

LOK SABHA

THE SUPPRESSION OF IMMORAL TRAFFIC IN WOMEN AND GIRLS BILL, 1954

(Report of the Select Committee)

PRESENTED ON THE 21st NOVEMBER, 1956



सत्यमेव जयते

LOK SABHA SECRETARIAT
NEW DELHI
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CONTENTS

	PAGES
1. Composition of the Select Committee	i—ii
2. Report of the Select Committee	iii—vi
3. Minutes of Dissent	vii—xiii
4. Bill as amended by the Select Committee	i—17
APPENDIX I—	
Motion in the Lok Sabha for reference of the Bill to Select Committee	18
APPENDIX II—	
Minutes of the Sitzings of the Select Committee	19—33
APPENDIX A	34

THE SUPPRESSION OF IMMORAL TRAFFIC IN WOMEN AND GIRLS BILL, 1954

Composition of the Select Committee

1. Pandit Thakur Das Bhargava—*Chairman*
2. Her Highness Rajmata Kamlendu Mati Shah
3. Shrimati Jayashri Raiji
4. Shrimati Uma Nehru
5. Shri B. Ramachandra Reddi
6. Shrimati Tarkeshwari Sinha
7. Shri Nikunja Behari Chowdhury
8. Shrimati Ammu Swaminadhan
9. Shri A. M. Thomas
10. Shri Jaipal Singh
11. Sardar Amar Singh Saigal
12. Shri Upendranath Barman
13. Shri Fulsinhji B. Dabhi
14. Shrimati Anusayabai Bhaorao Borkar
15. Shrimati Minimata
16. Shri Diwan Chand Sharma
17. Pandit Chatur Narain Malviya
18. Shri Mukund Lal Agrawal
19. Shri Mohan Lal Saksena
20. Shri Hari Vinayak Pataskar
21. Shrimati Shivrajvati Nehru
22. Shrimati Sushama Sen
23. Shri Radha Raman
24. Shri Raghubir Sahai
25. Shri Bhakt Darshan
26. Shri B. N. Datar
27. Dr. Mono Mohan Das
28. Shri Amjad Ali
29. Shrimati Renu Chakravartty.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri N. N. Mallya, *Deputy Secretary.*

Shri P. K. Patnaik, *Under Secretary.*

REPORT OF THE SELECT COMMITTEE

1. The Chairman of the Select Committee to which the *Bill to provide in pursuance of the International Convention signed at New York on the 9th day of May, 1950 for the suppression of immoral traffic in women and girls was referred, having been authorised to submit the report on their behalf, present their Report with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 20th December, 1954.

3. The motion for reference of the Bill to a Select Committee (*vide* Appendix I) was moved in the House by Dr. Mono Mohan Das on the 25th August, 1956, and was discussed and adopted on the same day.

4. The Committee held four sittings in all.

5. The first sitting of the Committee was held on the 7th September, 1956 to draw up a programme of work.

6. The Committee considered the Bill clause by clause at their sittings held on the 7th and 8th November, 1956.

7. The Report of the Committee was to be presented by the 16th November, 1956. The Committee were granted extension of time on the 16th November, 1956 upto the 21st November, 1956.

8. The Committee considered and adopted the Report on the 16th November, 1956.

9. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

10. *Clause 2.*—The Committee have felt it desirable to increase the age, in the definition of a 'girl', from eighteen years to twenty-one years in order to afford protection to a greater number of young women. Necessary amendments have been made in items (b) and (j) of this clause accordingly.

The other amendment in item (g) is of a drafting nature.

11. *Clause 3.*—The amendment made in this clause is of a drafting nature.

* Published in Part II—Section 2 of the Gazette of India, Extraordinary, dated the 20th December, 1954.

12. *Clause 4.*—The Committee are of the view that the exemption provided for in the proviso to this clause need not apply to aged or infirm mothers.

The Committee also consider it appropriate to reduce the age, in the case of son and daughter, to eighteen.

The clause has been amended accordingly.

13. *Clause 5.*—The words “business of” before the word “prostitution” in parts (c) and (d) of sub-clause (1) have been omitted as unnecessary.

The punishment of whipping in the case of a male person included in sub-clause (1) of this clause and in clauses 6 and 9 have been omitted in view of the abolition of whipping as a punishment.

In the marginal heading to the clause, the word “importing” has been replaced by the word “taking” as being more in consonance with the body of the clause.

14. *Clause 7.*—The Committee consider that the woman or girl who carries on prostitution as well as the person with whom such prostitution is carried on should be punished. Sub-clause (1) has been amended accordingly.

The amendments made in sub-clause (2) are of a purely drafting nature.

15. *Clause 10.*—The minor amendments made in parts (a) and (b) of sub-clause (1) are of a drafting nature.

The Committee have amended sub-clause (2) of this clause to make it clear that the sentence of detention in a protective home shall be passed in cases not covered by parts (a) and (b) of sub-clause (1) of this clause.

16. *Clause 11.*—In part (b) of sub-clause (1), the words “with like imprisonment for a like term” have been substituted by the words “with imprisonment for a like term” as more appropriate.

17. *Clause 13.*—The Committee feel that the Special Police Officer appointed under this clause should be assisted in the discharge of his duties by other officers, including women police officers wherever practicable, and that, similarly, the advisory body to be associated with that Officer should also include women social workers wherever practicable.

The clause has been amended to make the necessary provision.

18. *Clause 14.*—The Committee are of the view that the Police Officer empowered to arrest should be not below the rank of an Inspector.

The clause has been amended accordingly.

19. *Clause 15.*—The Committee felt that sub-clause (1) should be recast on the lines of Section 165 of the Criminal Procedure Code requiring the Special Police Officer to record the grounds of his belief that an offence is being committed in any premises and that the search of the premises with warrant cannot be made without undue delay. The sub-clause has been suitably amended accordingly.

The amendment made in sub-clause (4) is consequential and the amendments in sub-clause (6) are of a drafting nature.

20. *Clause 16.*—The Committee consider it desirable to confine the scope of this section to prostitution by a girl under the age of twenty-one in a brothel. The words “or any other place” occurring in two places after the word “brothel” in this clause have therefore been omitted.

21. *Clause 17.*—In respect of sub-clause (2), the Committee felt that the scope of enquiry should be broadened and an opportunity should be given to the girl for being heard, before any order is passed.

In sub-clause (3), the word “jurors” has been replaced by the words “respectable persons”.

In sub-clause (4), the Committee have provided for appeal in all cases, whether the order by the Magistrate was in agreement with the views of the majority of respectable persons or not.

22. *Clause 18.*—The Committee have made provision for punishment for violation of direction given under part (b) of sub-clause (1), which was originally not included in the Bill.

23. *Clause 19 (New clause).*—The Committee consider that the protective home that may be established under this Act should be open also to women and girls who may desire to be kept therein and whom a Magistrate considers to be fit for being so kept. This clause makes the necessary provision.

24. *Clause 20 (New clause).*—The Committee have made provision in this clause for the Magistrate having jurisdiction to remove a prostitute from the place in which she is carrying on prostitution after giving her opportunity to show cause why she should not be so removed and to adduce any evidence she may like to give.

25. *Clause 21 (Original clause 19).*—The Committee feel that the State Government may include as one of the conditions of licence for a protective home that the internal management of the home shall, wherever practicable, be entrusted to women. The Committee have made the necessary provision in sub-clause (3).

The Committee feel that no fee should be levied in respect of an application for licence, or for the renewal of a licence, for the running of a protective home. Sub-clause (6) has therefore been omitted.

Enhanced fine has been provided for in sub-clause (10) [Original sub-clause (11)].

26. *Clause 23 (Original clause 21).*—Part (v) of sub-clause (2) regarding fees to be levied in respect of a licence has been omitted.

The Committee have enhanced the fine prescribed under sub-clause (3) to two hundred and fifty rupees.

The Committee feel that all rules made under this clause should be laid before the State Legislature. Sub-clause (4) has been inserted to make the necessary provision.

27. *Clause 25 (Original clause 23).*—The Committee have revised this clause from the drafting point of view.

28. Certain other drafting changes have been made here and there in the Bill.

29. The Select Committee recommend that the Bill as amended be passed.

NEW DELHI;
The 20th November, 1956

THAKUR DAS BHARGAVA,
Chairman,
Select Committee.

Minutes of Dissent

I

The Suppression of Immoral Traffic in Women and Girls Bill is a measure of utmost importance. It is an urgent Bill to eradicate a social evil ingrained in human nature from times immemorial and a vice which is continually bringing disease, death, physical deterioration and the moral downfall of society. Such a measure to cleanse the moral slums of the society was called for early in 1950 when Articles 23 and 35 of the Constitution came into force. At any rate the obligation to enact such a law became imperative when India on the 9th May, 1950 signed the International Convention for Suppression of Traffic in persons and of the exploitation of the prostitution of others. Thus this measure was long overdue and has not come a day too soon. It is a matter of regret that the Bill under report had been pending after its introduction in 1954 till the last session without any progress. It should have claimed and been given top priority.

I, therefore, generally welcome the Bill and the provisions as reported by the Select Committee which has certainly improved the Bill. I, however, do not like the penal provisions as framed. I disagree in toto with clauses 11 and 12 and desire their deletion altogether. The provisions of clause 15, I regard as unnecessary and liable to abuse and to cause harrassment. At least they need material and substantial modification. Sub-clauses (1) and (3) of clause 5 in my opinion have not been drafted correctly and can be improved upon and made more comprehensive. I shall deal with these points separately.

Taking the last point first, I wish to submit that the first part (a) of sub-clause (3) of clause 5 permits the trial to be held where the woman or the girl is procured, induced to go, taken or caused to be taken. The latter portion however, of this part, namely, "or from which an attempt to procure or take such woman or girl is made", provides for the validity of trial at such place even when only an attempt to procure or take such woman or girl is made. In the first portion four acts are mentioned but in the latter portion only two acts are mentioned. I do not appreciate why there is omission of the attempt to induce such woman or girl to go or the attempt to cause such woman or girl to be taken. The same lacuna about attempt appears in parts (b) and (c) of sub-clause (1) of clause 5, surely, there is no sense in ignoring attempts to induce to go and to

cause to be taken. This lacuna should be removed from parts (b) and (c) of sub-clause (1) and from part (a) of sub-clause (3) of clause 5.

In part (b) of sub-clause (3) of clause 5 provision is made for bestowing jurisdiction on the place where the woman or girl ultimately reaches as a result of inducement, taking or causing to be taken. The last words, "or an attempt to take her is made" will show that the trial can be validly held at a place where it was intended that she should have reached simply by virtue of an attempt at a different place even if she does not reach the place of her intended destination. Trial at the place where an attempt is made is already provided in the latter portion of part (a) of sub-clause (3) of clause 5. These words are therefore wholly misplaced and redundant and appear to have found a place without a correct consideration of their import. They must go. Now suppose a woman or girl is taken or goes from place A to a place B. According to the provisions of sub-clause (3) of clause 5, the trial can be held at either of these two places. Now suppose in going from place A to place B, she passes through intermediate places X, Y and Z., situated in regions of different territorial jurisdiction. In such cases it may often be more convenient for the prosecution to hold the trial at any of the intermediate places rather than at place A or B. A clear provision to insure this object is needed.

The provisions of clauses 11 and 12 are unprecedented. I have examined the various existing State Enactments on the same subject with a view to discover the source of inspiration for the inclusion of these clauses in the Bill, but after ransacking all the relevant state legislations I must admit that the credit of originality and uniqueness as for the variety in penal provisions must go to the framers of the Bill. I yield to none in my keen desire to remove this evil root and branch at the earliest, and to suppress it with a heavy hand consistent with our aims, but as the vice sought to be removed is deep-seated in human beings and is due to physical failings and bodily cravings which may become excited by sudden impulses and inner emotions it would not be inadvisable to proceed in this field cautiously and in such matters to feel our ground after each step and not to take a further stride unless the first step has been securely advanced and firmly set. Too much severity defeats its own end. Any provision of law which tends to degrade, debase and humiliate a human being, far from reforming him, is bound to make him more callous and shameless. In such cases the delinquent needs a delicately adjusted treatment. The provisions of these two clauses are not only harsh and degrading, but also unsanctioned by precedents. The craze for drasticity and attempt to invent a new variety of punishments cannot be deprecated too strongly. At least two State

Governments have given their unfavourable reactions to the spirit of severity. The State of Assam giving its opinion on the Bill says:—

“Punishments prescribed are too stringent. Requirement of notifying address of the convictions and provisions for security for good behaviour after expiry of sentence be dropped. Provision for search appears to be too broad.”

More depends on the administration of an enactment rather than on its provisions. A less drastic measure properly, justly, vigilantly and what is more important humanely applied can bring more fruitful results than a merely drastic one not so administered. I shall like in this connection to commend the remarks of the authors of the Report of the Advisory Committee on Social and Moral Hygiene. They have not demanded severe punishments. They say on pages 39 & 40:

“The law must aim at closing the entrances to this profession and opening more exists out of it. Methods of fine and imprisonment are neither suitable nor effective. It is wrong to treat the prostitute as a criminal. The present methods must be replaced by scientific methods of supervision, provident care, protection and reduction. Greater emphasis should be laid on prevention rather than on detection.”

We have not conformed in the Bill to this salutary advice to the extent it deserved. The provision of these clauses are out of tune with the object, or what should be the object, of the Bill. They outrage human dignity and are wholly unnecessary and ineffective. The key not of modern penal legislation should be reformation and rehabilitation of the criminal. A merely retributive aspect is an outmoded, medieval and unscientific concept.

The above considerations apart, I am otherwise also strongly opposed to Clause 12. Sub-clause (1) thereof is a crude and clumsy-imitation of section 106 of the Code of Criminal Procedure, without its understandable reason and basis, while by sub-clause (2) a replica of the phraseology of section 110 of the Code of Criminal Procedure is sought to be reproduced and applied to the offences under the Bill. But while considering sub-clause (1) it should not be forgotten that the provisions of section 106 of the Code of Criminal Procedure are confined to some offences punishable under Chapter VIII of the Indian Penal Code, to assault or other offences involving a breach of the peace, or of abetting the same or of the offences of criminal intimidation. Thus, the category of the offences which attract the application of section 106 of the Code of Criminal Procedure is ‘offences against the public tranquility and breach of

peace'. Under section 106 aforesaid, the magistrate would take action on a consideration of the nature and seriousness of the offences he tries and not on or after the finding that the accused is a habitual offender. The power given under this section is with a view to maintain law and order for which the administration is responsible and no analogy can be drawn and no justification found for clothing the magistrate with such powers in the proposed enactment. Provisions of sub-clause (1) of clause 12 would open the flood gates of prejudice and perjury against the accused. I do not agree with the suggestion that the provision about the finding of the habitual character of the accused would be his protection. Even in cases where second or subsequent offences entail enhanced punishment previous convictions are neither included in the charge nor allowed to be proved unless the accused has been found guilty. Nor can, due to the provisions of section 53 and 54 of the Evidence Act, the evidence of previous convictions be admitted as evidence of bad character of the accused. On what material is then the court expected to come to a finding on the habitual character of the accused. Obviously the provisions about the finding of 'habitual offender' are misconceived, illegal, ineffective and impracticable and sure to bring about unnecessary complications. It has been suggested that the omnibus words, "finds that he has been habitually committing, or attempting to commit, or abetting the commission of, that offence or any other offence under this Act and the court, "be deleted to bring the provision in conformity with the language of Section 106 of the Code of Criminal Procedure. It would no doubt remove an apparent legal defect but not make this graft of section 106 of the Code of Criminal Procedure on this enactment any the less objectionable.

The provision of clause 12(2) have been drafted on the analogy of section 110 of the Code of Criminal Procedure. The proposed legislation deals with offences arising out of delicate sex relations and biological urges and it would be very wrong to club the offences under this Bill which are otherwise punishable with long sentences upto five years, with the kind of offences dealt with under Section 110 aforesaid. This provision is likely to be abused. Our police is not over scrupulous, nor is malice, private grudge and desire to gain illegally rare phenomena. The danger that even innocent persons would be scandalized and blackmailed is real and it would be difficult for them to emerge out of proceedings under this sub-clause with their character and reputation unsullied.

The provisions of clause 15 are too broad and are also liable to abuse and to be utilized to the detriment of innocent citizens. There are ample provisions in the Criminal Procedure Code for carrying out searches effectively. In any case no search should be allowed without the check of a warrant from a First Class Magistrate. It

is not convincing as has been trotted out as a justification for doing away with such warrant that if the police officer obtains a warrant the purpose of the search would be defeated. I hope it is not suggested that the magistrate would divulge the information communicated by the police. In these days of Telephone service and Motor Vehicles it would not take long to obtain a warrant from the Magistrate.

I may be permitted in this connection again to give a brief quotation from page 39 of the Report of the Advisory Committee on Social and Moral Hygiene. It says:

"We must also take account of the factor of the human personality of the officials and should insure that a proper public policy does not become a vehicle of corruption of exploitation. We have also to refer to the complaints of harrassment meted out to the prostitutes as a class by the men in the lower police ranks. They are often compelled to purchase peace with the police men by offers of illegal gratification in money and kind. Those who do not fall in with this line of least resistance are hounded from place to place."

The Principle of Section 75 of the Indian Penal Code has been pressed into service very liberally and with a vengeance. In the Indian Penal Code the principle of enhanced punishment has a very limited scope. It is applicable to cases of offences under Chapter XII which in sections 230 to 262 deals with offences relating to coins and government stamps and those under chapter XVII which in sections 378 to 462 deals with offences relating to property. The accused under this section 75 is liable to enhanced punishment if he has been convicted previously of an offence punishable with imprisonment of three years or upwards under the provisions mentioned above. But in this Bill in clauses 3, 5, 6, 7(2), 8, 9 and 21(10) this principle has been applied for almost every offence in the Bill indiscriminately. No uniform principle of enhanced punishment for a second or subsequent offence has been observed and the discretion of the court has been very much tied down by prescribing a minimum sentence in Clause 3(1), 5, 6, and 9 which in a way militates against the provisions of the later clause 10 of the Bill. The scheme of penalty is capricious, unscientific and arbitrary. Every permutation and combination seem to have been tried to produce a variety of punishments. In clauses 3(1), 5, 6, and 9 minimum punishments have been provided but not so in clauses 3(2), 4, 7 and 8. Nor has any rule of the quantum of enhanced punishment been kept in view. In sub-clause (10) of clause 21 punishment for the first offence is a fine only upto Rs. 1,000/- whereas the punishment for the second or subsequent offence jumps upto imprisonment for one year and fine upto Rs. 2,000/-. The same spirit of drasticity has

led the committee to provide in clause 23(3) a higher punishment than that provided in the Bill as introduced. In clause 9 for the first offence a minimum punishment has been provided but not so for the second or subsequent offence which would permit the court to award even less punishment for the second or subsequent offence than for the first one provided under this clause. The scheme of the penal provisions should be uniform and simple and the enhanced punishment for the second or subsequent offences should not be universal under all the penal clauses. Where by the nature of offence created by the enactment it appears expedient to provide for such enhanced punishment the same should be based on a uniform and intelligible rule or formula.

Subject to the foregoing observations in respect of the provisions and matters contained in the Bill, I am in agreement with the report of the Select Committee, I reserve my right to move suitable and appropriate amendments to give effect to my views.

MUKUND LAL AGRAWAL

NEW DELHI;

The 19th November, 1956.

II

This is a non-controversial Bill, a Bill of social reform, one that is eminently necessary and heartily welcome. Because the Government of India ratified an international convention for the suppression of traffic in persons and of the exploitation of the prostitution of others in 1950, in pursuance of Articles 23 and 35 of the Constitution, it was obligatory that such a law was to be passed by Parliament. It is regrettable that 6 years were taken by the Government to bring forward a Bill of this kind, which should have been introduced much earlier.

It is also clear from the provisions of the Bill that this Bill is not intended to suppress prostitution as such, which is supposed to be 'one of the oldest professions', but only with a view to *the suppression of immoral traffic in women and girls*. How far that object will be achieved by this Bill, it will be too early to say. But one thing is clear that by enacting a legislation of this kind, prostitution will go underground and it is quite likely may become more widespread.

It is said that all over the world as a result of western civilization, prostitution instead of being followed in that old established fashion, is taking the place of promiscuity, to be practiced in homes, schools and colleges and boarding Houses, hostels and hotels. I am wholeheartedly for the adoption of this Bill, but I am afraid lest the remedy may prove worse than the disease. I wish my fears

may prove entirely chimerical and that we may be able to claim, sooner than later, a substantial advance in social reform by enacting a legislation of this kind.

Section 12 of this Bill makes provision for the demand of security for good behaviour from habitual offenders. It appears to be a very innocent type of provision, but those who have had some experience of law courts in India know how difficult it is to prove a thing like 'habitually committing or attempting to commit that offence.' Report of the Advisory Committee on Social and Moral Hygiene on page 38 says in this connection:

"The police maintain long and detailed records of all the types engaged in the trade, the women, the procurers and the house-keepers. But when the matter comes to a Court, it is difficult to prove that a prostitute is a prostitute or a brothel is a brothel. The words 'habitually', 'knowingly' and 'mainly' create difficulties. To ask for evidence of promiscuity is to ask for the impossible, and if it is produced, the Court will be unwilling to accept or act upon it, but its absence is invariably regarded as destructive of the prosecution case."

I entirely agree with these remarks and therefore thought that the words in clause 12(1) beginning with "finds that he has been habitually committing or attempting to commit, or abetting the commission of that offence or any other offence under the Act and the Court" are entirely unnecessary and uncalled for and should be deleted. After the deletion of these words, the clause 12(1) would read like this: "When a Court convicting a person of an offence under this Act..... is of opinion that it is necessary or desirable to require that person to execute a bond for good behaviour, such Court may at the time of passing the sentence on the person order him to execute a bond..... for his good behaviour during such period."

It was unfortunate that the Select Committee did not find itself in agreement with this suggestion which was in line with the considered opinion of the members of the Report on Social and Moral Hygiene referred to above. I hope to pursue this matter in the House and hence this note. With the other provisions of the Bill, I agree in substance.

NEW DELHI;

The 20th November, 1956.

RAGHUBIR SAHAI

Bill No. 58A of 1954

THE SUPPRESSION OF IMMORAL TRAFFIC IN
WOMEN AND GIRLS BILL, 1954

(AS AMENDED BY THE SELECT COMMITTEE)

(Words side-lined or under-lined indicate the amendments suggested by the Committee, asterisks indicate the omissions.)

A

BILL

to provide in pursuance of the International Convention signed at New York on the 9th day of May, 1950 for the suppression of immoral traffic in women and girls.

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

1. (1) This Act may be called the Suppression of Immoral Traffic in Women and Girls Act, 1956.

Short title,
extent and
commence-
ment.

5 (2) It extends to the whole of India.

(3) This section shall come into force at once; and the remaining provisions of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

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

Definitions.

(a) "brothel" includes any house, room, or place or any portion of any house, room or place, which is used for purposes of prostitution for the gain of another person or for the mutual gain of two or more prostitutes;

(b) "girl" means a female who has not completed the age of twenty-one years;

(c) "magistrate" means a District Magistrate, a Sub-Divisional Magistrate, a Presidency Magistrate, or a Magistrate of the first class specially empowered by the State Government, by notification in the Official Gazette, to exercise jurisdiction under this Act;

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

(e) "prostitute" means a female who offers her body for promiscuous sexual intercourse for hire, whether in money or in kind;

(f) "prostitution" means the act of a female offering her body for promiscuous sexual intercourse for hire, whether in money or in kind; 15

(g) "protective home" means an institution, by whatever name called, in which women and girls may be kept in pursuance of this Act and includes—

(i) a shelter where female undertrials may be kept in pursuance of this Act; and 20

(ii) a corrective institution in which women and girls rescued and detained under this Act may be imparted such training and instruction and subjected to such disciplinary and moral influences as are likely to conduce to their reformation and the prevention of offences under this Act; 25

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

(i) "special police officer" means a police officer appointed by or on behalf of the State Government to be in charge of police duties within a specified area for the purpose of this Act; 30

(j) "woman" means a female who has completed the age of twenty-one years.

Punishment
for keeping
a brothel or
allowing pre-
mises to be
used as a
brothel.

3. (1) Any person who keeps or manages, or acts or assists in the keeping or management of, a brothel shall be punishable on first conviction with rigorous imprisonment for a term of not less than 35 one year and not more than three years and also with fine which may extend to two thousand rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term of not

less than two years and not more than five years and also with fine which may extend to two thousand rupees.

(2) Any person who—

5 (a) being the tenant, lessee, occupier or person in charge of any premises, uses, or knowingly allows any other person to use, such premises or any part thereof as a brothel, or

10 (b) being the owner, lessor or landlord of any premises or the agent of such owner, lessor or landlord, lets the same or any part thereof with the knowledge that the same or any part thereof is intended to be used as a brothel, or is wilfully a party to the use of such premises or any part thereof as a brothel,

shall be punishable on first conviction with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees and in the event of a second or subsequent
15 conviction, with rigorous imprisonment for a term which may extend to five years and also with fine.

(3) Notwithstanding anything contained in any other law for the time being in force, on conviction of any person referred to in clause (a) or clause (b) of sub-section (2) of any offence under that
20 sub-section in respect of any premises or any part thereof, any lease or agreement under which such premises have been leased out or are held or occupied at the time of the commission of the offence, shall become void and inoperative with effect from the date of the said conviction.

25 4. (1) Any person over the age of eighteen years who knowingly lives, wholly or in part, on the earnings of the prostitution of a woman or girl shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both. Punishment for living on the earnings of prostitution.

30 (2) Where any person is proved—

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

35 (b) to have exercised control, direction or influence over the movements of a prostitute in such a manner as to show that such person is aiding, abetting or compelling her prostitution; or

(c) to be acting as a tout or pimp on behalf of a prostitute, it shall be presumed, until the contrary is proved, that such person is knowingly living on the earnings of prostitution of another person within the meaning of sub-section (1):

40 Provided that no such presumption shall be drawn * * * * in the

case of a son or daughter of a prostitute, if the son or daughter is below the age of eighteen years.

Procuring,
inducing or
taking
woman or
girl for the
sake of pro-
stitution.

5. (1) Any person who—

(a) procures or attempts to procure a woman or girl, whether with or without her consent, for the purpose of prostitution ; or 5

(b) induces a woman or girl to go from any place, with the intent that she may for the purpose of prostitution become the inmate of, or frequent, a brothel; or

(c) takes or attempts to take a woman or girl, or causes a woman or girl to be taken, from one place to another with a view to her carrying on, or being brought up to carry on * * 10
* prostitution; or

(d) causes or induces a woman or girl to carry on * * * * *
prostitution;

shall be punishable on first conviction with rigorous imprisonment 15
for a term of not less than one year and not more than two years
and also with fine which may extend to two thousand rupees.* * * *

(2) In the event of a second or subsequent conviction of an offence under this section a person shall be punishable with rigorous imprisonment for a term of not less than two years and not more than 20
five years and also with fine which may extend to two thousand rupees.

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

(a) in the place from which a woman or girl is procured, induced to go, taken or caused to be taken or from which an 25
attempt to procure or take such woman or girl is made; or

(b) in the place to which she may have gone as a result of the inducement or to which she is taken or caused to be taken or an attempt to take her is made.

Detaining a
woman or
girl in pre-
mises where
prostitution
is carried
on.

6. (1) Any person who detains any woman or girl, whether with 30
or without her consent,—

(a) in any brothel, or

(b) in or upon any premises with intent that she may have sexual intercourse with any man other than her lawful husband,

shall be punishable on first conviction with rigorous imprisonment 35
for a term of not less than one year and not more than two years
and also with fine which may extend to two thousand rupees. * * * *

(2) On a second or subsequent conviction for an offence under this section a person shall be punishable with rigorous imprisonment for a term of not less than two years and not more than five years 40
and also with fine which may extend to two thousand rupees.

(3) A person shall be presumed to detain a woman or girl in a brothel or in or upon any premises for the purpose of sexual intercourse with a man other than her lawful husband, if such person, with intent to compel or induce her to remain there,—

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

(b) threatens her with legal proceedings if she takes away with her any jewellery, wearing apparel, money or other property lent or supplied to her by or by the direction of such person.

10 (4) Notwithstanding any law to the contrary, no suit, prosecution or other legal proceeding shall lie against such woman or girl at the instance of the person by whom she has been detained, for the recovery of any jewellery, wearing apparel or other property
15 alleged to have been lent or supplied to or for such woman or girl or to have been pledged by such woman or girl or for the recovery of any money alleged to be payable by such woman or girl.

7. (1) Any woman or girl who carries on prostitution, and the person with whom such prostitution is carried on, in any premises
20 which are within a distance of two hundred yards of any place of public religious worship, educational institution, hostel, hospital, nursing home or such other public place of any kind as may be notified in this behalf by the Commissioner of Police or District Magistrate in the manner prescribed, shall be punishable with imprisonment
25 ment for a term which may extend to three months.

Prostitution in or in the vicinity of public places.

(2) Any person who—

(a) being the keeper of any public place knowingly permits prostitutes for purposes of their trade to resort to or remain in such place; or

30 (b) being the tenant, lessee, occupier or person in charge of any premises referred to in sub-section (1) knowingly permits the same or any part thereof to be used for prostitution; or

(c) being the owner, lessor or landlord of any premises referred to in sub-section (1), or the agent of such owner, lessor
35 or landlord, lets the same or any part thereof with the knowledge that the same or any part thereof may be used for prostitution, or is wilfully a party to such use,

shall be punishable on first conviction with imprisonment for a term which may extend to three months, or with fine which may extend
40 to two hundred rupees, or with both, and in the event of a second or * * * subsequent conviction * * * * * with imprisonment for a term which may extend to six months and also with fine which may extend to two hundred rupees.

Seducing or
soliciting for
purpose of
prostitution.

8. Whoever, in any public place or within sight of, and in such manner as to be seen or heard from, any public place, whether from within any building or house or not—

(a) by words, gestures, willful exposure of her person (whether by sitting by a window or on the balcony of a building or house or in any other way), or otherwise tempts or endeavours to tempt, or attracts or endeavours to attract the attention of, any person for the purpose of prostitution; or

(b) solicits or molests any person, or loiters or acts in such manner as to cause obstruction or annoyance to persons residing nearby or passing by such public place or to offend against public decency, for the purpose of prostitution,

shall be punishable on first conviction with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both, and in the event of a second or subsequent conviction, with imprisonment for a term which may extend to one year, and also with fine which may extend to five hundred rupees.

Seduction of
a woman or
girl in cus-
tody.

9. (1) Any person who having the custody, charge or care of any woman or girl, causes or aids or abets the seduction for prostitution of that woman or girl shall be punishable on first conviction with rigorous imprisonment for a term of not less than one year and not more than three years, and also with fine which may extend to one thousand rupees. * * * *

(2) In the event of a second or subsequent conviction of an offence under this section a person shall be punishable with imprisonment which may extend to five years and also with fine which may extend to one thousand rupees.

Probation of
good con-
duct and
detention in
protective
home.

10. (1) (a) A person convicted for the first time of any offence under sub-section (2) of section 3, or under section 4, section 5, section 7 or section 8 may, having regard to his age, character, antecedents and the circumstances in which the offence was committed, be released by the court before which he is convicted on probation of good conduct in the manner provided in sub-section (1) of section 562 of the Code of Criminal Procedure, 1898.

(b) A person convicted for the first time of any offence under section 7 or section 8 may, having regard to his age, character, antecedents and the circumstances in which the offence was committed, also be released with admonition in the manner provided for in sub-section (1A) of section 562 of the Code of Criminal Procedure, 1898.

35 5 of 1898.

40 5 of 1898.

5 of 1898.

(c) The provisions of sub-section (2), sub-section (3) and sub-section (4) of section 562 and section 563 and section 564 of the Code of Criminal Procedure, 1898, shall apply to cases referred to in clause (a) and clause (b).

5 (2) Where a woman or girl is convicted of any offence under section 7 or section 8 and is not released under clause (a) of sub-section (1) on probation of good conduct or under clause (b) of that sub-section with admonition, the court convicting the woman or girl may, having regard to the age, character, antecedents of the
10 woman or girl and the circumstances in which the offence was committed, pass in lieu of the sentence of imprisonment or fine, a sentence of detention in a protective home for a period of not less than two years and not more than five years.

5 of 1898.

15 (3) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, or any other law for the time being in force, no person convicted under sub-section (1) of section 3 or under section 6 or section 9 shall be released on probation or with admonition.

11. (1) When any person having been convicted—

Notification
of address
of previously
convicted
offenders.

45 of 1860.

20 (a) by a court in India of an offence punishable under this Act or punishable under section 363, section 365, section 366, section 366A, section 366B, section 367, section 368, section 370, section 371, section 372 or section 373 of the Indian Penal Code, with imprisonment for a term of two years or upwards; or

25 (b) by a court or tribunal in any other country of an offence which would, if committed in India, have been punishable under this Act or under any of the aforesaid sections with* imprisonment for a like term,

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

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

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

(4) Any person charged with a breach of any rule referred to in sub-section (1) may be tried by a Magistrate of competent jurisdiction in the district in which the place last notified as his residence is situated. 5

Security for
good be-
haviour from
habitual
offenders.

12. (1) *When a court convicting a person of an offence under this Act finds that he has been habitually committing, or attempting to commit, or abetting the commission of, that offence or any other offence under this Act and the Court is of opinion that it is necessary or desirable to require that person to execute a bond for good 10
behaviour, such court may at the time of passing the sentence on the person order him to execute a bond for a sum proportionate to his means with or without sureties for his good behaviour during such period not exceeding three years as it thinks fit. 15

(2) If the conviction is set aside on appeal or otherwise the bond so executed shall become void.

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

(4) When a magistrate receives information from the police or 20
otherwise that any person within the local limits of his jurisdiction habitually commits, or attempts to commit, or abets the commission of, any offence under this Act, such magistrate may require such person to show cause why he should not be ordered to execute a bond with sureties for his good behaviour for such period not ex- 25
ceeding three years as the magistrate thinks fit and thereupon the provisions of sections 112 to 126 of the Code of Criminal Procedure, 1898, shall apply in such a case.

5 of 1898.

Special
police officer
and advisory
body.

13. (1) There shall be for each area to be specified by the State Government in this behalf a special police officer appointed by or on 30
behalf of that Government for dealing with offences under this Act in that area.

(2) The special police officer shall not be below the rank of—

(a) an Assistant Commissioner of Police in the presidency towns of Madras and Calcutta; 35

(b) a Superintendent of Police in the presidency town of Bombay; and

(c) a Deputy Superintendent of Police elsewhere.

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

(a) the special police officer of an area shall be assisted by such number of subordinate police officers (including women police officers wherever practicable) as the State Government may think fit; and

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

14. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, any offence punishable under this Act shall be deemed to be a cognizable offence within the meaning of that Code: Offences to be cognizable.

Provided that, notwithstanding anything contained in that Code,—

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

(ii) when the special police officer requires any officer subordinate to him to arrest without warrant otherwise than in his presence any person for an offence under this Act, he shall give that subordinate officer an order in writing, specifying the person to be arrested and the offence for which the arrest is being made; and the latter officer before arresting the person shall inform him of the substance of the order and, on being required by such person, show him the order;

(iii) any police officer not below the rank of inspector specially authorised by the special police officer may, if he has reason to believe that on account of delay involved in obtaining the order of the special police officer, any valuable evidence relating to any offence under this Act is likely to be destroyed or concealed, or the person who has committed or is suspected to have committed the offence is likely to escape, or if the name and address of such a person is unknown or there is reason to suspect that a false name or address has been given, arrest the person concerned without such order, but in such a case he

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

Search
without
warrant.

15. (1) Notwithstanding anything contained in any other law for the time being in force, whenever the special police officer has reasonable grounds for believing that an offence punishable under this Act has been or is being committed in respect of a woman or girl living in any premises, and that search of the premises with warrant cannot be made without undue delay, such officer may, after recording the grounds of his belief, enter and search such premises without a warrant.

10

(2) Before making a search under sub-section (1), the special police officer shall call upon two or more respectable inhabitants (at least one of whom shall be a woman) of the locality in which the place to be searched is situate, to attend and witness the search, and may issue an order in writing to them or any of them so to do.

15

(3) Any person who, without reasonable cause, refuses or neglects, to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 187 of the Indian Penal Code.

20

45 of 1860.

(4) The special police officer entering any premises under sub-section (1) shall be entitled to remove therefrom any girl, if in his opinion she is under the age of twenty-one years and is carrying on or is being made to carry on, or attempts are being made to make her carry on, prostitution.

25

(5) The special police officer, after removing the girl under sub-section (4) shall forthwith produce her before the appropriate magistrate.

(6) The special police officer and other persons taking part in, or attending, and witnessing a search * * * * * shall not be liable to any civil or criminal proceedings against them in respect of anything lawfully done in connection with, or for the purpose of, the search.

30

Rescue of
girl.

16. (1) Where a magistrate has reason to believe, from information received from the police or otherwise, that a girl apparently under the age of twenty-one years, is living, or is carrying on, or is being made to carry on prostitution, in a brothel, * * * * * he may direct the special police officer to enter such brothel, * * * and to remove therefrom such girl and produce her before him.

35

(2) The special police officer after removing the girl shall forthwith produce her before the magistrate issuing the order.

40

17. (1) When the special police officer removing a girl under sub-section (4) of section 15 or rescuing a girl under sub-section (1) of section 16, fails to produce her immediately before the Magistrate as required by sub-section (5) of section 15 or sub-section (2) of section 16, he shall forthwith produce her before the nearest Magistrate of any class, who shall pass such orders as he deems proper for her safe custody until she is produced before the appropriate magistrate.

Intermediate custody of girls removed under section 15 or rescued under section 16.

(2) When the girl is produced before the appropriate magistrate he shall, after giving the girl an opportunity of being heard, cause an enquiry to be made as to the correctness of the information received under sub-section (1) of section 16 and the age of the girl and, if satisfied that the information received is correct and the girl is under the age of twenty-one years, he may, subject to the provisions of the next sub-section, make an order that such girl be detained * * * * * for such * period as may be specified in the order, in a protective home or such other custody as he, for reasons to be recorded in writing, shall consider suitable:

Provided that such custody shall not be that of a person, or body of persons, of a religious persuasion different from that of the girl.

(3) In discharging his functions under sub-section (2), a Magistrate may summon a panel of five respectable persons, three of whom shall wherever practicable be women, to assist him; and may for this purpose keep a list of experienced social welfare workers, particularly women social welfare workers, in the field of suppression of immoral traffic in women and girls.

(4) Against every order under sub-section (2) an appeal shall lie to the Sessions Judge whose decision on such appeal shall be final.

18. (1) A magistrate may, on receipt of information from the police or otherwise, that any house, room, place or any portion thereof within a distance of two hundred yards of any public place referred to in sub-section (1) of section 7, is being run or used as a brothel by any person, or is being used by prostitutes for carrying on their trade, issue notice on the owner, lessor or landlord of such house, room, place or portion or the agent of the owner, lessor or landlord or on the tenant, lessee, occupier of, or any other person in charge of such house, room, place, or portion, to show cause within seven days of the receipt of the notice why the same should not be attached for improper user thereof; and if, after hearing the person concerned, the magistrate is satisfied that the house, room,

Closure of brothels and eviction of offenders from the premises.

place, or portion is being used as a brothel or for carrying on prostitution, then the magistrate may pass orders—

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

(b) directing that before letting it out during the period of one year immediately after the passing of the order, the owner, lessor or landlord or the agent of the owner, lessor or landlord shall obtain the previous approval of the magistrate: 5

Provided that, if the magistrate finds that the owner, lessor or landlord as well as the agent of the owner, lessor or landlord, was innocent of the improper user of the house, room, place or portion, he may cause the same to be restored to the owner, lessor or landlord, or the agent of the owner, lessor or landlord, with a direction that the house, room, place or portion shall not be leased out, or otherwise given possession of, to or for the benefit of the person 15 who was allowing the improper user therein.

(2) A court convicting a person of any offence under section 3 or section 7 may pass orders under sub-section (1), without further notice to such person to show cause as required in that sub-section.

(3) Orders passed by the magistrate or court under sub-section (1) or sub-section (2) shall not be subject to appeal and shall not be stayed or set aside by the order of any court, civil or criminal, and the said orders shall cease to have validity after the expiry of one year. 20

(4) Notwithstanding anything contained in any other law for the time being in force, when a magistrate passes an order under sub-section (1), or a court passes an order under sub-section (2), any lease or agreement under which the house, room, place or portion is occupied at the time shall become void and inoperative. 25

(5) When an owner, lessor or landlord, or the agent of such owner, lessor or landlord * * * * * fails to comply with a direction given under clause (b) of sub-section (1) he shall be punishable with fine which may extend to five hundred rupees or when he fails to comply with a direction under the proviso to that sub-section, he shall be deemed to have committed an offence under 35 clause (b) of sub-section (2) of section 3 or clause (c) of sub-section (2) of section 7, as the case may be, and punished accordingly.

19. (1) A woman or girl who is carrying on, or is being made to carry on, prostitution, may make an application to the Magistrate within the local limits of whose jurisdiction she is carrying on, or is being made to carry on, prostitution, for an order that she may be kept in a protective home. 40

Application
for being
kept in a
protective
home.

(2) If after hearing the applicant and making such inquiry as he may consider necessary, the Magistrate is satisfied that an order should be made under this section, then, he shall make an order, for reasons to be recorded, that the applicant be kept in a protective home for such period as may be specified in the order.

20. (1) A magistrate on receiving information that any woman or girl residing in or frequenting any place within the local limits of his jurisdiction is a prostitute, may record the substance of the information received and issue a notice to such woman or girl requiring her to appear before the magistrate and show cause why she should not be required to remove herself from the place and be prohibited from re-entering it. Removal of prostitute from any place.

(2) Every notice issued under sub-section (1) shall be accompanied by a copy of the record aforesaid, and the copy shall be served along with the notice on the woman or girl against whom the notice is issued.

(3) The magistrate shall, after the service of the notice referred to in sub-section (2), proceed to inquire into the truth of the information received, and after giving the woman or girl an opportunity of adducing evidence, take such further evidence as he thinks fit, and if upon such inquiry it appears to him that such woman or girl is a prostitute and that it is necessary in the interests of the general public that such woman or girl should be required to remove herself therefrom and be prohibited from re-entering the same, the magistrate shall, by order in writing communicated to the woman or girl in the manner specified therein, require her after a date (to be specified in the order) which shall not be less than seven days from the date of the order, to remove herself from the place to such place whether within or without the local limits of his jurisdiction, by such route or routes and within such time as may be specified in the order and also prohibit her from re-entering the place without the permission in writing of the magistrate having jurisdiction over such place.

(4) Whoever—

(a) fails to comply with an order issued under this section within the period specified therein, or whilst an order prohibiting her from re-entering a place without permission is in force, re-enters the place without such permission, or

(b) knowing that any woman or girl has, under this section, been required to remove herself from the place and has not obtained the requisite permission to re-enter it, harbours or conceals such woman or girl in the place,

shall be punishable with fine which may extend to two hundred rupees and in the case of a continuing offence with an additional fine which may extend to twenty rupees for every day after the first during which she or he has persisted in the offence.

Protective
homes.

21. (1) The State Government may in its discretion establish as many protective homes under this Act as it thinks fit and such homes, when established, shall be maintained in such manner as may be prescribed. 5

(2) No person or no authority other than the State Government shall, after the commencement of this Act, establish or maintain any protective home except under and in accordance with the conditions of, a licence issued under this section by the State Government. 10

(3) The State Government may, on application made to it in this behalf by a person or authority, issue to such person or authority a licence in the prescribed form for establishing and maintaining or as the case may be, for maintaining a protective home and a licence so issued may contain such conditions as the State Government may think fit to impose in accordance with the rules made under this Act: 15

Provided that any such condition may require that the management of the protective home shall, wherever practicable, be entrusted to women: 20

Provided further that a person or authority maintaining any protective home at the commencement of this Act shall be allowed a period of six months from such commencement to make an application for such licence. 25

(4) Before issuing a licence the State Government may require such officer or authority as it may appoint for this purpose, to make a full and complete investigation in respect of the application received in this behalf and report to it the result of such investigation and in making any such investigation the officer or authority shall follow such procedure as may be prescribed. 30

(5) A licence, unless sooner revoked, shall remain in force for such period as may be specified in the licence and may, on application made in this behalf at least thirty days before the date of its expiration, be renewed for a like period. 35

* * * * *

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

(7) Where any person or authority to whom a licence has been granted under this Act or any agent or servant of such person or authority commits a breach of any of the conditions thereof or any of the provisions of this Act or of any of the rules made under this Act, or where the State Government is not satisfied with the condition, management or superintendence of any protective home, the State Government may, without prejudice to any other penalty which may have been incurred under this Act, for reasons to be recorded, revoke the licence by order in writing:

10 Provided that no such order shall be made until an opportunity is given to the holder of the licence to show cause why the licence shall not be revoked.

(8) Where a licence in respect of a protective home has been revoked under the foregoing sub-section such protective home shall 15 cease to function from the date of such revocation.

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

(10) Whoever establishes or maintains a protective home except 20 in accordance with the provisions of this section, shall be punishable in the case of a first offence with fine which may extend to one thousand rupees and in the case of second or subsequent offence with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

25 22. No court, inferior to that of a Magistrate as defined in clause (c) of section 2 shall try any offence under section 3, section 4, section 5, section 6, section 7 or section 8. Trials.

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

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

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

(b) the placing in custody of women and girls released under sub-section (1) of section 10 or for whose safe custody orders 35 have been passed under sub-section (1) of section 17 and their maintenance;

(c) the detention and keeping in protective homes of women and girls under sub-section (2) of section 10, sub-section (2) of section 17 and section 19 and their maintenance;

(d) the carrying out of the provisions of section 11 regarding notification of residence or change of or absence from residence by released convicts;

(e) the delegation of authority to appoint the special police officer under sub-section (1) of section 13; 5

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

(g) (i) the establishment, maintenance, management and superintendence of protective homes and the appointment, powers and duties of persons employed in such homes;

(ii) the form in which an application for a licence may be made and the particulars to be contained in such application; 10

(iii) the procedure for the issue or renewal of a licence, the time within which such licence shall be issued or renewed and the procedure to be followed in making a full and complete investigation in respect of an application for a licence; 15

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

* * * * *

(v) the manner in which the accounts of a protective home shall be maintained and audited: 20

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

(vii) the care, treatment, maintenance, training instruction, control and discipline of the inmates of protective homes;

(viii) the visits to and communication with such inmates: 25

(ix) the temporary detention of women and girls sentenced to detention in protective homes until arrangements are made for sending them to such homes;

(x) the transfer of a woman or girl from one protective home to another; 30

(xi) the transfer in pursuance of an order of the court from a protective home to a prison of a woman or girl found to be incorrigible or exercising bad influence upon other inmates of the protective home and the period of her detention in such prison; 35

(xii) the transfer to a protective home of women or girls sentenced under section 7 or section 8 and the period of their detention in such home;

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

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

(xv) the inspection of protective homes and other institutions in which women and girls may be kept, detained and maintained.

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

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

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

24. Nothing in this Act shall be construed to be in derogation of the provisions of the Reformatory Schools Act, 1897, or any State Act enacted in modification of the said Act or otherwise, relating to juvenile offenders. Act not to be in derogation of certain other Acts.

20 25. (1) As from the date of the coming into force in any State of the provisions other than section 1 of this Act, all State Acts relating to suppression of immoral traffic in women and girls or to the prevention of prostitution, in force in that State immediately before such date shall stand repealed. Repeal and Savings.

25 (2) Notwithstanding the repeal by this Act of any State Act referred to in sub-section (1), anything done or any action taken (including any direction given, any register, rule or order made, any restriction imposed) under the provisions of such State Act shall in so far as such thing or action is not inconsistent with the provisions of this Act be deemed to have been done or taken under the provisions of this Act as if the said provisions were in force when such thing was done or such action was taken and shall continue in force accordingly until superseded by any thing done or any action taken under this Act.

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

APPENDIX I

(Vide para 3 of the Report)

Motion in the Lok Sabha

"That the Bill to provide in pursuance of the International Convention signed at New York on the 9th day of May, 1950 for the suppression of immoral traffic in women and girls, be referred to a Select Committee consisting of—

1. Her Highness Rajmata Kamlendu Mati Shah
2. Shrimati Jayashri Raiji
3. Shrimati Uma Nehru
4. Shri B. Ramachandra Reddi
5. Shrimati Tarkeshwari Sinha
6. Shri Nikunja Behari Chowdhury
7. Shrimati Ammu Swaminadhan
8. Shri A. M. Thomas
9. Shri Jaipal Singh
10. Sardar Amar Singh Saigal
11. Shri Upendranath Barman
12. Shri Fulsinhji B. Dabhi
13. Shrimati Anusayabai Bhaorao Borkar
14. Shrimati Minimata
15. Shri Diwan Chand Sharma
16. Pandit Chatur Narain Malviya
17. Shri Mukund Lal Agrawal
18. Shri Mohan Lal Saksena
19. Shri Hari Vinayak Pataskar
20. Shrimati Shivrajvati Nehru
21. Shrimati Sushama Sen
22. Shri Radha Raman
23. Shri Raghubir Sahai
24. Shri Bhakt Darshan
25. Pandit Thakur Das Bhargava
26. Dr. Mono Mohon Das
27. Shri Amjad Ali
28. Shrimati Renu Chakravartty, and
29. Shri B. N. Datar

with instructions to report by the last day of the first week of the next session."

APPENDIX II

I

First Sitting

The Committee met from 10 A.M. to 10-25 A.M. on Friday, the 7th September, 1956.

PRESENT

Pandit Thakur Das Bhargava—*Chairman.*

MEMBERS

2. Her Highness Rajmata Kamlendu Mati Shah
3. Shrimati Uma Nehru
4. Shri B. Ramachandra Reddi
5. Shri A. M. Thomas
6. Shri Jaipal Singh
7. Sardar Amar Singh Saigal
8. Shri Upendranath Barman
9. Shri Fulsinhji B. Dabhi
10. Shrimati Anusayabai Bhaorao Borkar
11. Shrimati Minimata
12. Shri Diwan Chand Sharma
13. Pandit Chatur Narain Malviya
14. Shri Mukund Lal Agrawal
15. Shrimati Shivrajvati Nehru
16. Shri Raghubir Sahai
17. Shri B. N. Datar
18. Dr. Mono Mohon Das
19. Shri Amjad Ali
20. Shrimati Renu Chakravartty.

Shri C. C. Biswas, *Minister of Law and Minority Affairs* was also present.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri J. N. Dhamija, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri P. K. Patnaik, *Under Secretary.*

2. The Committee held a preliminary discussion on the programme to be adopted by them.

3. The Committee decided to hold their next sitting on the 5th November, 1956 and to sit from day to day till the completion of their work.

4. The Committee considered whether any evidence would be taken by them. It was decided that Associations or Public Bodies which express any desire of submitting their suggestions or views before the Committee in respect of the Bills should be asked to send written memoranda thereon to the Lok Sabha Secretariat.

5. The Committee desired that copies of the following documents should be circulated to members:

- (i) All State Acts on the subject matter of the three Bills before the Committee.
- (ii) Reports of the State Governments on the working of the Acts in their States.
- (iii) Opinion of the State Governments on the three Bills before the Committee.
- (iv) Reports of Committees appointed by Central/State Governments on matters relative to the subject matter of the three Bills.
- (v) Convention relating to the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, signed at New York on the 9th May, 1950, by the Government of India and the Governments of other Powers and States.
- (vi) Report of the Advisory Committee on Social and Moral Hygiene appointed by the Central Social Welfare Board.

It was decided that the Ministry of Home Affairs might be requested to collect necessary materials and supply documents mentioned in items (i) to (v) above and the Central Social Welfare Board might be requested to supply copies of the document mentioned in item (vi).

6. The Committee decided to take up the three Bills in the following order:—

- (i) The Suppression of Immoral Traffic in Women and Girls Bill, 1954.
- (ii) The Children Bill, 1954 as passed by Rajya Sabha.
- (iii) The Women's and Children's Institutions Licensing Bill, 1953 by Her Highness Rajmata Kamlendu Mati Shah, M.P.

7. The Chairman suggested that notice of amendments to the clauses of the Bills that the members intended to move should be sent well in advance to the Lok Sabha Secretariat for circulation to the members of the Committee.

8. The Committee then adjourned to meet again at 11 A.M. on Monday, the 5th November, 1956.

II

Second Sitting

The Committee met from 11 A.M. to 1-10 P.M. on Wednesday the 7th November, 1956.

PRESENT

Pandit Thakur Das Bhargava—*Chairman.*

MEMBERS

2. Her Highness Rajmata Kamlendu Mati Shah
3. Shrimati Jayashri Raiji
4. Shrimati Uma Nehru
5. Shri B. Ramachandra Reddy
6. Shri Nikunja Behari Chowdhury
7. Shrimati Ammu Swaminadhan
8. Shri A. M. Thomas
9. Shri Jaipal Singh
10. Shri Upendranath Barman
11. Shri Fulsinhji B. Dabhi
12. Shrimati Anusayabai Bhaorao Borkar
13. Pandit Chatur Narain Malviya
14. Shri Mukund Lal Agrawal
15. Shri Mohan Lal Saksena
16. Shrimati Shivrajvati Nehru
17. Shrimati Sushama Sen
18. Shri Radha Raman
19. Shri Raghubir Sahai
20. Shri B. N. Datar
21. Shrimati Renu Chakravartty.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri J. N. Dhamija, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri N. N. Mallya, *Deputy Secretary.*

2. The Committee took up clause by clause consideration of the Suppression of Immoral Traffic in Women and Girls Bill, 1954.

3. *Clause 2.*—The following Government amendments, were accepted:—

(i) In page 1, line 18,—
for “eighteen” substitute
“twenty-one”

(ii) In page 2, line 10,—
for “women” substitute
“female”

(iii) In page 2, line 23,—
for “eighteen” substitute
“twenty-one”

Item (g) (i.e. the definition of ‘protective home’) was held over. Subject to the above the clause as amended was adopted.

4. *Clause 3.*—The following Government amendment was accepted:—

In page 3, line 1,—
after “premises” insert
“or any part thereof”

The clause as amended was adopted.

5. *Clause 4.*—The following amendments were accepted:—

(i) In page 3, lines 21 to 23,—

Omit “in the case of the mother of a prostitute, if the mother is infirm or over the age of sixty years, or”

(ii) In page 3, line 24,—
for “twenty-one years” substitute
“eighteen years”

The clause as amended was adopted.

6. *Clause 5.*—The following amendments were accepted:—

(i) In page 3, lines 34 & 35 and 36 & 37,

Omit “the business of”; and

(ii) In page 3, lines 40 and 41,—

Omit “and if a male person, may in addition be liable to whipping”

Discussion on this clause was not concluded.

7. The Committee then adjourned to meet again at 10 A.M. on Thursday, the 8th November, 1956.

III

Third Sitting

The Committee met from 10 A.M. to 1 P.M. and 3 P.M. to 6-30 P.M. on Thursday, the 8th November, 1956.

PRESENT

Pandit Thakur Das Bhargava—*Chairman.*

MEMBERS

2. Her Highness Rajmata Kamlendu Mati Shah
3. Shrimati Jayashri Raiji
4. Shrimati Uma Nehru
5. Shri B. Ramachandra Reddi
6. Shri Nikunja Behari Chowdhury
7. Shrimati Ammu Swaminadhan
8. Shri A. M. Thomas
9. Shri Jaipal Singh
10. Shri Upendranath Barman
11. Shri Fulsinhji B. Dabhi
12. Shrimati Anusayabai Bhaorao Borkar
13. Shrimati Minimata
14. Pandit Chatur Narain Malviya
15. Shri Mukund Lal Agrawal
16. Shri Mohan Lal Saksena
17. Shri Hari Vinayak Pataskar
18. Shrimati Shivrajvati Nehru
19. Shri Radha Raman
20. Shri Raghubir Sahai
21. Shri B. N. Datar
22. Shri Amjad Ali
23. Shrimati Renu Chakravartty.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri J. N. Dhamija, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri N. N. Mallya, *Deputy Secretary.*

2. The Committee resumed clause by clause consideration of the Suppression of Immoral Traffic in Women and Girls Bill, 1954.

3. *Clause 5.*—The following further amendment was accepted:—

In the marginal heading of the clause,
for “importing” substitute “taking”.

The clause as amended was adopted.

4. *Clause 6.*—The following amendment was accepted:—

In page 4, lines 16 and 17,—

Omit “and if a male person, shall in addition be liable to whipping”.

The clause as amended was adopted.

5. *Clause 7.*—The following amendments were accepted:—

(i) In page 4, lines 39-40,—

for “whoever carries on prostitution” substitute—

“Any woman or girl who carries on prostitution and the person with whom such prostitution is carried on”.

(ii) In page 5,—

for lines 15 to 17 substitute—

“rupees or with both, and in the event of a second or subsequent conviction with imprisonment for a term which”.

The clause as amended was adopted.

6. *Clause 8.*—This clause was adopted without any amendment.

7. *Clause 9.*—The following amendment was accepted:—

In page 5, lines 44 and 45,—

Omit “and, if a male person, may in addition be liable to whipping.”

The clause as amended was adopted.

8. *Clause 10.*—The following amendments were accepted:—

(i) In page 6, lines 3 and 10,—

for “section 7” read “sub-section (i) of section 7.”

(ii) In page 6,—

for lines 19 and 20 substitute—

“(2) Where a woman or girl is convicted of any offence under section 7 or section 8 and is not released under clause (a) of sub-section (1) on probation of good conduct or under clause (b) of that sub-section with admonition, the court convicting the woman or girl may having regard to the”.

The clause as amended was adopted.

9. *Clause 11.*—The following amendment was accepted:—

In page 6, lines 41-42,—

for “with the imprisonment for a like term” substitute

“with imprisonment for a like term”.

The clause as amended was adopted.

10. *Clause 12.*—This clause was adopted without any amendment.

11. *Clause 13.*—The following amendment was accepted:—

for sub-clause (3) substitute the following, namely—

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

(a) the special police officer of an area shall be assisted by such number of subordinate police officers (including women police officers wherever practicable) as the State Government may think fit; and

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

The clause as amended was adopted.

12. The Committee rose at 1-10 P.M. and re-assembled at 3 P.M.

13. *Clause 14.*—The following amendment was accepted:—

In page 8, line 17,—

after “any police officer” insert,—

“not below the rank of an inspector”.

The clause as amended was adopted.

14. *Clause 15.*—In respect of sub-clause (1) the Committee felt that the reasons for the search and delay should be recorded and suitable provisions should be made in this behalf as provided in section 165 of the Criminal Procedure Code. The Draftsman was directed to make the necessary provision in this sub-clause.

The following amendments were accepted:—

(i) In page 8, line 49,—

for “eighteen” substitute “twenty-one”

(ii) In page 9,—

(a) lines 5 and 6,—

omit “or taking any lawful action in connection with the search”; and

(b) line 7,—

for “on any ground” substitute “in respect of anything lawfully done in connection with or for the purpose of the search.”

The clause as amended was adopted.

15. *Clause 16.*—The following amendments were accepted:—

(i) In page 9, line 10,—

for “eighteen” substitute “twenty-one”

(ii) In page 9, lines 11 and 12 and line 13,—

omit “or any other place”.

The clause as amended was adopted.

16. *Clause 17.*—The following amendments were accepted:—

In page 9, line 28,—

(i) for “eighteen” substitute “twenty-one”

and lines 30 and 31,—

(ii) for “until she attains the age of twenty-one years or for such shorter period” substitute “for such period.”

(iii) In page 9, line 37,—

(a) for “jurors” substitute

“respectable persons”; and

(b) after “three of whom shall”

insert “wherever practicable”

With regard to sub-clause (2), the Committee felt that the scope of the enquiry should be broadened and an opportunity should be given to the girl for being heard.

With regard to sub-clause (4), the Committee felt that appeal should be provided for in all cases, whether the order by the Magistrate is in agreement with the views of the majority of respectable persons or not.

The Draftsman was directed to re-cast the above sub-clauses suitably.

Subject to above, the clause as amended was adopted.

17. *Clause 18.*—The Draftsman was directed to examine sub-clause (1) (b) of this clause and if necessary to provide for punishment for violation of direction given thereunder.

Subject to above, the clause was adopted.

18. *New Clause 18A (Annexure).*—The Committee decided that this clause should be re-drafted on the lines of the corresponding provision in the Bombay Act.

The Draftsman was directed to place a re-draft before the Committee.

19. *Clause 2.*—*Item g (vide para 3 of the minutes dated the 7th November, 1956).*—The Committee felt that “protective homes” should be open also to women and girls who desire to be kept therein and whom a Magistrate recommends to be so kept.

The Draftsman was directed to widen the definition of “protective home” accordingly.

Subject to above, item (g) of Clause 2 was adopted.

20. *Clause 19.*—The following amendments were accepted:—

(i) In page 10, line 49,—

after “No person or” insert “no”.

(ii) In page 11,—

omit lines 24 and 25.

(iii) (a) In page 11, lines 48 and 49,—
for “two hundred” *substitute* “one thousand”.

(b) In page 12, line 1,—
for “six months” *substitute* “one year”; and

(c) In page 12, line 2,—
for “five hundred” *substitute* “two thousand”.

The clause as amended was adopted.

21. *Clause 20.*—This clause was adopted without any amendment.

22. *Clause 21.*—The following amendments were accepted:—

(i) In page 12,—

omit line 36.

(ii) In page 13, line 6,—

after “transfer” *insert*,—

“in pursuance of an order of the court”.

(iii) In page 13, line 22,—

for “clause (e) or clause (h)”

substitute “clause (d) or clause (g)”

(iv) In page 13, line 24,—

for “one hundred” *substitute* “two hundred and fifty”

The Committee were of the view that all rules made by the State Government under this section should be laid before the State Legislature. The Draftsman was directed to make the necessary provision under this clause.

Subject to the above, the clause as amended was adopted.

23. *Clause 22.*—This clause was adopted without any amendment.

24. *Clause 23.*—The Committee adopted the following revised clause in substitution of the original clause—

In page 13,—

for lines 31 to 44, *substitute*—

“23, Repeal and savings,— (1) As from the date of the coming into force in any State of the provisions other than section 1 of this Act, all State Acts relating to suppression of immoral traffic in women and girls or to the prevention of prostitution, in force in that State immediately before such date shall stand repealed.

- (2) Notwithstanding the repeal by this Act of any State Act referred to in sub-section (1), any thing done or any action taken (including any direction given, any register, rule or order made, any restriction imposed) under the provisions of such State Act shall insofar as such thing or action is not inconsistent with the provisions of this Act be deemed to have been done or taken under the provisions of this Act as if the said provisions were in force when such thing was done or such action was taken and shall continue in force accordingly until superseded by any thing done or any action taken under this Act.

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

25. The Committee decided to ask for extension of time for presentation of the Reports on the following Bills upto the 30th November, 1956:—

- (1) The Women's and Children's Institutions Licensing Bill, 1953 by Her Highness Rajmata Kamlendu Mati Shah, M.P.

- (2) The Children Bill, 1954.

Chairman was authorised to move the necessary motions in the House.

26. The Committee appointed a sub-committee consisting of the following members to re-draft the Women's and Children's Institutions Licensing Bill, 1953 in the light of the observations made in the Committee:—

1. Shri Hari Vinayak Pataskar—*Chairman*.
2. Her Highness Rajmata Kamlendu Mati Shah
3. Shrimati Jayashri Raiji
4. Shrimati Ammu Swaminadhan
5. Pandit Chatur Narain Malviya
6. Shrimati Shivrajvati Nehru
7. Shri B. N. Datar
8. Shrimati Renu Chakravartty.

The sub-committee were directed to submit their report by the 16th November, 1956.

27. The Committee then adjourned to meet again at 10-45 A.M. on Friday, the 16th November, 1956.

IV

Fourth Sitting

The Committee met from 10-45 A.M. to 10-55 A.M. and from 5 P.M. to 5-30 P.M. on Friday, the 16th November, 1956.

PRESENT

Pandit Thakur Das Bhargava—*Chairman.*

MEMBERS

2. Her Highness Rajmata Kamlendu Mati Shah
3. Shrimati Uma Nehru
4. Shri B. Ramachandra Reddi
5. Shrimati Ammu Swaminadhan
6. Shri A. M. Thomas
7. Shri Upendranath Barman
8. Shrimati Anusayabai Bhaorao Borkar
9. Shrimati Minimata
10. Shri Diwan Chand Sharma
11. Pandit Chatur Narain Malviya
12. Shri Mukund Lal Agrawal
13. Shri Hari Vinayak Pataskar
14. Shrimati Shivrajvati Nehru
15. Shrimati Sushama Sen
16. Shri Raghubir Sahai
17. Shri Bhakt Darshan
18. Shri B. N. Datar.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri J. N. Dhamija, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri N. N. Mallya, *Deputy Secretary.*

2. The Committee decided to ask for extension of time upto the 21st November, 1956 for the presentation of the report on the Suppression of Immoral Traffic in Women and Girls Bill.

The Chairman was authorised to move the necessary motion in the House.

3. The Committee rose at 10-55 A.M. and re-assembled at 5 P.M.

4. The Committee adopted the Suppression of Immoral Traffic in Women and Girls Bill as amended.

5. *Extension of time for presentation of Report by Sub-Committee.*—The Committee granted extension of time upto the 23rd November, 1956 for the presentation of the Report of the Sub-Committee on the Women's and Children's Institutions Licensing Bill.

6. The Committee then considered the draft Report on the Suppression of Immoral Traffic in Women and Girls Bill and adopted the same with certain verbal changes.

7. The Committee authorised the Chairman to present the Report on their behalf.

8. The Committee decided that Minutes of Dissent, if any, might be sent so as to reach the Lok Sabha Secretariat by 5 P.M. on Tuesday, the 20th November, 1956.

9. The Committee then adjourned at 5-30 P.M.

APPENDIX A

(Vide para 18 of Minutes of the Third Sitting)

New Clause 18A

“18A. Removal of prostitutes from any place.—

(1) A magistrate on receiving information that any person residing in or frequenting any place within the local limits of his jurisdiction is a prostitute, may record the substance of the information received and issue a notice to such person requiring such person to appear before the magistrate and show cause why she should not be required to remove herself from the place and be prohibited from re-entering it.

(2) Every notice issued under sub-section (1) shall be accompanied by a copy of the record aforesaid, and the copy shall be served along with the notice on the person against whom the notice is issued.

(3) The magistrate shall, after the service of the notice referred to in sub-section (2), proceed to inquire into the truth of the information received and take such further evidence as he thinks fit, and if upon such inquiry it appears to him that such person is a prostitute and that it is necessary for the maintenance of public order and morality in the place that such person should be required to remove herself therefrom and be prohibited from re-entering the same, the magistrate shall, by order in writing communicated to the person in the manner specified therein, require her to remove herself from the place within such time as may be specified in the order and prohibit her from re-entering it without the permission in writing of the special police officer of the area concerned.

(4) Whoever—

(a) fails to comply with an order issued under this section within the period specified therein, or whilst an order prohibiting her from re-entering a place without permission is in force, re-enters the place without such permission, or

(b) knowing that any person has, under this section, been required to remove herself from the place and has not obtained the requisite permission to re-enter it, harbours or conceals such person in the place,

shall be punishable with fine which may extend to two hundred rupees, and in the case of a continuing offence with an additional fine which may extend to twenty rupees for every day after the first during which he or she has persisted in the offence.”

