

[As INTRODUCED IN THE NATIONAL ASSEMBLY]

A BILL

to provide for protection of persons against forced conversion of their religion

WHEREAS, it is necessary to criminalize forced conversions and provide for protection for those who are victims of this abhorrent practice;

AND WHEREAS, the Constitution of the Islamic Republic of Pakistan provides and protects the rights of all persons to choose and practice their own religion and the freedom of choice of marriage;

AND WHEREAS, the Government of Pakistan is obligated to fulfill its commitments under international human rights conventions including the Universal Declaration of Human Rights, the Child Rights Convention, Convention for the Elimination of all Discrimination Against Women, International Convention of Civil and Political Rights and International Convention of the Economic, Cultural and Social Rights;

It is hereby enacted as follows:-

1. Short title, extent and Commencement.- (1) This Act may be called the Protection of Persons against forced Religious Conversion Bill, 2019.

- (2) It extends to the whole of Pakistan.
- (3) It shall come into force at once.

CHAPTER I – DEFINITIONS

2. Definitions.- (1) In this Act, unless there is anything repugnant in the subject or context,-

- (a) “Abettor” means as defined in section 108 of the Pakistan Penal Code, 1860;
- (b) “Accused” means any person against whom a charge of forced conversion is being laid;
- (c) “Adult” means any person who is above the age of 18 years;
- (d) “Aggrieved person” means any person who has been directly or indirectly adversely affected by an offence of forced conversion;
- (e) “Child” means any person under the age of eighteen years;
- (f) “Child marriage” means child marriage as defined in the Child Marriage Restraint Act, 1929;
- (g) “Child Protection Institute” means any such government facility or registered voluntary organization established for the admission, care, protection and rehabilitation of persons, particularly children and women and may include remand houses, shelter homes, hostels and other such institutions;
- (h) “Code” means the Code of Criminal Procedure, 1898 (Act V of 1898);
- (i) “Coercion” means compulsion by physical force or threat of physical force;
- (j) “Consent” means informed and voluntary consent that is given freely without any coercion, undue influence, fraud or misrepresentation by an adult with full knowledge of the implications of the consent and any alternatives;
- (k) “Conversion” or “Convert” means when a person adopts new religious beliefs that defer from the person’s previous beliefs;
- (l) “Court” means any court notified by the Federal or Provincial Government for the purposes of this Act;

- (m) "Duress" means a threat of harm, whether physical, psychological or emotional, made to compel a person to do something against his or her will or judgment;
 - (n) "Force" means power, violence, or physical, emotional or psychological pressure directed against a person or a thing;
 - (o) "Forced marriage" means a marriage where one or both parties have not given their consent and is prohibited under Section 498B of the Pakistan Penal Code (Act XLV of 1860);
 - (p) "Government" means the Government of Pakistan or Government of any province of Pakistan;
 - (q) "Informer" means a person who has credible information that an offence is about to be or is being or has been committed under this Act and who has no interest adverse to the victim or to the accused;
 - (r) "Majority" means attaining the age of 18 by any person;
 - (s) "Minor" means a person below the age of 18;
 - (t) "Notification" means a notification published in the Official Gazette;
 - (u) "Prescribed" means prescribed by the rules made under this Act;
 - (v) "Service provider" means any such Government facility or registered voluntary organization established for the protection of victim providing shelter, legal, medical, financial or any other assistance;
 - (w) "Threat" means a communicated intent to inflict harm or loss on another person or on another person's property or relative or member of their community, especially one that might diminish a person's freedom to act voluntarily or with lawful consent; and
 - (x) "Victim" means any person who is subjected to forced conversion as defined under this Act;
- (2) Words and phrases not defined in this Act shall have the same meaning as assigned to them in the Pakistan Penal Code, 1860, (Act XLV of 1860) and the Code of Criminal Procedure, 1898 (Act V of 1898).

CHAPTER II – ROLE OF GOVERNMENT

3. **Role of Government.**– (1) Government shall ensure that,-
- (a) A notification is issued to all law enforcement agencies, relevant bodies, institutions, Committees and commissions to ensure the enforcement of this Act;
 - (b) This Act and the contents thereof receive wide publicity through electronic and print media in English and Urdu;
 - (c) The Government officers, the police and the members of the judicial service are given periodic sensitization and awareness training on the issues addressed by this Act;
 - (d) Effective protocols are formulated by the concerned Ministries and Departments which may include those relating to minorities, health, education, women, social welfare and labour, to address the issue of forced conversion and that the same are periodically revised;
 - (e) Support services which shall include but not be limited to shelter, legal aid, medical aid etc. are made available for the support of victim;
 - (f) Shelters specifically for victims of forced conversions are available;
 - (g) Specific courts are notified to hear cases of forced conversion and until such notifications are issued, courts of competent jurisdiction shall hear all cases falling under this Act; and
 - (h) Any other role it deems appropriate for the proper implementation of this Act.

- (2) The Government may notify a particular Commission, Committee or institution with a primary focus on human rights, to oversee and ensure the implementation of this Act.
- (3) The Government shall provide additional budget, infrastructure, resources and staff for the Commission, Committee or institution notified under sub-section (2).

CHAPTER III – AGE OF CONVERSION

- 4. Age of Conversion.-** (1) No person shall be deemed to have changed their religion until they attain the age of majority.
- (2) Any minor who claims to have changed their religion before attaining majority shall not be deemed to have changed their religion and no action shall be taken against him or her for any such claim or action made by the minor.
- (3) Nothing in sub-sections (1) and (2) shall extend to circumstances where the parents or guardians of the minor decide to change the religion of the family.

CHAPTER IV – DEFINITION AND PUNISHMENT

- 5. Definition of Forced Conversion.-** Forced Conversion means forcing a person to adopt another religion under duress, force, coercion or threat.

Explanation.- Any such duress, force, coercion or threat may be directed against a member of the victim's family, loved one, community or property.

Explanation.- A forced conversion can take place through different modes which shall include but not be limited to marriage, bonded labour etc.

- 6. Punishment for Forced Conversion.-** (1) Any person who forcefully converts another person in a manner defined in Section 5 of this Act shall be liable to imprisonment of either description for a term which shall not be less than five years and shall also be liable to fine.

Provided that money charged as a fine shall be paid to the victim.

- (2) In a case of forced conversion, the accused, in addition to a charge of forced conversion shall also be liable, where applicable, for offences which may include but not be limited to:
- Child marriage under the Child Marriage Restraint Act, 1929;
 - Forced marriage under Section 498B of the Pakistan Penal Code 1860;
 - Wrongful Confinement under Chapter XVI of the Pakistan Penal Code, 1860;
 - Rape under Section 375 and 376 of the Pakistan Penal Code, 1860;
 - Kidnapping, abducting or including a woman to compel for marriage etc. under Section 365B of the Pakistan Penal Code, 1860;
 - Kidnapping or abduction from lawful guardianship under Section 361 of the Pakistan Penal Code, 1860;
 - Kidnapping or abducting a person under the age of fourteen under Section 364A of the Pakistan Penal Code, 1860;
 - Kidnapping or abducting in order to subject person to grievous hurt, slavery etc. under Section 367 of the Pakistan Penal Code, 1860;
 - Bonded labour under relevant sections of the Bonded Labour System (Abolition) Act, 1922; and
 - Any other law for the time being in force.

CHAPTER V – MECHANISMS OF COMPLAINT

7. **Petition to Court.** (1) A victim, aggrieved person or any person authorized by the victim or an informer may present a petition to the court within whose jurisdiction-
- (i) the aggrieved person or victim resides or carries on business;
 - (ii) the accused resides or carries on business;
- (2) The court shall fix the first date of hearing, which shall not exceed seven days from the date of the receipt of the petition by the court.
- (3) On receipt of such petition, the court shall, with or without issuing an interim order, issue a notice upon the accused calling upon him to show cause within seven days of receipt of notice.
- (4) Any such notice shall be issued as per law by all modes at once, namely; through bailiff, pasting, publication and courier all at once and if notice is served by any one of these modes, the notice shall be deemed to have been served.
- (5) Any case of forced conversion before the Court shall be disposed of within a period of ninety days and any adjournment given during the hearing of the petition shall be granted for reasons to be recorded in writing by the Court.

Provided that the Court may take cognizance of any complaint or First Information Reports registered with the police.

CHAPTER VI

RESCUE, CUSTODY AND SPECIAL PROCEDURES IN CASE OF FORCED CONVERSION

8. **Rescue and recovery of victim.-** A police officer or any person given such authority under the law upon receiving information of a case of forced conversion may, upon investigation, take into custody the victim and produce her or him before the Court within twenty-four hours of taking the person into such custody;
9. **Warrant to search.-** (1) If it appears to a Court from information received on oath or solemn affirmation laid by any person who, in the opinion of the Court, is acting in the interest of the victim that there is reasonable cause to suspect that an offense of forced conversion has been or is being committed or unless immediate steps be taken, will be committed, the Court may make orders to any police officer or any person authorized under the law to search for such alleged victim and if it is found that the person is a victim or intended victim of forced conversion, to remove her or him and deal with her or his custody in accordance with the provisions of the Act and Rules.
- (2) The officer executing the warrant may be accompanied by the person laying the information, and may also, if the Court by whom the warrant is issued so directs, be accompanied by the police or any person so authorized by the law or Court or by both.

(3) The Court issuing a warrant under this section may in its discretion by the same warrant direct that any person accused of an offence under this Act be apprehended and brought before it.

10. Temporary custody.- (1) Where a victim or an accused is taken into custody in accordance with Section 8 or 9, she or he shall immediately be produced before the Court and if immediate production of the victim or accused before the Court is not possible due to any reason, the victim shall immediately be taken to the nearest shelter home of a service provider or a child protection institute; and the accused shall be immediately taken to the nearest police station within the jurisdiction of the Court till her or his production before the Court within the stipulated time.

(2) In cases of alleged forced conversion through marriage of a child, the court shall:

- (a) make certain whether the victim is a child;
- (b) upon being satisfied that the victim is a child, place the child in the custody of the parents or guardian of the child, unless the court has reason to believe that this may not be in the best interests of the child;
- (c) Provide in writing, reasons for not placing the child in the custody of his or her parents or guardians;
- (d) Ensure temporary custody in a child protection institute during pendency of the trial if the child is not being placed in the custody of parents or guardians; and
- (e) Ensure that the custody of the child shall not be given to the alleged spouse, his or her family or any person connected therewith, recognizing that child marriages are a criminal offence under Child Marriage Restraint Act, 1929.

(3) In case of alleged forced conversion through marriage of an adult, the victim shall be given temporary custody in a shelter home of a service provider during the pendency of the trial, unless she or he can provide a cogent reason to the contrary.

(4) While providing temporary custody as per sub-section (2) and (3), the court may use its discretion in the interest of security, to withhold the information of the location of where the victim is residing from any person with the exception of necessary official personnel.

(5) Any person who discloses the location of where the victim is residing in contravention of the orders of the court shall be liable to penalties as contempt of court under the Contempt of Court Ordinance, 2003 (Ordinance IV of 2003) and any other penalties seen fit by the Court.

(6) The victim in temporary custody identified in sub-sections (2) and (3) may be allowed to meet her or his parents, guardians, husband, intended bridegroom or in laws only upon her or his voluntary written consent.

Provided that any such meeting shall be supervised by a police officer or a senior employee of the service provider or child protection institution or any other person authorized by the court.

Provided further that any such meeting may be given police protection at the discretion of the court.

11. Allowing Time for True Decision of any Person.- (1) In case of alleged forced conversion of an adult, the court shall allow the alleged victim twenty one days for an independent decision regarding conversion to a new religion before initiating a case of forced conversion under this Act.

(2) During this time period, he or she may be provided the opportunity to study comparative religions of he or she desires.

(3) Upon completion of the time period, the alleged victim shall record a statement before the court stating whether he or she has converted his or her religion with their own consent and will.

(4) Upon the request and consent of an adult victim to the Court, the provisions of sub-section (1) may be by-passed and a case of forced conversion may be initiated immediately.

12. Special measures may be adopted.- (1) Special measures may be put in place in cases of forced conversion during the investigation and trial of the matters at the discretion of the court. These special measures may include but not be limited to:-

- (i) holding the trial in a different and secure location with the approval of the court;
 - (ii) withholding the location of where the victim is residing from any person with the exception of necessary official personnel;
 - (iii) taking the victims statement and evidence in a secure location approved by the court;
 - (iv) providing police protection enduring transport of the victim to and from court;
 - (v) passing an order or injunction to prohibit removal of the victim from Jurisdiction of the court or police station;
 - (vi) to conduct an in camera trial or any other necessary order as per the circumstances; and
 - (vii) Initiate immediate and fast tracked divorce proceedings upon the consent of the victim of forced conversion through marriage if the accused is found guilty.
- (2) The Court shall take appropriate measures to provide adequate security to the prosecution witnesses, investigating officers, prosecutors, the victim, her or his family and the Judges during the pendency of investigation and trial, and if necessary, after the trial.

13. Presence of the Persons in cases involving a Child. (1) No person shall be present at sitting of a court involving a case of a child with exception those indentified in the Act hereunder:

- (i) The members of the parties of the court;
- (ii) The parties to the case before the court and other persons the Court and other persons directly concerned in the case including the police officers; and

- (iii) such other persons as the Court specially authorizes to be present.

14. Withdrawal of persons from Court.- If at any stage during the course of a trial of a case or proceeding, a Court considers it expedient in the best interest of the victim to direct any person, including the parent, guardian or the victim's spouse, supporters etc. to withdraw, the Court may give such direction and thereupon such person shall withdraw, if any person refuses to withdraw, the Court may take steps to remove him or her and hold him or her in contempt of court under the Contempt of Court Ordinance 2003 (IV of 2003).

15. Withdrawal of persons from Court During Examination.- (1) If at any stage during the course of a trial, when the victim is examined, any court trying the case or holding the proceeding may direct such persons as it thinks fit, not being parties to the case or proceeding their legal advisors and the officers concerned with the case or proceeding, to withdraw. Such persons shall then withdraw. If any person refuses to withdraw, the Court may take steps to remove him and hold him in contempt of court under the Contempt of Court Act Ordinance 2003 (IV of 2003).

(2) The Court may use its description and allow the examination of the victim to be conducted in camera, through video link in a secure location approved by the court or with the use of screens or employ any other such means if necessary in the best interests of the victims.

16. Prohibition of publication of Names Addresses etc. of Children and persons of Unsound Mind involves in Cases or proceeding.- No report in any newspaper, magazine, news sheet or any mode of social media of any case or proceeding in any Court in which a child or a person of unsound mind is involved, shall disclose the name, address or school or include any particulars calculated to lead directly or indirectly to the identification of any such child or person of unsound mind or shall include any picture of any such child or person of unsound mind in their best interest.

Provided that for reasons to be recorded in writing the Court trying the case or holding the proceeding may permit the disclosure of the name or any other approved information relating to the case or proceeding, if in its opinion such disclosure is in the interest of the welfare of the child or person of unsound mind and is not likely to have an adverse effect.

17. Case involving child Marriage.- (1) In case involving child marriages, provisions of the Child Marriage Restraint Act, 1929 and its rules shall be applicable in addition to the provisions of this Act.

(2) For purposes of expediency, the case under the Child Marriage Restraint Act, 1929 and this Act may be clubbed and heard simultaneously.

18. Offences to be cognizable, non-bailable and non-compoundable.- An offence punishable under this Act shall be cognizable, non-bailable and non-compoundable.

19. Rules of Procedure.- Save as otherwise provided in this Act, all proceedings taken and offences committed under the provisions of this Act, shall be governed by the Code of Criminal Procedure, 1898.

20. Presumption of Good Faith.- No suit prosecution or other legal proceedings shall lie against any public servant, informer service provider or child protection institute for anything which is done in good faith or purported to be done under this Act.

21. **Saving.-** The Provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.
22. **Power to make rules.-** Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act.
23. **Removal of Difficulties.-** If any difficulty arises in giving effect to any provision of this Act, Government may make an order not inconsistent with the provisions of this Act to remove the said difficulty.

STATEMENT OF OBJECTS AND REASONS

To make provisions for protection of persons against forced conversion of their religion; Recognizing the right of freedom of religion of all persons; Recognizing the right of freedom to marry and freedom of choice of marriage of all persons; Recognizing that forced conversion is an abhorrent, violent and offence and an issue that has become prevalent across the country and must be eliminated; Recognizing the importance of tolerance, peace and respect for all religions and persons, irrespective of their religion;

It is necessary to criminalize forced conversions and provide for protection for those who are victims of this abhorrent practice.

The Constitution of the Islamic Republic of Pakistan provides and protects right of all persons to choose and practice their own religion and freedom of choice of marriage;

The Government of Pakistan is obligated to fulfill its commitments under international human rights conventions including the Universal Declaration of Human Rights, the Child Rights Convention, Convention for the Elimination of all Discrimination Against Women, International Convention of Civil and Political Rights and International Convention of the Economic, Cultural and Social Rights, hence this Bill.

The Bill seeks to achieve the aforesaid objectives.

Sd/-

DR. RAMESH KUMAR VANKWANI
Member, National Assembly