International Centre for Integrated Mountain Development Act, 2040 (1983)

International Centre for Integrated Mountain Development

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Amendment
Republic Strengthening and Some Nepal Laws
Amendment Act, 2066, 2010\(^1\)
2066-10-7 (21 Jan. 2010)
Act Number 9 of the Year 2040 (1983)

An Act made to provide for provisions on International Centre for
Integrated Mountain Development

Preamble: Whereas, an International Centre has been established in Nepal as per the agreement made between the Government of Nepal and United Nations Educational, Scientific and Cultural organization (UNESCO) to carry out study, research and other necessary function in order to develop the mountain area of Hindukush Himalayan regions in an integrated manner, it is therefore expedient to provide for legal provisions to make the said Centre competent for performing functions as fully autonomous institution in international level; and

Whereas, it is expedient to provide for legal provisions on diplomatic immunities and privileges granted by the said agreement to the centre and its employees, representatives and experts;

Now, therefore, be it enacted by His Majesty the king Birendra Bir Bikram Shah Dev on the advice and with the consent of Rastriya Panchayat.

1. **Short Title and Commencement:** (1) This Act may be called "International Centre for Integrated Mountain Development Act, 2040 (1983)".

\(^1\) This Act came into force on 15 Jeshta 2065 (2008), Prasasti and the word "kingdom" has been deleted.
(2) This Act shall come into force immediately.

2. **Definition:** Unless the subject or context otherwise requires, in the Act:

   (a) "Centre" means International Centre for Integrated Mountain Development established in Nepal as per the agreement made between the Government of Nepal and United Nations Educational, Scientific and Cultural Organization (UNESCO).

   (b) "Agreement" means the agreement made between the Government of Nepal and UNESCO on 30th September 1981 at the Paris.

   (c) "Board" means the Board of Governors constituted in order to operate the Centre.

   (d) "Director" means the Director of the Centre.

   (e) "Employee" means Director, Deputy-director, employee, expert, advisor and consultant of the Centre.

3. **Centre shall be an autonomous body:**

   (1) The Centre shall be corporate and fully autonomous body with perpetual succession having international personality. The Centre shall not be directed (guided) by any government or institution other than the Board.

   (2) The Centre shall have its own seal and it shall be entitled to enter into an agreement and it may sue or be sued from its own name.

   (3) The Centre may acquire any movable and immovable property, entitlement, servitude, privilege or aid from the Government of Nepal or a foreign Government or government agency or a national, an international or a foreign agency, company, corporation or person through donation, charity, grant, will paper, substitution deed, sale, purchase, mortgage, lease or by any other manner or possess or hold such property or may keep such property under mortgage or rent or sell or donate.
(4) The Centre shall be operated without the object of gaining profit and shall be free from politics in respect of its management, employee recruitment and working operation.

4. **Functions, duties and powers of the Centre:** Not withstanding anything contained in the prevailing law, liabilities of the Centre shall be governed as per the agreement and the Statute contained in the said agreement.

5. **Venue of office:** (1) Office of the Centre shall be located in Kathmandu Valley or in any place of Nepal as per the decision of the Centre.

   (2) The Government of Nepal shall provide a suitable building for the Centre in case the Centre bears the expenditure for the establishment of its office.

   (3) In case the Centre decides to construct its own building, the Government of Nepal shall provide one and half Hector land in free of cost in a suitable place for the construction of building.

   (4) The Government of Nepal shall manage for required electricity, water, telephone, telegram, road, drainage and other basic facilities in the building or land provided pursuant to Sub-section (2) or (3) by the Government of Nepal.

   (5) Office building and land of the Centre shall be used only for carrying the objectives of the Centre.

   (6) The total responsibility in respect of the maintenance as well as protection of the office building of the Centre and its facility and equipment shall lie in the Centre only.

6. **Inviolability of office building, premises and property of the Centre:** (1) The office building, premises and the property of the Centre shall be inviolable.
(2) It shall be the obligation of the Government of Nepal to provide security against any encroachment or damage of office building, premises and property of the Centre and to prevent any act which may jeopardize the law and order situation thereof.

7. **Protection of the property of the Centre:** (1) The Government of Nepal shall protect the property of the Centre throughout Nepal from any search, seizure, takeover, requisition, encroachment, interference and loss in any manner by any one.

8. **Inviolability of archives and instrument (document):** (1) The archives and all types of document of the Centre wherever may have been located within Nepal shall be inviolable.

   (2) The formal correspondence, document and publication of the centre shall be freed from censorship and such document as well as any other postal goods, or sealed pouch, box and *Adat* of the Centre shall not be opened or prevented.

   Provided that, in case any goods other than the document of the Centre is contained in such sealed pouch or *Adat,* it shall be governed in accordance with the law of Nepal.

9. **Exemption from tax:** The capital, income and assets of the Centre shall be exempted from income tax, house and land tax, land revenue, transport vehicle tax, interest tax, development tax, registration fee and any other direct or indirect tax, charge or tariff imposed by the government or local body.

   Provided that, service charge to be imposed on electricity, water, drainage, telephone, telegram, transport, postal and any other services shall not be exempted.
10. **Facility relating to export and import**: No custom tariff, sales tax, charge or restriction related to export and import shall be imposed on any goods to be exported and imported for the use of the Centre itself.

    Provided that, the particulars of goods exported or imported by the Centre shall be submitted to the custom office.

11. **Tax return**: The Centre shall not be entitled to claim return back of the excise duty which is indirectly included in goods purchased by the Centre or custom tariff imposed for import and the amount of sales tax.

12. **Facility related to foreign currency**: (1) Notwithstanding anything contained in the prevailing law, the Centre may maintain and operate a fund and account of foreign currency within Nepal or in any foreign country and may transfer or exchange such fund within or outside Nepal or from a country to another country or may convert from one foreign currency to another currency.

    (2) The procedures to be followed by the Centre while consuming facilities granted pursuant to sub-section (1) shall be as determined by the mutual negotiation between the Government of Nepal and the Centre.

13. **Immunity of foreign representative or expert**: (1) The following representatives or persons who come to Nepal for participating in a conference or meeting of the Centre or are deputed in Nepal to carry out any act and activity of the Centre shall be entitled to exercise diplomatic privileges and immunities in accordance with the United Nations Conventions on diplomatic Immunities and privileges of UN specialized agencies, passed by UN on 21 December in 1947 in which Nepal became a party on 28 September in 1965 while arriving and residing in Nepal and in the course of departure from Nepal;

    (a) Representative, staffs or experts of UNESCO; and
(b) The representatives of a foreign government or a foreign institution who is invited by the Board member or the Centre.

(2) The Gratis Visa shall be provided to the representatives or persons mentioned in Sub-section (4) to enter into Nepal.

14. **Privileges and immunities of officials and employees of Centre:**

(1) Government of Nepal shall, as per respective diplomatic class and the prevailing law, provide diplomatic privileges and immunities to the members of Board, Director, Deputy-director of the Centre when they are staying in Nepal in the course of carrying out the acts and activities of the Centre.

(2) The Government of Nepal shall provide diplomatic privileges and immunities to the employees of the Centre when they are in Nepal in the course of discharging their duty related to the Centre as per the United Nations Conventions on diplomatic immunities and privileges of UN specialized agencies which was passed on 21th November in 1947 and Nepal has become a party on 28 September in 1965.

(3) The Government of Nepal shall, on the request of Centre, provide immunities and privileges pursuant to this section.

(4) The Centre shall submit the details of name, designation, nationality as well as the job nature of the person eligible to acquire privileges and immunities pursuant to this Act and modification thereof, if any, to the Ministry of Foreign Affairs of Nepal.

(5) The concerned person shall, as per necessary, show his/her identity card issued by the Centre to acquire the privileges and immunities pursuant to this Section.

(6) This Section shall not be deemed to have caused any hindrance to the Government of Nepal, if it deems necessary, for providing additional
privileges and immunities more than the privileges and immunities as mentioned in this Section.

(7) Notwithstanding anything contained in this section, no privilege pursuant to this section shall be provided to a citizen of Nepal.

15. **Sale of goods of the Centre**: (1) In case the Centre sells any goods or transfers such goods free of cost for which custom tariff, sales tax, charge or excise duty was exempted or refunded, the Centre shall pay such custom tariff, tax, charge or excise duty, as the case may be, to the Government of Nepal as per the prevailing rate based on the current value of such goods.

(2) Among the goods imported by the Centre pursuant to Section 10, in case the Centre decides to sell the prohibited or restricted goods which is not necessary for the Centre, it may sell or transfer such goods only to the Government of Nepal or to any other person approved by the Government of Nepal.

16. **Liability related to Damage/loss**: (1) The Centre and any employee shall not be liable to any loss or damage incurred in the course of discharging one’s function and duties.

Provided that, a person, suffered from any loss or injury from any act or activity of any employee which was carried out by negligence or with intention, may submit his/her claim to Centre through the Government of Nepal.

(2) In case a person suffered from a particular type of loss or damage from the act or activity of the Centre while discharging its duty, the Centre shall carry out necessary arrangement to provide reasonable compensation for such loss or damage to the person.

(3) The Centre shall, with consultation of the Government of Nepal, provide compensation to be given pursuant to Sub-section (2), through insurance company or any other manner.
17. **Ban on asylum:** Notwithstanding anything contained in this Act, the Centre shall not be entitled to provide asylum, within its office building or premises to any one to be arrested by the law of Nepal or to be extradited to any other country or a person seeking to avoid the legal and judicial proceeding against him/her.

18. **No abuse of the privilege and immunities:** (1) Privileges and immunities granted pursuant to this Act shall be deemed to have been granted only in the interest of the Centre. It shall be the duty of the Director to prevent from any abuse of such privilege and immunity.

    (2) In case the Government of Nepal considers that any privilege or immunity granted pursuant to this Act has been abused, it shall give a notification in writing thereof to the Centre.

    (3) Upon receiving the notification pursuant to Sub-section (2), the Director shall hold discussion with the concerned authority of the Government of Nepal and shall give information in writing to the Government of Nepal that necessary action was carried out in this regard.

19. **Dissolution:** In case the Centre is dissolved, entire property and liability of the Centre shall be as mentioned in an agreement made between the Government of Nepal and the Centre in this regard.

20. **Liaison with the Government of Nepal:** (1) The Centre shall liaise with the Government of Nepal through the Ministry of Education and Culture.