tribal and other marginalised communities in Tamil Nadu. With the loss of its foreign currency licence, it can no longer receive donations from foreign sources, including officially recognised Catholic agencies, to pursue its mission. As in other cases, the MHA may reject an organisation's FCRA application if the recipient is judged to be engaged in creating communal tensions or disharmony.<sup>4</sup> Since 2017, the Indian government has cancelled over 6,600 foreign currency licences including 900 licences of religious institutions.<sup>5</sup>

Because of the traditional veneration of cows by Hindus, Jains, and Buddhists, there is widespread social distaste for beef consumption and the slaughter of cows. Cow protection has been an important and sometimes controversial political issue for centuries, and currently around two thirds of Indian states have laws that regulate, circumscribe, or prohibit cow slaughter. What is more, the Supreme Court of India has upheld the constitutionality of these laws. Advocacy for legal prohibitions against cow slaughter has been a special feature of social and political groups promoting Hinduism, such as Hindu nationalist groups, including the ruling Bharatiya Janata Party (BJP).

Another concrete way the BJP facilitates social restrictions of religious freedom is through anti-conversion legislation. Several states have passed Freedom of Religion Acts (or, as their critics call them, "anti-conversion laws"). These are state-level statutes designed to regulate religious conversions allegedly accomplished through "forcible" and "fraudulent" means, including "inducement" and "allurement."<sup>6</sup>

The basic structure and content of these laws vary only minimally between states, as newer laws tend to be modelled on earlier statutes in other states. Odisha was the first state in India to enact a Freedom of Religion Act (1967),

followed by Madhya Pradesh (1968), Arunachal Pradesh (1978, though it has yet to frame its rules), Chhattisgarh (2000), Tamil Nadu (2002, repealed two years later), Gujarat (2003), Rajasthan (2006, not yet signed into law by the state governor), Himachal Pradesh (2006, repealed in 2019 but replaced by a new law soon after), Jharkhand (2017), and Uttarakhand (2018).<sup>7</sup>

In August 2019, the Himachal Pradesh Freedom of Religion Act 2019 was unanimously approved by the state's legislative assembly, proposing "stringent punishments - up to seven years in jail compared to the three years under the existing law" - for those convicted of forced religious conversion.<sup>8</sup> In June 2020, the chief minister of the northern state of Haryana said that his state would implement a bill to prevent what he called "forced conversions." If the bill is passed, Haryana will become the ninth state in India to pass an anti-conversion law.<sup>9</sup>

The prejudicial intent of these laws is made evident by the fact that they have never been used to investigate or prosecute Hindus, even in situations when members of the majority have been accused of offering explicit financial inducements for conversion to Hinduism.<sup>10</sup>

These laws disadvantage minority faiths. This became evident in 2015 when the Supreme Court ruled that a person who "reconverts" from Christianity to Hinduism is entitled to certain benefits (of which Christians are normally excluded) if the convert's forefathers belonged to a Scheduled Caste and the community accepts the convert back after "reconversion."

Because anti-conversion laws are often passed at the behest of Hindu nationalist groups who fear that India's Hindu character is under siege due to the growth of competing faiths, the laws disproportionately target religious minorities in the states where they reside. Muslims and Christians are especially affected and burdened because both of these faith traditions engage in missionary activity. These prohibitions provide opportunities for local officials and Hindu supremacist organisations to harass and intimidate members of minority communities.<sup>11</sup>

Muslims in India have been increasingly at risk since the Hindu nationalist leader, Narendra Modi, won a resounding re-election in April-May 2019. Within five months, India's BJP-dominated central government took two significant steps concerning the rights of India's Muslim-minority community. In August, it stripped India's Muslim-majority-state, Jammu and Kashmir, of its special autonomy em-

bodied by Article 370 of the constitution, and in the process jailed dozens of its political and civil society leaders, without cause or trial, and subjected the entire state to a months-long Internet shutdown.<sup>12</sup> In December, the Indian Parliament passed a Citizenship Amendment Act (CAA) that expressly excludes Muslims from a select group of neighbouring countries from applying for refugee and citizenship status on grounds of religious persecution.<sup>13</sup>

The Indian Penal Code (IPC)<sup>14</sup> includes an anti-blasphemy provision. Section 295A penalises insulting the religion or religious beliefs of any class of citizens, if such insult is made with the “deliberate and malicious” intent to “outrage the religious feelings.” This law has been applied at times against Christians (Indian and foreign) who allegedly criticise Hinduism in the course of their evangelising work.<sup>15</sup>

## INCIDENTS AND DEVELOPMENTS

The Christian community in India continues to face targeted violence and hate crimes. In 2019 alone, the Religious Liberty Commission recorded 366 incidents in which Christians across the country were attacked, intimidated, or harassed.<sup>16</sup>

Hindu extremists attack Christian places of worship often with the support of local government authorities. Police and law enforcement either play down the attacks or look the other way. On 21st July 2020, in Odisha, eastern India, scene of the 2008 anti-Christian pogrom,<sup>17</sup> Christians were threatened for allegedly disturbing the peace of a local village as a result of their worship services. Another attack took place in the state when a group of villagers assaulted and set fire to a building used temporarily as a church while 40 people were still inside engaged in worship services. The angry mob then attacked the members as they left the building. To date, although a police report was filed almost immediately with the local station, there have been no arrests. When he heard about the violence in the village, the executive magistrate at the local district court applied Section 107 of the Code of Criminal Procedure to prevent anyone from “disturbing the peace”,<sup>18</sup> noting that the recent event at the church made it “risky to continue meeting for worship,” effectively stopping all Church-based activities from taking place in the village.<sup>19</sup>

Christianity in India has grown among many different groups, especially tribal communities in rural India.<sup>20</sup> One such group of tribal converts to Christianity are the Dangs

in the State of Gujarat. Alarmed by the growing numbers of tribal converts to Christianity, Hindu extremists started deliberate campaigns to “reconvert” tribal Christians, like the Dangs, to Hinduism. In January 2020, Hindu extremists reconverted to Hinduism 144 Dangs in Bhogadiya village. Speaking about the right-wing Hindu groups who claim to have successfully reconverted Christians, Jesuit Fr. Cedric Prakash, who is based in Gujarat’s state capital, Ahmedabad, said that while Hindu extremists might try to spread rumours about the successful return of hundreds of Christians to Hinduism, “for those in the Catholic Church, we are convinced that the faith of the people is unflinching.”<sup>21</sup>

Christian converts who refuse to reconvert to Hinduism often suffer unspeakable abuse including torture and even death. In the State of Chhattisgarh, in Gadada village, families were ordered by local authorities to recant their faith or face severe consequences. The converts refused to deny Christ and were beaten. After the attacks, a radical Hindu group returned to the village and conducted a “reconversion” ceremony with two other Christian families. Attacks on Christians have also increased in Chhattisgarh’s Bastar and Kondagaon regions because converts refuse to comply with their village leaders’ orders to publicly renounce their faith.<sup>22</sup>

In several states, attacks on Muslims and Christians in the name of cow protection have increased in the past few years. According to a Human Rights Watch report, 44 individuals were killed between March 2018 and December 2018 in the name of cow protection.<sup>23</sup>

These cow vigilante attacks largely target Muslims and Dalits (previously known as outcasts or pariahs),<sup>24</sup> as well as indigenous Christian communities in rural areas whose livelihoods are linked to farming and raising cattle.

On 31st July 2020, a 25-year-old Muslim man was attacked by a cow vigilante lynching mob when he was delivering buffalo (not cow) meat to a bazaar. His face was bruised and his skull cracked while the local police stood idly by as the violence unfolded. The victim filed a complaint at the local police station but no one was arrested.<sup>25</sup>

In the State of Jharkhand in eastern India, a group of 60 Hindu extremists arrived in Bherikhudar village on 16th September 2020 to attack a group of indigenous Christians. The assailants accused the Christians of slaughtering cows and selling beef in the local market. In addition, the Hindu group tried to force the Christians to chant “Jai

Shri Ram” (hail Lord Ram). When the villagers refused, they were pelted with shoes and had their heads partially shaved to ridicule and insult them in front of other members of their community.<sup>26</sup>

Many Hindu extremists use “Jai Shri Ram” as a rallying cry when they attack Christian villagers for allegedly engaging in cow slaughter.<sup>27</sup> The chant, traditionally a greeting among traditional Hindus, has also preceded several attacks against young Muslim men forced by lynching mobs of angry Hindu extremists to chant the slogan. In July 2019, a video went viral on social media showing 24-year-old Tabrez Ansari, a young Muslim man who was tied to a pole and beaten by a mob in Jharkhand, complying with the attackers and repeating the chant. The young man died four days later in police custody from the injuries he sustained during the attack.<sup>28</sup> Another Muslim man was killed by a group of Hindu men in September 2020 who demanded he recite, “Jai Shri Ram.”<sup>29</sup> The victim, Aftab Alam, a Muslim cab driver, was confronted by a gang of Hindu extremists and fearing for his life began to record the encounter with the men on his telephone. His phone and the recording were later found when his son tracked it down to a side road in Noida, a city near New Delhi. Eventually, Aftab’s beaten body was found in his cab. When his son tried to file the case as a hate crime case at the local police station, however, police denied it was anything but a robbery.

In December 2019, the lower and upper houses of the Indian Parliament passed the controversial Citizenship Amendment Act (CAA), which was followed by widespread violence and unrest in Delhi, Uttar Pradesh, Madhya Pradesh, Maharashtra, Karnataka, Assam, and on several university campuses. In February 2020, at least 27 people were killed and more than 200 injured in north-east Delhi after protestors clashed with the police.<sup>30</sup> The CAA has drawn sharp criticism from national and international scholars and activists because it makes religion the sole criterion for granting citizenship to irregular migrants and refugees from India’s immediate neighbours.<sup>31</sup>

Finally, India has seen a rising number of attacks on priests and clergy. In November 2018, Fr. Vineet Pereira was attacked while he was conducting a prayer service in Ghohana, a town in the northern state of Uttar Pradesh.<sup>32</sup> A few months later, in February 2019, in the State of Tamil Nadu, a group of Hindu extremists broke into the Little Flower Catholic Higher Secondary School and attacked the Franciscan Sisters of the Immaculate Heart of Mary

who run the establishment.<sup>33</sup> Another attack took place on 8th October 2020 when 83-year-old Jesuit Fr. Stan Swamy was arrested by the National Investigation Agency because he spoke out against the mistreatment of India’s tribal community in Jharkhand state.” Fr. Swamy, who was charged under the Unlawful Activities Prevention Act, is the oldest person ever to be charged in India for alleged terrorism-related activities.<sup>34</sup> However, most people, including senior members of the Catholic Church describe Fr Swamy as a “soft-spoken, low profile activist” who has devoted his life to the “uplift of tribespeople ever since he moved to Jharkhand in 1991.”<sup>35</sup>

## PROSPECTS FOR RELIGIOUS FREEDOM

While India might advertise itself as a multi-religious democracy with a rich history of religious diversity and pluralism, it is now sadly known as a country on a global watch list for violating the basic religious freedoms of its citizens. The rising level of restrictions on Christians and other religious minorities, accompanied by religiously motivated violence, impunity, intimidation, and growing restrictions on the freedom of individuals to practise a religion of their choice, is deeply disconcerting.

In 2020, the United States International Commission for International Religious Freedom (USCIRF) recommended the United States Department of State designate India as a “Country of Particular Concern” (CPC). This is the first time India has been placed in this category since 2004. In addition, the religious freedom panel recommended “targeted sanctions on Indian government agencies and officials responsible for severe violations of religious rights.”<sup>36</sup>

The current COVID-19 pandemic has exacerbated harassment and violence against the Muslim community in India. In some cases religious minorities have been refused admission into hospitals to treat the virus and some authorities have randomly quarantined Muslims.<sup>37</sup> Prospects for religious freedom, therefore, appear grim.

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