

The Muluki Ain (General Code)

Date of Authentication and Publication

2019.12.30(.....)

Amending Acts:

| | |
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| 1. The Muluki (First Amendment) Act, 2021(...) | 2021.6.17(.....) |
| 2. The Contract Act, 2023(...) | 2023.6.9(.....) |
| 3. The Muluki (Second Amendment) Act, 2024(...) | 2024.6.11(.....) |
| 4. The Muluki (Third Amendment) Act, 2025(...) | 2025.7.9(.....) |
| 5. The Muluki (Fourth Amendment) Act, 2027(...) | 2027.5.10(.....) |
| 6. The Muluki (Fifth Amendment) Act, 2031(...) | 2031.6.20(.....) |
| 7. The Evidence Act, 2031(...) | 2031.7.5(.....) |
| 8. The Muluki (Sixth Amendment) Act, 2033(...) | 2033.4.28(.....) |
| 9. The Muluki (Seventh Amendment) Act, 2034(...) | 2034.9.27(.....) |
| 10. The Muluki (Eighth Amendment) Act, 2042(...) | 2042.6.23.4(.....) |
| 11. The Muluki (Ninth Amendment) Act, 2043(...) | 2043.7.23.2(.....) |
| 12. The Some Nepal Acts Repealing Act, 2047(...) | 2047.3.28(.....) |
| 13. Amended by the Court Proceedings Related Some Nepal Acts Amendment)Act, 2047 (1991) | 2047.4.10(.....) |
| 14. Some Nepal Acts Amendment Act, 2048(...) | 2049.9.18(.....) |
| 15. The Children Act, 2048(...) | 2049.2.7(.....) |
| 16. The Muluki (Tenth Amendment) Act, 2050(...) | 2050.9.5(.....) |
| 17. Some Nepal Acts Amendment Act, 2055(...) | 2055.10.7(.....) |
| 18. The Slaughtering House and Meat Inspection Act, 2055(...) | 2055.12.8(.....) |
| 19. The Punishment Related Some Nepal Acts Amendment Act,2055 (...) | 2056.1.16(.....) |

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| 20. The Contract Act, 2056(...) | 2057.3.14(.....) |
| 21. The Court Proceedings Related Some Nepal Acts Amendment)Act, 2058 () | 2059.5.27(.....) |
| 22. The Muluki (Eleventh Amendment) Act, 2058(...) | 2059.6.10(.....) |
| 23. Some Nepal Acts Amendment Act, 2063(...) | 2063.6.28(.....) |
| 24. Some Nepal Acts to Maintain Gender Equality Amendment Act, 2063(...) | 2063.7.17(.....) |
| 25. The <i>Muluki</i> (Twelfth Amendment) Act, 2641(...) | 2064.8.14(.....) |
| 26. Republic Strengthening and Some Nepal Laws Amendment Act, 2066(...) | 2066.10.7(.....) |

Act Number 67 of the year 2019

Preamble

Whereas, it is not possible to deal with all transactions only through religious literatures (*Shashtra*) over the course of time, and alterations and amendments have been made, to the tune of the country, time and circumstance, from time to time, to the *Muluki Ain* (General Code), which was prepared by an order issued by our great ancestor the then His Majesty to then Prime Minister and came into force on the Seventh day of the month of Poush of the year 1910; and whereas, it is expedient also to make other amendments to the *Muluki Ain*, in view of the existing political, economic and social systems, while consolidating these alterations and amendments;

Now, therefore, we, His Majesty King Mahendra Bir Bikram Shah Dev, have made and issued this Act, pursuant to Article 93 of the Constitution of Nepal, with great object to, *inter alia*, maintain peace and order in Nepal and to maintain harmonious relations between the people of various classes, castes, tribes and regions.

Part-1

On Preliminary Matters

- Number 1. This Act shall be cited as the "*Muluki Ain* (General Code)".
- Number 2. This *Muluki Ain* (County Code) shall come into force on the first day of the month of Bhadra of the year 2020(.....)
- Number 3. Unless the subject or the context otherwise requires, in this *Muluki Ain* (General Code):
- (a) "Nepal" means the State of Nepal,
 - (b) "Law" means the Nepal law in force for the time being,
 - (c) "Office" means and includes a court,
 - (d) "Chief of office" means and includes a judge, and
 - (e) "Suit" means and includes a complaint, and this term also includes a police report (charge sheet) on a criminal case.
- Number 4. The matters set forth in separate laws made in specific subjects shall be governed by such laws and those matters not set forth in such laws shall be governed by this *Muluki Ain* (General Code).

Part-2

Chapter-1

On Court Proceedings

- Number 1.¹ The competent authority, if any, specified by any law to try any case shall try and adjudicate that case, and if no such specific authority is specified but only the office has been so specified, the chief of that office shall try and adjudicate that case, in accordance with law.
- Number 2. The person who sits in the Bench or hands down judgment has to do accordingly, pursuant to the law requiring the seal of office and signature of the chief of office to be affixed and appended to the document in the specified place. If the law is not clear, the seal of office and signature of the chief of office must be affixed and appended to the top of the document.
- Number 3. No person shall carry out any acts other than such official acts as required to be carried out by that person in the office nor shall make, or cause to be made, a joke or fun, during office hours (from the time the office opens to the time it closes).
- Number 4. In holding discussions in relation to a case and such other acts as required to be carried out by the office, a person is allowed to tell such matters as that person deems reasonable from his or her wisdom, in consideration of honesty and duty. Such matters have to be expressed turn by turn. A person shall not overtake or interrupt the discussions unless the earlier speaker completes his or her statement; or a person who is carrying out any act or dealing with a case shall not set aside such act or case, and settle other matters. If a person does so, the chief of office may, at his or her discretion, punish that person with a fine not exceeding Twenty Rupees.

¹ Amended by the Seventh Amendment.

Number 5. No person shall carry any arm in the office, except such arm as may be required for the business of the office or submitted for evidence. If, despite prohibition, a person carries any arm forcefully, the chief of office may, at his or her discretion, punish that person with a fine not exceeding Twenty Rupees. If that person carries the arm forcefully despite the imposition of fine, the arm shall be confiscated.

Number 6. The office shall try and adjudicate cases in open bench. If any person does any unreasonable act in the office, such person may be sent out of the bench. If that person repeats the same act, the chief of office may, at his or her discretion, punish that person with a fine not exceeding Fifty Rupees.

Number 7.²

Number 8.³

Number 9. The following cases are criminal cases, and the other cases are civil cases:

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| | 4 |
| Cases relating to state affairs..... | 1 |
| Cases carrying punishment under the Chapter on Homicide..... | 1 |
| Cases carrying punishment under the Chapter on Medical Treatment..... | 1 |
| Cases carrying punishment under the Chapter on Theft..... | 1 |
| Cases carrying punishment under the Chapter on Cheating..... | 1 |
| Cases relating to the killing of cow..... | 1 |
| Cases of arson..... | 1 |
| Cases of libel and slander..... | 1 |

² Deleted by the Law Practitioner's Act, 2025.

³ Deleted by the Seventh Amendment.

⁴ Deleted by the Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

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| Contempt of bench..... | 1 |
| Embezzlement of government property..... | 1 |
| Cases carrying punishment under Number 9 of the Chapter on Non-payment of Dues..... | 1 |
| Cases relating to fake statement as holding title or dismissal of employees or gathering of people by way of such fake statement..... | 1 |
| Cases relating to gambling..... | 1 |
| Cases relating to marriage..... | 1 |
| Cases relating to sexual intercourse..... | 1 |
| Cases relating to looting..... | 1 |
| Cases relating to hurt/battery..... | 1 |
| Cases relating to riot..... | 1 |
| Cases carrying punishment under the Chapter on Trafficking in Person..... | 1 |
| Cases relating to arms and ammunitions..... | 1 |
| Cases relating to loss, concealment of or tempering with government papers..... | 1 |
| Cases relating to mourning..... | 1 |
| Cases relating to tonsure by sages..... | 1 |
| Cases of counterfeiting coins or using counterfeit coins..... | 1 |
| Cases of corruption (bribery)..... | 1 |
| Cases of forgery and fraud..... | 1 |
| Cases relating to transportation (motor vehicle)..... | 1 |
| Cases carrying punishment by the Chapter on Unlawful Detention..... | 1 |

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| Cases punishable by Law Relating to Forests..... | 1 |
| Cases punishable by Law Relating to Protection of Livestock, Birds or Aquatic Animals..... | 1 |
| In addition to the above-mentioned cases, other cases except disputes relating to title to property or position or office..... | 1 |

Number 10.⁵ In relation to the cases which are state cases as per the laws in force, such cases shall be tried by maintaining the Government of Nepal as the plaintiff. In relation to the other cases, the Government of Nepal, or any public generally, with the leave of the office, may, being the plaintiff, institute a case involving the interest or concern of the Government of Nepal or public interest or concern, in view of the subject-matter or nature of such cases. An application for such leave has to be accompanied by the plaint. If an application for leave is so made, along with the plaint, decision on the application shall be made on the same day. If leave is not granted, an application may be made to the appeal hearing office.

Number 11.⁶ The cases that mature earlier for disposal shall be disposed earlier, upon trying them in the following order of priority:

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|--|------------------|
| Cases of detention or imprisonment of detainees or prisoners..... | 1 |
| Cases of minors, who are below 16 years of age and do not have parents and guardians..... | 2 |
| Cases of the senior citizens above 75 years of age or of persons with physical disabilities, who are on personal bail for presence on the appointed due dates..... | 3 |
| Cases involving claims for the performance of name giving rites or settlement of relationship, in which women are plaintiff or appellant..... | 4 |
| Cases in which widow women are plaintiffs or appellants..... | 4A. ⁷ |

⁵ Amended by the Ninth Amendment.

⁶ Amended by the sixth Amendment.

In the order of old cases, in relation to the above-mentioned cases and then
the other cases.....5

Number 12.⁸ If a litigant (party to a case) who is not allowed to appoint an attorney pursuant to section 1 or 2 of Number 65 of this Chapter is also involved in a case filed in another office or the disposal of the case being filed in one office cannot be made until another case filed in any other office is disposed of, and the litigant makes an application, setting out the name of case, office and date at which it has been filed, to the office in which the case is filed, praying for the postponement of case in accordance with law, the office shall inquire into the application and do as follows, upon giving a proof thereof to the litigant:

Upon the making of such application, the office shall write to the office in which the case has been filed, setting out the name of case filed in the office, and in the event that the case filed in the office has to be disposed and the case filed in that other office has to be postponed, shall write to that other office for the postponement of the case filed in that other office until the case filed in the office is disposed, indicating the days within which the case will be so disposed; and in the event that the case filed in the office has to be postponed and the case filed in that other office has to be disposed, shall write to that other office for the disposal of the case filed in that other office, and giving information of disposal to the office, indicating that the case filed in the office has been postponed; and a receipt thereof has to be obtained. After the postponement of case as mentioned, the office making postponement of case shall execute a memorandum to the effect that proceedings shall commence after the disposal of the case filed in the other office and assign both parties to the case the due date for presence. If, after the postponement of case, the person applying for postponement appoints an attorney in the case to be disposed earlier, the office shall give information, immediately with the

⁷ Inserted by the Act Amending Some Nepal Acts to Maintain Gender Equality, 2063.

⁸ The opening provision amended by the First Amendment.

registration of the attorney, to the other office that the litigant has appointed the attorney in the case being tried by the office and that the other office may proceed the trial of the case filed in that other office.....1

The office disposing case earlier shall, upon the disposal of case, give information thereof, indicating the date of disposal, to the office postponing case, and appoint the due date to the litigants to make presence with the office postponing case within Fifteen days excluding the time required for journey, and forward the evidence of appointment of due date to the office in which the case has been filed, with a request for the acknowledgement of receipt thereof. If the litigant is absent or in detention at the time of disposal of case, it is not required to appoint the due date for the presence of litigant. In the case of absence, it must be written, after the expiration of the time for making a dismissal or ex parte judgment from the date of expiration of the due date, that the litigant has been absent on the due date appointed by the office, and in the case of detention, that the litigant has been held in detention from certain date for certain reason.....2

One who expires the due date in the case to be disposed earlier must make presence in the office where case is postponed within Fifteen days from the date of expiration of the extendable time, and one who is in detention must make presence in such office within Fifteen days from the date of his or her release and one who appoints an attorney, within Fifteen days from the date of appointment of attorney, excluding, in all cases, the time required for journey. If the litigant who has expired such time-limit and due date makes presence in the office where case is postponed within the time as mentioned, the office shall carry out the necessary proceedings and dispose the case.....3

Upon receipt of information that the litigant has been held in detention or imprisonment, the case postponing office need not wait until the litigant

makes presence in order to take action. The office must keep on inquiring into whether the litigant has been released or not, and summon the presence of such litigant if so required under the law in cases where the litigant has not been released or there is no circumstance for his or her release, and dispose the case by carrying out proceedings whatever may be required under the law, and deal with the matter in accordance with law.....4

With the exception of cases in which a litigant makes presence after expiration of the time and due date, proceedings must not be carried out upon expiring the due date irrespective of the involvement of the litigant without disposing the case required to be disposed earlier. The case has to be postponed until the case required to be disposed earlier is disposed. If the other office has not disposed the case within the time as written for disposal, the office has to send a remainder to the office required to dispose the case earlier and cause such other office to make disposal, and then try and dispose the case filed in the office.....5

Number 13. An office has to carry out the acts and actions required by it under the law within the stipulated time frame. It shall not make delay. If any unlawfulness is noticed upon hearing an appeal or reference or inspecting the office, action shall be taken or caused to be taken in accordance with law.

Number 14.⁹ Cases must be adjudged within the time frame as mentioned hereunder:

Judgment on a case of first instance has to be made within One year after the date of filing of the note of defense or that of expiration of the time limit for the filing of the note of defense.....1

Judgment on a case of appeal has to be made within Six months after the date of receipt of the case file of first instance.....2

⁹ Amended by the Tenth Amendment.

After the procurement/examination of the evidence as required to be procured or examined, no delay of more than Thirty five days shall be made to make judgment despite that the time for making judgment as mentioned above still remains.....3

- Number 15. If there arises a reasonable cause/reason causing difficulty with making judgment and proceedings within the appointed time and due date, the office must make a reporting, setting out the details of such difficulty, to the office hearing appeals from it, within the time limit. If the office, upon making examination of the matter, finds that the difficulty is reasonable and the time is to be extended up to One month, the office itself shall give such time limit for one time, and if it is to be extended in excess thereof, the office shall specify the time to be extended and make submission to the higher level. Upon such submission/reporting, the higher level shall, if it finds that the difficulty is reasonable and the time limit in excess thereof has to be extended, extend such additional time limit as may be reasonable, and cause proceedings and judgment to be made within such time limit.
- Number 16. Proceedings shall not be deemed to have been made in cases where a remainder should have been made by sending a process/notice (*Purji*) to another area within the country, search should have been made within its territorial jurisdiction or process should have been sent abroad in accordance with law.
- Number 17. If the appeal hearing office comes to know, from an application by a litigant or otherwise, that the time limit of action and proceedings on a case filed in its subordinate office has expired or such action and proceedings involve any unlawfulness, the appeal hearing office shall also procure the case-file of the case, as required, and examine it within Fifteen days; and if, upon such examination, it appears that the time limit has been caused to be expired or any unlawful proceeding has been made, the

appeal hearing office shall do, and cause to be done, in accordance with law.

- Number 18. Any such plaint, statement of defense, memorandum of appeal and application as are in order and to be filed with it shall be registered immediately after they are submitted to the office. The time limit does not expire by the reason only that it, upon being submitted to the office, has not been entered into the records duly.
- Number 19. The chief of office shall immediately draw up a synopsis/summary of the documents filed in or received by his or her office and sign a document, indicating whatever action is required to be taken in accordance with law and also setting down the date of entry into the records.
- Number 20. In relation to a case filed in, and also a case transferred by another office to, the office, it shall prepare a case-file, mentioning the names of the defendant and the plaintiff, the name of case on the file cover, assign the number to it serially, and that such-and-such case between such-and-such plaintiff and such-and-such defendant filed on such-and-such date shall also be mentioned in the book. After the judgment has been made, the case-file shall be maintained according to the date and serial number, also setting down therein the date on which the judgment has been made.
- Number 21. After a case has been filed, an inventory form in the format as set forth in this Number shall be maintained, making entry of the number of each document, along with the date of its submission, to be entered into the form, signed and attached with the case file. After the disposal of case, the documents as set forth in the second column and those as set forth in the third column, other than the postponement related documents, pending case-file and the documents referred to in the first column, must be cancelled and sold by auction in accordance with law, after Five years of the expiration of the time limit for the litigant to make appeal upon judgment made on the case, and after one year, respectively. The original documents submitted by the litigants must be returned whenever they

come to collect them, and a receipt thereof must be obtained and a remark to that effect must also be made in the inventory form. The inventory of the injury examination document of a case which has not been filed within limitation and the application order must be updated once a year and canceled and auctioned as mentioned above.

Format of Inventory Form

Case Number such-and-such of the Year such-and-such

| The inventory of the case file of the such-and-such case between such-and-such persons, filed with, or transferred to, such-and-such court on such-and-such date..... | | | | | |
|--|---|---------------------------------|---|-------------------------------|--|
| Never to be disposed | | To be disposed after five years | | To be disposed after one year | |
| No. | Documents | No. | Documents | No. | Documents |
| 1 | Plaint of such-and-such date of such-and-such person or complaint, order, deposition/statements | 6 | Letter rogatory of such-and-such date of such-and-such person | 2 | Slip on the due date of such-and-such litigants |
| 3 | Process, summons or process (<i>Italayanama</i>) served on such-and-such date in the name of the concerned person.... | 7 | Deposition of the such-and-such witness of the such-and-such person of such-and-such date | 5 | Summons served on such-and-such witness |
| 4 | Statement of defense or deposition of such-and-such person on such-and-such date | 8 | Recognizance deed of the persons including such-and-such person on such-and-such date | | |
| 9 | Original document of such and such type submitted by such-and- | 11 | Order of such-and-such date..... | | |

| | | | | |
|----|---|--|--|---|
| | such person on such-and-such date..... | | | |
| 10 | Map deed bearing signature of such-and-such persons including such-and-such person..... | | | |
| 12 | Deed of compromise between such-and-such persons on such-and-such date..... | | | |
| 13 | Judgment of final order by such-and-such office on such-and-such date | | | |
| | Signature <u>Addition by such-and-such appeal</u> | | Signature <u>Addition by such-and-such appeal</u> | Signature <u>Addition by such-and-such appeal</u> |
| 1 | Memorandum of Appeal of such-and-such date of such-and-such person | | | 2 Property/money bail (<i>Dhan Jamani</i>) deed of such-and-such person on such-and-such date.... |
| 4 | Map of land..... | | | |
| 5 | Dismissal or other judgment of such-and- | | | 3 Receipt of the memorandum of fixed |

| | | | | | |
|--|--|--|-----------------------------------|--|---|
| | such date Signature of such-and-such person | | Signature of such-and-such person | | date for appearance..... Signature of such-and-such person |
|--|--|--|-----------------------------------|--|---|

Number 22. Notwithstanding anything contained in Number 21 of this Chapter in relation to the cancellation and auction sale of case-files and documents on the record, in the case of case-files of the other types of cases, except the following types of cases, a book shall be established after the expiration of Twelve years in the case of case-files of suits in which recovery of amount in controversy is to be made and of five years in the case of case-files in which recovery of amount in question is not to be made, from the date when an appeal cannot be preferred upon expiration of the time for appeal, after judgment on such cases, and the book shall state the full names and addresses of all plaintiffs and defendants, subject matters of suits, names of suits, dates of disposal and name of disposing office, and shall be signed by the chief of office and the immediate subordinate to the chief of office, and all the documents on the record other than the documents required to be returned to litigants, out of the documents set forth in the first column of the inventory form, shall be canceled and sold by auction in accordance with law, and the book shall be moved for the hand-over and take-over:

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| Cases relating to state affairs..... | 1 |
| Cases relating to homicide..... | 1 |
| Cases punishable under the Chapter on Theft..... | 1 |
| Cases relating to the killing of cow..... | 1 |
| Cases relating to incest..... | 1 |

¹⁰ Deleted by the Strengthening Republic and Some Nepal Acts Amendment Act, 2066.

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|--|---|
| Cases relating to gambling..... | 1 |
| Cases relating to forgery, fraud and coercion..... | 1 |
| Cases relating to marriage..... | 1 |
| Cases relating to sale, purchase or production of goods prohibited..... | 1 |
| Cases with claims for holding name giving ceremony or establishing any other relationship..... | 1 |
| Cases relating to government arrears..... | 1 |
| Cases relating to land or crops..... | 1 |
| Cases relating to inheritance..... | 1 |
| Cases relating to partition or concealment of property liable to partition..... | 1 |
| Cases relating to <i>Jyuni</i> or alimony..... | 1 |
| Cases relating to gift or donation..... | 1 |
| Cases relating to adoption | 1 |
| Cases relating to trusts (Guthi) or concealment of trusts..... | 1 |
| Cases relating to houses or shops..... | 1 |
| Cases relating to insolvency..... | 1 |
| Cases relating to transaction involving mortgage of immovable property..... | 1 |
| Cases relating to ditches or road exits..... | 1 |
| Cases relating to <i>Jimidari</i> or <i>Talukdari</i> | 1 |

Number 23.¹¹ No one shall loose, destroy or steal any document or case-file maintained in the office. A person who looses or destroys any running case-file on

¹¹ Amended by Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

proceeding or any duplicate copy meeting requirements of law or document or case-file that does not prejudice the evidence, out of the evidential documents, and loses any non-current document or original of judgment or case-file shall be punished with a fine of Ten Thousand Rupees in the case of loss of a case-file, that of Five Thousand Rupees in the case of loss of an evidential document and that of One Thousand Rupees in the case of loss of any other minor document. A person who loses the original of a running document, which meets the requirements of law and can be taken in evidence and of which duplicate copy is not available, or a case-file shall be punished with a fine of Twenty Thousand Rupees in the case of loss of case-file, that of Ten Thousand Rupees in the case of loss of an evidential document and that of Two Thousand Rupees in the case of loss of any other minor document. If the loss is committed with ulterior motive, and the Government of Nepal or an individual has suffered a damage from such loss, such damage shall be recovered or realized from such person and any other person aiding in such loss, and such persons shall be fined with a sum equal to the amount in question and be imprisoned in consideration for that fine, and be imprisoned for a term of One year in cases where no such damage has been caused or is likely to be caused, irrespective of the kind of the lost or destroyed document or case-file, whether running or not. In cases where a document or case-file is stolen, the person shall also be liable to a fine of two thousand rupees, in addition to the punishment as mentioned above.

- Number 24. In obtaining a document from or causing a document to be executed by a minor, who has not attained the age of sixteen years, or a person, who, despite the attainment of majority, has become insane or gone mad because of any kind of disease, in any matter whatsoever, no document shall be obtained or caused to be executed without in witness of his or her guardian or heir. Provided that in causing a person who commits or causes the commission of murder, theft or sexual intercourse to execute a document, the office may cause such person to execute the document in

witness of his or her guardian or heir if available and to execute it alone if his or her guardian or heir is not available, despite that he or she has not attained the age of sixteen years. In cases where a document is executed in witness of guardian or heir, the margin of the document shall state that it is true that this type of my person has set down in my presence as dictated and signed it and be signed also by the guardian or heir. No person shall be coerced or intimidated into executing a document. If it is so executed, it shall be void. A document which is executed and signed by a person with his or her free will and consent and in cognizance, except as mentioned above, shall be valid.

- Number 25. In causing a document to be executed by a blind or dumb person, the document shall be executed as dictated by the blind person and as gestured by the dumb person, upon well understanding the gestures, in witness of such person's guardian or heir, if any, and of a person as chosen by the blind or dumb person himself or herself if such guardian or heir is not available, and the document shall also be signed by the guardian, heir or witnessing person stating that the document has been executed as mentioned.
- Number 26. Any document to be registered with or executed by the office shall set out the age of the person executing it. Where the age is mentioned and the executing person is present before the office, the head of the document shall state that his or her age is accurate if the same is accurate, and that his or her age would be such-and-such if the same is not accurate, and be signed by the chief of office. If the executing person does not appear in person but submits the document through his or her attorney, the attorney shall be caused to sign it, stating that the age set down therein is accurate. The chief of office concerned may, at his or her discretion, fine a person who lies the age and sets down untrue age with a sum not exceeding Twenty Rupees.

Number 27.¹² If a document tendered for registration in the office contains any overwriting, addition or deletion in legible letters, in getting it to be signed, the office itself shall write on the margin of the document stating that such-and-such letters are added or overwritten in such-and-such lines, and the document shall be signed by the signed by the chief of office and also be caused to be signed by the person producing it for registration, and such document shall then be registered. If the document cannot be registered, the reason why it cannot be registered shall be clearly mentioned on its reverse side and the chief of office shall sign and date it and return it to the person producing it for registration, upon taking acknowledgement of receipt by such person.

- Number 28. Once any document conforming to the requirements is produced to or registered with, the office, it shall not returned and another document shall not be produced and received in lieu thereof, and figures and words mentioned therein shall not be altered by way of addition, deletion, strikethrough or overwriting.
- Number 29. The following cases shall be tried only by the offices in the territories as mentioned below:

The civil cases shall be tried as follows.....1

Cases of concealment of land, concealment of land revenue, ditches, borders, roads, exits, easement, and cases which would, as it appears from the nature of plaint, require the examination or survey of land, house or place or cases which have been filed on the understanding, as appearing from the writing of the plaint, that the examination or survey of land, house or place would not be required but it appears from the nature of the statement of defense that judgment can be made only upon making such examination or survey shall be tried by the office in the territory in which such house or land is situate.....1

¹² Amended by the First Amendment.

All the cases other than those set forth in paragraph 1 of this section shall be tried by the office in which plaint is filed, out of the office in the territory where the act is done or the office in the territory where the defendant is staying/residing.....2

If both plaintiff and defendant do any transaction in other place within Nepal, other than those as set forth in section 3 below, cases relating to such transaction shall be tried by the office in which plaint is filed, out of the office in the territory where the transaction has been done or the office in the territory where the plaintiff is staying/residing.....3

Where a suit can be filed, pursuant to the Chapter on General Transactions, on the matter of transaction done abroad, it shall be tried by the office in which plaint is filed, out of the office in the territory where the defendant is staying/residing or where the plaintiff is staying/residing.....4

Where both litigants are residing elsewhere than the proper territory, on the matters set forth in paragraphs 2, 3 and 4 of this section, even the office in the territory where they are residing may receive and try the suit. If the defendant, prior to the filing of the statement of defense, or both parties, after the filing of the statement of defense, makes or make an application for the transfer of the suit to the office in the proper territory and if both litigants have left that place, the suit shall be transferred to the office in the proper territory5

The criminal cases shall be tried as follows.....2

The cases relating to state affairs shall be tried by such office as specified by the Government of Nepal.....1¹³

The following cases shall be tried by the office in the territory where the crime is committed2

Cases carrying punishment under the Chapter on Homicide.....1

¹³ Amended by the Strengthening Republic and Some Nepal Laws Amendment Act, 2066.

| | |
|---|---|
| Rape cases | 1 |
| Cases carrying punishment under the Chapter on Theft | 1 |
| Cases of arson | 1 |
| Cases relating to killing of cow | 1 |
| Cases relating to loss or embezzlement of governmental or other public property | 1 |
| Cases relating to arms and ammunitions..... | 1 |
| Cases of counterfeiting coins or using counterfeit coins..... | 1 |
| Cases relating to forgery of governmental seal or signature or paper bearing such seal or signature or paper bearing the seal or signature of any government employee in government business..... | 1 |
| Cases carrying punishment under number 1 of the Chapter on Decency..... | 1 |
| Cases relating to gambling | 1 |
| The criminal cases, other than those set forth in paragraph 2 of this section, shall be tried by the office in which a plaint is filed, out of the office in the territory where the crime is committed or the office in the territory where the defendant is staying..... | 3 |
| The phrase "territory where the defendant is staying", used in various sections above, shall mean the place where the defendant is residing or engaged in government employment..... | 3 |
| In filing a plaint in the office in the territory where the defendant is residing, as mentioned in various sections above, if there are many defendants staying in different jurisdictions, the plaint shall be filed in the office in the territory where more defendants are staying. Where the number of defendants staying in such different territories is equal, the plaint may be filed in the office in any territory | 4 |

Where a government employee has to file a suit or statement of defense, the employee may file it in such kind of case trying office, if any, available near the territory where he or she is in service or deputation, and if such an office is not available, in the office hearing appeals from such office, if any available, and if even such an office is not available, in other nearby office. If a suit or statement of defense is so produced for filing, the office shall fix the date for his or her presence in it and dispatch and forward the suit or statement of defense to the proper office in the territory. The office trying the case has to try it by showing any documents in original to the litigant who has to make presence on the fixed date in the territory where he or she is in service, it may summon his or her presence and take his or her deposition. Where he or she is so summoned, he or she has to make presence in person, or through an attorney in accordance with law, in the office trying the case. Where any employee who is required to make presence on the fixed date in the office in the territory where he or she in service discontinues such presence, the concerned office shall give information thereof to the case trying office. Where the employee is deputed to another territory from the territory of the office in which he or she has to make presence on the fixed date, that office shall give a notice to him or her to make presence on the fixed date in the office within the territory of his or her deputation and give information thereof to the office trying the case.....5

Where a case is being tried by an office in the territory where both plaintiff and defendant are in service and both parties make an application that the case be tried by the office in the territory where they have abode, the office shall forward the case to the office in such territory out of the territories as set fort in sections 1 and 2 above as both parties agree, except where the case has matured for disposal following the examination of evidence.....6

Where a plaint is produced for filing in an office in an improper territory except in proper territory, the office shall immediately make endorsement,

with affixation of the office seal, on the reserve side of the plaint setting down that he or she may go the such-and-such office in the proper territory, and return the plaint. Where it is produced within the time-limit specified by law, the office in proper territory shall receive the plaint even if the plaint so endorsed is so produced and try the case. Even where dispatching a case to another office after the filing of plaint, as mentioned in various sections above, the date shall be fixed for presence by the litigant and a memorandum of the court that the case be tried in accordance with law by the office which is competent to try the case shall also be forwarded. The office shall also receive the case so dispatched and shall not return it despite that it is not competent to try it. In the event of difficulty, the office shall make a report through its appeal hearing office and do accordingly as sanctioned. The office making such sanction shall also make such a sanction as may be reasonable in accordance with law.....7

In making a suit against a government employee or against other persons along with such employee on any act or matter relating to the office, notwithstanding anything contained in the various sections above, such case has to be filed in the appellate court in the territory where the plaintiff is staying or where such act or matter was done or performed, and it is not necessary to require such employee to keep on making presence on the fixed date¹⁴8

A person who files a suit lying that an improper territory is the proper one or who makes a false complaint on the lying of territory shall be fined five thousand rupees. Where a suit is filed lying the territory, and it is so filed that the days required for the arrival by post of documents in the proper office dispatched by the office where the suit has been so filed making such a lie are remaining, for the time for journey, the case-file and litigants shall be dispatched to the office in the proper territory as mentioned in

¹⁴ Amended by the First Amendment.

various sections above immediately where such a lie is established, and such proper office shall try the case¹⁵.....9

- Number 30. In trying cases, each authority competent to try cases shall observe the following provisions:

One shall not try any case of a person who is by relation entitled to inheritance from one's lineage (*Had*) and of one's maternal uncle, maternal aunt, mother's sister, father's brother, mother-in-law, father-in-law, father's sister, brother-in-law, formal friend (*Meet*), sister, daughter and son-in-law, nephew, niece, daughter-in-law on the nephew side, mother's father or mother, male or female teacher whom one has received spell from, his or her disciple, a person whom one is engaged with monetary transaction, servant and a family member living jointly with the said persons and a person who is one's litigant.....1

If such a case is filed that the authority is not competent to try it as mentioned in section 1 above, the other authority of the same level if any available in the same office shall try it, and failing such other authority, the case shall be forwarded to the other nearest office with the same powers, accompanied by a memorandum stating, *inter alia*, that the office is not competent to try the case for such-and-such reason and that other office should therefore try it in accordance with law, and the litigants shall also be informed to appear in that other office, and the date for presence shall be fixed, and the case-file shall also be forwarded to that other office; and that other office shall also receive the case and try it in accordance with law despite that the case does not fall within its jurisdiction.....2

- Number 31. Where a suit on bribery is to be made against any employee of an office, the suit shall be filed in the office hearing appeals from it. That office shall proceed and try the suit in accordance with law. Despite that a suit on bribery is filed, a case filed in the office prior to that suit is not

¹⁵ Deleted by the Ninth Amendment.

transferable without being adjudged. After the case on which bribery is alleged to have been taken has been adjudged, the office hearing appeal shall write the office to send the judgment and case-file, as well, despite that no appeal is made, procure the case-file and examine judgment and deal with the matter, in accordance with law, upon receipt of the case file.

Number 32. In filing a suit on bribery against a person, other than a witness and examined person, no such a suit shall be entertained if it is not filed within six months after the date of judgment of a case by an office in which the suit is filed on the allegation of bribery on that case, and after the date of cause of action in relation to the other matters.

Number 33.¹⁶ In filing a suit alleging that a witness or other examined person has made a statement on a case by taking bribes, the suit has to be filed not later than fifteen days after making such a statement. The filing of such a suit shall not preclude the office from trying and disposing the principal case on which the witness or other person has made such a statement. Punishment for making a false statement shall be imposed by virtue of that principal case.

Number 34.¹⁷ Where it is required to issue a summons, process (*Italayanama*), notice of time-limit or letter rogatory on any case to any person staying or residing abroad or to enquire such a person into any matter the following provisions shall apply:

If it is expedient to issue a summons, process, notice of time-limit or rogatory to a person residing outside Nepal, it shall be issued and served in accordance with the provisions contained in the rules framed by the Government of Nepal in this respect. A failure to serve the summons so issued and to inquire the relevant person into the matter shall not preclude the office from trying and adjudging the case in accordance with law.....1

¹⁶ Amended by the Seventh Amendment.

¹⁷ Amended by the Seventh Amendment.

In serving a summons, process, notice of time-limit or letter rogatory issued by a court outside Nepal, it shall be served only on the basis of reciprocity in accordance with the provisions contained in the rules framed by the Government of Nepal in this respect2

- Number 35. No office shall try any cases other than the cases which it is competent to try in accordance with law. If so tried and disposed, the same shall be void.
- Number 36. On any matter in respect of which limitation is not specified by law, a suit on such a matter may lie any time.
- Number 37. There is no limitation for making a suit on a case relating to state affairs or theft of government property.¹⁸
- Number 38. A suit on coercion or intimidation into executing a deed shall not be entertained if it is not filed within Thirty Five days after the date on which one is released.
- Number 39. On any matter in respect of which limitation is specified by law, a suit on such a matter shall be entertained if it is filed within that limitation. If a suit is tendered for filing in the court after the expiry of the limitations, it shall not be entertained; and the office shall set down on its overleaf that he or she may tender it within Fifteen days from that day if there was any reason for his or her failure to file it within the limitation, as mentioned in law, accompanied the evidence for such reason, affix thereunto the seal and return it to the receiver, on taking acknowledgement by the receiver that he or she has taken it back for such-and-such reason. The suit shall not be entertained if it is not filed within such Fifteen days. If the suit is tendered for filing within such Fifteen days, setting down the reason for failure to file it within the limitation, and, a memorandum shall be executed to the effect that it may be filed if the reason is found, upon an inquiry into the matter, to be one as referred to in law; and the suit shall be

¹⁸ Deleted by the Strengthening Republic and Some Nepal Acts Amendment Act, 2066.

filed and tried if the evidence of reason is established. If the reason is not in accordance with law, it shall be set down on the reverse side of the suit that the suit cannot be entertained, and the suit shall be returned by taking acknowledgment of receipt thereof.

- Number 40. If a person who has to file a suit within limitation has not completed the age of Sixteen years and the suit is filed until the limitation from the date on which the person has completed the age of sixteen years, the suit shall be entertained. If that minor dies before he or she completes the age of sixteen years, and the heir to the deceased files the suit, the suit shall be entertained.
- Number 41. If a person who has to file a suit within limitation is insane or goes mad at the time of commencement of limitation and the suit is filed until the limitation from the date on which the person has become sane, the suit shall be entertained. If that person has become insane or gone mad only after the commencement of limitation, the days during which he or she has so become insane or gone mad shall be excluded from the period of limitation, and if a suit is filed within the said days from the expiration of the limitation as referred to in law after he or she has become sane, the suit shall be entertained.
- Number 42. If a person who has to file a suit within limitation is unconscious or dies upon being insane or mad at the time of commencement of limitation and the heir to the deceased files a suit until the limitation for the date on which the person so died, the suit shall be entertained. If that person dies upon being unconscious or mad only after the commencement of limitation, the days during which he or she has so become insane or gone mad shall be excluded from the period of limitation, and if a suit is filed within the said days from the expiration of the limitation as referred to in law after he or she has so died, the suit shall be entertained.
- Number 43. If a person who has to file a suit within limitation expires the limitation because of being deputed elsewhere on government business or being

seriously ill or being detained in any place for any reason, and the person files a suit within thirty five days after being back from deputation or getting recovery from illness or release from detention, the suit shall be entitled.

- Number 44. If a person who has to file a suit within limitation expires the limitation as a result of a trick or conspiracy designed to prevent him or her from filing the suit within the limitation and the person files the suit within thirty Five days after he or she is released, the suit shall be entertained.
- Number 45. If the day on which the limitation expires or the time-limit or fixed date for presence expires or any document has to be submitted falls on an office holiday, the limitation, time-limit or fixed date for presence of the person who makes presence or submits the document on the first day on which the office opens after such holiday¹⁹ shall not expire.
- Number 46. In reckoning days for the purpose of limitation, time-limit or otherwise, days shall be reckoned where the number of days is specified and the calendar month (first day of month) shall be reckoned where the number of months or years is specified irrespective of the days a month has.
- Number 47. Litigants other than those whose have to be in detention for trial or who cannot be released on the personal bail to make presence on the fixed date in accordance with law have to be tried upon releasing them on the personal bail to make presence on the fixed date, immediately when they make presence.
- Number 48. In fixing the time for the parties to make presence, there shall be established a memorandum of fixed date for presence, in the format as referred to in number 49 of this Chapter, the top of which bearing the seal of office, and specifying that the parties shall make presence in the office or at such-and-such place at such-and-such time for such-and-such business (purpose), and the employee fixing the date shall sign each of

¹⁹ Amended by the Ninth Amendment.

such fixing and give it to the recipient of such fixed date, upon getting evidence of acknowledgment thereof, which shall be placed on the record.

- Number 49. Format of the memorandum of fixed date for presence:

Memorandum of fixed date for presence

issued by such-and-such office

Plaintiff: Such-and-such

Defendant: Such-and-such

Case: Such-and-such

Fixed date for presence issued in the name of such-and-such

You are hereby required to make presence at.....o'clock on such-and-such day for such-and-such business or purpose.

- Number 50. No date for making presence shall be so fixed as to fall on the specified day of holiday of the office.

- Number 51. Upon the filing of a plaint, the date shall be so fixed, to the extent possible, for the plaintiff to make presence that it falls on the day on which the statement of defense would be filed, taking also into account the period of Thirty days,²⁰ as the time-limit to which the defendant is entitled, and the time required for journey. If the date so fixed for presence and the date on which the statement of defense is filed do not reconcile, after the filing of the statement of defense, the same date which has been fixed for the plaintiff to make presence shall also be fixed for the defendant to make presence, and then the same date shall be reconciled and fixed for both parties to make their presence.

- Number 52. Except in cases where a party to a case has appointed an attorney, where such a party is also a party to a case filed in another office that is within Eight miles from the office where the case has been filed and that party states that matter, then, in fixing the date for that party to make presence,

²⁰ Amended by the Third Amendment.

such date shall not be so fixed that it falls on the same day as fixed by that other office to that effect.

- Number 53. In fixing the date for making presence, there shall be established a book in the format as referred to in this Number, and the date shall be fixed and given to litigants by setting down in the receipt of date fixed for making presence and the memorandum of date fixed for making presence to be given to litigants, the proceeding or business to be carried out on that date; and the proceeding or business for which the date has been so fixed shall be mentioned in the column of the book on date fixed for making presence, accompanied by the number of case and other necessary details, and the proceeding or business as specified shall be carried out on the date so fixed for the same after the litigants make presence. If, for any reasonable cause, the proceeding or business cannot be carried out or completed on the date fixed for the same, that matter shall be mentioned in the book on date fixed for making presence, and the day on which such action or business will be carried out shall be fixed as the date for litigants to make presence, a remark to the effect that the date fixed for making presence has been reassigned shall be mentioned in the book on date fixed for making presence, and the book shall be signed by the chief of office if he or she is present and by the subordinate employee of highest level if the chief of office is not present.

**Book on date fixed for making presence
in a case to be tried originally**

| Year, month | | For issue of summons, process to defendant | Filing of statement of defense | Perusal and admission of evidence | Examination of evidence | | | For discussion | For judgment | Remarks |
|----------------|-----|--|--------------------------------------|---|-------------------------|---------|---|-------------------|-----------------|---------|
| Date | Day | | | | Document | Witness | Survey, map and people inquired as recognition | | | |
| | | | | | | | | | | |
| | | | | | | | | | | |

**Book on date fixed for making presence
in an appeal case or case of reference judgment**

| Year, month | | For procurement of case-file | Examination of evidence | | | For summoning presence of litigants | For discussion | For judgment | Remarks |
|-------------|-----|------------------------------|-------------------------|---------|--|-------------------------------------|----------------|--------------|---------|
| | | | Document | Witness | Survey, map and people inquired as recognition | | | | |
| Date | Day | | | | | | | | |
| | | | | | | | | | |

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|--|--|--|--|--|--|--|--|--|--|
| | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|

Number 54.²¹ If a person who has to be present in connection with a case is held by an office in detention or in imprisonment sends an application to the office where the case is filed stating that he or she has been held by that office in detention or in imprisonment in connection with such-and-such case with such-and-such person, the latter office shall inquire into all matters including why he or she has been held in detention or in imprisonment and by when he or she will be released; and if that person makes an application to the office detaining or imprisoning him or her, that office shall forward the application to the office where the case is filed, stating that he or she has been detained or imprisoned by that office for such-and-such reason, will be released on such-and-such date, and setting out the date of his or her release, and if it is not possible to mention the date of his or her release, setting out that matter. If such an application is received and he or she is to be released within One month, the office in which the case is filed shall try the case by fixing the date for making presence in accordance with law if the person so detained or imprisoned makes presence within Five days, excluding the time required for journey, from the date of release. The office shall not stay without proceeding if such person is held in detention or imprisoned for a term exceeding one month or the date of his or her release cannot be projected or is detained or imprisoned in a circumstance that he or she cannot be released. The office shall try and dispose the case upon summoning his or her presence in accordance with

²¹ Amended by the Third Amendment.

law if his or her presence is expedient or inquiring him or her into any matter as required. If such person is released during proceeding and makes presence within five days, excluding the time required for journey, after the date of release, the office shall try the case, upon requiring him or her to make presence on the fixed dates.

Number 55.²² Even though the litigant in a case expires the time-limit or date fixed for making presence, the office shall not make judgment until the time-limit that can be extended pursuant to Number 59 of this Chapter.

Number 56.²³

Number 57. If a government employee who has to make presence on the date fixed for making presence in a case filed has to go on home leave, the employee has to obtain a notice issued by the authority empowered to notify the sanction of the home leave addressed to the office where the case is filed, mentioning that the home leave is sanctioned for him or her for such-and-such number of days and produce it to that office. Immediately upon the production of the notice of home leave, the office where the case is filed shall fix the date for making presence by adding Seven days to the days of home leave sanctioned to him or her. Where a suit is instituted against an employee who has already gone on home leave, and the employee makes presence in the office where the case is filed and makes an application stating that he or she has gone on home leave, within Seven days from the day on which he or she has to attend after the expiration of home leave, despite that the time-limit or date fixed for making presence, being fallen within the period of home leave, has expired, the office shall inquire into the matter and extend the time-limit and date fixed for making presence where the time-limit is found to have expired within the days of home leave.

²² Amended by the Third Amendment.

²³ Repealed by the Third Amendment.

Number 58. Where a government employee who is required to make presence on the time-limit or date fixed for making presence is deputed on a government business, the following provisions shall apply:

The employee has to make an application to the office by the order or decree of which he or she is to be so deputed for sending a notice of his or her deputation to the office where the case is filed. If an application is so made, the office shall immediately write and forward to the office where the case is filed a notice specifying the period of deputation if made for a specific period, and the period of days or months as estimated, at the discretion of the chief of office, in view of the nature of business deputed for if the period of deputation is not specified. Upon receipt of the notice, the office where the case is filed shall fix the date for making presence by adding Seven days to the days required in deputation and the days required for journey to and from in accordance with law despite that it does not fall on the day fixed for making presence. Even in fixing the date for making presence by the other litigants of the case who are present in the office on the date fixed for making presence, the date shall be so fixed as to fall on the date fixed for the employee on deputation to make presence.....1

Where an employee has to proceed immediately when order is issued or an employee who is staying in a place that is far from the deputing office has to proceed from that place or an employee on deputation has to go on another deputation while on such deputation, such employee may make an application to the office where the case is filed stating that he or she has not been able to make presence on the time-limit or date fixed for making presence for such-and-such reason or to the office making his or her deputation for sending a notice of deputation to the office where the case is filed. If such an application is received, these offices shall give a notice or fix the date for making presence, as the case may be, in accordance with section 1 above. The memorandum of the date fixed for making presence by the litigant on deputation has to be dispatched so that the litigant can

receive it while on deputation and evidence of acknowledgement thereof has to be put on the record.....2

Number 59.²⁴ If the time-limit or date fixed for making presence on any case is expired owing to a circumstance beyond control of the litigant, the expired time-limit or date fixed for making presence not exceeding a period of thirty days may be extended.²⁵ Provided that the matters contained in Numbers 62 and 175 of this Chapter shall be governed by the provisions set forth therein.

Number 60.²⁶ In determining the instance where a litigant expires the date fixed for making presence after the institution of suit, the instance shall not be determined by calculating the instance of the extension of time-limit; and the instance shall be determined by calculating the instance only after the date of expiration of the date fixed for making presence and receipt thereof by such litigant.

Number 61. Where it is necessary to require the litigant, who was previously required to make presence on the fixed dates, to again keep on making presence on the fixed date to try and adjudge a case which has been remanded to the same court for judgment on the grounds that the case was adjudged without deciding all the issues that should have been decided at the same time while adjudging the case or that it was adjudged to be dismissed but it should not have been dismissed or a case which has been postponed (or adjourned) otherwise than as set forth in Number 12 of this Chapter, the instance of expiration of the time-limit or date fixed for presence²⁷ already availed by the litigant earlier when he or she was under such requirement to make presence.

²⁴ Amended by the Ninth Amendment.

²⁵ Deleted by the Tenth Amendment.

²⁶ Amended by the Ninth Amendment.

²⁷ Deleted by the Third Amendment.

Number 62.²⁸ In the case of expiration of time-limit or date fixed for making presence on any of the following circumstances, the following provisions shall apply:

Where any person relating to a person who is required to make presence on the time-limit or date fixed for making presence dies and the person has to perform the obsequies and makes presence in the office within Fifteen days, excluding the time required for journey, after the date of completion of the obsequies and makes an application, the time-limit or date fixed for making presence shall be extended.....1

Where a women who is required to make presence on the time-limit or date fixed for making presence gives birth to a child and consequently expires the time-limit or date fixed for making presence and makes presence in the office within Thirty Five days, excluding the time required for journey, after the date of such child-birth and makes an application, the time-limit or date fixed for making presence shall be extended.....2

Where a person who is required to make presence on the time-limit or date fixed for making presence on a case for recovery or payment of a value or amount or foreclosure or recovery of property in accordance with law dies or becomes insane or disappears and consequently the time-limit or date fixed for making presence gets expired and the heir to that person (his or her rightful person or coparcener) makes presence in the office within Thirty Five days, excluding the time required for journey, after the date of such death, insanity or disappearance and makes an application for the extension of the time-limit or date fixed for making presence and survival or continuation of case, the time-limit or date fixed for making presence shall be extended. Provided that where the time-limit or date fixed for making presence falls on a day after Thirty Five days of the date of such death or insanity or

²⁸ Amended by the Third Amendment.

disappearance and the heir to that person (his or her rightful person or coparcener) makes presence in the office on that time-limit or date and makes application for the survival or continuation of case, a leave shall be granted for such survival or continuation of case

²⁹3

Where a person who is required to make presence on the time-limit or date fixed for making presence expires the time-limit or date fixed for making presence because of being deputed on a government business and makes presence in the office within thirty five days, excluding the time required for journey, after the date of expiration of time-limit or date fixed for making presence or the office deputing that person on the government business makes a submission to that effect, then the time-limit or date fixed for making presence shall be extended, executing a memorandum by the office itself to that effect.....4

Where a person who is required to make presence on the time-limit or date fixed for making presence is not able to make presence on such date and gets such time-limit or date expired as a result of the closure of the route due to flood, landslide or snow or declaration of a curfew or non-operation of means of transport for any other reason or occurrence of a natural calamity such as earthquake and makes presence in the office within ten days, excluding the time required for journey, after the date of clearance of route or operation of means of transport or of the occurrence of the natural calamity and makes an application, accompanied by an evidence issued by the concerned Village Development Committee or Municipality or government office setting out the happening or occurrence of such event, the time-limit or date fixed for making presence shall be extended³⁰5

²⁹ Inserted by the Tenth Amendment.

³⁰ Amended by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

Number 63.³¹

Number 64.³² A person who is to have the date fixed for his or her presence shall keep on being present in the specified place on the date fixed for making presence from the specified time until the act of fixing the date for presence is completed. If a litigant who is required to make presence at the specified time on the date fixed for making presence fails to make presence, the office need not wait for the litigant. A litigant who fails to make presence on the date fixed for making presence is not entitled to make a complaint that the act set forth in the memorandum of date fixed for making presence has not been carried out on the date fixed for making presence; and if a litigant makes presence in the office after the time when it closes, the date fixed for him or her to make presence cannot be extended.

Number 65. The following provisions shall apply while appointing an attorney in a case:

A person who is required to be held in custody for trial in accordance with law or who is to be held in custody as a consequence of his or her failure to furnish such bail or security as demanded to be furnished by him or her is not eligible to appoint an attorney. In other cases, where a person who is allowed to furnish a bail or security in accordance with law furnishes such bail or security, the person may appoint an attorney if the office deems it reasonable to allow him or her to appoint an attorney and so allows1

In the case of a person other than a person in the circumstance as set forth section 1 above, such person may, in normal cases, appoint an attorney except as otherwise ordered by the office upon holding, for the sufficient reason, that appointment of an attorney should not be allowed. In relation to a civil case, the office shall not order precluding the appointment of attorney.....2

³¹ Repealed by the Third Amendment.

³² Amended by the Tenth Amendment.

³³In appointing an attorney in accordance with law, the donor shall execute a power of attorney stating that he or she has appointed such-and-such person, who is competent to be an attorney in accordance with law, as his or her attorney for trial, on his or her behalf, in such-and-such case with such-and-such person. He or she agrees whether the attorney wins or loses the case. At the time of judgment on the case, he or she shall make presence in person and pay whatever may be payable by him or her. Any punishment, penalty, fine, Ten percent fee imposed on him or her by the court, court fee due to be paid by order and government amount is not due and payable by him or her. He or she covenants that if such punishment, fine, fee or amount is held to be due and payable him or her, the power of attorney should be voided and the case should be tried in accordance with law. The person to be appointed as attorney shall execute a deed expressing his or her consent to the effect that any punishment, penalty, fine, Ten percent fee imposed on him or her by the court, court fee due to be paid by order and government amount is not due and payable by him or her. The office shall receive the deed and try the case upon inquiring the attorney into matters as required and getting any such deed to be executed by the attorney as the office deems necessary in that case. If it seems subsequently that any punishment, penalty, fine, Ten percent fee imposed on him or her by the court, court fee due to be paid by order and government amount is due and payable, and the same seems to be due and payable by the donor of power of attorney, the office shall summon the presence of the donor through that attorney within the time-limit of Seven days and recover such due and payable punishment, penalty, fine, government amount, court fees, as well, from him or her, and also impose a fine of up to One Hundred Rupees; and if the donor of power of attorney fails to make presence, the office shall void the power of attorney and try the case in accordance with law. If such punishment, penalty etc. seems to be due and payable by the attorney, the court shall impose a fine of One

³³ Amended by the Seventh Amendment.

Hundred Rupees on him or her. The power of attorney shall not be void by virtue of such fine.....3

If compromise on a case in which an attorney is appointed is to be made, the litigants themselves shall make presence in presence and execute the compromise. A litigant who is not able to make presence in person has to execute a deed of consent, indicating the place where it is executed, in accordance with the requirements specified by law, covenanting that the litigant consents to entering into compromise in such-and-such manner on such-and-such case with such-and-such person, in which his or her claim is such-and-such, that compromise be executed through his or her such-and-such attorney and that he or she thereby consents to such executing of compromise, and the deed has to be signed by him or her and witnessed and signed by at least Two witnesses and signed by the conveyance of the deed on its margin, and the litigant has to send that deed of consent and fee for compromise, as well, through the attorney to the office. If the deed of consent is so executed and sent to the office as mentioned, and the other litigants also consent to the entering into of compromise in accordance with the deed of consent, the office shall execute the deed of compromise in accordance with the requirements specified by law, collecting such fee for compromise as chargeable by law. If the deed of compromise is made, or caused to be made, through the attorney without the deed of consent executed by the attorney appointing litigant as mentioned above shall be void4

In appointing an attorney, in accordance with law, in a civil case on which amount in controversy is specified, except where a son is appointed by his parents or husband is appointed by his wife or a family member living in the common family, who have not partitioned the property in common or separated the kitchen, is appointed by another member as an attorney, the plaintiff or the defendant who so appoints attorney may appoint the attorney only when such plaintiff or defendant furnishes a cash deposit/security at the rate of Five percent of the amount in controversy as

claimed by the plaintiff. In the event of failure to furnish such deposit/security, the plaintiff or the defendant, as the case may be, has to make presence in person on the trial of case. It is not required to furnish such deposit/security while appointing the above-mentioned person as an attorney, appointing an attorney in a case on which amount in controversy is not specified and in a criminal case on which an attorney can be appointed, and appointing an attorney for the purpose of filing an appeal even in a case on which amount in controversy is specified. Such penalty and other money as may be held to be imposable or payable in accordance with law by judgment of the case, whether dismissal, repeal or otherwise, shall be recovered from that deposit/security, and if there remains any sum on the deposit/security upon such recovery, it shall be returned. If the deposit/security is not sufficient to cover such penalty or money, the remainder shall be recovered from the litigant in accordance with law.....5

Any such amount, fine, imprisonment and other money as may be imposable on and payable by the litigant upon judgment, whether dismissal or repeal or otherwise, on a case in which an attorney is appointed, shall be recovered from the litigant himself or herself in accordance with law. The attorney shall not be made liable thereto.....6

- Number 66. In appointing an attorney by a foreign national who has not immovable property in the territory of Nepal in a case which has bee filed in any office in Nepal and in which attorney may be appointed in accordance with law, appointment of attorney by such foreign national shall be entertained only if such foreign national or person furnishes a bail of an amount equivalent to the punishment which can be imposed on him or her in accordance with law if his or her claim is sustained or claim or accusation made against him or her is sustained or furnishes a guarantee by a person who has an immovable property in the territory of Nepal in consideration for such bail.

Number 67. If a power of attorney submitted to the office does not meet the requirements set forth in law, it shall be returned, indicating on the reverse side of the power of attorney, that such-and-such requirement has not been met and it shall be entertained if such-and-such requirement is met and produced within the time-limit of Three days; and the seal of office shall be affixed unto the reverse side, and acknowledgement of receipt of return shall be recorded. If a power of attorney meets the requirement, the office shall not make unnecessary requirement and return it.

Number 68. In appointing, and being appointed as, an attorney in a case in which attorney can be appointed pursuant to law, the following person, who has attained the age of Sixteen years, may be appointed as an attorney:

Any one out of the relatives living in the common/joint family.....1

³⁴In the case of the other persons, any person other than a person who has been punished for the offense of bribery and forgery and any other criminal offense involving moral turpitude2

Number 69. A person who can be appointed as attorney pursuant to law may be appointed as an attorney, in accordance with the following, in a case, in which attorney can be appointed, and which is running in, or to be filed in, an office within the distance of Eight miles. A person who has already been appointed as an attorney in a case filed in an office that is not within the distance of Eight miles shall not be appointed as an attorney in a case filed in another office nor shall such person accept such appointment. If a person who is an attorney is held in detention or imprisonment in connection with any case, that person shall not serve as attorney in another's case while in detention or imprisonment:

Irrespective of the number of cases which have been filed by or against a person in an office, the person may appoint one person as his or her

³⁴ Amended by the Seventh Amendment.

attorney in relation to all cases, and that person being appointed as attorney may accept such appointment.....1

In relation to the same case filed by various persons in an office, all persons may appoint the same person or several persons may appoint several persons as their respective attorney in such case, and such person or persons may accept such appointment.....2

The plaintiffs of the same case filed in an office may appoint any of them and the defendants may appoint any of them as their attorney, and such a plaintiff or defendant may accept such appointment.....3

A person who is still serving as an attorney in one case in the same office may be appointed by the litigant of another case³⁵ which has already been filed or to be filed in that office, prior to the making of judgment or during the validity of the appointment of attorney, and that person being appointed as attorney may accept such appointment.....4

A person who is serving as an attorney in a case filed in one office may, during the validity of the power of attorney, be appointed as an attorney by the litigant who has so appointed that person as his or her attorney or the litigant's joint family member in another case already filed or to be filed in another office that is within the distance of eight miles.....5

- Number 70. Where a litigant has appointed a person as his or her attorney by executing a power of attorney, the litigant himself or herself may revoke the power of attorney and appoint another attorney or the heir to the litigant may, after the death of the litigant, accept such attorney or appoint another attorney in stead of such attorney.
- Number 71. While revoking the power of attorney and appoint another attorney in his or her stead, a litigant shall execute a power of attorney in accordance with law, stating the matters, *inter alia*, that the litigant has appointed such-and-

³⁵ Amended by the Seventh Amendment.

such person, a resident of such-and-such place, as his or her attorney in such-and-such person with such-and-such person and has to change the attorney for such-and-such reason and has appointed such-and-such person as his or her attorney in stead of the said former attorney and deliver it to the attorney for its production in the office. If an attorney is so appointed and the attorney produces the power of attorney, the office shall put it on the record, enter into the record the substitution of the attorney for the predecessor attorney appointed in accordance with law, entertain the subsequent power of attorney and proceed and try the case.

Number 71A.³⁶ If any person so wishes in a case, in which attorney can be appointed, the person may appoint any one, who may be appointed as an attorney in accordance with law, as an authorized attorney by executing a power of attorney, empowering the attorney to file or defend a case and do any other legal action pertaining thereto on behalf of that person. The authorized attorney may do any act set forth in the power of attorney only in relation to the case, if any such case is specified in the power of attorney, and in relation to any such case as already filed or may be filed subsequently or any act required act in any case whatsoever if the case has not been so specified and authority has been given generally and shall also have the power to appoint an attorney in any case in relation to which he or she has been given authority. Any summons, process, subpoena or notice to be issued in the name of any person appointing an authorized attorney in a case in which the authorized attorney has been appointed may be served on the authorized attorney.

Number 71B.³⁷ In appointing an authorized attorney by executing a general power of attorney without specifying any case, it has to be executed in presence of, and certified by, any district judge if the power of attorney is executed within the Nepal and Nepalese ambassador or consular if it is executed in a foreign country; and if any person appears for such certification, the

³⁶ Inserted by the Third Amendment.

³⁷ Deleted by the Strengthening Republic and Some Nepal Acts Amendment Act, 2066.

district judge or Nepalese ambassador or consular shall certify the same. Any power of attorney which has not been so certified shall not have any legal validity.

Number 71C.³⁸ The power of authority executed pursuant to Number 71B. above shall be void in any of the following circumstances:

If the power of attorney specifies the time-limit and states that it shall remain valid only until that time-limit, and the time-limit expires1

If the power of attorney states that it shall cease o remain valid after the occurrence of any specific event or circumstance, and the event or circumstance occurs2

If any person intends to void the power of attorney in any circumstance other than that mentioned above, and a notice thereof in writing is given to the concerned authorized attorney and a notice specifying all details is published in any Two leading news papers of Nepal.....3

Number 72. In receiving plaints, separate plaints shall be received in relation to civil and criminal cases. In other cases, even if the same person makes claims of many disputes against the same person by way of one plaint or many persons make claims of the same dispute against many persons, all matters or claims shall be settled and adjudged by way of the same plaint. If the same plaint contains matters more than those mentioned above, the plaint shall not be returned. Such matters as cannot be adjudged by way of that plaint shall be mentioned in the head of the plaint, stating that the matters more that that as mentioned cannot be adjudged by way of this plaint but can be adjudged by the office or other office only if another plaint is filed, and the head of the plaint shall be signed by the chief of office, and the receipt of the plaint shall also state the matters that cannot be adjudged by

³⁸ Inserted by the Third Amendment.

way of that plaint, for the purpose of informing the plaint maker of the same.

- Number 73 In making a plaint in a case in which the same suit can be made at the same time against the same person, a person shall not make a plaint praying for the punishment or recovery of only such-and-such matter/amount by the instant suit with intention to make another suit subsequently on the other matters only after considering the results of the suit so filed earlier, and such person shall not also make any plaint subsequently on such type of case omitted from that plaint.
- Number 74. While making and receiving suits specifying value, price or amount on cases in relation to which suits have to be filed by specifying the value/price or amount, punishable by law from the perspective of the value, price, amount or land-revenue where the claims of suits are sustained or proved false, such suits have to be filed and received specifying, or causing to be specified, the following minimum value, price or amount by plaintiffs, both the government and the individual. In respect of those cases including those of partition where the price or amount has to be set out subsequently in accordance with law by obtaining an inventory, the minimum of price or amount has to be set out as follows at the time when inventory is made in accordance with law and the case has to be tried in accordance with law:

Where a land is claimed according to the figure of land-revenue specified for the land, and where a barren or uncultivated land or any other type of land is claimed and land-revenue is not specified for such land, the same land revenue as applicable to the adjoining land shall be set and by One Hundred Rupees for every Six rupees of the land revenue.....1

In cases where the Government of Nepal has to realize and recover the governmental land concealed or embezzlement or loss of land revenue of such land or take payment of cash in consideration for crops, land revenue,

goods in-kind, including arrears, and where the crops, revenue, goods etc. have to be paid to the office also collecting the government amount, trust etc. within the territory concerned and the rate has been fixed by that office for collection of cash in consideration for goods in-kind, according to the rate specified by the office to which payment has to be made, and according to the rate prevailing in the town, village market in cases where such rate is not specified by the office.....2

In the case of a house/building, shop and adjoining land, appurtenant thereto, at the rate prevailing in the place where such ruin is situated,3

In the case of all goods in-kind to be collected by the Government of Nepal from any individual, by any individual from the Government of Nepal and by any individual from any other individual, according to the rate prevailing at the town and village market,4

In the case of the value and amount of loss in wages, according to the rate prevailing in the place where such loss in wages has been caused.....5

Where a deed has been executed specifying the rate of transaction or payment, according to the rate as specified in the deed.....6

Number 75. A fee of Fifty Rupees³⁹ shall be charged while filing a plaint or a statement of defense.

Number 76. In receiving a plaint, the plaint conforming to the format set forth in this Number shall be received.

Plaint

³⁹ Amended by the Tenth Amendment.

Whereas, such-and-such person, age of approximatelyyears, a resident ofplace,village of such-and-such district, has done such-and-such/so-and-so act;

Now, therefore, the plaintiff hereby prays for justice by imposing punishment on the defendant or recovery of such-and-such goods for such-and-such reasons, in accordance with law, by examining my witnesses and evidence as follows in this matter (the matters and facts have to be set down in separate paragraphs).

Evidence of this matter:

Witness:

Eye witness:

Such-and-such person, age of approximately....years, a resident ofplace,village of such-and-such district or whose name is not known.....

Hearsay evidence:

Such-and-such person, age of approximately....years, a resident ofplace,village of such-and-such district or whose name is not known.....

Document:

The documents with such-and-such details of such-and-such date are in such-and-such place.

I, such-and-such person, age of such-and-such years, son, daughter, husband or wife of such-and-such person,⁴⁰ born inplace,village of such-and-such district, and a resident of.....place,village of such-and-such district, have filed it in such-and-such office. (The plaint maker has to be caused to sign and seal it).

Done onday,.....of the year 20.....

⁴⁰ Amended by the Strengthening Republic and Some Nepal Acts Amendment Act, 2066.

Number 77.⁴¹ The plaintiff shall produce such documentary evidence in original as, from the nature of the document, it should be with him or her or he or she can obtain it, and a copy of it with the plaint and the defendant shall produce such evidence along with the statement of defense or at the time of making deposition. Any proof or evidence that has not been so mentioned or produced shall not be examined or taken in evidence subsequently. Provided that the following matters shall be governed by the following provisions.

If it deems necessary to examine or inquire any documentary evidence or witness or other person in public inquiry other than that set forth in the plaint or statement of defense in a case in which the Government of Nepal is plaintiff and a case of riot and battery/hurt, the office may examine such evidence or person1

In the case of a document that cannot be carried in to the court, in producing the document as mentioned above, it will suffice to produce only a copy of the document2

The matters set forth in Number 78 of this Chapter shall be governed by that Number3

If a litigant to a case filed, pursuant to Number 83 of this Chapter, showing any reasonable cause, makes an application praying for the fixation of another date for presence for the production of any documentary evidence, the office may fix another date for presence, for a period not exceeding Thirty Five days, for the production of that documentary evidence.....4

If a litigant makes an application for a leave to produce any new and important documentary evidence which was not known to him or her or he or she was not able to obtain despite best possible effort at the time of filing the plaint or the statement of defense, the office may, if the

⁴¹ Amended by the Third Amendment.

contents of application seem reasonable, examine that evidence by executing a memorandum thereof.....5

Number 78.⁴² On the date fixed for the examination of proof and evidence, the evidentiary document submitted by the plaintiff shall be shown in original to the defendant and that of evidentiary document submitted by the defendant shall be shown in original to the plaintiff, and the contents to be read out to each and statements made by the plaintiff and the defendant as to whether such document is genuine, forged or fraudulent shall be recorded. If, at the point of time, it is not possible to determine whether the document in question is genuine, forged or fraudulent and the chief of office, at his or her discretion, deems it reasonable to give a time-limit, he or she may give a time-limit not exceeding Three days. Where a document bearing the signature of one other than the litigant is submitted and a request is made for a time-limit in view of being unable to determine whether the document is genuine, forged or fraudulent at that point of time, a time-limit not exceeding Thirty Five days shall be given to make statement, accompanied by evidence, as to the genuineness, forgery or fraudulence of the document. In giving a time-limit, the receiver of the time-limit shall be caused to execute a deed that he or she has seen and heard the document. Any statement made by him or her as to the genuineness, forgery or fraudulence of the document within the time-limit shall be recorded. Statements by the litigants who are present on the day on which he or she makes a statement that the document is forged or fraudulent shall be recorded on that day and that by those who are not able, for any reasonable ground, to make presence shall be recorded on the day on which they make presence. Where the attorney or legal practitioner is making presence and it appears necessary to summon the presence of the litigant himself or herself, the office may summon the presence of the litigant and record the statement of the litigant. A list of the proof or evidence produced within that time-limit shall be prepared

⁴² Amended by the Third Amendment.

on the day of production. Any evidence not produced within that time-limit shall not be taken in evidence.

Number 79. Upon the production of any document set down as evidence in a plaint or statement of defense, a copy of the document shall be made, to be signed by the litigant who has produced it with affidavit that the copy corresponds to the original, and the employee of at least non-gazetted third or second class serving in the office shall verify the copy with the original and sign to the effect that it corresponds to the original, and the copy shall be entered on the record, and signed and sealed by the chief of office. It is not required to take the documents in original at that time. The original documents shall be returned, after making endorsement on them, with entering serial numbers thereon, and the seal of office shall be affixed on the endorsement. If it is necessary to see the original lateron, it shall be obtained from the litigant and then returned to him or her. If a suit or complaint is filed claiming that a document is forged, the original document which is so claimed to be a forged one shall be taken and retained in the case-file safely, and a receipt thereof shall be given to the litigant immediately. In taking such an original document, there shall be endorsed on the reverse of the original document, other than the authentication seal or a document executed by any office or court, that its producer has produced it, and the endorsement shall be signed by the producer, and at the time of making statement that the document is forged, the statement maker shall be caused to make impressions of both thumbs and make signature, if he or she is able to write, onto the reverse of such document, and then the document shall be retained in the case-file.

Number 80.⁴³ A case to be treated by law as a civil case from the statement of the defendant in a criminal case being filed in the office or a case to be treated by law as a criminal case from the statement of the defendant in a

⁴³ Amended by the Ninth Amendment.

civil case being filed in the office shall be tried and disposed by the same office trying the criminal or civil case, by taking statement in summary from that case-file itself, in accordance with law, including the provisions set forth in Number 78 of this Chapter. Provided that the office which is competent to try only those cases specified or conferred by any Act shall try and dispose only those cases in accordance with that Act.

- Number 81. While filing a plaint on a case other than a case in which a warrant is to be issued, the plaint filing person shall submit in a stamped envelope such number of copies of the plaint as the number of defendants if the number does not exceed five other than those living in the joint family, five copies if the number of defendants exceeds Five irrespective of the number of defendants and one copy if the plaint is filed against the joint family members irrespective of the number of such members against whom it is filed, along with the original of the plaint, and the plaintiff shall sign the copy with affidavit that the duplicate copy corresponds to the original, and the office shall also receive the same by verifying the copy with the original.
- Number 82. Any one may file a suit on a case in which the Government of Nepal becomes a party and on a case of bribery filed along with the production of the evidence of document signed himself or herself by the government employee who has asked fro bribery. In all cases other than these cases, a suit with claims on any matter shall be entertained only if it is filed by a person who has *locus standi* on that matter.
- Number 83.⁴⁴ If it is required to file or make a plaint, statement of defense, appeal, application on any matter on which a minor below Sixteen years of age or a person who, despite being a major, is not sane because of the state of elderly or any kind of serious disease or is mad or blind on both eyes or dumb or a person who has gone abroad but whose return is uncertain has *locus standi* or to carry out any other act or action in relation to case, any

⁴⁴ Amended by the Ninth Amendment.

heir to such person, who has completed the age of Sixteen years and is living in the joint family may, with the leave of the office, may file, make or carry out the same1

If there is no person living in the joint family as mentioned in section 1 above, in the case of the person set forth in the said section, a person who takes care of or protects that person may, with the leave of the office, file or make a suit, statement of defense, appeal or application or carry out any other act or action in relation to case, on behalf of that person2

In the circumstances set forth in Sections 1 and 2 above, evidence shall be examined first whether such a cause has occurred or not, and if such cause is established, the person taking care of, guardian of, or heir to, the person may, on behalf of that person, carry out act or action relating to case, as mentioned in these sections, despite that an attorney or power of attorney has not been appointed or executed.....3

If an application is made for a leave pursuant to Sections 1 and 2 above, notwithstanding anything contained in the laws in force, decision on the application shall be made within One month after the making of the application for leave upon inquiring into matters whatsoever required. Provisions relating to limitation shall not apply in such a case.....4

Number 84. If both parties make plaints on battery/hurt, manhandling, abuse or quarrel made by them on each other, the office shall receive, try and dispose such plaints in accordance with law.

Number 85. After a case is filed in and adjudged by the office, a plaint in the same case against the same litigant shall not be received and tried, if it is not an appeal against the judgment in accordance with law. Even though it is received, it shall be revoked.

- Number 86. If, in a case on which judgment, dismissal judgment, compromise or repeal judgment (*Khareji Phaisala*) is made, such judgment, dismissal judgment, compromise or repeal judgment has also resulted in the termination of the right of another person, and that other person whose right is to be so terminated makes, within Thirty Five days after the date of knowledge thereof, a suit against the litigant in respect of his or her right, claiming that he or she also has the right therein and the litigant's defeat alone or such dismissal or repeal judgment or compromise is not capable of terminating his or her right, the office shall try and adjudge the suit.
- Number 87. If a plaint submitted to the office does not meet the requirements set forth in law, it shall be returned, indicating on the reverse side of the plaint, that such-and-such requirement has not been met and that it shall be entertained if such-and-such requirement is met and produced; and the seal of office shall be affixed unto the reverse side, and acknowledgement of receipt of return shall be recorded. If the plaint meets the requirement, the office shall not make unnecessary requirement and return it.
- Number 88. Once a plaint, statement of defense or deposition is filed or made on a criminal case with the case trying office, any addition set down by the same person that there are also more accused shall not be valid. This restriction shall not apply to the police report(charge sheet).
- Number 89. If one person files a plaint on the same case in one office and the other person files a plaint on the same case in another office or one person files plaints on the same case in both offices, the plaint filed in the office earlier shall be entertained. The subsequent plaint shall be canceled, and the case shall be tried accordingly.
- Number 90. If an application or report made by any person on a case in which the Government of Nepal is plaintiff is received by the case trying office by post, the application or report maker shall immediately be subpoenaed to make presence within seven days excluding the time required for journey

and inquired into the matter; and if in making such inquiry, that person states that he or she has sent the application or report and can prove it, then the accused shall be summoned and tried only after setting out the evidence, if any, to that effect, recording his or her deposition and fulfilling such requirements as required to be fulfilled in accordance with law. If that person states that he or she has not sent the application or report or if it is anonymous or if that person does not make presence within the specified time-limit for action, such an application or report shall not be capable of triggering the trial of case or arrest and trial of any person.

Number 91. If an order is received to make a summary inquiry into an application on a matter in which the Government of Nepal is not a party but a summary inquiry has to be made on it in accordance with law, a Seven-day subpoena, accompanied by the contents of the order, shall be sent to the person who has sent the application within Three days of the receipt of the application. If the person makes presence within that time-limit, proceeding shall be taken in accordance with the order. If the person fails to make present within that time-limit or makes presence and states that he or she has not sent that application, proceeding need not be taken in accordance the order.

Number 92.⁴⁵ Where a person, who has filed a suit in an office against another person in a case other than a case in which the Government of Nepal is a plaintiff, executes a deed, prior to judgment on the case, that he or she cannot prove the case and intends to withdraw from it, the office may permit such withdrawal, by punishing him or her with a fine of up to Five Hundred Rupees. If, in the case of an appeal or application, the appellant or applicant executes a deed stating that he or she cannot prove the claims or pleas as set forth in the appeal or application, such appellant or

⁴⁵ Amended by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

applicant may, with the leave of the office, withdraw such appeal or application.

Number 93. In summoning the presence of such a litigant or a person in evidence as required to be subpoenaed by law, by serving a warrant, summons, process, subpoena or notice, except as otherwise provided, and except for a reasonable reason, the warrant, summons, process, subpoena or notice shall be issued and served within Ten days, where the same has to be served by the office itself, and shall be forwarded within Three days, where it has to be served by another office, after the date on which the case is filed where the presence of the defendant has to be summoned first, after the date of the execution of a memorandum to subpoena the other litigants who are not on recognizance but who are to be subpoenaed later and after the date of payment of the fee for calling witnesses where they are to be subpoenaed or after the date on which it is determined to subpoena them.

Number 94.⁴⁶ In order to arrest the accused on the case of.....⁴⁷ state affairs punishable by⁴⁸ imprisonment, homicide, attempt to murder, robbery, killing of cow, counterfeit of Nepalese or foreign coin, or printing and use of such counterfeit coin, attempt to such counterfeit, or printing and use, case carrying punishment under the Chapter on Rape, case on trafficking in person or related thereto, case on narcotic drugs, case on embezzlement by a civil servant of cash or goods in-kind or setting fire to a house containing governmental property, the case trying office shall send a warrant in duplicate, in the format as referred to in Number 98 of this Chapter, also setting out the complexities of the accused, in as much detail as possible, and the Seventy-day process as referred to in Number 99 of this Chapter for its service in the event that the accused cannot be arrested despite persistent search within seven

⁴⁶ Amended by the Ninth Amendment.

⁴⁷ Deleted by the Strengthening Republic and Some Nepal Acts Amendment Act, 2066.

⁴⁸ Deleted by the Act Amending Some Nepal Acts Relating to Punishment, 2055.

days, to the police office or the police employee in the territory where the accused is residing, and upon the expiration of the time-limit of seven days, that the said process has been issued shall be published in the notice-board of the office and also in any local newspaper, as far as possible. Upon receipt of a warrant, the police office or employee shall, unless and until the warrant is revoked or served, persistently search and arrest the accused and produce him or her before the warrant issuing office within Twenty Four hours, excluding the time required for journey. If it is found that the accused has gone to and resided in another territory, such police office or employee shall send such warrant to the police office or employee of the territory where the accused has so resided and give information thereof to the warrant issuing office. If the warrant is so received, the police office or employee shall serve, or cause to be served, the warrant as if it were ordered in its or his or her name. In other cases, a summons in a criminal case and a process/subpoena in a civil case shall be issued by giving the time-limit of Thirty days, excluding the time required for journey; and the summons and process shall be in the format as referred to in Number 104 of this Chapter.

Number 95.⁴⁹ In reckoning the time limit required for journey, in the place where the regular service of transport is in operation, the days actually required from making travel by rail and bus and one day for every Eight miles in the place where such rail or bus service is not in operation shall be reckoned. One day shall be reckoned for less than Eight miles. Provided that no time-limit shall be given for a journey of less than a total of Eight miles.

Number 96. Where the partition share has been attached in accordance with law for the reason that the person concerned has not made presence even within the time-limit as referred to in the process, and that person makes presence within Six years of the attachment of the partition share, any

⁴⁹ Amended by the Seventh Amendment.

such penalty as may be imposed on him or her by the judgment of the case shall be recovered and the remaining, if any, and the partition share in whole, if no penalty is so imposed, shall be released. While making such a release, where a movable property has been sold by auction, the proceeds of the auction sale as credited into the revenue and the partition share in whole where auction has not been made shall be returned.

Number 97.⁵⁰

Number 98.⁵¹

Format of warrant

A warrant issued by such-and-such office in the name of such-and-such police office or police employee

Whereas, such-and-such person, a resident of such-and-such office, with such-and-such peculiarities/identification marks, has to be arrested on such-and-such offense;

Now, therefore, you are hereby ordered to persistently search the accused until this warrant is revoked, arrest and dispatch the accused to this office in such a manner that the accused cannot escape on the way. If the accused is not arrested until seven days excluding the time required for journey, time-limit process forwarded herewith be served on the Eighth day and persistent search be made to arrest the accused even thereafter. Done onday ofthe year 20....

Number 99.⁵² Format of time-limit process (summons notice).

The time-limit process (summons notice) issued by such-and-such office in the name of such-and-such person, a resident of such-and-such place

Whereas, such-and-such person, a resident of such-and-such person, has filed a suit that you have committed such-and-such offense or you have

⁵⁰ Repealed by the Third Amendment.

⁵¹ Amended by the Seventh Amendment.

⁵² Amended by the Seventh Amendment.

been accused of such-and-such offense, and a warrant for arrest has been issued for arresting you but you have not been arrested;

Now, therefore, this time-limit process has also been posted. If you voluntarily appear or are arrested and produced before this office within 70 days excluding the time required for journey, you shall be heard and tried in accordance with laws. If you remains absconding thereby expiring the time limit, your partition share shall be attached, and the partition share shall also be attached and the case shall be tried in accordance with law if you are not arrested or do not voluntary appear even until Six years; and you shall not be entitled to make a complaint subsequently.

Number 100.⁵³

Number 101. In issuing a summons or subpoena, a total of Two copies consisting of one stamped copy as referred to in the format and one non-stamped copy thereof shall be set down for each person, and shall be signed or sealed by the chief of office, bear the seal of office and dispatched for service. In issuing a summons or subpoena in the name of a defendant of a case in which plaint is filed, other than a case in which a warrant can be issued and summary procedure followed, the copies of the plaint filed/produced by the plaintiff shall be signed or sealed by the chief of office and stamped with the seal of office, and only one copy for all members living in the joint family and a copy each for a maximum of five other defendants, other than such members, and in the case of more than five defendants, a copy each for such main defendants, out of them, as the chief of office may, at his or her discretion, consider that all the defendants in that case can inspect and receive the copies if the same are sent to these main defendants, shall be sent along with the summons or subpoena, and the same shall be served accordingly.

⁵³ Repealed by the Seventh Amendment.

Number 102. ⁵⁴ Format of the summons or subpoena in the name of a defendant of a case, other than a case in which warrant can be issued and direct procedure followed.

The summons or subpoena issued by such-and-such office in the name of such-and-such defendant, a resident of such-and-such place

Whereas, such-and-such person, a resident of such-and-such place, has filed a plaint against you in this office in such-and-such case, on such-and-such date;

Now, therefore, the copy of the plaint is hereby herewith forwarded. You are hereby subpoenaed/summoned to appear in this office in person or by an attorney or legal practitioner in accordance with law, at.....hours within Thirty days, excluding the time required for journey, and you or your attorney or legal practitioner shall be accompanied by your documentary evidence. Then, the case shall be tried in accordance with law. If you fail to produce along with the statement of defense the original and copies of your documentary evidence, it shall be in accordance with law. Take notice that in default of your presence in person or by an attorney or legal practitioner, along with the statement of defense, within the said time-limit, the case shall be heard and adjudged in accordance with law. Your complaint shall not be entertained subsequently.

Done onday ofthe year.....

Number 103. Where a copy of the plaint is not accompanied by the summons or subpoena but is sent only in the name of other defendants, the summons or subpoena shall be issued stating therein the name of the person in whose name the copy has been sent and setting out that the copy has been so sent to such-and-such person.

Number 104.⁵⁵ Format of the summons or subpoena in the name of a defendant of a case in which direct procedure is followed.

⁵⁴ Amended by the Third Amendment.

The summons or subpoena issued by such-and-such office in the name of such-and-such defendant, a resident of such-and-such place

Whereas, such-and-such person, a resident of such-and-such place, has filed a complaint or made deposition against you in this office in such-and-such case, on such-and-such date or a police report accusing you of such-and-such offense has been made in this office on such-and-such date;

Now, therefore, take notice that the case shall be tried; and you are hereby subpoenaed/summoned to appear in this office in person or by an attorney or legal practitioner in accordance with law, at.....hours within thirty days, excluding the time required for journey. Then, the case shall be tried in accordance with law. Take further notice that in default of your presence in person or by an attorney or legal practitioner, the case shall be heard and adjudged in accordance with law. Your complaint shall not be entertained subsequently.

Done onday ofthe year.....

Number 105. In issuing the summons or subpoena in a case in which an attorney or power of attorney cannot by law be appointed or executed, the summons or subpoena shall not state that attorney may be appointed or sent.

Number 106. Format of the subpoena in the name of a witness.

The subpoena issued by such-and-such office in the name of such-and-such witness of plaintiff or defendant or person publicly inquired
Whereas, it is required to inquire you on such-and-such case between such-and-such plaintiff and such-and-such defendant;

Now, therefore, you are hereby subpoenaed/summoned to appear in this office, at.....hours on such-and-such date. Take notice that in default of your presence, you shall be liable to punishment in accordance with law.

Done onday ofthe year.....

⁵⁵ Amended by the Third Amendment.

Number 107. A plaint, statement of defense, memorandum of appeal etc. to be filed in an office shall state the name of father or mother or husband or wife.⁵⁶ A summons, subpoena, process etc. to be issued by the office shall, as far as possible, also state the name of father or mother or husband or wife⁵⁷ of the person whom it is to be issued to.

Number 108.⁵⁸ In issuing a summons or subpoena, it shall be issued by collecting from the plaintiff the fee at the rate of ten rupees for each defendant.

Number 109.⁵⁹

Number 110. In sending a summons, subpoena, process, time-limit or notice for service and in serving the same, it shall be sent for service and served by fulfilling following requirements/procedures:

Three copies of the summons, subpoena, process, time-limit or notice to be served shall be handed over to the government employee designated to serve the summons, subpoena, process, time-limit or notice, and a receipt thereof shall be recorded. The employee may deliver the same to the concerned person at any place where he or she meets that person if the employee knows him or her. If the concerned person is not found or not identified, the employee shall visit his or her address, inquire about his or her house or rented house where he or she lives, identify the person and deliver the unstamped summons, subpoena, process, time-limit or notice to the concerned person himself or herself if he or she is found and to any major person living in the joint family⁶⁰ of that person if he or she is not found, in presence of a member or secretary of the concerned Village Development Committee or Municipality and other two local gentlepersons,⁶¹ and affix the same unto the house door of the concerned

⁵⁶ Amended by the Strengthening Republic and Some Nepal Acts Amendment Act, 2066.

⁵⁷ Amended by the Strengthening Republic and Some Nepal Acts Amendment Act, 2066.

⁵⁸ Amended by the Tenth Amendment.

⁵⁹ Repealed by the Third Amendment.

⁶⁰ Amended by the Act Amending Some Nepal Acts to Maintain Gender Equality, 2063.

⁶¹ Amended by the Act Amending Some Nepal Acts Relating to Court Management and Administration of Justice, 2058.

person conspicuously if even such major person is not found or refuses to receive it despite that such person is found, and the date of service shall be mentioned in such unstamped summons, subpoena, process, time-limit or notice, and there shall be endorsed on the stamped summons, subpoena, process, time-limit or notice, the matters indicating the person whom it has been delivered, where it has been affixed unto and the date of such delivery and affixation, and such endorsement shall have to be clearly signed and sealed by the above-mentioned persons present at the time of the delivery or affixation and also by the employee serving the same, and that employee shall submit it to the office. Where it is served by affixing it onto the house door, the date of such service shall be mentioned in the third copy and that copy shall be handed over to the concerned Village Development Committee or Municipality⁶² and a separate receipt thereof shall be obtained or that matter shall be mentioned in the reverse side of the served copy, which shall have to be signed and sealed. Upon receipt of such summons etc., the concerned Village Development Committee or Municipality⁶³ shall immediately post it on its notice board. The summons etc. duly affixed unto the house door of the concerned person shall not be considered as unduly served by the only reason that it has neither been so delivered to the Village Development Committee or Municipality⁶⁴ nor been so posted. The time-limit shall start to begin from the date of affixation onto house door. If the server of summons etc. does not hand over such summons etc. as required to be handed over to the Village Development Committee or Municipality,⁶⁵ he or she shall be liable to a fine not exceeding One Hundred Rupees for each instance

.....1

⁶² Amended by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

⁶³ Amended by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

⁶⁴ Amended by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

⁶⁵ Amended by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

The member of the Village Development Committee or Municipality, *Jimidar, Talukdar, Chaukudar*, gentleperson etc. as mentioned in section 1 above, in the place where a summons, subpoena, process, time-limit or notice has to be served shall also witness and assist the service thereof by fulfilling the requirements as set forth in the same Section.....2

If a summons, subpoena, process, time-limit or notice has to be served on any company, corporation or other body corporate in relation to any case in accordance with this Number, it has to be served on the managing director or director or other employee who serves as the principal of that company, corporation or body at the time of service.....3

⁶⁶Notwithstanding anything contained in sections 1, 2 and 3 above, while serving a summons, subpoena, process, time-limit or notice on the name of a government office or body corporate or an employee serving in such office or body.⁶⁷ it may be served by registered post. Where it is so sent by post, the summons, subpoena, process, time-limit or notice shall, unless proved to the contrary, be deemed to have been duly served after the delivery receipt thereof is submitted to the office.....3A

⁶⁸Notwithstanding anything contained elsewhere in this Number, if, in the course of serving a summons, subpoena, process, time-limit or notice, while delivering it to any employee serving in a government office or body corporate or any member or office-bearer of such body, such employee or member or office-bearer refuses to receive or is not found in the office, it may also be delivered to the office. If the summons, subpoena etc. is so served by indicating the matter that such service was made due to

⁶⁶ Inserted by the Ninth Amendment.

⁶⁷ Amended by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

⁶⁸ Amended by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

that while making such delivery the concerned employee or member refused to receive it or was not found, it shall be considered to have been duly served.

Provided that in the case of an employee, member or office-bearer who is not present in the office, the day on which he or she is present in the office shall be deemed as the day of service of summons.....3B.

⁶⁹If the summons, subpoena, process, time-limit or notice is tendered for service pursuant to section 3B., the concerned office shall also receive it and give information thereof to the concerned employee promptly.....3C

⁷⁰In serving a process in the name of a foreign person, if shall be served on any kind of office or agent of such person within the Kingdom of Nepal if such office or agent is available. If such office or agent is not available, the process shall be served by telex, tele-fax or other recordable means of telecommunications or registered post to the address where he or she resides permanently or stays and to the address supplied by him or her for correspondence at the time of doing transaction, if any, in Nepal. The office shall recover the expenditure incurred in such service as if such expenditure were court fee.....3D.

⁷¹After the production of the summons, subpoena, process, time-limit or notice as served pursuant to sections 1, 2, 3, 3A., 3B., 3C., and 3D. above, the office shall examine whether it has been duly served in accordance with law or not; and if the requirements set forth in law seem to have been met, the process server shall be caused to sign a separate paper stating that he or she shall be liable to punishment according to law if it is proved that he or she has served it on a different house door or person or has

⁶⁹ Amended by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

⁷⁰ Amended by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

⁷¹ Amended by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

mentioned that the process has been served but it has not been served really or that he or she has received signature of a fake witness, and the paper shall also mention the date of its production to the office, and be signed by the process server and the summons, subpoena, process, time-limit or notice so produced shall be recorded in the case file.....4

If, upon examination the office after receiving the same as mentioned above, it appears that it has not been served in fulfillment of the requirements of law or if, in inquiring into the matter upon a complaint filed, it is held that the process server has done unduly, the process shall be caused to be served again by fulfilling the requirements of law.....5

⁷²A summons, subpoena, process, time-limit or notice to be served on any litigant in accordance with law may also be served, as mentioned above, on his or her attorney or legal practitioner authorized for that purpose. If the summons etc. is served accordingly, it shall be deemed to have been served on the litigant himself or herself

Number 111.⁷³ In serving a summons, subpoena, process, time-limit or notice sent by the office for service or making arrest, search or seizure in accordance with a warrant or executing a design and public recognizance, the member of the concerned Village Development Committee or Municipality,⁷⁴ Talukdar and local gentleperson, as well, shall render all such assistance as required to serve the process, by searching, showing and identifying the house of the concerned person, and witness and sign the service where so is required. One who fails to do so shall be liable to a fine not exceeding One Hundred Rupees. If any one gets any false statement to be recorded or gets a process to be served falsely or executes a false deed of recognizance or

⁷² Inserted by the Third Amendment.

⁷³ Amended by the Seventh Amendment.

⁷⁴ Amended by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

makes obstruction in the discharge of any such act or tears, wipes out any summons, subpoena, process, time-limit or notice as affixed or assists the person to be arrested as per the warrant in escaping or going away or hides such person or does not render assistance in his or her arrest or if the process server does not serve it with mala fide intention, such person shall be liable to punishment with a fine not exceeding one thousand rupees or imprisonment for a term not exceeding fifteen days or with both punishments.

Number 112. In issuing a summons, subpoena, process, time-limit or notice to a person whose house or address is not known, it shall be posted at his or her village, town or street, if any, mentioned, and at a conspicuous place near the office if even his or her village, town or street is not found out.

Number 113. Where the office has to serve a summons, subpoena, process, time-limit or notice in any place outside its jurisdiction, the office shall send the same, accompanied by its process, to the proper office in that jurisdiction. The office in that jurisdiction shall duly serve it in accordance with Number 110 of this Chapter.

Number 113A.⁷⁵ Notwithstanding anything contained in Number 113 of this Chapter, if an application is made for the service of process by the office where the case has been filed, stating that even though the place in question falls under the jurisdiction of another office, it is convenient for the office where the case has been filed, that office shall, if it deems reasonable, order to serve such a process as if it were to be served within its jurisdiction.

Number 114.⁷⁶

Number 115.⁷⁷ A witness who does not appear on the date fixed for examination of evidence shall be eliminated. Provided that in relation to a witness who

⁷⁵ Amended by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

⁷⁶ Repealed by the Third Amendment.

has to be inquired or examined in a case in which the Government of Nepal is plaintiff or in a criminal case, that witness may be examined by issuing a subpoena. The witness who fails to make presence even upon the issuance of a subpoena as mentioned, except for a reasonable reason, shall be fined with as sum of fifty rupees and ordered to be arrested, and his or her deposition shall be recorded when he or she is arrested and produced. If he or she is not found upon making search for arrest, a subpoena shall also be issued again, giving a time-limit of Seven days excluding the time required for journey. If he or she does not make presence even on the date fixed for presence as per the subpoena, he or she shall be ordered to be arrested, and his or her deposition shall be recorded when he or she is arrested and produced, and he or she may be liable to punishment for a term ranging from Fifteen days to Forty Five days. If he or she cannot be arrested despite such effort, the case shall be adjudged based on the examined evidence, subject to imposition of the punishment on such person.

Number 116. While arresting a person to be arrested by issuing a warrant and the accused of a case relating to arms and ammunitions, and entering into a house, such person or accused may be arrested, entering into the house at any time by blocking the passage so that the person to be arrested cannot go away or escape, and giving information thereof. In arresting any person other than that mentioned may be arrested by going up to the court yard of house. If such a person cannot be arrested upon going up to that place, arrest can be made entering into the house after sunrise and before sunset, by giving information to that effect.

Number 117. While arresting a woman, the office having any woman police person shall send such woman police person and the office which does not have such woman police person shall send two police persons to call her to make presence. A man shall not arrest her by catching her. If she refuses to

⁷⁷ Amended by the Third Amendment.

make presence and makes a standstill, then she may be carried by catching her wrist.

Number 118.⁷⁸ The following cases shall be tried in accordance with the following provisions in relation to the persons involved in such cases:

.....1⁷⁹

If, based on the evidence available for the time being, any person accused of the following offence appears to have been guilty of the offence or there are reasonable grounds based on such evidence to believe that such person has been guilty of the offence, the office shall, unless proved to the contrary, try the case by holding the accused in detention.....2

⁸⁰An offence punishable with imprisonment for life.....1

An offence instituted on being the Government of Nepal as plaintiff and punishable with imprisonment for a term of Three years or more.....1

An offence of attempt to, abetment of, or criminal conspiracy to commit, or being accomplice to, the offence mentioned above.....1

If, based on the evidence available for the time being, there are reasonable grounds to believe that any accused charged with an offence punishable with imprisonment for a term of Six months or more has no permanent abode in Nepal has been guilty of the offence, the office shall try the case by holding the accused in detention

Notwithstanding anything contained in sections 2 and 3 above, if the office holds that it is not justifiable to hold in detention any accused because of the accused being a minor or infirm due to physical or mental disease, the office may release the accused on bail or security (surety). If, in consideration of the circumstances of the commission of the offence,

⁷⁸ Amended by the Ninth Amendment.

⁷⁹ Deleted by the Strengthening Republic and Some Nepal Acts Amendment Act, 2066.

⁸⁰ Deleted by the Punishment Related Some Nepal Acts Amendment Act, 2055.

the age of the accused, physical or mental condition, and previous behavior of the accused, the office does not think it justifiable to hold the accused in detention, the office may release the accused on bail or security (surety), with the exception of an accused charged with⁸¹ an offense punishable with imprisonment for life or an offence of attempt to, abetment of, or criminal conspiracy to commit, or being accomplice to, that offence.....4

Except as otherwise provided in section 2 or 3 above, the office shall try the case by taking a bail or security from the accused if there are reasonable grounds, based on the evidence available subsequently, to believe that the accused has been guilty of the offence.....5

If there are reasonable grounds, based on the evidence available subsequently, to believe that an accused, who has not been held in detention nor a bail or security has been taken from him or her, has been guilty of the offense, the office may, irrespective of the stage of case, hold the accused in detention or, as the case may be, take a bail or security from him or her, in accordance with sections 2, 3 or 5 above. The court shall not be deemed to be barred from holding the accused in detention or taking a bail or security from him or her as mentioned above by the reason only that the accused was not held in detention or a bail or security was not taken from him or her originally.....6

If there are reasonable grounds, based on the evidence available subsequently, to believe that the accused, who has been held in detention in accordance with sections 2, 3, 8 or 9, is not guilty of the offence, the office may release him or her from detention, irrespective of the stage of proceedings of the case.....7

The office shall try the case by holding in detention the accused who furnish such bail or security as demanded by the office pursuant to this

⁸¹ Deleted by the Punishment Related Some Nepal Acts Amendment Act, 2055.

Number.....8

Where it appears subsequently that the bail or security taken from any accused is insufficient, the office may demand additional bail or security from the accused, and if the accused fails to furnish the additional bail or security so demanded, the office may hold the accused in detention.....9

The amount of a bail or security to be taken pursuant to various sections above shall be fixed, having regard to the following matters:

The nature of offence.....1

The economic and family condition of the accused or the offender.....1

The age of the accused or the offender, and whether he or she was previously convicted of any offence and sentenced for the same or not.....1

The amount of compensation to be borne by him or her.....1

If any party to the case makes a petition to the appealing hearing office showing the reasons that the amount of a bail or security demanded from any person under various sections above is lesser or excessive, the appeal hearing office may increase or decrease the amount of such bail or security.....11

Number 119.⁸² Notwithstanding anything contained in the foregoing in this Chapter, no accused shall, in any circumstance, be held in detention for a period exceeding the maximum term of the punishment of imprisonment than can be imposed on that accused if the charge made against the accused is proved.

Number 120. Such punishment of fine or imprisonment as may be held imposable by judgment on a person held in detention for trial shall be realized or recovered from the person upon deducting the figure of fine already paid

⁸² Amended by the Ninth Amendment.

by him or her or the term of detention in which he or she has been so held from the amount of such fine or term of imprisonment.

- Number 121. ⁸³ Where any person has to be held in detention for any reason whatsoever in relation to a case, the person shall not be held in detention unless and until a warrant for detention, accompanied by the reasons for holding in detention and the section or number of the law under which the person is to be held in detention, is given to the person pursuant to be held in detention. The appeal hearing office may, despite that no application is made by the concerned party, inquire into whether the detention is illegal or undue or not and issue any appropriate order in accordance with law if the detention seems to be illegal or undue.
- Number 122. If, in a case where some person is held in detention and some person is on bail, security or recognizance or absconding, it takes time to mature the case in accordance with law in the case of a person who is not held in detention, and while taking action simultaneously, it does not seem that, in the case of the person held in detention, the case can be disposed within the stipulated time as set forth in law from the date on which the person is held in detention, the court may dispose the case only in relation to the person held in detention, by examining any matter whatever required to be examined. The person shall not be held in detention for no reason, without disposing the case in relation to one in whose respect it can be so disposed.
- Number 123. ⁸⁴ If the case is not disposed within One year from the date of the day fixed, for the first time, for examining evidence in relation to any accused held in detention for action/proceeding in accordance with this Chapter, the case shall be tried by releasing such accused on bail or security if such accused has been held in detention pursuant to section 2 of Number 118 of this Chapter and releasing him or her without taking any bail or security if he or she has been held in detention pursuant to section 8 or 9 of the said

⁸³ Amended by the Ninth Amendment.

⁸⁴ Amended by the Ninth Amendment.

Number. Provided that the provision of this Number shall not apply to any accused charged with any offense punishable by imprisonment for a term of Five years or more or⁸⁵ by imprisonment for life, and the office may, if it so considers reasonable, try the case by holding the recidivist in detention.

Number 124.⁸⁶ In the event that a person who is required to appear at such place and time as specified by the office fails to so appear, the bail furnished by the person in relation thereto shall be forfeited, and where a security/guarantee has been furnished by him or her, the amount of security/guarantee shall be recovered in accordance with the bond executed pursuant to Number 124A. of this Chapter. Provided that if such person shows a reasonable reason for his or her failing to appear, the office may not make such forfeiture or recovery.

Number 124A.⁸⁷ While taking a bail from any person pursuant to Number 118 of this Chapter, the office shall cause a bond to be executed by such person, containing a condition that the amount of bail shall be forfeited if such person fails to make presence at the time and place specified by the office.....1

While taking security pursuant to Number 118 of this Chapter, the office shall fix the amount of security and take security of property equal to such amount. Where a person required to furnish a security furnishes the security of his or her property, the office shall cause a bond to be executed by such person containing a condition that the amount of security shall be recovered from that property so furnished as security or from any other property belonging to him or her if he or she fails to make present at such time and place as specified by the office. If another person furnishes his or her property as a security for such person, the court shall cause a separate bond to be executed by that other person, containing a condition that if

⁸⁵ Deleted by the Punishment Related Some Nepal Acts Amendment Act, 2055.

⁸⁶ Amended by the Ninth Amendment.

⁸⁷ Inserted by the Ninth Amendment.

that person fails to make presence of the person at such place and time as specified by the office, the amount of that security shall be recovered from the property so furnished as security or from any other property belonging to that other person (guarantor).....2

If a person who is required to furnish a bail or security is a minor, the bond required to be made by that person pursuant to section 1 or 2 above shall be executed by his or her guardian on behalf of him or her.....3

Number 124B.⁸⁸ Except as provided otherwise in this Act (Code) or other laws in force, where any bail or security has been taken from any person in the course of investigation, the bail or security so furnished shall be returned or released upon the conclusion of investigation. The office shall return or release the bail or security taken by it in the course of proceeding of a case upon the adjudication of the case.

Number 124C.⁸⁹ While holding any accused in custody, releasing any accused held in custody or taking a bail or security from any accused, the office shall execute a memorandum to that effect, accompanied by the reason for the same. The accused who is not satisfied with the memorandum may make an application to the appeal hearing office. Such an application shall be decided no later than thirty days.

Number 125. In relation to a person released on bail or security, the bail, if any, remaining upon deducting from it any such amount as may be recovered from him or her pursuant to the judgment shall be returned, and the bond of security/guarantee shall be deemed to be *ipso facto* revoked.

Number 126. Any person who files a suit accusing any person of a criminal offense or gives report or information of any offense to the police for institution of proceeding on such accusation shall not be held in detention nor shall such

⁸⁸ Inserted by the Ninth Amendment.

⁸⁹ Inserted by the Ninth Amendment.

person be asked to furnish a bail of security for investigation or trial by the reason only that the person has so filed or given the suit or report.

Number 127. All documents relating to the accusation made against the defendant, on a criminal case instituted by the Government of Nepal as plaintiff, who has been arrested or has made presence voluntarily, shall be read out and meanings and consequences thereof stated to the defendant, and if the defendant confesses the offense, his or her deposition shall be taken summarily at the same time; and if the defendant denies the offense, the chief of office may, at his or her discretion, take deposition of the defendant summarily, and if the chief considers that it is necessary to provide the defendant with an opportunity to file a statement of defense indicating the reason for accusation against him or her, and accompanied by the proof and evidence, the chief may give the time-limit of a maximum of seven days to the defendant for filing such statement of defense in accordance with law; and the case shall be tried and disposed consequent upon the statement of defense, if any, filed by the defendant within the time-limit and upon statements and replies by the defendant in response to the questions asked by the office itself on the following day of the expiration of the time-limit if the defendant fails to file the statement of defense.

Number 128. A statement of defense which is in the format as referred to in this Number and contains only the required replies to the matters of claims made by the plaintiff for settlement shall be entertained. A statement of defense which contains unnecessary matters in the case shall not be entertained.

Statement of defense

The defendant sets out the following matters in the case of plaint, bearing such-and-such number, filed by such-and-such person, age of approximatelyyears, a resident ofplace,village of such-and-such district, against the defendant or the defendant is not

required to pay and provide such-and-such for such-and-such reason, has not done such-and-such act. The defendant prays the justice be done in accordance with law. The defendant shall bear and pay according to law if the contents set herein are proved to be false (the matters and facts have to be set down in separate paragraphs).

Evidence of this matter:

Witness:

Eye witness:

Such-and-such person, age of approximately.....years, a resident ofplace,village of such-and-such district or whose name is not known.....

Hearsay evidence:

Such-and-such person, age of approximately.....years, a resident ofplace,village of such-and-such district or whose name is not known.....

Document:

The documents with such-and-such details of such-and-such date is in such-and-such place.

I, such-and-such person, age of such-and-such years, son, daughter, husband or wife of such-and-such person,⁹⁰ born inplace,village of such-and-such district, and a resident of.....place,village of such-and-such district, have filed it in such-and-such office. (The statement maker has to be caused to sign and seal it).

Done onday,.....of the year 20.....

- Number 129. If a litigant on which a summons, subpoena or process has been served appears to file a statement of defense or make deposition on any day

⁹⁰ Amended by the Strengthening Republic and Some Nepal Acts Amendment Act, 2063.

within the specified time-limit, such statement of defense or deposition shall be taken or recorded immediately on such day.

Number 130. If a statement of defense is presented within the time-limit and only the address is incorrect or the age is not set out, the same shall be set out in a separate paper; and if letters are repeated or the statement of defense is not in the specified format, the remarks shall be set down in the margin of the statement of defense, and be caused to be signed and sealed by the litigant; and the same shall also be set down in the head of the statement of defense and be signed by the chief of office.

Number 131.⁹¹

Number 132. In a case to be tried summarily, other than a case to be tried upon taking a plaint and a statement of defense pursuant to law, the case trying office shall ask the plaintiff and the defendant any matters whatever required and record their replies or statements, along with evidence, and try and dispose the case accordingly.

Number 133. The chief of office may, at any time, ask a litigant such reasonable matter as required to be asked and cause a deed to be executed by the litigant.

Number 134. In relation to any accusation against a woman, the office shall not inquire her into any matter in such a funny or jokey manner as may be unreasonable.

Number 135.⁹²

Number 136. In executing a deed of recognizance or a deed of crime scene or investigation on time, the deed shall be executed in presence of and by the accused who are found in that place, as far as possible.

Number 137. Evidence shall not be examined or adduced prior to the filing of a statement of defense or prior to the occurrence of situation where the statement of defense cannot be made in a civil case, other than civil case

⁹¹ Repealed by the Third Amendment.

⁹² Repealed by the Third Amendment.

in which the Government of Nepal is plaintiff and public inquiry has to be made immediately on the spot, and prior to the taking of the deposition or the statement of defense or prior to the occurrence of situation where the deposition or statement of defense cannot be taken or entertained in a criminal case.

Number 138.⁹³

Number 139. If it appears that the case cannot be disposed without inquiring into the persons referred to in the main statements by the plaintiff and the defendant, the office may so inquire them as good as evidence. If, upon such inquiry, any person seems to be such a principal person as the defendant, the office shall take deposition of that person, setting out the evidence, as if he or she were the defendant, shall keep him or her on bond to make presence on the date fixed for making presence as if he or she were the principal person, and adjudge the case also examining the evidence adduced by him or her and by taking his or her deposition, to the greatest extent, if he or she seems only to be an evidence.

Number 140. For the examination of evidence of both parties and evidence available in the office, as well, no delay shall, except for a reasonable cause, be made in excess of seven days after the date of filing of the statement of defense, if any filed, and after the date of expiration of the date fixed for examination of evidence ex parte where ex parte has to be made owing to the failure to file a statement of defense within the date fixed for the same.

Number 141. The office in which the case is filed shall subpoena any eye witness of the commission of offense in a case relating to⁹⁴ state affairs or homicide and take his or her deposition. The chief of office shall, at his or her discretion, subpoena any such hear-say witness, other than the eye witness, and witness in the other cases, as may required to produce him or her before the office and take deposition, and inquire such witness living

⁹³ Repealed by the Third Amendment.

⁹⁴ Deleted by the Strengthening Republic and Some Nepal Acts Amendment Act, 2066.

very far as may not be required to produce before the office and take deposition, by way of a letter rogatory through the nearby office.

Number 142. If it is necessary to take down the evidence of a witness who being aged and seriously ill but sound is not able to appear before the court, the chief of office himself or herself may proceed to or send the employee of the highest rank subordinate to him or her to such witness's house, and the evidence of such witness shall be taken down by the chief or by such employee, as the case may, in the form of deposition.

Number 143.⁹⁵ In fixing the date for examining the witnesses or publicly inquired persons set forth in the plaint or the statement of defense, the same date shall be synchronized and fixed also for the litigants. The witnesses or publicly inquired persons shall be examined in the presence of the litigants. Where a litigant is not present, a witness may be examined despite the absence of the litigant.

Number 144. ⁹⁶ The parties of a case shall themselves cause the presence of their respective witnesses set forth in the plaint and the statement of defense on the date fixed by the office. If any party is not able to cause such presence, such a witness shall not be examined subsequently except in cases as referred to in Number 115 of this Chapter. Provided that if an accused who is held in detention for trial makes an application for the examination of a witness, whom the accused wishes to produce, by the office itself by summoning him or her, the office may examine such a witness by issuing a summons to such a witness, by collecting the summons fee at the rate of five rupees per witness.

Number 144A.⁹⁷ Notwithstanding anything contained in Number 144 of this Chapter, where a party is not able to cause the presence of his or her witness on the date fixed by the office as a result of the closure of the route due to flood,

⁹⁵ Amended by the Tenth Amendment.

⁹⁶ Amended by the Tenth Amendment.

⁹⁷ Inserted by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

landslide or snow or declaration of a curfew or non-operation of means of transport for any other reason or occurrence of a natural calamity such as earthquake and makes presence in the office within ten days, excluding the time required for journey, after the date of clearance of route or operation of means of transport or of the occurrence of the natural calamity and makes an application, accompanied by the reason, and by an evidence issued by the concerned Village Development Committee or Municipality or government office setting out the happening or occurrence of such event, for the fixation of another date for the examination of witness and examine the witness, the office shall fix another date and examine the witness.

Number 145.⁹⁸

Number 146. The evidence of witnesses of all cases shall, as far as possible, be taken in deposition on the date fixed for the examination of witnesses of the cases. If it is no possible to take evidence of witness of such cases, the witnesses of a case whose evidence can be taken on that day shall be examined on that day, and the following day shall be fixed for examination of the witnesses of the other cases. Except where it is not possible to take evidence of witnesses in deposition, there shall not be taken evidence of some witnesses of the same case today and of some witnesses tomorrow and of some the day after tomorrow.

Number 147. In taking down evidence or deposition, one who is setting in the bench shall himself or herself take down the evidence or deposition; and in doing so, there may be obtained necessary assistance of an employee of at least *Mukhiya, Bicharai* level (junior clerks) serving in the office.

Number 148.⁹⁹

Number 149.¹⁰⁰

⁹⁸ Repealed by the Tenth Amendment.

⁹⁹ Repealed by the Evidence Act, 2031.

¹⁰⁰ Repealed by the Evidence Act, 2031.

Number 150. In taking deposition of a witness, the witness shall first be told to make statements truly and accurately with honesty and sense of duty and reminded of that such-and-such punishment may be imposed if he or she makes false statements in that case, and the evidence of the witness shall then be recorded in deposition or letter rogatory, as the case may be, in the specified format, by asking such interrogatories as may be required and reasonable, and taking down answers in the cases/issues.

Number 151.¹⁰¹

Number 152. Format of deposition of witness.

Deposition made with honesty and sense of duty by witness of plaintiff or defendant or such-and-such-person in such-and-such position before the bench of such-and-such, chief of such-and-such office, such-and-such place, such-and-such district

| | |
|---|--|
| Question: What is <u>your father's, mother's name, and your guardian's name if your father, mother are not alive</u> , ¹⁰² and your name, surname, age, occupation? Where is your house?.....1 | Answer: Take down whatever the witness tells.....1 |
| Question: Are you acquaintance with both litigants? Do you have any transaction, relation, hostility or dispute with them?.....2 | Answer: Take down whatever the witness tells.....2 |
| Question: Have you ever been punished for making a false statement?.....3 | Answer: Take down whatever the witness tells.....3 |

¹⁰¹ Repealed by the Evidence Act, 2031.

¹⁰² Amended by the Gender equality Maintaining and Some Nepal Acts Amendment Act, 2063.

| | |
|--|---|
| <p>Question: Such-and-such has filed a suit of this case against such-and-such or such-and-such has been arrested for such-and-such matter. Please make deposition setting out whatever you have seen, witnessed or heard on the matter (or the chief of office may take down replies or answers on such other matters as he or she thinks necessary at his or her discretion).....4</p> | <p>Answer: Take down whatever the witness tells.....4</p> |
| <p>Such questions as may be required shall be put to the witness in such manner and his or her answers to the questions shall be taken down.</p> | |

Number 153.¹⁰³

Number 154. After taking down the answers to all such questions put to a witness as may be required, the witness shall be asked whether he or she has any thing else to state on that matter and whether your deposition and the matters set forth in the deposition are correct or not, and the answers whatever are made by the witness to the questions shall also be taken down.

Number 155. After taking down all questions and answers, there shall be so written at the end of the answers the name of the witness that no other letters can be inserted there, and the witness shall be caused to sign there and also each margin and joint thereof. The bottom shall be dated, margin and joint stamped with the seal of office and the top/head and bottom, margin and joint shall also be signed by the chief of office.

Number 156. In taking down deposition of a witness, there shall be set down at the bottom of the deposition of the witness that it sets down correctly as stated by the witness, and be caused to be signed by the litigant whom the

¹⁰³ Repealed by the Evidence Act, 2031.

witness belongs to if the litigant is in presence while taking down the deposition, and, failing such litigant's presence, by any litigant who is in presence. If both litigants are not present or any litigant refuses to sign, the chief of office shall sign the same, setting down the remarks to that effect.

- Number 157. In taking down statements of a litigant, such statements shall be taken down by putting questions to him or her and recording his or her answers to such questions in the same manner as in the case of deposition. It is not necessary to set down that he or she has made statements with honesty and duty, and to ask whether he or she has any thing else to state.
- Number 158.¹⁰⁴ In taking down statements and deposition, the issues shall be broken down, cases separated, short questions put to, and taken down the questions put, and answers to such questions.
- Number 159. In executing any document including the matters required to be asked by the office to a litigant or witness, if the litigant or witness does not give answers at all or refuses to sign the answers given by him or her, the document shall be signed by the chief of office and by one employee of the highest class subordinate to the chief of office and be put on the records.
- Number 160. Where the office cannot itself take down deposition or letter rogatory of a witness of a litigant who may not be subpoenaed to make presence in the office or who lives very far and such deposition or letter rogatory has to be taken down by serving it through another office, the letter rogatory containing such interrogatories as may be required to be made shall be written in the specified format, with the head being signed by the chief of office and bearing the seal of the office; and it shall be forwarded to the office to and through which it has to be sent and answers taken down, with a request that the letter rogatory be served within so and so days in accordance with the requirements of law and sent back to that office, and such time-limit as may be reasonable shall be given for such service.

¹⁰⁴ Amended by the Ninth Amendment.

Number 161. Format of letter rogatory.

Letter rogatory of such-and-such litigant, witness or person in such-and-such other position, of such-and-such date, issued by such-and-such, chief of such-and-such office.....

Plaintiff: Such-and-such.... Defendant: Such-and-such.....

Case: such-and-such

| | |
|---|--|
| Question: <u>What is your father's, mother's name, and your guardian's name if your father, mother are not alive,</u> ¹⁰⁵ and your name, surname, age, occupation? Where is your house?.....1 | Answer: Take down whatever the witness tells.....1 |
| Question: Are you acquaintance with both litigants? Do you have any transaction, relation, hostility or dispute with them?.....2 | Answer: Take down whatever the witness tells.....2 |
| Question: Have you ever been punished for making a false statement?.....3 | Answer: Take down whatever the witness tells.....3 |
| Question: Such-and-such has filed a suit of this case against such-and-such or such-and-such has been arrested for such-and-such matter. Please make deposition setting out whatever you have seen, witnessed or heard on the matter (or the chief of office may take down replies or answers on such other matters as he or she thinks necessary at his or | Answer: Take down whatever the witness tells.....4 |

¹⁰⁵ Amended by the Gender equality Maintaining and Some Nepal Acts Amendment Act, 2063.

| | |
|---|--|
| her discretion).....4 | |
| (Such questions as may be required shall be put to the witness in such manner. It is not required to make questions such as those set forth in questions 2 and 3 in the case of a letter rogatory in the name of a litigant.) | |

Number 162. The office that is required to take down the answers of a letter rogatory shall summon the presence of the person concerned and take down the answers to the questions, and also take down answers to such other questions as may be reasonable and required to be put, and it shall be signed and cause to be signed upon fulfilling the requirements applicable to the deposition and be sent back within the specified time-limit. If the letter rogatory cannot be served since the concerned person who is required to execute the deed within the time-limit has not made presence, the letter rogatory, accompanied by the reasons, shall be sent back.

Number 163. Where a civil case contains a witness whose name is not known, such case, and any case containing a witness who has gone away or disappeared shall not be taken or received.

Number 164.¹⁰⁶

Number 165.¹⁰⁷

Number 166.¹⁰⁸

Number 167.¹⁰⁹

Number 168.¹¹⁰

Number 169. Where a litigant has not mentioned a matter with specification but his or her witness makes statement adducing sufficient evidence in support of the

¹⁰⁶ Repealed by the Evidence Act, 2031.

¹⁰⁷ Repealed by the Evidence Act, 2031.

¹⁰⁸ Repealed by the Evidence Act, 2031.

¹⁰⁹ Repealed by the Evidence Act, 2031.

¹¹⁰ Repealed by the Evidence Act, 2031.

matter, and it is proved that the statement made and set down by the witness is false, the witness shall be liable to punishment of imprisonment for a term ranging from Six months to Two years if the statement made and set down by the witness results in.....¹¹¹ punishment to the litigant of imprisonment for life with confiscation of entire property or imprisonment for life, to punishment of imprisonment for a term ranging from Three months to One year if such statement results in punishment to the litigant of imprisonment for a tem of Six years or more or punishment of confiscation of entire property and that of imprisonment for a term ranging from Five days to Five months if such statement results in other imprisonment to the litigant. Where a litigant has mentioned a matter with specification and any of his or her witnesses makes statement adducing sufficient evidence in support of the matter, and it is proved that the statement made and set down by the witness is false, the witness shall be liable to punishment of a fine of up to Two Thousand Rupees or imprisonment for a term not exceeding One month or with both punishments,¹¹² if the statement made and set down by the witness results in¹¹³ punishment to the litigant of imprisonment for life with confiscation of entire property or imprisonment for life, to punishment of a fine of up to One Thousand Five Hundred Rupees or imprisonment for a term not exceeding Twenty days or with both punishments,¹¹⁴ if the statement made and set down by the witness results in punishment to the litigant of imprisonment for a term of Six years or more, and to punishment of a fine of up to One Thousand Rupees or imprisonment for a term not exceeding Fifteen days or with both punishments,¹¹⁵ if such statement results in other imprisonment to the litigant. Such witness shall

¹¹¹ Deleted by the Punishment Related Some Nepal Acts Amendment Act, 2055.

¹¹² Amended by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

¹¹³ Deleted by the Punishment Related Some Nepal Acts Amendment Act, 2055.

¹¹⁴ Amended by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

¹¹⁵ Amended by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

be liable to punishment of a fine of up to Seven Hundred Rupees or imprisonment for a term not exceeding Ten days or with both punishments¹¹⁶ if such statement results in punishment of fine only to the litigant, except as set forth above.

Number 170. In realizing punishment imposed on a witness who makes a false statement pursuant to Number 169 of this Chapter, the punishment shall be claimed on and recovered from the witness until the time-limit for making appeal by the losing litigant expires and until final judgment on the case is made where an appeal is made. The record thereof shall be maintained along with the details, and punishment imposed by the judgment on the witness shall be claimed on and recovered from the witness in accordance with law only when the litigant expires the time-limit for making appeal and only when the final judgment is handed down where appeal has been made.

Number 170A.¹¹⁷ In the case of a document that the litigant cannot produce but that is required for the adjudication of the case and is in the custody of another person, the office may at any time during the proceeding on the case order that person to produce that document; and it shall be the duty of that person, upon receipt of such order, to produce such document before the office being present in person or through any other person within the period specified in that order. The office may punish the person who fails to produce the document as mentioned above or to show any reasonable reason for such failure to produce it with a fine of up to Five Hundred Rupees.

Number 171. If it appears that the issue should not be adjudged without making a design or survey or measurement of some portion of an immovable property, in making a design or survey or measurement of the thing in dispute, there shall be fixed a date for both litigants to make presence at the place where

¹¹⁶ Amended by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

¹¹⁷ Inserted by the Third Amendment.

the design or survey or measurement has to be made or a notice of such date shall be given to the litigants, and the chief of office or one employee of at least up to *Mukhiya* or *Bichari* level, accompanied by a surveyor where the surveyor is available near the place, shall go to that place and carry out such inspection, measurement and survey of the house and land as may be required, in presence also of both litigants, publicly inquired persons, member or representative of the concerned Village Development Committee or Municipality¹¹⁸ and *Jimidar, Patawari* and *Talukdar*, as far as possible, draw up the design thereof accurately and precisely if it is so required, write down in the design document accurately reflecting the thing the design whereof has to be drawn up, and a remark shall be so set down at the bottom of the design to the effect that such-and-such and so-and-so matters set down therein above is accurately that the form of the design can be deciphered from the remark itself , indicating all details of survey and measurement, if any, carried out, and such remark shall be caused to be signed by the litigants and all those publicly inquired in relation thereof and also be the deputed employee, and shall be put on the record. If the litigants do not show up in the place where such design, survey or measurement has to be carried out or refuse to sign despite showing up there or if this is a case in which the litigants have not made presence on the date fixed for making presence, such design, inspection, survey or measurement as may be required shall be carried out as mentioned above in presence of the other persons mentioned above, and a remark that the litigants have been absent shall be mentioned therein, and shall be signed by the main employee deputed and by at least one person out of the members and representatives of the concerned Village Development Committee or Municipality.¹¹⁹ Any inspection, design, survey or measurement that fails to meet the requirements as mentioned above shall not be valid. Any matter other than the remarks clearly

¹¹⁸ Amended by the Court Proceedings Related Some Nepal Acts (Amendment) Act, 2047.

¹¹⁹ Amended by the Court Proceedings Related Some Nepal Acts (Amendment) Act, 2047.

reflecting the form of design as mentioned above shall not be set down in the design.

Number 171A.¹²⁰ If, in a case involving a movable or immovable property or a claim for money and involving the issue of title, the party makes an application praying for an order requiring to maintain the status quo of the immovable property in dispute and refrain from doing any construction works in the property or destroying the already existing construction or altering the physical structure or form thereof, and to make appropriate arrangement for the use of a movable or immovable property if a dispute has arisen in relation to such use, to refrain from making payment of such deposits or money as the defendant is entitled to from any kinds of deposits or moneys held in any bank, company or other body or causing such payment or to refrain from transferring the title to such movable or immovable property by way of conveyance or otherwise, the court may, taking into consideration of the nature and rationality of the case, issue an order to withhold such portion of the property in which the plaintiff's claim seems to be sustainable or any other appropriate order, pending the filing of the statement of defense or the disposal of the case.

Number 171B.¹²¹ If an application is made praying that any order issued pursuant to Number 171A. of this Chapter should not be maintained, the office may consider such application and revoke the previously issued order if such order is no longer required to be maintained.

Provided that in the case of crops, withholding shall be made by fulfilling the requirements set forth in Number 10 of the Chapter on Encroachment of Land.

Number 172. If, in conducting investigation into any criminal offence in which the Government of Nepal is plaintiff, the police officer of at least sub-

¹²⁰ Amended by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

¹²¹ Inserted by the Act Amending Some Nepal Acts Relating to Court Management and Administration of Justice, 2058.

inspector of police rank¹²² has a reasonable ground to believe that any exhibit or property connected with the offence in relation to which such investigation is being conducted can be found in any house or other place, and there is a likelihood that such exhibit or property cannot be obtained if the search of the house or place is not made immediately, the police officer may search, or cause to be searched, the house or place in accordance with the following, setting down clearly the ground on which he or she has to believe and details of the exhibit or property to be searched; and upon making search accordingly, the officer shall a copy of the inventory indicating the reason for making search and the exhibit, property etc. so searched to the case trying office within Three days after the making of search:

Where the search of any house or place has to be made, a notice of search, accompanied by the reason for making search, shall be given to the owner of the house or place or the person who has taken charge of looking after such house or place or any other person living in such house or place, and upon receipt of such a notice, such person shall, without let and hindrance, allow the police officer appearing to make search to smoothly enter into the house or place.....1

Where the owner of the house or place to be search pursuant to section 1 above or the person who has taken charge of looking after such house or place or any other person living in such house or place does not allow the police officer making search to enter into the house or place as mentioned above, the police officer shall give a notice and opportunity to the women staying in that house or place to go out, and may make search by entering into the house or place by breaking or demolishing inner or outer windows, doors or locks of such house or place, as required.....2

¹²² Amended by the Ninth Amendment.

In making search of any house or place in accordance with the provisions set forth in this Number, the provisions made on the entry into the house, as contained in Number 116 of this Chapter, shall also be observed.....3

In making search of any house or place pursuant to this Number, the search shall be made in witness also of the member or representative of the Village Development Committee or Municipality¹²³ in that place, at least two gentlepersons, owner of the house and his or her one representative and *Jimidar*, *Talukdar*, and *Patuwari*, as far as they are available; and the body of all persons in witness of search shall be searched, and search shall be executed by entering into the house or place without carrying any thing with them.....4

If, in making a search pursuant to the foregoing sections, the body of any person has to be searched in relation to the exhibit or property searched, such search may also be made, and if the body of a woman has to be so searched, her body shall be caused to be searched by another woman whom she trusts in such a manner as not to defame or embarrass her.....5

There shall be made an inventory setting out all details of the goods or exhibits found upon making search pursuant to this Number and the place and condition where such goods or exhibits have been found, which shall be signed by the officer making search and the witnesses; and a copy of the inventory, and also a receipt of the exhibits, goods or property, if any, taken by the police officer into his or her custody, shall be given to the owner of house or his or her representative.....6

If any person who is required to witness pursuant to section 4 above refuses to so witness or witnesses but refuses to sign, that person shall be punished with a fine of up to One Hundred Rupees.....7

¹²³ Amended by the Court Proceedings Related Some Nepal Acts (Amendment) Act, 2047.

Number 173. If it is required to identify a person in a case, the person to be identified shall be held in a place where he or she cannot be seen, and other persons, at least four persons, whose age, color, dress is similar to that of the person to be so identified shall be gathered and made similar to the extent possible, and the person to be so searched shall be mixed with them in a row, and the persons making identification shall be required to identify such person severally; and if the person is identified or not identified upon such procedure, the matter of identification or non-identification, as the case may be, shall be held on the record.

Number 174.¹²⁴

Number 175.¹²⁵ If, prior to the judgment of a case filed by the following person at the following work making a claim by virtue of the following work or against such person in relation to that matter, the worker who has carried on the following work and been fighting the case from the beginning expires the date fixed for making presence because of his or her death or removal from the work, and the successor appointed to carry on such work makes an application for the continuation of the claims of the case in which the suit or complaint was made or the statement of defense was made by the predecessor, within Thirty Five days, excluding the time required for journey, after the date of expiration of the date fixed for making presence, the successor shall be entitled to continue and fight the case of the predecessor on the following matters not involving any loss or damage upon the judgment to the predecessor who has been fighting the case since ago. The case shall be permitted to be continued and dealt with in accordance with law. If the successor does not apply for such continuation, the case shall be disposed in accordance with law:

The matter of theft, concealment, encroachment of or on any movable, immovable property recorded in the inventory of any *Rajguthi* of

¹²⁴ Repealed by the Third Amendment.

¹²⁵ Amended by the Third Amendment.

taxable land (*Raikar*) or equivalent to *Raiker* by a manager, *Mahanta*, priest, *Talukdar*, *Jimmawal* contractor and *Chhutwala* responsible for the affairs of the *Rajguthi* of *Raikar* or equivalent to *Raiker*, and also by one who uses the house and land1

The matter of application by the *Naike* of government amount for the maintenance of governmental amount.....2

The matter of determination of the title and claim by a bank, company or other body corporate by one who, as its principal person, is responsible for the day-to-day affairs of the bank, company or body corporate3

Number 176. If a person who is accused of any case dies prior to judgment, the deceased shall not be liable to punishment. Even in the case continued by the heir, the person getting continuity of the case shall not be held to be offender by the reason only that he or she has got such continuity.

Number 177¹²⁶

Number 178.¹²⁷

Number 179.¹²⁸ If both parties expire the time-limit in a case other than a case in which the Government of Nepal is plaintiff, the case shall be dismissed after the expiration of the time-limit within which the expired time-limit can be extended. For such dismissal, the plaintiff shall be liable to punishment of a fine equal to Five percent of punishment that can be imposed on the plaintiff where the matter claimed or alleged by him or her is not held to be true if examination of evidence has not been made and Ten percent of such punishment if examination of evidence has already been made. Subsequent to the dismissal, another suit made by the same plaintiff against the same defendant on the same matter

¹²⁶ Repealed by the Evidence Act, 2031.

¹²⁷ Repealed by the Evidence Act, 2031.

¹²⁸ Amended by the Tenth Amendment.

cannot be entertained. In the case of dismissal made unduly, an appeal can be made within Thirty Five days only to the extent of the matter of such undue dismissal.

Number 180. Except where a suit or appeal is made in duplication, the suit or appeal submitted for filing, even in spite of its being ineligible of filing but, is not returned at that time in accordance with law but is filed by the office, and subsequently it is held to be dismissible, no punishment shall be imposed for such dismissal (repeal/rejection). The following punishment shall be imposed in a case dismissed/repealed in the other circumstances:

Where a plaint or memorandum of appeal submitted for filing appears to be capable of being filed and case is proceeded thereupon but the case seems to be incapable of being proceeded only from the documents examined or produced subsequently and then the suit is dismissed/repealed, the plaintiff shall be liable to punishment of a fine equal to Five percent of punishment that can be imposed on the plaintiff where the matter claimed or alleged by him or her is not held to be sustained or proved, and in the case of dismissal/repeal of a memorandum of appeal, the appellant shall be liable to punishment of a fine equal to Five percent of punishment that can be imposed on the appellant where the judgment is held to be sustained.....1

Where, prior to judgment on a case already filed, a plaint or memorandum of appeal is filed in duplication in the same case, and the plaint or appeal filed subsequently is liable to be repealed, the plaint or appeal so filed subsequently shall be repealed in accordance with law and one who knowingly files suit or appeal in duplication shall be liable to punishment of a fine of Twenty Rupees.....2

Number 181. While imprisoning one in consideration for the fine imposed on the dismissal or repeal, one shall not be so imprisoned for a term exceeding Six months.

- Number 182. No compromise can be made on a criminal case in which the Government of Nepal is plaintiff, on a case of bribery and on a case of bribery where it appears, from any plaintiff, defendant of any other case or any document submitted in evidence, that a government employee has taken or asked for bribery even though the suit of bribery has not been filed. On all cases other than these, if the litigants intend to enter into compromise at any stage prior to judgment, they shall make an application setting down the points of their compromise to the office where the case has been filed; and if an application is so made by both litigants, the chief of the office where the case has been filed shall read out the applications to both parties and make the meanings and consequences thereof known to them clearly, and if, thereupon, both parties agree that whatever is set down in the application with their consent is true and correct, then the chief of the office shall draw up a deed of compromise corresponding to the application and read out the deed to the litigants, and the deed shall be signed by the litigants, by himself or herself and also be stamped with the seal of the office. Where a compromise is so executed, no complaint that the party in question is not satisfied with the deed of compromise shall be entertained except a complaint that the other party has not complied with the deed of compromise.
- Number 183. In executing a deed of compromise on a case capable of being compromised, there shall be charged the fee for compromise as follows:
- In an original case, there shall be charged the fee for compromise at the rate of One percent of the following figure/amount where no evidence other than that submitted along with the plaint or statement of defense has been examined, of Three percent of the following figure/amount where other evidence has also been examined and of Five percent of such figure/amount where the case is already matured for judgment upon examining all evidence set forth in the plaint and the statement of defense.....1

Where there is evidence of amount in controversy, the figure of amount claimed by the plaintiff.....1

Where there is no evidence of amount in question and imprisonment is to be imposed as per the plaintiff's petition, the figure or money to be set by Forty Five Rupees for each month of the term of imprisonment that can be so imposed.....2

Where no imprisonment but only fine is to be imposed, the figure of the fine.....3

In an appeal level case, a sum of Two Hundred Rupees¹²⁹ shall be charged as the fee for compromise. If a sum of money to be set by Forty Five Rupees for each month of the term of imprisonment imposed by the judgment of lower level is paid, the same shall be collected and the record of imprisonment shall be crossed off.....2

In collecting the fee for compromise chargeable pursuant to Sections 1 and 2 above, the fee shall be collected from both parties on pro rata basis.....3

Number 184. Where a deed of compromise is so executed by the office that any party has to do or cause to be done acts such as to make appearance before any office for effecting registration or transmission or transfer or making payment of money required to be paid, the office executing the compromise shall give the intimation of that compromise to the office effecting the acts pursuant to the compromise, not later than Five days of the execution of compromise. If an application is made to have the acts effected accordingly, within the time limit as referred to in Number 44 of the Chapter on Punishment, that office shall also do in accordance with the deed of compromise and law.

¹²⁹ Amended by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

Number 184A.¹³⁰ On the date fixed for the litigants to make presence after the submission of the statement of defense, the plaint, the statement of defense and all documents produced shall be inspected/examined in presence of both parties and shown to them, and the plaintiff and the defendant shall also be inquired into the necessary matters, and the office shall consider whether both parties agree or disagree thereon, and read out the decision immediately if they so agree. If it appears that both parties disagree partly or wholly, there shall be executed a memorandum clearly setting down the matters on which they so disagree and judgment is to be made and proofs, evidence to be examined in respect thereof, and an order shall be passed for the procurement of the proofs, evidence and the date for the examination of the proofs, evidence shall also be fixed. The office shall carry out proceedings pursuant to Number 78 of this Chapter on the date fixed for the examination of evidence.

Number 185.¹³¹ After having examined such evidence as held to be examined by the office in accordance with Number 184A. of this Chapter, the office shall fix the date for holding discussions on the case, and discussions shall be held with and between those litigants who are present on the date so fixed, the pleading in writing, if any, furnished by any litigants shall also be received and entered on the record, punishment to be imposable on both parties shall be decreed and read out to them, and the verdict so decreed shall be set down in the verdict book on the same day, and signed by the competent person empowered to make decree and also by the litigants who are so present. After the verdict has been decreed, no delay of more than seven days shall be made to write down judgment except for a reasonable cause. In writing a judgment, the office shall set down separately and in separate paragraphs the matters including short description of the case, matter

¹³⁰ Inserted by the Third Amendment.

¹³¹ Amended by the Ninth Amendment.

on which litigants disagree and thus to be adjudged, main points of the pleading, if any, made by any litigant or legal practitioner on that matter, the verdict of the office on that matter and grounds therefor, and relevant laws. If, after examining the evidences as mentioned above, it is not possible to dispose the case on the same day for the reason that it is necessary to carry out further study or consideration of the case in view of its complexity or that it takes more time to form opinion or make decree by two or more adjudicators upon holding mutual discussions where the case has been heard or tried by a bench comprising of such adjudicators, a memorandum, accompanied by the reason for the same, shall be executed and another date fixed for the disposal of the case. If, for any reason, it is not possible to fix another date for disposing a case indefinitely, proceedings as referred to in Number 15 of this Chapter shall also be carried out; and where the procedures including the examination of evidences have been completed in relation to the case and the party do not want to remain on recognizance, a deed shall be cause to be executed by the party covenanting that the or she will make presence subsequently upon receipt by him or her of a notice or subpoena issued by the office to that effect and also indicating his or her address where the notice or subpoena is to be issued to, and the party shall be exempted from the requirement to make presence on the dates fixed for the same.

Number 185A.¹³² Where the litigant of one side, as specified by the office, is present, the office shall try and dispose the case in accordance with the following not later than Fifteen days after the expiration of the expired time-limit or the time-limit for the extension of the expired date fixed for making presence:

Where the plaintiff is present but the defendant is not present, all the proofs and evidences of the plaintiff shall be examined and the case

¹³² Inserted by the Third Amendment.

adjudged on the basis of the evaluation of all proofs and evidences of the plaintiff and the defendant on the record.....1

Where the defendant is present but the plaintiff is not present in a case other than a case in which the Government of Nepal is plaintiff, and it seems or is held, from the statement of defense and other evidences on the record, that the defendant has admitted the plaintiff's claims wholly or partly, the case shall be so adjudged as to pass a decree or verdict to that extent and to dismiss it to the extent of such non-admission.....2

In a case that is partly or wholly dismissed pursuant to section 2 above, it shall be dealt with in accordance with Number 179 of this Chapter as if it were dismissed wholly. In the case of the punishment for causing dismissal, such punishment shall be imposed only according to the extent of claims as so dismissed.....3

Number 185B.¹³³ Where in a case containing several plaintiffs or several defendants, all of them are not present but one or more than one of each side is or are present, it is not required to wait for the disposal of case until the others make presence. The case shall be adjudged in accordance with law even in the case of those who are absent as if they were also present.

Number 186.¹³⁴ Judgment in a case involving punishment of imprisonment for life with confiscation of entire property¹³⁵ or that of imprisonment for life or a case required to be referred/submitted for confirmation in accordance with the laws in force shall be referred or submitted by the office for confirmation and such judgment shall be as confirmed by the competent court, and judgment in the other cases shall be made by fulfilling the procedures as required to be fulfilled by the office itself in accordance with law.

¹³³ Inserted by the Third Amendment.

¹³⁴ Amended by the Ninth Amendment.

¹³⁵ Deleted by the Punishment Related Some Nepal Acts Amendment Act, 2055.

Number 187.¹³⁶

Number 188. Despite confession by the accused in a case involving punishment of imprisonment for life with confiscation of entire property.....¹³⁷ or of imprisonment for life pursuant to law, where the adjudging chief of office has a ground to suspect that it might be an accident, or in view of the circumstance of commission of the offense, the punishment as referred to in law will, in his or her view, be so severe if it is imposed on the accused and lesser punishment should be imposed on him or her, then the chief of office shall determine the punishment imposable by law, and explicitly set down in the reference memorandum such opinion as he or she has made, along with the reason for the same, and judgment shall be referred accordingly. Even the authority making final verdict may also determine punishment that is lesser than that specified by law if the authority also holds such opinion.

Number 189. In making a judgment, the judgment shall be made by setting it down in the format as referred to in this Number.

Format of original judgment

Judgment (or reference judgment) made by such-and-such,

chief of such-and-such office

Diary number.... of the year 20...

Case: such-and-such.

| | |
|--|---|
| Plaintiff's name, surname and address..... | Defendant's name, surname and address |
| Plaintiff's witness | Defendant's witness..... |
| Such-and-such..... | Such-and-such..... |

¹³⁶ Repealed by the Ninth Amendment.

¹³⁷ Deleted by the Punishment Related Some Nepal Acts Amendment Act, 2055.

| | |
|---|--------------------|
| Such-and-such..... | Such-and-such..... |
| Document..... | Document..... |
| Such-and-such..... | Such-and-such..... |
| Such-and-such..... | Such-and-such..... |
| <u>Examined by the office</u> | |
| Witness..... | |
| Such-and-such..... | |
| Such-and-such..... | |
| <u>Documents</u> | |
| Such-and-such..... | |
| Such-and-such..... | |
| (The names of all witnesses and documents shall be mentioned in this manner). | |

Whereas, upon examining all documents of this case, it appears that the plaintiff has claimed such-and-such, and the defendant has stated such-and-such or such-and-such has occurred due to such-and-such reason, and whereas, such-and-such evidences are available;

Now, therefore, such-and-such is held as such in view of such-and-such circumstance, proofs and evidence and pursuant to such-and-such law. I have made this judgment by holding such-and-such by virtue of such-and-such law. Done on.....day,.....of the month of..... of the year 20.....

Format of appeal judgment

Appeal judgment (or reference judgment) made by such-and-such,

chief of such-and-such office

Diary number.... of the year 20...

| | |
|--|---|
| Appellant's (Defendant's) name, surname and address..... | (Plaintiff's) (Defendant's) name, surname and address |
| Case: such-and-such. | |

Whereas, in this case, the plaintiff claims such-and-such and the defendant maintains such-and-such, and an appeal has been made by such-and-such against the judgment made by such-and-such office of first instance upon such-and-such evidences at such-and-such date;

Now, therefore, such-and-such is held in this case in view of such-and-such evidence and pursuant to such-and-such law. Done on.....dayof the month of..... of the year 20.....

Number 190.¹³⁸ Out of the accused of a case in which warrant can be issued, judgment shall be made as whatever is held upon examining whatever is required in the case of the accused who has filed a statement of defense or made a deposition in the case trying office or in the case of the accused who has once made presence in the office but has gone away despite that such accused has not filed a statement of defense or made a deposition.

In the case of the accused who has not made presence in the office, the available witness, evidence shall be examined and public inquiry made, and if such accused fails to make presence or is not arrested even within Six months¹³⁹ after the issuance of warrant, then the case shall be so postponed that it shall be proceed and tried in accordance with law as and when such accused makes presence or is arrested; and even though the accused of the case so postponed is not found or fails to make

¹³⁸ Amended by the Fifth Amendment.

¹³⁹ Amended by the Ninth Amendment.

presence, the case shall be proceeded, tried and adjudged upon the evidence as examined after the completion of Two years of the attachment to the partition share¹⁴⁰ of that accused.

- Number 191. If, in a case postponed, the other persons, except one the absence of whom has resulted in the postponement, make presence, those who are held in detention and on recognizance for trial until the absent defendant is arrested shall not be so continued to be in detention and on recognizance irrespective of whether the arrested defendant confesses or denies the allegation. Even if the absent person is not arrested and produced even until the period of detention equal to such term of imprisonment as may be imposable if the detained accused is held guilty of offense or even if such person is arrested and produced but the case is not matured for judgment, such person shall be released immediately when the punishment imposable on him or her is served; and if the absent person is arrested and the case is not matured for judgment and the present person has to be released on recognizance for trial, such person has to be released on recognizance, and if the absent person is not arrested and produced or fails to make presence, the date for making presence by the person released from detention and by the person already on recognizance shall be fixed and such persons shall be released accordingly, upon a deed being executed by such persons covenanting that they shall make presence as and when they receive a notice from the office to that effect. If, after the absent person is arrested or makes presence voluntarily, it is necessary also to subpoena the persons who were so released from detention or released on recognizance previously, they may be subpoenaed and examined and held on recognizance as and when so required.
- Number 192. In adjudging any case, other than a case in which warrant is issued or a case which is to be postponed under the Chapter on Theft and the

¹⁴⁰ Amended by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

accused whereof is not arrested and produced in the office, judgment shall not be made so that some matters, out of the matters required to be settled from the same case-file, are kept pending for subsequent examination and judgment.

Number 193. After the office passes judgment on a case, it shall read out the judgment to the litigants present, state whether an appeal can be made against the judgment or not and the name of appeal hearing office if appeal can be so made, and cause a deed to be executed by the litigants to the effect that they have heard the same. If a litigant is not present, a process/notice shall be issued to the litigant not later than three days after the judgment has been passed, stating that such and so punishment has been imposed on him because such and so matter has been held in relation to the case and setting out the name of the appeal hearing office if the judgment is appealable. The litigant of an appealable case may make an appeal against the judgment on the matters with which the litigant is not satisfied within Thirty Five days after the date of hearing the judgment where the litigant has been present and heard the judgment and after the date of service of the process/notice where the process/notice has been so served because of the litigant's absence; and no appeal shall lie after the expiration of the said time-limit.

Number 193A. ¹⁴¹ No appeal or petition equivalent to complaint shall lie against the judgment or final order on a civil case unless and until the evidence of payment of such fees and court fees as may be chargeable by law is produced. Even if such appeal or petition has been filed or registered, it shall be voided. Provided that where an appeal or petition has been filed subject to the collection of such court fees as may be determined subsequently at the time of making judgment on the case pursuant to the Nepal Court Fees Act, 2017, the appeal or petition shall not be so voided by the reason only of non-payment of the court fees.....1

¹⁴¹ Inserted by the Tenth Amendment.

Where judgment is so made as to impose punishment on the defendant in a criminal case, no appeal or petition equivalent to complaint shall lie against the judgment unless the following provisions are observed,2

No appeal or petition equivalent to complaint by a person sentenced to punishment by a judgment shall lie against the judgment unless an evidence issued by the concerned prison that the person is in imprisonment according to the judgment is produced 1

No appeal or petition equivalent to complaint by a person sentenced to fine by a judgment shall lie against the judgment unless an evidence of the payment of the fine or the deposit of wealth bail in consideration for the fine by that person according to the judgment is produced, 2

Notwithstanding anything contained in Sections 1 and 2 above, the matters set forth in Number 194 of this Chapter shall be governed by the provisions set forth in that Number.....3

Number 194.¹⁴² In a criminal case where a person is convicted by judgment of an offence and sentenced to imprisonment, the judgment making office may, for the purpose of making appeal, release the person on bail or security until the time-limit for making appeal if the term of such imprisonment does not exceed three years and the case is one in which it is not required to be held in detention for trial or if that person has not been held in detention for trial.....1

The appeal hearing office may release a person on bail or security until the time-limit for making appeal expires and, where a memorandum of appeal has been filed, until the settlement of appeal in a case where the person is convicted by judgment of an offence and sentenced to imprisonment, and the term of such imprisonment does not exceed ten

¹⁴² Amended by the Fifth Amendment.

years and the case is one in which it is not required to be held in detention for trial or if that person has not been held in detention for trial¹⁴³.....2

In releasing a person on bail or security in accordance with sections 1 and 2 above, where a bail or security has been furnished with the original office for trial, the office shall, at its discretion, obtain such additional bail or security as not to exceed Twenty Five percent of that bail or security. In the other cases, the office shall, in consideration of the matters set forth in section 10 of Number 118 of this Chapter, fix the figure of bail or security and collect the bail or security accordingly¹⁴⁴.....3

Provided that, subsequent to the filing of a memorandum of appeal, if the appeal hearing office is of the opinion, from the standpoint of justice, that it has to hear appeal by holding the appellant in detention, nothing shall preclude the office from doing accordingly.

Notwithstanding anything contained in sections 1 and 2 above, while releasing a person sentenced to punishment on bail or security or refusing to accept a bail or security, a memorandum shall be executed, for reasons therefor to be recorded; and the office may refuse to release the person on bail or security, on any of the following conditions

There is a possibility that the person sentenced to punishment may go away if he or she is released on bail or security.....1

There is a possibility that the person may temper with the proofs and evidences

There is a possibility that the person may commit any other offense.....1

¹⁴³ Amended by the Ninth Amendment.

¹⁴⁴ Amended by the Ninth Amendment.

In any of the following cases, the judgment making office, in the case of the person who has served the punishment of imprisonment for a term exceeding one year, and the appeal hearing office, in the case of the person who has served the punishment of imprisonment for a term exceeding three years may refuse to release him or her on bail or security.....5

Cases under the Prevention of Corruption Act, 2059,¹⁴⁵ cases relating to black marketing, profiteering, hoarding or adulteration,

Cases relating to exports, imports,

Cases relating to essential services, essential commodities or essential goods,

Cases relating to currency, notes, foreign exchange and metrology,

Cases relating to ancient monuments, statues, pictures, books of archaeological importance or other arts,

Cases relating to narcotic drugs,

Cases relating to government amount,

Cases relating to the forgery or theft of any government document, court judgment or order, passport, insurance, cheque or draft,

Cases relating to the theft, embezzlement or misappropriation of any property, wealth or money of the Government of Nepal or a corporation or bank of which Fifty One percent ownership is owned by the Government of Nepal or the cheating of the Government of Nepal, such corporation or bank.

In taking a bail or security by the office pursuant to this Number, the office may, in consideration of the need and propriety, require the bail or security also for such amount or money of the Government or public

¹⁴⁵ Amended by the Strengthening Republic and Some Nepal Acts Amendment Act, 2066.

corporation as may be payable pursuant to the judgment¹⁴⁶6

- Number 195. In making an appeal, the appeal may be made to the office hearing appeal from the office that has disposed the case or through the office disposing the case or by a person held in detention through the office where he or she is so detained or by a government employee to such kind of appeal hearing office, if any, available nearby the territory where he or she is in service or on deputation, and to other office hearing cases of appeal level if such office is not available and to any other case trying office whatsoever if even such other office is not available; and the following provisions shall govern the following matters while so making and taking appeals:

Where a memorandum of appeal is presented in the office where the concerned person is in detention, the office shall examine, on the basis of the matters set down in the memorandum of appeal, only to the extent of whether it has been filed within the time-limit or not and whether it is in the specified format or not, and if the memorandum of appeal appears to meet such requirements, the office shall cause the memorandum of appeal to be signed by the litigant, credit the appeal fees into revenue until the *Lifa* (a blank document signed and handed over to an attorney or other person to prepare a document for the intended purpose) is issued, give a receipt thereof to the litigant and then hand over the appeal, accompanied by its endorsement, to the appeal hearing office within three days after the date of receipt of the appeal by it, and take a receipt of such hand-over.....1

If a memorandum of appeal is presented in the nearby office by a government employee as mentioned above, the office shall receive the memorandum of appeal by fulfilling the requirements of law, issue the receipt of crediting the appeal fees into revenue and the receipt of

¹⁴⁶ Inserted by the Tenth Amendment.

acknowledgment of the memorandum of appeal to the appeal maker, and attach the duplicate copy of the receipt of payment of punishment imposed in the case with the memorandum of appeal, and endorse the reverse side of the memorandum with the date of crediting the fees into revenue and then forward the memorandum of appeal, accompanied by its endorsement, to the appeal hearing office within Three days

.....2

Where a memorandum of appeal is presented in the office disposing the case, the office shall receive the memorandum of appeal by fulfill such requirements as may be required to be fulfilled pursuant to law and forward to the appeal hearing office within seven days the memorandum of appeal, accompanied by the duplicate copy of the receipt of recovery of the punishment imposed on the appeal making litigant in the case where such punishment has been so recovered and also by the case-file of the case, and where such punishment also involves a bail or security furnished or imprisonment served pursuant to Number 194 of this Chapter, the appeal dispatch slip shall state that matter, and the date for making presence by the appellant shall be fixed also in view of the time required for making presence by the litigant along with the arrival of the appeal case-file where the appeal making litigant is allowed by law to remain on recognizance, and a receipt thereof shall be taken.....3

Immediately when a memorandum of appeal is filed by the litigant with the appeal hearing office or that is received by such office through another office, such office shall examine it whether the requirements have been met in accordance with law, and where such requirements are met, a decree shall be issued, within three days of the receipt of the memorandum, to the case disposing office to send the case file, and in the case where the memorandum of appeal has been sent through the office making detention, to send information whether punishment has been served by or recovered from the appellant or not or whether

sentence of imprisonment has been determined or not and, where punishment has not been so served or recovered, to recover or determine the sentence of imprisonment and do any such as may be required and immediately forward the notice of service; and appeal hearing office shall so procure the case-file and information and proceed with the memorandum in accordance with law, upon receipt of the case-file and information.....4

Where the appeal making litigant is in detention, the office forwarding the appeal and case-file is not required to send the litigant beforehand along with the case-file. The appeal hearing office may summon the presence of that litigant if so required. If the presence of such litigant is so summoned, the litigant shall be dispatched in accordance with law.....5

Where a person who makes appeal while in detention is released from detention prior to the making of appeal judgment, the person shall make presence in the office where the case has been filed within Fifteen days excluding the time required for journey or such person mat send his or her attorney in accordance with law if the case is one in which an attorney can be appointed.....6

In receiving a memorandum of appeal in a case, appeal shall lie only when an evidence of recovery of the punishment imposed by the previous office in the case or where the appellant is sentenced to punishment of imprisonment, evidence showing that he or she has served that punishment or has been imprisoned or furnished a bail or guarantee for the same, if any, required pursuant to Number 194 of this Chapter is submitted or only when the bail or security is furnished where such bail or security can be taken pursuant to the said Number or when the imposed punishment is paid along with the memorandum of appeal.....7

Number 196. In receiving a memorandum of appeal,¹⁴⁷ it shall be received only where it is accompanied by the fee of one hundred rupees¹⁴⁸ and is set down in the format as referred to in this Number.

Memorandum of appeal

filed with such-and-such office

First/second civil/criminal appeal number of the year....20

| | |
|--|------------|
| Full name, surname and address of each of such and-such person plaintiff/defendant | Appellant |
| Versus | |
| Full name, surname and address of each of such and-such person plaintiff/defendant | Respondent |

Whereas, such and-such chief of such and-such office has passed judgment in the original/ summary/ reference case, on such and-such date, thereby awarding such and-such punishment to me/us and I/we am/are not satisfied with the judgment;

Now, therefore, I/we have made this appeal, accompanied by the evidence of payment of the amount in controversy or punishment as determined and imposed by the judgment or by the evidence of the bail or security as furnished or while in detention. I/we appellant make the following appeal claims in this case:

1.....

2.....

Appellant:

Such and-such person, a resident of such and-such place

¹⁴⁷ Amended by the Sixth Amendment.

¹⁴⁸ Amended by the Tenth Amendment.

(Where there are more than one appellant, full name, surname, address and age of each appellant shall be set down in serial numbers 1, 2, 3, and those who can read and write shall sign the memorandum and those who cannot read and write shall affix their thumb impressions thereunto). Done onday of.....of the year 20..

Number 197. Where the time-limit of appeal has to be given pursuant to Number 193 of this Chapter but such time-limit has not been so issued by the office, the time-limit for making appeal shall be counted from the date of the payment by the litigant of punishment imposed on him or her or the date of receipt of the duplicate copy of the judgment, whichever is the earlier.

Number 198.¹⁴⁹

Number 199.¹⁵⁰ Where the appellant who can make appeal upon payment of the punishment pursuant to Number 194 of this Chapter or furnishing a bail or security makes appeal without making or furnishing such payment or bail or security but undergoing detention, the appellant shall be released from detention if he or she pays the punishment or furnishes the bail or security accordingly, irrespective of the stage of case, and the case shall be tried in accordance with law.

Number 200. If the appeal hearing office, in the course of proceedings, does not consider it appropriate, from the standpoint of justice, to keep on holding in detention an appellant who has made appeal while undergoing detention upon being unable to furnish a bail or security, the office may try the case by releasing him or her on recognizance without taking bail or security from him or her.

Number 201.¹⁵¹ At the appeal level, the appellant and the respondent subpoenaed pursuant to Number 202 of this Chapter need not remain on recognizance. Even though the appellate on recognizance expires the

¹⁴⁹ Repealed by the Tenth Amendment.

¹⁵⁰ Amended by the Fifth Amendment.

¹⁵¹ Amended by the Tenth Amendment.

date fixed for making presence, the case shall not be dismissed, and the case shall not be adjudged without having regard to the defense pleas by the respondent who has expired the date fixed for making presence, by the reason only that the respondent has so expired such date. The appeal shall be adjudged in accordance with law, by having regard to all matters including the documents and evidences on the record.....1

The court may proceed with the specified proceedings on the date fixed for the same despite that the appellant or the respondent is not present in the court on the date fixed for making presence. Only the reason that the appellant or respondent is not present shall not preclude the court from conducting the specified proceedings on the date fixed for making presence.....2

Even though the appellant or the respondent is not present in the court on the date fixed for making presence, he or she shall be entitled to be present on the date fixed for making presence and then take part in the remaining proceedings of the case, except the proceedings already conducted pursuant to section 2 above.....3

If the appellant or the respondent makes an application to have conducted any proceedings that have not been completed on the time-limit or the date fixed for making presence, within fifteen days of that time-limit or date fixed for making presence, showing that he or she has not been able to be present owing to a reason beyond his or her control, and the reason seems to be reasonable or reliable, the court may conduct the proceedings, for reasons to be recorded in a memorandum.....4

- Number 202. If, while examining the verdict of previous judgment by way of appeal, reference or otherwise, the office competent to sustain or quash the previous judgment does not see any substantial difference from the verdict made by the lower office, the office need not subpoena the

presence of the litigant. It shall pass judgment as so held. If, while examining the verdict, it appears that the previous verdict or judgment can be altered, a memorandum to that effect shall be executed, and a process shall be issued, within three days of the execution of the memorandum, to the litigant thereby summoning the litigant to make presence within fifteen days excluding the time required for journey stating that his or her presence is required as discussions have to be held also with him or her on such and-such case with such and-such person, and that failing his or her presence within the said time-limit, there subsequent complaint shall not lie; and if the litigant makes presence or sends an attorney in accordance with law within the time-limit, judgment shall be made within thirty five days, also in his or her presence. Any subsequent complaint made by a litigant who fails to make presence within the said time-limit shall not be entertained. In a case where appeal can be made, the time-limit for appeal shall be given.

Number 203.¹⁵²

Number 204.¹⁵³

Number 205. Where, in examining the judgment upon an appeal by any litigant, out of the unsuccessful litigants in the same case, the verdict or punishment is to be reversed, and in passing judgment by reversing the verdict or punishment, the verdict or punishment is to be reversed also in the case of the litigant who does not make appeal, the verdict or punishment shall not be approved for the reason that no appeal has been made. Judgment shall be made by so reversing the verdict or punishment also in the case of the litigant who has not made appeal as if such litigant were the appeal making one.

Number 206. If a litigant who has been released on bail or security of money in consideration for imprisonment as required to make appeal is held to be

¹⁵² Repealed by the Tenth Amendment.

¹⁵³ Repealed by the Tenth Amendment.

successful on appeal, the money furnished as bail shall be returned irrespective of whether the litigant has made presence on the date fixed for making presence or expired such date. If such litigant is held to be unsuccessful and is present at the time of making judgment, the money shall be returned and he or she shall be imprisoned if the punishment of imprisonment is held to be imposed. If such litigant has not been present upon expiring the date fixed for making presence, and such litigant makes presence voluntarily or is found, arrested and produced within five years after the date of appeal judgment, there shall be imposed a fine of a sum that is Two percent of the money furnished as bail, and the remaining money shall be returned, and such litigant shall be sentenced to imprisonment in accordance with the judgment. If such litigant does not make presence voluntarily or is not arrested and produced within the said time-limit, the money furnished as bail shall be forfeited and the matter shall be dealt in accordance with law in the case of the litigant.

- Number 207. The appeal judgment making office shall maintain the records of frequency of reversals of judgments by the office in cases in such format as specified by the Government of Nepal.
- Number 208. A litigant who has expired the time-limit by not submitting a statement of defense within the time-limit of a summons or process issued by the office shall not be allowed to make an appeal against the judgment handed down upon examining evidence ex parte in accordance with law. If the litigant submits a statement of defense within thirty five days after knowing the matter, not later than six months of the date of judgment, accompanied by a complaint that the time-limit has expired since he or she could not know the matter and file the statement of defense by the reason that the summons or process has been served without fulfilling the requirements pursuant to Number 110 of this Chapter, the summons served as recorded previously in the case file shall be examined and if it does not seem to have been served duly, the statement of defense shall be registered by executing a memorandum to that effect, and the case

shall be adjudged upon examining such evidence as may be required to be examined in accordance with law. If the summons seems to have been served duly, there shall be endorsed on the statement of defense that the complaint cannot be entertained for the same reason and the statement of defense shall be returned.

- Number 209. If it appears that judgment has to be made by determining whether the documents and deeds produced for evidence in any case which the office examining verdict by way of appeal or otherwise is seized of are genuine or forged, and the lower office has adjudged the case without conducting that proceeding, the appeal hearing office shall procure the document in original, enter into the record upon its production in the office, take deposition of the complainant, subpoena the presence of the principal and conveyancer witness, out of the defendants where they reside elsewhere far district, and those whose deposition is to be taken in view of the other documents in original, before the office and take their deposition in accordance with law, and in the case of the other defendants, such evidence as may be required to be taken and examined from them shall be taken and examined by way of a letter rogatory by sending and serving the letter rogatory to, and through, the office in the territory where they are residing, and then judgment shall be made. It is not required to keep any defendant examined by way of a letter rogatory on recognizance. If such defendant so wishes, he or she may remain on recognizance in the office where the case has been filed.
- Number 210. Where in a case in which appeal has been made or which has been reopened, judgment is passed approving the previous verdict, the office making the judgment shall, if the litigant who was successful previously is not on recognizance, send a notice that the verdict has been approved to that previously successful litigant, not later than three days after the date of judgment made by that office, in respect of such matters as required to be executed in accordance with the judgment within the time-limit prescribed by law, including the recovery of money(amount in

controversy), foreclosure, setting aside of partition share, production and registration, and registration pass of a deed and cause the notice served pursuant to Number 110 of this Chapter. The time-limit for making application for the execution of judgment shall run from the date of receipt of that notice.

Number 211.¹⁵⁴ If any concerned person so applies, duplicate copies of the documents on the record (contained in the case-file) in the case trying office shall be issued. While so getting and issuing a duplicate copy, if the person getting the duplicate copy is to copy the document on his or her own accord, the person shall be allowed to copy the document in presence of the concerned employee, by collecting from him or her the fee by two rupees¹⁵⁵ for each page of full scale size. If application is made for the duplicate copy of a document by the office, the office shall provide such copy, by collecting from him or her the fee by three rupees¹⁵⁶ for each page of full scale size. In getting and issuing a duplicate copy, there shall be set down at the top of the duplicate copy that such-and-such person has taken it and the copy corresponds to its original, which shall then be stamped with the seal of the office and the chief of office, and there shall be issued the duplicate copy of a plaint not later than the following day, and that of another document not later than three days, after the date of the payment of fee.

Number 212. If a government employee or a person held in detention makes an application, accompanied also by the fee as specified by law, to the office where the employee is in service or where he or she is on recognizance or so detained for getting by post a duplicate copy of the case-file of the case of such employee or person in detention, the office shall receive the application and request to the office where the case-file is maintained with for sending the case-file accordingly; and if a request is so received, the

¹⁵⁴ Amended by the Tenth Amendment.

¹⁵⁵ Amended by the Tenth Amendment.

¹⁵⁶ Amended by the Tenth Amendment.

office where the case-file is maintained with shall also cause the duplicate copy of the case-filed to be made and forward the same to the office where such application has been made.

- Number 213. While submitting or referring a judgment in any case for confirmation, the office shall forward the original case-file of that case along therewith; and such submission shall also state, if the person of the case is held in detention, the date on which the person was held in detention and the place where he or she is detained, and whether the person has gone away or absconded from custody.
- Number 214. In submitting or referring a judgment in a case where judgment has to be referred for confirmation,.....¹⁵⁷ the person convicted of offense shall be held in accordance with law.
- Number 215. Where a judgment in a case has both been referred for confirmation and appealed against, the record of reference shall be crossed off and the case shall be tried by way of appeal. If, in so trying the appeal or examining the referred judgment where no appeal has been made, it appears that the office making the reference judgment has made such reference/submission without examining such evidence as required to be examined and completing proceedings and that judgment or confirmation cannot be made without examining the evidence or litigants, then judgment or confirmation shall be made within the time-limit by examining such evidence and such present litigants as required to be so examined. If, in examining the reference judgment, it appears that other requirements, except the proceeding to be completed, are not met, then the reference judgment shall be sent back within seven days, by specifying the time-limit for meeting the requirements and forwarding the reference judgment.
- Number 216. Where a judgment has been referred for confirmation in a case, the reference judgment shall be disposed within fifteen days where it is

¹⁵⁷ Amended by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

sufficient to examine the records with the office itself and any office within its territory for such disposal and within fifteen days after the production before the office, where it is required to examine any office outside its territory, upon examining such matters as required to be examined by making follow-up and specifying the time-limit for such examination and production.

- Number 217. If, in a case requiring the submission of judgment in it for confirmation, the office examining and confirming the judgment has to release one who is in detention or punish such person pursuant to the confirmation of the reference judgment, the office shall send information to the office in the prison or detention center of which the detainee is in detention and to the office referring the judgment within Three days to do accordingly and forward the case file thereof to the office referring the judgment not later than Fifteen days.
- Number 218. If, in inquiring another office or subpoenaing the production or presence of any document or person through another office in a case or taking deposition or statement of a person inquired publicly or a litigant by way of letter rogatory through another office, there shall be made a submission to that office thereby requiring it to perform such-and-such proceeding in such manner within such days, by giving a reasonable time-limit for the same, excluding the time required for journey.
- Number 219. If any office receives a reasonable submission or request to perform any government business to be performed by it, the office shall immediately perform or serve the business as so submitted or requested within the specified time-limit. If the office is not able to serve or perform the business or proceeding, it shall send a reply, accompanied by the reason for such inability, to the office that has so made a submission or request, within the time-limit.

Number 219A.¹⁵⁸ If an office that has been requested by another office to send such case-file and document or asked to clarify any such matter as required for evidence in a case fails to send the case-file and document or reply despite remainder or follow-up, and this inability has resulted in difficulty with trying and disposing the case or in any grievance or detriment to any party, the chief or concerned employee of the office that has not sent such case-file and document or reply may be liable to a fine of up to Fifty rupees for each instance. The office providing his or her salary shall realize such fine from his or her salary and furnish the same to the concerned office. Provided that if, after the order of fine has been so issued, the chief of office or employee concerned makes an application that such a fine should not be imposed on him or her, showing a reasonable reason for failure of send such case-file and document or reply within the specified time and the concerned office find the reason to be satisfactory, that office may revoke the order of such fine or reduce the amount of such fine.

Number 220. ¹⁵⁹ Even though an application of a matter which has to be tried upon the Government of Nepal being a party and of a matter relating to pain or suffering caused by a government employee or a person authorized to carry out a government business and of a matter on submission by a government employee in relation to the business of his or her office does not bear envelope revenue stamp on it, such application shall be tried in accordance with law. In matter other than these, there shall be charged the envelope fee according to the law, if any, prevailing on the proceedings of the office concerned, and that of five rupees¹⁶⁰ failing such law.

Number 221. If the law provides that an envelope form bearing revenue stamp has to be used, executed or issued and such envelope form is not available, such sum of money as set forth in the law to be so used, executed or issued shall be collected in cash, and the matters shall be set forth in a blank plain

¹⁵⁸ Inserted by the Seventh Amendment.

¹⁵⁹ Amended by the Seventh Amendment.

¹⁶⁰ Amended by the Tenth Amendment.

sheet of paper and such paper shall be used, executed or issued accordingly.

Number 222. The office shall issue an order or memorandum on any application filed with it not later than seven days except for a reasonable reason.

Number 223. If any office has to hand over to another office any case-file which has been procured for evidence in a case and on which judgment has been made and the time-limit of appeal is also already expired and the case file on which judgment has been made by that office itself, that office shall hand over the same to the relevant office within seven days after the date of compromise if it relates to a case compromised and within seven days after the expiration of the time-limit for making appeal petition if it relates to a case adjudged.

Number 224. A government employee shall not draw up or cause to be drawn up any document including a plaint, statement of defense, memorandum of appeal and petition on such a case of any person, other than the person set forth in Number 30 of this Chapter, as to be filed with, tried by or as an appeal thereof filed with the office in which he or she is serving.

Number 225. ¹⁶¹ If any government employee, in capacity of his or her office or in the course of performing any business of his or her office, performs any business that he or she is not competent to perform or omits to perform any business required to be performed by him or her or causes unnecessary delay in performing such business or performs it with ulterior motive, the competent authority shall immediately take departmental action against and impose departmental punishment such employee. If any office-bearer inspecting any office finds, in the course of making such inspection, that such has been done, the office-bearer shall immediately write to the competent authority for the departmental action.

¹⁶¹ Amended by the Third Amendment.

Number 226. ¹⁶² Even though, in the course of conducting, or causing to be conducted, any such act or proceeding as required to be conducted in presence of a member or representative of the Village Development Committee or Municipality pursuant to this Chapter or as to be conducted by getting such a member or representative to sign the deed, a notice in writing is given to the concerned Village Development Committee or Municipality to cause the presence of such member or representative, but such member or representative does not make presence for such act or proceeding despite such a notice or the Village Development Committee or Municipality is dissolved or does not otherwise exist, such act or proceeding may be conducted or caused to be conducted, and such act or proceeding shall not be void by the reason only that such a member or representation has failed to make presence or has not signed the deed if the other requirements have been met.

¹⁶² Amended by the Court Proceedings Related Some Nepal Acts (Amendment) Act, 2047.

Chapter 2

On Punishment

Number 1.¹⁶³ Where a person who commits any act that is considered by law as an offense is so of unsound mind or insane that he or she cannot know the nature and consequence of the act committed by him or her.....¹⁶⁴ at the time of the commission of that act, such person shall not be guilty of such offense nor shall such person be liable to any kind of punishment.

.....¹⁶⁵Where any person teaches a person who is of unsound mind or insane to commit any offense and such offense is so committed by the person of unsound mind or insanity, the person who so teaches shall be liable to punishment in full as if he or she were the principal offender.

Number 2. Even where, in relation to any act done by any person, a suit is filed against another person after the death of that former person, and the deceased is held to have been guilty of any offence, the deceased shall not be liable to punishment; and it shall be done in accordance with law in relation to the sum of money in question.

Number 3. Where a person required to pay or serve a fine or *Bishaud* (Twenty percent) dies prior to the recovery of the same, such fine, amount or sentence shall be pardoned after the death of such person. One who inherits his or her property or furnishes guarantee shall not be claimed for the same. If it relates to the matter of recovery or payment of amount in question, one who inherits shall pay the same. One who inherits shall not be claimed for any amount that remains after the recovery made upon taking inventory of entire property.

Number 4. If, following a judgment awarding the punishment of confiscation of entire property, a person whose entire property is attached dies, such punishment

¹⁶³ Amended by the First Amendment.

¹⁶⁴ Deleted by the Children's Act, 2048.

¹⁶⁵ Deleted by the Children's Act, 2048.

of confiscation of entire property cannot be waived unless and until that person is acquitted of the offense. It shall be done in accordance with law.

- Number 5.¹⁶⁶
- Number 6. If it is provided that such-and-such portion of sentence has to be imposed,¹⁶⁷ such portion of sentence shall be set and imposed by maintaining that the imprisonment for life is of twenty years and that of confiscation of entire property is of eighteen months.
- Number 7. If the law provides that punishment of imprisonment for life with confiscation of entire property shall be imposed, the offender shall be sentenced to imprisonment for life and then confiscation of his or her entire property shall be made in accordance with law.
- Number 8.¹⁶⁸ Even though the same person has many times¹⁶⁹ committed an offense punishable by imprisonment for life with confiscation of entire property or imprisonment for life or other punishment, after the sentence of imprisonment for life with confiscation of entire property or that of confiscation of entire property, whichever is higher, is imposed for any count/instance, then any count/instance carrying lesser punishment or another count/instance carrying lesser punishment, after the imposition of any punishment out of the punishments, shall not be compounded with any such count/instance. If any person on which punishment of imprisonment for life with confiscation of entire property or punishment of imprisonment for life has been or would be imposed has committed any offense carrying higher punishment during the period when he or she has expired the time-limit and gone away or has been sentenced to imprisonment or has absconded from imprisonment or has released on bail, security or recognizance, then such person has to be sentenced to such higher punishment. If such person repeats the commission of an

¹⁶⁶ Repealed by the Seventh Amendment.

¹⁶⁷ Deleted by the Punishment Related Some Nepal Acts Amendment Act, 2055.

¹⁶⁸ Amended by the Seventh Amendment.

¹⁶⁹ Deleted by the Punishment Related Some Nepal Acts Amendment Act, 2055.

offense punishable by imprisonment for life, an additional term of Four years shall be added to the term of imprisonment after his or her service to imprisonment for life is complete, and if such person commits an offense punishable by lesser punishment, additional punishment of imprisonment for a term not exceeding Four years shall be added to the term of his or her punishment, and he or she shall be imprisoned accordingly.

- Number 9. In sentencing to punishment on a civil case, other family member shall not be liable to sentence after the principal person has been sentenced to punishment in accordance with law.
- Number 10. Except where the law provides for the compounding of instance/term or count/offence, if it is required to impose punishment by compounding the instance or count by applying Two or more than Two Acts in a case arising from the same deed/act, in relation to the punishment of imprisonment, only such punishment of imprisonment as is the highest one out of the punishments provided by such Acts shall be imposed. The instance or count of the other Acts shall not be compounded. In the event that the punishment of fine is to be imposed, such punishment shall be imposed by compounding the punishments imposable by all Acts. If the punishment of fine and imprisonment is to be imposed, the higher punishment in terms of both fine and imprisonment on both instances or counts shall be imposed. After the imposition of the punishment of confiscation of entire property, no term or count of fine shall be compounded in relation to any offense committed prior to the service of such punishment.
- Number 11. On an instance or count that is punishable by imprisonment pursuant to law, it is the punishment of imprisonment that shall be imposed.
- Number 11A.¹⁷⁰ Where the punishment of imprisonment has been imposed for causing dismissal of a case and money is paid in consideration for such

¹⁷⁰ Inserted by the Ninth Amendment.

imprisonment at the rate of Twenty Five Rupees¹⁷¹ for a day of such imprisonment, it is not required to serve the punishment of imprisonment. If money is paid, it shall be received and the record of imprisonment crossed off.....1

Notwithstanding anything contained in Number 11 of this Chapter, a person who commits an offense punishable by imprisonment for a term of less than Three years is held liable to the punishment of imprisonment and the office does not consider it appropriate to hold such person in imprisonment owing to the fact that he or she has committed the offence for the first time, the office may specify the amount to be set by Twenty Five Rupees¹⁷² for One day and so pass judgment that such person will not be required to serve the sentence of imprisonment if he or she pays the amount so specified. If the money is so paid by the offender, it shall be received and the record of imprisonment shall be crossed off.....2

In so passing a judgment as to allow the payment of money in consideration for imprisonment pursuant to Section 2 above, the office shall cause the offender to execute a deed promising that he or she will not commit any kind of such offence again and will observe a good conduct; and if the offender commits any offense punishable by imprisonment within Three years after that date, the offender shall be liable to punishment also consisting of the sentence of imprisonment imposed on him or her pursuant to the old judgment, and the office may pass an order to return the money paid in consideration for the imprisonment pursuant to the old judgment.....3

¹⁷¹ Amended by the Tenth Amendment.

¹⁷² Amended by the Tenth amendment.

¹⁷³In the case of punishment to be imposed pursuant to Number 10 of the Chapter on Marriage, the provision set forth in section 2 above shall not apply.....4

Number 12.¹⁷⁴ If any act or action set forth in the various Chapters of this Code or in the prevailing law is an offense and the concerned Chapter or prevailing law does not provide any specific provision on punishment for such an offense, there shall be imposed a fine of up to Five Thousand Rupees, having regard to the nature and condition of such an offense.

- Number 13. If any government employee who takes custody of and carries any cash, goods in-kind and other things dispatched and sent by any office to any other office picks up any such cash, goods or things on the way either on his or her own motion or by an order issued by any of his or her superior officer, the employee who so picks up on his or her own motion shall be liable to, and where he or she has so picked up by such order, then the officer issuing such order shall be liable to, the punishment of imprisonment for a term ranging from Two years to Six years. Where such employee has so picked up only on a simple instruction, imprisonment for a term that is less than One and half of the punishment imposable on the instructor shall be imposed. Where the money or amount in question has been used up, then the money or amount shall also be recovered from the person who has so used it up.
- Number 14. Any person who is authorized to perform any government or public business or any person who has any legal duty shall not collect and use any money, amount, fee, charge or cess other than such remuneration as may be collected and used in accordance with law, in the course of performing, or causing to be performed, business entrusted to his or her post, or in the course of performing such duty, as the case may be; and if the same is so collected and used, it shall be held to be a bribery.

¹⁷³ Inserted by the Eleventh Amendment.

¹⁷⁴ Amended by the Amended by Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

- Number 15. In the event of the commission of bribery, the amount in question shall be confiscated/forfeited, and where a person who is authorized to perform a government or public business has taken a bribery, such person shall be liable to punishment of imprisonment for a term ranging from Two years to six years or a fine of up to Five Thousand Rupees, according to the gravity of the offence, and where any person other than such person has taken a bribery, such other person shall be liable to a fine equal to the amount in question. Even where a person has taken bribery during service but is to be sentenced to punishment after relieving of service or where a person has asked for bribery but has not yet taken it, the foregoing provisions shall be applicable. A person who offers a bribery or arranges for the exchange of a bribery, then such person shall, if he or she is a government employee, shall be liable to the punishment as if he or she was himself or herself the principal offender, and if such person is not a government employee, such person shall be liable to half the punishment irrespective of whether the bribery has already been given or taken or not. If the offering and taking of bribery has resulted in a loss to another person, the amount of such loss shall be recoverable from the person who has taken it and if such amount is not recoverable from such person, it shall be recoverable from the person who has taken the bribery.
- Number 16. If a government employee takes a bribery forcibly from a person by way of intimidation and coercion, including showing threat or fear, battering, manhandling or locking up, then the amount of bribery shall be caused to be returned to that person from whom it was taken, and the employee shall be punished with a fine equal to the amount in question and imprisonment for a term ranging from Three years to Nine years. Where such employee has made intimidation and coercion but has not been able to take the bribery, he or she shall be liable to punishment that is half the punishment as forth above.
- Number 17. In sentencing to imprisonment for any matter set forth in Number 15 of this Chapter and to punishment for any matter set forth in Number 16 of

this Chapter, no such sentence shall exceed nine years and twelve years, respectively.

- Number 18. If, in any criminal case, a person is held to have instituted the case against another person with ulterior motive by creating a false evidence or in the absence of any reasonable cause or fact, the such person shall, for making such a false accusation or complaint, be liable to punishment that is half the punishment that would be imposed on the offender if his or her accusation was sustained. If such punishment involves imprisonment for a term exceeding five years, such person shall be sentenced to imprisonment for a term of up to five years. If the case trying office has reason to believe that there was no ulterior motive at the time making accusation or such accusation was made on the reasonable fact necessitating requiring such accusation, the office may exempt the person making such accusation from all or any of the punishment set forth above, for reasons for the exemption from punishment or imposition of lesser punishment¹⁷⁵ to be recorded.
- Number 19. If the co-accused making accusation (*Polaha*) has to be punished pursuant to Number 8 of this Chapter, the case trying office shall impose half the punishment as mentioned therein on the accuser and order for the recovery of half the punishment from the accuser and provision of the same as compensation to the person against whom such a false case has been instituted. If the accuser is liable to the punishment of imprisonment and the cash figure of the punishment of imprisonment has to be determined for the purpose of compensation to be provided pursuant to this Number, such figure shall be determined at the rate of Fifty Rupees for each day¹⁷⁶ of the punishment of imprisonment. If the accuser required to provide compensation as mentioned above does not provide the compensation accordingly, the compensation shall be recovered from his or her property,

¹⁷⁵ Inserted by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

¹⁷⁶ Amended by the Tenth Amendment.

and if the compensation is not recoverable from the property, and the person entitled to compensation makes an application that the accuser be sentenced to imprisonment in consideration for the same, the case trying office may, having regard to the figure of compensation not so recovered, sentence the accuser to imprisonment for a term not exceeding Three months.

Number 20. Even though the person required to provide compensation pursuant to Number 19 of this Chapter dies prior to the making of judgment for compensation or the recovery of the compensation, such compensation shall be recovered through his or her heir from his or her partition share to the extent of recovery from the same and be provided to the person entitled to such compensation, and if the person entitled to compensation dies prior to the making of judgment for compensation or the recovery of the compensation, his or her heir shall be entitled to the compensation to which the deceased is entitled.

Number 21. The following matters shall be governed by the following provisions, except as otherwise provided for in this Code:

If a person is held to have made a complaint for being entitled to something that the person is not so entitled to, there shall be imposed on the person a fine of Ten percent of the amount as claimed.....1

If a person is held to have acted falsely and to have not provided something that the person is to so provide, there shall be imposed on the person a fine of Ten percent of the amount in question, with the recovery of that amount from that person.....2

If a person is held to have claimed more than what the person is entitled to get, and if a person is held to have stated lower than what the person is required to give, there shall be imposed on such persons a fine of five percent of the excess amount so claimed and of the less amount so stated, as the case may be.....3

The ten percent fee of the amount of compensation shall be collected from the person entitled to the recovery of compensation where the recovery of compensation is to be made¹⁷⁷4

Number 22. Where a case has to be tried by taking a deposit or bail of amount by the office or by making attachment to a property, the case shall be tried by taking such deposit or bail or making such attachment. No interest shall be charged after the date in which the deposit or bail is furnished with the office and the attachment is made or a wealth guarantee is furnished to that effect.

Number 23.¹⁷⁸ In making a judgment with specification of the sentence, if the offender liable to sentence is present, the judgment making office shall arrest him or her at the same time and recover and realize the sentence awarded by judgment from him or her. In doing so, if the offender is sentenced to a fine and pays the fine or furnishes a wealth bail/guarantee for the same, the same shall be collected or received and the offender shall be released. If the offender is sentenced to imprisonment, the offender shall be released on bail or security if he or she furnishes such bail or security for making appeal, pursuant to Number 194 of the Chapter on Court Proceedings. If the offender fails or refuses to pay or furnish such fine or bail or guarantee, he or she shall be sent to the prison for the realization of the imprisonment realizable in consideration for the fine and the imprisonment sentenced by the judgment. If the offender liable to sentence is not present, the office shall issue an order to the concerned police office to arrest him or her and also institute the proceedings as set forth in Numbers 25 and 26 of this Chapter. Upon receipt of such an order, the concerned police office shall search and arrest the offender sentenced to punishment and produce him or her before the office. The judgment making office itself shall establish the record of the sentence to be executed pursuant to the judgment if it is required to establish such record

¹⁷⁷ Amended by the Ninth Amendment.

¹⁷⁸ Amended by the Tenth Amendment.

and if it has to be written to the original office in another jurisdiction for the establishment of such record, it has to be so written to that other office within seven days after the date of judgment. In establishing or writing for the establishment of the record of sentence, the sentence imposed by the judgment on the offender and the proceedings taken for the realization of such sentence shall also be set out. Where a judgment has been referred for confirmation, the record of punishment shall be established, or cause to be established, accordingly, after confirmation on the judgment referred has been obtained.

Number 23A.¹⁷⁹ If the offender is present, on the money required to be collected, including the governmental amount, Ten per cent fee and Five percent fee, pursuant to the judgment, the judgment making office shall then claim and take act to recover such amount in question, Ten percent fee and Five percent fee or to confiscation of the entire property as imposable and recoverable by the judgment. If the offender sentenced to punishment is not present, there shall be instituted action or proceeding to arrest him or her for the purpose of recovering punishment from him or her in accordance with the provisions set forth in Number 23 of this Chapter and to recover the amount in question, Ten percent fees and Five percent fee pursuant to Number 26 or to make confiscation of entire property pursuant to Number 27.....1

If, in making forfeiture or confiscation of entire property of the offender in the course of recovering such punishment or government amount, Ten percent fee or Five percent fee as held imposable by the judgment, the office seeks the assistance of the police office, the police office shall render such assistance immediately2

Number 24.¹⁸⁰ If, the forfeiture or confiscation of entire property is once made in relation to such money including government amount, fine, Ten percent fee or Five percent fee or on an offence punishable by the confiscation of entire

¹⁷⁹ Inserted by the Tenth Amendment.

¹⁸⁰ Amended by the Seventh Amendment.

property, the following provisions shall be followed on the offense involving that punishment of confiscation of entire property and the remaining of the money of foreclosure. The record of the remaining amount in question and fine not recovered from foreclosure, in respect of the other matters, shall be immediately obliterated, and the record of imprisonment shall be obliterated if the person has disappeared since five years after the foreclosure:

The offender of a case relating to homicide, a case of any kind of theft or a case of state affairs and of a case relating to embezzlement, misappropriation, theft or loss by the concerned government employee of government money or property in his or her custody or of money or property belonging to a government corporation or a body controlled by the Government or of a case relating to payment of advance money or of a case under Number 2 of the Chapter on Non-repayment of Arrears shall be sentenced as per the record of punishment pursuant to the judgment whenever the offender is found.....1

Any non-governmental amount or amount of a body as mentioned in Clause 1 below shall be so recovered from the property inherited by the inheritor as to the extent recoverable from such property.....2

If the judgment debtor dies and a death indenture is executed in presence of five local gentlepersons including a member of the concerned Village Development Committee or Municipality,¹⁸¹ the record of imprisonment, fine and Five percent fee shall be obliterated.....3

If a disappearance indenture is executed by five local gentlepersons including a member of the concerned Village Development Committee or Municipality¹⁸² once a year until Three years where the judgment debtor is not found or his or her whereabouts are not known, and once a year until five years where the judgment debtor or his or her whereabouts are known

¹⁸¹ Amended by the Court Proceedings Related Some Nepal Acts (Amendment) Act, 2047.

¹⁸² Amended by the Court Proceedings Related Some Nepal Acts (Amendment) Act, 2047.

but it is not known whether he or she has disappeared or is dead or alive, or not, the record other than the record set forth in the following section 1 shall be obliterated if the forfeiture of the property of the judgment debtor who has property has been executed.....4

Number 25.¹⁸³ In recovering a fine or government amount, it is not required to wait until the amount of an individual is recovered or realized. If a person who is punished to pay a government amount pays the same, such amount shall be received; and if such person does not pay such amount, it shall be recovered by foreclosing his or her property in accordance with law. In so making forfeiture, action shall be taken immediately if the judgment debtor is present then and action shall be taken in accordance with the provisions set forth in Number 23A. of this Chapter if the judgment debtor is not so present. In the case of the judgment debtor of fine for imprisonment, other than for any government amount, the fine shall be collected if paid by the judgment debtor, and he or she shall be sentenced to imprisonment also in consideration for that fine. No forfeiture shall be made after the sentence of punishment is served. If a judgment debtor of imprisonment and fine goes away, such judgment debtor shall be arrested pursuant to Number 23 of this Chapter, the punishment shall be recovered by forfeiting his or her property in consideration for the fine and also for the imprisonment at the rate of One day for Fifty Rupees. If a person who is held to be imprisoned pursuant to judgment is found within the time-limit set forth in Number 24 of this Chapter, the person shall be sentenced to imprisonment pursuant to the judgment, and the money received in consideration for imprisonment shall be returned.

Number 26. In forfeiting the property in consideration for a fine and imprisonment in accordance with law, punishment shall be recovered only from the partition share of the offender to the extent recoverable. In making forfeiture in consideration for a personal amount, the partition share of the

¹⁸³ Amended by the Tenth Amendment.

family members who are above Twelve years of age, share common kitchen and have taken such amount or that of those who have lived jointly at the time when they took such amount but started living separately thereafter shall also be forfeited, and in forfeiting the property in consideration for a government amount in question, the forfeiture of the partition shares of all the coparceners who have lived jointly at the time when they took such amount shall be made. In making such forfeiture, the gift of the judgment debtor's wife, daughter, daughter-in-law, marriage expenses for unmarried children of the judgment debtor, the amount of unsufruct, sight mortgage or charge on an immovable property executed in favor of a creditor prior to making application for forfeiture in consideration for a personal amount in question, and prior to the date of attachment to the property in consideration for a government amount in question, One yoke of oxen, a set of bare instruments to carry on employment, One set of bare eating and cooking utensils, quilt and mattress, put on clothes and food grains, if any, sufficient for One whose property is subject to forfeiture to maintain him or her for up to Six months shall be set aside and exempted from forfeiture, and the rest shall be forfeited to the extent recoverable. If the property is over and above, the same shall be returned. Even if the recovery cannot be made in full upon the forfeiture, the other family members shall not be claimed. Provided that in forfeiting and auction selling the partition share of the offender who is absconding, nothing needs to be set aside pursuant to this Number.¹⁸⁴

- Number 27. In making confiscation of entire property, the partition shares of the other coparceners who have not obtained their partition shares shall be set aside, and the amount of creditors as set forth in a usufruct, sight mortgage or charge executed prior to the report of the offense, such marriage expenses of unmarried children as set forth in law, gifts of wife, daughter and daughter-in-law and such personal amount as due and recoverable on the

¹⁸⁴ Inserted by the Seventh Amendment.

judgment in the case in relation to which such confiscation is executable shall also be set aside, and the property of the offender only shall be confiscated.

- Number 28. In making forfeiture and confiscation of the property belonging to a tenant tilling a *Raiker* land, the entitlement of the tenant to the *Raiker* land shall be auctioned. In making such auction, One *Bigaha* of land in the case of *Madhesh*, Five *Ropani* of land in the case of Kathmandu Valley and Hilly region, and such area of land as One *Pathi* of seeds is required for its cultivation in the case of a sloppy land of which *Ropani* is not set out shall be set aside for himself or herself, and the rest land shall be sold by auction in accordance with law, and the land-revenue of the land subject to such auction sale, if any due and payable, shall be recovered from the proceeds of the sale, and if such revenue is not due and payable, the whole of proceeds shall be applied to for the recovery of punishment by forfeiture and confiscation, and information of such change in the status of that land shall be given to the executing office and the *Jimidar, Talukdar*. If, in making such an auction sale, nobody makes a bid, the land shall be returned back to him or her. In the case of forfeiture in consideration for failure to pay crops and revenue of the land, the land as set forth above need not be returned back to him or her, and action shall be taken on the matter in accordance with the relevant law. If the land upon setting aside such portion of that land as is returned back to the then tenant is auctioned sold, the land-revenue shall be recovered on pro rata.
- Number 29. In recovering such amount from the defaulter as is due and payable to the Government of Nepal and the defaulter is a government employee, the office shall send a notice, indicating that such-and-such amount is due on judgment from such-and-such person for so-and-so reason, to the office from which he or she draws remuneration, and request the latter office to recover the amount by withholding the same from his or her remuneration. In making recovery by making such withholding, the recovery shall be made in accordance with the deed, if any, executed, and, failing such a

deed, by withholding only three fourth of the remuneration of such employee until the due is recovered in full, except in the case of embezzlement of money and of due and payable money paid as advance directly.

- Number 30. While also preparing an inventory of or auction selling a property in the course of effecting forfeiture or confiscation, it shall be done, as follows, in witness also of the *Talukdar* and *Jimidar* in that place, if they are available, and the person responsible for the duties of *Talukdar* and *Jimidar*, if they are not available, a member or representative of the concerned Village Development Committee or Municipality¹⁸⁵ and at least Two gentlepersons.....¹⁸⁶:

.....1¹⁸⁷

The house and land subject to forfeiture and confiscation shall be dealt with in accordance with law, and in auction selling the other property liable to be so sold, the gold, silver and ornaments shall be auction sold by taking their weight and fixing their rate, and the other property shall be auction sold directly.....2

The gold, silver, ornaments and high-valued goods shall be brought to the office and then auction sold, and the other property may be auction sold by a commission deputed to the site.....3

If documents relating to the execution of decree on dues and money recoverable by bonds or books of account are produced, the records thereof shall be maintained in the office making forfeiture and confiscation and recovery shall be made in accordance with law.....4

- Number 31. If, in auction selling a grass-roofed house subject to forfeiture in consideration for a fine, imprisonment, confiscation of entire property or government amount in question in accordance with law, nobody makes a

¹⁸⁵ Amended by the Court Proceedings Related Some Nepal Acts (Amendment) Act, 2047.

¹⁸⁶ Repealed by the First Amendment.

¹⁸⁷ Repealed by the First Amendment.

bid to buy the house, and in determining the reasonable value of such a house, it is held that the value of that house is up to One Hundred Rupees, the value shall be remitted from the money recoverable as government due and the house shall be returned to the judgment debtor. If the value of such house is above One Hundred Rupees, it cannot be returned to him or her. The record of such house shall be maintained, and it shall be used in a government business or given on rent if possible, and it shall be looked after properly. If it is to be forfeited in consideration for a personal amount in question, the person entitled to the recovery of amount in question shall accept it at a reasonable (*Panchakriti*) value. If such person does not so accept it, the reasonable value of the house shall be remitted from the recoverable amount in question, and the house shall be returned to one whom it belongs to.

- Number 32. In making forfeiture or confiscation of the property belonging to a judgment debtor of forfeiture or confiscation of property in consideration for a government due, such forfeiture or confiscation shall be made as follows:

A process or notice shall, not later than Seven days after the production of document of forfeiture or confiscation of property, be affixed conspicuously to the house of the judgment debtor of forfeiture or confiscation of property and to the door of the office executing the forfeiture or confiscation of property, and such process or notice shall state that if any person knows that any such property as may be liable to forfeiture or confiscation of the property of such-and-such person has been concealed or hidden may make a report thereon to the office executing the forfeiture or confiscation within Three months from that day, and that if such person fails to make such report, he or she shall also be liable to punishment in accordance with law.....1

The process or notice to be so affixed shall also contain an inventory of the judgment debtor's house, lowland, sloppy land, livestock and his or her

debtors and the following details in relation to the records of the other property or goods belonging to him or her, and state that any person may make a report on any movable and immovable properties obtained by any person from the judgment debtor on usufruct or sight mortgage or on bailment or security/deposit, any dues payable by his or her debtors and crops due from a tenant or *Kuriya* tilling the land, and any other monies or properties whatever and whatsoever in relation thereto.....2

If a report is not made within the time-limit but after the expiration of the time-limit, and such report has not been made by the usufruct or sight mortgage creditor, there shall be imposed a fine of up to Ten Rupees where usufruct or sight mortgage on the land, house and low land was obtained by less than Five percent of such value of the land and house as is established in accordance with law and less up to Twenty percent than the value of a movable property if such movable property has been so obtained.....3

Even where the property has been so obtained on usufruct or sight mortgage as to make a profit above and over that mentioned and the movable and immovable property is concealed and hidden and a report is not made within the time-limit , there shall also be imposed a fine equal to the amount in question so concealed or hidden. If a report is made within the time-limit, no punishment shall be imposed even though a profit in excess of that set forth in the usufruct or sight mortgage deed.....4

- Number 33. After a judgment is made holding the confiscation of entire property or recovery of government amount in question, no forfeiture, confiscation, auction sale shall be made until the time-limit for appeal is expired or the appeal judgment is made. After making judgment holding such confiscation or recovery, the property liable to forfeiture or confiscation shall be attached pursuant to Number 30 of this Chapter and the custody of

such property shall be so handed over to a reliable person that such property cannot be misappropriated. Where the property is so attached and no appeal is made until the time-limit for appeal, then after the expiration of the time-limit for appeal and where an appeal is made, and the appeal hearing office also holds that such recovery or confiscation has to be made as adjudged by the lower level court, the attached property shall be auction sold and proceeds of such shall be credited into the record. Where an appeal is made even thereafter and the judgment is reversed, and where it is required to make refund by virtue of confirmation on the reference judgment, the proceeds of the auction sale shall be refunded in cash. If a government amount in question is held payable, it is not required to attach the property if a security or wealth guarantee by a reliable person in consideration for the amount in question so held to be payable is furnished. If a government employee is held liable to payment of a government amount in question or to confiscation of entire property as mentioned, the foregoing provisions shall be applicable in the case of misappropriation of money or due of advance paid directly or confiscation of entire property. It is not required to attach his or her property in the case of any amount in question other than that. Only the remuneration shall be attached or withhold in accordance with the provisions set forth in Number 29 of this Chapter.

- Number 34. If any property subject to forfeiture or confiscation or attachment or withholding is of such goods in-kind as may perish or decay for any reason or cause if it is not auction sold in time,¹⁸⁸ such property shall not be held as it is, and the perishable goods shall be auction sold in accordance with law, and the cash proceeds of sale shall be credited into records, and such cash proceeds shall be as received, given or refunded as may be subsequently held to be received, given or refunded. If it appears that even any other goods subjected to attachment or withholding only may be worn and torn or destroyed due to stain or other reason if they are

¹⁸⁸ Amended by the Seventh Amendment.

held for a long time, the reasonable value of such goods shall be determined, and if the owner of such goods accept to take back them at that value, then the custody of the goods shall be handed over to him or her, upon a deed being executed by him or her. If the owner of goods doe not so accept, the goods may be sold by auction as if they were the perishable goods as mentioned above.¹⁸⁹

- Number 35. If, in executing forfeiture or confiscation, any old book that is worth being held in a government library is found, a submission shall be made to the Government of Nepal for a reply whether such a book has to be held in a government library or not, and a reply is received to the effect that it is so reasonable, and if such book has to be forfeited or confiscated for the recovery of amount, a bid for auction shall be invited and such value of the book as equal to the bid shall be applied against the forfeiture or confiscation, and if it is not required to so apply the value against the forfeiture or confiscation, the book shall be directly given to the government library, and a receipt thereof shall be obtained.
- Number 36. If, in executing forfeiture or confiscation, any such arms and ammunitions as prohibited by the Government of Nepal are found, such goods shall not be sold by auction. There shall be inquired into whether the person in question has obtained pass, if any, so required, an inventory of the goods so found shall be made, and a notice or submission shall be sent or made to the District Administration Office¹⁹⁰ and it shall be done as sanctioned by that Office.
- Number 37. Where a person who is deputed by the office to carry out acts including setting aside the partition share for the purpose of confiscation, forfeiture, attachment to, or making an inventory of, partition share in property for the recovery of any due amount in question, fine and imprisonment as well, or setting aside the same for the purpose of the recovery of amount in question and foreclosure shows up for the same, the member of the

¹⁸⁹ Inserted by Some Nepal Acts Amendment Act, 2048

¹⁹⁰ Inserted by Some Nepal Acts Amendment Act, 2048

concerned Village Development Committee or Municipality,¹⁹¹ *Talukdar* and local gentleperson, as well, shall render all such assistance as required to carry out the acts, by searching, showing and identifying the concerned person and his or house, and property liable to forfeiture, and witness and sign such deeds as required to be executed in relation thereto. One who fails to do so shall be liable to a fine not exceeding One Hundred Rupees. If any persons gets any statement to be recorded stating that a living person is dead or one having a house does not have it or one who has not disappeared is disappearing or one who has property has no property or knowingly gets any false statement to be recorded or executes a false deed of recognizance or makes obstruction in the discharge of any such act, such person shall be liable to punishment with a fine not exceeding One Thousand Rupees or imprisonment for a term not exceeding Fifteen days or with both punishments.

- Number 38. In determining the term of imprisonment in consideration for a fine or government amount, it shall be so determined as follows as not to exceed the maximum term of imprisonment as set forth in law:

In determining the term of imprisonment in consideration for failure to pay a fine where both punishments of fine and imprisonment have been imposed, the term of imprisonment shall not be so determined as to exceed the term of more than Four years. Provided that in determining the term of imprisonment for a minor in consideration for failure to pay a fine, the term of imprisonment shall be so determined as not to exceed half the term of imprisonment that can be imposed on a person having attained majority.....¹⁹²

In determining the term of imprisonment in consideration for failure to pay the fine where punishment of fine only has been imposed for the commission of an offence punishable with either fine or imprisonment or with both, the term of imprisonment shall be so determined as not to

¹⁹¹ Amended by the Court Proceedings Related Some Nepal Acts (Amendment) Act, 2047.

¹⁹² Amended by the Ninth Amendment.

exceed half the maximum term of imprisonment than can be imposed on that offence.....2

In determining the term of imprisonment in consideration for failure to pay the fine where punishment of fine only has been imposed for the commission of an offence punishable with fine only, the term of imprisonment shall be so determined as not to exceed the term of Two years.....3

In determining the term of imprisonment in consideration for the government amount in question not recovered from the forfeiture of property, the term of imprisonment shall not be so determined as to exceed One year for the amount not exceeding One Thousand Rupees, Two years for the amount not exceeding Five Thousand Rupees, Three years for the amount not exceeding Ten Thousand Rupees, and One year for every sum of One Thousand Rupees for the amount exceeding Ten Thousand Rupees. Even if, in so determining the term of imprisonment, the term of imprisonment is more than Ten years, the term of imprisonment shall be so determined as not to exceed Ten years.....4

- Number 39. Where the sentence of fine is imposed pursuant to Number 10 of this Chapter and the judgment has to be imprisonment for the failure to pay the fine, the amounts of all fines shall be set down, and the judgment debtor shall be imprisoned for that fine in consideration for the failure to pay which carries the highest term of imprisonment. If the judgment debtor tenders payment, he or she shall not be allowed to pay money in consideration for the determined term of imprisonment only, and the remaining amount upon deducting the amount against the service of imprisonment from the total amount of fine imposed on him or her shall be collected from him or her.
- Number 40. While determining the term of imprisonment, the term of imprisonment shall be determined in accordance with the following provisions:

In determining the term of imprisonment where the punishment of imprisonment has been imposed, the term of imprisonment shall be so determine as to include the whole of the years, months and days as specified.....1

If, in determining the term of imprisonment for failure to pay money in consideration for a fine, ten percent fee, Five percent fee, fee for compromise and amount in question as well, it is required to determine the term of imprisonment for some years, months and days or years and days or months and days, the term of imprisonment shall be so determined that it consists of the full year or month, and some days that do not make a month shall all be ignored. Provided that if it is required to determine the term of imprisonment only for some days that do not make a month, the term of imprisonment shall be so determined as to consist all the calculated days of imprisonment which the judgment debtor has to serve.....2

Even where it is required to sentence the same person to imprisonment, at a time, or on compound with already determined term of imprisonment, in consideration for any money including a fine, ten percent fee, Five percent fee and fee for compromise in more than one case, that person shall be so sentenced to imprisonment as ignoring such some days as they do not make a month and required to be ignored in relation to each and every case in accordance with the provisions set forth in Section 2 above.....3

After the determination of the term of imprisonment only for such month and year as set by ignoring some days in accordance with the provisions set forth in Sections 2 and 3 above, if the judgment debtor tenders payment of money in consideration for imprisonment where so is allowed, the term of imprisonment already served shall be remitted from the determined term of imprisonment, and money shall be collected in consideration for the remaining term of imprisonment in accordance with

law. Money shall not be collected for such some days as have been so ignored.....4

Number 41.¹⁹³ If the term of imprisonment imposed on the same person is to be determined in relation to several counts in the same case or several cases, the term of imprisonment shall be so determined for the same count or several counts in the same case or several cases as not to exceed the highest term of imprisonment that can be imposed for such count, out of the counts, that carries such highest term of imprisonment. Where, after such determination of the term of imprisonment, it is required to determine the term of imprisonment for another count prior to the completion of the service of imprisonment, and the total term of imprisonment determined earlier is lesser than the term of imprisonment to be determined later for that other count, the term of imprisonment shall be so determined as not to exceed the maximum term of imprisonment determined later for that other count, with the term being counted from the date on which the judgment debtor has been held in detention upon such earlier determination. If the term of imprisonment to be determined later for that other count is lesser than that of imprisonment determined earlier, it is not required to determine the additional term of imprisonment. Its record shall be mentioned in the judgment, prisoner slip and book on determination of term of imprisonment, and even if the term of imprisonment to be determined later is lesser than that of imprisonment determined earlier and the service of imprisonment by the judgment debtor as per the earlier determination is not enough to complete the whole term for the biggest count, the judgment debtor shall be sentenced to imprisonment for the later count only for a term of such remaining days. If the terms of imprisonment for several counts are equal, the term of punishment for any of such counts shall be determined for service. In the case of the other counts, its record shall be mentioned in the judgment, prisoner slip and book on determination of term of imprisonment. If, after the judgment and

¹⁹³ Amended by the Seventh Amendment.

prior to serving imprisonment or while in detention or imprisonment or while being released or absconded from detention or imprisonment, another offense is committed, additional term of imprisonment shall be determined for service for that other offence, in accordance with law.

Number 41A.¹⁹⁴ Notwithstanding anything contained in the other Numbers of this Chapter, if a person sentenced to fine or imprisonment appears in the office at the time of final judgment and agrees to pay the fine or serve the sentence of imprisonment or the judgment debtor such punishment voluntarily appears in the judgment making office or the record maintaining office within sixty days of the date of judgment in order to pay the fine or serve the sentence of punishment, punishment shall be executed by maintaining the record of the sentence that remains upon making twenty percent remission from the punishment of fine and imprisonment imposed on him or her.

Number 41B.¹⁹⁵ If the alteration of the boundaries of rural areas, municipal areas, districts¹⁹⁶ or zones has resulted in a change in the address of the judgment debtor of a fine, imprisonment, amount in question or any government amount as per the judgment, the office shall update the records, by making correction therein accordingly. Even the Government of Nepal or the body making alteration in boundaries shall publish in the Nepal Gazette a notice of such alteration in the boundaries of the concerned rural areas, municipal areas, districts¹⁹⁷ or zones.

Number 42. In the case of the recovery of amount in question, no such recovery shall be executed until an application is made by the person entitled to such recovery. If an application for forfeiture, accompanied by a copy of judgment issued duly, is made for the recovery, within the following time-limit, such recovery shall be effected in accordance with the following. No

¹⁹⁴ Inserted by the Ninth Amendment.

¹⁹⁵ Inserted by the Ninth Amendment.

¹⁹⁶ Amended by the Court Proceedings Related Some Nepal Acts (Amendment) Act, 2047.

¹⁹⁷ Amended by the Court Proceedings Related Some Nepal Acts (Amendment) Act, 2047.

application shall be entertained after the expiration of that time-limit, and no recovery of the amount due upon the judgment shall be effected if the date fixed by the office for making presence is expired despite that application has been made within the time-limit.

Application shall be made within Three years after the date of final judgment awarding the recovery of amount in question.¹⁹⁸ If the judgment holder tenders an application within the mentioned time-limit, the application shall be received, with statements, *inter alia*, he or she shall keep on making presence on the date fixed by the office pending the completion of the recovery of amount in question, show the property to be attached or forfeited, and that it shall be dealt with in accordance with law if he or she expires the date fixed for making presence, and the applicant shall be kept on recognizance; and a process or notice shall be issued to the judgment debtor within Seven days of the date of application, ordering the judgment debtor to tender payment of such amount in question and Five percent amount, if any, as payable by and recoverable from him or her not later than Thirty Five days of the date of receipt or affixation of the process or notice, and stating that in the event of failure of the judgment debtor, forfeiture or attachment shall be made in accordance with law; and if the judgment debtor fails to tender the amount in question, Five percent fee within the said time-limit, the recovery shall be effected by making forfeiture or attachment in accordance with law.....1

If the amount in question cannot be recovered in full from the forfeiture made pursuant to Section 1 above, the judgment debtor shall, within seven days after the recovery from the previous forfeiture, make an application, also accompanied by the ration costs equal to that which prisoners, detainees are entitled to, for consumption during imprisonment, to imprison the judgment debtor in consideration for the non-recovered

¹⁹⁸ Amended by the Seventh Amendment and the Ninth Amendment.

amount in question if such imprisonment is allowed pursuant to Number 19 of the Chapter on General Transactions, Number 10 of the Chapter on Insolvency, Number 10 of the Chapter on Defaulter of Dues, Number 10 of the Chapter on Theft and Number 9 of the Chapter on Arson. If such application is made, the chief of office shall execute a memorandum to that effect and sentence the judgment debtor to imprisonment. Only where the judgment debtor is not so sentenced to imprisonment or only where concealment of property subject to forfeiture or attachment previously has been made in the case where the judgment debtor cannot be so sentenced to imprisonment, application shall be made, within Two years after the previous recovery, upon finding out the movable and immovable property concealed. If the judgment debtor makes an application setting out the inventory of the concealed movable and immovable property, within the said time-limit, the recovery of amount in question shall be made to the judgment holder, by auction selling the property so found out, by fulfilling the requirements of law. If the amount of question as recoverable cannot be recovered in full even after the action as mentioned, the judgment holder shall not be entitled to make claim, attachment and forfeiture in duplication against the judgment debtor for the remaining amount. Any deed whatsoever, including a bond and account book in relation thereto shall be obliterated and voided.....2

Where recovery of amount in question is made by the office without undergoing the procedure of forfeiture or such recovery of amount by undergoing such forfeiture is made, the ten percent fee and Five percent fee shall be realized at the same in accordance with law.....3

Where the judgment debtor is residing in another jurisdiction and recovery has to be made by serving a process through another office, action shall be taken within fifteen days after the days required for journey, in presence of the owner (judgment holder) if he or she makes presence to show property

to be forfeited or attached, and failing the presence of the owner, by the office itself.....4

Where the applicant judgment holder expires the date fixed by the office for making presence, action shall be taken pursuant to Number 48 of this Chapter and the record of amount in question shall also be obliterated.....5

Number 43.¹⁹⁹ If, after the judgment and expiration of the time-limit for making appeal, the judgment holder is prevented by the judgment debtor from foreclosing any property or goods under the judgment, except the amount in question recoverable by way of attachment or forfeiture of property:

An application for foreclosure has to be made to the office authorized to make foreclosure, not later than Two years after the date of final judgment. However, after the expiration of the said time-limit of Two years, application may be made again within One year after the date of expiration of the first time-limit of Two years only when the fee that is half the fee chargeable by law and the judgment in relation to the property subject to foreclosure. After the time-limit, no application may be made and the office is not also required to execute the judgment for foreclosure.....1

If the judgment holder, after the final judgment holding the holder entitled to the property in question, makes an application for effecting foreclosure in the property within Two years after the date of judgment, the office shall effect the foreclosure. It is not required to make a separate suit for foreclosure. In so effecting the foreclosure, the office shall serve a notice on the applicant judgment holder to furnish such court fee as payable by law, fee that is Two and half percent of the amount in question, the fee that is Two and half percent of the amount in question that has been set according to the reasonable value where the amount in question has not been set out not later than Thirty Five days after the date of receipt of the

¹⁹⁹ Amended by the Seventh Amendment.

notice. If the time-limit of Two years or Thirty Five days has expired, and application is made within One year after the date of expiration of that time-limit, accompanied thereby the fee that is One and half of the said fee, the foreclosure shall be effected. The office is not required to effect foreclosure after the expiry of the said time-limit²⁰⁰.....1a.

After an application is made pursuant to sub-section 1 and 1a.,²⁰¹ the office shall give a receipt thereof and fix the date for making presence by the applicant and issue a process or notice within seven days, and the office itself shall effect the foreclosure of the property if it is situated within its jurisdiction and through another office if it is situated within the jurisdiction of that other office by sending a required to that office in that jurisdiction, no later than Three months.....2

In effecting foreclosure, it shall be effected in presence of a member or representative of the concerned Village Development Committee or Municipality,²⁰² the plaintiff, defendant or their representative, if any available, a representative of the Local Body and local gentlepersons, as well,²⁰³ and the foreclosure evidence or proof shall also be given. If the judgment debtor or any other person makes hindrance or obstruction in effecting foreclosure, the foreclosure shall be effected by using necessary force, with the assistance of the Village Development Committee or Municipality,²⁰⁴ and police as well, if so required, and the one who makes such hindrance or obstruction shall be arrested and produced before the office. The person making such hindrance or obstruction shall be liable to punishment of a fine not exceeding One Thousand Rupees or imprisonment for a term not exceeding Fifteen days.....3

²⁰⁰ Inserted by the Ninth Amendment.

²⁰¹ Inserted by the Ninth Amendment.

²⁰² Amended by the Court Proceedings Related Some Nepal Acts (Amendment) Act, 2047.

²⁰³ Amended by Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

²⁰⁴ Amended by the Court Proceedings Related Some Nepal Acts (Amendment) Act, 2047.

If the house or shop containing the property to be foreclosed is locked up and the judgment debtor is present, the foreclosure shall be effected by asking the judgment debtor to open the house or shop. If the judgment debtor is not present, the process or notice shall on the same day be affixed to the door of the house or shop to be foreclosed, and such process or notice shall state that the judgment debtor shall vacate the house and shop within fifteen days, and then on any day thereafter, the employee of the office shall visit the sit, break the lock and effect foreclose by way of forfeiting, taking possession of, and auction selling the property, and forfeiture shall be effected accordingly. If the property is taken into possession and auction sold, the remaining proceeds or sum shall be refunded, by deducting therefrom ten percent amount if the judgment debtor shows up within One year after the date thereof, and upon the expiration of the said time-limit, it is no required to refund, and it shall be credited into revenue.....4

Where foreclosure is effected once but the judgment debtor makes hindrance and does not allow the judgment holder to own and posses the property, the judgment debtor shall be punished with a fine of up to One Thousand Rupees or imprisonment for a term not exceeding One month for each instance, and the foreclosure shall again be effected in relation to the property previously foreclosed in accordance with the judgment. The judgment holder is not required to make a suit again for the foreclosure accordingly. The foreclosure shall be effected upon the application itself, and no fee shall be payable for effecting foreclosure in such a case²⁰⁵.....5

If, in a case containing a partial claim over a house or land, the direction or side of such house or land is not set out, the office may, in respect of

²⁰⁵ Amended by the Ninth Amendment.

such a claim, set aside it in presence of the parties, by taking into account of advantageous and disadvantages positions²⁰⁶6

Number 44. Where a suit is filed to effect registration, transfer or transmission owing to the failure to make such registration, transfer or transmission within the time-limit, and judgment is made holding the judgment debtor liable to effect such registration, transfer or transmission, the judgment making office shall send a notice to the office making registration or transmission in accordance with the judgment to effect such registration or transmission after the expiry of the time-limit for making appeal, and maintain records as if it were the record of the judgment debtor; and the judgment holder shall make an application to the office executing judgment decree for the execution of the action under the judgment, not later than six months after the date of disposal of appeal by appeal judgment where appeal has been made and after the date on which complaint cannot be entertained upon the expiration of the time-limit for making appeal has expired where appeal has not been made. If an application is made within the time-limit mentioned above, the office making judgment decree shall hold the applicant on recognizance and examine and inquire whether the situation has occurred barring the appeal against the judgment or not, and where the situation has occurred barring the appeal against the judgment, the office making judgment decree shall, no later than fifteen days after the date of application, send a slip to the office making registration pass or transmission to effect registration pass or transmission pursuant to the judgment, since there has occurred the situation barring the appeal against the judgment and also give a slip to the applicant, stating that a slip has already been sent on such-and-such date to such-and-such office for the execution of judgment, so the applicant is thereby required to make presence in that office not later than Thirty Five days of that day and request for the same, and a receipt of acknowledgment by the applicant of

²⁰⁶ Inserted by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

the slip shall also be taken and retained in the record. In the event of failure to make an application within the time-limit, a registration order slip shall not be issued. If, in the case of a transfer and transmission, an application is made after the expiration of that time-limit or presence is made pursuant to the slip, the transfer or transmission shall be effected as mentioned, by imposing a fine of One part of the Four parts of the revenue for each year. In so imposing the fine, the amount of fine shall not exceed the amount of the revenue irrespective of the number of years.

- Number 45. Where a judgment is passed allowing preemption by making payment of the price deposited to the creditor and the situation has occurred barring the appeal against the judgment, the judgment debtor shall discontinue the ownership and possession of the house and land and make presence in the office where deposit of price is made in order to take payment of the price deposited, not later than Three years after the appeal barring date. The judgment debtor shall not continue possession without paving the way for preemption, stating that he or she has not received the price deposited. The judgment holder entitled to preemption shall be entitled to use it. If the judgment debtor makes presence within the office where deposit of price is made in order to receive the price deposited, the office shall cause the payment of the deposited price in accordance with the following procedures. If the judgment debtor fails to make presence to receive the price within the time-limit, he or she shall not be entitled to the same after the expiration of the time-limit.

If the creditor makes presence within Three years or the time-limit for making appeal to receive the deposited price and pave the way for preemption, the procedures set forth in Number 5 of the Chapter on General Transactions shall be followed in the case of preemption of an immovable property, and an endorsement shall be made on the deed, if any produced, and where the deed has not been produced for any reason, a receipt signed by him or her shall be taken from him or her, which shall state that since he or she has not been able to produce the deed for such-

and-such reason, he or she has given the receipt by taking payment of the price and that as and when he or she finds the deed, he or she shall surrender it to the judgment holder, and the price that remains after deducting the money payable under the judgment and law from it shall be provided; and if the judgment holder is present in the office, the voided receipt and the documents surrendered along with the deed shall be handed to him or her, and where the judgment holder is not present in the office, the office shall retain the voided receipt and the documents accompanied with the deed and post a notice or process in the name of the judgment holder thereby ordering him or her to make presence to receive the deed endorsed by the creditor upon taking payment of the price and the documents produced along with the deed, and hand over the same whenever he or she is so present to receive them.....1

Where a judgment is made allowing the preemption of a movable property and the judgment holder is also present at the time when the judgment debtor (creditor receiving the deposited price) is present to receive the price within the time-limit for the receipt of payment of the deposited price, an endorsement shall be made on the reverse side of the deed or a receipt taken pursuant to Number 5 of the Chapter on General Transactions, and the endorsement or receipt and the property to be preempted shall also be handed over, and the deposited price shall be provided to the creditor upon deducting therefrom the money as payable pursuant to the judgment and law; and if the judgment holder is not present, then the date shall be fixed for the creditor receiving the price to make presence, thereby stating that as a process or notice is being issued to the preemptor debtor to make presence to receive the property subject to preemption within Thirty Five days after the time required for journey, the creditor is thus required to make presence along with the property to be preempted on the date fixed for making presence, and a notice or process in the name of the preemptor debtor shall also be posted, stating that since

the creditor has made presence to receive the deposited price, the preemptor debtor is therefore required to make presence to examine and receive the property to be preempted within Thirty Five days excluding the time required for journey and that he or she shall be liable to a fine in the event of failure to make presence within the time-limit; and if the preemptor debtor is present within the time-limit, the property subject to preemption shall be handed over to him or her by voiding the deed and executing the receipt pursuant to the provisions set forth in Section 1 above, and the price to be provided to the creditor shall be provided to him or her in accordance with the provisions set forth in section 1 above.....2

In the event of failure to make presence within the time-limit for the receipt of property, a process shall be issued to arrest and produce the preemptor within fifteen days after the date of expiration of the time-limit, there shall be imposed on and collected from him or her the fine pursuant to section 4 below for reluctance to receive the property within the time-limit, and the deposited price shall be handed over to the creditor in accordance with the provisions set forth in Section 1 above.....3

If the judgment holder makes an application for preemption at a time within the time-limit of Three years to receive the price prior to making presence by the creditor to receive the deposited price, he or she shall be held on recognizance pending the completion of preemption proceeding, and there shall be posted a notice or process in the name of the creditor, stating, inter alia, that as the preemptor has made such and such application, the creditor is therefore required to make presence, along with the deed and documents and the movable property, if any, to be preempted in order to receive the deposited price, within Thirty Five days excluding the time required for journey; and if the creditor makes presence, the matter shall be dealt with as mentioned above, and in the event of failure to make presence, a process shall be issued to arrest and produce the

creditor within fifteen days after the date of expiration of the time-limit, there shall be imposed on and collected from him or her the fine of a sum by ten percent of the deposited price for reluctance to obey the order of the office to make presence and receive the price within the time-limit, and the deposited price shall be handed over to the creditor in accordance with the provisions set forth in the various sections above, and the property to be preempted and the documents, as well, shall also be handed to the preemptor.....4

In the case of preemption of a movable property, if even after the issuance of a notice or process to arrest the creditor because of his or her failure to make presence within the time-limit, the credited cannot be arrested or produced within Thirty Five days after the expiration of the time-limit or if the arrested creditor is able neither to produce the movable property to be preempted nor to furnish a reasonable reason for the failure to produce it even upon holding him or her in detention for fifteen days, an inventory of the property belonging to the creditor shall be made and if the property to be preempted is found, the property shall be provided and the deposited price shall be handed over. If the movable property to be preempted is not found, the deposited price shall be applied against the price (amount in question) of the property to be preempted, and in consideration for the shortfall amount, the proceeds of the auction sale of the property forfeited and the deposited price shall also be provided to the preemptor debtor; and if the preemptor debtor makes and application for imprisoning the defaulter creditor in consideration for the remaining or shortfall amount, in accordance with Number 19 of the Chapter on General Transactions, there shall be imposed a fine on the creditor failing to produce the property within the time limit, in accordance with the provisions set forth in section 4 above, and the creditor detained shall be released in accordance with law.....5

- Number 46. If judgment is made for partition by setting aside partition shares by the office itself, partition shall be effected in accordance with the following,

while making partition by setting aside partition shares under the judgment:

No partition shall be effected in the absence of an application by the partition receiver or the partition giver irrespective of the value of property subject to partition. An application has to be made to the office setting aside partition shares not later than Two years after the date of final judgment awarding for partition. After the expiration of the time-limit of Two years, an application may be made again within One year after the date of expiration of the first time-limit of Two years only upon payment of half the Ten percent fee payable under the judgment. If an application is made within the specified time-limit, partition shall be effected in accordance with the judgment. After the expiration of that time-limit, no application shall be taken nor shall partition be effected by the office

If at the time of making application, the partition giving or the partition receiving person is residing elsewhere than the place set forth in the plaint or the statement of defense and makes an application, accompanied also by a copy of the judgment awarding the partition share to be given or received pursuant to Number 42 of this Chapter, stating that he or she is residing at such-and-such place at the moment, shall keep on making presence of the dates fixed for such presence until completion of the partition proceeding, then the application shall be registered if it is made within the time-limit and the limitation for appeal has already expired, and there shall be endorsed on the top of the copy of the judgment that the application has been made on such-such-date, with such endorsement being signed by the chief of office and bearing the seal of office, and be returned to the applicant, and partition shall be effected by summoning the presence of both the partition giver and receiver and setting aside partition shares in accordance with the judgment.....

Where judgment is made setting aside partition shares for more than One person and some but not all of them have made application within the time-limit, in the case of those who have not expired the time-limit for application, there shall be affixed a process or notice stating that application has been made by such-and-such person, if they make application within Fifteen days if the time-limit for making application is remaining more than fifteen days, excluding the time required for journey, and, within the remaining time-limit, in the case of those whose time-limit remains less than that, then the partition shall be effected by setting aside partition shares at the same that in presence of all including them, and if they fail to make presence, their complaint that partition shares have been set aside in their absence and that injustice has been done to them or disparity has occurred in partition shall not be entertained; and if they make presence and application with the time-limit prior to effecting partition and their application shall be received; if all of those making application within the time-limit do not make presence at the same time, partition shall be effected by setting aside the partition shares also for those who are absent. The partition shares shall be set aside, pursuant to the judgment, only for those who make application within the time-limit. One who fails to make presence within the time-limit shall not be entitled to make a complaint claiming that partition shares have been set aside in his or her absence, that injustice has been done to them or that disparity has occurred in partition.....3

If, prior to an application by the partition receiver, an application is made by the partition giver within the time-limit for the partition receive to make application, stating that he or she shall give all such partition shares as set forth in the inventory and to be given pursuant to the judgment and that he or she should therefore be released from the case, and if the limitation for making appeal has already expired and the partition receiver is not found, then the presence of the partition receiver shall be summoned by posting a process or notice in accordance with sub-section 2 of section

8 below and the partition giver shall be released by provision partition shares pursuant to the judgment and law. If the application does not state that he or she shall give all that is required to be given, it shall not be entertained. It shall be returned with an endorsement on it that it shall be in accordance with law at the time of application by the partition receiver.....4

If an application is made by the partition giver or the partition receiver, and it appears necessary to hold the partition giver, receiver and the person taking custody of the property set forth in the inventory on recognizance as far as possible for setting aside partition shares in the course of execution of the judgment, the action shall be served by setting aside partition shares, upon holding the coparceners who are present and found on recognizance or under requirement to make presence on the fixed date until the partition is completed. Where an application has been made by the partition receiver prior to the completion of the setting aside of such partition shares as required to be set aside, and the date fixed for making presence has been expired either by both the partition receiver and the partition giver or by the partition receiver, and where an application has been made by the partition giver, and the date fixed for making presence has been expired by both the partition receiver and the partition giver before the presence of the partition receiver or after the presence of the partition receiver, and if they fail to extend the time within the time-limit set forth in law, then it is not required to set aside the partition shares of the remaining property to be partitioned after the expiration of the time-limit for the expansion of the time-limit. The action shall be dismissed, for contents to be records, and the record shall be obliterated.....5

If an application is made by the partition receiver and by the partition giver, action as required shall be initiated within Three days of the registration of application for the setting aside of partition shares, and if the partition giver or the partition giver is not found, proceedings as referred to in section 8 below shall be taken, and where it is required to

summon the presence of those who are absent, action shall be served or completed as soon as possible but not later than Three months, pursuant to Number 42 of this Chapter, after the date of presence or the date of expiration of the date or time-limit for making presence and after the date of application if found, excluding the time-limit allowed for making a leave.....6

If an application is made on the setting aside and receiving and giving of partition shares, the office shall, within Three days of the registration of the application, depute an employee, to be accompanied by the person making application pursuant to section 1 above, and a notice or process, as referred to in Section 8 below, summoning the presence of the custodians of the property to be partitioned if the partition giver or the partition receiver is not found or the informed family member attorney living jointly with the partition giver does not show up to show and set aside partition shares shall be written down, sealed and then given to the employee to serve or post to that effect, and where it has to be sent to the jurisdiction of another office, the date shall be fixed for making presence by the applicant, and a request shall be sent to that office in such jurisdiction to perform the proceeding within such time-limit as may be reasonable, and that other office shall also carry out any such act as may be required to perform the proceeding within the time-limit in accordance with law and sent a notice thereof to the former office.....7

While dispatching an employee or making a visit by the employee in order to effect partition pursuant to the judgment, the coparcener giving partition share pursuant to the judgment or the coparcener taking custody of the property as set forth in the inventory or if such coparcener is not found, the informed member living with him or her in common family shall show and produce such property as set forth in the inventory and as to be partitioned and set aside the same in accordance with law and the judgment. If the coparcener who is obliged to give partition share and

takes custody of the property is not found and even the members living with him or her in common facility do not show all properties as set forth in the inventory, the following notice or process shall be affixed for the partition giving and the partition receiving coparceners, and if the coparcener fails to make presence within the time-limit of the notice or process to show and set aside partition shares or does not send any one for that purpose or despite presence, he or she is reluctant to show the properties to be partitioned, then the properties locked in any house or premise shall be opened also in presence of the persons as set forth in Number 30 of this Chapter, and the properties as set forth in the inventory shall be partitioned by the office itself.....8

If it is required to summon the presence of the coparcener bound to set aside partition shares or the coparcener taking custody of the properties set forth in the inventory, there shall be posted or affixed a process or notice in the name of the coparceners in custody of properties to be partitioned, and such process or notice shall state such matters as may be required, including that whereas such-and-such person, a resident of such-and-such person, has made an application on such-and-such date, for the separation and provision of partition share from you in accordance with the judgment, whereas, upon making inquiring into the matter, it appears that the limitation for making appeal has already expired, and whereas, upon sending a commission by this office to set aside partition shares, he or she has not been found nor has any of his or her informed members living with him or her in common family showed up to show and set aside such properties as set forth in the inventory and as to be partitioned, now therefore the process or notice has been affixed to his or her house door, and he or she is thereby required to make presence in person in that office or send an attorney if he or she is not able to make presence in person within fifteen days excluding the time required for journey, in order to show all such properties in his or her custody as set forth in the inventory and as to be partitioned, and set aside and give partition shares

accordingly, and that upon his or her failure to make presence in person or to send an attorney, the office itself shall make attachment to the properties in his or her house in accordance with law, set aside such partition shares as may be shown in the inventory and partition deed, that if the attached property is sufficient, the custody of his or her property shall be handed over to his or her heir or reasonable person, and that if the attached property is not sufficient, the shortfall shall be deducted and recovered from his or her partition share, and even upon such deduction and recovery, the shortfall cannot be recovered, then he or she shall be liable to punishment for failing to produce properties in entirety, and the coparcener shall be entitled to get recovery of the shortfall partition share from him or her; in the case of Five percent fee, if chargeable, the fee shall be recovered by auction selling his or her property to the extent recoverable from his or her partition share, and if the fee is not so recoverable from such attachment, it shall be recovered in accordance with law, and subsequently his or her complaint shall not be entertained; and that even if, prior to the completion of partition proceeding, he or she makes presence after the expiration of the time-limit, partition shares shall be set aside also in his or her presence.....1

If, prior to making an application by the partition giving coparcener, an application is made by the partition receiving coparcener, and the partition receiving coparcener is not found and is required to be summoned to make presence, then there shall be posted or affixed a process or notice in the name of that coparcener, and such process or notice shall state such matters as may be required, including that whereas such-and-such person, a resident of such-and-such person, has made an application stating that he or she would provide all such partition share as required to be provided pursuant to the judgment and deed of partition and that he or she should be released from the case, and whereas, he or she has not been found, now, therefore, the process or notice has been affixed or posted, and he or she is thereby required to make presence or send an attorney, along with the

deed of consent, within fifteen days if the time-limit for making application is remaining more than fifteen days, excluding the time required for journey, and, within the remaining time-limit, in the case where the time-limit remains less than that, in order to receive his or her partition share, and that upon his or her failure to make presence in person or to send an attorney, the office shall set aside his or her property in accordance with the judgment and deed of partition and hand over the custody of such property to a reasonable person, and subsequently his or her complaint shall not be entertained2

If the coparcener bound to give partition share fails to make presence within the time-limit or the date fixed for making presence and the litigant or any of his or her informed members living with him or her in common family or his or her attorney makes presence after the expiration of the time-limit but prior to the completion of partition proceeding in accordance with the judgment, all proceedings whatever required to be performed shall be performed also in presence of them in accordance with the law and judgment.....9

If the partition giving coparcener is not present in person nor does he or she send an attorney within the time-limit posted for the provision of partition share in accordance with the judgment, action shall be taken, or cause to be taken, for the execution of the judgment within Three days after the expiration of the said time-limit.....10

If the properties shown by the litigant bound to give partition share who is found in the course of executing the judgment for partition or is present within the time-limit of the notice or process affixed or posted or despite that such litigant is neither found nor presence, by his or her heir attorney or attached by the office in the event of their failure to make presence are found in entirety as set forth in the partition deed, then partition shares shall be set aside pursuant to the judgment and partition deed, and the Ten percent fee and Five percent fee and other chargeable fee shall be

collected in relation to the partition shares so set aside, in accordance with the law and judgment.....11

Where, in order for setting aside partition shares upon taking property from the partition giving coparcener to execute the judgment, it is required to draw out properties and foreclose the same by opening the closure, and the coparcener bound to do it or informed member living with him or her in common family does not show and set aside, and draw out and vacate the properties to be partitioned despite presence or fails to make presence, and such action has to be taken by the office itself, then the office shall open the closure, attach the properties and do whatever required by the law and judgment in presence of them if they are so present, and, if they are absent, in witness of the persons as set forth in Number 30 of this Chapter.....12

If the coparcener in custody of property to be partitioned, irrespective of while setting aside partition shares upon making presence or while setting aside partition shares upon his or her failure or reluctance to make presence within the time-limit to show and set aside the properties to be partitioned, does not show all property as set forth in the inventory and deed of partition but shows only some property or does not show any property at all or no property is found or if the property shown or found is not the same as mentioned in the inventory and deed of partition but is different or in alteration, and the shortfall property is not produced by the coparcener in custody of property to be partitioned, then the amount of property as required for the partition share of the coparcener receiving partition share shall be set in view of the movable and immovable properties as set forth in the inventory and deed of partition as far as possible and that amount shall be recovered from the partition share of the coparcener in custody of property to be partitioned. If it is not sufficient even upon such recovery and if there appears such other movable and immovable property belonging to the coparcener who does not produce other property than set forth in the inventory, such property shall be

applied in substitution for the shortfall amount; and if the shortfall is not so recoverable, the amount of such movable property as required for such recovery and as set forth in the inventory and deed of partition shall be set as per its value therein set forth and the reasonable value of the movable and immovable properties not set forth in the inventory and deed of partition shall be set and recovery shall be made therefrom. Where recovery cannot be made even therefrom, there shall be imposed a fine set forth in Section 16 below for failure to produce all such property in own custody as required to be produced or failure to produce the same in entirety.....13

If the coparcener entitled to partition share does not show up to receive the partition share of the coparcener in custody of property to be partitioned that has remained in the course of setting aside partition shares by the office itself for the reason that the partition share giving coparcener has not been present or found for setting aside the partition shares and such partition share of the coparcener receiving partition share as set aside upon an application made by the coparcener giving partition share for providing partition shares and then being released from the case, prior to making application by the coparcener receiving partition share, and neither such entitled coparceners nor their informed members living in common family do appear to receive the partition shares so remaining, and such shares consist of perishable goods or properties, then such goods or properties shall be auction sold and in the event of the ten percent fee and Five percent fee being chargeable, such movable and immovable property as is sufficient to cover such fees shall be auction sold in accordance with law, and the ten percent fee and Five percent fee shall be deducted and recovered from the proceeds of sale, there shall be made an inventory of the remaining cash and other remaining movable and immovable property, and the custody of the property and One copy of the inventory shall be so handed over to the heir to the receiver or a reasonable person that they shall be handed over to the receiver as and when he or she shows up to

receive the same, and there shall be posted a process or notice on the house of the receiver, stating that since he or she has not showed up to receive the property, the custody of the property has been handed over to such-and-such person, and he or she is thereby required to receive the same in accordance with the inventory, and subsequently he or she shall not be entitled to make a complaint.....14

The coparceners shall receive the partition shares as set aside by the office in accordance with law. No coparcener shall make reluctance to receive the set aside share stating that he or she is not satisfied with it. If he or she is not so satisfied, he or she shall set down in the receipt the matters which he or she is not satisfied with and that he or she shall make a complaint for justice on such-and-such matters, and then receive the partition share set aside by the office, and he or she shall then make a complaint on such matters and pray for justice, within the time-limit set forth in law. The coparcener failing to receive the partition share shall be fined with five percent of the amount of movable property in question and One percent of the amount of immovable property in question, and the partition shall then be handed over to him or her. If the coparcener refuses to receive the partition share even upon imposition of the fine on him or her, its custody shall be so handed over pursuant to Section 14 above that it will be handed over as and when the coparcener shows up to receive the same.....15

Except in cases where the coparcener who takes the custody of movable and immovable property to be partitioned furnishes evidence to prove loss and damage, due to a natural calamity, to the movable and immovable property to be given by him or her as per the inventory, if such coparcener does not show all properties and then set aside partition shares and the partition share of a coparcener is not fully covered even from the movable and immovable property not shown, then such responsible coparcener who is present shall be held in custody and asked to produce the property. If such a coparcener fails to produce the same even after holding him or her in custody for up to Fifteen days, he or she shall be held to have

committed dishonesty. There shall be imposed a fine of ten percent of the shortfall amount in question on the coparcener who is present as well as one who is not present for the failure to produce all properties as set forth in the inventory executed by him or her, and such coparcener shall be sentenced to imprisonment for that fine.....¹⁶

If the coparcener receiving partition share or the heir to him or her in the event of his or her death searches and finds out such movable and immovable property that is shortfall in his or her partition share in executing partition for the reason the such property has been concealed, and makes a complaint within two years from the date of setting aside of partition shares, and upon inquiring into the matter, it is held that such property has been concealed and the recovery of such shortfall is yet to be made, there shall be imposed a fine of Five percent of the concealed amount in question on the coparcener who has not produced the property as set forth in the inventory for such concealment and a fine of Five percent on the person who has concealed the property despite the knowledge that it has been tendered for concealment, and the property shall be provided to the coparcener who has found out the concealment, by collecting from him or her the Ten percent fee.....¹⁷

If, in a case where final judgment has been made thereby holding the plaintiff to be entitled to partition, the other defendant coparceners also make an application to have their partition shares set aside, then their partition shares shall be set aside from the property as held by the judgment to be partitioned by collecting such court fees as may be chargeable by law²⁰⁷¹⁸

- Number 47. If a judgment debtor or a judgment holder intends to appoint an attorney to carry out acts for the execution of the judgment or for having the execution of the judgment, he or she may appoint as an attorney any person who is capable of being attorney pursuant to law. No bail or

²⁰⁷ Inserted by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

security is required to be furnished for appointing such an attorney. If the judgment holder who is entitled to receive payment or have a property set aside does not make in person to receive the same and intends to give a deed of consent to be written and signed by him or her in accordance to anyone to receive the same, he or she may execute such deed, stating that he or she has consented to such-and-such person to receive payment and that payment be sent through such person. Any amount or property liable to be provided shall be handed over to the holder of such deed of consent, by issuing a receipt of the same and taking the deed of consent and collecting the Ten percent fee and Five percent fee from the holder of deed of consent. In the case of foreclosure, the foreclosure may be executed through the attorney even in the absence of the deed of consent. If anything is handed over to the holder of deed of consent as mentioned above, no complaint shall lie on the matter subsequently. In sending an attorney, the person making appointment of attorney shall execute a power of attorney, meeting the requirements as set forth in Section 3 of Number 65 of the Chapter on Court Proceedings,²⁰⁸ and such power of attorney shall state that he or she has appointed such-and-such person, who is competent to be an attorney in accordance with law, as his or her attorney, on his or her behalf, that he or she agrees to any action taken by the attorney, that at the time of execution of the judgment on the case, he or she shall make presence in person to receive the property or execute a deed of consent and send any one to receive the same or that he or she shall show, make payment and set aside any amount, property or thing as so required through his or her attorney, that he or she himself or herself shall bear and pay the Ten percent fee, Five percent fee and any penalty imposed on him or her in the course of the execution of the judgment, and that he or she shall not make any complaint against anything paid or handed over to the holder of deed of consent, and the person to be appointed as attorney shall, on the same day on which the power of

²⁰⁸ Inserted by the Seventh Amendment.

attorney is submitted, execute a deed expressing his or her consent to being appointed by such-and-such person as his or her attorney, he or she shall make presence on the dates fixed for making presence and do whatever acts are required, and such deed shall meet the requirements as set forth in section 3 of Number 65 of the Chapter on Court Proceedings,²⁰⁹ and execution shall be served by doing any acts whatever required under the law and judgment by causing such deeds as required to be executed by the litigant to be executed by the attorney.

Number 48.²¹⁰ Even if a person, who has made an application to have done any such act as may be required to be done by the office pursuant to the judgment and remained on recognizance, expires the date fixed for making presence, proceeding shall not be dismissed. One who applies for the execution of the judgment may make acceptance or get extension pursuant to Numbers 59, 62 or 175 of the Court Proceedings, as the case may be. If, even after the time-limit for such extension or acceptance has expired, the concerned person makes an application meeting the requirements for the institution of proceeding, within six months after the date of expiration of that time-limit, action shall be taken by recovering the fee payable by law and a fine of ten percent thereof. If the person fails to make an application even within the said time-limit, the original application by such person shall be closed.

Number 49. Where a period of repayment, provision of a document or allocation of debtors has been set or made by the office, the Ten percent fee and Five percent fee shall not be charged. Except in a case as referred to in Number 48 of this Chapter, no claim shall be made on the Ten percent fee and Five percent fee prior to the recovery of amount in question. Only after such recovery of amount is made, the ten percent fee shall be recovered from the person getting such recovery onto the extent of the amount of such recovery, and where a fine has not been imposed, the Five percent fee

²⁰⁹ Inserted by the Seventh Amendment..

²¹⁰ Amended by the Ninth Amendment.

shall be recovered from such person on such amount recovered as on which the fine has not been imposed.

- Number 50. If any person makes a report that any one has stolen, concealed, misappropriated and used any movable, immovable property of the Government of Nepal or has caused the commission of such act and establishes the confession of commission of such offence, the informer who so establishes confession shall, except as otherwise provided, be provided with a commission at the rate of Twenty Five percent of the amount recovered other than that is recoverable along with the yearly amount and that of Ten percent in relation to the amount other than set forth, except where a land or *Talukdari* is to be provided. Such commission need not be provided where the informer is entitled to a land or *Taluki* in consideration for the same.
- Number 51.²¹¹ If the person so entitled does not show up to get refund of such penalty, deposit or security, property attached, any property or cash proceeds of the auction sale of such property as he or she is entitled to by the judgment within One year after knowing that the judgment has become final, such person shall not be entitled to get such refund. In the case of a deposit or security, it shall be credited to the government revenue.
- Number 52. If an application is made for the provision and recovery of any such amount in question that is recoverable by the judgment, a claim that such amount has been paid in household shall not lie. The recovery of such amount has to be effected by the office in accordance with law.
- Number 53.²¹² In determining the term of imprisonment in consideration for any government amount including a government amount in question and fine, the term of imprisonment shall be determined at the rate of Twenty Five Rupees for One day.

²¹¹ Inserted by the Ninth Amendment.

²¹² Inserted by the Ninth Amendment.

Number 53A.²¹³ Notwithstanding anything contained in Number 53 of this Chapter, where discretionary powers if given by law to specify more or less punishment in view of the circumstances, and where punishment of fine is imposed by a judgment, the judgment itself shall specify the term of imprisonment to be served in consideration for failure to pay the fine. Provided that in so specifying the term of imprisonment, it shall not be so specified as to exceed the period to be set by converting the money into imprisonment pursuant to Number 53 of this Chapter or the term of imprisonment than can be imposed pursuant to Number 38 of this Chapter.

Number 53B.²¹⁴ Transportation expenses incurred in arresting and producing a person of which term of imprisonment has been determined and recorded for service by him or her and ration allowance as provided by the prevailing law shall also be provided to him or her.

Number 54. Where it is allowed by law to imprison a person in consideration to the remaining amount in question not recovered and such person is so held in imprisonment, then such person cannot be released from imprisonment in the meantime without repayment of the remaining money in full, prior to the completion of the service of imprisonment, without consent of the creditor. If that person promises to repay the remaining amount in full, then the money in consideration for the term of imprisonment already served shall be remitted in accordance with law, and the due amount shall be caused to be paid and recovered to the creditor²¹⁵..... If, after getting such person to be imprisoned, the creditor promises that he or she shall not then claim repayment of amount from him or her and that such person be therefore released from imprisonment, then the person held in imprisonment shall be released by causing a deed of consent to be executed by the creditor. The creditor shall not then be entitled to claim

²¹³ Inserted by the Ninth Amendment.

²¹⁴ Inserted by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

²¹⁵ Deleted by the Ninth Amendment.

and cause such person to be imprisoned. The remaining or due ration expenses cannot be returned.

Number 55.²¹⁶

Number 56.²¹⁷

Number 57.²¹⁸

Number 58.²¹⁹

Number 59.²²⁰

Number 60.²²¹ Even though, in the course of conducting, or causing to be conducted, any such act or proceeding as required to be conducted in presence of a member or representative of the Village Development Committee or Municipality pursuant to this Chapter or as to be conducted by getting such a member or representative to sign the deed, a notice in writing is given to the concerned Village Development Committee or Municipality to cause the presence of such member or representative, but such member or representative does not make presence for such act or proceeding despite such a notice or the Village Development Committee or Municipality is dissolved or does not otherwise exist, such act or proceeding may be conducted or caused to be conducted, and such act or proceeding shall not be void by the reason only that such a member or representation has failed to make presence or has not signed the deed if the other requirements have been met.

Number 61.²²² Any concerned person who is not satisfied with any act or proceeding done or taken the serving or executor employee in the course of execution of a judgment may make a complaint with the chief of the same office no

²¹⁶ Repealed by the Punishment Related Some Nepal Acts Amendment Act, 2055.

²¹⁷ Repealed by the Punishment Related Some Nepal Acts Amendment Act, 2055.

²¹⁸ Repealed by the Punishment Related Some Nepal Acts Amendment Act, 2055.

²¹⁹ Repealed by the Punishment Related Some Nepal Acts Amendment Act, 2055.

²²⁰ Repealed by the Punishment Related Some Nepal Acts Amendment Act, 2055.

²²¹ Inserted by the Third Amendment and Amended by the Court Proceedings Related Some Nepal Acts (Amendment) Act, 2047.

²²² Inserted by the Seventh Amendment.

later than Fifteen days. If the person is not satisfied with the decision made by the chief, he or she may make an application to the appeal hearing office pursuant to Number 17 of the Chapter on Court Proceedings. If such an application is made, the appeal hearing authority shall try and dispose it not later than Two months after the date of application.

Part-3

Chapter-1

On Document Scrutiny

- Number 1. The seal or signature of the chief of office concerned shall be affixed to the joint of each closure on the reverse side of each document/deed concluded between people and prepared by offices if the closure of a page is joined with the next page or on the top and bottom of each page if the pages are separately put; and only the seal or signature of the chief of office shall be affixed to an office document where the office does not have a seal. While examining or sanctioning (*Nikasa*) a decision or request for reference (*Sadhaka*) or an order (*Toka*), the examining or sanctioning office shall imprint the office seal and put the seal or signature of the chief of office on top and bottom of each page of the document. The main actor/principal person (*Mukhya Karani*) shall put his or her signature on a document concluded between people and to be submitted to the office and a document prepared at the household; and the office seal or signature of the chief of office shall put on the joint of each closure or each page of the document concluded at the office. In the case of *Shaha* or ledger books where the amount of the same item or content is written in more than one page, the signature of the same person who has signed that item shall be put on the bottom after the last line of the same item in the same page in which the account or content has been written, and the seal or signature of the chief of office and subordinate staff shall be put on each page of the ledger of the office without letting space to write further any number and letter. If a document concluded on the household fails to meet the requirements as mentioned, a suit shall be tried and adjudged from the document, by imposing a fine of up to Twenty Rupees

individually on the principal persons who have executed or caused to be executed such a document.

- Number 2. While making a request or sanction for the rebate or remission (*Minaha Mojara*) or the exchange of any thing, the rate if so revealed, total amount, if so revealed, and but the rate and total amount, if both are revealed, shall be written in number and in alphabetical letters also. If the total amount is not written in the number and letter, the sanction so made shall not be valid. Consequently, a next sanction shall be obtained.
- Number 3. In all documents to be executed by any office, the name, surname and clear address including block (*Mauja*), village, city and ward shall be mentioned. In a deed of bond (*Tamasuka*), a deed of lease (*Patta*), a deed of acceptance (*Kabuliatnama*) and the bond of security (*Dhanajamanipatra*) to be prepared in office, the name of three generations shall also be mentioned.
- Number 4. All documents prepared between people and prepared by the offices shall be written, or caused to be written, correctly as far as possible. No number and letter shall be scraped to correct any mistake. Where it is necessary to insert something except in a document which is to be authenticated by the seal of the head of state, the mistake shall be crossed off with a thin line so that the mistake also could be readable, and an indication mark shall be used, and after writing the necessary matters just above the mark, the signature of the principal person/main actor who has signed the document and the signature of the concerned chief of office in the case of a document concluded at the office and the signature of the chief only in the document of office and the signature of such person as required to signed the concerned item in the case of ledger books shall be put, or caused to put, on the right and left hand side of the crossing off and inserted content s as well, without leaving any space to insert any further number or letter. The

closure shall be rewritten if there is no space to insert something in it or if it is likely to create an illusion in the course of insertion, or if it is necessary to cross off, delete or insert in several places. The crossed off, deleted or inserted portion which does not meet the requirements mentioned above and the scraped number or letter shall not be valid. Nothing shall be crossed off, inserted or scraped in the course of writing a document which is to be authenticated by the seal of the head of state.

Number 5. In the course of putting, causing to be put, signature on the document executed on the household, including a document of transaction and on a document executed at the office and to be signed by the actor including witness, the actor or witness of the document who is literate shall put hi or her signature with full name, surname and address including the rank, if any, in a clear and readable manner. In a document requiring the finger impressions, pursuant to Number 8 of this Chapter whether the concerned person is literate or not, the finger impressions of the concerned person shall be marked and caused to be marked as referred to in Numbers 6 and 7 of this Chapter. A person who has a seal of his or her full name may affix his or her seal on the document concluded at the office, instead of putting signature and finger impressions. A person assigned by the Government of Nepal to collect revenue from the public may use only the seal of his or her full name in the revenue receipt. No suit may be entertained except in the following cases as stated below from a document which does not meet the requirement mentioned above.

In the course of putting signature or finger impressions as mentioned above, a person who has to mention his or her name, surname, address and designation, fails to mention his or her designation, surname or address or any of them shall be liable to a

fine not exceeding Twenty Rupees, and the suit shall be accepted and decided even from such a document.....1

If a document is written by the principal person/main actor himself or herself and there is no signature or finger impression in it, the suit shall be tried and adjudged from such a document irrespective of the date on which it has been prepared.....2

- Number 6. While putting finger impressions on a document, where concerned person has no thumb in the right hand or wheel like and conch like markings on the skin of the finger-tip do not appear clear, he or she shall use the thumb of the left hand for impression. Where a person has no thumbs in the both hands or the markings do not appear clear, he or she shall use a next finger of the right hand and left hand in which the markings are clear for impression. Where the document is to be thumb printed by both hands and if a person has no thumb in one hand or markings are not clear, he or she shall use the thumb of next hand having clear markings and any other finger having clear markings of that hand which has no thumb for impression. Where a person does not have any finger in one hand or the markings do not appear clear, he or she shall use two fingers from the same hand for the impression by assigning the above reason for the same.
- Number 7. If a person does not have any finger in his or her both hands or wheel-like and conch-like markings do not appear clear, the head of his or her joint family, and in the absence of such person, his or her heir of succession, and in the absence of even such person, his or her guardian who is protecting him or her at present shall put signature on behalf of him or her and shall mention the remark on the top of the document that the document has been prepared as the concerned person has expressed and accepted and there is no finger impression on the document since the concerned person does not have any fingers in both hands or the markings do not

appear clear. In the course of preparing a document by an office in the absence of a joint family member or the heir of succession or guardian, the document shall be executed with the signature of a gentle person who is present there, including the concerned chief of office, by assigning the above mentioned remarks. If the document so executed meets the said requirement, despite failing the signature of the actor, such document shall be treated as good as a document that is signed by the actor.

Number 8. While executing, or causing to be executed, the following document, the thumb impressions of both hands of the concerned person including the signature of a literate person shall be put as referred to in Numbers 5 and 6 of this Chapter. Where the literate person only puts signature without finger impressions or the marked finger impression does not appear clear or he or she marks finger impression without putting signature, a suit shall be tried and adjudged from such a document, by imposing a fine on him or her not exceeding Twenty Rupees, considering the person and the document:

A deed of transfer of ownership such as a deed of donation or gift, deed of partition of property, a deed of mutual exchange of property, document of adoption etc.....1

A deed of usufruct mortgage (*vogabhandhaka*), a sight mortgage (*Dristibandhaka*) and document of loan transactions.....1

A receipt of a general transaction other than the deed of general transaction endorsed for borrowing loan.....1

A document of bailment (*Naso*) or guarantee (*Dharauti*) and receipt made when the bailee returns the same.....1

A bond of date to pay back the debt (*Bhakapatra*), a bond of surety (*Jamanipattra*) and a bond of acceptance (*kabuliata*).....1

A power of attorney (*Akhtiyaranama*) or deed of will (*Ikshapatra*).....1

- Number 8A.²²³ While executing a document, it shall not be mandatory to mention the name of three generations and to mark finger impressions by the attorney on behalf of a corporate body established under the law or by a foreign embassy situated in Nepal.
- Number 9. In the document written pursuant to Number 8 of this Chapter, the signature of the actor shall be put, and caused to be put, at the end of the document where the date is mentioned. The suit may be tried and adjudged from such document imposing a fine not exceeding Twenty Rupees even when the signature is not put accordingly.
- Number 10. While putting signature on a document in the course of government business pursuant to the law, the concerned government official shall put signature clearly in *Devanagari* script (the script of including Nepali language) in one place either on the top or bottom of the document, with full name including the rank so that any literate person could easily read and understand the rank and name of such a person, besides this, even the signature in short form may be permitted to other places of the document.
- Number 11. Any document to be concluded in office or on the household which is to be signed shall be written and signed with indelible ink.
- Number 12. Except as otherwise provided, the following requirements shall be met in relation to the following documents:
In all writing notes (*lekhon, purji*), except letters in relation to inquiry to an office, the main assigned clerk (*karinda*) of the concerned section where the job division has been made in the sections, the chief of section and either an assistant or subordinate staff to the chief (*Taharir*) shall imprint his or her seal on the side of the document, and the seal of the office shall also be affixed thereunto. When the business of the office is running generally, without any divisions in sections, the chief and either assistant or subordinate staff shall imprint his or her authentic seal at the end of

²²³ Inserted by the Fifth Amendment.

the document (*Puchhere Chhapa*), along with the seal of the office.....1

In the case of a letter of inquiry, the chief and either assistant or staff subordinate to the chief shall imprint his or her authentic seal at the end of the document, along with the seal of the office.....2

Where the office has an accountant (*Tahabiladara*) the accountant, the chief of office and either an assistant or subordinate staff to the chief shall imprint his or her authentic seal at the end of the bill and receipt of cash or in-kind, and where the office does not have an accountant, the chief of office chief and either an assistant or subordinate staff shall imprint his or her authentic seal at the end of the document including the seal of the office.....3

The clerk who takes the bill or receipt or document submitted by any office or litigant or the person who keeps account (*Rakami*) shall imprint his or her authentic seal and the assistant or subordinate staff to the chief shall also imprint the seal and signature, along with the seal of the office.....4

While providing a copy of the document maintained with the office, the clerk who has verified the copy shall mention in it that the copy so prepared is as good as the original one, and imprint the mark on it and the chief of office and either an assistant or subordinate employee to the chief shall put his or her signature including the seal of the office shall be affixed.....5

While keeping the copies of a document in the office, the concerned person shall mention in the copy that it is as good as the original and the chief of office and either an assistant or subordinate employee or the clerk who prepares such copies shall put his or her signature on the copy.....6

The main clerk who is subordinate to the chief of office shall put signature on the document which is to be signed by the assistant or

subordinate to the chief of office and the office does not have such an assistant or subordinate employee.....7

- Number 13. While issuing an order or notice to a party, if it becomes essential to issue a notice even to the other concerned person, it shall also be issued to the others accordingly. If it results in any governmental loss due to such omission as so stated or if it causes any hindrance (*Harja*) in any work, the person who makes such omission shall be liable.
- Number 14. Except a document required to be witnessed in accordance with the law and a document which is related to immovable property and has to be concluded by the office, the person who prepares such a document related to the office and all the documents to be concluded by or at the office, any letter, notice, bill, receipt, *Hundi*, lease (*Patta*), ledger (*Bahi*) account (*Khata*) and the reciprocal bond of merchant transaction(*Mahajani Karobarako Dohori*) to be prepared on the household, and the endorsement upon partial payment on general transaction may be prepared, or caused to be prepared, even without witness. In the other documents except so provided and in such a document required to be witnessed according to law and in a document which is related to immovable property and is to be prepared by the office, the name of witness shall be mentioned in the document and the signature or finger impressions shall be put, and caused to be put on it. Despite that a document required to be witnesses has been prepared without witness or it has not been signed by the witness whose name is mentioned in the document as a witness, if a suit may be filed from such a document under Number 5 of this Chapter, the suit shall be entertained and decided from such document, by imposing a fine not exceeding Twenty Rupees per head to the main actor who has concluded, or caused to be concluded, the

document for omission to mention witness or to put signature of witness mentioned in the document.

- Number 15. A predecessor (outgoing authority) shall hand over all governmental documents to the successor (incoming authority) upon preparing an inventory. Anyone including the chief of office or clerk shall not bring or store such documents at home without such hand-over.
- Number 16. While concluding any document on the household after writing the contents and before writing the date, there shall be mentioned the venue where the document is prepared, the name of district, unit of district, block, village or city and ward number. The document shall be taken in evidence, by imposing a fine not exceeding Twenty Rupees on the person who causes to conclude the document without writing as so stated.
- Number 17. If an application is made to get a duplicate of a document in the office, except a document of which duplicate copy can be obtained pursuant to Number 211 of the Chapter on Court Proceedings, the following procedures shall be followed:
- Any one may get a duplicate copy of a document which is concerned to him or her.....1
- Where the law in force explicitly provides for the fees and procedures for giving the copy of a document, the copy shall be provided accordingly, and, in the other cases, where a person wants to get the copy of a document, he or she shall submit an application to the concerned office where the document is maintained, upon mentioning the cause of his or her concern to the document, and whether he or she prepares the copy himself or herself or the copy has to be prepared by the office itself. The copy of a document shall be provided within three days from the date of the submission of such an application..... 2

While allowing a document to be copied, the original document shall be kept within the office premises and no one shall be permitted for any remark including insertion in or deletion from or crossing off it, and when a copy is prepared it shall be verified with the original and there shall be mentioned the date when the copy is handed over and necessary remarks shall be written in it including whether the copy is prepared by the applicant himself or herself or by the office itself as referred to in the law, and the copy shall be handed over within Seven days, upon collecting the fees as set forth below in Section 4.....3

While issuing the copy of a document, if the copy is prepared by the applicant him or herself, he or she shall pay the fees at the rate of One Rupee per page of the prepared copy of the document. Where the copy is prepared by the office itself, the fees shall be two-fold.4

There shall be mentioned in the prepared copy of a document that the copy is as good as the original or as good as the duplicate copy held in the office, and the seal of the concerned office, the chief of office and either the assistant or subordinate staff shall be affixed thereunto..... 5

While issuing a copy pursuant to this Number, except it is so permitted by the concerned departmental head, it shall not be mandatory to give the copy of any unpublished confidential document related to any governmental affairs, held in any government office.....6

The head of department or chief of office shall not be compelled to give a copy of any unpublished confidential document related to government affairs, which is held in the government office or to submit a copy of such document to any office.....7²²⁴

²²⁴ Inserted by the Seventh Amendment.

Chapter-2

On Guarantee

Number 1. While accepting a guarantee, a trustworthy (*Mathvara*) person who is capable of paying dues from his or her assets shall be accepted as a guarantor. In the course of giving or accepting a guarantee, the subject matter and figure shall be clearly mentioned, with a statement that the guarantor has agreed to give guarantee on such-and-such item/matter and in such-and-such figure. If more than one person want to give guarantee for a person for the same item on the condition to make payment proportionally, the deed shall mention the proportionate amount of guarantee; and on the condition to make payment of amount of guarantee in different figures, each guarantor shall mention clearly the amount to be paid individually.

Where a guarantee is accepted without mentioning the amount to be paid by each guarantor, the dues shall be recovered from the assets of all the guarantors whether the amount may be less or more until the action of recovery completed. The deed of guarantee shall *ipso facto* be void after the recovery of dues or when the liability of guarantee ends. A verbal guarantee shall not be valid.

Number 2. While accepting a guarantee from the office, one who is responsible shall accept guarantee in accordance with law and in such a way that it shall not cause any loss to the Government of Nepal, upon conducting necessary investigation. If the accepted guarantee causes any loss to the Government of Nepal due to the omission of the procedures established by law, with intention or recklessness or the omission of necessary investigation, the loss so caused shall be recovered from the concerned employee who has accepted the guarantee. When the guarantee is accepted by following the procedures established by law but after such acceptance if the guarantor becomes insolvent or the assets accepted for guarantee becomes unacceptable, useless or defective (*Besabuda*) due to natural calamities or

other reason, the employee who has accepted guarantee shall not be liable to the amount which is not recovered from the debtor or guarantor.

- Number 3. Where a guarantee is permitted by law, the person concerned shall make an application to the concerned office, along with the guarantor seeking for permission of guarantee; and the office shall determine whether the person so produced as a guarantor is trustworthy or eligible to be a guarantor in accordance with law; and the office shall accept guarantee if the person so produced is eligible to be a guarantor, and if he or she is not so eligible, the office shall write a note on the reverse side of the submitted application mentioning the cause of rejection of guarantee, including the statement that guarantee shall be accepted if another trustworthy person eligible to be a guarantor according to law is produced before the office. The rejected application bearing the signature of the chief of office shall be returned to the person concerned.
- Number 4. While accepting real property for guarantee (*Jetha Jamani*), if any office has to accept such a guarantee, it shall issue an order to withhold the sale or transfer of ownership of such property to any one by any method and send a notice of such order, mentioning the name of guarantor, the subject matter, the given amount of guarantee and all necessary facts about the property accepted for guarantee, including the address and the quantity of property, to the office which is authorized by law for registration or transmission of such property, and collection of land revenue or tax and to cause auction for non-payment of such revenue or tax. When the concerned office receives a formal notice of such order, it shall withhold the registration and transfer of ownership accordingly until it receives a formal notice of the order of release issued by the concerned office. If such property is to be auctioned as specified by law to recover dues of land revenue or tax, the concerned office shall send a notice of auction to the office that has accepted such property for guarantee before auction takes places. When the concerned office receives such a formal notice, it shall take any other real property for guarantee. As so stated, if any other

property is not given by the person concerned for a guarantee, the concerned office shall sell such property by auction and recover the dues of land revenue or tax; and if there remains any amount after such recovery, it shall be withheld for wealth guarantee. Action shall be taken against the person concerned according to law for the remaining amount of guarantee. Despite the death of guarantor, the dues shall be recovered from his or her real property which is given for guarantee.

- Number 5. If a person who has been released on guarantee/bail by a guarantor for his or her attendance before the office (*Hajir Jamani*) goes away, the penalty, claimed amount, Ten percent (*Dasaud*) or Five percent (*Bisaud*) fee, to which such person is liable, shall be recovered from the guarantor. If the absconded debtor is arrested, the amount recovered from the guarantor shall be returned to him or herself and action shall be taken against the debtor according to law.
- Number 6. Where a wealth guarantee (*Dhan Jamani*) is accepted and the debtor fails to repay the dues, the assets of the guarantor shall be withheld, and at first, the dues shall be recovered from the assets of the debtor, and only if it is not so recovered, the remaining amount shall be recovered from the assets of the guarantor, if the dues are not recovered from the assets of both the debtor and guarantor and if no amount remains with the guarantor at all, action shall be taken against the debtor for the dues pursuant to the law, and the guarantor shall be set free from such liability; and if any amount remains with the guarantor, he or she shall be liable to such remaining amount and he or she shall be treated as if he or she were a debtor pursuant to law, and the debtor shall be set free.
- Number 7. When a wealth guarantee has been accepted, despite the death of the guarantor, the guarantor shall be liable to repay the dues as decided to be recovered from such guarantor. If some property of the debtor is under possession of the guarantor through a deed of usufruct or the guarantor has recovered some amount from such debtor, only to that extent, even after

the death of guarantor, the dues may be recovered from the successor of the guarantor. Except on this condition, after the death of the guarantor, his or her heir shall not be liable to repay the dues. Such dues shall be recovered from the debtor or his or her heir. A guarantor, who has given guarantee for the attendance of the debtor before the office, shall not be liable after the death of the debtor, and the heir to such guarantor shall not be liable after the death of the guarantor.

- Number 8. Any one who is below the age of Sixteen years shall not be eligible to be a guarantor.
- Number 9. A bond of guarantee which is prepared without presence of both the debtor and the guarantor shall not be valid.
- Number 10. In the course of accepting a real property for a guarantee, it shall be accepted only after the valuation, ascertaining that the dues may be recovered from such property.
- Number 11. If a person, whose entire property is to be confiscated, absconds from the office after releasing on guarantee, his or her entire property shall be confiscated, and his or her guarantor shall be set free from liability. If such a person released on guarantee is arrested at any time, the person shall be liable to punishment. If the dues have been recovered from the guarantor where he or she has stood as guarantee for a defendant subjected to imprisonment and such a defendant absconds and is not found, the amount so recovered shall be returned to the guarantor in a condition when the absconding defendant is found and imprisoned within a period of Three years of the disposal of the case. The amount so recovered shall not be returned to the guarantor where the absconding defendant is found and imprisoned after the expiry of the time-limit.
- Number 12. While imprisoning a guarantor for punishment or government amount in question, he or she shall not be imprisoned for a term exceeding Six years.

Chapter-3

On Bona Vacantia (*Kalyan Dhan*)

- Number 1. If any property buried or hoarded underground is found, and it is revealed from the investigation that the property has been buried or hoarded by a person who has been subjected to punishment of the confiscation of the entire property by an order of the office, or by an accused of an offense punishable by the confiscation of the entire property, the entire property shall devolve on the Government of Nepal, and if such property is found to have been buried or hoarded by a person liable to the punishment of fine and imprisonment or to repay governmental amount in question, only to the extent of the property as required to execute such punishment shall devolve on the Government of Nepal.
- If it is proved that the property has been buried or hoarded by a debtor who has been or is going to be insolvent or bankrupt, the creditor shall be entitled to such of amount as mentioned in the judgment. If it is proved that the property has been buried or hoarded by any person other than that mentioned above, the property shall devolve on its owner, if identified, and on the heir to the owner and if the owner has died. If the owner is not identified, the property shall devolve on the owner of the building or land where such property has been found.
- Number 2. If, after a building or land has been sold or otherwise transferred and received in accordance with law, if any property buried or hoarded in the building or land is found, the property shall devolve on the person who has purchased or otherwise acquired right in that building or land.
- Number 3. Where any property bona vacantia is found and devolved on the Government of Nepal or owner pursuant to Numbers 1 and 2 of this Chapter, and the person who has found such property does not get it, the Government of Nepal shall give ten percent of that property to that person and the owner shall give ten percent of the property to the Government of Nepal. If the owner of such property has found it himself or herself,

Twenty percent of that property shall devolve on the Government of Nepal.

- Number 4. Except in the case to which the Government of Nepal is plaintiff, if a suit on the other matters of this Chapter is not filed within Six months, the suit shall not be entertained.

Chapter-4

On Wages

- Number 1. No one shall engage or employ a person in a work without the consent of such person.
- Number 2. Except in cases where a person doing a work agrees to work, at his or her own will, for no wages, one who engages or employs a person in a work shall give the worker or employee such wages as specified with the consent of both parties, and failing such specified wages, such wages as may be suitable according to the rate that is prevalent at that place, in consideration for that work.
- Number 3. No person shall give up a work that is undertaken and taken up by that person except with the consent of the employer or for a reasonable reason, without completing the work.
- Number 4. Any person who commits any act in contravention of the provisions set forth in this Chapter shall be subject to the following provisions.....
- If one engages or employs a person in a work without the consent of such person, one shall be punished with a fine of up to One Hundred Rupees, with the recovery of the wages for the work from him or her.....1
- If one does not provide wages as referred to in Number 2 of this Chapter for a work in which one has engaged or employed a person, on shall be liable to the punishment as referred to in Number 21 of the Chapter On Punishment, also with recovery the wages from him or her.....2
- If one gives up a work that is undertaken and taken up by him or her except with the consent of the employer or for a reasonable reason, without completing the work, compensation or loss shall be recovered from him or her in accordance with the deed, if any, in relation to the

giving and taking of compensation, and with the following provisions failing such a deed.....3

If a porter (*Bhariya*) goes away giving up the load (*Bhari*) on the way (without reaching the destination), the porter shall be liable to a fine of up to Fifty Rupees and also to the recovery from him or her of the amount of loss in question, if any, suffered as a result of such going away leaving the load on the way.....1

If a person takes the responsibility of transporting a load (commodity) and fails to hand over it to the concerned person at the destination, and gives up such transportation prior to completion, such a person shall be liable to a fine of up to Twenty Rupees, and the waged advanced but not yet paid up shall be realized from such a loader.....2

Except as provided in Sections 1 and 2 of this Number, in the other mattes, the amount in question shall be recovered and a fine up to Twenty Rupees may be imposed according to the degree of offence.....3

Number 5. If a suit is not filed within Thirty Five days of the cause of action on any matters referred to in this Chapter, the suit shall not be entertained.

Chapter-5

On Pauper

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| Number 1. | ²²⁵ |
| Number 2. | ²²⁶ |
| ²²⁷ Number 3. | In the case of a minor, whose father is dead or disappeared (<i>Bepatta</i>) or has gone abroad and his or her ²²⁸ <u>mother enters into next marriage</u> , the following provisions shall apply..... |
| | In the case of a minor who has no property (<i>Jayajetha</i>) or who has no any major heir in the joint family, the mother herself shall take the minor with her and subsist the minor.....1 |
| | In the case of a minor below Eight years of age, his or her mother shall take the minor with her and subsist the minor until the minor attains the age of Eight years despite that the minor has property and any major heir in the joint family, and the mother shall be entitled to subsist the minor staying at the minor's house where the minor has no heir in the joint family.....2 |
| | Even though a minor, who has attained the age of Eight years but below the age of Sixteen years, has any major heir in the joint family but the heir does not subsist the minor, the mother of the minor shall be entitled to subsist the minor.....3 |
| | In cases where a minor has no heir in the joint family or has heir but the heir has not attained majority or the major heir does not wish to subsist the minor, the mother of the heir shall, in the course of subsisting the minor, be entitled to the custody of the assets of the minor.....4 |

²²⁵ Deleted by Children's Act, 2048.

²²⁶ Deleted by Children's Act, 2048.

²²⁷ Amended by the Sixth Amendment.

²²⁸ Amended by Gender Equality Maintaining Some Nepal Acts Amendment Act, 2063.

- Number 4. In cases where the relative (*Aapasta*) or guardian of a minor does not subsist the minor or where such a relative or guardian is not available or where a minor who has none of them has no property (*Jayajat*) or where the property of a minor is not sufficient for his/her maintenance, the ²²⁹Village Development Committee or the Municipality of that place shall send such a minor to the specific place, if available, for the subsistence of minors, and failing such a place, to the ²³⁰Chief District Officer of the District. If any minor is so sent to the ²³¹Chief District Officer, he or she shall arrange, or cause to be arranged, for his/her care and maintenance until such a attains the age of Sixteen years from the income of state trust (*Rajguthi*), and shall also manage for the regular income source (*Darbandi*), to the extent that is not covered from the property of the minor.
- Number 5. In the case of a person, who does not have any property and relative and who is not capable of being engaged in an employment, the ²³²Chief District Officer shall, on the recommendation of the concerned ²³³Village Development Committee or Municipality, arrange for ^{regular ration} (*Sadabarta Handi*) and Two pairs of clothes per year and cause to subsist such a person in such a place as specified by the Government of Nepal.
- Number 6. If there is any minor or person as referred to in Number ²³⁴..... 3, 4 or 5 of this Chapter in his or her village, city or ward (*Tole*), the *Jimdar or Talukdar* or a member of the ²³⁵Village Development Committee or Municipality shall give information thereof to the

²²⁹ Amended by the Court Proceedings Related Some Nepal Acts Amendment Act, 2047.

²³⁰ Amended by the Court Proceedings Related Some Nepal Acts Amendment Act, 2047.

²³¹ Amended by the Court Proceedings Related Some Nepal Acts Amendment Act, 2047.

²³² Amended by the Court Proceedings Related Some Nepal Acts Amendment Act, 2047.

²³³ Amended by the Court Proceedings Related Some Nepal Acts Amendment Act, 2047.

²³⁴ Deleted by the Children Act, 2048.

²³⁵ Amended by the Court Proceedings Related Some Nepal Acts Amendment Act, 2047.

concerned ²³⁶Village Development Committee or Municipality, and the ²³⁷Village Development Committee or Municipality shall also do as referred to in those Numbers.

Number 7. The Chief District Officer shall send a person suffering from leprosy (*Maharogi*) to such a place as specified by the Government of Nepal.

²³⁸Provided that, a place shall not be so specified that the arrangement of medicines and treatment of the leper cannot be made or done.

Number 8. The regular ration (*Sadabarta Sidha*) to be distributed on behalf of the Government of Nepal shall be distributed in the following order of priority.....

- (a) Leper.
- (b) Blind in both the eyes.
- (c) Physically weak (*Lulo*), lame or crippled (*Kunjo*).
- (d) Minor orphan incapable of engaging in employment.
- (e) Weak (*Ashakta*) old person without relative for his or her subsistence.
- (f) Sick and incapable person.
- (g) *Asal, Ramata, Dasnam, Phakir* (Saints).
- (h) Woman without any earnings and farming (*Kamai Khetipati*).

Number 9. A person who maintains or subsists a minor pursuant to this Chapter shall arrange for his/her appropriate education as far as possible.

²³⁶ Amended by the Court Proceedings Related Some Nepal Acts Amendment Act, 2047.

²³⁷ Amended by the Court Proceedings Related Some Nepal Acts Amendment Act, 2047.

²³⁸ Inserted by the Fourth Amendment.

Number 10. Where a suit is to be filed on matters of misappropriation of one's property by a reliable person or the custodian or of dissatisfaction therewith for any other reason is not filed within Two years from the date of receipt of the property details (*Phantwari*).

Chapter-6

On lost and Found Quadruped

- Number 1. If a person finds a missing domestic quadruped, the person shall return it to its real owner within a period of Seven days from the date when he or she found it, excluding the time required for journey from the place where it was found. If the owner is not identified, the person shall keep such quadruped after giving a formal report to the nearby police station or local body.
- Number 2. If any partner takes away a common quadruped without giving information to the other partners and if any other partner makes a complaint against him or her, any of the partners who pays the amount for the shares of the rest partners, shall get such a quadruped. If any force majeure event takes place in relation to the quadruped which has been so taken away without giving information, he or she shall pay the amount for the shares of the rest partners.
- Number 3. If a person, who finds any missing quadruped, does not do in accordance with Number 1 of this Chapter and uses it for his or her personal purpose, he or she shall pay the amount of wages to its owner for the use of each day according to the rate prevailing at the place where it has been used. In the course of paying for the amount of wages, he or she shall not be liable to pay such amount as is more than the value of that quadruped. When the quadruped dies or flees away, he or she shall also be liable to pay its price/amount in question.
- Number 4. If a person, whose elephant flees away and misses in a forest, gives a report, within Forty Five days from the date of missing, to the nearby government office managing elephant shed (*Hattisar*), the office shall look for it and collect a fee of One Hundred Rupees for each (Phi) elephant from the owner if it captures the missing

elephant. The office shall not be compelled to take any action to search and capture the lost elephant after the expiry of the limitation of Forty Five days.

- Number 5. If a person makes a claim accompanied by the evidence of his or her ownership of the missed quadruped within Six months from the date of missing, the price or value of such quadruped shall be as determined reasonable by local people, and the quadruped shall be returned to the real owner after he or she pays the Ten percent amount of such determined price for reward (*Panauni*), including the expenditure incurred in feeding the quadruped. If the quadruped is lost or destroyed due to any force majeure event, the finder shall be set free from the liability. The quadruped shall be owned by the finder where no one makes a claim within Six months from the date of missing. If the finder does not do in accordance with Number 1 of this Chapter, the finder shall not be entitled to the quadruped despite the expiry of the Six months' limitation. In such a case, the finder shall return the quadruped to the owner.
- Number 6. If a person takes away any quadruped over which he or she has no ownership, upon claiming that he or she has ownership over it, he or she shall return the quadruped and the profit made out of it to the owner. If any loss or *force majeure* event takes place, he or she shall pay the cost amount of the quadruped.
- Number 7. Except on the matter in respect of which the limitation to file a suit is mentioned in this Chapter, if a suit on the other matter is not filed within a period of Six months from the date of the cause of action, the suit shall not be entertained.

Chapter-7

On Trusts (*Guthi*)

- Number 1. Where a person requests land from the Government of Nepal for the establishment or construction of a hospital, school or any other public welfare institution or utility within the territory of Nepal, state land may be granted if it does not belong to other persons or if such grant does not prejudice the interests of other persons (or public right of way).
- Number 2. Rest houses (*Dharmashala*) or religious endowments established in accordance with the specified procedures shall not be damaged by any person and shall not be confiscated for any offence whatsoever. In the absence of any heir thereto (any person possessing any claim thereto), such houses or endowments shall be registered as state trusts (*Rajguthi*).
- Number 3. Where any trusts are established in any manner, action shall be taken as follows:

Where a trust which is endowed after relinquishing the title thereto and which is placed under trustees (*Guthiyars*), the person who endowed the trust or his or her heirs/successor and relative may mortgage only the surplus which they are entitled to enjoy, not that surplus which is to be kept in reserve after performing the functions set forth in the gift-deed or stone or other inscription of the trust. No violation of religious requirement shall be committed by selling, disposing of, presenting or donating any thing other than that mentioned herein or mortgaging the entire trust property on usufruct or otherwise or discontinuing the functions set forth in the deed of endowment. Where the heir or descendant does not perform the functions set forth in the deed of endowment or sells, disposes of, presents or donates the surplus income

which he or she is entitled to enjoy instead of merely mortgaging it on usufruct or otherwise the entire trust property, thus violating the religious requirements, then he or she shall not be entitled to his or her turn in the management of the trust. Such heir or descendant shall not also be entitled to his or her share in the surplus income. His or her turn in the management of the trust shall accrue to the next of his or her heir to the trust. The amount paid by the creditor who takes up such surplus income or entire trust ignorantly shall become an unsecured loan. Where the creditor has done so knowingly, he or she shall not be entitled to repayment.....1

Where, in endowing a *Gharguthi* without appointing any *Guthiyars*, the income that can be utilized for personal requirements amounts to more than Ten percent by the rate prevailing in the same year, the person who made the endowment or his or her heir may perform the functions set forth in the deed of trust or stone or other prescription of the trust and mortgage the surplus which he or she is entitled personally to utilize. Even such surplus income shall not be sold, disposed of, presented or donated nor shall such other land and building belonging to the trust be mortgaged, sold, disposed of, presented or donated than that mentioned; and the religious requirement shall not be violated by discontinuing the functions set forth in the deed of trust or stone or other prescription of the trust. Any person who is guilty of the violation of religious requirement shall not also be entitled to his or her turn in the management of the trust. His or her turn shall accrue to the next of his or her heir to the trust. Provided that the person who is so guilty shall be entitled to appropriate his or her share, in accordance with law, of the surplus income that may be personally utilized. The provisions set forth in section 1 above shall be applicable to the creditors.....2

In the case of trusts endowed pursuant to Sections 1 and 2 above, if the person who makes the endowment or his or her heir mortgages the

surplus income which he or she is entitled to enjoy and the creditor takes up the income and if no income is derived from the trust land because of acts of God, the functions of the trust shall be carried out and necessary repairs shall be undertaken with the reserve, if any, maintained for this purpose, and where no provision has been made for such reserve so that the entire surplus can be entitled for personal purpose, expenses incurred in performing such functions and undertaking necessary repairs according to the gift-deed of trust or stone or other inscription of the trust shall be borne personally if necessary. If no income is derived from the trust land because of acts of God and where no provision has been made to maintain reserves for financing such functions and repairs, the person who mortgages the surplus income shall bear the necessary expenses personally and carry out such functions and repairs and the creditor too on his or her part shall cause him or her to do so. If the debtor does not do so, then in the case of a trust other than a *Murda* trust, the creditor who has taken up the trust on mortgage shall incur the necessary expenses himself or herself and carry out such functions and repairs as he or she may carry out on his or her own, and in the case of other functions and repairs which he or she may not carry out himself or herself, do so through the debtor or any of his or her relatives. If neither the creditor nor the debtor does so, both shall be deemed to have been guilty of violating the religious requirement. The relatives as referred to in sections 1 and 2 above shall carry out such functions and repairs in the presence of the creditor if he or she is willing and in the presence of four other respectable persons, if the creditor is not so willing, and have the creditor or respectable persons, as the case may be, sign the statements of expenditures incurred therein. Expenditure so incurred may be recovered from the mortgaged surplus income. The creditor shall not be entitled to the surplus income unless and until such expenditure is recovered or restored fully. He or she may appropriate the surplus

income pursuant to the deed of mortgage only if the expenditure is so fully recovered. The mortgage may be redeemed by a relative who is entitled to a turn in the management of the trust.....3

- Number 4. If the trust endowment is a donation, the beneficiary shall be an heir (*Hakdar*). If such an heir or his or her descendant violates the religious requirement of the trust, the donor or his or her heir may remove such heir or descendant and assign the trust to any such relative of the heir as such donor or heir so wishes. Provided that the donor or his or her heir shall not utilize the trust himself or herself. A *Guthiyar* shall not dispose of the trust in favor of another person by way of gift, donation or sale or otherwise.
- Number 5. If there are Two or more heirs, they shall each manage and utilize the trust in accordance with the terms and conditions of the deed of trust, if any, and, failing such deed, they shall manage and utilize it by Two-year turns. If any heir is alive, his or her sons and grand-sons shall have no claim to the trust so long as that heir is alive. If there is no deed, no suit shall be entertained in the matter of Two-year terms unless the suit is made within Sixteen years after the accruement of title.
- Number 6. Any reasonable depletion or depreciation in the movable property of a trust, in the course of use of such property for prescribed purpose of the trust shall not involve the *Guthiar* in any offense. Provided that if the *Guthiyar* causes any loss or damage to such property, he or she shall be held as having violated the religious requirement of the trust. Such a *Guthiyar* may be removed.
- Number 7. If a trust has been established in the form of a religious institution on land acquired from the Government of Nepal in accordance with the provisions set forth in Section 1 of this Chapter, and if the person who made the endowment or his or her descendant or heir is unable to make renovation of the trust and then such renovation is made by some other person, then that other person who has made such renovation shall be

entitled to utilize the land acquired from the Government of Nepal by carrying out such functions of the trust as may be prescribed by the Government of Nepal.

- Number 8. If any person has utilized for Sixteen years without any documentary title a trust belonging to another person, he or she may continue to do so as long as he or she is alive. After the death of such person, the trust shall accrue to the person who possesses the title to it.
- Number 9. If the trust endowment is made after debts are contracted or arrears become due and payable to the Government of Nepal, the endowment shall not be valid unless and until such debts or arrears are paid off. Provided that the person who has made such endowment shall not be liable to punishment.
- Number 10. While obtaining a land, building or low land from a *Mahant* who has obtained a state monastery, the *Mahant* who has obtained the state monastery may sell and dispose of such land, building or low land as may be acquired by the *Mahant* prior to obtaining the state monastery and also such land, building or low land as may be acquired by the *Mahant* subsequently through his or her own resources during his or her lifetime in accordance with law and may conduct written transaction in respect of such land, building or low land. After the death of the *Mahant* who thus obtained such land, building or low land, whatever is left of the land, building or low land acquired before he or she obtained the monastery as well as any land, building or low land acquired thereafter shall belong to the monastery no to any heir. No *Mahant* shall subsequently give in any manner nor shall other person take such land, building or low land as have accrued to the monastery, and such transaction shall be invalid. Provided that tenants on such land, building or low land may be changed in accordance with law.
- Number 11. If income from lands registered in the name of members of religious orders or those to which they possess title, which is left over after

paying the taxes due on such lands and which may be personally appropriated by the members of the religious orders owning the lands has been assigned or is being utilized for the performance if religious worship of the God and Goddess and other religious functions or operation of Sadavartas or for similar other purposes but without formal endowment as the trust, the disciples of such members may, after the death of the latter, pay taxes due on the lands, utilize the remaining income for the usual purposes, and personally utilize the surplus, if any. No mortgage or sale or gift or donation involving relinquishment of rights in respect of such lands shall be permitted. In the event of default in payment of taxes due on the lands, eviction may be made in accordance with law.

- Number 12. If the office of the *Mahant* of any monastery falls vacant and there is a royal charter prescribing succession from disciple to disciple, any disciple who can manage the functions of the monastery smoothly and is a citizen of Nepal shall be appointed to this office.
- Number 13. If any person conceals or misappropriates any money payable to a trust, then there shall be recovered the amount in question from, and imposed a fine equal to the amount in question, on that person.
- Number 14. If any person has made any false claim and has also misappropriated rents and he or she has performed the prescribed functions, the surplus shall be recovered from him or her, and such person shall be punished with a fine of any amount equal to Five percent of the rents accruing from such lands in one year.
- Number 15. If the person has only seized the trust, he or she shall be fined with an amount equal to Ten percent of the rents accruing from the lands and other assets so seized by him or her.
- Number 16. No suit on a matter shall be entertained if it is not filed within a period of Two years after the commission or cause of action of that matter, other than the matters where the limitation is prescribed elsewhere in

this Chapter and the matters involving the violation of the religious requirements or involving the unauthorized endowment of the trust.

Chapter-8

On Cultivation of Land

- Number 1. Water shall not be available for others unless and until the requirements of the person who has constructed the ditch (irrigation channel) at his or her own expense or with his or her own physical labor. In places where water has been shared since ago, no one shall be allowed to so withhold the usual share of the water as to make the low land uncultivable. After the low land at the source of the water is irrigated, the next low land shall use the water. In cases where the owner of the low land at the source of the water is confronted with any difficulty, the owner of the next low land shall use the water for cultivation. Subsequently, the owner of the land at the source of the water may use the water for cultivation. A new irrigation channel may be constructed at a point higher than the existing one only if the amount of water available to the low land irrigated by the old irrigation channel is not reduced.
- Number 2. If an irrigation channel tumbles down or the low land is damaged by streams or washouts, the tenants (*Mohi*) themselves shall repair the channel to the extent possible or make such repair by sending labors on the pro rata basis. In cases where the strength and resource of the tenants (*Mohi*) is not adequate, the *Jimidar* or *Talukdar* shall make a submission, setting out all details, to the concerned office of the Government of Nepal for the sanction of expenses, and make repair of the ditch with the expenses, if any, so sanctioned.
- Number 3. Dams, canals or irrigation channels may be constructed by any one on any land, whether cultivated or uncultivated to bring water for the cultivation of land, and no one shall make any obstruction with it. In the case of any land, other than a barren land not liable to taxation or revenue, the owner of the land shall be compensated with the value of the land covered by the dam, canal or irrigation channel or given other

land in exchange. When landowners (*Raiti*) incur expenditure on irrigation works to bring a barren land into cultivation if the tax on the newly cultivated barren land is double than that being paid on the cultivated land covered by the dam, canal or irrigation channel, the tax and revenue chargeable on the land covered by the dam, canal or irrigation channel shall be remitted.

- Number 4. In cases where roads and paths used by the people from ancient times, courtyards of houses, land adjoining houses, land used in transit by village chattels, water sources, land adjoining lakes and ponds, meadows and village pastures, inns, graveyards, main roads and highways, and similar other public place and such government land that should be left or rendered waste by order of the Government of Nepal shall fall in the land of a person, that person shall not bring such roads, paths, land, sources, ponds or meadow into cultivation nor shall such person cause the same to be brought into cultivation.
- Number 5. If any person obtains permission for the cultivation of any land mentioned below, such cultivation shall be made in accordance with the undertaking if any made by the person to cultivate the land, enjoying the exemption lesser than that mentioned below, and failing such undertaking, in accordance with the following provisions:
- If land which had once been cultivated but subsequently turned into waste is brought into cultivation, the land tax shall be realized with effect from the year in which the land is brought into cultivation.....1
- In the case of cultivation of a virgin forest land (*Kalabanzar*), *Muddati Parti*, land covered by bushes of catechu or berries (*Khayar* forest and *Banjar* forest), totally barren land, and sandy land, the tax shall be exempted for a period of Four years and levied with effect from the Fifth year.....2

If a cultivated sloppy land subject to land tax and revenue is turned into a low/paddy land by constructing an irrigation channel (ditch) up to that land, the land tax and revenue applicable to the sloppy land shall be levied for a period of Four years and the land tax and revenue applicable to the low land shall be levied with effect from the Fifth year and the land tax and revenue applicable to the sloppy land shall be remitted.....3

Number 6. In the case of new cultivation of a land, if an application is made for the registration of the land after the land has already been cultivated, then such application shall not be entertained. If an application is made for the examination of a land and permission to cultivate the same, registration of the land shall be made upon fulfilling the requirements of law except in cases where the land has already been cultivated. If, upon making such examination, it appears that the land has already been cultivated, it shall be done as follows:

If the land is a land to which no one has title and that can be cultivated by law, the land tax and revenue leviable on the land with effect from the year of cultivation by the cultivator and a fine equal to the amount of the land tax and revenue shall be recovered from the cultivator, and the land shall be sold by auction and the proceeds of sale shall be paid to the Government of Nepal.....1

If the land is a land to which no one has title and that can be cultivated by law, a fine equal to the amount of the land tax and revenue leviable on the land with effect from the year of cultivation by the cultivator shall be recovered from the cultivator, and the land shall be turned to a barren land.....2

In the event of cultivation of a land belonging to other person, it shall be stated to the applicant that it shall be as decided by the case trying office about the title to the land if such decision is submitted.....3

- Number 7. If an application is made for permission to newly cultivate a land and the land so applied for cultivation is cultivable by law, then a public inquiry shall be made also in presence of the owners of land adjoining that land or their representatives, the *Jimidar*, *Talukdar* of that land or their representatives and at least other Four local gentlepersons, and if it is found that the land is cultivable, then the *Numbari* registration of that land shall be made by fulfilling the requirements of law. Any public inquiry made in the absence of the persons mentioned above and registration of new cultivation based on such public inquiry shall not be valid.
- Number 8. In measuring lands, such measurement shall be made as per the calculation that a land with thirty-seven-foot length and thirty-seven-foot breadth amounts to one *Muri*, four-*Muri* amounts to one *Ropani*, a land with thirteen and half foot length and thirteen and half foot breadth amounts to one *Dhur*, Twenty *Dhur* to one *Kattha* and twenty *Kattha* to one *Bigaha*.
- Number 9. Where it is required to take measurement of a land in the course of a case or for other reason, such measurement shall be taken, setting out the boundaries of the land.
- Number 10. In fixing the rent of a land, the rent shall be so fixed as equivalent to that of the adjoining land, by setting out the type of the land on the execution of a recognizance deed that it is *Abbal*, *Doyam*, *Sim* or *Chahar* land, in presence of the owners of the adjoining lands and the local gentlepersons in the same place.
- Number 11. No person shall hold up any barren land, except the land as set forth in Number 4 of this Chapter and the barren land adjoining to the house and premises where that person is residing, without cultivating the land on his or her own or allowing other to cultivate it, claiming that such land is within *Sohrani* land tax or revenue or is the land over which he or she has the right of way or interest.

- Number 12. If any person knowingly cultivates any land made barren by the Government of Nepal prohibiting its cultivation, the land tax or revenue leviable on the land with effect from the year of cultivation shall be recovered from the cultivator and the land shall again be made barren. In such a case, the person who cultivates the land or causes its cultivation shall be punished with a fine that if Five-fold of the amount of the land-tax or revenue. If such cultivation is made unknowingly, only the land tax or revenue leviable on the land with effect from the year of cultivation shall be recovered from the cultivator and the land shall again be made barren.
- Number 13. While imposing punishment on a case, as referred to in this Chapter, involving only an alteration in the customs or rites but the amount in question is not required to be recovered, the punishment, if any, specified in the other Numbers of this Chapter shall be imposed, and a fine not exceeding Fifty Rupees shall be imposed where such punishment is not so specified.
- Number 14.²³⁹ A suit on any matter other than the cultivation or registration of any land prohibited for cultivation shall not be entertained if it is not made within Six months after the date of knowledge of such cultivation or registration.

²³⁹ Inserted by the Seventh Amendment.

Chapter-9

On Land Evictions (*Jagga Pajani*)

- Number 1. *Rajguthi* lands and *Kipat* lands without official documents shall be equivalent to *Raikar* (land subject to tax). Lands of all other categories shall be *Raikar*.
- Number 2. Where sales and purchases on household are permitted by law, and a person gets the title to a land upon such sale and purchase and is thus required to make transmission and even where the land is to be devolved on the heir because of the death of the registration holder, the landowner (*Raiti*) shall appear before the *Talukdar* and get the land registered in his or her name by way of transmission. If the landowner shows up for transmission in such way, the *Talukdar* shall effect transmission and give a proof or evidence thereof to the landowner. If the *Talukdar* refuses to effect transmission in such manner, then the Land Revenue Office shall effect, or cause to be effected, transmission and impose a fine of Five rupees on the *Talukdar* for each instance.
- Number 2A.²⁴⁰ Where transmission has to be effected upon a person being entitled to a land and upon the heir being entitled to a land because of the death of the registration holder but such person or heir, as the case may be, expires the time-limit without getting the transmission and registration to be effected not later than Thirty Five days, and subsequently makes an application for transmission and registration, then transmission and registration shall be effected by collecting the fee of Ten rupees irrespective of the period of time lapsed. Even in the cases where the time-limit for transmission and registration of land has expired prior to the commencement of this Act (Code), transmission and registration shall be so effected by collecting the fee of Ten Rupees.

²⁴⁰ Inserted by the Third Amendment.

- Number 3. If the eviction of a land has to be made or cause to be made for any reason, such eviction may be made or cause to be made between the last day of the month of *Falgun* and the last day of the month of *Jesta* in the case of a land in *Madhesh* and between the last day of the month of *Poush* and the last day of the month of *Chaitra* in the case of a land in the other place. The time other than that mentioned above is not proper time for such eviction.
- Number 4. If any landowner (*Raiti*) applies for eviction from a land registered in his or her name after the time referred to in Number 3 of this Chapter stating that he or she is not able to cultivate that land, and pays the land tax or revenue payable for the year of such eviction, the *Jimidar* or *Talukdar* shall take him or her to the Land Revenue Office, receive the land tax or revenue and get conveyance or transfer of that land in witness of that Office. The person who makes such conveyance or transfer shall not be entitled to evict from some land only and retain some land in that village or area of revenue sub-division (*Mouja*).
- Number 5. In the event of necessity of land eviction, any concretely built residential house, if any, built in that land shall not be removed. The owner concerned shall be entitled to enjoy the same by paying the land tax or revenue leviable on the land and on the land that has been encroached upon while building the house, on the pro rata basis. In the event of failure to pay the land tax or revenue, that house shall be sold by auction, and the required amount shall be recovered from the proceeds of such sale and over-plus amount shall be given to the owner of that house. If such owner is not available, the amount shall be paid to the Government of Nepal.
- Number 6. The *Rakam* leviable on the land shall be voided from now-onwards. Where land tax or revenue has not been levied on such land or has been levied in lesser amount than that leviable to the adjoining land, the land

tax or revenue shall be fixed as equivalent to that leviable to the adjoining land and recovered accordingly.

- Number 7. If the *Talukdar* on *Kipat* land dies or absconds, his or her nearest heir shall be appointed in his or her post. If such heir is unwilling or non-existent, some other capable person shall be so appointed. If the brothers of a *Talukdar* who are living separately so desire, they shall be appointed as separate *Talukdars*. Where they divide the landholders on the land and make payments due on their share. However, even if a *Talukdari* holding on *Kipat* land is thus split up, the *Thari* shall not be divided in the same way. He or she may make payments due on lands under his or her jurisdiction to the owners of the sub-divided *Talukdari* holdings by rotation. If the *Talukdar* has received any money from any person promising to appoint him or her as a new *Thari*, and is unable to repay the amount, it shall be equivalent to an unsecured loan. Fees payable on conferring the title of *Talukdar* shall be collected.
- Number 8. Where a land is taken over by streams or landslide and arrangement has been made for lesser land tax or revenue on such land upon examination of the same or by an order of the Government, no other person shall be entitled to cultivate that land against payment of higher land tax or revenue unless and until that land is restored into its original condition. When, even after the land has been restored into its original condition, the full land tax or revenue has not been paid and the new tenant shows up to accept it, then the land shall be provided to the new tenant subject to the payment of the full land tax or revenue. The old tenant shall be liable to the land tax or revenue payable for Five years, excluding the Two years after the restoration of the land into its original condition, and a fine equal to the amount of such land tax or revenue.
- Number 9. The title of *Jimmawal* or *Talukdar* shall not be taken away without any fault. If any application is made by a person requesting for the title of

Jimmawal or *Talukdar* that has been vacant for any reason and new arrangement has to be made, the title of *Jimmawal* or *Talukdar* shall be so conferred by the office to the person chosen by many tenants that land taxation regime is not affected against the guarantee of such tenants in accordance with law, and necessary formalities including the assumption of duties by that person shall also be exhausted. If the title of registration holder *Talukdar* or *Jimmawal* is vacant because of the death or absconding of the *Talukdar* or *Jimmawal* and the title has to be conferred to his or her heir and if the title is to be conferred to one who accepts the title upon making payment of due land tax, in the event that the title has been taken away due to the failure to pay the land tax in full, it is not required to get the owners to choose the *Talukdar* or *Jimmawal*. The title shall be conferred so that the land taxation regime is not affected. In so conferring the title, it shall not be conferred to one who has been imprisoned in default of payment of due land tax.

- Number 10. If a person who is the *Talukdar* or *Jimmawal* for many places commits any offense resulting in the deprivation of the title thereof and consequently the title of the *Talukdar* or *Jimmawal* for one place is taken away, then the title of the *Talukdar* or *Jimmawal* for other places as well shall be taken in entirety and arrangement shall be made in accordance with law. Except in the case of a place where it is provided that the offence of concealment of the land tax or revenue results only in the punishment but not in the deprivation of the title of the *Talukdar* or *Jimmawal*, any *Talukdar* or *Jimmawal* who is held by any office to be guilty of the offence shall not be allowed to continue his or her duties unless and until he or she is acquitted of or released from such sentence.
- Number 11. Any *Talukdar*, *Jimmawal* or leader of tenants carrying out duties related with land taxation regime may, if he or she wishes to resign from the office, stating that he or she is no longer able to carry out such duties, so resign from the day of *Tika* of *Dashain* to the day of *Shree*

Panchami. The office shall effect such resignation and make such other arrangements by fulfilling the requirements of law that the duties used to be performed by him or her are performed uninterruptedly. If the same person has taken the title of *Talukdar*, *Jimmawal* or leader of tenants for many places, that person shall not be allowed to resign the title thereof for some places and retain the same for some places. If any amount is outstanding and payable by the person making such resignation to the Government of Nepal, such amount shall be recovered from him or her in accordance with law.

- Number 12. If a house and land or cartilage (*Gharbari*) is registered in the name of one person upon survey or examination, and subsequently brothers and sons of that person live apart and build houses in that cartilage, then *Serma* (a type of land revenue in hills and Kathmandu valley) shall not be collected from each household until another survey or examination is carried out; only one *Serma* shall be collected. Provided that each and every household shall pay the *Saunephagu* (roof tax in the hill districts and Kathmandu valley).
- Number 13. One who makes deprivation of the title in an unauthorized manner and one who confers the title to which a person is authorized to another person shall be liable to a fine of Twenty Rupees in the case of cartilage or *Talukdari*, of a sum equal to the land revenue of One year in the case of low land (*Khet*) and of Two and half rupees in the case of impediment only. If any such impediment results in the non-cultivation of land or disorder in the land taxation regime, then the amount in question shall be recovered where so required, and a fine of Ten percent of the amount in question shall be imposed.
- Number 14. One who claims such land or title of *Talukdar* as to which one is not entitled shall be liable to a fine of ten rupees in the case of a claim for the title of *Talukdar* and of Two and half percent of the value of the land claimed in the case of a claim for the land.

- Number 15. One who makes reluctance and refusal to confer the title or land to the proper person who is entitled thereto shall be liable to a fine of Ten Rupees in the case of cartilage and of Five percent of the value and amount in question in the case of land.
- Number 16. Any form of exchange including the sale and disposal of and mortgage of the title of *Talukdar* or *Jimmawal* shall be invalid. The title shall be conferred to one who is chosen by the landowners in the same village.
- Number 17.²⁴¹ A suit on the matter of registration by a person of a land belonging to another person except encroachment and enjoyment by the *Talukdar* shall not be entertained if it is not made within Six months after the date of knowledge of such registration, and a suit on the other matters shall not be entertained if it is not made within two years after the date of the cause of action.

²⁴¹ Amended by the Seventh Amendment.

Chapter-10

On Encroachment of Land

- Number 1. No person shall enjoy other's land by way of encroachment, overlapping, pressing or otherwise and conceal, in any manner, and enjoy a government land without paying the land tax or revenue or cause another person to so enjoy.
- Number 2. If the stream enters and divides the same land and again the stream leaves the land, then the sandy land through which the stream has run shall belong to the person who owns it. The owner of the side where the stream has converted the border land into a sandy land shall be entitled to cultivate and enjoy the land by paying the land tax or levy. The owner of one side shall not be entitled to cultivate the sandy land on the other side and vice versa. If the owner of the sandy side does not cultivate, other person may cultivate and enjoy the land by paying the land tax or levy.
- Number 3²⁴². Any of the following acts shall be deemed to be the concealment of land:
- Concealment of a *Raikar* land (land of which tax is collected directly by the state or through state functionaries) or other governmental or public land stating that such land is a State trust or other land or housing plot as enjoyed since ago or pressing or encroachment and use of a *Raikar* land or other government or public land through these lands.....1
- Use of any government or public land without its registration, other than a housing plot as exempted and enjoyed since ago.....2
- Use of a border land or separate land by virtue of the registration of another land.....3

²⁴² Amended by the Seventh Amendment.

Number 3A.²⁴³ Any of the following acts shall be deemed to be the concealment of land tax or levy:

Use of the previously registered Bhith (non-irrigated land and home sites in the eastern Terai region), Pakho (non-irrigated land in the hill districts) and sloppy grass land or housing plot as exempted and enjoyed since ago as a Khet (paddy field) with the use of an irrigation channel without registering the same as the Khet.....1

In the event of arrangement of reduced land tax because of damage to a land, use of that land without paying the land tax in full pursuant to Number 8 of the Chapter on Land Evictions event after the restoration of that land into its original condition.....2

In the event of obliteration of the records of a land because of severe damage by the stream or landslide, use of that land without registration and payment of the land tax even after the restoration of that land into its original condition.....3

Number 4. In the case of a place where there applies a government deed providing a certain course of action against a person who conceals and uses, or causes the concealment and use of, a government land without paying the land tax or levy for such concealment and use, then it shall be according to that deed. The following provisions shall apply in the case of a place where there is no such deed applicable:

Where the Talukdar himself or herself has knowingly concealed, pressed and used or caused to be concealed, pressed and used, the government land, the amount of the land tax or levy leviable by law shall be recovered from him or her, a fine equal to that amount shall be imposed on him or her and he or she shall be dismissed from the Talukdari (title of Talukdar). In the event of the use of amount in question by the tenant not by the Talukdar, the amount in question shall

²⁴³ Inserted by the Seventh Amendment.

be recovered from such tenant. If the amount in question is not recovered from the tenant in full, then the shortfall amount in question shall also be recovered from the Talukdar who has so knowingly caused such concealment and use; and if the Talukdar has not known the concealment and use of the amount, then the tenant who makes such concealment and use shall be liable to the land tax or levy chargeable pursuant to law and a fine equal to the amount of that land tax or levy.....1

Despite that the Talukdar is ignorant of the concealment and use of the government land by tenant by making **a shelter or shed (Dhuri)**, without making payment of the land tax or levy, the Talukdar shall be liable to a fine of one rupee for each roof for the failure to take care.....2

If a person encroaches, presses and uses a government land, to which one has not title, by using his or her Kipat land, such area of the government land as held to have been encroached, pressed and used by that person by using that Kipat land belonging to that person shall be deducted in a plotting from the Kipat land belonging to that person, on the border or ridge of the government land that has been so pressed, and the Kipat land so deducted and the government land so encroached, pressed and used shall be accumulated and entered into the records of government Raikar land, with fixation of the land tax or levy chargeable in accordance with law, and registered in the name of the person who is entitled to use o tom accordance with the procedures set forth in Number 6 of this Chapter. If, in making deduction of land, such area of land as encroached, pressed and used is not sufficient from the Kipat land, such land tax or levy as may be chargeable by law shall be collected in the case of the shortfall area of land. No fine shall be imposed. No deduction of land shall be made also in cases where the owner is ignorant of encroachment, concealment and use by the tenant and where the government land is encroached, concealed and used with

a trust (Guthi) land. The border shall be set right or restored by imposing a fine equal to the share of crop accruing to the owner (Dhani Boti) on the tenant in the event of encroachment made by the tenant upon payment of the land tax or levy, and by recovering the land tax or levy of the land from, and imposing a fine equal to the amount of the land tax or levy on, the encroacher in the event of encroachment of the land with the trust (Guthi) land.....3

- Number 5. Where a suit is made against a person who encroaches or conceals and uses a government land while the person is alive, and the person is held to have committed such encroachment or concealment, and consequently the amount of the land tax or levy in question applicable to the land so encroached or concealed and used has to be recovered from the person, the land tax or levy chargeable for ten years only shall be recovered despite that the person has encroached or concealed and used the land for more than ten years, and for such years as during which the person has so encroached or concealed and used where the period is less than ten years. In cases where the encroacher or concealment maker dies and his or her son, grand-son or heir accepts the continuance of the case or where the encroacher or concealment maker dies and a suit made against his or her son, grand-son or heir or one who is tilling and using the land is adjudged, there shall be recovered the amount in question for two years only despite that such encroachment or concealment and use has been made since more than two years ago.
- Number 6. Even in cases where the land is liable to be deducted from the Kipat land upon holding that the government land has been encroached, pressed, concealed and used and where the land is liable to be withdrawn along with the dismissal of Talukdari upon proven guilty of encroachment and concealment, and there is a government deed applicable to that place to the effect that the land and Talukdari is not liable to be withdrawn and dismissed despite such encroachment, then

the deed shall be applicable. In a place where such a deed is not applicable, registration shall be made by fixing the land tax or levy, in accordance with the following procedures:

Such area of land cultivated and used by another person out of the land deducted from the Kipat upon the encroachment and use being proved and the land registered out of the land encroached, concealed and used without paying the land tax or levy shall be registered in the name of the cultivator and user, and only the Talukdari shall be granted to the informer. In the other cases, the whole of the land deducted from the Kipat out of the total area of the land cultivated and used by the person who has been encroaching concealing and using on his or her own as well as the half of the government land as encroached shall be registered in the name of that encroacher, and half of the government land so encroached and used and half of the land as registered as a result of the encroachment, concealment and use without paying the land tax or levy shall be registered in the name of the informer and the half shall be registered in the name of that person who has been so using it without paying the land-tax or levy, and where the Talukdar has committed the offence of encroachment, concealment, the title of such Talukdar shall also be registered in the name of the informer....²⁴⁴

.....1

If, in setting aside the land to the informer and a person using the land in accordance with the provisions set forth in section 1 above, the person using the land has bee using it as cartilage (house and land), such area of land as he or she is entitled to shall be so set aside that it falls in the same plotting and is convenient to him or her and that both lands form the same plotting despite that he or she has not used the land as cartilage.....2

²⁴⁴ Deleted by the Seventh Amendment.

Number 7.²⁴⁵

- Number 8. In granting the title of Talukdar to an informer who is entitled by law to the title on the ground that he or she has made a complaint or accusation and got the accused to make confession, the tenants shall be allowed to choose him or her if they so desire, and if many tenants choose him or her, the title of Talukdar shall, by getting a bond executed by him or her, be so granted to him or her in accordance with law that the land-tax or levy arrangement remains in order. If, in making such choice, no one does choose him or her or the number of those who choose him or her is less than that of those who do not, the title of Talukdar shall not be granted to him or her. The matter shall be governed by Number 50 of the Chapter on Punishment.
- Number 9. If a land is withheld pursuant to law, the land shall not be transferred to other in any manner despite that the transferor has title to it unless and until the withholding is lifted, and even the receiver shall not take it knowingly. If such a transaction is done, it shall be void.
- Number 10. If a suit is filed claiming that any person has concealed or encroached and used a government land or land tax or levy and a suit or complaint is made on the matter of title to land owned by persons, then the crops of that land in dispute shall not be allowed to be taken by any person nor shall the recovery of such crops be effected pending the disposal of the dispute. Justice shall be imparted by withholding or attaching the crops of each year in accordance with the following procedures pending the settlement of the case. After the disposal of the case, the crops shall be released to the person entitled thereto, and whatever deposited in the office and held to be returned shall be dealt with and returned in accordance with law:

After a suit or complaint has been made as mentioned above, upon the filing of the statement of defense, if the crops of the land in question do

²⁴⁵ Repealed by the Seventh Amendment.

not ripe and become ready for cultivation until the time when the statement of defense has to be made, and even prior to the filing of the statement of defense, if the crops of the land in question ripe and become ready for cultivation before the time when the statement of defense has to be made, an attachment notice shall be immediately sent to the Village Development Committee or Municipality, Jimidar or Talukdar, whoever is available there, to cut, crush and thresh the crops, take weight and measurement of the crops by Mana, and Pathi, and do whatever acts as required, in presence of both the plaintiff and the defendant, if they are available, and of their joint family members, heirs above 16 years of age, if the plaintiff and the defendant are not available, and of the owners of the adjoining lands and local gentlepersons if even such members, heirs are not available, to hand over the custody of the crops so cut or crushed to the person whom both litigants trust, and to the reasonable person whom they trust failing the person as trusted by both litigants, execute a deed in triplicate duly signed in accordance with law, send one copy to the office, retain one copy with the person making attachment, and give one copy to the person in custody of the crops, and to sell the crops at the rate prevailing at the village or market and convert the same into cash in presence of both litigants if they so wish to witness and of other gentlepersons if the litigants do not so wish, and apply such cash proceeds to the payment of the land tax or levy, if any, payable on that land in that place and to pay the remaining amount to the office, if a notice of clearance is not received until the 15th day of the month of Chaitra. The recipient of the notice shall also make attachment and payment to the office as mentioned above and take a receipt thereof.....1

While making an attachment pursuant to the provisions set forth in section 1 above, in cases where a suit has been filed claiming that any person has encroached, concealed and pressed a Raikar land or land-tax

or levy, there shall be set aside for the plaintiff or the defendant who has cultivated or tilled the land or a third person or the Talukdar who has so tilled the land, half the crops according to the land tax or levy, if any, fixed, and failing such land tax or levy and if rebate or remission is allowed despite the fixation of the land tax or levy, half the crops that can be yielded and in the case of a slant or sloppy land, such amount of crops as may be purchased as Serma (land-tax or levy on an unmeasured Pakho land) at the rate prevailing at the village or market and the owner's share in the event of dispute between owners of the land and the tenant's share in the event of dispute between the owner and the tenant, and then half the crops shall be attached.....2

In cases where the crops of the land in dispute have been cultivated or planted by a litigant in the year of suit but it is not clear which of the litigants has made such cultivation and both litigants make conflicting claims on the cultivation of crops, all the crops of that year shall be attached, and half the crops shall be given to one who is held upon judgment to have made cultivation and the remaining half crops shall be released or provided to the successful or winning party.....3

If a case is filed as mentioned above, the authority responsible for attachment in that place shall make arrangement for the cultivation of the land by any of the plaintiff and the defendant, who so wishes, and by one who has cultivated the land in the year of suit if both of them so wish to cultivate and by a third person if both of them do not so wish to cultivate the land, and keep on such cultivation until the case is adjudged. If the land remains barren as a result of the failure to make such arrangement, the in-charge of the attachment shall pay for crops.....4

After the final settlement and judgment of the case relating to the land that has been attached pursuant to Section 1 above, the office making attaching shall give, or cause to be given, the withheld crops that remain after making recovery of the government dues, if any, from the crops to the person whose title to the land is so established.....5

Where, in the event that an attachment has to be made, after the attachment notice has been sent by the office where the case has been filed as mentioned above and one who is not so entitled has taken up the crops also as a result of omission of the receiver of the notice to make attachment, and recovery cannot be made in full by the title holder from the person who has taken the crops, in accordance with law, the shortfall shall be paid by one who is responsible for making the attachment.....6

Where an attachment notice has been issued and the recipient of the notice has also made attachment and handed over the custody but only the person taking such custody has made embezzlement, and such embezzlement has been made by the person who has been trusted by the litigants of both sides, the amount in question shall be recovered, in accordance with law, from that person so trusted, and that person shall also be liable to a fine by Twenty percent of the amount in question. If recovery cannot be made in full from such a person, no recovery can be made by claiming against one who has handed over the custody to such a person. Where the custody has been handed over to a person who has not been chosen by both the parties and that person has made embezzlement, then recovery shall be made,²⁴⁶ in accordance with law, from that person making such embezzlement. If recovery cannot be made in full in such a manner and if the person handing over the custody is held to have made such hand-over with mala fide intention,

²⁴⁶ Amended by the First Amendment.

the shortfall shall be recovered from the person making such hand-over²⁴⁷7

Where an attachment is in custody pursuant to this Number, the person taking responsibility of attachment shall be entitled to a remuneration at the rate of five percent of the yields or incomings produced or paid by him or her. The rest upon deduction of the remuneration from the yields or incomings shall be produced or paid.....8

- Number 11. No ten percent fee shall be charged while releasing the crops attached upon a case filed in relation to the land to, or returning the money made upon converting the crops into cash and held in the office to, the title holder.
- Number 12. No one shall till or dig, and over sow seeds, in a land that has already been tilled or dug by, or in which seeds have already been sown, by other person. No one shall also overlap seeds. No one shall also loot and forcibly snatch the crops planted or cultivated by other person. Such crops may be taken only after having the entitlement decided upon making a suit for the same.
- Number 13. In making a recovery of the crops of a land, the recovery shall be made by collecting the yields of that land by making a recognizance deed and inquiring the local gentlepersons and neighbors into the matter.
- Number 14. A person who claims a land to which he or she is not entitled as his or her own land or who forcibly possesses a land owned by other person shall be liable to a fine by two and half percent of the value and amount in question of the land.
- Number 15. No person shall do any thing that may destroy the crops in a land to which he or she is not entitled.

²⁴⁷ Amended by the First Amendment.

Number 16. If a divine act occurs to the crops, then an application or complaint has to be made for examination with the time-limit prescribed by law, in a place where the land tax or levy of that land has to be paid. If the cultivation of crops is made without having such an examination, the person concerned shall not be entitled to the remission of the rent of crops and land tax or levy on the ground that such a divine act has occurred.

Number 17. If a person shows up to claim that the rent of crops or land tax or levy cannot be covered by the crops of the land due to a divine act, it is forbidden to tell him or her that he or she has to pay the whole of the existing rent of crops or land tax or levy. Such rent or tax shall be collected by giving remission or on the basis of half portion of crops.

Number 18.²⁴⁸ If a suit is not made within six months after the date of knowledge, in relation to the matter of land, other than the matter of the exchange of a land attached and concealment of land or concealment of land tax or levy, within three years after the date of knowledge in relation to the matter of rent of crops and within one year the date of final disposal upon settlement of the title to the land in the case of crops of the land in dispute, the suit shall not be entertained.

²⁴⁸ Amended by the Seventh Amendment.

Chapter-11

On Construction of Buildings

- Number 1. No one shall construct a building by making encroachment on a land in which one has no right. The owner of the land shall not stop the eaves (*Baleni/Balesi*) drops in his or her land. If the owner of the land wants to construct a building or erects another storey in the building, he or she is entitled to construct it without encroaching the land where eaves drop. No one is entitled to stop it.
- Number 2. No one shall make encroachment on the road or drain in the course of constructing a building. No one shall keep a water channel/pipe (*Dund*) which may cause water to drop on the road.
- Number 3. No one shall create any obstacle to the outlet exit (*Nikas*) in use or given to use since the past. No one shall forcefully take or use any place for an outlet exit which is neither being used nor given since the past.
- Number 4. No one shall construct a building on the land in which he or she no right or on any disputed land. In case a person so constructs a building, the person who builds such building shall give-up that building upon receiving such reasonable costs as determined by the prudent local people (*Panchakriti*) for the same or shall vacate the land within Six months upon demolishing the building. In cases where the owner of the land does not agree to accept the building by paying the costs as determined by the prudent local people or the building constructor does not agree to give the building by receiving the costs as determined by the prudent local people and demolishes it, the building constructor shall pay an amount of Five percent of the costs of the building as determined by the prudent local people to the owner of the land. In cases where the builder

does not demolish the building within a period of Six months, the builder shall not be entitled to demolish the building after the expiry of such time period and the building shall belong to the land owner. In an area/place where a building has to be constructed by getting the design of the building approved, no one shall stop constructing building that has started upon laying its foundation after the approval of the design.

- Number 5. In cases where the concerned officer finds that a building is going to be collapsed or has collapsed in such a way that people could not reside in it and it is so found upon an inquiry; a notice (*Purji*) shall be issued in the name of the owner of the building to construct (renovate) the building upon vacating it within Six months, except in Fours months of rainy season, upon informing the owner that such a collapsed building may cause harm to other buildings; and if the concerned person does not construct such a building within such prescribed time, the cost of such a building including land shall be got determined by the prudent people, and a notice thereof shall be issued and auctioned after the expiry of such time, and the proceeds of such auction shall be handed over to the owner of such building and land.
- Number 6. A building of which walls are made of baked brick or stone, with a roof made from anything and a building made of brick, stone or concrete (*Bajra*), made *Munda* even without the roof, shall be considered to be a *Pucca* building/house, and a building made of other things this shall be a *Kachhi* building/house.
- Number 7. Anyone who is residing in a building or shop constructed in a taxable or state-trust (*Raikar or Rajguthi*) or other land, with or without paying any rent, shall be treated as a tenant and such a person shall not be entitled to transfer the ownership by any means,

and in the course of making confiscation of property of the person in rent, such a rented property shall not be confiscated.

- Number 8. In cases where the owner of a building or shop agrees to permit a person to stay in his or her building or shop whether in consideration for rent or otherwise, upon preparing a deed for the same, the matter shall be dealt with in accordance with such deed. No one shall cause to vacate in the meantime. In cases where there is no condition as to the date to vacate the building, the owner shall not cause to vacate until Five years. In cases where it becomes a family need or if the person staying in rent commits a crime involving moral turpitude against the owner, the owner may vacate the building even though there is a deed between them. The owner shall not be entitled to vacate the building in the pretense of family need or other imaginary cause and rent it to anybody else. In cases where the owner rents the building to any one else within Three years after the vacation of building for his or her family, the person so evicted may file a case within Thirty Five days of such new renting, and such a person shall be entitled to rent such a building.
- Number 9. In cases where one has to evict a person staying in a building or shop rented, the owner shall give a notice of Thirty Five days to vacate his or her building or shop, and one can only vacate his or her building only after such notice. No one is entitled to vacate his or her building without a Notice prior to the agreed date.
- Number 10. Any person, who constructs a building upon encroaching the drainage (*Dhal*), shall be liable to construct such drainage at his or her own cost and shall also be liable to a fine of Ten percent of such cost.
- Number 11. In cases where any person does not file a suit on the construction of a building upon encroaching the land within One year from the

date of completion of the construction of building, the suit shall not be entertained.

Chapter 12

On Husband and Wife

Number 1. No conjugal relation can be dissolved except in the circumstances as referred to in Section 9 of Number 2, and Numbers 4,5,7 and 8²⁴⁹ of the Chapter on Marriage and those mentioned below. Even in cases where such relation has to be dissolved on account of such circumstances, there shall be filed a petition setting out the reasons therefore and after a judgment therein by the court, the conjugal relation may then be dissolved only according to that judgment:

If a wife has left her husband and lived separately for a continuous period of Three years or more without his consent, or she has carried out any such act or intrigue or conspiracy as is designed to put an end to the husband's life, lead to his physical disability or result in any other severe physical or mental²⁵⁰ suffering to him, or.....²⁵¹ the wife suffers from any incurable venereal disease²⁵² or the wife is held to have sexual intercourse with any other man, the husband may dissolve his relation with such a wife.....¹

If a husband has brought or kept another wife or banished her from the house, or not provided her with food and clothes or left the wife and lived separately without seeking any news of her and without taking care of her for a continuous period of three years or more or carried out any such act or intrigue or conspiracy designed to put an end to her life, lead to her physical disability or result in any other severe physical or mental²⁵³ suffering to her or has become important, or the husband suffers from any

²⁴⁹ Amended by the Eleventh Amendment.

²⁵⁰ Inserted by the Eleventh Amendment.

²⁵¹ Deleted by Some Nepal Acts to Maintain Gender Equality Amendment Act, 2063.

²⁵² Inserted by the Eleventh Amendment.

²⁵³ Inserted by the Eleventh Amendment.

incurable venereal disease²⁵⁴ or the husband is held to have sexual intercourse with any other woman or the husband is held to have raped the wife as mentioned in Section 6 of Number 3 of the Chapter on Rape,²⁵⁵ the wife may dissolve her relation with such a husband ----- 2

In a situation other than those mentioned above, the conjugal relation may be dissolved with the consent of both the parties--3

Number 1A.²⁵⁶ A party willing to dissolve the conjugal relation under Section 1 of Number 1 of this Chapter or both the husband and wife in case they desire to dissolve the relation with their mutual consent under Section 3 of Number 1, shall file a petition to the concerned Village Development Committee or the Municipality, as the case may be, and such Village Development Committee or the Municipality²⁵⁷ shall, to the extent possible, convince both the parties and make them have compromise. If such compromise shall not be reached even upon so convincing and reminding them and if it shall be better to let the relation dissolved than to maintain the marriage, it shall, within one year of the filing of the Petition, forward the received Petition, accompanied by its opinion too, to the concerned District Court having authority to dissolve the relation.

Number 2.²⁵⁸ If the wife concludes marriage with another person, the relation of such husband and wife shall *ipso facto* be dissolved.

Number 3.²⁵⁹ A child born within Two Hundred and Seventy Two days of the date of dissolution of the conjugal relation pursuant to the Act shall, unless otherwise proved, be the child of the divorced husband. In regard to the subsistence of such a child and a minor below or above the age of Five years, the following provisions shall apply:

²⁵⁴ Inserted by the Eleventh Amendment.

²⁵⁵ Inserted by Some Nepal Acts to Maintain Gender Equality Amendment Act, 2063.

²⁵⁶ Inserted by the Sixth Amendment.

²⁵⁷ Amended by Some Nepal Acts Relating to Court Proceedings (Amendment) Act, 1990.

²⁵⁸ Amended by the Eleventh Amendment.

²⁵⁹ Amended by the Sixth Amendment.

In case a mother herself desires to subsist a minor, she shall subsist the minor, and if she does not so desire to subsist, the father shall subsist the minor ----- 1²⁶⁰

----- 2²⁶¹

Notwithstanding anything mentioned in Section 1²⁶² of this Number, in the event of the consent of both the father and the mother, either of the father and the mother may subsist such a minor or they may subsist the minor by turns ----- 3

Whoever of the father or the mother who is subsisting the minor shall provide the father or mother who is not subsisting the minor with a chance to meet him or her occasionally in case it is not prejudicial to the interests of the minor or there is not a likelihood of such prejudices. Even the mother who concludes next marriage²⁶³ shall also be entitled to obtain such a chance -----4

Where the mother is subsisting the minor , the father shall according to his status and income provide the reasonable expenses for the food, cloths, education as well as medical treatment of the minor, where the father who is subsisting a minor and where the mother who is not subsisting such a minor has more income than that of the father, even such a woman shall also bear such a sum of expenses for the food, cloths, education and medical treatment of the minor as is determined by an order of the court having regard to the conditions -----5²⁶⁴

Number 4. Where the husband alone or accompanied also by the parents in-law has banished the wife from the house without providing her with food and clothes or has frequently battered and harassed her or the husband has brought or kept another wife, such a wife shall be entitled to get her

²⁶⁰ Amended by Some Nepal Acts to Maintain Gender Equality Amendment Act, 2063.

²⁶¹ Deleted by Some Nepal Acts to Maintain Gender Equality Amendment Act, 2063.

²⁶² Deleted by Some Nepal Acts to Maintain Gender Equality Amendment Act, 2063.

²⁶³ Amended by the Eleventh Amendment.

²⁶⁴ Amended by the Ninth Amendment.

partition share from the partition share of her husband. If such a wife dies or concludes next marriage,²⁶⁵ such of her share as is residue after her use/consumption shall devolve to the her. Where the parents-in-law alone have banished her, she shall be provided with food and cloths according to the status and income.

Number 4A.²⁶⁶ Where the relation has been dissolved pursuant to Number 1 of this Chapter, the court shall make decision on divorce only after having partition between them. In cases where even the husband has not taken his partition share, the court shall order the submission of an inventory of property, partition between the co-parceners, estimate the partition share of such a husband and that of the wife making divorce from partition share of such a husband, and cause the husband to pay monthly alimony for the maintenance and subsistence of such a wife pending the execution of partition. The woman shall be entitled to the property taken as the partition share of the divorcee after the execution of partition. If such a woman does not conclude next marriage or does not have any offspring despite the next marriage, then after her death, the offspring, if any, born from her previous husband and if such offspring be not available, the previous husband shall be entitled to such property obtained by her.

Number 4B.²⁶⁷ Notwithstanding anything mentioned in Number 4A. of this Chapter, if the wife making divorce does not intent to obtain her partition share but annual or monthly expenses from the husband instead of such partition share, the court shall order the payment by the husband of annual or monthly expenses on the basif of the property and income of the husband. The husband shall continue to make payment of such expenses until such a woman remarries.

²⁶⁵ Amended by the Eleventh Amendment.

²⁶⁶ Amended by the Eleventh Amendment.

²⁶⁷ Inserted by the Eleventh Amendment.

Number 4C.²⁶⁸ Where divorce is made pursuant to Number of this Chapter, and there is no property to be partitioned pursuant to Number 4A., and the woman who does not so have partition share from her husband intends to have payment of expenses for food and clothes from her husband and where such a husband has income, the court shall order the recovery of expenses for food and clothes by such wife from such husband. The husband has to pay such expenses until such a woman remarries.

Number 5. While spending the wife's *Daijo*²⁶⁹ and *Pewa*²⁷⁰ such spent *Daijo* and *Pewa* property may be compensated from the joint property of all the coparceners living in the joint family without sub-division of the property according to the Chapter on General Transactions, only if consent to that effect in writing has been obtained from all the coparceners who are above the age of sixteen years, if any, where such property has been spent or dealt out without fulfilling the said set out procedure, such property shall not be capable of being borne by the coparceners and compensated from the joint property, in case the other coparceners do not consent.

Number 5A²⁷¹ One may file a suit for the confirmation of his or her relation with any other person. If the concerned person is a minor, the heir also may be entitled to file a suit, for the confirmation of the relation of such a minor.

Number 6. If a suit is not filed within One year of the occurrence and commission of the act in relation to the matters other than those set forth in Number 1 of this Chapter, and in relation to the matter of adultery, the suit shall not be entertained.

²⁶⁸ Inserted by the Eleventh Amendment.

²⁶⁹ Any movable or immovable property given to a woman by the relatives and friends of maternal-side and any property earned there from.

²⁷⁰ Any movable or immovable property given to a woman by the husband or by other coparceners of husband through a deed to that effect or any property given her by the relatives of friends of the husband side.

²⁷¹ Inserted by the Ninth Amendment.

Chapter-13

On Partition

- ²⁷²Number 1. While partitioning a property after the commencement of this Number, it shall be partitioned between the father, mother, wife, son and daughter individually, subject to the provisions of this Chapter.
- ²⁷³Number 1A. Notwithstanding anything contained in Number 1, it shall not be necessary to provide a share in property to the married daughter.
- Number 2. Except as otherwise provided in this Chapter, all the coparceners shall equally receive the property in the course of making partition pursuant to Number 1 of this Chapter.
- ²⁷⁴Number 3. The sons and daughters of brothers of a joint family shall receive their share only from the property of their father.
- Number 4. If there are co-wives of a husband, all of them shall be entitled to receive their share from the property of their husband pursuant to the Act.
- ²⁷⁵Number 5. If the husband or the father dies before the partition of the property, the share in property to which he is entitled shall go to his wife or children.
- ²⁷⁶Number 5A. Children born by from the couple whose marriage has been held to be void pursuant to the Chapter on Marriage shall also receive their share in property from their parents.
- Number 6. ²⁷⁷

²⁷² Amended by the Eleventh Amendment.

²⁷³ Inserted by the Eleventh Amendment.

²⁷⁴ Amended by the Eleventh Amendment.

²⁷⁵ Amended by the Eleventh Amendment.

²⁷⁶ Inserted by the Eleventh Amendment.

²⁷⁷ Repealed by the Sixth Amendment.

- Number 7. The children born of a woman staying without having a particular husband shall receive the share only from the mother's property until the husband is identified.
- Number 8. A wife kept outside without making it public or children²⁷⁸ born of her shall not be entitled to claim their share in the property after the death of the husband or the father.
- Number 9. One who performs *Vijaya Hom* (religious offering) upon getting one's head shaved shall not be entitled to claim a share in the property.
- ²⁷⁹Number 10. The children shall not be entitled to compel their parents to give them their share in property as long as the parents are alive. Likewise, no parents are entitled to separate their children by giving them their share in property unless the children intend to be separated. The wife also cannot get separated upon receiving her share in property without the consent of her husband as long as the husband is alive. The husband or the parents have to provide food and clothing (means of livelihood) according to their social status and financial capacity and shall also provide appropriate education as well as medical treatment as per necessity. If it is not so provided, they shall be given their share in the property. The matters written in Number 4 of the Chapter on Husband and Wife shall be governed by that Number.
- Number 10A. ²⁸⁰
- ²⁸¹Number 10B. In the course of partition of the property between the parents and the children,²⁸² if the parents want to stay with a particular son or daughter, it should be mentioned in the deed of partition *per se* and

²⁷⁸ Amended by the Eleventh Amendment.

²⁷⁹ Amended by the Eleventh Amendment.

²⁸⁰ Repealed by the Eleventh Amendment.

²⁸¹ Inserted by the Sixth Amendment.

²⁸² Amended by the Eleventh Amendment.

such a son or daughter shall keep the parents with them and take care of them. If the income of the aged parents is not sufficient for their food and clothing or if they do not have any son or daughter or son's son living in the joint family to take care of them, even the sons or daughters living separately shall take care of them upon providing them with food and clothing (means of livelihood) according to their social status and economic capacity.

- ²⁸³Number 10C. If a woman who is entitled to receive a share in property, any amount or expenditure in accordance with the decision (made by the adjudicating office) is not provided with the same and submits an application to the adjudicating office that has made the decision stating the complaints, the office shall impose the punishment of a fine of One Thousand Rupees or an imprisonment of One month or the both on the person who has not so provided to the woman concerned as per the decision if the parties to the case are the same and the office shall also cause to provide the share on property, amount or expenditure to the woman as soon as possible.
- Number 11. If a man living separately upon receiving his share in property has mixed up his property with the property of the wife or any of the sons and has kept them together with him, and afterwards, if he brings another wife and if children are born to them, the share of property and *Jieuni* (larger or smaller share in property) shall be put together and partitioned between those living jointly and those brought or born afterwards pursuant to the Act. If a man after having separated with his share of property brings another wife or if any son or daughter²⁸⁴ is born, such wife or son or daughter so brought or born afterwards shall be entitled to have share on the share property and *Jieuni* of the husband or the father. Those brought or born after mixing up of the property are not entitled to

²⁸³ Amended by the Eleventh Amendment.

²⁸⁴ Inserted by the Eleventh Amendment.

claim share in the property of those who have already got separated.

- ²⁸⁵Number 12. A widow, if she so desires, can receive her share in property and live separately. If the widow or *vidhur* (a man whose wife is dead) who has no children enters into the next marriage, he or she is entitled to dispose of his or her share of property at his or her discretion. If the widow or the *vidhur* (a man whose wife is dead) who already has children enters into next marriage, they shall take care of, educate and instruct those children from such property until the date they become minor. They cannot partition and sell (dispose of) such property other than for that purpose. When children cross the age of minority, they can dispose of their share at their discretion. In cases where the widow who has entered into next marriage does not have children, the property which such a widow is entitled to shall devolve on the children of her previous husband, and if there is no child from the previous husband, the property shall devolve on the heir of the previous husband after her death.
- Number 13. If a widow who has not received her share in property and who has been treated in accordance with law, goes to stay elsewhere leaving her own house, the heir need not to repay a loan borrowed by such a widow.
- Number 14. In the course of partition of a property after the death of the father and husband, all the remaining properties after performing his last rites including the earnings and loans of the father and the grandfather and husband living jointly or separately shall be partitioned equally between the wives and the sons and daughters²⁸⁶ in accordance with law. If, after the death of the father, some

²⁸⁵ Amended by the Eleventh Amendment.

²⁸⁶ Amended by the Eleventh Amendment.

children²⁸⁷ are living with the mother or no children²⁸⁸ are living together but are living separately without taking share in the property at their own free will and property is to be partitioned after the death of the mother, all that remaining properties after performing her last rites including the earnings and loans of the father and grand-father shall be partitioned equally between all the children²⁸⁹ in accordance with law. The properties and loans remaining after the separation of kitchen (*Mano*) shall be dealt with in accordance with the Act.

- Number 15. The partition of property in a large or a small quantity of a share is called *Jieuni*. To provide *Jieuni*, up to additional Five percent of the property which he or she is entitled to received as a share shall be considered lawful. If, after giving or receiving *Jieuni*, a complaint is filed within the limitation as mentioned in Number 32 of this Chapter, the property including the *Jieuni* shall be put together and be partitioned in accordance with the Act.
- Number 16. ²⁹⁰
- Number 17. While setting aside the wedding expenses for the sons and daughters who are not married, regardless of whether the number of unmarried sons and daughters is large or small, Five percent shall be set aside for wedding expenses if the total value of the property is more than Two Thousand Rupees, Ten percent if the value of the total property amounts to less than Two Thousand Rupees to One Thousand Rupees and Twenty percent if the value of the total property amounts to less than One Thousand Rupees and the resulting amount shall be equally partitioned, at the rate of partition share for the wedding expenses. While making

²⁸⁷ Amended by the Eleventh Amendment.

²⁸⁸ Amended by the Eleventh Amendment.

²⁸⁹ Amended by the Eleventh Amendment.

²⁹⁰ Deleted by Some Nepal Acts to Maintain Gender Equality Amendment Act, 2063.

partition in this manner, if there is only one person to receive wedding expenses while those entitled to have share in property happen to be many more and if the wedding expenses amount becomes more than the amount to be received by those entitled (coparceners) to receive share in property, then he or she will receive upto Three Fourth of the amount that one of them gets as of the share by partition as wedding expenses and no more than that. While partitioning property among brothers, no wedding expenses need to be set aside for the brothers' sons and daughters.

- ²⁹¹Number 18: If the coparceners are living together in the same joint family without separating their kitchen (*mano*), all the property earned or increased by any of the coparceners out of the joint property (*sagol*) or from joint farming, industry, trade or business, or the loan borrowed pursuant to Number 8 of the Chapter on General Transactions shall be partitioned between all those coparceners living together. Provided that the property earned personally by a coparcener through his or her own knowledge, skill or efforts or the property received as a donation (*dan*) or gift (*bakas*) personally by any one or the property from inheritance (*aputali*) or the property or income received as referred to in Number 5 of the Chapter on Woman's Share in Property shall be considered as the personal property of the person who has received or earned it and he or she shall be entitled to use such property as he/she likes. He or she shall not be compelled to divide such property with any other coparceners. If the individuals are living separating their kitchen (*mano*) even without partition or has been using the property without having it legally registered, being responsible for their own profit and loss and maintaining their life from their portion, they shall be considered to have separated their kitchen

²⁹¹ Amended by the Seventh Amendment.

(*mano*) in property, though they are living together. In such a situation, their earnings and loans shall be their own.

Number 19. The movable and immovable property of a person who has wife, son and unmarried daughter²⁹² or a widow daughter-in-law and who have not received their share in property shall be dealt with as follows:

In the case of the movable and immovable property from the ancestors' time, all of the movable properties and up to half of the immovable properties may be used at one's own discretion to meet the household needs even without the consent of the wife, son, unmarried daughter²⁹³ or widow daughter-in-law. In the case of more than half the immovable property, it may be spent only after having the consent of the wife, son, unmarried daughter²⁹⁴ and daughter-in-laws even for meeting the household needs. If such a property is used without their consent, it shall not be considered lawful.....1

In the case of the movable and immovable property earned during one's own life time, the person, who has only one wife and sons or unmarried daughter²⁹⁵ from only one wife or there is a similar situation arising from the death of other sons, the unmarried daughter²⁹⁶ and wives, may use such property at one's own discretion. The person, who has more than one wife or son or unmarried daughter²⁹⁷ from more than one wife or son or unmarried daughter²⁹⁸ from this or that wife, may use such property at his or her own discretion, except giving it to the

²⁹² Amended by Eleventh Amendment.

²⁹³ Amended by Eleventh Amendment.

²⁹⁴ Amended by Eleventh Amendment.

²⁹⁵ Amended by Eleventh Amendment.

²⁹⁶ Amended by Eleventh Amendment.

²⁹⁷ Amended by Eleventh Amendment.

²⁹⁸ Amended by Eleventh Amendment.

favourite wife, son or unmarried daughter²⁹⁹ as a gift (*Bakas*) or by any other means of transfer. It shall be lawful only if it is partitioned among all wives, sons and unmarried daughters³⁰⁰ in accordance with their lawful share.....2

The act of using the property as mentioned in the foregoing Sections at one's own discretion without the consent of his wife, son, unmarried daughter³⁰¹ and widow daughter-in-law shall be lawful. In the case of the property which one cannot use at one's own discretion, the act of giving the movable and immovable property from the ancestors' time to the favourite wife, son, unmarried daughter³⁰² and widow daughter-in-law as one likes shall be lawful only if the wife, son, unmarried daughter³⁰³ and widow daughter-in-law above the age of Twenty-One years who have not received their share in property agree to it.....3

In cases where one cannot use the property at one's own discretion as mentioned in the foregoing Sections, an individual may dispose of the property at one's own discretion if the property is equal to his or her share in a case of partition.....4

If the property that may be given as mentioned above is given to certain wife, son, unmarried daughter³⁰⁴ or daughter-in-law having prepared documents before the partition of property takes place, it need not be partitioned while partitioning the property afterwards. A person who has received it can use it by himself or herself. If the property so given is proved to be unlawful, it shall be put together with the rest of the other property and be partitioned.....5

²⁹⁹ Amended by Eleventh Amendment.

³⁰⁰ Amended by Eleventh Amendment.

³⁰¹ Amended by Eleventh Amendment.

³⁰² Amended by Eleventh Amendment.

³⁰³ Amended by Eleventh Amendment.

³⁰⁴ Amended by Eleventh Amendment.

Number 19A. ³⁰⁵

Number 20. When a suit is filed for the partition of property and if the case proves to be reasonable, before handing down the verdict, an inventory of the property, movable and immovable including debts, shall be taken from the head of the family responsible for all household transactions, having him or her swear the god that he or she has shown all the properties and has not concealed anything, and then it shall be partitioned. If the person responsible for giving the inventory does not abide by the (court) order, he or she shall be imprisoned in accordance with Number 21 of this Chapter upto Six months until he or she provides the inventory of all the properties. When he or she provides the inventory of the property, he or she shall be released from prison, and then the property shall be partitioned in accordance with law.

Number 21. If the person responsible for giving the inventory of property is imprisoned for disobeying (the court) order to provide the inventory of the property, he or she shall be ordered to give the inventory in every Two months from the date of imprisonment and as for those who want the share in property, they shall also be issued a notice with the order that they need to present the exact inventory of the property to be partitioned in writing and get them to sign a receipt for the same. If the person so imprisoned provides the inventory within Six months after the date of imprisonment, it shall be accepted and then the property shall be partitioned in accordance with law. If he or she does not provide the inventory within Six months, it shall be obtained the document containing the details from those wanting to have the share in property within the same period of time, and then the one imprisoned for disobeying the order should be given another order stating if he or

³⁰⁵ Deleted by Some Nepal Acts to Maintain Gender Equality Amendment Act, 2063.

she does not report within Thirty-Five days starting from the date he or she receives the order that those wanting to have their share in property have either not shown all the property or listed as non-existent property or shown it to be more or less with intent to having it for themselves leaving aside the share of one in prison from the only property as listed, then all the property shall devolve on his or her coparceners and his or her complaint shall not be entertained. Having handed over this order he or she should be made to sign a receipt for the same and if he or she reports within that period of time, then the property should be partitioned in accordance with law. If he or she does not report, a *Muchulka* (deed) should be prepared to the effect that the details of property as submitted by those wanting share in property is exact, no more and no less, and that if afterwards it proves to be false, they shall be punished in accordance with law, and then the property as listed in the *muchulka* (deed) shall be partitioned in accordance with law. If any property is found concealed, the person who has not made concealment shall receive it in accordance with law. No complaint of one who has not abided by the order shall be entertained.

- Number 22. If, in a case related to the partition of property, the party responsible for providing the inventory of property does not appear before the court before the date is expired, he or she shall be arrested immediately, and the inventory shall be obtained from him or her. If he or she is not found when searched for One month excluding the time required for the journey or after having been arrested he or she does not provide the inventory within the period of time fixed by law, then if one who wants share in property is present, the inventory shall be obtained from him or her and it shall be acted in accordance with Number 21 of this Chapter and if he or she is not present or if the person who wants share in property has not shown any property that he or she wants to have solely, a

summons shall be issued and be posted to the effect that he or she shall report being present within the set time, his or her coparceners shall receive the property solely. After the service of the summons, whether or not he or she appears in person (before the court) to report, the property shall be partitioned in accordance with the same Number 21. If the person responsible for presenting the inventory of property does not present it or if he or she gets arrested or does not appear (before the court) and if the person claiming his or her share says that he or she is also unable to present the inventory for certain reasons, a document to that effect shall be prepared and have it signed, and the verdict shall be made in accordance with law that the rest proceeding shall take place when he or she prepares and submits the inventory. Following such verdict, if he or she comes to submit an application afterwards, it shall be entertained and the remaining action regarding the document shall be taken in accordance with law and the necessary action for execution shall be taken in accordance with law.

Number 23.

While describing the details of the land, buildings/houses and other articles to be partitioned, the boundaries, the quantity of land in *Ropani*, *Bigha* or *Muri*, the taxes also if levied and if not, the production, and shutters, stories, the boundaries of houses, whether built from baked or raw bricks and the approximate price, and apart from houses, the number of sellable articles, if there are any, with description of their shape and size, and the probable price in cash currently prevailing at the village or market and the approximate price has to be fixed and exchanged to each other. If anyone lodges a complaint to the effect that the given price has been exaggerated, then the price has to be fixed by having a meeting of the local elites (*Sahu*, *Mahajan*) and gentlepersons by fixing the cost of articles or estimating the reasonable price.

- Number 24: If the party of the dispute supposed to give the key of the store has been absent expiring the date or if he or she does not give the key even when he or she is present and if the person entitled to receive share in property presents an application demanding that the store be opened and the details of property be checked and partitioned, then the office should, in the presence of the one who has the key, if he or she is present, or if not even in the presence of only one party of the dispute and in the presence of at least Two gentlepersons along with the member or representative of the concerned Village Development Committee or municipality,³⁰⁶ open the store, check and prepare the inventory and partition the property.
- Number 25. Once the partition of property is completed and one's respective share is accepted, no complaint requesting for replacement of the goods that are found to be damaged shall be entertained.
- Number 26. If, in a case concerning partition of property, the person required to provide the inventory of property fails to provide it and partition is made on the basis of the inventory provided by others, the person who has not provided the inventory shall be, in addition to the punishment to be imposed by any other Act, punished with a fine that is by Five percent of the cost of the whole property of which he or she has not provided the inventory.
- Number 27. If any property is found to have been concealed after a document is prepared stating that no property has been concealed, then the person who has concealed such a property shall be deprived of share in it. The other coparceners that have not concealed the property shall be entitled to partition it between themselves in accordance with law. No punishment shall be imposed for concealing the property.

³⁰⁶ Amended by Court Proceedings Related Some Nepal Acts Amendment Act, 2047.

- Number 28. While partitioning a property, if the coparceners agree to receive a combination of good and bad property, it shall be partitioned accordingly, if not, it shall be partitioned by way of lottery.
- Number 29. If, within Three years following the date of the partition of property, the movable or immovable property of one's own share proves to be of the other's or if following a complaint filed (at the court) it proves to belong to others, such a coparcener may receive the substituting property from all other coparceners on the *pro rata* basis.
- ³⁰⁷Number 30. Property shall be partitioned in witness of persons, and after having partitioned the property in accordance with law, a deed of partition shall be prepared, signed by those who give and receive the share and by the witnesses, and registered. No partition of property without completing all these terms and conditions shall be valid. Provided that, until the date of the commencement of this Act, partition of property made by a combination of good and bad property with or without preparing a deed of partition, and if following the partition the coparceners have lived separately taking their rightful share and have also used it separately or even sold it as they liked, and if it is proved from practical evidence that the partition has been made, then no complaint made on the ground that the document of partition has not been registered or that there has been unequal share in the partition shall be entertained. Even if it is not registered, it shall be valid. As regards taking less than the rightful share or *Jieuni* at one's own free will or abandoning the share in property, a deed to that effect needs to be registered.
- Number 31. After a complaint is filed demanding that share in property be partitioned, if it is established that the person concerned is entitled to receive share in property, and after the inventory of property to

³⁰⁷ Amended by Seventh Amendment.

be partitioned is submitted, if the plaintiff registers an application demanding that the income from his or her share be attached, then the share which he or she is entitled to receive shall be attached in accordance with Number 10 of the Chapter on Encroachment of Land³⁰⁸ until the property is partitioned, and after the partition is made, the attachment shall be lifted.

Number 32. While partitioning property, it shall be partitioned in accordance with law. It shall be neither more nor less. If a person who is dissatisfied with the partition of property and attained the age of Sixteen years may file a case within Three months from the date of deed of partition and upon completing the age of Sixteen years if one is below the age of Sixteen years and if the complaint is not filed within such limitation it shall not be entertained. In a suit related to the partition of property, even if the plaintiff expires the date fixed for making presence, the case shall not be dismissed, rather a verdict shall made based on what it appears to be reasonable.³⁰⁹

Number 33. In cases where all the coparceners were in a joint family, the land, houses, paddy field etc. which was a joint property to be partitioned confiscated or attached by the government or the salary, allowance and remuneration not being released, are returned or released by the efforts of any of the coparceners after the partition, the property so returned or released shall be partitioned in accordance with the document stating the portion to be shared to each of them if such a document exists, if it does not exist, the coparceners who have returned it from the government is entitled to use the immovable property solely for Three years starting from the date of having it returned, and from the Fourth year all the coparceners shall be entitled to have their share from it,

³⁰⁸ Amended by First Amendment.

³⁰⁹ Inserted by Seventh Amendment.

and in the case of the movable property, it shall be partitioned between all coparceners but the person who has returned it may have up to Ten per cent more than the others. The same norm shall be applicable if any coparcener returns any property taken away by someone else other than the government.

Number 34. If a person who is not eligible to obtain partition share files a case demanding that he or she be given the share of property, he or she shall be fined on the basis of the amount in question if it appears from the case file, and if it does not so appear, he or she shall be fined up to Two Hundred Rupees depending on his or her income status (*Aukat*).

Number 35. In a case where no partition of property has been made, or in a case where property has been partitioned through the common (*Goshwara*) document and in a case where both the parties have been holding their possession on their own even without any deed, there shall be no limitation to file a case and in a case where there does not exist a deed or there is no possession over the property remaining from the partition made previously or claiming the portion concealed, the case may be filed upto the life of each coparcener (*bhinna bhinna Jiu*). If there exists a common document (*Goshwara*), each individual receiving his or her rightful share shall be entitled to use such property at his or her own discretion.³¹⁰

³¹⁰ Inserted by Sixth Amendment.

Chapter 14

Women's Share and Property

- Number 1. An unmarried woman, a woman having a husband or a widow may use and dispose of the movable or immovable property which they have earned on their discretion.
- Number 2.[◎] An unmarried woman, a woman having a husband or a widow who are separate from a joint family may use and dispose of all the movable or immovable property of their share on their discretion.
- Number 3. No debt, taken without a surety, by such woman may be paid back to the lender from the immovable property which she may not use on her discretion pursuant to Number 2 of this Chapter.
- Number 4. The movable and immovable property of a woman received from her parents' family, her mother's parents' family and the property that she has increased from it shall be her *Daijo* (dowry). The movable or immovable property given to her with a deed of consent coparceners of all the heirs by her husband or the coparceners on the side of her husband, and the movable and immovable property given to her by other relatives or friends on the side of her husband and property she has increased from it shall be her *Pewa* (exclusive property).
- Number 5.[◎] Woman may use and dispose of their dowry (*Daijo*) or exclusive property (*Pewa*) on their discretion. In a case she dies, this property shall be treated as mentioned in the deed she has made. If such a deed does not exist, her property goes to the son or daughter living with her if there is any; if such a son or daughter does not exist, it goes to the son or daughter living separately if there is any; if such a son or daughter does not exist, it goes to the husband; if the husband does not exist, it goes to a married daughter

[◎] Amended by Gender Equality Maintaining Some Nepal Acts Amendment Act, 2063.

[◎] Amended by Eleventh Amendment.

if there is any; if a married daughter does not exist, it goes to a son's son or unmarried daughter if there exists any; if none of them exists it goes to the heir (*Hakwala*).

Number 6. *.....

Number 7. If a woman has previously given some property to someone as a religious donation (*Dan*) or ordinary gift (*Bakas*) or sold the property other than dowry (*Daijo*) or exclusive property (*Pewa*) that she is entitled to, and if she gets marriage[®] with the same person to whom she has given it as a gift or sold it, the transaction shall not be lawful. Anyone having the right may get it back.

Number 8. Regarding the matters referred to in Number 7 of this Chapter, no lawsuit may be registered unless it is filed within Two years from the date of such next marriage[®] and regarding other matters, within Two years from the date of cause of action.

* Omitted by Eleventh Amendment.

® Amended by Eleventh Amendment.

® Amended by Eleventh Amendment.

Chapter - 15

On Adoption³¹¹

- Number 1.³¹²
- Number 2.³¹³ A person except one who has his or her son or daughter may adopt a son or daughter by executing a deed to that effect.
- Provided that, a person who has got a son and a person who has got a daughter shall not be entitled to adopt a son and daughter, respectively.
- Number 2A.³¹⁴
- Number 2B.³¹⁵ One who is once adopted as an adopted son or adopted daughter shall not be readopted as a son or daughter. Such adoption, if any, shall be void.
- Number 3. The adoption of any person, who has been adopted pursuant to the duly signed deed by a person entitled to make such an adoption by virtue of not having any issue at the time of adoption, shall not be rendered invalid as a result of the subsequent birth of a son from the person making the adoption. He shall be entitled to the partition share equivalent to that of a natural son.
- Number 4.³¹⁶
- Number 4A.³¹⁷
- Number 5.³¹⁸

³¹¹ Amended by the Gender Equality Maintaining Some Nepal Acts Amendment Act, 2063.

³¹² Repealed by the Eleventh Amendment.

³¹³ Amended by the Gender Equality Maintaining Some Nepal Acts Amendment Act, 2063.

³¹⁴ Deleted by the Gender Equality Maintaining Some Nepal Acts Amendment Act, 2063.

³¹⁵ Inserted by the Eleventh Amendment.

³¹⁶ Repealed by the Eleventh Amendment.

³¹⁷ Repealed by the Eleventh Amendment.

| | |
|---------------------------|---|
| Number 6. ³¹⁹ | |
| Number 7. ³²⁰ | |
| Number 8. ³²¹ | |
| Number 9. ³²² | |
| Number 9A. ³²³ | |
| ³²⁴ Number 9B. | There shall be a difference of at least thirty years between the age of an adopted son or daughter and the adoptive person. |
| ³²⁵ Number 9C. | An adopted son or daughter shall be entitled to the same rights as of a natural son or daughter. Such an adopted son or daughter shall not be entitled to make a claim for partition share from his or her natural father. |
| ³²⁶ Number 9D. | In cases where even a daughter is born from the adoptive parents after a female has been adopted as a daughter, such adoption shall not be invalid by that reason. The adopted daughter shall be as a natural daughter. |
| Number 10. | If the person who has abandoned <u>a child</u> ³²⁷ is traced, and it is proved that the child has been abandoned with the consent of both the father and mother, the partition shares of both of them, <u>along with such a share of the child,</u> ³²⁸ shall be provided to the person subsisting the child. If only one of the parents is found to be involved in such abandonment, then the partition share of the |

³¹⁸ Repealed by the Eleventh Amendment.

³¹⁹ Repealed by the Eleventh Amendment.

³²⁰ Repealed by the Eleventh Amendment.

³²¹ Repealed by the Eleventh Amendment.

³²² Repealed by the Eleventh Amendment.

³²³ Repealed by the Eleventh Amendment.

³²⁴ Amended by the Eleventh Amendment.

³²⁵ Amended by the Eleventh Amendment.

³²⁶ Inserted by the Sixth Amendment.

³²⁷ Amended by the Eleventh Amendment.

³²⁸ Amended by the Eleventh Amendment.

said parent and that of the child³²⁹ shall be provided to the person subsisting the child.....³³⁰

³³¹Number 11.

No adoption made on fulfillment of the requirements of the Act shall be revoked except for specific defaults. If an adopted son or daughter does acts such as failing to provide food and clothes to the adoptive person, failing to look after, and misusing the family property, giving physical or mental torture to them, such adoptive parents may revoke the adoption. The adopted son or daughter whose adoption is so revoked shall be entitled to the partition share from his or her natural father. If the adoptive person abandons the adopted son or daughter from the house without providing such a son or daughter with food and clothes or fails to make provision of education and medical treatment, except for any reasons as mentioned in law, such an adopted son or daughter shall, like a natural son or daughter, be entitled to seek partition share from such an adoptive person.

³³²Number 12.

One who has only one son or daughter shall not allowed to give the son or daughter for adoption nor shall the adopting person adopt him. Any such adoption shall be void.

³³³Number 12A.

If any foreign national wishes to adopt any citizen of Nepal, who may be adopted as a son or daughter in accordance with the law, the Government of Nepal may, after considering the character and economic condition of such a foreign national and on recommendation of the concerned foreign government or embassy, permit adoption of a son or daughter on such terms and

³²⁹ Amended by the Eleventh Amendment.

³³⁰ Deleted by the Eleventh Amendment.

³³¹ Amended by the Eleventh Amendment.

³³² Amended by the Eleventh Amendment.

³³³ Inserted by the Sixth Amendment.

conditions as the Government of Nepal may consider appropriate.

³³⁴Number 12B. In giving permission to a foreign national to adopt a citizen of Nepal pursuant to this Chapter, the Government of Nepal shall give permission only if the law of the country of such a foreign national provides that an adopted son or daughter has the same right as a natural son or daughter has.

Number 13. If a suit on any illegal adoption of an adopted son or an adopted daughter³³⁵ is not filed within two years from the date of knowledge of such adoption, the suit shall not be entertained.

³³⁴ Inserted by the Eleventh Amendment.

³³⁵ Inserted by the Sixth Amendment.

Chapter-16

On Inheritance

Number 1.³³⁶ An heir means the nearest coparcener of the concerned person within seven generations. One that is outside seven generations is an outsider relative.

Number 2.³³⁷ No other person shall be entitled to inherit the ancestral property so long as there is the husband, wife, son, unmarried daughter, son's son of the deceased or his unmarried daughter, subject to the other Numbers of this Chapter. If the deceased has not got son but widow daughter-in-law, she shall be entitled to inherit the property as if she were the son. If there is none of them, then the married daughter, her son or unmarried daughter if there is no even the unmarried daughter and if there is no such heir, the heir according to law shall inherit the property.

Number 3³³⁸ If the separated husband, wife, son, unmarried daughter, son's son or his unmarried daughter did not take care of and subsisted the deceased and the married daughter or son-in-law or son or unmarried daughter of such son-in-law has maintained and subsisted the deceased, the inheritance of the father, mother, mother-in-law, father-in-law or grandfather or grandmother so maintained and subsisted shall devolve on the married daughter, daughter's husband or grand-son or daughter having so subsisted the deceased. The other heirs shall not be entitled to inheritance.

Number 4³³⁹ -----

Number 5³⁴⁰ -----

³³⁶ Amended by Some Nepal Acts to Maintain Gender Equality Amendment Act, 2063.

³³⁷ Amended by the Eleventh Amendment..

³³⁸ Amended by the Eleventh Amendment.

³³⁹ Deleted by the Eleventh Amendment.

³⁴⁰ Deleted by the Eleventh Amendment.

Number 6³⁴¹ In cases where the father and mother, who has offspring from only one wife or more than one wife, receive and give partition shares amongst him and all wives, sons, unmarried daughter³⁴² and daughter-in-laws, pursuant to law, and some live with their son, unmarried daughter,³⁴³ daughter-in-law after mixing partition share with such son, unmarried daughter,³⁴⁴ daughter-in-law, and inheritance takes place by virtue of the death of father and mother, only the jointly living wife, son, unmarried daughter³⁴⁵ and daughter-in-law shall be entitled to such inheritance. It shall be as per the deed if there is any.

Number 7³⁴⁶ If the separated husband, wife, son, unmarried daughter, son's son or his unmarried daughter has not cared for and subsisted the deceased and the brother or sister born from the same father has maintained and subsisted the deceased, the inheritance of the brother or sister so maintained and subsisted shall devolve on the brother or sister having so subsisted the deceased. The other heirs shall not be entitled to inheritance.

Number 8³⁴⁷ -----

Number 9. In cases where there are sons, unmarried daughters³⁴⁸ born to the same wife, the other sons and unmarried daughters³⁴⁹ have lived apart after having received and give their respective partition shares pursuant to law, he has lived with one son, unmarried daughter,³⁵⁰ daughter-in-law but such son, unmarried daughter,³⁵¹ daughter-in-law have not maintained and subsisted him and, consequently, he has gone to live

³⁴¹ Amended by the Eleventh Amendment.

³⁴² Inserted by the Eleventh Amendment.

³⁴³ Inserted by the Eleventh Amendment.

³⁴⁴ Inserted by the Eleventh Amendment.

³⁴⁵ Inserted by the Eleventh Amendment.

³⁴⁶ Amended by the Eleventh Amendment.

³⁴⁷ Deleted by the Eleventh Amendment.

³⁴⁸ Inserted by the Eleventh Amendment.

³⁴⁹ Inserted by the Eleventh Amendment.

³⁵⁰ Inserted by the Eleventh Amendment.

³⁵¹ Inserted by the Eleventh Amendment.

with another son, unmarried daughter,³⁵² daughter-in-law, taking his entire partition share and property with him, and he dies, then the son, unmarried daughter,³⁵³ daughter-in-law with whom he has lived subsequently shall be entitled to inheritance. In cases where he has not so gone taking his partition share and property but has gone to live for some days for some reasons and he dies, the son, unmarried daughter,³⁵⁴ daughter-in-law with whom he has so gone to live for some days shall not be entitled to such inheritance.

Number 10. In cases where there is only one son, unmarried daughter,³⁵⁵ from the same mother, only the father and the mother have lived apart or have lived with any son, unmarried daughter,³⁵⁶ and the husband dies, then the wife shall be entitled to the partition share, property of the husband. In cases where the wife dies, then the husband shall be entitled to that of the wife. In cases where the wife who has lived apart after taking her partition share, then the son, unmarried daughter,³⁵⁷ if any, and the husband, if there is no son and unmarried daughter,³⁵⁸ shall be entitled to inheritance. If there is no such son, daughter, then the step son, unmarried daughter,³⁵⁹ shall be entitled to inheritance.

Number 11³⁶⁰ Notwithstanding anything contained in the other Numbers of this Chapter, in cases where one has been subsisted and maintained not by a nearer heir but by any other person at the time of his or her death, that person shall be entitled to the whole of the movable and immovable property³⁶¹ belonging to the deceased.

³⁵² Inserted by the Eleventh Amendment.

³⁵³ Inserted by the Eleventh Amendment.

³⁵⁴ Inserted by the Eleventh Amendment.

³⁵⁵ Inserted by the Eleventh Amendment.

³⁵⁶ Inserted by the Eleventh Amendment.

³⁵⁷ Inserted by the Eleventh Amendment.

³⁵⁸ Inserted by the Eleventh Amendment.

³⁵⁹ Inserted by the Eleventh Amendment.

³⁶⁰ Amended by the Eleventh Amendment.

³⁶¹ Amended by Some Nepal Acts to Maintain Gender Equality Amendment Act, 2063.

Number 12. In cases where some brothers or unmarried sisters³⁶² live apart after having taken their partition shares and some brothers or unmarried sisters³⁶³ live jointly, and any brother or unmarried sister³⁶⁴, out of the jointly living brothers or unmarried sisters³⁶⁵, dies, then the separated brother or unmarried sister³⁶⁶ shall not be entitled to inheritance. Only the jointly living brother or unmarried sister³⁶⁷ shall be entitled to inheritance despite that he or she was not born from the same mother. In cases where they have maintained and subsisted themselves from their respective partition shares despite that they have lived jointly, the full blood brothers or unmarried sisters³⁶⁸ of the deceased brother shall, in such case despite their joint living, be entitled to such inheritance as well as to inheritance of the brother or unmarried sister³⁶⁹ living apart. The brothers or unmarried sisters³⁷⁰ who are not born from the same mother shall not be entitled to partition share.

Number 12A.³⁷¹

Number 13³⁷² -----

Number 14³⁷³ -----

Number 15. One who is entitled to inheritance shall not be compelled to inherit if one does not wish to so inherit. One shall be compelled to perform funeral rites and rituals of the deceased irrespective of whether one inherits or refuses to inherit.

³⁶² Inserted by the Eleventh Amendment.

³⁶³ Inserted by the Eleventh Amendment.

³⁶⁴ Inserted by the Eleventh Amendment.

³⁶⁵ Inserted by the Eleventh Amendment.

³⁶⁶ Inserted by the Eleventh Amendment.

³⁶⁷ Inserted by the Eleventh Amendment.

³⁶⁸ Inserted by the Eleventh Amendment.

³⁶⁹ Inserted by the Eleventh Amendment.

³⁷⁰ Inserted by the Eleventh Amendment.

³⁷¹ Deleted by Some Nepal Acts to Maintain Gender Equality Amendment Act, 2063.

³⁷² Deleted by the Eleventh Amendment.

³⁷³ Deleted by the Eleventh Amendment.

- Number 16. In cases where the heir does not inherit, the creditors, if any, shall be entitled to such assets of the deceased that remain after performing the funeral rites and rituals of the deceased on pro rata basis. Where there are no creditors, all the assets, and if there are creditors, the assets remaining surplus after repaying debts shall devolve on the Government of Nepal.
- Number 17. In cases where an inhabitant dies within the territory of Nepal, and no heir to him/her is not available in such place but he or she has property there, then the *Jimidar* or *Talukdar* (a person responsible for collection of land tax or levy) in that place or any person making land tax or levy arrangement, in the absence of such *Jimida* or *Talukdar* shall give a notice thereof to the concerned Village Development Committee or Municipality; and the Village Development Committee or Municipality³⁷⁴ shall also prepare an inventory of the assets of the deceased in witness of such *Jimidar* or *Talukdar* or person making land tax or levy arrangement, and at least two local gentlepersons and give a report thereof, accompanied by one copy of such inventory and a deed executed in that respect, to the nearby District Office. Where a report is received accordingly, the District Office³⁷⁵ shall send a Three-month process or notice in accordance with law to the name of the heir to the deceased if the whereabouts of the deceased are known. If the heir appears within the time limit, the property shall be handed to the heir by fulfilling the requirements of law, by charging ten percent thereof. If any heir does not appear within the time limit or no heir is found out, the inheritance shall devolve on the Government of Nepal.
- Number 18. In cases where any *Bheshdhari* dies within Nepal, the assets belonging to that *Bheshdhari* shall be given to the attorney of that *Bhesgdahri* if such attorney is available; and failing such attorney, the *Mahanta* who is entitled to inheritance of *Bhesh* as per the legal provisions shall be

³⁷⁴ Amended by the Court Proceedings Related Some Nepal Acts (Amendment)Act, 2047 (1991).

³⁷⁵ Amended by the Court Proceedings Related Some Nepal Acts (Amendment)Act, 2047 (1991).

entitled to inherit the same after performing the funeral rites and rituals of the *Bheshdhari*. Even though there is no property of the deceased, one that is entitled to inheritance of that *Bhesh* shall perform the funeral rites and rituals of the deceased.

Number 19³⁷⁶ In cases where any one kills any other person with anger and ulterior motive, the murderer or his or her offspring shall not be entitled to inherit the property of the deceased or his or her offspring.

Number 20. Except for the matters in respect whereof the limitation is mentioned elsewhere in this Chapter, no suit shall be entertained if it is not filed within Three years after the occurrence of inheritance.

³⁷⁶ Amended by the Eleventh Amendment.

Chapter-17

On General Transactions

- Number 1. If any transaction is carried out without making a deed in accordance with law, no suit shall be entertained. Except where a deed has been registration passed, if any other deed is subject to a divine act, the person concerned shall set down and sign or seal an application in duplicate and submit it to the nearby police office not later than Seven Days, excluding the time required for journey, after the occurrence of the divine act. If such an application is made, one copy shall be entered into the records of the office and the other copy which shall be signed by the official and bear the seal of the office shall be returned to the applicant. If, not later than Fifteen days after the occurrence of the divine act, the debtor or his or her heir entitled to inheritance if the debtor has died refuses to execute another deed setting out the occurrence of the divine act, the person concerned shall subsist his or her right by making a suit, accompanied by a solid evidence showing the existence of the deed previously and the occurrence of such a divine act, not later than Thirty Five days of the expiration of that time limit. If these requirements are not met, no suit shall be entertained.
- Number 2. In cases where neither the recovery of some interest has been made nor a deed on the date of repayment has been executed within Ten years after the date of a bond (*Tamsuk*), no suit shall be entertained after that time-limit. Where a deed on the date of repayment has been executed or some interest recovered during the period of Ten years, then the time-limit shall extend again for Ten years after that date. The provisions set forth in Number 3 of this Chapter shall apply to a usufruct or sight mortgage.
- Number 3. In the event of the execution of a usufruct or sight mortgage deed, the creditor or any person acting on his or her behalf shall foreclose/use the mortgaged immovable property or make a suit for the foreclosure in the

event of any hindrance in the foreclosure of the same, within Two years after the date of the execution of the deed in the case of the usufruct and after the date of expiration of the date of repayment in the case of the sight mortgage. If the suit is not made within the said time-limit, the deed of mortgage shall be equivalent to an unsecured money.

Number 4.³⁷⁷ In making a decree ordering the payment of interest in any case requiring the recovery of interest, judgment shall be so handed down that the recovery of the interest accrued up to the date of judgment and of the interest accrued up to the date of recovery of interest if an application is made subsequently for the recovery of the same.

Number 5. The creditor and the debtor shall, while receiving and paying principal and interest, as well, fulfill the requirements as mentioned below. Any transaction failing to fulfill these requirements shall not be valid.

While making repayment of principal in whole, the debtor shall make such payment by having the deed executed by him or her to that effect torn out or canceled or having an endorsement made in the same deed indicating that repayment has been made in full. If the deed is not found for any reason, the debtor shall obtain from the creditor a receipt setting down the same matter.....1

While making repayment of only some of the principal or payment of interest, the debtor shall obtain from the creditor a receipt in accordance with the provisions set forth in Section 1 above, and the creditor shall, as far as possible, make an endorsement to that effect on the reverse side of the bond, book of account or receipt or any deed whatsoever executed previously in relation to the principal, and have the debtor sign the endorsement. If the matters of endorsement cannot be covered in the space of the document on which the endorsement is to be made, another paper shall be affixed thereto and the matters set down

³⁷⁷ Amended by the Seventh Amendment.

therein, and the joints thereof shall also be signed, and caused to be signed, accordingly.....2

- Number 6. Where a debt or loan has been lent and borrowed, an interest on the interest shall not be collected; and even if so collected, it shall be returned. If the deed does not provide for interest, interest may not be collected. If a deed provides for an interest that is less than ten percent of the principal per year, then it shall be as per the deed. If a deed provides for charging and paying an interest but does not specify the rate or figure of interest or provides for payment of interest that is more than ten percent of the principal per year or where making recovery of interest by the creditor from the debtor on the other grounds requiring the recovery of interest pursuant to law, making recovery of interest by the creditor from the debtor on the other grounds requiring the recovery of interest pursuant to law, no such recovery of interest shall be made as to exceed ten percent of the principal per year. Even in cases where a deed does not provide for interest but for payment of profits, the provisions that apply to interest shall be applicable.
- Number 7. While making the recovery of interest, no recovery of such interest may be made as may be in excess of a sum that is equal to the principal where none of the principal has been recovered, and to the outstanding principal where some of the principal has been recovered.
- Number 8. Informed men or women who, having attained majority, carry out transaction as the principal person of family or live in the joint family and carry out household affairs, farming, trade or any other business in various places shall be deemed to be the principal ones in the respective places where they reside. Only such transaction as carried out by such principal ones or such transaction as carried out by other members who have attained majority and live in the joint family and the relevant deed is signed or executed by the principal ones shall be chargeable on the joint or common property.

Number 9.³⁷⁸ Except in cases where one has carried out transaction in the capacity of the principal person in accordance with Number 8 of this Chapter, if one who has attained majority and lives in the joint family has carried out any transaction, the creditor shall not be entitled to attach the money to be received by one unless and until one's right in that money is established. The creditor shall be entitled to make recovery only from the property of one's own earning or that one may dispose of at one's own will. Where one has not any property of one's own earning or that one may not dispose of at one's own will, attachment or claim shall not be made unless and until one's title in the money to be received by one is established. In such a case, only when the creditor makes a suit and gets his or her right established within ten years, the creditor shall be entitled to make recovery in accordance with law after one becomes entitled to such money. In such a case, the time-limit for making an application for recovery as referred to in Number 42 of the Chapter on Punishment shall start after the date on which the creditor's title to the money is established.

Number 10.³⁷⁹ While selling or disposing of, or otherwise relinquishing right in, any immovable property in common (joint immovable property) by a coparcener who has not partitioned, such sale or disposal or relinquishment shall be valid only when such transaction has been witnessed by all coparceners in the joint family or been carried out with a deed of consent executed by all such coparceners, except in the case of the property that the coparcener may enjoy at his or her own will and for the disposal of which other's consent is not required. Where any disagreeing coparcener, who has neither witnessed the transaction nor executed a deed of consent, makes a complaint within thirty five days of the date of knowledge not later than one year of the date of registration and it is held that the coparcener has not given consent, the

³⁷⁸ Amended by Some Nepal Acts to Maintain Gender Equality Amendment Act, 2063.

³⁷⁹ Amended by the Seventh Amendment.

coparcener's share in that property shall be returned to him or her. Where such share of property is so returned, the creditor shall be entitled to recover his or her money, if any, incurred in the share of property so returned and an interest as referred to in law and the deed registration fee as well, from the coparcener who has transferred his or her right in the property by way of sale or disposal or otherwise as if such money were an unsecured money. In the case of a property of one's own personal income, one is not required to obtain the consent of those who live with him or her jointly. One may sell, dispose of and otherwise deal with such property.

Number 11. If any person sells an immovable property in which he or she has right, and any heir to the seller, as referred to in law, who may have easement or inconvenience in view of the sold property, other than one who has witnessed the deed or given consent pursuant to Number 10 of this Chapter wishes to redeem (or preempt) the property, such heir shall be entitled to make redemption (or preemption) within thirty five days after the date of knowledge but not later than six months of the date of registration of the deed of sale and purchase. The sale and purchase shall be indisputable after the expiration of that time-limit. If any member having attained majority and living in the joint family has known the transaction, all heirs including the principal one in the joint family shall be deemed to have known it. Where many heirs who may have easement or inconvenience in view of the sold property wish to redeem the property, the nearest heir of them shall be entitled to make such redemption. Where the near heir has purchased the property, the outsider heir shall not be entitled to redeem it despite that such heir may have easement or inconvenience in view of the sold property.

Number 12.³⁸⁰ Where there is no heir who may have inconvenience in view of the sold property or where such heir though available does not redeem, the

³⁸⁰ Amended by the Seventh Amendment.

following person may, by making a complaint for redemption within the time-limit as referred to in Number 11 of this Chapter, make redemption:

In the case of a land, the tenant of that land.....1

Provided that in the event of purchase of a land for cartilage, any person other than the heir who may have inconvenience in view of the sold property shall not be allowed to redeem the land with an area not exceeding Two *Ropani* or Three *Kattha*.

In the case of a house (building).....2

In cases where different persons are owners of different parts of the same house (building) and the owner of any part of the house sells his or her own part, the owner of the other part of the house may, if he or she so wishes, redeem the sold part. If such persons entitled to redemption are two or more, one who is the most aggrieved of them shall be entitled to make redemption.....1

Where one who is entitled to make redemption pursuant to sub-section 1 above does not make redemption and where the tenant has built a house in the land subject to tenancy right, the land owner shall be entitled to make redemption.....2

- Number 13. Where any immovable property is merely mortgaged, the heir, as referred to in law, who lives apart upon receiving his or her partition share and may have inconvenience in view of the sold property may redeem the property within the time-limit as set forth in Number 11 of this Chapter by making payment of the amount/price paid by other, subject to redemption, if any, by the creditor at a season or time as mentioned in law.³⁸¹ If there are no creditor and creditor's offspring, and the successor furnishes the evidence of mortgage, he or she may make redemption by paying the amount/price as paid.

³⁸¹ Deleted by the Seventh Amendment.

- Number 14. In the event that a movable, immovable property has been given in usufruct mortgage, the creditor shall allow redemption by receiving his or her amount/price in accordance with the contract, if any, entered into, providing for the repayment period not exceeding Ten years and debarring the redemption of the usufruct mortgage within the term of that repayment period, and failing such a contract, and at any time when the debtor tenders to redeem the property in usufruct or sight mortgage. If the property in mortgage is a land, the crops of the year shall belong to the creditor after the elapse of the time or season as set forth in the Chapter on Land Evictions if the amount/ price has been made.
- Number 15. In giving and taking a sight mortgage, the term of sight mortgage shall not exceed Five years, and the creditor shall not claim the amount/price or foreclose the security prior to the maturation of the term.
- Number 16. While making a complaint to the office praying for redemption on any matters allowing redemption against payment of amount/price, the amount/price if known and the fee paid in the course of registration shall be deposited. The amount/price and fee required to be paid shall be deposited with the office not later than thirty days after the date of filing of statement of defense if the amount/price is not known for any reasonable reason for not knowing the amount/price, and where there is no agreement over the amount/price, the amount/price as agreed shall be deposited to the office at the time of making complaint and the amount/price not so agreed shall also be so deposited within Thirty Five days of the date of first judgment holding the amount/price to be deposited. In the event of failure to deposit the amount/price within the said time-limit, redemption shall not be allowed, and the transaction shall be indisputable. Also in the matter of redemption of mortgage by the debtor, it is not necessary to effect redemption by the same suit and judgment. If the debtor subsequently wishes to make redemption but the creditor refuses to receive the amount/price, redemption shall be

effected if the debtor makes a complaint by depositing the amount/price and fee, as well.

- Number 17. If a creditor is held not to have received such amount/price and registration fee³⁸²as required to have been received by the creditor, then the creditor shall not be entitled to the interest, crops or rent accruing from the date of deposit made with the office and also to the matters set forth in the deed.
- Number 18. A general transaction carried on by a minor who has not attained Sixteen years of age shall not be held valid. Such transaction shall be held valid only when there has been executed a deed also signed or sealed by one who takes custody of such minor. Where even such person has committed dishonesty with intent to harm the money of that minor, the amount in question shall be recovered from that person and a fine of twenty percent of the amount in question shall also be imposed on him or her.
- Number 19. Where the amount in question payable to the creditor cannot be recovered from the forfeiture of the property of the debtor, the following provisions shall apply:

Where a debt or loan has been lent and borrowed for business purpose and a suit is filed against the borrower of the debt or the jointly living coparceners who have been involved in the borrowing of the debt or consented to and signed the deed, the principal person shall provide an inventory or statements of loss. If, in making the inventory of loss, the inventory of loss is established by making remissions in consideration for the money or property having been stolen, gutted in fire, sunk in water and disappeared and in arrears, the debtor shall not be held to have acted dishonestly nor shall such debtor be liable to imprisonment. Where the debtor states that the money or property has been lost due to any cause other than that mentioned and despite statement that the

³⁸² Amended by the Seventh Amendment.

money or property has been lost due to the cause mentioned above, the debtor is not able to furnish the proof of loss and the money of creditor cannot be recovered from the forfeiture of the property of the debtor, the debtor shall be held to have done dishonesty in relation to the money of the creditor. If, in such a situation, the creditor makes an application pursuant to Number 42 of the Chapter on Punishment for sentencing the debtor to imprisonment, the debtor shall be sentenced to imprisonment for a term not exceeding One year at the rate of Twenty Five rupees per day.³⁸³ However, if a suit is filed against other coparceners jointly living with him or her or his or her successors and recovery cannot be made in full from the forfeiture of property, these coparceners or successors shall not be required to provide an inventory of loss and they shall not also be liable to imprisonment.....1

Where a debt or loan has been lent and borrowed for any purpose other than for the business purpose as mentioned in Section 1 above, and recovery cannot be made in full from the forfeiture of property, it is not required to provide an inventory or statements of loss. Where recovery cannot be made in full from the forfeiture of property, and the creditor makes an application pursuant to Number 42 of the Chapter on Punishment for sentencing the debtor to imprisonment, and the suit has been filed against the borrower of the debt and the jointly living coparceners who have consented to and signed the deed, they shall be sentenced to imprisonment in accordance with the provisions set forth in Section 1 above. Where a suit has been filed against the jointly living coparceners or heirs who have neither consented to the borrowing or nor signed the deed of loan or against the successors, they shall not be liable to imprisonment in consideration for the shortfall not recovered from the forfeiture of property.....2

³⁸³ Amended by the Ninth Amendment.

After making application and having got the creditor to undergo the sentence of imprisonment in consideration for such shortfall money that could not be recovered in making recovery to the creditor by making forfeiture of the property of the debtor in accordance with the provisions set forth in Sections 1 and 2 above, where such imprisonment is allowed by law and after receiving money upon once making forfeiture of property and even where imprisonment is not allowed, except in cases where a suit can be made by law on the matter of concealment or containment until the time of the execution of the forfeiture, the creditor shall not be entitled to again claim the debtor stating that there is still a shortfall in recovery. Any deed whatsoever including a deed of loan or bond, ledger and book of account shall be canceled and invalidated.....3

Number 20.³⁸⁴

Number 21. Where, in making partition, partition has been made with the consent of the creditor, the creditor and the debtor shall receive and pay (or give) in accordance with the manner in which the partition has been made as per such consent. Where partition has been made without the consent of the creditor, even the debt lent by the same creditor shall be so divided as according to the items of money as applicable. Any division made according to the creditors individually shall not be valid.

Number 22. No creditor shall claim one who does not inherit the debtor. After one has inherited the debtor, one shall not say that one shall not repay debt to the creditor. One shall also repay debt to the creditor according to such share of partition or inheritance as has been obtained by him or her. However, in the case of inheritance of only the immovable property as referred to in Number 3 of the Chapter on Women's Partition Property, the inheritor shall not be bound to repay debt to the creditor of such person.

³⁸⁴ Repealed by the Seventh Amendment.

- Number 23. One who has once obtained a movable or immovable property by way of conveyance, usufruct or sight mortgage and possessed or used it, one shall not unnecessarily claim the amount or price thereof saying that the property is lesser or of low grade and also against any disorder or loss thereof. If the property in question is held to be immature for possession due to any matter disallowing the possession, it shall be according the deed, if any, executed. Even though there is no such deed, the creditor shall be entitled to claim for, and recover, the principal, and interest in accordance with law.
- Number 24. Where a house (building) taken in mortgage and being used by a creditor while in the possession and use by the creditor is damaged or ruined (*Patal*), the creditor shall make expense and repair the house in witness of the debtor if available and if the debtor is not available or refuses to so witness, in presence of a member or representative of the concerned Village Development Committee or Municipality³⁸⁵ and at least two gentlepersons. At the time of redemption of the house, the expenses so incurred in the repair of the house in witness as mentioned above shall also be included in the amount/price and transaction shall be done accordingly. The creditor shall not be entitled to take payment of the expenses incurred in the repair without witness of a member or representative of the concerned Village Development Committee or Municipality³⁸⁶ and at least two gentlepersons. If the house has also been ruined, the money of the creditor shall lapse if the creditor fails to build and prepare it within the time-limit for building it as corresponding to the design approved upon an application made by him or her within thirty five days, if the design has to be got approved, after the date of demolition and within one year if the design is not required to be approved. The land so ruined shall belong to the debtor. Where a house and land (cartilage) has been taken in usufruct mortgage and the

³⁸⁵ Amended by the Court Proceedings Related Some Nepal Acts Amendment)Act, 2047 (1991).

³⁸⁶ Amended by the Court Proceedings Related Some Nepal Acts Amendment)Act, 2047 (1991).

house is ruined upon demolition, the creditor shall be entitled to money of the land only, on the basis of pro rata of the house ruined and the land.

- Number 25. No immovable property which has already been given to a person by executing a deed shall be given in any manner, in duplication, again to other person. The amount or money of a creditor who knowingly executes a deed in duplication shall lapse. Where a creditor has executed a deed in duplication without knowledge of duplication and does not consent to obtain or take pursuant to Number 26 of this Chapter, the amount or money of the latter shall be equivalent to unsecured money. Where deeds have been so executed in duplicate, the deed bearing the earlier date shall be valid. It shall be as per law after the expiry of the time-limit.
- Number 26. Where a deed has been executed in duplicate pursuant to Number 25 of this Chapter and the transaction involves the relinquishment of the title, the mortgagee creditor shall not be entitled to pay the money of the transferee creditor. Where the earlier deed provides for any kind of mortgage and the later deed provides for the transfer of title, the transferee shall be entitled to establish the title by making repayment of loan in accordance with the earlier deed; provided that where the earlier creditor has obtained the title, that creditor is not bound to pay the money of the later creditor. If a creditor, whether the mortgage taken by him or her is valid or not, wishes to pay the amount/money of the other creditors who have taken the mortgage and to possess the immovable property in mortgage, also in relation to his or her amount/money, the creditor shall be entitled to possess the property. The other creditors shall not be entitled to take it so long as the creditor whose transaction of mortgage stands valid takes it. Provided that where the later creditors are two or more, and the later deed holder undertakes to pay the amount or money of more creditors than the earlier deed holder undertakes to pay, the later deed holder shall be entitled thereto. If such creditors undertake to make equal payment, one

whose deed bears the earlier date shall be entitled thereto. One who is allowed to pay money shall make payment within thirty five days after the date of final judgment by the office. One who is not able to pay the amount/price shall not be entitled thereto.

- Number 27.³⁸⁷ In the event of the execution of deeds in duplication, if the earlier deed holder makes a complaint within two years after the date of the possession by the later deed holder in the case of usufruct mortgage taken by the earlier deed holder and within two years after the date of entitlement to the possessory right in the case of sight mortgage taken by the earlier deed holder, the earlier deed holder shall be entitled thereto. After the expiry of the time-limit, such holder shall not be entitled to claim the immovable property. The amount/price of the creditor shall be equivalent to unsecured money. If the earlier deed holder has obtained the title by transfer, he or she shall be entitled thereto irrespective of any manner in which the later deed holder has obtained.
- Number 28. One who executes deeds in duplication shall be punished with a fine equal to the amount in question, if any, set forth in the later deed, and, failing such amount in the later deed, equal to the amount in question set forth in the earlier deed, and with a fine of up to Five hundred rupees if no amount in question is set forth in these deeds.
- Number 29. One who has taken a movable, immovable property in usufruct or sight mortgage may receive amount by re-mortgaging the property in mortgage by receiving such sum of money as mentioned in the bond or is lesser than that. While tendering to redeem the movable, immovable property in re-mortgage by the previous usufruct or sight mortgagee upon payment of money, the mortgagee shall so redeem by tendering to various levels in the place where he or she has given the movable, immovable property in mortgage where he or she has re-mortgaged by receiving lesser amount.

³⁸⁷ Amended by the Seventh Amendment.

Where the movable, property has been remortgaged by receiving money in full, he or she may make redemption from the last creditor. Receipt by the later mortgagee of money that is more than the previous one and a contract executed to that effect shall not be valid.

- Number 30. In lending and borrowing a debt or loan against the security of a movable property, such lending and borrowing shall be made by entering the price or value and weight of the property into the bond. If, at a time when the debtor tenders to redeem the property by making payment of money, the creditor returns exactly the same property, the creditor shall be entitled to the recovery of his or her principal and Ten percent interest as well. If a creditor has used the property pledged in security and is thus not able to return it, such a creditor shall not be entitled to the interest on money. If, while making calculation of money, any surplus money has to be received by the debtor, then such surplus money and the interest accrued from the date of the bond shall be returned to the debtor.
- Number 31. If, in lending and borrowing a debt or loan against the security of a movable, immovable property, the deed states that one shall be entitled to obtain by way of conveyance, sale or otherwise or one shall transfer the property by way of conveyance or such transfer has been effected by virtue of that deed, then such deed shall not be valid. That deed shall be equivalent to a pledge or mortgage against security.
- Number 32. In taking mortgage or security of any type of such movable, immovable property as may be taken or given by law, a document in duplicate written by the conveyancer of the bond with his or her own handwriting, containing such details or matters as set forth in the bond, to be witnessed by such witnesses themselves as mentioned in the bond, and signed by the creditor, shall be given to the debtor.
- Number 33. Where a mortgage is given and taken without fulfilling such requirements, a suit or complaint shall be entertained and verdict given based on that

document, by punishing the creditor with a fine of five percent of the amount set forth in the bond where the document in duplicate has not been made and of one percent where only the conveyancer or witness has been altered.

- Number 34. Where general transaction has been carried on with a foreign citizen in a foreign country and the creditor has obtained a deed meeting the requirements of Nepal law from the debtor, stating that payment shall be made within the territory of Nepal, and the debtor is a citizen of Nepal, the matter shall be tried by the concerned office of Nepal in accordance with law. In the other cases, no suit of general transaction made with a foreign citizen in a foreign country shall not be entertained by any office of Nepal.
- Number 35. The *Jot Jirayat* land (taxable land attached to a *Jimidari* holding as part of remuneration of the *Jimidar* in the eastern *Terai*) which has already been attached to the existing *Jimidari* and may have subsequently been attached to the *Jimidary* for any reason shall not be capable of being mortgaged or pledged and being transferred by any means so that only the *Jimidari* but not *Jot Jirayat* or only the *Jot Jirayat* but not *Jimidari* is so mortgaged, pledged or transferred, except where the *Jot Jirayat* land attached to the *Jimidar* is given along with the *Jimidari*. If so given or taken, the transaction shall be void. If one has paid money and taken knowingly the land by retaining the same with the *Jimidari*, the recovery of money so paid cannot be made by the office. One who knowingly takes the same shall be liable to a fine of Fifty Rupees. One who takes the same unknowingly shall not be liable to punishment, and the money of the creditor who so takes unknowingly shall be unsecured money. There shall be imposed a fine by Ten percent of the money, if any, given to one who detaches the *Jot Jirayat* held with the *Jimidar* and by Ten Rupees of fee *Bigaha* where it has been given and taken without taking money. The transaction of *Numbari* land (*Raikar* land in *Terai*) earned by oneself made prior to accruing any due on it shall be valid.

Number 36. In making exchange of any movable, immovable properties, such exchange has to be made with the consent of the principal person of the house. One who is not satisfied with the exchange may return the property subject to exchange within Thirty Five days after that exchange. Where an exchange has been made with another person without consent of the principal person, a suit shall not be entertained if it is not filed within Thirty Five days in the case of a movable property and within Thirty Five days after the date of knowledge no later than Six months in the case of an immovable property.

Number 37.³⁸⁸

Number 38. Where a complaint has been made that one has not received what has to be given to one upon its tendering or one has not allowed redemption upon its tendering, there shall be imposed a fine of Two and half percent of the amount refused to be received if the complaint is sustained, of the amount that is held to have been claimed falsely on the false complainant if it is held that such complainant has not tendered for payment or made a false claim and of the amount said or claimed to be more or less if it is held that such complainant has said or claimed more or less. There shall not be charged Ten percent fee on the amount in question as recovered upon a complaint made by the payer as mentioned above.

Number 39.³⁸⁹

Number 40. There shall be no limitation on the matter that such transaction shall not be valid, that suit shall not be heard, that dishonesty has been committed to temper with the money belong to a minor, that interest on interest has been collected, that the rate of interest has been mentioned in excess of Ten percent or excess has been taken or contracted while taking re-mortgage. Except for the matters in respect whereof the

³⁸⁸ Repealed by the Prison Act, 2023.

³⁸⁹ Repealed by the Seventh Amendment.

limitation is mentioned or not provided for elsewhere in this Chapter, no suit shall be entertained if it is not filed within Two years after the date of happening or commission of the act.

Chapter-18³⁹⁰

On Bailment

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³⁹⁰ Repealed by the Contract Act, 2056 (2000)

Chapter-19

On Donation and Gift

- Number 1. A person may provide a property in which the person has right to another person, as a donation or gift. In so providing a donation or gift, one may provide such property to his or her heir as a gift and to other person in any manner whatsoever, whether as donation or gift. A person shall not donate or gift any property, other than a property which he or she can deal with at his or her own will, without obtaining a deed of consent executed or witnessed by the coparceners and those who have right in such a property.
- Number 2. Where a person, who has executed a deed of donation or gift with testamentary effect, wishes to void the deed on the ground that the person is not satisfied therewith, that person may void the deed at any time. In order for the deed to be voided, the person shall get the deed voided by making an application to the office which has registered the deed or the deeds registration office situated in his or her area to that effect. If such an application is made, the deeds registration office shall also immediately execute a memo or slip stating that the donation or gift with the testamentary effect has thereby been voided in accordance with the application, complaint, and give the memo or slip, to be signed by the chief of office and the assistant employee (Taharir), to the person applying to have the deed voided, and shall, not later than Seven days after the date of issue of the memo or slip, excluding the time required for journey, send a notice to the receiver of the deed, thereby notifying that the deed has been voided. A fee of Five rupees shall be charged for such an application.
- Number 3. Where any person has relinquished in any manner his or her right in half the house or some parts of the same house and the land covered by that house, thereby transferring the title to another person, and provided the same to that other person as a donation, and the receiver provides what he or she has so received as a donation or the giver provides the rest to

another person, the previous giver or maker or the heir to the previous giver or maker residing in the same place, and in the case of donation or gift by the giver of the rest to another person, the receiver or the heir to the receiver residing in the same place shall be entitled to take the same by making payment of the value/price, if set out, and, failing such value/price, such value/price as deemed reasonable by gentlepersons (*Panchakirti Mol*), within Thirty Five days after the date of knowledge not later than Six months after the date of registration of the deed.

- Number 4. A person who donates or gifts the same movable, immovable property to another person that the person has already donated or gifted to some one else shall be liable to a fine of up to Five Hundred Rupees depending the nature of case.
- Number 5. A suit shall not be entertained if the suit is not filed within Two years after the date on which the receiver of a donation or gift has become entitled to the right in the property so donated, in the case of such matters, and after the date on which the receiver of donation or gift has become entitle to the property so donated or gift and owned and possessed the same, in the matter of provision of any such property as a donation or gift as not allowed to be so donated or gifted.

Chapter 20

On Insolvency/Bankruptcy

- Number 1. A person is not entitled to be insolvent upon being unable to pay debts borrowed by oneself, without consent of the creditor. The creditor shall either give the date of repayment to that person or recover his or her money by way of insolvency proceedings.
- Number 2. If the coparcener or heir inheriting a person makes an application for insolvency on a debt borrowed by that person but not by such coparcener or heir himself or herself, then insolvency proceeding starts in spite of the consent of the creditor. The date of repayment cannot be given without consent of the debtor.
- Number 3. The debtor, in case of a debt borrowed by the debtor himself or herself for the business purpose, and any informed person who has attained the age of sixteen years and been involved in the business or transactions done from such debt shall give an inventory of loss while asking for the date of repayment or being insolvent. Other person than mentioned above shall not be bound to give an inventory of loss, in relation to the debt borrowed by that person's her, and a person who has borrowed a debt for any purpose other than the business purpose in spite of the debt being borrowed by that person himself or herself shall not be bound to give such an inventory. The failure of any person who is required to give an inventory of loss to give such an inventory of loss of up to two hundred rupees shall not result in any punishment to that person.
- Number 4. If a debtor has to make a suit for being insolvent or getting the date of repayment and the debtor makes the suit against all creditors who are entitled by law to get repayment, meeting all the requirements, and setting down wherein clearly that the debtor has not been able, for such-and-such reason, to repay a total of such-and-such debt borrowed by the creditor himself or herself or by his or her coparcener, heir to such-and-such

creditors, that he or she has only a property in which he or she has right valued at such-and-such amount, and also setting down such an inventory of loss as required to be given in accordance with law, clearly indicating the amount of, and reason for, loss as may not be otherwise upon an inquiry into the matter subsequently, and also accompanied by the evidence thereof, and asking for the date of repayment for certain number of years, and covenanting that he or she shall be liable to bear and pay punishment in accordance with law if it is held that he or she has neither concealed any existing creditor or property nor shown any non-existing creditor or property nor falsely and otherwise set down any loss that has not happened where it is required to give an inventory of loss, the suit shall be taken, and if the defendant creditors make statements of defense setting out clearly whether they agree to the institution of insolvency proceedings or to give the date of repayment, if so allowed by law, and that where the date of repayment can be given and they agree to give such date, stating that they will give such date of repayment as asked for by the debtor or so many years as they wish to give, and that where they wish to institute the insolvency proceeding instead of giving the date of repayment pursuant to law, stating that that the property and creditors shown by the debtor in the inventory of loss are not correct for such-and-such reasons, such-and-such creditors are non-existing and such-and-such properties are being concealed by the debtor in such-and-such manner, and such statements of defense are accompanied also by the evidence of such matters and respond in full to the such matters set forth in the suit as may be alleged to be incorrect; then the case shall be tried in accordance with law, also inquiring the defendants creditors into the matter.

- Number 5. If a suit is made for the institution of insolvency, then for the purpose of giving information of the institution of insolvency as prayed for to the other creditors not shown by the debtor allowed to institute insolvency, a notice shall be set down, stating that such-and-such person has made a plaint for being insolvent in favor of such-and-such creditors, if the debtor

has not mentioned any existing creditor, then the creditors not shown by the debtor may obtain a copy of the suit made by the debtor, read the contents and examine the matters therein set forth, obtain such proof and document of the matters as required to be obtained by them, and that the office responsible for the recovery of government bond arrears or dues may send a writing equivalent to a statement of defense, as referred to in law, and the other creditors shall appear in person and file, or send an attorney to file, statements of defense, within Fifteen days, excluding the time required for journey, after the date of affixation of the notice, setting out such matters as shown by the debtor and as required to be set out by the creditors, also indicating whether the creditors will give the date of repayment as prayed for by the debtor, and whether the reason for loss and inventory of properties are correct or genuine or not, and, also responding to the matters set forth in the suit, and showing evidence if so required and all matters as to be mentioned by the creditor and the figure or amount to be recovered, and that insolvency shall be made in accordance with law in favor of those creditors who are inquired into and held to be as such, and that in the event of failure to send a writing or a statement of defense, they shall not be entitled to subsequently make a complaint for the institution of insolvency in favor of the debts lent by them and that they shall not also be entitled to claim the debtor, and the notice shall be stamped with the seal of office and posted on the door of the office on the date of issue of the process/notice in the name of the creditors shown by the debtor, and be sent for service, on the date of issue of the process/notice in the name of the creditors shown by the debtor, in such city, village and market within its district as may be conspicuous to all, a notice shall also be sent to the offices disbursing government money or *Tejarath*, and a proof of the posting and notice so made or sent shall be recorded in the case-file. If a writing as mentioned is sent by a creditor within the time-limit as mentioned and the application is accompanied by written evidence, the creditor shall be treated on equal footing with the other creditors shown by

the debtor, and the case shall be tried in accordance with law, also having a deed executed by the debtor and examined whatever evidence as required to be examined. In the case of those who fail to send a writing or application within the time-limit, any suit subsequently made by them claiming that insolvency has not been made in favor of them shall not be entertained nor shall recovery be made by the office in their favor.

- Number 6. Where a reply is not sent within the time-limit even where a notice of a suit for insolvency in favor of government dues or arrears has been sent, insolvency cannot be made in favor of such dues or arrears. If the recovery of the government dues or arrears cannot be made from the debtor in accordance with law, subsequent to the insolvency made in favor of the other creditors, the shortfall dues or arrears shall be recovered from the chief of office who failed to make a response despite receiving a notice for it and from the chief of office who failed to send such writing as required to be sent and such failure has resulted in the insolvency in favor of the other creditors only.
- Number 7. If a person applies for the institution of insolvency, insolvency may not be made in favor of a creditor who has already been precluded by law from making a suit. Insolvency shall be made only in favor of the creditors who are entitled by law to make a suit.
- Number 8. A debtor shall not misappropriate, sell and dispose of, pledge, mortgage, gift, donate or otherwise assign or give such properties as shown and set down by the debtor and as shown subsequently by evidence, and the transaction (receiving and giving) of such properties shall not also be valid.
- Number 9. A complaint, on the matter of concealment or covering up of property by a debtor, shall not be entertained if it is not made, upon finding out the same, within ten years after the date on which the inventory of properties has been given or shown.

- Number 10. Where a debtor is neither able to furnish the evidence of the alleged loss in the case where an inventory of loss has to be given nor does he or she gives such property as shown by him or her or from the evidence, then the debtor shall be held to have committed a dishonesty. For the commission of the dishonesty, the creditor shall be liable to a fine of fifteen percent of such amount in question as on which he or she has committed the dishonesty, insolvency shall be made from the property whatever is available. If the creditor applies for sentencing the debtor for the shortfall amount in question, the debtor shall be sentenced to imprisonment for a term not exceeding six months, at the rate of twenty five rupees per day. In the case of a person who has crossed the age of sixteen years and been involved in the transaction carried on by the debtor, that person shall be liable to half the punishment mentioned above.
- Number 11. If, after a debtor is sentenced to imprisonment pursuant to Number 10 of this Chapter for having committed a dishonesty, the money of the creditor is recovered from any property found out prior to the completion of the service of the sentence of imprisonment, the debtor shall be released from imprisonment immediately when such recovery is made.
- Number 12. A person shall neither take any property subject to forfeiture in order to conceal it nor knowingly take bailment of a property carried to conceal it nor cause it to be concealed. If the property is taken for concealment or is concealed, one who so takes it for concealment or one who conceals it shall be liable to a fine at the rate of five percent of the amount in question.
- Number 13. If any movable or immovable property is pledged or mortgaged by fulfilling the requirements of law prior to the filing of a suit of insolvency, only the remaining after the recovery of the money of creditor who has taken mortgage from that movable or immovable property shall be divided to the other creditors on pro rata.

- Number 14. In executing insolvency, the money of the creditor who has taken the pledge or mortgage by fulfilling the requirements of law and the property in bailment or deposit taken by from the creditor or other executing insolvency shall not be subject to insolvency. The movable and immovable property owned by the debtor that remains after setting aside such money/property as required to be set aside pursuant to law shall all be subject to insolvency.
- Number 15. In making recovery by way of insolvency, the money/property that is required to be set aside from the property belonging to the person applying for insolvency, pursuant to Number 14 of this Chapter, and the money of the mortgagee creditor shall be recovered from the proceeds of sale by auction of all other movable and immovable properties, pursuant to Number 13 of this Chapter, the remaining money/proceeds shall be divided on pro rata between the other creditors who are entitled by law to recovery, in accordance with law, and the documents held with the creditor shall be obliterated. A creditor shall not be entitled to claim a debtor for any money not recovered from insolvency.
- Number 16. In making recovery from insolvency, such money/property as required to be postponed and set aside for the debtors in making forfeiture of property for the amount in question pursuant to Number 26 of the Chapter on Punishment shall be so postponed and set aside and the remaining shall be divided on pro rata pursuant to law.
- Number 17. If, in setting the date of repayment, both the creditor and the debtor agree to give and take the date of repayment as so asked, the date of repayment shall be set according to the agreement. If both the creditor and the debtor do not agree to the date of repayment, no date of repayment that is more than ten years shall be set for them.
- Number 18. If some creditors opt to give the date of repayment and some opt to proceed insolvency proceedings, and insolvency shall be made in the case

of those who undertake to proceed insolvency proceedings, and the parts of those who opt to give the date of repayment shall be handed over to the debtor himself, and it shall be read out to them that they may make recovery in accordance with law within the time-limit as referred to in the Chapter on General Transactions if the debtor makes improvement. The debtor shall also be entitled to sell and dispose of such part or share of the creditor who has given the date of repayment as handed over to the debtor.

- Number 19. If any creditor finds out any property/money concealed prior to the completion of insolvency proceeding, such property/money shall be divided between the creditor who has so found out and the other creditors as well, in accordance with law. If any creditor finds out any property/money concealed by the debtor within the time limit only after the completion of insolvency proceedings, the shortfall in the money of that creditor who has so found out shall first be recovered therefrom, and the surplus, if any, shall be divided between the others on pro rata.
- Number 20. One who, in showing creditors, does not show such creditors who are entitled to make recovery pursuant to law or shows non-existent creditors shall be liable to a fine of ten percent if the borrower himself or herself or heir to him or her has knowingly omitted them or shown non-existent ones. One shall not be liable to punishment if such omission is made unknowingly.
- Number 21. The ten percent fee is not chargeable where the money of the usufruct or sight mortgagor has been set aside, and bailment and deposit returned.

Chapter-21

On Registration of Deeds

- ³⁹¹Number 1. Any deed of adoption, deed of separation of kitchen (*Manu Chhutinu*) and joining of kitchen, and any of the following deeds relating to all other immovable property shall be registered:
- A deed of transfer of ownership by way of sale or otherwise.....1
- Any type of mortgage deed (*Bandhaki Tamasuk*).....1
- ³⁹²A deed of re-mortgage (*Lakh*) of usufruct or sight mortgage (*Dristibandhak*).....1
- A deed of will to be executed after the death of the executor of will/deed of testament (*Seshpachhi ko Bakaspatra*).....1
- A deed on exchange of property (*Sattapatta*).....1
- A deed on partition of joint property.....1
- Number 2. ³⁹³
- Number 3. A deed which is not to be registered mandatorily pursuant to Number 1 of this Chapter may also be registered. If a person appears to register such a deed with the concerned registration office, it shall register such a deed, following the procedures set forth in this Chapter.
- Number 4. While preparing a deed required to be registered pursuant to the Act, the parties to the deed may appear before the registration

³⁹¹ Amended by the Gender Equality Maintaining Some Nepal Acts Amendment Act, 2063.

³⁹² Amended by Seventh Amendment.

³⁹³ Omitted by Seventh Amendment.

office and request the office to prepare the deed or may get the deed registered, producing the deed before the office within Six months from the date of preparation of such a deed upon preparing and putting signature/thumb impressions on it at the household pursuant to the Act or may legally prepare the deed, not putting signature/thumb impressions on it at the household and may appear before the registration office with such a deed and get it registered. Where the parties to a deed appear before the registration office and requests for the preparation of the deed by the office itself, the office shall prepare such deed accordingly; and in cases where signature/thumb impression has been put on a prepared deed at the household or deed has been already written and the putting of signature/thumb impression is yet to be completed, the office shall check the deed and prepare another deed if such deed does not meet legal terms and conditions; and if the deed meets legal formalities, the office shall register the deed, upon getting the deed to bear the signature/thumb impressions of the parties and to be signed also by recognizing witnesses in front of the office.

- Number 5. Both parties to a deed which has been prepared at the household and required to be registered mandatorily shall appear before the office within the date prescribed by the Act and cause the deed to be registered³⁹⁴
- Number 6. In cases where a deed which has to be registered mandatorily has been prepared at the household but the concerned party fails to get registered such a deed as referred to in Number 5 of this Chapter, the party concerned shall not be eligible to file a suit claiming any immovable property on the basis of such unregistered deed. The

³⁹⁴ Deleted by the Seventh Amendment. This Amendment shall not apply in relation to those deeds which have been prepared at the household or which have been prepared at the household and are pending at any level (of the office/court) after filing a case for registration at the time of the commencement of this Amendment.

concerned party shall be eligible to recover the amount so paid for such transaction, if any, and an interest for not being able to use the property as if the transaction was equivalent to unsecured money.

Number 7. ³⁹⁵

Number 8. In cases where a deed required to be registered mandatorily could not be registered due to the death of the party, the immediate successor and the other party shall get it registered within the remaining period if it remains more than Thirty Five days of such death and within Thirty Five days from such death if it remains less than Thirty Five days. If the heir (*Haquedar*) is brought within the stipulated period to register such deed and such a person agrees (*Sakari*) the deed and consents to register it, the same statement shall be set down on the top of the deed, signature/thumb impression shall be put on such statement and the deed shall be registered in accordance with the Act.

Number 9. In cases where a party to the deed (who caused for the deed) appears before the office within the period set forth in the Act, with an application to register the deed where the other party entering into the deed at the household died before the registration of the concerned deed and such a party has no heir, the office shall prepare a notice consisting of the content whether the person concerned has entered into such deed prepared at the household or not, if there is any heir to the person so died, the heir may appear before the office and report his or her statement within Fifteen days excluding the time required for journey, and that in case the heir does not appear before the office, the deed shall be registered accordingly; and a copy of such notice shall be posted publicly in

³⁹⁵ Deleted by the Seventh Amendment.

the village, town or ward of the person who executed the deed and died before registration; and there shall be posted a copy at his or her house door, a copy at the door of the office registering it and a copy in any other public place conspicuous to all. If the successor of the party to the deed who died or any other person if the inherited property is to devolve on the Government of Nepal appears before the office within the said time-limit, and does not file a complaint that the deed was not executed or the party executing the deed has not died, the concerned office inquire the person whom the complaint has produced before office as a person who knows about the death of the party or other witnesses mentioned in the deed within Seven days of expiry of the time-limit, and if it is found the person (party) has died upon entering into the deed and heir of such person could be found, the office shall mention the content accordingly and make registration of the deed in accordance with the law. If someone files a complaint upon hiding the fact that a person has died though he or she is still alive or deed has been done though it was not so done or knowingly conceals the fact that the heir is still there, and such complaint has caused to register the deed; such a registration shall be voided and such a complainant shall be liable to punishment in accordance with the Act.

- Number 10. The following matters shall be contained in a deed required to be registered by both parties. The chief of office (*Hakim*), immediate subordinate (*Taharir*) and section chief (*Phantwala*) shall put signature on the head of the deed upon mentioning whether the deed was prepared at the household or in the office. In cases where the deed was prepared through a commission (*Dor*), the members of the commission shall put signature accordingly:

In cases where the party transferring the ownership is present in person, he or she shall be caused to mention that this property does not belong to another person, he or she has right in it and has not transferred it by way of mortgage or transfer of ownership or otherwise and is now transferring it by such-and-such means of transfer of property.....1

In cases where the person who has to transfer the ownership has died and his or her heir has to transfer the ownership, he or she shall mention that such-and-such person entered into the deed with such-and-such person on such-and-such date with such-and-such contents, therefore they have got the deed registered accordingly.....2

In cases where a deed involving payment and receipt of money has been concluded, whether the amount was paid at the household or before the office shall also be mentioned in the deed.....3

In cases where the amount was paid based on the transaction made earlier or upon adjustment of amount if an additional amount has to be paid on the top of the previous transaction or *Nehdik* was paid, it shall be mentioned in the deed.....4

All the evidence on behalf of the person transferring the ownership, if any, shall also be mentioned in the deed.....5

Number 11. In cases where a person makes an application for the registration of a deed^② which is to be registered before the office, by a commission deputed by the office at his or her house, the chief of office or sub-ordinate employee of the office shall, if the matter falls within the jurisdiction of the concerned office, visit the house

^② Amended by Seventh Amendment.

of the applicant and make registration^⑦ of the deed in accordance with the Act. In cases where only the transferor of the ownership appears before the office, the office may register the deed if the receiver of the ownership appoints his or her representative and sends his or her seal and agreed deed for the same.

- *Number 11A. If, in the course of transferring the ownership of any immovable property, a person who is going to transfer right in the property by a deed which is to be registered may, upon showing a reasonable reason for being unable to appear before the registration making office, appoint a person who is eligible to be an attorney pursuant to the Act, as his or her authorized attorney, pursuant to Number 71B. of the Chapter on Court Proceedings, to transfer the ownership of the specified property on his or her behalf. Such an authorized attorney may obtain registration on behalf the person executing the power of attorney, subject to the terms and conditions of the power of attorney.
- Number 12. The commission deputed to execute a deed at the household pursuant to Number 11 of this Chapter shall not collect deeds to meet the requirements of the Act or revenue without giving a receipt thereof. When the designated commission returns to the office, upon giving a receipt to the person concerned, it shall maintain the official record, return the deeds so collected, and also hand over the counterfoil (*Aadakatti*) upon collecting the previous receipt given earlier while in deputation.
- Number 13. When someone has to make a request to the chief of office or subordinate employee in the registration making office pursuant to Number 11 of this Chapter to prepare a deed at the household, such a person shall prepare ready upon gathering the people necessary

^⑦ Amended by Seventh Amendment.

* Inserted by Seventh Amendment.

and collecting essential deeds so that the deed could be prepared without delay. If the concerned person does not do accordingly and it causes delay, such a person shall be liable to a fine of Five Rupees and such an amount so collected shall be credited to the government account, and regarding registration, the designated team shall do it as soon as possible and get back.

- Number 14. The amounts to be paid and taken in the course of transaction of the deed may be counted and caused to be handed over in the office. If the money has been taken at the household, it shall not be essential to bring money in the office.
- Number 15. In the course of preparing, or causing to prepare, a deed of immovable property, boundaries of such a property shall be mentioned based on the deeds or records, if any, and if such deeds or records are not available, accurate boundaries shall be mentioned for all plots separately from the field.
- Number 16. In cases where the transferor of ownership has shown the boundaries of the land and building and someone files a complaint that such boundaries are incorrect, it shall be decided in accordance with the evidence. A boundary shall not be considered as final only for the reason that it has been mentioned in the deed.
- Number 17. In the course of registration of land, the deed of such land to be registered shall not be registered unless the evidence of ownership and the receipt of payment of land revenue of the land have been submitted. The evidence and receipt so submitted shall be recorded, the registration shall be concluded and the evidence and receipt thereof shall be returned to the transferor. In cases where there is only one evidence or receipt of several plots of land, the office shall cause to prepare a valid copy of the deed and give it to

the transferee ,and the original copy shall be handed over to the person who has submitted it to the office.

- Number 18. In cases where transferor has submitted any deed of his or her ownership, in the course of preparing a deed of transaction, the deed shall be handed over to the creditor (*Sahu*) if so required, and the same statement shall be mentioned in the deed. In the case of land, it shall be done in accordance with Number 17 of this Chapter.
- Number 19. In cases where the amount of previous transaction (*Tamasuki*) has been accepted or same amount has been put in addition or *Nehdik* has been paid for the purpose of transaction, such matter shall also be mentioned in the deed.
- Number 20. If someone has paid *Nehdik*, he or she shall show the evidence of it in the office. In cases where payment for *Nehdik* is due, the office shall cause to register the deed only after the evidence of the same is produced before the office.
- Number 21. In the course of registration, at least two witnesses, irrespective of their abode, shall make identification of the transferor and transferee and their address accordingly and the witnesses shall put signature or thumb impressions to that effect.
- Number 22. In the course of getting a deed by the office to be signed or thumb impressions impressed thereon, the contents and consequences of the deed shall be read out and made understood to both parties, and the signature and thumb impressions shall be put only after completing such requirements.
- Number 23. In cases where an amount is a part of the transaction, statements as to whether the amount was paid before the office or at the household and evidence thereof was produced before the office,

and that the proceedings were done before the official shall be mentioned on the head of the deed, and signature of the chief of office, and subordinate employee and section chief, along with the office seal shall be put thereunto; and the deed of registration shall be handed over to one who is entitled thereto; and in cases where a copy of the deed has to be handed over to the transferor, if any, it shall be handed over to the transferor accordingly, and the recipient of such a copy of deed (*Dohori*) shall be caused to put his or her signature or thumb impressions on the statement that he or she has received such a copy of deed on the side of the deed which remains in the office.

- Number 24. If, due to any reason, the chief of office is not present in the office, the immediate subordinate (*Taharir*) shall sign it and cause it to be signed by the section chief, and if the immediate subordinate (*Taharir*) is not also present, the chief of office shall sign it and cause it to be signed by the section chief accordingly. The reason for the absence of the chief of office or immediate subordinate shall be mentioned.
- Number 25. In the course of preparing a deed which is to be registered, it shall be prepared in triplicate if it is to be handed over to both parties and in the case of other deeds, it shall be prepared in duplicate, and the parties to transaction and witnesses shall duly put signature or thumbs impressions thereon. It shall not be necessary to bring the witness of a deed prepared at the household to the registration office. The witness whose duty is to recognize the parties to the transaction (*Sanakhat-Sakshi*) shall appear before the office and be caused to put his or her signature or thumb impressions on each copy in front of the office; and serial number shall be recorded on the deed and the deed shall be registered pursuant to this Chapter. A copy of such registered deed shall be kept in the office and a

copy thereof shall be handed over to the transferee. In cases where a copy has to be supplied to the transferor of the property, it shall be handed over accordingly. If a deed has to be registered based on the judicial decision on a case filed pursuant to Number 9 of this Chapter,^⑦ contents of the case and decision thereof in brief shall be mentioned on the top of the deed so endorsed by the judicial authority and the deed shall be registered pursuant to Number 23 of this Chapter and signature or thumb impressions shall be put on such deed as mentioned hereinabove, and a copy of such deed shall be prepared duly and the original copy shall be handed over to the concerned party who has appeared for registration, and a copy shall be handed over to the party who has duty to cause registration ~~*.....~~ and both of them shall be caused to put their signature and thumb impressions to the effect that duplicate copies correspond to the original and they have received the copy or the original, as the case may be.

- Number 26. If, in the course of registration or any other time, any person wish to look at or get a copy of a registered deed to find out whether the ownership has been transferred to anybody else or not, the office shall allow such person to do so.
- Number 27. If cash or in-kind required to be paid pursuant to a deed registered has to be paid by different persons at the equal rate due to partition on their joint family, and all the persons who have to make such payment do not appear at a time to pay it, and if some of them appear for such payment of their respective share, such a partial payment shall also be accepted and the same shall be noted on the reverse side of the deed and a receipt thereof shall be prepared describing the details of such payment and receipts shall be

^⑦ Amended by Seventh Amendment.

~~*~~ Deleted by Seventh Amendment.

exchanged between the payer and the payee and when such a person makes full payment and appears to note down the detail on the copy of the deed which is in the office, pursuant to Number 37 of this Chapter or such a person pays the due before the office, the same shall be endorsed on the reverse side of the copy which was submitted by the party and such a copy shall be returned upon affixing the seal when the whole payment is made by the party. No one shall refuse to receive payment, to endorse the details and to release the deposit (*Dhito*) on the ground that full payment has not been made.

- Number 28. If any person appears before a registration office for the registration of a deed in accordance with law, the registration office in any territorial jurisdiction shall register the deed.
- Number 29. In cases where someone appears before an office to register a deed executed outside its territorial jurisdiction, such an office shall send a copy of the registered deed to the office in whose jurisdiction the house or land is located, and the latter office shall record it in its serial number and enter the deed in the concerned record book.
- Number 30. If transmission or cross-off in the record (*Dakhel Kharej*) of the office has to be made as a consequence of the registration of a deed with the same office, such transmission or cross-off shall be made accordingly. If such transmission or cross-off has to be made in the record maintained in any other office, the office shall issue a notice to the concerned person to appear before the concerned office within Thirty Five days for transmission or cross-off, and a separate notice shall also be given to the concerned office within Seven days to transmit or cross-off the record of such and such building or land and to maintain the record in the name of such-and-such person. The concerned office who has a duty to transmit

or cross-off the record and maintain the new record shall act accordingly in accordance with the law

- Number 31. In the course of preparing any deed required to be registered, the name of ~~father, mother, grandfather and grandmother~~ shall have to be mentioned in the deed. In the case of a body corporate, mentioning of the name of such body shall be sufficient to meet the requirement.
- Number 32. The person, who has received a will (deed) which can be executed only after the death of the transferor (donor), shall submit an application to the registration office on the property in which right has been created, when the transferor (donor) dies and the right of the receiver becomes mature, within Thirty-Five days of the death of the transferor (donor) to cross-off the record and maintain it in his or her own name. Upon receiving such application, the registration office shall check the deed in the office and conduct an inquiry whether the transferor (donor) has died or not and whether the transferor (donor) has cancelled the earlier deed or not; and if the office finds, upon such inquiry, that the right of the receiver is in existence because of the death of the transferor (donor) or the deed is valid for not being cancelled by the transferor (donor), the office shall cross off the record and maintain it accordingly pursuant to Number 30 of this Chapter.
- *Number 32A. Notwithstanding anything contained in Numbers 30 and 32 of this Chapter, if a person appears for transmission or cross-off with an application after the expiry of the time-limit referred to in those Numbers, the act of transmission or cross-off the records (*Dakhel Kharej*) shall be made at any time, upon collecting a fee of Ten Rupees. If such date has expired before the commencement of this

[✉] Amended by Amending Some Nepal Acts to Maintain Gender Equality Act, 2063.

* Inserted by Third Amendment.

Act, the cross-off of the records (*Dakhel Kharej*) shall be made upon collecting the said fees.

Number 33. The date of registration of a deed required to be registered, which was prepared at the household and registered subsequently, shall be deemed to be the date for limitation to file a suit.

Number 34. In cases where Two or more (*Dohoro*) deeds are prepared, the deed registered first shall be considered to be valid (*Jetho*) one.

Number 35. While re-deeming (*Nikhannu*) an immovable property pursuant to the Chapter on General Transactions, it shall be done in accordance with the following:

The person, who is allowed and interested to redeem any immovable property shall appear before the registration office, along with the creditor (who has received the immovable property) and pay the money to the creditor and cause for a receipt for the same and also cause to endorse the registered deed by the creditor, and reasons shall be mentioned where there is no deed. In the case of redemption by virtue of a decree, such a decree shall be produced along with the application. In cases where one is entitled to redeem, such a property shall be crossed-off (*Dakhel Kharej*) and maintained in the name of such applicant even though such a property has already been crossed-offed and maintained in the name of another person, and that matter shall be mentioned in the deed/bond (*Tamsuk*) and record maintained in the office.....1

In cases where a person who is duty bound to permit redemption of any property by a person who is entitled to redemption creates any obstacle or hindrance, the person entitled to redemption may deposit the amount of the property

with the office where the deed was registered or with the registration office where the deed was registered or with the registration office in that territory (area) where the creditor is residing and file an application for the same; and if an application is so filed, the applicant *..... shall be given the time-limit to appear before the office *..... and a notice shall be issued in the name of the person who is duty bound to permit redemption to appear before the office within Seven days along with the original deed,.....³⁹⁶ excluding the time required for journey. If the concerned person appears within the time limit and agrees for redemption, the amount has to be handed over to the creditor (*Sahu*) pursuant to Section 1 above, and a receipt issued by him or her and the registered deed have to be handed over to the person who redeems property (*Aasami*). In cases where a person who is duty bound to permit redemption of property does not appear, a memorandum shall be executed after the expiry of the time-limit and a foreclosure notice (*Chalani Purji*) has to be issued in the name of the person who is entitled to redemption to execute or enjoy the immovable property; and a notice of the same stating that if he or she does not appear within Three years, he or she shall not be entitled to receive the deposited money has to be served on the creditor (*Sahu*). In cases where the person who is duty bound to permit redemption of property appears but denies to redeem the property, the registration office shall, if the claimed property deemed to be redeemable upon examining the registered deed and other records of the office itself, issue the foreclosure notice in the name of the person who is so entitled, upon the expiry of the time-limit for

* Deleted by Seventh Amendment.

* Deleted by Seventh Amendment.

³⁹⁶ Deleted by the Seventh Amendment.

appeal. If the person who is duty bound to permit redemption of property appears and shows the reason that he or she has no obligation to redeem the property, and it seems that decision has to be made upon evaluating or examining the evidence, the office shall pass a decree informing them to make a complaint or case within Thirty Five days of such a decree. If a complaint or case is not filed or decision is made against redemption of such property even after the complaint or case is filed, the deposited amount shall be returned to the applicant if he or she appears within the time-limit as prescribed by law. If the creditor (*Sahu*) or the debtor (*Aasami*) does not take back the deposited amount within the time-limit, such amount shall devolve on the Government of Nepal.....2

If an applicant who has deposited amount to redeem any property pursuant to Section 2 above, in the course of time, does not want to redeem the property for any reason or expires the time-limit or fails to file a case or complaint, he or she shall be liable to a fine of Two and half percent of the deposited amount (*Thaili*), and the remaining amount from such deposit has to be returned accordingly.....3

If a person who is duty bound to permit redemption of property and a person who is entitled to redemption wish to enter into compromise, the registration office shall execute such compromise. An amount of One percent of the deposited amount shall be charged for as the fee for compromise (*Baksuuni*).....4

- Number 36. If a case has been filed on the matter of failure to register a deed within the stipulated time, and a decree has been passed in favour of the registration of a deed, a notice (*Purji*) shall be issued by the adjudicating office in the name of the registration office pursuant

to Number 44 of the Chapter on Punishment. One has to appear in person or send an attorney to file an application before the registration office within Thirty Five days of the receiving of such notice (*Purji*), along with such notice, a copy of the decree and the deed to be registered. If a person so appears with such an application, the registration office has to register the deed as per the decree and notice (*Purji*) so issued in accordance with law and mention on the top of the copy of the decree that the deed has been registered on such and such date and affix the seal of office and chief of the office, if the application has been made within the time-limit and return such copy to the person concerned. In cases where an application is not filed within the time limit, the act of registration shall not be made upon the expiry of such time-limit.

- Number 37. The amount to be given to the creditor (*Dhani*) of a deed which has been registered may be given at the household (*Gharsar*) and a receipt thereof (*Kaagaj Phatta*) has to be prepared, and such an amount may also be paid before the office. In cases where the amount was paid and received at the household, a statement that he or she has received such-and-such amount on such and such date shall be written on the reverse side of the deed concerned, and it shall be caused to be signed by the recipient (*Dhani*) pursuant to the Act (Code), and take a satisfaction receipt (*Phatta*) for the same, and the person concerned appears in person or through his or her attorney and produces his or her seal with a note (*Lekhot*) within Fifteen days of such receipt to maintain it in the records maintained in the office or if such amount is collected before the office, such details shall be mentioned on the reverse side of the deed and inventory and the receipt, and such a receipt has to be returned upon affixing the seal of the office thereunto.

- Number 38. Any cash or kind to be paid to the creditor (*Dhani*) of a deed required to be registered may be paid to the attorney who appears before the office, along with a deed of attorney (*Ikshyapatra*) prepared in front of the witness. In cases where any person appears before the office, along with the satisfaction receipt (*Phatta*) which is so endorsed upon paying at the household to the person holding a power of attorney and the deed of attorney (*Ikshyapatra*) to maintain in the copy of inventory in the office or to pay through the person holding the power of attorney within the time limit referred to in Number 37 of this Chapter, and the copy of inventory in the office has to be maintained accordingly, and the concerned deed shall be returned to the concerned party.
- Number 39. In cases where a person wants to take a copy of a deed in the office or to inspect such a deed, it shall be so permitted. For copying a deed, Two Rupees shall be charged for per copy, and One Rupee shall be charged for per copy to see the deed as a fee.
- Number 40. The registration fee as prescribed by law shall be charged from the following person on the following condition:
- From the creditor (*Dhani*) in the transaction of deed of sale and purchase (*Rajinama*) and mortgage (*Bandhak*).....1
- From all coparcenars (*Ansiyar*) on pro rata basis in relation to the transaction of partition of joint property (*Bandapatra*), separation of kitchen (*Manu*) or joining of kitchen.....1
- From the receiver, in the case of any other deeds.....1
- Number 41. In cases where the creditor/receiver of property (*Sahu*) or his or her heir has entered into a deed and caused to register the deed upon paying or taking additional amount, on the deed which was so registered earlier, they shall not be charged for the amount which

has been paid earlier. They shall be charged only for the amount of additional transaction pursuant to law.

- Number 42. In the case of transaction of land or building where cash has been exchanged in the course of transaction, the registration fee shall be charged based on the exchanged amount, even though the cost of such land or building could have been found from any other source or means.
- Number 43. The time-limit for the registration of a deed shall not be extended if it lapses.
- Number 44. If a person appears before the office to perform any act as referred to in Number 37 of this Chapter upon the expiry of the time-limit mentioned in that Number, such a person shall be liable to a fine of Twenty Five Paisa for (each) Hundred Rupees if he or she has appeared within One year of such expiry of the time-limit and a fine of Fifty Paisa for (each) Hundred Rupees if he or she has appeared after One year of such expiry of the time-limit and the act referred to in that Number shall be done accordingly.

Chapter-22

On Default of Payment

- Number 1. If a person who is held to pay a government due other than penalty is not able to pay the due so held payable and gives a reasonable money bail (*Dhanjamani*), the date of repayment shall be given for one year. In the event of failure to give the bail accordingly, recovery shall be made in accordance with law.
- Number 2.³⁹⁷ No one shall, or make attempt to, receive, give, or cause to be received or given, any such cash, in-kind of a government body or a body corporate fully or partly owned by the Government of Nepal or of any bank as held in his or her own custody, except in accordance with law or except with an order or sanction duly made.
- Number 3. In examining the treasury (*Tahabil*) containing governmental cash and in-kind, such examination shall be made in presence of the person who has the custody of the treasury if such person is available and also in presence of the assistant, treasurer and store keeper who are in presence. If the treasury and stock do not correspond to that as set forth in the records and list thereof, embezzlement (*Masaut*) thereof shall be held. The amount in question that has been embezzled shall be recovered from the embezzler and the embezzler shall be liable to the punishment of a fine equal to the amount in question or imprisonment for a term not exceeding Three years or with both punishments.
- Number 3A.³⁹⁸ If any person embezzles or make attempt to embezzle any cash or in-kind of a body corporate fully or partly owned by the Government of Nepal or of any bank, that person shall be liable to the punishment of a fine equal to the amount in question or imprisonment for a term not exceeding Three years or with both punishments, where it is required to make recovery of

³⁹⁷ Amended by the Ninth Amendment.

³⁹⁸ Inserted by the Ninth Amendment.

the amount in question, and to the punishment of a fine of up to Five Thousand Rupees or imprisonment for a term not exceeding Three years or with both punishments, where it is not required to make recovery of the amount in question.

- Number 3B.³⁹⁹ If any person embezzles any money/amount of a body corporate fully or partly owned by the Government of Nepal or of any bank, the amount in question shall be recovered for the partition share of the embezzler. If the concerned body or bank makes an application for sentencing the embezzler to imprison in consideration for the amount in question that could not be recovered, the embezzler shall be so imprisoned for a term not exceeding Four years irrespective of the figure of the amount in question that a sum of Five Hundred Rupees is deducted per month.
- Number 4. If a treasurer or storekeeper of a government office embezzles the treasury, and the treasurer or storekeeper has been so appointed on the understanding that he or she is trusted by the chief of office, such remaining amount in question as has not been recovered from the embezzler shall be paid by the chief of office.
- Number 5. Interest (*Sud*) shall also be charged at the rate of Ten percent with effect from the day of embezzlement of the treasury.
- Number 6. No interest shall be charged with effect from the date of forfeiture of the property where property has been forfeited in consideration for dues attracting governmental interest and from the date of detention where the debtor is detained prior to the attachment of the property. Where the amount in question is not recovered from the auction sale of property so attached and it is subsequently held that the property has been concealed or covered up, interest shall also be charged on such amount that has been held to have been concealed and recovered with effect from the date of attachment. Where the property is being attached and it has matured for

³⁹⁹ Inserted by the Ninth Amendment.

recovery by auction selling it, such auction sale shall be made within thirty five days.

- Number 7. If any type of movable or immovable property is tendered to be handed over to any office for payment or hand-over to the Government of Nepal, the office shall, if such property has to be received, receive such property setting out all details and reasons. In the case of difficulty or confusion, decision shall be made or cause to be made by taking action in accordance with law, making credit to the deposit, setting out the same matter.
- Number 8. Where the heir who inherits the transacting defaulter is arrested, such amount in question as held to be recovered shall be recovered by forfeiting the property belonging to the defaulter. Such defaulter shall not be claimed for the remaining not covered from the forfeiture of property. If in making such forfeiture, the defaulter has concealed and covered up any property and it is held upon inquiring into the matter, the heir who has made such concealment shall be liable to a fine equal to the amount in question so concealed and to be detained in consideration for such a fine.
- Number 9. If any worker who does other's work, except as mentioned in Numbers 2, 3A. and 3B of this Chapter,⁴⁰⁰ embezzles any cash or in-kind in his or her custody and such embezzlement is proved upon a complaint made by the owner, then the amount in question as required to be recovered shall also be recovered by imposing a fine of Twenty Five percent of the amount in question. If a suit is made by a person who carries out, or causes to be carried out, any work claiming that a person has not repaid any money other than that mentioned or makes or receives attachment or money that cannot be made or received, the relation between the persons concerned shall be that of a creditor and a debtor.
- Number 10.⁴⁰¹ While sentencing to imprisonment by the reason of short recovery as required to be made pursuant to Number 9 of this Chapter, the term of

⁴⁰⁰ Amended by the Ninth Amendment.

⁴⁰¹ Amended by the Ninth Amendment.

such imprisonment shall not exceed one year at the rate of Twenty Five Rupees a day.

- Number 11. A suit on the offense as referred to in Number 9 of this Chapter shall not be entertained if it is not made within two years after the date of the cause of action.
- Number 12. While sentencing a person to imprisonment for the punishment imposed pursuant to law for the embezzlement of a government money or treasury and also for the government amount in question, the person may not be so sentenced to imprisonment for a term exceeding Ten years.

Part-4

Chapter-1

On Forged Document (Forgery)

- Number 1. If any person puts or prepares signature or finger impression, sign-mark or seal (*Chhap*) or prepares a false document by erasing any content in a genuine document prepared pursuant to the Act by any means (*Tarakib*) and writing in such a way that it gives another meaning, or uses or puts a blank singed paper (*Lifa*) or a seal given for any one purpose to any other purpose or in any other document other than so permitted, or prepares a fraudulent document, and such an act causes any harm to the body, property/wealth or right of any other person, or if not so, causes any benefit (profit) or creates any evidence to the concerned person or any other person, such an act shall be deemed to be the offence of forgery (*Keerte*), irrespective of whether any act has been performed (or benefit taken) or not, by virtue of such a fraudulent document. Any person who commits, or causes the commission of, such forgery or who knowingly becomes a witness to a forged document or an accomplice in the commission of offense shall also be liable to punishment.
- Number 2. If a person, despite that the person has not forged a document completely, tempers with a document by changing, or causing changes in, the figures (*Ghatibadi*), date or other contents (*Byahora*) set down in a genuine document prepared with the knowledge of the concerned person (*Kaarani*), then that person shall be liable to punishment for forgery, to such an extent that such figures or contents have been so changed.
- ⁴⁰²Number 3. If any person prepares, or causes to prepare, a document by inserting any untrue matter or changing a date, figure or any content and putting signature or thumb impression on it for the purpose of depriving any right of any other person or causing the expiry of a limitation (to file a suit) or a

⁴⁰² Amended by Ninth Amendment.

date (in a suit) or causing any other damage or loss by any other means, except otherwise mentioned in the foregoing provisions, that person shall be deemed to have committed the offence of fraud (*Jalsaji*).

- Number 4. If any person so expresses any false matter verbally that one may believe it to be true or genuine and does any act, that person shall be deemed to have committed the offence of verbal forgery.
- Number 5. If any person commits, or causes the commission of, the offence of forgery, with intent or motive to take the life of another person and that the life of that other person has consequently been already taken, that person who commits, or causes the commission of, the forgery shall be liable to the punishment of imprisonment for life with the confiscation of the entire property (*Sarvaso*), and other accomplice shall be liable to punishment of imprisonment for Ten years. In the case where the life of a person has not been so taken (not killed), the person who commits, or causes the commission of, forgery shall be liable to the punishment of imprisonment for a term of Ten years and other accomplice shall be liable to the punishment of imprisonment for a term of Five years.
- Number 6. If a person commits forgery on any matter involving the punishment of imprisonment for life with the confiscation of entire property or that of imprisonment for life, the person shall be liable to the punishment of imprisonment for a term of Ten years, and if a person commits forgery on any matter involving the confiscation of entire property, the person shall be liable to the punishment of imprisonment for a term of Three years. In case such an act has not yet been completed, he or she shall be liable to half the punishment as mentioned above.
- Number 7. If any person commits forgery regarding any property and has taken any benefit out of it, the amount in question shall be recovered from, and a fine equal to such an amount shall also be imposed on, that person. In case such an act has not yet been completed, he or she shall be liable to a fine of half the amount in question.

⁴⁰³Number 8. If any person forges the seal which is used by the head of the state or the document on which such a seal is put, that person shall be liable to the punishment of imprisonment for a term of Ten years and the amount in question, if any, shall also be recovered.

- Number 9. In the case where a document has not been forged completely but figures or some of its contents are manipulated or altered, the person involved in such forgery shall be liable to such an extent of that manipulation or alteration as he or she has so done. In the case of manipulating a date, the person involved in such forgery shall be liable to a fine of Twenty Five percent of the amount in question, if any, to the extent the person has manipulated the date, thereby causing a loss or depriving of any right. If there is no amount in question, such a person shall be liable to the punishment of fine of up to Fifty Rupees.
- Number 10. If any person prepares, or causes to prepare, a fraudulent (*Jalsaji*) document, the person shall be liable to a fine of Twenty Five percent of the amount in question, if any. If there is no such amount in question, such a person shall be liable to a fine of up to Two Hundred Rupees.
- Number 11. If a person commits, or causes the commission of, forgery on any other matters except with the motive or intention to take the life of another person, the person shall be liable to punishment that is equal to the punishment imposable on the offender of forgery, and other accomplice shall be liable to the half of such punishment.
- Number 12. If a person forges the seal of a government office or seal or signature of a government employee in the course of the government business, or any document with such seal or signature, the person shall be liable to the punishment of imprisonment for a term of One year, in addition to the punishment as referred to in different Numbers of this Chapter, and if the employee of the same office commits such an offence, he or she shall be liable to additional Two years of imprisonment.

⁴⁰³ Accommodated by translator as per the spirit of Interim Constitution of Nepal, 2063.

- Number 13. If a person puts finger impression or signature of any other person, even with the consent of such other person, the person shall be liable to the punishment of a fine of up to Twenty Rupees, having regard to the nature of the case.
- Number 14. If a person knowingly witnesses a forged document, the person shall be liable to the punishment of imprisonment for a term ranging from Fifteen days to Two years, where the principal offender has to be liable for life imprisonment, with the confiscation of entire property, or a fine of up to One Hundred Rupees where the principal offender has to be liable to a fine, in cases where the act has been completed. In cases where the act has not been completed yet, half the punishment mentioned above shall be imposed on such a witness.
- Number 15. A person who commits a verbal forgery shall be liable to a fine up to half (Fifty percent) the amount in question, if any, and up to One Hundred Rupees if there is not amount in question. If such an act has not been completed yet, the person shall be liable to half the punishment mentioned above.
- Number 16. No person, except one who is authorized to give designation with the approval of the Government of Nepal, shall give any designation (*Darja*) to any other person at his or her own will nor shall such person say or write that he or she holds such-and-such designation. One who has received a designation from the competent authority may say or write even after his or her retirement from the service. If, with this except, any person says or write that he or she has obtained any such designation as has not been given to him or her, and any person who does the following act shall be liable to the following punishment.....

Any person who does any act with the boast of any false designation shall be liable to imprisonment for a term not exceeding Four years or a fine of up to Five Thousand Rupees or both and the amount in question shall also be realized, if any. If any person commits any other offence, that person

shall not be exempted from the punishment pursuant to the Act for the offense committed by him or her.....1

A person who is knowingly involved, except a person involved without knowledge, with such a person shall be deemed to be an accomplice. The accomplice shall be liable to half the punishment as referred to in Section 1 above.....2

- Number 17. Except where the punishment of imprisonment for life, with the confiscation of entire property, is to be imposed, no person shall be imprisoned for a term of more than Twelve years for the other matters as referred to in the different Numbers of this Chapter.
- Number 18. If a suit on any matter other than on the matter of forgery or fraud (*Keerte or Jalsaji*) of a document on which the government seal has been put or of any other document held in a government office or on any matter of verbal forgery or saying or writing any false designation or of dismissal of employees (*Parapajani*) by saying or writing so is not filed within Six months of its knowledge, from the date of cause of action,⁴⁰⁴ the suit shall not be entertained.

⁴⁰⁴ Amended by Court Management and Administration of Justice Related Some Nepal Acts Amendments Act, 2058.

Note: Section 2 of sub-section 4 of the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act reads as follows:

"Notwithstanding anything contained in Number 18 of the Chapter on Forged Document (Forgery), a lawsuit filed in any court of law pursuant to the prevailing law and sub-judice at the time of commencement of this Act shall be deemed to have been filed pursuant to the same Number."

Chapter 2

On Looting

- Number 1. A person shall not forcefully snatch away (*Khosi*) or cause loss to any cash, commodity, property (*Dhanmal*), two footed or four-footed animal (birds or cattles), including crops in the land that is owned and possessed by other person, and such act arises out of the acts (*Rup*) as referred to in different Numbers of this Chapter, with or without any dispute (*Jhagada*) or battery (*Kutpit*), except in relation to any matter that can be held to be an offense as referred to in the Chapter On Theft, by the nature of the commission of the offense (*Wardat*); the commission of such act shall be deemed to be the offense of looting.
- Number 2. If a person snatches away such property, on the spot, or causes loss, on the spot, to such property (*Dhanmal*), cash or commodity as may be carried with another person there, by use of force (*Dharpakad*) or wrangle (*Bhanabhan*), dispute (*Jhagada*) or dragging on the matters of land, encroachment of land (boundaries), lending, borrowing, partition/share of property, donation (*Dan*), gift (*Bakas*), harm (*Bijai*), improper act (*Vidjut*), money (*Rakam*), amount (*Kalam*), servitude (*Sandhi Sarpan*), canal (*Kulo*), water, harvest, meadow, pledge(*Naso*), deposit (*Dharuat*) etc., in the disguise of the loss of property or showing any reason for the same or with an argument that such a property belongs to him or her, the person shall be deemed to have committed the offence of looting.
- Number 3. Except in cases where a person, who is entitled to get back his or her property transacted as usufruct or sight mortgage or pledge or deposit based on the deed for the same, a person shall take back any property, despite that the property belongs to such a person, only with the consent of the person who has taken custody of that property or only after establishing his or her title thereto by making a suit. If the person takes back the property without obtaining such consent of making such suit,

then the property so taken by him or her shall be returned back, by imposing a fine of Twenty Five percent of the amount of the property than exceeds the amount in question to which he or she is entitled and a fine of Fifteen percent thereof if the property so taken back does not exceed or is less than that to which he or she is entitled.

- Number 4. If a person loots, or causes to be looted, ripe (prepared) crops cultivated by any other person before it is cut, the person shall be liable to a fine of Ten percent of the amount in question so looted if the looter has right in such crops, and a fine of Twenty percent of the same if the crops do not belong to the looter. If a person loots, or causes to be looted, unripe (unprepared) crops cultivated by any other person before it is cut, the person shall be liable to a fine of Twelve and half percent of the amount in question so looted if the looter has right in such crops, and a fine of Twenty Five percent of the same if the crops do not belong to the looter. If a person loots or causes to loot such property in which the person has right, such a person shall not be entitled to recover any of his or her amount in question as damaged. If a person loots or causes to loot such property as in which the person does not have right, the damaged amount in question shall be recoverable from the looter to the person who has right in the property. Every aider, other than the principal offender of looting, shall be liable to the punishment that is one fourth of the punishment that can be imposed on the principal offender of looting where the property looted belongs to the looter and to the punishment that is half the punishment that can be imposed on the principal offender where the property looted does not belong to the looter.
- Number 5. No one shall take and consume any crops (*Bali*), movable and immovable or other property being attached (*Rokka*) by the office prior to its release. If a person takes and consumes a property by way of looting and a complaint is made on that matter, the office shall immediately arrest the person who has taken and consumed it, recover any movable, immovable property and crops as attached from that person and hold the property in

the custody of the office or a reasonable person. If the person does not hand over it, he or she shall be detained until he or she so hands over. If the person does not return the looted property even within Fifteen days of such detention, the movable and immovable property shall be realized, if found in proper condition (*Saabud*), and if it is not so found, the amount in question (*Bigo*) shall be realized, also from his or her property (*Jayajat*). The person shall be liable to a fine at the rate of Twelve and half percent if it is subsequently adjudged that a person who has no right in the property has taken and consumed the same, and that of Twelve and half percent if it is adjudged that the person who has right in the property has taken and consumed it. The amount in question shall be given to the person who has right in the property.

- Number 6. Except as otherwise provided in Numbers 3, 4 and 5 of this Chapter, if a person loots any property in any other manner, the amount in question shall be recovered from the person who has taken, consumed, or caused a loss or damage to, the property, and the looter shall be liable to a fine of Twenty Five percent of the amount in question. Every aid and abettor shall be liable to half the punishment imposable on the principal offender.
- Number 7. If a suit is not filed within Three months from the date of the cause of action, the suit shall not be entertained.

Chapter-3

Cheating

- Number 1. If a person takes or gives, or causes to be taken or given, any movable or immovable property (*Dhanmal*) which the person has no right in and belongs to other or the property which is in other's custody or control, by way of luring or conspiracy, or prepares, gives and submits any fraudulent document regarding the property which the person has no right in or deceives that any matter that is not with him or her is with him or her, or lies something which is not true (*Gaflat*), or makes fraud, or gives, takes, sells or exchanges some other's property upon pretending that the property of somebody else belongs to him or her or has come into his or her ownership, the person shall be deemed to have committed the offence of cheating.
- Number 2. If a person does any act yielding benefits to the person and causing loss to another person by way of deceiving, misrepresenting or misleading the other person, with *mala fide* intention or with intention to escape punishment for an offense, or by lying that the name does not belong to him or her but belongs to somebody else, or the person in question is not him or her but is somebody else and by deceiving upon saying that some other's name is his or her and that the person in question is him or her, and deceives the person or knowingly causes another person to state such matter or by any other means whatsoever, the person shall be deemed to have committed the offence of cheating.
- Number 3. In cases where the person cheated (victim) has hold the cheater and got the cheater to execute a bond with the date for repayment (*Bhaka Tamasuk*), the relation between them shall be that of a creditor and a debtor.

- Number 4.⁴⁰⁵ If the amount of cheating can be determined, such an amount shall be realizable by the victim from the cheater and the cheater shall be punished with a fine equal to the amount so cheated, and if the amount so cheated cannot be determined, the cheater shall be punished with a fine of up to Five Thousand Rupees and imprisonment for a term not exceeding Five years.
- Number 5. A person, who shares any property in collusion with the cheater, or aids the cheater in the commission of cheating or knowingly becomes a witness to the document prepared for cheating anybody else, shall be deemed to be an accomplice. Such an accomplice shall be punished as if he or she were the principal offender.
- Number 6. The victim who has right in the property cheated shall be entitled to the recovery of the amount in question of the property so cheated from the person who knowingly receives or purchases the property so cheated and purchased, and such a receiver or buyer shall be liable to the punishment of a fine of up to Two Hundred and Fifty Rupees or imprisonment for a term not exceeding Three months or both.
- Number 7. Any transaction made in relation to the cheated property shall not be valid. The cheated property shall be recoverable from the person under whose custody it is, and the real owner (victim) shall be entitled to recover it. If a person knowingly receives or purchases the cheated property, his or her cost (*Thaili*) shall not be recoverable. If the cheated property is taken or purchased without knowledge that it is a cheated property, the cost (*Thaili*) shall be equivalent to unsecured money (*Kapali*).
- Number 8.⁴⁰⁶ If a suit on any matter as referred to in this Number is not filed within one year from the date on which it came to the knowledge of the Government of Nepal, if the Government of Nepal is a plaintiff, and in the other cases,

⁴⁰⁵ Amended by the Ninth Amendment.

⁴⁰⁶ Amended by the Ninth Amendment.

within Two years from the date of the cause of action, the suit shall not be entertained.

Chapter-4

On Theft/Stealing

- Number 1. If any person, with *mala fide* intention, takes any immovable property by converting it into a moveable property or any other moveable property in which he or she has no right, without giving any notice or taking consent of its owner to take it away or consume by himself or herself, upon depriving the owner of such property of ownership, by any means, such an act shall be deemed to be the offence of theft.
- Number 2. Where a notice has been given to a minor of a joint family (*Sagol*) or consent of a minor has been obtained, it shall not be considered that a notice has been given to the owner or consent of the owner has been obtained for the purpose of Number 1 of this Chapter. In cases where a person gives notice to or obtains consent from any prudent (*Jankar*) major of a joint family, it shall not be considered theft but it shall be dealt with in accordance with the Chapter On General Transactions.
- Number 3. In cases where theft is committed by making a tunnel or an artificial staircase (*Sen*) or breaking or opening the wall, window or door or entering from the roof, balcony, window or wall or through any other irregular way or by any means except the open door or by entering into the building from the regular pathway but coming out from the irregular pathway as mentioned hereinabove, such an act shall be deemed to be the offence of burglary (*Nakabajani*).
- Number 4. In cases where a theft is committed by using force (*Hatpat*) or tying (*Bandhi*) or pressing someone or showing fear or threat to take life immediately or to cause grievous injury or locking the person upon closing the door or upon using excessive force (*Jorjulum*) to the victim when he or she tries to recover the stolen property or catch

the offender on the spot or pursuit him or her from the spot after the commission of theft or snatches away any property from the body of a minor even doing nothing as mentioned hereinabove, such an act shall be deemed to be the offence of forcible theft (*Jarbarjasti Chori*).

- Number 5. In cases where a person commits the forcible theft by sneaking (*Dhuki*) around a road or wharf (*Ghato*) or forest (*Jungle*), the person shall be deemed to have committed the offence of *Rahajani* theft.
- Number 6. In cases where more than four persons commit the offence of forcible theft or *Rahajani* theft or any other theft by showing or using any weapon or using force or manhandling (*Hulhujjat*), such theft shall be deemed to be the offence of robbery (*Danka*).
- Number 7. If any person comes to know that any offence of theft has been committed, the person shall appear before the nearest Police Office within Seven days from the date of knowledge of such an offence, and file an application (first information report) upon showing the details, i.e. name, nature, count of the property and amount in question correctly and such an informer shall collect a receipt for the same. Upon submission of such an application, the concerned Police Office shall send a copy of it to the higher authority, initiate legal action and search it.
- Number 8. If a person brings any goods to keep or sell such goods and there is a reasonable ground to doubt that the goods are stolen, the goods and the person who has so taken or kept goods shall be handed over to the nearest Police Office.
- Number 9. In cases where the owner of property, before giving a notice to the Police Office, sets free any thief other than a thief committing the offense of forcible theft, *Rahajani* theft, or robbery or a recidivist, the owner of stolen property shall not be deemed to be an offender.

In any case, the owner of stolen property may exempt the offender from the amount in question, upon preparing a deed for the same; and in the case of punishment it shall be as provided in the Act. In cases where the owner of stolen property has caused to prepare a deed regarding the amount in question of a stolen property, it shall be equivalent to a transaction of unsecured money (*Kapali*).

Number 10.⁴⁰⁷

In a lawsuit of theft, the case shall be disposed of as following.....

In relation to any cases of theft, other than those of robbery, if the accused has absconded and elapsed the date stipulated in a notice or a co-partner or an accomplice who is so divulged (*Polnu*) by an arrested accused upon his or her confession is absconding, such a suit shall be adjourned or stayed until such absconding accused appear voluntarily or is arrested and produced; such a case shall be disposed of as it appears in the case file within the date as referred to in the Act in relation to the other defendants. In cases where all the defendants of a case do not make presence voluntarily or are not arrested at the same time and the statement of those defendants is being recorded in different times and the case cannot be matured in respect of all defendants at the same time, the suit shall be decided at a date when the case is matured in relation to the defendant concerned.....1

In relation to those defendants in relation to whom the suit has been adjourned/stayed, it shall be reopened and decided after the expiry of ⁴⁰⁸One year of such adjournment even though the accused does not appear voluntarily or is not arrested, based on the evidence so collected and examined until that date.....2

⁴⁰⁷ Amended by the Seventh Amendment.

⁴⁰⁸ Amended by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

In all types of theft cases, the amount in question shall be recovered from the concerned persons according to their respective share of such amount. If, in the course of recovering the amount in question, the stolen property is found out (seized), the stolen property shall be recovered for the victim; if the seized property or amount is not sufficient to meet the amount in question, the victim may file an application upon showing the property of the concerned offender; and the remaining amount in question shall be recovered from that property, and except in the case of a government amount in question regarding stolen property, if the owner of property makes an application pursuant to Number 42 of the Chapter on Punishment for the imprisonment of offender instead of the claimed amount not realized even from the property, the offender shall be imprisoned for a term not exceeding Two years at the rate of One day for Twenty Five Rupees⁴⁰⁹.....3

- Number 11. Any accused, who has been arrested for committing theft in different places at different times, shall be punished separately for each commission. If a person commits robbery and other types of theft, the punishment for robbery and other theft shall be accumulated separately for the purpose of additional punishment for recidivism. If such punishment is found so imposed by a foreign court, additional punishment for recidivism shall not be accumulated (*Khapi*).
- Number 12. In a general theft, except in robbery, *Rahajani*, forcible theft and burglary, each offender shall be liable to a fine equal to the total amount in question; and he or she shall be liable to the punishment of imprisonment for a term of One month for committing the offence for the first time, Three months for the second time, Six months for the third time, One year for the fourth time, two years

⁴⁰⁹ Amended by the Ninth Amendment.

for the fifth time, Four years for the sixth time and Six years for more than Six times, accordingly.

- Number 13. In cases where the amount in question on a theft case as referred to in Number 12 of this Chapter is less than Fifty Rupees, the offender shall be punished with half the fine for committing such an offence for the first time, and he or she shall be liable to half the fine and imprisonment for committing general theft for two or more times as referred to in that Number. While counting the 'times' (*patak*) in a recidivism case, the 'times' shall be counted for each conviction by the court, though the accused has confessed the commission of theft for more times.
- Number 14. Any person who commits the following type of theft shall be liable to the punishment as follows:
- If the person commits burglary, the person shall be punished with an additional half (Fifty percent) of the punishment as referred to in Number 12 of this Chapter.....1
- If the person commits the forcible theft, the person shall be punished with an additional half (Fifty percent) of the punishment as referred to in Number 12 and shall be imprisoned for the fine so calculated; and in case the term of imprisonment so calculated is less than Four months, he or she shall be imprisoned for at least Four months.....2
- If the person commits the *Rahajani* theft, the person shall be liable to punishment that is two-fold of the punishment as referred to in Number 12 of this Chapter and shall be imprisoned for the fine so calculated; and in case the term of imprisonment so calculated is less than Six months, he or she shall be imprisoned for at least Six months.....3

If the person commits robbery, the person shall be liable to a fine of additional Fifty percent of the amount in question and to imprisonment for Six years for the first time, Nine years for the second time, and Twelve years for the third or more than third time.....4

- Number 15. In the course of imposing punishment on the offender pursuant to Numbers 12, 13 and 14 of this Chapter, if the offender submits or produces the amount in question prior to the disposal of the case, except in cases where the offender is a government employee or where the owner of stolen property himself or herself has assisted in finding out or seizing the stolen property in the course of search and seizure, the offender shall be liable only to the fine of Ten percent of the amount in question.
- Number 16. In cases where a major and prudent (*Janakr*) person sells a property stolen by a minor who is below the age of Sixteen years, the purchaser (buyer) shall be entitled to receive his or her money (*Thaili*) from the seller, and the seller shall be liable to a fine of upto the amount in question (*Bigo*).
- Number 17. A person, who attempts to commit the offence referred to in Numbers 12 and 14 of this Chapter, shall be liable to the punishment of imprisonment that is half the punishment (imprisonment) as prescribed for the concerned offence.
- Number 18. If a person commits the offence referred to in Numbers 12 and 14 of this Chapter by administering intoxicating substance to the victim and making him or her unconscious, the offender shall be liable to the punishment of additional imprisonment of One year as referred to in those Numbers, respectively.
- Number 19. If a member of joint family commits an offence of theft and brings any of such property to the family and the other family members above the age of Sixteen years consume such stolen property upon

knowing the fact that it is a stolen property, the amount in question shall be recovered from the partition property of such other family members. If the amount in question is not recoverable in full, the other family members other than the thief (offender) shall not be liable to other punishment.

- Number 20. An accomplice, who has not gone with the offender to steal any property but who has been involved in taking a share of such property, shall be responsible to pay back all the shared amount for each time that he or she has taken such a share, and shall be liable to a fine equal to the amount in question and shall also be imprisoned based on the recidivism.
- Number 21. In the course of recovering the stolen property by the owner from the seized property, it shall be recovered by the owner to the extent it is proven that particular property belongs to a particular person by the evidence; and in the case of any other property where the owner is not found, such property shall be deposited with the office and a notice of Three months shall be published for the same. If any person appears before the office within the date so prescribed in the notice to recover such a property and the details of property so requested resembles with the property details mentioned in the first information report, such property shall be handed over to such applicant. No ten percent fee (*Dasaund*) shall be levied to hand over such property.⁴¹⁰ If any person does not appear or if there is no resemblance with the property mentioned in the report, such property shall be realized by the owner who has first caused to arrest the accused and claimed for the property, and if there remains some extra property, it shall be recovered by the other owners of the property so proven by evidence on pro rata basis (*Damashai*); and again there remains any property, it shall be

⁴¹⁰ Inserted by the Court Management and Administration of Justice Related Some Nepal Acts Amendment Act, 2058.

auctioned and the amount so received shall be credited to the Government of Nepal. No one shall be fined for the amount in question where the owner of property is not found. In the case of shortfall, it shall be recovered from the property of the offender.

Number 22. Out of the persons who have gone together to commit any type of theft but who have not been involved in the commission of offence of rape or murder or who have not committed such offence, such persons shall be liable to the punishment only for the theft. In cases where, such thief (offender) before accusation against him or her or his or her arrest reports the offence of murder or rape so committed on the spot immediately (*Maukaima*) or where the offender controls and causes the arrest of the co-accused or provides a lead information (*Suraak*) before accusation or his or her arrest, such an accused who reports or brings or causes to arrest shall not be punished for the offence of theft even though he or she confesses the offence or it is so proved by the evidence; such an offender (who so helps) shall be set free upon realizing the amount which he or she has taken away or used up.

Number 23. If any person purchases any property or commodity in which the profit margin is up to Fifteen percent vis-à-vis the cost of that commodity in a transaction of sale and purchase, or upto Twenty percent in the case of mortgage (*Bandhak*) transaction even without preparing a deed for such transaction, or upon preparing a deed of transaction even the profit margin is more than that, such an act shall not be deemed to be an offence if such transaction has been made without the knowledge that the commodity is a stolen one. If someone accepts (such commodity) with a profit margin more than that mentioned above without preparing a deed or with the knowledge that the commodity is a stolen one, the provisions referred to in Number 24 of this Chapter shall be applicable. The cost of such a commodity shall be calculated taking into

consideration the time when the commodity was so transacted and the amount in question shall be determined accordingly.

- Number 24. Any person who knowingly accepts, keeps or purchases a stolen property shall be liable to a fine equal to the amount in question if he or she has committed the offence for the first time. From second time onwards, the offender shall be liable to a fine equal to the amount in question and to imprisonment in consideration for the fine also. If one takes stolen property without such knowledge he/she shall not be fined and imprisoned. One who has taken such property without knowledge shall be entitled to recover his or her amount in question from the giver including the thief as if the amount was unsecured money. In cases where a person has taken stolen property from a minor, he or she shall not be entitled to claim his or her money (*Thaili*).
- Number 25. Even though any property has been taken in any manner whatsoever, if the property is proved to be a stolen property, whether it has been taken knowingly or unknowingly, the owner of such property shall be entitled to it, and the property shall be recoverable by the owner irrespective of the destinations the property has reached. In cases where a currency note or cash has been exchanged or any commodity purchased or sold out of such note or cash, the receiver of such note or cash shall not be liable to return such amount.
- Number 26. A prudent (*Jankar*) male, who is above the age of Sixteen years and below the age of Sixty-Five years, and does not provide help upon listening the cry for help to catch a thief by anybody else (*Gwahar*), shall be liable to a fine of upto Fifteen Rupees.
- Number 27. On the matters referred to in this Chapter, the total term of imprisonment for the amount in question, fine, and imprisonment or accumulation of all the three, shall not be more than Eight years

for (general) theft, Ten years for burglary or forcible theft, Twelve years for *Rahajani* theft, and Eighteen years for robbery.

Number 28. ⁴¹¹

Number 29. There shall be no limitation to file a case if someone reports with sufficient real evidence. In the other cases, a case has to be filed within one year from the date of the cause of action.

⁴¹¹ Repealed by the Ninth Amendment.

Chapter 5

On Arson

- Number 1. No person shall, knowingly, commit or cause to be committed or attempt to commit arson for causing a loss to anybody else. If any person commits such an act, all the persons involved in that act and the conspirator (*Matalabi*) shall also be liable to punishment.
- Number 2. If any person causes arson, knowing the fact that somebody is inside the building (house) belong to others, it shall be deemed that the arson has been caused with an intention to kill a person, and such an act shall be dealt as referred to in the Chapter on Homicide.
- Number 3. If any person causes arson in the building (house) of anybody else and it causes death or hurt to a cow or ox, such an act shall be dealt as referred to in the Chapter on Quadruped.
- Number 4. If any person commits or attempts or instigates to commit the offence of arson in a place where any commodity of anybody else has been stored and such a place is not a house but a place out of the house, and no house, quadruplet or person has suffered a damage, the damaged amount shall be recovered and the person involved shall be punished with imprisonment for a term of Six months for each place for the commission of offence, and he or she shall be punished with imprisonment for a term of Three months for each place for the attempt. The accomplice (*Matiyar*) shall be punished with half the punishment imposable on the principal offender.
- Number 5. Except in cases where punishment is to be imposed as referred to in Number 2 of this Chapter for causing arson in the building of other person, if a person causes arson in one building, the principal person who instigates (gives words) for such an act shall be liable to the punishment of imprisonment for a term of Four years and if the person causes arson in

more than one building, the person shall be liable to imprisonment for a term of one additional year for each building.

- Number 6. Any person who causes arson, or instigates for the same as a principal offender, in a building or a place where government documents or treasury (*Tahabil*) have been kept or located, such an offender shall be liable to imprisonment for a term of Four years to Twelve years. Any person who causes arson or instigates for the same as a principal offender in a building or a place where military equipment, arms and ammunition (*Khajana*) have been kept or stored, such an offender shall be liable to life imprisonment with confiscation of the entire property (*Sarvasho*). Except as otherwise provided herein (in this Number), if any person causes arson in any other government building, the person shall be liable to the punishment as referred to in Number 4 of this Chapter.
- Number 7. Except the principal instigator or offender involved in arson, the conspirator (*Matlabi*) and accomplice shall be liable to half the punishment to be imposed on the principal offender.
- Number 8. In cases where at attempt has been made to commit arson but the act of arson has not been completed, the offender and the principal instigator shall be liable to the punishment of imprisonment for a term of Two years and the conspirator (*Matlabi*) and accomplice shall be liable to imprisonment for a term of One year. In the case of a building where government documents and treasury (*Tahabil*) have been kept, the punishment shall be two-fold.
- Number 9. In cases where the amount in question for the loss caused by an act of arson could not be recovered from the total property (*Jayajat*) of the offender, and the owner of the building (property) files a petition for the imprisonment of the offender for the unrecovered amount in question, it shall be dealt as referred to in Number 10 of the Chapter On Theft.
- Number 10. In cases where, in the course of arson, any cattle or property (*Dhanmal*) is damaged, the amount in question for such a loss shall be caused to be

recovered from the property (*Jayajat*) of one who has committed or caused to commit arson if the amount of loss is set out and if such amount in question is not set out, it shall be as fixed by the local people (*Panchakriti Mol*).

- Number 11. Except on a matter involving the punishment of life imprisonment with confiscation of the entire property, no one shall be imprisoned for more than Twelve years on the other matters referred to in this Chapter.
- Number 12. In the case of a death of a cow, ox or human being, the limitation to file a suit shall be as referred to in the concerning Chapters. On the other matters as referred to in this Chapter, if a suit is not filed within One year from the date of the cause of action, the suit shall not be entertained.

Chapter-6

On Counterfeiting

- Number 1. No one shall counterfeit, or cause or attempt to counterfeit, a government coin, currency note, stamp (postage stamp), stamp paper, *Mana*, *Pathi*, measure of weight (*Dhak*) with a sign number, measuring rod or tape (*Gaj*), the instrument used as a means of rules and usages (*Thiti chalan*) by molding (*Dhali*) or engraving (*Khodi*) any fake sign (*Baahida*), mark (*Tak*), seal, number, symbol; and no one shall knowingly sell, purchase, or transect (measure, weight) from an unauthorized (not used sign or mark from the Government) instrument (*Mal*) or bring into use (*Chalauna*) that type of instrument (*Mal*), and re-use the stamp or stamp paper once used and cancelled earlier. Such an act shall be considered to be the offence of counterfeiting.
- Number 2. No one shall melt (*Galna*) a coin issued by the Government, except the lower quality coin (*Dagi*) or wreath of coin is marked (*Kati*) and withdrawn by the government for being useless (*Bekamma*) due to an act of God, without the prior approval of the Government.
- Number 3. No one shall sell metal, jewellery or any food and any other commodity, by misleading it to be a qualitative one which in fact does not have such quality or by making adulteration; and no one shall measure, weigh or fill up for the same upon deciting (to cause *Ghatibadi*) beyond the norms of weighing and measuring, in the course weigh or measurement; and no one shall keep such deceitful instruments or apparatus (*Mal*) at his or her shop.
- Number 4. If a person makes and uses fake government coin (*Tak*), stamp number, sign mark (*Nishana*) etc., the amount in question shall be recovered, and the following provisions shall be applicable:
- If the person mints a fake coin or prints a fake currency note, the person shall be liable to punishment of a fine equal to the amount in question and imprisonment for a term of Ten years.....1

If the person prints a fake stamp (postage) or stamp paper which may be sold, the person shall be liable to punishment of a fine equal to the amount in question and imprisonment for a term of Six years.....2

If the person uses a fake seal, number or sign mark in the *Dhak, Mana, Pathi, Gaj* etc. (weighing and measuring instruments), the person shall be liable to punishment of a fine equal to the amount in question and imprisonment for a term of One year.....3

All the goods and materials (*Malsaman*) used and can be used in the acts as mentioned above shall be confiscated.....4

Number 5. In cases where a government employee in the official job of minting the coin or printing the stamp (postage) or stamp paper or putting (measure of weight) the number or sign mark in the *Mana, Pathi, Gaj, Dhak* (measuring and weighing instruments) prepares, prints, mints, carves, engraves any *Dhak*, seal, *Gaj*, number, sign mark etc. or causes for the same without any order or notice (*Purji*) of the Government of Nepal or acting contrary to law or attempts to commit such act or knowingly acts to alter (*Ghatibadi*) in weighing and measuring in the course of minting, printing, carving, engraving, measuring the number or sign marks even he or she is entitled to do this job pursuant to the law or with an order or notice (*Purji*) of the Government, the person shall be liable to the punishment of additional one fourth of the punishment as referred to in Numbers 4, 6, 7 and 18 of this Chapter.

Number 6. If a person is or going to mint a fake coin or print, carve, engrave or make a Government seal, number or sign mark in the currency note, stamp (postage) stamp paper (*Lifa*), *Dhak, Mana, Pathi, Gaj*, or keeps the printing, carving, engraving or making seal, machine (*Sancho*) or apparatus (*Sarjam*) with him or her or in a rented house, his or her house or shop with that (*mala fide*) intention, or caused to be committed such act, the person shall be liable to half the punishment as referred to in Number 4 of this Chapter.

- Number 7. A person who is indulged in the preparation (a *Matlabi* involved in conspiracy) for the commission of the offence as referred to in Number 4 of this Chapter shall be liable to imprisonment for a term that is half the term of imprisonment as mentioned in that Number. If such a person has taken up or used any benefit (*Liye-khayeko*) from such an act, the amount in question (*Bigo*) shall be recovered from that person, and a fine equal to such an amount shall be imposed on him or her.
- Number 8.⁴¹² If a person mints a coin or makes (prints) currency note or cheque which can be used as good as a currency, of a foreign country, within the territory of Nepal, or if a person imports or brings in use any coin, currency or cheque counterfeited in a foreign country into Nepal or attempts for the same and indulges in such activity, the person shall be liable to a fine equal to the amount printed in the currency and imprisonment for a term of up to Five years; and such counterfeited currency shall be confiscated and cancelled. A person who receives a counterfeit without such knowledge shall not be liable to punishment.
- Number 8A.⁴¹³ Any person who uses or attempts to use a cancelled cheque etc., concealing or deceiving the fact, shall be liable to half the punishment as referred to in Number 8 and such a cheque shall be seized (*Jafat*).
- Number 9. Ten *Cheuti* shall be one *Muthi*, Ten *Muthi* shall be One *Mana*, Eight *Mana* shall be One *Pathi* and Twenty *Pathi* shall be One *Muri*.
- Number 10. Eight stout barley grain (*Jau*) put together shall be one *Angul*, Twelve *Angul* shall be one *Bitta*, Two *Bitta* shall be one *Haat* and Two *Haat* shall be one *Gaj* (yard) or Thirty Six inches shall be one yard.
- Number 11. Eight *Lal* shall be one *Masa*, Twelve *Masa* shall be one *Tola*, Four and half *Tola* shall be one *Karua*, Four *Karua* shall be one *Paau*, Four *Paau* shall be One *Ser*, One and half *Ser* shall be One *Bisauli* and Two *Bisauli* shall be one *Dharni* in the *Dharni* related weighing system; and in a *Man*

⁴¹² Amended by the Ninth Amendment.

⁴¹³ Inserted by the Ninth Amendment

related weighing system, Ten *Lal* shall be One *Masa* Ten *Masa* shall be one *Tola*, Five *Tola* shall be one *Chhataak*, Four *Chhataak* shall be one *Paaau*, Four *Paaau* shall be One *Ser* and Forty *Ser* shall be One *man*.

- Number 12. If a person makes profit of dregs in *chasni* (piece of gold and/or silver) by decreasing the weight, the person shall be liable to pay the amount of such profit and to a fine equal to that amount.
- Number 13. If a person brings in use the measuring or weighing *Mana*, *Pathi*, *Dhak* and *Gaj* etc. by decreasing or increasing its measurement capacity and if a person keeps such an instrument at his or her shop with *mala fide* intention of bringing the same in use (*Chalan*), the person shall be liable to pay the amount in question where it is required to make recovery of such amount, and to a fine of Fifty Rupees for each instance.
- Number 14. In cases where a *Mana*, *Pathi*, *Dhak*, *Gaj* etc. is found without a seal, number or sign-mark, or a balance-scale or sealed or numbered *Mana*, *Pathi*, *Dhak*, *Gaj* etc. is found to be faulty, such instruments shall be confiscated (seized), made useless, auctioned and amount collected from such an auction shall be credited to the revenue of the Government of Nepal.
- Number 15. If any person sells any bad commodity misrepresenting that the commodity is good one or mixes up something wrong with any commodity, the additional profit earned out of such act shall be recovered by the owner who has suffered loss, and the person who sells such commodity shall be liable to a fine of Fifty Rupees each time.
- Number 16. No person shall bring into use (*Chalan*) any counterfeit coin, wreath (*Mala*) or any other lesser quality (*Dagi*) coin due to a hole on it or burning (fire) or by virtue of any other reason. Except this, everyone including a government office shall bring into use (*Line Dine*) the worn out (*Maleda*), broken boundary and smashed coin. If a person does not accept a broken or smashed coin, the person shall be liable to a fine equal to the amount of such unaccepted coin. If any person surrenders any coin

that should not be used to the office, such a coin shall be broken into pieces and returned. If a government employee breaks such a coin into pieces as should not have been so broken into, and returns it, such an employee shall be liable to make payment of the amount in question and to a fine equal to the amount in question of the broken coin.

- Number 17. Except where the lower quality wreath has been issued (permitted) by the Government of Nepal and any coin has become useless due to an act of God, if a person melts any coin issued by the Government of Nepal without taking prior approval (*Saadhi*) of the Government of Nepal, the person shall be liable to a fine equal to the amount in question of the melted coin.
- Number 18. If a person knowingly purchases, sells, brings in use (*Chalan*) or transects a counterfeit coin, seal numbered, sign- marked cash or commodity, with an intention to earn profit upon transacting it in its full cost, the person shall be liable to a fine of up to One Hundred Rupees, and the amount in question shall be confiscated.
- Number 19. If a person, fraudulently and knowingly, uses a stamp (postage) or a stamp-paper already used and cancelled again as a genuine one or attempts to do so, the person shall be liable to a fine at the rate of Fifty Rupees if the cost of one stamp or stamp-paper is less than Fifty Rupees and equal to the amount in question if the amount in question is more than that.
- Number 20. A government currency note and the coin shall be transacted (given and taken) at the rate it is mentioned in such currency or coin. If any person transacts, or causes to be transacted, a currency or coin at a higher or lesser rate, the person shall be liable to a fine of up to Five Hundred Rupees and the amount in question shall be confiscated.
- Number 21. The Government of Nepal may, by publishing an order in the Nepal Gazette, restrict particular type of currency note or coin from using (*Chalan Chalti*) and transporting the same in particular places. The Government of Nepal may issue an order to surrender such a restricted

currency note or coin to a designated place, upon publishing a notice in the Nepal Gazette. A person who surrenders a currency note or coin pursuant to the notice shall be entitled to receive the currency note or coin of similar value so surrendered. If a person brings in use (*Chalan Chalti*) the restricted currency note or coin or carries (transports) in to a restricted place or does not surrender in the designated place within the designated period of time, such a currency note or coin may be confiscated by an order of the Government of Nepal; and if someone helps to arrest and prove a suit of using (*Chalan Chalti*), illegally exporting or hiding such a restricted currency note or coin, the person shall be provided with a reward of Ten percent of the amount confiscated (seized) from the accused, and such a reward shall be made in the legal currency note or coin.

- Number 22. The word 'Government' mentioned in this Chapter also includes others which are recognized by the Government of Nepal.
- Number 23. In relation to the counterfeiting of a coin (or currency), a suit may be filed during the life of the offender, and in the other offences, it has to be filed within Three months from the date of the cause of action.
- Number 24. While imprisoning a person for any matter set forth in this Chapter, the person shall not be so imprisoned for a term exceeding Twelve years.

Chapter-7

On Quadruped

- Number 1. No person shall, with intention to kill, kill, cause another person to kill, attempt to kill, a cow or ox or take a cow or ox to a foreign country or take and sell it in such country, with such intention. No person shall also kill and cause damage to any such quadruped animal and bird, as well, other than that mentioned above, as may be prohibited by law and as to which such person has no entitlement.
- Number 2. Where a cow or ox happens to die as a result of a sudden strike or otherwise when any action is taken for rescue/welfare or when some other thing is done without intention to kill it, it shall be deemed an accidental death. For the purpose of relieving pain on the body and, for welfare, a wound or brand may be made on the body or blood may be extracted from some organ.
- Number 3.⁴¹⁴ -----
- Number 4. Where a person sees another person being ready, by taking up a weapon or otherwise, to intentionally kill a cow or ox, the person shall prohibit that other person from killing the cow or ox. Where that other person, rejecting such instruction, uses the weapon also against the person who so prohibits, and the person who strikes, cuts and kills that other person shall not be deemed to commit offense and be liable to punishment. In cases other than that mentioned above, any person shall not kill but shall arrest and hand over such other person to the office.
- Number 5. Where any person hits a cow or ox with a weapon, heavy stick or stone, and as a result of that pain or suffering, the cow or ox cannot move, becomes confined to its shed and dies within Twenty One days, the cow or ox shall be deemed to have died as a result of the wound or pain caused by that person. Where such cow or ox dies after the period of Twenty One days or

⁴¹⁴ Repealed by the Animal Slaughtering and Meat Inspection Act, 2055.

dies of another illness or disease after it has started making movement, that person who has so hit it shall be liable to punishment only for the wound caused by him/her.

- Number 6. Except the four-footed animals which are restricted to kill, no one shall kill or injure (*Khuni*) any other pet animal even such an animal causes loss to one's crops. One shall hand over such an animal to the police office, and the owner of crops shall be entitled to recover the loss (amount in question) from the owner of the animal. A person shall not get compensation for a loss of crops if he or she causes injury to the animal. If any animal, except a cow or ox, is injured, one shall not be liable to punishment. If a person kills such an animal, the person shall pay compensation to the owner of the animal and shall also be liable to punishment.
- Number 7. If it seems that a pet animal may cause loss or damage because it is excited or has gone mad or for any other reason, any damage or risk (*Jokhimi*) that may be caused by such an animal shall be saved at any cost, and such an animal shall be kept safely from causing any loss to some other person. When the owner of such an animal keeps the animal safely, but some person dies due to strike, bite or any other act by such an animal, the owner of such an animal shall be dealt with pursuant to the Act (law) regarding *Bhabitabaya* (accidental homicide). The animal which kills a person shall be confiscated and shall be cut and its meat shall be auctioned if people eat the meat of such an animal and if such meat is not eaten by the people, the body of such an animal shall be buried. The cow, ox or other animal which is restricted to be killed, shall be put (kept) in the nearest government cattle house (*Goth*), stable (*Tabela*), elephant shed (*Hattisar*) in such a way that it cannot cause any loss or damage, and information thereof shall be given to the concerned office accordingly. If any animal kills any of the family members of the owner or caretaker of such animal, it shall not be considered to be an offence. Such an animal shall be confiscated (*Jafat*) as mentioned above. In cases where such an

animal kills any animal of another person, other than a human being, the loss shall be recovered and penalty shall also be imposed as referred to in the Act. In cases where an animal such as an elephant or horse etc. which is being used as a means of transportation causes any loss or damage, it shall be dealt with in accordance with the concerned law.

- Number 8. No one shall export, carry or sell the branded bull (*Sandhe*) or old cow or bullock or barren cow (*Baila*) in a foreign country. If some one sells, the amount involved in the sale shall be confiscated and such a person shall also be fined at the rate of One Hundred Rupees for each animal. In cases where a person is arrested in the course of transportation, before reaching a foreign country, he or she shall be fined at the rate of Fifty Rupees per animal.
- Number 9. No person shall sell or purchase a bullock (*Basha*) or branded bull (*Sandhe*). If any person so sells or purchases, the amount received from the seller shall be confiscated, and that person shall also be liable to punishment. If the purchaser purchases a bullock (*Basha*) or branded ox (*Sandhe*) without knowing about the branded mark, such a person shall not be liable to punishment. In such a case the buyer shall be entitled to receive (get back) the purchased amount from the seller, and the seller shall also be liable to punishment.
- Number 10. Any person who transports a cow, branded bull (*Sandhe*) or bullock (*Basha*) from the territory of Nepal to a foreign country, and kills or causes other person to kill such an animal, he or she shall be liable to the punishment of imprisonment for a term not exceeding Six years.
- Number 11. If a person knowingly kills a cow or bullock, the person shall be liable to imprisonment for a term of Twelve years, and a person who instigates (gives word) for the same shall be imprisoned for a term of Six years. A person who kills a yak (*Chauri*) shall be liable to a fine of Forty Rupees for each yak.

- Number 12. If a person administers poison to a cow or bullock with intention to kill it, the offender shall, despite that such an animal does not die, be liable to the punishment of imprisonment for a term of Six years; a person who instigates (give word) to administer such poisoning shall be liable for the punishment of imprisonment for a term of Three years; and a person who makes attempt for the same shall be liable to the punishment of imprisonment for a term of Two years.
- Number 13. If a person holds or fastens (*Bandhchhadh*) a cow or bullock with intention to cause to kill it with the hand of other person, such an offender shall be liable to the punishment of imprisonment for a term of Six years.
- Number 14. Any person who causes a grievous hurt (*Angabhanga*) to a cow or bullock shall be liable to the punishment of imprisonment for a term of Two years; and any person who causes wound or bloodshed (*Ragatpachhe*) to such an animal shall be liable to a fine of up to Two Hundred Rupees. Any person who causes grievous hurt or wound or bloodshed to a yak shall be liable to a fine of up to Twenty Rupees.
- Number 15. Any person who strikes (hits) a cow or bullock, that belongs to another person and such an animal dies accidentally (*Bhabitabaya*), the cost of such an animal shall be recovered, and a fine equal to the cost of such a cow or bullock shall be imposed on such person.
- Number 16.⁴¹⁵
- Number 17. If a stray (*Chhada*) animal or an animal under the care of a herd (*Gothala*) causes a serious injury to a person or another animal due to the negligence on the part of the herd, the owner of animal in the case of a stray animal, and the herd, if he or she is sane and has crossed the age of Sixteen years, and the owner of the animal, if the herd is below the age of Sixteen years, shall be liable to a fine of up to Twenty Rupees.

⁴¹⁵ Repealed by the Slaughter House and Meat Inspection Act, 2055.

- Number 18. No person shall use a bullock or branded ox or cow to plough land. If any person ploughs with the help of such an animal, he or she shall be liable to a fine of up to Twenty Rupees and such an animal shall be set free.
- Number 19. If a suit is not filed within Six months in the case of killing of a cow (*Gobadh*) and within Thirty Five days on the matter of other offences, after the date of the cause of action, the suit shall not be entertained.

Chapter-8

Illegal Detention

- Number 1. In cases where a person has to be arrested and detained under the Act, the person shall be given food and water to eat and drink or the victuals (*Sidha*) as referred to in the Act. If, a person is detained otherwise or against the provisions of the Act with or without providing food and beverages, it shall be considered to be an offence.
- Number 2. If a serious patient or a minor below the age of Twelve years or a person above the age of Sixty years dies in the detention where he or she was detained for Three days and nights without providing food or drinking water and if a person, except as otherwise mentioned above, dies due to the detention, when he or she was detained for more than Seven days, the person who detains him or her shall be considered a murderer. The punishment for the same shall be as referred to in the Chapter on Homicide. In cases where the detainee was supplied food and drinking water in the detention or the detainee himself or herself has rejected to eat food or drink water and dies, such an act shall not be considered to be an offence.
- Number 3. A person who detains a person, without supplying food or drinking water to him or her and the detainee dies in the detention shall be liable to a fine of Five Rupees for a day and night, to Fifteen Rupees for Two days, Thirty Rupees for Three days, Sixty Rupees for Four days, One Hundred and Twenty Rupees for Five days, Two Hundred and Forty Rupees for Six days, Four Hundred and Eighty Rupees for Seven days, Nine Hundred and Sixty Rupees for Eight days, One Thousand Nine Hundred and Twenty Rupees for Nine days, Three Thousand Rupees for Ten days, and from the Eleventh day, Three Hundred Rupees shall be added and it shall be at the

rate of Six Thousand and Three Hundred Rupees for upto Twenty One days; and such a person shall be imprisoned upto the equal days that the victim was detained illegally. In cases where a person is illegally detained with fetter, leather strip or sackles (*Nel, Chamot or Thigunra*), one fourth of such a punishment shall be added to the punishment; and if the illegal detention is made with handcuffing or *Galfandi*, half of such punishment shall be added to the punishment. In cases where any person detains a minor or a male detains a female as mentioned above, punishment for such act shall be two-fold of the punishment as mentioned above.

- Number 4. Except in cases where a person may be detained pursuant to the Act, if a person detains another person upon supplying food and drinking water, the person shall be liable to a fine at the rate of One Hundred Fifty Rupees per month according to the number days that the victim has been detained; the rate of fine in a case where a person has been illegally detained with fetter, leather strip or sackles (*Nel, Chamot or Thigunra*) shall be Three Hundred Rupees and the rate of fine in a case where a person has been illegally detained with handcuffing or *Galfandi* shall be four Hundred and Fifty Rupees and such an offender shall be imprisoned equal to the days that the victim has been detained. In cases where a male has detained a woman or any person detains a minor or government employee, the punishment for such a case shall double the punishment mentioned above.
- Number 5. If a government employee detains a person in the course of a suit in accordance with the provisions of the Act in good faith, and in the course of proceedings it appears that it was not appropriate to detain the person, in such a case such a government employee shall not be a punished.
- Number 6. The fine recovered from the person who has illegally detained another shall be provided to the detainee at the rate of one third of the fine if one has been detained upon supplying food and drinking water and half of such an amount if the detainee has been detained without supplying food and drinking water.

Number 7. In the matter of illegal detention, if a suit is not filed within Thirty Five days from the date of release from detention, the suit shall not be entertained.

Chapter 8A⁴¹⁶

Kidnapping/Abduction and Hostage Taking

- Number 1. No person shall compel another person to go to any place by using force or threatening to use force or showing fear or threat or overpowering (*Jorjulum*) or showing weapons or by using deceitful means or by using intoxicating or stimulant/psychotropic substance or by seizing or controlling any means of transportation by any means or take a person to any place without his or her consent, or in the case of a minor or a mentally unsound person, without the consent of his or her father or mother or guardian for the benefit of the minor or unsound person. If any person does such an act, the person shall be deemed to have committed the offence of kidnapping.
- Number 2. Except in cases where a mentally unsound person is detained in good faith, and in the interest of such person, with the consent of his or her father or mother or guardian, no person shall detain another person, by using force or threatening to use force or showing fear and threat, or by overpowering (*Jorjulum*) or by any deceitful means (*Chhal, Kapat, Jhukkyan*) or by using intoxicating or stimulant substance, or by seizing or illegally controlling any means of transportation or any place. If any person does such an act, the person shall be deemed to have committed the offence of taking hostage.
- Number 3. If a person kidnaps/abducts or takes hostage of another person, as referred to in Number 1 or Number 2 of this Chapter, with intention to kill somebody else, to cause hurt by battering, to rape or to have unnatural sexual intercourse, to sell, to enslave a person, to deploy somebody in work forcefully, to cause torture, to engage into prostitution, to compel to work or cause to work, to get ransom or to receive the property of the abducted person or his or her successor (*Hakwala*), to cause to hand over (*Samarpan*) business or to cause to commit an offence punishable by the

⁴¹⁶ Inserted by the Twelfth Amendment

prevailing laws, the person who commits, or causes to be committed, such an act, shall be liable to the punishment of imprisonment for a term ranging from Seven years to Fifteen years and a fine from Fifty Thousand Rupees to Two Hundred Thousand Rupees; and the person, who kidnaps/abducts or takes hostage for any purpose or intention other than those mentioned above, shall be punished with imprisonment for a term ranging from Four years to Eight years and also a fine from Twenty Five Thousand to One Hundred Thousand Rupees.

- Number 4. A person, who abets, instigates or orders to commit the offense as referred to in this Chapter or gives consent to commit the offence prior to the commission of such an offence shall be punished as if he or she had committed the offence himself or herself.
- Number 5. In cases where a person has attempted to commit the offence as referred to in this Chapter but has not completed the commission, the person shall be punished with half the punishment for such an offence.
- Number 6. A person who threatens another person to kidnap that other person if he or she does not provide the ransom as demanded shall be punished with the same punishment as is imposable on a person who makes attempt to commit the offence.
- Number 7. In cases where two or more persons kidnap/abduct another person or take hostage in a collective or organized manner, all the persons involved in such an act shall be liable to the punishment of imprisonment for a term of Two years, in addition to the punishment referred to in this Chapter.
- Number 8. In cases where a person kidnaps/abducts another person or takes hostage and commits an offence against him or her upon violating the prevailing laws, the person shall also be liable to the punishment under such prevailing laws, in addition to the punishment referred to in this Chapter.
- Number 9. In cases where the offence as mentioned in Number 1, 2, or 3 of this Chapter is committed against a woman or a minor, the person involved in such offence shall be liable to the punishment of imprisonment for a term of Two years, in addition to the punishment mentioned in this Chapter.

- Number 10. In cases where the offender who commits the offence as referred to in this Chapter surrenders himself or herself before the security personnel in the course of the commission of offence and assists in the investigation, punishment may be reduced in the case of such offender upon considering the circumstance.
- Number 11. In cases where a person takes another person outside the territory of Nepal and kidnaps/abducts him or her or takes hostage, as mentioned in this Chapter or kidnaps/ abducts or takes hostage any citizen of Nepal outside the territory of Nepal, as mentioned in this Chapter, of causes the commission of such act, the person shall be deemed to have committed the offence within the territory of Nepal and shall be punished pursuant to this Chapter.
- Number 12. If it is proved that any person has committed, or caused the commission of, the offence, pursuant to Number 1, 2 or 3 of this Chapter, the case trying office shall also order the payment of compensation by the offender to the victim at the rate of not less than Five Hundred Rupees per day from the day of the commission of the offence, upon considering the physical and mental damage (loss) caused to the victim of such an offence. In the case of death of the victim, the nearest successor (*Haqdar*) shall be entitled to such compensation. In cases where the kidnapper/abductor or hostage taker is found to have taken a ransom or any other benefit, such a ransom or benefit shall be returned to the person concerned, and the offender shall be liable to a fine of up to the amount of such a ransom or benefit, in addition to the punishment as referred to in this Chapter.
- Number 13. There shall be no limitation to file a suit on the offence of murder upon kidnapping/abduction or hostage taking. Except as otherwise mentioned above, if a suit is not filed within Six months from the date of the commission of kidnapping/abduction or hostage taking or from the date of release from kidnapping/abduction or hostage taking, the suit shall not be entertained.

Chapter-9

Hurt/Battery

- Number 1. If a person causes bloodshed (*Ragatpachhe*), wound, injury, grievous hurt (*Angabhangā*) or causes any pain or harm to the body of another person, the person shall be deemed to have committed the offence of hurt/battery.
- Number 2. If the following occurs in the course of hurt/battery, it shall be considered to be a grievous hurt:
- Loss of eyesight or blind.....1
- Deprivation of smelling capacity of the nose.....1
- Making deaf upon damaging the hearing capacity of the ear.....1
- Damage to the speaking capacity of the tongue.....1
- Making useless upon cutting the breast of a woman.....1
- Making impotent upon destroying the capacity of the male organ and testicle (*Nal fal*).....1
- Making useless the backbone (Vertebra/Spine) hands, legs or joints of such organs upon causing destruction, fracture or dislocation.....1
- Number 3. Even in the absence of malice (*Ibi adawat*) or intention of causing hurt, if a person suffers grievous hurt or wound or any other hurt in the course of doing any other act, or if a person is seriously engaged in his or her work and there is no opportunity to save if some other person in the meantime comes in the way and suffers a grievous hurt, wound or other injury, it shall be considered to be an *Bhabitabaya* (accidental injury); and in such a situation, it shall be dealt with in accordance with the following provisions:

Where despite that the work was being done carefully and cautiously, it caused a serious injury, the victim shall receive a compensation for domestic use and treatment (*Gharkharcha*) of One Thousand Rupees⁴¹⁷ for each serious injury and the offender shall be liable to a fine of One Hundred Rupees⁴¹⁸ accordingly. Except in such a case, if the victim suffers other type of injury or bruise (*Neeldam*), the offender shall pay Two Hundred Fifty Rupees⁴¹⁹ as a compensation for treatment and shall also be liable to a fine of up to Fifty Rupees⁴²⁰ taking into consideration of the nature of the injury (*Ghau Chot*).....1

Where the work was being done negligently or recklessly and a person suffers a serious injury due to such a work, the victim shall receive a compensation for treatment in a sum of Two Thousand Rupees⁴²¹ for each grievous hurt from the offender, and the offender shall also be liable to a fine of Fifty Rupees⁴²² accordingly. Except in such a situation, if the victim suffers other type of injury or bruise, the offender shall pay Five Hundred Rupees⁴²³ as a compensation for treatment and shall also be liable to a fine of up to Two Hundred and Fifty Rupees,⁴²⁴ taking into consideration of the nature of the injury.....2

- Number 4. In cases where there is no malice (*Ibi adawat*) or greed (*Lalach*) or where the injury was not clandestinely caused, and where a person is trying to use a weapon or cause injury or has inflicted injury, in the course of any dispute (*Jhagada*) but without his or her fault, causes injury to save him or herself from some one else, in such situation, and where a person is stealing property of other or committing any other crime and the person tries to take the offender into control and the offender uses a weapon or

⁴¹⁷ Amended by the Ninth Amendment.

⁴¹⁸ Amended by the Ninth Amendment.

⁴¹⁹ Amended by the Ninth Amendment.

⁴²⁰ Amended by the Ninth Amendment.

⁴²¹ Amended by the Ninth Amendment.

⁴²² Amended by the Ninth Amendment.

⁴²³ Amended by the Ninth Amendment.

⁴²⁴ Amended by the Ninth Amendment.

where it is impossible to control him or her without causing injury and the offender suffers grievous or any other type of injury, and if a person, who has a duty to protect or give education to somebody else, causes injury to the victim upon using a reasonable minimum amount of force, the act of causing injury shall not be deemed to be the offence of hurt in all these situations.

- Number 5. In cases where a person causes grievous hurt or other type of injury by using a weapon at the outset or doing any other act, upon knowing the result that if a weapon is used or another act is done, it may cause, or there is a possibility of, a grievous hurt or injury or pain out of it, or to do any act to take a revenge (*Ibi Saghaun*), or to get some thing out of greed (*Lalach*), or causes injury clandestinely, such a person shall be liable to the punishment as referred to in different Numbers of this Chapter.
- Number 6. In cases where a person commits a grievous hurt resulting in blindness or impotence, the offender shall be liable to the punishment of a fine of Ten Thousand Rupees⁴²⁵ and imprisonment for a term of Eight years for one of these two offences. If a person who commits a grievous hurt, other than those two hurts, the person (offender) shall be liable to the punishment of a fine of Five Thousand Rupees⁴²⁶ and imprisonment for a term of Eight years for any other grievous hurt. In cases where a person makes useless any one organ of the body where there are more than one organs of the similar type, the person (offender) shall be liable to half the punishment mentioned above. If such an organ can be cured and function as usual, the offender shall be imprisoned only for Two years. The amount collected from the offender, if so collected, and upon causing auction (*Lilam*) of the property from the share of the offender, if the fine is not paid, shall be recovered to the victim fully as a compensation for treatment. In cases

⁴²⁵ Amended by the Ninth Amendment.

⁴²⁶ Amended by the Ninth Amendment.

where the amount of fine cannot be recovered, the offender shall be imprisoned at the rate of Twenty Five Rupees for a day⁴²⁷.

- Number 7. Except in the case of grievous hurt, any person who causes fractures or dislocation or breaks (*Phorne, Chhinalne, Fukalne*) shall be liable to the punishment of a fine of Two Thousand Rupees⁴²⁸ and imprisonment for a term of Six months, where a part of body can be cured and function as good as it used to do earlier, and to a fine of Five Thousand Rupees⁴²⁹ and imprisonment for a term of One year, where the injury has been cured but the organ of body does not get fit to work as good as earlier or it cannot be cured at all.
- Number 8. Except in the case of grievous hurt, a person, who cuts or breaks (*Chhinali*) by any means and which causes mark (*Khat*) or brand (*Daam*) in the face above the throat which is regularly seen or which causes the victim deformed (ugly) not being cure as good as it was earlier, permanently for the life time, shall be liable to the punishment of a fine of up to Five Thousand Rupees⁴³⁰ and imprisonment for a term ranging from One year to Three years, upon considering the nature of mark (*Khat*), and if there remains a mark (*Khat*), scar (*Tato*) or brand (*Daam*) causing the victim deformed even the injury is cured to the fullest extent, the offender shall be liable to a fine of up to Three Thousand Rupees⁴³¹ and imprisonment for a term of One year, taking into consideration of the nature of mark (*Khat*).
- Number 9. Except in the case of grievous hurt by means of sticking (*Hani*), poking (*Ghonchi*), cutting (*Kati*) with the help of a minor weapon, stick (*Lathi*) or stone, a person who causes any injury (*Chotpatak*) shall be fined at the rate of Five Hundred Rupees⁴³² for per inch per injury, upon measuring

⁴²⁷ Amended by the Ninth Amendment.

⁴²⁸ Amended by the Ninth Amendment.

⁴²⁹ Amended by the Ninth Amendment.

⁴³⁰ Amended by the Ninth Amendment.

⁴³¹ Amended by the Ninth Amendment.

⁴³² Amended by the Ninth Amendment.

the depth of the wound in the case of ruptured (*Ghocoko*) injury and in the case of sticking (beating/*haneko*) wound by measuring both length and depth of the wound and on the basis of whichever is bigger. Where a person causes any injury (*Ghau Chot*) by cutting, striking (*Hani*) or poking (*Ghochi*) with a weapon like gun, *Khukuri*, *Sword*, arrow *Khundh*, *Chapsa*, *Vala*, *Katari*, *Khunda*, axe, *Gadasa* or any other hazardous risky (*Jokhimi*) weapon, the person shall be liable to a fine at the rate of Five Hundred Rupees⁴³³ and imprisonment for a term of One month for per inch of wound, but not exceeding Two years of imprisonment.

- Number 10. If a person causes injury of less than one inch by striking (*Hani*), rupturing (*Ropi*), poking (*Ghochi*) with a stick (*Lathi*), stone or weapon, the person shall be liable to a fine of up to Five Hundred Rupees,⁴³⁴ upon considering the nature of risk (*Jokhimi*) of the weapon and the wound.
- Number 11. If a person causes bruise/contusion (*Neel*) by beating (*Kutpit*), the person shall be liable to a fine of One Hundred Rupees⁴³⁵ per contusion (*Neel*), but not exceeding One Thousand Two Hundred Rupees⁴³⁶ altogether.
- Number 12. If a person takes off (*Phukalnu*) or breaks teeth of any other person, the person shall be liable to a fine at the rate of Three Hundred Rupees⁴³⁷ for per tooth.
- Number 13. If a person causes bloodshed (*Ragatpachhe*) or tears out (*Luchhne*) or peels of skin or causes reddish mark by using a nail or teeth or anything else or by besieging or tying (*Bandh Chandh*), attacking (*Katak*) or oppressing (*Bijuli*) etc., and causes pain to another person, the person shall be liable to a fine of up to Two Hundred Rupees, upon considering the nature of pain.

⁴³³ Amended by the Ninth Amendment.

⁴³⁴ Amended by the Ninth Amendment.

⁴³⁵ Amended by the Ninth Amendment.

⁴³⁶ Amended by the Ninth Amendment.

⁴³⁷ Amended by the Ninth Amendment.

- Number 14. If a person causes pain to the body of another person by burning (*Poli*), branding (*Dami*), forcefully rubbing (*Dali*) or otherwise using fire, fire like burning material or acid and if the victim has not suffered grievous hurt or disformed (made ugly), the person (offender) shall be liable to a fine of Five Hundred Rupees⁴³⁸ and imprisonment for a term of Two months, and in cases where front part of body, mouth (face) or ear has not been brunt, the offender shall be liable to a fine of One Thousand Rupees⁴³⁹ and imprisonment for a term of Four months for burning the nose or eyes, to a fine of Two Thousand Rupees⁴⁴⁰ and imprisonment for a term of Eight months for burning the anus, to a fine of Four Thousand Rupees and imprisonment for a term of One year and Four months for burning the male sex organ, to a fine of Eight Thousand Rupees⁴⁴¹ and imprisonment for a term of Two years and Eight months for burning the female sex organ. In cases where a person causes pain by burning (*Poli*), branding (*Dami*), forcefully rubbing (*Dali*) or gently rubbing (*Ghasi*) with the use of flaming or burning substance (*Polne Bastu*) other than those mentioned above, the person shall be punished with half the punishment as mentioned above. In cases where a person gives a poisonous fume (*Dhunwa*) to another person or causes that other person to inhale (*Sunghaunu*) any substance which results in unconsciousness, the person shall be liable to a fine of One Thousand Rupees⁴⁴² and imprisonment for a term of Two months.
- Number 15. In cases where a person causes hurt, serious hurt, bloodshed or other act of hurt to the same person in the same incident (*Wardat*), the person (offender) shall be liable only to the bigger punishment. The other offences shall not be accumulated (*Khapna*) for the purpose of punishment.

⁴³⁸ Amended by the Ninth Amendment.

⁴³⁹ Amended by the Ninth Amendment.

⁴⁴⁰ Amended by the Ninth Amendment.

⁴⁴¹ Amended by the Ninth Amendment.

⁴⁴² Amended by the Ninth Amendment.

- Number 16. If a person instigates or orders other person to cause hurt to any one else, the person who so instigates or orders shall be liable to the punishment which is equal to the total punishment imposed on all the persons who abide by such an order to cause hurt.
- Number 17. One may intervene to separate the persons engaged in committing the act of hurt or battery. If a person engaged in separating uses any force (hand), the person shall not be blamed for such use of force.
- Number 18. In cases where more than one person are engaged in committing the act of hurt or battery, the person committing the particular type and nature of hurt shall be punished in accordance with the nature and degree of the hurt and shall be liable to additional punishment as follows for the gang behavior (*Hul*):

If an offence punishable with imprisonment pursuant to this Chapter is committed by a gang (*Hul*) of up to Three persons, everyone shall be fined at the rate of One Hundred Rupees,⁴⁴³ if by a gang of Four to Five persons, Two Hundred rupees,⁴⁴⁴ if by a gang of Six to Ten persons, Three Hundred Rupees,⁴⁴⁵ if by a gang of Eleven to Twenty persons, Four Hundred Rupees,⁴⁴⁶ and if by a gang of more than Twenty persons, Five Hundred Rupees⁴⁴⁷.....1

In cases where an offence punishable only with a fine pursuant to this Chapter is committed by a gang, a fine at the rate of additional Ten percent of the fine for any type of hurt shall be imposed to the gang of up to Three persons; the additional fine for a gang of Four to Five persons shall be Fifteen percent, for a gang of Six to Ten persons, Twenty percent, for a gang of Eleven to Twenty persons, Twenty Five percent, and for a gang of more than Twenty persons, Fifty percent.....2

⁴⁴³ Amended by the Ninth Amendment.

⁴⁴⁴ Amended by the Ninth Amendment.

⁴⁴⁵ Amended by the Ninth Amendment.

⁴⁴⁶ Amended by the Ninth Amendment.

⁴⁴⁷ Amended by the Ninth Amendment.

- Number 19. In cases where a victim is unable to claim in his or her suit about who caused what type of injury or wound for being unconscious due to the hurt or to mention the details of injury caused by particular person could not be proved by the witness and other evidence even though it was mentioned in the suit, the punishment shall be divided between all the offenders in equal amount (*pro rata*) upon accumulating in a case the hurt was caused by a gang of more than one person or have caused more than one injuries at the time of imposing additional punishment pursuant to Numbers 15 and 18 of this Chapter.
- Number 20. In cases where a person suffers contusion/bruise (*Neel*), wound or injury as a result of any type of hurt, the victim shall appear before the nearest Police Office or Village Development Committee or Municipality⁴⁴⁸ or the case trying office for the examination of hurt before it is cured. Where a victim of hurt appears for the examination of contusion/bruise (*Neel*) or wound, the victim shall be sent to the nearest hospital or government dispensary for examination thereof, and a report thereof shall be prepared accordingly, and in the absence of a hospital or government dispensary, the examination shall be conducted in front of the relatives and successors of both parties, if available, and at least four public from the neighbourhood (*Sarjamin*), and a deed of examination shall be prepared upon mentioning the details of the hurt. In cases where the Village Development Committee or Municipality⁴⁴⁹ has conducted an examination thereof and if it is beyond its jurisdiction, the deed shall be forwarded to the case trying office.
- Number 21. In the course of examination of the wound (*Ghau*), the details of the incident such as day, time, reasons, and persons involved shall be mentioned in the statement to be prepared by the office in a case the police has arrested the person involved in the incident before conducting of such examination, and in a case where the person has arrested by the police but

⁴⁴⁸ Amended by the Court Proceedings Related Some Nepal Acts (Amendment) Act, 2047.

⁴⁴⁹ Amended by the Court Proceedings Related Some Nepal Acts (Amendment) Act, 2047.

the victim has appeared before the office or his or her representatives have brought him or her before the office, an application (report) regarding the details of the incident shall be collected from the victim in cases where he or she is conscious or his or her statements recorded by the office and shall be caused to put signature or thumb impressions, and the process of examination of hurt shall be proceeded; and in cases where the victim is not conscious, an application shall be collected from the person who has brought him or her before the office and the statement of the unconscious victim shall also be recorded when he or she recovers from unconsciousness and all the documents such as the application, deed of a statement and deed of examination of hurt shall be recorded in the case file.

- Number 22. In cases where any person, in a suit filed on the case of hurt, knowingly conceals the measurement or type (nature) of the wound (*Ghau*) inflicted (caused) in the body or increases or decreases the number of wounds in the deed of examination of the hurt (*Ghau*), such a person shall be liable to a fine of up to Two Hundred Rupees,⁴⁵⁰ upon considering the fact that to what extent such concealment may have affected the punishment.
- Number 23. If a person who appears before an office for the examination of hurt, with a fake wound, mark or contusion/bruise or brand (*Dam*), the person shall be liable to a fine of One Hundred Rupees⁴⁵¹ if it is so proved (confessed).
- Number 24. If a person hurts or uses weapons forcefully in a gang with an intention to create obstacle or otherwise to a government employee who is engaged in any government duty pursuant to law or trying to arrest someone in the office or under deputation (*Dor*) or abiding by the order (*Urdi*) or serving any notice (*Purji*), the person shall be liable to the punishment of imprisonment for a term not exceeding Six months, according to the gravity of the offence (*Chuk*) in addition to the punishment as referred to in the Act. In cases where a person does not use his or her hand but

⁴⁵⁰ Amended by the Ninth Amendment.

⁴⁵¹ Amended by the Ninth Amendment.

commits an offence of using force in a gang (*Hul Huzzat*), the additional punishment for such persons shall be a fine of up to Two Hundred and Fifty Rupees.⁴⁵²

- Number 25. The victim of the offence of hurt shall be awarded compensation for treatment, as mentioned in Numbers 3 and 6 of this Chapter as referred to in those Numbers, and in other offences, an amount of half the fine in a case of hurt as mentioned in Numbers 7 and 8 of this Chapter, and One third of the amount of the fine in the other cases.
- Number 26. In the course of imposing punishment in relation to the offences mentioned in this Chapter, there shall not be imposed the punishment of imprisonment for a term exceeding Three years in the case of hurt (*Kutpit*), exceeding Six years in the case of hurt committed with the help of weapons or fire and exceeding Ten years in the case of grievous hurt.
- Number 27. In the course of filing a suit in any offence referred to in this Chapter, if a suit is not filed within Three months from the date of the cause of action, if the case is related to grievous hurt, and within Thirty Five days in the case of other hurts, the suit shall not be entertained.

⁴⁵² Amended by the Ninth Amendment.

Chapter- 10

On Homicide

- Number 1. Except as otherwise provided in law, no one shall take the life (kill), cause to take the life, or attempt to take the life of, a person.
- Number 2. In a case of the death of a person, either from suicide or an act of any other person, the heir to the deceased or another person including one who has seen or heard about the incident shall inform it to the *Jimidar, Talukdar* or a member of the concerned Village Development Committee or the Municipality⁴⁵³ and the police office; and if the *Jimdar, Talukdar* and the member of the Village Development Committee or Municipality⁴⁵⁴ receives such information or comes to know it from any other sources/means, they shall do the following:

The *Jimdar, Talukdar* or member of the Village Development Committee or Municipality⁴⁵⁵ shall, as soon as possible, give such information or message they received to the Village Development Committee or Municipality⁴⁵⁶ and in cases the police do not come to the scene of crime, the Village Development Committee or Municipality⁴⁵⁷ shall prepare a deed of external examination of corpse (*Lash Janch Muchulka*) in front of the *Jimdar, Talukdar* as referred to in Number 3 of this Chapter and shall also make arrangement to keep the corpse safe.....1

If it seems that the death was caused by an act of another person (homicide), the Village Development Committee or Municipality⁴⁵⁸ and *Jimdar or Talukdar* shall try to find out the offender (involved in homicide) and hand him or her over to the police if he or she is so caught.....2

⁴⁵³ Amended by the Court Proceedings Related Some Nepal Acts (Amendment) Act, 2047.

⁴⁵⁴ Amended by the Court Proceedings Related Some Nepal Acts (Amendment) Act, 2047.

⁴⁵⁵ Amended by the Court Proceedings Related Some Nepal Acts (Amendment) Act, 2047.

⁴⁵⁶ Amended by the Court Proceedings Related Some Nepal Acts (Amendment) Act, 2047.

⁴⁵⁷ Amended by the Court Proceedings Related Some Nepal Acts (Amendment) Act, 2047.

⁴⁵⁸ Amended by the Court Proceedings Related Some Nepal Acts (Amendment) Act, 2047.

The Village Development Committee or Municipality⁴⁵⁹ shall hand over the deed of external examination of corpse prepared pursuant to Section 1 to the police whenever they reach the scene of crime; and the police also shall proceed, or cause to proceed, for the external examination of corpse, deed of public inquiry (*Sarjamin*) and inquiry/investigation (*Tahakikat*).....3

In the course of examination of the corpse, if a dispensary or hospital is located nearby, the corpse shall be caused to be examined by the doctor of the hospital so far as the hospital is available thereby and by the in-charge of the dispensary if a hospital is not so available there.....4

- Number 3. In cases where a complaint has been filed or there is a doubt on suicidal or homicidal (*Kartabaya*) death, in the course of preparing the deed of external examination of the corpse or a spot examination, when the investigating official reaches the scene of crime, at the outset they shall stand or sit down in a minor distance from the place where the corpse is laying and watch/see the finger prints, foot prints or any other types of signs or any specific signs of draggle in the scene of crime on the land (surface) or any sign of dragging from one to another place and any other object which could be a real evidence (*Dashi Praman*) seen or found; the investigating official shall clearly mention all such details and also manage to protect the real evidence, sign or symbol in an as it is condition so far as practicable until the final examination is completed and the letter of permission for obsequies is issued. Similarly, the investigating official shall also prepare a deed of external examination of corpse upon seriously and sincerely watching the condition of the corpse, condition of the land (surface/area) where the body is laying and mentioning the four sides of the scene of crime, and shall also prepare a drawing of the scene of crime so far as it is practicable and mention the details as referred to hereunder in that deed:

⁴⁵⁹ Amended by the Court Proceedings Related Some Nepal Acts (Amendment) Act, 2047.

If the cause of death seems to be an outcome of wounds, hurts, bruise (*Neeldam*), the deed of external examination of corpse shall be made, upon mentioning the location, length, width, depth number and nature of wounds, hurt, fracture, bruise, swelling, dislocation, broken and abrasion, lacerated, incised one.....1

If the condition of the death seems to be by hanging, the corpse shall be examined as mentioned hereunder and the rope used for hanging shall be brought or sent to the office.....2

Whether the lips are brown or not, and the eyeballs are bigger or not.....1

Whether the eyes have partially or fully come out or not.....2

Whether the tongue has come out or not and whether the tongue is being pressed by the lips or not.....3

Whether any blood, saliva, fluid, faeces or semen has come out from the mouth, nose, anus or genital (sex organ) or not.....4

Whether the ligature mark on the throat is towards the hanging side or not, whether the ligature mark is round or piper-betel (*Nagbeli*) or not, whether the mark is brownish and skin over the mark is little bit hard or not.....5

Whether the fist is closed or not or whether the hand has caughted something or the leg has touched the land or not.....6

If the condition of a body found into the well, pond, river or canal it shall be examined as follows.....3

While taking the body out of the water, whether the skin of the hand is wrinkled or not and there is water into the belly (stomach) or not.....1

Whether there are stains of blood or not around the vicinity and side of the well or pond where from the body was recovered and on the mouth of the body.....2

Whether there is any wound or blood stain on the head, neck or other parts of the body or not.....3

It has to be mentioned correctly and accurately, whether the fist is open or not, whether anything was held into the fist or whether the skin of the face and body is soft or coarse (rough) or not.....4

To examine whether there is water into the stomach or not, one may use the representative of the deceased if available on the spot or any other person if such a representative is not available, and put the face of the body downward and press into the back of the body to the surface of the land and find out whether the water comes out from the mouth body or not.....5

Whether the male sex organ is shranked and smaller or not..... 6

Whether there is any abrasion in skin or not.....7

Whether there are soil particles into the female sex organ or not.....8

In a case of snake biting, it shall be examined as mentioned hereunder.....4

Whether the spot of bite is swelling or not, and whether the hair on the head can be off rooted while pulling or not.....1

Whether there was big pain in and around the biting area or not, whether the foam (scum, froth) was coming from the mouth or not, finger and eyebrows were shrinking or not and there was difficulty to open them or not, whether the face was turned into yellowish and bluish colour or not, and whether the blood was turned into bluish colour, thinner and quickly frozen or not.....2

Whether there was any difficulty with talking or not, whether there was any problem in walking due to intoxication or not.....3

In a case of poisoning, investigation shall be made as mentioned hereunder.....5

Whether the eyeball was shranked and smaller before the death and larger in size after the death or not, whether the deceased person before his or her death got unconsciousness or not and felt sleepy or not, whether there was excessive sweating or felt dry mouth or not.....1

Whether, before the death, the deceased felt any excitement, dry throat and mouth or not and the face turned into reddish or not, whether felt sleepy or not, whether the eyes were seen puzzled or not and expansion of eyeball was seen or not, whether frequently get into unconscious or not, and whether his or her voice was stammering or not.....2

Whether there was any of the symptoms such as diarrhea, vomiting, and burn into the stomach, excessively thirsty, swelling into the face, fast beat of the nerves, total weakness and unconscious before the death or not.....3

Whether the whole body felt cold, burn into the mouth and throat while eating and weakness in the calf of the leg types of symptoms were there at the time of death or not.....4

Number 4. After the completion of the examination of the body of a person died due to suicide or homicide, pursuant to the prevailing law, the investigating police personnel involved in the process and the government attorney if available over there, shall sign a letter and issue it for the cremation of the body. The body shall not be cremated or thrown away or decayed without obtaining such a letter. One who does not so issue a letter to permit cremation of body or one who cremates the body without receiving the letter permitting for cremation shall be liable to a fine of Ten Rupees. In cases where a person cremates, or causes to be cremated, the body for the purpose of concealing of the fact, prior to the examination of the body, such a person shall be liable to the punishment of imprisonment for a term of Six months, in addition to the punishment to be imposed, pursuant to the other laws.

Number 5. If a person, does or takes any act or action without any malice or intention to commit a murder, and considering that his or her act or action would not result in the death of a person but someone dies as a consequence of such an act or action, it shall be deemed to be accidental homicide (*Bhabitabya*).

Number 6. In the case of accidental homicide, punishment shall be imposed as follows:

In cases where a weapon was taken carefully to use it for a specific act but it happens to cause the death of someone in such an accidental way, one shall be liable to a fine of up to Three Hundred Rupees.....1

In cases where accidental homicide occurs due to negligence or recklessness while performing any other act, one shall be liable to a fine of up to Five Hundred Rupees or imprisonment for a term not exceeding Two years or with both.....2

In cases where a person engaged in taking care of or educating another person beats that other person or does any other act for the benefit of the deceased and an accidental homicide occurs as a result of such act, the person shall be liable to a fine of up to Fifty Rupees.....3

In cases where a person, other than a person engaged in taking care of or educating another person, beats another person and an accidental homicide occurs as a result of such act, the person shall be liable to the punishment of a fine of up to Five Hundred Rupees or imprisonment for a term not exceeding Two years or both.....4

In cases where an accidental homicide occurs as a result of any act other than that mentioned above, one shall be liable to a fine of up to Two Hundred Rupees.....5

Number 7. In cases where a person dies in any of the following circumstances, one shall not be deemed to be a murderer:

In cases where a person is going to use excessive force (*Jorjulum*) with or without taking a weapon, and it is not possible to catch him or her or to make an appeal to anyone to rescue oneself or it is not possible to get the help even making such an appeal or it is not possible to get rid of such a person and rescue one's life, and in such a situation if he or she does not do anything it is sure that his or her life may not be saved, and if such a person in the meantime does anything to save his or her life and the preparator (*Julumi*) dies out of such an act.....1

Except in the case of a theft of food, vegetables or fruits from the field or garden, if someone is lurking (sneaking) to steal or engaging in theft by entering into a building through a regular or irregular way or someone is entering into (a place) by digging a tunnel (*Sen*) to steal and sufficient help is not available to catch the thief or robber while making full effort for it, and it is not possible to save the property, and in such a case the owner of the property takes an action in the meantime and the preparator dies in the course of such an action.....2

Where a person providing security to the government treasury or documents or prisoners or detainees in the government office, custody house or a jail (prison) is performing his or her duty and someone with intention to obstruct or damage or steal or flee or cause to flee, attacks or forces or compels to do anything against the order (*Urdi*) with or without using any weapon to the security person, and in such a case, if the security person reacts in the meantime to save his or her life or government property in his or her custody and such preparator dies as a result of that action.....3

- Number 8. Except in cases where there occurs an accidental homicide as referred to in Number 5 of this Chapter, if a person hurts another person, thereby causing fracture or breaking of any part of the body, and such a victim dies as a consequence of hurt before it is cured anytime later, such a perpetrator shall be considered to be a murderer.
- Number 9. Except in cases where one hurts or batters another person to cause fracture or breaking of any part of the body with intention to kill that other person, if a person commits an act to kill another person and the victim does not die at that time but suffers from the same hurt or injury and dies within Twenty One days or that other person dies within Three days in the case where other act or excessive force has been done or used or within Seven days in the case where poison has been administered to that other person, the perpetrator shall be considered to be a murderer.

- Number 10. Except in cases where accidental homicide is proved as referred to in Number 5 of this Chapter, if any person hits/beats in the sensitive part of body (*Sandhi or Kuthaun*) by his or her hand and the victim dies, suffering from the same pain within Seven days or, in the case of using excessive force, dies within Five days upon suffering from the same pain of the incident or where a person hurts another person by any other ways or means and the victim dies within Twenty One days of suffering from infection of the wound or without recovering from it, such act shall be deemed to be murder. If someone dies after such dates, it shall be dealt with as referred to in the Chapter on Hurt/Battery.
- Number 11. In cases where a person is suffering from any hurt inflicted by any other person or suffering from any disease or is unable to move around or work due to any other reasons and where somebody else causes hurt or commits any other act to that person and such a person dies within Twenty One days, the death shall be considered to have been caused by the person who has caused pain subsequently. In such a situation, the person who caused hurt earlier with the intention of murder shall be dealt with as referred to in Number 15 of this Chapter, and if it was caused without an intention to cause death of the victim, it shall be dealt with as referred to in the Chapter on Hurt/Battery.
- Number 12. Where a person, who has been suffering from any hurt caused by any other person begins to move around and becomes capable of perform his or her regular work, dies due to a disease or hurt inflected by another person within the dates (as referred to in the Numbers hereinabove), it shall not be considered that the death was caused by the person who caused hurt or pain earlier. In cases where the hurt was caused with an intention to kill such person, it shall be dealt with pursuant to Number 15 of this Chapter, and in the absence of such intention, it shall be dealt with as referred to in the Chapter on Hurt/Battery.
- Number 13. Except in cases where an act does not amount to murder as referred to in the other Numbers of this Chapter, if a person commits any act resulting in

the death of another person and the victim dies immediately or within the date (so prescribed), the person causing such death or the principal instigator or the person who catches or holds or directly uses his or her hand against the victim with an intention to get that person to be killed by any other person in the scene of crime, such a person shall be punished as mentioned hereunder. A person who directly uses his or her hands with an intention to separate the person from the dispute or who in fact separates somebody from dispute shall not be liable to any punishment:

In cases where a person kills another person by hitting, stabbing or poking (*Hani, Ropi, Ghochi*) with a dangerous weapon with or without the edge, all the persons who have used the weapon shall be considered murderers. Everyone (in such a case) shall be liable to the punishment of imprisonment for life, along with confiscation of the entire property.....1

In cases where a person administers poison to another person and kills that other person, the person shall be a murderer; such a person shall be liable to the punishment of imprisonment for life, along with confiscation of the entire property. A person who causes other to administer poison to another person shall be liable to the punishment of imprisonment for life.....2

In cases where a person kills another person by hitting, beating, stabbing, or poking by using a stone or other minor weapon or by means of any act which results in the death, if such an act has been committed by a person, such person, and, if it is proved by the evidence that the person was killed or died due to the hurt inflicted by any particular person in a case where a group of people were involved in the commission, such person shall be considered to be the principal murderer. Such a person shall be liable to the punishment of imprisonment for life, along with confiscation of the entire property. Any person other than those mentioned above and where it cannot be proved by the evidence that the victim was killed by a particular person or where the person who has used the weapon to hurt the victim

cannot be identified, all of them involved in the commission of crime shall be liable to the punishment of imprisonment for life.....3

A person who instigates other to kill anybody else by any means or a person who uses his or her hand and catches the victim and creates conducive environment (*Sanjog*) to other person to kill somebody else in a scene of crime shall be liable to the punishment of imprisonment for life.....4

Number 13A.⁴⁶⁰

Number 14. In cases where a person uses a stick, stone, kick or fist against another person, without intention to kill that other person or without having any malice (*Ibi*) or without hiding in a secret place (clandestinely), and with an immediate provocation, but without using any serious/hazardous weapons or poison, and the victim dies within the date due to the hurt or pain inflicted out of it, such a person shall be liable to the punishment of imprisonment for a term of Ten years.

Number 15.⁴⁶¹ In cases where a person opens fires or throws a bomb or cuts with a serious weapon or commits any act of attempt to kill another person to the extent possible, with an intention to kill that other person, then even though the victim does not die due to any reason, the person who commits or causes to be committed or instigates (being present in the crime scene) or helps other in the commission of such an offense, the person shall be liable to the punishment of imprisonment for a term ranging from Five years to Twelve years.

Number 16.⁴⁶² A person who conspires to kill a person or causes other person to kill a person shall be liable to the punishment of imprisonment for a term ranging from Ten years to Fifteen years in cases where such a victim has been killed, and to the punishment of imprisonment for a term ranging from Five years to Twelve years in cases where the victim has not been killed.

⁴⁶⁰ Inserted by Eight Amendment and deleted by Some Nepal Laws Amendment Act, 2047.

⁴⁶¹ Amendment by the Eighth Amendment.

⁴⁶² Amendment by the Eighth Amendment.

Number 17. In cases where a person who is indulged in the crime (*Matlab*) of killing another person without being involved in instigating other or without using a weapon or even without touching the body of the victim commits any of the following acts, the person shall be punished as mentioned hereunder in cases where the victim has died and shall be liable to half the punishment if the victim has not been died:

One who knowingly supplies weapons, bullets, gunpowder or poison to a person who demands weapons or poison to kill anybody else or one who remains present in the scene of crime where somebody is murdering any one else shall be punished with imprisonment for a term of Ten years.....1

Except as otherwise provided in Section 1, if a person creates conducive environment to kill any one else stopping the pathway or passage or restricting the victim to flee from the scene of crime shall be punished with imprisonment for a term of Five years.....2

A person who is involved in discussion/preparation (*Sallaha*) through any other means and appears in the scene of crime and watches the incident without doing anything else or a person who is indulged in the commission of offence except as provided hereinabove, the person shall be punished with imprisonment for a term ranging from Six months to Three years.....3

Number 18. A person who abandons a male or female baby born alive shall be liable to the punishment of imprisonment for a term of Four years. In cases where such a baby is found dead, the person who has so abandoned shall be treated as a murderer.

Number 19. In cases where a person is trying to kill another person and the aggrieved person is requesting for help (*Gwahar*), each informed man above Sixteen years of age and below Sixty-Five years of age who hears such a request but does not go to help the aggrieved person shall be punished with a fine of up to Thirty Rupees.

- Number 20. Except in the case of murder (*Kartabya*) where the offender (accused) has confessed the offence and has divulged/marketed/accused (*Poleko*) anybody else, a case shall not be registered if it is not filed within Twenty years of the cause of action where complaint shows that it is a case of murder and the investigation does not identify any accused and within Two years if the complaint does not mention it as a murder (*Kartabya*) case.
- Number 21. A person, who has a duty to prepare a deed of examination of corpse, shall duly examine the corpse and mention all the details of wounds scar, hurt or sign (*Ghau, Khat, Chot, Nishan*) in the report. One who knowingly mentions wrong details shall be liable to a fine of up to Five Hundred Rupees.
- Number 22. No one, though not indulged in the crime (*Matalab*) of killing somebody else, shall refrain from catching, reporting and fleeing the preparator, in case he or she knows the matter of such killing is going to happen before the act takes place.
- Number 23. No one, though not indulged in the crime (*Matalab*) of killing of somebody else, shall refrain from catching, reporting, concealing or fleeing the preparatory, in cases where one of the joint family members has killed any other member of the same family or the servant.
- Number 24. In cases where one is not indulged in the killing of another person, but knowingly shares the property brought upon the commission of such offence, such an act shall be deemed to be an offence. Event though a person has neither shared the property received out of commission of the offence of homicide nor reported the incident nor concealed or helped for fleeing preparatory, and except as referred to in Number 23 of this Chapter, if the father, grandfather, grandmother, wife, son, daughter, sisters from the same family, uncles born from the same grandfather along with the father sister of his father, brother, nephew grandson, granddaughter, aunts, wives of the brothers, mother-in-law, father-in-law, brother of the mother, son of the sisters, own daughter, husband of own sisters and persons living in the same joint family refrains from reporting

or knowingly conceals the fact or helps to flee, shall not be liable to the punishment.

- Number 25. One who knows about the homicide but does not report it or conceals the fact and causes fleeing of the preparator shall be liable to the punishment of imprisonment for a term of Two years if he or she is a government employee, for a term of One and Half year if he or she is the *Jimdar*, *Talukdar* or a member of the Village Development Committee or the Municipality,⁴⁶³ for a term of Six months if he or she is *Thari*, *Gumasta*, *Mukhia*, *Mijhar*, *Jetha Budha*, *Gorum*, *Katuwale*, *Naike*, *Mahane*, local guard or *Godayat*, and a fine of Twenty Rupees to the chief of the family who knows the fact of the commission of offence in the case of any other person not so mentioned.
- Number 26. In cases where a person does not report the fact that somebody is going to kill any other person and this fact is revealed subsequent to the death of victim, such a person who has not reported the offence shall be liable to the punishment of imprisonment for a term not exceeding One year.
- Number 27. In cases where a person does not report the fact that somebody is going to kill any other person and this is revealed later on but before his or her death, such a person who has not reported the fact shall be liable to the punishment of imprisonment for a term not exceeding Six months.
- Number 28.⁴⁶⁴ Any person who commits abortion or causes abortion by doing any act with intention or knowingly or with sufficient reasons to believe that such an act is likely to cause an abortion shall be punished as follows:
- Imprisonment for a term of one year in case the fetus is upto Twelve weeks.....1
- Imprisonment for a term of Three years in case the fetus is upto Five weeks.....1
- Imprisonment for a term of five years in case the fetus is above Twenty Five weeks.....1

⁴⁶³ Amended by the Court Proceedings Related Some Nepal Acts (Amendment) Act, 2047(1991).

⁴⁶⁴ Amended by the Eleventh Amendment.

Number 28A.⁴⁶⁵ No one shall cause abortion upon causing coercion, threat or offer (*Pralovan*) to a pregnant woman. In cases where a person causes abortion in that manner, the person shall be liable to the following punishment:

Imprisonment for a term of one year in case the fetus is up to Twelve weeks..... 1

Imprisonment for a term of three years in case the fetus is upto Twenty Five weeks.....1

Imprisonment for a term of Five years in case the fetus is above than Twenty Five weeks.....1

Number 28B.⁴⁶⁶ Notwithstanding anything contained in Number 28 of this Chapter, if an abortion is carried out by a qualified and registered health worker upon fulfilling the procedures as prescribed by the Government of Nepal, it shall not be deemed to be the offence of abortion, in the following circumstance:

If the abortion of a fetus of upto Twelve weeks is carried out with the consent of the pregnant woman.....1

If the abortion of a fetus of up to Eighteen weeks caused by rape or incest is carried out with the consent of the pregnant woman.....2

If the abortion is carried out with the consent of the pregnant woman and on the advice of an expert pursuant to the prevailing law that if abortion is not carried out, the life of such a woman may be in danger or the physical or mental health may be deteriorated or a disabled child may be born.....3

Number 28C.⁴⁶⁷ No one shall commit or cause to be committed an act to identify (determine) the gender of the fetus for the purpose of committing the offence of abortion. A person who commits this offence shall be liable the punishment of imprisonment for a term ranging from Three months to Six months.

⁴⁶⁵ Amended by Some Nepal Acts to Maintain Gender Equality Amendment Act, 2063.

⁴⁶⁶ Inserted by the Eleventh Amendment.

⁴⁶⁷ Inserted by Some Nepal Acts to Maintain Gender Equality Amendment Act, 2063.

- Number 28D.⁴⁶⁸ A person who commits, or causes to be committed, abortion upon identifying the gender of the fetus as referred to in Number 28C, the person shall be liable to the punishment of imprisonment for a term ranging from Six months to Two years.
- Number 29. If a person commits an act to a pregnant woman with some anger or malice (*Rishibi*)and such an act results in abortion, the person shall be liable to punishment despite that such act has not been done with intention to cause abortion.
- Number 30. If a person finds a male or female baby born alive has been abandoned, the person shall inform this matter to the nearest police office.
- Number 31.⁴⁶⁹
- Number 32. If a person commits the offence referred to in Number 29 of this Chapter, with the knowledge of the fact that the woman is pregnant, the person shall be liable to the punishment of imprisonment for a term of Three months if the fetus is of up to Twenty Five weeks, and Six months if the fetus is of more than Twenty Five weeks. If such act has been committed without knowing the fact, that the woman is pregnant, the person shall be liable to a fine of Five Hundred Rupees if the fetus is of up to Twenty Five weeks and a fine of One Thousand Rupees if the fetus is of more than Twenty Five weeks.
- Number 33. Except in a case where the offender has confessed and the case has been initiated from such confession, if a suit is not filed on the matter of abortion within Three months of such abortion, the suit shall not be entertained.

⁴⁶⁸ Inserted by Some Nepal Acts to Maintain Gender Equality Amendment Act, 2063.

⁴⁶⁹ Deleted by the Eleventh Amendment.

Chapter-11

On Human Trafficking

- Number 1. No person shall lure and take another person outside the territory of Nepal with intention to sell him or her nor shall sell another person outside the territory of Nepal. If a person, who is taking another person to sell him or her in a foreign country, is caught (arrested) before the sale, the offender shall be liable to the punishment of imprisonment for a term of Ten years⁴⁷⁰ and if the person is arrested after the sale, the offender shall be liable to the punishment of imprisonment for a term of Twenty years⁴⁷¹. In cases where the buyer is found within the territory of Nepal, the buyer shall be liable to the same punishment as is imposable on the seller.
- Number 2. No person shall separate or lure to separate a minor below the age of Sixteen years or even a major who is mentally unsound, from his or her guardianship without the consent of his or her legal guardian. If someone is so separated or lured, the offender shall be liable to the punishment of a fine of up to Five Hundred Rupees or imprisonment for a term not exceeding Three years or with both.
- Number 3.⁴⁷² No person shall make any other person a *Kamara, Kamari* (sub-servant), slave or bonded labor. A person who makes another person a sub-servant, slave or bonded labor shall be liable to the punishment of imprisonment for a term ranging from Three years to Ten years, and the court may issue an order for the provision of a reasonable compensation by the offender to the victim.
- Number 4. If a person aids the offender to commit the offence as referred to in Number 1, 2 or 3 of this Chapter, the person shall be liable to half the punishment that is imposed on the principal offender.

⁴⁷⁰ Amended by the Sixth Amendment.

⁴⁷¹ Amended by the Sixth Amendment.

⁴⁷² Amended by Some Nepal Acts Amendment Act, 2048.

Number 5. If a human being is sold or bought as referred to in Numbers 1 and 3 of this Chapter, the amount involved on behalf of the buyer shall be void (may not be returned) and the seller shall be liable to the punishment of a fine equal to the amount involved in such a sale, in addition to the punishment mentioned in those Numbers.

Chapter-12

On Medical Treatment

- Number 1. In the course of a serious major surgical operation and prescribing for medicine after diagnosing a patient, only a medical practitioner who has studied and passed the concerned examination and also has received certificate on the concerned subjects of the profession and is a medical doctor or a *Vaidha* (Ayurvedic Medical Practitioner), shall perform a surgical, operation or prescribe ointments to be used in the body or prescribe oral medicine or write a prescription for the same. One who has not passed such an examination may examine a patient if he or she can diagnose the disease or has knowledge about the medicine, or one who has an experience may carry out operation (*Chirfar*) of a minor wound (*Ghau*), boil (*Khatira*), use ointment (*Malam*) and bandage (*Patti*) or medicine in the external part of the body.
- Number 2. In cases where a surgery has to be performed to split, burst, take out or cut (*Chirna, Forna, Jhikna, Katna*) from the body for the best interest of the patient, the medical practitioner or a *Vaidhaya* holding a certificate (*Passwala*) may himself or herself perform such an operation upon receiving the consent of the patient if he or she is major and conscious and upon receiving the consent of the guardian if the patient is minor or in a state of unconsciousness, and even without receiving any consent but in the best interest of the patient on behalf of the hospital in the case of a person without any guardian.
- Number 3. In cases where it is essential to provide processed and refined substance (*Bisaya*) or toxic medicine and the certified (license holder) medical practitioner or a *Vaidhaya* has prescribed it and the dose of medicine is appropriate, but somebody dies upon consuming such medicine, it shall not be deemed to be an offence. In cases where a person gives to eat or drink unprocessed toxical substance or poisonous substance which are

known as poison or prescribes such substance or such substance is supplied or prescribed in an excessive dose though such substance is being processed and perfect or it happens otherwise in the course of wrong operation (surgery), such a doctor or *Vaidha* and who checked the patient and the person who mixed up the dose of the medicine or who mixed-up in a wrong quantum even the doctor or *Vaidha* has had prescribed it correctly, or mixed-up unnatural elements in the composition of the medicine, in case it happens something otherwise, it shall be deemed to be an offence.

- Number 4. A person who is entitled to treatment or operation pursuant to Number 1 of this Chapter, in the course of prescribing medicine or conducting operation, if the sickness of the patient who is under treatment increases (suffers more) or dies or suffers any loss or pain, the medicine shall be examined if the leftover of the medicine is available; and if the leftover medicine is not available, the prescription written by the doctor or *Vaidhaya*, method of operation (surgery) and instruments used in the course of operation or any other ointment (medicine) used otherwise shall be investigated to find out whether the intoxicating substance has been processed or not and whether all the elements to be mixed-up as per the evidence (*Praman*) have been mixed-up or not, and whether that particular medicine resembles with the disease or not and whether the medicine was prescribed unnecessarily or not, by the Doctor or *Vaidhaya* and if such a medicine is toxic one, such a toxic medicine shall be supplied to the dog, castrated goat (*Khasi*) or he-goat, for the purpose of investigation. If, in the course of such investigation, the dog, castrated goat (*Khasi*) or he-goat dies or in the course examination of the patient, it is revealed that the prescribed medicine was not appropriate to the patient in the light of his or her disease or the manufacturer or the person with a duty to mix-up the medicine has processed it wrongly (incorrect dose) or caused to feed the unprocessed medicine or with wrong composition or caused wrong operation (surgery) or vaccinated for small-pox by the under quality

vaccine; and if such an act is unintentional but has happened due to the lack of knowledge or by mistake, the person involved in such an act shall be punished as referred to in Number 8 of this Chapter.

- Number 5. No one shall sell any intoxicating substance and poisonous substance without the prescription of a doctor or *Vaidhaya*. If a person gives or sells the same, it shall be considered to be an offence.
- Number 6. An insane person may be put behind the bar with fetter (*Nel*) and he or she shall be treated in a hospital if available in that place. In case his or her representative (*Warsiawala*) requests that he or she shall keep him or her safely, then such an insane shall be handed over accordingly.
- Number 7. No one shall abandon a servant or guest who is sick in a road, inn, or rest house (*Pati Pauwa*) without arranging for an attendant to take care of him or her. In cases where a person abandons such a person without care, the person shall be liable to a fine of up to Five Hundred Rupees. The police, Village Development Committee or Municipality⁴⁷³ shall arrange for treatment at a hospital or dispensary, if available, and shall arrange for an attendant as well as treatment if a hospital or dispensary is not available over there.
- Number 8. In cases where a person who is entitled to carry out treatment or operation of a patient pursuant to Number 1 of this Chapter does the same for the benefit of the patient but with recklessness or negligence and consequently the patient dies or suffers any damage (loss) or pain, such a person shall be liable to the punishment of a fine of up to Five Hundred Rupees or imprisonment for a term not exceeding Two years or both.
- Number 9. In cases where a person, other than a person entitled to carry out treatment or operation as referred to in Number 1 of this Chapter, gives medicine or operates or gives vaccine to a patient for the benefit of the patient, but the patient dies or suffers any damage (loss) in his or her body, the person

⁴⁷³ Amended by the Court Proceedings Related Some Nepal Acts (Amendment) Act, 2047.

shall be liable to a fine of up to One Hundred Rupees or imprisonment for a term not exceeding Six months, in addition to the punishment as referred to in Number 8 of this Chapter. In cases where there is no damage (loss) in the body of the patient, he or she shall be punished with a fine of up to Five Hundred Rupees.

- Number 10. If a suit is not filed on the matter of offense(*Daga*) where a person dies in the course of treatment, within Three months (from the date of cause of action), the suit shall not be entertained.

Chapter- 13

On Intention of Sex

⁴⁷⁴Number 1. If a person, without the consent of a woman, touches or attempts to touch her sensitive organ, puts off her inner clothes (under garments), takes her to an unusually lonely place, makes her touch or catch (hold) his sexual organ or uses vulgar or other similar words or indications or shows her such drawing or picture or teases or harasses her for the purpose of sexual intercourse, or treats her with any unusual behavior or holds her with intention of having sexual intercourse, he shall be deemed to have done sexual harassment, and the who commits such an offence shall be liable to the punishment of imprisonment for a term not exceeding One year and a fine of up to Ten Thousand Rupees. The victim of such an offence shall be entitled to a reasonable compensation from the offender.

Number 2. ⁴⁷⁵.....

Number 3. ⁴⁷⁶.....

Number 4. ⁴⁷⁷.....

⁴⁷⁸Number 5. If a person lures a woman to have illegal sexual intercourse with himself or with any other person or contacts and manages for prostitution, the person shall be liable to the punishment of imprisonment for a term ranging from Six months to Two years or a fine of Five Hundred Rupees to Six Thousand Rupees or with both.

Number 6. If a suit on any matter referred to in this Chapter is not filed within Thirty Five days after the date on which the matter became public, the suit shall not be entertained.

⁴⁷⁴ Amended by Some Nepal Acts to Maintain Gender Equality Amendment Act, 2063.

⁴⁷⁵ Repealed by the Sixth Amendment.

⁴⁷⁶ Repealed by the Sixth Amendment.

⁴⁷⁷ Repealed by the Sixth Amendment.

⁴⁷⁸ Amended by the Sixth Amendment.

Chapter-14

On Rape

Number 1.⁴⁷⁹ If a person enters into sexual intercourse with a woman without her consent or enters into sexual intercourse with a girl below the age of Sixteen years with or without her consent shall be deemed to be an offence of rape.

Explanation: For the purposes of this Number:

- (a) A consent taken by using fear, coercion, undue influence, misrepresentation or use of force or kidnapping or hostage taking (abducting) shall not be considered to be consent.
- (b) A consent taken when she is not in a conscious condition shall not be considered to be consent.
- (c) Minor penetration of the penis into the vagina shall be considered to be a sexual intercourse for the purposes of this Number.

Number 2. A person who commits rape with a woman within kinship (prohibited degree of consanguinity) shall be liable to the punishment as referred to in the Chapter on Incest, in addition to the punishment as referred to in this Chapter. In cases where imprisonment for life has been imposed to an offender, an additional punishment for rape shall not be added.

Number 3.⁴⁸⁰ A person who commits rape shall be liable to the imprisonment as mentioned hereunder:

Imprisonment for a term ranging from Ten years to Fifteen years if the minor girl is below the age of Ten years.....1

Imprisonment for a term ranging from Eight years to Twelve years if the minor girl is above Ten or more years of age but below Fourteen years of age.....2

⁴⁷⁹ Amended by Some Nepal Acts to Maintain Gender Equality Amendment Act, 2063.

⁴⁸⁰ Amended by Some Nepal Acts to Maintain Gender Equality Amendment Act, 2063.

Imprisonment for a term ranging from Six years to Ten years if the minor girl is of Fourteen years of age or above below Sixteen years of age.....3

Imprisonment for a term ranging from Five years to Eight years if the woman is of Sixteen years of age or above but below Twenty years of age.....4

Imprisonment for a term ranging from Five years to Seven years if the woman is of Twenty years of age or above5

Notwithstanding anything contained in this Number, the husband who commits a rape with his wife shall be liable to imprisonment for a term ranging from Three months to Six months.

Number 3A.⁴⁸¹ One who commits a gang rape or commits rape with a pregnant woman or a disabled woman shall be liable to imprisonment for a term of Five years, in addition to the imprisonment mentioned in this Chapter.

Number 3B.⁴⁸² Notwithstanding anything contained in Number 3 and Number 3A, if someone commits a rape upon knowing the fact that he is living with HIV positive, such an offender shall be liable to imprisonment for a term of One year, in addition to the imprisonment referred to in Number 3 and Number 3A. of this Chapter.

Number 4. Every person who knowingly accompanies a gang and grabs a woman for rape or helps in committing the rape shall be liable to imprisonment for a term not exceeding Three years. In the case of a girl under Sixteen years of age, such a person shall be liable to the double of such punishment.

Number 5. One who has made attempt to commit rape but has not succeeded in committing it shall be liable to the punishment which is half the punishment that is imposed on the offender who commits rape.

⁴⁸¹ Inserted by the Eleventh Amendment.

⁴⁸² Inserted by Some Nepal Acts to Maintain Gender Equality Amendment Act, 2063

Number 6. If a person instigates another person to commit a rape, the instigator shall be liable to the punishment which is half the punishment that is imposed on the offender if the person has committed rape, and which half the punishment that is imposed on a person who has made attempt to rape if the person has made attempt but not been able to complete the commission of rape.

Number 7.⁴⁸³

Number 8. In cases where a person with intention to attempt rape assaults, rounds up (*chhekthun*), ties up (*bandchhand*) or uses force (*jorjulum*) by any other means to a victim and it is not possible to save the chastity (*dharma*) for the victim upon rescuing herself from the offender by shouting, requesting for the help or by any other means immediately, or where the victim is in a situation that if she does not do anything with her idea (*akkal*) or power (*barkat*) she may not be able to save her chastity due to serious fear or threat so created over there before the commission of rape or even after the commission of rape where she could do nothing due to lack of her power or force immediately, if such a victim, out of anger of such act, strikes a weapon, stick (*latho*) or stone at the place of commission of rape immediately or within one hour upon pursing the offender from such place and the offender dies over there, such an act shall not be deemed to be an offence. In case the victim kills the offender after one hour, she shall be liable to a fine of up to Five Thousand Rupees or imprisonment for a term not exceeding Ten years.

Number 9. A person who commits or causes to be committed rape with a woman for the purpose of grabbing her property through inheritance shall not be eligible for inheritance to be received from the victim of such rape.

Number 9A. ⁴⁸⁴ A person who commits or causes to be committed sodomy (any kinds of unnatural sexual intercourse) with a minor, it shall be considered to be

⁴⁸³ Repealed by the Eleventh Amendment.

an offence of rape and the offender shall be liable to an additional punishment of imprisonment for a term not exceeding One year as referred to in Number 3 of this Chapter, and the court shall make an order to provide appropriate compensation to such a minor from the offender, upon considering the age and grievance suffered by the minor.

Number 10.⁴⁸⁵ If a person is held to have committed rape with a woman, the court shall make an order to provide appropriate compensation to the victim from the offender upon considering the physical or mental loss she has suffered. In the course of determining such compensation, the gravity of offence and pain suffered by the dependent minors, if any, shall also be taken into account if such victim is already dead.

Number 10A.⁴⁸⁶ In the course of an investigation or inquiry of a case mentioned in this Chapter, a woman police employee shall record the statement of the victim woman and if a woman police employee is not available, any other police employee may record her statement in front of a woman social worker.

Number 10B.⁴⁸⁷ In the course of hearing of a case filed pursuant to this Chapter, only the lawyer, accused, victim woman and her guardian and police or court employee so permitted by the case hearing authority may appear before the bench.

Number 10C.⁴⁸⁸ If the court, in making judgment, convicts the accused of rape on a case filed pursuant to this Chapter, the court shall mention in its decision about the compensation to be awarded to the victim from the offender and shall also cause the same to be provided to the concerned woman. For the purpose of realizing of the compensation, the court shall attach the property, including the share on joint property, of the accused immediately after the filing of a case pursuant to this Chapter.

⁴⁸⁴ Inserted by the Eleventh Amendment.

⁴⁸⁵ Amended by Some Nepal Acts to Maintain Gender Equality Amendment Act, 2063.

⁴⁸⁶ Inserted by the Eleventh Amendment.

⁴⁸⁷ Inserted by the Eleventh Amendment.

⁴⁸⁸ Inserted by Some Nepal Acts to Maintain Gender Equality Amendment Act, 2063

Number 11. If a suit on the matter of rape is not filed within Thirty Five days from the date of the cause of action, the suit shall not be entertained.

Chapter 15

On Incest

Number 1. A person who commits sexual intercourse with his mother, who gave birth to him, shall be liable to the punishment of imprisonment for life. A person who commits sexual intercourse with his elder or younger sister, born from the same father from whom he was born, or with his own daughter shall be liable to the punishment of imprisonment for a term of Ten years.⁴⁸⁹

Number 2. A person who commits sexual intercourse with a woman of the following relationship shall be liable to the punishment of imprisonment for a term ranging from Three years to Six years:

Step-mother in the prohibited degree of consanguinity (*Haad Nata*), grandmother of any generation in the same branch and grandmother within the third generation in the different branch, wife of one's own son, wife or daughter of the son/offspring of any generation in the same branch, wife of one's own brother (sister-in-law) born from the same father, daughter or daughter-in-law (wife of nephew) born from his own elder or younger brother, granddaughter or granddaughter-in-law of the elder or younger brother born from the same father, elder or younger sister born and descending from the same grandfather or daughter or wife of the elder or younger brother who was descended from his own grandfather.....1

Daughter of his own daughter or wife of his own son (daughter-in-law), grandmother who gave birth to his own mother, grand-grand-mother who gave birth to the father or mother of his own mother, mother-in-law who gave birth to his wife, grand-grand-mother-in-law who gave birth to such grandmother-in-law or grandfather-in-law, elder and younger sister of his own mother, daughter of his own elder or younger sister or daughter-in-

⁴⁸⁹ Deleted by the Eleventh Amendment.

law of such elder or younger sister, wife of his own elder or younger brother or wife of the brother who was born from his own mother.....2

- Number 3. A person who knowingly commits sexual intercourse with a woman in the following relation shall be liable to the punishment of imprisonment for a term not exceeding Two years taking into consideration of the nature of relation (*Nata*) and generation (*Pusta*):

Except those within the prohibited degree of consanguinity and within seven generations as referred to in Number 1 and those relations as referred to in Section 1 of Number 2 of this Chapter, the grandmother, wife of the brother, wife of the son, wife of the grandson, elder sister, younger sister, daughter, granddaughter, *Phupu* (sister of the father) or Aunt (wife of the uncle).....1

Granddaughter in the line of the son of his uncle who is in the line of the same grandfather, daughter of the daughter of his own elder or younger brother, daughter or daughter-in-law of the son of his own elder or younger sister, daughter or daughter-in-law of the daughter of his elder or younger sister, step-mother-in-law or step-grandmother-in-law.....2

- Number 4. ⁴⁹⁰.....In cases where a person commits sexual intercourse with the wife of his elder brother (*Bhauju*), the person shall be liable to the punishment of imprisonment for a term ranging from Three years to Six years; and in the other cases, if a person commits sexual intercourse knowingly with the wife of his elder brother within seven generations within the prohibited degree of consanguinity, the person shall be liable to the punishment of imprisonment for a term not exceeding one year considering the nature of relation (*Nata*) and generation (*Pusta*).

- Number 5. In cases where a son who was born from one husband knowingly commits sexual intercourse with the daughter from another husband of the same

⁴⁹⁰ Deleted by the First Amendment.

mother, such a person shall be liable to the punishment of imprisonment for a term not exceeding One year.

- Number 6. In cases where a person commits sexual intercourse with the wife of his adopted son or his offspring (*Santan*) or with one who is a relative of his adoptive father and if there is a relation between them amounting to incest pursuant to this Chapter, the offender shall be punished accordingly; and in the other cases where sexual intercourse is committed by the adopted son with the wife of his adoptive father or with the daughter of his adoptive father or by the adoptive father with the wife of the adopted son or by the adoptive father with the daughter of the adopted son, such an offender shall be liable to the punishment of imprisonment for a term not exceeding One year.
- Number 7.⁴⁹¹
- Number 8.⁴⁹²
- Number 9. If, after having served the sentence for the commission of sexual intercourse with any woman punishable pursuant to this Chapter, the convicted person again commits sexual intercourse with the same woman, the person shall be liable to a fine of Fifty Rupees; and if after such imposition of the fine, that person again commits sexual intercourse with the same woman, the person shall be liable to the punishment of imprisonment for a term not exceeding three months after the third instance.
- Number 10. On the offense in which a man is to be punished pursuant to this Chapter, if a woman indulges herself in sexual intercourse with her consent, such a woman shall be liable to the punishment that is One Fourth of the punishment imposed on the man. While imposing such punishment, if she has to serve the sentence of imprisonment for a term exceeding Three

⁴⁹¹ Repealed by the Eleventh Amendment.

⁴⁹² Repealed by the Eleventh Amendment.

years, in such a case, the term of imprisonment shall not exceed Three years.

Number 10A.⁴⁹³ Notwithstanding anything contained in the other Numbers of this Chapter, no one shall be punished for a marriage or sexual intercourse in that relation which is considered to be valid in accordance with their tradition followed by their caste (race) or ancestry (*Kul*).

- Number 11. Notwithstanding anything contained in the other Numbers of this Chapter, if a person commits sexual intercourse with a married woman, who has a husband, and who comes under particular relationship which is punishable under this Chapter, and the aggrieved husband (*Sadhu*) intends to imprison him pursuant to the Chapter on Adultery, the person shall be sentenced to imprisonment by adding the punishment of imprisonment under that Chapter to the punishment imposable by this Chapter. Provided that if the total term of imprisonment so added exceeds Six years, only One year shall be added to the term of imprisonment.
- Number 12. If, on any matter relating to the offence referred to in this Chapter, a suit is not filed during the life of the offender, the suit shall not be entertained.

⁴⁹³ Inserted by the First Amendment.

Chapter-16

On Bestiality

- Number 1. No person shall commit, or cause to be committed, sexual intercourse with a female cattle, or commit, or cause to be committed, any other unnatural intercourse (*Maithun*).
- Number 2. A person who commits sexual intercourse with a cow shall be liable to the punishment of imprisonment for a term of Two years and a person who commits sexual intercourse with any animal other than a cow shall be liable to the punishment of imprisonment for a term not exceeding One year or fine of up to Five Hundred Rupees.
- Number 3. If a woman enters into sexual intercourse with an animal, she shall be liable to the punishment of imprisonment for a term not exceeding one year and a fine of up to Five Hundred Rupees.
- Number 4. Except as provided in the other Numbers of this Chapter, a person who commits, or causes to be committed, any other type of unnatural sexual intercourse shall be liable to the punishment of imprisonment for a term not exceeding One year and a fine of up to Five Thousand Rupees.⁴⁹⁴
- Number 5. If a suit is not filed within a period of One year from the date of the cause of action on the matters referred to in this Chapter, the suit shall not be entertained.

⁴⁹⁴ Amended by the Eleventh Amendment.

Chapter - 17

On Marriage

Number 1. Save within the relationship punishable under the Chapter on Incest, any marriage may be solemnized with one's consent according to one's own will and pleasure, subject to the provisions set forth in several Numbers of this Chapter. Where a marriage concluded happens to be within the consanguinity, the spouses thereto shall be separated. If one has deliberately concluded such a marriage, one shall be liable also to the punishment set forth in the Chapter on Incest.

Number 2.⁴⁹⁵ While contracting a marriage, no one shall arrange to marry nor cause to be married where the male and the female have not completed the age of Eighteen years with the consent of the guardian and that of twenty years in case of absence of the consent of the guardian. The persons having attained majority, out of those who marry or cause to be married in violation of this provision, shall be punished as follows:

If a female below the age of Ten years is married or caused to be married, punishment of imprisonment for a term from six months to Three years and with a fine of One Thousand Rupees to Ten Thousand Rupees shall be imposed -----1

If a female above the age of Ten years but below the age of Fourteen years is married or caused to be married, punishment of imprisonment for a term from Three months to One year and with a fine of a maximum of Five Thousand Rupees or both shall be imposed -----2

If a female above the age of fourteen years but below the age of Eighteen years is married or caused to be married, punishment of imprisonment for a term not exceeding Six months or a fine of a maximum of Ten Thousand Rupees or both shall be imposed.....3

⁴⁹⁵ Amended by the Eleventh Amendment.

If a male or female who has not completed the age of twenty years is married or cause to be married, punishment of imprisonment for a term not exceeding six months or a fine of a maximum of Ten Thousand Rupees or both shall be imposed -----4

If one marries or causes to be married lying that the marriage is allowed under the law, no punishment shall be imposed on the person who marries or causes to be married in ignorance-----5

Those persons who have attained majority, out of the priests, match-makers and other abettors who knowingly perform acts of marriage in violation of the provisions contained in the above-mentioned numbers shall be punished with imprisonment for a term not exceeding One month or a fine of a maximum of One Thousand Rupees-----6

Notwithstanding anything contained in the above-mentioned Sections of this Number, if solemnization of marriage has not been completed but arrangement of marriage has been finalized in accordance with the rites, the main person finalizing such arrangement of marriage shall be punished with a fine of a maximum of seven hundred rupees and such finalized arrangement of marriage shall be set aside -----7

The amount of fine imposed under the above-mentioned Sections 1, 2, 3, and 4, if paid, shall be paid to that girl-child, woman or man. In default of payment of the fine so imposed, the property of the convicted person equal to the amount of fine shall be confiscated and the amount so realized shall be paid to such that girl-child, woman or man. In case the total amount of fine is not realized through such confiscation, the convicted person shall be imprisoned for a term not exceeding Three months for the fine not realized-----8

In case either a male or a female below the age of Eighteen years is married and no offspring has been born from the marriage, the male or female who is below the age of Eighteen years may get such a marriage

declared void if he or she does not agree with such a marriage upon having attained the age of Eighteen years.....⁹

Number 3. Even after the completion of formalities by exchanging moneys or rites in accordance with the tradition of one's clan for a marriage, the parties thereto shall not be obliged to solemnize the marriage if they do not so desire.

Number 4. If a marriage is concluded with a male who is dumb, leprous, crippled, lame, blind of both eyes, impotent with devoid of the male genital organ, handicapped with his hand or leg broken, insane or epileptic, under the false representation that he is normal, such a marriage shall be void if the female spouse does not accept the marriage. One who has concluded or arranged the marriage on such false representation shall be liable to punishment of a fine of up to Five Hundred Rupees.

Number 5. If a marriage is concluded with a female who is dumb, leprous, crippled, lame, blind of both eyes, devoid of the female genital organ, handicapped with her hand or leg broken, insane or epileptic, under the false representation that she is normal, such a marriage shall be void if the male spouse does not accept the marriage. One who has so concluded or arranged the marriage on such false representation shall be liable to punishment of a fine of up to Five Hundred Rupees.

Number 6.⁴⁹⁶ -----

Number 7.⁴⁹⁷ No marriage shall be solemnized or arranged without the consent of both the male and the female parties thereto. If a marriage is solemnized or arranged by force without consent, such a marriage shall be void. One who concludes or arranges such a marriage shall be punished liable to punishment of imprisonment for a term not exceeding Two years.

⁴⁹⁶ Repealed by the Eleventh Amendment.

⁴⁹⁷ Amended by the Sixth Amendment.

Number 8.⁴⁹⁸ If one arranges the marriage of a female, who is already married or a widow or divorcee with another person by representing a false fact that she is an unmarried girl or of a male who is already married or a widower or divorced, the marriage shall be void if the party who gets married under that false representation does not consent to the marriage. The persons having attained majority, out of the principal persons who have so arranged the marriage, shall be liable to punishment of a fine of up to Ten Thousand Rupees and that amount of fine shall be provided to the party being subject to such a false representation.

Number 9. No male shall, except in the following circumstances, marry another female or keep a woman as an additional wife during the life-time of his wife or where the conjugal relation with his first wife is not dissolved under the law.....

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.....

If his wife has any contagious venereal disease which has become incurable.....1

If his wife has become incurably insane.....1

⁵⁰⁰If it is certified by the medical board recognized by the Government of Nepal that no offspring has been born because of his wife-----1

If his wife becomes crippled, with being unable to make movement-----
-----1

If his wife becomes blind of both eyes-----1

⁵⁰¹If his wife takes partition share from him pursuant to No. 10⁵⁰² of the Chapter on Partition and lives apart-----1

⁴⁹⁸ Amended by the Sixth Amendment.

⁴⁹⁹ Deleted by the Ninth Amendment.

⁵⁰⁰ Amended by the Eleventh Amendment.

⁵⁰¹ Inserted by the Eleventh Amendment.

⁵⁰² Amended by the Eleventh Amendment.

Number 9A.⁵⁰³ While concluding a marriage pursuant to Number 9 of this Chapter, one shall take the consent of the wife except she has become incurably insane or she is living apart after taking her partition share.

Number 10⁵⁰⁴ If any person concludes another marriage or keeps wife in contravention of the matters contained in Number 9 and Number 9A.⁵⁰⁵ of this Chapter, such person shall be liable to imprisonment for a term from One year to Three years and to a fine of Five Thousand Rupees to Twenty Five thousand rupees.⁵⁰⁶ If a woman knowingly concludes such marriage or becomes wife, that woman shall also be accordingly subject to the punishment.

Number 11.⁵⁰⁷ If a suit is not filed within Three months after the commission of any act mentioned in Number 7 of this Chapter and after the date of knowledge of the matter in the case of the other matters, the suit shall not be entertained.

⁵⁰³ Inserted by Some Nepal Acts to Maintain Gender Equality Amendment Act, 2063.

⁵⁰⁴ Amended by the Sixth Amendment.

⁵⁰⁵ Inserted by Some Nepal Acts to Maintain Gender Equality Amendment Act, 2063.

⁵⁰⁶ Amended by the Eleventh Amendment.

⁵⁰⁷ Amended by the Sixth Amendment.

Chapter 18⁵⁰⁸

On Adultery

- Number 1. If a person takes a woman to make his wife⁵⁰⁹ knowing that, or the person has a reasonable reason to know, that she is the wife of somebody else, it shall be an adultery.
- Number 2. If a case is filed by the aggrieved husband (*Sadhu*) on the offence of adultery, the adulterine (*Jar*) and the woman involved in adultery shall be liable to the punishment of imprisonment for a term ranging from One month to Two months and a fine of One Thousand Rupees to Two Thousand Rupees.
- Number 3. On the following conditions, the aggrieved husband (*Sadhu*) shall not be entitled to have punishment imposed on the offender:
- If the wife with whom the aggrieved husband has himself committed adultery is adultered by other person.....1
- If a person commits adultery with a woman who is a co-wife (*Sauta*).....2
- If a person commits adultery with a woman who is entitled to divorce pursuant to Section 2 of Number 1 of the Chapter On Husband and Wife and a woman who is entitled to void the marriage pursuant to Section 9⁵¹⁰ of Number 2, and Numbers 4 and 7 of the Chapter on the Marriage.....3
- Number 4. If the adulterine dies prior to the sentence of punishment where a suit has been filed by the aggrieved husband (*Sadhu*) for punishment to the adulterine on the offence of adultery or prior to the making of suit, the adulterine shall not be liable to any punishment.
- Number 5. If a person is involved in adultery and takes away the property of the aggrieved husband (*Sadhu*) or the woman enters into the next marriage⁵¹¹ and carries the property other than the clothes which she is wearing or

⁵⁰⁸ Amended by the Sixth Amendment.

⁵⁰⁹ Amended by the Sixth Amendment.

⁵¹⁰ Amended by the Eleventh Amendment.

⁵¹¹ Amended by the Eleventh Amendment.

using or the dowry, *Pewa* or the property earned by herself with her, the aggrieved husband (*Sadhu*), and in case of his death, or in case he has gone abroad, his heir may file a suit equivalent to a civil case and recover such property.

- Number 6. If a suit on any matter as referred to in this Chapter is not filed within one year after the disclosure of the matter, the suit shall not be entertained.

Chapter 19

On Decency/Etiquette (*Adal*)

Number 1.⁵¹² No one shall propagate any religion in such manner as to undermine the religion of other nor shall cause other to convert his or her religion. If a person attempts to do such act, the person shall be liable to imprisonment for a term of Three years, and if a person has already caused the conversion of other's religion, the person shall be liable to imprisonment for a term of Six years, and if such person is a foreign national, he or she shall also be deported from Nepal after the service of punishment by him or her.

Number 1A.⁵¹³ If any person does any act to undermine any religious place or religious function, the person may be liable to the punishment of imprisonment for a term not exceeding Three years or a fine of up to Three Thousand Rupees or both.

Number 2. No person shall, without prior approval of the Government of Nepal, sell, donate, mortgage or otherwise transfer ownership of any immovable property to a foreign citizen, foreign body corporate or foreign nation. If any such property is so transferred or received, such property shall devolve on the Government of Nepal. If any money of a creditor is involved, it shall be equivalent to unsecured money.

Number 3. If any foreign citizen is to obtain any immovable property by virtue of succession or partition, that property shall not be registered in his or her name nor shall he or she be entitled to receive any income from it except in cases where he or she has resided in Nepal upon obtaining the citizenship of Nepal in accordance with law. Such person is entitled to sell or otherwise transfer such property a citizen of Nepal. Any transaction done in violation of the foregoing provision shall be void and that property shall devolve on the Government of Nepal.

⁵¹² Amended by Some Nepal Acts Amendment Act, 2048.

⁵¹³ Inserted by Some Nepal Acts Amendment Act, 2048.

- Number 4. A government employee who is engaged in service in a government office shall not be entitled to receive any immovable property in his or her name or in the name of his or her family member, without prior approval of the Government of Nepal, if the immovable property is related to the case which is to be disposed by him or her, until he or she is engaged in the same office or in another office in the same district where his or her such office is located or until Two years in the case of his or her transfer from that district or his or her removal from the post.
- Number 5.⁵¹⁴ Any government employee who commits sexual intercourse or arranges for sexual intercourse by other person with a woman who is imprisoned or detained, or any medical practitioner or health worker who commits sexual intercourse with a woman who has come to avail medical service at time of rendering medical service or in the place of rendering such service, or any guardian or caretaker who commits sexual intercourse with a women who is under his guardianship or care, or any official or employee, in any organization where a woman suffering from mental or physical illness is staying for the purpose of treatment or rehabilitation, who commits sexual intercourse with such a woman shall be liable to the punishment of imprisonment for a term ranging from One year to Three years. If such an act is an offence under this Act or any other prevailing law, the punishment imposed thereunder shall be added to such punishment.
- Number 6. No *Bhesdhari* shall convert a minor below the age of Eighteen years into a saint to even where his or her heir or the minor him or herself has consented for the same. If a person who has crossed the age of Eighteen years is forcefully converted into a saint, and that person makes a complaint within Thirty Five days of the cause of action, such complaint shall be entertained. If such person does not make a complaint, such conversion is held to be made voluntarily. If a suit on the matter of conversion of a person below Eighteen years of age is not filed within

⁵¹⁴ Amended by Some Nepal Acts to Maintain Gender Equality Amendment Act, 2063.

Three years from the date of the cause of action, the suit shall not be entertained.

Number 7. A person who commits an offence as referred to in Number 6 of this Chapter shall be liable to imprisonment for a term not exceeding One year.

Number 8.⁵¹⁵

Number 9. One who has been traditionally following the rites and rituals at time of death and birth (*Jutho* and *Sutak*) of his father, mother, elder brother, younger brother etc. shall follow the same as per his or tradition (*Kuldharma*).

Number 10. No one shall do, or cause to be done, any act to undermine or likely to undermine social custom and usage of other person. If someone commits or causes to be committed such an act, he or she shall be liable to punishment of imprisonment for a term not exceeding One year or a fine of up to One Thousand Rupees.

Number 10A.⁵¹⁶ If a person discriminates as an untouchable or excludes or prohibits any person on grounds of caste, religion, color, class or work, the person shall be liable to the punishment of imprisonment for a term ranging from Three months to Three years or a fine of One Thousand Rupees to Twenty Five Thousand Rupees or both.

Number 10B.⁵¹⁷ If a person accuses another person of a witch or banishes him or her from his or her place of residence on such accusation or excludes him or her from social activities or does any other inhuman or degrading treatment or commits torture or banishes any ill (sick) person from his or her place of residence by rejecting or doing any inhuman or degrading treatment to him or her on the ground that he or she has suffered from any disease, the person shall be liable to the punishment of imprisonment for a term ranging from Three months to Two years or a fine of Five Thousand Rupees to Twenty Five Thousand Rupees or both.

⁵¹⁵ Repealed by Some Nepal Acts Amendment Act, 2063.

⁵¹⁶ Amended by Some Nepal Acts Amendment Act, 2063.

⁵¹⁷ Inserted by Some Nepal Acts Amendment Act, 2063.

- Number 11. Any matters carrying punishment as set forth in this Chapter shall be governed accordingly, and in relation to any matter other than such matter, there shall be imposed a fine of up to Twenty Rupees.
- Number 12. On the matters referred to in Numbers 1, 2 and 3 of this Chapter, there shall be no limitation to file a suit, and on the other matters where limitation has been mentioned, a suit has to be filed within that limitation; and if on the matter where limitation has not been mentioned, a suit is not filed within Thirty Five days from the date of the cause of action, the suit shall not be entertained.

Part-5

Repeal

- Number 1. The Muluki Ain (General Code) existing prior to the commencement of this Muluki Ain (General Code) is hereby repealed.
- Number 2. Notwithstanding anything contained in the *Sawals and Sanads* which were formulated before 7th Falgun 2007 and in force at the time of the commencement of this Muluki Ain (General Code), the matters set forth in this Muluki Ain (General Code) shall be governed by it.