Existing Laws on Religious Conversions

Why in news?

The Supreme Court's recent remarks on religious conversions cast a spotlight on the long-standing debate about what the fundamental right to propagate one's religious faith entails.

What is the recent Supreme Court remark about?

- The Bench has been hearing a plea seeking a special law against forced conversions and alleging that mass conversions of socially and economically underprivileged people are being carried out.
- The Supreme Court has said that acts of charity or good work to help a community or the poor should not cover an intention to religiously convert them as payback.
- The Bench had earlier remarked that religious conversions by means of force, allurement or fraud may ultimately affect the security of the nation and freedom of religion and conscience of citizens.

How is freedom of religion interpreted?

Constituent assembly

- The framers of our constitution debated the inclusion of the "**right to propagate**" as a fundamental right.
- Some members wanted to replace the word "propagate" with "practise privately", fearing that the right would create room for forceful conversions.
- The right to propagate was ultimately kept in the Constitution.
- **Article 25(1)** - All persons are equally entitled to the freedom of conscience and the right to profess, practise and propagate religion freely.

Case judgements

- ***Arun Ghosh vs. State of West Bengal (1950)*** – The Supreme Court held that attempts to raise communal passions through forcible conversions would be considered a breach of public order.
- It also held that it was within the power of States under Entry 1 of the State List of the Seventh Schedule of the Constitution to enact local Freedom of Religion laws.
- ***Rev. Stainislaus vs. State of Madhya Pradesh*** **(1960s) -** in The Supreme court bench held that the Article 25 does not grant the right to convert other persons to one's own religion but to transmit or spread one's religion by an exposition of its tenets.
- The court held that "**What is freedom for one is freedom for the other in equal measure**".

- **2021 SC judgement** - The Court had said that every person was the final judge of their own choice of religion, and invoked the **Puttaswamy judgement (2018)** to hold that religious faith was a part of the fundamental right to privacy.

Do States already have special laws on conversions?

- Before independence, princely States had mainly against conversion to Christianity.
- In post-independence India, **Odisha** became the first State to enact a law restricting religious conversions, which later became a model framework for other States.
- Odisha's 1967 Act provides that no person shall directly or indirectly convert any person from one religious faith to another by force, inducement or any fraudulent means.
- Some laws also provide for greater punishment for forceful conversion of persons from Scheduled Castes or Scheduled Tribe, minors and women.
- More than ten Indian States have enacted laws prohibiting certain means of religious conversions, the recent being Uttar Pradesh (2021), and Haryana (2022).
- Some States enacted or revised their anti-conversion laws, restricting religious conversions on the additional ground of marriage, supposedly to curb what has been described as "**love jihad**".

*Love Jihad, also called Romeo Jihad, is an **alleged activity** under which young Muslim men are said to reportedly target girls belonging to non-Muslim communities for conversion to Islam by feigning love.*

Have these laws been challenged?

- **Himachal Pradesh High Court** - In 2012, the HC struck down certain provisions of the State's 2006 law restricting conversions.
- The Court said that the individual converting their faith also enjoyed their right to privacy and the provision to give a month's prior notice to the district magistrate violated this right.
- **Gujarat High Court** - In 2021, the High Court stayed some provisions of the Gujarat Freedom of Religion Act, upholding the right to choice of an individual.
- **Allahabad High Court** - In 2021, the HC allowed several interfaith couples to register their marriages despite not having sought the District magistrate's approval.

To know about the flaws with anti-conversion-laws, click here

What is the Centre's stand?

- The government has said that the right to religion did not include the right to convert other people to a particular religion, especially through fraud, deception, coercion, allurement and other means.
- It reiterated the interpretation of Article 25 given by the Supreme Court in the ***Stainislaus judgement***.

References

1. The Hindu| Existing laws on religious conversions
2. The Hindu| On religious conversion

