

Bill No. 32 of 2024

THE ORPHAN CHILD (WELFARE AND DEVELOPMENT)
BILL, 2024

By

DR. SHRIKANT EKNATH SHINDE, M.P.

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BILL

*to provide for measures to ensure welfare and holistic development
of orphans and for matters connected therewith.*

BE it enacted by Parliament in the Seventy-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Orphan Child (Welfare and Development) Act, 2024.

Short title and
commencement.

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

2. In this Act, unless the context otherwise requires:—

Definitions.

(a) “Appropriate Government” means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) "foster care home" means foster care home established under section 6;

(c) "orphan child" means any child below eighteen years of age, who has lost both of his biological parents and registered in Central Registry of orphans established under section 3;

(d) "prescribed" means prescribed by rules made under this Act; 5

(e) "Registry" means the Central Registry of Orphans established under section 3 of this Act;

(f) "Scheme" means the Orphans Welfare Scheme formulated under section 4; and

(g) "social security" means provision of food, shelter, education, healthcare, job reservation quota, establishment of recreation centers and such other amenities necessary for the welfare of orphan child. 10

Central Government to conduct survey of orphan children.

3. (1) The Central Government shall, in consultation with State Governments, conduct and publish the survey of orphan children after every ten years along with census in such manner as may be prescribed.

(2) The survey conducted under sub-section (1) shall include— 15

(a) socio-economic status of orphan children;

(b) data on the cause and effect of becoming orphans;

(c) Demographic profile of orphan children;

(d) performance appraisal of existing orphan children welfare schemes and programmes; and 20

(e) the number of special needs children who are orphans.

(3) The Central Government shall establish, maintain and operate a Registry to be known as the Central Registry for Orphans, for implementation of Orphans Welfare Scheme formulated under section 4.

(4) The Registry shall contain such details of every orphan child as may be prescribed. 25

Orphans Welfare Scheme.

4. (1) The Central Government shall, by notification in the Official Gazette, formulate a scheme to be known as "Orphans Welfare Scheme" to provide social security to all orphan children and to ensure healthy upbringing and also ensure protection from exploitation and ill treatment so as to ensure peaceful life thereon.

(2) The appropriate Government shall provide every orphan child under the Scheme— 30

(i) a Bank account and deposit every month in that account an amount as may be prescribed and the total sum accrued shall be handed over to the child on attaining eighteen years of age;

(ii) Free education; 35

(iii) Free medical and healthcare facilities;

(iv) Free food, lodging and clothing;

(v) Free travel by road, railways or by air;

(vi) Free sports facilities; and

(vii) Free legal assistance. 40

5 **5. (1) The Central Government shall, as soon as may be, by notification in the Official Gazette, constitute a Fund to be known as the Orphan Children Welfare Fund for carrying out the purposes of this Act with an initial corpus of rupees two thousand crores, to be provided by the Central Government, after due appropriation made by Parliament by law in this behalf.**

Constitution
of an Orphan
Children
Welfare Fund.

(2) The Fund shall also include,

(a) contributions made by the Central Government and State Governments in such ratio, as may be prescribed;

10 (b) money received by way of donations, contributions, assistance or otherwise from individuals, body corporate, domestic and foreign financial institutions.

(3) The Fund shall be utilised for rehabilitation and welfare of orphan children in such manner as may be prescribed.

15 **6. (1) The appropriate Government shall establish such number of foster care homes as may be necessary for the purposes of this Act.**

Establishment
of foster care
homes.

(2) **The foster care homes established under sub-section (1) shall provide free of cost boarding and lodging and such other facilities to the orphan children as may be prescribed.**

7. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Act not in
derogation of
any other law.

20 **8. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.**

Power to make
rules.

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

STATEMENT OF OBJECTS AND REASONS

Usually, when we talk of an orphan, we mean a child who has been either abandoned deliberately by their parents or a child who has lost his/her parents in an accident or mishap. As per the United Nations Conventions on Rights of the Child (UNCRC), a child is anyone who is below the age of 18 years or unless under the law applicable to the child, the majority is attained earlier. Every child has the right to family care. This provision is found in the Convention on the Rights of the Child, 1989, the UN Guidelines for Alternative Care 2009, the Indian Constitution and the jurisprudence of the Indian Supreme Court on child rights.

India is home to approximately 29.6 million orphan children, which amounts to nearly four percent of the youth population. This alarming figure underscores the urgent need for comprehensive and effective legislation to safeguard the rights and welfare of these vulnerable children.

The Bill seeks to provide social security and welfare measures to orphan children and to address the needs of special needs children who are orphans, who are among the most vulnerable sections of our society. Moreover, the existing provisions do not adequately address the issue of overcrowding in orphan care homes or orphanages. Overcrowding can lead to inadequate care and attention for each child, compromising their development and well-being. The proposed amendments also include the establishment of a Central Registry of all orphan children by the Central Government to streamline the adoption process and ensure transparency. This will help in the efficient tracking and placement of orphan children in suitable homes.

In India, there is no separate legislation dealing with Orphans. Orphans and vulnerable groups are included under the Juvenile Justice Act. According to the concept of *Parens Patriae*, the State is your parent if you have none. This statement is truer for no other category of citizens but orphans. Therefore, the bill has been brought exclusively for the Orphans to ensure that they are provided with their fundamental right to life, as guaranteed under our Constitution.

Hence this Bill.

NEW DELHI;
July 3, 2024.

SHRIKANT EKNATH SHINDE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for survey of orphan children. Clause 4 of the Bill provides for social security to orphan child, monthly bank savings for child welfare in future, free education, food, clothing and lodging, medical and other healthcare facilities, free travel and free legal assistance may be provided to orphan child. Clause 5 provides for constitution of an Orphan Children Welfare Fund. Clause 6 provides for establishment of foster care homes to provide free food, lodging and other requisite amenities to orphans. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees two thousand crore would be involved as recurring expenditure per annum.

A non-recurring expenditure of about rupees ten thousand crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. As the rules will relate to matters of detail only, therefore, the delegation of legislative power is of a normal character.

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(Dr. Shrikant Eknath Shinde, M.P.)