

Constitutional Challenges to State Anti-Conversion Laws: A Comparative Judicial Analysis

*J. Janice Vinolia*¹

ABSTRACT

Religious freedom is one of the foundational values of the Indian Constitution. Article 25 guarantees every individual the freedom of conscience and the right to freely profess, practice and propagate religion². However, this freedom is subject to public order, morality, health and other constitutional limitations. Over the years, several Indian States have enacted anti-conversion laws with the stated objective of preventing conversions brought about through force, fraud, coercion, or allurement. While these legislations claim to protect vulnerable individuals from exploitation, they have also attracted significant constitutional criticism for allegedly interfering with personal liberty, privacy, dignity, and the freedom to choose one's faith.

The constitutional validity of these laws has become a matter of intense judicial and academic debate, particularly after the recognition of privacy, decisional autonomy, and individual choice as fundamental rights by the Supreme Court. The requirement of prior notice, administrative approval, and criminal penalties under many State legislation has raised questions regarding their compatibility with Articles 14, 19, 21, and 25 of the Constitution.

This paper critically analyses the constitutional challenges to State anti-conversion laws by examining important judicial pronouncements, constitutional principles, and the legislative framework adopted by different States. It also undertakes a comparative analysis with selected foreign jurisdictions to understand how democratic societies balance religious freedom with the prevention of coercive conversions. The paper concludes by suggesting reforms that can protect both religious liberty and public interest while remaining consistent with constitutional values.

¹ Student, Saveetha School of Law, Chennai Tamil Nadu.

² INDIA CONST. art. 25.

KEYWORDS

Religious Freedom, Anti-Conversion Laws, Article 25, Freedom of Conscience, Fundamental Rights, Judicial Review, Constitutional Law, Privacy, Equality, India.

INTRODUCTION

India calls itself a secular republic, and its Constitution backs that claim with real teeth. Article 25 gives every person the freedom of conscience and the right to profess, practice, and propagate religion. Yet over the last two decades, a dozen states have passed laws that place heavy conditions on the act of changing one's faith. These statutes go by different names, the Freedom of Religion Act in Madhya Pradesh and Odisha, the Prohibition of Unlawful Conversion of Religion Act in Uttar Pradesh and Uttarakhand, and similar enactments in Himachal Pradesh, Jharkhand, Haryana, Gujarat, Chhattisgarh, Karnataka, and most recently Rajasthan³. Supporters call them a shield against fraud and coercion. Critics call them a quiet instrument of majoritarian control, one that turns an intimate personal choice into a bureaucratic and criminal event.

This paper examines whether these anti-conversion laws survive constitutional scrutiny under Articles 14, 21, and 25, and it places the Indian experience beside comparable free exercise jurisprudence from the United States and the European Court of Human Rights. The goal is not merely descriptive. It is to show that Indian courts, when they finally engage with the substance of these laws rather than their procedure alone, will need a doctrinal framework that most Western courts have already built, one that asks not whether the state has a good reason to regulate religion, but whether the means chosen are proportionate to a genuinely secular end.

THE CONSTITUTIONAL ARCHITECTURE OF RELIGIOUS FREEDOM IN INDIA

Article 25(1) protects both belief and conduct, subject to public order, morality, health, and the other fundamental rights⁴. Article 26 protects the corporate freedom of religious denominations, and Article 15 forbids discrimination on grounds of religion⁵. Read together, these provisions were meant to keep the state at arm's length from an individual's spiritual

³ Rajasthan Prohibition of Unlawful Conversion of Religion Act, 2025, No. 21, Acts of Rajasthan State Legislature, 2025

⁴ INDIA CONST. art. 25

⁵ INDIA CONST. arts. 15, 26.

choices, while still allowing regulation of the social and economic activity that religion produces.

The founding interpretive moment came early. In *Rev. Stainislaus v. State of Madhya Pradesh*, the Supreme Court upheld the first generation of anti-conversion laws, holding that the right to propagate religion under Article 25 does not carry within it a right to convert another person, since that would trench on the other person's freedom of conscience⁶.

That distinction, propagation without a right to convert, has carried enormous weight ever since. It gave states a constitutional foothold to regulate conversion as conduct rather than belief. But *Stainislaus* was decided in a very different India, before the Court had developed the substantive due process reading of Article 21 that now runs through its jurisprudence⁷. The judgment said almost nothing about proportionality, about vagueness, or about the chilling effect that a criminal statute can have on a constitutionally protected act. Forty odd years later, those gaps have become the central battleground.

THE PRESENT GENERATION OF STATE LAWS AND THEIR COMMON FEATURES

Modern anti-conversion statutes share a family resemblance. They require a person intending to convert, and often the priest or clergyman performing the ceremony, to give prior notice to a district magistrate, sometimes thirty days in advance, sometimes sixty. They criminalise conversion procured by force, allurement, fraud, or in several statutes, marriage itself, reversing the burden of proof onto the accused⁸. Punishments range from one to ten years of imprisonment, with enhanced terms where the convert is a woman, a minor, or a member of a Scheduled Caste or Scheduled Tribe⁹. The 2024 amendment to the Uttar Pradesh Act went further still, allowing any person, not merely the convert or a close relative, to lodge a complaint, and increasing the maximum sentence to life imprisonment for conversions linked to organised or foreign funded activity¹⁰.

⁶ *Rev. Stainislaus v. State of Madhya Pradesh*, AIR 1977 SC 908.

⁷ INDIA CONST. art. 21.

⁸ Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021, §§ 3, 6, 12, No. 3, Acts of Uttar Pradesh State Legislature, 2021

⁹ Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021, § 5, No. 3, Acts of Uttar Pradesh State Legislature, 2021

¹⁰ Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021, §§ 4–5, No. 3, Acts of Uttar Pradesh State Legislature, 2021, as amended by the Uttar Pradesh Prohibition of Unlawful Conversion of Religion (Amendment) Act, 2024.

These features raise at least three distinct constitutional problems. First, the notice requirement compels public disclosure of an intensely private choice, arguably in tension with the right to privacy recognised in *K.S. Puttaswamy v. Union of India*, where the Court held that decisional autonomy over intimate personal matters forms part of the core of Article 21¹¹.

Second, the reversal of the burden of proof and the vague, undefined terms such as allurement sit uneasily with the requirement that a criminal statute must be precise enough to give fair warning of what it prohibits. Third, third party standing to file complaints, now a feature of the amended Uttar Pradesh law and the 2025 Rajasthan Act convert a private choice into a matter that strangers, often vigilante groups, can weaponise through the criminal process¹².

RECENT JUDICIAL ENGAGEMENT: FROM PROCEDURE TO SUBSTANCE

For years, litigation against these laws moved slowly. Petitions challenging the Uttar Pradesh, Uttarakhand, Madhya Pradesh, and Himachal Pradesh statutes had been pending before the Supreme Court since December 2020, and the Court repeatedly declined to grant interim relief. That posture began to shift through 2025. In July 2025, hearing a challenge to the 2024 amendments brought by counsel associated with Alliance Defending Freedom India, the Court directed the Uttar Pradesh government to pause enforcement of the amended provisions pending final hearing.

The most significant development came on 17 October 2025 in *Rajendra Bihari Lal v. State of Uttar Pradesh*, where the Court quashed a batch of first information reports filed against roughly ninety Christians accused of mass conversion¹³. The complaint had been lodged by a third party rather than a convert or family member, and the Court held that the unamended Section 4 of the Uttar Pradesh Act restricted standing to the convert or close relatives, so the complainant lacked the competence to set the criminal process in motion¹⁴. The bench, in a detailed judgment, also flagged that the notification and reporting requirements under the Act may need scrutiny under Articles 21 and 25, though it declined to decide that question in the absence of a direct challenge on those grounds.

¹¹ *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

¹² Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021, § 4, No. 3, Acts of Uttar Pradesh State Legislature, 2021 (India), as amended in 2024; Rajasthan Prohibition of Unlawful Conversion of Religion Act, 2025, § 12, No. 21, Acts of Rajasthan State Legislature, 2025

¹³ *Rajendra Bihari Lal v. State of Uttar Pradesh*, 2025 INSC 1249 (Oct. 17, 2025)

¹⁴ *Rajendra Bihari Lal v. State of Uttar Pradesh*, 2025 INSC 1249, ¶¶ 116–18 (Oct. 17, 2025).

The Court's caution here is telling. It resolved the case on *locus standi*, a procedural doorway, while leaving the substantive constitutional question, whether mandatory disclosure and criminalised religious change violate Articles 21 and 25, open for another day. That day appears to be approaching. In February 2026, a bench led by the Chief Justice issued notice in *National Council of Churches in India v. State of Rajasthan*¹⁵, challenging provisions of the Rajasthan Prohibition of Unlawful Conversion of Religion Act, 2025 that allow authorities to attach or demolish property linked to an alleged unlawful conversion even before any judicial finding of guilt¹⁶. The matter was referred to a three judge bench, and the Court has since sought responses from several states whose laws remain under challenge.

Taken together, these developments suggest the Court is inching toward a substantive reckoning with the anti-conversion framework, but has so far preferred narrow, fact specific relief over a constitution bench ruling on first principles. That restraint is itself instructive for a comparative analysis, because it is precisely the kind of principled framework, built around proportionality and narrow tailoring, that other jurisdictions already apply as a matter of course.

COMPARATIVE JUDICIAL ANALYSIS

United States American free exercise doctrine has swung between two poles. Under *Sherbert v. Verner* the Court required the state to show a compelling interest before it could burden religious conduct¹⁷. That standard was narrowed sharply in *Employment Division v. Smith*, where the Court held that a neutral, generally applicable law does not violate the Free Exercise Clause even if it incidentally burdens religious practice¹⁸.

Yet *Smith* itself carved out the crucial exception that matters here. Where a law targets religious practice specifically, or is not truly neutral in its object, strict scrutiny still applies. In *Church of the Lukumi Babalu Aye v. City of Hialeah*, the Court struck down municipal ordinances that, though facially neutral, were in substance designed to suppress the Santeria faith's practice of animal sacrifice¹⁹. The Court insisted that a law's object, and not merely its text, determines whether it is neutral.

Applied to the Indian statutes, the Lukumi inquiry into object and effect is directly useful. A law that requires only converts, and not adherents remaining in the majority faith, to give notice

¹⁵ *National Council of Churches in India v. State of Rajasthan*, Supreme Court of India, order dated Feb. 2, 2026.

¹⁶ *Id.*

¹⁷ *Sherbert v. Verner*, 374 U.S. 398, 403 (1963).

¹⁸ *Employment Division, Department of Human Resources of Oregon v. Smith*, 494 U.S. 872, 879–90 (1990).

¹⁹ *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 533–34 (1993)

to the state is not neutral on its face between religions in practical effect, since it burdens the act of leaving a faith far more than the act of practising one. An American court would ask whether the real object of the notice and inquiry regime is fraud prevention or whether it is, in substance, discouragement of conversion itself. Indian courts have not yet asked that question directly.

Europe. The European Court of Human Rights confronted a strikingly similar Greek anti-proselytism law in *Kokkinakis v. Greece*²⁰. The Court accepted that a state may regulate improper proselytism involving coercion, bribery, or exploitation of vulnerability, but held that Article 9 of the European Convention protects the right to try to convince others of one's faith, and that a law criminalising conversion efforts must draw a precise line between legitimate witness and genuine abuse²¹. The Greek statute, the Court found, failed to draw that line with sufficient clarity, and its application to the applicant, an elderly Jehovah's Witness who had simply spoken to a neighbour, violated Article 9.

Kokkinakis offers Indian courts a workable middle path. The judgment does not deny the state a legitimate interest in stopping coercive conversion. It insists instead on precision, a law must distinguish, with reasonable clarity, ordinary religious persuasion from actual force or fraud, and it must not sweep so broadly that it chills the ordinary exercise of faith. Measured against that standard, terms like allurement, left undefined in most Indian statutes and covering everything from cash payments to a vague promise of a better life, would very likely fail the precision test that the European Court applied.

Elsewhere in Asia, the pattern is less protective. In Malaysia, the *Federal Court in Lina Joy v. Majlis Agama Islam Wilayah Persekutuan* held that a Muslim convert to Christianity could not have her change of religion recorded on her national identity card without first obtaining certification from a Shariah court, effectively subordinating a civil right to religious authority²². The decision has drawn sustained criticism for allowing administrative and religious machinery to gatekeep an individual's constitutional right to change faith, and it stands as a cautionary example of what happens when procedural hurdles are allowed to function as substantive denial.

²⁰ *Kokkinakis v. Greece*, 260-A Eur. Ct. H.R. (ser. A) (1993).

²¹ *Id.*

²² *Lina Joy v. Majlis Agama Islam Wilayah Persekutuan & Ors.*, [2007] 4 MLJ 585 (FC).

The comparison across these three systems reveals a clear doctrinal gradient. The American approach after *Lukumi* asks hard questions about legislative object and neutral application. The European approach after *Kokkinakis* asks for precision and proportionality in the line between persuasion and coercion. The Malaysian approach shows what happens when courts defer entirely to administrative and religious gatekeeping. Indian anti-conversion jurisprudence, even after *Rajendra Bihari Lal*, remains closer to the Malaysian end of that spectrum than to the American or European one, because the Supreme Court has so far resolved cases on standing and procedure rather than testing the laws against a substantive standard of neutrality or precision.

TOWARD A COHERENT STANDARD FOR INDIA

India already possesses the doctrinal tools to close this gap. The proportionality standard articulated in *Puttaswamy* and refined in later privacy and free speech cases requires that any restriction on a fundamental right pursue a legitimate aim, adopt a suitable means, impose the least restrictive burden available, and maintain a rational balance between the individual's right and the state's interest²³. Applying that four part test to anti-conversion laws would force courts to ask concrete questions that *Stainislaus* never had to consider. Is a sixty day advance notice requirement the least restrictive way to detect fraud, when a complaint mechanism after the fact would serve the same end with far less intrusion into privacy? Does allowing any stranger to file a criminal complaint bear any rational relationship to preventing coercion, or does it simply invite harassment? Is a term as elastic as allurement precise enough to satisfy the fair notice requirement that criminal law demands?

A proportionality inquiry of this kind would not abolish the state's power to regulate conversion. It would simply require that power to be exercised through narrowly drawn, precisely worded provisions aimed at genuine coercion and fraud, not through broad disclosure mandates and open ended standing rules that function, in practice, as a deterrent to conversion itself. That is precisely the balance the European Court struck in *Kokkinakis*, and it is the balance American courts strike whenever a facially neutral law turns out, on inspection, to target religious practice.

²³ K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1.

CONCLUSION

The constitutional story of anti-conversion laws in India has moved from an era of near total judicial deference, marked by *Stainislaus*, to a period of cautious, fact bound intervention, marked by Rajendra Bihari Lal and the ongoing Rajasthan litigation. What it has not yet reached is a principled constitutional bench ruling that tests these laws against the full weight of Articles 14, 21, and 25 together. The comparative record from the United States and the European Court of Human Rights shows that such a framework is neither radical nor unworkable. It asks only that a law aimed at preventing fraud actually be drawn to catch fraud, and nothing more. Until the Supreme Court undertakes that exercise directly, India's anti-conversion statutes will keep functioning in the space *Stainislaus* left open nearly fifty years ago, a space where the right to convert exists on paper but can be made, in practice, exceptionally hard to exercise.

