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The Arguments For and Against a National Anti-Conversion Law

By Shanoor Seervai



A row over religious conversions in India has reopened a debate over whether the country needs a nationwide anti-conversion law. Pictured, a conversion ritual of around 200 Christians to Hinduism in Gujarat, Dec. 20, 2014.

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Two similar but incompatible beliefs about the Indian population have emerged from politicians in India in recent weeks. First [that the nation was once entirely made up of Hindus](#) and then [that every Indian was born a Muslim](#). Both sides agree that people needed to reconvert — return to their original faith — but disagree about what that faith is. In the background to the debate: a tussle over whether India should introduce a nationwide anti-conversion law. India's [winter session of Parliament, which ended last month](#), was disrupted for days as opposition members protested against Hindu hardline groups for allegedly forcing religious minorities to convert to Hinduism. The Hindu groups, some of which are close to the governing Bharatiya Janata Party, deny the allegations and say the conversions were voluntary.

Prime Minister Narendra Modi's BJP has suggested that the creation of a national law could help prevent forcible religious conversions, according to a national spokesman of the BJP. But lawyers and political analysts are concerned that such legislation would restrict religious freedom. Under India's constitution, all citizens have the right to "profess, practise and propagate religion." Currently, five Indian states — Orissa, Madhya Pradesh, Gujarat, Chhattisgarh and Himachal

Pradesh — have anti-conversion laws in place to prevent forced conversions. The laws do not ban conversions so long as they are voluntary. Arunachal Pradesh has an anti-conversion law, but the [government hasn't framed the rules needed to enforce it](#), and Rajasthan has a bill that has yet to be turned into law.

The laws are strikingly similar. They all prohibit conversion from one religion to another by the use of force or allurement or by fraudulent means. Allurement (also called inducement) is defined as a gift or material benefit, and force is defined as the threat of injury “including threat of divine displeasure or social excommunication.” A key difference is that in Gujarat and Chhattisgarh, a person wishing to convert must seek permission from the district magistrate at least 30 days before the date of the intended conversion. In Himachal Pradesh, a person must notify the magistrate 30 days in advance that they intend to do so. In Orissa and Madhya Pradesh — which enacted their laws in the 1960s, almost four decades before the other states — no prior permission or notification is required, though in Madhya Pradesh the magistrate must be informed once the conversion has taken place.

The requirement to tell a magistrate about an intention to convert is divisive. The BJP favors this requirement and says it reduces the likelihood of voluntary converts changing their story down the line to say they were forced. GVL Narasimha Rao, a national spokesman for the BJP, says this is what happened in recent conversions in Agra where a group of Muslims said they had been forced to profess Hinduism. “If anyone voluntarily wants to convert, what’s the problem with giving intimation to the magistrate?” said Mr. Rao.

The problem, according to some lawyers, is that some magistrates, under pressure from hardline Hindu groups, might prohibit any conversions from Hinduism but be unlikely to act against radical groups who are forcing non-Hindus to convert to Hinduism. “It’s meaningless to have a law... on the ground, forced conversions would carry on in disregard of the law, and voluntary conversion wouldn’t be allowed,” said Colin Gonsalves, a Supreme Court lawyer and founder of the New Delhi-based Human Rights Law Network. India’s existing criminal law is adequate to prevent force of any kind, say lawyers and social scientists. Criminal intimidation is punishable under India’s Penal Code, and any attempt to force someone to convert to another religion would be covered under this and other provisions of criminal law, they say.

“If the BJP wants to bring in a law that prevents conversion by force, it doesn’t do anything new,” said Dipankar Gupta, a sociology professor at Shiv Nadar University in Uttar Pradesh.

Religious conversion “is not a matter of legislation, it’s a matter of choice,” said Supreme Court lawyer Nitya Ramakrishnan. In fact, an anti-conversion law would “make a mockery of the law because it can’t be enforced,” said Ms. Ramakrishnan, who works as a defense lawyer in terror trials among other cases.

The recent alleged forced conversions have more to do with politics than with the law, which is “incompetent to handle divisive politics,” said Ms. Ramakrishnan. Last month in Agra, [local news reported that more than 200 Muslims were converted to Hinduism](#) by an offshoot of the Rashtriya Swayamsevak Sangh, the prominent Hindu nationalist group in which Mr. Modi began

his political career.Hindu groups argue that these are voluntary so-called reconversions, described by them as an opportunity for Hindus who have strayed to return to their path.

“These people have been moved away from their country, duty and tradition. We are bringing them back to their home,” said Dharma Narayan Sharma, the national secretary of the Vishva Hindu Parishad, another hardline Hindu group, in a telephone interview with The Wall Street Journal.Reconversions to Hinduism have taken place in India for decades, but have “become a big deal because the BJP is in power,” said sociologist Mr. Gupta.Although the BJP spokesman Mr. Rao said that a national law created a mechanism to make conversion (and reconversion) voluntary, experts say it is more complex than that.

“An anti-conversion law would make life very difficult for lower castes — and why should a person suffering from abject poverty not change their religion for money?” said Ashis Nandy, a sociologist and political psychologist who has written extensively about caste.“Poverty and exclusion are the heart of the issue, and there is no law that can do justice to this. In fact, if you ban conversion, the poor will lose their bargaining power,” Mr. Nandy said.

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