



## ANTI- CONVERSION LAWS: A THREAT TO SECULARISM?

Shivani Udupa

Every person can choose how he wants to lead his life that also includes a religious life which he would choose based on where his beliefs faithfully lie. Any voluntary pious act of choice which doesn't have ill gains or vested interest from religion will always promote secularism. In simple words, there is a moral intention behind exercising such a religious act at will. The anti-conversion legislation or the freedom of religion acts in India at the state level is only to regulate conversions that are not purely voluntary. However, there are many challenges faced in implementing them successfully which hindered the concept of secularism. This article will put light on the obstacles faced to uphold a secular state while paving way for such laws to come into existence.

The concept of secularism that we follow is different from the western, where the church and state are two separate entities. The state doesn't interfere in matters of religion. In India, religion is not in complete isolation from the state. The state provides equal protection to all religions, which can extend to interfering in religious matters to bring social reform.

**Indira v. Rajnarain's** decision determined secularism's status as a basic feature of the Constitution, in effect, entailed that "The State shall have no religion of its own and all persons shall be equally entitled to freedom of conscience and the right freely to profess, practice, and propagate religion."<sup>1</sup>

Since independence, Indian secularism has evolved into a political ideology and institutions working as a forum for resolving the conflicts between India's diverse cultural communities aiming at national unity. Sadly, the matter of 'equal protection to all religions' has seen a low steep due to the political influence we find in the decisions of the state related to conversion.

The cruxes of these laws are to prevent direct or indirect proselytizing from one person to another person through force, fraud, inducement, or allurement. In simple words, cease any conversion not done voluntarily or wilfully. The power to make such laws is only with the state government under the 7th schedule of the Indian constitution. Currently, eight states actively enacted their state

---

<sup>1</sup>. Jennifer R. Coleman, The Penn Program on Democracy, Citizenship, and Constitutionalism Graduate Workshop "Authoring (In)Authenticity, Regulating Religious Tolerance: the Legal and Political Implications of AntiConversion Legislation for Indian Secularism", <https://amc.sas.upenn.edu/sites/www.sas.upenn.edu/andrea-mitchell-center/files/uploads/Coleman.pdf>

anti-conversion laws. Many states are endeavouring to implement the same. There have also been many attempts to have anti-conversion law at a national level. The alleged reason for such laws to come into existence is as stated above (prevention of forced, fraudulent, induced, or allured proselytizing). But it is also true that countries with the dominant religious majority feel threatened by active and growing minorities that desiderate such laws.

India is a Hindu Majority state while co-existing with many other religions. It's the birthplace of four major religions of the world that are Hinduism, Buddhism, Jainism, and Sikhism. Muslims are one of the recognized minority religions ranking second highest religion followed after Hinduism. The third ranking is Christianity. A substantial increase in these minority religions has always fuelled anti-conversion laws in India. Especially after Hinduism saw a decline from 80% as per the 2011 census for the first time in history, many Hindu political parties indicated their mindset of Hinduism being hegemony of India despite the constitution declaring it as a secular state. Yogi Adityanath who is the current Chief Minister of Uttar Pradesh said in June 2015 that people who reject yoga and Surya namaskar, a Hindu greeting given to the Surya dev (God of the sun), must leave India or drown in the sea.

An Indian political leader belonging to BJP named Sakshi Maharaj said Hindu women should give birth to four children to ensure that the Hindu religion survives. He negated the fact that India is the second-highest populated country in the world amid a high poverty rate. Such loose statements are reactions to the declining status of the Hindu religion or a substantial increase in Muslims as per the 2011 census. They also showcase the sense of insecurities some Hindu prominent political leaders or radicals of the nation have to the demographics of their religion reducing. Similarly, concern over the increasing number of minority religions ignites the formation of anti-conversion laws instead of the concerns relating to forced or induced conversions. Therefore, it is the first challenge faced to implement these anti-conversion laws outside the preview of the political sphere and personal insecurities and treating all religions equal under these laws.

Anti-conversion laws are easily misused to oppress the minority religions and groups or to intimidate them because these laws are drafted poorly. As discussed above, eight state legislatures have passed anti-conversion laws at present, with Odisha and Madhya Pradesh being the first among the states to implement these laws in the 1960s.

In **Stanislaus v. State of Madhya Pradesh**<sup>2</sup>, the Supreme Court upheld the constitutional validity of the anti-conversion laws of M.P and Odisha. SC further said that Article 25 doesn't include the right to convert while interpreting the right to propagate.

Even so, all these anti-conversion laws have general blemishes such as the following:

- **Vague and Incomplete Laws:**

The definitions of “inducement”, “fraudulent” or “coerced” are subject to expansive interpretation to prohibit any kind of conversion whether consensual or not. The laws are overly broad due to the lack of detail given in the definitions. Especially the terms under which conversions aren't allowed such as “force”, “fraud”, “inducement” or “allurement”.

- **Laws tend to Ignore the Victims:**

These laws are more preventive and criminalizing in nature while not being victim-oriented or victim-centric. The laws fail to address rectifications of the harm or sufferings caused to the victims of alleged forced or induced conversions.

- **Laws are discriminatory towards religious minorities:**

Anyone can easily lodge a criminal complaint against any person belonging to the religious minority community. Moreover, the implementation and enforcement of these laws are stirred towards punishing only the Non-Hindus. The reconversions rituals of Non-Hindus to Hinduism under the word Ghar wapsi (returning home) have conveniently been left out of the sight of the Anti-Conversion Laws. This indicates the bias favouring nature of the laws and how they are nurturing Hindutva. Furthermore, Hindu nationalist groups announced plans to ‘convert’ thousands of Christian and Muslim families to Hinduism as part of a so-called Ghar Wapsi Program in December 2014.

- **Laws foster hate and harassment among minority religions:**

These laws have subsequently increased the hate crimes against the alleged proselytizers, their communities and false accusations of induced, forced or fraudulent conversions against Christians and Muslims.

Many incidents which happened in the past and the present display the sheer harassment, intolerance and violence faced by these minority religions where the anti-conversion laws exist. And these laws are cold and numb to such attacks.

---

<sup>2</sup> Rev. Stanislaus v. State of Madhya Pradesh & Orissa, 1977 SC 21 (1977)





In June 2006<sup>3</sup>, a group of Hindu men who had apparent support from the BJP beat two local Christian men when one of them denied forsaking Christ and these Hindu men even gang-raped their wives. When they went to file a complaint about sexual offences they were arrested and jailed for a day due to the counter-complaint filed by the Hindu men saying that the two Christian men and their wives were guilty of attempting ‘forceful conversions’ under the MP Anti conversion Law. Furthermore, the plea of wives regarding rape was left unheard and ignored. A local militant group later justified the brutal act of rape as a punishment for the alleged attempt of conversion of Hindus to Christianity.

In June 2020<sup>4</sup>, a 14-year-old Christian boy was allegedly crushed to death with stone by a mob in the village and later his body was cut into pieces and buried before fleeing the crime scene. The 14-year-old and his father converted to Christianity three years prior to this incident. Ever since then they faced constant harassment and threats from either neighbours or other radicals.

The pastor of the church to which the father belonged said that the hate and aggression in the minds of religious fanatics and the degree of brutality in the crimes committed to manifest such hate are astonishing.

On March 15 2020<sup>5</sup> four Christians in UP were falsely accused of “forceful conversions” of Hindus to Christianity. They were kept in custody for six hours and released on bail after forcing them to sign an affidavit stating that they would never be involved in Christian conversions in the area again. Subsequently, the four Christians for three hours were beaten by the drunk police officer who even ordered them to pose like Christ on a cross to get the feeling that he is torturing Jesus.

- **Implicates Women as Weaker sections of Society**

The law presumes that women are a weaker gender having less likely to have the capacity to decide on matters of faith or religion for themselves. They are susceptible to Non-Hindu male beliefs and considered as a targeting section of society. These laws implicate women as questionable rational

---

<sup>3</sup> . The Voice Of Martyrs Canada,07 June 2006, “ Two Chritian Women Gang Raped”, <https://www.vomcanada.com/in-2006-06-07.htm>

<sup>4</sup> . Mohammad Suffian, June 8 2020, “Odisha: 14-year-old Christian boy crushed to death with stone; body chopped into pieces” , <https://www.indiatoday.in/india/story/odisha-boy-crushed-to-death-with-stone-body-chopped-into-pieces-1686597-2020-06-08>

<sup>5</sup> . Leah MarieAnn Klett, Christian Post Reporter, Tuesday March 24 2020, “India: Police beat Christians, force them to pose like Christ on the cross while mocking Jesus”, <https://www.christianpost.com/news/india-police-beat-christians-force-them-to-pose-like-christ-on-the-cross-while-mocking-jesus.html>

members of society, highlighting the patriarchal narrative that still runs in society. It's a big dent in secularism where the right to choose religion and faith for a citizen is under the bar of scrutinizing through laws. The ulterior motive of protecting women is their ability to bear a child that contributes towards the growth of the religious demography to which the female belongs. Females are considered naive, hence are kept under the blanket protection of these laws. However, sadly they restrain the ability of women to decide on faith matters for themselves.

- **Toothless Laws in actual enforcement values**

According to the USCIRF report,<sup>6</sup> the anti-conversions laws in India and Pakistan are vague and discriminatory that when enforced they create hate crimes and false accusations against members of minority religions. Further, the vague legal definitions enable anti-conversion laws to be enforced discriminately. They become a weapon for state and religious majority groups to diminish the rights of religious minorities. It is also criticized that when they are enforced they establish a hostile and abusive atmosphere for religious minorities as they don't mention sufficient evidence to support the criminal charges against them.

USCIRF report also mentions that these regulations have resulted in few prosecutions and no convictions.

We saw above while referring to the instances that these arrests have been used only to harass the Christians. Most of the arrests made under these laws are brutal and unlawful. It will prompt a chilling effect on freedom of religion for minorities. Their ability to choose a religion of their preference is curbed since there is fear that would monger among them. Citizens will refrain from converting to minority religions even if they wilfully want to and fear the horrendous consequences of doing so.

Finally, the way India's secularism was constructed and the way it is now conceived and practiced in the tangles of the political realm or self-claimed ideologies are entirely different. This surely resulted in failure by the functionaries of the state in safeguarding secularism. No one disputes the dire need for Anti- conversion laws to regulate religious conversions but they should be consistent with Article 18 of the UN declaration of Human rights as well as The international covenant on civil and political rights which says “non-discriminatory anti-conversion laws should protect people from

---

<sup>6</sup>. USCIRF, USCIRF Special report, November 2018, Limitation On Minorities Religious Freedom In South Asia, <https://www.uscirtf.gov/sites/default/files/Limitations%20on%20Minorities%20Religious%20Freedom%20in%20South%20Asia.pdf>



being subject to coerced conversions while allowing conversions based on a convert's free will and consent." The half-baked anti-conversion laws are without a doubt favouring the majority religion of Hindus while purposefully ignoring the minority religions: this is a threat to the secular nature of our country. These blots in the existing and forthcoming anti-conversion laws need to be rectified to uphold Indian secularism.

