



The Uttarakhand Freedom of Religion Act, 2018

Act 28 of 2018

Keyword(s):

Allurement, Convincing for Conversion, Force, Fraudulent, Coercion, Undue Influence, Minor, Religion

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The Uttarakhand Freedom of Religion Act, 2018
[Uttarakhand Act N0: 28 of 2018]

An
Act

to provide freedom of religion by prohibition of conversion from one religion to another by misrepresentation, force, undue influence, coercion, allurement or by any fraudulent means or by marriage and for the matters incidental thereto.

Be it enacted by the Uttarakhand Legislative Assembly in the Sixty-ninth year of the Republic of India, as follows:

Short title, extent and commencement	1.	<p>(1) This Act may be called the Uttarakhand Freedom of Religion Act, 2018.</p> <p>(2) It shall extend to the whole of the State of Uttarakhand.</p> <p>(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.</p>
Definitions	2	<p>In this Act, unless the context otherwise requires:</p> <p>(a) “Allurement” means and includes offer of any temptation in the form of any gift or gratification or material benefit, either in cash or kind or employment, free education in reputed school run by any religious body, easy money, better lifestyle, divine pleasure or otherwise;</p> <p>(b) “Convincing for conversion” means to make one person agree to renounce one’s religion and adopt another religion;</p> <p>(c) “Force” includes a show of force or a threat of injury of any kind to the person converted or sought to be converted or to any other person or property including a threat of divine displeasure or social excommunication;</p> <p>(d) “Fraudulent” includes misrepresentation of any kind or any other fraudulent contrivance;</p> <p>(e) “Coercion” means compelling an individual to act against his will by the use of psychological pressure or physical force causing bodily injury or threat thereof;</p> <p>(f) “Undue influence” means the unconscientious use by one person of his power or influence over another in order to persuade the other to act in accordance with the will of the person exercising such influence.</p>

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		<p>(g) “Conversion” means renouncing one religion and adopting another ;</p> <p>(h) “Minor” means a person under eighteen years of age;</p> <p>(i) “Religion” means any organized system of faith, belief, worship or lifestyle, as prevailing in India or any part of it, and defined under any law or custom for the time being in force;</p> <p>(j) “Religious priest” means priest of any religion who performs purification Sanskar or conversion ceremony of any religion and by whatever name he is called such as <i>pujari, pandit, mulla, maulvi, father etc.</i>,</p> <p>(k) The words and expressions used in this Act and not defined in it but defined in any other law for the time being in force in India or in State of Uttarakhand shall have the same meaning assigned to them respectively.</p>
Prohibition of conversion from one religion to another religion by misrepresentation, force, fraud, undue influence, coercion, allurement or marriage	3.	<p>No person shall convert or attempt to convert, either directly or otherwise, any other person from one religion to another by use of misrepresentation, force, undue influence, coercion, allurement or by any fraudulent means or by marriage nor shall any person abet or conspire such conversion;</p> <p>Provided that, if any person comes back to his ancestral religion, shall not be deemed conversion under this Act.</p>
Complaint to of conversion of religion	4.	<p>Any aggrieved person under section 3 or his parents or brother-sister may complaint to the Court of such conversion of religion on the ground that it would contravene of the conditions specified in section 3;</p> <p>Provided that, where aggrieved person or his brother or sister are under the age of eighteen years, or are idiot or lunatic, or are from sickness or infirmity unable to make a complaint some other person or by any other person who is related to him by blood, marriage or adoption, a complaint may be made on his behalf with the leave of the Court.</p>
Punishment for contravention of provisions of Section 3	5.	<p>Whoever contravenes the provisions of Section 3 shall, without prejudice to any civil liability, be punished with imprisonment for a term, which shall not be less than one year but which may extend to five years and shall also be liable to fine;</p> <p>Provided that whoever contravenes the provisions of section 3 in respect of a minor, a woman or a person belonging to the Scheduled Caste or Scheduled Tribe shall be punished with imprisonment for a term which shall not be less than two years but which may extend to seven years and shall also be liable to fine.</p>

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Marriages done for sole purpose of conversion to be declared null and void	6.	Any marriage which was done for the sole purpose of conversion by the man of one religion with the woman of another religion either by converting himself before or after marriage or by converting the woman before or after marriage may be declared null and void by the Family Court or where Family Court is not established, the Court having jurisdiction to try such case on a petition presented by either party thereto against the other party of the marriage .
Court to which petition shall be presented	7.	Every petition under section 6 shall be presented to the Family Court or where Family Court is not established, the Court having jurisdiction to try such case within the local limits- (i) the marriage was solemnized; or (ii) the respondent, at the time of the presentation of the petition, resides; or (iii) the parties to the marriage last resided together; or (iv) in case the wife is the petitioner, where she is residing on the date of presentation of the petition.
Declaration before conversion of religion and pre-report about purification Sanskar	8.	<p>(1) One who desires to convert his religion, shall give a declaration at least one month in advance, in the prescribed proforma, to the District Magistrate or the Executive Magistrate specially authorized by District Magistrate that he wishes to convert his religion on his own and at his free consent and without any force, coercion, undue influence or allurement.</p> <p>(2) The religious priest, who performs purification Sanskar or conversion ceremony for converting any person of one religion to another religion, shall give one month's advance notice of such conversion, in the prescribed proforma, to the District Magistrate or any other officer appointed for that purpose by the District Magistrate of the district where such ceremony is proposed to be performed.</p> <p>(3) The District Magistrate, after receiving the information under sub-section (1) and (2), shall get an enquiry conducted through police, with regard to real intention, purpose and cause of that proposed religion conversion.</p> <p>(4) Contravention of the Sub-section (1) and/or sub-section (2) shall have the effect of rendering the said conversion, illegal and void.</p> <p>(5) Whoever contravenes the provisions of sub-section (1) shall be punished with imprisonment for a term which shall not be less than three months, but may extend to one year and shall also be liable to fine.</p> <p>(6) Whoever contravenes the provisions of sub-section (2) shall be punished with imprisonment for a term which shall not be less than six months, but may extend to two years and shall also be liable to fine.</p>

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Prosecution to be made with the prior sanction	9.	No prosecution for an offence under section 8 shall be instituted by any person except by or with the previous sanction of the District Magistrate or such other authority not below the rank of a Sub-Divisional Magistrate, as may be authorized by him in that behalf.
Punishment for violation of provisions of Act by an institution or organization	10.	If any institution or organization violates the provisions of this Act, the person or persons in charge of the affairs of the organization or institution, as the case may be, shall be subject to punishment as provided under section 5 and the registration of the organization or institution under any law for the time being in force may be cancelled after giving reasonable opportunity of hearing.
Prohibition on accepting donation or contribution	11.	Notwithstanding anything contained in any other law for the time being in force, no person or organization violating the provisions of this Act shall be allowed to accept any donation or contribution of any kind from within the country or abroad.
Parties to offence	12.	When an offence is committed under this Act, each of the following shall be deemed to have taken part in committing the offence and to be guilty of the offence, and shall be charged as if he has actually committed it, that is to say,- (i) Every person who actually does the act which constitutes the offence; (ii) Every person who does or omits to do any act for the purpose of enabling or aiding another person to commit the offence; (iii) Every person who aids or abets another person in committing the offence; (iv) Any person who counsels or procures any other person to commit the offence.
Burden of Proof	13.	The burden of prove as to whether a religious conversion was not effected through misrepresentation, force, undue influence, coercion, allurements or by any fraudulent means or by marriage lies on the person so converted and, where such conversion has been facilitated by any person, on such other person.
Offences to be non bailable	14.	Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence committed under this Act shall be non bailable.
Power to remove difficulties	15.	(1) If any difficulty arises in giving effect to the provisions of this Act, the Government of State of Uttarakhand may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it, to be necessary or expedient for removing the difficulty; Provided, that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act. (2) Every order made under this section shall, as soon as may be after it is made, be laid before State Legislature.

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Power to make Rules	16.	<p>(1) The State Government may, by notification in the Official Gazette, make Rules or Regulations for carrying out the provisions of this Act.</p> <p>(2) All Rules made under this section shall be laid before the State Legislature, as soon as may be, after they are made, and shall be subject to such modifications, as the State Legislature may make, during the session.</p> <p>(3) Any modification so made under sub-section (2) shall be published in the Official Gazette, and shall thereupon take effect.</p>
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STATEMENT OF OBJECTS AND REASONS

1. Right to freedom of religion is guaranteed under Articles 25, 26, 27 and 28 of the Constitution of India, which provide religious freedom to all citizens of India. The objective of this right is to sustain the spirit of secularism in India. According to the Constitution, State has no religion and all religions are equal before the State and no religion shall be given preference over the other. Citizens are free to preach, practice and propagate any religion of their choice.
2. The Constitution confers on each individual the fundamental right to profess, practice and propagate his religion. However, the individual right to freedom of conscience and religion cannot be extended to construe a collective right to proselytize; for the right to religious freedom belongs equally to the person converting and the individual sought to be converted.
3. Still, there have been umpteen cases of religious conversions, both mass and individual. Obviously, such incidents have been hotly debated, more so in a multi-religious society, like ours. The presence of pseudo-social organizations with a hidden agenda to convert the vulnerable sections of other religions has been noticed. There have been instances when gullible people have been converted by offering allurements or under undue influence. Some have been forced to convert to other religions.
4. We have come across incidents in which with an agenda to increase strength of their own religion by getting people from other religions converted to their own religion, people do marry girls of other religion by misrepresentation of their own religion and after getting marriage to such girls, they get them converted to their own religion. Several instances came in notice that people convert themselves to the other religion only for the purpose of marriage with the girl of that -religion and after marriage they got that girl converted into their own religion. Recently Hon'ble Supreme Court also took judicial notice of such instances in the cases of SLP (Crl.) No.5777 of 2017 *Shafin Jahan v. Asokan K.M. & Ors.* and Writ Petition (Crl.) No.142 of 2016 *Aman Beg v. State of Madhya Pradesh & Ors.*
5. Several States in India already have their own Right to Freedom of Religion Acts such as Orissa, Madhya Pradesh, Chattisgarh, Rajasthan, Himachal Pradesh, Gujrat, Arunachal Pradesh and Tamil Nadu and recently Uttarakhand High Court in the case of HABC No.20 of 2017 *Girish Kumar Sharma v. State of Uttarakhand* also emphasized need for Freedom of Religion Act for the State of Uttarakhand to curb sham practices of conversion only for the purpose of marriage. Such incidents not only infringe the freedom of religion of the persons so converted but also militate against the secular fabric of our society.
6. The bill therefore, seeks to:-
 - (i) Prohibit religious conversions which are effected through misrepresentation, force, undue influence, coercion, allurements or by any fraudulent means or by marriage by making it an offence;
 - (ii) Provide greater punishment for such conversion in respect of the Minor, Women, Scheduled Castes or the Scheduled Tribes;

- (iii) Provide that the onus of proof that the conversion was not effected through misrepresentation, force, undue influence, coercion, allurement or by any fraudulent means or by marriage lies on the person converting them and the person converted; and
- (iv) Provide that every individual converting from one religion to another shall submit to the prescribed authority a declaration that the conversion was not effected through misrepresentation, force, undue influence, coercion, allurement or by any fraudulent means or by marriage and such authority shall make an inquiry in such cases;
- (v) Declare marriages null and void, which were done solely for the purpose of conversion of girls from one religion to another religion, on the complaint of girl or her parents.

7. The Bill seeks to achieve the above objectives.
