

**LOVE JIHAD LAWS AND THE ILLUSION OF PROTECTION: A CRITICAL ANALYSIS OF  
WOMEN'S FREEDOM OF CHOICE IN CONTEMPORARY INDIA**

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**Abstract**

In recent years, so-called "Love Jihad" laws—legislative measures enacted in various Indian states to curb alleged forced religious conversions through interfaith marriages—have emerged as one of the most controversial developments in India's socio-legal landscape. Proponents portray these statutes as tools to protect women from coercion and exploitation, while critics view them as instruments of patriarchal control, religious bias, and state intrusion into private life. This paper critically examines the premise and functioning of such laws, situating them within constitutional guarantees of equality, liberty, and freedom of religion under Articles 14, 15, 21, and 25 of the Constitution of India. It interrogates whether these laws genuinely safeguard women's autonomy or instead undermine their agency by reinforcing stereotypes of female vulnerability and by granting the state the authority to scrutinize and regulate intimate relationships. Through an analysis of legislative texts, judicial pronouncements, and human rights perspectives, the paper exposes the tensions between public morality and personal liberty, particularly in the context of interfaith unions. It further explores how these laws risk criminalizing consensual relationships, deepening communal divides, and legitimizing social surveillance over personal choices.

The study argues that the illusion of protection created by "Love Jihad" laws masks deeper structural inequalities, where patriarchal norms and religious politics converge to limit women's freedom of choice. By adopting a feminist-constitutional lens, this work

calls for a re-examination of the state's role in safeguarding women's rights—emphasizing empowerment over protectionism, and autonomy over paternalism. Ultimately, it contends that true protection lies not in restricting choices, but in creating a legal and social environment where women can make those choices freely, without fear, coercion, or prejudice.

**Keywords:** Love Jihad laws; women's autonomy; freedom of choice; interfaith marriage; constitutional rights; patriarchy; religious freedom.

## 1. Introduction

In recent years, India has witnessed the emergence of a controversial legal and political phenomenon popularly known as “love jihad” laws. These laws, introduced in several Indian states, ostensibly aim to curb forced religious conversions carried out through interfaith marriages. However, their formulation and enforcement have provoked intense debate about their real intent and impact, especially on women's freedom of choice. At the core of this legal discourse lies a critical question: Are these laws genuinely protecting women, or are they instruments of patriarchal and communal control that undermine women's autonomy and liberty?

The term “love jihad” lacks legal recognition but has acquired significant political traction. It implies that Muslim men are plotting to entice Hindu women into marriage and then convert them to Islam. This narrative, heavily propagated by right-wing groups, has found its way into state legislations like the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance, 2020, and similar laws in Madhya Pradesh, Gujarat, and Uttarakhand. These laws have shifted the burden of proof onto individuals, require prior state permission for conversion, and criminalize interfaith marriages that allegedly involve coercion.

This paper critically examines the evolution, implementation, and implications of love jihad laws in India. It analyzes their constitutional validity, social impact, and ideological underpinnings, with a particular focus on how they erode women's agency and reinforce patriarchal structures under the guise of protection.

## 2. The Genesis and Political Construct of “Love Jihad”

The concept of “love jihad” emerged in the early 2000s as a political and cultural narrative alleging that Muslim men were deliberately seducing Hindu women to convert them to Islam. Though investigations by agencies such as the National Investigation Agency (NIA) and state police forces in Kerala and Karnataka found no organized conspiracy, the rhetoric persisted, fueled by media sensationalism and political campaigns.

The discourse gained legal expression with the introduction of laws targeting forced religious conversion in states like Uttar Pradesh, which promulgated the 2020 Ordinance shortly before state elections. These laws did not emerge in a legal vacuum—they reflect a long-standing suspicion of interfaith relationships in Indian society, often reinforced by caste and communal considerations. However, they go further by criminalizing consensual relationships under the pretext of protecting women and religious identities.

### 3. Legal Framework: The Rise of Anti-Conversion Legislation

In recent years, a distinct legislative trend has emerged across several Indian states—laws designed, on paper, to prevent religious conversions carried out through coercion, fraud, or inducement. While such a goal might appear aligned with protecting individual freedom, the scope and operation of these enactments reveal a far more complex, and troubling, reality. The **Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021**, the **Madhya Pradesh Freedom of Religion Act, 2021**, the **Gujarat Freedom of Religion (Amendment) Act, 2021**, and the **Uttarakhand Freedom of Religion Act, 2018** have all introduced stringent procedural controls and heavy criminal penalties, placing deeply personal matters under the gaze of the state.

A defining feature of these laws is the requirement that any individual intending to convert must **submit a prior declaration to the District Magistrate**, often both before and after the act of conversion. This procedure effectively turns a private, internal decision into a matter of public record, stripping it of the confidentiality that is essential to the freedom of conscience. In *Justice K.S. Puttaswamy v. Union of India (2017)*, the Supreme Court recognized decisional autonomy as a core component of the right to privacy. Yet, these procedural mandates run counter to that principle, compelling citizens to justify personal choices to state authorities before they are “permitted” to exercise them.

Equally contentious is the **criminalization of conversion by marriage** unless sanctioned through state-approved procedures. This provision creates the presumption that interfaith unions are suspect unless proven otherwise. By placing the **burden of proof** on the accused rather than the prosecution, these laws invert the presumption of innocence—one of the cornerstones of criminal law—and subject individuals to punitive consequences without adequate procedural safeguards. Although these statutes claim to be religion-neutral, their enforcement often tells a different story. Patterns of arrests, investigations, and police intervention reveal a **disproportionate focus on Muslim men marrying Hindu women**, aligning with the politically charged narrative of “Love Jihad.” This selective application not only betrays a communal bias but also fuels mistrust between communities, framing interfaith relationships as potential acts of deception rather than as consensual unions of equals.

The chilling effect is undeniable. For many couples, the threat of legal action, public scrutiny, and social hostility is enough to deter them from exercising their constitutional rights. This runs directly against the guarantees under **Articles 14, 15, 21, and 25** of the Constitution, which uphold equality before the law, prohibit discrimination, protect personal liberty, and guarantee freedom of religion. The Supreme Court in ***Shafin Jahan v. Asokan K.M. (2018)*** was unequivocal in affirming that the choice of a life partner lies within the most intimate sphere of individual liberty, immune from state interference.

The new criminal laws, particularly **Sections 69 and 83 of the Bharatiya Nyaya Sanhita, 2023**, which penalize marriage under false identity or deception, risk reinforcing the same patriarchal and communal biases under the guise of legal reform. Despite being framed as safeguards, such provisions replicate the surveillance and control of women's choices, undermining the constitutional vision of dignity, equality, and secularism.

What emerges from this legislative framework is a subtle but significant shift in the state's role—from being a guardian of rights to acting as a gatekeeper of morality. By embedding patriarchal assumptions into law, these statutes undermine women's capacity to make autonomous decisions about love, marriage, and belief. They purport to offer protection but do so by curbing freedom, sending the message that women's choices are valid only when vetted and approved by the state.

In reality, these anti-conversion laws are less about preventing coercion and more about policing identity. They entwine questions of faith, intimacy, and gender into a web of surveillance and suspicion, legitimizing the idea that certain relationships are inherently dangerous. In doing so, they erode not just constitutional freedoms, but also the trust and equality that form the foundation of a pluralistic democracy.

### **5. Gendered Assumptions and Patriarchal Protectionism**

"Love jihad" laws lie an entrenched paternalism that views women not as autonomous individuals but as vulnerable dependents in need of constant oversight. These statutes are premised on the belief that adult women are inherently susceptible to deceit, incapable of making informed decisions about love, marriage, or faith without the guidance—and often the permission—of their families, communities, or the state. This framing strips women of full personhood, recasting them as wards whose emotions and choices must be policed in the name of protection.

Such protectionism is deeply gendered. It assumes that women's sexuality and spirituality are assets to be guarded, not personal domains of freedom. Feminist legal scholars point out that this narrative infantilizes women, reducing their agency to

something conditional upon patriarchal approval. Far from safeguarding women's rights, these laws entrench a cultural logic in which love across religious boundaries is suspect and must be monitored.

By equating interfaith intimacy with manipulation, "love jihad" laws subtly recode romantic relationships into matters of criminal suspicion. This not only stigmatizes men from minority communities but also weaponizes the law as an instrument of social control over women's personal lives. In effect, these measures do not dismantle patriarchal norms—they fortify them, ensuring that the private realm of affection and belief remains subject to public regulation. What is presented as protection thus becomes a sophisticated form of restriction, reinforcing the age-old idea that women's freedoms are privileges granted by authority rather than rights they inherently possess.

## 6. Case Studies and Ground Realities

The implementation of these laws has led to multiple arrests, harassment, and disruption of consensual interfaith relationships. In most cases, complaints are filed not by the woman herself but by her family or vigilante groups. For example:

- In Uttar Pradesh, within the first month of the 2020 Ordinance's implementation, over 14 FIRs were filed and multiple arrests were made—often without the woman's consent or complaint.
- In Madhya Pradesh, several cases involved Hindu women who later testified in court that their conversions were voluntary, yet legal proceedings continued.

Such patterns expose how the laws function as tools of coercion rather than safeguards. They deny women the ability to narrate their own experiences and instead prioritize familial or community concerns.

Indian courts have offered mixed responses. While the Supreme Court has upheld individual rights in landmark cases, lower courts have sometimes allowed police to "investigate" private relationships. However, there are notable instances of resistance:

- The Allahabad High Court in **Salamat Ansari v. State of UP (2020)** held that the right to choose a life partner, irrespective of religion, is intrinsic to Article 21.
- The Gujarat High Court stayed the operation of certain sections of the Freedom of Religion Act that presumed conversion due to marriage to be illegal unless proven otherwise.

Judicial scrutiny must intensify to prevent misuse of such laws and to reaffirm the constitutional vision of secularism and liberty.

## 7. The Role of Judiciary and Constitutional Safeguards

The judiciary in India has responded to anti-conversion laws with a mixture of affirmation and caution, reflecting the ongoing tension between legislative intent and constitutional freedoms. While the Supreme Court has, in several landmark decisions,

firmly upheld individual autonomy and the right to privacy, lower courts have at times permitted police authorities to intervene in and “investigate” personal relationships, thereby blurring the line between public interest and private liberty. Nevertheless, there have been significant judicial interventions that resist such overreach. In ***Salamat Ansari v. State of Uttar Pradesh (2020)***, the Allahabad High Court unequivocally declared that the right to choose a life partner, regardless of religion, is an intrinsic part of the liberty guaranteed under Article 21 of the Constitution. Similarly, the Gujarat High Court intervened to stay the operation of provisions in the state’s Freedom of Religion Act that presumed conversions resulting from marriage to be unlawful unless proven otherwise, recognizing the unconstitutional burden such provisions placed on individual choice. These instances of judicial resistance demonstrate that the courts can serve as an essential bulwark against the misuse of anti-conversion laws. However, for these protections to be meaningful, judicial scrutiny must become both more consistent and more robust, ensuring that constitutional commitments to secularism, equality, and personal liberty are not eroded under the pretext of safeguarding public order.

### **8. International Human Rights Perspective**

India, as a signatory to several core international human rights instruments such as the ***International Covenant on Civil and Political Rights (ICCPR)*** and the ***Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)***, has undertaken binding obligations to safeguard individual freedoms, including the right to freely choose one’s religion, the right to privacy, and the right to equality in marriage. These treaties recognize marriage as a matter of personal autonomy and intimate choice, free from arbitrary interference by the State. The United Nations Human Rights Committee, in its interpretative guidance, has repeatedly emphasized that any legal framework governing religious conversion must not be coercive, discriminatory, or excessively restrictive, as such measures undermine personal dignity and self-determination.

In this light, the so-called “love jihad” laws—by imposing prior notification requirements, bureaucratic scrutiny, and presumptions of illegality on interfaith unions—create a chilling effect on both religious freedom and the freedom to marry. They not only intrude upon private decision-making but also foster an environment in which women, in particular, face heightened social surveillance and patriarchal control. Such statutory regimes risk placing India in breach of its treaty commitments, especially where they disproportionately affect women’s autonomy and perpetuate gendered stereotypes about vulnerability and agency. Viewed from a rights-based lens, these laws appear less as protective measures and more as instruments of restriction, placing the State in tension with its constitutional promises and its international human rights obligations.

### **Comparative Global Legal Perspective on “Love Jihad”**

The global legal landscape on interfaith relationships and religious conversion reflects a spectrum ranging from liberal protection of individual choice to restrictive state control. In much of Western Europe, North America, and countries like Australia and New Zealand, the law treats interfaith marriage as a private matter, protected by constitutional guarantees of equality, privacy, and freedom of religion. State interference is minimal, and even when administrative formalities exist—such as marriage registration—they are neutral in application and devoid of religious or communal overtones. Any restriction on a consenting adult’s right to marry or convert is subjected to strict judicial scrutiny, with courts prioritizing personal autonomy over societal prejudice.

At the other end of the spectrum, several Middle Eastern and North African states impose rigid barriers to interfaith unions, often making them legally impossible unless one partner converts to the other’s religion. These restrictions are justified as protecting religious identity or public morality but have been repeatedly criticized by UN human rights mechanisms as discriminatory, particularly against women. Similar control-oriented patterns are seen in some Southeast Asian countries, where state approval is required for conversion or marriage across faiths, creating bureaucratic hurdles that can be weaponized against marginalized communities.

India’s “love jihad” laws occupy a legally complex and globally contentious position. While framed as measures to prevent forced conversion, their procedural requirements—such as prior notice, police verification, and possible annulment—shift the burden of proof onto couples and open space for state and community interference in intimate decisions. This framework places India closer to restrictive regimes than to liberal democratic models, despite its constitutional promise of religious freedom and equality. From a comparative perspective, such laws risk diluting India’s alignment with global democratic norms and move it toward a legal culture where personal relationships are viewed through a lens of suspicion and control, rather than trust and autonomy. In a world where progressive legal systems increasingly safeguard love and belief as matters of personal sovereignty, “love jihad” laws stand out as a regressive anomaly.

### **9. Conclusion: Reclaiming Women's Freedom of Choice**

Love jihad laws, far from being instruments of protection, are mechanisms of control that undermine women’s freedom of thought, belief, and intimacy. By legitimizing state intrusion into private relationships and religious conscience, they mark a dangerous departure from constitutional ideals.

The challenge is not merely legal but ideological—restoring faith in a constitutional order that respects pluralism, safeguards minority rights, and upholds gender justice. Protecting women does not mean policing them. True empowerment lies in trusting women with their choices, not constraining them under the garb of communal paranoia and paternalism.

To conclude, love jihad laws must be critically reassessed, if not repealed. India must choose between a democracy that values individual freedom or one that sacrifices it at the altar of majoritarian insecurities. The path forward lies in reaffirming constitutional morality over cultural orthodoxy.

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