

# WCC-CCIA

International Study Consultation on Freedom of Religion and Rights of Religious Minorities (Istanbul, Turkey. 27 Nov – 2 Dec 2011)

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## Country Situation – India

### Introduction

India is traditionally home to many communities. All of them have lived side by side for centuries. There have been influences of each on the others' beliefs and practices. Those practices that are culturally rooted and theologically compatible have been positive assimilations. There have been negative influences as well. These are evidenced in the presence of semblances of exclusivist tendencies and practices toward historically ostracised and sociologically disadvantaged communities in every religion.

Attempts have been made to define 'minority'. The National Commission for Minorities Act 1992 states that "Minority, for the purpose of the act, means a community notified as such by the central government"[Section 2(7)]. On October 23 1993 the Central government notified the Muslim, Christian, Sikh, Buddhist, and Parsi (Zoroastrian) communities as 'minorities' for the purpose of this act. The Jain community was also given this status vide a ruling of the Supreme Court (Bal Vidya case 2006).

The Supreme Court of India in a ruling of 2002 held that for the purpose of Article 30 of the constitution which relates to right to establish and administer educational institutions, a minority is determinable with reference to a State of the Indian Union. The State Minority Commission Acts usually empower the local governments to notify the minorities; some state acts accept the communities as notified by the centre.

In the Indian context minority status is endowed both in terms of religion and language, and has different ramifications in context. It is interesting to note that no one linguistic community enjoys majority status in the country, but can be counted so in different states necessitating minority privileges in the states depending on the context (hence Article 30).

According to the 2001 census figures, about 30 languages are spoken by more than a million native speakers, 122 by more than 10,000. 234 mother tongues are recorded in the country's census in 2001. While Hindi is stated to be the official language since 26th January 1965, English is also recognised as the 'subsidiary official language'. Each state in the Union can have its own official language, all of which is recognised through the Eighth schedule to the Indian Constitution. Since May 2007 there are 22 such languages that find a place in the Eighth schedule.

India acceded to ICESCR and ICCPR in 1979 with a number of declarations including one on "right of self determination" as mentioned in Article 1 interpreted by India as applying only to those living under foreign domination and not to sovereign independent states or a section of people or a nation.

Christians in Odisha rejected the report of the USCIRF that placed India in the list of countries that have failed to protect its religious minorities (BBC South Asia 13 April 2009). It is believed that it is largely because of the communal disturbances in 2002 (Gujarat) and 2008 (Odisha). India is still placed on the list of countries to be watched along with 10 others including Afghanistan, Cuba, Indonesia, Russia, Turkey and Venezuela.

The Report of the UN Special Rapporteur on religion or belief Asma Jahangir's Mission to India 3-20 March 2008) submitted in January 2009 records that the Government of India has to do a lot more in promoting religious freedom in the country and instilling hope in the minds of the religious minorities.

### **Country profile**

The Union of India is a union of 30 states and 5 union territories, taking into account the status given to union territories of Delhi and Puducherry in the Council of States or the Upper house/ *Rajya sabha*. The country has a landscape of 1.3 million square miles inhabited by close to 1.02 billion people (2001 census).

Hindus (80.5%) and Muslims (13.4%) form the bulk of the population. Christians account for 2.3% and Sikhs 1.9%. Buddhists, Jains, Parsis (Zoroastrians), Jews and Baha'is together amount for 1.8%

There are large Muslim populations in the states of Uttar Pradesh (UP), Bihar, Maharashtra, West Bengal, Andhra Pradesh, Karnataka, and Kerala; Muslims are the majority in Jammu and Kashmir. Although Muslims are a minority, the country has the world's second-largest Muslim population. Christian populations are found across the country but in greater concentrations in the northeast, as well as in the southern states of Kerala, Tamil Nadu, and Goa. Three small north eastern states (Nagaland, Mizoram, and Meghalaya) have large Christian majorities. Sikhs are a majority in the state of Punjab. (USCIRF Report 13 Sep 2011)

### **State position**

The Union of India in policy, principle and practice is secular in its nature and character. It does not patronise one religion over other religions as in the case of Bhutan or Bangladesh. It maintains that every citizen is equal before the law.

Moves to give preferential treatment to the religion of the dominant community have always existed, more as a reactionary movement to the so-called appeasement of minority communities or the perceived aggressive practices and assertive presence of the minority communities. Divisive politics has been at the fore of the nation's polity, albeit with limited success.

### **Constitutional provisions**

- **Preamble:** WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens: JUSTICE, social, economic and political; LIBERTY of thought, expression, belief, faith and

worship; EQUALITY of status and of opportunity; and to promote among them all FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

Even before the words socialist and secular were introduced in the preamble in 1976, two Supreme Court rulings AIR 1973 SC 1461 and AIR 1975 SC 2299 had mentioned about it. In the former the court held in 1973 that “so far as secularism is concerned, Articles 25 to 30 provide for the same”. In the latter (1975) the court observed that “by secularism it is meant that the State shall not discriminate against any citizen on the ground of religion only and that the State shall have no religion of its own and all persons shall be equally entitled to the freedom of conscience and the right freely to profess, practise and propagate religion”. “In short the object of the Government in making this amendment was to make explicit what was already provided in the constitution” (Jeyasingh Peter: Secularism and Freedom of Religion, 1999)

- **Article 14:** The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.
- **Article 15:** (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them. (2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to— (a) access to shops, public restaurants, hotels and places of public entertainment; or (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.
- **Article 16** (1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. (2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.
- **Article 19** (1) All citizens shall have the right— (a) to freedom of speech and expression; (b) to assemble peaceably and without arms; (c) to form associations or unions; (d) to move freely throughout the territory of India; (e) to reside and settle in any part of the territory of India; 1[and] (g) to practise any profession, or to carry on any occupation, trade or business.
- **Article 21:** No person shall be deprived of his life or personal liberty except according to procedure established by law.

- **Article 25:** (1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.
- **Article 26:** Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—(a) to establish and maintain institutions for religious and charitable purposes; (b) to manage its own affairs in matters of religion; (c) to own and acquire movable and immovable property; and (d) to administer such property in accordance with law.
- **Article 29:** (1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same. (2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.
- **Article 30:** (1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice. (1A) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause. (2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.
- **Article 350A:** It shall be the endeavour of every State and of every local authority within the State to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups; and the President may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities.

#### **Other legislations and documents**

- Armed Forces Special Powers Act 1958 – Shoot at sight, detention without need to furnish cause, immunity for personnel
- Armed Forces (Jammu and Kashmir) Special Powers Act 1990 - Shoot at sight, detention without need to furnish cause, immunity for personnel
- Jammu and Kashmir Disturbed Areas Act 1992 (Powers to shoot at sight and immunity for the personnel)

- Special Economic Zones Act 2005 (Dispossession and displacement of disadvantaged communities)
- Coastal Regulation Zone Notifications 2008 and 2009 (Restrictions on use of coastal zones affecting fisher folk who are in large parts predominantly Christian and Muslim)
- Seven legislations between 1968 and 2007 euphemistically named Freedom of Religion Acts (1968 – 2007) – restricts right to choose a religion of one’s choice, stringent punishments for those presiding over and assisting in such ceremonies
- Foreign Exchange Regulation Act 2011 (Compulsory renewal of registration every 5 years; no permission to receive foreign grants if organisation involved in activities that are political in nature- political nature not defined)
- Lokpal Bill (Possibility of harassing officers belonging to depressed communities; supposed possibility of campaign for ‘clean’ governance being akin to ‘pure’ society particularly within the contours of a stratified hierarchical community based on the polemics of purity and untouchability)
- Finance Bill 2010 (welfare and charity defined as something like free services of acts of mercy; no reference to religious charitable activities; categorisation of organisations as Non-Profit organisations and Profit-organisations proposed – no longer NGOs)
- Karnataka Prevention of slaughter and Preservation of Cow Bill 2010 (A huge population of Muslims dependant on this industry; no cost protein diet for the poor and disadvantaged persons; up to seven years imprisonment and fine of INR 25,000 to INR 50,000 for first time conviction, subsequently entail double fine – Said to be blocked by the Governor who was formerly Union law minister in the Manmohan Singh Government)
- Andhra Pradesh Propagation of Other Religions in the Places of Worship or Prayer (Prohibition) Act 2007 - Thus far the state has identified only Hindu religious sites for this protection. At the same time the same government proposes to set up a trust for Christians to protect lands and maintain buildings of the Churches and Christian organisations in the State.
- Presidential Order (1950) – discriminates citizens belonging to Christian and Muslim faiths with regard to state provisions available to Indian citizens belonging to castes mentioned in the SC/ST list

#### **Situations warranting attention (including from WSCIRF report September 2011)**

- The Ministry of Home Affairs reported to the Parliament in December 2009 that the National Commission for Minorities (NCM) had received 2,250 complaints in 2008-09
- According to the Ministry of Home Affairs 2009-10 Annual Report, there were 76 incidents of Hindu-Christian violence in 2009, which resulted in two deaths and 44 injuries, compared to 44 deaths and 82 injuries in 2008
- The minority community had to seek the intervention of the court in September 2009 to save their children from compulsorily reciting a Hindu prayer before mid-day meal. The matter is still pending in court

- In February 2010 the Students Islamic Movement of India was banned for two years. As late as July 2011 the government was studying whether SIMI was still active suggesting that the ban could stay.
- The Global Council of Indian Christians, an outfit said to globally campaign the cause of Christians in India, reported that eight Christians were arrested when they gave a complaint about a Hindu outfit disrupting their prayer service. The police were pressurised to arrest the Christians who were later let off
- Jehovah's Witnesses (who are recorded as Christians by establishments in most countries) reported that three female Witnesses were accused by four men of converting Hindus in Karwar by offering them money. The men called the police and the media and soon a mob of approximately 80 persons gathered. The police confiscated their publications and took the women to the police station, while the mob continued to abuse them verbally. The women were charged with maliciously insulting the religion or religious beliefs of any class and with house trespass; the police refused to file a counter complaint from the Witnesses.
- Authorities in Kerala arrested six persons, including two pastors, Pathanamthitta district on charges of publishing and distributing a book that promoted enmity between religions. The book, *Chinwathu Palam* (Bridge to Heaven), allegedly contained sacrilegious comments about the Prophet Mohammad. Among the arrested were the deceased author's son, the author's three brothers, the local pastor, and a pastor who also worked as a publisher. Five of the accused were released on bail by order of the magistrate. After prominent Muslim groups objected and called for a general strike, the court revoked bail and they were rearrested. The accused contended they had nothing to do with the book's publication, that all arrangements had been made by the deceased author, and that the authorities were trying to appease a section of voters before the next election. Subsequently, those arrested were released. The case was pending at the end of the reporting period.
- According to a press report, extremists from the Vishwa Hindu Parishad, (World Hindu Council) attacked the Christian Personality Development Center for Youth in Durg, Chhattisgarh. Extremists carrying the national flag entered the center, attacked the students and teachers, and burned Bibles and Gospel literature. Police later briefly detained three Christians at the center after Hindu extremists accused them of "insulting the national flag" before releasing them on bail. No reported action was taken against the vandals.
- According to Jehovah's Witnesses in Nanganallur, Chennai, Witnesses inadvertently parked their bicycles in front of a BJP leader's home. When the BJP leader arrived, he verbally abused two female Witnesses, who immediately left the area. When the male Witnesses returned to retrieve their bicycles, the BJP leader and another man assaulted one Witness and verbally abused him. The Witness required medical attention as a result of the beating.

At the end of the reporting period, the Chennai Police had not taken any follow up action on the First Information Reports (FIR) filed.

- Six Muslim women from Godhra, Gujarat, wrote to the chief justice of the Gujarat High Court requesting him to take up the case of alleged physical and sexual assault by the Godhra police in December 2009, during a police operation in the Muslim sections of the city in the wake of rioting and a stone-throwing incident. The Godhra superintendent of police said the allegations were fabricated to prevent the police from entering the area, "which is a known hub of illegal animal slaughter." The magistrate in Godhra initiated a query based on the complaint filed by the women. A three-person team from the National Commission of Women visited the city to investigate the allegations and found that some compensation had been provided, but their findings have not been publicized.
- In 2009-10 there were reports from some faith-based media of approximately 16 arrests under state level "anti-conversion" laws and other restrictive laws in Chhattisgarh and Madhya Pradesh. In the same period, Christian Solidarity Worldwide, an advocacy group, reported over 50 incidents in which Christians were falsely accused of forcible conversions, beatings, and arrests by police
- Pastor Devanand Dantale was assaulted by four Hindu extremists in Jabalpur, Madhya Pradesh, while Dantale was distributing copies of religious literature. The assailants accused Dantale of forcible conversion. When the pastor attempted to file a complaint, the police refused and instead warned Dantale against forcible conversion. Dantale and church members later approached a senior police official who filed a complaint against the assailants. At the end of the reporting period, no arrests had been made.
- In Raipur, Chhattisgarh, Hindu extremists disrupted a Christian youth meeting and accused the organizers, Vision India, of forcible conversion. The police asked the organizers to submit a list of participants and the meeting took place under heavy police surveillance
- Karnataka police arrested Pastor Shivanda Siddi under Section 295 of the Indian Penal Code and charged him with conducting "false religious conversions." According to the Global Council of Indian Christians, Hindu extremists attacked Siddi during a religious service and pressured police to arrest him. On September 29, Siddi was released on bail.
- In Satna, Madhya Pradesh, Hindu extremists accused Pastor V A Anthony of forcible conversion and of holding the funeral of an alleged non-Christian in a local Christian cemetery. The Inspector General of Police summoned the pastor and booked him under the state's anti-conversion law. Anthony was released the next day, and the police ordered an investigation into the incident, which revealed the deceased was the son of a local church member and the pastor had buried him in the Christian cemetery according to the wishes of his parents.

- Police in Jabalpur, Madhya Pradesh arrested Pastors Vishal Lal and Shravan Kumar from the Apostolic Church after Hindu extremists accused them of forceful conversion. The pastors were released on bail the next day.
- The Golagam village president, Ramu Naidu, assaulted Pastor Nireekshana Rao and his wife Mani for their conversion activities in Visakhapatnam, Andhra Pradesh. The police did not file a case against the attacker, but a compromise was reached with the village head agreeing to provide a suitable place for constructing a church.
- According to a faith-based media outlet, Hindu extremists stopped a religious service of the Central India Christian Mission in Shahdol, Madhya Pradesh. The attackers allegedly forced 35 church members to testify falsely against the pastor conducting the meeting. Under pressure, the Christians gave a written statement that the pastor converted them to Christianity by offering them 5,000 rupees (\$108) each, and that he also forced them to eat beef. Police summoned the pastor, and detained and questioned him for two hours. The local inspector reportedly asked the pastor for a bribe of 100,000 rupees (\$2,200) for not arresting or beating him; local Christians paid the bribe. When Christian activists raised the case to higher authorities, the chief minister ordered the police to drop all charges against the pastor.
- According to a group of Jehovah's Witnesses, four male Witnesses were speaking to a woman at Bangalore University when a man who appeared to be her son accused them of trying to convert her. The four Jehovah's Witnesses claimed that a mob physically and verbally abused them before they were taken into police custody and held for three days. The Jehovah's Witnesses reported that the police did not protect them from the mob. A First Information Report was filed against the Jehovah's Witnesses.
- The All India Christian Council noted several violations of religious freedom during the previous reporting period. In March 2009 a group of 30 to 40 persons attacked Pastor Erra Krupanamdham of Bethel Church. He suffered permanent spinal injuries. The pastor filed a case with police, who arrested one person, and the case is pending. In January 2009 Hindu extremists attacked Pastor Yakobu in
- According to the Ministry of Home Affairs annual report for 2009-10, 34,878 Pandit (Hindu) families from Jammu and Kashmir were living in 12 refugee camps in Jammu, 19,338 families were in Delhi's 14 camps, and the remaining displaced families were scattered across the country. There were 57,863 Kashmiri families living under displaced conditions. Kashmir has been mostly free of major religious-based violence for several years, and mainstream media reported that after 20 years, Kashmiri Pandit families were slowly returning to the area, aided by a rehabilitation package established by the government in 2008



- The Jammu and Kashmir government told the state assembly that 170 Hindu temples had been damaged by militants in the valley in the past 20 years. Ninety temples have been renovated, and the government has allocated funds for the renovation of other temples
- Muslim radicals belonging to the Popular Front of India severed the right hand of Christian Professor T.J. Joseph in Muvattupuzha, Kerala, for alleged blasphemy. Joseph had been under suspension after an examination paper he had drafted was cited as containing negative references to the Prophet Muhammad. The exam contained an imaginary dialogue between God and a character referred to as Muhammad. On September 4, the college fired the professor for hurting religious sentiments. Kerala police had arrested 27 of the total 53 accused in the case, and several attackers were out on bail.
- On 12<sup>th</sup> November 2011 Pravin Togadia the International General Secretary of the Vishwa Hindu Parishad (World Hindu Council) speaking in Gujarat publicly called for a new constitution that allows anybody who converts Hindus to be beheaded. No action was taken till date to arrest him for this glaring hate speech/ statement which was reportedly seconded by right wing leaders present during the meeting.
- On 19<sup>th</sup> November 2011 a Church of North India pastor Rev. C.M. Khanna of Srinagar in the State of J&K was reportedly arrested for alleged conversion of Muslim and Hindu youths to Christianity. Intra-faith conflicts between minority communities are relatively new phenomena. Whether these are engineered deliberate attempts to undermine the unity between the Muslim and Christian communities has to be investigated.

#### **Ecumenical Initiatives and responses**

- NCCI Commission on Unity. Mission and Evangelism tries to address the issue of inter-religious dialogue and communal harmony. In a communiqué to the Churches, the NCCI-COUME has appealed to Churches and Christian organisations and their staff to be sensitive to the cultural values and religious beliefs of the neighbours and persons belonging to different faith and other persuasions
- The NCCI-COUME in a recent consultation addressed the issue of inter-religious marriages that is becoming a reality in today's context in India, advising churches and pastors of the areas in which one should concentrate to help young people and new couples belonging to different faiths
- The NCCI Commission on Youth explores 'friendship' as a missiological paradigm and in January 2010 tried to understand "Come. Let's be friends !" as a mission mandate – also as expressed by Bishop VS Azariah in the 1910 Conference.

- The NCCI Commission on Youth conducts almost all its programs with participants from different faiths including Christian representatives from the constituents of NCCI
- With regard to addressing growing violence on Christians, the Council is coordinating with outfits that addresses issues of Christian minorities
- Through the National United Christian Forum (NUCF), the NCCI, the Catholic Bishops Conference of India and the Evangelical Fellowship of India address issues relating Christian minority rights. The NUCF has recently embarked on a mission to produce a code of conduct for Christian mission to be adhered to, and - on account of the goodwill and wide reach of the 3 Christian constituencies that form the NUCF - binding on, all sections of the constituency and those other Christian missions that are engaged in ministries in India. The NUCF relates globally to the Global Christian Forum through its Asia chapter, and in India directs and guides the Orissa United Christian Forum and the Karnataka United Christian Forum that were spontaneous responses of the Christian minority communities in those states of the Indian Union to the religious conflicts in which the Christians, dalits and tribals were targeted for the practice and profession of their Christian faith
- India Peace Centre, headquartered in Nagpur Central India, is a program of the NCCI with CBCI, NCYMCA, NCYWCA, and the Gandhi Peace Foundation, to encourage inter-religious responses in the fields of Nuclear disarmament, Social depravity and Ecological crisis. It holds programs on reading each other's scriptures together as a regular activity in India (proposed for 2011-12), inter-faith solidarity visits in times of crises and communal tensions including in compiling independent fact-finding reports and submitting to law making and law enforcement bodies, trainings in conflict transformation and peace building to different professional groups for developing cadres of peace activists at the grassroots, and espousing peace challenged with justice for all and rights of all
- South Asia Ecumenical Partnership Program (SAEPP), a time bound initiative of the NCCs in South Asia facilitated and guided by the then Asia desk of the World Council of Churches, was instrumental in accompanying the initiatives of the NCC India (and NCCs in other South Asian Countries) with regard to promoting relations between different faith communities in India.
- The South Asia Ecumenical Forum for Peace and Security (SAEFPS) is a new configuration of the NCCs in South Asia to address issues of common concern in the region and missiological themes relevant in espousing a contextually relevant theology of mission

## **Conclusion**

The situation of religious conflicts in India is complex and political. In most cases of Hindu - Muslim conflicts it is reactionary to Indo-Pak relations and provocations for further larger attacks.

Situations of conflicts between minority 'religious' communities seem to be the new ploy employed by dominant communities

Concerted efforts in setting the house in order, challenging legally and through lobbying for pressure from international communities, bodies and governments sympathetic to respective faith beliefs and committed to rights of minorities and the alien, promoting peer-watch for conflict sensing and application of transformation techniques, and working for the protection and release of those who are illegally confined are some of the responses that need to be initiated and worked through.

A sub-regional outfit, coupled with networking through regional and global fora, on religious freedom and rights of religious and other minorities is a definite need to accompany ecumenical organisations and councils in the respective countries and the sub-region in their mission to facilitate churches to be and nurture communities of healing and hope in honouring a God of Life, who will lead the people(s) through justice and peace.