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# Anti-conversion Laws: Law full-of flaws

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## Abstract

*The implementation of anti-conversion laws passed by various legislatures and society's response to it is examined in this paper. These laws made the front pages of many newspapers and have been in the news for quite some time. I argue in this paper that this law is objectionable. I go on to explain how it is a repressive law. Numerous research papers and articles support the entire argument. This paper also includes the results of a small survey conducted to determine how many people are aware of them and their views on the law intervening in personal matters. In some cases, the courts interpreted them, and their observations will add to my argument. It also infringes on some fundamental rights and raises constitutional concerns. This paper goes into greater detail about how this law affects the social institution of marriage. This paper aims to contribute to the debate over whether these laws should be repealed or reconsidered. The purpose of this paper is to raise public awareness about the law and to examine the arguments against it.*

**Keywords:** Religion, Conversion, Repressive law, Fundamental rights, Marriage.

## Introduction

India is a country with many cultures, religions, and beliefs. Citizens of any secular democratic state do not want the government to intervene in their religious lives; religion is a personal matter for everyone. It is also a personal choice to convert to another religion or to disassociate from any belief. Conversion is the process of converting someone's or one's religion to another. These laws exist since the colonial period, many princely states including Kota, Bikaner, Jodhpur, Raigarh, Patna, Surguja, Udaipur, and Kalahandi<sup>2</sup> had similar laws. Even today, in India, some states had Anti-conversion laws and the government talked about making a similar national law in the past<sup>3</sup>. Former Member of Parliament, Tarun Vijay in one of his interviews with 'The Tribune' talked about banning the conversion. He said, For the first time, the population of Hindus has been reported to be less than 80 per cent. We have to take measures

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<sup>2</sup> Ahmad, Tarik. "State Anti-Conversion Laws in India." Global Legal Research Directorate, 2018. Law Library of Congress, [tile.loc.gov/storage-services/service/l1/l1glrd/2018298841/2018298841.pdf](https://tile.loc.gov/storage-services/service/l1/l1glrd/2018298841/2018298841.pdf).

<sup>3</sup> "India's Anti-Conversion Law in the Five States, but Proposed to Go 'national'." World Watch Monitor, 2 Aug. 2016, [www.worldwatchmonitor.org/indias-anti-conversion-law-in-five-states-but-proposed-to-go-national](http://www.worldwatchmonitor.org/indias-anti-conversion-law-in-five-states-but-proposed-to-go-national).

to arrest the decline. It is very important to keep the Hindus in the majority of the country<sup>4</sup>. The statement reflects how the ideology behind this law is to favour a specific segment of society, making it discriminatory. Though, as of now, it has not been implemented at the national level, many states have implemented anti-conversion legislation through their legislatures under the guise of “Freedom of Religion”. One after another more states are coming up and implementing laws of similar nature. Anti-conversion law is one face of the law, a law that intervenes in one's religious matters as well as Fundamental rights. As a result, by delving into the history of anti-conversion legislation, from its inception to its current implementation, we will gain a better understanding of its impact on society. In this paper, we are not limiting our approach to just its manifestation, but we are also concluding how this can cause affliction in society. How it violates some of our fundamental rights and how the judiciary interprets it over time.

### **Anti-Conversion Law and Society**

For a long time, Anti-conversion laws existed in society. Britishers came to India as a trader but later turned out to be a ruler with their advancement in gaining a monopoly in trading. The third role they took was of being Christianity propagandists. The priority of the colonial mission was conversion. The conversion of individual souls was considered the sole end of the mission<sup>5</sup>. These ideas spread even to the most remote locations because there was little opposition. Many princely states passed anti-conversion legislation, including the Raigarh State Conversion Act of 1936, the Surguja State Apostasy Act of 1942, and the Udaipur State Anti-Conversion Act of 1946<sup>6</sup>. Even after Independence, there was a push for making an anti-conversion national law. It was introduced in the parliament in 1954 as the Indian Conversion (Regulation and Registration) Bill, later the Backward Communities (Religious Protection) Bill in 1960 and the Freedom of Religion Bill in 1979<sup>7</sup>. Every time the bill failed to gather support in the lower house. Recently, there was talk of bringing it back up for discussion, but the Ministry of Law and Justice created a stumbling block by making it a subject of the State list under schedule seven<sup>8</sup>. As of 2021, ten states have anti-conversion laws, first implemented by Odisha in 1967; Uttar Pradesh, Himachal Pradesh, Gujarat, Chhattisgarh, Madhya Pradesh,

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<sup>4</sup> Tribune News Service. “BJP MP Plans to Table Bill in Parliament” [Dehradun]. Tribuneindia News Service, 29 Sept. 2015, [www.tribuneindia.com/news/archive/features/bjp-mp-plans-to-table-bill-in-parliament-139072](http://www.tribuneindia.com/news/archive/features/bjp-mp-plans-to-table-bill-in-parliament-139072).

<sup>5</sup> selfstudyhistory. “Christian Missionary Activities in India.” SELF STUDY HISTORY, 18 Feb. 2021, [selfstudyhistory.com/2015/10/23/christian-missionary-activities-in-india](http://selfstudyhistory.com/2015/10/23/christian-missionary-activities-in-india).

<sup>6</sup> Ahmad, Tarik. “State Anti-Conversion Laws in India.” Global Legal Research Directorate, 2018. Law Library of Congress, [tile.loc.gov/storage-services/service/ll/llglrd/2018298841/2018298841.pdf](http://tile.loc.gov/storage-services/service/ll/llglrd/2018298841/2018298841.pdf).

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*

Arunachal Pradesh, Uttarakhand, and Jharkhand<sup>9</sup> are also in the line. The Anti-conversion law has been and continues to be a major source of contention in society.

Parsons considers the law, most importantly, as a mechanism of social control within the context of the social system's societal community<sup>10</sup>. Similarly, the Anti-conversion laws control the institutions of religion and marriage in society. It intervenes with the masses, but societal awareness appears below. According to the results of a small survey that I conducted last week, 50% of those polled had never heard of the anti-conversion law. These samples are from different parts of our nation. Even people in states where the act had recently been passed and was a heated topic, such as Uttar Pradesh, were oblivious. The law imposes social control without their knowledge because of this unfamiliarity, that's why it is even more important to write about this subject. Parsons positions law in relation to the fiduciary system in the sense that he considers a society's values to provide the 'sub-constitutional stratum of the legal system'<sup>11</sup>. Anti-conversion laws uphold the values of the society, but only of a subset of the society. Currently, the entire implementation of these laws is a benefit for only one section i.e., Hindu. The BJP governments seem to believe that the government must protect the Hindus as a collectivity, which reflects the typical thinking of a right-wing party that privileges the group over the individual"<sup>12</sup>. Because of this social control, the anti-conversion law is also repressive in nature. Changing religion may even result in a social boycott by society. Advocates of anti-conversion legislation share a belief in re-conversion programmes, also known as 'Ghar wapsi' resembling a strong unity among themselves. This demonstrates that some issues are associated with these laws, which will also be the context for the following paragraphs.

### **Issues with Anti-Conversion Legislation**

Proponents of these laws argue that anti-conversion legislation simply prohibits conversions conducted through "fraud, inducement, or allurement". The person can change his or her religion, of his or her own volition. The plot is not as simple as it appears; numerous issues must be addressed before concluding.

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<sup>9</sup> Velayudhan, Shweta. "Anatomy of Anti-Conversion Laws: Part II." TheLeaflet, 24 Apr. 2022, theleaflet.in/anatomy-of-anti-conversion-laws-part-ii.

<sup>10</sup> Deflem, Mathieu. *Sociology of Law: Visions of a Scholarly Tradition*. 2008 Edition, Cambridge University Press, 2008.

<sup>11</sup> *Ibid.*

<sup>12</sup> Rao, Parsa Venkateshwar, Jr. "Love Jihad: Inter-Faith Marriage a Clash between Pre-Modern Society and the Modern State." TheLeaflet, 30 Nov. 2020, theleaflet.in/love-jihad-inter-faith-marriage-a-clash-between-pre-modern-society-and-the-modern-state.

The first major issue that comes up while going through the texts of these laws is that they intervene with the fundamental rights guaranteed by the constitution of India. According to article 25 of our constitution, “all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion”. The supreme court of India in the *Rev Stanislaus v. State of Madhya Pradesh*<sup>13</sup> examined whether article 25 also gives the right to convert. The court held that restrictions on conversion are constitutional otherwise it will infringe on the freedom of conscience, the right to propagate doesn't include the right to convert as well as forceful conversion will lead to disturbing public order<sup>14</sup>. Though the literal meaning of propagating means spreading the ideas of one's religion or faith to others and all the critiques come to this only. Conversion has been seen as the necessary corollary to propagation<sup>15</sup>. The propagation may or may not result in conversion, and there is no clear definition of which types of propagation are permissible. The fact that these rights were discussed alongside the right to propagation seems to suggest that the framers of the constitution were aware of the connection between profession and the possibility of conversion<sup>16</sup>. On the one hand, laws are passed to make conversion a crime, while fundamental rights guarantee the right to propagate. From all this reasoning we can conclude, though indirectly, Anti-conversion laws infringe on our fundamental rights. Even in the survey that I conducted, 72% of respondents stated that the law should intervene in the matter of religion only if any practice is creating a public nuisance or against morality, and in this case, the law is the one that intervenes with our Fundamental rights. Not just limiting to article 25, laws like this are also discriminatory. For example, the Ordinance passed in the state of Uttar Pradesh known as “Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance 2020” violates the right to equality. The ordinance making religious conversions the sole ground for terming the marriage as void or for imposing the onerous requirements that parties in an inter-faith marriage must comply with — such as giving prior notice of conversion and a post-conversion notice of declaration — is discrimination on

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<sup>13</sup> *Rev Stanislaus vs Madhya Pradesh*, 1977 SCR (2) 611

<sup>14</sup> Ahmad, Tarik. “State Anti-Conversion Laws in India.” Global Legal Research Directorate, 2018. Law Library of Congress, [tile.loc.gov/storage-services/service/l1/lglrd/2018298841/2018298841.pdf](https://tile.loc.gov/storage-services/service/l1/lglrd/2018298841/2018298841.pdf).

<sup>15</sup> Suleman, Saadiya. “Freedom of Religion and Anti Conversion Laws in India: An Overview.” *ILI Law Review*, 2010, pp. 105–26. Researchgate, [www.researchgate.net/publication/228127197\\_Freedom\\_of\\_Religion\\_and\\_Anti\\_Conversion\\_Laws\\_in\\_India\\_An\\_Overview/citation/download](https://www.researchgate.net/publication/228127197_Freedom_of_Religion_and_Anti_Conversion_Laws_in_India_An_Overview/citation/download).

<sup>16</sup> Suleman, Saadiya. “Freedom of Religion and Anti Conversion Laws in India: An Overview.” *ILI Law Review*, 2010, pp. 105–26. Research gate, [www.researchgate.net/publication/228127197\\_Freedom\\_of\\_Religion\\_and\\_Anti\\_Conversion\\_Laws\\_in\\_India\\_An\\_Overview/citation/download](https://www.researchgate.net/publication/228127197_Freedom_of_Religion_and_Anti_Conversion_Laws_in_India_An_Overview/citation/download).

the ground of religion<sup>17</sup>. Even according to this law, the couple who wishes to marry should give a declaration to the district magistrate at least two months in advance<sup>18</sup>. Declaration into public leads to a breach of privacy, disclosing the couple's identity, thus breaching the right to privacy under article 21. This is not just the case in Uttar Pradesh but is also relevant in the matter of other states. The Himachal High court observed We are unable to comprehend how the issuance of a notice by a converttee will prevent conversions by fraud, force, or inducement. This may open Pandora's box and once notice is issued, this may lead to conflicts between rival religious outfits and groups.<sup>19</sup> This further leads to more communal tension between the different sections.

Declaration to the district manager makes him in a dominant position. There is no test for checking the genuineness of any conversion. The terms as enacted in many states act, the conversion is unlawful if done by "Fraud, allurement or inducement" but these terms are too broad. There has been no specification or clarity on which case will fall into which category. This type of structural problem was also foreseen by Max Weber in his theory of bureaucracy. Weber recognized that the spread of modern bureaucracy to all areas of life would imprison us in a 'steel-hard cage' from which there would be little chance of escape. Bureaucratic domination, although based on rational principles, could crush the human spirit by attempting to regulate all spheres of social life<sup>20</sup>. Giving a lot of power to bureaucratic powers without any checks can easily lead to chaos. In UP only, according to the data, 257 people were named in the 108 cases, but police investigations identified an additional 83 suspects, taking the total number to 340. Of these, 56 were found to not be guilty of breaking the law<sup>21</sup>. Within a short span of nine months only it showed how tyrannical the path it took as well as a few of the cases where final reports were submitted have been in the news for alleged misuse of the law<sup>22</sup>. Whatever the intention behind this law, data and reasoning shows that it can be used solely to harass members of a specific social group. The vague definition of a certain section gives a lot

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<sup>17</sup> Kothari, Jayna. "UP Anti-Conversion Law Amounts to Discrimination and a Violation of the Right to Equality." *The Indian Express*, 18 Dec. 2020, indianexpress.com/article/opinion/columns/up-anti-conversion-law-love-jihad-7109029.

<sup>18</sup> Taskin, Bismee. "1 Year of UP Anti-Conversion Law — 108 Cases, Chargesheet Filed in 72, 'Lack of Proof' in 11." *ThePrint*, 24 Nov. 2021, theprint.in/india/1-year-of-up-anti-conversion-law-108-cases-chargesheet-filed-in-72-lack-of-proof-in-11/770763.

<sup>19</sup> Rao, Parsa Venkateshwar, Jr. "Love Jihad: Inter-Faith Marriage a Clash between Pre-Modern Society and the Modern State." *TheLeaflet*, 30 Nov. 2020, theleaflet.in/love-jihad-inter-faith-marriage-a-clash-between-pre-modern-society-and-the-modern-state.

<sup>20</sup> Giddens, Anthony, and Philip Sutton. *Sociology*. 9th ed., Polity, 2021.

<sup>21</sup> Taskin, Bismee. "1 Year of UP Anti-Conversion Law — 108 Cases, Chargesheet Filed in 72, 'Lack of Proof' in 11." *ThePrint*, 24 Nov. 2021, theprint.in/india/1-year-of-up-anti-conversion-law-108-cases-chargesheet-filed-in-72-lack-of-proof-in-11/770763.

<sup>22</sup> *Ibid.*

of scope for misuse by certain people in society. The Allahabad high court also commented on the same issue. The authority, be it the Marriage Registrar/Officer, or the district authority under the Unlawful Conversion Act, 2021, is neither a court nor authorised by law to enter into the issue pertaining to the validity of a marriage or prohibit inter-faith marriage<sup>23</sup> but the law gives unconditional power to such authorities.

The ideology of proponents of anti-conversion legislation opposes conversion, but they make an exception for re-conversion to the immediate previous religion by classifying it as a special case, which appears hypocritical. The ‘Ghar wapsi’ program we discussed before is an example. It also makes it violating the right to equality as guaranteed by the constitution. The proponents give public speeches about the same in the public. For example, Tejasvi Surya, national president of BJP’s youth wing, while precisely addressing at Anti-conversion Bill said some people belonged to Hinduism but were converted to Islam or Christianity, he said. ‘It is our duty to bring these people back into the fold of Hinduism<sup>24</sup>. Creating a public image of the bill supporting Hinduism. He propagated annual targets for different temples to bring them up-fold. Surya has since “withdrawn” these remarks through a statement on Twitter, but the motif of Hindu majoritarianism is written into the campaign’s ethos, and this proposed law is but an extension of that idea<sup>25</sup>.

These laws can be beneficial to the weaker sections of society, SC’s and ST’s, and the law proposed a harsher punishment if anyone forces any member of their community to change to a certain religion. As these groups may be subjected to various forms of oppression by dominant figures in society, who may abuse them to persuade them to change their religion. But after reading the above-discussed article the intention of the law is nowhere close to it. The entire motive of the law seems is to support the majoritarian idea of one group only.

### **Conclusion**

This paper concludes with the point that the ideology and intention behind these laws are immoral. It upholds the values of extreme right wings and the government supports it by implementing it. Keeping the Hindus in the majority numerical is the only concern that this law targets. No matter what justification one gave, whether it is implemented to maintain public

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<sup>23</sup> Rehman, Asad. “Allahabad High Court: Registration of Interfaith Union Can’t Wait for Conversion Nod.” The Indian Express, 19 Nov. 2021, [indianexpress.com/article/cities/lucknow/allahabad-high-court-registration-of-interfaith-union-cant-wait-for-conversion-nod-7630122](https://www.indianexpress.com/article/cities/lucknow/allahabad-high-court-registration-of-interfaith-union-cant-wait-for-conversion-nod-7630122)

<sup>24</sup> Parthasarathy, Suhrit. “India’s Anti-Conversion Laws: The Death of Secularism.” The Indian Forum, 2022, [www.theindiaforum.in/article/india-s-anti-conversion-laws-death-secularism](https://www.theindiaforum.in/article/india-s-anti-conversion-laws-death-secularism).

<sup>25</sup> Parthasarathy, Suhrit. “India’s Anti-Conversion Laws: The Death of Secularism.” The Indian Forum, 2022, [www.theindiaforum.in/article/india-s-anti-conversion-laws-death-secularism](https://www.theindiaforum.in/article/india-s-anti-conversion-laws-death-secularism).

law and order, we can see it comes at the cost of our fundamental rights. The clear definition of the words, “Fraud, allurements and inducement” can counter one issue but others will still exist and will cause affliction too. Putting any officer in such a dominant position that he/she can intervene in anyone’s marriage is something that needs to be debated over. Interfaith marriage couples are subject to other forms of violence by their religious groups causing a communal problem. Lawmakers should rethink certain major parts of the laws before implementing them and make amendments to ensure that no member of society suffers due to this law. This law is full of flaws and needs more attention from lawmakers. The law should be there to create harmony in society not to neglect the ideals of any section and further oppress them. We know the current majoritarian regime aligns itself with the same ideology but the judiciary should keep a check on its activities. As stated by Talcott Parson, In modern societies, it is especially relevant to Parsons that religious laws have become secularized into procedural legal requirements that are formulated in terms of general principles legitimizing equality of participation through the institutionalization of rights and duties<sup>26</sup>. Anti-conversion legislation, on the other hand, contradicts his ideology that laws should be equal and secular.

#### **Appendix:-**

This Appendix contains the link to the survey form that was circulated for this paper as well as the link to the responses

Link to survey form:

<https://forms.office.com/Pages/ResponsePage.aspx?id=nZvnx-nsM0GHQ7bK0mxXT-CyYSLMXKdPjjsYX7MhbMRURFZaVIJCQ11NMUhWNUlaRTIIRUNLSThZMy4u>

Link to response sheet:

<https://forms.office.com/Pages/AnalysisPage.aspx?AnalyzerToken=h4KB0jx3ZWp6eXFnORB9ZezYqkF1sn5L&id=nZvnx-nsM0GHQ7bK0mxXT-CyYSLMXKdPjjsYX7MhbMRURFZaVIJCQ11NMUhWNUlaRTIIRUNLSThZMy4u>

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<sup>26</sup> Deflem, Mathieu. *Sociology of Law: Visions of a Scholarly Tradition*. 2008 Edition, Cambridge University Press, 2008.



