

Annexure 1

Interstate Migrants Act

Interstate migrants act has been instrumental in providing the basic rights of employment to interstate migrant workers and it also safeguards their rights in order to prevent exploitation from the contractors and vendors.

Section- 12 elaborates the duties of the Contractor and this provision provides the scope and parameters of the contractor under this act.

Sec-12. Duties of contractors.-

(1) It shall be the duty of every contractor-

(a) To furnish such particulars and in such form as may be prescribed, to the specified authority in the State from which an inter-State migrant workman is recruited and in the State in which such workman is employed, within fifteen days from the date of recruitment, or, as the case may be, the date of employment, and where any change occurs in any of the particulars so furnished such change shall be notified to the specified authorities of both the States;

(b) to issue to every inter-State migrant workmen, a pass book affixed with a passport size photograph of the workman and indicating in Hindi and English languages, an where the language of the workman is not Hindi or English, also in the language of the workman,-

(i) The name and place of the establishment wherein the workman is employed;

(ii) The period of employment;

(iii) The proposed rates and modes of payment of wages;

(iv) The displacement allowance payable;

(v) The return fare payable to the workman on the expiry of the period of his employment and in such contingencies as may be prescribed and in such other contingencies as may be specified in the contract of employment;

(vi) Deductions made; and

(vii) Such other particulars as may be prescribed;

(c) To furnish in respect of every inter-State migrant workman who ceases to be employed, a return in such form and in such manner as may be prescribed, to the specified authority in the State from which he is recruited and in the State in which he is employed, which shall include a declaration that all the wages and other dues payable to the workman and the fare for the return journey back to his State have been paid.

(2) The contractor shall maintain the pass book referred to in sub-section (1) up-to-date and cause it to be retained with the inter-State migrant workman concerned.

Explanation.-For the purposes of this section and section 16 "specified authority" means such authority as may be specified by the appropriate Government on this behalf.

Section 13-19 concern with the welfare and working conditions of the workers and hence provides the scope under which the workers are to be managed.

Sec-13. Wage rates and other conditions of service of inter-State migrant workmen.-

(1) The wage rates, holidays, hours of work and other conditions of service of an inter-State migrant workman shall,-

(a) In a case where such workman performs in any establishment, the same or similar kind of work as is being performed by any other workman in that establishment, be the same as those applicable to such other workman; and

(b) In any other case, be such as may be prescribed by the appropriate Government:

Provided that an inter-State migrant workman shall in no case be paid less than the wages fixed under the Minimum Wages Act, 1948 (41 of 1948).

(2) Notwithstanding anything contained in any other law for the time being in force, wages payable to an inter-State migrant workmen under this section shall be paid in cash.

(i) Section 13 deals with the wage rates, holidays, hours of work and other conditions of service of inter-State migrant workmen.

(ii) An inter-State migrant workman shall in no case be paid less than the wages fixed under the Minimum Wages Act, 1948.

(iii) Wages payable to an inter-State migrant workman/under this section shall be paid in 'cash' and not in any other manner/form.

Sec-14. Displacement allowance.-

(1) There shall be paid by the contractor to every inter-State migrant workman at the time of recruitment, a displacement allowance equal to fifty per cent. of the monthly wages payable to him or seventy-five rupees, whichever is higher

(2) The amount paid to a workman as displacement allowance under sub-section (1) shall not be refundable and shall be in addition to the wages or other amount payable to him.

Every inter-State migrant workman is entitled to a displacement allowance at the time of recruitment, which may be either seventy-five rupees or half of the monthly wages payable to him, whichever is higher.

Sec-15. Journey allowance etc.-

A journey allowance of a sum not less than the fare from the place of residence of the inter-State migrant workman in his State to the place of work in the other State shall be payable by the contractor to the workman both for the outward and return journeys and such workman shall be entitled to payment of wages during the period of such journeys as if he were on duty.

Every inter-State migrant workman is entitled to payment of wages during the period of journey and is also entitled to journey allowance for outward and return journeys from the place of residence in his State to the place of work in the other State.

Sec-16. Other facilities.-

It shall be the duty of every contractor employing inter-State migrant workmen in connection with the work of an establishment to which this Act applies,-

- (a) to ensure regular payment of wages to such workmen;
- (b) to ensure equal pay for equal work irrespective of sex;
- (c) to ensure suitable conditions of work to such workmen having regard to the fact that they are required to work in a State different from their own State;
- (d) to provide and maintain suitable residential accommodation to such workmen during the period of their employment;
- (e) to provide the prescribed medical facilities to the workmen, free of charge;
- (f) to provide such protective clothing to the workmen as may be prescribed; and
- (g) in case of fatal accident or serious bodily injury to any such workman, to report to the specified authorities of both the States and also the next of kin of the workman.

Sec-17. Responsibility for payment of wages.-

(1) A contractor shall be responsible for payment of wages to each inter-State migrant workman employed by him and such wages shall be paid before the expiry of such period as may be prescribed.

(2) Every principal employer shall nominate a representative duly authorised by him to be present at the time of disbursement of wages by the contractor and it shall be the duty of such representative to certify the amounts paid as wages in such manner as may be prescribed.

(3) It shall be the duty of the contractor to ensure the disbursement of wages in the presence of the authorised representative of the principal employer.

(4) In case the contractor fails to make payment of wages within the prescribed period or makes short payment, then the principal employer shall be liable to make payment of the wages in full or the unpaid balance due, as the case may be, to the inter-State migrant workman employed by the contractor and recover the amount so paid from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

Sec-18. Liability of the principal employer in certain cases. -

(1) If any allowance required to be paid under section 14 or section 15 to an inter-State migrant workman employed in an establishment to which this Act applies is not paid by the contractor or if any facility specified in section 16 is not provided for the benefit of such workman, such allowance shall be paid, or, as the case may be, the facility shall be provided, by the principal employer within such time as may be prescribed.

(2) All the allowances paid by the principal employer or all the expenses incurred by him in providing the facility referred to in sub-section (1) may be recovered by him from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

Sec-19. Past liabilities.-

It shall be the duty of every contractor and every principal employer to ensure that any loan given by such contractor or principal employer to any inter-State migrant workman does not remain outstanding after the completion of the period of employment of such workman under the said

contractor or, as the case may be, in the establishment of such principal employer and accordingly every obligation of an inter-State migrant workman to re-pay any debt obtained by him during the period of his employment from the contractor or the principal employer and remaining unsatisfied before the completion of such period shall, on such completion, be deemed to have been extinguished and no suit or other proceeding shall lie in any court or before any authority for the recovery of such debt or any part thereof.

Further, section 25 talks about the punishment for any act not in accordance with the act, this signifies the executory power of the act which prevents the exploitation of the act by workers or contractors.¹

Sec-25. Contravention of provisions regarding employment of inter-State migrant workmen.-

Whoever contravenes any provisions of this Act or of any rules made there under regulating the employment of inter State migrant workmen, or contravenes any condition of a licence granted under 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 in the case of a continuing contravention, with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

Transgender Person Protection Act, 2019²

The Transgender Person Protection Act 2019 was enacted in pursuance of a landmark judgement of Navej Singh Johar vs Union of India³ and has been an instrumental legislation in restoring the basic rights of the transgender people in India as is decriminalised the sec 377 of Indian Penal Code, 1860 which prohibited same sex relationship.

In another judgement of NALSA vs Union of India (2014) 5 SCC 438⁴ of India the court took cognizance of the fact that the transgenders in the country were exploited on the basis of their sexual orientation and the same is unconstitutional under articles 14 and 21 of The Constitution of India and hence the government was directed to take up steps in order to restore the rights of the transgender persons.

The section 3 of the act has laid down the basic rights of a transgender person and these have been made analogous to the fundamental rights in the constitution under article 14 in order to strengthen the enforcement of the rights for the transgender people.

Sec-3. No person or establishment shall discriminate against a transgender person on any of the following grounds, namely

(a) the denial, or discontinuation of, or unfair treatment in, educational establishments and services thereof;

¹ <https://clc.gov.in/clc/acts-rules/inter-state-migrant-workmen#25.%20Contravention%20of%20provisions%20regarding%20employment%20of%20inter-State%20migrant%20workmen.>

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[https://prsindia.org/files/bills_acts/bills_parliament/The%20Transgender%20Persons%20\(Protection%20of%20Rights\)%20Act,%202019.pdf](https://prsindia.org/files/bills_acts/bills_parliament/The%20Transgender%20Persons%20(Protection%20of%20Rights)%20Act,%202019.pdf)

³ <https://indiankanoon.org/doc/168671544/>

⁴ <https://www.casemine.com/judgement/in/5609af57e4b01497114161c2>

- (b) the unfair treatment in, or in relation to, employment or occupation;
- (c) the denial of, or termination from, employment or occupation;
- (d) the denial or discontinuation of, or unfair treatment in, healthcare services;
- (e) the denial or discontinuation of, or unfair treatment with regard to, access to, or provision or enjoyment or use of any goods, accommodation, service, facility, benefit, privilege or opportunity dedicated to the use of the general public or customarily available to the public;
- (f) the denial or discontinuation of, or unfair treatment with regard to the right of movement;
- (g) the denial or discontinuation of, or unfair treatment with regard to the right to reside, purchase, rent, or otherwise occupy any property;
- (h) the denial or discontinuation of, or unfair treatment in, the opportunity to stand for or hold public or private office; and
- (i) the denial of access to, removal from, or unfair treatment in, Government or private establishment in whose care or custody a transgender person may be in.

Section 8 elaborates about the obligations of the govt to ensure no discrimination and proper welfare for the transgender people.

Sec-8. (1) The appropriate Government shall take steps to secure full and effective participation of transgender persons and their inclusion in society.

(2) The appropriate Government shall take such welfare measures as may be prescribed to protect the rights and interests of transgender persons, and facilitate their access to welfare schemes framed by that Government.

(3) The appropriate Government shall formulate welfare schemes and programmes which are transgender sensitive, non-stigmatising and non-discriminatory.

(4) The appropriate Government shall take steps for the rescue, protection and rehabilitation of transgender persons to address the needs of such persons.

(5) The appropriate Government shall take appropriate measures to promote and protect the right of transgender persons to participate in cultural and recreational activities

Section 16 is the heart and soul of the legislation as it lays down provision for establishment of the National Council for Transgender People, this council is headed by the Union Minister of the Ministry of Social Justice and Empowerment, this council is responsible to ensure that no right is violated and to keep a check on the govt to ensure proper welfare, this council has provided the teeth to this legislation.

Sec-16. (1) The Central Government shall by notification constitute a National Council for Transgender Persons to exercise the powers conferred on, and to perform the functions

assigned to it, under this Act.

(2) The National Council shall consist of—

- (a) the Union Minister in-charge of the Ministry of Social Justice and Empowerment, Chairperson, ex officio;
- (b) the Minister of State, in-charge of the Ministry of Social Justice and Empowerment in the Government, Vice-Chairperson, ex officio;
- (c) Secretary to the Government of India in-charge of the Ministry of Social Justice and Empowerment, Member, ex officio;
- (d) one representative each from the Ministries of Health and Family Welfare, Home Affairs, Housing and Urban Affairs, Minority Affairs, Human Resources Development, Rural Development, Labour and Employment and Departments of Legal Affairs, Pensions and Pensioners Welfare and National Institute for Transforming India Aayog, not below the rank of Joint Secretaries to the Government of India, Members, ex officio;
- (e) one representative each from the National Human Rights Commission and National Commission for Women, not below the rank of Joint Secretaries to the Government of India, Members, ex officio;
- (f) representatives of the State Governments and Union territories by rotation, one each from the North, South, East, West and North-East regions, to be nominated by the Central Government, Members, ex officio;
- (g) five representatives of transgender community, by rotation, from the State Governments and Union territories, one each from the North, South, East, West and North-East regions, to be nominated by the Central Government, Members;
- (h) five experts, to represent non-governmental organisations or associations, working for the welfare of transgender persons, to be nominated by the Central Government, Members; and
- (i) Joint Secretary to the Government of India in the Ministry of Social Justice and Empowerment dealing with the welfare of the transgender persons, Member Secretary, ex officio.

(3) A Member of National Council, other than ex officio member, shall hold office for a term of three years from the date of his nomination.

Sec-17. The National Council shall perform the following functions, namely:—

- (a) to advise the Central Government on the formulation of policies, programmes, legislation and projects with respect to transgender persons;
- (b) to monitor and evaluate the impact of policies and programmes designed for achieving equality and full participation of transgender persons;
- (c) to review and coordinate the activities of all the departments of Government and other Governmental and non-Governmental Organisations which are dealing with matters relating to transgender persons;
- (d) to redress the grievances of transgender persons; and
- (e) to perform such other functions as may be prescribed by the Central Government.

Section 18 entails the penalties for the offences committed in contravention to this act.

The Transgender Person Protection Bill, 2020⁵ has been essential to the act as it lays emphasis on the re registration of the sex of the transgender, if he/she changes his sex to male or female. This shows the flexibility and the long term enforcement of the act.

Sec-18. Whoever,—

- (a) compels or entices a transgender person to indulge in the act of forced or bonded labour other than any compulsory service for public purposes imposed by Government;
- (b) denies a transgender person the right of passage to a public place or obstructs such person from using or having access to a public place to which other members have access to or a right to use;
- (c) forces or causes a transgender person to leave household, village or other place of residence; and
- (d) harms or injures or endangers the life, safety, health or well-being, whether mental or physical, of a transgender person or tends to do acts including causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and fine.

Child and Adolescent Labour (Prohibition and Regulation) Act, 1986⁶

This act was introduced to prohibit the employment of children under the age of 14 years. The law makers have been very focused on the issue and hence in section 3 it elaborates that no one can employ anyone under the age of 14.

Sec-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.

The act apart from prohibiting the employment also lays down the health and safety protocols for the children under section 13.

Sec-13. Health and safety.-

⁵ <https://prsindia.org/billtrack/draft-transgender-persons-protection-of-rights-rules-2020>

⁶ <https://clc.gov.in/clc/acts-rules/child-labour-prohibition-and-regulation-act-1986#THE%20SCHEDULE>

- (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.

The next section i.e. section 14 provides for the punishment for anything in contradiction to the act and hence this section improves the efficiency of the act.

Sec-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 an 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.

The act also has 2 schedules which provide the occupation and the process respectively. These schedules have been essential in widening the scope of this act. The act has been amended in 2016 and the section 3 now entails that a child who is an artist, singer, actor or sportsmen pursuing the act from his/her school or family will not be deemed as a child employed⁷. Furthermore, the section 14A, 14B, 14C and 14D have been added to the penalty provision to make the enforcement of the act even more strict, these new sections provide for new punishments and has also established a Child and Adolescent Labour Rehabilitation Fund in every four districts to maintain the welfare of children who have been employed underage.

Sec-14A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence committed by an employer and punishable under section 3 or section 3A shall be cognizable.

Sec-14B. (1) The appropriate Government shall constitute a Fund in every district or for two or more districts to be called the Child and Adolescent Labour Rehabilitation Fund to which the amount of the fine realized from the employer of the child and adolescents, within the jurisdiction of such district or districts, shall be credited.

(2) The appropriate Government shall credit an amount of fifteen thousand rupees to the Fund for each child or adolescent for whom the fine amount has been credited under sub-section (1).

(3) The amount credited to the Fund under subsections (1) and (2) shall be deposited in such banks or invested in such manner, as the appropriate Government may decide.

(4) The amount deposited or invested, as the case may be under sub-section (3), and the interest accrued on it, shall be paid to the child or adolescent in whose favour such amount is credited, in such manner as may be prescribed.

Explanation:— For the purposes of appropriate Government, the Central Government shall include the Administrator or the Lieutenant Governor of a Union territory under article 239A of the Constitution.

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[https://pencil.gov.in/THE%20CHILD%20LABOUR%20\(PROHIBITION%20AND%20REGULATION\)%20AMENDMENT%20ACT,%202016\(1\).pdf](https://pencil.gov.in/THE%20CHILD%20LABOUR%20(PROHIBITION%20AND%20REGULATION)%20AMENDMENT%20ACT,%202016(1).pdf)

Sec-14C. The child or adolescent, who is employed in contravention of the provisions of this Act and rescued, shall be rehabilitated in accordance with the laws for the time being in force.

Sec-14D. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the District Magistrate may, on the application of the accused person, compound any offence committed for the first time by him, under sub-section (3) of section 14 or any offence committed by an accused person being parent or a guardian, in such manner and on payment of such amount to the appropriate Government, as may be prescribed.

Occupational Safety, Health and Working Code, 2020⁸

This act has been enacted to maintain uniform working conditions for all types of workers and to safeguard their basic employment rights.

Section 6-15 of the act elaborates about the various duties of the employer and the employee thus strengthening the employer-employee bond.

Sec-6. (1) Every employer shall,—

- (a) ensure that workplace is free from hazards which cause or are likely to cause injury or occupational disease to the employees;
- (b) comply with the occupational safety and health standards declared under section 18 or the rules, regulations, bye-laws or orders made under this Code;
- (c) provide such annual health examination or test free of costs to such employees of such age or such class of employees of establishments or such class of establishments, as may be prescribed by the appropriate Government;
- (d) provide and maintain, as far as is reasonably practicable, a working environment that is safe and without risk to the health of the employees;
- (e) ensure the disposal of hazardous and toxic waste including disposal of e-waste;
- (f) issue a letter of appointment to every employee on his appointment in the establishment, with such information and in such form as may be prescribed by the appropriate Government and where an employee has not been issued such appointment letter on or before the commencement of this Code, he shall, within three months of such commencement, be issued such appointment letter;
- (g) ensure that no charge is levied on any employee, in respect of anything done or provided for maintenance of safety and health at workplace including conduct of medical examination and investigation for the purpose of detecting occupational diseases;
- (h) relating to factory, mine, dock work, building or other construction work or plantation, ensure and be responsible for the safety and health of employees, workers

⁸ https://labour.gov.in/sites/default/files/OSH_Gazette.pdf

and other persons who are on the work premises of the employer, with or without his knowledge, as the case may be.

(2) Without prejudice to the generality of the provisions of sub-section (1), the duties of an employer shall particularly in respect of factory, mines, dock, building or other construction work or plantation include—

- (a) the provision and maintenance of plant and systems of work in the workplace that are safe and without risk to health;
- (b) the arrangements in the workplace for ensuring safety and absence of risk to health in connection with the use, handling, storage and transport of articles and substances;
- (c) the provision of such information, instruction, training and supervision as are necessary to ensure the health and safety of all employees at work;
- (d) the maintenance of all places of work in the workplace in a condition that is safe and without risk to health and the provision and maintenance of such means of access to, and egress from, such places as are safe and without such risk;
- (e) the provision, maintenance or monitoring of such working environment in the workplace for the employees that is safe, without risk to health as regards facilities and arrangements for their welfare at work.

Sec-7. (1) The owner and agent of every mine shall jointly and severally be responsible for making financial and other provisions and for taking such other steps as may be necessary for compliance with the provisions of this Code and the rules, regulations, bye-laws and orders made thereunder, relating to mine.

(2) In the event of any contravention by any person whatsoever of any of the provisions of this Code or of the rules, regulations, bye-laws or orders made thereunder, relating to mine, except those which specifically require any person to do any act or thing or prohibit any person from doing an act or thing, besides the person who contravenes, then, each of the following persons shall also be deemed to be guilty of such contravention unless he proves that he had used due diligence to secure compliance with the provisions and had taken reasonable means to prevent such contravention, namely:—

- (a) the official or officials appointed to perform duties of supervision in respect of the provisions contravened;
- (b) the manager of the mine;
- (c) the owner and agent of the mine;
- (d) the person appointed, if any, to carry out the responsibility under section 24.

(3) It shall not be a defence in any proceedings brought against the owner or agent of a mine under this section that the manager and other officials have been appointed in accordance with the provisions of this Code or that a person to carry the responsibility under section 24 has been appointed.

Sec-8. (1) Every person who designs, manufactures, imports or supplies any article for

use in any establishment shall—

- (a) ensure so far as is reasonably practicable, that the article is so designed and constructed in the establishment as to be safe and without risk to the health of the workers when properly used;
- (b) carry out or arrange for the carrying out of such tests and examination in the establishment as may be considered necessary for the effective implementation of the provisions of clause (a);
- (c) take steps as may be necessary to ensure that adequate information will be available—
 - (i) in connection with the use of the article in any establishment;
 - (ii) about the use for which such article is designed and tested; and
 - (iii) about any conditions necessary to ensure that the article, when put to such use, shall be safe, and without risk to the health of the workers:Provided that where an article is designed or manufactured outside India, then it shall be obligatory on the part of the importer to see—
 - (A) that the article conforms to the same standards of such article manufactured in India; or
 - (B) if the standards adopted in the country outside India for the manufacture of such article is above the standards adopted in India, that the article conforms to such standards in such country;
 - (C) if there is no standard of such article in India, then, the article conforms to the standard adopted in the country from where it is imported at its national level.

(2) The designer, manufacturer, importer or supplier shall also comply with such duties as the Central Government may, in consultation with the National Occupational Safety and Health Advisory Board referred to in sub-section (1) of section 16, by regulations Specify.

(3) Every person, who undertakes to design or manufacture any article and substance for use in any factory, may carry out or arrange for the carrying out of necessary research with a view to the discovery and, so far as is reasonably, practicable, the elimination or minimisation of any risks to the health or safety of the workers to which the design or manufacture of articles and substance may give rise to such risk.

(4) Nothing contained in sub-sections (1) and (2) shall be construed to require a person to repeat the testing, examination or research which has been carried out otherwise than by him or at his instance in so far as it is reasonable for him to rely on the results thereof for the purposes of the said sub-sections.

(5) Any duty imposed on any person by sub-sections (1) and (2) shall extend only to things done in the course of business carried on by him and to matters within his control.

(6) Every person,—

- (a) who erects or installs any article for use in a factory, shall ensure, so far as

practicable, that such article so erected or installed does not make it unsafe or a risk to health when that article is used by the persons in such factory;

(b) who manufactures, imports or supplies any substance for use in any factory shall—

(i) ensure, so far as practicable, that such substance when used in the factory does not make it unsafe or a risk to health of persons working in such factory;

(ii) carry out or arrange for carrying out of such tests and examination in relation to such substance as may be necessary;

(iii) take such steps as are necessary to secure that the information about the results of tests carried out in connection with the use of the substance as referred to in sub-clause (ii) is available in a factory along with conditions necessary to ensure its safe use and no risks to health;

(c) who undertakes the manufacture of any substance for use in any factory shall carry out or arrange for carrying out of any necessary research with a view to discover and, so far as practicable, to ensure the elimination or minimisation of any risks to health or safety to which the substance may give rise out of such manufacture or research;

(7) For the purposes of this section, an article and substance is not to be regarded as properly used, if they are used without regard to any information or advice relating to their use which has been made available by the person who has designed, manufactured, imported or supplied the article and substance.

Explanation.—For the purpose of this section—

(a) "article" shall include plant and machinery;

(b) "substance" means any natural or artificial substance whether in a solid or liquid form or in the form of a gas or vapour; and

(c) "substance for use in any factory" means such substance, whether or not intended for use by persons working in a factory.

Sec-9. (1) It shall be the duty of the architect, project engineer or designer responsible for any building or other construction work or the design of any project or part thereof relating to such building or other construction work to ensure that, at the planning stage, due consideration is given to the safety and health aspects of the building workers and employees who are employed in the erection, operation and execution of such projects and structures as the case may be.

(2) Adequate care shall be taken by the architect, project engineer and other professionals involved in the project referred to in sub-section (1), not to include anything in the design which would involve the use of dangerous structures or other processes or materials, hazardous to health or safety of building workers and employees during the course of erection, operation and execution as the case may be.

(3) It shall also be the duty of the professionals, involved in designing the buildings

structures or other construction projects, to take into account the safety aspects associated with the maintenance and upkeep of the structures and buildings where maintenance and upkeep may involve such hazards as may be notified by the appropriate Government.

Sec-10. (1) Where at any place in an establishment, an accident occurs which causes death, or which causes any bodily injury by reason of which the person injured is prevented from working for a period of forty-eight hours or more immediately following the accident or which is of such nature as may be prescribed by the appropriate Government, then,—

(a) employer or owner or agent or manager referred to in section 67 of such establishment if it is mine; or

(b) employer or manager in relation to such establishment if it is factory or relates to dock work; or

(c) the employer of a plantation or an establishment relating to building or other construction or any other establishment,

shall send notice thereof to such authorities, in such manner and within such time, as may be prescribed by the appropriate Government.

(2) Where a notice given under sub-section (1) relates to an accident causing death in a plantation or an establishment relating to building or other construction work or any other establishment, the authority to whom the notice is sent shall make an inquiry into the occurrence within two months of the receipt of the notice or if there is no such authority, the Chief Inspector-cum-Facilitator shall cause the Inspector-cum-Facilitator to make an inquiry within the said period.

Sec-11. Where in an establishment there is any dangerous occurrence of such nature, (whether causing any bodily injury or disability, or not) the employer shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed by the appropriate Government.

Sec-12. (1) Where any worker in an establishment contracts any disease specified in the Third Schedule, the employer of the establishment shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed by the appropriate Government.

(2) If any qualified medical practitioner attends on a person, who is or has been employed in an establishment, and who is, or is believed by the qualified medical practitioner, to be suffering from any disease specified in the Third Schedule, the medical practitioner shall without delay send a report in writing to the office of the Chief Inspector-cum-Facilitator in such form and manner and within such time as may be prescribed by the appropriate Government.

(3) If any qualified medical practitioner fails to comply with the provisions of sub-section (2), he shall be punishable with penalty which may extend to ten thousand rupees.

Sec-13. Every employee at workplace shall,—

- (a) take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions at the workplace;
- (b) comply with the safety and health requirements specified in the standards;
- (c) cooperate with the employer in meeting the statutory obligations of the employer under this Code;
- (d) if any situation which is unsafe or unhealthy comes to his attention, as soon as practicable, report such situation to his employer or to the health and safety representative and in case of mine, agent or manager referred to in section 67, safety officers or an official for his workplace or section thereof, as the case may be, who shall report it to the employer in the manner as may be prescribed by the appropriate Government;
- (e) not wilfully interfere with or misuse or neglect any appliance, convenience or other thing provided at workplace for the purpose of securing the health, safety and welfare of workers;
- (f) not do, wilfully and without reasonable cause, anything, likely to endanger himself or others; and
- (g) perform such other duties as may be prescribed by the appropriate Government.

Sec-14. (1) Every employee in an establishment shall have the right to obtain from the employer information relating to employee's health and safety at work and represent to the employer directly or through a member of the Safety Committee as constituted under section 22, if constituted by the employer for such purpose, regarding inadequate provision for protection of his safety or health in connection with the work activity in the workplace, and if not satisfied, to the Inspector-cum-Facilitator.

(2) Where the employee referred to in sub-section (1) in any workplace has reasonable apprehension that there is a likelihood of imminent serious personal injury or death or imminent danger to health, he may bring the same to the notice of his employer directly or through a member of the Safety Committee referred to in sub-section (1) and simultaneously bring the same to the notice of the Inspector-cum-Facilitator.

(3) The employer or any employee referred to in sub-section (1) shall take immediate remedial action if he is satisfied about the existence of such imminent danger and send a report forthwith of the action taken to the Inspector-cum-Facilitator in such manner as may be prescribed by the appropriate Government.

(4) If the employer referred to in sub-section (3) is not satisfied about the existence of any imminent danger as apprehended by his employees, he shall, nevertheless, refer the matter forthwith to the Inspector-cum-Facilitator whose decision on the question of the existence of such imminent danger shall be final.

Sec-15. No person shall intentionally or recklessly interfere with, damage or misuse anything which is provided in the interest of health, safety or welfare under this Code.

Section 16 and 17 are responsible for the setting up of National Occupational Safety and Health Advisory Board and State Occupational Safety and Health Advisory Board respectively thus providing powers to central as well as the state govt, this ensures that the issues related to the act can be solved on both levels of govt.

Sec-16. (1) The Central Government shall, by notification, constitute the National Occupational Safety and Health Advisory Board (hereinafter in this Code referred to as the National Board) to discharge the functions conferred on it by or under this Code and to advise the Central Government on the matters relating to—

- (a) standards, rules and regulations to be declared or framed under this Code;
- (b) implementation of the provisions of this Code and the standards, rules and regulations relating thereto;
- (c) the issues of policy and programme relating to occupational safety and health referred to it, from time to time, by the Central Government; and
- (d) any other matter in respect of this Code referred to it, from time to time, by the Central Government.

(2) The National Board shall consist of—

- (a) Secretary, Ministry of Labour and Employment—Chairperson ex officio;
- (b) Director General, Factory Advice Service and Labour Institutes, Mumbai—Member ex officio;
- (c) Director General, Mines Safety, Dhanbad—Member ex officio;
- (d) Chief Controller of Explosives, Nagpur—Member ex officio;
- (e) Chairman, Central Pollution Control Board, New Delhi—Member ex officio;
- (f) Chief Labour Commissioner (Central), New Delhi—Member ex officio;
- (g) Principal Secretaries dealing with labour matters of four States (by rotation as the Central Government may deem fit)—Member ex officio;
- (h) Director General, Employee's State Insurance Corporation, New Delhi—Member ex officio;
- (i) Director General, Health Services, New Delhi—Member ex officio;
- (j) five representatives of employers—Member ex officio;
- (k) five representatives of employees—Member ex-officio;
- (l) a representative of professional body associated with the matter for which standards, rules, policies being framed—Member;
- (m) five eminent persons connected with the field of Occupational Safety and Health, or representatives from reputed research institutions or similar other discipline—Member;
- (n) special invitees from the State Government or the Government of Union territory for seeking inputs in specific matters or industry or sector which is predominant in that State or Union territory—Member;
- (o) Joint Secretary, Ministry of Labour and Employment—Member Secretary ex officio.

(3) The terms of office of the Members referred to in clauses (g), (j), (k), (l) and (m) of

sub-section (2) shall be of three years and the procedure for their nomination, and discharge of their functions shall be such as may be prescribed by the Central Government.

(4) The Central Government may, in consultation with the National Board, determine the number, nature and categories of other officers and employees required to assist the National Board in the efficient discharge of its functions and terms and conditions of service of such officers and employees of the National Board shall be such as may be prescribed by the Central Government.

(5) The Central Government may constitute as many technical committees or advisory committees consisting of such number of members having such qualifications as may be prescribed by the Central Government, to assist the National Board in discharge of its function specified in sub-section (1).

(6) The National Board shall consult the State Governments whose Principal Secretaries are the Members of the National Board as required under clause (g) of sub-section (2) of section 16 and in case of specific issues relating to plantation, factories and like other issues, the State Government concerned may be invited by the National Board as special invitee for obtaining their inputs on such issues.

Sec-17. (1) The State Government shall constitute a Board to be called the State Occupational Safety and Health Advisory Board (hereinafter referred to as "State Advisory Board") to advise the State Government on such matters arising out of the administration of this Code as may be referred to it by the State Government.

(2) The constitution, procedure and other matters relating to State Advisory Board shall be such as may be prescribed by the State Government.

(3) The State Government may constitute as many technical committees or advisory committees of the State Advisory Board including site appraisal committees, consisting of such number of members and having such qualifications as may be prescribed, to assist the State Government or State Advisory Board in discharge of their functions relating to the area falling within their respective jurisdictions. The Chapter 7 of the act has laid down the hours or work, annual leave and wages.

Chapter 10 of the act concerns only with the welfare of women and similarly Chapter 11 is laid down specially for the migrant workers and their welfare.

The Chapter 12 of the act has elaborated on the offences and their penalties and thus shows the efficiency and effectiveness of the act.

Code of Social Security, 2020⁹

⁹ https://labour.gov.in/sites/default/files/SS_Code_Gazette.pdf

Applicability and Beneficiaries – The section on Provident Fund (PF) is applicable to all establishments with 20 or more employees as opposed to certain scheduled establishments. Employee State Insurance (ESI), Gratuity and Maternity Benefit are applicable to all establishments with 10 or more employees & establishments carrying on hazardous activities. Building or other construction work now additionally excludes works employing less than 10 workers or residential construction work of up to INR 50 lakhs. Social security is also intended to be extended to the unorganized sector, gig and platform workers. Also allows for voluntary adoption of the provisions where establishments do not meet the thresholds mentioned for PF and ESI.

Wages Definition – Wages, which is being made uniform now, include all remuneration except for certain specific allowances such as conveyance, HRA, overtime, commission, bonus and the consistent social security contributions and gratuity with a caveat that the excluded components cannot exceed 50% of the total salary paid. Any exclusions in excess of 50% shall be treated as wages. This concise definition of wages now removes the ambiguity in the earlier definition, especially in PF, on what components are required for the purpose of calculating contributions. Employers will find this particularly welcome, in view of last year's Supreme Court judgement which increased the PF contribution drastically by including most regularly paid allowances for calculation purposes.

PF Contribution – The employer and employee contribution has been reduced from 12% to 10%, with options for different percentages to be notified by the Central Government as and when it deems fit.

Gratuity – While gratuity is still payable to all employees who have completed at least 5 years of continuous service with the company, the Social Security Code also allows for payment of gratuity on a pro-rata basis for fixed-term employees. Further, the threshold years for working journalists have been reduced to 3 years. Gratuity payments could increase if the basic salary amount in salary structures is not 50% of the gross salary.

Authorities under the Social Security Code – The authorities under the Social Security Code are: Board of Trustees of Employee Provident Fund, Employees' State Insurance Corporation, National Social Security Board for Unorganised Workers, State Unorganised Workers' Social Security Board and State Building Workers Welfare Boards.

Creche Facilities – Social Security Code clarifies that common creche facilities may be opted for by establishments having 50 or more employees.

Unorganized Sector, Gig and Platform Workers – The Social Security Code requires the National and State Social Security Boards to specifically create schemes/funds for providing benefits (life and disability cover, health and maternity benefits, old age protection, education and discretionary benefits) to workers in the unorganized sector (self-employed or home-based), gig workers (workers outside the traditional employer-employee relationship) and platform workers (who access organisations or individuals through an online platform and provide services or solve specific problems). They are required to register themselves with self-declaration and AADHAR.

Prohibition of Child Marriage Act, 2006¹⁰

This act has been very essential in order to initiate the eradication of the child marriage problem in India. This act fundamentally declares marriage between minors as voidable under section 3.

Section 3. Child marriages to be voidable at the option of contracting party being a child.—

(1) Every child marriage, whether solemnised before or after the commencement of this Act, shall be voidable at the option of the contracting party who was a child at the time of the marriage: Provided that a petition for annulling a child marriage by a decree of nullity may be filed in the district court only by a contracting party to the marriage who was a child at the time of the marriage.

(2) If at the time of filing a petition, the petitioner is a minor, the petition may be filed through his or her guardian or next friend along with the Child Marriage Prohibition Officer.

(3) The petition under this section may be filed at any time but before the child filing the petition completes two years of attaining majority.

Under section 12 in case the marriage has been performed under deceitful means, it is void.

Sec-12. Marriage of a minor child to be void in certain circumstances.—Where a child, being a minor—

(a) is taken or enticed out of the keeping of the lawful guardian; or

(b) by force compelled, or by any deceitful means induced to go from any place; or

(c) is sold for the purpose of marriage; and made to go through a form of marriage or if the minor is married after which the minor is sold or trafficked or used for immoral purposes, such marriage shall be null and void.

The act has laid down punishment under section 9 and 10 which provides punishments for male marrying a minor child and for solemnizing child marriage respectively.

Sec-9. Punishment for male adult marrying a child.—

Whoever, being a male adult above eighteen years of age, contracts a child marriage shall be punishable with rigorous imprisonment which may extend to two years or with fine which may extend to one lakh rupees or with both.

Sec-10. Punishment for solemnising a child marriage.—

Whoever performs, conducts, directs or abets any child marriage shall be punishable with rigorous imprisonment which may extend to two years and shall be liable to fine which may extend to one lakh rupees unless he proves that he had reasons to believe that the marriage was not a child marriage

The act has been instrumental in order to maintain the sex ratio and has also resulted in an increase of the literacy and employment rate among women.

Protection of Child from Sexual Offences Rule, 2020¹¹

¹⁰ <https://legislative.gov.in/sites/default/files/A2007-06.pdf>

¹¹ <http://www.bareactslive.com/ACA/act3646.htm#0>

This rule is an amended version of the Protection of Child from Sexual Offences act, 2012. This act has been changed few times since its advent, and has been amended as per the need of the society. Section 3 of the act has laid down the responsibility of the govt for Generating awareness and capacity building in terms of the act at various levels of education for the children.

Sec-3. Awareness generation and capacity building. - (1) The Central Government, or as the case may be, the State Government shall prepare age-appropriate educational material and curriculum for children, informing them about various aspects of personal safety, including -

(i) measures to protect their physical, and virtual identity; and to safeguard their emotional and mental well being;

(ii) prevention and protection from sexual offences;

(iii) reporting mechanisms, including Child helpline-1098 services;

(iv) inculcating gender sensitivity, gender equality and gender equity for effective prevention of offences under the Act.

(2) Suitable material and information may be disseminated by the respective Governments in all public places such as panchayat bhavans, community centers, schools and colleges, bus terminals, railway stations, places of congregation, airports, taxi stands, cinema halls and such other prominent places and also be disseminated in suitable form in virtual spaces such as internet and social media.

(3) The Central Government and every State Government shall take all suitable measures to spread awareness about possible risks and vulnerabilities, signs of abuse, information about rights of children under the Act along with access to support and services available for children.

(4) Any institution housing children or coming in regular contact with children including schools, crèches, sports academies or any other facility for children must ensure a police verification and background check on periodic basis, of every staff, teaching or non-teaching, regular or contractual, or any other person being an employee of such Institution coming in contact with the child. Such Institution shall also ensure that periodic training is organised for sensitising them on child safety and protection.

(5) The respective Governments shall formulate a child protection policy based on the principle of zero-tolerance to violence against children, which shall be adopted by all institutions, organizations, or any other agency working with, or coming in contact with children.

(6) The Central Government and every State Government shall provide periodic training including orientation programmes, sensitization workshops and refresher courses to all persons, whether regular or contractual, coming in contact with the children, to sensitize them about child safety and protection and educate them regarding their responsibility under the Act. Orientation programmes and intensive courses may also be organized for police personnel and forensic experts for building their capacities in their respective roles on a regular basis.

Section 4 has laid down the procedure for protection of children under the scope of this act.

Sec-4. Procedure regarding care and protection of the child. -

(1) Where any Special Juvenile Police Unit (hereafter referred to as "SJPU") or the local police receives any information under sub-section (1) of section 19 of the Act from any person including the child, the SJPU or local police receiving the report of such information shall forthwith disclose to the person making the report, the following details:-

(i) his or her name and designation;

(ii) the address and telephone number;

(iii) the name, designation and contact details of the officer who supervises the officer receiving the information.

(2) If any such information regarding the commission of an offence under the provisions of the Act is received by the child helpline-1098, the child helpline shall immediately report such information to SJPU or Local Police.

(3) Where an SJPU or the local police, as the case may be, receives information in accordance with the provisions contained under sub-section (1) of section 19 of the Act in respect of an offence that has been committed or attempted or is likely to be committed, the authority concerned shall, where applicable, -

(a) proceed to record and register a First Information Report as per the provisions of section 154 of the Code of Criminal Procedure, 1973 (2 of 1974), and furnish a copy thereof free of cost to the person making such report, as per sub-section (2) of section 154 of that Code;

(b) where the child needs emergency medical care as described under sub-section (5) of section 19 of the Act or under these rules, arrange for the child to access such care, in accordance with rule 6;

(c) take the child to the hospital for the medical examination in accordance with section 27 of the Act;

(d) ensure that the samples collected for the purposes of the forensic tests are sent to the forensic laboratory immediately;

(e) inform the child and child's parent or guardian or other person in whom the child has trust and confidence of the availability of support services including counselling, and assist them in contacting the persons who are responsible for providing these services and relief;

(f) inform the child and child's parent or guardian or other person in whom the child has trust and confidence as to the right of the child to legal advice and counsel and the right to be represented by a lawyer, in accordance with section 40 of the Act.

(4) Where the SJPU or the local police receives information under sub-section (1) of section 19 of the Act, and has a reasonable apprehension that the offence has been committed or attempted or is likely to be committed by a person living in the same or shared household with the child, or the child is living in a child care institution and is without parental support, or the child is found to be without any home and parental support, the concerned SJPU, or the local police shall produce the child before the concerned Child Welfare Committee (hereafter referred to as "CWC") within 24 hours of receipt of such report, together with reasons in writing as to whether the child is in need of care and protection under sub-section

(5) of section 19 of the Act, and with a request for a detailed assessment by the CWC.

Section 6 and 7 have laid down the right to medical and legal aid for the victims respectively.

Sec-6. Medical aid and care. -

(1) Where an officer of the SJPU, or the local police receives information under section 19 of the Act that an offence under the Act has been committed, and is satisfied that the child against whom an offence has been committed is in need of urgent medical care and protection, such officer, or as the case may be, the local police shall, within 24 hours of receiving such information, arrange to take such child to the nearest hospital or medical care facility center for emergency medical care: Provided that where an offence has been committed under sections 3, 5, 7 or 9 of the Act, the victim shall be referred to emergency medical care.

(2) Emergency medical care shall be rendered in such a manner as to protect the privacy of the child, and in the presence of the parent or guardian or any other person in whom the child has trust and confidence.

(3) No medical practitioner, hospital or other medical facility center rendering emergency medical care to a child shall demand any legal or magisterial requisition or other documentation as a pre-requisite to rendering such care.

(4) The registered medical practitioner rendering medical care shall attend to the needs of the child, including:

(a) treatment for cuts, bruises, and other injuries including genital injuries, if any;

(b) treatment for exposure to sexually transmitted diseases (STDs) including prophylaxis for identified STDs;

(c) treatment for exposure to Human Immunodeficiency Virus (HIV), including prophylaxis for HIV after necessary consultation with infectious disease experts;

(d) possible pregnancy and emergency contraceptives should be discussed with the pubertal child and her parent or any other person in whom the child has trust and confidence; and,

(e) wherever necessary, a referral or consultation for mental or psychological health needs, or other counselling, or drug de-addiction services and programmes should be made.

(5) The registered medical practitioner shall submit the report on the condition of the child within 24 hrs to the SJPU or Local Police.

(6) Any forensic evidence collected in the course of rendering emergency medical care must be collected in accordance with section 27 of the Act.

(7) If the child is found to be pregnant, then the registered medical practitioner shall counsel the child, and her parents or guardians, or support person, regarding the various lawful options available to the child as per the Medical Termination of Pregnancy Act 1971 and the Juvenile Justice (Care and Protection of Children) Act 2015 (2 of 2016).

(8) If the child is found to have been administered any drugs or other intoxicating substances, access to drug de-addiction programme shall be ensured.

(9) If the Child is a divyang (person with disability), suitable measure and care shall be taken as per the provisions of The Rights of Persons with Disabilities Act, 2016 (49 of 2016).

Sec-7. Legal aid and assistance. -

(1) The CWC shall make a recommendation to District Legal Services Authority (hereafter referred to as "DLSA") for legal aid and assistance.

(2) The legal aid and assistance shall be provided to the child in accordance with the provisions of the Legal Services Authorities Act, 1987 (39 of 1987)

Section 11 has been added recently and it makes it mandatory for reporting any pornographic film featuring a child.

Sec-11. Reporting of pornographic material involving a child. -

(1) Any person who has received any pornographic material involving a child or any information regarding such pornographic material being stored, possessed, distributed, circulated, transmitted, facilitated, propagated or displayed, or is likely to be distributed, facilitated or transmitted in any manner shall report the contents to the SJPU or local police, or as the case may be, cyber-crime portal (cybercrime.gov.in) and upon such receipt of the report, the SJPU or local police or the cyber-crime portal take necessary action as per the directions of the Government issued from time to time.

(2) In case the "person" as mentioned in sub-rule (1) is an "intermediary" as defined in clause (w) of sub-section (1) of section 2 of the Information Technology Act, 2000, such person shall in addition to reporting, as provided under sub-rule (1), also hand over the necessary material including the source from which such material may have originated to the SJPU or local police, or as the case may be, cyber-crime portal (cybercrime.gov.in) and upon such receipt of the said material, the SJPU or local police or the cyber-crime portal take necessary action as per the directions of the Government issued from time to time.

(3) The report shall include the details of the device in which such pornographic content was noticed and the suspected device from which such content was received including the platform on which the content was displayed.

(4) The Central Government and every State Government shall make all endeavours to create widespread awareness about the procedures of making such reports from time to time.

Section 12 of the act empowers the government to monitor the situations under the act and also to implement the required protocols which are in accordance with the act.

Sec-12. Monitoring of implementation of the Act. -

(1) The National Commission for the Protection of Child Rights (hereafter referred to as "NCPCR") or the State Commission for the Protection of Child Rights (hereafter referred to as "SCPCR"), as the case may be, shall in addition to the functions assigned to them under the Commissions for Protection of Child Rights Act, 2005 (4 of 2006), perform the following functions for implementation of the provisions of the Act -

(a) monitor the designation of Special Courts by State Governments;

(b) monitor the appointment of the Special Public Prosecutors by the State Governments;

- (c) monitor the formulation of the guidelines described in section 39 of the Act by the State Governments, for the use of non-governmental organisations, professionals and experts or persons having knowledge of psychology, social work, physical health, mental health and child development to be associated with the pretrial and trial stage to assist the child, and to monitor the application of these guidelines;
- (d) monitor the designing and implementation of modules for training police personnel and other concerned persons, including officers of the Centre and State Governments, for the effective discharge of their functions under the Act;
- (e) monitor and support the Central Government and State Governments for the dissemination of information relating to the provisions of the Act through media including the television, radio and print media at regular intervals, so as to make the general public, children as well as their parents and guardians aware of the provisions of the Act.
- (f) call for a report on any specific case of child sexual abuse falling within the jurisdiction of a CWC.
- (g) collect information and data on its own or from the relevant agencies regarding reported cases of sexual abuse and their disposal under the processes provided under the Act, including information on the following:-
 - (i) number and details of offences reported under the Act;
 - (ii) whether the procedures prescribed under the Act and rules were followed, including those regarding time frames;
 - (iii) details of arrangements for care and protection of victims of offences under this Act, including arrangements for emergency medical care and medical examination; and,
 - (iv) details regarding assessment of the need for care and protection of a child by the concerned CWC in any specific case;
- (h) use the information so collected to assess the implementation of the provisions of the Act. The report on monitoring of the Act shall be included in a separate chapter in the annual report of the NCPCR or the SCPCR.

(2) The concerned authorities mandated to collect data, under the Act, shall share such data with the Central Government and every State Government, NCPCR and SCPCRs.

The act has been amended in 2019 as the **Protection of Child from Sexual Offences amendment act 2019**

and hence sections 4,5 and 9 were amended

In the principal Act, section 4 shall be renumbered as section 4(1) thereof and— (a) in sub-section (1) as so renumbered, for the words "seven years", the words "ten years" shall be substituted; (b) after sub-section (1), the following sub-sections shall be inserted, namely:—

"(2) Whoever commits penetrative sexual assault on a child below sixteen years of age shall be punished with imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of natural life of that person, and shall also be liable to fine.

(3) The fine imposed under sub-section (1) shall be just and reasonable and paid to the victim to meet the medical expenses and rehabilitation of such victim."

In section 5 of the principal Act,— (I) in clause (j),— (A) in sub-clause (i), the word "or" occurring at the end shall be omitted; (B) in sub-clause (iii), the word "or" occurring at the end shall be omitted; (C) after sub-clause (iii), the following sub-clause shall be inserted, namely:— "(iv) causes death of

the child; or"; (II) in clause (s), for the words "communal or sectarian violence", the words "communal or sectarian violence or during any natural calamity or in similar situations" shall be substituted.

Charu Khurana vs Union of India, 2014 SCC ONLINE SC 900¹²

This judgement by then Chief Justice of India was a landmark in respect to ensuring equality between males and females.

In this case the appellant was a make-up and hair artist but she was registered only as a make-up artist and hence this petition was filed on the ground of inequality on the basis of gender in the ambient of employment.

The CJI laid down that the act against the appellant was ultra vires to the Constitution of India in reference to article 14, 19(1)(g) and 21 and hence was unconstitutional.

This judgement has restored the essence of equality on the basis of gender in the Indian Society.

Anti-Trafficking Bill, 2018¹³

The Bill provides for the investigation of trafficking cases, and rescue and rehabilitation of trafficked victims.

It includes trafficking for the purposes of sexual exploitation, slavery, or forced removal of organs. In addition, the law also considers trafficking for certain purposes, such as for begging or for inducing early sexual maturity, to be an aggravated form of trafficking. These forms of trafficking attract a higher punishment.

In order to punish trafficking, the Bill provides for the setting up of investigation and rehabilitation authorities at the district, state and national level.

The primary investigation responsibility lies with anti-trafficking police officers and anti-trafficking units constituted at the district level.

The authority at the national level can take over investigation of cases referred to it by two or more states.

The Bill also provides for the setting up of Protection Homes and Rehabilitation Homes to provide care and rehabilitation to the victims.

The Bill supplements the rehabilitation efforts through a Rehabilitation Fund, which will be used to set up the Protection and Rehabilitation Homes.

Special Courts will be designated in every district to complete trials of trafficking cases within a year. Additionally, the Bill specifies penalties for various offences including for promotion of trafficking and trafficking with the aid of the media.

All offences are cognizable (i.e. police officer can arrest without a warrant) and non-bailable. If a person is found guilty under the Bill and also under any other law, the punishment which is higher will apply to the offender.

The bill was introduced with the motive of eradicating the trafficking issue from the country but the bill was not cleared by both the houses of the parliament and hence the bill never turned into an act.

¹² <https://www.casemine.com/judgement/in/56b48d63607dba348fff2a8b>

¹³ <https://www.lawyerscollective.org/wp-content/uploads/2018/03/Trafficking-Bill-89-of-2018.pdf>

Bonded Labour System (Abolition) Act, 1976

This bill was enacted with the purpose of abolition of the bonded labour system from the country, and has been a key legislation in order to safeguard the rights of the labourers and to prevent any exploitation.

The section 2 of the act provides the basic definitions in the act such as sec 2(d) defines the Bonded debt¹⁴.

“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;

Sec 2(g) defines the bonded labour system

“bonded labour system” means the system of forced, or partly forced, labour under which a debtor enters, or has, or is pre-sumed to have, entered, into an agreement with the creditor to the effect than,—

- (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 any document) and in consideration of the inter-est, if any, due on such advance, or
- (ii) in pursuance of any customary or social obligation, or
- (iii) in pursuance of an obligation devolving on him by succes-sion, 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 specified 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 a 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 workmen 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

¹⁴ <https://indiankanoon.org/doc/947165/>

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.

Further in order to maintain the enforceability of the act the punishment for enforcing anybody into bonded labour has been given under section 16¹⁵

Sec -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.

Initiatives to eradicate bonded labour from the country¹⁶

The Bonded Labour System has been abolished by law throughout the country with effect from 25th October, 1975 under the Bonded Labour System (Abolition) Ordinance which was replaced by the Bonded Labour System (Abolition) Act, 1976.

As and when the existence of bonded labour is detected, such persons are identified for rehabilitation.

The total number of bonded labours identified and released is 3,13,687 and total number of bonded Labour rehabilitated is 2,93,725 as on 31.03.2019.

19,962 Bonded Labourers are not available for rehabilitation either they have died or left the place without leaving their addresses.

Statistics on child labour and steps taken by govt to eradicate child labour¹⁷

As per Census 2011, there were 43.53 lakh main workers in India in the age group of 5-14 years.

The Government has amended the Child Labour (Prohibition & Regulation) Act, 1986 and enacted the Child Labour (Prohibition & Regulation) Amendment Act, 2016 which came into force with effect from 1.9.2016.

The Amendment Act inter-alia provides for complete prohibition of work or employment of children below 14 years of age in any occupation and process and prohibition of adolescents in the age group of 14 to 18 years in hazardous occupations and processes.

The Amendment Act also provides stricter punishment for employers for violation of the Act and has made the offence cognizable.

After strengthening the legislative framework through amendment in Child Labour Act, the Government has framed the Child Labour (Prohibition & Regulation) Amendment Rules, 2017 which inter-alia specifies the duties and responsibilities of State Governments and District Authorities to ensure effective enforcement of the provisions of the Act.

The Government has also devised a Standard Operating Procedure as a ready reckoner for trainers, practitioners and enforcing and monitoring agencies.

¹⁵ <https://indiankanoon.org/doc/236421/>

¹⁶ <http://164.100.24.220/loksabhaquestions/annex/171/AU345.pdf>

¹⁷ <http://164.100.24.220/loksabhaquestions/annex/173/AU139.pdf>

Crime in India – 2019, Statistics Volume-1¹⁸

Crime is a manifestation of myriad complex factors.

The causes of criminal behaviour lie in the social processes and structures.

People commit crimes due to the process of socialization that does not develop a strong sense of right or wrong and due to the emerging opportunities, the enlarging desires that act as strong motivation for taking to crime to fulfil these desires.

The genesis of crime can be traced to interplay of various social, economic, demographic, local and institutional factors.

The presumption that crime occurs because of the failures of police therefore displays a complete lack of understanding of the theories of criminal behaviour.

Further, these social factors along with other latent and concomitant factors vary significantly across different regions, states and societies.

The differences in procedures over large geographical regions and styles of functioning inherent between organizations also create wide variances.

Hence, doing comparison among States/districts/regions/social groups etc. on the basis of these published data alone will be too simplistic and is best avoided.

Further, no weightage has been assigned to the gravity or nature of the crime.

All crimes have thus been treated equal in counting the total crime for a State or City.

More crime registered in a city is, therefore, not an indicator of its being comparatively unsafe than the city where total crime may be less.

Lastly, as crime increases with population, Crime per lakh population (Crime Rate) may be a better indicator to assess increase or decrease in crime.

The primary presumption that the upward swing in police data indicates an increase in crime and thus a reflection of the ineffectiveness of the police is fallacious.

'Rise in crime' and 'increase in registration of crime by police' are clearly two different things, a fact which is often confused.

Thus an oft-repeated expectation from certain quarters that an effective police administration will be able to keep the crime figures low is misplaced.

Increase in crime numbers in a State police data may in fact be on account of certain citizen centric police initiatives, like launching of e-FIR facility or women Helpdesks, etc.

The increase or decrease in crime numbers, however, does call for a professional investigation of underlying factors jointly with local communities to suitably address the issues involved.

Citizenship Amendment Act, 2019¹⁹

The 2019 Bill seeks to make illegal migrants who are Hindus, Sikhs, Buddhists, Jains, Parsi's and Christians from Afghanistan, Bangladesh and Pakistan, eligible for citizenship. It exempts certain areas in the North-East from this provision. The Bill also makes amendments to provisions related to OCI (Ordinary Citizen of India) cardholders. A foreigner may register as an OCI under the 1955 Act if they are of Indian origin (e.g., former citizen of India or their descendants) or the spouse of a person of Indian origin. This will entitle them to benefits such as the right to travel to India, and to work and study in the country. The Bill amends the Act to allow cancellation of OCI registration if the person has violated any law notified by the central government.

¹⁸ <https://ncrb.gov.in/sites/default/files/CII%202019%20Volume%201.pdf>

¹⁹ <http://egazette.nic.in/WriteReadData/2019/214646.pdf>

Immoral Trafficking Prevention Act, 1956²⁰

This act was introduced with the prime purpose of eradicating the issue of prostitution from the country. Since a legislation which declared prostitution illegal was not present before this, cases of human trafficking specially of women and female children was on an exponential rise and thus becoming a cause of worry for the law makers and also in order to protect the basic right of women and girl child.

²⁰ <https://indiankanoon.org/doc/69064674/>