

Nepal

Mid-term Implementation Assessment



*Promoting and strengthening
the Universal Periodic Review*
<http://www.upr-info.org>



Introduction

1. Purpose of the follow-up programme

The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.

A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four and half years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created an update process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also, more specifically, to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs, and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC) plenary session.

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are disposed to follow through on, and implement their commitments. States should implement the recommendations that they have accepted, and civil society should monitor that implementation.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible, and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be adversely affected.

The methodology used by UPR Info to collect data and to calculate index is described at the end of this document.

Geneva, 8 November 2013
(updated on 13 November 2013)



Follow-up Outcomes

1. Sources and results

All data are available at the following address:

<http://followup.upr-info.org/index/country/nepal>

We invite the reader to consult that webpage since all recommendations, all stakeholders' reports, as well as the unedited comments can be found at the same internet address.

20 stakeholders' reports were submitted for the UPR. 79 NGOs were contacted. 2 UN agencies were contacted. The Permanent Mission to the UN was contacted. The National Human Rights Institution (NHRI) was contacted as well.

15 NGOs responded to our enquiry. 1 UN agency responded. The State under Review did not respond to our enquiry. The NHRI responded to our enquiry.

The following stakeholders took part in the report:

1. **NHRI:** (1) National Human Rights Commission of Nepal (NHRC)
2. **UN Agency:** (1) UN Resident Coordinator's Office (UNRCO)
3. **NGOs:** (1) Advocacy Forum - Nepal (AFN) (2) Asian Human Rights Commission (AHRC) (3) Blue Diamond Society (BDS) (4) Child Nepal (CN) (5) Child Workers Concern Center Nepal (CWIN) (6) Christian Solidarity Worldwide (CSW) (7) Cooperative Society for National Development Nepal (COSFONAD) (8) Feminist Dalit organization (FEDO) (9) Forum for Protection of People's Rights Nepal (FPPRN) (10) HimRights (HimRights) (11) National Coalition Against Racial Discrimination + Indigenous Peoples' Rights Activists Network (NCARD+IPRAN) (12) Nepal-Dialogue Forum for Peace and Human Rights + FIAN International (NDFPHR) (13) Reporters sans frontières (RSF) (14) Pravasi Nepali Coordination Committee (PNCC)

IRI: 117 recommendations are not implemented, 59 recommendations are partially implemented, and 4 recommendations are fully implemented. No answer was received for 7 out of 195 recommendations and voluntary pledges (full list of unanswered recommendations is available at the end of this document).



2. Index

Hereby the issues which the MIA deals with:

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2	Egypt	Other	not impl.	page 12
3	Poland	Minorities	not impl.	page 12
4	China	Other	not impl.	page 15
5	Holy See	Freedom of religion and belief	not impl.	page 16
6	Italy	Freedom of religion and belief	not impl.	page 18
7	France	International instruments	not impl.	page 19
8	Azerbaijan	General	not impl.	page 65
9	Slovakia	Women's rights	not impl.	page 109
10	Switzerland	International instruments, Torture and other CID treatment	not impl.	page 67
11	United Kingdom	International instruments, Torture and other CID treatment	not impl.	page 67
12	Denmark	Torture and other CID treatment	not impl.	page 68
13	Slovenia	Enforced disappearances, Torture and other CID treatment	not impl.	page 68
14	Indonesia	Trafficking, Women's rights	not impl.	page 111
15	United States	Sexual Orientation and Gender Identity	partially impl.	page 107
16	Egypt	General	partially impl.	page 145
17	India	NHRI	not impl.	page 147
18	Bolivia	Minorities, Women's rights	not impl.	page 114
19	Algeria	National plan of action, Rights of the Child	not impl.	page 115
20	Slovakia	National plan of action, Rights of the Child	not impl.	page 115
21	Philippines	Technical assistance	partially impl.	page 149
22	China	Disabilities, National plan of action, Women's rights	partially impl.	page 116
23	Russian Federation	National plan of action	partially impl.	page 150
24	Sri Lanka	General	partially impl.	page 20
25	Saudi Arabia	Human rights education and training	partially impl.	page 26
26	Egypt	Rights of the Child, Women's rights	not impl.	page 118
27	Philippines	Rights of the Child, Women's rights	not impl.	page 119
29	Viet Nam	General	not impl.	page 21
30	Viet Nam	ESC rights - general, Human rights education and training	not impl.	page 26
31	Holy See	Other	not impl.	page 151
32	Viet Nam	Other	not impl.	page 153
33	Singapore	General	partially impl.	page 153
34	Pakistan	Technical assistance	not impl.	page 153
35	Bhutan	Other	partially impl.	page 154
36	Yemen	General	partially impl.	page 21



37	Japan	Treaty bodies	not impl.	page 155
38	Laos	Other	partially impl.	page 156
39	Japan	Freedom of religion and belief,Racial discrimination,Women's rights	partially impl.	page 27
40	Pakistan	Freedom of religion and belief,Racial discrimination,Women's rights	partially impl.	page 28
41	Argentina	CP rights - general,ESC rights - general	partially impl.	page 28
42	Singapore	Women's rights	fully impl.	page 120
43	Palestine	Women's rights	fully impl.	page 120
44	New Zealand	Sexual Orientation and Gender Identity	not impl.	page 108
45	Norway	Minorities,Sexual Orientation and Gender Identity	not impl.	page 109
46	Denmark	Racial discrimination	partially impl.	page 29
47	Bolivia	International instruments,Racial discrimination	partially impl.	page 29
48	Czech Republic	Racial discrimination	partially impl.	page 30
49	Canada	NHRI	not impl.	page 70
50	Czech Republic	Freedom of the press,Human rights defenders	not impl.	page 22
51	Austria	Rights of the Child	partially impl.	page 121
52	Spain	Women's rights	not impl.	page 122
53	Azerbaijan	Women's rights	partially impl.	page 124
54	Azerbaijan	Rights of the Child	not impl.	page 125
55	Bhutan	Trafficking	partially impl.	page 71
56	Malaysia	Justice,Impunity,Rights of the Child,Trafficking,Women's rights	partially impl.	page 125
57	Germany	Rights of the Child,Trafficking	partially impl.	page 127
58	Netherlands	Trafficking	partially impl.	page 71
59	Bhutan	Labour,Rights of the Child	not impl.	page 129
60	United States	Justice	not impl.	page 73
61	Australia	Justice	not impl.	page 73
62	Switzerland	Justice	not impl.	page 73
63	Sweden	Justice	not impl.	page 73
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65	Czech Republic	Enforced disappearances,Justice	not impl.	page 73
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68	Sweden	Justice	not impl.	page 76
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76	Myanmar	Development,Technical assistance	-	page 157
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78	Morocco	Poverty,Technical assistance	partially impl.	page 33
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80	Cambodia	Development,Poverty	partially impl.	page 35
82	Cuba	Development	partially impl.	page 33
83	Azerbaijan	Development,Environment,Poverty	-	page 33
84	Russian Federation	Development,Poverty	partially impl.	page 33
85	Malaysia	Development,Right to education,Right to food,Right to health	partially impl.	page 38
86	Cuba	Disabilities,Rights of the Child,Women's rights	partially impl.	page 130
87	Maldives	Environment	-	page 34
88	Pakistan	Poverty,Technical assistance	partially impl.	page 157
89	Hungary	Disabilities,Freedom of religion and belief,HIV - Aids,Indigenous peoples,Labour,Right to food	not impl.	page 49
90	Brazil	Right to food	partially impl.	page 39
91	Singapore	Right to housing	-	page 34
92	Norway	Right to education,Rights of the Child	not impl.	page 131
93	Cuba	Right to education,Right to health	partially impl.	page 39
94	Finland	Minorities,Right to education,Rights of the Child,Women's rights	not impl.	page 132
95	Finland	Right to education,Rights of the Child	not impl.	page 133
97	Austria	Internally displaced persons	partially impl.	page 52
98	Norway	UPR process	not impl.	page 60
99	Austria	International instruments,Rights of the Child	fully impl.	page 60
100	Germany	Impunity,Torture and other CID treatment	partially impl.	page 84
101	New Zealand	Impunity	not impl.	page 86
102	Algeria	Minorities	not impl.	page 52
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106	France	NHRI	not impl.	page 159
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108	Slovenia	Minorities,Women's rights	not impl.	page 133
109	Egypt	General	partially impl.	page 162
110	Australia	National plan of action,Rights of the Child,Women's rights	fully impl.	page 134
111	France	Other	not impl.	page 162
112	Sweden	Other	partially impl.	page 40
113	Netherlands	Minorities,Rights of the Child,Women's rights	partially impl.	page 135
114	Germany	Freedom of religion and belief,Minorities,Racial discrimination,Women's rights	partially impl.	page 40
115	Austria	Racial discrimination	partially impl.	page 40
116	Sweden	Human rights violations by state agents	not impl.	page 86
117	Japan	Detention conditions,Extrajudicial executions,Human rights violations by state agents,Torture and other CID treatment	not impl.	page 87
118	Hungary	Enforced disappearances,Extrajudicial executions,Human rights violations by state agents,Torture and other CID treatment	not impl.	page 87
119	Turkey	Torture and other CID treatment	not impl.	page 89
120	Sweden	Torture and other CID treatment	not impl.	page 89



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122	Hungary	Rights of the Child	not impl.	page 136
123	Spain	Rights of the Child	partially impl.	page 137
124	Spain	Rights of the Child	not impl.	page 137
125	Poland	International instruments,Labour,Rights of the Child	not impl.	page 137
126	United States	Justice	not impl.	page 90
127	Thailand	Rights of the Child,Women's rights	not impl.	page 139
128	Brazil	Women's rights	partially impl.	page 140
129	United States	Justice	not impl.	page 91
130	Switzerland	Justice	not impl.	page 92
131	Morocco	Human rights education and training	partially impl.	page 42
132	New Zealand	Human rights education and training	partially impl.	page 93
133	Canada	Freedom of association and peaceful assembly	not impl.	page 25
134	Malaysia	Indigenous peoples,Minorities	not impl.	page 54
135	Germany	International instruments,Justice	not impl.	page 60
136	Maldives	Justice,Rights of the Child	partially impl.	page 142
137	Finland	Right to land	not impl.	page 43
138	Canada	Rights of the Child	partially impl.	page 142
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142	Brazil	Special procedures	partially impl.	page 61
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149	Australia	Public security	not impl.	page 93
150	Denmark	Justice	not impl.	page 93
151	Republic of Korea	Enforced disappearances,Extrajudicial executions	not impl.	page 93
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153	Italy	Extrajudicial executions,Special procedures	not impl.	page 95
154	Japan	Rights of the Child,Trafficking,Women's rights	not impl.	page 142
155	Austria	Rights of the Child,Trafficking	partially impl.	page 142
156	Norway	Justice	not impl.	page 96
157	Norway	Freedom of the press,Human rights defenders	not impl.	page 97
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162	United States	Freedom of the press,Human rights defenders	not impl.	page 103
163	United Kingdom	Human rights violations by state agents,Justice	not impl.	page 104



164	New Zealand	General	not impl.	page 105
165	Malaysia	Development, Minorities	partially impl.	page 56
166	Poland	International instruments, Labour	-	page 47
167	Turkey	Right to education, Rights of the Child, Women's rights	partially impl.	page 143
168	Slovakia	Right to education	partially impl.	page 58
169	Finland	Minorities, Right to education, Rights of the Child, Women's rights	partially impl.	page 144
171	New Zealand	Detention conditions, International instruments, Torture and other CID treatment	not impl.	page 62
172	Switzerland	Detention conditions, International instruments, Torture and other CID treatment	not impl.	page 63
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3. Feedbacks on recommendations

CP Rights

Recommendation n°1: *Give its full support to ensure that the Constituent Assembly successfully fulfils its mandate of drafting a new Constitution by May 2011, giving due consideration to the views of the different groups that compose Nepalese society (Recommended by Republic of Korea)*

IRI: *not implemented*

Christian Solidarity Worldwide (CSW) response:

Not achieved

Insufficient consultation so far.

Blue Diamond Society (BDS) response:

Nepal could not promulgate its constitution by May 2011 due to the Government then dissolving the Constituent Assembly at the last moment. A second Constituent Assembly election will be held on 19 November 2013. Nepal must make sure that all the minority communities are represented at upcoming CA including LGBTI.

Child Workers Concern Center Nepal (CWIN) response:

The first Constituent Assembly could not fulfil its mandate to make the constitution.

Forum for Protection of People's Rights Nepal (FPPRN) response:

CA dissolved without formulating new constitution.

Nepal-Dialogue Forum for Peace and Human Rights + FIAN International (NDFPHR) response:

Not implemented. The deadline for writing the new Constitution was several times extended, and in May 2012 the Constituent Assembly (CA) was dissolved without the delivery of a new constitution. Elections to the Constituent Assembly in November 2013 are till date uncertain and many sectors of civil society fear that it will be less inclusive as the last CA.

AHRC response:

Nepal's Constituent Assembly / Legislative Parliament dissolved at midnight on May 28, 2012, plunging the country's constitutional creation, and thereby human rights framework, into extended limbo. The Assembly was dissolved after it failed to usher in a new constitution for Nepal, and though its mandate had been extended four times from two to four years. With the legislative authority of Nepal dissolved, pieces of legislation essential to the protection of human rights have been put on hold.

UN Resident Coordinator's Office (UNRCO) response:

In May 2012, the Constituent Assembly (CA) dissolved without drafting a new constitution. Election of the new CA is scheduled for November 19, 2013.

Human Rights Commission of Nepal (NHRC) response:

- Despite the ample discussion on the content of the recommendations in the Constituent Assembly (CA), the implementation of the recommendations could not tap impetus due to the dissolution of the CA without the promulgation of new constitution.
- There has been consensus among the major political parties to form the new constitution after yet another new Constituent Assembly to be held sometime in November, 2013. For the purpose, the interim election government has been formed in the leadership of the Chief Justice. The same Chief Justice holds the office of both the chief of judiciary and executive which has been criticized far and wide as it is against the principle of separation of power and concept of independency of the judiciary.
- According to the agreement of the major political parties the election government has decided hold the fresh election of the Constituent Assembly on 19th November, 2013. Despite the possibility of new election of the CA on the scheduled date the possibility of framing new constituent in stipulated timeframe is still uncertain due to some political parties' declaration of boycotting of election together with the continuous existence of odds and disagreement among the political parties. In this regard, it is necessary to convince the unsatisfied political parties to have election in fearless and fair environment.
- The Constitution could not be promulgated due to the disagreement among the political parties mainly on the issues of state restructuring, federalism and ethnic identity in the process of framing new constitution via the past CA; the same disputes among the political parties have been inexistence as before.
- The past CA was inclusive from the point of view of ethnicity and gender and the political parties have agreed to make similar structure of the CA by maintaining same provisions of inclusiveness.
- The draft constitution prepared by past CA has included freedom of religion and beliefs. The political parties have made commitment to ensure freedom of religion, right to equality and non-discrimination in the new constitution.
- The political parties have made commitment to frame new constitution in line with international standards. The draft of the constitution prepared by the dissolved CA has included women's rights; therefore, it is anticipated that the new constitution will have similar provisions. The agreement of the political parties on framing new CA with the similar provision as before has ensured minimum 33% representation of women and inclusiveness of the different casts.
- The national law is being framed in line with international standards. After the dissolution of the CA there has not been any significant progress in making human rights friendly laws together with legal reforms.



National Coalition Against Racial Discrimination + Indigenous Peoples' Rights Activists Network (NCARD+IPRAN) response:

The Constituent Assembly was dissolved in May 2012 without fulfilling drafting a new constitution due to disagreements among political parties regarding reorganization of the Nepali state under a federal structure defined along ethnic lines. That was despite having obtained the necessary support within the former Constituent Assembly for such federal structure favored by indigenous, Madhesi and Dalit Constituent Assembly members but opposed by members of the dominant Brahmin and Chhetri groups within the Assembly. Nonetheless, elections to elect second Constituent Assembly have been called for on 4 November 2013.

Thus, the recommendation still stands and should be reformulated for new Constituent Assembly to be formed while emphasizing the CERD recommendations in its communications to the Government of Nepal in March and September 2009 for establishment of mechanisms to ensure indigenous peoples' free, prior and informed consent in relation to constitutional preparation process and setting up a thematic committee to guarantee representation and participation of indigenous peoples in political life through representatives freely chosen by the peoples concerned according to their own processes.

Further, it is worthwhile to reiterate following recommendations of the Special Rapporteur on Indigenous Peoples (SRIP) made in his 2009 report (A/HRC/12/34/Add.3) and January 2010 communication to the Government of Nepal (A/HRC/15/37/Add.1):

- In order to provide the highest safeguards for the collective and individual rights of the indigenous peoples (Adivasi Janajati), those rights should be explicitly incorporated into the new constitution in accordance with the international standards to which Nepal has committed.
- [In addition to existing means of representation in the Constituent Assembly], special mechanisms should be developed for consultations with the Adivasi Janajati, through their own representative institutions, in relation to proposals for new constitutional provisions that affect them.

The Special Rapporteur has followed up on those recommendations in his 15 October 2012 communication to the Government (AL Indigenous (2001-8) NPL 5/2012) whereby he has requested information on the following, among others:

- 1) Whether a consultative or other type of participatory mechanism will be provided in order to facilitate the participation by indigenous peoples, through their freely chosen representative authorities, in the discussions and decision-making processes related to the new constitutional drafting body;
- 2) The measures that will be taken to ensure adequate representation of indigenous peoples within the new constitutional drafting body, including measures to ensure the election of indigenous representatives within this body comports to the aspirations and traditional selections processes of indigenous peoples;
- 3) The steps taken to ensure that the substantive advances negotiated by indigenous representatives in the former Constituent Assembly, in terms of the recognition of cultural, linguistic, autonomy, self-determination and other rights, are maintained as part of the discussion and work agenda of the future constitutional drafting body;



Furthermore, it should be noted that in response to a writ petition in line with CERD and SRIP recommendations, Nepal's Supreme Court on 21 April 2013 [has issued a directive order to the Government](#) to address those issues in new constitution drafting process.

Recommendation n°2: *Accelerate steps towards framing a new Constitution*
(Recommended by *Egypt*)

IRI: not implemented

CSW response:

The new Constitution was not completed: repeated delays and postponements showed a lack of political will by the main parties to arrive at compromise agreements. Constituent Assembly disbanded May 2012

BDS response:

This must be completed without delay, and voices of LGBTI must be reflected into the new constitution.

CWIN response:

There has been preparation for having the 2nd time Constituent Assembly election. It is scheduled for 19 November 2013.

FPPRN response:

Election is going to happen again for CA

NDFPHR response:

Not implemented. The deadline for writing the new Constitution was several times extended, and in May 2012 the Constituent Assembly (CA) was dissolved without the delivery of a new constitution. Elections to the Constituent Assembly in November 2013 are till date uncertain and many sectors of civil society fear that it will be less inclusive as the last CA.

AHRC response:

Nepal's Constituent Assembly / Legislative Parliament dissolved at midnight on May 28, 2012, plunging the country's constitutional creation, and thereby human rights framework, into extended limbo. The Assembly was dissolved after it failed to usher in a new constitution for Nepal, and though its mandate had been extended four times from two to four years. With the legislative authority of Nepal dissolved, pieces of legislation essential to the protection of human rights have been put on hold.

UNRCO response:

Election of the new CA is scheduled for November 19, 2013.

Recommendation n°3: *Ensure full participation of ethnic groups and castes in the Constitution-making process, in particular in the Constituent Assembly*
(Recommended by *Poland*)

IRI: not implemented

CSW response:

The consultation process was left too late and not sufficiently well organized in regions and amongst ethnic groups especially as regards the federal structure.

The party leaders did not consult widely amongst Constituent Assembly members.

Cooperative Society for National Development Nepal (COSFONAD) response:

As there was the demands of the indigenous peoples (IPs) in Nepal for proportional representation, as per their population, there 37.2% (of enlisted 59 IPs) population of IPs in Nepal, of the IPs in the Constituent Assembly (CA) and even the CERD committee has sent early warning letter to the Government of Nepal (GoN) for the insurance of proper participation of the Ips as they have been asking for in the constituent making process but the then government and the major political parties constantly ignored the committee's letter and eventually the CA was terminated without writing new constitution. Though there were 35% participation of IPs in the CA they could not raised the voices of IPs properly as the representatives of the particular political parties. The demands of the IPs was to make sure the participation of IPs through the IPs bonafied organisations. So the demand of full and effective participation of IPs in the CA was ignored by the GoN and the political parties.

BDS response:

Not only that full participation of LGBTI must be ensured too.

CWIN response:

Constituent Assembly had been fairly inclusive in nature with the representation of most of existing ethnic communities in Nepal. Child rights issue too raised there by some of the CA members as the effect of the lobbying by the civil society organizations. In order to ensure children participation in the constitution making process, civil society organizations including CWIN, organized a massive campaign to collect children's opinion through their thumb print and written suggestion/ideas. It was historic that one million thumb print were collected throughout the country and handed over to the CA chair. This campaign drew the attention of whole nation. Around six hundred organizations were mobilized in this process.

FPPRN response:

Government's vision is not clear on how to ensure the participation of indigenous community.

NDFPHR response:

Not implemented. The deadline for writing the new Constitution was several times extended, and in May 2012 the Constituent Assembly (CA) was dissolved without the delivery of a new constitution. Elections to the Constituent Assembly in November 2013 are till date uncertain and many sectors of civil society fear that it will be less inclusive as the last CA. Political parties are criticized for not being inclusive - especially in the leadership positions - and for undemocratic decision making procedures in party structures as well as the overall governance of the country whereby the past CA has been sidelined.

AHRC response:

Even though the electoral process of the Constituent Assembly had ensured a proportional representation along ethnic, caste and gender lines, the CA was dissolved due to its impossibility to bring along a federalist structure which would be satisfactory for all the groups composing the country. In other words, ensuring the participation in the state structure of all the castes, ethnic groups and genders equally has been the stumbling block leading to the dissolution of the constituent assembly.

UNRCO response:

Inclusiveness was not well respected by the political parties while nominating their candidates for the election of the new CA. Representation of Dalits(13.5 percent) and indigenous community from the major political parties remain a gap including the women (33%).

NCARD+IPRAN response:

The Constituent Assembly was dissolved in May 2012 without fulfilling drafting a new constitution due to disagreements among political parties regarding reorganization of the Nepali state under a federal structure defined along ethnic lines. That was despite having obtained the necessary support within the former Constituent Assembly for such federal structure favored by indigenous, Madhesi and Dalit Constituent Assembly members but opposed by members of the dominant Brahmin and Chhetri groups within the Assembly. Nonetheless, elections to elect second Constituent Assembly have been called for on 4 November 2013.

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The Special Rapporteur has followed up on those recommendations in his 15 October 2012 communication to the Government (AL Indigenous (2001-8) NPL 5/2012) whereby he has requested information on the following, among others:

- 1) Whether a consultative or other type of participatory mechanism will be provided in order to facilitate the participation by indigenous peoples, through their freely chosen representative authorities, in the discussions and decision-making processes related to the new constitutional drafting body;
- 2) The measures that will be taken to ensure adequate representation of indigenous peoples within the new constitutional drafting body, including measures to ensure the election of indigenous representatives within this body comports to the aspirations and traditional selections processes of indigenous peoples;
- 3) The steps taken to ensure that the substantive advances negotiated by indigenous representatives in the former Constituent Assembly, in terms of the recognition of cultural, linguistic, autonomy, self-determination and other rights, are maintained as part of the discussion and work agenda of the future constitutional drafting body;

Furthermore, it should be noted that in response to a writ petition in line with CERD and SRIP recommendations, Nepal's Supreme Court on 21 April 2013 has issued a [directive order to the Government to address](#) those issues in new constitution drafting process.

Recommendation n°4: *Frame a new Constitution and undertake a democratic, inclusive and progressive State restructuring* (Recommended by China)

IRI: not implemented

CSW response:

The issue of arriving at an agreed Federal structure within the new constitution was left until too late and agreement could not be reached with ethnic groups and parties.

NDFPHR response:

Not implemented. The deadline for writing the new Constitution was several times extended, and in May 2012 the Constituent Assembly (CA) was dissolved without the delivery of a new constitution. Elections to the Constituent Assembly in November 2013 are till date uncertain and many sectors of civil society fear that it will be less inclusive as the last CA. Political parties are criticized for not being inclusive - especially in the leadership positions - and for undemocratic decision making procedures in party structures as well as the overall governance of the country whereby the past CA has been sidelined.

AHRC response:

Nepal's Constituent Assembly / Legislative Parliament dissolved at midnight on May 28, 2012, plunging the country's constitutional creation, and thereby human rights framework, into extended limbo. The Assembly was dissolved after it failed to usher in a new constitution for Nepal, and though its mandate had been extended four times from two to four years. With the legislative authority of Nepal dissolved, pieces of legislation essential to the protection of human rights have been put on hold.



NHRC response:

[See response to recommendation n° 1]

NCARD+IPRAN response:

With regards to democratic, inclusive and progressive State restructuring, one of the thematic committees within the former Constituent Assembly, the Committee on State Restructuring and Power Redistribution, had presented a proposal for division of Nepal into 14 states and 23 “autonomous regions” or “special protected areas”. The states would be named based on ethnic identity while the autonomous regions provided for recognitions of self-governance rights to smaller-numbered indigenous peoples within larger states. However, the Constituent Assembly was dissolved in May 2012 due to disagreements regarding the organization of the Nepali state under a federal structure defined along ethnic lines. (AL Indigenous (2001-8) NPL 5/2012)

In this context, while emphasizing recommendations as in [recommendation] #1 regarding new constitution writing process, following recommendations of the Special Rapporteur on Indigenous Peoples (SRIP) made in his 2009 report (A/HRC/12/34/Add.3) should be emphasized in relation to federalism, local government and autonomy:

- Proposals for the design of a new federal structure should advance the self-determination of the Adivasi Janajati, which means advancing their exercise of the right to autonomy or self-government in relation to their own affairs, including the right to maintain their own customary laws and justice systems with due respect for universal human rights; the right to participate in decision-making at all levels of authority in relation to all matters affecting them; rights over territory and natural resources in accordance with customary patterns; and the right to maintain and develop the various aspects of their distinctive cultures. Federalism proposals should be developed with these and related rights in mind, in a spirit of flexibility and accommodation, without focusing on predetermined outcomes for the federal structure.
- Irrespective of the final makeup of the federal system, specific measures should be devised to ensure that local Government bodies include effective participation by indigenous peoples. This may entail the establishment or strengthening of quota or reservation systems for Adivasi Janajati to be guaranteed representation in local bodies.

Recommendation n°5: Complete the new Constitution on time and take into account that peaceful coexistence requires that the right to freedom of religion for all citizens be clearly included and formulated according to international standards (Recommended by Holy See)

IRI: not implemented

CSW response:

The new Constitution was not completed: repeated delays and postponements showed a lack of political will by the main political parties to arrive at compromise agreements.

Existing draft proposals for the religious freedom sections of the constitution do not guarantee freedom to choose and change faith and include anti-conversion clauses



which do not meet Nepal's commitments under international treaties it has signed and ratified.

FPPRN response:
failed

AHRC response:

Nepal's Constituent Assembly / Legislative Parliament dissolved at midnight on May 28, 2012 without having enacted a new constitution. However, one of the working group of the now dissolved CA had emitted a proposal to prevent religious proselytism in the country raising concern that this provision could be used to curb on freedom of religion. Caste-based discrimination continues to impede the Dalits to practice their religion freely by denying them access to temples.

NCARD+IPRAN response:

While the Constituent Assembly was dissolved without completing a constitution, right to freedom of religion for indigenous peoples, religious minorities and Dalits continue to be interfered. Discriminatory effects of the previous imposition of Hinduism, the majority religion, as dominant State religion still exist. Though Interim Constitution of Nepal 2007 has declared Nepal a secular state, proselytizing is prohibited.

Many laws are based on values and philosophies of Hinduism, the majority religion. One such law is criminalization of slaughtering or intended slaughtering cow, an animal considered holy as per Hindu beliefs and recognized as national animal. Penalties for violating this law include twelve years in prison. This has led to detention and prosecution of many indigenous, mostly non-Hindus, individuals who have traditionally relied on cows for their subsistence or religious practices. Most official festivities align with the Hindu calendar and the State often allocates to observe those festivities directly or indirectly.

There is lack of adequate representation of non-Hindu indigenous and minority groups in all levels of state, particularly the top political and government positions and lack of government resources to support religious sites and practices belonging to minority religious groups. On the other hand, the government often hinders religious practices of indigenous peoples and minorities. Some recent examples are obstructions to installation of Buddha idol in the area of Kakre Bihar (monastery), a pilgrimage site of Buddhist indigenous peoples and prohibition in continued use of burial grounds of Kirat indigenous peoples and Christians around Pashupati temple in Kathmandu, among others.

Further, Muslims in Nepal have long-standing grievances for specific identity under Nepal's constitution and laws related to reservation, non-recognition of their Islamic family/social laws and madrasah (Islamic school) education system by the State. Madrasahs seeking government funding must register with local district administration offices (part of the Home Ministry) and supply information about their funding sources. The policy is criticized as discriminatory, citing the difficulty of the registration process and the general lack of resources from the government. The



Department of Education also prepares curricula for the registered madrasahs. Muslims may freely participate in the Hajj; the government does not subsidize the pilgrimage.

Following declaration of Nepal as a secular republic in 2007, “Hindu extremism” has increased, particularly against Christians and churches in form of fatal attacks or threats thereof from radical Hindu groups. In addition, there was an incident in 2013 whereby activists from the World Hindu Federation threatening an artist in Kathmandu for “outrageous portrayals” of Hindu gods at an exhibition of his works at a local art gallery. A case was filed at the district administration office accusing the artist of blasphemy and the police responded by padlocking the gallery. The charges were dropped after the gallery removed the exhibition.

Discrimination against Dalits considered ‘untouchable’ caste group as per hierarchical Hindu caste group has been illegalized and temple access for “lower castes” improved in some areas. However, societal discrimination against members of Dalits remained widespread and restricted their religious freedom. Local villagers and Hindu priests often prevented Dalits from entering temples, performing religious rites, and participating in cultural and religious festivals. Other religious groups did not practice caste discrimination.

Recommendation n°6: *Ensure that the new Constitution fully guarantees the right to freedom of religion or belief and the right to equality and non-discrimination in line with international standards (Recommended by Italy)*

IRI: not implemented

CSW response:

Existing draft proposals for the religious freedom sections of the constitution do not guarantee freedom to choose and change faith and include anti-conversion clauses which do not meet Nepal's commitments under international treaties it has signed and ratified.

AHRC response:

Nepal's Constituent Assembly / Legislative Parliament dissolved at midnight on May 28, 2012 without having enacted a new constitution. However, one of the working group of the now dissolved CA had emitted a proposal to prevent religious proselytism in the country raising concern that this provision could be used to curb on freedom of religion. The constitutional and political limbo in which the dissolution has plunged the country has prevented concrete progress in the fight against discrimination and the development of a framework of accountability for those who commit discrimination along gender, caste or ethnic lines.

NHRC response:

[See response to recommendation n° 1]

NCARD+IPRAN response:

[See response to recommendation n° 5]



Recommendation n°7: *Ensure that the new Constitution being formulated and its national legislation is in line with international human rights instruments acceded to by Nepal (Recommended by France)*

IRI: *not implemented*

CSW response:

Existing draft proposals for the religious freedom sections of the constitution do not guarantee freedom to choose and change faith and include anti-conversion clauses which do not meet Nepal's commitments under international treaties it has signed and ratified.

Existing draft proposals for the religious freedom in the new penal code of Nepal do not guarantee freedom to choose and change faith and include anti-conversion clauses which do not meet Nepal's commitments under international treaties it has signed and ratified.

BDS response:

The draft "civil code and criminal code" to replace 150 years old 'country code' is regressive and against international human rights instruments that Nepal have signed and must be changed. The draft have provision of criminalizing LGBTI people which Nepal never had even in its old laws and constitutions.

CWIN response:

Civil society organizations are creating the pressure to go in that line. Being child rights organization, CWIN is concerned on constitution in line of UNCRC.

AHRC response:

Nepal's Constituent Assembly / Legislative Parliament dissolved at midnight on May 28, 2012, plunging the country's constitutional creation, and thereby human rights framework, into extended limbo. The Assembly was dissolved after it failed to usher in a new constitution for Nepal, and though its mandate had been extended four times from two to four years. With the legislative authority of Nepal dissolved, pieces of legislation essential to the protection of human rights have been put on hold.

NHRC response:

[See response to recommendation n° 1]

NCARD+IPRAN response:

Nepal has ratified International Labour Organization (ILO) Indigenous and Tribal Peoples Convention 1989 (C169) in 2007 and also voted in favor of United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). The Government had formed a High Level Taskforce under the Chairmanship of Secretary of Ministry of Local Development to review existing laws, policies and programmes of the governmental agencies in relation to Convention 169, identify specific responsibilities of the government agencies and their obligatory actions and prepare a National Action Plan (NAP) for the overall implementation of Convention 169 in late 2008 with the participation of Adivasi Janajati organizations and other concerned agencies. The Taskforce completed its works after months of documents review and extensive consultations and interactions with all stakeholders and the Ministry of Local



Development (MoLD) sent the document to the Ministry of Law, Justice and Parliamentary Affairs (MoLJPA) for technical review and suggestions. After months of review, the MoLJPA sent back the document with comments to the MoLD.

The MoLD, after some adjustments of comments, has submitted the NAP with revised timeframe to the Council of Ministers for approval. The MoLD had to revise timeframe considering the long disruptions of the sessions of the Legislature-Parliament (Constituent Assembly) for legal revision and delayed proceedings/working sessions of the different thematic committees of the Constituent Assembly due to divergent views and failing to reach consensus for the constitution making process. The NAP is under consideration of Social Committee of the Council of Ministers. The NAP is yet to adopted by the Council of Ministers.

In fiscal year 2008/09, 23 Ministries, including MoLD have instituted focal points to facilitate, coordinate, monitor, review and report the sectoral policies and plans of the development of Adivasi Janajati for system and concerted actions and implementation. MoLD has formed Adivasi Janajati District Coordination Committees (AJDCC) in all 75 districts in the same year.

The Interim Three-Year Plan of Nepal for the period of 2007-10 had included in the main programmes of the Government to identify and amend legal and policy provisions that contradict with the Convention 169 and make necessary arrangements for guaranteeing the rights of indigenous peoples of Nepal as per the UN Declaration on the Rights of Indigenous Peoples. However, the current Interim Three-Year Plan for the period of 2011-13 comprises strategies and programmes for the rights of indigenous peoples but completely omits the implementation of the Convention 169 and the UN Declaration.

In this context, it is worthwhile to reiterate the following recommendations of the Special Rapporteur on Indigenous Peoples (SRIP) made in his 2009 report (A/HRC/12/34/Add.3):

- A comprehensive programme of law and policy reform should be in place to advance, in consultation with indigenous peoples, implementation of Nepal's commitments under Convention 169 and the United Nations Declaration. All relevant Government agencies, legislative officials and Adivasi Janajati representatives should be part of this programme. An important initial step in this direction is the establishment and work thus far of the Task Force on Implementation of ILO Convention 169.
- Within the framework of this programme, proposals for legislative reforms should be developed, and the relevant Government ministries and agencies should review their administrative practices, regulations and policies, in order to adopt the measures necessary to ensure conformity with Convention 169 and the Declaration throughout all institutions of State.

Recommendation n°24: *Continue with its efforts to further accelerate its holistic and multifaceted approach to promoting and protecting human rights and freedoms*
(Recommended by Sri Lanka)

IRI: partially implemented



CSW response:

Nepal needs to give urgent and detailed attention to guaranteeing full freedom of religion and belief in its new Constitution and Penal Code. The draft provisions for anti-conversion clauses in both constitution and Penal Code need to be changed to take into account Nepal's commitments under such international treaties as the International Covenant on Civil and Political Rights.

AHRC response:

Human rights concerns were put on the backburner after the dissolution of the CA and in the midst of the political and legal turmoil that unfolded afterwards

UNRCO response:

The government has developed its three year interim plan as its thirteen plan for Nepal 2013-2015 which has a separate chapter on human rights in which the government has its goal to ensure the all human rights to all.

NHRC response:

- In general, the GoN doesn't intervene on the rights to freedom of assembly. The government has declared some of the public places as the restricted zone for organizing protest related events. However, the incidents of excessive force used on protest programs by the government can be witnessed sometimes.
- Nepal seems to internalize the Civil and Political Rights and Economic, Social and Cultural rights in the rapidly changing political scenario.
- To illustrate, Interim Constitution of Nepal 2007 has laid out arrangement concerning the multi party democratic system, right to vote, right of freedom and security, rights of women, children and the persons with disabilities and specially the right to food, right to employment, right to social security as well as the right to equality and inclusiveness as the fundamental rights of the citizens.

Recommendation n^o29: *Consolidate all positive realizations achieved during the period of political transformation, especially in the human rights field* (Recommended by Viet Nam)

IRI: *not implemented*

AHRC response:

Human rights concerns were put on the backburner after the dissolution of the CA and in the midst of the political and legal turmoil that unfolded afterwards. Human rights gains have not been consolidated but have been jeopardized in that period

Recommendation n^o36: *Continue to strengthen the democratic experience that it has embarked upon* (Recommended by Yemen)

IRI: *partially implemented*

AHRC response:

The dissolution of the Constituent Assembly without having adopted a new constitution and the repeated postponement of elections have shown how fragile Nepal democratic process was and how long the road to bring political stability to the country was.



NHRC response:

- Most of the tasks of the peace process have been successfully completed. The process of integration of Maoist Combatants into Nepal Army and management of arms has been completed successfully.
- The important issues of human rights are incorporated in the Comprehensive Peace Accord 2005.
- The Government of Nepal has established Ministry of Peace and Reconstruction in order to manage peace process.
- Reconstruction of the destroyed physical infrastructures during the period of armed conflict is yet to be completed despite huge investment of the Government.
- The Government has established Local Peace Committees for establishment of peace in grassroots level; however, these committees could not accomplish their tasks effectively.
- Following the increase of criminal activities of armed groups emerged during the peace process especially in the Southern Terai region and eastern hills; the GoN has made peace agreement with various armed groups through dialogues. Following this, criminal activities of the armed groups have significantly decreased; however, it has not been completely impeded.
- International Communities including UN agencies have complimented great support in the peace process and reconstruction. United Nations Mission to Nepal (UNMIN) and United Nations Office of the High Commissioner on Human Rights (OHCHR) have provided a vital support by establishing their offices in Nepal.
- During the peace process, various agreements have been made through extensive dialogues among the conflicting parties; however, because of the failure to establish the Truth and Reconciliation Commission (TRC), there are so cumbersome tasks left to accomplish for the establishment of peaceful environment in society.
- It is found that the Government has not given priority to reconciliation.
- Ever since the peace process hit, political instability has been increasing. Owing to the trust deficit among the political parties, the government of ex-bureaucrats at the leadership of Chief Justice has been formed. Human Rights situation of country has been negatively affected due to increasing political instability/impasse.
- The Interim Constitution of Nepal - 2007 has fully accepted the democratic system; however, the unhealthy competitions among the political parties including the financial irregularities and lack of transparency have altogether caused stagnation to the democratic development. Such situation has created undue frustration among the people towards politics.

Recommendation n°50: *Take concrete steps to ensure the security of human rights defenders, including journalists (Recommended by Czech Republic)*

IRI: not implemented

CSW response:

Journalists and human rights defenders are still at high risk of violence from political groups and youth militias to the extent that some human rights defenders have had to leave the country to ensure their own safety.

Reporters sans frontières (RSF) response:

Un grand nombre de journaliste se sentent en insécurité permanente au Népal. Profitant de l'instabilité politique, les ennemis de la liberté de la presse sont très actifs. Plusieurs entrepreneurs des médias ont été assassinés en 2010. Les journalistes vivant dans les zones rurales sont confrontés à des situation très dangereuses en raison des groupes armés qui leur rendent la vie difficiles. Les attaques physiques sont fréquentes et restent généralement impunies, malgré les déclarations de bonne intention du gouvernement. Quelques progrès significatifs ont eu lieu en 2011 tel que la condamnation à la réclusion à perpétuité des coupables de l'assassinat du journaliste Uma Singh. Toutefois, les menaces et attaques ont continué d'entacher la liberté de la presse. En janvier 2013, 22 journalistes issus de différents médias, ont été contraints de fuir le Népal après avoir été menacés de mort par le Parti communiste unifié du Népal (UCPN). La pression exercée sur les journalistes est ainsi de plus en plus forte et aucune mesure n'a été mise en place par le gouvernement pour identifier les auteurs des menaces ni même pour garantir la sécurité des journalistes.

Advocacy Forum - Nepal (AFN) response:

No security mechanism is established yet for the protection/security of human rights defenders including journalists by the government.

NDFPHR response:

Not implemented. Human rights defenders, who document cases of human rights violations and offer legal advice to the victims, are exposed to threats, pressure and intimidation as well as violence and discrimination. The same applies to journalists who report on human rights violations; they are also exposed to death threats. Between January and October 2012, according to the human rights organization INSEC, more than 200 human rights defenders fell victims of human rights violations (including 5 murders, inter alia the murder of a Supreme Court Judge). Among them a total of 79 were journalists. In half of the cases it was proved that the offenders were members of political parties, governmental officials and state security forces. Particularly women human rights defenders are vulnerable to stigmatization due to their work. In several occasions since 2011 prominent and international recognized human rights defenders were blamed for allegedly obstructing the peace process, as well as being defined as "people's enemy", against whom physical punishment was asked for, putting them at great risk of threats.

AHRC response:

No legislation has been adopted to provide a legal framework protecting the work of human rights defenders. In 2013 a series of verbal and physical attacks against human rights defenders working against impunity have been of particular concern and have shown how little follow up has been done to implement that recommendation.

Following the arrest in the United Kingdom of a Nepal Army soldier, Colonel Lama, facing two charges of torture and the arrest of the alleged perpetrators of the enforced disappearance and murder of a journalist, Dekendra Raj Thapa, during the war, human rights defenders have been facing increased threats and attacks. In both



cases, the government has unequivocally taken stance in favour of impunity, protesting diplomatically against Colonel Lama's arrest and ordering a halt to the investigations into the murder of Mr. Thapa. In that case, the Prime Minister has publicly deplored the work of human rights defenders and the arrests. The spokesperson of the Maoist party has also accused the NGOs, specifically referring to Mandira Sharma and Advocacy Forum, of working against national interest in the search for profit and blamed them for being behind the arrest of Colonel Lama in the UK. The blatant political protection to perpetrators of human rights violations has fuelled abuse, threats and attacks against human rights defenders.

On January 26, newspapers reported that a group of twenty two journalists based in Dailekh district fled the district after being threatened by local Maoist cadres in the eve of a visit of the Prime Minister. They were threatened to stop covering the legal development in Mr Thapa's case.

Peaceful protesters who had gathered daily for the past two months in front of the Prime Minister's residence in Kathmandu to denounce gender-based violence and impunity were twice manhandled by the police and arrested by dozens. On 25 January, 32 protesters were arrested and detained for three hours, while one transgender activist was assaulted by four policemen and had to be taken to the hospital. Again on 16 February, the police arrested and detained 23 activists and a nine month old baby as the protests denounced the impunity benefiting Maina Sunuwar's murderers. One activist was injured and bleeding after being punched in the face by police personnel.

Even more concerning are reports that several medias, affiliated to the Maoist party, including the weekly magazine Lal Rakshak (Red Defender), the blog Krishnasenonline and various local FM radio stations have denounced the work of human rights defenders as going against the peace process and called for violent action to be taken against them. Of particular concern is an article published in the January-February 2013 edition of Lal Rakshak which accused five prominent human rights defenders of acting against the Maoists and the peace process. All the human rights defenders targeted are active members of the Accountability Watch Committee, a committee formed to ask for accountability for human rights violations committed during the conflict.

The article accused the human rights defenders of having committed various crimes, and called for "People's action" against them. People's action was a term used by Maoist combatants during the civil war to refer to violent action taken as punishment against those seen as opposing the Maoist party. Throughout January 2013, three other newspapers and a radio station have relayed that call for violent action against human rights defenders. Those have culminated in the attack of a human rights defender, Mr Batsola in February 2013 by unidentified assailant after having written an article calling for accountability for a human rights violation committed during the conflict. The investigation launched in the case has not led to any arrest or prosecutions.



NHRC response:

- Most freelance journalists haven't been provided with their remuneration as such.
- The police personnel involved in the killing of the National Human Rights Commission staff Daya Ram Pariyar hasn't been booked until this day.
- Despite the fact that the GoN has expressed its commitment to introduce special program to ensure for the further protection of the Human Rights Defenders, it hasn't been translated into action.

Recommendation n°133: *Ensure that the right to freedom of assembly is guaranteed and remove all restrictions to peaceful protests* (Recommended by Canada)

IRI: *not implemented*

CSW response:

There are occasional examples of police intervention which contravene to the right to peaceful assembly, such as the arrest of barristers demonstrating outside the Supreme Court and Tibetan refugees in silent protest, but this is not a frequent problem.

AHRC response:

In January [2013], peaceful protesters who had gathered daily for the past two months in front of the Prime Minister's residence in Kathmandu to denounce gender-based violence and impunity were twice manhandled by the police and arrested by dozens. On 25 January [2013], 32 protesters were arrested and detained for three hours, while one transgender activist was assaulted by four policemen and had to be taken to the hospital. Again on 16 February [2013], the police arrested and detained 23 activists and a nine month old baby as the protests denounced the impunity benefiting Maina Sunuwar's murderers. One activist was injured and bleeding after being punched in the face by police personnel. For more information on the protests please see [NEPAL: Support for protest against impunity - 32 protesters arrested and manhandled during peaceful protests](#).

NHRC response:

- The Article 12 of the Interim Constitution of Nepal has provisioned the right of freedom of opinion and expression, freedom to assemble peacefully and without arms, freedom to form political party or organizations, freedom to form unions and associations, freedom to move and reside in any part of Nepal and freedom to practice any profession, or to carry on any occupation, industry as the fundamental rights.
 - However, the political parties and their party wings are involved in misusing the right to peaceful assembly by enforcing strikes and vandalism. They are found to manhandle those involved in defying such strikes. At times, the state sponsored security force is found to use excessive force on the peaceful procession.
- +
- In general, the GoN doesn't intervene on the rights to freedom of assembly. The government has declared some of the public places as the restricted zone for organizing protest related events. However, the incidents of excessive force used on protest programs by the government can be witnessed sometimes.
 - Nepal seems to internalize the Civil and Political Rights and Economic, Social and Cultural rights in the rapidly changing political scenario.



- To illustrate, Interim Constitution of Nepal 2007 has laid out arrangement concerning the multi party democratic system, right to vote, right of freedom and security, rights of women, children and the persons with disabilities and specially the right to food, right to employment, right to social security as well as the right to equality and inclusiveness as the fundamental rights of the citizens.

Recommendation n°195: *Nepal expresses its commitments to continue its holistic and comprehensive approach to the promotion and protection of human rights and to put in practice a rights-based approach to development of all sectors. Nepal remains committed to engage the civil society and stakeholders in the promotion and protection of human rights. (Recommended by Nepal)*

IRI: *partially implemented*

Feminist Dalit organization (FEDO) response:

It is in progress and engaging the CSOs and stakeholders in promotion and protection of human rights.

ESC Rights

Recommendation n°25: *Continue its work on strengthening human rights in all areas in terms of programmes and policies and ensure human rights education's inclusion in school programmes throughout the country (Recommended by Saudi Arabia)*

IRI: *partially implemented*

CSW response:

Human Rights education is not as yet present in the curriculum of most schools in Nepal

AHRC response:

Human rights concerns were put on the backburner after the dissolution of the CA and in the midst of the political and legal turmoil that unfolded afterwards

NHRC response:

- The Government has included the matters of human rights concerns while formulating the programs and policies to certain extent. It is, however, expected that more and more HR concerns are included in the PLAN. The incorporation of human rights education in the public schools throughout the country has begun. It is also necessary that such a holistic endeavor is taken to the private schools as well.
- The Commission has been providing its advisory and suggestions on the policies and programs prior to their formulation by the Government. The formal learning of human rights education in the school curriculum specially in lower secondary schools got materialized upon the Commission recommended to the Government about it.

Recommendation n°30: *Raise, through education, the level of awareness and knowledge about human rights of the population, with a focus on the most vulnerable*



social groups, to ensure their full enjoyment of all human rights, in particular economic and social rights (Recommended by Viet Nam)

IRI: *not implemented*

CSW response:

Priority needs to be given to human rights training with regard to the human rights of Dalits and how these must be fully protected.

AHRC response:

This has not been done

Recommendation n°39: Make further efforts to overcome the difficult issue of discrimination on the grounds of religion, gender, race or otherwise (Recommended by Japan)

IRI: *partially implemented*

NDFPHR response:

Partially implemented. Although efforts were done, the discrimination of vulnerable groups is still a widespread reality. Particularly vulnerable groups such as women, former bonded laborers, Janajatis, Dalits, other ethnic, religious and sexual minorities, landless, persons with disabilities or HIV/AIDS suffer from multiple forms of discrimination. They are frequently denied access to land, food, healthcare, education, work, justice and the participation in decision-making processes. Although Nepal has adopted a law that prohibits caste-based discrimination and the so-called practice of “untouchability”, an effective implementation is still lacking. Dalits are still suffering from severe human rights violations and even murder. Moreover, women are still largely exposed to domestic and sexual violence.

- After the end of 2012 several cases of violence against women such as murder and rape were/have been brought to the attention of the public, e.g. the case of Sita Rai in December 2012. Members of the civil society formed the movement “Occupy Baluwatar” and protested those cases and the lack of investigation by the respective authorities. Although the authorities promised the investigation and prosecution of those responsible in those crimes, little has been done to address the root causes of violence against women as it is also the case regarding caste-based discrimination.
- Still women are discriminated upon regarding their access to resources, both natural – land and forest – and labor and income opportunities. Still, in most cases women do not possess their own land. Traditional practices and some legal regulations still in force, as for example those related to inheritance, impede equal access of women to food producing resources. In addition, rural women, that are part of the poor and indigenous communities, often are victims of multiple discriminations.
- The GoN implemented a reservation quota for recruitments by open competition in most civil services but the provisions are criticized inter alia for not providing genuine proportional representation of all groups with their respective population shares and for mainly reserving posts within the lower ranks of the civil services.



AHRC response:

One of the major recommendations to be implemented by the government has been the adoption of a law criminalizing caste-based discrimination. Nevertheless, efforts to ensure the smooth administration of justice for the persons affected by caste-based discrimination have been few and far between, as was underlined by an OHCHR report in December 2011 and the law has therefore made little difference in the everyday life of the Dalit community.

Recommendation n°40: *Continue its efforts to end discrimination on the grounds of religion, race or gender in law and practice* (Recommended by *Pakistan*)

IRI: *partially implemented*

NDFPHR response:

[See response to recommendation n° 39]

AHRC response:

[See response to recommendation n° 39]

Recommendation n°41: *Continue its efforts to overcome discrimination and social exclusion on the basis of gender, caste, class, ethnic group, disability or geographic situation, in order to ensure the respect of civil, political, economic, social and cultural rights* (Recommended by *Argentina*)

IRI: *partially implemented*

NDFPHR response:

[See response to recommendation n° 39]

AHRC response:

[See response to recommendation n° 39]

UNRCO response:

Caste Based Discrimination and Untouchability Act was adopted in May 2011 as an effort to address caste based discrimination. Despite the legislation, cases of untouchability are reported less in the local authorities. Such cases are often reportedly dealt with in a community social and political pressure.

NHRC response:

- The Government has been working to ensure civil, political, economic, social and cultural rights of marginalized and excluded group of people due to sex, gender, caste, class, disability, geography and ethnicity. However there are still a lot of things to do towards solving the problem of formidable practice of discrimination.
- The Government has made law and policies to address discrimination against Dalit Community. In this regard, Discrimination in Caste and Untouchability (Crime and Punishment) Act, 2068 has been enacted.
- The status of implementation of law including plans and policies is found very poor. The state ought to embark upon facilitating necessary access for the backward class of the society by enacting programs and ensuring their participation in state sponsored endeavors and programs.



- The trend of untouchability against Dalit people has been decreasing gradually. However, due to lack of effective implementation of law and awareness it has been still prevailing in the society.
- The Government has implemented policy to provide One Hundred Thousand Rupees to the couple who got marriage between Dalit and non-Dalit. Activities of despising, forceful separation, entrapping in fake case and exclusion from society to those who married with dalit people are pervasive as a common trend in society.
- The Administration has been found focused in reconciliation rather than prosecution against culprits involved in act of racial discrimination. Therefore, there are very few people who underwent punishment in comparison to the numerous cases of racial discrimination.
- The Racial Discrimination and Untouchability (Crime and Punishment) Act, 2068 has defined acts of discrimination against caste and religion as a crime. According to the Act, person involved in such crime may get punishment of three months to three years imprisonment and RS One Thousand to Twenty Five Thousand as penalty. However, the law has not criminalized discrimination against sex, political beliefs and disability.

Recommendation n°46: *Eliminate all forms of discrimination and pass the bill on caste-based discrimination and untouchability* (Recommended by *Denmark*)

IRI: *partially implemented*

CSW response:

Fully comprehensive legislation has been enacted, but caste discrimination has by no means been eliminated, and there needs to be a higher priority given to this problem and adequate resources allocated to such bodies as the National Dalit Commission.

NDFPHR response:

[See response to recommendation n° 39]

AHRC response:

[See response to recommendation n° 39]

UNRCO response:

[See response to recommendation n° 41]

NHRC response:

[See response to recommendation n° 41]

Recommendation n°47: *Continue realizing the necessary efforts to eradicate all forms of discrimination, through the implementation of commitments it undertook with CERD* (Recommended by *Bolivia*)

IRI: *partially implemented*

AHRC response:

One of the major recommendations to be implemented by the government has been the adoption of a law criminalizing caste-based discrimination. Nevertheless, efforts to ensure the smooth administration of justice for the persons affected by caste-



based discrimination have been few and far between, as was underlined by an OHCHR report in December 2011 and the law has therefore made little difference in the everyday life of the Dalit community.

NHRC response:

[See response to recommendation n° 41]

Recommendation n°48: *While appreciating the fact that the 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 (Recommended by Czech Republic)*

IRI: partially implemented

CSW response:

Fully comprehensive legislation has been enacted, but caste discrimination has by no means been eliminated, and there needs to be a higher priority given to this problem and adequate resources allocated to such bodies as the National Dalit Commission

NDFPHR response:

Partially implemented. Although efforts were done, the discrimination of vulnerable groups is still a widespread reality. Particularly vulnerable groups such as women, former bonded laborers, Janajatis, Dalits, other ethnic, religious and sexual minorities, landless, persons with disabilities or HIV/AIDS suffer from multiple forms of discrimination. They are frequently denied access to land, food, healthcare, education, work, justice and the participation in decision-making processes. Although Nepal has adopted a law that prohibits caste-based discrimination and the so-called practice of “untouchability”, an effective implementation is still lacking. Dalits are still suffering from severe human rights violations and even murder. Moreover, women are still largely exposed to domestic and sexual violence. Still women are discriminated upon regarding their access to resources, both natural – land and forest – and labor and income opportunities. Still, in most cases women do not possess their own land. Traditional practices and some legal regulations still in force, as for example those related to inheritance, impede equal access of women to food producing resources. In addition, rural women, that are part of the poor and indigenous communities, often are victims of multiple discriminations.

AHRC response:

One of the major recommendations to be implemented by the government has been the adoption of a law criminalizing caste-based discrimination. Nevertheless, efforts to ensure the smooth administration of justice for the persons affected by caste-based discrimination have been few and far between, as was underlined by an OHCHR report in December 2011 and the law has therefore made little difference in the everyday life of the Dalit community.

NHRC response:

[See response to recommendation n° 41]



Recommendation n^o74: *Protect its citizens from labour exploitation at home and abroad by providing improved regulation and oversight of workplace practices (Recommended by United States)*

IRI: *partially implemented*

CWIN response:

Young girls have become the pray of the labour exploitation. Government should be focus on this area too.

NHRC response:

- The state mechanism has not given adequate attention to protect economic, social and cultural rights. People in rural areas are particularly affected by this, are dying due to starvation and easily preventable diseases like diarrhea.
- The basic economic and social rights have not been available for the public due to widespread corruption, lack of good governance and accountability.
- The Government has declared abolition of some traditional forms of labor exploitation. However, such traditions are not completely abolished due to the lack of proper implementation of programs to manage and rehabilitate such bonded laborers. The Government has declared abolition of some forms of slavery (types of bonded laborers like Kamaiya, Haliya, Kamalari), however, in practice a large number of poor people are still working in such forms of labor.
- The Government has enacted guidelines for providing education to Kamalari having provisions of scholarship for Kamalaris.
- The Government could not enact the law ensuring minimum wage for labor work in the informal sector. Large numbers of laborers including children have fallen the victims of labor exploitation. The Commission has recorded some cases of suicide of domestic workers especially by women domestic workers working in urban areas.
- The Government mentioned that more than fifty thousand people have got employment/self employment through the cooperatives and it has contributed to economic empowerment of people by providing freedom from hunger and poverty. However the money invested by the people in such cooperatives has been swindled and is insecure due to either forgery or lack of effective monitoring of Government on such practice or high rate of interest.
- In the recent days the Government has started to monitor some cooperatives. The Government has mentioned that it has monitored 155 Cooperatives and has planned to monitor 566 Cooperatives [...] having more than five crore cash in this fiscal year.
- Large numbers of young people have been migrating to work abroad due to the lack of employment opportunity in the country. The initiation of the Government to protect rights of those migrant workers is completely insufficient. In many cases, the Government has to facilitate to ensure insurance of deceased migrant citizens and it takes months to bring dead bodies back home. Human Smuggling has been increasing during the process of foreign employment.
- Mainly the migrant laborers working in informal sector has been in vulnerable situation due to labor exploitation and insecurity. The situation of women working in such sector is more vulnerable. In this regard GoN ought to pay attention by implementing special programs and enhance monitoring.



- It is found that Nepal is in the position to achieve almost all targets of Millennium Development Goals (MDG).
- The GoN has been found to be working to identifying data of poor people. For this purpose the Government has launched survey to identify poor families by distributing thirteen hundred thousand forms in twenty four districts with an aim to extend the survey in remaining districts.
- The Government has mentioned that the percentage of poverty is 23.8% and it has a plan to limit it by 18% in the period of three years. Despite the decrement of poverty in total population, status of sectorial poverty has been challenging; Karnali Zone and Far western Region have a higher level of poverty than the national average. In addition percentage of poverty in Dalit people and backward community is very high.
- The Government failed to deliver its development plans, policies and also enact the full budget due to contradictions among the political parties in formation of government. By the reason economic development and poverty alleviation programs are being affected severely.
- Economic and social development of the country from grassroots level as well targets to meet Millennium Development Goals has been seriously affected by the failure of fulfilment of local bodies by the general election since 15 years.
- The prevailing situation of widespread corruption is one of the major challenges for economic and social development of the country. According to the report of Transparency International 2012 Nepal lies in 139th position in the Corruption Index.

Recommendation n^o75: Intensify efforts in providing basic services to vulnerable or marginalized groups or communities particularly providing quality health and education services and creating more employment opportunities (Recommended by Myanmar)

IRI: partially implemented

NDFPHR response:

Most of the programs related to water supply and sanitation, are still concentrated on the urban areas.

UNRCO response:

Though there has been improvement in access to health services over the years, poor health infrastructures and lack of qualified and sufficient health staff along with socio-cultural barriers has contributed to poor health status among Nepalese population especially in rural regions of Nepal. Sexual and reproductive health rights and issues of women and adolescent girls are significantly affected by it. Uterine prolapsed is one of the common issues which affect 10 percent of women nationally. Uterine prolapsed among women in Nepal is generally caused by engagement in hard work (including heavy lifting) with little or no rest during pregnancy or the postpartum period . Feeding practices during pregnancy, post-pregnancy and menstruation period still remains conservative. Prevalence of harmful socio-cultural practices such as Chhaupadi is still highly prevalent in Far Western part of the Country which has serious health ramifications on young women. Risk of HIV/AIDS to women from migrant spouses in far and mid-western Nepal has emerged as another grave health issue



NCARD+IPRAN response:

According to the Multilingual Education experts working under the Ministry of Education, the Government has formed Multilingual Education Implementation Guidelines in 2066 BS (2009). The Guidelines aim to implement multilingual education in 7,500 schools by 2015; however, such education has been implemented in only 24 schools so far. In northern mountainous region and Maithili speaking areas in the south, schools provide multilingual education in respective native languages that are yet to receive official governmental recognition. Further, the Government's Multilingual Education programme also includes language education as Multilingual Education rather than education provided using native languages as medium of instruction.

Thus, following recommendation of the Special Rapporteur on Indigenous Peoples (SRIP) made in his 2009 report (A/HRC/12/34/Add.3) should be emphasized:

Existing plans for bilingual education should be enforced as a matter of priority in order to promote the revitalization and development of Adivasi Janajati languages, including by allocating the required human and financial resources to allow for effective implementation of such programmes.

Recommendation n^o77: *Step up its efforts to reduce poverty, particularly rural poverty* (Recommended by *Algeria*)

IRI: *partially implemented*

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Recommendation n^o78: *Reinforce its efforts in the area of the fight against poverty with a view to attaining the Millennium Development Goals and to request the necessary financial and technical assistance in this regard* (Recommended by *Morocco*)

IRI: *partially implemented*

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Recommendation n^o79: *Continue implementing the necessary economic measures to eradicate poverty, allowing all the Nepalese population a life with dignity* (Recommended by *Bolivia*)

IRI: *not implemented*

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Recommendation n^o82: *Continue applying the strategies and plans for socio-economic development of the country* (Recommended by *Cuba*)

IRI: *partially implemented*

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Recommendation n^o83: *Speed up its efforts to reduce poverty and unemployment in the country and seek broader international cooperation to deal with the threats posed by climate change* (Recommended by *Azerbaijan*)

IRI: -

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Recommendation n^o84: *Continue its efforts to combat poverty and ensure sustainable development* (Recommended by *Russian Federation*)

IRI: *partially implemented*

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Recommendation n°87: *Continue its efforts, through the UNFCCC and other forums, to remind the international community, especially developed countries and other major emitting States, of their obligations to protect and promote human rights in Nepal by reducing greenhouse gas emissions to safe levels (Recommended by Maldives)*

IRI: -

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Recommendation n°91: *Continue pursuing and enhancing housing programmes, which appear to have yielded good results (Recommended by Singapore)*

IRI: -

NHRC response:

- The state mechanism has not given adequate attention to protect economic, social and cultural rights. People in rural areas are particularly affected by this, are dying due to starvation and easily preventable diseases like diarrhea.
- The basic economic and social rights have not been available for the public due to widespread corruption, lack of good governance and accountability.
- The Government has declared abolition of some traditional forms of labor exploitation. However, such traditions are not completely abolished due to the lack of proper implementation of programs to manage and rehabilitate such bonded laborers. The Government has declared abolition of some forms of slavery (types of bonded laborers like Kamaiya, Haliya, Kamalari), however, in practice a large number of poor people are still working in such forms of labor.
- The Government has enacted guidelines for providing education to Kamalari having provisions of scholarship for Kamalaris.
- The Government could not enact the law ensuring minimum wage for labor work in the informal sector. Large numbers of laborers including children have fallen the victims of labor exploitation. The Commission has recorded some cases of suicide of domestic workers especially by women domestic workers working in urban areas.
- The Government mentioned that more than fifty thousand people have got employment/self employment through the cooperatives and it has contributed to economic empowerment of people by providing freedom from hunger and poverty. However the money invested by the people in such cooperatives has been swindled and is insecure due to either forgery or lack of effective monitoring of Government on such practice or high rate of interest.
- In the recent days the Government has started to monitor some cooperatives. The Government has mentioned that it has monitored 155 Cooperatives and has planned to monitor 566 Cooperatives [...] having more than five crore cash in this fiscal year.
- Large numbers of young people have been migrating to work abroad due to the lack of employment opportunity in the country. The initiation of the Government to protect rights of those migrant workers is completely insufficient. In many cases, the Government has to facilitate to ensure insurance of deceased migrant citizens and it takes months to bring dead bodies back home. Human Smuggling has been increasing during the process of foreign employment.
- Mainly the migrant laborers working in informal sector has been in vulnerable situation due to labor exploitation and insecurity. The situation of women working



- in such sector is more vulnerable. In this regard GoN ought to pay attention by implementing special programs and enhance monitoring.
- It is found that Nepal is in the position to achieve almost all targets of Millennium Development Goals (MDG).
 - The GoN has been found to be working to identifying data of poor people. For this purpose the Government has launched survey to identify poor families by distributing thirteen hundred thousand forms in twenty four districts with an aim to extend the survey in remaining districts.
 - The Government has mentioned that the percentage of poverty is 23.8% and it has a plan to limit it by 18% in the period of three years. Despite the decrement of poverty in total population, status of sectorial poverty has been challenging; Karnali Zone and Far western Region have a higher level of poverty than the national average. In addition percentage of poverty in Dalit people and backward community is very high.
 - The Government failed to deliver its development plans, policies and also enact the full budget due to contradictions among the political parties in formation of government. By the reason economic development and poverty alleviation programs are being affected severely.
 - Economic and social development of the country from grassroots level as well targets to meet Millennium Development Goals has been seriously affected by the failure of fulfilment of local bodies by the general election since 15 years.
 - The prevailing situation of widespread corruption is one of the major challenges for economic and social development of the country. According to the report of Transparency International 2012 Nepal lies in 139th position in the Corruption Index.

Recommendation n^o80: *Continue its efforts to achieve equitable socio-economic development, address poverty alleviation through its overarching objective according to its current policies and Action Plans with the support by the international community in order to meet the targets of MDGs (Recommended by Cambodia)*

IRI: *partially implemented*

NDFPHR response:

- Partially implemented. Nepal is still experiencing a food crisis. The right to adequate food of the socially discriminated and economically poor is being frequently violated. It is estimated that more than 5 million of the 26.5 million inhabitants are undernourished; 40% of the children aged beyond 5 suffer from malnutrition. Little has been done to overcome the causes as the low level of agricultural productivity, small cultivatable areas, lack of purchasing power due to insufficient employment opportunities and inadequate remuneration.
- Particularly vulnerable groups such as women, former bonded laborers, Janajatis, Dalits, other ethnic, religious and sexual minorities, landless, persons with disabilities or HIV/AIDS suffer from multiple forms of discrimination. They are frequently denied/or unable to get access to land, food, healthcare, education, work, justice and the participation in decision-making processes. Limited access to and control over productive resources, to employment and income generating options and space to voice and decide for their rights are the major obstacles.
- To overcome hunger and malnutrition in Nepal with special regard to vulnerable groups, the state of Nepal has formulated several constitutional provisions, laws,



policies, plans and programs. However, the institutional frameworks and capacity for implementation of the right to food is weak: the sectoral policies, laws and programs are not properly harmonized and coordinated as to respond to the human right to adequate food and related rights of women. Implementation of monitoring systems, transparency and accountability, as well as mechanisms to assess and ascertain the quality of change in the lives of people in particular women, are still pendent of implementation.

- There is still improvement needed, in particular with regard to the right to food of the HIV/Aids infected women. The National HIV/AIDS Strategy (2006-2011) does not have any specific references to the sexual and reproductive health and HIV prevention service needs of girls and young women. There are limited plans on addressing the infected and affected women's issue of livelihood opportunities and social security schemes and ensuring their nutrition requirement for effective treatment. Voluntary counseling and testing (VCT) services, ARV drugs and substitution drugs which are only available in district HQs are not easily accessible for the affected communities in particular those who live in rural remote areas. Lack of funds for transportation and stay during the treatment has become major hindrances as there is no provision for monetary support and assistance to cover for the expense of long distance travel and stay during the treatment.

NHRC response:

[See response to recommendation n° 77]

NCARD+IPRAN response:

Central Bureau of Statistics (CBS), National Planning Commission, GON has already started to generate census statistics on the basis of ethnicity/caste, language, religion and geographical region and major identity criteria since 1991 census which was further consolidated in 2001 and 46 Adivasi Janajati (indigenous and tribal groups) were identified/enumerated in census 2001. Adivasi Janajati population constituted 37.2 percent of the total population (22.7 million)...Governmental agencies, including CBS, Ministry of Education, has already begun to disaggregate national data by major identity groups, like dominant caste groups or Brahman-Chhetris (mountain, hill and Tarai), oppressed caste groups (Dalits) (mountain, hill and Tarai), Adivasi Janajati (mountain, hill and Tarai), Madhesi caste groups and Muslims and by gender within their resource limitations and GON is encouraging other concerned agencies to disaggregate data for their specific purposes by providing basic raw data for further processing.

The 2011 census data provides disaggregated information organized by categories of indigenous ethnicity or nationality, and referenced in relation to gender. However, the 2011 census reports, like past census reports, have drawn wide criticisms from indigenous peoples and their organizations including NEFIN. They have alleged that the census process was biased to favor the dominant groups and reported a decrease in the number of indigenous and other marginalized groups. Most of the enumerators were from dominant caste groups and they produced manufactured data during the census process by altering the information provided. As per the census report, the indigenous population has reduced from 37.2% to 35% of the total



national population. Indigenous peoples have long claimed their actual population to be between 40 and 50% of Nepal's total population. While the report has completely omitted a number of identified indigenous groups, it is inaccurate in its socio-economic data and it is contradictory in terms of credibility; for instance it shows greater number of language speakers than respective indigenous people.

Thus following recommendation of the Special Rapporteur on Indigenous Peoples (SRIP) made in his 2009 report (A/HRC/12/34/Add.3) is reiterated:

- National census data should include disaggregated information organized by categories of indigenous ethnicity or nationality, and referenced in relation to gender, taking into account the criterion of self-identification, in order to promote accurate understanding of indigenous peoples' situations and the development of appropriate, gender-sensitive programming.
- The Government should make efforts beyond those already in place to ensure that birth and citizen certificates are issued for indigenous people, in particular for those residing in the remote areas of the country.

Additionally, following recommendations are made:

- The Government should conduct re-census, particularly in the areas with majority indigenous populations.
- The Government should produce disaggregated data for census and survey reports with effective participation of indigenous peoples.
- International actors should collaborate with the Government and indigenous peoples for producing such disaggregated data relevant to their overall development.

On the other hand, the Interim Three-Year Plan of Nepal for the period of 2007-10 had included in the main programmes of the Government to identify and amend legal and policy provisions that contradict with the Convention 169 and make necessary arrangements for guaranteeing the rights of indigenous peoples of Nepal as per the UN Declaration on the Rights of Indigenous Peoples. At the same time, number of targeted socio-economic development programmes was proposed in the plan, including allocation of specific local budget for indigenous peoples and other marginalized groups. However, there has not been effective monitoring of those programmes implemented under the plan and budget allocated for indigenous peoples and other groups. There have been reports that such budget has been used for overall development programmes rather than targeted development of those groups.

Further, the current Interim Three-Year Plan for the period of 2011-13 comprises strategies and programmes for the rights of indigenous peoples but completely omits the implementation of the Convention 169 and the UN Declaration and lessens specific socio-economic development programmes for indigenous peoples and other marginalized groups.

Hence, following recommendation of the Special Rapporteur on Indigenous Peoples (SRIP) made in his 2009 report (A/HRC/12/34/Add.3) should be reiterated:



Special programmes and policies should be strengthened and developed in order to promote the social and economic development and access to public services of the Adivasi Janajati, in accordance with their own priorities and cultures, and with their full participation.

Recommendation n°85: Step up efforts to achieve the effective realization of economic, social and cultural rights for the marginalized and vulnerable groups by ensuring that they are provided with adequate access to food, health, education and fair employment (Recommended by Malaysia)

IRI: partially implemented

NDFPHR response:

[See response to recommendation n° 80]

NHRC response:

[See response to recommendation n° 77]

NCARD+IPRAN response:

With respect of cultural rights of indigenous peoples, the Government has instituted the NFDIN in 2003 following the provision of the National Foundation for Development of Indigenous Nationalities Act, 2002 entrusting the responsibilities of preserving and promoting the languages, scripts, cultures, traditions/customs, literatures, arts, histories, traditional knowledge, skill, technology, and special know-how of the Adivasi Janajati. NFDIN formulates programmes to carry out its responsibilities with participation of IPOs respecting freely expressed wishes of the specific groups of Adivasi Janajati, in terms of their programme proposals based on their needs, situations and aspirations. The annual programmes are mainly related to the protection of persons (belonging to endangered groups, vulnerable indigenous women), institutions, cultures, environment, community or collective property and labour (skills training and capacity enhancement for employability, advocacy for fair opportunity of employment, orientation on decent work and international labour standards, etc.)

The Government is providing annual grant to NFDIN to initiate and implement the programmes of protection, preservation and promotion of the cultures, languages, institutions, traditional knowledge and skills of Adivasi Janajati and other planned activities of their socio-economic development as outlined in the periodic plan of the Government and to revive and strengthen their traditional or representative institutions or organizations every year under its institutional strengthening programme. Each institution or organization of Adivasi Janajati is receiving certain amount of financial support each year to implement its initiatives or activities from NFDIN.

As per the information provided by NFDIN, the Government has been significantly decreasing the annual grant provided to the NFDIN. For the fiscal year 2012-13, the NFDIN had requested an annual budget of 171.5 million Nepali Rupees for its programmes and activities; however, the Government provided only 79 million Nepali Rupees against its commitment to provide 110 million Nepali Rupees.



Thus, following recommendation of the Special Rapporteur on Indigenous Peoples (SRIP) made in his 2009 report (A/HRC/12/34/Add.3) should be reiterated with particular emphasis for adequate budget for annual programmes of NFDIN.

NDFIN should develop a national programme aimed at promoting the conservation and development of the cultural heritage of the Adivasi Janajati, including indigenous languages, traditional medicines and healing practices, religious or spiritual sites and practices, and cultural traditions and festivities, with the involvement of all Government ministries or agencies concerned and with the participation of Adivasi Janajati representatives.

Recommendation n°90: *Expand its School Feeding Programmes and use locally sourced food* (Recommended by *Brazil*)

IRI: *partially implemented*

NHRC response:

- The Ministry of Education has launched Food for Education Program in selected areas however the program has covered a very smaller part of the country.
- Despite the continuous program of Government for compulsory and free education, the education in Government Schools has not become completely free.
- Children who are out of families and children from Dalit and Janajati community are being deprived from easy access to quality education.
- Nepal has implemented the Program on Education for All until 2015. In this regard school enrolment rate has reached to 95.1%. However due to dropout problem the percentage of children who complete school education is still low. Enrolment rate of Children from Dalit, Janajati and minority community is comparatively low.
- The Government has implemented the separate policy on enrolment of girl children in school. By the result enrolment of girl children has been increasing rapidly in the recent days.

Recommendation n°93: *Continue applying programmes and measures for the enjoyment of the right to education and the right to health* (Recommended by *Cuba*)

IRI: *partially implemented*

NCARD+IPRAN response:

According to the Multilingual Education experts working under the Ministry of Education, the Government has formed Multilingual Education Implementation Guidelines in 2066 BS (2009). The Guidelines aim to implement multilingual education in 7,500 schools by 2015; however, such education has been implemented in only 24 schools so far. In northern mountainous region and Maithili speaking areas in the south, schools provide multilingual education in respective native languages that are yet to receive official governmental recognition. Further, the Government's Multilingual Education programme also includes language education as Multilingual Education rather than education provided using native languages as medium of instruction.

Thus, following recommendation of the Special Rapporteur on Indigenous Peoples (SRIP) made in his 2009 report (A/HRC/12/34/Add.3) should be emphasized:



Existing plans for bilingual education should be enforced as a matter of priority in order to promote the revitalization and development of Adivasi Janajati languages, including by allocating the required human and financial resources to allow for effective implementation of such programmes.

Recommendation n°112: *Take prompt and effective measures to safeguard the equal enjoyment of human rights by all, and to combat discrimination in all its forms* (Recommended by Sweden)

IRI: *partially implemented*

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Recommendation n°114: *Criminalize discrimination based on caste, gender, religion, ethnicity, political belief or disabilities* (Recommended by Germany)

IRI: *partially implemented*

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Recommendation n°115: *Initiate legislative measures to effectively address and eradicate longstanding discrimination, including "untouchability"* (Recommended by Austria)

IRI: *partially implemented*

NDFPHR response:

Partially implemented. Although efforts were done, the discrimination of vulnerable groups is still a widespread reality. Particularly vulnerable groups such as women, former bonded laborers, Janajatis, Dalits, other ethnic, religious and sexual minorities, landless, persons with disabilities or HIV/AIDS suffer from multiple forms of discrimination. They are frequently denied access to land, food, healthcare, education, work, justice and the participation in decision-making processes. Although Nepal has adopted a law that prohibits caste-based discrimination and the so-called practice of "untouchability", an effective implementation is still lacking. Dalits are still suffering from severe human rights violations and even murder. Moreover, women are still largely exposed to domestic and sexual violence.

- After the end of 2012 several cases of violence against women such as murder and rape were/have been brought to the attention of the public, e.g. the case of Sita Rai in December 2012. Members of the civil society formed the movement "Occupy Baluwatar" and protested those cases and the lack of investigation by the respective authorities. Although the authorities promised the investigation and prosecution of those responsible in those crimes, little has been done to address the root causes of violence against women as it is also the case regarding caste-based discrimination.
- Still women are discriminated upon regarding their access to resources, both natural – land and forest – and labor and income opportunities. Still, in most cases women do not possess their own land. Traditional practices and some legal regulations still in force, as for example those related to inheritance, impede equal access of women to food producing resources. In addition, rural women, that are part of the poor and indigenous communities, often are victims of multiple discriminations.
- The GoN implemented a reservation quota for recruitments by open competition in most civil services but the provisions are criticized inter alia for not providing



genuine proportional representation of all groups with their respective population shares and for mainly reserving posts within the lower ranks of the civil services.

AHRC response:

Discrimination on gender, caste, and ethnic grounds remain rampant in the country, with little scope for redress and the few programmes aiming at the social and economical advancement of marginal groups are ridden with inefficiency and corruption. A law criminalizing untouchability and caste-based discrimination was adopted in 2011. However, due to insufficient police accountability and lack of victim and witness protection mechanism, that law remains only partially implemented and Dalits have a very limited access to justice still.

UNRCO response:

Caste Based Discrimination and Untouchability Act was adopted in May 2011 as an effort to address caste based discrimination. It is crucial now to ensure full implementation of the new law including drafting of the required directives, rules and procedures for the effective implementation of the Act.

NHRC response:

- The Government has been working to ensure civil, political, economic, social and cultural rights of marginalized and excluded group of people due to sex, gender, caste, class, disability, geography and ethnicity. However there are still a lot of things to do towards solving the problem of formidable practice of discrimination.
- The Government has made law and policies to address discrimination against Dalit Community. In this regard, Discrimination in Caste and Untouchability (Crime and Punishment) Act, 2068 has been enacted.
- The status of implementation of law including plans and policies is found very poor. The state ought to embark upon facilitating necessary access for the backward class of the society by enacting programs and ensuring their participation in state sponsored endeavors and programs.
- The trend of untouchability against Dalit people has been decreasing gradually. However, due to lack of effective implementation of law and awareness it has been still prevailing in the society.
- The Government has implemented policy to provide One Hundred Thousand Rupees to the couple who got marriage between Dalit and non-Dalit. Activities of despising, forceful separation, entrapping in fake case and exclusion from society to those who married with dalit people are pervasive as a common trend in society.
- The Administration has been found focused in reconciliation rather than prosecution against culprits involved in act of racial discrimination. Therefore, there are very few people who underwent punishment in comparison to the numerous cases of racial discrimination.
- The Racial Discrimination and Untouchability (Crime and Punishment) Act, 2068 has defined acts of discrimination against caste and religion as a crime. According to the Act, person involved in such crime may get punishment of three months to three years imprisonment and RS One Thousand to Twenty Five Thousand as penalty. However, the law has not criminalized discrimination against sex, political beliefs and disability.



Recommendation n°131: *Develop the necessary tools to ensure education and human rights training, notably for law enforcement officials* (Recommended by Morocco)

IRI: *partially implemented*

NHRC response:

- Continuous political interference has apparently hampered the prosecution of perpetrators who committed serious human rights violations during and after the armed conflict.
- Political interference has hindered to convict affirmed perpetrators (by Courts) under the rule of law.
- Such criminals have been working in high level of political parties, public services and security agencies and are getting promotion as well.
- The facts from monitoring by NHRC shows that in some instances police has been arresting persons without arrest warrant and keeping them in illegal detention.
- After the period of armed conflict, the acts of enforced disappearances have considerably decreased; however, in some cases, detainees have been denied access to communicate with their relatives and lawyers.
- Sufficient initiation is not taken towards making the status of the disappeared persons during the period of armed conflict and with provision of reparation to the victims and prosecuting against perpetrators. For instance, as of today, GoN has not implemented the recommendation of NHRC to publicize the status of 43 disappeared persons from Bhairavnath Battalion of Nepal Army during the period of armed conflict; not to mention, those perpetrators have not been prosecuted. Likewise, the Government has not implemented the recommendation to publicize the status of Arjun Bahadur Lama from Kavrepalanchok district. Nor has it prosecuted the Maoist responsible for the incident.
- In order to make the legislations human rights friendly, reforms have been made continuously; however, further reform is needed.
- In order to promote human rights education, Human Rights Unit in Ministry of Home, Human Rights Cell in Nepal Police and Armed Police Force, Human Rights Division in Ministry of Defense and Human Rights Division in Nepal Army have been established. Such mechanisms are functioning accordingly.
- Nepal Police, Nepal Army and Armed Police Force have been conducting trainings on human rights and humanitarian law in their respective organizations.
- Nepal Police and Nepal Army have adopted the Training Manual on Human Rights in order to provide training in their organizations.
- Furthermore, Nepal Army, Nepal Police and Armed Police Force have prepared and distributed promotional tools including hand book on basic human rights.

CSW response:

Extensive Training of both police and army is needed to inculcate alternative forms of crowd control, interrogation and acquisition of evidence which do not involve torture or physical intimidation. Control management and leadership at all levels must be given strict instructions against using torture or physical intimidation and accusations of torture immediately investigated, prosecuted, and brought to trial. Safeguards against forced confession and intimidation of witnesses must be strictly established and implemented.



CWIN response:

Law enforcement officials should be trained on child rights issues also. Government effort so far should further enhanced.

Recommendation n°137: *Prepare a specific plan to ensure that the Nepal Lands Act will in practice effectively promote equality (Recommended by Finland)*

IRI: not implemented

NHRC response:

The Commitment of Government and Political parties about elimination of feudalistic land ownership system has not been implemented in practice. The Government has failed to implement the recommendations of the Land Reform Commission and Commission to Solve the Problems of Landless People.

NCARD+IPRAN response:

As a result of numerous discriminatory laws including Nepal Lands Act and practices, indigenous peoples are historically deprived of land and natural resources. The dominant groups have expropriated land, habitats, water and other natural resources that were once communally owned known as Kipat by the indigenous peoples. The most important characteristic of this form of land tenure is the inalienability of the land: as Kipat land was tied to the social group, it could not, given its nature, be sold to immigrants. According to the Land Evictions of the Country Code (1963), Kipat that lacks official documents is equivalent to Raikar³⁵ lands on which taxes can be levied. This has led to the loss of indigenous based communal ownership i.e. transforming Kipat land into Raikar that can be used, transferred, and disposed of by anyone. Further, development projects, leasehold and community forests, national parks, and hydro-projects have continued to displace many indigenous peoples from their ancestral lands and territories thereby denying those people their rights to consultation, participation, benefit-sharing and natural resources as per general recommendation XXIII on the rights of indigenous peoples by the ESCR Committee No. 3.

There have been news reports that the Ministry of Land Reform and Management has started preparing a comprehensive National Land Policy to clarify the State's policy on ownership, use and overall management of land. The proposed policy is expected to provide a consolidated outlook of the Government on the varieties of land issues as land-related policies have so far been introduced in bits and pieces. However, there has not been any meaningful participation of indigenous peoples or their representatives in the process while even the information regarding the process is scarce.

Thus, following recommendations in 2010 NGO coalition report to the Government should be reiterated:

- Take tangible measures to recognize and protect the rights of indigenous peoples to own, control, develop and use their ancestral lands, territories and natural resources.



- Consider to adopt special measures to get Free Prior Informed Consent from indigenous peoples prior to executing any development project or undertaking any other activity which materially affects their lives.

[...]

Recommendation n°144: *Take further steps to eliminate discrimination against vulnerable or marginalized groups, including on the basis of gender or caste, by enacting laws to criminalize all forms of discrimination (Recommended by United Kingdom)*

IRI: *partially implemented*

CSW response:

An "Untouchability" Act has been enacted

AHRC response:

A law criminalizing caste based discrimination was adopted. Other forms of discrimination have still not been criminalized

UNRCO response:

Caste Based Discrimination and Untouchability Act was adopted in May 2011 as an effort to address caste based discrimination. It is crucial now to ensure full implementation of the new law including drafting of the required directives, rules and procedures for the effective implementation of the Act.

The Act criminalises untouchability. caste-based discrimination and untouchability practices are prohibited in both public and private spheres, these is increased punishments for public officials found responsible of discrimination, perpetrators are required to provide compensation to victims.

Recommendation n°145: *Review and adopt relevant legislation and policies, including bills related to caste-based discrimination, the Women's Commission, the Dalit Commission, the rights of indigenous peoples and the rights of the child, to ensure full compliance with international human rights standards (Recommended by Norway)*

IRI: *partially implemented*

NHRC response:

- The Government has been working to ensure civil, political, economic, social and cultural rights of marginalized and excluded group of people due to sex, gender, caste, class, disability, geography and ethnicity. However there are still a lot of things to do towards solving the problem of formidable practice of discrimination.
- The Government has made law and policies to address discrimination against Dalit Community. In this regard, Discrimination in Caste and Untouchability (Crime and Punishment) Act, 2068 has been enacted.
- The status of implementation of law including plans and policies is found very poor. The state ought to embark upon facilitating necessary access for the



- backward class of the society by enacting programs and ensuring their participation in state sponsored endeavors and programs.
- The trend of untouchability against Dalit people has been decreasing gradually. However, due to lack of effective implementation of law and awareness it has been still prevailing in the society.
 - The Government has implemented policy to provide One Hundred Thousand Rupees to the couple who got marriage between Dalit and non-Dalit. Activities of despising, forceful separation, entrapping in fake case and exclusion from society to those who married with dalit people are pervasive as a common trend in society.
 - The Administration has been found focused in reconciliation rather than prosecution against culprits involved in act of racial discrimination. Therefore, there are very few people who underwent punishment in comparison to the numerous cases of racial discrimination.
 - The Racial Discrimination and Untouchability (Crime and Punishment) Act, 2068 has defined acts of discrimination against caste and religion as a crime. According to the Act, person involved in such crime may get punishment of three months to three years imprisonment and RS One Thousand to Twenty Five Thousand as penalty. However, the law has not criminalized discrimination against sex, political beliefs and disability.

NCARD+IPRAN response:

Taking into account for the complaints made by several groups for non-recognition for their Adivasi Janajati (indigenous and tribal peoples) identities and consistent demands made for inclusion in the schedule of Adivasi Janajati, GON has formed a “High Level Taskforce for Revising Schedule of Adivasi Janajati” (Taskforce) under the Convenor-ship of Prof. (Dr.) Om Gurung, Head of the Central Department of Tribhuvan University, Kathmandu and former General Secretary of Nepal Federation of Indigenous Nationalities (NEFIN). The Taskforce has been given mandate to identify new Adivasi Janajati and verify the already recognized ones with their current socio-economic and cultural status by adopting its own methods of field study, consultations, interactions and empirical inquiries. The Taskforce has taken the provision of ‘self-identification’ as one of the fundamental criteria. It completed its inquiries on more than 100 groups that have claimed Adivasi Janajati status and has submitted its report to the Prime Minister. GON is scrutinizing the details of the report for appropriate action.

On the other hand, in course of their opposition to “ethnic” or “identity-based federalism” in 2012, members of Brahmin and Chhetri caste groups not included in the proposed list of indigenous groups of the Taskforce have actively sought recognition as indigenous peoples, in some cases claiming that their presence in Nepal predates that of some groups that have been recognized as indigenous peoples. The relevant Government ministries have given initial consideration to these demands and the recognition of the Brahmin and Chhetri groups as indigenous seems likely. The efforts of these high-caste groups for recognition as indigenous peoples would undermine the legal and political demands of Adivasi Janajati groups who have been historically suppressed by these same high-caste groups for



centuries. Consequently, there are concerns that recognition of these groups would aggravate ethnic tensions in Nepal to the detriment of Adivasi Janajati groups.

In this context, it is emphasized that the formation of the aforementioned Taskforce contradicts Section 25 of NFDIN Act 2002 that states: “The Government of Nepal shall revise or adjust the Schedule (official list of Adivasi Janajati) with the recommendation of the Governing Council by publishing notice in the Nepal Gazette.” Thus, amendment in the official list of Adivasi Janajati should follow the procedures as stated in the NFDIN Act. At the same time, the following recommendation of the Special Rapporteur on Indigenous Peoples (SRIP) made in his 2009 report (A/HRC/12/34/Add.3) is reiterated:

The official list of Adivasi Janajati should be open to amendment in order to ensure the inclusion of all such indigenous groups in the relevant consultations and in the programmes aimed at benefiting indigenous peoples.

Further, it is recommended that National Foundation for Development of Indigenous Nationalities Act 2002 should be reformed or implemented in a way that ensures that the criteria it sets forth in the identification of indigenous peoples is consistent with the international human rights instruments on indigenous peoples’ rights.

CSW response:

Nepal has yet to develop a full awareness of its treaty obligations for human rights and the expertise available to it through international treaty bodies and Special Rapporteurs. Nepal should immediately invite Special Rapporteurs to visit Nepal, especially in the fields of Torture, Disappearances, Religious Freedom and Freedom of Expression. All correspondence with Special Rapporteurs must be given full attention at the highest level and replies sent within acceptable time limits.

AHRC response:

National women commission act was passed in 2007, the Caste Based Discrimination and Untouchability (Offence and Punishment) Act, was passed in 2011. Other bills were not adopted

UNRCO response:

Caste Based Discrimination and Untouchability Act was adopted in May 2011 as an effort to address caste based discrimination. It is crucial now to ensure full implementation of the new law including drafting of the required directives, rules and procedures for the effective implementation of the Act.

Recommendation n°146: *That cases of caste-based discriminations be reported, investigated, perpetrators prosecuted and victims of such violence are compensated* (Recommended by Czech Republic)

IRI: not implemented

NHRC response:

- The Government has been working to ensure civil, political, economic, social and cultural rights of marginalized and excluded group of people due to sex, gender, caste, class, disability, geography and ethnicity. However there are still a lot of things to do towards solving the problem of formidable practice of discrimination.



- The Government has made law and policies to address discrimination against Dalit Community. In this regard, Discrimination in Caste and Untouchability (Crime and Punishment) Act, 2068 has been enacted.
- The status of implementation of law including plans and policies is found very poor. The state ought to embark upon facilitating necessary access for the backward class of the society by enacting programs and ensuring their participation in state sponsored endeavors and programs.
- The trend of untouchability against Dalit people has been decreasing gradually. However, due to lack of effective implementation of law and awareness it has been still prevailing in the society.
- The Government has implemented policy to provide One Hundred Thousand Rupees to the couple who got marriage between Dalit and non-Dalit. Activities of despising, forceful separation, entrapping in fake case and exclusion from society to those who married with dalit people are pervasive as a common trend in society.
- The Administration has been found focused in reconciliation rather than prosecution against culprits involved in act of racial discrimination. Therefore, there are very few people who underwent punishment in comparison to the numerous cases of racial discrimination.
- The Racial Discrimination and Untouchability (Crime and Punishment) Act, 2068 has defined acts of discrimination against caste and religion as a crime. According to the Act, person involved in such crime may get punishment of three months to three years imprisonment and RS One Thousand to Twenty Five Thousand as penalty. However, the law has not criminalized discrimination against sex, political beliefs and disability.

CSW response:

The willingness of the police to investigate, process and prosecute cases of discrimination against and mistreatment of Dalits has been very suspect. Priority treatment for Dalit cases in police hands is urgently needed, and the treatment of Dalits in custody urgently needs monitoring and improving.

AHRC response:

A law criminalizing caste based discrimination and laying down specific punishment for instances of caste based discrimination. Even though in a couple of cases, after much advocacy, victims have been successful in obtaining compensation, most of the time they face tremendous obstacles to access justice, having to deal with an unfavourable local balance of power, the absence of victim and witness protection mechanism and deficient justice institutions.

Recommendation n^o166: *Ensure that the new labour legislation includes provisions prohibiting discrimination both in the employment and the recruitment procedures, as set out in ILO Convention No. 111 (Recommended by Poland)*

IRI: -

NHRC response:

The Government has been working to ensure civil, political, economic, social and cultural rights of marginalized and excluded group of people due to sex, gender,



caste, class, disability, geography and ethnicity. However there are still a lot of things to do towards solving the problem of formidable practice of discrimination. [...]

Recommendation n°194: In order to address the problems and constraints, the GON has identified various activities as key national priorities and commitments, particularly: institutionalizing the rule of law, bringing the on-going peace process to a meaningful conclusion, framing a new constitution, carrying out a democratic, federal, inclusive and progressive state restructuring, rehabilitation and integration of Maoist combatants, achieving wider economic growth to expedite the process of socio-economic transformation, and balanced and inclusive development, making necessary legal reforms and effective implementation of relevant laws, effective implementation of human rights action plan, and other national action plans, including on CEDAW and on the rights of PWDs, formulation and implementation of action plan on the ILO Convention 169, institutional strengthening of national human rights institutions, support for judicial reforms and law enforcement agencies. Similarly, capacity building on treaty body reporting, carrying out further measures to end impunity in any form, providing transitional justice, ending caste-based discrimination in all forms, effective implementation of ICERD, ending GBV, national monitoring of status of implementation of human rights treaty obligations, improvement in prisons and detention facilities, and enhanced human rights education to law enforcement agencies, armed and police forces are also the key priorities and commitments. Commitments also include continued constructive engagement with UN, human rights mechanisms and international community and close collaboration with the civil society. (Recommended by Nepal)

IRI: -

FEDO response:

[Government of Nepal] has failed to make new constitution and political parties seem very irresponsible and not accountable towards the citizens. Inclusive policy not effectively implemented, caste-based discrimination cases not taking seriously but in some cases victims got justice only after long pressurize of CSO. Justice providing agencies and police they could not take these cases seriously and the victims are being discouraged to file the CBD cases. Due to the political instability, government has not take any speed of development and all political party leaders and government people are in transitional phase. Nepalese people have hoped to be fair and peace election that government has declared on 19 November, 2013. Hope after election, constitution will be written and other commitments from the government implemented well.

Minorities

Recommendation n°89: *Improve food safety of vulnerable groups, particularly indigenous people, former bonded labourers, Dalits, Muslims, persons with disabilities and those who are infected with HIV/AIDs* (Recommended by Hungary)

IRI: *not implemented*

COSFONAD response:

One of the most vulnerable groups regarding the food security in Nepal are the [indigenous peoples (IP)]. The food habit of the IPs are related to their tradition, culture and religions but the state [is] constantly reluctant to ensure their food rights [according to] their tradition, culture and religion. For instance, there is tradition of [consumption], by tradition and religion, of the beef (cow meat) of the most of the IPs. But there is contradictory law to this. [...] Any individual if he/she consume beef or kill cow [can be sentenced to] 14 years [in prison]. So, the government also failed to amend the law to safeguard the IPs right regarding food security.

NDFPHR response:

- Partially implemented. Nepal is still experiencing a food crisis. The right to adequate food of the socially discriminated and economically poor is being frequently violated. It is estimated that more than 5 million of the 26.5 million inhabitants are undernourished; 40% of the children aged beyond 5 suffer from malnutrition. Little has been done to overcome the causes as the low level of agricultural productivity, small cultivatable areas, lack of purchasing power due to insufficient employment opportunities and inadequate remuneration.
- Particularly vulnerable groups such as women, former bonded laborers, Janajatis, Dalits, other ethnic, religious and sexual minorities, landless, persons with disabilities or HIV/AIDS suffer from multiple forms of discrimination. They are frequently denied/or unable to get access to land, food, healthcare, education, work, justice and the participation in decision-making processes. Limited access to and control over productive resources, to employment and income generating options and space to voice and decide for their rights are the major obstacles.
- To overcome hunger and malnutrition in Nepal with special regard to vulnerable groups, the state of Nepal has formulated several constitutional provisions, laws, policies, plans and programs. However, the institutional frameworks and capacity for implementation of the right to food is weak: the sectoral policies, laws and programs are not properly harmonized and coordinated as to respond to the human right to adequate food and related rights of women. Implementation of monitoring systems, transparency and accountability, as well as mechanisms to assess and ascertain the quality of change in the lives of people in particular women, are still pendent of implementation.
- There is still improvement needed, in particular with regard to the right to food of the HIV/Aids infected women. The National HIV/AIDS Strategy (2006-2011) does not have any specific references to the sexual and reproductive health and HIV prevention service needs of girls and young women. There are limited plans on addressing the infected and affected women's issue of livelihood opportunities and social security schemes and ensuring their nutrition requirement for effective



treatment. Voluntary counselling and testing (VCT) services, ARV drugs and substitution drugs which are only available in district HQs are not easily accessible for the affected communities in particular those who live in rural remote areas. Lack of funds for transportation and stay during the treatment has become major hindrances as there is no provision for monetary support and assistance to cover for the expense of long distance travel and stay during the treatment.

UNRCO response:

At present, the scope of many of the economic, social and cultural rights including the right to food sovereignty recognized in the Interim Constitution are limited by references to the rights existing to the extent that they are provided for 'by law'. Such rights, among other, include: the right to employment 'as provided for in the law' (Article 18(1)), the right to food sovereignty as provided for in the law, the right to social security 'as provided for in the law' for women, labourers, the aged, disabled, incapacitated, and helpless citizens (Article 18(2)), the right to form trade unions, organize themselves and engage in collective bargaining 'in accordance with the law' (Article 30(2)), right to legal aid to indigent people as provided for in law. These provisions indicate significant potential limitations on the rights as they can be restricted by existing and future laws.

Similarly, the Interim Constitution does guarantee the freedom from hunger as an enforceable fundamental rights and also does not incorporate fuller term of the right to an adequate standard of living for a person and his/her family, including adequate food, clothing and housing, and to the continuous improvement of living conditions protected under Article 11 of ICESCR. It is therefore imperative to enact a legislation order to enable people to make concrete claims under these rights guaranteed by the constitution. Emphasizing the importance of such an implementing legislation, the Supreme Court has also ordered the Government to make sure that the necessary laws are enacted to give effect to the right to food sovereignty and associated guarantees. However, such laws are yet to be enacted. Consideration should be given towards adopting comprehensive framework legislation on the right to food as ordered by the Supreme Court to provide a strong legal basis for the rights-holders to make enforceable legal claims. There is no legal provision that recognizes community ownership of natural resources including land and also there is absence of the requirement to consult with the community while executing the development project affecting the interest of the forest-dependent indigenous community. While deprivation of women from food is prohibited, there is a gap of law to address the special dietary need of women in specific circumstances such as during the pregnancy and delivery. It is also important for the Anti discrimination law to expressly deal with discrimination in distribution of food at household level. Many of the legislations including the Natural Disaster relief Act were not made with right based perspective. Therefore, there is no potential for the people in need of emergency food assistance to claim the right to food and other relief material. Existing fragmented legal regime on social justice empowers the State to take actions towards remedying the social and economic insecurities that exist in the society. However, that fails to internalize a rights-based approach which enables the citizen to claim a protection from the state. Future legislative initiative should focus on



converting prevailing welfare-based provisions into the one that is based on rights-based approach. Therefore, the scattered provisions aiming to promote social justice should be revised in light of the Interim Constitution and the ICESCR that, inter alia, offer guarantee of minimum essential foods for everyone. National census on health shows that 18% of women of age-group 15-49 are malnourished (falling below the required body mass index), 14% are overweight, 35% of 15-49 age group are anemic, 29% are mildly anemic, six percent are moderately anemic while less than one percent are severely anemic. Lack of access to land rights, financial dependency on men, feeding practices during reproductive period has negatively contributed to food and nutrition security of women.

NHRC response:

- The state mechanism has not given adequate attention to protect economic, social and cultural rights. People in rural areas are particularly affected by this, are dying due to starvation and easily preventable diseases like diarrhea.
- The basic economic and social rights have not been available for the public due to widespread corruption, lack of good governance and accountability.
- The Government has declared abolition of some traditional forms of labor exploitation. However, such traditions are not completely abolished due to the lack of proper implementation of programs to manage and rehabilitate such bonded laborers. The Government has declared abolition of some forms of slavery (types of bonded laborers like Kamaiya, Haliya, Kamalari), however, in practice a large number of poor people are still working in such forms of labor.
- The Government has enacted guidelines for providing education to Kamalari having provisions of scholarship for Kamalaris.
- The Government could not enact the law ensuring minimum wage for labor work in the informal sector. Large numbers of laborers including children have fallen the victims of labor exploitation. The Commission has recorded some cases of suicide of domestic workers especially by women domestic workers working in urban areas.
- The Government mentioned that more than fifty thousand people have got employment/self employment through the cooperatives and it has contributed to economic empowerment of people by providing freedom from hunger and poverty. However the money invested by the people in such cooperatives has been swindled and is insecure due to either forgery or lack of effective monitoring of Government on such practice or high rate of interest.
- In the recent days the Government has started to monitor some cooperatives. The Government has mentioned that it has monitored 155 Cooperatives and has planned to monitor 566 Cooperatives and has planned to monitor 566 Cooperatives having more than five crore cash in this fiscal year.
- Large numbers of young people have been migrating to work abroad due to the lack of employment opportunity in the country. The initiation of the Government to protect rights of those migrant workers is completely insufficient. In many cases, the Government has to facilitate to ensure insurance of deceased migrant citizens and it takes months to bring dead bodies back home. Human Smuggling has been increasing during the process of foreign employment.
- Mainly the migrant laborers working in informal sector has been in vulnerable situation due to labor exploitation and insecurity. The situation of women working



in such sector is more vulnerable. In this regard GoN ought to pay attention by implementing special programs and enhance monitoring.

- It is found that Nepal is in the position to achieve almost all targets of Millennium Development Goals (MDG).
- The GoN has been found to be working to identifying data of poor people. For this purpose the Government has launched survey to identify poor families by distributing thirteen hundred thousand forms in twenty four districts with an aim to extend the survey in remaining districts.
- The Government has mentioned that the percentage of poverty is 23.8% and it has a plan to limit it by 18% in the period of three years. Despite the decrement of poverty in total population, status of sectorial poverty has been challenging; Karnali Zone and Far western Region have a higher level of poverty than the national average. In addition percentage of poverty in Dalit people and backward community is very high.
- The Government failed to deliver its development plans, policies and also enact the full budget due to contradictions among the political parties in formation of government. By the reason economic development and poverty alleviation programs are being affected severely.
- Economic and social development of the country from grassroots level as well targets to meet Millennium Development Goals has been seriously affected by the failure of fulfilment of local bodies by the general election since 15 years.
- The prevailing situation of widespread corruption is one of the major challenges for economic and social development of the country. According to the report of Transparency International 2012 Nepal lies in 139th position in the Corruption Index.

Recommendation n^o97: *Establish a monitoring system to ensure the return, rehabilitation and reintegration of internally displaced persons* (Recommended by Austria)

IRI: *partially implemented*

NHRC response:

- The government has brought the internal displacement policy 2063 in order to accomplish the activities related to return, reintegration and rehabilitation of the IDPs. Not to mention, the Guidelines on Citizens Relief has also been issued. The Peace Committees have been formed and peace related activities have been accomplished through such committees and yet the activities such as return, reintegration and rehabilitation of IDPs haven't been accomplished in full.
- Relief package, travel expenses including loan on consolidated rate of interest have been provided for the rehabilitation of the IDPs. The efforts have been spearheaded for the rehabilitation together with the compensation provision.

Recommendation n^o102: *Do all that is necessary to accelerate the drawing up of the various legal texts to reaffirm and reinforce the equality between all ethnic, cultural and linguistic components of Nepali society* (Recommended by Algeria)

IRI: *not implemented*

COSFONAD response:

No actions have been taken to amend the laws and policies to maintain the ethnic, cultural and linguistic equality. Though the interim constitution of 2007 recognised all



of the languages within the territory as the national language there is no vital change in policies and actions. Similarly, there is no policy formation and amendments to promote and protect the rights of IPs.

AHRC response:

The Constituent Assembly was working in that direction but its dissolution brought it to an halt.

NHRC response:

- The Government has been working to ensure civil, political, economic, social and cultural rights of marginalized and excluded group of people due to sex, gender, caste, class, disability, geography and ethnicity. However there are still a lot of things to do towards solving the problem of formidable practice of discrimination.
- The Government has made law and policies to address discrimination against Dalit Community. In this regard, Discrimination in Caste and Untouchability (Crime and Punishment) Act, 2068 has been enacted.
- The status of implementation of law including plans and policies is found very poor. The state ought to embark upon facilitating necessary access for the backward class of the society by enacting programs and ensuring their participation in state sponsored endeavors and programs.
- The trend of untouchability against Dalit people has been decreasing gradually. However, due to lack of effective implementation of law and awareness it has been still prevailing in the society.
- The Government has implemented policy to provide One Hundred Thousand Rupees to the couple who got marriage between Dalit and non-Dalit. Activities of despising, forceful separation, entrapping in fake case and exclusion from society to those who married with dalit people are pervasive as a common trend in society.
- The Administration has been found focused in reconciliation rather than prosecution against culprits involved in act of racial discrimination. Therefore, there are very few people who underwent punishment in comparison to the numerous cases of racial discrimination.
- The Racial Discrimination and Untouchability (Crime and Punishment) Act, 2068 has defined acts of discrimination against caste and religion as a crime. According to the Act, person involved in such crime may get punishment of three months to three years imprisonment and RS One Thousand to Twenty Five Thousand as penalty. However, the law has not criminalized discrimination against sex, political beliefs and disability.

NCARD+IPRAN response:

The government has recognized 59 groups of indigenous peoples officially but many other indigenous groups are still left out from the official schedule. The Constitution recognizes only Nepali language as the official language that has created obstacles to accessing education, government services and information. Many other languages including indigenous languages are under threat. Thus, following recommendations to the government in NGO coalition report of 2010 should be reinforced:

- Recognize all languages including indigenous languages for use in state affairs alongside Nepali and adopt a policy of multi-lingual Education



- Ensure the rights of indigenous peoples to maintain and develop their language, distinct cultures and religions.

Recommendation n^o134: *Take more effective measures to increase the involvement of the indigenous peoples, minorities and vulnerable groups in the civil service, law enforcement agencies and local authorities* (Recommended by Malaysia)

IRI: *not implemented*

HimRights (HimRights) response:

Marginalized groups of Nepal have traditionally been subjected to a state of social, cultural and economic subordination. The socially disadvantaged groups have often been pushed away to the margins of Nepali society. Women, Dalits, Madhesi, indigenous groups and differently-abled people have traditionally had a negligible presence/representation, or as a token in Nepal's governing bodies and policy-making spheres. This is, of course, a major problem and a serious cause for concern from the perspective of real, inclusive democracy. Even after the Constituent Assembly elections of 2008, many marginalized groups have not been able to exert adequate influence in Nepal's various decision-making realms and policy-making spheres. Participation of indigenous peoples, minorities, vulnerable groups in local authorities and local development processes are very minimal. However, government policy on social inclusion has increased their token participation to some extent.

Some of the legal provisions for local development like Local Self Governance Act, 2055, Local Self Governance Rules, 2056, Directives on VDC/DDC working procedures, 2067 and Directives on local resource mobilization and management, 2069 have extensive and inclusive participatory processes in local development and strengthening local governance if effectively implemented. These provisions give step by step procedure of promoting participation of peoples from indigenous, minorities, and vulnerable groups. If these acts are to be effectively implemented, there will be participation of people from every walks of life and evolve true participatory democracy and development with ownership and responsibility of local people.

COSFONAD response:

No major mechanisms reform has occurred to ensure the rights of the IPs, minorities and vulnerable groups in civil services, law enforcement agencies and local authorities.

UNRCO response:

The Government of Nepal has amended its Civil Service Act which introduced inclusion provision for different vulnerable, marginalized and indigenous groups in the public service. According to the Act, different groups will have reservation quota such as mentioned) the Women -Thirty Three Percent

(b) Adiwasi/Janjati -Twenty Seven Percent

(c) Madhesi -Twenty Two Percent

(d) Dalit - Nine Percent

(e) Disabled (differently able)- Five Percent

(f) Backward Area - Four Percent

NHRC response:

- Public Service Act has the provision of inclusion of backward people including indigenous people. In this regard, the Act has reserved 45 percentage seats for women, indigenous people, dalits Madhesis and backward area. The Government has been working for enacting Inclusion Act, however the process has been hampered due to dissolution of Parliament.

NCARD+IPRAN response:

Noteworthy efforts have been made to increase representation of Adivasi Janajatis and other under-represented groups in public service sectors. In 2007, the Civil Service Act was amended to include a quota (reservation) system that provides that out of the 45 per cent of new recruitments reserved for various under-represented groups, 27 per cent are allocated to “ethnic groups”. Similar amendments were also made in 2007 to the Police Regulation and to the Armed Police Regulation, in order to make the police force more inclusive. The Ordinance on Inclusion in Public Service likewise demonstrates attention to the problem of under-representation by providing for a quota system that benefits indigenous peoples, but it has been criticized for not adequately differentiating among groups.

Further, number of limitations, in terms of legal weaknesses and practical deficiencies, has been reported with regards to above laws. For example, sub-section 10 of Section 7 of Civil Service Act states that: “In the (reservation) positions categorized according to the Sub-section 7, if appropriate candidate cannot be available through an advertisement in the year of the advertisement, the position shall be included in the advertisement of the following year. If appropriate candidate cannot be available even through such advertisement, the position shall be included for appointment through open competition the same year”. The provision is inconsistent with the Article 21 of the Interim Constitution of Nepal that provides for proportional representation in all state structure. That is also against the principle of inclusion and systematically marginalizes the indigenous peoples and other excluded groups.

At the same time, the examination system for civil service in practice firstly publishes the results of reservation seats followed by the results of open seats. This prohibits the selection of indigenous peoples and other excluded groups under open seats that are mainly provided to candidates of dominant caste groups. At the same time, the appointments are firstly provided to those successful under the open seats thus providing them seniority than those successful under reservation seats.

Additionally, the civil service examinations conducted only in official Nepali language benefits dominant Nepali native speaking groups than indigenous communities that do not use Nepali as their first language. The curriculum for civil service examination also needs significant revisions from its age-old content to be more representative of knowledge of all Nepali communities.

[...]



Recommendation n^o147: *Implement measures to ensure that persons with disabilities are enabled to participate in job training, vocational training, literacy and numeracy programmes and set concrete targets measurable within one year to this effect, in consultation with persons with disabilities and their representative organizations (Recommended by New Zealand)*

IRI: *not implemented*

NHRC response:

- In this regard, the GoN has informed about program that ensures the participation of persons with disability. However, NHRC could not receive any information of implementation of such programs until this day.

Recommendation n^o148: *Ensure, without any discrimination, the rights of people with disabilities and others belonging to vulnerable groups, such as women and children (Recommended by Chile)*

IRI: *partially implemented*

NHRC response:

- Senior Citizen related Act, 2068 has been enacted. The provision of the act regarding fifty percentage discounts in public transportation has not been implemented. The Government Hospital has begun to provide fifty percentage discounts in health treatment.
- The Government has not been paying its attention for protection of dignity and rights of mentally disabled people. Some of the mentally ill people have been detained in jail without proper treatment. Especially such persons have been detained in Dhilikhel Jail in Kavrepalanchok district without proper medical treatment.
- The government of Nepal has ratified the Disability related Convention and also has been preparing policies of positive discrimination however situation of enjoyment of rights of disable people in all sector has not created yet.

The government informed that it is going to enact the National Plan of Action for protection of rights of the disabled people.

Recommendation n^o165: *Formulate effective strategies and programmes in order to provide employment and income-generating opportunities for the population, in particular, the rural population, Dalits and ethnic minorities (Recommended by Malaysia)*

IRI: *partially implemented*

CSW response:

Fully comprehensive legislation has been enacted, but caste discrimination has by no means been eliminated, and there needs to be a higher priority given to this problem and adequate resources allocated to such bodies as the National Dalit Commission. Investment in job creation in specific rural areas, Dalit children's education, and support for Dalit journalism (such as the Jagaran Media Centre) could all be effective in lifting Dalits from their present position as victims of entrenched discrimination.



NHRC response:

- The state mechanism has not given adequate attention to protect economic, social and cultural rights. People in rural areas are particularly affected by this, are dying due to starvation and easily preventable diseases like diarrhea.
- The basic economic and social rights have not been available for the public due to widespread corruption, lack of good governance and accountability.
- The Government has declared abolition of some traditional forms of labor exploitation. However, such traditions are not completely abolished due to the lack of proper implementation of programs to manage and rehabilitate such bonded laborers. The Government has declared abolition of some forms of slavery (types of bonded laborers like Kamaiya, Haliya, Kamalari), however, in practice a large number of poor people are still working in such forms of labor.
- The Government has enacted guidelines for providing education to Kamalari having provisions of scholarship for Kamalari.
- The Government could not enact the law ensuring minimum wage for labor work in the informal sector. Large numbers of laborers including children have fallen the victims of labor exploitation. The Commission has recorded some cases of suicide of domestic workers especially by women domestic workers working in urban areas.
- The Government mentioned that more than fifty thousand people have got employment/self employment through the cooperatives and it has contributed to economic empowerment of people by providing freedom from hunger and poverty. However the money invested by the people in such cooperatives has been swindled and is insecure due to either forgery or lack of effective monitoring of Government on such practice or high rate of interest.
- In the recent days the Government has started to monitor some cooperatives. The Government has mentioned that it has monitored 155 Cooperatives and has planned to monitor 566 Cooperatives [...] having more than five crore cash in this fiscal year.
- Large numbers of young people have been migrating to work abroad due to the lack of employment opportunity in the country. The initiation of the Government to protect rights of those migrant workers is completely insufficient. In many cases, the Government has to facilitate to ensure insurance of deceased migrant citizens and it takes months to bring dead bodies back home. Human Smuggling has been increasing during the process of foreign employment.
- Mainly the migrant laborers working in informal sector has been in vulnerable situation due to labor exploitation and insecurity. The situation of women working in such sector is more vulnerable. In this regard GoN ought to pay attention by implementing special programs and enhance monitoring.
- It is found that Nepal is in the position to achieve almost all targets of Millennium Development Goals (MDG).
- The GoN has been found to be working to identifying data of poor people. For this purpose the Government has lunched survey to identify poor families by distributing thirteen hundred thousand forms in twenty four districts with an aim to extend the survey in remaining districts.
- The Government has mentioned that the percentage of poverty is 23.8% and it has a plan to limit it by 18% in the period of three years. Despite the decrement of poverty in total population, status of sectorial poverty has been challenging;



Karnali Zone and Far western Region have a higher level of poverty than the national average. In addition percentage of poverty in Dalit people and backward community is very high.

- The Government failed to deliver its development plans, policies and also enact the full budget due to contradictions among the political parties in formation of government. By the reason economic development and poverty alleviation programs are being affected severely.
- Economic and social development of the country from grassroots level as well targets to meet Millennium Development Goals has been seriously affected by the failure of fulfilment of local bodies by the general election since 15 years.
- The prevailing situation of widespread corruption is one of the major challenges for economic and social development of the country. According to the report of Transparency International 2012 Nepal lies in 139th position in the Corruption Index.

Recommendation n°168: *Continue pursuing appropriate, efficient, inclusive educational policies to provide for free and compulsory education to all segments of its society, including marginalized, disadvantaged - and thus most vulnerable - groups (Recommended by Slovakia)*

IRI: partially implemented

NHRC response:

- The Ministry of Education has launched Food for Education Program in selected areas however the program has covered a very smaller part of the country.
- Despite the continuous program of Government for compulsory and free education, the education in Government Schools has not become completely free.
- Children who are out of families and children from Dalit and Janajati community are being deprived from easy access to quality education.
- Nepal has implemented the Program on Education for All until 2015. In this regard school enrolment rate has reached to 95.1%. However due to dropout problem the percentage of children who complete school education is still low. Enrolment rate of Children from Dalit, Janajati and minority community is comparatively low.
- The Government has implemented the separate policy on enrolment of girl children in school. By the result enrolment of girl children has been increasing rapidly in the recent days.

NCARD+IPRAN response:

According to the Multilingual Education experts working under the Ministry of Education, the Government has formed Multilingual Education Implementation Guidelines in 2066 BS (2009). The Guidelines aim to implement multilingual education in 7,500 schools by 2015; however, such education has been implemented in only 24 schools so far. In northern mountainous region and Maithili speaking areas in the south, schools provide multilingual education in respective native languages that are yet to receive official governmental recognition. Further, the Government's Multilingual Education programme also includes language education as Multilingual Education rather than education provided using native languages as medium of instruction.



Thus, following recommendation of the Special Rapporteur on Indigenous Peoples (SRIP) made in his 2009 report (A/HRC/12/34/Add.3) should be emphasized: Existing plans for bilingual education should be enforced as a matter of priority in order to promote the revitalization and development of Adivasi Janajati languages, including by allocating the required human and financial resources to allow for effective implementation of such programmes.

Recommendation n^o185: *Adopt national legislation pertaining to refugees that includes the rights of refugees and asylum seekers* (Recommended by Netherlands)

IRI: *not implemented*

CSW response:

Nepal should accede to the Convention on the Status of Refugees.

The rights of Tibetan Refugees are not protected and they are harshly treated when making protests or assembling for peaceful rallies.

FPPRN response:

Despite continuous effort of civil society including PPR Nepal government is unwilling to work.

AHRC response:

Such national legislation has not been adopted

Recommendation n^o186: *Protect vulnerable refugee populations by allowing for registration of the refugee population in Nepal and by refraining from forcibly returning Tibetan asylum-seekers to China* (Recommended by United States)

IRI: *not implemented*

CSW response:

The rights of Tibetan Refugees are not protected and they are harshly treated when making protests or assembling for peaceful rallies.

NHRC response:

As it is informed, Nepal has not imposed force on the Tibetan Refugees for their return

Recommendation n^o187: *Promote other durable solutions than resettlement in third countries for the refugees in eastern Nepal in close cooperation with UNHCR and other relevant international organizations* (Recommended by Netherlands)

IRI: -

NHRC response:

As it is informed, Nepal has not imposed force on the Tibetan Refugees for their return

Recommendation n^o190: *Address cases of statelessness in the new Constitution's drafting process* (Recommended by Slovakia)

IRI: *not implemented*



NHRC response:

The Government has expressed that this issue will be taken under consideration in an appropriate time.

International Instruments

Recommendation n°98: *Undertake a participatory process in the implementation of the UPR recommendations (Recommended by Norway)*

IRI: *not implemented*

CSW response:

The UN Universal Periodic Review process for Nepal's human rights is largely unknown within Nepal. The government needs to give it as high priority in publicity and engage in public dialogue with NGOs who make submissions to the UPR process.

AHRC response:

In the first months following the UPR, Nepal government made efforts to collaborate with the civil society and the NHRC in the follow up of the UPR recommendations. However those efforts were short lived and concerns for the UPR were put on the backburner as the government had to deal with the political instability in the country

NHRC response:

[...]

Recommendation n°99: *Ratify the Optional Protocol to CRC on the involvement of children in armed conflict (Recommended by Austria)*

IRI: *fully implemented*

AFN response:

Nepal has already ratified it.

NHRC response:

Nepal is [...] party to this Protocol.

Recommendation n°135: *Ratify the Rome Statute (Recommended by Germany)*

IRI: *not implemented*

AFN response:

Nepal has not yet ratified Rome Statute.

AHRC response:

This was not ratified

NHRC response:

The reinstated parliament has issued a directive to the GoN to ratify the Rome Statute. However, the GoN is of the view that it would ratify the Rome Statute only when appropriate foundation is built upon the passage of the ordinances related to



penal code including the criminal code procedures with legal status provided to these. Conversely, it is found that adequate home work is not done in this regard as yet.

Recommendation n°140: *Extend a standing invitation to all special procedures (Recommended by Spain)*

IRI: not implemented

CSW response:

Nepal has yet to develop a full awareness of its treaty obligations for human rights and the expertise available to it through international treaty bodies and Special Rapporteurs. Nepal should immediately invite Special Rapporteurs to visit Nepal, especially in the fields of Torture, Disappearances, Religious Freedom and Freedom of Expression. All correspondence with Special Rapporteurs must be given full attention at the highest level and replies sent within acceptable time limits.

AHRC response:

No standing invitation was extended

NHRC response:

Nepal has welcomed several special procedures and special rapporteurs. Despite the fact that the commitment made with green signal to establish a mechanism under the purview of the Office of the Prime Minister and Council of Ministers in order to respond immediately to extend a standing invitation to the special procedures on the basis of the case in an appropriate time, it hasn't been materialized as such.

Recommendation n°141: *Extend a standing invitation to United Nations special procedures (Recommended by Chile)*

IRI: not implemented

CSW response:

Nepal should immediately invite Special Rapporteurs to visit Nepal, especially in the fields of Torture, Disappearances, Religious Freedom and Freedom of Expression.

AHRC response:

No standing invitation was extended

NHRC response:

Nepal has welcomed several special procedures and special rapporteurs. Despite the fact that the commitment made with green signal to establish a mechanism under the purview of the Office of the Prime Minister and Council of Ministers in order to respond immediately to extend a standing invitation to the special procedures on the basis of the case in an appropriate time, it hasn't been materialized as such.

Recommendation n°142: *Strengthen its cooperation with human rights special procedures and consider issuing a standing invitation (Recommended by Brazil)*

IRI: partially implemented

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Recommendation n°143: *Extend a standing invitation to United Nations human rights special procedures so that they can visit the country and assist the Government with its human rights reforms* (Recommended by Maldives)

IRI: *not implemented*

AHRC response:

No standing invitation was extended

NHRC response:

Nepal has welcomed several special procedures and special rapporteurs. Despite the fact that the commitment made with green signal to establish a mechanism under the purview of the Office of the Prime Minister and Council of Ministers in order to respond immediately to extend a standing invitation to the special procedures on the basis of the case in an appropriate time, it hasn't been materialized as such.

Recommendation n°160: *Implement the decision of the Supreme Court of 2007 that requires the State to criminalize enforced disappearances and sign and ratify the CED* (Recommended by France)

IRI: *not implemented*

AFN response:

No effective measures have been taken by the government to implement the Supreme Court 2007 decision.

AHRC response:

Not done

UNRCO response:

Enforced disappearances has not been criminalised and CED has not been ratified.

NHRC response:

- The Ordinance on Investigation of Enforced Disappearance, Truth and Reconciliation Act, 2013 has not criminalized the act of disappearance. Nepal has not taken any initiative to ratify the Convention against Enforced Disappearances.
- The persons convicted as perpetrators by Court and National Human Rights Commission have not been prosecuted as yet.
- The Government has provided relief to the victims according to the decision of the Supreme Court in 2007; however, other orders have not been implemented. The order of the Court to enact retrospective law by defining enforced disappearance as a crime, formation of high level disappearance investigation commission in line with international standards and prosecution to the perpetrators have not been implemented yet.

Recommendation n°171: *Accede to and implement OP-CAT* (Recommended by New Zealand)

IRI: *not implemented*

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Recommendation n°172: *Ratify the Optional Protocol to the Convention against Torture (OPCAT) (Recommended by Switzerland)*

IRI: *not implemented*

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Recommendation n°175: *Become a party to OP-CAT (Recommended by Maldives)*

IRI: *not implemented*

AHRC response:

Nepal has not signed or ratified OP CAT

NHRC response:

- Nepal was considering the ratification of the Optional Protocol on the Convention against Torture (OPCAT) but it has informed about the preventive mechanism already being in existence.
- Though the OPCAT hasn't been ratified, the OHCHR Nepal used to monitor the prison and detention centers, as mentioned by the GoN.
- Nepal ought to consider ratifying the Refugee and other refugee related conventions but as informed, there already exists preventive mechanism for it. Nevertheless, the Supreme Court of Nepal has issued the directive to the GoN to ratify the Convention against the act of Enforced Disappearance and Convention on the Refugees
- Nepal has expressed its desire to address the Optional Protocol in appropriate time.
- Nepal will take this into consideration to address the Optional Protocol in appropriate time, as informed.

Recommendation n°173: *Ratify the pending principle international human rights treaties, such as the Rome Statute, the International Convention for the Protection of All Persons from Enforced Disappearance (CED) and OP-CAT (Recommended by Chile)*

IRI: *not implemented*

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Recommendation n°176: *Sign and ratify the Optional Protocol of the Covenant on Economic, Social and Cultural Rights and the OP-CAT as well as the CED (Recommended by Spain)*

IRI: *not implemented*

AHRC response:

Nepal has acceded none of those treaties

NHRC response:

- Nepal was considering the ratification of the Optional Protocol on the Convention against Torture (OPCAT) but it has informed about the preventive mechanism already being in existence.
- Though the OPCAT hasn't been ratified, the OHCHR Nepal used to monitor the prison and detention centers, as mentioned by the GoN.
- Nepal ought to consider ratifying the Refugee and other refugee related conventions but as informed, there already exists preventive mechanism for it. Nevertheless, the Supreme Court of Nepal has issued the directive to the GoN to



ratify the Convention against the act of Enforced Disappearance and Convention on the Refugees

- Nepal has expressed its desire to address the Optional Protocol in appropriate time.
- Nepal will take this into consideration to address the Optional Protocol in appropriate time, as informed.

Recommendation n^o177: *Ratify and implement the CED* (Recommended by Sweden)

IRI: *not implemented*

AHRC response:

Nepal has not ratified the CED and no steps have been taken in the direction of its provisions

Recommendation n^o178: *Consider the possibility of signing and ratifying CED* (Recommended by Argentina)

IRI: -

AHRC response:

The possibility might have been considered however the signature and ratification have not happened.

Recommendation n^o179: *Sign and ratify the Palermo Protocol* (Recommended by Austria)

IRI: *not implemented*

AHRC response:

Nepal has neither signed nor ratified the Palermo protocol

Recommendation n^o180: *Consider the possibility of acceding to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, in the spirit of the tradition in Nepal of hosting refugees* (Recommended by Algeria)

IRI: *not implemented*

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Recommendation n^o181: *Accede to the Convention relating to the Status of Refugees, as well as its Protocol and take all necessary measures so the fundamental rights of refugees residing in the country are protected* (Recommended by Switzerland)

IRI: *not implemented*

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Recommendation n^o182: *Reinforce its legal framework by adhering to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol* (Recommended by Moldova)

IRI: *not implemented*

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Recommendation n^o183: *Ratify the 1951 Convention relating to the Status of Refugees* (Recommended by Slovenia)

IRI: *not implemented*

CSW response:

Nepal should accede to the Convention on the Status of Refugees.



The rights of Tibetan Refugees are not protected and they are harshly treated when making protests or assembling for peaceful rallies.

AHRC response:

Nepal has not acceded to the convention

Recommendation n°184: *Consider acceding to the Convention relating to the Status of Refugees (Recommended by Netherlands)*

IRI: *not implemented*

CSW response:

Nepal should accede to the Convention on the Status of Refugees.

The rights of Tibetan Refugees are not protected and they are harshly treated when making protests or assembling for peaceful rallies.

AHRC response:

Nepal has not acceded to the convention

Justice

Recommendation n°8: *Continue the process of bringing its national legislation in line with international standards (Recommended by Azerbaijan)*

IRI: *not implemented*

CSW response:

Existing draft proposals for the religious freedom in the new penal code of Nepal do not guarantee freedom to choose and change faith and include anti-conversion clauses which do not meet Nepal's commitments under international treaties it has signed and ratified.

BDS response:

The draft "civil code and criminal code" to replace 150 years old 'country code' is regressive and against international human rights instruments that Nepal have signed and must be changed. The draft [has] provision of criminalizing LGBTI people which Nepal [has] never had even in its old laws and constitutions.

CWIN response:

National legislations are already progressive. However, [the] Children's Act 1992 needs some amendments including its name. Civil society is proposing Child Rights Act so that it be more in right based approach.

AHRC response:

After the dissolution of the CA all human rights reforms have been put on hold and therefore national legislation continues to fall short of international standards. For instance, in spite of a September 2011 Supreme Court order to review that acts which give quasi judicial powers to an administrative officer, the Chief District Officer



as those are unconstitutional no steps have been taken to bring those provisions in line with international standards. The Committee against torture in October 2012 had also found that those provisions breached guarantees of due process

UNRCO response:

The Government of Nepal in its three year interim plan has mentioned legislation review/enactment of new laws in line with international human rights standards is one the government's strategic outcome.

NHRC response:

- Despite the ample discussion on the content of the recommendations in the Constituent Assembly (CA), the implementation of the recommendations could not tap impetus due to the dissolution of the CA without the promulgation of new constitution.
- There has been consensus among the major political parties to form the new constitution after yet another new Constituent Assembly to be held sometime in November, 2013. For the purpose, the interim election government has been formed in the leadership of the Chief Justice. The same Chief Justice holds the office of both the chief of judiciary and executive which has been criticized far and wide as it is against the principle of separation of power and concept of independency of the judiciary.
- According to the agreement of the major political parties the election government has decided hold the fresh election of the Constituent Assembly on 19th November, 2013. Despite the possibility of new election of the CA on the scheduled date the possibility of framing new constituent in stipulated timeframe is still uncertain due to some political parties' declaration of boycotting of election together with the continuous existence of odds and disagreement among the political parties. In this regard, it is necessary to convince the unsatisfied political parties to have election in fearless and fair environment.
- The Constitution could not be promulgated due to the disagreement among the political parties mainly on the issues of state restructuring, federalism and ethnic identity in the process of framing new constitution via the past CA; the same disputes among the political parties have been inexistence as before.
- The past CA was inclusive from the point of view of ethnicity and gender and the political parties have agreed to make similar structure of the CA by maintaining same provisions of inclusiveness.
- The draft constitution prepared by past CA has included freedom of religion and beliefs. The political parties have made commitment to ensure freedom of religion, right to equality and non-discrimination in the new constitution.
- The political parties have made commitment to frame new constitution in line with international standards. The draft of the constitution prepared by the dissolved CA has included women's rights; therefore, it is anticipated that the new constitution will have similar provisions. The agreement of the political parties on framing new CA with the similar provision as before has ensured minimum 33% representation of women and inclusiveness of the different casts.
- The national law is being framed in line with international standards. After the dissolution of the CA there has not been any significant progress in making human rights friendly laws together with legal reforms.



NCARD+IPRAN response:

[...] The Interim Three-Year Plan of Nepal for the period of 2007-10 had included in the main programmes of the Government to identify and amend legal and policy provisions that contradict with the Convention 169 and make necessary arrangements for guaranteeing the rights of indigenous peoples of Nepal as per the UN Declaration on the Rights of Indigenous Peoples. However, the current Interim Three-Year Plan for the period of 2011-13 comprises strategies and programmes for the rights of indigenous peoples but completely omits the implementation of the Convention 169 and the UN Declaration. [...]

Recommendation n°10: *In the framework of the reform of the penal code and the penal procedure code, conform to the totality of the provisions of the Convention against Torture (Recommended by Switzerland)*

IRI: *not implemented*

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Recommendation n°11: *Enact specific legislation in domestic law to criminalize the offence of torture which is fully compliant with the requirements of the Convention against Torture (Recommended by United Kingdom)*

IRI: *not implemented*

AFN response:

Proposed bill, "Penal Code (Punishment Determination and Execution) Act - 2067" was tabled to the parliament but the parliament had been dissolved before the bill was approved.

NDFPHR response:

Not implemented. Nepal has not yet ratified the Optional Protocol of the Convention Against Torture (OP-CAT). Torture and abuse are common practices of state security forces, particularly in police custody. According to Nepalese law, torture does not constitute a criminal offence. According the Torture Compensation Act, 1996 there is still a 35-days- time limit to file a criminal complaint (FIR) for cases of torture at the police.

AHRC response:

Nepal is yet to pass a law to criminalize torture.

In May 2012 a proposed "Torture or Cruel, inhuman or degrading treatment (offence and punishment Act, 2012" was tabled in the Parliament Secretariat. Nevertheless, the dissolution of the Constituent Assembly on May 28th brought those efforts to a halt.

Although the draft of the bill criminalizing torture contains substantial improvements in comparison to the current legislative apparatus, it still falls short of international standards and does not provide for an effective and comprehensive framework to bring torture to an end in the country. A serious approach, to the eradication of torture legislation, should couple the criminalization of torture with the development of an independent and strong complaint and investigation system, currently missing in Nepal. A detailed [analysis of the draft bill is available](#) [...].



UNRCO response:

In January 2011, the Government put a draft Penal Code before the Legislative Committee of Parliament. The code included positive steps such as inclusion of torture as an offence, life imprisonment if death is caused by torture. However, it was criticized for imposing a maximum of just five years' imprisonment or a fine of up to NRs 500,000 (US \$7000) for committing torture.

NHRC response:

- The Interim Constitution of Nepal- 2007 has mentioned that torture is a punishable act; however, Nepalese Law has not criminalized the act of torture. The Draft law relating to torture has not been enacted.
- Draft of Criminal Code, Criminal Procedural Code, Criminal act and punishment determination and implementation Bill has been under consideration awaiting discussion. The Bill has defined torture as a crime.
- The law related to enforced disappearances has not been enacted and it has not been criminalized yet. The Ordinance on investigation of disappeared persons and Truth and Reconciliation Commission has not criminalized enforced disappearance.
- Perpetrators involved in enforced disappearance may obtain immunity due to lack of law.

Recommendation n^o12: *Criminalize torture* (Recommended by *Denmark*)

IRI: *not implemented*

AFN response:

As the proposed bill is not passed by the parliament, torture is not criminalized yet. However, it is heavily criticized for not being in line with international standard.

NDFPHR response:

[See response to recommendation n^o 10]

AHRC response:

[See response to recommendation n^o 10]

UNRCO response:

Torture is not yet criminalised.

Recommendation n^o13: *Criminalize torture and enforced disappearances in line with international standards* (Recommended by *Slovenia*)

IRI: *not implemented*

CSW response:

Existing Law does not sufficiently protect citizens from enforced disappearance or adequately provide for punishment of those responsible. Delays and lack of commitment in the establishment of Transitional Justice legislation and the establishment of a Commission on Disappearances have meant that no one has been held accountable and punished for such crimes in the period of hostilities from 1996 to 2006. Proposals for the legal treatment of disappearances make possible amnesties for crimes against humanity which are not in accordance with international principles of justice.

AFN response:

Act on Torture or Cruel, Inhumane and Degrading Treatment (Crime and Punishment) – 2068 and proposed Bill on Crime and Punishment of Disappearances-2067 are not passed yet. However, the proposed bills are heavily criticized by victims, human rights organizations and civil society for not being in line with international standard.

NDFPHR response:

Not implemented. Nepal has not yet ratified the Optional Protocol of the Convention Against Torture (OP-CAT), neither the Convention for the Protection of All Persons from Enforced Disappearance (CED). Enforced disappearance and torture are still not defined as criminal offences under Nepalese law. According the Torture Compensation Act, 1996 there is still a 35-days- time limit to file a criminal complaint (FIR) for cases of torture at the police. The fate of more than 1,300 forcibly disappeared persons still remains unresolved and a Commission on the Inquiry of Enforced Disappearances has not yet been established.

AHRC response:

Nepal is yet to pass a law to criminalize torture and to criminalize enforced disappearances. Enforced disappearances committed during the conflict were supposed to be dealt with transitional justice mechanisms. However, an Ordinance for the establishment of a Commission on Disappeared Persons, Truth and Reconciliation, was adopted by the Council of Ministers on 27 August 2012, and submitted to the President for promulgation on 28 August 2012 was designed in such a way that prosecutions became contingent upon a political decisions and virtually impossible given the absence of a legal framework criminalizing enforced disappearances.

In May 2012 a proposed "Torture or Cruel, inhuman or degrading treatment (offence and punishment Act, 2012" was tabled in the Parliament Secretariat. Nevertheless, the dissolution of the Constituent Assembly on May 28th brought those efforts to a halt. Although the draft of the bill criminalizing torture contains substantial improvements in comparison to the current legislative apparatus, it still falls short of international standards and does not provide for an effective and comprehensive framework to bring torture to an end in the country. A serious approach, to the eradication of torture legislation, should couple the criminalization of torture with the development of an independent and strong complaint and investigation system, currently missing in Nepal. A detailed [analysis of the draft bill is available](#) [...].

UNRCO response:

Both the torture and enforced disappearances are not criminalised by the domestic laws.

NHRC response:

- The Interim Constitution of Nepal- 2007 has mentioned that torture is a punishable act; however, Nepalese Law has not criminalized the act of torture. The Draft law relating to torture has not been enacted.



- Draft of Criminal Code, Criminal Procedural Code, Criminal act and punishment determination and implementation Bill has been under consideration awaiting discussion. The Bill has defined torture as a crime.
- The law related to enforced disappearances has not been enacted and it has not been criminalized yet. The Ordinance on investigation of disappeared persons and Truth and Reconciliation Commission has not criminalized enforced disappearance.
- Perpetrators involved in enforced disappearance may obtain immunity due to lack of law.

Recommendation n°49: *Promptly implement all recommendations put forward by the National Human Rights Commission regarding prosecutions and/or departmental actions against alleged human rights violators (Recommended by Canada)*

IRI: not implemented

CSW response:

The Government of Nepal has not implemented more than half of the recommendations of the NHRC, thus adding to the ineffectiveness of the NHRC. The government needs to seriously consider and implement all recommendations of the NHRC.

AFN response:

The recommendations made by National Human Rights Commission are rarely [implemented] by the government.

AHRC response:

This has not been implemented. In its ten year report, the NHRC estimated that only 9% of the recommendations it had given between 2000 and 2010 had been implemented at least partially. The minority of NHRC recommendations which have been implemented pertain to compensation, none of the recommended criminal proceedings have been followed through.

UNRCO response:

NHRC has made recommendations on 735 cases so far of which in 457 cases (62%) there has been some implementation from the government in terms of providing compensation to the victims. However, there has not been any prosecutions so far.

NHRC response:

- The Government has not fulfilled its commitment to strengthen the infrastructure of the NHRC. The Government might work together with NHRC to implement Paris Principles fully.
- The commitments made by the Prime Minister for strengthening NHRC in the UN General Assembly and programs organized by NHRC have not been implemented properly. In addition, almost recommendations of NHRC have not implemented.
- National Human Rights Commission 2068 has been enacted. The Act has covered major provisions of Paris Principles however it is necessary to review some provisions of Act to make the Commission more independence and autonomous. The Act has not included the provisions of previous Act relating to



autonomy and independence the NHRC. Several powers of NHRC including staff management, financial administration especially to get resources from donors without consent of the Government, and independent decision on the structure of the organization have been curtailed.

Recommendation n°55: *Strengthen the implementation of its Human Trafficking and Transportation (Control) Act 2007 and its Regulation 2008* (Recommended by Bhutan)

IRI: *partially implemented*

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Recommendation n°58: *Fight trafficking in persons, prosecute perpetrators and provide protection and compensation to victims* (Recommended by Netherlands)

IRI: *partially implemented*

NHRC response:

- The Act on Domestic Violence (Control and Punishment) 2066 and its regulation-2067 have been enacted. Under these laws, cases of gender based violence have been investigated by the National Women Commission and Nepal Police in order to protect the human rights of victims. In this regard, the National Women Commission has been advocating to include the domestic violence cases in states cases (schedule-1).
- Likewise, Human Trafficking Control Act, 2064 and its regulation have been implemented.
- GoN has implemented Sex and Gender Based Violence and Gender Empowerment Strategy and Work Plan (2069/70-2073/74).
- Sexual Exploitation Control of Women workers working in the places like Dance Restaurant and Bar Guidelines enacted by Supreme Court of Nepal and Immigration Act, 2049; Foreign Employment Act, 2064 and Regulation-2064 have been in implementation.
- National Women Commission has recommended to the Government to review the relevant laws to ensure action against culprits of rape cases and compensation to the victims. In addition, the NWC has also recommended to amend 35 days limitation to file cases on rape cases by studying the rape related laws. In addition, the NWC has recommended to establish the desk together with district units to address Gender Based Violence cases.
- The Ministry of Women, Children and Social Welfare has prepared National Action Plan against human trafficking. The Action Plan has prioritized five specific areas including prevention, protection, prosecution, capacity development of concerned institutions.
- For the purpose of prevention of violence against women and children, National Child Welfare Committee has established Child Help Line in 14 districts and Women Service Center in 15 districts with an aim to expand it to all 75 districts across the country.
- Thousands of trafficked persons are living slavery like life abroad. Trafficking in women and children and human smuggling are major problems of Nepal. The Government has launched various programs against human trafficking in coordination with civil society; however these programs are not sufficient to address the problem.



- Human Trafficking related Act 2007 and Regulation 2008 have been implemented however its implementation is not effective due to various reasons like delay in justice delivery.

NCARD+IPRAN response:

The absolute numbers of women and girls in Nepal who are lured or trapped into human trafficking rings or sexually exploited are very difficult to pin down. Different sources provide widely varying statistics. The United Nations Development Programme, in its 2004 National Human Development Report, provides a generally accepted figure of some 12,000 girls and women annually, of whom a fifth are under the age of 16. As recognized in Nepal's State Report to CEDAW (CEDAW/C/NPL/4-5), indigenous women and girls are disproportionately involved in trafficking: "During 2006-07, of the 233 children rescued, 217 were girls. Of this total number, 78.55% are from ethnic groups and 12.5% from the Dalit community." The discrepancy here is stark; indigenous women and girls make up almost 80% of the total of these trafficked individuals although the proportion of indigenous peoples in Nepal is only officially placed at 37%. Given these statistics, it is necessary for measures introduced to combat the sexual exploitation of women and girls to specifically address the causal factors that disproportionately impact on indigenous women and girls.

CEDAW (A/59/38, 2004) has addressed this problem before, urging the State "to intensify its efforts to address trafficking in women and girls. It recommends that its anti-trafficking strategy should include measures of prevention, the prosecution and punishment of perpetrators and increased international, regional and bilateral cooperation." CEDAW also requested "the State party to provide in its next report information about the legal and actual situation with respect to trafficking in women and girls." While this recommendation goes some way to addressing the complex issues in Nepal that lead to, and may be used to address, the problem of human trafficking, the ethnicity of the overwhelming majority of victims goes unaddressed.

Thus, the recommendation of Indonesia still stands and should be reinforced. Further, Nepal should be recommended to couple such enforcement measures with the prevention measures recommended by CEDAW and that such measures be specifically targeted to the most at risk populations, including the indigenous women and girls of Nepal, addressing root causes such as poverty, economic marginalization, land loss and economic migration. (Shadow report submitted to CSW in 2012).

Pravasi Nepali Coordination Committee (PNCC) response:

To address the effective implementation of the Act, the Government of Nepal had developed its first National Plan of Action against Trafficking in Women and Children and their Sexual Exploitation, which was revised in 2001 and reissued as the National Plan of Action against Trafficking in Children and Women for Sexual and Labor Exploitation (NPA). At the time of the assessment, the NPA was still in force but it was not effectively enforced. A new National Plan of Action against Trafficking in Persons 2011-2016, which is considered a step forward in comparison with the NPA, was awaiting endorsement of the Government. Furthermore, neither the



Human Trafficking and Transportation (Control) Act (HTTCA) nor the Foreign Employment Act (FEA) defines trafficking in persons in relation to foreign employment migration. This has led to a critical lack of conceptual clarity among key justice system stakeholders in Nepal about the legal classification of cases involving exploitation of Nepali migrant workers.

Recommendation n°60: *Establish accountability for conflict-era human rights abuses through the formation of the Truth and Reconciliation Commission and Disappearance Commission, as agreed to in the Comprehensive Peace Agreement (Recommended by United States)*

IRI: *not implemented*

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Recommendation n°61: *Establish the Truth and Reconciliation Commission and the Commission of Inquiry on Disappearances as stipulated in the 2006 Comprehensive Peace Agreement (Recommended by Australia)*

IRI: *not implemented*

+

Recommendation n°62: *Ensure that the Truth and Reconciliation Commission, as well as to the Commission on Disappearances be operational within the briefest delay and that there be no amnesty for grave violations of human rights (Recommended by Switzerland)*

IRI: *not implemented*

+

Recommendation n°63: *Establish an independent Truth and Reconciliation Commission and take immediate action to account for the missing and ensure reparations to victims, including family members of the disappeared (Recommended by Sweden)*

IRI: *not implemented*

+

Recommendation n°64: *Accelerate the process of establishing a Truth and Reconciliation Commission (Recommended by Republic of Korea)*

IRI: *not implemented*

+

Recommendation n°65: *Take necessary steps to set up the Truth and Reconciliation Commission and the Commission on the Inquiry on Disappearances since the failure to act on human rights abuses undermines respect for the rule of law (Recommended by Czech Republic)*

IRI: *not implemented*

+

Recommendation n°66: *Establish without further delay the Truth and Reconciliation Commission and Disappearances Commission and ensure their independence from political interference (Recommended by Denmark)*

IRI: *not implemented*

+

Recommendation n°67: *Set up a Truth and Reconciliation Commission and a Commission of Inquiry on Disappearances which are fully in accordance with international standards (Recommended by Netherlands)*

IRI: *not implemented*

CSW response:

[...]

AFN response:

Truth and Reconciliation Commission and Disappearance Commissions are not formed yet. The government has brought an ordinance relating to Disappearance, Truth and Reconciliation Commission in March 2013 but the victims filed a petition against few provisions in Supreme Court. The ordinance is now pending before the Supreme Court. But still the government is trying to get approval from the Judiciary on the same Ordinance. As the ordinance is totally inclined to protect the criminals, it should be retracted and be tabled before the civil society and victim groups for its advanced transformation in compliance with International Standard.

NDFPHR response:

Not implemented. Since the Comprehensive Peace Agreement was signed in 2006, the government of Nepal has not brought to justice any perpetrator of human rights violations. The Ordinance on Investigation of Disappeared Persons, Truth and Reconciliation Commission, adopted in March 2013, merged the two foreseen commissions on Truth and Reconciliation as well as on Disappeared Persons, which are required for by the Peace Agreement, and which now provides the possibility of granting amnesty in cases of severe human rights violations.

- Victims and human rights organization were not duly consulted about their understanding of the commission to be established and especially about their perspectives about the concepts of truth, justice and reconciliation.
- The fate of more than 1.300 forcibly disappeared persons still remains unresolved.
- Following pressure from political parties, investigative procedures of human rights violations are often not recorded or they are withdrawn and, in individual cases, amnesty is granted to offenders. Final verdicts, including those passed by the Supreme Court, are not implemented. In March 2012, for example, over 400 cases were withdrawn (including more than 100 murders) – on the basis, inter alia, that those were of political nature. Police and army forces get promotions despite proven human rights violations they are accused of.

AHRC response:

On 14 March 2013 the president adopted the Truth, Reconciliation and Disappearance Ordinance paving the way to the establishment of a high level commission in charge of revealing the truth about human rights violations committed during the conflict. Although the ordinance said that amnesty could not be provided for 'serious crimes' including rape, the ordinance still provided considerable scope for amnesty for human rights violations as the commission would be empowered to recommend amnesty if there are "reasonable" ground to do so. What constitutes a reasonable ground for amnesty is left at the appreciation of the commission. The ordinance was suspended by a supreme court order on the 1st April. Even though in a number of cases the supreme court has found that transitional justice mechanisms would not supersede the regular criminal justice system and ordered the investigation and prosecutions of the perpetrators to go ahead, those findings have remained unimplemented.

UNRCO response:

The government passed TRC ordinance in March 2013, however that received criticism from national and international human rights community including OHCHR as the ordinance was not in compliance with international standards mainly on amnesty and prosecution provisions. The ordinance is challenged at the supreme court. The supreme court has issued stay order on implementation of the ordinance. The case is still ongoing.

NHRC response:

- Victims are being further stigmatized because of the failure to establish transitional justice mechanisms in the period of six years of the CPA. Legislations were drafted several times, but the political parties are sceptical to enact the legislations tabled due to the disagreement among them. The intention of political parties to provide immunity to the persons involved in serious human rights violation has been criticized at national and international level.
- The GoN had enacted the ordinances related to the Investigation of Disappeared Persons and Truth and Reconciliation by publishing in Nepal Gazette on 14th March, 2013. But the Ordinance has the provision to provide immunity advantage to the perpetrators instead of prosecution and is not in line with international standards. The Supreme Court has issued stay order for withholding the implementation of the law until the final decision of the court.
- GoN has provided limited amount of compensation in terms of cash to the victims and their families victimized through killing and to those disappeared and internally displaced; however, the victims could not enjoy the right to reparation. In this regard, the Ministry of Peace and Reconstruction mentioned the Ministry could not provide reparation to the victims in the absence of Truth and Reconciliation Commission.
- Victims of sexual violence and torture have not got any relief from the state till today.
- The GoN has withdrawn the cases of serious human rights violations instead of instituting prosecution and refused to implement the decisions of the judiciary and recommendations of the National Human Rights Commission. The GoN has also given promotion to those perpetrators involved in serious human rights violations of the armed conflict period. The GoN and Political Parties have failed to implement their commitment towards not withdrawing the cases of serious crime. The NHRC has received the information that the Governments formed after the success of Popular Peoples Movement 2005 in the leadership of Nepali Congress, Communist Party of United Marxist Leninist (CPN-UML) and Communist Party of Unified Maoist (UCPN-M) have withdrawn around one thousand criminal cases.
- The Government has claimed that it has initiated actions against perpetrators and provided compensation to the victims according to the recommendations of the NHRC. However, the facts gathered during the monitoring of NHRC shows that most of the victims have got compensation but the perpetrators have not been prosecuted. In some cases, the government has promoted the perpetrators instead of taking action against them contradicting with the NHRC recommendations. For instance, the personnel of Nepal Police involved in killing NHRC employee Dayaram Pariyar and personnel involved in killing three Dalit



Women in Banspani area of Bardia district in allegation of hunting wild animals have not been prosecuted in spite of the recommendation of NHRC to the Government to prosecute them. In another case, after the 47 days long fasting to death of the parents of victim and as per the recommendation of NHRC, the Government has been initiating investigation regarding the murder of Krishna Prasad Adhikari from Fujel Village Development Committee of Gorkha district.

- The Ministry of Home has replied to the NHRC that the Government has been working to bring the perpetrators under rule of law; contrarily, the Government has withdrawn the cases of perpetrators involved in serious human rights violations.

Recommendation n°68: *Ensure that the perpetrators of human rights violations, both past and present, are brought to justice in proceedings which meet international standards of fairness (Recommended by Sweden)*

IRI: *not implemented*

CSW response:

[...]

AFN response:

There are very few cases where government has initiated investigations in the cases of human rights violations of the past due to heavy pressures from local and international organizations including UN. However, the government has not set up Transitional justice mechanisms yet to ensure justice to victims of human rights violation of the past and present.

NDFPHR response:

Not implemented. Since the Comprehensive Peace Agreement was signed in 2006, the government of Nepal has not brought to justice any perpetrator of human rights violations. Following pressure from political parties, investigative procedures of human rights violations are often not recorded or they are withdrawn and, in individual cases, amnesty is granted to offenders. Final verdicts, including those passed by the Supreme Court, are not implemented. In March 2012, for example, over 400 cases were withdrawn (including more than 100 murders) – on the basis, inter alia, that those were of political nature. Police and army forces get promotions despite proven human rights violations they are accused of.

AHRC response:

No progress have been made in investigating crimes committed during the conflicts and victims and human rights defenders raising those issues have faced considerable harassment. The NHRC estimated that more than a thousand persons remain missing from the conflict and no light has been shed on their whereabouts. On 14 March 2013 the president passed the Truth, Reconciliation and Disappearance Ordinance paving the way to the establishment of a high level commission in charge of revealing the truth about human rights violations committed during the conflict. Although the ordinance said that amnesty could not be provided for 'serious crimes' including rape, the ordinance still provided considerable scope for amnesty for human rights violations as the commission would be empowered to recommend amnesty if there are "reasonable" ground to do so. What constitutes a



reasonable ground for amnesty is left at the appreciation of the commission. The ordinance was suspended by a supreme court order on the 1st April. Even though in a number of cases the supreme court has found that transitional justice mechanisms would not supersede the regular criminal justice system and ordered the investigation and prosecutions of the perpetrators to go ahead, those findings have remained unimplemented.

NHRC response:

- The repeated commitments of the Government to prosecute the human rights violators have not been implemented in practice. Perpetrators are enjoying immunities through political interferences. Impunity is being promoted by withdrawing criminal cases.
- Especially the implementation of decisions of courts relating to human rights violation in the period of armed conflict is very poor. Political interference has been observed from the beginning of prosecution till the implementation level.
- State of impunity has been increasing due to lack of impartial prosecution and non-implementation of the court decisions.
- Especially in the human rights violation cases happened during armed conflict, the Nepal Army mentioned that it has been initiating action against perpetrators; however, it is found that the Nepal Army has not been cooperating to the courts to present the alleged culprits before the courts pursuant to the court decision including the recommendations of the NHRC.

Recommendation n°69: *Continue its efforts in order to clarify the crimes perpetrated during the armed conflict, in particular regarding enforced disappearances and extrajudicial killings and prosecute those responsible* (Recommended by Argentina)

IRI: *not implemented*

CSW response:

[...]

AFN response:

Nothing has been done yet by the government to address enforced disappearances and extrajudicial execution and other cases of human rights violations which took place during conflict. The government has not formed transitional justice mechanisms yet.

NDFPHR response:

[See response to recommendation n° 68]

AHRC response:

[See response to recommendation n° 68]

NHRC response:

- Victims are being further stigmatized because of the failure to establish transitional justice mechanisms in the period of six years of the CPA. Legislations were drafted several times, but the political parties are skeptical to enact the legislations tabled due to the disagreement among them. The intention of political



- parties to provide immunity to the persons involved in serious human rights violation has been criticized at national and international level.
- The GoN had enacted the ordinances related to the Investigation of Disappeared Persons and Truth and Reconciliation by publishing in Nepal Gazette on 14th March, 2013. But the Ordinance has the provision to provide immunity advantage to the perpetrators instead of prosecution and is not in line with international standards. The Supreme Court has issued stay order for withholding the implementation of the law until the final decision of the court.
 - GoN has provided limited amount of compensation in terms of cash to the victims and their families victimized through killing and to those disappeared and internally displaced; however, the victims could not enjoy the right to reparation. In this regard, the Ministry of Peace and Reconstruction mentioned the Ministry could not provide reparation to the victims in the absence of Truth and Reconciliation Commission.
 - Victims of sexual violence and torture have not got any relief from the state till today.
 - The GoN has withdrawn the cases of serious human rights violations instead of instituting prosecution and refused to implement the decisions of the judiciary and recommendations of the National Human Rights Commission. The GoN has also given promotion to those perpetrators involved in serious human rights violations of the armed conflict period. The GoN and Political Parties have failed to implement their commitment towards not withdrawing the cases of serious crime. The NHRC has received the information that the Governments formed after the success of Popular Peoples Movement 2005 in the leadership of Nepali Congress, Communist Party of United Marxist Leninist (CPN-UML) and Communist Party of Unified Maoist (UCPN-M) have withdrawn around one thousand criminal cases.
 - The Government has claimed that it has initiated actions against perpetrators and provided compensation to the victims according to the recommendations of the NHRC. However, the facts gathered during the monitoring of NHRC shows that most of the victims have got compensation but the perpetrators have not been prosecuted. In some cases, the government has promoted the perpetrators instead of taking action against them contradicting with the NHRC recommendations. For instance, the personnel of Nepal Police involved in killing NHRC employee Dayaram Pariyar and personnel involved in killing three Dalit Women in Banspani area of Bardia district in allegation of hunting wild animals have not been prosecuted in spite of the recommendation of NHRC to the Government to prosecute them. In another case, after the 47 days long fasting to death of the parents of victim and as per the recommendation of NHRC, the Government has been initiating investigation regarding the murder of Krishna Prasad Adhikari from Fujel Village Development Committee of Gorkha district.
 - The Ministry of Home has replied to the NHRC that the Government has been working to bring the perpetrators under rule of law; contrarily, the Government has withdrawn the cases of perpetrators involved in serious human rights violations.



Recommendation n^o70: *Seek to remove the obstacles faced by victims trying to access justice* (Recommended by *Republic of Korea*)

IRI: *not implemented*

HimRights response:

- Lack of legal knowledge by community and survivors pose a major challenge for survivors' access to justice
- The existing legal provision has 35 days limitation to file cases of sexual violence/rape. Law Enforcements Agencies LEAs, in most cases, do not register these cases stating expiration of dates especially the cases from the decade long armed conflict as well as others.
- Furthermore, the gender based violence and sexual violence are not easily registered and investigated by law enforcement agencies. In most cases, survivors who are courageous enough to file these cases, are re-victimized multiple times during lengthy investigation, interrogation court process with attitude of blaming a victim and judgmental comment throughout the system.
- Lack of female police in Law Enforcements Agencies (LEA) is another challenge with whom survivors could talk with no inhibition of the incident.
- Lack of investigation skill as well as how to deal with survivors of gender base violence is another obstacle even for women LEA.
- Existing law on sexual and gender based violence needs to be implemented effectively and amended to accommodate violence that occurred during the armed conflict; 35 days filing cases needs to be amended. Pervasive impunity is one of the major obstacles faced by victims in access to justice. Armed conflict survivors of sexual violence, majority of their cases are not addressed and barred from access to justice. Moreover, the conflict parties are pressurizing government not to investigate on conflict-time incidents. Thousands of cases are still to be investigated. TRC needs to be established as soon as possible.

CSW response:

There are a considerable number of cases where police obstruction and reluctance to take action prevents arrest and prosecution of offenders. Corruption amongst police is also responsible for the perpetuation of injustice

AFN response:

There are no proper initiatives taken by the government yet.

AHRC response:

Victims still face considerable obstacles to access justice due to a strong political resistance to see those having committed human rights violations during the conflict held accountable for it. The fight for justice of the parents of Krishna Prasad Adhikari speaks at length of the tremendous obstacles victims of human rights violations are facing to access justice. Krishna Prasad Adhikari was killed by Maoist cadres as he was falsely accused of having collaborated with the army following a family and land dispute. Unidentified Maoist cadres abducted him on 6 June 2004 from Bakullahar Chowk in Chitwan District. He was reportedly beaten up and tortured before being brought back to the crossroad he was abducted from and shot dead.



A local Maoist leader reportedly informed his father that his son had been "wiped out". The family was repeatedly threatened by the perpetrators not to seek justice and was displaced from their home and land.

Although the family immediately filed a complaint in the Chitwan District Police Office and repeatedly approached the Chitwan and Gorkha District Administration Offices, the Gorkha District Police Office, the National Human Rights Commission, the Ministry of Peace and Reconstruction, the Prime Minister's and the President's Office, no investigation took place in the case. In 2009, the NHRC recommended that the victim's family should be provided with Rs. 300,000.00 as compensation and measures should be taken to guarantee their security. Those recommendations were never implemented. Instead, the alleged perpetrators have benefited from high level political protection, which have blocked all legal proceedings.

Krishna Prasad's mother and father went on hunger strike in the streets of Kathmandu in January 2013 and have been repeatedly arrested and harassed by the police. On 14 June, in an attempt to silence them, they were arrested and forcefully confined to a mental hospital for 35 days. During their forced hospitalization, their family members and human rights activists were not provided with an easy access to them. Upon their release they resumed the hunger strike on 21 July, and their health quickly deteriorated. As their struggle received massive media attention, the government has been forced to take steps to save their lives and bring the perpetrators to justice.

On 11 August, the NHRC met with the Home Minister and the government promised to initiate a prompt investigation into the case. However, following this new development, political opposition to the investigation of the case mounted. On August 13th, 2013, the chairperson of the (United) Communist Party of Nepal-Maoist Chairperson, Pushpa Kamal Dahal (aka Prachanda) held a press conference. He warned the government not to initiate an investigation into the case, threatening that if an investigation would proceed, the peace process and the elections would be at risk and blaming the human rights defenders who had advocated for justice in this case.

After nine years of continuous fight for justice and in front of mounting political opposition, those who had become known as the "Adhikari couple" finally saw some concrete steps being taken in holding perpetrators accountable for the murder of their son when Ram Prasad Adhikari, was arrested on September 6th. In those circumstances, the release of the only person out of the eleven accused who had faced arrest raises concern that his arrest was just a futile attempt at placating the public opinion and the parents' fight for justice. This could signify that the government is yielding to political pressure and bringing the investigation and the legal proceedings in that case to a new standstill.

NHRC response:

- Victims are being further stigmatized because of the failure to establish transitional justice mechanisms in the period of six years of the CPA. Legislations were drafted several times, but the political parties are sceptical to enact the



legislations tabled due to the disagreement among them. The intention of political parties to provide immunity to the persons involved in serious human rights violation has been criticized at national and international level.

- The GoN had enacted the ordinances related to the Investigation of Disappeared Persons and Truth and Reconciliation by publishing in Nepal Gazette on 14th March, 2013. But the Ordinance has the provision to provide immunity advantage to the perpetrators instead of prosecution and is not in line with international standards. The Supreme Court has issued stay order for withholding the implementation of the law until the final decision of the court.
- GoN has provided limited amount of compensation in terms of cash to the victims and their families victimized through killing and to those disappeared and internally displaced; however, the victims could not enjoy the right to reparation. In this regard, the Ministry of Peace and Reconstruction mentioned the Ministry could not provide reparation to the victims in the absence of Truth and Reconciliation Commission.
- Victims of sexual violence and torture have not got any relief from the state till today.
- The GoN has withdrawn the cases of serious human rights violations instead of instituting prosecution and refused to implement the decisions of the judiciary and recommendations of the National Human Rights Commission. The GoN has also given promotion to those perpetrators involved in serious human rights violations of the armed conflict period. The GoN and Political Parties have failed to implement their commitment towards not withdrawing the cases of serious crime. The NHRC has received the information that the Governments formed after the success of Popular Peoples Movement 2005 in the leadership of Nepali Congress, Communist Party of United Marxist Leninist (CPN-UML) and Communist Party of Unified Maoist (UCPN-M) have withdrawn around one thousand criminal cases.
- The Government has claimed that it has initiated actions against perpetrators and provided compensation to the victims according to the recommendations of the NHRC. However, the facts gathered during the monitoring of NHRC shows that most of the victims have got compensation but the perpetrators have not been prosecuted. In some cases, the government has promoted the perpetrators instead of taking action against them contradicting with the NHRC recommendations. For instance, the personnel of Nepal Police involved in killing NHRC employee Dayaram Pariyar and personnel involved in killing three Dalit Women in Banspani area of Bardia district in allegation of hunting wild animals have not been prosecuted in spite of the recommendation of NHRC to the Government to prosecute them. In another case, after the 47 days long fasting to death of the parents of victim and as per the recommendation of NHRC, the Government has been initiating investigation regarding the murder of Krishna Prasad Adhikari from Fujel Village Development Committee of Gorkha district.
- The Ministry of Home has replied to the NHRC that the Government has been working to bring the perpetrators under rule of law; contrarily, the Government has withdrawn the cases of perpetrators involved in serious human rights violations.



Recommendation n°71: *Ensure that all decisions from the judiciary, regarding those presumed responsible for serious human rights violations during and after the conflict, are fully respected by all concerned institutional actors, particularly by the army and the police forces (Recommended by France)*

IRI: not implemented

CSW response:

The inefficiency of the police in arresting and prosecuting offenders is a major cause of impunity, but political interference in criminal cases makes it even more difficult for the police to take and to be seen to take effective action.

AFN response:

The court decisions are not properly implemented and respected by the government including Nepal Police and Nepal Army.

NDFPHR response:

Not implemented. Since the Comprehensive Peace Agreement was signed in 2006, the government of Nepal has not brought to justice any perpetrator of human rights violations. Following pressure from political parties, investigative procedures of human rights violations are often not recorded or they are withdrawn and, in individual cases, amnesty is granted to offenders. Final verdicts, including those passed by the Supreme Court, are not implemented. In March 2012, for example, over 400 cases were withdrawn (including more than 100 murders) – on the basis, inter alia, that those were of political nature. Police and army forces get promotions despite proven human rights violations they are accused of.

AHRC response:

No steps have been taken to implement that crucial recommendation. Supreme Court orders to investigate and prosecute crimes committed during the conflict have remained unimplemented.

NHRC response:

- Continuous political interference has apparently hampered the prosecution of perpetrators who committed serious human rights violations during and after the armed conflict.
- Political interference has hindered to convict affirmed perpetrators (by Courts) under the rule of law.
- Such criminals have been working in high level of political parties, public services and security agencies and are getting promotion as well.
- The facts from monitoring by NHRC shows that in some instances police has been arresting persons without arrest warrant and keeping them in illegal detention.
- After the period of armed conflict, the acts of enforced disappearances have considerably decreased; however, in some cases, detainees have been denied access to communicate with their relatives and lawyers.
- Sufficient initiation is not taken towards making the status of the disappeared persons during the period of armed conflict and with provision of reparation to the victims and prosecuting against perpetrators. For instance, as of today, GoN has not implemented the recommendation of NHRC to publicize the status of 43



disappeared persons from Bhairavnath Battalion of Nepal Army during the period of armed conflict; not to mention, those perpetrators have not been prosecuted. Likewise, the Government has not implemented the recommendation to publicize the status of Arjun Bahadur Lama from Kavrepalanchok district. Nor has it prosecuted the Maoist responsible for the incident.

- In order to make the legislations human rights friendly, reforms have been made continuously; however, further reform is needed.
 - In order to promote human rights education, Human Rights Unit in Ministry of Home, Human Rights Cell in Nepal Police and Armed Police Force, Human Rights Division in Ministry of Defense and Human Rights Division in Nepal Army have been established. Such mechanisms are functioning accordingly.
 - Nepal Police, Nepal Army and Armed Police Force have been conducting trainings on human rights and humanitarian law in their respective organizations.
 - Nepal Police and Nepal Army have adopted the Training Manual on Human Rights in order to provide training in their organizations.
 - Furthermore, Nepal Army, Nepal Police and Armed Police Force have prepared and distributed promotional tools including hand book on basic human rights.
- +
- The repeated commitments of the Government to prosecute the human rights violators have not been implemented in practice. Perpetrators are enjoying immunities through political interferences. Impunity is being promoted by withdrawing criminal cases.
 - Especially the implementation of decisions of courts relating to human rights violation in the period of armed conflict is very poor. Political interference has been observed from the beginning of prosecution till the implementation level.
 - State of impunity has been increasing due to lack of impartial prosecution and non-implementation of the court decisions.
 - Especially in the human rights violation cases happened during armed conflict, the Nepal Army mentioned that it has been initiating action against perpetrators; however, it is found that the Nepal Army has not been cooperating to the courts to present the alleged culprits before the courts pursuant to the court decision including the recommendations of the NHRC.

Recommendation n°72: Tackle impunity by investigating and prosecuting human rights violations and abuses committed by State and non- State actors during and since the conflict, implementing court orders including on the Nepal Army, and ending political interference (Recommended by United Kingdom)

IRI: not implemented

CSW response:

[See response to recommendation n° 71]

AFN response:

[See response to recommendation n° 68]

NDFPHR response:

Not implemented. Since the Comprehensive Peace Agreement was signed in 2006, the government of Nepal has not brought to justice any perpetrator of human rights violations. Following pressure from political parties, investigative procedures of



human rights violations are often not recorded or they are withdrawn and, in individual cases, amnesty is granted to offenders. Final verdicts, including those passed by the Supreme Court, are not implemented. In March 2012, for example, over 400 cases were withdrawn (including more than 100 murders) – on the basis, inter alia, that those were of political nature. Police and army forces get promotions despite proven human rights violations they are accused of.

AHRC response:

political interference to prevent the investigation of crimes committed during the conflict has continued unabated since the UPR review of Nepal. In May 2011 Home Minister Krishna Bahadur Mahara announced that his office was seeking to withdraw criminal cases from the time of the conflict. As many as 300 cases filed at the district level were at risk of being withdrawn, including cases of serious human rights violations such as the disappearance and murder of Arjun Bahadur Lama or the disappearance and torture to death of Maina Sunuwar. The Home Minister argued that the cases concerned were "politically motivated" in the first place and that "the cases related to conflict time are against the spirit of the Comprehensive Peace Agreement (C.P.A.) and they should be withdrawn."

In August, the UCPN Maoist political party made public its proposal for the process of establishing peace, the constitution and integration of the two armies, which includes the commitment by the UCPN to withdraw cases.

After Prime Minister Khanal resigned in August 2011, the Maoist party came to an agreement with the Unified Democratic Madeshi Front, in which both agreed to support the Maoist candidate for the Prime Minister's post. The agreement also contained commitments to withdraw criminal cases pending against individuals affiliated with the Maoist party, the Madhesi, Janajati, Tharuhat, Dalit, and Pichadabarga movements, and declared a general amnesty for crimes from the conflict time. This triggered criticism from the national and international human rights community, in response to which the Prime Minister gave assurances that his office would only seek to withdraw political cases without touching criminal or human rights cases.

In a particular case, the government recommended a lawmaker, Balkrishna Dhungel, convicted of murder for presidential pardon.

NHRC response:

[See response to recommendation n° 71]

Recommendation n°100: *Undertake legal and administrative efforts to end torture and related impunity* (Recommended by Germany)

IRI: *partially implemented*

CSW response:

Little attention has been given by the government to implementing laws on Torture and prosecuting those responsible in the army and police. The army has remained largely immune to prosecutions for torture, a matter which should be of major concern to the government.

AFN response:

The anti-torture law has not been brought by the government yet and there are no any proper administration efforts to end torture and related impunity.

AHRC response:

Nepal is yet to pass a law to criminalize torture. According to Nepali NGO advocacy Forum, out of 3,773 detainees they interviewed in 2013, 22.3% claimed that they were subjected to torture or other cruel, inhuman or degrading treatment treatment in detention. 34.7% of juveniles claimed they had been subjected to torture. [\[as detailed in this report\]](#).

In May 2012 a proposed "Torture or Cruel, inhuman or degrading treatment (offence and punishment Act, 2012" was tabled in the Parliament Secretariat. Nevertheless, the dissolution of the Constituent Assembly on May 28th brought those efforts to a halt.

Although the draft of the bill criminalizing torture contains substantial improvements in comparison to the current legislative apparatus, it still falls short of international standards and does not provide for an effective and comprehensive framework to bring torture to an end in the country. A serious approach, to the eradication of torture legislation, should couple the criminalization of torture with the development of an independent and strong complaint and investigation system, currently missing in Nepal. A detailed [analysis of the draft bill is available](#) [...].

In spite of the high number of detainees having been subjected to torture, impunity continue to prevail for the perpetrators. Legal safeguards to protect detainees from torture (i.e. obligation to present the detainee before a judicial authority within 24 hours of their arrest, or mandatory health check up) are being regularly ignored (Advocacy Forum 26 June 2013 report relates that only 56.3% of the detainees they interviewed were taken before a judicial authority within 24 hours of their arrest and in only 18.5% of cases were they asked by the judge whether they had been subjected to torture. [...])

UNRCO response:

In January 2011, the Government put a draft Penal Code before the Legislative Committee of Parliament. The code included positive steps such as inclusion of torture as an offence, life imprisonment if death is caused by torture. However, it was criticized for imposing a maximum of just five years' imprisonment or a fine of up to NRs 500,000 (US \$7000) for committing torture.

NHRC response:

- The Interim Constitution of Nepal- 2007 has mentioned that torture is a punishable act; however, Nepalese Law has not criminalized the act of torture. The Draft law relating to torture has not been enacted.
- Draft of Criminal Code, Criminal Procedural Code, Criminal act and punishment determination and implementation Bill has been under consideration awaiting discussion. The Bill has defined torture as a crime.



- The law related to enforced disappearances has not been enacted and it has not been criminalized yet. The Ordinance on investigation of disappeared persons and Truth and Reconciliation Commission has not criminalized enforced disappearance.
- Perpetrators involved in enforced disappearance may obtain immunity due to lack of law.

Recommendation n°101: *Review legislation, and amend it where necessary, to remove provisions which allow Government and military personnel to act with impunity* (Recommended by New Zealand)

IRI: *not implemented*

AFN response:

Still not reviewed except a recommendation made of an expert team against the quasi-judicial power of Chief District Officer after Advocacy Forum filed a PIL.

AHRC response:

The Army act and the police act which contains provisions forming serious legal obstacles to prosecutions have not been amended. To see the details of the provisions of those acts which violate international law please see Advocacy Forum's [report "held to account"](#).

Recommendation n°116: *Conduct thorough and impartial investigation into allegations that the police or any person of the justice system has taken part in discriminatory actions* (Recommended by Sweden)

IRI: *not implemented*

AHRC response:

No such investigation has been conducted so far, to the best of the AHRC's knowledge in spite of numerous instances in which the police colluded with the perpetrators of discriminatory actions to protect them from accountability being reported

NHRC response:

- Some cases registered under Torture and Compensation act have been decided by the courts for the compensation to be provided to the victims and departmental action against perpetrators. However, there has not been any sufficient initiation made towards establishing mechanism to prevent torture.
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- The Government has been working to ensure civil, political, economic, social and cultural rights of marginalized and excluded group of people due to sex, gender, caste, class, disability, geography and ethnicity. However there are still a lot of things to do towards solving the problem of formidable practice of discrimination.
 - The Government has made law and policies to address discrimination against Dalit Community. In this regard, Discrimination in Caste and Untouchability (Crime and Punishment) Act, 2068 has been enacted.
 - The status of implementation of law including plans and policies is found very poor. The state ought to embark upon facilitating necessary access for the backward class of the society by enacting programs and ensuring their participation in state sponsored endeavors and programs.



- The trend of untouchability against Dalit people has been decreasing gradually. However, due to lack of effective implementation of law and awareness it has been still prevailing in the society.
- The Government has implemented policy to provide One Hundred Thousand Rupees to the couple who got marriage between Dalit and non-Dalit. Activities of despising, forceful separation, entrapping in fake case and exclusion from society to those who married with dalit people are pervasive as a common trend in society.
- The Administration has been found focused in reconciliation rather than prosecution against culprits involved in act of racial discrimination. Therefore, there are very few people who underwent punishment in comparison to the numerous cases of racial discrimination.
- The Racial Discrimination and Untouchability (Crime and Punishment) Act, 2068 has defined acts of discrimination against caste and religion as a crime. According to the Act, person involved in such crime may get punishment of three months to three years imprisonment and RS One Thousand to Twenty Five Thousand as penalty. However, the law has not criminalized discrimination against sex, political beliefs and disability.

Recommendation n^o117: *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 (Recommended by Japan)*

IRI: *not implemented*

AFN response:

The government has not taken any concrete steps to address torture, extrajudicial killings and other misconduct and ensure swift and fair investigations.

AHRC response:

Nepal is yet to pass a law to criminalize torture.

In May 2012 a proposed "Torture or Cruel, inhuman or degrading treatment (offence and punishment Act, 2012" was tabled in the Parliament Secretariat. Nevertheless, the dissolution of the Constituent Assembly on May 28th brought those efforts to a halt.

Although the draft of the bill criminalizing torture contains substantial improvements in comparison to the current legislative apparatus, it still falls short of international standards and does not provide for an effective and comprehensive framework to bring torture to an end in the country. A serious approach, to the eradication of torture legislation, should couple the criminalization of torture with the development of an independent and strong complaint and investigation system, currently missing in Nepal. A detailed [analysis of the draft bill is available](#) [...].

Recommendation n^o118: *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 (Recommended by Hungary)

IRI: not implemented

AFN response:

The government has not taken any concrete steps to address torture, extrajudicial killings and other misconduct and ensure swift and fair investigations.

AHRC response:

There is no law criminalizing torture in Nepal and the only legislation related to torture is the Torture Compensation Act which provides for administrative sanctions against police officers found to have committed torture. In spite of this, the absence of victims and witness protection mechanisms and a general institutional unaccountability of the police prevents the implementation of the act. Nepali NGO advocacy Forum found that in the first half of 2013 22.3% of the detainees they had interviewed reported torture or acts of mistreatment. No one has been sent to jail for acts of torture. Most of cases enforced disappearances are yet to be investigated and no one has been brought to book for an act of enforced disappearance. Both the army and the police continue to resist attempt to hold their personnel accountable for acts of human rights violations

NHRC response:

- Continuous political interference has apparently hampered the prosecution of perpetrators who committed serious human rights violations during and after the armed conflict.
- Political interference has hindered to convict affirmed perpetrators (by Courts) under the rule of law.
- Such criminals have been working in high level of political parties, public services and security agencies and are getting promotion as well.
- The facts from monitoring by NHRC shows that in some instances police has been arresting persons without arrest warrant and keeping them in illegal detention.
- After the period of armed conflict, the acts of enforced disappearances have considerably decreased; however, in some cases, detainees have been denied access to communicate with their relatives and lawyers.
- Sufficient initiation is not taken towards making the status of the disappeared persons during the period of armed conflict and with provision of reparation to the victims and prosecuting against perpetrators. For instance, as of today, GoN has not implemented the recommendation of NHRC to publicize the status of 43 disappeared persons from Bhairavnath Battalion of Nepal Army during the period of armed conflict; not to mention, those perpetrators have not been prosecuted. Likewise, the Government has not implemented the recommendation to publicize the status of Arjun Bahadur Lama from Kavrepalanchok district. Nor has it prosecuted the Maoist responsible for the incident.

[...]

CSW response:

Extensive Training of both police and army is needed to inculcate alternative forms of crowd control, interrogation and acquisition of evidence which do not involve torture



or physical intimidation. Control management and leadership at all levels must be given strict instructions against using torture of physical intimidation and accusations of torture immediately investigated, prosecuted, and brought to trial.

Protection of human rights is at a low point not because of the lack of laws and a legal system but because of lack of determination and action by law enforcement officers and because of unacceptable political interference in high profile criminal cases which does not conform with international standards for the separation of the executive and judicial arms of the state and their processes.

Recommendation n°119: Take effective measures to prevent possible acts of mistreatment (Recommended by Turkey)

IRI: not implemented

AFN response:

The government has not yet taken any effective measures to prevent possible acts of mistreatment.

AHRC response:

Legal safeguard put in place to prevent possible acts of mistreatment (mandatory presentation before a judicial authority within 24 hours of the arrest, medical check up...) are regularly trampled upon and 22.3% of detainees interviewed by Nepali NGO Advocacy Forum in 2013 report mistreatment or torture.

CSW response:

Extensive Training of both police and army is needed to inculcate alternative forms of crowd control, interrogation and acquisition of evidence which do not involve torture or physical intimidation. Control management and leadership at all levels must be given strict instructions against using torture of physical intimidation and accusations of torture immediately investigated, prosecuted, and brought to trial.

Safeguards against forced confession and intimidation of witnesses must be strictly established and implemented.

Recommendation n°120: Conduct thorough and impartial investigation into allegations of torture and physical abuse, and to bring to justice anyone suspected of having participated in arbitrary arrests or having committed excessive use of force, torture and other human rights violations (Recommended by Sweden)

IRI: not implemented

AFN response:

The government has not taken any concrete steps to address torture, extrajudicial killings and other misconduct and ensure swift and fair investigations.

AHRC response:

There is no law criminalizing torture in Nepal and the only legislation related to torture is the Torture Compensation Act which provides for administrative sanctions against police officers found to have committed torture. In spite of this, the absence of victims and witness protection mechanisms and a general institutional unaccountability of the police prevents the implementation of the act. Nepali NGO advocacy Forum found that in the first half of 2013 22.3% of the detainees they had interviewed reported



torture or acts of mistreatment. No one has been sent to jail for acts of torture. Most of cases enforced disappearances are yet to be investigated and no one has been brought to book for an act of enforced disappearance. The police continue to resist attempt to hold their personnel accountable for acts of human rights violations

CSW response:

Extensive Training of both police and army is needed to inculcate alternative forms of crowd control, interrogation and acquisition of evidence which do not involve torture or physical intimidation. Control management and leadership at all levels must be given strict instructions against using torture of physical intimidation and accusations of torture immediately investigated, prosecuted, and brought to trial.

Safeguards against forced confession and intimidation of witnesses must be strictly established and implemented.

Recommendation n°121: Take effective measures to prevent acts of torture and ensure that allegations of torture are promptly and impartially investigated and prosecuted (Recommended by Austria)

IRI: not implemented

AFN response:

No any effective measures have been taken by government to prevent acts of torture and investigation and prosecution of cases of torture.

AHRC response:

Legal safeguard put in place to prevent possible acts of mistreatment (mandatory presentation before a judicial authority within 24 hours of the arrest, medical check up ...) are regularly trampled upon and 22.3% of detainees interviewed by Nepali NGO Advocacy Forum in 2013 report mistreatment or torture.

There is no law criminalizing torture in Nepal hence no one has been prosecuted for torture so far. Victims do not access to independent authorities to register their complaints of ill-treatment and torture and are vulnerable to threats and abuses when they report such acts

CSW response:

Extensive Training of both police and army is needed to inculcate alternative forms of crowd control, interrogation and acquisition of evidence which do not involve torture or physical intimidation. Control management and leadership at all levels must be given strict instructions against using torture of physical intimidation and accusations of torture immediately investigated, prosecuted, and brought to trial.

Safeguards against forced confession and intimidation of witnesses must be strictly established and implemented.

Recommendation n°126: Create mechanisms to end the case backlog at all levels of the judicial system (Recommended by United States)

IRI: not implemented

AHRC response:

Such mechanisms have not been adopted.

NHRC response:

- The Supreme court is found to have been engaged in preparing the strategic plan to finalize the cases pending to be decided over upon their registration at the judiciary authority. The work plan has been formulated to classify the cases on the thematic basis in order to expedite dispensing of the decisions over such cases.
- Sadly, the citizens right to get justice in time is disrespected due to the longstanding vacuum following the delay in the appointment of the justices in the apex, appellate and district courts

CSW response:

Case backlog and delays in prosecution are major problems in many courts.

Recommendation n°129: Create a system of accountability to investigate and prosecute human rights violators in Nepal's military and law enforcement agencies (Recommended by United States)

IRI: not implemented

AHRC response:

No progress has been made in that aspect. Crimes committed during the conflict by Nepal's military and law enforcement agencies have not been duly investigated in spite of repeated supreme court orders in that regard

NHRC response:

- Continuous political interference has apparently hampered the prosecution of perpetrators who committed serious human rights violations during and after the armed conflict.
- Political interference has hindered to convict affirmed perpetrators (by Courts) under the rule of law.
- Such criminals have been working in high level of political parties, public services and security agencies and are getting promotion as well.
- The facts from monitoring by NHRC shows that in some instances police has been arresting persons without arrest warrant and keeping them in illegal detention.
- After the period of armed conflict, the acts of enforced disappearances have considerably decreased; however, in some cases, detainees have been denied access to communicate with their relatives and lawyers.
- Sufficient initiation is not taken towards making the status of the disappeared persons during the period of armed conflict and with provision of reparation to the victims and prosecuting against perpetrators. For instance, as of today, GoN has not implemented the recommendation of NHRC to publicize the status of 43 disappeared persons from Bhairavnath Battalion of Nepal Army during the period of armed conflict; not to mention, those perpetrators have not been prosecuted. Likewise, the Government has not implemented the recommendation to publicize the status of Arjun Bahadur Lama from Kavrepalanchok district. Nor has it prosecuted the Maoist responsible for the incident.



- In order to make the legislations human rights friendly, reforms have been made continuously; however, further reform is needed.

[...]

CSW response:

Extensive Training of both police and army is needed to inculcate alternative forms of crowd control, interrogation and acquisition of evidence which do not involve torture or physical intimidation. Control management and leadership at all levels must be given strict instructions against using torture of physical intimidation and accusations of torture immediately investigated, prosecuted, and brought to trial.

Safeguards against forced confession and intimidation of witnesses must be strictly established and implemented.

Recommendation n^o130: Ensure that the laws relating to the Truth and Reconciliation Commission, as well as to the Commission on Disappearances are in line with international standards (Recommended by Switzerland)

IRI: not implemented

CSW response:

This has not yet been implemented

AFN response:

Truth and Reconciliation Commission and Disappearance Commissions are not formed yet. The government has brought an ordinance relating to Disappearance, Truth and Reconciliation Commission in March 2013 but the victims filed a petition against few provisions in Supreme Court. The ordinance is now pending before the Supreme Court. But still the government is trying to get approval from the Judiciary on the same Ordinance. As the ordinance is totally inclined to protect the criminals, it should be retracted and be tabled before the civil society and victim groups for its advanced transformation in compliance with International Standard.

NDFPHR response:

Not implemented. The Ordinance on Investigation of Disappeared Persons, Truth and Reconciliation Commission, adopted in March 2013, merged the two foreseen commissions on Truth and Reconciliation as well as on Disappeared Persons, which are required for by the Peace Agreement, and which now provides the possibility of granting amnesty in cases of severe human rights violations.

AHRC response:

On 14 march 2013 the president passed the Truth, Reconciliation and Disappearance Ordinance paving the way to the establishment of a high level commission in charge of revealing the truth about human rights violations committed during the conflict. Although the ordinance said that amnesty could not be provided for 'serious crimes' including rape, the ordinance still provided considerable scope for amnesty for human rights violations as the commission would be empowered to recommend amnesty if there are "reasonable" ground to do so. What constitutes a reasonable ground for amnesty is left at the appreciation of the commission. The ordinance was suspended by a supreme court order on the 1st April. Even though in



a number of cases the supreme court has found that transitional justice mechanisms would not supersede the regular criminal justice system and ordered the investigation and prosecutions of the perpetrators to go ahead, those findings have remained unimplemented.

UNRCO response:

The government passed TRC ordinance in March 2013, however that received criticism from national and international human rights community including OHCHR as the ordinance was not in compliance with international standards mainly on amnesty and prosecution provisions. The ordinance is challenged at the supreme court. The supreme court has issued stay order on implementation of the ordinance. The case is still ongoing.

Recommendation n^o132: *Provide mandatory human rights training for its police force* (Recommended by *New Zealand*)

IRI: *partially implemented*

NHRC response:

[...]

- In order to promote human rights education, Human Rights Unit in Ministry of Home, Human Rights Cell in Nepal Police and Armed Police Force, Human Rights Division in Ministry of Defense and Human Rights Division in Nepal Army have been established. Such mechanisms are functioning accordingly.
- Nepal Police, Nepal Army and Armed Police Force have been conducting trainings on human rights and humanitarian law in their respective organizations.
- Nepal Police and Nepal Army have adopted the Training Manual on Human Rights in order to provide training in their organizations.
- Furthermore, Nepal Army, Nepal Police and Armed Police Force have prepared and distributed promotional tools including hand book on basic human rights.

Recommendation n^o149: *Introduce an independent complaints mechanism on the conduct of security forces and establish a Nepal Police Service Commission* (Recommended by *Australia*)

IRI: *not implemented*

AHRC response:

This has not been established

Recommendation n^o150: *Establish a Police Service Commission responsible for appointments, promotions and transfers* (Recommended by *Denmark*)

IRI: *not implemented*

AHRC response:

This has not been established

Recommendation n^o151: *Take the necessary measures to ensure the protection of all people from enforced disappearance and following the request of the High Commissioner for Human Rights, establish a special inquiry team, enjoying enough independence, to investigate the allegations of extrajudicial executions* (Recommended by *Republic of Korea*)

IRI: *not implemented*



AFN response:

Nothing has been done by the government to address enforced disappearance and extrajudicial execution.

NDFPHR response:

Not implemented. Nepal has not yet ratified the Convention for the Protection of All Persons from Enforced Disappearance (CED). Enforced disappearance is still not defined as a criminal offence under Nepalese law. The fate of more than 1,300 forcibly disappeared persons still remains unresolved and a Commission on the Inquiry of Enforced Disappearances has not yet been established.

AHRC response:

None allegation of extrajudicial execution has been impartially and professionally investigated. No special inquiry team into enforced disappearances has been established. No law criminalizing enforced disappearances has been adopted.

NHRC response:

- The Ordinance on Investigation of Enforced Disappearance, Truth and Reconciliation Act, 2013 has not criminalized the act of disappearance. Nepal has not taken any initiative to ratify the Convention against Enforced Disappearances.
- The persons convicted as perpetrators by Court and National Human Rights Commission have not been prosecuted as yet.
- The Government has provided relief to the victims according to the decision of the Supreme Court in 2007; however, other orders have not been implemented. The order of the Court to enact retrospective law by defining enforced disappearance as a crime, formation of high level disappearance investigation commission in line with international standards and prosecution to the perpetrators have not been implemented yet.

Recommendation n^o152: *Investigate credible allegations of extrajudicial killings and introduce an independent complaint mechanism on the conduct of the security forces (Recommended by Denmark)*

IRI: not implemented

AFN response:

Nothing has been done yet by the government to address enforced disappearances and extrajudicial execution and other cases of human rights violations which took place during conflict. The government has not formed transitional justice mechanisms yet.

AHRC response:

An independent complaint mechanism on the conduct of the security forces has still not been established. Not a single credible allegation of extrajudicial killing has been investigated in an impartial and credible manner.

NHRC response:

- Separate mechanism to investigate extra judicial execution has not been established yet.



- The Government has not performed impartial and effective investigation of the cases of extra judicial execution. Security forces used to conceal such cases of extra judicial execution instead of investigation and prosecution.
- The request of country visit by Special Rapporteur on Extra Judicial, Illegal and Arbitrary Execution and Working Group of Enforced Disappearance have not been accepted. In this regard, the Government has mentioned that the visit may be fruitful after having sufficient time on the basis of capacity of the state, priority, and necessity. Apropos the GoN's announcement, some of the Special Rapporteur and Working Group have visited Nepal.

Recommendation n°153: *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 (Recommended by Italy)*

IRI: *not implemented*

CSW response:

The willingness of the police to investigate, process and prosecute cases of discrimination against and mistreatment of Dalits has been very suspect. Priority treatment for Dalit cases in police hands is urgently needed, and the treatment of Dalits in custody urgently needs monitoring and improving.

Nepal has yet to develop a full awareness of its treaty obligations for human rights and the expertise available to it through international treaty bodies and Special Rapporteurs. Nepal should immediately invite Special Rapporteurs to visit Nepal, especially in the fields of Torture, Disappearances, Religious Freedom and Freedom of Expression. All correspondence with Special Rapporteurs must be given full attention at the highest level and replies sent within acceptable time limits.

AFN response:

Nothing has been done yet by the government to address enforced disappearances and extrajudicial execution and other cases of human rights violations which took place during conflict. The government has not formed transitional justice mechanisms yet.

AHRC response:

The requests for visit have not been accepted. None of the allegations of extrajudicial killings have led to any impartial and credible investigations.

NHRC response:

- Separate mechanism to investigate extra judicial execution has not been established yet.
- The Government has not performed impartial and effective investigation of the cases of extra judicial execution. Security forces used to conceal such cases of extra judicial execution instead of investigation and prosecution.
- The request of country visit by Special Rapportuer on Extra Judicial, Illegal and Arbitrary Execution and Working Group of Enforced Disappearance have not



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- Nepal has welcomed several special procedures and Special Rapporteurs. Despite the fact that the commitment made with green signal to establish a mechanism under the purview of the Office of the Prime Minister and Council of Ministers in order to respond immediately to extend a standing invitation to the special procedures on the basis of the case in an appropriate time, it has not been materialized as such.

Recommendation n°156: Undertake investigations in cases where there are credible allegations of human rights violations, implement court orders and establish transitional justice mechanisms (Recommended by Norway)

IRI: not implemented

AFN response:

Nothing has been done yet by the government to address enforced disappearances and extrajudicial execution and other cases of human rights violations which took place during conflict. The government has not formed transitional justice mechanisms yet.

NDFPHR response:

Not implemented. Since the Comprehensive Peace Agreement was signed in 2006, the government of Nepal has not brought to justice any perpetrator of human rights violations. The Ordinance on Investigation of Disappeared Persons, Truth and Reconciliation Commission, adopted in March 2013, merged the two foreseen commissions on Truth and Reconciliation as well as on Disappeared Persons, which are required for by the Peace Agreement, and which now provides the possibility of granting amnesty in cases of severe human rights violations.

- Victims and human rights organization were not duly consulted about their understanding of the commission to be established and especially about their perspectives about the concepts of truth, justice and reconciliation.
- The fate of more than 1.300 forcibly disappeared persons still remains unresolved.
- Following pressure from political parties, investigative procedures of human rights violations are often not recorded or they are withdrawn and, in individual cases, amnesty is granted to offenders. Final verdicts, including those passed by the Supreme Court, are not implemented. In March 2012, for example, over 400 cases were withdrawn (including more than 100 murders) – on the basis, inter alia, that those were of political nature. Police and army forces get promotions despite proven human rights violations they are accused of.

AHRC response:

Not a single perpetrator of human rights violations on any side of the conflict has been brought to book so far. The politicians have repeatedly asserted that HRV committed during the conflict would be dealt with by the transitional justice mechanisms, in spite of the Supreme court repeatedly finding otherwise and ordering



investigation and prosecutions in a number of individual cases. Those orders have not been implemented. A presidential ordinance creating the commission on truth reconciliation and disappeared persons was adopted in March 2013 but immediately suspended by the Supreme Court as it failed to provide enough guarantees against amnesty of the perpetrators.

Recommendation n°157: *Effectively investigate violations against human rights defenders, including journalists and women rights activists and bring to justice those responsible for such violations* (Recommended by Norway)

IRI: *not implemented*

AFN response:

Nothing has been done yet by the government to address enforced disappearances and extrajudicial execution and other cases of human rights violations which took place during conflict. The government has not formed transitional justice mechanisms yet.

NDFPHR response:

Not implemented. Human rights defenders, who document cases of human rights violations and offer legal advice to the victims, are exposed to threats, pressure and intimidation as well as violence and discrimination. The same applies to journalists who report on human rights violations; they are also exposed to death threats. Between January and October 2012, according to the human rights organization INSEC, more than 200 human rights defenders fell victims of human rights violations (including 5 murders, inter alia the murder of a Supreme Court Judge). Among them a total of 79 were journalists. In half of the cases it was proved that the offenders were members of political parties, governmental officials and state security forces. Particularly women human rights defenders are vulnerable to stigmatization due to their work. In several occasions since 2011 prominent and international recognized human rights defenders were blamed for allegedly obstructing the peace process, as well as being defined as “people’s enemy”, against whom physical punishment was asked for, putting them at great risk of threats.

AHRC response:

No legislation has been adopted to provide a legal framework protecting the work of human rights defenders. In 2013 a series of verbal and physical attacks against human rights defenders working against impunity have been of particular concern and have shown how little follow up has been done to implement that recommendation.

Following the arrest in the United Kingdom of a Nepal Army soldier, Colonel Lama, facing two charges of torture and the arrest of the alleged perpetrators of the enforced disappearance and murder of a journalist, Dekendra Raj Thapa, during the war, human rights defenders have been facing increased threats and attacks. In both cases, the government has unequivocally taken stance in favour of impunity, protesting diplomatically against Colonel Lama's arrest and ordering a halt to the investigations into the murder of Mr. Thapa. In that case, the Prime Minister has publicly deplored the work of human rights defenders and the arrests. The spokesperson of the Maoist party has also accused the NGOs, specifically referring



to Mandira Sharma and Advocacy Forum, of working against national interest in the search for profit and blamed them for being behind the arrest of Colonel Lama in the UK. The blatant political protection to perpetrators of human rights violations has fuelled abuse, threats and attacks against human rights defenders.

On January 26, newspapers reported that a group of twenty two journalists based in Dailekh district fled the district after being threatened by local Maoist cadres in the eve of a visit of the Prime Minister. They were threatened to stop covering the legal development in Mr Thapa's case.

Peaceful protesters who had gathered daily for the past two months in front of the Prime Minister's residence in Kathmandu to denounce gender-based violence and impunity were twice manhandled by the police and arrested by dozens. On 25 January, 32 protesters were arrested and detained for three hours, while one transgender activist was assaulted by four policemen and had to be taken to the hospital. Again on 16 February, the police arrested and detained 23 activists and a nine month old baby as the protests denounced the impunity benefiting Maina Sunuwar's murderers. One activist was injured and bleeding after being punched in the face by police personnel.

Even more concerning are reports that several medias, affiliated to the Maoist party, including the weekly magazine Lal Rakshak (Red Defender), the blog Krishnasenonline and various local FM radio stations have denounced the work of human rights defenders as going against the peace process and called for violent action to be taken against them. Of particular concern is an article published in the January-February 2013 edition of Lal Rakshak which accused five prominent human rights defenders of acting against the Maoists and the peace process. All the human rights defenders targeted are active members of the Accountability Watch Committee, a committee formed to ask for accountability for human rights violations committed during the conflict.

The article accused the human rights defenders of having committed various crimes, and called for "People's action" against them. People's action was a term used by Maoist combatants during the civil war to refer to violent action taken as punishment against those seen as opposing the Maoist party. Throughout January 2013, three other newspapers and a radio station have relayed that call for violent action against human rights defenders. Those have culminated in the attack of a human rights defender, Mr Batsola in February 2013 by unidentified assailant after having written an article calling for accountability for a human rights violation committed during the conflict. The investigation launched in the case has not led to any arrest or prosecutions.

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conflict. The investigation launched in the case has not led to any arrest or prosecutions.

NHRC response:

- Despite the fact that the GoN has expressed its commitment to introduce special program to ensure for the further protection of the Human Rights Defenders, it hasn't been implemented until today. The situation is such that no action is taken against the political party cadres involved in the attack on journalists due to the political protection provided to those responsible for such attack. No mechanism as such has been developed to investigation on the incidents leading to abate rights violations until today.

Recommendation n°158: *Start the investigation of all outstanding allegations of human rights violations committed during or after the conflict and to bring perpetrators to justice in proceedings which meet international standards (Recommended by Netherlands)*

IRI: *not implemented*

AFN response:

The government has not investigated cases of human rights violations committed during and after the conflict yet.

NDFPHR response:

Not implemented. Since the Comprehensive Peace Agreement was signed in 2006, the government of Nepal has not brought to justice any perpetrator of human rights violations. The Ordinance on Investigation of Disappeared Persons, Truth and Reconciliation Commission, adopted in March 2013, merged the two foreseen commissions on Truth and Reconciliation as well as on Disappeared Persons, which are required for by the Peace Agreement, and which now provides the possibility of granting amnesty in cases of severe human rights violations.

- The fate of more than 1.300 forcibly disappeared persons still remains unresolved.
- Following pressure from political parties, investigative procedures of human rights violations are often not recorded or they are withdrawn and, in individual cases, amnesty is granted to offenders. Final verdicts, including those passed by the Supreme Court, are not implemented. In March 2012, for example, over 400 cases were withdrawn (including more than 100 murders) – on the basis, inter alia, that those were of political nature. Police and army forces get promotions despite proven human rights violations they are accused of.

AHRC response:

Not a single perpetrator of human rights violations on any side of the conflict has been brought to book so far. The politicians have repeatedly asserted that HRV committed during the conflict would be dealt with by the transitional justice mechanisms, in spite of the Supreme court repeatedly finding otherwise and ordering investigation and prosecutions in a number of individual cases.

NHRC response:

- The repeated commitments of the Government to prosecute the human rights violators have not been implemented in practice. Perpetrators are enjoying immunities through political interferences. Impunity is being promoted by withdrawing criminal cases.
- Especially the implementation of decisions of courts relating to human rights violation in the period of armed conflict is very poor. Political interference has been observed from the beginning of prosecution till the implementation level.
- State of impunity has been increasing due to lack of impartial prosecution and non-implementation of the court decisions.
- Especially in the human rights violation cases happened during armed conflict, the Nepal Army mentioned that it has been initiating action against perpetrators; however, it is found that the Nepal Army has not been cooperating to the courts to present the alleged culprits before the courts pursuant to the court decision including the recommendations of the NHRC.

Recommendation n^o159: *Intensify the efforts in the investigation of pending allegations of serious human rights and international humanitarian law violations by all parties in the armed conflict* (Recommended by Spain)

IRI: *not implemented*

AFN response:

Nothing has been done yet by the government to address enforced disappearances and extrajudicial execution and other cases of human rights violations which took place during conflict. The government has not formed transitional justice mechanisms yet.

NDFPHR response:

Not implemented. Since the Comprehensive Peace Agreement was signed in 2006, the government of Nepal has not brought to justice any perpetrator of human rights violations. The Ordinance on Investigation of Disappeared Persons, Truth and Reconciliation Commission, adopted in March 2013, merged the two foreseen commissions on Truth and Reconciliation as well as on Disappeared Persons, which are required for by the Peace Agreement, and which now provides the possibility of granting amnesty in cases of severe human rights violations.

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AHRC response:

Not a single perpetrator of human rights violations on any side of the conflict has been brought to book so far. The politicians have repeatedly asserted that HRV committed during the conflict would be dealt with by the transitional justice



mechanisms, in spite of the Supreme court repeatedly finding otherwise and ordering investigation and prosecutions in a number of individual cases.

Recommendation n°161: *Take all necessary measures to put an end to acts of intimidation and violence committed against journalists and human rights defenders* (Recommended by France)

IRI: not implemented

CSW response:

Human rights defenders are still at high risk of violence from political groups and youth militias to the extent that some human rights defenders have had to leave the country to ensure their own safety.

Journalists are still at high risk of violence from political groups and youth militias. Journalists are particularly at risk in areas of the country distant from Kathmandu.

AFN response:

No any effective measures have been taken to end acts of intimidation and violence committed against journalists and human rights defenders yet.

NDFPHR response:

Not implemented. Human rights defenders, who document cases of human rights violations and offer legal advice to the victims, are exposed to threats, pressure and intimidation as well as violence and discrimination. The same applies to journalists who report on human rights violations; they are also exposed to death threats. Between January and October 2012, according to the human rights organization INSEC, more than 200 human rights defenders fell victims of human rights violations (including 5 murders, inter alia the murder of a Supreme Court Judge). Among them a total of 79 were journalists. In half of the cases it was proved that the offenders were members of political parties, governmental officials and state security forces. Particularly women human rights defenders are vulnerable to stigmatization due to their work. In several occasions since 2011 prominent and international recognized human rights defenders were blamed for allegedly obstructing the peace process, as well as being defined as “people’s enemy”, against whom physical punishment was asked for, putting them at great risk of threats.

AHRC response:

No legislation has been adopted to provide a legal framework protecting the work of human rights defenders. In 2013 a series of verbal and physical attacks against human rights defenders working against impunity have been of particular concern and have shown how little follow up has been done to implement that recommendation.

Following the arrest in the United Kingdom of a Nepal Army soldier, Colonel Lama, facing two charges of torture and the arrest of the alleged perpetrators of the enforced disappearance and murder of a journalist, Dekendra Raj Thapa, during the war, human rights defenders have been facing increased threats and attacks. In both cases, the government has unequivocally taken stance in favour of impunity, protesting diplomatically against Colonel Lama's arrest and ordering a halt to the



investigations into the murder of Mr. Thapa. In that case, the Prime Minister has publicly deplored the work of human rights defenders and the arrests. The spokesperson of the Maoist party has also accused the NGOs, specifically referring to Mandira Sharma and Advocacy Forum, of working against national interest in the search for profit and blamed them for being behind the arrest of Colonel Lama in the UK. The blatant political protection to perpetrators of human rights violations has fuelled abuse, threats and attacks against human rights defenders.

On January 26, newspapers reported that a group of twenty two journalists based in Dailekh district fled the district after being threatened by local Maoist cadres in the eve of a visit of the Prime Minister. They were threatened to stop covering the legal development in Mr Thapa's case.

Peaceful protesters who had gathered daily for the past two months in front of the Prime Minister's residence in Kathmandu to denounce gender-based violence and impunity were twice manhandled by the police and arrested by dozens. On 25 January, 32 protesters were arrested and detained for three hours, while one transgender activist was assaulted by four policemen and had to be taken to the hospital. Again on 16 February, the police arrested and detained 23 activists and a nine month old baby as the protests denounced the impunity benefiting Maina Sunuwar's murderers. One activist was injured and bleeding after being punched in the face by police personnel.

Even more concerning are reports that several medias, affiliated to the Maoist party, including the weekly magazine Lal Rakshak (Red Defender), the blog Krishnasenonline and various local FM radio stations have denounced the work of human rights defenders as going against the peace process and called for violent action to be taken against them. Of particular concern is an article published in the January-February 2013 edition of Lal Rakshak which accused five prominent human rights defenders of acting against the Maoists and the peace process. All the human rights defenders targeted are active members of the Accountability Watch Committee, a committee formed to ask for accountability for human rights violations committed during the conflict.

The article accused the human rights defenders of having committed various crimes, and called for "People's action" against them. People's action was a term used by Maoist combatants during the civil war to refer to violent action taken as punishment against those seen as opposing the Maoist party. Throughout January 2013, three other newspapers and a radio station have relayed that call for violent action against human rights defenders. Those have culminated in the attack of a human rights defender, Mr Batsola in February 2013 by unidentified assailant after having written an article calling for accountability for a human rights violation committed during the conflict. The investigation launched in the case has not led to any arrest or prosecutions.

Recommendation n^o162: *Protect human rights defenders and journalists by promptly investigating complaints of harassment and holding perpetrators accountable*
(Recommended by *United States*)

IRI: not implemented



CSW response:

Human rights defenders are still at high risk of violence from political groups and youth militias to the extent that some human rights defenders have had to leave the country to ensure their own safety.

Journalists are still at high risk of violence from political groups and youth militias. Journalists are particularly at risk in areas of the country distant from Kathmandu

AFN response:

Human Rights defenders and journalists are vulnerable to harassment by cadres of political parties, security forces and armed outfits. However, no mechanism is established for protection and investigation of complaints of harassment yet.

NDFPHR response:

Not implemented. Human rights defenders, who document cases of human rights violations and offer legal advice to the victims, are exposed to threats, pressure and intimidation as well as violence and discrimination. The same applies to journalists who report on human rights violations; they are also exposed to death threats. Between January and October 2012, according to the human rights organization INSEC, more than 200 human rights defenders fell victims of human rights violations (including 5 murders, inter alia the murder of a Supreme Court Judge). Among them a total of 79 were journalists. In half of the cases it was proved that the offenders were members of political parties, governmental officials and state security forces. Particularly women human rights defenders are vulnerable to stigmatization due to their work. In several occasions since 2011 prominent and international recognized human rights defenders were blamed for allegedly obstructing the peace process, as well as being defined as “people’s enemy”, against whom physical punishment was asked for, putting them at great risk of threats.

AHRC response:

Impunity remains the norm for acts of attacks and threats against HRD and journalists, working against impunity or against established social discrimination. No legislation has been adopted to provide a legal framework protecting the work of human rights defenders. In 2013 a series of verbal and physical attacks against human rights defenders working against impunity have been of particular concern and have shown how little follow up has been done to implement that recommendation.

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[See response to recommendation n° 161]

Recommendation n°163: *Strengthen the rule of law by establishing an independent complaints commission capable of investigating and prosecuting complaints against the security forces and a police service commission responsible for police recruitment, transfers and promotion (Recommended by United Kingdom)*

IRI: not implemented

AHRC response:

Not done



NHRC response:

- GoN has been making initiatives to establish Police Service Commission; however, it has not been established yet.
- The GoN has informed that it is going to establish the independent complaint system on behavior of security forces.
- The Ministry of Home informed that it has been taking departmental action against personnel involved in inhuman and degrading behavior; however, extensive reform is necessary in this regard.
- The security personnel of Nepal Police and Nepal Army involved in systematic human rights violation and excesses are being granted promotion; therefore, extensive reform with human rights perspectives is required in both agencies.
- GoN has informed that it has enacted measures and general principles about recruitment, transfer and promotion in Nepal Police on clear basis.

Recommendation n^o164: *Investigate and prosecute those who committed human rights violations on both sides of the conflict (Recommended by New Zealand)*

IRI: not implemented

HimRights response:

- Most of the survivors of sexual violence are still living with difficulties. They are facing social, economic, medical and psychosocial problems. There are no provisions on providing relief and/or compensation to the survivors of sexual violence. Moreover, there is no proper documentation of survivors of sexual violence.
- The State has not recognized the pervasive existence of sexual violence during the armed conflict as a grave human rights nor are they registered the survivors for investigation and prosecution. Most of the survivors have been unable to raise their issue with the government for fear of social ostracization and no specific measures to address in National Plan of Action on UN SCR 1325 and legal system to address it.
- Existing legal provisions states that the cases of sexual violence are to be registered within the 35 days of the incident. It bars the survivors of sexual violence from the conflict period to register the cases for investigation and prosecution.

Nepal experienced 10 years of civil (1996-2006) war that affected women in specific ways: women experienced rape, sexual assault and sexual harassment, disabled, and many were left in precarious and vulnerable positions. Especially where their husbands were killed or disappeared. In many cases there was inter-caste marriages, which is not accepted after the war was over and their children not accepted by deceased/disappeared husband's family. There is no data of children born from rape during this period and their status.

Sexual violence, which was rampant during the conflict, is yet to be formally acknowledged and addressed. It was used as a weapon of war, both by the State. There was sexual abuse by the non-state party too. Moreover, the State has not recognized it as severe violation human rights. There is no data or documentation of cases of sexual violence during the armed conflict. Hence, the State must recognize sexual violence during the armed conflict as severe human rights violation and



should develop mechanisms for identification and documentation of the survivors and for reparation, restitution and access to justice.

HimRights has conducted many researches and worked with many survivors directly affected by armed conflict children, women and men (ex child and women soldiers). A specific documentation/reconciliation workshop was conducted in December 2012 with nine women faced severe sexual violence: rape and sexual torture. None of them have sought for legal justice or shared with others on this regard. They are silently suffering, both physically and mentally (some have disability due to rape and sexual torture); they are petrified of what the society might think of them. Furthermore, there is no dignified and respectful space for them to register their cases. One of them (she was raped both by the Maoist and state army) shared that she saw 26 women raped, tortured, mutilated, killed and buried within the army barrack. Another one shared her sister was raped, killed, and buried in her neighborhood, accused of being Maoist. Further another participant shared how her friend got tortured, raped, and finally dragged to the river and drowned. One of the participants was sexually tortured in front of her children.

The State has distributed relief packages to most families of the disappeared, but they are still facing difficulty in inheritance of properties. The State has not issued any certificates to the families of disappeared that could substitute death certificates.

AFN response:

Nothing has been done yet by the government to address enforced disappearances and extrajudicial execution and other cases of human rights violations which took place during conflict. The government has not formed transitional justice mechanisms yet.

AHRC response:

Not a single perpetrator of human rights violations on any side of the conflict has been brought to book so far. The politicians have repeatedly asserted that HRV committed during the conflict would be dealt with by the transitional justice mechanisms, in spite of the Supreme court repeatedly finding otherwise and ordering investigation and prosecutions in a number of individual cases.

Recommendation n°174: *Designate a national preventive mechanism, to safeguard the rights of detainees and to prevent any acts of torture (Recommended by Maldives)*

IRI: not implemented

AHRC response:

Not done

NHRC response:

- Nepal was considering the ratification of the Optional Protocol on the Convention against Torture (OPCAT) but it has informed about the preventive mechanism already being in existence.
- Though the OPCAT hasn't been ratified, the OHCHR Nepal used to monitor the prison and detention centers, as mentioned by the GoN. [...]



Recommendation n°189: *Amend legislation to remove all provisions granting security forces or Government officials immunity from prosecution for criminal acts (Recommended by Canada)*

IRI: *not implemented*

NHRC response:

- There is no any legal provision in Nepal for providing the advantage of immunity
- GoN has informed that it has issued directives to the concerned security authorities to launch fair investigation and to prosecute those involved in criminal offences without any undue pressure and prejudices. Contrarily, the monitoring carried out by the Commission has found that having affiliated to the political parties, such persons accused of criminal offenses have been offered immunity either by withholding the lawsuit filed against them or simply via the withdrawal of their cases related to them.

Recommendation n°192: *Implement the recommendations contained in the 2010 OHCHR report on "Investigating allegations of extra-judicial killings in the Terai", inter alia: (a) fully investigate all allegations of the use of extra-judicial killings in the context of the current Special Security Plan, as well as past and future security operations, (b) establish external oversight mechanisms, such as an independent police complaints commission or special investigative unit to investigate and prosecute crimes allegedly committed by State actors, (c) adopt measures to support and protect witnesses as well as victims and their family members. (Recommended by Czech Republic)*

IRI: *not implemented*

FPPRN response:

No significant effort has been made.

NHRC response:

- In the pretext of controlling and preventing the extra-judicial killings in the districts of the Terai, the Government is found to have been concealing such an occurrences in the name of encounter. The Commission has investigated the incident and recommended to the Government but not yet implemented.
- The GoN has informed that it has lately mobilized the security force under security plan in the districts of the Terai in order to control and prevent the criminal offenses of serious nature committed in the name of the political movement and to book those involved in such activities.
- There is a lack of law and policy with regard to the protection of the witness and victims.

SOGI

Recommendation n°15: *Enact legislation to ensure members of the lesbian, gay bisexual, transgender and intersex (LGBTI) community citizenship rights, consistent with the equal rights enumerated in the Nepali Supreme Court's 2008 decision (Recommended by United States)*

IRI: *partially implemented*



Blue Diamond Society (BDS) response:

The citizenship ID [of] transgender, changing all discriminatory laws and same sex marriage bill... these are the directive orders by supreme court of Nepal in 2008 and except citizenship ID to third genders, these orders has not been implemented. Instead Nepal government drafted civil and criminal code to replace the country code and that has regressive provisions against LGBTI people. This must be stopped.

AHRC response:

The dissolution of the CA has put the adoption of such legislation on hold

UNRCO response:

LGBTI's rights to citizenship is ensured and passport is also issued, however, harassment and ill treatment is continued to be reported. The issue of the LGBTI has not been reflected in the GoN's three year interim plan 2013-2015.

NHRC response:

- The Government has amended Citizenship related Regulation to provide Citizenship to Third Gender Citizens with their identity. In this regard, the Government also enacted Guidelines to manage Citizenship distribution procedures. Now, the third gender Citizens have been provided with Citizenship with their identity. However there is still problem to amend the citizenship to those persons who had already got Citizenship with an identity of male or female.
- LGBTI people are being discriminated in several ways. NHRC has recorded the cases of mistreatment by Police in Kathmandu.
- The Government has formed Working Group to provide report on same sex marriage; however the problem of same sex marriage has not been solved because the Working Group has not submitted its report.

Recommendation n^o44: *Take steps to ensure non-discrimination based on sexual orientation and gender identity including in the proposed civil and criminal laws (Recommended by New Zealand)*

IRI: not implemented

BDS response:

The draft civil code and criminal code to replace country code must be reworked with LGBTI community before it gets passed as law as they have proposed regressive and criminalizing of LGBTI language in to the drafts civil and criminal code.

AHRC response:

Necessary legal reforms have been stalled with the dissolution of the CA very limited efforts have been met to ensure gender equality, women victims of violence seeking justice are still confronted with a justice system ridden with patriarchal values and impunity continues to be the norm for gender based violence. Women human rights defenders have been facing specific risks and attacks and little has been achieve to protect their work

NHRC response:

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Government also enacted Guidelines to manage Citizenship distribution procedures. Now, the third gender Citizens have been provided with Citizenship with their identity. However there is still problem to amend the citizenship to those persons who had already got Citizenship with an identity of male or female.

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Recommendation n^o45: *Implement fully the Supreme Court decision regarding sexual and gender minorities* (Recommended by Norway)

IRI: *not implemented*

BDS response:

Except citizenship ID to third genders, the discriminatory laws has not been amended and the same sex marriage law has not been enacted yet.

AHRC response:

Necessary legal reforms have been stalled with the dissolution of the CA

NHRC response:

- The Government has amended Citizenship related Regulation to provide Citizenship to Third Gender Citizens with their identity. In this regard, the Government also enacted Guidelines to manage Citizenship distribution procedures. Now, the third gender Citizens have been provided with Citizenship with their identity. However there is still problem to amend the citizenship to those persons who had already got Citizenship with an identity of male or female.
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Women & Children

Recommendation n^o9: *Review its legal framework to provide for a better protection and promotion of women's rights* (Recommended by Slovakia)

IRI: *not implemented*

Child Nepal (CN) response:

De jure equality has been maintained in domestic laws however, constitution itself maintains unequal provisions for Nepalese man and female married to a foreign national while receiving citizenship certificate. It is easier and fast for a Nepalese man to get citizenship certificate for his foreign national wife than a Nepalese women to her foreign national husband.

BDS response:

The draft "civil code and criminal code" to replace 150 years old 'country code' is regressive and against international human rights instruments that Nepal have signed and must be changed. The draft have provision of criminalizing LGBTI people which Nepal never had even in its old laws and constitutions.

CWIN response:

There is need to review of legal framework to provide for a better protection and promotion of women's rights. It should include the young girl rights as the most vulnerable section of society. It is good part that there has been initiative from the civil society organizations to address the girl children specifically. Government is also positive in this matter.

AHRC response:

The dissolution of the CA has put on hold necessary reforms to protect and promote the rights of women. A law on sexual harassment in the work place was being discussed before the CA but has not been adopted, maintaining a legal vacuum detrimental to women

UNRCO response:

In the absence of the CA, the policy and legal changes towards promoting women's rights is not a priority of the government as the election of the new CA is the top priority. The National Women Commission as a statutory body is regularly providing comments and suggestions to the government on the women r rights issues such as the NWC is a member of the Task Force to revise the Draft Criminal and Penal code from the Sexual Gender based Violence and also on the witness and victim protection draft team formed by the government.

NHRC response:

- Despite the ample discussion on the content of the recommendations in the Constituent Assembly (CA), the implementation of the recommendations could not tap impetus due to the dissolution of the CA without the promulgation of new constitution.
- There has been consensus among the major political parties to form the new constitution after yet another new Constituent Assembly to be held sometime in November, 2013. For the purpose, the interim election government has been formed in the leadership of the Chief Justice. The same Chief Justice holds the office of both the chief of judiciary and executive which has been criticized far and wide as it is against the principle of separation of power and concept of independency of the judiciary.
- According to the agreement of the major political parties the election government has decided hold the fresh election of the Constituent Assembly on 19th November, 2013. Despite the possibility of new election of the CA on the scheduled date the possibility of framing new constituent in stipulated timeframe is still uncertain due to some political parties' declaration of boycotting of election together with the continuous existence of odds and disagreement among the political parties. In this regard, it is necessary to convince the unsatisfied political parties to have election in fearless and fair environment.



- The Constitution could not be promulgated due to the disagreement among the political parties mainly on the issues of state restructuring, federalism and ethnic identity in the process of framing new constitution via the past CA; the same disputes among the political parties have been inexistence as before.
- The past CA was inclusive from the point of view of ethnicity and gender and the political parties have agreed to make similar structure of the CA by maintaining same provisions of inclusiveness.
- The draft constitution prepared by past CA has included freedom of religion and beliefs. The political parties have made commitment to ensure freedom of religion, right to equality and non-discrimination in the new constitution.
- The political parties have made commitment to frame new constitution in line with international standards. The draft of the constitution prepared by the dissolved CA has included women's rights; therefore, it is anticipated that the new constitution will have similar provisions. The agreement of the political parties on framing new CA with the similar provision as before has ensured minimum 33% representation of women and inclusiveness of the different casts.
- The national law is being framed in line with international standards. After the dissolution of the CA there has not been any significant progress in making human rights friendly laws together with legal reforms.

Recommendation n^o14: *Introduce comprehensive legislation and more stringent enforcement of existing laws in the areas of domestic violence towards women and human trafficking* (Recommended by *Indonesia*)

IRI: *not implemented*

CN response:

Human Trafficking and Transportation Control Act enacted in 2007 though considered good compared to old one, it still needs amendment to protect the rights of victim, especially, to provide them security and compensation. There is no initiative for the amendment of the Act. Domestic Violence Prohibition Act has been enacted.

NHRC response:

- The Act on Domestic Violence (Control and Punishment) 2066 and its regulation-2067 have been enacted. Under these laws, cases of gender based violence have been investigated by the National Women Commission and Nepal Police in order to protect the human rights of victims. In this regard, the National Women Commission has been advocating to include the domestic violence cases in states cases (schedule-1).
- Likewise, Human Trafficking Control Act, 2064 and its regulation have been implemented.
- GoN has implemented Sex and Gender Based Violence and Gender Empowerment Strategy and Work Plan (2069/70-2073/74).
- Sexual Exploitation Control of Women workers working in the places like Dance Restaurant and Bar Guidelines enacted by Supreme Court of Nepal and Immigration Act, 2049; Foreign Employment Act, 2064 and Regulation-2064 have been in implementation.
- National Women Commission has recommended to the Government to review the relevant laws to ensure action against culprits of rape cases and compensation to the victims. In addition, the NWC has also recommended to



amend 35 days limitation to file cases on rape cases by studying the rape related laws. In addition, the NWC has recommended to establish the desk together with district units to address Gender Based Violence cases.

- The Ministry of Women, Children and Social Welfare has prepared National Action Plan against human trafficking. The Action Plan has prioritized five specific areas including prevention, protection, prosecution, capacity development of concerned institutions.
 - For the purpose of prevention of violence against women and children, National Child Welfare Committee has established Child Help Line in 14 districts and Women Service Center in 15 districts with an aim to expand it to all 75 districts across the country.
 - Thousands of trafficked persons are living slavery like life abroad. Trafficking in women and children and human smuggling are major problems of Nepal. The Government has launched various programs against human trafficking in coordination with civil society; however these programs are not sufficient to address the problem.
 - Human Trafficking related Act 2007 and Regulation 2008 have been implemented however its implementation is not effective due to various reasons like delay in justice delivery.
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 - Human Trafficking related Act 2007 and Regulation 2008 have been implemented however its implementation is not effective due to various reasons like delay in justice delivery.

NCARD+IPRAN response:

The absolute numbers of women and girls in Nepal who are lured or trapped into human trafficking rings or sexually exploited are very difficult to pin down. Different sources provide widely varying statistics. The United Nations Development Programme, in its 2004 National Human Development Report, provides a generally accepted figure of some 12,000 girls and women annually, of whom a fifth are under the age of 16. As recognized in Nepal's State Report to CEDAW (CEDAW/C/NPL/4-5), indigenous women and girls are disproportionately involved in trafficking: "During 2006-07, of the 233 children rescued, 217 were girls. Of this total number, 78.55% are from ethnic groups and 12.5% from the Dalit community." The discrepancy here is stark; indigenous women and girls make up almost 80% of the total of these trafficked individuals although the proportion of indigenous peoples in Nepal is only officially placed at 37%. Given these statistics, it is necessary for measures introduced to combat the sexual exploitation of women and girls to specifically address the causal factors that disproportionately impact on indigenous women and girls.

CEDAW (A/59/38, 2004) has addressed this problem before, urging the State "to intensify its efforts to address trafficking in women and girls. It recommends that its anti-trafficking strategy should include measures of prevention, the prosecution and punishment of perpetrators and increased international, regional and bilateral cooperation." CEDAW also requested "the State party to provide in its next report information about the legal and actual situation with respect to trafficking in women and girls." While this recommendation goes some way to addressing the complex issues in Nepal that lead to, and may be used to address, the problem of human trafficking, the ethnicity of the overwhelming majority of victims goes unaddressed.

Thus, the recommendation of Indonesia still stands and should be reinforced. Further, Nepal should be recommended to couple such enforcement measures with the prevention measures recommended by CEDAW and that such measures be specifically targeted to the most at risk populations, including the indigenous women and girls of Nepal, addressing root causes such as poverty, economic marginalization, land loss and economic migration. (Shadow report submitted to CSW in 2012).

CWIN response:



Children too are being greatly affected by the domestic violence towards women and human trafficking. Many children are being trafficked at home and abroad for their physical and sexual exploitation. Government should take care this issue also.

PNCC response:

Nepal has promulgated Human Body Organ Transplantation (Regulation and Prohibition) Act, 2055 (1998) and Human Trafficking and Transportation (Control) Act, 2064 (2007) especially to address the human trafficking however it has not address the human trafficking which is happening under foreign employment. Many Nepali women and children being trafficked to Gulf Countries, Malasiya and India in the name of foreign employment and no proper mechanism have been developed to address the trafficking happening in the name of foreign employment.

Recommendation n^o18: *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 (Recommended by Bolivia)*

IRI: not implemented

CSW response:

The work of the National Dalit Commission has been seriously hampered by lack of finance. The Government of Nepal has not provided it with adequate financial resources of buildings and premises in the capital or in the regions. National Dalit Commission campaigns have been halted for lack of financial resources. The government gives the National Dalit Commission no priority and insufficient backing to fulfil its major objectives.

CN response:

Human rights institutions like National Human Rights commission, National Women's Commission and National Dalit Commission are still affected by politics as the commissioners are appointed by political influence. Their recommendations are not seriously taken by the government. Women commission and Dalit commission remain in low profile than NHRC.

AHRC response:

This has not been done.

UNRCO response:

The NWC and the NDC 's performance is limited due to the resource constraint. The legislation to establish the NDC is yet to be promulgated. The both commissions have limited coordination with the other stakeholders especially outside the capital as they lack the infrastructure and resources for outreaching.

NHRC response:

- The Government has mentioned that it has been working for strengthening the National Women Commission and National Dalit Commission by utilizing available resources. However these institutions are not found satisfied with the Government. In addition, separate law relating to Dalit Commission has not enacted yet.



- The Government mentioned that it has been providing optimum available resources to the National Women Commission and National Dalit Commission

Recommendation n°19: *Strengthen the resources allocated to the implementation of the adopted National Action Plan for children for the period 2005-2015 (Recommended by Algeria)*

IRI: *not implemented*

CWIN response:

There remains merely two years in completion of the plan of action for children (2005-2015). There are much to accomplish and the government should give high priority in this regard planning intensively for the remaining time.

NHRC response:

- Owing to the inadequate resources, the NHRAP related to children could not be implemented effectively

Recommendation n°20: *Allocate sufficient resources for the effective implementation of the National Plan of Action for Children (Recommended by Slovakia)*

IRI: *not implemented*

CN response:

Resource was allocated but no sufficient information on whether the resource was sufficient and whether the plans were duly implemented

CWIN response:

It has been the paradox that government formulates the NPA but does not allocate sufficient resources for its implementation. We civil society strongly demand for the same.

NHRC response:

- The draft of Child rights related Act has not been enacted because of dissolution of the Parliament.
- The Government has enacted National Children Policy 2012. The Policy has incorporated various activities relating to survival, protection, development and participation of children. However its implementation is found very poor.
- Despite the policy of free education in Government Schools Some Public Schools are imposing fees to the parents in various titles. The number private schools have been increasing because of lack of quality education in public schools. It is found that delivery of quality education by public schools has been affected due to lack of accountability, recourses and traditional teaching systems. By the result discrimination in quality education has been created for poor and reach.
- Large numbers of children are still out of school due to lack of implementation of compulsory education program.
- Incidents of sexual exploitation against children have been recorded during the monitoring of human rights situation by the NHRC

Recommendation n°22: *Implement effectively the Human Rights Action Plan and other national action plans, including on the elimination of discrimination against women and on the rights of persons with disabilities (Recommended by China)*

IRI: *partially implemented*

NDFPHR response:

Partially implemented. Although efforts were done, the discrimination of vulnerable groups is still a widespread reality. Particularly vulnerable groups such as women, former bonded laborers, Janajatis, Dalits, other ethnic, religious and sexual minorities, landless, persons with disabilities or HIV/AIDS suffer from multiple forms of discrimination. They are frequently denied access to land, food, healthcare, education, work, justice and the participation in decision-making processes. Although Nepal has adopted a law that prohibits caste-based discrimination and the so-called practice of “untouchability”, an effective implementation is still lacking. Dalits are still suffering from severe human rights violations and even murder. Moreover, women are still largely exposed to domestic and sexual violence.

- After the end of 2012 several cases of violence against women such as murder and rape were/have been brought to the attention of the public, e.g. the case of Sita Rai in December 2012. Members of the civil society formed the movement “Occupy Baluwatar” and protested those cases and the lack of investigation by the respective authorities. Although the authorities promised the investigation and prosecution of those responsible in those crimes, little has been done to address the root causes of violence against women as it is also the case regarding caste-based discrimination.
- Still women are discriminated upon regarding their access to resources, both natural – land and forest – and labor and income opportunities. Still, in most cases women do not possess their own land. Traditional practices and some legal regulations still in force, as for example those related to inheritance, impede equal access of women to food producing resources. In addition, rural women, that are part of the poor and indigenous communities, often are victims of multiple discriminations.
- The GoN implemented a reservation quota for recruitments by open competition in most civil services but the provisions are criticized inter alia for not providing genuine proportional representation of all groups with their respective population shares and for mainly reserving posts within the lower ranks of the civil services.

AHRC response:

The Human Rights Action plan remains far from being implemented. Discrimination against women and persons with disabilities remain deeply entrenched with little possibility for redress

UNRCO response:

National Human Rights Action Plan (NHRAP) 2010-2013 is completed and the government is preparing for next human rights action plan. However, there has not been assessment of the NHRAP 2010-2013 implementation. NHRC is planning conduct assessment of the implementation of NHRAP 2010-2013.



NHRC response:

- Senior Citizen related Act, 2068 has been enacted. The provision of the act regarding fifty percentage discounts in public transportation has not been implemented. The Government Hospital has begun to provide fifty percentage discounts in health treatment.
- The Government has not been paying its attention for protection of dignity and rights of mentally disabled people. Some of the mentally ill people have been detained in jail without proper treatment. Especially such persons have been detained in Dhilikhel Jail in Kavrepalanchok district without proper medical treatment.
- The government of Nepal has ratified the Disability related Convention and also has been preparing policies of positive discrimination however situation of enjoyment of rights of disable people in all sector has not created yet.

The government informed that it is going to enact the National Plan of Action for protection of rights of the disabled people.

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- National Human Rights Action Plan(NHRAP) has been formulated. The GoN has also introduced National Five Year Strategy and Work Plan ensuring to end gender violence and to give a boost to the gender empowerment. The objectives of this Strategy and Work Plan are to address the woman in National NHRAP, to reform law related to the children and women under social welfare as per the international standard, to end the gender violence, to protect the rights and liberties of women, to protect and promote the fundamental freedom of the persons with disabilities, to ensure maximum access to the natural and economic resources and to ensure social security and human rights. However, these are not yet implemented as per the Commitments expressed by the GoN and the recommendations sent by the work groups.
- Although the NHRAP is implemented by the GoN, the implementation status towards the end of the third year of the Plan is learnt to have remained acutely deficient because the center, regional and local level implementing agencies are said to have been inadequately informed about it.
- The monitoring system is found to be by far ineffective.
- It is deemed necessary that the GoN also involve the stakeholders for conceiving the new NHRAP to be implemented beginning Fiscal Year 2070/71 with an aim to address the existing problems related to human rights. The extensive programs are necessary among the implementing agencies for their capacity development
- The decision was drawn in the meeting held on 2067/7/25 in the Office of the Prime Minister and Council of Minister that Ministries of the GoN would implement the NHRAP with due priority, The concerned ministries would include the NHRAP implementation expenses in their annual budget. Likewise, the ministries would submit the monthly, quarterly and half yearly report to the OPM within the prescribed timeframe and the OPM would conduct or cause to conduct regular monitoring on the implementation status of the NHRAP.
- Following this, the meeting of the Work Plan Implementing and Monitoring Committee had been held from time to time to assess the implementation status. It was found that the implementation of the NHRAP was apparently ineffective.



- Overall, with the extremely weak implementation of the NHRAP, the implementation of plan to address the discrimination against women and protection of the persons with disabilities also remained bleak within the Plan.

Recommendation n^o26: *Design and implement programmes to ensure the respect for and protection of the rights of women and children, in particular the rehabilitation of women, children and families affected by conflict* (Recommended by Egypt)

IRI: *not implemented*

CN response:

Standard for the Economic Support and Reparation for the Victims of Conflict 2008, 'Directives for Providing Economic Support to the Family Member of Deceased 2009 and Directives for Providing Reparations to the Family Member of Forced Disappeared Persons 2009 were enacted. However these legal measures have many flaws and unable to provide reparation to all victims. Rehabilitation of women, children and families affected by conflict was/is not satisfactory as the compensation amount was not adequate, they didn't get the amount timely or some didn't get at all. No effective program was implemented for their rehabilitation.

AHRC response:

Such programmes have not been designed and implemented. A report by Advocacy Forum "the painful tale of interim relief in Nepal" identifies major flaws in the way interim relief programmes have been implemented "Lacunae in the Standards: some categories of victims have been excluded from receiving interim relief.

- Discrimination in implementation: reports relating to single women and children not being provided what they are entitled to.
- Dissemination and distribution problems: lack of information among victims as to when and how to access the interim relief; budgetary shortages leading to inadequacy of the release of funds; bureaucratic apathy and delays.
- Irregularities and political bias: Overt politicization of the decision-making bodies and the processes to identify the victims" The [report is available online](#) [...].

UNRCO response:

Victims of conflict era sexual and gender based violence (SGBV) are not included in the government's interim relief package. However, the GoN has introduced a new psychological guidelines for the victims of conflict which includes the victims of the SGBV. There is lack of information on sex disaggregated data on conflict victims. A clear list of individuals eligible for reparations is yet to be prepared.

NHRC response:

- The draft of Child rights related Act has not been enacted because of dissolution of the Parliament.
- The Government has enacted National Children Policy 2012. The Policy has incorporated various activities relating to survival, protection, development and participation of children. However its implementation is found very poor.
- Despite the policy of free education in Government Schools Some Public Schools are imposing fees to the parents in various titles. The number private schools have been increasing because of lack of quality education in public schools. It is found that delivery of quality education by public schools has been



affected due to lack of accountability, recourses and traditional teaching systems. By the result discrimination in quality education has been created for poor and reach.

- Large numbers of children are still out of school due to lack of implementation of compulsory education program.
- Incidents of sexual exploitation against children have been recorded during the monitoring of human rights situation by the NHRC

Recommendation n°27: Further enhance measures aimed at protecting the human rights of children, women and other vulnerable groups (Recommended by Philippines)

IRI: not implemented

NDFPHR response:

Partially implemented. Although efforts were done, the discrimination of vulnerable groups is still a widespread reality. Particularly vulnerable groups such as women, former bonded laborers, Janajatis, Dalits, other ethnic, religious and sexual minorities, landless, persons with disabilities or HIV/AIDS suffer from multiple forms of discrimination. They are frequently denied access to land, food, healthcare, education, work, justice and the participation in decision-making processes. Although Nepal has adopted a law that prohibits caste-based discrimination and the so-called practice of “untouchability”, an effective implementation is still lacking. Dalits are still suffering from severe human rights violations and even murder. Moreover, women are still largely exposed to domestic and sexual violence.

- After the end of 2012 several cases of violence against women such as murder and rape were/have been brought to the attention of the public, e.g. the case of Sita Rai in December 2012. Members of the civil society formed the movement “Occupy Baluwatar” and protested those cases and the lack of investigation by the respective authorities. Although the authorities promised the investigation and prosecution of those responsible in those crimes, little has been done to address the root causes of violence against women as it is also the case regarding caste-based discrimination.
- Still women are discriminated upon regarding their access to resources, both natural – land and forest – and labor and income opportunities. Still, in most cases women do not possess their own land. Traditional practices and some legal regulations still in force, as for example those related to inheritance, impede equal access of women to food producing resources. In addition, rural women, that are part of the poor and indigenous communities, often are victims of multiple discriminations.

AHRC response:

No concrete progress has been made on the front of human rights of children -who remain disproportionately affected by torture, women and other vulnerable groups.

CSW response:

There is an urgent need for the protection of women from violence (domestic and public) to be given a higher priority and more resources

CN response:

No further measures have been adopted and implemented besides that were already in place.

CWIN response:

Government should work for developing and strengthening the protection mechanism of vulnerable women, children and other vulnerable groups along with the civil society organizations. Particularly for children government should promote the child help line (toll free hotline 1098)

Recommendation n^o42: *Continue its efforts to ensure gender equality* (Recommended by *Singapore*)

IRI: *fully implemented*

CN response:

Laws have been amended. Women's participation in civil, political, public and international has been given priority. Reservation of 33 percent seats of women is ensured in political parties and civil service.

AHRC response:

Very limited efforts have been met to ensure gender equality, women victims of violence seeking justice are still confronted with a justice system ridden with patriarchal values and impunity continues to be the norm for gender based violence. Women human rights defenders have been facing specific risks and attacks and little has been achieved to protect their work.

NHRC response:

- It is learnt that the Nepal Law Commission has been reviewing the laws related to women.
- State mechanisms have been working to ensure gender equality. Special mechanism has been established in the Office of the Prime Minister and Office of the Council of Ministers to address the cases of sex and gender based violence. Despite the concerted efforts made continuously by the state mechanisms, the progress to achieve gender equality is insufficient.
- In order to increase participation of women in judiciary training programs to women on entry examination has been conducted.
- In the public service examination, there is provision of reservation laid out for marginalized and backward groups and Janajati, Madheshi, and Women.
- It is learnt that the Government all set to make an initiative for inclusiveness in employment.

Recommendation n^o43: *Continue its efforts for the promotion and protection of human rights and to continue to promote the role of women in society in order to guarantee quality life for its citizens as planned on viability, development, protection and participation* (Recommended by *Palestine*)

IRI: *fully implemented*

AHRC response:

Very limited efforts have been met to ensure gender equality, women victims of violence seeking justice are still confronted with a justice system ridden with



patriarchal values and impunity continues to be the norm for gender based violence. Women human rights defenders have been facing specific risks and attacks and little has been achieved to protect their work

UNRCO response:

Although Nepal achieved a historic milestone in the 2008 CA elections, wherein 33.2% women were represented in the Parliament, the current challenge is to sustain the impressive gains. Participation of women in political parties and in their decision making positions has not increased satisfactorily. Challenges may arise due to patriarchal mindset, lack of political will, lack of adequate number of women candidates etc. to maintain at least 33% women in the forthcoming constituent assembly election, forthcoming local bodies' election and at all government recruitments.

NHRC response:

- It is learnt that the Nepal Law Commission has been reviewing the laws related to women.
- State mechanisms have been working to ensure gender equality. Special mechanism has been established in the Office of the Prime Minister and Office of the Council of Ministers to address the cases of sex and gender based violence. Despite the concerted efforts made continuously by the state mechanisms, the progress to achieve gender equality is insufficient.
- In order to increase participation of women in judiciary training programs to women on entry examination has been conducted.
- In the public service examination, there is provision of reservation laid out for marginalized and backward groups and Janajati, Madheshi, and Women.
- It is learnt that the Government all set to make an initiative for inclusiveness in employment.

Recommendation n°51: Ensure that all Maoist army personnel disqualified as minors have unhindered access to the rehabilitation packages and ensure that children are not exposed to or forced to participate in violent activities by political parties (Recommended by Austria)

IRI: partially implemented

CSW response:

Youth and under-age members of political parties are still being organized into militias which participate in threatening and violent activities. This practice must be ended before the up-coming elections

CN response:

Maoist army personnel disqualified as minors were provided some compensation amount but they expressed their dissatisfaction as the rehabilitation packages and compensation amount was not satisfactory.

CWIN response:

There has been always fear that political parties may misuse the children for the interest of political interest. Possibilities increase further during the election period. In this regard, civil society organization including CWIN are alert to aware the political



parties to remind their commitments in various forums and level not to use children and implement the election code of conduct. Election Commission too should remain alert in this matter. Government should keep on making follow up even after the rehabilitation of the Maoist army personnel disqualified as minors. They constantly need psychosocial counselling.

NHRC response:

- The draft of Child rights related Act has not been enacted because of dissolution of the Parliament.
- The Government has enacted National Children Policy 2012. The Policy has incorporated various activities relating to survival, protection, development and participation of children. However its implementation is found very poor.
- Despite the policy of free education in Government Schools Some Public Schools are imposing fees to the parents in various titles. The number private schools have been increasing because of lack of quality education in public schools. It is found that delivery of quality education by public schools has been affected due to lack of accountability, recourses and traditional teaching systems. By the result discrimination in quality education has been created for poor and reach.
- Large numbers of children are still out of school due to lack of implementation of compulsory education program.
- Incidents of sexual exploitation against children have been recorded during the monitoring of human rights situation by the NHRC

Recommendation n°52: Adopt effective measures to guarantee the protection of victims of gender violence, duly investigate allegations and ensure that those responsible be prosecuted and sanctioned (Recommended by Spain)

IRI: not implemented

HimRights response:

The number of cases of GBV is highly increasing in the country. The cases range from minor to severe and brutal acts like rape and killing. Women and girls especially from lower caste and lower economic status are most prone to these kinds of violence. Most of the cases are not publicized or reported to concerned authorities. Law enforcement agencies have the most crucial role to play from the very beginning of investigation process. HimRights Lifeline has documented 630 cases (261 in 2011, 250 in 2012 and 119 in January to April 2013) of gender based violence and sexual violence in 2011 to April 2013. There has been an increase in serious women's rights violations. These include accusations of witchcraft, sexual and physical abuse, domestic violence, traditional practices that violate human rights, and many other types of violation. Although civil society has been vociferously raising against VAW, the incidence of women's rights violations is higher than any other human rights violation based on the HimRights human rights violation documentation. Cases where women are burnt alive and tortured for dowry are challenging the ongoing campaigns against violence and pose a great threat for human values and rights. Due to the political protection extended to perpetrators and criminal groups impunity is extensive, they have not been penalized which further encourages criminal activities.



AHRC response:

Necessary legal reforms have been stalled with the dissolution of the CA very limited efforts have been met to ensure gender equality, women victims of violence seeking justice are still confronted with a justice system ridden with patriarchal values and impunity continues to be the norm for gender based violence. Women human rights defenders have been facing specific risks and attacks and little has been achieved to protect their work. In August, after reporting a case of attempted rape to the police station, the 23 year old victim was assaulted by a mob to prevent her from pursuing the charges. An activist who had helped her register the case was assaulted by the mob as well. Both were then forced to accept a settlement and drop the charges at the police station.

NHRC response:

- The Act on Domestic Violence (Control and Punishment) 2066 and its regulation-2067 have been enacted. Under these laws, cases of gender based violence have been investigated by the National Women Commission and Nepal Police in order to protect the human rights of victims. In this regard, the National Women Commission has been advocating to include the domestic violence cases in states cases (schedule-1).
- Likewise, Human Trafficking Control Act, 2064 and its regulation have been implemented.
- GoN has implemented Sex and Gender Based Violence and Gender Empowerment Strategy and Work Plan (2069/70-2073/74).
- Sexual Exploitation Control of Women workers working in the places like Dance Restaurant and Bar Guidelines enacted by Supreme Court of Nepal and Immigration Act, 2049; Foreign Employment Act, 2064 and Regulation-2064 have been in implementation.
- National Women Commission has recommended to the Government to review the relevant laws to ensure action against culprits of rape cases and compensation to the victims. In addition, the NWC has also recommended to amend 35 days limitation to file cases on rape cases by studying the rape related laws. In addition, the NWC has recommended to establish the desk together with district units to address Gender Based Violence cases.
- The Ministry of Women, Children and Social Welfare has prepared National Action Plan against human trafficking. The Action Plan has prioritized five specific areas including prevention, protection, prosecution, capacity development of concerned institutions.
- For the purpose of prevention of violence against women and children, National Child Welfare Committee has established Child Help Line in 14 districts and Women Service Center in 15 districts with an aim to expand it to all 75 districts across the country.
- Thousands of trafficked persons are living slavery like life abroad. Trafficking in women and children and human smuggling are major problems of Nepal. The Government has launched various programs against human trafficking in coordination with civil society; however these programs are not sufficient to address the problem.



- Human Trafficking related Act 2007 and Regulation 2008 have been implemented however its implementation is not effective due to various reasons like delay in justice delivery.

Recommendation n^o53: *Continue putting forward intensive efforts in order to eliminate violence against women and boost their participation in political and administrative decision-making* (Recommended by Azerbaijan)

IRI: *partially implemented*

NDFPHR response:

Partially implemented. Although efforts were done, the discrimination of vulnerable groups is still a widespread reality. Particularly vulnerable groups such as women still suffer from multiple forms of discrimination. They are frequently denied access to land, food, healthcare, education, work, justice and the participation in decision-making processes. Women are still largely exposed to domestic and sexual violence.

- After the end of 2012 several cases of violence against women such as murder and rape were/have been brought to the attention of the public, e.g. the case of Sita Rai in December 2012. Members of the civil society formed the movement “Occupy Baluwatar” and protested those cases and the lack of investigation by the respective authorities. Although the authorities promised the investigation and prosecution of those responsible in those crimes, little has been done to address the root causes of violence against women as it is also the case regarding caste-based discrimination.
- Still women are discriminated upon regarding their access to resources, both natural – land and forest – and labor and income opportunities. Still, in most cases women do not possess their own land. Traditional practices and some legal regulations still in force, as for example those related to inheritance, impede equal access of women to food producing resources. In addition, rural women, that are part of the poor and indigenous communities, often are victims of multiple discriminations.

AHRC response:

Necessary legal reforms have been stalled with the dissolution of the CA very limited efforts have been met to ensure gender equality, women victims of violence seeking justice are still confronted with a justice system ridden with patriarchal values and impunity continues to be the norm for gender based violence. Women human rights defenders have been facing specific risks and attacks and little has been achieved to protect their work. In August, after reporting a case of attempted rape to the police station, the 23 year old victim was assaulted by a mob to prevent her from pursuing the charges. An activist who had helped her register the case was assaulted by the mob as well. Both were then forced to accept a settlement and drop the charges at the police station.

NHRC response:

- It is learnt that the Nepal Law Commission has been reviewing the laws related to women.
- State mechanisms have been working to ensure gender equality. Special mechanism has been established in the Office of the Prime Minister and Office of the Council of Ministers to address the cases of sex and gender based violence.



Despite the concerted efforts made continuously by the state mechanisms, the progress to achieve gender equality is insufficient.

- In order to increase participation of women in judiciary training programs to women on entry examination has been conducted.
- In the public service examination, there is provision of reservation laid out for marginalized and backward groups and Janajati, Madheshi, and Women.
- It is learnt that the Government all set to make an initiative for inclusiveness in employment.

NCARD+IPRAN response:

No significant action was undertaken with particular attention to improving representation and eliminating discrimination and violence against indigenous women against following recommendation of the Special Rapporteur on Indigenous Peoples (SRIP), in his 2009 report (A/HRC/12/34/Add.3) that needs to be reiterated: Renewed efforts to promote the rights of indigenous women should be urgently put in place, including measures to improve their representation and to eliminate all forms of discrimination and violence against them, with the active involvement of indigenous women and their organizations.

Recommendation n^o54: *Strengthen its measures to eradicate child abuse, sexual exploitation of children* (Recommended by Azerbaijan)

IRI: *not implemented*

CWIN response:

Child abuse and sexual exploitation of children are still in alarming situation though laws and policies protect the children. It has been so largely because of not being implemented the existing laws and policies. Child protection should be the priority and Child Helpline (1098) kind of child protection mechanism should be strengthened.

Recommendation n^o56: *Further strengthen law enforcement and the judicial system in the efforts to address impunity, prevent domestic violence, and to protect women and children from trafficking as well as physical and sexual exploitation* (Recommended by Malaysia)

IRI: *partially implemented*

NDFPHR response:

Not implemented. Since the Comprehensive Peace Agreement was signed in 2006, the government of Nepal has not brought to justice any perpetrator of human rights violations. Impunity is still widespread, also with regard to violations of ESC Rights.

- Moreover, women are still largely exposed to domestic and sexual violence. Women and girls are often victims of human trafficking; both within Nepal and in countries such as India or the Gulf States, where they are forced to work either in households under inhumane conditions or as prostitutes.
- Following pressure from political parties, investigative procedures of human rights violations are often not recorded or they are withdrawn and, in individual cases, amnesty is granted to offenders. Final verdicts, including those passed by the Supreme Court, are not implemented. In March 2012, for example, over 400 cases were withdrawn (including more than 100 murders) – on the basis, inter



alia, that those were of political nature. Police and army forces get promotions despite proven human rights violations they are accused of.

AHRC response:

Necessary legal reforms have been stalled with the dissolution of the CA very limited efforts have been met to ensure gender equality, women victims of violence seeking justice are still confronted with a justice system ridden with patriarchal values and impunity continues to be the norm for gender based violence. Women human rights defenders have been facing specific risks and attacks and little has been achieved to protect their work. In August, after reporting a case of attempted rape to the police station, the 23 year old victim was assaulted by a mob to prevent her from pursuing the charges. An activist who had helped her register the case was assaulted by the mob as well. Both were then forced to accept a settlement and drop the charges at the police station.

NHRC response:

- The Act on Domestic Violence (Control and Punishment) 2066 and its regulation-2067 have been enacted. Under these laws, cases of gender based violence have been investigated by the National Women Commission and Nepal Police in order to protect the human rights of victims. In this regard, the National Women Commission has been advocating to include the domestic violence cases in states cases (schedule-1).
- Likewise, Human Trafficking Control Act, 2064 and its regulation have been implemented.
- GoN has implemented Sex and Gender Based Violence and Gender Empowerment Strategy and Work Plan (2069/70-2073/74).
- Sexual Exploitation Control of Women workers working in the places like Dance Restaurant and Bar Guidelines enacted by Supreme Court of Nepal and Immigration Act, 2049; Foreign Employment Act, 2064 and Regulation-2064 have been in implementation.
- National Women Commission has recommended to the Government to review the relevant laws to ensure action against culprits of rape cases and compensation to the victims. In addition, the NWC has also recommended to amend 35 days limitation to file cases on rape cases by studying the rape related laws. In addition, the NWC has recommended to establish the desk together with district units to address Gender Based Violence cases.
- The Ministry of Women, Children and Social Welfare has prepared National Action Plan against human trafficking. The Action Plan has prioritized five specific areas including prevention, protection, prosecution, capacity development of concerned institutions.
- For the purpose of prevention of violence against women and children, National Child Welfare Committee has established Child Help Line in 14 districts and Women Service Center in 15 districts with an aim to expand it to all 75 districts across the country.
- Thousands of trafficked persons are living slavery like life abroad. Trafficking in women and children and human smuggling are major problems of Nepal. The Government has launched various programs against human trafficking in



coordination with civil society; however these programs are not sufficient to address the problem.

- Human Trafficking related Act 2007 and Regulation 2008 have been implemented however its implementation is not effective due to various reasons like delay in justice delivery.

NCARD+IPRAN response:

[...]

PNCC response:

However Nepal has promulgated Human Trafficking and Transportation (Control) Act and its regulation to control the any kind of human trafficking, still many women and children have been trafficked to gulf countries, Malaysia and India in the name of foreign employment and domestic work, which don't count under human trafficking act.

Recommendation n^o57: *Combat human trafficking and forced prostitution in particular of children* (Recommended by Germany)

IRI: *partially implemented*

CN response:

Human trafficking and forced prostitution both are crimes in Nepal. Nepalese laws are not clear on child prostitution as General Code provides sixteen and above as the age of maturity and Human Trafficking and Transportation control Act defines a person below 18 as a child. As per General code, age for consent for sex is 16. So there is question of protection of persons below 18 and above 16.

UNRCO response:

Women and children are especially trafficked for commercial sexual labour apart from other abusive purposes like begging, labourers in circus and garment industry, organ transplants etc. According to 2012 'Trafficking in Persons' (TiP) report, 11,500 women and children were attempted to be trafficked in the year 2011. Trafficking is further eased by unsafe migration procedures. Half of those trafficked are under 16 years of age when trafficked and one quarter are below 14 years of age (Hasselman et al, 2006). Pervasive traditional practices contribute to women's risks of violence. For example, within the Badi community (in mid-western Terai district) many women are forced into commercial sex work, with 30-40% reported to be girls below 15 years.

NHRC response:

- The Act on Domestic Violence (Control and Punishment) 2066 and its regulation-2067 have been enacted. Under these laws, cases of gender based violence have been investigated by the National Women Commission and Nepal Police in order to protect the human rights of victims. In this regard, the National Women Commission has been advocating to include the domestic violence cases in states cases (schedule-1).
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- GoN has implemented Sex and Gender Based Violence and Gender Empowerment Strategy and Work Plan (2069/70-2073/74).
- Sexual Exploitation Control of Women workers working in the places like Dance Restaurant and Bar Guidelines enacted by Supreme Court of Nepal and Immigration Act, 2049; Foreign Employment Act, 2064 and Regulation-2064 have been in implementation.
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- Human Trafficking related Act 2007 and Regulation 2008 have been implemented however its implementation is not effective due to various reasons like delay in justice delivery.

NCARD+IPRAN response:

The absolute numbers of women and girls in Nepal who are lured or trapped into human trafficking rings or sexually exploited are very difficult to pin down. Different sources provide widely varying statistics. The United Nations Development Programme, in its 2004 National Human Development Report, provides a generally accepted figure of some 12,000 girls and women annually, of whom a fifth are under the age of 16. As recognized in Nepal's State Report to CEDAW (CEDAW/C/NPL/4-5), indigenous women and girls are disproportionately involved in trafficking: "During 2006-07, of the 233 children rescued, 217 were girls. Of this total number, 78.55% are from ethnic groups and 12.5% from the Dalit community." The discrepancy here is stark; indigenous women and girls make up almost 80% of the total of these trafficked individuals although the proportion of indigenous peoples in Nepal is only officially placed at 37%. Given these statistics, it is necessary for measures introduced to combat the sexual exploitation of women and girls to specifically address the causal factors that disproportionately impact on indigenous women and girls.

CEDAW (A/59/38, 2004) has addressed this problem before, urging the State "to intensify its efforts to address trafficking in women and girls. It recommends that its



anti-trafficking strategy should include measures of prevention, the prosecution and punishment of perpetrators and increased international, regional and bilateral cooperation.” CEDAW also requested “the State party to provide in its next report information about the legal and actual situation with respect to trafficking in women and girls.” While this recommendation goes some way to addressing the complex issues in Nepal that lead to, and may be used to address, the problem of human trafficking, the ethnicity of the overwhelming majority of victims goes unaddressed.

Thus, the recommendation of [Germany] still stands and should be reinforced. Further, Nepal should be recommended to couple such enforcement measures with the prevention measures recommended by CEDAW and that such measures be specifically targeted to the most at risk populations, including the indigenous women and girls of Nepal, addressing root causes such as poverty, economic marginalization, land loss and economic migration. (Shadow report submitted to CSW in 2012).

Recommendation n^o59: *Strengthen implementation of its Child Labour (Protection and Regulation) Act 1999* (Recommended by Bhutan)

IRI: not implemented

CN response:

Nepalese laws prohibit enrolment of children as labour however there is no strong control mechanism to prohibit and abolish child labour. Persons recruiting child labour are not stringently prosecuted.

CWIN response:

Despite the law, there has been child labour exploitation in the informal sectors of work. The law must be implemented.

NHRC response:

- The draft of Child rights related Act has not been enacted because of dissolution of the Parliament.
- The Government has enacted National Children Policy 2012. The Policy has incorporated various activities relating to survival, protection, development and participation of children. However its implementation is found very poor.
- Despite the policy of free education in Government Schools Some Public Schools are imposing fees to the parents in various titles. The number private schools have been increasing because of lack of quality education in public schools. It is found that delivery of quality education by public schools has been affected due to lack of accountability, recourses and traditional teaching systems. By the result discrimination in quality education has been created for poor and reach.
- Large numbers of children are still out of school due to lack of implementation of compulsory education program.
- Incidents of sexual exploitation against children have been recorded during the monitoring of human rights situation by the NHRC.



Recommendation n^o73: *Implement measures to encourage women to undertake legal training and facilitate their entry into the judiciary (Recommended by New Zealand)*

IRI: *partially implemented*

CN response:

There is [a quota] for women to entry into judicial service. Many women have recently joined judiciary as judges and officers.

NHRC response:

- It is learnt that the Nepal Law Commission has been reviewing the laws related to women.
- State mechanisms have been working to ensure gender equality. Special mechanism has been established in the Office of the Prime Minister and Office of the Council of Ministers to address the cases of sex and gender based violence. Despite the concerted efforts made continuously by the state mechanisms, the progress to achieve gender equality is insufficient.
- In order to increase participation of women in judiciary training programs to women on entry examination has been conducted.
- In the public service examination, there is provision of reservation laid out for marginalized and backward groups and Janajati, Madheshi, and Women.
- It is learnt that the Government all set to make an initiative for inclusiveness in employment.

Recommendation n^o86: *Redouble efforts to promote and protect the rights of vulnerable groups such as children, women, people with disabilities and aged persons (Recommended by Cuba)*

IRI: *partially implemented*

CN response:

No specific change has occurred after the UPR

NHRC response:

- Senior Citizen related Act, 2068 has been enacted. The provision of the act regarding fifty percentage discounts in public transportation has not been implemented. The Government Hospital has begun to provide fifty percentage discounts in health treatment.
- The Government has not been paying its attention for protection of dignity and rights of mentally disabled people. Some of the mentally ill people have been detained in jail without proper treatment. Especially such persons have been detained in Dhilikhel Jail in Kavrepalanchok district without proper medical treatment.
- The government of Nepal has ratified the Disability related Convention and also has been preparing policies of positive discrimination however situation of enjoyment of rights of disable people in all sector has not created yet.
- The government informed that it is going to enact the National Plan of Action for protection of rights of the disabled people.

Recommendation n^o92: *Continue efforts to ensure that primary education becomes free and compulsory for all children (Recommended by Norway)*

IRI: *not implemented*

CN response:

Legal provision of 'free' and 'compulsory' education is in practice neither 'free' nor 'compulsory'. There is no measure and mechanism if the parents are unable to send their children to school or if they do not want to send their children to school. Even the government schools chare on various titles.

UNRCO response:

Though the Article 17 of Interim Constitution of Nepal has safeguarded the right to education as a fundamental right and formulated policies to mainstream religious educational institutions, quality education in these institutions is not ensured and there is lack of recognition mechanism that is restricting the further education of the graduates from such institutions.

Though the right to get basic education in its mother tongue is enshrined in the Constitution, there is lack of implementation of this provision. Government is not able to fulfill its obligation to provide equal access to education to its citizen – there is lack of specialized education and facilities to ensure education to the persons living with disabilities.

Right of Indigenous Populations to receive education in own language and with respect for their individual cultures has remain a challenge. There is no political will and robust strategy and measures to ensure right to education in own languages. There is significant number of drop out of students from school who belong to the indigenous community as they face difficulty in understanding the Nepali language. In a public program organized in September 2013, the Indigenous leaders complained about the lack of effective education in mother tongue up to the higher level studies as education in mother tongue is only up to the primary level.

NHRC response:

- The Ministry of Education has lunched Food for Education Program in selected areas however the program has covered a very smaller part of the country.
- Despite the continuous program of Government for compulsory and free education, the education in Government Schools has not become completely free.
- Children who are out of families and children from Dalit and Janajati community are being deprived form easy access to quality education.
- Nepal has implemented the Program on Education for All until 2015. In this regard school enrolment rate has reached to 95.1%. However due to dropout problem the percentage of children who complete school education is still low. Enrolment rate of Children from Dalit, Janajati and minority community is comparatively low.
- The Government has implemented the separate policy on enrolment of girl children in school. By the result enrolment of girl children has been increasing rapidly in the recent days.

Recommendation n^o94: *Ensure that all girls, Dalit children and children belonging to ethnic minorities have equal access to quality education (Recommended by Finland)*

IRI: *not implemented*

NHRC response:

- The Ministry of Education has launched Food for Education Program in selected areas however the program has covered a very smaller part of the country.
- Despite the continuous program of Government for compulsory and free education, the education in Government Schools has not become completely free.
- Children who are out of families and children from Dalit and Janajati community are being deprived from easy access to quality education.
- Nepal has implemented the Program on Education for All until 2015. In this regard school enrolment rate has reached to 95.1%. However due to dropout problem the percentage of children who complete school education is still low. Enrolment rate of Children from Dalit, Janajati and minority community is comparatively low.
- The Government has implemented the separate policy on enrolment of girl children in school. By the result enrolment of girl children has been increasing rapidly in the recent days.

NCARD+IPRAN response:

According to the Multilingual Education experts working under the Ministry of Education, the Government has formed Multilingual Education Implementation Guidelines in 2066 BS (2009). The Guidelines aim to implement multilingual education in 7,500 schools by 2015; however, such education has been implemented in only 24 schools so far. In northern mountainous region and Maithili speaking areas in the south, schools provide multilingual education in respective native languages that are yet to receive official governmental recognition. Further, the Government's Multilingual Education programme also includes language education as Multilingual Education rather than education provided using native languages as medium of instruction.

Thus, following recommendation of the Special Rapporteur on Indigenous Peoples (SRIP) made in his 2009 report (A/HRC/12/34/Add.3) should be emphasized:

Existing plans for bilingual education should be enforced as a matter of priority in order to promote the revitalization and development of Adivasi Janajati languages, including by allocating the required human and financial resources to allow for effective implementation of such programmes.

CSW response:

Priority needs to be given to developing and fully implementing women and girls' participation in secondary and higher education.

Extra efforts need to be made by the government to ensure a higher proportion of Dalit children participate in primary, secondary and higher education.



CN response:

Sensitivity and awareness among dalit and minorities on the importance of education, especially, girl's education is still problematic especially in rural parts of Nepal. In cities and headquarters dalit people are sending their children to school. Dropout from school of dalit girls is still found in rural parts.

Recommendation n°95: Reach out to parents and parents' groups to promote equal access to education and participation in local institutions for their children, and to encourage parents to appreciate the value of education and benefits of participation (Recommended by Finland)

IRI: not implemented

NHRC response:

- The Ministry of Education has launched Food for Education Program in selected areas however the program has covered a very smaller part of the country.
- Despite the continuous program of Government for compulsory and free education, the education in Government Schools has not become completely free.
- Children who are out of families and children from Dalit and Janajati community are being deprived from easy access to quality education.
- Nepal has implemented the Program on Education for All until 2015. In this regard school enrolment rate has reached to 95.1%. However due to dropout problem the percentage of children who complete school education is still low. Enrolment rate of Children from Dalit, Janajati and minority community is comparatively low.
- The Government has implemented the separate policy on enrolment of girl children in school. By the result enrolment of girl children has been increasing rapidly in the recent days.

Recommendation n°108: Provide the National Dalit Commission and the National Women's Commission with sufficient resources to effectively realize their mandate (Recommended by Slovenia)

IRI: not implemented

CSW response:

The work of the National Dalit Commission has been seriously hampered by lack of finance. The Government of Nepal has not provided it with adequate financial resources of buildings and premises in the capital or in the regions. National Dalit Commission campaigns have been halted for lack of financial resources. The government gives the National Dalit Commission no priority and insufficient backing to fulfil its major objectives.

CN response:

Human rights institutions like National Human Rights commission, National Women's Commission and National Dalit Commission are still affected by politics as the commissioners are appointed by political influence. Their recommendations are not seriously taken by the government. Women commission and Dalit commission remain in low profile than NHRC.



AHRC response:

Both commissions remain paralyzed by a lack of resource, and for the NDC a lack of statutory status

NHRC response:

- The Government has mentioned that it has been working for strengthening the National Women Commission and National Dalit Commission by utilizing available resources. However these institutions are not found satisfied with the Government. In addition, separate law relating to Dalit Commission has not enacted yet.
- The Government mentioned that it has been providing optimum available resources to the National Women Commission and National Dalit Commission

Recommendation n^o110: *Develop a National Action Plan on ending violence against women and children* (Recommended by Australia)

IRI: *fully implemented*

CN response:

National plan of action for children is there

NHRC response:

- The Act on Domestic Violence (Control and Punishment) 2066 and its regulation-2067 have been enacted. Under these laws, cases of gender based violence have been investigated by the National Women Commission and Nepal Police in order to protect the human rights of victims. In this regard, the National Women Commission has been advocating to include the domestic violence cases in states cases (schedule-1).
- Likewise, Human Trafficking Control Act, 2064 and its regulation have been implemented.
- GoN has implemented Sex and Gender Based Violence and Gender Empowerment Strategy and Work Plan (2069/70-2073/74).
- Sexual Exploitation Control of Women workers working in the places like Dance Restaurant and Bar Guidelines enacted by Supreme Court of Nepal and Immigration Act, 2049; Foreign Employment Act, 2064 and Regulation-2064 have been in implementation.
- National Women Commission has recommended to the Government to review the relevant laws to ensure action against culprits of rape cases and compensation to the victims. In addition, the NWC has also recommended to amend 35 days limitation to file cases on rape cases by studying the rape related laws. In addition, the NWC has recommended to establish the desk together with district units to address Gender Based Violence cases.
- The Ministry of Women, Children and Social Welfare has prepared National Action Plan against human trafficking. The Action Plan has prioritized five specific areas including prevention, protection, prosecution, capacity development of concerned institutions.
- For the purpose of prevention of violence against women and children, National Child Welfare Committee has established Child Help Line in 14 districts and Women Service Center in 15 districts with an aim to expand it to all 75 districts across the country.



- Thousands of trafficked persons are living slavery like life abroad. Trafficking in women and children and human smuggling are major problems of Nepal. The Government has launched various programs against human trafficking in coordination with civil society; however these programs are not sufficient to address the problem.
- Human Trafficking related Act 2007 and Regulation 2008 have been implemented however its implementation is not effective due to various reasons like delay in justice delivery.

Recommendation n^o113: *Take the necessary legal and policy measures to end discrimination, including of women, children and Dalits* (Recommended by Netherlands)

IRI: *partially implemented*

CN response:

Rights against discrimination is ensured by constitution and laws. Children's policy has been enacted.

NDFPHR response:

Partially implemented. Although efforts were done, the discrimination of vulnerable groups is still a widespread reality. Particularly vulnerable groups such as women, former bonded laborers, Janajatis, Dalits, other ethnic, religious and sexual minorities, landless, persons with disabilities or HIV/AIDS suffer from multiple forms of discrimination. They are frequently denied access to land, food, healthcare, education, work, justice and the participation in decision-making processes. Although Nepal has adopted a law that prohibits caste-based discrimination and the so-called practice of "untouchability", an effective implementation is still lacking. Dalits are still suffering from severe human rights violations and even murder. Moreover, women are still largely exposed to domestic and sexual violence.

- After the end of 2012 several cases of violence against women such as murder and rape were/have been brought to the attention of the public, e.g. the case of Sita Rai in December 2012. Members of the civil society formed the movement "Occupy Baluwatar" and protested those cases and the lack of investigation by the respective authorities. Although the authorities promised the investigation and prosecution of those responsible in those crimes, little has been done to address the root causes of violence against women as it is also the case regarding caste-based discrimination.
- Still women are discriminated upon regarding their access to resources, both natural – land and forest – and labor and income opportunities. Still, in most cases women do not possess their own land. Traditional practices and some legal regulations still in force, as for example those related to inheritance, impede equal access of women to food producing resources. In addition, rural women, that are part of the poor and indigenous communities, often are victims of multiple discriminations.
- The GoN implemented a reservation quota for recruitments by open competition in most civil services but the provisions are criticized inter alia for not providing genuine proportional representation of all groups with their respective population shares and for mainly reserving posts within the lower ranks of the civil services.



AHRC response:

No law has been adopted to put an end to discrimination against women and children. A law criminalizing untouchability and caste-based discrimination was adopted in 2011. However, due to insufficient police accountability and lack of victim and witness protection mechanism, that law remains only partially implemented and Dalits still have a very limited access to justice.

UNRCO response:

Caste Based Discrimination and Untouchability Act was adopted in May 2011 as an effort to address caste based discrimination. It is crucial now to ensure full implementation of the new law including drafting of the required directives, rules and procedures for the effective implementation of the Act.

NHRC response:

- The Government has been working to ensure civil, political, economic, social and cultural rights of marginalized and excluded group of people due to sex, gender, caste, class, disability, geography and ethnicity. However there are still a lot of things to do towards solving the problem of formidable practice of discrimination.
- The Government has made law and policies to address discrimination against Dalit Community. In this regard, Discrimination in Caste and Untouchability (Crime and Punishment) Act, 2068 has been enacted.
- The status of implementation of law including plans and policies is found very poor. The state ought to embark upon facilitating necessary access for the backward class of the society by enacting programs and ensuring their participation in state sponsored endeavors and programs.
- The trend of untouchability against Dalit people has been decreasing gradually. However, due to lack of effective implementation of law and awareness it has been still prevailing in the society.
- The Government has implemented policy to provide One Hundred Thousand Rupees to the couple who got marriage between Dalit and non-Dalit. Activities of despising, forceful separation, entrapping in fake case and exclusion from society to those who married with dalit people are pervasive as a common trend in society.
- The Administration has been found focused in reconciliation rather than prosecution against culprits involved in act of racial discrimination. Therefore, there are very few people who underwent punishment in comparison to the numerous cases of racial discrimination.
- The Racial Discrimination and Untouchability (Crime and Punishment) Act, 2068 has defined acts of discrimination against caste and religion as a crime. According to the Act, person involved in such crime may get punishment of three months to three years imprisonment and RS One Thousand to Twenty Five Thousand as penalty. However, the law has not criminalized discrimination against sex, political beliefs and disability.

Recommendation n^o122: *Ensure that any form of violence against children and child recruitment becomes punishable under domestic law* (Recommended by Hungary)

IRI: not implemented

CN response:

Nepal laws do not explicitly mentions recruitment of children in armed forces, in political activities, as punishable offence. Recruitment of children in domestic work is a punishable offence.

NHRC response:

- The draft of Child rights related Act has not been enacted because of dissolution of the Parliament.
- The Government has enacted National Children Policy 2012. The Policy has incorporated various activities relating to survival, protection, development and participation of children. However its implementation is found very poor.

[...]

Recommendation n°123: *Intensify efforts for the effective and rapid social and educational reintegration of child soldiers who remain in military camps* (Recommended by Spain)

IRI: *partially implemented*

CN response:

There are no children in military camps now but no satisfactory reintegration has happened of such children.

NHRC response:

- The draft of Child rights related Act has not been enacted because of dissolution of the Parliament.
- The Government has enacted National Children Policy 2012. The Policy has incorporated various activities relating to survival, protection, development and participation of children. However its implementation is found very poor.

[...]

Recommendation n°124: *Establish State structures for the supervision, prevention, rescue and rehabilitation in the cases of child labour and mendacity and ensure that those responsible be prosecuted and sanctioned* (Recommended by Spain)

IRI: *not implemented*

CN response:

Nepalese laws prohibit enrolment of children as labour however there is no strong control mechanism to prohibit and abolish child labour. Persons recruiting child labour are not stringently prosecuted.

Recommendation n°125: *Abolish all forms of child labour, including bonded labor and take measures to ensure that no person under 18 years of age is allowed to perform hazardous work, in accordance with the ILO Convention No. 138* (Recommended by Poland)

IRI: *not implemented*

CN response:

Only children below 14 are protected to be enrolled in hazardous work. There is no significant progress to end child labour in Nepal.

NCARD+IPRAN response:

The Interim Constitution of Nepal 2007 prohibits all forms of forced or coerced labour in violation of the human rights and fundamental freedoms (Art. 29). The exaction from member of Adivasi Janajati of compulsory personal services in any form, whether paid or unpaid, has been prohibited and made punishable by the existing Country Code except in the cases of certain public services. Bonded and agricultural laborers (Kamaiyas), all belonging to indigenous Tharus, were freed in 2001 through the enactment and enforcement of new law – Bonded Labour (Prohibition) Act 2001. All types of forced labour, contractual with certain terms and conditions or non-contractual but having implicit terms and conditions, were made punishable by this Act.

Of the 27'570 families of freed Kamaiyas of Tharu indigenous group, 20,402 families were reportedly rehabilitated by 15 July 2009 and the rest 7,168 families are yet to be rehabilitated. Rehabilitation includes small patch of land for constructing a house and kitchen garden, bank loan to buy land, house construction support, food for work, vocational training, income generation fund and activities, saving and credit groups, revolving fund, social mobilization, literacy classes, skills development, enterprises development, scholarships and other programmes. The long long-drawn process of their rehabilitation (resettlement/distribution of lands, housing, vocational training and employment, income generation activities, children's education, etc.) was expedited in 2009 by forming a Commission headed by Land Reform and Management Minister to resolve issues of rehabilitation with a Implementation Committee to execute the decisions of the Commission. District Rehabilitation Committees have also been formed in concerned districts to execute the decisions of the Commission and its Implementation Committee at district or local levels.

It is often reported that extremely limited life chances and hardships have led Tharus to recourse to some moderate form of bonded labour and their daughter are bound to serve as Kamalaris (bonded housemaids) which is illegal. The Government had reportedly increased vigilance against Kamalari system in 2008-9 as some cases were reported from mid-west and far-west Tarai and inner-Tarai districts and drawn attention of the concerned agencies to intensify targeted and affirmative action programmes in the areas where such incidents are frequently reported. However, there have been recent reports of Kamalari system existing in Tarai as well as Kathmandu.

Thus, it is necessary to reemphasize following recommendations of the Special Rapporteur on Indigenous Peoples (SRIP) made in his 2009 report (A/HRC/12/34/Add.3):

- A plan of urgency should be developed in order to confront the social and economic conditions of Adivasi Janajati communities listed as endangered or highly marginalized indigenous groups, including the former bonded labourers such as the Kamaiyas. With regard to the former bonded labourers in particular, the Government should at a minimum move swiftly to fulfil and strengthen existing commitments to them for their rehabilitation.
- Measures should be enhanced to eradicate the Kamalari practice of bonded child labour and to rehabilitate children who have been victims of that system.

Recommendation n^o127: *Ensure that the cases of violence against women and girls are duly investigated (Recommended by Thailand)*

IRI: *not implemented*

CN response:

Though sensitivity on the rights of women and children has increased among the stakeholders, no significant change in the investigation system is seen. Domestic Violence Prohibition Act has been enacted. Women and children service Directorate has been established within Nepal Police Headquarter. Cases of violence against women and girls are still hidden and mediated within the communities. Low number of reporting is still the problem.

CWIN response:

Women and girls are being revictimized in the name of investigation. Thus there should due process be observed.

AHRC response:

The impunity remains the norms for cases of gender based violence. Aware of the tremendous challenges that they will face if they seek redress, most women and girls prefer not to raise their cases. Those who do are often forced into a negotiated settlement with the perpetrators by the police

HimRights response:

Many women and girls have been victims of different forms of violence ranging from minor acts to severe forms of sexual violence like attempt to rape, rape and killing as the most brutal case. Many cases of sexual violence, attempt to rape and rape, most of them are not reported to police or the law enforcement agencies. They are first attempted to settle at community level. The perpetrators offer some money or property in exchange to avoid legal implications. Many of these compromises have been made in the presence of police. Failures to perform community mediation, the cases are finally reported to police. HimRights Lifeline reported 257 sexual violence cases between January 2011 to April 2013. A series of sexual violence cases has raised serious questions about the security of girls and women. Even if the cases are reported to police, the long and exhausting legal procedure make the survivor re-victimized several times at police station, court, and hearings.

Establishing an investigation committee by the state for fact finding will not end incidents of violence against women and children. As long as effective implementations of laws and serious action is taken by the state and its responsible agents, criminals will continue to be encouraged to commit such crimes in the future.

The study report on Sexual Violence Against Girls by HimRights/Partnership for Protection of Children in Conflict 2013 has revealed high level of prevalence of sexual violence against adolescent girls in Nepal. It indicated one in every ten girl (9.8 %) experiences sexual violence. This is about two times the rate (age 15-19) claimed by Nepal Demographic Health Survey 2011, which claims just 4.6 % of an adolescent girl experiencing sexual violence (MoHP, New Era and International Inc 2012). Two third (66%) of the survivors of the sexual violence shared the experience of violence informally with their family members, relatives or friends, most of them did



not report legally to police or court. low economic status, lack of information and knowledge on service center and lack of enabling environment within the family and community were some of the other factors cited under reasons for non-reporting. One of the main reasons for the non-reporting is the fear of losing social prestige because of revelation of the case to general public or relatives of the survivors.

CSW response:

There is an urgent need for the protection of women from violence (domestic and public) to be given a higher priority and more resources. It is clear that extensive training is undertaken by the police to highlight and prioritise investigation and prosecution of violent offences against women. This must go hand-in-hand with the appointment and training of more female police officers to deal with such offences.

Recommendation n^o128: *Take measures to guarantee effective access to justice and protection for women victims of gender based violence (Recommended by Brazil)*

IRI: partially implemented

HimRights response:

There is no specific provision for gender based violence but rape in ‘The Country Code’ 2020 which has provision of maximum of 15 years of imprisonment to the perpetrator. However it has not been effectively implemented. It does not have any provision of relief, compensation and protection to the survivors of sexual violence. The focus is on perpetrator and state, not the victim.

There are very few cases of sexual violence and rape in which perpetrators are sentenced to jail. Moreover, the legal procedure is very long and tiresome; the victim gets re-victimized during the process of seeking justice. There are no victim friendly mechanisms in law enforcement agencies; there are no female police and staffs for investigation.

Prevalence of threat to survivor and witness is very high and finally survivor become hostile and backs from legal procedures. The cases of gender based violence, especially sexual violence are least reported or brought into legal procedures. Fear of social stigmatization and ostracization by family community as well as LEF are some of the reasons for not reporting to law enforcement agencies.

CSW response:

There is an urgent need for the protection of women from violence (domestic and public) to be given a higher priority and more resources. It is clear that extensive training is undertaken by the police to highlight and prioritise investigation and prosecution of violent offences against women. This must go hand-in-hand with the appointment and training of more female police officers to deal with such offences.

CN response:

Gender-based violence has been though declared crimes to be treated with zero tolerance, it is still the problem in Nepal. Government has established one-stop crisis management center in eight different parts of Nepal. It is a hospital-based service which handles all medical, psycho-social counselling as well as legal initiatives from



one spot/center. In lack of adequate and effective transit shelters, cases of gender based violence are not reported.

AHRC response:

Women victims of gender based violence continue to face tremendous challenges to access justice and have been the prey of retaliations and attacks for raising their voices. In August after reporting a case of attempted rape to the police station, the 23 year old victim was assaulted by a mob to prevent her from pursuing the charges. An activist who had helped her register the case was assaulted by the mob as well. Both were then forced to accept a settlement and drop the charges at the police station.

NHRC response:

- The Act on Domestic Violence (Control and Punishment) 2066 and its regulation-2067 have been enacted. Under these laws, cases of gender based violence have been investigated by the National Women Commission and Nepal Police in order to protect the human rights of victims. In this regard, the National Women Commission has been advocating to include the domestic violence cases in states cases (schedule-1).
- Likewise, Human Trafficking Control Act, 2064 and its regulation have been implemented.
- GoN has implemented Sex and Gender Based Violence and Gender Empowerment Strategy and Work Plan (2069/70-2073/74).
- Sexual Exploitation Control of Women workers working in the places like Dance Restaurant and Bar Guidelines enacted by Supreme Court of Nepal and Immigration Act, 2049; Foreign Employment Act, 2064 and Regulation-2064 have been in implementation.
- National Women Commission has recommended to the Government to review the relevant laws to ensure action against culprits of rape cases and compensation to the victims. In addition, the NWC has also recommended to amend 35 days limitation to file cases on rape cases by studying the rape related laws. In addition, the NWC has recommended to establish the desk together with district units to address Gender Based Violence cases.
- The Ministry of Women, Children and Social Welfare has prepared National Action Plan against human trafficking. The Action Plan has prioritized five specific areas including prevention, protection, prosecution, capacity development of concerned institutions.
- For the purpose of prevention of violence against women and children, National Child Welfare Committee has established Child Help Line in 14 districts and Women Service Center in 15 districts with an aim to expand it to all 75 districts across the country.
- Thousands of trafficked persons are living slavery like life abroad. Trafficking in women and children and human smuggling are major problems of Nepal. The Government has launched various programs against human trafficking in coordination with civil society; however these programs are not sufficient to address the problem.
- Human Trafficking related Act 2007 and Regulation 2008 have been implemented however its implementation is not effective due to various reasons like delay in justice delivery.



Recommendation n^o136: *Enact a Juvenile Justice Law compliant with international standards, to consolidate the legal framework surrounding the protection of the rights of children and to ensure the proper functioning of a juvenile justice system in the country* (Recommended by Maldives)

IRI: *partially implemented*

CN response:

There is juvenile justice coordination committee established. Government is expanding the capacity of juvenile reform house. Government is building three more such houses. Though it is still not sufficient, it can be considered as a positive step.

AHRC response:

Such legal reforms have not been executed

Recommendation n^o138: *Expedite the endorsement of long-awaited child policy legislation, including the Child Rights Act, Education Regulation, Child Protection Policy, and minimum standards for child-care homes, and take the necessary steps to ensure their full implementation* (Recommended by Canada)

IRI: *partially implemented*

CN response:

Children's Policy has been enacted. It is a soft law. It has many provisions that are aimed for child protection. In absence of legislature parliament new Children's Act has not yet been passed, though there has been a draft bill developed so far. Minimum standards of child care homes has been issued, a group of child rights advocates has drafted a policy on alternative care of children and submitted to the government so that the government can see it while enacting such policy in future.

Recommendation n^o154: *Regarding human trafficking and violence against women and children, take further legislative steps, where necessary, and accelerate efforts for their effective implementation* (Recommended by Japan)

IRI: *not implemented*

CN response:

Human Trafficking and Transportation Control Act enacted in 2007 though considered good compared to old one, it still needs amendment to protect the rights of victim, especially, to provide them security and compensation. There is no initiative for the amendment of the Act.

Recommendation n^o155: *Develop a comprehensive legal framework to protect children from trafficking* (Recommended by Austria)

IRI: *partially implemented*

CN response:

Forced labour is not considered as trafficking by the law. Sale of children is not properly addressed. Nepalese laws do not cover the issue of child prostitution and child pornography.

NHRC response:

- The Act on Domestic Violence (Control and Punishment) 2066 and its regulation-2067 have been enacted. Under these laws, cases of gender based violence have been investigated by the National Women Commission and Nepal Police in



order to protect the human rights of victims. In this regard, the National Women Commission has been advocating to include the domestic violence cases in states cases (schedule-1).

- Likewise, Human Trafficking Control Act, 2064 and its regulation have been implemented.
- GoN has implemented Sex and Gender Based Violence and Gender Empowerment Strategy and Work Plan (2069/70-2073/74).
- Sexual Exploitation Control of Women workers working in the places like Dance Restaurant and Bar Guidelines enacted by Supreme Court of Nepal and Immigration Act, 2049; Foreign Employment Act, 2064 and Regulation-2064 have been in implementation.
- National Women Commission has recommended to the Government to review the relevant laws to ensure action against culprits of rape cases and compensation to the victims. In addition, the NWC has also recommended to amend 35 days limitation to file cases on rape cases by studying the rape related laws. In addition, the NWC has recommended to establish the desk together with district units to address Gender Based Violence cases.
- The Ministry of Women, Children and Social Welfare has prepared National Action Plan against human trafficking. The Action Plan has prioritized five specific areas including prevention, protection, prosecution, capacity development of concerned institutions.
- For the purpose of prevention of violence against women and children, National Child Welfare Committee has established Child Help Line in 14 districts and Women Service Center in 15 districts with an aim to expand it to all 75 districts across the country.
- Thousands of trafficked persons are living slavery like life abroad. Trafficking in women and children and human smuggling are major problems of Nepal. The Government has launched various programs against human trafficking in coordination with civil society; however these programs are not sufficient to address the problem.
- Human Trafficking related Act 2007 and Regulation 2008 have been implemented however its implementation is not effective due to various reasons like delay in justice delivery.

Recommendation n^o167: *Ensure that education is free and compulsory, with special focus on the enrolment of girls in schools* (Recommended by Turkey)

IRI: *partially implemented*

CN response:

School enrolment is consistently progressing but dropout is still the problem. Legal provision of 'free' and 'compulsory' education is in practice neither 'free' nor 'compulsory'. There is no measure and mechanism if the parents are unable to send their children to school or if they do not want to send their children to school. Even the government schools share on various titles.

NHRC response:

- The Ministry of Education has launched Food for Education Program in selected areas however the program has covered a very smaller part of the country.



- Despite the continuous program of Government for compulsory and free education, the education in Government Schools has not become completely free.
- Children who are out of families and children from Dalit and Janajati community are being deprived from easy access to quality education.
- Nepal has implemented the Program on Education for All until 2015. In this regard school enrolment rate has reached to 95.1%. However due to dropout problem the percentage of children who complete school education is still low. Enrolment rate of Children from Dalit, Janajati and minority community is comparatively low.
- The Government has implemented the separate policy on enrolment of girl children in school. By the result enrolment of girl children has been increasing rapidly in the recent days.

Recommendation n°169: Pay special attention to helping Dalit children, girls, and children belonging to ethnic minorities to complete their education cycle, and to ensure their employment opportunities after education in order to enable them to claim their rights and work as agents of change for their communities (Recommended by Finland)

IRI: partially implemented

CSW response:

[...] Dalit children still have the lowest participation rate in education of all sectors of society. This needs priority government intervention.

CN response:

Sensitivity and awareness among dalit and minorities on the importance of education, especially, girl's education is still problematic especially in rural parts of Nepal. In cities and headquarters dalit people are sending their children to school. Dropout from school of dalit girls is still found in rural parts.

NHRC response:

[...]

- Children who are out of families and children from Dalit and Janajati community are being deprived from easy access to quality education.
- Nepal has implemented the Program on Education for All until 2015. In this regard school enrolment rate has reached to 95.1%. However due to dropout problem the percentage of children who complete school education is still low. Enrolment rate of Children from Dalit, Janajati and minority community is comparatively low.
- The Government has implemented the separate policy on enrolment of girl children in school. By the result enrolment of girl children has been increasing rapidly in the recent days.

NCARD+IPRAN response:

According to the Multilingual Education experts working under the Ministry of Education, the Government has formed Multilingual Education Implementation Guidelines in 2066 BS (2009). The Guidelines aim to implement multilingual education in 7,500 schools by 2015; however, such education has been implemented



in only 24 schools so far. In northern mountainous region and Maithili speaking areas in the south, schools provide multilingual education in respective native languages that are yet to receive official governmental recognition. Further, the Government's Multilingual Education programme also includes language education as Multilingual Education rather than education provided using native languages as medium of instruction.

Thus, following recommendation of the Special Rapporteur on Indigenous Peoples (SRIP) made in his 2009 report (A/HRC/12/34/Add.3) should be emphasized: Existing plans for bilingual education should be enforced as a matter of priority in order to promote the revitalization and development of Adivasi Janajati languages, including by allocating the required human and financial resources to allow for effective implementation of such programmes.

Other

Recommendation n°16: *Consolidate the national human rights infrastructure*
(Recommended by *Egypt*)

IRI: *partially implemented*

AHRC response:

The authority of the National Human Rights Commission was also undermined by the adoption of a new National Human Rights Commission Act in January 2012, which curtailed its powers and its independence.

The new act has removed the reference to the independence and autonomy of the commission in the preamble, has made the approval of the finance ministry necessary before entering an agreement with a national or international body or before establishing a new office, and has prevented the commission from appointing its own employees, which it was empowered to do under the previous act. It has also made it necessary for the government to approve the commission's infrastructure and has made human rights programmes conducted in Nepal by an international organization, contingent upon the NHRC's approval. It has instituted a six month limitation in lodging a complaint of human rights violations, in clear contradiction to internationally accepted human rights standards, as entrenched in the updated set of principles to combat impunity. It may make the simple gesture of reporting a case of human rights violations impossible for victims who remain exposed to retaliations by the perpetrators, do not have access to such information in time, or are still suffering from the trauma of the violation and cannot file a case immediately. The power of the commission to grant compensation is now also subject to certain conditions that did not exist before. A large majority of the NHRC recommendations remain unimplemented, especially those pertaining to prosecutions of human rights violations.



The national dalit commission has still not been made a statutory body, which seriously limits its authority.

On 16th September 2013, the mandate of the NHRC commissioners came to an end without provision having been made to extend their terms or nominate their successors, thereby rendering the NHRC powerless at a time of electoral tensions.

NHRC response:

- The Government has mentioned that it has been working for strengthening the National Women Commission and National Dalit Commission by utilizing available resources. However these institutions are not found satisfied with the Government. In addition, separate law relating to Dalit Commission has not enacted yet.
- The Government mentioned that it has been providing optimum available resources to the National Women Commission and National Dalit Commission

NCARD+IPRAN response:

National Human Rights Commission is a constitutional body responsible to protect the human rights of all citizens including Adivasi Janajati. Article 131(2) of the Interim Constitution of Nepal 2007 states: "There shall be maintained diversity inclusive of women while making appointment of the Chairperson and Members of the National Human Rights Commission." The Commission was formed in 2008 inclusive of one member from indigenous peoples who has been assigned as a dedicated Commissioner to look into indigenous issues in the Commission. The Secretariat of the Commission has a Promotion, Advocacy and Collective Rights Department as one of its departments and Collective Rights Division, Gender & Social Inclusion Division and Promotion and Advocacy Division under it to promote, protect and monitor the rights of minorities, children, differently abled, Dalits, Adivasi Janajati and other excluded groups. One of its strategic objectives for the period of 2008 to 2010 is to effectively implement Convention 169 through integration of the provisions of the Convention in national laws working in close cooperation with the MoLD.

NHRC has drawn attention of the constitution makers and politicians through discussions and seminars to align provision of Convention 169 with the provisions of the new constitution. It has also recommended to the Government to eliminate Kamlari system effectively on 7 January 2009. However, Adivasi Janajati rights activists are not content with the way the Commission is protecting and monitoring their rights.

The Collective Rights Division, in its plan of activities for 2013, includes Training of Trainers on Convention 169 for building capacities on indigenous rights, among other activities. The Gender and Social Inclusion Division is implementing activities strengthening advocacies on Violence against Indigenous Women in Nepal. Lately, the Commission as a whole has enhanced its engagement on the rights of indigenous peoples, including coordination with indigenous experts for comments on the Government reports and policies on indigenous peoples and actions on complaints regarding violations of indigenous rights.



Further, the Commission, in its Strategic Plan for 2011–14 has identified inclusiveness in its staff structure as one of the priorities. The changes follow continued lobbying by indigenous peoples for a separate dedicated unit or Special Procedures such as Rapporteurs on indigenous rights.

It is recommended that

- NHRC should establish Special Procedure/Rapporteur with specific mandate of looking into the rights of indigenous peoples
- NHRC should ensure proportional representation of indigenous peoples in the Commission's structures, including its personnel.

Further, it is worthwhile to note following recommendation of the Special Rapporteur on Indigenous Peoples (SRIP) made in his 2009 report (A/HRC/12/34/Add.3) The National Human Rights Commission should in its structure ensure the participation of indigenous peoples' representatives and be given an explicit mandate to monitor indigenous peoples' individual and collective rights.

CSW response:

Protection of human rights is at a low point not because of the lack of laws and a legal system but because of lack of determination and action by law enforcement officers and because of unacceptable political interference in high profile criminal cases which does not conform with international standards for the separation of the executive and judicial arms of the state and their processes..

Recommendation n^o17: Strengthen the National Human Rights Commission (NHRC) to enable it to maintain its A-status accreditation (Recommended by India)

IRI: not implemented

CSW response:

The new National Human Rights Act of 2012 did not help Nepal's National Human Rights Commission (NHRC) to meet the Paris Principles. Under this Act, staff structure has to be agreed with the Nepal Government, allowing government to control the appointment and deployment of staff. The new Act puts detailed control of the NHRC's budget in the hands of the Government, with all expenses having to be approved by Government. The new act severely compromises the independence of the NHRC. The NHRC is no longer to be housed in a building independent of government control, in effect making it no different in status from a government department. The new Act restricts the right of the NHRC to hear all cases by restricting the cases it can deal with to those submitted within the previous 6 months; clearly this restriction does not allow the NHRC's actions to conform with the Paris Principles which require it to hear any complaints or petitions. Over a period of 4 years, two of the NHRC Commissioners have been protesting about inefficiency and corruption within the NHRC. To date, nothing has been done about these issues either by the government or the Commission for the Investigation of Abuse of Authority.

NDFPHR response:

Not implemented. The closure of the OHCHR office in June 2011 was justified with the argument that the NHRC was now strengthened enough and would not need any



more support from OHCHR. However in January 2012 the new National Human Rights Commission Act, 2068 (2012) was adopted limiting the function and independence of the National Human Rights Commission's mandate. Hence the mandate is not in line with the Paris Principle, and the human rights community recommended downgrading the NHRC status to B.

AHRC response:

The authority of the National Human Rights Commission was also undermined by the adoption of a new National Human Rights Commission Act in January 2012, which curtailed its powers and its independence.

The new act has removed the reference to the independence and autonomy of the commission in the preamble, has made the approval of the finance ministry necessary before entering an agreement with a national or international body or before establishing a new office, and has prevented the commission from appointing its own employees, which it was empowered to do under the previous act. It has also made it necessary for the government to approve the commission's infrastructure and has made human rights programmes conducted in Nepal by an international organization, contingent upon the NHRC's approval. It has instituted a six month limitation in lodging a complaint of human rights violations, in clear contradiction to internationally accepted human rights standards, as entrenched in the updated set of principles to combat impunity. It may make the simple gesture of reporting a case of human rights violations impossible for victims who remain exposed to retaliations by the perpetrators, do not have access to such information in time, or are still suffering from the trauma of the violation and cannot file a case immediately. The power of the commission to grant compensation is now also subject to certain conditions that did not exist before. A large majority of the NHRC recommendations remain unimplemented, especially those pertaining to prosecutions of human rights violations. The case of Krishna Prasad Adhikari, in which the NHRC in 2009 had recommended the government to provide the family with Rs. 300,000.00 as compensation, to rehabilitate them to their home and ensure their security. To date, no step was taken to implement those recommendations.

UNRCO response:

The Nepal Human Rights Commission is an "A" status National Human Rights Institution. Legislation with regard to NHRC's functions, duties, powers and procedures was passed by the parliament in January 2012. Passing of the legislation (in accordance with the Paris Principles) was one of the requirement by ICC-SCA for NHRC to maintain its A status. The NHRC underwent its 5-yearly review by the ICC Sub-Committee on Accreditation (SCA) in May 2013.

During May 2013 session of ICC-SCA the SCA recommended that the special review of the NHRC be deferred to November 2013 session. In the report of this review, the SCA set out details of the current appointment process for Commissioners and expressed concern that this existing process may not meet the standards of pluralism and independence required by the Paris Principles. The SCA went on to propose specific action to ensure that the appointment process meets the requirements of the Paris Principles: Such a process should include requirements to:



- a) Publicize vacancies broadly;
- b) Maximize the number of potential candidates from a wide range of societal groups;
- c) Promote broad consultation and/or participation in the application, screening, selection and appointment process
- d) Assess applicants on the basis of pre-determined, objective and publicly available criteria;
- e) Select members to serve in their own individual capacity rather than on behalf of the organization they represent.

The SCA noted that the current members of the NHRC will complete their terms in 2013. Due to the current political situations, it may be difficult to ensure the timely selection and appointment of new members in accordance with the constitutional and legislative provisions.

The Commissioners terms ended in September 2013, at present the NHRC is without Commissioners.

NHRC response:

- The Government has not fulfilled its commitment to strengthen the infrastructure of the NHRC. The Government might work together with NHRC to implement Paris Principles fully.
- The commitments made by the Prime Minister for strengthening NHRC in the UN General Assembly and programs organized by NHRC have not been implemented properly. In addition, almost recommendations of NHRC have not implemented.

National Human Rights Commission 2068 has been enacted. The Act has covered major provisions of Paris Principles however it is necessary to review some provisions of Act to make the Commission more independence and autonomous. The Act has not included the provisions of previous Act relating to autonomy and independence the NHRC. Several powers of NHRC including staff management, financial administration especially to get resources from donors without consent of the Government, and independent decision on the structure of the organization have been curtailed.

Recommendation n°21: *Continue to seek capacity building and technical assistance in order to pursue its plans for development and promotion of human rights (Recommended by Philippines)*

IRI: *partially implemented*

AHRC response:

Political instability before and following the dissolution of the CA have put all systematic plans to ensure further economic development and the promotion of human rights on hold.

UNRCO response:

The UN and the donors have been supporting the government to formulate next human rights action plan and to implement it. The United Nations Development



Assistance Framework 2013-2017, a joint document of the UN Agencies working in Nepal and the Government of Nepal has a range of activities which support and promote for the human rights promotion including the legislation making process, access to justice and strengthening the rule of law.

NHRC response:

- Nepal has been the party to seven of the total nine core Conventions including 24 UN Treaty bodies and Optional Protocols.
- The recommendations made by the UN Committees haven't been implemented satisfactorily
- The efforts have been spearheaded as per the lines furnished in the recommendations in order for strengthening human rights.
- Work Plan has been formulated under participatory mechanism for the implementation of the UPR recommendations. Yet, the UPR recommendations as such have not been implemented satisfactorily.
- It is learnt that the GoN has been working with the UN and other UN agencies in close and sound coordination.
- The GoN is said to have worked with the Office of High Commissioner for Human Rights (2005 – 2012) with regard to the contribution of the latter made for the investigation on the incidents of human rights violations during the armed conflict, human rights awareness and the development of institutional capacity. The GoN has been maintaining close and sound relationship with the OHCHR to this day, it is learnt.

NCARD+IPRAN response:

The Special Rapporteur on Indigenous Peoples (SRIP), in his 2009 report (A/HRC/12/34/Add.3), has provided following recommendation regarding human rights education and training:

Related to the foregoing, a comprehensive initiative should be developed to educate and raise awareness among Government officials, legislators, members of the judiciary and other stakeholders on Convention 169 and the United Nations Declaration.

However, no visible action has been taken yet in the policy and programme levels of the Government regarding the recommendation. Thus, the recommendation needs to be reiterated.

Recommendation n°23: Fully implement its National Plan of Action for human rights and its plans of actions to implement various human rights conventions and treaties (Recommended by Russian Federation)

IRI: partially implemented

AHRC response:

National plan of action for human rights was sidelined after the dissolution of the CA

UNRCO response:

National Human Rights Action Plan (NHRAP) 2010-2013 is completed and the government is preparing for next human rights action plan. However, there has not



been assessment of the NHRAP 2010-2013 implementation. NHRC is planning conduct assessment of the implementation of NHRAP 2010-2013.

NHRC response:

- National Human Rights Action Plan(NHRAP) has been formulated. The GoN has also introduced National Five Year Strategy and Work Plan ensuring to end gender violence and to give a boost to the gender empowerment. The objectives of this Strategy and Work Plan are to address the woman in National NHRAP, to reform law related to the children and women under social welfare as per the international standard, to end the gender violence, to protect the rights and liberties of women, to protect and promote the fundamental freedom of the persons with disabilities, to ensure maximum access to the natural and economic resources and to ensure social security and human rights. However, these are not yet implemented as per the Commitments expressed by the GoN and the recommendations sent by the work groups.
- Although the NHRAP is implemented by the GoN, the implementation status towards the end of the third year of the Plan is learnt to have remained acutely deficient because the center, regional and local level implementing agencies are said to have been inadequately informed about it.
- The monitoring system is found to be by far ineffective.
- It is deemed necessary that the GoN also involve the stakeholders for conceiving the new NHRAP to be implemented beginning Fiscal Year 2070/71 with an aim to address the existing problems related to human rights. The extensive programs are necessary among the implementing agencies for their capacity development
- The decision was drawn in the meeting held on 2067/7/25 in the Office of the Prime Minister and Council of Minister that Ministries of the GoN would implement the NHRAP with due priority, The concerned ministries would include the NHRAP implementation expenses in their annual budget. Likewise, the ministries would submit the monthly, quarterly and half yearly report to the OPM within the prescribed timeframe and the OPM would conduct or cause to conduct regular monitoring on the implementation status of the NHRAP.
- Following this, the meeting of the Work Plan Implementing and Monitoring Committee had been held from time to time to assess the implementation status. It was found that the implementation of the NHRAP was apparently ineffective.
- Overall, with the extremely weak implementation of the NHRAP, the implementation of plan to address the discrimination against women and protection of the persons with disabilities also remained bleak within the Plan.

NCARD+IPRAN response:

There has been minimal consultation with indigenous peoples and their organizations regarding National Plan of Action for Human Rights. Thus, progress of this recommendation could not be monitored.

Recommendation n^o31: *Give priority to a successful conclusion of the peace process with every effort made to centre it on human rights as a sure foundation for the future of the country (Recommended by Holy See)*

IRI: not implemented



AHRC response:

As victims of human rights violations committed during the conflict continue to wait for justice, not a single perpetrator of HRV has been brought to book so far. The transitional justice institutions have not yet been put in place and the presidential ordinance creating a Commission on truth reconciliation and disappearances left a great scope for amnesty. It was suspended by a Supreme Court order. As Nepal has not yet faced its past, the institutional reforms necessary to guarantee non-recurrence of past abuses have not been initiated.

NHRC response:

- Most of the tasks of the peace process have been successfully completed. The process of integration of Maoist Combatants into Nepal Army and management of arms has been completed successfully.
- The important issues of human rights are incorporated in the Comprehensive Peace Accord 2005.
- The Government of Nepal has established Ministry of Peace and Reconstruction in order to manage peace process.
- Reconstruction of the destroyed physical infrastructures during the period of armed conflict is yet to be completed despite huge investment of the Government.
- The Government has established Local Peace Committees for establishment of peace in grassroots level; however, these committees could not accomplish their tasks effectively.
- Following the increase of criminal activities of armed groups emerged during the peace process especially in the Southern Terai region and eastern hills; the GoN has made peace agreement with various armed groups through dialogues. Following this, criminal activities of the armed groups have significantly decreased; however, it has not been completely impeded.
- International Communities including UN agencies have complimented great support in the peace process and reconstruction. United Nations Mission to Nepal (UNMIN) and United Nations Office of the High Commissioner on Human Rights (OHCHR) have provided a vital support by establishing their offices in Nepal.
- During the peace process, various agreements have been made through extensive dialogues among the conflicting parties; however, because of the failure to establish the Truth and Reconciliation Commission (TRC), there are so cumbersome tasks left to accomplish for the establishment of peaceful environment in society.
- It is found that the Government has not given priority to reconciliation.
- Ever since the peace process hit, political instability has been increasing. Owing to the trust deficit among the political parties, the government of ex-bureaucrats at the leadership of Chief Justice has been formed. Human Rights situation of country has been negatively affected due to increasing political instability/impasse.
- The Interim Constitution of Nepal - 2007 has fully accepted the democratic system; however, the unhealthy competitions among the political parties including the financial irregularities and lack of transparency have altogether

caused stagnation to the democratic development. Such situation has created undue frustration among the people towards politics.

Recommendation n°32: *Seek to enhance international cooperation to address the lack of human capacity and financial resources in the peace process and post conflict reconstruction* (Recommended by Viet Nam)

IRI: *not implemented*

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Recommendation n°34: *Seek support of the international community in Nepal's efforts to firmly institutionalize peace building efforts* (Recommended by Pakistan)

IRI: *not implemented*

AHRC response:

The departure of the OHCHR office in Nepal and the refusal of the country to accept a human rights representative to be nominated with the UNDP have marked a strong pause in the country's collaboration with international actors on human rights issues.

NHRC response:

[...]

- International Communities including UN agencies have complimented great support in the peace process and reconstruction. United Nations Mission to Nepal (UNMIN) and United Nations Office of the High Commissioner on Human Rights (OHCHR) have provided a vital support by establishing their offices in Nepal.

[...]

Recommendation n°33: *Continue its national reconciliation efforts* (Recommended by Singapore)

IRI: *partially implemented*

CSW response:

In general there has been inter-faith harmony or at least tolerance between people of differing religions in Nepal. This is important and to be praised and promoted. The establishment of an inter-faith council in Nepal is very important if tolerance and harmony are to be maintained. The establishment of single religion commissions would not have this result.

AHRC response:

No concrete steps have been taken to address long term and deep entrenched grievance of conflict victims. As victims of human rights violations committed during the conflict continue to wait for justice, not a single perpetrator of HRV has been brought to book so far. The transitional justice institutions have not yet been put in place and the presidential ordinance creating a Commission on truth reconciliation and disappearances left a great scope for amnesty. It was suspended by a Supreme Court order. As NEpal has not yet faced its past, the institutional reforms necessary to guarantee non-recurrence of past abuses have not been initiated.



NHRC response:

- Most of the tasks of the peace process have been successfully completed. The process of integration of Maoist Combatants into Nepal Army and management of arms has been completed successfully.
- The important issues of human rights are incorporated in the Comprehensive Peace Accord 2005.
- The Government of Nepal has established Ministry of Peace and Reconstruction in order to manage peace process.
- Reconstruction of the destroyed physical infrastructures during the period of armed conflict is yet to be completed despite huge investment of the Government.
- The Government has established Local Peace Committees for establishment of peace in grassroots level; however, these committees could not accomplish their tasks effectively.
- Following the increase of criminal activities of armed groups emerged during the peace process especially in the Southern Terai region and eastern hills; the GoN has made peace agreement with various armed groups through dialogues. Following this, criminal activities of the armed groups have significantly decreased; however, it has not been completely impeded.
- International Communities including UN agencies have complimented great support in the peace process and reconstruction. United Nations Mission to Nepal (UNMIN) and United Nations Office of the High Commissioner on Human Rights (OHCHR) have provided a vital support by establishing their offices in Nepal.
- During the peace process, various agreements have been made through extensive dialogues among the conflicting parties; however, because of the failure to establish the Truth and Reconciliation Commission (TRC), there are so cumbersome tasks left to accomplish for the establishment of peaceful environment in society.
- It is found that the Government has not given priority to reconciliation.
- Ever since the peace process hit, political instability has been increasing. Owing to the trust deficit among the political parties, the government of ex-bureaucrats at the leadership of Chief Justice has been formed. Human Rights situation of country has been negatively affected due to increasing political instability/impasse.
- The Interim Constitution of Nepal - 2007 has fully accepted the democratic system; however, the unhealthy competitions among the political parties including the financial irregularities and lack of transparency have altogether caused stagnation to the democratic development. Such situation has created undue frustration among the people towards politics.

Recommendation n°35: *Continue efforts in ending the political instability in the country* (Recommended by *Bhutan*)

IRI: *partially implemented*

AHRC response:

The dissolution of the constituent assembly without having adopted a new constitution and the repeated postponement of elections have shown how fragile



Nepal democratic process was and how long the road to bring political stability to the country was.

NHRC response:

- Most of the tasks of the peace process have been successfully completed. The process of integration of Maoist Combatants into Nepal Army and management of arms has been completed successfully.
- The important issues of human rights are incorporated in the Comprehensive Peace Accord 2005.
- The Government of Nepal has established Ministry of Peace and Reconstruction in order to manage peace process.
- Reconstruction of the destroyed physical infrastructures during the period of armed conflict is yet to be completed despite huge investment of the Government.
- The Government has established Local Peace Committees for establishment of peace in grassroots level; however, these committees could not accomplish their tasks effectively.
- Following the increase of criminal activities of armed groups emerged during the peace process especially in the Southern Terai region and eastern hills; the GoN has made peace agreement with various armed groups through dialogues. Following this, criminal activities of the armed groups have significantly decreased; however, it has not been completely impeded.
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- The Interim Constitution of Nepal - 2007 has fully accepted the democratic system; however, the unhealthy competitions among the political parties including the financial irregularities and lack of transparency have altogether caused stagnation to the democratic development. Such situation has created undue frustration among the people towards politics.

Recommendation n^o37: *Make further efforts to implement the recommendations of various treaty bodies (Recommended by Japan)*

IRI: *not implemented*



CSW response:

Two UN Special Rapporteurs for Freedom of Religion and Freedom of Expression wrote a letter to the Government of Nepal in Autumn 2011 but received no answer to their letter. The Government of Nepal must take seriously and take action on the recommendations of Treaty bodies and their Special Rapporteurs.

AHRC response:

The departure of the OHCHR office in Nepal and the refusal of the country to accept a human rights representative to be nominated with the UNDP have marked a strong pause in the country's collaboration with international actors on human rights issues. No steps have been taken to implement the recommendations made by the Special Rapporteur on torture during his 2009 visit to the country for instance. The priority first given to the constitution writing process and then to the electoral process has ensured that human rights issues and implementation of the treaty body recommendations have been continuously sidelined.

NHRC response:

- Nepal has been the party to seven of the total nine core Conventions including 24 UN Treaty bodies and Optional Protocols.
- The recommendations made by the UN Committees haven't been implemented satisfactorily
- The efforts have been spearheaded as per the lines furnished in the recommendations in order for strengthening human rights.
- Work Plan has been formulated under participatory mechanism for the implementation of the UPR recommendations. Yet, the UPR recommendations as such haven't been implemented satisfactorily.
- It is learnt that the GoN has been working with the UN and other UN agencies in close and sound coordination.
- The GoN is said to have worked with the Office of High Commissioner for Human Rights (2005 – 2012) with regard to the contribution of the latter made for the investigation on the incidents of human rights violations during the armed conflict, human rights awareness and the development of institutional capacity. The GoN has been maintaining close and sound relationship with the OHCHR to this day, it is learnt.

Recommendation n°38: *Continue to cooperate with the United Nations and other international organizations to strengthen human rights in Nepal* (Recommended by Laos)

IRI: *partially implemented*

CSW response:

[See response to recommendation n° 37]

AHRC response:

[See response to recommendation n° 37]



UNRCO response:

The UNDAF 2013-2017 signed between the UN and the GoN support the Nepal's development priorities. The UN agencies working in Nepal will support the GoN in implementing its development and other priorities for the period of 2013-2017.

NHRC response:

[See response to recommendation n° 37]

Recommendation n°76: *Call on the international community to encourage the present stage of development in Nepal and provide the necessary assistance to strengthen Nepal's domestic capacity to address the challenges* (Recommended by Myanmar)

IRI: -

NHRC response:

[...]

- The GoN is said to have worked with the Office of High Commissioner for Human Rights (2005 – 2012) with regard to the contribution of the latter made for the investigation on the incidents of human rights violations during the armed conflict, human rights awareness and the development of institutional capacity. The GoN has been maintaining close and sound relationship with the OHCHR to this day, it is learnt.

Recommendation n°88: *Continue taking appropriate measures to narrow the gap between the rich and the poor. The international community must also rise to the occasion and help Nepal in its efforts* (Recommended by Pakistan)

IRI: *partially implemented*

NHRC response:

- The state mechanism has not given adequate attention to protect economic, social and cultural rights. People in rural areas are particularly affected by this, are dying due to starvation and easily preventable diseases like diarrhea.
- The basic economic and social rights have not been available for the public due to widespread corruption, lack of good governance and accountability.
- The Government has declared abolition of some traditional forms of labor exploitation. However, such traditions are not completely abolished due to the lack of proper implementation of programs to manage and rehabilitate such bonded laborers. The Government has declared abolition of some forms of slavery (types of bonded laborers like Kamaiya, Haliya, Kamalari), however, in practice a large number of poor people are still working in such forms of labor.
- The Government has enacted guidelines for providing education to Kamalari having provisions of scholarship for Kamalaris.
- The Government could not enact the law ensuring minimum wage for labor work in the informal sector. Large numbers of laborers including children have fallen the victims of labor exploitation. The Commission has recorded some cases of suicide of domestic workers especially by women domestic workers working in urban areas.
- The Government mentioned that more than fifty thousand people have got employment/self employment through the cooperatives and it has contributed to economic empowerment of people by providing freedom from hunger and poverty. However the money invested by the people in such cooperatives has



- been swindled and is insecure due to either forgery or lack of effective monitoring of Government on such practice or high rate of interest.
- In the recent days the Government has started to monitor some cooperatives. The Government has mentioned that it has monitored 155 Cooperatives and has planned to monitor 566 Cooperatives and has planned to monitor 566 Cooperatives having more than five crore cash in this fiscal year.
 - Large numbers of young people have been migrating to work abroad due to the lack of employment opportunity in the country. The initiation of the Government to protect rights of those migrant workers is completely insufficient. In many cases, the Government has to facilitate to ensure insurance of deceased migrant citizens and it takes months to bring dead bodies back home. Human Smuggling has been increasing during the process of foreign employment.
 - Mainly the migrant laborers working in informal sector has been in vulnerable situation due to labor exploitation and insecurity. The situation of women working in such sector is more vulnerable. In this regard GoN ought to pay attention by implementing special programs and enhance monitoring.
 - It is found that Nepal is in the position to achieve almost all targets of Millennium Development Goals (MDG).
 - The GoN has been found to be working to identifying data of poor people. For this purpose the Government has launched survey to identify poor families by distributing thirteen hundred thousand forms in twenty four districts with an aim to extend the survey in remaining districts.
 - The Government has mentioned that the percentage of poverty is 23.8% and it has a plan to limit it by 18% in the period of three years. Despite the decrement of poverty in total population, status of sectorial poverty has been challenging; Karnali Zone and Far western Region have a higher level of poverty than the national average. In addition percentage of poverty in Dalit people and backward community is very high.
 - The Government failed to deliver its development plans, policies and also enact the full budget due to contradictions among the political parties in formation of government. By the reason economic development and poverty alleviation programs are being affected severely.
 - Economic and social development of the country from grassroots level as well targets to meet Millennium Development Goals has been seriously affected by the failure of fulfilment of local bodies by the general election since 15 years.
 - The prevailing situation of widespread corruption is one of the major challenges for economic and social development of the country. According to the report of Transparency International 2012 Nepal lies in 139th position in the Corruption Index.

Recommendation n^o103: *Restore the independence and mandate of the NHRC in line with the Paris Principles* (Recommended by Canada)

IRI: *not implemented*

+

Recommendation n^o105: *Provide the NHRC with adequate funding and autonomy to ensure that the Commission can properly fulfil its mandate* (Recommended by Republic of Korea)

IRI: *not implemented*



+

Recommendation n°106: *Take all necessary measures for the capacity building of the NHRC, the respect of its independence and autonomy as well as the implementation of its recommendations* (Recommended by France)

IRI: *not implemented*

+

Recommendation n°107: *Strengthen the role of the NHRC as an independent institution and follow-up on its recommendations* (Recommended by Norway)

IRI: *not implemented*

CSW response:

The new National Human Rights Act of 2012 did not help Nepal's National Human Rights Commission (NHRC) to meet the Paris Principles. Under this Act, staff structure has to be agreed with the Nepal Government, allowing government to control the appointment and deployment of staff. The new Act puts detailed control of the NHRC's budget in the hands of the Government, with all expenses having to be approved by Government. The new act severely compromises the independence of the NHRC. The NHRC is no longer to be housed in a building independent of government control, in effect making it no different in status from a government department. The new Act restricts the right of the NHRC to hear all cases by restricting the cases it can deal with to those submitted within the previous 6 months; clearly this restriction does not allow the NHRC's actions to conform with the Paris Principles which require it to hear any complaints or petitions. Over a period of 4 years, two of the NHRC Commissioners have been protesting about inefficiency and corruption within the NHRC. To date, nothing has been done about these issues either by the government or the Commission for the Investigation of Abuse of Authority. More than half the recommendations of the NHRC have not been implemented by the government.

NDFPHR response:

Not implemented. The closure of the OHCHR office in June 2011 was justified with the argument that the NHRC was now strengthened enough and would not need any more support from OHCHR. However in January 2012 the new National Human Rights Commission Act, 2068 (2012) was adopted limiting the function and independence of the National Human Rights Commission's mandate. Hence the mandate is not in line with the Paris Principle, and the human rights community recommended downgrading the NHRC status to B.

AHRC response:

The authority of the National Human Rights Commission was also undermined by the adoption of a new National Human Rights Commission Act in January 2012, which curtailed its powers and its independence.

The new act has removed the reference to the independence and autonomy of the commission in the preamble, has made the approval of the finance ministry necessary before entering an agreement with a national or international body or before establishing a new office, and has prevented the commission from appointing its own employees, which it was empowered to do under the previous act. It has also made it necessary for the government to approve the commission's infrastructure



and has made human rights programmes conducted in Nepal by an international organization, contingent upon the NHRC's approval. It has instituted a six month limitation in lodging a complaint of human rights violations, in clear contradiction to internationally accepted human rights standards, as entrenched in the updated set of principles to combat impunity. It may make the simple gesture of reporting a case of human rights violations impossible for victims who remain exposed to retaliations by the perpetrators, do not have access to such information in time, or are still suffering from the trauma of the violation and cannot file a case immediately. The power of the commission to grant compensation is now also subject to certain conditions that did not exist before. A large majority of the NHRC recommendations remain unimplemented, especially those pertaining to prosecutions of human rights violations. The case of Krishna Prasad Adhikari, in which the NHRC in 2009 had recommended the government to provide the family with Rs. 300,000.00 as compensation, to rehabilitate them to their home and ensure their security. To date, no step was taken to implement those recommendations.

UNRCO response:

The Nepal Human Rights Commission is an "A" status National Human Rights Institution. Legislation with regard to NHRC's functions, duties, powers and procedures was passed by the parliament in January 2012. Passing of the legislation (in accordance with the Paris Principles) was one of the requirement by ICC-SCA for NHRC to maintain its A status. The NHRC underwent its 5-yearly review by the ICC Sub-Committee on Accreditation (SCA) in May 2013

During May 2013 session of ICC-SCA the SCA recommended that the special review of the NHRC be deferred to November 2013 session. In the report of this review, the SCA set out details of the current appointment process for Commissioners and expressed concern that this existing process may not meet the standards of pluralism and independence required by the Paris Principles. The SCA went on to propose specific action to ensure that the appointment process meets the requirements of the Paris Principles: Such a process should include requirements to:

- a) Publicize vacancies broadly;
- b) Maximize the number of potential candidates from a wide range of societal groups;
- c) Promote broad consultation and/or participation in the application, screening, selection and appointment process
- d) Assess applicants on the basis of pre-determined, objective and publicly available criteria;
- e) Select members to serve in their own individual capacity rather than on behalf of the organization they represent.

The SCA noted that the current members of the NHRC will complete their terms in 2013. Due to the current political situations, it may be difficult to ensure the timely selection and appointment of new members in accordance with the constitutional and legislative provisions.

The Commissioners terms ended in September 2013, at present the NHRC is without Commissioners.



NHRC has made recommendations on 735 cases so far of which in 457 cases (62%) there has been some implementation from the government in terms of providing compensation to the victims. However, there has not been any prosecutions so far.

NHRC response:

- The Government has not fulfilled its commitment to strengthen the infrastructure of the NHRC. The Government might work together with NHRC to implement Paris Principles fully.
- The commitments made by the Prime Minister for strengthening NHRC in the UN General Assembly and programs organized by NHRC have not been implemented properly. In addition, almost recommendations of NHRC have not implemented.

National Human Rights Commission 2068 has been enacted. The Act has covered major provisions of Paris Principles however it is necessary to review some provisions of Act to make the Commission more independence and autonomous. The Act has not included the provisions of previous Act relating to autonomy and independence the NHRC. Several powers of NHRC including staff management, financial administration especially to get resources from donors without consent of the Government, and independent decision on the structure of the organization have been curtailed.

Recommendation n°104: *Ensure that the NHRC functions in line with the Paris Principles (Recommended by France)*

IRI: not implemented

CSW response:

The new National Human Rights Act of 2012 did not help Nepal's National Human Rights Commission (NHRC) to meet the Paris Principles. Under this Act, staff structure has to be agreed with the Nepal Government, allowing government to control the appointment and deployment of staff. The new Act puts detailed control of the NHRC's budget in the hands of the Government, with all expenses having to be approved by Government. The new act severely compromises the independence of the NHRC. The NHRC is no longer to be housed in a building independent of government control, in effect making it no different in status from a government department. The new Act restricts the right of the NHRC to hear all cases by restricting the cases it can deal with to those submitted within the previous 6 months; clearly this restriction does not allow the NHRC's actions to conform with the Paris Principles which require it to hear any complaints or petitions. Over a period of 4 years, two of the NHRC Commissioners have been protesting about inefficiency and corruption within the NHRC. To date, nothing has been done about these issues either by the government or the Commission for the Investigation of Abuse of Authority.

NDFPHR response:

[See response to recommendation n° 103]

AHRC response:

[See response to recommendation n° 103]

UNRCO response:

[See response to recommendation n° 103]

Recommendation n°109: *Design programmes for the implementation of its human rights action plan* (Recommended by *Egypt*)

IRI: *partially implemented*

NHRC response:

[See response to recommendation n° 23]

Recommendation n°111: *Cooperate closely with the United Nations, in particular with the local Office of the High Commissioner for Human Rights* (Recommended by *France*)

IRI: *not implemented*

AHRC response:

The OHCHR office in Nepal was made to cease all its activities in December 2011. Since then the collaboration of Nepal with international human rights bodies have been limited.

UNRCO response:

The OHCHR country office Nepal closed in mid 2012 following non-extension of the [Memorandum of Understanding] by the [Government of Nepal]

NHRC response:

- Nepal has been the party to seven of the total nine core Conventions including 24 UN Treaty bodies and Optional Protocols.
- The recommendations made by the UN Committees haven't been implemented satisfactorily
- The efforts have been spearheaded as per the lines furnished in the recommendations in order for strengthening human rights.
- Work Plan has been formulated under participatory mechanism for the implementation of the UPR recommendations. Yet, the UPR recommendations as such haven't been implemented satisfactorily.
- It is learnt that the GoN has been working with the UN and other UN agencies in close and sound coordination.
- The GoN is said to have worked with the Office of High Commissioner for Human Rights (2005 – 2012) with regard to the contribution of the latter made for the investigation on the incidents of human rights violations during the armed conflict, human rights awareness and the development of institutional capacity. The GoN has been maintaining close and sound relationship with the OHCHR to this day, it is learnt.

Recommendation n°139: *Work with OHCHR to develop a common core document which, in conjunction with treaty-specific lists of issues, will help streamline treaty*



reporting, in order to help overcome the burden of treaty reporting (Recommended by Maldives)

IRI: not implemented

UNRCO response:

The OHCHR country office Nepal closed in mid 2012 following non-extension of the [Memorandum of Understanding] by the [Government of Nepal]

NHRC response:

- The GoN is learnt to have mentioned about the collaboration with the OHCHR while preparing such key instruments. Although the Government has mentioned to take appropriate decision upon actively conducting studies with regard to the effectiveness of the new work procedures, such an initiative has not been translated into action as yet.
- +
- Nepal has welcomed several special procedures and Special Rapporteurs. Despite the fact that the commitment made with green signal to establish a mechanism under the purview of the Office of the Prime Minister and Council of Ministers in order to respond immediately to extend a standing invitation to the special procedures on the basis of the case in an appropriate time, it hasn't been materialized as such.



Methodology

A. First contact

Although the methodology has to consider the specificities of each country, we applied the same procedure for data collection about all States:

1. We contacted the Permanent Mission to the UN either in Geneva (when it does exist) or New York;
2. We contacted all NGOs which took part in the process. Whenever NGOs were part of coalitions, each NGO was individually contacted;
3. The National Institution for Human Rights was contacted whenever one existed.
4. UN Agencies which sent information for the UPR were contacted.

We posted our requests to the States and NHRI, and sent emails to NGOs and UN Agencies.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation were not contacted, and those stakeholders' submissions were not taken into account.

However, since the UPR is meant to be a process which aims at sharing best practices among States and stakeholders, we take into account positive feedbacks from the latter.

B. Processing recommendations and voluntary pledges

Stakeholders we contact are encouraged to use an Excel sheet we provide which includes all recommendations received and voluntary pledges taken by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, the submission is split up among recommendations we think it belongs to. Since such a task is more prone to misinterpretation, we strongly encourage stakeholders to use the Excel sheet.

If the stakeholder does not clearly mention neither that the recommendation was “fully implemented” nor that it was “not implemented”, UPR Info usually considers the recommendation as “partially implemented”, unless the implementation level is obvious.



UPR Info retains the right to edit comments that are considered not to directly address the recommendation in question, when comments are too lengthy or when comments are defamatory or inappropriate. While we do not mention the recommendations which were not addressed, they can be accessed unedited on the follow-up webpage.

C. Implementation Recommendation Index (IRI)

UPR Info developed an index showing the implementation level achieved by the State for both recommendations received and voluntary pledges taken at the UPR.

The **Implementation Recommendation Index (IRI)** is an individual recommendation index. Its purpose is to show an average of stakeholders' responses.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.

An average is calculated to fully reflect the many sources of information. If the State under Review claims that the recommendation has been fully implemented, and a stakeholder says it has been partially implemented, the score is 0.75.

Then the score is transformed into an implementation level, according to the table below:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation will be given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

Disclaimer

The comments made by the authors (stakeholders) are theirs alone, and do not necessarily reflect the views, and opinions at UPR Info. Every attempt has been made to ensure that information provided on this page is accurate and not abusive. UPR Info cannot be held responsible for information provided in this document.



Uncommented recommendations

Hereby the recommendations which the MIA does not address:

rec. n°	Recommendation	SMR	Response	A	Issue
28	Share experiences and good practices with other countries in areas of development and protection of human rights	Laos	Accepted	1	Development
81	Continue pursuing socio-economic and political transformation process that will also imply the framing of a new constitution	Azerbaijan	Accepted	2	General
96	Put in place a follow-up mechanism with a view to ensuring the return, registering, readaptation and reinsertion of internally displaced peoples, in all security and dignity	Republic of Korea	Accepted	5	Internally displaced persons
170	Ensure that children of internally displaced persons, refugees, asylum-seekers and their families enjoy the right to health, education and birth registration without discrimination	Thailand	General Response	4	Asylum-seekers - refugees, Internally displaced persons, Right to education, Right to health, Rights of the Child
188	Become a party to some conventions to which it has yet to accede, including the Convention relating to the Status of Refugees, CED and the Rome Statute	Japan	Rejected	5	Asylum-seekers - refugees, Enforced disappearances, International instruments, Justice
191	Take effective measures promptly to uphold the total prohibition against torture, in accordance with its international obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and to sign OP-CAT	Sweden	Rejected	4	Detention conditions, International instruments, Torture and other CID treatment
193	Ensure that all acts of torture are offences under its criminal law and considering acceding to OP-CAT	Brazil	Rejected	4	Detention conditions, International instruments, Torture and other CID treatment

A= Action Category (see on [our website](#))

SMR = State making recommendation

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