

marriage; but if the validity of any such mode shall hereafter come into question before any Court, such question shall be decided as if this Act had not been passed.

20. [Registry of marriages contracted before passing of Act.] Rep. by the repealing Act, 1876 (XII of 1876).

21. **Penalty for signing declarations of certificates false statements:** Every person making signing or attesting any declaration or certificate prescribed by this Act, containing a statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed guilty of the offence described in section 199 of the Penal Code.

22. **Effect of certain marriages on coparcenary:** The marriage under this Act of any member of an undivided family who professes the Hindu, Buddhist, Sikh or Jaina religion shall be deemed to effect his severance from such family.

23. **Rights of succession in certain cases of marriage under Act:** A person professing the Hindu, Buddhist, Sikh or Jaina religion who marries under this Act shall have the same rights and be subject to the same disabilities in regard to any right of succession to any property as a person to whom the Caste Disabilities Removal Act, 1850, applies:

Provided that nothing in this section shall confer on any person any right to any religious office or service, or to the management of any religious or charitable trust.

24. **Succession to the property of parties married under Act:** Succession to the property of any person professing the Hindu, Buddhist, Sikh or Jaina religion who marries under this Act, and to the property of the issue of such marriage, shall be regulated by the provisions of the Succession Act.

25. **Person marrying under Act no to have right of adoption:** No person professing the Hindu, Buddhist, Sikh or Jaina religion marries under this Act, his father shall, if he has no other son living, have the right to adopt another person as a son under the law which he is subject.

## Appendix-VII

### Nari O Shishu Nirjatan Daman Ain, 2000

(নারী ও শিশু নির্যাতন দমন আইন, ২০০০)

(Act No. VIII of 2000)

[Dated: 14 Feb, 2000/2 Falgun, 1406]

An Act to Prevent offences rigidly relating to women to women and Children

WHEREAS it is expedient to frame laws for the prevention of offences rigidly relating to women and children;

Hence, therefore, the laws are enacted as below:-

**SEC.-1: SHORT TITLE.**—This law shall have the title, Nari O Shishu Nirjatan Daman Ain, 2000.

**SEC.-2: DEFINITIONS.**—Unless there is anything repugnant in the subject or context—

- a) '*offence*' means an offence punishable under this act;
- b) '*kidnapping or Abduction*' means to compel a person to go from one place to another place by applying force or upon inducement or enticement or by deceitful means or by intimidation;
- c) '*Confinement*' means to detain any person in one place against his will;
- d) '*Tribunal*' means a tribunal constitutes under this Act;
- e) '*Rape*' means subject to section 9, according to the definition given in section 375, Penal Code, 1860 (Act XLV of 1860);
- f) '*New born baby*' means any baby up to forty days;
- g) '*Woman*' means woman of any age;
- h) '*Ransom*' means monetary benefit or any other benefit;
- i) '*Criminal Procedure*' means Code of Criminal Procedure, 1898 (Act V of 1898);

<sup>1</sup>[(j) "Dowry" means—

a) any type of money, goods or another property as demanded by the bridegroom of any marriage or the father of a bridegroom or the mother of the bridegroom or any other person who is directly related to marriage in favour of the bridegroom a consideration for the marriage on the condition to perpetuate the marriage during the period the marriage to be held or in the earlier period or in the time of the continuation of marriage; or

b) any money, goods or property that is payable or likely to be paid up by the bridegroom or the father or mother (of the bridegroom) other person directly related to the marriage of the bridegroom to the party of the bride to on the condition to perpetuate the marriage, as the consideration of the marriage, in the period of the marriage to be held or in any earlier period or during the time to continuation of marriage;

k) "Child" means any person not more than sixteen years of age;]

l) 'High Court' means High Court Division of the Supreme Court of Bangladesh.

**SEC.-3: SUPREMACY OF LAW.**—Notwithstanding contained anything in any other law for the time being in force, the provisions of this Act shall be enforced.

**SEC.-4: PUNISHMENT FOR THE OFFENCES COMMITTED BY COMBUSTIBLE AND LIKE OTHER SUBSTANCES.**—1) If any person causes the death of any child or women or attempts to cause a death by combustible erosive or poisonous substance he shall be convicted to death sentence or for rigorous life imprisonment and in addition shall be fined up to taka one lakh.

2) If any person wounds any child or woman by combustible, erosive or poisons substance in such way that such child or woman losses eye sight or auditory system is lost or part of the body, limb, joint is distorted or any part of the body is wounded then after such child or women—

<sup>1</sup> Cls (j) & (k) subs. by the Sec. 2 of নারী ও শিশু নির্যাতন দমন (সংশোধন) আইন, ২০০৩ (২০০৩ সনের ৩০নং আইন)

a) in case of eyesight or auditory system distortion or facial, breast and sex organ distortion or spoliation, such person shall be convicted to death up to take one lakh.

b) In case of distortion or spoliation of any organ, joint or part thereof of the body or for any wound in the body that person shall be convicted up to fourteen years but not less than seven years rigorous imprisonment and in addition shall be fined up to taka fifty thousand.

3) If any person throws any combustible, erosive or poisonous substance or attempts to throw upon any child or woman and although there is no mischief of such child or woman physically or mentally or in any other way he shall be subjected up to seven years and not less than three years rigorous imprisonment and in addition shall be fined up to taka fifty thousand.

4) Under this section the fines shall be recovered according to prevailing laws from the convicted person or from his existing wealth or in case of his death from the wealth he leaves at the time of his death and on such recovery it will be paid to the heirs of the deceased who died for such offence and in case to him who has been injured physically and mentally and in case of his death, to his heirs.

**SEC.-5: PUNISHMENT FOR WOMEN TRAFFICKING ETC.**—1) If any person imports any purpose of prostitution or illegal or for employing in immoral activities or transports or send to foreign countries or purchases or sells or transfers any woman for hire or in other way transfers for torture or for the aforesaid purposes keeps in his own possession or surety or custody in that case he shall be convicted to death sentence or rigorous life punishment or up to twenty years but not less than ten years rigorous imprisonment and in addition shall be fined.

2) If any women is sold or hired or in any other way transferred to a prostitute or a brothel keeper or manager of the brothel then the person who has transferred such woman if otherwise it is not proved, then it shall be presumed that such woman has been sold or transferred for the purpose of prostitution and he shall be punished as mentioned in sub section (1).

3) If any person as brothel keeper or engaged in the management of the brothel purchases any women or hires or in any other way takes possession of any woman or keeps in custody, if it is not proved otherwise, then it shall be presumed that such woman has been purchased or hired or kept in possession or custody for the purpose and use of prostitution.

**SEC.-6: PUNISHMENT FOR CHILDREN TRAFFICKING ETC.—**1) If any person imports any child illegally and immorally from foreign country or exports or sends to foreign country or purchases or sells or for such purposes keeps any child in his own possession or custody or surety then such person shall be convicted for death sentence or shall be convicted for rigorous imprisonment for life and in addition shall be fined.

2) If any person steals a newborn baby from hospital, maternity, nursing home, clinic etc. or from the possession of the guardian then such person shall be convicted as mentioned in sub section (1).

**SEC.-7: PUNISHMENT FOR KIDNAPPING AND ABDUCTION OF WOMAN AND CHILDREN.—**If any person kidnaps or abducts any child or woman except for the purpose of the offences mentioned in section 5 then that person shall be convicted for the life term imprisonment or up to fourteen years rigorous imprisonment and in addition shall be fined.

**SEC.-8: PUNISHMENT FOR RANSOM.—**If any person for realizing ransom detains or confines any woman or children then such person shall be convicted for death sentence or life term rigorous imprisonment and in addition shall be fined.

**SEC.-9: PUNISHMENT FOR RAPE AND DEATH FOR RAPE ETC.—**1) If any person rapes a woman or a child then he shall be convicted for life-term rigorous imprisonment and in addition shall be fined.

**Explanation.—**If any male person, except in marriage tie, without the consent of the woman or by intimidation or by deceitful means cohabits with a woman aged above the age <sup>(2)</sup>[sixteen years] or with a woman of below the age of <sup>(2)</sup>[sixteen years] with consent or without consent cohabits then it shall be presumed that he has raped her.

<sup>2</sup>. The words subs. by the Sec. 3 of নারী ও শিশু নির্যাতন দমন (সংশোধন) আইন, ২০০৩ (২০০৩ সনের ৩০নং আইন)

2) If for the act of rape and for activities of the rapist after raping any woman or child dies then that person be convicted for death sentence or rigorous imprisonment for life term and in addition shall be fined up to taka one lakh.

3) If more than one person collectively commit the offence or rape to any woman or child and after rape the woman or the child dies or injured then every one of the groups shall be convicted for death sentence or rigorous imprisonment for life term and in addition shall be fined.

4) If any person to any woman or to any child—

a) attempts to cause death or injure after rape then that person shall be convicted for rigorous life-term imprisonment and shall be fined.

b) If attempts to rape, then that person shall be convicted for up to ten years but not less than five years rigorous imprisonment and addition shall be fined.

5) If any woman is raped while in police custody then that person or those persons who were directly responsible for the safe custody of the woman, unless otherwise proved, for failure of proper custody he or they shall be convicted up to ten years and not less than taka then thousand.

<sup>3</sup>[**SEC.-9A: PUNISHMENT FOR PROVOKING SUICIDE OF WOMEN, ETC.—**If any women convicts suicide by the direct result of any willful act of any person that causes her dis-reputaton then that person shall be liable to provoke that women to convict suicide such act and for such offence he shall be sentenced to not more than ten years but not less then five years period and above this pecuniary punishment may also be imposed upon time.]

<sup>4</sup>[**SEC.-10: PUNISHMENT FOR SEXUAL HARASSMENT, ETC.—**If any person shall, to fulfill his sexual desire, deep a touch upon the sexual organ or any other organ of any child or women with his any organ or any object or cause a women to the indecent then this act of that person shall e sexual harassment and for this offence shall be punished with imprisonment of not more than ten years but not less than three years and above this monetary penalty may also be imposed upon him.]

<sup>3</sup>. Sec. 9a ins. by the Sec. 4 of নারী ও শিশু নির্যাতন দমন (সংশোধন) আইন, ২০০৩ (২০০৩ সনের ৩০নং আইন)

<sup>4</sup>. Sec. 10 subs. by the Sec. 5 of নারী ও শিশু নির্যাতন দমন (সংশোধন) আইন, ২০০৩ (২০০৩ সনের ৩০নং আইন)

**SEC.-11: PUNISHMENT FOR CAUSING DEATH FOR DOWRY ETC.**—If any husband of a woman or father of the husband or his mother, guardian, relatives or any person or behalf of the husband causes the death of the woman for dowry or attempts to cause the death, <sup>6</sup>[or make such women to be grievously hurt, or simple hurt] then the said husband, husbands father, mother, guardian, relatives or person—

a) for causing death the conviction of death and for attempting to cause death life-term imprisonment and for both there shall be fined.

<sup>6</sup>[b] shall be punished with life imprisonment or not more than twelve years but not less than five years and above this monetary penalty may also be imposed for causing grievous hurt.

c) shall be punished for not more than a years but not less than one year and above this monetary penalty may also be imposed.]

**SEC.-12: PUNISHMENT FOR MAIMING OR MUTILATION OF THE CHILDREN FOR BEGGING.**—If any person begging or for the purpose of selling limbs mutilates or cripples hand or eye or any other way distorts or disfigures any child then conviction shall be death sentence or rigorous imprisonment for life-term and in addition there shall be fined.

**<sup>7</sup>[SEC.-13: PROVISIONS RELATING TO THE CHILDREN AS OUTCOME OF RAPE.—1)** Notwithstanding any other provisions of any law, if any offspring is born out as the result of rape—

a) that son/offspring may be kept to his mother or any other material relative;

b) that son shall be entitled to get acknowledgement by his father or mother or of both of them;

c) the state shall bear the maintenance of that son;

d) that son shall be entitled to get maintenance up to affairment of the age of twenty one years, but in case of a daughter up to her

<sup>5</sup> The words subs. by the Sec. 6 of নারী ও শিশু নির্যাতন দমন (সংশোধন) আইন, ২০০৩ (২০০৩ সনের ৩০নং আইন)

<sup>6</sup> Cls (b) & (c) subs. by the Sec. 6 of নারী ও শিশু নির্যাতন দমন (সংশোধন) আইন, ২০০৩ (২০০৩ সনের ৩০নং আইন)

<sup>7</sup> Sec. 10 subs. by the Sec. 7 of নারী ও শিশু নির্যাতন দমন (সংশোধন) আইন, ২০০৩ (২০০৩ সনের ৩০নং আইন)

marriage and in case of disabled child up to his gaining ability to maintain himself.

2) The Government shall, with the procedure determined by the sub-rule, determine the amount of money payable as maintenance to the son.

3) The Government may recover the amount of money payable as maintenance to the son from the existing property of the person committed rape and if it is not possible to recover the amount of money from the person who raped, it may shall be recoverable from the upcoming property of that person for which he shall be owner.]

**SEC.-14: PROVISION ABOUT THE PUBLICATION OF THE IDENTITY OF THE RAPED WOMAN AND CHILD BIRTH NEWS MEDIA.**—1) Victims of the offences under this act woman and children and news about the legal actions, information, names and addresses about them may be published through newspapers or news media in such a manner that there are not disclosed identities.

2) infringement of the provisions of sub-section (12), person or persons each shall be liable for two years conviction and fine of taka up to one lakh or both imprisonment and fine.

**SEC.-15: REALIZATION OF FINE FROM FUTURE PROPERTY.**—From section 4 to 14, the offences for which fine imposed by the tribunal, such fines may be treated as compensation for the victims and if it is not possible to realize the fine from the existing wealth of the convicts, the fine shall be receivable from the future wealth to which the convict will be owner and in such cases realization of fine will have priority than that of other claims.

**SEC.-16: PROCEDURE FOR REALIZING FINE AND COMPENSATION.**—If any fine is imposed the tribunal may direct the collector to realize the fine through prescribed procedure and in the absence of procedure tribunal may enunciate procedure that movable and immovable properties of the convict be enlisted and attached and sold out by way of bid or Nilam or without attachment directly be sold out by bid of Nilam and also be directed that the sale money be deposited to the tribunal and such money be given to the victims by the tribunal.

**SEC.-17: PUNISHMENT FOR FILING FALSE CASE, COMPLAINT ETC.—**

1) If any person with the motive of causing loss to any other person knowing that there is no cause of accusation under this act even then files case or causes to file, person files the case or the person causes to file the case shall be liable for conviction up to seven years rigorous imprisonment and also be liable for fine.

2) The tribunal will accept and try offence under sub-section (1) upon within complaint by any person.

**[SEC.-18: INQUIRY OF OFFENCE.—**1) Notwithstanding anything contained in the provisions of criminal procedure any inquiry of any offence—

a) to be conducted within the fifteen working days after his arrest or be placed to the police custody if the accused person is caught by the police is hand while committing the offence or by caught by any other person; or

b) if the accused person is not caught in hand while committing the offence then the inquiry shall be conducted within sixty working days after the receipt of the primary information about his committing offence or where applicable after receipt of inquiry order from the concerned officer or any after officer authorised by him or the tribunal.

2) If due to any reasonable cause inquiry is not completed within the period as referred in sub-rule (1), referring the reason, conduct the inquiry of offence with the succeeding thirty working days, and shall acknowledge the superior officer or the tribunal which gives order to inquire referring the reasons.

3) If the inquiry is not also conducted within the period as referred in sub-rule (2) the concerned inquiry officer shall, within twenty four hours of expiry of that period, acknowledge his superior officer or the tribunal who gives order about the reasons not to inquire

<sup>8</sup> Sec. 18 subs. by the Sec. 8 of নারী ও শিশু নির্যাতন দমন (সংশোধন) আইন, ২০০৩ (২০০৩ সালের ৩০শে আইন)

4) The superior officer or where applicable, the tribunal who gives order to inquiry shall, after being acknowledge about the inquiry not to be conducted, transfer to any other and any authorised inquiry officer who has been entrusted with the power to conduct inquiry—

a) shall conduct the inquiring activity within the period of seven working days if the accused person has been caught in hand by the police while committing the offence or the caused person be sent to the police being caught by any being caught by any other person; or

b) in any other case the inquiry must be conducted within the succeeding thirty working days.

5) If the inquiry is not possible to be conducted within the period as referred in sub-section (4) the concerned inquiry officer shall, within the period of twenty four hours inform his superior officer or, where applicable, tribunal which gives order to inquire about the reasons not to conduct inquiry.

6) If the superior officer or where applicable, the tribunal which gives the order to inquiry shall, after review of the report of not conducting the inquiring within the period as stated in sub-rule (2) or (4), decide this way that the concerned officer is liable not to conduct the inquiry within specific period of time then it shall be considered as inefficiency and misconduct of the liable person and such inefficiency and misconduct shall be referred in his annual confidential report and action may also be taken against him in according to the provisions of his service rules.

7) If the tribunal if satisfied after reviewing the report submitted that any person referred as accused in the inquiring report should be reasonable to make witness then the tribunal shall give order to make that person as witness instead of accused one.

8) If the tribunal is satisfied after taking evidence for the case that any inquiry officer has make such person witness instead of accused one for the purpose of exempting him from the liability of the case or collecting or considering no applicable information then direct the superior officer of that inquiry officer, referring such activities or

negligence as inefficiency or negligence or, where applicable, misconduct, to take appropriate action.

9) The Tribunal may, in response to any application or any other information direct the concerned authority to appoint any other inquiry officer.]

<sup>9</sup>[SEC.-19: COGNIZANCE OF OFFENCE ETC.—1) all offences trainable under this Act shall be cognized.

2) In accordance with the provisions of sub-section (3), no accused person who is concerned primarily or indirectly to the committing of any offence punishable under this Act shall be granted to leave on bail, if—

- a) the petitioner has not been given a chance to be heard on the application made by him; and
- b) the tribunal is satisfied that there is reasonable cause to believe that he is to be convicted as referred in the charge sheet brought against him.

3) If any person is a woman or child or physically sick or infirm as stated in sub-rule (2), then that person may be granted bail on the satisfaction of the tribunal that administration of justice shall not be hampered.

4) If the tribunal is satisfied that it will be justifiable to grant bail to a person of her wise as stated in sub-rule (2), then the tribunal may, referring the reasons concerned, grant bail to the concerned person.

**SEC.-20: PROCEDURE FOR TRIAL.**—1) The trial of offences under this Act shall be only be the tribunal constituted under section 25, prevention of cruelty to woman and children tribunal.

2) When the trial begins in the tribunal the trial shall continue on every working day consecutively.

3) The tribunal will complete the trial within 180 days from the date of receipt of the case record.

<sup>9</sup>. Sec. 19 subs. by the Sec. 9 of নারী ও শিশু নির্যাতন দমন (সংশোধন) আইন, ২০০৩ (২০০৩ সনের ৩০নং আইন)

4) Under sub-section (3) if the trial is not completed within time the tribunal may grant bail to the accused and if bail is not granted to accused for that reason be given.

5) If the judge of the tribunal is transferred before completion of the trial then the new judge shall try the case from the stage where his predecessor left and evidences recorded from the witnesses they need not be recalled:

Provided that for ends of justice if the judge deems it indispensable that the witness whose deposition has been recorded be recalled, then such witness may be recalled and reexamined.

<sup>10</sup>[6) The tribunal may, due to any application of any person or on self ascertain it is deemed to be fit to the tribunal, conduct the trial in camera under the provisions of section 9 of this Act.]

7) If any child is accused for any offence under this Act or in a witness then as far as practicable the provision of Children Act, 1974 (XXXIX of 1974) is followed.

<sup>11</sup>[8) The tribunal shall, in case of giving direction to keep any woman or child in safe custody take his opinion and consideration for the protection of welfare and interest of such woman or child.]

**SEC.-21: IN ABSENTIAL TRIAL.**—1) If the tribunal has reasonable belief that—

- a) accused person avoids arrest and absconding or hiding;
- b) there is no probability of immediate arrest then the tribunal will at least in two Daily News papers order publication of the appearance of the accused before the tribunal within thirty days from the date of publication and in default trial will be held in absentee.

2) If any accused person absconds after appearance or brought before the trial or after granting bail then provision of sub-section (1)

<sup>10</sup>. Sub-sec. (8) ins. by the Sec. 10 of নারী ও শিশু নির্যাতন দমন (সংশোধন) আইন, ২০০৩ (২০০৩ সনের ৩০নং আইন)

<sup>11</sup>. Sub-sec. (6) subs. by the Sec. 10 of নারী ও শিশু নির্যাতন দমন (সংশোধন) আইন, ২০০৩ (২০০৩ সনের ৩০নং আইন)

shall not apply and the tribunal after recording reasons trial will be held in absentia.

**SEC.-22: POWER OF MAGISTRATE TO RECORD STATEMENT IN ANY PLACE.—**1) Under this Act any police investigation officer or any other investigation officer or in the place of occurrence while arresting any accused if the police investigation officer thinks that any person has seen the occurrence with his own eyes or is aware of the occurrence and statement of such person be recorded in writing then he may request any Magistrate of the first class for recording his statement.

2) Magistrate mentioned in sub-section (1) will record the statement in place of occurrence or in any other proper place of the said person and statement recorded as such be filed with investigation report and sent to the tribunal.

3) If the trial begins in the tribunal against any accused person which is mentioned in sub-section (1) and it appears that the statement recorded under sub-section (2) and the presence of the said person is necessary as a witness but he is dead or is failed to depose or his whereabouts is unknown and the attempt to cause his appearance before the tribunal will be delayed or costly or disadvantageous which is not desirable then the statement made by him may be used as evidence:

Provided that only upon such statement the accused shall be punished.

**SEC.-23: DEPOSITIONS OF CHEMICAL EXAMINER, BLOOD EXAMINER, ETC.—**1) Physicians, Chemical Examiner, Assistant Chemical Examiner, Blood Examiner, Ballistic Expert approved by the government after examination or analysis has given on and at the time of trial his evidence necessary but he is dead or is unable to depose or it is not possible to find out or it will be delayed the attempt to bring before the tribunal expensive, disadvantages and according to the circumstances it is not desirable then the report bearing his signature may be used as evidence regarding trial of offences under this Act:

Provided that only depending on the report the tribunal cannot pass punishment the accused person.

**SEC.-24: PRESENCE OF WITNESS.—**1) The summons of witnesses or warrant for the trial of the cases under this Act to be sent to the officer-in-charge of the police station under which the last address of the witness is situated and the responsibility of presenting the witness to the tribunal shall be with such officer.

2) In spite of the Rule under section (1) a copy of the summons's be given to the concerned witness and concerned superintendent of police and if required to the commissioner of the police by Registered post with A/D.

3) Under this section if there is actual avoidance of enforcement of the service of summons or warrant by the police officer then the tribunal will identify it as inefficiency and report it to the Controlling Authority for necessary action.

**SEC.-25: APPLICATION OF CODE OF CRIMINAL PROCEDURE ETC.—**1) Unless there is anything otherwise in this Act the provisions of the Code of Criminal Procedure will be applicable for the purpose of filling complaint, investigation, trial and judgement.

2) Suit leader as deemed Public Prosecutor in favor of complainant in Tribunal.

**SEC.-26: PREVENTION OF CRUELTY TO WOMEN AND CHILDREN TRIBUNAL.—**1) In every District Headquarters there shall be a Tribunal for the trial of offences under this Act and of necessity the government may establish more than one court in the District and such Tribunal will be known as Nari O Shisu Nirjatan Daman Ain Tribunal.

2) One judge shall constitute tribunal and government will appoint judges from among the district and sessions judges.

3) The government of necessity, may appoint District and Sessions judge as judge of the tribunal in addition to his own responsibility.

4) In this section District and Sessions Judge will included "Additional District and Session Judge.

**SEC.-27: JURISDICTION OF TRIBUNAL.—**<sup>12</sup>[1) The tribunal shall not take any offence into cognizance without any written report of any

<sup>12</sup> Sub-sec. (1), (1a), (1b) and (1c) subs. by the Sec. 11 of নারী ও শিশু নির্যাতন দমন (সংশোধন) আইন, ২০০৩ (২০০৩ সনের ৩০নং আইন)

police officer not below the rank of sub-inspector or any other person authorised by the Government with any ordinary or special order.

1a) If any appellant has failed to make his allegation to nay police officer or any authorise person and filed a petition with an affidavit of such failure to the tribunal then verifying the appellant—

a) being satisfied the tribunal shall direct any magistrate or any other person to inquire into the allegation and the person so directed to inquiry shall submit the report to the tribunal within the period of seven working days;

b) being not satisfied the tribunal should dismiss the petition at once.

1b) If any tribunal is after receipt of report, satisfied that—

a) the petitioner has failed to make any police officer or any authorised officer to take the petition and there are evidences in support of the petition, then the tribunal shall take the offence for adjudication on the basis of such report and allegation;

b) the tribunal shall dismiss the petition on the disproof of that the petitioner has failed to make the police officer to take the allegation, or there is any evidence in support of such allegation.

1c) The tribunal may despite being not available of any allegation or recommendation in regard to it to take proceeding, take any offence for trial, if considers appropriate and for the greater interest of justice.]

**SEC.-28: APPEAL.**—1) The aggrieved party may appeal to the High court within sixty days against the judgement, order and inflicted sentence of the tribunal.

**SEC.-29: CONFIRMATION OF THE DEATH SENTENCE.**—1) If any tribunal under this Act awards death sentence then the records of the case shall be sent to the High Court Division as per section 374 of the Criminal Procedure Code at once and without the confirmation of the High Court Division no death sentence can be executed.

**SEC.-30: PUNISHMENT FOR ABEMENT OF PROVOCATION IN OFFENCES.**— If any person abets or provokes in any offence under

this Act and or that abatement and provocation the offence is committed or attempts for committing the offence or any person aids the commission of any offence under this Act then the abettor or one who aids and one who provides shall be punished as one who commits the offence and as one who attempts to commit the offence.

**SEC.-31: JUDICIAL OR SAFE CUSTODY.**—Under this Act during the course of trial of any offence if the tribunal deem fit and proper that any women or child be kept in safe custody then the tribunal may order that such woman or the child be kept outside the prison and in a place approval by the government and under the Authority of government for same the custody to any person organization.

<sup>13</sup>[**SEC.-31A: ACCOUNTABILITY OF THE TRIBUNAL ETC.**—1) In case of any suit to be unsettled within the period as referred in sub-section (3) the tribunal shall have to submit a report stating the reasons to the Supreme Court within the period of thirty days, the copy of which is also to be sent to the government.

2) In such case the public prosecutor and the concerned police officer shall have also to submit a report stating such reasons to the government within the period of thirty days one copy of which is to be sent to the Supreme Court.

3) The appropriate authority shall, after reviving the report submitted to under the provisions of sub-section (1) or (2), take appropriate action against the liable person or persons for not disposal of the case.]

<sup>14</sup>[**SEC.-32: MEDICAL TEST OF THE PERSON VICTIMIZED WITH OFFENCE.**—1) Medical test of any person victimized with offence, under this Act, may be conducted in any Public Hospital or in any other Private Hospital authorised by the government.

2) Under sub-section (1), if any person victimized with the offence is sent for treatment to any hospital, then the doctors on duty of such hospital shall immediately conduct medical test of that person and shall

<sup>13</sup> Sec. 32A ins. by the Sec. 12 of নারী ও শিশু নির্যাতন দমন (সংশোধন) আইন, ২০০৩ (২০০৩ সনের ৩০নং আইন)

<sup>14</sup> Sec. 32 subs. by the Sec. 13 of নারী ও শিশু নির্যাতন দমন (সংশোধন) আইন, ২০০৩ (২০০৩ সনের ৩০নং আইন)



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provide a certificate of such medical test to the concerned person and shall inform to the local police station about the occurrence of such offence.

3) In case of not conducting medical test within the reasonable period of time, the superior officer/controlling officer, or where applicable, the authority has given direction for medical test or any other officer authorised frame him, magistrate, tribunal or any other concerned authority after reviving of report such undue delay to conduct medical test considers that the concerned doctor is liable not to conduct the medical test within that reasonable period of time, then it shall be considered as inefficiency and misconduct of that persons and then inefficiency and misconduct shall be referred to his annual confidential report and in appropriate case action may be taken against him in accordance with the provisions of service rules and the authority who appoints that doctor or where applicable, the appropriate authority may be directed by the tribunal to take action against that doctor.]

**SEC.-33: POWERS OF MAKING RULES.**—The Government for the fulfillment of aims and objects of this law may make Rules and published in the official gazette.

**SEC.-34: REPEAL OF STATUTE NO. 18 OF 1995 AND SAVING THEREOF.**—1) Cruelty to women and children Act, 1995 (Special Law) (Act No. XVIII of 1995) is hereby repealed.

2) Immediately before the repeal of the said law pending cases and appeals and orders, judgment or conviction made in the said pending cases shall be decided in such a manner that the said law is not repelled.

3) Under the said law the reports or complaints made and in that perspective charge-sheets submitted or the cases under investigation, those case according to sub-section (2) will be deemed to be sub-Judaic in the said court.

4) The Courts constituted under the said law as special court of prevention of cruelty to women and children shall be deemed to be tribunals under this Act and according to sub-section (2) the said cases may adjudicated.

# THE CHILDREN ACT, 1974

(Act No. XXXIX of 1974)

22nd June, 1974

An Act to consolidate and amend the law relating to the custody, protection and treatment of children and trial and punishment of youthful offenders.

WHEREAS it is expedient to consolidate and amend the law relating to the custody, protection and treatment of children and trial and punishment of youthful offenders;

It is hereby enacted as follows:-

## PART I PRELIMINARY

**1. Short title and commencement.**—(1) This Act may be called the Children Act, 1974.

(2) It shall come into force in such areas and on such dates as the Government may, by notification in the official Gazette, specify.

**2. Definitions.**—In this Act, unless there is anything repugnant in the subject or context,-

(a) “adult” means a person who is not a child;

(b) “approved home” means any institution which is established by any association or body of individuals and recognised by the Government for the reception or protection of, or prevention of cruelty to, children and which undertakes to bring up, or give facilities for bringing up, any child entrusted to its care in conformity with the religion of his birth;

(c) “begging” means-

(i) soliciting or receiving alms in a public place, whether or not under any pretence such as singing, dancing, fortune-telling, reciting holy verse or performing tricks;

(ii) entering in any private premises for the purpose of soliciting or receiving alms;

(iii) exposing or exhibiting with the object of obtaining or extorting alms any sore, wound, injury, deformity or disease;

(iv) having no visible means of subsistence and wandering about and remaining in any public place in such condition or manner as makes it likely that the person doing so exists by soliciting or receiving alms; and