

A Comparative Study
OF
Provincial and Indian State Acts Relating to
Traffic in Women and Children.

ISSUED BY

ASSOCIATION FOR MORAL AND SOCIAL
HYGIENE IN INDIA

(Founded in England by Mrs. Josephine Butler, 1870).

INTERNATIONAL HEADQUARTERS : RUE DE L'HOTEL DE VILLE 8, GENEVA.
LONDON HEADQUARTERS : LIVINGSTONE HOUSE, WESTMINSTER.
INDIAN HEADQUARTERS : NEW DELHI, INDIA.

Leaflet No. A. M. S. H. 38/2/L.

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364-15340954 COM

3800091833

ACTS

Relating to the Suppression of Traffic in Women and Children, in force in the various Provinces of India and Indian States.

1. BOMBAY. Bombay Act No. XI of 1923: The Bombay Prevention of Prostitution Act 1923 (As modified up to the 31st March 1934).
2. MYSORE STATE. Regulation VIII of 1936: Regulation for the Suppression of Brothels and Immoral Traffic in Mysore State.
3. PUNJAB. Punjab Act IV of 1935: The Punjab Suppression of Immoral Traffic Act, 1935.
4. BENGAL. Bengal Act VI of 1933: The Bengal Suppression of Immoral Traffic Act, 1933.
5. MADRAS. The Madras Suppression of Immoral Traffic Act, 1930; Madras Act No. V of 1930 (As amended by Madras Act I of 1932 and 1938).
6. U. P. The United Provinces Suppression of Immoral Traffic Act, 1933.
7. NORTH-WEST FRONTIER PROVINCE. The North-West Frontier Province Anti-Prostitution and Suppression of Brothels Act, 1936.

CLAUSES AND SECTIONS ALSO OPERATE IN THE FOLLOWING PLACES:—

8. GWALIOR STATE. Sections 357, 375A, 357B, 363, & 364 of the State Penal Code.
9. AJMER-MERWARA. Sections 167 and 168 of the Ajmer-Merwara Municipalities Regulation, 1925 (VI of 1925).
10. BIHAR. The Bengal Disorderly Houses Act III of 1906.
11. BARODA STATE. Sections 356 & 357 of the State Penal Code corresponding to sections 372 and 373 of the Indian Penal Code.
12. SIND. Bombay Act No. XI of 1923: the Bombay Prevention of Prostitution Act, 1923; also section 41 of the Bombay District Police Act, 1890, is applied to certain towns and villages in Sind.
13. KASHMIR & JAMMU. Ranbir Penal Code; sections 366-A and 498.
14. TRAVANCORE. Regulation III of 1107 M. E.
15. CEYLON. (Act of 1913).
16. ASSAM.
17. BURMAH.
18. FEDERATED MALAYA STATES. } have adopted Abolition legislation.

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DEFINITIONS.

BROTHEL : (defined).—*Brothel*.—*Bombay Act* defines: "Brothel" means any house, room or place, or any part thereof, occupied or let or intended to be occupied or let as a single tenement, which is habitually used by more than one person for the purposes of prostitution. (Sec. 2).

Bengal Act defines: "Brothel" means any house, part of a house, room or place in which two or more females carry on prostitution for the gain of any other person, or in which any girl under the age of eighteen years is kept with intent that she shall at any age be employed or used for any immoral purpose". (Sec. 3).

Madras Act defines: "Brothel" means any house, room, or place which the occupier or person in charge thereof habitually allows to be used by any other person for the purpose of prostitution. (Sec. 4).

Punjab Act defines: "Brothel" means any place kept or used for prostitution, but when one woman takes a man or men to her own room for illicit intercourse, she shall not be deemed to be keeping or using a brothel. (Sec. 3).

United Provinces defines: "Brothel" means any house, room or other place which the occupier or person in charge thereof appropriates mainly to the purpose of prostitution carried on by more than one person but the term does not include a house solely occupied by women belonging to a class or caste of dancing girls and actually following the occupation of dancing or singing. (Sec. 2).

North-West Frontier Province Act defines: "Brothel" means any house or place which the occupier or person in charge thereof habitually allows to be used by any other person for the purpose of prostitution. (Sec. 2).

Mysore State Act defines: "Brothel" means any house, room, or place, or any part thereof which the occupier or person in charge thereof habitually allows to be used by any other person for the purposes of prostitution. (Sec. 2).

PROSTITUTION (defined).

The *Bombay Act* does not define "prostitution. The other enactments define it as "Prostitution means promiscuous sexual intercourse for hire, whether in money or kind"; in some Acts the words "whether in money or in kind" are omitted.

PUNISHMENT FOR KEEPING A BROTHEL.

Bombay.—3 months, or with fine which may extend to five hundred rupees, or with both. (Sec. 8B).

Bengal.—2 years or with fine or with both. (Sec. 4(1)).

Madras.—2 years or with fine which may extend to one thousand rupees or with both.

Punjab.—Rigorous imprisonment for any term not exceeding twelve months or to fine not exceeding rupees one thousand or to both. (Sec. 4(1)).

United Provinces.—1 year or with fine which may extend to five hundred rupees or with both. (Sec. 3).

North-West Frontier Province.—6 months or with fine which may extend to five hundred rupees, or both. (Sec. 9).

Mysore State.—2 years or with fine which may extend to one thousand rupees or with both. (Sec. 11(1)).

PUNISHMENT FOR PROCURATION.

Bombay.—3 years or with fine which may extend to one thousand rupees, or with whipping, or with any two of those punishment. (No whipping for females: Sec. 8A) (Sec. 6).

Bengal.—3 years or with fine to Rs. 1,000 or with both, and if a male person, shall also be liable to whipping. (Sec. 9(1)).

Madras.—2 years or with fine to Rs. 1,000 or with both. (Sec. 11).

Punjab.—3 years (rigorous) or with fine to Rs. 1,000 or with both, and, if a male person, shall also be liable to whipping. (Sec. 6(1)).

United Provinces.—1 year, or with fine to Rs. 500 or with both. (Sec. 9).

North-West Frontier Province.—3 years, or with fine to Rs. 1,000 or both. (Sec. 6).

Mysore State.—2 years, or with fine to Rs. 500 or with both. (Sec. 4).

Travancore State.—Procurement of minor: 10 years, (of either description) and shall also be liable to fine (Sec. 366A: The Travancore Penal Code: Regulation III of 1107).

PUNISHMENT FOR SOLICITATION.

Bombay.—3 months or with fine to Rs. 100. (Sec. 3).

Bengal.—1 month or with fine to Rs. 100, or with both. (Sec. 7(1)).

Madras.—2 months, or with fine to Rs. 1,000, or with both. (Sec. 12).

Punjab.—Solicitation not provided for.

United Provinces.—2 months, or with fine to Rs. 500, or with both. (Sec. 10).

North-West Frontier Province.—1 month, or with fine to Rs. 50, or both. (Sec. 3).

Mysore State.—2 months, or with fine to Rs. 200, or with both. (Sec. 3).

PUNISHMENT FOR LIVING ON THE EARNINGS OF PROSTITUTION.

Bombay.—3 years or with fine to Rs. 1,000 or with whipping, or with any two of those punishments. (No whipping in case of females). (Sec. 5(1)).

Bengal.—3 years (of either description) or with fine to Rs. 1,000 or with both, and, if a male person, shall also be liable to whipping. (Sec. 8(1)).

Madras.—No provision of living on the earnings of Prostitution

Punjab.—3 years (rigorous) or with fine to Rs. 1,000 or with both, and, if a male person, shall also be liable to whipping. (Sec. 5(1)).

United Provinces.—No provision for living on the earnings of prostitution.

North-West Frontier Province.—2 years, or with fine to Rs. 1,000 or with both. (Sec. 5(1)).

Mysore State.—No provision for living on the earnings of prostitution.

PUNISHMENT FOR IMPORTING WOMAN OR GIRL FOR PROSTITUTION.

Bombay.—3 years or with fine to Rs. 1,000 or with whipping (in case of males only), or with any two of those punishments. (Sec. 7).

Bengal.—3 years (either description) or with fine to Rs. 1,000, or with both, and, if a male person, shall also be liable to whipping. (Sec. 10(1)).

Madars.—2 years or with fine to Rs. 1,000 or with both. (Sec. 9).

Punjab.—3 years (rigorous) or with fine to Rs. 1,000, or with both, and, if a male person, shall also be liable to whipping. (Sec. 7(1)).

United Provinces.—3 years, and shall also be liable to fine. (Sec. 7).

North-West Frontier Province.—2 years or with fine to Rs. 500 or with both. (Sec. 7).

Mysore State.—2 years or with fine to Rs. 500, or with both. (Sec. 5).

Travancore State.—10 years (either description), and shall also be liable to fine, (Sec. 366B. The Travancore Penal Code: Regulation III of 1107).

PUNISHMENT FOR UNLAWFUL DETENTION FOR PROSTITUTION.

Bombay.—2 years, or with fine to Rs. 1,000 or with whipping (if a male person), or with any two of those punishments. (Sec. 8(1)).

Bengal.—3 years (either description) or with fine to Rs. 1,000 or with both. (Sec. 11).

Madras.—2 years or with fine to Rs. 1,000, or with both. (Sec. 10(i)).

Punjab.—3 years (rigorous) or with fine to Rs. 1,000 or with both, and, if a male person, shall also be liable to whipping. (Sec. 8(1)).

United Provinces.—2 years and shall also be liable to fine. (Sec. 8).

North-West Frontier Province.—2 years or with fine to Rs. 100, or both. (Sec. 8).

Mysore State.—2 years or with fine to Rs. 1,000 or with both. (Sec. 10).

POWERS OF POLICE OFFICERS AND MAGISTRATES.

Police Officers.—

Bombay.—(*Segregation of brothels.*) (Sec. 9).—“(1) The Commissioner of Police may at any time cause a notice to be served upon any person who occupies or manages or acts or assists in the management of, or upon any woman who resides in, uses or frequents, any house, room, or place in the City of Bombay in which the business of a common prostitute is carried on, requiring such person or woman after a date to be mentioned in the notice, which shall not be less than seven days from the date of the notice, not to reside in, use or frequent any street or place specified in the notice; or directing such person or woman after a date to be mentioned and fixed aforesaid to remove himself or herself to such place, whether within or without the City of Bombay, by such route or routes and within such time as the Commissioner of Police shall prescribe.

(2) If any person or woman so directed under sub-section (1) fails or refuses to remove himself or herself as directed within the time specified, the Commissioner of Police may cause such person or woman to be arrested and removed in police custody to the place prescribed.

(3) No directions under the second alternative in sub-section (1) shall be made without the previous sanction of the Government.

Arrest without warrant.—(Sec. 10) “(1) Any police officer on information, and, if the offence is committed in his view, any police officer specially authorised in this behalf by the Commissioner of Police, may arrest without a warrant any person committing any offence punishable under section 3. (namely, “soliciting”).

(2) Any police officer may, without an order from a magistrate and without a warrant, arrest any person who has been concerned in any offence punishable under section 8 or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in an offence under that section or of his having committed an offence under section 9, sub-section (5)”

Bengal.—(Section 13). *Removal of minor girls from premises in certain cases.*—“The Commissioner of Police, Superintendent of Police, or a police officer not below the rank of a sub-inspector specially authorised in writing in this behalf by the Commissioner of Police or Superintendent of Police, may enter any premises if he has reason to believe:—

- (a) that an offence punishable under section 4 has been committed or is being committed in respect of the premises; or
- (b) that a female in respect of whom an offence punishable under section 8, 9, 10, 11 or 12 has been committed is to be found therein;

and may remove any girl who appears to him to be under the age of eighteen years, if he is satisfied :—

- (a) that an offence punishable under section 4 has been or is being committed in respect of the premises ; or
- (b) that an offence punishable under section 8, 9, 10, 11, or 12 has been committed in respect of the girl."

Arrest without warrant for solicitation.—(Section 22). "Any police officer may, at the instance of any person aggrieved, arrest without warrant any person who, in his sight and in a public place, solicits any person for the purpose of prostitution to the annoyance of the person solicited or of two or more inhabitants of the locality or passersby, if the name and address of the person soliciting be unknown to him and cannot be ascertained by him then and there."

Madras.—(Section 13). *Arrest without warrant.*—"Any Police officer not below the rank of Inspector may arrest without a warrant any person who has been concerned in any offence punishable under section 5, 8-A, 9, 10, 11 or 12 or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in any such offence:

Provided that a person concerned or alleged or suspected to be concerned in an offence punishable under section 12 shall be arrested under this section only if the name and address of such person be unknown to the Police Officer and cannot be ascertained by him then and there, or if he has reason to suspect that a false name and address have been given.

(2) Any Police Officer authorised in this behalf by the Commissioner of Police or the Superintendent of Police by special order, may arrest without a warrant any person committing in his view any offence punishable under section 9, 10, 11 or 12, if the name and address of such person be unknown to such Police Officer and cannot be ascertained by him then and there, or if he has reason to suspect that a false name and address have been given."

(Section 14) *Power to enter premises.*—"Notwithstanding anything contained in any other law for the time being in force, any Police Officer not below the rank of Inspector and any other Police Officer authorised in this behalf by the Commissioner of Police or the Superintendent of Police by special order, may for the purpose of ascertaining whether an offence punishable under section 5, 8-A, 9, 10, 11 or 12 has been or is being committed, enter without a warrant any premises in which he has reason to believe that any woman or girl is living in respect of whom an offence punishable under section 5, 8-A, 9, 10, 11 or 12 has been committed."

Punjab.—(Sec. 11.) *Powers to arrest without warrant.*—"If a complaint is made to any gazetted police officer of the commission of any offence punishable under section 5, 6, 7, 8 or 9, or if any such offence is committed in the view of any police officer not below the rank of Sub-Inspector specially authorised in writing in this behalf by the Superintendent of Police, such police officer may arrest without a warrant any person accused of the commission of such offence, and shall release such person on bail unless the name and address of such person be unknown to such police officer and cannot be ascertained by him then and there, or if such police officer has reason to suspect that a false name and address have been given :

Provided that the person arrested by the police officer shall be released on bail if his identity is attested by some other person to the satisfaction of such police officer".

(Section 12). *Power to enter without warrant and removal of minor girls.*—"The Superintendent of Police or any gazetted police officer specially authorised in writing in this behalf by the Superintendent of Police, may enter any place if he has reason to believe :—

- (i) that an offence punishable under section 4 has been or is being committed in respect of the place, or
- (ii) that a woman or girl in respect of whom an offence punishable under section 5, 6, 7, 8 or 9 has been committed, is to be found therein,

and may remove to any place appointed by the Local Government by rule under section 17 of this Act any girl who appears to him to be under the age of eighteen years, if he is satisfied :—

- (a) that an offence punishable under section 4 has been or is being committed in respect of the place, or
- (b) that an offence punishable under section 5, 6, 7, 8 or 9 has been committed in respect of the girl."

United Provinces.—(Section 14). "Any police officer may arrest any person for an offence under section 10 but no police officer shall arrest without a warrant any person committing or accused of having committed any other offence under this Act."

North-West Frontier Province.—The police is assigned no special powers under this Act.

Mysore State.—(Section 12). *Arrest without warrant.*—"Any Police Officer (not below the rank of an Inspector) on complaint, and any Police Officer authorised in this behalf by the District Superintendent of Police by special order, may arrest without a warrant any person committing in his view any offences punishable under section 3, 4, 5, and 10 if the name and address of such person be unknown to such Police Officer and cannot be ascertained by him then and there, or if he has reason to suspect that a false name and address has been given".

(Section 13).—*Power to enter premises.*—"Notwithstanding anything contained in any other law for the time being in force, only a Police Officer authorised in this behalf by the District Superintendent of Police may, for the purposes of ascertaining whether an offence punishable under sections 3, 4, 5, or 10 has been or is being committed, enter without a warrant any premises in which he has reason to believe that any woman or girl is living in respect of whom an offence punishable under Sections 3, 4, 5 or 10 has been committed".

POWERS OF MAGISTRATES.

Bombay.—(Section 12). "Offences punishable under sections 5, 6, 7 or 8 shall be triable by the Courts of Session stipendiary Presidency Magistrates and stipendiary Magistrates of the First Class only." (see also Sec. 9).

Bengal.—(Section 23). "Notwithstanding anything contained in Schedule II to the Criminal Procedure Code, 1898, no Magistrate other than a Presidency Magistrate or Magistrate of the first class shall try any offence

punishable under section 4, 5, 6 or 12." (see also Secs. 14, 15, 16 & 17, re powers of Magistrates for (i) Disposal of minor girls removed from premises under Sec. 13; (ii) Validity of determination of age by Juvenile Court or Magistrate; (iii) Power to call for record; and (iv) Intermediate custody of girls removed from premises under Sec. 13).

Madras.—(Section 6).—*Removal and disposal of minor girls from brothels etc.*—“(i) Where a Magistrate has reason to believe from a report made to him by a police officer or otherwise, that a girl apparently under the age of 18 years is living, or is carrying on, or is being made to carry on, the business of prostitution in a brothel, disorderly house, or place of assignation, he may issue an order to a police officer not below the rank of an Inspector specially authorised in writing in this behalf by the Commissioner of Police, or by the Superintendent of Police, to enter into such brothel, disorderly house or place of assignation and to remove therefrom such girl; and thereupon such police officer shall have the power to enter into such brothel, disorderly house or place of assignation and shall be entitled to remove such girl forthwith from such brothel, disorderly house or place of assignation.

(ii) A girl who has been so removed shall be brought before a Court established under sub-section (1) of section 36 of the Madras Children Act, 1920, or where no such Court has been established, before a Court sitting in the manner specified in sub-section (2) of that section and the Court shall cause an inquiry to be made in the manner provided in sub-section (3) of section 29 of that Act, and, if satisfied that the girl is under 18 years of age and that she should be dealt with as therein provided, may make an order that such girl be placed until she attains the age of 21 years or for any shorter period in a rescue home or in such other custody as the Court for reason to be stated in writing shall consider suitable, provided that such custody shall not be that of a person or body of a different religious persuasion from that of the girl.

(iii) For the determination of the question whether a girl produced before a Court under the provisions of this section is under 18 years of age, the provision of section 37 of the Madras Children Act, 1920, shall be applied.

(Section 7).—*Intermediate custody of girl removed from brothel etc.*—“When a girl has been removed from a brothel or disorderly house or place of assignation under the provisions of sub-section (i) of section 6, the police officer carrying out the removal shall, until such girl can be brought before the Court, cause her to be detained in a rescue home or in such other suitable custody (other than a police station or jail) as may be prescribed in this behalf by the Local Government, provided however that such custody shall not be that of a person or body of a different religious persuasion from that of the girl.”

Punjab.—(Section 10).—*Power to order discontinuance of place used as brothel etc.*—“(1) If the District Magistrate receives information that any place is being used as a brothel, he may cause a notice to be served on the owner, lessor, manager, lessee, tenant, or occupier of the place or all or any of them to appear before him either in person or by agent, on a date to be fixed in such notice, and to show cause why an order should not be made for the discontinuance of such use of such place.

(2) If, on the date fixed or on any subsequent date to which the hearing may be adjourned, the District Magistrate is satisfied after making such enquiry as he thinks fit that the place is used as described in sub-section (1), he may direct by order in writing to be served on such owner, lessor, manager, lessee, tenant or occupier, that the use as so described of such place be discontinued from a date not less than fifteen days from the date of the said order and be not thereafter resumed.

An order passed by a District Magistrate under this sub-section shall not be subject to appeal and shall not be stayed or set aside by the order of any court civil or criminal.

United Provinces.—(Section 11).—*Removal and disposal of minor girls from brothels.*—“(1) Where a Magistrate, upon complaint made to him or upon credible information in writing received by him and after making such inquiry as he may think necessary, has reason to believe that a girl under the age of 18 years is living, or is carrying on or is being made to carry on the business of prostitution, in a brothel, he may issue a warrant to a police officer not below the rank of an Inspector authorising him to enter into such brothel, to remove therefrom such girl, and to produce her before him.

(2) When the girl is produced before the magistrate, he shall cause an inquiry to be made concerning her age, and if satisfied that the girl is under 18 years of age, may make an order that such girl be placed until she attains the age of 21 years or for any shorter period, in such institution or in such other custody as he for reason to be stated in writing shall consider suitable. Such girl shall thereupon be in such institution or custody subject to such directions as may be prescribed :

Provided that the person or persons entrusted with the custody of such girl or the manager or managers of the institution where such girl is placed shall be of the same religion as the girl.

(3) When a police officer removing a girl under a warrant issued under this section cannot immediately produce her before the magistrate issuing warrant, he shall forthwith produce her before the nearest magistrate who shall pass such orders for her safe custody until she can be produced before the magistrate issuing the warrant, as he may consider proper, subject to such directions as may be prescribed”.

Section 13. Issue of process for an offence under this Act. “If in the opinion of a magistrate taking cognizance of an offence under this Act there is sufficient ground for proceeding, he shall, in the case of an offence under section 4, 5, 10, issue in the first instance, a summons for the attendance of the accused, and in case of any other offence he shall issue a warrant with or without bail, to an officer in charge of a police station for causing the accused to be brought before such magistrate or some other magistrate having jurisdiction”.

North-West Frontier Province.—(Section 10).—“No offence under this Act shall be tried summarily, or by a Magistrate below the rank of a Magistrate of the first class”.

Section 11. “No court shall take cognizance of an offence punishable under Section 9, except on the complaint of three or more persons occupying separate premises and residing in the vicinity of the premises to which the complaint relates”.

Mysore State.—(Section 6). *Removal of minor girl from brothel.*—
“Where a Magistrate has reason to believe from a report made to him by a Police Officer, or otherwise, that a girl apparently under the age of 18 years is living, or is carrying on or is being made to carry on the business of prostitution in a brothel disorderly house or place of assignation, he may issue an order to a Police Officer not below the rank of an Inspector specially authorised in writing in this behalf by the Superintendent of Police, to enter into such brothel, disorderly house or place of assignation, and to remove therefrom such girl; and thereupon such Police Officer shall have the power to enter into such brothel, disorderly house or place of assignation, and shall be entitled to remove such girl forthwith from such brothel, disorderly house or place of assignation”.

(Section 7). *Commitment to suitable custody.* “A girl who has been removed under section 6 shall be brought before a magistrate having local jurisdiction and such magistrate shall make such inquiry as he thinks fit and if satisfied that the girl is under the age of 18 years, he may make an order that such girl be placed until she attains the age of 21 years or for any shorter period, under such conditions as may be prescribed, in a rescue home provided or aided or recognised by the Government or in such other custody as the Court, for reasons to be stated in writing, shall consider suitable, provided that such custody shall not be that of a person other than a relative of the girl or of a body of a different religious persuasion from that of the girl”.