

ANTI-CONVERSION LAWS IN INDIA: A COMPARATIVE STUDY BETWEEN STATES

AUTHOR – URVASHI MALIK* & MR.NIKUNJ YADAV**

* STUDENT AT LAW COLLEGE DEHRADUN, UTTARANCHAL UNIVERSITY

** ASSISTANT PROFESSOR AT LAW COLLEGE DEHRADUN, UTTARANCHAL UNIVERSITY

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Abstract

Anti-conversion laws in India, officially termed as “Freedom of Religion” laws, seek to regulate religious conversions and prevent conversions through force, fraud, or inducement. While the Indian Constitution guarantees religious freedom under Article 25, states have implemented varying laws that create tensions between religious liberty and state control. This research critically examines and compares the anti-conversion laws of key Indian states—Uttar Pradesh, Madhya Pradesh, Himachal Pradesh, Gujarat, Uttarakhand, and Odisha. The study highlights legislative trends, judicial scrutiny, controversies, and implications for fundamental rights.

Keywords: Anti-conversion, religious freedom, Article 25, fraud, inducement, religious liberty, state legislation

1. Introduction

India’s secular framework recognizes and protects the right to freedom of religion. Article 25 of the Indian Constitution guarantees all persons the freedom of conscience and the right to profess, practice, and propagate religion. However, to address alleged coercive or fraudulent religious conversions, several Indian states have enacted anti-conversion laws.

These laws—termed “Freedom of Religion” Acts—claim to uphold individual freedom by preventing conversions by force, fraud, or inducement. However, they have drawn criticism for infringing upon personal liberty, disproportionately targeting minorities, and being misused by authorities.

India, with its rich tapestry of religions, philosophies, and cultural practices, has always prided itself on its pluralistic ethos and constitutional secularism. The framers of the Constitution enshrined the right to religious freedom under Article 25, which guarantees every citizen the freedom of conscience and the

right to profess, practice, and propagate any religion of their choice. However, in recent years, the legislative and political narrative has shifted towards regulating religious conversions, particularly those that allegedly occur through force, fraud, inducement, or marriage.

The concern over religious conversions is not new in India. Since the 1950s, the issue has been debated in Parliament and within civil society, often surfacing in the context of alleged “mass conversions” or “forced conversions” of marginalized communities by missionary groups or other religious organizations. In response to these concerns, several Indian states have enacted “Freedom of Religion” laws—popularly referred to as anti-conversion laws. While the purported objective of these laws is to safeguard individuals from coerced or fraudulent conversions, critics argue that they are often wielded as tools of majoritarian control, targeting religious minorities—particularly Muslims and Christians—and discouraging voluntary conversions. The laws also interfere in the realm of personal

relationships, as seen in the recent trend of criminalizing conversions for the purpose of interfaith marriage.

Given the decentralized nature of India's legal system, anti-conversion laws vary significantly across states. Some states have enacted stringent provisions that reverse the burden of proof, require prior approval from district magistrates, and impose severe criminal penalties. Others have taken a more moderate stance or have refrained from enacting such laws altogether. This legal diversity raises critical questions about the uniformity of constitutional protections and the role of the judiciary in safeguarding fundamental rights.

2. Objectives of the Study

1. To examine the constitutional framework governing religious conversions.
2. To analyze the anti-conversion laws in key Indian states.
3. To identify similarities and differences between the laws.
4. To assess the legal and human rights implications.
5. To suggest recommendations for balancing freedom and regulation.

3. Constitutional and Legal Framework

3.1 Article 25 and Religious Freedom

Article 25 of the Indian Constitution provides that "all persons are equally entitled to freedom of conscience and the right to freely profess, practice and propagate religion," subject to public order, morality, and health (The Constitution of India, 1950).

3.2 Supreme Court Interpretation

In *Rev. Stainislaus v. State of Madhya Pradesh* (1977), the Supreme Court upheld the constitutional validity of anti-conversion laws in Madhya Pradesh and Odisha, ruling that the right to propagate does not include the right to convert another person (AIR 1977 SC 908).

4. State-wise Anti-Conversion Laws: A Comparative Analysis

4.1 Odisha (Orissa Freedom of Religion Act, 1967)

- First Indian state to enact anti-conversion law.
- Prohibits conversion by force, inducement, or fraud.
- Requires prior notice to the District Magistrate (DM).
- Penalty: up to 1 year imprisonment or fine up to ₹5,000 or both.

4.2 Madhya Pradesh (MP Freedom of Religion Act, 1968 & 2021 Amendment)

- Criminalizes conversion without prior district magistrate permission.
- 2021 amendment increases penalties and criminalizes conversion for marriage.
- Proposes up to 10 years imprisonment and fine of ₹1 lakh.
- Makes offenses non-bailable and cognizable.

4.3 Himachal Pradesh (Freedom of Religion Act, 2006 & 2019 Amendment)

- Initially required post-conversion intimation; amended to prior permission.
- Explicitly criminalizes conversions for marriage.
- Penalty ranges from 1 to 7 years imprisonment.

4.4 Uttarakhand (Freedom of Religion Act, 2018)

- Requires prior DM permission for conversion.
- Penalizes conversion through marriage, fraud, or inducement.
- Makes offenses non-bailable and cognizable.

4.5 Uttar Pradesh (Prohibition of Unlawful Religious Conversion Ordinance, 2020; Act, 2021)

- Enacted initially as ordinance, later replaced by the 2021 Act.
- Criminalizes conversion by marriage unless prior permission is obtained.
- Reverses burden of proof onto the person converting.
- Penalty: up to 10 years imprisonment and ₹50,000 fine.

4.6 Gujarat (Freedom of Religion Act, 2003; 2021 Amendment)

- 2021 amendment criminalizes conversion for marriage (“Love Jihad”).
- Prior permission required for conversion.
- High penalties—up to 10 years imprisonment.
- Some provisions stayed by Gujarat High Court for constitutional overreach (*Jamiat Ulama-e-Hind Gujarat v. State of Gujarat*, 2021).

6. Judicial Scrutiny and Challenges

Several provisions of these laws are under judicial scrutiny:

- Gujarat High Court stayed provisions of the Gujarat Freedom of Religion (Amendment) Act, 2021 that reversed burden of proof and presumed guilt.
- Allahabad High Court has expressed reservations about presuming all interfaith marriages as fraudulent conversions.
- Supreme Court has agreed to examine the constitutionality of anti-conversion laws from MP, Gujarat, UP, and others (*In Re: Anti-Conversion Laws PIL*, 2022).

7. Human Rights and Legal Concerns

- Violation of Article 25: Critics argue these laws infringe on the constitutional right to propagate religion.

- Presumption of Guilt: Reversal of burden of proof violates criminal jurisprudence principles.
- Targeting Minorities: Implementation disproportionately affects Muslims and Christians.
- Marriage Policing: Interfaith marriages are subjected to bureaucratic interference.
- Freedom of Choice: The laws curtail individual autonomy in matters of faith and relationships.

8. Reports by NGOs and Legal Bodies

- People’s Union for Civil Liberties (PUCL) reported misuse of anti-conversion laws to harass minorities.
- Law Commission Reports (21st Law Commission) have advised caution in legislating on personal faith and marriage.
- International Observers including USCIRF have raised concerns over religious freedom in India.

9. Recommendations

To ensure that anti-conversion laws serve their intended purpose without infringing upon fundamental rights, the following recommendations are proposed:

9.1 Establish a Uniform National Framework under Parliamentary Oversight

Currently, anti-conversion laws are enacted at the state level, leading to significant inconsistencies. A uniform central law—if at all necessary—should be enacted under parliamentary supervision, ensuring it aligns with constitutional protections. This law must be secular in nature, respect freedom of conscience, and clearly define coercion, fraud, and inducement with precision.

- Supporting Source: Law Commission of India (2018) has emphasized the need for legal uniformity to prevent arbitrary interpretations and selective enforcement.

9.2 Clarify Legal Definitions and Limit Executive Discretion

The terms “inducement,” “allurement,” and “coercion” are vaguely defined in many state laws, leading to misuse. Laws should narrowly define these terms to avoid criminalizing genuine acts of charity or religious expression. For example:

- “Inducement” should be limited to material or financial coercion rather than general social benefits like healthcare or education.
- “Coercion” should mean actual threats or violence and not mere religious persuasion or discussion.

Clear guidelines must be issued to limit the discretionary powers of police and magistrates during investigations.

9.3 Reinstate the Burden of Proof on the Prosecution

Several state laws, such as those in Uttar Pradesh and Madhya Pradesh, reverse the burden of proof, requiring the accused to prove that a conversion was not coerced. This violates the legal principle of presumption of innocence under criminal law and Article 21 of the Constitution.

Restoring the burden of proof on the prosecution will protect individuals from being wrongfully accused and align with the rule of law.

9.4 Judicial Safeguards over Executive Approvals

Instead of requiring prior permission from the District Magistrate—an executive officer—the law could mandate post-conversion intimation or oversight by a judicial magistrate to safeguard impartiality. Executive involvement in religious matters opens the door to political interference and bureaucratic harassment.

Judicial supervision, on the other hand, provides a more neutral and constitutionally accountable mechanism.

9.5 Protect Interfaith Marriages under Personal Laws

Laws criminalizing conversions for marriage have led to the harassment of consenting interfaith couples. Such laws intrude upon personal liberty under Article 21 and the right to privacy (K.S. Puttaswamy v. Union of India, 2017).

Legal provisions must distinguish between fraudulent conversions and consensual interfaith marriages. All marriages and religious conversions must respect the individual’s autonomy and privacy.

9.6 Strengthen Legal Literacy and Awareness

Rather than criminalizing religious conversions, the state should focus on promoting legal awareness and informed decision-making. Initiatives should include:

- Community outreach programs explaining the rights and limitations of religious freedom.
- Legal aid and counseling for individuals undergoing conversion.
- Educational campaigns in rural and tribal areas to dispel myths about forced conversions.

9.7 Set Up Independent Oversight Bodies

An independent commission or ombudsman could be created in each state to review complaints under anti-conversion laws. These bodies should include retired judges, legal experts, and representatives from minority communities to ensure transparency and prevent misuse.

10. Conclusion

India’s anti-conversion laws reflect a complex interplay between protecting individuals from coercion and preserving religious liberty. While the intent of preventing forced conversions is legitimate, current laws often overreach, impinging on constitutional freedoms and individual rights. The trend of criminalizing religious conversion, especially linked to marriage, has sparked legal, ethical, and social

debates. It is imperative that any regulation in this domain is grounded in constitutional morality, respects human rights, and avoids majoritarian overreach.

Judicial scrutiny has provided some relief, but the larger constitutional question—whether these laws align with the values of liberty, dignity, and equality—remains unresolved. There is an urgent need for legal reform, public awareness, and judicial intervention to ensure that the right to religious freedom is not hollowed out by arbitrary state actions. India's secularism, as envisioned by its Constitution, is not merely about the coexistence of religions but about the freedom to believe, not believe, or change one's belief. Any attempt to regulate this freedom must be carefully scrutinized, lest it sacrifices liberty at the altar of majoritarian politics. The path forward lies in striking a delicate balance between the prevention of exploitative practices and the protection of individual autonomy—an ideal that lies at the very heart of the Indian democratic experiment.

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