

Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance, 2020

The Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance, 2020 or informally known as Love Jihad Laws are in the news recently. This is an important part of current affairs especially from the point of view of UPSC polity. In this article you can read all about the UP Love Jihad laws and the associated concerns for the [UPSC exam](#).

UP Prohibition of Unlawful Conversion of Religion Ordinance, 2020

The Governor of Uttar Pradesh has promulgated the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance, 2020.

What is Conversion?

- The Ordinance defines conversion as renouncing one's existing religion and adopting another religion.

Details

The Ordinance seeks to regulate religious conversions and prohibits certain types of religious conversions (including through marriages).

Prohibition on conversions:

The Ordinance prohibits conversion of religion through means, such as: (i) force, misrepresentation, undue influence, and allurement, or (ii) fraud, or (iii) marriage.

It also prohibits a person from abetting, convincing, and conspiring to such conversions.

The Ordinance assigns the **burden of proof of the lawfulness of religious conversion** to the persons causing or facilitating such conversions.

However, a person reconverts to his/her immediate previous religion is allowed.

Marriages involving religious conversion:

Under the Ordinance, a marriage is liable to be declared void if it was done for the sole purpose of unlawful conversion, or vice-versa.

However, a marriage involving religious conversion is permitted if the conversion is undergone as per the procedure laid down under the Ordinance.

Procedure for conversion:

The Ordinance requires individuals (seeking to convert) and religious converters (who perform such conversions) to submit an advance declaration of the proposed religious conversion to the District Magistrate (DM).

The declarations have to be given with a notice of:

- 60 days by the individual,
- one month by the convertor.

On receiving both the declarations, the DM is required to conduct a police enquiry into the intention, purpose, and cause of the proposed conversion.

Punishment for unlawful conversions

The Ordinance provides for punishment for causing or facilitating unlawful religious conversion. It also makes such an act of conversion a non-bailable criminal offence.

States that have anti-conversion laws

- The first state to implement it was Odisha in 1967.
- This was followed by Madhya Pradesh in 1968.
- The other states which have this law are Arunachal Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand and Uttarakhand.

Supreme Court on Conversions

- While upholding the validity of the **Freedom of Religion Acts of Madhya Pradesh and Odisha, in Stanislaus (1977)**, the Supreme Court had held that the “right to propagate” a religion did not include the “right to convert”.
 - The Supreme Court said that the act of religious proselytisation is not protected by [Article 25](#) of the Constitution
- The Supreme Court of India, in both the **Lily Thomas and Sarla Mudgal cases**, has confirmed that religious conversions **carried out without a bona fide belief and for the sole purpose of deriving some legal benefit do not hold water**.
 - Those cases concerned religious conversions by Hindu men to Islam in order to conclude bigamous marriages.
 - This approach has also been confirmed by the high courts of other states.

Observations made by Courts in India on Marriage

- In the Hadiya case, the Supreme Court ruled:
 - “The right to marry a person of one’s choice is integral to [Article 21](#) (right to life and liberty) of the Constitution”.
 - “The choice of a partner whether within or outside marriage lies within the exclusive domain of each individual. Intimacies of marriage lie within a core zone of privacy, which is inviolable”.
 - The Supreme Court held that a person’s right to choose a religion and marry is an intrinsic part of her meaningful existence. Neither the State nor “patriarchal supremacy” can interfere in her decision.

- Allahabad High Court has said the right to live with a person of one's choice is intrinsic to the right to life and personal liberty irrespective of religion.
 - “The Courts and the Constitutional Courts in particular are enjoined to uphold the life and liberty of an individual guaranteed under Article 21 of the Constitution of India. Right to live with a person of his/her choice irrespective of religion professed by them, is intrinsic to right to life and personal liberty. Interference in a personal relationship, would constitute a serious encroachment into the right to freedom of choice of the two individuals”.

Why do we need such a law?

- The ordinance lays down a procedure to ensure that any conversion from one religion to another is only done with free consent. The procedure is enforced to prevent conversions by unfair means.
- It is not against a community or a religion as nowhere in the ordinance, comprising 14 sections and three schedules, the terms 'Hindu', 'Muslim', 'Christian' or 'Parsi' or 'religious majority' or 'minority' are used. It is equally applicable to everyone irrespective of their religion or gender.
- The law would apply to people of all religions equally and would ban any kind of religious conversions for marriage.

For important [Supreme Court judgements](#), click the linked article.

Concerns

1. **The procedure which was adopted to enact the legislation**
 - Article 213 (1) of the Constitution of India
 - It provides: “If at any time, except when the Legislative Assembly of a State is in session, or where there is a **Legislative Council** in a State, except when both Houses of the Legislature are in session, the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require: ...”
2. Conspicuously, the situation of conversion for the purpose of marriage (and vice versa), is not something that has come to light suddenly, or for that matter even as serious.
 - **If one fraudulent or coercive inter-faith marriage** is taking place, the police can certainly prevent it, as they supposedly do in child marriages. An ordinance is not required for it.
 - However, if **more than one such fraudulent or coercive inter-faith marriage is expected to take place**, the State government would have information about mass conversions for the purpose of marriage.
 - In the normal course, it is unlikely that these **mass conversions would be in secret and almost simultaneous**. Surely, these can also be prevented by an alert police force by invoking existing legal provisions.
 - With laws already present and if conversions were prevalent from a long time, what was the need for passing an ordinance all of a sudden?
3. **Infringes the Right to Privacy**
 - Through numerous decisions, the Courts have recognised and upheld the sanctity of personal space which includes the decisions with respect to marriage and family life.
 - Right to choose a partner irrespective of caste, creed or religion, is inherited under the right to life and personal liberty, an integral part of the Fundamental Right under Article 21 of the Constitution of India (**Salamat Ansari v State of UP**).

- In the case of **Lata Singh v State of U.P**, the Supreme Court has very clearly laid down the law regarding inter-faith and inter-religious marriages, and has held thus-
 - "This is a free and democratic country, and once a person becomes a major he or she can marry whosoever he/she likes. If the parents of the boy or girl do not approve of such inter-caste or inter-religious marriage the maximum they can do is that they can cut-off social relations with the son or the daughter, but they cannot give threats or commit or instigate acts of violence and cannot harass the person who undergoes such inter-caste or inter-religious marriage."
- 4. **There is no data produced by the state government on any harm from inter-faith marriages**
- 5. **It treats women as property**
 - It infantilises women and perceives them as lacking any agency, as if they are property that needs to be recovered.
 - It assumes that women have no independent thinking and cannot make decisions with respect to marriage and choice of religion.
- 6. **The ordinance is prone to abuse and consequences — of intimidation, bullying and arbitrary arrests**
 - It vilifies all inter-faith marriages and places unreasonable obstacles on consenting adults in exercising their personal choice of a partner, mocks the right to privacy and violates the right to life, liberty and dignity.

Conclusion

The Supreme Court has now agreed to hear petitions challenging the constitutional validity of the laws passed against unlawful religious conversions.