

**NEPAL**  
**Nepal NGO Coalition Submission to the United Nations Universal Periodic Review**  
**23<sup>rd</sup> Session of the UPR Working Group of the Human Rights Council**  
**March 2015**

**INTRODUCTION:**

This joint submission has been prepared by three coalitions, Nepal NGO Coalition for UPR (NNC-UPR), National Women Coalition and Durban Review Conference Follow-up Committee (DRCFC) Nepal comprising of 295 civil society organizations (Annex 1).

**METHODOLOGY:**

This report is the outcome of six national coordination meetings, and 25 regional, national and thematic consultations with relevant stakeholders. This submission also includes two different thematic submissions of DRC FC (Annex- 2) and Women Coalition as annexes (Annex- 3).

**IMPLEMENTATION STATUS OF UPR 2011 RECOMMENDATIONS:**

1. In Universal Periodic Review 2011, the HRC made a number of recommendations (135) to the Government of Nepal. While reviewing, it was found that 7.5% recommendations are fully implemented and 56.66% recommendations are partially implemented while 30.84% are not implemented.<sup>1</sup> , Also the National Human Rights Commission (NHRC)'s assessment report notes "the implementation parts of those recommendations turned out to be extremely weak due to the political instability in the country".<sup>2</sup>

**I. BACKGROUND AND FRAMEWORK**

**A. Scope of International Obligations**

2. The UPR first cycle recommended ratification of several international treaties for holistic improvement of human rights situation.

**Recommendations:**

- Ratify CED, CMW, and all three Additional Protocols to Geneva Conventions 1949.
- Accede to the Rome Statute of ICC and ILO Convention 189.
- Ratify Optional Protocols to ICESCR, CAT and CRC (OP III), Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.
- Initiate for separate international convention on elimination of caste-based discrimination and untouchability.

**B. Constitutional and Legislative Framework**

3. **Constitution Drafting Process<sup>3</sup>:** Following the dissolution of the first Constituent Assembly (CA) on 28 May 2012, an interim government headed by the then Chief Justice conducted election of the second CA. CA could not promulgate the Constitution on the deadline of 22 January despite the political agreement made by the political parties. The differences persist in some key issues such as federalism, forms of government, electoral system and judiciary.
4. Fundamental rights (FR) section of the Interim Constitution include economic, social and cultural rights along with the clauses to protect inclusiveness, but some of the clauses have provisions 'as prescribed by law' which limits accessibility to justice. Right to remedy clause includes condition to promulgate law in two years to enforce the rights mentioned in FR limiting justiciability. In the present Constitution, the provision of citizenship is progressive as it allows citizenship in the name of either father or mother. This provision should be continued and other provision of restrictions should be removed in the new constitution to decrease risk of statelessness.
5. **Participation:** Nepal accepted to ensure full participation of ethnic and caste groups, women, IPs, Dalits, Muslims, Madhesis, Persons with Disabilities (PWDs) and Sexual Minorities in the constitution-making process. However, participation of these groups in the second CA decreased.

**Recommendations:**

- Ensure effective negotiation on contentious issues and create an environment to promulgate constitution as early as possible.
- Remove restrictive clause in the draft of the FR and make right to remedy clause fully and immediately enforceable.

- Ensure equal and full citizenship rights for women to acquire and transfer citizenship; and citizenship by descent to children equally and independently through mother or father.
  - Initiate consultative process with women, IPs, Dalits, Muslims, Madhesi and sexual minorities guaranteeing their rights in the new constitution.
  - Formulate comprehensive Act consistent with Article 21<sup>4</sup> of the Interim Constitution including Inclusion Bill 2010 and regulation on Caste-based discrimination.
6. **Domestication of International Law**<sup>5</sup>: New bills on Criminal and Civil Codes<sup>6</sup> contain provisions such as torture and disappearance. These provisions do not fully comply with the international obligations, and amendments<sup>7</sup> are needed. Separate Torture Bill, 2014 and anti-witchcraft allegation bill are tabled in the parliament. Nepal has not fully domesticated many treaties such as CRPD and CAT.

**Recommendations:**

- Fully incorporate international obligations into Nepali laws while adopting a Comprehensive Human Rights Act and amend contradictory legislations.
- Enact a consolidated law to domesticate treaties to address civil, political and socio-economic rights and human rights violation such as sexual violence<sup>8</sup>
- Create a mechanism for effective monitoring of treaty obligations.

**C. Institutional and Human Rights Infrastructure and Policy Measures**

7. **National Human Rights Institutions (NHRIs)**<sup>9</sup>: NHRC Act 2012 does not comply with the Paris Principles with regards to staffing, structure and financial independence.<sup>10</sup> Implementation of NHRC recommendations<sup>11</sup> is ineffective. NHRC lacks a will to blacklist human rights violators and recommend for departmental actions. Other NHRIs including National Women Commission (NWC)'s legislation has not been amended and its resources are inadequate.<sup>12</sup> National Dalit Commission (NDC) and National Muslim Commission (NMC) are established by an executive order but do not have separate laws to establish their independence and autonomy. The Supreme Court (SC) has issued a mandamus for establishing Madhesi Commission.<sup>13</sup>

**Recommendations:**

- Ensure full independence of NHRC, NWC and NDC<sup>14</sup> according to the Paris Principles and effectively implement their recommendations.
  - NDC and NWC should be given a status of constitutional body.
  - Form commissions such as Disability, IPs and Minority assuring autonomy and effectiveness as per the Paris Principles.
  - Establish a National Inclusive Commission to address the aspirations and diversity and for monitoring and effective implementation of the laws.<sup>15</sup>
8. **Elections of Local Bodies:** The elections of local bodies have not been held since 1997<sup>16</sup>. As a result, overall governance and development process is affected. This has led to corruption and lack of grass-root political participation.

**Recommendations:**

- Hold the elections of local bodies immediately.
- Make election process transparent, accountable and responsible with effective monitoring.

**II. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS, TAKING INTO ACCOUNT OF APPLICABLE INTERNATIONAL LAW**

**A. Equality and Non-discrimination**

9. **Gender Equality:** Women of Dalit, IPs, Muslim, women with disabilities and women from other minority groups continue to face gender-based and identity-based discrimination. Around 23.65% of the Nepali population is without citizenship certificate.<sup>17</sup> Despite constitutional guarantee and the SC decision,<sup>18</sup> the government officials refuse to grant citizenship based on the mother's name<sup>19</sup>. Single mothers, trafficked victims, conflict victims of sexual violence and women migrant workers continue to face problems in transferring citizenship to their children.

**Recommendations:**

- Implement laws, circulars and the SC decisions to make citizenship easily available in mother's name.
- Ensure effective implementation of prevailing non-discriminatory laws and policies on gender equality allocating sufficient resources.

10. **Discrimination against Dalits:** Despite national and international obligations and enactment of "Caste-based Discrimination and Untouchability (Offence and Punishment) Act, 2011 (CBD Act), dalits are facing many forms of discrimination. There are still 37 discriminatory provisions existing in several laws against Dalits.<sup>20</sup> Implementation of CBD Act is ineffective as very few investigations are carried out and no comprehensive study has been conducted to repeal those provisions.<sup>21</sup>

Madhesi Dalits are more excluded, marginalized, and landless<sup>22</sup> and discriminated within the Dalits and Madhesi community. They face severe hurdles to acquire of citizenship cards. Dalit women are facing discrimination based on class, caste and gender. Madhesi Dalit women are facing additional region-based discrimination. Badi woman are facing sexual exploitation.

Dalit youths and children face caste-based discrimination and untouchability in schools, temples and in public and private places. They are deprived of education and face malnutrition, child labor, trafficking and sexual violence.

**Recommendations:**

- Adopt policies, plans, strategies, programs and budget allocation<sup>23</sup> for effective implementation of CBD Act.
  - Amend all discriminatory laws, regulations, rules, directives, policies and programs.
  - Adopt laws and policies to address all forms of discrimination and atrocities based on caste and community including sexual exploitation, trafficking and prostitution of Dalit and Badi women.<sup>24</sup>
  - Ensure 11-point regarding rights of dalits drafted by the constitution drafting committee of CA are incorporated in the new constitution
  - Ensure protection for all inter-caste married couples<sup>25</sup>
  - Ensure that all opportunities, resources and services are proportionally distributed among the hill and Madhesi Dalits and Dalit women as per their respective population ratio
  - Ensure proportional representation of Dalits, to the state structures<sup>26</sup> including all law enforcement agencies<sup>27</sup>.
  - Resolve the landlessness and ensure citizenship rights of Madhesi Dalits.
  - Ensure equal rights and proportional representation of Madhesi Dalits and Dalit women within women, Dalits and Madhesi.
  - Formulate required policies, laws, strategies and programs eliminating class, caste, gender and regional based discrimination against Dalit and Madhesi Dalit women
  - End sexual exploitation of Badi women
  - Implement measures to enforce rights to education, adequate food, health services and freedom from child labor, trafficking and sexual violation.
11. **Muslim and Religious Minorities:** Ten types<sup>28</sup> of religious groups exist in Nepal. The concern of all religious minorities is lack of effective implementation of "secularism". Muslim<sup>29</sup>, is one of the marginalized groups tends to identify and recognize itself as community rather than religious minority.
12. Muslim women have less access to health, justice and education because of cultural and language barrier. They suffer from multiple forms of discrimination -as women and Muslim including within Muslim community.

**Recommendations:**

- Effectively implement all kind of mechanisms to secure secularism.
  - Ensure that all religious groups have equal access to resources to preserve and protect religious, cultural heritage and to build religious infrastructures.
  - Ensure religion, region and community based non-discrimination.<sup>30</sup>
  - Recognize and mainstream *Madrasha* education system and establish Madrasha Educational Board.
  - Ensure that Muslim children have access to education in a culturally appropriate way and provide adequate scholarships.
  - Recognize all mother tongues as national language.
  - Ensure the proportional representation of Muslim women within the Muslims and within the women
13. **Madhesi:** Madhesi people have been discriminated on the basis of complexion, region, language and socio-cultural identity. Government has made several agreements with Madhesi which need to be implemented.<sup>31</sup>

Madhesi women have faced multiple forms of discrimination and exclusion as women and Madhesi. They face domestic violence, dowry-related violence including murder, sex-selective abortion and forced divorce. Sexual violence against Madhesi women and girls especially from Dalit and OBC caste groups is rising.

**Recommendations:**

- Ensure equal and proportional representation of Madhesi including women in State structure.
- Ensure that National Madhesi Commission will be inclusive among Madhesi women, Madhesi Dalit, and Other Backward Communities (OBC)<sup>32</sup>.
- Ensure elimination of all kinds of prejudice, discrimination, exclusion against Madhesis including Madhesi women
- Allocate and distribute resources in equal footing on the basis of population density of Tarai-Madhes

14. **Indigenous Peoples (IPs):** Nepal has ratified ILO 169 and signed UNDRIP in 2007. Some legislations<sup>33</sup> are not compatible with treaty obligations and undermine the principle of Free, Prior and Informed Consent (FPIC). The booming of hydro-projects constitutes an imminent threat to IPs' culture, resources, environment and society.<sup>34</sup>

**Recommendations:**

- Make existing laws compatible with ILO 169 and UNDRIP.
- Ensure FPIC of IPs with full and effective participation in planning of projects located in IPs' area

15. Due to language barrier, the IPs have limited access to justice, education, government services, information, and socio-economic opportunities.<sup>35</sup> Despite Nepal being secular, discriminatory legal provisions still persist. There have been no laws recognizing the customary practices of some communities.<sup>36</sup> The government has not recognized all indigenous communities in the official schedule<sup>37</sup>. The government has not yet implemented the recommendations<sup>38</sup> of the task force.

16. Indigenous women continue to suffer from various forms of exclusion and discrimination. In comparison to other women, they have insufficient access to public and social services, justice and education and limited access to land, water, forests and other natural resources.

**Recommendations:**

- Recognize indigenous languages in state affairs alongside Nepali.
- Formulate mandatory provision that allocated budgets for IPs are spent in their socio-economic development with full participation.
- Fully ensure protection and promotion of socio-economic and cultural rights of the IPs in culturally appropriate ways.
- Implement recommendations of Task Force 2009 and recognize all other indigenous groups.
- Ensure proportional representation of indigenous women at decision-making levels and state polity.
- Collect disaggregated data on indigenous women that will reveal the situation of their well-being, forms and degree of discrimination and formulate policies and plans accordingly to address their exclusion.

17. **Peoples with Disabilities (PWDs):** PWDs face discrimination to enjoy rights on equal basis such as to access government and public buildings, roads, housing and transportation and also the right to personal assistance. The services provided to them on many cases do not comfortably fit to them. The government's categorization of disability ignores social origin. PWDs from IPs Dalits and vulnerable groups are subject to further discrimination.<sup>39</sup>

18. PWDs face discrimination at family level. The ratio of discrimination experienced by women is significantly higher than disabled men.<sup>40</sup> They have least access to education, employment, food, health, justice, parental property and rehabilitation schemes. Their rights to choose partner, get married and to bear child are often violated. They have been victim of domestic violence, abuse and negligence.

19. Existing health facilities do not address sexual and reproductive health of disabled women. Disabled victims of rape and sexual violence do not have means to pursue justice in absence of prerequisite services including sign language. Women with intellectual and severe disabilities are compelled to forced sterilization from their parents.<sup>41</sup>

**Recommendations:**

- Revise and implement laws ensuring non-discrimination against PWDs.
- Formulate plans and policies regarding PWDs after collecting desegregated data on the basis of severity of disabilities as well as social origin.

- Ensure accessibility to government and public infrastructure, transportation, education, employment, health services and to information guaranteeing basic social security arrangements
- Make available sign language interpretation services.
- Ensure participation and representation of persons with disabilities in state structure, public sectors, and civil services.
- Ensure formal justice system provides prerequisite services for disabled
- Ensure disabled women's access to sexual and reproductive health to meet special needs

**20. Sexual and Gender Minorities:**

To some extent, the government's policy and plans recognize the sexual and gender minorities<sup>42</sup>. However, citizenships with identity are not provided retrospectively. The Civil and Criminal Code Bills contain provisions that are against LGBTI people's rights.<sup>43</sup> The government facilities, including security check posts and public toilets are not LGBTI-friendly neither the budget is allocated for the advantage of the community.

**Recommendations:**

- Recognize sexual and gender identity in all official documents.
- Implement recommendations of Same Sex Marriage Committee's Report.
- Revise Civil and Criminal Code Bills according to the SC decision

21. **Former Bonded Labor:** *Kamaiyas*<sup>44</sup> and *kamlaris*<sup>45</sup> to the hill immigrants are unable to continue their traditional life.<sup>46</sup> Despite legal prohibitions<sup>47</sup>, bonded labor systems persist in different places of Nepal, although the government had abolished the Kamaiya System in 2000.<sup>48</sup> The government has failed to effectively implement the Act.<sup>49</sup>

22. Most of *Haliayas* are *Dalits* who worked as bonded labors to landlords for generations. They are socially, culturally and economically exploited and discriminated by the landlords traditionally. *Haruwa*, *Charuwa* and *Baligahre* systems are other forms of bonded labors based on indebtedness.<sup>50</sup>

**Recommendations:**

- Provide housing, employment, nutrition, education and health services according to government's agreements with these communities.
- Ensure the freed bonded labors enjoy secure and equitable land rights
- Adopt quotas system to ensure proportional representation of freed and bonded labors
- Establish a responsible High Level Commission to protect and promote the rights of freed bonded labor
- Revise the Rehabilitation Plan in full and effective participation of freed and bonded labors.

**B. Right to Life, Liberty and Security of the Person**

23. **Extra-Judicial Killing**<sup>51</sup>: The report shows 69 people being the victims of extra-judicial killings from 2010 to 2014.<sup>52</sup> Witnesses and family members of the deceased reported that many of these victims were killed after arrest.<sup>53</sup> The number of such killings has continued and demand for investigation into such killings remains unheeded.

**Recommendations:**

- Take measures to prevent warrantless arrests, torture, extrajudicial killings and other misconduct<sup>54</sup>

24. **Torture and CID**<sup>55</sup>: Criminal Code Bill and Torture Bill do not incorporate CAT definition of torture. The Bills have short statute of limitations; punishment is only up to 5 years and does not recognize retrospective application of torture, providing impunity for past and present perpetrators

**Recommendations:**

- Revise Torture Bill to be in consistence with CAT provisions
- Revise provisions of Enforced Disappearances in Criminal Code Bill as per international obligations.
- Ensure proper mechanism for rehabilitation and reparation of torture victims.
- Build capacity of Nepal Police, providing them with proper mechanism to investigate torture and CID allegations.

25. **Violence Against Women:** VAW still remains major challenge with increased reporting of cases.<sup>56</sup> In 2014, 238 women and 525 girls were raped<sup>57</sup>. In February, one case of acid attack against two schoolgirls was reported. In March, a 6-year-old girl, rape victim, died due to sexual and physical violence suffered.

26. Domestic Violence (DV), witchcraft allegations, dowry<sup>58</sup>, sexual and gender-based violence, trafficking, polygamy and harmful traditional practices including *Chhaupadi*, *Kanyadan*, suicide and girl child labor are the worst forms of VAW. DV is the biggest category of reported VAW with increasing reports.<sup>59</sup> 35-day statutory limitation in rape cases and insufficient definition of DV and provisions of mediation in DV Act result in ineffective legal action.

**Recommendations:**

- Implement the SC verdicts from August 2009 and July 2013 for amendments in DV Act and provision of fast track case hearing in VAW cases.
- Establish safe houses in all districts with improved and professional operational modality.
- Ensure legal protection against abetment to suicide, by criminalizing it.

27. **Human Rights Defenders (HRDs):** HRDs including journalists face threats and physical harms that impose self-censorship<sup>60</sup>. Women HRDs (WHRDs) share equal responsibility but face a higher level of risk. WHRDs advocating for sexual and reproduction rights and against sexual and domestic violence get constantly threatened for their work<sup>61</sup>.

**Recommendations:**

- Ensure recognition, support and security to HRDs and WHRDs including with new legislative, policy and programmatic interventions.
- Take immediate actions to ensure full freedom of expression.
- Take measures to systemically investigate intimidation, threat, physical harm, aggression against HRDs.
- Define restrictions on freedom of expression, whether based on national security, hate speech, privacy, contempt of court laws and obscenity in accordance with international standards.

28. **Trafficking<sup>62</sup>:** Emerging trend of trafficking in labor migration has been overlooked. The government policy of 30 years age limit for women migration is perpetuating trafficking as women are resorting to illegal and informal channels. Internal trafficking is taking place with women and girls being trafficked into entertainment sectors facing some of the worst forms of labor exploitation. Current legal and policy framework do not sufficiently address this issue. Dalits and Indigenous girls are more vulnerable to trafficking.<sup>63</sup>

**Recommendations:**

- Adopt comprehensive legislation strengthening existing laws and take concrete measures to rehabilitate the survivors.  
Amend Human trafficking Act addressing emerging trend of trafficking

**C. Administration of justice, including impunity, and the rule of law**

29. **Right to Fair trial<sup>64</sup>:** Criminal justice system lacks appropriate legal framework and adequate resources. There lacks effective coordination amongst the investigation, prosecution and adjudication. Many detainees face torture or inhuman treatment and are denied fair trial.<sup>65</sup> Victim and witness protection is ad hoc and not intrinsic. The prison has the capacity of around 8,985 but 17,146 are detained.<sup>66</sup>

**Recommendations:**

- Develop law, infrastructure and invest in criminal justice mechanisms to enhance fair trials.
- Establish a formal mechanism like criminal justice coordination committee to coordinate among criminal justice institutions.
- Enact comprehensive witness and victim protection law.

30. **Access to Justice and Effective Remedy<sup>67</sup>:** Case backlog at the courts is a general problem.<sup>68</sup> Judicial procedure is expensive and tiring and use of confession makes justice administration doubtful. Legal aid hardly reaches to indigent people, including women. Formal justice is still a challenge for many women due to political, social and legal limitations. Criminal Code Bill increases statutory limitation for rape and sexual violence to one but is still insufficient. Women victims of violence, often sexual violence and victims of caste based discrimination are coerced to opt for mediation rather than pursuing legal remedy.

**Recommendations:**

- Ensure access to justice adopting measures as fast track court and effective continuous hearing of cases.
- Allocate sufficient human and financial resources to judiciary and quasi-judicial bodies
- Enact new Nepal Police Act with principles of democratic and HR- friendly policing

31. **Transitional justice**<sup>69</sup>: TRC Act came into effect despite criticisms of some provisions<sup>70</sup> from human rights communities and the victims<sup>71</sup>. Recent SC decision<sup>72</sup> invalidated some of the provisions of the Act. Politically influenced appointment of commissioners may undermine the purpose of the commission for truth, justice, reparation and institutional reforms. The effectiveness of the relief provided by the government is not made public.<sup>73</sup>
32. Women conflict victims are left behind in the TJ process. They feel government is focusing on physical reconstruction and establishment of the TJ mechanisms only, ignoring economic, social, cultural and physiological effects of the conflict. Survivors of conflict related sexual violence have not been acknowledged as conflict victims. Interim Relief Programs (IRP) do not recognize survivors of sexual violence as Conflict Affected Persons. There is no official data of conflict related sexual violence survivors. Cases of sexual violence during the conflict are yet to be investigated.
33. Transitional justice approach has not included proper vetting process. Security institutions have some provisions of vetting<sup>74</sup> but it's focused on UN peacekeeping mission. The repatriation of Major Niranjana Basnet from Congo<sup>75</sup> and detention of Kumar Lama by the UK government<sup>76</sup> shows failure to prosecute conflict related cases.

**Recommendations:**

- Respect decision of the SC<sup>77</sup> to handle serious human rights violation.
  - Recognize survivors of sexual violence occurred in conflict period as conflict victims and include them in all support programs including IRP.
  - Immediately make available appropriate support services to the survivors including medical, psycho-social, legal and livelihood support.
  - Ensure protection for survivors and witnesses who come forward to TJ mechanisms.
  - Ensure that law and institution reform, and vetting approach is used in the TJ process.
34. **Impunity**<sup>78</sup>: Serious offences like torture and enforced disappearance are not sufficiently defined in law. Still a number of FIRs are refused to be registered. EJKs are not investigated properly. In some cases, convicts are not arrested because of the political affiliation<sup>79</sup>.

**Recommendations:**

- Make police responsible and accountable to register the FIRs
  - Design approach to check impunity to maintain equality of law and rule of law.
35. **Corruption**: Public corruption is rampant as indicated by TI ranking.<sup>80</sup> Even PM Sushil Koirala has admitted the high level of corruption.<sup>81</sup> Mere action against bribery cannot produce positive results.<sup>82</sup> Nepal is second riskiest state in South Asia for money laundering.<sup>83</sup> CIAA has been proactive but in most of the cases limited to apprehending junior officials.

**Recommendations:**

- Make institutional policy to control corruption with strict actions and prompt conclusion of corruption cases.
  - Increase punishment and fines and ensure accountability of the high level officials.
  - Ensure transparency and general accessibility in the process of complaint, investigation and adjudication.
36. **Poverty Alleviation**<sup>84</sup>: Poverty is one of the most pressing issues in Nepal. There are many poverty alleviation programs introduced by the government but are not implemented effectively. Most of the poverty alleviation fund is misused.

**Recommendations:**

- Prepare effective plans and policies with proper implementation and supervision of implementing bodies.
- Ensure transparency in use of funds in poverty alleviation programs.
- Consult stakeholders and coordinate amongst the ministries.
- Conduct impact assessment of the plans and policies related to poverty alleviation.

**D. Right to privacy, marriage and family life**

37. **Child marriage**: Child marriage is still widely practiced<sup>85</sup>. Kidnapping of girls for marriage is also occurs in many communities in different parts of the country<sup>86</sup>. Lack of implementation of existing legal provisions remains an issue. Child marriage<sup>87</sup> raises risk to uterine prolapsed and a high adolescent pregnancy rate.

**Recommendations:**

- Ensure effective enforcement of legal minimum age of marriage.
- Protect girls from subsequent sexual abuse and violence and reproductive health harms and violations.

**E. Right to work and to just and favorable conditions of work;**

38. **Right to work in favorable condition<sup>88</sup>:** Women's work and contribution<sup>89</sup> from entertainment sectors such as bars and restaurants is not recognized and not governed by labor laws. This result in abuse and stigmatization including unequal and low salaries, uncertain duty hours, job insecurity, harassment and violence at workplace and arbitrary arrests.

**Recommendations:**

- Bring the women's work in restaurants, bars and other entertainment sectors under labor laws, creating environment conducive for work
  - Protect women working in entertainment sectors, improve working conditions and ensure job security and establish complain mechanism
39. **Right to Food (RtF)<sup>90</sup>:** Forty-three districts lack sufficient food supplies.<sup>91</sup> Of them, 23 suffer from food shortage. The marginalized communities including women, Dalits, children<sup>92</sup>, IPs, PWDs, freed bonded labors, haruwas, charuwas and balighares are more vulnerable. Food sovereignty is protected under Interim Constitution<sup>93</sup> and the SC has held state responsible to ensure people's easy access to food.<sup>94</sup> Accessibility, Adequacy, Availability and Quality is concern in food sovereignty. Women are deprived of nutritious food, even during pregnancy and after child birth.

**Recommendations:**

- Ensure that new constitution includes right to food as FR.
  - Formulate laws, policies and regulations on RtF that prioritize marginalized and vulnerable groups. Improve food storage management system and ensure just, fair and reasonable public food distribution.
  - Modernize agriculture including land zoning laws and ensure rights of affected people from development projects.
40. **Social security:** Government provides allowances for senior citizens, widows, children, dalits and endangered ethnic groups. However, many senior citizens do not get it easily as they do not have citizenship certificate<sup>95</sup>.

**Recommendations:**

- Social security program should include measures other than allowances.
  - All single and household heads women who are below poverty line and victims of violence should receive it.
41. **Right to Health (RtH):<sup>96</sup>** Despite bringing forth some new plans and policies,<sup>97</sup> government has failed to bring new plans on Health Insurance and Health Social Security Services. The problems such as high maternal mortality rates<sup>98</sup>, number of doctors<sup>99</sup> and access to safe abortion shows government measures are ineffective. Awareness of sexual and reproductive health as FR is needed<sup>100</sup>.
42. Women suffering from uterine prolapsed and obstetric fistula are being subjected to further discrimination and increased violence<sup>101</sup>. Girls ((15-19 years) lack access to critical information on sexual and reproductive health and related services.<sup>102</sup>

**Recommendations:**

- Ensure proportional distribution of resources in health services.
  - Create universal health insurance and make primary health service free and accessible.
  - Create better surveillance of communicable diseases and make better arrangement for quarantine.
  - Ensure universal access to sexual and reproductive health care, information and services especially for socio-economically marginalized women and adolescent girls.
  - Enact a comprehensive law on safe abortion as per SC decision.<sup>103</sup>
43. **Right to education<sup>104</sup>:** School dropout is the major concern in educational sector.<sup>105</sup> Government's policy of compulsory and free education<sup>106</sup> is not effective. Text books, stationary and uniform do not reach in public schools and in remote districts on time. Politicization at teachers and student level and corruption<sup>107</sup> in education sector are a big concern. Also the difference in quality of education in private and public school is



immense. Gender disparity still exists and the education system is unfriendly towards children with disabilities.

**Recommendations:**

- Strengthen free education scheme, adopt measures to realize compulsory education at elementary level
- Improve accessibility and quality education particularly for girls<sup>108</sup>, dalits<sup>109</sup> and children with free education and scholarship.<sup>110</sup>
- Implement strategies to control school dropout problem.
- Ensure availability of text books and teachers in rural areas
- Enforce existing plans for multi-lingual education from primary to higher level.
- Increase access to technical and professional education for all including the children of marginalized communities.

44. **Right to information (RtI):** RtI is not an absolute right<sup>111</sup> and government promotes official secrecy. There is no dedicated government agency to implement RtI Act. Budget is not allocated for information dissemination.

**Recommendations:**

- Conduct awareness and capacity building of stakeholders.
- Promote effective role of National Information Commission (NIC) and implement its recommendations.
- Recognize the use of digital technology for storing and receiving information.
- Form Nodal agencies in government and other public organizations.<sup>112</sup>

45. **Migrant Workers**<sup>113</sup>: Lack of opportunities in Nepal is creating an exodus<sup>114</sup> of youths and women to foreign countries for employment<sup>115</sup>. Migrant workers lack proper information to make informed decisions. Women are contributing 11% of remittances however their migration is still an issue of public scrutiny. When they fail to bring back money, they get stigmatized by family and society and are criticized for failing to adhere to traditional values.

46. Labor attaché have not been appointed at all diplomatic missions. Chances of human smuggling and trafficking have added woes to the victimized migrant workers. Government has to facilitate to ensure insurance of deceased migrant citizens and to bring dead bodies back home.<sup>116</sup>

**Recommendations:**

- Monitor the recruitment agencies and simplify the compensation procedure.
- Ensure labor migration services and information reach to the potential migrant workers
- Have labor and employment agreement with the host countries and have diplomatic protection extended for the Nepali citizens
- Provide skills and language trainings to the potential migrants
- Ensure safe return of labors from the host countries and their proper rehabilitation
- Assist the migrants detained and ensure their rights are protected.
- Use remittance fund for development and wellbeing of migrants.
- Ensure protection of women migrating for employment including lifting the ban as well as through bilateral agreements with the destination countries to protect women working in informal and domestic labor sector.

47. **Refugees**<sup>117</sup>: Nepal generally respects the principle of non-refoulement. The SC decision<sup>118</sup> directing the State to promulgate refugee legislation and to accede to 1951 Refugee Convention and its 1967 Protocol has not been complied. The asylum seekers complain against use of immigration laws including fines and imprisonment<sup>119</sup>. Freedom of association and peaceful assembly has been denied, mainly to Tibetan refugees.<sup>120</sup>

**Recommendations:**

- Ensure rights including right to freedom of assembly and expression and rights against arbitrary detention.
- Consider promulgating refugee protection law and ratifying Refugee Convention 1951 and its Protocol 1967

48. **Internally displaced persons:** With the internal Displacement Policy 2007, the Guidelines on Citizens Relief and Local Peace Committee and three Directives on Psychosocial Counseling Service 2013, the government

is trying to resolve the issue of conflict-related IDPs. But, their captured land and properties are yet to be returned<sup>121</sup> hampering their wish to return.

**Recommendations:**

- Ensure return of the property of the IDPs.
- Provide proper compensation to their damaged properties.
- Ensure safe return and rehabilitation of those IDPs willing to return.

49. **Right to development and environmental issues**<sup>122</sup>: Nepal is placed among the most climate-vulnerable countries. The share of Nepal in the global emission of greenhouse gases is negligible (0.13).<sup>123</sup> Significant glacier retreat, deforestation, land degradation and threatened agro-biodiversity, as well as significant areal expansion of several glacial lakes has also been documented in recent decades, with an extremely high likelihood that such impacts are linked to rising temperatures.<sup>124</sup> The climate change impact on women is direct since they are more dependent on natural resources. Use of intensive pesticides following decreased productivity due to climate change is impacting their health conditions<sup>125</sup>. Nepal have pledge its support to Sustainable Development Goals but have not done any consultation and dissemination of information with stakeholders regarding the SDG.

**Recommendations:**

- Ensure proper implementation of environmental laws and policies including to encounter the climate change
- Ensure that there is strict carbon emission reduction criterion and make arrangement for the better use of climate fund.
- Ensure proper management of natural resources and disaster preparedness.
- Adopt a Rights based approach to development that would be a frame of reference to ensure the rights of IPs in the projects works.

50. **Right to housing**: International standards on eviction procedure are not followed by government, eviction are mostly forceful putting women, including pregnant and lactating in the most vulnerable situations. Government is evicting the landless squatters without providing them any alternatives. There is no safeguard for housing rights for women who have been expelled by family following domestic violence and women with HIV positive status.

**Recommendations:**

- Effectively implement the Janata Awas Yojana<sup>126</sup> (Public Housing Project) for dalit and marginalized groups and expand the scheme to other indigent communities
- Abide by the UN Basic Principles and Guidelines on Development-based eviction and displacement

51. **Right of Child**<sup>127</sup>:

Children in Nepal face trafficking, hazardous work conditions and sexual exploitation. Draft of Child Act, intended to replace the old one, is still to be enacted. The implementation status of existing initiatives in child rights has been insufficient.<sup>128</sup> Nepali laws prohibit child labor however 39.9% still face child labor.<sup>129</sup> Government allocates some amount as a social security for children in specific districts however in comparison to the price of commodities such benefits are insignificant. The juvenile justice system lacks adequate reform houses. Further 191 children are living with parents in the different prisons.<sup>130</sup> National budget allocated for the children is decreasing in percentage.

**Recommendations:**

- Ensure protection of child's best interest in every legislation and policies aiming at their utmost physical and mental development.
- Amend the present Children Act in line of most recent developments and at par with International treaties.
- Make an expressed provision to safeguard children from conflict and outlaw enrollment of children as child soldiers as expressed laws with stiff punishment.
- Make provision for juvenile justice based on reformative approach and also remove dependent children from prison and make arrangement of institutional protection of such children.

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1 Draft joint report for UPR of NHRIs 2015.

2 NHRC, Mid-Term Report on the Implementation status of Conclusion and Recommendations of Universal Periodic Review of Nepal (2013, pg 39.

3 Recommendation No. 106.1,2 and 45.

- 4 Article 21. Right to social Justice: The economically, socially or educationally backward women, Dalits, indigenous peoples, Madhesi communities, oppressed classes, poor farmers and labors shall have the right to take part in the structures of the State on the basis of the principle of 'proportional inclusion.
- 5 Recommendation no. 106.1, 2, 3, 10, 18, 19, 20, 34, 35, 107.18, 20, 108.5, 11, 24, 25, 109.1, 2, 7, 10 and 13.
- 6 The Bills are Criminal Code Bill, Criminal Procedure Code Bill, Civil Code Bill, Civil Procedure Code Bill and Penal Bill to the Legislative-Parliament.
- 7 Torture Bill's definition of crimes, retrospective effect, and right of victims, statutory limitation and duration of imprisonment are narrowly conceived. The crime of genocide is only referred as aggravating factor of crime. However the war crimes, crimes against humanity and genocide are not defined as crimes in the Criminal Code Bill. The crime of rape is defined with wider scope in the Criminal Code, but has limitation such as penetration by object is excluded. The words 'other sexual offences' such as stripping, forced pregnancy, forced abortion, forced sex with contraceptives and other similar acts are not covered as crimes.
- 8 Provisions of short statutory limitations for rape and other sexual violence; increased punishment for rape, marital rape and other sexual violence; adequate victim and witness protection mechanisms; compensation from state; and measure to address special need of girls below 16.
- 9 Recommendation no. 106.6, 7, 8, 25, 107.5 and 6.
- 10 National Human Rights Commission Act, 2068 (2012), sec 30.
- 11 NHRC, Annual Report of National Human Rights Commission 2070-2071 B.S. (in Nepali), 2014.
- 12 Recommendations no. 106.8, 107.6 and 108.11.
- 13 <http://www.ekantipur.com/the-kathmandu-post/2015/03/09/news/sc-orders-govt-to-form-madhesi-commission/274025.html> available on 15 March, 2015.
- 14 See recommendation, "Continue promoting the work of the National Commissions for Women and for Dalit, through the reinforcement of resources that allows them to work in an efficient manner (Bolivia) (para 106.8 UPR Nepal 2011; A/HRC/17/5)" and "Provide the National Dalit Commission and the National Women's Commission with sufficient resources to effectively realize their mandate (Slovenia) (para 107.6 UPR Nepal 2011; A/HRC/17/5)."
- 15 The Committee further recommends that special units be established to monitor the implementation of programs to protect and promote full enjoyment without discrimination of the economic, social and cultural rights by disadvantaged and marginalized groups, in particular the Dalit, the Madhesi and indigenous communities, and especially women within these groups (para 32 CESCR Concluding observations 2008; E/C.12/NPL/CO/2).
- 16 In February 2006, the then King Gyanendra conducted the municipality elections which majority parties boycotted and was largely adulterated and little reflective of public aspiration or choice
- 17 Forum for Women, Law and Development (FWLD), Acquisition of Citizenship Certificate in Nepal: Estimating Prevalence, April 2013, Kathmandu.
- 18 Sabina Damai's case- Sabina Damai was not able to trace her father, approached the Lamidanda Village Development Committee (VDC), Dolakha twice to obtain citizenship certificate in her mother's name, who is a Nepali citizen. However, after repeated refusal from the District Administration Office (DAO), Sabina turned to the Supreme Court for justice. In 2011 the Supreme Court made a landmark decision of granting citizenship by descent to children if either the mother or the father has citizenship by descent.
- 19 SC favors citizenship through mother, [http://www.myrepublica.com/portal/index.php?action=news\\_details&news\\_id=90222](http://www.myrepublica.com/portal/index.php?action=news_details&news_id=90222)
- 20 Still, there are many discriminatory provisions existed in different laws of the country incompatible with international human rights instruments. The study carried out by National Dalits Commission has revealed that there more than 23 discriminatory provisions. (NDC.2005. *Study of the discriminatory and amendable legal provision against Dalit community*. Kathmandu: National Dalit Commission )
- 22 Sustainable Development Forum, Ownership of Dalits in Land: A Study. Kathmandu: Sustainable Development Forum 2006.
- 23 See previous recommendations, "...Government's priorities include combating caste-based discrimination, ensure that the policy is fully implemented also by the local authorities in rural and remote areas (Czech Republic) (para 106.24 UPR Nepal 2011; A/HRC/17/5); Take the necessary legal and policy measures to end discrimination, including of women, children and Dalits (Netherlands) (para 107.11 UPR Nepal 2011; A/HRC/17/5); ...caste-based discriminations be reported, investigated, perpetrators prosecuted and victims of such violence are compensated (Czech Republic)" (para 108.12 UPR Nepal 2011; A/HRC/17/5).
- 24 See recommendation, "The persistence of sexual exploitation, in particular among the Dalit community, and the persistence of the root causes of trafficking and prostitution, including poverty (para 21 CEDAW Concluding observations 2011; CEDAW/C/NPL/CO/4-5)."
- 25 See CERD recommendation, "to take resolute measures to secure rights of marriage for members of descent-based communities who wish to marry outside the community (para 32 CERD General Recommendation XXIX 2002; CERD/C/61/Misc.29/rev.1)", 2002.
- 26 See previous recommendation, "Seek to remove the obstacles faced by victims trying to access justice (Republic of Korea) (para 106.37 UPR Nepal 2011; A/HRC/17/5)."
- 27 See CERD recommendation, "to ensure where relevant that judicial decisions and official actions take the prohibition of descent-based discrimination fully into account (para 22 CERD General Recommendation XXIX 2002; CERD/C/61/Misc.29/rev.1).
- 28 Hindu is in majority (81.3%) and followed by Buddhism, Islam, Kirat, Christianity, Prakriti, Bon, Jainism, Bahai and Sikhism are in minority status
- 29 Muslim occupies 4.4 % of national population
- 30 See previous recommendation, "Make further efforts to overcome the difficult issue of discrimination on the grounds of religion, gender, race or otherwise (Japan); continue its efforts to end discrimination on the grounds of religion, race or gender in law and practice (Pakistan) (para 106.21. UPR Nepal 2011; A/HRC/17/5)."
- 31 The government had done the 22 points agreement with Madhesi Janadhikar Forum, on 30 August, 2007 and 6 points agreement with United Democratic Madhesi Front on 23 February, 2008.
- 32 There are 29 communities in the OBC recognized by the government. They are Kushwaha, Kurmi, Kumhar, Kahar, Kewat, Kanu, Kamar, Kalwar, Telhi, Dhanuk, Nuniya, Baniya, Bhedihar, Mali, Mallah, Musalman, Baraiya, Yadav, Rajbhar, Rauniyar, Lohar, Lodhi, Sudi, Saini, Sonar, Haluwai, Hajam, Amat, Maghaiya
- 33 Environment Protection Act, 1997, Land Acquisition Act, 1977, National Parks and Wildlife Conservation Act, 1973
- 34 Very recently, the government has signed Power Development Agreement (PDA) that gives operation license two Indian companies : Satluj Vidhut Nigam and JMR
- 35 The government has formulated Multilingual Education Implementation Guidelines in 2009 to implement multilingual education. But, it is not being implemented effectively due to inadequate human and financial resources. Bilingual education is only implemented in 24 out of more than 7,500 schools across the country (NFIW's report).
- 36 Country Code 1963 has provisions that slaughtering, killing, administering poison or beating cows/bullocks and attempting to do so are considered sins and punishable up to 12 years of imprisonment. On June 5, 2014, the police arrested Kumar Tumbapo, Bal Bahadur Tumbapo and Jagat Rai for allegedly slaughtering an ox. A complaint was filed in the district court by Gauvansha Samraskhyan Manch (Cow Protection Forum). They were harassed and tortured while in police custody. At least eight such cases are documented in a recent report by the Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP). See more at: <http://recordnepal.com/wire/wrong-side-thin-blue-line#sthash.4b73Qj47.dpuf>
- 37 Only 59 indigenous communities have been listed in the official schedule.
- 38 The government formed a High Level Task Force in 2009 to revise the list, and the Task Force recommended enlisting 81 different indigenous communities. High Level Task Force Report 2010 submitted to the government.
- 39 A study notes that, for example, women with disabilities access to education and other services is affected not only by gender and disability but also by their type of their disabilities, the socio economic status of their family, their race/ethnicity, whether they live in urban or rural areas and a host of other factors. Along with disability and gender, persons with disabilities rights are denied in services based on their identities like being ethnic, Dalit, or backward geography. 90.9% women with disabilities expressed that intersectional discrimination prevails them which impacts receiving information and access to services. The state as well National Federation of the Disabled Nepal (NFDN) has not taken into account as a human right issue of indigenous peoples with disabilities in Nepal. The existing executive committee of NFDN is discriminatory towards vulnerable indigenous persons with disabilities. <http://www.socialinclusion.org/np/newfile/pratimagurung>
- 40 Monitoring the rights of persons with disabilities in Nepal, National Federation of the Disabled-Nepal In collaboration of Disability Rights Promotion International and York University, Canada 2013 <https://ia902600.us.archive.org/4/items/nfdnepal/Nepal-CMP-Disability-Rights-Holistic-Report-Final%28PrintingVersion%29.pdf>
- 41 Economic and Social Council United Nation Permanent Forum on Indigenous Issues 12th Session E/c.19/2013/6.

42 The SC in 2007 recognizes sexual and gender minorities as a ground of non-discrimination. The draft constitution follows the SC decision. The government came with equal and non-discriminatory citizenship and passport policy to the community in 2013 and 2014 respectively.

43 In the consultation processes, the executive director of Blue Diamond Society (BDS) informed that the drafted civil and criminal code contains more than 286 provisions that are against LGBTI people's rights. <http://www.hrw.org/world-report-2012/world-report-2012-nepal>.

44 Much of the land formerly controlled by Tharus passed into the hands of immigrants. Many of these immigrants used their education and their caste and kinship affiliations with local government functionaries to appropriate Tharu land. An example will illustrate the sorts of methods used. A Brahmin who came to Chitwan after the malaria eradication program became notorious in the surrounding villages for the way he amassed land. He readily provided loans to Tharus; when they found themselves unable to pay back the loan within the stipulated time, he would extend the repayment period, but in return they would be asked to agree to the addition of another zero to the sum specified on the promissory note. The Tharus, illiterate and unfamiliar with written documents, would fail to see the significance of this and would readily consent. The debtor, eventually confronted by the moneylender with a promissory note for a sum far greater than that which he had originally borrowed, and well beyond his ability to repay, would lose all or part of his land in fulfillment of the debt. See Arjun Guneratne *Modernization, the State, and the Construction of a Tharu Identity in Nepal 1998*, p759.

45 Girls and women, especially of Tharu community, bonded for their labor at landlords' houses.

46 "In Dang, following on "loss of land, mass migration and poverty . . . [several major festivals that were previously celebrated annually are now no longer celebrated at all, because of a lack of economic resources" (Cox n.d., 11). In Chitwan, the wholesale destruction of the forest by settlers following the success of the malaria eradication project removed from the ritual calendar the worship of many gods whose jungle shrines had been destroyed in the process. Chitwan Tharus believe that the power of their deities is closely linked to the presence of forests; when the forests are destroyed, they believe the gods abandon the area. When rituals are no longer performed, the young are no longer socialized into their performance, and they disappear from the local knowledge system." See Arjun Guneratne *Modernization, the State, and the Construction of a Tharu Identity in Nepal 1998*, p 760.

47 During the consultation processes, representatives of freed *Kamaiya* and *Kamlari* reported that some of their friends are still working as *Kamaiya*. More than 412 *Kamlaris* are working as bonded labor in various districts. In Dang, Bardiya, Kailai, Kanchanpur and Banke at least 5000 freed *Kamaiyas* are yet to be identified.

48 During the consultation processes, representatives of freed *Kamaiya* and *Kamlari* reported that some of their friends are still working as *Kamaiya*. More than 412 *Kamlaris* are working as bonded labor in various districts.

49 Measures of Rehabilitation that the provisions of house construction allowance 10,000 NPR, 75 cubic fits of timber for the construction of houses, land allocation and other support measures are partially implemented. In contrast to government's commitment to provide free higher education to freed *Kamaiya* and *Kamlaris* the schools are imposing fees under various titles.

50 Landlords provide loans when they found themselves unable to pay back the loan within the stipulated time, the landlord would extend the repayment period and the debtor eventually confronted by the moneylender with a promissory note for a sum far greater than that which he had originally borrowed, and well beyond his ability to and becomes bonded to the debt.

51 Recommendation no. 106.36, 107.15, 108.17,18, 19 and 109.14.

52 Nepal Human Rights Yearbook 2011-2015. Informal Sector Service Centre (INSEC), Kathmandu, Nepal.

53 Naval Kumar Yadav, 30, from a Tarai district Siraha Raghupur VDC-9 and cadre of an armed group based in Tarai was killed at Janakpur Municipality-6, Dhanusha district on February 5, supposedly in a confrontation with police but locals stated that he was shot dead after being detained. In the name of controlling the increasing criminal activities in Tarai, the government seems to have been in different to the arbitrary killings. The accused were not punished and similar incidents were not even investigated. Nepal Human Rights Yearbook 2011: pg 15. Informal Sector Service Centre (INSEC). Kathmandu, Nepal. 2011

54 See previous recommendation, "Take necessary measures for the prevention of such deeds as reported warrantless arrests, torture, extrajudicial killings and other misconduct and ensure swift and fair investigations on alleged misconduct by law enforcement authorities (Japan); investigate all cases of ill treatment and abuse, such as enforced disappearances, cases of torture, arrests without warrants and extrajudicial killings by the police as well as the national army and ensure the delivery of justice regarding these serious human rights violations (Hungary) (para 107.15. UPR Nepal 2011; A/HRC/17/5); Investigate credible allegations of extrajudicial killings and introduce an independent complaint mechanism on the conduct of the security forces (Denmark) (para 108.18. UPR Nepal 2011; A/HRC/17/5); and Impartially investigate all allegations of extra-judicial killings and arbitrary executions, to prosecute those responsible, and accept the requests for a visit by the Special Rapporteur on extrajudicial, summary or arbitrary execution, and the Working Group on Enforced or Involuntary Disappearances (Italy) (para 108.19. UPR Nepal 2011; A/HRC/17/5)"

55 Recommendation no. 106.3, 107.1, 15, 16, 17, 109.1, 13, 15.

56 Documentation from 2011 to 2014 reveals increasing trend of VAW with 1569, 1581, 1703 and 2225 cases documented respectively (WOREC documentation)

57 Nepal Human Rights Yearbook 2015. INSEC. pp. 349-350.

58 In 2014, nine women lost their lives due to dowry-related violence. Nepal Human Rights Yearbook 2015, INSEC.

59 The number of DV cases reported to WOREC in 2011 is 1002 (64% of total cases documented), 2012 is 1019 (64% of total cases documented) and 2013 is 1040 (61%) and in 2014 1503 (67.6%).

60 Free the press, <http://www.ekantipur.com/the-kathmandu-post/2014/05/01/oped/free-the-press/262316.html>

61 Nepal Human Rights Yearbook (Nepali edition), pg. 246, Informal Sector Service Centre (INSEC), Kathmandu.

62 Recommendation no. 106.4, 31, 108.20 and 21.

63 A study shows, 76 per cent of women survivors of the total 821 women were from indigenous communities followed by Dalits (12 %) and Bahun and Chhetri (12%) available at <http://www.indigenousvoice.com/7-out-of-every-10-victims-of-trafficking-in-person-are-indigenous-women-and-girls-in-nepal.html#sthash.oRTSSL2.dpuf>.

64 Recommendation no. 106.35 and 107.15.

65 46.7% of the court hearing do not take place in time, 40% are arrested without warrant, 60% not presented in court within 24 hours, 45% were in handcuffs, 73% were coerced for statement, 6.7% did not know the reason for arrest, 55% were asked by the District attorney, 33% were crossed by the judge during custody hearing, 60% not able to consult with lawyer and 53.3% were not treated humanely in the custody; Swashya Sunuwai Sambandhi Anushandanmulak Ek Adhyan (An investigative study of Fair Trail), National Judicial Academy and INSEC, November 2012 pp 157-185.

66 Nepal Human Rights Yearbook 2015, INSEC, p 357.

67 Recommendation no. 106.5, 23, 37, 38, 107.15, 23, 108.22, 26.

68 According to Supreme Court Annual Report, there were 1237 cases in district court and 378 cases in appellate court were older than two years.

69 Recommendation no. 106.13, 18, 27 33, 34, 36, 107.25, 108. 22, 24, 25, 30.

70 TRC Act Section 2(e), 22, 25 2 (a), 26,

71 Ordinance on Truth and Reconciliation Commission and Commission on Investigation of Disappeared Persons to the president for endorsement on 27 August 2012 but the victims moved the SC as some its provisions were perpetrator-centered. On January 2014, the SC ruled that the provisions of the TRC ordinance contravened the international standard of human rights and ordered for the amendment. However, the government went ahead with the tabling the bill inserting minor changes on the same ordinance.

72 The SC, on February 26, 2015 made it clear that sub-judice cases cannot be the subject of TRC and CIDE. There must be clear consent of victims for reconciliation. No amnesty can be granted in rape and other serious offences such as torture, enforced disappearance and extra-judicial killings. The commissions can directly recommend to the Office of the Attorney General for the prosecution. Further, the SC has directed to the commissions to use the previous judgments of the SC as guidelines for their functioning.

73 Nepal Police, Nepal Army and Armed Police Force  
[http://advocacyforum.org/downloads/pdf/publications/Discriminations and Irregularities A painful tale of Interim Relief in Nepal.pdf](http://advocacyforum.org/downloads/pdf/publications/Discriminations%20and%20Irregularities%20A%20painful%20tale%20of%20Interim%20Relief%20in%20Nepal.pdf)

74 Alexander Mayer-Rieckh, Building Trust and Strengthening the Rule of Law Vetting the Security Sector in Nepal, ICTJ Briefing April 2012, <http://www.ictj.org/sites/default/files/Nepal%20Building%20Trust%20and%20Strengthening%20the%20Rule%20of%20Law%20August%20final2012.pdf>.

75 Extrajudicial Killing of Maina Sunar: A Case Report, <http://www.inseconline.org/pics/1272358753.pdf>

76 Advocacy Forum Nepal, Vetting In Nepal Challenges and Issues, (Kathmandu: 2014), <http://www.achrweb.org/reports/DPKO-Nepal.pdf>.

77 The decision to void amnesty provisions by the SC, forced reconciliation should be upheld

78 Recommendation no. 106.31,38, 107.2, 3.

79 <http://www.ekantipur.com/the-kathmandu-post/2011/05/17/top-story/impunity-watch-cases-against-maoists-beingfast-withdrawn/221795.html>: Advocacy Forum, 'Evading Accountability by Hook or by Crook: The issue of amnesties in post conflict Nepal' (Kathmandu: 2011) pp. 2, 8, available at: <http://www.advocacyforum.org/downloads/pdf/publications/evadingaccountability-by-hook-or-by-crook.pdf> and República, 'Victim's Kin Condemns Proposal to Pardon Maoist Lawmaker', República, 3 October 2011, [http://www.myrepublica.com/portal/index.php?action=news\\_details&news\\_id=36828](http://www.myrepublica.com/portal/index.php?action=news_details&news_id=36828); KiranChapagain, 'PM, AG solicit President of pardon Dhungel', República, 7 November 2011, [http://www.myrepublica.com/portal/index.php?action=news\\_details&news\\_id=37996](http://www.myrepublica.com/portal/index.php?action=news_details&news_id=37996).

80 The annual survey by Transparency International has placed Nepal in 126th position with a score of 29 among 175 countries. It was placed 116th on the index among 176 countries last year.

81 <http://www.tinepal.org/?p=161986>

82 <http://www.ekantipur.com/2014/12/04/top-story/nepal-slips-on-ti-corruption-index/398522.html>

83 <http://www.ekantipur.com/2014/08/25/capital/anti-money-laundering-report-nepal-is-second-riskiest-in-sasia/394062.html>

84 Recommendation no. 106.43, 44, 45, 48,

85 23.09% of women and 7.05% of males in the age group 15-19 are married indicates the persistence of the early marriage of girls (Population Monograph of Nepal Volume I (Population Dynamics), Central Bureau of Statistics First Edition, 2014, p 78)

86 Kidnapped at 13: Nepal's Dalit child brides, <http://news.yahoo.com/kidnapped-13-nepals-dalit-child-brides-044202169.html>

87 A national survey (NDHS) in 2011 survey shows 29% girls are married between 15-19 years

88 Recommendation no. 106.40, 46, 107.20, 108.31, 32, 35.

89 Ministry of women, Children and Social Welfare data states 40000 and NGO (Women Forum for Women in Nepal) data shows 50,000 in Kathmandu only.

90 Recommendation no. 106.46, 49, 50.

91 <http://www.usaid.gov/sites/default/files/documents/1866/Nepal%20CSI%20FY%202014.pdf>

92 [http://www.fao.org/fileadmin/templates/righttofood/documents/project\\_b/Nepal-GCPCLO324NOR-ConceptNote.pdf](http://www.fao.org/fileadmin/templates/righttofood/documents/project_b/Nepal-GCPCLO324NOR-ConceptNote.pdf)

93 Interim Constitution of Nepal 2007, article 18(3)

94 Prakash Mani Sharma and Others, NKP, 2065(2008), p.149.

95 The age in citizenship certificates are mistakenly lowered

96 Recommendation no. 106.41, 46, 52, 108.35.

97 The Government of Nepal has formulated 20-year Second Long-Term Health Plan, 2054- 74 (1997-2017), Nepal Health Sector Plans and more recently, New National Health Policy 2014.

98 MMR at 229 and IMR at 46 per thousand live births

99 Out of 561 doctors that are to be working in rural areas only 314 are working.99

100 Only one in three women know that abortion is legal and only one in two women know the services are available.

101 Nepal National Medical Standard for Reproductive Health, Volume II: Other Reproductive Health Issues, Family Health Division, 2003, part 6 on genital prolapse. In addition, women suffering from uterine prolapse are often unable to carry out their work in the same way they had before they experienced the condition. Women told Amnesty International that family members. Amnesty International (AI Index: ASA 31/006/2014) and National Alliance for Pelvic Organ Prolapse Management – Nepal, October 2014.

102 Unmet need for contraceptive information and services for girls in the age group 15-19 is 42% and for women of 20-24 age group is 37%.5. In lack of services and information 25% of women of reproductive age experience unplanned, teen age pregnancies.

103 Lakshmi and Others v. Government of Nepal, 2009

104 Recommendation no. 106.12, 17, 41, 46, 52, 53, 54, 107. 18, 26, 108.4, 33, 34,35, 36,

105 In primary level, 86.3% enroll for school but only 33.2% enroll for secondary level.

106 Ensuring Free and Compulsory Basic Education for Disadvantaged Groups in the Context of Education for All, Research Centre for Educational Innovation and Development (CERID), 2009

107 In only eight Tarai districts, there are 600 fake schools that misused NPR 1 billion annually on paper projects concerning schools. , <http://www.tinepal.org/?p=10032>

108 See previous recommendation, "Ensure that all girls, Dalit children and children belonging to ethnic minorities have equal access to quality education (Finland) (para 106,53 UPR Nepal 2011; A/HRC/17/5)."

109 See previous recommendation, "Ensure that all girls, Dalit children and children belonging to ethnic minorities have equal access to quality education (Finland) (para 106, 53 UPR Nepal 2011; A/HRC/17/5)."

110 See previous recommendation, "Ensure that all girls, Dalit children and children belonging to ethnic minorities have equal access to quality education (Finland) (para 106.53 UPR Nepal 2011; A/HRC/17/5)."

111 RTI Act, Section 3(3) (a) : Provides a list of circumstances when information may be exempted from disclosure.

112 Implementation of the Right to Information in Nepal: Status Report and Recommendations, The World Bank, 2011, page 3

113 Recommendation no. 106.40.

114 District & VDC Profile of Nepal 2014/15 A socio economic Development Database of Nepal, Intensive Study and Research Center Pvt. Ltd, May 2014, pp 32.

115 The Census 2011 shows that a total of 7.20% of population was living abroad; most of them are for foreign employment. The Census 2011 shows that a total of 7.20% of population was living abroad; most of them are for foreign employment.

116 [http://nhrcnepal.org/nhrc\\_new/doc/newsletter/HR%20situation%20of%20Nepalese%20Migrant%20Worker%20Report%20Aug30-Sept7-2013.pdf](http://nhrcnepal.org/nhrc_new/doc/newsletter/HR%20situation%20of%20Nepalese%20Migrant%20Worker%20Report%20Aug30-Sept7-2013.pdf)

117 Recommendation no. 108.36, 109.7, 8, 9, 10,

118 Mahmood Rashid v. Government of Nepal Ministry of Home Affairs et.al. Writ no. 0040 of 2064 BS decided on 2064 Asoj 7 (24 September 2007).

119 There is legal provision and practice of fine even against those who have received temporary protection by the UNHCR-Nepal and overstayed. In principle, once provided asylum seekers status, no fine can be imposed to such persons.

120 See generally: Human Rights Watch, Under China's Shadow Mistreatment of Tibetans in Nepal, available on [http://www.hrw.org/sites/default/files/reports/nepal0314\\_ForUpload\\_2.pdf](http://www.hrw.org/sites/default/files/reports/nepal0314_ForUpload_2.pdf); p 46.

121 Appeal at LPC Seeking Return of Captured Land <http://www.inseconline.org/index.php?type=news&lang=en&id=15409>

122 Recommendation no. 106.42, 43, 44, 45, 47,

123 Neil Adger et al., 'Impacts, Adaptation and Vulnerability', Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change, 2007

124 Shardul Agrawala et al, *Development and Climate Change in Nepal: Focus on Water Resources and Hydropower*, OECD, 2003, p.13.

125 Disturbance in menstrual cycles, white discharge, cancer in uterus, miscarriage and infertility

126 The government declared Janata Awaz Yojana (Public Housing Project) in the budget of FY 2009/10 to provide housing for Dalits, poor and Muslim families

127 Recommendation no. 106.9, 13, 14, 27, 30, 31, 32, 46, 52, 53, 54, 107.1, 8, 11, 18, 19, 20, 108.2, 4, 11, 14, 20, 21, 35, 36,

128 The Government has enacted National Children Policy 2012. The Policy has incorporated various activities relating to survival, protection, development and participation of children.

129 Human Development Report 2014, Sustaining Human Progress: Reducing Vulnerabilities and Building Resilience, United Nations Development Programme (UNDP) page 202.

130 Nepal Human Rights Yearbook 2015, pp. 357. INSEC