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PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

**THE GUJARAT PREVENTION AND ERADICATION OF HUMAN SACRIFICE
AND OTHER INHUMAN, EVIL AND AGHORI PRACTICES AND BLACK
MAGIC BILL, 2024.**

GUJARAT BILL NO. 12 OF 2024.

A BILL

to bring social awakening and awareness in the society and to create a healthy and safe social environment with a view to protecting the common people in the society against the evil and sinister practices thriving on ignorance, and to combat and eradicate human sacrifice and other inhuman, evil, sinister and Aghori practices propagated in the name of so called supernatural or magical powers or evil spirits commonly known as black magic by comen with sinister motive of exploiting the common people in the society and thereby destroying the very social fibre of the society; and for matters connected therewith or incidental thereto.

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

- (1) This Act may be called the Gujarat Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and Aghori Practices and Black Magic Act, 2024.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Short title,
extent and
commencement.

Definitions. 2. (1) In this Act, unless the context otherwise requires:-

- (a) "human sacrifice and other inhuman, evil and *Aghori* practices and black magic" means the commission of any act, mentioned or described in the Schedule appended to this Act, by any person by himself or caused to be committed through or by instigating any other person;
- (b) "prescribed" means prescribed by rules made under this Act;
- (c) "propagate" means issuance or publication of advertisement. Literature, article or book relating to or about human sacrifice and other inhuman, evil and *Aghori*. practices and black magic and includes any form of direct or indirect help, abatement, participation or co-operation with regard to human sacrifice and other inhuman, evil and *Aghori* practices and black magic;
- (d) "rules" means the rules made under this Act;
- (e) "Sanhita" means the Bharatiya Nagarik Suraksha Sanhita, 2023.

46 of 2023.

- (2) Words and expressions used but not defined herein, shall have respective meanings as assigned to them in the Drugs and Magic Remedies (Objectionable Advertisement) Act, 1954 and Sanhita.

21 of 1954.

Prevention and eradication of human sacrifice and other inhuman, evil and *Aghori* practices and black magic.

3. (1) No person shall either himself or through any other person commit, promote, propagate or practice or cause to promote, propagate or practice human sacrifice and other inhuman, evil and *Aghori* practices and black magic mentioned or described in the Schedule appended to this Act.
- (2) The commission of any act of human sacrifice and other inhuman, evil and *Aghori* practices and black magic and any advertisement, practice, propagation or promotion of human sacrifice and other inhuman, evil and *Aghori* practices and black magic, in violation of the provisions of this Act, by any person by himself or through any other person shall constitute an offence under the provisions of this Act, and the person guilty of such offence shall, on conviction, be punished with imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine which shall not be less than five thousand rupees but which may extend to fifty thousand rupees.
- (3) Whoever abets the commission of, or attempts the commission of any act or offence punishable under sub-section (2) shall be deemed to have committed that offence and shall, on conviction, be punished with the same punishment for such offences in sub-section (2).
- (4) The offence punishable under sub-section (2) shall be cognizable and non-bailable.

Jurisdiction to try Offences.

4. The Judicial Magistrate of First Class shall try any offence punishable under section 3.

Vigilance Officers.

5. (1) The State Government may, by notification in the *Official Gazette*, and subject to such terms and conditions as may be specified in the notification, appoint for any one or more police stations, as may be specified in the notification, one or more police officers to be known as the Vigilance Officer:

Provided that, such officer shall not be below the rank of an Police Inspector.

- (2) It shall be the duty of a Vigilance Officer,-
- (i) to detect and prevent the contravention or violation of the provisions of this Act and the rules made there under, in the area of his jurisdiction and report such cases to the nearest police station within the area of his jurisdiction; and upon filing of complaint to the police station by any victim or any member

of his family, to ensure due and speedy action thereon and to give necessary advice, guidance and help to the concerned police station;

(ii) to collect evidence for the effective prosecution of persons contravening the provisions of this Act; and to report the same to the police station of the area in which such contravention has been or is being committed ;

(iii) to discharge such other functions as may be assigned to him, from time to time, by the State Government, by general or special order issued in this behalf.

(3) Any person who obstructs the discharge of the official duties or the work of the Vigilance Officer, appointed under sub-section (1), shall on conviction, be punished with imprisonment for a term which may extend to three months or with fine, which may extend to five thousand rupees or with both.

45 of 2023. (4) The Vigilance Officer shall be deemed to be a public servant within the meaning of clause (28) of section 2 of the Bharatiya Nyaya Sanhita, 2023.

6. (1) Subject to the general or special orders issued in this behalf by the State Government, from time to time, the Vigilance Officer may, within the local limits of the area of his jurisdiction, with the assistance of the police officer of his area,-

Powers of entry, search, etc.

(i) enter and search, at all reasonable times, with such assistance, if any, as he considers necessary, any place in which he has reason to believe that an offence under this Act has been or is being committed;

(ii) seize any material, instrument or advertisement which, he has reason to believe that the same has been or is being used for any act or thing which is in contravention of the provisions of this Act;

(iii) examine any record, document or material object found in any place mentioned in clause (i) and seize the same if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.

(2) The provisions of the Sanhita shall, so far as may be, apply to any search or seizure made under this Act as they apply to such search or seizure made under the authority of a warrant issued under section 97 of the Sanhita.

(3) Where any person seizes anything under clause (ii) or (iii) of sub-section (1), he shall, as soon as may be, inform the Magistrate and take his orders as to the custody thereof.

Bom. XXII of 1951. 7. The provision of sections 159 and 160 of the Gujarat Police Act, 1951 shall apply to acts done, in good faith by the Vigilance Officer under this Act, as if the Vigilance Officer is a Police Officer within the meaning of that Act.

Application of provisions of sections 159 and 160 of Gujarat Police Act.

8. The provisions of the Sanhita shall apply to the investigation and trial of offences under this Act.

Application of provisions of Sanhita.

9. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Act to be in addition to and not in derogation of any other law.

10. (1) Where any person is convicted of any offence punishable under this Act, it shall be competent for the Court convicting such offender to cause the name and place of residence of such person to be published by the police in the local newspaper where such offence had taken place, together with the fact that such offender had been convicted of the offence under this Act and such other particulars as the Court may deem fit and appropriate, to be allowed to be published.

Publication of fact of conviction.

- (2) No such publication under sub-section (1) shall be made until the appeal, if any, filed against such order is finally disposed of.

Power to make Rules.

- 11.** (1) The State Government may, by notification in the *Official Gazette*, and subject to the condition of previous publication, make rules to carry out the purposes of this Act.
- (2) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be they are made, and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make, during the session in which they are so laid or the session immediately following.
- (3) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

Saving.

- 12.** (1) For the removal of doubt, it is hereby declared that nothing in this Act shall apply in respect of the following, namely:-
- (a) the form of worship such as *pradakshina*, *yatra*, *parikrama* performed at any religious or spiritual places, as also *Varis* of *Varkari* sect and other *Varis*;
- (b) *Haripath*, *Kirtan*, *Pravachan*, *Bhajan*, teaching of ancient and traditional learnings and arts, practice, propagation, circulation thereof;
- (c) to state about the miracles of deceased saints, propagation, publicity and circulation of the same and the propagation, publicity, and distribution of the literature about the miracles of the religious preachers which do not cause physical injury or financial loss;
- (d) the performance of prayers, *Upasana* and all religious rites at the places such as home, temple, *dargah*, *gurudwara*, *pagoda*, church or other religious places which do not cause physical injury or financial loss;
- (e) all religious celebrations, festivals, prayers, procession and any other act relating thereto, invoking the spirit, *Kadakhshmi*, *Vratvaikalye*, *Upavas*, calling of *Nawas*, calling of *Mannat*, *Moharram* procession and all other religious rituals;
- (f) piercing of ears and nose of children in accordance with religious rituals, performance of religious rituals such as *Keshlochan* by the Jains;
- (g) the advice in regard to *Vastushastra*, advice by *Joshi-Jyotishi*, *Nandibailwale Jyotishi* and other astrologers and in regard to source of groundwater;
- (h) any traditional religious rites and acts except those mentioned above, which the State Government may, by notification in the *Official Gazette*, specify.

- (2) Every notification issued in pursuance of clause (h) of sub-section (1) shall be laid, as soon as may be, before the State Legislature.

Power to remove difficulties.

- 13.** (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, within a period of two years from the commencement of this Act, by an order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removal of difficulty.
- (2) Every order made under this section shall be laid, as soon as may be after it is made, before the House of the State Legislature.

SCHEDULE

(See section 2(1)(a))

- (1) Under the pretext of expelling the ghost, and *Dakan* (witch) practice assaulting by tying a person with rope or chain, beating by stick or whip, to make the person drink footwear soaked water, giving chili smoke, hanging a person to roof, fixing him with rope or by hair or plucking his hair, causing pain by way of touching heated object to organs or body of a person, forcing a person to perform sexual act in the open, practicing inhuman acts, putting urine or human excreta forcibly in the mouth of a person or practicing any such acts.
- (2) Display of so-called miracles by a person and thereby earning money; and to deceive, defraud and terrorise people by propagation and circulation of so-called miracles.
- (3) With a view to receiving blessings of supernatural power, to follow the inhuman, evil and *Aghori* practices which cause danger to life or grievous hurt; to instigate, encourage or compel others to follow such practices.
- (4) Doing any inhuman, evil and *Aghori* act and black magic in search of precious things, bounty, and water resources or for similar reasons in the name of *karni*, *bhanamati* and making or trying to make human sacrifice in the name of *jaran-maran* or likewise or to advice, instigate, or encourage committing such inhuman acts.
- (5) To create an impression by declaring that a power inapprehensible by senses has influenced Ones body or that a person has possessed such power and thereby create fear in the mind of others or to threaten others of evil consequences for not following the advice of such person or deceive, defraud and deter him.
- (6) By making the persons believe that a particular person practices *karni*, black magic or brings under the influence of ghost or diminishes the milching capacity of a cattle by *mantra-tantra* or similarly accusing a particular person that, he brings misfortune to others, or is a cause for spread of diseases and thereby making the living of such person miserable, troublesome or difficult; to declare a person as *saitan* or incarnation of *sitan*.
- (7) In the name of *jaran-maran*, *karni* or *chetuk*, assaulting any person, parading him naked or put a ban on his daily activities.
- (8) To create a panic in the mind of public in general by way of invoking ghost, witch or *mantras*, or threaten to invoke ghost, witch, creating an impression that there is ghostly or wrath of a power inapprehensible by senses causing physical injuries and preventing a person from taking medical treatment and instead diverting him to practice inhuman, evil and *Aghori* acts or treatment, threatening a person with death or causing physical pains or causing financial harm by practicing or tend to practice black magic or inhuman act.
- (9) Prohibiting and preventing a person from taking medical treatment in case of dog, snake or scorpion bite and in other illness instead giving him treatment like *mantra-tantra*, *ganda-dora* or such other things.
- (10) Claiming to perform surgery by fingers or claiming to change the sex of a foetus in womb of a woman.
- (11) (a) To create an impression that special supernatural powers are present in himself, incarnation of another person or holy spirit or that the devotee was his wife, husband or paramour in the past birth, thereby indulging into sexual activity with such person;
(b) To keep sexual relations with a woman, who is unable to conceive, assuring her of motherhood through supernatural power.
- (12) To create an impression that a mentally retarded person as having inhuman powers and thereby rob the other.

STATEMENT OF OBJECTS AND REASONS

An alarming number of incidences of exploitation of the common people in the society because of human sacrifice and other inhuman, evil and *Aghori* practices, practice of black magic and evil spirits at the hands of conmen have come to light.

Under the circumstances, it has become necessary for the Government to take appropriate and stringent social and legal measures to effectively prevent and eradicate the evil effects and spread of these harmful and inhuman practices, black magic and such other inhuman, evil and *Aghori* practices and to save common people from falling prey to sinister designs of the black magicians and conmen, whose anti-social and harmful activities are threatening to seriously damage the very social fibre and the faith of the common people in the authentic and scientific medical remedies and cures; and are driving them to take recourse to such black magicians and conmen, with a view to making special and stringent law to deal with such evil and inhuman practices, etc.

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

The following notes on clauses explain, in brief, some of the important provisions of the Bill:-

- Clause 1.-** This clause provides for short title, extent and commencement of the Act.
- Clause 2. -** This clause defines certain terms used in the Bill.
- Clause 3.-** This clause provides for the prevention and eradication of human sacrifice and other inhuman, evil and *Aghori* practices and black magic.
- Clause 4. -** This clause provides for the jurisdiction of court to try offences.
- Clause 5.-** This clause provides that the State Government may, by notification in the Official *Gazette*, appoint for any one or more police stations, as may be specified in the notification, one or more police officers to be known as the Vigilance Officer.
- Clause 6.-** This clause provides for the powers of entry, search, etc. of the Vigilance Officer.
- Clause 7.-** This clause provides that the provision of sections 159 and 160 of the Gujarat Police Act, 1951 shall apply to acts done, in good faith by the Vigilance Officer.
- Clause 8.-** This clause provides that provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 shall apply to the investigation and trial of offences under this Act.
- Clause 9.-** This clause provides that this Act to be in addition to and not in derogation of any other law.
- Clause 10.-** This clause provides for publication of the fact of conviction by the police in the local newspaper where such offence had taken place.
- Clause 11.-** This clause empowers the State Government to make rules to carry out the purposes the Act.
- Clause 12.-** This clause provides for the saving of certain acts thereof.
- Clause 13.-** This clause empowers the State Government to remove difficulties arising within a period of two years from the commencement of the Act.

HARSH SANGHAVI,

FINANCIAL MEMORENDUM

The existing staff of Home Department will perform the functions to carry out the objects of the Act and as such, the Bill, if enacted and brought into force, would not involve any additional expenditure from the Consolidated Fund of the State.

HARSH SANGHAVI,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill provides for delegation of legislative powers 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.
- Clause 5. -** Sub-clause (1) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, and subject to such terms and conditions as may be specified therein, for any one or more police stations, as may be specified in the notification, one or more police officers to be known as the Vigilance Officer.
- Clause 11.-** This clause empowers the State Government to make, by notification in the *Official Gazette*, rules for carrying out the purposes of the Act.
- Clause 12.-** sub-clause (h) of this clause empowers the State Government to specify, by notification in the *Official Gazette*, any traditional religious rites and act other than the rites and acts as mentioned in sub-clauses (a) to (g) of this clause.
- Clause 13. -** This clause empowers the State Government to remove difficulties, by an order published in the *Official Gazette*, arising within a period of two years from the commencement of the Act.

The delegation of legislative powers as aforesaid is necessary and is of normal character.

Dated the 14th August, 2024.

HARSH SANGHAVI.

By order and in the name of the Governor of Gujarat,

K. M. LALA,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

Gandhinagar,
Dated the 14th August, 2024.

