



Laws regulating apostasy in India– A critical study

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Abstract

The integral yoga of Law and Religion is the genius of Indian culture which blends in Dharma, the finer components of legality and spiritual values. From ancient times, Law and Religion have interacted, jointly operated and at times, mutually fought to overpower each other. The basic law in India is the Constitution and we must look into the Indian Constitution to understand the modus Vivendi between Law and Religion in India. The preamble of the Constitution describes India Republic inter alia as Secular. The Equality of all religions is expressly recognized by Article 25-28, thereby, emphasizing the cherished ideal of Secularism. The Right to Freedom of Religion includes Right to convert from one Religion to another religion. Religious conversion has become the subject of passionate debate in the contemporary India. Conversion from one religion to another has far reaching consequences, social and legal. It affects succession, marital status and also the right to seek elective office. The present paper seeks to evaluate the efforts to achieve these perceived goals – of effectuating changes and managing conflicts of Right to Freedom of Religion and Religious Conversion through the Constitutional, Legal and Judicial process.

Keywords: conversion, fraudulent, allurement, inducement, constitution, legislation, judiciary

Introduction

Religion has been a powerful factor in all phases of human history and in all parts of the human world. It remains so, everywhere on the globe, also in the present third millennium. Anti religion ideologies periodically emerging in certain parts of the world having miserably failed, religiosity remains the order of the day ^[1]. India can rightly be described as the world's most heterogeneous society. It is a country with rich heritage, several races have conveyed in this sub continent. They brought with them their own culture, languages, religion and customs. These diversities threw up their own problems but the early leadership showed wisdom and sagacity in tackling them by preaching the philosophy of accommodation and tolerance. This is the message which saints and Sufis spread in the olden days and which Mahatama Gandhi and other leaders of modern times advocated to maintain national unity and integrity.

The freedom of conscience and the Right to Profess, Practice and Propagate religion is enshrined in the Article 25 of the Constitution of India. The equality of all religions is expressly recognized by Article 25 thereby emphasizing the cherished ideal of Secularism. The expression 'Practice' is concerned primarily with religious worship, ritual and observations. Propagating the religion connotes the right to communicate the religious beliefs to others by expounding the tenets of that religion. Conversion like a marriage is a solemn act. Conversion from one religion to another has far reaching consequences Social and legal. It affects succession, marital status and also the right to seek elective office. Divorce can be granted on the ground that the spouse has changed the religion. ^[2]

Religious conversion has become the subject of passionate debate in contemporary India. From the early 20th century onwards, it has surfaced again and again in the political realm, in the media and in the courts. During the last few decades the dispute has attained a new climax in the plethora of newspapers, journals and books whose pages

have been devoted to the question of conversion. Apparently, a large group of Indians considers this to be an issue of crucial import to the future of their country.

Objectives of the Study

To evaluate anti apostasy laws in India in India.

To examine the socio- political expositions relating to anti-conversion laws in India.

To analyze the role of judiciary in defining and interpreting anti- conversion laws in India.

To find out suitable suggestions for consistency of anti-conversion laws in India.

Research Hypotheses

Anti- conversion laws in India is a justification for forcible, allured and fraudulent religious conversion.

Anti- conversion laws are not uniform; therefore, it is hassled by Constitutional, Legislative and Judicial interpretations.

India needs a Uniform Code for prevention of forcible, allured and fraudulent religious conversion.

Research Methodology

In order to examine critically the legal provisions pertaining to the abovementioned aspect of the study, secondary information/ sources have been received upon. A major part of this work relate to the theoretical aspect of the problem of the study. Decided cases by the courts apostasy policy and its practices have been analyzed critically. Reports of the Commissions/ Committees have been examined for the correct perspective of the present study. Research on the topic is legal and the methodology is doctrinal. The sources of this research paper are based on books, journals, case laws, internet sites and newspapers.

Anti - conversion laws in pre-independence India

In order to acquaint ourselves with the laws relating to conversion in India, we may take a cursory look at the history of anti – conversion in India. We may take a cursory

look at the history of the anti- conversion laws passed by various princely States in pre – independent India. This will give us a clear idea that while on the one hand, the princely States passed anti- conversion laws and implemented them, on the other, there has always been a group of people in Indian society which advocates and urges upon the State to take anti conversion measures but has not succeeded at the control level. This also shows that a section of the *Hindu* society is not happy with the inclusion of the Article related to the freedom of religion in the Constitution.^[3]

The British rulers in India never imposed any restriction on the right to propagate one's religion and converting other. They themselves professed a proselytizing religion and kept away throughout their rule from any measure that would have any adverse effect on their missionary activity. On the contrary, they greatly encouraged the evangelists and facilitated conversion to Christianity by introducing new measures in the domain of private law in order to remove hurdles in the way of conversion of others to the Christians religion and offered attractive legal reliefs to the converts to Christianity.^[4]

Anti- conversion laws have arisen from a long history of religious activities in India. The legislative history relating to the issue of conversion in India underscores the point that the authorities concerned were never favorably disposed towards conversion. While British India had no anti conversion laws,^[5] many princely States enacted anti – conversion legislation. The first Anti conversion law was the Rajgrah State Conversion Act, which was enacted in 1936. This enactment banned the preaching of Christianity and prohibited the entry of Christian missionaries in the former kingdom of Rajgrah, Jodhpur, Surguja etc. of Chhotangpur areas. The Rajgarh State Conversion Act, 1936 required a person wanting to convert to submit an application to a designated officer.^[6] A sister law existed on the statute book of the Patna State euphemistically titled Freedom of Religion Act, 1942, which required a person sacking to convert to file an affidavit before the registrar of conversions who could order an inquiry. If both parents converted, the law required the child to be placed with a non- converted relation or a State orphanage.^[7]

The Surguja State Apostasy Act, 1945 was the another enactment to prohibit conversion from *Hinduism* to *Islam* and Christianity by vesting the power to allow or disallow conversion in the *Darbar* of the *Rajas* under the guise of maintaining law and order and establishing public peace. This enactment also required a person to notify the government of his intended conversion three months in advance, and no change of faith was legal without State sanction.^[8] Similarly the Udaipur State Conversion Act, 1946 requires all conversions from *Hindu* religion to other faith to be registered officially. The purpose of all these laws was to insulate *Hindu* from the onslaught of Christian missionary activities. Most of these laws required individual converts to register their conversion with specified government agencies. Those who secured conversion of a person by fraud, misrepresentation, coercion, intimidation, undue influence or the like were made liable to punishment. Minors could not have been converted and children of convert would not automatically get their parents new faith. Conversion to another religion was thus legally sought to be regulated by the *Hindu* rulers of princely States.^[9]

Anti- conversion laws in post-independence India

State wise laws for governing and regulating apostasy in India can be discussed as under-

The Orissa Freedom of Religion Act, 1967

The State of Orissa had enacted Orissa Freedom of Religion Act, 1967^[10] in the eighteenth year of the Republic of India in order to provide legislative framework for prohibition of conversion from one religion to another. The main object of the Act is to check such activities, which, besides creating various maladjustments in social life, also give rise to problem of law and order. The Act extends to the whole of the State of Orissa.^[11] It contains 7 sections in all, Section 1 of the Act deals with short title, extent and commencement of the Act. The remaining provisions of the Act are very pertinent in the context of the study. They are as follows: section 2 of the Act contains definitional clause. In this definitional clause, the expressions “conversion”,^[11] “force”,^[12] “fraud”,^[13] “inducement”^[14] and “minor”^[15] have been defined. The expressions “conversion”, “fraud”, and “minor” have defined precisely and are more or less unambiguous. The definition of the words “force” and “inducement” are, however, considered to be ambiguous. It is said that they are open to wide interpretations, which render the legislation liable to be misused. It is the use of the words ‘divine displeasure in the definition of force, which was objected’.^[15]

Section 3 is one of the important provisions of the Act. It reads:

Prohibition of forcible conversion: No person shall convert or attempt to 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.

It is a clear mandate of section 3 that no person shall convert or makes any attempt, either directly or otherwise, to convert any person or abets any other person to convert any person by use of force, inducement or through fraudulent means. Thus, under, section 3 of the Act, following acts by use of ‘force, inducement’ or by ‘fraud’ are strictly prohibited:

- a. Conversion of any person;
- b. Any direct or indirect attempt to convert any person;
- c. Abetment to convert any person section 4 provides punishment for commission of any act prohibited under section 3.

Section 4 provides punishment for conversion of any act prohibited under section 3. Section 4 reads:

Punishment for contravention of the provisions of section 3: Any person contravening the provisions contained in section 3 shall without prejudice to any civil liability, be punishable with imprisonment of either description which may extend to one year or with fine which may extend to five thousand rupees or with both.

Provided that in case the offence in committees in respect of minor, a women or person belonging to schedule castes or scheduled tribes the punishment shall be imprisonment to the extent of two year and fine up to ten thousand rupees.

Section 5 deals with “offence to be cognizable”.^[16] It contains two things. Firstly, it declares the nature of offence under this Act as cognizable. Secondly, it mandates that offence under this Act shall not be investigated by an officer below the rank of an inspector of police. This section signifies the importance that the law makers intend to prohibition of conversion by use of force, fraud, or allurement. It is considered as a much serious offence in as much as it has been provided that only a senior officer is authorized to investigate.

Section 6 provides sanction of a District magistrate or such other authority, not below the rank of a sub-divisional officer, authorized by him in that behalf a condition precedent to prosecute the offence under the Act. Section is a safeguard against the possible misuse or abuse of the provisions of the Act.^[17]

Section 7 delegates the rule making power to the State government.^[18] The provision does not require for its consideration and approval. However, since the vires of the rules so made are always open to be challenged before the court of law.^[19]

The Madhya Pradesh Dharma Swatantra Adhiniyam, 1968

The Report of the Christian Missionary Activities Enquiry Committee of 1956 sheds light of additional concerns about conversion, which included public order, social cohesion, and national security in the new nation.^[20] Committee chairman Dr. M.B. Niyogi Submitted this report, largely a scathing critique of missionary activity, with a letter stating that:^[21]

The member of the committee were guided solely by the necessity to maintain intact the solidarity and security of the country, to prevent disruption of society and culture, and to emphasize the essential secular character of the Constitution. If they have drawn attention to certain disruptive tendencies inherent in or incidental to, the exercise of certain liberties in matters of religion, they have done so not with a view to curtailing individual rights and freedom, but to the exercise thereof in a manner consistent with public order, morality and health.

The Act was amended in the year of 2006 by the Madhya Pradesh Dharma Swatantrya (Sansnodhan) Vidheyak, 2006. The basic provisions of the Act as amended in 2006 are as follows:

Section 2 Definitions: in this Act unless the context otherwise requires:

- a. "Allurement" 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;
- b. "Conversion" means renouncing one religion and adopting another;
- c. "Force" shall include a show of force or a threat for injury of any kind including threat of divine displeasure or social excommunication;
- d. "Fraud" shall include misrepresentation or any other fraudulent contrivance;
- e. "Minor" means a person under the eighteen years of age.

Section 3 of the Act prohibits conversion, attempt to conversion and abetment to conversion by use of force, allurement or by any fraudulent means. This section is fully identical, both in form as well as in substances with section 3 of the Orissa Act. Section 3 of the Madhya Pradesh Dharma Swatantraya Adhiniyam, 1968 reads as under:

Prohibition of forcible conversion: no person shall convert or attempt to convert, either directly or otherwise, any person from one religious faith to another by the use of force or by allurement or by any fraudulent means nor shall any person abet any such conversion.

Section 4 of the Act^[22] is also fully identical, both in form and in substance, with section 4 of the Orissa Act. Thus, for the reasons stated there in the provision is said to be *intra vires* the Constitution.

Section 5 of the M.P. Act provides that

Section 5 Declaration before conversion and prior intimation of ceremony: (1) Any person intending to convert his religion shall give a declaration before the District Magistrate or before an Executive Magistrate specially authorized by the District magistrate of the concerned district, prior to such conversion to the effect that he intends to convert his religion on his own will.

(2) The concern religious priest, who intends to convert any person from one religious faith to another, either by performing himself the ceremony necessary for such conversion or any taking part directly or indirectly in such ceremony, shall intimate the date, time and place of the ceremony in which conversion shall be made along with the name and address of the person to be converted to the concerned District Magistrate one month prior to the date of said ceremony and the intimation shall be in such form and shall be delivered or caused to be delivered by the priest to the concerned District Magistrate in such manner as may be prescribed.

(3) On receiving the intimation under sub – section (1) and (2), the District Magistrate shall inform the details of proposed conversion to the concerned superintendent of police, who shall ascertain through the officer in-charge of the concerned police station regarding the objection, if any, to the proposed conversion by local inquiry and intimate the same to the District Magistrate.

(4) Whoever fails comply with the provisions contained in sub- section (1), shall be punishable with fine which may extend to one thousand rupees.

(5) Whoever fails to comply with the provisions of sub – section (2) shall be punishable with imprisonment, which may extend to one year or with fine, which may extend to five thousand rupees or with both.

Thus, section 5 of the Act provides a regulator measure to ensure that no conversion by use of force, allurement or by any fraudulent means take place. Thus, even though the person who is intending to convert his religion by exercise of his free conscience without any compulsion on allurement is also expected to make prior declaration of the same. The provision has not prohibited conversion, but it is regulating the same in order to conform that the person is converting himself out of his own will. In the same way the obligation imposed on the priest to give intimation to the District Magistrate is also justifiable.^[23]

The provisions of section 6^[24] and section 7^[25] are fully identical, both in form and substance, with section 5 and section 6 of the Orissa Act. Further section 8 deals with rule making power of the State government.^[26]

The Chhattisgarh Dharma Swatantraya Adhiniyam, 1968^[27]

After the formation of State of Chhattisgarh, by virtue of the power conferred under section 79 of the Madhya Pradesh Reorganization Act, 2000, the government of Chhattisgarh had adopted Madhya Pradesh Dharma Swatantraya Adhiniyam, 1968 which was in operation in the State of Madhya Pradesh immediately before the formation of Chhattisgarh. However, the said Act has now been proposed to be amended by the Chhattisgarh Dharama Swatantraya (Sanshodhan) Vidheyak, 2006. The main provision of the Act, as they stand after amendment, is as follows: Section 2 of the Madhya Pradesh Act was adopted without any changes. However, in the year 2006, a proviso was proposed

to be added to section 2 (b) of the Act, which defines conversion. The proviso states that the “return to ancestor’s original religion or his own original religion by any person shall not be construed as ‘conversion’”. The proviso proposes to exclude the cases of reconversion not only to one’s own religion but also the religion of one’s ancestor’s. It appears that the proviso seems to be achieved by it. If the purpose of the Act is to prohibit conversion from one religion to another by use of force or allurement or by any fraudulent means, but not free conversion, what was the need for excluding the conversion from the purview of the Act? Such an express exclusion of reconversion from the purview of the Act would necessarily imply that reconversion by use of force, fraud or allurement is not punishable under the provisions of the Act.^[28]

The maximum provisions of this Act are identical with the provisions in other State legislations.

The Arunachal Pradesh Freedom of Religion Act, 1978

The Union Territory of Arunachal Pradesh, as it then was, legislated the Arunachal Pradesh Freedom of Religion Act, 1978 (Act. No. 4 of 1978). The main object of the Act is to provide for prohibition of conversion from one religious faith to any other religious faith by use of force or inducement or by fraudulent means and matters connected there with.^[29] Main provisions of the Act are summarized as under:

Section 2 definitions: In this Act unless the context otherwise requires:

- (a) “Government” means the government of the Union Territory of Arunachal Pradesh.
- (b) “Conversion” means renouncing an indigenous faith and adopting another faith or religion.
- (c) “Indigenous” means such 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 from the time these communities have been known and includes Buddhism as prevalent among Monpas, Menbas, Sherdukpens, Khambas, Khamtis and Singaphoos, Vaisnavism preached by Noctes and Akas and Nature worship including worship of Dogi- Polo, prevalent among other indigenous communities of Arunachal Pradesh.
- (d) “Force” shall include a show of force or a threat for injury of any kind including threat of diving displeasure or social excommunication;
- (e) “Fraud” shall include, misrepresentation or any other fraudulent contrivance;
- (f) “Inducement” shall include the offer of any gift, or gratification either cash or in kind and also include grant of any benefit, either pecuniary or otherwise.

The expressions “force”, “fraud” and ‘inducement’ are same as they have been defined in the legislations mentioned above. The terms ‘indigenous’ has been included and defined in this Act. These terms have not been defined in the other Acts. The definition of the words ‘conversion’ has, however, been given a restrictive meaning when compared to other legislations. Unlike the other Acts, where conversion has been defined as ‘renouncing one religion and adopting another’ this legislation defines it as ‘renouncing an indigenous faith and adopting another faith or religion’. Thus, the definition restricts the application of the Act only to cases of conversion from indigenous faith to any other

faith or religious. The conversions from any religions, other than indigenous faith, have been specifically excluded from the purview of the Act. The definition specifically excludes *Islam* and Christianity, etc., which are not indigenous by their origin.^[30]

Section 3 of this act is similar to section 3 of all the legislation mentioned above except that it mentions conversion from indigenous faith by means force, fraud and inducement that is prohibited under this legislation. However, other legislations prohibit conversions from any religion to another.

Section 4 punishments for contravention of the provisions of section 3: Any person contravening the provisions contained in section 3 shall, without prejudice to any civil liability, be punishable with imprisonment to the extent of two years and fine up to ten thousand rupees.

Section 4 is slightly different from the other legislations. This section does not prescribe different punishment for conversion of minor, women, scheduled caste and scheduled tribe. Section 4 of this Act makes it mandatory to impose both imprisonment as well as fine subject to maximum limits prescribed.

Section 5 of this Act is similar to section 5 of the Madhya Pradesh Dharma Swatantrya Adhiniyam, 1968. This section charges duty on the person who makes conversion of other either by performing the necessary ceremony himself as a religious priest or by taking part in such ceremony, either directly or indirectly, to intimate the same with the necessary details to the Deputy Commissioner of the District to which the person convert belong.

Section 6, 7, and 8 of this legislation is identical with section 5, 6 and 7, respectively of the Orissa Freedom of Religion Act 1968. Except that in place of Sub - Divisional Commissioner in section 6 of the Orissa Act, the Extra – Assistant commissioner is used in section 7 of the present Act.

The Gujarat Freedom of Religion Act, 2003

The State of Gujarat passed the Freedom of Religion Act in 2003^[31] with a view to provide for freedom of religion by prohibition of conversion from one religion to another by the use of force or allurement or by fraudulent means and for the matters incident thereto.^[32] The Act define “allurement”, “convert”, “force”, “fraudulent” and “minor” in the same way as these terms have been defined in the other Acts. Section 3 is a cardinal provision of this Act. This section provides prohibition of forcible conversion.^[33] Like the legislations of other States this section also prohibits conversion from one religion to another religion by any person, which is done by the use of force or by allurement or by any fraudulent means. This section also prohibits abetment of such means for conversion. Section 4 of the Act prescribes punishment for those who contravenes with the provisions of section 3. This provision is identical with the provisions of other State laws. The quantum of punishment under this act is prescribed, without prejudice to any civil liability, imprisonment for a term which may extend to three years and shall also be liable to fine, which may extend to fifty thousand rupees. Provided if similar act of conversion is done against a minor, a women or a person belonging to scheduled caste or schedule tribe then punishment shall be imprisonment which is extendable to four years and fine up to one lakh rupees. The amount of punishment prescribed under this Act appears to be high rather than other States’ laws.

Section 5 of the Act provides regulatory mechanism. The provision of this section, more or less, is different from the provision of other State legislation section 5 provides:

Prior permission to be taken from District Magistrate with respect to conversion: (1) Whoever convert any person from one religion to another either by performing any ceremony by himself for such conversion as a religious priest or takes part directly or indirectly in such ceremony shall take prior permission for such proposed conversion from the District Magistrate concerned by applying in such form as may be prescribed by rules.

(2) The person who is converted shall send intimation to the District Magistrate of the District concerned in which the ceremony has taken place of the fact of such conversion with in such period and in such form as shall be prescribed by rules.

(3) Whoever fails, without sufficient cause, to comply with the provisions of sub – section (1) and (2) shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to rupees one thousand or with both.

Thus, section 5 makes provisions for requirement of prior permission from the District Magistrate for converting any person from one religion to another. Though, section 5 of the Act does not provide guidelines for the District Magistrates to grant such permission, it is implied that after satisfying himself that the conversion is not through force, fraud, allurements or fraudulent means, the District Magistrate has to issue the required permission. Further this section does not mention any time period within which such permission has to be granted after

The Himachal Pradesh Freedom of Religion Act, 2006

The object of the Himachal Pradesh Freedom of Religion Act, 2006 is similar to the other Acts discussed above. The definition clause i.e. section 2, which defines ^[34] “Conversion”, “force”, “fraud”, “inducement” and “minor” is fully identical with Orissa and M.P. Act both in form and substance. The main provision of this Act is embodied in section 3. This section provides “prohibition of conversion”. This section is also identical with similar provisions in other Acts. However, the novel feature of the section is that the proviso declares that the conversion made in contravention of the section shall be deemed not to have been taken place.

Section 3 provides

Prohibition of conversion: No person shall convert or attempt to convert, either directly or otherwise, any person from one religion to another by the use of force or by inducement or by any other fraudulent means nor shall any person abet any such conversion; Provided that any person who has been converted from one religion to another, in contravention to the provision of this section, shall be deemed not to have been converted.

Section 4 casts a duty on the person who intends to convert his religion to give at least one month prior notice to the District Magistrate. However, such notice is not required to be given in case a person who wants to reconvert to his original religion. Section 4 reads as follow:

Notice of intention: (1) A person intending to convert from one religion shall give prior notice of at least thirty days to the District Magistrate of the District concerned of his intention to do so and the District Magistrate shall get the matter enquired into by such agency as he may deem fit:

Provided that no notice shall be required if a person reverts back to his original religion.

(2) Any person who fails to give prior notice, as required under sub section (1), shall be punishable with fine, which may extend to one thousand rupees.

The provision of section 5 deals with punishment which is identical with the provisions of other legislations discussed above. Section 5 reads as under:

Punishment of contravention of the provision of section 3 – Any person contravening the provisions contained in section 3 shall, without prejudice to any civil liability, be punishable with imprisonment of either description, which may extend to two years or with fine, which may extend to twenty five-thousand rupees or with both:

Provided that in case the offence is committed in respect of a minor, a woman or a person belonging to scheduled castes or scheduled tribes, the punishment of imprisonment may extend to three years and fine may extend to fifty thousand rupees.

Like other Acts section 6, 7, and 8 deals with “offences to be cognizable”, ^[35] prosecution to be made with the sanction of District Magistrate ^[36] and “power to make rules”, ^[37] respectively.

Conclusion

These laws have also been criticized on the ground that none of the legislations laid down any guidelines as regards the exercise by the Magistrate. It may be impractical to describe this method through legislation, ^[38] as judging the state of mind of the convert by assessing their motives and volition. ^[39] However there should be legally sustainable method by which the magistrate can distinguish between voluntary and coerced conversion. Judicial precedent lays down tests used by court to distinguish between *bona fide* conversion and pretended conversion that are a means to some further end. ^[40]

Court has held that credible evidence of an intention to convert followed by the subsequent conduct of the convertee is necessary to reach the conclusion that there was a genuine conversion. ^[41]

A similar methodology may have to be adopted by the Magistrate to determine if the conversion was *bona fide* or through coercive means. ^[42]

Dr. Sebastian Chang quotes: ^[43]

The enactment of freedom of religion laws, the State benefits for the scheduled castes and the legislation against conversion made clear distinctions between *Hindus* and non-*Hindus* and between *Hinduism* and other religions. It is important to notice that these distinctions drew definite boundaries of *Hindu* religious affiliation, belief and practice. Maria Correa mentions: ^[44]

It is clear that these laws, as they stand, pose a serious threat to the pluralistic nature of Indian society as well as the secularism, which forms the bedrock of the Indian Constitution. An increasing number of State governments continue to deliberate on the passing of these laws, it is the need of the hour for the judiciary to intervene, in order to ensure that the Indian Constitution and its principles of secularism, tolerance and equality are upheld.

The anti-conversion laws provide us no guidance as to how the terms used in the relevant Acts should be constructed this vacuum created by lack of precisely defined terminology, however, cannot be the sole criterion for sticking down the Acts as unconstitutional. The ambiguity of the expressions

in the States does leave a high degree of discretion to government officials to determine what actions are prohibited and which individuals will be targeted.^[45]

In order to preserve public order many States have enacted anti- conversion laws to prohibit conversion through means reprehensible to the conscience of the community. Nevertheless in their enthusiasm to shield 'indigenous religions' it appears that some of them have gone to the extent of eclipsing the freedom of religion.

Finally it is submitted that anti- conversion laws in India have been framed by the States which differentiate from various aspect. The term 'religion' is neither includes in Union List, State List nor in Concurrent List. Therefore, it comes within residuary power of the Parliament. Parliament may come forward to enact a Uniform Code on the controversial subject meters.

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12. "Conversion" means renouncing one religion and adopting another section 2(a). Ibid.
13. "Force" shall include a show of force or a threat for injury of any kind including threat of divine displeasure or social excommunication. Section 2(b),Ibid.
14. "Fraud" shall include misrepresentation or any other fraudulent contrivance. Section 2(c),Ibid.
15. "Inducement" shall include 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. Section 2(d),Ibid.
16. Minor" means a person under eighteen years' of age.
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19. "Prosecution to be made with the sanction of District Magistrate: No prosecution for an offence under this Act shall be made without the Magistrate of the District or such other authority, not below the rank of sub-divisional officer, as may be authorized by him in this behalf" Section 6. Ibid.
20. "Power to make rule: the State government may make rule for the purpose of carrying out the provisions of this Act." Section 7.Ibid.
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25. Provided that in case the offence is committed in respect of a minor, a woman or a person belonging to the Schedule Castes or schedule Tribes the punishment shall be imprisonment to the extent of two years and fine up to ten thousand rupees.
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28. Section 7; Ibid; Prosecution to be made with the sanction of District Magistrate: No prosecution for an offence under this Act shall be made without the sanction of the Magistrate of the District or such other authority, not below the rank of a sub- divisional officer, as may be authorized him in that behalf.
29. Section 8; Ibid.; as amended by section 3 of the *Madhya Pradesh DharmaSwatantraya (Sanshodhan) Vidheyak, 2006; Power to make rules:*
 - (1) The State government may make rules for the purpose of carrying out the provisions of the Act.
 - (2) All rules made under this section shall be on the table of the State legislative Assembly.
30. As proposed to be amended by the *Chhattisgarh Dharma Swatantraya (Sanshodhan) Vidheyak, 2006*.
31. Supra note 14 at 46 -47.
32. Preamble to the *Arunachal Pradesh Freedom of Religion Act, 1978*.
33. Supra note 14 at 52.
34. *The Gujarat Freedom of Religion Act, 2003 (Act No. 22 of 2003)* received the assent Governor on April 7, 2003.
35. Preamble, the *Gujarat Freedom of Religion Act, 2003*.
36. Section 3, Ibid; Prohibition of forcible conversion: no person shall convert or attempt from 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.
37. Section 2, the Himachal Pradesh Freedom of Religion Act, Definition: In this Act, unless the context otherwise requires: (a) "Conversion" means renouncing one religion and adopting another; (b) "Force" shall include show of force or threat of injury or threat of divine displeasure or social ex-communication; (c) "Fraud" shall include misrepresentation or any other fraudulent contrivance; (d) "Inducement" shall include the offer of any gift or gratification, either in cash or in kind or grant of any benefit either pecuniary or otherwise; and (e) "Minor" means a person under eighteen years of age, 2006.
 38. Section 6, Ibid; "An offence under this Act shall be cognizable and shall not be investigated by an officer below the rank of an Inspector of Police".
 39. Section 7, Ibid; "No prosecution for an offence under this Act shall be made without the sanction on the District Magistrate or such other authority, not below the rank of a Sub Divisional Officer, as may be authorized by him in that behalf".
 40. Section 8, Ibid; "(1) The State government may, by notification in the official Gazette, make rules to carry out the provision of this Act. (2) Every rule made this Act shall be laid as soon as may be after it is made, before the legislation Assembly, while it is in session for a total period of ten days, which may be comprised in one session or in two or more successive sessions, and if, before expiry of the session in which it is so laid or the successive sessions aforesaid, the legislative Assembly agrees in making any modification in the rule or agrees that the rules should not be so, however, that any such modification or annulment shall be without prejudice to the validity of anything done under that rule."
 41. Law Commission of India, "Conversion/ Reconversion to another Religion- Mode of Proof". Report No,2010:235(12-13):15-16.
 42. Sachin Mandlik, Apoorva Paranjpe. "Anti-conversion Legislation in India and the Constitution" 8 The Practical Lawyer, October, 2015.
 43. Sapna Jacob v. State of Kerala, AIR 1993 Ker. 75.
 44. Supra note 139 at 16.
 45. Supra note 140 at 8.
 46. Sebastian Chang – Hwan Kim. "Freedom of Religion Legislation in India: The Hindu-Christian Debate on Religious Conversion" in Mission and Theology, 2012, 245(9).
 47. Preethi Maria Correa, "Anti-conversion laws in India and their conflict with freedom of Religion" UNILU Centre for Comparative Constitutional Law and Religion 12-13 (2013); available at https://www.unlike.ch/fileadmin/takuttaeten/zrv/dok/wp_oi-13-correa.pdf; Accessed on 18th October, 2016.
 48. Tanzima Contractor "Anti-conversion Laws – A threat to Secularism in India", Indian Journal of Legal Philosophy,2015:3(2):77.