



INTERNATIONAL JOURNAL OF HUMAN RIGHTS LAW REVIEW

Volume 3 | Issue 5

Art. 7

2024

**Conversion to Islam and impact on Family
with reference to Anti-Conversion Laws**

Swati Mishra

Recommended Citation

Swati Mishra, *Conversion to Islam and impact on Family with reference to Anti-Conversion Laws*, 3 IJHRLR 165-174 (2024).

Available at www.humanrightlawreview.in/archives/.

This article is brought to you for free and open access by the International Journal of Human Rights Law Review by an authorized Lex Assisto Media and Publications administrator. For more information, please contact info@humanrightlawreview.in.

Conversion to Islam and impact on Family with reference to Anti-Conversion Laws

Swati Mishra

Law Student, 4th Year, Ramaiah College of Law, Bengaluru

Manuscript Received
12 Sept. 2024

Manuscript Accepted
14 Sept. 2024

Manuscript Published
17 Sept. 2024

ABSTRACT

Islamic conversion is a transformative experience that profoundly affects individuals and their family relationships. Conversion in its most basic sense means a person adopting a different religious identity as well as an ideological shift. This paper examines the multidimensional impact of conversion to Islam on family dynamics, the motivations behind conversion, the psychological and emotional adjustments required, and the broader sociocultural implications. Through a mixed methods approach, this study combines in-depth qualitative interviews with converts and their family members. Theoretical frameworks of social identity theory, family structure theory, and the acculturation model guide the analysis, providing a nuanced understanding of the transition process. Research reveals motives for conversion, including the possibility of spiritual quest, intellectual interest, interfaith, and socio-political reflection and separation. Family dynamics often involve significant reorganization after conversion, with family members varying in acceptance and resistance. The study also examines the dual identity of converts who must reconcile their new religious identity with pre-existing cultural and family ties. In addition, the intergenerational impact of religious conversion is examined, shedding light on how a family member's conversion shapes the religious and cultural identity of future generations. This paper highlights the important role of community support, religious education and counselling in assisting converts in transition, and advocating for the holistic understanding of the

*experience that comes with the conversion.*¹

KEYWORDS

*Conversion, Family, Religious, Laws, Converts, Anti-conversion
Laws*

1. INTRODUCTION

Conversion to Islam, commonly referred to as conversion by Muslims, is an important and life-changing decision that goes beyond the individual, affects family dynamics and social relationships. This process cuts across broader personal as well as sociocultural contexts around it has increased, which has increased interest in understanding the motivations and implications of such changes. The transformational journey involves a profound spiritual and psychological transformation. For many, it represents a search for meaning, identity and belonging. However, the decision to convert can cause tension and conflict within families, especially when new religious beliefs conflict with the family's existing cultural and religious practices. This conflict can manifest itself in a variety of ways, from subtle changes in family dynamics to outright opposition and separation. For example, a convert may face opposition from family members who view the conversion as a rejection of their beliefs and values.²

The process of conversion includes various stages which an individual feels multitudes of emotions such as religious fanaticism, distress, despondency, acceptance and secularization. Families often play an important role in an individual's adjustment, either as a source of support or as a major challenge.

¹ Vishwajeet Singh, "Impact on property Rights when a person converts to another Religion." <https://blog.ipleaders.in/impact-property-rights-person-converts-another-religion/>

² "Repeal of Archaic Laws Doesn't Affect Reform". <https://www.tribuneindia.com/news/comment/repeal-of-archaic-laws-doesnt-affect-reform-148141>

Impact on families holds gravity which may influence the convert's mental health, and they may even question their own decision. Moreover, their image in society comes at stake as they experience this transition. The converts also might face discrimination with other Muslims as well because they might not be Muslim enough for not fully adopting their religion customs.

2. CONVERSION TO ISLAM

To renounce one's former faith and convert to Islam, one must do two simple steps.

- **By declaration:** To convert to Islam, he must publicly declare that he has renounced his former religion. He must truly believe that Muhammad is the true Messenger of Allah and there is no other God to save him. He also holds the view that the Holy Quran is the true word of God. He has to testify by declaring those words three times with the presence of other witnesses
- **Through ritual according to Islam:** A person will first go to a mosque where the Imam will ask him to recite the "Shahada," a declaration of faith by God to mankind that "there is no god but Allah and Muhammad." Then he is also given another Muslim name, that of Imam It should be recorded in the record.

3. ISLAMIC INHERITANCE LAWS

Muslim personal law applies to followers of Islam in matters of inheritance or succession. The Application of Muslim Personal Law (Shariah) Act, 1937, the predecessor and applicable pre-enactment of Article 372 of the Constitution, stipulated that decision rules have all the details such as inherited property, special property of women etc. becomes is Muslim personal law (Shariah). However, as discussed above, the provisions and principles provided by the Racial Disabilities Removal Act, 1850 continue to apply even after repeal in cases where any individual

law or operation affects or implies rights, notwithstanding parliamentary repeal.

Thus, although Muslim personal law, unlike Hindu personal law, is not codified in property matters, it cannot deprive an individual of the vested property rights at birth.

The Islamic law of inheritance maintains the same rules for both personal and inherited property and makes no distinction between the two. Shias and Sunnis have different approaches when it comes to legislation. For Shiites, all heirs receive an equal share, but, for Sunnis, the branch determines share. Additionally, the distribution of assets will not be decided until after the funeral expenses, unpaid expenses and payments to the domestics have been paid. If not already paid, the promised Mehr (dowry) amount is considered a necessary expense in this situation.

The childless widow of the deceased is entitled to one-fourth of the estate, and as parent to one-eighth of the estate. In contrast, the widow receives half of the decedent's estate if there are no children. Spouses, or wife, mother and children, remnant, or next of kin, and distant relative Under Islamic inheritance law, there are three classes of beneficiaries who purchase the residuary class share in the remainder of the estate. If there are no Sharers and residues, the property goes to the Distant Kindred.

A person converted from Hinduism under Hindu law could not have a Hindu relation. Similarly converted under Mohammedan law. He has also been excluded from Islam in another religion inheritance. This rule has been abolished by the Caste Disabilities Removal Act, 1850 XXI. This practice is also known as Religious Freedom. law. passed the customary rule that entails forfeiture of rights property arising there from racial manipulation or deception. Changes in unilateral marriage. The former has some

effect under applicable law Change.³ In *E. Ramesh and Anr. vs P. Rajini*, the Madras High Court also recognized the property rights of Hindu women who converted to Islam. The Supreme Court in its judgment held that the rule under Section 26 of the Hindu Succession Act, 1956 does not apply to the convert but only to the descendants of the convert. The court also relied on the provisions of the Caste Disabilities Removal Act, 1850 and held that it removed the stigma of inheritance in case of conversion.

4. EFFECT ON MARRIAGE

If a Mohammedan husband leaves Islam and It accepts other religions, it is marriage as soon as it is dealt with as a combination: If a Mohammedan wife adopts another religion. Inside, the same results followed Mohammedan law, but the law has been amended

By the Muslim Dissolution of Marriage Act, 1939. Under that Act, a wife can change her identity ask for a divorce for any of the reasons mentioned in that Act

To take an example. A Muslim man was a Hindu before marriage but converts to Islam and marries. In time, he rejects Islam and converts to Christianity. This would not ipso facto invalidate the marriage, since he did not regain his former faith ie. Hinduism. Had she again embraced Hinduism, the effect would have been an immediate dissolution of the marital relations.⁴ Thus, in *Munawwar-ul-Islam v. State*. In the case of Rishu Arora, a Hindu wife converted to Islam at the time of marriage. About his conversion back to his original faith, ie. About Hinduism. His

³ Priya Fandon, "Critical analysis of inheritance rights and impact of conversion" <https://www.lawfinderlive.com/Articles-1/Article176.htm?AspxAutoDetectCookieSupport=1>

⁴ "Impact of conversion." https://www.legalserviceindia.com/helpline/conversion.htm#google_vignette

marriage stood broken. His case falls under the second order. 4, and pre-existing Muslim personal law where apostasy by either party to the marriage ipso facto dissolves the marriage applies. In the case of a married Muslim woman, renouncing Islam or converting to a faith other than Islam will not automatically operate to dissolve her marriage and thus she can be prosecuted if she remarries before the divorce there are two types. However, even after such reconciliation or conversion, a woman can exercise her virginity of choice even by refusing to marry under s 2 of the Act, i.e. missing husband, neglect, imprisonment of husband, performance of conjugal duties, impotence, stupidity and cruelty. Her husband's apostasy is not grounds for her to ask for a divorce.

If the husband leaves Islam, the marriage automatically stands. Therefore, even if his wife remarries before the expiry of the period of iddat, he will not be guilty of malicious intent under s.494 of the Indian Penal Code, 1860 between Abdul Ghani and Azizul Huq. A Muslim man and woman got married. After some time, the husband converted to Christianity but returned to Islam during his wife's iddat. However, before the iddat period expired, the wife married another man. The first husband then brought proceedings under s.494 against the wife, her father and her second husband. No criminal activity was alleged.

- ***The Court Held***

Any view taken in the desperate situation of the parties during the iddat period and notwithstanding the illegality and nullity of the second marriage of a woman during the Iddat period according to the Mohammedan law; there is no basis for any charge under section 494 of the IPC against him. His second marriage is not void because he took her. place in the life of

her ex-husband but because of a general principle of the Mohammedan law of iddat which has nothing to do with the Indian Penal Code.

5. ANTI-CONVERSION LAWS IN INDIA AND ITS HISTORY

When we talk about being converted to another religion, it consists of multiple factors which drive a person to convert into another religion. Mostly, marriage is the prime reason for converting to another person to ensure that the marriage happens smoothly. But Anti Conversion laws in India has been seen as a hindrance for the process of conversion. They are the laws which are designed to prohibit any conversion taking place provided the conversion is unlawful. They are backed by civil and criminal penalties and various states have their own provisions.

While the concept of anti-conversion provisions may seem new, but it is not. The idea of it dates back to British Raj, with a notion to preserve the very own Hindu religion and culture from the advent of imperialism during 1930s and 1940s. Those were formulated by the Royal Families of several princely states as per the Library of Congress, US. The attempts to bring anti conversion bills continued even after independence. Following the Independence, the bill namely Indian Conversion (Regulation and Registration) Bill was introduced in 1954, with the aim of regulating missionaries and conversion in general, firstly the bill sought to seek licensing of the missionaries and secondly, it mandated the registration of conversion to the government. But, owing to its controversial nature, it failed to pass in Parliament due to lack of majority. Following that, in the year 1960, the Backward Communities (Religious Protection) Bill and in 1979 freedom of religion bill came up as well. Due to lack of political support, both bills failed to pass in Parliament. This reflects the

Parliament's spirit to bring out religious conversion reforms since the inception, but it is failing miserably due to the lack of political support.

The 2015 law commission had also implied that laws related to religious rights are the state subject and hence, National laws cannot be framed. But it is in the power of the state governments to implement these bills.

Until February 2023, there are 12 states who have incorporated laws relating to conversion of religion. All those laws have few things in common such as, Prohibiting Conversions, giving prerequisite notices and mandate of registering those conversions. Currently, the state of Uttar Pradesh has made the laws more stringent and evident that it abhors the notion of freedom of choosing religion⁵ When we see it from a broader perspective, it leads to the disputed opinions of various people. Several human right activists are opposed to these laws, saying that they blatantly violate their fundamental rights such as right to choose their own religion, moreover it violates the basic notion of right to life and human dignity. It is seen as a draconian law which restricts the person from converting even by their will. On the other hand, there are large chunk of advocates of this laws who believes that it was necessary to keep checks on the conversions taking place as the news of forced conversions were increasing. Another reason for promoting it was to prevent the notion of 'Love Jihad', in this it is believed that a person fakes his identity and traps innocent people for 'love' and then brainwash them to convert in their own religion.

⁵ Aaratrika Bhaumik, "How has Uttar Pradesh made its anti-conversion law more stringent? | Explained" The Hindu (August 07, 2024 12:27 am IST) <https://www.thehindu.com/news/national/how-has-uttar-pradesh-made-its-anti-conversion-law-more-stringent-explained/article68480856.ece>

Well, in these myriads of opinions and conspiracies, it is rather difficult to pick sides as the substratum itself is sensitive. It can be only suggested that these laws work in a fair manner without it being misused by the authorities.

6. CONCLUSION

The Chief Justice of India had in a judgment written in *Shafinjan v. Govt. Ashokan KN* it has been said that freedom of belief is necessary for the freedom of the individual.

He added that the choice of faith is subordinate to individual nature, without which the right to choose becomes a shadow.

Where the right of a convert's father to succeed in property is in any way threatened, legislative intent and judicial form have been aligned. The courts have recognized the right of a convert to practice any religion by reference to specific statutes and courts.

Inter-caste and inter-religious marriages are still not so prevalent in Indian society, except perhaps in urban areas. The CSDS Youth Study 2007 and 2016 reports state that racial and religious marriages are not yet recognized in the marriage planning process. Only a minority of married youth had opted for an interracial marriage (4%) or a non-religious marriage (3%). Neither, however, does it prevent legislatures from making legislative amendments aimed at protecting and upholding private property rights in such cases and the judiciary recognizing and protecting the interests of individual protection. We can therefore conclude that neither the process followed by the legislature nor the judicial decision of the judiciary on the civil rights of such persons has been affected by social attitudes towards individual cases.