

## 4. Religious Conversion – Polity

The Supreme Court is examining the constitutionality of state-level anti-conversion laws, which are being challenged for infringing on the right to religious freedom under Article 25. The case revisits the balance between personal autonomy and the state's power to prevent conversions through force or deceit, as previously upheld in the *Rev. Stanislaus (1977)* judgment.

### Introduction – The Constitutional Crossroads

The Supreme Court of India is currently adjudicating a critical issue at the intersection of fundamental rights, state power, and social harmony – the constitutional validity of state-level "Freedom of Religion Acts," commonly known as anti-conversion laws. A petition seeks a ban on what it terms "deceitful" religious conversions, prompting the Court to re-examine the delicate balance between an individual's right to religious freedom and the state's authority to regulate conversions undertaken through coercion, fraud, or inducement.

### The Constitutional and Legal Framework

The debate is anchored in key constitutional provisions and a landmark Supreme Court judgment.

1. **Article 25 (Freedom of Religion)** – This article guarantees every citizen the freedom of conscience and the right to freely profess, practice, and propagate religion. However, this right is not absolute and is subject to restrictions on the grounds of public order, morality, and health.
2. **The Landmark *Rev. Stanislaus vs. State of MP (1977)* Judgment** – In this pivotal case, the Supreme Court upheld the validity of early anti-conversion laws. It made a crucial distinction, ruling that while the right to "propagate" one's religion is fundamental, it does not include a fundamental right to convert another person. The Court affirmed that states have the legislative competence to enact laws to prevent conversions through force, fraud, or allurement to maintain public order.
3. **State-Level Legislation** – Following this precedent, around 10 states (including Uttar Pradesh, Gujarat, Madhya Pradesh, and Karnataka) have enacted their own versions of these laws. While they vary in detail, they share several common, and often contentious, features.

### Common Contentious Provisions in State Anti-Conversion Laws


Feature	Description	Constitutional Challenge
<b>Broad Definitions</b>	Terms like "allurement," "inducement," or "coercion" are often defined very broadly, potentially covering acts of charity, education, or promises of a better life.	Risks violating Article 19 (Freedom of Expression) by creating a "chilling effect" on genuine religious discourse and social work.
<b>Prior Declaration</b>	Requires an individual intending to convert (and sometimes the religious priest) to give advance notice (e.g., 30-60 days) to a District Magistrate.	Argued to be an invasion of privacy and a violation of Article 21 (Right to Life & Personal Liberty) and freedom of conscience.
<b>Burden of Proof</b>	The burden to prove that a conversion was not forceful or fraudulent is placed on the individual who converted and those who facilitated the conversion, reversing the normal criminal law principle of "innocent until proven guilty."	Potentially violates Article 14 (Equality) and Article 21, as it places an onerous burden on the individual exercising their right.
<b>Third-Party Complaints</b>	Allows any person, even those unrelated to the individual converting (e.g., family members, or any person), to file an FIR.	Creates scope for harassment and malicious prosecution, especially against inter-faith couples and minority communities.
<b>Stringent Penalties</b>	Provisions for severe punishments, including extended imprisonment (up to 10 years in some	The severity of the punishment is questioned, especially when the

	cases), especially if the conversion involves a minor, woman, or a person from the SC/ST community.	"crime" itself is based on broad and subjective definitions.
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## Faith and freedom

The Supreme Court is hearing pleas that have raised questions on the right to faith, marriage and personal liberty in a democracy as State governments bring in strict legislation against unlawful religious conversion

- Some petitioners have opposed the validity of the anti-religious conversion laws across 10 States while others said that the laws work to prevent conversion through allurements, fraud and force
- Senior advocate C.U. Singh, representing an NGO, said that the States had enacted increasingly stringent laws that even make it possible for third parties to file criminal complaints against interfaith couples
- Additional Solicitor-General K.M. Nataraj, on behalf of some States, opposed the pleas for stay on the laws
- The court scheduled the case after six weeks to consider the question of stay after hearing from the States



## Federalism and Legislative Authority

**Legislative Competence** – Since religion-related matters are not explicitly mentioned in the Union, State, or Concurrent lists, states have enacted these laws primarily under the State List entry for "public order" or the Concurrent List entry for "criminal law."

**Uniformity vs. Diversity** – There is an ongoing debate on whether a single, uniform central law would be more appropriate for consistency or if diverse state-level laws, tailored to local social contexts, are a better approach to address

this sensitive issue.

## Impact on Individual Rights and Society

**Scrutiny of Inter-faith Marriages** – A primary focus of many of these laws is on inter-faith marriages that involve a conversion. They are often subjected to intense scrutiny, requiring couples to navigate complex bureaucratic procedures and face potential harassment from state authorities and vigilante groups.

**Right to Choose vs. State Interest** – The laws create a direct conflict between an individual's personal autonomy—the right to choose one's faith and life partner, protected under Article 21—and the state's declared interest in preventing forced conversions and maintaining social order.

**"Chilling Effect" on Religious Practices** – Critics argue that the broad and vague nature of these laws creates a "chilling effect," where even ordinary and legitimate religious activities like prayer meetings, charitable work, or discussions about faith could be viewed with suspicion and become grounds for criminal proceedings.

## The Supreme Court's Current Examination and Potential Outcomes

The Supreme Court is tasked with examining whether the contentious provisions of these state laws violate the fundamental rights to equality (Article 14), liberty (Article 19 & 21), and religion (Article 25). During a recent hearing, Chief Justice B.R. Gavai posed a crucial question – "Who determines if a conversion is 'deceitful'?" This question goes to the heart of the matter, highlighting the risk of arbitrary implementation. The court is likely to consider one of the following paths –

- Strike Down Specific Provisions** – The Court could find specific clauses—such as the reversal of the burden of proof or the provision for third-party complaints—to be unconstitutional and strike them down, while leaving the core of the laws intact.
- Uphold the Core Objective** – It might reaffirm the *Stanislaus* precedent, upholding the state's fundamental power to regulate conversions that are not voluntary.
- Issue Guiding Principles** – The Court could lay down a set of uniform guidelines for the implementation and interpretation of these laws across all states to prevent their misuse and protect individual liberties.

Source – <https://www.thehindu.com/news/national/supreme-court-seeks-reply-from-states-on-pleas-for-staying-anti-conversion-laws/article70056594.ece>