

India is a critically important country in terms of religious freedom. It is the world's largest democracy, has an extensive and deeply religious plural society, and occupies a key geopolitical position. While there has been no large-scale communal violence against religious minorities since 2008, India's progress in protecting and promoting religious freedom during the past year continued to be mixed. Deficiencies in India's democratic institutions have resulted in a culture of impunity that gives members of vulnerable minority communities few assurances of their safety, particularly in areas with a history of communal violence. Furthermore, there are serious concerns regarding state "Freedom of Religion Act(s)," commonly referred to as anti-conversion laws. Due to these concerns, USCIRF again places India on its Watch List for 2011. India has been on USCIRF's Watch List since 2009.

BACKGROUND

India has a democratically elected government with a tradition of secular governance. A country with a Hindu majority, India is estimated to have the third largest Muslim population in the world and a Christian population of over 25 million. The current two-term Prime Minister is Sikh, the past president is Muslim, and the head of the national governing alliance is Catholic. Buddhist, Christian, Hindu, Muslim, Sikh, and Parsi holidays are recognized as public holidays. India has an independent judiciary, independent media, and a dynamic civil society. Reported police and judicial bias, corruption, low ratios of police and judges to the population, and an overburdened judicial system create an environment of impunity.

Following sectarian incidents in December 2007 and continuing into 2008, USCIRF placed India on its Watch List in 2009. The recurring failure to provide swift and adequate justice to religious minorities perpetuates a climate of impunity and little hope of perpetrator accountability. Hindu nationalist organizations retain broad popular support. The activities of

these groups, especially those with an extremist agenda or history of using violence against minorities, often negatively impact the status of religious freedom. The government has taken positive actions since 2010, including increasing support for government bodies that provide financial backing for minority welfare programs, assistance to victims of violence, including past incidents of communal violence, and the taking of pre-emptive steps to lessen the potential for violence after the court decision on the contested Ayodhya mosque in September 2010.

RELIGIOUS FREEDOM CONDITIONS

Justice for the victims of large-scale communal violence that took place in Gujarat in 2002, in Orissa in 2007-2008, and against Sikh's in 1984 remains slow and often ineffective. There are concerns regarding state "Freedom of Religion Acts," also known as anti-conversion laws.

Gujarat Violence: In February 2002 the state of Gujarat erupted in violence between Muslims, Hindus and Christians. In response to a train fire reportedly set by Muslims, Hindu mobs killed 1,200-2,500 Muslims, forced 100,000 people to flee, and destroyed homes. Christians were also killed and injured, and many churches were destroyed. India's National Human Rights Commission (NHRC) found evidence of premeditated killing by members of Hindu nationalist groups, complicity by state government officials, and police inaction. In the years since the 2002 violence, the Special Investigative Team's (SIT) inquiries and the fast track courts have had mixed success.

Orissa Violence: In 2007 and 2008, similar violence took place in the state of Orissa. In December 2007, in Kandhamal, Orissa, violence between Christians and Hindus resulted in several deaths, dozens of injuries, churches and homes destroyed, and many displaced. The death of an influential political leader, Swami Saraswati, in August 2008 sparked a violent campaign targeting Christians, even though Maoist extremists claimed responsibility. The State Department reported 40 murdered and 134 injured, the destruction of churches and homes, and over tens of thousands fleeing the state. There was no immediate police or state government reaction. Religious leaders and aid agencies were denied access. Subsequently, India implemented structures to investigate and prosecute those who committed these crimes. The effectiveness of these structures is unclear due to a lack of transparency. The government appropriated funds to rebuild some of the homes and churches, as well as to help those whose family members were killed. In late 2008, Orissa commissioned a retired Orissa High Court judge to investigate. Hindu nationalists focused on land disputes as the main cause of the violence, minimizing religious factors. NGOs and religious groups found that institutional bias led to the violence.

The 1984 Anti-Sikh Riots: In 1984 anti-Sikh riots erupted following the assassination of Prime Minister Indira Gandhi. Nearly 3,000 Sikhs were killed, allegedly with the support of Congress Party officials. India convicted only 20 perpetrators. In April 2009, the Congress Party dropped two individuals from its candidate roster for their suspected roles in the riots. In December 2009, the government amended the Code of Criminal Procedure, making it easier for victims of religious persecution to appeal judgments. Ten days later, the High Court accepted an appeal to bring the two alleged perpetrators to justice.

“Freedom of Religion” Acts/ Anti-Conversion Laws: Threats against religious minorities appear to be more pronounced in the five states that have adopted “Freedom of Religion” Acts or those considering these laws. These “anti-conversion” laws are written to protect against religious conversions deemed coercive. In some states, those intending to change their religion must give the government prior notice of any conversion from Hinduism, but not toward it. These laws require government officials to assess the legality of conversions and provide for fines and imprisonment for anyone who uses force, fraud, or “inducements” to convert others, but because these terms are ill-defined, the laws are applied arbitrarily. These laws have led to few arrests and reportedly no convictions.

Scheduled Tribes and Castes: Article 17 of the Indian Constitution outlaws untouchability, and the Indian government continues to implement various affirmative action schemes such as reserved quotas for jobs and university education. However, these quotas are for Scheduled Tribes and Castes that belong to Hindu, Sikh or Buddhist religious communities; currently, they do not apply to Muslims, Christians, or converts from Scheduled Castes either to Islam or Christianity. The government frequently applies the quota system in a discriminatory manner, with Christians and Muslims excluded from receiving benefits.

Ayodhya Mosque Verdict: Hindus and Muslims both claim the site of the Ahodhya mosque as a place of historic religious significance. In 1992, Hindu extremists destroyed the mosque, setting off violent riots which killed 2,000 people, mostly Muslims. Leading up to the High Court's decision in 2010, the government took proactive steps to lessen the potential violence. The verdict, which declared that the site would be shared between Hindus and Muslims, was issued without incident, largely because of the government's pre-emptive actions.

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 shared values of democracy and the rule of law. The first state visit hosted by President Obama was for Prime Minister Singh in November 2009, and President Obama visited India in November 2010. President Obama stated that India should speak out on human rights in international fora. U.S.

aid programs to India continue. In light of the noted concerns, the U.S. government should:

- Integrate concern for religious freedom and related human rights into all bilateral contacts with India;
- Urge India 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 provide training on human rights and religious freedom standards and practices to police and judiciary, particularly in areas with a history or likelihood of communal violence;
- Urge India to establish an impartial body of interfaith religious leaders, human rights and legal experts to study religious conversion activity and allegations of forced, induced, or otherwise illegal or improper conversions in states with laws regulating conversions, and make recommendations on whether and how such laws should be changed to comply with international standards on the freedom of thought, conscience, and religion or belief; and
- Urge India to call on all political parties and religious and social organizations to: denounce violence against and harassment of religious minorities, women, and low-caste members publicly; acknowledge that such violence constitutes a crime under Indian law, and communicate to all members and affiliates that acts of violence or harassment will not be tolerated and will be prosecuted to the full extent of the law.

Please see USCIRF's 2011 Annual Report for a more extensive review and recommendations on India.