

Bonafides after conversion

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Manifest pedagogy: Right to conversion has been in news recently due to Hadiya case. It has got a new orientation in the present case where a person is asked to prove. The issue of conversion and its Constitutional dimensions should be thoroughly studied.

In news: Supreme Court (SC) asks man to prove bona fides after conversion.

Placing it in syllabus: Fundamental rights

Dimensions:

- What is the issue about?
- Right to conversion in India and SC judgements

Content:

- The SC recently asked a man, who converted from Islam to Hinduism to marry a Hindu girl, to prove his bona fide.
- The Bench asked him to prove his good intentions by filing an affidavit in order to secure the girl's future and safety.
- The case was heard on an appeal filed by the girl's parents after the Chhattisgarh High Court recorded the 24-year-old girl's willingness to live with her husband.
- The girl's father's advocate submitted that the marriage was a sham as the man had changed his name merely for the purpose of marriage and had returned to the fold of Islam.
- The man's lawyer said the court could not intervene in the choice of a woman to decide whom to live her life with.
- The lawyer quoted the **Hadiya case (2018) decision of the**

Supreme Court, which said the right to choice of partner is part of the fundamental right to life under Article 21.

- The lawyer said the court could very well summon the girl to gauge her response.

Right to conversion in India:

Article 25 to Article 28 of the Indian Constitution guarantees the right to freedom of religion to all citizens residing within the territorial boundaries of the country.

1. Freedom of conscience and free profession of religion (**Article 25**).
2. Freedom to manage religious affairs (**Article 26**).
3. Freedom from payment of taxes for promotion of any particular religion (**Article 27**).
4. Freedom to attend religious instructions (**Article 28**).

Article 25 deals with **Freedom of conscience and free profession, practice and propagation of religion** –

(1) Subject to public order, morality and health, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion. E.g. The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion.

However, **Right to propagate does not include a right to convert another person to one's own religion.**

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law–

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing

open of Hindu religious institutions of a public character to all classes and sections of Hindus.

In sub-clause (b) of clause (2), the reference to **Hindus** shall be construed as **including a reference to persons professing the Sikh, Jaina or Buddhist religion**, and the reference to Hindu religious institutions shall be construed accordingly.

Important SC judgements related to religious conversion:

In the case of **Digyadarsan Rajendra Ramdassji v. State of Andhra Pradesh (1969)**, the SC decided that “the right to propagate one’s religion means the right to communicate a person’s beliefs to another person or to expose the tenets of that faith, but would not include the right to convert another person to the former’s faith.

The SC in **Rev Stanislaus V. State of Madhya Pradesh (1977)** case, **upheld the validity of the earliest anti-conversion statutes**: Madhya Pradesh Dharma Swatantraya Adhiniyam, 1968, and the Orissa Freedom of Religion Act, 1967.

((Orissa was the first state to bring such law named as ‘Orissa Freedom of Religion Act, 1967’. It was followed by Madhya Pradesh in 1968 and Arunachal Pradesh in 1978. Chhattisgarh in 2000 and Gujarat State in 2003 passed anti-conversion laws.))

The Court found that “**restrictions on efforts to convert are constitutional** because such efforts impinge on ‘freedom of conscience’ and ‘public order’ and concluded that the right to propagate did not include the right to convert any person.

In **Sarla Mudgal V. Union of India case**, SC held that till the time a Hindu marriage is dissolved under the **Hindu Marriage Act, 1955**, none of the spouses can contract a second marriage. Conversion to Islam and marrying again would not, by itself, dissolve the Hindu marriage under the Act. The second marriage

by a convert would, therefore, be in violation of the Act and as such a void in terms of **Section 494, IPC.**

Law commission report on conversion:

235th Report of the Law Commission of India, headed by **Justice PV Reddi** on the subject of religious conversion (2010) recommended the following:

- Within a month after the date of conversion, the converted person, if she/he chooses, can send a declaration to the officer in charge of registration of marriages in the concerned area.
- The registering official shall exhibit a copy of the declaration on the Notice Board of the office till the date of confirmation.
- The said declaration shall contain all the requisite details.
- Within 21 days from the date of sending/filing the declaration, the converted individual can appear before the registering officer, establish her/his identity and confirm the contents of the declaration.
- The Registering officer shall record the factum of declaration and confirmation in a register maintained for this purpose.
- Certified copies of declaration, confirmation and the extracts from the register shall be furnished to the party who gave the declaration.