

NEED FOR A PAN INDIA ANTI-CONVERSION LAW

ABSTRACT

Anti-conversion laws are the set of judicial laws that make religious conversion by force, fraud, or allurement a punishable offense either by imprisonment or imposing a fine on individuals. force here means anything that causes physical or mental injury and divine displeasure. fraud is defined as any form of deception or misrepresentation and lastly, allurement means any form of the promise made to provide material or any other benefit in exchange for religious conversion. The constitution gives the right to profess, propagate and practice any religion subject to public order, but it does not allow unfair means of religious conversions. There are two major views when looking at it: some believe that such laws are important to protect people from getting deceived into converting to other religions, as they believe that certain disruptive elements of different communities are using unethical ways to convert others. While on the other hand, others believe that such laws can undermine secularism and religious peace in the country leading to violence. The main objective of these laws is to prevent proselytizing i.e. trying to convert someone from one religion to another by using unethical ways such as fraudulent marriages as many such cases have been observed.

HISTORY OF ANTI-CONVERSION LAWS

Anti-conversion laws have a long history in India; they were originally introduced in the 1930s and 40s by Hindu royal families in princely states such as Kota, Bikaner, Rajgarh, and Patna during the colonial era in order to protect Hinduism from British missionaries.

After independence, a lot of anti-conversion laws were introduced by the parliament but they were not enacted due to a lack of majority in the parliament. Initially, in 1954, the Indian conversion laws were introduced which was basically licensing the missionaries but they failed to gather a majority in the

parliament. More such bills were introduced but none of them were enacted because of a lack of political support. It was in 2015 that the union law ministry said that instead of the national level, these laws must be made at the state level only as religion comes under the state government.

Odisha was the first state to pass this law in 1967, but it was later struck down in 1973 declaring that it violated rights to be then again reinstated in 1977. When the Madhya Pradesh government enacted the Dharma Swatantra Adhiniyam, it was challenged by Reverend Stanislaus. He refused to register conversions. Then the supreme court of India considered the issue and gave the decision that the right to propagate a religion does not include the right to convert and hence the laws which were enacted in Madhya Pradesh and Orissa upheld the constitutional validities and were allowed to be enacted. Currently, anti-conversion laws are being implemented in nine states Odisha, Madhya Pradesh, Arunachal Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Uttar Pradesh, and Uttarakhand. While there are others that are contemplating it but so far no such laws have been made.

NEED FOR ANTI-CONVERSION LAW

In a secular democracy, It is necessary to allow an individual to choose his or her own religion but it is even more important to protect an individual from being forced into converting to another religion. It is not possible to put a complete ban on conversion as that would be unconstitutional. Thus arises the need for anti-conversion laws which can help in preventing forced conversions alone. It is observed that to increase their proportion in the population minority religions especially Islam and Christianity are recruiting people through various unethical ways.

In Punjab, Christianity is increasing exponentially. There are over 5000 homegrown Sikh pastors, trying to propagate and convert people to Christianity by promising visas, spouses, and other gains. It is similar to what happened in Tamil Nadu in the 1990s. Small churches can be seen on the rooftops of many villages in Gurdaspur. There is a lack of awareness, people think that pastors can help in curing

diseases. There is showmanship and such fake miracles which convince many uneducated people to convert to their religion.

Another reason is the promise of easy access to European visas if they convert to Christianity, as missionaries claim that converting to Christianity will help them get easy visas. Also, there have been complaints about missionaries who behave like salesmen and are trying to sell their religion. This is often done by providing allurements such as material benefits covered up as a charity.

Recently, Shalin Maria Lawrence, a self-proclaimed Christian activist and writer in Tamil Nadu has openly called for religious conversions to christianity in order 'to stop BJP's growth' and support DMK. Therefore such politically motivated conversions need to be stopped by implementing pan India anti-conversion laws; it shall also ensure that states are not biased towards or against a particular community, religion or political adherence.

In Madhya Pradesh, many tribal groups are being converted to Christianity at a large-scale by Christian missionaries using inducement and other fraudulent measures. Many innocent and ignorant people have been converted due to the temptation of the benefits offered. These Christian missionaries have been funded by foreign churches. Thus there is a need for anti-conversion laws to protect these people.

Women are often deceived into marriage either by lying or by hiding their religion and then forced to change their religion. There have been cases where men from a particular religion pose as Hindus and marry Hindu girls for the sake of converting them to their religion. . The conversion is often forceful. Due to this reason in *Smt. Noor Jahan Begum v state of UP*¹ it was observed by the Allahabad High Court that conversion for the sole purpose of marriage could not be accepted.

If the marriage is done for just converting to another religion it will be declared null and void. Another very illegal reason for converting is polygamy or for divorce benefits. Men often get converted to Islam so that they can marry multiple women or get divorce benefits that Muslim men get. This issue really needs to be addressed.

¹ 2015 (1) ADJ 755, 2015 (3) ALJ 322, 2015 (1) RCR (Civil) 314

The forcible conversion of religion would involve several crimes, including wrongful confinement as per Section 342 of IPC, intimidation by Section 506 of IPC, mentioned in Section 359-369 of IPC, assault in Section 352 of IPC, the threat of divine displeasure in Section 508 of IPC.

The anti-conversion laws safeguard human rights by preventing fake, fraudulent or deceitful promises of marriage. There is also the issue of security, as there have been instances like the mass migration of Kashmiri pandits in Jammu and Kashmir in 90s and Bru Hindus were made to flee in Mizoram due to attacks by Christian fundamentalists in 1997. In both cases the migration was permanent and they were not able to return back. So to avoid the occurrence of such instances there needs to be a control over religious conversions.

LAWS IN DIFFERENT STATES

As stated above, currently nine states have adopted anti-conversion laws. The format and content of most statutes are nearly identical with a few exceptions. Out of all the states, the law in Arunachal Pradesh can definitely be called the most lenient as it only requires the priest who has performed the conversion to give notice to the authorities. No declaration is required by the person who has converted. While in other states where this law is implemented both the converted person and the convertor need to make the declaration. The law is definitely strictest in Uttar Pradesh where a 2-month notice to the district authorities is required by the converted person and a month's notice from the priests.

Different states have different punishments for illegal religious conversions. In Odisha and Madhya Pradesh, the punishment is 1 year of imprisonment. While it is up to 2 years in Arunachal Pradesh, up to three years in Gujarat, Jharkhand, and Chattisgarh. The punishment is highest in UP and Uttarakhand with up to 5 years. The punishment is more for converting a woman, a minor, a person of unsound mind, and a person belonging to SC/ST. Individuals from these categories are vulnerable and therefore, extra checks and balances are needed to be installed as stricter penalties.

In many states, a marriage can be nullified or declared void if it was done for the sole purpose of a religious conversion or if the conversion was not done as the law stated. Such religious conversions are non-bailable and cognizable in many states, which means a police officer may, in accordance with the First Schedule or under any other law for the time being in force, be arrested without a warrant.

UTTAR PRADESH AND ITS ANTI-CONVERSION LAW

The Uttar Pradesh anti-conversion law also known as the prohibition of unlawful religious conversion ordinance 2020 has become one of the strictest anti-conversion laws in the country. Under the law, any individual who wishes to convert to another religion must declare that the conversion is with their consent and without any force or allurement at least 2 months before actually converting. The converter or the priest who will perform the conversion must inform the authorities at least a month before any conversion. The authority mentioned above is the district magistrate.

When the authorities get the declaration then they will conduct an inquiry into the real intention, purpose, and cause of the said conversion and if there is any contradiction towards the law then the conversion would be deemed illegal and void. Finally, after the conversion, the converted person must make an appearance in front of the DM within the period of 21 days and confirm their declaration of religious conversion. If and when the offense is found out along with the person who commits the crime any other person who guides or encourages the other to commit the crime or any person who aids the person committing the crime will also be found guilty under this offense.

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With these mass-conversion rackets going on in the country which is against the very foundation of secularism and an individual's right to choose their own religion, the need of the hour has become a pan- India anti-conversion law.

India is a diverse land and religion resides in the core values of the majority population. Consequently, religion is also used by political parties to manipulate and create vote banks. Certain political parties in certain states would benefit politically if a particular religion increases in their state. In order to ensure that no political party benefits through conversion and that there is no disparity between how the citizens get treated when it comes to responding to forceful conversion, there is a need for pan-India anti-conversion law.

Even though religion is a state subject, the center can frame a model law. Model law refers to a proposed series of laws on a certain subject that the center has made which can be chosen or not chosen by the states in whole or in part. If the said state adopts the model law then it becomes a statutory law in that particular state. The main objective of the model law is to homogenize all state laws on this subject.

There are cases when political parties or leaders have allegiance to a particular religion and the law in the said state, would be more biased and tilted towards a particular community. One such example lies in Andhra Pradesh. Certain dominant political parties have been accused of funding and supporting conversions. To prevent such a condition from happening there should be a pan-India law that is made by the government and minimizes any ulterior motives. The law will be designed in order to assist the states in reforming their laws.

ISSUES WITH ANTI-CONVERSION LAWS

Burden of Proof- A major problem with the anti-conversion law is the burden of proof like the law Section 12 of Anti conversion law of Uttar Pradesh. It puts the burden of proof on the accused that conversion is not through fraudulent measures or deception or marriage.

Cognizable and non-bailable- The offense is being made cognizable and non-bailable. In Uttar Pradesh, Section 7 authorizes the arrest of a person by a police officer if they get information that a religious conversion is going to take place, where the arrest doesn't even require permission from the district magistrate. As it might be possible their information was false and it is not a forced or

fraudulent conversion. There is a huge probability that such a stringent provision can be used for vested interest

Long notice period- Also, the law in Uttar Pradesh where there is a need to notify 2 months in advance regarding one's religious conversion, two months prior can lead to heavy pressure, put on the person who wants to convert, by police or certain groups or relatives and make the conversion really difficult for that particular individual.

Lastly, the blood relations of the person committed can also file a complaint if they believe that the person converted was forced, this law can be misused by the families of the person who doesn't want them to convert to other religions.

It is being noted that very few arrests and prosecutions are made under this law; they also lead to the creation of a hostile environment for religious minorities and evidence is not needed to support the accusations of wrongdoing.

WAY FORWARD

The conversions are not coming on record. All those who convert shall need to register themselves. Several conversion groups are asking people to follow their own traditional cultural practice but convert the religion. Therefore, people are converting, they are not letting it reflect on record and also availing the benefits made for the SC-ST community. A mechanism must be put in place to record conversions efficiently for better implementation of anti-conversion laws.

1. Most people who convert to another religion do not have substantial knowledge about that religion- the beliefs, cultural practices, and societal structure. For example, when someone settles in the USA, they are required to be examined regarding the history, understanding of practices, and language. Here, since it's about switching of faith and religion, it is of utmost importance to ensure that people understand the ramifications of conversion
2. A sort of basic test and counseling sessions can be put in place.

- A person will get time to think after getting informed whether they really want to convert or not,
 - Administration will be able to trace, assess and avoid forceful conversions
 - Will lead to the maintenance of a record of conversions.
3. Given the issue of Literacy- Video tests can be taken in presence of a gazetted officer - this will also enable the person seeking conversion to have evidence to support his legitimate conversion if it is ever challenged. This shall serve as evidence that he understands the aftermath or repercussions of joining a sect/religion.
 4. When someone switches religions, they shall need to give up their status of SC/ST.
 5. The time span within which the administration needs to be informed should be decreased from a month or two months to 10-15 days so that they cannot be pressured by extremist groups or people in society and change their decision. The family members can within this time also aid in avoiding any forced conversion

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