

THE GUJARAT FREEDOM OF RELIGION
(AMENDMENT) BILL, 2021.

GUJARAT BILL NO. 15 OF 2021.

A BILL

further to amend the Gujarat freedom of Religion Act, 2003.

It is hereby enacted in the Seventy-second Year of the Republic of India
as follows:-

1. (1) This Act may be called the Gujarat Freedom of Religion
(Amendment) Act, 2021.

Short title and
commencement.

(2) It shall come into force on such date as the State Government may,
by notification in the *Official Gazette*, appoint.

Amendment of section 2 of Guj. 22 of 2003.

2. In the Gujarat Freedom of Religion Act, 2003 (hereinafter referred to as the "principal Act"), in section 2,-

(1) in clause (a), after sub-clause (ii), the following sub-clause shall be added, namely:-

"(iii) better lifestyle, divine blessings or otherwise;"

(2) for clause (d), the following clause shall be substituted, namely:-

"(d) "fraudulent means" includes misrepresentation or any fraudulent contrivance, impersonation by false name, surname, religious symbol or otherwise;

Amendment of section 3 of Guj. 22 of 2003.

3. In the principal Act, in section 3, for the words "or by any fraudulent means nor", the words "or by any fraudulent means or by marriage or by getting a person married or by aiding a person to get married nor" shall be substituted.

Insertion of new section 3A of Guj. 22 of 2003.

4. In the principal Act, after section 3, the following section shall be inserted, namely:-

Lodging of complaint.

"3A. Any aggrieved person, his parents, brother, sister or any other person related by blood, marriage or adoption may lodge a first information report with the police station having jurisdiction, against the person for an offence committed under this Act."

Amendment of section 4 of Guj. 22 of 2003.

5. In the principal Act, the existing section 4 shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be added, namely:-

"(2) When an offence is committed under this Act, in addition to the person who actually does any act which constitutes the offence, each of the following shall be deemed to have taken part in committing the offence and shall be charged as if he has actually committed the said offence, namely:-

- (a) a person who does or omits to do any act for the purpose of enabling or aiding another person to commit the offence,
(b) a person who aids, abets, counsels or convinces another person to commit the offence.”.

Insertion of new
section 4A to 4C
in Chap. II of
2003.

6. In the principal Act, after section 4, the following sections shall be inserted, namely:-

Punishment for
contravention of
provisions of
section 3 in case
of marriage by
unlawful
conversion.

“4A. Notwithstanding anything contained in section 4, whoever contravenes the provisions of section 3, insofar as conversion by marriage or by getting a person married or by aiding a person to get married is concerned, shall be punished with imprisonment which shall not be less than three years but which may extend to five years and shall also be liable to fine which shall not be less than two lakh rupees:

Provided that if such contravention is done in respect of a minor, a woman or a person belonging to the Scheduled Castes or Scheduled Tribes, the person contravening such provision shall be punished with imprisonment which shall not be less than four years but which may extend to seven years and shall also be liable to fine which shall not be less than three lakh rupees.”;

Marriage by
unlawful
conversion.

4B. Any marriage which is done for the purpose of unlawful conversion by the person of one religion with the person of another religion, either by converting himself/herself before or after marriage, shall be declared void by the Family Court or where the Family Court is not established, by the Court having jurisdiction to try such cases.

Offences by
Institution or
Organization.

4C. (1) If an institution or an organization contravenes the provision of section 3, every person who, at the time the offence

was committed, was in charge of, and was responsible to, such institution or organization shall be punished with imprisonment which shall not be less than three years but which may extend to ten years and shall also be liable to fine upto five lakh rupees."

(2) Such institution or the organization shall not be entitled to any grant provided by the State Government."

Insertion of
new section
6A in Guj. 22
of 2003.

7. In the principal Act, after section 6, the following section shall be inserted, namely:-

Burden of
proof.

"6A. The burden of proof as to whether a religious conversion was not effected through misrepresentation, force, undue influence, coercion, allurement or by any fraudulent means or by marriage shall lie on the person who has caused the conversion and, where such conversion has been facilitated by any person by act, omission, aid, abetment or counselling, on such other person."

Substitution of
section 7 of
Guj. 22 of
2003.

8. In the principal Act, for section 7, the following section shall be substituted, namely:-

Offences to be
cognizable and
non-bailable.

"7. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offences under this Act shall be cognizable and non-bailable and shall not be investigated by an officer below the rank of a Deputy Superintendent of Police."

The Gujarat Freedom of Religion Act, 2003 seeks to deal with religious conversion through allurement, force or by misrepresentation or by any other fraudulent means. However, there are episodes of religious conversion promising better lifestyle, divine blessings and impersonation. There is an emerging trend in which women are lured to marriage for the purpose of religious conversion.

The salient features of the Bill are as under:

- (1) The definition of "allurement" is amended by inserting the words "better lifestyle, divine blessings or otherwise" so that the person who offers any person for better lifestyle, divine blessings or otherwise may be punished under the provisions of the said Act. The definition of "fraudulent means" is also proposed to be amended. *Clause 2* of the Bill provides for the same.
- (2) It is considered necessary also to prohibit the forcible conversion by marriage or by getting a person married or by aiding a person to get married. Accordingly, section 3 of the said Act is proposed to be amended. *Clause 3* of the Bill provides for the same.
- (3) New section 3A is proposed to be inserted so as to lodge a first information report with the police station having jurisdiction by an aggrieved person, his parents, brother, sister or any other person related by blood, marriage or adoption against the person for an offence committed under the Act. *Clause 4* of the Bill provides for the same.
- (4) Existing section 4 is proposed to be amended so as to include certain persons as specified therein shall be deemed to have taken part in committing the offence in addition to the person who actually does any act which constitutes the offence and shall be charged as if he has actually committed the said offence under the said Act. *Clause 5* of the Bill provides for the same.
- (5) New section 4A provides for punishment for contravention of provisions of section 3 in respect of the sole purpose of conversion by marriage or by getting a person married or by aiding a person to get married. *Clause 6* of the Bill provides for the same.
- (6) Certain other provisions such as marriage by unlawful conversion, offences by institution or organization and burden of proof are also proposed to be inserted.
- (7) Existing section 7 of the said Act also proposed to be substituted so as to make the offences cognizable and non-bailable as also it

provides for an investigation of such offences by an officer not below the rank of a Deputy Superintendent of Police.

This Bill seeks to amend the said Act to achieve the aforesaid objects.

PRADHEEPSINH JADEJA,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill provides for delegation of legislative power in the following respects:-

Clause 1:- Sub-clause (2) of this clause empowers the State Government to appoint by notification in the Official Gazette, the date on which the Act shall come into force.

The delegation of legislative power, as aforesaid, is necessary and is of a normal character.

Dated the 25th March, 2021.

PRADHEEPSINH JADEJA,

ANNEXURE
EXTRACT FROM THE GUJARAT FREEDOM OF RELIGION ACT,
2003.

(Guj. 22 of 2003)

2. In this Act, unless the context otherwise requires, -

(a) "allurement" means offer of any temptation in the form of -

- (i) any gift or gratification, either in cash or kind;
- (ii) grant of any material benefit, either monetary or otherwise;

(b) and (c) xxx xxx xxx

(d) "fraudulent means" includes misrepresentation or any other fraudulent contrivance;

(e) xxx xxx xxx.

3. No person shall convert or attempt to convert, either directly or otherwise, any person from one religion to another by use of force or by allurement or by any fraudulent means nor shall any person abet such conversion.

4. Whoever contravenes the provision of section 3 shall, without prejudice to any civil liability, be punished with imprisonment for a term, which may extend to three years and also be liable to fine, which may extend to rupees fifty thousand:

Provided that whoever contravenes the provisions of section 3 in respect of a minor, a woman or a person belonging to Scheduled Caste or Scheduled Tribe shall be punished with imprisonment for a term which may extend to four years and also be liable to fine which may extend to rupees one lakh.

7. An offence under this Act will be cognizable and shall not be investigated by an officer below the rank of a Police Inspector.