

Abrogation of Some Criminal Cases and Remission of Punishment Act, 2020 (1963)

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Amendment

Republic Strengthening and Some

Nepal Laws Amendment Act 2066 (2010) 2066-10-7 (21 Jan. 2010)

Act Number 14 of the Year 2020 (1963)

An Act made in order to abrogate some criminal cases and to remit punishment

Preamble: Whereas, a new *Muluki Ain* (General code) has been promulgated and has come in to force on *Bhadra* 1, 2020 B.S after comprehensive amendment and consolidation of the prevailing *Muluki Ain* (General code) in order to make timely reform in legal provisions of that code; and

Whereas, the new *Muluki Ain* (General code) has provided for some fundamental, significant and timely reform oriented legal provisions and has made re-evaluation and re-determination of crime and quantum of penalties in the context of change in religious and social thought, awareness and values emerged due to the effect of time; and

Whereas, in the context of our national policy, expectation and liberal principles of religious and social conduct expressed in the form of the new *Muluki Ain* (general code) it is not reasonable to keep discriminatory legal provisions made on narrow ground of religion, caste or tribe with respect of an act and matter done before *Bhadra* 1, 2020 B.S. and the legal consequence thereof; and Whereas, it is expedient to provide for necessary provisions in this regard.

Now, therefore, be it enacted by His Majesty the King Mahendra Bir Bikram Shah Dev on the advice and with the consent of *Rastriya Panchyat*.

1. **Short Title, Extent and Commencement:** (1) This Act may be called 'Abrogation of Some Criminal Cases and Remission of Punishment Act, 2020.
(2) This Act shall extend throughout Nepal.
(3) This Act shall come into force immediately.
2. **Definition:** In this Act unless the subject or context otherwise requires;
 - (a) "Previous *Muluki Ain*" means the *Muluki Ain* which was in force before *Bhadra* 1, 2020 B.S.
 - (b) "Case" means all kinds of court proceedings.
 - (c) "Court" includes any office or authority authorized by a law to try a case.
3. **No prosecution:** (1) After the commencement of this Act, no person shall be prosecuted and punished upon imposing a charge sheet of an offence under previous *Muluki Ain* for an act or a matter which is not an offence under any Nepal Act as referred to in the Schedule of this Act.
(2) If a case has been filed or in the process against a person upon filing a charge-sheet on an offence pursuant to previous *Muluki Ain* for an act or a matter which is not an offence under any Nepal Act as referred to in the Schedule of this Act, after the commencement of this Act all such cases and proceedings despite the case may be in any level, shall, *ipso facto*, be deemed to have been abrogated.
4. **Remission of punishment:** (1) Upon the commencement of this Act, in case a person is serving a punishment who was convicted by a Court in a charge as referred to in the previous *Muluki Ain* for an act or matter which

is not an offence under any Nepal Act as referred to in the Schedule of this Act, after the commencement of this Act, his/her all remaining punishment which he/she has yet to serve shall, *ipso facto*, be deemed to have been remitted.

(2) Upon the commencement of this Act, in case a person is convicted by a judgment or an order of a Court in a charge as referred to in the previous *Muluki Ain* for an act or matter which is not an offence under any Nepal Act as referred to in the Schedule of this Act, after the commencement of this Act, all such punishment shall, *ipso facto*, be deemed to have been remitted.

(3) Upon the commencement of this Act, in case a person is serving a punishment or is convicted by a judgment or an order of a Court in the charge of an offence as referred to in the previous *Muluki Ain* for an act or matter which is also an offence pursuant to the Nepal Act as referred to in the schedule of this Act and provides for lower punishment than that of the previous *Muluki Ain* in such offence, the punishment to such an extent that is greater than that prescribed by the said Act shall, *ipso facto*, be deemed to have been remitted.

5. **Imposition of punishment as referred to in Nepal Act mentioned in schedule of this Act:** (1) If an act or a matter which is an offence under the previous *Muluki Ain* is also an offence pursuant to the Nepal Act as referred to in the Schedule of this Act, a punishment shall be imposed on an offender as referred to in said Act including for the said act or matter committed before *Bhadra* 1, 2020 B.S.

Provided that-

- (a) In case the said Nepal Act provides for a punishment greater than that prescribed by the previous *Muluki*

Ain, a punishment shall be imposed on an offender not exceeding with a punishment as specified in previous *Muluki Ain*

- (b) In case the previous *Muluki Ain* provides for a provision of any other type of punishment other than a fine or an imprisonment, in this regard Sub-section (2) shall prevail over the matter of punishment.

(2) After the Commencement of this Act no judgment or order shall be passed to impose any of the following punishments and no such punishment shall be executed.

- (a) To shave the head of the offender (*Mudne*).
- (b) To Impale/pierce on the body of the offender (*Khopne*)
- (c) To brand on the body of the offender (*Damal garne*)
- (d) To outcast from the caste of the offender (*Jaat patit garne*)
- (e) To feed forbidden (uneatable) things to the offender (*Abhakshaya khuwaune*)
- (f) To remove the sacred thread of the offender (*Janai jhikne*)
- (g) To compel the offender to enter through someone's feet (*Tangmuni Chhiraune*)
- (h) To compel the offender to lick the foot (*Paitala Chataune*)
- (i) To compel the offender for a atonement/expiation (*Patiya, Prayaschit garaune*)

(j) To compel the offender for Pilgrimage (*Tirtha Ghumnu parne*)

(k) To deport the offender from village or town.

Provided that;

(a) if a fine, an imprisonment or any other economic liability is also included or imposed in such punishment as referred to in clauses of Sub-section (2), an offender shall not be freed from the said fine, imprisonment or economic liability, as the case may be, and such offender shall be, subject to Sub-section (1) of Section 5, Sections 3 and 4, punished in accordance with law and the said punishment shall be implemented.

(b) If a law which provides for such punishment as referred to in Clauses of Sub-section (2) also provides for a provision of an imprisonment, fine or any other economic penalty or liability as an alternative punishment, an offender shall be, subject to Sub-section (1), Sections 3 and 4, punished with such imprisonment, fine, or liability, as the case may be.

6. **Specific provision with respect to some offences and cases (law suit):** (1) Notwithstanding anything contained in Sub-section (2) of Section 3, if a criminal law suit (charge-sheet) is in the process against a person in a Court under the previous *Muluki Ain* and among the matters/acts of that charge-sheet if a matter/act is also an offence pursuant

to Nepal Act as referred to in the Schedule of this Act and any matter is not an offence under the said Act, the said suit shall not be dismissed to such an extent that is related to an act or a matter which is also an offence pursuant to the said Nepal Act and the suit shall be dealt in accordance with law.

(2) Notwithstanding anything contained in Sub-section (1) or (2) of Section 4, if a person is serving a punishment or is convicted by a judgment or an order of a Court for a criminal offence under the previous *Muluki Ain* and among the acts or matters of that conviction if an act or a matter is also an offence pursuant to the Nepal Act as referred to in the Schedule of this Act, no punishment shall be remitted to such an extent that is related to an act or a matter which is also an offence pursuant to the said Nepal Act.

NEPAL LAW COMMISSION

Schedule

1. *Muluki Ain* which is promulgated to be enforced on *Bhadra 1, 2020 B.S.*
2. Gambling Act, 2020
3. Motor Vehicle Act, 2020
4. Railway Act, 2020

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