



Interpreting the Places of Worship Act, 1991

For Prelims: [Archaeological Survey of India](#), [Judicial review](#), [Secularism](#)

For Mains: The Places of Worship (Special Provisions) Act, 1991, Related Provisions, Role of the Judiciary in Protecting Secularism

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Why in News?

The [Places of Worship \(Special Provisions\) Act, 1991](#), which preserves the religious character of places of worship, remains contentious amid ongoing legal challenges.

- The **Shahi Jama Masjid dispute in Sambhal, Uttar Pradesh** has reignited debates over the Act's applicability.

What is the Shahi Jama Masjid Dispute?

- **Background of the Dispute:** Petitioners claim the 16th Century Jama Masjid in Sambhal was built on the **site of an ancient Hari Har Mandir (Hindu temple)**.
 - Constructed around 1528 by **Mir Hindu Beg, a general under Mughal Emperor Babur**, the mosque features **distinct stone masonry** with a dome and arches, differing from other Mughal mosques made of **red sandstone**.
 - Its history and architecture have led to speculation about ties to earlier structures, including a possible Hindu temple.
 - This mirrors similar disputes in **Varanasi, Mathura, and Dhar**. Petitioners have sought a survey to determine the site's historical and religious character.
- **Judiciary Involvement:** A Sambhal district court ordered a peaceful survey to verify the claims. However, a second survey resulted in violent clashes.
- **Legal Status of the Mosque:** The Shahi Jama Masjid is a protected monument under the [Ancient Monuments Preservation Act, 1904](#). It is listed by the [Archaeological Survey of India \(ASI\)](#) as a Monument of **National Importance**.
- **Shahi Jama Masjid and Places of Worship Act, 1991:** The Places of Worship (Special Provisions) Act, 1991, is at the center of this dispute.
 - The Act stipulates that the religious character of places of worship as they existed on **15th August 1947, must be preserved, and prohibits** any changes to the religious identity of such places.
 - The Shahi Jama Masjid dispute challenges the Act's provisions by seeking to alter the mosque's religious character.

What is the Places of Worship (Special Provisions) Act, 1991?

- **About:** The Places of Worship (Special Provisions) Act, 1991, aims to preserve the religious status of places of worship, preventing conversions between **different religious denominations or**

within the same denomination.

- The Act seeks to **maintain communal harmony** by freezing the religious character of these places and preventing disputes over such conversions.

▪ **Key Provisions of the Act**

- **Section 3:** Prohibits the conversion of any place of worship, **either in full or in part**, from one religious denomination to another.
- **Section 4(1):** Mandates that the religious identity of a place of worship must remain unchanged from its status on **15th August 1947**. Any attempt to alter the religious character is prohibited.
- **Section 4(2):** Terminates all ongoing legal proceedings concerning the conversion of a place of worship's religious character prior to **15th August 1947**, and prevents the initiation of new cases challenging the religious status of such places.
- **Section 5 (Exceptions):** The specific dispute at [Ayodhya \(Babri Masjid-Ram Janmabhoomi\)](#), which was exempted from the Act.
 - Besides the Ayodhya dispute, the Act also exempted: Any place of worship which is an ancient and historical monument, or an archaeological site covered by the [Ancient Monuments and Archaeological Sites and Remains Act, 1958](#).
 - Cases that have already been resolved or settled by mutual agreement.
 - Conversions that occurred before the Act's commencement.
- **Section 6 (Penalties):** The Act establishes strict penalties for violations, including imprisonment of up to three years and fines for attempting to change the religious character of a place of worship.

- **Supreme Court's Interpretation:** In May 2022, the Supreme Court **noted that inquiries can be allowed into the religious character of places of worship**, as long as such inquiries don't lead to a change in the religious character.

What are the Concerns Regarding the Places of Worship Act, 1991?

- **Limits Judicial Review:** The Act has been challenged for **limiting [judicial review](#)**, potentially undermining the role of the judiciary in resolving disputes.
- **Retrospective Cutoff Date:** The Act's retrospective cutoff date of 15th August 1947, has been criticized as **arbitrary and irrational**, potentially infringing upon the rights of certain religious communities.
- **Legal Challenges:** Multiple petitions have been filed against the Act, with petitioners arguing that it prevents **Hindus, Jains, Buddhists, and Sikhs** from reclaiming places of worship they **believe were "invaded" or "encroached upon" by historical rulers**.
- **Exemption for Certain Disputes:** The exemption of the **Ram Janmabhoomi-Babri Masjid case** from the Act has raised concerns about inconsistency and the potential for **selective legal treatment of certain disputes**.
- **Rising Communal Tensions:** The legal and social debates surrounding the Act are often intertwined with broader **communal issues**.
 - Critics argue that challenges to the **Act may exacerbate communal tensions**, particularly when it comes to **sensitive sites like mosques, temples, and churches**.
- **Impact on Secularism:** The Act was intended to **protect India's secular nature by preserving religious harmony**, but its critics believe that it may inadvertently allow for the **suppression of certain religious communities' claims** to historical sites, thus undermining the [secular fabric of the nation](#).
- **Political and Social Implications:** The Act is often invoked in political and religious debates, leading to concerns that religious issues could be used to **stoke division or mobilize support for political causes**.
 - Some of the ongoing disputes have led to social unrest, with protests and communal tensions erupting over religious site claims, reflecting the deep societal divide over such issues.

Way Forward

- **Need for Legal Clarity:** With varying interpretations of the Act's provisions, there is a pressing need for the Supreme Court to provide clear and definitive guidelines on the applicability of the

Places of Worship Act.

- **Preventing Local Court Overreach:** The increasing frequency of local court interventions in sensitive religious matters calls for a closer examination of the jurisdictional limits of lower courts.
 - The Supreme Court should assert its role in overseeing cases that may have wider social or political implications.
- **De-politicizing Legal Cases:** Legal challenges on religious sites should remain free from **political influence to prevent misuse** for ideological or electoral purposes, ensuring the judiciary's credibility and the sanctity of religious institutions.
- **Focusing on Unity:** Both political parties and civil society must prioritize unity over division. It is essential to emphasize the shared cultural and historical heritage that binds India together, irrespective of religion.

Drishti Mains Question:

Assess the role of the judiciary in resolving disputes related to religious sites, particularly in light of the recent challenges to the Places of Worship Act.

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