



Growing Intolerance in Society

1 Controversy Related to Religious Conversions

Recent incidents of the “Ghar Wapsi” i.e. re-conversion attempts by certain right-wing organizations fuelled controversy around religious conversions. It re-opened the debate on rights granted under article 25 and whether it conceives the right to convert as a fundamental right. The debate was intensified because the government asked all parties to consider passing the Anti-conversion law. Religious conversions have been a centre of controversy since pre-Independence period.

According to the Constitution of India, every individual has a fundamental right to freedom of religion. It conceives freedom of conscience and free profession, practice and propagation of religion (Article 25-28). The meaning of propagation is to promote, spread and publicize one’s religion relating to his own faith for the edification of others, for which the logical culmination is the conversion of others to one’s own religion. The term propagation implies persuasion and exposition without any element of fraud, coercion and allurement for conversion. It may be pointed out that the right to convert other person to one’s own religion is distinct from and individual right to get convert to any other religion on his own choice. The latter is undisputedly is in conformity with the freedom of religion and freedom of conscience under Article 25 of the constitution while the former is the subject of long prevailing controversy with reference to propagation of faith.

1.1 Historical Background

The idea of Ghar Wapsi can be traced back to the ‘Shuddhi’ movement initiated by the Arya Samaj founder Dayanand Saraswati in pre-Independence period. The movement was aimed at removing untouchability and re-conversion of Hindus converted to other religions. In initial phase, it emerged as a reaction to the conversion attempts by Christian missionaries. The right to propagate one’s religion does not give a right to convert any other person to one’s own religious faith.

1.2 Reasons for Conversions in India

Most of the conversion attempts by any religion follower in India involve socially, economically and educationally backward classes of society. These communities face serious disabilities under the hierarchical social structures of Hindu religion, particularly the caste system. They are discriminated and often exploited by their fellow religionists. They live in abject poverty and not able to fulfil their basic needs. It acts as a measure push factor for conversions.

Gandhiji’s views: He opposed proselytising and people of one faith trying to convert others.

B. R. Ambedkar’s views: He saw conversion as a means of social elevation and a way to revolt against the discrimination of the caste system. Ambedkar’s 1956 conversion to Buddhism inspired about 3,65,000 erstwhile “untouchables” to follow suit.

1.3 The Constitutional Basis

- To go back in history, one has to start with the morning of December 6, 1948, at the Constitution Hall where the Constituent Assembly debated the inclusion of “right to propagate” as a Fundamental Right.
- Here, Lokanath Misra cautioned the Assembly that “the cry of religion is a dangerous cry. Today, religion in India serves no higher purpose than collecting ignorance, poverty and ambition under a banner that flies for fanaticism. The aim is political, for in the modern world all is power-politics and the inner man is lost in the dust.”
- But Pandit Lakshmi Kanta Maitra disagreed that “propagation does not necessarily mean seeking converts by force of arms, by the sword, or by coercion.” He argued the Fundamental Right to propagate may probably work to remove the “misconceptions” in the minds of the people about other co-existing religions in this land of different faiths.
- H.V. Kamath argued that even as no particular religion should receive State patronage, “we must be very careful to see that in this land of ours, we do not deny anybody the right not only to profess or practise but also to propagate any particular religion.”

1.3.1 Judicial Interpretation and Legal Basis

- Chief Justice of India A.N. Ray, heading a five-judge Bench, in *Rev. Stainislaus vs. State of Madhya Pradesh*, the court dissected Article 25 to hold that “the Article does not grant the right to convert other persons to one’s own religion but to transmit or spread one’s religion by an exposition of its tenets.” “What is freedom for one is freedom for the other in equal measure and there can, therefore, be no such thing as a fundamental right to convert any person to one’s own religion.”
 - In reference to the 1954 judgment of *Ratilal Panachand Gandhi vs. State of Bombay*, the court held that the “freedom of conscience [the right to believe in one’s faith] is not meant merely for followers of one particular religion but extends to all.”
 - The Supreme Court, in reference to the *Arun Ghosh vs. State of West Bengal* verdict of 1950, held that an attempt to raise communal passions through forcible conversions would be a breach of public order and affect the community at large. Thus, it held that the States were empowered under Entry 1 of List II of the Seventh Schedule of the Constitution to enact local Freedom of Religion laws to exercise its civil powers and restore public order. Thus, it upheld the validity of two regional anti-conversion laws of the 1960s — the Madhya Pradesh Dharma Swatantraya Adhiniyam and the Orissa Freedom of Religion Act.

1.4 Anti-Conversion Laws

- The local laws make forcible religious conversions a cognisable offence under Sections 295A and 298 of the Indian Penal Code. These provisions stipulate “malice and deliberate intention to hurt the sentiments of others” as a penal offence.
- Over the years, more Freedom of Religion Bills have found their place in legislative history, including in Arunachal Pradesh in 1978 and Gujarat in 2003.
- Under the Madhya Pradesh Freedom of Religion (Amendment) Act of 2006, if a person chooses to convert, he has to declare it before the District Magistrate concerned. Even the religious priest who “directly or indirectly participates” should give details of the purification ceremony and details of person whose religion is going to be changed to the District Magistrate with one month’s notice.
- The same year saw Chhattisgarh pass a similar law seeking 30 days’ notice from a person desiring to convert and permission from the District Magistrate. With the Himachal Pradesh Freedom of Religion Act, 2006, the State became the first Congress-ruled one to adopt a law prohibiting forcible conversions.

1.5 Criticism

- The case relates to a fundamental, and more nuanced, issue of intervention by the state — and its courts — in religious affairs. Anti-conversion laws allow the state the authority to determine what constitutes an ‘illegitimate inducement’, and, in doing so, they create a slippery slope. They promote increased

governmental involvement in matters that involve pure ethical choices. These state laws reflect the entrenched paternalism of elites that view most citizens as incapable of making well-considered decisions for themselves.

- Many constitutional experts feel that provisions in these laws can be easily misused by communal organizations for harassment of people while carrying out social uplifting exercise. According to one view point even a humanitarian help and work for betterment of the lives of these people and subsequent voluntary conversion based on the help can be easily proved as inducement and allurement.
- Conversely, as in the recent case of 'Ghar-Wapsi', the right wing organizations have used provision of BPL (below poverty line) cards, ration cards and other such inducements for reconverting to Hinduism.
- In such cases, it thus, becomes difficult to distinguish between the forcible conversions and voluntary conversions. As a response to this situation, some people have suggested blanket ban on conversions, which is outright unconstitutional and infringes the freedom of religion enshrined in the Constitution.
- UN report on religious freedom concedes that coercion must be prevented; it also states that such concepts as inducement or allurement are not only vague but that "any invitation to another religion has elements of inducement or allurement". It notes that these are "loosely defined terms" and don't meet the standards of criminal justice, in which "laws need to be clear".

1.6 Requirement of National Law

Since the 1950s, conservative Hindu groups have clamoured for a national law to regulate religious conversions, which they argue is necessary to prevent the gullible from being coerced, duped or lured away from their ancestral faith.

So, would a national law help? Could it be precise and clear, thus giving force to the Constitution's provisions, both its rights and protections? Might it help overcome the current contradictions? After all, since all religions including Hinduism (In the so called re-conversion case) have indulged in propagating their religions – and faced accusations of coercing, inducing and alluring – it is theoretically possible to agree on a minimum definition of acceptable norms that are compatible with the Constitution.

The law commission says that proper guidelines on the subject of religious conversions and reconversions will help avoiding conflicts. The law should be such as to respect the conscience of the individual. When the change of religion is a conscious choice of an individual based on his belief in God, the law cannot insist on obtaining the prior permission from the District Magistrate to change his or her religion. It is only after the conversion that it would be appropriate to send the intimation to the concerned officer of the Government.

The enactment of law by Parliament is necessary. The Commission is inclined to think that a separate enactment or amendments does not in any way impinge on the religious freedom or faith of any person.

But again, the criticism of the state anti-conversion laws, as noted above, also holds ground. Thus, the debate continues to go on without any final verdict.

1.7 Conclusion

There will be no end to these controversies until an enlightened stop is put to use of religion as an organized force to convert persons from one faith to another. This applies to all religions practised in India. Historically, India has never witnessed persecution purely on religious grounds. Compared with Europe, the Middle East and elsewhere, India has had a benign environment in this respect. Religious wars are alien to India. But the country has not been immune from religious violence due to flaring up of passions among different communities. Any idea of a fundamental right to conversion in the name of freedom of religion will badly hurt India's secular fabric. The country should not go on that path.

2 Freedom of Speech Debate – Should there be any Restrictions?

Freedom of speech and expression is a **cardinal principle** in any democracy. Every democratic constitution has a peculiar scheme for realizing it. This scheme is based on **historical developments**. However, a common thread among all these schemes is the discussion on *whether the freedom of speech is an absolute right or if it has certain restrictions*.

2.1 Thinkers' Views

John Stuart Mill, a political thinker and an activist in the nineteenth century Britain, offered a passionate defence of the right to freedom of speech, including freedom of thought and discussion. In his book, 'On Liberty', he offered four reasons as to why there should be freedom of expression even for those who espouse ideas that appear 'false' or misleading today.

1. First, no idea is completely false. What appears to us as false has an element of truth. If we ban 'false' ideas, we would lose that element of truth that they contain.
2. The first point is related to the second point. Truth does not emerge by itself. It is only through a conflict of opposing views that truth emerges. Ideas that seem wrong today may have been very valuable in the emergence of what we consider right kind of ideas.
3. Thirdly, this conflict of ideas is valuable not just in the past but is of continuing value for all times. Truth always runs the risk of being reduced to an unthinking cliché. It is only when we expose it to opposing views that we can be sure that this idea is trustworthy.
4. Finally, we cannot be sure that what we consider true is actually true. Very often ideas that were considered false at one point by the entire society and therefore suppressed turned out to be true later on. A society that completely suppresses all ideas that are not acceptable today runs the danger of losing the benefits of what might turn out to be very valuable knowledge.

According to one filmmaker, *"My right to free speech has to be absolute, and if you are offended, you have **the right to respond**. But if we start placing restrictions, we are **shaking the foundations of tolerance** for views that one finds disagreeable, and tolerance has to be one of the foundations of a true democracy."*

However, many thinkers recognise that restraints are necessary for realizing true freedom. John Stuart Mill in the same book gave one principle to answer the question of restraints. It is called as **Harm Principle**. It says that the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. **French declaration** also talks about *liberty as freedom to do everything which injures no one else*. But these restrictions on freedom should be placed strictly by laws enacted with due deliberations. The **Offence principle** deals with the **psychological or social harm** may be done by any speech. It is used to assess **ethical dimension** of the restraints.

2.2 Indian Context

The Constitution places numerous restrictions on the freedom of speech. Integrity and sovereignty of the nation, public order, decency and morality, security of the State, defamation, incitement to an offence are some of the restrictions placed on the freedom of speech. In the **constitutional debate**, most of the speakers were against the unrestrained freedom of speech. They believed that unrestrained freedom leads to anarchy and endangers the very existence of the state. It reduces the capacity of state to protect the rights in long term.

The **Supreme Court** also sided with the same view in numerous cases related to freedom of speech. The Supreme Court's overriding concern, over the years, has been that **free speech should not affect communal harmony**. The ground rule has been that religious harmony cannot be sacrificed at the altar of free expression. The court however, observed that *"freedom of expression cannot be suppressed on account of [the] threat of demonstration and processions or threats of violence."* The right to freedom of speech and expression is enshrined in the Constitution, and chauvinist elements, no matter of what hue, should not be allowed to infringe on this right citing some imagined slight to a group or community.

2.3 Recent Incidents

2.3.1 The Cartoon Controversy

The satirical weekly French magazine, Charlie Hebdo, was attacked recently for publishing cartoons of Prophet Muhammad. Many countries criticised the attack and participated in Je Suis Charlie (french for 'I am Charlie') March. The magazine has targeted almost every religion. It is mainly involved in anti-institutional, anti-religion and anti-extremist publications, sparing none.

The French revolution espouses absolute liberty and freedom of speech. In most of the western countries, least restrictions are placed on freedom of speech. The artistic expressions are restricted only in exceptional circumstances. The above mentioned principles of J. S. Mills are exhibited for absolute freedom which builds a dialog for arriving at the truth. In France, the cartoonists were promoting a French culture in which individual freedoms are absolute and collective sensibilities overlooked. They were upholding the secularist traditions of the French nationalism.

However the issue is debated primarily as a question of freedom of expression, but the more fundamental issue at stake is the terms of engagement between various cultures in a multicultural society.

While in most Western societies, individual rights are absolute and community rights limited or non-existent, in Islamic world, the situation is the opposite. While individual rights are not respected, community is valorised and glorified. Individual rights still do not command social legitimacy as opposed to the sentiment of "collective hurt." The "hurt sentiment" phrase is often quoted to define or represent the feelings of a larger group and rarely of an individual, when outrage is created.

In addition to that, emotional violence is not measurable. Physical violence is. That makes the latter a crime that can be proven, hence a greater crime, especially when emotional violence is directed at something as notional as religion. We cannot measure the hurt Charlie's cartoons caused the Muslim community. We cannot measure the Muslim community's sensitivity or over-sensitivity. But we can measure the outcome of the actions of the killers. We can therefore easily condemn violence. That it caused hurt, rage, humiliation, enough for some people to grab guns, is a non-measurable assumption, a belief. The intellectual can hurt with his/her words. The soldier can hurt with his/her weapons. We live in the world where the former is acceptable, even encouraged. The latter is not.

Increasingly, politicians and policymakers, publishers and festival organisers, liberals and conservatives, in the East and in the West, have come to agree. Whatever may be right in principle, in practice one must appease religious and cultural sensibilities because such sensibilities are so deeply felt. We live in a world in which there are deep-seated conflicts between cultures embodying different values. For such diverse societies to function and to be fair, we need to show respect for other peoples, cultures, and viewpoints. Social justice requires not just that individuals are treated as political equals, but also that their cultural beliefs are given equal recognition and respect. The avoidance of cultural pain has, therefore, come to be regarded as more important than the abstract right to freedom of expression. As the British sociologist Tariq Modood has put it, *"If people are to occupy the same political space without conflict, they mutually have to limit the extent to which they subject each others' fundamental beliefs to criticism."*

However, one could argue that Charlie Hebdo chose a brave editorial course. The publication asserted the right to equally offend anyone and everyone as a part of the practice of French secularism. Over and above this, by doing so, the French publication also presented itself in the vanguard of secularism, not concerning itself with short-term appeasement politics.

Prevention of sentimental hurt amongst the population presents a situation in which we want material advancement but not social and cultural change that accompanies conditions of economic change. So, we want better highways, newer airports, and faster internet connections but not the free movement of ideas that threaten to pass through such avenues. We want our modernity to be purely technical and not social and cultural.

2.3.2 PK Movie controversy

A movie named 'PK' was released recently which came under the fire of right wing outfits for allegedly insulting Hindu traditions and culture. A case was registered in courts for banning the screening of the film. This is not the first time that a movie ran into hard waters after its release. There is a long list of movies either banned or blacked out on the pretext of 'hurting sentiment'.

Movies are one of the prime victims of the growing intolerance in the society. Movies are constantly targeted in India by chauvinist groups for 'hurting the sentiments' of particular group or community. Chauvinist elements are emboldened when the government adds to the pressure on the film-makers, instead of getting tough on those threatening to disturb law and order. Too often, the producers are forced to compromise and agree to cuts rather than risk prolonging the release of the film. When the government does not stand up for freedom of speech and expression, film-makers, distributors and exhibitors think it is safer to buy peace with the chauvinist groups.

Once a film has been cleared by the Censor Board, no one has the right to demand that it be pulled from theatres because it has offended them. Everyone is sensitive to something, and if you begin to factor it all in, you'll never make a movie. Then why every film is under threat? Bigger reason is that our 24x7 TV channels and Internet portals need news, and when this news is related to a blockbuster film, it becomes bigger news. Sensational, viewership/readership-attracting news as well —when protesting organisations, in their quest for cheap and easy and guaranteed publicity, offer up such incendiary images of rioting and poster-burning.

However, films, cartoons, provocateurs and other outlandish figures serve useful public roles. Satirists and ridiculers expose our weakness and vanity when we are feeling proud. They puncture the self-puffery of the successful. They level social inequality by bringing the mighty down. When they are effective they help us address our foibles communally, since laughter is one of the ultimate bonding experiences.

So what is needed is freedom of speech where there are no restraints imposed by law, which have the potential to stifle the dialog very easily. This dialog is often aimed at correcting errors in the established system. Freedom of speech needs restraint in the form of social manners, self-regulating mechanisms and codes. In the short run, the legal restrictions appear an easy way out to protect social harmony but history teaches us that an easy way out leads to a dangerous 'offence culture'. India is experiencing same nowadays. Unrestrained freedom of speech may look like a catastrophe in short term, but in the long term it is a pre-condition for social integration and perpetual peace in the society.

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