

India

THE IMMORAL TRAFFIC (PREVENTION) ACT, 1956

An Act to provide in pursuance of the International Convention signed at New York on the 9th day of May,

1950, for the prevention of immoral traffic.

Be it enacted by Parliament in the Seventh Year of the Republic of India as follows:

1. Short title, extent and commencement.—(1) This Act may be called The Immoral Traffic (Prevention)

Act, 1956.

(2) It extends to the whole of India.

(3) This section shall come into force at once; and the remaining provisions of this come into force on such

date as the Central Government may, by notification in the official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires—

(a) “brothel“ includes any house, room, conveyance or place, or any portion of any house, room, conveyance or place, which is used for purposes of sexual exploitation or abuse for the gain of another

person or for the mutual gain of two or more prostitutes;

(aa) “child“ means a person who has not completed the age of eighteen years;

(b) “corrective institution“ means an institution, by whatever name called (being an institution established

or licenced as such under Section 21), in which persons, who are in need of correction, may be detained

under this Act, and includes a shelter where under trials may be kept in pursuance of this Act;

(c) “magistrate“ means a Magistrate specified in the second column of the Schedule as being competent to exercise the powers conferred by the section in which the expression occurs and which is specified in the first column of the Schedule;

(d) “prescribed“ means prescribed by rules made under this Act;

(e) [1] [* * * * *].

(f) “prostitution“ means the sexual exploitation or abuse of persons for commercial purposes or for

consideration in money or in any other kind, and the expression “prostitute” shall be construed accordingly;

(g) “protective home“ means an institution, by whatever name called (being an institution established or

licenced as such under Section 21), in which persons who are in need of care and protection, may be kept

under this Act and where appropriate technically qualified persons, equipments and other facilities have

been provided but does not include,—

(i) a shelter where undertrials may be kept in pursuance of this Act, or

(ii) a corrective institution;

(h) “public place“ means any place intended for use by, or accessible to, the public and includes any public conveyance;

(i) “special police officer” means a police officer appointed by or on behalf of the State Government to be in charge of police duties within a specified area for the purpose of this Act;

(j) “trafficking police officer“ means a police officer appointed by the Central Government under subsection (4) of Section 13.

2-A. Rule of construction regarding enactments not extending to Jammu and Kashmir .—Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

3. Punishment for keeping a brothel or allowing premises to be used as a brothel.— (1) Any person who keeps or manages, or acts or assists in the keeping or management of, a brothel shall be punishable on first conviction with rigorous imprisonment for a term of not less than two years and which may extend to three years and also with fine which may extend to ten thousand rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term which shall not be less than three years and which may extend to seven years and shall also be liable to fine which may extend to two lakh rupees

(2) a any person who,—

(a) being the tenant, lessee, occupier or person in charge of any premises, uses, or knowingly allows any

other person to use, such premises or any part thereof as a brothel, or

(b) being the owner, lessor or landlord of any premises or the agent of such owner, lessor or landlord, lets

the same or any part thereof with the knowledge that the same or any part thereof is intended to be used as

a brothel, or is wilfully a party to the use of such premises or any part thereof as a brothel, shall be punishable on first conviction with imprisonment for a term which may extend to two years and

with fine which fine which may extend to two thousand rupees and in the event of a second or subsequent

conviction, with rigorous imprisonment for a term which may extend to five years and also with fine.

(2-A) For the purposes of sub-section (2), it shall be presumed, until the contrary is proved, that any person

referred to in clause (a) or clause (b) of that sub-section, is knowingly allowing the premises or any part

thereof to be used as a brothel or, as the case may be, has knowledge that the premises or any part thereof

are being used as a brothel, if,—

(a) a report is published in a newspaper having circulation in the area in which such person resides to the

effect that the premises or any part thereof have been found to be used for prostitution as a result of a

search made under this Act; or

(b) a copy of the list of all things found during the search referred to in clause (a) is given to such person.

(3) Notwithstanding any thing contained in any other law for the time being in force, on conviction of any

person referred to in clause (a) or clause (d) of sub-section (2) of any offence under that sub-section in

respect of any premises or any part thereof, any lease or agreement under which such premises have been

leased out or held or occupied at the time of the commission of the offence, shall become void and

inoperative with effect from the date of the said conviction.

4. Punishment for living on the earnings of prostitution .—(1) Any person over the age of eighteen years

who knowingly lives, wholly or in part, on the earnings of the prostitution of any other person shall be

punishable with imprisonment for a term which may extend to two years, or with fine which may extend to

one thousand rupees, or with both, and where such earnings relate to the prostitution of a child, shall be

punishable with imprisonment for a term of not less than seven years and not more than ten years.

(2) Where any person over the age of eighteen years is proved,—

(a) to be living with, or to be habitually in the company of, a prostitute; or

(b) to have exercised control, direction or influence over the movements of a prostitute in such a manner as

to show that such person is aiding abetting or compelling her prostitution; or

(c) to be acting as a tout or pimp on behalf of a prostitute,

it shall be presumed, until the contrary is proved, that such person is knowingly living on the earnings of

prostitution of another person within the meaning of sub-section (1).

5. Procuring, inducing or taking person for the sake of prostitution .—(1) Any person who—

(a) procures or attempts to procure a person whether with or without his/her consent, for the purpose of

prostitution; or

(b) induces a person to go from any place, with the intent that he/she may for the purpose of prostitution

become the inmate of, or frequent, a brothel; or

(c) takes or attempts to take a person or causes a person to be taken, from one place to another with a view

to his/her carrying on, or being brought up to carry on prostitution ; or

(d) causes or induces a person to carry on prostitution; shall be punishable on conviction with rigorous imprisonment for a term of not less than three years and not more than seven years and also with fine which may extend to two thousand rupees, and if any offence under this sub-section is committed against the will of any person, the punishment of imprisonment for a term of seven years shall extend to imprisonment for a term of fourteen years: Provided that if the person in respect of whom an offence committed under this subsection, is a child, the punishment provided under this sub-section shall extend to rigorous imprisonment for a term of not less than seven years but may extend to life.

[2] (2) [**** **]

(3) An offence under this section shall be triable,—

(a) in the place from which a person is procured, induced to go, taken or caused to be taken or from which

an attempt to procure or taken such persons made; or

(b) in the place to which she may have gone as a result of the inducement or to which he/she is taken or

caused to be taken or an attempt to take him/her is made.

5A. Whoever recruits, transports, transfers, harbours, or receives a person for the purpose of prostitution by means of,—

(a) threat or use of force or coercion, abduction, fraud, deception; or

(b) abuse of power or a position of vulnerability; or

(c) giving or receiving of payments or benefits to achieve the consent of such person having control over

another person,

commits the offence of trafficking in persons.

Explanation.—Where any person recruits, transports, transfers, harbours or receives a person for the

purposes of prostitution, such person shall, until the contrary is proved, be presumed to have recruited,

transported, transferred, harboured or received the person with the intent that the person shall be used for

the purpose of prostitution.

5B. (1) Any person who commits trafficking in persons shall be punishable on first conviction with

rigorous imprisonment for a term which shall not be less than seven years and in the event of a second or

subsequent conviction with imprisonment for life.

(2) Any person who attempts to commit, or abets trafficking in persons shall also be deemed to have

committed such trafficking in persons and shall be punishable with the punishment hereinbefore described.

5C. Any person who visits or is found in a brothel for the purpose of sexual exploitation of any victim of trafficking in persons shall on first conviction be punishable with imprisonment for a term which may extend to three months or with fine which may extend to twenty thousand rupees or with both and in the event of a second or subsequent conviction with imprisonment for a term which may extend to six months and shall also be liable to fine which may extend to fifty thousand rupees.

6. Detaining a person in premises where prostitution is carried on.—(1) Any person who detains any other

person, whether with or without his consent,—

(a) in any brothel, or

(b) in or upon any premises with intent that such person may have sexual intercourse with a person who is

not the spouse of such person,

shall be punishable on conviction, with imprisonment of either description for a term which shall not be

less than seven years but which may be for life or for a term which may extend to ten years and shall also

be liable to fine which may extend to one lakh rupees:

Provided that the court may for adequate and special reasons to be mentioned in the judgment, impose a

sentence of imprisonment for a term which may be less than seven years.

(2) Where any person is found with a child in a brothel, it shall be presumed, unless the contrary is proved,

that he has committed an offence under sub-section (1).

(2-A) Where a child found in a brothel, is, on medical examination, detected to have been sexually abused,

it shall be presumed unless the contrary is proved, that the child has been detained for purposes of

prostitution or, as the case may be, has been sexually exploited for commercial purposes.

(3) A person shall be presumed to detain a person in a brothel or in upon any premises for the purpose of

sexual intercourse with a man other than her lawful husband, if such person, with intent to compel or

induce her to remain there,—

(a) withholds from her any jewellery, wearing apparel, money or other property belonging to her, or

(b) threatens her with legal proceedings if she takes away with her any jewellery, wearing apparel, money

or other property lent or supplied to her by or by the direction of such person.

(4) Notwithstanding any law to the contrary, no suit, prosecution or other legal proceeding shall lie against

such woman or girl at the instance of the person by whom she has been detained, for the recovery of any

jewellery, wearing apparel or other property alleged to have been lent or supplied to or for such woman or girl or to have been pledged by such woman or girl or for the recovery of any money alleged to be payable by such woman or girl.

7. Prostitution in or in the vicinity of public place .—(1) Any person who carries on prostitution and the

person with whom such prostitution is carried on, in any premises:

(a) which are within the area or areas, notified under sub-section (3), or

(b) which are within a distance of two hundred meters of any place of public religious worship, educational

institution, hotel, hospital, nursing home or such other public place of any kind as may be notified in this

behalf by the Commissioner of Police or Magistrate in the manner prescribed,

shall be punishable with imprisonment for a term which may extend to three months.

(1-A) Where an offence committed under sub-section (1) is in respect of a child, the person committing the

offence shall be punishable with imprisonment of either description for a term which not be less than seven

years but which may be for life or for a term which may extend to ten years and shall also be liable to fine:

Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a

sentence of imprisonment for a term of less than seven years.

(2) Any person who:

(a) being the keeper of any public place knowingly permits prostitutes for purposes of their trade to resort

to or remain in such place; or

(b) being the tenant, lessee, occupier or person in charge of any premises referred to in sub-section (1)

knowingly permits the same or any part thereof to be used for prostitution; or

(c) being the owner, lessor or landlord of any premises referred to in sub-section (1), or the agent of such

owner, lessor or landlord, lets the same or any part thereof with the knowledge that the same or any part

thereof may be used for prostitution, or is wilfully a party to such use.

shall be punishable on first conviction with imprisonment for a term which may extend to three months, or

with fine which may extend to two hundred rupees, or with both, and in the event of a second or subsequent

conviction with imprisonment for a term which may extend to six months and also with fine, which may

extend to two hundred rupees, and if the public place or premises happen to be a hotel, the licence for

carrying on the business of such hotel under any law for the time being in force shall also be liable to be

suspended for a period of not less than three months but which may extend to one year:
Provided that if an offence committed under this sub-section is in respect of a child in a hotel,
such licence
shall also be liable to be cancelled.

Explanation.—For the purposes of this sub-section, “hotel” shall have the meaning as in clause
(6) of
Section 2 of the Hotel-Receipts Tax Act, 1980 (54 of 1980).

(3) The State Government may, having regard to the kinds of persons frequenting any area or
areas in the

State, the nature and the density of population therein and other relevant considerations, by
notification in

the official Gazette, direct that the prostitution shall not be carried on in such area or areas as
may be
specified in the notification.

(4) Where the notification is issued under Sub-section (3) in respect of any area or areas, the
State

Government shall define the limits of such area or areas in the notification with reasonable
certainty.

(5) No such notification shall be issued so as to have effect from a date earlier than the expiry of
a period of
ninety days after the date on which it is issued.

9. Seduction of a person in custody .—Any person who having the custody, charge or care of or
in a

position of authority over any person causes or aids or abets the seduction for prostitution of that
shall be

punishable on conviction with imprisonment of either description for a term which shall not be
less than

seven years but which may be for life or for a term which may extend to ten years and shall also
be liable to

fine:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment,
impose a

sentence of imprisonment for a term of less than seven years.

[3] [(2) *****]

[4] [10. *****]

10-A. Detention in a corrective institution .—(1) Where,—

(a) a female offender is found guilty of an offence under Section 7, and

(b) the character, state of health and mental condition of the offender and the other circumstances
of the

case are such that it is expedient that she should be subject to detention for such term and such
instruction

and discipline as are conducive to her correction,

it shall be lawful for the court to pass, in lieu of a sentence of imprisonment, an order for
detention in a

corrective institution for such term, not being less than two years and not being more than seven
years, as

the court thinks fit:

Provided that before passing such an order,—

(i) the court shall give an opportunity to the offender to be heard and shall also consider any representation

which the offender may make to the court as to the suitability of the case for treatment in such an institution, as also the report of the Probation Officer appointed under the Probation of Offender Act, 1958;

and

(ii) the court shall record that it is satisfied that the character, state of health and mental condition of the

offender and the other circumstances of the case are such that the offender is likely to benefit by such

instruction and discipline as aforesaid.

(2) Subject to the provisions of sub-section (3), the provisions of the Code of Criminal Procedure, 1973,

relating to appeal, reference and revision, and of the Limitation Act, 1963 as to the period within which an

appeal shall be filed, shall apply in relation to an order of detention under sub-section (1) as if the order had

been a sentence of imprisonment for the same period as the period for which the detention was ordered.

(3) Subject to such rules as may be made in this behalf, the State Government or authority authorised in this

behalf may, at any time after the expiration of six months from the date of an order for detention in a

corrective institution, if it is satisfied that there is a reasonable probability that the offender will lead a

useful and industrious life, discharge her from such an institution, without condition or with such conditions as may be considered fit, and grant her a written licence in such form as may be prescribed.

(4) The conditions on which an order is discharged under sub-section (3), may include requirements

relating to residence of the offender and supervision over the offenders activities and movements.

11. Notification of address of previously convicted offenders .—(1) When any person having been convicted—

(a) by a court in India of an offence punishable under this Act or punishable under Section 363, Section

365, Section 366, Section 366-A, Section 366-B, Section 367, Section 368, Section 370, Section 371,

Section 372 or Section 373 of the Indian Penal Code (45 of 1860), with imprisonment for a term of two

years or up wards; or

(b) by a court or tribunal in any other country of an offence which would, if committed in India, have been

punishable under this Act, or under any of the aforesaid sections with imprisonment for a like term,
is within a period of five years after release from prison, again convicted of any offence punishable under this Act or under any of those section with, imprisonment for a term of two years or upwards by a court,
such court may, if it thinks fit, at the time of passing the sentence of imprisonment on such person, also order that his residence, and any change of, or absence from, such residence, after release, be notified according to rules made under Section 23 for a period not exceeding five years from the date of expiration of that sentence.

(2) If such conviction is set aside on appeal or otherwise, such order shall become void.

(3) An order under this section may also be made by an Appellate Court or by the High Court when exercising its powers of revision.

(4) Any person charged with a breach of any rule referred to in sub-section (1) may be tried by a Magistrate of competent jurisdiction in the District in which the place last notified as his residence is situated.

[5] [12.*****]

13. Special police officer and advisory body .—(1) There shall be for each area to be specified by the State Government in this behalf a special police officer appointed by or on behalf of that government for dealing with offences under this Act in that area.

(2) The special police officer shall not be below the rank of a sub-inspector of Police.

(2-A) The District Magistrate may, if he considers it necessary or expedient so to do, confer upon any retired police or military officer all or any of the powers conferred by or under this Act on a special police officer, with respect to particular cases or classes of cases or to cases generally:

Provided that no such power shall be conferred on,—

(a) a retired police officer unless such officer, at the time of his retirement, was holding a post not below

the rank of an inspector;

(b) a retired military officer unless such officer, at the time of his retirement, was holding a post not below

the rank of a commissioned officer.

(3) For the efficient discharge of his functions in relation to offences under this Act,—

(a) the special police officer of an area shall be assisted by such number of subordinate police officers

(including women police officers wherever practicable) as the State Government may think fit; and

(b) the State Government shall associate with the special police officer a non-official advisory body consisting of not more than five leading social welfare workers of that area (including women social welfare workers wherever practicable) to advise him on questions of general importance regarding the working of this Act.

(4) The Central Government may, for the purpose of investigating any offence under this Act or under any other law for the time being in force dealing with sexual exploitation of persons and committed in more than one State appoint such number of police officers as trafficking police officers and they shall exercise all the powers and discharge all the functions as are exercisable by special police officers under this Act with the modification that they shall exercise such powers and discharge such functions in relation to the whole of India.

13A. (1) The Central Government may constitute an Authority for the purposes of effectively preventing and combating the offence of trafficking in persons.

(2) The members of the Authority shall be appointed by the Central Government and shall be of such number and chosen in such manner as may be prescribed.

(3) The Chairperson of the Authority shall be one of the members appointed under sub-section (2) to be nominated by the Central Government.

(4) The term of office of the members of the Authority, the manner of filling vacancies among and the procedure to be followed in the discharge of their functions by the members shall be such as may be prescribed.

13B. (1) The State Government may constitute an Authority for the purposes of effectively preventing and combating the offence of trafficking in persons.

(2) The members of the Authority shall be appointed by the State Government and shall be of such number and chosen in such manner as may be prescribed.

(3) The Chairperson of the Authority shall be one of the members appointed under sub-section (2) to be nominated by the State Government.

(4) The term of office of the members of the Authority, the manner of filling vacancies among and the procedure to be followed in the discharge of their functions by the members shall be such as may be prescribed.

14. Offences to be cognizable .—Notwithstanding anything contained in the Code of Criminal Procedure,

1973 (2 of 1974), an offence punishable under this Act shall be deemed to be a cognizable offence within

the meaning of that Code:

Provided that, notwithstanding anything contained in that Code,—

(i) arrest without warrant may be made only by the special police officer or under his direction or guidance,

or subject to his prior approval;

(ii) when the special police officer requires any officer subordinate to him to arrest without warrant

otherwise than in his presence any person for an offence under this Act, he shall give that subordinate

officer an order in writing, specifying the person to be arrested and the offence for which the arrest is being

made; and the latter officer before arresting the person shall inform him of the substance of the order and,

on being required by such person, show him the order;

(iii) any police officer not below the rank of sub-inspector specially authorised by the special police officer

may, if he has reason to believe that on account of delay involved in obtaining the order of the special

police officer, any valuable evidence relating to any offence under this Act is likely to be destroyed or

concealed, or the person who has committed or is suspected to have committed the offence is likely to

escape, or if the name and address of such a person is unknown or there is reason to suspect that a false

name or address has been given, arrest the person concerned without such order, but in such a case he shall

report, as soon as may be, to the special police officer the arrest and the circumstances in which the arrest

was made.

15. Search without warrant .—(1) Notwithstanding anything contained in any other law for the time being

in force, whenever the special police officer or the trafficking police officer as the case may be, has

reasonable grounds for believing that an offence punishable under this Act has been or is being committed

in respect of a person living in any premises, and that search of the premises with warrant cannot be made

without undue delay, such officer may, after recording the grounds of his belief, enter and search such

premises without a warrant.

(2) Before making a search under sub-section (1), the special police officer or the trafficking police officer,

as the case may be shall call upon two or more respectable inhabitants (at least one of whom shall be a woman) of the locality in which the place to be searched is situate, to attend and witness the search and

may issue an order in writing to them or any of them so to do:

Provided that the requirement as to the respectable inhabitants being from the locality in which the place to

be searched is situate shall not apply to a woman required to attend and witness the search.

(3) Any person who, without reasonable cause, refuses or neglects, to attend and witness a search under this

section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to

have committed an offence under Section 187 of the Indian Penal Code (45 of 1860).

(4) The special police officer or the trafficking police officer, as the case may be, entering any premises

under sub-section (1) shall be entitled to remove therefrom all the persons found therein.

(5) The special police officer or the trafficking police officer, as the case may be, after removing person

under sub-section (4) shall forthwith produce her before the appropriate Magistrate.

(5-A) Any person who is produced before a Magistrate under sub-section (5), shall be examined by a

registered medical practitioner for the purposes of determination of the age of such person, or for the

detection of any injuries as a result of sexual abuse or for the presence of any sexually transmitted diseases.

Explanation.—In this sub-section, “registered medical practitioner” has the same meaning as in the Indian

Medical Council Act, 1956 (102 of 1956).

(6) The special police officer or the trafficking police officer, as the case may be, and other persons taking

part in, or attending, and witnessing a search shall not be liable to any civil or criminal proceeding against

them in respect of anything lawfully done in connection with, or for the purpose of, the search.

(6-A) The special police officer or the trafficking police officer, as the case may be, making a search under

this section shall be accompanied by at least two women police officers, and where any woman or girl

removed under sub-section (4) is required to be interrogated it shall be done by woman police officer and if

no woman police officer is available, the interrogation shall be done only in the presence of a lady member

of a recognised welfare institution or organization.

Explanation.—For the purposes of this sub-section and Section 17-A, “recognised welfare institution or

organisation” means such institution or organisation as may be recognised in this behalf by the State

Government.

(7) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) shall, so far as may be, apply to

any search under this section as they apply to any search made under the authority of a warrant issued

under 94 of the said Code.

16. Rescue of person—(1) Where a Magistrate has reason to believe from information received from the

police or from any other person authorised by State Government in this behalf or otherwise, that any person

is living, or is carrying, or is being made to carry on, prostitution in a brothel, he may direct a police officer

not below the rank of a sub-inspector to enter such brothel, and to remove therefrom such person and

produce her before him.

(2) The police officer, after removing the person shall forthwith produce her before the Magistrate issuing

the order.

17. Intermediate custody, of persons removed under Section 15 or rescued under Section 16.—

(1) When

the special police officer removing a person under sub-section (4) of Section 15 or a police officer rescuing

a person under sub-section (1) of Section 16, is for any reason unable to produce her before the appropriate

Magistrate as required by sub-section (5) of Section 15, or before the Magistrate issuing the order under

sub-section (2) of Section 16, he shall forthwith produce her before the nearest Magistrate of any class, who

shall pass such orders as he deems proper for her safe custody until she is produced before the appropriate

Magistrate, or, as the case may be, the Magistrate issuing the order:

Provided that no person shall be,

(i) detained in custody under this sub-section for a period exceeding ten days from the date of the order

under this sub-section; or

(ii) restored to or placed in the custody of a person who may exercise a harmful influence over her.

(2) when the person is produced before the appropriate Magistrate under sub-section (5) of Section 15 or

the Magistrate under sub-section (2) of Section 16, he shall, after giving her an opportunity of being heard,

cause an inquiry to be made as to the correctness of the information received under sub-section (1) of

Section 16, the age, character and antecedents of the person and the suitability of her parents, guardian or

husband for taking charge of her and the nature of the influence which the conditions in her home are likely to have on her if she is sent home, and, for this purpose, he may direct a Probation Officer appointed under the Probation of Offenders Act, 1958, to inquire into the above circumstances and into the personality of the person and the prospects of her rehabilitation.

(3) The Magistrate may, while an inquiry is made into a case under sub-section (2), pass such orders as he deems proper for the safe custody of the person:

Provided that where a person rescued under Section 16 is a child, it shall be open to the magistrate to place such child in any institution established or recognised under any Children Act for the time being in force in any State for the safe custody of children:

Provided further that no person shall be kept in custody for this purpose for a period exceeding three weeks from the date of such an order, and no person shall be kept in the custody of a person likely to have a harmful influence over her.

(4) Where the Magistrate is satisfied, after making an inquiry as required under sub-section (2),—

(a) that the information received is correct; and

(b) that she is in need of care and protection,

he may, subject to the provisions of sub-section (5), make an order that such person be detained for such period, being not less than one year and not more than three, as may be specified in the order, in a protective home, or in such other custody, as he shall, for reasons to be recorded in writing, consider suitable:

Provided that such custody shall not be that of a person or body of persons of a religious persuasion

different from that of the person, and that those entrusted with the custody of the person, including the

persons in charge of a protective home; may be required to enter into a bond which may, where necessary

and feasible contained undertaking based on directions relating to the proper care, guardianship, education,

training and medical and psychiatric treatment of the person as well as supervision by a person appointed

by the Court, which will be in force for a period not exceeding three years.

(5) In discharging his functions under sub-section (2), a Magistrate may summon a panel of five respectable

persons, three of whom shall, wherever practicable, be women, to assist him; and may, for this purpose,

keep a list of experienced social welfare workers, particularly women social welfare workers, in the field of suppression of immoral traffic in persons.

(6) An appeal against an order made under sub-section (4) shall lie to the Court of Session whose decision on such appeal shall be final.

17-A. Conditions to be observed before placing persons rescued under Section 16 to parents or guardians

.—Notwithstanding anything contained in sub-section (2) of Section 17, the magistrate making an inquiry

under Section 17, may, before passing an order for handing over any person rescued under Section 16 to

the parents, guardian or husband, satisfy himself about the capacity or genuineness of the parents, guardian

or husband to keep such person by causing an investigation to be made by a recognised welfare institution

or organisation.

18. Closure of brothel and eviction of offenders from the premises .—(1) A Magistrate may, on receipt of

information from the police or otherwise, that any house, room, place or any portion thereof within a

distance of two hundred metres of any public place referred to in sub-section (1) of Section 7 is being run

or used as a brothel by any person, or is being used by prostitutes for carrying on their trade, issue notice on

the owner, lessor or landlord or such house, room, place or portion or the agent of the owner, lessor or

landlord or on the tenant, lessee, occupier of, or any other person in charge of such house, room, place, or

portion, to show cause within seven days of the receipt of the notice why the same should not be attached

for improper use thereof, and if, after hearing the person concerned, the Magistrate is satisfied that the

house, room, place or portion is being used as a brothel or for carrying on prostitution, then the Magistrate

may pass orders,—

(a) directing eviction of the occupier within seven days of the passing of the order from the house, room,

place, or portion;

(b) directing that before letting it out during the period of one year or in a case where a child has been

found in such house, room, place or portion during a search under Section 15, during the period of three

years, immediately after the passing of the order, the owner, lessor or landlord or the agent of the owner,

lessor or landlord shall obtain the previous approval of the Magistrate;

Provided that, if the Magistrate finds that the owner, lessor or landlord as well as the agent of the owner, lessor or landlord, was innocent of the improper user of the house, room, place, or portion, he may cause the same to be restored to the owner, lessor or landlord or the agent of the owner, lessor landlord, with a direction that the house, room, place or portion shall not be leased out, or otherwise given possession of, to or for the benefit of the person who was allowing the improper use therein.

(2) A court convicting a person of any offence under Section 3 or Section 7 may pass orders under subsection

(1), without further notice to such person to show cause as required in that sub-section.

(3) Orders passed by the Magistrate or court under sub-section (1) or sub-section (2), shall not be subject to

appeal and shall not be stayed or set aside by the order of any court, civil or criminal, and the said orders

shall cease to have validity after the expiry of one year or three years, as the case may be:

Provided that where a conviction under Section 3 or Section 7 is set aside on an appeal on the ground that

such house, room, place, or any portion thereof is not being run or uses as a brothel or is not being used by

prostitutes for carrying on their trade, any order passed by the trial court under sub-section (1) shall also be

set aside.

(4) Notwithstanding anything contained in any other law for the time being in force, when a Magistrate

passes an order under sub-section (1), or a Court passes an order under sub-section (2), any lease or a

agreement under which the house, room, place or portion is occupied at the time shall become void and

inoperative.

(5) When an owner, lessor or landlord, or the agent of such owner, lessor or landlord fails to comply with a

direction given under clause (b) of sub-section (1) he shall be punishable with fine which may extend to

five hundred rupees or when he fails to comply with a direction under the proviso to that sub-section, he

shall be deemed to have committed an offence under clause (b) of sub-section (2), of Section 3 or clause (c)

of sub-section (2) of Section 7, as the case may be, and punished accordingly.

19. Application for being kept in a protective home or provided care and protection by court .—

(1) A

person who is carrying on, or is being made to carry on prostitution, may make an application, to the

Magistrate within the local limits of whose jurisdiction she is carrying on, or is being made to carry on

prostitution, for an order that she may be—

(a) kept in a protective home, or

(b) provided care and protection by the court in the manner specified in sub-section (3).

(2) The Magistrate may pending inquiry under sub-section (3) direct that the person be kept in such custody

as he may consider proper, having regard to the circumstances of the case.

(3) If the Magistrate after hearing the applicant and making such inquiry as he may consider necessary,

including an inquiry by a Probation Officer appointed under the Probation of Offender Act, 1958, (20 of

1958) into the personality, conditions of home and prospects of rehabilitation of the applicant, is satisfied

that an order should be made under this section, he shall for reasons to be recorded, make an order that the

applicant to be kept:

(i) in a protective home, or

(ii) in a corrective institution, or

(iii) under the supervision of a person appointed by the Magistrate for such period as may be specified in

the order.

21. Protective homes.— (1) The State Government may in its discretion establish as many protective homes

and corrective institutions under this Act as it thinks fit and such homes and institutions when established

shall be maintained in such manner as may be prescribed.

(2) No person or no authority other than the State government shall, after the commencement of this Act,

establish or maintain any protective home or corrective institution except under and in accordance with the

conditions of, a licence issued under this section by the State Government.

(3) The State Government may, on application made to it in this behalf by a person or authority, issue to

such person or authority a licence in the prescribed form for establishing and maintaining or as the case

may be, for maintaining a protective home or corrective institution and a licence so issued may contain

such conditions as the State Government may think fit to impose in accordance with the rules made under

this Act:

Provided that any such condition may require that the management of the protective home or corrective

institution shall, wherever practicable, be entrusted to women:

Provided further that a person or authority maintaining any protective home at the commencement of this

Act shall be allowed a period of six months from such commencement to make an application for such

licence:

Provided also that a person or authority maintaining any corrective institution at the commencement of the

Suppression of Immoral Traffic in Women and Girls (Amendment) Act, 1978, shall be allowed a period of six months from such commencement to make an application for such licence.

(4) Before issuing a licence, the State Government may require such officer or authority as it may appoint for this purpose, to make a full and complete investigation in respect of the application received in this behalf and report to it the result of such investigation and in making any such investigation the officer or authority shall allow such procedure as may be prescribed.

(5) A licence, unless sooner revoked, shall remain in force for such period as may be specified in the licence and may, on application made in this behalf at least thirty days before the date of its expiration, be renewed for a like period.

(6) No licence issued or renewed under this Act shall be transferable.

(7) Where any person or authority to whom a licence has been granted under this Act or any agent or servant of such person or authority commits a breach of any of the conditions thereof or any of the provisions of this Act or of any of the rules made under this Act, or where the State Government is not satisfied with the conditions, management or superintendence or any protective home or corrective institution the State Government may, without prejudice to any other penalty which may have been incurred under this Act, for reasons to be recorded, revoke the licence by order in writing: Provided that no such order shall be made until an opportunity is given to the holder of the licence to show cause why the licence shall not be revoked.

(8) Where a licence in respect of a protective home or corrective institution has been revoked under the foregoing sub-section such protective home or corrective institution shall cease to function from the date of, such revocation.

(9) Subject to any rule that may be made in this behalf, the State Government may also vary or amend any licence issued or renewed under this Act.

(9-A) The State Government or any authority authorised by it in this behalf may, subject to any rules that may be made in this behalf, transfer an inmate of a protective home to another protective home or to a

corrective institution or an inmate of a corrective institution to another corrective institution or to a

protective home, where such transfer is considered desirable having regard to the conduct of the person to

be transferred, the kind of training to be imparted and other circumstances of the case:

Provided that,—

(i) no person who is transferred under this sub-section shall be required to stay in the home or institution to

which she is transferred for a period longer than she was required to stay in the home or institution from

which she was transferred;

(ii) reasons shall be recorded for every order of transfer under this sub-section.

(10) Whoever establishes or maintains a protective home or corrective institution except in accordance with

the provisions of this section, shall be punishable in the case of a first offence with fine which may extend

to one thousand rupees and in the case of second or subsequent offence with imprisonment for a term

which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

21-A. Production of records .—Every person or authority who is licensed under sub-section (3) of Section

21 to establish or maintain, or, as the case may be, for maintaining, a protective home or corrective

institution shall whenever required by a Court, produce the records and other documents maintained by

such home or institution before such court.

22. (1) Trials .—No Court, inferior to that of a Metropolitan Magistrate or a Judicial magistrate of the first

class, shall try any offence under Section 3, Section 4, Section 5, Section 5B, Section 5C, Section 6 or

Section 7.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the trial of the proceedings under this Act shall be conducted *in camera*.

22-A. Power to establish special Courts .—(1) If the State Government is satisfied that it is necessary for

the purpose of providing for speedy trial of offences under this Act in any district or metropolitan area, it

may, by notification in the official Gazette and after consultation with the High Court, establish one or

more Courts of Judicial Magistrates of the first class, or, as the case may be, Metropolitan Magistrate, in

such district or metropolitan area.

(2) Unless otherwise directed by the High Court, a court established under sub-section (1) shall exercise

jurisdiction only in respect of cases under this Act.

(3) Subject to the provisions of sub-section (2), the jurisdiction and powers of the presiding officer of a court established under sub-section (1) in any district or metropolitan area shall extend throughout the district or the metropolitan area, as the case may be.

(4) Subject to the foregoing provisions of this section, a Court established under sub-section (1) in any district or metropolitan area shall be deemed to be a court established under sub-section (1) of Section 11, or, as the case may be, sub-section (1) of Section 16 of the Code of Criminal Procedure, 1973 (2 of 1974)

and provisions of the Code shall apply accordingly in relation to such courts.

Explanation.—In this section, “High Court” has the same meaning as in clause (e) of Section 2 of the Code of Criminal Procedure, 1973.

[6] 22-AA. Power of Central Government to establish special courts .—(1) If the Central Government is satisfied that it is necessary for the purpose of providing for speedy trial of offences under this Act and

committed in more than one State, it may, by notification in the official Gazette and after consultation with

the High Court concerned, establish one or more courts of Judicial Magistrates of the first class or

Metropolitan Magistrates for the trial of such offences.

(2) The provisions of Section 22-A, shall, so far as may be, apply to the courts established under subsection

(1), as they apply to Courts established under that section.

22-B. Power of court to try cases summarily .—Notwithstanding anything contained in the Code of

Criminal Procedure, 1973, the State Government may, if it considers it necessary so to do, direct that

offences under this Act shall be tried in a summary way by a Magistrate including the presiding officer of a

court established under sub-section (1) of Section 22-A and the provisions of Section 262 to 265 (both

inclusive) of the said Code, shall, as far as may be, apply to such trial:

Provided that in the case of any conviction in a summary trial under this section, it shall be lawful for the

Magistrate to pass a sentence of imprisonment for a term not exceeding one year:

Provided further that when at the commencement of, or in the course of, a summary trial under this section,

it appears to the Magistrate that the nature of the case is such that a sentence of imprisonment for a term

exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case

summarily, the Magistrate shall, after hearing the parties record an order to that effect and thereafter recall any witness, who may have been examined and proceed to hear or re-hear the case in the manner provided by the said Code].

23. Power to make rules .—(1) The State Government may, by notification in the official Gazette, make rules for carrying on the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for :

(a) the notification of any place as a public place;

(b) the placing in custody of persons for whose safe custody orders have been passed under sub-section (1)

of Section 17 and their maintenance;

(bb) the discharge of an offender under sub-section (3) of Section 10-A from a corrective institution and the

form of licence to be granted to such offender;

(c) the detention and keeping in protective homes or, as the case may be, in corrective institutions or person

under this Act and their maintenance;

(d) the carrying out of the provisions of Section 11 regarding notification of residence or change of or

absence from residence by released convicts;

(e) the delegation of authority to appoint the special police officer under sub-section (1) of Section 13;

(f) the carrying into effect of the provisions of Section 18;

(g) (i) the establishment, maintenance, management and superintendence of protective homes and

corrective institutions under Section 21 and the appointment, powers and duties of persons employed in

such home or institution;

(ii) the form in which an application for a licence may be made and the particulars to be contained in such

application;

(iii) the procedure for the issue or renewal of a licence, the time within which such licence shall be issued

or renewed and the procedure to be followed in making a full and complete investigation in respect of an

application for licence;

(iv) the form of a licence and the condition to be specified therein;

(v) the manner in which the accounts of a protective home and a corrective institution shall be maintained

and audited;

(vi) the maintenance of registers and statements by a licensee and the form of such registers and statements;

(vii) the care, treatments, maintenance, training, instruction, control and discipline of the inmates of protective home and corrective institutions;

(viii) the visits to and communications with inmates;

(ix) the temporary detention of persons sentenced to detention in protective homes or in corrective institution until arrangements are made for sending them to such homes or institutions;

(x) the transfer of an inmate from:

(a) protective home to another, or to a corrective institution,

(b) one corrective institution to another, or to a protective home, under sub-section (9-A) of Section 21;

(xi) the transfer in pursuance of an order of the Court from a protective home or a corrective institution to a prison of a person found to be incorrigible or exercising bad influence upon other inmates of the protective home or the corrective institution and the period of her detention in such prison;

(xii) the transfer to a protective home or corrective institution of persons sentenced under Section 7 and the period of their detention in such home or institution;

(xiii) the discharge of inmates from a protective home or corrective institution either absolutely or subject to conditions, and their arrest in the event of breach of such conditions;

(xiv) the grant of permission to inmates to absent themselves for short periods;

(xv) the inspection of protective homes and corrective institutions and other institutions in which a persons may be kept, detained and maintained;

(ga) number of the members of the Authority and the manner in which such members shall be chosen for appointment under sub-section (2) of section 13B;

(gb) the term of office of the members of the Authority and the manner of filling vacancies among, and the procedure to be followed in the discharge of their functions by, the members under sub-section (4) of section 13B;

(h) any other matter which has to be, or may be prescribed.

(3) In making any rule under clause (d) or clause (g) or sub-section (2), the State Government may provide that a breach thereof be punishable with fine which may extend to two hundred and fifty rupees.

(4) All rules made under this Act shall, as soon as may be after they are made, be laid before the State Legislature.

23A. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide

for,—

(a) the number of the members of the Authority and the manner in which such members shall be chosen for

appointment under sub-section (2) of section 13A;

(b) the term of office of the members of the Authority, the manner of filling vacancies among, and the

procedure to be followed in the discharge of their functions by the members under sub-section (4) of

section 13A.

(3) Every rule made by the Central Government shall be laid, as soon as may be after it is made, before

each House of Parliament, 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 immediately

following the session or the successive sessions aforesaid, both Houses agree in making any modification

in the rule or both Houses agree that the rule should not be made, the rule shall thereafter 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 under that rule.

24. Act not to be in derogation of certain other Acts .—Nothing in this Act shall be construed to be in

derogation of the provisions of the Reformatory Schools Act, 1897 or any State Act enacted in modification

of the said Act or otherwise, relating to juvenile offenders.

25. Repeal and savings .—(1) As from the date of the coming into force in any State of the provisions other

than Section 1 of this Act, all State Acts relating to suppression of immoral traffic in persons or to the

prevention of prostitution, in force in that State immediately before such date shall stand repealed.

(2) Notwithstanding the repeal by this Act, of any State Act referred to in sub-section (1), anything done or

any action taken including any direction given in any register, rule or order made, any restriction imposed)

under the provision of such State Act shall in so far as such thing or action is not inconsistent with the

provisions of this Act be deemed to have been done or taken under the provisions of this Act as if the said

provisions were in force when such thing was done or such action was taken and shall continue in force

accordingly until superseded by anything done or any action taken under this Act.

Explanation.—In this section, the expression 'State Act' includes a 'Provincial Act'.

THE SCHEDULE

[See Section 2(c)]

Section Magistrate competent to exercise the powers

7(1) District Magistrate.

11 (4) Metropolitan Magistrate of Judicial Magistrate of the first class.

12 (4) [7][* * * * *]

15(5) Metropolitan Magistrate, Judicial Magistrate of the first class, District Magistrate or Sub-divisional Magistrate.

16 Metropolitan Magistrate, Judicial Magistrate of the first class, District Magistrate or Sub-divisional Magistrate.

18 District Magistrate or Sub-divisional Magistrate.

19 Metropolitan Magistrate, Judicial Magistrate of the first class, District Magistrate or Sub-divisional Magistrate.

22-B Metropolitan Magistrate of Judicial Magistrate of the first class.

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[1] Sub-section (e) omitted by Act No 46 of 1978.

[2] Sub-sec. (2) omitted by Act No. 44 of 1986.

[3] Sub-section (2) omitted by Act No. 44 of 1986.

[4] Sec. 10 omitted by Act No. 44 of 1986.

[5] Section 12 omitted by Act No. 44 of 1986.

[6] Ins. by Act No. 44 of 1986 (w.e.f. 26-1-1987).

[7] Figures and words omitted by Act No. 44 of 1986 (w.e.f. 2-6-1987).

India

BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976

Act : PREAMBLE

[Act 19 of 1976 as amended by Act 73 of 1985]

[9th February, 1976]

An Act to provide for the abolition of bonded labour system with a view to preventing the economic and physical exploitation of the weaker sections of the people and for matters connected therewith or incidental thereto Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows :

1. SHORT TITLE, EXTENT AND COMMENCEMENT. - (1) This Act may be called the Bonded Labour System (Abolition) Act, 1976.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 25th day of October, 1975.

2. DEFINITIONS. - In this Act, unless the context otherwise requires,- (a) advance means an advance, whether in cash or kind, or partly in cash or partly in kind, made by one person (hereinafter referred to as the creditor) to another person (hereinafter referred to as the debtor) (b) agreement means an agreement (whether written or oral, or partly written and partly oral) between a debtor and creditor, and includes an agreement providing for forced labour, the existence of which is presumed under any social custom prevailing in the concerned locality.

Explanation : The existence of an agreement between the debtor and creditor is ordinarily presumed, under the social customs, in relation to the following forms of forced labour, namely : Adiyamar, Baramasia, Basahya, Bethu, Bhagela, Cherumar, Garru- Galu, Hali, Hari, Harwail, Holya, Jana, Jeetha, Kamiya, Khundit- Mundit, Kuthia, Lakhari, Munjhi, Mat, Munish system, Nit-Majoor, Paleru, Padiyal, Pannayilal, Sagri, Sanji, Sanjawat, Sewak, Sewakia, Seri, Vetti; (c) ascendant or descendant, in relation to a person belonging to a matriarchal society, means the person who corresponds to such expression in accordance with the law of succession in force in such society;

(d) bonded debt means an advance obtained, or presumed to have been obtained, by a bonded labourer under, or in pursuance of, the bonded labour system;

(e) bonded labour means any labour or service rendered under the bonded labour system;

(f) bonded labourer means a labourer who incurs, or has, or is presumed to have, incurred, a bonded debt;

(g) bonded labour system means the system of forced, or partly forced, labour under which a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that - (i) in consideration of an advance obtained by him or by any of his lineal ascendants or descendants (whether or not such advance is evidenced by the document) and in consideration of the interest, if any, due on such advance, or

(ii) in pursuance of any customary or social obligation, or

(iii) in pursuance of any obligation devolving on him by succession, or

(iv) for any economic consideration received by him or by any of his lineal ascendants or descendants, or

(v) by reason of his birth in any particular caste or community, he would- (1) render, by himself or through any member of his family, or any person dependent on him, labour or service, to the creditor, or for the benefit of the creditor, for a specific period or for an unspecified period, either without wages or for nominal wages, or

(2) forfeit the freedom of employment or other means of livelihood for an specified period or for an unspecified period, or

(3) forfeit the right to move freely throughout the territory of India, or

(4) forfeit the right to appropriate or sell at market-value any of his property or product of his labour or the labour of a member of his family or any person dependent on him. and includes the system of forced, or partly forced, labour under which a surety for a debtor enters, or has, or is presumed to have, entered into an agreement with the creditor to the effect that in the event of the failure of the debtor to repay the debt, he would render the bonded labour on behalf of the debtor;

Explanation : For the removal of doubts, it is hereby declared that any system of forced, or partly forced labour under which any workman being contract labour as defined in clause (b) of sub-section (1) of Section 2 of the Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970), or an inter-State migrant workman as defined in clause (e) of sub-section (1) of Section 2 of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (30 of 1979), is required to render labour or service in circumstances of the nature mentioned in sub-clause (1) of this clause or is subjected to all or any of the disabilities referred to in sub-clauses (2) to (4), is \$bonded labour system\$ within the meaning of this clause.

(h) family, in relation to a person, includes the ascendant and descendant of such person;

(i) nominal wages, in relation to any labour, means a wage which is less than,- (a) the minimum wages fixed by the Government, in relation to the same or similar labour, under any law for the time being in force ; and

(b) where no such minimum wage has been fixed in relation to any form of labour, the wages that are normally paid, for the same or similar labour, to the labourers working in the same locality;

(j) prescribed means prescribed by rules made under this Act.

3. ACT TO HAVE OVERRIDING EFFECT. - The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act, or in any instrument having effect by virtue of any enactment other than this Act.

4. ABOLITION OF BONDED LABOUR SYSTEM. - (1) On the commencement of this Act, the bonded labour system shall stand abolished and every bonded labourer shall, on such commencement, stand freed and discharged from any obligation to render, any bonded labour.

(2) After the commencement of this Act, no person shall- (a) make any advance under, or in pursuance of, the bonded labour system, or

(b) compel any person to render any bonded labour or other form of forced labour.

5. AGREEMENT, CUSTOM ETC., TO BE VOID. - On the commencement of this Act, any custom or tradition or any contract, agreement or other instrument (whether entered into or executed before or after the commencement of this Act,) by virtue of which any person, or any member of the family or dependent of such person, is required to do any work or render any service as a bonded labourer, shall be void and inoperative.

6. LIABILITY TO REPAY BONDED DEBT TO STAND EXTINGUISHED. - (1) On the commencement of this Act, every obligation of a bonded labourer to repay any bonded debt, or such part of any bonded debt unsatisfied immediately before such commencement, shall be deemed to have been extinguished.

(2) After the commencement of this Act, no suit or other proceedings shall lie in any civil or before any other authority for the recovery of any bonded debt or any part thereof.

(3) Every decree or order for the recovery of bonded debt, passed before the commencement of this Act and not fully satisfied before such commencement, shall be deemed, on such commencement, to have been fully satisfied.

(4) Every attachment made before the commencement of this Act, for the recovery of any bonded debt, shall, on such commencement, stand vacated; and, where, in pursuance of such attachment, any movable property of the bonded labourer was seized and removed from his custody and kept in the custody of any court or other authority pending sale thereof, such movable property shall be restored, as soon as may be practicable after such commencement, to the possession of the bonded labourer.

(5) Where, before the commencement of this Act, possession of any property belonging to a bonded labourer or a member of his family or other dependent was forcibly taken over by any creditor for the recovery of any bonded debt, such property shall be restored, as soon as may be practicable after such commencement, to the possession of the person from whom it was seized.

(6) If restoration of the possession of any property referred to in sub-section (4) or sub-section (5) is not made within thirty days from the commencement of this Act, the aggrieved person may, within such time as may be prescribed, apply to the prescribed authority for the restoration of the possession of such property and the prescribed authority may, after giving the creditor a reasonable opportunity of being heard, direct the creditor to restore to the applicant the possession of the concerned property within such time as may be specified in the order.

(7) An order made by any prescribed authority, under sub-section (6), shall be deemed to be an order made by a civil court and may be executed by the court of the lowest pecuniary jurisdiction within the local of whose jurisdiction the creditor voluntarily resides or carries on business or personally works for gain.

(8) For the avoidance of doubts, it is hereby declared, that where any attached property was sold before the commencement of this Act, in execution of a decree or order for the recovery of a bonded debt, such sale shall not be affected by any provision of this Act.

Provided that the bonded labourer, or an agent authorised by him in this behalf, may, at any time within five years from such commencement, apply to have the sale set aside on his depositing in court, for payment to the decree-holder, the amount specified in the proclamation of sale, for the recovery of which the sale was ordered, less any amount, as well as mesne profits, which may, since the date of such proclamation of sale, have been received by the decree-holder.

(9) Where any suit or proceeding, for the enforcement of any obligation under the bonded labour system, including a suit or proceeding for the recovery of any advance made to a bonded labourer, is pending at the commencement of this Act, such suit or other proceeding shall, on such commencement stand dismissed.

(10) On the commencement of this Act, every bonded labourer who has been detained in civil prison, whether before or after judgment, shall be released from detention forthwith.

7. PROPERTY OF BONDED LABOURER TO BE FREED FROM MORTGAGE, ETC. - (1)

All property vested in a bonded labourer which was immediately before the commencement of this Act under any mortgage, charge, lien or other encumbrances in connection with any bonded debt shall, in so far as it is relatable to the bonded debt, stand freed and discharged from such mortgage, charge, lien or other encumbrances, and where any such property was, immediately before the commencement of this Act, in the possession of the mortgage or the holder of the charge, lien or encumbrance, such property shall (except where it was subject to any other charges), on such commencement, be restored to the possession of the bonded labourer.

(2) If any delay is made in restoring any property, referred to in sub-section (1), to the possession of the bonded labourer, such labourer shall be entitled, on and from the date of such commencement, to recover from the mortgage or holder of the lien, charge or encumbrance, such mesne profits as may be determined by the civil court of the lowest pecuniary jurisdiction within the local limits of whose jurisdiction such property is situated.

8. FREED BONDED LABOURER NOT TO BE EVICTED FROM HOMESTEAD, ETC. - (1)

No person who has been freed and discharged under this Act from any obligation to render any bonded labour, shall be evicted from any homestead or other residential premises which he was occupying immediately before the commencement of this Act as part of the consideration for the bonded labour.

(2) If, after the commencement of this Act, any such person is evicted by the creditor from any homestead or other residential premises, referred to in sub-section (1), the Executive Magistrate in charge of the Sub-Division within which such homestead or residential premises is situated shall, as practicable, restore the bonded labourer to the possession of such homestead or other residential premises.

9. CREDITOR NOT TO ACCEPT PAYMENT AGAINST EXTINGUISHED DEBT. - (1) No creditor shall accept any payment against any bonded debt which has been extinguished or deemed to have been extinguished or fully satisfied by virtue of the provisions of this Act.

(2) Whoever contravenes the provisions of sub-section (1), shall be punishable with imprisonment for a term which may extend to three years and also with fine.

(3) The court, convicting any person under sub-section (2) may, in addition to the penalties which may be imposed under that sub-section, direct the person to deposit, in court, the amount accepted in contravention of the provisions of sub-section (1), within such period as may be specified in the order for being refunded to the bonded labourer.

10. AUTHORITIES WHO MAY BE SPECIFIED FOR IMPLEMENTING THE PROVISIONS OF THIS ACT. -

The State Government may confer such powers and impose such duties on a District Magistrate as may be necessary to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer so specified.

11. DUTY OF DISTRICT MAGISTRATE AND OTHER OFFICERS TO ENSURE CREDIT. - The District Magistrate authorised by the State Government under Section 10 and the officer specified by the District Magistrate under that section shall, as far as practicable, try to promote the welfare of the freed bonded labourer by securing and protecting the economic interests of such bonded labourer so that he may not have any occasion or reason to contract any further bonded debt.

12. DUTY OF DISTRICT MAGISTRATE AND OFFICERS AUTHORISED BY HIM. - It shall be the duty of every District Magistrate and every officer specified by him under Section 10 to inquire whether, after the commencement of this Act, any bonded labour system or any other form of forced labour is being enforced by, or on behalf of, any person resident within the local limits of his jurisdiction and if, as a result of such inquiry, any person is found to be enforcing the bonded labour system or any other system of forced labour, he shall forthwith take such action as may be necessary to eradicate of such forced labour.

Comment: whenever it is shown that a labourer is made to provide forced labour, the Court would raise a presumption that he is required to do so in consideration of an advance or other economic consideration received by him and he is therefore a bonded labourer. This presumption may be rebutted by the employer and also by the State Government if it so chooses but unless and until satisfactory material is produced for rebutting this presumption, the Court must proceed on the basis that the labourer is a bonded labourer entitled to the benefit of the provisions of the Act. *Bandhua Mukti Morcha, Petitioner v. Union of India and others, Respondents. AIR 1984 SUPREME COURT 802*

13. VIGILANCE COMMITTEE. - (1) Every State Government shall, by notification in the Official Gazette, constitute such number of Vigilance Committees in each district and each Sub-Division as it may think fit.

(2) Each Vigilance Committee, constituted for a district, shall consist of the following members, namely- (a) the District Magistrate, or a person nominated by him, who shall be the Chairman; (b) three persons belonging to the Scheduled Castes or Scheduled Tribes and residing in the District, to be nominated by the District Magistrate;

(c) two social workers, resident in the district, to be nominated by the District Magistrate;

(d) not more than three persons to represent the official or non-official agencies in the district connected with rural development, to be nominated by the State Government;

(e) one person to represent the financial and credit institutions in the district, to be nominated by the District Magistrate;

(3) Each Vigilance Committee, constituted for a Sub-Division, shall consist of the following members, namely- (a) the Sub-Divisional Magistrate, or a person nominated by him, who shall be the Chairman;

(b) three persons belonging to the Scheduled Castes or Scheduled Tribes and residing in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;

(c) two social workers, resident in the Sub-Division to be nominated by the Sub-Divisional Magistrate;

- (d) not more than three persons to represent the official or non- official agencies in the Sub-Division connected with rural development to be nominated by the District Magistrate.
 - (e) one person to represent the financial and credit institutions in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;
 - (f) one officer specified under Section 10 and functioning in the Sub-Division.
- (4) Each Vigilance Committee shall regulate its own procedure and secretarial assistance, as may be necessary, shall be provided by- (a) the District Magistrate, in the case of a Vigilance Committee constituted for the district;
- (b) the Sub-Divisional Magistrate, in the case of a Vigilance Committee constituted for the Sub-Division.
- (5) No proceeding of a Vigilance Committee shall be invalid by reason of any defect in the constitution, or in the proceedings, of the Vigilance Committee.

15. BURDEN OF PROOF. - Whenever any debt is claimed by a bonded labourer, or a Vigilance Committee, to be a bonded debt, the burden of proof that such debt is not a bonded debt shall lie on the creditor.

16. PUNISHMENT FOR ENFORCEMENT OF BONDED LABOUR. - Whoever, after the commencement of this Act, compels any person to render any bonded labour shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees.

17. PUNISHMENT FOR ADVANCEMENT OF BONDED DEBT. - Whoever advances, after the commencement of this Act, any bonded debt shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees.

18. PUNISHMENT FOR EXTRACTING BONDED LABOUR UNDER THE BONDED LABOUR SYSTEM. - Whoever enforces, after the commencement of this Act, any custom, tradition, contract, agreement or other instrument, by virtue of which any person or any member of the family of such person or any dependent of such person is required to render any service under the bonded labour system, shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees; and, out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day for which the bonded labour was extracted from him.

19. PUNISHMENT FOR OMISSION OR FAILURE TO RESTORE POSSESSION OF PROPERTY TO BONDED LABOURERS. - Whoever, being required by this Act to restore any property to the possession of any bonded labourer, omits or fails to do so, within a period of thirty days from the commencement of this Act, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both; and, out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day during which possession of the property was not restored to him.

20. ABETMENT TO BE AN OFFENCE. - Whoever abets any offence punishable under this Act shall, whether or not the offence abetted is committed, be punishable with the same punishment as is provided for the offence which has been abetted.

Explanation : For the purpose of this Act, abetment has the meaning assigned to it in the Indian Penal Code (45 of 1860).

21. OFFENCES TO BE TRIED BY EXECUTIVE MAGISTRATES. - (1) The State Government may confer, on an Executive Magistrate, the powers of a Judicial Magistrate of the first class or of the second class for the trial of offences under this Act; and, on such conferment of powers, the Executive Magistrate, on whom the powers are so conferred, shall be deemed, for the purposes of the Code of Criminal Procedure, 1973 (2 of 1974), to be a Judicial Magistrate of the first class, or of the second class, as the case may be.

(2) An offence under this Act may be tried summarily by a Magistrate.

22. COGNIZANCE OF OFFENCES. - Every offence under this Act shall be cognizable and bailable.

23. OFFENCES BY COMPANIES. - (1) Where any offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation : For the purposes of this section.- (a) company means any body corporate and includes a firm or other association of individual; and

(b) director, in relation to a firm, means a partner in the firm.

24. PROTECTION OF ACTION TAKEN IN GOOD FAITH. - No suit, prosecution or other legal proceeding shall lie against any officer of the State Government or any member of the Vigilance Committee for anything which is in good faith done or intended to be done under this Act.

25. JURISDICTION OF CIVIL COURTS BARRED. - No civil court shall have jurisdiction in respect of any matter to which any provision of this Act applies and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this Act.

26. POWER TO MAKE RULES. - (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the foregoing power, such rules may provide for all or any of the following matters, namely- (a) the authority to which application for the restoration of possession of property referred to in sub-section (4), or sub-section (5), of Section 6 is to be submitted of sub-section (6) of that section.

(b) the time within which application for restoration of possession of property is to be made, under sub-section (6) of Section 6, to the prescribed authority;

(c) steps to be taken by Vigilance Committee under clause (a) of sub-section (1) of Section 14, to ensure the implementation of the provisions of this Act or of any rule made thereunder;

(d) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is session, for a total period of thirty days which maybe comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter 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 under that rule.

27. REPEAL AND SAVING. - (1) The Bonded Labour System (Abolition) Ordinance, 1975 (17 of 1975) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance (including any notification published, direction or nomination made, power conferred, duty imposed or officer specified) shall be deemed to have been done or taken under the corresponding provisions of this Act.

India

The Child Labor (Prohibition and Regulation) Act of 1986

1.Short title, extent and commencement.- (1) This Act may be called the Child Labour (Prohibition and Regulation) Act, 1986.

(2) It extends to the whole of India.

(3) The provisions of this Act, other than Part III, shall come into force at once, and Part III shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different States and for different classes of establishments.

2. Definitions.- In this Act, unless the context otherwise requires,-

(i) appropriate Government means, in relation to an establishment under the control of the Central Government or a railway administration or a major port or a mine or oilfield, the Central Government, and in all other cases, the State Government;

(ii) child means a person who has not completed his fourteenth year of age;

(iii) day means a period of twenty-four hours beginning at mid-night;

(iv) establishment includes a shop, commercial establishment, workshop, farm, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment;

(v) family, in relation to an occupier, means the individual, the wife or husband, as the case may be, of such individual, and their children, brother or sister of such individual,

(vi) occupier, in relation to an establishment or a workshop, means the person who has the ultimate control over the affairs of the establishment or workshop;

(vii) port authority means any authority administering a port;

(viii) prescribed means prescribed by rules made under section 18;

(ix) week means a period of seven days beginning at midnight on Saturday night or such other night as may be approved in writing for a particular area by the Inspector;

(x) workshop means any premises (including the precincts thereof) wherein any industrial process is carried on, but does not include any premises to which the provisions of section 67 of the Factories Act, 1948(63 of 1948), for the time being, apply.

PART II PROHIBITION OF EMPLOYMENT OF CHILDREN IN CERTAIN OCCUPATIONS AND PROCESSES

3. Prohibition of employment of children in certain occupations and processes.- No child shall be employed or permitted to work in any of the occupations set forth in Part A of the Schedule or in any workshop wherein any of the processes set forth in Part B of the Schedule is carried on:

Provided that nothing in this section shall apply to any workshop wherein any process is carried on by the occupier with the aid of his family or to any school established by, or receiving assistance or recognition from, Government.

4. Power to amend the Schedule.- The Central Government, after giving by notification in the Official Gazette, not less than three months notice of its intention so to do, may, by like notification, add any occupation or process to the Schedule and thereupon the Schedule shall be deemed to have been amended accordingly.

5. Child Labour Technical Advisory Committee.- (1) The Central Government may, by notification in the Official Gazette, constitute an advisory committee to be called the Child Labour Technical Advisory Committee (hereafter in this section referred to as the Committee) to advise the Central Government for the purpose of addition of occupations and processes to the Schedule.

(2) The Committee shall consist of a Chairman and such other members not exceeding ten, as may be appointed by the Central Government.

(3) The Committee shall meet as often as it may consider necessary and shall have power to regulate its own procedure.

(4) The Committee may, if it deems it necessary so to do, constitute one or more sub-committees and may appoint to any such sub-committee, whether generally or for the consideration of any particular matter, any person who is not a member of the Committee.

(5) The term of office of, the manner of filling casual vacancies in the office of, and the allowances, if any, payable to, the Chairman and other members of the Committee, and the conditions and restrictions subject to which the Committee may appoint any person who is not a member of the Committee as a member of any of its sub-committees shall be such as may be prescribed.

PART III –

REGULATION OF CONDITIONS OF WORK OF CHILDREN

6. Application of Part.- The provisions of this Part shall apply to an establishment or a class of establishment in which none of the occupations or processes referred to in section 3 is carried on.

7. Hours and period of work.- (1) No child shall be required or permitted to work in any establishment in excess of such number of hours as may be prescribed for such establishment or class of establishments.

(2) The period of work on each day shall be so fixed that no period shall exceed three hours and that no child shall work for more than three hours before he has had an interval for rest for at least one hour.

(3) The period of work of a child shall be so arranged that inclusive of his interval for rest, under sub-section (2), it shall not be spread over more than six hours, including the time spent in waiting for work on any day.

(4) No child shall be permitted or required to work between 7 p.m. and 8 a.m.

(5) No child shall be permitted or required to work overtime.

(6) No child shall be required or permitted to work in any establishment on any day on which he has already been working in another establishment.

8. Weekly holidays.- Every child employed in an establishment shall be allowed in each week, a holiday of one whole day, which day shall be specified by the occupier in a notice permanently exhibited in a conspicuous place in the establishment and the day so specified shall not be altered by the occupier more than once in three months.

9. Notice to inspector.- (1) Every occupier in relation to an establishment in which a child was employed or permitted to work immediately before the date of commencement of this Act in relation to such establishment shall, within a period of thirty days from such commencement, send to the Inspector within whose local limits the establishment is situated, a written notice containing the following particulars, namely:-

(a) the name and situation of the establishment;

(b) the name of the person in actual management of the establishment;

(c) the address to which communications relating to the establishment should be sent; and

(d) the nature of the occupation or process carried on in the establishment.

(2) Every occupier, in relation to an establishment, who employs, or permits to work, any child after the date of commencement of this Act in relation to such establishment, shall, within a period of thirty days from the date of such employment, send to the Inspector within whose local limits the establishment is situated, a written notice containing the particulars as are mentioned in sub-section (1).

Explanation.-For the purposes of sub-sections (1) and (2), date of commencement of this Act, in relation to an establishment means the date of bringing into force of this Act in relation to such establishment.

(3) Nothing in sections 7, 8 and 9 shall apply to any establishment wherein any process is carried on by the occupier with the aid of his family or to any school established by, or receiving assistance or recognition from, Government.

10. Disputes as to age.- If any question arises between an Inspector and an occupier as to the age of any child who is employed or is permitted to work by him in an establishment, the question

shall, in the absence of a certificate as to the age of such child granted by the prescribed medical authority, be referred by the Inspector for decision to the prescribed medical authority.

11.Maintenance of registrar.- There shall be maintained by every occupier in respect of children employed or permitted to work in any establishment, a register to be available for inspection by an Inspector at all times during working hours or when work is being carried on in any such establishment, showing-

- (a) the name and date of birth of every child so employed or permitted to work;
- (b) hours and periods of work of any such child and the intervals of rest to which he is entitled;
- (c) the nature of work of any such child; and
- (d) such other particulars as may be prescribed.

12.Display of notice containing abstract of sections 3 and 14.- Every railway administration every port authority and every occupier shall cause to be displayed in a conspicuous and accessible place at every station on its railway or within the limits of a port or at the place of work, as the case may be, a notice in the local language and in the English language containing an abstract of sections 3 and 14.

13.Health and safety.- (1) The appropriate Government may, by notification in the Official Gazette, make rules for the health and safety of the children employed or permitted to work in any establishment or class of establishments.

(2) Without prejudice to the generality of the foregoing provisions, the said rules may provide for all or any of the following matters, namely:-

- (a) cleanliness in the place of work and its freedom from nuisance;
- (b) disposal of wastes and effluents;
- (c) ventilation and temperature;
- (d) dust and fume;
- (e) artificial humidification;
- (f) lighting;
- (g) drinking water;
- (h) latrine and urinals;
- (i) spittoons;

- (j) fencing of machinery;
- (k) work at or near machinery in motion;
- (l) employment of children on dangerous machines;
- (m) instructions, training and supervision in relation to employment of children on dangerous machines;
- (n) device for cutting off power;
- (o) self-acting machines;
- (p) easing of new machinery;
- (q) floor, stairs and means of access;
- (r) pits, sumps, openings in floors, etc.;
- (s) excessive weights;
- (t) protection of eyes;
- (u) explosive or inflammable dust, gas, etc.;
- (v) precautions in case of fire;
- (w) maintenance of buildings; and
- (x) safety of buildings and machinery.

PART IV –

MISCELLANEOUS

14. Penalties.- (1) Whoever employs any child or permits any child to work in contravention of the provisions of section 3 shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to one year or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees or with both.

(2) Whoever, having been convicted of an offence under section 3, commits a like offence afterwards, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years.

(3) Whoever-

(a) fails to give notice as required by section 9; or

(b) fails to maintain a register as required by section 11 or makes any false entry in any such register; or

(c) fails to display a notice containing an abstract of section 3 and this section as required by section 12; or

(d) fails to comply with or contravenes any other provisions of this Act or the rules made thereunder.

shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to ten thousand rupees or with both.

(1) Where any person is found guilty and convicted of contravention of any of the provisions mentioned in sub-section (2), he shall be liable to penalties as provided in sub-section (1) and (2) of section 14 of this Act and not under the Acts in which those provisions are contained.

(2) The provisions referred to in sub-section (1) are the provisions mentioned below:-

(a) section 67 of the Factories Act, 1948(63 of 1948)

(b) section 40 of the Mines Act, 1952(35 of 1952)

(c) section 100 of the Merchant Shipping Act, 1958(44 of 1958); and

(d) section 21 of the Motor Transport Workers Act, 1961(27 of 1961).

16.Procedure relating to offences.- (1) Any person, police officer or Inspector may file a complaint of the commission of an offence under this Act in any court of competent jurisdiction.

(2) Every certificate as to the age of a child which has been granted by a prescribed medical authority shall for the purposes of this Act, be conclusive evidence as to the age of the child to whom it relates.

(3) No court inferior to that of a Metropolitan Magistrate or a magistrate of the first class shall try an offence under this Act.

17.Appointment of Inspectors.- The appropriate Government may appoint Inspectors for the purposes of securing compliance with the provisions of this Act and any Inspector so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code(45 of 1860).

18.Power to make rules.- (1) The appropriate Government may, by notification in the Official Gazette and subject to condition of previous publication, make rules for carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the term of office of, the manner of filling casual vacancies of, and the allowances payable to the Chairman and members of the Child Labour Technical Advisory Committee and the conditions and restrictions subject to which a non-member may be appointed to a sub-committee under sub-section (5) of section 5;

(b) number of hours for which a child may be required or permitted to work under sub-section (1) of section 7;

(c) grant of certificates of age in respect of young persons in employment or seeking employment, the medical authorities which may issue such certificate, the form of such certificate, the charges which may be made thereunder and the manner in which such certificate may be issued:

Provided that no charge shall be made for the issue of any such certificate if the application is accompanied by evidence of age deemed satisfactory by the authority concerned;

(d) the other particulars which a register maintained under section 11 should contain.

19. Rules and notifications to be laid before Parliament or State legislation.- (1) Every rule made under this Act by the Central Government and every notification issued under section 4, shall be laid, as soon as may be after it is made or issued, before each House of Parliament, 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 immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter 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 under that rule or notification.

(2) Every rule made by a State Government under this Act shall be laid as soon as may be after it is made, before the legislature of that State.

20. Certain other provisions of law not barred.- Subject to the provisions contained in section 15, the provisions of this Act and the rules made thereunder shall be in addition to, and not in derogation of, the provisions of the Factories Act, 1948, the Plantations Labour Act, 1951 and the Mines Act, 1952.

21. Power to remove difficulties.- (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the date on which this Act receives the assent of the President.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the Houses of Parliament.

22.Repeal and savings.- (1) The Employment of Children Act, 1938 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken or purported to have been done or taken under the Act so repealed Shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.

23.Amendment of Act 11 of 1948.- In section 2 of the Minimum Wages Act, 1948,-

(i) for clause (a), the following clauses shall be substituted, namely:-

\$(a) adolescent means a person who has completed his fourteenth year of age but has not completed his eighteenth year;

(aa) adult means a person who has completed his eighteenth year of age;\$.

(ii) after clause (b), the following clause shall be inserted, namely:-

\$(bb) child means a person who has not completed his fourteenth year of age;\$.

24.Amendment of Act 69 of 1951.- In the Plantations Labour Act, 1951,-

(a) In section 2, in clauses (a) and (c), for the word fifteenth, the word fourteenth shall be substituted;

(b) section 24 shall be omitted;

(c) in section 26, in the opening portion, the words \$who has completed his twelfth year shall be omitted.

25.Amendment of Act 44 of 1958.- In the Merchant Shipping Act, 1958, in section 109, for the word fifteen, the word \$fourteen shall be substituted.

26.Amendment of Act 27 of 1961.- In the Motor Transport Workers Act, 1961, in section 2, in clauses (a) and (c), for the word fifteenth, the word fourteenth shall be substituted.

THE SCHEDULE

(See section 3)

PART A

Occupations

Any occupation connected with-

- (1) Transport of passengers, goods or mails by railway;
- (2) Cinder picking, clearing of an ash pit or building operation in the railway premises;
- (3) Work in a catering establishment at a railway station, involving the movement of a vendor or any other employee of the establishment from one platform to another or into or out of a moving train;
- (4) Work relating to the construction of a railway station or with any other work where such work is done in close proximity to or between the railway lines;
- (5) A port authority within the limits of any port.

PART B

Processes

- (1) Bidi-making.
- (2) Carpet-weaving.
- (3) Cement manufacture, including bagging of cement.
- (4) Cloth printing, dyeing and weaving.
- (5) manufacture of matches, explosives and fire-works.
- (6) Mica-cutting and splitting.
- (7) Shellac manufacture.
- (8) Soap manufacture.
- (9) Tanning.
- (10) Wool-cleaning.
- (11) Building and construction industry.

HISTORY OF THE LEGISLATION:

A. STATEMENT OF OBJECTS AND REASONS:

There are a number of Acts which prohibit the employment of children below 14 years and 15 years in certain specified employments. However, there is no procedure laid down in any law for deciding in which employments, occupations or processes the employment of children should be banned. There is also no law to regulate the working conditions of children in most of the employments where they are not prohibited from working and are working under exploitative conditions.

2. This Bill intends to-

(i) ban the employment of children, i.e. those who have not completed their fourteenth year, in specified occupations and processes;

(ii) lay down a procedure to decide modifications to the Schedule of banned occupations or processes;

(iii) regulate the conditions of work of children in employments where they are not prohibited from working;

(iv) lay down enhanced penalties for employment of children in violation of the provisions of this Act, and other Acts which forbid the employment of children;

(v) to obtain uniformity in the definition of 'child' in the related laws.

3. The Bill seeks to achieve the above objects.

B. ACT 61 OF 1986

The Bill, received the assent of THE HONBLE PRESIDENT on 23rd December, 1986.

An Act to prohibit the engagement of children in certain employments and to regulate the conditions of work of children in certain other employments.

This Act may be called THE CHILD LABOUR (PROHIBITION AND REGULATION) ACT, 1986.

It extends to the whole of India.

The provisions of this Act, other than Part III, shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different States and for different classes of establishments.

C. NOTE:

The Child Labour (Prohibition and Regulation) Act, 1986.

S.20 Certain other provisions of law not barred:-

Subject to the provisions contained in section 15, the provisions of this Act and the rules made thereunder shall be in addition to, and not in derogation of, the provisions of the Factories Act, 1948, the Plantations Labour Act, 1951 and the Mines Act, 1952.

S.21 Power to remove the difficulties:-

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty.

Provided that no such order shall be made after the expiry of a period of three years from the date on which this Act receives the assent of the President.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the Houses of Parliament.

D. ACT SCOPE:

The Child Labour (Prohibition and Regulation) Act, 1986.

S.22 Repeal and savings:

(1) The Employment of Children Act, 1938 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken or purported to have been done or taken under the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.

E. DELEGATED LEGISLATION:

I. RULES:

1. THE CHILD LABOUR (PROHIBITION AND REGULATION) RULES, 1988.

India
THE JUVENILE JUSTICE (CARE AND PROTECTION OF
CHILDREN) ACT, 2000
(Act No. 56 of 2000)
[30th December 2000]

An Act to consolidate and amend the law relating to juveniles in conflict with law and children in need of care and protection, by providing for proper care, protection and treatment by catering to their development needs, and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation through various institutions established under this enactment.

WHEREAS the Constitution has, in several provisions, including clause (3) of article 15, clauses (e) and (f) of article 39, articles 45 and 47, impose on the State a primary responsibility of ensuring that all the needs of children are met and that their basic human rights are fully protected;

AND WHEREAS, the General Assembly of the United Nations has adopted the Convention on the Rights of the Child on the 20th November, 1989;

AND WHEREAS, the Convention on the Rights of the Child has prescribed a set of standards to be adhered to by all State parties in securing the best interests of the child;

AND WHEREAS, the Convention on the Rights of the Child emphasises social reintegration of child victims, to the extent possible, without resorting to judicial proceedings;

AND WHEREAS, the Government of India has ratified the Convention on the 11th December, 1992;

AND WHEREAS, it is expedient to re-enact the existing law relating to juveniles bearing in mind the standards prescribed in the Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (the Beijing rules), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990), and all other relevant international instruments.

Be it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.- (1) This Act may be called the Juvenile Justice (Care and Protection of Children) Act, 2000.

(2) it extends to the Whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions- In this Act, unless the context otherwise requires,-

a. "advisory board" means a Central or a state advisory board or a district and city level advisory board, as the case may be, constituted under section 62;

b. "begging" means-

i. soliciting or receiving alms in a public place or entering into any private premises for the purpose of soliciting or receiving alms, whether under any pretence;

ii. exposing or exhibiting with the object of obtaining or extorting alms, any sore, wound, injury, deformity or disease, whether of himself or of any other person or of an animal;

c. "Board" means a Juvenile Justice Board constituted under section 4;

- d. "child in need of care and protection" means a child - who is found without any home or settled place or abode and without any ostensible means of subsistence,
- ii. who resides with a person (whether a guardian of the child or not) and such person-
 - a. has threatened to kill or injure the child and there is a reasonable likelihood of the threat being carried out, or
 - b. has killed, abused or neglected some other child or children and there is a reasonable likelihood of the child in question being killed, abused or neglected by that person,
 - iii. who is mentally or physically challenged or ill children or children suffering from terminal diseases or incurable diseases having no one to support or look after,
 - iv. who has a parent or guardian and such parent or guardian is unfit or incapacitated to exercise control over the child,
 - v. who does not have parent and no one is willing to take care of or whose parents have abandoned him or who is missing and run away child and whose parents cannot be found after reasonable injury,
 - vi. who is being or is likely to be grossly abused, tortured or exploited for the purpose of sexual abuse or illegal acts,
 - vii. who is found vulnerable and is likely to be inducted into drug abuse or trafficking,
 - viii. who is being or is likely to be abused for unconscionable gains,
 - ix. who is victim of any armed conflict, civil commotion or natural calamity;
- e. "children's home" means an institution established by a State Government or by voluntary organisation and certified by that Government under section 34;
- f. "Committee" means a Child Welfare Committee constituted under section 29;
- g. "competent authority" means in relation to children in need of care and protection a Committee and in relation to juveniles in conflict with law a Board;
- h. "fit institution" means a governmental or a registered non-governmental organisation or a voluntary organisation prepared to own the responsibility of a child and such organisation is found fit by the competent authority;
- i. "fit person" means a person, being a social worker or any other person, who is prepared to own the responsibility of a child and is found fit by the competent authority to receive and take care of the child;
- j. "guardian", in relation to a child, means his natural guardian or any other person having the actual charge or control over the child and recognised by the competent authority as a guardian in course of proceedings before that authority;
- k. "juvenile" or "child" means a person who has not completed eighteenth year of age;
- l. "juvenile in conflict with law" means a juvenile who is alleged to have committed an offence;
- m. "local authority" means Panchayats at the village and Zila Parishad at the district level and shall also include a Municipal Committee or Corporation or a Cantonment Board or such other body legally entitled to function as local authority by the Government;
- n. "narcotic drug" and "psychotropic substance" shall have the meanings respectively assigned to them in the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985);
- o. "observation home" means a home established by a State Government or by a voluntary organisation and certified by that State Government under section 8 as an observation home for the juvenile in conflict with law;
- p. "offence" means an offence punishable under any law for the time being in force;

- q. "place of safety" means any place or institution (not being a police lock-up or jail), the person in charge of which is willing temporarily to receive and take care of the juvenile and which, in the opinion of the competent authority, may be a place of safety for the juvenile;
 - r. "prescribed" means prescribed by rules made under this act;
 - s. "Probation officer" means an officer appointed by the State Government as a probation officer under the Probation of Offenders Act, 1958 (20 of 1958);
 - t. "public place" shall have the meaning assigned to it in the Immoral Traffic (Prevention) Act, 1956 (104 of 1956);
 - u. "shelter home" means a home or a drop-in-centre set up under section 37;
 - v. "special home" means an institution established by a State Government or by a voluntary organisation and certified by that Government under section 9;
 - w. "special juvenile police unit" means a unit of the police force of a State designated for handling of juveniles or children under section 63;
 - x. "State Government" , in relation to a Union territory, means the Administrator of that Union territory appointed by the President under article 239 of the Constitution;
 - y. all words and expressions used but not defined in this Act and defined in the Code of Criminal Procedure, 1973 (2 of 1974), shall have the meanings respectively assigned to them in that code.
3. Continuation of Inquiry in respect of juvenile who has ceased to be a juvenile.- Where an inquiry has been initiated against a juvenile in conflict with law or a child in need of care and protection and during the course of such inquiry the juvenile or the child ceases to be such, then, notwithstanding anything contained in this Act or in any other law for the time being in force, the inquiry may be continued and orders may be made in respect of such person as if such person had continued to be a juvenile or a child.

CHAPTER II

JUVENILE IN CONFLICT WITH LAW

4. Juvenile Justice Board.- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the State Government may, by notification in the Official Gazette, constitute for a district or a group of districts specified in the notification, one or more Juvenile Justice Boards for exercising the powers and discharging the duties conferred or imposed on such Boards in relation to juveniles in conflict with law under this act.
- (2) A Board shall consist of a Metropolitan Magistrate or a Judicial Magistrate of the first class, as the case may be, and two social workers of whom at least one shall be a woman, forming a Bench and every such Bench shall have the powers conferred by the Code of Criminal Procedure, 1973 (2 of 1974), on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of the first class and the Magistrate on the Board shall be designated as the principal Magistrate.
- (3) No Magistrate shall be appointed as a member of the Board unless he has special knowledge or training in child psychology or child welfare and no social worker shall be appointed as a member of the Board unless he has been actively involved in health, education, or welfare activities pertaining to children for at least seven years.
- (4) The term of office of the members of the Board and the manner in which such member may resign shall be such as may be prescribed.
- (5) The appointment of any member of the Board may be terminated after holding inquiry, by the State Government, if -
- i. he has been found guilty of misuse of power vested under this act,

ii. he has been convicted of an offence involving moral turpitude, and such conviction has not been reversed or he has not been granted full pardon in respect of such offence,

iii. he fails to attend the proceedings of the Board for consecutive three months without any valid reason or he fails to attend less than three-fourth of the sittings in a year.

5. Procedure, etc. in relation to Board.- (1) The Board shall meet at such times and shall, observe such rules of procedure in regard to the transaction of business at its meetings, as may be prescribed.

(2) A child in conflict with law may be produced before an individual member of the Board, when the Board is not sitting.

(3) A Board may act notwithstanding the absence of any member of the Board, and no order made by the Board shall be invalid by reason only of the absence of any member during any stage of proceedings:

Provided that there shall be at least two members including the principal Magistrate present at the time of final disposal of the case.

(4) In the event of any difference of opinion among the members of the Board in the interim or final disposition, the opinion of the majority shall prevail, but where there is no such majority, the opinion of the principal Magistrate, shall prevail.

6. Powers of Juvenile Justice Board.- (1) Where a Board has been constituted for any district or a group of districts, such Board shall, notwithstanding anything contained in any other law for the time being in force but save as otherwise expressly provided in this Act, have power to deal exclusively with all proceedings under this Act, relating to juvenile in conflict with law.

(2) The powers conferred on the Board by or under this Act may also be exercised by the High Court and the Court of Session, when the proceedings come before them in appeal, revision or otherwise.

7. Procedure to be followed by a Magistrate not empowered under the Act.- (1) When any Magistrate not empowered to exercise the powers of a Board under this Act is of the opinion that a person brought before him under any of the provisions of this Act (other than for the purpose of giving evidence), is a juvenile or the child, he shall without any delay record such opinion and forward the juvenile or the child, and the record of the proceeding to the competent authority having jurisdiction over the proceeding.

(2) The competent authority to which the proceeding is forwarded under sub-section (1) shall hold the inquiry as if the juvenile or the child had originally been brought before it.

8. Observation homes.- (1) Any State Government may establish and maintain either by itself or under an agreement with voluntary organisations, observation homes in every district or a group of districts, as may be required for the temporary reception of any juvenile in conflict with law during the pendency of any inquiry regarding them under this Act.

(2) Where the State Government is of opinion that any institution other than a home established or maintained under sub-section (1), is fit for the temporary reception of juvenile in conflict with law during the pendency of any inquiry regarding them under this Act, it may certify such substitution as an observation home for purposes of this Act.

(3) The State Government may, by rules made under this Act, provide for the management of observation homes, including the standards and various types of services to be provided by them for rehabilitation and social integration of a juvenile, and the circumstances under which, and the manner in which, the certification of an observation home may be granted or withdrawn.

(4) Every juvenile who is not placed under the charge of parent or guardian and is sent to an observation home shall be initially kept in a reception unit of the observation home for

preliminary inquiries, care and classification for juveniles according to his age group, such as seven to twelve years, twelve to sixteen years and sixteen to eighteen years, giving due considerations to physical and mental status and degree of the offence committed, for further induction into observation home.

9. Special Homes.- (1) Any State Government may establish and maintain either by itself or under an agreement with voluntary organisations, special homes in every district or a group of districts, as may be required for reception and rehabilitation of juvenile in conflict with law under this Act.

(2) Where the State Government is of opinion that any institution other than a home established or maintained under sub-section (1), is fit for the reception of juvenile in conflict with law to be sent there under this Act, it may certify such institution as a special home for the purposes of this Act.

(3) The State Government may, by rules made under this Act, provide for the management of special homes, including the standards and various types of services to be provided by them which are necessary for re-socialisation of a juvenile, and the circumstances under which and the manner in which, the certification of a special home may be granted or withdrawn.

(4) The rules made under sub-section (3) may also provide for the classification and separation of juvenile in conflict with law on the basis of age and the nature of offences committed by them and his mental and physical status.

10. Apprehension of juvenile in conflict with law.- (1) As soon as a juvenile in conflict with law is apprehended by police, he shall be placed under the charge of the special juvenile police unit or the designated police officer who shall immediately report the matter to a member of the Board.

(2) The State Government may make rules consistent with this Act,-

i. to provide for persons through whom (including registered voluntary organisations) any juvenile in conflict with law may be produced before the Board;

ii. to provide the manner in which such juvenile may be sent to an observation home.

11. Control of custodian over juvenile .- Any person in whose charge a juvenile is placed in pursuance of this Act shall, while the order is in force have the control over the juvenile as he would have if he were his parents, and shall be responsible for his maintenance, and the juvenile shall continue in his charge for the period stated by competent authority, notwithstanding that he is claimed by his parents or any other person.

12. Bail of juvenile.- (1) When any person accused of a bailable or non-bailable offence, and apparently a juvenile, is arrested or detained or appears or is brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, be released on bail with or without surety but he shall not be so released if there appear reasonable grounds for believing that the release is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice.

(2) When such person having been arrested is not released on bail under sub-section (1) by the officer incharge of the police station, such officer shall cause him to be kept only in an observation home in the prescribed manner until he can be brought before a Board.

(3) When such person is not released on bail under sub-section (1) by the Board it shall, instead of committing him to prison, make an order sending him to an observation home or a place of safety for such period during the pendency of the inquiry regarding him as may be specified in the order.

13. Information to parent, guardian or probation officer.- Where a juvenile is arrested, the officer incharge of the police station or the special juvenile police unit to which the juvenile is brought shall, as soon as may be after the arrest, inform-

(a) the parent or guardian of the juvenile , if he can be found, of such arrest and direct him to be present at the Board before which the juvenile will appear; and

(b) the probation officer of such arrest to enable him to obtain information regarding the antecedents and family background of the juvenile and other material circumstances likely to be of assistance to the Board for making the inquiry.

14. Inquiry by Board regarding juvenile.- Where a juvenile having been charged with the offence is produced before a Board, the Board shall hold the inquiry in accordance with the provisions of this Act and may make such order in relation to the juvenile as it deems fit:

Provided that an inquiry under this section shall be completed within a period of four months from the date of its commencement, unless the period is extended by the Board having regard to the circumstances of the case and in special cases after recording the reasons in writing for such extension.

15. Order that may be passed regarding juvenile.- (1) Where a Board is satisfied on inquiry that a juvenile has committed an offence, then notwithstanding anything to the contrary contained in any other law for the time being in force, the Board may, if it thinks so fit,-

(a) allow the juvenile to go home after advice or admonition following appropriate inquiry against and counselling to the parent or the guardian and the juvenile;

(b) direct the juvenile to participate in group counselling and similar activities;

(c) order the juvenile to perform community service;

(d) order the parent of the juvenile or the juvenile himself to pay a fine, if he is over fourteen years of age and earns money;

(e) direct the juvenile to be released on probation of good conduct and placed under the care of any parent, guardian or other fit person, on such parent, guardian or other fit person executing a bond, with or without surety, as the Board may require, for the good behaviour and well-being of the juvenile for any period not exceeding three years;

(f) direct the juvenile to be released on probation of good conduct and placed under the care of any fit institution for the good behaviour and well-being of the juvenile for any period not exceeding three years;

(g) make an order directing the juvenile to be sent to a special home,-

i. in the case of juvenile, over seventeen years but less than eighteen years of age for a period of not less than two years;

ii. in case of any other juvenile for the period until he ceases to be a juvenile :

Provided that the Board may, if it is satisfied that having regard to the nature of the offence and the circumstances of the case it is expedient so to do, for reasons to be recorded, reduce the period of stay to such period as it thinks fit.

2. The Board shall obtain the social investigation report on juvenile either through a probation officer or a recognised voluntary organisation or otherwise, and shall take into consideration the findings of such report before passing an order.

3. Where an order under clause (d), clause (e) or clause (f) of sub-section (1) is made, the Board may, if it is of opinion that in the interests of the juvenile and of the public, it is expedient so to do, in addition make an order that the juvenile in conflict with law shall remain under the supervision of a probation officer named in the order during such period, not exceeding three years as may be specified therein, and may in such supervision order impose such conditions as it deems necessary for the due supervision of the juvenile in conflict with law :

Provided that if at any time afterwards it appears to the Board on receiving a report from the probation officer or otherwise, that the juvenile in conflict with law has not been of good behaviour during the period of supervision or that the fit institution under whose care the juvenile was placed is no longer able or willing to ensure the good behaviour and well-being of the juvenile it may, after making such inquiry as it deems fit, order the juvenile in conflict with law to be sent to a special home.

4. The Board shall while making a supervision order under sub-section (3), explain to the juvenile and the parent, guardian or other fit person or fit institution, as the case may be, under whose care the juvenile has been placed, the terms and conditions of the order shall forthwith furnish one copy of the supervision order to the juvenile, the parent, guardian or other fit person or fit institution, as the case may be, the sureties, if any, and the probation officer.

16. Order that may not be passed against juvenile.-(1) Notwithstanding anything to the contrary contained in any other law for the time being in force, no juvenile in conflict with law shall be sentenced to death or life imprisonment, or committed to prison in default of payment of fine or in default of furnishing security :

Provided that where a juvenile who has attained the age of sixteen years has committed an offence and the Board is satisfied that the offence committed is of so serious in nature or that his conduct and behaviour have been such that it would not be in his interest or in the interest of other juvenile in a special home to send him to such special home and that none of the other measures provided under this Act is suitable or sufficient, the Board may order the juvenile in conflict with law to be kept in such place of safety and in such manner as it thinks fit and shall report the case for the order of the State Government.

(2) On receipt of a report from a Board under sub-section (1), the State Government may make such arrangement in respect of the juvenile as it deems proper and may order such juvenile to be kept under protective custody at such place and on such conditions as it thinks fit :

Provided that the period of detention so ordered shall not exceed the maximum period of imprisonment to which the juvenile could have been sentenced for the offence committed.

17. Proceeding under Chapter VIII of the Code of Criminal Procedure not component against juvenile.- Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973 (2 of 1974) no proceeding shall be instituted and no order shall be passed against the juvenile under Chapter VIII of the said Code.

18. No joint proceeding of juvenile and person not a juvenile.- (1) Notwithstanding anything contained in section 223 of the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, no juvenile shall be charged with or tried for any offence together with a person who is not a juvenile.

(2) If a juvenile is accused of an offence for which under section 223 of the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force, such juvenile and any person who is not a juvenile would, but for the prohibition contained in sub-section (1), have been charged and tried together, the Board taking cognizance of that offence shall direct separate trials of the juvenile and the other person.

19. Removal of disqualification attaching to conviction.- (1) Notwithstanding anything contained in any other law, a juvenile who has committed an offence and has been dealt with under the provisions of this Act shall not suffer disqualification, if any, attaching to a conviction of an offence under such law.

(2) The Board shall make an order directing that the relevant records of such conviction shall be removed after the expiry of the period of appeal or a reasonable period as prescribed under the rules, as the case may be.

20. Special provision in respect of pending cases.- Notwithstanding anything contained in this Act, all proceedings in respect of a juvenile pending in any court in any area on the date on which this Act comes into force in that area, shall be continued in that court as if this Act had not been passed and if the court finds that the juvenile has committed an offence, it shall record such finding and instead of passing any sentence in respect of the juvenile, forward the juvenile to the Board which shall pass orders in respect of that juvenile in accordance with the provisions of this Act as if it had been satisfied on inquiry under this Act that a juvenile has committed the offence.

21. Prohibition of publication of name, etc., of juvenile involved in any proceeding under the Act.- (1) No report in any newspaper, magazine, news-sheet or visual media of any inquiry regarding a juvenile in conflict with law under this Act shall disclose the name, address or school or any other particulars calculated to lead to the identification of the juvenile nor shall any picture of any such juvenile be published :

Provided that for reasons to be recorded in writing the authority holding the inquiry may permit such disclosure, if in its opinion such disclosure is in interest of the juvenile.

(2) Any person contravening the provisions of sub-section (1) shall be punishable with fine, which may extend to one thousand rupees.

22. Provision in respect of escaped juvenile.- Notwithstanding anything to the contrary contained in any other law for the time being in force, any police officer may take charge without warrant of a juvenile in conflict with law who has escaped from a special home or an observation home or from the care of a person under whom he was placed under this Act, and shall be sent back to the special home or the observation home or that person, as the case may be; and no proceeding shall be instituted in respect of the juvenile by reason of such escape, but the special home, or the observation home or the person may, after giving the information to the Board which passed the order in respect of the juvenile, take such steps in respect of the juvenile as may be deemed necessary under the provisions of this Act.

23. Punishment for cruelty to juvenile or child.- Whoever, having the actual charge of, or control over, a juvenile or the child, assaults, abandons, exposes or wilfully neglects the juvenile or causes or procures him to be assaulted, abandoned, exposed or neglected in a manner likely to cause such juvenile or the child unnecessary mental or physical suffering shall be punishable with imprisonment for a term which may extend to six months, or fine, or with both.

24. Employment of juvenile or child for begging.-(1) Whoever employs or uses any juvenile or the child for the purpose or causes any juvenile to beg shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

(2) Whoever, having the actual charge of, or control over, a juvenile or the child abets the commission of the offence punishable under sub-section (1), shall be punishable with imprisonment for a term which may extend to one year and shall also be liable to fine.

25. Penalty for giving intoxicating liquor or narcotic drug or psychotropic substance to juvenile or child.- Whoever gives, or causes to be given, to any juvenile or the child any intoxicating liquor in a public place or any narcotic drug or psychotropic substance except upon the order of duly qualified medical practitioner or in case of sickness shall be punishable with imprisonment for a term which may extend to three years and shall be liable to fine.

26. Exploitation of juvenile or child employee.- Whoever ostensibly procures a juvenile or the child for the purpose of any hazardous employment keeps him in bondage and withholds his earnings or uses such earning for his own purposes shall be punishable with imprisonment for a term which may extend to three years and shall be liable to fine.

27. Special offences.- The offences punishable under sections 23, 24, 25 and 26 shall be cognizable.

28. Alternative punishment.- Where an act or omission constitute an offence punishable under this Act and also under any other Central or State Act, then, notwithstanding anything contained in any law for the time being in force, the offender found guilty of such offences shall be liable to punishment only under such Act as provides for punishment which is greater in degree.

CHAPTER III

CHILD IN NEED OF CARE AND PROTECTION

29. Child Welfare Committee.- (1) The State Government may, by notification in Official Gazette, constitute for every district or group of districts, specified in the notification, one or more Child Welfare Committees for exercising the powers and discharge the duties conferred on such Committees in relation to child in need of care and protection under this Act.

(2) The Committee shall consist of a Chairperson and four other members as the State Government may think fit to appoint, of whom at least one shall be a woman and another, an expert on matters concerning children.

(3) The qualifications of the Chairperson and the members, and the tenure for which they may be appointed shall be such as may be prescribed.

(4) The appointment of any member of the Committee may be terminated, after holding inquiry, by the State Government, if-

i. he has been found guilty of misuse of power vested under this Act;

ii. he has been convicted of an offence involving moral turpitude, and such conviction has not been reversed or he has not been granted full pardon in respect of such offence;

iii. he fails to attend the proceedings of the Committee for consecutive three months without any valid reason or he fails to attend less than three-fourth of the sittings in a year.

(5) The Committee shall function as a Bench of Magistrates and shall have the powers conferred by the Code of Criminal Procedure, 1973 (2 of 1974) on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of the first class.

30. Procedure, etc., in relation to Committee.- (1) The Committee shall meet at such times and shall observe such rules of procedure in regard to the transaction of business at its meetings, as may be prescribed.

(2) A child in need of care and protection may be produced before an individual member for being placed in safe custody or otherwise when the Committee is not in session.

(3) In the event of any difference of opinion among the members of the Committee at the time of any interim decision, the opinion of the majority shall prevail but where there is no such majority the opinion of the Chairperson shall prevail.

(4) Subject to the provisions of sub-section (1), the Committee may act, notwithstanding the absence of any member of the Committee, and no order made by the Committee shall be invalid by reason only of the absence of any member during any stage of the proceeding.

31. Powers of Committee.- (1) The Committee shall have the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of the children as well as to provide for their basic needs and protection of human rights.

(2) Where a Committee has been constituted for any area, such Committee shall, notwithstanding anything contained in any other law for the time being in force but save as otherwise expressly provided in this Act, have the power to deal exclusively with all proceedings under this Act relating to children in need of care and protection.

32. Production before Committee.- (1) Any child in need of care and protection may be produced before the Committee by one of the following persons :-

(i) any police officer or special juvenile police unit or a designated police officer;

(ii) any public servant;

(iii) childline, a registered voluntary organisation or by such other voluntary organisation or an agency as may be recognised by the State Government;

(iv) any social worker or a public spirited citizen authorised by the State Government; or

(v) by the child himself.

(2) The State Government may make rules consistent with this Act to provide for the manner of making the report to the police and to the Committee and the manner of sending and entrusting the child to children's home pending the inquiry.

33. Inquiry.- (1) On receipt of a report under section 32, the Committee or any police officer or special juvenile police unit or the designated police officer shall hold an inquiry in the prescribed manner and the Committee, on its own or on the report from any person or agency as mentioned in sub-section (1) of section 32, may pass an order to send the child to the children's home for speedy inquiry by a social worker or child welfare officer.

(2) The inquiry under this section shall be completed within four months of the receipt of the order or within such shorter period as may be fixed by the Committee: Provided that the time for the submission of the inquiry report may be extended by such period as the Committee may, having regard to the circumstances and for the reasons recorded in writing, determine.

(3) After the completion of the inquiry if the Committee is of the opinion that the said child has no family or ostensible support, it may allow the child to remain in the children's home or shelter home till suitable rehabilitation is found for him or till he attains the age of eighteen years.

34. Children's homes.- (1) The State Government may establish and maintain either by itself or in association with voluntary organisations, children's homes, in every district or group of districts, as the case may be, for the reception of child in need of care and protection during the pendency of any inquiry and subsequently for their care, treatment, education, training, development and rehabilitation.

(2) The State Government may, by rules made under this Act, provide for the management of children's homes including the standards and the nature of services to be provided by them, and the circumstances under which, and the manner in which, the certification of a children's home or recognition to a voluntary organisation may be granted or withdrawn.

35. Inspection.- (1) The State Government may appoint inspection committees for the children's homes (hereinafter referred to as the inspection committees) for the State, a district and city, as the case may be, for such period and for such purposes as may be prescribed.

(2) The inspection committee of a State, district or of a city shall consist of such number of representatives from the State Government, Local Authority, Committee, voluntary organisations and such other medical experts and social workers as may be prescribed.

36. Social auditing.- The Central Government or State Government may monitor and evaluate the functioning of the children's homes at such period and through such persons and institutions as may be specified by that Government.

37. Shelter homes.- (1) The State Government may recognise, reputed and capable voluntary organisations and provide them assistance to set up and administer as many shelter homes for juveniles or children as may be required.

(2) The shelter homes referred in sub-section-(1) shall function as drop-in-centres for the children in the need of urgent support who have been brought to such homes through such persons as are referred to in sub-section (1) of section 32.

(3) As far as possible, the shelter homes shall have such facilities as may be prescribed by the rules.

38. Transfer.- (1) If during the inquiry it is found that the child hails from the place outside the jurisdiction of the Committee, the Committee shall order the transfer of the child to the competent authority having jurisdiction over the place of residence of the child.

(2) Such juvenile or the child shall be escorted by the staff of the home in which he is lodged originally.

(3) The State Government may make rules to provide for the travelling allowance to be paid to the child.

39. Restoration.- (1) Restoration of and protection to a child shall be the prime objective of any children's home or the shelter home.

(2) The children's home or a shelter home, as the case may be, shall take such steps as are considered necessary for the restoration of and protection to a child deprived of his family environment temporarily or permanently where such child is under the care and protection of a children's home or a shelter home, as the case may be.

(3) The Committee shall have the powers to restore any child in need of care and protection to his parent, guardian, fit person or fit institution, as the case may be, and give them suitable directions.

Explanation.- For the purposes of this section "restoration of child" means restoration to-

(a) parents;

(b) adopted parents;

(c) foster parents.

CHAPTER IV

REHABILITATION AND SOCIAL REINTEGRATION

40. Process of rehabilitation and social reintegration.- The rehabilitation and social reintegration of a child shall begin during the stay of the child in a children's home or special home and the rehabilitation and social reintegration of children shall be carried out alternatively by (i) adoption, (ii) foster care, (iii) sponsorship, and (iv) sending the child to an after-care organisation.

41. Adoption.- (1) The primary responsibility for providing care and protection to children shall be that of his family.

(2) Adoption shall be resorted to for the rehabilitation of such children as are orphaned, abandoned, neglected and abused through institutional and non-institutional methods.

(3) In keeping with the provisions of the various guidelines for adoption issued from time to time by the State Government, the Board shall be empowered to give children in adoption and carry out such investigations as are required or giving children in adoption in accordance with the guidelines issued by the State Government from time to time in this regard.

(4) The children's homes or the State Government run institutions for orphans shall be recognised as an adoption agencies both for scrutiny and placement of such children for adoption in accordance with the guidelines issued under sub-section (3).

(5) No child shall be offered for adoption-

a. until two members of the Committee declare the child legally free for placement in the case of abandoned children,

b. till the two months period for reconsideration by the parent is over in the case of surrendered children, and

c. without his consent in the case of a child who can understand and express his consent.

(6) The Board may allow a child to be given in adoption-

d. to a single parent, and

e. to parents to adopt a child of same sex irrespective of the number of living biological sons or daughters.

42. Foster care.- (1) The foster care may be used for temporary placement of those infants who are ultimately to be given for adoption.

(2) In foster care, the child may be placed in another family for a short or extended period of time, depending upon the circumstances where the child's own parent usually visit regularly and eventually after the rehabilitation, where the children may return to their own homes.

(3) The State Government may make rules for the purposes of carrying out the scheme of foster care programme of children.

43. Sponsorship.- (1) The sponsorship programme may provide supplementary support to families, to children's homes and to special homes to meet medical, nutritional, educational and other needs of the children with a view to improving their quality of life.

(2) The State Government may make rules for the purposes of carrying out various schemes of sponsorship of children, such as individual to individual sponsorship, group sponsorship or community sponsorship.

44. After-care organisation.- The State Government may, by rules made under this Act, provide-

(a) for the establishment or recognition of after-care organisations and the functions that may be performed by them under this Act;

(b) for a scheme of after-care programme to be followed by such after-care organisations for the purpose of taking care of juveniles or the children after they leave special homes, children homes and for the purpose of enabling them to lead an honest, industrious and useful life;

(c) for the preparation or submission of a report by the probation officer or any other officer appointed by that Government in respect of each juvenile or the child prior to his discharge from a special home, children's home, regarding the necessity and nature of after-care of such juvenile or of a child, the period of such after-care, supervision thereof and for the submission of report by the probation officer or any other officer appointed for the purpose, on the progress of each juvenile or the child;

(d) for the standards and the nature of services to be maintained by such after care organisations;

(e) for such other matters as may be necessary for the purpose of carrying out the scheme of after-care programme for the juvenile or the child :

Provided that any rule made under this section shall not provide for such juvenile or child to stay in the after-care organisation for more than three years :

Provided further that a juvenile or child over seventeen years of age but less than eighteen years of age would stay in the after-care organisation till he attains the age of twenty years.

45. Linkages and co-ordination.- The State Government may make rules to ensure effective linkages between various governmental, non-governmental, corporate and other community agencies for facilitating the rehabilitation and social reintegration of the child.

CHAPTER V

MISCELLANEOUS

46. Attendance of parent or guardian of juvenile or child.- Any competent authority before which a juvenile or the child is brought under any of the provisions of this Act, may, whenever it so

thinks fit, require any parent or guardian having the actual charge of or control over the juvenile or the child to be present at any proceeding in respect of the juvenile or the child.

47. Dispensing with attendance of juvenile or child.- If, at any stage during the course of an inquiry, a competent authority is satisfied that the attendance of the juvenile or the child is not essential for the purpose of inquiry, the competent authority may dispense with his attendance and proceed with the inquiry in the absence of the juvenile or the child.

48. Committal to approved place of juvenile or child suffering from dangerous diseases and his future disposal.- (1) When a juvenile or the child who has been brought before a competent authority under this Act, is found to be suffering from a disease requiring prolonged medical treatment or physical or mental complaint that will respond to treatment, the competent authority may send the juvenile or the child to any place recognised to be an approved place in accordance with the rules made under this Act for such period as it may think necessary for the required treatment.

(2) Where a juvenile or the child is found to be suffering from leprosy, sexually transmitted disease, Hepatitis B, open cases of Tuberculosis and such other diseases or is of unsound mind, he shall be dealt with separately through various specialised referral services or under the relevant laws as such.

49. Presumption and determination of age.- (1) Where it appears to a competent authority that person brought before it under any of the provisions of this Act (otherwise than for the purpose of giving evidence) is a juvenile or the child, the competent authority shall make due inquiry so as to the age of that person and for that purpose shall take such evidence as may be necessary (but not an affidavit) and shall record a finding whether the person is a juvenile or the child or not, stating his age as nearly as may be.

(2) No order of a competent authority shall be deemed to have become invalid merely by any subsequent proof that the person in respect of whom the order has been made is not a juvenile or the child, and the age recorded by the competent authority to be the age of person so brought before it, shall for the purpose of this Act, be deemed to be the true age of that person.

50. Sending a juvenile or child outside jurisdiction.- In the case of a juvenile or the child, whose ordinary place of residence lies outside the jurisdiction of the competent authority before which he is brought, the competent authority may, if satisfied after due inquiry that it is expedient so to do, send the juvenile or the child back to a relative or other person who is fit and willing to receive him at his ordinary place of residence and exercise proper care and control over him, notwithstanding that such place of residence is outside the jurisdiction of the competent authority; and the competent authority exercising jurisdiction over the place to which the juvenile or the child is sent shall in respect of any matter arising subsequently have the same powers in relation to the juvenile or the child as if the original order had been passed by itself.

51. Reports to be treated as confidential.- The report of the probation officer or social worker considered by the competent authority shall be treated as confidential:

Provided that the competent authority may, if it so thinks fit, communicate the substance thereof to the juvenile or the child or his parent or guardian and may give such juvenile or the child, parent or guardian an opportunity of producing such evidence as may be relevant to the matter stated in the report.

52. Appeals.- (1) Subject to the provisions of this section, any person aggrieved by an order made by a competent authority under this Act may, within thirty days from the date of such order, prefer an appeal to the Court of Session:

Provided that the Court of Session may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) No appeal shall lie from-

(a) any order of acquittal made by the Board in respect of a juvenile alleged to have committed an offence; or

(b) any order made by a Committee in respect of a finding that a person is not a neglected juvenile.

(3) No second appeal shall lie from any order of the Court of Session passed in appeal under this section.

53. Revision.-The High Court may, at any time, either of its own motion or on an application received in this behalf, call for the record of any proceeding in which any competent authority or Court of Session has passed an order for the purpose of satisfying itself as to the legality or propriety of any such order and may pass such order in relation thereto as it thinks fit:

Provided that the High Court shall not pass an order under this section prejudicial to any person without giving him a reasonable opportunity of being heard.

54. Procedure in inquiries, appeals and revision proceedings.- (1) Save as otherwise expressly provided by this Act, a competent authority while holding any inquiry under any of the provisions of this Act, shall follow such procedure as may be prescribed and subject thereto, shall follow, as far as may be, the procedure laid down in the Code of Criminal Procedure, 1973 (2 of 1974) for trials in summons cases.

(2) Save as otherwise expressly provided by or under this Act, the procedure to be followed in hearing appeals or revision proceedings under this Act shall be, as far as practicable, in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974).

55. Power to amend orders.- (1) Without prejudice to the provisions for appeal and revision under this Act, any competent authority may, on an application received in this behalf, amend any order as to the institution to which a juvenile or the child is to be sent or as to the person under whose care or supervision a juvenile or the child is to be placed under this Act:

Provided that there shall be at least two members and the parties or its defence present during the course of hearing for passing an amendment in relation to any of its order.

(2) Clerical mistakes in orders passed by a competent authority or errors arising therein from any accidental slip or omission may, at any time, be corrected by the competent authority either on its own motion or on an application received in this behalf.

56. Power of competent authority to discharge and transfer juvenile or child.- The competent authority or the local authority may, notwithstanding anything contained in this Act, at any time, order a child in need of care and protection or a juvenile in conflict with law to be discharged or transferred from one children's home or special home to another, as the case may be, keeping in view the best interest of the child or the juvenile, and his natural place of stay, either absolutely or on such conditions as it may think fit to impose:

Provided that the total period of stay of the juvenile or the child in a children's home or a special home or a fit institution or under a fit person shall not be increased by such transfer.

57. Transfer between children's homes, under the Act, and juvenile homes, of like nature in different parts of India.- The State Government or the local authority may direct any child or the juvenile to be transferred from any children's home or special home outside the State to any other children's home, special home or institution of a like nature with the prior intimation to the local Committee or the Board, as the case may be, and such order shall be deemed to be operative for the competent authority of the area to which the child or the juvenile is sent.

58. Transfer of juvenile or child of unsound mind or suffering from leprosy or addicted to drugs.- Where it appears to the competent authority that any juvenile or the child kept in a special home or a children's home or shelter home or in an institution in pursuance of this Act, is suffering from leprosy or is of unsound mind or is addicted to any narcotic drug or psychotropic substance, the competent authority may order his removal to a leper asylum or mental hospital or treatment

centre for drug addicts or to a place of safety for being kept there for such period not exceeding the period for which he is required to be kept under the order of the competent authority or for such further period as may be certified by the medical officer necessary for the proper treatment of the juvenile or the child.

59. Release and absence of juvenile or child on placement.- (1) When a juvenile or the child is kept in a children's home or special home and on a report of a probation officer or social worker or of Government or a voluntary organisation, as the case may be, the competent authority may consider, the release of such juvenile or the child permitting him to live with his parent or guardian or under the supervision of any authorised person named in the order, willing to receive and take charge of the juvenile or the child to educate and train him for some useful trade or calling or to look after him for rehabilitation.

(2) The competent authority may also permit leave of absence to any juvenile or the child, to allow him, on special occasions like examination, marriage of relatives, death of kith and kin or the accident or serious illness of parent or any emergency of like nature, to go on leave under supervision, for maximum seven days, excluding the time taken in journey.

(3) Where a permission has been revoked or forfeited and the juvenile or the child refuses or fails to return to the home concerned or juvenile to which he was directed so to return, the Board may, if necessary, cause him to be taken charge of and to be taken back to the concerned home.

(4) The time during which a juvenile or the child is absent from a concerned home in pursuance of such permission granted under this section shall be deemed to be part of the time for which he is liable to be kept in the special home :

Provided that when a juvenile has failed to return to the special home on the permission being revoked or forfeited, the time which lapses after his failure so to return shall be excluded in computing the time during which he is liable to be kept in the institution.

60. Contribution by parents.- (1) The competent authority which makes an order for sending a juvenile or the child to a children's home or to a special home or placing the juvenile under the care of a fit person or fit institution may make an order requiring the parent or other person liable to maintain the juvenile or the child to contribute to his maintenance, if able to do so, in the prescribed manner according to income.

(2) The competent authority may direct, if necessary, the payment to be made to poor parent or guardian by the Superintendent or the Project Manager of the home to pay such expenses for the journey of the inmate or parent or guardian or both, from the home to his ordinary place of residence at the time of sending the juvenile as may be prescribed.

61. Fund.- (1) The State Government or local authority may create a Fund under such name as it thinks fit for the welfare and rehabilitation of the juvenile or the child dealt with under this Act.

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

(3) The Fund created under sub-section (1) shall be administered by the State advisory board in such manner and for such purposes as may be prescribed.

62. Central, State, district and city advisory boards.- (1) The Central Government or a State Government may constitute a Central or State Advisory board, as the case may be, to advise that Government on matter relating to the establishment and maintenance of the homes, mobilisation of resources, provision of facilities for education, training and rehabilitation of child in need of care and protection and juvenile in conflict with law and co-ordination among the various official and non-official agencies concerned.

(2) The Central or State advisory board shall consist of such persons as the Central Government or the State Government, as the case may be, may think fit and shall include eminent social workers, representatives of voluntary organisations in the field of the child welfare corporate sector, academicians, medical professionals and the concerned Department of the State Government.

(3) The district or city level inspection committee constituted under section 35 of this Act shall also function as the district or city advisory board.

63. Special juvenile police unit.- (1) In order to enable the police officers who frequently or exclusively deal with juveniles or are primarily engaged in the prevention of juvenile crime or handling of the juveniles or children under this Act to perform their functions more effectively, they shall be specially instructed and trained.

(2) In every police station at least one officer with aptitude and appropriate training and orientation may be designated as the 'juvenile or the child welfare officer' who will handle the juvenile or the child in co-ordination with the police.

(3) Special juvenile police unit, of which all police officers designated as above, to handle juveniles or children will be members, may be created in every district and city to co-ordinate and to upgrade the police treatment of the juveniles and the children.

64. Juvenile in conflict with law undergoing sentence at commencement of this Act.- In any area in which this Act is brought into force, the State Government or the local authority may direct that a juvenile in conflict with law who is undergoing any sentence of imprisonment at the commencement of this Act, shall, in lieu of undergoing such sentence, be sent to a special home or kept in fit institution in such manner as the State Government or the local authority thinks fit for the remainder of the period of the sentence; and the provisions of this Act shall apply to the juvenile as if he had been ordered by the Board to be sent to such special home or institution or, as the case may be, ordered to be kept under protective care under sub-section (2) of section 16 of this Act.

65. Procedure in respect of bonds.- Provisions of Chapter XXXIII of the Code of Criminal Procedure, 1973 (2 of 1974) shall, as far as may be, apply to bonds taken under this Act.

66. Delegation of powers.- The State Government may, by the general order, direct that any power exercisable by it under this Act shall, in such circumstances and under such conditions, if any, as may be prescribed in the order, be exercisable also by an officer subordinate to that Government or the local authority.

67. Protection of action taken in good faith.- No suit or legal proceedings shall lie against the State Government or voluntary organisation running the home or any officer and the staff appointed in pursuance of this Act in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or order made thereunder.

68. Power to make rules.- (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :-

i. the term of office of the members of the Board, and the manner in which such member may resign under sub-section (4) of section (4);

ii. the time of the meetings of the Board and the rules of procedure in regard to the transaction of business at its meeting under sub-section (1) of section 5;

iii. the management of observation homes including the standards and various types of services to be provided by them and the circumstances in which and the manner in which, the certification of the observation home may be granted or withdrawn and such other matters as are referred to in section 8;

iv. the management of special home including the standards and various types of services to be provided by them and the circumstances in which and the manner in which, the certification of the special home may be granted or withdrawn and such other matters as are referred to in section 9;

v. persons by whom any juvenile in conflict with law may be produced before the Board and the manner of sending such juvenile to an observation home under sub-section (2) of section 10;

vi. matters relating to removal of disqualifications attaching to conviction of a juvenile under section 19;

- vii. the qualifications of the Chairperson and members, and the tenure for which they may be appointed under sub-section (3) of section 29;
- viii. the time of the meetings of the Committee and the rules of procedure in regard to the transaction of business at its meeting under sub-section (1) of section 30;
- ix. the manner of making the report to the police and to the Committee and the manner of sending and entrusting the child to children's home pending the inquiry under sub-section (2) of section 32;

- x. the management of children's homes including the standards and nature of services to be provided by them, and the manner in which certification of a children's home or recognition to a voluntary organisation may be granted or withdrawn under sub-section (2) of section 34;
- xi. appointment of inspection committees for children's homes, their tenure and purposes for which inspection committees may be appointed and such other matters as are referred to in section 35;
- xii. facilities to be provided by the shelter homes under sub-section (3) of section 37;
- xiii. for carrying out the scheme of foster care programme of children under sub-section (3) of section 42;
- xiv. for carrying out various schemes of sponsorship of children under sub-section (2) of section 43;
- xv. matters relating to after-care organisation under section 44;
- xvi. for ensuring effective linkages between various agencies for facilitating rehabilitation and social integration of the child under section 45;
- xvii. the purposes and the manner in which the Fund shall be administered under sub-section (3) of section 61;
- xviii. any other matter which is required to be or may be, prescribed.

(3) Every rule made by a State Government under this Act shall be laid, as soon as may be after it is made, before the Legislature of that State.

69. Repeal and savings.- (1) The Juvenile Justice Act, 1986 (53 of 1986) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Act shall be deemed to have been done or taken under the corresponding provisions of this Act.

70. Power to remove difficulties.- (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty :

Provided that no such order shall be made after the expiry of the period of two years from the commencement of this Act.

(2) However, order made under the section shall be laid, as soon as may be after it is made, before each House of Parliament.