

In the Name of Allah, the Gracious, the Merciful

**The Child Bill 2009**

Be it hereby approved, by the National Assembly, assented to and signed, by the President of the Republic, in accordance with the provisions of the Interim Constitution of the Republic of the Sudan, 2005, the following Act :-

**Chapter I**

**Preliminary Provisions**

**Title and commencement**

1. This Act may be cited as the, "Child Act, 2008", and shall come into force, as of the date of signature.

**Repeal and saving**

2. The Child Act, 2004 shall be repealed; provided that all the regulations and orders made thereunder shall remain in force, until revoked, or amended in accordance with the provisions of this Act.

**Scope of application and prevalence of provisions of the Act**

3. This Act shall apply to all suits, relating to the Child, which are not determined upon its coming into force; and the provisions thereof, upon inconsistency of any provision in any other law therewith, shall prevail to the extent of removing such inconsistency.

**Interpretation**

4. In this Act, unless the context otherwise requires, :-  
"Care Homes", mean the homes provided for in section 29 ;

- "Child",** means every person, who is not above the age of eighteen years;
- "Child Soldier",** means the Child, who does attain eighteen years of age, and who is appointed, admitted or forced to join any military, or para-military force, whether disciplined, or non-disciplined;
- "Child Traffic",** means any act, or transaction by which a Child is transferred, on the part of any person, or group of persons, to one person, or another group, for recompense, or any of the forms of consideration;
- "Council",** means the Childhood (Care) National Council, established under the Childhood ( Care) National Council Act;
- "Court",** means the Child Court, provided for in section 71;
- "Delinquent",** means every Child, who completes the age of twelve years, and does not attain eighteen years of his age, upon his commission of an act in contravention of the laws;
- "Family and Child Protection Unit",** means the Police Force, concerning the protection of the Family and Child, provided for in section 62;
- "General Secretariate",** means the Council General Secretariate, established under the Childhood ( Care) National Council Act, 2008;

- "Having special needs",** means any Child, who by reason of a bodily, kinetic, mental, visual or auditive disability, is not able to perform the actions, which are done by those of his age of Children;
- "Instruction Homes",** mean the homes, provided for in section 78;
- "Maintenance",** means any of the types of compensatory care, which aim at the sound upbringing of a Child;
- "Maintenance Family",** means the substitute family, which is assigned with provision of spiritual, social, psychological, and health care of the Child, whose circumstances prevented his upbringing in his natural family;
- "Military actions",** mean the actions the nature of which requires joining a military body, or disciplined, or non-disciplined military forces;
- "Minister",** means the responsible Minister specified by the President of the Republic;
- Ministry",** means the Ministry responsible for the Child affairs;
- "Nurseries",** mean any appropriate place allocated for custody of Children, below the age of four, and subject to the supervision and control of a body having competence;
- "Prosecution Attorneys Bureau",** means the Child Prosecution Attorneys Bureau, provided for in section 69;
- "Remand Homes",** mean the homes, provided for in section 68;

- "Social Probation"**, means the judicial measure, through which a delinquent Child is accommodated in the society;
- "Social Probation Officer"**, means the Probation Officer specified by the Court to discharge the duties, provided for in section 76(1)(b);
- "Vagrant Child"**, means the Child, who is exposed to delinquency, by reason of his un-natural presence in the street, to the extent of endangering his moral, psychological, physical or instructional safety;
- "Working Child"**, means the Child, who practises work, and his age is between fourteen and eighteen years;
- "Youth Homes"**, mean the homes, provided for in section 79.

## **Chapter II**

### **General Principles**

- 5.(1) In application of the provisions of this Act, and interpretation of the words and phrases, set out therein, guidance shall be resorted to the principles and provisions, set out in the Interim Constitution, 2005, the ratified international agreements, the policies, decisions and directives, laid down by the Council .
- (2) Without affecting the generality of the provisions of sub-section (1), the following general principles shall be the fundamental rules for application of the provisions of this Act :-
- (a) the State shall be assigned with care and protection of Children, and strive to prepare the appropriate circumstances for the proper upbringing thereof, from all sides, in the framework of freedom, human dignity and spiritual and social values, and in a healthy environment;

- (b) the sound upbringing of Children is a public responsibility; and the State shall respect the rights and duties of the parents and the family, by virtue of the religion and local custom;
- (c) the Child has the right of protection against all forms of discrimination;
- (d) the protection of the Child and his best interests shall have the priority in all the decisions, or measures, relating to Childhood, the family or environment, whatever may be the body, which issues, or exercises the same;
- (e) the State shall guarantee all the lawful rights of the Child, in particular his right to prove his affinity and his right to life and growth, the name, nationality, breast-feeding, custody, clothing and accommodation, and his right to education and care of his conditions, in accordance with the provisions of the law;
- (f) a Child, who is affiliated to an ethnic, religious or linguistic minority shall have the right to enjoy, with the rest individuals of the group, his culture or declaration of his religion and practice of its rites, or use of his language;
- (g) a Child born outside the framework of marriage shall have the right to registration in the Birth Registers, affiliated to whoever of his parents admits his affiliation;
- (h) a Child shall have the right not to register his name in the Birth Registers, where there is therein degrading thereto, insult of his dignity, or where the name is in contradiction of religious creeds;
- (i) a born Child shall have the right to extract a birth certificate thereto, in the form prepared therefor, and deliver the same to his folks, without fees;

- (j) there shall be guaranteed , for a Child, the right to express his opinions and desires with every freedom, and to actually take part in the special judicial, administrative, social or instructional procedure, in accordance with the age of the Child and degree of his maturity ;
- (k) this Act ensures the protection of a male, or female Child, against all types and forms of violence, injury, inhuman treatment, or bodily, ethical or sexual abuse, or neglect or exploitation;
- (l) a Child shall enjoy all guarantees of the International Humanitarian Law, provided for in the ratified international conventions , agreements and protocols ;
- (m) a Child, who is alleged to have violated the Penal Code, or is charged therewith, or the same is proved against him, shall have the right to be treated in such way, as may be compatible with upgrading his sense of his dignity and status; and he is innocent, until his conviction is proved; and his trial aims at his social re-accommodation, . and shall not criminally be responsible, unless he attains twelve years of his age, but shall be subject to one of the care measures, in accordance with the provisions of this Act;
- (n) there shall be upon shoulders of the parents the primary responsibility of instructing the Child; and the State shall endeavour to provide the appropriate assistance to the family;
- (o) development and care of Childhood is a religious, human, patriotic and national obligation; and the natural family consisting of both spouses is the nucleus of the society, and it is the first best environment for upbringing Children;

- (p) custody is a right of the Child; and the Child right thereto shall not be renounced, where his parents refuse his custody.

### **Chapter III**

### **Health Care**

### **Application**

6. In cases not expressly provided therefor in this Chapter, the provisions of the Public Health Act, 2008, and any other law concerning human health shall apply.

### **Right of Child to breast-feeding**

7. A Child has the right to breast-feeding, for the period of two years, other than particular cases specified by the physician; together with continuing breast-feeding for the period of two years; and the State shall grant a suckling working mother a maternity leave for a period, to be specified by the laws and regulations of civil service.

### **Right of Child to immunization**

- 8.(1) A Child shall have the right to be immunized by serums and vaccines protecting from infectious diseases, at the competent health offices and health units, free of charge, as to such systems and dates, as the Minister of Health may specify, by a decision thereof; and the decision shall set forth the diseases for the protection against which immunization is made; provided that the State shall strive to provide immunization aids.
- (2) Child immunization shall be a duty upon his parents, or the person under custody, or guardianship of whom the Child is placed.

- (3) A Child may be immunized by protective serums by a private physician licensed to practise the profession; on condition that upon whom the duty of presenting the Child for immunization lies shall produce a certificate in proof of the same, to the health office, or health unit, before the end of the specified date.

#### **Health card**

9. Every Child shall have a health card, the data of which shall be registered in a special register, at the competent health office, and shall be delivered to the parent , or guardian of the Child, within one month, of the date of birth, as the laws and regulations of public health may specify.

#### **Health card presented**

10. The health card shall be presented upon every medical examination of the Child, at the Childhood Care Centres, the health centres or otherwise, by which the health condition of a Child shall be proved; and there shall be registered therein the immunizations conducted to the Child and the dates thereof.

#### **The card attached upon joining school**

11. The Child parent, or his guardian shall present the health card among the papers of the Child joining school, at the pre-university education stages; provided that the physician shall register therein the results of the periodical medical examination of the Child, and such as may occur in his health condition of diseases or afflictions; provided that it shall be kept in the school file.



### **Periodical medical examination procedure**

12. The Minister of Health, by a decision thereof, shall specify the procedure of periodical medical examination of school Children and the dates of conducting the same, in accordance with the laws and regulations organizing that.

### **Addition of substances inconsistent with specifications to Child food prohibited**

- 13.(1) No coloured or preservative substances, nor food additives shall be added to the foods and preparations specified for the nutrition of Children, unless they are identical to the conditions and specifications validated by the competent bodies.
- (2) No advertisement of the foods and preparations specified for nutrition of Children shall be made, save after their registration and obtaining a licence to circulate the same from the Ministry of Health.

### **Child right to primary health care**

14. A Child shall have the right to the provision of primary health care free of charge, at government hospitals and centres; as specified by health authorities.

### **Children protected from infectious diseases and provision of treatment free of charge in emergent cases**

15. A Child shall have the right to protection from infectious diseases, and provision of treatment in emergent cases, at the government hospitals and centres.

### **Medical examination in case of marriage**

16. Those desirous of marriage shall submit themselves to examination, to prove their freedom of diseases, in protection of the Child.

### **Children afflicted with mental or psychological diseases**

- 19.(1) A Child found in the street, and it transpires through inquiries his exposure to neglect, that he has no family and suffers from a mental, or psychological disease, shall be lodged with one of the specialized government hospitals.
- (2) The regulations shall specify the procedure that have to be followed and the bodies competent to lodge.

### **Sale of Tobacco volatile substances to Children prohibited**

18. There shall be prohibited sale, use or distribution of volatile substances, such as rubber adhesive and other narcotic substances, or alcohol to Children.

## **Chapter IV**

### **Social Care**

#### **Nurseries licensed**

- 19.(1) No person shall establish a Nursery , or change the site thereof, before obtaining a prior licence from the Ministry concerned.
- (2) The regulations, made under the provisions of this Act, shall organize Nurseries, and the procedure of licensing, specifications, control and supervision thereof; and the conditions, which have to be satisfied by those, who are licensed to establish Nurseries.

## Objectives of Nurseries

20. Nurseries aim at achievement of the following objectives :-
- (a) social care of Children, and development of their abilities and gifts;
  - (b) bodily, psychological, cultural and moral sound preparation of Children, in such way, as may be compatible with the aims of the society and its religious values;
  - (c) disseminate awareness between families of Children, to upbringing them in a sound way;
  - (d) strengthening and development of social ties between Nurseries and Children families.

## Employer bound to establish a Nursery

21. Every employer, who employs one hundred working women, and more shall establish a Nursery, in which there shall be satisfied the conditions and specifications, prescribed in the regulations made under the provisions of this Act.

## objectives of Children Development Centres

- 22.(1) There shall be established, at the various government levels, centres for Children development, which aim at the social, instructional and cultural upbringing of Children, through filling their leisure times by sound instructional means and styles.
- (2) Without prejudice to the generality of the provisions of sub-section (1), Children Centres shall have the following objectives :-
- (a) social, instructional and cultural care, through their leisure times and during holidays, and before the beginning of the school day and after its end;

- (b) complementing the message of the family and school in the Child care, and assisting the working mother in protecting her Children, against bodily and psychological neglect, and protecting them, against exposure to delinquency;
- (c) preparing the chances for a Child to grow in an integrated way, from all bodily, mental and emotional sides, to acquire new skills and reach the greatest amount of development of his potential abilities;
- (d) helping the Child to increase his study achievements, and knowledge and cultural comprehension;
- (e) strengthening the ties between the Child Development Centre and the Child family;
- (f) supplying the Child family with knowledge and awareness about Child instruction, and the factors of his upbringing, in accordance with valid instructional styles.

### Vagrancy

23. Vagrancy of Children shall not be deemed an offence punishable by law.

### Care measures for a vagrant Child

24. The competent bodies, in case of finding a vagrant Child, shall hand him over to whoever satisfies the moral guarantees for his care, in accordance with the following arrangement :-
- (a) his parents, or one of them;
  - (b) whoever has guardianship, or trusteeship thereon;
  - (c) one of his family members, or relatives;
  - (d) a Maintenance Family, to be entrusted with his care;
  - (e) an official body competent to care for Children.

### **Substitute care**

25.(1) Substitute care shall be presented to Children, who suffer from difficult family circumstances, which hinder their upbringing , or restitution to their natural families, in accordance with the following arrangement :-

- (a) relatives of the mother, or father ;
- (b) Maintenance Families, in accordance with ordinances of Islamic Sharia, and adoption in accordance with the Non-Muslims Personal Status Act; provided that the regulations shall specify the safeguards and conditions organizing Maintenance Families, and the categories benefiting thereby; .
- (c) Care Homes.

(2) The social care institutions such as the Zakat Fund, Social Insurance and otherwise of funds shall subsidize the Substitute Care Institutions and programmes.

(3) Upon selecting Substitute Care, due consideration shall be had to continuity of Child instruction, in accordance with his religious, ethnic, cultural and linguistic background, according to his beliefs.

### **Care Homes established**

26.(1) The Ministry shall establish Care Homes for the Children, who are deprived of family care ; and the regulations made under the provisions of this Act shall specify the tasks, functions and manner of organizing the same.

(2) Care Homes shall be the last haven for Children, who are deprived of family care.

### **Instruction Homes**

27. There shall be established Instruction Homes for delinquent Children, and the regulations shall specify the tasks, functions and manner of organizing them.

## **Chapter V**

### **Child Education**

#### **Child right to education**

- 28.(1) Every Child shall have the right to general education.
- (2) The State shall provide the capabilities for availing the chances of the compulsory basic education, free of charge.
- (3) The State shall endeavour to provide education free of charge, at the government secondary schools, for orphans, and the disabled and those of unknown parents.
- (4) The State shall endeavour to include, into the educational curricula, the following :-
- (a) national instruction;
  - (b) principles of Human Rights;
  - (c) grafting the spiritual and religious values.
- (5) In cases not expressly provided therefore in this Act, the provisions of the General Education ( Planning and Organization) Act, 2001, and the regulations made thereunder shall apply.

#### **Prohibited sanctions at Schools**

- 29.(1) No one of the following sanctions shall be inflicted on Children at schools :-
- (a) whipping, or beating;
  - (b) reprimand by expressions, which are degrading dignity;
  - (c) deprivation of attending the class, unless attendance of the pupil causes impediment to the progress of study;
  - (d) expulsion from the school during the progress of study .
- (2) The Ministry of Instruction and General Education shall specify such sanctions, as may be appropriate, for whoever contravenes the provisions of sub-section (1), under the regulations, to be made thereby in this respect.

### **Excellent Children rewarded**

30. Children at schools may be rewarded for academic excellence and cultural and artistic creation, as the regulations made by the Ministry of Instruction and General Education may specify.

## **Chapter VI**

### **Child Culture**

#### **Child cultural needs satisfied**

31. There shall be guaranteed for the Child the satisfaction of his cultural needs, such as literature, knowledge and information, and the same shall be connected to values of the society, in a framework of human heritage and the modern scientific and technological advancement .

#### **Libraries established**

- 32.(1) All the levels of government shall provide libraries for the Child, to be attached to Children Development Centres at towns, quarters and villages.
- (2)The regulations shall specify the conditions and procedure of establishment of Child libraries and organizing work thereat.

#### **Publication of some printed materials and**

##### **literary works prohibited**

33. There shall be prohibited the publication, exhibition, circulation, photographing or possession of any printed materials, or visual or audio artistic works, concerning the Child, which address his lower desires, or embellish therefor the conduct inconsistent with values and traditions of the society, or by nature encourage him to be delinquent .

### **Viewing shows organized**

- 34.(1) There shall categorically be prevented entry of Children into cinema houses, and viewing clubs, during the school day.
- (2) The regulations shall specify organizing viewing of shows for Children at cinema houses, viewing clubs and public places; and the responsibility of managers and supervisors of such places, and holding such shows, and those responsible for entry of the public, and the sanctions inflicted on those contravening, from owners and those responsible for the houses .

### **Advertisement of prohibited shows**

35. Managers of cinema houses, viewing clubs and similar public places shall advertise, on a conspicuous place, in both Arabic and English languages, by all the available mass media the shows viewing of which is prohibited for Children.

## **Chapter II**

### **Child Labour**

#### **Employment of Children organized**

- 36.(1) There shall be prohibited work of Children, who are under the age of fourteen years. Notwithstanding the provisions of sub-section (1), the Minister may exclude work of Children in agricultural works, which are not dangerous, or harmful to health.
- (2) A Child may join apprenticeship at industrial schools, and vocational education, and training institutes and centres, which are subject to the supervision of the State, where he attains fourteen years of his age.
- (3) In cases not expressly provided therefor in this Act, the provisions of the Labour Act, and the regulations made thereunder shall apply.



### **Works unhealthy to Child prohibited**

37. There shall be prohibited works by its nature or for the circumstances around may damage child health , safety or moral conduct as it is worst forms of child labour.

### **Employment of Children in some unlawful business prohibited**

38. There shall be prohibited employment of Children in any of the business of forced labour, sexual, or pronographic exploitation, or unlawful traffic, and exploiting, or using him in armed conflicts.

### **Medical examination conducted**

- 39.(1) An employer shall conduct medical examination to working Children, before joining work, to verify the extent of suitability of their bodily and health fitness for the required work.
- (2) The competent authority shall specify the medical approved body to conduct medical examination and issuing the required medical artifice .

### **Daily work hours**

- 40.(1) The daily work hours of a working Child shall not be more than seven hours, intercepted by one rest period, or more, not less in total, than one hour, in such way that the Child shall not work for more than four consecutive hours, and not remain at the place of work for a period, which is more than seven hours.
- (2) A working Child shall not work over time, or be employed on the weekly rest days, or official holidays.
- (3) In all cases Children shall not be employed or by night, between eight p.m. and seven a.m.

## Leave

41. A working Child shall be entitled to a paid leave according to laws and regulations regulating the same.

## Benefiting by social services

- 42.(1) A working Child may benefit by the workmen social services, which are compatible with his age.
- (2) The employer shall be bound to insure the working Child at the Social Insurance Fund; and present health and medical care, as to such manner, as the bodies of competence may specify, and train him on the manner of use of means of safety and vocational health, and control application thereof, and his benefiting by such means .

## Child training

43. An employer shall not assign the working Child with work, placing him under the control of a person, or persons from those possessed of experience in such work.

## Chapter VIII

### Employment or Participation of Children in Military Actions Prohibited

#### Recruitment of Children

- 44.(1) There shall be prohibited the recruitment of Children in the armed forces, or in armed groups, or employment thereof to participate in war actions.
- (2) The military laws and regulations shall specify the appropriate measures to whoever contravenes the provisions of sub-section (1).

## **Demobilization, rehabilitation and re-accommodation**

- 45.(1) The competent body of demobilization and re-accommodation shall guarantee the design of special programmes for the demobilization of Child soldiers, for social re-accommodation, and shall take a special care of the demobilized Child soldiers, during their presence at demobilization centres.
- (2) The competent body shall rehabilitate the child, who is the victim of armed conflicts, psychologically and mentally and re-accommodate him socially.

## **Chapter IX**

### **Exploitation of Children in Prostitution, Pornographic Materials and Forced Labour**

#### **Use of Children in prostitution and pornographic materials prohibited**

- 46.(1) There shall be deemed committed an offence whoever kidnapping of , traffic in and exploitation of Children in prostitution and pornographic materials, and removal of Children organs.
- (2) rape of Children.
- (3) sexual abuse of Children.
- (4) sexual harassment of Children .
- (5) the production, circulation, publication, import, export, exhibition, sale or possession of pornographic materials, relating to the Child..
- (6) employment of Children, for the purpose of sexual activities, for remuneration, or any of the forms of consideration.
- (7) Photograph by any means any child exercises actually or by imitation express sexual activities, or photographs of a child for gratifying sexual lust.

#### **Employment of Children in forced labour prohibited**

47. There shall be committed an offence whoever employ Children in traffic in women, of all the forms thereof; and no Child shall be

enslaved, or subjected to forced labour, or compelling him to perform work by force.

### **Children re-accommodation and rehabilitation**

- 48.(1) The Ministry shall take appropriate measures to achieve the physical and psychological rehabilitation, and social re-accommodation of the Child, who is the victim of any of the forms of neglect, exploitation, abuse, torture, or any of the forms of harsh treatment, or severe, inhuman, or degrading punishment, or armed conflicts.
- (2) Such rehabilitation and re-accommodation shall be conducted in such environment, as may strengthen the Child health, and self and dignity respect.

## **Chapter X**

### **Care of those Having Special Needs**

#### **Care and protection of a Child having a special need**

- 49.(1) Subject to the Disabled ( Care and Rehabilitation) Act, 1984, a Child having a special need shall have the right to social, health and psychological care, aiming at training him to depend upon himself; and the State shall protect him against any work, as may impede his education, or prejudice his health or his bodily, mental, spiritual or social growth.
- (2) A Child having a special need shall have the right to rehabilitation, by rendering the social, psychological, medical and vocational services; and the facilitation means, which have to be provided therefor, without consideration, aiming at enabling him to overcome the effects arising out of his disability, within the limits to the amounts allocated for such purpose in the general budget of the State, as to such conditions, as the regulations may specify.

## **Establishment of schools for Children having special needs licenced**

- 50.1) Establishment of schools, or classes for teaching Children having special needs may be licensed, in such way, as may be compatible with their abilities and readiness, as to such conditions and specifications, as the Minister of Instruction and General Education may specify.
- (2). The provisions of sub-section (1) shall not prevent the Children having special needs from entry of the actually existent schools .
- (3). The Ministry of Instruction and General Education, by a decision thereof, shall specify the admission conditions, study curricula and examinations systems.

## **Certificates granted**

51. Every Child, from those having special needs, who has been rehabilitated, shall be granted a certificate ,wherein there shall be set forth the vocation, for the practice of which he has been qualified, in addition to any other data, as the Minister of Labour may deem the addition thereof necessary.

## **Registration at labour offices**

52. The labour office, which lies within the local limits of jurisdiction, shall register the name of the Child, from those having special needs, who has been rehabilitated, into a special register, upon notification from the body, which has rehabilitated him.

## **Private employers bound to employ Children having special needs**

53. An employer, who employs fifty workmen, or more, whether they work in one place, or separate places at one town, or village, shall employ Children having special needs, who are nominated by labour offices, subject to labour laws; and the

private employer shall notify the competent labour office of the names of those appointed therewith, within one week, of the date of their receiving work.

### **Exemption from fees**

54. The facilitation and assisting means, and means of transport, which are necessary for Children having special needs, shall be exempted from all types of custom fees , upon approval of the Minister of Finance and National Economy.

## **Chapter XI**

### **Competent Justice and Judicial Organs**

#### **Family and Child Protection Unit**

55. There shall be established, 'under the provisions of the Sudan Police Act, 2008, specialized police for Children, to be known as the, "Family and Child Protection Unit", and the regulations made thereunder shall specify the budget and administrative system thereof.

#### **Functions of the Family and Child Protection Unit**

- 56.(1) The Family and Child Protection Unit shall have competence to :-
- (a) conduct inquiries in the contraventions attributed to Children, in accordance with the provisions of this Act, or any other law;
  - (b) take such measures, as may ensure guarding and protection of Children, against all forms of violation , and conduct inquiries, and submit the same to the Children Prosecution Attorneys Bureau;
  - (c) search for missing and kidnapped Children and escapees from their families, or instructional and charitable institutions, or any other institutions concerned with

Children affairs, upon the information issued by such bodies;

- (d) conduct the necessary co-ordination, with the bodies having competence, to present the social and psychological treatment, to victim and aggrieved Children and witnesses, upon what the inquiries and reasons for decision in the trial have reached;
- (e) conduct researches and statistics, by seeking the help of those specialized, on cases of delinquency and violations, in respect of Children, and submit the same to the bodies of competence, together with the appropriate recommendation with respect thereto.

### **Inquiry with Children**

- 57.(1) Upon inquiry with any Child, there shall attend his guardian, whoever may deputize therefor, whoever may stand for him, his advocate or the social researcher from the Social and Psychological Service Office, referred thereto in section 65.
- (2) Notwithstanding the provisions of sub-section (1), due regard, upon the impossibility of attendance of the Child guardian, whoever may deputize, or stand therefor, as far as possible .

### **Functions of the Social Service Office**

- 58. The Social Service Office shall have competence on the following, to :-
  - (a) submit recommendation of the appropriate measure, which the Office deems necessary to take, against a delinquent Child;
  - (b) prepare and submit reports about delinquent Children, and submit the same to the Prosecution Attorneys Bureau and the Court;
  - (c) visit the Child at Remand Homes, Social Institutions and Instruction Homes;

- (d) take all procedure and measures, which help the delinquent Child;
- (e) prepare the social and psychological file of the Child, preserve its secrecy; provided that it shall contain such information, as the regulations may specify.

### Arrest and detention

- 59.(1) No procedure of arrest, or detention shall be taken, against a Child, save after summoning the guardian, and no arrest warrant shall be executed, save by the Family and Child Protection Unit.
- (2) The Prosecution Attorney, or Magistrate, who has issued the arrest warrant, shall write a record, wherein he shall show the reasons, which justify the same, and set forth in the warrant all the social, psychological and instructional measures, which have to be taken, on part of the Family and Child Protection Unit, upon executing the arrest warrant.
- (3) The Family and Child Protection Unit, upon arrest of the Child, shall, as far as possible, forthwith notify both, or one of his parents, his guardians, or those, who exercise supervision over him.
- (4) No Child shall be detained, or kept, upon his precautionary detention, with adult persons.

### Remand Homes

- 60.(1) The Minister of Interior shall establish , at every local limits of jurisdiction, a Remand Home; belonging to the Ministry of Interior, to be allocated for Children, who are waiting for inquiry, or trial;



- provided that due regard therein shall be had to the international measures, which are agreed upon, as the regulations may specify.
- (2) Children, during the period of their remaining at Remand Homes, shall receive care and protection, and all types of legal, social, educational, vocational, psychological and medical aids, which are requisite therefor, subject to their gender, character and special circumstances.

### **Children Prosecution Attorneys Bureau established**

- 61.(1) There shall be established, under the provisions of the Criminal Procedure Act, 1991, and the Ministry of Justice ( Organization) Act, 1983, a Prosecution Attorneys Bureau, to be known as the, "Child Prosecution Attorneys Bureau", and shall have competence to supervise the inquiries, conducted by the Family and Child Protection Unit, in accordance with the provisions of this Act, and the regulations, made thereunder.
- (2) The Prosecution Attorneys Bureau shall give due regard to the good treatment of Children in the inquiries, which it supervises .
- (3) The Prosecution Attorneys Bureau shall be subject to specialized courses in the field of Sociology, Psychology, the laws and international agreements concerning Children, before the assignment of any one of them with any tasks, relating to Children.
- (4) The Prosecution Attorneys Bureau may seek the help of experts on Psychology and Sociology , to assist in any inquiries , as may be conducted thereby, whether the experts belong to official, or voluntary bodies.
- (5) Inquiry of the delinquent Children, or victims cases shall be conducted by the Child Prosecution Attorneys Bureau.
- (6) The Child Prosecution Attorneys Bureau may transfer cases to any body, as it may deem fit, to take such measures and procedure, as the body may deem fit.

## **Functions of the Child Prosecution Attorneys Bureau**

62. Subject to the provisions of the Criminal Procedure Act, 1991, and the Ministry of Justice ( Organization) Act, 1983, or any law replacing it the Child Prosecution Attorneys Bureau shall have the following functions, to :-

- (1) supervise inquiries in Children cases, and direct inquiry therein;
- (2) supervise the progress of the criminal suit;
- (3) address charge in the offences, committed against, or by Children;
- (4) conduct prosecution before the Court.

## **Child Court established**

63.(1) There shall be established, under the Judiciary Act, 1986, a court, to be known as the, "Child Court".

(2)The Child Court Magistrate shall be subject to specialized courses, in the field of Sociology, Instruction, Psychology and the styles of dealing with Children, and the laws and international agreements concerning the Child.

## **Functions of the Child Court**

64. In addition to any other functions, provided therefor in this Act, the Child Court shall be competent to consider :-

- (a) the cases submitted, before it on part of the Prosecution Attorneys Bureau, the Social and Psychological Service Office or the Child next-of-kin, with respect to Children , who are victims of violations;
- (b) the cases transferred thereto, by other courts, against delinquent Children;
- (c) transfer outside the judicial system.

## **Precautionary remand of a Child**

65. A Child may precautionally be remanded, by an order of the Child Prosecution Attorneys Bureau, or the Child Court Magistrate, at a Remand Home, where the circumstances of the Child, or the nature of the punishable act require the same.

## **Trial procedure**

- 66.(1) The Child Court shall apply the procedure, concerning trial, provided for in this Act; and in case non-provision for any procedural matter before it, the Child Court shall follow the UN Minimum Rules on Juvenile Courts, and Peking Rules, by which a circular is issued by the Chief Justice.
- (2) Notwithstanding the provisions of this Act, with respect to the procedure, which have to be followed by the Court, the procedure may take such form, as may not be followed in the ordinary trial procedure; and the Court may likewise convene at any appropriate place, or time, where the said Court deems there is an interest of the Child therein.
- (3) A child shall not be tried, save in the attendance of a person deputed by the Social and Psychological Service Office, and endeavor, as far as possible, to secure the attendance of his guardian, or whoever may stand therefor.
- (4) Trial of a Child shall not be conducted, save in the attendance of an advocate, or pleader therefor, as far as possible; and the Court may allow the attendance of any other person, as a friend.
- (5) The Court may exempt a delinquent Child, or the witness, from attending the trial by himself, where it deems that his interest requires the same.
- (6) Every procedure, which the law demands its service on a Child shall, as far as possible, be served on his parent, or guardian, whoever may be entrusted with care thereof, or his advocate; and

those shall have the right to contest, by all the available legal ways, the judgement passed against the Child.

- (7) Where the Court deems that the health, bodily, mental or psychological condition of the Child requires his examination, before determining the suit, it shall transfer him to the competent official medical bodies, together with staying the suit, pending the examination being made, and receipt of a report thereon.
- (8) Each of the Court Magistrate and the Prosecution Attorney shall visit the Remand Homes, Instruction Homes and the Social Care Institutions, situated within the local limits of their jurisdiction continuously, to be acquainted with the position of remanded, or sentenced Children; and any one of them may issue such directions, as he may deem fit.
- (9) Where a Child and adults jointly commit one act, his trial shall be separated; and the Child shall not be brought in the criminal trial of the adults. Where the same is not possible, a representative thereof shall be appointed to attend the trial sittings.

### **Visit to remand homes and social care institutions**

67. The prosecution attorney and magistrate of child court shall visit remand homes, instruction homes and social care institutions within their jurisdiction continuously to see Children arrested or convicted and any of them may take appropriate directives.

### **Sentences transferred from Criminal**

#### **Courts to the Child Court**

- 68.(1) A Criminal Court, in case of conviction of a Child, shall not pass any sentence, or measures against the Child, and shall send the record to the Child Court, or any body, as it may deem fit, to decide as the same may deem appropriate in respect thereof.
- (2) The Child Court, to which the copy of the trial record is transferred, in pursuance of the provisions of sub-section (1), may

order conducting any inquiries, or social researches, and summon the Child, before it, to consider taking such measures, as may be appropriate in respect thereof.

### **Reform measures for a delinquent Child**

69.(1) The Court may pass any of the reform measures, against the delinquent Child, namely :-

- (a) reprimand and warning;
- (b) placement under Social Probation, in his social environment;
- (c) binding by performing service to the society, or joining appropriate vocational, cultural, sports or social training courses;
- (d) lodging at Instruction Homes.

(2) The Court may inflict such reform measures, as it may deem necessary and appropriate; provided that the term shall not exceed attainment, by the Child , or the age of eighteen years.

### **Child age to be considered upon inflicting measures**

70. The Court shall have due regard to the age of the delinquent Child, appropriateness of the sentenced measure and the term thereof, for reform of the juvenile and socially rehabilitate him.

### **Loding at Instruction Homes**

71. the Minister of Interior shall establish Instruction Homes, for keeping the Children sentenced to reform measures, under judicial sentences, in accordance with the provisions of section 76(1)(d).

### **Lodging at Youth Homes**

72.(1) The competent Minister shall establish Youth Homes, in accordance with the provisions of this Act , and the regulations

made thereunder shall specify the budget and administrative system thereof.

- (2) There shall be lodged, at the youth Homes, the delinquent Children, who attain the age of eighteen years, and do not complete the term of the reform measure at the Instruction Homes.

### **Power of the Court to stop measures**

73. The Court, at any time, according to the condition of the delinquent Child, may ) exempt from measures, by a grounded decision, where it finds what warrants the same;

### **Reports of the Instruction Home**

- 74.(1) The Director of the Instruction Home shall present, to the Court, a report every three months, wherein he sets forth the condition of the delinquent Child, together with recommending in respect thereof.
- (2) The Court, upon recommendation of the Instruction Home, or any specialized body, may amend, or quash any term, according to sub-section (1) .

### **Appeal**

- 75.(1) The sentences and orders passed by the Child Court shall be subject to appeal before the Court of Appeal.
- (2) The Child parents, his guardian, whoever may be entrusted with his care or his advocate shall have the right to contest , by all the available legal ways, the sentence passed against the Child interest.
- (3) Regard, in constitution of the Court of appeal, shall be had to knowledge, by its Justices, of the Child affairs.

### Procedure in case of a victim Child

- 76.(1) Where it transpires, to the Child Court, in any proceedings before it, or before any other court, that the Child has been exposed, or may be exposed to danger, or any harmful influence, it may assign any specialized body, with the study of his case, and prepare the recommendation and the appropriate treatment thereof, and the body having competence on such treatment.
- (2) The Child Court shall pass the appropriate decision, in accordance with the recommendation of the body, referred thereto in sub-section (1).
- (3) A Criminal Court ,or any other court, before which a suit is submitted, which reveals the occurrence of an offence against a Child, shall write a record thereof, and submit the same to the Child Court.

### Principles of passing sentences

77. The Court , upon passing sentences, shall give due regard to the following principles :-
- (a) that the measure is appropriate to the circumstances and needs of the Child, and the act he has committed, and also the circumstances and needs of the society;
  - (b) it does not inflict restrictions upon the personal freedom of the Child, save after sufficient study; provided that such restrictions shall be limited to the lowest possible limit;
  - (c) that the Child is not deprived of personal freedom, save where it is proved that he has committed an act involving the use of violence, or persistence, and there is no other appropriate measure;
  - (d) the sentence of whipping is not inflicted on the Child;
  - (e) death sentence is not inflicted on the Child;
  - (f) that the Child interest is the purpose of the measures, to be inflicted thereon;