

## Nari O Shishu Nirjatan Daman Ain, 2000

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1995 AND SAVING THEREOF.**—1) Cruelty to women and children Act, 1995 (Special Law) (Act No. XVIII of 1995) is hereby repealed.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

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(v) allowing oneself to be used as an exhibit for the purpose of soliciting or receiving alms;

(d) "certified institute" means a training institute established or any training institute, industrial school or educational institution certified by the Government under section 19;

(e) "Chief Inspector" means Chief Inspector of certified institutes appointed under section 30;

(f) "child" means a person under the age of sixteen years, and when used with reference to a child sent to a certified institute or approved home or committed by a Court to the custody of a relative or other fit person means that child during the whole period of his detention notwithstanding that he may have attained the age of sixteen years during that period;

(g) "Code" means the Code of Criminal Procedure, 1898 (V of 1898);

(h) "guardian", in relation to a child or youthful offender includes any person who, in the opinion of the Court having cognizance of any proceedings in relation to the child or youthful offender, has for the time being the actual charge of, or control over, the said child or youthful offender;

(i) "Juvenile Court" means a Court established under section 3;

(j) "place of safety" includes a remand home, or any other suitable place or institution, the occupier or manager of which is willing temporarily to receive a child or where such remand home or other suitable place or institution is not available, in the case of a male child only, a police-station in which arrangements are available or can be made for keeping children in custody separately from the other offenders;

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

(l) "Probation Officer" means a Probation Officer appointed under section 31;

(m) "supervision" means the placing of a child under the control of a Probation Officer or other person for the purpose of securing proper care and protection of the child by his parent, guardian, relation or any other fit person to whose care the child has been committed; and

(n) "youthful offender" means any child who has been found to have committed an offence.

### PART II

#### POWERS AND FUNCTIONS OF COURTS HAVING JURISDICTION UNDER THE ACT

**3. Juvenile Courts.**—Notwithstanding anything contained in the Code, the Government may, by notification in the official Gazette, establish one or more Juvenile Courts for any local area.

**4. Courts empowered to exercise powers of Juvenile Court**—The powers conferred on a Juvenile Court by this Act shall also be exercisable by—

(a) the High Court Division,

(b) a Court of Session,

(c) a Court of an Additional Sessions Judge and of an Assistant Sessions Judge,

(d) a Sub-Divisional Magistrate, and

(e) a Magistrate of the first class, whether trying any case originally or on appeal or in revision.

**5. Powers of Juvenile Courts, etc.**—(1) When a Juvenile Court has been established for any local area, such Court shall try all cases in which a child is charged with the commission of an offence and shall deal with and dispose of all other proceedings under this Act, but shall not have power to try any case in which an adult is charged with any offence mentioned in Part VI of this Act.

(2) When a Juvenile Court has not been established for any local area, no Court other than a Court empowered under section 4 shall have power to try any case in which a child is charged with the commission of an offence or to deal with or dispose of any other proceeding under this Act.

(3) When it appears to a Juvenile Court or a Court empowered under section 4, such Court being subordinate to the Court of Session, that the offence with which a child is charged is triable exclusively by the Court of Session, it shall immediately transfer the case to the Court of Session for trial in accordance with the procedure laid down in this Act.

**6. No joint trial of child and adult.**—(1) Notwithstanding anything contained in section 239 of the Code or any other law for the time being in force, no child shall be charged with, or tried for, any offence together with an adult.

(2) If a child is accused of an offence for which under section 239 of the Code or any other law for the time being in force such child but for the provisions of sub-section (1) could have been tried together with

an adult, the Court taking cognizance of the offence shall direct separate trials of the child and the adult.

**7. Sittings, etc of Juvenile Courts.**—(1) A Juvenile Court shall hold its sittings at such places, on such days and in such manner as may be prescribed.

(2) In the trial of a case in which a child is charged with an offence a Court shall, as far as may be practicable, sit in a building or room different from that in which the ordinary sittings of the Court are held, or on different days or at different times from those at which the ordinary sittings of the Court are held.

**8. Adult to be committed to sessions in a case to be committed to sessions.**—(1) When a child is accused along with an adult of having committed an offence and it appears to the Court taking cognizance of the offence that the case is a fit one for committal to the Court of Session, such Court shall, after separating the case in respect of the child from that in respect of the adult, direct that the adult alone be committed to the Court of Session for trial.

(2) The case in respect of the child shall then be transferred to a Juvenile Court if there is one or to a Court empowered under section 4, if there is no Juvenile Court for the local area, and the Court taking cognizance of the offence is not so empowered:

Provided that the case in respect of the child shall be transferred to the Court of Session under section 5 (3) if it is exclusively triable by the Court of Session in accordance with the Second Schedule of the Code.

**9. Presence of persons in Juvenile Courts.**—Save as provided in this Act, no person shall be present at any sitting of a Juvenile Court except—

- (a) the members and officers of the Court;
- (b) the parties to the case or proceeding before the Court and other persons directly concerned in the case or proceeding including the police officers;
- (c) parents or guardians of the child; and
- (d) such other persons as the Court specially authorises to be present.

**10. Withdrawal of persons from Courts.**—If at any stage during the hearing of a case or proceeding, the Court considers it expedient in the interest of the child to direct any person, including the parent, guardian or the spouse of the child, or the child himself to withdraw, the Court may give such direction and thereupon such person shall withdraw.

**11. Dispensing with attendance of child.**—If at any stage during the hearing of a case or proceeding, the Court is satisfied that the attendance of a child is not essential for the purpose of the hearing of the case or proceeding, the Court may dispense with his attendance and proceed with the hearing of the case or of the proceeding in the absence of the child.

**12. Withdrawal of persons from Court when child is examined as witness.**—If at any stage during the hearing of a case or proceeding in relation to an offence against, or any conduct contrary to, decency or morality, a child is summoned as a witness, the Court hearing the case or proceeding may direct such persons as it thinks fit, not being parties to the case or proceeding, their legal advisers and the officers concerned with the case or proceeding, to withdraw and thereupon such persons shall withdraw.

**13. Attendance at Court of parent of a child charged with offence, etc.**—(1) Where a child brought before a Court under this Act has a parent or guardian, such parent or guardian may in any case, and shall, if he can be found and if he resides within a reasonable distance, be required to attend the Court before which any proceeding is held under this Act, unless the Court is satisfied that it would be unreasonable to require his attendance.

(2) Where the child is arrested, the officer in charge of the police-station to which he is brought shall forthwith inform the parent or guardian, if he can be found, of such arrest, and shall also cause him to be directed to attend the Court before which the child will appear and shall specify the date of such appearance.

(3) The parent or guardian whose attendance shall be required under this section shall be the parent or guardian having the actual charge of, or control over, the child:

Provided that if such parent or guardian is not the father, the attendance of the father may also be required.

(4) The attendance of the parent of a child shall not be required under this section in any case where the child was, before the institution of the proceedings, removed from the custody or charge of his parent by an order of a Court.

**14. Committal to approved place of child suffering from dangerous disease.**—(1) When a child, who has been brought before a Court under any of the provisions of this Act, is found to be suffering from a disease requiring prolonged medical treatment, or a physical or mental complaint that is likely to respond to treatment, the Court may send the

child to a hospital or to any other place recognised to be an approved place in accordance with the rules made under this Act for such period as it may think necessary for the required treatment.

(2) Where a Court has taken action under sub-section (1) in the case of child suffering from an infectious or contagious disease, the Court, before restoring the said child to his partner in marriage, if there is one, or to the guardian, as the case may be, shall, where it is satisfied that such action will be in the interest of the said child, call upon his partner in marriage or the guardian, as the case may be, to satisfy the Court by submitting to medical examination that such partner or guardian will not re-infect the child in respect of whom the order has been passed.

**15. Factors to be taken into consideration in passing orders by Courts.**—For the purpose of any order which a Court has to pass under this Act, the Court shall have regard to the following factors:-

- (a) the character and age of the child;
- (b) the circumstances in which the child is living;
- (c) the reports made by the Probation Officer; and
- (d) such other matters as may, in the opinion of the Court, require to be taken into consideration in the interest of the child:

Provided that where a child is found to have committed an offence, the above factors shall be taken into consideration after the Court has recorded a finding against him to that effect.

**16. Reports of Probation Officers and other reports to be treated confidential.**—The report of the Probation Officer or any other report considered by the Court under section 15 shall be treated as confidential:

Provided that if such report relates to the character, health or conduct of, or the circumstances in which, the child or the parent or guardian of such child is living, the Court may, if it thinks expedient, communicate the substance thereof to the child, or the parent or guardian concerned and may give the child or the parent or guardian of such child an opportunity to produce evidence as may be relevant to the matters stated in the report.

**17. Prohibition on publication of report disclosing identity, etc, of child involved in cases.**—No report in any newspaper, magazine or news-sheet nor any news giving agency shall disclose any particular of any case or proceeding in any Court under this Act in which a child is involved and which leads directly or indirectly to the identification of such child, nor shall any picture of such child be published:

Provided that, for reasons to be recorded in writing, the Court trying the case or holding the proceeding may permit the disclosure of any such report, if, in its opinion, such disclosure is in the interest of child welfare and is not likely to affect adversely the interest of the child concerned.

**18. Provisions of Criminal Procedure Code, 1898, to apply unless excluded.**—Except as expressly provided under this Act or the rules made thereunder, the procedure to be followed in the trial of cases and the holding of proceedings under this Act shall be in accordance with the provisions of the Code.

### PART III

#### CERTIFIED INSTITUTES AND OTHER INSTITUTIONS

**19. Establishment and certification of Institutes.**—(1) The Government may establish and maintain training institute for the reception of children and youthful offenders.

(2) The Government may certify that any training institute not established under sub-section (1) or any industrial school or other educational institution is fit for the reception of children or youthful offenders.

**20. Remand Homes.**—The Government may establish and maintain remand homes for the purposes of detention, diagnosis and classification of children committed to custody by any Court or Police.

**21. Conditions for certification or recognition of institutes, etc.**—The Government may prescribe conditions subject to which any training institute, industrial school, educational institution or approved home shall be certified or recognised, as the case may be, for the purposes of this Act.

**22. Management of certified institutes.**—(1) For the control and management of every training institute established under section 19 (1), a superintendent and a committee of visitors shall be appointed by the Government, and such superintendent and committee shall be deemed to be managers of the institute for the purposes of this Act.

(2) Every institute, school or institution certified under section 19 (2) shall be under the management of its governing body, the members of which shall be deemed to be the managers of the institute, school or institution for the purposes of this Act.

**23. Consultation with managers.**—The managers of a certified institute shall be consulted by the Court before any child is committed to it.

**24. Medical inspection of certified institutes and approved homes.**—Any registered medical practitioner empowered in this behalf by the Government may visit any certified institute or approved home at any time with or without notice to its managers or other persons in charge thereof in order to report to the Chief Inspector on the health of the inmates and the sanitary condition of the certified institute or approved home.

**25. Power of the Government to withdraw certificate.**—The Government, if dissatisfied with the management of a certified institute, may at any time by notice served on the managers of the institute declare that the certificate of the institute is withdrawn as from a date specified in the notice and on such date the withdrawal of the certificate shall take effect and the institute shall cease to be certified institute:

Provided that before the issue of such notice a reasonable opportunity shall be given to the managers of the certified institute to show cause why the certificate shall not be withdrawn.

**26. Resignation of certificate by managers.**—The managers of a certified institute may, on giving six months' notice in writing to the Government through the Chief Inspector of their intention so to do, resign the certificate of the institute and accordingly at the expiration of six months from the date of notice, unless before that time the notice is withdrawn, the resignation of the certificate shall take effect and the institute shall cease to be a certified institute.

**27. Effect of withdrawal or resignation of certificate.**—A child or youthful offender shall not be received into a certified institute under this Act after the date of receipt by the managers of the institute of a notice of withdrawal of the certificate or after the date of a notice of resignation of the certificate:

Provided that the obligation of the managers to teach, train, lodge, cloth and feed any child or youthful offender detained in the institute at the respective dates aforesaid shall, except so far as the Government otherwise directs, continue until the withdrawal or resignation of the certificate takes effect.

**24. Disposal of inmates on withdrawal or resignation of certificate.**—When an institute ceases to be a certified institute, the

children or youthful offenders detained therein shall be either discharged absolutely or on such conditions as the Government may impose or may be transferred by order of the Chief Inspector to some other certified institute in accordance with the provisions of this Act relating to discharge and transfer.

**29. Inspection of certified institutes and approved homes.**—Every certified institute and approved home shall be liable to inspection at all times and in all its departments by the Chief Inspector, Inspector or Assistant Inspector of certified institutes and shall be so inspected at least once in every six months:

Provided that where any such certified institute is for the reception of girls only and such inspection is not made by the Chief Inspector, the inspection shall, wherever practicable, be made by a woman authorised by the Chief Inspector in that behalf.

#### PART IV

#### OFFICERS AND THEIR POWERS AND DUTIES

**30. Appointment of Chief Inspector, etc.**—(1) The Government may appoint a Chief Inspector of certified institutes and such number of Inspectors and Assistant Inspectors of certified institutes as it thinks fit to assist the Chief Inspector.

(2) The Chief Inspector shall have such powers and duties as this Act specifies and as may be prescribed.

(3) Every Inspector or Assistant Inspector shall have such of the powers and duties of the Chief Inspector as the Government may direct and shall act under the direction of the Chief Inspector.

**31. Appointment of Probation Officers.**—(1) The Government may appoint a Probation Officer in each district:

Provided that where there is no person so appointed in a district, any other person may be appointed as a Probation Officer from time to time by a Court in that district for any particular case.

(2) A Probation Officer, in the performance of his duties under this Act, shall be under supervision and guidance of the Juvenile Court where such Court exists or, where there is no such Court, the Court of Session.

(3) A Probation Officer shall, subject to the rules made under this Act and to the directions of the Court—

(a) visit or receive visits from the child at reasonable intervals;

- (b) see that the relative of the child or the person to whose care such child is committed observes the conditions of the bond;
- (c) report to the Court as to the behaviour of the child;
- (d) advise, assist and befriend the child and, where necessary, endeavour to find him suitable employment; and
- (e) perform any other duty which may be prescribed.

### PART V

#### MEASURES FOR THE CARE AND PROTECTION OF DESTITUTE AND NEGLECTED CHILDREN

**32. Children found homeless, destitute etc.**—(1) A Probation Officer or a Police Officer not below the rank of Sub-Inspector of Police or any other person authorised by the Government in this behalf may bring before a Juvenile Court or a Court empowered under section 4 any person who, in his opinion, is a child and who-

**33. Un-controllable children.**—(1) Where the parent or guardian of a child complains to a Juvenile Court or to a Court empowered under section 4 that he is unable to control the child, the Court may, if satisfied on inquiry that it is expedient so to deal with the child, order the child to be committed to a certified institute or an approved home for a period not exceeding three years.

(2) The Court may also, if satisfied that home conditions are satisfactory and what is needed is supervision, instead of committing the child to a certified institute or approved home, place him under the supervision of a Probation Officer for a period not exceeding three years.

(a) has no home, settled place of abode or visible means of subsistence, or no parent or guardian exercising regular and proper guardianship; or

(b) is found begging or is found doing for a consideration any act under circumstances contrary to the well being of the child; or

(c) is found destitute and his parent or other guardian is undergoing transportation or imprisonment; or

(d) is under the care of a parent or guardian who habitually neglects or cruelly ill-treats the child; or

(e) is generally found in the company of any reputed criminal or prostitute not being his parent or guardian; or

(f) is residing in or frequenting a house used by a prostitute for the purpose of prostitution and is not the child of that prostitute; or

(g) is otherwise likely to fall into bad association or to be exposed to moral danger or to enter upon a life of crime.

(2) The Court before which a child referred to in sub-section (1) is brought shall examine the information and record the substance of such examination, and, if it thinks there are sufficient grounds for making further inquiry, it shall fix a date for the purpose.

(3) On the date fixed for the inquiry under sub-section (2) or on any subsequent date to which the proceedings may be adjourned, the Court shall hear and record all relevant evidence which may be adduced for and against any action that may be taken under this Act and may make any further inquiry it thinks fit.

(4) If the Court is satisfied on such inquiry that such person is a child as described in sub-section (1) and that it is expedient so to deal with him, the Court may order him to be sent to a certified institute or approved home or may order him to be committed in the prescribed manner to the care of a relative or other fit person named by the Court and willing to undertake such care, until such child attains the age of eighteen years, or for any shorter period.

(5) The Court which makes an order committing a child to the care of a relative or other fit person may, when making such order, require such relative or other person to execute a bond, with or without sureties, as the Court may require, to be responsible for the good behaviour of the child and for the observance of such other conditions as the Court may impose for securing that the child may lead an honest and industrious life.

(6) The Court which makes an order committing a child to the care of a relative or other fit person under this section may, in addition order that he be placed under the supervision of a Probation Officer or other fit person named by the Court.

### PART VI

#### SPECIAL OFFENCES IN RESPECT OF CHILDREN

**34. Penalty for cruelty to child.**—If any person over the age of sixteen years, who has the custody, charge or care of any child assaults, ill-treats, neglects, abandons or exposes such child or causes such child to be assaulted, ill-treated, neglected, abandoned or exposed in a manner likely to cause such child unnecessary suffering or injury to his health, including loss of sight or hearing or injury to limb or organ of the body and any mental derangement, such person shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to Taka one thousand, or with both.

**35. Penalty for employing children for begging.**—Whoever employs any child for the purpose of begging, or causes any child to beg, or whoever having the custody, charge or care of a child, connives at or encourages his employment for the purpose of begging, or whoever uses a child as an exhibit for the purpose of begging, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to Taka three hundred, or with both.

**36. Penalty for being drunk while in charge of child.**—If any person is found drunk in any public place, whether a building or not, while having the charge of a child, and if such person is incapable by reason of his drunkenness of taking due care of the child, such person shall be punishable with fine which may extend to Taka one hundred.

**37. Penalty for giving intoxicating liquor or dangerous drug to child.**—Whoever in any public place, whether a building or not, gives or causes to be given to any child any intoxicating liquor or dangerous drug except upon the order of a duly qualified medical practitioner in case of sickness or other urgent cause shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to Taka five hundred, or with both.

**38. Penalty for permitting child to enter places where liquor or dangerous drugs are sold.**—Whoever takes a child to any place where intoxicating liquor or dangerous drugs are sold, or being the proprietor, owner or a person in charge of such place, permits a child to enter such place or whoever causes or procures a child to go to such place, shall be punishable with fine which may extend to Taka five hundred.

**39. Penalty for inciting child to bet or borrow.**—Whoever by words either spoken or written or by signs or otherwise incites or attempts to incite a child to make any bet or wager or to enter into or take any share or interest in any betting or wagering transaction or so incites a child to borrow money or to enter into any transaction involving the borrowing of money shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to Taka two hundred, or with both.

**40. Penalty for taking on pledge or purchasing articles from child.**—Whoever takes an article on pledge from a child, whether offered by that child on his own behalf or on behalf of any person, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to Taka five hundred, or with both.

**41. Penalty for allowing child to be in brothel.**—Whoever allows or permits a child over the age of four years to reside in or frequently to go to a brothel shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to Taka one thousand, or with both.

**42. Penalty for causing or encouraging seduction.**—Whoever having the actual charge of, or control over, a girl under the age of sixteen years causes or encourages the seduction or prostitution of that girl or causes or encourages any person other than her husband to have sexual intercourse with her shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to Taka one thousand, or with both.

**Explanation.** For the purposes of this section, a person shall be deemed to have caused or encouraged the seduction or prostitution of a girl if he has knowingly allowed the girl to consort with, or to enter or continue in the employment of, any prostitute or person of known immoral character.

**43. Young girls exposed to risk or seduction.**—If it appears to a Court on the complaint of any person that a girl under the age of sixteen years is, with or without the knowledge of her parent or guardian, exposed to the risk of seduction or prostitution, the Court may direct the parent or guardian to enter into a recognisance to exercise due care and supervision in respect of such girl.

**44. Penalty for exploitation of child employees.**—(1) Whoever secures a child ostensibly for the purpose of manual employment or for labour in a factory or other establishment, but in fact exploits the child for his own ends, withholds or lives on his earnings, shall be punishable with fine which may extend to Taka one thousand.

(2) Whoever secures a child ostensibly for any of the purposes mentioned in sub-section (1), but exposes such child to the risk of seduction, sodomy, prostitution or other immoral conditions shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to Taka one thousand, or with both.

(3) Any person who avails himself of the labour of a child exploited in the manner referred to in sub-section (1) or sub-section (2), or for whose immoral gratification such child is used, shall be liable as an abettor.

**45. Penalty for abetting escape of child or youthful offender.**—Whoever—

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(a) Knowingly assists or induces, directly or indirectly, a child or youthful offender detained in or placed out on license from a certified institute or approved home to escape from the institute or home or from any person with whom he is placed out on license or any child to escape from the person to whose custody he is committed under this Act; or

(b) Knowingly harbours, conceals or prevents from returning to certified institute or approved home or to any person with whom he is placed out on license or to the person to whose custody he is committed under this Act a child or youthful offender who has so escaped, or knowingly assist in so doing, shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to Taka two hundred, or with both.

**46. Penalty for publication of report or pictures relating to child.**—Whoever publishes any report or picture in contravention of the provisions of section 17 shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to Taka two hundred, or with both.

**47. Offence under this part cognizable.**—Notwithstanding anything contained in the Code, all offences under this part shall be cognizable.

### PART VII YOUTHFUL OFFENDERS

**48. Bail of child arrested.**—Where a person apparently under the age of sixteen years is arrested on a charge of a non-bailable offence and cannot be brought forthwith before a Court, the officer-in-charge of the police-station to which such person is brought may release him on bail, if sufficient security is forthcoming, but shall not do so where the release of the person shall bring him into association with any reputed criminal or expose him to moral danger or where his release would defeat the ends of justice.

**49. Custody of child not enlarged on bail.**—(1) Where a person apparently under the age of sixteen years having been arrested is not released under section 48, the officer-in-charge of the police-station shall cause him to be detained in a remand home or a place of safety until he can be brought before a Court.

(2) A Court, on remanding for trial a child who is not released on bail, shall order him to be detained in a remand home or a place of safety.

**50. Submission of information to Probation Officer by police after arrest.**—Immediately after the arrest of a child, it shall be the duty of the police officer, or any other person affecting the arrest, to inform the Probation Officer of such arrest in order to enable the said Probation Officer to proceed forthwith in obtaining information regarding his antecedents and family history and other material circumstances likely to assist the Court in making its order.

**51. Restrictions on punishment of child.**—(1) Notwithstanding anything to the contrary contained in any law, no child shall be sentenced to death, transportation or imprisonment:

Provided that when a child is found to have committed an offence of so serious a nature that the Court is of opinion that no punishment, which under the provisions of this Act it is authorised to inflict, is sufficient or when the Court is satisfied that the child is of so unruly or of so depraved character that he cannot be committed to a certified institute and that none of the other methods in which the case may legally be dealt with is suitable, the Court may sentence the child to imprisonment or order him to be detained in such place and on such conditions as it thinks fit:

Provided further that no period of detention so ordered shall exceed the maximum period of punishment to which the child could have been sentenced for the offence committed:

**52. Commitment of child to certified institute.**—Where a child is convicted of an offence punishable with death, transportation or imprisonment, the Court may if it considers expedient so to deal with the child, order him to be committed to a certified institute for detention for a period which shall be not less than two and not more than ten years, but not in any case extending beyond the time when the child will attain the age of eighteen years.

Provided further that at any time during the period of such detention the Court may, if it thinks fit, direct that in lieu of such detention the youthful offender be kept in a certified institute until he has attained the age of eighteen years.

(2) A youthful offender sentenced to imprisonment shall not be allowed to associate with adult prisoners.

**53. Power to discharge youthful offenders or to commit him to suitable custody.**—(1) A Court may, if it thinks fit, instead of directing any youthful offender to be detained in a certified institute under section 52, order him to be-



(a) discharged after due admonition, or  
 (b) released on probation of good conduct and committed to the care of his parent or guardian or other adult relative or other fit person on such parent, guardian, relative or person executing a bond, with or without sureties, as the Court may require, to be responsible for the good behaviour of the youthful offender for any period not exceeding three years, and the Court may also order that the youthful offender be placed under the supervision of a Probation Officer.

(2) If it appears to the Court on receiving a report from the Probation Officer or otherwise that the youthful offender has not been of good behaviour during the period of his probation, it may, after making such inquiry as it deems fit, order the youthful offender to be detained in a certified institute for the unexpired of probation.

**54. Power to order parent to pay fine, etc.**—(1) Where a child is convicted of an offence punishable with fine, the Court shall order that the fine be paid by the parent or guardian of the child, unless the Court is satisfied that the parent or guardian cannot be found or that he has not conduced to the commission of the offence by neglecting to exercise due care of the child.

(2) Where a parent or guardian is directed to pay a fine under sub-section (1), the amount may be recovered in accordance with the provision of the Code.

#### PART VIII

#### MEASURES FOR DETENTION, ETC., OF CHILDREN AND YOUTHFUL OFFENDERS

**55. Detention of child in place of safety.**—(1) Any Probation Officer or police officer not below the rank of Assistant Sub-Inspector or a person authorised by the Government in this behalf may take to a place of safety any child in respect of whom there is reason to believe that an offence has been or is likely to be committed. (2) A child so taken to a place of safety and also any child who seeks refuge in a place of safety may be detained until he can be brought before a Court:

Provided that such detention shall not, in the absence of a special order of the Court, exceed a period of twenty-four hours exclusive of the time necessary for journey from the place of detention to the Court.

(3) The Court may thereupon make such order as hereinafter provided.

**56. Court's power for care and detention of child.**—(1) Where it appears to the Court that there is reason to believe that an offence as stated in section 55 has been committed or is likely to be committed in respect of any child who is brought before it and that it is expedient in the interest of the child that action should be taken under this Act, the Court may make such order as circumstances may admit and require for the care and detention of the child until a reasonable time has elapsed for the institution of proceedings against the person for having committed the offence in respect of the child or for the purpose of taking such other lawful action as may be necessary.

(2) The order of detention made under sub-section (1) shall remain in force until such time as the proceedings instituted against any person for an offence referred to in sub-section (1) terminate in either conviction, discharge or acquittal.

(3) An order passed under this section shall be given effect to notwithstanding that any person claims the custody of the child.

**57. Victimized child to be sent to Juvenile Court.**—Any Court by which a person is convicted of having committed an offence in respect of a child or before which a person is brought for trial for any such offence shall direct the child concerned to be produced before a Juvenile Court or, where there is no Juvenile Court, a Court empowered under section 4 for making such orders as it may deem proper.

**58. Order for committal of victimised children.**—The Court before which a child is produced in accordance with section 57 may order the child—

(a) to be committed to a certified institute or an approved home until such child attains the age of eighteen years or, in exceptional cases, for a shorter period, the reasons for such shorter period to be recorded in writing, or

(b) to be committed to the care of a relative or other fit person on such bond, with or without surety, as the Court may require, such relative or fit person being willing and capable of exercising proper care, control and protection of the child and of observing such other conditions including, where necessary, supervision for any period not exceeding three years, as the Court may impose in the interest of the child:

Provided that, if the child has a parent or guardian fit and capable, in the opinion of the Court, of exercising proper care, control and protection, the Court may allow the child to remain in his custody or may commit the child to his care on bond, with or without surety, in the

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prescribed form and for the observance of such conditions as the Court may impose in the interest of the child.

**59. Supervision of victimised children.**—The Court which makes an order committing a child to the care of his parent, guardian or other fit person under the foregoing provisions may, in addition, order that he be placed under supervision.

**60. Breach of supervision.**—If it appears to the Court on receiving a report from the Probation Officer or otherwise that there has been a breach of the supervision order relating to the child in respect of whom the supervision order had been passed, it may, after making such inquiries as it deems fit, order the child to be detained in a certified institute.

**61. Warrant to search for child.**—(1) If it appears to a Juvenile Court or a Court empowered under section 4 from information on oath or solemn affirmation laid by any person who, in its opinion, is acting in the interest of the child that there is reasonable cause to suspect that an offence has been or is being committed or unless immediate steps be taken will be committed in respect of the child, the Court may issue a warrant authorising any police officer named therein to search for such child and if it is found that he has been or is being wilfully ill-treated or neglected in the manner hereinbefore stated or that any offence has been or is being committed in respect of the child, to take him to and detain him in a place of safety until he can be brought before it and the Court before which the child is brought may, in the first instance, remand him in the prescribed manner to a place of safety.

(2) The Court issuing a warrant under this section may, by the same warrant, direct that any person accused of any offence in respect of the child be apprehended and brought before it or direct that if such person executes a bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court the officer to whom the warrant is directed shall take such security and shall release such person from custody.

(3) The police officer executing the warrant shall be accompanied by the person laying the information if such person so desires and may also, if the Court by which the warrant is issued so directs, be accompanied by a duly qualified medical practitioner.

(4) In any information or warrant under this section the name of the child shall be given, if known.

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### PART IX

### MAINTENANCE AND TREATMENT OF COMMITTED CHILDREN

**62. Contribution of parent.**—(1) The Court which makes an order for the detention of a child or youthful offender in a certified institute or approved home or for the committal of a child or youthful offender to the care of a relative or fit person may make an order on the parent or other person liable to maintain the child or youthful offender, to contribute to his maintenance, if able to do so, in the prescribed manner.

(2) The Court before making any order under sub-section (1) shall enquire into the circumstances of the parent or other person liable to maintain the child or youthful offender and shall record evidence, if any, in the presence of the parent or such other person, as the case may be.

(3) Any order made under this section may be varied by the Court on an application made to it by the party liable or otherwise.

(4) The person liable to maintain a child or youthful offender shall, for the purposes of sub-section (1), include in the case of illegitimacy his putative father:

Provided that, where the child or youthful offender is illegitimate and an order for his maintenance has been made under section 488 of the Code, the Court shall not ordinarily make an order for contribution against the putative father but may order the whole or any part of the sums accruing due under the said order for maintenance to be paid to such person as may be named by the Court and such sums shall be applied by him towards the maintenance of the child or youthful offender.

(5) Any order under this section may be enforced in the same manner as an order under section 488 of the Code.

**63. Provision as to religion.**—(1) In determining the certified institute, approved home or fit person or other person to whose custody a child is to be committed under this Act, the Court shall ascertain the religious denomination of the child and shall, if possible, in selecting such certified institute, approved home or fit person have regard to the facilities which are afforded for instruction in his religion.

(2) When a child is committed to the care of a certified institute or approved home in which facilities for instruction in his religion are not afforded, or is entrusted to the care of a fit person who has no special facilities for the bringing up of the child in his religion, the authorities

of such certified institute or approved home, or such fit person shall not bring the child up in any religion other than his own.

(3) Where it is brought to the notice of the Chief Inspector that a breach of sub-section (2) has been committed, the Chief Inspector may transfer the child from the custody of such certified institute, approved home or fit person to any other certified institute or approved home as he may deem proper.

**64. Placing out on licence.**—(1) When a youthful offender or child is detained in a certified institute or approved home, the managers of the institute or home may, at any time, with the consent in writing of the Chief Inspector, by licence, permit the youthful offender or child, on such conditions as may be prescribed, to live with any trustworthy and respectable person named in the licence willing to receive and take charge of him with a view to train him for some useful trade or calling.

(2) Any licence so granted shall be in force until revoked or forfeited for the breach of any of the conditions on which it was granted.

(3) The managers of the certified institute or approved home may, at any time by order in writing, revoke any such licence and order the youthful offender or child to return to the institute or home, as the case may be, and shall do so at the desire of the person to whom the youthful offender or child is licensed.

(4) If the youthful offender or child refuses or fails to return to the certified institute or approved home, the managers of the institute, or home, as the case may be, may, if necessary, arrest him, or cause him to be arrested, and may take him, or cause him to be taken, back to the institute or home, as the case may be.

(5) The time during which a youthful offender or child is absent from a certified institute or approved home in pursuance of a licence under this section shall be deemed to be part of the time of his detention in the institute or home, as the case may be:

Provided that, when a youthful offender or child has failed to return to the institute or home, as the case may be, on the licence being revoked or forfeited, the time which elapses after his failure so to return shall be excluded in computing the time during which he is to be detained in the institute or home, as the case may

**65. Action by police with escaped children.**—(1) Notwithstanding anything to the contrary contained in any law for the time being in

force, any police officer may arrest without a warrant a child or youthful offender who has escaped from a certified institute or approved home or from the supervision of a person under whose supervision he was directed to remain, and shall send the child or youthful offender back to the certified institute or approved home or the person, as the case may be, without registering any offence or prosecuting the child or youthful offender and the said child or youthful offender shall not be deemed to have committed any offence by reason of such escape.

(2) When a child absconding from a certified institute or approved home has been arrested, he shall be detained in a place of safety pending his removal to the certified institute or approved home, as the case may be.

#### PART X MISCELLANEOUS

**66. Presumption and determination of age.**—(1) Whenever a person, whether charged with an offence or not, is brought before any criminal Court otherwise than for the purpose of giving evidence, and it appears to the Court that he is a child, the Court shall make an inquiry as to the age of that person and, for that purpose, shall take such evidence as may be forthcoming at the hearing of the case, and shall record a finding thereon, stating his age as nearly as may be.

(2) An order or judgment of the Court shall not be invalidated by any subsequent proof that the age of such person has not been correctly stated by the Court, and the age presumed or declared by the Court to be the age of the person so brought before it shall, for the purposes of this Act be deemed to be the true age of that person and, where it appears to the Court that the person so brought before it is of the age of sixteen years or upwards, the person shall, for the purpose of this Act, be deemed not to be a child.

**67. Discharge.**—(1) The Government may, at any time, order a child or youthful offender to be discharged from a certified institute or approved home, either absolutely or on such condition as the Government may specify.

(2) The Government may, at any time, discharge a child from the care of any person to whose care he is committed under this Act, either absolutely or on such conditions as the Government may specify.

**68. Transfer between institutions.**—(1) The Government may order any child or youthful offender to be transferred from one certified institute or approved home to another.

(2) The Chief Inspector may order any child to be transferred from one certified institute or approved home to another.

**69. Compensation for false information.**—(1) If in any case in which information has been laid by any person under the provisions of section 61, the Court after such inquiry as it may deem necessary is of opinion that such information is false and either frivolous or vexatious, the Court may, for reasons to be recorded in writing, direct that compensation to such an amount not exceeding Taka one hundred as it may determine be paid by such informer to the person against whom the information was laid.

(2) Before making any order for the payment of the compensation, the Court shall call upon the informer to show cause why he should not pay compensation and shall consider any cause which such informer may show.

(3) The Court may by the order directing payment of the compensation further order that in default of payment the person ordered to pay such compensation shall suffer simple imprisonment for a term not exceeding thirty days.

(4) When any person is imprisoned under sub-section (3), the provisions of sections 68 and 69 of the Penal Code (XLV of 1860), shall, so far as may be, apply.

(5) No person who has been directed to pay compensation under this section shall by reason of such order be exempted from any civil liability in respect of the information, but any amount paid as compensation shall be taken into account in any subsequent civil suit relating to such matter.

**70. Removal of disqualification attaching to conviction.**—When a child is found to have committed any offence, the fact that he has been so found shall not have any effect under section 75 of the Penal Code (XLV of 1860), or section 565 of the Code or operate as a disqualification for any office, employment or election under any law.

**71. Words 'conviction' and 'sentenced' not to be used in relation to children.**—Save as provided in this Act, the words 'conviction' and 'sentenced' shall cease to be used in relation to children or youthful offenders dealt with under this Act, and any reference in any enactment to a person convicted, a conviction or a sentence shall, in the case of a

child or youthful offender be construed as a reference to a person found guilty of an offence, a finding of guilty or an order made upon such a finding, as the case may be.

**72. Custodian's control over child.**—Any person to whose care a child is committed under the provisions of this Act shall, while the order is in force, have the like control over the child as if he were his parent, and shall be responsible for his maintenance, and the child shall continue in his care for the period stated by the Court notwithstanding that he is claimed by his parent or any other person.

**73. Bonds taken under the Act.**—The provisions of Chapter XLII of the Code shall, so far as may be, apply to bonds taken under this Act.

**74. Chief Inspector, Probation Officers, etc to be public servants.**—The Chief Inspector, Inspectors, Assistant Inspectors, Probation Officers and other persons authorised or entitled to act under any of the provisions of this Act shall be deemed to be public servants within the meaning of section 21 of the Penal Code (XLV of 1860).

**75. Protection of action taken under the Act.**—No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

**76. Appeals and revisions.**—(1) Notwithstanding anything contained in the Code, an appeal from an order made by a Court under the provisions of this Act shall lie—

(a) if the order passed by a Juvenile Court or a Magistrate empowered under section 4, to the Court of Session; and

(b) if, the order is passed by a Court of Session or Court of an Additional Sessions Judge or of an Assistant Sessions Judge, to the High Court Division.

(2) Nothing in this Act shall affect the powers of the High Court Division to revise any order passed by a Court under this Act.

**77. Power to make rules.**—(1) The Government may make rules for carrying out the purposes of this Act.

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

(a) the procedure to be followed by Juvenile Courts and other Courts empowered under section 4 in the trial of cases and the hearing of proceedings under this Act;

(b) the places at which, dates on which and the manner in which a Juvenile Court shall hold its sittings under section 7 (1);

(c) the conditions subject to which institutions, industrial schools or other educational institutions shall be certified or approved home shall be recognised for the purposes of this Act;

(d) the establishment, certification, management, maintenance, records and accounts of certified institutes;

(e) the education and training of inmates of certified institutes and the leave of absence of such inmates;

(f) the appointment of visitors and their tenure of office;

(g) the inspection of certified institutes and approved homes;

(h) the internal management and discipline of certified institutes and approved homes;

(i) the conditions subject to which institutions shall be recognised as approved places for the purpose of section 14 (1);

(j) the powers and duties of the Chief Inspector and Probation Officers;

(k) the manner of authorising persons for the purposes of sections 32 and 55;

(l) the form of bond under the proviso to section 58;

(m) the manner in which a child shall be remanded to a place of safety under section 61 (1);

(n) the manner in which contribution for the maintenance of child may be ordered to be paid under section 62 (1);

(o) the condition under which a child may be released on licence and the form of such licence under section 64;

(p) the conditions subject to which a child may be committed to the care of any person under this Act and the obligations of such person towards the child so committed; and

(q) the manner of detention of a child under arrest or remanded to police custody or committed for trial.

**78. Repeals etc.**—(1) The Bengal Children Act, 1922 (Ben. Act II of 1922), is hereby repealed.

(2) The Reformatory Schools Act, 1897 (VIII of 1897), shall be deemed to be repealed in any area in which this Act is brought into force under section 1 (3) from the date of such enforcement.

(3) The provisions of section 29B and 399 of the Code shall cease to apply to any area in which this Act shall be brought into force.

Provided

(1) that the oath or affirmation be administered within the limits of the station, and

(2) that the oath or affirmation be such as a Justice of the Peace is competent to administer in Bangladesh.

### CHAPTER III

#### PERSONS BY WHOM OATHS OR AFFIRMATIONS MUST BE MADE

**Sec.-5: Oaths or affirmations to be made by – witnesses.**—Oaths or affirmations shall be made by the following persons:—

(a) all witnesses, that is to say, all persons who may lawfully be examined, or give, or be required to give, evidence by or before any Court or person having by law or consent of parties authority to examine such persons or to receive evidence;

interpreters

(b) interpreters of questions put to, and evidence given by, witnesses; and

(c) jurors:

Provided that where the witness is a child under twelve years of age, and the Court or person having authority to examine such witness is of opinion that, though he understands the duty of speaking the truth, he does not understand the nature of an oath or affirmation, the foregoing provisions of this section and the provisions of section 6 shall not apply to such witness, but in any such case the absence of an oath or affirmation shall not render inadmissible any evidence given by such witness nor affect the obligation of the witness to state the truth.

Nothing herein contained shall render it lawful to administer, in a criminal proceeding, an oath or affirmation to the accused person, or necessary to administer to the official interpreter of any Court, after he has entered on the execution of the duties of his office, an oath or affirmation that he will faithfully discharge those duties.

**Sec.-6. Affirmation by Natives or by persons objecting to oaths.**—Where the witness, interpreter or juror is a Hindu or Muslim