

L. A. BILL No. XXXV OF 2013.

A BILL

5 *to bring social awakening and awareness in the society and to create a
healthy and safe social environment with a view to protect 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 conmen with sinister motive
10 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.*

**(As Passed by the Legislative Assembly with amendments
on the 13th December 2013.)**

15 **WHEREAS** alarming number of incidences of exploitation of the common
people in the society because of human sacrifice and other inhuman, evil,
sinister and *aghori* practices and practices of black magic and evil spirits at
the hands of conmen, continuously had come to light;

AND WHEREAS under the circumstance it became absolutely necessary for the Government to take appropriate and stringent social and legal measures to effectively prevent such evil effects and spread of these harmful practices, usages, black magic and such other inhuman, evil, sinister and *aghor*i practices and to save the common people from falling prey to the sinister designs of the black magicians and conmen, whose false claims of possessing magical or miraculous remedies or powers and anti-social and harmful activities were threatening to damage the very social fibre and the beliefs of the common people in the authentic and scientific medical remedies and cures; and driving them, on account of ignorance, to take recourse to such black magicians and conmen;

AND WHEREAS both Houses of the State Legislature were not in session;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to make a law for the purposes aforesaid; and, therefore, promulgated the Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and *Aghori* Practices and Black Magic Ordinance, 2013, on the 26th August 2013;

Mah.
Ord.
XIV of
2013.

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Sixty-fourth Year of the Republic of India as follows:-

Short title,
extent and
commencement.

1. (1) This Act may be called the Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and *Aghori* Practices and Black Magic Act, 2013.

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(2) It extends to the whole of the State of Maharashtra.

(3) It shall be deemed to have come into force on the 26th August 2013.

Definitions.

2. (1) In this Act, unless the context requires otherwise,—

(a) "Code" means the Code of Criminal Procedure, 1973;

2 of
1974.

(b) "human sacrifice and other inhuman, evil and *aghor*i 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;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "propagate" means issuance or publication of advertisement, literature, article or book relating to or about human sacrifice and other inhuman, evil and *aghor*i 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 *aghor*i practices and black magic;

(e) "rules" means the rules made under this Act.

(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 the Code.

21 of
45 1954.

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.

5 (2) From the date of coming into force of this Act, 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
10 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
15 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).

20 (4) The offence punishable under sub-section (2) shall be cognizable and non-bailable.

4. No Court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of First Class shall try any offence punishable under section 3.

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:

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

(2) It shall be the duty of the Vigilance Officer,—

35 (i) to detect and prevent the contravention or violation of the provisions of this Act and the rules made thereunder, 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;

40 (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;

45 (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.

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

Jurisdiction to try offences.

Vigilance Officer.

(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. 5

(4) The Vigilance Officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Powers of entry, search, etc.

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,— 10

(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 ; 15

(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. 20

(2) The provisions of the Code 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 94 of the Code. 25

(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.

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

7. The provision of sections 159 and 160 of the Maharashtra Police Act, 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. 30 XXII of 1951.

Application of provisions of Code.

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

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

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. 35

Publication of fact of conviction.

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. 40

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

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. Rules.

(2) Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session or sessions immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made and notify their decision to that effect in the *Official Gazette*, the rule shall, from the date of publication of such decision in the *Official Gazette*, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

12. (1) For the removal of doubt, it is hereby declared that nothing in this Act shall apply in respect of the following, namely :- Savings.

(1) The form of worship such as *pradakshina*, *yatra*, *parikarma* performed at any religious or spiritual places, as also varies of *Varkari* sect and other *Varis*.

(2) *Haripath*, *Kirtan*, *Pravachan*, *Bhajan*, teaching of ancient and traditional learnings and arts, practice, propagation, circulation thereof.

(3) 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.

(4) 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.

(5) 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.

(6) Piercing of ears and nose of children in accordance with religious rituals, performance of religious rituals such as *Keshlochan* by the Jains.

(7) The advice in regard to *vastushastra*, advice by *Joshi*, *Jyotishi*, *Nandibailwale Jyotishi* and other astrologers and in regard to source of groundwater.

(8) Any traditional religious rites, and acts except those mentioned above, which the State Government may, by notification in the *Official Gazette*, notify.

(2) Every notification issued in pursuance of entry (8) of sub-section (1) shall be laid, as soon as may be, before each House of the State Legislature.

13. (1) The Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and *Aghori* Practices and Black Magic Ordinance, 2013, is hereby repealed. Repeal of Mah. Ord. XIV of 2013 and saving.

Mah. Ord. XIV of 2013.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the corresponding provisions of the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of this Act.

SCHEDULE

(See section 2(1)(b))

(1) Under the pretext of expelling the ghost, 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 terrorize people by propagation and circulation of so called miracles.

(3) With a view to receive blessings of supernatural power, to follow the inhuman, evil and *aghor*i 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 *aghor*i 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 *jara*n-mara

(5) To create an impression by declaring that a power inapprehensible by senses has influenced one's 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 *saitan*.

(7) In the name of *jara*n-mara

(8) To create a panic in the mind of public in general by way of invoking ghost or *mantras*, or threaten to invoke ghost, 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 *aghor*i 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 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
5 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
10 inhuman powers and thereby rob the others.

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 *aghor* practices, practice of black magic and evil spirits at the hands of conmen have come to light.

2. Under the circumstances, it became absolutely 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 *aghor* practices and to save common people from falling prey to sinister designs of the black magicians and conmen, whose anti-social and harmful activities were 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 driving them to take recourse to such black magicians and conmen, with a view to make special and stringent law to deal with such evil and inhuman practices, etc.

3. The Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and *Aghori* Practices Bill, 2011 (L. A. Bill No. XLI of 2011), in this behalf was introduced in the Legislative Assembly, in the Monsoon Session of the State Legislature, 2011, on the 10th August 2011 and is pending. However, from the implementation point of view, the Government considered it expedient to make a law, after modifying certain provisions of the Bill, by promulgating an Ordinance.

4. The Maharashtra Prevention and Eradication of Human Sacrifice and Other Inhuman, Evil and *Aghori* Practices and Black Magic Ordinance, 2013 (Mah. Ord. XIV of 2013) was therefore promulgated by the Governor of Maharashtra on the 26th August 2013. The salient features of the present Bill, which seeks to replace the said Ordinance by an Act of the State Legislature, are as follows :—

(i) the practice, promotion and propagation of human sacrifice and other inhuman, evil and *aghor* practices and black magic, and the unauthorised and illegal medical practices by conmen, etc., has been prohibited by providing a definition of the term “human sacrifice and other inhuman, evil and *aghor* practices and black magic”. Such practice has been made an offence and to serve as deterrent, stringent penal provisions have been made for such offences including making of such offences cognizable and non-bailable ;

(ii) a provision has been made that, there would be a Vigilance Officer, who shall endeavour to detect and prevent contravention of the provisions of the law and the rules made thereunder and collect evidence for effective prosecution of the persons contravening the provisions ;

(iii) an enabling provision has been made which would empower the Court to publish the details relating to the conviction of a person for commission of an offence under the provisions of the law ; and

(iv) other provisions have been made for incidental and connected matters.

5. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to make a special and stringent law, for the purposes aforesaid, the Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and *Aghori* Practices and Black Magic Ordinance, 2013 (Mah. Ord. XIV of 2013), was promulgated by the Governor of Maharashtra on the 26th August 2013.

6. The Bill is intended to replace the said Ordinance by an Act of the State Legislature.

Mumbai,

Dated the 22nd November 2013.

SHIVAJIRAO MOGHE,

Minister for Social Justice.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of a legislative power, namely :—

Clause 5 (1).—Under this clause, power is taken to the State Government to appoint, by notification in the *Official Gazette*, and subject to such terms and conditions as may be specified therein, for one or more police stations, as may be specified in such notification, an officer or officers to be known as the Vigilance Officer.

Clause 11.—Under this clause, power is taken to the State Government to make rules, by notification in the *Official Gazette*, for carrying out the purposes of this Act.

2. The above-mentioned proposals for delegation of legislative power are of a normal character.

**MAHARASHTRA LEGISLATURE
SECRETARIAT**

[L. A. BILL No. XXXV OF 2013.]

[A Bill to bring social awakening and awareness in the society and to create a healthy and safe social environment with a view to protect 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 *aghor* practices propagated in the name of so called supernatural or magical powers or evil spirits commonly known as black magic by conmen 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.]

[SHRI SHIVAJIRAO MOGHE,
MINISTER FOR SOCIAL JUSTICE.]

(As Passed by the Legislative
Assembly with amendments on the
13th December 2013.)

Dr. ANANT KALSE,
Principal Secretary,
Maharashtra Legislative Assembly.