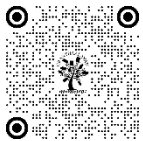


RELIGIOUS CONVERSIONS AND LEGAL PROVISIONS IN INDIA: AN ANALYSIS OF THE LEGISLATIVE FRAMEWORK

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ABSTRACT

Religious conversions in India have been a subject of intense social, political, and legal debate, particularly in the context of the country's pluralistic society and its constitutional guarantees of religious freedom. Over the years, conversion to non-Hindu religions, especially Christianity and Islam, has been viewed with concern by certain sections of society, who argue that conversions are often motivated by fraudulent means, coercion, or inducement. This has led to the enactment of Anti-Conversion laws in various Indian states, ostensibly aimed at regulating religious conversions and ensuring that they are voluntary and not conducted through coercive tactics. These laws, however, have generated significant controversy, with critics asserting that they undermine the constitutional right to freedom of religion and disproportionately target minority religious communities, particularly Christians and Muslims. This paper examines the socio-legal and political dynamics surrounding religious conversions and Anti-Conversion state legislations in India.

Keywords: Constitutional Rights, Religious Freedoms, Secularism, Religious Conversions, Anti-Conversion Laws, Minority Rights, Coercion, Proselytization, Mass-Conversions, Social Harmony, Communal Harmony



1. INTRODUCTION

India is a diverse country with multiple religions, languages, cultures, etc. People of varied ethnicities co-exist within its boundaries. Religion, in its broad sense encompasses all forms of faith and worship, representing the spectrum of human belief in a higher power or moral law. Religion is so aptly defined by Mathew Arnold as 'morality touched by emotion' often plays a vital role in the affairs of the mankind.¹ A society is made up of religious sects, an economic order is governed by religious principles and propagation of a culture is inspired by religious zeal. Religion is, in many ways, impact the life and breath of an individual and influencing all aspects of human life.

Some of the greatest events in world history and international politics have stemmed from religious motivations.² In the words of *Emile Durkheim*, "Religion is only the sentiment inspired by the group in its members, but projected outside of the consciousness that experiences them, and objectified."³ Religion has played a very conspicuous role in the life and history of mankind, influencing thought and action like no other domain. No area of life or thought has been

¹ Emile Durkheim, *Elementary Forms of Religious Life*, 21 (Free Press, New York, 1995)

² K.C. Chaudhary, *Role of Religion in Indian Politics*, 1 (Sundeep Prakashan, New Delhi, 1978)

³ *Supra* note 2. at 1

charged with emotion more than that of religious enquiry.⁴ However, as with all facets of life, religion has its advantages and disadvantages. On the one hand, religion has preached to people, love, unity, universal brotherhood, mutual co-operation. On the other hand, it has fostered tendencies towards confrontation and amid a bewildering multiplicity of religious creeds and dogmas, the world has witnessed strife, discord, and suspicion. Inhumane atrocities and persecutions have been perpetrated in the name of religion.⁵

In the past few decades, there has been a noticeable rise in religious conversions, with an ascending trend observed in recent years across the country. The trend is influenced by various social, political, economic, cultural and other factors. At this juncture, it is appropriate to quote a few examples of mass religious conversions that have taken place in the country in the recent decades that could outline the significance of a much needed discussion on the subject matter, such as Meenakshipuram conversions,⁶ Mass conversions in Nagpur⁷, etc.

2. CAUSES, IMPACT, AND ETHICAL CONCERNS SURROUNDING RELIGIOUS CONVERSIONS:

There can be numerous causes and motivations for religious conversions. These causes can range from a genuine attraction to the tenets of one religion, for spiritual reasons or for the purpose of marriage, for gaining political power, allurements for monetary benefits, for identity crises especially in the case of Dalits, etc. The Constitution of India guarantees the freedom of religion to all the citizens of India, which is enshrined in Article 25-28 of the Constitution. Article 25⁸ Guarantees freedom to practice, profess, and propagate any religion of one's own choice and it includes the right to conversion as well. The controversy arises when the religious conversions are done unlawfully, by means of force, coercion, undue influence, allurements, etc. Such forced and unlawful conversions infringe the Freedom of Religion⁹, Right to equality¹⁰ and Right to life and personal liberty¹¹ of an individual. Such unlawful conversions can lead to grave social implications, psychological implications, human rights violations, serious legal implications such as the legality of marriage, maintenance of women, property rights, legitimacy of children, etc. and it also disturbs the communal harmony of the society, which cumulatively blemishes the secular fabric of the society. It also puts the rights of minorities and members of the marginalised group of society in peril. Therefore, it became very crucial for the legislators to introduce and pass the Anti-Conversion laws in their respective states, regulating the forced conversions and penalising the persons forcing or alluring the vulnerable members of society, marginalised groups of society unlawfully. In the present times, the modes of conversion have also evolved; nowadays, social media is being used for converting people, such as WhatsApp, Facebook, Instagram, etc.

Conversions now resonate in other ways, particularly due to politically styled ideologies such as the 'Love Jihad', whereby certain forces claim that certain Muslim men are in a systematic effort to influence Hindu women and convert

⁴ Bryan S. Turner, *Religion And Modern Society: Citizenship, Secularism And The State*, 298(Cambridge University Press, England, 2011)

⁵ *Id.*

⁶ Raj Chengappa, "Meenakshipuram in Tamil Nadu becomes battleground of Hindu zealots and Muslim fanatics", available at: <https://www.indiatoday.in/magazine/religion/story/19830315-meenakshipuram-in-tamil-nadu-becomes-battleground-of-hindu-zealots-and-muslim-fanatics-770499-2013-07-24> (last visited on 10-10-2023).

⁷ Malavika Balasubramanian & Vishnu Gopinath, "Decoding Dr BR Ambedkar's Conversion to Buddhism", available at: <https://www.thequint.com/news/india/br-ambedkar-conversion-to-buddhism#read-more> (last visited on 10-20-2023).

⁸ Freedom of conscience and free profession, practice and propagation of religion:

(1) 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.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law-

a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

⁹ The Constitution of India, Art.25

¹⁰ The Constitution of India, Art.14

¹¹ The Constitution of India, Art.21

them to Islam through marriage.¹² Couple of states have passed laws or made regulations that frown upon conversions for marriage, thereby making a multi-faceted discussion on free will, freedom of religion, Right to life, and personal liberty of the converts. The courts have once again been asked to adjudicate such matters involving freedom of the individual and the protection of their rights enshrined in the constitution on one hand and maintaining the law and order and social order on the other hand.¹³

Another view relating to the concept of “Love Jihad” is that it is a pejorative term coined by the right-wing groups to promote the questionable theory that Muslim men fraudulently entice Hindu women into marrying them with the “wicked intent” of converting them to Islam.¹⁴

3. LEGAL FRAMEWORK ON RELIGIOUS CONVERSIONS

The concept of secularism was inserted in the Preamble of the Constitution of India vide 42nd amendment to the constitution of India in 1976¹⁵. The Freedom of Religion is enshrined in the Part III of the Indian Constitution as a fundamental right to every citizen under Articles 25-28. Article 25 of the Constitution guarantees to every citizen freedom to profess, propagate, and practice religion, and allows all religious sections to manage their own affairs in matters relating to religion, subject to public order, morality, and health. On one hand we have religious freedoms guaranteed to every citizen and on the other hand we have State Anti-Conversion laws, prohibiting unlawful conversions. Lately, there has been a rampant increase in the number of conversions in India, concerns have been raised by a certain dominating religious groups that the conversions are caused by unlawful means and practices. In order to curb such malpractices the states have passed Anti Conversion laws in their respective states, although there is no central legislation on this. In India there is no central Legislation curbing the unlawful conversions, but as of now 12 states have passed Anti Conversion laws¹⁶. The State Anti-Conversion laws are being discussed in detail in the forgoing paragraphs.

3.1. ODHISHA

Odhisha was the first state to implement the anti-conversion legislation known as ‘Odhisha Freedom of Religion Act, 1967’, to regulate the religious conversions and to prohibit unlawful conversions by force, fraud coercion, allurement, monetary gains etc. or by any other means in the state of Odisha. The said Act defines “conversion” as “renouncing one religion and adopting another”¹⁷ It further defines “force” to “include a show of force or a threat of injury of any kind, including the threat of divine displeasure or social excommunication.”¹⁸ Under the Act, “inducement” includes “the offer of any gift or gratification, either in cash or in kind, and shall also include the grant of any benefit, either pecuniary or otherwise,”¹⁹ and “fraud” is defined to include “misrepresentation or any other fraudulent contrivance.”²⁰

According to this Act, no person shall convert, either directly or otherwise, any person from one religious faith to another by the use of force or by inducement or by any fraudulent means nor shall any person abet any such conversion.²¹ The offence of “forcible conversion” is punishable with imprisonment upto one year, a fine of up to 5,000 rupees, or both.²² If the offence is committed against a minor, woman, or person belonging to SC/ST community, the offender will be punished with imprisonment upto two year, a fine of up to 10,000 rupees,²³. Offences under this Act are cognizable

¹² Jenkins, Laura Dudley, *Religious Freedom and Mass Conversions in India*. 42 (University of Pennsylvania Press, Philadelphia, 2019).

¹³ Monica Arora, Sonali Chitalkar. et.al., *Love Jihad or Predatory Dawah* 33 (Gurugram: Garuda Prakashan Private Limited Gurugram, Bharat, 2021.)

¹⁴ Mihir Shrivastava, Rahul Irani, *Love Jihadis*, 41 (Westland Publications Private Ltd. 2020, Chennai).

¹⁵ The Constitution (Forty Second Amendment) Act, 1976.

¹⁶ Biresh Prasad, "Right to Freedom of Religion under Constitution of India: A Critical Analysis in Light of Religious Conversions." *Indian JL & Just.* 9, 2018.

¹⁷ The Odhisha Freedom of Religion Act, 1967, s. 2(a)

¹⁸ The Odhisha Freedom of Religion Act, 1967, s. 2(b)

¹⁹ The Odhisha Freedom of Religion Act, 1967, s. 2(d)

²⁰ The Odhisha Freedom of Religion Act, 1967, s. 2(c)

²¹ The Odhisha Freedom of Religion Act, 1967, s. 3.

²² The Odhisha Freedom of Religion Act, 1967, s. 4.

²³ The Odhisha Freedom of Religion Act, 1967, s. 4.

offenses,²⁴ meaning an investigation or an arrest can be made without a warrant or authorization of a court. However, an investigation can only be made by an officer not below the rank of an Inspector of Police.²⁵

In 1989, the Orissa Freedom of Religion Rules²⁶ were issued, which required the priest performing the ceremony of conversion to 'intimate the date, time, and place of the ceremony along with the names and addresses of the persons to be converted to the concerned District Magistrate before fifteen days of the said ceremony. Failure to do so would result in a fine of 1,000 rupees²⁷

In 1973, the Hon'ble High Court of Orissa in the case of *Yulhita Hyde & Ors. v. State of Orissa*²⁸ declared that the Orissa Freedom of Religion Act, 1967 is "ultra vires the Constitution."²⁹ The hon'ble Court held in its conclusion that article 25(1) of the Constitution "guarantees propagation of religion and conversion and is a part of the Christian religion," "that the prohibition of conversion by 'force or 'fraud' as defined by the Act covered by the limitations subject to which the right is guaranteed under Article 25 of the Constitution," that "the term 'inducement' is vague and that the state legislature lacked the competence or jurisdiction to make the law in question on the topic of religion under the Seventh Schedule of the Constitution.³⁰ However, this decision was overturned by the Hon'ble Supreme Court of India in *Rev. Stainislaus v. State of Madhya Pradesh*³¹, which is discussed in more detail below.

3.2. MADHYA PRADESH

The State of Madhya Pradesh became the second state to implement the anti-conversion law, the Madhya Pradesh Freedom of Religion Act, 1968.³² Recently, new legislation has been enacted on 26th March, 2021 namely 'Madhya Pradesh Freedom of Religion Act, 2021'. In place of using the term "inducement," the Act used the term "allurement," The Act stipulates that No person shall convert, either directly or indirectly any person by use of misrepresentation, allurement, use of threat or force, undue influence, coercion or marriage or by any other fraudulent means. No person shall abet or conspire such conversions, Any conversion in contravention of this provision shall be deemed null and void.³³ According to this Act, No complaint shall be enquired into or investigated unless a written complaint is given by the person converted, and in case of a minor, his/her parents or siblings with the prior permission of the court.³⁴

The Act provides for punishments for contravention of Section 3 of this Act with imprisonment for a term not less than one year which may extend to five years and shall also be liable to fine which shall not be less than Rupee Twenty Five Thousand.³⁵ If the offence is committed against a minor, woman, or person belonging to an SC/ST, the term of imprisonment shall be minimum two years and maximum of ten years and the fine which shall not be less than Rupee Fifty Thousand.³⁶ Also, if the offence is committed in respect of 'mass conversions', the term of imprisonment shall be minimum five years and maximum of ten years and the fine which shall not be less than Rupee One Lakh. In case of a repeat offender the term of imprisonment shall be minimum five years and maximum of ten years and with fine.³⁷

²⁴ The Odhisha Freedom of Religion Act, 1967, s. 5.

²⁵ *Id.*

²⁶ Orissa Freedom of Religion Rules, 1989, available at < http://www.kandhamal.net/DownloadMat/Orissa_Freedom_of_Religion_Rules.pdf > last visited on 10-09-2023.

²⁷ Orissa Freedom of Religion Rules, 1989, Rule 8.

²⁸ ILR (1972) CUT 1329

1. ²⁹ *Id.*

³⁰ *Id.*

³¹ 1977 A.I.R. 908.

³² Madhya Pradesh Dharma Swatantrya Adhiniyam [Madhya Pradesh Freedom of Religion Act], 1968, available at < http://www.kandhamal.net/DownloadMat/Madhya_Pradesh_Freedom_of_Religion_Act.pdf >, Last visited on 10-09-2023.

³³ Madhya Pradesh Freedom of Religion Act, 2021, s.3.

³⁴ Madhya Pradesh Freedom of Religion Act, 2021, s.4.

³⁵ Madhya Pradesh Freedom of Religion Act, 2021, s.5

³⁶ *Id.*

³⁷ Supra Note 35.

According to this Act, Any marriage solemnised solely for the purpose of conversion shall be deemed to be null and void.³⁸

The Act stipulates, a notice of the conversion must be given to the District Magistrate by the religious priest or the person who converts any person 60 days prior to such conversion, contravention of this provision shall be punished with imprisonment for a term not less than three years and maximum of five years and shall also be liable to a minimum fine of Rupee Fifty Thousand only.³⁹ The offences under this Act shall be cognizable and non-bailable and be triable by Court of Sessions.⁴⁰

3.3. ARUNACHAL PRADESH

Following the High Court cases in Orissa and Madhya Pradesh, Anti-Conversion legislation was implemented in the state of Arunachal Pradesh in 1978. The provisions are contained in the Arunachal Pradesh Freedom of Religion Act, 1978, and are along similar lines to those enacted in Orissa and Madhya Pradesh.⁴¹

According to the Act, 'Conversion' means renouncing one religious faith and adopting another religious faith, and 'convert' shall be construed accordingly.⁴² Under the law, religious faith includes "indigenous faith," which is defined as religions, beliefs and practices including rites, rituals, festivals, observances, performances, abstinence, customs as have been found sanctioned, approved, performed by the indigenous communities of Arunachal Pradesh by the society.⁴³ Further the Act stipulates that no person shall convert or attempt to convert, either directly or otherwise, any person from one religious faith to any other religious faith by the use of force or by inducement or by any fraudulent means nor shall any person abet any such conversions.⁴⁴

The term "force" in the law includes a show of force or a threat of injury of any kind including threat of divine displeasure or social excommunication.⁴⁵ The term "fraud" is defined to include misrepresentation or any other fraudulent contrivance,⁴⁶ and "inducement" means the offer of any gift or gratification, either cash or in kind and shall also include the grant of any benefit, either pecuniary or otherwise.⁴⁷ The crime of forcible conversion is punishable with imprisonment of up to two years and fine of up to 10,000 rupees.⁴⁸ Section 5 of the Act requires notice of a conversion by the priest or whoever converts any person within a prescribed period to be established by subsidiary rules.⁴⁹

3.4. CHHATTISGARH

After the partition of Madhya Pradesh, a new state emerged in 2000 known as, 'The State of Chhattisgarh'. Chhattisgarh reportedly retained the anti-conversion law of Madhya Pradesh and adopted it under the title Chhattisgarh Freedom of Religion Act, 1968. The subsidiary rules for implementation of the Act were also retained. The rise of Hindu Nationalism in Chhattisgarh since the 1990s led to the passage of a number of anti-conversion laws between 2000 and 2010. Moreover, attempts were made during this period to make pre-existing laws more stringent. In 2006, the state legislature passed an amendment to the said 1968 Act to make it more stringent, but the measure is still awaiting assent. The amendment would redefine "conversion" to provide that the return in ancestor's original religion

³⁸ Madhya Pradesh Freedom of Religion Act, 1968, s.6.

³⁹ The Madhya Pradesh Freedom of Religion Act, 1968, s.10.

⁴⁰ The Madhya Pradesh Freedom of Religion Act, 1968, s.5.

⁴¹ Arunachal Pradesh Freedom of Religion Act, 1978.

⁴² The Arunachal Pradesh Act, 1978, s.2(b).

⁴³ The Arunachal Pradesh Act, 1978, s.2(c).

⁴⁴ The Arunachal Pradesh Act, 1978, s.3.

⁴⁵ The Arunachal Pradesh Act, 1978, s.2(d).

⁴⁶ The Arunachal Pradesh Act, 1978, s.2(d).

⁴⁷ The Arunachal Pradesh Act, 1978, s.2(f).

⁴⁸ The Arunachal Pradesh Act, 1978, s.4.

⁴⁹ The Arunachal Pradesh Act, 1978, s.5.

or his own original religion by any person shall not be construed as 'conversion'.⁵⁰ The measure would also increase the punishment and fines for forced conversion,⁵¹ require prior permission from a district magistrate before a conversion takes place, stipulate that notice must be given to the magistrate thirty days prior to the conversion, and authorize the magistrate after an inquiry order to permit or refuse to permit any person to convert, any person, from one religious faith to another and such permission shall be valid for two months from the date of its order.⁵² This order would only be appealable to a district judge "whose decision shall be final."⁵³ The bill states that anyone found guilty of converting any person in contravention of the district magistrate's order commits a cognizable offense punishable by imprisonment for up to three years and a fine of up to Rupee Twenty Thousand.⁵⁴

3.5. GUJARAT

The Anti-Conversion law in the State of Gujarat was enacted as the Gujarat Freedom of Religion Act, 2003.⁵⁵ The purpose of the Act is to prohibit conversions from one religion to another by the use of force, allurement, or fraudulent means.

According to the Gujarat Freedom of Religion Act, 2003 prohibits forcible conversion and states that no person shall convert or attempt to convert, either directly or otherwise, any person from one religion to another by use of force or by allurement or by any fraudulent means nor shall any person abet such conversion.⁵⁶ Unlike the legislations of other states, however, the definition of "convert" is slightly different, and means to make one person to renounce one religion and adopt another religion.⁵⁷ Any person who violates section 3 of the said Act is punishable by imprisonment for up to three years and is also liable to a fine of up to Rupees Fifty Thousand.⁵⁸ If the offence is committed against a minor, woman, or person belonging to an SC/ST community, he/she will be punished with imprisonment for a term which may extend to four years and fine which may extend to Rupees One Lakh.⁵⁹

Unlike the other state acts where only prior or subsequent notice is required, under section 5 of the Gujarat Act, a person wanting to convert must seek prior permission from the District Magistrate with respect to the conversion.⁶⁰ The section also requires the person who is converted to send a notice to the District Magistrate of the concerned district in which the ceremony has taken place of the fact of such conversion within such period and in such form as may be prescribed by rules.⁶¹ The Gujarat Freedom of Religion Rules 2008 stipulate that such a notice should be given within ten days from the date of such conversion ceremony. Failure to comply with these permission or notice provisions is punishable by imprisonment for up to one year or a fine of up to 1,000 rupees, or both.⁶²

⁵⁰ Chhattisgarh Freedom of Religion (Amendment) Act, No. 18 of 2006, s 2.

⁵¹ Chhattisgarh Freedom of Religion (Amendment) Act, No. 18 of 2006, s.3

⁵² Chhattisgarh Freedom of Religion (Amendment) Act, No. 18 of 2006, s.4.

⁵³ *Id*

⁵⁴ *Id*

⁵⁵ Gujarat Freedom of Religion Act, 2003, available at https://home.gujarat.gov.in/Upload/Gujarat_Freedom_of_Religion_Act2003_new_home_1_1_221015.pdf last visited on 11-09-2023.

⁵⁶ The Gujrat Freedom of Religion Act, 2003, s.3

⁵⁷ The Gujrat Freedom of Religion Act, 2003, s.2(b).

⁵⁸ The Gujrat Freedom of Religion Act, 2003, s.4.

⁵⁹ The Gujrat Freedom of Religion Act, 2003, s.4.

⁶⁰ The Gujrat Freedom of Religion Act, 2003, s.5.

⁶¹ The Gujrat Freedom of Religion Act, 2003, s.5 (2).

⁶² The Gujrat Freedom of Religion Act, 2003, s.5 (3).

3.6. JHARKHAND

The northern Indian state of Jharkhand enacted an anti-conversion law on 11th September, 2017. the Act defined terms such as, ‘allurement’ in place of ‘inducement’, which means offer of any temptation in the form of, i) any gift or gratification either in cash or kind; ii) grant of any material benefit, either monetary or otherwise.⁶³ The Act prohibits conversions done either directly or indirectly by use of force or by allurements or by fraudulent means⁶⁴

According to the Act, punishments are provided for violating Section 3 “Prohibition of forcible conversion” is classified as a cognizable and non-bailable offense, punishable by imprisonment for up to three years, a fine of up to 50,000 rupees, or both. In cases involving the conversion of a minor, woman, or a member of the SC/ST, the imprisonment term may extend to four years, and the fine may increase up to Rupee One Lacs.⁶⁵

3.7. HIMACHAL PRADESH

The Himachal Pradesh Freedom of Religion Act, 2019.⁶⁶ is inspired from the existing Anti-Conversion laws in other Indian states and came into effect on August 31st, 2019. The Act provides for new definition of the unlawful means of converting people, such as ‘coercion’, force, and inducement, etc.⁶⁷ According to the Act, prohibition for conversion by the use of misrepresentation, force, undue influence, coercion, inducement or by any fraudulent means or by marriage; nor shall any person abet or conspire such conversion.⁶⁸ One important difference, however, is that the proviso to the prohibition clause of the Himachal Pradesh Act further goes on to declare Provided that, if any person re-converts to his parent religion, it shall not be deemed to be a conversion under this Act and will not be in contravention of the provisions of this section, shall be deemed not to have been converted.⁶⁹ Punishments of the contravention of section 3 are provided in Section 4 of the said Act, the violator be punished with imprisonment for a term, which shall not be less than one year but which may extend to five years and shall also be liable to pay fine: Provided that whoever contravenes the provisions of section 3 in respect of a minor, a woman or a person belonging to the Scheduled Caste or Scheduled Tribe shall be punished with imprisonment for a term which shall not be less than two years but which may extend to seven years and shall also be liable to pay fine.⁷⁰ Marriages done for sole purpose of conversion to be declared null and void.⁷¹ Notice of a conversion must be made to the District Magistrate who can order an enquiry, failure to do so is subject to punishment.⁷² the offences under the said Act are to cognizable and Non-bailable.⁷³

3.8. UTTARAKHAND

The Uttarakhand Freedom of Religion Act, 2018 in its section 4 clearly defines forced, fraudulent or induced conversion and penalises it with imprisonment up to 3 years besides fines of up to fifty thousand rupees. Section 5, requires that the conversion should be notified earlier to the authorities with penal provisions for the violation of the said provision.

Section 3 of the new law states that forced conversion is punishable by imprisonment ranging from one to five years, along with a fine that is not specified in the Act. If the conversion involves a woman, minor, or a member of the SC/ST,

⁶³ The Jharkhand Freedom Religion Act, 2017, s.2.(a)

⁶⁴ The Jharkhand Freedom Religion Act, 2017, s.3.

⁶⁵ *Id.*

⁶⁶ Himachal Pradesh Freedom of Religion Act, 2019

⁶⁷ Himachal Pradesh Freedom of Religion Act, 2019, s.2

⁶⁸ Himachal Pradesh Freedom of Religion Act, 2019, s.3.

⁶⁹ *Id.*

⁷⁰ The Himachal Pradesh Freedom of Religion Act, 2019, s.4.

⁷¹ The Himachal Pradesh Freedom of Religion Act, 2019, s.5.

⁷² The Himachal Pradesh Freedom of Religion Act, 2019, s.7.

⁷³ The Himachal Pradesh Freedom of Religion Act, 2019, s.13.

the imprisonment term increases to two to seven years, and a fine is also applicable⁷⁴. This section includes an exemption for individuals who "return to their original religion," as this is not considered conversion under the Act.

The Act mandates that, anyone wishing to convert to another religion must submit a declaration at least one month in advance to the District Magistrate or the Executive Magistrate. This declaration must state that the individual intends to convert voluntarily and without any force, coercion, undue influence, or allurement. The religious priest who conducts the conversion ceremony must also provide a month's notice of the planned conversion to the District Magistrate or another officer designated by the District Magistrate for this purpose. Upon receiving this information, the District Magistrate is required to arrange for a police inquiry to investigate the genuine intention, purpose, and reasons behind the proposed conversion. Failure to comply with the declaration or notice requirements renders the conversion illegal and void and subjects the individual to the specified penalties.⁷⁵

3.9. UTTAR PRADESH

The Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance was passed in November 2020, making it one of the deterrent laws in the list⁷⁶. The Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021, under Section 3⁷⁷, prescribes imprisonment up to five years and a fine of up to ₹15,000 for forced, fraudulent, or induced conversions. For conversions involving minors, women, or SC/ST individuals, the punishment can extend to ten years with a fine of up to ₹50,000 under Section 5. As for forced conversions, the law is aimed at the so called procedural forced conversion to Christianity and Islam, primarily for the purpose of marriage or for some other reason. From this enactment, any change that is effected through force, coercion, allurements, etc. is deemed unlawful. Any person intending to be converted is required to give a notice to the District authorities and any person who fails to do so will be held liable to imprisonment for an amount not exceeding five years imprisonment and/or to be fined. Bizarrely, it makes the conversion more grave, if the girl is converted, or a minor or is of the SC/ST category as defined under the Indian Constitution.

3.10. KARNATAKA

The Karnataka Protection of Rights to freedom of Religion Act, 2022 was implemented on 30th September, 2022. In place of using the term "inducement," the Act used the term "allurement,"⁷⁸ The Act also defines "Religion Convertor" means a person of any religion who performs any act of conversion from one religion to another religion and by whatever name he is called such as Father, Priest, Purohit, Pandit, Moulvi or Mulla etc.,⁷⁹

The Act stipulates that No person shall convert, either directly or indirectly any person by use of misrepresentation, allurement, use of threat or force, undue influence, coercion or marriage or by any other fraudulent means. No person shall abet or conspire such conversions, Any conversion in contravention of this provision shall be deemed null and void.⁸⁰ According to this Act, the converted person, his parents, brother, sister or any person who is related to him/her by blood, marriage or adoption or in any form associated or colleague may lodge a complaint of such conversions.⁸¹

The Act provides for punishments for contravention of Section 3 of this Act with imprisonment for a term three year which may extend to five years and shall also be liable of Rupee Twenty Five Thousand.⁸² Enhanced punishments are imposed on the offenders if the offence is committed against a minor, woman, or person belonging to an SC/ST, and it would amount to imprisonment for three years and which may extend to ten years and the fine which shall not be less than Rupee Fifty Thousand.⁸³ If the offence is committed in respect of 'mass conversions', the term of imprisonment may

⁷⁴ Fischer, Meghan Grizzle. "Anti-Conversion Laws and the International Response." 1, *Penn St. JL & Int'l Aff.* 6 (2018).

⁷⁵ The Uttarakhand Freedom of Religion Act, 2018, s.8.

⁷⁶ Ahmed, Faisal. "Constitutionality of the Uttar Pradesh Prohibition of Unlawful Religious Conversion Ordinance, 2020." 4 *Issue 2 International Journal of Law Management and Humanities* 2561-2569 (2021).

⁷⁷ The Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021, s.3.

⁷⁸ The Karnataka Protection of Right to Freedom of Religion Act, 2022, s 2(a).

⁷⁹ The Karnataka Protection of Right to Freedom of Religion Act, 2022, s 2(l).

⁸⁰ The Karnataka Protection of Right to Freedom of Religion Act, 2022, s. 3.

⁸¹ The Karnataka Protection of Right to Freedom of Religion Act, 2022, s 4..

⁸² The Karnataka Protection of Right to Freedom of Religion Act, 2022, s.5

⁸³ *Id.*

be three years and which may extend to of ten years and the fine which shall not be less than Rupee One Lakh. Unique feature of victim compensation scheme can be seen in this Act, which may be payable by the accused to the victim of the conversion extend to Rupee Five Lacs and shall be in addition to fine.⁸⁴ In case of a repeat offender the term of imprisonment shall be minimum five years and shall also be liable to fine.⁸⁵

According to this Act, Any marriage solemnised solely for the purpose of conversion shall be deemed to be null and void.⁸⁶ Further the Act stipulates that, declaration before conversion of religion and pre-report about conversion i.e. under Form-I must be given to the District Magistrate at least 30 days prior to the conversion. Also, the religious convertor or the person who converts any person shall give advance notice under Form-II of such intended conversion to the District Magistrate or Add. District Magistrate.⁸⁷ Contravention of this provision shall amount to imprisonment for a term not less than one years and maximum of five years and shall also be liable to a minimum fine of Rupee Twenty Five Thousand.⁸⁸ The Act also provides that the converted person shall send a declaration prescribed under form -III to the District Magistrate within 30 days of conversion⁸⁹ Declaration post-conversion of Religion, prescribed in the offences under this Act shall be cognizable and non-bailable and be triable by Court of Sessions.⁹⁰

3.11. HARYANA

The Haryana Protection of Rights to freedom of Religion Act, 2022 was implemented on 30th September, 2022. The Act defines “digital mode” as, social media networking sites that allow individuals to construct a semi-public profile within a bounded system; to articulate a list of other users with whom they share a connection.⁹¹ The Act stipulates that No person shall convert or attempt to convert, either directly or indirectly any person by use of misrepresentation, allurement, use of threat or force, undue influence, coercion allurement or by fraudulent means including use of digital mode; or ii) by marriage or by any other fraudulent means. No person shall abet or conspire such conversions, Any conversion in contravention of this provision shall be deemed null and void.⁹² Any person who conceals his religious identity for the purpose of marriage with person belonging to other religion⁹³ According to this Act, No Court shall take cognizance of an offence under this Act, unless a complaint is given by the person converted, his/her parents or siblings with the prior permission of the court⁹⁴ Any marriage solemnized in contravention with section 3 of this Act shall be deemed Null and Void.⁹⁵

The Act provides for punishments for contravention of Section 3 of this Act with imprisonment for a minimum term of one year which may extend to five years and shall also be liable to fine not less than of Rupee One Lac.⁹⁶ If the offence is committed under clause (c) of the section 3 of the Act, the offender shall be punished with imprisonment for minimum three years and which may extend to ten years and the fine which shall not be less than Rupee Three Lac.⁹⁷ If the offence is committed in respect of ‘Mass Conversions’, the term of imprisonment shall be minimum five years and which may extend to ten years and the fine which shall not be less than Rupee Four Lakh.⁹⁸ In case of a repeat offender the term of imprisonment shall be minimum five years and shall also be liable to fine.⁹⁹

⁸⁴ The Karnataka Protection of Right to Freedom of Religion Act, 2022, s.5(2).

⁸⁵ The Karnataka Protection of Right to Freedom of Religion Act, 2022, s.5(3).

⁸⁶ The Karnataka Protection of Right to Freedom of Religion Act, 2022, s. 8.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ The Karnataka Protection of Right to Freedom of Religion Act, 2022, s.8.

⁹⁰ The Karnataka Protection of Right to Freedom of Religion Act, 2022, s.7.

⁹¹ The Haryana Prevention of Unlawful Conversions Act, 2022, s. 2(d).

⁹² The Haryana Prevention of Unlawful Conversions Act, 2022, s. 3.

⁹³ *Id.*

⁹⁴ The Haryana Prevention of Unlawful Conversions Act, 2022, s. 4.

⁹⁵ The Haryana Prevention of Unlawful Conversions Act, 2022, s. 5

⁹⁶ The Haryana Prevention of Unlawful Conversions Act, 2022, s.12(1)..

⁹⁷ The Haryana Prevention of Unlawful Conversions Act, 2022, s.12(3).

⁹⁸ The Haryana Prevention of Unlawful Conversions Act, 2022, s.12(4).

⁹⁹ The Haryana Prevention of Unlawful Conversions Act, 2022, s.12(3).

According to this Act, Any marriage solemnised solely for the purpose of conversion shall be deemed to be null and void.¹⁰⁰ Further the Act stipulates that, Declaration before conversion of religion and pre-report about conversion must be given to the District Magistrate prior to the conversion.¹⁰¹ Contravention of this provision under section 9 of this Act shall be punished with imprisonment for a term not less than three years and maximum of five years and shall also be liable to a minimum fine of Rupee Two Lac.¹⁰²

Once the marriage is declared null and void under the provisions of this Act, the children born out of such a wed lock shall be deemed to be legitimate,¹⁰³ such children will have the right to inherit from the property of their biological father only.¹⁰⁴ The women and the children born out of such a marriage that is deemed null and void are entitled to maintenance under chapter IX of the Criminal procedure Code, 1973¹⁰⁵.

3.12. ASSAM HEALING (PREVENTION OF EVIL PRACTICES ACT), 2024

Although, The Assam Healing (Prevention of Evil Practices) Act, 2024 is not an Anti-Conversion Law but it one of its objectives is to curb the unlawful conversions. It is aimed at countering exploitative practices masquerading as healing. It tries to deal with the marriage of cultural values and health practices with a focus on protection from injurious rituals and false healing practices which exploit the vulnerable groups¹⁰⁶. The Assam Healing (Prevention of Evil Practices Act, 2024) is intended to prohibit, and regulate practices in healing, which are non-scientific and dangerous, especially those practices involving magic-eradication of diseases. It bars people from doing such things, for example placing misleading advertisements. The first time offenders can be imprisoned for one year to three and be required to pay a fine of upto Rs 50,000, for the repeat offenders, the punishment increases to imprisonment up to five years and required to pay a fine of upto One Lac Rupees. The Act aims to establish a framework that distinguishes between legitimate traditional healing practices and those that are deemed exploitative or harmful. It specifically targets practices that are conducted with ulterior motives, thereby protecting vulnerable groups from manipulation and deceit. This includes issues in which some fake healers target those people coming from poorly economically positioned families, where so-called miracles might promise healing serious health conditions to be treated through so-called miraculous or unsafe procedures.

4. ANALYSIS AND IMPACT OF ANTI-CONVERSION LAWS ON RELIGIOUS CONVERSIONS

The Anti-Conversion State legislations aims at curbing unlawful conversions. Though such laws intended to prohibit people from being coerced or pressured into apostasy, the latter has been described as being used selectively against religious minorities in a very cruel manner, especially with Christians and Muslims being the most affected. Firstly, Anti-Conversions laws lead to a fear of persecution and suspicion where genuine cases of apostasy and conversions are viewed with lots of apprehensions especially for those involving minorities¹⁰⁷. Hon'ble Supreme Court also remarked that, not all religious conversions are illegal".¹⁰⁸ Secondly, in most of the laws, it is mandatory for the converters, to inform the government agencies of their intentions, thereby putting religious conversions under penitentiary surveillance. Justice P.V. Reddy, in the 235th, Law commission Report, 2010, recommended that, 'When the change of religion is a conscious choice of an individual based on his belief in God, the law cannot insist on obtaining the prior permission from the District Magistrate to change his or her religion. It is only after the conversion that it would be appropriate to send the intimation to the concerned officer of the Government.'¹⁰⁹ Thirdly, the State Anti-Conversion

¹⁰⁰ The Haryana Prevention of Unlawful Conversions Act, 2022, s.12(3).

¹⁰¹ The Haryana Prevention of Unlawful Conversions Act, 2022, s.9

¹⁰² The Haryana Prevention of Unlawful Conversions Act, 2022, s.12(5).

¹⁰³ The Haryana Prevention of Unlawful Conversions Act, 2022, s.7

¹⁰⁴ *Id*

¹⁰⁵ The Haryana Prevention of Unlawful Conversions Act, 2022, s.8.

¹⁰⁶ Chinmayi Sharma, "Healing Practices and Rituals of the Forest-Dwelling Rabha Community in Assam, India." *Indigenous Knowledge and Mental Health: A Global Perspective*, 49-62, (2022).

¹⁰⁷ Jenkins, Laura Dudley. "Legal limits on Religious Conversions in India." *Law and contemporary problems* 71, no. 2, 109-127 2008.

¹⁰⁸ Krishnadas Rajagopal, 'Anti-Conversion law-Not all religious conversions are illegal, Supreme Court remarked', *The Hindu*, 3rd, January, 2023, available at <https://www.thehindu.com/news/national/other-states/anti-conversion-law-supreme-court-agrees-to-hear-madhya-pradesh-governments-plea-against-high-court-order/article66332876.ece> last visited on 11-10-2023.

¹⁰⁹ 235th Law Commission Report, 2010, available at https://lawcommissionofindia.nic.in/report_nineteenth/ last visited on 11-10-2023.

legislations are motivated by dominant political ideologies, and not on the principle of 'The Rule of Law', which presents serious avenues for misuse of the provisions by the authoritarian forces. Fourthly, the variation in the State Anti-Conversion legislations all over India affects the demographic of the country, as perpetrators are getting more active in the States where there are no Anti-Conversion Laws at present. In order to maintain communal harmony and public order in State, Anti-Conversion laws are important to curb unlawful and forced conversions because it also violate the freedom of religion of an individual, and proper checks and balances shall be kept in mind while drafting such legislations, Otherwise, such legislations can be misused by the authoritarian forces against the minorities and lead to grave Human Rights violations. This greatly cultivates a hostile environment for incorporating religious minority groups and at extremes may isolate the individuals and result in escalated violence against them.

5. CONCLUSION

Hence, the problem of unlawful religious conversions in the context of the Indian state and civil society needs careful handling. For the pluralistic democracy of India, there is a need for a uniform central legislation to curb the unlawful conversions and at the same time, protect the rights of the people, guaranteed under the Constitution of India. The present day situations are getting cumbersome; the human greed for free lunch is increasing at a fast pace. Legal reforms such as supplementing existing legislations, increasing the role of the judiciary in the implementation process, and providing clear legal distinctions in case of Anti-Conversion laws are productive steps to follow to avoid abuse of these laws. Indeed the role of the judiciary in protecting constitutional freedoms is well depicted; an informed Judiciary protects individual rights while at the same time preserving the interest of the public. Another level of intervention is the raising of awareness and changing of attitudes and perceptions throughout the communities to and from which children interact. The social benefits of encouraging interreligious dialogue and increasing knowledge about rights in connection with religious beliefs of an individual include reducing confrontation and encouraging society's acceptance of increasing diversification. Public participation activities that include the use of mediation centers, and support groups for minorities will go a long way in reforming individuals and resolving disputes. Finally, for these issues, which are covered with much controversy when it comes to religious conversions, it would need the participation of the government and civil society, as well as religious faith-based organizations. As much as India continues to uphold and advance the cause of individual rights, no doubt the country can embrace the direction of the culture of harmonious coexistence, thereby acknowledging the glory of the diversity of the country while at the same time protecting liberty.