



Legislative Assembly of the State of Goa

**The Goa Children's  
(Amendment) Bill, 2005**

(Bill No. 19 of 2005)

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~~to be~~ <sup>AS</sup> introduced in the Legislative Assembly of the State of Goa

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**GOA LEGISLATURE SECRETARIAT  
ASSEMBLY HALL, PORVORIM  
AUGUST, 2005.**

# The Goa Children's (Amendment) Bill, 2005

( Bill No. 19 of 2005 )

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BILL

*further to amend the Goa Children's Act, 2003.*

BE it enacted by the Legislative Assembly of the State of Goa in the Fifty sixth Year of the Republic of India as follows :-

5     1. *Short title and commencement.*- (1) This Act may be called the Goa Children's ( Amendment) Act, 2005.

(2) It shall come into force at once.

2. *Amendment of section 2.*- In Section 2 of the  
10 Goa Children's Act, 2003 (Act 18 of 2003) (hereinafter referred to as the "principal Act"),-

(i) in clause (a), for the words "authorized officers", the words "special officers" shall be substituted;

15     (ii) in clause (d), the following proviso shall be inserted, namely :-

"Provided that in so far as a victim in an offence of rape is concerned, "child" shall mean any person who has not completed  
20 sixteen years of age.";

(iii) in clause (f), after the words "either fully or partly", the expression ", and shall include

all creches, boarding schools, orphanages, protective homes and hostels which provide for care or custody or education or rehabilitation of a child" shall be inserted;

(iv) after clause (j), the following clause shall be inserted, namely :- 5

"(jj) "commercial sexual exploitation of children" means all forms of sexual exploitation of a child including visual depiction of a child engaged in explicit sexual conduct, real or stimulated, or the lewd exhibition of the genitals intended for sexual gratification of the user, done with a commercial purpose, whether for money or kind. It includes implying, allowing, using, inducing or coercing any child to engage in sexual conduct, it also includes the use of the child in assisting with other persons to engage in explicit sex;" 10 15 20

(v) in clause (l), sub-clause (v) and (vi) shall be omitted;

(vi) after clause (l), the following clause shall be inserted, namely :-

"(ll) "child in difficult circumstances" means a child in need which is exposed to or is likely to be exposed to child abuse or sexual offences or child trafficking or commercial sexual exploitation or violation of his or her rights " 25 30

(vii) after clause (p), the following clause shall be inserted, namely :-

"(pp) "Government or State Government" means the Government of Goa; ";

5 (viii) for clause (t), the following clause shall be substituted, namely :-

10 "(t) "medical authority" means such authority as notified by the Government by order or notification published in the Official Gazette and whose certificate on the age of a child shall be conclusive evidence as to the age of the child to whom it relates;"

15 (ix) after clause (u), the following clauses shall be inserted, namely :-

20 "(uu) "principle of best interest of child" means the principle which seeks to ensure the physical, emotional, intellectual, social and moral development of the child, and to provide him safe environment from all kinds of child abuse; ";

"(uv) "rape" means rape as defined in section 375 of the Indian Penal Code, 1860 (Act V of 1860); ";

25 (x) in clause (y), for item (i), the following shall be substituted, namely :- "(i) Grave Sexual Assault" which covers different types of intercourse, vaginal or oral or anal, use of objects with children, forcing minors to have sex with each other, deliberately causing injury to sexual organs of children, making 30

children pose for pornographic photos or films, and also includes rape;";

(xi) in clause (z), for the words "receipt of persons", the words "receipt of children" shall be substituted; 5

(xii) after clause (za), the following clause shall be inserted, namely :-

"(zb) The words "complaint", "bailable offence", "non-bailable offence", "cognizable offence", "chargesheet", "police report", "warrant", "search warrant", "remand", "trial", "Judicial Magistrate", "District Magistrate", "offence", "compounding", "Officer in charge of Police Station" and "Cognizance" shall have the same meaning as assigned to them under the Code of Criminal Procedure, 1973 ( Act 2 of 1974 ).". 10 15

3. Amendment of section 3.- In section 3 of the principal Act, 20

(i) in sub-section (1), for the words "The State shall ensure that children and the young are protected against exploitation", the words "The State shall ensure that children are protected from child abuse, sexual offences, child trafficking, child prostitution and violation of their rights" shall be substituted; 25

(ii) sub section (2) shall be omitted ;

(iii) in sub-section (7), the words and figure "social welfare institutions, or legislative bodies" shall be omitted. 30

4. Amendment of section 4.- In section 4 of the principal Act,-

(i) for sub-section (3), the following sub-section shall be substituted, namely :-

5 "(3) Counseling facilities by trained personnel shall be provided to the children in all schools.";

(ii) in sub-section (4), for the words "shall include", the words "shall preferably include" shall be substituted ; 10

(iii) in sub-section (5), for the words "shall also include", the words "shall preferably also include" shall be substituted; and after the words and figure "substance abuse," the words and figure "sexuality education," shall be inserted; 15

(iv) in sub-section (6), for the word "compulsorily", the word "preferably" shall be substituted;

20 (v) in sub-section (7), the words "elected Students Councils or any other" shall be omitted;

(vi) in sub-section (8), for the words "shall work", the words " shall strive to work" shall be substituted and for the words "three years", the words "seven years" shall be substituted; 25

(vii) in sub-section (10), after the words "physical infrastructure", the words "including barrier free access" shall be inserted; 30

(viii) after sub-section (14), the following sub-section shall be inserted, namely :-

"(15) Any contravention or non-adherence of the provisions of this section shall be dealt with by the Competent Authority only and shall be punishable with a fine which may extend to Rs. 50,000/-."

5. *Amendment of section 5.* - In section 5 of the principal Act,

(i) in sub-section (1), after the words "should be introduced", the words "in a phased manner" shall be inserted, and for the words "Immunisation programme", the words "free Immunisation programme" shall be substituted;

(ii) in sub-section (3), for the word "should", the word "may" shall be substituted.

(iii) in sub-section (10), after the words and figure "issues of substance," the words and figure "psycho - social well being," shall be inserted ;

(iv) after sub-section (10), the following sub-sections shall be inserted, namely :-

"(11) No medical institution or clinic or hospital or nursing home shall reject admission or treatment of a child or pregnant mother who has any illness or disease or ailment which has a social stigma attached with it, such as Leprosy , AIDS, etc.

(12) Any contravention or non-adherence of the provisions of this section, except for sub-section (7), shall be dealt with by the Competent Authority only and shall be punishable with a fine which may extend to Rs. 50,000/-."

6. *Amendment of section 6.* - In section 6 of the principal Act,-

(i) in sub-section (9), after the words "and containing such particulars as may be prescribed", the words "and the Director shall forward the applications to the District Inspection Team for inspection of such Children Home and checking of all other requirements" shall be inserted;

(ii) for sub-section (11), the following sub-section shall be substituted, namely :-

"(11) The District Inspection Team shall, after scrutiny of application form and after checking all other requirements, forward its report to the Director. The Director shall issue or refuse to issue a Certificate of Registration, with approval of the Competent Authority, to the Children's Homes on the basis of such report of the District Inspection Team. Criteria for granting or for revoking registration shall be as prescribed.";

(iii) for clause (b) of sub-section (13), the following clause shall be substituted, namely:-

"(b) Checking the applications of those parties who have applied for registration

and inspecting the institutions before making a recommendation to the Director.”;

(iv) after sub-section (15), the following sub-sections shall be inserted, namely :- 5

“(16) The District Inspection Team shall consider the report submitted under sub-section (14) or (15), as the case may be, and make suitable recommendations to the Director. 10

(17) No Children's Home shall reject or refuse admission of any child in difficult circumstances for care or custody or education or rehabilitation when expressly directed by the Competent Authority or Director or Special Officer in writing. 15

(18) Every Children's Home shall ensure that no child under its care or custody is exposed to child abuse, or sexual offences or child trafficking or child prostitution or violation of its rights and that the best interest of all children are protected. Care givers shall also be personally responsible for the same. 20 25

(19) Any contravention or non-adherence of any provisions of this section by any Children's Home shall be punishable with imprisonment of either description for a term which may extend to three years and shall also be liable to a fine which may extend to Rs. 1,00,000/-”. 30

7. Amendment of section 7. - In section 7 of the principal Act,-

(i) in the title, for the words “Child Labour”, the words “Child Labour and Trafficking” shall be substituted; 5

(ii) in sub-section (2), in clause (b), the words and figures “and Goa, Daman and Diu Shops and Establishments Rules, 1975” shall be omitted;

(iii) in sub-section (5), for the word “violation”, the word “contravention” shall be substituted; 10

(iv) in sub-section (6), for the words “within a period of two years from the commencement of this Act”, the words “in a phased manner” shall be substituted; and after the words “for the prevention of child labour”, the words “the plan of action shall be published in the Official Gazette every year” shall be inserted; 15

(v) in sub-section (7), the words and figures “over this period of 2 years” shall be omitted; 20

(vi) in sub-section (8), for the words “a Child Labour Vigilance Officer in each Taluka”, the words “Special Officers” shall be substituted;

(vii) for sub-section (9), the following sub-section shall be substituted, namely :- 25

“(9) The district police, airport police, traffic police, border police, Labour Inspectors and railway police shall immediately take cognizance of all reports or informations 30

or petitions or complaints of offences of child labour or child trafficking and shall investigate into the matter for further necessary action. They shall also intimate in writing every such suspected case or report or information or petition or complaint of child labour and of child trafficking to the nearest Special Officer. The Special Officer may pass such orders, under section 15, as deemed fit in the best interest of such victim child."

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8. *Amendment of section 8.*- In section 8 of the principal Act,-

(i) in the title, after the word "Abuse", the words "and Trafficking" shall be inserted ;

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(ii) after sub-section (1), the following sub-section shall be inserted , namely :-

"(1A) Child Trafficking shall be an offence punishable under this Act. Any person who commits or aids or abets in the child trafficking shall be punishable with imprisonment for a term which may extend to seven years and a fine which may extend to Rs.1,00,000/-";

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(iii) in sub-section (2),

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(a) for the words "sexual assault", the words "child abuse or sexual assault" shall be substituted;

(b) for the words "seven years", the words "ten years" shall be substituted and for the words "ten years", the words "life imprisonment" shall be substituted;

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(c) for the expression "punished with imprisonment of either description for a term of one year plus fine of Rs. 1,00,000/-", the expression "punished with imprisonment of either description for a term that shall not be less than ten years but which may extend to life imprisonment and also a fine which may extend to Rs. 2,00,000/-" shall be substituted; and

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(d) for the words "Testimony of the child victim shall be treated on par with the testimony of a child rape victim", the words "Statement of the child victim shall be treated on par with the statement of a child rape victim" shall be substituted;

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(iv) for sub-section (3), the following sub-section shall be substituted, namely :-

"(3) In cases of sexual assault on a child, the investigating authorities shall ascertain the need to medically examine the child victim in consultation with the medical authority. In cases of child abuse or grave sexual assault on a child, such medical examination of the victim child shall be compulsorily done.";

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(v) for sub-section (4), the following sub-section shall be substituted, namely :-

"(4) No person shall reside with or keep with him, either wholly or partly, one or more children who are not related to him by blood, unless prior permission has been obtained by him from the Director after

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furnishing due information to the Director in the prescribed form. It shall be the responsibility of such person, desirous to reside with or keep child or children not related to him by blood, to inform the Director and to obtain prior written permission from the Director for doing so.”; 5

(vi) in sub-section (6), for the words “The Director shall have the power to authorize the District Inspection Team to inspect and check”, the words “The Competent Authority, the Director and the Special Officers shall have powers to authorize the Officer-in-charge of the nearest police station or District Inspection Team to inspect and check” shall be substituted; 10 15

(vii) for sub-section(7), the following sub-section shall be substituted, namely :-

“(7) The Competent Authority or the Director or the Special Officer, as the case may be, shall, after considering the report of the police or the District Inspection Team and having been satisfied of the necessity to do so, issue an order to remove the child and place him in a registered Children's Home or a State run Institution.”; 20 25

(viii) for sub-section (9), the following sub-section shall be substituted, namely :- 30

“(9) Whoever resides with or keeps with himself one or more children not related to him by blood without the prior written

permission of the Director or whoever prevents officers from discharging their duties under sub-section (6) shall be punishable with imprisonment for a term which may extend to three years and to a fine which may extend to Rs. 1,00,000/-.”; 5

(ix) in sub-section (10), -

(a) in clause (d), for the word “violation”, the word “contravention” shall be substituted; 10

(b) after clause (d), the following clause shall be inserted, namely :-

“(e) Whoever fails to comply with or contravenes the provisions of this sub-section shall be liable for punishment with imprisonment for a term which may extend to three years and a fine which may extend to Rs. 1,00,000/-”; 15 20

(x) sub-section (11) shall be omitted;

(xi) in sub-section (13), for the expression “imprisonment of either description for a period of not less than one year extendable to three years and a fine of not less than Rs. 50,000/-”, the expression “imprisonment of either description for a period of not less than three years and extendable to seven years and a fine which may extend to Rs. 1,00,000/-” shall be substituted; 25 30

(xii) in sub-section (14), for the words “to report this to a police officer not below the rank of a



Deputy Superintendent of Police to be specified by the Government", the words "to report this to the Officer in-charge of the nearest police station" shall be substituted;

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(xiii) for sub-section (15), the following sub-section shall be substituted, namely:-

"(15) The District police, airport authorities, border police, railway police and traffic police shall report any suspected case of (a) child abuse or (b) an adult travelling with or keeping a child under suspicious circumstances or (c) sale of children or (d) sexual offence with a child or (e) child trafficking, to the Officer in-charge of the nearest police station who shall immediately take cognizance of such case and proceed with investigation. He shall also report the case to a Special Officer or to the Director for action under sections 14 and 15, if so required.";

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(xiv) in sub-section (16), the words "under the garb of adoption or otherwise" shall be omitted;

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(xv) sub-section (17) shall be omitted;

(xvi) in sub-section (18), for the words "sexual abuse", the words "any offence under this Act" shall be substituted;

(xvii) in sub-section (23), for the word "violation", the word "contravention" shall be substituted.

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9. *Amendment of section 9.* - In section 9 of the principal Act, -

(i) in the title, for the words "Child Sexual Trafficking", the words "Commercial Sexual Exploitation and Dedication" shall be substituted;

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(ii) in sub-section (1), for the words "child prostitution", the words "commercial sexual exploitation" shall be substituted;

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(iii) in sub-section (2), for the words "child prostitutes", the words "commercially sexually exploited children" shall be substituted;

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(iv) in sub-section (3), for the words "child prostitution", the words "commercial sexual exploitation" shall be substituted;

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(v) in sub-section (4), for the words "and simple imprisonment of one year", the words "and imprisonment for a term which may extend to seven years" shall be substituted.

10. *Amendment of section 10.* - In section 10 of the principal Act, -

(i) for sub-section (1), the following sub-section shall be substituted, namely :-

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"(1) The State shall endeavour to protect all children in difficult circumstances.";

(ii) in sub-section (2), for the words "All Street Children shall be withdrawn and placed", the words "All children in difficult

circumstances shall, wherever required, be placed" shall be substituted;

(iii) in sub-section (4), for the words "Children Shelters in every taluka", the words "Children's Homes" shall be substituted. 5

11. *Amendment of section 13.* - In section 13 of the principal Act,-

(i) in sub-section (5), in clause (c), after the word "judiciary", the word and figure, "prosecution," shall be inserted; 10

(ii) after sub-section (6), the following sub-section shall be inserted, namely:-

"(6A) The constitution, the terms and conditions of service of the members, the regulation of the procedure of meetings and the powers in relation to inquiry and investigation into complaints against the children by the State Commission for Children shall be such as may be prescribed."; 15 20

(iii) in sub-section (12), for the expression "shall set up a State Council comprising persons from the media, and others, as may be prescribed", the expression, "may set up a State Council comprising persons from the media, and others, as may be prescribed. The State Council may also suggest ways to protect children from the harmful influences of the internet and media." shall be substituted; 25 30

(iv) in sub-section (13), for the words and figures "Task Forces, Authorized Officers and

others", the words and figures "Task Forces, Special Officers, Labour Inspectors, State Commission for Children, State Council and others" shall be substituted;

5 (v) sub-section (15) shall be omitted;

(vi) for sub-section (18), the following sub-section shall be substituted, namely:-

10 "(18) The owners of the establishments referred to in sub-sections (16) and (17) shall be held responsible for any contravention of the provisions thereof and shall be punishable for such contravention with an imprisonment for a term which may extend to one month and a fine which may extend to Rs. 3,000/- on each occasion."; 15

20 (vii) in sub-section (20), for the words "severely punished", the expression "punishable with imprisonment for a term which may extend to five years and fine which may extend to Rs. 50,000/-" shall be substituted;

25 (viii) in sub-section (21), for the words "of not less than one year" the words "which may extend to three years" shall be substituted;

(ix) in sub-section (22), after the words "sex workers", the words "in a phased manner" shall be inserted.

(x) sub-section (24) shall be omitted.

12. *Amendment of section 14.*- In section 14 of the principal Act,-

(i) in the title, for the word "Violation", the words and figure "Violation, Contravention" shall be substituted; 5

(ii) in sub-section (1),-

(a) for the word "violations", the word "contraventions" shall be substituted;

(b) in clause (a), for the expression "violation of any of the provisions of this Act including those in Section 3", the expression "contravention of the provisions of sections 3, 4 and 5 of this Act and the rules made thereunder" shall be substituted; 10 15

(c) in clause (b), for the word "violation", the word "contravention" shall be substituted;

(iii) in sub-section (3), for the word "violation", the word "contravention" shall be substituted; 20

(iv) sub-section (6) shall be omitted;

(v) for sub-section (7), the following sub-section shall be substituted, namely:-

"(7) The Government may authorize Special Officers to entertain representations or petitions regarding contravention of or non-adherence to the rights of a child. The Special Officer may refer the 25

petitioner to the police or may call for information from any person in Goa regarding such alleged contravention or non-adherence and may conduct inquiry into the representation or petition. The Special Officer shall submit his report on each violation, with recommendations and justifications for the same, to the Competent Authority through the Director." 5 10

(vi) for sub-section (9), the following sub-section shall be substituted, namely:-

"(9) Any person may give information as regards contravention of any provision of this Act or the rules made there-under to a Special Officer, Labour Inspector or to the Director or to a Police Officer-in-charge of a Police Station." 15

13. *Amendment of section 15.*- In section 15 of the principal Act,- 20

(i) in the title, for the words "Competent Authority", the words and figure "Competent Authority, Director and Special Officer" shall be substituted;

(ii) in sub-section (1),-

(a) for the words "Competent Authority", wherever they occur, the words and figures "Competent Authority or Director or Special Officer, as the case may be," shall be substituted; 25 30

(b) for the words "or otherwise", the words "or otherwise or in any other fit case" shall be substituted;

(c) in clause (a), for the word "reference", the words "representation or petition" shall be substituted;

(d) clause (c) shall be omitted;

(e) after clause (d), the following clause shall be inserted, namely :- 5

"(dd) may pass an order in the interest and welfare of the child including to place the child in a children's home, boarding school or other safe place;" 10

(iii) in sub-section (2), for the words "Competent Authority or any Special Officer", the words and figure "Competent Authority, Director or any Special Officer" shall be substituted and for the words "by the Competent Authority or by any Special Officer", the words "by the Competent Authority or by the Director or by any Special Officer" shall be substituted; 15

(iv) proviso to sub-section (3) shall be omitted; 20

(v) for sub-section (4), the following sub-section shall be substituted, namely :-

"(4) The Competent Authority or the Director or any Special Officer or any officer-in-charge of a police station may enter and inspect any premises, after obtaining a search warrant from the District Magistrate, for the purpose of enforcing any provision of this Act, including removal of a child from such premises: 25 30

Provided that all such entries shall be made by group of a minimum of four persons which shall include at least one woman:

Provided further that if such officer has reason to believe that obtaining a search warrant or authorization will afford an opportunity to the offender to conceal evidence or to escape, he may enter, inspect and rescue the victim from any premises at any time between sunset and sunrise, without such search warrant or authorization, after recording grounds of his belief in writing, which shall be forwarded to the Competent Authority and to the President of the Children's Court." 5 10 15

14. Amendment of section 16. - In section 16 of the principal Act,

(i) in the title, for the words "Competent Authority or Special Officer", the words "Competent Authority or Director or Special Officer or any officer in charge of a police station" shall be substituted; 20

(ii) for the words "Competent Authority or any Special Officer", the words "Competent Authority or Director or any Special Officer or any officer in charge of a police station" shall be substituted; 25

(iii) for the words and figure "simple imprisonment for a term which may extend to one month or with fine which may extend to five thousand rupees, or with both", the words "simple imprisonment for a term which may extend to three years or with fine 30

which may extend to fifty thousand rupees or with both" shall be substituted;

15. *Amendment of section 17.*- In section 17 of the principal Act,-

(i) in the title, for the words "Competent Authority's", the words "Competent Authority's, Director's and Special Officer's" shall be substituted;

(ii) for the words "the Competent Authority", wherever they occur, the words and figures "the Competent Authority or the Director or the Special Officer, as the case may be," shall be substituted.

16. *Substitution of section 18.*- For section 18 of the principal Act, the following section shall be substituted, namely :-

"18. Appeals. - An appeal against any decision of the Director or of any Special Officer shall lie to the Competent Authority and an appeal against any decision of the Competent Authority shall lie to the Chief Secretary."

17. *Substitution of section 20.*- For section 20 of the principal Act, the following section shall be substituted, namely :-

"20. Cognizance of offences .- No cognizance of any offence under this Act shall be taken except,-

(a) on a complaint made by the child victim or his or her parent (s), and in their absence, his or her guardians or close relatives, or

police or the Competent Authority or the Director or a Special Officer or a Labour Inspector or any authority or Officer authorized in this behalf by the Government; or

(b) on a report or charge-sheet made by the police."

18. *Substitution of section 21.*- For section 21 of the principal Act, the following shall be substituted, namely:-

"21. Compounding of offences.- (1) Any offence punishable with fine only under this Act may, either before or after the institution of the prosecution, be compounded by such officer or authorities and for such amount as the Government may, by notification in the Official Gazette, specify in this behalf.

(2) Where an offence is compounded under subsection (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender in respect of the offence so compounded and the offender, if in custody, shall be released forthwith."

19. *Amendment of sections 22 and 23.*- In sections 22 and 23 of the principal Act, for the word "violation", the word "contravention" shall be substituted.

20. *Insertion of new section 22A.*- After section 22 of the principal Act, the following new section shall be inserted, namely :-

"22A. Compulsion to appear as witness.- Every employee or officer of the Government,

Government Corporation, Government undertaking, etc. shall be duty bound to appear as a witness whenever called upon to do so by a police officer or a Special Officer or the Director or the Competent Authority in any proceeding under this Act. Any refusal or non-adherence to appear as witness shall be an offence punishable with imprisonment for a term which may extend to one month and a fine which may extend to Rs. 10,000/-".

21. *Amendment of section 24.* - In section 24 of the principal Act,-

(i) the existing provision shall be re-numbered as sub-section (1) thereof and in sub-section (1) as so re-numbered, for the word "Magistrate", wherever it occurs, the word "Judicial Magistrate" shall be substituted;

(ii) after sub-section (1), the following sub-sections shall be inserted, namely:-

"(2) The first remand under this Act shall be given by the Judicial Magistrate before whom the accused is produced. However, the second and subsequent remands of the accused can only be granted by the Children's Court.

(3) Only the Children's Court shall take cognizance of all offences under this Act which are punishable with imprisonment of either description and of any term. Offences under sections 3, 4, 5 and clause (c) of sub-section (5) of section 7 may be taken cognizance of and tried by the Competent Authority."

22. *Amendment of section 25.* - In section 25 of the principal Act, for the words "one year", the words "three years" and for the words "one thousand rupees", the words "fifty thousand rupees" shall be substituted.

23. *Substitution of section 26.* - For section 26 of the principal Act, the following section shall be substituted, namely:-

"26. *Delegation of powers.* - The Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act or any rule made thereunder may, in relation to such matter and subject to such conditions, if any, as may be specified in the notification, be exercisable also by such officer or authority subordinate to the Government as may be specified in the notification."

24. *Substitution of section 28.* - For section 28 of the principal Act, the following section shall be substituted, namely :-

"28. *Composition of the Children's Court.* - The Children's Court shall consist of a person who is or has been or is qualified to be a District Judge, who shall be its President:

Provided that the Government may also appoint any Sessions or Additional Sessions Judge as the President of the Children's Court, but no appointment under this section shall be made except after consultation with the High Court."

25. *Amendment of section 29* - In section 29 of the principal Act,—

(i) in sub-section (2); the words "and the Jury members" shall be omitted;

(ii) for sub-section (3), the following sub-section shall be substituted, namely:-

"(3) The Government shall frame rules regarding the detailed functioning and procedure of the Children's Court."

26. *Amendment of section 30*.- In section 30 of the principal Act, sub-section (2) shall be omitted.

27. *Amendment of section 32*.- In section 32 of the principal Act,-

(i) in the proviso to sub-section (1),-

(a) the clauses (a), (b) and (c) shall be omitted;

(b) in clause (1), for the words "shall lie on the accused", the words and figure "shall lie on the accused if the child was in his custody at the time of his arrest or at the time of committal of offence or at the time of rescue or removal of the child victim, as the case may be" shall be substituted;

(c) in clause (m), for the words "who is a victim of a crime", the words "who is a victim of a crime or a witness to a crime" shall be substituted and for the words "perpetrators of the crime", the words "perpetrators of the crime but the

Advocate for the accused shall be allowed to be present" shall be substituted;

(d) in clause (o), for the words and figures "to deposit 75% of the maximum fine leviable for that offence", the expression "to deposit, in cash, any amount as deemed fit by the Children's Court and his or her passport" shall be substituted;

(ii) in sub-section (2), in clause (k), for the word "testimony", the words and figures "testimony or statement, as the case may be," shall be substituted.

28. *Substitution of section 33*.- For section 33 of the principal Act, the following section shall be substituted, namely :-

"33. Offences to be cognizable and non-bailable.— Notwithstanding anything contained in the Code of Criminal Procedure, 1973 ( Act 2 of 1974 ), all offences punishable under this Act shall be cognizable and non-bailable; except those under sections 3, 4, 5 and clause (c) of sub-section (5) of section 7."

29. *Amendment of section 35*. - In section 35 of the principal Act, for the word "law", wherever it occurs, the word "State law" shall be substituted;

30. *Amendment of section 38*. - In sub-section (1) of section 38 of the principal Act, in the proviso, for the words "two years", the words "five years" shall be substituted.

31. *Insertion of new section 42.*- After section 41 of the principal Act, the following section shall be inserted, namely :-

"42. Power to issue directions.- The Government may, by general or special order, issue such directions as it may deem necessary in respect of matters not provided for in this Act and not inconsistent therewith." 5

## STATEMENT OF OBJECTS AND REASONS

The Goa Children's Act, 2003 (Act 18 of 2003), was enacted by the Legislative Assembly of Goa for the purpose of protecting, promoting and preserving the best interest of the children in Goa and to create a society that is proud to be child friendly. However, in the course of implementation of the provisions of the said Act, it has been noticed that there are some lacuna in the said Act, which are required to be rectified so that the same do not cause a hurdle in carrying out the purposes for which the said Act was enacted.

This Bill seeks to achieve the above objects.

## FINANCIAL MEMORANDUM

There are no additional financial implications on the State Exchequer due to the proposed amendment apart from those arising from the original legislation, viz. Goa Children's Act, 2003.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Proposed sub-section(6A) of section 13 of the Act empowers the Government to frame rules as regards the constitution, terms and conditions of service of members, procedure of meetings, etc., of the State Commission for Children. Proposed section 21 of the Act empowers the Government to specify, by notification in the Official Gazette, the officers or authorities and the amount, for the purposes of compounding of offences. Proposed section 26 of the Act, empowers the Government



to, by notification, direct that any power exercisable by it under the Act or any rule made thereunder may, in relation to such matter and subject to such conditions, if any, as may be specified in the notification, be exercisable also by such officers or authority subordinate to the Government, as may be specified in the notification. Proposed section 28 empowers the Government to appoint the President for the Children's Court. Proposed section 42 empowers the Government to issue directions in respect of matters not provided for in the Act.

These delegations are of normal character.

Porvorim-Goa  
23rd August, 2005

SUBHASH SHIRODKAR  
Minister for Women and  
Child Development.

Assembly Hall  
Porvorim-Goa  
23rd August, 2005.

S. A. NARVEKAR,  
Secretary Legislature.

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**Extract of The Goa Children's Act, 2003**

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

- (a) "authorised officers" means officers that are appointed as such under the provisions of this Act;
- (b) "A care giver" is a person who is responsible for looking after the well being of the child. This person may be a staff member of any residential facility for children, an employee of an educational institution, a nursery, crèche, a clinic, a hospital, a sports club, a recreational facility or an employee of any facility which provides services to children;
- (c) "A place of care" of children are all the places mentioned in clause (b) and any other place which is a place for the care and custody of children;
- (d) "Child" means any person who has not completed eighteen years of age unless any other law in force specifies otherwise or unless otherwise indicated in specific provisions in this Act;
- (e) "Child in case of child labour", shall be a person who has not completed his fourteenth year of age;
- (f) "Children's Home" means an institution, whether called an orphanage, home or by any other name and where one or more children reside, either fully or partly;

- (g) "Chief Secretary" means the Chief Secretary to the Government of Goa;
- (h) "Children's Court" means the Court constituted under section 27;
- (i) "Competent authority" means the Secretary to the Government in charge of the Department of Women and Child Development;
- (j) "Child labour" means all forms of labour involving children below the age of fourteen;
- (k) "Certificate" means the certificate of registration granted under section 6;
- (l) "Child in need" means all children including those whose rights are being violated or who need special attention and/or protection and shall include, for the purposes of this Act :-
  - (i) Child in need of care and protection and juvenile in conflict with law as defined in the Juvenile Justice (Care and Protection of Children) Act, 2000 ( 56 of 2000 ).
  - (ii) Child labour;
  - (iii) Street Children;
  - (iv) A child who has been dedicated;
  - (v) A foetus;
  - (vi) An adopted child;
  - (vii) A child in a Home, registered or otherwise;
  - (viii) A child in foster-care;
  - (ix) Child in situation of abuse;
  - (x) A differently abled child;

- (xi) Children of prisoners;
- (xii) Children of commercial sex workers;
- (xiii) A child who is vulnerable.
- (xiv) A child whose parents are separated or divorced ;
- (xv) A child who has an illness or disease or ailment which has a social stigma attached to it eg. HIV, Leprosy.
- (m) "Child abuse" refers to the maltreatment, whether habitual or not, of the child which includes any of the following:-
  - (i) psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;
  - (ii) any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;
  - (iii) unreasonable deprivation of his basic needs for survival such as food and shelter; or failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death;
- (n) "Dedication" means the performance of any act or ceremony by whatever name called, by which a girl child is dedicated to the service of any deity, idol, object of worship, temple, other religious institutions or places of worship;
- (o) "Director" means the Director of the Directorate of Women and Child Development;
- (p) "Fund" means the State Children's Fund constituted under section 14;

- (q) "guardian" in relation to a child means his natural guardian or any other person who is legally authorised for the purpose of having the actual charge or control over the child;
- (r) "High risk" areas means those areas in which children are vulnerable to exploitation as notified by the Government in the Official Gazette;
- (s) "Offence" means an act or omission made punishable under any law for the time being in force;
- (t) "prescribed medical authority" means that authority whose certificate on the age of a child shall be conclusive evidence as to the age of the child to whom it relates;
- (u) "prescribed" means prescribed by rules under this Act;
- (v) "registered children's home" means a children's home which has been registered under this Act;
- (w) "Secretary" means the Secretary to the Government in charge of the Department of Women and Child Development;
- (x) "Sexual Offence" covers all forms of sexual abuse which constitute offences under this Act;
- (y) 'Sexual offences' for the purposes of awarding appropriate punitive action means and includes,—
- (i) "Grave Sexual Assault" which covers different types of intercourse; vaginal, oral, anal; use of objects, forcing minors to have sex with each other, deliberately causing injury to the sexual organs, making children pose for pornographic photos or films;

- (ii) Sexual Assault which covers sexual touching with the use of any body part or object, voyeurism, exhibitionism, showing pornographic pictures or films to minors, making children watch others engaged in sexual activity, issuing of threats to sexually abuse a minor, verbally abusing a minor using vulgar and obscene language;
- (iii) Incest which is the commission of a sexual offence by an adult on a child who is a relative or is related by ties of adoption.
- (z) " child trafficking " means the pro-curement, recruitment, transportation, transfer, harbouring or receipt of persons, legally or illegally, within or across borders, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of giving or receiving payments or benefits to achieve the consent of a person having control over another person, for monetary gain or otherwise.
- (za) ' Differently Abled Children' includes children with disabilities, learning difficulties and associated disorders like Autism.

3. *Rights of the Child.*— (1) The State shall ensure that children and the young are protected against exploitation and that they are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity.

(2) Childhood and youth shall be protected against exploitation and against moral and material abandonment.

(3) The State shall promote with special care the educational interests of children from the weaker sections of society including the Scheduled Castes and Scheduled Tribes.

(4) The State shall regard the raising of the level of nutrition and the standard of living as well as the improvement of public health as among its primary duties.

(5) The provisions of the Convention of the Rights of the Child as acceded to by the Government of India are hereby declared to be part of the law of the land and it shall be the duty and responsibility of the State Government to respect and ensure that the Rights of the Child as declared and enumerated in the Convention, are protected and guaranteed to every child within the territory of Goa.

(6) For the proper implementation of the Rights of the Child included in the Convention and to prevent any discrimination, exploitation or abuse of the child on any ground, government shall take adequate measures;

(7) All the authorities, whether public or private, social welfare institutions, or legislative bodies shall, while undertaking any action concerning children, take the best interest of the child as the primary consideration.

(8) The provisions of the Convention on the Rights of the Child are taken as rights of the child in Goa and are legally enforceable, except where they pertain to the central government or to any other authority which is outside the purview of the state government provided that nothing in this section shall restrain the government from specifying higher standards for children.

4. *Education.*—(1) That State shall endeavour to promote holistic education. Universal application of joyful learning processes should be ensured.

(2) The State accepts the concept of zero rejection for children. No child shall therefore be denied admission to any school on any ground including that the name of the father is not available; the absence of relevant documentation; the child is suffering from HIV or AIDS; belongs to marginalised communities; suffers from any illness or that the child is differently abled.

(3) All schools shall have a trained counsellor for providing counselling facilities to children. In mixed schools, there shall be one male and one female counsellor. The State shall provide assistance to all schools to achieve this.

(4) All schools shall include child rights and gender justice in their curriculum and at least 48 hours of instruction every year shall be exclusively devoted to teaching and discussing all matters related to these. The duties of the child should also be discussed during these sessions. This will apply to all students from Standard V and above.

(5) The school curriculum shall also include health awareness including malaria, AIDS, personal hygiene, nutrition, family life education, communicable diseases, alcoholism, substance abuse, etc. irrespective of the stream of education. This will apply to all students from Standard V and above.

(6) Health applied education towards holistic health shall be compulsorily included in all schools with, among other things, yoga, prayayama and meditation, in the physical education curriculum. This will apply to all students.

(7) All schools shall have elected Student Councils or any other mechanism such as School Parliament to foster participatory democratic processes. This will apply to all students from Standard VIII and above.

(8) The Government shall work towards the goal of universal elementary education and eradication of child illiteracy within a period of three years from the commencement of this Act. The State shall prepare a comprehensive Plan of Action for achieving this which may include provision for alternate schooling including non-formal education, vocational and livelihood- skills training, and shall create the necessary infrastructure and an enabling environment in order to realise the goal.

(9) The State shall lay down guidelines for early childhood care and education and for all pre-school educational institutions for children, including registration and regulation of standards.

(10) Every school shall have safe drinking water, toilet facilities and adequate physical infrastructure.

(11) Every school shall be equipped with appropriate and adequate teaching aids.

(12) Corporal punishment is banned in all schools.

(13) The State shall, in the manner prescribed, provide support to all children with disabilities and challenges.

(14) A participatory evaluation and learning process rather than the exam system based on learning by rote and ensuring that all children have attained minimum levels of learning should be evolved.

5. *Health & Nutrition*. — (1) Mandatory immunisation with MMR vaccine in children, Rubella vaccine in adolescent in girls and Hepatitis B vaccine in infancy should be introduced as part of the on going Immunisation programme of the State.

(2) The State shall endeavour to make possible Maternity leave of 6 months in all sectors of employment including for adoptive mothers and single parents.

(3) Creches and day care centres for infants and children of working mothers in all sectors of employment should be set up at the work site or close to the same, in cities and villages, to the maximum extent of available resources.

(4) The State should ensure the creation and maintenance of comprehensive Health cards inclusive of growth and developmental, immunisation and other records for all infants and children including those in crèches, homes and schools, and migrant children.

(5) The State shall seek to provide for palliative and terminal care for infants and children with life threatening and terminal illnesses like cancer and HIV/AIDS.

(6) That State shall take effective steps so that parents do not transmit the HIV virus to their child.

(7) It shall be the duty of all individuals, organizations, institutions etc., to keep their immediate environment clean and free of garbage, faeces, and other items harmful to children. Non-observance of the provisions of this sub-section will carry a penalty which may range from Rs. 100/- to Rs. 1000/-.

(8) The State shall strive to reach higher standards for children by protecting them from malaria and from all avoidable illness and diseases.

(9) Special provisions shall be made for the treatment, education and integration of all children with leprosy.

(10) Special attention shall be given to issues of substance, drug and alcohol abuse in children.

6. *Children's Homes*. — (1) All Children's Homes must be registered under this Act. Such Children's Homes as have already been set up prior to the commencement of this Act shall apply and must register themselves with the Director in the prescribed form within three months from the commencement of this Act.

(2) The provisions of this section shall not apply to:-

- (a) any hostel, etc., directly regulated by a recognised educational institution;
- (b) any school, home, or any other institution for children which is recognized by any other Act in force in the State;

(3) The State shall set up District Inspection Teams for the regulation, supervision and control of all Children's Homes in the State.

(4) The members of the District Inspection Team shall be appointed by the Secretary;

(5) The term of Office of a Member of the District Inspection Team shall be two years.

(6) A Member may at any time resign by giving notice in writing to the Secretary. The vacancy so created shall be filled in by the Secretary within two months.

(7) If, for any reason, the State Government considers it necessary to remove a Member, then it shall do so after recording its reasons in writing.

(8) On and from the commencement of this Act, no person shall maintain or conduct any Home except under, and in accordance with, the conditions of a certificate of registration granted under this Act.

(9) Every person desiring to maintain or run a home shall make an application for a certificate of registration to the Director in such form and containing such particulars as may be prescribed.

(10) Provided that a person maintaining or conducting a home at the commencement of this Act shall be allowed a period of three months from such commencement to apply for such certificate get themselves registered under this Act.

(11) The District Inspection Team, after scrutiny of the application form and after checking all other requirements, may grant or refuse an application for registration to run the home stating the reasons and with the prior approval of the Secretary. Criteria for granting registration and provisions for revoking of a registration shall be as prescribed.

(12) The Chief Functionary of the Children's Home can be authorized to surrender the registration by the Governing Body or Trust through a resolution passed, and can give an application to the District Inspection Team

stating the desire to surrender the registration. However, the application has to be made six months in advance. The District Inspection Team has to arrange for another management to take over or entrust the Home/Institution to the State.

(13) Functions of the District Inspection Team shall include:

- (a) Supervision and control generally of all matters relating to the management of homes in accordance with the provisions of this Act.
- (b) Checking the application of those parties who have applied for a registration and taking a decision before giving them permission to start an institution, after scrutinizing all the papers.

(14) After a child completes 18 years, a report has to be prepared and submitted to the District Inspection Team, indicating the progress and mental state of the child and provisions for further support.

(15) In the event of death of an inmate, the Home shall submit a comprehensive report to the District Inspection Team.

7. *Child Labour.* - (1) Child Labour shall be prohibited in the State of Goa for all children who have not completed their 14<sup>th</sup> year of age;

(2) For the purpose of this Act, Child labour shall include :-

- (a) all forms of hazardous employment as defined in the Child Labour (Prohibition and Regulation) Act, 1986;
- (b) all forms of non-hazardous employment as defined in the Child Labour (Prohibition and Regulation) Act, 1986 ( Act 61 of 1986) and Goa, Daman and Diu Shops and Establishments Act,

1973 ( Act No. 13 of 1974) and Goa, Daman and Diu Shops and Establishments Rules, 1975;

(c) all forms of domestic employment, meaning employment in households, doing work of a domestic nature, either temporarily, permanently, piece-rated or part time;

(d) all forms of self employment meaning labour such as rag picking, plastic bag selling, nut selling, running errands, carrying load of shoppers etc.

(3). All Children who are identified as child labourers shall be immediately released therein and placed in a registered Children's Home or a State run institution or any other place identified under the Plan of Action.

(4) The State shall ensure that a satisfactory Rehabilitation Programme is in position before taking action on this.

(5) The punishment for violation of the provisions of this Section shall be as under:-

(a) for all forms of hazardous employment, a fine of Rs. 50,000/- ( Rupees fifty thousand only ) with simple imprisonment of one year for the employer;

(b) for all forms of non-hazardous employment, a fine of Rs. 25,000/- ( Rupees twenty five thousand only ) and simple imprisonment of three months for the employer;

(c) for all forms of domestic labour, a fine of Rs. 50,000/- (Rupees fifty thousand only ) for the person employing the domestic child labour;

(6) The State shall formulate a comprehensive Plan of Action to eradicate all forms of Child Labour within a period of two years from the commencement of this Act. The Plan shall include schemes for the identification, release and rehabilitation of the child labourers, their

education, integration into society and imparting skills and vocational training to them and for the prevention of child labour.

(7) The Plan of Action shall be implemented phase-wise over this period of 2 years and the Government shall specify the dates from which each of the penal action in sub-section(5) above shall be effective and full publicity to this shall be given by the Director.

(8) There shall be a Child Labour Vigilance Officer in each Taluka to monitor the implementation of the Plan of Action to eliminate child labour, and to carry out such other duties as the Government may specify. The Officer shall be assisted by a Task Force of such other persons as may be prescribed.

(9) Trafficking in Children for the purposes of employment shall be prohibited under this Act. Any person who employs, aids or abets in the trafficking, including by employment of such trafficked children shall be penalised with a fine of Rs. 50,000/- and/or imprisonment of either description of not less than three months.

8. Child Abuse. - (1) All children should be assured of a safe environment. A safe environment is an environment in which he/she will not be abused in any way and his/her development will be nurtured.

(2). Whosoever commits any sexual assault as defined under this Act, shall be punished with imprisonment of either description for a term that may extend to three years and shall also be liable to fine of Rs. 1,00,000/-. Whoever commits any Grave Sexual Assault shall be punished with imprisonment of either description for a term that shall not be less than seven years but which may extend to ten years and shall also be liable to a fine of Rs. 2,00,000. Whoever commits incest shall be punished with imprisonment of either description for a term of one year plus fine of Rs. 1,00,000/- Testimony of the child victim shall be treated on par with the testimony of a child rape

victim under Section 375 of the IPC, as laid down by the Supreme Court of India.

(3) When a sexual assault or a grave sexual assault is committed, the need to ascertain whether a child needs to be medically examined or not shall be decided by the investigating authorities in consultation with a professional social worker/counsellor.

(4) Onus on person – It has been found that adults “keep” children with them for a number of ostensible reasons and in many cases this is an arrangement for the sexual abuse of the child. All persons, who keep with them or reside wholly, partly or in any form with one or more child/children who is not related to them by blood, shall inform this fact immediately to the Director as per the prescribed form. It will be the responsibility of the person to give this information either in person and obtain a receipt or to send the information by Registered Post A/D.

(5) Provided that a period of 3 months from the commencement of this Act will be allowed to inform the Director.

(6) The Director shall have the power to authorize the District Inspection Team to inspect and check the child/children in each case under sub-section (4) and to submit a report with recommendations, if he considers it necessary.

(7) In cases where it is found necessary, action will be taken to remove the child and place him in a registered Children's Home or a State run institution.

(8) Provided further that nothing in this section shall apply to cases where reasonability exists such as when the child/children are staying with their friends or visiting them on holidays for short period, or students are in a group, or the child is legally adopted etc.

(9) Any refusal to inform the Director beyond the period of 3 months shall make the person(s) liable to a fine

of Rs. 1,00,000/- and also simple imprisonment for one year if it is found that the provisions of this section have been violated. This will be in addition to any other punishment that may be enforced.

(10) *Onus on Establishment* :- (a). All Hotels, and other establishments which provide boarding or lodging or any similar facility shall ensure that children are safe and not at risk of child abuse within their premises including all adjoining beaches, parks etc. if they have access from such establishment.

(b) No child shall be allowed to enter any room of any hotel or establishment which provides boarding or lodging or any similar facility unless the child is registered as staying in that room with family, relatives or person related by blood:

Provided that nothing in this Sub-Section will be deemed to apply to reasonable areas such as group of school children accompanied by a teacher (s), children who may be staying with their friends and their families, etc.

(c) All Hotels and other establishments which provide boarding or lodging or any similar facility shall ensure that no child has access to any internet facilities which are not fitted with filters and to any objectionable material including through film or videos, disc-players, cable or any other medium provided by that establishment.

(d) The Owner and the Manager of the hotel or establishment shall be held solely responsible for any violation of this section.

(11) Offence in case of tourism related child sexual abuse, shall be non-bailable offence as defined under Section 2 (a) of the Code of Criminal Procedure, 1973.

(12) Any form of soliciting or publicizing or making children available to any adult or even other children for purposes of commercial exploitation is prohibited. This



includes hosting websites, taking suggestive or obscene photographs, providing materials, soliciting customers, guiding tourists and other clients, appointing touts, using agents, or any other form which may lead to abuse of a child.

(13) Whosoever commits the offence of sale of children or aids or abets the sale of a child or the body part/organ of a child, or where there is sufficient reason to believe is keeping a child for the purpose of using or selling any body part of the child including its blood, shall be punished by imprisonment of either description for a period of not less than one year extendable to three years and a fine of not less than Rs. 50,000/-.

(14) It shall be mandatory for a developer of photographs or films, if he finds that the photos/films developed by him contain sexual/obscene depictions of children, to report this to a police officer not below the rank of a Deputy Superintendent of Police to be specified by the Government. Failure to report the discovery of such photos/films shall attract a penalty of an imprisonment of either description which shall not be less than one year but which may extend to three years and/or a minimum penalty of Rs. 50,000/-.

(15) Airport authorities, border police, railway police, traffic police shall report any suspected case of trafficking of children or an adult travelling with a child under suspicious circumstances. Such adults may be detained for questioning at the nearest police station.

(16) Sale of children under the garb of adoption or otherwise shall be prohibited. For the purposes of this Act, sale of children takes place,-

- (a) when there is trading, i.e. selling children;
- (b) when a pregnant mother executes an affidavit of consent for adoption for a consideration;
- (c) when a person, agency, establishment or child-caring institution recruits women or couples to bear children for the purposes of child trafficking;

(d) when a doctor, hospital or clinic official or employee, nurse, midwife, local civil registrar or any other person creates birth records for the purpose of child trafficking; or

(e) when a person engages in the act of finding children among low-income families, hospitals, clinics, nurseries, day-care centres, or other child-caring institutions, who can be offered for the purposes of child trafficking;

(17) Sale of a body part/organ of a child is prohibited.

(18) In all matters, the consent or willingness or otherwise of the child to be party to sexual abuse will not be a consideration.

(19) The State shall provide for the setting up of one or more Victim Assistance Units which shall facilitate the child to deal with the trauma of abuse and assist the child in processes involved with appearing as a witness before any Court or authority handling a case of abuse of a child.

(20) The State shall carry out child sensitisation programmes for police officers at all levels which shall include an orientation on child rights laws. Child rights laws and methods of handling child abuse related cases shall also be specifically included in the Police Training School curriculum.

(21) The State shall undertake child sensitization training for those involved in healing and rehabilitation and other assistance programmes for children who are victims and promote programmes of information support and training for such children.

(22) The Tourism Department of the Government shall collaborate with the Travel and Tourism Trade of Goa to evolve a Child Friendly Tourism Code for Goa;

(23) The Government shall have the power to appoint persons to go undercover and pose as prospective clients

for child prostitutes, as employers of child labour etc. and nothing done in the course of such operations shall be construed as a violation of the provisions of this Act.

9. Child Sexual Trafficking.- (1) Child prostitution shall be prohibited.

(2) It shall be the duty of the State to remove all child prostitutes from their existing place of exploitation and to ensure that they are rehabilitated and integrated into society.

(3) The State shall prepare a comprehensive Plan of Action for this purpose which shall include providing education and livelihood skills to such children and the prevention of child prostitution.

(4) Any person who exploits a child for commercial sexual exploitation shall be liable to pay a penalty which may extend to Rs. 1,00,000/- and simple imprisonment of one year. This will be in addition to any penalty or punishment that may be enforced under any other Act in force.

(5) All steps shall be taken at the protective home to restrict or even deny the visiting rights of any one who may be considered to be a perpetrator, including the parent of the child.

(6) Notwithstanding any custom or law to the contrary, the dedication of a minor girl child as a devadasi, whether before or after the commencement of this Act, and whether she has consented to such dedication or not, is hereby declared unlawful, void, and to be of no effect and any minor girl child so dedicated shall not thereby be deemed to have become incapable of entering into a valid marriage.

(7) Any person who, after the commencement of this Act, abets the performance of any ceremony or any act for dedicating a minor girl child as a devadasi or and ceremony or act connected therewith shall, on conviction,

be punished with imprisonment of either description for a term which may extend to 3 years and with fine which may extend to two thousand rupees:

Provided that where the person referred to in this Section is the parent or guardian or a relative of the minor girl child so dedicated, he shall be punishable with imprisonment of either description which may extend to 5 years but which shall not be less than 2 years and with fine which may extend to five thousand rupees but which shall not be less than two thousand rupees.

10. Children in Difficult Circumstances.- (1) The State shall endeavour, within a period of two years from the commencement of this Act, to withdraw all street children from life on the streets;

(2) All Street Children shall be withdrawn and placed in a Registered Children's Home or a State run institute or any other place provided that a satisfactory rehabilitation programme is in place before this is started.

(3) The Government shall formulate a Plan of Action for the education, rehabilitation, education and integration into society of these children.

(4) The State Government shall establish and maintain, either by itself or in association with the voluntary organizations, Children Shelters in every taluka for the reception of children in difficult circumstances, their rescue and support and for coordinating subsequently their care, treatment, education, training, development and rehabilitation.

13. Other Provisions.- (1) The Government shall create the State Children's Fund for raising and coordinating resources for achieving the purposes of this Act.

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

(3) All fines imposed under this Act shall be credited to the Fund.

(4) The fund created under sub-section (1) above shall be administered in such manner and for such purposes as may be prescribed.

(5) There shall be a State Level Authority which may be called the State Commission for Children to promote and maintain the best interests of all the children in Goa and which will carry out such functions as may be prescribed. The functions may include the following:-

- (a) The creation of a Child Friendly Society ;
- (b) Preparing and implementing a systematic plan for spreading awareness amongst different groups, mobilization action and dialogue within civil society on Child Rights;
- (c) Develop a capacity development strategy for the progressive implementation of Child Rights covering amongst others the training of teachers, police, judiciary etc.;
- (d) Review all State Legislations, Rules, Orders, Notifications, Schemes and all other provisions pertaining to children and recommend necessary amendments therein, to ensure that the Rights of the Child are protected ;
- (e) To monitor the implementation of the Convention on the Rights of the Child ;
- (f) To ensure that children become fit citizens and that all children are given the opportunity and encouraged to learn and develop thinking and participatory skills as well as skills of developing and articulating ideas;
- (g) Set up a mechanism to hear complaints from child victims;

(h) Establish norms for good parenting and evolve a strategy for achieving this.

(i) Undertake and promote research in the field of Child Rights;

(j) Prepare disaggregated data on all children in Goa in terms of category, age, sex, etc.

(k) Examine the situation regarding children particularly the status of the girl child, assess the reasons for discrimination and recommend strategies for their removal;

(6) The State Level Authority shall be constituted within a period of one year from the commencement of this Act.

(7) For finalizing all the Plans of Action, Government shall set up separate Steering Committees comprising persons with experience in that particular area, social workers, Government officers and others. Officers of the Central Government should participate in the deliberations leading up to the Plans, and Government shall carry out visits to other States to see best practices specially in terms of rehabilitation, education and integration of children. The Steering Committees shall oversee the implementation of the Plans of Action.

(8) There shall be a Village Child Committee which shall be constituted by each village panchayat. The committee shall comprise not less than five persons of whom one shall be a child above the age of 15 years and the other members shall comprise representatives from the village panchayat and social workers of whom at least 2 should be women. The Village Child Committee shall ensure the best interests of the child and will pay particular attention to providing recreational and play facilities for children. The Village Committees will also interact with the departments of the State Government in the implementation of the Plans of Action for elimination of child illiteracy, children on the streets, child

prostitution and child labour, and will carry out such other functions as may be laid out from time to time.

(9) There shall be 4 or more such Child Committees in each Municipal/Corporation areas.

(10) The Government shall institute a system for recognizing and recording appreciation of outstanding work done by individuals, organizations or departments in achieving the best Interests of the Child under this Act.

(11) The Government shall carry out an awareness campaign after the commencement of this Act to appraise the public about the provisions and to solicit their cooperation. Sustained media advocacy will be taken up with NGOs, Women's Groups and others to create public awareness on the issues involved. Doordarshan, the Print Media, Radio, Private Television Channels and cable networks and all other forms of media will be used.

(12) Appropriate guidelines for the protection of children from information and material injurious to their well being as well as harmful exposure in the mass media shall be prepared and implemented. For this purpose, the Government, with the assistance of the State Information Department, shall set up a State Council comprising of persons from the media, and others, as may be prescribed.

(13) All persons appointed by the Government under this Act as Members of District Inspection Teams, Task Forces, Authorized Officers and others shall be persons with the highest credentials and integrity. Their proposed appointment and details shall be printed in the Official Gazette wherever they are non-Government staff and the members of the public shall be given two week's time to file any complaint against any proposed appointment. The Government shall consider all complaints received before reaching a final decision and the appointments made will be notified in the Official Gazette.

(14) The Police Department shall formulate an exclusive Child Code including issues of Child Friendly

Police Stations, interaction and behavior with children, mandatory sensitization programmes, etc.

(15) The Government shall constitute a Special Advisory Group to suggest ways to protect children from the harmful influences of the internet. The Special Advisory Group shall include, amongst others, experts in the field and members of the police.

(16) No child below the age of 14 shall be allowed unaccompanied inside any cyber café or any other establishment which provides any computer services to the general public against a cost.

(17) All establishments providing training to children through computers shall ensure that child friendly safeguards are installed and that no child below the age of fourteen has access to internet facilities other than in the presence of an adult from that establishment.

(18) The owners of such establishments under sub-sections 16 and 17 will be held responsible in case any child is accessing material or sites unsuitable for children.

(19) All such establishments under sub-sections 16 and 17 shall make their premises freely available to the Special Officers for inspection at any time.

(20) The use of children in the illicit procurement, trafficking and sale of narcotic, psychotropic and alcoholic substances is prohibited and anyone found guilty of transgression shall be severely punished.

(21) Anyone inducing a child to gamble or to assist in the gambling trade shall be liable to a punishment of imprisonment of either description for a period of not less than one year and a fine of not less than rupees fifty thousand.

(22) The State shall make special provision for the children of prisoners and commercial sex workers.

(23) The Competent Authority shall have the power to direct any registered Children's Home to accept any child/children in distress provided that the said Home has the facilities for taking care of the extra child/children.

(24) The decision of the Competent Authority as to who is a " Child" shall be final and binding.

14. *Violation and Penalties* .- (1) The following shall be deemed to be violations of the Rights of the Child:-

(a) non-adherence to or violation of any of the provisions of this Act including those in Section 3.

(b) If the Competent Authority is satisfied, after considering the facts and for reasons to be recorded in writing, that any act of omission or commission constitutes a non-adherence to or violation of any of the provisions of this Act including those in Section 3.

(2) There shall be a Competent Authority which for the purpose of this Act shall be the Secretary to the Government in charge of the Department of Women and Child Development.

(3) The Competent Authority shall have the power to impose penalties for any violation ranging from Rs. 100/- to Rs. 50,000/- on every occasion.

(4) If such fine is imposed on any Government servant for violation of the rights of a child, the fine so imposed shall be paid by the defaulting employee or recovered from his salary or wages.

(5) The decision of the Competent Authority as to whether an action or inaction constitutes a violation of the rights of the child shall be final and binding.

(6) The Competent Authority may, by special order or notification, entrust any or all of its powers and functions

on such officers of the Government who shall be designated as Special Officers under the Act.

(7) The Government may notify Authorised Officers who will have the power to entertain complaints regarding violations of the rights of a child. The Authorised Officers may call for information from any person in Goa regarding such violations. Authorised Officers shall submit their report on each violation, with recommendations and justifications for the same, to the Competent Authority.

(8) The Competent Authority may take action under the provisions of this Act in any case of a child.

(9) Information regarding violation – Any person may give information of a violation to an Authorised Officer, to the Director, to the Competent Authority or a Special Officer.

15. *Powers of the Competent Authority*.- (1) If the Competent Authority is satisfied, whether upon information received or otherwise, of the violation of the rights of a child, he shall issue a notice, requiring the person or persons who the Competent Authority deems to be responsible for the violation and/or if that person or persons cannot be found then the employer, superior officer, relatives or any other person or persons who the Competent Authority is satisfied as to be responsible for the violation, to appear before him and to show cause why action should not be taken against him and take one or more of the following steps, within a period as may be fixed in the notice, and not exceeding sixty days in any case:-

- (a) to dismiss the reference;
- (b) direct the person or persons to take such steps as may be necessary in the best interests of the child;
- (c) to levy a penalty (fine);
- (d) refer the matter to any other authority including the Police;

- (e) any other action the Competent Authority may deem fit and necessary including calling the person(s) for a personal hearing and directing that a child be removed:

Provided that the Competent Authority, for reasons to be recorded in writing, may extend the period specified in such notice.

(2) The Officer-in-charge of the Police Station of the area concerned where the violation reportedly took place shall be duty bound and responsible, when called upon by the Competent Authority or any Special Officer to provide all possible assistance including removing a child. The officer-in-charge of the police station, shall be answerable and responsible for non-compliance of the requisition made by the Competent Authority or by any Special Officer.

(3) The failure to comply with the directions contained in the notice under sub-section (1) shall be cognizable offence punishable with simple imprisonment for a term which may extend to 30 days or with fine which may extend to Rs. 5000/-, or with both:

Provided that this failure may be compounded by the Competent Authority, if the person agrees to pay a fine of Rs. 5,000/- in the first instance and Rs. 10,000/- in the second instance only. Provided further that this will not prejudice proceedings as per sub-section (1) of this Section.

(4) The Competent Authority or any Special Officer may enter and inspect any premises for the purpose of enforcing any of the provisions contained in this Act including removal of a child from such premises.

Provided that -

- (a) no such entry shall normally be made between sunset and sunrise except when the circumstances so warrant e.g. rescue of a child prostitute who has to work during night hours;

- (b) all such entries shall be made by a group of a minimum of 4 persons to be prescribed, which shall include at least two women;

16. *Penalty for preventing entry of the Competent Authority or Special Officer.*- Every person who prevents the Competent Authority or any Special Officer from exercising his lawful power of entering thereon or there into, shall be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to five thousand rupees, or with both.

17. *Competent Authority's powers in case of default.*- If the person on whom a notice is served under sub-section (1) of Section 15 refuses to take necessary action as specified in such notice within the time specified therein, the Competent Authority may himself take such measures or adopt such treatment and recover the cost of doing so from such person as the Competent Authority may decide including the employer or relative of the person, in the form of salary or wages, property tax or any other tax.

18. *Appeal against the decision of Competent Authority.*- An appeal against any decision of the Competent Authority shall lie to the Chief Secretary.

20. *Cognizance of offences against Act.* - No person shall be tried for any offence against the provisions of this Act, or any rule, made there under, unless complaint is made by the Police, or the Competent Authority or a Special Officer or by a person expressly authorized in this behalf by the Government :

21. *Powers to compound offences.*- The Competent Authority may compound any violation against this Act or the rules made there under which may, by notification in the Official Gazettee be declared compoundable.

22. *Power to police officers to arrest offenders against Act, etc.*- Any police officer who sees a person committing a violation against any of the provisions of this Act or of any rules made there under, may arrest such person.

23. *Powers of the Special Officer to arrest offender against Act, etc.* - Any Special Officer who sees a person committing a violation against any of the provisions of this Act may arrest such person. Any person so arrested shall be handed over to the officer-in-charge of the nearest police station as expeditiously as possible.

24. *Procedure after arrest.* - Any person arrested for an offence under this Act shall be informed, as soon as may be, of the grounds for such arrest and shall be produced before the nearest Magistrate within a period of twenty four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate and no such person shall be detained in custody beyond the said period without the authority of a Magistrate.

25. *Punishment for malicious abuse of powers.* - Any person who maliciously abuses any powers conferred on him by, or under this Act shall be punished with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

26. *Delegation of powers by Government and Competent authority.* - The Government or the competent authority, as the case may be, may, by notification and subject to any restrictions, limitation and conditions specified therein, authorize any person to exercise any one or more of the powers vested in them by this Act and may in like manner withdraw such authority:

Provided that nothing contained in this section shall apply to any powers of the Government to make rules under this Act.

28. *Composition of the Children's Court.* - The Children's Court shall consist of -

- (a) a person who is or has been or is qualified to be a District Judge, who shall be its President;

Provided that no appointment under this section shall be made except after consultation with the High Court; and

- (c) a Jury of at least 3 persons.

29. *Term of Office.* - (1) The President of the Children's Court shall hold office for a term of five years or upto the age of 65 years, whichever is earlier, and shall not be eligible for reappointment: Provided that he may resign his office in writing under his hand-addressed to the State Government and on such resignation being accepted, his office shall become vacant and may be filled by the appointment of a person possessing the same qualifications.

(2) The salary or honorarium and other allowances payable to and the other terms and conditions of service of the President and the Jury members of the Children's Court shall be as may be prescribed.

(3) The Government shall frame rules regarding the detailed functioning and procedure of the Children's Court, the qualifications and terms of office and other conditions regarding the Jury members, the procedures governing trial by jury and all other related matters.

30. *Jurisdiction of the Children's Court.* - (1) Subject to the provisions of this Act, the Children's Court shall have jurisdiction to try all offences against children whether such offence is specified under this Act or not;

(2) The quorum for the proceedings of the Children's Court shall be the President and one Jury Member;

(3) The powers of the Competent Authority and the Special Officers under this Act shall not fall within the jurisdiction of the Children's Court.

32. *Procedure of the Children's Court.* - (1) The Children's Court shall follow such procedure as may be prescribed:

Provided that the procedure so prescribed shall be child friendly and shall be deemed to include the following .-

- (a) Age of Innocence : A child is presumed to be innocent of any malafide or criminal intent upto the age of 7 years in all cases and upto 12 years in cases wherein he is unable to understand the consequences of his action on account of immaturity of understanding.
- (b) Procedural Protection of Innocence: Procedural safe-guards shall be guaranteed to protect the presumption of innocence;
- (c) Provision of Legal Aid : to protect the child's right to and presumption of innocence, provisions shall be made, when needed, for free legal aid;
- (c) Avoidance of harm : At all stages, from the initial contact till disposition, extreme care shall be taken to avoid any harm to the sensitivity of the child.
- (d) Principle of Best interest. : This principle seeks to ensure physical, emotional, intellectual, social and moral development of the child, so as to make him a useful and good citizen by ameliorating the impediments to healthy development.
- (e) Principle of non-stigmatizing semantics, decisions and actions. Non-stigmatizing semantics must be strictly adhered to, and the use of adversarial or accusatory words, such as, arrest, remand, accused, charge sheet, trial, prosecution, warrant, summons, conviction, inmate, delinquent, neglected, custody, etc., is prohibited in the processes pertaining to the child under this Act.
- (f) Principles of non-waiver of rights: No waiver of rights of the child, whether by himself or the competent authority or anyone acting or claiming to act on behalf of the child is either

permissible or valid. Non-exercise of a fundamental right does not amount to waiver.

- (h) Principle of equality:-Equality of access, equality of opportunity, equality under the said Act, is guaranteed to the child; and as such there shall be no discrimination on the basis of age, sex, place of birth, disability, race, ethnicity, status, caste, cultural practices, work, activity or behaviour of the child or that of his parents or guardians, or the civil and political status of the child.
- (i) Principle of right to privacy and confidentiality : The child's rights to privacy and confidentiality shall be protected by all means and through all stages of the proceedings.
- (j) Principle of Fresh Start.: The principle of fresh start promotes new beginning for the child by ensuring erasure of his past records.
- (k) Principle of last resort : Institutionalization of a child will be the last resort after reasonable enquiry and that too for the minimum possible duration.
- (l) Burden of Proof : Whenever any offence is alleged to have been committed against a child, the burden of proving that such offence has not been committed by the accused shall lie on the accused.
- (m) Procedure for Children's evidence: Whenever a child who is a victim of a crime is required to depose before any authority including this Court, the child shall not be exposed to the presence of the accused or the perpetrators of the crime.
- (n) Cross examination of child witness : Whenever there is a need to cross examine a child witness, care shall be taken to see that the tender age or



in case of a victim, the psychological condition of the child is taken into consideration and the Children's Court may adopt such procedures which are fair and suitable to the child.

- (o) Deposit of fine prior to trial : Whenever the offence alleged involves a fine, in order to ensure the attendance of the accused during the proceeding and compliance of the Court's directives and others thereafter, the Court may direct the accused to deposit 75% of the maximum fine leviable for that offence at the beginning of the trial itself.

(2) In all dealings with children, the Children's Court shall follow the following guidelines: -

- (a) Child victims/witnesses are informed of their role in regard to court proceedings;
- (b) Their views are allowed to be heard and respected;
- (c) Inconvenience to them is minimized and their privacy is respected;
- (d) Delays in the proceedings are reduced;
- (e) Aggressive questioning or cross examination of child victims is avoided and the same, if necessary, is done through the judge ;
- (f) Provisions are made for trials in camera;
- (g) The identity of the child victim is protected;
- (h) Child victims are prepared for the judicial process and prosecution of alleged abusers is not rushed if a child is not ready to go to court;
- (i) The investigator ascertains the need for medical examination of the child victim and when examination is undertaken, ensures that multiple re-examination is avoided;

- (j) The medical examination should be conducted in the presence of the parent/guardian and social worker/ counselor as far as possible;
- (k) Child's testimony should be recorded in the presence of a social worker/counselor as early as possible after the abusive incident with other witnesses at hand;
- (l) Adequate translation/ interpretations and translators/ interpreters who are sensitive to the children's needs should be provided wherever needed.
- (m) In case of a mentally challenged child, the competent service provider should depose on behalf of the child;
- (n) The special needs of the child victims/ witnesses should be catered for. These should include the following:-
  - (i) Enable children to familiarise themselves with the court surroundings;
  - (ii) Inform children of the different roles of the key persons at court, such as the judge, the defense lawyer and the prosecutor;
  - (iii) Inform the court of the special needs of children in general and of individual children in specific cases;
  - (iv) Help children to be comfortable in the proceedings;
  - (v) Encourage questionings to be short and clear so as not confuse child witnesses;
  - (vi) Permit children below eight years of age to respond to leading questions facilitated by a social worker.

33. *Offences to be cognizable.*- Notwithstanding anything contained in the Code of Criminal Procedure, 1973 ( 2 of 1974 ) any offence punishable under this Act shall be cognizable.

35. *Act to override Laws .-* Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law.

38. *Power to remove difficulties.*- (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may by Order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary or expedient for removal of the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislature.

Assembly Hall  
Porvorim - Goa  
23rd August, 2005

SUDHIR NARVEKAR  
Secretary to the Legislative  
Assembly of Goa.