

Act Relating to Children 2018

Date of authentication

2075/06/02 (18 September 2018)

Act No. 23 of 2075 B.S.

Act Promulgated to Amend and Codify Laws related to Children

PREAMBLE: Whereas it is expedient to amend and codify prevailing laws concerning children in order to act in the best interest of children by respecting, safeguarding, promoting and fulfilling children's rights, the Federal Parliament has enacted this Act.

CHAPTER 1

PRELIMINARY

1. **Short title and commencement:** (1) This Act is named 'Act Relating to Children 2018'.
(2) This Act shall come into force at once.

2. **Definitions:** Unless the subject or context otherwise requires, in this Act:
 - (a) "Orphan children" means orphan children as per prevailing laws.
 - (b) "Investigations authority" means an authority authorized by prevailing law to investigate offensive acts.
 - (c) "Offensive act" means criminal offence as per prevailing laws.
 - (d) "Children in conflict with law" means children who have been accused of committing offensive acts, and the term also refers to children who have been found guilty of offensive acts by child courts.
 - (e) "Prescribed" or "as prescribed" means prescribed or as prescribed in the rules framed under this Act.

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- (f) “Diversion” means the act of referring children accused of committing offensive acts to processes outside the formal judicial process by adopting the procedure laid down in Section 29.
- (g) “Observation cell” means an observation cell established as per Section 22.
- (h) “Family” means a child’s father, mother, elder brother, younger brother, elder sister, younger sister, grandfather or grandmother living in a joint family, and the term also refers to other close relatives living in a joint family.
- (i) “Council” means the National Child Rights Council referred to in Section 59.
- (j) “Children” means persons who have not attained the age of eighteen years.
- (k) “Violence against children” means an act as per Subsection (2) of Section 66.
- (l) “Child court” means the child court constituted pursuant to Subsection (1) of Section 30, and the term also refers to the child bench pursuant to Subsection (3) of the same Section.
- (m) “Child pornography” means taking or reproducing moving or still photograph(s) of children that exhibit their sexual organs or by engaging them in fictitious sexual activities, displaying, or causing to display, children’s obscene pictures by means of newspapers, posters, print media, motion pictures or other communications media, and the said term also refers to production, sale and distribution, import or export, collection or dissemination of such materials.
- (n) “Child welfare authority” means an authority appointed or designated pursuant to Section 61.
- (o) “Children’s home” means a children’s home established pursuant to Section 52.
- (p) “Child sexual abuse” means an act pursuant to Subsection (3) of Section 66.
- (q) “Child correction home” means a child correction home established as per Section 43.
- (r) “Ministry” means the Ministry of Women, Children and Senior Citizens of the Government of Nepal.
- (s) “Children in need of special protection” means children pursuant to Section 48.
- (t) “Guardian” means a person or organization that has been entrusted with the duty or that has been appointed pursuant to this Act or a prevailing law to safeguard children’s rights and interests, and the term also refers to curators in case of absence of guardians.

- (u) “Social service provider” means person as per Section 62.
- (v) “Local level” means rural municipality or urban municipality.

CHAPTER 2

CHILD RIGHTS

3. Right to life: (1) Every child shall have the right to live with dignity.

(2) The Government of Nepal, state governments and local level shall take necessary preventive and protection measures, including prevention of accidents that may occur against children and mitigation of risks, in order to safeguard children’s rights to life and development.

4. Right to name, nationality and identity: (1) Every child shall have the right to a name, along with identity, and birth registration.

(2) Every father or mother shall register, with a name, the births of their children under a prevailing law.

(3) If the mother of a child born out of rape or an incestuous relationship that is punishable under a prevailing law desires, the birth of such a child shall be registered with only her name.

(4) While giving a name as per Subsection (2), if the father or the mother is not immediately available, or if there is no possibility of them being present, such children shall receive a name given by another family member or a guardian taking her/his care.

(5) Every child shall be entitled to use the surname consensually given by her/his parents, or if such consent cannot be reached, her/his father’s surname.

(6) Notwithstanding what is contained in Subsection (5), children are entitled to use the surnames of either, or both, of their parents.

(7) A child whose father’s identity is unknown may use her/his mother’s surname.

(8) In case a dispute arises over the surname of a child, then she/he shall be deemed to have used her/his father’s surname unless otherwise proved.

(9) Children both of whose parents are unknown may use the surname given by their guardians.

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(10) While giving a surname as per Subsection (9), the guardian shall inform the child welfare authority concerned.

(11) If the names of the father, mother and grandfather, grandmother of a child whose father's identity is unknown have to be recorded in an official legal proceedings or deed pursuant to a law, she/he may write her/his mother's name and the names of mother's father and mother and, in case the mother's name is also unknown, her/him stating such fact would be sufficient.

(12) Mother, father or guardian shall not alter the name or surname by concealing the child's identity with the intent of acquiring undue advantage.

5. Right against discrimination: (1) No child shall be discriminated against on ground of her/his own, her/his families' or guardians' religion, race, caste, ethnicity, sex, origin, language, culture, ideology, physical or mental conditions, disability, marital status, familial status, occupation, health status, economic or social status, geographical region or any other such grounds.

(2) No one shall discriminate between son and daughter, sons, sons or daughters, daughters or between children born to former husband or wife or to current husband or wife in matters of their nurturing, education or healthcare.

(3) No one shall discriminate between their biological sons and daughters and their adopted sons and daughters or between one child and another under their care in any manner.

(4) No discrimination shall be made between children born before and after the marriage between a woman or man in matters of the children's nurturing, education or healthcare.

6. Right to live with and visit parents: (1) No child shall be separated or removed from her/his father or mother against her/his wishes.

(2) Notwithstanding what is contained in Subsection (1), if necessary in the best interest of the child, the child court may pass an order for separating the child from her/his father or mother and entrusting her/him in a guardian's custody.

Nevertheless, before passing such an order, the parties concerned shall not be deprived of a reasonable opportunity to clarify themselves.

(3) A child living separately from her/his father, mother or both shall have the right to establish personal relationship with her/his parents or personally contact or visit them regularly other than in circumstances where the child court has expressly prohibited such contacts or visits in the child's interest.

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(4) Persons who have adopted a son or daughter shall allow such adopted child to visit, contact and correspond with their biological parents.

(5) Persons or organizations providing alternative care to children shall allow such children under their care to meet their biological parents or family.

7. Right to protection: (1) Every child shall have the right to receive appropriate care, protection, nurturing, and affection from her/his father, mother, other family members or guardian.

(2) Both father and mother shall have equal obligations in respect of children's care, protection and nurturing. In circumstances where parents are staying separately due to divorce or any other reason, the expenses of children's nurturing shall be borne by both parents in accordance with their financial capacity.

(3) No father, mother, other family members or guardian shall abandon or relinquish her/his son, daughter or children living in her/his guardianship.

(4) Children with disabilities, affected by conflict, displaced, at risk or living in street shall be entitled to special protection stipulated by the State for their assured future.

(5) Every child shall have the right to protection from all forms of physical or mental violence and torture, neglect, inhuman behaviour, gender based or untouchability related abuse, sexual abuse and exploitation by her/his father, mother, other family member or guardian, teacher and other persons.

(6) Every child shall have the right to protection from economic exploitation and to protection from any work that is harmful to her/him or hampers her/his education or is detrimental to her/his health, physical, mental, moral and social development.

(7) No child shall be recruited in the military, police and armed group and used, whether directly or indirectly, for the purpose of armed conflict or political purposes.

(8) No person shall launch, or cause to launch, an attack on the places, services and facilities used in children's interest, including school, or obstruct, or cause to obstruct, their operation and management during armed conflicts or in any adverse circumstances in whatever pretext.

(9) Children under fourteen years of age shall not be engaged in hazardous tasks or employed as domestic labour or *kamalari* (female bonded labour).

(10) The Government of Nepal, state governments and the local levels may take necessary measures and formulate and enforce guidelines for children's protection.

8. Right to participation: (1) Every child that is capable of forming opinion of her/his own shall have the right to participate in decision-making to be taken by her/his family, community, school or other public agency or institution that concerns her/him.

9. Freedom of expression and right to information: (1) Every child shall have the right to voice her/his opinion in a free manner subject to prevailing laws.

(2) Every child shall have the right to demand and access information in matters relating to her/his rights, interest and concern subject to prevailing laws.

10. Right to establish association and assemble peacefully: (1) Every child shall have the right to establish child clubs or associations or assemble peacefully for the purpose of safeguarding and promotion of child rights.

(2) The provision regarding the establishment of child clubs or associations pursuant to Subsection (1) shall be as prescribed.

11. Right to confidentiality: (1) Every child shall have the right to confidentiality in matters of her/his body, residence, property, documents, data, correspondences and character.

(2) No person shall engage in, or cause to engage in, generation, collection, publishing, printing, exhibition, sale and distribution or transmission of, through any means, personal information, details, photo or video of any child that harms her/his character or causes her/him shame, remorse or disgrace.

(3) The child court, police office, guardian, parents or other agencies shall keep confidential the details that disclose the identity of the child accused of committing an offensive act or the child victim, including the name, surname, address, age, sex, family background, economic status, offence and any punishment imposed, if any. The details of such children shall not be used elsewhere other than by duly following the process of law.

Nonetheless, if required in connection with any study or research work, the details of such children may be published without disclosing the name, surname, address and other identification details of the child or her/his family and by mentioning only the age or sex.

12. Special rights of children with disabilities: (1) Provision of special protection shall be made as prescribed for children with disabilities.

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(2) Every child with disability shall have the right to ensure her/his self-respect and self-esteem, promote self-dependence, actively participate in society and live with dignity.

(3) Children with disabilities shall have the right to access special care and mingle in society and to avail of opportunities for receiving education, training, healthcare services, rehabilitation services, employment preparation and recreation for their personal development.

(4) Children with disabilities shall have the right to equal access to and enjoyment of public services and facilities.

13. Right to nutrition and health: (1) Every child shall have the right to receive proper nutrition and clean drinking water and children under two years of age shall have the right, among others, to breastfeeding.

(2) Pregnant women and children shall have the right to receive necessary immunization to protect themselves from diseases, avail of physical and mental health services consistent with the national standards, and access information on physical, reproduction and reproductive health compatible with their age and maturity level.

(3) Every child shall have the right to receive basic health care free of cost.

14. Sports, recreation and cultural rights: (1) Every child shall have the right to play games and take part in sports suitable to her/his age and interest.

(2) Every school shall encourage its students to take part in sports in periods outside teaching-learning periods and shall make provision for appropriate playground and sports materials.

(3) Every child shall have the right to engage in child-friendly recreation suitable to her/his age, aptitude and need.

(4) Every child shall have the right to participate in cultural activities in accordance with her/his religion, culture, customs, rites and rituals, and beliefs that are not adverse to her/his interests.

15. Right to education: (1) Children under six years of age shall have the right to learn in a manner suitable to their age and development stage and to early childhood development.

(2) Every child shall have the right to receive compulsory and free education up to basic level and free education up to secondary level in a child-friendly environment in accordance with prevailing laws.

(3) Every child shall have the right to receive education through the use of appropriate study materials and teaching methods suitable to her/his special physical and mental conditions as per prevailing laws.

(4) Dalit children shall have the right to receive free education, along with scholarships, as per prevailing law.

CHAPTER 3

DUTIES TOWARDS CHILDREN

16. Priority to be accorded to child's best interest: (1) While performing any task, the employees of every agency and organization involved in children's work shall adopt child-friendly processes by according priority to children's best interest.

(2) It shall be the duty of all to immediately help children whose lives are at risk.

(3) The child welfare authority or the child court, while making arrangements for alternative care of a child, while separating a child from her/his parents or guardian, and while deciding who between father and mother, having been divorced, will take care and nurture children, pursuant to this Act, shall adopt the best interest determination process as prescribed.

(4) While carrying out construction or repair and maintenance of physical structures, the public and private social organizations that house children or that provide services to children shall make necessary arrangements for making them child-friendly.

17. Duty of family or guardian: (1) Father and mother both shall have equal duty in relation to children's care, nurturing and personality development.

(2) It shall be the duty of every father, mother, other family members or guardians to care for, nurture and protect their children, make available opportunities, including for education and healthcare, to their children for their personality development, create an environment of love and affection, and properly guide them for their assured future.

(3) Father, mother, other family members or guardian shall admit every child of school-going age in school and create an environment conducive to receiving education.

(4) Father, mother, other family members or guardian shall not engage their children in labour that is detrimental to their education, health and physical or mental development.

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(5) Father, mother, other family members or guardian shall not leave children under six years of age alone at residence or other places or send them elsewhere alone without being accompanied by a person who has attained majority.

18. Duties of State: The State shall make necessary arrangements for providing basic needs, including nurturing, protection, health and education, for children in need of special protection based on available resources.

19. Duties of the media: It shall be the duty of the media to publish or broadcast information without violating child rights or without adversely affecting children's interest.

CHAPTER 4

CHILD JUSTICE

20. Matters to be considered while administering child justice: While administering child justice, the persons, office-bearers and child court involved in the administration of child justice shall consider, in addition to the matters contained elsewhere in this Act, the matters stated below:

- (a) Seek the views of the child before taking any decision that affects her/him,
- (b) Give opportunities to the father, mother, other family members or guardian of the child to put forth their views before taking any decision that concerns the child's interest.
- (c) Adopt the language, speech and behaviour that is compatible with the child's age, level of mental development, beliefs, and cultural norms and values.
- (d) Converse with the child in the language she/he wishes and take the help of an interpreter, if needed.

21. Taking child in custody: (1) The investigations authority shall start investigating an offensive act immediately upon receiving information about it. If, in the course of investigation, it appears that it is necessary to take the child accused of offensive act in custody for the purpose of investigation, the investigations authority may take such child into custody.

(2) If it does not seem necessary to keep the child taken in custody as per Subsection (1), he/she shall be handed over to members of her/his family, guardian or a close relative.

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(3) If a child is taken into custody as per Subsection (1), the investigations authority shall inform the fact of her/him being taken into custody to her/his family members, guardian or a close relative.

(4) While taking a child in custody pursuant to Subsection (1), the investigations authority shall not exercise physical force.

Nevertheless, if necessary, nothing shall deter the exercise of minimal force for taking the child in custody.

(5) If possible, the children that have been taken into custody pursuant to Subsection (1) shall be referred to child psychologists or to persons engaged in child welfare activities for necessary counselling.

(6) If the investigations authority has the authority pursuant to Section 27 to divert the child taken into custody as per Subsection (1), notwithstanding what is contained in a prevailing law, she/he may record the statement of the child herself/himself.

(7) A child taken into custody under Subsection (1) may be kept in an observation cell for a period not exceeding twenty-one days with the permission of the child court without exceeding five days at a time.

(8) Notwithstanding what is contained in Subsection (7), if the child court has reasonable grounds to believe that, considering the physical condition and age of the child accused of offensive act or the circumstances in which the offensive act was committed or the state of the observation cell, it will not be appropriate to keep her/him in an observation cell, it may pass an order that the investigation into the case be conducted after handing over the custody of such child to her/his father, mother, other family members or guardian or, in case of absence of any of them, to a social organization engaged in the task of safeguarding the rights and interests of children or a child correction home, on the condition that she/he be produced when needed.

(9) While probing a child that has been taken into custody, the investigations authority shall do so in a child-friendly environment in the presence of the child's parents or guardian or child welfare authority or legal practitioner.

22. Provision regarding establishment of observation cells: (1) The Government of Nepal may set up observation cells for the purpose of keeping children accused of offensive act who have been taken into custody during the period of investigation.

(2) Arrangement shall be made for a separate cell in every district police office until the time an observation cell is set up pursuant to Subsection (1).

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(3) Counselling and psychosocial support, as necessary, shall be made available to the child taken into custody for investigation.

(4) If any member of the family of a child kept in an observation cell desires to stay with her/him for her/his assistance, the investigations authority may grant permission for her/him to stay after stipulating the time and conditions, as necessary.

(5) The provisions regarding the setting up, operation, management and monitoring of observation cells shall be as prescribed.

23. Special provisions regarding investigation and prosecution: (1) Notwithstanding what is contained in a prevailing law, the Government of Nepal shall constitute a separate unit for investigating the allegations of offensive acts against children.

(2) Until a separate unit pursuant to Subsection (1) is constituted, the Government of Nepal may designate an employee of the district police office trained in child justice for performing the said task.

24. Provisions regarding trial: (1) No child shall be kept in detention in the course of trial of the case nor will surety or bail be demanded from her/him.

(2) Notwithstanding what is contained in Subsection (1), the children accused of offensive act may be kept in child correction homes for the purpose of trial, with disclosure of the reasons thereof, in the following circumstances:

(a) If there are sufficient grounds to believe that the child should not be kept elsewhere because of danger to her/his life, the fear of harm he/she may cause to others, the fear of her/his escaping or any other reason,

(b) If, on the basis of the evidence immediately available, it is found, or there are reasonable grounds to believe, that the child accused of offensive act is guilty of committing an offensive act that attracts punishment of imprisonment of three years or more.

(3) In circumstances other than those prescribed in Subsection (2), children accused of committing offensive acts may be entrusted to the care of their fathers, mothers, other family members or guardians and, if none of them is available, to organizations or persons that are engaged in safeguarding the rights and interests of children, on the condition that they be produced when needed.

Nevertheless, in the situation specified in Subsection (2), if the child court believes that, considering the physical and mental state and age of the child or the circumstances in which the offence was committed, it would not be appropriate to keep such a child in a child correction home, nothing shall prevent it from entrusting the child to the care of her/his father, mother, other family members or

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guardian and, if none of them is available, to an organization or person that is engaged in safeguarding the rights and interests of children by stipulating conditions.

(4) While entrusting the child pursuant to Subsection (3), the person who is assuming the responsibility and the child shall be informed about the stipulated conditions and the consequences to be borne by them in case these are breached.

(5) If a child who has been entrusted to a person's care pursuant to Subsection (3) breaches the conditions stipulated by the child court, the hearing into the case may be carried out by keeping her/him in a child correction home.

25. Child victim's rights: Every child victim has the right to child-friendly justice in each and every stage of investigation, prosecution and judicial proceedings as stated below:

- (a) Receive information in a language understood by her/him,
- (b) Participate or involve,
- (c) Keep personal identification details confidential,
- (d) Receive reasonable amount of compensation from the perpetrator,

Nevertheless, this segment shall not be deemed to have restricted the victim's opportunities for receiving compensation from the State.

(e) Receive free legal aid and psychosocial counselling services, as required, or appoint a legal practitioner if she/he so desires,

(f) If the language used by the investigation agency or child court is not comprehensible to the victim, receive the facilities of an interpreter, sign language expert or translation free of cost,

(g) Receive copies of documents, including decisions and orders of the investigation agency or child court, free of cost,

(h) Receive police protection to protect herself/himself from any harm that may be inflicted by the perpetrator or her/his party,

(i) Have closed-bench hearing of the case,

(j) Have proxy presence of the defendant, as required, during court proceedings.

26. Child's rights during hearing: (1) In the course of investigation into offensive acts and hearing of case, in addition to the rights contained in prevailing laws and elsewhere in this Act, all children are entitled to the rights stated below:

(a) To information about the charge against her/him, proceedings on the charge, order or decision regarding it either directly or through her/his family or guardian,

(b) To free legal aid and other necessary support for defending herself/himself against the charge against her/him without delay,

(c) To conducting of proceedings, hearing and disposal of the case by a competent judicial body,

(d) To demand the presence of family members or guardian in all processes of administration of child justice, as required,

(e) To speedy and fair justice from the child court,

(f) To confidentiality in the process of administration of child justice,

(g) To information regarding constitutional or legal rights,

(h) To conducting of investigation, prosecution and hearing in a child-friendly environment,

Clarification: For the purpose of this segment, "child-friendly environment" means behaviour appropriate to the child's age, maturity and psychology. This refers to conditions such as the use of language that is understood by the child, creation of a fear-free environment, presence of mother, father or other family members or guardian, addressing of child's personal needs and availability of facilitators, as needed.

(i) To opportunities to participate in each and every stage of judicial proceedings and to freely express her/his views and opinions,

(j) To the presence of her/his father, mother or guardian in the hearing of the case, if the child so wishes,

(k) In case the child's father, mother or guardian are the perpetrator, stay separate from them, if she/he so wishes.

(2) Children accused of committing offensive acts shall be deemed innocent by the child court until and unless a decision is taken otherwise, and such children shall not be forced to testify against themselves.

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27. Diversion may be carried out: (1) Notwithstanding what is contained in a prevailing law, if diversion seems reasonable in the best interest of the child, the authorities stated below may take a decision to divert the child in the circumstances stated below:

(a) Investigations authority in case the claim is up to five thousand rupees or the offense, on conviction, is liable to a fine of up to two thousand rupees or imprisonment of up to one month

(b) Government attorney in case the claim is up to ten thousand rupees or the offense, on conviction, is liable to a fine of up to five thousand rupees or imprisonment of up to three years

(c) Child court, regardless of the amount of claim or the fine or imprisonment on conviction

(2) Notwithstanding what is contained in segment (c) of Subsection (1), children shall not be diverted in cases that are liable on conviction to an imprisonment of three years or above.

(3) If dissatisfied with the order of diversion, the child or guardian may file an application before the child court in case of segments (a) and (b) of Subsection (1) and before the high court in case of segment (c).

28. Matters to be considered for diversion: While diverting, the matters stated below shall be considered:

(a) Child's admission to committing the offensive act she/he is charged with,

(b) Consent of the child, her/his parents and, if parents are not available, other family members or guardian,

(c) Consent of the victim on the basis that victim shall be rehabilitated to the extent possible,

(d) Nature of the offensive act and the circumstances in which the said offense was committed, gravity of incident, child's age, maturity and cognitive level and familial environment, loss afflicted to the victim and her/his rehabilitation.

29. Process to be adopted for diversion: (1) While diverting the child, one or more of the processes stated below shall be adopted, considering, among other factors, the child's wish:

(a) Reach compromise or understanding between the child and the victim,

(b) Make the child realize her/his wrongdoing,

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- (c) Provide necessary counselling to the child and her/his family,
- (d) Refer the child for community services,
- (e) Refer the child to an organization for care and protection,
- (f) Release the child under the supervision and guidance of a child welfare authority,
- (g) Entrust the child to the care of her/his father, mother, other family members or guardian,
- (h) Involve the child in a training or educational programme.

(2) While diverting the child by adopting any process under segments (d), (e), (f), (g) and (h) of Subsection (1), the duration of diversion, among others, shall be specified.

(3) While diverting the child by adopting the process under segments (d), (e) and (f) of Subsection (1), the duration of diversion shall not exceed the maximum period liable to child adjudicated of committing the said offensive act.

(4) Before diverting the child, the investigations authority or government attorney shall obtain a report by having the study and analysis of the child's physical and mental conditions carried out by a child psychologist and child specialist, as well as the child's economic and cultural circumstances and contexts carried out by a social service provider.

(5) The investigations authority, government attorney or child court shall notify their superior agency and child court about the diversion as per Subsection (1).

(6) Upon diverting a child accused of offensive act, the dispute shall come to an end and the official judicial process regarding the offense shall be deemed to have been disposed of.

(7) The investigations authority, government attorney or child court diverting the child shall make arrangements for monitoring, through a probation authority, whether or not the diverted child is regularly participating in the diversion process.

(8) While diverting a child, the actions stated below may be taken in lieu of the loss and damage inflicted to the victim:

- (a) Provide compensation to the victim or reimburse the actual loss and damage,
- (b) Order return of the property, profit or goods earned through the offensive act to the concerned owner.

(9) Other provisions related to diversion shall be as prescribed.

30. Constitution of child courts: (1) The Government of Nepal may constitute child courts in required number on the recommendation of the Judicial Council in order to carry out initial proceedings, hearing and decision of offensive acts committed by children.

(2) The notice of the constitution of child courts pursuant to Subsection (1) shall be published in *Nepal Gazette*, and the state jurisdiction and location shall be as stipulated in the same notice.

(3) Till the time a child court is constituted under Subsection (1), a child bench shall be constituted in each district court to conduct initial proceedings, hearing and disposal of cases of offensive act tried by child courts.

(4) The child bench under Subsection (3) shall consist of members stated below:

- (a) District judge
- (b) Social service provider
- (c) Child psychologist or child specialist

(5) The qualifications, appointment, remuneration and other terms and conditions of service of the social service provider, child psychologist or child specialist pursuant to segments (b) and (c) of Subsection (4) shall be as prescribed.

(6) Notwithstanding what is contained in Subsection (1), if a person who has attained majority is complicit in the offensive act along with a child, in the case of the child, the child court shall conduct the proceedings, hearing and disposal of the case, whereas, in the case of the person who has attained majority, a separate case file shall be created and the proceedings, hearing and disposal of the case shall be conducted as per prevailing laws.

31. Exercise of jurisdiction of the child court: (1) The exercise of jurisdiction of the child court shall be as prescribed.

32. Child court to conduct trial: (1) In case the child attains the age of eighteen years while the proceedings of the case are ongoing, the proceedings, hearing and disposal of such cases shall be conducted by the child court itself.

33. Transfer of case to the child court: Those cases of offensive acts that are at the stage of initial proceeding in a district court or other bodies as per a prevailing law prior to the commencement of this Act shall be transferred to the child court concerned after this Act has come into force.

34. Provision regarding hearing: (1) The child court shall conduct the hearing of the case of offensive act in a child-friendly environment, keeping in mind, among other factors, the age and maturity level of the child.

(2) While hearing the case, the child court shall involve the child concerned and provide opportunities to her/him to freely express her/his views.

35. Provision of closed bench: (1) Unless the child court passes an order to the contrary, the hearing and proceedings of cases against children accused of offensive act shall be conducted in closed bench.

(2) While the hearing and proceedings of the case are being conducted in closed bench pursuant to Subsection (1), only the child concerned, members of her/his family or guardian, victim, government attorney, legal practitioner concerned and persons authorized by the child court shall be given entry into the court.

(3) The procedure of hearing in closed bench shall be as prescribed.

36. Provisions regarding punishment: (1) If the child was under ten years of age at the time the offensive act was committed, no case shall be instituted and no punishment shall be sentenced against her/him.

(2) In the case of a child above ten years and under fourteen years of age, the child shall be explained the gravity and consequences of their acts and released if the offensive act committed by the child is liable to a fine upon adjudication; and, varying on the nature of the offense, the child shall be sentenced to imprisonment of up to six months or placed in a child correction home for a period not exceeding one year without imprisoning the child if such act is liable to punishment of imprisonment upon adjudication.

(3) Where a child who is fourteen years of age or above fourteen years but below sixteen years of age commits any offensive act, such person shall be liable to half the punishment applicable for a person who has attained majority.

(4) Where a child who is sixteen years of age or above sixteen years but below eighteen years of age commits any offensive act, such person shall be liable to two-thirds of the punishment applicable for a person who has attained majority.

(5) The child court shall order postponement of punishment or take any appropriate decision, stated below, with or without conditions, against children who have been adjudicated to be

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punished under Subsections (2), (3) or (4), considering, among other factors, her/his age, gender, maturity, nature of offensive act and circumstances in which such act was committed:

- (a) Having any member of the family or guardian teach and explain good human behaviour to the child,
- (b) Having a service-providing organization or person provide orientation to the child,
- (c) Provide single, group or familial psychosocial counselling service,
- (d) Assign the child to the oversight and care of a member of the family, guardian, school, service-providing person or organization for certain duration and on the condition of compliance of conditions,
- (e) Refer the child to community service appropriate to her/his age by specifying the nature and duration of service,
- (f) Refer the child to a child correction home for a period not exceeding the duration of punishment she/he is liable to.

(6) In case a person has abetted the child to commit offensive act by teaching, coercing, instructing or luring her/him or by any other means, the person abetting the child through such teaching, coercing, instructing or luring, or causing her/him to commit the offensive act, shall be convicted as per law as if she/he had committed the act herself/himself.

(7) Notwithstanding what is contained elsewhere in this section, children who have not completed the age of sixteen years shall not be sentenced to punishment of imprisonment other than in cases where they have committed heinous, grave or repeated offences.

37. Duration for disposing of the case: Notwithstanding what is contained in a prevailing law, the child court shall dispose of any case within one hundred twenty days of its being filed in general, and the proceedings and disposal of such cases shall be conducted on continuous basis.

38. Reform period may be remitted or waived: (1) If satisfactory reform is noticed in the behaviour of a child referred to a child correction home or to the protection or oversight of an organization or a person pursuant to a decision of the child court, the child welfare authority may recommend to the child court to remit or waive the correctional period of such child.

(2) If, from an examination of the recommendation received under Subsection (1), it seems that it is reasonable to remit or waive the correctional period, the child court may remit or waive the remaining correctional period.

39. Restorative justice: (1) Child justice administration shall comply with the principles of restorative justice.

(2) The other provisions regarding restorative justice shall be as prescribed.

40. Not to be deemed unqualified: Notwithstanding what is contained in a prevailing law, if conviction in an offensive act renders a person disqualified for appointment to a post or for receiving facilities under law, no person shall be deemed disqualified for appointment to a post or for receiving facilities on the ground of her/his having committed offensive act during childhood.

41. Punishment not to be counted: (1) Notwithstanding what is contained in a prevailing law, while counting repeated offences under law for the purpose of determining punishment, the offensive acts committed during childhood shall not be considered.

(2) Notwithstanding what is contained in a prevailing law, no child shall be subjected to additional punishment regardless of the number of times she/he has repeated the offensive act.

42. Not to be handcuffed, shackled or kept in solitary confinement: Notwithstanding what is contained in a prevailing law, no child in conflict with law shall be handcuffed, shackled or kept in solitary confinement or detention or prison.

43. Provisions concerning child correction home: (1) The Government of Nepal shall set up child correction homes, as required, for the purpose of keeping the children in conflict with law until their reform and rehabilitation have taken place.

(2) An organization may set up child correction homes for the purpose stated in Subsection (1) after obtaining the permission of the Government of Nepal.

(3) The child court may monitor and inspect the child correction homes set up within its territorial jurisdiction, issue necessary instructions to such child correction homes and order such child correction homes to submit reports on the status of reform of children staying there.

(4) In case a child staying at a child correction home attains the age of eighteen years before she/he has completed the period of her/his sentence, she/he shall be kept separate from other children at the child correction home for the remaining period of sentence, considering, among other factors, the improvement in her/his behaviour and continuity of skills and education gained.

(5) The setting up, operation, monitoring and other provisions of child correction homes shall be as prescribed.

44. Children suffering from chronic and serious illnesses to be transferred elsewhere: (1)

In case a child kept in child correction hom, suffering from a chronic or serious ailment, requires continuous medical treatment or in case a related medical practitioner recommends transfer of a child to another place on account of being mentally or physically impaired or being addicted to narcotic substances, the child court may issue an order for transfer of such child to another place for specified duration.

(2) The organization or person taking care of the child under an order pursuant to Subsection (1) shall submit a report on the child's health to the child court concerned every six months.

(3) If, based on the report pursuant to Subsection (2), the child is found to be healthy or cured of addiction, the child court may pass an order for returning such children to her/his former state.

45. Psychosocial and psychological analysis report: (1) Individual psychosocial and psychological analysis reports shall be prepared for the purpose of conducting investigation, prosecution, proceedings, hearing or disposal of charges against children in conflict with law.

(2) The provisions concerning preparation of study report pursuant to Subsection (1) shall be as prescribed.

46. Central Child Justice Committee: (1) Central Child Justice Committee shall be constituted at the central level as prescribed for conducting, among other tasks, coordination between the various agencies working on child justice.

(2) The meetings, functions, duties and rights of the Central Child Justice Committee shall be as prescribed.

47. District Child Justice Committee: (1) District Child Justice Committee shall be constituted in every district, and the formation, functions, duties and rights and meetings of such child justice committees shall be as prescribed.

CHAPTER 5

SPECIAL PROTECTION AND REHABILITATION OF CHILDREN

48. Children in need of special protection: (1) The children stated below shall be deemed to be children in need of special protection:

- (a) Orphan children,
- (b) Children that have been left or found abandoned in hospital or other public places or separated from parents or left unclaimed, with the identity of their parents unknown,
- (c) Children that are not receiving appropriate care due to physical or mental disability or incapacity of their parents,
- (d) Among children in conflict with law, those who have been referred for alternative care under the diversion process,
- (e) Children staying in prison being dependent on their father or mother who is detained or imprisoned
- (f) Infants born due to rape or incestuous relationships that are punishable by law and concerning whom application has been submitted to a child welfare authority, claiming inability to raise them,
- (g) Children who have been separated from their families for their best interest due to abuse, violence or neglect by their fathers, mothers or guardians,
- (h) Children who are earning their livelihood by engaging in labour that is forced or bonded or hazardous or worst in form or that contravenes a prevailing law, are addicted to smoking, drinking or other narcotic drugs, or are infected with HIV,
- (i) Children who are experiencing difficulty leading normal life or whose lives are at risk, having been suffering from serious physical or mental health problems or serious disability, due to the inability of their parents or families to afford treatment,
- (j) Children who are the victims of offences against children or are at such risks,
- (k) Children who have lost both or either of their parents, or whose parents have disappeared, or have themselves been suffering physically or mentally or facing disability due to disasters or armed conflict,
- (l) Children belonging to deprived Dalit communities,

Unofficial Translation

(m) Other children who are designated as children in need of special protection by the Ministry through a notification in the *Nepal Gazette*.

(2) The services and support, including rescue, temporary protection, health treatment, psychosocial support, family reunion, rehabilitation, alternative care, family support, social security and socialization, as required, to children referred to in Subsection (1) shall be as prescribed.

49. Provision of alternative care: (1) The children as per segments (a), (b), (c), (d), (e), (f) and (g) shall be considered as children that require alternative care.

(2) The child welfare authority shall make arrangements for alternative care for the children as per Subsection (1) based on the priorities stated below:

- (a) Relative from the side of the father or mother of the child,
- (b) Family or person willing to provide care to the child,
- (c) Organization that provides family-modelled care,
- (e) Children's home.

(3) Other provisions concerning alternative care shall be as prescribed.

50. Protection of children: (1) A person who has information about a child in need of special protection at any place shall inform the same to the child welfare authority.

(2) On receiving information as per Subsection (1), if the child welfare authority finds it necessary to urgently rescue the child, she/he shall rescue the child and put her/him in a temporary protection pursuant to Section 69.

(3) Acting on the information received pursuant to Subsection (1), the child welfare authority may make arrangements for providing necessary services after conducting investigations and inquiries.

(4) The child welfare authority may entrust a social service provider to provide necessary services pursuant to Subsection (3) as prescribed.

(5) While conducting investigations and inquiries pursuant to Subsection (3), other services needed by the children in need of special protection shall be ensured. If it is deemed that special protection is not necessary and the child's father, mother, other family members or guardian has been traced, the child welfare authority may hand over the custody of such children to them.

Unofficial Translation

(6) If the child welfare authority determines that specific support is needed for handing over the custody of the child to her/his father, mother, other family members or guardian pursuant to Subsection (5), she/he shall make arrangements for necessary services such as sponsorship or family support by coordinating with relevant organizations.

Clarification: For the purpose of this section:

- (a) "Sponsorship" means the act of making available financial support on long- or short-term basis for necessary nurturing and education for children by a person, organization or agency.
- (b) "Familial support" means the support provided for creating an environment conducive to safeguarding of children within the family by identifying and addressing the economic and social factors that lead the child's family to disintegration, thus, maintaining unity and harmony in the family.

(7) In the course of investigation and inquiry conducted pursuant to Subsection (3), if deemed necessary, the child welfare authority shall make arrangements for alternative care.

(8) In a case that involves child as a victim, the child welfare authority shall arrange for separating a child victim from her/his parents or family and keep her/him in a temporary protection service for a predetermined period of time, if the child desires so, or the parent or guardian is the perpetrator or because of their complicity with the perpetrator there is a possibility of greater risk to the child, or there is likelihood of obstruction in the investigation, proceedings and fact-finding of the incident.

(9) If, despite conducting investigations and inquiries pursuant to Subsection (3), the paternity or maternity of the child cannot be determined, the child welfare authority shall recommend for her/his birth registration and government identity card.

51. Appointing or designating a guardian: While placing in alternative care service pursuant to Section 49, arrangement shall be made for appointing or designating a guardian as per a prevailing law.

52. Establishment and operation of children's home: (1) The Government of Nepal, state governments and the local level shall set up children's home, as required, for the purpose of protection of children in need of special protection.

(2) The provisions regarding establishment of children's home, qualifications of directors, operational licence, renewal, classification, management, operation standards and monitoring provisions shall be as prescribed.

53. Duration of stay at children's home: Children who are in need of special protection shall be kept in children's homes until they have been properly rehabilitated or until they have attained the age of eighteen years.

54. Family reunion to be brought about: (1) Family reunion shall be carried out if the parents or guardians of the children staying in children's homes are traced and it is in the best interest of the children to do so.

(2) After the coming into force of this Act, no child shall be kept in children's home other than in circumstances pursuant to Sections 49 and 69 of this Act.

55. Duty of rehabilitation and social reintegration: It shall be legally binding on the children's home or child correction home concerned to assist the child welfare authority in the rehabilitation and social reintegration of the children staying at the children's home or the child correction home concerned.

56. Chief of the organization to be responsible: (1) If an organization is entrusted with the guardianship of a child pursuant to this section, the chief of the organization shall be deemed to have the ultimate responsibility of care and nurturing of the child.

Clarification: For the purpose of this section, "chief of the organization" means the chief executive officer or chairperson, managing director or any other officer functioning in that capacity who has been designated as per the rules of the organization.

(2) If the organization that has been entrusted with guardianship acts in contravention of the prescribed conditions and procedures, the child welfare authority may prohibit the organization from engaging in child protection activities, with disclosure of the conditions breached by it.

(3) If it is evidenced through monitoring that the organization that has been prohibited from engaging in child protection activities pursuant to Subsection (2) has made desired improvements, the child welfare authority may revoke the prohibition on it from engaging in child protection activities.

57. Child protection standards: (1) Every school, public body, private sector and social organization that directly works with children shall formulate and enforce child protection standards at institutional level in order to prevent violence against children or child sexual abuse, ensure protection of children and to immediately act on complaints.

(2) It shall be the duty of the chief of every school, public body, private sector and social organization to enforce the child protection standards formulated pursuant to Subsection (1).

58. Monitoring and reporting: (1) The person, guardian or organization that has assumed the duty of care and nurturing of children shall submit details of children to the Local Child Rights Committee through the child welfare authority concerned within three weeks of the closure of each fiscal year.

(2) Based on the details received pursuant to Subsection (1), the Local Child Rights Committee shall prepare and submit a report to the State and Local Level Child Rights Committee on annual basis.

(3) The State Child Rights Committee and Local Child Rights Committee shall periodically inspect and monitor the overall status of children and the quality and effectiveness of the available services within the State and Local Level respectively.

CHAPTER 6

INSTITUTIONAL PROVISIONS REGARDING CHILD RIGHTS AND CHILD WELFARE

59. National Child Rights Council: (1) a National Child Rights Council shall be constituted as prescribed under the chairpersonship of Government of Nepal, Minister for Women, Children and Senior Citizens to safeguard and promote children's rights and interests.

(2) The functions, duties and rights of the Council shall be as prescribed.

60. State and Local Level Child Rights Committee: (1) State Child Rights Committee, chaired by the minister of the State overseeing the matters of children, shall be constituted in each state.

(2) Local Child Rights Committee, chaired by a member of the rural municipality or urban municipality designated by the vice-chairperson or deputy-mayor of such rural municipal executive or urban municipal executive respectively, shall be constituted at every local level.

(3) The number of members of the State Child Rights Committee and Local Child Rights Committee pursuant to Subsections (1) and (2) and the functions, duties and rights and meeting procedure of the committees shall be as determined by the state and local level.

Unofficial Translation

61. Child welfare authority: (1) A child welfare authority shall be present at local level in order to respect, safeguard and promote child rights, as well as to carry out child protection work.

(2) The provisions regarding the appointment, functions, duties and rights and the terms of service of the child welfare authority shall be as prescribed.

62. Social service provider and child psychologist: (1) Persons willing to work as social service providers and child psychologists shall enlist themselves with the local child rights committee as prescribed.

(2) Social service providers and child psychologists may be appointed in required number from among the social service providers and child psychologists enlisted in the list pursuant to Subsection (1) for performing the tasks of child protection and service delivery.

(3) The social service providers and child psychologists appointed pursuant to Subsection (2) shall work under the direct direction and supervision of the child welfare authority.

(4) The social service providers and child psychologists required by the child court shall be appointed from among the social service providers and child psychologists enlisted pursuant to Subsection (1).

(5) The appointment process, qualifications, functions, duties, rights, terms of service and other provisions related to social service providers and child psychologists shall be as prescribed.

63. Children's Fund: (1) A children's fund shall be set up for performing tasks such as immediate rescue, relief and rehabilitation operations and for providing compensation to children.

(2) The fund pursuant to Subsection (1) shall consist of the amounts stated below:

(a) Amounts received from the Government of Nepal, state governments and local level,

(b) Amounts received from foreign governments, international agencies, organizations and individuals,

(c) Amounts received from citizens and domestic organizations,

(d) Amounts received in lieu of fines imposed by the child court,

(e) Amounts received from other sources.

Unofficial Translation

(3) The permission of the Government of Nepal, Ministry of Finance shall be obtained prior to receiving amounts pursuant to segment (b) of Subsection (2).

(4) The amounts pursuant to Subsection (1) may be made available to, among others, the Children's Fund duly established under the laws of state and local levels.

(5) The provisions regarding the management, operation and use of the amounts pursuant to Subsection (1) shall be as prescribed.

CHAPTER 7

SAFEGUARDING AND ENFORCEMENT OF CHILD RIGHTS AND DUTIES TOWARDS CHILDREN

64. Local level to enforce rights of children: (1) If a person violates the rights of a child spelled out in Section 2 or does not fulfil her/his duties towards the child spelled out in Section 3, the child or the stakeholder concerned may file an application with the judicial committee of the local level where the child is residing in order to enforce the said rights or fulfilment of duties.

(2) In case an application pursuant to Subsection (1) is received, the judicial committee may summon the person concerned within twenty-four hours, excluding the time taken for travel, and conduct necessary inquiries.

(3) If the inquiry conducted pursuant to Subsection (2) shows that the person concerned has violated the rights of the child or has not fulfilled her/his duties towards the child, the judicial committee shall pass an order on the person, organization or agency concerned at the local level within thirty days of receiving the application to enforce the rights of the child or fulfilment of the duties towards the child.

(4) If the inquiry conducted pursuant to Subsection (2) shows that the subject of enforcing the rights of the child or fulfilment of duties towards the child is not under its jurisdiction, the judicial committee shall write to the judicial committee of the other local level concerned to enforce the rights of the child or fulfil the duties towards the child.

(5) If a communication pursuant to Subsection (4) is received, the judicial committee of the local level concerned shall make arrangements to enforce the rights of the child and fulfilment of the duties towards the child pursuant to Subsection (3).

(6) While enforcing the rights of the child or fulfilment of the duties towards the child pursuant to this section, the judicial committee may offer necessary suggestions to the children, guardian or family members or alert the guardian or family members.

65. Enforce the rights of the child: (1) Notwithstanding what is contained in Section 64, in case a person violates the rights of a child pursuant to Section 2 or does not fulfil the duties towards a child pursuant to Section 3, the child or stakeholder concerned may file an application directly to a high court concerned to enforce the exercise of the said right or fulfilment of the said duty.

(2) In case an application pursuant to Subsection (1) is received, the high court shall conduct necessary inquiry into it and issue an appropriate order to the person, organization or agency concerned to enforce the rights of the child or fulfil the duties towards the child.

(3) If an inquiry into the application pursuant to Subsection (1) proves that the guardian or a family member has violated the rights of the child or has not fulfilled her/his duties towards the child, the high court shall inform such guardian or family member about the rights of the child and seek her/his commitment to not to repeat violation of the rights of the child or to fulfil her/his duties towards the child.

(4) While passing an order pursuant to Subsection (2), the high court may pass an order to caution the person or head of the organization or agency that has violated the rights of the child or has not fulfilled their duties towards the child or to impose a punishment on them and make them pay compensation under this Act.

CHAPTER 8

OFFENCES AGAINST CHILDREN

66. Offences against children: (1) If a person engages in any act of violence pursuant to Subsection (2) or sexual abuse pursuant to Subsection (3), it shall be deemed an offence against children under this Act.

(2) If any person commits any of the acts, stated below, against children, it shall be deemed an act of violence against children:

- (a) Involve in addictions such as smoking, drinking or gambling,
- (b) Allow entry to, or use in, recreational facilities opened for adults such as dance bars and casinos,
- (c) Show motion pictures or other audio-visual materials classified as adult-only,
- (d) Inflict physical or mental punishment or behave in undignified manner, whether at home, school or any other place,
- (e) Inflict physical injuries or harm, terrorize or intimidate, humiliate, neglect, discriminate, exclude or hate, isolate or cause mental torture,

Unofficial Translation

- (f) Harass or bully using electronic or other medium,
- (g) Organize for political purposes or use in strikes, shutdowns, transportation strikes, sit-ins or rallies,
- (h) Keep in illegal confinement, detention, jail or house arrest; handcuff them
- (i) Treat in a cruel or inhumane manner or torture,
- (j) Cause to beg or disguise as ascetic, monk or mendicant, except for tradition, custom or any religious or cultural activity,
- (k) Forcibly declare as orphan or register as orphan,
- (l) Offer or dedicate in the pretext of a pledge, religious or any other purpose or subject them to violence, discrimination, neglect or exclusion or mockery in the pretext of custom, culture or rituals
- (m) Engage in magic or circus shows,
- (n) Teach or train to commit offensive acts or involve in such acts,
- (o) Fix marriages of children or marry, or cause to marry, children,
- (p) Remove organs of children in contravention of a prevailing law,
- (q) Use children for medical or any other experiment,
- (r) Keep them in children's homes other than under a due process of law

(3) If any person engages in any of the acts stated below against a child, she/he shall be deemed to have committed an act of child sexual abuse:

- (a) Show, or cause to show, obscene pictures, audio-visual recordings or other such materials or display, or cause to display, expressions or gestures that reflect obscene or sexual conduct or behaviour or display, or cause to display, child pornography,
- (b) Distribute, store or use actual or fictitious obscene pictures or audio-visual materials of children,
- (c) Propose, entice, coerce or threaten for sexual activities,
- (d) Use children in production of obscene acts and materials,
- (e) Touch, kiss, hold sensitive parts of body, embrace with sexual intent or cause them to touch or hold sensitive parts of own body or body of another person or render them unconscious with sexual intent or display, or cause them to display, sexual organs,

Unofficial Translation

- excitement,
- (f) Use, or cause to use, children for stimulating sexual urge or sexual excitement,
 - (g) Use, or cause to use, children for the purpose of sexual gratification,
 - (h) Engage in, or cause to engage in, child sexual exploitation,
 - (i) Use, or cause to use, children with the intent of providing sexual services,
 - (j) Use, or cause to use, children with the intent of engaging in sexual abuse,
 - (k) Use children in prostitution or other sexual work,

(4) Notwithstanding what is contained in Subsection (3), anything expressed by means of writing, speaking, gesturing or displaying any word, picture, audio, visual medium and object or material on a sex-related topic without displaying obscenity with the aim of imparting information and education or an act performed with good intent in the course of treatment of children or for saving children from an accident or danger shall not be deemed acts of sexual abuse.

67. Not to be deemed eligible: (1) If it is established that a person, employed in any public or private organization, commits offence against children, the person shall be dismissed as per a prevailing law; and based on the severity and nature of the offence, the person won't be considered eligible for up to ten years in future for the work that involves direct contact with children, or to be appointed, nominated or elected in such private institution or organization.

(2) A person who is convicted of child sexual abuse pursuant to this Act or a prevailing law shall be deemed to have committed a criminal offence of moral turpitude.

68. To be reported: (1) If the father, mother, guardian and those who directly provide services to children such as caregivers, teachers, health-workers or any other person come to know about an incident of violence against children or child sexual abuse that has taken place, that is taking place or that is going to take place, she/he shall inform the nearest police station immediately.

(2) The police station concerned shall provide information pursuant to Subsection (1) to the child welfare authority and seek necessary support.

(3) While providing information with the intent of protecting children, no legal action shall be taken against the informant merely on the basis of having provided information.

(4) The identity of the informant pursuant to Subsection (1), if she/he so desires, shall be kept confidential.

69. Temporary protection service: The Government of Nepal shall make arrangements for temporary protection service for safe accommodation of children who are in need of immediate rescue and protection.

70. Rescue, protection and health check-up to be done: (1) If police personnel receive an information, complaint or report about an incident of violence against children or child sexual abuse, she/he shall write, or cause to write, necessary details and register it, and if the child needs to be rescued, immediately rescue her/him and refer her/him to a temporary protection service.

(2) If it is found that the child victim is in physical or mental pain, the police personnel shall send her/him to a nearby hospital or health centre and get her/his health checked up and treated.

(3) While recording the statement of the child victim, police personnel shall do so in the presence of, if possible, her/his parents, other family members or guardian, and, if it is not possible to do so in their presence or they cannot be present, in the presence of a female representative of a social organization or a social service provider.

Nevertheless, if the parents, guardian or other family members are the perpetrator of violence against children or child sexual abuse, their presence shall not be allowed during recording of statement.

71. Rehabilitation centre: (1) The Government of Nepal shall establish rehabilitation centres, as required, for physical or mental treatment or social rehabilitation of child victims of offences against children.

(2) An organization may set up a rehabilitation centre by receiving permission from the Government of Nepal as prescribed for the purpose of Subsection (1).

(3) The services and facilities to be made available at rehabilitation centres and the management, operation, monitoring and other provisions shall be as prescribed.

CHAPTER 9

PUNISHMENT, COMPENSATION AND ADJUDICATING AUTHORITY

72. Punishment: (1) If any person, organization or agency violates any of the child rights spelled out in Section 2, or does not fulfil any of the duties towards a child spelled out in Section 3, such person or the chief of such organization or agency shall be imposed with a fine of up to fifty thousand rupees.

(2) If the guardian or any family member does not fulfil her/his duties or if the mother, father or guardian alters the name and surname of the child with an intent of acquiring undue benefits or misappropriates the child's property, such mother, father or family member or guardian shall be imposed with a fine of up to one hundred thousand rupees.

(3) If a person commits an offence against children, varying upon the degree of offence, she/he shall be sentenced to a punishment as stated below:

(a) In case of an act as per segments (a), (b), (c), (d), (e), (f) or (r) of Subsection (2) of Section 66 or Subsection (1) or (2) of Section 78, a fine of up to fifty thousand rupees and imprisonment of up to one year,

(b) In case of an act as per segments (g), (j), (k), (l), (m), (o) or (q) of Subsection (2) of Section 66, or segments (a), (b), (c), (e), (f) or (i) of Subsection (3), a fine of up to seventy-five thousand rupees and imprisonment of up to three years,

(c) In case of an act as per segment (d) of Subsection (3) of Section 66, a fine of up to eighty thousand rupees and imprisonment of up to four years,

(d) In case of an act as per segments (h) or (i) of Subsection (2) of Section 66, a fine of up to one hundred thousand rupees and imprisonment of up to five years,

(e) In case of an act as per segment (n) of Subsection (2) of Section 66, half of the punishment that is liable to the offender of the offence that is taught or trained to be committed,

(f) In case of an act as per segment (p) of Subsection (2) of Section 66, a fine of up to five hundred thousand rupees and imprisonment of up to ten years,

(g) In case of an act as per segments (g) or (h) of Subsection (3) of Section 66, the punishment that is liable to the offender of rape as per prevailing laws,

(h) In case of an act as per segments (i) or (k) of Subsection (3) of Section 66, a fine of up to one hundred fifty thousand rupees and imprisonment of up to fifteen years.

Unofficial Translation

(4) A person who incites others, attempts or abets to commit the offences stated in Subsections (1), (2) and (3) shall be punished with half the fine and imprisonment imposed to the principal offender.

(5) A person acting in contravention of this Act or the rules framed under this Act other than those contained in this section shall be subjected to a fine of up to fifty thousand rupees or imprisonment of up to one year, or both punishments, varying on the severity of the offence.

(6) In case a person who has been punished once under this Act repeats such offence, she/he shall be subjected to an additional punishment of twenty-five per cent of the punishment pursuant to this section.

(7) Notwithstanding what is contained elsewhere in this section, if an act pursuant to Subsection (3) is also deemed a criminal offence by another prevailing law, no provision of this section shall prohibit institution of a case against the offender and punishing her/him separately under that law; and, if the punishment, in a prevailing law, for committing an act in contravention of this Act exceeds the punishment prescribed in this section, the punishment prescribed in a prevailing law shall prevail.

(8) If a person sets up or operates a children's home, child correction home, observation cell, rehabilitation centre or temporary protection service centre without obtaining permission under this Act, the Ministry may shut down such children's home, child correction home, observation cell, rehabilitation centre or temporary protection service centre and impose a fine of up to one hundred thousand rupees to the person and organization involved and may proceed with other additional actions in accordance with a prevailing law.

73. Compensation: (1) The child court shall pass an order on the offender, of an offence against children as per this Act and other prevailing law, to pay, either in lump sum or in instalments, a reasonable amount of compensation that is not less than the amount fined to the offender, determined on the basis of the loss caused to the education, and physical and mental health, development and family of the child victim, among other factors.

(2) In case circumstances are such that it will not be possible to recover the amount of fine as per Subsection (1) from the offender or in case the amount, even if recovered, is negligible or inadequate in comparison to the offence against children, the child court shall pass an order for payment of a reasonable amount of compensation from the Children's Fund pursuant to Section 63 to the child victim.

(3) In case the child victim dies before receiving the amount of compensation pursuant to Subsection (1), such amount shall be assigned to her/his father, mother, or if they are not present, other family members or guardian.

Unofficial Translation

(4) In case the child victim of an offence as per a prevailing law against children or offence against children requires immediate medical treatment or compensation or any form of relief, interim compensation shall be provided as per a prevailing law.

74. Period of limitation: (1) In relation to offences under Section 66, a case shall be filed within the period of limitation specified under a prevailing law and if no period of limitation is specified, within a year of the offence being committed.

(2) In cases of offences against children, if no case has been filed pursuant to Subsection (1), notwithstanding what is contained in a prevailing law, the period of limitation for filing case shall be one year after such child has attained the age of eighteen years.

75. Jurisdiction to adjudicate: The child court shall have the right to try and dispose of cases liable to punishment pursuant to subsections other than Subsection (8) of Section 72.

76. Government of Nepal to be plaintiff: In the cases pursued under Section 66, the Government of Nepal shall act as plaintiff and such cases shall be deemed to be included in Schedule 1 of the National Criminal Procedure (Code) Act 2017.

CHAPTER 10

MISCELLANEOUS

77. Children's duties: (1) It shall be the duty of every child to respect her/his father, mother, guardian, other family members, teachers and social service providers and obey the advice, suggestion, guidance and instruction given by them by keeping in mind her/his best interest.

78. Maintain confidentiality: (1) No person shall publish or broadcast through print or electronic media any details that discloses the identity of a child concerned with a case that is *sub judice* before a child court.

(2) No person shall broadcast information or news via any communications media by disclosing the identity of a child victim of an offence against children.

Unofficial Translation

(3) The police, government attorney or child court shall make arrangements for maintaining records of child victims of offences against children without disclosing their names and identity.

(4) Investigations authority, government attorney and child court shall keep the identity of children in conflict with law confidential. Copies of documents related to such charge shall not be given to others than the concerned police and government attorney's office, child court, the child concerned, family members, guardian, legal practitioners of the child concerned and Central and District Child Justice Committee.

(5) Notwithstanding what is contained elsewhere in this section, details related to children as stated below may be published or broadcasted in the circumstance stated below:

(a) If publishing or broadcasting details on children in conflict with law will not adversely affect such child's interest, with the permission of the child court,

(b) Data on children in conflict with law may be published with the permission of the concerned agency, for any study or research, with disclosure of their age or gender, without disclosing their names, surnames, personal details and addresses.

79. Provisions regarding probation authority: (1) The Government of Nepal shall appoint a probation authority in each district to carry out, among other tasks, investigation into the case concerned, inspection of observation cell, diversion, and preparation of reports on the status of implementation of the child court's order, in close contact with the children accused of offensive act.

(2) Till the time a probation authority is appointed, the Government of Nepal may designate any authority of the Government of Nepal to act as a probation authority.

(3) The functions, duties, rights and terms and conditions of service and other provisions of the probation authority shall be as prescribed.

80. Case not to be heard and disposed of without a legal practitioner: (1)

Notwithstanding what is contained in a prevailing law, the child court shall not proceed with and dispose of a case involving a child charged with committing an offensive act until legal practitioners are appointed for defending the child from such charges.

(2) In case no legal practitioner has been appointed on behalf of a child accused of offensive act, the child court concerned shall make arrangements to make service available from a paid legal practitioner or any other interested legal practitioner.

81. Appeal:(1) In case of dissatisfaction with the decision of the child court or the decision of the Ministry taken pursuant to Subsection (8) of Section 72, an appeal may be filed at the high court concerned within thirty-five days of such decision.

(2) Notwithstanding what is contained in Subsection (1) and in a prevailing law, no appeal shall be admissible against a decision of a child court that acquits children other than in circumstances affecting justice because of erroneous interpretation of law, wrong use of precedence or non-admission of an admissible evidence or admission of a non-admissible evidence.

82. Priority to be given in proceedings of case: Priority shall be given to the proceedings, hearing and disposal of cases that have children either as plaintiff or defendant in courts other than child court.

83. Basis for determining children's age: While determining a child's age, the factors stated below shall be taken as basis:

(a) The date of birth recorded in the child's birth registration issued by the hospital,

(b) If the date of birth pursuant to segment (a) is not available, the date of birth recorded in the child's birth registration certificate issued by the local registrar's office,

(c) If the certificate pursuant to segment (b) is not available, the date of birth recorded in the child's school character certificate or the date of birth recorded at the time of child's admission in school,

(d) If the certificate pursuant to segment (b) or the date of birth is not available, the date recorded in the certificate of age issued by the hospital,

(e) If the certificate pursuant to segment (d) is not available, the age recorded in the *janmakundali* (birth chart), *cheena* (horoscope), remarks, or the age disclosed by the father, mother, guardian or any other family member of the child or any such evidence.

84. Act to prevail: This Act shall prevail in so far as what is contained in this Act is concerned and other laws shall prevail in respect of the matters that are not covered by this Act.

85. Right to frame rules: The Government of Nepal may frame necessary rules in order to implement the objectives of this Act.

Nevertheless, the operational procedures to administer child justice shall be framed by the Supreme Court.

86. Right to frame guidelines and operational procedure: (1) The Ministry may frame guidelines and operational procedures, as necessary, by remaining within the scope of this Act and the regulations framed under this Act.

(2) The Supreme Court may frame child justice operational procedure or guidelines by remaining within the scope of this Act and the regulations framed under this Act.

87. Amendment, repeal and caveat: (1) Segment (a) of Subsection (1) of Section 4 of the Birth, Death and Other Personal Events (Registration) Act, 2033 (1976) is replaced by Segment (a) stated below:

“(a) Information on birth and death by father, mother, any family member or guardian,”

(2) The Act Relating to Children, 2048 (1992) is repealed.

(3) Any act carried out pursuant to the Act Relating to Children, 2048 (1992) shall be deemed to have been executed under this Act.