

**JOINT/SELECT COMMITTEE
REPORTS OF LEGISLATIVE
ASSEMBLY - 1924**

The Indian Criminal Law (Amendment) Bill

List of Reports of Select or Joint Committees
presented in the Legislative Assembly in 1924.

Serial No.	Short title of the Bill.	Date of presentation.	Remarks.
1.	The Central Board of Revenue Bill.	18.2.24.	
.	The Indian Coinage Bill.	18.2.24.	
.	The Indian Penal Code(Amendment) Bill.	19.2.24.	
.	The Indian Tariff(Amendment) Bill.	26.2.24.	
5.	The Indian Income-tax(Amendment) Bill.	10.3.24.	
6.	The Indian Penal Code(Amendment)Bill(Age of Consent) by Dr. Hari Singh Gour.	15.3.24.	
7.	The Steel Industry(Protection) Bill.	30.5.24.	
8.	The Imperial Bank of India Bill.	8.9.24.	
9.	The Indian Criminal Law(Amendment) Bill.	10.9.24.	
10.	The Indian Merchant Shipping(Amendment) Bill.	11.9.24.	
11.	The Land Customs Bill.	11.9.24.	

LEGISLATIVE DEPARTMENT.

We, the undersigned, Members of the Select Committee to which the Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, for the purpose of affording greater protection to persons under the age of eighteen years, was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. One very radical change which we have decided to make in the Bill is the omission of clauses 6 and 7, which proposed to insert in the Code of Criminal Procedure, 1898, new clauses 552A, 552B, 552C and 552D and certain consequential amendments. These clauses contained provisions enabling Magistrates to rescue minor girls from surroundings in which they would be liable to moral contamination and to make them over to suitable guardianship. After detailed examination of these clauses, we have arrived at the conclusion that it would be necessary to amplify them by the insertion of provisions dealing carefully with such matters as maintenance and marriage, and that provisions of this nature are not suitable for inclusion in a Criminal Procedure Code. We think that adequate and satisfactory provision could only be made by a separate measure containing provisions similar to those of the English Children Act of 1908, and we strongly recommend that a Bill on those lines should be presented to the Legislature at as early a date as possible.

3. We have scrutinized the remaining five clauses of the Bill in minute detail, and have discussed them at considerable length. In the result, we have left them substantially unaltered. We propose only two amendments, one in clause 2 and the other in the second *Explanation* proposed to be inserted by clause 3 in section 372 of the Indian Penal Code.

The amendment in clause 2 is purely consequential upon the passing of Act V of 1924, which substituted the age of eighteen for the age of sixteen in sections 372 and 373 of the Indian Penal Code.

The amendment in clause 3 is a drafting amendment designed merely to make more clear the intended meaning of the words "or communities, as the case may be," in the Bill as introduced. On the point of substance, we consider it desirable not to protect from the mischief of sections 372 and 373 of the Indian Penal Code persons who obtain, or help others to obtain, girls under the age of eighteen years with a view to their entering into a union which is not recognised as regular by the custom of the community or of both the communities, as the case may be, to which the parties to it belong. In arriving at this view we have rejected a suggestion that the only unions to be protected should be those between members of the same community and another suggestion that a union should be protected as long as it is sanctioned by the custom of the community of the girl who is one of the parties thereto.

4. The Bill was published in the Gazette of India, dated the 16th February, 1924.

5. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

A. P. MUDDIMAN.
K. C. NEOGY.
M. M. MALAVIYA.
P. S. SIVASWAMY AIYER.
GAYA PRASAD SINGH.
GULAB SINGH.
GULAM BARI.*
K. RAMA AIYANGAR.*
ABUL KASEM.
S. A. K. JEELANI.
BIPIN CHANDRA PAL.
S. K. DATTA.
V. N. MUTALIK.

The 9th September 1924.

* Subject to minutes of dissent.

MINUTES OF DISSENT.

Explanation No. 1 to sections 3 and 4 do not cover the whole position. They leave loopholes which are likely to frustrate the real object of the Bill. Explanation No. 1 to section 3 runs as follows: "When a female under the age of eighteen years is sold, *let for hire*, or *otherwise disposed of* to a prostitute or to any person who keeps or manages a brothel, etc., etc." Presumption as to the intention with which the minor is sold, let for hire, or otherwise disposed of would not extend to cases not covered by the words contained in the Explanation. The result would be that all prostitutes or brothel keepers who want to get hold of minor girls would do so, taking all precautions to show that they engage them as servants. For want of a legal presumption in such cases, it will be almost impossible for the prosecution to show that the real intention was not only service, but something else with a criminal liability.

The same objection holds good in the case of Explanation 1 to section 4, which contains the words "who *buys, hires or otherwise obtains possession* of a female under the age of eighteen years shall, until the contrary is proved, be presumed to have obtained possession of such female with the intent, etc., etc."

The words "obtain possession" cannot cover the case of engaging in service. The object of this Explanation can also be defeated in the same way, unless we add the words "is engaged in service" after the words "let for hire" in Explanation 1 to section 3, and add the words "engages in service" after the word "hires". This is the only way to see the object of the measure fulfilled. Moreover, it is not very desirable to see young girls in the service of immoral girls or in immoral surroundings. In case it is satisfactorily proved that a particular case is that of service with no other underlying intention, the Magistrate concerned would decide in favour of the accused. It is absolutely necessary to raise a legal presumption of guilty intention in cases apparently shown to be of service only. Unless we do away with this loophole, this legislation would be perfectly ineffectual.

Section 5.—While dealing with sections 372 and 373 as compared with section 552 in so far as the question of age of consent is concerned, legislation has already allowed a difference of two years. Sections 372 and 373 as originally enacted protected minors under the age of sixteen; and, while dealing with section 552, empowered Magistrates to restore minors under the age of fourteen only in case of detention for unlawful purpose. That was an anomaly. Following the same anomaly the present Bill keeps up that difference of two years, for which there seems to be no other reason excepting that such a difference already existed. The reason does not appeal to my mind. If the legislation is bent upon protecting minor girls, the age up to which a minor girl can be restored to the lawful guardian in case of her detention for an unlawful purpose should be the same, *i.e.*, eighteen and not sixteen. The legislation, if having a set object before it, should be consistent and not inconsistent.

GULAM BARI.

It looks to me that the words "at any age" occurring in clause 2 ought to be removed. It has no meaning if after the age of 18, a girl is employed, etc., for the purposes mentioned as she is free to act as she pleases.

The 9th September 1924.

K. RAMA AYYANGAR.

[WORDS PRINTED IN ITALICS INDICATE THE AMENDMENTS SUGGESTED BY THE SELECT COMMITTEE.]

A

BILL

Further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, for the purpose of affording greater protection to persons under the age of eighteen years.

WHEREAS it is expedient further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, for the purpose of affording greater protection to persons under the age of eighteen years: It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Short title and commencement Criminal Law Amendment Act, 192 .

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

2. In sections 372 and 373 of the Indian Penal Code, for the words "minor 372 and 373, Act XLV of 1860. years with intent that such minor shall be employed or used for the purpose of prostitution, or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be" the words "person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be" shall be substituted.

3. To section 372 of the same Code the following *Explanations* shall be added, namely:— Further amendment of section 372, Act XLV of 1860.

Explanation I.—When a female under the age of eighteen years is sold, let for hire, or otherwise disposed of to a prostitute or to any person who keeps or manages a brothel, the person so disposing of such female shall, until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution.

Explanation II.—For the purposes of this section "illicit intercourse" means sexual intercourse between persons not united by marriage or by any union or tie which, though not amounting to a marriage, is recognised by the personal law or custom of the community to which they belong or, where they belong to different communities, of both such communities, as constituting between them a quasi-marital relation."

4. To section 373 of the same Code the following *Explanations* shall be added, namely:—
 Further amendment of section 373, Act XLV of 1860.

Explanation I.—Any prostitute, or any person keeping or managing a brothel, who buys, hires or otherwise obtains possession of a female under the age of eighteen years shall, until the contrary is proved, be presumed to have obtained possession of such female with the intent that she shall be used for the purpose of prostitution.

Explanation II.—“Illicit intercourse” has the same meaning as in section 372.”

5. In section 552 of the Code of Criminal Procedure, 1898, for the word “fourteen” the word “sixteen” shall be substituted.
 Amendment of section 552, Act V of 1898.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

Report of the Select Committee on the Bill
further to amend the Indian Penal Code
and the Code of Criminal Procedure
1898, for the purpose of affording
greater protection to persons under the
age of eighteen years; with the Bill
amended.