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“FAITH WITHOUT FORCE: THE CONSTITUTIONAL ESSENCE OF INDIA’S FREEDOM OF RELIGION ACTS”

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ABSTRACT

“Freedom of religion is not a license to convert others by force or fraud.”¹

— Justice A.N. Ray

The Indian Constitution stands as a living testament to justice, liberty, equality, and fraternity—principles that continuously evolve through judicial interpretation and legislative refinement. Within this dynamic framework, Article 25 guarantees freedom of conscience and the right to freely profess, practice, and propagate religion, subject to public order, morality, and health. The emergence of state-level Freedom of Religion or “anti-conversion” laws embodies this constitutional evolution by harmonising individual liberty with collective security and social welfare.

This paper upholds the constitutional validity and democratic necessity of such enactments, currently operational in eight states—Arunachal Pradesh, Odisha, Madhya Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, and Uttarakhand. These statutes, by prohibiting conversions through force, fraud, or inducement, safeguard the vulnerable and preserve public order. Judicial precedents, most notably *Rev. Stanislaus v. State of Madhya Pradesh* (1977), affirm that the right to propagate does not extend to converting another person. Considering emerging judicial trends, the paper argues that these laws reflect the Constitution’s living spirit—balancing liberty of conscience with societal harmony and protecting the sanctity of individual choice. Far from curtailing freedom, they uphold the constitutional mandate of justice and equality while reinforcing the moral and philosophical foundations of the Indian Republic.

¹ *Rev. Stanislaus v. State of M.P.*, AIR 1977 SC 908.

KEYWORDS-: Freedom of Religion; Article 25, Constitution of India; Anti-Conversion Laws; Fundamental Rights; Judicial Trends; Constitutional Validity; Public Order; Religious Liberty; State Regulation of Conversion; Protection of Vulnerable Groups

I. Introduction: The Constitutional Crossroads of Faith and Freedom

The debate on religious conversion in India sits at the intersection of faith, freedom, and constitutionalism. The Constitution provides for freedom of religion under Article 25, but multiple states have adopted 'Freedom of Religion' laws regulating alleged forced, fraudulent, or induced conversions. Currently, such laws are enacted in eight out of twenty-nine states: Arunachal Pradesh, Orissa, Madhya Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, and Uttarakhand.

This section provides introduction to the problem, definition of relevant terms, and an outline of the approach adopted for this doctrinal and comparative research. SC held that "While the Constitution recognises religious beliefs and faiths, its purpose is to ensure a wider acceptance of human dignity and liberty as the ultimate founding faith of the fundamental text of our governance. Where a conflict arises, the quest for human dignity, liberty and equality must prevail".²

II. Historical Genesis: Tracing the Legislative Evolution of Anti-Conversion Laws

India is a nation rich in diverse religious beliefs and practices. Four major world religions had their beginnings in the Indian subcontinent: Hinduism, Buddhism, Sikhism, and Jainism. The first laws against religious conversions were enacted by the Hindu princely states in British Colonial India, to be exact "during the later half of the 1930s and 1940s."

In these states, the laws were enacted "in an effort to protect Hindu religious identity in light of British missionaries." 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 1954³, which

² Indian Young Lawyers Association vs The State of Kerala, (2019) 11 SCC.

³ Indian Conversion (Regulation and Registration) Bill, 1954.

sought to enforce “licensing of missionaries and the registration of conversion with government officials.”⁴ 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 1960⁵, “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,”⁶ and the Freedom of Religion Bill in 1979, which sought “official curbs on inter-religious conversion.”⁸ These bills were also not passed by Parliament due to a lack of parliamentary support.

III. Constitutional Scheme: Freedom of Religion vis-à-vis State Power

The freedom given in the Article 25 is *not* absolute; it is subject to the restrictions as public order, health, morality and other fundamental rights that Article 25 of the Constitution provides every individual the ‘freedom of conscience’ and free profession, practice and propagation of religion. That this freedom of conscience entails that one can be non-religious and exercise the right to conscience or be religious and exercise the same right. That the decision to include the term propagate with profess and practice was in effect a recognition of India’s plural, diverse and multi-faith reality that goes back centuries.

In *Rev. Stainislaus vs State Of MP*⁷ where SC held -

“...the word 'propagate' has been used in Article 25 (1), for what the Article grants is not the right to convert another person to one's own religion, but to transmit or spread one's religion by an exposition of its tenets. 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

⁴ U.S. Commission on International Religious Freedom, Constitutional and Legal Challenges Faced by Religious Minorities in India 4 (Feb. 2017), available at: [\[https://www.uscirf.gov/sites/default/files/Constitutional and Legal Challenges Faced by Religious Minorities in India.pdf\]](https://www.uscirf.gov/sites/default/files/Constitutional%20and%20Legal%20Challenges%20Faced%20by%20Religious%20Minorities%20in%20India.pdf) (last visited on Nov. 10, 2025).

⁵ Backward Communities (Religious Protection) Bill, 1960.

⁶ 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).

⁷ *Rev. Stainislaus v. State of M.P.*, AIR 1977 SC 908.

would impinge on the "freedom of conscience" guaranteed to all the citizens of the country alike."

V. Inter-Faith Marriage

*"This is a free and democratic country, and once a person becomes a major he or she can marry whosoever he/she likes. If the parents of the boy or girl do not approve of such inter-caste or inter-religious marriage the maximum they can do is that they can cut-off social relations with the son or the daughter, but they cannot give threats or commit or instigate acts of violence and cannot harass the person who undergoes such inter-caste or inter-religious marriage. Therefore, direct that the administration/police authorities throughout the country will see to it that if any boy or girl who is a major undergoes inter-caste or inter-religious marriage with a woman or man who is a major, the couple is not harassed by anyone nor subjected to threats or acts of violence, and anyone who gives such threats or harasses or commits acts of violence either himself or at his instigation, is taken to task by instituting criminal proceedings by the police against such persons and further stern action is taken against such persons as provided by law."*⁸

IV. Public Order

In ***Ranjilal Modi v. State of U.P.***⁹ where SC has held that the right of freedom religion guaranteed by Articles 25 and 26 of the Constitution is expressly made subject to public order, morality and health, and that "it cannot be predicted that freedom of religion can have no bearing whatever on the maintenance of public order or that a law creating an offence relating to religion cannot under any circumstances be said to have been enacted in the interests of public order".

In ***Arun Ghosh v. State of West Bengal***¹⁰ where it has been held that-

"if a thing disturbs the current of the life of the community, and does not merely affect an individual, it would amount to disturbance of the public order. Thus if an attempt is made to raise communal passions, e.g. on the ground that someone has been "forcibly" converted to another religion, it would, in all probability, give rise to an apprehension of a breach of the

⁸ Lata Singh v. State of U.P., (2006) 5 SCC 475.

⁹ Ramji Lal Modi v. The State of U.P., AIR 1957 SC 620.

¹⁰ Arun Ghosh v. State of West Bengal, AIR 1970 SC 1228.

public order, affecting the community at large. The impugned Acts therefore fall within: the purview of Entry I of List II of the Seventh Schedule as they are meant to avoid disturbances to the public order by prohibiting conversion from one religion to another in a manner reprehensible to the conscience of the community. The two Acts do not provide for the regulation of religion and we do not find any justification for the argument that they fall under Entry 97 of List I of the Seventh Schedule.”

IV. Arguments Upholding Anti-Conversion Statutes:

Shielding Faith from Force

In *Rev Stanislaus vs MP*¹¹, Court while upholding anti- conversion laws in some states held that subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.¹² If a conversion is not inspired by religion feeling and under gone for its own sake, but is resorted merely with object of creating a ground for some claim of right or as a device adopted for the purpose to avoid marriage or to achieve an object without faith and belief in the unity of God (Allah) and Mohamed to be his prophet, the conversion shall not be bonafide.¹³

"What is penalised is conversion by force, fraud or by allurement. The other element is that every person has a right to profess his own religion and to act according to it. Any interference with that right of the other person by resorting to conversion by force, fraud or allurement cannot, in our opinion, be said to contravene Article 25(1) of the Constitution of India, as the Article guarantees religious freedom subject to public health.

Court held that, the provisions of sections 3, 4 and 5 of the M.P. Dharma Swatantraya Adhiniyam, 1968 are violative of Article 25(1) of the Constitution of India. On the other hand, it guarantees that religious freedom to one and all including those who might be amenable to conversion by force, fraud or allurement. As such, the Act, in our opinion, guarantees equality

¹¹ Supra 05.

¹² Ibid.

¹³ Smt Noor Jahan Begum @ Anjali Mishra and Anr vs. State of U.P. and ors. W.P [C] No. 57068 of 2014.

of religious freedom to all, much less can it be said to encroach upon the religious freedom of any particular individual.”¹⁴

V. Arguments Challenging Anti-Conversion Statutes: Liberty under Siege

In *Kesavananda Bharati* case¹⁵, SC held that the basic structure of the Constitution is built on the basic foundation, i.e., the dignity and freedom of the individual and the duty of the State is not limited to the protection of individual interest but extends to acts for the achievement of the general welfare in all cases where it can safely act. Any step inconsistent with constitutional policy is, in plain word, unconstitutional.¹⁶

In *Shafia Jahan vs Ashokan K.M*, it was held that intimacies of marriage, including the choices which individuals make on whether or not to marry and on whom to marry, lie outside the control of the state.¹⁷

In *KS Puttaswamy case* it was held that, “Privacy is the constitutional core of human dignity... Privacy includes at its core the preservation of personal intimacies, the sanctity of family life, marriage, procreation, the home and sexual orientation. Privacy also connotes a right to be left alone. Personal choices governing a way of life are intrinsic to privacy. The destruction by the State of a sanctified personal space whether of the body or of the mind is violative of the guarantee against arbitrary State action.”¹⁸

VI. Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance, 2020

The Ordinance establishes a comprehensive regulatory framework for religious conversions, primarily targeting those effected through improper means, including marriage. Section 3¹⁹ broadly prohibits conversion achieved by misrepresentation, force, undue influence, coercion, allurements, or fraudulent means, and explicitly includes conversion as a result of marriage within this prohibited scope. It criminalises not only the act of conversion but also its abetment

¹⁴ Supra 05.

¹⁵ *Kesavananda Bharati Sripadagalvaru and ors vs. State of Kerala and Anr* 1973 (3) SCC 225.

¹⁶ *Bommai v. Union of India*, (1994) 3 SCC 1.

¹⁷ *Shafia Jahan vs Ashokan K.M*, 2018 16 SCC 368.

¹⁸ *KS Puttaswamy v Union of India* 2017 10 SCC 1.

¹⁹ The Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance, 2020, s. 3.

or conspiracy, though it creates a specific exception for reconversion to an immediate previous religion.

The punitive mechanism is detailed in Section 5²⁰, which prescribes general punishment (one to five years of imprisonment and a fine) and aggravated punishment for conversions involving vulnerable groups like minors, women, or Scheduled Caste/Tribe members (two to ten years of imprisonment and a higher fine). Furthermore, Section 6 grants the power to a competent court, such as the Family Court, to declare a marriage *void-ab-initio* if it was solemnised with the sole objective of unlawful conversion. The Ordinance also imposes a mandatory bureaucratic process for legitimate conversions to ensure free consent.

Under Section 8²¹, any individual desiring to convert must give a sixty-day advance declaration to the District Magistrate (DM) affirming voluntariness, a process that is mirrored by a one-month advance notice required from the Religious Convertor, both followed by a police inquiry to ascertain the genuine intention. Finally, Section 9 mandates a post-conversion declaration to the DM within sixty days, requiring the converted person to personally appear before the DM within twenty-one days of submission to ratify the details of the conversion.

VII. Parens Patriae

“A conversion of religion by an individual to Islam can be said to be bonafide if he/she is major and of sound mind and embraces Islam by his/her own freewill and because of his/her faith and belief in the oneness of God (Allah) and prophetic character of Mahomed. If a conversion is not inspired by religion feeling and under gone for its own sake, but is resorted merely with object of creating a ground for some claim of right or as a device adopted for the purpose to avoid marriage or to achieve an object without faith and belief in the unity of God (Allah) and Mahomed to be his prophet, the conversion shall not be bonafide. In case of a religion conversion there should be a change of heart and honest conviction in the tenets of new religion in lieu of tenets of the original religion.”

²⁰ The Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance, 2020, s. 5.

²¹ The Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance, 2020, s. 8.

*Common Cause v. UOI*²² Our autonomy as persons is founded on the ability to decide: on what to wear and how to dress, on what to eat and on the food that we share, on when to speak and what we speak, on the right to believe or not to believe, on whom to love and whom to partner, and to freely decide on innumerable matters of consequence and detail to our daily lives.”

VIII. Recommendations and Reformative Suggestions

Article 18 of ICCPR²³ affirms that "everyone shall have the right to freedom of thought, conscience and religion." This includes the right to have or adopt a religion or belief of their choice, either individually or in community with others and in public or private, to manifest religion or belief in worship, observance, practice and teaching. Article 18(2)²⁴ of the ICCPR states "that no one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice”.

IX. Conclusion: Towards a Constitutional Middle Path

While the prevention of coercive conversions serves a legitimate state interest, excessive state control risks infringing upon personal liberty. A balanced regulatory framework with procedural fairness can uphold both the individual’s right to freedom of religion and the state’s duty to preserve public order. The current debate over religious conversion in India presents a conflict between Article 25's fundamental right to freedom of conscience and propagation and the state's power to maintain public order. Judicial precedents affirm that while propagation is protected, the right does not extend to converting others by force or fraud. This principle is the basis for state anti-conversion laws, which, like the U.P. Ordinance, prohibit conversion by "allurement" or marriage. However, these statutes, with their mandatory declarations and police inquiries, are seen as potentially infringing upon the right to marry by choice and the core of privacy and personal autonomy established in landmark cases, creating excessive state surveillance over adult life decisions.

²² Common Cause (A Regd. Society) v. Union of India, (2018) 5 SCC 1.

²³ The International Covenant on Civil and Political Rights, 1966, art. 18.

²⁴ Ibid.