

Testimony before the Committee on Foreign Affairs U.S. House of Representatives
Subcommittee on Africa, Global Health, Global Human Rights and International Organizations

Mr. Chairman, members of the committee, thank you for holding this important hearing and for inviting me to testify today.

VIOLENCE AGAINST CHRISTIANS

India, in spite of its long tradition for religious tolerance, finds itself in the throes of religious fundamentalism and violence against religious minorities for the past few decades. Reports by faith-based rights agencies show that Christians in India have suffered about 150 violent attacks on an average in the past few years¹. These attacks include physical and sexual assaults, murder and desecration of places of worship and graveyards.

Over the past five years, attacks have been reported across the country, though primarily concentrated in the states where the Hindu nationalist Bharatiya Janata Party (BJP) has been in power and where groups associated with his party have been active. Violence is fuelled primarily by non-state actors who are guided by the Hindutva ideology, which sees India as a Hindu nation, where religious minorities are second class citizens.²

To give you a recent example of violence, on January 10 (2014), a Christian pastor, Orucanti Sanjeevi, was brutally beaten in his home in Vikarabad near Hyderabad in the southern state of Andhra Pradesh. According to media reports, Hindu extremists knocked on the door of the pastor's house at about 8:30 p.m., claiming they wanted to pray with him. When his wife, Pramila, opened the door, they hit her with an iron rod and then stormed into the house. They stabbed the pastor, beat him with clubs and hit him on the head with the iron rod. His wife managed to run out and call for help. The pastor sustained severe injuries in the liver, intestines and spleen. He was rushed to a hospital but finally succumbed to his injuries on Jan. 13. The police later arrested some members of the Hindu Vahini group on charges of killing the pastor.³

¹ Jaisinghani, Bella (2013, Jan. 29) Christian body brings out 'persecution' report for 2012, The Times of India. Retrieved from http://articles.timesofindia.indiatimes.com/2013-01-29/mumbai/36615346_1_christian-body-incidents-police-apathy

² Puniyani, Ram (2008, Sep 22) Are minorities safe in BJP-ruled states? The Economic Times Retrieved from http://articles.economictimes.indiatimes.com/2008-09-22/news/27734625_1_bjp-ruled-states-hindutva-anti-christian-violence

³ New Delhi Correspondent (2014, Jan. 30) Hindu Extremists Accused of Killing Pastor in Andhra Pradesh, India Morning Star News <http://morningstarnews.org/2014/01/hindu-extremists-accused-of-killing-pastor-in-andhra-pradesh-india/>

The accused were allegedly unhappy with the Christian growth in the area. Members from the same Hindu extremist group have previously been accused of targeting and murdering other Christians and members of other minority communities in the state.

India witnessed its worst ever series of violence against Christians in Kandhamal district of the eastern state of Orissa [now officially known as Odisha] in 2008. Between 75 and 123 people were killed in the violence – though the government has confirmed only 54 deaths in all. The majority of those killed were Christian *dalits* (Dalits, or formerly “untouchables”) or *advivasi* (tribals or aboriginals). Many more were injured, close to 5,000 houses belonging to Christians were destroyed partially or fully, and at least 264 churches and prayer halls were desecrated and demolished.⁴

Police Inaction

However, the violence in itself fails to reveal the full extent of Christian persecution. The impunity enjoyed by violent mobs is also a cause for concern. Many victims of violence complain about the lack of police action, including hostility towards Christians. Police resist filing criminal complaints and have on several instances allegedly threatened to falsely incriminate victims in some cases.⁵

For example, in the central state of Chhattisgarh, police allegedly threatened Pastor Arun Toppo on October 9, 2013 when he reported that Hindu extremists beat a Bible student unconscious. According to his attorneys, when Pastor Toppo went to the Manandra Garh police station seeking help, Inspector M.S. Khan and other police verbally abused him, threatened to register a case against him and ordered him to stop leading worship if Hindu villagers did not like it. The police on duty made Pastor Toppo sign a paper saying he would not file a police complaint against the attackers.⁶

The hostility of the state machinery towards the victims of communal and targeted violence was most evident in the aftermath of the violence in Orissa. The National People’s Tribunal on Kandhamal, a private inquiry titled “Waiting for Justice,”⁷ clearly outlined the apathy of the state administration towards the victims and their families. The report also highlighted the fear faced by victims and survivors as well as the refusal of police to register complaints. Extracts of some of the testimonies from Page No. 135 of the Report are reproduced below:

⁴Uma, Saumya (2010) Kandhamal: The Law Must Change Its Course. Retrieved from <http://www.ngo-marg.org/wp-content/uploads/2011/01/Kandhamal-Book-Final.pdf>

⁵ Howell, Richard. Yearly Persecution Report 2011, Delhi, Evangelical Fellowship of India

⁶ Howell, Richard, (October, 13) Delhi, EFINEWS

⁷ Uma, Saumya (2011) Waiting for Justice. Retrieved from <http://works.bepress.com/saumyauma/36>
<http://works.bepress.com/cgi/viewcontent.cgi?article=1040&context=saumyauma>

“I had sent the FIR [first information report or formal complaint] to OIC [officer in-charge] Sarangada Police station with copy to SDPO [sub-divisional police officer], Baliguda, S.P. and Collector, Kandhamal and DIG [Deputy Inspector General], Berhampur by registered post on 26 September 2008. But my FIR is not yet been registered by the Police station at Sarangada. The kingpins and the culprits are moving freely and no stringent action is taken against the accused persons as yet and still there is danger to my life.”(Paul Pradhan)

“I was attacked during the 2008 riot and my house was burnt. I lodged FIR in the local police station, Tikabali, which was not registered against the accused persons...I have repeatedly sought help from the local police station for my protection but no action was taken inspite of my petition dated 19 May 2010 against the criminals with specific names like Dahia Mallick, Sudhira Pradhan, Ajiban Mallick, Mantu Gauda and Biranchi Behera. My petition was not registered and no action was taken against the accused persons.”(Gajana Digal)

“I complained to police, giving names of leaders of those who attacked us. But no criminal cases have been filed against them and that many of them are freely moving about in the village and they continue to threaten us.”(Pratap Chandra Digal)

It took orders from the High Court in Orissa⁸ before first information reports were filed against members of the mobs.

Like in other states, the state government of Orissa has failed to effectively prosecute those accused of carrying out violent attacks against the Christian community. Though the Orissa government claims it took strict action against the accused, statistics available⁹ show that out of the 827 FIRs filed, charges against the accused were framed in only 512. And only 75 cases ended in convictions, in which only 477 persons were convicted but primarily for smaller or “petty” offences such as burning of houses and damaging property. Only nine people have been convicted for their role in killing of the Christians. Human right activists claim that as many as 84,000 people were accused by the victims in the over 2,500 complaints sent to the police.¹⁰

The acquittals have been due to shoddy investigation and lack of judicial oversight.¹¹

⁸ Hon’ble High Court of Orissa vide its Order dated 01.10.2008 passed in WP (C) 12575/2008 in the matter of *Utkal Christian Council vs. State of Orissa & Others*

⁹ Counter affidavit filed by the Government of Orissa before the Supreme Court of India in Criminal Writ Petition No. 126 of 2012 in the matter of *Initiative of Peace, Justice and Human Rights v. State of Orissa and others*

¹⁰ All India Christian Council (2013, 03 - 09 February) Flaws in Kandhamal Probe, Indian Currents. Retrieved from http://www.indiancurrents.org/indiancrm/upload/5129Page%2021_22.pdf

¹¹ In a case of setting fire to the house of Butia Digal, the court questioned the credibility of Butia’s and seven other witnesses’ testimonies, who had identified Manoj Pradhan among the attackers, on the ground that the incident took place “during the dark night in an area without electricity”, disregarding the fact that the homes were being burnt

In several of the murder cases, police failed to gather key forensic evidence such as bone fragments after the body was set ablaze by the mob, conduct test identification parades and produce key witnesses in the trial. Police also failed to provide adequate protection to witnesses, many of whom later retracted their statements made to the police allegedly due to fear and intimidations.¹²

In spite of large-scale acquittals by the trial courts, the state failed to file appeals before the High Court in Orissa. According to the government records, in over 184 cases in which more than 2,743 people were acquitted, only 15 appeals were filed by the state.¹³

Even years after the violence, Christians in Kandhamal, Orissa continue to live in fear, unable in many parts to return to their homes and fields. They have been threatened and coerced to convert to Hinduism.¹⁴ The National Commission for Minorities stated in a report¹⁵

“In every camp I visited the main feeling was one of despair and hopelessness at the cruel turn of events. Practically everyone complained of the threats they had received that their return to their homes was predicated on their acceptance of the Hindu religion. I was even shown a letter addressed by name to one woman stating that the only way she could return to her home and property again was if she returned to the village as Hindu.”

This large scale impunity enjoyed by the perpetrators of mob violence across the country has fuelled violence against religious minorities in India.

Lack of Compensation for Victims

Apart from failing to ensure justice and security to the Christian victims of communal violence, the Orissa government has failed to provide adequate compensation to the victims. In a report

down and the witnesses could see the faces of the attackers because of the flames. Further, the judge found that the investigating officer (IO) at Raikia police station noted Butia's age as 35 years whereas he was actually 60 years old, and had failed to mark the exact location of the bush behind which the witnesses hid and watched their homes being burnt down. The accused were acquitted on these grounds. Notably, there was no detailed examination and cross-examination of the IO, and the court failed to seek any explanation from the IO or direct any actions against him for failure to investigate in a diligent manner. <http://www.ngo-marg.org/wp-content/uploads/2011/01/Kandhamal-Book-Final.pdf>

¹² Dayal, John (19 July, 2013) Five Years Later, The Loud Silence In Kandhamal), Countercurrents.org retrieved from <http://www.countercurrents.org/dayal190713.htm>

¹³ Counter affidavit filed by the Government of Orissa before the Supreme Court of India in Criminal Writ Petition no. 126 of 2012 in the matter of *Initiative of Peace, Justice and Human Rights v. State of Orissa and others*

¹⁴ Griffith, David (2012, 28 September) The Widows of Kandhamal, The Huffington Post. Retrieved from http://www.huffingtonpost.co.uk/david-griffiths/the-widows-of-kandhamal_b_1923001.html

¹⁵ Report On The Visit Of The Vice Chairperson, National Commission Of Minorities To Orissa – 11th To 13th September, 2008 Retrieved from <http://ncm.nic.in/doc/Tour%20Report%20VC%20Orissa%20Sep.%202008.doc>

titled “Unjust Compensation: An Assessment of Damage and Loss of Private Property during the Anti-Christian Violence in Kandhamal, India,” it was estimated that the total value of property and livelihood loss, as calculated in this impact assessment of the 122 families surveyed in three villages, amounted to approximately U.S. \$457,529 while the average loss suffered per family was approximately U.S. \$3,750 at the time.¹⁶ The compensation offered by the government was less than U.S. \$2,000 as ex gratia to the next of kin of the deceased, and between U.S. \$500 and U.S. \$1,000 for each damaged house, depending on whether the house was partially or fully damaged. Affected institutions were given about U.S. \$4,000 each.

Details of any compensation paid to Christian victims in other states are not available.

GOVERNMENT RESTRICTIONS

Apart from violence, minority Christians and others also face restrictions on the freedom of religion by way of draconian and unjust legislations.

‘Freedom of Religion Acts’

Several states of India have enacted laws titled “Freedom of Religion Acts,” or anti-conversion laws, as they are more commonly known. These laws claim to merely purge the use of force, fraud and inducement from religious persuasion in the interest of public order. But they clearly violate some key components of religious freedom and are used as a pretext for serious human rights violations against religious minorities.

These laws¹⁷ - enacted in the states of Orissa, Madhya Pradesh, Arunachal Pradesh, Chhattisgarh, Gujarat and Himachal Pradesh - give the district administration wide and sweeping powers to inquire into religious conversions, but carry no provisions for protection against discriminatory action by the authorities. As per the Rules, the District Magistrate shall get the matter enquired into but no timeframe is prescribed for the conduct of such an enquiry and nor have its modalities been defined.

The Acts cast an onerous burden on the converted person and the persons seeking to propagate their faith, without providing the required checks and balances to ensure protection against their misuse.

The Acts require the converting person to give details of his or her conversion to the district magistrate [administrative head], either prior to the conversion “ceremony” or subsequent to it. The law in Gujarat state requires that the person seeking to convert to another religion must take

¹⁶ Centre For Sustainable Use of Natural And Social Resources. (2013) Unjust Compensation: An Assessment of Damage and Loss of Private Property during the Anti Christian Violence in Kandhamal, India

¹⁷ Orissa Freedom of Religion Act 1967, Madhya Pradesh *Dharma Swatantraya* Act 1968, Chhattisgarh *Dharma Swatantraya Adhiniyam* 1968, Arunachal Pradesh Freedom of Religion Act 1978, Gujarat Freedom of Religion Act 2003 and Himachal Pradesh Freedom of Religion Act 2006.

prior permission from the district magistrate before any conversion “ceremony” is performed. The Acts, therefore, greatly impinge on the freedom of conscience of a prospective convert, and also on their right to privacy. The law renders the person incapable of taking the final decision with regard to his or her faith, and instead requires approval of the district authority.

This is an invasion of the privacy and violation of both international law and the Constitution of India. This is violation of the right to freedom of association, the right to privacy and the freedom of conscience. The laws undermine the agency of the convert and make every religious conversion suspect and liable for scrutiny.

Repeatedly, these laws have been used to target and harass Christians. Asma Jahangir, the then Special Rapporteur on Freedom of Religion or Belief, noted in her report¹⁸ after a visit to India that:

“Even in the Indian states which have adopted laws on religious conversion there seem to be only few – if any – convictions for conversion by the use of force, inducement or fraudulent means. In Orissa, for example, not a single infringement over the past ten years of the Orissa Freedom of Religion Act 1967 could be cited or adduced by district officials and senior officials in the State Secretariat... However, such laws or even draft legislation have had adverse consequences for religious minorities and have reportedly fostered mob violence against them.”

The report went on to state that:

‘There is a risk that Freedom of Religion Acts may become a tool in the hands of those who wish to use religion for vested interests or to persecute individuals on the grounds of their religion or belief. While persecution, violence or discrimination based on religion or belief need to be sanctioned by law, the Special Rapporteur would like to caution against excessive or vague legislation on religious issues which could create tensions and problems instead of solving them.’

A fact-finding team of the National Commission for Minorities visited the states of Madhya Pradesh and Chhattisgarh between June 13 and 18, 2007, and noted in its report that Hindu extremists frequently invoked the anti-conversion law in Madhya Pradesh as a means of inciting mobs against Christians or having them arrested without evidence.¹⁹

They noted in their report:

¹⁸ Jahangir, Asma (26 January 2009) Mission to India, Report of the Special Rapporteur on freedom of religion or belief, Addendum, Retrieved from <http://www.wghr.org/pdf/3.%20Special%20Rapporteurs.pdf>).

¹⁹ (July 25, 2006) State in India tightens controls on conversions, Compass News Direct. Retrieved from http://www.worldwatchmonitor.org/2006/07-July/newsarticle_4463.html/

“Obviously, the life of Christians has become miserable at the hands of miscreants in connivance with the police. There are allegations that when atrocities were committed on Christians by the miscreants, police remained mere spectators and in certain cases they did not even register FIRs [First Information Reports].”

However, in September 2012, the High Court of Himachal Pradesh²⁰ struck down Section 4 of the Himachal Pradesh Act which made it obligatory for a person to give a 30-day prior notice to the district magistrate about his or her intention to convert. The Court held that the procedure is oppressive as it will deter a person from changing his or her religion due to unnecessary revelation of an individual’s personal choice and belief to the public at large along with the stigma of having a police inquiry in matters relating to one’s belief and conscience. However similar provisions remain in the other state laws.

1950 PRESIDENTIAL ORDER

I would also like to draw your attention to Para 3 of the Constitution (Scheduled Castes) Order 1950, which states that: “No person who professes a religion different from the Hindu, the Sikh and the Buddhist religion shall be deemed to be a member of a Schedule Caste [from the Dalit community].”

Approximately 70% of the Christian population in India is from the Schedule Caste backgrounds and is economically poor and engaged in menial occupations. In spite of their conversion to Christianity, they continue to suffer the same disadvantages and disabilities arising out of the traditional practice of untouchability.

The Government of India set up several commissions to investigate the conditions of socially, economically and educationally backward classes in India, which have repeatedly recognized that Dalit Christians continue to face oppressive and hostile situations due to their caste.

The Mandal Commission in its report²¹ noted that:

“There is no doubt that social and educational backwardness among non-Hindu communities is more or less of the same order as among Hindu communities. Though caste system is peculiar to Hindu society yet, in actual practice, it also pervades the non-Hindu communities in India in varying degrees. There are two main reasons for this phenomenon: first, caste system is a great conditioner of the mind and leaves an indelible mark on the person’s social consciousness and cultural mores. Consequently, even after conversion, the ex-Hindus carried with them their deeply ingrained ideas of social hierarchy and stratification. This resulted in the Hindu converts inadvertently acting as Trojan horses of caste system among highly equalitarian religions such as Islam,

²⁰ Writ Petition No. 438 of 2011 in the matter of Evangelical Fellowship of India and Anr. v. State of Himachal Pradesh

²¹ Mandal Commission Report of the Backward Classes Commission, 1980 (at Page 60)

Christianity, Sikhism, etc. Secondly, non-Hindu minorities living in pre-dominantly Hindu India could not escape from its dominant social and cultural influences. Thus, both from within and without, caste amongst non-Hindu communities received continuous sustenance and stimulus...

Similar is the situation among Indian Christians. “ . . . Christian in Kerala are divided into various denominations on the basis of beliefs and rituals and into various ethnic groups on the basis of their caste background . . . even after conversion, the lower caste converts were continued to be treated as Harijans [Dalits] by all sections of the society including the Syrian Christians, even though with conversion the former ceased to be Harijans and untouchables . . .

In the presence of rich Syrian Christian the Harijan Christians had to remove their head-dress while speaking with their Syrian Christian masters. They had to keep their mouth closed with a hand . . . It was found that the Syrian and Pulaya members of the same Church conduct religious rituals separately in separate building . . . Thus lower caste converts to a very egalitarian religion like Christianity, ever anxious to expand its membership, even after generations were not able to efface the effect of their caste background.”

The High Power Panel on Minorities, SCs, STs and other weaker sections²² noted that:

“The Christians and the Neo-Buddhist need the same kind of concessions for their converts from the scheduled castes as are offered to Hindu and Sikhs. And their plea, we have recommended, should be fulfilled with utmost sympathy. They too suffer from the same economic handicaps and social neglect and isolation as the Hindu Scheduled Castes, as is amply illustrated by us in our report elsewhere.”

Similarly, the National Commission for Religious and Linguistic Minorities, (more commonly known as the Justice Ranganath Mishra Commission) in 2007 recommended that:

“Para 3 of the Constitution (Scheduled Castes) Order 1950 – which originally restricted the Scheduled Caste only 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 de-link Scheduled Caste status from religion and make the Scheduled Castes net fully religion-neutral like that of the Scheduled Tribes.”

²² Report on Minorities, Volume (I), 14th June 1983, Page No: 8, Point No: 12. Ministry of Home Affairs, Government of India

In spite of the recommendations of several commission both nationally and internationally, the Government of India has failed to move for amendments to Para 3 of the Constitution (Scheduled Castes) Order 1950 making it religion neutral.

Furthermore, the Government of India has failed to file any reply in a case²³ pending before the Supreme Court of India challenging the constitutionality of the Para 3 of the Constitution (Scheduled Castes) Order 1950. The case has been pending since 2004.

Para 3 is violative of fundamental rights safeguarded in the Constitution of India as the entire premise for denying benefits and extending reservations in government jobs and educational institutions to members of the Schedule Caste origin is their religious affiliations. Furthermore, it gravely restricts the freedom of conscience of members of the Scheduled Caste community by limiting the benefits and protections available to them provided they continue to practise the Hindu, Sikh or Buddhist religion.

Recommendations

1. Support the resolution on protecting religious freedom in India (H.Res.417);
2. Follow up on recommendation of the government of the United States to the Government of India – to “ensure that laws are fully and consistently enforced to provide adequate protections for members of religious minorities, scheduled castes, and adivasi groups” – in the recent universal periodic review of India (2012); and if possible send a delegation to meet with victims and visit sites of communal violence in the aftermath, to assess whether the recommendation is being met and to better understand the complexity of the issues involved;
3. Use appropriate forms of dialogue to raise concerns about the status of religious minorities and the impunity enjoyed by Hindutva forces;
4. Continue to find ways to fund civil society efforts to combat human rights abuses and promote religious tolerance.

Statement of:

Tehmina Arora
Attorney
New Delhi, India

²³ Writ Petition (Civil) No. 180/2004 before the Supreme Court of India in the matter of centre for public interest litigation and another vs. Union of India