

# Constitutional Stature of Religion Conversion in India

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## ABSTRACT:

India, a pluralistic society and a country of religions, which are considered to be the backbone for the foundation of many traditional societies in large, the word secular has been stated in the preamble given to us by the constitution assures that there is no religion preferred in a particular state, and hence all religions enjoys the equal protection in the constitution. The term RELIGION has no consensus in its definition, etymologically the word religion is the amalgamation of the two latin phrases re meaning back and 'ligare' meaning is to bind or to addressed it in a simple manner it's a belief that helps in binding the spiritual nature of an individual to a supernatural being as it includes the gyst of responsibility and also of dependency. Religion undoubtedly has its basis in belief as well as doctrines, but any how it is fallacious to say that religion is nothing but a kind of belief or doctrine, religion been a volatile subject in our secular country in every moment whether its related to any debate or any issue relating to any cause. The emerging issue of CONVERSION which tends to convert ones particular religion to another coupled before us in this present scenario in the form of religion tolerance , which anyhow leads to conflict among many inters religious groups and followers of it, to solve this problem of conversion many states have enacted various anti-conversion laws. In the present approach , the article tries to elucidate the problem of conversion and would briefly emphasis on those laws which are in consonance with those provision stated under article 25 of the constitution of India.

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The root of the word religion is basically gleaned by many scholars in their own language but in this present epoch the meaning of this term is completely used to foreground the belief and practices of various groups existing in the society which are having their own interpretation of this word, the theories on evolution of religion are cited by different philosophers in their time span which actually gives a brief notion that how the word had came into existence, but to intricate this in deeper way, it's actually the experience who taught stone age people the difference between what poisoned them and what satisfied their hunger , their minds gathered empirical realities necessary for survival, they actually did the best they could in drawing conclusions about the world beyond them, they assumed that they were at centre of the universe ,which they saw as flat, small and under sky. They called themselves the "people" and thought that strangers were creatures of another sort less human then them. They believed that if they ate the flesh of a strong beast they might acquire its spirit , or if they ate a portion of the body of a leader who had died they might acquire his special qualities. They assumed that the sun and the moon moving across the sky were animate beings, a face of a dead person , they knew and recognized in the peculiar shapes on the face of a rock was associated with the living spirit of the person dwelling within that rock. With no defined difference between spirit and materiality, they believed that in preserving a corpse they were also help to preserve the spirit of one who had died . They felt no urge to meld these ideas of spirits and materiality into a consistent picture. People correctly associated their own movement with their will and that they believed that all movement was the product of will for stone age people , will was

spirit, and they saw the world as filled with many spirits. Or, to use another word: Gods these were the stories that were told and accepted without recognition of a difference between facts and fantasy. Every society had its stories about creation each with a different twist, people believed that if the god could perform magic so too could they. The imagination of those who had a biological potential for genius and those modern society would have appeared much sooner. So this is how a brief outlook about the evolution of religion seems to be, but the aim of the author is not to state the facts associated with the evolution of religion but to relate the concept of this term with the so called practice which are now days leaning not in Indian society but all over the world which is of **conversion of religion**.

Religion conversion is one of the most heated issues in the society and politics which can be defined as the espousal of any other religion or a set of belief by the exclusion of other or I could say the renouncing of one's religion and espousal of other. The facts and surveys that came into shows the biggest problem that is taking place in the society nowadays. The term religion conversion has taken into account by many people deriving the term in their own sense, which could either be for monetary gain purpose, fear of losing identity, practicing other religion belief etc.

According to Andrew Wingate, "Conversion is a process, including a personal decision taken alone or as part of a group, to center one's religious life on a new focus, which one believes more liberating in every aspect of that word, and closer to truth. This involves a change of outward affiliation to a new community.... And tangible changes of behavior and religious practices"<sup>1</sup> with this perspective Andrew Wingate collaborate this term which is somehow applicable in today's present era. The convention of conversions are nothing new in India, in 6<sup>th</sup> century countless Hindu's converted their religion and became Buddhist, and in the later time stage of 16<sup>th</sup> century mass conversion of Hindu's to Islam could not be counted, during the Mughal era the convention of conversions took place on the compulsion for money that and for material needs as well.

India being a secular state which talks about that every religion is equal. The preamble of the Indian Constitution proclaims that India is a "Sovereign, socialist, secular, democratic, republic" and serves to all citizens "liberty of thought, expression, belief, faiths and belief and worship". Yet, the Constitution has made specific provisions to ensure that the citizens enjoy the freedom to practice their religion in Articles 25, 26, 27, and 28.

Article 25: Freedom of Conscience and freedom of profession practice and propagation of religion.: 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, practice and propagate religion.

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<sup>1</sup> Andrew Wingate, 1997 'The church and conversion' New Delhi, ISPCK Publishers, 1997p57

Article 26: Freedom to manage religions affairs: Subject to public order, morality and health, every religious denomination or any section thereof shall have the right (a) To establish and maintain institutions for religious and charitable purposes;

(b) To manage its own affairs in matters of religion;

(c) To own and acquire movable and \* immovable property;

(d) To administer such property in accordance with law.

Article 27s Freedom as to payment of taxes for promotion. of any particular religions No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

Article 28s Freedom as to Attendance at Religious Instruction or Religious Worship in certain Educational Institutions: 1. No religious instruction shall be provided in any educational institution wholly maintained out of state funds.

But, in 1977, the Supreme Court of India ruled that the constitutional right to propagate religion did not include a right to convert or attempt to convert another<sup>2</sup>

Enduring oneself in one's peculiar religion is ones personally choice but there are so many social consequences attach to it and in order to avoid those attached consequences the analysis of inter caste perception is necessary to know the exact reality what actually conversion seems like, because there are Hindu's living in some areas who do not actually accepts the conversion because the hidden truth behind this is that they do not want to loose their supremacy over lower caste and their conversion cannot be termed as Real Conversion as it's an inducement based conversion there is harsh reality towards the expectations behind religion conversion people tend to convert or the expectations that can be derived out are, to improve social status, to acquire economic benefits and to remove social discrimination.

n 1973, the High Court of Orissa declared that the *Orissa Freedom of Religion Act, 1967* is "ultra vires the Constitution"<sup>3</sup>

The Court held in its conclusions that article 25(1) of the Constitution "guarantees propagation of religion and conversion is a part of the Christian religion," that "the term 'inducement' is vague and many proselytizing activities may be covered by the definition and the restriction in Article 25(1) cannot be said to cover the wide definition," 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. The State of Madhya Pradesh was the

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<sup>2</sup> Ajay Ghosh., "US commission criticizes India for religious violence", Legal News, Views, July 2001, Vol. 15, No.7, p26.

<sup>3</sup> Yulitha Hyde & Ors. v. State of Orissa & Ors., A.I.R. 1973

second state to enact an anti-conversion law, the Madhya Pradesh Freedom of Religion Act, 1968.<sup>4</sup> Instead of using the term “inducement,” the Act uses the term “allurement,” which is defined under section 2(a) as an “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<sup>5</sup>

Orissa being the first state in India, instigate the law known to be **ORISSA freedom of religion of act 1967** in which several provisions were enacted .an act which provided the prohibition of conversion from one religion to the another, there are certain parameters which are been defined under this act. The practice of prohibition is completely banned in Orissa but in the course of time period when this act came into being, several cases dealing with conversion still got highlighted in various news channel in which the people of lower caste who are converting their religion in an illegal manner. The convert violated the Orissa freedom of religion act 1967, which banned conversion that is done without a permit issued by authorities, and the consequences which are later on faced by the people of lower caste ruined their life. Not only Orissa the other states came into being who enacted **anti conversion law** in their states, both the laws enacted by Orissa and Madhya Pradesh was challenged stating Article 25 of the Indian constitution. The supreme court supported the laws stating “what is freedom to one is freedom for the other in coextensive manner , therefore , be no such thing as a fundamental right to convert any person to one’s religion”.

Not only India but there are several countries who are dealing with the problem of conversion and one such example to be taken into account is of turkey, ISLAM the largest religion in turkey where people who at first adopted ISLAM as their religion but in the later on time period they converted their religion from Islam to Christianity, and the law governing Turkish government imposed restriction on such act, while conversions to Islam are widely reported as they are more kept out of hush-hush. In the countries which are been situated near west coast 1000 of Muslims switch to Christianity every year but generally their conversions are kept secrets because they had a fear of retribution.

United nation universal declaration of human rights Explains the term religion conversion in a broader sense as it says that the practice to convert a religion is ones own choice and also it land up under the list of human rights."Everyone has the right to freedom of thought, conscience and religion, this right includes freedom to change his religion or belief" (Article 18). Based on the declaration the United Nations Commission on Human

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<sup>4</sup> Madhya Pradesh Dharm a Swatanrya Adhiniyam [Madhya Pradesh Freedom of Religion Act], 1968, *available*

at [http://www.kandhamal.net/DownloadMat/Madhya\\_Pradesh\\_Freedom\\_of\\_Religion\\_Act.pdf](http://www.kandhamal.net/DownloadMat/Madhya_Pradesh_Freedom_of_Religion_Act.pdf), *archived*  
at <https://perma.cc/7H96-2Y5A>; Madhya Pradesh Dharm a Swatanrya [Madhya Pradesh Freedom of Religion Act] Rules, 1969,

<sup>5</sup>Madhya Pradesh Freedom of Religion Act § 2(a).

Rights (UNCHR) drafted the International Covenant on Civil and Political Rights, a legally binding treaty. It states that "Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice" (Article 18.1). "No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice" (Article 18.2).

As an author of this paper my views on this crucial topic are completely poles a part in order to encapsulate the above mention views from a legal perspective I would completely state that in the country like India, the constitution provides the freedom to each and every individual in order to practice their own religion with full belief and conscience but when it comes to the discussion of this crucial topic of conversion I would say that any how religion conversion is a human right as been stated under UNCHR, so if an individual living in country like India and wants to convert his or her religion then he might not adhere to its own doings completely because of the reason, as the religion in which he or she is born is the one which is given to him by that almighty and it is its duty to profess that particular religion till the last breath and should not convert it by any means, one can practice others religion with full faith but one should not think of converting and why is there any need to convert? Is it something that after converting one's religion one can attain the pathway to heaven? ,or is it something that after converting it would lead one's life as a drop of elixir, these antediluvian views are actually fallacious and had entitled one to do such act, not only country like India there are people outside India living in other countries who comes under the same roof of practicing such act and only for the purpose of attaining monetary gains. God never says that one should convert religion first and then only one will get the desired things that he or she wants, god only wants that whatever one is having at present he must be happy in those things and wait for the extra bonus that will be given by that Almighty only when the things that has to be done within a fair means rather than performing those in illegal manner, so in order to do such acts one must do some work in order to fulfill all those desired goals that he or she wants, and wait for the reward of those good deeds that he or she had performed. Conversion alienates a person from his or her culture which is some way a sign of denationalizing, the shared values and belief that one have for its nation or a common bond among the citizens of the nation gets shattered.