



## RELIGIOUS CONVERSION VIS-À-VIS HUMAN RIGHTS

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### ABSTRACT

Human rights often cross paths with the complicated and multidimensional topic of religious conversion. The complex link between religious conversion and the values upheld by human rights frameworks is explored in this essay. It critically explores the conflicts and difficulties associated with exercising religious freedom as well as the possible violations of human rights that may occur during conversion procedures. The debate covers both legal and ethical issues, stressing significant international agreements and legal rules that protect people's rights while preserving their ability to practise their faith freely. The article examines numerous religious conversion case studies and disputes, illuminating the difficult balance necessary to respect both converts' and non-converts' rights. It also sheds light on how governmental institutions, religious groups, and civil society can help people navigate the complexities of religious conversion in relation to human rights. In the end, this investigation adds to the current discussion about how religious freedom and human rights may coexist by offering a sophisticated perspective of this difficult and often divisive topic.

**Keywords:** Human rights, Religion, Constitutional perspective, People etc.

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### CONCEPTUAL FRAMEWORK OF RELIGIOUS CONVERSION AND HUMAN RIGHTS

A person can be said to have undergone a religious conversion when their beliefs, associations, or practises in relation to their previous religion are altered. Conversion can be deliberate or unintentional, and it can take place for a wide range of reasons, such as a person's own personal convictions, the influence of their family, or the effects of societal and economic variables.<sup>1</sup>

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<sup>1</sup>Dominic Abrams, *Process of Prejudice: Theory, Evidence and Intervention*, Equality and Human Rights Commission, [research-report-56-processes-of-prejudice-theory-evidence-and-intervention.pdf](https://www.equalityhumanrights.com/research-report-56-processes-of-prejudice-theory-evidence-and-intervention.pdf) (equalityhumanrights.com)

Throughout the course of history, religious conversion has been a contentious problem, and to this day, it is still a complicated subject that brings up significant concerns about individual rights, freedom of faith, and human rights. A person's personality, perspective, and basic beliefs can undergo profound change as a result of their commitment to a new religious tradition. This change has the potential to have significant repercussions, not only for the individual but also for the larger community in terms of social, cultural, and governmental issues.<sup>2</sup> For instance, if a person switches from one denomination to another, they may have difficulty gaining societal recognition, maintaining healthy relationships within their families, and gaining access to necessary resources and services. Conversion may also be linked to prejudice, persecuting or even violence in certain circumstances, particularly in countries where religious differences are politicised to a high degree.

The issue of religious conversion and human rights is a complicated one because it requires striking a balance between an individual's right to openly choose and practise their religion and the larger social, cultural, and political circumstances in which such decisions are made.<sup>3</sup> This strikes a balance that can be difficult to achieve. Conversion to a different religion is seen as a danger to the societal order and the nation's sense of itself in many different communities; as a result, there may be laws and policies in place that prohibit or regulate conversion. For instance, in certain nations, converting from Islam to another religion is considered a criminal offense, and those who commit this act risk being imprisoned or even put to death. At the same time, under international law, the freedom to change one's religious affiliation is acknowledged as an essential component of human dignity. "In Article 18 of the Universal Declaration of Human Rights, it is stated that "everyone has the right to freedom of thought, conscience, and religion; this right includes the freedom to change his religion or belief. This right is also recognised in a wide variety of other international human rights instruments, such as the International Covenant on Civil and Political Rights, the European Convention on Human Rights, and the African Charter on Human and Peoples' Rights."<sup>4</sup>

## **RELIGIOUS FREEDOM ENUMERATED IN THE INDIAN CONSTITUTION**

Despite periodic religious trials and communally extremist movements, Indian society has stayed secular and been a mixing pot of culture where all the world's major faiths have co-existed in peace

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<sup>2</sup> United Nations, *Creating an Inclusive Society: Practical Strategies to Promote Social Integration*, [Microsoft Word - Draft Paper - Creating an inclusive society.doc \(un.org\)](#)

<sup>3</sup> Justice M N Rao, *Freedom of Religion and Right to Conversion*, EBC India, [Eastern Book Company - Practical Lawyer \(ebc-india.com\)](#)

<sup>4</sup> Office of The High Commissioner for Human Rights, *Universal Declaration of Human Rights at 70: 30 Articles on 30 Articles - Article 18*, (November 27, 2018) [Universal Declaration of Human Rights at 70: 30 Articles on 30 Articles - Article 18 | OHCHR](#)

for millennia. As there is no official faith in India, and the government does not favour one belief over another. This makes India a secular nation. “All the civil and political rights enumerated in the Universal Declaration of Human Rights and the basic values cherished by citizens of our country are included in the Fundamental Rights (Part III) guaranteed by the Indian Constitution, and this section is seen as crucial for protecting the liberties and rights of the people against infringement by the power conferred on the government and other bodies.” So, one needs his or her Basic Rights in order to develop to his or her utmost intellectual, moral, and spiritual potential. It also suggests, as explained in Sections 25–28 of the Indian Constitution, that individuals are free to declare, follow, and promote any faith of their choosing.

Article 25<sup>5</sup> of the Constitution is the cornerstone of religious freedom because it guarantees everyone the right to "*freely declare, exercise, and spread*" their faith. In reality, however, these rights are frequently split, and most people don't mind because they've been led to think that this is for their own protection and the best.

Current media attention on religious converts has sparked heated discussions about the First Amendment. Laws restricting faith change for various reasons, including marriage, have lately been passed in a number of Indian states. The Uttar Pradesh government's "The Ban of Illegal Religious Conversion Act, 2020" retains a specific emphasis on changes to Islam, which has sparked discussions about the state's position in matters of religion and marriage among its advocates and opponents. The resurgence of interest in anti-conversion laws appears to be focused solely on Islam, despite the fact that these laws were originally intended to address conversions of all faiths.<sup>6</sup> Two individuals have been taken into custody since the new Law was signed into law by the Governor in late November. Several other Indian states are following Uttar Pradesh's lead by drafting "Anti-Love Jihad" laws to make interfaith marriages illegal. The fact that the Law makes no effort to describe "Love Jihad" but instead seeks to criminalise it is an intriguing aspect. The Law does not specifically mention any religion, despite the fact that its purpose was to prevent the marriage of Hindu women to Muslims.<sup>7</sup> Does this Law pertain to partnerships between people of different faiths? We won't know for sure until more instances are brought before the courts.

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<sup>5</sup> INDIA CONST. art. 25.

<sup>6</sup> Abhik Bhattacharya, *Anti-Conversion Laws In India: Are We Ready To Debate Presumptions, Prejudices And Preferences?*, The Outlook (December 01, 2022) [Anti-Conversion Laws In India: Are We Ready To Debate Presumptions, Prejudices And Preferences? \(outlookindia.com\)](https://www.outlookindia.com/anti-conversion-laws-in-india-are-we-ready-to-debate-presumptions-prejudices-and-preferences/)

<sup>7</sup> Adeeti Singh, *UP's Anti Love Jihad Law: Is it Constitutional?* Citizen for Justice and Peace (December 05, 2020) [UP's Anti-Love Jihad law: Is it Constitutional? | CJP](https://www.citizenforjusticeandpeace.com/2020/12/05/up-anti-love-jihad-law-is-it-constitutional/)

## LEGAL CONTEXT OF RELIGIOUS CONVERSION IN INDIA

At first glance, the UP Ordinance's restrictions on people's ability to change their religion seem to run counter to basic human rights. While the Ordinance's intent is good, its clauses grant the state too much authority, which could lead to arbitrary implementation. But in the seminal decision *Rev. Stanislaus v. State of Madhya Pradesh*<sup>8</sup>, the Supreme Court looked at whether or not the right to exercise and spread one's faith encompasses the right to change.

When reading Article 25 of the Constitution, Chief Justice A N Ray took a nuanced stance. Article 25 makes that conditional on maintaining public safety, health, and welfare. All residents have the same right to openly practise their faith, along with all other liberties granted by the Constitution. He remarked: It has to be remembered that “Article 25(1) guarantees 'freedom of conscience' to every individual, and not merely to the followers of one specific religion, and that, in turn, suggests that there is no fundamental right to convert another person to one's religion because that would influence on the freedom of conscience guaranteed to all the citizens of the country<sup>9</sup>.” Contrary to what was decided in the Stanislaus case, faith change may not be a basic human freedom. Yet, if there is no aspect of deception, pressure, or allurements, then it is undeniably a person's right to change their religious affiliation.

“The right to private was upheld by India's highest court in the landmark case of *Judge K.S. Puttaswamy (Ret.) v. Union of India*.<sup>10</sup> “The freedom of faith or belief in any religion is a matter of conscience that falls within the ambit of purely private thought process and is therefore an aspect of liberty, just as the right to freely profess, practise, and propagate religion may be an aspect of free speech guaranteed under Article 19(1)(a).” Article 21 guarantees a person's right to hold and express any opinion they choose, including those on matters of religion and politics.

Allahabad High Court division ruled recently that “the freedom to reside with an individual of their choosing, independent of faith, is implicit in right to life and personal liberty given by Article 21.” It would be a serious violation of the autonomy of the two people involved if someone else tried to intervene in their private relationship.

The right to freedom of faith, belief, or conscience is robustly protected by the Indian Constitution and international human rights law, which implement numerous provisions for its protection and

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<sup>8</sup> *Rev. Stanislaus v. State of M.P.*, (1977) 1 SCC 677.

<sup>9</sup> Tanya Jaiswal, *Right to Conversion as the Fundamental Rights*, S. Bhambari & Associates (June 11, 2021) [Right to Conversion as Fundamental Right \(sbhambriadvocates.com\)](https://sbhambriadvocates.com)

<sup>10</sup> *K.S. Puttaswamy (Privacy-9J.) v. Union of India*, (2017) 10 SCC 1.

define the bases on which such right can be restricted or abridged. There are times when the right to religious or philosophical independence conflicts with the right to. According to the established practise, the relevant privilege is determined on a case-by-case basis. The right to convert is recognised as an inalienable part of the freedom to practise one's faith and is mentioned in all the major international agreements. Solicitation, itself, has been upheld by the courts in the United States as constitutionally protected free speech. When it comes to religious freedom, the Constitution is different from the ECHR and the UDHR in that it does not include the right to change. Our Constitution protects religious liberty in ways that are consistent with international law. There is a risk of unjustly accusing citizens who are not engaged in any such activities, and this Law has the potential to become a strong tool in the hands of evil elements in society.

It would be extremely unfair if this Law were rigorously implemented.<sup>11</sup> Therefore, it is the state's obligation to ensure that every citizen's right to safety, as outlined in Article 25 of the law, is upheld. The state's inability to protect the right promised by Article 25 is exemplified by each such act of violation. The right to religious freedom is guaranteed by Article 25 of our Constitution, and in some instances, this provision of the Constitution goes to unusual measures to ensure this protection. Our Founding Fathers understood the importance of guaranteeing this freedom in the Bill of Rights, but they didn't see the point in going into considerable depth. Instead, they gave judicial discretion to read the right in a manner consistent with the evolving conditions to which India would be exposed. Therefore, it is up to the courts to decipher these clauses and safeguard people's liberties.

## **CONCLUSION**

In conclusion, it is important to strike a fine balance in the complicated link between religious conversion and human rights. Although it is a basic right, religious freedom must not conflict with other human rights, including equality, freedom of expression, and freedom from compulsion. It is important to recognise and deal with the possibility of manipulation and exploitation during conversion. Governments and society must make sure that people are free to practise and alter their religious beliefs without worrying about retaliation or prejudice. A tolerant and inclusive society where people may freely express their beliefs while respecting the dignity and autonomy of others depends on finding a good balance between religious freedom and human rights.

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<sup>11</sup> United Nations, Social Justice in an Open World The Role of the United Nations, The International Forum for Social Development (2006) [SocialJustice.pdf \(un.org\)](#).