Issues with the Law on Inter-Faith Marriages

What is the issue?

The law that governs inter-faith marriages in the country, the Special Marriage Act (SMA), 1954, is being challenged for endangering the lives of young couples who seek refuge under it.

What is the Special Marriage Act (SMA), 1954?

- The Special Marriage Act is an Act with the provision for civil marriage for people of India and all Indian nationals in foreign countries, irrespective of religion or faith followed by either party.
- According to this Act, the couples have to serve a notice with the relevant documents to the Marriage Officer 30 days before the intended date of the marriage.
- **Registration**- Both parties are required to be present after the submission of documents for issuance of public notice inviting objections.
- One copy of the notice is posted on the notice board of the office and a copy of the notice is sent to both parties as per the given address.
- Registration is done 30 days after the date of notice after deciding any objection that may have been received during that period by the SDM.
- Both parties along with three witnesses are required to be present on the date of registration.

What are the hurdles in the act?

- **Section 5 of the Act** - It requires at least one of the parties to reside in the district for a period of not less than 30 days immediately preceding the date on which such notice is given to the Marriage Office of the district.
- **Section 6**- If either of the parties is not a permanent resident in the district in which the notice has been given, then the Marriage officer has to send the notice to Marriage Officer of the district in which the parties may have permanent residence to publicise it.

- **Section 7**- It enables any person before the expiry of 30 days from the date on which such notice has been published to object to the marriage.
- **Sections 8-** It requires the Marriage Officer to inquire into the objection and satisfy himself that it does not prevent the solemnization of the marriage.
- **Section 19**- It is punitive in character as the marriage solemnized under this Act of any member of an undivided family who professes the Hindu, Buddhist, Sikh or Jain religion shall be deemed to effect his severance from such family.
- **Other issues**- The law doesn't require such a notice to be sent to the families, but there are often instances where marriage officers and State governments go over and beyond the law.
- Haryana has created a checklist for marriages under the SMA, with 16 criteria that require a couple to publish a notice inviting objections in a newspaper and that such notices be sent to their parents.
- The Maharashtra (Department of Registration and Stamps) publicly shares the details of these couples on its website, from where communal elements can access them and start threatening the couples.

What lies ahead?

- A petition filed in the Supreme Court ***(Nandini Praveen vs. Union of India, 2021*)** has sought that few provisions be struck down as they violate the right to privacy, and the right to marry.
- Until the apex court decides, couples will be forced to knock on the door of courts to seek protection from a law that was framed with the intent to safeguard their interests.

References

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