



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL**
**ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated 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

CONSTITUTIONAL VALIDITY OF ANTI-CONVERSION LAW IN UTTAR PRADESH

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I. Abstract

Anti-conversion laws have become an important issue now because authorities in states with strong Hindu Nationalist Party influences have begun to enforce anti-conversion laws under the Indian Penal Code to fine and imprison Christian missionaries and some converts. Recently, The Uttar Pradesh Prohibition of Unlawful Religious Conversion Law, 2020 is a law enacted by the Government of Uttar Pradesh, India to prohibit unlawful conversion from one religion to another by misinterpretation, force, undue influence, coercion, allurement or by any fraudulent means or by marriage. **This article focuses on the history and reason of conversions and also about new law formed on Unlawful Religious Conversion in Uttar Pradesh, 2020.**

Keywords: Conversions; Anti-conversion law Uttar Pradesh.

II. Introduction

Anti-conversion laws are ostensibly intended to prevent people from being unethically converted from one religion to another. They have a long history in India and some princely states enacted them as early as the 1930s. Reasons behind this was due to mass conversion by enforcing or undue influence etc. The Indian Constitution provides for freedom of religion, and the supporters of anti-conversion laws believe that they help to promote religious freedom by protecting people from forced conversions. Anti-conversion laws have become an important issue now because authorities in states with strong Hindu Nationalist Party influences have begun to enforce anti-conversion laws under the Indian Penal Code to fine and imprison Christian missionaries and some converts. In addition, there have been reports of violence against Christians based on conversion activities. The Hindu Nationalist Party is attempting to preserve the Hindu caste system by preventing Dalit's, untouchables, from converting from Hinduism. This is a serious threat to the Caste System, the Hindu religion, and the power of Hindus in India, and the Hindu nationalist movement feels the need to fight against conversions to achieve its goal of making India a Hindu state.

Recently, The Uttar Pradesh Prohibition of Unlawful Religious Conversion Law, 2020 is a law enacted by the Government of Uttar Pradesh, India to prohibit unlawful conversion from one religion to another by misinterpretation, force, undue influence, coercion, allurements or by any fraudulent means or by marriage. The Ordinance was cleared by the Uttar Pradesh State Cabinet on 24 November 2020 and **received UP's Governor Assent on 28 November 2020 thereby becoming law.** The ordinance comes days after the Allahabad high court said in a verdict that the right to choose a partner or live with a person of choice was part of a citizen's fundamental right to life and liberty. The verdict also said earlier court rulings that 'religious conversion for marriage was unacceptable' was not good in law. Superficially, the [Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance No. 21 of 2020](#) appears to be similar to the so-called [anti-conversion laws that are already in existence in eight states.](#) This article is all about the Constitutional validity of anti-conversion law recently enacted in U.P.

III. Reasons for conversion

Why do people convert? There are several reasons that have been listed in various documents. Today it has become a religious battle and there are scores of complaints about missionaries acting like salesman to sell religion and convert people in large number. This has been a subject matter of many disciplines *viz.* psychology, sociology, theology but not law. Law is only concerned with the legality or illegality of the reasons but not the reasons per se. Even so, it is important to briefly mention various reasons which precede conversion. Various social studies on conversion conducted in the 1960s and 1970s reveal that economic, social, moral, spiritual, and psychological deprivation has been described as the key impetus behind a person's decision to alter their religious identities. Most importantly gravitation towards other religions may also be a consequence of brainwashing, or persuasion by way of coercion. One of the most significant factors credited with motivating individuals to convert to other religion is "relative deprivation". The other reasons for conversions which have been seen are polygamy, for reservation benefits and divorce.

IV. History of Anti-Conversion Laws

India is a nation that is home to a diversity of religious beliefs and practices. The Indian subcontinent is the birthplace of four major world religions—Hinduism, Buddhism, Sikhism, and Jainism. According to reported 2011 census data, 79.80% of the population of India is Hindu, 14.23% Muslim, 2.30% Christian, 1.72% Sikh, 0.70% Buddhist, and 0.37% Jain. Laws restricting

religious conversions were originally introduced by Hindu princely states during the British Colonial period—mainly “during the latter half of the 1930s and 1940s.” These states enacted the laws “in an attempt to preserve Hindu religious identity in the face of British missionaries.” There were “Over a dozen princely states, including Kota, Bikaner, Jodhpur, Raigarh, Patna, Surguja, Udaipur, and Kalahandi,” that had such laws. Some of the laws from that period include the Raigarh State Conversion Act, 1936; the Surguja State Apostasy Act, 1942; and the Udaipur State Anti-Conversion Act, 1946.

Following India’s independence, the Parliament introduced a number of anti-conversion bills, but none were enacted. First, the Indian Conversion (Regulation and Registration) Bill was introduced in 1954, which sought to enforce “licensing of missionaries and the registration of conversion with government officials.” This bill failed to gather majority support in the lower house of Parliament and was rejected by its members. This was followed by the introduction of the Backward Communities (Religious Protection) Bill in 1960, “which aimed at checking conversion of Hindus to ‘non-Indian religions’ which, as per the definition in the Bill, included Islam, Christianity, Judaism and Zoroastrianism,” and the Freedom of Religion Bill in 1979, which sought “official curbs on inter-religious conversion.” These bills were also not passed by Parliament due to a lack of parliamentary support.

Ministers of the current Bharatiya Janata Party (BJP) government have voiced their support for the adoption of an anti-conversion law at the national level, which some critics see as an attack on the secular values of India’s Constitution. In 2015, “high-ranking members of the ruling BJP party, including the party’s president Amit Shah, called for a nationwide anti-conversion law.” Two members of the BJP, including Amit Shah, have announced that anti-conversion bills are to be introduced in both houses of Parliament “so as to criminalise religious conversion without the government’s consent.” However, the BJP government’s plan to enact national legislation reportedly “hit a roadblock” with the Ministry of Law and Justice which advised against the move, stating that it is “not tenable” since, it is “purely a state subject”—i.e., a matter that lies purely under the constitutional domain of the states under the State List in Schedule Seven of the Constitution.

V. All about Anti-Conversion Law in Uttar Pradesh 2020

The Uttar Pradesh Prohibition of Unlawful Religious Conversion Law, 2020 is a law enacted by the Government of Uttar Pradesh, India. The Ordinance was cleared by the Uttar Pradesh State

Cabinet on 24 November 2020 and **received UP's Governor Assent on 28 November 2020** thereby becoming law.

Citation: UP ordinance No. 21 of 2020

Territorial Extent: Uttar Pradesh, India

Enacted by: Uttar Pradesh State Cabinet

Enacted on: 24 November 2020

Assented on: 28 November 2020 by Governor of Uttar Pradesh

Introduced by: Government of Uttar Pradesh

Governor of Uttar Pradesh: Anandiben Patel

Chief Minister of Uttar Pradesh: [Yogi Adityanath](#)

This law is also known as Uttar Pradesh Vidhi Virudh Dharma Samparivartan Pratishedh Adhyadesh, 2020. The **aim of this law** is to provide for the prohibition of unlawful conversion from one religion to another by misinterpretation, force, undue influence, coercion, allurements or by any fraudulent means or by marriage. The law prohibits every person to convert or attempt to convert another person from his own religion to another by use or practise of misinterpretation, force, undue influence, allurements, marriage or by any fraudulent means and no one should abet, convince or conspire the said conversion. Any aggrieved person and the people related to the person by blood, marriage or adoption have the right to lodge an FIR against the said conversion. It is to be noted that any person who reconverts to his/her immediate previous religion, it is not deemed to be a conversion under this law.

Punishment and fine: Whosoever contravenes this law will face at least one-year imprisonment which may be extended to five years. Contravenes this law with **reference to mass conversion**, will face at least three years jail term which may be extended to ten years. Contravenes this law with **reference to woman, minor or people belonging to SC or ST tribe**, will face at least two years jail term which may be extended to ten years.

People carrying out the prohibited conversion will be liable to pay Rs. 15,000 fine. Whosoever contravenes this law with **reference to minor, woman or people belonging to SC or ST tribe**, will be liable to pay Rs. 25,000 fine. Whosoever contravenes this law with **reference to mass conversion**, will be liable to pay Rs. 50,000 fine. The compensation payable by the accused to the victim of the said conversion shall be in addition to the fine and may extend to Rs. 5 Lakh.

Marriage for the sole purpose of unlawful conversion or vice-versa: As per the law, any marriage will be declared void by the Court if it was solely done for the purpose of unlawful conversion or vice versa.

Declaration and Pre-report: Any person who **wishes to convert to another religion** shall declare (in the form prescribed in Schedule-I at least sixty days in advance) that the conversion is with his/her free consent and without any force, coercion, undue influence or allurement. The **religious convertor** shall inform at least one month in advance about such conversion (in the form prescribed in Schedule-II).

The declaration and the notice and shall be given to the District Magistrate/ Additional District Magistrate. Upon receiving the information, the said officer will conduct an enquiry to real intention, purpose and cause of the proposed religious conversion. If the proposed conversion contradicts the provisions of this law, it would be illegal and void. The **person who contradicts the provisions of subsection (i)** will face a minimum of 6 months jail term which may be extended to three years along with a fine not less than Rs. 10,000. The **person who contradicts the provisions of subsection (ii)** will face a minimum of 6 months jail term which may be extended to three years along with a fine not less than Rs. 25,000.

Declaration Post Conversion: The converted person shall **send a declaration** (in the form prescribed in Schedule-III) within sixty days of the conversion to the DM of the district in which the person resides. The converted person shall **appear before the DM of the district within 21 days** of filing the declaration to establish his/ her identity and to confirm the contents of the declaration.

Parties to offence: If an offence is committed under this law, the below-mentioned parties will be guilty of the offence and will be charged as if he actually committed the said offence.

- (a) Whosoever actually commits the crime.
- (b) Every person who does or omits to do any act to enable or aid another person to commit the offence.
- (c) Any person who guides, convinces or procures any other person to commit the offence.

Burden of Proof: The burden of proof as to whether a religious conversion was effected through

misrepresentation, force, undue influence, coercion, allurement or by any fraudulent means or by marriage, **lies on the person who has caused the conversion** and, where such conversion has been facilitated by any person, on such other person.

VI. Supreme Court on Marriage and Conversion

The Apex Court of India in its several judgements has held that **faith, the state and the courts have no jurisdiction over an adult's absolute right to choose a life partner. Intimacies of marriage lie within a core zone of privacy**, which is inviolable and the choice of a life partner, whether by marriage or outside it, is **part of an individual's 'personhood and identity'**. The absolute **right of an individual to choose a life partner** is not in the least affected by matters of faith. **India is a 'free and democratic country'** and **any interference** by the State in an **adult's right to love and marry has a 'chilling effect' on freedoms**.

VII. Conclusion

The significant element of leading Human life are Religious beliefs, ideology and convictions. Human beings are implanted in their immediate social, cultural, economic, political contexts. Contemporary political beliefs have attempted to address this apparently irreconcilable puzzle and this has resulted in the disclosure of communitarian versus libertarian debate. Ultimately, anti-conversion laws in Uttar Pradesh would require a comprehensive approach that balances the right to freedom of religion and the protection of the cultural and social cohesion of the state.

Footnotes

1. Candidate for J.D. May 2009.
2. Faisal Mohammad Ali, Christian Anger at Conversion Law, BBC News (Central India), Aug., 2006, available at http://news.bbc.co.uk/2/hi/south_asia/5246328.stm.
3. Arpita Anant, Anti-conversion Laws, THE HINDU, Dec. 17, 2002, available at <http://www.hinduonnet.com/thehindu/op/2002/12/17/stories/2002121700110200.htm>. id. India const. art. 25-28.
4. US state department, bureau of democracy, human rights, and labor, india international religious Freedom Report 2007, Sept. 14, 2007, available at <http://www.state.gov/g/drl/rls/irf/2007/90228.htm>.
5. Robert D. Baird, Traditional Values, Governmental Values, and Religious Conflict in
6. Contemporary India, 1998 BYU L. REV. 337, 349–50 (1998).

7. <https://thewire.in/communalism/legal-howlers-in-ups-anti-conversion-law-expose-its-real-intent>
8. <https://economictimes.indiatimes.com/news/politics-and-nation/love-jihad-up-government-passes-ordinance-against-unlawful-religious-conversions/articleshow/79391179.cms?from=mdr>