



THE LUTHERAN WORLD FEDERATION

A COMMUNION OF CHURCHES – EINE KIRCHENGEMEINSCHAFT – UNA COMUNIÓN DE IGLESIAS – UNE COMMUNION D'ÉGLISES

LUTHERISCHER WELTBUND – FEDERACIÓN LUTERANA MUNDIAL – FÉDÉRATION LUTHÉRIENNE MONDIALE

Stakeholder submission

by the Lutheran World Federation (LWF)

<http://www.lutheranworld.org/>

25 November 2011

Religious freedom and equality of rights in India

**Related to India for the second
cycle of the Universal Periodic Review
13th session scheduled for May-June 2012**

1. Introduction

The Lutheran World Federation (LWF) is a global communion of Christian churches in the Lutheran tradition. Founded in 1947 in Lund, Sweden, the LWF now has 145 member churches in 79 countries all over the world representing over 70 million Christians. The LWF strives to put its faith into action within and beyond the communion. This witness takes a variety of forms: communications, ecumenical and interfaith relations, capacity building, advocacy, humanitarian assistance, theology, mission, development and many othersⁱ.

In this submission, LWF will touch upon points concerning religious freedom, equality of rights for all citizens in India, and ratification of international conventions signed by India.

2. Lack of reservation system benefits for converted scheduled castes or tribes

Currently, the reservation system in India ensures that a percentage of seats in (among others) The House of the Peopleⁱⁱ, The Legislative Assemblies in every stateⁱⁱⁱ and the education system^{iv} are set-aside for members of scheduled castes or tribes (SC/ST). Furthermore, members of a SC/ST have gained protection from different kinds of assaults through the *Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act* from 1989^v. However, if a member of a SC/ST converts to a religion other than Hindu, Sikh or Buddhist, he or she loses the rights in the reservation system as well as the protection of the Prevention of Atrocities Act, since he/she is no longer a member of a

scheduled caste^{vi}. This also applies to SC/ST persons who have not themselves converted but who are neither Hindu, Sikh nor Buddhist. This effectively means that all other religions than these three are discriminated against, which is against Article 15 of the Indian Constitution, since this article is meant to ensure that: “*The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them*”^{vii}.

Recommendation: LWF recommends that the Government of India ensure that the reservation system and the Prevention of Atrocities Act are not connected to religious beliefs of the population they try to ensure equal rights for. The discrimination of people based on their religion is against the Indian constitution, and therefore this is an issue, which should be prioritized. The LWF recommends that the law should be amended so that members of SC/ST have access to the same rights and protection – no matter what their religion is.

3. Anti-conversion acts

Currently, the states of Odisha, Madhya Pradesh, Arunachal Pradesh, Chhattisgarh, Gujarat, Rajasthan and Himachal Pradesh have legislation which regulates religious conversions^{viii}. The LWF shares many of the same concerns which were put forth by Ms. Asma Jahangir, UN Special Rapporteur on Freedom of Religion or Belief, in January 2009^{ix}, in particular with regard to the vague terminology and the possible misuse of these laws. According to article 18 of the Universal Declaration of Human Rights^x, everyone has

the right to change his or her religion or belief, and while the legislations' intentions might very well be to protect this right against forceful external interference, we believe that the legislations go further than just protecting this right and instead end up limiting the right in some cases. Specifically, the Gujarat legislation, which requires 'prior permission' from the District Collector without giving a timeframe for the ruling^{xi}, is a direct violation of both the Universal Declaration of Human Rights and Article 25 in the Indian constitution^{xii}. Similarly, 'prior intimation' (i.e., inform the state prior to the conversion) in the Madhya Pradesh Act and 'subsequent intimation' in the Arunachal Pradesh Act^{xi} could limit some people from converting.

Recommendation: LWF is in principle against these anti-conversion laws, since we believe that the legislation should not try to limit freedom of religion, but rather try to protect this right. With that said, we believe that especially the legislation in Gujarat is flawed, and the state should amend the act to make it follow both the Indian constitution and the Universal Human Rights. With regard to the acts in Madhya Pradesh and Arunachal Pradesh, we would like to question the necessity of intimations.

4. Manual scavenging

According to the National Human Rights Commission, manual scavenging is still an issue in India^{xiii}. Since manual scavenging is very undignified, unhealthy and unsafe work^{xiv}, the LWF would like to see reports and statistics from the Government of India

on how the plan on elimination of discrimination against all manual scavengers by the end of 2012 is going. Furthermore, we would like to see some more documentation and reports on the process of the total elimination of manual scavenging, as put forth in *The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act* from 1993^{xv}.

5. Ratification of the conventions agreed upon at the last UPR

During the 2008 Universal Periodic Review of India, the Government of India agreed to ratify the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* and *International Convention for the Protection of All Persons from Enforced Disappearance*^{xvi}. With regard to the Convention against Torture (signed by India in 1997^{xvii}), the LWF welcomes the bill put forward in May 2010^{xviii}, we would like to ask the Government of India what the current status of the bill is, after it was sent to a committee for review in August 2010^{xix}. With regard to the Convention on Enforced Disappearance, India noted in the response to the UPR in 2008 that "The process of its ratification is underway"^{xvi}, but we are concerned that no information seems to be available on the progress of the ratification of this convention, which India signed in 2007^{xx}.

Recommendation: LWF urges the Government of India to work towards ratification of the two mentioned conventions, both of which were signed by India many years ago.

Annex 1: List of References

- ⁱ The Lutheran World Federation, *Who we are*
<http://www.lutheranworld.org/lwf/index.php/category/who-we-are>
- ⁱⁱ Ministry of Law & Justice, *The Constitution of India* – Article 330
<http://lawmin.nic.in/coi/coiason29july08.pdf>
- ⁱⁱⁱ Ministry of Law & Justice, *The Constitution of India* – Article 332
<http://lawmin.nic.in/coi/coiason29july08.pdf>
- ^{iv} Ministry of Law & Justice, *The Constitution of India* – Article 46
<http://lawmin.nic.in/coi/coiason29july08.pdf>
- ^v Ministry of Social Justice and Empowerment, *The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989*
<http://socialjustice.nic.in/poa-act.php>
- ^{vi} Ministry of Law & Justice, *Constitution (Scheduled Caste) Order, 1950* – Paragraph 4
<http://lawmin.nic.in/ld/subord/rule3a.htm>
- ^{vii} Ministry of Law & Justice, *The Constitution of India* – Article 15
<http://lawmin.nic.in/coi/coiason29july08.pdf>
- ^{viii} The Indian Law Institute, *Freedom of Religion and Anti Conversion Laws* – Page 118
http://www.ili.ac.in/pdf/note_1.pdf
- ^{ix} United Nations High Commissioner of Refugees, *Report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir* – Paragraph 70
<http://www.unhcr.org/refworld/country,,,MISSION,IND,,498ae8032,0.html>
- ^x United Nations, *The Universal Declaration of Human Rights* – Article 18
<http://www.un.org/en/documents/udhr/>
- ^{xi} The Indian Law Institute, *Freedom of Religion and Anti Conversion Laws* – Page 123
http://www.ili.ac.in/pdf/note_1.pdf
- ^{xii} Ministry of Law & Justice, *The Constitution of India* – Article 25
<http://lawmin.nic.in/coi/coiason29july08.pdf>
- ^{xiii} National Human Rights Commission, *National workshop on manual scavenging and sanitation*
<http://nhrc.nic.in/dispatchive.asp?fno=2306>
- ^{xiv} International Labour Organization, *The ILO and Manual Scavengers in India: Paving the long way towards the elimination of discrimination based on social origin*

http://www.ilo.org/global/about-the-ilo/press-and-media-centre/insight/WCMS_159813/lang--en/index.htm

^{xv} Press Information Bureau, *Status of Manual Scavenging*

<http://pib.nic.in/newsite/erelease.aspx?relid=74389>

^{xvi} UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review*

<http://daccess-ods.un.org/TMP/2161465.58523178.html>

^{xvii} United Nations, *Treaty Collection*

http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9&chapter=4&lang=en

^{xviii} Press Information Bureau, *Prevention of Torture Bill, 2010*

<http://pib.nic.in/newsite/erelease.aspx?relid=60120>

^{xix} Rajya Sabha Secretariat, *Rajya Sabha Committees – A Profile (2010)* – Pages 14-15

http://rajyasabha.nic.in/rsnew/summary_work/2010.pdf

^{xx} United Nations, *Treaty Collection*

http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-16&chapter=4&lang=en