

INDIA

While there has been no large-scale communal violence in India since 2008, progress in achieving justice for past victims continued to be slow and ineffective. India created various structures to address these issues, but the slow pace of judicial response and anti-conversion laws encourage impunity. Also, intimidation, harassment, and occasional small-scale violence against members of religious minority groups continued. Based on these concerns, USCIRF again places India on its Watch List for 2012.¹

Background

The world's largest democracy with about 1.22 billion people, India has a deeply religious, pluralistic society. A country with a Hindu majority, India is estimated to have the world's third largest Muslim population and over 25 million Christians. The current Prime Minister is Sikh, the past president Muslim, and the head of the national governing alliance Catholic. Buddhist, Christian, Hindu, Muslim, Sikh, and Parsi holidays are public holidays. India has an independent judiciary and media, and a dynamic civil society. Recently, India has taken steps to improve religious freedom, including increasing support for governmental bodies that fund minority groups and programs.

Despite these positive factors, periodic outbreaks of large-scale communal violence against religious minorities have taken place in India. India created structures to address these issues, including Fast-Track Courts, Special Investigative Teams, and independent investigative commissions. However, records of these structures are mixed, due to limited capacity to investigate and prosecute cases, an antiquated judiciary, inconsistent use, political corruption, and religious bias, particularly at the state and local levels. It is difficult to assess whether decisions, when rendered, were fair due to a lack of publicly available data. These problems, which also plague the Indian legal system generally, hamper redress for victims of religiously-motivated crimes and create a climate of intimidation, harassment, and periodic violence against religious minorities. These incidents are more common in states with so-called "Freedom of Religion Act(s)."

Religious Freedom Conditions

Redress for Orissa Victims: In December 2007, violence erupted between Christians and Hindus in Orissa. In August 2008, the murder of an influential Hindu political leader sparked a violent campaign targeting Christians, although Maoist extremists claimed responsibility. The State Department reported 40 deaths, 134 injuries, the destruction of churches and homes, and over 10,000 fleeing the state. Neither police nor state government immediately responded. Furthermore, state officials including local police denied access to religious leaders and aid agencies.

State police reportedly documented about 3,500 complaints and registered 827 cases with the local and state court system. Of these, about 300 cases were heard, with 68 individuals found guilty and incarcerated, and 412 individuals receiving minor punishments. Around 200 cases were dismissed for lack of evidence, and reportedly over 300 cases are pending. In 2010, Manoj Pradhan, a Hindu-nationalist BJP party leader, was charged with the murder of 11 individuals, but convicted for the culpable homicide of only one person and ordered to pay a small fine. Despite this and pending charges for related crimes, Pradhan was released on bail and remains an Orissa state legislator.

Redress for Gujarat Victims: In 2002, the state of Gujarat erupted in communal violence, when, in response to a train fire allegedly set by Muslims, Hindu mobs killed 1,200-2,500 Muslims, forced 100,000 people to flee, and destroyed homes. Christians also were killed and injured, and many churches were destroyed. Hundreds of court cases involving Gujarat violence remain unresolved. Also, Gujarati police closed many cases, citing witness unavailability. In 2011, a fast-track court in Gujarat sentenced 31 people to life imprisonment for their involvement in the violence, and acquitted 42 others.

In February 2012, the Gujarat High Court chastised the Gujarat government and Chief Minister Narendra Modi for "inaction and negligence" during the violence. The court ordered the government to pay compensation for property destroyed during the violence. Moreover, India's National Human Rights Commission found evidence of premeditated killing by Hindu nationalist groups, complicity by state government officials, and police inaction.

¹ Commissioner Gaer's dissent from the placement of India on the Watch List can be found in the report.

Redress for Victims of Anti-Sikh Riots: In 1984, anti-Sikh riots erupted after the assassination of Prime Minister Indira Gandhi. Nearly 3,000 Sikhs were killed, allegedly with the support of Congress Party officials. In 2009, the Congress Party dropped two individuals from its candidate roster for their suspected roles in the riots, and India amended the Code of Criminal Procedure to make it easier for religious persecution victims to appeal judgments. Ten days later, the High Court accepted an appeal to bring two alleged perpetrators to justice: the case has not yet been heard.

“Freedom of Religion Act(s)”/Anti-Conversion Laws: Five Indian states have adopted “Freedom of Religion Act(s),” and several others are considering the same. These laws infringe on rights guaranteed by India’s constitution and international covenants. While intended to reduce forced conversions and communal violence, states with these laws have higher incidents of intimidation, harassment, and violence against religious minorities, particularly Christians. Reportedly, individuals who harass and intimidate minority groups often cite these laws. The laws require government officials to assess the sincerity of conversions and fine or imprison anyone using force, fraud, or “inducements” to convert others. In some states, individuals converting away from Hinduism, but not toward it, must give the government prior notice before converting to another religion. Proponents of the laws allege that financial, educational, and/or other service-based benefits take advantage of economically marginalized individuals. Opponents, however, note the laws’ ill-defined terminology regarding inducements or coercive acts leave certain individuals and communities open to abuse by biased officials, police, and societal actors. There are credible reports that some proselytizing groups do use tactics that can be perceived as coercive or offensive to Hindus and Hinduism, such as denigrating Hindu gods.

Recommendations for U.S. Policy

Since 2004, the U.S. and India have pursued a strategic relationship based on shared concerns about the growing threat of terrorism, energy, and security, as well as the values of democracy and rule of law. Due to religious freedom concerns, the U.S. government should:

- Integrate concern for religious freedom into bilateral contacts with India, and urge the Indian government to strengthen the ability of state and central police to provide effective measures to prohibit and punish cases of religious violence and protect victims and witnesses;
- Urge India to boost training on human rights and religious freedom standards and practices for police and judiciary, particularly in areas with a history or likelihood of communal violence;
- Urge India to encourage states to repeal “Freedom of Religion Act(s);”
- Encourage the establishment of an impartial body of interfaith religious leaders, human rights advocates, legal experts, and government officials to discuss and recommend actions to promote religious tolerance and understanding; and
- Urge all political parties and religious and social organizations to denounce publicly violence against and harassment of religious minorities, women, and low-caste members, and to convey to all members and affiliates that acts of violence or harassment will not be tolerated.

Please see USCIRF’s 2012 Annual Report for a more extensive review and recommendations on India.