

A model of a Private Bill

Nepal Marriage Bill, 2011

A Bill submitted to end the demerits remaining in the contemporary marriage system, to manage for a timely marriage system and also to make provisions for woman's right regarding the marriage.

Be it enacted by His Majesty the King on the advice of the Advisory Council:

1. (1) This Act shall be called "Nepal Marriage Act, 2011".
 - (2) This Act shall come into force from the date it is passed.
 - (3) This Act shall come into force throughout Nepal.
2. **Definitions:** Unless the subject or context otherwise provides, in this Act,-
 - (1) "Bigamy" means to marry with another woman by a husband even he has a wife and to marry with another man by a wife even she has a husband.
 - (2) "Child - marriage" means a marriage of a girl who is below the age of Eighteen years and marriage of a boy who is below the age of Twenty One years.
 - (3) "Unmatched (*Anamel*) marriage" means a marriage where the age of marrying couple has not been taken into consideration.
 - (4) "Widow-marriage and widower (*Vidhur*) - marriage" means a marriage after the death of husband and a marriage after the death of wife, respectively.
 - (5) "Illegal marriage" means a marriage which is concluded between a woman and a man who has suffered serious physical injury as referred to in the Act relating to *Kutpit* or a marriage with a

pregnant woman upon concealing the fact or a marriage concluded upon deceiving or using force.

3. **Restriction on Bigamy and Penalty** : (1) Hereafter, no one shall enter in to bigamy. Such a marriage shall be nullified and parties to the marriage shall be liable for an imprisonment of One year. The *Purohit* (Priest) engaged in conducting marriage and other accessories shall be liable for a fine of Two Hundred Rupees each.

Restriction on Child marriage and Penalty: (2) Hereinafter, no one shall enter into the child marriage. Such a marriage shall be nullified and the parties and a person involved shall be liable for an imprisonment from Three months to One year. The *Purohit* (Priest) and other accessories shall be liable for a fine of Two Hundred Rupees each.

Restriction on marriage with excessive age difference and penalty:

(3) Hereinafter, no one shall enter into a marriage with excessive age difference. Such a marriage shall be nullified and parties to the marriage and person involved shall be liable for an imprisonment from Three months to Two years upon taking into consideration of the situation. The *Purohit* and other accessories shall be liable for a fine from Two Hundred Rupees to Five Hundred Rupees each. The age difference in the age of the groom and bride shall not exceed more than Seven years.

Exception: A minor shall not be imprisoned and fined as referred to in the above sections; they shall be released upon nullification of their marriage.

Provision on widow and Bidhur marriage (4) If the following conditions are fulfilled, hereinafter, one may enter into a widow or widower *Bidhur* marriage:

- (a) If the widow has not crossed the age of Thirty Five years and she dose not have any children.

- (b) If the widower has not crossed the age of Forty Five years and he does not have any children.

Restriction on illegal (Abaidh) Marriage and penalty: (5) Hereinafter, no one shall enter into an illegal marriage. The parties to the marriage and person involved in it shall be liable for an imprisonment from Three months to One year and such a marriage shall be nullified.

5. **Mandatory conditions for a marriage:** It shall be mandatory to fulfill the following conditions by both the parties to enter into a marriage.

- (1) Both parties should have consent for the marriage.
- (2) None of parties should have a husband or wife.
- (3) None of the parties should be suffering from insanity, Tuberculosis, Leprosy, Paralysis and impotency at the time of marriage.
- (4) The groom should not be less than Twenty-one years of age and the bride should not be less than Eighteen years of age.
- (5) Both the groom and bride should not be *sapind* and *sagotri*. The issue of generations marriage to which shall not be concluded in the *sapind* and *sagotri* shall be decided in accordance with their customary practice.

6. **Age-limit for the marriage:** A woman shall not enter into marriage when she crosses the age of Forty Five years and a man shall not do the same when he crosses the age of Fifty years. One who violates this provision shall be liable for a fine upto One Hundred Rupees on the discretion of the judge.

7. **Withdrawal of martial right:** In a case where the husband and wife do not want to live together and to divorced; they may file a petition before the court for their separation and the court may permit separation in the

following conditions. Provided that, in such a situation they shall not be entitled to enter into a marriage:

- (i) If one of the spouse leaves the other party since Two years,
- (ii) If any of the spouse commits cruel behaviour against the other party and it may raise security issue of any or both the parties,
- (iii) If one of the spouse has gone mad,
- (iv) If one of the spouse is suffering from leprosy,
- (v) If the husband keeps second wife or wife keeps second husband or engages oneself in prostitution.

8. Conditions for a divorce: Any marriage, even it has been concluded before the commencement of law (this Act), may be declared void; in a case where any of the spouse raises any or all the following reasons:

- (1) If a husband has kept second wife or a wife has kept second husband.
- (2) If one of the spouse has converted his or her religion.
- (3) If one of the spouse is suffering from leprosy and there seems no possibility of cure upto Three years.
- (4) If one of them is suffering from madness and there seems no possibility of recovery upto Three years.
- (5) If one of the spouse is disappearing since Three years.
- (6) If the decree of withdrawal of marriage (separation) has been received and it has crossed Two years.

9. Property right of the couple: (1) After marriage, both the husband and wife shall have equal right on the property and none of them shall be

entitled to transfer ownership of property without the consent of the other party.

(2) In a separation period, distribution of income of a property shall be made on equality basis.

10. Protection of the children: In a case of separation or divorce, the minor children shall stay with the mother and the expenditure for their livelihood (*Palan Posan*) and education shall be borne by the father.

11. Prohibition on *Daijo* and right of the daughter on partition of property: No one shall give and take any *Daijo* except the gift such as One or Two pairs of clothes and ornaments to daughter. A person who gives *Daijo* shall be liable for an imprisonment of Three months and one who so receives shall be liable for an imprisonment of Six months.

(2) Both the son and daughter shall have equal right on the parental property. If, no son is there, the daughter shall have exclusive right on the parental property, in case no heir (successor) of the son exists.

(3) A son living with the parents shall be entitled to the property of the parents which they received as partition-share property.

12. Prohibition on unnecessary (*Fajool*) spending in marriage: No one shall go with more than Twenty Five *Janti* nor shall spend more than Five Hundred Rupees in a marriage. One who violates this Section shall be liable for a fine from Five Hundred Rupees to Five Thousand Rupees.

Objectives and Reasons

Marriage is the most important occasion of life. But in our county, marriage system has different fallouts which is challenging dignity of the women; and damaging the moral fabric of the country and society by virtue of different misconducts.

It is expedient to submit this Bill before the Council to increase the standard of the character of the society and to prevent from injustice to the women caused by social evils like bigamy, now therefore I, hereby, submit this Bill.

Aswin 28, 2011 B.S.

Tara Devi Sharma

Member Advisory Council

NEPAL LAW COMMISSION