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Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people.
2. This report outlines the continued lack of respect for, and protection of the right to freedom of religion or belief in India. In particular, it addresses the grave impact of anti-conversion laws, which an increasing number of states across the country have been enacting, on the freedom to adopt and practise a religion of their choice, particularly of those belonging to minority faith groups. Furthermore, this submission stresses the urgent need for the Indian government to increase its efforts to tackle and eradicate the ongoing, widespread practice of sex-selective abortion.

(a) Freedom of Religion

3. The Republic of India has a population of over 1.3 billion, estimated to be 80% Hindu, with Muslim (13%), Christian (2.3%), Sikh (0.8%) and Buddhist (0.4%) minority components.¹
4. The Bharatiya Janata Party (BJP), led by Prime Minister Narendra Modi, has been India's ruling political party since 2014. Historically, the BJP reflects identity-focused, ethnoreligious nationalist positions on the premise that Indian culture is coterminous with Hindu culture and ethnicity. As of 2020, it is the country's largest political party in terms of representation in the national parliament and state assemblies.
5. During the third Universal Periodic Review (UPR) cycle in May 2017, India noted recommendations received inter alia from Canada, Pakistan, Ireland, Kenya and Italy concerning freedom of religion or belief, focusing on the need to undertake legislative reforms, enact new policies, as well as to initiate public awareness and educational campaigns to counter the widespread and deeply rooted societal hostility towards religious minorities.² Regrettably, over the reporting period, the situation of freedom of religion or belief in India has failed to improve, both in law and in practice.
6. The Constitution of India formally mandates religion-state separation and guarantees religious freedom, stating that 'subject to public order, morality and health [...], all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion'.³ It also protects the freedom to manage religious affairs, to pay religious taxes, and to attend religious education.⁴ It prohibits government discrimination based on, among other grounds, religion.⁵ These constitutional guarantees continue to be eroded by a number of criminal and other laws restricting the exercise of at both federal and state levels. In this regard, the

¹ World Population Review, 'India Population 2021' <<https://worldpopulationreview.com/countries/india-population>>.

² Human Rights Council 'Report of the Working Group on the Universal Periodic Review: India, Addendum' (6 September 2017) UN Doc A/HRC/36/10/Add.1.

³ The Constitution of India (as on December 9, 2020) <<https://legislative.gov.in/sites/default/files/COI...pdf>>, art. 25. See also preamble.

⁴ Ibid, arts. 26-28.

⁵ Ibid, art. 15.

increasing adoption of anti-conversion laws at the state level raises serious human rights concerns.

Anti-conversion Laws

7. Anti-conversion laws may be traced back to colonial India. Introduced by the princely states between the 1930s and 40s, such laws were enacted in retaliation to the conquest of the British missionaries to preserve and protect their cultural identity.⁶ With the rise of identity-focused, ethnoreligious nationalism in India, today's anti-conversion laws have little to do with preventing 'forced conversion' in practice. Rather, some of these laws explicitly prohibit conversion from an "indigenous" religion (Hinduism, Sikhism, Jainism, and Buddhism) while others are enforced selectively to target individuals wishing to convert from Hinduism to another religion or belief of their choice.⁷
8. Out of the 28 states comprising the Indian federal union, ten restrict religious conversion, prohibiting religious conversion by 'force', 'allurement', or 'fraudulent means'.⁸ Some states require either prior permission or an advance declaration to be obtained before conversion.⁹ Such overly vague and broad prohibitions also cover proselytizing activities, which form an integral part of the freedom to profess, practice and propagate one's religion.¹⁰ The uncertain terminology employed in these laws carries a serious risk of misuse against persons belonging to religious minorities.
9. Police data shows that within nine months of Uttar Pradesh's ordinance criminalizing 'unlawful' religious conversion in November 2020, hundreds of people had been arrested in connection with conversion cases.¹¹ According to the data, 257 people were named in 108 cases, but police investigations identified an additional 83 suspects, taking the total number to 340.¹² According to the Uttar Pradesh Police data, chargesheets have been filed in only 72 of the 108 cases and final reports have been filed in only 11 cases due to the lack of evidence against those named in the police complaint.¹³
10. Violators of anti-conversion laws are subject to penalties such as prison sentences of up to ten years in Uttar Pradesh and Madhya Pradesh if converts are minors, women, or members of Scheduled Castes or Scheduled Tribes.¹⁴ Furthermore, five states

⁶ iPleaders Intelligent Legal Solutions 'Anti-conversion laws in India' (August 17, 2021) <https://blog.iplayers.in/anti-conversion-laws-indian/#History_of_anti-conversion_laws_in_India>.

⁷ E.g., in Arunachal Pradesh (Arunachal Pradesh Freedom of Religion Act).

⁸ Arunachal Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Odisha, Rajasthan, Uttar Pradesh and Uttarakhand.

⁹ Chhattisgarh, Madhya Pradesh, Uttarakhand, Uttar Pradesh and Himachal Pradesh.

¹⁰ International Convention on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), arts. 18, 27.

¹¹ ThePrint '1 year of UP anti-conversion law—108 cases chargesheet filed in 72, lack of proof in 11' (November 24, 2021) <<https://theprint.in/india/1-year-of-up-anti-conversion-law-108-cases-chargesheet-filed-in-72-lack-of-proof-in-11/770763/>>.

¹² Ibid.

¹³ Ibid.

¹⁴ PRS India, 'Anti-Conversion Legislation: Comparison of the UP Ordinances with other state laws' (January 19, 2021) <<https://prsindia.org/theprsblog/anti-conversion-legislation-comparison-of-the-up-ordinances-with-other-state-laws>>.

have enacted anti-conversion laws that include provisions prohibiting conversion for the purpose of marriage.¹⁵

11. Despite public outcry, including from local and international human rights groups, these anti-conversion laws continue to flourish in India. Karnataka state proposed an anti-conversion bill as recently as December 2021.¹⁶ Karnataka chief minister Basavaraj Bommai stated that ‘the legislation aims to prevent only conversion by inducement’, explaining further that religious conversion is ‘not good for society’ and that ‘the poor and vulnerable should not fall for it’.¹⁷ The government ordered a ‘survey’ of churches in Karnataka to check ‘forced conversions’ and deployed intelligence officers to gather more information on them end of 2021.¹⁸
12. Expressing opposition to the proposed anti-conversion bill, the Archbishop of Bengaluru, Peter Machado, stated that, ‘the move goes against the principles of the Indian Constitution and would become a tool for fringe groups to target and harass Christians in Karnataka’. He pointed out that ‘Even without the law, since January [2021], there have been 32 reported incidents of attacks on churches in Belagavi, Hubballi, Belur, and other areas. If without the legislation this can happen, just imagine what will happen after passing the legislation. The proposed move will have a far-reaching impact’.¹⁹

Mob Violence against Religious Minorities

13. The impact of anti-conversion laws is of particular concern also against the background of increasing social hostility towards religious minorities. According to a report by Persecution Relief, crimes against the Christian community increased by 60% from 2016 to 2019.²⁰ Civil clashes related to religious tensions have doubled in 2020, with Delhi reporting the highest number of related rioting cases.²¹ A report released by the joint initiative of the United Christians Forum, Association for Protection of Civil Rights, and United Against Hate revealed that at least 305 incidents of violence against Christians took place within the first nine months of 2021.²² Organized assaults are being propelled by a growing anti-Christian hysteria that is

¹⁵ Uttar Pradesh, Himachal Pradesh, Uttarakhand, Madhya Pradesh and Gujarat.

¹⁶ The Hindu ‘Christians oppose proposed anti-conversion Bill’ (December 6, 2021)

<<https://www.thehindu.com/news/national/karnataka/christians-oppose-proposed-anti-conversion-bill/article37847718.ece>>.

¹⁷ Hindustan Times ‘Only aims to prevent...: Karnataka CM defends proposed anti-conversion Bill’ (December 12, 2021) <<https://www.hindustantimes.com/cities/bengaluru-news/only-aims-to-prevent-karnataka-cm-defends-proposed-anti-conversion-bill-101639312259118.html>>.

¹⁸ Al Jazeera ‘Why is India witnessing spike in attacks on Christians, churches’ (December 2, 2021) <<https://www.aljazeera.com/news/2021/12/2/india-christians-church-hindu-groups-bjp-conversion>>.

¹⁹ The Hindu ‘Christians oppose anti-conversion Bill’ (December 6, 2021)

<<https://www.thehindu.com/news/national/karnataka/christians-oppose-proposed-anti-conversion-bill/article37847718.ece>>.

²⁰ Persecution Relief, 3rd Quarterly Report 2020 <<https://persecutionrelief.org/persecution-relief-3rd-quarterly-report-2020/>>.

²¹ Deutsche Welle ‘India: Religious riots surge in 2020 despite lockdown—report’ (September 17, 2021) <<https://www.dw.com/en/india-religious-riots-surge-in-2020-despite-lockdown-report/a-59208560>>.

²² <http://mainstreamweekly.net/article11695.html>>.

spreading across India, as vigilantes are sweeping through villages, storming churches, burning Christian literature, attacking schools and assaulting worshipers.²³

14. Due to the inaction of law enforcement agencies, the lack of accountability for acts of violence targeted against religious or belief minorities at the hands of Hindu extremist groups in India has proven to be a major obstacle to the full enjoyment of freedom of religion or belief in India. The Rashtriya Swayamsevak Sangh (RSS), along with other Hindu nationalist groups aim to protect India's assumed Hindu identity from the perceived threats of Islam and Christianity, by some accounts through 'purging' those religions from Indian society.²⁴
15. The RSS has been leading a 'Christianity-free' block campaign in various parts of India. In October 2021 during his annual speech marking the Hindu festival of Dussehra, Mohan Bhagwat, head of the RSS and ideological mentor of Prime Minister Modi's BJP, warned Hindus about religious conversions and alleged 'demographic changes' in India's northeastern states, where the density of Christians is larger. As the head of Sangh Parivar, the umbrella group of Hindu nationalist organizations including the BJP, Bhagwat's Dussehra speech is considered an agenda-setter for the year. Three days after the speech, Rameshwar Sharma, a BJP legislator in Madhya Pradesh, called for a '*Chadar Mukh, Father Mukh Bharat*' (an India free of veil-wearing Muslims and Christian priests) while addressing a crowd.²⁵ In December 2021, a Catholic school in central Madhya Pradesh state was vandalized by an RSS mob of some 500 Hindu extremists, despite school authorities requesting police protection prior to the attack.²⁶
16. India's anti-conversion laws are further perpetuating violence and instability. Mobs have taken matters into their own hands, using anti-conversion laws as a pretext to further justify aggression and violence. A group of Bajrang Dal activists disrupted a prayer meeting at Jesus Prayer Hall in Belur town November 2021, on the ground that 'forced religious conversions' were happening at the place. The group of about 15 to 20 people attempted to barge into the prayer hall, even as more than 40 people were engaged in prayer. Raghu Sakaleshpura, regional coordinator of Bajrang Dal, declared that they would attack the Hall if the administration would allow their prayer to continue in the following weeks.²⁷
17. Members of religious minorities continue to experience significant vulnerability and fear in the face of mobs. 'The idea [of] instant justice is immensely popular, and its acceptance even higher if the perceived crime is allegedly committed by a Muslim,

²³ New York Times 'Arrests, Beatings, Secret Prayers: Inside the Persecution of India's Christians' (December 22, 2021) <<https://www.nytimes.com/2021/12/22/world/asia/india-christians-attacked.html>>.

²⁴ Congressional Research Service 'India: Religious Freedom Issues' (August 30, 2018) <<https://sgp.fas.org/crs/row/R45303.pdf>>.

²⁵ Al Jazeera 'Why is India witnessing spike in attacks on Christians, churches' (December 2, 2021) <<https://www.aljazeera.com/news/2021/12/2/india-christians-church-hindu-groups-bjp-conversion>>.

²⁶ Matters India 'Catholic Schools Attacked in Madhya Pradesh' (December 6, 2021) <<https://mattersindia.com/2021/12/catholic-school-attacked-in-madhya-pradesh/>>.

²⁷ The Hindu 'Christian prayer hall attacked in Belur' (November 30, 2021) <<https://www.thehindu.com/news/national/karnataka/christian-prayer-hall-attacked-in-belur/article37759698.ece>>.

Dalit, Christian or tribal'.²⁸ These mobs enjoy impunity due to delayed responses, inaction or complicity by law enforcement. The Supreme Court condemned the 'sweeping phenomenon' of mob violence in India, issuing directions to the central and state governments to curb such violence while monitoring their compliance with its order. However, since then, the Supreme Court's sense of urgency has dropped, despite mob attacks continuing to loom large. Litigants have struggled to draw the Supreme Court's attention to the state of affairs and demand compliance with its guidelines in the two years following the order.²⁹

18. In the aftermath of the Delhi 2020 religious riots, videos had emerged on social media in which police were seen acting with a mob and throwing stones.³⁰ Amnesty International's forensic analysis of videos from the rioting supports the conclusion that the police stood by, allowing rioters to wreak havoc in some places.³¹ The police's complicity in many incidents of violence against worshipers and churches by its refusal or delay to take action against perpetrators has been extensively reported by the India's People's Union for Civil Liberties (PUCL), the Delhi Minorities Commission, and the New York Times.³²

(b) Sex-selective Abortion

19. Estimates indicate that the number of 'missing women' in the world has more than doubled over the past 50 years, rising from 61.0 million in 1970 to an estimated 142.6 million in 2020.³³ These numbers reflect 'sex ratio imbalances at birth as a result of sex-selective abortion combined with excess female mortality stemming from postnatal sex selection'. India is one of two countries making up over 80% of the estimated missing female births worldwide.³⁴

20. During the third UPR cycle in May 2017, Canada recommended that India implement existing laws on all forms of violence and sexual violence against women and girls, specifically recognizing the gravity of the practice of female feticide. The government of India noted this recommendation.

²⁸ The Wire 'Why do Mob Lynchings Still Continue Unabated?' (September 7, 2019) <<https://thewire.in/communalism/mob-cow-lynching-vigilante>>.

²⁹ The Wire 'Two Years Since SC Judgment, The Spectre of Mob Violence Continues to Loom Large' (August 19, 2020) <<https://thewire.in/rights/two-years-since-sc-judgment-the-spectre-of-mob-violence-continues-to-loom-large>>.

³⁰ Amnesty International 'Delhi 2020 religious riots: Amnesty International accuses police of rights abuses' (August 28, 2020) <<https://www.bbc.com/news/world-asia-india-53891354>>.

³¹ Ibid.

³² PUCL, 'Criminalizing the Practice of Faith' (December 2021) <[https://www.pucl.org/sites/default/files/reports/\[Final\]%20Criminalising%20the%20Practise%20of%200Faith.pdf](https://www.pucl.org/sites/default/files/reports/[Final]%20Criminalising%20the%20Practise%20of%200Faith.pdf)>; Delhi Minorities Commission 'Report of the Fact-Finding Committee on the North-East Delhi Riots of February 2020' (July 2020) , <https://www.slideshare.net/sabrangsabrang/delhiriotsfactfinding2020?ref=https://sabrangindia.in/article/north-east-delhi-riots-minorities-commission-investigations-reveal-role-delhi-police>>; The New York Times, 'Arrests, Beatings and Secret Prayers: Inside the Persecution of India's Christians' (December 2021) <<https://www.nytimes.com/2021/12/22/world/asia/india-christians-attacked.html>>.

³³ See, among others, the UNPFA 2020 State of World Population Report.

³⁴ UN Population Fund 'State of World Population 2020' (2020), pgs. 49-51.

21. In 2019, India had an estimated 110 boys for every 100 girls in the 0-4 years old bracket, the 5th most skewed ratio in the world.³⁵ In Himachal Pradesh, the sex ratio at birth has fallen below 900 – from 937 in the period 2015-2016 to 875 in the period 2020-2021.³⁶ While the infant mortality rate for girls in India has been improving overall, the sex ratio at birth has been consistently worsening in the past decades. According to a recent study, ‘the most cogent explanation for missing female births is prenatal sex determination followed by selective abortion’.³⁷

Pre-Conception Pre-Natal Diagnostics Techniques Act

22. Although efforts to eradicate this practice have been inadequate, the Pre-Conception Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection, PCPNDT) Act of 1994 has played an important role in addressing the scourge of sex-selective abortion. In addition to prohibiting all forms of sex selection, the Act regulates the use of prenatal diagnostic techniques by requiring medical practitioners to produce and keep the relevant records for at least two years, ensuring accountability for their use.³⁸ Notably, in case of violations, the mother is presumed to be under coercion by her spouse or relatives in the relevant criminal proceedings, protecting her from unwarranted liability.³⁹ However, since its enactment, the PCPNDT yielded only 586 convictions in 4,202 cases, a conviction rate of less than 14 per cent.⁴⁰

23. The main challenges in the effective enforcement of the Act include the lack of accurate investigation methods and the overall lack of accountability on the part of implementing authorities. On the one hand, compliance data under the PCPNDT Act reveals why sex ratio at birth trends have not improved sufficiently. The latest States Quarterly Report under the Act submitted to the Health Ministry reveals that many diagnostic facilities, including genetic counselling centres, genetic labs and clinics and ultrasound and imaging centres have not been registered under the law so far.⁴¹ On the other hand, out of 3,158 court cases filed by district appropriate authorities, only 617 convictions have been registered and a meager 145 medical licenses suspended or cancelled for violating the Act.⁴²

24. One significant obstacle to the elimination of the scourge of sex-selective abortion in India is its widespread practice of dowry payments. Dowry is any property, goods, or

³⁵ Statistics Times ‘Gender ratio in India’ (2021)

<<https://statisticstimes.com/demographics/country/india-sex-ratio.php>>.

³⁶ The National Family Health Survey India, ‘State Factsheet Himachal Pradesh’ (2019-20)

<http://rchiips.org/nfhs/NFHS-5_FCTS/Himachal_Pradesh.pdf>.

³⁷ N. Saikia et al. ‘Trends in missing females at birth in India from 1981 to 2016’ (April 2021) The Lancet <[https://doi.org/10.1016/S2214-109X\(21\)00094-2](https://doi.org/10.1016/S2214-109X(21)00094-2)>.

³⁸ Pre-Conception & Pre-Natal Diagnostic Techniques Act 1994, para 29(1)

<<https://www.indiacode.nic.in/bitstream/123456789/8399/1/pre-conception-pre-natal-diagnostic-techniques-act-1994.pdf>>.

³⁹ Ibid, para 24.

⁴⁰ DNA India ‘Sex determination laws do little to save girl child’ (May 21, 2019)

<<https://www.dnaindia.com/india/report-sex-determination-laws-do-little-to-save-girl-child-2751418>>.

⁴¹ The Tribune India ‘Sex ratio below 900 in Himachal Pradesh’ (December 13, 2021)

<<https://www.tribuneindia.com/news/himachal/sex-ratio-below-900-in-state-349628>>.

⁴² Committee on the Empowerment of Women 2021-2022, Seventeenth Lok Sabha, Fifth Report (December 2021)

<http://164.100.47.193/lsscommittee/Empowerment%20of%20Women/17_Empowerment_of_Women_5.pdf>.

money given by either party to the marriage, by the parents of either party, or by anyone else in connection with the marriage. The custom of paying a dowry to the husband and his family is widespread in the country and cuts across class, financial, religious, and educational divides. The dowry system reinforces the already dominant stereotypes of perceiving giving birth to a daughter as a liability, and ultimately viewing girls as inferior to boys. Against this background, sex-selective abortion is unacceptably justified as a means of financial protection instead of being understood as a gross violation of human rights that also perpetuates discrimination and violence against women by devaluing the dignity and worth of every girl.

25. In 2015, the Government of India launched the *Beti Bachao, Beti Padhao* (Save the Girl Child, Educate the Girl Child) campaign, aiming to generate awareness and improve the efficiency of welfare services intended for girls in India. The government spent 80% of funds under this scheme on media campaigns and must now revisit this strategy and invest in measurable outcomes in health and education for girls. The Parliamentary Committee on the Empowerment of Women found that out of a total of ₹446.72 crore released during the period 2016- 2019, a whopping 78.91% was spent only on media advocacy.⁴³
26. India has an obligation under international human rights law to safeguard the human rights of girls and women, including their right to life and to equality and non-discrimination.⁴⁴ Moreover, in accordance with the Programme of Action of the International Conference on Population and Development (ICPD), India must redouble its efforts honour the commitment to 'eliminate all forms of discrimination against the girl child and the root causes of son preference, which result in harmful and unethical practices regarding female infanticide and prenatal sex selection'.⁴⁵

(c) Recommendations

27. In light of the aforementioned, ADF International suggests the following recommendations to be made to India:
 - a. Ensure full respect the right of freedom of religion or belief for all, including the right to change one's religion, in accordance its obligations under international human rights law;
 - b. Take all necessary steps to guarantee freedom from discrimination on the basis of religion, especially for persons belonging to Christian, Muslim and other religious minority groups;
 - c. Issue a maintenance of public order advisory to the state governments to repeal the anti-conversion laws and to take effective measures to ensure that all

⁴³ The Hindu 'Beti Bachao, Beti Padhao, 80% of funds spent on media campaigns, says Parliamentary Committee' (December 10, 2021) <<https://www.thehindu.com/news/national/beti-bachao-beti-padhao-whopping-80-of-funds-spent-on-media-campaigns-says-parliamentary-committee/article37922778.ece>>.

⁴⁴ ICCPR (1966) art. 2(1); ICESCR (1966) art. 2(2); CRC (1989) art. 2(2); CEDAW (1979) art. 2.

⁴⁵ Programme of Action of the International Conference on Population and Development (1994) UN Doc A/CONF.171/13/Rev.1 (ICPD), 4.16.

persons are able to fully enjoy freedom of religion or belief in accordance with international human rights law;

- d. Increase efforts to protect Christians and other religious minorities from all forms of violence and discrimination, including by extremist groups;
- e. Investigate and prosecute reported incidents of violence or harassment of religious minorities by state officials or police personnel;
- f. Promote interfaith dialogue and religious tolerance in order to counter social hostility against religious minorities and prevent radicalization;
- g. Ensure the full and effective implementation of the Pre-Conception Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection, PCPNDT) Act of 1994;
- h. Redouble efforts to promote awareness-raising and educational initiatives to eliminate prejudices and harmful practices perpetuating the culture of son preference;
- i. Take measures to promote and protect the equal and inherent dignity of women and girls, including by addressing the root causes of son preference;



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