

**JOINT /SELECT  
COMMITTEE REPORTS OF  
LEGISLATIVE ASSEMBLY -  
1949**

**The Indian Penal Code  
and the Code of  
Criminal Procedure  
(Amendment) Bill, 1947**

List of Reports of Select Committees presented  
to the Constituent Assembly of India  
(Legislative) in 1949.

| S.<br>No. | Short title<br>of the Bill.  | Date of<br>presen-<br>tation. | Date of<br>publica-<br>tion. |
|-----------|--|-------------------------------|------------------------------|
| 1.        | The Banking Companies Bill, 1948.  | 1.2.49.                       | 26.2.49.                     |
| 2.        | The Payment of Taxes (Transfer<br>of Property) Bill, 1948.                             | 10.2.49.                      | 26.2.49.                     |
| 3.        | The Public Companies (Limita-<br>tion of Dividends) Bill, 1949.                        | 21.2.49.                      | 16.4.49.                     |
| 4.        | The Chartered Accountants Bill,<br>1948.   | 1.3.49.                       | 12.3.49.                     |
| 5.        | The Central Tea Board Bill, 1949.  | 1.3.49.                       | 12.3.49.                     |
| 6.        | The Indian Penal Code and the<br>Code of Criminal Procedure<br>(Amendment) Bill, 1947. | 21.3.49.                      | 16.4.49.                     |
| 7.        | The Ajmer-Merwara Tenancy and<br>Land Records Bill, 1948.                              | 21.3.49.                      | 16.4.49.                     |
| 8.        | The Indian Finance Bill, 1949.   | 25.3.49.                      | 2.4.49.                      |
| 9.        | The Hindu Marriages Validity<br>Bill, 1948.  | 25.3.49.                      | 2.4.49.                      |
| 10.       | The Child Marriage Restraint<br>(Amendment) Bill, 1947.                                | 25.3.49.                      | 2.4.49.                      |
| 11.       | The Estate Duty Bill, 1948.<br>(FINAL REPORT)  | 31.3.49.                      | 16.4.49.                     |
| 12.       | The Indian Railways (Amendment)<br>Bill, 1949.   | 28.11.49.                     | 3.12.49.                     |
| 13.       | <i>The Indian Judicial Procedure Bill,<br/>1948</i>                                    | <i>28.11.49</i>               | <i>3.12.49</i>               |
| 14.       | The Delhi Road Transport<br>Authority Bill, 1949.                                      | 12.12.49.                     | 24.12.49.                    |
| 15.       | The Taxation Laws (Extension<br>to Merged States and Amendment)<br>Bill, 1949.         | 16.12.49.                     | 24.12.49.                    |

## CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE).

### REPORT OF THE SELECT COMMITTEE ON THE INDIAN PENAL CODE AND THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

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, was referred, have considered the Bill and the papers noted in the margin,\* and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

*Clause 2.*—While agreeing that the age of females in section 361 of the Indian Penal Code should be raised from sixteen to eighteen, we think that boys are also deserving of further protection and that the age in their cases should be raised from fourteen to sixteen.

*Clause 3.*—In our opinion the age of consent in respect of what has been described as extra-marital offences under section 375 of the Indian Penal Code should be raised to sixteen and not to eighteen as proposed, especially as we are recommending that the age of marriage for girls should be fixed at fifteen. Further, we do not see the necessity for inserting any elaborate provision in the Code for dealing with "marital misbehaviour" when the desired object can be achieved by a mere amendment of section 375 of that Code. We have, therefore omitted clauses 4 and 5 of the Bill and also the consequential provisions suggested in clauses 8 and 9.

*Clause 4.*—Except for drafting changes this is substantially the same as clause 6 of the original Bill.

*Clause 5.*—We agree that further protection should be given to young girls by raising the age specified in section 552 of the Code of Criminal Procedure from 16 to 18, so that courts are enabled to inquire into cases of unlawful detention up to that age.

2. The Bill was published as follows:—

#### *In English*

| <i>Gazette</i>                                | <i>Date</i>  |
|---|--------------|
| Gazette of India, Part V .. .. .              | 22. 2. 1947. |
| Fort St. George Gazette . . . . .             | 10. 2. 1948. |
| Bombay Government Gazette . . . . .           | 26. 2. 1948  |
| Calcutta Gazette . . . . .                    | 29. 1. 1948. |
| United Provinces Government Gazette . . . . . | 6. 3. 1948   |
| East Punjab Government Gazette . . . . .      | 11. 6. 1948  |
| Central Provinces and Berar Gazette . . . . . | 30. 1. 1948  |
| Assam Gazette . . . . .                       | 21. 1. 1948  |
| Bihar Gazette . . . . .                       | 11. 2. 1948  |
| Orissa Gazette . . . . .                      | 16. 4. 1948  |
| Coorg Gazette . . . . .                       | 3. 2. 1948   |

*In the Indian Languages*

| <i>Province</i>  | <i>Language</i> | <i>Date</i> |
|------------------|-----------------|-------------|
| Madras           | Tamil           | 17. 2. 1948 |
|                  | Telugu          |             |
|                  | Hindustani      |             |
|                  | Kanarese        |             |
|                  | Melayalam       |             |
| Bombay           | Marathi         | 20. 5. 1948 |
|                  | Gujarathi       | 10. 6. 1948 |
|                  | Kanarese        | 3. 6. 1948  |
|                  | Urdu            | 10. 6. 1948 |
|                  | Hindi           |             |
| Bengal           | Bengali         | ..          |
| United Provinces | Urdu            | 10. 4. 1948 |
|                  | Hindi           |             |
| East Punjab      | Urdu            | 18. 6. 1948 |

8. We think that the Bill has not been so altered as to require circulation under Rule 49 (5) of the Rules of Procedure and Conduct of Business, and we recommend that it be passed as now amended.

V. J. PATEL.

AJIT PRASAD JAIN.

TEK CHAND.

D. VELAYUDHAN.

KRISHNA CHANDRA SHARMA.

P. KUNHIRAMAN.

G. DURGABAI.

U. N. BARMAN.

\*THAKUR DAS BHARGAVA.

BEGUM AIZAZ RASUL.

DESHBANDHU GUPTA.

HUKAM SINGH.

M. ANANTHASAYANAM AYYANGAR.

NEW DELHI :

The 21st March, 1949.

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\*Subject to a Minute of Dissent.

**MINUTE OF DISSENT.**

I regret my inability to agree that the extra marital age of consent should not be eighteen as proposed in the Bill.

In my humble opinion a girl of sixteen is not mentally mature to comprehend the full significance and consequences of her consent. She cannot fully realise the social degradation which may be her lot in life if she conceives and gives birth to an illegitimate child. The present day girl has much more freedom and she needs as a consequence much more protection.

The law presumes that before eighteen she is not fully mature even to dispose of her property. How can she then be regarded fully mature to dispose of her person. In regard to sections 361 of I.P.C. and 552 of Cr. P.C. the Committee has been pleased to accept the increase in age to eighteen. Under sections 366A, 366B, 372 and 373 I.P.C. the present age is eighteen years. There is no reason why the age under section 376 should not be on a parity with these sections.

The Age of Consent Committee were unanimously of the view that the extra marital age of consent should be eighteen as it is in most of the countries of the world and this age was supported by a large majority of witnesses who appeared before the Committee.

I strongly feel that the law should give full and ample protection to young girls even against themselves before they are fully developed mentally to give consent.

**THAKUR DAS BHARGAVA.**

**New DELHI;**  
**The 21st March, 1949.**

(AS AMENDED BY THE SELECT COMMITTEE)

(Words underlined indicate the amendments suggested by the Committee; asterisks indicate omissions.)

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**BILL**

*further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898.*

WHEREAS it is expedient further to amend the Indian Penal Code (XLV of 1860) and the Code of Criminal Procedure, 1898 (V of 1898) for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title.**—\* \* \* This Act may be called the Indian Penal Code and the Code of Criminal Procedure (Amendment) Act, 1949.

\* \* \* \* \*

2. **Amendment of section 361, Act XLV of 1860.**—In section 361 of the Indian Penal Code (hereinafter referred to as the Penal Code), for the words "fourteen" and "sixteen" the words "sixteen" and "eighteen" shall respectively be substituted.

3. **Amendment of section 375, Act XLV of 1860.**—\* In section 375 of the \* Penal Code,—

(i) in clause *Fifthly*, for the word "fourteen" the word "sixteen" shall be substituted; and

(ii) in the *Exception*, for the word "thirteen" the word "fifteen" shall be substituted.

\* \* \* \* \*

4. **Insertion of new section 198A in Act V of 1898.**—After section 198 of the Code of Criminal Procedure, 1898 (hereinafter referred to as the said Code), the following new section shall be inserted, namely:—

"198A. *Prosecution for offence of marital misbehaviour.*—No court shall take cognizance of an offence under section 376 of the Indian Penal Code, where such offence consists of sexual intercourse by a man with his own wife, the wife being under fifteen years of age,—

(i) if more than one year has elapsed from the date of the commission of the offence,

(ii) in the case of any marriage which has taken place before the Indian Penal Code and the Code of Criminal Procedure (Amendment) Act, 1949, came into force, if the wife was not under thirteen years of age on the date of the marriage."

5. **Amendment of section 552, Act V of 1898.**—In section 552 of the said Code, \* \* \* for the word "sixteen" the word "eighteen" shall be substituted.

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THE CONSTITUENT ASSEMBLY OF INDIA  
(LEGISLATIVE).

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BILL

further to amend the Indian Penal Code and the Code of  
Criminal Procedure, 1898.

*(As amended by the Select Committee.)*

## CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)

### REPORT OF THE SELECT COMMITTEE ON THE AJMER-MERWARA TENANCY AND LAND RECORDS BILL, 1948.

We, the undersigned, members of the Select Committee to which the Bill to declare and amend the law relating to agricultural tenancies, record-of-rights and certain other matters in Ajmer-Merwara was referred, have considered the Bill and heard the evidence tendered by the representatives of the Istimrardars' Association, Guzaredars' Association and the Kisan Sabha. We have now the honour to submit this our Report with the Bill, as amended by us, annexed hereto. Most of the changes made by us are self-explanatory. The important amendments of substance are explained below.

*Clause 4 (existing).*—Certain important Hindustani words occurring in the Bill like 'lag', 'neg' and 'parabund barani' have been defined.

In the definition of 'stable land', 'parabund barani' has also been included.

*Clause 6 (existing) and the First Schedule.*—This clause has been redrafted. Section 299 of the Government of India Act, 1935, provides that where the provisions of this section are attracted, either the amount of compensation should be fixed or the principles on which, and the manner in which, the compensation is to be determined should be specified. To comply with this section, the First Schedule has been added to the Bill, specifying the fees to be charged for occupying house-site in the village and for grazing or pasturing animals in the waste-land of the landlord. The existing Schedule has been named as the Second Schedule. Sub-clause (iii) has been so altered as to enable a tenant to grow fodder or cotton crop on more than one-fourth of his holding on the payment of double the amount of rent.

*Clause 7 (existing).*—Sub-clause (2) has been added to extend the benefit of this clause and clauses 6 and 62 to grantees, artisans and village-workmen.

*Chapter III.*—The Istimrardars wanted that the land improved by them, locally known as *hawala*, whether cultivated by them or not, should be treated as a special holding in which hereditary rights should not accrue. We see no reason to draw a distinction between them and the smaller landlords of other areas who have made similar improvements on their land. Having considered the question from all points of view, we have decided to accept the following principles:—

(1) Every landlord who wants to cultivate land himself should be encouraged to do so. With this end in view we have treated all *khudkasht*, whether belonging to an Istimrardar or to any other landlord, as a special holding in which hereditary rights shall not accrue at the commencement of the Act.

(2) In certain parts of *istimrari* area, there has been no survey and numbering of plots. Therefore, we considered it necessary that the *khudkasht* to which such differential treatment is to be given should be demarcated and given a special name of '*niji jot*'.

(3) We realise that there may be circumstances in which the letting of land is unavoidable. We have, therefore, allowed the landlord to let his '*niji jot*' subject to the same restrictions as apply to sub-letting by a hereditary tenant under clause 27. To guard against the abuse of this privilege, we have provided a penalty that if a landlord admits a person to *niji jot* in contravention of the provisions of clause 14, such person shall become a hereditary tenant.

In view of this decision, Chapter III has been redrafted.



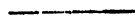
THE CONSTITUENT ASSEMBLY OF INDIA  
(LEGISLATIVE).



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further to amend the Indian Penal Code and the Code of  
Criminal Procedure, 1898.



*(As amended by the Select Committee.)*