

## **(a) Background**

1. Nepal is a state party of seven core International Human Rights Instruments<sup>1</sup> and Optional Protocols<sup>2</sup>. This report has been prepared by the National Human Rights Commission (NHRC), National Women Commission (NWC) and National Dalit Commission (NDC) in continuation to the Second Universal Periodic Review of Nepal submitted in 2015. The NHRC<sup>3</sup>, NWC and NDC are Constitutional bodies. Established in accordance with the Paris Principles, the NHRC has been consistently accredited with 'A' status by the SCA GANHRI. *The NWC<sup>4</sup> is mandated for protection and promotion of women rights, monitoring the situation of women and integrating gender equality norms into mainstream development endeavours. The NDC<sup>5</sup> is responsible for protection and promotion of Dalit rights, and facilitates the government for ending caste-based discrimination and for empowerment of the Dalit community.*

## **(b) Methodology**

2. The NHRC led report writing committee was formed with a mandate to hold consultations with stakeholders share and update information and coordinate with entities including NWC and NDC. The NHRC held nationwide consultations<sup>6</sup> with a total of 2,462 persons.<sup>7</sup> Participants came from various discipline including government bodies, security agencies, federal and provincial parliament, political parties, civil society organizations (CSOs), persons with disability (PWD), vulnerable and marginalized groups, teachers, students, children, farmers, media, conflict victims, human rights defenders, labor and migration organizations, international organizations and UN agencies. Separate consultation was held with Government of Nepal (GoN) including various ministries. The NHRC prepared 15 thematic position papers based on plan of action made by GoN on UPR implementation.

## **(c) Constitution and Institutional Structure (121.10, 122.1)**

3. The Constitution incorporates 31 fundamental rights<sup>8</sup>. For the implementation of these rights, 17 laws have been enacted. However majority of these laws lack regulations. With federal system of governance, Nepal now has three tiers of government- Federal, seven Provincial and 753 local Level with respective autonomous governments. All tiers of government are obliged to address and fulfill the norms and standards of human rights. *GoN should ensure wider consultation with stakeholders before adopting laws pursuant to the Constitution and*

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<sup>1</sup> ICCPR, ICESCR, ICERD, CEDAW, CRC, CAT, CRPD

<sup>2</sup> ICCPR OP1, ICCPR OP2, OP-CEDAW, OP-CRC-AC, OP-CRC-SC, OP-CRPD

<sup>3</sup> Constitution of Nepal, Art. 248, 249 and 293 (NHRC)

<sup>4</sup> Constitution of Nepal, Art. 252, 253, 254 (NWC)

<sup>5</sup> Constitution of Nepal, Art. 255, 256, 257 (NDC)

<sup>6</sup> NHRC conducted 7 provincial workshops, 23 district wise consultation meetings, 9 thematic meetings and 1 national workshop with stakeholders. Separate 7 provincial child centric workshops was also conducted in collaboration with Children as Zone of Peace (CZOP) and other coalitions of CSOs working on issues of child rights

<sup>7</sup> 2,462 participants participated at consultations from 68 districts out of 77 districts. Participants included 1,676 male, 751 female, 31 LGBTIQ, 470 Indigenous people, 243 Dalits, 511 Madhesi/ Muslims/ Tharu and 1219 others.

<sup>8</sup> <http://www.lawcommission.gov.np/en/archives/981>

*human rights standards.*

4. Local, provincial and federal legislative elections were conducted in 2017. NHRC monitored the elections from human rights perspective and provided recommendations<sup>9</sup>. GoN should *ensure voting rights of Nepalese in abroad.*

**(d) NHRC, NWC, NDC (121.11, 121.12, 121.13, 121.15, 121.16, 122.16, 122.17)**

5. Goal 16 of SDG focuses on the existence of independent national human rights institutions in compliance with the Paris Principles. Accordingly, the NHRC proposed amendment<sup>10</sup> bill to bring it in line with the Paris Principles and federal structure. However, NHRC Amendment Bill, 2019 tabled in the Parliament contradicts the verdict of Supreme Court, Paris Principles and amendments proposed by NHRC. Enactment of this Bill will undermine the constitutional provisions as well as the independence and autonomy of NHRC. Furthermore, NHRC will have to rely on the Office of the Attorney General (AG) for action against perpetrators of human rights violations as AG would have discretionary power in filing cases in court. The Bill does not provide easy and conducive grounds to accept additional financial resources. The bill also removes a provision of regional and sub-regional offices. Removal of this provision indicates curtailment of accessibility to broader population.
6. Nepal made voluntary pledges during the Human Rights Council election to strengthen the role of NHRC. **Foreign Minister addressing the Council on March 2019<sup>11</sup> and 2020<sup>12</sup>, committed to retaining and strengthening independence and autonomy of the NHRC.** Six Special **Rapporteurs**<sup>13</sup> of the UN have drawn attention of the GoN via 'communication' stating that NHRC Amendment Bill potentially severely undermines the NHRC's authority, effectiveness, independence, limiting the Nepali people's ability to access justice. The NHRC proposed human rights service draft bill and new organogram to the OPMCM in 2019 which is still not approved. As a result, NHRC employees do not enjoy terms and services in par with other civil servants. Apart from NHRC, all other commissions remain docile because of delay in appointment of chairpersons and members, lack of resources and functional ambiguity. *GoN should revise the NHRC Amendment Bill in consultation with NHRC and its previous recommendations on the Act and endorse the proposed organogram within one year, ensuring independence and autonomy of NHRC by providing functional and financial autonomy. GoN should provide adequate resources to all other constitutional bodies including NWC and NDC. GON should ensure appointment of chairpersons and members of the constitutional bodies within three months.*

**(e) Implementation of NHRC recommendations (121.2, 121.11, 121.12, 121.13, 121.15, 122.15, 122.16, 122.17, 122.18)**

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<sup>9</sup>[https://www.nhrcnepal.org/nhrc\\_new/doc/newsletter/Monitoring\\_Report\\_of\\_the\\_House\\_of\\_Representative\\_& State\\_Assembly\\_Election\\_2017.pdf](https://www.nhrcnepal.org/nhrc_new/doc/newsletter/Monitoring_Report_of_the_House_of_Representative_&_State_Assembly_Election_2017.pdf)

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[https://www.nhrcnepal.org/nhrc\\_new/doc/newsletter/Serious\\_Concern\\_of\\_NHRC\\_on\\_the\\_Amendment\\_16-04-2019.pdf](https://www.nhrcnepal.org/nhrc_new/doc/newsletter/Serious_Concern_of_NHRC_on_the_Amendment_16-04-2019.pdf)

<sup>11</sup> <https://mofa.gov.np/tatement-by-honourable-mr-pradeep-kumar-gyawali-minister-for-foreign-affairs-of-nepal-and-head-of-delegation-to-the-high-level-segment-of-the-40th-session-of-human-rights-council/>

<sup>12</sup> <https://mofa.gov.np/statement-by-hon-mr-pradeep-kumar-gyawali-minister-for-foreign-affairs-at-the-high-level-segment-of-the-43rd-session-of-human-rights-council-geneva/>

<sup>13</sup> <http://www.thrda.org/forwarded/un-special-rapporteurs-communication-with-nepal-govt-nepal/>

7. NHRC has since its establishment made 1,059 recommendations to the Government based on complaints of human rights violation to provide relief and compensation to the victims and for punishment against the perpetrators. Similarly, NHRC made 19 policy and 58 case-based recommendations within the reporting period, including for ratification of international human rights instruments. However, of the total recommendations only 10% fully implemented, 40% partially implemented while 50% is yet to be implemented. Of those implemented, significant number are related to compensation to the victims. However, prosecution of and punishment against the perpetrators is less than 5 %. The NHRC Act 2012 requires the government to inform NHRC about implementation of its recommendations within three months. But the NHRC has received very few communication so far illustrating reasons or limitations of GoN. The non-implementation of the NHRC's recommendations obstructs the development of an environment conducive to enjoyment of human rights while increasing impunity. *GON should fully implement recommendations of NHRC within a year, including ratification of international human rights instruments*<sup>14</sup>.

**(f) Transitional Justice (121.28, 122.5, 122.61, 122.63, 122.64, 122.65)**

8. Most of the provisions of Comprehensive Peace Accord (CPA) have been fulfilled. Truth and Reconciliation Commission (TRC) and Commission on Investigation of Enforced Disappeared Persons (CIEDP) were established<sup>15</sup> on 10 February 2015 to investigate human rights violations and abuses during the 10-year-old armed conflict and to address transitional justice. The tenure for both the Commissions was four years, which was extended twice but still failed to accomplish the task. The position of Commissioners remained vacant for nine months. The new commissioners were appointed on 19 February 2020. There are 65,000<sup>16</sup> and 3,000<sup>17</sup> complaints registered under the jurisdiction of TRC and CIEDP respectively.
9. Along with, consultation with various stakeholders<sup>18</sup> the NHRC has drawn attention and made its position public<sup>19</sup> to establish credible and trustworthy commissions and to amend the TRC Act ensuring seeking truth, protection of witness, reconciliation with consent of victims, reparation, and prohibition of blanket amnesty for serious crimes and human rights violations and for justice to the victims. It also insisted<sup>20</sup> for appointment of Commissioners. In April 2019, five UN special rapporteurs drew attention of the Foreign Minister seeking transparency and proper consultation before selecting Commissioners in TRC and CIEDP, and urgently initiate a process to amend the Act based on appropriate consultation with victims, and their families, civil society and NHRC.

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<sup>14</sup> Rome Statute, Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CRMW), Convention for the Protection of All Persons from Enforced Disappearance (ICPED),

<sup>15</sup> Enforced Disappearances Inquiry, Truth and Reconciliation Commission Act, 2014

<sup>16</sup> <https://trc.gov.np/>

<sup>17</sup> <http://www.ciedp.gov.np/>

<sup>18</sup> Conflict victims, leaders of political parties, GoN, commissioners of TRC and CIEDP in district, province and national level

<sup>19</sup> [https://www.nhrcnepal.org/nhrc\\_new/doc/newsletter/Press%20Release%20Commissions%20view%20on%20Transitional%20Justice%2010-22.pdf](https://www.nhrcnepal.org/nhrc_new/doc/newsletter/Press%20Release%20Commissions%20view%20on%20Transitional%20Justice%2010-22.pdf)

<sup>20</sup> [https://www.nhrcnepal.org/nhrc\\_new/doc/newsletter/Formation\\_of\\_TJ\\_Mechanism\\_2076-05-05.pdf](https://www.nhrcnepal.org/nhrc_new/doc/newsletter/Formation_of_TJ_Mechanism_2076-05-05.pdf)

10. Verdict of Supreme Court on the writ number 070-WS-0050<sup>21</sup> has voided amnesty in rape, killings and other serious human rights violations, while allowing reconciliation only with victims' consent. *Both Commissions should ensure credible victim-friendly works. GON should amend the Act in pursuant to Supreme Court verdict, NHRC's recommendations and human rights standard.*

## **(g) Civil and Political Rights**

### **Right to Life (121.26, 121.27)**

11. Article 16 of Constitution of Nepal states that everyone has the right to live with dignity. However the government is not able to protect the lives of the people. Altogether 52 complaints of alleged killings have been registered in NHRC within the reported period.<sup>22</sup> Kumar Paudel was shot dead on June 20, 2019 by Nepal Police and NHRC found three police personnel guilty in the incident and recommended to government to prosecute them after summoning<sup>23</sup>. NHRC has recommended to the Government and concerned authorities for taking precaution during the investigation.<sup>24</sup> *GON should ensure fair investigation of all alleged killings, implement recommendation of NHRC regarding right to life and follow the principles on use of force and firearms.*

### **Torture (121.3, 121.4, 121.26, 122.25, 123.1, 123.2)**

12. Article 22 of the Constitution guarantees the Right against Torture. Torture has been criminalized by the Criminal Code, 2018, which is positive. However, the statutory limitation of six months is not in line with CAT. GoN has also adopted a Zero-Tolerance Policy but 100 complaints on Torture have been registered in NHRC within the reporting period. UN Human Rights Committee had urged Nepal to remove obstacles that hinder victims of torture and forced labor in filing complaints.<sup>25</sup> Regarding the right of victims, the Crime Victim Protection Act, 2018 and related Guidelines introduced by AG are good aspects. *GON should establish independent and credible mechanism for investigation of torture within a year and establish the statutory limitation in line with CAT.*

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<sup>21</sup> Petitioned by Suman Adhikari, former chair of Conflict Victims Common Platform et. all. Vs. Government of Nepal. This case highlights the Section 26 (5) of TRC Act, 2014 which states that there will be no amnesty in rape and other serious cases of human rights violation and Section 26 (5) of TRC Act, 2014 has provision of consent and without consent to reconcile is voided the word without consent of victim

<sup>22</sup> Alleged killing includes Custodial death, intervention by Police on clashes between political parties and protests, Excessive use of force, encounter etc.

<sup>23</sup> [https://www.nhrcnepal.org/nhrc\\_new/doc/newsletter/NHRC\\_Press\\_Note\\_Regarding\\_NHRC\\_Make\\_Recommendation\\_to\\_Government\\_on\\_Killing\\_of\\_Kumar\\_Paudel\\_2076-07-04.pdf](https://www.nhrcnepal.org/nhrc_new/doc/newsletter/NHRC_Press_Note_Regarding_NHRC_Make_Recommendation_to_Government_on_Killing_of_Kumar_Paudel_2076-07-04.pdf)

<sup>24</sup> [https://www.nhrcnepal.org/nhrc\\_new/doc/newsletter/NepalNHRC\\_PressNote\\_Recommendation\\_Direction\\_NepalGovernment\\_on\\_NirmalaPant\\_Case\\_2075-10-13.pdf](https://www.nhrcnepal.org/nhrc_new/doc/newsletter/NepalNHRC_PressNote_Recommendation_Direction_NepalGovernment_on_NirmalaPant_Case_2075-10-13.pdf)

<sup>25</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24921&LangID=E>, On 27<sup>th</sup> August, 2019, the UN Human Rights Committee had called Nepal to remove obstacles that hinder victims of torture and forced labor in filing complaints. In response to an individual complaint filed by a victim belonging to Tharu community, the Committee had asked the government to make the provision of criminalizing torture at par with international standards suggesting the statute of limitation be proportionate with the gravity and nature of the crime, and also the penalty to be adequate. The committee has also requested Nepal to report back within 180 days detailing the measures it had taken to remedy the situation.

## Right to Justice

13. Article 20 of the Constitution guarantees rights relating to justice. Access to Justice Commission<sup>26</sup> is concerned with ensuring access to justice for people from marginalized communities and areas without judicial institutions. Court has made arrangements for fast-track procedure in sensitive cases like rape, trafficking etc. The NHRC has monitored 72 prisons and detention centers where the inmates shared grievances of justice being costly and delayed. There is still problem in filing FIR, lengthy court procedures while justice delivery is influenced by powerful persons in some cases. Despite court orders of release, cases of re-arrest have been registered in NHRC. *GoN should allocate adequate resources for scientific investigation and adopt measures for fair and effective administration of justice.*

## Freedom of Press, Opinion and Expression (122.72, 122.73, 122.74)

14. Article 17 and 19 of the Constitution guarantee every citizen freedom of expression and right to communication respectively. However, few provisions of Media Council Bill question the autonomy of Council and limits press freedom, whereas Bill on Information and Technology intends to restrict freedom of expression. NHRC has raised concern over Media Council Bill over its potentiality of curtailing press freedom and suggests penalty by competent authority.<sup>27</sup> *GoN should revise Media Council Bill and Information Technology Bill to bring them in line with norms of human rights, ensuring freedom of press and expression and create mechanism for safety of journalists.*

## Impunity (122.44, 122.52, 122.53, 122.54)

15. Government has repeatedly committed to end impunity and strengthen rule of law. However, the implementation of decisions of Supreme Court, recommendations of NHRC, NWC and NDC is not satisfactory. Few instances, GoN has not implemented NHRC recommendations including the case of Kumar Paudel<sup>28</sup> and Nirmala Pant<sup>29</sup>. Victims of Maleth killing

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<sup>26</sup> Established on July 2015 at Supreme Court of Nepal

<sup>27</sup> [https://www.nhrcnepal.org/nhrc\\_new/doc/newsletter/NHRCNepal\\_Concern\\_on\\_Amendment\\_Bill\\_Regarding\\_Media\\_Council\\_2076-02-01-min.pdf](https://www.nhrcnepal.org/nhrc_new/doc/newsletter/NHRCNepal_Concern_on_Amendment_Bill_Regarding_Media_Council_2076-02-01-min.pdf), Press Release by NHRC on 15 May 2019

<sup>28</sup> Nepal police don't seem serious in punishing the perpetrator of Kumar Paudel

<sup>29</sup> Nirmala Pant of Kanchanpur was murdered after rape on July 26, 2018. Police have not yet identified the perpetrator of rape and murder case of Nirmala Pant

<sup>30</sup> 5 persons were killed and some were wounded in Maleth killing incident of Terai. NHRC recommended to Nepal government on 22 June 2018 to amend Local Administration Act 2073 to empower CDO to prohibit demonstration of the political parties and to provide consent for demonstrations by assessing the situation. NHRC also recommended GoN to provide reparation to victims of the incident, recommended political parties not to use the fire and stick demonstration in rallies, and recommended security forces to follow the due process of use of force and firearms. However, these recommendations are yet to be fully implemented

incident<sup>30</sup> Ganga Maya Adhikari<sup>31</sup> <sup>32</sup>, Maina Sunuwar's family<sup>33</sup>, Godar killing incident<sup>34</sup> , Dayaram Pariyar<sup>35</sup> are still struggling for justice. *GoN should ensure implementation of verdict of SC and recommendation of NHRC; ensure effective investigation of criminal offences, justice to victims and rule of law.*

### **Prisoners/Detainees ((121.23, 122.66)**

16. Article 20 and 22 of Constitution guarantees the rights relating to justice. Various laws<sup>36</sup> and verdict of Supreme Court are concerned with the rights of prisoners/ detainees. However, 74 Prisons built to accommodate 15,466 inmates are currently hosting 21,577 inmates.<sup>37</sup> GoN has increased the daily livelihood allowance of prisoners to Rs 60, which still is nominal. There is not special arrangement for PWDs, gender minorities and senior citizens, no separate room for prisoners and detainees. Situation of basic amenities, sanitation, room space, food quality is not satisfactory. Majority of the prisons lack separate child and maternity care centers. GoN has started the concept of open prison. The jails are devoid of formal education and literacy programs.<sup>38</sup> *GoN should establish open prison and build enough physical infrastructures to address the problem of over-crowding and basic needs including sanitation within four years.*

### **(h) Economic, Social and Cultural Rights**

#### **Food (122.86, 122.88)**

17. Article 36 of the Constitution safeguards the right to food. Right to Food and Food Sovereignty Act, 2075 has been enacted but the implementation mechanism including rules has not been introduced. SDG 2 aims at ending hunger, achieving food security to improve

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<sup>31</sup> The Ganga Maya Adhikari of Gorkha, is struggling for the justice of her son Krishna Prasad Adhikari who was killed by then CPN Maoist in Chitwan. Nanda Prasad Adhikari, father of Krishna Prasad Adhikari died during a hunger strike demanding for justice and his dead body is still in the hospital since last 4 years

<sup>32</sup>[https://www.nhrcnepal.org/nhrc\\_new/doc/newsletter/NHRC\\_Press\\_Release\\_%20to\\_Respect\\_Judicial\\_Right\\_2075-3-21\\_Eng.pdf](https://www.nhrcnepal.org/nhrc_new/doc/newsletter/NHRC_Press_Release_%20to_Respect_Judicial_Right_2075-3-21_Eng.pdf)

<sup>33</sup> Nepal Army appealed to the court in Maina Sunuwar's case that the decision made by the district court to be declared void

<sup>34</sup> [https://www.nhrcnepal.org/press.php?&nstart=7&start=34&num\\_totrec=517&n=&type=p](https://www.nhrcnepal.org/press.php?&nstart=7&start=34&num_totrec=517&n=&type=p)

<sup>35</sup> [https://www.nhrcnepal.org/nhrc\\_dayaram.html](https://www.nhrcnepal.org/nhrc_dayaram.html)

NHRC staff Dayaram Pariyar was killed in Janakpur while working in Janakpur office of NHRC. NHRC had identified Prakash Raj Sharma of Nepal police as the perpetrator and recommended for his punishment

<sup>36</sup> Police Act, Children Act 2018, Compensation against torture act, Senior Citizens Act and Criminal Code

<sup>37</sup> Department of Prison Management, 2018

<sup>38</sup> Attorney General, Report on Monitoring of Prison and Detention Center, 2019

<sup>39</sup> National Planning Commission, National Review on Sustainable Goals, 2017

nutrition through sustainable agriculture by 2030.<sup>39</sup> GoN adopted various programs<sup>40</sup> and mechanism for ensuring food security. However, 36% of children under five are stunted in Nepal and 10% of children under five are wasted.<sup>41</sup> About 17% women of reproductive age have chronic energy deficiency.<sup>42</sup> Vitamin A deficiency is the cause of deaths of approximately 6,900 children in Nepal each year.<sup>43</sup> *GoN should introduce Regulations for implementation of Right to Food and Food Sovereignty Act and Plan of Action within one year.*

### **Health (122.90, 122.91, 122.92, 122.95, 122.93, 122.94, 122.95, 122.106)**

18. Article 35 of the Constitution recognizes right relating to health. Although the Parliament has endorsed the Public Health Service Act 2018, Rules related to the act are yet to be formulated. Goal 3 of SDG ensures healthy lives and promotion of well-being for all at all ages. 78% of children are fully immunized and 29 districts have been declared fully vaccinated. GoN has issued various plans<sup>44</sup>. The Right to Safe Motherhood and Reproductive Health Act 2018 lacks Rules. GoN has arranged for free surgery and health care for women suffering from uterine prolapse. There is improvement in the rate of infant mortality, under-5 mortality and neonatal mortality.<sup>45</sup>
19. Majority of households (95%) have access to an improved source of drinking water. More than six in ten households (62%) in Nepal use improved sanitation. Nearly all urban households (94%) have electricity, compared to 85% of rural households<sup>46</sup>. *GoN should ensure and enhance effective implementation of existing health sector policies and plans.*

### **Education (122.20, 122.48, 122.49, 122.50, 122.96, 122.97, 122.98, 122.99, 122.100, 122.101, 122.102, 122.103, 122.105, 122.106, 122.107, 122.108, 122.110)**

20. Article 31 of the Constitution guarantees right to education. GoN has enacted Act Relating to Compulsory and Free Education, 2018 and Education Act 2018. However, there are no Rules for implementation of Compulsory and Free Education Act. Goal 4 of SDG ensures inclusive and equitable quality education and promotes lifelong learning opportunities for all. Nepal's literacy rate is 65.94%.<sup>47</sup> Scholarships for deserving, person with disability and marginalized children have also increased. However, only 11% of budget has been allocated for

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<sup>39</sup> National Planning Commission, National Review on Sustainable Goals, 2017

<sup>40</sup> Nepal Zero Hunger Challenge: National Action Plan, Food Safety Policy along with programs like Food for Education, Prime Minister Agriculture Modernization, food and nutrition security, Food for Work, School Feeding' and food subsidies for Karnali region and remote areas to safeguard the right to food of the poor and disadvantaged living in remote areas.

<sup>41</sup> Ministry of Health and Population, Nepal Demographic and Health Survey, 2016

<sup>42</sup> Central Bureau of Statistics, Nepal Multiple Indicator Cluster Survey, 2014

<sup>43</sup> FAO, IFAD, UNICEF, WFP and WHO, The State of Food Security and Nutrition in the World 2017.

<sup>44</sup> Nepal Health Sector Strategy Implementation Plan, National Health Policy, Community based Integrated Pediatric Management system, Maternal and Child Nutrition Program, Medical Treatment of Deprived Citizens etc. Immunization Act, Immunization Regulation and National Immunization Program are implemented

<sup>45</sup> <https://mohp.gov.np/eng/index.php/health-statistics>

<sup>46</sup> Ministry of Health and Population, Nepal Demographic and Health Survey, 2016

<sup>47</sup> [https://moe.gov.np/assets/uploads/files/Education\\_in\\_Figures\\_2017.pdf](https://moe.gov.np/assets/uploads/files/Education_in_Figures_2017.pdf)

<sup>48</sup> Budget declaration for fiscal year 2019/2020

education<sup>48</sup> which is not adequate.<sup>49</sup> National Education Policy is present but there are no Rules for implementation.

21. Enrollment rates of students in Grade I to V, Grade V to VII and Grade IX to XII were 96.9, 92.7 and 46.4 per cent respectively. Net Attendance Rate (NAR) for both primary school and secondary school remains lower in rural areas, showing disparity on the basis of geography. Nepal has 40.9% of inequality in education<sup>50</sup> indicating huge disparity between the no. of literate women and men. Even in the capital, 77% of schools are not accessible to Person with disabilities (PWD).<sup>51</sup> *GoN should implement the Rules for implementation of Act Relating to Compulsory and Free Education within one year and enhance access to education of PWD.*

## **Housing (122.89)**

22. Article 37 of the Constitution guarantees right to housing. Right to Housing Act, 2018 is concerned with providing homeless citizens with appropriate and safe housing facility. Goal 11 of SDG ensures access for all to adequate, safe and affordable housing. Citizens Housing Program has been launched by GoN.<sup>52</sup> *GoN should enhance Citizens Housing Program for all deprived class.*

## **Labor and Employment (121.6, 122.11, 122.48, 122.49, 122.50, 122.51, 122.78, 122.80, 122.81, 121.82, 122.112)**

23. Article 33 and 34 of the Constitution guarantees Right to Employment. Goal 8 of SDG ensures full and productive employment and decent work for all. GoN has enacted various laws and programs<sup>53</sup> and ratified 11 ILO Conventions.<sup>54</sup> The Labor Act, 2017 states about equal pay for equal work.<sup>55</sup> Male workers earn 30% more compared to female workers, indicating a huge pay gap<sup>56</sup>. Furthermore, population of working age male and female stand at 9.2 million 11.53 million respectively but for every 100 employed males, there are only 59 employed females.
24. GoN claims of periodic review and increment of minimum wage which is not implemented in private sector. GoN has not developed action plan for implementation of ILO 111. GoN claims that rehabilitation programs are being conducted for *Kamaiyas* and *Haliyas*<sup>57</sup> but program has not been initiated for *Haruas* and *Charuas*. *GoN should adopt strong inspection*

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<sup>48</sup> Budget declaration for fiscal year 2019/2020

<sup>49</sup> [https://mof.gov.np/uploads/document/file/budget\\_speech\\_website\\_20190619052055.pdf](https://mof.gov.np/uploads/document/file/budget_speech_website_20190619052055.pdf)

<sup>50</sup> UNDP, Human Development Report, [http://hdr.undp.org/sites/all/themes/hdr\\_theme/country-notes/NPL.pdf](http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/NPL.pdf)

<sup>51</sup> Report on Accessibility Audit in Kathmandu, Nepal, National Federation of the Disabled-Nepal, available at [https://nfdn.org.np/wp-content/uploads/2019/10/Final\\_Access-audit-report\\_NFDN2018.pdf](https://nfdn.org.np/wp-content/uploads/2019/10/Final_Access-audit-report_NFDN2018.pdf)

<sup>52</sup> 17 thousand units of houses were built for economically marginalized and minority citizens as per Citizens Housing Program in the fiscal year 2018/19. 35 thousand units are still under construction. Houses are being constructed for nearly 20 thousand families in fiscal year 2019/2020. Beneficiaries of Citizens Housing Program are economically marginalized citizens belonging to *Dalit*, Muslim, *Chepang*, *Raute*, *Badhi* and *Surel* communities.

<sup>53</sup> Right to Employment Act, 2018, Right to Employment Regulation, 2018, Sexual Harassment at Workplace Prevention Act, 2015, Labour Act 2017, Social Security Act 2017, Labour Regulation 2018, Labour Audits Criteria 2018, Prime-minister Employment Program Manual 2075, Skill Development Procedure 2075.

<sup>54</sup> [https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200\\_COUNTRY\\_ID:103197](https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103197)

<sup>55</sup> <https://www.ilo.org/laboract2017nepal>

<sup>56</sup> CBS, Nepal Labor Force Survey 2017-2018

<sup>57</sup> Free Haliyas Rehabilitation and Carrere Cooperatives and Poverty Alleviation, 2075



*system to supervise all laws and policies affecting rights of labour and employment including pay gap and rehabilitation of bonded laborers within two years.*

## **Migrant Workers (122.112)**

25. Total of 4,599,576 Nepalese have gone abroad for employment except India.<sup>58</sup> Legal framework for foreign employment comprises Foreign Employment Act, 2007 and its rules, 2008, ILO Conventions, Global Compact for Migration (GCM), Colombo Process and Abu Dhabi Dialogue. 730 male and 23 female lost their lives<sup>59</sup> while working abroad in FY 2018/19. NHRC provided 16-point recommendations to GoN in 2019<sup>60</sup> for fair recruitment, access to justice, effective monitoring and co-ordination with stakeholders. NHRC hosted International Conference on Protection of Rights of the Migrant Workers and came up with Kathmandu Declaration and Action Plan.<sup>61</sup> Nepal is yet to become a state party to International Convention on migrant workers, despite NHRC recommendation for the same. *GoN should sign bilateral labor agreement with all destination countries and ensure fair recruitment, access to justice and effective monitoring mechanism.*

### **(i) Collective Rights**

**Women's Rights (121.14, 121.16, 121.19, 121.21, 121.24, 122.2, 122.3, 122.6, 122.7, 122.8, 122.9, 122.10, 122.11, 122.12, 122.13, 122.14, 122.18, 122.22, 122.23, 122.32, 122.34, 122.37, 122.39, 122.40, 122.41, 122.45, 122.46, 122.57, 122.58, 122.59, 122.67, 122.68, 122.69, 122.70, 122.75, 122.76, 122.77, 122.78, 122.79, 122.80, 122.81, 122.95, 122.104, 122.115)**

26. Article 38 of the Constitution guarantees the rights of women. Constitution sets aside 33% of federal parliamentary seats for women through legislation. Criminal Code has extended the statutory limitation of rape from 35 days to one year. Though women are in decision making position<sup>62</sup> but malpractices like *Chhaupadi*, Dowry, Child marriage and allegations of Witchcraft still exists. GON demolished *Chhaupadi* shed<sup>63</sup> and Nepal Police now registers FIR in own initiation which is affirmative action. NHRC received 60 complaints on Violence against Women (VAW), rape (significant no. below 18 years), sexual harassment in workplace.

27. Women are still facing discrimination at various levels such as opportunities in political candidacy and mainstream development. Implementation of National Action Plan on

<sup>58</sup> Department of Foreign Employment, June 2019, [www.DoFE.gov.np](http://www.DoFE.gov.np)

<sup>59</sup> Foreign Employment Board Report

<sup>60</sup> [nhrcnepal.org/nhrc\\_new/doc/newsletter/Research\\_Report\\_on\\_the\\_Situation\\_of\\_The\\_Rights\\_of\\_MW.pdf](http://nhrcnepal.org/nhrc_new/doc/newsletter/Research_Report_on_the_Situation_of_The_Rights_of_MW.pdf)

<sup>61</sup> [https://www.nhrcnepal.org/nhrc\\_new/doc/newsletter/Kathmandu\\_Declaration\\_of\\_International\\_Conference\\_on\\_Protection\\_of\\_Rights\\_of\\_Migrant\\_Workers\\_2019\\_compressed.pdf](https://www.nhrcnepal.org/nhrc_new/doc/newsletter/Kathmandu_Declaration_of_International_Conference_on_Protection_of_Rights_of_Migrant_Workers_2019_compressed.pdf)

<sup>62</sup> Women now occupy 41% of posts at the federal, provincial, and national levels. A total of 7 women were elected mayors of municipalities, 11 chairpersons of rural municipalities, 276 deputy mayors and 424 vice chairs of rural municipalities.

<sup>63</sup> Spokesperson of Home Ministry stated that 8550 *Chhaupadi* sheds were demolished in Karnali and Far western provinces.

Security Council Resolutions 1325 and 1820 is not satisfactory. Action regarding Concluding observation of CEDAW Committee 2018 is in progress but not satisfactory. All the governmental agencies of Nepal have Gender Focal Person (GFP) but resources and budget allocation is not adequate. Government has established One Stop Crisis Management Centers to address rape case but it lacks adequate budget and resources. Citizenship clause in Constitution is not as per CEDAW and children of women migrant workers, rape survivors face difficulty in acquiring citizenship certificate. *Citizenship Bill tabled in parliament should ensure non-discriminatory approach for receiving citizenship and GoN should introduce special program and plan of action to address VAW.*

**Child Rights (121.5, 121.6, 121.7, 121.8, 121.20, 121.24, 121.25, 122.19, 122.22, 122.29, 122.47, 122.48, 122.49, 122.50, 122.51, 122.66, 122.93, 122.94, 122.95, 122.98, 122.102, 122.104)**

28. The Act Relating to Children 2018 is progressive but lacks Rules for implementation. There are 286,000 child labor in Nepal.<sup>64</sup> GoN has introduced National Child Labor Abolition Master Plan (2018-2028) aiming to abolish worst form of child labor by 2025, and all forms of child labor by 2028. Government endorsed a national strategy to end child marriage by 2030. NHRC registered 24 cases of child rights violations within the reporting period including corporal punishment, child abuse, and child marriage. A child born from rape survivors is deprived of birth registration. Children are highly vulnerable to drug abuse, trafficking, rape, domestic labor and child labor. There is lack of assistance and mental health support measures for child victims of sexual exploitation and abuse. Children with disabilities and from marginalized communities have limited access to education and health care. Juveniles are vulnerable being processed in the police and judicial system<sup>65</sup>. *GoN should ratify complaints procedures, CRC-OP3. Ensure effective implementations of plan of action of child marriage. Labor and corporal punishment, and prepare plan of action of child sexual abuse*

**Persons with Disability (122.109, 122.110)**

29. The Disability Rights Act, 2017 (DRA) recognizes diversity within disability, eliminates and criminalizes use of derogatory terms words towards persons with disabilities. PWD represent Nepal's 1.94% of the population. Among them, 45.46% are female.<sup>66</sup> GoN issues color-coded disability identity (ID) cards<sup>67</sup> which don't comply with human rights standard of disability enshrined in the CRPD. Monitoring report of NHRC reveals PWDs are still facing discrimination, inadequate disability friendly infrastructures, severe health problems of

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<sup>64</sup> Central Bureau of Statistics, Labor Force Survey 2017-2018

<sup>65</sup> The rate of torture reported by juveniles remains higher than the adult rate, though the difference is markedly smaller than previous years (1.7% as compared to 4.5% in 2015)

<sup>66</sup> Central Bureau of Statistics, 2011

<sup>67</sup> GoN issues four types of color-coded disability identity (ID) cards to persons with disabilities on the basis of severity of disability i.e. (1) Red-colored card for Profound, (2) Blue-colored card for Severe, (3) Yellow-colored card for Moderate, and (4) White-colored card for Mild level of disability. Disability ID Card Distribution Directives, 2008 has included a list of documents and procedures to apply and obtain disability ID card.

different kinds, inter-sectional sexual vulnerabilities, lack of access to justice etc. *GoN should ensure access to information and protect all PWDs from exploitation, violence and abuse both within and outside the home.*

### **Indigenous Nationalities (121.9, 122.37, 122.105)**

30. Article 18 and 42 of the Constitution provides special arrangement for development and participation of indigenous nationalities (IN) in state organs on the basis of proportional inclusive principle. Nepal has ratified ILO Convention No.169 and UNDRIP-61/295. Population of IN is 34.97% of total population. In 2017 elections, IN secured 29%<sup>68</sup> while representation in judiciary is 14.5%.<sup>69</sup> National Action Plan for the Implementation of ILO Convention 169 is not formulated. *GoN should formulate and implement National Action Plan for ILO Convention 169 covering Free, Prior and Informed Consent, rights to self-determination, autonomy and self-governance within one year.*

### **Caste-based discrimination (121.14, 122.33, 122.35, 122.36, 122.39, 122.40, 122.55, 122.111)**

31. Article 24 and 40 of the Constitution guarantees rights against untouchability and rights of *Dalits* respectively. The Dalit constitute 13.8% of Nepal's population. The Caste-based Discrimination and Untouchability (Offence and Punishment) Act 2011 has criminalized caste-based discrimination and untouchability. However, NHRC registered various cases of Inter-Caste marriage, discrimination against *Dalits* in public places mediating by police and political parties. NHRC has studied and recommended GoN for empowerment, inclusion and mainstreaming *Dalit* Community in development.<sup>70</sup> *GoN should ensure effective implementation of the Act 2011.*

### **Sexual Minorities (121.16, 122.42, 122.43, 123.30)**

32. Nepal provides legislative protection to LGBTIQ. The Constitution protects the community from discrimination, violence and abuse. Though the constitution guarantees the right to have citizenship ID reflecting their preferred gender and ensures right to equality, transgender people still face difficulties in getting their legal status. LGBTIQ face discrimination because of their sexual orientation. As per the recommendation of NHRC, CBS has included provision to document the sexual minorities in 2021 Population Census. Same-Sex Marriage Study Committee formed by *GoN* has recommended recognizing same-sex marriage. *GoN* should amend *the discriminatory provisions in laws and regulations.*

### **Refugees (121.29)**

33. *GoN* ensures the non-refoulment of refugees. Bhutanese refugees were given choice for third country settlement in coordination with UNHCR. There are refugees from Bhutan, Myanmar

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<sup>68</sup> Provincial Election Proportional Election Directive (2018)

<sup>69</sup> Dr. Dinesh P. Pant, Gender Equality and social Inclusion Analysis of the Nepali Judiciary (Research Report) May 2013, National Judicial Academy, Nepal, Hariharbawan, Lalitpur P. 7

<sup>70</sup> NHRC Report on Situation of Rights against Caste- Based Discrimination and Untouchability, July 2019

(Rohingya), Pakistan, and Tibet in Nepal. *GoN should ensure problems of refugees are addressed on humanitarian grounds with a concrete policy.*

### **Senior Citizens**

34. Constitution guarantees right to special protection and social security of senior citizens. The Senior Citizens Act, 2006 and Social Security Act, 2018 are concerned with the rights of senior citizens. Elderly allowance<sup>71</sup> has been increased to Rs. 3,000 per month. As per NHRC study, senior citizens' homes and most of the care centers are not in accordance with the standard set by Senior Citizens Rules 2008.<sup>72</sup> Altogether 141 senior citizens' homes are in operation in 64 districts where 1,577 (965 women and 612 men) senior citizens were living as of mid-October 2018. The number of women living in elderly homes is higher by 44.7 per cent compared to men. In some cases, senior citizens are deprived of respect and care from families and suffer from health problems. *GoN should establish at least one geriatric ward in all public hospitals and ensure effective monitoring of old age homes and day care centers.*

### **Business and Human Rights**

35. Business sector is flourishing. Rights of stakeholders of business sector should be prioritized. Nepal doesn't have concrete policy in this sector. *Nepal should adopt laws, policies and action plan in line with UN Guiding Principles.*

### **Consumer Rights**

36. Article 44 of the Constitution guarantees the rights of consumer. The Consumer Protection Act, 2018 is concerned with rights of consumers but there are no Rules for its implementation. In the FY 2018/2019, the Department of Food Technology and Quality Control [filed cases against 148 companies and restaurants](#) for failing to meet hygiene standards or selling contaminated food. Even a single entity has ever faced any kind of governmental action due to lack of consumer court. *GoN should enact Rules for the implementation of Consumer Protection Act and consumer court should be established within one year.*

### **Right to Environment and Sustainable Development (121.30, 121.31, 121.32, 122.30, 122.113)**

37. Article 30 of the Constitution guarantees the right to clean environment. Goal 11 and 15 of SDG is concerned with environment and sustainable development. GoN has adopted various laws and policies<sup>73</sup> concerned with environment.<sup>74</sup> Nepal Climate Change Support Program

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<sup>71</sup> FY 2019/2020 budget declaration

<sup>72</sup> [Monitoring Synopsis of Senior Citizens' Care Centre-2019 conducted by NHRC](#), 2019

<sup>73</sup> Environment Protection Act 2019, Disaster Risk Reduction and Management Act 2019, Local Government Operation Act 2074, National Forest Policy 2019, Climate Change Policy 2019, Forest Policy 2018, National Adaptation Plan, Monsoon Emergency Action Plan, Monsoon Emergency Action Plan etc.

<sup>74</sup> Central Bureau of Statistics, Environment Statistics of Nepal, 2019

(NCCSP) had implemented 100 LAPA with 2,303 adaptation actions and benefiting 600,000 climate vulnerable people during 2013- 2017.<sup>75</sup> Nepal is ranked 7<sup>th</sup> among countries most affected by climate risk<sup>76</sup>. Between 1990 and 2017, Nepal's carbon dioxide emission grew by 5.8% per year<sup>77</sup> and it was among bottom five countries in Environmental Performance Index 2018.<sup>78</sup> NHRC Report, states that right to live in clean environment has been violated because of failure of stakeholders in prioritizing pollution control, mitigation, and implementation of regulations set by the government.<sup>79</sup> Nepal does not have a separate court or tribunal to deal with cases of environment. Human Rights National Action Plan (HRNAP) incorporated cross-cutting right-based approach to development. Development and social justice should be addressed simultaneously. *GoN should ensure effective implementation of environment laws and policies and adopt right-based approach to development.*

**(j) Social Inclusion (122.1, 122.107)**

38. Article 40(1), 84(8), 138, 267(3), 258 and 282 of the Constitution ensure social inclusion for marginalized and deprived class and communities. Art 258 provides for National Inclusion Commission. The Constitution has guaranteed 33% proportionate reservation of women and minorities in all state structures. There is improvement in inclusion following the allocation of 45% seats for reservation<sup>80</sup>. *GoN should ensure effective implementation of as per law.*

**(k) Human Rights Education (122.24, 122.25, 122.44, 122.107, 122.79, 122.89)**

39. Human rights education (HRE) is included in the school level curriculum. The 4<sup>th</sup> HRNAP had incorporated HRE as a cross-cutting issue. *GoN should include human rights education in curriculum of higher education and develop human right training mechanism in all three tiers of government including civil servants, and security officials.*

**(l) Human Rights Defenders (122.60, 122.72)**

40. NHRC has received complaints regarding threats received by human rights defenders (HRDs). There are no specific laws and policies for protection of HRDs. NHRC have developed guidelines for HRDs. *GoN should enact specific laws for protection of HRDs and develop environment conducive for their work.*

**(m) Human Trafficking (121.25, 121.27, 123.12)**

41. NHRC report estimates that nearly 1.5 million Nepali are vulnerable to various forms of human trafficking. GoN has established Anti- Human trafficking Bureau and Parliament has passed the Palermo Protocol. A 10-year National Plan of Action to combat Trafficking in Persons is in effect along with separate anti-trafficking cell and fast track court proceedings.

<sup>75</sup> <http://www.np.undp.org/content/nepal/en/home/projects/nccsp.html>

<sup>76</sup> <https://germanwatch.org>

<sup>77</sup> <http://globalcarbonatlas.org/en/CO2-emissions>

<sup>78</sup> Biennial Report by Yale and Columbia Universities, World Economic Forum, 2018

<sup>79</sup> Research Report on Environment Pollution and Human Rights, 2019

<sup>80</sup> Public service Commission

However, Nepal is classified as Tier 2 country in 2019.<sup>81</sup> *GON should amend Human Trafficking and Transportation Control Act in line with UN TIP Protocol within one year and adopt effective mechanism for survivors*

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<sup>81</sup> <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>