



LEGISLATIVE ASSEMBLY
OF
GOA, DAMAN AND DIU

The Goa, Daman and Diu Prohibition
of Excommunication and Prevention
of Allied Punitive Measures Bill, 1970

(Bill No. 2 of 1970)

(By Shri Narayan S. Fugro, M. L. A.)

(To be introduced in the Legislative Assembly
of Goa, Daman and Diu)

GOA, DAMAN AND DIU LEGISLATURE DEPARTMENT
ASSEMBLY HALL, PANAJI
FEBRUARY, 1970

The Goa, Daman and Diu Prohibition of Excommunication and Prevention of Allied Punitive Measures Bill, 1970

(Bill No. 2 of 1970)

A Bill to prohibit excommunication and other allied anti-social acts thereunder in the Union territory of Goa, Daman and Diu.

Whereas it has come to the notice of the Government that the practice prevailing in certain communities, castes, sub-castes and sects of excommunicating its members and imposing fines and penalties and other disabilities on them by head of their groups arbitrarily and more often due to personal bias, is often followed in a manner which results in deprivation of legitimate rights and privileges of its members and such aspects take the form of a general administration by the head of a group in any community, caste, sub-caste or sects of ordinary civil or criminal law.

And whereas in keeping with the spirit of changing times and public interest and to maintain public order and morality and to do away with all that mischief of treating a human being as a parish and of depriving him of his human dignity and of his rights to follow the dictates of his own conscience which are in accordance with the religious rights or commands to which group of that religious denomination the said individual is a member: It is hereby enacted as follows:—

1. (1) This Act may be called the Goa, Daman and Diu Prohibition of Excommunication and Prevention of allied punitive measures Act, 1970.

(2) It extends to whole of the Union territory of Goa, Daman and Diu.

(3) It shall come into force on such date as the Government may, by notification, appoint and different dates may be notified for different areas.

2. Definitions:—

In this Act, unless the context otherwise requires—

(a) «community» means a group of the members who are connected together by reasons of

3. Notwithstanding anything contained in any law, custom or usage for the time being in force to the contrary, no excommunication of a member by a group head or any religious head of any community shall be valid and shall be of any effect except where there is such religious sanction or authority to excommunicate as such by religious or group head.

Explanation: For the purpose of this clause the excommunication is confined to the punishment or such offences which are unrelated to the practice of the religion which do not touch and concern the very existence of the faith of the denomination as such.

4. No person shall be excommunicated save as provided in the religion to which such member belongs.

Explanation: For the purpose of this clause, a right to excommunicate will be those religious rights as are provided in the religion which forms part of the religion.

5. Any person who does any act which amounts to or is in furtherance of the excommunication of any members of a community in contravention of sections 3 and 4 shall be punishable with simple imprisonment for a term which may extend to 3 months or with fine which may extend to Rs. 1,000 or with both.

Explanation: When any person alleged to have committed an offence under this section is a body or an association of individuals, whether incorporated or not if the offence is alleged to have been committed at a meeting of such body or association, any individual who has voted or consented in favour of the decision regarding excommunication shall be deemed to have committed the offence.

6. Notwithstanding anything contained in any law, custom or usage for the time being in force to the contrary, no group head or religious head shall impose any fine on any member of their community except where there is such religious sanction or authority to impose fine as such by religious or group head.

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6. Notwithstanding anything contained in any law, custom or usage for the time being in force to the contrary, no group head or religious head shall impose any fine on any member of their community except where there is such religious sanction or authority to impose fine as such by religious or group head.

7. No person will be asked to pay fine by a group head or religious head save as provided in the religious rights or sanction to which such member belongs.

Explanation: For the purpose of this clause a right to impose or levy fine will be those religious rights as are having religious sanction or authority and which forms part of the religion.

8. Any person who does any act which amounts or is in furtherance of imposing or levying fine on any member of the community in contravention of section 7 and 8 shall be punishable with simple imprisonment for a term which may extend to one month or with fine which may extend to Rs. 500/- or with both.

9. If any person, group of individual or association abets by words, gesture or by any other means the commission of offence under this Act each one of them shall be punished as principal offender as provided in foregoing respective sections.

Explanation: For the purpose of this clause if any person instigates or persuades any member of his community or other persons not to attend any religious ceremonies, festivals or burial rites of any member who is either excommunicated, fined or affected thereby shall be deemed to have abetted the offence within the meaning of this section.

10. 1) When any person is arrested, detained or prosecuted for contravention of any provisions of this Act, the burden of proving that the provisions of this Act are attracted by his acts or omissions, shall be on that person.

2) In every prosecution for an offence punishable under this Act it shall be presumed, until contrary is proved, that the accused person has no religious right or sanction in committing or abetting the offences under this Act.

11. 1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 no court inferior

to that of a Presidency Magistrate or a Magistrate of a first class shall try any offence under this Act.

2) Offences under this Act shall be tried summarily.

12. 1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, the offences under this Act shall be cognizable.

2) No Officer below the rank of a Sub-Inspector shall investigate the offence under this Act.

13. 1) No court shall take cognizance of any offence under this Act unless previous sanction of the District Magistrate or the Sub-Divisional Magistrate is obtained by the investigating officer before launching prosecution.

2) The District Magistrate or the Sub-Divisional Magistrate as the case may be, before granting sanction to prosecute, may give reasonable opportunity to the accused to be heard in person or through his authorized agent before granting such sanction.

14. No suit, prosecution or other legal proceedings shall lie against the Government or any Officer of the Government for anything which is done or intended to be done in good faith, in pursuance of this Act or the rules made thereunder.

15. 1) No court shall take cognizance of an offence punishable under this Act after expiry of six months from the date on which the offence is alleged to have been committed.

2) No person shall be prosecuted under this Act for the offence committed prior to coming into force of this Act.

16. Government may, by notification in the Official Gazette, make rules to carry out the purpose of this Act.

17. If any difficulty arises in giving effect to the provisions of this Act, the Government may, as

occasion requires, by order do anything not inconsistent with this Act which appears to it to be necessary for removing the difficulty.

Statement of objects and reasons

This Bill is intended to root out some of the social evils and prevent certain heads of the sects from bringing undue influence on the ignorant members or persons of that particular caste or community. The acts of excommunication and imposing penalties by the head of certain caste or community is very rampant in certain parts of this territory which causes serious concern to the society in general and to the Government in particular. This aspect has almost taken the form of a general administration by the head of the caste or community of ordinary law of the land. As the preamble suggests this bill is intended to put a stop to the malpractices indulged in by a caste. It is aimed at ensuring human dignity and removing all those restrictions which prevent a person from living his own life so long as he did not interfere with similar rights of others or do not infringe religious commands or dictums. This Bill is confined to excommunication or other penal actions as punishment of offences which are unrelated to the practice of the religion which do not touch and concern the very existence of the faith of the denomination as such. This Bill seeks to invalidate excommunication or other penal action on those grounds which have no religious sanction behind it. This bill is not intended to interfere with the rights of any religion, but it is intended to put a stop to arbitrary acts of the head of the caste or community. While drafting this bill care has been taken to see that the provisions of the article 25 and 26 of the Constitution are not violated.

While offences under the bill are cognizable power to sanction the prosecution has been vested with the District Magistrate and the Sub-Divisional Magistrate in order to check arbitrary prosecution. Both the imprisonment and fine for the offences are proposed in the bill in order to root out this deep-rooted social evil as expeditiously as possible. At present as

there is no suitable remedy to wipe out this social evils, this bill is intended to be a measure of social welfare and reform.

Financial Memorandum

No financial commitment is involved in this Bill. There will be no extra expenditure in its enforcement. The implementation of the legislation would be done through the existing Police machinery and no additional expenditure is expected to be incurred on account of the staff in implementing this legislation.

3rd February, 1970.
Panaji,

NARAYAN S. FUGRO
M. L. A. DIU

Assembly Hall,
Panaji,
24th February, 1970.

O. P. GARG
Secretary to the Legislative
Assembly of Goa, Daman and Diu.