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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

CHALLENGING ANTI-CONVERSION LAWS: PROTECTING PRIVACY RIGHTS AND SAFEGUARDING INDIVIDUAL FREEDOM

AUTHORED BY - ADITYA KUMAR & GULSHAN KUMAR

INTRODUCTION

The United State Commission on International Religious Freedom (USCIRF)¹ in its 2023 report, December, raised an alarm on the religious freedom conditions in India were taking a drastic turn downward, “with national and various state governments tolerating widespread harassment and violence against religious minorities,”² particularly Muslims. One area of this report in which India faces significant criticism is its anti-conversion laws, commonly referred to as "love jihad" laws. Anti-conversion laws are those laws enacted to prevent unlawful conversions through force, misrepresentation, coercion, or other fraudulent means, or conversion for marriage.³ The BJP government has consistently highlighted the issue of mass religious conversions as a significant problem. In 2006, Shri L.K. Advani issued a statement declaring, "We'll raise our voice strongly in Favour of national as well as state-level legislation prohibiting religious conversion through inducement or coercion."⁴ This underscores the BJP's unwavering interest in enacting such laws as part of their broader agenda, similar to the Citizenship Amendment Act (CAA) and the National Register of Citizens (NRC). Currently, anti-conversion laws are in place in more than 13 states across India.⁵ These anti-conversion laws have sparked significant debate in India. Recently, the *Tamil Nadu* government accused these laws of being prone to misuse against minorities by the current government. Many political parties have alleged that the legislation is politically motivated and filed many petitions against these laws, and some have even challenged its validity by arguing that it

¹ USCIRF. (2024). *About us*. Available at: <https://www.uscifr.gov/about-uscirf/about-us> (Accessed: 15 May 2024).

² Iqbal, A. (2024). USCIRF wants pressure on India over religious injustices. *DAWN.COM*. Available at: <https://www.dawn.com/news/1803585> (Accessed: 15 May 2024).

³ **Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance, 2020.** (2020). Vol CamScanner 12-02-2020 11.06.19.

⁴ **Advani, L.K.** (2006, April 17). *Statement issued by Shri L.K. Advani, Leader of the Opposition (Lok Sabha) at Tirupati (Andhra Pradesh)*. Bharatiya Janata Party. <https://www.bjp.org/hi/pressreleases/statement-issued-shri-lk-advani-leader-opposition-lok-sabha-tirupati-andhra-pradesh>

⁵ **United States Commission on International Religious Freedom.** (n.d.). *Issue update: India's state-level anti-conversion laws*. <https://www.uscifr.gov/sites/default/files/2023%20India%20Apostasy%20Issue%20Update.pdf> (Accessed: 15 May 2024).

violates Article 25 of the Constitution, which guarantees the freedom of religion, and infringes upon the right to life and personal liberty. Jamiat Ulama-i-Hind has filed a Public Interest Litigation challenging the constitutional validity of five conversion laws across the country.⁶ It was alleged in the petition that the Acts in question reverse the burden of proof in criminal law. Furthermore, they also alleged that the Acts proceed on the presumption that each religious conversion is illegal, thereby mandating that every individual seeking conversion must disclose their personal beliefs to the district magistrate two months before the conversion.⁷ These laws impose unnecessary interference by requiring individuals to disclose their faith and provide details about their conversion, even when such conversion is freely exercised. These provisions violate Article 18 of the International Covenant on Civil and Political Rights (ICCPR), which states that everyone has the freedom to choose or adopt a religion or belief of their choice. Furthermore, individuals are entitled to manifest their religion or belief, either alone or in community with others, in public or private, through worship, observance, practice, and teaching. The scope of these laws is exceedingly broad, making them susceptible to potential misuse. These raises the very first pressing questions: Did the government truly enact such laws to counter widespread illegal conversions, or is the premise of mass illegal conversion, given by all the states for enacting such stringent law, merely a myth propagated by the government to justify the enactment of these laws? It also ignites the speculation that the government may harbor ulterior motives behind the implementation of such legislation. But first we must understand the history of anti-conversion laws.

HISTORY OF CONVERSION LAWS IN INDIA

Restrictions on conversion laws and matters are not something very modern concept used by the state in India, even before independence such restrictions on conversion existed. Even the laws restricting religious conversion were first introduced during the time of British colonial era during the 1930s.⁸ Over half of dozens of princely states like Kota, Bikaner, Jodhpur,

⁶ **Roy, D.** (n.d.). *[Breaking] Jamiat-Ulama-i-Hind moves Supreme Court challenging anti-conversion laws of 5 states*. Bar and Bench - Indian Legal News. <https://www.barandbench.com/news/litigation/jamiat-ulama-i-hind-moves-supreme-court-challenging-anti-conversion-laws-5-states> (Accessed: 15 May 2024).

⁷ **The Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance, 2020.** (n.d.). *The Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance, 2020*. https://prsindia.org/files/bills_acts/bills_states/uttar-pradesh/2020/UP%20Prohibition%20of%20Unlawful%20Conversion%20of%20Religion%20Ordinance,%2020%20.pdf (Accessed: 15 May 2024).

⁸ Coleman, J. R. (2007–08). *Authoring (In)Authenticity, Regulating Religious Tolerance: The Legal and Political Implications of Anti-Conversion Legislation for Indian Secularism* (Paper Presented to Penn Program on Democracy, Citizenship, and Constitutionalism Graduate Workshop, Sept. 13, 2007–08). Retrieved from <https://www.sas.upenn.edu/dcc/sites/www.sas.upenn.edu.dcc/files/uploads/Coleman.pdf>, archived at

Raigarh, Patna, Surguja, Udaipur, and Kalahandi, had such laws.⁹ The intention behind the enactment of such laws is to preserve the Hindu identity from missionaries.¹⁰ The Raigarh State Conversion Act came into force in 1936 followed by the Surguja State Apostasy Act in 1945¹¹ and more act which was introduced the Central Provinces and Berar Public Safety Act, which said that any conversion needs to be validated before the district magistrate.¹² This provision later got exterminated because of the protest by Christians.

Later after the adoption of the constitution in 1950,¹³ and thereafter some princely states merged into Madhya Pradesh and the law in princely states became invalid. The missionaries again started to influence them through social service and proselytizing. But the Maharajas always considered these as an attack on the autonomy of these states and they continued their resistance against them.¹⁴ Not only the maharajas but also the dominant Hindu class resisted the spread and autonomy of Christian missionaries and there were several reasons for that social¹⁵ and political¹⁶ were the main reasons. Madhya Pradesh (India). Christian Missionary Activities Enquiry Committee. (1956) report highlighted the concerns of conversions and how they affect public order, social conscience, and national security¹⁷. This report recommended some actions to restrict the process of conversion “attempts to convert by force or fraud or material inducements, or by taking advantage of a person's inexperience or confidence or spiritual weakness or thoughtlessness, or by penetrating the religious conscience of persons to

<https://perma.cc/9WY3-DTFN>.

⁹ Dudley Jenkins, L. (2008). *Legal limits on religious conversion in India*. *Law & Contemporary Problems*, 71(3), 109-113. Retrieved from <http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1469&context=lcp>. Archived at <https://perma.cc/7BYA-UNDW>

¹⁰ Huff, J. A. (2009). *Religious freedom in India and analysis of the constitutionality of anti-conversion laws*. *Rutgers Journal of Law & Religion*, 10(2), 1-4. Retrieved from <http://www.lawandreligion.com/sites/lawandreligion.com/files/A10S-6Huff.pdf>. Archived at <https://perma.cc/7Z7Y-9U8Q>.

¹¹ Rajendra k. sail, Conversion in Chhattisgarh (facts and myth), INSAF (Indian Social Action Forum) ,(2003) , <https://www.indianlabourarchives.org/bitstream/20.500.14121/448/1/Booklets%20-%20Conversion%20in%20Chhattishgarh%20%28Fact%20%26%20Myths%29.pdf>

¹² rajendra k. sail, supra note 4

¹³ "Constitution of India." India Government, accessed 10th may. Available at: <https://www.india.gov.in/my-government/constitution-india>

¹⁴ Rajendra K. Sail, CONVERSION IN CHHATTISOARH, 7.

¹⁵ Rajendra K. Sail, CONVERSION IN CHHATTISOARH, 7 (“The socio-cultural factor that resulted in resistance to missionary activities by the ‘elite’ of the Hindu society in Madhya Pradesh was the fact that it had a significant tribal population (18 per cent in 1950), which went up to 23.22 per cent in 1994.”) Thue author here points on the assumption, of those socially powerful elites’ Hindu population, that the sudden increase of tribal population has some relation with the Christian missionary

¹⁶ Rajendra K. Sail, CONVERSION IN CHHATTISOARH, 8-9 (“political factor that lead to increased demand by the dominant classes for curtailing the freedom of the Christian missionaries was the uprising of tribals demanding a separate state for themselves called Jharkhand.”)

¹⁷ *Madhya Pradesh (India). Christian Missionary Activities Enquiry Committee. (1998). Vindicated by time: The Niyogi Committee report on Christian missionary activities*. Voice of India.

consciously alter their faith, should be prohibited.”¹⁸ The report also highlights some testimonies of people who how they were converted to get some loans for a plough. This report expressed concerns about conversions and the perceived vulnerability of poor converts, leading to the establishment of legal constraints. And taking this for granted the Madhya Pradesh government enacted the *Madhya Pradesh Dharma Swatantrya Adhiniyam* in 1968, this act prohibits the conversion from one religion to another religion by use of force or any other fraudulent means.¹⁹ Some of the rules of the act look similar to the findings or recommendations of the report.

On the same footing as the *Madhya Pradesh Dharma Swatantrya Adhiniyam* in 1968, the Odisha government also introduced the conversion law with similar provisions as to that of Madhya Pradesh law, but both these laws were challenged in the Supreme Court concerning the constitutionality of these restrictions on conversion: *Rev. Stanislaus v. State of Madhya Pradesh and Orissa*.²⁰ The court upheld both laws as constitutional, Supreme Court backed their decision by highlighting the findings of the Madhya Pradesh (India) Christian Missionary Activities Enquiry Committee (1956) report. The court in this case not only relied on this report but also backed this by discussing Article 25 of the constitution which provides "Freedom of conscience and free profession, practice and propagation of religion. (1) Subject to public order, morality, and health and the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right to freely profess, practice and propagate religion."²¹ The Supreme Court put much stress on the word propagate and the court also highlighted the distinction between the word propagate (which the court allowed as right) and the word convert (which the court didn't recognize as right).²² Thus, the court held that restrictions on efforts to convert are constitutional because such efforts impinge on "freedom of conscience" and "public order".²³

This judgment marked the passage through which many State anti-conversion laws were introduced in India like in Uttar Pradesh, Himachal Pradesh, and Gujrat, but the provisions of

¹⁸ Report, supra note 10, at "Conclusions (findings)

¹⁹ Government of Madhya Pradesh. (1969). *The M.P. Dharma Swatantrya Rules, 1969* Legislative Document Legislative Document. Indian Kanoon. Retrieved from <https://indiankanoon.org/doc/59599965/>

²⁰ *Rev. Stanislaus v. State of Madhya Pradesh & Orissa*, A.I.R. 1977 S.C. 908 1118.

²¹ INDIA CONST. art 25.

²² *Stanislaus*, A.I.R. 1977 S.C. 908.

²³ *Id.*

the laws were like that of Niyogi's 1956 report on missionary activity and with Madhya Pradesh's 1968 conversion law. Even in the judgments that challenge the validity of any state anti-conversion laws, the court majorly cites the *Stanislaus* judgment. The number of states enacting anti-conversion laws is on the rise and currently till now 12 states enacted such laws.

DISCLOSURE OF CONVERSION AND PRIVACY CONCERN

Religious identity at birth is inherited from our parents²⁴, a circumstance over which we have no choice. However, upon reaching adulthood, we have the freedom to change or select our religion. The ability to choose one's religious affiliation is fundamental to the exercise of the right to practice and propagate one's religion. Without the freedom to choose our religion, the right to practice becomes irrelevant. In contemplating this, we realize how crucial it is to have a system where people can change their religion freely, without any interference from the state or society. Without such freedom, we hinder individuals from exploring their spiritual journey and finding fulfillment. Many couples from different faith backgrounds choose to convert to each other's religion to support their closeness and connection. But most religious heads and followers saw the conversion to others as something against the existence of their religion and even declared such conversion as an enemy of their religion. Swami Vivekananda, renowned for his brilliant speech in Chicago emphasizing religious tolerance, paradoxically, in the same speech, said, "A Hindu who converts is not one Hindu less but one enemy more."²⁵ Such a figure, known for his idea of tolerance, shares his idea of hostility against conversion on the world stage. This illustrates the perception of conversion as generating hostility. Interestingly, this sentiment, instead of criticizing such a perception, aligns with the principles upheld by the ruling party, B.J.P., who consider themselves the custodians of Hinduism. This creates a hostile environment for people who want to convert their religion. This fear seems genuine when we consider recent events in most B.J.P.-ruled states. Just a few hours after the enactment of the Uttar Pradesh Prohibition of Unlawful Conversion Act, 2020, the very first case was filed. Does this mean that this conversion law is addressing the claimed problem of mass forceful conversion and saving girls from being forcibly converted? Interestingly, the first case under this act was registered at the Moradabad police station, in which two men, Rashid and his wife, had gone to court to register their marriage. However, a local Hindu group forcibly took them to the police station, and a case was registered against him and his brother. According to the

²⁴ *The Hindu Marriage Act, 1955*, § 2.

²⁵ Vivekananda, S. (1893). *Speech at the Parliament of the World's Religions, Chicago*.

statement of the woman's mother, they arrested him, and she alleged that the accused faked his religious identity and married her daughter. But the court ordered the release of the accused based on the statement given by his wife, in which she said, she was an adult, married Rashid of her own will, and converted to Islam without any pressure.²⁶ The actions of the local Hindu group may seem unconstitutional, violating the right to privacy the freedom to choose partners, and the freedom to convert. These actions may also appear unjustified to any common person as it is unnecessarily harassing the interfaith couples. However, in a legal system where your Chief Minister is an extremist saffron monk openly stated intentions to enact laws to curb "love jihad" and issued warnings against it, by stating 'Your Ram Naam Satya journey will begin if you don't mend ways 'against those who dares to do love jihad, such actions by these local groups then are deemed justified. The BJP government's use of the term "love jihad" serves to justify their underlying agenda of implementing anti-conversion laws, so what is this term, or is it really that significant?

WHAT IS LOVE JIHAD?

The term "love jihad" lacks existence or definition within any criminal law section or legal dictionary but is prevalent in the political dictionary of many BJP leaders. They portray it as an ongoing demographic war, where outsiders aim to diminish the Hindu population and conspire to become the majority in their homeland country.²⁷ As mentioned earlier, the Chief Minister of Uttar Pradesh also used the term with a similar assumption of its definition of BJP.

Paradoxically, the same BJP government admitted in the Lok Sabha, in response to a written question, that there is no such thing as love jihad under existing law. They acknowledged that the Constitution grants everyone the freedom to practice and propagate any religion.²⁸ Additionally, they conceded that no cases of love jihad have been recorded by any central agencies. It means that they knew the falsity of their statement when they justified the anti-conversion by taking the shield of imaginary demographic war situation or the controversial love jihad theory. The BJP government's utilization of such a false, imaginary, and unreal

²⁶ Raju, S. (2020, December 19). 2 men held under anti-conversion law released after court order. *Hindustan Times*. <https://www.hindustantimes.com/india-news/2-men-held-under-anti-conversion-law-released-after-court-order/story-wEuIU17ydYURAZXiMmMr3I.html> .

²⁷ Theclarionindia. (2020, April 3). *Muslims are not equal to Hindus, declares BJP leader Subramanian Swamy*. Clarion India. <https://clarionindia.net/muslims-are-not-equal-to-hindus-declares-bjp-leader-subramanian-swamy/>

²⁸ Express News Service. (2020, February 5). Nothing called 'Love Jihad', says MoS Reddy. *The Indian Express*. <https://indianexpress.com/article/india/nothing-called-love-jihad-says-mos-reddy-6251226/> .

concept can be understood through the definition of this conspiracy theory, which is termed as an Islamophobic nature theory.²⁹

From these statements, it is evident that the government has ulterior motives behind this law. Their intention seems to be not to prevent unlawful conversions but rather to interfere in personal matters of conversion. It appears that their true aim is to gain an advantage in the demographic struggle by polarizing communities through the narrative of the love jihad conspiracy. This narrative seeks to propagate the myth that Hindu women are vulnerable and need protection from Muslim seducers, thus creating a sense of urgency for the implementation of such laws. Therefore, the justification for anti-conversion laws by justifying it with mythological love jihad theory, reflects an Islamophobic ideology of the ruling government in enactment of the anti-conversion laws.

DICLOSURE OF CONVERSION AND PRIVACY CONCERN

The fundamental issue inherent in all state-enacted anti-conversion laws, which violates constitutional principles, lies in their unjustifiably intrusive nature in the conversion process. These laws require every individual seeking conversion to disclose their personal beliefs, as exemplified by Sections 8 and 9 of the Uttar Pradesh Prohibition of Unlawful Religious Conversion Act, 2020,³⁰ which outline procedures for the procedure of the declaration before conversion of religion and pre-report about conversion to the state authorities. Hence it is invading the right to privacy of the person. The crux of the problem lies in the state's unwarranted interest in individuals' religious beliefs. Why should any human being be asked to disclose what his religion is? Why should a human be asked to inform authorities that he is changing his belief? While these laws ostensibly aim to prevent unlawful conversions through force, misrepresentation, coercion, or other fraudulent means, their overreach extends beyond their intended scope.³¹ But we must ask: is this justification sufficient to address the fundamental questions of breach of privacy and freedom of belief?

The answer to these questions can be traced to the landmark judgment in *Evangelical Fellowship of India vs. State of Himachal Pradesh* (2012)³², which addresses similar issues

²⁹ Farokhi, Z. (2020). Hindu nationalism, news channels, and "post-truth" Twitter: A case study of love jihad. In M. Boler & E. Davis (Eds.), *Affective politics of digital media: Propaganda by other means* (pp. 226–239). Routledge.

³⁰ Uttar Pradesh Prohibition of Unlawful Religious Conversion Ordinance, 2020. § 8 and 9.

³¹ Uttar Pradesh Prohibition of Unlawful Religious Conversion Ordinance, 2020. § 3.

³² *Evangelical Fellowship of India v. State of Himachal Pradesh*, MANU/HP/1259/2012 (2012).

regarding the constitutionality of conversion laws. In the case of *Evangelical Fellowship of India vs. State of Himachal Pradesh* (2024), it is asserted that:

"We do not, in any manner, condone or espouse conversions, particularly those conducted by force, fraud, or inducement. Any such conversions must be strictly dealt with in accordance with the law, which must be validly upheld. Simultaneously, the right to privacy and the right of a citizen to change their beliefs cannot be curtailed under the pretext that public order may be affected. We fail to understand how the requirement for a converter to issue notice will prevent conversions by fraud or inducement. In fact, this may open Pandora's box, potentially leading to conflicts between rival religious groups once such a notice is issued."

These concerns overshadow the personal liberty of individuals to exercise their freedom to choose religion.³³ It raises a rational question: why should an adult, who freely exercises their consent for conversion³⁴ or marriage³⁵—activities that don't require permission from their parents—need to provide prior declaration to government authorities or seek their consent by disclosing personal information regarding religion? The state has no business knowing the religious beliefs of individuals by mandating disclosure of religion or personal choices for those wishing to convert. This requirement for conversion may lead to violence between the rival religious groups and the chances of the converttee being subjected to physical and psychological torture. In the *Evangelical Fellowship of India vs. State of Himachal Pradesh* (2012) judgment, the court stated that “*man's mind is the impregnable fortress in which he thinks and there can be no invasion of his right of thought unless the person is expressing a propagating his thoughts in such a manner that it will cause public disorder or affect the unity and sovereignty of the nation*”³⁶ by taking this into account, court not able to find any reason as to how freely changing one religious identity and propagating it can cause also of the action in the clearly these provision is against personal liberty by unwanted intrusion. Hence, it invades the right to privacy³⁷ of the person.

WHAT IS RIGHT TO PRIVACY AND HOW IT EVOLVED

Privacy comes from the Latin word ‘Privatus’ separated from the rest it’s not static but a dynamic concept that varies according to culture and time the degree varies for everyone, it’s.

³³ Kadivar, M. (2006). Freedom of Religion and Belief in Islam. *Islam and Religious Diversity. Critical Concepts in Islamic Studies*, 198-220.

³⁴ *Constitution of India*. (n.d.). Article 25.

³⁵ Prohibition of Child Marriage Act, No. 6 of 2007, India.

³⁶ *Evangelical Fellowship of India vs. State of Himachal Pradesh*, MANU/HP/1259/2012, para. 38 (2012).

³⁷ *Constitution of India*. (n.d.). Article 21.

The difficulty in defining privacy leads to numerous problems as its scope reflects the thinking of the judges and scholars who define it based on their understanding³⁸. The right to be free from an invasion of privacy was developed in an article The Right to Privacy, 4 Harvard L.R. 193(1890) by Samuel Warren and Louis Brandeis. They defined privacy as the right to be left alone³⁹.

The privacy principle covers four distinct kinds of invasions:

1. "Intrusion upon a person's physical and mental solitude and seclusion" (Connecticut General Assembly, 1998).
2. "Public disclosure of private facts" (Connecticut General Assembly, 1998).
3. "Publicity which person places a person in a false light". (Connecticut General Assembly, 1998)
4. "Misappropriation of a person's name or likeness"⁴⁰.

According to Black's Law Dictionary, the right to privacy means the "right to be let alone" the person has the right to be free from unwanted interference. It is central to securing human dignity and forms the base of democracy. It preserves human autonomy in the form of human dignity⁴¹.

In India, the constitution has no concept of the right to privacy. But since 1950 growing assertiveness of individual rights and awareness about these led to the demand for more privacy against the state encroachment in Individual lives.

Since the Right to privacy has not been defined in the Constitution the Supreme Court has on various occasions defined the scope while relying upon Article 21 of the Constitution which talks about the Right to Life and Personal Liberty as enshrined in the Constitution⁴². Supreme Court in the case of M.P. Sharma v. Satish Chandra in 1974 held that privacy is not a fundamental right. In this case, the Supreme Court dismissed the discussion by taking

³⁸ Nat Zone, <https://nat.sakimura.org/2012/05/02/why-privacy-confuses/>, (Last Visited 03 May 2024)

³⁹ Connecticut General Assembly. (gov), <https://www.cga.ct.gov/PS98/rpt%5Colr%5Chtm/98-R-1455.htm>, (Last Visited 03 May 2024)

⁴⁰ Connecticut General Assembly. (gov), <https://www.cga.ct.gov/PS98/rpt%5Colr%5Chtm/98-R-1455.htm>, (Last Visited 03 May 2024)

⁴¹ Black's Law Dictionary <https://thelawdictionary.org/privacy/>, (Last Visited 03 May 2024)

⁴² SSC Online <https://www.sconline.com/blog/post/2017/07/18/right-to-privacy-supreme-courts-earlier-rulings-on-the-issue-why-a-9-judge-bench-decision-might-change-everything/>, (Last Visited 03 May 2024)

cognizance of the constituent assembly debate on privacy⁴³. The case of *Kharak Singh v. State of Uttar Pradesh* upheld the invalidity of privacy as a fundamental right while striking down the provision that allowed night visits for violation of Personal liberty⁴⁴. In the case of *Pranav Kumar Mishra v. Government of NCT of Delhi*, the Delhi High Court held that there is no requirement to post the notice of intended marriage under the Special Marriage Act, 1954 at the residential address of both the parties to the marriage as it is a violation of their privacy.⁴⁵ and after that there are series of judgements given by supreme court which not only acknowledged the importance of individual liberty and privacy and court with this span of time also enlarged the private right of citizens. Court also upheld the importance of privacy in ones individual life through these judgments also stopped the state unnecessary state intervention.

Despite a series of above-mentioned significant judgments upholding the right to privacy from state intervention, some ambiguity remained on its precise scope. This uncertainty was definitively resolved by the Supreme Court in its landmark decision, *Justice K.S. Puttaswamy v. Union of India (2017)*⁴⁶. “In the case of *Justice K.S. Puttaswamy (Retd) v. Union of India* in 2017 a nine-judge bench of the Supreme Court overruled the judgments of both *MP Singh* and *Kharak Singh*, it was held that it is rooted in our fundamental rights in respect of article 14 (Right to Equality), 19(Right to Freedom), and 21(Right to Life and Personal Liberty).

This case was against the government for making Aadhaar enrolment mandatory for availing government schemes and for this people have to disclose their private information which was not voluntary. The nine-judge bench declared the mandated disclosure of information a violation of the right to privacy. The court held that the Right to Privacy is a fundamental right intrinsic to part of the Right to life and personal liberty”.⁴⁷

PRIVACY CONCERN IN DIFFERENT STATE ANTI CONVERSION

LAW AND LEGAL CONCERN

In the *KS Puttaswamy* case⁴⁸, it was highlighted the functional relationship between privacy and dignity, and it also highlighted that privacy is a fundamental element of dignity. In this

⁴³ *M. P. Sharma v. Satish Chandra*, 1954 SCR 1077

⁴⁴ *Kharak Singh v. State of Uttar Pradesh*, 1963 AIR 1295

⁴⁵ *Pranav Kumar Mishra v. Government of NCT of Delhi & Anr*, 2009 SCC OnLine Del 725

⁴⁶ *Justice K.S. Puttaswamy (Retd.) & Anr. v. Union of India & Ors.* (2017) SCC 1.

⁴⁷ *Justice K.S. Puttaswamy(Retd) vs Union Of India* AIR 2018 SC(SUPP) 1841

⁴⁸ *K.S. Puttaswamy v. Union of India*, Writ Petition (Civil) No. 494 of 2012, (Supreme Court of India, 2017).

case, the court also held that Privacy recognizes the autonomy of the individual and the right of every person to make essential choices that affect the course of life. (*K.S. Puttaswamy v. Union of India*, 2017, para. 127). The court in this case also held that the right to make decisions on vital matters concerning one's life are inviolable aspect of human personality by upholding the ability of an individual's autonomy to make decisions on vital matters of concern of life (*K.S. Puttaswamy v. Union of India*, 2017). The anti-conversion laws, which put extra regulatory requirements and scrutiny, by imposing restrictions on the important personal matter of religious conversion, significantly intrude upon individual autonomy.

The common feature of most of the state anti-conversion laws is the common section that unreasonably demands the prior declaration of conversion by the person to the district magistrate. The person would be able to convert Only with the approval of the district magistrate, which also requires couples of interfaith marriages to convert for the marriage⁴⁹.. A person has the right of conscience, the right of belief, and the right to change the belief, but also has the right to keep the belief a secret until and unless it does not clash with the larger interest of the state like sovereignty, public order, and morality but not because the majority view is different does not mean that minority views must be silenced⁵⁰. But this principle of liberty also gets vandalized because of these unjustifiable laws.

“In the case, *Evangelical Fellowship of India v. State of Himachal Pradesh* one of the contentions that arose before the honorable court was whether the requirement of giving prior notice for conversion infringes the right to privacy. Rule 4(1) of the Himachal Pradesh Freedom of Religion Act, 2006 says “Any person intending to convert from one religion to another shall give notice prior at least 30 days of such event to the District Magistrate. Notifying is not required if converting back to his original religion. (2) Failure to notify the intention shall be punishable by a fine which may extend to a thousand rupees. Here the court held that the rule to inform about the conversion is not a violation of privacy but failing to do so should not lead to the commission of an offence. This judgment does not cater to the needs of the 21st century in which the individual is considered as important as the state”⁵¹.

⁴⁹ Business Standard, https://www.business-standard.com/india-news/anti-conversion-law-what-it-is-and-how-various-states-implement-it-123060600648_1.html, (Last Visited 03 May 2024)

⁵⁰ United Nation Organisation, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>, (Last Visited 05 May 2024)

⁵¹ *Evangelical Fellowship of India and Anr. v. State of Himachal Pradesh*, Writ Petition No. 438/2011, High Court of Himachal Pradesh.

Under the Orissa Freedom of Religion Rules, 1999. Rule 4 is that one needs prior notification of intention to convert but does not become an offense. The state does not submit to the seriousness of the need for well-defined privacy rights as it has still not created a strong mechanism for safeguarding privacy. The court at various levels at different points of time defines it differently⁵². The court held that whether the state interest is paramount will justify the infringement of the privacy rights of an individual⁵³.

Citizen for Justice and Peace v. State of Uttar Pradesh examines the constitutionality of the Uttar Pradesh Prohibition of Unlawful Religious Conversion Ordinance, 2020, and the Uttarakhand Freedom of Religion Act, 2018⁵⁴.

“Section 8 of both laws mandates that the individuals converting should file a declaration to the district magistrate. In Uttar Pradesh 60 days prior, in Uttarakhand one month before the conversion.

These laws mandate all individuals who wish to convert his/her religion, like in up, to give a declaration at least 60 days (about 2 months) in advance, to the District Magistrate or Additional District Magistrate, that they wish to convert his/her religion with his/her free consent.⁵⁵ This section mandates every person who is even voluntarily converting his or her religion to disclose wish of conversion to government officials months before conversion, there is no justification as to why prior notice is necessary to prevent forced conversions, the requirement is disproportionate and in fact, could prove counterproductive. The Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2020⁵⁶, imposes penalties for failing to comply with its prior notification requirements for religious conversion. Specifically:

- Section 8(5) mandates that individuals intending to convert must submit a declaration at least 60 days (about 2 months) in advance to the District Magistrate or Additional District Magistrate. Failure to comply with this requirement can result in imprisonment for a term of not less than six months and up to three years, or a fine, or both.

⁵² Orissa Freedom of Religion Rules, 1999, The Orissa Gazette, No. 1377, dated October 12, 1999 (India).

⁵³ Live Law, <https://livelaw-cnlu.refread.com/interviews/anti-conversion-laws-are-coming-for-political-reasons-than-actual-reasons-justice-deepak-gupta-216324>, (Last visited 07 May 2024)

⁵⁴ Citizens for Justice and Peace v. State of Uttar Pradesh, (2021) 3 SCC 205 (India).

⁵⁵ Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2020, § 8(1). (2020). Act No. 21 of 2020.

⁵⁶ Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance, 2020. Retrieved from *PRS India* <https://prsindia.org/bills/states/the-uttar-pradesh-prohibition-of-unlawful-conversion-of-religion-ordinance-2020>.

- Section 8(6) requires that the religious converter, the person performing the conversion ceremony, must provide one month's advance notice. If the convert fails to provide this notice, they may face imprisonment for a term of not less than one year and up to five years, or a fine, or both.

These provisions extend beyond reasonable limits by granting the District Magistrate the power to publish the declaration on the office notice board. This aspect of the law is particularly controversial as it potentially grants arbitrary power to influence an individual's free choice. Public disclosure of one's intention to convert can lead to coercion or psychological pressure, significantly impacting their freedom and right to privacy.

These sections give arbitrary power to influence one's free choice as there are high chances that they might be forced or psychologically tortured for their conversion choice. This provision puts unnecessary state involvement in the deeply personal vital decisions of an individual. This state of intrusion is particularly extremely concerning as it pertains to freedom of faith or religion, a fundamental and deeply personal aspect of an individual's life. Such laws not only undermine personal autonomy and privacy but also pose a serious threat to the constitutional guarantee of freedom of religion. By mandating these declarations, the state positions itself as a proactive participant in personal deeply rooted religious decisions, which should be free from government interference and public scrutiny. This violates the right to privacy of an individual. But the government takes the defense of public interest. They stress that the right to privacy is not an absolute one; it is subject to reasonable restrictions when legitimate public interest is involved.⁵⁷

In the case of Justice K.S. Puttaswamy (Retd.) and Anr. v. Union of India and Anr. court, the court laid down three conditions that must be met to justify an invasion of privacy by the State, ensuring that it is reasonable and valid. The requirements are (i) legality, which postulates the existence of law; (ii) need, defined in terms of a legitimate State interest, and (iii) proportionality, which ensures a rational nexus between the object and the means adopted.⁵⁸ Now we will analyze the justification of the anti-conversion law.

1. **Legality:** These laws generally have a clear legal basis as they are enacted by state legislatures. They define conversion and the terms such as force, fraud, and inducement explicitly. Those who introduced and stressed upon implementation of such anti-

⁵⁷ *K.S. Puttaswamy v. Union of India*, Writ Petition (Civil) No. 494 of 2012, (Supreme Court of India, 2017).

⁵⁸ *Joseph Shine vs. Union of India (UOI)* (27.09.2018 - SC) : MANU/SC/1074/2018

conversion law take the support of the Supreme Court judgment of 1977 in *Rev Stanislaus v State of Madhya Pradesh*, in which it was held that the MP Freedom of Religion Act, 1968 and Orissa Freedom of Religion Act, 1968, were constitutional even though both these Acts were hindrances in the propagation of religion.⁵⁹ It was held that the “right to propagate” does not mean the “right to convert”. HM Seervai, a constitutional law expert, called this judgment “productive of great public mischief”. Where propagation ends and conversion begins, is difficult to say.⁶⁰ Seervai in his criticism wanted to highlight the court's failure to underscore the difficulty in distinguishing between propagation (spreading a religion) and conversion (changing one's religion), which can be a subtle and complex matter. This failure to address the complexity may lead to ignorance of many infringements on the right to freedom of religion for many citizens and may also provide legal backing for such infringements.

2. **Need:** This failure to address the complexity may lead to ignorance of many infringements on the right to freedom of religion for many citizens and may also provide legal backing for such infringements. However, as also above-mentioned there are high chances that these are politically and ideologically motivated. The uncertain and vague terminology in the anti-conversion laws presents significant potential for misuse. The terms are either too ambiguous or overly broad, extending their scope far beyond the protection of religious freedom.

These laws do not seem to be primarily motivated by the protection of minorities but rather by an overzealous attempt to restrict and regulate conversions. The vague and ambiguous terms provide a loophole for malefactors to apply them discriminatorily, thus infringing on the very right to freedom they aim to protect. These hints that a secular and democratic nation like India doesn't need such extreme laws. Therefore, it doesn't meet the requirement of legality.

3. **Proportionality:** Proportionality demands a rational nexus between a law's objective and the means adopted to achieve it. As highlighted earlier, unnecessary state interference, such as requiring individuals to provide declarations before and after conversion, to furnish detailed particulars regarding the conversion, and to investigate

⁵⁹ Supreme Court of India. (1977). *Rev. Stanislaus v. State of Madhya Pradesh & Others*. AIR 1977 SC 908.

⁶⁰ Faizan mustafa.(2022, Novembr 18) Supreme Court, religious conversion and hard data: Why anti-conversion laws often fail to secure convictions. *The Indian Express*. <https://indianexpress.com/article/opinion/columns/supreme-court-religious-conversion-hard-data-anti-conversion-laws-convictions-8272084/>

the intent behind conversions, is disproportionate to the aim of preventing coerced conversions.

These measures potentially infringe on individuals' privacy and autonomy. The detailed surveillance and reporting requirements are overly intrusive and create an environment where religious minorities feel targeted and harassed. This atmosphere can further marginalize these groups, undermining the objective of protecting individual freedoms and religious rights.

There is no rational nexus between the law and its stated objective. While the objective is to protect individual religious choice and autonomy, the laws enacted are arbitrary and counterproductive, potentially doing more harm than good in protecting religious freedom.

Thus, the anti-conversion laws fail to meet the criteria of legality, necessity, and proportionality, making them counterproductive to the protection of religious freedom.

BALANCING RELIGIOUS FREEDOM AND THE RIGHT TO PRIVACY

The balance between the freedom of religion and the right to privacy is very delicate and only unbiased, conscious protectors of the people can maintain without collapsing one into another. In the case of *Shafin Jahan v. Asokan K.M.* (2018) the Supreme Court held that the right to change religion is a fundamental right⁶¹. The state is constantly ignoring the decisions of the judiciary and continues to make laws by tweaking some provisions eventually this will result in the vaporization of faith between the state and its subjects.

The quest for privacy is a continuous struggle in the modern, diverse, and technological era of the 21st Ce. Privacy gives individuals, groups, or any particular institution the power to choose and determine when, where, and to what extent information about themselves is communicated to the public. It provides through way of temporary and voluntary.

Intellectual curiosity, ideas, thoughts values, and religious apprehension usually develop when we have some distinctness from others and have a sense of security that what we are thinking is private unless we want to make it obvious and the extent of it.

⁶¹ *Shafin Jahan v. Asokan K.M.* (2018) 16 SCC 408.

Freedom is constantly under attack by the supporters of Hindutva ideology and for mere political gain, they are using it to create a rift⁶².

Almost everyone has something about themselves that they don't want others to know. One moment a person is interacting the next moment he wants others to leave him alone without any feeling of embarrassment. The right to privacy is a guarantee of unhectic withdrawal from society. The degree of privacy is different for a variety of people and making it comprehensive is a challenging task, which is helpful in this modern age.

The state can play its role in balancing the right to privacy and the religious freedom granted with limitations given in the constitution.

Individual growth rests on the freedom that the intimate decisions will not be known to anyone else and the person can express themselves truly what they think is true even in a surrounding which is against their value decision.

The government can regulate and stop illegal conversion by sensitizing people but not by demonizing and blaming certain communities.

The practice of religion leads to happiness and an overall increase in personal well-being and happy citizens are what a diverse multicultural and pluralistic country like India needs.

Suppose freedom of religion is necessary for individual growth coming out from the doctrine of the religious association. In that case, an individual must be free to change his/her beliefs and religion. Restricting this freedom will have an irreversible and destructive effect on the person and people of that group⁶³.

Religious conversion is generally preceded by some form of crisis that can be psychological, religious, cultural, spiritual, or circumstantial that opens up new avenues in personal life.

⁶² The wire, <http://thewire.in/10858/shame-on-you-mr-culture-minister/>, (Last Visited 15 May 2024)

⁶³ Heiner Bielefeldt, Limitations on Religions Freedom Have 'Chilling Effect,' NEW EUROPE (Nov. 15, 2010), <https://www.neweurope.eu/article/limitations-religions-freedom-have-chilling-effect>

It can be a mechanism for navigating through the crisis and becomes a guiding light for the person and his loved ones⁶⁴.

The person will have the opportunity to understand the nature of his surroundings through a new perspective. Religious experience is a personal and unique experience for most people has an autonomous character.

In the case of *Rev. Stanislaus v. State of Madhya Pradesh*, the court cited the definition of propagate as “to transmit or spread from place to place or person to person”. The court concluded that the article grants the freedom to transmit one’s religion by narrating and communicating the background stories and special attributes of their religion. But by no means does this article grant the right to convert another person to one’s religion that means the right to convert is not an absolute right per se, because then it would intrude upon the freedom of Conscience⁶⁵.

But the decision of the Supreme Court unreasonably limits the individual’s freedom on the issue of religious liberty a report by the United States Commission on International Religious Freedom blamed India for the discriminatory laws and violating the various fundamental rights related to religion⁶⁶.

This shows that without a standard codified law, the various courts' decisions vary and lead to a multiplicity of overlapping decisions creating a labyrinth. This will not be beneficial for anybody.

Even though the governments of various states are explicitly not preventing and curtailing the right to change the religion by putting the onus of conversion on the person who is converting and by giving other people a chance to object. A mere difficulty in the process will lead to people abandoning the idea of conversion, how can they⁶⁷?

⁶⁴ LEWIS R. RAMBO, UNDERSTANDING RELIGIOUS CONVERSION 44 (1993).

⁶⁵ *Rev. Stanislaus v. State of Madhya Pradesh*, 1977 SCR (2) 611, AIR 1977 SC 908

⁶⁶ U.S. Commission on International Religious Freedom, <https://www.uscirf.gov/countries/india>, (Last Visited 15 May 2024)

⁶⁷ LSE Blogs, <https://blogs.lse.ac.uk/southasia/2021/11/08/religious-freedom-and-the-anti-conversion-statute-in-india/>, (Last Visited 17 May 2024)

CHILLING EFFECT OF CONVERSION LAW

The term "chilling effect" refers to the discouraging impact that laws or regulations can have on the exercise of fundamental rights and freedoms due to fear of legal repercussions.⁶⁸ Conversion laws, which regulate religious conversions, are intended to prevent coerced conversions and maintain public order. However, these laws often include stringent requirements, such as mandatory declarations before and after conversion, police investigations into the intent behind conversions, and the publication of notice of the conversion. These measures can create a chilling effect, deterring individuals from exploring or converting to different religions due to fear of legal scrutiny, privacy infringements, and social backlash.

Moreover, there are many loopholes and ambiguities in the language of these laws, which can have extremely negative consequences for the exercise of fundamental rights. These loopholes may give officials opportunities to harass individuals or invade private matters, such as freedom of religion. The legal flaws in these laws, combined with the government's intentions, as seen in Uttar Pradesh, strongly suggest that the real aim is to harass individuals to the extent that conversions are discouraged altogether.

In recent events, particularly in Uttar Pradesh, Himachal Pradesh, and other states where anti-conversion laws are enacted, interfaith couples have sought court protection from harassment. Surprisingly, they are demanding protection from the court against the harassment they face from police authorities, society, and their own families. This indicates that conversion laws are interfering with their right to choose partners and are being used by others to harass these couples. The laws are being used as tools to harass couples, further compounding their distress. Let's now discuss these issues in detail and analyze them further.

Infringement of the right to marry or a toolkit to torture inter-faith couple

Many leaders have described these anti-conversion laws or love jihad laws as protective mechanisms for vulnerable Hindu girls who, they claim, lack the logical conscience to choose their partners wisely and are allegedly trapped by the seductive spells of Muslim men. So, now the question arises: Do these laws protect the rights of vulnerable adult women and how do these "love jihad" laws function to protect those proclaimed weak Hindu girls?

⁶⁸ Wikipedia. (n.d.). Chilling effect. In *Wikipedia, The Free Encyclopedia*. Retrieved May 30, 2024, from https://en.wikipedia.org/wiki/Chilling_effect

These laws function on the principle that prevention is better than cure. It means that the officials use the flawed provisions of these laws to try to prevent interfaith marriages. They create fear among interfaith couples by making them disclose their private affairs, leading to potential harassment by their families, religious groups, or society at large. This approach aims to deter such marriages through intimidation and societal pressure rather than addressing any genuine social concern, social boycott, abduction, harassment, and honor killings, faced by the inter-faith couples.

A stark example occurred in Uttar Pradesh, on 2nd December 2020, or just days after the conversion law, illustrating how the state government and police can misuse the new anti-conversion law. In this incident Police, intervened to stop the marriage of a 22-year-old Hindu woman and a 24-year-old Muslim man in Lucknow, citing the new ordinance after receiving a tip off from the Hindutva group, Rashtriya Yuva Vahini.⁶⁹ Despite having the consent of both families, the couple was prevented from marrying on Wednesday. They clarified that there was no coercion and no desire for conversion, and the marriage ceremonies followed Hindu rituals. Despite this, officials acted against them, insisting that they needed the district magistrate's permission under the new ordinance.

Even the Uttar Pradesh conversion law says that F.I.R can be lodged only by any aggrieved person, his/her parents, brother, sister, or any other person who is related to him/her by blood, marriage, or adoption.⁷⁰ A group like the Hindu Yuva Vahini – with no personal connection to the individuals – does not qualify for filing a complaint under this law.⁷¹ Despite this, government officials registered a case based on that tip. This certainly creates fear in the minds of couples who want to marry outside their faith, as the incident demonstrates how easily their personal lives can be scrutinized and controlled by authorities whose duty is to protect the free choices of couples. A study of 101 FIRs registered under the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021 showed that more than half were in response to complaints by third parties, which means they may have no legal standing and should not have been registered by the police⁷². This clearly shows that the above case is not just an exception

⁶⁹ Varadarajan, S. (2020, December 4). UP police stop interfaith wedding in Lucknow despite families' consent, ask couple to seek DM's nod. The Wire. <https://thewire.in/communalism/up-police-lucknow-interfaith-marriage>

⁷⁰ Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance, § 4 (2020).

⁷¹ Varadarajan, S. (2020, December 4). UP police stop interfaith wedding in Lucknow despite families' consent, ask couple to seek DM's nod. The Wire. <https://thewire.in/communalism/up-police-lucknow-interfaith-marriage>

⁷² Article 14. (2023, October 12). Hindutva groups are misusing UP's anti-conversion law as police register cases with no legal standing. Article 14. <https://article-14.com/post/hindutva-groups-are-misusing-up-s-anti->

or a mistake but a deliberate and planned action by police officials to harass the inter-faith couple and to create fear in the minds of the couple and it can be said that the Uttar Pradesh conversion law is infringing the right of people of choice to marry and it is doubling the fear in their mind of the repercussion of choosing their partner outside the community.

Despite having mutual consent and no intention to convert, the couple faced intervention due to a complaint from an unrelated group. As in the State of Uttar Pradesh, out of 14 alleged Love Jihad cases investigated by a Special Police Unit since August 2020, eight have already been found by the police to be based on consensual relationships.⁷³ This shows that even lawful and consensual interfaith marriages can be subjected to harassment and legal challenges.

The Landmark judgment of *Shafin Jahan v. Ashokan K.M.*⁷⁴, also known as the Hadiya marriage case court, highlighted “She may be brainwashed, but what can we do? Whether the man to whom she is married is good or not is for her to decide. Whether it’s an independent choice or not, only she knows. We can’t get into it. If she comes to court and says she married by her choice, that’s the end of it,” the bench said. (*Shafin Jahan v. Ashokan K.M.*, 2018) Court further also stated 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. They form the essence of personal liberty under the Constitution.” This highlights the court's stance that individual autonomy and personal choice in the matter of personal choice in the matter of marriage is supreme. The court also acknowledges that even there might be concerns of undue influence or coercion etc.

Hence clearly the principles established in the Hadiya case and similar judgments directly challenge anti-conversion laws. These laws often assume that conversions through marriage are suspicious and require approval from authorities or family members. This assumption goes against the court's belief that personal freedom and choice are the most important factors.

The unheard stories and struggles of inter-faith marriage and how these laws will make the situation worse

“Interfaith marriages are rare in India. Those couples who choose partners from different religions face severe consequences, including ostracism and even being killed by family

[conversion-law-as-police-register-cases-with-no-legal-standing--65260e4c5987e](https://www.whiteblacklegal.co.in/conversion-law-as-police-register-cases-with-no-legal-standing--65260e4c5987e)

⁷³ Varadarajan, S. (2020, December 23). The Wire. <https://thewire.in/communalism/up-police-report-adityanath-love-jihad-cases>

⁷⁴ *Shafin Jahan v. Ashokan K.M.*, (2018) 16 SCC 368

members.”⁷⁵ There are many horrifying cases of this nature in India that shame humanity, revealing how choosing a life partner who is from a different religion is considered a sin by some. Many cases go unrecorded due to the combined efforts of society, religious outfits, and government officials to prevent those inter-faith couples. Maktoob Media published an article author Maktoob Staff collecting data on 39 interfaith couples, many of whom reported being "killed, beaten, and humiliated" due to their choice to marry outside their faith (Maktoob Staff, 2021).⁷⁶ Maktoob Media published an article collecting data on 39 interfaith couples, many of whom reported being "killed, beaten, and humiliated" due to their choice to marry outside their faith (Maktoob Staff, 2021).

Here are some of the most horrifying stories from those 39 cases:

Perumalla Pranay: A 24-year-old Dalit Christian was hacked to death in Telangana's Miryalguda, allegedly at the behest of his wife's upper-caste Hindu realtor father (Maktoob Staff, 2021).

Vijay and Sufia alias Priya: The decomposed bodies of a Hindu man (Vijay, 30) and his 9-month pregnant Muslim wife (Sufia alias Priya, 22) were found (Maktoob Staff, 2021).

Ankit Saxena: A 23-year-old Hindu man was killed allegedly by members of one Shehzadi family who opposed the couple's interfaith relationship (Maktoob Staff, 2021).

Sanjay Kumar: The body of a Dalit man was found in Faridabad six days after he went missing. Sanjay had eloped and married a Muslim woman a year earlier (Maktoob Staff, 2021).

Hindu-Muslim Wedding Incident: A mob comprising local BJP leaders and members of right-wing groups gathered outside the venue of a Hindu-Muslim wedding. The bride's father, a Hindu, said he had been receiving threatening calls, accusing him of acting against the Hindu religion (Maktoob Staff, 2021).

Naseem Khan and Pinki Kumari: After this Hindu-Muslim couple returned to their village two years after getting married, Naseem was beaten with sticks and shot to death by Pinki's family (Maktoob Staff, 2021).

Suhail and Monika: An interfaith couple was manhandled outside the sub-divisional magistrate court when they went to get their marriage certificate verified (Maktoob Staff, 2021).

⁷⁵ Pew Research Center. (2021, June 29). Religious segregation in India. *Pew Research Center*. <https://www.pewresearch.org/religion/2021/06/29/religious-segregation/>

⁷⁶ Maktoob Staff. (2019, February 2019). Killed, beaten, and humiliated: Stories of India's 39 interfaith couples. Maktoob Media. <https://maktoobmedia.com/india/killed-beaten-and-humiliated-stories-of-indias-39-interfaith-couples/>

Shri Krishna: A Dalit from the Kori community, aged 44, was allegedly forced to lick his spit in public because his son married a Muslim girl (Maktoob Staff, 2021).

Killed for having a relationship with a Hindu girl: A 21-year-old Muslim man was brutally killed for having an affair with a Hindu woman (Maktoob Staff, 2021).

These horrifying incidents illustrate the severe challenges and dangers interfaith couples face in India, highlighting the urgent need for legal and social reforms to protect their rights and lives. Instead of implementing anti-conversion laws that act as tools to invade the privacy of individuals and serve as mechanisms to scrutinize and control the private lives of couples, we require laws that safeguard the rights of these couples. The current anti-conversion laws create an environment of fear and harassment, rather than offering protection and support. It is essential to develop legal frameworks that affirm the right to marry a person of one's choice, ensuring privacy, autonomy, and safety for interfaith couples. The government should abolish laws that violate the right to privacy of individual couples and create a fearful environment like the anti-conversion laws. Instead, laws that protect the privacy and freedom of choice of interfaith couples should be established.

VIOLATION AND SUPPRESSION OF RELIGIOUS PERSONAL AUTONOMY

Anti-conversion laws have far-reaching implications for individual freedoms. These laws, intended to curb forced conversions and scrutinize every religious conversion, mandate stringent procedures and penalties that directly or indirectly infringe upon personal religious autonomy. The provisions in the law are often so vague and broad that they lead individuals to self-censorship. Moreover, these laws tend to view women and marginalized communities as weak groups incapable of exercising their free rights. The scrutiny procedures create a climate of fear, deterring individuals from changing their religion even when it is a voluntary decision. Let's explore the various ways in which these laws impact personal autonomy.

The most debated issue in the anti-conversion law often leads to self-censorship by individuals, preventing them from exercising their free religious expressions and practices. The reason for such self-censorship is the excessive vagueness of the term "allurement." For instance, in the Uttar Pradesh Anti-Conversion Law, the term is defined to include any temptation in the form of gifts, cash, material benefits, employment, job opportunities, free education, a better lifestyle, and so forth. This lack of precise definition leaves room for broad interpretation,

which can be exploited to accuse individuals and religious organizations of violating the law, even when their actions are legitimate. Suppose a religious mission operates a hospital or school, and they do not coerce individuals into converting to join or receive services. However, after witnessing the work being done there, perhaps receiving medical treatment or education, one might feel compelled to change their religion. This decision remains within the individual's prerogative, particularly if they are an adult. If one converts with the expectation of benefiting from religion, there seems to be no reason for government intervention. Just as individuals are free to change their political views for personal gain without requiring government permission, the same principle should apply to religious conversions. Even members of parliament change their allegiance or political party based on personal gain. So, why should an individual, who seeks benefit from philanthropic treatment from an organization or group without any intention to convert, be required to seek permission from the district magistrate to change their religion?⁷⁷ Also, because the law can be interpreted in many ways, people become anxious about being accused of breaking it. Combined with the potential grave legal consequences — such as fines, imprisonment, or public trials— intensifies this anxiety, creating a chilling effect. Consequently, people may become hesitant to exercise their legitimate religious freedoms, apprehensive that their actions could be misinterpreted as attempts to allure others.

The Uttar Pradesh anti-conversion law and the other newly enacted laws have one major thing in common which is unjustifiable and vague: the disproportionality of punishments to some sections in Section 5 of Uttar Pradesh anti-conversion law which delineates the punishment for contravening Section 3. The main contention with this section is where it specifies that if the victim is a woman, a minor, or a person belonging to a Scheduled Caste or Scheduled Tribe, the punishment increases to 2-10 years of imprisonment with a fine of at least Rs. 25,000.⁷⁸ This section is inherently arbitrary and can be seen as misogynistic, as it portrays women as weak and vulnerable because women are not as rational as male and can be easily trapped. Additionally, it perpetuates caste hierarchy by labelling Scheduled Caste and Scheduled Tribe communities as vulnerable and there is no reasonable justification for making this provision. It overlooks the socio-economic realities faced by most of these communities, who often live below the poverty line and face social marginalization. Furthermore, the government's failure

⁷⁷ Justice Deepak Gupta, *Anti-Conversion Laws Are Coming for Political Reasons Than Actual Reasons*, LiveLaw (Jul. 16, 2023), <https://livelaw-cnlu.refread.com/interviews/anti-conversion-laws-are-coming-for-political-reasons-than-actual-reasons-justice-deepak-gupta-216324>.

⁷⁸ *Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance*, No. 21 of 2020, § 5 (India).

to adequately support these groups means they often rely on religious organizations for essential services such as education and healthcare, provided philanthropically. However, under this law, institutions engaged in such generous work may face severe punishment, including rigorous imprisonment of up to 10 years and fines of Rs. 25,000. This suggests that the government views such acts of generosity as more criminal than serious offenses like rape and dacoity.

CONCLUSION

In summary, the state's anti-conversion laws violate individuals' privacy rights and create a chilling effect on individuals, groups, and organizations, discouraging them from freely exercising their rights. The harsh penalties and punishments outlined in these laws instill fear and foster an atmosphere of authoritarian control. Additionally, these laws put inter-religious marriages at risk, which are already viewed as a sin in many religious traditions. The procedures and terminology used in these laws, such as the ambiguous term "coercion," exacerbate the situation, making it more hostile for ordinary citizens.

Some provisions of these laws are also based on patriarchal assumptions, treating women as a weaker section incapable of making fair choices. Furthermore, the laws adopt a hostile stance towards pro bono assistance from religious institutions, viewing it as a threat to the state and imposing severe penalties.

Given these concerns, these laws should be challenged on the grounds of privacy violations and other rights infringements and should be struck down. The government should focus on protecting the rights of individuals who change their religion, rather than imposing harsh and vague regulations. An approach that respects privacy rights and provides a safe environment for interfaith couples should be adopted, ensuring that their rights are safeguarded.