

Comparison of- anti-conversion laws of MP, UP, and Himachal Pradesh

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In news

As Uttar Pradesh & Himachal Pradesh proposed anti-conversion laws, the Madhya Pradesh Government has also approved the Freedom to Religion Bill, 2020 as an Ordinance

Anti-conversion laws proposed by three states

1. The Uttar Pradesh Prohibition of Unlawful Conversion of Religious Ordinance, 2020
2. The Madhya Pradesh Freedom to Religion Bill, Ordinance 2020
3. The Himachal Pradesh Freedom of Religion Act, 2019

Comparison of three anti-conversion laws

Common feature: Such marriages null and void

- All three laws declare such marriages as “null and void” and the penalising of conversions done without the prior approval of the state
- They differ in the quantum of punishment prescribed, and in attributing the burden of proof that a conversion is lawful.

With respect to prior notice

- **MP law:** It requires a 60-day prior “declaration of the intention to convert” to the District Magistrate for conversion to be valid, following which a couple from different religions can be legally married.
- **UP law:** It also requires a 60-day notice but also

requires the Magistrate to conduct a police inquiry to ascertain the real intention behind the conversion.

- **HP law:** It requires a 30-day prior “declaration of intention to convert”.

With respect to Investigation:

- **MP law:**
 - Section 4 of the MP law states that there cannot be an investigation by a police officer except on the written complaint of the person converted or the person’s parents/siblings.
 - It states that guardians of the person converted can file a complaint only with the permission of a court.
 - It also says that no police officer below the rank of a sub-inspector can investigate an offence under the law.
- **UP law:** It allows the same people as allowed by the MP law to file a complaint.
- **HP law:** It says that prosecution cannot be initiated without the prior sanction of an officer not below the rank of a sub-divisional magistrate.

With respect to the Burden of proof

- **MP law:** It places on the person converted the burden of proving that the conversion was done without any coercion or illegality.
- **HP law:** The Himachal law has a similar provision as MP law
- **UP law:** It goes further, placing this burden of proof on people who “caused” or “facilitated” the conversion and not on the individual. Even in the police inquiry, if the Magistrate is not satisfied, criminal action under Section 11 of the Ordinance can be initiated against persons who “caused” the conversion

With respect to maintenance & inheritance

- **MP law:**

- While declaring as “null and void” any marriage in which either the husband or the wife has converted, even consensual, unless they have given prior notice to the state government, MP’s new law at the same time seeks to protect the right of women and her child from the “null and void” marriage.
- Under Section 9, the woman whose marriage has been declared null and void under this legislation, and her children, will have a right to maintenance.
- Both UP law & Himachal Pradesh law does not have such provisions

With respect to the quantum of punishment

- **Similarities:** As per all the three laws, the offence of illegal conversion is cognisable and non-bailable, which means an arrest can be made without a warrant and bail is granted only by the discretion of the judge.
- **MP law:**
 - Under this a person can be sentenced to a jail term between one and five years for converting or attempting to convert unlawfully.
 - If the person converted is a woman, a minor or a person belonging to a Scheduled Caste or Scheduled Tribe (SC/ST), the sentence is two to 10 years.
 - It also provides for a jail term of three to 10 years for concealing one’s religion during the marriage.
- **UP law:**
 - It provides for a minimum punishment of one year, which can be extended up to five years, and repeat offences can carry double the maximum sentence.
 - Men are awarded a higher punishment if convicted of causing conversion of a woman, a minor or a person belonging to an SC/ST in which case the

sentence is between two and 10 years.

▪ **HP Law:**

- Under this, a person can be sentenced to a jail term of one to five years for converting or attempting to convert unlawfully.
- If the person converted is a woman, a minor or a person belonging to an SC/ST, the sentence is two to seven years.

With respect to laws earlier

Around 10 states including MP and Himachal Pradesh already have anti-conversion laws. The key difference in the new laws is that they seek to criminalise conversions solely for the purpose of marriage.

Madhya Pradesh: This ordinance repeals the Madhya Pradesh Freedom of Religion Act, 1968. While that too criminalised forced conversion, the new law adds provisions relating to conversion during marriage, maintenance rights, and reversal of the burden of proof by placing it on the accused.

Himachal Pradesh: The state passed its law in 2019 and repealed the Himachal Pradesh Freedom of Religion Act, 2006. And the 2019 law has added provisions related to conversions for the purpose of marriage, the aspect of prior declaration before the district magistrate existed in the 2006 law as well.

Uttar Pradesh: In the year 2019, the UP State Law Commission recommended a special law to address incidents of forced conversion. In a draft Bill, submitted along with the report, the Commission recommended penalising fraudulent conversions, including conversions solely for the purpose of marriage