

THE CHILD LAW (1993)

The State Law and Order Restoration Council Law No. 9/93
The 11th Waning Day of Oo Waso, 1355 M.E.
14 July 1993

The State Law and Order Restoration Council hereby enacts the following Law :-

Chapter I Title and Definition

1. This Law shall be called the Child Law.
2. The following expressions contained in this Law shall have the meanings given hereunder:
 - (a) Child means a person who has **[NOT?]** attained the age of 16 years;
 - (b) Youth means a person who has attained the age of 16 years but has not attained the age of 18 years;
 - (c) Committee means the National Committee on the Rights of the Child formed under this Law;
 - (d) Child in need of Protection and Care means a child mentioned in section 32;
 - (e) Juvenile offence means an offence under any existing law, for which a child is sent up for prosecution to a juvenile court
 - (f) Juvenile Court means a court where the sittings of a judge on whom power to try juvenile offences is conferred, are held;
 - (g) Guardian means a person who takes custody of a child under a law or social obligation;
 - (h) Custodian means a person undertaking responsibility for the custody and care of a child in need of protection and care in accordance with this Law
 - (i) Training School means a training school established by the Social Welfare Department to which a child in need of protection and care or a child who has committed an offence is sent for custody and care under this Law. This expression also includes a home recognized as a training school by the Social Welfare Department;
 - (j) Home means premises, school, centre or department established by a voluntary social worker or non-governmental organization with the objective of taking custody and care of a child in need of protection and care;
 - (k) Temporary Care Station means a temporary care station established by the Social Welfare Department for temporary custody and care of a child accused of having committed a crime, during the trial of the case. This expression also includes a home recognized by the Social Welfare Department as a temporary care station;
 - (l) Probation Officer means a person assigned responsibility under this Law as a Probation Officer
 - (m) Ministry means the Ministry of Social Welfare, Relief and Resettlement:

- (n) Minister means the Minister of the Ministry of Social Welfare, Relief and Re-settlement;
- (o) Director General means the Director General of the Social Welfare Department;
- (p) Social Welfare Officer means an officer of the Social Welfare Department who has been assigned duties of a Social Welfare Officer under this Law or a person who has been assigned duties under section 60.

Chapter II

Aims

3. The aims of this Law are as follows:

- (a) to implement the rights of the child recognized in the United Nations Convention on the Rights of the Child;
- (b) to protect the rights of the child;
- (c) to protect in order that children may enjoy fully their rights in accordance with law;
- (d) to carry out measures for the best interests of the child depending upon the financial resources of the State;
- (e) to enable custody and care of children in need of protection and care by the State or voluntary social workers or nongovernmental organizations;
- (f) to enable a separate trial of a juvenile offence and to carry out measures with the objective of reforming the character of the child who has committed an offence.

Chapter III

Formation of the Committee

4.. The Government -

- (a) shall form the National Committee on the Rights of the Child consisting of the following persons, in order to implement effectively and successfully the provisions of this Law;
 - (i) Minister, the Ministry of Social Welfare, Relief and Resettlement Chairman
 - (ii) Heads of relevant Government departments Members and organizations Members
 - (iii) representatives from non-governmental Members organizations who are carrying out work in the interests of children
 - (iv) voluntary social workers who are interested in the affairs of children Members
 - (v) a person assigned responsibility by the Secretary Chairman
- (b) may determine the Deputy Chairman and Joint Secretary as may be necessary in forming the Committee;
- (c) may determine the tenure of the Committee.

Chapter IV

Duties and Powers of the Committee

5. The duties and powers of the Committee are as follows:-

- (a) protecting and safeguarding the rights of the child;
- (b) giving guidance as may be necessary in order that the relevant Government departments and organizations may implement effectively and successfully the provisions of this Law;
- (c) co-operating and co-ordinating as may be necessary activities of government departments and organizations, voluntary social workers and non-governmental organizations relating to a child; reviewing from time to time the progress made;
- (d) obtaining assistance and co-operation of the United Nations Organizations, international organizations, voluntary social workers or non-governmental organizations for the interests of the child;
- (e) giving guidance and supervision in obtaining donations and property from local and foreign voluntary donors and to enable effective utilization of such donations and property in the interests of children;
- (f) laying down and carrying out work programmes in order to take preventive measures against occurrence of juvenile crimes;
- (g) collecting from relevant government departments and organizations and complying the required reports and statistics;
- (h) reporting to the Government from time to time on the activities of the Committee;
- (i) carrying out functions and duties in respect of the child, as are assigned by the Government.

6. The Committee may :-

- (a) from the State, Divisional, District or Township Committees on the Rights of the Child and determine the functions and duties thereof;
- (b) supervise, guide and assists in the activities of the Committees on the Rights of the Child formed under sub-section (a).

7. (a) The office work of the Committee shall be undertaken by the Social Welfare Department.

(b) The expenditures of the Committee shall be borne out of the budget of the Social Welfare Department.

Chapter V

Rights of the Child

8. The State recognizes that every child has the right to survival, development, protection and care and to achieve active participation within the community.

9. (a) Every child has the inherent right to life;

(b) The parents or guardian shall register the birth of the child in accordance with law.

10. Every child shall have the right to citizenship in accordance with the provisions of the existing law.

11. (a) Maintenance, custody and care of children, cultivating and promoting the all-round physical intellectual and moral development of the child shall be the primary responsibility of parents or guardian:

(b) The child shall be entitled to a monthly allowance for maintenance from his parents who fail or refuse to maintain him.

12. Every child :-

(a) shall have the right to live with and be brought up by both parents or any one parent if they are alive;

(b) shall not be separated forcibly from his or her parents, except in a case where in accordance with law, separation is necessary for the best interests of the child;

(c) shall have the right to maintain contact on a regular basis with parents lawfully separated, if it is not prejudicial to the interests of the child;

(d) has the right to guardianship in accordance with law, in respect of his person or property.

13. (a) Every child who is capable of expressing his or her own views in accordance with his age and maturity has the right to express his own views in matters concerning children;

(b) The views of the child shall be given due weight in accordance with his age and maturity, by those concerned;

(c) The child shall be given the opportunity of making a complaint, being heard and defended in the relevant Government department, organization or court either personally or through a representative in accordance with law, in respect of his rights.

14. Every child shall, irrespective of race, religion, status, culture, birth or sex-

(a) be equal before the law;

(b) be given equal opportunities.

15. Every child -

(a) has the right to freedom of speech and expression in accordance with law;

(b) has the right to freedom of thought and conscience and to freely profess any religion;

(c) . has the right to participate in organizations relating to the child, social organizations or religious organizations permitted under the law.

16. (a) In order that every child shall not be subjected to arbitrary infringement of his honour, personal freedom and security, relevant Government departments and organizations shall provide protection and care in accordance with law;

(b) Security of the property of every child shall be protected by law.

17. (a) Every child shall have the right to be adopted in accordance with law

(b) The adoption shall be in the interests of the child;

(c) The adoptive parents shall be responsible for the care and custody of the child to ensure that there is no abduction to a foreign country, sale or trafficking! unlawful exploitation, unlawful employment, maltreatment, pernicious deeds and illegal acts.

18. (a) A mentally or physically disabled child -

(i) has the right to acquire basic education (primary level) or vocational education at the special schools established by the Social Welfare Department or by a voluntary social worker or by a non-governmental organization;

(ii) has the right to obtain special care and assistance from the State;

(b) The Social Welfare Department shall lay down and carry out measures as may be necessary in order that mentally or physically or disabled children may participate with dignity in the community, stand on their own feet and promote self-reliance.

19. (a) Every child has the right to enjoy health facilities provided by the State:

(b) The Ministry of Health shall -

(i) lay down and carry out measures for the survival of the child, immunization of child, breast - feeding of the child, family planning, adequate nutrition for the child, elimination of iodine deficiency disease, school health and family health;

(ii) lay down and carry out appropriate measures for the gradual abolition of traditional practices prejudicial to the health of the child;

(iii) carry out measures to minimize the child mortality rate and to maximize the population of healthy children.

20. (a) Every child shall -

(i) have opportunities of acquiring education;

(ii) have the right to acquire free basic education (primary level) at schools opened by the State;

(b) The Ministry of Education shall -

(i) have an objective of implementing the system of free and compulsory primary education;

(ii) lay down and carry out measures as may be necessary for regular attendance at schools and the reduction of untimely drop-out rates;

(iii) make arrangements for literacy of children who are unable for various reasons to attend schools opened by the States.

21. Every child shall have the right to maintain his or her own cherished language, literature and culture, to profess his or her own religion and to follow his or her own traditions and customs.

22. (a) Every child shall have the right of access to literature contributory to his or her all-round development and to acquire knowledge;

(b) The Ministry of Information shall -

(i) produce and disseminate children's books which are of cultural benefit to children, which promote and keep alive patriotism which are aimed at the promotion of the children's moral well-being; encourage the production and dissemination of children's books by non-governmental organizations and private publishers; collect and maintain by special arrangement children's books at the libraries established by the Information and Public Relations Department;

(ii) educate and disseminate by mass media to ensure that children and their parents or guardians are made familiar with the rights and ethics of the child and that children have access to national and international news and information concerning them.

23. Every child has the right to :-

(a) rest and leisure and to engage in play;

(b) participate in sports activities appropriate to his age;

(c) participate in cultural and artistic activities.

24. (a) Every child has -

(i) the right to engage in work in accordance with law and of his own volition-

(ii) the right to hours of employment, rest and leisure and other reliefs prescribed by law;

(b) The Ministry of Labour shall protect and safeguard in accordance with law to ensure safety of children employees at the place of work and prevention of infringement and loss of their rights.

25. Every child has, in accordance with law -

(a) the right of inheritance;

(b) the right of possessing and holding property;

(c) the right to sue and be sued.

26. In order that every child may enjoy fully the rights mentioned in this Law -

(a) the Government departments and organizations shall perform their respective functions as far as possible;

(b) voluntary social workers or non-governmental organizations also may carry out measures as far as possible, in accordance with law.

27. Persons having responsibility in respect of the affairs of children shall have as their objective the best interests of children under the principle 'First Call for Children' regarding protection and care of every child by the community.

Chapter VI

Exemption from Penal Action

28. (a) Nothing is an offence which is done by a child under 7 years of age;

(b) Nothing is an offence which is done by a child above 7 years of age and under 12, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

29. No action shall be taken under any Criminal Law against any child who has escaped from a training school, temporary care station or a custodian.

Chapter VII

Ethics and Discipline of a Child

30. Every child shall abide by the following ethics and discipline, according to his age: -

(a) upholding and abiding by the law;

(b) obeying the advice and instruction of parents or guardian;

(c) obeying the instruction of teachers and pursuing education peacefully;

(d) abiding by the school discipline, work discipline and community discipline;

(e) cherishing and preserving the race, language, religion, culture, customs and traditions concerned with him;

(f) abstaining from taking alcohol, smoking, using narcotic drugs or psychotropic substances, gambling and other acts which tend to affect the moral character.

31. Parents teachers and guardians shall give guidance to ensure that the practice of abiding by the ethics and discipline mentioned in section 30 is infused into the children.

Chapter VIII

Child in need of Protection and Care

32. The following child is a child in need of protection and care:-

(a) one who has no parents or guardian;

(b) one who earns his living by begging;

(c) one who is of so depraved a character that he is uncontrollable by his parents or guardian;

(d) one who is in the custody of a cruel or wicked parents or guardian;

(e) one who is of unsound mind;

- (f) one who is afflicted with a contagious disease;
- (g) one who uses a narcotic drug or a psychotropic substance;
- (h) one who is determined as such from time to time by the Social Welfare Department.

33. (a) Whoever is of the opinion that any child mentioned in section 32 should be protected and cared by the State may intimate the relevant Social Welfare Officer stating the facts of the case;

(b) The Social Welfare Officer shall, on receipt of the intimation under sub-section (a) or if he has personally received information in any manner make investigations in the manner prescribed to determine whether or not the child needs the protection and care of the State and submit his findings together with his opinion to the Director General;

(c) The Social Welfare Officer has the following powers in respect of the investigation under sub-section (b) -

- (i) informing the parents, guardian or police officer and causing the child to be brought before him;
- (ii) entrusting the child to the parents or guardian on execution of a bond or sending the child to a temporary care station, before receiving the decision of the Director General.
- (iii) calling and examining necessary witnesses;
- (iv) hearing the explanation of the parents, guardian or the child, if necessary.

34. The Director General shall lay down and carry out any of the following arrangements if he finds, on scrutiny that the child needs the protection and care of the State according to the report submitted by the Social Welfare Officer: -

- (a) in the case of a child whose character needs to be reformed, sending the child to any training school till he attains the age of 18 years as a maximum period;
- (b) in the case of a child in need of custody and care, entrusting the child to a home or to a custodian till he attains the age of 18 years as a maximum period;
- (c) in the case of a child needing supervision, causing the child to be supervised by a Probation Officer for a period not exceeding 3 years;
- (d) in the case of a child of unsound mind, sending the child to the Mental Hospital and making arrangements for medical treatment;
- (e) in the case of a child who is afflicted with a contagious disease, sending the child to the relevant hospital and making arrangements for medical treatment.

35. The Director General may direct the relevant Social Welfare Officer -

- (a) to implement the arrangement laid down under section 34 in the manner prescribed;

(b) to entrust the child to the care of the parents or guardian on execution of a bond to the effect that they will take good care and control of the child, in the case of a child who has parents or guardian and who is found, on scrutiny to need only the custody and care of such parents or guardian;

(c) to entrust the child to the care of the parents or guardian, with or without execution of a bond, in the case of a child who is found, on scrutiny to have complied with the arrangement laid down under section 34, sub-section (a) or sub-section (c) for at least one year and whose moral character has improved.

36. The Director General may -

(a) exercise the power mentioned in section 35 sub-section (c) at his discretion or on the submission of the Principal of the relevant training school or Probation Officer or the parents or guardian;

(b) alter as may be necessary any arrangement laid down under section 34 sub-section (b), sub-section (d) or sub-section (e), if there is sufficient reason to do so;

(c) transfer a child committed to one training school to another training school, if there is sufficient reason to do so;

(d) grant the following rights in the manner prescribed to a child committed to a training school: -

(i) right to leave a training school as a temporary arrangement to be placed under the management and supervision of a home or a custodian;

(ii) right to travel on an emergency parole licence for the period required to visit his parents, guardian or near relative who is seriously ill.

(iii) right to live out on a parole licence;

(iv) right to live outside the training school with any suitable person under the management and supervision of the training school;

(e) delegate the powers conferred on him under this section to a Social Welfare Officer or a Principal of a training school.

Chapter IX

Taking Action against a Child for an Offence

37. Police Officer or a person authorized to take cognizance shall abide by the following when arresting a child accused of having committed an offence;

(a) shall not handcuff the child or tie with a rope;

(b) shall not keep the child together with adult prisoners; if it is a girl, shall keep her, with a woman guard;

(c) shall not maltreat or threaten the child;

(d) shall not send the child together with adult prisoners from one place to another; if it is a girl, shall send her with a woman guard;

(e) shall inform the parents or guardian concerned as soon as possible;

- (f) shall send up the arrested child to the relevant juvenile court as soon as possible;
- (g) shall release the child on execution of a bond, if the child cannot be sent up as soon as possible to the juvenile court under sub-section (f) ;
- (h) shall send the child to a temporary care station or to another appropriate place, if the child is not released on a bond under sub-section (g);

38. A Police Officer or a person authorized to take cognizance : -

- (a) shall send up the juvenile case for prosecution to the relevant juvenile court;
- (b) in a case of joint commission of offence by a child and an adult, shall send up the child for prosecution to the relevant juvenile court and the adult to the relevant court;
- (c) in sending up a child for prosecution, supporting evidence in respect of his age shall be sent together.

39. A Police Officer or a person who is authorized to take cognizance, in respect of a child who has escaped from a training school, home, temporary care station or a custodian :-

- (a) may arrest him without a warrant;
- (b) shall, after arrest, commit him back to the custody of the training school, home, temporary care station or custodian;
- (c) may commit him to the custody of any other appropriate place, before being able to commit the child back to the custody of a training school, home, temporary care station or a custodian under sub-section (b).

Chapter X

Trial of Juvenile Cases

40. The Supreme Court may: -

- (a) establish juvenile courts in appropriate local areas and appoint juvenile judges;
- (b) in local areas where juvenile courts under sub-section (a) have not been established confer powers of a juvenile judge on a Township Judge.

41. The Juvenile Court shall -

- (a) on receiving a juvenile case, first and foremost scrutinize the supporting evidence in respect of the age of the child, contained in the proceedings. It shall determine whether the offender is a child or not from the birth certificate, citizenship scrutiny card, foreigners registration certificate, true copy of an extract of school admission register, doctors medical certificate or other valid supporting evidence contained in the proceedings;
- (b) have jurisdiction only in respect of a child who has not attained the age of 16 years at the time of committing the offence. It shall place on record the decision that the offender is a child, before proceeding with the trial of a juvenile case;

(c) during trial release the child sent up for prosecution, on the execution of a bond, entrust to the care of parents or guardian subject to conditions, commit to the custody of a temporary care station or other appropriate place subject to conditions. Under no circumstances shall an order for detention be passed;

(d) notwithstanding that a child has attained the age of 16 years during trial, continue to try the case, as if the accused were a child and pass a sentence in accordance with this law;

(e) try juvenile offences punishable with death, transportation for life or imprisonment for a term exceeding 3 years, in the manner in which a warrant case is tried;

(f) try all juvenile offences other than the type of offences mentioned in sub section (e), in the manner in which a summons case is tried.

42. The juvenile court shall abide by the following in trying juvenile cases;

(a) shall try the case in a separate court or a separate building or if there is no separate court or building, in a building or room other than that in which the ordinary sittings of the court are held;

(b) no person other than the parents, guardians staff of the court, Law Officers, members of the People's Police Force on duty and not in uniform, persons directly concerned with the case and persons who have been granted permission by the juvenile court shall be present at the place of trial;

(c) if the child or his parents or guardian cannot or do not wish to engage a lawyer and makes an application to be defended with the assistance of any appropriate person, shall grant permission to do so;

(d) shall arrange to make available an interpreter, if necessary;

(e) shall dispose of the case speedily.

43. The Juvenile Court has the following powers in respect of the trial of juvenile cases :-

(a) may direct anyone who is present at the place of trial, including the child to leave the court at any time during the trial of the case, if it is considered to be necessary in the interests of the child. If necessary, it may cause force to be used in so directing to leave the court;

(b) 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 presence in the court of the accused child is not necessary;

(c) may direct the parents or guardian in whose custody and care the child is at present, to attend every day on which the sittings of the court are held.

(d) may allow inserting, and announcing of information revealing the identity of a child who is accused of having committed an offence or a child who is participating as a witness in any case, in the radio, television, newspapers, magazines journals and publications and displaying and making use of the photograph of the child, if it is believed to be of benefit to the child;

(e) may direct the relevant Probation Officer to make inquiries and to submit a report of the personal history, character, conduct, behaviour and environmental circumstances of the child and his parents or guardian;

(f) may, if it is considered appropriate inform the child or his parents or guardian of a gist of the report submitted by the Probation Officer under sub-section (e) and allow the submission of evidence to the contrary.

44. The Juvenile Court shall, before passing an order on a child who is found guilty, take into consideration the following and pass an order which is reformatory and which will be beneficial to 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) other circumstances which are required to be taken into consideration in the interests of the child.

45. Notwithstanding anything contained in any existing law, a death sentence, transportation for life or a sentence of whipping shall not be passed on any child,

46. A child shall not ordinarily be sentenced to imprisonment. Only if the Juvenile Court is satisfied that the child has committed an offence which is punishable with death or transportation for life under any existing law or that the child is of so unruly or depraved a character or absolutely uncontrollable, he shall not be sentenced to imprisonment. Such sentence of imprisonment shall not exceed a term of 7 years.

47. The Juvenile Court may pass any of the following orders in respect of a child who should not be sentenced to imprisonment: -

- (a) if the offence committed is not serious and the character of the child is not yet perverted;
 - (i) may release him after due admonition;
 - (ii) may impose a fine, if he has attained the age of 14 years and has an income. If he is a child who has no income, a fine may be imposed on the parents or guardian;
- (b) whether the offence committed is serious or not, if the character of the child is not yet perverted and in order to deter further commission of offence, such child shall be entrusted to the custody of his parents or guardian on execution of a bond for good behaviour according to the conditions of the bond for a period not exceeding 3 years;
- (c) may cause the child to submit to the supervision and management of the Probation Officer during a period not exceeding 3 years;
- (d) whether the offence is serious or not if the child is of a perverted but 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, may commit such child to the custody of any training school for a minimum term of 2 years or till he attains the age of 18 years as a maximum term.

48. The Juvenile Court may -

(a) in addition to the sentence of imprisonment passed under section 46 or any order passed under section 47 also pass an order directing the parents or guardian to pay compensation for injury; loss or damage caused to any person by the act of the child;

(b) if in conformity with the following conditions, pass an amending order to entrust a child who has complied with the order passed under section 47 sub-section (c) or sub-section (d) for at least one year, to the custody of the parents or guardian concerned, with or without a bond :-

(i) improvement in the moral character of the child;

(ii) being a child who has parents or guardian;

(iii) not being an offence of violation of the Narcotic Drugs and Psychotropic Substances Law;

(c) exercise the powers mentioned in sub-section (b) on the application of the principal of the relevant training school, Probation Officer or parents or guardian.

49. (a) There shall be right of appeal or right of revision in accordance with the provisions of the Code of Criminal Procedure against the order or decision passed under this Law by the juvenile Court;

(b) If a sentence of imprisonment is passed on the child by a juvenile Court, or Appellate Court or Court of Revision, a copy of the sentence shall be sent to the Ministry.

Chapter XI

Safeguarding Children Against Dangers

50. The Police Officer -

(a) shall, in order to safeguard a child who is likely to be exposed to danger send up such child as soon as possible to the relevant Juvenile Court;

(b) may commit the child to the custody of a temporary care station or other appropriate place before being able to send up the child under sub-section (a).

51. The Juvenile Court -

(a) may, if it believes on information or on personal knowledge that a child is in danger or that if immediate action is not taken, there is likelihood of danger befalling the child direct the Police Officer to search for the child and send him up before it and to commit the child to the custody of a temporary care station before being able to send him up,

(b) shall protect a child sent up under sub-section (a) or under section 50 sub-section (a) in any of the following manner; -

(i) committing the child to the custody of parents or guardian or custodian who agrees to accept and take custody and care of the child;

(ii) sending the child to a temporary care station to be taken care of until he is free from danger;

(c) may, if reliable information is received that child is abducted for any, unlawful purpose or that the child is being unlawfully detained direct the relevant Police Officer to take necessary action for restoration

of liberty to such child or for entrusting the child as soon as possible to the custody of his parents or guardian.

Chapter XII

Custody and Care of Children and Youths in Prisons

52. The Officer in charge of a prison shall, in respect of a child or youth who has been sentenced to imprisonment :-

- (a) not keep him together with adult prisoners until he attains the age of 18 year;
- (b) keep him in a separate ward or room which adult prisoners cannot have access;
- (c) grant him the right to meet parents, guardians, relatives and friends concerned and the right to be sent food and prescribed articles in accordance with the existing regulations and bye laws;
- (d) not employ him in rigorous labour;
- (e) provide medical check-up regularly for him;
- (f) train and give him education which will reform his character and vocational education;
- (g) grant him the right to enjoy remission period in accordance with the existing regulations and bye-laws.

53. The Officer in charge of a prison -

- (a) shall allow the child of a female prisoner to stay together with his mother so in prison till he attains the age of 4 years if there no one outside to take custody and care of him or if his mother desires;
- (b) may allow the child mentioned in sub-section (a) to continue to stay together with his mother in prison till he attains the age of 6 years if his mother so desires;
- (c) shall be responsible for providing food, clothing and shelter and health care of the child who stays together with his mother in prison;
- (d) shall inform the Director General of the Social Welfare Department as soon as possible, in order to make arrangements for the care and custody of any child left after a female prisoner dies in prison or if the child staying together with the female prisoner attains the age of 6 years.

54. The Director General of the Social Welfare Department may commit a child mentioned in section 53 sub-section (d) to the custody of relatives who will take custody and care of him or if there are no such relatives he may be entrusted to an appropriate training school or to a custodian.

Chapter XIII

Training School, Temporary Care Station, Home, Residential Nursery

55. The Director General shall establish the following with the approval of the Minister: -

- (a) training schools required for the custody and care of a child in need of protection and care or a child who has committed an offence, who is entrusted under this Law;

(b) temporary care stations required for the temporary custody and care during the period of trial of a child who is accused of having committed an offence.

56. If the Director General believes that a home established by a voluntary social worker or a non-governmental organization with the intention of taking custody and care of a child in need of protection and care :-

(a) is appropriate for the custody and care of children sent under this Law, such home may be recognized as being a training school for the purpose of this Law;

(b) is appropriate for the temporary custody and care during the trial of a child who is accused of having committed an offence, such home may be recognized as being a temporary care station for the purpose of this Law.

57. The Director General may establish local residential nurseries required and care of children who have not attained the age of 5 year.

58. The Director General may exercise the following powers : -

(a) supervising, inspecting, giving guidance, rendering expertise and giving support as may be necessary to day nurseries and pre-primary schools established on self-help system;

(b) supervising, inspecting, giving guidance, rendering expertise and giving support as may be necessary to homes established by a voluntary social worker or by a non-governmental organization;

(c) supervising inspecting, giving guidance and rendering expertise to private day nurseries and pre-primary schools established on payment of fees;

(d) inspecting or causing to be inspected by a suitable person or any committee training schools and temporary care stations established or recognized under this Law.

Chapter XIV **Powers of the Minister**

59. The Minister: -

(a) may, at any time pass an order to release either absolutely or subject to conditions a child committed to the custody of a training school or a custodian under this Law;

(b) may pass an order to transfer a child undergoing imprisonment to a training school or to a custodian till the day he attains the age of 18 years, if it is considered beneficial for the child;

(c) may pass an order so that the remainder of the term of imprisonment of a child who has been transferred under subsection (b) and who is behaving well shall not have effect;

(d) may cause to have effect the remainder of the term of imprisonment of a child who has been transferred under subsection (b) and who does not behave well. In so causing to have effect, the period of stay of the child at the training school or with the custodian shall be reckoned as the term of imprisonment undergone.

60. The Minister-

(a) may assign responsibility to a Government employee or to a suitable citizen who is not a Government employee as a Social Welfare Officer, in order to carry out the functions and duties of the Social Welfare Officer under this Law in local areas where an office of the Social Welfare Department has not been opened as yet;

(b) shall make prior consultation with the relevant Government department or organization for assigning responsibility to a Government employee as a Social Welfare Officer.

Chapter XV Probation Officer

61. The Director General may assign responsibility as Probation Officer to an employee of the Social Welfare Department or to a suitable citizen who is not a Government employee.

62. The duties and powers of a Probation Officer are as follows : -

(a) making necessary investigations and submitting a report, when assigned responsibility in respect of the child by the Juvenile Court;

(b) managing and supervising a child who is ordered to submit to his management and supervision in the manner prescribed;

(c) reporting to the relevant Social Welfare Officer, if it is found that a child is in need of protection and care under this Law;

(d) informing the relevant police officer or the Juvenile Court, if it is found that there is likelihood of danger befalling any child or that a child is in danger;

(e) arresting the child without a warrant and handing him over to a police officer, if a child who has escaped from a training school, home, temporary care station or a custodian is found;

(f) co-ordinating and co-operating with the parents or guardians concerned, local elders and persons from social organizations for the benefit of children;

(g) carrying out duties relating to the child, which are assigned by the Social Welfare Department.

Chapter XVI Homes Established by a Voluntary Social Worker or a Non - Governmental Organization

63. (a) A voluntary social worker or a non-governmental organization may establish homes for custody and care of children in need of protection and care, on their own arrangements;

(b) A Home established under sub-section (a) shall be registered with the Social Welfare Departments, as may be prescribed ;

(c) A Home which has been granted registration :-

(i) shall operate only in the interests of children ;

(ii) shall submit to the supervision, inspection and guidance of the Social Welfare Department;

(iii) may obtain the support and expertise of the Social Welfare Department.

64. If a home established under section 63 is recognized by the Social Welfare Department as a training school under section 56 sub-section (a) or as a temporary care station under section 56 sub-section (b), such home shall also accept and take custody and care of children sent under this Law.

Chapter XVII

Offences and Penalties

65. Whoever commits any of the following acts shall, on conviction be punished with imprisonment for a term which may extend to 6 months or with fine which may extend to kyats 1000 or with both :-

- (a) employing or permitting a child to perform work which is hazardous to the life of the child or which may cause disease to the child or which is harmful to the child's moral character;
- (b) taking a child to or allowing him to enter a place where only alcohol is sold, sending the child to buy alcohol, selling alcohol to the child, permitting the child to take alcohol, employing or permitting the child to work in the business which trades in alcohol;
- (c) urging, inducing or abetting the child to gamble;
- (d) accepting as pledge any property from the child or abetting the child in any manner to pledge property;
- (e) purchasing any property sold by a child, with the exception of purchasing property from a child who earns a livelihood by selling;
- (f) inducing a child to escape from a training school, home, temporary care station or custodian; abetting the run away; harbouring, concealing or preventing the child from going back to the original place, knowing that the child has escaped.

66. Whoever commits any of the following acts shall, on conviction be punished with imprisonment for a term which may extend to 2 years or with fine which may extend to kyats 10,000 or with both: -

- (a) neglecting knowingly that a girl under his guardianship, who has not attained the age of 16 is earning a livelihood by prostitution;
- (b) permitting a child under his guardianship to live together or to consort with a person who earns a livelihood by prostitution;
- (c) employing a child to beg for his personal benefit; failing to prevent a child under his guardianship from begging; making use of the child in any manner in his livelihood of begging;
- (d) wilfully maltreating a child, with the exception of the type of admonition by a parent, teacher or a person having the right to control the child, which is for the benefit of the child;
- (e) inserting and announcing information revealing the identity of a child who is accused of having committed an offence or who is participating as a witness in any case, in the radio, cinema, television, newspapers, magazines, journals or publications and displaying or making use of the photograph of the child without the prior consent of the relevant juvenile court;
- (f) using the child in pornographic cinema, video, television photography.

Chapter XVIII

Youth who has committed an offence

67. A youth, who at the time of committing the offence has attained the age of 16 years, but has not attained the age of 18 years shall be sent up for prosecution to the Court which has jurisdiction, in respect of the offence. In sending up for prosecution such case of the youth, it shall be accompanied by supporting evidence in respect of the age of the youth.

68. The relevant Court shall, before commencement of the trial of the offence with which a youth is charged decide whether or not the accused is a youth from the birth certificate, Citizenship Scrutiny Card, Foreigner's Registration Certificate, true copy of an extract of the admission register, Doctor's medical certificate or other valid supporting evidence included in the proceedings and record such decision.

69. Notwithstanding that the youth has attained the age of 18 years on the day of passing of the sentence, the Court shall deem as if such person were a youth and pass order accordingly.

70. The Court shall take into consideration the following before passing an order on the youth who is found guilty of the offence :-

- (a) the age and character of the youth;
- (b) the environmental circumstance of the youth's residence;
- (c) the physical and mental condition of the youth;
- (d) the cause of committing the offence.

71. Notwithstanding anything contained in any existing Law: -

- (a) a sentence of death or transportation for life shall not be passed on the youth;
- (b) if a sentence of imprisonment is passed on youth, the maximum term of imprisonment shall not exceed ten years.

Chapter XIX

Miscellaneous

72. If there are no specific provisions in this Law, the provisions of the Code of Criminal Procedure shall be complied with.

73. Under the Children Act, 1955 :-

- (a) the Training Schools established by the Social Welfare Department shall be deemed to be training schools established by the Social Welfare Department under this Law;
- (b) the Homes recognized by the Social Welfare Department as a Training School or a Remand Home shall apply for registration during the period and in the manner prescribed by the Social Welfare Department;
- (c) the notifications and directives issued may be applied in so far as they are not inconsistent with the provisions of this Law.

74. For the purpose of carrying out the provisions of this Law : -

(a) the Ministry may, with the approval of the Government issue such rules and procedures as may be necessary;

(b) the National Committee relating to the Rights of the Child, the Supreme Court, relevant Ministry, Government department or Government organizations may issue such orders and directives as may be necessary.

75. The following laws are hereby repealed : -

(a) The Young Offenders Act, 1930;

(b) The Children Act, 1955.

Sd./ Than Shwe

General

Chairman

The State Law and Order Restoration Council