

The Child Rights Law
(The Pyidaungsu Hluttaw Law No. 22, 2019)
The 7th Waning Day of Waso, 1381 M. E.
(23 July 2019)

The Pyidaungsu Hluttaw hereby enacts this Law.

Chapter I

Title, Jurisdiction and Definitions

1. This Law shall be called **the Child Rights Law**.
2. If any offence relating to the sale of children or child prostitution or production or distribution of the child pornography is consistent with the following facts, it can only be adjudicated under this Law:
 - (a) it is committed by any person within the State;
 - (b) it is committed abroad to any child by a citizen or a holder of the foreign registration certificate taking permanent residency in the State or a foreigner holding the permit for the permanent residency in Myanmar;
 - (c) it is committed on a vessel or aircraft registered under any existing law of the State that has the right to fly the State flag;
 - (d) in case where a person accused of committing an offence in Chapter XVIII of this Law is not extradited to a foreign country, such a person remains within the State.
3. The following expressions in this Law shall have the same meanings given below:
 - (a) **State** means the Republic of the Union of Myanmar;
 - (b) **Child** means the person who has not attained the age of 18 years;
 - (c) **Documentary evidence of age** means the birth certificate, true copy of an extract of the school admission register, citizenship scrutiny card or registration card of a foreigner residing permanently in the State, medical certificate from the relevant doctor serving in the Ministry of Health and Sports, household list and any other credible document regarding the age of the child;
 - (d) The best interests of the child means the enjoyment of the rights of the child for the greatest physical and psychological benefits of the child in the Constitution of the Republic of the Union of Myanmar and this Law for ensuring the right to survival of the child, the right to development, the right to protection and the right to participation in

- society. This expression includes the primary consideration for the best interests of the child in managing the affairs of the child or adjudicating on juvenile crimes;
- (e) Child accused of committing an offence means a child who is accused of or charged with a crime as a defendant under any existing law of the State;
 - (f) Juvenile crime means an offence for which a child is sent up for prosecution to a Juvenile Court under any existing law;
 - (g) Juvenile Court means the court established by the Supreme Court of the Union to adjudicate juvenile crimes under this Law;
 - (h) Guardian means a person who provides care and protection to the child under this Law, or any other existing law, or any custom and tradition, in accordance with family and social obligation;
 - (i) Caregiver means a person who is responsible for providing care and protection to a child in need of care and protection in accordance with this Law;
 - (j) Training school refers to a training school established by the Ministry, to which a child in need of care and protection or a child who is convicted of a crime is sent for rehabilitation, custody and care for the interests of the child including physical, mental and moral benefits under this Law;
 - (k) Shelter means a camp, home, school or centre established by a volunteer or social organization, government department or government organization or non-governmental organization under this Law with their own arrangement for the purpose of protection, care and nurture of a child in need of care and protection;
 - (l) Temporary care centre or shelter means a station established under this Law for temporary custody and care of the child accused of committing an offence, during the investigation of the case and during the trial in the Juvenile Court;
 - (m) Alternative care means any provision of foster care to a child who has lost or deprived of parental care under any situation. This expression includes the provisions of care such as kinship care, institution-based care and temporary care;
 - (n) Diversion means other programmes for the best interests of the child accused of committing an offence before prosecution or during the trial in the Juvenile Court with intent to correctional purpose rehabilitation and reintegration into the society instead of punishment;

- (o) Township Coordination Body refers to the Township Coordination Body established under this Law for diversion;
- (p) Sale of children means the transfer of a child by an individual or a gang to other persons for money, consideration, promise or agreement;
- (q) Prostitution means the use of a child in sexual activities for money, consideration or promise and agreement;
- (r) Production or distribution of child pornography means any depiction of actual or simulated sexual intercourse with a child by any person or sexual organs of a child or exposing, broadcasting or distribution of such items through news media or web-portal and media or any other way for sexual purposes;
- (s) Exploitation includes a person obtaining or agreeing to obtain money or any benefit for prostitution of a child, sexual activity in any way, forced labour, forced to provide service, slavery, servitude, debt bondage or removal or sale of children's body organ;
- (t) Worst forms of child labour includes any of the following acts:
- (i) sale of children, slavery, servitude, serfdom, trafficking, debt bondage, forced or compulsory labour including forced or compulsory recruitment of a child for use in armed conflict;
 - (ii) inducing, procuring, use or offering of a child for prostitution, production and distribution of child pornography or pornographic performances;
 - (iii) inducing, procuring, use or offering of a child for illegal activities of drugs including the production and smuggling of drugs;
 - (iv) work which, by its nature or circumstance in which it is carried out, is detrimental to the health, safety or moral of a child;
- (u) Discrimination means the act of making distinction based on citizenship, ethnicity, nationality, caste, origin, colour, sex, language, religion, occupation, status, culture, economic condition, disability, politics, belief or sexual orientation;
- (v) Physical violence means any of the following act done by an adult or other child to a child:
- (i) torture, cruelty, inhumane or degrading treatment;
 - (ii) any form of penalty including corporal punishment;
 - (iii) physical bullying;

- (w) Emotional violence means frequent abuse, humiliation, exploitation, causing mental trauma or neglect which can result in psychological harm to a child. This expression includes the following acts:
- (i) an act that causes the psychological harm to a child repeatedly;
 - (ii) an act that frightens, scares, threatens, isolates, and neglects a child;
 - (iii) exposing a child to domestic violence or ill treatments;
 - (iv) degrading treatment of a child;
 - (v) bullying that causes psychological harm to a child;
- (x) Sexual violence means any sexual act or abetting to commit a sexual act by abduction, force, threat or coercion done by an adult or other child to a child. This expression includes the following sexual acts of a child:
- (i) touching, groping, rape and sexual harassment by force;
 - (ii) commercial sexual abuse or exploitation;
 - (iii) production and distribution of child pornography on web-portal and media by using electronic technology;
 - (iv) forced marriage or getting married;
- (y) Neglect means the failure of parents, guardian or the persons interacting with a child to provide the basic needs for children such as sufficient food, clothing, health care and education, love and warmth;
- (z) Child with disability means a child suffering from one or more forms of long-term physical, visual, verbal, auditory, cognitive, mental, intellectual or sensory impairment which may be either congenital or otherwise;
- (aa) Fund refers to a fund established for the rights of children under this Law;
- (bb) Permit for establishment means the permit issued by the Department of Social Welfare under this Law to a volunteer, social organization or non-governmental organization for the establishment of a shelter or temporary care centre or shelter;
- (cc) Certificate means a certificate issued by the Department of Social Welfare under this Law to any government department or government organization for the establishment or proposed establishment of a shelter or temporary care centre or shelter;
- (dd) National Committee refers to the National Committee on the Rights of the Child formed under this Law;

- (ee) Ministry means the Ministry of Social Welfare, Relief and Resettlement of the Union Government;
- (ff) Local Committee means the Region or State Committee on the Rights of the Child, Union Territory Committee on the Rights of the Child, Self-Administered Division or Self-Administered Zone Committee on the Rights of the Child, District Committee on the Rights of the Child or Township Committee on the Rights of the Child formed under this Law;
- (gg) Social Welfare Officer means a person who has been assigned to perform the duties of a Social Welfare Officer under this Law;
- (hh) Probation Officer means a person who has been assigned to perform the duties of a Probation Officer under this Law;
- (ii) Social Welfare Officer for registration of adoption means the respective Social Welfare Officer from the relevant Region or State Social Welfare Office, Union Territory Social Welfare Office, Self-Administered Division or Self-Administered Zone Social Welfare Office and District Social Welfare Office assigned by the Department of Social Welfare for registration of adoption under this Law;
- (jj) Imprisonment for life means the sentence of imprisonment to a convicted person to serve in prison until death.

Chapter II

Objectives

4. The objectives of this Law are:

- (a) to implement the rights of the child in the United Nations Convention on the Rights of the Child;
- (b) to ensure the best interests of children, and to protect the entitlement of the rights of the child in accordance with law;
- (c) to take necessary measures for basic health, nutrition, educational opportunity of all-round development of children;
- (d) to protect the children who are suffering from neglect, abuse, cruelty and exploitation by the State, volunteers, and non-governmental organizations;
- (e) to proceed a separate trial of a juvenile crime, and to ensure the rehabilitation of character of a juvenile offender;

(f) to ensure that all children have the relevant equal rights and protection prescribed according to the existing law, and there is no discrimination of children.

Chapter III

Formation of the National Committee and its Functions and Duties

5. The Union Government:

(a) shall form the National Committee on the Rights of the Child with the following persons to implement the objectives of this Law effectively:

- | | | |
|-------|--|-------------|
| (i) | Union Minister, Ministry | Chairperson |
| (ii) | Deputy Ministers from the relevant Union Ministries | Member |
| (iii) | Chief of Police, Myanmar Police Force, Ministry of Home Affairs | Member |
| (iv) | Permanent Secretary or Directors General from the relevant Union Ministries, government departments and government organizations | Member |
| (v) | representatives from social organizations and non-governmental organizations who are working for the best interests of the child, and volunteers | Member |
| (vi) | Director General, Department of Social Welfare | Secretary |

(b) may appoint vice-chairperson and joint-secretary in the formation of the National Committee under subsection (a);

(c) may re-form the National Committee formed under subsection (a).

6. The functions and duties of the National Committee are as follows:

- (a) designing the required policies, guidelines and plans to implement the objectives of this Law effectively;
- (b) ensuring to acquire necessary resources in implementing to respect, protect and fulfil the rights of the child in accordance with policies designed in subsection (a);
- (c) forming necessary working committees and sub-committees to carry out its functions and duties effectively, and assigning their functions and duties;
- (d) coordinating and cooperating with the relevant government departments, government organizations, United Nations organizations, international and regional organizations,

- volunteers, social organizations, non-governmental organizations in the implementation of the rights of the child as may be necessary;
- (e) accepting cash and property donated by the local and foreign well-wishers, and raising fund for the best interests of the child, and providing guidance and supervision for the effective utilisation of those fund;
 - (f) conducting educational training, workshops and seminars on the rights of the child in coordination with the relevant government departments, government organizations, United Nations organizations, international and regional organizations, social organizations and non-governmental organizations, as may be necessary;
 - (g) taking precautionary measures for not committing an offence by children;
 - (h) assessing and evaluating the progress of action plans of the child of the relevant government departments, government organizations, volunteers, social organizations and non-governmental organization from time to time;
 - (i) compiling the necessary annual reports and statistics related to child activities requested from the relevant government departments and organizations, and submitting them to the Union Government;
 - (j) performing other functions and duties related to the child directed by the Union Government.
7. (a) The Department of Social Welfare shall undertake the office works related to the functions and duties of the National Committee.
- (b) The expense of the National Committee shall be borne by the budget of the Ministry.

Chapter IV

Formation of Various Levels of Local Committees and their Functions and Duties

8. (a) The Region or State Government or Nay Pyi Taw Council shall form the Region or State Committee on the Rights of the Child, Union Territory Committee on the Rights of the Child, Self-Administered Division or Self-Administered Zone Committee on the Rights of the Child, District Committee on the Rights of the Child and Township Committee on the Rights of the Child as necessary, comprising the representatives from various levels of the relevant government department and government organization, and other suitable persons.
- (b) The Region or State Government and Nay Pyi Taw Council:
- (i) may re-form various levels of the Local Committee formed under subsection (a);

(ii) shall assign the functions and duties of various levels of the Local Committee in respect of the functions and duties related to the rights of the child, in accordance with the guidance of the National Committee;

(iii) may guide, supervise and support the Local Committee in connection with their functions and duties.

9. The various levels of the Local Committee shall carry out the functions and duties related to the rights of the child with the guidance and supervision of the relevant Region or State Government, Nay Pyi Taw Council and various levels of the Committee.

10. (a) The various levels of the Local Committee shall submit the report on functions and duties related to the rights of the child to the higher level of the Local Committee in accordance with the specifications.

(b) The various levels of the Region or State Committee on the Rights of the Child or Union Territory Committee on the Rights of the Child shall submit the report on the functions and duties related to the rights of the child to the relevant Region or State Government or Nay Pyi Taw Council and the National Committee in accordance with the specifications.

Chapter V

Appointing Social Welfare Officers and Probation Officers

11. The Ministry may appoint necessary Social Welfare Officers and Probation Officers with the formation of the following various levels of the Department of Social Welfare in accordance with the organizational structure allowed by the Union Government:

- (a) Department of Social Welfare;
- (b) Region or State Social Welfare Office and Union Territory Social Welfare Office;
- (c) Self-Administered Division or Self-Administered Zone Social Welfare Office;
- (d) District Social Welfare Office;
- (e) Township Social Welfare Office.

12. The Ministry:

- (a) may assign the duties of Social Welfare Officers and Probation Officers under this Law to civil servants or citizens who are not civil servants in the regions where various levels of social welfare offices have not been established under section 11, and shall reward the specified amount of remuneration to citizens who are not civil servants;

- (b) shall, in advance, coordinate with the relevant government departments and government organizations if the person who is to be assigned duties under subsection (a) is a civil servant from other departments.

Chapter VI

Establishment and Supervision of Training Schools, Shelters and Temporary Care Centres or Shelters

13. The Department of Social Welfare shall establish the following training schools and temporary care centres or shelters in accordance with the guidance of the Ministry:
- (a) training schools established for the child in need of care and protection or a child who is convicted of a crime is sent for rehabilitation, custody and care for their physical, mental and moral benefits under this Law;
 - (b) temporary care centres or shelters that are required to provide temporary custody, care and protection to a child who is accused of committing an offence before and during the police investigation, or before making decision according to a diversion programme, or during proceedings at a Juvenile Court.
14. (a) If any government department or government organization establishes or wants to establish a shelter or temporary care centre or shelter, it shall apply to the Department of Social Welfare for a certificate.
- (b) The Department of Social Welfare shall:
- (i) review the applications under subsection (a) whether they are in line with the specifications, and issue the certificates if they are in line with the specifications or issue the certificates after causing to fill the requirements if they are not in line with the specifications;
 - (ii) prescribe conditions in issuing certificates under clause (i). If any condition is violated, the Department shall coordinate with the relevant government department and government organization whether the certificate should be continued and issued for the best interests of the child;
 - (iii) provide appropriate technical assistance to the shelter or temporary care centre or shelter to which certificates were issued.
15. (a) If a volunteer or social organization or non-governmental organization wants to establish a shelter or temporary care centre or shelter, an application shall be submitted

to the Department of Social Welfare to obtain the permit for establishment in accordance with the specifications.

(b) The Department of Social Welfare may allow or refuse to issue the permit for establishment after scrutinizing the application under subsection (a) in accordance with the specifications. If the application is allowed, the permit shall be issued to the applicant by prescribing the tenure and conditions of the permit for establishment. If the application is refused, the Department shall reply a letter with the reason for rejection to the applicant.

(c) The Department of Social Welfare shall proceed to renew the permit for establishment in accordance with the specifications upon the application for renewal of the permit after the expiry.

16. For the shelters and temporary care centres or shelters issued the permit for establishment, the Department of Social Welfare:

(a) shall provide the necessary guidance, supervision, inspection, appropriate technical assistance, and support;

(b) may assign a suitable Social Welfare Officer or a Probation Officer or a board comprising such persons to investigate whether they comply with the prescribed conditions and submit the findings.

17. The Department of Social Welfare may pass any of the following administrative orders or decision if it is found that the holder of the permit for establishment violates any of the prescribed conditions:

(a) warning and imposing the prescribed fine;

(b) temporary suspension of the permit for establishment by prescribing a certain period of time;

(c) revocation of the permit for establishment.

Chapter VII

Rights of a Child

18. The State recognizes that every child has the rights to survival, development, protection and participation in society.

19. Every child:

(a) is entitled to the inherent right to survival;

(b) is entitled to the best interests of the child;

- (c) is entitled to live and grow up with one or both of his or her parents if they are still alive;
- (d) shall not be discriminated for any reason;
- (e) is entitled to freedom of speech and expressions of their beliefs and opinion;
- (f) is entitled to freely practice religion, language, literature, culture, custom and tradition;
- (g) is entitled to participate in lawful associations or organizations relating to children, or social or religious organizations;
- (h) is entitled to participate in cultural and artistic activities;
- (i) is entitled to read literature, acquire knowledge and access to information beneficial to his or her all-round development;
- (j) is entitled to leisure and playing time, and to participate in age-appropriate sports activities;
- (k) is entitled to succession in accordance with law;
- (l) is entitled to own property and legal protection of property;
- (m) is entitled to legal protection from arbitrary infringement of his or her dignity, privacy and security;
- (n) is entitled to the rights specified in subsections (a) to (m) and other rights equally as prescribed in this Law.

20. With regard to the loss of any right of the child, the child victim himself or herself or parents or guardian on behalf of the child or any close person is entitled to report the case to the relevant Local Committee or government department or government organization or court.

21. Regarding birth registration of a child:

- (a) every child borne within the State is entitled to birth registration at free of charge without any discrimination;
- (b) if a child is delivered at hospital, maternity clinic, or any other place, the parents, guardian or any relevant person shall inform the relevant government department for birth registration in accordance with the specifications;
- (c) the relevant government department shall register child birth, record it in the register, and issue the birth certificate in accordance with the specifications;
- (d) in case of a child whose birth has not been registered, a parent or guardian or any relevant person shall inform the birth of the child to the relevant government

department for registration with the recommendation of the child's birth from the relevant ward or village tract administrator or a proof certificate of delivery issued by the officer-in-charge of the relevant hospital or maternity clinic. This birth registration shall be considered as documentary evidence of the age of the child.

22. Every child registered for birth shall have the right to citizenship in accordance with the provisions under the existing law.

23. The age of marriage for both male and female shall be 18 years.

24. In order to ensure that every child fully enjoys the rights in this Law:

- (a) relevant government departments and government organizations shall undertake the duties according to their responsible sectors;
- (b) volunteers, social organizations and non-governmental organizations are entitled to perform the duties in accordance with law.

Chapter VIII

Adoption of a Child

25. Any Myanmar citizen capable of providing foster care to a child is entitled to adopt a child in accordance with the specifications.

26. The Department of Social Welfare may assign the relevant Social Welfare Officer for registration of adoption to register the adoption under this Law.

27. (a) Any Myanmar citizen may, in accordance with the specifications, apply to the relevant Social Welfare Officer for registration of adoption for the following child:

- (i) orphan child;
- (ii) a child who is not being cared for by parents or a child whose parents have given the consent for adoption in case a child is cared for by parents but they cannot provide the best interests of the child;
- (iii) a child who is permanently away from parents or guardian and not being cared for by relatives;
- (iv) other child specified, by notification, by the Ministry.

(b) Any person who wants to adopt a child may adopt the child in accordance with the provisions of the existing Registration of Kittima Adoption Act after registering the adoption contract at the relevant Office of the Registration of Deeds without registering the adoption to the Social Welfare Officer for registration of adoption.

(c) The relevant Office of the Registration of Deeds shall, when registering the adoption contract of a child under subsection (b), notify the relevant Social Welfare Officer for registration of the adoption together with a copy of the adoption contract within 30 days from the date of registering it in order to enjoy the rights of adopted children under this Law.

28. The relevant Social Welfare Officer for registration of adoption:

- (a) may allow or refuse the application for adoption under section 27 after scrutinizing it in accordance with the specifications;
- (b) shall, if the application is allowed under subsection (a), register the adoption at the relevant Social Welfare Office by making the adoption contract between the adoptee and adopter in accordance with the specifications;
- (c) shall submit the adoption list registered under subsection (b) or adoption list submitted by the relevant Office of the Registration of Deeds under subsection (c) of section 27 together with the copies of the adoption contract to the Department of Social Welfare.

29. The adoptive parents who register the adoption contract of the child at the Office of the Registration of Deeds under the existing Registration of Kittima Adoption Act or to a Social Welfare Officer for registration of adoption according to the provisions in this Chapter shall:

- (a) report the situation of care and protection and the all-round development of the adopted child to the relevant Social Welfare Officer for registration of adoption in accordance with the specifications;
- (b) comply with the duties and conditions prescribed by the Department of Social Welfare;
- (c) not do kidnapping abroad, sale, forced labour, forced service or torture upon the adopted child by themselves or in collaboration with other persons.

30. The relevant Social Welfare Officer for registration of adoption may, after the adoption has been registered, enquire, monitor or investigate, if necessary, whether the adoptive parents violate any duty and condition or prohibition relating to adoption in accordance with the specifications and if it is found that they violate any duty and condition or prohibition, he or she shall submit that the adoption should be cancelled with a remark to the Department of Social Welfare.

31. The Department of Social Welfare may pass a cancellation order or other suitable order or any decision after scrutinizing the submission under section 30.
32. (a) After registering the adoption by the Social Welfare Officer for registration of adoption, it shall be considered that the rights and responsibilities of the parents and guardians before adoption are ceased and transferred to the adoptive parents.
- (b) The adopted child shall have the right to succession and other rights of the adoptive parents in accordance with the law or Customary Law related to the adoptive parents.

Chapter IX

Alternative Care

33. The Department of Social Welfare shall:
- (a) take priority over arrangements for alternative care such as kinship care on behalf of biological parents, foster care, training school-based care, care at a temporary care centre or shelter, to children who have lost or deprived of parental care for any situation;
 - (b) ensure that the removal of children from their family environment shall be temporary and of the shortest possible duration unless the permanent removal is in their best interests;
 - (c) practise the training school-based care and care at a temporary care centre or shelter for children deprived of care in a family environment for a last resort;
 - (d) prescribe the care standards supported the development of the child in training schools, shelters, and temporary care centres or shelters;
 - (e) take responsibility for relocation of the children according to the alternative care programme in order to provide appropriate care. In doing so, it may coordinate with relevant government departments, government organizations and non-governmental organizations, if necessary;
 - (f) review regularly the relocation of the children for appropriate care according to the alternative care programme, and consider the possibility of entrusting them back to their family.

Chapter X

Guardianship and Custody

34. The parents including guardians shall take into consideration to the best interests and agreement of the child depending on age and maturity of the child in providing guardianship and custody to the child and in managing property belonging to the child.
35. Both parents shall:
- (a) be considered the original guardians of the child;
 - (b) naturally have the responsibility for raising the child and managing the property belonging to the child.
36. If the two parents are separated:
- (a) either the parent that lives with and has a continuous relationship with the child or both parents shall have the rights to care and custody for the child;
 - (b) either parent or both of them shall have the responsibility to raise the child and the right to manage the property belonging to the child, taking into consideration for the best interests of the child.
37. Upon the death of a parent that has a continuous relationship with the child, the surviving mother or father shall exercise the parental powers and responsibilities.
38. Any of the following persons who wants to be the guardian of a child may apply to the relevant court for passing judgement and decree of appointing as a guardian:
- (a) a person who wants to be the guardian of a child after the parents have separated or divorced;
 - (b) a person who wants to be the guardian of a child and wants the best interests of a child subjected to neglect or abuse or cruelty or exploitation for the purpose of raising the child and managing the property belonging to the child.
39. The relevant court:
- (a) may, after scrutinizing the application under section 38, pass judgement and decree of appointing as a guardian to a parent or grandparent or any biological relatives of the child or any other suitable person in their absence, taking into consideration for the best interests of the child;
 - (b) shall take the consent of the child in passing judgement and decree for guardianship and custody of the child depending on the age and maturity of the child.
40. Every child shall have the right to meet with his parents, and grandparents after appointing as a guardian who is not a parent of the child by the relevant court except where there is needed to separate for the best interests of the child.

Chapter XI

Allowance

41. The parents of the child shall be responsible for raising the child and providing the basic needs of the child.
42. (a) Every father shall be responsible for providing allowance for each of his child whether he is divorced or not.
- (b) If the father who is responsible to provide allowance to a child under subsection (a) fails to provide allowance for a child without reasonable grounds, the mother or guardian on behalf of the child may file a lawsuit against the father to provide allowance at the relevant court.
43. The relevant court:
- (a) may pass an order to provide allowance not exceeding 50,000 kyats for a child per month, if it is found that the father fails to provide allowance for a child without reasonable grounds in the application under subsection (b) of section 42;
- (b) if the respondent fails to provide the allowance imposed under subsection (a), shall consider it is failed to pay a fine imposed in accordance with the Code of Criminal Procedure and the fine collected under the procedure of imposing fine shall be paid to the applicant for allowance imposed.

Chapter XII

Rights to Health

44. Every child:
- (a) shall be entitled to the rights to health without discrimination;
- (b) is entitled to receive health care in accordance with the health policies adopted by the State;
- (c) shall be entitled to health care in conformity with physical and psychological health standards.
45. The Ministry of Health and Sports shall:
- (a) report the necessary allocation of support and resources of the State to the Union Government to be entitled to the rights to health care of the children effectively;
- (b) design the necessary health care projects for the development of health of every child including infants;

- (c) take necessary measures after assessing the community and traditional practices including food, commodities and medications which are harmful to the health of the child.

Chapter XIII

Rights to Education

46. Every child:

- (a) shall be entitled to educational opportunities without discrimination;
- (b) is entitled to free education at the basic education schools established by the State in accordance with the National Education Law;
- (c) is entitled to learn and maintain for the development of literature, language, culture, art and tradition of ethnic groups.

47. The Ministry of Education shall:

- (a) report the necessary allocation of support and resources of the State to the Union Government to be entitled to the rights to the education of children effectively;
- (b) lead and implement to provide free education at the basic education schools established by the State up to a specified level;
- (c) take necessary measures to ensure school enrollment, regular attendance and reduce drop-out rates for the full enjoyment of the educational opportunity of the children;
- (d) take necessary measures for other practical vocational training including alternative education for the right to education for children who cannot attend schools and for children who cannot pursue education at schools established by the State for any reason;
- (e) support the establishment of training for the development of literature, language, culture, art and tradition of ethnic groups.

Chapter XIV

Employment of and Worst Forms of Labour to Children

48. (a) No child shall be forced to work or employed in the worst forms of labour.

- (b) The age of the employable child shall not be younger than 14 years of age. If the age prescribed for the free compulsory education system envisaged by the State is more than 14 years, the employable age of children to be in school is not younger than that age.

- (c) The child who has attained the age specified in subsection (b) has the right to employment in accordance with the existing Labour Law and Employment Law if he or she is in good health and capable of working the relevant work.

49. The Ministry of Labour, Immigration and Population shall:

- (a) prescribe the hazardous types of employment and workplace in coordination with the relevant employer and employee organizations;
- (b) coordinate with the relevant Union Ministries to ensure the employment opportunity for children, and full enjoyment of rights and protection for the occupational safety and health of working children including physical and verbal harassment.

Chapter XV

Children with Disabilities

50. The children with disabilities:

- (a) are entitled to fundamental freedom including the inherent right to survival, rights of the child, freedom of expression, freedom of religion in the same way as other children;
- (b) are entitled to equal rights in the same way as other children in addition to the rights prescribed in the Right of the Persons with Disabilities Law;
- (c) are entitled to be arranged by their parents or guardian for their best interests on behalf of them who are not capable of making decision in accordance with the existing law;
- (d) are entitled to protection from abuse, exploitation and discrimination including coercion and various kinds of domestic violence.

51. Every child with disability:

- (a) shall be entitled to educational opportunities including the early childhood care and development, and lifelong learning;
- (b) is entitled to free education at schools established by the State near their community or region up to a level specified by the Ministry of Education in the same way as other persons.

52. The Ministry of Education, in coordination with the Ministry, shall:

- (a) take measures providing necessary curricula and syllabi, facilities, transportation support and teaching aids in learning for children with disabilities from the level of Basic Education to University Education;

(b) take measures for enabling to learn the rights of persons with disabilities and teaching methodologies and interpersonal communication systems for different types of disabilities in the inclusive education system or special education system, education colleges and universities.

53. The Ministry of Health and Sports, in coordination with the Ministry, shall:

- (a) provide health care services for the prevention of disabilities;
- (b) design the projects to minimize the incidence of disabilities among infants and children;
- (c) arrange to be accessible the good quality health care and services for children with disabilities up to rural areas, either free of charge or an affordable rate.

54. The Ministry shall present and request to the Union Government to obtain the Union budget for children with disabilities to ensure that they can enjoy their fundamental rights in sections 50 and 51, and implement separate programmes for this purpose.

55. The National Committee shall design and implement the projects with the Committee fund and contributions of local and foreign well-wishers for the psychological and physical reformation and rehabilitation of children with disabilities.

Chapter XVI

Protection of the Child from Violence

56. No one shall commit physical, emotional or sexual violence that will inflict either losses or injury in any way upon the child.

57. The children who have suffered, or are subjected to any of the following situations including the children who have experienced violence as described in section 56 shall be considered as children in need of care and protection:

- (a) a child who has no parent or guardian;
- (b) a child under the custody of the cruel or abusive parent or guardian;
- (c) a child working under the worst forms of labour;
- (d) a street child;
- (e) a child facing trial in a court;
- (f) a child who is sexually exploited;
- (g) a child who is trafficked;
- (h) a child of divorced or separated parents;
- (i) a child suffering from AIDS or a child of parents suffering from AIDS;

- (j) a child beggar;
 - (k) a child used in production, sale and transport of narcotic drugs or psychotropic substances;
 - (l) an insane child or child infected with a contagious disease;
 - (m) a child who is delinquent beyond control by the parent or guardian;
 - (n) a child who is affected by natural disasters or armed conflicts;
 - (o) a poor and disabled child;
 - (p) a child prescribed by the Ministry from time to time.
58. (a) Any person who thinks that a child specified in section 57 should be protected and cared may inform the relevant Social Welfare Officer, with reasons.
- (b) If the Social Welfare Officer receives the notice under subsection (a) or obtains information by any means by himself or herself, he or she shall investigate whether the child is in need of care and protection in accordance with the specifications, and submit the findings together with his or her remarks to the Department of Social Welfare in accordance with procedures. Moreover, the Social Welfare Officer may instruct to be entrusted the child to the parent or guardian, training school, shelter or temporary care centre or shelter.
- (c) The Social Welfare Officer shall report the case to the relevant police station if he or she finds that any person committed a crime against a child during the investigation.
59. If the police officer or Social Welfare Officer considers that the child who is under temporary care and custody at a training school, shelter or temporary care centre or shelter due to being accused of committing a crime needs medical treatment, the child shall be sent to a nearby hospital or clinic for treatment.

Chapter XVII

Child in Armed Conflict

60. In order to respect, protect and fulfil the rights of children who have been affected by armed conflicts, the relevant government departments and government organizations, armed forces and armed groups shall:
- (a) take feasible measures to prevent and protect a child against physical, emotional and sexual violence, neglect and exploitation within the State territory;
 - (b) consider the children involved in or affected or displaced by armed conflicts as victims and implement the best interests of the children as a priority;

- (c) take measures against the recruitment and use of those in armed conflicts who have not attained the age of 18 years within the State territory and for discharge of such recruits;
 - (d) ensure the prosecution of any person who is responsible for violations against children in connection with armed conflicts. If the violators are defence services personnel, the cases shall be transferred to a court-martial for taking action under military jurisdiction. After transferring the case, a certified copy of the decision of the court-martial shall be requested and sent it to the family of the violated child;
 - (e) withdraw the case in which children involved in armed conflicts prosecuted under any other offence other than offences punishable by death, imprisonment for life, imprisonment for unlimited period or imprisonment for 20 years, and transfer the children to the Department of Social Welfare for reformation and care at a training school, shelter or temporary care centre or shelter;
 - (f) take into consideration for the vulnerability of displaced children and victims as a result of armed conflicts, and ensure safety and access to the basic services as a priority;
 - (g) disseminate information and give awareness to all adults and children in appropriate manners to know and adhere widely the provisions of this Chapter;
 - (h) take measures and provide appropriate assistance for treatment and rehabilitation of children recruited or used, or affected in armed conflict for their education and reintegration into society to restore their physical and psychological well-being.
61. Any person amounts to an offence if he or she breaches any of the following violation against children during armed conflict:
- (a) recruitment and use of children in armed conflict;
 - (b) coercion or summons of children to transport weapons and food supplies;
 - (c) maiming or killing;
 - (d) sexual violence;
 - (e) attack on schools or hospitals where children are treated;
 - (f) refuse and impediment to humanitarian assistance, support and services.
62. The children in armed conflict shall have:
- (a) the right to protection from physical, emotional or sexual violence, neglect and exploitation;

- (b) the right to protection of children from coercion, torture or other cruel, inhuman or degrading treatment or recruitment as punishment for non-compliance or forced involvement in armed conflict;
- (c) exemption from arrest and detention for any reason or internment in camps that are not allowed to go outside;
- (d) the right to receive appropriate assistance to facilitate the physical and psychological rehabilitation of child victims and survivors whose rights have been violated and subjected to physical, emotional and sexual violence and their reintegration into society;
- (e) the right to receive support for damages and losses, rehabilitation and assistance from the Legal Aid Body in criminal proceedings;
- (f) the right to obtain necessary documents of their rights.

63. No one shall:

- (a) recruit, conscript or enlist persons who have not attained the age of 18 years into the Defence Services;
- (b) use persons under the age of 18 years in battle.

64. No one shall:

- (a) recruit persons under the age of 18 years into other armed groups that are not the Defence Services;
- (b) use persons under the age of 18 years in battle of any other armed groups that are not the Defence Services.

65. The provisions of subsection (c) of section 60, subsection (a) of section 61 and subsection (a) of section 63 shall not apply to schools, institutions and universities supervised and taught by the Defence Services.

Chapter XVIII

Sale of Children, Child Prostitution, Production or Distribution of Child Pornography and Extradition

66. Any person who commits any of the following acts against children with or without the consent of the child shall be considered as an offender:

- (a) child sexual exploitation, transferring body organs of a child for benefits, forced child labour or selling, offering, transferring or receiving children for such purposes;
- (b) prostitution, offering, acquiring, purchase or support for such purposes;

(c) production or distribution of child pornography, or offering, selling, possessing, importing or exporting for such purposes.

67. (a) The offences in this Chapter shall be considered to be included in extraditable offences under any extradition treaty that has been made among the members of the Optional Protocol to the Convention on the Rights of the Child.

(b) The extradition among the members of the Optional Protocol to the Convention on the Rights of the Child or mutual assistance shall be granted in accordance with the existing law for any offence in this Chapter.

Chapter XIX

Ethics for the Child and Responsibilities of Parents, Guardians and Teachers

68. Every child shall observe the following ethics according to their age:

(a) to observe and abide by the law;

(b) to exercise their rights by respecting and following the admonition of parents or guardians as they grow and become mature;

(c) to acquire education by adopting the admonition of parents, guardians and teachers;

(d) to observe the school discipline and community discipline or social discipline and religious ethics, and conduct as a conscientious person in the community;

(e) to preserve good traditions, values, language, religions, beliefs, and culture of their community;

(f) to abstain from drinking alcohol, smoking, using narcotic drugs or psychotropic substances, gambling or other immoral conduct.

69. The parents, guardians or teachers shall guide the child to foster the habits of observing ethics and discipline in section 68 without using any form of punishment including corporal punishment.

70. The National Committee shall impart knowledge and education widely to parents, community elders and teachers to ensure that children observe the ethics and discipline in section 68, and parents, guardians or teachers ensure to follow the guidelines in section 69.

Chapter XX

Diversion

71. With regard to the child accused of committing an offence:

(a) the following conditions shall be taken into consideration whether diversion programmes should be implemented:

- (i) the nature of the offence, reason for committing and circumstances;
- (ii) such offence is repeatedly committed or not;
- (iii) cognitive development and maturity of the child;
- (iv) family situation and influence of environment;
- (v) the loss and damages of the victim can be remedied or not;
- (vi) there is sufficient evidence or not that the child committed the offence;
- (vii) there is safety or not in the community;

(b) the diversion programme may be implemented in accordance with the provisions in this Chapter at the stage of before investigation or under investigation by the police as to the relevant stages, where appropriate.

72. Regardless the conditions in subsection (a) of section 71, the diversion programme shall not be proceeded if the child accused of committing an offence falls under the following conditions:

- (a) committing an offence punishable with imprisonment up to seven years and above including death, imprisonment for life, imprisonment for unlimited period or imprisonment for 20 years;
- (b) finding the sufficient evidence that the child is of so unruly or depraved a character or absolutely uncontrollable;
- (c) having a previous conviction of any offence punishable with imprisonment up to three years and above.

73. The Department of Social Welfare shall, under the guidance of the National Committee, practise and provide the training by local and foreign experts for responsible persons from the relevant government departments or government organizations and volunteers from social welfare organizations or non-governmental organizations including juvenile judges, law officers, police force and Social Welfare Officers in order to implement the diversion programme for the best interests of the child accused of committing an offence.

74. The Region or State, or the Union Territory Committee on the Rights of the Child shall, under the guidance of the National Committee, establish the Township Coordination Bodies comprising suitable persons from the relevant township level government departments or government organizations or non-governmental organizations in

coordination with the Region or State Advocate General's Office, General Administration Department, Police Force and Social Welfare Office in order to implement the diversion programme for the child accused of committing an offence.

75. The Township Coordination Bodies:

- (a) shall take into the consideration of the conditions under subsection (a) of section 71 and section 72 for implementing the diversion programme related to a child accused of committing an offence, and initially determine to implement such programme;
- (b) shall summon the child accused of committing an offence, his or her parents or guardians, and the victim, his or her parents or guardians if the victim is a child, and may decide to implement the diversion programme in one or more of the following appropriate measures according to the mutual agreement:
 - (i) admonishing the child accused of committing an offence;
 - (ii) causing to apologize in writing or oral to the victim and his or her parent or guardian by the child accused of committing an offence, or his or her parent or guardian, or both of them;
 - (iii) causing to do any community service;
 - (iv) causing to pay appropriate reparation or compensation to the victim for the damage or consequences;
 - (v) returning the lost or damaged property, substituting such property or causing to pay compensation for such property;
 - (vi) subjecting the offender to admonition by community elders, and comforting to the victim;
 - (vii) reformation and custody of the child accused of committing an offence in training schools, shelters or temporary care centres or shelters to provide education and vocational training for the best interests of the child;
 - (viii) causing to do any proficiency and other development programme;
 - (ix) causing to consult with the doctor for recovery and rehabilitation from drug or alcohol addiction.
- (c) shall implement the diversion programme decided under subsection (b) in accordance with specifications;
- (d) may form a Sub Coordination Body comprising suitable persons led by a member of the Township Coordination Body, and implement the diversion programme.

76. The Juvenile Court shall notify the Township Coordination Body for implementation according to the diversion programme if it conforms with the conditions in subsection (a) of section 71 in the case filed by the police force or a direct complaint before passing the final order during trial subject to section 72, and may close the case.
77. The decision on a diversion programme made by the Township Coordination Body under section 75 or according to the information of the Juvenile Court under section 76 shall be final.

Chapter XXI

Criminal Proceedings against the Child and Exemption

78. (a) Nothing is an offence which is done by a child who has not attained the age of 10 years.
- (b) Nothing is an offence which is done by a child above 10 and under 12 years of age, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his or her conduct on that occasion.
79. Before the documentary evidence of age is submitted by the child accused of committing an offence, he or she shall be entitled to the rights of the child under this Law according to his or her young age and appearance that he or she is seemed to be a child who has not attained the age of 18 years.
80. The police officer who arrests the child accused of committing an offence shall:
- (a) identify himself or herself properly;
 - (b) explain the reason for arrest and the offence alleged in simple language that is understandable to the child;
 - (c) refrain from threat, coercion or unnecessary use of force, torture, cruelty or any other inhumane treatment;
 - (d) not handcuff, tie with a rope or any other ways;
 - (e) not detain the child in police custody under any reason;
 - (f) not keep the child with adult prisoners. If the child is a girl, she shall be placed with a female guard;
 - (g) inform the respective parents or guardian as soon as possible and allow the child to meet with his or her parents, guardian, relative or lawyer;
 - (h) only examine the child in accordance with the specifications related to the offence committed;

- (i) promptly send the child to the relevant Juvenile Court in the absence of a diversion process;
 - (j) release the child upon making a bond for good behaviour if the child cannot be sent to the Juvenile Court under subsection (i). If the child cannot be released with a bond, the child shall be referred to a temporary care centre or shelter or other appropriate place;
 - (k) obtain the documentary evidence of age to determine the age of a child.
81. Where the child accused of or convicted of committing an offence absconded from a training school, shelter, temporary care centre or shelter, parents, guardian or caregiver, a police officer:
- (a) may arrest the child without a warrant. No action shall be taken under the Penal Code or any other special law;
 - (b) shall return the child to the training school, shelter, temporary care centre or shelter, parents, guardian or caregiver if he or she is arrested;
 - (c) may place the child in any appropriate place before returning him or her to the training school, shelter, temporary care centre or shelter, parents, guardian or caregiver under subsection (b).

Chapter XXII

Juvenile Justice

82. The Supreme Court of the Union:
- (a) shall establish juvenile courts in appropriate areas within the State as necessary. Moreover, it may appoint juvenile judges;
 - (b) may confer the power of a juvenile judge to the Township Judge in the area where the Juvenile Court has not been established under subsection (a).
83. The Juvenile Court:
- (a) shall have jurisdiction only over the child who has not attained the age of 18 years at the time of committing an offence. In trying a juvenile crime, the documentary evidence of age shall be scrutinized and determined before proceeding. The determination shall be recorded;
 - (b) shall continue to try the case, notwithstanding that the child accused of committing an offence has attained the age of 18 years during the juvenile crime tried by the Juvenile Court as if he or she was a child, and pass a sentence in accordance with law;

- (c) may, during trial, entrust the child sent up for prosecution to the care of parents or guardians or temporary care centre or shelter or other appropriate place, upon the execution of a bond for good behaviour subject to conditions;
- (d) may cause the child to follow conditions and entrust him or her to the parents or guardian or temporary care centre or shelter or any other appropriate place only as the last resort when no bond is executed under subsection (c). The entrustment period shall be as short as possible;
- (e) shall not pass a detention order to the child either in a police custody or prison under any reason;
- (f) shall explain the offence which he or she is charged with simple language that is understandable to the child for any crime submitting before the Juvenile Court;
- (g) shall try juvenile crimes punishable with death or imprisonment for a term exceeding three years as the prescribed manner in which a warrant case is tried;
- (h) shall try all juvenile crimes except the type of offences mentioned in subsection (g) as the prescribed manner in which a summons case is tried;
- (i) may, notwithstanding that a lawyer is hired in the juvenile crime, allow the parents, guardian, relatives or any responsible Social Welfare Officer providing assistance to the child in defending himself or herself;
- (j) shall proceed according to the Code of Criminal Procedure in case there is necessity for the psychological expert to determine whether there is a mental defect or not.

84. In trying the juvenile crimes, the Juvenile Court:

- (a) shall try the case in a separate court or building. If it is unavailable, a building or room shall be used that is not a regular venue for court proceedings;
- (b) shall not present any person at the place of trial other than the parents, guardians, staff of the court, law officers, non-uniformed members of the police force on duty, persons concerned with the case and persons who have been permitted by the Juvenile Court;
- (c) shall permit the parents, guardian, relatives, friends or any other suitable person to examine, apply or argue on behalf of the child in order to defend the child;
- (d) shall notify the relevant law office to appear for the plaintiff by a law officer for the child who is the victim whether it is a cognizable offence;
- (e) shall arrange an interpreter for the child and witnesses where necessary;

- (f) shall try the juvenile case promptly;
- (g) may make a video conferencing system to be able to see, hear, ask, answer and record by the judges, law officers, Social Welfare Officers, police officers, alleged child offender, witnesses in examining witnesses, giving arguments and trial.

85. Regarding the trial of the juvenile case, the Juvenile Court:

- (a) may continue to try the case in the absence of the child, notwithstanding the stage of inquiry of trial of the case, if it is considered that the alleged child offender does not need to come to the Juvenile Court;
- (b) shall not allow information on the juvenile cases to be published in newspapers, magazines, journals or periodicals, or child pornography to be produced or distributed on web-portal and media by using electronics technology, or to be distributed and broadcast on any radio or television, or enter the media person to the court room except where such actions are in the best interests of the child;
- (c) shall notify the relevant Social Welfare Office to submit the report of the Probation Officer in accordance with the specifications.

86. Regarding the case of the child turned the age of 18 years at the time of prosecution at a relevant court after apprehending child absconded, during the investigation of the police force or during the trial of the Juvenile Court, the Juvenile Court shall:

- (a) continue to try as a child and adjudicate in accordance with law if the child is over the age of 18 years but who has not attained the age of 20 years;
- (b) try the case in the way of the adults and adjudicate in accordance with law if the child has attained the age of 20 years. However, the penalty shall, in accordance with this Law, be imposed as if the offender is a child.

Exception: In imposing the penalty, the offender shall not be entrusted to the custody of the parents, guardian, committed to the temporary care centre or shelter or training school.

87. The Juvenile Court shall, before passing an order upon the child committed the offence, take into consideration the following and pass an order which will be the best interests of the child and which is a reformed character of the child:

- (a) the age and character of the child;
- (b) the environmental circumstance of the child;
- (c) the cause of committing the offence;

- (d) the report submitted by the probation officer;
- (e) priority of the diversion programmes that do not affect the detention and deprivation of the liberty of the child if possible;
- (f) other circumstances which are required to be taken into consideration for the best interests of the child.

88. The Juvenile Court:

- (a) shall not ordinarily sentence a child to imprisonment. The child shall be sentenced to imprisonment by considering as the last resort only when there is no alternative care or diversion programme;
- (b) shall not sentence the death penalty, imprisonment for life, imprisonment for unlimited period or imprisonment for 20 years on the child notwithstanding anything in any existing law;
- (c) shall sentence the child to imprisonment only when the court believes that the following two facts apply to the offence committed by the child:
 - (i) the offence is punishable with death, imprisonment for life, imprisonment for unlimited period or imprisonment for 20 years;
 - (ii) the child is of so unruly or depraved a character or absolutely uncontrollable;
- (d) shall, in sentencing imprisonment under subsection (c), sentence a child to imprisonment for a term not exceeding seven years if the child has not attained the age of 16 years, and imprisonment for a term not exceeding ten years if the child is over the age of 16 years but who has not attained the age of 18 years;
- (e) may impose a fine only on a child who has attained the age of 14 years and has an income. No imprisonment may be sentenced on the child for failure to pay the fine. If the child does not pay the fine, the fine shall be imposed on the parents or on the guardian of the child in the absence of parents.

89. Regarding the child who should not be sentenced to imprisonment as the child is not afoul with the two facts in the provisions of subsection (c) of section 88, the Juvenile Court may:

- (a) release the child after admonition;
- (b) design a diversion programme for the best interests of the child;

- (c) entrust the child to the parents or guardian on execution of a bond for good behaviour by prescribing the conditions for a period not exceeding three years in order to deter further commission of any offence;
- (d) cause the child to submit to the supervision and management of the Probation Officer for a period not exceeding three years;
- (e) commit the child to any training school for at least two years or until he or she attains the age of 18 years or 20 years if the child is perverted or even though the child is not perverted, he or she has no parents or guardian, or if the child has parents or guardian, but cannot be admonished and is in no circumstances for custody and care in any offence;
- (f) pass an order to stay at a shelter or temporary care centre for a certain period of time subject to conditions deemed appropriate at the discretion of a juvenile judge. Any order in subsections (a) to (e) may be passed at the end of that period.

90. The Juvenile Court may:

- (a) pass an order directing the child's parents or guardian to pay appropriate compensation to the victim or loser in case anyone suffered loss or damage due to the act of the child, in addition to the imprisonment sentenced under section 88;
- (b) pass an amending order to entrust a child who has complied with the order passed under subsection (d) or (e) of section 89 to the custody of the relevant parents or guardian with or without a bond at any time if it conforms with the following conditions:
 - (i) improvement in the moral character of the child;
 - (ii) being a child who has parents or guardians;
- (c) exercise the power in subsection (b) on the application of the relevant principal of the training school, Probation Officer or parents or guardian.

91. (a) The law officers of the Office of the Attorney General of the Union and various levels of law offices shall, in accordance with specifications, hire a lawyer to appear in the court at the expense of the State for the impoverished child offender who is charged with an offence punishable by death.

- (b) A child who is accused of, detained, arrested, charged with, sentenced or imprisoned for any offence or a child victim of an offence or witnesses related to the juvenile crime who wish to request support due to special circumstances may, in accordance with the

specifications, request legal assistance from the Legal Aid Body of the relevant Region concerning with the juvenile crime.

- (c) There shall be the right of appeal or revision in accordance with law against the order or decision passed by the Juvenile Court under this Law.
- (d) A copy of the judgement and order passed by the Juvenile Court or Appellate Court or Court of Revision regarding the juvenile crime shall be sent to the relevant Region or State Social Welfare Office or Union Territory Social Welfare Office, Self-Administered Division or Self-Administered Zone Social Welfare Office or District Social Welfare Office. If it is passed by the Supreme Court of the Union, the copy of such judgment and order shall be sent to the Ministry.

Chapter XXIII

Functions and Duties of the Probation Officer

92. The duties of the Probation Officer are as follows:

- (a) submitting a report after making necessary investigations when assigned duty concerning with the child by the Juvenile Court;
- (b) supervision of the child sentenced by the Juvenile Court to be put under his or her probation in the prescribed manner;
- (c) informing the relevant Social Welfare Officer and police force if it is found that there is likelihood of danger befalling any child or that a child is in danger;
- (d) returning the child to the training school, shelter, temporary care centre, guardian or caregiver if a child who has escaped from a training school, shelter, temporary care centre or shelter, guardian or caregiver is found;
- (e) specifying the child is in need of care and protection, and protecting the child in accordance with the provisions in this Law if the child who has escaped under subsection (d) had escaped due to torture, corporal punishment or any form of degrading punishment;
- (f) coordinating and cooperating with the parents or guardians, community elders, and persons from social organizations under the supervision of the Region or State Social Welfare Office, Union Territory Social Welfare Office, Self-Administered Division or Self-Administered Zone Social Welfare Office, District Social Welfare Office or Township Social Welfare Office for the best interests of the child;

(g) undertaking other functions and duties regarding the child assigned by the Department of Social Welfare.

Chapter XXIV

Custody and Care of Children in Prison

93. Regarding a child who has been sentenced to imprisonment, the officer in charge of a prison shall:

- (a) not keep the child together with adult prisoners until the child attains the age of 18 years;
- (b) keep the child in a separate ward or room where adult prisoners cannot pass through;
- (c) allow the child to meet freely with his or her parents, guardians, relatives, friends, lawyer or legal advisor. Their communications including in writing and other forms shall be kept confidential;
- (d) allow food and other prescribed items except for those prohibited under any existing law to be sent to the child;
- (e) not employ the child in rigorous labour or not send to any prescribed camp under the supervision of the Correctional Department;
- (f) provide medical check-up regularly and arrange to provide the effective health care for the child when necessary;
- (g) provide training, education and vocational training that will contribute to the reformation of the child's character, rehabilitation and reintegration into society;
- (h) provide the right to remission of the prison term in accordance with the existing law, rule, regulation, by-law, notification and order.

94. The officer in charge of a prison shall:

- (a) make the best possible arrangements for a pregnant female prisoner to provide health care, delivery of a baby in any hospital outside prison and care of the mother and baby. If the child was born in prison, it shall not be mentioned on the birth certificate of the child;
- (b) allow the child of a female prisoner to stay with the mother in prison until he or she attains the age of 4 years if there is no guardian or caregiver outside prison or if the child was born in prison or if the mother wishes the child to remain with her. The child may be allowed to remain with the mother in prison until he or she attains the age of 6 years, if the mother so wishes;

- (c) be responsible for the food, livelihood and health care of the child who stays in prison with his or her mother who is a prisoner, and coordinate and make arrangements with the relevant government departments and government organizations in order to establish day care centres for early children and nursery schools, and to make sports and physical exercises;
 - (d) inform the Department of Social Welfare promptly when a female prisoner dies in prison leaving behind a child living with her, or when a child living with a female prisoner attains the age of 6 years, in order to make arrangements for the care and guardianship of the child;
 - (e) coordinate and make arrangements with the relevant government departments and government organizations to provide the continued formal education in prison, to supply teaching aids, to make sports and physical exercises for school-age children who are in prison and have incomplete education.
95. The Department of Social Welfare shall entrust the child in subsection (d) of section 94 to the custody and care of relatives. If there are no relatives, the child may be entrusted to an appropriate caregiver or in an alternative care programme in accordance with this Law.

Chapter XXV

Support and Protection of Child Victims and Child Witnesses

96. Regarding the child victims and child witnesses, during the police investigation or before the Juvenile Court or at any court:
- (a) they are entitled to the rights in this Law and the following rights:
 - (i) the right to protection of privacy;
 - (ii) the right to be interviewed in a child-friendly environment and provide testimony as a witness;
 - (iii) the right to trial without delay for any case;
 - (iv) the right to treatment with respect and the right to ask questions and provide answers in age-appropriate simple language;
 - (v) the right to representation with the support of verbal or sign language, or other easily understandable method by a language expert for the child with disability who cannot make statements themselves;

- (b) they shall be entitled to the right to provide information to parents, guardians, relatives, friends or caregivers for obtaining health and psychological support and other assistance;
 - (c) in trying the children, they shall:
 - (i) be examined after taking an affirmation to tell the truth but not taking oath;
 - (ii) not be asked confused questions, a series of questions and repeated questions unnecessarily;
 - (iii) not be asked leading questions when making the re-examination after examination in chief and cross examination by the adverse party, or when making the cross examination by the adverse party, parents, guardians, relatives, helper or lawyer, notwithstanding anything in the Evidence Act;
 - (d) no one shall collect, publish or publicize information on the identity of the child accused of committing an offence or a child involved in a case as a witness, or photograph the child for inclusion, distribution and use in newspapers, magazines, periodicals or books, or broadcast on the radio, television and social media;
 - (e) the persons related to the child victims or child witnesses shall not disclose the matters related to the juvenile crime and keep it confidential.
97. The Ministry shall take measures for remedial actions and rehabilitation for the physical and psychological losses inflicted upon the child victim.

Chapter XXVI

Appeal

98. (a) Any person who is dissatisfied with an order or decision passed by a Social Welfare Officer for registration of adoption under subsection (a) of section 28 may appeal to the Department of Social Welfare within 30 days from the date of the order or decision.
- (b) The Department of Social Welfare may confirm, cancel or revise the order or decision passed by the relevant Social Welfare Officer for registration of adoption after scrutinizing the appeal case under subsection (a).
99. (a) Any person who is dissatisfied with any of the following order or decision passed by the Department of Social Welfare may appeal to the Ministry within 60 days from the date of the order or decision:
- (i) an order or decision to issue the permit for establishment under subsection (b) of section 15;

- (ii) an administrative order or decision passed under section 17;
 - (iii) an administrative order or decision for failure to take the responsibility of adoption by the adoptive parent or violation against any condition or prohibition under section 31;
 - (iv) an order or decision passed under subsection (b) of section 98.
- (b) The Ministry may confirm, cancel or revise the order or decision passed by the Department of Social Welfare after scrutinizing the appeal case under subsection (a).
- (c) The order or decision of the Ministry shall be final.

Chapter XXVII

Offences and Penalties

100. (a) Whoever commits any of the following acts shall, on conviction, be punished with imprisonment for a term from a minimum of one month to a maximum of six months or with a fine from a minimum of one hundred thousand kyats to a maximum of three hundred thousand kyats or with both:
- (i) sending a child to buy alcohol or beer, selling alcohol or beer to a child, urging or permitting a child to take alcohol or beer;
 - (ii) allowing a child to enter a dayclub, nightclub, karaoke room or massage parlour without being accompanied by parents or relatives;
 - (iii) emotional violence;
 - (iv) corporal punishment;
 - (v) physical bullying.
- (b) Whoever commits any of the following acts shall, on conviction, be punished with imprisonment for a term from a minimum of two months to a maximum of nine months or with a fine from a minimum of two hundred thousand kyats to a maximum of four hundred thousand kyats or with both:
- (i) inducing, urging or abetting a child to gamble;
 - (ii) accepting as pledge any property from a child or abetting the child to pledge property;
 - (iii) purchasing any property sold by a child with the exception of purchasing property from a child who earns a decent livelihood by selling.
- (c) Whoever commits any of the following acts shall, on conviction, be punished with imprisonment for a term from a minimum of three months to a maximum of one year

or with a fine from a minimum of three hundred thousand kyats to a maximum of five hundred thousand kyats or with both:

- (i) inducing and abetting a child to escape from a training school, shelter, temporary care centre or shelter, parent, guardian or caregiver, harbouring, concealing or preventing the child from going back to the original place, knowing that the child has escaped;
- (ii) touching and groping the sexual parts of the child.

101. (a) Whoever commits any of the following acts shall, on conviction, be punished with imprisonment for a term from a minimum of four months to a maximum of one year or with a fine from a minimum of four hundred thousand kyats to a maximum of six hundred thousand kyats or with both:

- (i) establishing a shelter or temporary care centre or shelter without permission;
- (ii) violating the provisions in subsection (d) of section 96.

(b) Whoever commits any of the following acts shall, on conviction, be punished with imprisonment for a term from a minimum of five months to a maximum of two years or with a fine from a minimum of five hundred thousand kyats to a maximum of one million kyats or with both:

- (i) employing, forcing or permitting the child to work in the business that trades in alcohol or beer;
- (ii) employing or permitting the child to work in any place related to sexual industry such as dayclub, nightclub, karaoke room, or massage parlour.

102. Whoever commits any of the following acts shall, on conviction, be punished with imprisonment for a term from a minimum of six months to a maximum of three years or with a fine from a minimum of six hundred thousand kyats to a maximum of 1.2 million kyats or with both:

- (a) failure to prevent a child under his or her guardianship from begging;
- (b) causing a child to beg;
- (c) making use of the child in his or her livelihood of begging.

103. (a) Whoever commits any of the following acts shall, on conviction, be punished with imprisonment for a term from a minimum of eight months to a maximum of five years and shall also be liable to a fine from a minimum of eight hundred thousand kyats to a maximum of 1.6 million kyats:

- (i) violence by coercion, abuse, exploitation or discrimination against the child with disability;
 - (ii) employing a child to do work which could pose physical or psychological harm or harm on the child's dignity;
 - (iii) employing or permitting a child to do work which is hazardous or harmful to health;
 - (iv) forced labour or forced servitude;
 - (v) subjecting the child to torture, cruelty or inhumane or degrading treatment.
- (b) Whoever commits any of the following acts against the child during armed conflict shall, on conviction, be punished with imprisonment for a term from a minimum of one year to a maximum of six years, and shall also be liable to a fine from a minimum of nine hundred thousand kyats to a maximum of 1.8 million kyats:
- (i) use in logistic works such as subjecting to transport food, weapons or supplies, use as a guide or use by any other means;
 - (ii) emotional or physical violence.

104. Whoever commits:

- (a) the offence in subsection (a) of section 63 due to failure to inspect systematically may be punished with imprisonment which may extend to two years, and shall also be liable to a fine. If the offence is wilfully committed, the offender may be punished with imprisonment which may extend to five years;
- (b) the offence in subsection (a) of section 64 may be punished with imprisonment which may extend to five years;
- (c) the offences in subsection (b) of section 63 and subsection (b) of section 64 may be punished with imprisonment which may extend to ten years.

105. (a) Whoever commits any of the following acts shall, on conviction, be punished with imprisonment for a term from a minimum of one year to a maximum of seven years, and shall also be liable to a fine from a minimum of one million kyats to a maximum of two million kyats:

- (i) permitting a child under his or her guardianship to live with a person who earns a livelihood by prostitution;
- (ii) neglecting knowingly that a child under his or her guardianship is earning a livelihood by prostitution;

- (iii) employing or permitting a child to work for the purposes of prostitution at a hotel, motel, guest house, lodging house, beauty parlour or restaurant;
- (iv) producing or distributing the child pornography or offering, selling, possessing, importing or exporting for such purposes;
- (v) forced marriage or permitting a child to be subjected to forced marriage.

(b) Whoever commits any of the following acts shall, on conviction, be punished with imprisonment for a term from a minimum of two years to a maximum of ten years, and shall also be liable to a fine from a minimum of 1.2 million kyats to a maximum of 1.5 million kyats:

- (i) employing the child to work as a prostitute;
- (ii) employing a child as a prostitute for his or her own personal benefit and livelihood;
- (iii) using, paying money or property, persuading or offering the child for sexual abuse or exploitation.

106. Whoever commits any of the following acts shall, on conviction, be punished with imprisonment for a term from a minimum of ten years to a maximum of 20 years, and shall also be liable to a fine from a minimum of five million kyats to a maximum of ten million kyats:

- (a) selling the child;
- (b) sale, purchase, illegal removal, transfer in any way or substituting knowingly the body organs of the child.

107. Whoever attempts or conspires to commit or abets in committing any offence in this Law shall, on conviction, be punished for such offence as provided in this Law.

108. Committing any offence or prohibition in this Law including exploitation which is not specified for separate punishment by this Law shall be punished under any relevant existing law.

109. The relevant court shall sentence the penalty provided upon the person who has been convicted for committing any offence in this Law, and may order the convicted person to pay an appropriate compensation to the child victim for the purpose of justice.

Chapter XXVIII

Establishment, Maintenance and Management of the Fund

110. The National Committee:

- (a) may establish the fund for the rights of the child for the best interests of the child with the following contributions:
- (i) capital funds of the State through the Ministry with the approval of the Union Government and annual budget allocations from the Union Budget Law;
 - (ii) contributions from United Nations organizations, regional organizations, non-governmental organizations and well-wishers from the country and abroad;
 - (iii) interest on savings.
- (b) shall establish the Fund Management Committee comprising appropriate persons for maintenance and utilization of the fund;
- (c) shall prepare the necessary financial rules, regulations and procedures for maintenance, utilization, compilation of the lists and auditing of the fund in coordination with the Office of the Auditor General of the Union, and implement the activities in accordance with those rules, regulations and procedures. It shall be audited by a person authorized by the Auditor General of the Union.

Chapter XXIX

Temporary Provisions for the Transitional Period

111. Regarding the offence charged with or tried for either the child or youth under the Child Law (The State Law and Order Restoration Council Law No. 9/93) before the date of enactment of this Law:
- (a) penalties or decisions sentenced to the child who has not attained the age of ten years shall be null and void;
 - (b) children under the age of ten years who are detained at the training school, shelter, temporary care centre or shelter or prison shall be referred to the custody of the parents, guardian, caregiver or Social Welfare Officer as soon as possible.
112. Regarding the offences committed by the child before the date of enactment of this Law:
- (a) the proceedings shall be continued, by considering that subsections (a) and (b) of section 28 of the Child Law (The State Law and Order Restoration Council Law No. 9/93) that exempts from criminal proceedings have already been substituted by subsections (a) and (b) of section 78 of this Law;

- (b) the offences committed by the child who has not attained the age of ten years, which have not been completed, shall be closed regardless of the current stage of the proceedings;
- (c) the offences committed by the youth who has attained the age of 16 years but have not attained the age of 18 years, which have not been completed, the proceedings shall be continued under this Law by the Juvenile Court by considering that those offences were committed by the child.

Chapter XXX

Miscellaneous

113. (a) The documentary evidence of the age of the child shall be scrutinised according to the following priority:

- (i) a birth certificate;
- (ii) a true copy of an extract of the school admission register;
- (iii) a Citizenship Scrutiny Card or Foreigner's Registration Certificate residing permanently in the country;
- (iv) a medical certificate of the relevant doctor serving in the Ministry of Health and Sports;
- (v) a household list;
- (vi) any other credible document if the document specified in clauses (i) to (v) are not available.

(b) Regarding the age of the child, the date of birth shall be 16th of the birth month if only the year and month of birth are known; the date and month of birth shall be 1st July of the birth year if only the year of birth is known.

114. Whoever commits rape to a child shall, on conviction, be punished under the Penal Code.

115. The provisions of the Code of Criminal Procedure shall be complied with where there are no specific provisions in this Law regarding the investigation of and the proceedings for juvenile cases.

116. Under the Child Law (The State Law and Order Restoration Council Law No. 9/93):

- (a) training schools and temporary care centres or shelters established by the Department of Social Welfare shall be considered to be the training schools, shelters and temporary care centres or shelters established under this Law;

(b) shelters established by volunteers and non-governmental organizations by registering at the Department of Social Welfare shall be considered to be shelters with the permit for establishment under this Law during the valid registration period. Upon the expiry of such registration, the permit for establishment shall be applied for under this Law.

117. The offences in this Law are determined as cognizable offences.

118. The rules, regulations, by-laws, notifications, orders, directives and procedures issued under the Child Law (The State Law and Order Restoration Council Law No. 9/93) may continue to apply which are not contrary to the provisions of this Law.

119. Any person who commits the offences in this Law shall be prosecuted only under this Law.

120. In implementing the provisions of this Law:

(a) the Ministry may issue rules, regulations and by-laws with the approval of the Union Government;

(b) the National Committee, the Supreme Court of the Union, relevant Union Ministries, and relevant government departments and government organizations may issue the notifications, orders, directives and procedures;

(c) the relevant Department may issue the notifications, orders, directives and procedures.

121. The Child Law (The State Law and Order Restoration Council Law No. 9/93) is hereby repealed.

I hereby sign in accordance with the Constitution of the Republic of the Union of Myanmar.

Sd./ Win Myint

President

Republic of the Union of Myanmar