



LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

**The Goa Children's (Amendment)
Bill, 2004**

(Bill No. 4 of 2004)

^{AS}
(~~To be~~ introduced in the Legislative Assembly of the State of Goa)

GOA LEGISLATURE SECRETARIAT
ASSEMBLY HALL, PORVORIM
FEBRUARY, 2004

THE GOA CHILDREN'S (AMENDMENT) BILL, 2004,

BILL No. 4 of 2004

A

BILL

to amend the Goa Children's Act, 2003.

BE it enacted by the Legislative Assembly of Goa in the Fifty fifth Year of the Republic of India as follows:-

1. *Short title and commencement.*— (1) This Act may be called the Goa Children's (*Amendment*) Act, 2004;

(5)

(2) It shall come into force at once.

2. *Amendment of section 9.*— In section 9 of the Goa Children's Act, 2003 (*Act 18 of 2003*) (hereinafter referred to as the "Principal Act"), in the proviso to sub-section (7), for the word "women" the words "minor girl child" shall be substituted. (10)

3. *Amendment of section 13.*— In section 13 of the principal Act, in sub-section (6), for the words "six months", the words "one year" shall be substituted.

4. *Amendment of section 15.*— In section 15 of the principal Act, in sub-section (1), after the words and figure (15) "responsible for violation," and before the words "and take one or more", the following words and figure shall be inserted namely:-

"to appear before him and to show cause why action should not be taken against him,".

Statement of Objects and Reasons

Sub-section (7) of section 9 of the Goa Children's Act, 2003 (Act 18 of 2003) is proposed to be amended so as to substitute the word "women" by the words "minor girl child" as the word "women" was mentioned by oversight.

In terms of sub-section (6) of section 13 of the said (5) Act, 2003, a State Level Authority which may be called the State Commission for Children has to be constituted within a period of six months from the commencement of the Act. As the period of six months has already expired and as the process of consultation with the N.G.Os. and (10) other relevant authorities in order to ensure constitution of an effective authority is likely to be completed soon, it is proposed to amend said sub-section (6) so as to provide for a period of one year from the commencement of the Act for the purpose of constitution of the said State (15) Commission for children.

It is proposed to amend sub-section (1) of section 15 of the Act, 2003, so as to insert certain words therein which are required for the purpose of giving proper meaning to said sub-section (1). (20)

This Bill seeks to achieve the above objects.

Financial Memorandum

There are no financial implications in this Bill

Memorandum Regarding Delegated Legislation

No delegated legislation is envisaged in this Bill

Porvorim Goa
Dated : 7th February, 2004

MANOHAR PARRIKAR
Chief Minister

Assembly Hall,
Porvorim, Goa,
Dated : 7th February, 2004

S. A. NARVEKAR
Secretary (Legislature)

ANNEXURE

EXTRACTS OF THE GOA CHILDREN'S

ACT, 2003

ACT No. 18 OF 2003

SECTION 9

Child Sexual Trafficking.— (1) Child Prostitution shall be Prohibited.

(2) It shall be the duty of the State to remove all child prostitutes from their existing place of exploitation and to ensure that they are rehabilitated and integrated into society.

(3) The State shall prepare a comprehensive Plan of Action for this purpose which shall include providing education and livelihood skills to such children and the prevention of child prostitution.

(4) Any person who exploits a child for commercial sexual exploitation shall be; liable to pay a penalty which may extend to Rs. 1,00,000/- and simple imprisonment of one year. This will be in addition to any penalty or punishment that may be enforced under any other Act in force.

(5) All steps shall be taken at the protective home to restrict or even deny the visiting rights of any one who may be considered to be a perpetrator, including the parent of the child.

(6) Notwithstanding any custom or law to the contrary, the dedication of a minor girl child as a devadasi, whether before or after the commencement of this Act, and whether she has consented to such dedication or not, is hereby declared unlawful, void, and to be of no effect and any minor girl child so dedicated shall not thereby be deemed to have become incapable of entering into a valid marriage.

(7) Any person who, after the commencement of this Act, abets the performance of any ceremony or any act for dedicating a minor girl child as a devadasi or and ceremony or act connected therewith shall, on conviction, be punished with imprisonment of either description for a term which may extend to 3 years and with fine which may extend to two thousand rupees;

Provided that where the person referred to in this section is the parent or guardian or a relative of the women so dedicated, he shall be punishable with imprisonment of either description which may extend to 5 years but which shall not be less than 2 years and with fine which may extend to five thousand rupees but which fine which may extend to five thousand rupees but which shall not be less than two thousand rupees.

SECTION 13

Other Provisions.— (1) The Government shall create the State Children's Fund for raising and coordinating resources for achieving the purposes of this Act.

(2) There shall be credited to the fund such voluntary donations, contributions or subscriptions as may be made by any individual or organization.

(3) All fines imposed under this Act shall be credited to the Fund.

(4) The fund created under sub-section (1) above shall be administered in such manner and for such purposes as may be prescribed.

(5) There shall be a State Level Authority which may be called the State Commission for children to promote and maintain the best interests of all the children in Goa and which will carry out such functions as may be prescribed. The functions may include the following:—

- (a) The creation of a child Friendly Society;
- (b) Preparing and implementing a systematic plan for spreading awareness amongst different groups, mobilization action and dialogue within civil society on child Rights;
- (c) Develop a capacity development strategy for the progressive implementation of Child Rights covering amongst others the training of teachers, police, judiciary etc;
- (d) Review all State Legislations, Rules, Orders, Notifications, Schemes and all other provisions, pertaining to children and recommend necessary amendments therein, to ensure that the Rights of the child are protected.
- (e) To monitor the implementation of the Convention on the Rights of the Child;
- (f) To ensure that children become fit citizens and that all children are given the opportunity and encouraged to learn and develop thinking and participatory skills as well as skills of developing and articulating ideas;
- (g) Set up a mechanism to hear complaints from child victims;
- (h) Establish norms for good parenting and evolve a strategy for achieving this;
- (i) Undertake and promote research in the field of child rights;
- (j) Prepare disaggregated data on all children in Goa in terms of category, age, sex, etc.;
- (k) Examine the situation regarding children particularly the status of the girl child, assess the reasons for discrimination and recommend strategies for their removal;

- (6) The State Level Authority shall be constituted within a period of six months from the commencement of this Act.
- (7) For finalizing all the Plans of Action, Government shall set up separate Steering Committees comprising persons with experience in that particular area, social workers, Government officers and others. Officers of the Central Government should participate in the deliberations leading up to the Plans, and Government shall carry out visits to other States to see best practices specially in terms of rehabilitation, education and integration of children. The Steering Committees shall oversee the implementation of the Plans of Action.
- (8) There shall be a village child committee which shall be constituted by each village panchayat. The committee shall comprise not less than five persons of whom one shall be a child above the age of 15 years and the other members shall comprise representatives from the village panchayat and social workers of whom at least 2 should be women. The village child Committee shall ensure the best interests of the child and will pay particular attention to providing recreational and play facilities for children. The Village Committee will also interact with the departments of the State Government in the implementation of the Plans of Action for elimination of child illiteracy, children on the streets, child prostitution and child labour, and will carry out such other functions as may be laid out from time to time.
- (9) There shall be 4 or more such Child Committees in each Municipal/Corporation areas.
- (10) The Government shall institute a system for recognizing and recording appreciation of outstanding work done by individuals, organizations or departments in achieving the best Interests of the child under this Act

- (11) The Government shall carry out an awareness campaign after the commencement of this Act to appraise the public about the provisions and to solicit their cooperation

Sustained media advocacy will be taken up with NGOs, Women's Groups and others to create public awareness on the issues involved. Doordarshan, the print Media, Radio Private Television channels and cable networks and all other forms of media will be used.

(12) Appropriate guidelines for the protection of children from information and material injurious to their well being as well as harmful exposure in the mass media shall be prepared and implemented. For this purpose, the Government, with the assistance of the State Information Department, shall set up a State council comprising of persons from the media, and others, as may be prescribed.

(13) All persons appointed by the Government under this Act as Members of District Inspection Teams, Task Forces, Authorized Officers and others shall be persons with the highest credentials and integrity. Their proposed appointment and details shall be printed in the Official Gazette wherever they are non-Government staff and the members of the public shall be given two weeks time to file any complaint against any proposed appointment. The Government shall consider all complaints received before reaching a final decision and the appointments made will be notified in the Official Gazette.

(14) The Police Department shall formulate an exclusive Child Code including issues of Child Friendly Police Stations, interaction and behaviour with children, mandatory sensitisation programmes, etc.

(15) The Government shall constitute a Special Advisory Group to suggest ways to protect children from the harmful influences of the internet. The Special Advisory Group shall include, amongst others, experts in the field and members of the police.

(16) No child below the age of 14 shall be allowed unaccompanied inside any cyber cafe or any other

establishment which provides any computer services to the general public against a cost.

(17) All establishments providing training to children through computers shall ensure that child friendly safeguards are installed and that no child below the age of fourteen has access to internet facilities other than in the presence of an adult from that establishment.

(18) The owners of such establishments under sub-sections 16 and 17 will be held responsible in case any child is accessing material or sites unsuitable for children.

(19) All such establishments under sub-sections 16 and 17 shall make their premises freely available to the Special Officers for inspection at any time.

(20) The use of children in the illicit procurement, trafficking and sale of narcotic, psychotropic and alcoholic substances is prohibited and anyone found guilty of transgression shall be severely punished.

(21) Anyone inducing a child to gamble or to assist in the gambling trade shall be liable to a punishment of imprisonment of either description for a period of not less than one year and a fine of not less than rupees fifty thousand.

(22) The state shall make special provision for the children of prisoners and commercial sex workers.

(23) The Competent Authority shall have the power to direct any registered Children's Home to accept any child/ children in distress provided that the said Home has the facilities for taking care of the extra child/children.

(24) The decision of the Competent Authority as to who is a "child" shall be final and binding.

Powers of the Competent Authority.— (1) If the Competent Authority is satisfied, whether upon information received or otherwise, of the violation of the rights of a child, he shall issue a notice, requiring the person or persons who the Competent Authority deems to be responsible for the violation and/or if that person or persons cannot be found then the employer, superior officer, relatives or any other person or persons who the Competent Authority is satisfied as to be responsible for the violation, and to take one or more of the following steps, within a period as may be fixed in the notice, and not exceeding sixty days in any case:—

- (a) to dismiss the reference;
- (b) direct the person or persons to take such steps as may be necessary in the best interests of the child;
- (c) to levy a penalty (fine);
- (d) refer the matter to any other authority including the Police;
- (e) any other action the Competent Authority may deem fit and necessary including calling the person(s) for a personal hearing and directing that a child be removed.

Provided that the Competent Authority, for reasons to be recorded in writing, may extend the period specified in such notice.

(2) The Officer-in-charge of the Police Station of the area concerned where the violation reportedly took place shall be duty bound and responsible, when called upon by the Competent Authority or any Special Officer to provide all possible assistance including removing a child. The officer-in-charge of the police station, shall be answerable and responsible for non-compliance of the requisition made by the Competent Authority or by any Special Officer.

(3) The failure to comply with the directions contained in the notice under sub-section (1) shall be cognizable offence punishable with simple imprisonment for a term which may extend to 30 days or with fine which may extend to Rs. 5,000/-, or with both;.

Provided that this failure may be compounded by the Competent Authority, if the person agree to pay a fine of Rs. 5,000/- in the first instance and Rs. 10,000/- in the second instance only. Provided further that this will not prejudice proceedings as per sub-section (1) of this section.

(4) The Competent Authority or any Special Officer may enter and inspect any premises for the purpose of enforcing any of the provisions contained in this Act including removal of a child from such premises.

Provided that—

(a) no such entry shall normally be made between sunset and sunrise except when the circumstances so warrant e. g. rescue of a child prostitute who has to work during night hours;

(b) all such entries shall be made by a group of a minimum of 4 persons to be prescribed, which shall include at least two women;