



Himachal Pradesh Freedom of Religion (Amendment) Bill-2022

For Prelims: States that have passed anti conversion laws, Constitutional provisions on freedom of religion, Article 21 of the Constitution.

For Mains: Haryana Prevention of Unlawful Conversion of Religious Bill, 2022, Anti-conversions laws and associated issues, Related Supreme Court judgements.

Why in News?

Recently, the Himachal Pradesh government has proposed the **Himachal Pradesh Freedom of Religion (Amendment) bill 2022**, seeking to **criminalise mass religious conversions**.

- The Bill amends Himachal Pradesh Freedom of Religion Act-2019, which was enacted **with a view to provide freedom of religion by prohibition of conversion from one religion to another**.

Why is the Proposed Amendment?

- Himachal Pradesh Freedom of Religion Act-2019 prohibits conversion from one religion to another by **misrepresentation, force, undue influence, coercion, inducement or any other fraudulent means** or by marriage and for matters connected there with.
- However, there is **no provision to curb mass conversion**.

What are the Key Provisions of the Bill?

- It defines mass conversion as conversion of two or more persons at the same time.
- The maximum sentence has been proposed **to be extended to maximum 10 years and increase the amount of fine**, if a person contravenes the provisions of Section 3 in respect of mass conversion.
 - **Section 3 of the Freedom Act** states that **no person shall convert or attempt to convert**, either directly or otherwise, any other person from one religion to another **by use of misrepresentation, force, undue influence, coercion, inducement or by any fraudulent means or by marriage**.
- Complaints received should be **investigated or inquired into by a police officer not below the rank of sub-inspector**.
- The offences punishable under the Act **would be triable by the sessions court**.
- If a person marries someone by concealing his religion in such a manner that other person believes that his religion is truly the one professed by him **shall be punished with minimum imprisonment of not less than three years** and maximum imprisonment of 10 years.

What is Religious Conversion?

- Religious conversion is the adoption of a set of beliefs identified with one particular religious

denomination to the exclusion of others.

- Thus "religious conversion" would **describe the abandoning of adherence to one denomination and affiliating with another.**
 - **For example**, Christian Baptist to Methodist or Catholic, Muslim Shi'a to Sunni.
- In some cases, religious conversion "**marks a transformation of religious identity and is symbolized by special rituals**".

What is the Need for Anti-Conversion Laws?

- **No Right to Proselytize:**
 - The Constitution confers on **each individual the fundamental right to profess, practice and propagate** his religion.
 - Proselytizing is the **act of trying to convert another individual from the convertee's religion** to the converter's religion.
 - The individual right to freedom of conscience and religion **cannot be extended to construe a collective right to proselytize.**
 - For the right to religious freedom belongs equally to the person converting and the individual sought to be converted.
- **Fraudulent Marriages:**
 - In the recent past, several instances have come to the notice that **whereby people marry persons of other religion by either misrepresentation or concealment** of their own religion and after getting married they force such other person to convert to their own religion.
- **SC Observations:**
 - Recently, the Supreme Court took judicial notice of instances of **people marrying by either misrepresentation or concealment** of their own religion.
 - According to the court, such incidents not only infringe the freedom of religion of the persons so converted but also **militate against the secular fabric of our society.**

What is the Status of Anti-Conversion Laws in India?

- **Constitutional Provision:**
 - The Indian Constitution **under Article 25 guarantees the freedom to profess, propagate, and practice religion**, and allows all religious sections to manage their own affairs in matters of religion; subject to public order, morality, and health.
 - However, **no person shall force their religious beliefs and consequently, no person should be forced to practice any religion** against their wishes.
- **Existing Laws:**
 - There has been **no central legislation restricting or regulating religious conversions.**
 - However, since 1954, on multiple occasions, **Private Member Bills** have been introduced in (but never approved by) Parliament, to regulate religious conversions.
 - Further, in 2015, the Union Law Ministry stated that **Parliament does not have the legislative competence to pass anti-conversion legislation.**
 - Over the years, several states have **enacted 'Freedom of Religion' legislation to restrict religious conversions** carried out by force, fraud, or inducements.

What are the Issues Associated with Anti-Conversion Laws?

- **Uncertain and Vague Terminology:**
 - The uncertain and vague terminology like **misrepresentation, force, fraud, allurement presents a serious avenue for misuse.**
 - These terms **leave room for ambiguities or are too broad**, extending to subjects far beyond the protection of religious freedom.
- **Antithetical to Minorities:**
 - Another issue is that the **present anti-conversion laws focus more on the prohibition of conversion** to achieve religious freedom.
 - However, the **broad language used by the prohibitive legislation might be used by**

officials to oppress and discriminate against minorities.

▪ **Antithetical to Secularism:**

- These laws **may pose a threat to the secular fabric of India** and the international perception of our society's intrinsic values and legal system.

What are Supreme Court Judgements on Marriage and Conversion?

▪ **Hadiya Judgement 2017:**

- Matters of dress and of food, of ideas and ideologies, of love and partnership are within the central aspects of identity.
- Neither the State nor the law can dictate a choice of partners or limit the free ability of every person to decide on these matters.
- The principle that the right to marry a person of one's choice is integral to **Article 21**.

▪ **K.S. Puttaswamy or 'privacy' Judgment 2017:**

- The autonomy of the individual was the ability to make decisions in vital matters of concern to life.

▪ **Other Judgements:**

- The SC in its various judgments, has held that faith, the state and the courts have no jurisdiction over an adult's absolute right to choose a life partner.
- India is a **"free and democratic country"** and any interference by the State in an adult's right to love and marry has a "chilling effect" on freedoms.
- Intimacies of marriage lie within **a core zone of privacy**, which is inviolable and the choice of a life partner, whether by marriage or outside it, is part of an individual's "personhood and identity".
- The absolute right of an individual to choose a life partner is not in the least affected by matters of faith.

Way Forward

- The governments implementing such laws need to ensure that **these do not curb one's Fundamental Rights** or hamper the national integration instead, these laws need to strike a balance between freedoms and malafide conversions.

UPSC Civil Services Examination Previous Year Question (PYQ)

Prelims

Q. Right to Privacy is protected as an intrinsic part of Right to Life and Personal Liberty. Which of the following in the Constitution of India correctly and appropriately imply the above statement? (2018)

- (a) Article 14 and the provisions under the 42nd Amendment to the Constitution.
- (b) Article 17 and the Directive Principles of State Policy in Part IV.
- (c) Article 21 and the freedoms guaranteed in Part III.
- (d) Article 24 and the provisions under the 44th Amendment to the Constitution.

Ans: (c)

Exp:

- In 2017, a nine-judge bench of the Supreme Court (SC) in its verdict in Justice K.S. Puttaswamy v. Union of India case unanimously affirmed that the Right to Privacy is a Fundamental Right under the Indian Constitution.
- The SC bench held that **the privacy is a Fundamental Right** as it is intrinsic to guarantee of life and personal liberty as provided **under Article 21 of the Constitution**.
- The bench also stated that the elements of privacy also arise in varying contexts from the other facets of freedom and dignity recognised and guaranteed by the Fundamental Rights contained in Part III of the Constitution.

▪ Therefore, option (c) is the correct answer.

Mains

Q. How the Indian concept of secularism is different from the western model of secularism? Discuss. (2018)

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