

Universal Periodic Review India

Minorities on the Margins: Freedom of Religion or Belief & the Christian Community in India

Submitted by

CHRISTIAN COLLECTIVE

(A National Solidarity of the Indian Christian Community for Peace and Harmony)

with the support from

FRANCISCANS INTERNATIONAL

VIVAT INTERNATIONAL

CONGREGATIONS OF ST. JOSEPH

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A. INTRODUCTION

1. This report is a joint NGO submission by the **CHRISTIAN COLLECTIVE** (A National Solidarity of the Indian Christian Community for Peace and Harmony), **Franciscans International, VIVAT International, Congregations of St. Joseph, Pax Romana, Sisters of Charity Federation, Society of Catholic Medical Missionaries and other partners** on the issue of freedom of religion or belief, related to the 3rd cycle of Universal Periodic Review for India, scheduled to be held in April – May 2017. The **CHRISTIAN COLLECTIVE** represents human rights, civil society and freedom of faith groups represented in India who have endorsed this report. As international partners, Franciscans International, VIVAT International, Congregations of St. Joseph, Pax Romana, Sisters of Charity Federation, Society of Catholic Medical Missionaries as well as other partners have been involved and consulted in the process and provide support and endorsement for the submission. This report is the culmination of consultations held in various parts of the country. This report focuses on the status of freedom of religion or belief with respect to the Christian community in India.

B. CONTEXT

A1. The Christian Community in India

2. As per the Census of India 2011, Hindus constitute 79.8% (966,257,353), Muslims 14.23% (172,245,158), Christians 2.3% (27,819,588), Sikhs 1.72% (20,833,116), Buddhists 0.7% (8,442,972), Jains 0.37% (4,451,753), and other religions including Parsis and Jews constitute 0.6% (7,937,734) of the 1,210,854,977 population in India.¹ It is pertinent to note that there has been no significant change in the proportion of the Christian community to total population in 2011, as compared to the previous Census of 2001. There is no official data for India's many indigenous native religions that predate Hinduism, Buddhism and Jainism, or on the number of atheists and agnostics in India.

3. States with large Christian communities include Meghalaya, Mizoram, Nagaland, Goa, Kerala, Jharkand, Chhattisgarh, Odisha and Andaman and Nicobar Islands, although Christians live in almost all the states and union territories of India. The Christian community in India is not homogenous and its members owe allegiance to various religious denominations. Many members of tribal and indigenous communities, called adivasis, who were originally animists, thereafter converted to Christianity as did Dalits or, partially to escape from the clutches of the oppressive and discriminatory caste system under

¹<http://www.census2011.co.in/religion.php>, last accessed 13 September 2016

Hinduism. As a result, in the present context, the Christian population comprises of a large proportion of Dalit and tribal Christians.

4. The Constitution of India defines India as a secular state, and upholds freedom of religion and belief as a fundamental right that cannot be violated by the Indian government; however, laws and policies exist, which either discriminate on the grounds of religion and caste, or are implemented in a discriminatory manner, or are deliberately not implemented vis-à-vis religious minority communities, including the Christians.

5. Religious minorities are economically poorer and socially discriminated. Only 6.5% have access to institutional finance, 40% (by habitation) do not have health facilities, 35% do not have education facilities and 65.02% live in huts or temporary shelter.² In the last five years, members of religious minority communities in India, including Christians, have become victims of targeted violence.

6. Christians, in particular, have come under attack due to hate propaganda spread by militant Hindu right wing elements that accuse Christian missionaries of forcibly and / or fraudulently converting Hindus and other populations. Additionally, laws have been misused to curb free speech and other civil liberties of Christians, and to intimidate and silence human rights defenders who assist such persons.

7. The UN Special Rapporteur on the Situation of Human Rights Defenders, after her mission to India in 2011, observed in her 2012 report that church workers engaged in promoting and protecting the rights of marginalized people, including Adivasis and Dalits, have reportedly faced, in a number of instances, intimidation and harassment in their daily activities.³

A2. The Present Political Context in India

8. In 2014, the general elections in India brought the Bharatiya Janata Party (BJP) into power. The BJP was formed as a political wing of the Rashtriya Swayamsevak Sangh (RSS), translated as the National Volunteer Organization – a Hindu nationalist organization that seeks to establish a Hindu nation, and treats all non-Hindus as secondary citizens who should live under the benevolence of the Hindus or migrate out of India. This is evidenced by Mohan Bhagwat, the chief of RSS, openly stating that there was no doubt that India is a Hindu rashtra (nation).⁴ The RSS acts as a mentor to the BJP and has an influence and

² Sachar Committee Report 2006.

³ A/HRC/19/55/Add. 1, para 124

⁴ 'India is a Hindu Rashtra: Bhagwat', *The Hindu*, 9 February 2015, available at <http://www.thehindu.com/news/national/other-states/india-is-a-hindu-rashtra-bhagwat/article6872230.ece>, accessed on 13 September 2016

control on the BJP government's actions, approaches and policies.⁵ BJP's Prime Ministerial candidate, Mr. Narendra Modi – the present Prime Minister of India – was also a choice made by the RSS. Its close ties with the BJP are illustrated in these three instances:

- a) In September 2015, the top leaders of the BJP government consulted and deliberated with RSS affiliates on range of national issues, which was termed by opposition leaders as an interference with political and democratic processes of the country.⁶
- b) Doordarshan – the government-owned publicly-funded television channel, for the first time in the history of independent India, made a live telecast of RSS chief Mohan Bhagwat's speech on RSS day.⁷
- c) Prime Minister Narendra Modi has remained largely silent with respect to various incidents of open threats, incitement of violence and attacks against religious minorities, carried out by members of RSS and its affiliates.⁸

9. The current Indian government is grounded in an ideology of Hindu majoritarianism and anti-minority hatred, which has had an adverse effect on the enjoyment of freedom of religion or belief of all religious minorities, including Christians.

A3. Intersectional Vulnerabilities and Deprivations

10. While the status of Christians prior to 2014 was less than satisfactory, it has further deteriorated under the current dispensation.

11. As this report will illustrate, while all Christians have been at the receiving end of discriminatory policies and threats of violence, and violation of their human rights, marginalization has been further influenced by their intersectional identities. For this reason, tribal Christians (due to the intersectionality of ethnicity and religion), Dalit Christians (due to the intersectionality of caste and religion) and Christian women (due to the intersectionality of gender and religion) have been rendered more vulnerable to a loss of their citizenship rights.

⁵For more information, see 'The RSS-BJP Relationship is More Convoluted Than They Let On', *The Quint*, 30 July 2016, available at <https://www.thequint.com/opinion/2016/07/30/the-rss-bjp-relationship-is-more-convoluted-than-they-let-on>, accessed on 13 September 2016

⁶'Top BJP Ministers Attend RSS Meet, Opposition Questions Government's Accountability', *The Indian Express*, 3 September 2, available at <http://indianexpress.com/article/india/india-others/rss-bjp-meet-opposition-parties-lam-saffron-outfits-interference-in-governance/>, accessed on 13 September 2016

⁷'Doordarshan Telecasts RSS Chief's Speech Live, Stirs Controversy', *The Times of India*, 3 October 2014, available at <http://timesofindia.indiatimes.com/india/Doordarshan-telecasts-RSS-chiefs-speech-live-stirs-controversy/articleshow/44189792.cms>, accessed on 13 September 2016

⁸See for example 'Glare on Modi's Silence on RSS Boss', *The Telegraph*, 22 December 2014, available at http://www.telegraphindia.com/1141222/js/p/nation/story_4694.jsp#.V95xrlR97IU, accessed on 13 September 2016; 'Christians Protest Against Attacks on Churches: Accuse PM Modi of Silence and Inaction', 5 February 2015, available at <http://www.firstpost.com/india/christians-protests-against-attacks-on-churches-accuse-pm-modi-of-silence-and-inaction-2081331.html>, accessed on 13 September 2016

C. STATUS OF TRIBAL CHRISTIANS

12. Undermining the Constitutional ideal of social justice, the present BJP government has implemented neo-liberal policies that hugely benefit multinational corporations (MNCs) at the cost of basic rights to life and livelihood to its citizens. While tribal communities have, in general, been adversely affected by such policies, tribal Christians have faced further violations due to their intersecting identities of religion and ethnicity. Tribal Christians have been ruthlessly alienated from forests which they have lived in and depend on for their livelihood. The tribals have been seen as ‘anti-development’ as they resist a violation of their fundamental right to life and livelihood. A government-appointed High Level Committee on Socio-economic, Health and Educational Status of Tribal Communities of India, in its 2014 report (page 31), observed as follows:

“Laws and rules that provide protection to tribes are being routinely manipulated and subverted to accommodate corporate interests. Tribal protests are being met with violence by the State’s paramilitary forces and the private security staff of corporations involved.”⁹

13. The following incidents are illustrative examples of the extremely vulnerable situation of tribals, a substantial number of whom are Christians:

- a) The Odisha government has consistently pushed for mining the Niyamgiri Hills for bauxite mining, in favour of the multinational Vedanta. Although several gram sabhas (village councils) have exercised their sovereignty and passed resolutions against the mining but the Odisha government and Vedanta Resources have formed a nexus for renewed efforts at lucrative resource extraction, which has threatened violence, lawlessness, and a gross violation of tribal rights to land and livelihood.¹⁰ Protestors have been slapped with false charges, detained, tortured and sometimes killed in fake encounters.¹¹
- b) The All India People’s Forum (AIPF) team that visited four districts of Bastar, state of Chhattisgarh, between June 8-11 of 2016 has highlighted cases of repression and intimidation of villagers. Protestors were threatened with imprisonment under false charges as Maoists. The report further highlights that four women were killed in

⁹The report is available at <https://ruralindiaonline.org/resources/report-of-the-high-level-committee-on-socio-economic-health-and-educational-status-of-the-tribals-of-india>, accessed on 13 September 2016

¹⁰For more details, see ‘Mining at Any Cost: The Odisha Government’s Continued Dismissal of Adivasi Rights’, The Wire, 16 May 2016, available at <http://thewire.in/35711/mining-at-any-cost-the-odisha-governments-continued-dismissal-of-ativasi-rights/>, accessed on 14 September 2016

¹¹ ‘Odisha’s anti-MNC activists are involved in false cases, arrested, tortured, killed in fake encounters’, 20 May 2016, available at <https://counterview.org/2016/05/20/odishas-anti-mnc-activists-are-involved-in-false-cases-arrested-tortured-killed-in-fake-encounters/>, accessed on 14 September 2016

Nagalguda village under Dantewada district of Chhattisgarh on November 21, 2015. One of the women had been raped before being killed.¹²

- c) A tribal activist, Soni Sori, who alleged fake encounters by security forces in Bastar, Chhattisgarh, had her face burnt with a chemical, while a journalist who highlighted atrocities against the tribals, and a law office that provided them with legal services were threatened, harassed and forced to flee from the area.¹³
- d) Tribal Christians have also borne the brunt of anti-Maoist operations, when they are killed callously as ‘collateral damage’. For example, five tribals including a two year old were killed, allegedly in a cross fire, in Kandhamal district of Odisha in July 2016.¹⁴ There were other such instances in various parts of Odisha, such as Pongalapadar, 2015; Gumudumaha, 2016; Kalahandi, 2015.¹⁵
- e) Tribal culture receives protection from the Indian Constitution. Yet, there have been attempts to ‘Hinduise’ the tribal Sarana religion.¹⁶

Recommendations:

- **Direct the Indian government to ensure that the fundamental rights of tribals, including tribal Christians, are respected, protected and promoted; in particular, right to life and livelihood should be respected;**
- **Action needs be taken against state security forces and other public officials responsible for extra judicial killings, rape, and harassment of tribal Christians.**

D. STATUS OF DALIT CHRISTIANS

C1: Adverse Consequences of the Constitution (Scheduled Castes) Order 1950

¹² ‘Anti-Christian incidents, rapes, fake encounters in Chhattisgarh exposed’, 13 June 2016, available at <http://mattersindia.com/2016/06/anti-christian-incident-rapes-fake-encounters-in-chhattisgarh-exposed/>, accessed on 14 September 2016

¹³ ‘Burnt and Bullied in Police State in Bastar’, *The Telegraph*, 29 February 2016, available at http://www.telegraphindia.com/1160229/jsp/nation/story_71907.jsp#.V96jKIR97IV, accessed on 14 September 2016

¹⁴ ‘Odisha anti-Maoist operation: Elderly couple calling son, villagers looking for goats’, *Indian Express*, 12 July 2016, available at <http://indianexpress.com/article/india/india-news-india/odisha-anti-maoist-operation-encounter-tribals-killed-pongalapadar-kandhamal-2908124/>, accessed on 14 September 2016

¹⁵ibid

¹⁶ ‘Indal as Indra – Hinduising Tribal Gods’, 19 July 2016, available at <http://raiot.in/indal-as-indra-hinduising-tribal-gods/>, accessed on 14 September 2016

14. Article 341(1) of the Indian Constitution empowers the President of India to specify, through a public notification, the castes, races or tribes or parts of or groups within castes, races or tribes which be deemed to be Scheduled Castes in relation to that State or Union Territory, as the case may be. In pursuance of this provision, the Constitution (Scheduled Castes) Order, 1950, also referred to as the Presidential Order, 1950, was enacted. The important provisions of this Order are as follows:

- *Subject to the provisions of this Order, the castes, races or tribes or parts of, or groups within, castes or tribes specified in Parts XXII, XXIII, XXIV of the Schedule to this Order shall, in relation to the States to which those Parts respectively relate, be deemed to be Scheduled Castes.* (para 2)
- *Notwithstanding anything contained in paragraph 2, no person who professes a religion different from the Hindu the Sikh or the Buddhist religion shall be deemed to be a member of a Scheduled Caste.*(para 3) (emphasis added)

15. Due to this Order, the status of 'Scheduled Caste' is applicable only to persons of Hindu, Sikh and Buddhist religions. The consequence of such an Order is that only a Dalit who professed Hindu / Sikh / Buddhist religion could be treated as a Scheduled Caste (and be entitled to benefits for caste-based socio-economic deprivation). 'Dalit' which encompasses those who are considered 'untouchables' and professing Hindu, Buddhist, Christian and Muslim faiths, is not a term that is recognized in law, although it is a broader, more inclusive and is a term of self-identification. Instead, the more restricted and exclusionary term 'Scheduled Castes' is legally recognized.

16. Even though Christianity and Islam do not recognize the caste system, the ground reality in India is different. Persons of Scheduled Castes origin continue to be treated as untouchables even after they convert from Hinduism to Christianity or Islam. As a result of the 1950 Order, Muslim and Christian Dalits are excluded from the purview of 'Scheduled Castes', denied reservations in jobs and elected bodies which are available to their Hindu, Buddhist and Sikh counterparts, and are also excluded from protection from and redress for caste-based atrocities through the law – Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1986. Further, Hindu Dalits are deterred from converting to Christianity or Islam due to fear of losing such benefits from the government, which is violative of their freedom of religion or belief.

17. The Presidential Order (Scheduled Casts) 1950 (3) violates Fundamental Rights of dalit Christians and Muslims origin extended to Dalits as equal citizens owing to their religious beliefs; as enshrined in Articles of 14, 15, 16, 25, 26, 27 & 28. It has deprived and denied basic entitlements of equity and dignity of living.

18. In 2007, the government-appointed National Commission for Religious & Linguistic Minorities, later popularly known as [Justice Ranganath Mishra Commission](#), strongly recommended as follows:

"Para 3 of the Constitution (Scheduled Caste) Order 1950 - which originally restricted the Scheduled Caste net to Hindus and later opened it to Sikhs and Buddhists, thus still excluding from its purview the Muslims, Christians, Jains and Parsis, etc - should be wholly deleted by appropriate action so as to completely delink the Scheduled Caste status from religion and make the Scheduled Castes net fully religion-neutral like that of the Scheduled Tribes."(para 16.3.4)¹⁷

19. The National Commission for Scheduled Castes has also supported inclusion of Dalit Muslims and Christians.¹⁸¹⁹

20. The Constitutional validity of the 1950 Order was determined in *Soosai vs. Union of India*²⁰ where the Supreme Court accepted that the caste identity continued even after conversion out of Hinduism. In *Indira Sawhney vs. Union of India*,²¹ the Supreme Court concluded that the concept of castes is not restricted to only the Hindu religion, but extends to the entire community irrespective of religion. Three writ petitions in the Supreme Court and seven writ petitions in various High Courts of the country, which have challenged the Constitutional validity of the 1950 Order vis-à-vis Muslims and Christians, remain pending till date.

21. The 1956 and 1990 amendments to the Constitution (Scheduled Castes) Order 1950 have been justified on the ground that the Sikh and Buddhist religions were primarily home-grown sects within the Hindu religion rather than being independent religions in the nature of Christianity or Islam. This justification is deplorable. It has been further stated by the present government that *"Allowing SC status (to converts to Christianity & Islam) would provide a fillip to religious conversions."*²²

¹⁷Report of the National Commission for Religious and Linguistic Minorities, Ministry of Minority Affairs, Government of India, 2007, available at <http://minorityaffairs.gov.in/sites/default/files/volume-1.pdf>, accessed on 15 September 2016

¹⁸'Dalits in the Muslim and Christian communities, A status Report on current social scientific knowledge', prepared for the National Commission for Minorities, Government of India by Satish Deshpande with assistance of Geetika Bapna, on 17th January 2008; report available at <http://ncm.nic.in/pdf/report%20dalit%20%20reservation.pdf>, accessed on 15 September 2016

¹⁹ Ibid at Chapter 5, page 83

²⁰ 1985 (Supp SCC 590)

²¹ (Supp (3) SCC 217)

²²Statement of the Union Minister for Social Justice, Thavar Chand Gehlot, reported in 'Government Opposed to Dalit Status for Converts', The Times of India, 10 October 2014, available at <http://timesofindia.indiatimes.com/india/Govt-opposed-to-Dalit-status-for-converts/articleshow/44765858.cms>, accessed on 15 September 2016

22. In 2008, the UN Special Rapporteur on Freedom of Religion or Belief, pursuant to a visit to India, observed as follows:

*The Special Rapporteur would like to recall the recommendation by the Committee on the Elimination of Racial Discrimination (A/62/18, para.179) to restore the eligibility for affirmative action benefits to all members of Scheduled Castes and Scheduled Tribes having converted to another religion. The Special Rapporteur recommends that the Scheduled Caste status be delinked from the individual's religious affiliation.*²³ (para 71)

Recommendation:

- **Direct the Indian government to seriously consider amending paragraph 3 of the Constitution (Scheduled Castes) Order 1950 to include Christians and Muslims.**
- **Direct the Indian Government to amend the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the Rules, 1995 and bring Christians and Muslims of Scheduled Castes origins in the definition of Scheduled Castes list as to provide protection for the atrocities based on their ethnicity under this Act.**

C2: Ban on Consumption of Beef and its Consequences

23. Beef is regularly consumed in India by Christians, Muslims, Dalits of all religions, tribals and other communities in India. It is a cheaper, protein-rich food. In the state of Kerala, at least 60% of the population (including Muslims, Christians, and Hindus) relishes beef. In West Bengal, over a hundred tonnes of beef is consumed daily, while Goa consumes about forty tonnes of beef daily. Yet the present government has sought to prohibit slaughter of cows, possession and consumption of beef through state legislations. Additionally, a ban has been brought on slaughter of cattle including those that cease to be of use as milch and draught cattle, thereby affecting the livelihood of cattle owners, to whom such cattle become a liability rather than an asset.

24. Various cow protection (*gau rakshaks*) / Hindu vigilante groups “implement” this law by publicly humiliating, brutally attacking (and sometimes killing) those suspected of possessing / consuming beef or slaughtering cows / calves. A 50 year old Mohammad Akhlaq was lynched in Dadri town and his son Danish (22) was brutally assaulted as a

²³A/HRC/10/8/Add.3

punishment for allegedly eating beef on Eid²⁴On 11 July 2016, seven members of a Dalit family in Gujarat's Una town, involved in leather trading, were attacked and brutally assaulted, as a 'punishment' for skinning the carcass of a cow brought from a neighbouring village by the self-proclaimed *gau rakshaks*.²⁵ Retaliating against the oppression, protests by Dalits, including Christian Dalits, broke out throughout Gujarat. In May 2016, the Bombay High Court upheld the Constitutional validity of a provision in a state legislation that prohibited slaughter of cows, but allowed people to consume beef imported from other states, observing that a ban on consumption of imported beef would be an infringement of right to privacy of individuals, which is a fundamental right.²⁶

25. Although most such attacks have largely targeted the Muslim community, the Christian community, including Dalit Christians, also face a persistent threat of being brutally attacked and / or killed, for storage / consumption of beef or on suspicion of doing so.

Recommendations:

- **Direct the Union and state governments withdraw the prohibition on storage and consumption of beef in state legislations**
- **Direct the Indian government to arrest members of cow protection groups and others who attack persons on the suspicion of consumption / storage of beef, as per law of the land.**

E. STATUS OF CHRISTIAN WOMEN

26. In recent years, while the Christian community in India, as a whole, has come under attack from Hindu fundamentalist groups, Christian women are specially targeted and are vulnerable to violent attacks on them due to their intersectional identities as Christians and as women. There is an increasing number of rapes and sexual assaults on Catholic nuns and Christian women:

- a) In August 2008, in the Kandhamal district of state of Odisha, a Catholic nun was gang raped and paraded semi-naked in the presence of a mob during anti-Christian violence in the district. A priest who was with her and tried to protect

²⁴For more details, see 'Dadri Lynching: How Events Unfolded', The Hindu, 12 November 2015, available at <http://www.thehindu.com/specials/in-depth/the-dadri-lynching-how-events-unfolded/article7719414.ece>, accessed on 15 September 2016

²⁵'Gujarat: 7 of Dalit Family Beaten up for Skinning Dead Cow', *The Indian Express*, 20 July 2016

²⁶*Sheikh Zahid Mukhtar vs. State of Maharashtra*, judgment delivered by Bombay High Court on 6 May 2016 in Writ Petition No. 5731 of 2015, available at <https://indiankanoon.org/doc/153513175/>, accessed on 15 September 2016

her was severely assaulted. The trial with regard to this case is yet to be completed even after eight years. On 14 March 2014, three persons were convicted and six were acquitted by the Sessions court at Cuttack.²⁷ However, on a closer analysis, it is pertinent to note that only one person – Santosh Patnaik alias Mithu - has been convicted of rape. Prosecution is also pending against 24 more accused persons involved in the attack. Since the cases against all accused persons have not been clubbed, and different persons have been arrested and chargesheeted at different points in time, the nun is repeatedly required to testify in court in the prosecution of each accused. While this applies to all witnesses, it is particularly traumatic for the said nun.

- b) In the anti-Christian violence of 2008, a young Hindu woman was also gang raped to “teach a lesson” to her uncle who was a Christian and had refused to convert to Hinduism. In 2016, the trial court acquitted all accused persons in the case.
- c) A 2014 report, documents a total of 41 incidents of a range of sexual assault on Christian women and girls during the Kandhamal anti-Christian attacks of 2008, which too, is only indicative and not an exhaustive list.²⁸ 12 out of 17 narratives of dissimilarly placed women, based on individual in depth interviews, refer to sexual assault, threat / fear of the same.²⁹
- d) In March 2015, a 71 year old nun who worked with the Convent of Jesus and Mary in Ranaghat town, close to Kolkata, state of West Bengal, was gang raped by dacoits, who also desecrated the chapel.³⁰ Surendra Jain, the general secretary of the Hindu right-wing Vishva Hindu Parishad (VHP), also known as World Hindu Council, which the present government allies with, reportedly said: “It is a Christian culture to exploit nuns. We don't do such things.”³¹
- e) In June 2015, a 48 year old nun in Kerala was gang raped at a nursing home where she was working, in Raipur, Chhattisgarh. She was found semi-clad,

²⁷*State vs Santosh Kumar Patnaik alias Mithu and 8 Others*, S.T. Case No. 243/2010; judgment delivered by Shri Gyanaranjan Purohit, Sessions Judge, Cuttack. Santosh Patnaik alias Mithu, Gajendra Digal and Saroj Badhai were held guilty for the offences under S. 148, 354/149, 355/149, 294/149, 506(II)/149 IPC, and awarded two years rigorous imprisonment on each count; Santosh Patnaik was also convicted under S. 376(2)(g) IPC and awarded rigorous imprisonment of eleven years. Juria Pradhan, Kartika Pradhan, Biren Kumar Sahu, Tapas Kumar Patnaik, Muna Badhei and Jaharlal Behera who were prosecuted were given benefit of doubt and acquitted.

²⁸ Saumya Uma (2014), *Breaking the Shackled Silence: Unheard Voices of Women from Kandhamal*, Bhubaneswar: National Alliance of Women – Odisha Chapter, pp. 95-100

²⁹ *Ibid* at pp. 12-28

³⁰ ‘Rape of Elderly Nun Sparks Outrage in West Bengal’, *The Hindu*, 14 March 2015, available at <http://www.thehindu.com/news/cities/kolkata/nun-gangraped-in-west-bengals-nadia-district/article6993607.ece>, accessed on 15 September 2016

³¹ ‘VHP Defends Attack on Haryana Church, Says Rape of Nuns is “Christian Culture”’, *Daily News & Analysis*, 17 March 2015, available at <http://www.dnaindia.com/india/report-vhp-defends-attack-on-haryana-church-says-rape-of-nuns-is-christian-culture-2069494>, accessed on 15 September 2016

unconscious, with her hands tied, and bleeding. Two masked men entered her room, purportedly to in search of cash and valuables, and sexually assaulted her. Rs. 25000 cash was found in her cupboard, indicating that the attackers had clearly intended to sexually assault her.³² No arrests took place even after two months of the incident.

27. Catholic nuns are attacked deliberately to teach a lesson to, shame and intimidate the Christian community in India, and to force it to a subservient status in Indian society

28. The UN Special Rapporteur for Violence Against Women, after her country visit to India in 2014, also recommended to the Indian government as follows:

*Numerous testimonies shared on recurrent episodes of communal violence against religious minorities, including Muslims and Christians, reflect a deep sense of insecurity and trauma of women living in those communities. Experiences included women being stripped, burned, attacked with objects inserted into their vaginas and sexually assaulted in myriad ways because of their religious identity.*³³ (para 16)

Recommendations:

- **Direct the Indian government to provide to ensure safety and security of all Catholic nuns and all other members of the Christian community in India;**
- **In the eventuality of a sexual assault, the Indian government should ensure arrest of suspects, a thorough investigation by the police, efficient prosecution and a speedy trial;**
- **The Indian government should be directed to prosecute police officials complicit in such attacks and by shielding attackers.**

F. 'GHAR WAPSI' AND THE ENACTMENT AND IMPLEMENTATION OF ANTI-CONVERSION LAWS

Anti-Conversion Laws

29. Conversions to Christianity have taken place all over the country, for many centuries that Christianity has existed in India. Conversions are not restricted to the Christian

³²'Nun Sexually Assaulted at Medical Centre in Raipur', The Times of India, 21 June 2015, available at <http://timesofindia.indiatimes.com/city/raipur/Nun-sexually-assaulted-at-medical-centre-in-Raipur/articleshow/47753184.cms>, accessed on 15 September 2016

³³ A/HRC/26/38/Add.1

religion alone. However, Hindu right wing forces have been spreading false propaganda that Christian missionaries are forcibly and fraudulently converting tribals and Dalits into Christianity, and that Hindus would soon become a minority in India. VHP leader Pramod Mishra alleged that Christian missionaries were “silently working on their agenda, converting tribals.”³⁴ This is used to justify enacting anti-conversion laws, euphemistically titled as ‘Freedom of Religion’ Acts, have been enacted by various states.

30. This trend began with the Orissa Freedom of Religion Act, 1967 and the Madhya Pradesh Dharma Swatantraya Adhiniyam, 1968. At present, at least seven states in India have formulated and implemented anti-conversion laws. [Annexure 1]. These legislations go beyond preventing forced conversions, and have a very clear pro-Hindu and anti-Christian bias that is built into the provisions of law. Some problematic aspects:

31. The provisions of law are attracted if the conversion involves ‘allurement’ and ‘inducement’, which are ambiguous and over-broad terms. “Allurement” as per the Madhya Pradesh, Chhattisgarh, Gujarat, Rajasthan and the now repealed Tamil Nadu Act “means offer of any temptation in the form of; 1. Any gift or gratification, either in cash or in kind; 2. Grant of any material benefit, either monetary or otherwise.” Inducement” as used in the Himachal Pradesh, Orissa and Arunachal Acts “includes the offer of any gift or gratification, either in cash or in kind and shall also include the grant of any benefit, either pecuniary or otherwise.” The possibility of better health facilities, free or subsidized education in an English medium school for the children could also fall within the ambit of these terms.

- Under most state legislations, ‘force’ includes ‘show of force or threat of injury or threat of divine displeasure or social excommunication.’
- The laws regulate all conversions by instituting a system of administrative controls – including the filing of notice of conversion, both by the individual and the priest concerned, to an authority (First Class Magistrate / District Magistrate), who will pass on the information to the police, who is duty-bound to investigate if the conversion is voluntary in nature, and report back to the magistrate in a time-bound manner. This cumbersome administrative procedure a) deters an individual from conversion; and b) provides avenues for the police and other officials to persuade / threaten / intimidate / harass / extort money from the individual who intends to convert.

32. There are hardly any cases of forcible conversions from Hinduism that are registered under these stringent laws. However, on the garb of protecting innocent women, Dalits and tribals from forcible / fraudulent conversions, in effect, these laws deter and prevent

³⁴‘VHP Seeks Anti-Conversion Law in Jharkhand’, *The Times of India*, 13 October 2015, available at <http://timesofindia.indiatimes.com/india/VHP-seeks-anti-conversion-law-in-Jharkhand/articleshow/49335018.cms>, accessed on 16 September 2016

conversions out of Hinduism. When persons are forcible conversions to Hinduism, such as during the violence in Kandhamal, Odisha in 2008, these anti-conversion laws are not applied.³⁵

Ghar Wapsi

33. Change of religion/faith has been a part of Indian reality. Mass change of faith by Hindus to Buddhism and Islam has taken place in recent Indian history.³⁶ The *Shuddhi* or 'purification' movement, started by Swami Dayanand Saraswati, aimed to 'reconvert' those who had left the Hindu fold. The Arya Samaj continued this trend, and now the Vishwa Hindu Parishad (VHP) has sharpened it into a *Ghar Wapsi* (literally meaning homecoming) political campaign especially among tribals

34. 'Ghar wapsi' implies that Islam and Christianity are foreign religions to India, and that Hinduism is the 'home faith' to which all Christians and Muslims ought to return to. The ghar wapsi campaign is violent, both in theory and in practice. For example, several local families who adopted Christianity some years ago were reportedly forced to reconvert under the 'Ghar wapsi' campaign of the RSS, under a threat that they would lose their 'Below Poverty Line' (BPL) cards which entitles them to government benefits, if they failed to do so.³⁷³⁸Additionally, where such forcible conversions are targeted against Scheduled Castes and Scheduled Tribes, the police fail to apply the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

35. The present government has largely maintained a stoic silence and culpable inaction with regard to such forcible conversions. On a rare occasion, Prime Minister Narendra Modi reportedly stated: "My government will ensure that there is complete freedom of faith and that everyone has the undeniable right to retain or adopt the religion of his or her choice without coercion or undue influence."³⁹ However, little has been done on the ground.

Proposal for a National Anti-Conversion Law that Excludes 'Ghar Wapsi'

³⁵Report of the Visit of the Vice Chairperson NCM to Orissa, 11th to 13th September 2008, available at ncm.nic.in/doc/Tour%20Report%20VC%20Orissa%20Sep.%202008.doc, accessed on 1 March 2010, at para 13.

³⁶ For example, a mass conversion of 'shudras' to Buddhism took place under the leadership of Dr. Ambedkar in 1956. In the 1980s, there were mass conversions of Dalits to Islam in Meenakshipuram and other places.

³⁷'Reconvert or Lose BPL Cards, RSS Activists Tell Christians', *The Tribune*, 21 March 2015, available at <http://www.tribuneindia.com/news/punjab/community/reconvert-or-lose-bpl-cards-rss-activists-tell-christians/56348.html>, accessed on 16 September 2016

³⁸'300 allegedly converted to Hinduism in a Village in PM Modi's Constituency', *The Times of India*, 12 October 2015, available at <http://timesofindia.indiatimes.com/india/300-allegedly-converted-to-Hinduism-in-a-village-in-PM-Modis-constituency/articleshow/49316536.cms>, accessed on 16 September 2016

³⁹'PM Narendra Modi Breaks Silence On Attacks On Christians, Ghar Wapsi, Threatens Crackdown Against Extremists', *The Financial Express*, 17 February 2015, available at <http://www.financialexpress.com/india-news/in-wake-of-attacks-on-christians-ghar-wapsi-pm-narendra-modi-breaks-silence-threatens-crackdown/43933/>, accessed on 16 September 2016

36. A national anti-conversion law is on the political agenda of the present government. The VHP has repeatedly highlighted the need for an anti-conversion law to prevent conversions from Hinduism, while, at the same time, keeping 'ghar wapsi' out of the purview of such a law.⁴⁰ In other words, a national anti-conversion law is proposed, specifically to prevent Hindus from converting to Christianity and other religions.

37. The UN Special Rapporteur on Freedom of Religion or Belief has pointed out in her report that international human rights law clearly prohibits coercion that would impair the right to have or adopt a religion or belief, including the use or threat of physical force or penal sanctions to compel believers or non-believers to adhere to their religious beliefs and congregations, to recant their religion or belief or to convert. Similarly, a general prohibition of conversion by a State is in conflict with applicable international standards.⁴¹

Recommendations:

- **The right of an individual to change one's faith should be protected as a fundamental right and the state should take steps where necessary to effectively protect and promote the safety, dignity and privacy of persons who change their faith voluntarily.**
- **The Indian government should be directed to advise the state governments to repeal anti-conversion laws, and should, itself, abandon efforts towards a national anti-conversion law ;**
- **The state agencies should promptly register, investigate and prosecute persons who initiate and conduct forcible conversions against religious and ethnic minorities.**
- **Where forcible conversions are targeted against Scheduled Castes and Scheduled Tribes, the police should be directed to apply the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.**

G. HATE SPEECH, VIOLENCE AGAINST CHRISTIANS AND IMPUNITY

38. In the past few years, India has witnessed increasing incidents of hate speech and incitement of violence against Christians, attacks on Christians, their property, religious and charitable institutions, desecration and destruction of churches, chapels and other places of worship.

⁴⁰'Want Anti-Conversion Law, But Keep Ghar Wapasi Out of It: Vishwa Hindu Parishad', *Daily News and Analysis*, 3 January 2015, available at <http://www.dnaindia.com/mumbai/report-want-anti-conversion-law-but-keep-ghar-wapsi-out-of-it-vishwa-hindu-parishad-2049099>, accessed on 16 September 2016

⁴¹ Report of the Special Rapporteur on Freedom of Religion or Belief, A/HRC/10/8/Add.3 dated 26 January 2009. Available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/104/62/PDF/G0910462.pdf?OpenElement>, accessed 14 March 2010 at para 52.

39. In 2014, faith-based rights agencies recorded over 147 incidents where Christians were targeted, with many more going unrecorded.⁴² The states of Karnataka, Madhya Pradesh and Chhattisgarh have recorded the most number of attacks in the past two years. The Evangelical Fellowship of India has recorded as many as 177 such cases in 2015. This includes physical violence, stopping of worship in churches, attacks on churches, arrests of pastors and their companions, and rapes of nuns.⁴³ There were over 100 incidents across the country in the period of January- July, 2016. Another very common phenomenon is the social boycott being experienced by Christians in several parts of the country; local panchayats are also known to have imposed fines on Christians for practising their faith.

40. A few incidents reported in mainstream newspapers are highlighted below:

- In June 2016, a Catholic priest was brutally attacked with a machete in the state of Assam's Udalguri district;⁴⁴
- In April 2016, armed men attacked a church in Parpa, in the state of Chhattisgarh, set the Bible on fire and severely assaulted the pastor;⁴⁵
- In March 2016, in the outskirts of Raipur, Chhattisgarh, a mob of more than 15 men, reportedly vandalized a prayer hall that served as a church, while a prayer meeting was in progress;⁴⁶
- In March 2016, a church was vandalized in Coimbatore, in the state of Tamil Nadu;⁴⁷
- In April 2015, a church in Agra, state of Uttar Pradesh, was vandalized and the idol of Mother Mary damaged;⁴⁸
- In December 2014, a junior minister, Niranjan Jyoti, asked whether the country should be governed by the children of Ram (a Hindu god) or the children of

⁴²Hate and Targeted Violence against Christians in India - Report 2014, available at <http://us8.campaign-archive1.com/?u=d85671af78bbf54876608a2de&id=e95d57b851>, accessed on 19 September 2016

⁴³ 'Hate and Targeted Violence Against Christians in India', Report 2015, available at <http://www.efionline.org/the-news/persecution/645-efi-annual-persecution-report-2015>, accessed on 16 September 2016.

⁴⁴ 'Catholic Priest Injured in Machete Attack in Assam', *Hindustan Times*, 21 June 2016, available at <http://www.hindustantimes.com/india-news/catholic-priest-injured-in-machete-attack-in-assam/story-6KMKz6jYelpV5Wu9eomM8N.html>, accessed on 17 September 2016

⁴⁵ 'Armed Men Attack Chhattisgarh Church, Set A fire Bible, Thrash Pastor', *The Indian Express*, 19 April 2016, available at <http://indianexpress.com/article/india/india-news-india/chhattisgarh-church-attack-armed-men-set-afire-bible-2760376/>, accessed on 17 September 2016

⁴⁶ 'Mob Vandalises Church in Chhattisgarh', *The Indian Express*, 8 March 2016, available at <http://indianexpress.com/article/india/india-news-india/bajrang-dal-men-allegedly-vandalised-church-in-chhattisgarh-five-injured/>, accessed on 17 September 2016

⁴⁷ 'Hindu Outfit Members Held for Vandalising Church in Coimbatore', *Indian Express*, 14 March 2016, available at http://www.newindianexpress.com/states/tamil_nadu/5-Hindu-Outfit-Members-Held-for-Vandalising-Church-in-Coimbatore/2016/03/14/article3326118.ece, accessed on 17 September 2016

⁴⁸ 'Agra Church Vandalised, Mother Mary Idol Damaged', *Hindustan Times*, 17 April 2015, available at <http://www.hindustantimes.com/india/agra-church-vandalised-mother-mary-idol-damaged/story-MhXgo9FrWuMogcoa0RGyCO.html>, accessed on 17 September 2016

bastards. This is one of the many hate speeches made against Christian and Muslim minorities in India;⁴⁹

- In July 2014, in Bastar, state of Chhattisgarh, 50 villages, through an order from their village councils, banned entry to non-Hindu missionaries, especially Christians, due to an aggressive campaign by VHP.⁵⁰

41. In a recent judgement with reference to the communal violence in Kandhamal, the Supreme Court observed as follows:

“The affidavit filed on behalf of the State on 01.03.2013 discloses that out of 827 registered cases, 512 cases resulted in filing of charge-sheets while in 315 cases final reports were submitted. In other words, ***in 315 cases either no offence was found to have been made out or the offenders could not be detected. Such large proportion is quite disturbing. The State could do well in looking into all these 315 cases and see that the offenders are brought to book. Similarly, out of 362 trials which stand completed only 78 have resulted in conviction, which again is a matter of concern.*** The concerned authorities must see to it that the matters are taken up wherever acquittals were not justified on facts.” (emphasis added)⁵¹

42. In 2008, the UN Special Rapporteur on Freedom of Religion or Belief, pursuant to a visit to India, observed as follows:

Organised groups claiming roots in religious ideologies have unleashed an all-pervasive fear of mob violence in many parts of the country. Law enforcement machinery is often reluctant to take any action against individuals or groups that perpetrate violence in the name of religion or belief. This institutionalized impunity for those who exploit religion and impose their religious intolerance on others has made peaceful citizens, particularly the minorities, vulnerable and fearful.^{52 53}

Recommendations:

- **The Indian government should be directed to ensure that the life, personal security and places of religious worship of the Christian community are protected from attacks, and attackers prosecuted under criminal law;**

⁴⁹‘Ramzada vs. Haramzada: Outrage Over Union Minister Sadhvi’s Remark’, The Indian Express, 2 December 2014, available at <http://indianexpress.com/article/india/india-others/union-minister-spells-out-choice-in-delhi-ramzada-vs-haramzada/>, accessed on 17 September 2016

⁵⁰In Bastar, 50 Villages Ban Non-Hindu Missionaries’, *The Hindu*, 5 July 2014, available at <http://www.thehindu.com/news/national/in-bastar-50-villages-ban-nonhindu-missionaries/article6180825.ece>, accessed on 17 September 2016

⁵¹in WP(Civil) 76/2009

⁵²A/HRC/10/8/Add.3

⁵³ibid

- **The Indian government could be directed to ensure stringent action under criminal law against all those who deliver hate speech with the intention of inciting violence and hatred against the Christian community.**
- **Direct the Indian government to consider enacting a law on communal violence, that provides reparations and prosecutes perpetrators, in consultation with civil society.**

S. No.	State	Name of Act	Application
1.	Orissa	Orissa Freedom of Religion Act 1967	Still in force
2.	Madhya Pradesh	Madhya Pradesh Dharma Swatantraya Adhinyam 1968	Still in force
3.	Gujarat	Gujarat Freedom of Religion Act of 2003	Still in force
4.	Chhattisgarh	Dharma Swatantraya Adhinyam Act, 2006	Still in force
5.	Himachal Pradesh	Himachal Pradesh Freedom of Religion Act, 2006	Still in force
6.	Tamil Nadu	Tamil Nadu Prohibition of Forcible Conversion of Religious Ordinance	Passed in 2002; Repealed in 2004
7.	Rajasthan	Rajasthan Freedom of Religion Bill, 2006	Passed by the Legislature; Wasn't signed by the Governor
8.	Arunachal Pradesh	Arunachal Pradesh Freedom of Religion Act, 1978	Rules haven't been formulated