



**Testimony Before the
U.S. Commission on International Religious Freedom**

Regarding

**“Legal Framework for the Protection of Religious Freedom
& Certain Discriminatory Laws Against Religious
Minorities”**

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I. Introduction

Honorable Chairman, esteemed members of the United States Commission on International Religious Freedom (USCIRF), it is an honor for me to appear before you today to testify and I thank you for the opportunity to address this critical issue. My name is Tariq Ahmad and I am a Foreign Law Specialist at the Law Library of Congress where I focus on South Asia and have a particular interest in law & religion issues.

In today's testimony, I have been asked to provide an overview of the general legal framework for the protection of religious freedom in India and how particular laws are used to discriminate against religious minorities, focusing on the topics of state anti-conversion laws and state cow slaughter laws.

India is a diverse country with a Hindu majority population but with significant religious minorities, including Muslims, Christians, Sikhs, and Buddhists, among others. While the Indian Constitution guarantees certain fundamental rights and freedoms to all its citizens, including the guarantee of freedom to profess, practice, and propagate one's religion under article 25,¹ there have been concerns and debates over laws, and incidents that have been seen as discriminatory against religious minorities. Some of the laws and issues that have raised concerns arise from these state level anti-conversion laws and cow slaughter laws.

II. Anti-Conversion Laws

India's Freedom of Religion Acts or "anti-conversion" laws are state-level statutes that have been enacted to regulate religious conversions. These laws "began to be introduced in the 1960s after the failed attempts to enact an anti-conversion law at the Union (or central) level," and were first enacted by the states of Orissa and Madhya Pradesh.²

At the present time, such laws are in effect in at least 12 out of 28 states.³ While there are some variations between the state laws, they are very similar in their content and structure. All of the laws seek to prevent any person from converting or attempting to convert, either directly or otherwise, another person through misrepresentation, force, fraud, undue influence, coercion, allurement, or marriage. Many of these terms have been criticized as being vaguely defined, lacking clarity and precision, which make the laws easy to misuse or abuse. Most of these laws include a provision on prior government notice or approval of a conversion within a prescribed period from the person converting and/or the person or priest who is conducting the conversion.⁴ Some states appear to exclude reconversions to "parental," "native," and "original" faiths from their prohibitions ("Ghar Wapsi"), which raised the criticism of discriminatory treatment of non-

¹ The Constitution of India, art. 25, <https://perma.cc/66DM-5MCD>.

² Tariq Ahmad, Law Library of Congress, *State Anti-conversion Laws in India* 3 (2018), <https://perma.cc/3XMT-GRNE>.

³ *India's State-Level Anti-Conversion Laws*, USCIRF, <https://perma.cc/7NW4-CLS3>.

⁴ Tariq Ahmad, *supra* note 2, at 23.

Hindu faiths.⁵ Penalties for breaching the laws vary from state to state and can range from monetary fines to imprisonment, with punishments ranging from one to five years of imprisonment and fines from 5,000 to 1 lakh Indian rupees (about US\$60 to \$1,200). Some of the laws provide for stiffer penalties if women, children, or members of scheduled castes or scheduled tribes (SC/ST) are being converted.⁶ Some anti-conversion laws have also been criticized for having reverse evidentiary/onus clauses where the accused has to prove that the conversion was conducted without force or consent.⁷

More recently, since 2017, several states have passed freedom of religion acts or updated pre-existing ones that attempt to regulate religious conversions and include controversial marriage provisions sometimes pejoratively referred to as “love jihad” laws.⁸

In 1977, the Supreme Court⁹ examined whether the right to practice and propagate one’s religion also included the right to convert. The Court upheld the validity of the earliest anti-conversion statutes in Madhya Pradesh and Orissa on the basis that that propagation only indicated persuasion/exposition without coercion and that the right to propagate did not include the right to convert any person. The Supreme Court also relied on the state legislative subject of “public order,” to find that the laws “clearly provide for the maintenance of public order for, if forcible conversion had not been prohibited, that would have created public disorder in the States.”¹⁰ More recently, some high courts have begun to scrutinize, water down, or strike down more onerous provisions of these laws. In 2012, the Himachal Pradesh High Court declared the “offending statutory provision as illegal wherein citizen was required to inform the authorities about his wish to change the religion.”¹¹ A 2022 Gujarat High Court Order put a stay on several sections of an amendment to the Gujarat Freedom of Religion Act, including sections on conversion through marriage and the prior permission provision.¹² On November 14, 2022, the high court in India’s Madhya Pradesh state issued an interim order where the court stated that adult citizens who convert to marry of their own volition must not be prosecuted for violating a provision which requires a declaration to a district magistrate before a person converts to a different religion.¹³ However, other high courts have taken a different approach in providing

⁵ Id. at 21.

⁶ Id. at 23.

⁷ Gargi Pant, *Constitutional Validity of Reverse Onus Clause in Uttarakhand Freedom of Religion Act, 2018*, 4 Indian J. L. Legal Rsch. pp. 1-10 (2022), <https://perma.cc/Z5ND-JCBB>.

⁸ Tariq Ahmad, *FALQs: The Controversy Over Marriage and Anti-Conversion Laws in India*, In Custodia Legis (Mar. 25, 2021), <https://perma.cc/KB54-MAMY>.

⁹ Rev. Stainislaus v. State of Madhya Pradesh, (1977) 1 SCC 677 (Online).

¹⁰ Tariq Ahmad, *supra* note 2, at 19.

¹¹ Tariq Ahmad, *India: Madhya Pradesh High Court Issues Interim Order against Anti-conversion Law Requiring Declaration for Religious Conversion*, Global Legal Monitor (Jan. 9, 2023), <https://perma.cc/LBX6-82DZ> (quoting Evangelical Fellowship Of India v. State Of H.P., para. 38).

¹² *Constitutionality of Anti-Conversion Laws*, Supreme Court Observer, <https://perma.cc/LCC8-A7DX>.

¹³ Id.

guidelines on conversions and inter-faith marriages or through ordering inquiries to see if conversions are being conducted according to the law.¹⁴

Proponents and advocates of the anti-conversion laws believe these laws are necessary to protect the vulnerable sections of the populations from what they describe as “predatory proselytisation”¹⁵ and to preserve the harmony of society. Human rights organizations and institutions have expressed concerns over the years about the lack of equitable treatment within these laws and the misuse of these laws against religious minorities, as well as their human rights implications.¹⁶ Despite criticism of India’s anti-conversion laws, some human rights bodies, including the USCIRF, acknowledged in the late 2000s and 2010s that these laws have rarely resulted in arrests and there have been no convictions.¹⁷ In more recent years, while enforcement of these laws still varies across different states, active arrests appear to be on the rise in certain states, though exact numbers are hard to come by.¹⁸ Nevertheless, as has been noted by USCIRF and other human rights groups, these laws have been used to harass inter-faith couples, create a hostile and violent environment for religious minority communities, and encourage vigilantism.¹⁹

III. Cow Slaughter Laws

In the last decade, cow slaughter has re-emerged as a socially and politically divisive issue in India. Most, though not all, Hindus (who make up close to 80% of India’s population of 1.2 billion people) consider the cow to be a sacred and revered animal. Animal husbandry also plays a significant role in India’s rural economy and livelihoods.²⁰ However, beef is also considered a staple part of the diet by many Muslims, Christians, tribal communities, and Dalits (lower caste Hindus) in the country. In the absence of a central law, efforts have been made in most of India’s states and union territories (federally-administered regions) to tighten laws on cattle slaughter and to more strictly enforce bans already in place.²¹

The regulation of cow slaughter is seen as a state matter under India’s Constitution. The list of areas for which the states are responsible includes, “[p]reservation, protection and improvement

¹⁴ Umang Poddar, *How have legal cases seeking to strike down India’s anti-conversion laws fared?*, Scroll.in (Jan. 4, 2022), <https://perma.cc/NM33-MVRY>.

¹⁵ Tajesh K. *Karnataka: Congress Government To Repeal Anti-Conversion Law Introduced By BJP Regime To Combat Predatory Proselytisation*, Swarajya Magazine (June 15, 2023), <https://perma.cc/XQV5-Y4RA>.

¹⁶ *India: Serious Concerns Raised at UN Rights Review*, Human Rights Watch (HRW) (Nov. 18, 2022), <https://perma.cc/4VNG-BPD6>.

¹⁷ Tariq Ahmad, *supra* note 2, at 20-21.

¹⁸ Luke Wilson, USCIRF, *Issue Update: India’s State-level Anti-Conversion Laws 1* (Mar. 2023), <https://perma.cc/8NKS-2R57>.

¹⁹ HRW, *supra* note 16.

²⁰ *State of Animal Husbandry In India*, Sehgal Foundation (Nov. 1, 2022), <https://perma.cc/Y6AT-NDF6>.

²¹ Tariq Ahmad, *FALQs: Beef Bans in India*, In Custodia Legis (Nov. 10, 2015), <https://perma.cc/A3DN-TV4T>.

of stock and prevention of animal diseases; veterinary training and practice.”²² Various state-level laws restricting or prohibiting cattle slaughter have been justified based on directive principles of state policy contained in the Constitution.²³

The north, central, and western regions of India appear to have the most stringent laws, while the southern and northeastern states appear to be relatively permissive.²⁴ According to information from the Ministry of Fisheries, Animal Husbandry & Dairying, 19 states and six union territories ban the slaughter of cows.²⁵ Nine jurisdictions have the strictest bans on the slaughter of cows, calves, bulls and bullocks.²⁶ States and union territories in eastern and southern India also have laws that prohibit the slaughter of cows.²⁷ However, they permit the slaughter of bulls and bullocks on the issuance of a “fit-for-slaughter” certificate which is usually granted depending on factors like age, sex, and whether the cattle is still economical (fit for work or breeding or incapacitated for work due to injury or disease).²⁸ Two states, Assam and West Bengal, both of which have large Muslim populations, permit the slaughter of all cattle on the issuance of a “fit-for-slaughter” certificate.²⁹

The Supreme Court has upheld these laws in the past for a complex variety of reasons.³⁰ However, on the question of religious freedom under article 25 of the Constitution, the Court has held that restrictions on the slaughter of cattle do not infringe on Islamic beliefs and practices since it has not been established that the sacrifice of cows on the religious holiday of Bakr-Eid is an obligatory or essential part of the Islamic religion (as “they [Islamic texts] allowed for a goat or camel to be sacrificed instead”).³¹

Concern has also arisen about how sudden bans impact the livelihood of members of the large beef slaughter and leather industries, which are mainly dominated by Muslim butchers and traders, and which “employ or contribute to the employment of millions of people.”³² Critics are also concerned that the increasingly “religiously-charged public discourse” surrounding the

²² The Constitution of India, Seventh Schedule, List II, para. 15.

²³ Id. Part IV: Directive Principles of State Policy, art. 48.

²⁴ *FALQs: Beef Bans in India*, supra note 21.

²⁵ Id.

²⁶ ANNEX II (8) *Gist of State Legislations on Cow Slaughter*, Department of Animal Husbandry & Dairying, <https://perma.cc/WX49-MVUZ>.

²⁷ Id.

²⁸ Id.

²⁹ Id.

³⁰ Taruni Kavuri, *The Constitutional Scheme of Animal Rights in India*, Michigan State University College of Law, Animal Legal & Historical Center (2020), <https://perma.cc/UKW9-6NXB>.

³¹ Id.; *FALQs: Beef Bans in India*, supra note 21.

³² *FALQs: Beef Bans in India*, supra note 21.

consumption of beef has undermined the secular ethos of the country.³³ Since 2014, there has been a rise in the number of incidents of cow vigilantism in India, and particular concern has been given to the role of cow vigilante groups in fomenting hate and communal attacks against those suspected of killing or smuggling cows for meat.³⁴ These groups are often made up of members of hardline Hindu organizations and, according to Human Rights Watch (HRW), have “fostered a climate of hate and discrimination against Muslims, Dalits, and other minority communities, leading to an increase in violent attacks against them in many parts of the country.”³⁵ HRW notes that “[b]etween May 2015 and December 2018, at least 44 people—36 of them Muslims—were killed across 12 Indian states. Over that same period, around 280 people were injured in over 100 different incidents across 20 states.”³⁶ On July 17, 2018, the Supreme Court of India issued guidelines to curb acts of cow vigilantism.³⁷ The Court ruled that each state should appoint a police officer in each district to take strict action against cow vigilantism but “it did not address questions on the constitutional validity of immunity provisions for cow vigilantes.”³⁸

This brings my testimony to an end. Thank you for your commitment to these issues and giving me the opportunity to share my thoughts with the Commission.

³³ Id.

³⁴ *Violent Cow Protection in India: Vigilante Groups Attack Minorities*, HRW (Feb. 18, 2019), <https://perma.cc/DYF6-W7X3>.

³⁵ Id.

³⁶ Id.

³⁷ *Cow Vigilantism*, Supreme Court Observer, <https://perma.cc/CC3T-Q98X>.

³⁸ Id.