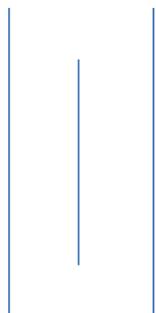
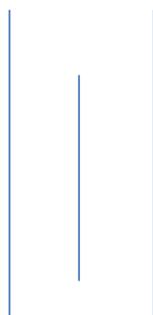


**The NHRI Nepal Joint Submission for
The Second Universal Periodic Review of Nepal**



Submitted by

**National Human Rights Commission
National Women Commission
National Dalit Commission**



Submitted to

**The United Nations Human Rights Council
Geneva**

March 22, 2015

(a) Background

1. 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 first Universal Periodic Review of Nepal submitted in 2011. The NHRC, established in compliance with the Paris Principles, has been accredited with "A" status by the International Coordinating Committee of NHRIs (ICC). The Constitutional obligation of the NHRC is to ensure the respect for the protection and promotion of human rights and their effective implementation. The NWC bears the responsibility to work for the promotion, protection and respect for the rights of women followed by gender justice by integrating women related issues into mainstream development efforts. It is the duty of the NDC to protect and promote the rights of dalit communities.
2. The NHRC submitted mid-term evaluation report on the implementation status of the recommendations of the first periodic review in 2013.

(b) Methodology

3. The NHRC led joint committee of three entities including NWC and NDC to prepare the report. A total of 25 workshops, 5 group and 7 thematic consultationsⁱ were held in various parts of the country for this purpose. The participants were from government bodies, security agencies, political parties, women, intellectuals, NGOs, CSOs, media, human rights defenders, conflict victims, indigenous nationalities, dalits, Madhesis, Muslims, persons with disability (PWD), senior citizens, sexual and gender minorities and HIV survivors from 45ⁱⁱ out of 75 districts. Besides this, representatives from Diplomatic Missions in Nepal including UNDP, UNHCR, and INGOs Nepal were present in the National Consultation. A total of 1,471 persons participated in those programs. Separate consultations were held with the representatives of various ministries upon the initial draft. This report has been finalized by incorporating suggestions received during the aforementioned Consultations. The recommendations numbers of first cycle are mentioned on each concerned theme stating the respective numbers in bracket. Recommendations are given in italic.

(c) Constitutional and institutional structure (106.1, 106.2, 106.10, 106.11, 106.19, 107.7, 108.1, 108.5, 108.15, 109.10, 109.12)

4. The Constitution has recognized the democratic norms and values including a system of competitive multiparty democratic governance, civil liberties, fundamental rights, human rights, adult franchise rights, periodic elections, freedom of the press, independence of the judiciary and concepts of the rule of law.
5. The Constituent Assembly (CA), elected in 2008 was unable to enact new constitution. Following the CA election of 2013, the commitments were made by the political parties to promulgate new constitution within a year. That also could not be materialized due to the disagreement on the issues such as state restructuring that had remained contentious in the previous CA as well. We again request the CA that *human rights friendly constitution must be promulgated by building consensus among all the political parties.*

6. Nepal has ratified 39 human rights related treaties, including 7 among 9 core conventions¹. Although laws, policies and plan of actions are in place to implement the conventions², the level of implementation status appears weak. Recommendations have been received from the relevant committees following the discussions on the periodic reports under ICCPR, and ESCR held in 2014.³ The national report on the CRC submitted in 2012 is due to be held in May-June session of CRC Committee. Nepal has submitted its national report under the Convention on the Rights of the PWD. The GoN is all set to prepare the report on CEDAW but the report on the rights against torture hasn't been submitted since 2004. Likewise, the 17th to 22nd CERD report is also still pending till date. The Rome Statute has not been ratified despite the recommendations of NHRC and Legislature-Parliament. Ottawa Protocol is also facing the same fate. *The government should submit the reports in time and implement the recommendations effectively.*
7. GoN has implemented the Fourth Human Rights National Action Plan 2014-2018. Though awareness has been raised with the effort inculcated from Monitoring and Implementing Committee, the monitoring conducted by the NHRC in 40 districts reveals that most of the government authorities and officials from other duty bearers are ignorant about the plan. This indicates the need of *more effective implementation.*
8. There are institutions such as NHRC, NWC, NDC, and National Foundation for the Development of Indigenous Nationalities, Central Children's Welfare Board and National Muslim Commission in Nepal. Additionally, there are Social Justice and Human Rights Committee under the Legislature-Parliament, Law and Human Rights Promotion Division under the Office of the Prime Minister and Council of Ministers, Human Rights Promotion Section under the Ministry of Home Affairs, Human Rights Directorate under Nepal Army, Human Rights Units under Nepal Police and Armed Police Force, as well as NGOs working on human rights in Nepal.

(d) NHRC, NWC and NDC (106.6, 106.7, 106.8, 107.5, 107.6, 108.11)

9. The NHRC is elevated to a constitutional body by the Interim Constitution of Nepal, 2007. Following this, NHRC Act-2012 was enacted. However, both the Constitution and the Act are silent on the overall independence and autonomy of the Commission. Due to the lack of the personnel management legislation, the almost NHRC employees are compelled to work on temporary basis since the inception. The GoN had principally accepted to enact the new legislation to resolve the problem and given its consent to the Financial Administration Regulations of NHRC, following the Supreme Court of Nepal (SC)'s verdict in favor of the autonomy and independence of the NHRC.

¹ Nepal has not ratified the Convention on the Rights of Migrant Workers and Convention against Enforced Disappearance, among nine core conventions.

² National Human Rights Commission Act, 2068, Caste-based Discrimination and Untouchability (Offence and Punishment) Act, 2012, Act against the sexual (harassment and abuse) at workplace, 2014, Commission on the Investigation of Disappearance and Truth & Reconciliation Commission Act, 2014, Human Rights National Action Plan, 2071, Long-term Plan for the end of child labor, 2012-2021 BS.

³ Sixteen recommendations on civil and political rights were received from Human Rights Committee and twenty six recommendations on economic, social and cultural rights were received from the ESCR Committee.

10. The NWC has been enduring the lack of its own building, including the lack of financial independence and existing human resource crunch. *It is necessary to establish the NWC as an independent and autonomous body in the new constitution.*
 11. The NDC has not been given legal status yet. The number of the existing commission relies upon the pleasure of the government. The NDC bill has not been passed despite the recommendations made by the Committee on the Racial Discriminationⁱⁱⁱ and efforts of the NDC. *The NDC should be established as an independent and autonomous body through new Constitution.*
 12. *Since the implementation status of the recommendations of these institutions is not satisfactory, it is necessary to give emphasis to full implementation of the recommendations.*
- (e) Implementation Status of the recommendations on the First UPR (106.56)**
13. Out of 135 recommendations received during the first cycle of UPR (2011), Nepal made commitment to implement 120 recommendations and to this end implemented an Action Plan. The NHRC monitoring NHRC reveals that implementation status of UPR recommendations is not satisfactory. Concerted all-party participation could not materialize its implementation. *The GoN should be more accountable for its effective implementation.*
- (f) Peace Process and Transitional Justice (106.3, 106.18, 106.33, 106.34, 106.36, 107.15, 107.25, 108.17, 108.22, 108.25, 108.26, 108.30, 109.2, 109.4, 109.5, 109.10)**
14. The armed conflict (1996-2006) came to an end following the Comprehensive Peace Accord (CPA) by the government and the then CPN (Maoists) on 21 November, 2006. Subsequently, the Maoists combatants were integrated into Nepal Army and their arms and ammunition were managed. The government made commitment to provide NRs.1,000,000 to the family of deceased and disappeared during the conflict but the victims received only NRs. 300,000. The government provided interim relief to the families of 14,601 persons killed during the conflict. A total of 14,770 individuals were provided employment/self-employment opportunities. However, victims of sexual violence and torture during the armed conflict have not received any relief yet. *The government and political parties must be more responsible to create the environment of reconciliation in society by providing reparation and justice to all the conflict victims.*
 15. Most of the NHRC recommendations to investigate the cases of serious human rights violations such as killings, enforced disappearance and torture occurred during the armed conflict, to provide compensation to the victims and to prosecute the culprits have not been implemented⁴.

⁴ (1) Dailekh District Court has sentenced the culprits on the case of killing of journalist Dekendra Raj Thapa during the conflict. This has established that the cases of killings of unarmed individuals could be settled through a regular court proceeding. (2) Nanda Prasad Adhikari, the father of Krishna Prasad Adhikari from Fujel, Gorkha killed during the conflict in Chitwan died on September 22, 2014 after 333 days of hunger strike. Since his mother Gangamaya Adhikari is still on a hunger strike, the last rite of the deceased could not be held. A case filed by Nepal Police following an investigation into the killing is under consideration in Chitwan District Court. However the mother of the victim has continued her hunger strike asking for the action against the perpetrators. (3) The District Police Office, Dhanusha has not filed a case against the perpetrators identified in the case of killing of five youths in Dhanusha district following their enforced disappearance. The human remains of the deceased were exhumed in

16. Following the passage of the Truth and Reconciliation and Commission on the Enforced Disappearance of Persons Act both the commissions were established on 10 February 2015. The Supreme Court of Nepal nullified the provisions^{iv} of the Act that allowed amnesty to the culprits of serious violation of human rights, and without the consent of the victims. The NHRC has repeatedly drawn attention of the government to not provide amnesty to such violations, make consent of the victims mandatory even in the cases where amnesty could be accorded, not escape from the cases of heinous nature such as rape citing the statute of limitation, act according to international human rights standard and the instructions of court^v, and ratify the Convention on Enforced Disappearance and criminalize the act of enforced disappearance. *The perpetrators of the cases of serious human rights violations should be prosecuted and reparation should be provided to the victims as per the international standard.*

Implementation Status of human rights provisions on the ground

(g) Civil and Political Rights

17. **Right to life (107.15, 108.17, 108.18, 108.19, 109.14):** Risk of right to life has been relatively decreased with the improvement in peace and security situation following the end of the armed conflict. Yet, some incidents of killings during clashes and protests, custodial deaths have been reported. Such incidents have taken place mostly in Terai-Madhes region. A total of 97 killing related complaints have been registered in the NHRC during the reporting period. The NHRC has been monitoring and investigating such incidents. Despite the court order and NHRC recommendations, FIR on many of such incidents have not been registered and investigated properly. There are serious concerns over lack of fair and swift investigations which undermine the quality of justice to the victims' families. *There needs to be fair investigation upon all alleged extra judicial execution.*
18. **Right against Torture (106.3, 107.2, 107.16, 107.17, 109.1, 109.2, 109.3, 109.4, 109.13, 109.15):** Despite the constitutional provision, supreme court order^{vi} and NHRC recommendations, the act of torture has not been criminalized yet. Though, the Bill tabled in the parliament which criminalizes the act of torture has not been passed. The Bill fails to rectify several deficiencies in the current legal regime governing torture including definition and statutory limitation⁵.
19. UK has pushed on a legal action against a high-level Nepal Army officer by invoking universal jurisdiction on the allegation of using torture during conflict in Nepal. Nepal Police has taken

Godar, Dhanusha by, among others, NHRC and the remains have been scientifically identified. The NHRC, the Nepal Police and District Administration Office handed over the human remains to the respective families following the directive of the NHRC On 22 July, 2014. The *GoN* has promoted erstwhile Superintendent of Police to a senior post, although the NHRC has recommended to the *GoN* for prosecution against him.

⁵ For example, there is a 90 day statutory limitation for victims to file a case alleging torture set out in Section 11 of the Bill, although CAT requires that there is no such limitation imposed. The Bill is ambiguous only inexplicitly ordering departmental action against the superiors of the perpetrator, which greatly dilutes the deterrent impact of criminalization of torture. The Bill should broaden the definition of torture to bring it in line with that of the CAT, by perpetrators with more clarity as “public official or other person acting in an official capacity” and expanding the scope of the definition to include “any reason based on discrimination of any kind” instead of the more narrow “doing any discriminatory act that is punishable by existing laws”.

departmental action against 45 police personnel since 2009^{vii} in the accusation of using torture and inhumane acts. A study by an NGO showed 16.7%^{viii} of 3,662 and a survey by Nepal Police conducted in 2013-2014 showed that 11.45% detainees received torture in the custody^{ix}. The fact collected though the monitoring of the NHRC and different studies indicate that the practice of torture has been in declining trend. *The bill on torture should be enacted soon by making it consistent with international standards.*

20. **Right to Justice (106.37, 107.21):** The Supreme Court has implemented five-year Strategic Plan with the aim of providing speedy justice. Continuous hearing on some cases and evening service have been initiated. The jurisdictions of the writs of Habeas Corpus and Injunction have been delegated to District Courts thereby pledging support to the protection of human rights. NHRC conducted regional level workshops covering all the courts to enhance the capacity of Judiciary in this regard. Access of the people living in remote areas and deprived classes to the courts in the district headquarters is difficult. *It is necessary to make additional effort for availing easy access to justice.*
21. An arrestee has the right to consult a legal practitioner of his/her choice at the time of arrest as per the Constitution. A study conducted in four districts revealed that 60% of those arrested were not produced before the court within 24 hours, 40% was not handed over arrest warrant, 46.7% did not have their cases heard at the given time, 60% was not asked by the judges when permission was granted to keep them in detention, and 33.7% was not produced before the court on the day of hearing.^x During the monitoring of 80 prisons and detention centers throughout the country by NHRC in 2015, the inmates serving their term have come up with grievances regarding justice being costly and the delay in justice delivery.
22. **Freedom of press and expression (108.23, 108.27, 108.28):** The GoN has enacted accidental insurance directives for the journalists. During the reporting period, a total of 592 incidents^{xi} against the press freedom occurred and the political party cadres were involved in them. Incidents of ill-treatment, beatings, vandalism and arsons took place specifically during bandh, strikes and protest programs. A report published by the IFJ on March 8, 2015 has noted that women journalists are more vulnerable of abuse and discrimination during their work. But, the culprits have not been dragged to justice. NHRC has taken a decision to set up a mechanism for safety of journalists and human rights defenders. *The GoN should work further for physical and social security of journalists and human rights defenders.*
23. **Impunity (106.25, 106.35, 106.38, 107.3, 107.15, 107.24, 108.22, 108.24):** Despite repeated commitments made by the government to end impunity, substantial improvement hasn't been made in this regard. Special taskforce has been formed to implement the court decisions. Among the 735 recommendations made by the NHRC, only 14.3% have been fully and 47.9% partially implemented, but 37.8% is yet to be implemented.^{xii} Although, compensation has been provided upon the most of the recommendations, the act of prosecution against the perpetrators is acutely dormant. The level of the implementation of the recommendations of NWC and NDC is also low^{xiii}. The GoN withdrew 107 criminal cases^{xiv} related to killings, dacoit and abduction etc. during the reporting period. *It is necessary to have legal provisions that make the Office of the*

Attorney General mandatory to file a case upon the NHRC recommendations, in accordance with the SC order, and fully implement the recommendations by the institutions. GoN should take necessary steps to end state of impunity.

- 24. Caste-based discrimination and untouchability (106.24, 107.10, 107.11, 107.12, 107.13, 107.14, 108.10, 108.11, 108.12):** The Caste-Based Discrimination and Untouchability (Offence and Punishment) Act, 2011 has criminalized the caste based discrimination and untouchability. Very few cases of untouchability have been lodged at the court due to the police being focused to settle the case as such through mediation. Different mechanisms⁶ formed to eliminate caste based discrimination are not effective.
25. The Constitution has provided the dalit communities with the right to participate in the state structure on the basis of the principle of proportional inclusion. The human development index of dalit community is 0.434.^{xv} Women in dalit communities are facing multiple discrimination. *The communication media should be effectively utilized to mitigate the acts of untouchability and discrimination against dalits. The GoN and political parties needs to enhance access of dalits to the political sector and uplift them by declaring dalit decade, as they lack access to economic, social, cultural, civil and political sectors.*
26. **Detainees/prisoners:** Although eight commissions were formed to improve the condition of prisons, the situation of the implementation of their recommendation is not satisfactory. Total capacity of the prisons is 6,416 which has been extended to 10, 608 by constructing temporary sheds, but there are 18,281 prisoners/detainees^{xvi}. The life of the detainees/prisoners is painful due to the overcrowded detention center/jail. The prisons lack the basic needs such as food, health care, sanitation and recreation. The prisoners and under-trial, as well as mentally ill persons and those with infectious disease are kept together. The open jail concept has not been implemented. The living allowance to the inmates is very low (Rs.45per-day). The GoN has been initiating to reform the prison with a plan to establish open prison which is yet to be materialized. *Therefore the GoN should increase the daily allowances, develop the physical structure of the jails, implement open jail concept and be more responsible for the protection of the detainees'/prisoners' rights.*
27. **Periodic election:** The CA has been provided with the responsibility of a parliament. The election monitoring conducted by the NWC shows that the electoral system and process should be made more gender-friendly^{xvii}. Since the local election, which is required to be held periodically, has not been conducted for one and a half decade, the enjoyment of the right of the citizens to participate in the local bodies through election has been negatively affected. *The GoN should make all the elections gender-friendly and conduct local level election soon.*

(h) Economic, Social and Cultural Rights (106.44, 106.45, 106.46):

28. **Poverty (106.43, 106.48):** The rate of poverty which was 25.2% in 2012 has fallen to 23.8% in 2014. Although overall poverty has declined, the poverty rate of dalits, marginalized and backward classes, as well as the people living in Karnali, Mid/Far-Western Region and Southern

⁶ NDC, Committees on Dalits and Badi Community Development and Elimination of Discrimination and Untouchability

districts including Rautahat and Sarlahi remain high. *The special programs conducted by the Poverty Alleviation Fund in 59 districts should be made effective.^{xviii} The GoN should carry out target group programs effectively for poverty alleviation and reduce the existing gap between the rich and the poor.*

29. Widespread corruption and lack of good governance are big challenges to economic and social development. Nepal which ranked 116th most corrupt countries in 2013 has reached 126th position in 2014⁷. *The GoN should be accountable to achieve good governance by curbing corruption.*
30. **Right to Food (106.49):** The GoN has introduced National Land Use Policy 2013. The NHRC has issued guide on ESCR Monitoring Indicators and Consumers Rights Monitoring Guidelines. Although 2,162,751.1 hectare land is arable, only 1,313,406.3 hectare land can be irrigated.^{xix} The situation of starvation is improved from 2005 (22.2%) to 2014 (6.4%).^{xx} Nepal is in the 44th position^{xxi} among 76 countries having food insecurity. Food inadequacy in the country is 15.7%^{xxii}. There is the shortage of laboratory and human resources across the country to test for the adulteration of food, and pesticide. The marginalized, poor and backward communities are affected by famine every year. *The GoN should carry out effective programs for food security, food sovereignty and programs to promote professional farming and local production.*
31. **Labor and employment (106.40, 106.45, 108.32):** Despite the right to employment is taken as fundamental rights unemployment rate in Nepal is 46%.^{xxiii} The cooperative societies have contributed to minimize the problem. The youth self-employment program has not been effective due to politicizing. Since the outreach of the banking and financial institutions lack in the rural areas, generating employment and self-employment haven't been materialized as anticipated. There is no favorable atmosphere for investment due to political instability resulting in the lack of job resources. *The GoN should exploit all options to create more and more job opportunities to resolve the unemployment problem in the country.*
32. The condition of the labors working in informal sector is very pitiable. The benefits and facilities for the labors are low and the minimum wages specified by the GoN and insurance provision has not been implemented. Discrimination between women and men for the similar job exists everywhere.
33. **Right to Housing (106.51):** National Census 2011 has indicated that 85.26% of the population is living in their own houses. The GoN has developed systematic housing development program procedure and given continuity to the public housing policy which is inadequate for the marginalized and vulnerable communities, such as squatters, Haliya, Kamaiya and Badi. *The provision of basic right to housing through the housing policies should be made accessible to all targeted deprived class.*
34. **Migrant workers (106.40):** During the reporting period, 1,772,093 Nepalese have gone abroad for employment with work permit^{xxiv}, and the equal number of people is assumed to have gone

⁷ Transparency International Corruption Index 2014

without work permit. Most of the migrant workers are unskilled. There is no record of people going to India through the open border. Nepal has provided work permission for 110 countries while the labor agreement has been entered into with five countries only and the agreement has been done with six countries for determining the minimum wage. Although there is a provision of labor attaché in those countries having more than five thousand migrant workers and women labor attaché in those countries having more than 1000 women migrant workers, Nepal has provided labor attachés only in five countries. The recommendation of NHRC to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families in 2012 has not been implemented.

35. The Foreign Employment Act has the provision of 10% reservation for target groups for foreign employment which hasn't been implemented. The *GoN* has provided financial assistance to the families of 2,802 persons who lost their life while in foreign employment during the reporting period.^{xxv} Number of people who have become the victim of defrauding in the process of foreign employment has caused unsafe migration, human trafficking and smuggling whose access to justice is very low.
36. There is problem in obtaining birth registration and citizenship certificate for the children born from unwanted pregnancy while in foreign employment⁸. Right of the migrant workers to vote has not been protected. Although Nepali workers are receiving lower wage as compared to that of workers from other countries in most of the destination countries, the *GoN* has not taken sufficient initiative in this regard. *The GoN should prevent and control the crime related to migrant worker in order to protect their rights. Also, the Labor Agreement with the destination countries should be inked through diplomatic initiative.*
37. **Right to Education (106.51, 106.52, 106.53, 106.54, 108.33, 108.34, 108.35):** Nepal's literacy rate is 65.9%^{xxvi}. The National Action Plan on Education for All is being implemented. Net enrollment rate at Grade 1 is 95.6%, basic education is 86.3% and secondary school is 33.2%. This indicates the high drop-out rate in schools, which is higher among girls. Following the issuance of Multilingual Education Implementation Guidelines (2010), course books in 24 mother tongues have been developed and implemented in 24 schools.^{xxvii} The *GoN's* policy to make free education has not been implemented effectively. Only 20.8% of the children living in poverty have access to secondary education^{xxviii}. Children from Dalit Community are still facing discrimination in education⁹, *The GoN should implement the policy of free and quality education effectively. The school drop-out rate should be addressed by introducing the programs such as scholarships, food and uniform in schools to the children of conflict victims, displaced, dalits, backward communities and the poor.*
38. **Right to Health (106.52):** The *GoN* has issued National Health Policy, National Immunization Regulations, Health Insurance Directives and Health Insurance Policy- 2014/15. There are 4,485 health organizations, including hospitals, primary health centers, health posts, Ayurvedic

⁸ According to Paurakhi Nepal (an NGO), 10 women with children and 28 pregnant women are returned.

⁹ In Parsa district, separate school for the Dalit students has been in operation due to deprivation face by them in public schools.

Service Center and sub-health posts with 7,500 beds across the country.^{xxix}The capacity of 301 hospitals run by private sector is of 19,580 beds^{xxx}. The program to distribute 70 various types of medicines free of cost has not been implemented effectively. However, Nepal's achievement in maternal and child mortality rate is commendable. The number of HIV survivors is 25,222. Number of child HIV survivor is 1,864.^{xxxi} Among them, the number of men, women and third gender is 15837; 9344 and 363 respectively. Similarly, the mental health issue hasn't been prioritized. *The GoN should ensure quality health services to the people from remote areas and deprived class.*

i. Collective rights (106.13, 106.14, 106.21, 106.41, 106.46, 107.4, 108,10, 108.31)

39. **Women's Rights (106.2, 106.4, 106.10, 106.22, 106.28, 106.29, 106.31, 107.8, 107.22, 107.23, 108.20, 108.21, 109.6):** Women literacy rate in Nepal is 57.4%. Besides, 25.73% women are the head of the household and 19.71%^{xxxii} have the ownership of land and house. The practice of providing property ownership to women has increased due to the tax rebate provided to them. Nepal is in the 98th position in gender inequality index^{xxxiii}. Number of women in the state bodies has been gradually increasing with the adoption of the gender inclusion policy.
40. Violence against women (VAW) has increased. A total of 7,723 complaints were registered by police during the three year period.^{xxxiv} The crimes against women such as setting ablaze, rape, gender selective abortion, suicide due to VAW are in increasing trend. There are age old social taboos such as child marriage, polygamy, dowry, witchcraft, Chhaupadi, Badi, Deuki, Jhuma and Kamlari. Single women, young girls and girl child are often at risk. The Bill on gender equality and VAW is still pending in the parliament. Similarly, the Social Reform Bill tabled in the parliament fails to address the dowry problems.
41. Though the Domestic Violence (Offence and Punishment) Act, 2011, Gender-Based Violence Eradication Fund (Operation) Regulations, National Action Plan on Gender-Based Violence and Security Council Resolutions 1325 and 1820 have been developed, implementation is not satisfactory.
42. A study conducted by NHRC has revealed that 13,000 persons were trafficked in 2012-13 and the number of women is high among them. The rate of human trafficking in foreign employment is increasing. Though the rate of prosecution is extremely low in the cases of human trafficking, the Human Trafficking and Transportation Act have not been implemented effectively. Due to the lack of effective implementation of the Directives issued to control sexual violence against women working in dance restaurants, dance bars, etc. in 2010 in accordance with the SC order, the women working in this sector have been highly exploited. Despite suggestions of the NHRC, Palermo Protocol has not been ratified yet. *It is necessary to raise awareness, review laws and effectively implement them for the elimination of violence against women.*
43. **Child rights (106.9, 106.27, 106.30, 106.32, 107.18, 107.19, 107.20, 108.2, 108.4, 108.11) :** The 10-year National Action Plan for the protection and promotion of children's rights, long-term plan on child labor and National Children Policy have been implemented. The new Bill related to the rights of child has not been passed though it has long been tabled in parliament. 33.9 % of total population of children is engaged child labor of which 620,000 are engaged in

the worst form of child labor^{xxxv}. Cases of violence against children including sexual violence have been increasing. Girl children are more at risk.

44. The death rate of the children below five years of age from low-income families is 75% and well-to-do families are 36%^{xxxvi}. There are 16,617 children living in 594 orphanages in operation^{xxxvii}. The national census 2011 has indicated that 11.5% of the children below 14 years of age have been the subject to child marriage. The government initiative for the rehabilitation of conflict victim children is inadequate. *Effective actions are necessary to pass the Act on child rights to control and prevent violence against children including sexual violence and child labour.*
45. **Persons with disability (PWD) (106.10, 108.13, 108.14):** PWD represent Nepal's 1.94% of the population. Among them, 45.46% are female^{xxxviii}. The implementation status of the SC's decisions in favor of the PWD is weak. It is difficult for them to receive education in the absence of disabled-friendly curriculum. The provisions that require the visually impaired persons to compulsorily have a patron while doing transaction of properties and loans have created discrimination. Disabled friendly roads and other physical structures have not been constructed even after the NHRC directions. *GoN should ensure the dignified life of the PWD with the provision facilitated to them with regard to health, education, employment and social security by reforming laws and policies in line with international standards.*
46. **Indigenous nationalities (108.11):** According to the national census, 2011, there are 125 ethnic groups in Nepal and 59 of them are listed among the indigenous nationalities. National Action Plan has been developed, in line with ILO Convention 169, for the meaningful participation of the indigenous peoples in decision making process and governance. Only 24% of the reserved seats of indigenous nationalities are fulfilled in public service. Representation of some of the ethnic groups is nil. There are many challenges in the protection of languages and culture of the indigenous nationalities. *The GoN should work more for enhancing inclusion, and empowerment of this community.*
47. **Minorities and marginalized communities:** The Muslim community, one of the minority communities in Nepal, has not been brought into the mainstream development. Despite Supreme Court decision^{xxxix} social inclusion policy has not incorporated Muslims and thus there is very low representation of this community in government services. National Muslim Commission¹⁰ was established in 2012. Women in this community are facing problems in access to education, health, economy and are often victimized with polygamy and dowry system. Although Madarsas have been granted formal recognition, there is the lack of effective implementation. The *GoN* should make special arrangement for inclusion and the protection and promotion of human rights of Muslim community.

¹⁰ Section 3 of the Provision relating to formation and operation of National Muslim Commission 2068 B.S. (2012 A.D.) has provided the Commission with 14-point responsibilities to draft and implement national policy and program for the progress and development of Muslim community, monitor the implementation of *GoN* plan, to take initiation to systematize Madarsa education, protect religious sites, investigate economic, educational, social, religious, historical aspects of Muslim community and investigate the complaints filed in the Commission and make recommendation.

48. Likewise, the communities such as Musahar, Santhal, Chepang, Pahari, Haliya, Haruwa-Charuwa, Kamaiya, Kamlahari, Majhi, Thami, Jhangad, Bote, Danuwar, Chamar, Dom, Dusadh, Kusunda, Bankariya, Raute, Hayu, Raji, Meche, Koche and Kusbadiya are deprived of the enjoyment of basic human rights. *Special programs should be conducted for the uplifting of such communities.*
49. **Sexual and gender minorities (106.5, 106.23):** Following the amendment in the regulations regarding citizenship and passport, in accordance with the SC verdict, the sexual and gender minorities have been receiving citizenship certificate and passport on the basis of identity. The Same-Sex Marriage Study Committee formed by the GoN in accordance with the SC order has submitted its report recommending to recognize same-sex marriage. The GoN has taken it positively. *The discriminatory provisions in laws and regulations against this community should be amended and the recommendation made by the Committee should be implemented.*
50. **Refugees (108.36, 109.7, 109.8, 109.9, 109.10):** More than 90,000 Bhutanese refugees have been resettled in third countries under resettlement plan. The 2007 SC instructions to enact law on refugees and to ratify the Convention on refugees have not been implemented. Although the GoN has recognized Tibetans who entered Nepal before 1990 as refugees, others have not been recognized and their children could not receive identity card and birth registration. The service provided by UNHCR is inadequate. *The GoN should protect the rights of refugees by promulgating laws and ratifying the Refugee Convention-1951.*
51. **Senior Citizen's Rights (106.46):** Senior citizens represent 8.13% of the total population. The GoN has been providing NRs.500 as monthly allowance and Rs. 2,000 per year as health care allowance to the senior citizens of more than 70 years of age. The NHRC has made recommendation for amendment and effective implementation of the Senior Citizens Act, pro-subsistence, discount in public transportation and health care and abandoning senior citizens punishable. *The GoN should promote the rights of senior citizens by effectively implementing the provisions of related Act and instructions given by the court and NHRC and coordinate with the international community in order to enact international convention on the rights of senior citizens.*
52. **Farmer's Rights (108.3, 106.45):** More than 67% of population is engaged in farming which basically is pro-subsistence. Due to the lack of scientific land distribution system, 115538 farmers are left with no land of their own. Although the GoN has conducted rehabilitation programs by eradicating the forms of traditional labor exploitation, such as Haliya, Kamaiya, Kamlahari and Haruwa and Charuwa (Bonded Tillers), the progress of rehabilitation programs is not satisfactory.
53. *The GoN should find appropriate solution by including taking diplomatic initiative regarding the problem of inundation of arable land in various areas adjoining the Indian border as a result of the dams constructed in the Indian side.*
54. **Internally Displaced Persons (106.55, 108.36):** Most of the people displaced during armed conflict have returned to their homes, but the confiscated properties have not been returned to the rightful owners, and no proper compensation has been provided for the destroyed properties.

Out of 79,571 displaced persons documented by the *GoN*, only 25,000 have received minimal relief. *It is necessary to create an environment of reconciliation by providing them appropriate reparation through TRC.*

55. A total of 24,415 families were displaced from natural disasters since June 2015. *The NHRC has made recommendation to provide adequate relief to the people displaced by natural disasters, and rehabilitate them.*

(j) Social inclusion (106.21, 106.29, 107.28)

56. Right to inclusion for marginalized and deprived class and communities is a fundamental right. There is an improvement in inclusion, following the allocation of 45% seats for reservation in Government services which still inadequate. ¹¹ *Participation of women, indigenous nationalities, dalits, Madhesis, Muslims, person with disability, as well as persons from remote areas, marginalized classes and communities should be increased.*

(k) Human rights defenders (106.26, 108.6, 108.7, 108.8, 108.9, 108.23, 108.27, 108.28)

57. NHRC has issued Human Rights Defenders Directives, 2013. The *GoN* has instructed the security agencies to protect the rights of human rights defenders. However, the acts of intimidation, abuse, ill-treatment, creating obstacle in their work, arson, etc. against journalists and human rights defenders still continue. The organizers of bandhs and strikes resort to such acts during their programs and culprits often go scot free. The *GoN* has not yet given its consent to the visit of Special Rapporteur on Human Rights Defenders although a request has been made in this regard.
58. **Human Rights Education (106.12, 106.17, 106.18, 107.26):** The NHRC has been coordinating with the *GoN* to integrate human rights education into school curricula and this trend is increasing. Human rights related chapters have been included in the training curriculum for security agencies. NHRC has published resource books for teachers, security personnel and human rights defenders and provided training to them. Nepal Army, Nepal Police and Armed Police Force have provided human rights training to its 47201; 7446 and 29,000 personnel respectively till date. *Human rights education should be further promoted.*

¹¹ Out of the reserved seats, women have been allotted 33%, Indigenous nationalities 27%, Madheshi 22%, dalit 9%, PWD 5% and backward areas 4%. Now, there are 16.83% women and 24% indigenous nationalities in civil service. Likewise 3.55% women, 27.35% indigenous nationalities, 6.14% Madheshi, 3.11% dalits, 2.46% PWD and 3.14% persons from backward regions in Nepal Army. There are 5% women, 29.4% indigenous nationalities, 2.2% Madheshi, 6.3% dalits and 2.5% persons from backward regions in the Armed Police Force. There are 29.28% women in Constituent Assembly, and 12.05% women, 16.66% indigenous nationalities and 12.5% Madheshi in the Council of Ministers.

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- i Thematic consultations were organized with the indigenous nationalities, dalits, PWD, migrant workers, sexual and gender minorities, HIV infected people, and right to food.
- ii Taplejung, Panchthar, Ilam, Jhapa, Morang, Sunsari, Dhankuta, Terhathum, Sankhuwasabha, Saptari, Siraha, Okhaldhunga, Udayapur, Dhanusha, Mahottari, Parsa, Makwanpur, Sindhupalchowk, Kathmandu, Lalitpur, Bhaktapur, Dhading, Chitwan, Tanahun, Kaski, Parbat, Myagdi, Syangja, Palpa, Gulmi, Arghakhanchi, Rupandehi, Nawalparasi, Kapilbastu, Dang, Banke, Bardiya, Surkhet, Kailali, Kanchanpur, Dadeldhura, Baitadi, Darchula, Doti and Achham.
- iii Conclusions and recommendations of the Committee on the Elimination of Racial Discrimination, Nepal, U.N. Doc. CERD/C/64/CO/5 (2004), No.11
- iv Suman Adhikari et.al Vs. Office of the Prime Minister and Council of Ministers, Mandamus with certiorari 070-WS-0050, Order date 26/02/2015.
- v Rajendra Dhakal Vs. Government of Nepal, Nepal, 1 June 2007, Ram Kumar Bhandari V Government of Nepal 1, January 2013,.
- vi Rajendra Ghimire, et.all Vs. The Office of the Prime Minister and Council of Ministers, et.al, NLB Vol. 51, No. 3, pp. 452.
- vii Nepal Police Headquarters, Human Rights Unit, 03/03/2015.
- viii Promising Developments Persistent Problem: Trends and Patterns in Torture in Nepal During 2013; Advocacy Forum, June 2014.
- ix Nepal Police Headquarters, Human Rights Unit, 03/03/2015.
- x Ibid. .
- xi Federation of Nepalese Journalists, 28/02/2015.
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- xiii Government of Nepal, Ministry of Law, Justice, Constituent Assembly and Parliamentary Affairs, January 18, 2013.
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- xix Implementation status of some of the provisions of major human rights treaties: Study Report, INSEC, September 2013, pp. 73.
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- xxii NEPAL LIVING STANDARDS SURVEY 2010/11, STATISTICAL REPORT, VOLUME II CENTRAL BUREAU OF STATISTICS, National Planning Commission , page 102
- xxiii REPORT ON THENEPAL LABOUR FORCE SURVEY2008, Central Bureau of Statistics, National Planning Commission Secretariat, and Government of Nepal.
- xxiv Department of Foreign employment, Annual Report 2070/071
- xxv fepb.gov.np/downloadfile/OverallProgress20New_1416300192.pdf
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- xxxii www.cbs.gov.wp-content/uploads/2012/11/National%20report.pdf
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