

Bombay Prevention of Ex-Communication Act, 1949

42 of 1949

[November 1, 1949]

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An Act to prohibit ex-communication in 2[the State of Bombay]
WHEREAS it has come to the notice of Government thatthe
practice prevailing in certain communities of ex-communicating its
members is often followed in a manner which results in the
deprivation of legitimate rights and privileges of its members. AND
WHEREAS inkeeping with the spirit of changing times and in the
public interest, it is expedient to stop the practice; It is hereby
enacted as follows:

1. Short title and extent :-

(1) This Act may be called the Bombay Prevention of Ex-communication Act. 1949.

¹(2) It extends to the whole of the ² [State of Gujarat.]

1. This sub-section was substituted for the original, Bom. 2 of 1960, s. 4.

2. Subs. vide Guj. A.O. 1960.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context,

(a) "community" means a group the members of which are connected together by reason of the fact that by birth conversion or the performance of any religious rite they belong to the same religious religion or creed and includes a caste or sub-caste;

(b) "ex-communication" means the expulsion of a person from any community of which he is member depriving him of rights and privileges which are legally enforceable by a suit of civil nature by him or on his behalf as such member;

Explanation. For the purposes of this clause a right legally enforceable by a suit of civil nature shall include the right to office or property or to worship in any religious place or a right of burial or cremation, notwithstanding the fact that the determination of such right depends, entirely on the decision of the question as to any religious rites or ceremonies or rule or a usage of a community.

3. Ex communication not to be valid and of any effect :-

Notwithstanding anything contained in any law, custom and usage for the time being in force, to the contrary, no ex-communication of a member of any community shall be valid and shall be of any effect.

4. Penalty :-

Any person who does any act which amounts to or is in furtherance of the ex-communication of any member of a community shall, on conviction, be punished with fine which may extend to one thousand rupees.

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 in favour of the decision regarding the ex-communication shall be deemed to have committed the offence.

5. Jurisdiction under this Act :-

Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), no Court inferior to that of ¹ [* * *] a Magistrate of the First Class shall try any offence punishable under section 4.

1. Omitted vide Guj. A.O. 1960.

6. Mode of taking cognizance of offence :-

No court shall take cognizance of an offence punishable under section 4,

(a) after the expiry of one year from the date on which the offence is alleged to have been committed, and

(b) without the previous sanction of the ¹[State] Government or any officer authorised by the ¹[State] Government not below the rank of the Commissioner of Police ³ [in any area of which a Commissioner of Police has been appointed] and the District Magistrate elsewhere.

1. This word was substitutpd for the word "Provincial" by the Adaptation of Laws Order, 1950.

3. These words were substituted for the words "in Greater Bombay" by Bom. 2 of 1960. s. 5.