APPENDICES

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ANNEXURE – I 

THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) 
ACT, 2000 
NO. 56 OF 2000 
[30th December, 2000] 

THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) 
AMENDMENT ACT, 2006 
( No.33 of 2006) 

An Act to consolidate and amend the law relating to juveniles in conflict with law and children in need of care and protection, by providing for proper care, protection and treatment by catering to their development needs, and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation and for matters connected therewith or incidental thereto. 

WHEREAS the Constitution has, in several provisions, including clause (3) of article 15, clauses (e) and (f) of article 39, articles 45 and 47, impose on the State a primary responsibility of ensuring that all the needs of children are met and that their basic human rights are fully protected;
AND WHEREAS, the General Assembly of the United Nations has adopted the Convention on the Rights of the Child on the 20th November, 1989;

AND WHEREAS, the Convention on the Rights of the Child has prescribed a set of standards to be adhered to by all State parties in securing the best interests of the child;

AND WHEREAS, the Convention on the Rights of the Child emphasises social reintegration of child victims, to the extent possible, without resorting to judicial proceedings;

AND WHEREAS, the Government of India has ratified the Convention on the 11th December, 1992.

AND WHEREAS, it is expedient to re-enact the existing law relating to juveniles bearing in mind the standards prescribed in the Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (the Beijing Rules), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990), and all other relevant international instruments.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as following:

CHAPTER - I
PRELIMINARY

1. Short title, extent, commencement and application.-

(1) This Act may be called the Juvenile Justice (Care and Protection of Children) Act, 2000.
(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(4) Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall apply to all cases involving detention, prosecution, penalty or sentence of imprisonment of juveniles in conflict with law under such other law.

2. **Definitions**.- In this Act, unless the context otherwise requires,

(a) "advisory board" means a Central or a State advisory board or a district and city level advisory board, as the case may be, constituted under section 62;

(aa) "adoption" means the process through which the adopted child is permanently separated from his biological parents and become the legitimate child of his adoptive parents with all the rights, privileges and responsibilities that are attached to the relationship.

(b) "begging" means (i) soliciting or receiving alms in a public place or entering into any private premises for the purpose of soliciting or receiving alms, whether under any pretence;

(ii) exposing or exhibiting with the object of obtaining or extorting alms, any sore, wound, injury, deformity or disease, whether of himself or of any other person or of an animal;

(c) "Board" means a Juvenile Justice Board constituted under section 4;

(d) "child in need of care and protection" means a child

(i) who is found without any home or settled place or abode and without any ostensible means of subsistence,
(ia) who is found begging, or who is either a street child or a working child,
(ii) who resides with a person (whether a guardian of the child or not) and such person
(a) has threatened to kill or injure the child and there is a reasonable likelihood of the threat being carried out, or
(b) has killed, abused or neglected some other child or children and there is a reasonable likelihood of the child in question being killed, abused or neglected by that person.
(iii) who is mentally or physically challenged or ill children or children suffering from terminal diseases or incurable diseases having no one to support or look after,
(iv) who has a parent or guardian and such parent or guardian is unfit or incapacitated to exercise control over the child,
(v) who does not have parent and no one is willing to take care of or whose parents have abandoned or surrendered him or who is missing and run away child and whose parents cannot be found after reasonable inquiry,
(vi) who is being or is likely to be grossly abused, tortured or exploited for the purpose of sexual abuse or illegal acts,
(vii) who is found vulnerable and is likely to be inducted into drug abuse or trafficking,
(viii) who is being or is likely to be abused for unconscionable gains.
(ix) who is victim of any armed conflict civil commotion or natural calamity;
(e) "children's home" means an institution established by a State Government or by voluntary organization and certified by that Government under section 34;
(f) "Committee" means a Child Welfare Committee constituted under section 29;
(g) "competent authority" means in relation to children in need of care and protection a Committee and in relation to juveniles in conflict with law a Board;

(h) "fit institution" means a governmental or a registered non-governmental organization or a voluntary organization prepared to own the responsibility of a child and such organization is found fit by the State Government on the recommendation of the competent authority;

(i) "fit persons" means a person, being a social worker or any other person who is prepared to own the responsibility of a child and is found fit by the competent authority to receive and take care of the child,

(j) "guardian", in relation to a child, means his natural guardian or any other person having the actual charge or control over the child and recognized by the competent authority as a guardian in course of proceedings before that authority;

(k) "juvenile" or "child" means a person who has not completed eighteenth year of age;

(l) "juvenile in conflict with law" means a juvenile who is alleged to have committed an offence and has not completed eighteenth year of age as on the date of commission of such offence;

(m) Omitted by Amendment 33 of 2006

(n) "narcotic drug" and "psychotropic substance" shall have the meaning respectively assigned to them in the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985);

(o) "observation home" means a home established by a State Government or by a voluntary organization and certified by that State Government under section 8 as an observation home for the juvenile in conflict with law;
(p) "offence" means an offence punishable under any law for the time being in force;
(q) "place of safety" means any place or institution (not being a police lockup or jail),
the person in charge of which is willing temporarily to receive and take care of the
juvenile and which, in the opinion of the competent authority, may be a place of
safety for the juvenile;
(r) "prescribed" means prescribed by rules made under this Act;
(s) "probation officer" means an officer appointed by the State Government as a
probation officer under the Probation of Offenders Act, 1958 (20 of 1958);
(t) "public place" shall have the meaning assigned to it in the Immoral Traffic
(Prevention) Act, 1956 (104 of 1956);
(u) "shelter home" means a home or a drop-in-centre set up under section 37;
(v) "special home" means an institution established by a State Government or by a
voluntary organization and certified by that Government under section 9;
(w) "special juvenile police unit" means a unit of the police force of a State designated
for handling of juveniles or children under section 63;
(x) "State Government" in relation to a Union territory, means the Administrator of
the Union territory appointed by the President under article 239 of the Constitution;
(y) all words and expressions used but not defined in this Act and Defined in the Code
of Criminal Procedure, 1973 (2 of 1974), shall have the meaning respectively
assigned to them in that Code.

3. **Continuation of inquiry in respect of juvenile who has ceased to be a juvenile.**

Where an inquiry has been initiated against a juvenile in conflict with law or a child in
need of care and protection and during the course of such inquiry the juvenile or the
child ceases to be such, then, notwithstanding anything contained in this Act or in any
other law for the time being in force, the inquiry may be continued and orders may be made in respect of such person as if such person had continued to be a juvenile or a child.

CHAPTER - II

JUVENILE IN CONFLICT WITH LAW

4. Juvenile Justice Board.- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973.,(2 of 1974) the State Government may, within a period of one year from the date of commencement of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006, by notification in the Official Gazette, constitute for every district, one or more Juvenile Justice Boards for exercising the powers and discharging the duties conferred or imposed on such Boards in relation to juveniles in conflict with law under this Act.

(2) A Board shall consist of a Metropolitan Magistrate or a Judicial Magistrate of the first class, as the case may be, and two social workers of whom at least one shall be a woman, forming a Bench and every such Bench shall have the powers conferred by the Code of Criminal Procedure, 1973 (2 of 1974) on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of the first class and the Magistrate on the Board shall be designated as the principal Magistrate.

(3) No Magistrate shall be appointed as a member of the Board unless he has special knowledge or training in child psychology or child welfare and no social worker shall be appointed as a member of the Board unless he has been actively involved in health, education, or welfare activities pertaining to children for at least seven years.

(4) The term of office of the members of the Board and the manner in which such member may resign shall be such as may be prescribed.
(5) The appointment of any member of the Board may be terminated after holding inquiry, by the State Government, if

(i) he has been found guilty of misuse of power vested under this Act,

(ii) he has been convicted of an offence involving moral turpitude, and such conviction has not been reversed or has not been granted full pardon in respect of such offence.

(iii) he fail to attend the proceedings of the Board for consecutive three months without any valid reason or he fails to attend less than three-fourth of the sittings in a year.

5. (1) Procedure etc., in relation to Board.- The Board shall meet at such times and shall observed such rules of procedure in regard to the transaction of business at its meetings, as may be prescribed.

(2) A child in conflict with law may be produced before an individual member of the Board, when the Board is not sitting.

(3) A Board may act notwithstanding the absence of any member of the Board, and no order made by the Board shall be invalid by reason only of the absence of any member during any stage of proceedings;

Provided that there shall be at least two members including the principal Magistrate present at the time of final disposal of the case (4) In the event of any difference of opinion among the members of the Board in the interim or final disposition, the opinion of the majority shall prevail, but where there is no such majority, the opinion of the principal Magistrate shall prevail.
6. Powers of Juvenile Justice Board.- (1) Where a Board has been constituted for any district (omitted 33 of 2006), such Board shall, notwithstanding anything contained in any other law for the time being in force but save as otherwise expressly provided in this Act, have power to deal exclusively with all proceedings under this Act relating to juvenile in conflict with law.

(2) The powers conferred on the Board by or under this Act may also be exercised by the High Court and the court of Session, when the proceedings comes before then in appeal, revision or otherwise.

7. Procedure to be followed by a Magistrate not empowered under the Act. (1) When any Magistrate not empowered to exercise the power of a Board under this Act is of the opinion that a person brought before his under any of the provisions of this Act (other than for the purpose of giving evidence), is a juvenile or the child, he shall without any delay record such opinion and forward the juvenile or the child and the record of the proceeding to the competent authority having jurisdiction over the proceeding.

(2) the competent authority to which the proceeding is forwarded under sub-section (1) shall hold the inquiry as if the juvenile or the child has originally been brought before it. 7A. (1) Whenever a claim of juvenility is raised before any court or a court is of the opinion that an accused person was a juvenile on the date of commission of the offence, the court shall make an inquiry, take such evidence as may be necessary (but not an affidavit) so as to determine the age of such person, and shall record a finding whether the person is a juvenile or a child or not, stating his age as nearly as may be:
Provided that a claim of juvenility may be raised before any court and it shall be recognised at any stage, even after final disposal of the case, and such claim shall be determined in terms of the provisions contained in this Act and the rules made there under, even if the juvenile has ceased to be so on or before the date of commencement of this Act.

(2) If the court finds a person to be juvenile on the date of commission of the offence under sub-section (1), it shall forward the juvenile to the Board for passing appropriate order, and the sentence if any, passed by a court shall be deemed to have no effect.

8. Observation homes.—(1) Any State Government may establish and maintain either by itself or under an agreement with voluntary organizations, observation homes in every district or a group of district, as may be required for the temporary reception of any juvenile in conflict with law during the pendency of any inquiry regarding them under this Act.

(2) Where the State Government is of opinion that any institution other than a home established or maintained under sub-section (1), is fit for the temporary reception of juvenile in conflict with law during the pendency of any inquiry regarding them under this Act, it may certify such institution as an observation home for the purpose of this Act.

(3) The State Government may, by rules made under this Act, provide for the management of observation homes, including the standards and various types of services to be provided by them for rehabilitation and social integration of a juvenile and the circumstances under which, and the manner in which, the certification of an observation home may be granted or withdrawn.
(4) Every juvenile who is not placed under the charge of parent or guardian and is sent to an observation home shall be initially kept in a reception unit of the observation home for preliminary inquiries, care and classification for juveniles according to his age group, such as seven to twelve years, giving due considerations to physical and mental status and degree of the offence committed, for further induction into observation home.

9. **Special homes**.- (1) Any State Government may established and maintain either by itself or under an agreement with voluntary organizations, special homes in every district or a group of districts, as may be required for reception and rehabilitation of juvenile in conflict with law under this Act.

(2) Where the State Government is of opinion that any institution other then a home established or maintained under sub-section (1), is fit for the reception of juvenile in conflict with law to be sent there under this Act, it may certify such institution as a special home for the purposes of this Act.

(3) The State Government may, by rules made under this Act, provide for the management of special homes, including the standards and various types of service to be provided by them which are necessary for re-socialization of a juvenile, and the circumstances under which, and the manner in which, the certification of a special home may be granted or withdrawn.

(4) The rules made under sub-section (3) may also provide for the classification and separation of juvenile in conflict with law on the basis of age and the nature of offences committed by them and his mental and physical status.
10. **Apprehension of juvenile in conflict with law.** - (1) As soon as a juvenile in conflict with law is apprehended by police, he shall be placed under the charge of the special juvenile police unit or the designated police officer, who shall produce the juvenile before the Board without any loss of time but within a period of twenty-four hours of his apprehension excluding the time necessary for the journey, from the place where the juvenile was apprehended, to the Board:
Provided that in no case, a juvenile in conflict with law shall be placed in a police lockup or lodged in a jail.

(2) The State Government may make rules consistent with this Act, (i) to provide for persons through whom (including registered voluntary organizations) any juvenile in conflict with law may be produced before the Board; (ii) to provide the manner in which such juvenile may be sent to an observation home.

11. **Control of custodian over juvenile.** - Any person in whose charge a juvenile is placed in pursuance of this Act shall, while the order is in force have the control over the juvenile as he would have if he were his parents, and shall be responsible for his maintenance, and the juvenile shall continue is his charge for the period stated by competent authority, notwithstanding that he is claimed by his parents or any other person.

12. **Bail of juvenile.** - (1) When any person accused of a bailable or non-bailable offence, and apparently a juvenile, is arrested or detained or appears or is brought before a board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a
Probation Officer or under the care of any fit institution or fit person but he shall not be so released if there appear reasonable grounds for believing that the release is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or that this released would defeat the ends of justice.

(2) When such person having been arrested is not released on bail under subsection (1) by the officer in charge of the police station, such officer shall cause him to be kept only in an observation home in the prescribed manner until he can be brought before a Board.

(3) When such person is not released on bail under sub-section (1) by the Board it shall, instead of committing him to prison, make an order sending him to an observation home or a place of safety for such period during the pendency of the inquiry regarding him as may be specified in the order.

13. Information to parent, guardian or probation officer.-Where a juvenile is arrested, the officer in charge of the police station or the special juvenile police unit to which the juvenile is brought shall, as soon as may be after there arrest, inform
(a) the parent or guardian of the juvenile, if he can be found of such arrest and direct him to be present at the Board before which the juvenile will appear; and
(b) the probation officer of such arrest to enable him to obtain information regarding the antecedents and family background of the juvenile and other material circumstances likely to be of assistance of the Board for making the inquiry.

14. Inquiry by Board regarding juvenile.-Where a juvenile having been charged with the offence is produced before a Board, the Board shall hold the inquiry
in accordance with the provisions of this Act and may make such order in relation to
the juvenile as it deems fit.

Provided that an inquiry under this section shall be completed within a period of four
months from the date of its commencement, unless the period is extended by the
Board having regard to the circumstances of the case and in special cases after
recording the reasons in writing for such extension.

(2) The Chief Judicial Magistrate or the Chief Metropolitan Magistrate shall review
the pendency of cases of the Board at every six months, and shall direct the Board to
increase the frequency of its sittings or may cause the constitution of additional
Boards.

15. **Order that may be passed regarding juvenile.**- (1) Where a Board is satisfied
on inquiry that a juvenile has committed an offence, then, notwithstanding anything to
the contrary contained in any other law for the time being in force, the Board may, if
it thinks so fit,

(a) allow the juvenile to go home after advice or admonition following appropriate
inquiry against and counselling to the parent or the guardian and the juvenile;
(b) direct the juvenile to participate in group counselling and similar activities;
(c) order the juvenile to perform community service;
(d) order the parent of the juvenile or the juvenile himself to pay a fine, if he is over
fourteen years of age and earns money;
(e) direct the juvenile to be released on probation of good conduct and placed under
the care of any parent, guardian or other fit person, on such parent, guardian or other
fit person executing a bond, with or without surety, as the Board may require, for the
good behaviour and well-being of the juvenile for any period not exceeding three years;

(f) direct the juvenile to be released on probation of good conduct and placed under the care of any fit institution for the good behaviour and well-being of the juvenile for any period not exceeding three years;

(g) make an order directing the juvenile to be sent to a special home for a period of three years;

Provided that the Board may, if it is satisfied that having regard to the nature of the offence and the circumstances of the case, it is expedient so to do, for reasons to be recorded, reduce the period of stay to such period as it thinks fit.

(2) The Board shall obtain the social investigation report on juvenile either through a probation officer or a recognized voluntary organization or otherwise, and shall take into consideration the findings of such report before passing an order.

(3) Where an order under clause (d), clause (e) or clause (f) of sub-section (1) is made, the Board may, if it is of opinion that in the interest of the juvenile and of the public, it is expedient so to do, in addition make an order that the juvenile in conflict with law shall remain under the supervision of a probation officer named in the order during such period, not exceeding three years as may be specified therein, and may in such supervision order impose such conditions as it deems necessary for the due supervision of the juvenile in conflict with law.

Provided that if at any time afterwards it appears to the Board on receiving a report from the probation officer or otherwise, that the juvenile in conflict with law has not been of good behaviour during the period of supervision or that the fit institution under whose care the juvenile was placed is no longer able or willing to ensure the
good behaviour and well-being of the juvenile it may, after making such inquiry as it deems fit, order the juvenile in conflict with law to be sent to a special home.

(4) The Board shall while making a supervision order under sub-section (3), explain to the juvenile and the parent, guardian or other fit person or fit institution, as the case may be, under whose care the juvenile has been placed, the terms and conditions of the order and shall forthwith furnish one copy to the supervision order to the juvenile, the parent, guardian or other fit person or fit institution, as the case may be, the sureties, if any, and the probation officer.

16. Order that may not be passed against juvenile.- (1) Notwithstanding anything to the contrary contained in any other law for the time being in force, no juvenile in conflict with law shall be sentenced to death or imprisonment for any term which may extend to imprisonment for life, or committed to prison in default of payment of fine or in default of furnishing security;

Provided that where a juvenile who has attained the age of sixteen years has committed an offence and the Board is satisfied that the offence committed is of so serious in nature or that his conduct and behaviour have been such that it would not be in his interest or in the interest of other juvenile in a special home to sent him to such special home and that none of the other measures provided under this Act is suitable or sufficient, the Board may order the juvenile in conflict with law to be kept in such place of safety and in such manner as it thinks fit and shall report the case for the order of the State Government.

(2) On receipt of a report from a Board under sub-section (1), the State Government may make such arrangement in respect of the juvenile as it deems proper and may
order such juvenile to be kept under protective custody at such place and on such conditions as it thinks fit;

Provided that the period of detention so ordered shall not exceed in any case the maximum period provided under section 15 of this Act.

17. **Proceeding under Chapter VIII of the Code of Criminal Procedure not competent against juvenile.**-Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973 (2 of 1974) no proceeding shall be instituted and no order shall be passed against the juvenile under Chapter VIII of the said Code.

18. **No joint proceeding of juvenile and person not a juvenile.** (1) Notwithstanding anything contained in section 223 of the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, no juvenile shall be charged with or tried for any offence together with a person who is not a juvenile.

(2) If a juvenile is accused of an offence for which under section 223 of the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force, such juvenile and any person who is not a juvenile would, but for the prohibition contained in subsection (1), have been charged and tried together, the Board taking cognizance of that offence shall direct separate trials of the juvenile and the other person.

19. **Removal of disqualification attaching to conviction.**-(1) Notwithstanding anything contained in any other law, a juvenile who has committed an offence and has been dealt with under the provisions of this Act shall not suffer disqualification, if any, attaching to a conviction of an offence under such law.
(2) The Board shall make an order directing that the relevant records of such conviction shall be removed after the expiry of the period of appeal or a reasonable period as prescribed under the rules, as the case may be.

20. **Special provision in respect of pending cases.** - Notwithstanding anything contained in this Act, all proceedings in respect of a juvenile pending in any court in any area on the date on which this Act comes into force in that area, shall be continued in that court as if this Act had not been passed and if the court finds that the juvenile has committed an offence, it shall record such finding and instead of passing any sentence in respect of the juvenile, forward the juvenile to the Board which shall pass orders in respect of that juvenile in accordance with the provisions of this Act as if it had been satisfied on inquiry under this Act that a juvenile has committed the offence.

Provided that the Board may, for any adequate and special reason to be mentioned in the order, review the case and pass appropriate order in the interest of such juvenile.

Explanation.-In all pending cases including trial, revision, appeal or any other criminal proceedings in respect of a juvenile in conflict with law, in any court, the determination of juvenility of such a juvenile shall be in terms of clause (l) of section 2, even if the juvenile ceases to be so on or before the date of commencement of this Act and the provisions of this Act shall apply as if the said provisions had been in force, for all purposes and at all material times when the alleged offence was committed.

21. **Prohibition of publication of name, etc., of juvenile involved in any proceeding under the Act.**-(1) No report in any newspaper, magazine, news-sheet or
visual media of any inquiry regarding a juvenile in conflict with law or a child in need of care and protection under this Act shall disclose the name, address or school or any other particulars calculated to lead to the identification of the juvenile or child nor shall any picture of any such juvenile or child be published:

Provided that for reasons to be recorded in writing, the authority holding the inquiry may permit such disclosure, if in its opinion such disclosure is in the interest of the juvenile or the child.

(2) Any person who contravenes the provisions of sub-section (1), shall be liable to a penalty which may extend to twenty-five thousand rupees.

22. **Provision in respect of escaped juvenile.** - Notwithstanding anything to the contrary contained in any other law for the time being in force, any police officer may take charge without warrant of a juvenile in conflict with law who has escaped from a special home or an observation home or from the care of a person under whom he was placed under this Act, and shall be sent back to the special home or the observation home or that person, as the case may be; and no proceeding shall be instituted in respect of the juvenile by reason of such escape, but the special home, or the observation home or the person may, after giving the information to the Board which passed the order in respect of the juvenile, take such steps in respect of the juvenile as may be deemed necessary under the provisions of this Act.

23. **Punishment for cruelty to juvenile or child.** - Whoever, having the actual charge of or control over, a juvenile or the child, assaults, abandons, exposes or wilfully neglects the juvenile or causes or procures him to be assaulted, abandoned, exposed or neglected in a manner likely to cause such juvenile or the child unnecessary mental or
physical suffering shall be punishable with imprisonment for a term which may extent to six months, or fine, or with both.

24. **Employment of juvenile or child for begging.**-(1) Whoever, employs or uses any juvenile or the child for the purpose or causes any juvenile to beg shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

(2) Whoever, having the actual charge of, or control over, a juvenile or the child abets the commission of the offence punishable under sub-section (1), shall be punishable with imprisonment for a term which may extend to one year and shall also be liable to fine.

25. **Penalty for giving intoxicating liquor or narcotic drug or psychotropic substance to juvenile or child.**- Whoever give, or causes to be given, to any juvenile or the child any intoxicating liquor in a public place or any narcotic drug or psychotropic substance except upon the order of duly qualified medical practitioner or in case of sickness shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

26. **Exploitation of juvenile or child employee.**- Whoever ostensibly procures a juvenile or the child for the purpose of any hazardous employment keeps him in bondage and with-holds his earnings or uses such earning for his own purposes shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

27. **Special offences.**- The offences punishable under section 23, 24, 25 and 26 shall be cognizable.
28. **Alternative punishment**.- Where an act or omission constitute an offence punishable under this Act and also under any other Central or State Act, then, notwithstanding anything contained in any law for the time being in force, the offender found guilty of such offences shall be liable to punishment only under such Act as provides for punishment which is greater in degree.

**CHAPTER - III**

**CHILD IN NEED OF CARE AND PROTECTION**

29. **Child Welfare Committee**.- (1) The State Government may, within a period of one year from the date of commencement of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006, by notification in the official gazette, constitute for every district, one or more, Child Welfare Committees for exercising the powers and discharge the duties conferred on such Committees in relation to child in need of care and protection under this Act.

(2) The Committee shall consist of a Chairperson and four other members as the State Government may think fit to appoint, of whom at least one shall be a woman and another, an expert on matters concerning children.

(3) The qualification of the Chairperson and the members, and the tenure for which they may be appointed shall be such as may be prescribed.

(4) The appointment of any member of the Committee may be terminated, after holding inquiry, by the State Government, if (i) he has been found guilty of misuse of power vested under this Act; (ii) he has been convicted of an offence involving moral turpitude, and such conviction has not been reversed or he has not been granted full pardon in respect of such offence; (iii) he fails to attend the proceedings of the
Committee for consecutive three months without any valid reason or he fails to attend
less than three-fourth of the sittings in a year.

(5) The Committee shall function as a Bench of Magistrates and shall have the powers
conferred by the Code of Criminal Procedure, 1973 (2 of 1974) on a Metropolitan
Magistrate or, as the case may be, a Judicial Magistrate of the first class.

30. Procedure, etc., in relation to Committee.- (1) The Committee shall meet at
such times and shall observe such rules of procedure in regard to the transaction of
business at its meetings, as may be prescribed.

(2) A child in need of care and protection may be produced before an individual
member for being placed in safe custody or otherwise when the Committee is not in
session.

(3) In the event of any difference of opinion among the members of the Committee at
the time of any interim decision, the opinion of the majority shall prevail but where
there is no such majority the opinion of the Chairperson shall prevail.

(4) Subject to the provisions of sub-section (1), the Committee may act,
notwithstanding the absence of any member of the Committee, and no order made by
the Committee shall be invalid by reason only of the absence of any member during
any stage of the proceeding.

31. Powers of Committee.- (1) The Committee shall have the final authority to
dispose of cases for the care, protection, treatment, development and rehabilitation of
the children as well as to provide for their basic needs and protection of human rights.

(2) Where a Committee has been constituted for any area, such committee shall
notwithstanding anything contained in any other law for the time being in force but
save as otherwise expressly provided in this Act, have the power to deal exclusively with all proceedings under this Act relating to children in need of care and protection.

32. Production before committee.- (1) Any child in need of care and protection may be produced before the Committee by one of the following persons (i) any police officer or special juvenile police unit or a designated police officer; (ii) any public servant; (iii) child line, a registered voluntary organization or by such other voluntary organization or an agency as may be recognized by the State Government. (iv) any social worker or a public spirited citizen (omitted 33 of 2006); or (v) by the child himself.

Provided that the child shall be produced before the Committee without any loss of time but within a period of twenty-four hours excluding the time necessary for the journey.

(2) The State Government may make rules consistent with this Act to provide for the manner of making the report (omitted by 33 of 2006) to the Committee and the manner of sending and entrusting the child to children's home pending the inquiry.

33. Inquiry.- (1) On receipt of a report under section 32, the Committee (omitted by 33 of 2006) shall hold an inquiry in the prescribed manner and the Committee, on its own or on the report from any person or agency as mentioned in sub-section (1) of section 32, may pass an order to send the child to the children's home for speedy inquiry by a social worker or child welfare officer.

(2) The inquiry under this section shall be completed within four months of the receipt of the order or within such shorter period as may be fixed by the Committee;
Provided that the time for the submission of the inquiry report may be extended by such period as the Committee may, having regard to the circumstances and for the reasons recorded in writing, determine;

(3) The State Government shall review the pendency of cases of the Committee at every six months, and shall direct the Committee to increase the frequency of its sittings or may cause the constitution of additional Committees.

(4) After the completion of the inquiry, if, the Committee is of the opinion that the said child has no family or ostensible support or is in continued need of care and protection, it may allow the child to remain in the children's home or shelter home till suitable rehabilitation is found for him or till he attains the age of eighteen years.

34. **Children's homes**.- (1) The State Government may establish and maintain either by itself or in association with the voluntary organizations, children's homes, in every district or group of districts, as the case may be, for the reception of child in need of care and protection during the pendency of any inquiry and subsequently for their care, treatment, education, training, development and rehabilitation.

(2) The State Government may, by rules made under this Act, provide for the management of children's homes including the standards and the nature of services to be provided by them, and the circumstances under which, and the manner in which, the certification of a children's home or recognition to a voluntary organization may be granted or withdrawn.

(3) Without prejudice to anything contained in any other law for the time being in force, all institutions, whether State Government run or those run by voluntary organisations for children in need of care and protection shall, within a period of six months from the date of commencement of the Juvenile Justice (Care and Protection
of Children) Amendment Act, 2006, be registered under this Act in such manner as may be prescribed.

35. **Inspection.**-(1) The State Government may appoint inspection committees for the children’s homes (hereinafter referred to as the inspection committees) for the State, a district and city, as the case may be, for such period and for such purposes as may be prescribed.

(2) The inspection committee of a State, district or of a city shall consist of such number of representatives from the State Government, Committee, voluntary organizations and such other medical experts and social workers as may be prescribed.

36. **Social auditing.**- The Central Government or State Government may monitor and evaluate the functioning of the Children's homes at such period and through such persons and institutions as may be specified by that Government.

37. **Shelter homes.**-(1) The State Government may recognize, reputed and capable voluntary organizations and provide them assistance to setup and administer as many shelter homes for juveniles or children as may be required.

(2) The shelter homes referred in sub-section (1) shall function as drop-in-centers for the children in the need of urgent support who have been brought to such homes through such persons as are referred to in sub-section (1) of section 32.

(3) As far as possible, the shelter homes shall have such facilities as may be prescribed by the rules.

38. **Transfer.**-(1) If during the inquiry it is found that the child hails from the place outside the jurisdiction of the Committee, the Committee shall order the transfer of
the child to the competent authority having jurisdiction over the place of residence of the child.

(2) Such juvenile or the child shall be escorted by the staff of the home in which he is lodged originally.

(3) The State Government may make rules to provide for the Traveling allowance to be paid to the child.

39. **Restoration.**— (1) Restoration of and protection to a child shall be the prime objective of any children's home or the shelter home.

(2) The children's home or a shelter home, as the case may be, shall take such steps as are considered necessary for the restoration of and protection to a child deprived of his family environment temporarily or permanently where such child is under the care and protection of a children's home or a shelter home, as the case may be.

(3) The Committee shall have the powers to restore any child in need of care and protection to his parent, guardian, fit person or fit institution, as the case may be, and give them suitable directions.

Explanation.— For the purposes of this section "restoration of and protection of a child" means restoration to

(a) Parents;

(b) adopted parents;

(c) foster parents;

(d) guardian;

(e) fit person;

(f) fit institution.
CHAPTER - IV
REHABILITATION AND SOCIAL REINTEGRATION

40. **Process of rehabilitation and social reintegration.** - The rehabilitation and social reintegration of a child shall begin during the stay of the child in a children's home or special home and the rehabilitation and social reintegration of children shall be carried out alternatively by (i) adoption, (ii) foster care, (iii) sponsorship, and (iv) sending the child to an after-care organization.

41. **Adoption.** - (1) The primary responsibility for providing care and protection to children shall be that of his family.

(2) Adoption shall be resorted to for the rehabilitation of the children who are orphan, abandoned or surrendered through such mechanism as may be prescribed.

(3) In keeping with the provisions of the various guidelines for adoption issued from time to time, by the State Government, or the Central Adoption Resource Agency and notified by the Central Government, children may be given in adoption by a court after satisfying itself regarding the investigations having been carried out, as are required for giving such children in adoption.

(4) The State Government shall recognise one or more of its institutions or voluntary organisations in each district as specialised adoption agencies in such manner as may be prescribed for the placement of orphan, abandoned or surrendered children for adoption in accordance with the guidelines notified under sub-section (3):

Provided that the children's homes and the institutions run by the State Government or a voluntary organisation for children in need of care and protection, who are orphan, abandoned or surrendered, shall ensure that these children are declared free for adoption by the Committee and all such cases shall be referred to the adoption agency.
in that district for placement of such children in adoption in accordance with the
guidelines notified under subsection (3).

(5) No child shall be offered for adoption (a) until two members of the Committee
declare the child legally free for placement in the case of abandoned children, (b) till
the two months period for reconsideration by the parent is over in the case of
surrendered children, and (c) without his consent in the case of a child who can
understand and express his consent.

(6) The Court may allow a child to be given in adoption (a) to a person irrespective of
marital status; or (b) to parents to adopt a child of same sex irrespective of the number
of living
biological sons or daughters; or (c) to childless couples.

42. **Foster care.**- (1) The foster care may be used for temporary placement of those
infants who to be given for adoption.

(2) In foster care, the child may be placed in another family for a short or extended
period of time, depending upon the circumstances where the child's own parent
usually visit regularly and eventually after the rehabilitation, where the children may
return to their own homes.

(3) The State Government may make rules for purposes of carrying out the scheme of
foster care programme of children.

43. **Sponsorship.**- (1) The sponsorship programme may provide supplementary
support to families, to children's homes and to special homes to meet medical,
nutritional, educational and other needs of the children with a view to improving their
quality of life.
(2) The State Government may make rules for the purposes of carrying out various schemes of sponsorship of children, such as individual to individual sponsorship, group sponsorship or community sponsorship.

44. **After-care organization.**- The State Government may, by rules made under this Act, provide (a) for the establishment or recognition of after-care organizations and the functions that may be performed by them under this Act;

(b) for a scheme of after-care programme to be followed by such after-care organizations for the purpose of taking care of juveniles or the children after they leave special homes, children homes and for the purpose of enabling them to lead an honest, industrious and useful life;

(c) for the preparation or submission of a report by the probation officer or any other officer appointed by that Government in respect of each juvenile or the child prior to his discharge from a special home, children's home, regarding the necessity and nature of after-care of such juvenile or of a child, the period of such after-care, supervision thereof and for the submission of report by the probation officer or any other officer appointed for the purpose, on the progress of each juvenile or the child;

(d) for the standards and the nature of services to be maintained by such after-care organizations;

(e) for such other matters as may be necessary for the purpose of carrying out the scheme of after-care programme for the juvenile or the child;

Provided that any rule made under this section shall not provide for such juvenile or child to stay in the after-care organization for more than three years;

Provided further that a juvenile or child over seventeen years of age but less than
eighteen years of age would stay in the after-care organization till he attains the age of twenty years.

45. **Linkages and co-ordination.**- The State Government may make rules to ensure effective linkages between various governmental, non-governmental, corporate and other community agencies for facilitating the rehabilitation and social reintegration of the child.

**CHAPTER - V**

**MISCELLANEOUS**

46. **Attendance of parent or guardian of juvenile or child.**- Any competent authority before which a juvenile or the child is brought under any of the provisions of this Act, may, whenever it so thinks fit, require any parent or guardian having the actual charge of or control over the juvenile or the child to be present at any proceeding in respect of the juvenile or the child.

47. **Dispensing with attendance of juvenile or child.**- If, at any stage during the course of an inquiry, a competent authority is satisfied that the attendance of the juvenile or the child is not essential for the purpose of inquiry, the competent authority may dispense with his attendance and proceed with the inquiry in the absence of the juvenile or the child.

48. **Committal to approved places of juvenile or child suffering from dangerous diseases and his future disposal.**- (1) When a juvenile or the child who has been brought before a competent authority under this Act, is found to be suffering from a disease requiring prolonged medical treatment or physical or mental complaint that will respond to treatment, the competent authority may send the juvenile or the child
to any place recognized 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 juvenile or the child is found to be suffering from leprosy, sexually transmitted disease Hepatitis B, open cases of Tuberculosis and such other diseases or is of unsound mind, he shall be dealt with separately through various specialized referral services or under the relevant laws as such.

49. **Presumption and determination of age.**— (1) Where it appears to a competent authority that person brought before it under any of the provisions of this Act (otherwise than for the purpose of giving evidence) is a juvenile or the child, the competent authority shall make due inquiry so as to the age of that person and for that purpose shall take such evidence as may be necessary (but not an affidavit) and shall record a finding whether the person is a juvenile or the child or not, stating his age as nearly as may be.

(2) No order of a competent authority shall be deemed to have become invalid merely by any subsequent proof that the person in respect of whom the order has been made is not a juvenile or the child, and the age recorded by the competent authority to be the age of person so brought before it, shall for the purpose of this Act, be deemed to be the true age of that person.

50 **Sending a juvenile or child outside jurisdiction.**— In the case of a juvenile or the child, whose ordinary place of residence lies outside the jurisdiction of the competent authority before which he is brought, the competent authority may, if satisfied after due inquiry that it is expedient so to do, send the juvenile or the child back to a relative or other person who is fit and willing to receive him at his ordinary place of
residence and exercise proper care and control over him, notwithstanding that such place of residence is outside the jurisdiction of the competent authority; and the competent authority exerting jurisdiction over the place to which the juvenile or the child is sent shall in respect of any matter arising subsequently have the same powers in relation to the juvenile or the child as if the original order had been passed by itself.

51. **Reports to be treated as confidential.** - The report of the probation officer or social worker considered by the competent authority shall be treated as confidential; Provided that the competent authority may, if it so thinks fit, communicate the substance thereof to the juvenile or the child or his parent or guardian and may give such juvenile or the child, parent or guardian an opportunity or producing such evidence as may be relevant to the matter stated in the report.

52. **Appeals.** - (1) Subject to the provisions of this section, any person aggrieved by an order made by a competent authority under this Act may, within thirty days from the date of such order, prefer an appeal to the Court of Session; Provided that the Court of Session may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) No appeal shall lie from (a) any order of acquittal made by the Board in respect of a juvenile alleged to have committed an offence; or (b) any order made by a Committee in respect of a finding that a person is not a neglected juvenile.

(3) No second appeal shall lie from any order of the Court of Session passed in appeal under this section.
53. **Revision**.- The High Court may, at any time, either of its own motion or on an application received in this behalf, call for the record of any proceeding in which any competent authority or Court of Session has passed an order for the purpose of satisfying itself as to the legality or propriety of any such order and may pass such order in relation thereto as it thinks fit;
Provided that the High Court shall not pass an order under this section prejudicial to any person without giving him a reasonable opportunity of being heard.

54. **Procedure in inquiries, appeals and revision proceedings**.- (1) Save as other expressly provided by this Act, a competent authority while holding any inquiry under any of the provisions of this Act, shall follow, such procedure as may be prescribed and subject thereto, shall follow, as far as may be, the procedure laid down in the Code of Criminal Procedure, 1973 (2 of 1974) for trials in summons cases.
(2) Save as otherwise expressly provided by or under this Act, the procedure to be followed in hearing appeals or revision proceedings under this Act shall be, as far as practicable, in accordance with the provision of the Code of Criminal Procedure, 1973 (2 of 1974).

55. **Power to amend orders**.- (1) Without prejudice to the provisions for appeal and revision under this Act, any competent authority may, on an application received in this behalf, amend any order as to the institution to which a juvenile or the child is to be sent or as to the person under whose care or supervision a juvenile or the child is to be placed under this Act.
Provided that there shall be at least two members and the parties or its defence present during the course of hearing for passing an amendment in relation to any of its order.
(2) Clerical mistakes in orders passed by a competent authority or errors arising therein from any accidental slip or omission may, at any time, be corrected by the competent authority either on its own motion or on an application received in this behalf.

56. **Power of competent authority to discharge and transfer juvenile or child.**

The competent authority may, notwithstanding anything contained in this Act, at any time, order a child in need of care and protection or a juvenile in conflict with law to be discharged or transferred from one children's home or special home to another, as the case may be, keeping in view the best interest of the child or the juvenile, and his natural place of stay, either absolutely or on such conditions as it may think fit to impose;

Provided that the total period of stay of the juvenile or the child in a children's home or a special home or fit institution or under a fit person shall not be increased by such transfer.

57. **Transfer between children's homes, under the Act, and juvenile homes, of like nature in different parts of India.**-

The State Government may direct any child or the juvenile to be transferred from any children's home or special home within the State to any other children's home, special home or institution of a like nature or to such institutions outside the State in consultation with the concerned State Government and with the prior intimation to the Committee or the Board, as the case may be, and such order shall be deemed to be operative for the competent authority of the area to which the child or the juvenile is sent.
58. **Transfer of juvenile or child of unsound mind or suffering from leprosy or addicted to drugs.** - Where it appears to the competent authority that any juvenile or the child kept in a special home or a children's home or shelter home or in an institution in pursuance of this Act, is suffering from leprosy or is of unsound mind or is addicted to any narcotic drug or psychotropic substance, the competent authority may order his removal to a leper asylum or mental hospital or treatment centre for drug addicts or to a place of safety for being kept there for such period not exceeding the period for which he is required to be kept under the order of the competent authority or for such further period as may be certified by the medical officer necessary for the proper treatment of the juvenile or the child.

59. **Release and absence of juvenile or child in placement.** - (1) When a juvenile or the child is kept in a children's home or special home and on a report of a probation officer or social worker or of Government or a voluntary organization, as the case may be, the competent authority may consider, the release of such juvenile or the child permitting him to live with his parent or guardian or under the supervision of any authorized person named in the order, willing to receive and take charge of the juvenile or the child to educate and train him for some useful trade or calling or to look after him for rehabilitation.

(2) the competent authority may also permit leave of absence to any juvenile or the child, to allow him, on special occasions like examination, marriage of relatives, death of kith and kin or the accident or serious illness of parent or any emergency of like nature to go on leave under supervision, for a period generally not exceeding seven days, excluding the time taken in journey.
(3) Where a permission has been revoked or forfeited and the juvenile or the child refuses or fails to return to the home concerned or juvenile to which he was directed so to return, the Board may, if necessary, cause him to be taken charge of and to be taken back to the concerned home.

(4) The time during which a juvenile or the child is absent from a concerned home in pursuance of such permission granted under this section shall be deemed to be part of the time for which he is liable to be kept in the special home. Provided that when a juvenile has failed to return to the special home on the permission 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 liable to be kept in the institution.

60. **Contribution by parents.**-(1) The competent authority which makes an order for sending a juvenile or the child to a children's home or to a special home or placing the juvenile under the care of a fit person or fit institution may make an order requiring the parent or other person liable to maintain the juvenile or the child to contribute to his maintenance, if able to do so, in the prescribed manner according to income.

(2) The competent authority may direct, if necessary, the payment to be made to poor parent or guardian by the superintendent or the Project Manager of the home to pay such expenses for the journey of the inmate or parent or guardian or both, from the home to his ordinary place of residence at the time of sending the juvenile as may be prescribed.
61. **Fund.**—(1) The State Government may create a Fund under such name as it think fit for the welfare and rehabilitation of the juvenile or the child dealt with under this Act.

(2) There shall be credited to the Fund such Voluntary donations, contributions or subscriptions as may be made by any individual organization.

(3) The Fund created under sub-section (1) shall be administered by the State advisory board in such manner and for such purposes as may be prescribed.

62. **Central, State, district and city advisory boards.**—(1) The Central Government or a State Government may constitute a Central or a State advisory board, as the case may be, to advise that Government on matter relating to the establishment and maintenance of the homes, mobilization of resources, provision of facilities for education, training and rehabilitation of child in need of care and protection and juvenile in conflict with law and co-ordination among the various official and non-official agencies concerned.

(2) The Central or State advisory board shall consist of such persons as the Central Government or the State Government, as the case may be, may think fit and shall include eminent social workers, representatives of voluntary organization in the field of child welfare corporate sector, academicians, medical professionals and the concerned Department of the State Government.

(3) The district or city level inspection committee constituted under section 35 of this Act shall also function as the district or city advisory boards.

62A. Every State Government shall constitute a Child Protection Unit for the state and, such unit for every district, consisting of such officers and other employees as
may be appointed by that government, to take up matters relating to children in need of care and protection and juveniles in conflict with law with a view to ensure the implementation of this act including the establishment and maintenance of homes, notification of competent authorities in relation to these children and their rehabilitation and co-ordination with various officials and non-official agencies concerned.

63. **Special juvenile police unit.** - (1) In order to enable the police officers who frequently or exclusively deal with juveniles or are primarily engaged in the prevention of juvenile crime or handling of the juveniles or children under this Act to perform their functions more effectively, they shall be specially instructed and trained.

(2) In every police station at least one officer with aptitude and appropriate training and orientation may be designated as the "juvenile or the child welfare officer" who will handle the juvenile or the child in co-ordination with the police.

(3) Special juvenile police unit, of which all police officers designated as above, to handle juveniles or children will be members, may be created in every district and city to coordinate and to upgrade the police treatment of the juveniles and the children.

64. **Juvenile in conflict with law undergoing sentence at commencement of this Act.** - In any area in which this Act is brought into force, the State Government shall direct that a juvenile in conflict with law who is undergoing any sentence of imprisonment at the commencement of this Act, shall, in lieu of undergoing such sentence, be sent to a special home or be kept in fit institution in such manner as the State Government thinks fit for the remainder of the period of the sentence; and the provisions of this Act shall apply to the juvenile as if he had been ordered by the
Board to be sent to such special home or institution or, as the case may be, ordered to be kept under protective care under sub-section (2) of section 16 of this Act.

Provided that the State Government, or as the case may be the board, may, for any adequate and special reason to be recorded in writing, review the case of a juvenile in conflict with law undergoing a sentence of imprisonment, who has ceased to be so on or before the commencement of this act, and pass appropriate order in the interest of such juvenile.

Explanation :– In all cases where a juvenile in conflict with law is undergoing a sentence of imprisonment at any stage on the date of commencement of this act, his case including the issue of juvenility, shall be deemed to be decided in terms of clause (l) of section 2 and other provisions contained in this act and the rules made thereunder, irrespective of the fact that he ceases to be a juvenile on or before such date and accordingly he shall be sent to the special home or a fit institution, as the case may be, for the remainder of the period of the sentence but such sentence shall not in any case exceed the maximum period provided in section 15 of this act.

65. **Procedure in respect of bonds.**- Provisions of Chapter XXXIII of the Code of Criminal Procedure, 1973 (2 of 1974) shall as far as may be, apply to bonds taken under this Act.

66. **Delegation of powers.**- The State Government may, by the general order, direct that any power exercisable by it under this Act shall, in such circumstances and under such conditions, if any, as may be prescribed in the order, be exercisable also by an officer subordinate to that Government.
67. **Protection of action taken in good faith.**- No suit or legal proceedings shall lie against the State Government or voluntary organization running the home or any officer and the staff appointed in pursuance of this Act in respect of any thing which is in good faith done or intended to be done in pursuance of this Act or of any rules or order made there under.

68. **Power to make rules.**- (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Provided that the Central Government may, frame model rules in respect of all or any of the matters with respect to which the state government may make rules under this section, and where any such model rules have been framed in respect of that any such matter, they shall apply to the state until the rules in respect of that matter is made by the state government and while making any such rules, so far as is practicable, they confirm to such model rules.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-

(i) the term of office of the members of the Board and the manner in which such member may resign under sub-section (4) of section 4;

(ii) the time of the meetings of the Board and the rules of procedure in regard to the transaction of business at its meeting under sub-section (1) of section 5;

(iii) the management of observation homes including the standards and various types of service to be provided by them and the circumstances in which and the manner in which, the certification of the observation home may be granted or withdrawn and such other matters as are referred to in section 8;
(iv) the management of special homes including the standards and various types of services to be provided by them and the circumstances in which and the manner in which, the certification of the special home may be granted or withdrawn and such other matters as are referred to in section 9;

(v) persons to whom any juvenile in conflict with law may be produced before the Board and the manner of sending such juvenile, to an observation home under sub-section (2) section 10; (vi) matters relating to removal of disqualification attaching to conviction of a juvenile under section 19;

(vii) the qualifications of the Chairperson and members, and the tenure for which they may be appointed under sub-section (3) section 29;

(viii) the time of the meetings of the Committee and the rules of procedure in regard to the transaction of business at its meeting under sub-section (1) of section 30;

(ix) the manner of making the report of the police and to the Committee and the manner of sending and entrusting the child to children's home pending the inquiry under sub-section (2) of section 32;

(x) the management of children's homes including the standards and nature of services to be provided by them, and the manner in which certification of a children's home or recognition to a voluntary organization may be granted or withdrawn under sub-section (2) and the manner of registration of institutions under sub section (3) of section 34;

(xi) appointment if inspection committees for children's homes, their tenure and purposes for which inspection committees may be appointed and such other matters as are referred to in section 35;

(xii) facilities to be provided by the shelter homes under sub-section (3) of section 37;
(xiia) rehabilitation mechanism to be resorted to in adoption under sub section(2), notification of guidelines under sub section(3) and the manner of recognition of specialised adoption agencies under sub section (4) of section (41);

(xiii) for carrying out the scheme of foster care programme of children under subsection (3) of section 42;

(xiv) for carrying out various schemes of sponsorship of children under sub-section (2) of section 43;

(xv) matters relating to after-care organization under section 44;

(xvi) for ensuring effective linkages between various agencies for facilitating rehabilitation and social integration of the child under section 45;

(xvii) the purposes and the manner in which the Fund shall be administered under sub-section (3) of section 61;

(xviii) any other matter which is required to be, or may be, prescribed. (3) Every rule made by the Central Government under this act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) Every rule made by a State Government under this Act shall be laid, as soon as may be after it is made, before the Legislature of that State.
69. **Repeal and savings.**- (1) The juvenile justice Act, 1986 (53 of 1986) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Act shall be deemed to have been done or taken under the corresponding provisions of this Act.

70. **Power to remove difficulties.**- (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty; Provided that no such order shall be made after the expiry of the period of two years from the commencement of this Act.

(2) However, order made under the section shall be laid, as soon as may be after it is made, before each House of Parliament.
ANNEXURE II

INTERNATIONAL INSTRUMENTS RELATING TO JUVENILES

A. BRAZILIAN CONSTITUTION, 1988:-

Article 5

No one shall be considered guilty before the issuing of a final and unappealable penal sentence.

B. CANADIAN CHARTER OF RIGHTS AND FREEDOMS:-

Section 11(d)

Any person charged with an offence has the right to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal

C. CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION:-

Article 48 - Presumption of innocence and right of defence

1. Everyone who has been charged shall be presumed innocent until proved guilty according to law.

2. Respect for the rights of the defence of anyone who has been charged shall be guaranteed.

D. COLOMBIAN CONSTITUTION:-

Article 29

Every person is presumed innocent until proven guilty according to the law.
E. CONSTITUTION OF RUSSIA:-

Article 49

(1) Everyone charged with a crime shall be considered not guilty until his or her guilt has been proven in conformity with the procedures stipulated by the federal law and established by the verdict of a court of law.

(2) The defendant shall not be obliged to prove his or her innocence.

(3) The benefit of doubt shall be interpreted in favor of the defendant.

F. CONSTITUTION OF THE ISLAMIC REPUBLIC OF IRAN:-

Article 37

Innocence is to be presumed, and no one is to be held guilty of a charge unless his or her guilt has been established by a competent court.

G. CONSTITUTION OF U.S.:-

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.
H. CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF THE COUNCIL OF EUROPE:-

Article 6.2

Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

I. CONVENTION ON THE RIGHTS OF THE CHILD, 1989:-

Article 3 (1)

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

Article 37

States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so.
and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

(i) To be presumed innocent until proven guilty according to law;

(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;
(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

(vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counseling; probation; foster care; education and vocational training programmes and
other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

**Article 49**

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

**J. DECLARATION OF THE RIGHTS OF MAN AND OF THE CITIZEN, 1789:**

**Article 9**

As all persons are held innocent until they shall have been declared guilty, if arrest shall be deemed indispensable, all harshness not essential to the securing of the prisoner's person shall be severely repressed by law.

**K. INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, 1966:**

**Article 24**

Every child, with no discrimination based on his race, colour, sex, language, religion, national or social origin, fortune or birth, has a right, from his family, his society and his state, to protection accorded to its status as a minor.
L. INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, 1966:-

Article 10

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.

2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.

3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;

(b) The improvement of all aspects of environmental and industrial hygiene;

(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Article 13

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

(a) Primary education shall be compulsory and available free to all;

(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph I of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

**Article 14 (1)**

All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and
impartial tribunal established by law. The press and the public may be excluded from
all or part of a trial for reasons of morals, public order (order public) or national
security in a democratic society, or when the interest of the private lives of the parties
so requires, or to the extent strictly necessary in the opinion of the court in special
circumstances where publicity would prejudice the interests of justice; but any
judgment rendered in a criminal case or in a suit at law shall be made public except
where the interest of juvenile persons otherwise requires or the proceedings concern
matrimonial disputes or the guardianship of children.

M. IV GENEVA CONVENTION, 1949:-

Article 13 - Field of application of Part II
The provisions of Part II cover the whole of the populations of the countries in
conflict, without any adverse distinction based, in particular, on race, nationality,
religion or political opinion, and are intended to alleviate the sufferings caused by
war.

Article 14 - Hospital and Safe Zone Locality
In time of peace, the High Contracting Parties and, after the outbreak of hostilities, the
Parties thereto, may establish in their own territory and, if the need arises, in occupied
areas, hospital and safety zones and localities so organized as to protect from the
effects of war, wounded, sick and aged persons, children under fifteen, expectant
mothers and mothers of children under seven.

Upon the outbreak and during the course of hostilities, the Parties concerned may
conclude agreements on mutual recognition of the zones and localities they have
created. They may for this purpose implement the provisions of the Draft Agreement
annexed to the present Convention, with such amendments as they may consider necessary.

The Protecting Powers and the International Committee of the Red Cross are invited to lend their good offices in order to facilitate the institution and recognition of these hospital and safety zones and localities.

**Article 24 - Measures relating to child welfare**

The Parties to the conflict shall take the necessary measures to ensure that children under fifteen, who are orphaned or are separated from their families as a result of the war, are not left to their own resources, and that their maintenance, the exercise of their religion and their education are facilitated in all circumstances. Their education shall, as far as possible, be entrusted to persons of a similar cultural tradition.

The Parties to the conflict shall facilitate the reception of such children in a neutral country for the duration of the conflict with the consent of the Protecting Power, if any, and under due safeguards for the observance of the principles stated in the first paragraph.

They shall, furthermore, endeavour to arrange for all children under twelve to be identified by the wearing of identity discs, or by some other means.

**Article 25 - Family News**

All persons in the territory of a Party to the conflict, or in a territory occupied by it, shall be enabled to give news of a strictly personal nature to members of their families, wherever they may be, and to receive news from them. This correspondence shall be forwarded speedily and without undue delay.

If, as a result of circumstances, it becomes difficult or impossible to exchange family correspondence by the ordinary post, the Parties to the conflict concerned shall apply...
to a neutral intermediary, such as the Central Agency provided for in Article 140, and shall decide in consultation with it how to ensure the fulfillment of their obligations under the best possible conditions, in particular with the cooperation of the National Red Cross (Red Crescent, Red Lion and Sun) Societies.

If the Parties to the conflict deem it necessary to restrict family correspondence, such restrictions shall be confined to the compulsory use of standard forms containing twenty-five freely chosen words, and to the limitation of the number of these forms despatched to one each month.

**Article 49 - Deportations, transfers, evacuations**

Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.

Nevertheless, the Occupying Power may undertake total or partial evacuation of a given area if the security of the population or imperative military reasons so demand. Such evacuations may not involve the displacement of protected persons outside the bounds of the occupied territory except when for material reasons it is impossible to avoid such displacement. Persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased.

The Occupying Power undertaking such transfers or evacuations shall ensure, to the greatest practicable extent, that proper accommodation is provided to receive the protected persons, that the removals are effected in satisfactory conditions of hygiene, health, safety and nutrition, and that members of the same family are not separated.

The Protecting Power shall be informed of any transfers and evacuations as soon as they have taken place.
The Occupying Power shall not detain protected persons in an area particularly exposed to the dangers of war unless the security of the population or imperative military reasons so demand.

The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.

**Article 50 - Children**

The Occupying Power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children.

The Occupying Power shall take all necessary steps to facilitate the identification of children and the registration of their parentage. It may not, in any case, change their personal status, nor enlist them in formations or organizations subordinate to it. Should the local institutions be inadequate for the purpose, the Occupying Power shall make arrangements for the maintenance and education, if possible by persons of their own nationality, language and religion, of children who are orphaned or separated from their parents as a result of the war and who cannot be adequately cared for by a near relative or friend.

A special section of the Bureau set up in accordance with Article 136 shall be responsible for taking all necessary steps to identify children whose identity is in doubt. Particulars of their parents or other near relatives should always be recorded if available.

The Occupying Power shall not hinder the application of any preferential measures in regard to food, medical care and protection against the effects of war, which may have
been adopted prior to the occupation in favour of children under fifteen years, expectant mothers, and mothers of children under seven years.

Article 51 - Enlistment Labour

The Occupying Power may not compel protected persons to serve in its armed or auxiliary forces. No pressure or propaganda which aims at securing voluntary enlistment is permitted.

The Occupying Power may not compel protected persons to work unless they are over eighteen years of age, and then only on work which is necessary either for the needs of the army of occupation, or for the public utility services, or for the feeding, sheltering, clothing, transportation or health of the population of the occupied country.

Protected persons may not be compelled to undertake any work which would involve them in the obligation of taking part in military operations. The Occupying Power may not compel protected persons to employ forcible means to ensure the security of the installations where they are performing compulsory labour.

The work shall be carried out only in the occupied territory where the persons whose services have been requisitioned are. Every such person shall, so far as possible, be kept in his usual place of employment. Workers shall be paid a fair wage and the work shall be proportionate to their physical and intellectual capacities. The legislation in force in the occupied country concerning working conditions, and safeguards as regards, in particular, such matters as wages, hours of work, equipment, preliminary training and compensation for occupational accidents and diseases, shall be applicable to the protected persons assigned to the work referred to in this Article.

In no case shall requisition of labour lead to a mobilization of workers in an organization of a military or semi-military character.
Article 82 - Grouping of internees

The Detaining Power shall, as far as possible, accommodate the internees according to their nationality, language and customs. Internees who are nationals of the same country shall not be separated merely because they have different languages.

Throughout the duration of their internment, members of the same family, and in particular parents and children, shall be lodged together in the same place of internment, except when separation of a temporary nature is necessitated for reasons of employment or health or for the purposes of enforcement of the provisions of Chapter IX of the present Section. Internees may request that their children who are left at liberty without parental care shall be interned with them.

Wherever possible, interned members of the same family shall be housed in the same premises and given separate accommodation from other internees, together with facilities for leading a proper family life.

Article 89 - Food

Daily food rations for internees shall be sufficient in quantity, quality and variety to keep internees in a good state of health and prevent the development of nutritional deficiencies. Account shall also be taken of the customary diet of the internees. Internees shall also be given the means by which they can prepare for themselves any additional food in their possession.

Sufficient drinking water shall be supplied to internees. The use of tobacco shall be permitted.

Internees who work shall receive additional rations in proportion to the kind of labour which they perform.
Expectant and nursing mothers and children under fifteen years of age, shall be given additional food, in proportion to their physiological needs.

Article 132 - During hostilities or occupation

Each interned person shall be released by the Detaining Power as soon as the reasons which necessitated his internment no longer exist.

The Parties to the conflict shall, moreover, endeavour during the course of hostilities, to conclude agreements for the release, the repatriation, the return to places of residence or the accommodation in a neutral country of certain classes of internees, in particular children, pregnant women and mothers with infants and young children, wounded and sick, and internees who have been detained for a long time.

N. PROTOCOL I OF THE GENEVA CONVENTION, 1949:-

Article 77 - Protection of children

1. Children shall be the object of special respect and shall be protected against any form of indecent assault. The Parties to the conflict shall provide them with the care and aid they require, whether because of their age or for any other reason.

2. The Parties to the conflict shall take all feasible measures in order that children who have not attained the age of fifteen years do not take a direct part in hostilities and, in particular, they shall refrain from recruiting them into their armed forces. In recruiting among those person*s who have attained the age of fifteen years but who have not attained the age of eighteen years, the Parties to the conflict shall endeavour to give priority to those who are oldest.

3. If, in exceptional cases, despite the provisions of paragraph 2, children who have not attained the age of fifteen years take a direct part in hostilities and fall into the
power of an adverse Party, they shall continue to benefit from the special protection accorded by this Article, whether or not they are prisoners of war.

4. If arrested, detained or interned for reasons related to the armed conflict, children shall be held in quarters separate from the quarters of adults, except where families are accommodated as family units as provided in Article 75, paragraph 5.

5. The death penalty for an offence related to the armed conflict shall not be executed on persons who had not attained the age of eighteen years at the time the offence was committed.

O. PROTOCOL II OF THE GENEVA CONVENTION, 1949:-

Article 4

1. All persons who do not take a direct part or who have ceased to take part in hostilities, whether or not their liberty has been restricted, are entitled to respect for their person, honour and convictions and religious practices. They shall in all circumstances be treated humanely, without any adverse distinction. It is prohibited to order that there shall be no survivors.

2. Without prejudice to the generality of the foregoing, the following acts against the persons referred to in paragraph 1 are and shall remain prohibited at any time and in any place whatsoever:

(a) violence to the life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment;

(b) collective punishments;

(c) taking of hostages;

(d) acts of terrorism;
(e) outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;

(f) slavery and the slave trade in all their forms;

(g) pillage;

(h) threats to commit any of the foregoing acts.

3. Children shall be provided with the care and aid they require, and in particular:

(a) they shall receive an education, including religious and moral education, in keeping with the wishes of their parents, or in the absence of parents, of those responsible for their care;

(b) all appropriate steps shall be taken to facilitate the reunion of families temporarily separated;

(c) children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities;

(d) the special protection provided by this Article to children who have not attained the age of fifteen years shall remain applicable to them if they take a direct part in hostilities despite the provisions of sub-paragraph (c) and are captured;

(e) measures shall be taken, if necessary, and whenever possible with the consent of their parents or persons who by law or custom are primarily responsible for their care, to remove children temporarily from the area in which hostilities are taking place to a safer area within the country and ensure that they are accompanied by persons responsible for their safety and well-being.
Article 6

1. This Article applies to the prosecution and punishment of criminal offences related to the armed conflict.

2. No sentence shall be passed and no penalty shall be executed on a person found guilty of an offence except pursuant to a conviction pronounced by a court offering the essential guarantees of independence and impartiality. In particular:
   (a) the procedure shall provide for an accused to be informed without delay of the particulars of the offence alleged against him and shall afford the accused before and during his trial all necessary rights and means of defence;
   (b) no one shall be convicted of an offence except on the basis of individual penal responsibility;
   (c) no one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under the law, at the time when it was committed; nor shall a heavier penalty be imposed than that which was applicable at the time when the criminal offence was committed; if, after the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby;
   (d) anyone charged with an offence is presumed innocent until proved guilty according to law;
   (e) anyone charged with an offence shall have the right to be tried in his presence;
   (f) no one shall be compelled to testify against himself or to confess guilt.

3. A convicted person shall be advised on conviction of his judicial and other remedies and of the time-limits within which they may be exercised.
4. The death penalty shall not be pronounced on persons who were under the age of eighteen years at the time of the offence and shall not be carried out on pregnant women or mothers of young children.

5. At the end of hostilities, the authorities in power shall endeavour to grant the broadest possible amnesty to persons who have participated in the armed conflict, or those deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained.

P. REPORT ON THE APPLICATION OF THE EUROPEAN UNION CHARTER OF FUNDAMENTAL RIGHTS, 2010:

Article 24 – The Rights of the Child

1. Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.

2. In all actions relating to children, whether taken by public authorities or private institutions, the child’s best interests must be a primary consideration.

3. Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests.

Q. SOUTH AFRICAN CONSTITUTION, OF THE BILL OF RIGHTS:

Section 35(3)(h)

Every accused person has a right to a fair trial, which includes the right to be presumed innocent, to remain silent, and not to testify during the proceedings.
R. THE UNIVERSAL DECLARATION OF HUMAN RIGHTS:-

Article 11
Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which they have had all the guarantees necessary for their defence.

Article 16(3)
The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 25(2)
Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26
(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.
S. UN CONVENTION FOR PREVENTION OF JUVENILE DELINQUENCY: THE RIYADH GUIDELINES, 1990:-

Article 2

Prevention of juvenile delinquency requires efforts by the entire society to ensure the harmonious development of adolescents, with respect for and promotion of their personality from early childhood.

Article 3

For the purposes of the interpretation of the present Guidelines, a child-centred orientation should be pursued. Young persons should have an active role and partnership within society and should not be considered as mere objects of socialization or control.

Article 10

Emphasis should be placed on preventive policies facilitating the successful socialization and integration of all children and young persons, in particular through the family, the community, peer groups, schools, vocational training and the world of work, as well as through voluntary organizations. Due respect should be given to the proper personal development of children and young persons, and they should be accepted as full and equal partners in socialization and integration processes.

Article 24

Educational systems should extend particular care and attention to young persons who are at social risk. Specialized prevention programmes and educational materials, curricula, approaches and tools should be developed and fully utilized.
Article 30
Special assistance should be given to children and young persons who find it difficult to comply with attendance codes, and to drop-outs.

Article 31
Schools should promote policies and rules that are fair and just; students should be represented in bodies formulating school policy, including policy on discipline, and decision-making.

Article 38
Government agencies should take special responsibility and provide necessary services for homeless or street children; information about local facilities, accommodation, employment and other forms and sources of help should be made readily available to young persons.

Article 46
The institutionalization of young persons should be a measure of last resort and for the minimum necessary period, and the best interests of the young person should be of paramount importance. Criteria authorizing formal intervention of this type should be strictly defined and limited to the following situations: (a) where the child or young person has suffered harm that has been inflicted by the parents or guardians; (b) where the child or young person has been sexually, physically or emotionally abused by the parents or guardians; (c) where the child or young person has been neglected, abandoned or exploited by the parents or guardians; (d) where the child or young person is threatened by physical or moral danger due to the behaviour of the parents or guardians; and (e) where a serious physical or psychological danger to the child or young person has manifested itself in his or her own behaviour and neither the
parents, the guardians, the juvenile himself or herself nor non-residential community services can meet the danger by means other than institutionalization.

**Article 50**

Generally, participation in plans and programmes should be voluntary. Young persons themselves should be involved in their formulation, development and implementation.

**T. UNITED NATIONS STANDARD MINIMUM RULES FOR THE ADMINISTRATION OF JUVENILE JUSTICE, 1985 (BEIJING RULES):**

**Rule 2(2)(a)**

For purposes of these Rules, the following definitions shall be applied by Member States in a manner which is compatible with their respective legal systems and concepts:

(a) A juvenile is a child or young person who, under the respective legal systems, may be dealt with for an offence in a manner which is different from an adult

**U. UN RULES FOR THE PROTECTION OF JUVENILES DEPRIVED OF THEIR LIBERTY: HAVANA CONVENTION, 1990.**

**Section III - Juveniles Under Arrest Or Awaiting Trial**

17. Juveniles who are detained under arrest or awaiting trial ("untried") are presumed innocent and shall be treated as such. Detention before trial shall be avoided to the extent possible and limited to exceptional circumstances. Therefore, all efforts shall be made to apply alternative measures. When preventive detention is nevertheless used, juvenile courts and investigative bodies shall give the highest priority to the most expeditious processing of such cases to ensure the shortest possible duration of detention. Untried detainees should be separated from convicted juveniles.
18. The conditions under which an untried juvenile is detained should be consistent with the rules set out below, with additional specific provisions as are necessary and appropriate, given the requirements of the presumption of innocence, the duration of the detention and the legal status and circumstances of the juvenile. These provisions would include, but not necessarily be restricted to, the following:

(a) Juveniles should have the right of legal counsel and be enabled to apply for free legal aid, where such aid is available, and to communicate regularly with their legal advisers. Privacy and confidentiality shall be ensured for such communications;

(b) Juveniles should be provided, where possible, with opportunities to pursue work, with remuneration, and continue education or training, but should not be required to do so. Work, education or training should not cause the continuation of the detention;

(c) Juveniles should receive and retain materials for their leisure and recreation as are compatible with the interests of the administration of justice.

Rule 12- The deprivation of liberty should be effected in conditions and circumstances which ensure respect for the human rights of juveniles. Juveniles detained in facilities should be guaranteed the benefit of meaningful activities and programmes which would serve to promote and sustain their health and self-respect, to foster their sense of responsibility and encourage those attitudes and skills that will assist them in developing their potential as members of society.

Section V - Personnel

81. Personnel should be qualified and include a sufficient number of specialists such as educators, vocational instructors, counsellors, social workers, psychiatrists and psychologists. These and other specialist staff should normally be employed on a
permanent basis. This should not preclude part-time or volunteer workers when the level of support and training they can provide is appropriate and beneficial. Detention facilities should make use of all remedial, educational, moral, spiritual, and other resources and forms of assistance that are appropriate and available in the community, according to the individual needs and problems of detained juveniles.

82. The administration should provide for the careful selection and recruitment of every grade and type of personnel, since the proper management of detention facilities depends on their integrity, humanity, ability and professional capacity to deal with juveniles, as well as personal suitability for the work.

83. To secure the foregoing ends, personnel should be appointed as professional officers with adequate remuneration to attract and retain suitable women and men. The personnel of juvenile detention facilities should be continually encouraged to fulfil their duties and obligations in a humane, committed, professional, fair and efficient manner, to conduct themselves at all times in such a way as to deserve and gain the respect of the juveniles, and to provide juveniles with a positive role model and perspective.

84. The administration should introduce forms of organization and management that facilitate communications between different categories of staff in each detention facility so as to enhance co-operation between the various services engaged in the care of juveniles, as well as between staff and the administration, with a view to ensuring that staff directly in contact with juveniles are able to function in conditions favourable to the efficient fulfilment of their duties.

85. The personnel should receive such training as will enable them to carry out their responsibilities effectively, in particular training in child psychology, child welfare
and international standards and norms of human rights and the rights of the child, including the present rules. The personnel should maintain and improve their knowledge and professional capacity by attending courses of in-service training, to be organized at suitable intervals throughout their career.

86. The director of a facility should be adequately qualified for his or her task, with administrative ability and suitable training and experience, and should carry out his or her duties on a full-time basis.

87. In the performance of their duties, personnel of detention facilities should respect and protect the human dignity and fundamental human rights of all juveniles, in particular, as follows:

(a) No member of the detention facility or institutional personnel may inflict, instigate or tolerate any act of torture or any form of harsh, cruel, inhuman or degrading treatment, punishment, correction or discipline under any pretext or circumstance whatsoever;

(b) All personnel should rigorously oppose and combat any act of corruption, reporting it without delay to the competent authorities;

(c) All personnel should respect the present Rules. Personnel who have reason to believe that a serious violation of the present Rules has occurred or is about to occur should report the matter to their superior authorities or organs vested with reviewing or remedial power;

(d) All personnel should ensure the full protection of the physical and mental health of juveniles, including protection from physical, sexual and emotional abuse and exploitation, and should take immediate action to secure medical attention whenever required;
(e) All personnel should respect the right of the juvenile to privacy, and in particular
should safeguard all confidential matters concerning juveniles or their families
learned as a result of their professional capacity;
(f) All personnel should seek to minimize any differences between life inside and
outside the detention facility which tend to lessen due respect for the dignity of
juveniles as human beings.

OTHER INTERNATIONAL INSTRUMENTS ARE AS FOLLOWING:-

A. 18th Session of the Commission on Crime Prevention and Criminal Justice
(CCPCJ).
B. Children’s Rights in Juvenile Policy Adopted By United Nations General
C. Convention against Torture and other Cruel, Inhuman or Degrading Treatment
or Punishment, 1984.
H. Declaration of the Rights of Child, 1924.
I. Defence for Children International (DCI).
K. Guidelines for Action on Children in the Criminal Justice System: Vienna
L. Guidelines For Legislative Reforms On Juvenile Justice, 2011.


O. International Secretariat and Panel Reform International (PRI).


T. United Nations Office on Drugs and Crime (UNODC).
ANNEXURE – III

INDIAN LAWS RELATING TO JUVENILES

A. CONSTITUTION OF INDIA:

Article 14 - Right to Equality

The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

Articles 15

(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to—
   (a) access to shops, public restaurants, hotels and places of public entertainment; or
   (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

(5) Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or
the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30.

**Article 16**

(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office [under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory] prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

(4A) Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion, with consequential seniority, to any class] or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled
Tribes which, in the opinion of the State, are not adequately represented in the services under the State.

(4B) Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent. reservation on total number of vacancies of that year.

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

**Article 17- Abolition of Untouchability**

"Untouchability" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "Untouchability" shall be an offence punishable in accordance with law.

**Article 18- Abolition of titles**

No title, not being a military or academic distinction, shall be conferred by the State.

No citizen of India shall accept any title from any foreign State.

No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State.
No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, or office of any kind from or under any foreign State.

**Article 21- Protection of life and personal liberty**

No person shall be deprived of his life or personal liberty except according to procedure established by law.

**Article 23- Prohibition of traffic in human beings and forced labour**

(1) Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State from imposing compulsory service for public purpose, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

**Article 24- Prohibition of employment of children in factories, etc.**

No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment. Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (b) of clause (7); or such person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of clause (7)

**Article 29- Protection of interests of minorities**

(1) Any section of the citizens residing in the territory of India or any part thereof
having a distinct language, script or culture of its own shall have the right to conserve
the same.

(2) No citizen shall be denied admission into any educational institution maintained
by the State or receiving aid out of State funds on grounds only of religion, race,
caste, language or any of them.

**Article 37 - Application of the principles contained in this Part**

The provisions contained in this Part shall not be enforceable by any court, but the
principles therein laid down are nevertheless fundamental in the governance of the
country and it shall be the duty of the State to apply these principles in making laws.

**Article 38 - State to secure a social order for the promotion of welfare of the people**

(1) The State shall strive to promote the welfare of the people by securing and
protecting as effectively as it may a social order in which justice, social, economic
and political, shall inform all the institutions of the national life.

(2) The State shall, in particular, strive to minimize the inequalities in income, and
endeavor to eliminate inequalities in status, facilities and opportunities, not only
amongst individuals but also amongst groups of people residing in different areas or
engaged in different vocations.

**Article 39 - Certain principles of policy to be followed by the State**

The State shall, in particular, direct its policy towards securing-

(a) that the citizens, men and women equally, have the right to an adequate means to
livelelihood;

(b) that the ownership and control of the material resources of the community are so
distributed as best to subserve the common good;
(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

(d) that there is equal pay for equal work for both men and women;

(e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

(f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

**Article 41- Right to work, to education and to public assistance in certain cases.**

The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

**Article 42 - Provision for just and humane conditions of work and maternity relief**

The State shall make provision for securing just and humane conditions of work and for maternity relief.

**Article 45- Provision for free and compulsory education for children**

The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.
Article 46 - Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections

The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

Article 47 - Duty of the State to raise the level of nutrition and the standard of living and to improve public health

The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

Article 48A - Organisation of agriculture and animal husbandry

The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.

Article 51(A) - Promotion of international peace and security

The State shall endeavour to –

(a) promote international peace and security;

(b) maintain just and honourable relations between nations;
(c) foster respect for international law and treaty obligations in the dealings of organised peoples with one another; and encourage settlement of international disputes by arbitration.

**Article 253- Legislation for giving effect to international agreements**

Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body.

**B. CRIMINAL PROCEDURE CODE:-**

**Section 27**

Jurisdiction in the case of juveniles

Any offence not punishable with death or imprisonment for life, committed by any person who at the date when he appears or is brought before the Court is under the age of sixteen years, may be tried by the Court of a Chief Judicial Magistrate, or by any Court specially empowered under the Children Act, 1960 (60 of 1960), or any other law for the time being in force providing for the treatment, training and rehabilitation of youthful offenders.

**Section 50**

Person arrested to be informed of grounds of arrest and of right to bail

(1) Every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds or such arrest

(2) Where a police officer arrests without warrant any person other than a person accused of a non-bailable offence, he shall inform the person arrested that he is
entitled to be released on bail and that he may arrange for sureties on his behalf.

Chapter VIII

Chapter VIII - Security For Keeping The Peace And For Good Behaviour

106. Security for keeping the peace on conviction—

(1) When a Court of Session or Court of a Magistrate of the first class convicts a person of any of the offences specified in sub-section (2) or of abetting any such offence and is of opinion that it is necessary to take security from such person for keeping the peace, the Court may, at the time of passing sentence on such person, order him to execute a bond, with or without sureties, for keeping the peace for such period, not exceeding three years, as it thinks fit.

(2) The offences referred to in sub-section (1) are—

(a) any offence punishable under Chapter VIII of the Indian Penal Code (45 of 1860), other than an offence, punishable under section 153A or section 153B or section 154 thereof;

(b) any offence which consists of, or includes, assault or using criminal force or committing mischief;

(c) any offence of criminal intimidation;

(d) any other offence which caused, or was intended or known to be likely to cause, a breach of the peace

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

(4) An order under this section may also be made by an Appellate Court or by a Court when exercising its powers of revision
107. Security for keeping the peace in other cases

(1) When an Executive Magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity and is of opinion that there is sufficient ground for proceeding, he may in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond with or without sureties for keeping the peace for such period, not exceeding one year, as the Magistrate thinks fit.

(2) Proceeding under this section may be taken before any Executive Magistrate when either the place where the breach of the peace or disturbance is apprehended is within his local jurisdiction or there is within such jurisdiction a person who is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act as aforesaid beyond such jurisdiction.

108. Security for good behaviour from persons disseminating seditious matters

(1) When an Executive Magistrate receives information that there is within his local jurisdiction any person who, within or without such jurisdiction,—

(i) either orally or in writing or in any other manner, intentionally disseminates or attempts to disseminate or abets the dissemination of,—

(a) any matter the publication of which is punishable under section 124A or section 153A or section 153B or section 295A of the Indian Penal Code (45 of 1860), or

(b) any matter concerning a Judge acting or purporting to act in the discharge of his official duties which amounts to criminal intimidation or defamation under the Indian Penal Code (ii) makes, produces, publishes or keeps for sale, imports, exports, conveys, sells, lets to hire, distributes, publicly exhibits or in any other manner puts
into circulation any obscene matter such as is referred to in section 292 of the Indian Penal Code (45 of 1860), and the magistrate is of opinion that there is sufficient ground for proceeding, the Magistrate may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit

(2) No proceeding shall be taken under this section against the editor, proprietor, printer or publisher of any publication registered under, and edited, printed and published in conformity with, the rules laid down in the Press and Registration of Books Act, 1867 (25 of 1867), with reference to any matter contained in such publication except by the order or under the authority of the State Government or some officer empowered by the State Government in this behalf

109. Security for good behaviour from suspected persons

When an Executive Magistrate receive information that there is within his local jurisdiction a person taking precautions to conceal his presence and that there is reason to believe that he is doing so with a view to committing a cognizable offence, the Magistrate may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit.

110. Security for good behaviour from habitual offenders

When an Executive Magistrate receives information that there is within his local jurisdiction a person who—

(a) is by habit a robber, house-breaker, thief, or forger, or
(b) is by habit a receiver of stolen property knowing the same to have been stolen, or
(c) habitually protects or harbours thieves, or aids in the concealment of disposal of
stolen property, or
(d) habitually commits, or attempts to commit, or abets the Commission of, the
offence of kidnapping, abduction, extortion, cheating or mischief, or any offence
punishable under Chapter XII of the Indian Penal Code (45 of 1860), or under section
489A, section 489B, section 489C or section 489D of that Code, or
(e) habitually commits, or attempts to commit, or abets the Commission of, offences,
involving a breach of the peace, or
(f) habitually commits, or attempts to commit, or abets the commission of—
(i) any offence under one or more of the following Acts, namely:—
   (a) the Drugs and Cosmetics Act, 1940 (23 of 1940);
   (b) the Foreign Exchange Regulation Act, 1973 (46 of 1973);
   (c) the Employees' Provident Funds and Family Pension Fund Act, 1952 (19 of
1952);
   (d) the Prevention of Food Adulteration Act, 1954 (37 of 1954);
   (e) the Essential Commodities Act, 1955 (10 of 1955);
   (f) the Untouchability (Offences) Act, 1955 (22 of 1955);
   (g) the Customs Act, 1962 (52 of 1962); or
(ii) any offence punishable under any other law providing for the prevention of
hoarding or profiteering or of adulteration of food or drugs or of corruption, or (g) is
so desperate and dangerous as to render his being at large without security hazardous
to the community, such Magistrate may, in the manner hereinafter provided, require
such person to show cause why he should not be ordered to execute a bond, with
sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit

111. Order to be made

When a Magistrate acting under section 107, section 108, section 109 or section 110, deems it necessary to require any person to show cause under such section he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties (if any) required.

112. Procedure in respect of person present in Court

If the person in respect of whom such order is made is present in Court, it shall be read over to him, or, if he so desires, the substance thereof shall be explained to him.

113. Summons or warrant in case of person not so present

If such person is not present in Court, the Magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant directing the officer in whose custody he is to bring him before the Court:

Provided that whenever it appears to such Magistrate, upon the report of a police officer or upon other information (the substance of which report or information shall be recorded by the Magistrate), that there is reason to fear the Commission of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the Magistrate may at any time issue a warrant for his arrest

114. Copy of order to accompany summons or warrant

Every summons or warrant issued under section 113 shall be accompanied by a copy of the order made under section 111, and such copy shall be delivered by the officer
serving or executing such summons or warrant to the person served with, or arrested under, the same

115. **Power to dispense with personal attendance**

The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace or for good behaviour and may permit him to appear by a pleader.

116. **Inquiry as to truth of information**

(1) When an order under section 111 has been read or explained under section 112 to a person in Court, or when any person appears or is brought before a Magistrate in compliance with, or in execution of, a summons or warrant, issued under section 113, the Magistrate shall proceed to inquire into the truth of the information upon which action has been taken, and to take such further evidence as may appear necessary.

(2) Such inquiry shall be made, as nearly as may be practicable, in the manner hereinafter prescribed for conducting trial and recording evidence in summons-cases.

(3) After the commencement, and before the completion, of the inquiry under sub-section (1), the Magistrate, if he considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquility or the Commission of any offence or for the public safety, may, for reason to be recorded in writing, direct the person in respect of whom the order under section 111 has been made to execute a bond, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry and may detain him in custody until such bond is executed or, in default of execution, until the inquiry is concluded:
Provided that—

(a) no person against whom proceedings are not being taken over under section 108, section 109, or section 110 shall be directed to execute a bond for maintaining good behaviour;

(b) the conditions of such bond, whether as to the amount thereof or as to the provision of sureties or the number thereof or the pecuniary extent of their liability, shall not be more onerous than those specified in the order under section 111.

(4) For the purposes of this section the fact that a person is an habitual offender or is so desperate and dangerous as to render his being at large without security hazardous to the community may be proved by evidence of general repute or otherwise.

(5) Where two or more persons have been associated together in the matter under inquiry, they may be dealt within the same or separate inquiries as the Magistrate shall think just.

(6) The inquiry under this section shall be completed within a period of six months from the date of its commencement, and if such inquiry is not so completed, the proceedings under this Chapter shall, on the expiry of the said period, stand terminated unless, for special reasons to be recorded in writing, the Magistrate otherwise directs:

Provided that where any person has been kept in detention pending such inquiry, the proceeding against that person, unless terminated earlier, shall stand terminated on the expiry of a period of six months of such detention.

(7) Where any direction is made under sub-section (6) permitting the continuance of proceedings, the Sessions Judge may, on an application made to him by the aggrieved
party, vacate such direction if he is satisfied that it was not based on any special reason or was perverse.

117. Order to give security

If, upon such inquiry, it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, with or without sureties, the Magistrate shall make an order accordingly:

Provided that—

(a) no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the order made under section 111;

(b) the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive;

(c) when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties

118. Discharge of person informed against

If, on an inquiry under section 116, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made, should execute a bond, the Magistrate shall make an entry on the record to that effect, and if such person is in custody only for the purposes of the inquiry, shall release him, or, if such person is not in custody, shall discharge him.

Section 167

Procedure when investigation cannot be completed in twenty-four hours
(1) Whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 57, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of sub-inspector, shall forthwith transmit to the nearest Judicial Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate

(2) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time, authorise the detention of the accused in such custody as such Magistrate thinks fit, a term not exceeding fifteen days in the whole; and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction:

Provided that—

(a) the Magistrate may authorise the detention of the accused person, otherwise than in the custody of the police, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this paragraph for a total period exceeding—

(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;

(ii) sixty days, where the investigation relates to any other offence, and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person
released on bail under this sub-section shall be deemed to be released under the provisions of Chapter XXXIII for the purposes of that Chapter;

(b) no Magistrate shall authorise detention in any custody under this section unless the accused is produced before him;

(c) no Magistrate of the second class, not specially empowered in this behalf by the High Court, shall authorise detention in the custody of the police.

Explanation I—For the avoidance of doubts, it is hereby declared that, notwithstanding the expiry of the period specified in paragraph (a), the accused shall be detained in custody so long as he does not furnish bail.

Explanation II—If any question arises whether an accused person was produced before the Magistrate as required under paragraph (b), the production of the accused person may be proved by his signature on the order authorising detention.

(2A) Notwithstanding anything contained in sub-section (1) or sub-section (2), the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of a sub-inspector, may, where a Judicial Magistrate is not available, transmit to the nearest Executive Magistrate, on whom the powers of a Judicial Magistrate or Metropolitan Magistrate have been conferred, a copy of the entry in the diary hereinafter prescribed relating to the case, and shall, at the same time, forward the accused to such Executive Magistrate, and thereupon such Executive Magistrate, may, for reasons to be recorded in writing, authorise the detention of the accused person in such custody as he may think fit for a term not exceeding seven days in the aggregate; and on the expiry of the period of detention so authorised, the accused person shall be released on bail except where an order for further detention of the accused person has been made by a
Magistrate competent to make such order; and, where an order for such further detention is made, the period during which the accused person was detained in custody under the orders made by an Executive Magistrate under this sub-section, shall be taken into account in computing the period specified in paragraph (a) of the proviso to sub-section (2):

Provided that before the expiry of the period aforesaid, the Executive Magistrate shall transmit to the nearest Judicial Magistrate the records of the case together with a copy of the entries in the diary relating to the case which was transmitted to him by the officer in charge of the police station or the police officer making the investigation, as the case may be

(3) A Magistrate authorising under this section detention in the custody of the police shall record his reasons for so doing.

(4) Any Magistrate other than the Chief Judicial Magistrate making such order shall forward a copy of his order, with his reasons for making it, to the Chief Judicial Magistrate

(5) If in any case triable by a Magistrate as a summons-case, the investigation is not concluded within a period of six months from the date on which the accused was arrested, the Magistrate shall make an order stopping further investigation into the offence unless the officer making the investigation satisfies the Magistrate that for special reasons and in the interests of justice the continuation of the investigation beyond the period of six months is necessary.

(6) where any order stopping further investigation into an offence has been made in sub-section (5), the Sessions Judge may, if he is satisfied, on an application made to him or otherwise, that further investigation into the offence ought to be made, vacate
the order made under sub-section (5) and direct further investigation to be made into
the offence subject to such directions with regard to bail and other matters as he may
specify.

Section 173

Report of police officer on completion of investigation -

(1) Every investigation under this Chapter shall be completed without unnecessary
delay

(2) (i) As soon as it is completed, the officer in charge of the police station shall
forward to a Magistrate empowered to take cognizance of the offence on a police
report, a report in the form prescribed by the State Government, stating—
(a) the names of the parties;
(b) the nature of the information;
(c) the names of the persons who appear to be acquainted with the circumstances of
the case;
(d) whether any offence appears to have been committed and, if so, by whom;
(e) whether the accused has been arrested;
(f) whether he has been released on his bond and, if so, whether with or without
sureties;
(g) whether he has been forwarded in custody under section 170.

(ii) The officer shall also communicate, in such manner as may be prescribed by the
State Government, the action taken by him, to the person, if any whom the
information relating to the commission of the offence was first given.

(3) Where a superior officer of police has been appointed under section 158, the
report, shall, in any case in which the State Government by general or special order so
directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police station to make further investigation.

(4) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit

(5) When such report is in respect of a case to which section 170 applies, the police officer shall forward to the Magistrate along with the report—

(a) all documents or relevant extracts thereof on which the prosecution proposes to rely other than those already sent to the Magistrate during investigation;
(b) the statements recorded under section 161 of all the persons whom the prosecution proposes to examine as its witnesses

(6) If the police officer is of opinion that any part of any such statement is not relevant to the subject-matter of the proceeding or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interest, he shall indicate that part of the statement and append a note requesting the Magistrate to exclude that part from the copies to be granted to the accused and stating his reasons for making such request.

(7) Where the police officer investigating the case finds it convenient so to do, he may furnish to the accused copies of all or any of the documents referred to in sub-section (5).

(8) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate and, whereupon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further
report or reports regarding such evidence in the form prescribed; and the provisions of sub-sections (2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (2)

Section 206

Special summons in cases of petty offence –

(1) If, in the opinion of a Magistrate taking cognizance of a petty offence, the case may be summarily disposed of under section 260, the Magistrate shall, except where he is, for reasons to be recorded in writing of a contrary opinion, issue summons to the accused requiring him either to appear in person or by pleader before the Magistrate on a specified date, or if he desires to plead guilty to the charge without appearing before the Magistrate, to transmit before the specified date, by post or by messenger to the Magistrate, the said plea in writing and the amount of fine specified in the summons or if he desires to appear by pleader and to plead guilty to the charge through such pleader, to authorise, in writing, the pleader to plead guilty to the charge on his behalf and to pay the fine through such pleader:

Provided that the amount of the fine specified in such summons shall not exceed one hundred rupees

(2) For the purposes of this section, "petty offence" means any offence punishable only with fine not exceeding one thousand rupees, but does not include any offence so punishable under the Motor Vehicles Act, 19391, or under any other law which provides for convicting the accused person in his absence on a plea of guilty.

(3) The State Government may, by notification, specially empower any Magistrate to exercise the powers conferred by sub-section (1) in relation to any offence which is compoundable under section 320 or any offence punishable with imprisonment for a
term not exceeding three months, or with fine or with both where the Magistrate is of opinion that, having regard to the facts and circumstances of the case, the imposition of fine only would meet the ends of justice.

Section 207

Supply to the accused of copy of police report and other documents

In any case where the proceeding has been instituted on a police report, the Magistrate shall without delay furnish to the accused, free of cost, a copy of each of the following:

(i) the police report;

(ii) the first information report recorded under section 154;

(iii) the statements recorded under sub-section (3) of section 161 of all persons whom the prosecution proposes to examine as its witnesses, excluding therefrom any part in regard to which a request for such execution has been made by the public officer under sub-section (6) of Section 173;

(iv) the confessions and statements, if any, recorded under section 164;

(v) any other document or relevant extract thereof forwarded to the Magistrate with the police report under sub-section (5) of section 173:

Provided that the Magistrate may, after perusing any such part of a statement as is referred to in clause (iii) and considering the reasons given by the police officer for the request, direct that a copy of that part of the statement or of such portion thereof as the Magistrate thinks proper, shall be furnished to the accused:

Provided further that if the Magistrate is satisfied that any document referred to in clause (v) is voluminous, he shall, instead of furnishing the accused with a copy
thereof, direct that he will only be allowed to inspect it either personally or through
pleader in Court.

Chapter - XXIII

XXIII - Evidence In Inquiries And Trials

A—Mode of taking and recording evidence

272. Language of Courts

The State Government may determine what shall be, for purposes of this Code, the
language of each Court within the State other than the High Court.

273. Evidence to be taken in presence of accused

Except as otherwise expressly provided, all evidence taken in the course of the trial or
other proceeding shall be taken in the presence of the accused or, when his personal
attendance is dispensed with, in the presence of his pleader.

Explanation— In this section "accused" "includes a person in relation to whom any
proceeding under Chapter Viii has been commenced under this Code.

274. Record in summons-cases and inquiries.

(1) In all summons-cases tried before a Magistrate, in all inquiries under sections 145
to 148 (both inclusive), and in all proceedings under section 446 otherwise than in the
course of a trial, the Magistrate shall, as the examination of each witness proceeds,
make a memorandum of the substance of the evidence in the language of the Court:
Provided that if the Magistrate is unable to make such memorandum himself, he shall
after recording the reason of his inability, cause such memorandum to be made in
writing or from his dictation in open Court.

(2) Such memorandum shall be signed by the Magistrate and shall form part of the
record.
275. Record in warrant-cases.

(1) In all warrant-cases tried before a Magistrate, the evidence of each witness shall, as his examination proceeds, be taken down in writing either by the Magistrate himself or by his dictation in open Court or, where he is unable to do so owing to a physical or other incapacity, under his direction and superintendence, by an officer of the Court appointed by him in this behalf.

(2) Where the Magistrate causes the evidence to be taken down, he shall record a certificate that the evidence could not be taken down by himself for the reasons referred to in sub-section (1).

(3) Such evidence shall ordinarily be taken down in the form of a narrative, by the Magistrate may, in his discretion take down, or cause to be taken down, any part of such evidence in the form of question and answer.

(4) The evidence so taken down shall be signed by the Magistrate and shall form part of the record.

277. Language of record of evidence.

In every case where evidence is taken down under section 275 or section 276,—

(a) if the witness gives evidence in the language of the Court, it shall be taken down in that language;

(b) if he gives evidence in any other language, it may, if practicable, be taken down in that language, and if it is not practicable to do so, a true translation of the evidence in the language of the Court shall be prepared as the examination of the witness proceeds, signed by the Magistrate or Presiding Judge, and shall form part of the record;
(c) where under clause (b) evidence is taken down in a language other than the language of the Court, a true translation thereof in the language of the Court shall be prepared as soon as practicable, signed by the Magistrate or Presiding Judge, and shall form part of the record:

Provided that when under clause (b) evidence is taken down in English and a translation thereof in the language of the Court is not required by any of the parties, the Court may dispense with such translation.

278. Procedure in regard to such evidence when completed.

(1) As the evidence of each witness taken under section 275 or section 276 is completed, it shall be read over to him in the presence of the accused, if in attendance, or of his pleader, if he appears by pleader, and shall, if necessary, be corrected. (2) If the witness denies the correctness of any part of the evidence when the same is read over to him, the magistrate or presiding Judge may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness and shall add such remarks as he thinks necessary. (3) If the record of the evidence is in a language different from that in which it has been given and the witness does not understand that language, the record shall be interpreted to him in the language in which it was given, or in a language which he understands.

279. Interpretation of evidence to accused or his pleader.

(1) Whenever any evidence is given in a language not understood by the accused, and he is present in Court in person, it shall be interpreted to him in open Court in a language understood by him.
(2) If he appears by pleader and the evidence is given in a language other than the language of the Court and not understood by the pleader, it shall be interpreted to such pleader in that language.

(3) When documents are put for the purpose of formal proof, it shall be in the discretion of the Court to interpret as much thereof as appears necessary.

280. Remarks respecting demeanour of witness.

When a Presiding Judge or magistrate has recorded the evidence of a witness, he shall also record such remarks (if any) as he thinks material respecting the demeanour of such witness whilst under examination.

281. Record of examination of accused.

(1) Whenever the accused is examined by a Metropolitan Magistrate, the Magistrate shall make a memorandum of the substance of the examination of the accused in the language of the Court and such memorandum shall be signed by the Magistrate and shall form part of the record.

(2) Whenever the accused is examined by any Magistrate other than a Metropolitan Magistrate, or by a Court of Session, the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full by the Presiding Judge or Magistrate himself or where he is unable to do so owing to a physical or other incapacity, under his direction and superintendence by an officer of the Court appointed by him in this behalf.

(3) The record shall, if practicable, be in the language in which the accused is examined or, if that is not practicable in the language of the Court.
(4) The record shall be shown or read to the accused, or, if he does not understand the language in which it is written, shall be interpreted to him in a language which he understands, and he shall be at liberty to explain or add to his answers.

(5) It shall thereafter be signed by the accused and by the Magistrate or Presiding Judge, who shall certify under his own hand that the examination was taken in his presence and hearing and that the record contains a full and true account of the statement made by the accused.

(6) Nothing in this section shall be deemed to apply to the examination of an accused person in the course of a summary trial.

282. Interpreter to be bound to interpret truthfully

When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, he shall be bound to state the true interpretation of such evidence or statement.

283. Record in High Court.

Every High Court may, by general rule, prescribe the manner in which the evidence of witnesses and the examination of the accused shall be taken down in cases coming before it; and such evidence and examination shall be taken down in accordance with such rule.

B—Commissions for the examination of witnesses

284. When attendance of witness may be dispensed with and commission issued.

(1) Whenever, in the course of any inquiry, trial or other proceeding under this Code, it appears to a Court of Magistrate that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the
case, would be unreasonable, the Court or Magistrate may dispense with such attendance and may issue a commission for the examination of the witness in accordance with the provisions of this Chapter:

Provided that where the examination of the President or the Vice-President of India or the Governor of a State or the Administrator of a Union Territory as a witness is necessary for the ends of justice, a commission shall be issued for the examination of such a witness.

When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, he shall be bound to state the true interpretation of such evidence or statement.

285. Commission to whom to be issued.

(1) If the witness is within the territories to which this Code extends, the commission shall be directed to the Chief Metropolitan Magistrate or Chief Judicial Magistrate, as the case may be, within whose local jurisdiction the witness is to be found.

(2) If the witness is in India, but in a State or an area to which this Code does not extend, the commission shall be directed to such Court or officer as the Central Government may, by notification specify in this behalf.

(3) If the witness is in a country or place outside India and arrangements have been made by the Central Government with the Government of such country or place for taking the evidence of witnesses in relation to criminal matters, the commission shall be issued in such form, directed to such Court or officer, and sent to such authority for transmission as the Central Government may, by notification prescribe in this behalf.
286. Execution of commissions.

Upon receipt of the commission, the Chief Metropolitan Magistrate of Chief Judicial Magistrate, or such Metropolitan or Judicial Magistrate as he may appoint in this behalf, shall summon the witness before him or proceed to the place where the witness is, and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under this Code.

287. Parties may examine witnesses.

(1) The parties to any proceeding under this Code in which a commission is issued may respectively forward any interrogatories in writing which the Court or Magistrate directing the commission may think relevant to the issue, and it shall be lawful for the Magistrate, Court or officer to whom the Commission is directed, or to whom the duty of executing it is delegated, to examine the witness upon such interrogatories.

(2) Any such party may appear before such Magistrate, Court or officer by pleader, or if not in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

288. Return of commission.

(1) After any commission issued under section 284 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Court or Magistrate issuing the commission; and the commission, the return thereto and the deposition shall be open at all reasonable times to inspection of the parties, and may, subject to all just exceptions, be read in evidence in the case by either party, and shall form part of the record.

(2) Any deposition so taken, if it satisfies the conditions prescribed by section 33 of the Indian Evidence Act, 1872 (1 of 1872) may also be received in evidence at any
subsequent stage of the case before another Court.

289. Adjournment of proceeding.

In every case in which a commission is issued under section 284, the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

290. Execution of foreign commissions.

(1) The provisions of section 286 and so much of section 287 and section 288 as relate to the execution of a commission and its return shall apply in respect of commissions issued by any of the Courts, Judges or Magistrates hereinafter mentioned as they apply to commissions issued under section 284.

(2) The Courts, Judges and Magistrates referred to in sub-section (1) are—

(a) any such Court, Judge or Magistrate exercising jurisdiction within an area in India to which this Code does not extend, as the Central Government may, by notification, specify in this behalf;

(b) any Court, Judge or Magistrate exercising jurisdiction in any such country or place outside India, as the Central Government may, by notification, specify in this behalf, and having authority under the law in force in that country or place, to issue commissions for the examination of witnesses in relation to criminal matters.

291. Deposition of medical witness.

(1) The deposition of a civil surgeon or other medical witness, taken and attested by a Magistrate in the presence of the accused, or taken on commission under this Chapter, may be given in evidence in any inquiry, trial or other proceeding under this Code, although the deponent is not called as a witness. (2) The Court may, if it thinks fit,
and shall, on the application of the prosecution or the accused, summon and examine any such deponent as to the subject-matter of his deposition.

292. Evidence of officers of the Mint.

(1) Any document purporting to be a report under the hand of any such gazetted officer of the Mint or of the India Security Press (including the office of the Controller of Stamps and Stationery) as the Central Government may, by notification, specify in this behalf, upon any matter or thing duly submitted to him for examination and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code, although such officer is not called as a witness.

(2) The Court may, if it thinks fit, summon and examine any such officer as to the subject-matter of this report:

Provided that no such officer shall be summoned to produce any records on which the report is based.

(3) Without prejudice to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872) no such officer shall, except with the permission of the master of the Mint or the India Security Press or the Controller of Stamps and Stationery, as the case may be, be permitted—

(a) to give any evidence derived from any unpublished official records on which the report is based; or

(b) to disclose the nature or particulars of any test applied by him in the course of the examination of the matter or thing.

293. Reports of certain Government scientific experts.

(1) Any document purporting to be a report under the hand of a Government scientific
expert to whom this section applies, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code.

(2) The Court may, if it thinks fit, summon and examine any such expert as to the subject-matter of his report.

(3) Where any such expert is summoned by a Court and he is unable to attend personally, he may, unless the Court has expressly directed him to appear personally, depute any responsible officer working with him to attend the Court, if such officer is conversant with the facts of the case and can satisfactorily depose in Court on his behalf.

(4) This section applies to the following Government scientific experts, namely:—

(a) any Chemical Examiner or Assistant Chemical Examiner to Government;

(b) the Chief Inspector of Explosives;

(c) the Director of the Finger Print Bureau;

(d) the Director, Haffkeine Institute, Bombay;

(e) the Director Deputy Director or Assistant Director of a Central Forensic Science Laboratory or a State forensic Science Laboratory;

(f) the Serologist to the Government.

294. No formal proof of certain documents.

(1) Where any document is filed before any Court by the prosecution or the accused, the particulars of every such document shall be included in a list and the prosecution or the accused, as the case may be, or the pleader for the prosecution or the accused, if any, shall be called upon to admit or deny the genuineness of each such document.
(2) The list of documents shall be in such form as may be prescribed by the State Government.

(3) Where the genuineness of any document is not disputed, such document may be read in evidence in any inquiry trial or other proceeding under this Code without proof of the signature of the person to whom it purports to be signed:

Provided that the Court may, in its discretion, require such signature to be proved.

295. Affidavit in proof of conduct of public servants.

When any application is made to any Court in the course of any inquiry, trial or other proceeding under this Code, and allegations are made therein respecting any public servant, the applicant may give evidence of the facts alleged in the application by affidavit, and the Court may, if it thinks fit, order that evidence relating to such facts be so given.

296. Evidence of formal character on affidavit.

(1) The evidence of any person whose evidence is of a formal character may be given by affidavit and may, subject to all just exceptions, be read in evidence in any inquiry, trial or other proceeding under this Code.

(2) The Court may, if it thinks fit, and shall, on the application of the prosecution or the accused, summon and examine any such person as to the facts contained in his affidavit.

297. Authorities before whom affidavits may be sworn.

(1) Affidavits to be used before any Court under this Code may be sworn or affirmed before—

(a) any Judge or any Judicial or Executive Magistrate, or

(b) any Commissioner of Oaths appointed by a High Court or Court of Session, or
(c) any notary appointed under the Notaries Act, 1952 (53 of 1952).

(2) Affidavits shall be confined to, and shall state separately, such facts as the deponent is able to prove from his own knowledge and such facts as he has reasonable ground to believe to be true, and in the latter case, the deponent shall clearly state the grounds of such belief.

(3) The Court may order any scandalous and irrelevant matter in the affidavit to be struck out or amended.

298. Previous conviction of acquittal how proved –

In any inquiry, trial or other proceeding under this Code, a previous conviction or acquittal may be proved, in addition to any other mode provided by any, law for the time being in force,—

(a) by an extract certified under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was held, to be a copy of the sentence or order, or

(b) in case of a conviction, either by a certificate signed by the officer in charge of the jail in which the punishment or any part thereof was undergone, or by production of the warrant of commitment under which the punishment was suffered, together with, in each of such cases evidence as to the identity of the accused person with the person so convicted or acquitted.

299. Record of evidence in absence of accused.

(1) If it is proved that an accused person has absconded, and that there is no immediate prospect of arresting him, the Court competent to try or commit for trial such person for the offence complained of, may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions
and any such deposition may, on the arrest of such person, be given in evidence against him on the inquiry into, or trial for, the offence with which he is charged, if the deponent is dead or incapable of giving evidence or cannot be found or his presence cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

(2) If it appears that an offence punishable with death or imprisonment for life has been committed by some person or persons unknown, the High Court or the Sessions Judge may direct that any Magistrate of the first class shall hold an inquiry and examine any witnesses who can give evidence concerning the offence and any depositions so taken may be given in evidence against any person who is subsequently accused of the offence, if the deponent is dead or incapable of giving evidence or beyond the limits of India.

Section 313

313. Power to examine the accused.

(1) In every inquiry or trial, for the purpose of enabling the accused personally to explain any circumstances appearing in the evidence against him, the Court—

   (a) may at any stage, without previously warning the accused put such questions to him as the Court considers necessary;

   (b) shall after the witnesses for the prosecution have been examined and before he is called on for his defence question him generally on the case:

Provided that in a summons-case where the Court has dispensed with the personal attendance of the accused, it may also dispense with his examination under clause (b).

(2) No oath shall be administered to the accused when he is examined under subsection (1).
(3) The accused shall not render himself liable to punishment by refusing to answer such question, or by giving false answers to them.

(4) The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for, any other offence which such answers may tend to show he had committed.

**Section 314**

Oral arguments and memorandum of arguments.

(1) Any party to a proceeding may, as soon as may be after the close of his evidence, address concise oral arguments, and may, before he concludes the oral arguments, if any, submit a memorandum to the Court setting forth concisely and under distinct headings, the arguments in support of his case and every such memorandum shall form part of the record.

(2) A copy of every such memorandum shall be simultaneously furnished to the opposite party.

(3) No adjournment of the proceedings shall be granted for the purpose of filing the written arguments unless the Court, for reasons to be recorded in writing, considers it necessary to grant such adjournment.

(4) The Court may, if it is of opinion that the oral arguments are not concise or relevant, regulate such arguments.

**Section 436**

In what cases bail to be taken.

(1) When any person other than a person accused of a non-bailable offence is arrested or detained without warrant by an officer in charge of a police station, or appears or is brought before a Court, and is prepared at any time while in the custody of such
officer or at any stage of the proceeding before such Court to give bail, such person shall be released on bail:

Provided that such officer or Court, if he or it thinks fit, may, instead of taking bail from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided:

Provided further that nothing in this section shall be deemed to affect the provisions of sub-section (3) of section 116 or section 446A.

(2) Notwithstanding anything contained in sub-section (1), where a person has failed to comply with the conditions of the bail-bond as regards the time and place of attendance, the Court may refuse to release him on bail, when on a subsequent occasion in the same case he appears before the Court or is brought in custody and any such refusal shall be without prejudice to the powers of the Court to call upon any person bound by such bond to pay the penalty thereof under section 446.

C. Indian Penal Code:-

Section 82
Act of a child under seven years of age: -Nothing is an offence which is done by a child under seven years of age.

Section 83
Act of a child above seven and under twelve of immature understanding:--Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.
OTHER INDIAN LAWS ARE AS FOLLOWING:-

A. Bengal Children Act, 1922.

B. Bombay Children Act, 1924.


D. Madras Children Act, 1920.


F. The Tamil Nadu Boston School Act.
## ANNEXURE – IV

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