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UNITED STATES COMMISSION *on* INTERNATIONAL RELIGIOUS FREEDOM

ISSUE UPDATE: INDIA'S STATE-LEVEL ANTI-CONVERSION LAWS

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*To advance international
freedom of religion or
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confronting threats to this
fundamental right.*

By Luke Wilson, Researcher

Overview

Twelve states in India have legislation criminalizing religious conversions in various circumstances. Individuals violating the legislation face punishments such as fines and imprisonment. This issue update provides a summary of international human rights law's protections for the right to freedom of religion or belief in the context of religious conversions. It also examines the common features of India's state-level anti-conversion laws and explains why those common features are inconsistent with freedom of religion or belief under international human rights law.

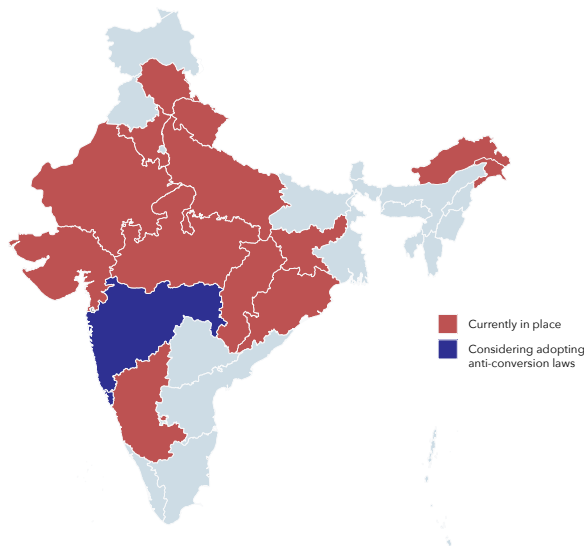
Religious Conversion under International Human Rights Law

International human rights law protects the right of an individual to convert to a different religion or belief or to become non-religious. Article 18 of the [Universal Declaration of Human Rights](#) (UDHR) provides that everyone has the right to freedom of religion or belief including "freedom to change" their religious beliefs. Article 18(1) of the [International Covenant on Civil and Political Rights](#) (ICCPR) provides that everyone has the "freedom to have or to adopt a religion or belief" of their choice. The UDHR and the ICCPR also protect the right of an individual to persuade or support another individual to convert voluntarily to a different religion or to no religion at all. Article 18 of the UDHR protects the right of individuals to manifest their religious beliefs "in teaching, practice, worship, and observance." Similarly, Article 18(1) of the ICCPR protects an individual's right to manifest his or her religion or belief in "worship, observance, practice, and teaching." Critically, international human rights law also prohibits any individual or group of individuals from coercively converting any other individual or group of individuals to a different religion or to no religion at all. Article 18(2) of the ICCPR prohibits "coercion" that would impair an individual's "freedom to have or to adopt a religion or belief of his choice."

India's State-level Anti-conversion Laws

Twelve of India's 28 states have anti-conversion laws as of February 2023: Arunachal Pradesh, Chhattisgarh, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Madhya Pradesh, Odisha, Rajasthan, Uttarakhand, and Uttar Pradesh. Enforcement of these laws varies across different states. Courts have ordered some states to [pause enforcement](#) of their anti-conversion laws while others are actively [charging](#) individuals. Meanwhile some states yet to pass anti-conversion laws continue to [consider](#) introducing them.

India's state-level anti-conversion laws share three common features: prohibitions on conversions, notice requirements, and burden-shifting provisions. Each of the three features is inconsistent with international human rights law's protections for freedom of religion or belief.



Anti-Conversion Laws in Indian States

Prohibitions on Conversions

India's state-level anti-conversion laws prohibit conversions under circumstances that go beyond coercion, using broad and vague language that can be used to target voluntary religious conversions. For example, Uttar Pradesh's [Prohibition of Unlawful Conversion of Religion Act, 2021](#) is typical. Section three provides that "no person shall convert or attempt to convert" another individual, directly or otherwise, by "misrepresentation, force, undue influence, coercion, allurement or by any fraudulent means." Violations of section three are punishable by prison terms between one and five years and a fine of at least 15,000 Indian rupees (\$180). Punishments are enhanced if an individual converts or attempts to convert a minor, woman, or person belonging to a Scheduled Caste or Tribe, or if a mass conversion in contravention of section three takes place. The former is punishable by prison terms between two and 10 years and a fine of at least 25,000 rupees (\$300); the latter is punishable by prison terms between three and 10 years and a fine of at least 50,000 rupees (\$600).

An increasingly common feature of India's state-level anti-conversion laws are provisions [aimed at preventing](#) so-called "[Love Jihad](#)," a derogatory term for conversions occurring in the context of interfaith marriages. Haryana's [Prevention of Unlawful Conversion of Religion](#)

[Act, 2022](#) prohibits conversion or attempts at conversion "by marriage or for marriage" and concealing one's "religion with intention to marry." Punishments for the former are one to five years' imprisonment and a fine of at least one lakh rupee (\$1,200); punishments for the latter are three to 10 years' imprisonment and a fine of at least three lakh rupees (\$3,600). Enhanced punishments for converting or attempting to convert a minor, woman, or person belonging to a Scheduled Caste or Tribe are imprisonment between four and 10 years and a fine of at least three lakh rupees (\$3,600).

These prohibitions violate international human rights law's guarantee that individuals have the freedom to change their religious beliefs. [General Comment 22](#), the [United Nations Human Rights Committee's](#) (UNHRCtee) interpretive guidance to ICCPR Article 18, affirms that the right to freedom of religion or belief does "not permit any limitations whatsoever...on the freedom to have or adopt a religion or belief of one's choice." Exposing an individual to criminal sanctions for converting to a different faith or belief, as India's state-level anti-conversion laws do, is a limitation on the freedom to have or adopt a religion or belief of one's choice. These laws also may have a chilling effect on this freedom, as individuals may be less likely to convert to a religion of their choice if those who have persuaded or supported them to convert may be fined and imprisoned as a result.

The prohibitions also violate the rights of individuals who seek to persuade or support another individual to convert voluntarily. The UN Special Rapporteur on freedom of religion or belief [notes](#) that ICCPR Article 18 protects "non-coercive attempts to persuade others" to convert. In addition, the Special Rapporteur states that ICCPR Article 19(2), which protects freedom of expression, also protects "communicative outreach activities aimed at persuading others, including religious discourse."

International human rights law does prohibit coerced conversions. The UNHRCtee, in [General Comment 22](#), states that Article 18(2) of the ICCPR prohibits "coercion" including "the use of threat of physical force or penal sanctions to compel believers or non-believers to...convert." The UNHRCtee further notes that other policies or practices that intend to or have the effect of compelling believers or non-believers to convert, such as those restricting access to education, medical care, employment, or other rights guaranteed by other provisions of the ICCPR, violate Article 18(2). However, India's [enforcement](#) of state-level anti-conversion laws [suggests](#) the legislations' [intent](#) is to [prevent](#) conversions to [disfavored](#) religions—such as Christianity and Islam—and not to protect against coerced conversions.

Notification Requirements

Ten state-level anti-conversion laws require individuals intending to convert, individuals involved in the conversion plans of another individual, or both, to notify the government. Those states are: Arunachal Pradesh, Chhattisgarh, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Madhya Pradesh, Uttarakhand, and Uttar Pradesh. For example, 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 local 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 is punishable by a prison term of up to one year, a fine of up to five thousand rupees (\$60), or both.

Some anti-conversion laws, such as the [Karnataka Protection of Right to Freedom of Religion Act, 2022](#), require the District Magistrate, once notified of an individual's intention to convert, to make a public call for any objections to the conversion. If an objection is lodged, the District Magistrate organizes an investigation "through officials of Revenue or Social Welfare Department with regard to genuine intention, purpose, and cause of the proposed conversion." If the District Magistrate finds that a conversion contravenes the Karnataka Protection of Right to Freedom of Religion Act, 2022, they refer their findings to police authorities "to initiate criminal action." Any conversion that occurs without proper notice is "illegal and void." For an individual converting, failure to provide notice is punishable by imprisonment between one and three years and a minimum fine of 10,000 rupees (\$120). For an individual performing a conversion, failure to provide notice is punishable by imprisonment between one and five years and a minimum fine of 25,000 rupees (\$300).

International human rights law provides that governments may not compel individuals to reveal their religion or belief or changes to their religion or belief through notice requirements. [General Comment 22](#) to ICCPR Article 18 notes that "no one can be compelled to reveal his thoughts or adherence to a religion or belief." International human rights law also prohibits notice requirements on the grounds that they coercively impair an individual's right to convert. ICCPR Article 18(2) provides that no one shall be "subject to coercion which would impair his freedom to have or to adopt a religion or belief." General Comment 22 finds that "penal sanctions," such as those imposed against an individual for failing to notify the government about a planned conversion, constitute coercion that would

"impair the right to have or adopt a religion or belief." In addition, a District Magistrate's public call for objections to a conversion constitutes coercively impairing an individual's freedom to have or adopt a religion or belief. This is particularly true in India given the [violence](#) that adherents to minority religions can [face](#).

Burden-shifting Provisions that Presume Guilt

Seven states provide that individuals accused of violating an anti-conversion law must prove their innocence. Those states are Gujarat, Haryana, Himachal Pradesh, Karnataka, Madhya Pradesh, Uttarakhand, and Uttar Pradesh. For example, section 12 of Madhya Pradesh's [Freedom of Religion Act, 2021](#) states that the burden of proof as to whether "a conversion was not effected through misrepresentation, allurement, use of force, threat of force, undue influence, coercion or by marriage or any other fraudulent means...lies on the accused."

International human rights law prohibits individuals accused of crimes from being presumed guilty. UDHR Article 11 states that everyone charged with a penal offence "has the right to be presumed innocent until proved guilty." Similarly, ICCPR Article 14 notes that everyone charged with a criminal offence shall "have the right to be presumed innocent until proved guilty according to the law." [General Comment 32](#) to ICCPR Article 14 explains further that the presumption of innocence "imposes on the prosecution the burden of proving the charge," not a burden on the defendant to prove his or her innocence.

Ongoing Legal Developments

The Supreme Court of India continues to receive petitions requesting the body to consider the constitutionality of state-level anti-conversion laws. The Gujarat state government [requested](#) that the Supreme Court vacate the Gujarat High Court's [stay](#) on nearly every substantive provision of Gujarat's anti-conversion law. The Supreme Court will [hear](#) a case challenging the High Court of Madhya Pradesh's interim order preventing enforcement of the state's notification requirement for conversion. Separately, the Supreme Court has [requested](#) that additional challenges to anti-conversion laws in state-level high courts in Gujarat, Himachal Pradesh, Jharkhand, Karnataka, Madhya Pradesh, Uttarakhand, and Uttar Pradesh be consolidated into a single petition and filed with the Supreme Court. Despite these ongoing legal challenges to India's anti-conversion laws, some states continue to consider introducing them, including [Goa](#) and [Maharashtra](#).



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Conclusion

India's state-level anti-conversion laws violate international human rights law's protections for the right to freedom of religion or belief. They impermissibly limit and punish an individual's right to convert and right to persuade or support another individual to convert voluntarily. The anti-conversion laws also worsen religious freedom conditions in India which, as USCIRF has [reported](#), are already poor. Such laws enable and embolden existing government harassment, vigilante violence, and discrimination against religious minorities, as well

as crackdowns on civil society organizations. Given these particularly severe religious freedom violations, USCIRF [recommended](#) that the U.S. Department of State designate India as a country of particular concern under the International Religious Freedom Act. Repealing India's state-level anti-conversion laws is necessary to comply with international human rights law for the right to freedom of religion or belief and to help prevent the country's religious freedom conditions from further deteriorating.

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The U.S. Commission on International Religious Freedom (USCIRF) is an independent, bipartisan federal government entity established by the U.S. Congress to monitor, analyze, and report on religious freedom abroad. USCIRF makes foreign policy recommendations to the President, the Secretary of State, and Congress intended to deter religious persecution and promote freedom of religion and belief.