



人权理事会  
普遍定期审议工作组  
第二十三届会议  
2015年11月2日至13日

根据人权理事会第16/21号决议附件第5段提交的  
国家报告 \*

尼泊尔

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## 起草过程

1. 本报告在编写过程中广泛征求了国家人权机构、民间社会组织和媒体等各方面的意见。尼泊尔政府成立了一个由不同部门代表组成的委员会来编写报告，该委员会进行了五次地区磋商和一次有 750 多名参与者的全国互动活动。<sup>1</sup> 除此之外，本报告还考虑到了在国家人权机构和民间社会组织分别进行的磋商中表达的意见和关切。

## 人权政策

2. 促进人权文化并将人权议程完整地纳入主流，以履行国家和国际义务与承诺，是尼泊尔政府的一项根本原则。尼泊尔政府在制订和执行所有公共政策、发展计划和方案时，都采取立足人权的方针。11 年来，尼泊尔一直与国家人权机构和民间社会组织协作，执行定期《国家人权行动计划》。目前，尼泊尔政府正在执行 2014 至 2019 年期间第四个五年《国家人权行动计划》，发展集体自主权并将人权方案纳入国家定期发展计划。《国家人权行动计划》涵盖 18 个专题领域，以履行包括来自条约机构和普遍定期审议的建议的义务。<sup>2</sup>

## 规范性和结构性框架的改进

3. 尼泊尔政府通过批准核心国际人权文书<sup>3</sup> 并将它们纳入国内制度，表现出对国际规范性框架的有力承诺。法案的颁布、<sup>4</sup> 将法案纳入立法议会议程<sup>5</sup> 以及起草与人权相关的立法，<sup>6</sup> 是一个持续的过程。尼泊尔政府加强了保护和促进人权的体制结构，<sup>7</sup> 包括通过建立国家人权机构、为它们提供持续支持以及在各部委和安全部队建立单独的人权机制。尼泊尔政府正在为监狱改革投资。<sup>8</sup> 在第一轮普遍定期审议之后，规范性和结构性框架方面的一些积极改进包括：建立了过渡时期司法机制、安全系统方面取得了重大改进以及刑事司法系统的运行方面有了改善。

## 对建议采取的后续活动

4. 落实普遍定期审议的建议，是根据一项行动计划通过定期的后续活动实施的。下文将建议按不同专题分类，介绍各自的进展情况，并附上有超文本链接的相关建议编号。

## 制宪进程<sup>9</sup>

5. 该国已朝制订新宪法进程迈进。在主要政党就重大问题达成谅解之后，2015 年 7 月 7 日，制宪会议原则上通过了宪法起草委员会编写的新宪法初稿。尼泊尔

政府全力支持制宪会议，各政党正在开展进一步对话，通过包括公众磋商在内的民主进程对宪法草案定稿。<sup>10</sup> 尼泊尔政府认为，新宪法将按照国际标准，确保所有基本权利和自由，包括全体人民享有宗教自由和平等权利。

6. 制宪会议反映了尼泊尔社会的广泛多样性。议会里的妇女代表从 1995 年的 2.9% 增至 2015 年的 29%。尼泊尔政府认为，制宪会议能够制订出一部确保妇女有效而富有意义地进入国家机关任职的新宪法。

### 人权维护者<sup>11</sup>

7. 尼泊尔政府执行了 2013 年《新闻工作者意外伤害保险准则》。<sup>12</sup> 国家人权委员会还制订了保护人权维护者安全的准则。而且，内阁正在审议的一项媒体新政策也致力于解决新闻工作者的安全问题。内政部向执法机构发出指示，保障人权维护者、新闻工作者和妇女人权维护者的权利。尼泊尔政府致力于消除阻碍人权维护者享有权利和自由的任何因素，并对犯罪者采取法律行动。

### 集会自由<sup>13</sup>

8. 《临时宪法》(以下称为《宪法》)保障意见和表达自由、和平集会自由、组建政党或组织或工会和协会的自由。1955 年《公民权利法》进一步保护这些基本自由。尼泊尔政府一贯尊重集会自由。为维护公共秩序与和平，通过发布正式通知，宣布一些公共场所为禁区，这不应被视为对此项自由的不合理限制。而且，为严格遵守即使在控制暴力局面时也只能最低限度使用武力这一政策，正在对安全部队进行定期培训。

### 劳动权<sup>14</sup>

9. 根据《劳工组织第 111 号公约》的规定，1992 年《劳动法》确保就业和招聘程序的平等。劳动和就业部一直在修订该法令和与劳动相关的其他立法，使它们更加符合各项劳工组织公约。尼泊尔政府的目标是分别在今后两到五年让债役工(Kamaiya)和雇农(Haliya)休养生息。<sup>15</sup>

10. 尼泊尔政府正在按照《劳动法》制订关于劳动者职业安全与健康的更多标准。<sup>16</sup> 根据危害/风险程度，将行业分为四个不同类别。内阁批准的一份将提交议会的社会保障综合法案计划设立一个“缴费型社会保障基金”，旨在加强非正式部门劳动者的社会保障。该基金将为劳动者制订各种福利方案。<sup>17</sup>

11. 尼泊尔政府为企业工人实施了新的报酬和社会保障一揽子方案。<sup>18</sup> 地方当局在监测对工资标准的遵守情况。但是，在有效落实最低工资方面正面临着挑战，特别是由于缺乏受影响者提出的投诉。劳动和就业部计划建立一个高级别主管机构，以保护劳动者权利并监测最低工资的落实情况。

12. 尼泊尔政府采取了许多措施来预防和管理移徙工人遭受剥削的风险。外国就业促进委员会通过与金融机构签订协议，为希望创业的移徙工人获得贷款提供便利。到 2014 年 4 月中旬，向有需求者发放了 26.7214 亿卢比的贷款，帮助 20,806 人就业。为帮助移徙工人在国际市场获得更好的工作，尼泊尔政府一直向他们提供技能培训。到 2014 年 4 月中旬，技术教育和职业培训委员会共向 4,500 人提供能力提高培训。与此相似，入职培训使 14,935 人受益。获得海外移徙许可的人数呈上升趋势。2013/2014 年，先前未登记的获得劳动许可的移徙者人数为 60,880 人，相比之下，2012/2013 年为 38,076 人。他们的汇款促进了国民经济和各个家庭的生活。<sup>19</sup>

13. 为保护移徙工人免受劳动剥削，尼泊尔政府与五个劳动力目的地国家签署了谅解备忘录，<sup>20</sup> 并且正在努力与接收尼泊尔移徙工人数量超过 1 万人的每个目的地国家签署谅解备忘录。五个目的地国家确定了移徙工人的最低工资。<sup>21</sup> 向七个劳动力接收国家的尼泊尔大使馆派驻了劳动专员。<sup>22</sup> 为帮助获得解救的女性移徙工人，四个尼泊尔驻外大使馆设立了安全之家。<sup>23</sup> 还在加德满都为回返的女性移徙者设立了一个这样的安全之家。

14. 尼泊尔为保护移徙工人的权利和利益，除其他外，出台了 2012 年《外国就业政策》、2014 年《外国就业入职培训机构注册和续延程序》和 2015 年《派遣本国工人到外国就业准则》。<sup>24</sup> 为解决非法和无证移徙，并确保安全移徙，正在起草一份关于安全移徙的单独政策。为促进安全、有尊严和体面的外国就业，并为雇主、工人和其他利益攸关方之间的关系创造有利环境，尼泊尔出台了结构性机制。<sup>25</sup> 通过外国就业促进委员会，向 638 名已故工人和 69 名受伤工人的家庭提供经济支助。除了解救被困在外国的雇员外，还为将 300 名死者的遗体运到各县提供支助。设立了外国就业法庭，以为外国就业受害者提供方便和快速申诉诸司法渠道。<sup>26</sup>

### 贫困、基本服务和就业<sup>27</sup>

15. 尼泊尔政府正在通过定期发展计划执行减贫政策，以确保社会和经济公正，特别是弱势群体和边缘化群体获得公正。在过去二十年里，该国政府一直在实施以减贫为发展议程核心的方案。自《第 10 个计划》以来，贫困被分为收入贫困、人的贫困和社会排斥。有关这些层面的分析表明，总体贫困有了明显减少，尼泊尔人民的人类发展指数得到了改进。贫困线以下的人口呈下降趋势。<sup>28</sup> 但是，4 月 25 日的毁灭性地震及其余震可能会使受影响最严重地区的贫困水平提高 2.5% 到 3.5%。<sup>29</sup>

16. 为收集贫困人口的科学数据，尼泊尔政府开展了一项调查。为向穷人提供身份证，通过此次调查，确定了 25 个县 的 356,418 户贫困家庭。调查还将延伸到其余各县。2011 年人口普查数据提供了基于族裔、民族、性别等的分类数据。<sup>30</sup> 调查表明，在过去 17 里，城市地区的贫困水平从 21.56% 降至 15.46%，农村地区从 43.27% 降至 27.43%。为解决城市地区和农村地区的贫困差距，尼泊

尔的 75 个县中有 59 个目前正在实施减贫基金。世界银行为减贫基金提供援助，最近同意提供 8,500 万美元，资助正在实施的方案和 2017 年 9 月前的新方案。国际农业发展基金也为减贫基金提供财政援助。<sup>31</sup> 为援助赤贫者，减贫基金一直在帮助尼泊尔政府努力实现到 2015 年底使穷人减少到 21%。到 2014 年 4 月，减贫基金援助成立了 23,788 个社区贫困者组织，开展不同的促进生计和能力发展活动。该方案使 663,151 户贫困家庭受益，大多数是土著社区、达利特人和妇女。其中，75% 的人是妇女，65% 的人一年中有三个月以上没有充足的食物。为实现包容性发展，尼泊尔政府在当前的第 13 个计划中重点关注地方一级以需求为驱动、基于社区的发展办法。该方案支持各社区通过创收和社区基础设施相关计划实现自营职业。

17. 尼泊尔政府通过其各机构和包括“以工换粮”和“学校供餐”方案在内的方案提供食物，以维护生活在偏远地区的穷人和处境不利者的食物权。尼泊尔政府通过社会和经济支助为这些人提供支助，<sup>32</sup> 并致力于起草关于就业的立法。

18. 技术教育和职业培训委员会向达利特人、土著民族、妇女和残疾人提供以技能为导向的培训、技术支持和优惠贷款。<sup>33</sup> 远西部发展委员会和格尔纳利发展委员会被指定分别负责远西部地区和格尔纳利专区弱势社区和边缘化社区的总体发展。<sup>34</sup>

### 对人权和千年发展目标的财政援助和技术援助<sup>35</sup>

19. 2014 年《发展合作政策》<sup>36</sup> 旨在基于国家优先事项接受和调动国际社会的有效援助。作为一个最不发达国家、内陆发展中国家和摆脱冲突的国家，尼泊尔的经济发展以及由于冲突和毁灭性地震而受到破坏与摧毁的基础设施重建需要国际社会加强支助。根据 2013 年《联合国发展援助框架》，尼泊尔政府与开发署于 2013 年 9 月签署了 2013-2017 年《国家方案行动计划》。该计划旨在解决国家的过渡需求，并帮助实现长期发展目标。

20. 根据《2011-2020 年支援最不发达国家伊斯坦布尔行动纲领》，尼泊尔政府计划到 2022 年脱离最不发达国家地位。尼泊尔的 2014 年《发展合作政策》还鼓励发展伙伴按照《伊斯坦布尔行动纲领》文件所阐述的准则，向尼泊尔提供支助。<sup>37</sup>

### 气候变化<sup>38</sup>

21. 尼泊尔政府一直在执行 2011 年《气候变化政策》。为执行 2010 年《国家适应行动纲领》，批准了《地方适应行动计划国家框架》，并编制了《降低因森林砍伐和退化所产生的排放战略》，以使国家和森林资源用户社区受益。在欧洲联盟和英国国际发展部资助下，《尼泊尔气候变化支助方案》利用该框架在尼泊尔中西部和远西部发展区的 14 个县开展适应行动。在南非德班的第十七届气候变化大会之后，尼泊尔担任 2001 年成立的气候公约谈判进程最不发达国家协调



小组负责人。尼泊尔在国际论坛上大力提出最不发达国家对于加强国际合作与支持以应对气候变化威胁的关切。它需要国际社会和各国的更多支持，以获得碳排放权交易的付款。

### 住房方案和执行《土地法》<sup>39</sup>

22. 在“人人有住房概念的基础上，尼泊尔政府正在执行一项国家住房政策，旨在为低收入群体提供政府支助，并确保人类住区得到规划。《第 13 个计划》旨在为计划内住区提供安全和负担得起的住房设施。2014 年制订了《标准作业程序》，以为穷人执行计划内住区方案。尼泊尔政府出台了 2014 年《国家住房计划》，<sup>40</sup> 以确保为所有收入群体提供优惠的、安全的环境友好型住房。实施了低收入家庭住房、无地棚户区住宅的实际改善、农村住房发展、土地和住房发展方案以及流离失所家庭的康复等多个方案。尼泊尔政府继续执行公民住宅方案，旨在为穷人和边缘化人群提供良好的住房设施。根据该方案，尼泊尔政府计划在 2014/2015 财政年度为达利特人、贫困的穆斯林、切庞人、巴迪人、库松达人、甘达瓦人、拉吉人、洛达人和其他弱势社区修建 1,762 幢住宅楼。迄今为止，已为这些人群修建并分配 4,850 套住房。尼泊尔政府正在为真正无地的棚户区居民重新定居提供替代支助。在加德满都爱千古正在施工，为真正的棚户区居民、城市贫民和低收入群体提供住所，以期管理无计划的定居点。通过金融公司、循环基金和创收基金，为落后家庭提供优惠住房贷款，包括妇女、达利特人、抵押劳工和土著民族。尼泊尔住房金融有限公司和雇员公积金分别发放了价值 4 亿卢比和 1,190 亿卢比的优惠贷款。雇员公积金在博克拉建造了 109 套低成本住房，在加德满都谷地环道的郊区建造了 1,100 套低成本住房，在加德满都谷地以外建造了 500 套低成本住房。<sup>41</sup> 《国家住房计划》提出一项专门重点关注边缘化群体的十年期方案。<sup>42</sup> 与此相似，一项针对其他人(不包括边缘化群体)住房的十年拟议计划打算建造 161 万套住房，包括住宅公寓、住宅楼和地块。<sup>43</sup> 2012/2013 财政年度，尼泊尔政府支出 110.74 亿卢比用于住房和社区康乐设施，包括住房和社区发展、供水等。为获得自由的抵押劳工和无地人口提供土地和财政支助。此外，尼泊尔政府一直在执行 2013 年《国家土地利用政策》，对土地进行总体管理，包括对土地进行分类，以保护农业用地，确保粮食安全。<sup>44</sup> 考虑到由于地震出现了新挑战，尼泊尔政府请求国际援助，以支助重建工作。

### 受教育权<sup>45</sup>

23. 教育政策旨在到 2015 年实现基本的受教育权和千年发展目标 2。教育部正在审议一份使基础教育成为免费义务教育的法案。尼泊尔政府正做出巨大努力，逐渐为社区学校提供免费中等教育(达到 10 级标准)，并使初等教育成为义务教育。《第 13 个计划》的目标是通过严格遵守《全民教育国家行动计划》，确保实行免费的义务初等教育。在所有学校，每个学年开始之际，都会实施“欢迎入学”方案。鼓励社区开办使用母语的小学。尼泊尔政府起草了 2009 年《多语种

教学实施准则》，旨在实现到 2015 年 7,500 所学校都实行多语种教学。迄今为止，有 24 所学校在推行此类教学。已经用 16 种母语编制教材。尼泊尔政府正在执行 2009-2016 年《学校部门改革计划》，该计划旨在改革学校教育，涵盖从一年级到十二年级，并同时具体规定一至八年级教育为基础教育。不同的数据表明，从净入学率、受培训教师、识字率和政府开支增加的角度来看，在确保受教育权方面呈改善趋势。<sup>46</sup> 在受地震影响地区，许多学校被破坏或被摧毁。尼泊尔政府在重建之前采取了暂行措施，以确保所有儿童继续获得教育。

24. 2001-2015 年《全民教育国家行动计划》基于四个支柱，即，生存、发展、保护和参与，确定了儿童初等教育和发展方案的目标。《学校部门改革计划》计划在 500 个村庄发展委员会/市政当局实行免费义务初等教育。迄今为止，有 1,173 个村庄发展委员会宣布提供免费义务初等教育，两个县，勒利德布尔和达丁，宣布于 2014 年 6 至 7 月实现彻底扫盲。

25. 根据 2013 年经济调查，只有 24.4% 生活在贫困线以下的人能够获得初等教育，20.8% 能够获得中等教育，17.9% 能够获得高等教育。为解决这一差距，重点放在了增加达利特人、土著居民、少数群体、边缘化社区和落后社区女童的入学率上。为确保少女能够获得教育，为每个社区自有学校分派了一名女老师，审理投诉并提供社会心理辅导。在完成中等教育后，400 名少女被安顿在 20 个青年宿舍里。各县都实施了关于少女教育的培训者培训方案。同样，尼泊尔政府制订了一项学校教育平等战略。教育部在一些选定地区启动了教育换粮食方案。各学校正在为男童和女童修建单独的卫生间。2014/2015 财政年度，拥有卫生间的学校数量有了增加；<sup>47</sup> 尼泊尔政府计划在学校另外修建 1,285 幢学校建筑物和 3,230 个卫生间。

26. 为确保教育的包容性和性别平等主流化，尼泊尔启动了各种方案。<sup>48</sup> 尼泊尔政府正在为获得自由的“库玛丽活女神”执行教育和培训方案。获得自由的“库玛丽活女神”从尼泊尔政府那里获得奖学金、住宿费以及其他支助。在一些选定地区，执行了针对“库玛丽活女神”的教育换粮食方案。来自不同边缘化群体的儿童获得了包括奖学金计划在内的不同支助。<sup>49</sup>

## 健康权<sup>50</sup>

27. 尼泊尔政府批准了新的 2014 年《国家卫生政策》和 2014 年《健康保险指令》，以确保健康权是每位公民的一项基本权利。<sup>51</sup> 与此相似，执行了《第二项长期卫生计划》(1997-2017 年)以及人口和卫生相关政策。

28. 尽管在过去两年里政府保健机构数量保持不变，但床位从 7,035 张(2011 年)增至 7,285 张(2013 年)，保健方面的人力资源从 82,994 人(2011 年)增至 93,495 人(2013 年)。尼泊尔政府在初级保健机构和县医院推行了免费保健服务。现在，人们可以在公共卫生设施免费领取 70 多种药物。<sup>52</sup> 孕妇在所有政府医院以及与卫生和人口部签署协议的私立医院享受免费的妊娠服务。向那些在医疗机构分娩的

妇女提供交通补贴。而且，穷人、土著、残疾人和妇女志愿者享受完全免费的医疗服务。为确保私人 and 社区自有保健服务的质量，尼泊尔政府执行单独的指导方针。

29. 尼泊尔政府计划从每个发展区挑选 15 个县推行健康保险方案。尼泊尔政府计划到 2014/2015 财政年度末，使所有的次级保健岗位升级为保健岗位，提高医院和医疗中心的级别，在五个专区医院设立重症监护区，并在所有专区医院设立老年病房。尼泊尔政府还计划：(a) 为加强保健服务的实效，增加专科医生岗位；(b) 增加初级保健中心的医生数量；(c) 为鼓励医生在偏远和农村地区工作，提供非业务津贴；(d) 在 500 个医疗岗位、300 个初级保健中心和医院启动肾病预检分流；(e) 为促进由熟练保健人员提供孕产妇护理服务的政策，启动“助产学”教育；以及(f) 提供双倍差旅费，并使女性保健志愿者的服装补助增至 5,000 卢比。

30. 尼泊尔政府正在努力使儿童免疫接种率从现有的 83% 增至 100%，并制订了 2013 年《国家免疫业务规则》，设立免疫基金，以确保免疫接种可获得可持续的财政资源。尼泊尔致力于实现 1978 年《阿拉木图宣言》承诺的“人人享有健康”，并实现国际商定的健康相关目标。若干领域里已取得重大成就。孕产妇死亡率已下降到每 10 万人中 281 人，总生育率为 3.1 个，五岁以下儿童死亡率为每 1,000 人中 54 人，婴儿死亡率为每 1,000 人中 46 人。计划使孕产妇死亡率减至每 10 万人中 134 人。为降低孕产妇死亡率，全国 1,555 个分娩中心提供 24 小时服务。45% 的孕妇由受过培训的助产士为其接生。平均预期寿命增至 63.3 岁。中度和严重体重不足的五岁以下人口有了减少。

31. 《宪法》确保妇女的生殖健康和生殖权利。尼泊尔在性权利和生殖权利方面取得了显著进展。<sup>53</sup> 在治疗子宫脱垂时免费提供硅胶子宫托。<sup>54</sup>

32. 为帮助降低婴儿、儿童和孕产妇死亡率并延长平均预期寿命，尼泊尔政府在本财政年度为总体改善健康指标划拨了 335.2 亿卢比。尼泊尔政府认为自己正走在实现与健康相关的千年发展目标的正确道路上。2011 年，尼泊尔因为在降低孕产妇死亡率(千年发展目标 5)方面的成就被授予“千年发展目标成就奖”，因为在降低儿童死亡率(千年发展目标 4)方面的成就被授予“鼓励奖”，因为在生殖健康方面取得的显著成就被“全球生殖健康领袖委员会”授予“决心奖”。

### 人权教育<sup>55</sup>

33. 人权教育已纳入学校和大学课程。为提高人们对人权的认识，尼泊尔政府一直在农村地区实施具体方案。<sup>56</sup> 此外，在中央和地方两级，警察和县检察院等政府机构一直在与国家人权机构和民间社会组织共同实施宣传方案。国家人权委员会《2015-2020 年战略计划》重点关注人权教育，旨在确保在家庭层面保护人权。



34. 所有安全部队都建立了处理人权问题和促进人权教育的单独机制。安全部队相关立法规定，对安全人员进行强制性人权培训。<sup>57</sup> 而且，安全部队编制了关于基本人权的手册和指南。<sup>58</sup> 迄今为止，超过 7,300 名警察人员和 47,619 名军队人员接受了关于人权和人道主义法的具体培训。<sup>59</sup> 此外，安全部队设立的所有基础课程都包括关于人权和人道主义法的课程。<sup>60</sup>

### 粮食安全<sup>61</sup>

35. 尼泊尔政府一直在选定地区提供带补贴的基本粮食供应，并特别关注弱势群体和边缘化群体。还通过包括“以工换粮”和“学校供餐”方案在内的其他手段提供粮食供应。国家计划委员会制订了 2013 至 2017 年期间《多部门营养计划》。为可持续地减少营养不良事件，执行了 2004 年《国家营养政策》、2006 年《学校健康和营养战略》、2013 年《孕产妇营养战略》以及各种其他方案。其中一些主要方案包括向孕妇和哺乳期妇女免费发放补铁胶囊和维生素 A，向五岁以下儿童免费发放维生素 A 和驱虫胶囊，孕产妇和儿童保健方案以及儿童减少贫血方案。为全盘处理粮食安全和营养问题，农业发展部下设了一个单独的“粮食安全和环境司”。<sup>62</sup> 该司启动了一个涵盖中部和远西部发展区 19 个县的农业和粮食安全方案。

36. 农业发展部实施了 49 项与粮食和营养相关的具体方案，其长期目标是减少营养不良。<sup>63</sup> 为增加农业产量和减少粮食匮乏，《第 13 个计划》的目标是将灌溉服务扩大到 1,487,275 公顷土地。重要的是，内阁正在审议一项农业发展战略。

### 境内流离失所者和冲突受害者<sup>64</sup>

37. 尼泊尔政府执行各种措施<sup>65</sup> 解决境内流离失所者和冲突受害者问题。为使冲突受害者重新融入社会和康复，提出了一系列计划。这些计划包括救济和康复支助、创造就业机会培训和财政支助、临时救济、医疗、社会心理辅导以及奖学金支助。<sup>66</sup> 尼泊尔政府设立了从中央到基层的单独组织机构，提供服务并监督这些措施的有效实施。

### 所有族裔、文化和语言群体之间的平等<sup>67</sup>

38. 《宪法》和现行立法确保人人平等的权利。基于任何理由的任何歧视都是刑事犯罪。但是，为促进实质性平等和保护性区别对待，通过法律、政策和方案措施，采取了特别保护机制，特别是针对妇女、达利特人、土著人民、马德西人、残疾人以及在经济和社会上落后的社区。尼泊尔政府出台了一些政策和机制，以帮助少数民族保护他们的文化和语言权利。<sup>68</sup>

## 土著人民、少数群体和弱势群体<sup>69</sup>

39. 《宪法》保障妇女、达利特人、土著民族、马德西人社区、边缘化群体以及经济和社会落后的工人享有社会公正权利。<sup>70</sup> 为了扩大公民的社会保障权利，正在根据 1999 年《地方自治法》实施 2009 年《社会保障方案作业程序》。

40. 2011 年《老年人法》保障老年人获得保护和生命尊严的权利。政府医院为老年人提供免费医疗，所有专区医院都设立了老年病房。老年人在公共交通方面享受半价优惠。尼泊尔政府为 70 岁以上老年人以及其他边缘化群体和弱势群体发放月津贴。生活在格尔纳利专区的人和达利特人凡年满 60 岁就可以领取津贴。<sup>71</sup> 为维护老年人的权利，尼泊尔政府通过立足人权的方针实施社会保障措施。<sup>72</sup> 2012 年，国家计划委员会实施的社会保障津贴方案评估表明，社会保障开支平均增长率为 0.75%。<sup>73</sup>

41. 《社会保障综合法案》规定建立国家社会保障制度。为使社会保障津贴的发放有效，尼泊尔政府还在致力于实行国民身份证。2014/2015 财政年度，规划了七种不同的实施方案，管理社会保障基金的记录并制作缴费者的生物身份证，以解决在实施各种不同社会保障方案方面的困难、重复和失真问题。

42. 内阁正在审议《执行〈劳工组织第 169 号公约〉的国家行动计划》。该行动计划旨在确保土著人民在政治上以富有的意义方式切实参与决策程序，并在国家治理方面享有平等代表。2015 年，尼泊尔政府提交了关于《劳工组织第 169 号公约》的第二次定期报告。根据 2014 年《县土著人民协调委员会(建立和运作)程序》，所有 75 个县都有县土著人民协调委员会在开展工作。土著民族国家发展基金会<sup>74</sup> 和其他机构<sup>75</sup> 组织了各种不同的方案，以保证土著人民、少数群体和弱势群体能够享有他们的身份和文化，包括通过促进和保护他们的传统语言。<sup>76</sup> 尼泊尔政府编制了关于《劳工组织第 169 号公约常见问题》的解答。当前的《国家人权行动计划》出台了保护土著人民的重要措施，<sup>77</sup> 根据 2012 年《地方当局资源调动和管理准则》，地方当局将 15% 的基本建设预算划拨给针对边缘化群体的方案。<sup>78</sup>

43. 根据部门立法，所有政府和公共服务部门都制订了针对妇女、土著人民以及其他弱势群体和边缘化群体的保留/配额和保护性区别对待措施。<sup>79</sup> 这些规定和措施也适用于安全部队。<sup>80</sup> 关于地方当局的立法条款规定了促进土著社区、少数群体和弱势群体参与总体治理进程的具体条款。尼泊尔政府向立法议会提交了修正 1999 年《地方自治法》的法案，以确保地方机构至少有 40% 的妇女代表。<sup>81</sup> 社会包容政策逐渐促使土著人民、少数群体和弱势群体的参与率有了增加。

44. 尼泊尔政府严格执行包容性教育政策，并将性别平等纳入教育主流。女童、达利特人和残疾人接受教育情况有了改进，包括通过发放奖学金来负担食宿设施、校服、教材和交通费用。<sup>82</sup> 《学校部门改革计划》旨在改革学校教育方案，增加残疾人接受教育的途径。<sup>83</sup> 截至 2010/2011 财政年度，85,681 名残疾儿童获得了 80,595,000 卢比的奖学金。1965 年《奖学金法》为残疾人保留 5% 的奖

学金配额。2013/2014 财政年度，尼泊尔政府划拨 7,040 万卢比支助残疾人教育。同样，1996 年《特殊教育政策》旨在通过使学校的物质环境对残疾儿童友好，提供特殊教育，作为全民教育的一个重要组成部分。针对具体残疾儿童，学校教室设计了资源班级并开展教学活动。<sup>84</sup> 此外，尼泊尔政府还为残疾儿童建立了特殊学校和资源中心。<sup>85</sup> 考虑到从成本、地理偏远方面来看，使残疾人更加容易使用这些教室方面面临的挑战，尽管在不断努力，可能还需要更多的时间来改善他们接受教育的途径。

45. 2006 年《国家残疾政策和行动计划》重点关注提高人们对残疾问题的认识，并计划组织相关的全国运动，形成对残疾人积极的社会态度。而且，当前的第 13 个发展计划概述了传播关于《残疾人权利公约》及其《任择议定书》信息的活动，并声明将根据上述公约规划和开展发展活动。为消除对残疾人的歧视并提升和促进残疾人权利，在总理办公室和部长理事会建立了由尼泊尔政府首席部长负责协调的高级别机制。在各县也建立了由县长负责协调的协调机制。其他社会保障措施包括：各县实施基于社区的康复方案，<sup>86</sup> 政府医院提供免费保健服务，国内航班机票半价，残疾人辅助装置免税以及通过地方当局发放社会保障津贴。

46. 尼泊尔出台了使公共建筑对残疾人友好的建筑法规。除其他外，通过与残疾人代表磋商，尼泊尔政府颁布了新的《无障碍综合指南》。<sup>87</sup> 禁止政府和公共服务部门在招聘和晋升方面歧视残疾人。卫生和人口部制作了各种音频和视频节目，以提高人们对可能造成残疾的麻风病、小儿麻痹症、艾滋病毒/艾滋病及其他疾病的认识。自 2007 年以来，卫生和人口部一直在实施《国家残疾儿童管理战略》。其主要目标是在社区一级提供康复服务和医疗并预防儿童残疾。首都建立了一个国家康复中心，为受冲突影响的残疾人提供治疗、康复、矫形器和假肢。区级康复中心为残疾人提供必要的辅助装置和康复服务。此外，尼泊尔政府正在实施针对残疾人的具体方案。<sup>88</sup> 与此相似，尼泊尔政府正在修订 1982 年《残疾人保护和福利法》，以使其完全与《联合国残疾人权利公约》一致。

### 消除种族歧视<sup>89</sup>

47. 《宪法》确保免受一切形式歧视。自 2011 年以来，尼泊尔一直在执行《消除基于种姓的歧视和贱民制度(罪行和处罚)法令》。<sup>90</sup> 为充分执行该法令，尼泊尔政府开始起草《2015 年综合行动计划》，并且，为了对基于种姓的歧视和贱民制度采取零容忍政策，内政部指示各县行政办公室和各区行政办公室努力实现这一目标。此外，尼泊尔组建并启动了县级协调委员会。各县行政办公室每月向内政部报告消除歧视的活动情况。基于种姓的歧视和贱民制度的受害者立即得到解救，并对犯罪者迅速提起诉讼。国家达利特人委员会与其他国家人权机构和尼泊尔政府协调，启动了对基于种姓的歧视和贱民制度案件的联合监测和提高认识方案。根据包容政策，公共服务部门为达利特人分配了 9% 的配额。<sup>91</sup> 通过向每对跨种姓结婚的夫妇提供 10 万卢比，促进了达利特人与非达利特人之间跨种姓

联姻。尼泊尔政府一直通过县法院向经济上处于弱势的达利特人提供免费的法律援助服务。<sup>92</sup> 尼泊尔政府计划对达利特种姓群体进行系统登记，促进对穆沙罕尔人、多姆人、巴迪人、甘达巴哈人等面临灭绝危险的边缘化群体的研究。尼泊尔政府正在努力制订有效执行该法令的法规。有数据表明，2011 年至 2014 年 8 月，共有 22 起关于基于种姓的歧视案件交由法院审理。<sup>93</sup> 尽管尼泊尔政府做了不懈的努力，但结束这一歧视陋习仍是一项挑战。

48. 各县行政办公室一直在为来自巴迪人社区的人及其子女提供基于母亲公民身份的身份证和公民身份证件。对达利特人实行贱民制度的犯罪者受到调查和起诉，这帮助减少了这一陋习。为消除基于种姓的歧视和促进达利特人的权利，在总理办公室和部长理事会建立了由首席部长负责协调的高级别机制。

49. 尼泊尔政府计划为出于促进包容性发展目的而设立的委员会、基金会和理事办公室修建设备完善的“多功能包容性建筑”。<sup>94</sup>

### 反对酷刑的立法和法外杀戮<sup>95</sup>

50. 《宪法》和 1996 年《酷刑相关赔偿法》以及其他部门立法<sup>96</sup> 禁止出于任何目的施行一切形式酷刑。在酷刑方面，尼泊尔的现行法律不准任何人获得豁免。尼泊尔政府正在努力使国内立法与《禁止酷刑公约》更加一致。已经向立法议会提交一份对一切形式酷刑和虐待进行定罪的单独立案。与此相似，一份关于刑法的法案规定对酷刑和虐待采取预防、惩罚和保护措施。

51. 安全部队和执法机构对酷刑采取零容忍政策，安全人员定期接受人权培训。迄今为止，已经对参与施行酷刑的 62 名尼泊尔警察人员采取部门内部行动。为确保被拘押者获得人道待遇，成立了一个由司法部长负责的协调委员会。根据国内立法，法外杀戮是一项严重刑事犯罪。尼泊尔出台了与法外杀戮相关案件的调查、起诉和裁定机制。尼泊尔政府承诺对纵容法外杀戮的指控者提起诉讼。

### 人口贩卖和运输<sup>97</sup>

52. 为有效执行 2007 年《人口贩卖和运输(管制)法》，尼泊尔政府在中央一级设立了国家委员会，并在各县设立了县委员会。执法机构对犯罪者提起诉讼。根据此项法令，受害者有权获得合理赔偿、归还、康复、经济支助和社会心理辅导服务。为有效执行此项法令，尼泊尔实施了不同的方案和行动计划。《控制对舞厅餐厅和酒吧妇女工作者进行性剥削的准则》也致力于解决性虐待问题。同样，尼泊尔还实施了 1992 年《移民法》和 2007 年《外国就业法及规章制度》。尼泊尔政府正在执行 2011-2021 年《打击人口贩运国家行动计划》。该计划确定五个具体领域为优先领域，包括预防、保护、起诉、惩罚和相关机构的能力发展。尼泊尔政府与全国妇女委员会协作，后者正在实施各种预防和监测方案以及支持尼泊尔政府打击人口贩运。部际交流得到改善。全国妇女委员会正在地方一级通过



多媒体和讲习班开展活动，提高对妇女权利的认识，包括暴力侵害妇女行为、劳动迁徙和贩运。

53. 根据 1995 年《县法院规则》的规定，快速通道法院审理程序适用于人口贩运和性虐待案件。尼泊尔政府与民间社会组织协作，发起了各种打击人口贩运方案。各县设立了人口贩运幸存者康复基金，八个县<sup>98</sup>为人口贩运幸存者/受影响者建立了康复之家/中心。<sup>99</sup>尼泊尔警察的培训课程中纳入了人口贩运问题调查程序。尼泊尔警察学院为警务人员实施了人口贩运问题调查程序培训方案，检察官和法官都通过司法学院接受定期培训。

### 真相与和解委员会和强迫失踪人员调查委员会<sup>100</sup>

54. 根据相关法令，设立了真相与和解委员会和强迫失踪人员调查委员会。<sup>101</sup>这些委员会已经开始独立工作，并且正在为顺利运行制订规则、工作指南和手册。该法令的目标是，在不偏离基本人权原则的情况下，促进国家统一与和解。而且，常规的法院体系一直在处理武装冲突期间发生的一些典型案件。根据最高法院对 *Suman Adhikari* 诉尼泊尔政府一案的裁决，依据该法令建立的过渡时期司法机制获得授权，对涉嫌与冲突相关的侵犯人权案件开展独立而详尽的调查，并追究犯罪者的责任。

### 追究执法当局的责任；设立警务委员会<sup>102</sup>

55. 国家法律制度做了充分的规定，在不施加任何不适当的压力和偏见的情况下，进行公平和独立的调查，并起诉那些参与刑事犯罪的人员。包括安全部队在内的执法机构接受人权问题培训。<sup>103</sup>这些机构对侵犯人权行为采取零容忍政策。总检察长办公室、国家人权委员会和人权活动分子对被拘押者被剥夺了宪法和法律权利的拘留所和监狱进行监测。根据最高法院的指示，国防部正在审查 2007 年《军队法》。为防止安全部队内部的侵犯人权行为，尼泊尔警察、武装警察部队和尼泊尔军队在组织内部设立了单独机制。而且，根据《军队法》第 62(1)条，调查委员会有对侵犯人权行为进行调查的特权。因此，没有任何国内法律条款规定安全人员和执法当局可享受豁免。

56. 1999 年《武装警察部队法》规定组建警务委员会，通过代替现行的 1955 年《警察法》，尼泊尔政府正在为尼泊尔警察建立独立的警务委员会。新的 2014 年《警察规则》规定，尼泊尔警察系统实行公平招聘、调动和晋升制度。公务员委员会参与尼泊尔警察的招聘和晋升过程。

### 快速审理<sup>104</sup>

57. 自 2004 年以来，为减少案件积压和提供快速审理，最高法院一直在执行《战略行动计划》。目前正在执行的是第三个《2014-2019 年战略行动计划》，



从中央到各县，设立了司法部门协调委员会。<sup>105</sup> 此外，法院各层级都运用了案件流程管理和信息技术。实行了对特定类型案件进行连续审讯的概念、法院转交调解和社区调解。作为试点项目，开展了促进法院判决执行的特别运动。为实现司法权力下放，减少最高法院的案件数量，对 1992 年《司法行政法》进行了修订。各法院的案件积压在逐渐减少。

### 条约机构义务和普遍定期审议建议的执行情况以及与联合国合作<sup>106</sup>

58. 为保护和促进人权继续与联合国系统和其他国际组织接触，是尼泊尔政府的基本政策。尼泊尔一直与联合国人权机制密切合作，在不同时期邀请联合国人权特别程序任务负责人访问尼泊尔。自 1996 年以来，共有 10 名不同的特别程序/任务负责人访问尼泊尔。尼泊尔政府在总理办公室和部长理事会设立了一个机制，对这些任务负责人访问尼泊尔的请求做出答复，以确保与任务负责人进行富有成效的协作。尼泊尔政府积极响应他们提出的国家访问请求。

59. 在编制普遍定期审议报告和执行普遍定期审议建议的行动计划时，尼泊尔政府继续与所有利益攸关方进行建设性对话。对该计划进行了审查并公布和传播了进度报告。正在根据《国家人权行动计划》和其他部门行动计划下的活动计划组织该计划确定的活动。建立了相关政府机构参与其中、对普遍定期审议建议的执行情况进行协调的机制，该机制定期举行会议，审查《行动计划》取得的成就。同时，为监测普遍定期审议建议的执行情况，加强了国家人权委员会。总理办公室和部长理事会设立了一个指导委员会，监测执行情况。尼泊尔政府向条约机构和其他联合国机制及时做出答复。

### 强迫失踪<sup>107</sup>

60. 尼泊尔政府正在起草单独的立法，根据最高法院的指令将强迫失踪定为刑事犯罪。根据 2007 年《军队法》第 62 条，强迫失踪被列为严重侵犯人权行为<sup>108</sup> 和刑事犯罪。而且，拟议的《刑法》中有一项将强迫失踪定为刑事犯罪的具体条款。尼泊尔政府正准备为加入《保护所有人免遭强迫失踪国际公约》发展必要的基础设施。

### 妇女和儿童<sup>109</sup>

61. 为确保性别公正与平等，尼泊尔政府采取了许多政策、法律、制度和方案措施。尼泊尔政府正在执行作为一项总括政策的《增强妇女权能和消除性别暴力的国家战略和行动计划》(2013-2018 年)以及关于妇女权利的其他部门政策。正在执行 2009 年《家庭暴力(犯罪和惩治)法》及其 2010 年《细则》。已经向立法议会呈交《消除性别暴力<sup>110</sup> 和巫术(犯罪和惩治)法》的修正法案。颁布了 2013 年《单身妇女保障基金(利用)条例》和 2014 年《工作场所性骚扰(控制)法》。

62. 尼泊尔政府继续在全国各地开展活动，提高对嫁妆、童婚和巫术等有害文化习俗的认识。总理办公室和部长理事会设立了一个增强妇女权能和协调处。<sup>111</sup> 各县设立了县增强妇女权能协调委员会。尼泊尔政府在各县设立了减少性别暴力基金，在 17 个县设立了基于医院的一站式危机管理中心和服务中心，<sup>112</sup> 在 8 个县设立了康复中心，<sup>113</sup> 以采取预防行动并向性别暴力受害者提供紧急服务和支助。尼泊尔警察在总部设立了妇女和儿童服务局，在所有 75 个县办公室设立了妇女和儿童服务室。24 个县为妇女和儿童服务室建造了单独的办公大楼，全国共设 240 个重点关注性别暴力问题的新岗位。为预防暴力侵害妇女儿童行为，国家儿童福利委员会在 14 个县开通了儿童求助热线，在 15 个县设立了妇女服务中心，并计划扩展到所有 75 个县。全国妇女委员会在国家和县两级设立了妇女权利监测网。委员会组织了各种活动，向目标妇女群体提供免费的法律援助和咨询服务。政府机构一直与国家人权机构协作。自 2007 年以来，尼泊尔政府出台的平等权利行动、配额、针对性方案和其他支助带来了渐变，显著增强了妇女在社会、经济和政治领域的权能。<sup>114</sup>

63. 目前，在公务员中任职妇女占 15.3%。在尼泊尔警察中占 5.8%，在尼泊尔军队中占 2.58%，在武装警察部队中占 3.4%，在司法部门占 1.76%。为鼓励妇女进入公务员系统，尼泊尔政府正在执行各种方案，针对边缘化社区在教育、健康和其他服务方面增强妇女权能，并将《性别和社会融入战略》纳入各部委的工作主流。对不同时期的性别发展指数进行比较表明，<sup>115</sup> 国家和地方两级都在不断取得进步。

64. 2014/2015 财政年度，用于促进性别平等和增强妇女权能的预算增加到总预算的 21.93%(即，1356.5 亿卢比)。与此相似，根据 2012 年《地方当局资源调动和管理准则》，地方当局将 10% 的基本建设预算划拨给针对边缘化妇女和儿童的方案。为增加妇女获得土地的途径，尼泊尔政府出台一项规定，在以妇女名义或夫妻联名登记土地时，给予 30% 的土地登记费折扣。性别不平等指数从 2011 年的 0.558 降至 2013 年的 0.485。<sup>116</sup> 将性别暴力宣布为刑事犯罪，尼泊尔政府对其采取零容忍政策。根据 1995 年《县法院规则》的规定，自 2010 年以来，对涉及到妇女儿童的案件，实行快速通道法院审理程序。<sup>117</sup>

65. 包括 1963 年《基本法》、《人口贩卖和运输(管制)法》和《家庭暴力(犯罪和惩治)法》在内的一些国内立法规定向家庭暴力受害者提供赔偿。政府机构开展了提高法律认识运动。由于认识在不断提高，向尼泊尔警察提出的家庭暴力投诉数量有了显著增加。<sup>118</sup>

66. 尼泊尔政府正在执行《国家儿童行动计划》(2005-2015 年)，并计划对它进行修订，以解决儿童遭受性剥削、虐待和暴力侵害问题。联邦事务和地方发展部正在实施儿童友好型地方治理方案，一个村庄发展委员会和一个市政当局被宣布为儿童友好型机构。为了充分遵守《儿童权利公约》，起草了一份新的儿童法案。而且，2012 年《国家儿童政策》纳入了与儿童生存、保护、发展和参与有关的措施。<sup>119</sup>

67. 遵照消除对妇女歧视委员会的建议，尼泊尔政府与全国妇女委员会编制了一份法案，将各类助长性别暴力的有害习俗定为刑事犯罪。该法案确定了 62 种有害习俗，包括 Chhaupadi、Deuki、Badi 和 Jhuma。政府机构正在组织提高对这些习俗的认识方案。根据最高法院的指令，尼泊尔政府于 2008 年颁布了消除 Chhaupadi 的准则。经期去上学的女童人数有了显著增加，专门的“Chhaupadi Goths”数量有了减少。为增强巴迪社区的权能和保护该社区，尼泊尔政府建立了巴迪社区提升和发展委员会。

### 前战斗人员和未成年人复员和重返社会 <sup>120</sup>

68. 2012 年《国家儿童政策》禁止在武装冲突中使用儿童。2013 年《军队规定》确定尼泊尔军队的最低入伍年龄为 18 岁。<sup>121</sup> 在经核实的战斗人员中，1,460 人被编入了尼泊尔军队，6 人接受一揽子复员方案，15,585 人选择自愿退役。2009 年，4,008 名不合格的战斗人员(未成年人和新兵)通过联合国尼泊尔特派团的核实，获准从毛派军营退伍。其中有 2,973 人是未成年人。退伍的儿童兵获得了临时救济，随后获得重返社会支助，如，教育、职业培训和社会心理辅导。重返社会支助方案由不同的机构负责，以满足退伍儿童兵的需求。

### 虐待儿童、性剥削和童工 <sup>122</sup>

69. 为禁止虐待儿童和童工现象，尼泊尔出台了 2000 年《童工(禁止和管制)法》、2006 年《童工(禁止和管制)规则》、1992 年《劳动法》、1993 年《劳动规则》、2004-2014 年《与儿童有关的国家总体规划》和 2011-2020 年《国家消除童工现象总体规划》。根据国内立法和劳工组织的标准，公布了对儿童有害的劳动部门清单，并严禁儿童进入这些部门。<sup>123</sup>

70. 2012 年《国家儿童政策》禁止在武装冲突和有害形式劳动中使用儿童，并通过政策规定此类行为应受到法律惩处。尼泊尔政府动员劳动和就业部、中央儿童福利委员会、县儿童福利委员会和地方当局监测童工状况，阻止使用童工并使获救的童工得到康复。尼泊尔通过这些结构，保护儿童、监督工厂使用童工、惩罚雇用儿童的工厂以及解救儿童并使其得到康复。尼泊尔政府正在执行一项计划，旨在到 2016 年消除最恶劣形式童工现象，到 2020 年消除一切形式童工现象，包括消除非正式部门的童工现象。已采取预防性举措，并执行各种提高认识方案。<sup>124</sup>

71. 尼泊尔政府一直在提高对“质役童工”制度的警惕，相关机构在频繁报告此类事件的地区加强了有针对性的平等权利行动。2013 年 6 月，为结束据认为尽管遭到禁止但仍在国内一些地方存在的“质役童工”习俗，做出了十点承诺。

72. 尼泊尔警察在加德满都建立了一个提供 24 小时服务的儿童搜索和救援中心。内政部和尼泊尔警察还一直使用无线电/电视手段，对失踪儿童进行搜索和救援。

## 少年司法制度<sup>125</sup>

73. 1992 年《儿童法》及其 1995 年《规则》和 2007 年《少年司法程序规则》规定了处理少年案件的基本标准。为政府律师颁布了 2009 年《少年司法调查和起诉指导》。3 个区建立了达到儿童护理最低标准的儿童惩戒所，尼泊尔政府正在另外两个区建造惩戒所，并计划扩大到所有发展区。<sup>126</sup> 根据 2007 年《少年司法(程序)规则》的精神，将儿童移交给各自的父母/监护人，但如有必要，应带其出庭。在中央一级设立了少年司法协调委员会。尼泊尔政府根据国际人权标准，加强了国家的少年司法制度，妇女、儿童和社会福利部与少年司法协调委员会在 64 个县实施设立“少年法官席位”的联合方案。尼泊尔政府计划在剩下的县里设立“少年法官席位”。

## 性取向和性别身份<sup>127</sup>

74. 遵照最高法院的命令，<sup>128</sup> 男女同性恋、双性恋和跨性别者一直根据 2008 年修正后的《公民规定》和 2010 年《护照规定》领取证明其身份的公民证和护照。在 2011 年全国人口普查中，中央统计局正式承认男性和女性之外的第三种性别。尼泊尔政府一直在审议根据最高法院的指示性命令成立的委员会提交的报告，以进一步确定和保护男女同性恋、双性恋和跨性别者的权利。尼泊尔国内立法禁止各种歧视，包括基于性取向和身份的歧视。尼泊尔政府尊重男女同性恋、双性恋和跨性别者受到《宪法》和法律保障的权利和自由，并充分致力于结束对男女同性恋、双性恋和跨性别者事实上的歧视。

## 国家人权机构<sup>129</sup>

75. 尼泊尔政府始终支持为国家人权机构的平稳运行提供预算和资源。<sup>130</sup> 遵照《巴黎原则》，国家人权委员会享有结构、职能和财政独立，保持“A”级地位。<sup>131</sup> 尼泊尔政府逐步落实了国家人权委员会的建议。2012 年《国家人权委员会法》进一步阐释了宪法保障的国家人权委员会的独立和自治。国家人权委员会的宪法授权和权限不受该法令的限制。而且，为确保财政自主，财政部批准了适用于委员会的单独财政规定。重要的是，内阁原则上批准了适用于国家人权委员会的《人权服务法案》。<sup>132</sup> 尼泊尔政府致力于全力支持国家人权机构的平稳运行。根据最高法院的判决，<sup>133</sup> 尼泊尔政府正向立法议会提交《国家人权委员会法》的修正法案。

## 成就、良好做法和挑战

### 成就

#### 和平进程的主要成就

76. 随着签署《全面和平协定》，2006 年开启的尼泊尔独特的和平进程即将取得合理的成果。将毛派战斗分子纳入尼泊尔军队的进程以及对武器和经过审核的毛派战斗分子的管理已经结束。尼泊尔政府一直通过从中央到基层的不同机制向冲突受害者提供经济和非经济赔偿与救济。在新宪法初稿被核准后，制宪进程进一步加快。草案已分发，以征求人们的反馈意见。

#### 过渡时期司法机制的建立

77. 根据 2014 年《强迫失踪人员调查及真相与和解委员会法》，组建了两个委员会，<sup>134</sup> 以解决国家和非国家行为体在武装冲突期间的侵犯人权行为，并确保根据尼泊尔的国家和国际承诺为受害者伸张正义。委员会已经开始工作。委员会有权独立调查所有与冲突相关的案件，并建议相关当局对犯罪者提起诉讼，向受害者提供充分的赔偿以及进行总体的体制改革。

#### 人权作为治理和发展计划的基本原则

78. 保护和促进人权已成为尼泊尔政府的一项国家政策和优先事项。立足人权的方针指导着治理和发展活动。定期发展计划在结构和职能上都纳入了法治和人权的基本价值观。因此，尼泊尔在人类发展指数方面取得了进步。<sup>135</sup>

#### 政策、法律和司法部门改革

79. 政策和法律改革<sup>136</sup> 是有效履行国家人权义务的一个持续性过程。在政策部门，报告所述期间内出台的一些著名的政策文件包括：国家人权五年计划、增强妇女权能、儿童政策和国家卫生政策。政策和法律改革使国内法律制度更加符合国际标准。

80. 司法部门正在执行第三个《战略行动计划》(2014-2019 年)，向所有人提供快速有效的司法公正。连续审理基于性别的暴力案件、案件流程管理、基于日历的法院审理程序、为执行最高法院判决调动特遣部队，是司法部门为促进人民获得诉讼司法而进行的一些战略干预措施。

#### 国家人权机构的效力

81. 国家人权机构发挥着人权保护监督机构的作用。这些机构不仅开展提高认识运动和监测人权状况，而且通过向尼泊尔政府提供具体建议促进法律和政策改革。在地震发生后，国家人权委员会还担任保护专题组的共同领导人。



## 良好做法

### 人权方面的国家综合措施

82. 为履行人权方面的国家和国际义务，尼泊尔以综合方式通过了宪法、法律、政策和体制措施。尼泊尔政府不仅建立了规范等级体系，而且确保了基于人权核心价值观执行国家优先事项的根本基础和环境。平等、自由、人的尊严、和平、公正和包容性民主是这些综合措施的支柱。

### 宪法承认人权的相互依存

83. 《宪法》承认并保护作为所有人基本权利的公民和政治权利以及经济、社会和文化权利。通过承认受教育权、健康权、就业权、社会保障权等对于充分享有公民和政治权利不可缺少，保障了这些基本权利。与此相似，为满足特定社区的需求和利益，还纳入了集体权利。

### 司法部门的积极行动

84. 作为基本权利的守护者，最高法院对《宪法》和立法进行建设性解释，为受害者提供有效补救并履行国际义务。在发展性别、环境、市场、善治方面的判例，以及通过法令管辖和公益诉讼办法扩大基本权利方面，该法院发挥着主要作用。

### 国际公约的内在化

85. 《宪法》明确提到的一项国家义务是有效履行国际文书规定的尼泊尔的义务。而且，处理尼泊尔为缔约方的国际文书状况的 1990 年《尼泊尔条约法》规定，如果出现不一致情况，尼泊尔为缔约方的条约优先于国内立法。最高法院甚至在尼泊尔为缔约方的具有约束力的国际文书基础上检验了立法的合宪性。

### 与国际机制接触

86. 通过建设性接触，定期在保护和促进人权方面加强国际合作、请求国际支助以及了解国家所做的努力。尼泊尔一直与联合国人权机制合作，包括通过在不同时期邀请联合国人权任务负责人访问尼泊尔。

### 与民间社会协作

87. 尼泊尔政府与作为发展和社会动员行为体的民间社会合作，尤其是为了有效利用地方资源、提高认识以及为改革措施提供投入，以充分实现人权。在与民间社会、人权维护者和人权活动分子磋商后，通过了影响许多人的实质性政策。国家机构建立的各种监测机制都有民间社会的代表。

### 基于包容的社会经济转型办法

88. 国家机制通过的政策和措施主要针对社会经济转型，以便实现社会的完全公正和平等，包括弱势和边缘化社区在内的所有人都能享受基本人权和民主收

益。为实现社会经济转型目标，以协调方式实施了包容、对以往的不公正进行补偿、使所有政策与人权问题建立联系、实行社会再分配和国家主流化，将此作为一项战略工具。

## 挑战

### 冲突后局势

89. 尼泊尔正在从长达十年的武装冲突中恢复过来。由于长时间的过渡，总体发展进程延误，对实现人权所做的承诺未能转化为预期行动。各种冲突后问题对国家的人权状况产生了不利影响，使现有挑战受到进一步制约。重建、体制和文化改革、建立社会过渡时期的公正与和解、国家机构的重组以及加强向下问责制，是实现冲突后阶段可持续管理的主要挑战。

### 有效执行人权措施

90. 除其他外，缺乏民选地方当局、资源生成和调动方面的制约、执行机构能力低下、地理偏僻，是及时和正确执行人权法律、政策、计划和方案的主要制约因素。尽管社会经济发展指数取得了显著进步，但按照《宪法》的设想保护弱势和边缘化社区的权利仍然是一项挑战。

### 现有的有害习俗

91. 尽管国家进行了干预并且在不断取得进步，但社会上仍然存在一些有害习俗。<sup>137</sup> 这些习俗严重阻碍了国家机构和民间社会组织牵头的提高生活质量举措的实施。使在社会和文化上相互交织的思维定式发生行为、习俗和态度方面的预期变化是一个长期过程。

### 从人权角度看自然灾害后的反应

92. 自 2015 年 4 月 25 日发生毁灭性地震及其随后的余震以来，将人权价值观纳入自然灾害后的人道主义干预、救援、救济、康复和重建，一直是一项国家议程。尽管这类优先事项越来越多地得到实现，但是，以基于权利的方式应对地震受害者的需求，仍然是一项挑战。在与国家专家和利益攸关方磋商之后，尼泊尔政府正在准备计划内城镇化、农村地区有组织的定居点、审查和执行建筑规范与土地利用政策，并借助更多的专门知识、一致的国家努力和国际支助，为总体管理自然和人为灾害建立适当的体制机制。

### 减缓贫穷

93. 考虑到减贫战略和方案的影响与评估，尼泊尔政府正在努力以一种问责的方式，将分配公平、分权办法、公平获得可利用资源、发展方案与法治之间的相互联系以及反腐败理念进一步纳入所有公共政策。尽管贫穷程度在降低，但贫穷一直是实现人人享有基本人权的一个巨大障碍。

## 国家承诺

94. 作为一个拥有民选政府、独立和称职的司法机构、自由媒体以及充满活力的民间社会的民主国家，尼泊尔表现出坚决致力于维护人权。尽管存在一些挑战，但尼泊尔政府致力于有效执行第一轮普遍定期审议提出的公认建议以及第二轮期间将获得的更多建议，更加关注将人权问题纳入发展政策和方案主流，分配更多的资源以及提高能力。尼泊尔政府致力于继续根据国家优先事项和国际义务加大国家努力，加强与国际社会和国家利益攸关方协作。尼泊尔政府期待联合国和国际社会以可持续方式进一步支助它为保护和促进人权所做的努力。

## 注

1. The reports of the proceedings of regional and national consultations are attached in Annex –1.
2. 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)).
3. Nepal has ratified seven core UN Conventions on human rights out of nine.
4. 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.
5. 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.
6. 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.
7. 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.
8. The GoN has planned to build new buildings for prisons in Nuwakot, Makwanpur, Banke, Kavrepalanchowk, Udayapur, Rupandehi, Kailali, Kanchanpur, Bardiya, Parbat, Jhapa, Rolpa districts.
9. 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.*

10. 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.
11. 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.*
12. The Guidelines cover the matter of professional safety, insurance, and welfare matters related to journalists.
13. It includes Recommendation number 107.27, i.e. *ensure the right to freedom of assembly is guaranteed and remove all restrictions to peaceful protests.*
14. *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.*
15. 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.
16. 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.
17. 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.
18. 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.
19. 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.
20. MoU has been signed with Bahrain, Japan, South Korea, UAE and Qatar.
21. Bahrain, Oman, UAE, Qatar and Saudi Arabia.
22. Saudi Arabia, Qatar, UAE, Malaysia, South Korea, Oman and Bahrain.
23. Saudi Arabia, Qatar, UAE, and Kuwait.
24. 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.
25. 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.
26. By mid-March 2014, verdicts on 73 cases have been delivered while 277 cases are under consideration.
27. 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.*
28. The detailed data are given in Annex - 2.
29. 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.
30. 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.

31. In April 2014, IFAD has provided 5 million US dollars for PAF II.
32. 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.
33. 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.
34. Details on the targeted programmes are presented in Annex- 2.
35. 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.*
36. The Policy replaced the previous Policy on Foreign Aid, 2002.
37. 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.
38. 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.*
39. 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.*
40. The National shelter/housing Plan, 2014 is available in Nepali language at: <http://www.moud.gov.np/pdf/Rastriya-Aawash-2071.pdf>
41. See National Shelter/Housing Plan 2014 (2071), pg. 18, at <http://www.moud.gov.np/pdf/Rastriya-Aawash-2071.pdf>
42. See National Shelter/Housing Plan 2014 (2071), p. 29.
43. See National Shelter/Housing Plan 2014 (2071), p. 30.
44. It is also related to "Food Safety" Section, i.e. paras. 35–36.
45. *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.*
46. 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.
47. 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.
  48. The details on various programmes are mentioned in Annex - 3.
  49. The details on the support schemes are given in Annex - 3.
  50. It includes Recommendation number 106.52, i.e. *Programmes and measures for the enjoyment of rights to health*.
  51. 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.
  52. It includes district hospitals, primary health centres, health posts, and sub-health posts.
  53. 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.
  54. 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.
  55. 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*.
  56. 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.
  57. 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.
  58. 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.
59. 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.
60. All army personnel have received basic education on human rights as the basic education on human rights is compulsory for them.
61. 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.*
62. 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.
63. 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.
64. 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.*
65. 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
66. 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.
67. 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.*
68. 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.
69. 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.