

## **IPC and other Local & Special Laws Pertaining to Crimes Against Children**

While the primary focus of the JJA is to provide care and protection to children, Sections 21, 23 to 26 specifically provide for action against adult perpetrators of crimes against children.

- Section 21 : Prohibition of publication of name, etc, of juvenile involved in any proceeding under the act.
- Section 23 : Punishment for cruelty to juvenile or child.
- Section 24 : Employment of juvenile or child for begging.
- Section 25 : Penalty for giving intoxicating liquor or narcotic drug for psychotropic substance to juvenile or child.
- Section 26 : Exploitation of juvenile or child employee.

In dealing with crime against children along with section of JJA, IPC and other local and special law must be used.

### **The Indian Penal Code- Crime against children punishable under IPC:**

- Section 302 : Murder
- Section 315 & 316 : Foeticide
- Section 315 : Infanticide – 0 to 1 year of age
- Section 305 : Abetment to suicide
- Section 317 : Exposure and abandonment

### **All degrees of hurt or abuse**

- Section 319 : hurt
- Section 320 : Grievous hurt
- Section 321 : Voluntarily causing hurt
- Section 322 : Voluntarily causing grievous hurt
- Section 324 : Voluntarily causing hurt by dangerous weapons or means
- Section 339 : Wrongful restraint
- Section 340 : Wrongful confinement

## **Kidnapping and Abduction**

- Section 360 : Kidnapping for exporting
- Section 361 : Kidnapping for lawful guardianship
- Section 363 read with Section 384 : Kidnapping for ransom
- Section 363 : Kidnapping for camel racing
- Section 363-A : Kidnapping for begging
- Section 366 : Kidnapping to compel for marriage
- Section 367 : Kidnapping for slavery
- Section 369 : Kidnapping child for stealing from its person” child under 10 years of age only
- Section 366-A : Procurement of minor girls
- Section 366-B : Importation of girls
- Section 372 : Selling of girls for prostitution
- Section 373 : Buying of girls for prostitution
- Section 376 : Rape

### Unnatural offences (Section 377)

These are the Sections whose data is collected by the National Crime Records Bureau (NCRB) for their analysis.

Immoral Traffic (Prevention) Act, 1956 – The “child” under ITPA means a person who has not completed the age of sixteen years and “prostitution” means the sexual exploitation or abuse of persons for commercial purposes.

- Section 3 : Stringent action and punishment for keeping a brothel or allowing premises to be used as a brothel
- Section 4 : Living on the earnings of prostitution
- Section 5 : Procuring, including of taking a person for the sake of prostitution
- Section 6 : If 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 of detaining a person in premises where prostitute is

carried on. The punishment consists of imprisonment of either description for a term which shall not be less than 7 years

Section 21 : Establishment of protective homes by the State Government

**ITPA Amendment Bill, 2006 -**

Section 2 : Change the definition of child from 16 to 18-years-old.

Section 3 : Enhance punishment for a person who keeps or manages or acts or assists in keeping or managing of a brothel

Section 5 : Define the offence of "Trafficking in Persons", to provide punishment for the said offence and also to provide punishment for a person who visits or is found in a brothel for the purpose of sexual exploitation.

Section 6 : Enhance punishment provided for the offence of detaining a person on a premises where prostitution is carried on

Section 22 : Make provision for in camera proceedings to protect the privacy and dignity of the victims

Confiscation of the property of the persons involved in the offence of trafficking in persons.

**Child Labour (Prohibition and Regulation) Act, 1986** – The Act provides for punishments and penalties for employing children below the age of 14 years in certain occupations and process. It provides for regulation of work conditions including fixing hours of work, weekly holidays, notices to inspectors, provisions for resolving disputes as to age, maintenance of registers, etc. Through a recent notification in 2006, child domestic workers up to 14 years of age working in hotels, dhabas, eateries and in the entertainment industry have been brought within the purview of the Act. It is one step towards the total elimination of child labour.

Schedules A and B provide the 16 Occupations and 65 Processes that prohibit employment of children respectively.

Section 17 of the Act identifies all officers who are empowered by the Act to rescue children from work.

Ministry of Labour and Employment, Government of India, has come up with a draft protocol and procedure for raid and rescue of children from labour and trafficked for labour.

**Prohibition of Child Marriage Act, 2006** – The Child Marriage Restraint Act, 1929 has been repealed and the major provisions of the new Act include:

- Age of marriage for boys is 21 and 18 for girls and any marriage of persons below this age is child marriage – illegal, an offence and punishable under law

- Every child marriage shall be void if so desired by either the bride or the groom who was a child at the time of marriage
- The Court while granting nullity shall make an order directing the parents and guardians to return the money, ornaments and other gifts received
- The Court may also make an order directing the groom or parents or guardian to pay maintenance to the bride until her remarriage
- The Court shall make an appropriate order for the custody and the maintenance of the offspring of child marriage
- Notwithstanding that a child marriage has been annulled, every offspring of such a marriage shall be deemed to be a legitimate child for all purposes
- Any person arranging, party to, solemnizing participating in a child marriage is also liable to be punished under the Act, including mass marriages
- Child marriages to be considered automatically void in certain circumstances like minor being sold for the purpose of marriage, minor after being married is sold or trafficked or used for immoral purposes, etc.
- Enhancement in punishment for male adults marrying a child, and persons performing, abetting, promoting, attending, etc., a child marriage to be imprisoned up to two years and fined up to one lakh rupees
- Act identifies official as Child Marriage prohibition officers. The Govt. will appoint child marriage prohibition officers, whose duties include prevention of child marriages, collection of evidence for effective prosecution, creating awareness and sensitization of the community, etc.
- The penalty for facilitating child marriage is rigorous imprisonment up to two years and/or a fine up to one lakh rupees.

#### **Other Laws –**

- Guardian and Wards Act, 1890
- Minimum Wages Act, 1948
- Factories Act, 1954
- Hindu Adoption and Maintenance Act, 1956
- Probation of Offenders Act, 1958
- Bombay Prevention of Begging Act, 1959
- Orphanages and other Charitable Home (Supervision and Control) Act, 1960
- Bonded Labour System (Abolition) Act, 1976

- Prevention of illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1987
- Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994
- Persons with Disabilities (Equal Protection of Rights and Full Participation) Act, 2000