

Mandates of the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on minority issues

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(Please use this reference in your reply)

16 August 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on freedom of religion or belief and Special Rapporteur on minority issues, pursuant to Human Rights Council resolutions 49/5 and 52/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the continued use of anti-conversion laws at the state level which impose undue limitation to the exercise of the right to freedom of religion or belief and have contributed to a rise in vigilante attacks as well as arbitrary arrests or other forms of harassment against members of religious minorities in India.**

The cases concern Mr. **Nandu Nathaniel**, Mr. **Manu** and Ms. **Asha Damor**, Mr. **Narendra** and Mrs. **Savita Dahate**, Mr. **Ramesh Vasuniya**, Mr. **Ramchandar** and Mr. **Champalal** and Mr. **Mangilal**, who are Christian pastors or congregants who were involved in house church prayer services.

According to the information received:

From November 2022 onwards, the Supreme Court of India has heard several petitions relating to religious conversions. These petitions, which are now consolidated per the Supreme Court's request, include a combination of cases seeking action against religious conversion by force or allurement and cases challenging the constitutionality of anti-conversion laws passed by various States. These cases are ongoing before the Supreme Court of India.

Despite these legal challenges, the number of anti-conversion laws enacted at the states level has been steadily increasing. For instance, out of the 28 states in India, eleven states have enacted anti-conversion laws, which are locally referred to as "Freedom of Religion Acts". These states include Odisha (1967), Madhya Pradesh (1968, 2021), Arunachal Pradesh (1978), Chhattisgarh (2000), Gujarat (2003), Himachal Pradesh (2006), Jharkhand (2017), Uttarakhand (2018) Uttar Pradesh (2020), Karnataka (2021) and Haryana (2022). The State of Rajasthan passed an anti-conversion law in 2006 but the law remains to be officially enacted. At present, the State of Goa has announced its intention to enact an anti-conversion law. Further, pre-2014, only six states had enacted anti-conversion laws in a time span ranging nearly 40 years. However, from 2014-2022, five new states adopted anti-conversion laws, while the States of Madhya Pradesh, Gujrat and Himachal Pradesh updated its 1968 laws to ensure stricter requirements.

While the text of the law of each state would vary, in general, these state level laws state that "no person shall convert or attempt to convert, either directly or otherwise, any other person from one religion to another by use or practice of

misrepresentation, force, allurements or by any fraudulent means.” For instance, section 5(1) of Uttar Pradesh’s Prohibition of Unlawful Conversion of Religion Ordinance, 2020, states that a person who contravenes the provisions of section 3 (prohibition of conversion from one religion to another religion by misrepresentation, force, fraud, undue influence, coercion, allurements or marriage) shall be punished with imprisonment for a term not less than one year which may extend to five years and shall also be liable to a fine which shall not be less than INR 15,000. And in cases where the provisions of section 3 are contravened in respect of a woman or a person belonging to a Schedule Caste or Scheduled Tribe, then the punishment would increase to imprisonment for a term not less than two years, but which may extend up to ten years and the fine imposed would not be less than INR 25,000.

These state anti-conversion laws, also require notification or prior permission from the government by the individuals intending to convert, individuals involved in the conversion plans of another individual, or both. For example, section 5 of the Jharkhand Freedom of Religion Act, 2017 requires anyone participating in a religious ceremony where someone will be converting from one faith to another to notify and receive permission from the District Magistrate. The Act also requires the individual converting to notify his or her District Magistrate once the conversion is complete. Failure to comply with these provisions, without sufficient cause, is punishable by imprisonment of up to one year, or a fine of up to INR 5000, or both.

Additionally, several state anti-conversion laws state that individuals accused of violating an anti-conversion law must prove their innocence. For instance, section 12 of the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance, 2020, states that the burden of proof as to whether a religious conversion was “not effected through misrepresentation, force, undue influence, coercion, allurements or by any fraudulent means or by marriage, lies on the person who has caused the conversion and, where such conversion has been facilitated by any person, on such other person.”

The implementation of these state anti-conversion laws has also reportedly impacted the ability to practice one’s faith through communal worship. Several reports of prayer meetings, religious services being interrupted by angry mobs accusing the worshippers to be involved in forced religious conversions have been recorded. These cases contribute to creating an atmosphere of fear for religious minorities and climate of impunity for vigilantes who feel entitled to disrupt peaceful religious services, intimidate and use violence without repercussions. The following are a few examples of such cases:

Case of Mr. Nandu Nathaniel

Mr. Nathaniel is a pastor from the Azamgarh District in Uttar Pradesh. He conducts church ministry and runs house-church prayer services. On 3 October 2021, Mr. Nathaniel and his wife were arrested while conducting a Sunday prayer service at a believer’s home by the police for allegedly performing forced religious conversions. The arrests were prompted by complaints of individuals belonging to the [REDACTED], a Hindu nationalist militant

organisation. Prior to lodging the above complaints with the police, this group had disrupted the Sunday prayer service at the residence. Initially, a person from the [REDACTED] had been present at the house and had taken photos and videos of the service. Thereafter this individual had called other [REDACTED] members to the house. These arrests were made under sections 3 & 5 of the Prohibition of Unlawful Conversion of Religion Act of Uttar Pradesh. Mr. Nathaniel and his wife were held at the Azamgarh district prison where they were incarcerated from 3 October 2021 until 4 March 2022. Mr. Nathaniel's case is still pending before court.

Cases of Mr. Manu and Ms. Asha Damor

On 4 April 2021, Manu and Asha Damor were conducting ministry in Betma, Dhar, Madhya Pradesh when they were both arrested by the police during an Easter worship service in the house of a believer. They were arrested under the Madhya Pradesh Freedom of Religion Act 2021. The couple was imprisoned following the arrest, Manu Damor was in prison for one month and Asha Damor was imprisoned for one week. They were acquitted over a year later, on 29 July 2022.

Cases of Mr. Narendra and Mrs. Savita Dahate

Mr. Narendra and Mrs. Savita Dahate are both serving local Christians in Gaderwara, Seoni District in Madhya Pradesh. On 4 November 2022, during a visit to one of the Christians in Lakhnadon city, several [REDACTED] group members from [REDACTED] and [REDACTED] accosted them and called the police. The Dahate's were arrested and charged under sections 3 & 5 of Madhya Pradesh Freedom of Religion Act. They were incarcerated for eight days prior to obtaining bail. On 14 April 2023, they were acquitted by the Seoni District Court.

Case of Mr. Ramesh Vasuniya

On 11 November 2021, Mr. Ramesh Vasuniya, a pastor, and other Christians were conducting a prayer meeting in Padalwa, Jhabua, Madhya Pradesh. This prayer meeting was disrupted by the police officers who requested Mr. Vasuniya's presence at the police station. Upon his hesitancy to do so, the police had issued threats, following which Mr. Vasuniya and several others in attendance acquiesced to the police request. On 5 December 2021, they were all charged under section 3.5 of the Madhya Pradesh Freedom of Religion Act 2021. Later on, 17 January 2022, the other who were arrested were granted bail, while Mr. Vasuniya was granted bail on 21 September 2022, after nearly nine months of imprisonment. Mr. Vasuniya's case is still pending before court.

Case of Mr. Ramchandar

Mr. Ramchandar conducts ministry through many house prayer fellowships in various locations in the district of Varanasi and other neighbouring districts in Uttar Pradesh. He is from the Dalit community and his entire family is involved in ministry. On 31 August 2021, while conducting a house prayer service in the district of Azamgarh, Uttar Pradesh, members of a local

██████ groups had participated in the ongoing prayer and had demanded to know more about Jesus Christ. Thereafter, they had complained to the area police that Mr. Ramchandar was conducting forceful conversion and forcing Dalits to change their religion. Upon this accusation, the area police took Mr. Ramchandar to the police station and lodged a First Information Report against him and charged him under section 153, 295A, 298, 188B of Indian Penal Code and sections 3 & 5 of Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act. Mr. Ramchandar was held at the Azamgarh district prison from 1 September 2021 until 19 February 2022. His case is still pending before court.

Cases of Mr. Champalal and Mr. Mangilal

On 5 August 2022, Champalal and Mangilal from Osharipura, Dharmपुरi, Dhar District, Madhya Pradesh went for a prayer meeting at the house of a local Christian. During the prayer meeting ████████ extremists, came and disturbed the prayer meeting, accusing them of engaging in forcible conversion. After that the attackers called the police. The police arrested both Champalal and Mangilal took them to the Dharmपुरi police station. A First Information Report was filed against them. They were detained in Dharmपुरi District, Dhar, Madhya Pradesh. They were both charged under sections 3 and 5 of Madhya Pradesh Freedom of Religion Act 2021. Both were imprisoned for 15 days. They were acquitted on 11 January 2023.

While we do not wish to prejudge the accuracy of these allegations, we wish to express our serious concerns over the continued use of these anti-conversion laws as a tool by vigilante groups who disrupt peaceful religious meetings claiming accusations of forced religious conversions. These acts seriously impact upon the ability of those belonging to religious minorities to practice one's faith through communal worship. Thus, affecting persons lawfully exercising their right to freedom of thought, conscience, religion, and expression enshrined in articles 18 and 19 of the International Covenant on Civil and Political Rights (ICCPR).

While we acknowledge the need to address the issue of forced conversions and reiterate that any form of coercion by State and non-State actors aimed at religious conversion is prohibited under international human rights law, we note that the choice of religion or belief is part of the *forum internum* which allows for no limitations. Therefore "a general prohibition of conversion by a State necessarily enters into conflict with applicable international standards. A law prohibiting conversion would constitute a state policy aiming at influencing individual's freedom to have or adopt a religion or belief and is therefore not acceptable under human rights law." (See A/60/399, para 52). Further, we are also concerned that these laws, which aim to monitor conversions, negatively impact and limit an individual's freedom of conscience, which is absolute. We are seriously concerned about the use of the respective anti-conversion law in each of the above-mentioned cases, as the information received do not prima facie portray acts which fall within the ambit of the prohibition of coercion but rather appear to be acts covered by exercising one's freedom of religion or belief.

We wish to express our concern over the failure to clearly define a forced conversion and the use of vague terms in these laws. These obscurities provide the authorities with unfettered discretion to accept or reject the legitimacy of religious

conversions. It is likely that these laws will continue to be used as “a tool of persecution by those who are genuinely opposed to religious tolerance... by creating further polarisation and generating an atmosphere of fear among religious minorities” (See E/CN.4/2006/5/Add.3, paras 77-78).

We are also concerned about the continued use of legal provisions relating to notice which allows state authorities to interfere in matters of personal life and religious beliefs, thereby affecting the freedom of conscience and propagation of religion. Similarly, we note the presence of provisions which aim to prohibit conversion from one religion to another religion during marriage in several state anti-conversion laws with concern. While acknowledging the responsibility of the State to “ensure that forced conversions do not occur in the context of marriage or marriage negotiations including the obligation to guarantee effective protection, especially for women and sometimes minors” (See A/67/303, para 25), we are concerned about the potential to use these laws to proactively disincentivize the possibilities of interreligious marriages. The latter would contravene with article 16 (1) (b) of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Should they be confirmed, these allegations would contravene articles 3 (non-discrimination), 26 (equality before the law) and 27 (rights of minorities) of the ICCPR.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on the factual and legal grounds for the arrests and information on the trials of Mr. Nandu Nathaniel, Mr. Ramesh Vasuniya and Mr. Ramchandar respectively.
3. Please provide information on the steps taken to prevent, investigate and prosecute acts of vigilante attacks perpetrated against persons belonging to religious and belief minorities in India, especially in the context of allegations of attempted forced conversion including the number of persons prosecuted and convicted.
4. Please provide information on procedural and administrative safeguards taken to reduce possibilities of the instrumentalising the current anti-conversion laws by those keen to personal or political interests or to aggravate discrimination and hostility against members of religious minorities.

5. Please provide information on how the legal provisions relating to (i) the notification requirement, (ii) shifting the burden of proof on the accused party and (iii) conversions not falling under the prohibition of coercion comply with international legal standards and obligations.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting website. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

Nazila Ghanea
Special Rapporteur on freedom of religion or belief

Fernand de Varennes
Special Rapporteur on minority issues

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer to your Excellency's Government to its legal obligations under the international treaties it has ratified and to broader international human rights standards.

We refer to the ICCPR ratified by India on 10 April 1979. In particular, we refer to article 18(1) which stresses "Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom [...] either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching" and article 18 (2) of the ICCPR states that "[n]o one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice."

The Human Rights Committee emphasised in General Comment No. 22 (HRI/GEN/1/Rev.1) paragraph 3 that article 18 of ICCPR "distinguishes the freedom of thought, conscience, religion or belief from the freedom to manifest religion or belief. It does not permit any limitations whatsoever on the freedom of thought and conscience or on the freedom to have or adopt a religion or belief of one's choice. These freedoms are protected unconditionally, as is the right of everyone to hold opinions without interference in article 19(1); "the freedom to manifest religion or belief may be exercised "either individually or in community with others and in public or private. The freedom to manifest religion or belief in worship, observance, practice and teaching encompasses a broad range of acts. The concept of worship extends to ritual and ceremonial acts giving direct expression to belief, as well as various practices integral to such acts." (paragraph 4). Further in paragraph 5, the Human Rights Committee notes that "the freedom to "have or to adopt" a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views, as well as the right to retain one's religion or belief. Article 18.2 bars coercion that would impair the right to have or adopt a religion or belief, including the use of threat of physical force or penal sanctions to compel believers or non-believers to adhere to their religious beliefs and congregations, to recant their religion or belief or to convert. Policies or practices having the same intention or effect, such as, for example, those restricting access to education, medical care, employment or the rights guaranteed by article 25 and other provisions of the Covenant, are similarly inconsistent with article 18.2. The same protection is enjoyed by holders of all beliefs of a non-religious nature."

Article 19 of the ICCPR guarantee the right to freedom of opinion. It protects the right to hold opinions of any kind, including religious opinions. The Human Rights Committee has affirmed that "no person may be subject to the impairment of any rights under the Covenant on the basis of his or her actual, perceived or supposed opinions. All forms of opinion are protected, including opinions of a ...religious nature. It is incompatible with paragraph 1 to criminalize the holding of an opinion" (General Comment no. 34 para. 9). Furthermore, this obligation also requires the State "to ensure that persons are protected from any acts by private persons or entities that would impair the enjoyment of the freedoms of opinion and expression to the extent that these Covenant rights are amenable to application between private persons or

entities” (Human Rights Committee General Comment No. 34, para. 7).

We would also like to bring to your Excellency's Government's attention the international standards regarding the protection of rights of persons belonging to minorities, in particular article 27 of the ICCPR that guarantees minorities, inter alia, the right to practice and profess their own religion. Moreover, the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities establishes the obligation of States to protect the existence and identity of religious minorities within their territories and to adopt the appropriate measures to achieve this end (article 1), recognizes that persons belonging to religious minorities have the right to profess and practice their own religion without discrimination (article 2) and requires States to ensure that persons belonging to minorities, including religious minorities, may exercise their human rights without discrimination and in full equality before the law (article 4.1).

We also recall that the 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (A/RES/36/55) establishes in art. 6 that the right to freedom of thought, conscience, religion or belief shall include, inter alia the freedom to “worship or assemble in connection with a religion or beliefs”. We also note that provisions prohibiting proselytism are inconsistent with the 1981 Declaration.

We would also like to remind your Excellency's Government that the Special Rapporteur on freedom of religion or belief has noted that “Under international law, freedom of conscience is absolute and cannot be subject to any limitation. A mechanism designed to monitor conversions and thus the reasons and purposes behind them could constitute a limitation on freedom of conscience.” And raised the concern that “adoption of these laws would provide legitimacy to those who want to promote religious intolerance and hatred vis-à-vis certain religious groups...Criminalizing unethical conversions...might pave the way for persecution of all religious communities, and particularly of religious minorities...allow anyone to complain even if the victim may be unwilling to do so. It thus leaves the door wide open for overzealous people to create further polarisation and to generate an atmosphere of fear among religious minorities.” (See A/60/399, paras 76-78)

In his report to the General Assembly the Special Rapporteur on freedom of religion or belief has also noted that “States therefore have a number of obligations vis-a-vis the right to conversion. First, States should respect everyone's right to conversion as a *forum internum* component within freedom of religion or belief, for example, by abolishing punishments against converts and removing administrative obstacles. Moreover, States are obliged to protect the right to conversion against possible third-party infringements, such as violence or harassment against converts by their previous communities or their social environment. In addition, States should promote a societal climate in which converts can generally live without fear and free from discrimination... Freedom of religion or belief is not confined to the dimension of a person's *forum internum* but also includes the freedom to manifest one's religion or belief in external acts, such as “worship, observance, practice and teaching”. Such *forum externum* manifestations can be undertaken “either individually or in community with others and in public or private”. It cannot be denied that this covers non-coercive attempts to persuade others, sometimes also called “missionary work”. Communicative outreach activities aimed at persuading others, including religious discourse, can be further based on article 19 (2) of the International Covenant on Civil

and Political Rights, which provides that the right to freedom of expression shall include “freedom to seek, receive and impart information and ideas of all kinds.” (See A/67/303, paras 21 and 26).