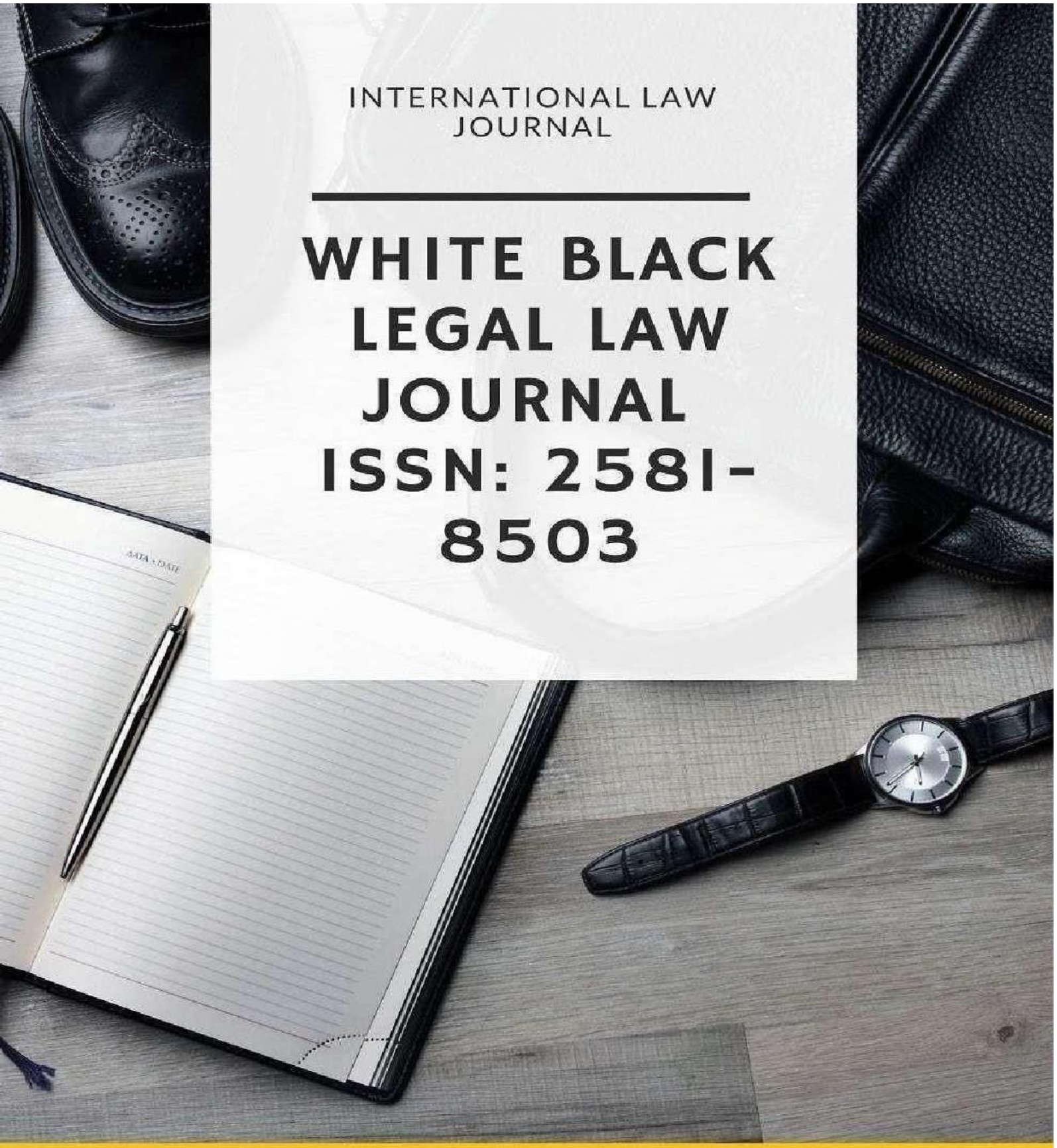

INTERNATIONAL LAW JOURNAL

WHITE BLACK LEGAL LAW JOURNAL

ISSN: 2581-8503

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

DISCLAIMER

ABOUT WHITE BLACK LEGAL

White Black Legal – The Law Journal is an open-access, peer-reviewed, and refereed legal journal established to provide a scholarly platform for the examination and discussion of contemporary legal issues. The journal is dedicated to encouraging rigorous legal research, critical analysis, and informed academic discourse across diverse fields of law.

The journal invites contributions from law students, researchers, academicians, legal practitioners, and policy scholars. By facilitating engagement between emerging scholars and experienced legal professionals, *White Black Legal* seeks to bridge theoretical legal research with practical, institutional, and societal perspectives.

In a rapidly evolving social, economic, and technological environment, the journal endeavours to examine the changing role of law and its impact on governance, justice systems, and society. *White Black Legal* remains committed to academic integrity, ethical research practices, and the dissemination of accessible legal scholarship to a global readership.

AIM & SCOPE

The aim of *White Black Legal – The Law Journal* is to promote excellence in legal research and to provide a credible academic forum for the analysis, discussion, and advancement of contemporary legal issues. The journal encourages original, analytical, and well-researched contributions that add substantive value to legal scholarship.

The journal publishes scholarly works examining doctrinal, theoretical, empirical, and interdisciplinary perspectives of law. Submissions are welcomed from academicians, legal professionals, researchers, scholars, and students who demonstrate intellectual rigour, analytical clarity, and relevance to current legal and policy developments.

The scope of the journal includes, but is not limited to:

- Constitutional and Administrative Law
- Criminal Law and Criminal Justice
- Corporate, Commercial, and Business Laws
- Intellectual Property and Technology Law
- International Law and Human Rights
- Environmental and Sustainable Development Law
- Cyber Law, Artificial Intelligence, and Emerging Technologies
- Family Law, Labour Law, and Social Justice Studies

The journal accepts original research articles, case comments, legislative and policy analyses, book reviews, and interdisciplinary studies addressing legal issues at national and international levels. All submissions are subject to a rigorous double-blind peer-review process to ensure academic quality, originality, and relevance.

Through its publications, *White Black Legal – The Law Journal* seeks to foster critical legal thinking and contribute to the development of law as an instrument of justice, governance, and social progress, while expressly disclaiming responsibility for the application or misuse of published content.

www.whiteblacklegal.co.in
Volume 3 Issue 7 | June 2026 ISSN: 2581-8503

PROPAGATION, CONVERSION AND CONSTITUTIONAL SUSPICION: A DOCTRINAL STUDY OF ANTI-CONVERSION LAWS IN INDIA

AUTHORED BY - DAVID PRADHAN[1] & CHANDAN PANIGRAHI[2]

Abstract

This research article examines the constitutional law of propagation, conversion, and anti-conversion statutes in India. It argues that the State may legitimately regulate conversion procured through force, fraud, coercion, undue influence, exploitation, or deception. Yet modern anti-conversion laws become constitutionally suspect when they convert religious change itself into a matter of criminal suspicion. Article 25 protects freedom of conscience and the right freely to profess, practise, and propagate religion. In Rev. Stainislaus v. State of Madhya Pradesh, the Supreme Court held that propagation does not include a fundamental right to convert another person, and upheld early State laws prohibiting conversion by improper means. Later laws, however, often go further. They require prior declarations, invite third-party objections, shift burdens of proof, treat interfaith marriages as suspect, and increase punishment where women, minors, Scheduled Castes, or Scheduled Tribes are involved. This article examines older and newer statutory models, autonomy jurisprudence, public order, minority propagation, ghar wapsi, dawah, missionary activity, and protective limits involving vulnerable indigenous communities. It argues that constitutional review must distinguish voluntary persuasion from coercive conversion, conscience from communal anxiety, and public order from majoritarian discomfort. Anti-conversion law is valid only when it targets demonstrable harm. It is suspect when it burdens adult choice, private conscience, and interfaith intimacy.

Keywords: Propagation, conversion, anti-conversion laws, Article 25, religious freedom

[1] Researcher, Department of Law, Manipur International University, Imphal, Manipur. Orcid Id: https://orcid.org/ 0000-0002-4448-8293. *david.pradhan@outlook.com*
[2] Assistant Professor, Department of Social Sciences, Fakir Mohan University, Balasore, Odisha. Orcid Id: https://orcid.org/0000-0001-8890-9179. *chandanjnuchi@gmail.com*
*Corresponding author

1. Introduction

Conversion is one of the most sensitive questions in Indian constitutional law because it changes the relation between person, community, and State. A conversion may be a private act of conscience. It may be the result of long reflection, spiritual dissatisfaction, social humiliation, intimate association, political protest, or ethical conviction. It may also be produced by coercion, fraud, material dependency, fear, or exploitation. Constitutional law must hold both possibilities in view. It must protect conscience without being naive about coercion. It must regulate fraud without treating religious change as a threat to public order merely because community boundaries have shifted.

Article 25 of the Constitution gives all citizens freedom of conscience and the right freely to profess, practise, and propagate religion, subject to public order, morality, health, and other provisions of Part III. The word "propagate" creates the central difficulty. It clearly protects the communication of religious belief. A person may explain, preach, teach, publish, and persuade. The harder question is whether propagation includes persuasion that leads another adult to change religion. Indian doctrine has answered this question cautiously. In *Rev. Stainislaus v. State of Madhya Pradesh*, the Supreme Court held that Article 25 does not confer a fundamental right to convert another person, and upheld laws prohibiting conversion by force, fraud, or allurement.

The legitimacy of that proposition depends on its limits. If Rev. Stainislaus means that the State may punish conversion secured by coercion, deception, or exploitation, the judgment is constitutionally defensible. No meaningful theory of religious freedom protects the capture of another person's conscience. If, however, the judgment is used to justify suspicion of all conversion, missionary work, *dawah, ghar wapsi*, Buddhist conversion, or interfaith marriage, the doctrine becomes dangerous. A constitutional State may prevent coercion. It may not convert anxiety about religious mobility into police surveillance of conscience.

The problem has become sharper because modern anti-conversion laws are not limited to the first-generation statutory model. The Orissa Freedom of Religion Act, 1967, and the Madhya Pradesh Dharma Swatantraya Adhiniyam, 1968, prohibited conversion by force, fraud, inducement, or allurement, and formed the statutory background of Rev. Stainislaus. Later enactments, including laws in Uttar Pradesh, Uttarakhand, Madhya Pradesh, Himachal

Pradesh, Gujarat, and other States, contain more elaborate procedural and penal structures. They often require declarations before or after conversion, permit complaints by family members, make offences cognisable and non-bailable, increase punishment for conversion involving particular vulnerable categories, shift the burden of proof, and treat conversion connected with marriage as especially suspect. The vocabulary of these laws is formally protective. They claim to protect freedom of religion by preventing unlawful conversion. That title itself is significant. The law presents itself not as a restriction on religious freedom, but as a defence of it. There is truth in that claim where the statute targets force, fraud, undue influence, coercion, or exploitation of vulnerability. Yet there is also constitutional danger. A law that claims to protect conscience may become a law that requires adults to justify their conscience before the police, family, and district administration.

This article argues that anti-conversion laws must be tested through a disciplined constitutional framework. The State's interest is legitimate only when directed at coercive conduct, fraud, deception, exploitation, trafficking, unlawful entry, or demonstrable public-order harm. A law becomes constitutionally suspect when it burdens voluntary religious persuasion, treats interfaith intimacy as presumptively fraudulent, allows hostile relatives to override adult choice, or makes minority religious activity vulnerable to criminal process without evidence of coercion. The article is doctrinal in method, but it is not blind to social context. It analyses Article 25, Rev. Stainislaus, State statutes, autonomy cases such as Lata Singh, Shafin Jahan, and K. S. Puttaswamy, and the relation between conversion, public order, and minority vulnerability. It also considers the outer boundaries of propagation through two contrasting examples. The killing of Graham Staines and his sons shows how suspicion of missionary activity can become vigilante violence. The John Allen Chau incident on North Sentinel Island shows that propagation cannot override statutory protection of isolated indigenous communities, territorial restrictions, disease risk, and State duties of protection. The central claim is simple. A constitutional democracy may regulate coercive conversion. It may not treat conversion itself as coercion.

2. Method, Scope, and Research Question

This article adopts a doctrinal and socio-legal method. It examines constitutional text, Supreme Court judgments, State anti-conversion statutes, and scholarship on religious freedom, public order, secularism, autonomy, and minority rights. It also uses selected public materials where

recent legislative and judicial developments have not yet produced fully settled appellate doctrine. The article is not an empirical study of prosecutions under anti-conversion laws. Its inquiry is normative and doctrinal. It asks how Indian constitutional law should assess statutes that regulate religious conversion.

The research question is whether anti-conversion statutes, as they have developed in India, remain constitutionally valid when they move beyond preventing force, fraud, and coercion, and begin to regulate voluntary conversion, religious persuasion, adult relationships, and administrative declarations of conscience. The article answers that the older public-order logic of Rev. Stainislaus cannot be mechanically applied to the newer statutory field. Modern laws affect not only the alleged converter but also the person who wishes to convert. They therefore implicate conscience, privacy, autonomy, speech, association, equality, and due process. Three distinctions guide the analysis. The first is between propagation and coercion. Propagation includes exposition of belief, religious teaching, and persuasion. Coercion includes force, fraud, deceit, undue influence, material exploitation, and pressure that defeats voluntary choice. The second is between public order and public discomfort. Public order concerns demonstrable risk to peace or legal order. It cannot be reduced to offence, religious anxiety, or majoritarian displeasure at conversion. The third is between adult autonomy and familial or communal veto. The Constitution protects adults in matters of faith and intimate association. Family disapproval cannot become the basis of a criminal investigation unless there is evidence of unlawfulness.

The article uses standard constitutional law sources, including Jain, Seervai, Sen, Bhatia, Galanter, Dhavan, and Mahajan. It also draws from scholarship on anti-conversion laws, freedom of religion or belief, and comparative human rights. International human rights materials are used only as interpretive support. Indian constitutional law remains the central source of authority. The article proceeds in eleven sections. After this method section, it examines the constitutional meaning of propagation under Article 25. It then analyses Rev. Stainislaus and its limits. It studies first-generation and new-generation anti-conversion laws. It then turns to autonomy, marriage, minority propagation, public order, vigilante violence, and indigenous protection. The final sections propose a constitutional test and conclude that anti-conversion law must be made evidence-based, religion-neutral, and respectful of adult conscience.

3. Article 25 and the constitutional meaning of propagation

Article 25 protects four connected but distinct interests. It protects conscience, profession, practice, and propagation. Conscience is the inward moral freedom to believe, disbelieve, doubt, change, or refuse religious identity. Profession is the outward declaration of faith. Practice concerns rituals, observances, worship, and religious conduct. Propagation is the communication and spreading of religious belief. Each part matters, but conscience is the centre. Without conscience, profession, practice, and propagation become institutional forms without personal moral freedom.

The placement of "propagate" in Article 25 was not accidental. It recognises that religion is not only private inward belief. Religious communities often transmit faith through teaching, preaching, discussion, example, charity, and persuasion. A constitutional guarantee that allows a person to hold a belief but forbids communication of that belief would be thin. It would reduce religion to silence. Article 25 therefore protects religious expression, but it does so subject to public order, morality, health, and other fundamental rights. The difficulty begins when propagation becomes effective. If a person listens to religious teaching and changes belief, has the propagator merely exercised speech, or has there been conversion?. A purely formal distinction between propagation and conversion is difficult. Religious speech is often intended to persuade. A sermon, pamphlet, home visit, conversation, or spiritual counselling may seek to transform belief. If the Constitution protects propagation but treats every successful persuasion as suspect, the protection becomes hollow.

At the same time, a right to propagate cannot mean a right to override another person's conscience. Religious persuasion is constitutionally protected only while the listener remains free. Force, fraud, coercion, undue influence, and exploitation of extreme vulnerability are outside protection. The State can regulate them. The real constitutional task is to identify when persuasion crosses that line. Earlier religious freedom decisions show that the Court has recognised the outward dimension of religion. In Ratilal Panachand Gandhi v. State of Bombay, the Court treated religious freedom as including the right to manage religious affairs and practise religion, subject to constitutional limits. In Bijoe Emmanuel v. State of Kerala, the Court protected the sincere conscience of Jehovah's Witness students who stood respectfully during the national anthem but declined to sing. The importance of Bijoe Emmanuel lies in its refusal to treat minority conscience as a disorder merely because it departs from public

expectation. This approach should matter in conversion cases. A person who changes religion is often a minority of one within the family or community. The convert may face social pressure from relatives, neighbours, caste networks, religious leaders, or local groups. If the State treats that person's change of faith as a public-order problem, the freedom of conscience is weakened at the moment it most needs protection.

The distinction between inward freedom and outward manifestation is also useful here. Bielefeldt, Ghanea, and Wiener (2016) explain that freedom of religion or belief contains an inner dimension that is especially resistant to coercive interference, and an external dimension that may be regulated under strict conditions. Indian constitutional law does not mechanically adopt international formulations, but the distinction helps clarify Article 25. The State may regulate external conduct that harms others. It cannot demand that conscience remain fixed, inherited, or administratively convenient. Standard constitutional commentary also supports this careful approach. Jain (2018) treats Article 25 as a qualified but real guarantee, where public order, morality, health, and other fundamental rights may regulate outward conduct without extinguishing conscience itself. Seervai (1991), while emphasising the power of the State to regulate secular and harmful activity associated with religion, also maintains the distinction between religious freedom and State control. This distinction is crucial for conversion. The State may control unlawful means. It cannot assume that change of belief is itself a secular mischief to be licensed. Article 25 also protects non-conversion. No one may be forced into a religion. No one may be manipulated through fraud, threat, or dependency. The freedom of conscience belongs equally to the potential convert and the person who refuses conversion. This is the strongest justification for anti-conversion law. Yet the same principle also protects voluntary conversion. A constitutional system cannot defend conscience against coercion while treating voluntary change as suspicious.

The correct interpretation of propagation therefore requires three linked propositions. Religious communication is protected. Coercive conversion is not protected. Voluntary conversion by an adult is protected by conscience, autonomy, and dignity, even if the propagator has played a persuasive role. A law that maintains this distinction is constitutionally defensible. A law that collapses persuasion into coercion requires close scrutiny.

4. Rev. Stainislaus and the narrowing of Article 25

Rev. Stainislaus v. State of Madhya Pradesh remains the foundation of Indian anti-conversion jurisprudence. The case concerned challenges to the Madhya Pradesh and Orissa anti-conversion laws. The Supreme Court upheld the laws. It held that Article 25 protects the right to transmit or spread religious tenets, but not a fundamental right to convert another person. The Court reasoned that if one person had a fundamental right to convert another, that would impinge upon the other person's freedom of conscience. It also accepted that laws preventing conversion by force, fraud, or allurement were connected with public order.

The narrow reading of the judgment is defensible. No constitutional right can include a right to destroy another person's freedom. If conversion is caused by force, fraud, or inducement that defeats free choice, the State may act. On that reading, Rev. Stainislaus protects conscience by preventing its capture. The difficulty lies in the broader effects of the judgment. The Court did not fully engage with the convert's own right to change religion. It framed the case largely through the right of the propagator and the State's public-order power. It did not ask whether adults have a constitutional right to adopt a religion after persuasion. It also did not develop a test to distinguish persuasion from coercion. This gap became more serious after later laws expanded from the prohibition of improper conversion to the regulation of conversion procedure, family complaints, and marriage-related suspicion. The public-order reasoning also requires care. The Court accepted that forcible conversion may disturb public order. That is plausible. Coercive religious change may create social conflict, and the State may prevent it. But public order cannot become a general justification for preserving the religious status quo. Conversion may provoke discomfort because it changes community boundaries. If the State treats that discomfort as disorder, then public order becomes a means of protecting inherited religious location. A second limitation is the judgment's thin account of equality. The Court treated all religions as having equal freedom not to be converted by others. That proposition is attractive in the abstract. Yet the anti-conversion law operates in a social field where religious communities are not equally placed. The majority religious persuasion may be understood as cultural work, social reform, or reconnection, while minority persuasion may be labelled conversion. A doctrine that does not notice this asymmetry may appear formally even-handed while enabling unequal enforcement. Dhavan (1987) is important because he situates Indian religious freedom within a legal order that manages religion rather than merely separating State and religion. Anti-conversion laws belong to that managerial tradition. They do not ban

religious speech altogether. They supervise the circumstances in which religious identity may change. Once this managerial power exists, the question is not only whether the State has legislative competence. The question is how far State supervision can travel before it becomes control of conscience.

Sen's analysis of Indian religious jurisprudence is useful here. He argues that Indian courts often prefer social harmony and controlled religious pluralism over a more robust account of individual choice (Sen, 2010). Rev. Stainislaus reflects that tendency. It protects against improper conversion, but it also expresses discomfort with religious transformation as a constitutional act. The judgment must also be read in light of later constitutional developments. K. S. Puttaswamy v. Union of India gave constitutional depth to privacy, autonomy, and decisional freedom. Shafin Jahan v. Asokan K. M. affirmed that the choice of a partner and matters of faith lie within individual autonomy. These later cases do not overrule Rev. Stainislaus. They do, however, change the constitutional setting. A modern court cannot examine anti-conversion laws only through public order. It must also ask whether the convert's personal liberty is being burdened.

The later autonomy cases also alter how evidence should be approached. If an adult says that conversion is voluntary, the State cannot begin from disbelief merely because relatives complain or the relationship is interfaith. Of course, the State may investigate credible allegations of coercion, trafficking, confinement, impersonation, or fraud. But autonomy jurisprudence requires the adult's own voice to carry constitutional weight. The convert is not merely the object of protection. The convert is the rights-holder whose conscience is at stake. The best reading of Rev. Stainislaus is therefore bounded. It upholds laws directed at force, fraud, and allurement. It does not authorise the State to treat all conversions as suspect. It does not authorise criminal inquiry into adult conscience without evidence. It does not justify family veto over religious choice. It also does not settle the constitutionality of modern provisions that impose prior notice, reverse burdens, and marriage-specific suspicion.

5. First-generation anti-conversion laws

The first-generation laws emerged in a context of missionary activity, postcolonial anxieties, and State concern about religious conflict. The Orissa Freedom of Religion Act, 1967, and the Madhya Pradesh Dharma Swatantraya Adhiniyam, 1968, prohibited conversion by force,

fraud, inducement, or allurement. These statutes were framed as laws protecting freedom of religion by preventing improper conversion. Their constitutional defence rested on two claims. First, the State could protect the freedom of conscience of vulnerable persons from coercion or deception. Secondly, the State could prevent public disorder that might arise from forcible or fraudulent conversion. Rev. Stainislaus accepted both claims. Even in these older laws, however, definitional difficulty existed. Terms such as "allurement" or "inducement" can be narrow or broad depending on interpretation. If allurement means a direct material bargain that defeats voluntariness, the State's concern is legitimate. If allurement includes education, medical care, charity, emotional support, or promise of spiritual benefit, the law may chill ordinary religious and charitable activity. Many religions link service and faith. A hospital, school, shelter, or relief camp run by a religious body may embody religious ethics without becoming unlawful inducement. The distinction between charity and inducement therefore matters. A poor person who receives help from a religious group may later adopt that faith. That fact alone does not prove inducement. Vulnerability does not eliminate agency. At the same time, extreme dependency may be exploited. The State may regulate situations where material benefit is tied to conversion in a manner that undermines free choice. The constitutional question is whether the law identifies such coercive linkage with precision. Another issue is administrative notice. Some laws require intimation to district authorities before or after conversion. The State may claim that notice helps identify unlawful conversion. But notice requirements burden the convert's privacy and expose the person to family pressure, police inquiry, and social retaliation. A person changing religion may not wish to announce it to the State before acting. If the conversion is voluntary, compulsory prior disclosure is difficult to justify. The first-generation model therefore appears less intrusive than later laws, but it still raises important questions. Prevention of force and fraud is legitimate. Broad definitions, administrative disclosure, and criminalisation of religious service may burden protected freedom. The lesson is that even a statute upheld in principle must be applied with narrowness and evidence.

6. New-generation laws and the marriage suspicion model

New-generation anti-conversion laws have widened the field. The Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021, is emblematic. It prohibits conversion by misrepresentation, force, undue influence, coercion, allurement, fraudulent means, or marriage. It permits complaints by aggrieved persons and relatives. It declares certain marriages void

where marriage is done for the sole purpose of unlawful conversion. It makes offences cognisable and non-bailable, contains procedural requirements for declarations, and places the burden of proof on the person who caused or facilitated the conversion. Similar concerns appear in laws or amendments in Uttarakhand, Madhya Pradesh, Gujarat, Himachal Pradesh, and other States, although their texts vary. Several such statutes contain enhanced punishment where the person converted is a minor, woman, Scheduled Caste, Scheduled Tribe, or belongs to another protected category. The protective instinct is understandable. These groups may face vulnerability. But vulnerability cannot become incapacity. An adult woman is not constitutionally incapable of choosing faith or partner merely because the State describes her as vulnerable.

The statutory comparison is revealing. Uttar Pradesh requires prior and post-conversion declarations, allows complaints by relatives, declares certain marriages void, makes offences cognisable and non-bailable, and places the burden of proof on the person who caused the conversion. Madhya Pradesh's 2021 law also contains an expanded definition of unlawful conversion, procedural reporting, higher punishment in protected-category cases, and a criminal structure that treats conversion as an event requiring State attention. Uttarakhand and Himachal Pradesh similarly adopt prior notice or declaration models, with criminal consequences where prescribed procedure is not followed. Gujarat's 2021 amendment moved sharply into the marriage field by treating conversion by marriage, or marriage for conversion, as legally suspect, and by introducing burden-shifting provisions. These statutes differ in detail, but their direction is common. The legal centre of gravity moves from punishing proved coercion to supervising the process by which a person changes religion. A closer comparison shows four recurring legal tools. The first is advance information to the district administration, often through prior notice by the person intending to convert or by the religious priest or facilitator. The second is post-conversion verification, where the convert must appear before an authority or submit a declaration after the event. The third is expanded standing to complain, through which parents, siblings, blood relatives, marriage relatives, guardians, or other associated persons may initiate criminal process. The fourth is penal intensification, usually through cognisable and non-bailable classification, enhanced punishment for women and protected social groups, and reverse burden provisions. These tools may appear procedural, but together they change the legal character of conversion. The convert is placed under anticipated administrative watch. The family is given a route into criminal law. The facilitator becomes

presumptively vulnerable to prosecution. The burden of explaining religious change shifts away from the State and towards the citizen.

Madhya Pradesh gives this architecture a particularly penal form. Its 2021 Act treats conversion through misrepresentation, allurement, threat or use of force, undue influence, coercion, marriage, or fraudulent means as unlawful, and then adds a sixty-day prior declaration requirement before the District Magistrate. The law also contains a burden-of-proof clause and classifies offences as cognisable, non-bailable, and triable by the Court of Session. Uttarakhand's model is similarly interventionist. Section 8 requires the intending convert and the priest or person conducting the ceremony to give one month's advance notice, after which the District Magistrate may cause a police inquiry into the real intention, purpose, and cause of the proposed conversion. Section 13 then places the burden of proving absence of misrepresentation, force, undue influence, coercion, allurement, fraudulent means, or marriage upon the person converted, and, where applicable, the facilitator. Himachal Pradesh follows the same pattern with Section 7 on prior declaration and pre-report, Section 12 on burden of proof, and Section 13 making offences cognisable and non-bailable. These provisions show that the newer model does not merely punish completed coercive conduct. It creates a preventive administrative grid around religious choice itself. The requirement of prior notice is especially difficult. It does not merely regulate a ceremony. It compels a person to inform the State before completing an act of conscience. In ordinary public law, prior notice may be harmless where the activity is commercial or administrative. In religious conversion, it exposes the person to family pressure, police inquiry, local mobilisation, and sometimes violence. Post-conversion intimation may be defended as a record-keeping device. Prior declaration, by contrast, can become a warning signal to society that a person is about to leave their inherited identity. The complaint structure also matters. When relatives are authorised to complain, the law assumes that the family may speak for the person. That may be true where the person is a minor, trafficked, confined, or demonstrably coerced. It is not true as a general rule for adults. A relative may be the very person who wants to prevent conversion. Criminal law then becomes a route through which family power enters the domain of conscience.

The marriage-related provisions are the most constitutionally sensitive. They emerge in a political climate shaped by allegations of "love jihad", a phrase used to suggest organised conversion of Hindu women through romantic relationships. This language carries a

presumption. It treats interfaith intimacy, especially involving Muslim men and Hindu women, as suspect. Once that suspicion enters law, adult women may be treated less as rights-holders and more as objects of community protection. The Supreme Court's autonomy jurisprudence moves in the opposite direction. In Lata Singh v. State of Uttar Pradesh, the Court protected the right of an adult woman to marry outside caste. In Shafin Jahan, the Court restored the autonomy of Hadiya, an adult woman whose marriage and conversion had been placed under judicial and investigative suspicion. The Court held that the choice of partner lies within personal liberty. It also recognised that matters of faith and marriage are central to autonomy. In Puttaswamy, privacy was linked with decisional freedom, dignity, and the ability to define one's own identity.

New-generation laws must be tested against this jurisprudence. The State may investigate actual coercion in marriage-related conversion. It may punish fraud, impersonation, threats, and forced conversion. But it cannot presume that conversion connected with marriage is unlawful. Many adults change religion because of marriage, shared life, spiritual conviction, family negotiation, or personal belief. Some conversions may be sincere. Some may be pragmatic. The Constitution does not require courts to approve every motive. It requires the State not to criminalise adult choice without evidence of unlawful means. Burden-shifting provisions raise a separate concern. Criminal law ordinarily places the burden on the prosecution. Anti-conversion laws that require the person accused of facilitating conversion to prove that conversion was not unlawful reverse the ordinary posture. The State may argue that conversion often occurs privately and is difficult to prove. Yet reverse burden in a field touching conscience and intimate association is serious. It may chill religious teaching, social service, and interfaith relationships. It may also enable false or retaliatory complaints by families opposed to the conversion. The Gujarat High Court's interim order in Jamiat Ulama-E-Hind Gujarat v. State of Gujarat reflects this concern. The Court restrained the operation of certain amended provisions so that interfaith marriages would not invite the rigours of the law merely because the parties belonged to different religions and there was no force, fraud, or allurement. The order is interim, but its constitutional intuition is important. Marriage cannot itself be treated as proof of unlawful conversion. New-generation laws therefore shift anti-conversion doctrine from preventing coercion to policing suspicion. This does not make every provision unconstitutional. It does mean that courts should apply stricter scrutiny where the law affects adults, privacy, marriage, and voluntary religious change.

7. Interfaith intimacy, autonomy, and adult conscience

Interfaith intimacy is now a central site of anti-conversion law. The State's stated concern is that conversion may be used as a tool to facilitate marriage under false pretence. That concern cannot be dismissed entirely. Fraudulent identity, coercion, threats, and manipulation may occur in intimate relationships. The law may respond. But a constitutional response must begin from the adult, not from family honour or communal anxiety.

The adult's capacity to choose is central to Article 21. *Puttaswamy* recognises privacy as the constitutional home of intimate decision-making. Shafin Jahan makes the point more directly. The Court held that the choice of a partner and choices of faith lie within individual autonomy. The State and courts cannot treat an adult woman's decision as void merely because parents or community members disapprove. This principle has special force in conversion disputes. A person may change religion before marriage, after marriage, or without marriage. The timing may raise evidentiary questions where coercion is alleged. It does not justify a presumption of illegality. The State may ask whether the conversion was voluntary. It may not be presumed that a person lacks autonomy because love, marriage, and religious change are connected.

The constitutional person at the centre of the case is the convert. This may sound obvious, but anti-conversion proceedings often displace that person. The family complains, the police investigate, the religious organisation is accused, and local groups mobilise. The adult who has changed faith may become an object around whom others argue. A rights-based approach reverses that order. It first asks what the adult says, whether the adult is safe, whether the adult has access to independent legal advice, and whether there is evidence that the adult's will has been overborne. Family complaints are especially problematic. Many laws allow relatives to lodge complaints. Relatives may be genuine protectors where a person has been coerced, trafficked, abducted, or deceived. They may also be the source of pressure against the adult's choice. When the complainant is the family, the State must ask whether the complaint protects conscience or suppresses it. An adult cannot be returned to parental control through criminal law merely because faith has changed. Women's agency must be kept at the centre. A law that claims to protect women may infantilise them if it treats their interfaith decisions as presumptively manipulated. Feminist constitutionalism cannot simply accept the State's protective language. It must ask whether the woman is heard, whether her statement is respected, whether police action exposes her to danger, and whether the criminal process

becomes a tool of family discipline. The same applies to men and women from marginalised communities. A Scheduled Caste, Scheduled Tribe, or poor person may be vulnerable to exploitation. That vulnerability justifies careful inquiry where coercion is alleged. It does not justify denial of agency. A constitutional doctrine that treats vulnerable persons as incapable of choosing religion repeats the very paternalism it claims to resist. Adult conscience must therefore be tested through voluntariness, not community approval. The State may record statements, provide protection, and investigate coercion. It must not demand that the adult justify religious change to hostile relatives, local groups, or administrative officers as a condition for lawful existence.

8. Minority propagation, ghar wapsi, dawah, and missionary activity

Anti-conversion laws are formally religion-neutral. They apply to conversion from one religion to another. Yet their constitutional assessment cannot ignore enforcement context. A formally neutral statute may burden minorities disproportionately if complaints, police action, and public suspicion target Christian missionary activity, Muslim relationships, or minority preaching more heavily than majority reconversion campaigns. Christian mission, Islamic dawah, Hindu ghar wapsi, Sikh preaching, Buddhist conversion, and other forms of religious persuasion all involve communication of faith. They differ in theology, history, scale, and political context, but constitutionally they share a basic feature. They are protected where voluntary and non-coercive. They become regulable where they involve force, fraud, deception, exploitation, trafficking, or breach of law.

The term ghar wapsi illustrates the difficulty. Reconversion to Hinduism is sometimes described as homecoming rather than conversion. This language carries cultural meaning for those who use it, but it cannot create a constitutional exemption. If conversion to Christianity or Islam is legally scrutinised, reconversion to Hinduism must also be scrutinised on the same standard where force, fraud, or inducement is alleged. Article 25 does not create a hierarchy between outward conversion and return. The test must be voluntary. The same is true of dawah. Islamic preaching cannot be equated with radicalisation merely because it seeks religious commitment. A person who explains Islam, invites another to prayer, or offers theological argument is exercising religious expression. If the activity involves coercion, deception, unlawful funding, threat, or recruitment into violence, ordinary criminal law and anti-conversion law may apply. But the religious character of the speech does not make it unlawful.

Missionary activity is often the most politically contested. Christian institutions in India have long been associated with education, health care, social service, and preaching. Some critics allege that service becomes an inducement. This claim must be examined carefully. If food, medicine, schooling, employment, or money is given as a condition for conversion, the State may regulate. If service is offered without such a condition, and a person later adopts the faith, the causal link cannot be assumed. Religious service may influence moral imagination, but influence is not the same as coercion.

Bhatia's anti-exclusion approach helps clarify the issue. Religious freedom should not be framed only as a contest between the State and Community. It must also ask whether individuals are excluded from basic civil goods by State action or community pressure. The convert, the preacher, the spouse, the poor person receiving service, and the person refusing family religion may all be rights-holders. Anti-conversion law becomes constitutionally inadequate if it sees only the community's anxiety and not the individual's freedom. Galanter's work on law and society in modern India is useful because it warns against treating formal legal categories as self-executing social realities. A formally neutral anti-conversion statute may operate differently across unequal communities. The language of the statute may say "all religions", while social suspicion falls disproportionately on Christian workers, Muslim men, or minority religious gatherings. Mahajan's account of identities and rights also helps here. Liberal rights in India operate in a world of dense community identities. The question is not whether identity matters. It is whether the State allows identity to swallow the freedom of the individual.

Secularism adds another layer. *S. R. Bommai v. Union of India* treats secularism as a basic constitutional feature. That principle cannot be reduced to equal formal respect for religions already entrenched in society. It requires the State to avoid majoritarian preference in the regulation of religious movement. If the majority's religious outreach is described as culture, reform, or homecoming, while minority outreach is described as conversion, secular neutrality has failed at the level of application. Equality matters here. If a law is applied more harshly to minority propagation while majority reconversion is described as cultural return, the problem is not only Article 25. It is Article 14. A secular State cannot permit the majority's religious movement to appear as culture and the minority's religious movement to appear as conversion. Neutral language must be matched by neutral enforcement. The principle is therefore not anti-

missionary, anti-dawah, or anti-ghar wapsi. It is anti-coercion. A constitutional test must treat all religious persuasions under the same standard of voluntariness, evidence, and harm.

9. Public order, violence, and the outer limits of propagation

Public order is the doctrinal bridge through which anti-conversion laws have entered constitutional validity. The State may argue that conversion disputes create communal tension and that regulation prevents conflict. This argument cannot be dismissed. India's religious history includes violence, rumour, mobilisation, and retaliatory tension. The State has a duty to prevent disorder. But public order must not become a coded reference to majority discomfort with religious change. The killing of Graham Staines and his two minor sons shows the danger of social suspicion. They were burnt alive in Odisha in 1999. In Rabindra Kumar Pal @ Dara Singh v. Republic of India, the Supreme Court upheld the conviction and life sentence. The case reminds constitutional law that disagreement with missionary activity can never justify private violence. Even if conversion-related activity is controversial, vigilante punishment has no constitutional legitimacy. The State's duty is to protect life and prosecute violence, not to explain violence through allegations of proselytisation.

Public order analysis must therefore ask who is producing disorder. If the convert or propagator uses force, fraud, or threat, the State may act against that conduct. If opponents threaten violence because someone has converted, the State must restrain the opponents. Otherwise, law rewards the hostile audience. A person's freedom cannot be reduced because others are willing to create disorder.

John Allen Chau's attempt to contact the Sentinelese on North Sentinel Island presents a different boundary. Sasikumar (2019) records that Chau, a Christian preacher and United States citizen, illegally entered the prohibited area of North Sentinel Island with local assistance in an attempt to interact with and preach Christianity to the Sentinelese. The Andaman and Nicobar Islands (Protection of Aboriginal Tribes) Regulation, 1956, names the Sentinelese among protected aboriginal tribes and creates a legal framework for restricting contact and protecting tribal interests. This is not an ordinary conversion dispute. The concern is not majoritarian discomfort with Christian preaching. It is bodily risk, disease exposure, tribal autonomy, territorial protection, and the State's duty to prevent unlawful contact with a voluntarily isolated indigenous community.

These two examples mark opposite ends of the doctrine. Graham Staines shows that missionary activity cannot be answered by violence. John Allen Chau shows that missionary intention is not absolute when it collides with statutory protection of vulnerable indigenous peoples, territorial restrictions, and public health. The constitutional line is therefore not pro-conversion or anti-conversion. It is evidence, lawfulness, vulnerability, and harm.

The same discipline is needed in ordinary conversion cases. Public order cannot be invoked by formula. The State must identify the specific risk. It must show evidence. It must explain why ordinary criminal law, protection of the convert, or action against aggressors is insufficient. A preventive State may act before violence occurs, but it cannot rely on speculation or communal anxiety alone. Public order also cannot replace proportionality. A declaration requirement that exposes a convert to hostile relatives may produce more disorder, not less. A reverse burden may chill lawful preaching. A broad definition of allurement may criminalise charity. A marriage-suspicion rule may invite family harassment of adult couples. A law that claims to prevent disorder may itself become a source of disorder if it authorises private hostility through the State process.

A constitutional doctrine of public order must therefore be minority-sensitive. It must protect the person changing religion, the person refusing conversion, and the person accused of coercive conversion. It must not assume that the dominant community's anxiety is the same as peace.

10. Towards A Constitutional Test For Anti-Conversion Laws

A constitutional test for anti-conversion laws should not be a mechanical checklist. It should begin from the nature of the right affected. Conversion concerns conscience, speech, association, privacy, and often intimate decision-making. A restriction on conversion is therefore not comparable to an ordinary regulatory requirement. It enters the area where the person defines moral and spiritual identity. The first constitutional demand is legality with precision. The restriction must be based on clear statutory language. Vague administrative directions, police warnings, or informal local compromises should not burden religious freedom. Equally, statutory words such as allurement, inducement, and undue influence must be read narrowly. If they are read widely enough to include service, friendship, emotional support, theological hope, or charitable presence, the law becomes a restraint on ordinary

religious life. The next issue is the prohibited conduct. A law directed at force, fraud, coercion, undue influence, deception, trafficking, or exploitation of vulnerability serves a legitimate aim. A law that treats voluntary conversion, religious persuasion, or interfaith marriage as suspect requires strict justification. The constitutional distinction is between unlawful means and lawful persuasion. Courts should not allow the State to prove unlawful conversion merely by showing that conversion occurred after contact with a religious person or institution.

Evidence is essential. Criminal process cannot begin merely because a family objects, a vigilante group complains, or a local authority assumes that conversion is suspicious. Where the convert is an adult and affirms voluntariness, the State must give significant weight to that statement. If there is evidence of threat, confinement, deception, impersonation, trafficking, or material bargain, investigation is justified. Without such evidence, coercive State action burdens conscience.

Notice and declaration provisions require special scrutiny. A post-conversion declaration for limited administrative purposes may be less intrusive than prior notice. Prior notice is more troubling because it forces a person to announce an intended change before conscience is acted upon. It may expose the person to pressure precisely when protection is needed. The constitutional question is not only whether the State wants information. It is whether the State's demand for information places the convert in danger or allows others to block the conversion. Reverse burden provisions must be treated with caution. In ordinary criminal law, guilt must be proved by the prosecution. When the subject is religious freedom, a reverse burden can chill lawful speech and association. If the State insists on burden shifting, it must justify why ordinary evidentiary rules are insufficient, and the court should read such provisions narrowly. This concern is reinforced by settled principles of criminal jurisprudence. The maxim *nullum crimen, nulla poena sine lege* means that no person should be punished unless the act was clearly criminalised by law at the relevant time. Article 20(1) of the Constitution gives this principle a constitutional form by prohibiting retrospective penal liability. The related maxim lex prospicit non respicit reminds courts that law ordinarily looks forward, not backward, especially where liberty is at stake. In anti-conversion cases, these principles require penal provisions to be clear, prospective, and narrowly applied. Burden-shifting clauses also sit uneasily with the presumption of innocence. The maxim ei incumbit probatio qui dicit, non qui negat states that the burden of proof lies on the one who asserts, not on the one who denies. If

the State alleges unlawful conversion, the ordinary burden must remain on the prosecution. Any statutory departure from that rule should therefore be read strictly, because it departs from a basic safeguard of criminal justice.

A proportionality analysis must bring these strands together rather than treat them as separate objections. The State's aim of preventing coercion is legitimate. The question is whether the means chosen are suitable, necessary, and balanced. A narrow offence of conversion by force or fraud will usually satisfy that standard. A regime of prior notice, public exposure, family-triggered complaints, reverse burden, and marriage suspicion may not. Such a regime may be suitable for producing surveillance, but not necessarily necessary for preventing coercion. Less restrictive alternatives exist, including confidential complaint mechanisms, protection orders for threatened converts, ordinary criminal prosecution for fraud or confinement, and post-facto investigation on credible evidence. Where the law creates avoidable risk to the adult convert, proportionality should fail.

Marriage-related provisions must be assessed through autonomy. Conversion for the sole purpose of marriage may raise questions of sincerity, but lack of theological depth does not automatically mean fraud. Adults may make religious choices for many reasons, including marriage. The constitutional question is whether the choice is voluntary. A law that voids marriage or triggers prosecution without evidence of unlawful means risks violating Article 21. The test must also be equality-sensitive. It should ask whether the law is enforced evenly across Christian missions, Islamic dawah, Hindu ghar wapsi, Buddhist conversion, and other religious persuasion. Selective enforcement may convert a facially neutral statute into a discriminatory tool. The State must not permit majority reconversion to appear as culture while minority conversion appears as crime. Vulnerability must be approached without paternalism. Minors, trafficked persons, persons under confinement, and persons facing severe dependency may require special protection. But adult women, Scheduled Caste persons, Scheduled Tribe persons, and poor persons cannot be treated as incapable of choice. Protection must secure agency, not replace it with State, family, or community control. Finally, public order must be disciplined by proportionality. The State must show a real risk, a lawful aim, a rational connection, necessity, and a proportionate balance. If the risk comes from hostile reaction, the first duty is to restrain those who threaten violence. A constitutional State must not ask the convert to carry the burden of peace. The convert should not become the sacrificial subject

through whom public tranquillity is purchased. This test would not invalidate all anti-conversion laws. It would preserve the State's power to punish coercive conversion. Its purpose is narrower and more important. It prevents the State from converting conscience into suspicion.

11. Conclusion

Anti-conversion law sits at the edge of religious freedom because it concerns both the right to persuade and the right not to be coerced. A constitutional democracy must protect both. The State may punish force, fraud, deception, undue influence, trafficking, and exploitation. It may also protect minors, persons under coercive dependency, and isolated indigenous communities from unlawful interference. But it may not treat every conversion as a disturbance, every missionary as a manipulator, every dawah worker as a suspect, every ghar wapsi campaign as cultural return, or every interfaith marriage as fraud. Rev. Stainislaus remains binding, but it should be read carefully. It does not grant a right to convert another person by improper means. It does not deny the adult's right to change religion voluntarily. It does not decide the constitutionality of every later procedural, penal, and marriage-related provision. The judgment belongs to an older statutory setting. Modern laws require modern scrutiny under Articles 14, 19, 21, and 25.

The Constitution protects conscience before it protects religious numbers. A person's decision to change religion may disturb family, caste, community, or local politics. That is not enough to criminalise the decision. Freedom of conscience means little if it protects inherited belief but not chosen belief. It also means little if the State requires adults to disclose, justify, and defend their religious transformation before administrators and hostile relatives.

The correct constitutional line is not between conversion and no conversion. It is between voluntary change and coercive change. Voluntary persuasion, religious teaching, ethical argument, spiritual conversation, interfaith marriage, and personal search belong to the domain of liberty. Force, fraud, coercion, deception, and exploitation belong to the domain of regulation. A disciplined anti-conversion jurisprudence must therefore begin from the convert as a constitutional person. It must ask whether the State is protecting conscience or policing it. It must ask whether public order is real or merely a name for discomfort. It must ask whether the law operates equally across religious communities. It must ask whether the criminal process

is being used to protect the vulnerable or to return them to community control. The final constitutional danger is administrative convenience. The State may prefer prior notice because it makes conversion visible. Families may prefer criminal complaints because they convert social disapproval into legal pressure. Communities may prefer suspicion because it slows religious movement. None of these preferences can define constitutional freedom. The convert is not an administrative event, a demographic unit, or a family asset. The convert is a constitutional person. Anti-conversion jurisprudence must begin there, because only then can the law distinguish protection from control.

The future of anti-conversion law will depend on whether courts preserve this distinction. If they do, anti-conversion law can remain a narrow protection against coercion. If they do not, it will become a law of constitutional suspicion. That would be a serious loss for religious freedom, because a Constitution that protects only the faith one inherits, and not the faith one chooses, protects tradition more than conscience.

References

Books, journal articles, reports, and secondary sources

Bhatia, G. (2016). Freedom from community: Individual rights, group life, State authority and religious freedom under the Indian Constitution. Global Constitutionalism, 5(3), 351-382. https://doi.org/10.1017/S2045381716000228

Bielefeldt, H., Ghanea, N., & Wiener, M. (2016). Freedom of religion or belief: An international law commentary. Oxford University Press.

Dhavan, R. (1987). Religious freedom in India. The American Journal of Comparative Law, 35(1), 209-254. https://doi.org/10.2307/840167

Galanter, M. (1989). Law and society in modern India. Oxford University Press.

Jain, M. P. (2018). Indian constitutional law (8th ed.). LexisNexis.

Mahajan, G. (1998). Identities and rights: Aspects of liberal democracy in India. Oxford University Press.

Sasikumar, M. (2019). The Sentinelese of North Sentinel Island: A reappraisal of tribal scenario in an Andaman Island in the context of killing of an American preacher. Journal of the Anthropological Survey of India, 68(1), 56-69. https://doi.org/10.1177/2277436X19844882

Sen, R. (2010). Articles of faith: Religion, secularism, and the Indian Supreme Court. Oxford University Press.

Seervai, H. M. (1991). Constitutional law of India: A critical commentary (4th ed.). N. M. Tripathi.

Constitutional and statutory materials

Andaman and Nicobar Islands (Protection of Aboriginal Tribes) Regulation, 1956.

Constitution of India, 1950.

Gujarat Freedom of Religion Act, 2003.

Gujarat Freedom of Religion (Amendment) Act, 2021.

Himachal Pradesh Freedom of Religion Act, 2019.

Madhya Pradesh Dharma Swatantraya Adhiniyam, 1968.

Madhya Pradesh Freedom of Religion Act, 2021.

Orissa Freedom of Religion Act, 1967.

Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021.

Uttarakhand Freedom of Religion Act, 2018.

Indian case law

Bijoe Emmanuel v. State of Kerala, (1986) 3 SCC 615.

Jamiat Ulama-E-Hind Gujarat v. State of Gujarat, R/Special Civil Application No. 10304 of 2021, Gujarat High Court order dated 19 August 2021.

K. S. Puttaswamy v. Union of India, (2017) 10 SCC 1.

Lata Singh v. State of Uttar Pradesh, (2006) 5 SCC 475.

Rabindra Kumar Pal @ Dara Singh v. Republic of India, (2011) 2 SCC 490.

Ratilal Panachand Gandhi v. State of Bombay, AIR 1954 SC 388.

Rev. Stainislaus v. State of Madhya Pradesh, (1977) 1 SCC 677.

Shafin Jahan v. Asokan K. M., (2018) 16 SCC 368.

S. R. Bommai v. Union of India, (1994) 3 SCC 1.