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## **National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21\***

### **Nepal**

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## **Process of drafting**

1. The report has been prepared through a broad consultation with the National Human Rights Institutions (NHRIs), civil society organizations (CSO) and media, among others. A committee formed by the Government of Nepal (GoN), with cross sectoral representation to prepare the Report conducted five regional consultations and one national interaction programme with over 750 participants.<sup>1</sup> In addition to this, the views and concerns expressed in the consultations run separately by the NHRIs and CSO have been taken into account in the report.

## **Policy on human rights**

2. Promoting a human rights culture and mainstreaming a human rights agenda in its entirety to fulfil national and international obligations and commitment is a cardinal principle of the GoN. The GoN has introduced the Human Rights Based Approach (HRBA) in formulation and implementation of all public policies, developmental plans and programmes. Nepal has implemented periodic National Human Rights Action Plans (NHRAPs) in collaboration with the NHRIs and CSO for 11 years. At present, the GoN is implementing its fourth five year NHRAP for the period 2014 to 2019 to develop collective ownership and integrate human rights programmes into the country's periodic development plans. The NHRAP covers eighteen thematic areas to fulfil the obligations including from treaty bodies and UPR recommendations.<sup>2</sup>

## **Improvements in the normative and structural framework**

3. The GoN has shown its strong commitment to the international normative frameworks by ratifying core international human rights instruments<sup>3</sup> and internalizing them in the domestic system. Enactment<sup>4</sup>, tabulation of Bills in the Legislature Parliament<sup>5</sup> and draft formulation<sup>6</sup> of human rights related legislation is a continuous process. The GoN has strengthened the institutional structures<sup>7</sup> for the protection and promotion of human rights including through the establishment of the NHRIs, providing continuous support to them, and formation of separate mechanisms on human rights at all ministries and security forces. The GoN is investing to reform prisons.<sup>8</sup> Some positive improvements in the normative and structural framework after the first cycle of UPR include, establishment of transitional justice mechanisms, significant improvement in security system and the improvement in the functioning of the criminal justice system.

## **Follow-up of the recommendations**

4. The implementation of the UPR recommendations is being carried out under a Plan of Action with periodic follow-ups. Progress on the recommendations is presented below by clustering them under different thematic categories with the relevant recommendation number super texted with them.

## **Constitution making process<sup>9</sup>**

5. The country has moved ahead towards the path of new constitution making process. The preliminary draft of new constitution prepared by Constitution Drafting Committee following an understanding between the major political parties on major issues, has been endorsed in principle by the Constituent Assembly (CA) on 7 July 2015. The GoN has

extended its full support to the CA, and political parties are in further dialogue to finalize the draft of the constitution through the democratic process including public consultations.<sup>10</sup> The GoN believes that the new constitution will ensure all fundamental rights and freedoms including freedom of religion and right to equality of all people in line with international standards.

6. The CA reflects the broad diversity of the Nepalese society. The representation of women in parliament has increased from 2.9 percent in 1995 to 29 percent in 2015. The GoN believes that the CA will be able to make a new constitution that ensures the effective and meaningful participation of women in State organs.

### **Human rights defenders<sup>11</sup>**

7. The GoN has implemented Guidelines on Incidental Insurance for Journalists, 2013.<sup>12</sup> National Human Rights Commission (NHRC) has also developed Guidelines for the safety of human rights defenders. Moreover, a new media policy which is under consideration at the Cabinet also addresses the safety concerns of journalists. Law enforcement agencies have been given instructions through Ministry of Home Affairs (MoHA) for safeguarding the rights of the human rights defenders, journalists and women human rights defenders. The GoN is committed to removing any hindrance in the enjoyment of rights and freedom by human right defenders, and to take legal actions against perpetrators.

### **Freedom of assembly<sup>13</sup>**

8. The Interim Constitution (hereinafter referred to as the Constitution) guarantees the right to freedom of opinion and expression, freedom of peaceful assembly, freedom to form political parties or organizations, or unions and associations. The Civil Rights Act, 1955, further protects these fundamental freedoms. The GoN has always respected the freedom of assembly. Declaring some public places as restricted zones by issuing official notification to maintain public order and peace should not be considered as an unreasonable restriction on this freedom. Furthermore, security forces are being regularly trained to strictly follow the policy on minimum use of force even in controlling violent situations.

### **Labour rights<sup>14</sup>**

9. The Labour Act, 1992, ensures equality in employment and recruitment procedures, as laid down in the ILO Convention No. 111. Ministry of Labour and Employment (MoLE) has been revising this Act and other labour related legislations to make them more compatible with the ILO Conventions. The GoN's target is to rehabilitate *Kamaiyas* and *Haliyas* within the next two to five years respectively.<sup>15</sup>

10. The GoN has been developing further standards on occupational safety and health for labourers in accordance with the Labour Act.<sup>16</sup> Industries have been categorized into four different categories according to the level of hazard/risk. An Integrated Social Security Bill approved by the Cabinet to submit at the Parliament plans to establish a 'Contributory Social Security Fund' with an aim to enhance the social security of the labourers working in the informal sector. The Fund may establish a variety of welfare schemes for labourers.<sup>17</sup>

11. The GoN has enforced a new remuneration as well as a social security package for workers of enterprises.<sup>18</sup> The local authorities are monitoring the compliance with the wage rates. However, they have been facing challenges in effective enforcement of the minimum wage, particularly due to the lack of complaints from affected persons. The MoLE plans to

establish a high level authority to protect the rights of labourers and to monitor the implementation of minimum wage.

12. The GoN has undertaken a number of measures to prevent and manage the risk of exploitation of migrant workers. The Foreign Employment Promotion Board through agreements with financial institutions is facilitating loans for aspiring migrant workers. By mid-April 2014, Rs. 2,672.14 million had been lent to the needy having contributed to the employment of 20,806 individuals. To help migrant workers obtain better jobs in the international market, the GoN has been providing skill training to them. By mid-April 2014, 4,500 persons have been provided with capacity enhancement training from the Council for Technical Education & Vocational Training (CTEVT). Similarly, 14,935 persons have benefitted from orientation training. The number of individuals getting permits to migrate abroad has been on the rise. The number of previously unregistered migrants who received labour permits in 2013/14 was 60,880 compared to 38,076 in 2012/13. Remittance has contributed to the national economy as well as to the individual households.<sup>19</sup>

13. The GoN has signed Memorandum of Understanding (MoU) with five labour destination countries,<sup>20</sup> to safeguard the migrant workers from labour exploitation and it has been working to sign the MoU with each destination country which hosts over 10,000 Nepali migrant workers. Minimum wage for migrant labourers has been fixed in five destination countries.<sup>21</sup> Labour attachés have been employed at the Nepalese missions in seven labour receiving countries.<sup>22</sup> With an aim to help rescued women migrant workers, Safe houses have been operationalized at four Nepalese missions abroad.<sup>23</sup> One such house has also been established in Kathmandu for returnee women migrants.

14. Foreign Employment Policy, 2012, Procedures on Registration and Renewal of Orientation Training Institutions for Foreign Employment, 2014 and Guidelines for Sending Domestic Workers in Foreign Employment, 2015 among others<sup>24</sup> have been put in place to protect the rights and interests of migrant workers. A separate policy on safe migration is being drafted in order to address illegal and undocumented migration and ensure safe migration. Structural mechanisms are in place to promote safe, dignified and decent foreign employment and to create an enabling environment for relations among employers, workers and other stakeholders.<sup>25</sup> Financial support has been provided, through the Foreign Employment Promotion Board, to 638 families of deceased workers and 69 injured ones. Besides rescuing the employees stranded in foreign countries, support has been provided to transport 300 dead bodies to the concerned districts. Foreign Employment Tribunal has been established to provide easy and speedy access to justice to the victims of foreign employment.<sup>26</sup>

### **Poverty, basic services and employment<sup>27</sup>**

15. The GoN is implementing poverty alleviation policy through periodic development plans to ensure social and economic justice particularly to vulnerable and marginalized groups. Programmes have been carried out for the last two decades with poverty alleviation at the core of development agenda. From the Tenth Plan onwards, poverty has been classified into income poverty, human poverty, and social exclusion. Analyses of these dimensions show notable decrease in overall poverty and improvement of the Human Development Indices of the Nepalese people. Population under the poverty line shows a declining trend.<sup>28</sup> However, the devastating earthquake of 25 April and its aftershocks are likely to increase the poverty level in the most affected areas by 2.5 percent to 3.5 percent.<sup>29</sup>

16. The GoN has carried-out a survey with the aim to collect scientific data on the poor. To provide ID cards for the poor, it has identified 356,418 poor households in twenty-five districts through the survey. The survey will also be extended to the remaining districts.

The 2011 census data provides disaggregated data based on ethnicity, nationality, gender and so on.<sup>30</sup> It shows that in the last seventeen years, the poverty level has decreased to 15.46 percent from 21.56 percent in the urban areas and to 27.43 percent from 43.27 percent in the rural areas. In order to address this gap between the urban and rural areas, the Poverty Alleviation Fund (PAF) is currently working in 59 out of 75 districts of Nepal. The PAF is assisted by the World Bank, which has recently agreed to provide 85 million US dollar to finance the ongoing and new programmes until September 2017. The International Fund for Agricultural Development is also contributing financial assistance to the PAF.<sup>31</sup> With the objective of assisting those living in extreme poverty, the PAF has been helping the GoN in working towards reducing poverty to 21 percent by the end of 2015. Until April 2014, the PAF has assisted the formation of 23,788 community organizations of the poor to carry out different livelihood enhancing and capacity development activities. The programme has benefitted 663,151 poor households, mostly indigenous communities, *Dalits*, and women. Of these, 75 percent are women, 65 percent are those who do not have sufficient food for more than 3 months a year. For inclusive development, the GoN in its current 13<sup>th</sup> plan has focussed on demand driven and community based development approach at the local level. The programme has supported communities to become self-employed through income generation and community infrastructure related schemes.

17. The GoN is making food available through its agencies and programmes which include 'Food for Work' and 'School Feeding' programmes to safeguard the right to food of the poor and disadvantaged living in remote areas. The GoN supports these people through social and economic support<sup>32</sup> and is working to prepare legislation on employment.

18. The CTEVT is providing skills oriented training, technical support and soft loans to *Dalits*, indigenous nationalities, women and persons with disabilities (PwDs).<sup>33</sup> The Far Western Development Commission and Karnali Development Commission have been constituted for the overall development of vulnerable and marginalized communities in the Far Western Region and Karnali Zone respectively.<sup>34</sup>

### **Financial and technical assistance for human rights and MDGs<sup>35</sup>**

19. Development Cooperation Policy, 2014,<sup>36</sup> aims at receiving and mobilizing effective assistance from international community based on national priorities. As an LDC, LLDC and a country emerging from conflict, Nepal is in need of enhanced international support for economic development and reconstruction of infrastructure damaged and destroyed due to the conflict and the devastating earthquakes. Under the United Nations Development Assistance Framework, 2013, the Country Programme Action Plan, 2013–2017 was signed between the GoN and UNDP in September 2013. This aims at addressing the transitional needs of the country and contributing to achieving long-term development goals.

20. In line with the overarching goal of the Istanbul Programme of Action (IPOA) for the LDCs for 2011–2020, the GoN has a plan to graduate from the LDC status by 2022. Nepal's Development Cooperation Policy, 2014 also encourages the development partners to extend their support to Nepal as per the guidelines outlined in the IPOA document.<sup>37</sup>

### **Climate change<sup>38</sup>**

21. The GoN has been implementing the Climate Change Policy, 2011. The National Framework of Local Adaptation Plan for Action has been approved to implement the National Adaptation Programme of Action, 2010, and preparing the Reducing Emissions from Deforestation and Degradation Strategy to benefit the country and forest resource user

communities. The Nepal Climate Change Support Programme, funded by the European Union and DFID has utilized this framework to implement adaptation actions in 14 districts of mid and far western development regions of Nepal. After COP 17 in Durban, South Africa, Nepal took the leadership of the LDC Coordination Group of UNFCCC negotiation process established in 2001. Nepal has been strongly raising the LDCs' concerns in international fora for increased international cooperation and support to deal with the threats of climate change. It needs more support from the international community and countries to receive payment on carbon trading.

### **Housing programmes and implementation of Lands Act<sup>39</sup>**

22. The GoN is implementing a national housing policy, based on the concept of 'housing for all', and with objective of providing government support to low-income groups and ensuring planned human settlement. The 13<sup>th</sup> Plan aims to provide safe and affordable housing facilities for planned settlement. Standard Operating Procedures to operate planned settlement programme for the poor were developed in 2014. The GoN has introduced National Shelter/Housing Plan, 2014<sup>40</sup> to ensure favourable, secure and environmental friendly shelter for all income groups. A number of programmes such as, housing to low-income families, physical improvement of habitation of landless squatters, rural housing development, land and housing development programme and rehabilitation of displaced families have been carried out. The GoN continues the Citizens Residence Programme (*Janta Aawas Karyakram*), which is intended to provide good housing facilities to the poor and the marginalized. Under the programme, the GoN plans to build 1,762 residential buildings for the *Dalits*, poor Muslims, *Chepang*, *Badi*, *Kusunda*, *Gandharva*, *Raji*, *Lodh* and other disadvantaged communities in the fiscal year 2014/15. So far 4,850 houses have been constructed and distributed to such people. The GoN is providing alternative support for the resettlement of genuinely landless squatters. Construction works are underway in *Ichangu* of Kathmandu for providing residences to genuine squatters, urban poor and low income groups and with a view to managing unplanned settlements. Concessional housing loans are provided through finance companies, revolving funds and income-generating funds to the backward families including women, *Dalit*, bonded labourers and indigenous nationalities. Nepal Housing Finance Limited and the Employee Provident Fund have granted concessional loans worth NRs. 400 million and NRs. 119 billion respectively. The Employee Provident Fund has constructed 109 low cost houses in Pokhara, 1,100 in the outskirts of the Ring road of the Kathmandu valley and 500 outside the Kathmandu valley.<sup>41</sup> The National Housing Plan has proposed a ten years programme with special focus on marginalized groups.<sup>42</sup> Similarly, a proposed ten year plan of housing for others (excluding marginalized group) aims to construct 1,610,000 houses including residential flats, residential houses and land plots.<sup>43</sup> In the FY 2012/13, the GoN had expenditure of NRs. 11.074 billion on housing and community amenities that include housing and community development, water supply, and others. Land and financial support are being provided to freed bonded labourers and landless people. Besides, the GoN has been implementing National Land Use Policy, 2013, for the overall management of land including categorization of land to protect agricultural land to ensure food safety.<sup>44</sup> Considering the new challenges arisen due to the earthquake, the GoN has requested international assistance to support reconstruction efforts.

### **Right to education<sup>45</sup>**

23. The education policy has been structured to achieve the fundamental right to education and MDG 2 by 2015. A Bill to make basic education compulsory and free is under consideration at the Ministry of Education (MoE). The GoN is making considerable

efforts to gradually provide secondary education (up to 10<sup>th</sup> standard) for free at the community schools and make primary education compulsory. The 13<sup>th</sup> Plan targets to ensure the implementation of free and compulsory primary education through strict adherence to the Education for All National Plan of Action. The ‘Welcome to School’ programme is conducted at the beginning of every academic year in all schools. Communities are encouraged to run primary schools in their mother tongue. The GoN has drafted Multilingual Education Implementation Guidelines, 2009, aiming to implement multilingual education in 7,500 schools by 2015. Till date, 24 schools have been providing such education. School course-books have already been prepared in 16 mother tongues. The GoN is implementing the School Sector Reform Plan, 2009–2016 (SSRP), which aims at restructuring the school education covering grade one to twelve, while specifying education from grade one to eight as basic education. Various data show a trend of improvement in ensuring right to education in terms of increment in net enrolment rate, trained teachers, literacy rate, and government expenditure.<sup>46</sup> A significant number of schools in the earthquake affected areas have been damaged or destroyed. The GoN has taken temporary measures until reconstruction takes place to ensure that all children continue to have access to education.

24. The National Action Plan on Education for All, 2001–2015, has identified goals of elementary child education and development programmes, based on four pillars, namely, survival, development, protection and participation. The SSRP plans to implement free and compulsory primary education programmes in 500 VDCs/municipalities. Till date, 1,173 VDCs are declared having access to free and compulsory primary education and two districts, *Lalitpur* and *Dhading* were declared as fully literate districts in June–July 2014.

25. According to the Economic Survey, 2013, only 24.4 percent of the people living below the poverty line have access to primary education, 20.8 to secondary education and 17.9 to higher education. In order to address the gap, focus is laid on increasing the enrolment rate of girl children from *Dalit*, indigenous people, minorities, marginalized and backward communities. In order to ensure the access to education for adolescent girl, one female teacher is assigned in each community owned school to hear complaints and for psychosocial counselling. After the completion of the secondary education, 400 adolescent girls are accommodated in 20 feeder hostels. Training of trainer programmes on adolescent girl education are conducted in different districts. Likewise, the GoN has formulated an equity strategy for school education. The MoE has launched a Food for Education Programme in selected areas. Separate toilets for girls and boys are being constructed in each school. The number of schools having toilet facilities has increased<sup>47</sup> In the Fiscal year 2014/15; the GoN has planned to construct additional 1,285 school buildings and 3,230 toilets in schools.

26. Various programmes have been launched to ensure inclusion and gender mainstreaming in education.<sup>48</sup> The GoN is implementing education and training programmes for freed *Kamlari*. Freed *Kamlari* have been receiving scholarships, hostel and other support from the GoN. A Food for Education Programme targeting *Kamlaris* has been conducted in selected areas. Children from different marginalized groups have received different support including scholarship schemes.<sup>49</sup>

### **Right to health<sup>50</sup>**

27. The GoN has approved a new National Health Policy, 2014, and Health Insurance Directives, 2014, to ensure the right to health as a fundamental right of every citizen.<sup>51</sup> Similarly, the Second Long-Term Health Plan, 1997–2017, and population and sanitation related policies have been put in place.

28. Although the number of government health care institutions has remained constant for the last two years, the number of beds has increased from 7,035 (in 2011) to 7,285 (in 2013), health care human resources have increased from 82,994 (in 2011) to 93,495 (in 2013). The GoN has implemented free health service in primary health care institutions and district hospitals. Now the people have free access to 70 kinds of medicines at public health facilities.<sup>52</sup> Pregnant women are entitled to free maternity service at all governmental hospitals and private hospitals that have agreements with the Ministry of Health and Population (MoHP). A transportation allowance is provided to those women who give birth at a health institution. Moreover, the poor, indigent, PwDs and women volunteers are entitled to full free medical service. The GoN is implementing separate guidelines to ensure the quality of private and community-owned health care services.

29. The GoN plans to introduce health insurance programme in 15 districts selecting three from each development region. The GoN is planning to upgrade all the sub-health posts to health posts, to upgrade the hospitals and health centres, to establish ICU wards in five zonal hospitals, and to establish geriatric ward in all zonal hospitals by the end of FY 2014/15. The GoN is also planning to: a) increase the positions of specialist doctors for the effectiveness of health services; b) increase the number of doctors in primary health centres; c) provide non-practice allowance in order to encourage doctors working in remote and rural areas; d) initiate the pre-examination of kidney disease in 500 health posts, 300 primary health centres and hospitals; e) start “Midwifery” education for promoting the policy of providing maternal care services through skilled health personnel; and f) double the travel allowance and increase the dress allowance to Rs. 5,000 for women health volunteers.

30. The GoN is making efforts to increase the rate of child immunization from existing 83 percent to 100 percent and has formulated the National Immunization Operation Rules, 2013, to establish an immunization fund to ensure sustainable financial sources for immunization. Nepal is committed to the “Health for All” as pledged in the Alma-Ata Declaration of 1978 and to the achievement of the internationally agreed health related goals. Significant achievements have been made in several areas. Maternal mortality rate has gone down to 281 per 100,000, total fertility rate to 3.1, under five mortality rate to 54 per 1,000, and infant mortality rate to 46 per 1,000. It is planned to reduce the maternal mortality to 134 per 100,000. 1,555 birth centres across the country are providing 24 hour service to reduce the maternal mortality rate. 45 percent of the pregnant women are getting delivery service from trained birth attendants. The average life expectancy has gone up to 63.3 years. The population under the age of five with moderate and severe underweight has declined.

31. The Constitution ensures woman's right to reproductive health and reproduction. Nepal has made considerable progress on sexual and reproductive rights.<sup>53</sup> Silicon Ring Peccary is provided free of cost in the treatment of the uterine prolapse.<sup>54</sup>

32. With the objective to help decrease the infant, child and maternal mortality rate and to increase the average life expectancy, the GoN in the current fiscal year has allocated Rs. 33.52 billion for the overall improvement of health indicators. The GoN believes that it is on the right track to achieve health related MDGs. Nepal was awarded the “MDG Achievement Award” in 2011 for its achievement in reducing maternal mortality rate (MDG 5), the “Motivational Award” for its significant achievement in reducing child mortality rate (MDG 4), and the “Resolve Award” by “Global Leaders Council for Reproductive Health” for considerable achievement in reproductive health.



### **Human rights education<sup>55</sup>**

33. Human rights education has been incorporated in the school and university curricula. The GoN has been conducting specific programmes in rural areas to increase awareness about human rights.<sup>56</sup> In addition, the government agencies such as police and district attorneys, have been conducting sensitization programmes together with the NHRIs and CSOs both at the centre and local levels. The Strategic Plan, 2015–2020 of the NHRC lays emphasis on human rights education and aims to ensure that human rights are protected at the household level.

34. A separate mechanism to deal with human rights issues and to promote human rights education has been established in all security forces. Security force related legislations provide for mandatory human rights training for security personnel.<sup>57</sup> Furthermore, the security forces have prepared handbooks and manuals on basic human rights.<sup>58</sup> Till date, over 7,300 police personnel and 47,619 army personnel have received specific training on human rights and humanitarian law.<sup>59</sup> Moreover, all the basic courses run by the security forces include curriculum on human rights and humanitarian law.<sup>60</sup>

### **Food safety<sup>61</sup>**

35. The GoN has been providing, at subsidized rates, basic food supplies in selected areas with special focus on disadvantaged and marginalized groups. This is also done through other means including ‘Food for Work’ and ‘School Feeding’ programmes. National Planning Commission (NPC) has formulated Multi-Sectoral Nutrition Plan for the period 2013 to 2017. National Nutrition Policy, 2004, School Health and Nutrition Strategy, 2006, Maternal Nutrition Strategy, 2013, and various other programmes have been implemented with the objective of sustainably reducing the incidents of malnutrition. Some of the major programmes include free distribution of iron capsules and vitamin A to pregnant women and breast-feeding mothers, free distribution of vitamin A and de-worming capsules for children up to five years, maternal and child health care programme and anaemia reduction programme for children. A separate ‘Food Security and Environment Division’ has been established under the Ministry of Agricultural Development (MoAD), to deal holistically with the issues of food safety and nutrition.<sup>62</sup> The Division has initiated an Agriculture and Food Security Programme covering 19 districts of mid and far western development regions.

36. The MoAD has implemented 49 specific programmes related to food and nutrition with a long term objective of reducing malnutrition.<sup>63</sup> With an objective of increasing agricultural production and reducing food scarcity, the 13<sup>th</sup> Plan targets to expand irrigation service to 1,487,275 hectares of land. Importantly, an Agricultural Development Strategy is under consideration in Cabinet.

### **Internally Displaced Persons (IDPs) and conflict victims<sup>64</sup>**

37. The GoN has implemented the measures<sup>65</sup> to address the issues of IDPs and conflict victims. It is providing a range of schemes to reintegrate and rehabilitate the conflict victims. The schemes include Relief and Rehabilitation Support, employment generation training and financial support, interim relief, medical treatment, psychosocial counselling and scholarship support.<sup>66</sup> The GoN has established a separate organizational structure from the centre to the grassroots level to provide the service and to monitor the effective implementation of the measures.

### **Equality among all ethnic, cultural and linguistic components<sup>67</sup>**

38. The Constitution and existing legislation ensure right to equality for all. Any discrimination based on any ground is a criminal offence. However, in order to promote substantive equality and protective discrimination, special protection mechanisms have been adopted through legal, policy and programmatic measures particularly for women, *Dalit*, indigenous people, *Madhesi*, PwDs, and the communities who are economically and socially backward. The GoN has introduced several policies and mechanisms to help ethnic people for the protection of their culture and linguistic rights.<sup>68</sup>

### **Indigenous Peoples (IPs), minorities and vulnerable groups<sup>69</sup>**

39. The Constitution guarantees the right to social justice for women, *Dalit*, indigenous nationalities, *Madhesi* communities, marginalized groups, and workers who are economically and socially backward.<sup>70</sup> In order to expand the social security right of citizens, the Social Security Programme Operation Procedure, 2009, is being implemented under the Local Self-Governance Act, 1999.

40. Senior Citizen Act, 2011, ensures the rights for the protection and dignity of life of senior citizens. They are provided with free health treatment at government hospitals and geriatric Ward has been established in all zonal hospitals. They receive 50 percent discount in public transport. The GoN is providing a monthly allowance to senior citizens above 70 years of age and other marginalized and vulnerable groups. The people living in the *Karnali* zone and *Dalits* above the age of 60 years receive the allowance.<sup>71</sup> The GoN is implementing social security measures<sup>72</sup> through HRBA to safeguard the rights of senior citizens. An assessment of the Social Security Allowance Programme undertaken by the NPC in 2012 reveals that the average growth of social security expenditure is 0.75 percent.<sup>73</sup>

41. The Integrated Social Security Bill has provision to establish National Social Security System. The GoN has also been working to introduce a National Identity Card to make the distribution of social security allowances effective. In FY 2014/15, seven different schemes have been planned for implementation by managing the record of social security fund and preparing Contributor's biometric identity card to address difficulties, duplication and distortions on conducting various ongoing social security programmes.

42. A National Action Plan for the Implementation of ILO Convention 169 is under consideration in Cabinet. The Action Plan aims to ensure IPs' effective and politically meaningful participation in the decision-making process and equal representation in the governance of the country. The GoN has submitted its second periodic report on ILO Convention 169 in 2015. IPs District Coordination Committees are functional in all 75 districts as per the IPs District Coordination Committee (Establishment and Functioning) Procedure, 2014. National Foundation for Development of Indigenous Nationalities (NFDIN)<sup>74</sup> and other institutions<sup>75</sup> have organized various programmes to guarantee that IPs, minorities and vulnerable groups, are able to enjoy their identity and culture including through the promotion and preservation of their traditional languages.<sup>76</sup> The GoN has prepared answers to Frequently Asked Questions on ILO Convention 169. The present NHRAP introduces important measures for the protection of IPs<sup>77</sup> and as per the Local Authorities Resource Mobilization and Management Guidelines, 2012, local authorities are allocating 15 percent of their capital budget to the programmes targeted to marginalized groups.<sup>78</sup>

43. Reservation/quota and measures for protective discrimination for women, indigenous peoples and other vulnerable and marginalized groups are in place in all

government and public services under sectoral legislations.<sup>79</sup> The provisions and measures are also applicable to security forces.<sup>80</sup> Legal provisions regarding local authorities have laid down concrete provisions for the promotion and participation of people from indigenous communities, minorities and vulnerable groups in the overall governance process. The GoN has submitted a Bill to amend the Local Self Governance Act, 1999, to the Legislature Parliament in order to ensure at least 40 percent representation of women in local bodies.<sup>81</sup> The policy on social inclusion has gradually helped increase the participation of IPs, minorities and vulnerable groups.

44. The GoN is strictly implementing inclusive education policy and gender mainstreaming in education. The access to education of girls, *Dalit*, and PwDs has been enhanced including through scholarships to cover hostel facility, school uniform, educational materials and transportation.<sup>82</sup> The SSRP aims to reform the school education programme to increase the access of PwDs.<sup>83</sup> As of fiscal year 2010/11, 85,681 children with disabilities have received Rs. 80,595,000 as scholarships. The Scholarships Act, 1965 reserves five percent scholarship quotas for PwDs. For the year 2013/14, the GoN has allocated Rs. 70.4 million to support the education of the PwDs. Likewise, Special Education Policy, 1996, aims to offer special education as an important part of 'Education For All' by making the physical environment of schools friendly for children with disabilities. Resource classes are designed and conducted in the school classrooms for children with specific disabilities.<sup>84</sup> In addition to this, the GoN has established special schools and resource centres for the children with disabilities.<sup>85</sup> Considering the challenges of making classrooms more accessible to PwDs in terms of cost, geographical remoteness, etc., it might require further time to enhance their access to education despite continuous efforts.

45. The National Policy and Plan of Action on Disability, 2006, focuses on raising people's awareness about disabilities with plans to organize national campaigns on this, and to create a positive community attitude towards the PwDs. Moreover, the current 13<sup>th</sup> development plan outlines the activities for dissemination of information about the Convention on the Rights of Persons with Disabilities (UN CRPD) and its Optional Protocol, and states that development activities will be planned and implemented in line with the said Convention. A high level mechanism has been established under the coordination of the Chief Secretary of the GoN at the Office of the Prime Minister and Council of Ministers (OPMCM) for elimination of discrimination and upliftment and promotion of rights of the PwDs. Coordination mechanisms under the coordination of the Chief District Officer have also been established in all districts. Other social security measures include, Community Based Rehabilitation program<sup>86</sup> in all districts, free healthcare services in the government hospitals, and 50 percent rebate in domestic air fare, tax exemption for assistive devices for PwDs and distribution of social security allowance through local authorities.

46. A building Code has been introduced to make public buildings PwDs friendly. The GoN has issued new comprehensive Accessibility Guidelines in consultation with representatives of PwDs, amongst others.<sup>87</sup> Discrimination against the PwDs in recruitment and promotion in government and public services has been prohibited. The MoHP has produced various audio and visual programmes to raise awareness on leprosy, polio, HIV/AIDS and other diseases that may cause disability. The MoHP has been implementing a National Childhood Disability Management Strategy since 2007. It primarily aims at providing rehabilitation services and medical treatment at the community level and preventing childhood disabilities. A National Rehabilitation Centre has been established in the capital for treatment, rehabilitation, orthosis and prosthesis for conflict affected PwDs. The Regional Level Rehabilitation Centres are providing the required assistive devices and rehabilitation services to the PwDs. In addition to this, the GoN is implementing specific

programmes for the PwDs.<sup>88</sup> Similarly, the GoN is in process of revising Protection and Welfare of the Disabled Persons Act, 1982 to make it fully compatible with UN CRPD.

### **Elimination of racial discrimination<sup>89</sup>**

47. The Constitution ensures freedom from all forms of discrimination. The Caste based Discrimination and Untouchability (Offence and Punishment) Act has been operational since 2011.<sup>90</sup> For the full implementation of the Act, the GoN has initiated drafting an integrated Plan of Action, 2015, and to comply with the policy of zero tolerance on caste based discrimination and untouchability, MoHA has directed all District Administration Offices and Regional Administration Offices towards this end. Also, district level coordination committees are formed and activated. Each District Administration Office has been reporting to the MoHA on actions against discrimination on a monthly basis. The victims of caste based discrimination and untouchability are immediately rescued and prompt actions are taken against the perpetrators. National *Dalit* Commission in coordination with other NHRIs and the GoN has initiated joint monitoring of the cases of caste-based discrimination and untouchability and awareness raising programmes. In accordance with the policy of inclusion, a nine percent quota for *dalits* has been allocated in the public service.<sup>91</sup> Inter-caste marriage between *dalit* and non-*dalit* is being promoted by providing 100,000 rupees to the couple. The GoN has been providing free legal aid service through district courts to the economically disadvantaged *dalits*.<sup>92</sup> The GoN has planned to systematically register the *dalit* caste groups and facilitate research on the marginalized groups such as *Mushahar, Dom, Badi, Gandharbha* etc. which are in the danger of extinction. The GoN is making efforts to formulate Rules for the effective implementation of the Act. The data show that from 2011 to August 2014, 22 cases on caste-based discrimination have been brought to the court.<sup>93</sup> Despite the incessant efforts of the GoN, ending the ill practices of discrimination is still a challenge.

48. District Administration Offices have been providing ID cards and citizenship certificates to people from the *Badi* community and their children on the basis of their mother's citizenship. The perpetrators practicing untouchability against *dalits* have been investigated and prosecuted, and this has helped decrease the ill practice. A high level mechanism has been established under the coordination of the Chief Secretary at the OPMCM for the elimination of caste based discrimination and promotion of the rights of *dalits*.

49. The GoN plans to construct a well-equipped 'Multipurpose Inclusive Building' for the offices of the Commissions, Foundations and Boards<sup>94</sup> that have been established for the promotion of inclusive development.

### **Anti-Torture Legislation and Extrajudicial Killings (EJK)<sup>95</sup>**

50. The Constitution and Torture Related Compensation Act, 1996 and other sectoral legislations<sup>96</sup> prohibit all kinds of torture for any purpose. No prevailing laws of Nepal grants immunity to anyone in case of torture. The GoN is making efforts to make domestic legislations more compatible with the CAT. A separate Bill to criminalize all forms of torture and ill treatment has been submitted to the Legislature Parliament. Similarly, a Bill on Penal Code provides preventive, punitive and protective measures against torture and ill treatment.

51. The security forces and law enforcement agencies follow the policy of zero tolerance against torture and security personnel receive training on human rights on a regular basis. So far, internal departmental action has been taken against 62 personnel of

Nepal Police who have been involved in committing torture. A Coordination Committee under the Attorney General has been constituted to ensure humane treatment for detainees. EJK is serious criminal offence under the domestic legislation. The mechanism on investigation, prosecution and adjudication of cases related to EJK is in place. The GoN is committed to taking actions against those who are indulged in the allegation of the EJK.

### **Human trafficking and transportation<sup>97</sup>**

52. The GoN has constituted a national committee at the central level and district committees in all districts for effective implementation of the Human Trafficking and Transportation (Control) Act, 2007. The law enforcement agencies are taking action against the perpetrators. The victims are entitled to a reasonable compensation, restitution, rehabilitation, economic support and psychosocial counselling service under the Act. Different programmes and a plan of action have been implemented for the effective enforcement of the Act. The Guidelines to Control Sexual Exploitation of Women Workers in Dance Restaurants and Bars also address the issue of sexual abuse. Likewise, Immigration Act, 1992, Foreign Employment Act and Regulation, 2007, have been operationalized. The GoN is implementing National Plan of Action against Human Trafficking, 2011–2021. The Plan prioritizes five specific areas including prevention, protection, prosecution, punishment and capacity development of concerned institutions. The GoN is working in coordination with the NWC which is implementing various programmes for prevention and monitoring as well as supporting the GoN in combating human trafficking. Inter-ministerial communication has been improved. The NWC is conducting awareness raising activities through mass media and workshops at local level on women's rights including violence against women, labour migration and trafficking.

53. Fast track court proceedings are applied in the cases of human trafficking and sexual abuse as provided in the District Court Rules, 1995. The GoN has launched various programmes against human trafficking in coordination with CSOs, a fund for rehabilitation of survivors of human trafficking has been established in each district and rehabilitation homes/centres have been established in eight districts<sup>98</sup> for the survivors/affected persons of human trafficking.<sup>99</sup> Investigation procedures for human trafficking issues have been incorporated in the training curricula of Nepal Police. Nepal Police Academy has conducted training program on investigation procedures of human trafficking issues for Police personnel, and prosecutors and judges have received regular training through Judicial Academy.

### **Truth and Reconciliation Commission (TRC) and Commission on Investigation of Enforced Disappeared Persons (CoIDP)<sup>100</sup>**

54. The TRC and the CoIDP have been established under the relevant Act.<sup>101</sup> The Commissions have already initiated their work independently and are in process of framing their rules, working guidelines and manuals for smooth functioning. The Act aims at enhancing greater national unity and reconciliation without deviating from the principles of fundamental human rights. Moreover, the regular court system has been dealing with some of the emblematic cases from the armed conflict period. With the verdict of the Supreme Court in the case of Suman Adhikari vs. the GoN, the transitional justice mechanism established by the Act has been empowered to undertake independent and thorough investigations into alleged conflict related cases of human rights violations and to hold the perpetrators accountable.

### **Accountability of law enforcement authorities; establishment of Police Service Commission<sup>102</sup>**

55. The national legal system provides adequate provisions to conduct fair and independent investigations and to prosecute those involved in criminal offences without any undue pressure and prejudices. Law enforcement agencies including the security forces receive training on human rights issues.<sup>103</sup> Such agencies follow the policy of zero tolerance against human rights violations. The Office of the Attorney General, the NHRC and human rights activists are monitoring places of custody and prisons where detainees have been deprived of the enjoyment of constitutional and legal rights. As directed by the Supreme Court, the Army Act, 2007 is under review by the Ministry of Defence. In order to prevent human rights violations within security forces, Nepal Police, Armed Police Force and Nepal Army have established a separate mechanism within the organization. Moreover, the investigation committee under Section 62(1) of the Army Act has special powers to investigate human rights violations. Thus, no domestic legal provision provides for the advantage of immunity to the security personnel and law enforcement authorities.

56. Police Service Commission has already been constituted under the Armed Police Force Act, 1999 and the GoN is in the process of establishing independent Police Service Commission for Nepal Police through replacing the existing Police Act, 1955. New Police Rules, 2014 provides for fair recruitment, transfer and promotion system in Nepal Police. The Public Service Commission is involved in the recruitment and promotion process of the Nepal Police.

### **Speedy justice<sup>104</sup>**

57. The Supreme Court has been implementing Strategic Action Plan since 2004 to reduce the case backlog and to deliver prompt justice. Now it is implementing the third Strategic Action Plan, 2014–2019, which has established Justice Sector Coordination Committees from centre to district level.<sup>105</sup> Furthermore, case flow management and information technology have been applied in all tiers of the Court. The concept of continuous hearing in specific types of cases, court referred mediation and community-based mediations have been practiced. Special campaigns for the execution of court judgment have been initiated as pilot project. The administration of justice Act, 1992, has been amended for judicial decentralization and reduction of the case volume at the Supreme Court. The case backlog is gradually decreasing in all the courts.

### **Implementation of the treaty body obligations and UPR recommendations and cooperation with the United Nations<sup>106</sup>**

58. Continuous engagement with the UN system and other international organizations for the protection and promotion of human rights is cardinal policy of the GoN. Nepal has been working closely with the UN human rights mechanisms by extending invitations to the UN human rights mandate holders under special procedures to visit Nepal at different times. Since 1996, ten different special procedure/mandate holders have visited Nepal. The GoN has established a mechanism at the OPMCM to respond to such mandate holders' requests to visit Nepal to ensure productive collaboration with mandate holders. The GoN considers responding positively to the requests of country visits.

59. The GoN continues to engage in constructive dialogue with all stakeholders in the preparation of the UPR report and the Action Plan for the implementation of the UPR recommendations. The Plan has been reviewed and the progress reports have been published and disseminated. The activities identified by the Plan are being streamlined with

the plan of activities under the NHRAP and other sectoral action plans. The mechanism established for the coordination of implementation of UPR recommendations with the participation of relevant government agencies has been holding its meetings periodically to review the achievements of the Plan of Action. At the same time, the NHRC has been strengthened to monitor the implementation of UPR recommendations. A Steering Committee has been established at the OPMCM to monitor the implementation status. The GoN has communicated its response to the treaty bodies and other UN mechanisms in a timely manner.

### **Enforced disappearances<sup>107</sup>**

60. The GoN is in the process of drafting separate legislation to criminalize enforced disappearances as per the directive order of the Supreme Court. Enforced disappearance is listed as a serious violation of human rights<sup>108</sup> and as a criminal offence under the Section 62 of the Army Act, 2007. Furthermore, the proposed Penal Code has a specific provision to criminalize enforced disappearance. The GoN is preparing to develop the necessary infrastructure for joining the CED.

### **Women and children<sup>109</sup>**

61. The GoN has taken a number of policy, legal, institutional and programmatic measures to ensure gender justice and equality. The GoN is implementing National Strategy and Action Plan on Gender Empowerment and elimination of Gender Based Violence (2013–2018) as an umbrella policy, and other sectoral policies on women's rights. Domestic Violence (Crime and Punishment) Act, 2009, and its Regulation, 2010 are being enforced. Amendment Bills to eliminate Gender Based Violence (GBV)<sup>110</sup> and Witch Craft (Crime and Punishment) have been tabled at the Legislature Parliament. Single Women Security Fund (utilization) Regulation, 2013 and Sexual Harassment at Workplace (Control) Act, 2014 have been enacted.

62. The GoN has continuously been raising awareness against the harmful cultural practices such as dowry, child marriage and witchcraft throughout the country. The OPMCM has established a Gender Empowerment and Coordination Unit.<sup>111</sup> District Coordination Committees for gender empowerment have been established in all districts. The GoN has established a gender based violence alleviation fund in all districts, hospital based one stop crisis management centres and service centres in 17 districts<sup>112</sup> and rehabilitation centres in eight districts<sup>113</sup> in order to take preventive action and provide urgent service and support to the victims of GBV. Nepal Police has a Women and Children Service Directorate at its Headquarter, Women and Children Service Cells in all 75 district offices. Separate buildings are constructed for Women and Children Service Cells in 24 districts and 240 new positions have been created across the country to focus on GBV issues. For the purpose of preventing violence against women and children, the National Child Welfare Committee has established Child Help Lines in 14 districts and Women Service Centres in 15 districts aiming at extending them to all 75 districts. The NWC has established women's rights monitoring networks at the national and district levels. It has been organizing various campaigns, providing free legal aid and counselling service to the targeted group of women. The government institutions have been working in collaboration with NHRIs. The affirmative actions, quotas, targeted programmes and other support launched by the GoN have brought progressive changes to empower women in social, economic and political fields significantly since 2007.<sup>114</sup>

63. Currently, the representation of women in civil service is 15.3 percent. It is 5.8 percent in Nepal Police, 2.58 in Nepal Army, 3.4 in Armed Police Force and 1.76 in the

judiciary. To encourage women's entry into public services, the GoN is implementing various programmes that empower women in terms of education, health and other services targeting marginalized communities and a Gender and Social Inclusion Strategy is being mainstreamed in all the ministries. A comparison of Gender Development Index (GDI)<sup>115</sup> values of different times shows consistent progress both at national and local levels.

64. In the fiscal year 2014/15, the budget for promoting gender equality and women's empowerment was increased to 21.93 percent (i.e. NRs. 135.65 billion) of the total budget. Likewise, as per the Local Authorities Resource Mobilization and Management Guidelines, 2012, local authorities have been allocating 10 percent of their capital budget to the programmes targeted at marginalized women and children. To increase the access of women to land, the GoN has introduced a provision of providing 30 percent rebate in land registration fees when registering the land in the name of a woman or jointly in the name of a couple. The Gender Inequality Index has been declined from 0.558 in 2011 to 0.485 in 2013.<sup>116</sup> GBV has been declared a criminal offence and the GoN has pursued a zero tolerance policy against it. Fast track court proceedings have been introduced since 2010 under the District Court Rules, 1995, in cases involving women and children.<sup>117</sup>

65. Some domestic legislations including General Code, 1963, Human Trafficking and Transportation (Control) Act, and Domestic Violence (Crime and Punishment) Act provide for compensation to the victims of GBV. Legal awareness campaigns have been conducted by government agencies. Because of the growing awareness, the number of complaints on GBV lodged with Nepal Police has increased significantly.<sup>118</sup>

66. The GoN is implementing the National Action Plan for Children (2005–2015) and plans to revise it to address the issues of child sexual exploitation, abuse and violence. The Ministry of Federal Affairs and Local Development (MoFALD) is implementing the Child Friendly Local Governance programme through which one VDC and one municipality have been declared as child friendly. A new Children Bill has been drafted for the full compliance with the CRC. Moreover, National Children Policy, 2012 incorporates measures related to survival, protection, development and participation of children.<sup>119</sup>

67. Pursuant to the CEDAW Committee's recommendations, the GoN together with NWC has prepared a Bill to criminalize all kinds of harmful practices that foster gender violence. The Bill identifies 62 types of harmful practices including *Chhaupadi*, *Deuki*, *Badi* and *Jhuma*. Government agencies are organizing awareness raising programmes against these practices. As per the directive of the Supreme Court, the GoN promulgated Guidelines in 2008 to eradicate *Chhaupadi*. The number of girls attending school during menstruation has significantly increased and the number of dedicated '*Chhaupadi goths*' has decreased. The GoN has established the *Badi* Community Upliftment and Development Board for empowerment and protection of the *Badi* community.

### **Rehabilitation and reintegration of ex-combatants and minors<sup>120</sup>**

68. The National Children Policy, 2012, prohibits the use of children in armed conflict. The Army Rules, 2013, sets 18 years as the minimum age for recruitment to the Nepal Army.<sup>121</sup> Among the verified combatants, 1,460 were integrated into the Nepal Army, 6 received rehabilitation packages and 15,585 chose volunteer retirement. 4,008 ineligible combatants (minors and late recruits) through the UNMIN verification were discharged from the Maoist cantonments in 2009. Among them, 2,973 were minors. The discharged child soldiers received interim relief followed by reintegration support such as education, vocational training, and psychosocial counselling. The reintegration support programmes are run by different agencies to meet the demand of the discharged child soldiers.



## Child abuse, sexual exploitation and child labour<sup>122</sup>

69. Child Labour (Prohibition and Regulation) Act, 2000, Child Labour (Prohibition and Regulation) Rules, 2006, Labour Act, 1992, Labour Rules, 1993, National Master Plan Relating to Children, 2004–2014 and a National Master Plan on Elimination of Child Labour, 2011–2020, are put in place to prohibit child abuse and child labour. A list of hazardous labour sectors for children is published and such sectors are prohibited for children in accordance with the domestic legislation and ILO standards.<sup>123</sup>

70. The National Children Policy, 2012, prohibits the use of children in armed conflict and hazardous forms of labour and adopts policy to make such acts punishable by law. The GoN has mobilized MoLE, Central Child Welfare Board, District Child Welfare Boards and local authorities to monitor the child labour situation, de-motivate the use of child labour, and rehabilitate the rescued child labourers. The protection of children, monitoring the use of child labour in factories, penalizing the factories which employ children and rescuing and rehabilitating the children have been carried out through the structures. The GoN is implementing a plan with the aim to eliminate the worst forms of child labour by 2016 and all forms of child labour by 2020 including elimination of child labour in the informal sector. Preventive initiatives, various awareness raising programmes<sup>124</sup> have been implemented.

71. The GoN has been increasing vigilance against *Kamlari* system and the concerned agencies have intensified targeted and affirmative actions in the areas that have frequently reported such incidents. In June 2013, it made a ten point commitment to bringing an end to the *Kamlari* practice which is perceived to exist in some parts of the country despite prohibition.

72. Nepal Police has established a Child Search and Rescue Centre in Kathmandu which provides 24 hour service. The MoHA and Nepal Police have also been using means of Radio/Television for search and rescue of missing Children.

## Juvenile Justice System<sup>125</sup>

73. The Children Act, 1992, and its Rules, 1995, and Juvenile Justice Procedural Rules, 2007, provide basic standards dealing with juvenile cases. Investigation and Prosecution Guide, 2009 on Juvenile Justice for government attorneys has been issued. Child correction homes have been established with minimum standards for child care in three regions and the GoN is building the homes in two more regions, with plan to expand it in all the development regions.<sup>126</sup> In line with the spirit of Juvenile Justice (Procedural) Rules, 2007, children are handed over to respective parents/guardians on condition of producing him or her before the court as deemed necessary. A Juvenile Justice Coordination Committee (JJCC) has been constituted at central level. The GoN has been strengthening juvenile justice system in the country in line with international human rights standards for which a joint programme of the Ministry of Women, Children and Social Welfare and JJCC is being implemented in 64 districts where a “juvenile bench” has been established. The GoN is planning to constitute “juvenile benches” in the remaining districts.

## Sexual orientation and gender identity<sup>127</sup>

74. As per the Supreme Court’s order<sup>128</sup>, the members of the LGBTI community have been receiving citizenship certificate and passport with their identity as per the amended citizenship rules, 2008, and Passport Rules, 2010. The Central Bureau of Statistics officially recognized a third gender in addition to male and female for the first time in

national census, 2011. The GoN has been considering the report submitted by a Committee constituted as per the directive order of the Supreme Court for further identification and protection of the rights of the LGBTI. The domestic legislation of Nepal prohibits discrimination of any kind including on the ground of sexual orientation and identity. The GoN respects the rights and freedom of the LGBTI community guaranteed by the Constitution and laws, and is fully committed to ending *de-facto* discrimination against LGBTI community.

### **National Human Rights Institutions (NHRIs)<sup>129</sup>**

75. The GoN has always been supportive to provide budget and resources for the smooth functioning of the NHRIs.<sup>130</sup> The NHRC enjoys structural, functional and financial independence in line with the Paris Principles and have maintained 'A' status.<sup>131</sup> The GoN has gradually implemented the recommendations of the NHRC. The independence and autonomy of the NHRC guaranteed by the constitution are further elaborated by the NHRC Act, 2012. The constitutional mandate and jurisdiction of the NHRC are not restricted by the Act. Furthermore, separate financial rules for the Commission have been approved by the Ministry of Finance for ensuring its financial autonomy. Importantly, Human Rights Service Bill for the NHRC has been approved in principle by the Cabinet.<sup>132</sup> The GoN is committed to extending its full support for the smooth functioning of the NHRIs. Pursuant to the judgment of the Supreme Court<sup>133</sup>, the GoN is in the process of submitting an amendment bill to the NHRC Act in the Legislature Parliament.

## **Achievements, good practices and challenges**

### **Achievements**

#### **Major accomplishment of the peace process**

76. The unique peace process of Nepal that started in 2006 with the signing of the Comprehensive Peace Agreement is near a logical conclusion. The process of integration of Maoist Combatants into Nepal Army and management of arms and verified Maoist combatants has been completed. The GoN has been providing financial and non-financial reparation and relief to conflict victims through different mechanisms from the centre to the grass roots. The constitution making process has further expedited after the approval of the preliminary draft of new constitution. The draft is disseminated to get feedback from the people.

#### **Establishment of transitional justice mechanism**

77. As per the Act on the Commission on Investigation of Enforced Disappeared Persons, and Truth and Reconciliation, 2014, two commissions<sup>134</sup> have been constituted to address the violations of human rights by both State and non-state actors during the armed conflict, and to ensure justice for victims in line with Nepal's national and international commitments. The Commissions have already started their work. The Commissions are competent and independent to investigate all conflict related cases and to recommend to the concerned authorities to take action on prosecution against the perpetrators, providing adequate reparation to the victims and overall institutional reform.

#### **Human rights as a cardinal principle of governance and development plans**

78. Protection and promotion of human rights have become a national policy and priority of the GoN. The governance and development activities are guided by the rights

based approach. Periodic development plans incorporate, both structurally and functionally, the basic values of rule of law and human rights. As a result, Nepal has made progress in human development indices.<sup>135</sup>

### **Policy, legal and justice sector reform**

79. Policy and legal reform<sup>136</sup> has been a continuous process to effectively address the State's obligations on human rights. In policy sector, five-year national plans on human rights, gender empowerment, children policy and national health policy are some notable policy instruments introduced during this reporting period. The policy and legal reform have made the domestic legal system more compatible with international standards.

80. The judiciary is implementing the third Strategic Action Plan, 2014–2019, to deliver prompt and effective justice to all. Continuous hearings in GBV cases, case flow management, calendar based court proceedings, mobilization of specific task force for the enforcement of Supreme Court judgments are some strategic interventions of the judiciary to enhance the access of people to justice.

### **Effectiveness of NHRIs**

81. The NHRIs are playing the role of a watchdog for protection of human rights. These institutions are not only conducting awareness raising campaigns and monitoring human rights situation but are also contributing to reform laws and policies by providing specific recommendations to the GoN. In the post-earthquake context, the NHRC is also acting as a co-leader of the protection cluster.

## **Good practices**

### **Integrated national measures on human rights**

82. Nepal has adopted constitutional, legal, policy and institutional measures in an integrated manner to fulfil the national and international obligations on human rights. The GoN not only has established a normative hierarchy but also has ensured a basic foundation and environment for implementing the national priorities based on core values of human rights. Equality, freedom, human dignity, peace, justice and inclusive democracy are the pillars of these integrated measures.

### **Constitutional recognition of inter-dependence of human rights**

83. The constitution recognizes and protects civil, political as well as economic, social and cultural rights as fundamental rights for all. Rights to education, health, employment, social security, among others, are guaranteed by realizing the fact that these basic rights are inevitable for the full enjoyment of civil and political rights. Similarly, collective rights have also been incorporated to address the special needs and interests of the specific communities.

### **Positive activism of the judiciary**

84. As a guardian of fundamental rights, the Supreme Court has interpreted the Constitution and legislation constructively to provide effective remedy to the aggrieved and to give effect to the international obligations. The Court has played a major role to develop jurisprudence on gender, environment, market, good governance, and expansion of fundamental rights through writ jurisdiction and an approach of public interest litigation.

### **Internalization of international conventions**

85. One of the obligations of the State as clearly mentioned in the Constitution is to effectively implement Nepal's obligations arising from international instruments. Furthermore, Nepal Treaty Act, 1990, which deals with the status of international instruments to which Nepal is a party, has a provision that the treaty to which Nepal is a party prevails over domestic legislations in case of inconsistency. The Supreme Court has tested the constitutionality of legislations even on the basis of binding international instruments to which Nepal is a party.

### **Engagement with international mechanisms**

86. Enhancing international cooperation in the protection and promotion of human rights, soliciting international support and understanding on the efforts made by the country are being carried out regularly through constructive engagement. Nepal has cooperated with United Nations human rights mechanisms including through the extension of invitations to UN human rights mandate holders to visit Nepal at different times.

### **Collaboration with civil society**

87. The GoN is working with civil society as an actor for development and social mobilization particularly for the effective utilization of local resources, raising awareness and for providing inputs for reform measures towards the full realization of human rights. Substantive policies that affect large numbers of people have been adopted after consultation with civil society, human rights defenders and human right activists. Civil society has been represented in various monitoring mechanisms established by State institutions.

### **Socio-economic transformation approach based on inclusion**

88. The policies and measures adopted by State mechanisms are primarily directed towards socio-economic transformation in order to achieve full justice and equality in the society where all people including vulnerable and marginalized communities can enjoy basic human rights and democratic gains. Inclusion, compensation for past injustice, establishment of the linkage of all policies with the issue of human rights, social redistribution and national mainstreaming have been adopted as strategic tools in a coordinated manner to achieve the goal of socio-economic transformation.

## **Challenges**

### **Post conflict situation**

89. Nepal has been recovering from the decade long armed conflict. Due to the prolonged transition, the overall development process has been delayed and commitments made for the realization of human rights have not been translated into action as expected. Diverse post-conflict issues adversely affecting the human rights situation of the country have added further constraints to the existing challenges. Reconstruction, institutional and cultural reform, establishment of transitional justice and reconciliation in the society, restructuring of State institutions, and strengthening downward accountability are the key challenges towards the sustainable management of the post conflict phase.

### **Effective implementation of the human rights measures**

90. The absence of elected local authorities, constraints in resource generation and mobilization, low capacity of implementing agencies, geographical remoteness, among others are the major constraints for the timely and proper implementation of the laws,

policies, plans and programmes on human rights. Despite remarkable achievements in socio-economic development indices, protecting the rights of the vulnerable and marginalized communities as envisioned in the Constitution remains a challenge.

### **Existing harmful practices**

91. Several harmful practices<sup>137</sup> still continue to exist in society despite State interventions and consistent improvements. These practices have laid great obstacles for the implementation of initiatives led by the State agencies and CSOs to enhance the quality of life. Bringing desired changes in behaviour, practice and attitude of socially and culturally interwoven mind-set is a long-term process.

### **Post natural disaster response from a human rights perspective**

92. Integrating human rights values for humanitarian interventions, rescue, relief, rehabilitation and reconstruction in a post natural disaster context has been a national agenda after the devastating earthquake of 25 April 2015 and its subsequent aftershocks. Despite the increasing realization of such priorities, the rights based response to the needs of the victims of the earthquake remains a challenge. After consultation with national experts and stakeholders, the GoN is preparing planned urbanization, organized settlement in rural areas, review and implementation of building code and land use policy, and establishment of appropriate institutional mechanisms for the overall management of natural and human made disasters with further expertise, coherent national efforts and international support.

### **Poverty alleviation**

93. Considering the impact and evaluation of poverty reduction strategies and programmes, the GoN is making efforts to further integrate the notions of distributive justice, more decentralized approach, equitable access to available resources, interlink between development programmes and rule of law, and corruption control into all public policies in an accountable manner. Though the level of poverty has been declining it has been a huge obstacle towards the enjoyment of basic human rights by all.

### **National commitments**

94. As a democratic country with an elected government, independent and competent judiciary, free media and vibrant civil society, Nepal has demonstrated a strong commitment to human rights. Despite several challenges, the GoN is committed to implementing effectively the accepted recommendations made under the first UPR cycle and further recommendations to be received through the second cycle with increased emphasis on mainstreaming human rights into development policies and programmes, allocating more resources and improved capacity. The GoN is committed to continue national efforts in line with national priorities and international obligations and strengthening its collaboration with the international community and national stakeholders. The GoN expects further support from the UN and international community in its efforts towards protection and promotion of human rights in a sustainable manner.

### *Notes*

<sup>1</sup> The reports of the proceedings of regional and national consultations are attached in Annex –1.

<sup>2</sup> The thematic areas include, education; health, nutrition and population; labour and employment; culture; legal reform and administration of justice; environment and sustainable development; women, disabilities, senior citizens and gender and sexual minorities; international responsibility of

- Nepal; food security and food sovereignty; transitional justice and conflict victims; human right education; inclusive development; children; housing; social service and security; execution of Supreme Court judgments and recommendations of National Human Rights Commission; custody and prison reform; and institutional strengthening. (The NHRAP is available at [www.opmcm.gov.np](http://www.opmcm.gov.np)).
- <sup>3</sup> Nepal has ratified seven core UN Conventions on human rights out of nine.
- <sup>4</sup> Act on the Commission on Investigation of Enforced Disappeared Persons, and Truth and Reconciliation, 2014; Caste-Based Discrimination and Untouchability (Offence and Punishment) Act, 2011; An Act to control Sexual Harassment against Women at Workplace, 2014.
- <sup>5</sup> A Bill to Criminalize Torture and Ill Treatment, 2014; Some Nepal Acts Amendment Bill to End Gender Based Violence and to Maintain Gender Equality, 2014; A Bill to Prohibit Witchcraft Practicing, 2014; Bills on Penal Code, Criminal Procedure Code, Sentencing Legislation, Civil Code, and Civil Procedure Code, 2014.
- <sup>6</sup> Four Geneva Conventions Implementation Bill, 2014; National Human Rights Commission Service Bill, 2015; A separate Bill to Criminalize Enforced Disappearance; Some Nepal Acts Amendment Bill to maintain Inclusion in Public Services; A Bill on National *Dalit* Commission.
- <sup>7</sup> At least five layers of government mechanisms have been functional for the implementation of treaty body obligations including the Concluding Observations. The Human Rights Divisions or Sections established at various ministries have been playing a role of performing basic tasks and preparing documentations. The Human Rights Division of the OPMCM has been serving as human rights focal agency of the GoN. It is mandated to prepare plans of action, policies and reports as well as identify the issues and gaps in existing measures. A Steering Committee led by the Chief Secretary and consisting of secretaries of different ministries has been monitoring the implementation status and where necessary, supervising and facilitating work of the ministries. A regular meeting of all Secretaries of the GoN is held under the chairmanship of the Chief Secretary to address the problems and challenges, if any, during the implementation process. The Council of Ministers, the apex executive body, approves policies and Bills related to fulfilling the GoN's human rights commitments and implementation of the Concluding Observations. Likewise, Social Justice and Human Rights Committee of the Legislature Parliament oversees the issues of human rights and extends necessary directives to the government towards protecting human rights in accordance with international standards.
- <sup>8</sup> The GoN has planned to build new buildings for prisons in Nuwakot, Makwanpur, Banke, Kavrepalanchowk, Udayapur, Rupandehi, Kailali, Kanchanpur, Bardiya, Parbat, Jhapa, Rolpa districts.
- <sup>9</sup> It includes, Recommendation 106.1, 2, i.e., *due consideration to the views of different groups that compose Nepali society, and participation of ethnic and caste group in constitution making process; timely writing, peaceful coexistence and guarantee freedom of religion, equality and non-discrimination; women's rights in line with intl' HR instruments.*
- <sup>10</sup> The endorsed draft of the new constitution has been disseminated through the official website of the CA, newspapers, radios and other mass media. The draft has also been published in official gazette. The committee on Citizen Relations and Public Opinion collection of the CA is mandated to collect views and feedbacks of people, and the Committee will present a report incorporating suggestions from the people and other stakeholders.
- <sup>11</sup> It includes, Recommendation 106.26, 108.23, 27, 28, i.e. *concrete steps to ensure security of HRDs and journalists; prompt investigation on violations and prosecution; necessary measures to put an end to acts of intimidation and violence committed against journalists and human rights defenders.*
- <sup>12</sup> The Guidelines cover the matter of professional safety, insurance, and welfare matters related to journalists.
- <sup>13</sup> It includes Recommendation number 107.27, i.e. *ensure the right to freedom of assembly is guaranteed and remove all restrictions to peaceful protests.*
- <sup>14</sup> *New labour legislation as per the ILO Convention No. 111, Labour exploitation at home and abroad:* It includes Recommendation number 106.40, 108.32, i.e. *Protect labour exploitation at home and abroad by legislation and oversight of workplace practices; Ensure that the new labour legislation includes provisions prohibiting discrimination as ILO 111.*
- <sup>15</sup> The Bonded Labour (Prohibition) Act, 2002 and its Rules, 2010 are in place to put ban on any form of bonded labour including *haliyas* and *kamaiyas*, to rehabilitate the freed bonded labourers and to uplift their livelihood from the perspectives of social justice.

- <sup>16</sup> The setting up of standards relating to air, light, chemicals and radiation for industries is planned for the upcoming fiscal year. Occupation related illness, safety and health management system has been in the process of development in the accident reporting system.
- <sup>17</sup> The schemes include: (a) Unemployment Insurance Plan, (b) Injury/ Accident Insurance Plan, (c) Sickness Insurance Plan, (d) Maternity Insurance Plan, (e) Dependent Insurance Plan, (f) Disability Insurance Plan, (g) Old Age Insurance Plan, (h) Medical Insurance Plan, and (i) Family Insurance Plan.
- <sup>18</sup> On 22 May 2011, the GoN determined minimum monthly salary and daily wage for labourers of industries, factories and enterprises where labour laws apply including agricultural labourers, and employees in media. Likewise, minimum wage for workers working in tea estate has also been determined.
- <sup>19</sup> In the Fiscal year 2012/13, the ratio of remittance to GDP is 25.7 percent while it was 23.1 percent in the previous fiscal year, i.e. 2011/12.
- <sup>20</sup> MoU has been signed with Bahrain, Japan, South Korea, UAE and Qatar.
- <sup>21</sup> Bahrain, Oman, UAE, Qatar and Saudi Arabia.
- <sup>22</sup> Saudi Arabia, Qatar, UAE, Malaysia, South Korea, Oman and Bahrain.
- <sup>23</sup> Saudi Arabia, Qatar, UAE, and Kuwait.
- <sup>24</sup> Foreign Employment Act, 2007 and its Rules, 2007, Guidelines on the Process Related to Obtain Personal Approval for Foreign Employment, 2012 are other legislative and policy tools.
- <sup>25</sup> It includes: the MoLE, the Department of Foreign Employment, the Foreign Employment Promotion Board, the Foreign Employment Tribunal, Labour Desk at the Tribhuvan International Airport in Kathmandu and Labour Attachés in destination countries. Likewise, a Committee to hear the issues of undocumented workers, formed at the Department of Labour on 31 January 2011, has served as an institutional mechanism to address the issues of widespread illegal migration and exploitation of undocumented workers.
- <sup>26</sup> By mid-March 2014, verdicts on 73 cases have been delivered while 277 cases are under consideration.
- <sup>27</sup> It includes Recommendations numbers, *106.41, 43, 44, 45, 46, 48, i.e. Intensify efforts for more employment opportunities for vulnerable and marginalized; Efforts to reduce (rural) poverty and speed up its efforts; Continue implementing economic measures; Continue efforts to achieve equitable socio-economic development and political transformation process; Measures to reduce gap between the rich and poor.*
- <sup>28</sup> The detailed data are given in Annex - 2.
- <sup>29</sup> As per the Post Disaster Need Assessment Report of the National Planning Commission, more than 18 districts have been affected by the earthquake in April 25 and May 12 which caused loss of approximately 9,000 people, 600,000 houses/buildings and 700,000 people pushed to poverty.
- <sup>30</sup> Governmental agencies including Central Bureau of Statistics have already started to disaggregate national data under major identity groups, oppressed caste groups, indigenous people, *Madheshi* caste groups and Muslims.
- <sup>31</sup> In April 2014, IFAD has provided 5 million US dollars for PAF II.
- <sup>32</sup> MoFALD in collaboration with the ADB has been conducting economic empowerment programmes for hill *Dalit*, *Madheshi Dalit*, *Kumal*, *Majhi*, *Bote* and providing seed money of NRs. 35,000 to each household. Ministry of Poverty Alleviation and Cooperatives, Ministry of Forest and Soil Conservation and Ministry of Agricultural Development have been implementing livelihood support programmes to ensure the poorest people's right to generate income. Under the Ministry of Forest and Soil Conservation, a Leasehold Forestry and Livestock Programme has served more than 70,000 households to support livelihood through granting 40 years lease of the forest land of about 0.7 hectare for every household.
- <sup>33</sup> The CTEVT has been providing special vocational and technical education programmes targeting to *Dalit*, Muslim and marginalized groups. Since May 2013, 742 students (144 marginalized, 523 *Dalits* and 75 Muslim) are enrolled in the following courses: Nursing course (12<sup>th</sup> standard), Auxiliary Nurse Midwife (18 months' course), Auxiliary Nurse Midwife (29 months' course), general medicine (12<sup>th</sup> standard course of 36 months), Diploma in Civil Engineering (36 months' course), Agriculture Junior Technical Assistance (15 months' course in animal husbandry). Likewise, since 2011, a total of 1,702 students (161 marginalized, 1,166 *Dalit* and 375 Muslim) have graduated in the vocational/technical courses.

- <sup>34</sup> Details on the targeted programmes are presented in Annex- 2.
- <sup>35</sup> It includes Recommendations number. 106.10, 42, 43, i.e. *Request for financial assistance; Continue to seek capacity building and technical assistance in order to pursue its plans and development and promotion of human rights; Call on the international community to encourage to provide necessary assistance to strengthen domestic capacity to address the challenges.*
- <sup>36</sup> The Policy replaced the previous Policy on Foreign Aid, 2002.
- <sup>37</sup> The first-ever meeting of the IPOA National Implementation Oversight Committee (IPOA-NIOC) held on 5th August 2013 decided to identify the key partners for implementation of the IPOA and formulate a new national development cooperation policy to replace the old one so as to bring it closer to the spirit of IPOA.
- <sup>38</sup> It includes Recommendations numbers 106.45, 47, i.e. *Seek broader international cooperation to deal with the threats posed by climate change; Through UNFCCC and other forums to remind international community, especially developed countries and other major emitting States, of their obligations to protect and promote human rights in Nepal by reducing greenhouse gas emissions to safe levels.*
- <sup>39</sup> It includes Recommendations numbers 106.51, 108.3, i.e. *Continue pursuing and enhancing housing programmes; Prepare a specific plan to ensure that the Nepal Lands Act will be in practice effectively to promote equality.*
- <sup>40</sup> The National shelter/housing Plan, 2014 is available in Nepali language at: <http://www.moud.gov.np/pdf/Rastriya-Aawash-2071.pdf>
- <sup>41</sup> See National Shelter/Housing Plan 2014 (2071), pg. 18, at <http://www.moud.gov.np/pdf/Rastriya-Aawash-2071.pdf>
- <sup>42</sup> See National Shelter/Housing Plan 2014 (2071), p. 29.
- <sup>43</sup> See National Shelter/Housing Plan 2014 (2071), p. 30.
- <sup>44</sup> It is also related to "Food Safety" Section, i.e. paras. 35–36.
- <sup>45</sup> *The Right to Education, Free, compulsory and quality education for all children and all segments of society, including marginalized, disadvantaged and most vulnerable groups, and School Feeding Programmes.* It includes Recommendations numbers 106.50, 52, 53, 54, 108.33, 34, 35, 36, i.e. *Free and compulsory (primary) education with special focus on girls; policies for free and compulsory education and participation of the disadvantaged; Programmes and measures for education; Participation of parents in increasing quality; Expand school feeding programme.*
- <sup>46</sup> As per the economic survey (2013/14), net enrolment rate in grade one in the year 2013/14 has increased to 95.6% compared to 89% in the year 2011. Likewise, net enrolment rate in basic education has increased to 86.3% (in 2013/14) compared to 70% (in 2011) and in secondary education to 33.2%. Qualified and trained teachers in basic education have increased to 91.5% (2013) compared to 79% (in 2011) and in secondary level education has increased to 98% (2013) compared to 94% (2011). Similarly, literacy rate among six to fifteen years has also increased to 65.9% in 2013 from 60.9% in 2012. Literacy rate based on Gender Parity Index (GPI) for 2012 is 0.62 compared to 0.9 for 2011. Due to expansion of government budget and expenditure in the education sector together with expansion of educational activities in the private and non-government sectors, output of this sector is estimated to remain at 6.0 percent with marginal increase of 0.1 percent as compared to previous fiscal year. The 13<sup>th</sup> periodic Development Plan (2013-16) targets to increase the literacy rate among the age group of above 15 to 75 percent, 15 to 25 age group to 95 percent; enrolment rate in class one having the experience of child development to 64 percent; net enrolment rate in basic education (class one to five) to 100 percent; net enrolment rate in class one to eight to 90 percent; and net enrolment rate in secondary education (class nine to 12) to 40 percent.
- <sup>47</sup> Schools having toilet facilities have increased to 81.3 percent and number of schools having separate toilets for girls has increased to 67.6 percent.
- <sup>48</sup> The details on various programmes are mentioned in Annex - 3.
- <sup>49</sup> The details on the support schemes are given in Annex - 3.
- <sup>50</sup> It includes Recommendation number 106.52, i.e. *Programmes and measures for the enjoyment of rights to health.*
- <sup>51</sup> The Policy emphasizes increasing the access to health services to all citizens with special focus on poor and marginalized communities residing both in urban and rural areas through implementing the programmes based on equity and social justice. The vision of the Policy is to enhance the physical, mental, social and emotional health of every citizen so that they can be able to live a productive and



quality life.

- <sup>52</sup> It includes district hospitals, primary health centres, health posts, and sub-health posts.
- <sup>53</sup> The GoN has been distributing contraceptives and permanent sterilization service free of cost. In the fiscal year 2012/13, a total of 599,420 people were provided with contraceptives and 52,181 were provided with permanent sterilization service through the reproductive health programme as a family planning initiative. In addition, 2,478,000 regular users of contraceptives from across the country received such services in the same period. As of the end of FY 2013/14, the number of people having knowledge about the legality of safe abortion is 38 percent, number of people with knowledge about the availability of place/service centre for safe abortion is 60 percent, number of people using the safe abortion service is eight percent, rate on usage of family planning devices is 49.7 percent, rate of pregnant women utilizing delivery service at health services is 35 percent and rate of pregnant women utilizing delivery service through trained health workers is 36 percent. The 13<sup>th</sup> periodic Development Plan, 2013-2016 aims at increasing the rate on usage of family planning devices to 67 percent and decreasing the fertility rate (among 15–49 aged women) to 2.4, and thereby increasing the life expectancy rate to 71 years.
- <sup>54</sup> In the FY 2012/13, a total of 33,024 women were screened as having the problem. Among them, 3,660 women received silicon ring peccary and 4,725 underwent uterine operation. Likewise, awareness programmes both on preventive and curative aspects together with treatment facilities have been implemented at the local level. The national budget for the fiscal year 2014/15 as well as the NHRAP ensures continuation of the availability of the service free of cost in the course of implementing the Supreme Court ruling.
- <sup>55</sup> It includes Recommendations numbers 106.12, 17, 107.26, i.e. *Strengthen human rights in all areas; Inclusion of human rights education in school programmes; Human Rights education to general public with a focus on the most vulnerable social groups; Provide mandatory HR training for law enforcement officials.*
- <sup>56</sup> In the last two fiscal years, Ministry of Law, Justice, Constituent Assembly and Parliamentary Affairs (MoLJ) has conducted four dissemination programmes in pursuance of the Action Plan on the implementation of the Recommendations of the UPR. More than 700 people have benefited from these programmes.
- <sup>57</sup> Police Rules, 2014, and Army Rules, 2013, provide for mandatory human rights training for security personnel. Police Rules, 2013, have provisions for mandatory training on human rights and crime investigation in relation to offences against women and children. The Rules include provisions for the duty of police towards protection and promotion of human rights. As per the Police Rules, 2013, rules 53 (g), 55 (q), 57 (o), 59 (v), 60 (t), 62 (u), 63 (t), it is the duty of the police to protect and promote human rights and to implement a specific plan for the protection of the rights of vulnerable people, women and children. Likewise, Army Act, 2007, ensures that mandatory training on human rights to all army personnel is provided. Army Act, 2007, Section 20 (1) provides that a person to be included in the organization of the Nepal Army shall be provided with training and orientation on topics including human rights and international humanitarian law.
- <sup>58</sup> Nepal Police has developed Crime Investigation Directives, 2014, Standard Operating Procedure on Women and Children Victim Care System, 2014, Nepal Police Polygraph Directives, 2014. The Office of the Attorney General has developed medico legal manuals for crime investigation, Victim Protection Manual, Manual on monitoring of human rights situation of inmates in custody and prison, Resource material on criminal offence against Children and Women, Victim's rights handbook.
- <sup>59</sup> Nepal Army has been conducting training on gender equality and UNSCR Resolution 1325 and 1820 since 2010, in which, 1,082 army personnel have been sensitized. Moreover, as per the National Action Plan on UNSCR 1325 and 1820, Ministry of Defence has conducted a project on promoting women's participation in the peace building process and economic opportunities since 2013. So far, 1,065 army personnel have been trained in the subject matter.
- <sup>60</sup> All army personnel have received basic education on human rights as the basic education on human rights is compulsory for them.
- <sup>61</sup> It includes Recommendation number 106.49, i.e. *Improve food safety of vulnerable groups, particularly indigenous people, former bonded labourers, Dalits, Muslim, PwDs and those who are infected with HIV/AIDS.*
- <sup>62</sup> As per its mandates, the Division has been liaising with other line ministries and formulating laws, policies and guidelines related to food safety and nutrition and related endeavours such as seed,

- fertilizer, pesticides and so on.
- <sup>63</sup> The programmes aim at achieving outputs like introducing more than 17 new species of grain, introducing 21 new technologies and eight new practices in food and animal farming respectively, achieving the production of more than 700 metric ton of seed and so on.
- <sup>64</sup> It includes Recommendations numbers 106.13, 55, i.e. *Put in place follow-up mechanism to ensure return, registration, re-adaptation and reinsertion of IDPs; Establish monitoring system; Design and implement programmes to ensure the respect for and protection of the rights of women and children in the rehabilitation.*
- <sup>65</sup> The policies, directives, procedures and programmes to address the issues of IDPs and conflict victims include:
- National Policy on Internally Displaced Persons, 2007
  - Directives to provide relief to the IDPs and their families, 2007
  - Peace Fund Operation (Procedure) Regulation, 2009
  - Terms of Reference of Local Peace Committee, 2009 and Directives of Local Peace Committee, 2010
  - Development Programme for Peace Operation Working Procedure, 2009, and Development Programme for Peace Operation Directives, 2012
  - Relief, Compensation and Financial Support Working Procedure, 2010
  - Employment/Self-Employment for Conflict Victims Operation Directives, 2011
  - Special Programme for Conflict Affected Area Operation Directives, 2012
  - Psycho-social Counselling Service Operation Directive, 2014
  - National Action Plan, 2011, on the Implementation of the United Nations Security Council Resolutions 1325 and 1820
  - Conflict Victim Journalist Welfare Fund and Operation Guidelines, 2013
- <sup>66</sup> Between fiscal years 2006/07 and 2012/13, among the 79,571 IDPs, 25,000 have received a sum of Rs. 240,144,000 as interim relief. Employment generation training has been provided for 3,030 conflict victims from 12 districts and 11,740 victims from 42 districts during the probation period and first phase respectively. As of the end of FY 2012/13, 7,996 persons with conflict-induced injury have received a sum of Rs. 369,868,000. Also, a sum of Rs. 84,377,000 has been provided as life sustaining allowance to 736 persons with more than 51 percent disability caused by conflict induced injury. Likewise, the Ministry of Peace and Reconstruction (MoPR) has provided interim relief and rehabilitation support to conflict victims. This includes relief to the families of deceased, single women, families of the conflict victims, skills development training to conflict victims and relief/compensation based on NHRC's recommendations.
- <sup>67</sup> It includes Recommendation number 107.4, i.e. *Do the necessary including legal texts to reaffirm and reinforce the equality between all ethnic, cultural and linguistic component.*
- <sup>68</sup> The policies include, Culture Policy, 2013, the policy to provide primary education in mother tongue. The mechanisms include, establishment of NFDIN, Nepal National Ethnographic Museum, etc.
- <sup>69</sup> It includes Recommendations numbers 106.46, 107.28, 108.13, 14, i.e. *Step up efforts to achieve ESC rights for marginalized and vulnerable; Redouble efforts to promote and protect the rights of vulnerable groups such as children, women, PwDs, aged persons; Take effective measures to increase the involvement of the indigenous peoples, minorities and vulnerable in civil services, law enforcement agencies and local authorities; Measures to ensure PwDs are enabled to participate in vocational and job training, literacy in consultation with their representative organizations; Ensure non-discrimination.*
- <sup>70</sup> Article 35 of the Constitution stipulates that the State shall pursue the policy to provide social security schemes for marginalized and disadvantaged groups. Article 35 (19) states that a policy to provide allowances to old age people, women and the unemployed shall be adopted.
- <sup>71</sup> The programme includes the provision of monthly monetary allowance of Rs. 500 to elderly citizens, Rs. 500 to single women, Rs. 1,000 to fully disabled, Rs. 300 to partially disabled, Rs. 3,000 to those with extreme disability and Rs. 500 to persons belonging to the endangered communities. In addition, an annual medical allowance of Rs. 2,000 is provided to the senior citizens above 70 years of age. Senior citizens above 75 years of age are entitled to free medical treatment of cancer and the diseases related to heart, kidney.
- <sup>72</sup> The social security measures include:
- Establishment of Day Care Service Centres and Senior Citizen Clubs, and Renovation of the

- existing old age homes
- Implementation of Senior Citizen Act, 2007 and Rules thereof
  - Collecting data about senior citizens
  - Review of the existing provisions on social security for necessary improvement and expansion by National Planning Commission and concerned ministries
  - Formation of Senior Citizen Welfare Committee at the central and district levels
  - Initiation of one model shelter home in each development region
  - Partnership with CSOs
- <sup>73</sup> There was a considerable increase in 2008/09 and 2009/10. The proportion of the social security allowance in the total budget expenditure is also growing significantly. It has exceeded the government's total pension expenditure. The proportion of actual expenditure on social security in FY 2009/10 is 2.79 percent, which is higher than the actual expenditure on pensions (i.e. 2.52 percent of the total budget expenditure) given to the civil servants, police, teachers, and others.
- <sup>74</sup> The NFDIN has been organizing various programs to guarantee that IPs are able to enjoy their identity and culture including through the promotion and preservation of their traditional languages. Some of the programs through NFDIN includes, cultural events and festivals of indigenous nationalities, education & communication programs through electronic media, historical, cultural, religious, heritage preservation and promotion program, income generation training program based on professionalism and traditional job skills, indigenous film festival & documentary production training program, indigenous women capacity & skill development program, mother tongue literacy and training of trainer program, mother tongue script identification, grammar, writings, dictionary development, extinct language re-writing programs, research and development, publication of journals & bulletins, rural tourism training program, upliftment program of endangered & highly marginalized indigenous groups, and youth self employment through skill/professionalism and empowerment program.
- <sup>75</sup> These institutions include: National Foundation for Development of Indigenous Nationalities (NFDIN), National *Dalit* Commission (NDC), National Muslim Commission, *Badi* Community Upliftment and Development Board, Marginalized and *Dalit* Upliftment and development Board and Backward Community Upliftment and Development Board, Buddhism promotion and Monastery Development Committee.
- <sup>76</sup> The NFDIN has also been supporting the MoFALD in realizing the rights of the IPs by conducting targeted programs. The GoN has been providing annual grant to NFDIN to initiate and implement the programs of protection, preservation and promotion of the cultures, languages, institutions, traditional knowledge and skills of IPs and institutional strengthening. It has planned for further institutional strengthening of NFDIN through allocation of adequate resources.
- <sup>77</sup> The GoN, in its present NHRAP has planned to review and revise the existing legislations and formulation of new legislations related to the indigenous communities. It has programs to protect and preserve the cultural and religious heritage, traditional language and script, specially of the endangered communities, establishment of museums and model villages, development and publication of dictionary and grammar in mother tongue, collection and preservation of history, folklore, music and folk-tales, and organization of cultural festivals and awareness programs.
- <sup>78</sup> IPs, *Dalit*, *Madheshi*, backward community, PwDs, senior citizen.
- <sup>79</sup> According to the Civil Service Act, 1992, different groups are entitled to get reservation quota, such as: 33 percent for women, 27 percent for indigenous people, 22 percent for *Madheshi*, 9 percent for *Dalit*, 5 percent for person with disabilities, and 4 percent for people from backward area. The policy of inclusion has been adopted in all security forces, State owned or controlled public enterprises, universities, schools, and public services under relevant legislations.
- <sup>80</sup> The Police Rules, 2014, Army Rules, 2013, and Armed Police Force Rules, 2015 provide for reservation/quota for women, indigenous people, *Madheshi*, *Dalit*.
- <sup>81</sup> The proposed amendment Bill provides for at least 40 percent representation of women in Village Development Committee, Municipalities and District Development Committee.
- <sup>82</sup> For the year 2013/14, the GoN has allocated Rs. 70.4 mil. for education support to the persons with disabilities. In the fiscal year 2014/15, the GoN has planned to provide scholarships to students with disabilities, operate the Community Based Rehabilitation Programme in an effective manner, make the educational and health facilities PwDs friendly, and provide support for the treatment of spinal injury cases through the mobilization of citizen treatment fund. A Special Education Council has been

formed to provide special education to students with disabilities. National Action Plan on persons with disabilities ensures the rights to get free and quality education, increasing the access to education and disability friendly environment. The Curriculum Development Centre has adopted a participatory curriculum development and textbook review process in consultation with disability experts and stakeholders. Similarly, in the fiscal year 2013/2014, 1,030,126 *Dalit* children studying in grade one to eight have received scholarship support worth Rs. 400, and 79,551 studying in grade nine and ten have received scholarship support worth Rs. 500 and 28,028 studying in grade 11 and 12 are planned to get scholarship support worth Rs. 1,000 in the coming fiscal year. In the feeder hostels, priority is given to the admission of *Dalit* children. In the fiscal year 2014/15, the GoN plans to provide monthly scholarships to students from marginalized communities such as *Dalits, Raute, Chepang* worth Rs. 1,500 to Rs 3,000 to continue their higher education if they pass School Leaving Certificate Exam (10<sup>th</sup> grade) in first division from the community schools.

- <sup>83</sup> The SSRP aims to cover 175,000 children with disabilities at the primary level and 75,000 at the secondary level by providing them with scholarship support.
- <sup>84</sup> They include classes for the blind, deaf, and for children with intellectual disabilities. Currently, there are 360 integrated resource classes of which 164 are for the deaf, 78 for the blind and 118 for the children with intellectual disabilities. Likewise, there are 34 Special schools, 365 Resource Classes, and 21 Integrated Schools across the country for promoting access to education of children with disabilities.
- <sup>85</sup> There are 30 special schools for deaf children, one for blind, thirteen for children with intellectual disabilities and one for children with physical disabilities. There are also five integrated schools for deaf children and 16 for blind children. The GoN has established Resource Centres in specific geographical areas. The GoN has also established Assessment Centres in 62 districts in order to collect information on the children with disabilities, assess their educational needs and specify the appropriate way of education to them, i.e. through general books, resource classes or special schools.
- <sup>86</sup> The Community Based Rehabilitation Program focuses on providing health, education, socialization, empowerment and livelihood services to the PwDs.
- <sup>87</sup> The Guidelines identify public areas that need to be made accessible with clear definition of accessibility for different types of disabilities. The Guidelines also provide that a reservation of five percent seats have to be allocated on parapet of any stadium that has to be fully accessible for wheelchairs.
- <sup>88</sup> Some targeted programmes for PwDs are:
- Support for health, education, livelihood, socialization and empowerment is being provided in all 75 districts.
  - Empowerment and Information Centres (Help Desk) are being operated in 14 districts and are planned to be replicated in other districts.
  - Technical assistance materials are being produced in four development regions.
  - Model day care and residential rehabilitation centres in public-private-partnership model are initiated from Central Development Region.
  - Civil service entrance preparation classes for PwDs are being run in all development regions.
  - ID cards have been distributed and establishment of well-equipped Community Based Rehabilitation Centres has been planned.
  - The domestic legislation and plans have been reformed as per the CRPD.
  - Partnership has been initiated with the NGOs.
  - Programmes to increase the accessibility of PwDs to public space.
- <sup>89</sup> It includes Recommendations numbers *106.21, 24, 107.10, 11, 12, 13, 108.10, 11, 12, i.e. Make further efforts to overcome the difficult issue of all kinds of discrimination; Pass the bill on caste-based discrimination, ensure that the policy is fully implemented also by local authorities in rural and remote areas; Take legal and policy measures to end discrimination; Cases of caste-based discrimination be reported, investigated, perpetrators prosecuted and victims compensated.*
- <sup>90</sup> The Act clearly mentions that any kind of discrimination on the basis of caste in both public and private space is punishable by law. The Act defines acts of discrimination against caste and religion as a crime and persons involved in such crime may be punished with three months to three years of imprisonment and Nepalese Rupees 1,000 to 25,000 of penalty. The perpetrators are also liable to provide compensation to victims. The Act provides for an additional punishment for public officials found responsible for caste-based discrimination.

- <sup>91</sup> The quota is at all public services including Nepal Police and Armed Police Force.
- <sup>92</sup> The GoN under the Legal Act, 1997, has established a Central Legal Aid Committee at the centre and District Legal Aid Committees in all districts which are providing free legal aid service to the indigent people. Besides, the paid lawyers in every court have been engaged in providing free legal aid service to those who are not in a position to afford the service on their own. Indigent women, *Dalits*, and marginalized are given preference for the services.
- <sup>93</sup> According to the Attorney General's Office Report.
- <sup>94</sup> The GoN has planned to provide building for National Foundation for Development of Indigenous Nationalities, National *Dalit* Commission, National Muslim Commission, Neglected, Suppressed and *Dalit* Community Upliftment Development Board, *Badi* Community Upliftment Board and Backward Community Upliftment Development Board.
- <sup>95</sup> It includes Recommendations numbers 106.3, 107.2, 17, 108.18, 19, i.e. *Reform penal code and penal procedure code in accordance with CAT; Criminalize torture, enact specific domestic legislation to criminalize torture; Undertake legal and administrative efforts to end torture and related impunity; Impartial investigation into allegation of torture and prevention of torture; Investigate credible allegation of EJK and introduce an independent complaint mechanism on the conduct of the security forces.*
- <sup>96</sup> Investigation Committee as provided in Section 62(1) of the Army Act has a special provision to conduct thorough and impartial investigation into the allegation of torture and disappearance. The offence of torture is prosecuted in an Army Special Court. Similarly, Police Rules, 2014 and Armed Police Force Rules, 2015 also prohibit torture.
- <sup>97</sup> It includes Recommendation number 106.31, i.e. *Strengthen the implementation of human trafficking and transportation (Control) Act 2007 and its Regulation 2008; Strengthen law enforcement and judicial system in the efforts to address impunity, prevent trafficking and sexual exploitation; Provide protection and compensation to victims.*
- <sup>98</sup> The districts include: Kathmandu, Sindhupalchowk, Kailali, Jhapa, Parsa, Repandehi, Banke and Chitwan.
- <sup>99</sup> A total of 429 persons were rescued by mid-April 2014. The number stood at 1,458 in FY 2012/13. District Development Committees have been provided with grants of Rs. 3,750,800 for curbing human trafficking and Rs. three million to manage rehabilitation centres. Seven service centres have been established in the India-Nepal border areas for controlling human trafficking and violence against women and children.
- <sup>100</sup> It includes Recommendations numbers 106.33, 34, 35, 36, 37, 38, 107.25, 108.22, 24, 25, 30, i.e. *Establish TRC and Disappearance Commission in line with international standards; Ensure that there is no amnesty to grave violations of HR; Ensure that perpetrators are brought to justice; Ensure that all decisions from judiciary regarding human rights violations during and after the conflict are fully respected by all concerned institutional actors.*
- <sup>101</sup> Act on the Commission on Investigation of Enforced Disappeared Persons, and Truth and Reconciliation, 2014.
- <sup>102</sup> It includes Recommendations numbers 107.3, 14, 15, 16, 24, 108.15, 16, 17, 29, i.e. *Review legislation and amend it where necessary to remove provisions which allow government and military personnel to act with impunity; Conduct thorough and impartial investigation into allegations that the police or any person of the justice system has taken part in discriminatory actions; Take necessary measures for the prevention of warrantless arrests, torture, EJK and other misconduct and ensure swift and fair investigation; Create a system of accountability to investigate and prosecute human rights violators in military and law enforcement agencies; Introduce an independent complaints mechanism on the conduct of security forces and establish a Nepal Police Service Commission.*
- <sup>103</sup> Till date, internal departmental action has been taken against a total of 856 cadres/officials (622 from Nepali Police, 56 from Armed Police Force, 177 from Nepal Army and 1 public servant) in cases of violation of human rights.
- <sup>104</sup> It includes Recommendation number, 107.21, i.e. *Create mechanisms to end the case backlog at all levels of the judicial system.*
- <sup>105</sup> Justice Sector Coordination Committee at the Centre is established under Rule 13 (d) of the Supreme Court Rule, 1992 and District Level Justice Sector Coordination Committee is established under Rule 4 (b) of the District Court Rules, 1995. The Strategic Plan sets the activities to strengthen these

Committees.

- <sup>106</sup> It includes Recommendations numbers 106.19, 20, 56, 107.9, 108.5, 6, 7, 8, 9, i.e. *Make further efforts to implement the recommendations of various treaty bodies; Continue cooperation with the UN and other international organizations; Undertake a participatory process in the implementation of the UPR recommendations; Work with OHCHR to develop a common core documents in conjunction with treaty-specific lists of issues to help streamline treaty reporting; Extend standing invitation to all special procedures.*
- <sup>107</sup> It includes Recommendations numbers 106.3, 108.26, i.e. *Implement the decision of the Supreme Court of 2007 that requires the state to criminalize enforced disappearances; Sign and ratify the CED.*
- <sup>108</sup> The Act on the Commission on Investigation of Enforced Disappeared Persons, Truth and Reconciliation, 2014.
- <sup>109</sup> It includes Recommendations numbers 106.2, 4, 9, 14, 22, 28, 29, 31, 39, 107.8, 18, 22, 23, 108.20, 21, i.e. *Review legal framework to provide for a better protection and promotion of women's rights; Introduce comprehensive legislation and more stringent enforcement of existing laws in the areas of domestic violence towards women; Strengthen the resources allocated to the implementation of the NAP for children, 2005-15; Further enhance measures aimed at protecting the human rights of children, women and other vulnerable groups; Continue its efforts to ensure gender equity; Continue to promote the role of women in society; Adopt effective measures to guarantee the protection of victims of gender violence; Intensify efforts to eliminate VAW and increase their participation in political and administrative decision making; Implement measures to encourage women to undertake legal training and facilitate their entry into the judiciary; Develop a NAP on ending VAW and children; Take further legislative steps and accelerate efforts for their effective implementation regarding trafficking and VAW and children.*
- <sup>110</sup> With regard to the initiative to abolish the 35-day statute limitation for rape reporting, a Bill on Penal Code and a Bill to Amend Some Nepal Acts to maintain gender equality have already been submitted to the Legislature Parliament. Once this Bill is passed the current 35-day statute limitation will be abolished by providing six months of limitation.
- <sup>111</sup> The Unit has taken immediate action in cases where concerned agencies refuse to register complaints or when they are unresponsive.
- <sup>112</sup> The districts include: Panchthar, Solukhumbu, Sunsari, Saptari, Sarlahi, Makwanpur, Nawalparasi, Tanahu, Kavrepalanchowk, Baglung, Jumla, Dang, Bardiya, Doti, Kanchanpur, Pyuthan and Rautahat.
- <sup>113</sup> The districts include: Kathmandu, Sindhupalchowk, Kailali, Jhapa, Parsa, Repandehi, Banke and Chitwan.
- <sup>114</sup> There is a reservation of quota for women in all public services and as a result the representation of women has been gradually increasing. Reservation policy for participation of women among others is ensured in civil service including in the State owned/controlled Corporations. As per the Constituent Assembly Member Election Act, 33 percent of seats under the proportional election system are reserved for women. The policy on social inclusion has resulted in a gradual increase in the participation of women.
- <sup>115</sup> GDI measures achievements in the same basic capabilities (dimensions) as the HDI, i.e. average achievement in three basic dimensions of human development: a long and healthy life, knowledge and a decent standard of living, but takes into consideration inequality in achievements between women and men. The values of the GDI range between 0 and 1. A GDI value of 1 indicates perfect gender equality whereas 0 indicates perfect gender inequality. For details, pls. see p. 85, Nepal Human Development Report, 2014, GoN, UNDP.
- <sup>116</sup> Human Development Report, 2011 and 2013, UNDP.
- <sup>117</sup> The cases include kidnapping and hostage taking, domestic violence, arson, theft, rape, human trafficking, etc.
- <sup>118</sup> According to the Nepal Police, the number of complaints related to domestic violence has increased to 5,961 (in 2013/14) from 2,250 (in 2011/12). Likewise, the rape cases filed with the Nepal Police have increased to 1,170 (in 2013/14) from 711 (in 2011/12).
- <sup>119</sup> The Policy focuses, inter alia, on measures to rehabilitate, provide social security, education and health care support for the street children. Furthermore, it has adopted a policy of joint action of the GoN and development partners in mobilizing community-based organizations to combat early

- marriage. The Policy has adopted a fast track system to take action against child marriages and local authorities have been given additional responsibilities to combat child marriages.
- <sup>120</sup> It includes Recommendations numbers 106.27, 107.18, i.e. *Child recruitment becomes punishable under domestic law, social and educational reintegration of child soldiers.*
- <sup>121</sup> Army Rules, 2013, rule 6(1)(a)(3), (b)(1), (c)(1).
- <sup>122</sup> It includes Recommendations numbers 106.30, 32, 107.19, 20, i.e. *Strengthen its measures to eradicate child abuse, sexual exploitation of children; Strengthen implementation of its child labour Act; Establish state structures for the supervision, prevention, rescue and rehabilitation in the cases of child labour and mendacity and ensure that those responsible be prosecuted and sanctioned; Abolish all forms of child labour, including bonded labour and take measures to ensure that no person under 18 years of age is allowed to perform hazardous work, in accordance with the ILO Convention 138.*
- <sup>123</sup> A list of hazardous labour sectors for children includes: domestic labour, pottering, bonded agricultural work, recycling, carpet industry, brick production, mining, commercial sexual exploitation, armed forces or armed groups, transport, embroidery work, mechanical, hawking, and herb collection.
- <sup>124</sup> Awareness raising through information, education and communication (IEC) materials such as radio jingle, documentary against child labour, pamphlets etc.
- <sup>125</sup> It includes Recommendation number 108.2, i.e. *Enact JJ law compliant with international standards; Consolidate legal framework to ensure proper functioning of a JJ system.*
- <sup>126</sup> The GoN has established Child Correction Homes in Bhaktapur (Central Development Region), Sarangkot, Kaski (Western Development Region) and Biratnagar (Eastern Development Region). Likewise, the process is underway to establish Child Correction Homes in Mid-Western and Far-Western Development Regions.
- <sup>127</sup> It includes Recommendation number, 106.5, 23, i.e. *Enact legislation to ensure members of the LGBTI community citizenship rights, consistent with the equal rights enumerated in the Nepali Supreme Court's 2008 decision; Take steps to ensure non-discrimination based on sexual orientation and gender identity in the proposed civil and criminal laws.*
- <sup>128</sup> In the case of Sunil Babu Pant vs. the Government of Nepal, decided in 2012.
- <sup>129</sup> It includes Recommendations numbers 106.6, 7, 8, 25, 107.5, 6, 108.11, i.e. *Consolidate the national human rights infrastructure; Strengthen the NHRC to enable it to maintain A status accreditation; Continue promoting the work of NWC; Promptly implement all recommendations put forward by the NHRC; Provide the NDC and NWC with sufficient resources to effectively realize their mandate.*
- <sup>130</sup> National Human Rights Commission, National Women Commission, National Dalit Commission (NDC), National Muslim Commission, National Foundation for Development of Indigenous Nationalities (NFDIN), Badi Community Upliftment and Development Board, Marginalized and Dalit Upliftment and development Board, Backward Community Upliftment and Development Board, and Buddhism promotion and Monastery Development Committee.
- <sup>131</sup> The International Coordination Committee of the National Human Rights Institutions accredited the NHRC with "A" status.
- <sup>132</sup> The Bill provides for the recruitment of staff in the Commission under the principle of administrative autonomy.
- <sup>133</sup> In the case of Om Prakash Aryal vs. the Government of Nepal.
- <sup>134</sup> The Truth and Reconciliation Commission and The Commission on Investigation of Enforced Disappeared Persons.
- <sup>135</sup> The detail is given in Annex – 4.
- <sup>136</sup> The details on legal reform are mentioned in Paragraph 2 and 3.
- <sup>137</sup> Such as caste-based discrimination, discrimination against women, marginalization of ethnic minority and indigenous communities etc.