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PART IV—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 1023-L.—2nd September, 2024.—
The Governor having been pleased to order, in
cancellation of Bill No. 13 of 2024, published *vide*
notification No. 1010-L, dated 1st September, 2024,

under rule 66 of the Rules of Procedure and Conduct
of Business in the West Bengal Legislative Assembly,
the publication of the following Bill, together with the
Statement of Objects and Reasons which accompanies it, in
the *Kolkata Gazette*, the Bill and the Statement of Objects
and Reasons are accordingly hereby published for general
information:—

Bill No. 14 of 2024

THE APARAJITA WOMAN AND CHILD (WEST BENGAL CRIMINAL
LAWS AMENDMENT) BILL, 2024.

A

BILL

to amend the Bharatiya Nyaya Sanhita, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023 and the Protection of Children from Sexual Offences Act, 2012, in their application to the State of West Bengal to enhance punishment and to constitute the framework for, inter alia, expeditious investigation and trial of the heinous act of violence against women and children.

WHEREAS it is expedient to amend the Bharatiya Nyaya Sanhita, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023 and the Protection of Children from Sexual Offences Act, 2012, in their application to the State of West Bengal for the purposes and in the manner hereinafter appearing;

45 of 2023.
46 of 2023.
32 of 2012.

The Aparajita Woman and Child (West Bengal Criminal Laws Amendment) Bill, 2024.

(Chapter I.—Clauses 1, 2.— Chapter II.— Clauses 3, 4.)

AND WHEREAS it is expedient to provide for the constitution of special Courts and allied mechanisms to ensure the speedy trial of specified offences against women and children, and for matters connected therewith or incidental thereto;

It is hereby enacted in the Seventy-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

CHAPTER I

Preliminary.

Short title and commencement.

1. (1) This Act may be called the Aparajita Woman and Child (West Bengal Criminal Laws Amendment) Act, 2024.
- (2) It extends to the whole of the State of West Bengal.
- (3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—
 - (a) “Bharatiya Nyaya Sanhita” means the Bharatiya Nyaya Sanhita, 2023; 45 of 2023.
 - (b) “Bharatiya Nagarik Suraksha Sanhita” means the Bharatiya Nagarik Suraksha Sanhita, 2023; 46 of 2023.
 - (c) “Government” means the State Government of West Bengal;
 - (d) “Special Court” means any Court of Sessions established as special court under section 29A of this Act;
 - (e) “Specified Offence” means an offence against women under sections 64, 66, 68, 70(1), 71, 72, 73 and 124 of the Bharatiya Nyaya Sanhita, 2023;
 - (f) “State” means the State of West Bengal.

CHAPTER II

AMENDMENTS TO THE BHARATIYA NYAYA SANHITA, 2023.

Amendment of section 4 of Act 45 of 2023.

3. In section 4 of the Bharatiya Nyaya Sanhita, 2023, in its application to the State of West Bengal (hereinafter referred to as the principal Act), for clause (b), the following clause shall be substituted:—

“(b) Imprisonment for life includes simple imprisonment for life or rigorous imprisonment for life;”.

Amendment of section 64.

4. In section 64 of the principal Act,—

(1) in sub-section (1),—

- (a) for the words “rigorous imprisonment of either description for a term which shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine”, the words “rigorous imprisonment for life, which shall mean rigorous imprisonment for the remainder of that person’s natural life and fine, or with death” shall be substituted;

- (b) the following provisos shall be added:—

“Provided that any fine imposed under this sub-section shall be fair and reasonable to meet the medical expenses and rehabilitation of the victim as may be determined by the Special Court as defined in clause (d) of

The Aparajita Woman and Child (West Bengal Criminal Laws Amendment) Bill, 2024.

(Chapter II.—Clauses 5-8.)

section 2 of the Aparajita Woman and Child (West Bengal Criminal Laws Amendment) Act, 2024 and to be paid within such period as may be fixed by the Special Court, in default payment to be recovered in the manner as prescribed under section 461 of the Bharatiya Nagarik Suraksha Sanhita, 2023:

46 of 2023.

Provided further that any fine imposed under this sub-section shall be paid to the victim or their next of kin, if applicable.”;

(2) in sub-section (2), for the words “rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person’s natural life, and shall also be liable to fine”, the words “rigorous imprisonment for life, which shall mean rigorous imprisonment for the remainder of that person’s natural life and fine, or with death” shall be substituted.

Omission of section 65.

Amendment of section 66.

Amendment of section 70.

5. Section 65 of the principal Act shall be omitted.

6. In section 66 of the principal Act, for the words “rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person’s natural life, or with death”, the words “with death” shall be substituted;

7. In section 70 of the principal Act,—

(1) in sub-section (1),—

(a) for the words “with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life which shall mean imprisonment for the remainder of that person's natural life, and with fine”, the words “with rigorous imprisonment for life, which shall mean rigorous imprisonment for the remainder of that person’s natural life and fine, or with death” shall be substituted;

(b) for the provisos, the following provisos shall be substituted:—

“Provided that any fine imposed under this sub-section shall be fair and reasonable to meet the medical expenses and rehabilitation of the victim as may be determined by the Special Court as defined in clause (d) of section 2 of the Aparajita Woman and Child (West Bengal Criminal Laws Amendment) Act, 2024 and to be paid within such period as may be fixed by the Special Court, in default payment to be recovered in the manner as prescribed under section 461 of the Bharatiya Nagarik Suraksha Sanhita, 2023:

Provided further that any fine imposed under this sub-section shall be paid to the victim or their next of kin, if applicable.”;

(2) sub-section (2) shall be omitted.

Amendment of section 71.

8. In section 71 of the principal Act,—

(a) for the words “shall be punished with imprisonment for life which shall mean imprisonment for the remainder of that person’s natural life, or with death.”, the words “shall be punished with rigorous imprisonment for life which shall mean rigorous imprisonment for the remainder of that person’s natural life and fine, or with death.” shall be substituted;

*The Aparajita Woman and Child (West Bengal Criminal
Laws Amendment) Bill, 2024.*
(Chapter II.—Clauses 9-11.)

(b) the following provisos shall be added:—

“Provided that any fine imposed under this section shall be fair and reasonable to meet the medical expenses and rehabilitation of the victim as may be determined by the Special Court as defined in clause (d) of section 2 of the Aparajita Woman and Child (West Bengal Criminal Laws Amendment) Act, 2024 and to be paid within such period as may be fixed by the Special Court, in default payment to be recovered in the manner as prescribed under section 461 of the Bharatiya Nagarik Suraksha Sanhita, 2023:

46 of 2023.

Provided further that any fine imposed under this section shall be paid to the victim or their next of kin, if applicable.”.

Amendment of
section 72.

9. In sub-section (1) of section 72 of the principal Act, for the words “either description for a term which may extend to two years and shall also be liable to fine”, the words “either description for a term which shall not be less than three years but which may extend to five years, and shall also be liable to fine” shall be substituted.

Amendment of
section 73.

10. In section 73 of the principal Act, for the words “either description for a term which may extend to two years and shall also be liable to fine”, the words “either description for a term which shall not be less than three years but which may extend to five years, and shall also be liable to fine” shall be substituted.

Amendment of
section 124.

11. In section 124 of the principal Act,—

(a) in sub-section (1),—

(i) for the words “with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine”, the words “with rigorous imprisonment for life which shall mean rigorous imprisonment for the remainder of that person’s natural life and with fine” shall be substituted;

(ii) for the provisos, the following provisos shall be substituted:—

“Provided that any fine imposed under this sub-section shall be fair and reasonable to meet the medical expenses and rehabilitation of the victim as may be determined by the Special Court as defined in clause (d) of section 2 of the Aparajita Woman and Child (West Bengal Criminal Laws Amendment) Act, 2024 and to be paid within such period as may be fixed by the Special Court, in default payment to be recovered in the manner as prescribed under section 461 of the Bharatiya Nagarik Suraksha Sanhita, 2023:

Provided further that any fine imposed under this sub-section shall be paid to the victim or their next of kin, if applicable.”;

(b) in sub-section (2),—

(i) for the words “with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.”, the words “with rigorous imprisonment for life which shall mean rigorous imprisonment for the remainder of that person’s natural life and with fine.” shall be substituted;

(ii) the following provisos shall be added:—

“Provided that any fine imposed under this sub-section shall be fair and reasonable to meet the medical expenses and rehabilitation of the victim as may be determined by the Special Court as defined in clause (d) of section 2 of the Aparajita Woman and Child (West Bengal Criminal

*The Aparajita Woman and Child (West Bengal Criminal
Laws Amendment) Bill, 2024.*
(Chapter III.—Clause 12.)

Laws Amendment) Act, 2024 and to be paid within such period as may be fixed by the Special Court, in default payment to be recovered in the manner as prescribed under section 461 of the Bharatiya Nagarik Suraksha Sanhita, 2023:

Provided further that any fine imposed under this sub-section shall be paid to the victim or their next of kin, if applicable.”

**CHAPTER III
AMENDMENTS TO THE BHARATIYA NAGARIK
SURAKSHA SANHITA, 2023.**

12. After Chapter III of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as the principal Act), the following Chapters shall be inserted: —

‘CHAPTER IIIA

ESTABLISHMENT OF SPECIAL COURTS.

Establishment of Special Court. 29A. “Special Court” means any court established for the purpose of expeditious completion of inquiry or trial of Specified Offence as defined under clause (e) of section 2 of the Aparajita Woman and Child (West Bengal Criminal Laws Amendment) Act, 2024, by notification in the *Official Gazette*, established in each district, presided over by a person not below the rank of a Sessions Judge or Additional Sessions Judge in the State, with the concurrence of the High Court at Calcutta.

Appointment of Public Prosecutor. 29B. The Government shall, by notification in the *Official Gazette*, appoint a Special Public Prosecutor for the purpose of conducting cases under the Special Court set up under clause (d) of section 2 of the Aparajita Woman and Child (West Bengal Criminal Laws Amendment) Act, 2024, who has been in practice for not less than seven years as an Advocate and every person appointed as Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of clause (v) of section 2 of the Bharatiya Nagarik Suraksha Sanhita, 2023, and provision of that Code shall have effect accordingly.

46 of 2023.

CHAPTER IIIB

CONSTITUTION OF THE APARAJITA TASK FORCE.

Constitution of a Special Task Force. 29C. (1) Notwithstanding anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023, the Government shall constitute a “Special Task Force” at the District Level to be called the Aparajita Task Force, headed by a Deputy Superintendent of Police for the investigation of “Specified Offence” as defined under clause (e) of section 2 of the Aparajita Woman and Child (West Bengal Criminal Laws Amendment) Act, 2024.

(2) The investigations under sub-section (1), carried out under Specified Offence by the Special Task Force shall, as far as possible, be conducted by a female police officer.

(3) All officers of the Government or any other person whose assistance is sought, whether orally or in writing, shall without any delay assist the officers of the Special Task Force referred to in sub-section (1) in investigation of the Specified Offence.

(4) Whoever, being bound to render or furnish assistance to any police officer under sub-section (3) causes delay or, intentionally omits to give such assistance, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

Insertion of new Chapter IIIA and IIIB after Chapter III of Act 46 of 2023.

*The Aparajita Woman and Child (West Bengal Criminal
Laws Amendment) Bill, 2024.*
(Chapter III.—Clauses 13-15.)

(5) Notwithstanding anything contained in the Bharatiya Nagarik Suraksha Sanhita, 2023, an offence punishable under sub-section (4) shall be cognizable and non-bailable.’. 46 of 2023.

Amendment of
section 193.

13. In section 193 of the principal Act, in sub-section (2),—

- (a) for the words “shall be completed within two months from the date on which the information was recorded by the officer in charge of the police station”, the words “shall be completed within twenty-one days from the date on which the information was recorded by the officer-in-charge of the police station” shall be substituted;
- (b) the following proviso shall be added:—

“Provided that, if it is not possible to complete the investigation within the period of twenty-one days from the date on which the information was recorded by the officer-in-charge of the police station, then the said period of twenty-one days can be further extended by a period not exceeding fifteen days by any police officer not below the rank of Superintendent of Police or equivalent, after recording the reasons in writing in the case diary maintained under section 192 of the Bharatiya Nagarik Suraksha Sanhita, 2023.”.

Amendment of
section 346.

14. In sub-section (1) of section 346 of the principal Act, for the proviso, the following proviso shall be substituted:—

“Provided that when the inquiry or trial relates to an offence under section 64, section 66, section 68, section 70, section 71, section 72, section 73 and section 124 of the Bharatiya Nyaya Sanhita, 2023, the inquiry or trial shall be completed within a period of thirty days from the date of filing of the chargesheet.”. 45 of 2023.

Amendment of
First Schedule.

15. In the First Schedule to the principal Act, under the heading “I.—OFFENCE UNDER THE BHARATIYA NYAYA SANHITA”,—

- (a) for the following sections with corresponding entries, the following sections and corresponding entries shall be substituted:—

Section	Offence	Punishment	Cognizable or non-cognizable	Bailable or non-bailable	By what court triable
1	2	3	4	5	6
64(1)	Rape	Rigorous imprisonment for life, which shall mean rigorous imprisonment for the remainder of that person’s natural life and fine, or with death.	Cognizable	Non-bailable	Court of Session

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(Chapter III.—Clause 15.)

Section	Offence	Punishment	Cognizable or non-cognizable	Bailable or non-bailable	By what court triable
1	2	3	4	5	6
64(2)	Rape by a police officer or a public servant or member of armed forces or a person being on the management or on the staff of a jail, remand home or other place of custody or women's or children's institution or by a person on the management or on the staff of a hospital, and rape committed by a person in a position of trust or authority towards the person raped or by a near relative of the person raped.	Rigorous imprisonment for life, which shall mean rigorous imprisonment for the remainder of that person's natural life and fine, or with death.	Cognizable	Non-bailable	Court of Session
66	Persons committing an offence of rape and inflicting injury which causes death or causes the woman to be in a vegetative state.	Death.	Cognizable	Non-bailable	Court of Session
70(1)	Gang rape.	Rigorous imprisonment for life, which shall mean rigorous imprisonment for the remainder of that person's natural life and fine, or with death.	Cognizable	Non-bailable	Court of Session

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(Chapter III.—Clause 15.)

Section	Offence	Punishment	Cognizable or non- cognizable	Bailable or non- bailable	By what court triable
1	2	3	4	5	6
71	Repeat offenders.	Rigorous imprisonment for life which shall mean rigorous imprisonment for the remainder of that person's natural life and fine, or with death.	Cognizable	Non-bailable	Court of Session
72(1)	Disclosure of identity of victim of certain offences, etc.	Imprisonment for 3 to 5 years and fine.	Cognizable	Bailable	Court of Session
73	Printing or publishing any matter relating to court proceedings without permission	Imprisonment for 3 to 5 years and fine.	Cognizable	Bailable	Court of Session
124(1)	Voluntarily causing grievous hurt by use of acid, etc.	Rigorous imprisonment for life which shall mean rigorous imprisonment for the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session
124(2)	Voluntarily throwing or attempting to throw acid.	Rigorous imprisonment for life which shall mean rigorous imprisonment for the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session

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Laws Amendment) Bill, 2024.*

(Chapter III.—Clause 15.)

(b) The following sections with corresponding entries shall be omitted:—

Section	Offence	Punishment	Cognizable or non-cognizable	Bailable or non-bailable	By what court triable
1	2	3	4	5	6
65(1)	Persons committing offence of rape on a woman under sixteen years of age.	Rigorous imprisonment of not less than 20 years but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and fine.	Cognizable	Non-bailable	Court of Session
65(2)	Persons committing offence of rape on a woman under twelve years of age.	Rigorous imprisonment of not less than 20 years but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and with fine or with death.	Cognizable	Non-bailable	Court of Session
70(2)	Gang rape on a woman under eighteen years of age.	Imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine or with death.	Cognizable	Non-bailable	Court of Session

*The Aparajita Woman and Child (West Bengal Criminal
Laws Amendment) Bill, 2024.*
(Chapter IV.—Clauses 16, 17.)

CHAPTER IV
AMENDMENTS TO THE PROTECTION OF
CHILDREN FROM SEXUAL OFFENCES ACT, 2012.

Amendment of
section 4 of Act
32 of 2012.

16. In section 4 of the Protection of Children From Sexual Offences Act, 2012 (hereinafter referred to as the principal Act),—

- (a) in sub-section (1), for the words “imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine.”, the words “with rigorous imprisonment for life, which shall mean rigorous imprisonment for the remainder of that person’s natural life and shall also be liable to fine, or with death.” shall be substituted;
- (b) in sub-section (2), for the words “imprisonment of either description for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of natural life of that person, and shall also be liable to fine.”, the words “with rigorous imprisonment for life, which shall mean rigorous imprisonment for the remainder of that person’s natural life and shall also be liable to fine, or with death.” shall be substituted;
- (c) for sub-section (3), the following sub-section shall be substituted:—
- “(3) Any fine imposed under sub-section (1) shall be fair and reasonable to meet the medical expenses and rehabilitation of the victim or their next of kin, if applicable, as may be determined by the Special Court as defined in clause (d) of section 2 of the Aparajita Woman and Child (West Bengal Criminal Laws Amendment) Act, 2024 and to be paid within such period as may be fixed by the Special Court, in default payment to be recovered in the manner as prescribed under section 461 of the Bharatiya Nagarik Suraksha Sanhita, 2023.”

46 of 2023.

Amendment of
section 6.

17. In section 6 of the principal Act,—

- (a) in sub-section (1), for the words “with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of natural life of that person and shall also be liable to fine, or with death.”, the words “with rigorous imprisonment for life, which shall mean rigorous imprisonment for the remainder of that person’s natural life and shall also be liable to fine, or with death.” shall be substituted;
- (b) for sub-section (2), the following sub-section shall be substituted:—
- “(2) Any fine imposed under sub-section (1) shall be fair and reasonable to meet the medical expenses and rehabilitation of the victim or their next of kin, if applicable, as may be determined by the Special Court as defined in clause (d) of section 2 of the Aparajita Woman and Child (West Bengal

*The Aparajita Woman and Child (West Bengal Criminal
Laws Amendment) Bill, 2024.*
(Chapter IV.—Clauses 18-20.— Chapter V.—Clauses 21, 22.)

Criminal Laws Amendment) Act, 2024 and to be paid within such period as may be fixed by the Special Court, in default payment to be recovered in the manner as prescribed under section 461 of the Bharatiya Nagarik Suraksha Sanhita, 2023.” 46 of 2023.

Amendment of section 8.

18. In section 8 of the principal Act, for the words “a term which shall not be less than three years but which may extend to five years, and shall also be liable to fine.”, the words “a term which shall not be less than seven years but which may extend to ten years, and shall also be liable to fine.” shall be substituted.

Amendment of section 10.

19. In section 10 of the principal Act, for the words “a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.”, the words “a term which shall not be less than seven years but which may extend to ten years, and shall also be liable to fine.” shall be substituted.

Amendment of section 35.

20. In section 35 of the principal Act,—

- (a) in sub-section (1), for the words “within a period of thirty days”, the words “within a period of seven days” shall be substituted;
- (b) in sub-section (2), for the words “within a period of one year”, the words “within a period of thirty days” shall be substituted.

CHAPTER V MISCELLANEOUS

Overriding effect on any other law.

21. The provisions of this Act shall be in addition to and not in derogation to the provisions of any other law for the time being in force and, in case of any inconsistency, the provisions of this Act shall have an overriding effect on the provisions of any such law to the extent of the inconsistency.

Power to make rules and regulations.

22. (1) The Government may, by notification in the *Official Gazette*, make rules, regulations, bye-laws, and/or guidelines under this Act for carrying out all or any of the purposes of this Act.

(2) Every rule, regulation, bye-laws, and/or guidelines made by the Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

STATEMENT OF OBJECTS AND REASONS.

The instant Bill aims to create a safer environment for women and children in the State of West Bengal by amending and proposing new provisions related to the offence of rape and sexual offences against children. It is a testament to the State’s unwavering commitment to uphold the fundamental rights of its citizens, particularly women and children, and to ensure that heinous acts of rape and sexual offences against children are met with the full force of the law.

2. The State Government of West Bengal perceives the egregious act of rape of women and sexual offences against children, regardless of their age, as the utmost violation of their dignity, irrespective of the status of the perpetrator *vis-à-vis* the victim or the condition of the victim caused by such rape of the woman and sexual offence against the child.

*The Aparajita Woman and Child (West Bengal Criminal
Laws Amendment) Bill, 2024.*

3. Keeping in mind the above considerations, the State Government of West Bengal firmly believes that by maximising the punishment of the act of rape of women and sexual offences against children, this Bill shall deter such deplorable acts and ensure that perpetrators face exemplary and severe consequences for their crimes.

4. Further, the Bill seeks to introduce robust provisions for investigation and adjudication aimed at punishing acts of rape of women and sexual offences against children. To expedite investigations and ensure swift justice for victims, this Bill establishes a dedicated special court and investigation team. These specialized units will be equipped with the necessary resources and expertise to handle cases of rape of women and sexual offences against children efficiently, effectively and timely, thereby minimizing the trauma experienced by victims and their families.

5. Accordingly, the Government has decided to amend the provisions that govern the offence of rape.

6. The Bill seeks to give effect to the above objectives.

7. There is no financial implication involved in giving effect to the provisions of the Bill.

KOLKATA,
The 1st September, 2024.

MOLOY GHATAK,
Member-in-charge.

By order of the Governor,

PRADIP KUMAR PANJA,
*Pr. Secy. to the Govt. of West Bengal,
Law Department.*