

## ***RIGHT TO PROTECTION AND RIGHT AGAINST EXPLOITATION***

### **Juvenile Justice System**

The Juvenile Justice System in India deals with two distinct categories of children.

1. Children who have come into Conflict with the Law
2. Children who are in need of Care & Protection

The Law provides protection against harsh criminal liability for persons under 18.

- The Law also has provisions to rescue, protect, and provide for the growth and development of children declared as 'Children in Need of Care and Protection'.

### **LAWS GOVERNING THE JUVENILE JUSTICE SYSTEM IN INDIA**

#### **Historical background:**

As a follow-up to the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), adopted by General Assembly resolution 40/33 of 29 November 1985, the Government of India brought in the Juvenile Justice Act of 1986, which became the first central Act applicable to the entire Country. Earlier, different Children's Acts were in force in individual States, and in some states, there was no legal system protecting children against criminal liability.

According to the 1986 Act, a "juvenile" refers to a boy who has not yet reached the age of 16 or a girl who has not yet reached the age of 18. Subsequently, **the Juvenile Justice Care & Protection of Children Act, which** came into force in 2000, raised the age of criminal liability protection for both boys and girls to **18 years**. The above Act was replaced in 2015 with a new Act that placed greater

focus on the social reintegration and rehabilitation of children brought under this Act, and it was further amended in **2021**.

- **Offences committed by children and young persons below 18 years of age:** There are multiple reasons that could contribute to children and young persons coming into conflict with criminal laws.

Violence and insecurity perpetrated by and against young people are caused by various factors that work simultaneously to create situations of social instability. These factors can include the availability of firearms, the abuse of alcohol, large-scale migration to urban areas and overpopulation, drug trafficking, weak educational and policing systems, unequal distribution of wealth, and the frustration of many young people faced with unemployment and socio-political exclusion. In combination, these elements fuel hopelessness and frustration not only among the youngest segment of the population but within families, communities, and society more broadly.” **UNITED NATIONS FACT SHEET ON Juvenile Justice**

**Protection Against Criminal Liability** - The Juvenile Justice System operates on the premise that Youth are fundamentally different from adults in terms of their level of responsibility and potential for rehabilitation, and that adult society is responsible for safeguarding its young members from criminal liability.

***THE ACT OF A CHILD UNDER SEVEN YEARS OF AGE:***

**“Nothing is an offence done by a child under seven years of age”** - Section 20 of Bharatiya Nyaya Sanhita ( BNS) of 2023 & Section 82 of the former Indian Penal Code (IPC) of 1860)

Hence, children under seven are exempt from all forms of criminal liability under our criminal laws.

**THE ACT OF A CHILD ABOVE SEVEN AND UNDER TWELVE YEARS OF AGE, OF IMMATURE UNDERSTANDING:**

***“Nothing is an offense which is done by a child - above seven years of age and under twelve years of age, who has not attained sufficient understanding to judge the nature or consequences of his conduct on that occasion.”***

(Section 21 of BNS & Section 83 of IPC of 1860).

The above sections under the IPC or BNS mandate responsibilities on the part of the enforcement authorities and the competent courts or authorities to determine the level of criminal intent or the necessity of imposing criminal liability for acts committed by children aged 7 to 12 years.

***The Juvenile Justice (Care and Protection of Children) Act, 2015 – (amended 2021):***

The Act primarily deals with two different categories of children:

**“Child who has come in Conflict with Law”, and “Child in Need of Care & Protection”**

The Act defines a ‘**child**’ as someone who has not completed 18 years of age.

**Children who had come into Conflict with the Law**

The Act makes efforts to be more child-friendly, including using non-stigmatizing language when dealing with children who have come into conflict with the Law.

- (The use of adversarial or accusatory words such as **arrest, remand, accused, charge sheet, trial, prosecution, warrant, summons, conviction, inmate, delinquent, etc.**, is avoided)

**Section 2(13) of the act defines a “*child in conflict with Law*”**

- *as a child who is alleged or found to have committed an offense and who has not completed eighteen years of age on the date of commission of such an offense”.*

Such children will not be subjected to many of the procedures applicable to adults under our criminal laws, and they will not be tried in regular criminal courts.

**“The Juvenile Justice Board” (JJB)** is the competent authority to enquire and pass orders concerning children in conflict with the Law. Under certain circumstances, a **Children’s Court** will have the jurisdiction to pass orders.

Chapters III and IV of the Act detail the roles and responsibilities of the JJB and other authorised persons, including police, probation officers, parents, and guardians.

**Juvenile Justice Board (J.J.B)**

**Composition:**

- The Juvenile Justice Board shall comprise a *Metropolitan Magistrate & Two Social Workers* (at least one shall be a woman)
- The Bench shall have the powers conferred by the Code of Criminal Procedure, 1973.
- The Board shall function as a Bench of Magistrates, and the majority's opinion shall prevail in the event of a difference of opinion among members. Where there is no such majority, the opinion of the Principal Magistrate shall prevail.

## **Norms & Proceedings**

### **Norms to be followed during the apprehension and inquiry of a Child in Conflict with the Law**

- Police should inform the parents/ guardians and the Probation officer or Child Welfare Officer, without time loss.
- No child or Juvenile can be kept in a police lock-up. Instead, the child could be sent on bail or handed over to an authorized Observation Home or a place of safety as per the norms laid down in the Rules.
- The Child should be produced before JJB within 24 hours of apprehension of the child by the police, excluding travel time.
- When initiating the inquiry, the Board should satisfy itself that the child is not subjected to any ill-treatment by the police or any other person involved in the process.
- J.J.B. TO Call for probation officers' report – interim /final
- Time limits for investigation & disposition are prescribed.
- Recommends Dispensation with the child's attendance unless it is necessary
- J.J.B. atmosphere – to be informal.
- Participatory rights of the child – to be respected: hence Ample time and opportunity should be given to the children to express themselves.
- The Board could dispose of petty offenses through a summary proceeding.
- Inquiry into serious offenses can be conducted as per the existing Law of Criminal Procedure.

✚ **When it is proved beyond doubt that The Child had done something deliberate that conflicts with the Law, then the following are the orders that may be passed:**

- Send the juvenile after advice and admonition
- Direct the juvenile to participate in group counselling
- Order the juvenile to perform community service
- Order the parent or juvenile to pay a fine
- Release the juvenile on probation
- Release on probation and place under the care of any fit institution
- Direct the juvenile to be sent to a *Special Home*

➤ **Prison Sentencing Prohibited**

#### **HOMES AUTHORIZED FOR JUVENILES IN CONFLICT WITH THE LAW**

- **OBSERVATION HOMES** – run by Government / Non-Government Organisations - for temporary custody
- **SPECIAL HOMES** - run by Government / Non-Government Organisations

Rules are to be framed to segregate children by age and the nature of the offense committed, and to provide every child with adequate opportunities for education, development, and reintegration into society.

#### **Other features of protection offered to a juvenile under the Act:**

- **Eligible for Bail** – Irrespective of whether an alleged act is a bailable or a non-bailable offense as per any of the prevailing criminal Laws, a Juvenile may be sent on bail at an
- **Claim of juvenility could be raised before any Court, at any stage of trial, or even after conviction:** When a Juvenile was wrongly produced as an adult in a criminal Court, he or she could claim juvenility by producing proof during the trial period or even after conviction and claim the protections under the Act. Similarly, when a person commits an offense

while under 18 and is apprehended by the police after reaching adulthood, all procedures and protections under this Act will apply, and he cannot be treated as an adult criminal.

- **Criminal Record – gets Wiped Out:** (excluding the orders issued by the Children’s Court): Whenever a child/juvenile in conflict with the Law is found guilty of the act and is punished by the JJB, his or her criminal record gets wiped out once the term of punishment is completed. Hence, this negative record will not imperil his future progress in life.

**As per Section 18 (3) of the Act**, any Serious offense committed by a person whose age at the time of the commission of the offense was above 16 and below 18, and the Board concludes that there is a need for the trial of the said child as an adult. the case could be transferred to a **Children’s Court** having jurisdiction to try such offences.

Hence, under certain special circumstances, a juvenile can be tried like an adult in a children’s court and can be punished according to the applicable criminal Law.

**Orders that may not be passed** - by the Children’s Court against a juvenile:

- No Juvenile in conflict with the Law shall be sentenced to death
- No Juvenile shall be committed to prison while still below 21 years of age. Instead, the Children’s Court could send the person to a place of safety until they reach 21 and then transfer them to prison.
- No punishment in default of payment of fine or default of furnishing security

## Children who are in Need of Care & Protection

### JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015 –

The second part of the above Act deals with: *all Children between the ages of 0 -and 18 years - who are in need of Care & Protection -*

As per Section 2(14) of the J.J. Act, the following children are broadly classified as children needing care and protection.

- Those children who are left alone, without a home or means of subsistence
- are in the company of unscrupulous persons.
- Has parents or guardians who are unfit persons who are found working or likely to be married off, contravening existing laws.
- Has no parents and no one to take care of
- A child who is likely to become vulnerable to abuse, torture, and exploitation by a person who has custody of the child.
- A child who is physically or mentally challenged, or a terminally ill child who is denied care and protection

Hence, under this Act, all those children who are victims of Child Labour, Child beggary, Child marriage, and any child who is forced to live in an insecure environment under the custody of an adult who abuses the child physically, mentally, or sexually, could be brought under this Act for rescue and rehabilitation. Most importantly, this Act is empowered to remove the custodial rights of a child from the parents themselves who are found to be acting against the child's interest or are deemed unfit persons to provide care and protection to the child.

### Competent authority to deal with children in need of protection:

Child Welfare Committee (CWC)

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 the matters concerning children.

**Powers of the Child Welfare Committee concerning child abuse & child protection**

- ❖ To order for investigation of all children found abandoned or orphaned
- ❖ To receive complaints of child abuse or child maltreatment and order for the immediate rescue of the child if the situation warrants;
- ❖ To issue notice for production of the child to parent/guardian/institutions/individuals holding custody of the child;
- ❖ To order for investigation by the Probation officer/ by the police;
- ❖ To refuse/ remove custody of the minor from parents/ lawful guardians/employers;
- ❖ To Order for Rehabilitation and social integration that is appropriate for a child who requires care and protection.

**Persons mandated to rescue and produce a child before the Child Welfare Committee:** *\*Any Police Officer, \*Special Juvenile police unit or designated Child Welfare Police officer, \*Labour Inspector, \*any Public Servant, \*CHILDLINE Services (with a toll-free No.1098), \*Probation Officer/ Child Welfare Officer, \*Non-Government Welfare Organisations, \*Nurses, \*Doctors and management of hospitals and maternity homes, \*any social worker or public-spirited individuals or children themselves.*

All the above persons could report/produce a child before a Child Welfare Committee.

Hence, whenever a child is found abandoned or is in a situation as defined above, a member of the public can inform any of the entities mentioned above. Persons authorised to take custody of such children should produce them before C.W.C. within 24 hrs., excluding travel time.

CWC could order interim and final reports from probation officers / social workers, psychologists, etc. Speak to the parents/guardians / and other family members, if available, before coming to a conclusion and passing an order.

### **Orders that a CWC could pass regarding a Child in Need of Care and Protection.**

- After due verifications, CWC could declare that a child needs care and protection.
- Restore to parents/ family if they are found to be fit persons after due counselling.
- Order for removal of custody from parents /family/guardian/ or any person holding custody of the child if they are found to be abusers or unfit persons to provide care and protection.
- Order to place such children through Foster Care or in an authorized Child Care Institution.
- After due inquiry, certify an orphaned or abandoned child as a **child Legally Free for Adoption** and place the child in an authorized Adoption Agency.
- CWC is also authorised to receive a child from parents who, in the best interest of the child, wish to surrender their child for adoption. After counselling and due inquiry, parents will be allowed to execute a Document of Surrender in their presence, giving their consent for the

child's future adoption. After the completion of the declared waiting period, the child will be certified as **Legally Free for Adoption** by the CWC.

- ❖ While Chapter VII of the Act deals with the Rehabilitation and Social Reintegration of children who need Care and Protection, Chapter IX deals extensively with the process of Adoption of such children who are surrendered or abandoned by their own parents/family.

Restoration and Rehabilitation of a child in need of care and protection would be as follows: **1) Sending the child back to the parents. 2) Placing a child in adoption, Foster Care, with guardians, or with fit parents – whichever is feasible and keeping the best interest of the child in mind. 3) Placing a child in a Children's Home registered under this Act**

Institutional care is considered the last option for such children. Children's Homes can be run by either a State Government or a non-governmental organisation.

- ❖ Chapter IX prescribes punishments for adults who commit offenses against children. CWC can also lodge complaints with the enforcement authorities against serious adult offenders for further action.

**The above Act was further amended in the year 2021.**

**Provisions of Juvenile Justice (Care and Protection) Amendment Act 2021:**

- ✚ Offenses committed against children, as mentioned in Chapter IX, that attract imprisonment between 3 and 6 years are declared as "non-cognizable."
- ✚ The district magistrate is given the authority to issue adoption orders for all adoptions done under this Act which were previously issued by the competent Courts in India.

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## **SEXUAL ABUSE ON CHILDREN**

**The Protection of Children from Sexual Offences (POCSO) Act 2019**

This act came into force in the year 2012 and was subsequently amended in the year 2019 to make it more stringent and to provide greater clarity on child abuse and punishment. The punishment could even be extended to life imprisonment or the death penalty.

The Act offers punishments for all forms of offenses against children that are sexual, such as **Sexual harassment, sexual assault, using children for pornographic purposes**, etc.

❖ *The Act is gender-neutral. Hence, the victim or the offender could be either a male or a female.*

Stringent punishments are provided for different types of offenses.

- Any offense under this Act committed by a person who officially has control over a child, like a police officer within his jurisdiction or a person in charge of a children's home, etc., such an offense is described as an **Aggravated Offense** and attracts more severe punishment.
- The act criminalizes the production, collection, viewing, or sharing of pornographic content that involves children or forces children to view any pornographic material - all such acts are punishable under the Act.
  - Attempting to commit or Abetment for the commission of any of the above-mentioned offenses is also punishable.

### **Sexual Offences described under the Act**

- **Penetrative Sexual Assault**
- **Aggravated Penetrative Sexual Assault**
- **Sexual assault**
- **Aggravated sexual assault**
- **Using children for phonographic purposes**
- **Attempt to commit an offence**

**Mandatory Reporting:**

It is mandatory for anyone who comes to know of an offense committed under this Act, to report the matter to the competent authority. **There are punishments for failure to report.**

- Punishments are also there for making **false complaints** or for **providing wrong information**

### **Special Courts for Speedy Justice:**

The act provides for the establishment of **special courts** to try offences related to child sexual abuse.

Chapter VIII of the Act extensively deals with the powers of the Special Court and the procedures to be followed while dealing with the victims of abuse. For example, when the child victim is present and gives evidence in the Court, he or she must be protected from the threat of facing the accused directly. But at the same time, the suspected offender must be allowed to see the child and hear the evidence for his defence.

**Obligations on the part of the Media:** The Privacy of the child victim is protected, and the media is prohibited from revealing identifying information or publishing photos of the child victim.

### **For the effective implementation of this Act:**

The Act designates the ***National Commission for the Protection of Child Rights (NCPCR)*** & the ***State Commissions for the Protection of Child Rights (SCPCRs)*** to monitor the implementation of this Act.

**To prohibit Commercial Sexual Exploitation of Children - *Along with the above-mentioned POCSO Act, the following acts are available:***

**Sections 98 & 99 of the *Bharatiya Nyaya Sanhita*;**

**Sections 2, 4, 5 & 6 of the Immoral Traffic (Prevention) Act;**

**Section 67B of the Information Technology Act**

## **PROTECTION AGAINST CYBER CRIME IN INDIA:**

The Information Technology Act, 2000, and the Protection of Children from Sexual Offences (POCSO) Act - are the two essential Legislations that deal with cybercrimes committed against children.

Online crimes can be reported through the official National Cyber Crime Reporting Portal.

<https://www.infosecawareness.in/concept/cyber-laws-in-india/children>

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## **CHILD MARRIAGE**

### **Girl children - as victims of [Child Marriage](#)**

- Child marriage - legitimizes human rights violations of girl children – under the guise of **culture, honour, tradition, & religion**.
- It robs her of her right to education and all other choices in life.
- Has grave consequences for girls’ reproductive and sexual health, impeding their overall development and well-being.
- Becomes a causative factor for high maternal and neonatal mortality, the birth of low-birth-weight babies / physically or mentally deformed babies.

- Hence requires a holistic response with a supportive legal framework from **Governments** & Social action from **families** and **communities**
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## **THE PROHIBITION OF CHILD MARRIAGE ACT, 2006**

“**child**” means a person who, if a male, has not completed twenty-one years of age, and if a female, has not completed eighteen years of age;

“**Child marriage**” means a marriage in which either of the contracting parties is a child

➤ **"minor"** - means a person who has not completed the age of **18**

- ***Offences to be cognizable and non-boilable***

### ***Persons who are liable to be punished under the Act:***

- *All those adults who are responsible for performing a child marriage*
- *A person who is above 18 years of age and has entered into to a child marriage*
- *Persons who aided, abetted, attended, or had knowledge of child marriage but have not made an effort to prevent it or report the matter*

### **Punishments:**

- Rigorous imprisonment, which may extend to **2 years**
- Shall also be liable to a fine which may extend to **one lakh rupees**
- If a person who has committed an offence under the Act happens to be a woman, she will be exempted from imprisonment.
- Even when the **male party to the marriage** is defined as a child when he has not completed **21 years of age**, he could also be punished under this Act if he is over **18 years of age** and marries a girl who is under **18** (section

**9). If the marriage is consummated, then there is also a possibility of being prosecuted under the POCSO Act**

- ❖ It is the duty of the State Government to nominate at least one person in each District as 'Child Marriage Prohibition Officer', with powers to act under this Act.
- ❖ **The legality of child marriage:**

**A child marriage is voidable** at the option of a party to the marriage who happened to be a child at the time of the marriage, by petitioning in the court for the declaration of the marriage as null and void, provided such a petition is made in the following manner:

If the petitioner is a minor, they can petition through a guardian or a next friend, along with the Child Marriage Prohibition Officer.

If the petitioner has reached the age of 18, they can file a petition independently, provided it is done within two years after attaining the age of majority. Otherwise, the marriage remains valid even though the persons responsible for it could be punished under this act.

**A Child Marriage could be declared void at any point in time** – when a child had been enticed without the knowledge of his or her guardian, compelled by force, deceit, or when a child was found to be sold for the purpose of marriage.

*There is an attempt to raise the minimum age for marriage for a female from 18 to 21 – but implementation is yet to happen.*

## **Content – iccwtm\***

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YOUNGER AGE IN ADOLESCENT PREGNANCIES IS ASSOCIATED WITH HIGHER RISK OF  
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NIH – PMC AUTHOR :HAQ:CENTRE FOR CHILD RIGHTS & UNICEF

## Child Labour / Child Trafficking - For Labour

### PROVISIONS IN THE INDIAN CONSTITUTION TO CHECK ON CHILD LABOUR

*Article 23:* Prohibits the trafficking of human beings for forced labour,  
including Child trafficking for begging or any form of labour

*Article 24:* Prohibits employment of children in Factories

**Article 39 (e) & (f):** states that the State shall, in particular, direct its policy towards securing that the health and strength of workers and men and women and the tender age of children are not abused and that the citizens are not forced by economic necessity to enter an avocation unsuited to their age and strength

**Article 21 (a)** declares that the Right to Education is the fundamental right of every child below 14 years of age.

The term “*child labour*” is often defined as work that deprives children of their childhood, their potential, their education, and their dignity, and that is harmful to physical and mental development.

The International Labour Organization states that not all work done by children should be classified as child labour that is to be targeted for elimination. Children’s or adolescents’ participation in work that does not affect their health or personal development, or interfere with their schooling, is generally regarded as positive. This includes activities such as *helping their parents around the home, assisting in a family business, or earning pocket money outside school hours and during school holidays*. These activities contribute to children’s development and the welfare of their families, providing them with skills and experiences that help prepare them to be productive members of society in adulthood.

#### **Historical background:**

**The Child Labour (Prohibition and Regulation) Act, 1986**, was the first Act to come into force in 1986 that is applicable to the whole of India. **The Act defined a child as a person below 14 years of age**, and prohibited the employment of such

children only in **Hazardous Occupations** as listed in the Rules framed under the ACT. Unfortunately, in all other occupations, children under 14 could be employed full-time at the expense of denying their right to education. Although certain regulations were established for non-hazardous occupations, they were hardly enforceable. Further, the act was silent on workers aged 14 to 18

Following the amendment of the Constitution of India in 2009, the Right to Education was declared a fundamental right for every child below 14 years of age or up to the 8th standard (Article **21A**). As a follow-up, certain critical amendments were brought into the Child Labour Act in the year 2016, known as ***THE CHILD AND ADOLESCENT LABOUR (PROHIBITION AND REGULATION) ACT, 1986.***

### **The Child Labour (Prohibition and Regulation) Act of 1986 (amended 2016) -**

The above Act classifies labour performed by a child under 14 as '**Child Labour**' and labour performed by a young person who has completed 14 but has not completed 18 as '**Adolescent Labour**'.

As per this current Act, no child below the age of 14 could be employed by any third-party employer, either full-time or part-time, except for two exceptions given under this Act.

**Exception 1:** A child could help his own family by working in a family-run occupation, provided it is not **hazardous**, and that too **only after school hours or on holidays**. (Family is defined in the ACT)

**Exception 2:** A child is allowed to work as an **artist, as an actor, singer, or sports person**, provided the child's right to education is taken care of. Rules to be

framed under the ACT that are to be followed by the **audio, television, and film media**, while using a child in their productions.

- ✚ **Child Labour in all other sectors is totally prohibited.**

## **Legal protection for adolescent workers:**

The other positive aspect is that the amended Act covers adolescents between 14 and 18 years of age, as a considerable number of them are part-time or full-time workers in this country. The act prohibits the employment of such persons in hazardous occupations listed in the Rules and regulates them. The working hours and working conditions in such occupations that are not declared as hazardous are also to be spelt out in the Rules laid down by respective State Governments.

- Any employment of a child contrary to this Act is a cognizable offense, and the punishment is more severe if the employer is a third party other than the child's own family.
- State Governments to list out the hazardous occupations where employment of adolescent employees is prohibited.
- Rules are framed to regulate working hours and other conditions of employment while employing adolescent workers.

*Since the implementation of the Act is under the purview of State Governments Rules are framed by different States. As a sample, a part of the Rules framed by the State of Tamil Nadu is mentioned below.*

**Child who helps in the family occupation** – Tamil Nadu Government Gazette [Part III-Sec.1(a)-LABOUR AND EMPLOYMENT DEPARTMENT

*2B. Child to help his family without affecting education. -*

*(1) Subject to the provisions of section 3, a child may, without affecting his school education, in any manner, –*

*(a) help his family in his family enterprise, subject to the condition that such help, -- (i) shall not be in any hazardous occupation or process listed in Part A and Part B of the Schedule to the Act;*

*(ii) shall not include work or occupation or process at any stage of the manufacturing, production, supply or retail chain that is remunerative for the child or his family or the family enterprise;*

*(iii) shall only be allowed to help in his family, or in a family enterprise, where his family is the occupier;*

*(iv) shall not perform any tasks during school hours and between 7 p.m. and 8 a.m.;*

*(v) shall not be engaged in such tasks of helping which hinders or interferes with the right to education of the child, or his attendance in the school, or which may adversely affect his education including activities which are inseparably associated to complete education such as homework or any extracurricular activity assigned to him by the school;*

*(vi) shall not be engaged in any task continuously without rest which may make him tired and shall be allowed to take rest to refresh his health and mind, and a child shall not help for more than three hours excluding the period of rest in a day; II (i) 11*

*(vii) shall not include in anyway substitution of the child for an adult or adolescent while helping his family or family enterprise; and*

*(viii) shall not be in contravention to any other law for the time being in force;*

*(b) aid or assist his family in such manner which is not incidental to any occupation, work, profession, manufacture or business, or for any payment or benefit to the child or any other person exercising control over the child, and which is not detrimental to the growth, education and overall development of the child.*

*Explanation 1.- For the purposes of this rule, only – (a) biological brother and sister of the child; (b) brother or sister of the child through lawful adoption by parents of the child; and (c) biological brother and sister of parents of the child, shall be included for comprising the family of a child.*

*Explanation 2.- For the purposes of*

*Explanation 1, it is hereby clarified that preliminarily, any doubt as to whether a person is a biological brother or sister, may be removed by examining the pedigree of such person issued by the concerned Municipality or Panchayat, as the case may be, or any other legal document issued by concerned authority of the appropriate Government.*

*(2) Where a child receiving education in a school remains absent consecutively for thirty days without intimation to the Principal or Head Master of the school, then, the Principal or Head Master shall report such absence to the concerned nodal officer referred to in clause (i) of sub-rule (1) of rule 17C for information.*

**Child, when works as an artist,** Tamil Nadu Government Gazette [Part III-Sec.1(a)]

-LABOUR AND EMPLOYMENT DEPARTMENT

*2C. Child to work as an artist.- (1) Subject to the provisions of section 3, a child may be allowed to work as an artist subject to the following conditions, namely:*

*(a) no child shall be allowed to work for more than five hours in a day, and for not more than three hours without rest;*

*(b) any producer of any audio –visual media production or any commercial event involving the participation of a child, shall involve a child in participation only after obtaining the permission from the District Magistrate of the district where the activity is to be performed, and shall furnish to the District Magistrate before starting the activity an undertaking in Form C and the list of child participants, consent of parents or guardian, as the case may be, name of the individual from the production or event who shall be responsible for the safety and security of the child, and ensure that all screening of his films and*

*television programmes shall be made with a disclaimer specifying that if any child has been engaged in the shooting, then, all the measures were taken to ensure that there has been no abuse, neglect or exploitation of such child during the entire process of the shooting;*

*(c) the undertaking referred to in clause (b) shall be valid for six months and shall clearly state the provisions for education, safety, security and reporting of child abuse in consonance with the guidelines and protection policies issued by the Central Government from time to time for such purpose including –*

*(i) ensuring facilities for physical and mental health of the child;*

*(ii) timely nutritional diet of the child;*

*(iii) safe, clean shelter with sufficient provisions for daily necessities;*

*and*

*(iv) compliance to all laws applicable for the time being in force for the protection of children, including their right to education, care and protection, and against sexual offences;*

*(d) appropriate facilities for education of the child to be arranged so as to ensure that there is no discontinuity from his lessons in school and no child shall be allowed to work consecutively for more than twenty-seven days; (e) one responsible person be appointed for maximum of five children for the production or event, so as to ensure the protection, care and best interest of the child;*

*(f) at least twenty per cent, of the income earned by the child from the production or event to be directly deposited in a fixed deposit account in a nationalised bank in the name of the child which may be credited to the child on attaining majority; and*

*(g) no child shall be made to participate in any audio visual and sports activity including informal entertainment activity against his will and consent.*

- The act makes **child labour** a **cognizable offence**. Employing children below **14 years** will attract a jail term of 6 months to 2 years, a penalty of 20,000 to 50,000 rupees, or both, for the first time.
- Repeat offenders will attract imprisonment between **1** year to **3** years. In case the offender is a parent, it provides a lenient penal provision and proposes a fine of Rs. 10,000 for a repeat offence committed by a parent.

#### ✚ **Child Trafficking for labour**

**Sections 137; 139; 141; 146 of the Bharatiya Nyaya Sanhita - (358 to 364 and 374 of IPC);**

- ✚ Protection of adolescent employees from being employed in hazardous occupations:

Persons above 14 years and have not completed 18 years are prohibited from being employed in mining, production of inflammable, explosive substances, Metallurgical Industries and other hazardous processes under the Factories Act.

*The ACT and the Rules spell out numerous powers and responsibilities for the District Magistrate and Labour Department officials in enforcing this law. Implementations of this Act are the responsibility of the State Governments.*

## **Content – ICCWTN\***

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## **REFERENCE LINKS**

- THE CHILD AND ADOLESCENT LABOUR (PROHIBITION AND REGULATION) ACT, 1986

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- REVISED NCLP GUIDELINES

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➤ CHILD LABOUR ISSUES AND CHALLENGES

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➤ CHILD LABOUR LAWS IN INDIA

<https://blog.ipleaders.in/laws-related-child-labour-india/>

LAW SIKHO