3 States, 3 Anti-Conversion Laws - Similarities and Differences

Why in news?

The Madhya Pradesh government is set to follow Uttar Pradesh and Himachal Pradesh in passing an anti-conversion law that outlaws religious conversion solely for the purpose of marriage.

What are the key features?

- **Common feature** - At least 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.
- A common feature of all three laws is the declaration of such marriages as "null and void."
- The penalising of conversions done without the prior approval of the state is also a common feature.
- **Prior notice** - The MP law requires a 60-day prior "declaration of the intention to convert" to the District Magistrate for conversion to be valid.
- Following this, a couple from different religions can be legally married.
- The Uttar Pradesh law, Prohibition of Unlawful Conversion of Religious Ordinance, 2020, too requires a 60-day notice.
- It also requires the Magistrate to conduct a police inquiry to ascertain the real intention behind the conversion.
- The Himachal Pradesh Freedom of Religion Act, 2019 requires a 30-day prior "declaration of intention to convert".
- **Investigation** – 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.
- Guardians of the person converted can file a complaint only with the permission of a court.
- The MP law also says that no police officer below the rank of a sub-inspector can investigate an offence under the law.
- The UP law allows the same people as allowed by the MP law to file a complaint.
- Under the Himachal law, prosecution cannot be initiated without the prior

sanction of an officer not below the rank of a sub-divisional magistrate.

- **Burden of proof -** The MP law places on the person converted the burden of proving that the conversion was done without any coercion or illegality.
- The Himachal law has a similar provision.
- The UP law 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 can be initiated against persons who "caused" the conversion.
- This includes those who committed the offence; omitted to act and prevent the offence; and aided, abetted, counselled or procured people for committing the offence.
- **Maintenance & inheritance** - Clearly, unless given prior notice to the state government, the marriage is declared "null and void" if either the husband or the wife has converted, even consensual.
- But, MP's new law seeks to protect the right of women and her child from such "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.
    - The law does not, however, provide a recourse for ensuring the marriage can be protected subsequently.
- Neither the UP nor the Himachal law has such provisions for protecting women and children.
- **Quantum of punishment** - The offence of illegal conversion under the laws of all three states is cognisable and non-bailable.
- This means that an arrest can be made without a warrant, and bail is granted only by the discretion of the judge.
- Under the MP law, a person can be sentenced to a jail term between one and 5 years for converting or attempting to convert unlawfully.
- If the person converted is a woman, a minor or a person belonging to a SC/ST, the sentence is 2 to 10 years.
- It also provides for a jail term of 3 to 10 years for concealing one's religion during the marriage.
- The UP law provides for a minimum punishment of one year, which can be extended up to 5 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 2 and 10 years.
- In the Himachal law, a person can be sentenced to a jail term of one to 5 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 2 to 7 years.

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