



Child Protection Model Law

Best Legal Practices:

Protection of the Child's Best Interests

5th Draft, September 2011

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Chapter 1 – Principles and Definitions.

Article 1 - Objectives of the Law.

(1) *Emphasizing* the inherent value of children as individual, unique, dignified, and self-determined human beings and full right citizens,

Realizing the necessity of guidance and education for children to develop all their inherent potentials and to become active members of society,

Acknowledging the vital role of children for nation building and the maintaining of a well-functioning democratic and just society, including the right of children to take part in all actions affecting them so they may act as authentic participants in this society,

Recognizing the devastating effects of all forms of neglect, abuse, maltreatment, and exploitation on a child's physical, psychological, intellectual, emotional, and social development,

The objective of this Law is to protect children's best interests from any negative effect by –

- (a) Identifying the responsibilities of parents, families, society, and the state in children's upbringing, care, and protection;
- (b) Defining different acts and omissions that negatively affect the child's best interests such as neglect, abuse, maltreatment, and exploitation; and
- (c) Providing the relevant services for child victims, including medical, psychological, and legal assistance, rehabilitation and reintegration measures, and means of intervention and compensation.

(2) In order to give effect to this Law, all members of society are called upon to participate in the protection of children. Child protection shall be a primary objective in all governmental, legislative, judicial, and administrative proceedings. The private sector shall be encouraged to advance the protection of children by developing rules of corporate social responsibility and codes of conduct. All efforts aimed at protecting children shall bear in mind the growing importance of new technologies, especially the internet, and their benefits to a child's upbringing as well as their potential use to harm children.

Article 2 – Definitions.

(1) A child under this Law is any person who has not attained 18 years of age. A different age of majority may apply in the circumstances prescribed by this Law. In case of doubt about the majority or minority of a child, minority status shall be presumed. Ignorance regarding the age of the child shall be excluded as a defense.

(2) For the purpose of this Law –

- (a) “Neglect” shall mean the intentional or involuntary non-exercising of duties and responsibilities to adequately care for and supervise a child and to provide for the child’s basic physical, intellectual, emotional, and social needs;
- (b) “Abuse” shall mean any intentional or willful act or omission by a parent, guardian, care-giver, or other person in a position of trust or authority causing or likely to cause physical, psychological, or emotional harm to the child;
- (c) “Maltreatment” shall mean any intentional or willful act resulting in physical, psychological, or emotional harm to the child or any omission by a parent, guardian, or care-giver to protect children from such harm, and in general all forms of violence, aggression, cruel, degrading, or humiliating treatment of a child;
- (d) “Exploitation” shall mean -
- (i) Sexual exploitation, including commercial sexual exploitation of children in the form of child prostitution, child sex tourism, child pornography, and child trafficking for these purposes and non-commercial sexual exploitation, in violation of Chapter 5 of this Law;
 - (ii) Economic exploitation, including child labor, forced begging, domestic servitude, and other services in violation of Chapter 6 of this Law; and
 - (iii) Other forms of exploitation, including all forms of slavery or practices similar to slavery, debt bondage or servitude;
- (e) “Sexual abuse” of children shall mean any –
- (i) Engagement in sexual activities with a child under the age of consent;
 - (ii) Engagement in sexual activities with a child in abuse of a position of trust or authority such as that of parent, guardian or care-giver;
 - (iii) Encouragement, seduction, or coercion of a child to participate in sexual activities;
- (f) “Sexual activities” shall mean sexual intercourse and any other act performed on or in front of a child where the presence or participation of the child is for the purpose of the sexual gratification of a person;
- (g) “Parents” shall mean the natural or adoptive parents of a child;
- (h) “Guardians” shall mean any legal representative of the child other than natural or adoptive parents;
- (i) “Care-giver” shall mean anyone other than a parent or guardian who factually cares for a child, due to a professional or non-professional relationship, in a permanent or temporary manner.

Article 3 – Scope of Protection.

This Law aims to protect the child’s best interests from any negative effect, including but not limited to acts or omissions constituting neglect, abuse, maltreatment, or exploitation of children such as –

- (a) Impairing the health, well-being, or physical integrity of a child, including the use or threat to use any form of violence or aggression;
- (b) Damaging the moral or psychological integrity of a child by threatening, frightening, intimidating, or humiliating the child;
- (c) Neglecting or acting in negligent manner in front of a child, particularly one lacking a stable and safe family environment;
- (d) Depriving a child of basic education or vocational training;
- (e) Abducting, selling, or trafficking of a child for any purpose in any form;
- (f) Committing or participating in the sexual abuse of a child, particularly by family members, guardians, care-givers or any other person who has a close relationship with the child;
- (g) Causing the sexual exploitation of children, through producing or using sexual goods or services involving a child, including child pornography, child prostitution, child sex tourism, and trafficking in children for these purposes;
- (h) Causing the economic exploitation of children, especially the worst forms of child labor, child labor not in accordance with the regulations of this Law, and disregard for a child’s right to play and engage in leisure;
- (i) Inducing the participation of a child in or the exposure to any exploitative activities or activities that are harmful to the child’s physical, mental, moral, and educational development;
- (j) Failing to protect a child affected by armed conflict and other situations of unrest and instability, such as the non-protection of civilian children and the recruitment of children in armed forces, of a child refugees, internally displaced or migrant children;
- (k) Failing to protect a child under suspicion of violating the law, in judicial detention, or involved with the justice system as a victim or witness.

Article 4 – Principles.

(1) The protection of the child’s right to life shall be the primary obligation for any person, institution, or other body dealing with children. The child’s right to survival and development, meaning the physical, psychological, intellectual, emotional, and social development and well-being of a child shall be protected to the maximum extent possible.

(2) In all actions concerning children, whether undertaken by any person, private or public institution, or other body in application of this Law, the best interests of the child shall be a primary consideration. To ensure the best interests of the child the following principles shall be observed –

- (a) The protection of the child's right to life, development, health, and safety and the guarantee of the child's dignity, honor, and personality shall be the fundamental objective of any such act;
 - (b) The family shall be primarily responsible to care for and to protect children; the State shall assist families with this obligation and intervene only when the family is unable to protect children from exploitation;
 - (c) Permanency shall be a key goal, choosing the least intrusive intervention in the life of the child to assure stability of the child's personal relationships and social environment and to guarantee the continuity of the child's education, training, or employment;
 - (d) Parents or guardians of the child shall participate in all stages of the proceedings unless it is contrary to the child's best interest;
 - (e) Administrative and judicial decisions affecting a child and their implementation shall happen timely and without unreasonable delay; and
 - (f) All decisions, initiatives, and approaches falling under the scope of this Law, shall be made on a case-by-case basis, taking into account the individuality, age and maturity, native language, sex, sexual orientation and gender identity, health status and special abilities of the child and aiming to preserve the ethnic, racial, religious, and cultural identity of the child.
- (3) Every child is entitled to the same rights and level of protection without discrimination on the grounds of her/his or of her/his parents' or guardians' age, race, sex, sexual orientation, gender identity, nationality, ethnic or social origin, language, religion, socio-economic position, family status, familial relations, health, disability status, or political, religious, or other opinion.
- (4) When determining the best interests of the child, the child's views and wishes, in accordance with the age and maturity of the child, shall be taken into consideration. This requires that –
- (a) The child receives adequate information about the proceedings and decisions, in a manner and language that the child can understand;
 - (b) The child receives the necessary assistance to express her/his views and wishes;
 - (c) The child understands the importance and potential effect of her/his participation in the proceedings;
 - (d) The child is informed about the outcomes of each stage of the proceedings; and
 - (e) The child is given the opportunity to respond to the proceedings and decisions.

Article 5 – International Law.

The protection of children under this Law shall at a minimum guarantee the standard of protection provided by the Convention of the Rights of the Child and other international conventions ratified by this State. International law shall be used as a source of interpretation of this Law.

Chapter 2 – Implementation and Application.

Article 6 – National Child Protection Policy and Highest Child Protection Agency.

(1) The Highest Child Protection Agency (HCPA) shall be established. It shall have the status of a legal person. Its overall function shall be to coordinate, monitor, supervise, and encourage the activities of the Child Protection Committees (CPCs) and all child protection service providers. The composition, organization, and mandate of the HCPA shall be determined by law/regulation.

(2) The HCPA shall coordinate all child protection activities in this State and advice on formulating the national child protection policy, specifically by –

- (a) Organizing and coordinating the implementation of all child protection policies;
- (b) Proposing to the legislative/executive organs and taking part in the deliberations of draft legislative acts in the field of child protection;
- (c) Preparing and bringing into effect national and regional programs to ensure child protection by providing the necessary financial resources and allocating them amongst the CPCs;
- (d) Guaranteeing that all members of the HCPA and the CPCs possess the necessary expertise to perform tasks related to child protection and receive continuing education about recent developments in the area of child protection; and
- (e) Informing the public about its activities and about incidents where children's best interests are at risk aiming to ensure the progressive advancement of children's rights and welfare in this State.

(3) Throughout all its activities, the HCPA shall take into consideration the research carried out in accordance with Article 7 of this Law. It shall consult with the CPCs and with representatives from all subordinated governmental and non-governmental child protection service providers on a regular basis.

(4) The HCPA shall be responsible for monitoring and supervising the CPCs, specifically by assessing the reports submitted by the CPCs on a regular basis.

(5) The HCPA shall report on all its activities to a legislative/executive body on a regular basis. This report shall address cases where children's best interests are at risk, such as child neglect, abuse, maltreatment, and exploitation, their root causes and the appropriate responses in accordance with this Law, and the general child policies. It shall be made available to the general public.

Article 7 – Research, Prevention, Training Activities, and Technical Assistance.

The HCPA shall conduct and coordinate research and training activities and provide technical assistance as part of a preventive approach to guarantee the protection of children's best interests.

These activities shall create awareness for the issues, understanding and addressing their root causes. This shall include especially –

- (a) The execution, promotion, and coordination of research on national incidences where children's best interests are at risk, such as cases of child neglect, abuse, maltreatment, and exploitation, on an interdisciplinary and inter-institutional level;
- (b) The analysis of such research to better understand the economic, social, and/or cultural root causes of these incidents and to develop policies to protect the child's best interests;
- (c) The establishment of a constructive dialogue between the HCPA, the CPCs, the child protection service providers, academia, experts in the field (including teachers, medical professionals, and child-care workers), and representatives from civil society on the issue of child protection;
- (d) The provision of technical assistance, such as administrative and logistical support, to such experts in order to effectively plan, improve, develop, and carry out programs and activities aimed at protecting children based on the research findings with a specific focus on the prevention of cases of child neglect, abuse, maltreatment, and exploitation;
- (e) The development and implementation of awareness-raising activities through national conferences and seminars, especially by integrating the mass media, including print media, television, radio, and online media in the process;
- (f) The development of training activities, including on the provisions of this Law and its implementation, for professional and volunteer personnel in the fields of education, medicine, law enforcement, judiciary, social work, and other fields relevant to child protection to increase their knowledge about the various forms of child neglect, abuse, maltreatment, and exploitation, to facilitate the investigation of cases, and the identification of victims and offenders; this shall include the integration of such issues in the curricula of institutes of higher education in the fields of education, social work, medicine, and law and of police academies;
- (g) The encouragement of private-sector initiatives to promote children's best interests, including the enactment of codes of conduct;
- (h) The education of children and adults on the rights of children to have their best interests protected, including through the development and dissemination of adequate training material;
- (i) The education of children and adults on the available protection mechanisms for child victims and witnesses, including the established formal response system; and
- (j) The enactment of the required legislation to establish and carry out all relevant research, training activities, and technical assistance.

Article 8 – Child Protection Committees.

(1) Child Protection Committees (CPCs) shall be established in each regional district. Their establishment, organization, and competences shall be defined by law/regulation.

(2) The CPCs shall be responsible for the implementation of the national child protection policy and the child protection measures provided for in this Law. In cooperation with governmental and non-governmental child protection service providers, the Committees shall establish an operating system of child protection measures as provided for in Chapter 3 of this Law to implement and coordinate all activities, including but not limited to:

- (a) Organizing a formal response system to receive and coordinate reported cases where a child's best interest is at risk;
- (b) Maintaining a helpline and/or websites to advise and assist actual or potential child victims;
- (c) Managing programs of support and assistance to parents, other family members, and guardians who find difficulty protecting the child's best interests or who are unable or unwilling to exercise appropriate care.
- (d) Managing a system of safe accommodation for actual or potential child victims;
- (e) Operating centers of medical and psychological assistance for actual or potential child victims;
- (f) Establishing programs of reintegration and rehabilitation for child victims;
- (g) Coordinating with the system of free legal assistance available to children; and
- (h) Coordinating with the system of Child Courts established in Chapter 8 of this Law.

(3) Means of regular coordination with the subordinate governmental and non-governmental child protection service providers in charge of implementing the measures in accordance with Paragraph (2) shall be set up. To this end, the CPCs shall administer a network of child protection service providers, including representatives from organizations offering safe accommodation, medical services, psychological counseling, and legal aid to children as well as social workers, specialized police officers, court personnel, and representatives from schools and other educational institutions.

(4) The CPCs shall report on all its activities to the HCPA on a regular basis.

Article 9 – Child Protection Service Providers.

(1) Child protection service providers shall carry out the system of child protection measures established by the CPCs in accordance with this Law. Service providers shall include governmental and non-governmental child protection organizations and institutions, support families, and individuals. These services shall include education and leisure activities, programs of support and assistance to parents, other family members, and guardians, measures of investigation and intervention in cases where a child's best interests are at risk, medical assistance, psychological counseling, legal aid, and safe accommodation for actual or potential child victims.

(2) In order to establish a child protection institution or organization or to render individual child protection services, a license must be obtained from the CPCs in coordination with the HCPA. The requirements for the application to and the granting of licenses shall be specified by law/regulation.

- (3) In order to obtain a license, service providers must abide by certain minimum standards of safety and hygiene as specified by law/regulation to protect the security, health, and optimal development of children.
- (4) Any person who wants to provide child protection services shall show clear criminal records, specifically with regards to offenses of child sexual abuse, child sexual and economic exploitation, child trafficking, and violation of care and education obligations. Any person who committed an offence against a child in violation of this Law shall not be employed by a child protection organization or institution and may not offer services as part of a support family or as an individual.
- (5) All persons offering child protection services shall receive adequate and continuous training to prepare them for their work with children.

Article 10 – Financial Responsibilities for HCPA and Child Protection Committees.

- (1) The State shall allocate a sufficient amount of its budget to fund the activities of the HCPA and the CPCs.
- (2) If a case of child protection requires the intervention of the CPCs, parents or guardians may be ordered to pay for the protection and maintenance of the child, specifically the costs of the child's stay in a place of safe accommodation or in alternative care, if they dispose over the necessary financial resources.

Chapter 3 – Child Protection Measures.

Article 11 – Formal Response System and Child Helpline.

- (1) A formal response system shall be established to receive and coordinate cases where a child's best interest is reported to be at risk. This response system shall include measures of emergency medical and psychological assistance and possibilities to place the child in a safe environment. The response system shall be operated by specifically trained child protection service providers.
- (2) A national child helpline free of charge to which children can turn to ask for advice and support shall be established. Its existence shall be widely publicized. Through the national helpline, children shall be informed about their possibility to submit their case to the formal response system.
- (3) Alternative mechanisms such as websites and the use of social media can be established instead or in addition to the child helpline.

Article 12 – Reporting Obligations.

- (1) Any family member, care-giver, or other person who becomes aware of a situation or act which causes or is likely to cause significant harm to the child's best interests, shall be obliged to immediately report the same to the police or any other competent domestic authority. At request of the authority, any such person is obligated to communicate all information that is likely to facilitate the investigation and to identify perpetrators or victims.
- (2) Any person who becomes aware of a situation or act which causes or is likely to cause significant harm to the child's best interests in the course of exercising their profession or occupation, shall immediately report the same to the police or any other competent domestic authority irrespective of any requirement of occupational secrecy. At request of the authority, any such person is obligated to communicate all information that is likely to facilitate the investigation and to identify perpetrators or victims.
- (3) Anyone providing such information in good faith shall be exempt from civil or criminal liability which may be linked to the act of reporting. They shall have to right to special protection if necessary for their personal safety and security.
- (4) The confidentiality of the information provided in accordance with paragraphs (1) and (2) of this Article shall be guaranteed. The personal details of the family member, care-giver, professional, or other person who provides the information and those of the affected child shall not be revealed. Reports may be made anonymously.

Article 13 – Investigation and Intervention Obligations; Order of Removal.

- (1) The CPCs shall have a duty to facilitate the investigation of cases where a child's best interest is reported to be at risk and the prompt intervention guaranteeing the maximum safety and protection of the actual or potential child victim.
- (2) A child protection service provider who is entitled by law/regulation with an obligation to intervene and who is led to believe on reasonable grounds that a child's best interests are at risk may search the location in which the child may be staying to verify the circumstances.
- (3) A child protection service provider who is entitled by law/regulation with an obligation to intervene and who is led to believe on reasonable grounds that a child's best interests are at risk in the place the child is staying may order the child to be removed, to be placed in alternative care, and to be temporarily kept in such place of safety (order of removal).

Article 14 – Safety Order and Supervision Order.

- (1) After an order of removal has been issued, the case shall be brought before a competent child court without undue delay. The court shall investigate the circumstances and issue a safety order. This order shall decide whether or not the child be kept in the place of safety. The order shall also determine a long-term solution regarding the stay and custody of the child.
- (2) The court may order that parents or guardians pay for the accommodation of the child in the place of safety.
- (3) If the child is not ordered to stay in the place of safety, the court may issue a supervision order. The order shall place the child under the supervision of a designated child protection service provider and it shall be aimed at preventing any significant harm being caused to a child whilst she/he remains at the family home in the custody of his parents or guardians.

Article 15 – Right to Safe Accommodation.

- (1) Child victims and children whose best interests are at risk shall be entitled to find accommodation in a place of safety. This right shall include temporary and long term accommodation of the child in such a place of safety and the relevant aftercare.
- (2) To guarantee this right, various forms of alternative care shall be established by law/regulation. They shall be operated by governmental or non-governmental child protection service providers or in cooperation of both. Funding shall be allocated by the State in accordance with Article 10.
- (3) Alternative care shall comprise -
 - (a) Informal care, meaning any private arrangement provided in a family environment, whereby the child is looked after on an ongoing or indefinite basis by relatives or other

persons close to the child in their individual capacity, at the initiative of the child, her/his parents, or other person without this arrangement having been ordered by the competent CPC or child court;

(b) Formal care, meaning all care provided in a family environment which has been ordered by the competent CPC or child court, and all care provided in a residential environment whether or not as a result of administrative or judicial measures;

(c) Family-based care, meaning -

(i) kinship care within the child's extended family or other persons close to the child, and

(ii) foster care, where children are placed by the competent CPC or child court in the domestic environment of a family other than the child's that has been selected, qualified, approved, and supervised for providing such care;

(d) Residential care, meaning all residential care facilities and institutions, including emergency shelters and group homes; and

(e) Supervised independent living arrangements for children.

(4) In choosing the appropriate place of alternative care, the child's views and wishes shall be heard and respected.

(5) Accommodation in a place of safety shall not involve the deprivation of liberty, meaning any form of detention or imprisonment or the placement of a child in a place of alternative care, from which this child is not permitted to leave at will.

Article 16 - Administration of Alternative Care.

(1) All care facilities, institutions, and private persons must receive authorization from the competent CPC. The CPCs shall administer a registry of all authorized institutions, facilities, and private persons providing alternative care. Rendering services without the required authorization and registration shall constitute an offence punishable by law. The authorization shall be regularly reviewed by the competent CPC.

(2) Personnel working in the care facilities or institutions and private care-givers, shall be adequately trained to care for and educate children. Training shall include the specific vulnerability of children to exploitation and the rights of children to be protected from exploitation.

(3) All facilities, institutions, and private homes providing alternative care shall abide by certain minimum standards of safety and hygiene as specified by law/regulation to protect the security and health of children. No authorization shall be granted to individuals or an institution or facility where personnel cannot guarantee the requirements of Article 9 (3) and (4). In case of a violation of these requirements, an authorization previously granted shall be revoked.

(4) Comprehensive and up-to-date records shall be maintained regarding the administration of alternative care services, including detailed files on all children in their care.

- (5) An independent inspection and monitoring mechanism for the operation of alternative care providers including regular on-site inspections, controlling the safety and hygiene standards and the staff performance, shall be established. A reporting procedure on allegations of misconduct by any staff member shall be in place.
- (6) Children in alternative care shall have access to a mechanism where they can file complaints or concerns regarding their treatment or conditions of placement. This mechanism shall be accessible to parents and those responsible for children in alternative care.

Article 17 – Principles of Alternative Care.

- (1) Removal of a child from the care of her/his family shall be seen as a measure of last resort and shall be temporary and for the shortest possible duration. Preference shall be given to placing the child in family-based care.
- (2) Contact with the child's family and other persons close to her/him shall be encouraged and facilitated. To allow for a continued contact with the parents, guardians, or other persons close to the child, the possibility of children to spend the weekends with their families, guardians, and other persons shall be provided. Special attention shall be paid to facilitate the contact of children with their parents when the children are in alternative care due to parental imprisonment or prolonged hospitalization.
- (3) In order to guard the principle of permanency and continuity, all decisions concerning alternative care shall aim to maintain the child as close as possible to her/his habitual place of residence in order to facilitate contact and potential reintegration with her/his family and to minimize disruption of her/his educational, cultural, and social life.
- (4) Care-givers shall ensure the health, safety, and physical and psychological well-being of the child and the child's rights to education and vocational training, to leisure and play, and to other means of protection in accordance with this Law.
- (5) Decisions to place a child in alternative care shall be regularly reviewed and the child's return to parental care shall be facilitated. Children in alternative care shall be prepared to assume an independent life and integrate fully into the community. The appropriate after care and follow up with children once they leave alternative care shall be ensured.
- (6) Appropriate measures shall be taken to ensure that children in alternative care are not stigmatized during or after their placement.
- (7) The State shall adopt an overall deinstitutionalization strategy which allows for the progressive elimination of large residential care facilities and the replacement by family-based care. Care standards ensuring the quality and conditions conducive to the child's development, such as individualized and small-group care, shall be established in residential care facilities and institutions.

Article 18 – Medical and Psychological Assistance, Rehabilitation and Reintegration Measures.

- (1) A child who has been victimized by a violation of this Law shall be provided with free medical assistance in order that the child regain physical and mental health and recover from the physical or mental trauma she/he may have experienced. The child shall be provided with free assistance in order to reintegrate into society.
- (2) Medical assistance shall include the necessary physical emergency treatment and psychological counseling as well as long-term rehabilitative measures.
- (3) Reintegration measures shall be tailored to the specific needs of the child and the experienced type of suffering with the goal of enabling a dignified return of the child to her/his family, community, and social life. Such measures shall include medical and psychological care as well as educational and vocational consultation and training. The child shall be afforded continued mentoring and guidance to avoid revictimization and social exclusion.
- (4) Measures as described in paragraphs (2) and (3) of this Article shall take place in an environment favorable to the safety, health, self-esteem, and dignity of a child and shall carefully guard the child's right to privacy. Measures shall include the protection of the child from confrontation with the alleged perpetrator, including the accommodation of the child a place of safety and the psychological preparation for possible future encounters.

Article 19 – Legal Assistance and Access to Justice.

- (1) A child who has been victimized by a violation of this Law shall be afforded legal assistance for the realization and protection of her/his rights. For the purpose of this Law, legal assistance shall include legal representation and advice on the rights of the child and on legal procedures. In enabling the child to have legal assistance, a social worker should be present at all stages of the proceedings.
- (2) In order to ensure the child's access to justice, it shall be provided that –
 - (a) Professional legal assistance is free of charge if the child has no legal representation already;
 - (b) The CPCs decide on the person in charge of legally representing the child while no consent of the parents or guardians is required to obtain such legal representation;
 - (c) Legal assistance is afforded in a zealous and diligent manner and adheres to the principles of non-discrimination and the best interests of the child, including informing the child about the legal proceedings in a way that the child understands;
 - (d) The privacy of the child is protected and the child's identity is not released; and
 - (e) Other necessary protective measures for child victims and child witnesses are established in accordance with Chapter 8 of this Law.

(3) Children accused of having violated the law shall have their cases heard by special children's courts and shall receive the required protection in accordance with Chapter 8 of this Law.

Article 20 – Right to Full Compensation.

(1) A child who has been victimized by a violation of this Law has the right to be fully compensated for any damages suffered. This shall include fair and adequate compensation for –

- (a) Moral damages, resulting from physical injury and psychological harm,
- (b) Material damages, including expended labor during the time of exploitation,
- (c) Lost opportunities of education and vocational training, and
- (d) Any other costs that the child may incur due to a violation of this Law such as for medical, physical, psychological, or psychiatric treatment, including long-term therapy or rehabilitation, for legal services, housing, and transportation.

(2) A child whose rights have been violated according to this Law shall have the direct right to enforce her/his claims for compensation in criminal, civil, or administrative procedures.

(3) This right to full compensation shall not be subject to a statute of limitation when the child seeks compensation for a case involving sexual abuse or sexual exploitation.

(4) A child shall be informed about the right to full compensation in a manner and language that the child can understand.

Article 21 – Forfeiture of Assets.

(1) Anyone who violates a provision of this Law shall forfeit all revenues and assets acquired through such acts and omissions. The possibility of a forfeiture of revenues and confiscation of any assets resulting from acts which violate this Law shall be established.

(2) Forfeited assets shall be used in a fund to be disbursed in programs providing for reintegration and rehabilitation measures according to Article 22.

Article 22 – Victim Compensation Fund.

If compensation is not fully available from the offender and assets forfeited, the State is responsible for guaranteeing full compensation. For this purpose, a victim compensation fund shall be established and it shall be administered by the HCPA. A child victim shall be entitled to receive compensation from the fund irrespective of her/his nationality. The court shall inform a child

victim, her/his parents or guardian and her/his lawyer about the procedures for claiming compensation.

Chapter 4 – Protection of Children in the Family and Community.

Article 23 – Family Responsibilities.

- (1) The family being the fundamental group of society and the natural environment for the growth, well-being, and protection of children shall be primarily responsible for the care and upbringing of a child. The family shall ensure that children grow up in an atmosphere of happiness, love, and understanding which promotes the development of the child's full potential.
- (2) Parents, other family members, and guardians shall protect the child's right to life and development and respect the child's dignity, honor, and personality. Methods of upbringing shall value and protect the individuality of the child and the sex, sexual orientation and gender identity, health status and special abilities, and the ethnic, racial, religious, and cultural identity of the child. The views and wishes of the child shall be taken into account in accordance with the age and maturity of the child.
- (3) Parents, other family members, and guardians are responsible for protecting children from all acts and situations that put the child's best interests at risk.
- (4) Parents, other family members, and guardians shall have the duty to –
 - (a) Provide good guidance, direction, and assistance for the child and prepare her/him for a self-dependent and responsible life in society;
 - (b) Respect and promote the child's right to education, health, and well-being;
 - (c) Defend the rights and interests of the child protected by law; and
 - (d) Ensure that in the temporary absence of a parent, the child shall be cared for by a competent person.

Article 24 – State Responsibilities.

- (1) The State shall ensure that families have access to forms of support in the care-giving role. Parents, other family members, or guardians who find difficulty in providing for the child's basic physical, intellectual, emotional, or social needs, or who are unable or unwilling to exercise appropriate care, shall be afforded the necessary assistance.
- (2) Where the family is unable to provide adequate care for the child and puts the child's best interests at risk, the State shall be responsible for protecting the child's best interests and ensuring appropriate alternative care in accordance with Articles 15 - 17. Specifically, the State shall be responsible for protecting children from parental neglect, abuse, sexual abuse, maltreatment, economic and all other forms of exploitation, by parents, other family members, and guardians.
- (3) In situations where staying in the parental home jeopardizes the safety and well-being of the child, and where assistive measures prove to be contrary to the child's best interests, it shall be the

responsibility of the competent child protection service provider to promptly provide a child with temporary care and assistance, and to arrange a long-term or permanent solution for the care and custody of the child.

Article 25 - Children Deprived of a Protective Family Environment.

- (1) The best interests of children deprived of a stable and protective family environment shall be protected. This includes children whose parents or guardian cannot be found, are imprisoned or deprived of their liberty in any form, or dead, and children living without the constant care of their parents or guardian, such as street children, children expelled from home, or children who left their parental homes by their own choice.
- (2) These children shall have the right to be placed in alternative care. Articles 23 and 24 shall apply to any person exercising temporary care or custody over a child.

Article 26 – School and Vocational Training.

- (1) It is prohibited to deprive a child of her/his right to education.
- (2) The HCPA and CPCs shall cooperate with the educational institutions to develop curricula that promote the harmonious intellectual, physical, psychological, emotional, and social development of the child to achieve her/his full potential through –
 - (a) An education based upon the individual child’s interests and talents, which includes the creation of special conditions for the advancement of children with disabilities and children with unusual talents or outstanding abilities;
 - (b) An education which creates favorable conditions for the development of the child’s personality and prepares her/him to lead a responsible life; and
 - (c) An education which develops respect for human rights and fundamental freedoms, for the child her/himself and for others, and for the natural environment.
- (3) Methods of maintaining discipline and order shall be based on a sense of mutual respect and justice and shall be in accordance with Article 27.
- (4) Children attending school, other educational or vocational facilities, kindergarten or nursery shall be protected against physical and psychological maltreatment, sexual abuse, violence, humiliation, and exploitation from teachers, administrative managers, and schoolmates. In particular –
 - (a) Teaching and administrative staff may not enforce corporal punishment in violation of Article 27;
 - (b) Instruction shall not promote hate or violence;
 - (c) Teachers and administrative staff shall obviate hostile and unfriendly relations between schoolmates and any other condition which may hinder a child’s ability to fully participate in the school or vocational training institution and to develop her/his specific talents; and

- (d) A child shall not be forced or allowed to engage in any activity that is dangerous to her/his personal safety or health.
- (5) The principles under this Article shall also apply to institutions of private education.

Article 27 – Prohibition of Corporal Punishment.

- (1) It shall be prohibited to subject a child to torture or other cruel, inhuman, or degrading treatment or punishment.
- (2) Corporal punishment and disciplinary measures that weaken the child's dignity, including all forms of physical and psychological violence, and other behavior likely to humiliate the child, shall be prohibited. All disciplinary measures shall be reasonable and proportionate according to the age, the physical and mental conditions, and the maturity of the child.
- (3) The HCPA in cooperation with the CPCs shall ensure the promulgation of –
 - (a) Education and awareness-raising programs concerning the deleterious effects of corporal punishment; and
 - (b) Programs promoting non-violent ways of discipline at homes and schools.

Article 28 – Protection of the Right to Privacy.

- (1) The child's right to privacy shall be protected from malicious, arbitrary, or unlawful interference which is likely to harm the child's dignity, honor, or reputation.
- (2) Privacy shall include the child's right to maintain friends, secrets, opinions, beliefs and a religion without the undue influence of others, including parents or guardians. The child's written correspondence, use of a telephone and other means of communication, and her/his medical records and health-status shall remain confidential unless stated otherwise in this Law.
- (3) The advertisement or dissemination of any information on a child or the child's parents or guardians which is likely to cause damage to the mind, reputation, dignity, or any other interest of the child shall be prohibited.

Article 29 – Leisure and Play.

- (1) The child's right to leisure, recreation, and play appropriate to her/his age, physical and psychological development shall be protected. The child's participation in sports, cultural events, art, and other leisure activities shall be promoted.

(2) Any forcible or harmful involvement or the misuse of children for political or religious activities, and any forcible or harmful involvement in social, cultural, and sporting events and in contests in which the child's appearance is evaluated shall be prohibited.

Article 30 – Harmful Customary Practices.

(1) A child shall be protected against any social, cultural, religious, ritual, or traditional practice that dehumanizes the child or is injurious to the physical or psychological well-being, health, or development of the child.

(2) In particular, infanticide, sex selective abortions, female genital mutilation, subjection of a child to a dowry transaction, forced impregnation, and virginity testing shall be considered injurious to the physical or psychological well-being, health or development of the child.

(3) A minimum age for marriage shall be established by law. The marriage of a person under this age shall have no legal effect.

Article 31 – Health.

(1) The physical and psychological health, well-being, and development of children shall be protected. Access to health, medical assistance, care, and treatment shall be guaranteed.

(2) Parents and guardians shall be prohibited from intentionally refusing any required preventive or necessary medical exam and treatment from their child regardless of their religious and moral beliefs. A list of the required preventive or necessary medical exams and treatments shall be created by the HCPA and it shall at a minimum include the recommended immunization and any essential medical, surgical, or other remedial treatment that is necessary to guarantee the health of the child.

(3) In case of such refusal, a court may order the parents or guardians to provide the child with the required treatment. The court shall also be competent to order the child to be removed from the parents' or guardian's home and to be provided with the required treatment.

(4) Without prejudice to the progress of science, any type of scientific experimentation that is detrimental to the child's life, health, or personal development shall be prohibited even if the child and/or her/his parents or guardians consent to the procedure.

Article 32 – Narcotic Drugs and Harmful Substances.

(1) Children shall be protected from the use of narcotic drugs, alcohol, tobacco products, toxics, psychotropic substances, and other substances that are declared harmful by the HCPA.

- (2) The use or engagement of children in the production, distribution, or trafficking of such substances, and the bringing of a child to places where such substances are sold, is prohibited.
- (3) Appropriate protective and preventive measures, including advocating a healthy way of living and discouraging any kind of substance abuse, shall be established and implemented by the HCPA and the CPCs.

Article 33 – Public Locations and Entertainment Events.

- (1) The circumstances and times at which children may be present in restaurants, bars, movie theaters, and other public locations during night hours shall be regulated by law/regulation.
- (2) Children shall not be allowed to enter night clubs and comparable entertainment establishments, gambling rooms and other gambling facilities. Participation in public lotteries shall be restricted to fun-fairs, folklore festivals, and comparable events. The accessibility of online gambling shall be restricted for children.
- (3) The competent CPC can impose on an operator of a public event the requirement to restrict access for children in general, or for children below a certain age, if the event has the potential to negatively impact the physical or psychological well-being of children.
- (4) If a child is present at a location as described in paragraphs (1) to (3) of this Article, a child protection service provider may ask the child to leave the place and transfer the child to her/his parents or guardians, or, if they are unavailable, temporarily put the child into alternative care.

Article 34 – Media.

- (1) Children shall be protected from publications, films, video games, music, broadcasts, or other kinds of electronic or written media that are harmful to their health, well-being, or development.
- (2) No individual or organization shall show, sell, rent, or disseminate by any other means to children books, newspapers, magazines, and other types of publications, including films and recordings of pornographic, erotic or violent content, or which promote cruelty or discrimination, including racial, religious, sexual, national, and ethnic discrimination or which are otherwise pernicious to children.
- (3) It shall be prohibited for children to attend any showing of such materials.
- (4) The mass media, including print media, television, radio, and online media, shall actively contribute to promote the protection of children by conducting awareness-raising activities in accordance with Article 7 (e) and by advising the public on the potential negative impacts an exposure to media can have on children.

Article 35 – Children belonging to Minority Groups.

- (1) Children belonging to national, ethnic, religious, and linguistic minorities shall be protected from exploitation. This requires *inter alia* –
 - (a) Promoting respect for the difference of all children, irrespective of their provenance;
 - (b) Allowing and facilitating the maintenance of a child’s language, literature, culture, religion, tradition, and custom, provided that this is not in violation of Article 27 of this Law; and
 - (c) Providing special assistance to children belonging to minority groups and their parents or guardians, enabling them to enjoy the same opportunities as other children regarding their social integration and personal development.
- (2) Any kind of stigmatization or discrimination of children belonging to a minority group is prohibited. In cooperation with the HCPA, the State shall promote the elimination of prejudices and stereotypes.
- (3) In particular, it is prohibited to –
 - (a) Restrict or exclude the child from full, active, and effective participation and inclusion in the life of society; and
 - (b) Deny opportunities for education, development, health, and self-realization equal to those of children not belonging to a minority group.

Article 36 – Children with Disabilities.

- (1) The right of children with disabilities to full and equal enjoyment of all human rights and fundamental freedoms shall be protected. The protection of the right to life and development of children with disabilities require specifically -
 - (a) Respect for differences and acceptance of persons with disabilities as part of human diversity and humanity, and for the evolving capacities of children with disabilities;
 - (b) Availability of free or affordable health care for children with disabilities of the same range, quality and standard as other health care programs;
 - (c) Availability of qualified medical assistance and treatment, including appropriate corrective and rehabilitative methods and devices;
 - (d) Provision of early identification and intervention programs, as well as services designed to minimize and prevent further disabilities;
 - (e) Promotion and availability of treatments, devices and programs enabling a child with disabilities to maintain her/his maximum personal mobility and independence;
 - (f) Promotion of alternative means of communication for children with disabilities;

- (g) Dismantling of physical barriers that hinder the enjoyment of rights by children with disabilities in the public sphere; and
 - (h) Provision of special assistance and care in accordance with the child's specific needs to the child and the child's parents or guardians.
- (2) Any kind of abuse, maltreatment, exploitation, stigmatization, or discrimination of children with disabilities shall be prohibited. In cooperation with the HCPA and the CPCs, the State shall promote the elimination of prejudices and stereotypes.
- (3) In particular, it shall be prohibited to –
- (a) Restrict or exclude the child from full, active, and effective participation and inclusion in the society;
 - (b) Restrict her/his right to live with her/his parents and in the community; or
 - (c) Deny opportunities for education, development, health, and self-realization equal to children without disabilities.
- (4) The education of children with disabilities shall be equal in quality, scope, and duration to the education of other children. Integration with other children shall be the primary goal. It shall be guaranteed that –
- (a) Children with disabilities are not excluded from free and compulsory primary education, and from secondary education, on the basis of disability;
 - (b) Children with disabilities receive the adequate technical support to facilitate their communication and free mobility to ensure participation and inclusion in the school community;
 - (i) Forms of communication used shall include alternative scripts, Braille, sign language, and any other means of communication necessary for the child;
 - (ii) Forms of mobility used shall include the use of crutches, wheelchair access in schools, or any apparatus which provides the child with the ability to move;
 - (c) Effective individualized support measures are provided in an environment that maximizes academic and social development, consistent with the goal of full inclusion;
 - (i) Individualized support measures shall include assigning a trained professional to remain with one child throughout the school day; and
 - (ii) The establishment of separate classrooms where children with disabilities receive more personalized attention necessary to follow the general instructions;
 - (d) Children with disabilities have equal access with other children to participation in play, recreation, leisure, and sporting activities.
- (5) The principles of Article 9 shall apply for all institutions and organizations dealing with children with disabilities.

Article 37 – Prohibition of the Abduction, Sale of, and Trafficking in Children.

(1) The abduction, sale of, and trafficking in children for any purpose or in any form shall be prohibited and established as punishable offenses. The prescribed penalties shall be stringent and commensurate with those prescribed for comparably grave offenses.

(2) Abduction of children shall mean –

(a) Unlawfully removing a child from her/his place of residence by means of force, threat, deception, abuse of power, or enticement to a place under the actor's or a third person's control, or

(b) Unlawfully taking a child away from the legal custody of the child's parents, guardian or care-giver,

whether committed, facilitated, or coordinated inside the territory of the State or involving transit to or through the State. This shall include cases of abduction in which one of the actors is a parent of the child.

(3) Sale of children shall mean any act or transaction whereby the custody over a child is transferred by a person or group of persons to another for remuneration or any other consideration for the purposes named under paragraph (4). This includes the offering, delivering or accepting, by whatever means, a child and improperly inducing consent for any of these purposes.

(4) Trafficking in children shall mean the recruitment, transportation, transfer, harboring or receipt of children, whether or not by means of the threat or use of force, other forms of coercion, abduction, fraud, deception, the abuse of power or a position of vulnerability, or the giving or receiving of payments or benefits to achieve the consent of the parents, guardian, care-giver or any other person having control over the child, for the purpose of exploitation, including the following –

(i) Purpose of economic exploitation, forced labor, including child begging, exploitative participation in sporting events, and slavery as defined in Chapter 6 of this Law,

(ii) Purpose of sexual exploitation, prostitution, sex tourism, and pornography;

(iii) Purpose of organ removal;

(iv) Purpose of illegal adoption;

(v) Purpose of illegal drug production and distribution;

(vi) Purpose of illegal scientific experiments; and

(vii) Any other illicit purpose.

(5) Article 39 shall apply regarding attempt and aggravated circumstances of these offences. Jurisdiction for these offenses shall be established in accordance with Articles 46 of this Law.

(6) Child victims of abduction, sale, or trafficking shall have the means of protection established in Chapter 3. Prevention activities carried out according to Article 7 shall include conducting research into the root causes of child abduction, sale, and trafficking and raising awareness on the issue.

Chapter 5 – Protection of Children from Sexual Exploitation.

Article 38 – Protection of Children from Sexual Exploitation.

(1) Children shall be protected from all forms of sexual abuse and sexual exploitation. All forms of sexual abuse and sexual exploitation of children shall be established as punishable offenses in accordance with this Chapter. This shall include but not be limited to the following acts –

- (a) Engaging in sexual activities with a child under the age established by law as the age at which a child is understood to be able to consent to sexual activities (age of consent);
- (b) Engaging in sexual activities with a child in abuse of a position of trust or authority, such as that of parent, guardian, or care-giver;
- (c) Encouraging or seducing a child to undertake or participate in sexual activities by making a financial or any other promise of compensation or coercing a child to undertake or participate in sexual activities;
- (e) Participating or assisting in the use of a child for the purpose of commercial sexual exploitation in the form of child prostitution, child sex tourism, child pornography, or child trafficking for these purposes; or
- (f) Deliberately exposing a child to sexual activities or pornography.

(2) The prescribed penalties must be stringent and commensurate with those prescribed for comparably grave offenses.

(3) The competent domestic authorities shall establish the age at which children may consent to sexual activities.

Article 39 – Attempt and Aggravated Circumstances.

(1) The attempt to engage in any of the acts prohibited by this Chapter shall render the person so attempting subject to punishment under the law.

(2) Participation in the form of procuring, observing, allowing, or otherwise aiding or abetting any of the acts prohibited by this Chapter shall render a person doing the same subject to punishment under the law.

(3) Aggravated circumstances to any of the offenses established by this Chapter shall apply in cases in which –

- (a) At the time the offense is committed the child has not reached the age of consent;
- (b) The offense is committed on a regular basis or by an organized group or by a repeat offender;

- (c) The perpetration of any act prohibited by this Chapter is accomplished by means of coercion, threats, or violence, or by taking advantage of a situation of necessity or other specific vulnerability of the child;
- (d) The child suffers severe and/or long-lasting physical injury or psychological trauma as a consequence of the offense;
- (e) The offense has been committed by a person who is legally responsible for protecting the child or who holds a position of trust or authority to the child;
- (f) The offense is established as an international crime.

Article 40 – Prohibition of Solicitation of Children for Sexual Exploitation.

The intentional proposal, through information and communication technologies, of an adult to meet a child for the purpose of committing any of the offences established in accordance with this Chapter, where this proposal has been followed by material acts leading to such a meeting is criminalized.

Article 41 – Prohibition of the Use of Children in Prostitution.

- (1) Child prostitution shall mean the use of a child in sexual activities accomplished by the giving or promising of financial remuneration or any other form of compensation, irrespective of whether that reward is claimed by, given to or shared with the child, the procurer or any other person who intermediates sexual activities with the child, or the parent, guardian or care-giver of the child.
- (2) It shall be prohibited to engage in child prostitution and to receive any benefits therefrom. This shall include but not be limited to the following acts –
 - (a) Patronizing a child for prostitution;
 - (b) Offering, procuring, or providing a child for prostitution;
 - (c) Soliciting or advertising a child for prostitution; or
 - (d) Inciting, encouraging, or facilitating the prostitution of children.

Article 42 – Prohibition of Child Sex Tourism.

- (1) It shall be a punishable offense -
 - (a) To travel and engage in child prostitution or in sexual activities with a child under the age of consent; and

(b) To travel with the intent to engage in child prostitution or in sexual activities with a child under the age of consent.

(2) Any engagement in sexual activities with a child under the age of consent outside the territory of this State shall be a punishable offense in this State. Liability of a person for any act committed in violation of paragraph (1) shall be imposed regardless of whether such offense is punishable in the state where the act has been committed.

(3) The organizing, advertising, or facilitating of travels that include the patronization of child prostitution or the engagement in sexual activities with children under the age of consent shall be a punishable offense. In application of Article 39 (2), any participation in or facilitation of such acts shall be a punishable offense. In application of Article 46 (2), the legal person organizing, advertising, or facilitating such travels shall be liable in addition to the natural person.

(4) Activities conducted under Article 7 shall aim to involve companies working in the tourism and travel industry to raise awareness among their customers about the prohibition of child sex tourism.

Article 43 – Prohibition of Child Pornography.

(1) Child pornography shall mean any representation of a child engaged in real or simulated sexual activities or any representation of the sexual parts of a child for the purpose of sexual gratification recorded by any means including but not limited to print publications, films, audio recordings, games, electronic data, digital images, internet broadcasts, and photographs. This shall include computer-generated images that are indistinguishable from that of a child.

(2) It is prohibited to produce, consume, or participate in child pornography, or to receive any benefits therefrom. This shall include but not be limited to the following acts –

- (a) Producing, reproducing, distributing, disseminating, offering or selling;
- (b) Facilitate or assist with the production of;
- (c) Possessing, intentionally watching or downloading, or in other form consuming; and
- (d) Trading, importing, exporting, or transporting

child pornography.

Article 44 – Dealing with Child Pornographic Contents and Materials.

(1) Supplementing the obligations under Article 12, a mechanism for the public to report child pornography on the internet shall be established.

(2) Supplementing the obligations under Article 12, an electronic service provider who is aware that the service provided has been or is being used to access child pornography material shall report to the police or any other competent domestic authority. The data shall be used to identify victims and offenders.

- (3) A system to remove child pornography content at the source shall be established. The system shall be aimed at facilitating the disruption of access to child pornographic content and the deregistration of domain names dedicated to the distribution of such content.
- (4) Supplementing the obligations under Article 13, the competent domestic authorities shall have the duty to search and seize computer data containing child pornography. They shall be provided with the necessary technical means. Law enforcement officials acting in the course of investigation shall not be liable for committing any of the acts of Article 43.
- (5) Adequate measures enabling the destruction of the child pornographic material irrespective of the format in which it is presented shall be implemented with full respect to the affected child's right to privacy.

Article 45 – Non-Punishment and Rights of the Child Victim.

- (1) A child which became victim of sexual exploitation, including
 - (a) A child in prostitution,
 - (b) A child victim of sex tourism,
 - (c) A child victim of the production, distribution, or consumption of child pornography, and
 - (d) A child victim of traffickingshall not be criminalized for any action linked to or as a result of becoming a child victim and no punishment may be inflicted on her/him. No punishment shall be inflicted for crimes committed by a child victim as a result of being in the situation of exploitation.
- (2) Such children shall be provided with assistance, rehabilitation and reintegration measures as provided in Chapter 3 of this Law. They shall be informed of their right to full compensation. Prevention activities carried out in accordance with Article 7 shall include conducting research into the root causes of child sexual exploitation and raising awareness on the issue.

Article 46 – Jurisdiction, Extradition, Liability, and Cooperation.

- (1) Jurisdiction of domestic courts for the offenses in this Chapter shall be established –
 - (a) If the offences are committed in the territory of, or on board a ship or aircraft registered in, this State; or
 - (b) If the perpetrator or the victim is a national of this State, wheresoever the crime is committed.
- (2) In addition to the liability of natural persons, the liability of a legal person for committing any of the offenses under this Chapter shall be established.

- (3) The offenses under this Chapter shall be included as an extraditable offence in all extradition treaties by which this State is bound. In cases where the alleged offender cannot be extradited, the domestic courts shall have jurisdiction.
- (4) Regarding the offenses under this Chapter, the research and training activities conducted in accordance with Article 7 shall include trans-border cooperation between domestic, foreign, and international law enforcement agencies. Special programs to facilitate investigations, the detection and identification of perpetrators and victims through data exchange and technical cooperation shall be developed and implemented.
- (5) Measures of national and international cooperation shall involve the HCPA and the CPCs, academia, experts in the field, and representatives from civil society, and the tourism and travel industry to conduct awareness-raising, and other preventive activities.

Chapter 6 – Protection of Children from Economic Exploitation.

Article 47 – Principles of Children’s Work.

- (1) Children shall have the right to decent work. Children’s work shall not jeopardize any of the rights established in this Law, including the right to physical and mental well-being, the right to education, and the right to leisure and play.
- (2) Children who are employed in accordance with this Law shall have the right to receive adequate and fair remuneration for their work.
- (3) The CPCs shall be responsible for monitoring the employment of children to guarantee the decency and safety of their work and working conditions. The HCPA shall advise on the formulation of policies to promote such working conditions for children.
- (4) This Chapter shall be applicable to private employment agencies. Private employment agencies as defined by Article 1 of Convention 181 of the International Labor Organization shall be held liable as legal persons for any violation of this Law.
- (5) Any violation of the provisions of this Chapter shall be established as a punishable offense. The prescribed penalties shall be stringent and commensurate with those prescribed for comparably grave offenses. Article 37 shall be applicable to offenses committed under this Chapter. Any employer who has been convicted of violating this Chapter is liable to pay compensation to the child victim in accordance with Article 18.

Article 48 – Minimum Age for Employment of Children.

- (1) Children below the minimum age for employment shall not engage in any employment relationship, remunerated or not. Children who have reached the legal age of employment may engage in an employment relationship in accordance with this Law.
- (2) The minimum age for employment shall be established by law taking into consideration the time necessary for children to gain the adequate physical and mental maturity and to complete their basic education. The minimum age for employment shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.
- (3) A minimum age for an apprenticeship below the age established in accordance with Paragraph (2) of this Article may be established by law. This shall apply to work done by children at least 14 years of age in a program of vocational or technical training or in a comparable training institution serving the purpose of occupational training, education, guidance, or orientation. Such program must be approved by the CPCs. The CPCs establish the conditions of the program in cooperation with organizations of employers and workers concerned.
- (4) A minimum age for light employment below the age established in accordance with Paragraph (2) of this Article may be established by law. The CPCs shall determine the activities that constitute light employment and shall prescribe the conditions in which such employment may be undertaken.

The minimum age for light employment may not be less than 13 years. Children may engage in light employment if –

- (a) It does not affect their attendance at school or other vocational training as defined under Paragraph (3) and their capacity to benefit therefrom; and
 - (b) It is not likely to be harmful to their health or development.
- (5) Paragraph (4) of this Article shall also apply to children who are 15 years of age and have not completed their compulsory schooling.
- (6) Exceptions for certain areas of work where a child under the minimum age for employment may be employed shall be established by law in accordance with the principles of Article 47 and 49.

Article 49 – Prohibition of Harmful, Hazardous, and Indecent Work.

- (1) The employment of children in dangerous occupations or the performance of hazardous processes that are likely to be harmful to the child's health and physical well-being shall be prohibited. The employment of children in areas of work likely to harm their mental, spiritual, moral or social development shall be prohibited.
- (2) The exposure of children to materials and fumes likely to damage their health and the handling and manufacturing of toxic or inflammable substances and explosives shall be prohibited.
- (3) The worst forms of child labor shall be prohibited, particularly all forms of slavery or practices similar to slavery. These include but are not limited to forced or compulsory labor, debt bondage, serfdom, the sale and trafficking of children for the purpose of economic exploitation and for the purpose of sexual exploitation.
- (4) Article 44 shall be applicable regarding the jurisdiction for offenses committed under Paragraph (3).
- (5) Child victims who have been submitted to the worst forms of child labor shall be provided with medical and psychological assistance, rehabilitation and reintegration measures, legal assistance, and the right to compensation as provided in Chapter 3 of this Law.

Article 50 – Obligations of the Employer.

- (1) The employer is responsible for assuring the health and safety of the child employee. This includes guaranteeing –
 - (a) Cleanliness of the workplace and premises;
 - (b) Availability of adequate nutrition and water;
 - (c) Non-exposure of child employees to harmful substances;
 - (d) Security of the machinery, appropriate for the use by children;

- (e) Security of the buildings according to the relevant laws;
 - (f) Provision of the necessary protective gear and protective equipment; and
 - (g) Labor rights including the child's freedom of movement and freedom of association.
- (2) The employer shall be required to maintain a register identifying all child employees, their date of birth, job description and periods of work to be provided to the CPCs for monitoring purposes.
- (3) The employer shall pay fair and equal wages to child employees including their social security benefits.
- (4) The employer shall encourage the adoption of rules of corporate social responsibility to prevent the exploitation of child employees and to advance the conditions in which children are working.

Article 51 – Regulation of Working Hours and Rest Periods.

- (1) The maximum number of hours a child may work per day and per week and the maximum number of days as child may work per week shall be prescribed by law/regulation taking into consideration the nature of the work and if applicable, the requirement that work shall not negatively affect the child's attendance at school or other vocational training and the possibilities to benefit therefrom. The law/regulation shall provide for adequate rest periods and for time off work.
- (2) Employment of children for night work shall be prohibited. A law/regulation shall define what constitutes night hours.

Article 52 – Rights of Child Domestic Workers.

- (1) Child domestic workers shall be guaranteed the same rights as children working in a contractual relationship, specifically the requirements on the minimum age for employment, safe and healthy of work conditions, work hours, and rest periods, ensuring the respect of their human rights and the safety of their work place.
- (2) Child domestic workers who reside in the household shall not be required to remain in the household during periods of rest. Their freedom of movement shall be guaranteed.
- (3) Child domestic workers shall not be deprived of compulsory education or be denied the opportunity to participate in further education or vocational training.
- (4) Child domestic workers shall be protected from exploitation, specifically from sexual abuse and sexual exploitation.
- (5) When formulating the national child protection policy, the HCPA shall take into consideration measures aimed at substantially decreasing or eliminating the use of children as domestic workers.

Chapter 7 – Protection of Children in Situations of Emergency.

Article 53 – Participation of Children in Armed Conflict.

- (1) A child under the age of eighteen shall not directly take part in hostilities (child soldier). This shall apply to any child -
 - (a) who is part of any kind of a regular or irregular armed force or armed group in any capacity; and
 - (b) who is not only actively participating in combat but also providing military activities and direct support functions including but not limited to scouts, spies, cooks, porters, messengers, and anyone accompanying such groups, other than family members; and
 - (c) who is recruited for sexual purposes and for forced marriage.
- (2) A child who has not attained the age of eighteen years shall not be recruited into the State's armed forces.
- (3) A child between the age of fifteen and eighteen years may voluntarily be recruited to join the State's armed forces if -
 - (a) Such recruitment is genuinely voluntary;
 - (b) Such recruitment is done with the informed consent of the person's parents or guardians;
 - (c) The child is fully informed of the duties involved in such military service; and
 - (d) The child provides reliable proof of age prior to acceptance into national military service.
- (4) Paragraph (3) shall not apply to schools operated by or under the control of the State's armed forces while safeguarding the child's right to education according to this Law.
- (5) Armed groups that are distinct from the State's armed forces shall not, under any circumstances, recruit a child or use a child in hostilities.

Article 54 – Protection of Children Affected by Armed Conflict.

- (1) In accordance with all obligations under international humanitarian law and international human rights law, it shall be ensured that children affected by armed conflict of national or international nature receive special protection to guarantee their safety and well-being. Children shall be afforded all special protection measures irrespective of their nationality and irrespective of whether or not they directly took part in hostilities.
- (2) In particular, it shall be guaranteed that -
 - (a) No war crimes or crimes against humanity are committed against children, and specifically that children do not become victims of sexual abuse, sexual exploitation, forced

labor and economic exploitation, abduction, or human trafficking and from becoming internally displaced;

(b) Children receive essential food and clothing;

(c) Children are removed from the area in which hostilities are taking place to a safer area, accompanied by persons responsible for their safety and well-being and when possible with the consent of their parents or guardians;

(d) Children have continued access to educational and vocational institutions and programs; and

(e) All appropriate steps are taken to facilitate the reunion of families temporarily separated.

(3) The death penalty for an offence related to the armed conflict shall not be imposed or executed on a child who was under eighteen years at the time of the offence.

Article 55 – Protection of Children in an Occupied Territory.

(1) Children living in an occupied territory shall be afforded special protection to guarantee their safety and well-being.

(2) Occupying and occupied powers shall facilitate the functioning of all institutions devoted to the protection, education, and training of children.

(3) Occupying and occupied powers shall protect children from becoming victims of sexual abuse, sexual exploitation, forced labor and economic exploitation, abduction, or human trafficking and from becoming internally displaced.

(4) Children who are accused or convicted of offences shall be treated favorably. The death penalty shall not be imposed on a person who was under eighteen years at the time of the offence.

Article 56 – Demobilization, Medical Assistance, and Reintegration.

(1) Children that were involved in armed conflict as child soldiers contrary to the provisions of this Law shall be demobilized or otherwise released from service. In cooperation with child protection service providers working in the region affected by armed conflict, the HCPA shall design programs to guarantee a quick and effective demobilization of child soldiers.

(2) Former child soldiers shall receive appropriate medical assistance for their physical and psychological recovery and assistance for social reintegration under the principles established for child victims in Articles 15-18 of this Law. In cooperation with child protection service providers working in the region affected by armed conflict, the HCPA shall design programs to provide child soldiers with medical assistance, rehabilitation and reintegration measures.

(3) Former child soldiers shall have a right to compensation for moral and material damages and for lost opportunities in accordance with Article 18.

Article 57 – Internally Displaced Children.

- (1) The human rights of children who are internally displaced shall be ensured, respected, and protected. This requires realizing the child's specific vulnerability, and –
- (a) Ensuring humane treatment and satisfactory conditions of safety and security;
 - (b) Taking the necessary steps to establish the child's identity and nationality;
 - (c) Providing humanitarian assistance, which shall include adequate food, water, shelter, medical care and other health services, sanitation, education, and any other necessary social services; and
 - (d) If the child is unaccompanied, inquiring about the child's parents, providing the parents, the child, or if appropriate another family member with the obtained information concerning their whereabouts, and, if not detrimental to the well-being of the child, taking the necessary measures to reunify the child with her/his family.
- (2) It is prohibited to –
- (a) Arbitrarily displace children;
 - (b) Stigmatize or discriminate against internally displaced children;
 - (c) Take advantage of the vulnerable situation of internally displaced children to exploit them physically, psychologically, or sexually.

Article 58 – Refugee and Migrant Children.

- (1) The rights of refugee and migrant children to full and equal enjoyment of all human rights and fundamental freedoms shall be protected. This requires –
- (a) Providing protection and rendering appropriate humanitarian assistance, which shall include adequate food, water, shelter, medical care and other health services, sanitation, education, and any other necessary social services, irrespective of whether the child is together with parents or alone;
 - (b) If the child is unaccompanied, inquiring about the child's parents, providing the parents, the child, or if appropriate another family member with the obtained information concerning their whereabouts, and, if not detrimental to the well-being of the child, taking the necessary measures to reunify the child with her/his family.
- (2) Any kind of stigmatization or discrimination of refugee and migrant children shall be prohibited.

Chapter 8 – Protection of Children in the Justice System.

Article 59 – Child Courts and Child Prosecution.

- (1) In the seat of each adjudication district, one or more Child Courts shall be established to deal with children accused of having violated the law. The Minister of Justice may issue a decree to establish Child Courts in other places. Their areas of jurisdiction shall be determined in the decree establishing them or by law.
- (2) The tasks of public prosecution for these Courts shall be undertaken by Specialized Child Prosecution Offices to be established by a decree from the competent executive organ.
- (3) Special child units shall be established at police offices to deal with children accused of having violated the law.

Article 60 - Social Workers Assistance.

- (1) Each Child Court shall be assisted by social workers one of whom at least shall be a woman. The presence of the social workers during the proceedings shall be compulsory, and they shall submit their report to the Court after studying the circumstances of the child in all respects before the Court passes its decision.
- (2) The social workers shall open a file for each child accused of having violated the law prior to proceeding with the case. The file shall include a comprehensive assessment of the child's educational, psychological, mental, physical, and social status. The case shall be dealt with in light of the findings of this report. The Court, prior to issuing a decision, shall discuss the content of the aforementioned assessment report with those that have compiled it and may order additional investigations.

Article 61 – Principles for Judicial Proceedings involving Children.

- (1) Any judicial proceeding affecting the rights and interests of a child, including the involvement of children as party, victim, or witness, shall provide for the informed consultation and participation of the child in the proceedings. The manner in which consultation and hearing are conducted shall depend on the child's age, maturity, and capacity.
- (2) All judicial proceedings affecting the rights and interests of a child shall be heard and conducted by specifically trained law enforcement officials, judges, prosecutors, and lawyers. These persons shall receive continuous training on the rights of children and the adequate proceedings protecting the best interests of children.

- (3) Alternatives to the formal and traditional judicial forum, such as mediation and other forms of alternative dispute resolution, shall be encouraged whenever these serve the child's best interests and whenever these guarantee the same level of legal safeguards.
- (4) In any proceedings affecting a child's rights or interests, the child has a right to free legal assistance and counseling as described in Article 17.

Article 62 – Children Participating in Court Proceedings.

- (1) Before any participation, hearing or consultation of a child, a court shall provide the child with all information necessary for her/him to make a confident and educated decision about the kind of participation in the proceedings and the possible consequences thereof. The information shall be provided in a child-friendly manner respecting the capacities of the child.
- (2) Unless the child's participation in the proceedings is against the best interests of the child, it shall be encouraged through –
 - (a) Using appropriate surroundings and alternative out of court venues;
 - (b) Establishing non-public proceeding;
 - (c) Clearing the courtroom or excluding certain individuals whose presence is likely to humiliate the child or have an adverse effect on the child's participation;
 - (d) Allowing the support and/or presence of social workers, psychologists, or other people close or significant to the child whose presence the child desires;
 - (e) Using one-way screens or means of closed-circuit television;
 - (f) Strictly limiting the use of irrelevant and intimidating cross-examinations of the child;
 - (g) Questioning through a specifically trained intermediary; and
 - (h) Admitting statements of the child given prior to the trial, such as statements to social workers or police officers.
- (3) Judges shall be obliged to take the child's views into account.
- (4) All judicial proceedings involving children shall take place in a language that is simple and comprehensible to the child.
- (5) Parents or guardians of a child who is summoned to court as party, victim, witness, or accused shall accompany the child and attend all stages of any proceedings. The Court shall decide otherwise if it deems the attendance of the parents or guardians not to be in the best interests of the child and thus prefers to hear the child alone.
- (6) In any proceedings concerning a child's rights or interests, the child's name, identity, home, school, current or last place of residence shall not be published or revealed. No photograph or depiction of the child shall be made public. No identifying details of the child's parents, relatives, or guardians, shall be published or revealed. These specific safeguards shall also be applicable during the pre-trial stage.

Article 63 – Protection of Child Victims and Child Witnesses.

- (1) If a case of violation of a child’s best interests is first referred to the police, it shall be heard by a specialized child unit. It shall be possible to video record the hearing of the child and use the material at the subsequent proceedings in court so as to avoid a continued questioning of the child.
- (2) The court shall promptly and adequately provide any child victim and child witness participating in judicial proceedings, their parents or guardians, and their legal counsel with information on –
 - (a) The availability of health, psychological, social, and other relevant services as well as the means of accessing such services;
 - (b) The procedures for the justice process, including the role of child victims and witnesses;
 - (c) The importance, timing, and manner of testimony and ways in which “questioning” will be conducted during the investigation and trial;
 - (d) The availability of protective measures;
 - (e) The progress and disposition of the specific case, including the apprehension, arrest, and custodial status of the accused and any pending changes to that status;
 - (f) The prosecutorial decision, relevant post-trial developments, and the outcome of the case; and
 - (g) The existing opportunities to obtain reparation from the offender or from the State through the justice process, through alternative civil proceedings, or through other processes.
- (3) Child victims and child witnesses are entitled to the special protection measures described in Article 59. Direct contact, confrontation, and interaction between a child victim or child witness with an offender or alleged offender shall be avoided, unless at the request of the child which is not against the best interests of the child.
- (4) A child is a capable witness subject to examination. The child’s testimonies shall not be presumed invalid or untrustworthy by reason of the child’s age alone.
- (5) A child victim or witness may at any point in the proceedings withdraw her/his statement, report, or testimony without jeopardizing the trial of an alleged offender. The prosecution of an alleged offender shall not be solely dependent upon the report or accusation of the child.
- (6) Specialist child victims/witness support units shall be established to support and prepare child victims and child witnesses for the experience of giving evidence. These services shall be staffed by trained counselors, although this shall not preclude the use of volunteers.

Article 64 – Criminal Responsibility of Children.

- (1) A minimum age below which children shall be presumed not to have the capacity to infringe the penal law shall be established by law (age of criminal responsibility).
- (2) Any child who is accused of having violated the law shall –

- (a) Be informed promptly and directly of the charges against her/him;
 - (b) Have prompt access to free legal assistance;
 - (c) Have the matter determined without undue delay;
 - (d) Be presumed innocent; and
 - (e) Be neither compelled to give testimony nor to confess guilt.
- (3) Any charges against children shall be heard by special Child Courts as described by Article 57 by specifically trained judges and prosecutors under the presence of social workers.
- (4) During the course of investigations, prosecutions and trials, no handcuffs, leg-irons, or other restraints may be used on a child unless reasonable and imminent danger for the child her/himself or another person exists.
- (5) A child under the age of criminal responsibility accused of having infringed the penal law, shall not be referred to a court but to the competent child protection service provider so as to assist with her/his education and social environment to prevent future committing of criminal acts.

Article 65 – Sentencing Guidelines for Children in Conflict with the Law.

- (1) The sentences for children convicted under the law shall prioritize their rehabilitation, education, and reintegration in society rather than punishment or retaliation.
- (2) Criminal punishment, particularly imprisonment, shall be used only as a measure of last resort and shall be avoided whenever possible. It is prohibited to subject a child to capital punishment or life imprisonment without the possibility of release, or to inflict any other cruel or degrading penalties.
- (3) If the Court believes that the physical, mental, or psychological condition of the child necessitates examining her/him before passing a decision, it shall order placing the child under observation in a suitable place for the necessary duration. Court proceedings shall stop until the examination of the child is completed.
- (4) In lieu of criminal punishment, or in addition to a sentence, the Child Court may order counseling, probation, reconciliation between perpetrator and victim, mentoring, educational programs for the prevention of future legal offences, and/or other measures appropriate to facilitate the child's development as a responsible member of society. These measures should be constructive and individualized responses to the child's offense and behavior and to her/his character.
- (5) A child shall have the right to challenge the legality of her/his conviction before a competent and impartial authority. Prison sentences shall be subject to periodic review to determine the continued need for incarceration and the possibility of a release on parole.
- (6) Children shall be afforded the opportunity to clear or close their criminal record. Where the Child Court judge has been convinced that a child sentenced to penalty has proved her/himself to be a law-abiding individual based on irreproachable conduct, the judge shall declare on her/his own motion or on application filed by the convicted person, the parent, guardian, or legal representative, that the entry be struck from the criminal record.

Article 66 – Protection of Children Deprived of their Liberty.

- (1) Children who are restricted in or deprived of their liberty shall be held in a manner that avoids harm to their dignity and is appropriate to their age. Those responsible for the care and guard of child detainees must protect them from physical, psychological, and sexual violence, respect their human rights, and ensure decent, humane, and just treatment.
- (2) Parents or guardians of a child, and in their absence the competent care-giver, shall promptly be informed about the child's detention, arrest, and any other form of restriction or deprivation of liberty. The notification shall also include the nature of the offence in respect of which the child has been arrested and shall inform that the child is entitled to legal assistance and counseling.
- (3) Child detainees shall be kept separate from adult detainees.
- (4) It shall be prohibited to subject a child detainee to additional punishment. It must be ensured that child detainees have adequate opportunities to –
 - (a) Receive visits from family members and other people close or significant to the child;
 - (b) Receive telephone, mail, and other facilities for communicating with other people;
 - (c) Communicate privately with their lawyers;
 - (d) View or hear news and education services;
 - (e) Utilize suitable health services and health facilities;
 - (f) Practice religious, spiritual, and cultural observances;
 - (g) Consume sufficient nutritional food and drink;
 - (h) Wear suitable clothing that does not degrade or humiliate young detainees;
 - (i) Use suitable facilities for personal hygiene;
 - (j) Maintain bedding for sleeping in reasonable privacy and comfort;
 - (k) Receive basic education and vocational training in accordance with Article 26; and
 - (l) Partake in open air and exercise.
- (5) The detention shall include educational programs to help the child overcome difficulties that contributed to her/his commission of the criminal offence and prepare for the return to her/his community, family life, education, or employment after release.
- (6) Discipline at detention places shall preclude torture, cruel, and degrading treatment. The use of restraint or force shall only be allowed when the child poses an imminent threat of injury to her/himself or others, but never as punishment. The restriction of the child's right to maintain contact with the people mentioned in paragraph 4 (a) of this Article shall not be used as punishment.
- (7) The relevant after care shall be provided to the child, including reintegration measures, such as continued mentoring and guidance tailored to the specific needs of the child with the goal of enabling a dignified return of the child to her/his family, community, and social life and to prevent future committing of criminal acts.