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June 2017



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# State Anti-conversion Laws in India

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**SUMMARY** India’s Freedom of Religion Acts or “anti-conversion” laws are state-level statutes that have been enacted to regulate religious conversions. The laws are in force in six out of twenty-nine states: Arunachal Pradesh, Odisha, Madhya Pradesh, Chhattisgarh, Gujarat, and Himachal Pradesh. 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, any person through “forcible” or “fraudulent” means, or by “allurement” or “inducement.” However, the anti-conversion laws in Rajasthan and Arunachal Pradesh appear to exclude reconversions to “native” or “original” faiths from their prohibitions. Penalties for breaching the laws can range from monetary fines to imprisonment, with punishments ranging from one to three years of imprisonment and fines from 5,000 to 50,000 Indian rupees (about US\$74 to \$735). Some of the laws provide for stiffer penalties if women, children, or members of scheduled castes or schedule tribes (SC/ST), are being converted.

Despite criticism of India’s anti-conversion laws, some human rights bodies have acknowledged that these laws have resulted in few arrests and no convictions. However, some observers note that these laws create a hostile, and on occasion violent, environment for religious minority communities because they do not require any evidence to support accusations of wrongdoing.

## I. History of Anti-conversion Laws

India is a nation that is home to a diversity of religious beliefs and practices. The Indian subcontinent is the birthplace of four major world religions—Hinduism, Buddhism, Sikhism, and Jainism.<sup>1</sup> According to reported 2011 census data, 79.80% of the population of India is Hindu, 14.23% Muslim, 2.30% Christian, 1.72% Sikh, 0.70% Buddhist, and 0.37% Jain.<sup>2</sup>

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\* This report was prepared with the assistance of Law Library intern Supreetha Kumar.

<sup>1</sup> *Religion: 2001 Census Data*, OFFICE OF THE REGISTRAR GENERAL & CENSUS COMMISSIONER, INDIA, [http://censusindia.gov.in/Census\\_And\\_You/religion.aspx](http://censusindia.gov.in/Census_And_You/religion.aspx) (last visited Apr. 19, 2017), archived at <https://perma.cc/ME8W-UBXD>.

<sup>2</sup> *Hindu Population Reducing in India as ‘They Never Convert People’: Kiren Rijju*, DECCAN CHRONICLE (Feb. 13, 2017; updated Feb. 14, 2017), <http://www.deccanchronicle.com/nation/current-affairs/130217/hindu-population-reducing-in-india-as-they-never-convert-people-kiren-rijju.html>, archived at <https://perma.cc/8BUG-KQ4N>; see also *C-1 Population by Religious Community*, OFFICE OF THE REGISTRAR GENERAL & CENSUS COMMISSIONER, INDIA, <http://www.censusindia.gov.in/2011census/C-01.html> (last visited Apr. 19, 2017), archived at <https://perma.cc/Q7R7-DRRB>.

Laws restricting religious conversions were originally introduced by Hindu princely states during the British Colonial period—mainly “during the latter half of the 1930s and 1940s.”<sup>3</sup> These states enacted the laws “in an attempt to preserve Hindu religious identity in the face of British missionaries.”<sup>4</sup> There were “[o]ver a dozen princely states, including Kota, Bikaner, Jodhpur, Raigarh, Patna, Surguja, Udaipur, and Kalahandi,”<sup>5</sup> that had such laws. Some of the laws from that period include the Raigarh State Conversion Act, 1936; the Surguja State Apostasy Act, 1942; and the Udaipur State Anti-Conversion Act, 1946.

Following India’s independence, the Parliament introduced a number of anti-conversion bills, but none were enacted. First, the Indian Conversion (Regulation and Registration) Bill was introduced in 1954, “which enforced licensing of missionaries and the registration of conversion with government officials.”<sup>6</sup> This bill failed to gather majority support in the lower house of Parliament and was rejected by its members. This was followed by the introduction of the Backward Communities (Religious Protection) Bill in 1960, “which aimed at checking conversion of Hindus to ‘non-Indian religions’ which, as per the definition in the Bill, included Islam, Christianity, Judaism and Zoroastrianism,”<sup>7</sup> and the Freedom of Religion Bill in 1979, which sought “official curbs on inter-religious conversion.”<sup>8</sup> These bills were also not passed by Parliament due to a lack of parliamentary support.

Ministers of the current Bharatiya Janata Party (BJP) government have voiced their support for the adoption of an anti-conversion law at the national level, which some critics see as an attack on the secular values of India’s Constitution.<sup>9</sup> In 2015, “high-ranking members of the ruling BJP party, including the party’s president Amit Shah, called for a nationwide anti-conversion law.”<sup>10</sup>

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<sup>3</sup> Jennifer R. Coleman, *Authenticity, Regulating Religious Tolerance: The Legal and Political Implications of Anti-Conversion Legislation for Indian Secularism* 23 (Paper Presented to Penn Program on Democracy, Citizenship, and Constitutionalism Graduate Workshop, Sept. 13, 2007–08), <https://www.sas.upenn.edu/dcc/sites/www.sas.upenn.edu.dcc/files/uploads/Coleman.pdf>, archived at <https://perma.cc/9WY3-DTFN>.

<sup>4</sup> James Andrew Huff, Note, *Religious Freedom in India and Analysis of the Constitutionality of Anti-Conversion Laws*, 10(2) RUTGERS J. L. & RELIGION 1, 4 (2009), <http://www.lawandreligion.com/sites/lawandreligion.com/files/A10S-6Huff.pdf>, archived at <https://perma.cc/7Z7Y-9U8Q>.

<sup>5</sup> Laura Dudley Jenkins, *Legal Limits on Religious Conversion in India*, 71 LAW & CONTEMP. PROBS. 109, 113 (2008), <http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1469&context=lcp>, archived at <https://perma.cc/7BYA-UNDW>.

<sup>6</sup> DR. IQTIDAR KARAMAT CHEEMA, U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM, CONSTITUTIONAL AND LEGAL CHALLENGES FACED BY RELIGIOUS MINORITIES IN INDIA 4 (Feb. 2017), [https://www.uscirf.gov/sites/default/files/Constitutional and Legal Challenges Faced by Religious Minorities in India.pdf](https://www.uscirf.gov/sites/default/files/Constitutional%20and%20Legal%20Challenges%20Faced%20by%20Religious%20Minorities%20in%20India.pdf), archived at <https://perma.cc/KQ7P-DY7R>.

<sup>7</sup> INDIAN LAW INSTITUTE, A STUDY OF COMPATIBILITY OF ANTI-CONVERSION LAWS WITH RIGHT TO FREEDOM OF RELIGION IN INDIA 31 (2007) (submitted to India’s National Commission for Minorities).

<sup>8</sup> *Id.*

<sup>9</sup> Saurav Datta, *India’s Mass Conversion Problem*, AL JAZEERA (Jan. 4, 2015), <http://www.aljazeera.com/indepth/opinion/2015/01/india-mass-conversion-problem-20151274531627294.html>, archived at <https://perma.cc/4UFD-KQZ8>.

<sup>10</sup> USCIRF ANNUAL REPORT 2016 – TIER 2 COUNTRIES – INDIA (May 2, 2016), available at <http://www.refworld.org/docid/57307ce6c.html>, archived at <https://perma.cc/C78P-ZHJE>; Shoaib Daniyal, *As Clamour to Ban*

Two members of the BJP, including Amit Shah, have announced that anti-conversion bills are to be introduced in both houses of Parliament “so as to criminalise religious conversion without the government’s consent.”<sup>11</sup> However, the BJP government’s plan to enact national legislation reportedly “hit a roadblock” with the Ministry of Law and Justice, which advised against the move, stating that it is “not tenable” since it is “purely a state subject”<sup>12</sup>—i.e., a matter that lies purely under the constitutional domain of the states under the State List in Schedule Seven of the Constitution.<sup>13</sup>

At the state level, Freedom of Religion Acts have been enacted to regulate religious conversions carried out by force, fraud, or other inducements, as discussed below.<sup>14</sup>

## II. Overview of State Initiatives

India’s Freedom of Religion Acts or “anti-conversion laws” are state-level statutes enacted to regulate religious conversions that are not purely voluntary. Such 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 Orissa and Madhya Pradesh states.<sup>15</sup> At the present time, such laws are in effect in six out of twenty-nine states: Arunachal Pradesh, Orissa, Madhya Pradesh, Chhattisgarh, Gujarat, and Himachal Pradesh.<sup>16</sup> The law in Arunachal Pradesh has not been implemented due to a lack of subsidiary rules. The State of Rajasthan has passed its anti-conversion bill, but it is yet to be signed by the President of India. Several other states, including Manipur, are reportedly “considering similar laws.”<sup>17</sup>

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*Conversion Grows, A Reminder: Five Indian States Have Already Done So*, SCROLL.IN (Sept. 15, 2014), <https://scroll.in/article/679080/as-clamour-to-ban-conversion-grows-a-reminder-five-indian-states-have-already-done-so>, archived at <https://perma.cc/3QZ6-58HS>.

<sup>11</sup> *BJP Lawmakers Plan Anti-conversion Bills in LS, RS*, INTERNATIONAL BUSINESS TIMES (Nov. 9, 2015), <http://www.ibtimes.co.in/bjp-members-introduce-bill-criminalising-religion-conversion-653925>, archived at <https://perma.cc/W4AD-QSVS>; *Indian Parliament Will Consider Criminalizing Religious Liberty*, ORGANIZATION FOR MINORITIES OF INDIA (Nov. 5, 2015), <http://www.minoritiesofindia.org/indian-parliament-will-consider-criminalizing-religious-liberty/>, archived at <https://perma.cc/U7SM-567E>.

<sup>12</sup> *National Anti-conversion Law Not Tenable: Law Ministry*, DECCAN CHRONICLE (Apr. 15, 2015), <http://www.deccanherald.com/content/471944/national-anti-conversion-law-not.html>, archived at <https://perma.cc/D4JD-SEBB>.

<sup>13</sup> CONSTITUTION OF INDIA, Seventh Sched., <http://lawmin.nic.in/olwing/coi/coi-english/coi-4March2016.pdf>, archived at <https://perma.cc/H8TF-SAVH>.

<sup>14</sup> The status and requirements of state laws are visually represented in the maps and graphs that appear at the end of this report.

<sup>15</sup> Huff, *supra* note 4, at 6.

<sup>16</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM REPORT FOR 2015: INDIA, <https://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2015&dliid=256305>, archived at <https://perma.cc/VC7W-EKND>.

<sup>17</sup> USCIRF, ANNUAL REPORT 2013: INDIA 4, [https://www.uscirtf.gov/sites/default/files/resources/India%202013\(1\).pdf](https://www.uscirtf.gov/sites/default/files/resources/India%202013(1).pdf), archived at <https://perma.cc/2QJX-KLEB>.

In the 1980s, the target of anti-conversion legislation was largely Muslims seeking to convert non-Muslims, while “Christianity has received more attention since the 1990s because of its association with Western-style colonialism and the role active proselytizing plays in the course of being a good Christian.”<sup>18</sup>

While there are some variations between the state laws, they are very similar in their content and structure. According to one researcher,

[t]he goal has been essentially the same in each draft bill: to constrain the ability of communities and individuals to convert ‘from the religion of one’s forefathers,’ often in the name of protecting those making up the ‘weaker’ or more easily ‘influenced’ sectors of society—namely women, children, backward castes and untouchables.<sup>19</sup>

The anti-conversion laws in Rajasthan and Arunachal appear to exclude reconversions to “native” or “original” faiths.<sup>20</sup>

All of these laws seek to “prevent conversions ‘carried out’ by ‘forcible or ‘fraudulent’ means or by ‘allurement’ or ‘inducement.’ ”<sup>21</sup> Penalties for breaching the laws can range from monetary fines to imprisonment; the laws impose punishments ranging from one to three years of imprisonment and fines of 5,000 to 50,000 Indian rupees (about US\$74 to \$735).<sup>22</sup> Some of the laws provide for stiffer punishments if women, children, or members of scheduled castes or schedule tribes (SC/ST), are being converted.<sup>23</sup>

### III. Examination of State-Level Legislation

#### A. Odisha (Formerly Orissa)

Odisha was the first state to enact anti-conversion legislation, the Orissa Freedom of Religion Act, 1967.<sup>24</sup> Section 3 of that Act stipulates that “[n]o person shall convert or attempt to convert,

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<sup>18</sup> Coleman, *supra* note 3, at 26.

<sup>19</sup> Coleman, *supra* note 3, at 23.

<sup>20</sup> Rajshree Chandra, *Converting Religion, Converting Law: Rajshree Chandra*, KAFILA (Dec. 24, 2014), <https://kafila.online/2014/12/24/converting-religion-converting-law-rajshree-chandra/>, archived at <https://perma.cc/T6D2-HFAJ>.

<sup>21</sup> BECKET FUND FOR RELIGIOUS LIBERTY, SUBMISSION ON UNITED NATIONS HUMAN RIGHTS COUNCIL: UNIVERSAL PERIODIC REVIEW: INDIA 2 (Nov. 20, 2007).

<sup>22</sup> INTERNATIONAL RELIGIOUS FREEDOM REPORT FOR 2015: INDIA, *supra* note 16; see also South Asia Human Rights Documentation Centre, *Anti-Conversion Laws: Challenges to Secularism and Fundamental Rights*, 43(2) ECON. & POL. WKLY. 71 (Jan. 12, 2008), available at <https://www.jstor.org/stable/pdf/40276904.pdf>, archived at <https://perma.cc/4HKT-85SJ>.

<sup>23</sup> Testimony of Katrina Lantos Swett, Vice Chair USCIRF, Before the Lantos Human Rights Commission on the Plight of Religious Minorities in India 5 (Apr. 4, 2014), [https://www.uscirf.gov/sites/default/files/India\\_testimony\\_TLHRC\\_April\\_2014\\_FINAL.pdf](https://www.uscirf.gov/sites/default/files/India_testimony_TLHRC_April_2014_FINAL.pdf), archived at <https://perma.cc/GF6E-YCBK>.

<sup>24</sup> Orissa Freedom of Religion Act, No. 2 of 1968, [http://lawodisha.gov.in/files/acts/act\\_884132771\\_1437987451.pdf](http://lawodisha.gov.in/files/acts/act_884132771_1437987451.pdf), archived at <https://perma.cc/FGQ5-WQ9L>; Tahir Mahmood, *Religion, Law, and Judiciary in*

either directly or otherwise, any person from one religious faith to another by the use of force or by inducement or by any fraudulent means nor shall any person abet any such conversion.”<sup>25</sup> Similar provisions appear in all current anti-conversion laws.<sup>26</sup> The crime of “forcible conversion” is punishable with imprisonment, which may extend to one year, or with fine of up to 5,000 rupees, or both.<sup>27</sup> If the crime is committed against a minor, a woman, or a person belonging to an SC/ST, the term of imprisonment may be increased to a maximum of two years and the fine increased to 10,000 rupees.<sup>28</sup>

The Act defines conversion as “renouncing one religion and adopting another.”<sup>29</sup> It further defines “force” to “include a show of force or a threat of injury of any kind, including the threat of divine displeasure or social excommunication.”<sup>30</sup> Under the Act, “inducement” includes “the offer of any gift or gratification, either in cash or in kind, and shall also include the grant of any benefit, either pecuniary or otherwise,”<sup>31</sup> and “fraud” is defined to include “misrepresentation or any other fraudulent contrivance.”<sup>32</sup>

Crimes under the Act are cognizable offenses,<sup>33</sup> meaning an investigation or an arrest can be made without a warrant or authorization of a court. However, an investigation can only be made by an officer not below the rank of an Inspector of Police.<sup>34</sup>

In 1989, the Orissa Freedom of Religion Rules<sup>35</sup> were issued, which “required the priest performing the ceremony of conversion to ‘intimate the date, time[,] and place of the ceremony . . . along with the names and addresses of the persons to be converted to the concerned District Magistrate before fifteen days of the said ceremony.’ ”<sup>36</sup> Failure to do so would result in a fine of 1,000 rupees.<sup>37</sup>

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*Modern India*, BYU L. REV. 761 (Sept. 12, 2006), <https://ael.eui.eu/wp-content/uploads/sites/28/2014/05/Evans-19-Background-Mahmood.pdf>, archived at <https://perma.cc/9Y9F-M22E>.

<sup>25</sup> Orissa Freedom of Religion Act § 3.

<sup>26</sup> South Asia Human Rights Documentation Centre, *supra* note 22, at 64.

<sup>27</sup> Orissa Freedom of Religion Act § 4.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* § 2(a).

<sup>30</sup> *Id.* § 2(b).

<sup>31</sup> *Id.* § 2(d).

<sup>32</sup> *Id.* § 2(c).

<sup>33</sup> *Id.* § 5.

<sup>34</sup> *Id.*

<sup>35</sup> Orissa Freedom of Religion Rules, 1989, available at [http://www.kandhamal.net/DownloadMat/Orissa\\_Freedom\\_of\\_Religion\\_Rules.pdf](http://www.kandhamal.net/DownloadMat/Orissa_Freedom_of_Religion_Rules.pdf), archived at <https://perma.cc/EAZ9-FC8A>.

<sup>36</sup> AMERICAN CENTER FOR LAW AND JUSTICE, “RELIGIOUS FREEDOM ACTS”: ANTI-CONVERSION LAWS IN INDIA 2 (June 26, 2009), [http://media.aclj.org/pdf/freedom\\_of\\_religion\\_acts.pdf](http://media.aclj.org/pdf/freedom_of_religion_acts.pdf), archived at <https://perma.cc/QFM3-TU24>.

<sup>37</sup> Orissa Freedom of Religion Rules, 1989, Rule 8.

In 1973, the High Court of Orissa declared that the Orissa Freedom of Religion Act, 1967 is “ultra vires the Constitution.”<sup>38</sup> The Court held in its conclusions that article 25(1) of the Constitution “guarantees propagation of religion and conversion is a part of the Christian religion,” that “the term ‘inducement’ is vague and many proselytizing activities may be covered by the definition and the restriction in Article 25(1) cannot be said to cover the wide definition,” and that the state legislature lacked the competence or jurisdiction to make the law in question on the topic of “religion” under the Seventh Schedule of the Constitution.<sup>39</sup> However, this decision was overturned by the Supreme Court of India in *Rev. Stainislaus v. State of Madhya Pradesh*, which is discussed in more detail below.

## B. Madhya Pradesh

The State of Madhya Pradesh was the second state to enact an anti-conversion law, the Madhya Pradesh Freedom of Religion Act, 1968.<sup>40</sup> Instead of using the term “inducement,” the Act uses the term “allurement,” which is defined under section 2(a) as an “offer of any temptation in the form of (i) any gift or gratification, either in cash or kind; (ii) grant of any material benefit, either monetary or otherwise.”<sup>41</sup> Section 3 of the Act states that “[n]o person shall convert or attempt to convert, either directly or otherwise, any person from one religious faith to another by the use [of] force or by allurement or by any fraudulent means nor shall any person abet any such conversion.”<sup>42</sup> The crime is punishable with imprisonment, which may extend to one year, a fine of up to 5,000 rupees, or both.<sup>43</sup> If the crime is committed against a minor, woman, or person belonging to an SC/ST, the term of imprisonment is up to two years and the fine may be up to 10,000 rupees.<sup>44</sup> Under section 5 of the Act, notice of the conversion must be given to the District Magistrate by the religious priest or the person who converts any person<sup>45</sup> “within seven days after the date of such ceremony.”<sup>46</sup>

Unlike the Orissa High Court, in 1977 the Madhya Pradesh High Court upheld the Madhya Pradesh Freedom of Religion Act, 1968, holding that the relevant sections “establish the equality of religious freedom for all citizens by prohibiting conversion by objectionable activities such, as conversion by force, fraud and by allurement.”<sup>47</sup>

<sup>38</sup> *Yulitha Hyde & Ors. v. State of Orissa & Ors.*, A.I.R. 1973 116 (Ori), ¶ 12.

<sup>39</sup> *Id.*

<sup>40</sup> Madhya Pradesh Dharm a Swatantrya Adhiniyam [Madhya Pradesh Freedom of Religion Act], 1968, available at [http://www.kandhamal.net/DownloadMat/Madhya\\_Pradesh\\_Freedom\\_of\\_Religion\\_Act.pdf](http://www.kandhamal.net/DownloadMat/Madhya_Pradesh_Freedom_of_Religion_Act.pdf), archived at <https://perma.cc/7H96-2Y5A>; Madhya Pradesh Dharma Swatantrya [Madhya Pradesh Freedom of Religion Act] Rules, 1969, [http://www.kandhamal.net/DownloadMat/Madhya\\_Pradesh\\_Freedom\\_of\\_Religion\\_Rules.pdf](http://www.kandhamal.net/DownloadMat/Madhya_Pradesh_Freedom_of_Religion_Rules.pdf), archived at <https://perma.cc/L6UG-7SZ3>.

<sup>41</sup> Madhya Pradesh Freedom of Religion Act § 2(a).

<sup>42</sup> *Id.* § 3.

<sup>43</sup> *Id.* § 4.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.* § 5.

<sup>46</sup> Madhya Pradesh Freedom of Religion Act Rules, 1969, Rule 3(1).

<sup>47</sup> *Rev. Stainislaus v. State of Madhya Pradesh & Ors.*, 1977 A.I.R. 908 (citing High Court of Madhya Pradesh).



Madhya Pradesh unsuccessfully sought to enact amending legislation in 2006 that would have required the priest to also provide notice to the District Magistrate one month prior to such conversion, giving “details of the related religion’s purification ceremony in which such conversion takes place along with the date, time, place and the name and address of the person whose religion is going to be changed.”<sup>48</sup> Failure to do so would have been punishable by up to one year in prison, a fine of up to 5,000 rupees, or both.<sup>49</sup> In addition, the amendment would have required the person who desired to convert to another religion to declare his or her intent to change religions “in front of [a] District Magistrate or in front of the Executive Magistrate specially authorized by [the] District Magistrate of [a] related District, that he wishes to change his religion on his own and at his will and pleasure.”<sup>50</sup> Failure to declare would have been punishable by a fine of 1,000 rupees.<sup>51</sup> After receiving the information, the District Magistrate was to provide the details to the Police Superintendent, who in turn would have investigated the matter to ensure there were no objections to the conversion<sup>52</sup> and reported his or her findings back to the District Magistrate.<sup>53</sup> However, the Madhya Pradesh Governor Balram Jakhar referred the amending bill to the President who refused to grant it assent because he felt it “violated the freedom of religion guaranteed in the Constitution because it insists on prior permission.”<sup>54</sup>

The Madhya Pradesh Legislative Assembly approved a similar amendment to the state’s 1968 anti-conversion law in August 2013 “that would make the law more stringent.”<sup>55</sup> According to a news report, the 2013 amendment would enhance jail terms and fines for forced conversions (up to three years and the fine of up to 50,000 rupees, and in the case of a minor, a woman, or a person belonging to an SC/ST up to four years and a fine of up to 100,000 rupees) and make it compulsory for the priest to request prior permission for the proposed conversion before conversion, and the person who has converted would be required to inform authorities within a stipulated period of time.<sup>56</sup> However, the state’s governor has yet to grant assent to the law.<sup>57</sup>

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<sup>48</sup> Madhya Pradesh Freedom of Religion (Amendment) Act, 2006 (adding revised ¶ II and new § 5(2)), available at [http://www.kandhamal.net/DownloadMat/Madhya\\_Pradesh\\_Freedom\\_of\\_Religion\\_Act\\_amendment.pdf](http://www.kandhamal.net/DownloadMat/Madhya_Pradesh_Freedom_of_Religion_Act_amendment.pdf), archived at <https://perma.cc/XQ8D-THVL>.

<sup>49</sup> *Id.* § 5(5).

<sup>50</sup> *Id.* § 5(1).

<sup>51</sup> *Id.* § 5(4).

<sup>52</sup> *Id.* § 5(3).

<sup>53</sup> *Id.*

<sup>54</sup> *MP Govt Moves Bill to Make Anti-conversion Law Stringent*, THE INDIAN EXPRESS (July 10, 2013), <http://archive.indianexpress.com/news/mp-govt--moves-bill-to-make-anti-conversion-law-stringent/1139927/>, archived at <https://perma.cc/49Z2-UGUV>.

<sup>55</sup> Testimony of Katrina Lantos Swett, *supra* note 23, at 5.

<sup>56</sup> *MP Govt Moves Bill to Make Anti-conversion Law Stringent, supra* note 54; *Anti-conversion Law Being Misused in MP: Archbishop*, THE INDIAN EXPRESS (Jan. 24, 2016), <http://indianexpress.com/article/india/india-news-india/archbishop-says-anti-conversion-law-misused-in-madhya-pradesh/>, archived at <https://perma.cc/NC37-E3Z5>.

<sup>57</sup> Testimony of Katrina Lantos Swett, *supra* note 23, at 5.

### C. Arunachal Pradesh

Following the High Court cases in Orissa and Madhya Pradesh, anti-conversion legislation was implemented in the states of Andhra Pradesh, Tamil Nadu, and Arunachal Pradesh in 1978. The State of Arunachal Pradesh's anti-conversion provisions are contained in the Arunachal Pradesh Freedom of Religion Act, 1978, and are along similar lines to those enacted in Orissa and Madhya Pradesh.<sup>58</sup> The law was passed “[i]n view of the perceived threat to indigenous religions.”<sup>59</sup> It received presidential assent on October 25, 1978. Section 3 of the Act stipulates that “[n]o person shall convert or attempt to convert, either directly or otherwise, any person from one religious faith to any other religious faith by the use of force or by inducement or by any fraudulent means nor shall any person abet any such conversion.”<sup>60</sup> Conversion “means renouncing one religious faith and adopting another religious faith, and ‘convert’ shall be construed accordingly.”<sup>61</sup> Under the law religious faith includes indigenous faith, which is defined as

religions, beliefs and practices including rites, rituals, festivals, observances, performances, abstinence, customs as have been found sanctioned, approved, performed by the indigenous communities of Arunachal Pradesh from the time these communities have been known and includes Buddhism as prevalent among Monpas, Menbas, Sherdukpens, Khambas, Khamtis and Singaphoos, Vaishnavism as practised by Noctes, Akas, and Nature worships including worships of Donyi-Polo, as prevalent among other indigenous communities of Arunachal Pradesh.<sup>62</sup>

Some reports appear to construe the law's definition of “conversion” in a manner that excludes reconversions to native faiths,<sup>63</sup> but it is unclear if this is a mistake or as a result of some amendment that could not be located. Some human rights organizations and legal scholars have criticized this aspect of the law since its real intent is to prevent or regulate conversions to faiths such as Christianity and Islam, and exempt “reconversions,”<sup>64</sup> raising the issue of equal protection and treatment under the law.<sup>65</sup>

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<sup>58</sup> Arunachal Pradesh Freedom of Religion Act, 1978, <http://acts.gov.in/AR/2897.pdf>, archived at <https://perma.cc/9THA-9M2C>.

<sup>59</sup> CHRISTIANITY AND CHANGE IN NORTHEAST INDIA 234 (Tanka Bahadur Subba et al. eds., 2016).

<sup>60</sup> Arunachal Pradesh Freedom of Religion Act § 3.

<sup>61</sup> *Id.* § 2(b).

<sup>62</sup> *Id.* § 2(c).

<sup>63</sup> *See, e.g.*, South Asia Human Rights Documentation Centre, *supra* note 22, at 64.

<sup>64</sup> Tehmina Arora, International Institute for Religious Freedom, *India's Defiance of Religious Freedom: A Briefing on 'Anti-Conversion' Laws*, 1(2) IIRF REPORTS 5 (Feb. 2012), [http://www.iirf.eu/fileadmin/user\\_upload/IIRF\\_Reports/iirf\\_rep\\_2\\_1\\_india.pdf](http://www.iirf.eu/fileadmin/user_upload/IIRF_Reports/iirf_rep_2_1_india.pdf), archived at <https://perma.cc/4SWA-R4WX>.

<sup>65</sup> WEN-CHEN CHANG ET AL., CONSTITUTIONALISM IN ASIA: CASES AND MATERIALS 816 (2014).

The term “force” in the law includes a “show of force or a threat of injury of any kind including threat of divine displeasure or social excommunication.”<sup>66</sup> The term “fraud” is defined to include “misrepresentation or any other fraudulent contrivance,”<sup>67</sup> and “inducement” means “the offer of any gift or gratification, either cash or in kind and shall also include the grant of any benefit, either pecuniary or otherwise.”<sup>68</sup> The crime of forcible conversion is punishable with imprisonment of up to two years and fine of up to 10,000 rupees.<sup>69</sup> Section 5 of the Act requires notice of a conversion by the priest or “[w]hoever converts any person” within a prescribed period to be established by subsidiary rules.<sup>70</sup>

However, the law does not appear to be enforced because the government has yet to frame the rules needed to implement it.<sup>71</sup>

#### D. Chhattisgarh

The State of Chhattisgarh was established in November 2000 as a result of the partitioning of the southeastern districts of Madhya Pradesh. Chhattisgarh reportedly retained the anti-conversion law of Madhya Pradesh and adopted it under the title Chhattisgarh Freedom of Religion Act, 1968.<sup>72</sup> The subsidiary rules for implementation of the Act were also retained.<sup>73</sup>

The rise of Hindu Nationalism and the BJP party in Chhattisgarh since the 1990s has led to the passage of a number of anti-conversion laws between 2000 and 2010.<sup>74</sup> Moreover, attempts were made during this period to make pre-existing laws more stringent.

In 2006, the state legislature, in which the BJP held a majority, passed an amendment to the 1968 Act to make it more stringent, but the measure is still awaiting assent. The amendment would redefine “conversion” to provide that “the return in ancestor’s original religion or his own original religion by any person shall not be construed as ‘conversion’.”<sup>75</sup> The measure would also increase the punishment and fines for forced conversion,<sup>76</sup> require prior permission from a district magistrate before a conversion takes place, stipulate that notice must be given to the

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<sup>66</sup> Arunachal Pradesh Freedom of Religion Act § 2(d).

<sup>67</sup> *Id.* § 2(e).

<sup>68</sup> *Id.* § 2(f).

<sup>69</sup> *Id.* § 4.

<sup>70</sup> *Id.* § 5.

<sup>71</sup> INTERNATIONAL RELIGIOUS FREEDOM REPORT FOR 2015: INDIA, *supra* note 16.

<sup>72</sup> *Chhattisgarh Passes Anti-conversion Bill*, GULF NEWS (Aug. 4, 2006), <http://gulfnews.com/news/asia/india/chhattisgarh-passes-anti-conversion-bill-1.248514>, archived at <https://perma.cc/9RK6-6XZ4>; Saadiya Suleman, Note, *Freedom of Religion and Anti Conversion Laws in India: An Overview*, 1(1) ILI L. REV. 106, 118 (Feb. 1, 2010), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1597854](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1597854), archived at <https://perma.cc/9WMZ-UZ69>.

<sup>73</sup> South Asia Human Rights Documentation Centre, *supra* note 22, at 63.

<sup>74</sup> GOLDIE OSURI, RELIGIOUS FREEDOM IN INDIA: SOVEREIGNTY AND (ANTI) CONVERSION 2 (2013)

<sup>75</sup> Chhattisgarh Freedom of Religion (Amendment) Act, No. 18 of 2006, § 2.

<sup>76</sup> *Id.* § 3.

magistrate thirty days prior to the conversion, and authorize the magistrate after an inquiry order to “permit or refuse to permit any person to convert, any person, from one religious faith to another and such permission shall be valid for two months from the date of its order.”<sup>77</sup> This order would only be appealable to a district judge “whose decision shall be final.”<sup>78</sup> The bill states that anyone found guilty of converting any person in contravention of the district magistrate’s order commits a cognizable offense punishable by imprisonment for up to three years and a fine of up to 20,000 rupees.<sup>79</sup>

According to an *Indian Express* article published in late 2014, the bill is being reviewed by the Ministry of Home Affairs (MHA) after previous governors of Chhattisgarh refused to give their assent.<sup>80</sup>

## E. Gujarat

The anti-conversion law in the state of Gujarat was enacted as the Gujarat Freedom of Religion Act, 2003.<sup>81</sup> The purpose of the Act is to prohibit conversions from one religion to another by use of force, allurement, or fraudulent means.

Section 3 of the Gujarat Freedom of Religion Act, 2003 prohibits forcible conversion and states that “[n]o person shall convert or attempt to convert, either directly or otherwise, any person from one religion to another by use of force or by allurement or by any fraudulent means nor shall any person abet such conversion.”<sup>82</sup> Unlike the legislation of other states, however, the wording of the definition of “convert” is slightly different, and means “to make one person to renounce one religion and adopt another religion.”<sup>83</sup> Any person who contravenes section 3 is punishable by imprisonment for up to three years and is also liable to a fine up to 50,000 rupees.<sup>84</sup> If the crime is committed against a minor, woman, or person belonging to an SC/ST, it is “punished with imprisonment for a term which may extend to four years and also be liable to fine which may extend to [Rs. 100,000].”<sup>85</sup>

Unlike the other state acts where only prior or subsequent notice is required, under section 5 of the Gujarat Act, a person wanting to convert must seek prior permission from the District

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<sup>77</sup> *Id.* § 4.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> Vijaita Singh, *MHA Examining Chhattisgarh’s Anti-conversion Bill*, INDIAN EXPRESS (Dec. 22, 2014), <http://indianexpress.com/article/india/india-others/mha-examining-chhattisgarhs-anti-conversion-bill/>, archived at <https://perma.cc/98H5-TBDJ>.

<sup>81</sup> Gujarat Freedom of Religion Act, 2003, available at [https://home.gujarat.gov.in/Upload/Gujarat Freedom of Religion Act2003\\_new\\_home\\_1\\_1\\_221015.pdf](https://home.gujarat.gov.in/Upload/Gujarat Freedom of Religion Act2003_new_home_1_1_221015.pdf), archived at <https://perma.cc/7VBX-BGTP>.

<sup>82</sup> *Id.* § 3.

<sup>83</sup> *Id.* § 2(b).

<sup>84</sup> *Id.* § 4.

<sup>85</sup> *Id.*

Magistrate with respect to the conversion.<sup>86</sup> The section also requires the person who is converted to send a notice to the District Magistrate of the “[district] concerned in which the ceremony has taken place of the fact of such conversion within such period and in such form as may be prescribed by rules.”<sup>87</sup> The Gujarat Freedom of Religion Rules 2008 stipulate that such a notice should be given “within ten days from the date of such conversion ceremony.” Failure to comply with these permission or notice provisions is punishable by imprisonment for up to one year or a fine of up to 1,000 rupees, or both.<sup>88</sup>

On July 21, 2006, an amendment bill known as the Gujarat Freedom of Religion (Amendment) Act, 2006, was passed by the BJP state-level government.<sup>89</sup> The bill’s aim was to replace section 2(b) of the original Act, which defined the word “convert,” and to provide clarifying explanations. The amendment sought to clarify that the provisions of the Act “shall not apply to inter-denomination conversion of the same religion.”<sup>90</sup> The substitute language for section 2(b) read as follows:

- (b) “Convert” means to make one person to renounce one religion and adopt another religion; but does not include to make one person to renounce one denomination and adopt another denomination of the same religion.

*Explanation:* For removal of doubt, it is hereby illustrated that for the purpose of this Act:

- (i) Jain and Buddhist shall be construed as denominations of Hindu religion;
- (ii) Shia and Sunni shall be construed as denominations of Muslim religion; and
- (iii) Catholic and Protestant shall be construed as denominations of Christian religion.<sup>91</sup>

Buddhist and Jain communities, however, raised objection to being subsumed as a denomination of the Hindu religion when the bill was introduced in 2006.<sup>92</sup> The state government withdrew the bill after the governor returned it for reconsideration.<sup>93</sup> According to the South Asia Human Rights Documentation Centre,

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<sup>86</sup> *Id.* § 5.

<sup>87</sup> *Id.* § 5(2).

<sup>88</sup> *Id.* § 5(3).

<sup>89</sup> Gujarat Freedom of Religion (Amendment) Bill, 2006, [http://www.kandhamal.net/DownloadMat/Gujarat\\_Freedom\\_of\\_Religion\\_Act\\_amendment.pdf](http://www.kandhamal.net/DownloadMat/Gujarat_Freedom_of_Religion_Act_amendment.pdf), archived at <https://perma.cc/F2C8-QQYT>.

<sup>90</sup> *Id.* Statement of Objects & Reasons.

<sup>91</sup> *Id.* § 2.

<sup>92</sup> *Gujarat Withdraws Freedom of Religion Amendment Bill*, THE INDIAN EXPRESS (Mar. 11, 2008), <http://archive.indianexpress.com/news/gujarat-withdraws-freedom-of-religion-amendment-bill/282818/>, archived at <https://perma.cc/K77H-J859>.

<sup>93</sup> *Id.*

[w]hile returning the amendment bill to the legislature, the governor stated that the explanations it contained “stipulating that the Jains and Buddhists . . . be construed as denominations of the Hindu religion, Shias and Sunnis of the Muslim religion and Catholics and Protestants of the Christian religion” were particularly objectionable. The Jain community had been especially vociferous in protesting against the amendment.<sup>94</sup>

## F. Himachal Pradesh

The Himachal Pradesh Freedom of Religion Act, 2006<sup>95</sup> is “modelled on existing anti-conversion laws in other Indian states” and came into effect on February 18, 2007.<sup>96</sup> According to the South Asia Human Rights Documentation Centre, “[i]ts adoption is particularly ironic in view of the fact that the state government is led by the Congress Party, which has consistently sought to highlight its ‘secular’ credentials.”<sup>97</sup>

Section 3 of the Act prohibits conversion “by the use of force or by inducement or by any other fraudulent means.”<sup>98</sup> One important difference, however, is that “[t]he proviso to the prohibition clause of the Himachal Pradesh Act further goes on to declare that ‘any person who has been converted from one religion to another, in contravention of the provisions of this section, shall be deemed not to have been converted.’”<sup>99</sup> The Himachal Pradesh Act also uses the term “inducement” instead of “allurement.”<sup>100</sup>

Section 4(1) of the Act requires any person wishing to convert to another religion to give at least thirty days’ prior notice to district authorities. However, “no notice shall be required if a person reverts back to his original religion.”<sup>101</sup> Notice of a conversion must be made to the Deputy Commissioner;<sup>102</sup> failure to do so is subject to punishment.<sup>103</sup> According to section 5, an offense under section 3 is punishable with imprisonment for up to two years, a fine of up to 25,000

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<sup>94</sup> South Asia Human Rights Documentation Centre, *supra* note 22, at 64.

<sup>95</sup> The text of the Himachal Pradesh Freedom of Religion Act, 2006, could not be located but is believed to be identical to the original bill text. See Himachal Pradesh Freedom of Religion Bill, No. 31 of 2006, [http://www.kandhamal.net/DownloadMat/Himachal\\_Pradesh\\_Freedom\\_of\\_Religion-Act.pdf](http://www.kandhamal.net/DownloadMat/Himachal_Pradesh_Freedom_of_Religion-Act.pdf), archived at <https://perma.cc/34KX-64D8>.

<sup>96</sup> South Asia Human Rights Documentation Centre, *supra* note 22, at 64.

<sup>97</sup> *Id.*

<sup>98</sup> Himachal Pradesh Freedom of Religion Bill § 2.

<sup>99</sup> Suleman, *supra* note 72, at 120; see also Himachal Pradesh Freedom of Religion Bill § 3.

<sup>100</sup> Himachal Pradesh Freedom of Religion Bill § 2(d).

<sup>101</sup> *Id.* § 4(1).

<sup>102</sup> *Id.*

<sup>103</sup> *Id.* § 4(2).

rupees, or both.<sup>104</sup> In the case of the conversion of a minor, woman, or SC/ST, the term of imprisonment may extend to three years and the fine may be increased to 50,000 rupees.<sup>105</sup>

In a landmark decision, the Himachal Pradesh High Court struck down section 4 of the Act and Rules 3 and 5 of the Himachal Pradesh Freedom of Religion Rules 2007.<sup>106</sup> The Court held that these provisions were in violation of article 14 of the Constitution, and that “a person not only has a right of conscience, the right of belief, the right to change his belief, but also has the right to keep his beliefs secret.”<sup>107</sup> The Court, after examining the anti-conversion laws in Madhya Pradesh and Orissa, came to the conclusion “that the Himachal Act had gone beyond the other two Acts and had infringed on the fundamental rights of the converttees,”<sup>108</sup> according to a news report.<sup>109</sup>

## G. Rajasthan

Rajasthan State’s Parliament also passed an anti-conversion bill in 2006,<sup>110</sup> but it was never given assent by the state’s governor.<sup>111</sup> According to one report, the governor “did not sign the bill because of complaints by religious minorities.”<sup>112</sup> Under the bill, “conversion” was defined as “renouncing one’s own religion and adopting another,” and “own religion” was described as “[the] religion of one’s forefathers.”<sup>113</sup> Punishment for conversion is two years’ imprisonment, which may extend to five years, and fines of up to fifty thousand rupees.<sup>114</sup> The offense is “cognizable and non-bailable and shall not be investigated by an officer below the rank of Deputy Superintendent of Police.”<sup>115</sup>

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<sup>104</sup> *Id.* § 5.

<sup>105</sup> *Id.* § 5.

<sup>106</sup> Himachal Pradesh Freedom of Religion Rules, 2007, [http://www.olir.it/ricerca/getdocumentpdf.php?lang=ita&Form\\_object\\_id=5901](http://www.olir.it/ricerca/getdocumentpdf.php?lang=ita&Form_object_id=5901), archived at <https://perma.cc/AS8H-M9NN>.

<sup>107</sup> Ravinder Makhaik, *HC Partially Strikes Down Himachal’s Anti-conversion Law*, TIMES OF INDIA (Aug. 31, 2012), <http://timesofindia.indiatimes.com/india/HC-partially-strikes-down-Himachals-anti-conversion-law/articleshow/16036603.cms>, archived at <https://perma.cc/DQS6-PWPB>.

<sup>108</sup> *Id.*

<sup>109</sup> *Id.*

<sup>110</sup> Rajasthan Freedom of Religion Bill, No. 12 of 2006, [http://www.kandhamal.net/DownloadMat/Rajasthan\\_Freedom\\_of\\_Religion\\_Bill.pdf](http://www.kandhamal.net/DownloadMat/Rajasthan_Freedom_of_Religion_Bill.pdf), archived at <https://perma.cc/FPY9-ZDS2>.

<sup>111</sup> *Cable 64917: Rajasthan Governor Refuses to Sign Anti-conversion Bill*, THE HINDU (Apr. 21, 2011; updated Sept. 27, 2016), <http://www.thehindu.com/news/the-india-cables/the-cables/64917-Rajasthan-governor-refuses-to-sign-anti-conversion-bill/article14690462.ece>, archived at <https://perma.cc/GYS9-7Q8W>.

<sup>112</sup> *Rajasthan Religion Bill Rejected*, BBC NEWS, [http://news.bbc.co.uk/2/hi/south\\_asia/4996708.stm](http://news.bbc.co.uk/2/hi/south_asia/4996708.stm) (last updated May, 19, 2006), archived at <https://perma.cc/6P9E-KQKA>.

<sup>113</sup> Rajasthan Freedom of Religion Bill § 2(c).

<sup>114</sup> *Id.* § 4.

<sup>115</sup> *Id.* § 5.

## H. Tamil Nadu

The Tamil Nadu Prohibition of Forcible Conversion of Religion Ordinance 2002<sup>116</sup> was issued but was subsequently replaced by the Tamil Nadu Prohibition of Forcible Conversion of Religion Act 2002<sup>117</sup> in the same year. The Act, now repealed, was passed under the initiative of the right-wing government under former Chief Minister of Tamil Nadu, the late Jayaram Jayalalithaa. The Act adhered to the general framework as laid down in the Orissa Freedom of Religion Act 1967. Section 3 stated that “[n]o person shall convert or attempt to convert directly or otherwise any person from one religion to another either by use of force or by allurement or by any fraudulent means.”<sup>118</sup> Anyone who “converts any person from one religion to another either by performing any ceremony by himself for such conversion as a religious priest or by taking part directly or indirectly in such ceremony shall” be required to send notice to the District Magistrate within the prescribed period.<sup>119</sup> The Act imposed a fine of up to 50,000 rupees and three years of imprisonment on anyone found guilty of coercing religious conversions.<sup>120</sup> If the conversions involved women, minors, or members of the SC/ST, a fine of 1,000,000 rupees and four years of imprisonment were imposed.<sup>121</sup>

Thousands of Dalits converted to Christianity and Buddhism without approval from the local magistrate in protest of the new anti-conversion laws.<sup>122</sup> On May 21, 2004, due to electoral implications and representation from minorities against the anti-conversion provisions,<sup>123</sup> the Tamil Nadu Prohibition of Forcible Conversion of Religion Act was repealed by the state government.<sup>124</sup>

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<sup>116</sup> *The Tamil Nadu Prohibition of Forcible Conversion of Religion Ordinance*, BERKLEY CENTER FOR RELIGION, PEACE, AND WORLD AFFAIRS (Jan. 1, 2002), <https://berkeleycenter.georgetown.edu/quotes/the-tamil-nadu-prohibition-of-forcible-conversion-of-religion-ordinance>, archived at <https://perma.cc/P4L3-K7UK>.

<sup>117</sup> Tamil Nadu Prohibition of Forcible Conversion of Religion Act, No. 56 of 2002, available at [http://www.lawsfindia.org/pdf/tamil\\_nadu/2002/2002TN56.pdf](http://www.lawsfindia.org/pdf/tamil_nadu/2002/2002TN56.pdf), archived at <https://perma.cc/6X4B-8YRS>.

<sup>118</sup> *Id.* § 3.

<sup>119</sup> *Id.* § 5(1).

<sup>120</sup> *Id.* § 4.

<sup>121</sup> *Id.*

<sup>122</sup> *Crackdown over India Mass Baptism*, BBC NEWS (Dec. 6, 2002), [http://news.bbc.co.uk/2/hi/south\\_asia/2548471.stm](http://news.bbc.co.uk/2/hi/south_asia/2548471.stm), archived at <https://perma.cc/NN75-3L5K>.

<sup>123</sup> *Government Announces Anti-Conversion Law Not in Force in Tamil Nadu, India*, CHRISTIAN TODAY (May 25, 2005), <http://www.christiantoday.com/article/government.announces.anti.conversion.law.not.in.force.in.tamil.nadu.india/2969.htm>, archived at <https://perma.cc/4T4K-9U8N>.

<sup>124</sup> Tamil Nadu Prohibition of Forcible Conversion of Religion (Repeal) Act, 2006, GOVERNMENT GAZETTE EXTRAORDINARY, June 7, 2006, [http://cms.tn.gov.in/sites/default/files/acts/ACT\\_10to12\\_131\\_07JUN06\\_0.pdf](http://cms.tn.gov.in/sites/default/files/acts/ACT_10to12_131_07JUN06_0.pdf), archived at <https://perma.cc/5TL5-C554>;



#### IV. Treatment by the Supreme Court

The Constitution of India guarantees the freedom to profess, practice, and propagate one's religion under article 25. The Supreme Court in the case of *Ratilal Panachand Gandhi v. State of Bombay* clarified this provision by holding that

every person has a fundamental right under our Constitution not merely to entertain such religious belief as may be approved of by his judgment or conscience but to exhibit his belief and ideas in such overt acts as are enjoined or sanctioned by his religion and further to propagate his religious views for edification of others.<sup>125</sup>

The Supreme Court in *Rev Stainislaus v. State of Madhya Pradesh*<sup>126</sup> 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: the Madhya Pradesh Dharma Swatantraya Adhiniyam, 1968, and the Orissa Freedom of Religion Act, 1967. As summarized by Professor Laura Jenkins, the Court found that "restrictions on efforts to convert are constitutional because such efforts impinge on 'freedom of conscience' and 'public order'."<sup>127</sup> In one of its conclusions the Court held that propagation only indicated persuasion/exposition without coercion and that the right to propagate did not include the right to convert any person. This holding was summed up by the Court as follows:

It has to be remembered that Article 25(1) guarantees "freedom of conscience" to every citizen, and not merely to the followers of one particular religion, and that, in turn, postulates that there is no fundamental right to convert another person to one's own religion because if a person purposely undertakes the conversion of another person to his religion, as distinguished from his effort to transmit or spread the tenets of his religion, that would impinge on the "freedom of conscience" guaranteed to all the citizens of the country alike.

...

It has to be appreciated that the freedom of religion enshrined in the Article [25] is not guaranteed in respect of one religion only, but covers all religions alike, and it can be properly enjoyed by a person if he exercises his right in a manner commensurate with the like freedom of persons following the other religions. What is freedom for one, is freedom for the other, in equal measure, and there can

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<sup>125</sup> *Ratilal Panachand Gandhi v. State of Bombay*, 1954 S.C.R. 1035, 1063, <http://judis.nic.in/supremecourt/imgs1.aspx?filename=949>, archived at <https://perma.cc/TNT3-EKTK>.

<sup>126</sup> *Rev. Stainislaus v. State of Madhya Pradesh*, (1977) 1 SCC 677 (Online).

<sup>127</sup> Laura Dudley Jenkins, *Legal Limits on Religious Conversion in India*, 71 LAW & CONTEMP. PROBS. 109, 115 (2008), <http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1469&context=lcp>, archived at <https://perma.cc/MM8W-K64C>.

therefore be no such thing as a fundamental right to convert any person to one's own religion.<sup>128</sup>

Since article 25(1) stipulates that the right is subject to “public order,” the Court also found that the Acts “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,” and that “the expression ‘Public order’ is of wide connotation.”<sup>129</sup> On the question of competency, the Court found that the Acts fall within the purview of the states pursuant to Entry I (“Public Order”) of List II of the Seventh Schedule and are not regulated as a subject of religion, which is under the residuary jurisdiction of the central legislature.<sup>130</sup>

## V. Implementation and Enforcement

Human rights organizations and institutions have expressed concerns over the years about the rights implications of, and lack of equitable treatment under, these laws. According to the US Commission on International Religious Freedom (USCIRF), “[t]hese laws, based on concerns about unethical conversion tactics, generally require government officials to assess the legality of conversions out of Hinduism only, and provide for fines and imprisonment for anyone who uses force, fraud, or ‘inducement’ to convert another.”<sup>131</sup>

A report released by the USCIRF stated that although India emphasizes “complete legal equality” and prohibits faith-based discrimination, “there are constitutional provisions, State and national laws that do not comply with international standards of freedom of religion or belief, including Article 18 of the UN Declaration of Human Rights and Article 18 of the International Covenant on Civil and Political Rights.”<sup>132</sup> The report also stated that “the anti-conversion laws both by their design and implementation infringe upon the individual’s right to convert, favor Hinduism over minority religions, and represent a significant challenge to Indian secularism.”<sup>133</sup> In addition, “these laws have resulted in inequitable practices against minorities.”<sup>134</sup>

On the other hand, a Hindu advocacy group in the United States, the Hindu American Foundation, has claimed that

Freedom of Religion laws were primarily formulated to prevent vulnerable populations or populations without power, such as children and those that are poor, uneducated, and illiterate from being preyed upon and falling victim to

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<sup>128</sup> *Rev. Stainislaus v. State of Madhya Pradesh*, *supra* note 126, ¶ 21.

<sup>129</sup> *Id.* ¶ 24.

<sup>130</sup> *Id.* ¶ 25.

<sup>131</sup> USCIRF, ANNUAL REPORT 2016: INDIA 162, [http://www.uscifr.gov/sites/default/files/USCIRF 2016 Annual Report.pdf](http://www.uscifr.gov/sites/default/files/USCIRF%202016%20Annual%20Report.pdf), archived at <https://perma.cc/A5NM-947L>.

<sup>132</sup> KARAMAT CHEEMA, USCIRF, *supra* note 6, at 11.

<sup>133</sup> *Id.* at 3.

<sup>134</sup> *Id.* at 2.

predatory efforts seeking religious conversion in exchange for or with the allurements of medical and humanitarian aid, education, or employment.<sup>135</sup>

Proponents view the laws as a restriction on conversion, “so as to preserve peace and harmony in plural India.”<sup>136</sup>

Despite criticism of India’s anti-conversion laws, some human rights bodies, including the USCIRF, have acknowledged that “these laws have resulted in few arrests and no convictions.”<sup>137</sup>

The US State Department’s International Religious Freedom reports published in 2010 and 2011 have also noted few arrests and no convictions under various anti-conversion laws during the respective reporting periods.<sup>138</sup> According to the 2008 State Department report, “[t]here were 14 reported arrests in 4 separate incidents under the Madhya Pradesh ‘anti-conversion’ law, compared with 11 arrested during the previous reporting period.”<sup>139</sup> In March 2011, twelve members of a tribal community were arrested for converting to Christianity without a permit.<sup>140</sup> The 2013 State Department report stated as follows:

In January NGOs reported that the Odisha police arrested two Christians, Bahadur Murmu and Rama Soreng, under the provisions of the state anti-conversion law in Dubia village of Baripada district after a group of Hindu nationalists accused the two of forcible conversions. Both were released on bail on January 20.

In July Gujarat Police filed charges against Maulvi Yusuf Khan Pathan and Altaf Mirza, who were arrested in 2011 under Gujarat’s anti-conversion law, for not seeking government permission to convert a Hindu woman to Islam before her marriage in 2010 to Mirza. Both Pathan and Mirza were out on bail at the end of the year. In 2009, civil rights groups brought a constitutional challenge to the Gujarat anti-conversion laws, but the Gujarat High Court has yet to hear the case.

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<sup>135</sup> USCIRF Hearing – March 10, 2011, HINDU AMERICAN FOUNDATION, <https://www.hafsite.org/media/pr/uscirf-hearing-testimony>, archived at <https://perma.cc/3ZVM-6B32>.

<sup>136</sup> Preethi Maria Correa, *Anti-Conversion Laws in India and Their Conflict with Freedom of Religion* (UNILU Center for Comparative Constitutional Law and Religion, Working Paper 01/13, 2013), <https://www.unilu.ch/fileadmin/fakultaeten/rf/institute/zrv/dok/wp01-13-correa.pdf>, archived at <https://perma.cc/DV9Z-DU5A>.

<sup>137</sup> USCIRF ANNUAL REPORT 2014, *Tier 2: India*, at 122 (Apr. 30, 2014), [http://www.uscirf.gov/sites/default/files/USCIRF 2014 Annual Report PDF.pdf](http://www.uscirf.gov/sites/default/files/USCIRF%202014%20Annual%20Report%20PDF.pdf), <https://perma.cc/B7VS-A53V>.

<sup>138</sup> U.S. DEPARTMENT OF STATE: BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM 2010: INDIA (Nov. 17, 2010), <http://www.state.gov/j/drl/rls/irf/2010/148792.htm>, archived at <https://perma.cc/8LFV-4UWK>.

<sup>139</sup> U.S. DEPARTMENT OF STATE: BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM 2008: INDIA (2008), <https://www.state.gov/j/drl/rls/irf/2008/108500.htm>, archived at <https://perma.cc/G979-LFU4>.

<sup>140</sup> European Centre for Law and Justice (ECLJ), Universal Periodic Review: Religions Freedom in India (May–June 2012), <https://7676076fde29cb34e26d-759f611b127203e9f2a0021aa1b7da05.ssl.cf2.rackcdn.com/eclj/ECLJ-UPR-India-November-2011.pdf>, archived at <https://perma.cc/F2HE-RN9C>.

On October 13, approximately 60,000 Dalits and other lower-caste Hindus converted to Buddhism in a mass ceremony near Junagadh, Gujarat. The Gujarat government ordered an investigation to see if the converts followed the law, which requires government permission to perform conversions. The organizers stated they obtained necessary government permission, but media quoted the District Collector, who needed to approve the conversions, as saying the group had only secured permission to assemble, but not to perform religious conversions.<sup>141</sup>

Nevertheless, according to the USCIRF, some observers note that

these laws create a hostile, and on occasion violent, environment for religious minority communities because they do not require any evidence to support accusations of wrongdoing. For example, in January 2016, police detained 15 Christians in Karnataka state after members of two Hindu nationalist groups, Bajrang Sal and VHP, alleged that the church leaders were forcibly converting Hindus; they were released later without charge. In December 2015, eight Christians were acquitted of forced conversion in Puttar town, in Dakshina Kannada district, Karnataka state. They originally were charged in 2007, and were released until the hearing.<sup>142</sup>

There have been increasing reports of “reconversion” ceremonies of non-Hindus to Hinduism conducted by hardline Hindu nationalist groups. A report published by the USCIRF observed that the “reconversion” to Hinduism under the term *Ghar Wapsi* (returning home) has not been included in the purview of any anti-conversion law. According to the report, “[s]uch exclusion of reconversion from the purview of the freedom of religion acts unavoidably suggests reconversion by use of force, fraud, or allurement is not punishable under the provisions of these acts.”<sup>143</sup> In December 2014, “Hindu nationalist groups announced plans to ‘reconvert’ thousands of Christian and Muslims families to Hinduism as part of a so-called *Ghar Wapsi* (returning home) program.”<sup>144</sup>

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<sup>141</sup> U.S. DEPARTMENT OF STATE: BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, INTERNATIONAL RELIGIOUS FREEDOM 2013: INDIA (July 28, 2014), <https://www.state.gov/j/drl/rls/irf/2013/sca/222329.htm>, archived at <https://perma.cc/7S9S-Z2GQ>.

<sup>142</sup> USCIRF ANNUAL REPORT 2016, *Tier 2 Countries – India*, *supra* note 10.

<sup>143</sup> KARAMAT CHEEMA, USCIRF, *supra* note 6, at 2.

<sup>144</sup> USCIRF ANNUAL REPORT 2016, *Tier 2 Countries – India*, *supra* note 10.

**Table: Elements of State Anti-conversion Laws**

State	In Force? (Y/N)	Rules? (Y/N)	Repealed? (Y/N)	Re- conversion Excluded? (Y/N)	Prior Permission? (Y/N)	Notice by Priest/Other Person Performing Conversion? (Y/N)	Notice by Convert? (Y/N)	General Penalties	Enhanced Penalties where Convert is Woman, Minor, SC/ST
<b>Arunachal Pradesh</b>	Y	N	N	Y*	N	Y	N	2 yrs. / Rs. 10,000	None
<b>Chhattisgarh</b>	Y	Y	N	N**	N	Y	N	1 yr. / Rs. 5,000	2 yrs. / Rs. 10,000
<b>Gujarat</b>	Y	Y	N	N	Y	N	Y	3 yrs. / Rs. 50,000	4 yrs. / Rs. 100,000
<b>Himachal Pradesh</b>	Y	Y	N	N***	N	N	Y	2 yrs. / Rs. 25,000	3 yrs. / Rs. 50,000
<b>Madhya Pradesh</b>	Y	Y	N	N	N	Y	N	1 yr. / Rs. 5,000	2 yrs. / Rs. 10,000
<b>Odisha</b>	Y	Y	N	N	N	Y	N	1 yr. / Rs. 5,000	2 yrs. / Rs. 10,000
<b>Rajasthan</b>	N	N	N	Y	N	N	N	2 yrs. / Rs. 50,000	None
<b>Tamil Nadu</b>	N	N	Y	N	N	Y	N	3 yrs. / Rs. 50,000	4 yrs. / Rs. 100,000

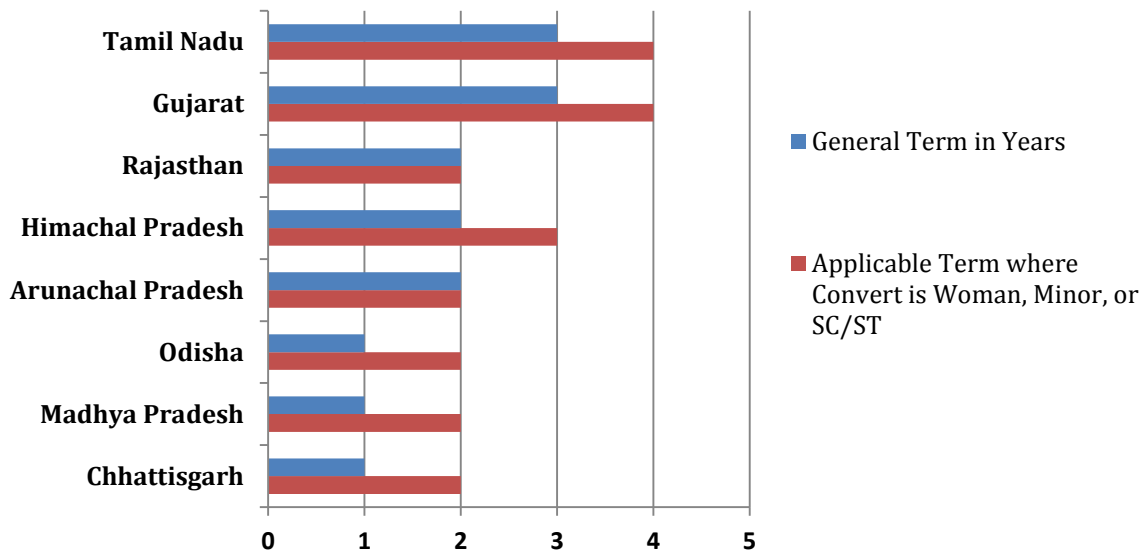
*Source:* Prepared by author based on information provided in this report.

\* Some reports appear to construe the law's definition of "conversion" in a manner that excludes reconversions to native faiths, but this does not appear to be the case under a plain reading of the law.

\*\* An amendment was passed which would redefine "conversion" to provide that "the return in ancestor's original religion or his own original religion by any person shall not be construed as 'conversion'" but it has yet to receive assent.

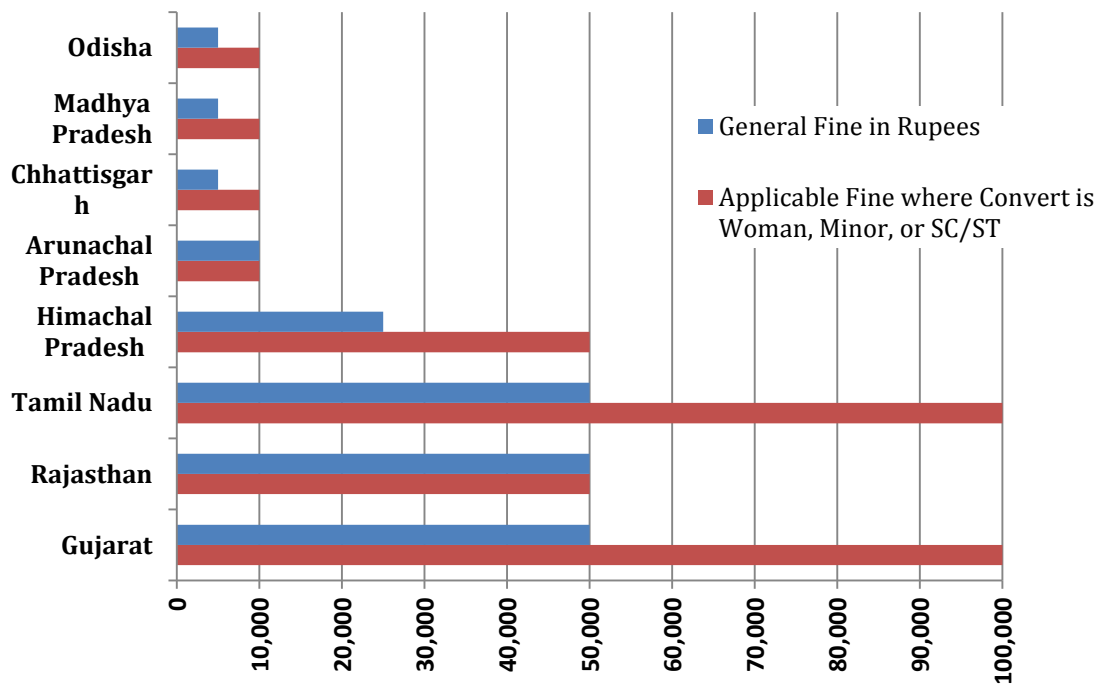
\*\*\* Though the law does not explicitly exclude reconversions from punishment it does stipulate that "no notice shall be required if a person reverts back to his original religion."

**Figure 1: General and Enhanced Prison Terms for Anti-conversion Violations**



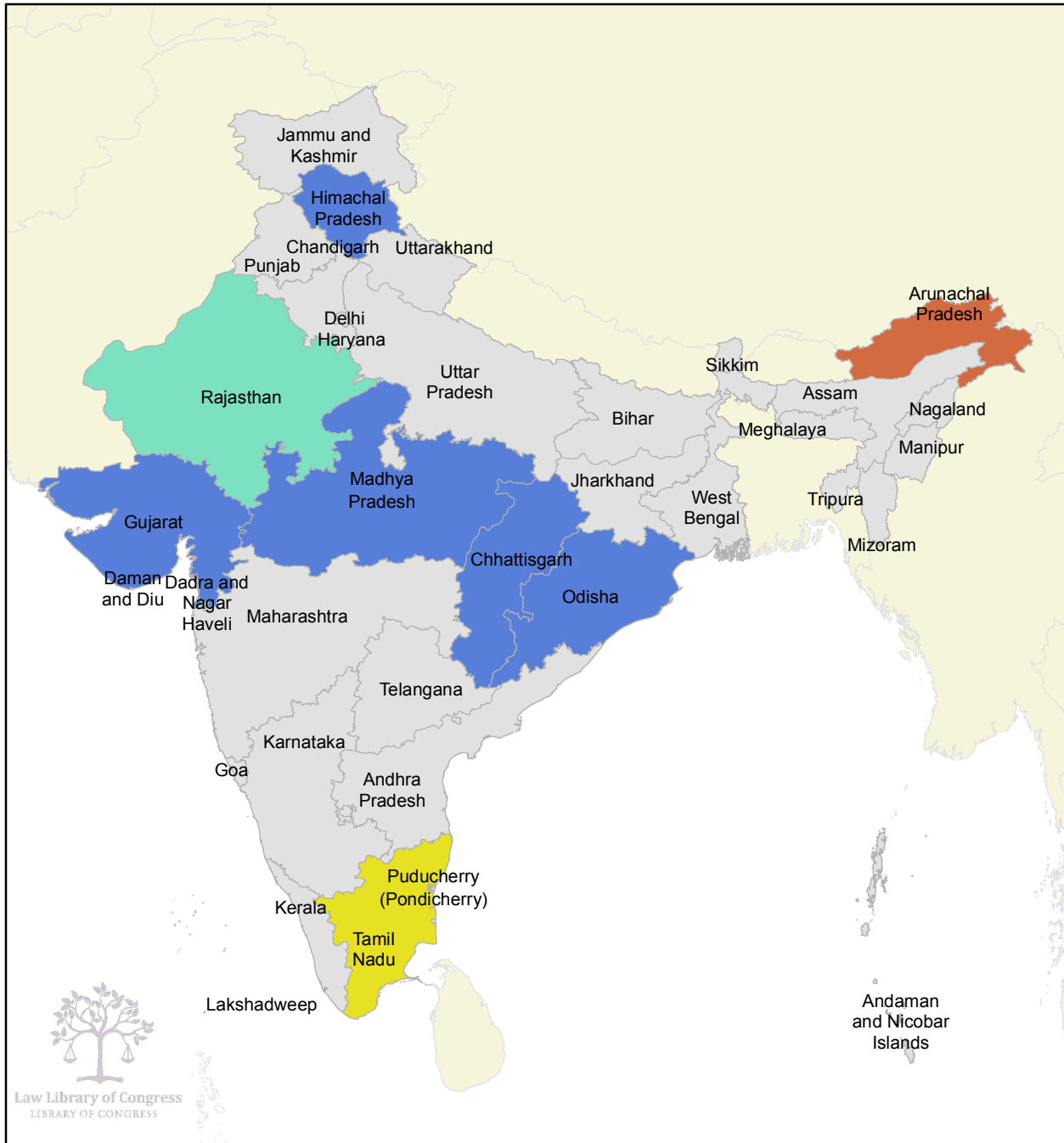
Source: Created by the Law Library of Congress based on information contained in this report.

**Figure 2: General and Enhanced Fines for Anti-conversion Violations**



Source: Created by the Law Library of Congress based on information contained in this report.

Map 1

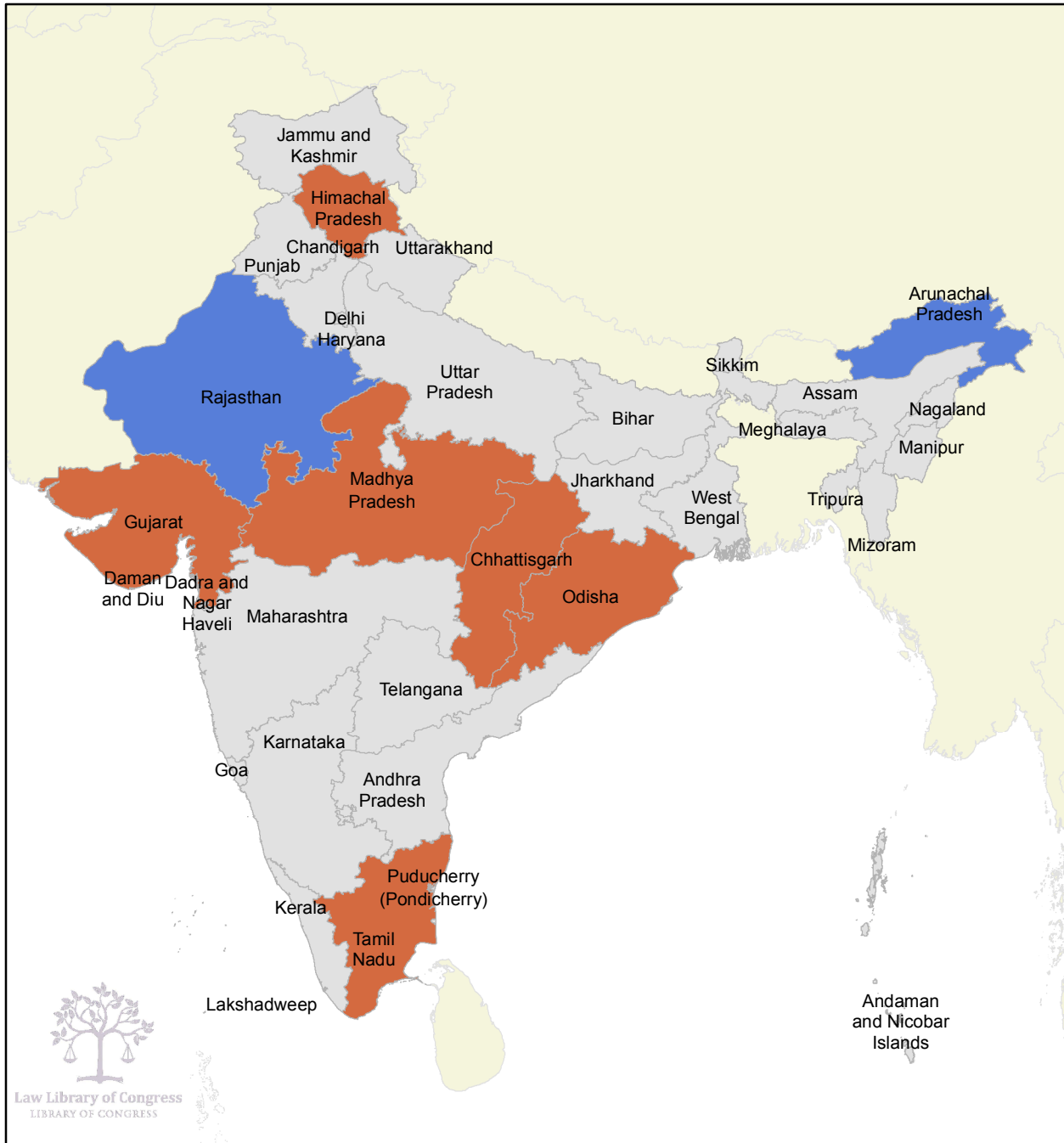


### Status of State Anti-conversion Laws




- Law currently in force with implementing rules
- Law currently in force, but no implementing rules
- Law passed but did not receive assent
- Prior law repealed
- No current or prior law identified

**Source:** Created by the Law Library of Congress based on information provided in this report.

Map 2



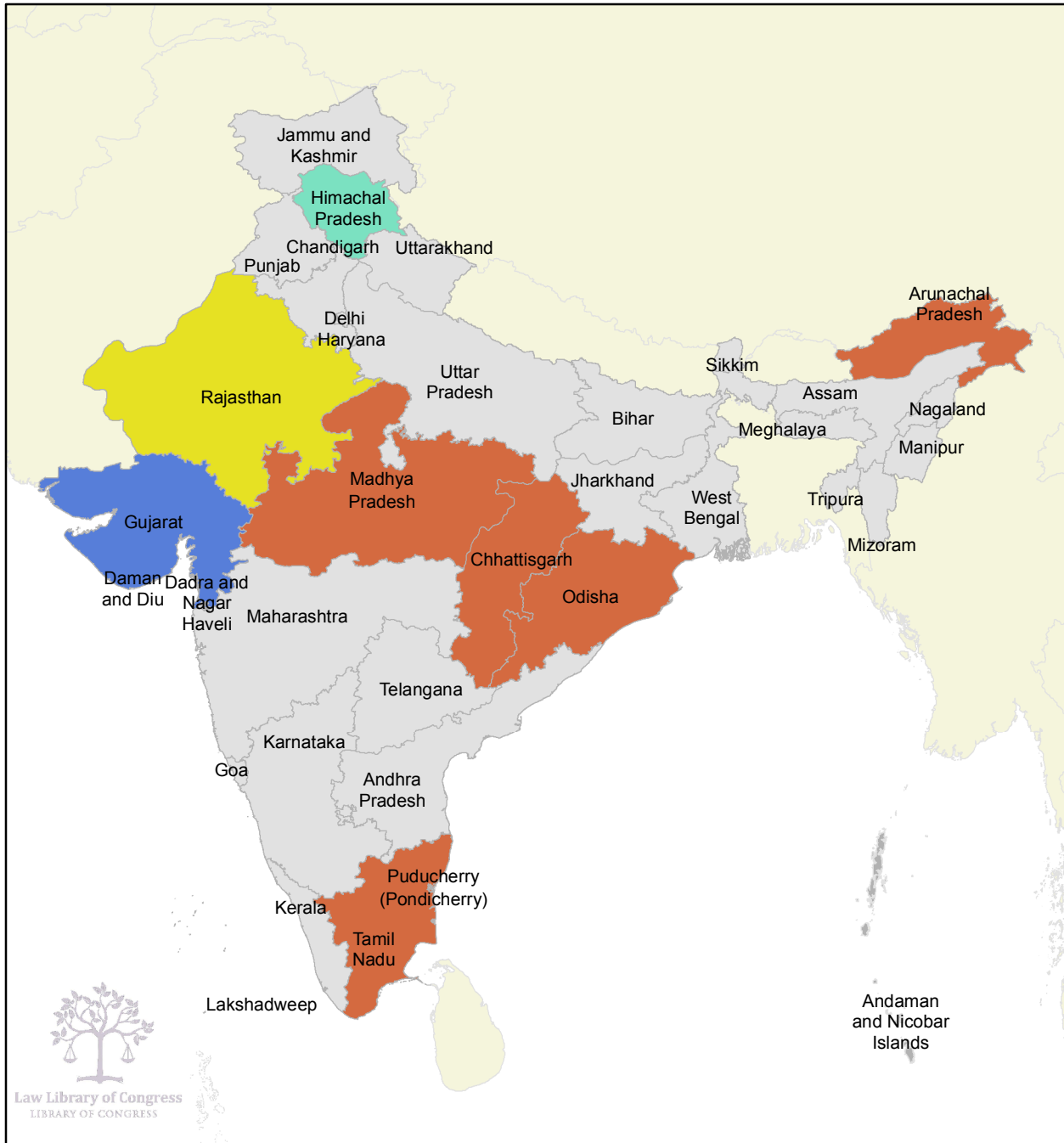
## State Law Treatment of Re-Conversions

-  Re-conversions excluded from punishment
-  Re-conversions not excluded from punishment
-  No current or prior law identified






**Source:** Created by the Law Library of Congress based on information provided in this report.



Map 3



### Conversion Permission and Notice Requirements

-  Prior permission and notice by convert
-  Notice by priest/other person
-  Notice by convert
-  No permission or notice required
-  No current or prior law identified

**Source:** Created by the Law Library of Congress based on information provided in this report.