

National Woman Commission Act, 2063 (2006)

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Act Number 34 of the Year 2063

An Act designed to make provisions for the National Woman Commission

Preamble:

Whereas it is expedient to establish the National Woman Commission for the protection and promotion of the rights and interests of the woman and thereby effectively include them in the mainstream of development and making overall development of the woman establishing gender justice,

Now, therefore, the House of Representatives has made this Act in the first year of issuance of the House of Representatives Proclamation, 2063.

Chapter - 1

Preliminary

1. **Short Title and Commencement:** (1) This Act may be called "National Woman Commission Act, 2063".
(2) This Act shall come into force immediately.
2. **Definitions:** In this Act, Unless the Subject or the context otherwise requires, :-
 - (a) "Commission" means the National Woman Commission established under Section 3.
 - (b) "Chairperson" means the Chairperson of the Commission and the word also includes the member working as the Acting Chairperson.
 - (c) "Secretary" means the secretary of the Commission.
 - (d) "Prescribed" or "prescribed" means prescribed or as prescribed under the Rules framed under this Act.

Chapter - 2

Establishment and Formation of Commission

3. **Establishment of Commission:** A Commission with the title National Woman Commission has been established.
4. **Commission to be an autonomous and corporate body:** (1) The commission shall be an autonomous body with perpetual succession.
 - (2) The commission shall have a separate seal for its transactions.
 - (3) The commission may like an individual acquire, use, sell or manage otherwise the movable and immovable property.
 - (4) The commission may like an individual sue in its name and the commission may also be sued in its name.
 - (5) The commission may enter into contract and exercise power under the contract and perform liability thereof.
5. **Formation of the Commission:** (1) The commission shall be formed as under:
 - (a) A person appointed by the Government of Nepal -Chairperson
 - (b) Four persons appointed by the Government of Nepal -Member(2) There shall be a person from tribes, ethnic, a *from Dalit* and a *from Madhesi* in the appointment of member pursuant to part (B) of Sub-section (1).
6. **Qualification** : The following qualification shall be fulfilled to get appointed as or hold the post of chairperson and member of the commission:-
 - (a) Citizen of Nepal
 - (b) A Woman completed at least Forty years of age in case of Chairperson and at least Thirty-five years to the post of member.
 - (c) To the Chairperson a bachelor degree in any discipline and for at least seven years and to a member for at least five years important

contribution in the sectors of woman rights, welfare or gender justice or woman development or law or human rights.

(d) Not convicted in a criminal case involving moral turpitude.

7. **Appointment of chairperson and member:** (1) The Government of Nepal shall appoint the Chairperson and Member on the recommendation of the Committee formed under Sub-section (2).

(2) There shall be following committee to recommend for the appointment of the Chairperson and member:

- | | | |
|-----|------------------------------------------------------------------------------|--------------|
| (a) | Minister/State Minister of Ministry of
Woman, Children and Social Welfare | -Chairperson |
| (b) | Chairperson of the concerned Committee
of the Parliament | -Member |
| (C) | Member of National Planning
Commission (looking after Social Sector) | -Member |

(3) The Secretary of the Ministry of Woman, Children and Social Welfare shall function as a secretary of the committee formed pursuant to Sub-section (2)

(4) The procedure of the meeting of the Committee shall be as prescribed by the committee *per se*.

8. **Tenure of post:** The tenure of the post of Chairperson and member shall be of four years and they may be reappointed for one more term.

9. **Condition to vacate the post:** The post of chairperson or member shall be deemed to have been vacated in the following circumstances:

- (a) Lapse of tenure of the post.
- (b) Submission of Resignation from the respective post.
- (c) In case of adoption of resolution by the concerned committee of the

parliament for the removal from the post with the declaration that keeping in the post is inappropriate on the basis of in capacity or bearing bad character or misappropriation of amount of the commission.

- (d) Not deserving qualification pursuant to section 6.
- (e) Absence for upto three consecutive meetings of the commission without a reasonable notice.
- (f) Not deserving mental order; or
- (g) Death.

(2) The Chairperson or member being charged with pursuant to the Clause (c) or (e) shall be provided reasonable opportunity to present explanation.

10. Meeting and Decision of the Commission: (1) The meeting of the commission shall take place at least once a month.

(2) The meeting of the commission shall take place on such a date, time and venue as prescribed by the Chairperson.

(3) The quorum of the meeting shall be deemed to have been fulfilled in the presence of other two members including the Chairperson.

(4) The meeting of the commission shall be chaired by the chairperson and the senior most member out of the members shall chair the meeting in her absence.

(5) The decision of the majority shall be the decision of the meeting of the commission and the person chairing the meeting shall give casting vote in case of tie.

(6) The secretary shall certify the decision of the meeting of the commission and make available such decision to all the members of the commission.

Chapter - 3

Powers, Functions and Duties of the Commission

11. **Powers, Functions and Duties of the Commission** : (1) The Power, Function and Duties of the Commission shall be as follows:-

- (a) To formulate national policy and program concerning with the right and interest of woman and present it before the government of Nepal for execution.
- (b) To suggest the government of Nepal for compliance or execution by monitoring whether or not the existing law relating to right and interest of woman is complied with or whether or not the obligation under the international convention to which Nepal has been a party is executed in case of non-compliance or non-execution.
- (c) To review, monitor and evaluate the policy and program enforced to merge woman in the main stream of national development and recommend the government of Nepal for its effective implementation.
- (d) To increase or cause to increase awareness of the people against the discrimination and bad customs against the woman.
- (e) To analyze or cause to analyze the policy and program concerning with the different ministries whether or not it is effective in the perspective of gender justice.
- (f) To make recommendation and monitor thereof for the reforms by making research and study of gender equality, woman empowerment and existing laws relating to woman.
- (g) To visit, inspect and view the offices, bodies under the government of Nepal or the governmental or nongovernmental or private organization established under the existing law and make recommendation to the government of Nepal or the related bodies on

the matters such as functions and physical facilities of such offices or bodies relating to the protection of rights of woman.

- (h) To monitor whether or not the government or Nepal has sent the reports to be sent by Nepal pursuant to the provisions of international conventions and treaties to which Nepal has been a party.
- (i) To make essential arrangements to render essential legal aid to the woman who is helpless, victimized or deprived from woman's rights.
- (j) To launch public hearing as per necessity over the matters relating to the rights, interest and concerns of woman.
- (k) To formulate and approve annual program and budget of the commission.

(2) The commission may make essential investigation upon receipt of application from any person or any other sources over the following matters:-

- (a) Deprivation or stoppage of use of rights of woman.
- (b) Victimization of any woman due to any kind of violence or bad customs.

(3) The commission shall have following power in the course of initiating investigation pursuant to Sub-section (2) :

- (a) To avail information or statement by calling a person before the commission.
- (b) To make testimony of or collect statement of witness.
- (c) To order any person for the Submission of any deed or document or evidence.
- (d) To collect any deed or its copy from any governmental or public offices or request with the court for a copy.
- (e) To inspect the site or cause to do so as and when necessary.

- (f) To conduct public hearing program.
- (g) To pursue the essential preventive means for nonoccurrence of any incident on the basis of prior information.
- (h) To initiate for the legal action against the alleged person and monitor whether or not the action is taken.

(4) The commission may prescribe for reasonable time-limit for the presence of any person or Submission of any deed or collection of any evidence while making investigation pursuant to Sub-section (3).

(5) In case of identification through the investigation initiated pursuant to Sub-section (3) of any person to have committed any act pursuant Sub-section (2), the commission may to cause compromise according to need or issue directives to the concerned bodies to provide appropriate remedies, relief or compensation or reinstate in that regard or recommend for initiating other action to the concerned office, body or organization and monitor whether it has been accomplished or not.

(6) The concerned office, body or organization shall take or cause to take necessary actions in case of correspondence from the commission pursuant to Sub-section (4).

(7) The concerned body, office, organization or person shall promptly send documents or evidence demanded by the commission in the course of investigation pursuant to Sub-sections (2) and (3).

(8) It shall be the duty of the concerned body or organization to execute or comply with the recommendation made by the commission.

(9) Notwithstanding anything contained anywhere in this Section the commission shall not make interference over the *Sub-judice* matter.

12. Report to be Submitted: (1) The commission shall, prepare and Submit Report every year regarding actions initiated by it before the Minister/ State Minister for

Woman Children and Social Welfare.

(2) The Report pursuant to Sub-section (1) shall *inter alia* , insert the research and study, formulated policy or program, provided recommendation or suggestion, solutions for legal reform and description of amount spent for such action by the commission in the whole year.

(3) The Report prepared pursuant to Sub-section (1) shall be Submitted before the House of Representatives.

(4) The commission may publish the details of its functions every year for the information to the general public.

13. Powers, Function and Duties of the Chairperson and Member: (1) The powers, functions and duties of the Chairperson shall be as follows:-

- (a) To call and chair the meeting of the commission,
 - (b) To execute or cause to execute the decision made by the commission,
 - (c) To perform the role of the Chief of the commission over the actions of the commission except on personnel or financial administration, and
 - (d) To perform other functions as prescribed by the commission.
- (2) Powers, Functions and Duties of the member shall be as follows:-
- (a) To participate in the meeting of the commission,
 - (b) To be activate for the implementation of the programs undertaken by the commission, and
 - (c) To perform other functions as prescribed by the commission or the Chairperson.

Chapter – 4

Fund and Audit

14. Fund: (1) The commission shall have a separate fund.

(2) The following amount shall be deposited on the fund established pursuant to Sub-section (1):-

- (a) Amount received from the Government of Nepal,
- (b) Grant or Assistance received from the national association, organization or person,
- (c) Amount received from any foreign government, international association, organization or person, and
- (d) Amount received from any other sources.

(3) The commission shall have approval of the government of Nepal before obtaining amount pursuant to part (C) of Subsection (1).

(4) The amount to be obtained by the commission pursuant to Sub-section (1) shall be deposited in a commercial bank by opening account.

(5) The entire expenses of the commission shall be borne in from the fund established under Sub-section (1).

(6) The operation of fund shall be as prescribed.

15. Account and Audit: (1) The account of income and expenditure of the commission shall be maintained in accordance with the account system followed by the Government of Nepal.

(2) The audit of the commission shall be held by the Auditor General.

Chapter - 5

Miscellaneous

16. Office of the Commission: (1) The office of the commission shall be located in

Kathmandu Valley.

(2) The commission may open its branch offices inside the state of Nepal as per need.

17. Secretary: (1) There shall be a secretary in order to run the daily administration of the commission.

(2) The government of Nepal may deploy incumbent employee under civil service being at least the gazetted first class officer to work as the secretary of the commission.

(3) The secretary shall implement the decision of commission.

(4) The other powers, functions and duties of the secretary shall be as prescribed.

18. Remuneration, Conditions of Service and Facilities of the Chairperson and Member: (1) The Chairperson and member shall be the full time officials in the commission.

(2) The Chairperson and member are not entitled to work in other places during the period of holding a post in the commission.

(3) The remuneration, conditions of service and other facilities of the commission shall be as equivalent to remuneration, conditions of service and facilities of the Chief office bearer and members of other constitutional bodies.

19. Employees of commission: The employees shall be made-available to the commission needed to perform its work by the government of Nepal.

Provided that, the commission may appoint expert employees as *per* need by obtaining consent of the government of Nepal.

20. Delegation of Power: The commission may delegate some of its power to Chairperson, member, committee, Sub-committee or the officer level employee of the commission or the officer level employee of the government of Nepal.

21. **To perform as an Acting:** The available senior-most member in the commission shall work as the acting chairperson in case the post of chairperson falls vacant due to any reason until the appointment of another chairman.
22. **Oath:** The Chairperson shall take oath before the Chief Justice and other members shall before the Chairperson, Prior to holding the post as prescribed in the schedule.
23. **Liaison with the Government of Nepal:** The commission shall liaise with the government of Nepal through the Ministry of Woman, Children and Social Welfare.
24. **Committee Sub-committee or Working Team may be formed:** (1) The commission may form committee, Sub-committee or working team for a specific purpose by prescribing particular work and period.
- (2) The works or terms of reference of the committee, Subcommittee or working team pursuant to Sub-section (1) shall be as prescribed by the commission.
25. **The commission to be cooperated:** In case the commission, in discharging its functions, demands cooperation with any person, body or association it shall be the duty of the related all to cooperate accordingly.
26. **Saving for the work done with Good Intention:** No member, employee of the commission or any other deployed person by the commission shall be taken any legal action for the work done with good intention pursuant to this Act or Rules made hereunder.
27. **Power to frame Rules:** The commission may frame necessary Rules in order to implement the objectives of this Act.

Provided that, the advice of the government of Nepal shall be taken while making Rules regarding remuneration and facility.

Schedule
(Relating to Section 22)

Oath

I pledge with truth and dedication take oath in the name of God that I will perform the role and duty under the designation of the Chairperson/Member which I deserved by being honest with the Nepali people and existing constitution as well as other laws without fear, flattering, prejudice, malice or greed with the honesty and will not disclose any known fact during the discharge of duty on any condition of holding or non-holding post to anyone except so required while abiding law.

Date:

Signature: