CHAPTER V
RIGHT TO PROFESS, PRACTICE AND PROPAGATE
RELIGION VIS-À-VIS CONVERSION

In a Secular State constitution provides guarantee to profess, practice and propagation of religion in respect of public order, morality and health. If all of the persons will be treated equally then they can establish congenial environment. The founding father of the Constitution Dr. B.R. Ambedkar gave into themselves, 'we the people of India', the fundamental rights and directive principles of state policy to establish an egalitarian social order for all sections of the society in the supreme law of the land,\(^1\) The principle of 'equality of religion', being an essential facet of egalitarianism, has, found a place in the Constitution of India Religious tolerance and equal treatment of all religious groups are essential parts of secularism. Indian Constitution has been built \textit{inter alia}, on such secular edifice. Though the term 'secularism' has not found expression in the original Constitution as adopted in 1950,\(^2\) the principles of secularism were embedded in various parts of our Constitution in particular, the preamble fundamental rights and directive principles of state policy. More particularly Articles 25, 26, 27 and 28 provide guarantee to various facets of right to freedom of religion with inbuilt restrictions and limitations thereof.

\(^{2}\) The term 'secular' was inserted to the Preamble of the Constitution by the Constitution (Forty-second Amendment) Act, 1976.
5.1 Freedom of Religion vis-a-vis Indian Constitution:

Every person should be free to adopt any religion as per his/her conscious. The Constitution of India is an embodiment of both passive as well as positive contents of secularism. It is passive in the sense that state neutrality in matters of religion is envisaged in the Constitution. India being a secular state preferred religion as such. An element of religious tolerance constitution implicit it. At the same time, India is not an irreligious state. It equally treats all religious groups, provides protection, freedom to practice, profess and propagate religion and to manage religious affairs etc. which are positive dimensions of secularism. So that every religion can flourish freely without impediments. These secular credentials of the Indian Constitution are explicit, mainly in Article 25, 26, 27 and 28 of the Constitution. For the purpose of convenience, the scope and ambit of these provisions can be discussed under different headings.

Freedom of conscience and free profession, practice and propagation of religion:

Article 25 of the Constitution of India deals with these core concepts of freedom of religion. It is the most basic of various other concomitant rights of religious freedom. It reads:

25. (1) Subject to public order morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.
(2) Nothing in this article shall affect the operation if 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 practices;

(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.

It has been extended as the wearing and carrying of *kirpans* shall be deemed to be included in the profession of the Sikh religion.³

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.⁴

Article 25 of the Constitution guarantees the right to every person, whether citizen or non-citizen, freedom of conscience and right to freely profess, practice and propagate religion. However, the Constitution has not granted these freedoms in absolute terms. They are made subject to: (i) Public order morality and health: (ii) Other provisions of Part III i.e. other fundamental rights (iii) any law whether existing or future providing for regulation or restrictions of an economic, financial political or other secular activity which may be associated with religious

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⁴. Explanation-II.
practice, and (iv) any law, whether exiting or future, providing for social welfare and reform.

It was after deep thought and great deliberations, in the Constituent Assembly that freedom of conscience and right freely to profess practice and propagate religion has been guaranteed in India subject, of course, to the limitations defined in the Constitution itself. It is pertinent to note, as it is evident from the debate in the Constituent Assembly, that the phrase ‘freedom of conscience’ and ‘right freely to profess and practice religion’ got incorporated the Constitution without much controversy. The incorporation of the word ‘propagate’ was the subject matter of great controversy over the entire debate on the ‘right to propagate religion’. While agreeing that the people should have the right to freely profess and practice religion he vehemently argued that religion is a private affair between oneself and his Creator. It has nothing to do with others. One should honestly profess and practice religion at home without demonstrating it for the sake of propagation. Propagation of religion, according to him, would become a nuisance to others. Thus, he moved an amendment for the deletion of the word ‘propagate’ from the draft constitution. The same view was endorsed by Mr. Lokanath Mishra, albeit for different reasons. He too had drastically opposed the idea of according the status of fundamental right to propagate

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5. The expression ‘propagate’ was not there in the Draft Report of the Fundamental Rights Sub-committee submitted on April 3, 1947 (see Select Documents II, 4(iv), pp. 140. ‘right to propagate religion’ was later incorporated into the Draft Constitution at the instance of the Minorities Sub-committee (See B. Shiv Rao’s, Framing of India’s constitution, at 261).

religion and thereby encouraging the same. However, many other members,\textsuperscript{8} \textit{per contra}, have opposed the amendment suggesting deletion of the word ‘propagates’ from the draft constitution. A common point made by some of them was that the right to propagate religion as formulated in the article was not absolute; it was circumscribed by certain conditions that the state would be free to impose in the interests of public orders morality and health. It had also been laid down that the exercise of the right should not conflict with the other provisions relating to fundamental rights. In particular, the article does not give an unlimited right of conversion for any attempts made to secure mass conversions through undue influence either by money or through pressure. In view of the safeguards, the inclusion of the word “propagate” could not possibly have any “dangerous implications”, especially under the secular set-up of the Constitution. There would be no particular advantage to a member of one community over another. T.T. Krishnamachari stressed the point that the right was not given to any particular community and could be exercised by everyone so long as the conditions laid down were respected. K. Santhanam and K.M. Munshi asserted that even if the word “propagates was not included in draft article 19, under the right to freedom of speech and expression guaranteed by draft article 13. It would still be open to a religious community to persuade other people to

\textsuperscript{7} \textit{Ibid.}, at 822-824.

\textsuperscript{8} Viz., Pandit Lakshmi Kanta Maitra, Mr. L. Krishnaswami Bharathi, Mr. K. Santhanam, Mr. Rohini Kumar Chaudhari, Mr. T.T. Krishnamachari and K.M. Munshi, (See C.A.D. Vol. VII, at 831-831.
join its faith. Further, K.M. Munshi finally submitted that
the compromise achieved by the Minority Committee led to
the insertion of the expression ‘propagate should not be
disturbed and the harmony and confidence should always
be maintained. Therefore, the expression ‘propagate' was
retained in the draft article 19, which was approved by the
Constituent Assembly on 6th December 1948. Latterly the
said article was remembered as Article 25 in the
Constitution.

For the better understanding of the scope and ambit of
Article 25, the religious freedom guaranteed therein may
conveniently be divided into two: (i) Right to freedom of
conscience; (ii) Right freely to profess, practice and
propagate religion. However, limitations on the said
freedoms are discussed under a different heading
altogether.

(i) **Freedom of Conscience:** Freedom of Conscience
envisages a freedom of an individual to hold or
consider a fact, viewpoint, or thought regardless
of anyone's view. To deny a person's freedom of
thought is considered as deny of one's basic
freedom. Since the whole concept of 'freedom of
conscience or thought' rests on the freedom of the
individual to believe whatever one thinks is best
freedom of belief, the notion of freedom of religion
is closely related and inextricably bound up with

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The freedom of conscience guaranteed under Article 25 intended to prevent any degree of compulsion in matter of belief. Everyone is entitled to believe or not to believe a particular tenet or to follow or not to follow a particular practice in matters of religion. No one can therefore be compelled against his own judgment. The Constitution has left every person free in the matter of his relation to his Creator, if he believes in one. It is, thus, clear that a person is left completely free to worship God according to the dictates of his conscience. So long as it does not come into conflict with any restraints, imposed by the State in the Interest of Public order. A person is not liable to answer for the verity of his religious views, and he cannot be questioned as to his religious belief by the State or by any other person. It is, however not implied that liberty of conscience is reckless freedom from moral obligation, but is it rather that responsibility of a free spirit which alone can recognize and meet a moral obligation. Our Constitution therefore guarantees that all persons are equally entitled to freedom of conscience, but this right is subject to public order, morality and to the other provisions contained in Part III.

Right to Freely to Profess, Practice and Propagate Religion:

Religion is a matter of faith with individuals or communities and it is not necessarily theistic. There are well known religions in India like Buddhism and Jainism, which do not believe in God or in any Intelligent First Cause. A religion undoubtedly has its basis in a system of beliefs or doctrines which are regarded by those who profess that religion as conducive to their spiritual well being. But it will not be correct to say that religion is nothing else doctrine or belief. A religion may not only lay down a code of ethical rules for its followers to accept, it might prescribe rituals and observances, ceremonies and modes of worship. Therefore, the guarantee under the Constitution of India not only protects the freedom of religious opinion but it protects also acts done in pursuance of a religious belief.\(^\text{13}\) The apex court while dealing with the scope of Article 25, in *Ratilal Panachand Gandhi v. State of Bombay*,\(^\text{14}\) has reiterated the wide amplitude of the provision and observed:

"... Subject to the restrictions which this Article imposes every person has a fundamental right under our Constitution Pot merely to entertain such religious belief as may be approved of by his judgment or conscience but to exhibit his belief and ideas in such overt acts as are enjoined or sanctioned by his religion and further to


\(^{14}\) AIR 1954 SC 388.
propagate his religious views for the edification of others”.

Thus, the Constitutional guarantee of freedom of religion in India is very wide, though not absolute. It includes freedom to profess, to acknowledge publicly and to follow a particular faith; to practice according to the belief and customs of religion including performances of ceremonies, rituals and observances which are regarded as integral parts of religion; Article 25 guarantees to entertain, exhibit and propagate and disseminate a religious and belief based on the person’s judgment and conscience. But whether a person propagates his personal views or the tenets of the religious institution or whether propagation takes place in a temple or in any other meeting is immaterial for the purpose of Article 25. The term ‘propagate’ has, however, been the subject matter of controversy as to whether it includes right to convert a person to ones own religion. The apex courts in Digyadarsan v. State of A.P., answered the issue negatively by holding that the right to propagate one’s religion means the right to communicate a persons beliefs to another person or to expose the tenets of that faith. But would not include the right to ‘convert’ another person to the formers faith. In Rev. Stainislaus v. State of Madhya Pradesh,

15. What really constitutes an essential or integral part of religion or religious practice has to be decided by the courts with reference to the doctrine of a particular religion or practices regarded as parts of religion (See N. Adidhyan v. Travancore Devaswam Board, (2002) 8 SCC 105; H.H. Srimad Perarulal Ethiraja Ramanuja Jeeryar Swami v. State of Tamil Nadu, AIR 1972 SC 1586). The right to worship, however, does not include any and every place of worship (See M. Ismail Faruqi (Dr.). v. Union of India, (1994) 6 SCC 360).
17. AIR 1970 SC 181 (188).
relying on dictionaries, the court has reiterated that: “what the Article grants is not the right to convert another person to one's own religion, but to transmit or spread one’s religion by an exposition of its tenets.”

Thus, the religious freedom is confined to religious beliefs, which binds spiritual nature of men to supernatural being. It includes worship, belief, faith devotion etc. and extends to rituals Religious right to the right of a person believing in a particular faith to practice it preach it and profess it.

**Phases of Freedom of Religion**: Development of religion is based upon the devotion of people. Religion has various ways as per the sentiments of people. As mentioned above, the Constitutional guarantee of freedom of religion is not just confined to freedom of conscience and to freely profess practice and propagate religion, it is very wider. Every religious denominations or any section thereof have been given the certain rights (a) to establish and maintain institutions for religious and charitable purposes; (b) to manage its own affairs in matters of religion; (c) to own and acquire movable and immovable property; and (d) to administer such property in accordance with law. These rights are subject to public order morality and health.

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19. The Court relied on the meaning of the expression 'propagate' given in Shorter Oxford Dictionary (i.e. to spread from person to person or from place to place, to disseminate, diffuse a statement, belief, practice, etc”) and Century Dictionary (which is an Encyclopedic Lexicon of the English Language) vol. VI (i.e. to transmit or spread from person to person or from place to place: carry forward or onward: diffuse; extend; as to propagate a report; to propagate the Christian religion”).


21. *Article 26*. 

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Further, Article 27 provides immunity from payment of taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination. These provisions, however, do not require elucidation in the context.

The restriction on providing religious instructions and freedom as to attendance at religious instruction or religious worship in certain educational institutions, envisaged under Article 28 appears to be pertinent to the context in view of the fact that it imposes constructive restriction on 'propagation of religious belief or tenets' in educational institutions. It is the constitutional imperative that no religious instructions shall be provided in any

22. The expression "religious instruction" has been narrowly construed by the apex court, in *D.A.V. College v. State of Punjab*, [(1971) 2 SCC 269 at 281], to mean "that which is imparted for inculcating the tenets, the rituals, the observances ceremonies and modes of worship of a particular sect or denomination". The definition has confined the meaning to the essential doctrines of religion and the necessary ceremonies associated with it and not to extend it to secular or cultural activities. Again, in *Aruna Roy (Ms.) v. Union of India* [2002] 7 SCC 368], the apex court has further reiterated the position by holding that: "Article 28 (1) conveys that teaching of customs, Ways of worships, practices or rituals cannot be allowed in educational institutions wholly maintained out of State funds. But, Article 28 (1) cannot be read as prohibiting study of different religions existing in India and outside India. If that prohibition is read with the words 'religious instructions a study of philosophy which is necessarily based on study of religions would be impermissible. That would amount to denying children a right to understand their own religion and religion of others, with whom they are living in India and with whom they may like to live and interact. Study of religions, therefore, is not prohibited by the Constitution and the Constitutional provisions should not be read so, otherwise the chances of spiritual growth of human being, which is considered to be the highest goal of human existence would be totally frustrated. Any interpretation of Article 28 (1), which negates the fundamental right of a child or a person to get education of different religions of the country and outside the century and of his own religion would be destructive of his fundamental right of receiving information, deriving knowledge and conducting his life on the basis of philosophy of his liking," (at Para 76).
educational institution wholly maintained out of State funds. Further, Clause (3) of Article 28 confers freedom as to attendance at religious instruction or religious worship in certain educational institutions. It clearly mandates that no person attending any educational institution recognized by the State or receiving aid out of the State funds shall be required to take part in any religious instruction. If such person is a minor his guardian has given his consent thereto.

The rationale for imposing a ban on providing religious instructions in educational institutions and utilization of public revenue for the purpose of imparting religious instructions is to ensure the religious neutrality of public institutions wholly maintained out of the public revenue. Similarly, the rationale for Clause (3) which confers freedom as to attendance at religious instruction or religious worship in educational institutions recognized by the State. Further any exercise of compulsion or undue influence would result in infringement of 'freedom of conscience.' It is the very essence of religious freedom. Unlike Clause (1) Clause (3) does not impose a blanket ban on providing religious instructions. It confers only freedom as to attendance at religious instruction or religious worships. In other words there is no prohibition on imparting religious beliefs or tenets or conducting rituals or ceremonies in institutions recognized by the State or receiving aid out of

23. Article 28 Clause (1). However, under Clause (2) an exception was made to the effect that the mandate of clause (1) shall not apply to educational institutions, which is administered by the State but has been established under endowment or trust which requires that religious instructions shall be imparted in such institutions.
the State funds, but such institutions shall not compel pupils to be a part of it. Students can attend such instructions or rituals or ceremonies out of their own will or, at the instance of their guardians in case of minors.

5.2 Limitations on the Freedom of Religion:

It is a great pleasure that constitution guarantees freedom of religion. But limitation should be executed maintaining freedom. No rights in an organized society can be absolutes. So the freedom of religion guaranteed, under the Indian Constitution is. ‘Freedom of conscience and right freely to profess, practice and propagate religion’ has been expressly made subject to: (i) Public order morality and health; (ii) Other fundamental rights (iii) any law, whether existing or future providing for regulation or restrictions of an economic financial, political or other secular activity which may be associated with religious practice, and (iv) any law, whether existing or future, providing for social welfare and reform. Some of these limitations require more elaboration in context of freedom of religion.

Criterion of Public Order, Morality and Health:

Both individual freedom, under article 25, and the freedom of religious denominations, under article 26, has been expressly made subject to public order, morality and health in the Indian Constitution. The expression "public order" is of wide connotation signifying a state of tranquility prevailing among the members of a political society as a result of the internal regulations enforced by the government instituted by them. It can be postulated that

public order’ is synonymous with public peace, safety and tranquility.\(^{25}\) It is the first and the most fundamental duty of every Government to preserve order, since order is the condition precedent to all civilization and advance human happiness.\(^{26}\) Having realized that it is in the interest of liberty itself, that it should be restricted, the framers of the Constitution have subordinated religious freedom to public order. Thus the freedom of conscience and right freely to profess practice and propagate religion and freedom to manage religious affairs can be curtailed either in the interest or for the maintenance of public order. Therefore it cannot be predicated that freedom of religion can have no hearing whatever on the maintenance of public order or that a law creating an offence relating to religion cannot under any circumstances, be said to have been enacted in the interest of public order.\(^{27}\) The expression ‘Public order’ here, refers to the disorder of more gravity than those affecting mere ‘law and order’\(^{28}\) However the difference between ‘law and order’ and ‘public order’ is one of degree and nothing else. At times, a mere problem of ‘law and order’ may become grave and cause ‘public disorder’. This has been

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28. The Apex Court, in Ram Manohar Lohia v. State of Bihar, (AIR 1966 SC 740), has distinguished between public order’ and ‘law and order’. The Court held the contravention of law always affects order but before it can be said to affect public order, it must affect the community or the public at large. The Court said, there are three concentric circles, ‘law and order’ represents the largest circle within which the next circle representing public order and the smallest circle represents security of state. Thus, an act may affect law and order but not public order just as an act may affect public order but not security of state.
clearly pointed out in the following observation of the apex court:

"A criminal act hitting a private target such as indecent assault of a woman or slapping a neighbor or knocking down a pedestrian while driving may not shake up public order. But a drunk with a drawn knife chasing a woman in a public street and all women running in panic, a Hindu or Muslim in a crowded place at a time of communal tension throwing a bomb at a personal enemy of the other religion and the people, all scared, fleeing the area, a striking worker armed with a dagger stabbing a blackleg during a bitter strike spreading terror — these are invasions of public order although the motivation may be against a particular private individual. The nature of the Act, the circumstances of its commission the impact on the people around and such like factor constitutes the pathology of public disorder. One cannot isolate the fact from its public setting or analyze its molecules as in a laboratory but take it total effect on the flow of orderly life. It may be a question of the degree and the quality of the activity of the sensitivity of the situation and the psychic response of the involved people."

The apex court in several cases, has upheld the curtailment of freedom of religion guaranteed under Articles 25 and 26 on the ground of 'public order'. In addition, public morality and health are the two other grounds to which freedom of religion is subjected under our Constitution. The expression 'public morality' is an abstract one that can only be described not exhaustively, on the basis of societal standards but difficult to define. However, it is the core moral order capable of transforming into public morality, which has a nexus with the state affairs which is the concern of the law and, therefore, to which religious freedom is subjected. *The commissioner of Police v. Acharya Jagadishwarananda Avadhuta* is the classical example where the apex court upheld the restriction on the ground of 'public order and morality'. In *Church of God (Full Gospel) in India v. K.K.R. Majestic Colony Welfare Association*, the apex court upheld the restrictions on use of loudspeaker for conducting religious prayers by holding that: "activities that disturb the peace in the name of religion cannot be permitted in a civilized society as rights are closely related to duties. The rights of babies, children, students, the aged and the mentally and physically infirm to be protected from noise pollution in the form of amplified broadcasts of prayers music or religious recitation are required to be honored. More so as regular exposure to

noise leads to many kind of medical problems, including high blood pressure deafness and mental stress”.

**Freedom of Religion and Other Fundamental Rights:**

The religious freedom guaranteed under Article 25 of the Constitution of India has been made Subject to all other fundamental rights envisaged in Part—III. By virtue of its subordination to all other fundamental right’s, in case of conflict between freedom of religion and any other fundamental right’s, the former should always give way to the latter. Thus, a person can exercise his religious freedom with the exercise of Fundamental Rights of others. Insertion of the expression “the other provisions of this part” in Article 25 is understandable when we find the particular rights which are taken care of in this article, namely, the right to freedom of conscience and the right freely to profess, practice and propagate religion. Bearing in mind the overlapping nature of the sensitive rights in Article 19 (1) (a) with reference to citizens and in Article 25 (1) with reference to all persons the founders of the Constitution left no room for doubt in expressly subjecting Article 25 (1) to the other provisions of Part — III. 33

Further, Article 25 (1) guarantees freedom of religion to every citizen and not to the followers of any one particular religion. A person can properly enjoy it if he exercises his right in a manner commensurate with the like freedom of persons following other religions. What is freedom for one is freedom for others, in equal measure.

Thus, in *Rev. Stainislaus v. State of Madhya Pradesh*, the apex court ruled that the fundamental right to propagate does not include right to convert another person to one’s own religion because if a person purposely undertakes to convert another person to his religion, as distinguished from his effort to transmit or spread the tenets of his religion that would impinge on the "freedom of conscience" guaranteed to all the citizens in the country alike.

**Social Activities Subject to Secular:**

Constitution gives us massage to promote harmony. Religion may be the good instrument to develop brotherhood. The term 'religion' has not been defined in the Constitution, and it is a term, which is not susceptible of any precise definition. No doubt, religion is a matter of faith. A relation, undoubtedly, has its basis in a system of beliefs and doctrines, which are regarded by those who profess that religion as conducive to their spiritual well being, but it is also something more than merely doctrine or belief. A religion, as aforesaid may not only lay down a code of ethical rules for its followers to accept but may also prescribe rituals and observances, ceremonies and modes of worship which are regarded as an integral part of that religion. Thus, the religious freedom guaranteed under Article 25, as its language amplifies, assures to every person subject to public order health and morality freedom not only to entertain his religious beliefs, as may be approved of by his judgment and conscience, but also to exhibit his belief in such outwardly act as he thinks proper.

34. Supra note.
and to propagate or disseminate his ideas for the edification of others.\textsuperscript{35} The protection under Article 25 extends for rituals and observances ceremonies and modes of worship which are integral pans of religion and so to what really constitutes an essential part of religion or religious practice has to be decided by the courts with reference to the doctrine of a particular religion or practices regarded as parts of religion.\textsuperscript{36} However, economic, financial, political or other secular activities associated with religious practices of any particular religion clearly falls outside the purview of the protective umbrella of Article 25 of the Constitution.\textsuperscript{37} That means purely secular activities, which may not be an essential and integral part of a religion, are not protected and can be abrogated by legislation subject to other Fundamental Rights. The management or administration of a temple,\textsuperscript{38} appointment of Priests or Poojaris to Hindu temples;\textsuperscript{39} rendering of religious service by archaks which is separate from performance of the religious service which is an integral part of the religion\textsuperscript{40} management administration

\textsuperscript{35} Sr Lakshmana Yatendrulu v. State of Andhra Pradesh, AIR 1996 SC 1418.
\textsuperscript{36} N. Adithyan v. Travancore Devaswom Board (2002) 8 SCC 106; Also see, Tailcoat Shri Govindlalji Maharaj v. State of Rajasthan, AIR 1963 SC 1638, where the apex court has held that: "In deciding the question as to whether a given religious practice is an integral part of the religion or not the test always would be whether it is regarded as such by the community following the religion or not. This question will always have to be decided by the Court and in doing so, the Court may have to enquire whether the practice in question is religious in character and if it is, whether it can be regarded as an integral or essential part of the religion and the finding of the Court on such an issue will always depend upon the evidence adduced before it as to the conscience of the community and the tenets of its religion."
\textsuperscript{37} Art. 25(2) (a).
and maintenance of Math, safeguarding interest and fulfillment of the objects of Math\textsuperscript{41} management of international cultural township of Auroville by Sri Aurobindo Society;\textsuperscript{42} etc. have been considered to be secular activities associated with religious practices.

Religion plays great role in the context of Social reform. Article 25 involves a separation between 'religious' activities on the one hand, and 'secular' and 'social' activities, on the other. While the former are protected the latter are not.\textsuperscript{43} Sub-clause (a) of Clause (2) of Article 25 reserves the right of the State to regulate or restrict any economic, financial political or other secular activities, which may be associated with religious practices and there is a further right given to the State by Sub-clause (b) under which the State can legislate for social welfare and reform even though by so doing it might interfere with religious practices.\textsuperscript{44} Social reform measures are always permissible under our constitutional scheme and would not be void on the ground of interfering with freedom of religion. Thus the Hindu Marriage Act, for instance, which introduces the principle of monogamy for the Hindus, is undoubtedly a law providing for social welfare and social reform.\textsuperscript{45}

However, by the phrase "laws providing for social welfare and reform" it was not intended to enable the legislature to "reform a religion out of existence or identity. Article 25 (2) (a) having provided for legislation dealing with

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\item \textsuperscript{41} Supra note 33.
\item \textsuperscript{42} S.P. Mittal v. Union of India, (1983) 1 SCC 51.
\item \textsuperscript{43} Krishna Singh v. Mathura Ahir, AIR 1980 SC 707.
\item \textsuperscript{44} Supra note. (Shirur Mutt case).
\item \textsuperscript{45} State of Bombay v. Narasu., AIR 1952 Bom. 84.
\end{itemize}
“economic financial, political or secular activity which may be associated with religious practices”. Just as the activities referred to in Article 25 (2) (a) are obviously not of the essence of the religion, similarly the saving in Article 25 (2) (b) is not intended to cover the basic essentials of the creed of a religion which is protected by Article 25 (1).46

Further by virtue of Article 25 (2) (b) the State can throw open Hindu religious institutions of a public character to all sections of the Hindus. Thus, when the vision of the founding fathers of the Constitution to liberate the society from blind and ritualistic adherence to mere traditional superstitious beliefs sans reason or rational basis has found expression in the form of Article 17, the protection under Article 25 extends to a guarantee for rituals and observances, ceremonies and modes of worship which are integral parts of religion.47

Thus, as a whole, the protective umbrella of Article 25 of the Constitution does not cover economic, financial, political or other secular activities associated with religion nor it prevents the State from bringing about social welfare and reform. And even the essential religious beliefs, convictions and practices, which may form an integral part of religion, are also subject to public order, morality and health.

5.3 ‘Right to conversion’ and Article 25 of Indian Constitution:

No man can say that this religion is greater than another. Instead of these a man does not easy to satisfy with his own religion. One of the most controversial substantial questions associated with freedom of religion for the last several decades in India is whether ‘right to freedom of conversion is concomitant of ‘right to freedom of religion’ envisaged in Article 25 of the Constitution.

Unlike some of the International Instruments,48 which expressly recognize freedom of conversion, there is no express provision referring to the ‘conversion’ in the Constitution of India. Yet the plain reading of Article 25 implies that the ‘freedom of conversion’ emerges from ‘freedom of conscience’. Article 25 of the Constitution guarantees subject to limitations right to freedom of conscience and right freely to profess, practice and propagate religion In our constitutional scheme ‘freedom of conscience’ is an edifice on which the consequential right to profess, practice and propagate religion has been built ‘Freedom of conversion’ emerges directly from ‘freedom of conscience’ and consequential ‘right to profess but not from ‘freedom to propagate’.

By ‘freedom to propagate’ one has a liberty within limits to transmit or spread one’s religion by exposition of its tenets or his own ideas and convictions. Such, an

48. See for example, Article 18 of UDHR: Article 18 of ICCPR, 1966. Right to Conversion, under these instruments, connotes individual right of a person to quite one religion and embrace another voluntarily. They do not envisage right of a person to convert another to one’s own religion.
exposition of religious tenets and ideas may sometimes lead
to conversion. But conversion as a matter of right does not
emerge from freedom to propagate. The reason is very clear
because no one is duty bound to convert oneself at the
instance of other person. Any compulsion to attend religious
instructions or to convert any person against his own
wishes violates, apart from other rights, freedom of
conscience itself which is the basis of freedom of religion.
Thus, no one can claim to have ‘right to convert other’ as a
necessary corollary of ‘freedom to propagate religion
Freedom of propagation should always be exercised in a
manner commensurate with the freedom of conscience of
persons following other religion. The Article 25 guarantees
freedom of religion to every person and not to the followers
of any one particular religion.

On the other hand if a person by exercise of his ‘free
conscience’ chooses to convert himself to some other
religious faith and starts professing it by openly
acknowledging it, the State cannot prevent him. To do so
would also amount to infringement of ‘freedom of
conscience' and ‘right freely to profess religion.

Thus, though Article 25 (1) of the Constitution of India
implies freedom of conversion from one religious faith to
another by exercise of free conscience or free will, the very
idea that the right to conversion emerges from freedom to
propagate religion is a misconceived one. Any attempt to
endorse would amount to giving privacy to the rights of one
religious group over the other which indeed is non-secular
and non-democratic. The Apex Court when confronted with
such a question, in *Rev. Stainislaus v. State of Madhya Pradesh*, 49 has observed:

“What Article 25 (1) grants is not the right to convert another person to one’s own religion by an exposition of its tenets. It has to be remembered that Article 25 (1) guarantees ‘freedom of conscience’ to every Citizen, and not merely to the followers of one particular religion, and that, in turn, postulates that there is no Fundamental Right to convert another person to one’s own religion because if a person purposely undertakes the conversion of another person to his religion, as distinguished from his effort to transmit or spread the tenets of his religion, that would impinge on the ‘freedom of conscience guaranteed to all the citizens of the country alike.” 50

5.4 Law Relating to Conversion in the State of Himachal Pradesh:

The legislative Assembly of Himachal Pradesh had on December 29, 2006 passed the Bill enacted the Act known as to provide for prohibition of conversion from one religion to another by the use of force, fraud or inducement.

**Section 3:** The above Act state that no person shall convert or attempt to convert, either directly or otherwise, any person from one religion to another by the use of force

49. AIR 1977 SC 908.
50. Ibid., para 19.
or by inducement or by any other fraudulent means nor
shall any person abet any such conversion.\textsuperscript{51}

Provided that any person who has been converted from
one religion to another, in contravention of the provisions of
this section shall be deemed not to have been converted.

The main provision of this section is also identical with
similar provisions in other legislations. However, the novel
feature of the section is that the \textit{proviso} declares that the
conversion made in contravention of the section shall be
demed not to have been taken place. There is no such
express provision to this effect in any of the legislations
discussed above. It is submitted that the provision to that
effect would not make the section unconstitutional.

\textbf{Provision as to conversion as per Act are :} (1) A
person intending to convert from one religion to another
shall give prior notice of at least thirty days to the District
Magistrate of the district concerned of his intention to do so
and the District Magistrate shall get the matter enquired
into by such agency as he may deem fit :

Provided that no notice shall be required if a person
reverts back to his original religion.

(2) Any person who fails to give prior notice, as
required under subsection (1), shall be punishable with fine,
which may extent to one thousand rupees.

Section 4 of the Act imposes an obligation on the
person intending to convert his religion to give at least one
month prior notice to the District Magistrate concerned.

\textsuperscript{51} Section 3 of Himachal Pradesh & Freedom of Religion Act.
However, such notice is not required to be given in case a person who wants to reconvert to his original religion.  

It appears that the regulatory mechanism has been made only for conversion to ensure that there is no force, fraud or allurement behind it and did proceed on the presumption that force, fraud or allurement would not be used for reconversion. No prior intimation needs to be given in case of reconversion to ensure that it is not done through force, fraud or allurement. Thus, the provision seems to be violative of Article 14 of the Constitution.

**Punishment of Contravention of the Provisions of Section 3.** Any person contravening the provisions contained in section shall, without prejudice to any civil liability, be punishable with imprisonment of either description which may extend to two years or with fine, which may extend to twenty five thousand rupees or with both:

Provided that in case the offence is committed in respect of a minor, a woman or a person belonging to Scheduled Castes or Scheduled Tribes, the punishment of imprisonment may extend to three years and fine may extend to fifty thousand rupees.

The provision is identical with similar provisions of other legislations. The quantum of punishments however appears to be on the higher side when compared to few other legislations.

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52. Sec. 4 of Himachal Pradesh Freedom of Religion Act.
An offence under this Act shall be cognizable and shall not be investigated by an officer below the rank of an Inspector of Police.54

The Act states that no prosecution for an offence under this Act shall be made without the sanction on the District Magistrate or such other authority, not below the rank of a Sub-Divisional Officer, as may be authorized by him in that behalf.55

**Power to make rules.**56 (1) The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislation Assembly, while it is in session for a total period of ten days, which may be comprised in one session or in two or more successive sessions, and if, before expiry of the session in which it is so laid or the successive sessions aforesaid, the Legislative Assembly agrees in making any modification in the rule or agrees that the rules should not be made, the rule shall, thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Section 6, 7 and 8 are identical with similar provisions in other legislations except that the Procedure laid down in

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54. Section 6.
55. Section 7.
56. Section 8.
Generally speaking, the tenor of the provisions of all the legislations is same; aim seems to be the same. The reason there for all the legislations is the same. Difference is reflected in the reach. Some states have shown more concern for the insulation of 'indigenous religion' or 'ancestor's religion, thus, conversion from these religions is made cumbersome whereas reconversion to them made easier. The expression 'inducement' and 'allurement' have been used interchangeably. Thus, interestingly and astonishingly these state laws present similarities in approach and workings apparently mutually borrowed.

5.5 Law Relating to Conversion in State of Gujarat: 57

The State of Gujarat had enacted the Gujarat Freedom of Religion Act, 2003 with a view, Inter alia, to maintain public order and to nip in the bud and attempts by certain subversive forces to create social tension.

No person shall convert or attempt to convert, either directly or otherwise, any person from one religion to another by use of force or by allurement or by any fraudulent means nor shall any person abet such conversion.

This provision is also identical with the similar provisions of other legislations discussed above both in form as well as in substance. 58

57. Act No. 22 of 2003. received the assent of Governor on April 7, 2003.
Punishment for contravention of provisions of Section 3: Whoever contravenes the provision of Section 3 shall, without prejudice to any civil liability, be punished with imprisonment for term, which may extend to three years and also be liable to a fine, which may extend to rupees fifty thousand.

Provided that whoever contravenes the provisions of section 3 in respect of a minor, a woman or a person belonging to the Scheduled Caste or Scheduled Tribe shall be punished with imprisonment for a term which may extend to four years and also he liable to a fine which may extend to rupees one lakh.

The provision is identical with the similar provisions of other State laws, as far as the form is concerned. The quantum of punishment prescribed under the Act is identical with the Tamil Nadu Act, which is now repealed. Though, the amount of punishment prescribed appears to be very high when compared to few other legislations, the provision cannot be said to be ultra vires.

Prior permission to be taken from District Magistrate with respect to conversion rules are: Whoever converts any person from one religion to another either by performing any ceremony by himself for such conversion as a religious priest or takes part directly or indirectly in such ceremony shall take prior permission for such proposed conversion from the District Magistrate concerned by applying in such form as may be prescribed by rules.

59. Section 4.
60. Section 5.
(2) The person who is converted shall send an intimation to the District Magistrate of the district concerned in which the ceremony has taken place of the fact of such conversion within such period and in such form as shall be prescribed by rules.

(3) Whoever fails, without sufficient cause, to comply with the provisions of subsections (1) and (2) shall be punished with imprisonment for a term, which may extend to one year or with fines which may extend to rupees one thousand or with both.

The regulatory mechanism prescribed in the section is somewhat different from the other legislations. Under Clause (1) it is specifically mandated that the ‘prior permission’ is required for a person who converts any person from one religion to another whereas under M.P. Act, the person who converts another is required to give prior intimations to the District Magistrate. Further in Arunachal Pradesh and Tamil Nadu legislations it is only subsequent intimation, which was contemplated. Thus no other legislations discussed above expressly require a prior permission as has been required under this Act.

Under Clause (2), the person who is converted is required to intimate the District Magistrate subsequent to such conversion ceremony. In Arunachal Pradesh and Tamil Nadu, no such intimation is required from the person converted whereas in M.P, prior declaration that he is converting out of his own will is made mandatory.

Clause (3) of the Act imposes a penalty for failure to comply with Clause (1) and (2) of Section 5.
It is submitted that though prior permission is required under the present legislation for converting any person from one religion to another, it cannot be said to be *ultra vires* the Constitution. Requirement of prior permission is not a prohibition on free conversion. Though the Act has not laid down any guidelines for the District Magistrate to issue such permission, it is implied that after satisfying himself that the conversion is not through force, fraud or allurement, the District Magistrate has to grant the required permission.

An important thing to be noticed is that, the Act has not prescribed any time limit within which such permission has to be granted after receipt of an application. It is desirable to prescribe the time limit to grant such permission.

No prosecution for an offence under this Act shall be instituted except by or with the previous sanction of the District Magistrate or such other authority not below the rank of a sub-Divisional Magistrate a may be authorized by him in that behalf.\textsuperscript{61}

5.6 Religion and its Impact on Indian Politics:

In a country of India, religion plays an important quintessential role in the day to day life and is a major influence over the Indian population and culture. Religion covers all aspect of the life of the Indian people. Religion also plays an important role in the politics of India. A political party's acknowledgment of a particular religion decides the support it gets. The main religions of India are

Hinduism and Islam and each religion has parties from whom support is given.

It plays effective and deciding role in politics that is based upon the sentiments of people. An excellent example of this negative action towards religions is the long standing conflict between Hindus and Muslims. Hindus have an extremely keen hatred for Muslims and vice versa. Many believe this is because the religions are not related in any way. The other religions of India are quite similar to that of Hinduism. In way Islam is completely unto itself.\(^{62}\)

The eighty-percent population of India that supports Hinduism does so because of the mix of traditions, usages and beliefs. The Hindu religion has no specific books of worship like Bible in the case of Christians. The Hindus have many religious books like the Rig-Veda, Upanishads, Ramayan, and Bhagwad Gita. There are multiple Gods in the Hindu religion ranging from gods, like Shiva and Vishnu, to plants and animals, to rivers, rocks and planets. Indian people keep faith in these religious sources.

In contrast to the Hindu population, India has the second largest population of Muslims in the world. Indonesia is the only nation where more people follow Islam than India. Initiated by Arabian merchants in the beginning of the eighth century the religion only caught on near the twelfth century. Differing from other religions such as Buddhism, Jainism, and Sikhism, Islam is not based upon Hinduism. Islam`s main beliefs are worldwide friendship and absolute belief in Allah, their only god.

\(^{62}\) Available at www.indianetzone.com/.../religion_pol..
Christianity is another dominant religion within the country of India. In 1544 Saint Francis Xavier made good efforts and brought Christianity to India. In the following years Portugal, Denmark, Holland, Germany, and Great Britain followed in Xavier`s footsteps and came to India to preach the benefits of Christianity. In the eighteenth and nineteenth centuries, Catholics and Protestants start to preach. The churches and preachers provided educational facilities.

Now a day there are approximately thirty million Christians living in India. The way in which the government of India is set up allows for a large amount of control by the political parties. Religion greatly affects these political parties. Often so much so, that what looks like a religious hate crime can be, in actual position, a complete political occurrence.

The governmental system of India sanctions for a lot of control by political parties, thus, there is heavy competition for power between parties. The government of India is based upon a constitutional nature not of the United States. India is a group of twenty-eight sovereign, secular, democratic states and seven Union Territories. A President, Vice-President, Council of Ministers, and a Prime Minister make up the executive branch. The country of India is in many facets similar to The United States of America.63

The political parties control these positions are divided into two categories, National and State parties. State parties are supported in majority in four or less states however. If

63. Ibid.
more than four states are there then the party becomes a National party with more influence and power in the government of India. The confrontations between parties are caused by the excessive power the parties have within the government. Hate-crimes amongst the three religions of India run rampant. However, only recently have any of these crimes been directed at Christians.

The impact of religion on Indian politics is staggering. The hatred for so many years put the country in political strife does not seem to be declining. The feelings between all three religions, especially Hinduism and Islam, are just as strong as ever. The structure of the Indian government sets up for the confrontations between the opposing political parties. These confrontations are the basis for power struggle within the Indian government as per the mandate of public.64

It has been administered that religion and politics should affect each other. Even a religion so otherworldly that its adherents turn away from politics is still affecting political interests. They are leaving a clear field for those who are actually supporting political goals. In addition, those who are politically engaged often make it difficult for the otherworldly to be neutral. For example, in time of war religious pacifists are likely to be subjected to some pressure to gain their cooperation. Usually, however, there is a more direct interaction between religion and political parties or interests.

64. Ibid.
It has been described that, political institutions are often sanctioned by religion. The emperor of China was sacred, and his officials had the prestige due to their religious learning. The ruling caste of India was sanctioned by Brahmanism. In Japan, until 1945, State of Shrine Shinto was a religious cult directly supporting the government. Emperor of that time was worshiped as a god, and among the spirits ritually honored were the spirits of men who had given their lives in war for Japan. The kings of France were supposed to rule by divine right. Even today the monarch of England enjoys some of the sacredness conferred by the divine-right theory. The prayer of the Archbishop of Canterbury at the coronation of George VI interwove royal and sacred symbols. He proclaimed that "O god, the crown of the faithful; bless . . . and sanctify this thy servant George our King . . . through the King eternal Jesus Christ our Lord. Amen."  

It is very clear, then, that in the cases mentioned people who believed in the religion were thereby to some extent committed to protect their government. But it is also true that the same religions to some extent required that the government should encourage the people, with in the territory. The emperor of China was responsible for flood and famine control and for protection of the boundaries: if he failed conspicuously in his duties, he was thought to have lost the "man date of heaven"; under certain circumstances, religion clarified revolution. In India, the Kshatriyas were religiously entitled to their positions, but

the same religion supported the caste system as a whole; therefore, religion also prohibited somewhat the freedom of action of the ruling caste. As we have observed, the Brahmias had a key position. For Louis XIV of France, religion could never justify confrontation, no matter how badly a king of France might treat his subjects. But religion did impose upon the king some duties toward God, and these duties affected the king's subjects. "Holding such dogmas as he did, Louis' conception of his duties towards his subjects was a perfectly logical one. He had inherited France, just as any other French gentlemen might inherit an estate; it was his property, always under God, and it was his duty to conduct himself as a virtuous and enlightened seigneur."66 In another way, just as religion sanctified the king, so in a measure it sanctified the rights of his subjects, or some of his subjects. Though an "absolute" monarch, Louis was actually committed to supporting an institutional system. Needless to say this system was more favorable to some of his subjects than to others.

The cases we have observed are examples of a relatively stable relationship between religion and political institutions. In the long time, however, social relationships are of course never static. A particularly striking example of how religion and politics may interact to produce a change in the religion itself is provided in the background of prerabbinical Judaism. According to myth, the Hebrew god Yahweh had made a covenant or agreement (berith) with Abraham, in which Yahweb promised prosperity to

Abrahman's descendants in Palestine if they worshiped him alone and persuaded his commandments. But in 722 B.C. Assyria conquered Israel and sent thousands into exile; in 609 the Egyptian pharaoh conquered the forces of the other Hebrew kingdom, Judah, at Megiddo; in 605 Judah came under the rule of Babylonia; and in 586 the Babylonians destroyed Jerusalem, with its temple.67

The occurred events were not forgettable. The little kingdoms hardly could survive against these mighty empires. But the impending events created a religious intolerance, for they had to be reconsidered with the great covenant. The Prophets (Amos, Hosea, Isaiah, Micah, Jeremiah, Ezekiel, the second Isaiah, and others), who were played actively between roughly 750 and 550, were concerned with a religious interpretation of the political situation. The prophetic movement in effect transformed Yahweh from the god of the Hebrews, one god among many gods in the universe, to the one universal God; for the Prophets took the line that the plight of the two Hebrew kingdoms was due to the failure of the kings (especially) to live up to the berith with Yahweh: instead of keeping to Yahweh, some of the kings had married foreigners with foreign gods, and depended on treaties to keep the kingdoms free. According to the views, Yahweh was in effect making use of mighty empires in order to punish the Hebrews for their failure to live up to the covenant. Yahweh had become the "universal" God. This religious change was

67. Ibid., at 454.
due, then, partly to the religious tradition itself and partly to the impact of international politics.\textsuperscript{68}

It was prevalent due to the internal political situation in the Israelite Kingdoms. The Prophets consideration inspired by God. But they were not occupants of institutionalized status-roles, and they were harming the royal power. Moreover, they frequently prophesied doom. Therefore, they were often physically attacked and prevented from addressing the people. However, the political authorities feared the Prophets because of their alleged magical powers. The "common" people listened to them with some sympathy (though not always), because the Prophets usually observed out some hope for the time after Yahweh's punishment, and also because the Prophets inveighed particularly against the kings, some of whom were resented on account of the magnificence and license of their courts, especially since the luxury was made possible by heavy taxes and forced labor. As per this consideration the Prophets were legitimated by their functional upholding of the Covenant and the Law. For this reason, they were not opposed by the Levites, the established interpreters of the Law. They were also supported by a few pious families prominence.

Therefore the Prophets were impressed by the political situation inside and outside the kingdoms. But it would not be ratified to say that politics was therefore responsible for the rise of monotheism. Being religiously motivated, the Prophets often made demands that were quite unrealistic.

\footnote{\textit{Ibid.}, at 455.}
and unsuitable from a political point of view. Political events were important, however, in making monotheism into something more than the conception of a few intellectuals, as it was, for example, in Greece. The disastrous political situation of the Israelites gave them all a deep interest in prophecy, just as it had created a religious obstacle for the Prophets themselves. Therefore, the Prophets were able to influence Judaism profoundly, and, through Judaism, Christianity and Islam.

Religion and Politics:

There are certain faces of religion that effect the Indian Politics as per situation.

Article 25 of Indian Constitution guarantees to all persons equally the freedom of conscience and the right freely to profess, practice, and propagate religion. Article 26 guarantees every religious denomination or any section thereof the right (a) to establish and maintain institutions for religions and charitable purposes, (b) to it manage its own affairs in matters of religion, (c) to own and acquire movable and immovable Property, and (d) to administer such property in accordance with law. But the freedom of religion of the individual as well of the group (religious denomination) is subject to public order, morality and health, and the freedom of the former is also subject to the other provisions of the Fundamental Rights. This is unique as no other article dealing with fundamental rights contains such a clause. Further, in respect of all other fundamental rights the limitations are stated after the narration of the

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substantive right, but in the case of the freedom of religion both Articles 25 and 26 begin with the words, “Subject to public order, morality and health.”

The significance of the words “Subject... to other provisions used in Article 25 should be clearly understood. Our history witness to this that the freedom of religion by the individual and the group can be so exercised as to encroach upon most of other fundamental rights, and “the general area of individual liberty could be perverted into an instrument for shrinking and destroying liberty though individual or collective action.”\(^7\) History of mankind is a witness to the fact that in the worst crimes had been committed in the name of religion, worst oppression and tyranny had been perpetrated, and, in the name of religion. All rights had been perverted and suppressed. In Article 25 the significance of the words, “all persons are equally entitled” to freedom of religion should also be understood it is not that “all persons are entitled to” freedom of religion but “all persons are equally entitled to freedom of religion. Thus, though the Indian state is neutral in matters of religion bat it is not neuter. It guarantees freedom of religion to all “equally” and it would not allow religion to become an engine of oppression and exploitation and to thwart the socio-economic programme of the State. Unlike the Constitution of the United States is to wail of separation between religion and state.\(^7\) In India a distinction has always been made between the temporal and secular aspect of religions. The former is a private purpose but the latter is

\(^7\) Paris Diwan, Freedom of Religion and Politics of Proselytization, p. 2.
not. Thus administration of property dedicated to public for religious purpose cannot escape regulation by State. Dedication of property for the construction of a dharmasala is a public purpose. Article 21 prohibits the compulsory raising of taxes in support of a religion but fees can validly be levied for the proper management of religious institution.

The freedom of religion guaranteed under Articles 25 and 26 has the following Implications:

A. From the point of view of individual, freedom of religion or conscience finds it manifestation in
   (i) The right freely to profess and practice his religion, and
   (ii) The right to propagate his religion.

B. From the point of view of the denomination, or any section thereof it finds its manifestation in:
   (a) The right to establish and maintain institutions for its religious and charitable purposes;
   (b) The right to manage its own affairs in matter of religion;
   (c) The right to own and acquire movable and immovable property, and
   (d) The right to administer such property in accordance with law.

C. The freedom of religion of the individual as well as of the denomination is subject to regulation by the state in the interest of public order, morality and health.

Interaction between Religion and Politics:

Protestant Reformation is the good example of interaction between religion and politics. As the name
implies, the Reformation arose partly from dissatisfaction with the worldliness of the Catholic Church of the time, but it was also supported by territorial princes who wished to shake off the political power of the papacy. Religious interest, political ambition, and nationalism combined to make the Reformation possible. Numerous national churches and other religious groups testify to the impact of politics on religion. In real manner some of the creeds, such as the Westminster Confession (Anglican) and the Augsburg Confession (Lutheran), were composed partly with the "help" of political leaders.  

The relation between religion and politics explains the "dilemma of the church," to which we have previously referred. This dilemma can become most severe for a state ecclesia-particularly, perhaps, for one in which priests play a prominent role in the secular affairs of government. If a political tenure becomes unpopular and it is associated in people's sentiments with the state church like as —an association that must be all but uncommon due to role of opposition to the regime may be expressed in anticlericalism, with or without the formation of sects or new religious activities. The Catholic Church in France was so closely associated with the ancient regime that the French Revolution was almost as much contradictory to the Church as it was to the monarchy. Voltaire used to end his letters with the words "Crush the infamous thing!" By the time a revolutionary situation has developed in a country with a state church, the church is so much involved with

72. Niebuhr, 1929, Chap. 5.
the status quo liked as property owner, as controller of the educational system, as possessor of special rights in the courts and special immunities such as tax exemption and exemption from military service—that the revolution would be futile if the church were to be untouched. The upper clergy, at least, are certain to be among the chief supporters of the existing regime. To attack the regime, the revolutionaries must attack the clergy.\footnote{Ibid., at 456.}

5.7 Relation between Church and State:

State and Church maintain relation as per modesty. But they have their own existence. "Separation of church and state," such as we have (imperfectly) in the United States, frees religious groups to some extent from the ownership as well as the help of government. "Separation" does not mean that religion and politics do not interact. We have only to think of the "dilemma of the church" as it is faced by denominations.

As well as concerned the "separation of church and state" is institutionalized, as in the United States, the development of the Roman Catholic Church tends to be regarded as a threat to the institutional order. In France, where separation of church and state was achieved only in 1905, anticlericalism was still one of the positive attitudes of the Radical Socialist Party all during the existence of the Third Republic. This ingrained attitude of distrust was due to the fact that most of the Church hierarchy in France had for a long time been royalist and had refused to accept the republican form of government. After World War-II, the
Catholic party tried to control of the schools and re-establish Church.

In the United States, anti-Catholicism was not at first the same thing as anti-clericalism. It was partly the prejudice of a predominantly Protestant country, and it was re-inforced by the supposed cultural inferiority of the Catholic immigrants from Ireland, Italy, Poland, and other places. With the passing of time, however, these late Catholic immigrants have of course been Americanized related to economically and religiously, environment.

At that time the most important religious issue or series of issues that has arisen in American politics has maintained relation between the government and religious schools. The Supreme Court observed in 1930 that the State of Louisiana had not violated the Constitution when it passed a law "directing the State Board of Education to provide 'school books for schoolchildren free of cost" whether they were in public schools or in private religious schools. In was observed that the State of New Jersey had not violated the Constitution when it passed a law "authorizing local school districts to provide children with free transportation to and from all nonprofit schools." The Court was probably no more divided on this issue than the American people. The issue is so controversial that one can say hardly anything without seeming to be partisan. It is so important that one can be anything but partisan. Although there is certainly still prejudice in the United States, of Protestant against Catholic and Catholic against Protestant,

one's stand on the school issue does not necessarily rest on prejudice in the usual sense. Prejudice usually implies an underlying distortion of facts without the attitude entangle would be substantially different. But one thing might endorse the Louisiana or New Jersey Law or deplore it without necessarily distorting facts very much. There are certain comments on this theory.\textsuperscript{75}

1. The controversial constitutional amendment shall make respecting an establishment of religion, or prohibiting the free exercise thereof.

2. Framers of the amendment are not the most important question from a sociological point of view. The Supreme Court has reversed itself on less ambiguous parts of the Constitution. Moreover, it is possible, within the law, to change the Constitution.

3. It is unlikely that proponents of state aid to religious schools will stop with the Louisiana and New Jersey laws.

4. If a trend is established, it could result in a profound change in our society. In 1952 there were 8358 Roman Catholic elementary parochial schools in the United States, as against about 3000 Protestant church affiliated nursery, kindergarten, and elementary schools. The Catholic elementary schools had 2,692,706 pupils, the Protestant, about 187,000.\textsuperscript{76} Except for higher education, most of the Jewish religious schools are supplementary to the public schools; these afternoon classes are growing

\textsuperscript{75} Ibid., at 458-59.

in number and importance.\textsuperscript{77} If the trend of more religious schools continues, the society will inevitably be more divided. Perhaps the greatest danger is that the non–Catholic part of population might out of fear overreact to the expansion of Catholic education and the tendency to depart even further from the ideal of separation of church and state.

As per the nature of secularism, it is free from restrictions and limitations. But there are various religions who appose the conversion of religion. But to get the circumstantial benefits political parties supports indirectly to get more benefit in election. In any way religion effects politics on ground of race, caste, creed, region. The domain religion tries to impress other religion whose followers are minority community. According to the present scenario person converts their religion to get social, economic and political benefit. Even that as per the nature of secularism it is not justified, but according to the sense of equality it is not a coercion of another religion.

\textsuperscript{77} "Religious Education" In the latest Britannica Book of the Year