

ADVANCE UNEDITED VERSION

INITIAL REPORT
OF
THE GOVERNMENT OF NEPAL
ON
MEASURES TAKEN TO GIVE EFFECT TO
THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

NEPAL

July, 2014

MINISTRY OF WOMEN, CHILDREN AND SOCIAL WELFARE
SINGHADURBAR, KATHMANDU, NEPAL

ADVANCE UNEDITED VERSION

LIST OF ABBREVIATIONS AND ACRONYMS

AIDS	Acquired Immunodeficiency Syndrome
ANC	Antenatal Care
ART	Anti-Retroviral Treatment
CA	Constituent Assembly
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CB-IMCI	Community-Based Integrated Management of Childhood Illness
CBOs	Community-Based Organizations
CBS	Central Bureau of Statistics
CDO	Chief District Officer
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CLA	Civil Liberties Act
CPA	Comprehensive Peace Accord
CPR	Contraceptive Prevalence Rate
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSIDP	Cottage and Small-scale Industries Development Programme
CTEVT	Council for Technical Education and Vocational Training
DAO	District Administration Office
DOE	Department of Education
DOL	Department of Labour
DOTS	Directly Observed Treatment Short Course
DOWC	Department of Women and Children
ESCRs	Economic, Social and Cultural Rights
FEWF	Foreign Employment Welfare Fund
FNCCI	Federation of Nepalese Chambers of Commerce and Industry
FY	Fiscal Year
GBV	Gender Based Violence
GDP	Gross Domestic Product
GESI	Gender Equality and Social Inclusion
GMSI	Gender Mainstreaming and Social Inclusion

ADVANCE UNEDITED VERSION

GON	Government of Nepal
GRB	Gender Responsive Budget
HIV	Human Immunodeficiency Virus
HOR	House of Representatives
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IDPs	Internally Displaced Persons
IEC	Information, Education and Communication
ILO	International Labour Organization
IMR	Infant Mortality Rate
INGOs	International Non-Governmental Organizations
IPs	Indigenous Peoples
LGBTIs	Lesbians, Gays, Bisexuals, Transgenders and Intersexes
LSGA	Local Self-Governance Act
MDGs	Millennium Development Goals
MMR	Maternal Mortality Rate
MOE	Ministry of Education
MOFA	Ministry of Foreign Affairs
MOHA	Ministry of Home Affairs
MOHP	Ministry of Health and Population
MOIC	Ministry of Information and Communications
MOFALD	Ministry of Federal Affairs and Local Development
MOLJCAP	Ministry of Law, Justice Constituent Assembly and Parliamentary Affairs
MOLE	Ministry of Labour and Employment
MOPR	Ministry of Peace and Reconstruction
MOWCSW	Ministry of Women, Children and Social Welfare
NA	Nepal Army
NCCHT	National Committee on Controlling Human Trafficking
NWC	National Women Commission
NDC	National <i>Dalit</i> Commission
NDHS	Nepal Demographic and Health Survey
NER	Net Enrollment Rate

Table of Contents

I	INTRODUCTION	1
II	METHODOLOGY AND CONSULTATION PROCESS.....	2
III.	BACKGROUND	2
IV	PREVALENCE OF DISABILITY IN NEPAL	3
V.	GENERAL PROVISIONS OF THE CONVENTION	5
	Articles 1 and 2: Purpose and definition.....	5
	Article 3 and 4: General Principles and Obligations.....	7
VI.	SPECIFIC RIGHTS.....	11
	Article 5: Equality and non-discrimination.....	11
	Article 6: Women with disabilities	12
	Article 7: Children with Disabilities	13
	Article 8: Awareness Raising	16
	Article 9: Accessibility	17
	Article 10: Right to life	18
	Article 11: Situation of Risks and Humanitarian Emergency	19
	Article 12: Equal Recognition before the Law.....	20
	Article 13: Access to Justice	21
	Article 14: Liberty and Security of the Person	22
	Article 15: Freedom from torture or cruel, inhuman or degrading treatment or punishment.....	23
	Article 16: Freedom from Exploitation, Violence and Abuse.....	24
	Article 17: Protecting the Integrity of the Person.....	25
	Article 18: Liberty of Movement and Nationality	26
	Article 19: Living Independently and Being Included in the Community	27
	Article 20: Personal mobility.....	28
	Article 21: Freedom of Expression and Opinion, and Access to Information	29
	Article 22: Respect for Privacy	31
	Article 23: Respect for Home and Family	32
	Article 24: Education.....	33
	Article 25: Health	42
	Article 26: Habilitation and Rehabilitation.....	44
	Article 27: Work and Employment.....	45
	Article 28: Adequate Standard of Living and Social Protection	47
	Article 29: Participation in Political and Public Life	50
	Article 30: Participation in Cultural Life, Recreation, Leisure and Sports	52
	Article 31: Statistics and Data Collection	53
	Article 32: International Cooperation	54
	Article 33: National Implementation and Monitoring	54
VII.	CONCLUSION.....	55

I INTRODUCTION

1. Nepal signed the Convention on the Rights of Persons with Disabilities (the "CRPD") and the Optional Protocol to the Convention on the Rights of Persons with Disabilities (the "Optional Protocol") on 3 January 2008, and ratified them on 27 December 2009. The CRPD and Optional Protocol came into force for Nepal on 6 June 2010.

2. A party to a number of international human rights instruments, Nepal is committed to the promotion and protection of human rights. By ratifying the CRPD, Nepal has demonstrated its deep-seated commitment to building an inclusive and empathetic society founded on equality and social justice. The Interim Constitution of Nepal, 2007 (the "Constitution") guarantees human rights and fundamental freedoms for all. A range of measures have been envisaged and put in place in keeping with these constitutional provisions and international commitments.

3. The present initial report, submitted pursuant to Article 35(1) of the CRPD, provides a detailed account of the implementation of the CRPD in Nepal. It focuses on the relevant policy, legal and institutional measures adopted by Nepal as well as on how they have been implemented in order to ensure the rights of persons with disabilities. It is an outcome of the combination of inputs from different governmental and non-governmental sources and bodies.

4. Importantly, Nepal considers the preparation of the present report as an opportunity to take stock of its policies and plan more effective measures to implement the CRPD, in collaboration with relevant stakeholders.

5. Prior to the People's Movement in April 2006, Nepal endured a decade long armed conflict, which officially came to an end with the signing of the Comprehensive Peace Accord (the "CPA") on 21 November 2006. The Constitution came into force in 2007 to reflect the achievements of the People's Movement.

6. First general election to the Constituent Assembly (the "CA") of Nepal was held on 10 April 2008. It could not complete its mandate of drafting a new constitution. Consequently, its term expired on 27 May 2012. Second election to the CA was held on 19 November 2013. Nepal is presently engaged in building national democratic institutions to consolidate democratic achievements and expedite the process of socio-economic transformation.

II METHODOLOGY AND CONSULTATION PROCESS

7. The report has been prepared based on the guidelines of the United Nations on the writing of reports by States Parties implementing human rights treaties (HRI/GEN/2/Rev.5) and the guidelines of the Committee on the Rights of Persons with Disabilities regarding reports on implementation of the Convention (CRPD/C/2/3).

8. A committee with cross sectoral representation was formed by the Ministry of Women, Children and Social Welfare (the "MOWCSW") to prepare the present report upon holding consultations with a range of stakeholders. In this course, the committee also held extensive

discussions and dialogues with governmental institutions including the Office of the Prime Minister and Council of Ministers, the Ministry of Law, Justice, Constituent Assembly and Parliamentary Affairs, Ministry of Education, Ministry of Health and Population, Ministry of Finance, Ministry of Federal Affairs and Local Development, and national human rights institutions including the National Human Rights Commission (the "NHRC").

III. BACKGROUND

9. As per the National Population and Housing Census 2011, the population of Nepal as of the census day (22 June 2011) stands at 26,494,504 showing population growth rate of 1.35 per annum. Terai constitutes 50.27 percent (13,318,705) of the total population while Hill and Mountain constitute 43.01 percent (11,394,007) and 6.73 percent (1,781,792) respectively.

10. The population living below the poverty line is approximately 23.8 percent. The average per capita income is 721 US Dollars.

11. Ethnic, cultural and linguistic diversity is a characteristic feature of Nepal as a nation. Nepali is the official language.

12. The Nepal Labor Force Survey (the "NLFS") 2010 estimates that about 82 per cent of the population aged 15 years and above is usually active and 18 per cent is usually inactive. The employment to population ratio is 80 per cent and 2 per cent of the population aged 15 years and above is unemployed. The unemployment is reported to be higher among the urban population than among the rural population, and more males are unemployed than females.

IV PREVALENCE OF DISABILITY IN NEPAL

13. According to a sample survey carried out in 1981, persons with disabilities accounted for 3.5 per cent of the total population while the 2001 and 2011 census showed a prevalence of 0.45 and 1.94 per cent respectively.

Table 1

Persons with Disabilities by sex and location (2011)

Sex	Total Population	Total Persons with disabilities	Percent	
Male	12,849,041	280,086	2.18	
Female	13,645,463	233,235	1.71	
Total	26,494,504	513,321	1.94	
Urban				
Male	2,306,049	29,947	1.30	
Female	2,217,771	24,857	1.12	
Total	4,523,820	54,804	1.21	
Rural				

ADVANCE UNEDITED VERSION

Male	10,542,992	250,139	2.37	
Female	11,427,692	208,378	1.82	
Total	21,970,684	458,517	2.09	

Source: Population and Housing Census 2011, the proportion of persons with disabilities in Nepal according to sex and location.

14. Table 1 reveals the total population and percentage of the person with disabilities by Sex and Area like Rural and Urban in Nepal. The table shows the total population of disability in the urban areas was marginally lower than that in the rural areas.

15. The National Living Standards Survey, 2010/11 shows that overall 3.6 percent of people had some kind of disability in Nepal. The survey included physical, visual, hearing, hearing and seeing, speaking, mental and multiple disabilities. The disability rates for males and females were 4.2 percent and 3.0 percent, respectively. Of all persons with some kind of disability, 29.2 percent were persons with physical disabilities, 22.3 percent had visual related disability, 23.4 percent hearing related disability, 2.4 percent vision/hearing related disability, 8.6 percent speech related disability, 6.8 percent mentally retarded and 7.3 percent multiple disability. The proportion of disability was comparatively lower in the higher consumption quintiles, whereas the proportion increased with the age of the respondent. The percentage of population by type of disability is given in Table 2.

ADVANCE UNEDITED VERSION

Poorest	3.9	25.6	17.2	30.0	2.9	12.3	4.8	7.2	100
Second	4.0	34.9	26.7	15.8	1.8	8.7	4.8	7.3	100
Third	3.8	29.6	19.6	26.0	2.8	8.3	6.2	7.4	100
Fourth	3.3	27.3	25.8	22.1	1.7	6.2	9.5	7.4	100
Richest	2.8	28.0	22.8	23.0	2.7	6.1	10.4	7.0	100
Age Group									
0-5 years	1.0	45.9	10.0	10.6	0.0	18.6	3.9	11.0	100
6-14 years	2.0	32.0	14.7	21.6	2.2	10.8	9.5	9.3	100
15-41 years	3.0	29.1	14.1	23.1	3.3	9.8	13.2	7.4	100
45-59 years	6.1	27.8	29.7	23.1	1.3	9.0	1.9	7.2	100
60 +years	10.5	27.0	32.4	26.8	2.4	4.1	1.7	5.6	100
Nepal	3.6	29.2	22.3	23.4	2.4	8.6	6.8	7.3	100

Source: Nepal Living Standards Survey 2010/11, November 2011, Volume 1, Page 115

16. The National Population and Housing Census, 2011 shows that about two percent (1.94%; 513,321) of the total population has some kind of disability. Of the total disability affected population, the physical disability accords top (36.3%) followed by visually impaired (18.5%) and Hearing Impaired (15.4%). In contrast, the deaf blind has the lowest prevalence (1.8%) followed by Intellectual disability (2.9). The population of speech, mental and psychosocial disability is 11.5 percent, 7.5 percent and 6.5 percent respectively.

V. GENERAL PROVISIONS OF THE CONVENTION

Articles 1 and 2: Purpose and definition

17. Nepal has been adopting a range of policy and legal and institutional measures for the protection and promotion of the rights of persons with disabilities even before the CRPD came into force. Nepal had enacted a specific legislation for the protection and promotion of the rights of persons with disabilities in the early 1980s. In the following year of the International Year of Disabled Persons proclaimed by the United Nations in 1981, Nepal enacted the Disabled Protection and Welfare Act, 1982 (the "DPW Act"). In 1994, the Disabled Protection and Welfare Regulation (the "DPW Regulation") was framed to implement the DPW Act. The DPW Act intends to protect and promote the rights and interests of the persons with disabilities, while focusing on the need for the prevention of disability, provision of welfare services, health, education, care and trainings to the persons with disabilities in order to make them actively productive citizens in the society. It contains a range of provisions specifically directed towards the protection, welfare, health, education, rehabilitation and development of persons with disabilities. Currently the GON is working on revision of the domestic legislation to bring it into full compliance with the Convention.

18. The DPW Act defines a person with disability to mean and include a citizen of Nepal who is physically or mentally unable or handicapped to do normal daily lifework, a blind, deaf, dull, crippled, limb, lame handicapped with one leg broken, handicapped with one hand broken or a feeble minded one. A helpless disabled person is defined as a person with disability who does not have any asset or person to care and serve him or her and who cannot earn his or her living by doing a job himself or herself. The definition of person with disability seems to be mainly concentrated on the impairment of an individual, and based more on the medical model.

19. With the changing concept of disability, the GON has revised the definition of disability to include barriers prevalent in the society. In 2007, the GON adopted an instrument on the definition and classification of disability. It defines disability as a condition where a person feels difficulty to perform day-to-day activities and participate fully in social life due to problems in body organs and system, including physical, socio-cultural and communication barriers. Disability has been classified into seven categories: (1) physical disability; (2) visual impairment: blind and low vision; (3) hearing impairment: deaf and hard of hearing; (4) deaf blind; (5) speech impairment; (6) mental disability: intellectual disability, mental illness and autism; and (7) multiple disabilities.

20. In order to make the laws more comprehensive and fully compatible with the rights-based approach, the GON has prepared a draft bill to substitute the DPW Act. The draft bill defines 'persons with disability' as "the persons who are prevented from full and effective participation on the grounds as of other persons due to long-term physical, mental, intellectual and/or sensory impairments in interaction with various barriers". The draft bill defines 'Reasonable accommodation' as appropriate modification and improvement, without imposing undue burden, in order to ensure human rights to the persons with disabilities. It also defines 'universal design' to mean a design of a product, environment, program or service to be usable by all people, to the extent possible. This includes assistive devices for particular groups of the persons with disabilities.

21. For the purposes of distributing disability identity cards, the GON has classified disability, on the basis of its level of severity, as follows:

- (a) Profound disability: Difficulty to perform daily activities even with the help of others.
- (b) Severe disability: Inability to perform daily individual or social activities without the help of others.
- (c) Moderate disability: Ability to perform daily activities and participate in social life if barrier free environment, appropriate training and education are provided.
- (d) Mild disability: Ability to perform daily activities and participate in social life if barrier free environment is provided.

Article 3 and 4: General Principles and Obligations

22. The basic principles laid down in Article 3 of the CRPD are reflected in the Constitution, enabling laws, policies, plans and national jurisprudence which constitute the normative framework adopted by Nepal for the protection and promotion of the rights of the persons with disabilities.

1 The Constitution

23. The Constitution's cardinal focus is on social and ethnic inclusion, constructive recognition of diversity and fundamental goal of social justice through inclusive, democratic and progressive restructuring of the State.

24. The Constitution, with a comprehensive catalogue of fundamental rights and provisions for their effective protection, is the basic source of human rights. It heavily incorporates the rights set forth in the Universal Declaration of Human Rights (the "UDHR") and other

international instruments on human rights including the International Covenant on Civil and Political Rights (the "ICCPR"), International Covenant on Economic, Social and Cultural Rights (the "ICESCR"), Convention on Elimination of All forms of Discrimination Against Women ("CEDAW"), Convention on the Rights of the Child (CRC) and the CRPD. Concretely, it provides for a number of rights as fundamental rights, and serves as a shield against any infringement of rights, including the rights of the persons with disabilities.

25. The Constitution also obliges the State to provide a political system that fully upholds, *inter alia*, the universally recognized basic human rights and establishes rights of all citizens to education, health, housing, employment and food security. It also inscribes some rights in the Directive Principles and State Policies, which include provisions for positive discrimination, reservations and other forms of special support for the vulnerable or marginalized groups or communities in connection with education, health, housing, employment and food sovereignty, for their empowerment, protection and development. The Constitution in Part IV contains explicit commitment of the State to the promotion of human rights and accordingly obliges the State machineries to take cognizance of human rights in their respective functions.

2 *Laws*

26. The legal structure of Nepal can be classified into general and specific laws. The Civil Liberties Act, 1954 (the "CLA") and the General Code (*Muluki Ain*) 1963 are important general laws. The CLA guarantees various civil and political rights. The *Muluki Ain* is a general law for both civil and criminal matters equally applied to persons with disabilities. It has repealed the traditional caste system and also attempted to end caste-based discrimination by eliminating untouchability and caste hierarchy. Its 11th and 12th Amendments have made reforms in the existing provisions particularly on property, marriage, divorce and abortion in compliance with major international instruments on women's rights.

27. The 1982 DPW Act and DPW Regulation 1994 constitute a specific law on the protection and promotion of the rights of persons with disabilities. Other specific laws have been enacted to protect and promote other specific rights, for example, the rights of the child, women's right, right against torture, and rights of Persons with Disabilities, right to form trade unions and right against child labour and bonded labour.

3 *Policies*

28. Nepal has pursued separate policies on human rights, with social inclusion of the vulnerable or marginalized groups or communities. The Three-Year Interim Plan, 2010-2013 (the TYIP") has set Nepal's long-term vision on human rights as to build an inclusive, just and prosperous nation based on human rights culture. The current Interim Plan of Nepal (2013-2015) specifically aims "to empower all types of persons with disabilities with respect and in a barrier free society so that they can access resources for their dignified life."

29. Major strategies pursued by Nepal include incorporating the issues of human rights in all sectorial development policies and plans, implementing special programs for the targeted groups (i.e. the vulnerable or marginalized groups or communities) to promote human rights, enhancing the capacity of human rights institutions, and making social service delivery easily accessible and effective through comprehensive programs on human rights education and good governance.

30. Since 2004, Nepal has implemented three periodic national human rights action plans which were formulated in collaboration with the civil society. Since 2010, Nepal has implemented the National Human Rights Action Plan ("NHRAP") (2010-2013). It covers 12 cross-cutting areas: education; health and population; legal reforms and judicial administration and management; indigenous peoples and *Dalits*; labor and employment; promotion of peace; cultural rights; environment and sustainable development; protection of human rights in the Nepal Army; rights of the child, women and minorities, and social justice; peace and security, law enforcement and human rights protection; and institution building.

31. Despite existence of legal provisions in favor of persons with disabilities in the domestic legislation, Nepal recognizes the challenges it faces in enforcing such provisions in practice. Thus, it commits itself to put in place mechanisms and systems to ensure civil and political rights of persons with disabilities, including elimination of discrimination on the basis of disability, while also focusing on progressive realization of their social and economic rights with support of the international community.

4 *National Jurisprudence*

(a) *Acceptance of International Human Rights Norms*

32. Nepal's commitment to the acceptability of international human rights norms is evident from the Preamble and Part-3 of the Constitution. The Preamble emphasizes the competitive multi-party democratic system, human rights, periodic election, independent judiciary, and concept of the rule of law as the basic features of the Constitution. Article 156 of the Constitution is a specific provision to regulate the process of becoming a party to treaties. The Nepal Treaties Act, 1990 provides that any provision of law that is inconsistent with a treaty ratified by Parliament is, for the purpose of that treaty, invalid to the extent of inconsistency, and the treaty applies as if it were the law of Nepal. The Supreme Court has referred to the CRPD in a number of cases concerning the rights of persons with disabilities.

(b) *Principles Laid Down by Judiciary*

33. The Constitution recognizes the judiciary as one of the three pillars of the State, specifies its powers and lays down a framework for its independence. The judiciary has played a predominant role in promoting and protecting human rights through its landmark judgments. The principles and rulings laid down in such judgments, made in relation to a wide array of human rights including the rights of the persons with disabilities, portray the human rights jurisprudence developed by the Supreme Court (the "SC"). By exercising the judicial power, the SC has declared *ultra vires* many legal provisions including those relating to inequality and discrimination. A wealth of jurisprudence has evolved on issues such as the rights of the persons with disabilities, prisoner's rights, bonded labor, right to clean environment, right to education and health, and custodial violence.

34. A range of institutional measures have also been taken to ensure the realization and internalization of the basic principles. The institutional framework includes the following:

1 *National Human Rights Institutions*

35. Various national human rights institutions have been established by statutes or executive instruments to give effect to the international human rights treaties including the CRPD. The NHRC was established in 2000 as an independent statutory body. The Constitution has upgraded it into a constitutional body. The duty of the NHRC is to ensure respect for, protection and promotion of, and effective implementation of, human rights. To this end, it can exercise a wide array of investigatory, supervisory, directive and recommendatory powers. Moreover, it has also carried out the monitoring of the enforcement of human rights as mentioned in the CPA.

36. The National Foundation for Development of Indigenous Nationalities (the "NFDIN"), established as a statutory body by the NFDIN Act, 2002, has played a paramount role in empowering the indigenous nationalities for the protection and promotion of their religious, linguistic, cultural and political rights. Indigenous nationalities district coordination committees that have been established in all districts have coordinated activities at the local level.

37. Similarly, the National Women Commission (the "NWC") has been established as a statutory body, by the National Women Commission Act, 2007, for the protection and promotion of the rights and interests of women, including their effective inclusion in the development mainstream. It has recommendatory and investigatory powers.

38. The National *Dalit* Commission (the "NDC") has been formed by an executive order with primary objective to protect and promote the rights of the *Dalit* community and assist the GON in *Dalit* upliftment programs. It has carried out various important activities, including the preparation of required legal measures, working plans, publication and dissemination of various literatures on *Dalits*, including the Convention on the Elimination of Racial Discrimination.

2 *Office of the Attorney General (OAG)*

39. The Attorney General, as well as his or her subordinate officials, represent the GON in any courts or bodies and has important role to ensure human rights of all persons.

3 *Human Rights Committee in Legislature-Parliament*

40. The International Relations and Human Rights Committee of the Legislature-Parliament gives necessary direction and suggestion to the GON. It evaluates and monitors governmental activities on human rights. It considers and deliberates on annual reports of the NHRC and the Attorney General, and reports to the House of Legislature-Parliament. Such reports indicate whether desirable progress has been made, whether violators of human rights have been brought to justice, whether status of implementation of human rights treaties joined by Nepal is satisfactory and what sorts of policies need to be implemented in this field.¹ It also gives directions and suggestions to the GON on matters of human rights.

4 *National Information Commission (NIC)*

1. The Constituent Assembly (Conduct of Business of Legislature- Parliament) Rules, 2008.

41. The NIC, a statutory body hears appeals against decisions by public bodies in relation to citizens' demand to have access to information in such bodies. It is empowered to provide effective remedies on the enforcement of the right to information, by ordering for making reasonable compensation to aggrieved parties and taking departmental action against defaulters.

5 *Government Institutions*

42. A number of government institutions are also in place to give effect to human rights treaties at the domestic level. The Office of the Prime Minister and Council of Ministers (OPMCM) is a lead government agency responsible for the promotion of human rights related activities, including governance reform and effective implementation of relevant human rights treaties. It is also a liaison institution for the NHRC and the Office of the United Nations High Commissioner for Human Rights (the "OHCHR"), among others. It coordinates and harmonizes human rights related affairs of various line agencies. It also oversees the status of compliance with the reporting obligation under various human rights treaties to which Nepal is a party. It is to note that a mechanism on persons with disabilities has been set up in the OPMCM to oversee the effectiveness of government policies and plans on the protection and promotion of the rights of persons with disabilities and monitor their implementation.

43. The MOWCSW is responsible for the formulation, implementation, monitoring and evaluation of policies, plans and programs on women, children, senior citizens and persons with disabilities. It coordinates with national and international NGOs in their activities within its purview. It prepared a strategic document on gender and social inclusion in 2006, which has been instrumental in mainstreaming gender and promoting equality in the national level organizations.

44. The Ministry of Peace and Reconstruction (the "MOPR"), established in 2007, has supported initiatives for constructive conflict management, promotion of participation of all spheres of society in the peace process, forging international support to sustain the peace process and ensuring transitional justice to conflict victims. In February 2011, the GON adopted a National Action Plan on Implementation of the UN Security Council Resolutions 1325 and 1820 (2011/12-2015/16). Its basic objective is to ensure proportional and meaningful participation of women at all levels of conflict transformation and peace building process and protection of women and girls' rights.

45. Similarly, the Ministry of Foreign Affairs, Ministry of Law, Justice, Constituent Assembly and Parliamentary Affairs, Ministry of Home Affairs, Ministry of Health and Population, and Ministry of Education are other important institutions to deal with human rights related activities within their respective spheres.

46. Moreover, the scope of international obligations undertaken by Nepal is wide. Nepal is a party to almost all core universal human rights treaties, eleven International Labour Organization (the "ILO") conventions, and many other human rights related treaties. Nepal is a party to the Four Geneva Conventions of 1949. It ratified the SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia, 2002 and SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002. The GON reaffirms that all human rights are universal, indivisible and interdependent.

47. The GON fully upholds the Proclamations on the Full Participation and Equality of Persons with Disabilities in the Asian and Pacific Region, and the Agenda for Action for the Asian and Pacific Decade of Disabled Persons. It has formulated and implemented various policies and plans designed to enable the persons with disabilities to contribute to economic and social development.

48. Under Article 33 of the Constitution, the State is obliged, *inter alia*, to carry out an inclusive, democratic and progressive restructuring of the State by eliminating all forms of discrimination against disadvantaged groups, and to enable people from disadvantaged class and regions, including the persons with disabilities, to participate in all organs of State structure on the basis of proportional inclusion.

49. In a nutshell, the normative and institutional framework in Nepal have recognized and adopted the principles viz. respect for inherent dignity, individual autonomy including the freedom to make one's own choices and independence of persons, non-discrimination, full and effective participation and inclusion in society, respect for difference and acceptance of the persons with disabilities as part of human diversity and humanity, equality of opportunity, accessibility, equality between men and women and respect for the evolving capacities of the persons with disabilities and respect for the right of children with disabilities to preserve their identities.

50. In relation to the principle of accessibility, various policy measures, including the Guidelines on Physical and Information Accessibility of Persons with Disabilities, 2013, have contributed to the realization of this principle. It is to note that the Guidelines were followed and implemented in the management of recently held election of the CA. A number of polling stations were set up having regard to the provisions contained in the Guidelines. Similarly, the Guidelines are being followed in the building of physical infrastructures, including public buildings and roads.

51. Discrimination on any ground including disability is constitutionally prohibited. In the case of Sudarshan Subedi Vs. GON, the Supreme Court also ruled that discrimination on ground of disability is also prohibited under article 13 of the Constitution.

52. According to the Constitution, special provisions may be made by law for the protection, empowerment and advancement of socially, economically or culturally backward groups including the persons with disabilities. In pursuance of this provision, various policies providing for positive discrimination to the persons with disabilities have been adopted by the GON with the objective of providing “reasonable accommodation” to the persons with disabilities. Provisions on reservation of certain seats for the persons with disabilities in public services including the civil and health services, and in public enterprises can be cited as some examples of positive discrimination.

VI. SPECIFIC RIGHTS

Article 5: Equality and non-discrimination

53. The legislative framework of Nepal, including the Constitution, prohibits discrimination of any kind on any basis which includes disability. The Constitution recognizes the right to

equality as a fundamental right. Article 13 provides that all citizens are equal before law and that no one is to be deprived of equal protection of law. It prohibits any discrimination made against any citizen in the application of general laws on grounds of religion, colour, sex, caste, tribe, origin, language or ideological conviction or any of these, and any discrimination made, in regard to remuneration and social security, between men and women (including men and women with disabilities) for the same work. Moreover, various Articles of the Constitution prohibit discrimination against women on the ground of sex, guarantees the right to reproductive health and reproduction and the equal right to ancestral property for both son and daughter irrespective of disability.

54. Human rights policies adopted by the GON have been profoundly directed and devised towards, *inter alia*, the elimination of discrimination, untouchability, exploitation and violence based on caste, ethnicity, gender, region, language, or religion, protection and promotion of political, economic, social and cultural rights of all peoples, and ensuring basic human rights of the marginalized or vulnerable groups or communities.

Article 6: Women with disabilities

55. In recognition of the fact that women and girls with disabilities are subject to multiple discrimination, the GON has taken policy, legal and institutional measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms set out in the CRPD. In order to enable women and girls with disabilities to exercise and enjoy these rights and freedoms, such measures strive to ensure the full development, advancement and empowerment of women.

56. The Constitution ensures women's rights and gender equality. The Constitution provides that no discrimination in regard to remuneration and social security shall be made between men and women for the same work. Article 20 forbids discrimination of any kind made against the women by virtue of sex and physical, mental or any other kind of violence against women. It guarantees the equal rights of sons and daughters to ancestral property.

57. The Gender Equality and Social Inclusion Policy, 2010 has been adopted, and is being implemented through various programs including those launched with the support of local bodies and development partners. A Gender Equality and Social Inclusion Section has been established in the Ministry of Federal Affairs and Local Development for effectively implementing the said Policy, monitoring its implementation and contributing to making all activities of the Ministry of Federal Affairs and Local Development and the local bodies gender friendly. Recently, provisions have been made to the effect that in appropriating their capital budget, the local bodies have to appropriate at least 35 percent for empowerment and development of targeted group, including 10 percent for the programs directly benefiting the women of indigent class, 10 percent for children and 15 percent for the other targeted classes including persons with disabilities.

National Development Strategies

58. The Three Year Interim Plan (TYIP) (2010-2013) lays emphasis on: policy, legal and institutional reform to eliminate all forms of discrimination; protection and rehabilitation of the conflict affected women; gender mainstreaming in all sectors of development; affirmative actions; ensuring 33 percent representation of women in all State structures; elimination of

ADVANCE UNEDITED VERSION

gender based violence; capacity building of national mechanisms for gender mainstreaming; engendering macroeconomic framework; and implementation of the gender management system, among others.

59. The GON has been implementing provisions of affirmative action in public services including the Nepal Police and the Nepal Army. Women's participation has been made mandatory in peace and rehabilitation committees as well as in the process of formulation and execution of local development plans. The provision of gender responsive budget (the "GRB") has been implemented in order to engender development programs.

60. The Poverty Reduction Strategy Paper has been implemented focusing on, *inter alia*, structural reforms, broad-based economic growth and social inclusion through participation and empowerment of women, the marginalized or vulnerable groups and communities. Consequently, Nepal has achieved a significant progress in poverty reduction. The absolute poverty has gone down from 42 percent in 2000 to 31.4 percent in 2005 and to 23.8 percent in 2013. In keeping with this achievement, the GON is further streamlining its measures to narrow down the gap between the rich and the poor.

61. The GON is determined to attain the Millennium Development Goals (MDGs), including Goal 2, primary education for all. The GON has made education free up to secondary level. A bill (The Rights of the Persons with Disabilities) has made provision of free education in all levels of government owned schools and colleges for the persons with disabilities.

62. 'Women and Disability' is one of the priority areas with the aim of creating an equitable society for them. A special program is being launched for women and girls with disabilities so that they can be included in the mainstreaming of gender equity. The program has contributed to increase the participation of women with disabilities in the education, training and livelihood opportunities. The GON has established a Girls' Education Fund targeting Dalit girl students and girls with disabilities at higher secondary and university levels. Twenty percent of the total scholarship is reserved for deserving girl students with disabilities. As planned in the National Policy and Plan of Action on Disability, 2006, the GON has provided financial support to run rehabilitation centers for women with disabilities.

63. As a party to the Convention on the Elimination of All Forms of Discrimination against Women (the "CEDAW") and its Optional Protocol, Nepal has always faithfully carried out its obligations. Nepal maintains that implementation of the Security Council Resolution 1325 on Women, Peace and Security is highly important. A separate action plan has also been prepared to forge participation of women in conflict resolution and other activities.

64. The National Plans of Action on CEDAW and Beijing Platform of Action framed in 2004 are being practically implemented. The GON has adopted temporary and special measures for full development and advancement of women. More than 150 laws provide for affirmative provisions for women in education, health and employment, and strive to secure gender justice.

65. The Human Trafficking and Transportation (Control) Act, 2007 and its Regulation, 2008, which cover both cross border and internal trafficking for any purpose, are strong laws to address the issue of trafficking in person. They also incorporate important provisions to provide justice to the victims, including compensation, in-camera hearing and establishment of a rehabilitation

fund. Efforts are also underway to end domestic violence by implementing the Domestic Violence (Crime and Punishment) Act, 2009.

Article 7- Children with Disabilities

66. Nepal has taken rights-based approach to fully protect various rights of children, including the children with disabilities. As a party to the Convention on the Rights of the Child (CRC) and both of its Optional Protocols, Nepal has adopted a range of measures in order to ensure the full enjoyment by children with disabilities of all rights on an equal basis with other children.

67. Article 22 of the Constitution protects children's right as a fundamental right. A bundle of rights are incorporated in this fundamental right. Accordingly, every child has the right to identity as well as birth registration is a fundamental right. This right is equally applicable to the child with disabilities.

68. Positive outcomes in the overall development of children are being realised with the enforcement of the Children's Act (1991) and Rules (1994). The Ten-Year Children's National Action Plan is being implemented to protect and promote the four key rights of children: survival, protection, development and meaningful participation. The Thirteenth Plan (2013-2016) has objectives to protect and promote the overall rights of children, to eradicate all forms of violence and abuse against children and to eradicate all forms of child labour through promotion of child-friendly environment for the physical, emotional, mental and intellectual development and protection of the rights of the child. It adopts strategies to ensure that children are provided with antenatal and postnatal care and adequate nutrition and conduct programmes for the physical, mental and emotional development of children including children with disability. The Plan also sets out an expected outcome that the rights of children will be better ensured, and all forms of exploitation and abuse and discrimination against children will have been mitigated.

69. The TYIP also adopts strategies for the provision of free and quality basic health and education services to all the people, particularly the poor, marginalized and vulnerable individuals, groups and communities. A number of programs are being carried out to bring senior citizens, children, single women, and persons with disabilities from all castes and ethnic groups within the net of minimum social protection system.

70. The GON has been implementing a Ten-year National Plan of Action (NPA: 2004/05-2014/15), covering areas of health, protecting children against abuse, exploitation and violence, and combating HIV/AIDS. The National Plan of Action charts several provisions to enhance the rights of children with disabilities. It aims to provide free health care services to children with disabilities, establish one center in each district, develop communication systems for deaf and blind and provide rehabilitation facilities at the grassroots. It adopts a policy to provide community and home based care and rehabilitation services to children affected by conflict, children in special need, children at risk and children affected by natural calamities, without discrimination based on gender, caste, ethnicity, disability or economic status of the family.

71. Similarly, the NPA aims to ensure access of children with disabilities and children with special need to integrated health care and rehabilitation services within the primary health care

system, to extend and upgrade the standard of education and provide appropriate child care services, particularly to underprivileged children and children who are at risk; and to guarantee the social security of children from backward groups, indigenous peoples and ethnic minority groups, children with disabilities and helpless children.

72. Moreover, it identifies several activities that directly or indirectly increase the access of children with disabilities to health, education and social security. These activities include: implementation of the childhood disability management strategy; increasing the access to immunization to prevent disability; enhancement of the access of children with disabilities to education, by making schools friendly to them; ensuring the right of children with disabilities to social protection; running care and protection centers for children with disabilities; provision of assistive devices to children with disabilities to increase their mobility; and mobilization of various sectors of society to enable children with disabilities to live a dignified life.

73. The GON adopted a Policy Relating to Children in 2012. The Policy aims to create a conducive environment for all children to exercise their rights and to be able to develop themselves as contributing citizens, by working together with government agencies, local bodies, parents, teachers and national and international organizations. The Policy, in paragraph 8.3, makes a specific provision to address the issue of children with disabilities. The specific provision envisages to carry out a range of activities to this effect, which include: to update the data of children with disabilities; to carry out awareness programs on causes of disability, prevention of disability and rehabilitation of children with disabilities; to ensure easy access of children with disabilities to health and education; to exempt from customs duty the assistive devices, books and materials required for children with disabilities; to develop disabled friendly physical infrastructures and mechanisms in order to increase the access of children with disabilities to information and communication; to run residential centers for children with disabilities; to make timely improvements in special education programs and develop the inclusive education system; and to provide special help and care to those parents whose children are mentally ill and to those who are not able to take care of their children with disabilities.

74. The GON has introduced a child protect grant provision since 2009. Under this provision, each child below five from each *Dalit* family in the country and from all families in the Karnali zone is entitled to a monthly sum of two hundred rupees. A maximum of two children from a family are entitled to this provision, which is believed to be useful for the prevention of childhood disability.

75. The Act Relating to Children, 1992 incorporates almost all the rights of the child, defined as one who is below 16, as enunciated in the CRC which defines a child as a human being below the age of eighteen years, and is based on a child friendly approach. Various legislations define a child differently for different purposes. For example, a person below 14 is a child in respect of child labour. Recently, the GON has prepared a Bill to amend the Act Relating to Children, 1992. The Bill defines a child as a person below 18.

76. The Act Relating to Children, 1992, in Section 34 (1) and (2), provides for the establishment of child welfare homes in various regions. It is also provided that until such homes are established, the GON may make use of the existing homes operated by other individuals or organizations. The Act in Section 32 specifies the age of children who are eligible to remain in the child welfare homes. However, this age bar does not apply to children who are blind,

disabled and intellectually disabled. Section 43 of the Act provides for the establishment of centers for intellectually and other disabled children, and for necessary training and education to the children who stay in the centers.

77. This Act as well as criminal justice system of Nepal is geared towards the rehabilitation of child offenders, through various institutions including children reform homes. Juvenile justice related regulation has prescribed child-friendly procedures to be adopted while trying cases involving children. There are juvenile benches in all 75 district courts.

78. The Child Labour (Prohibition and Regulation) Act, 1999 outlaws the engagement of a child below 14 in work as a laborer and provides for a stringent punishment. A committee of child labor prevention and a child labor prevention fund have also been established under this Act. These measures are also in tune with the Worst Forms of Child Labour Convention, 1999. Exploitation of children for pornography, sexual exploitation and trafficking is strictly outlawed, in keeping with Nepal's commitment under the two Protocols to the CRC.

Article 8 Awareness Raising

79. The GON has adopted various measures to raise awareness at the family, community and society levels regarding the persons with disabilities in order to foster respect for the rights and dignity of the persons with disabilities.

80. The DPW Act in Section 8 provides that the MOWCSW may carry out research works on various technologies with a view to making the persons with disabilities independent and providing them with necessary facilities.

81. The Tenth Five Year Plan (2002-2007) incorporated awareness raising on disability as one of the objectives. The main objective related with disability was to include the persons with disabilities in the mainstream of national development by creating an environment where they could spend their life like normal citizens through various awareness raising and promotional activities, and by including activities for protection of their rights and development through their participation.

82. The National Policy and Plan of Action on Disability 2006 focuses on national programs related to raising people's awareness about disability. It has planned to organize national campaigns to raise awareness and to create positive community attitudes towards the Persons with Disabilities and to develop, produce and distribute effective awareness raising materials at the community level. Moreover, the Thirteenth Plan 2013-2016 has set policies to conduct programmes promoting sign language and has focused that development activities should be planned and implemented in line with the CRPD.

83. Each year, the GON launches public awareness drives linked to activities such as the International Day of Persons with Disabilities, the International Day of the Blind and the International Day of the Deaf. The GON observes these events throughout the country in collaboration with the civil society organizations. It has been one of the major awareness raising events for the promotion and protection of the rights of the persons with disabilities. Similarly, the GON, in cooperation with self-help organizations, celebrates World Leprosy Day, White Cane Day, Luice Braille Day on a regular basis. These activities are a part of campaigns for raising awareness on disability. Similarly, the MOWCSW has been launching awareness

campaigns in all the development regions, in collaboration with civil society, DPOs. It has also been launching awareness programs through radio and television on a weekly basis. For example, it has supported the Nepal Television to broadcast two disability related programs in a week. The Nepal Television also broadcasts news in sign language.

84. Furthermore, the MOWCSW has produced books and booklets on disability, and has also extended support to NGOs and DPOs for the publication and distribution of such materials for awareness-raising. It has produced a “Disability Resource Book” and Flip Chart which provide comprehensive information on the definition and classification of disability, on legal provisions made by the GON for the promotion and protection of the rights of the persons with disabilities, and on the NGOs working in disability and DPOs. Similarly, it periodically produces and publicly distributes a magazine “Empowerment” with a view to disseminating information on various programs aimed at the protection and promotion of the rights of the women, child and persons with disabilities.

85. The MOWCSW has published the CRPD in Nepali and English languages and widely distributed the same at all levels in order to create awareness on the equal rights of the Persons with Disabilities. It has also provided trainings and workshops to its employees, including women and children development officers, at all levels. Trainings have also been provided to the relevant stakeholders including security forces and law enforcement agencies, such as district administration offices, in the districts.

86. The Ministry of Health and Population has produced various audio and visual programs to raise awareness on leprosy, polio, HIV/AIDS and other diseases that may cause disability in an individual. These materials are particularly useful for the identification, detection and prevention of disease and disability. The Ministry of Information and Communication has produced and disseminated various audio, visual and printed materials to create awareness on the rights of all vulnerable groups including the persons with disabilities.

87. The Ministry of Education also produces materials on the right of children with disabilities. The Curriculum Development Centre has adopted a participatory curriculum development and text book review process in consultation with disability expert and impairment specific Disabled People Organizations (DPOs). The basic education curriculum includes subject-matters such as civic awareness, social problems and solutions, and general awareness on human rights. It is important to note that the rights of the Persons with Disabilities are also covered in the curriculum.

88. Similarly, with the facilitation as well as support of the GON, NGOs including DPOs have also been playing very important role in producing and distributing awareness raising materials up to the community level. NGOs are also carrying out awareness-raising on the rights of the persons with disabilities through various means such as community meetings, mass meetings and street plays.

89. The media has also played an important role in awareness-raising. Various print and electronic media have contributed to the awareness raising. Currently, some 329 FM stations in operation in the country are launching various awareness-raising programs on the rights of the persons with disabilities.

Article 9 Accessibility

90. The GON remains strenuously effortful to develop and consolidate a system of policies and laws to ensure to the Persons with Disabilities access, on an equal basis, to the physical environment, transportation, information and communications and other facilities and services which are open or provided to the public, both in urban and rural areas of the country. The measures have equally focused on the identification and elimination of obstacles and barriers to accessibility.

91. The DPW Act recognizes that a barrier-free environment involves a variety of aspects including barrier free buildings, transportation and information and communications; National Building Code envisaging general building design requirements, including related to physical access for persons with disabilities approved by the Government in 2005; The National Policy and the Plan of Action on Disability (2006) envisages adoption of policies to make disability friendly physical infrastructure during design (mapping) and approval for the construction of public and private facilities, including tall and large buildings, cinema buildings, banks, schools, hospitals, offices, streets, sidewalks etc. as well as to manage public transport streets, sidewalks, traffic signs, buses, rails, airplanes etc. The Right to Information Act (2007) guarantees the right to information for all citizens, including persons with disabilities. In 2010, the MOWCSW developed the Guidelines on Minimizing Barriers for Disabled Friendly Environment, (accessibility to physical infrastructure and other devices for mobility, for the blind and visually impaired, and to information and communications for those with visual and hearing impairments) in wider consultation with the relevant stakeholders including DPOs and local government authorities.

92. The Thirteenth Plan (2013-2016) adopts various objective, strategies and operating Policies to enhance accessibility. The objective include: to increase the access of persons with all types of disabilities to equal opportunities in services and amenities in order to enable them to live a life of self respect and self-reliance in an environment of dignity free from hindrances. These operating Policies include: New and renovated government buildings, public utilities, road transport and other infrastructures and amenities will be made friendly.

93. After the ratification of the Convention, the GON has recently issued new comprehensive accessibility guidelines, in consultation with the representatives of persons with disabilities, among others. The guidelines have identified areas that need to be made accessible with clear definition of accessibility for different types of disability. The guidelines require all renovations and new construction works of roads, foot paths, entertainment parks, tourism areas, religions places, sports grounds, zoos, government offices, schools and colleges, business houses, cinema halls, hotels and restaurants, public toilets, banks and financial institutions, conference halls, residential buildings, hospitals and health centers to be carried out in such a way that they are fully accessible for persons with disabilities. The guidelines also make provision that a reservation of 5 percent of seats has to be made on the audience area of any stadium and that it has to be fully accessible for wheelchairs. Moreover, the guidelines provide that sound on traffic lights has to be managed so that visually impaired can easily cross the road and that sign language interpreters must be made available in all public programs, and that all television channels broadcast news in sign language every day.

94. The Right to Information Act, 2007 guarantees the right to information for all citizens. According to this Act, all public bodies are obliged to update information and make the information public, to make access to information easy and simple to the citizens, and to keep the information open and transparent.

95. The GON has improved comprehensive accessibility for all persons with disabilities. However, given the very difficult terrains, making accessibility to persons with physical disability in the hills and the mountains is very challenging. It is also challenging to make availability of appropriate assistive devices to all persons with disabilities. The GON acknowledges that the availability of devices makes a considerable difference in accessibility and independent mobility.

Article 10-Right to life

96. The Constitution confers on every person the right to life with dignity and liberty, and the right against death penalty. Guided by the long-standing principle of inviolability of human being, Nepal has abolished death penalty as a form of punishment. The Constitution, in Article 22(2), guarantees to every child the right to be nurtured to basic health and security.

97. The DPW Act, in Section 4, makes a provision of health care and medical treatment of the persons with disabilities in order to enable them to fully participate in the community on equal footing with others. Section 7 provides for making arrangements necessary to make an increase in nutritious food, control viral diseases and prevent accidents.

98. The Children's Act 1992 entitles a child to name and identity. Section 4 of this Act creates an obligation on the parents to make necessary arrangements for bringing up their children, providing them with appropriate health, education and other opportunity, and for administering vaccination to their children to save them from diseases. Section 14 prohibits offering children in the name of god for any religious purpose and selling or handing over children for any reason.

99. The Chapter on Homicide of the *Muluki Ain* (General Code) prohibits any act of killing or making an attempt to kill a person.

100. Similarly, the Chapter on Kidnapping and Hostage Taking prohibits an act of taking any person to any place by using force or threatening to use force or intimidation or showing fear or threat or administering intoxicating or psychotropic substance or by seizing or controlling any means of transportation or otherwise, without his or her consent, or in the case of a minor or unsound person, without the consent of his or her father or mother or guardian.

101. The Drug Act, 1979 forbids a number of acts, including making improper use of drugs and selling adulterated drugs or other substance that may have the possibility of risk of claiming life. These acts are punishable by imprisonment for a term that may extend up to life.

102. The GON has been implementing different programmes through different agencies as preventive measures to reduce the root causes of disabilities. The GON has launched the National Immunization Program (NIP) as its priority program. National Immunization Day has enabled Nepal to be free from Polio in 2009. The polio eradication campaign coverage was 89 per cent in the first round and 84 per cent in the second round. A polio case was found again in

2010 in Nepal. However, with the intensive mop up campaign, the virus was controlled. The programme help to prevent the cause of the disabilities.

Article 11– Situation of Risks and Humanitarian Emergency

103. The Natural Calamity Relief Act, 1982 is a legislative framework of disaster management in Nepal. This Act clearly defines the types of disaster in such a manner as to include industrial accidents and accidents caused by explosion and poisoning. It provides for institutional mechanisms from the national to the village level.

104. The Thirteenth Plan (2013-2016) has set objectives, policies, strategies and programs on disaster management. National Disaster Management Council and National Disaster Information System have already been established and are in operation. The National Water Plan, 2005 enhances institutional capabilities for managing and mitigating the effects of water-induced disasters.

105. Similarly, the Water Induced Disaster Management Policy, 2006 stresses on institutional development for the control of water-induced disasters and management of floods affected areas. The Policy has clearly defined the role of local and central level government institutions, NGOs, community-based organizations and private sector institutions in disaster management.

106. The National Strategy for Disaster Risk Management, 2009 aims to strengthen legislation and policy with active participation of all stakeholders for unified working strategy and decentralized implementation; mainstreaming disaster risk reduction into all development activities and develop a disaster management and pre-disaster preparation plan from the national to the house-hold level. The National Council for Disaster Management (NCDM) and National Disaster Management Authority (NDMA) are responsible for disaster related policies and plans at the national level, while the District Disaster Management Committees are responsible at the district level.

107. The MOPR records show some 6,809 persons as conflict affected disabled persons. The GON has set up a special fund 'National Peace Trust Fund' for the rehabilitation of people affected by conflict. The MOPR has adopted the guidelines for the care and rehabilitation of the persons who became disabled in the conflict. In pursuance of the guidelines, the GON has established rehabilitation centers, provided livelihood allowance and monthly allowance according to the grade of disability, free health care, education and assistive devices as required. The GON has also provided financial support to the children of the conflict affected persons with disabilities. Table 3 shows the number of the persons with disabilities who have received livelihood allowance.

Table 3

Number of conflict affected persons with disabilities having livelihood allowance

SN	Types of disability	Number	Amount per month
1.	Severely disabled (76%-100%)	183	Rs. 6,200.00
2.	Completely disabled (51% to 75%)	553	Rs. 6,200.00

Source: MOPR, Relief and Rehabilitation Unit, 2012

108. The GON has strived to ensure that disaster management plans are disability inclusive, and formulated in wider consultation, in particular, with the representatives of the persons with disabilities at all levels.

Article 12 - Equal Recognition before the Law

109. Article 13 of the Constitution provides that all citizens shall be equal before the law, and no person shall be denied the equal protection of the law. This obligation of equality has been interpreted to require that similarly situated persons should be similarly treated. Thus, the legal framework recognizes the persons with disabilities as the subjects of rights and persons before the law. The option of reasonable classification has been employed in order to determine the legal capacity of the persons with disabilities.

110. The Constitution, also by Article 13, prohibits any discrimination made against any citizen in the application of general laws on grounds of religion, color, sex, caste, tribe, origin, language or ideological conviction or otherwise. Moreover, the State cannot discriminate against citizens among citizens on any of these grounds. However, laws may make special provisions for the protection, empowerment or advancement of the vulnerable or marginalized groups or communities including the persons with disabilities.

111. The Civil Liberties Act, 1955, in Section 3, guarantees the right to equality before the law and equal protection of law, and prohibits discrimination on grounds of religion, caste, gender or otherwise. It also outlaws discrimination on any basis in the appointments to any government or public service. Section 9 of this Act provides that no one is deprived of his or her property except in accordance with law. Hence, the persons with disabilities also have equal right to property and are free to enjoy their property as they wish.

112. All citizens of Nepal have equal right to obtain Nepalese citizenship certificate. The Citizenship Act, 2006 is the enabling legislation in this respect. Obviously, denying the issuance of the citizenship certificate on the ground of disability is contrary to this legislation.

113. The GON acknowledges that policy, legal and institutional measures need to recognize the capacity of the persons with disabilities and make supportive provisions to this end. It is important to note that the GON has prepared a draft bill to amend the DPW Act to incorporate the legal capacity paradigm as enshrined in the CRPD. The bill recognizes the legal capacity of all persons with disabilities, and provides that any law which denies such capacity is invalid. It also provides for safeguards to prevent abuse of support provisions.

Article 13-Access to Justice

114. Various policy, legal and institutional measures have been taken to ensure easy access to justice regardless of disability or otherwise. Article 21 of the Constitution provides that women, *Dalit*, indigenous peoples, *Madheshi* community, oppressed group, the poor peasant and laborers, who are economically, socially or educationally backward, shall have the right to participate in the State mechanism on the basis of proportional inclusive principles. This

ADVANCE UNEDITED VERSION

constitutional provision safeguards the rights of the persons with disabilities to have proportional participation in the State mechanism.

115. Article 34 (1) of the constitution stipulates that the objective of the State shall be to promote condition of welfare on the basis of principle of an open society, by establishing a just system in all aspects of national life including social, economic and political life, while at the same time protecting the lives, property, equality and liberty of the people. This provision constitutionally ensures social and economic justice for people and equality in all aspects of life.

116. The Judiciary has developed an advanced public interest litigation regime for the protection and promotion of public interest, enabling the public to seek redress against violations of human rights. Issues concerning the persons with disabilities and other marginalized groups have been brought before the Supreme Court under this regime.

117. Some other constitutional and statutory bodies have also been engaged in various functions within their respective domain, which are contributive to enhancing access to justice. The NHRC, NWC and NFDIN have carried out supervisory, directive and recommendatory functions. These mechanisms have provided additional venue for vindication of justice. As mentioned above, the NHRC has recently given suggestion to the GON to make roads and footpaths in the capital accessible to the Persons with Disabilities. The NWC has carried out activities targeting the women with disabilities to prevent gender based violence.

118. The Constitution, in Article 24(10), provides that any incapable party shall have the right to free legal aid, as provided in law. The DPW Act, in Section 19, has a provision to provide legal support or service to the Persons with Disabilities in any case filed under the Act. Similarly, the Disabled Protection and Welfare Regulation, 2051(1995), in Rule 20, has a provision to provide legal aid service to the persons with disabilities.

119. It is important to note that the Legal Aid Act, 1997 is an enabling legislation to provide legal aid. The Act aims to make legal provisions regarding legal aid for those persons who are unable to protect their legal rights due to financial and social reasons; and to provide for equal justice to all according to the principle of rule of law. It defines legal aid broadly to include legal assistance to indigent persons, counseling and other legal services such as correspondence, pleadings, preparation of legal documents and proceedings in the courts or offices on behalf of the indigent person. Any indigent person, who has annual income of less than 40,000 Rupees may have free legal assistance in accordance with this Act. In each of 75 districts, there is a district legal aid committee to provide such aid during pre-trial and trial phases. There is a central legal aid committee at the center, which is responsible for overall coordination to the legal aid related activities throughout the country.

120. Various measures have been made to ensure effective implementation of the right of every person to be tried without undue delay. The number of courts and judges has been increased; and court procedures have been simplified through amendments to the Rules of District Court, Appellate Court, and Supreme Court. In addition to regular courts, a number of quasi-judicial bodies have powers to try cases of technical nature by following the procedures established by law.

121. The SC has, since 2004, introduced a judiciary strategic plan to enhance access to justice and speedy trial. Accordingly, the courts have to strictly follow the timeframe to pass judgments. According to Number 11 of the Chapter on Court Proceedings of the General Code, cases have to be disposed within one year and cases at appeal level within six months. The cases in which summary procedures are to be followed under the Summary Procedures Act have to be settled within ninety days. Number 182 of the Chapter on Court Proceedings of the GC allows compromise in civil matters, and the District Court Rules, Appellate Court Rules and Supreme Court Rules have provision of mediation. The Arbitration Act, 1999 provides for arbitral procedures for the settlement of disputes of civil and commercial nature through arbitration within specific time frame.

122. Juvenile benches have been established in district courts for hearing cases of juvenile persons. Juvenile bench, which consists of the judge, a lawyer of the juvenile, a psychologist, and a social worker functions as a camera court.

123. The Nepal Police have set up a Human Rights Unit to ensure better protection and promotion of human rights. This Unit has been carrying out various activities to build capacity of the police for effective and efficient delivery of services to the people. Preserving human rights has been recognized as an integral part of policing. This Unit has established three desks for the protection and promotion of human rights: Protection Desk; Promotion Desk; and Coordination Desk. The training curricula designed for the police include the issues of human rights and humanitarian law. The human rights unit established in Nepal police is equally accessible for the persons with disabilities.

Article 14- Liberty and Security of the Person

124. Article 12 of the Constitution provides that no person shall be deprived of his life or personal liberty except according to procedure established by law. So, the persons with disabilities are entitled to enjoy the right to life and liberty on an equal footing with others. The Constitution, in Article 12 (3), guarantees to every person, including the persons with disabilities: freedom of opinion and expression; freedom to assemble peaceably without arms; freedom to form a political party or organization; freedom to form a union and association; freedom to move and reside in any part of Nepal; and freedom to practice any profession, or to carry on any occupation, industry or trade.

125. Article 18 of the Constitution guarantees the right relating to social security as a fundamental right. Accordingly, the women, labor, aged, disabled, incapacitated and vulnerable citizens has the right to social security, as provided in law. The State is obliged to pursue a policy of establishing the right of all citizens to education, health, housing, employment and food sovereignty and of providing socio-economic security including the land to the economically and socially backward classes. Moreover, one of the directive principles is to adopt a policy of making special provision of social security for the protection and progress of the single women, orphans, children, the helpless, the aged, the disabled, incapacitated persons, and tribes on the verge of extinction.

126. The GON has taken various policy, legal and institutional measures to materialize these provisions and ensure the right to social security. The Civil Liberties Act 1955, in Section 12, also guarantees the right of personal liberty. Similarly, the DPW Act also guarantees the personal

liberty of the persons with disabilities. Section 5 of the Act prohibits any act to deprive the persons with disabilities of personal liberty on the ground of disability. Section 5 (2) guarantees the rights of political participation and economic and social security of the persons with disabilities. Moreover, the right of the persons with disabilities to engage in a useful and productive occupation is also protected by the Act. Domestic air travel fare has been fixed at 50 per cent discounted rate for the persons with disabilities; customs duties on accessories of the persons with disabilities are exempted, health services are provided free of cost, and the taxable income ceiling is higher for the persons with disabilities. In addition, regional and district level trainings on various subjects, including employment and business, have been provided by NGOs in all districts; aids and artificial limbs have been provided free of cost to 2,000 persons with disabilities each year; DPT and polio vaccination, nutrition program, and early childhood development; education and consultancy services have been launched in 63 districts; experimentation of signal education system has been conducted in 80 schools of 8 districts; social security allowance is being provided to the persons with disabilities according to severity of their disability in each district.

Article 15 - Freedom from torture or cruel, inhuman or degrading treatment or punishment

127. Nepal is a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Respecting the right to dignity, the CPA clearly provides in Article 7.3.1 that any person deprived of freedom in accordance with law shall not be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Similarly, article 26 of the Constitution recognizes the right against torture as a fundamental right. It strictly prohibits and makes legally punishable any form of physical or mental torture or cruel, inhuman or degrading treatment or punishment. A victim of torture is entitled to compensation as specified by law. Even during a state of emergency, this right cannot be suspended. The persons with disabilities are entitled to this fundamental right against torture on an equal footing with others.

128. Torture Related Compensation Act, 1996 is a specific legislation in this respect. An adult member of the victim's family or his or her legal practitioner may file a petition to the district court if they think that the detainee is subjected to torture while in detention. The court has to promptly take action for ensuring medical examination of the victim within three days. If the victim is to be treated for injuries caused by torture, such treatment shall be done at the government expense. Similarly, it is mandatory to have medical examination of a person arrested before he or she is put into custody. If any official is found guilty of torturing a person, the victim is entitled to compensation as determined by the court having regard to a range of factors including the gravity of offence. Different district courts have awarded compensation to the victims of torture in many cases. The GON is also working out to establish a central fund to immediately provide compensation as provided by the Torture Related Compensation Act to the victims immediately and easily.

129. The NHRC is also empowered to investigate into any petition of alleged torture committed to a person. It conducts investigation of the petition in accordance with the Human Rights Commission Act, 1997 and the NHRC Regulation (Complaints, Action and Compensation), 2000. It is to note that if the NHRC establishes that any person has been subjected to torture, it may also order for the payment of compensation to the victim.

130. According to Section 9 of the Evidence Act, 1974, a statement obtained by any inducement, threat, torture, attempt to torture or against consent is not taken in evidence by the court. Any extra-judicial statement given by the accused confessing the crime is not taken in evidence unless it is corroborated by other independent evidence. Similarly, no person accused of any offence may be compelled to be a witness against himself or herself. As per the State Cases Act, 1992, a medical examination of the suspect is mandatory if there is an allegation of the torture made by the detainee. A victim subjected to torture during detention can make a complaint before the court.

131. The security agencies have developed training activities for their personnel to prevent torture. Those personnel who are found involved in acts of torture are prevented from participating in the United Nations Peace Keeping Missions. Those involved in serious human rights violation have been suspended from their job. Both Nepal Police and Armed Police Force have issued human rights protection guidelines. In the Nepal Police, the human rights cells have been extended to each district whereas the Armed Police Force has set up human rights cells in each regional command.

Article 16 - Freedom from Exploitation, Violence and Abuse

132. Article 29 of the Constitution guarantees the right against exploitation in the name of custom, tradition and practice. It also prohibits human trafficking, slavery and bonded and forced labor. The DPW Act prohibits all forms of exploitation, violence and abuse against the persons with disabilities. Section 17 of the Act protects the persons with disabilities from any exploitation, violence and abuse both within and outside the home. It prohibits various activities, which include: doing transaction or preparation of deeds on behalf of a disabled person in such a manner as to be against his or her interests; engagement of a disabled person, with or without consent, in begging, immoral act, immoral profession or occupation.

133. The Act Relating to Children has various provisions to protect children from violence and exploitation such as engaging a child in begging, offering a child in the name of god for any purpose, selling a child for any consideration, monetary or otherwise, imposing a rigorous punishment on a child, engaging a child in an immoral profession such as distribution of narcotic or other drugs and psychotropic substances. These provisions are equally applicable for the children with disabilities. In addition, the exploitation of children for pornography, sexual exploitation and trafficking is outlawed, in keeping with Nepal's commitment under the two optional protocols to the CRC.

134. The Child Labor (Prohibition and Regulation) Act, 1999 outlaws the engagement of a child below 14 in work as a labor and provides for a stringent punishment. A committee of child labor prevention and a child labor prevention fund have also been established under this Act. The Regulation framed under this Act has also provided various measures to protect children from exploitation and abuse.

135. Moreover, the GON has also taken steps to prohibit bonded labor. The Bonded Labor Prohibition Act, 2002 has outlawed the institution of bonded labor. Employing any person in work with payment of no wages or less than specified wages is punishable.

136. These measures are also in tune with the Worst Forms of Child Labor Convention, 1999. The GON has been implementing a national master plan to eliminate the worst forms of child labor, which was formulated in 2004. The priority sectors of the plan are: bonded child labor; domestic child labor; child porter; children working in mines; rag-pickers; trafficking in children for sexual exploitation, and children working in carpet factories.

137. The Domestic Violence (Offence and Punishment) Act, 2009 was enacted to put an end to violence within a family. It provides for respecting the right of every person to live a secure and dignified life, making punishable violence that occurs within family or is incidental to the family and protecting and providing justice to the victims of domestic violence. Domestic violence is defined as physical, mental, sexual and economic torture inflicted by a person on other person with whom that person has a domestic relation, and including any other act of abusing and causing emotional harm. Physical torture is defined as a bodily harm or injury, physical pain or other act connected therewith, except an amputation of limbs. Mental torture includes a threat of physical torture, terrifying behavior, abuse, false accusation, banishment from home, act likely to result in mental harm, and discrimination on the basis of thought, religion, culture or customs. Sexual torture is defined as a sexual misbehavior, humiliation, harm in self-respect and act undermining safe sexual health. Similarly, economic torture includes deprivation of enjoyment of personal or joint property or that of access to or enjoyment of employment or economic resources.

138. A person who knows that domestic violence has been committed, is being or about to be committed has *locus standi* to file a complaint within 90 days of the commission of such act. A victim may, at his or her choice, make such a complaint to a police office, NWC, local body or court. Punishment of both fine and imprisonment, along with compensation, is provided for as a sanction for compliance with this law. The offender of domestic violence is liable to punishment of fine of three thousand to twenty five thousand rupees or imprisonment for a term of six months or both. An attempt or incitement to commit the offence carries half the punishment to the principal offender. An offender who holds a public office is liable to additional ten percent punishments.

139. Moreover, depending on the nature of the act of violence, pain suffered, economic and social status, the court may order the offender to pay appropriate compensation to the victim. Similarly, the offender is also liable to bear medical expenses of the victim for treatment of injuries. In the event of the offender being indigent, the service center established by the GON is to provide such expenses.

140. The Nepal Police has established the women and children service centers at the central and district levels in order to control crimes against children and women, conduct investigation of the reported cases and provide essential support to the victims. The service centers provide support to victims of cases such as rape, forced marriage, child marriage, trafficking, child labor, child sexual abuse and domestic violence. Various training and sensitization programs have been launched to the police officers who are engaged in handling such cases involving women and children.

Article 17- Protecting the Integrity of the Person

141. Every person with disability has a right to respect for his or her physical and mental integrity on an equal basis with others. The GON respects the physical and mental integrity of the persons with disabilities. That any intervention which has an effect on the physical or mental integrity of the persons with disabilities cannot be made without prior informed consent of them is a hallmark of the policy and legal regimes.

142. A draft bill designed to replace the DPW Act provides that the persons with disabilities have equal right to personal integrity, and prohibits acts such as using bad words indicating disability, rejecting persons with disability and hating them on the ground of disability. In regard to medical care, medical practitioners have to introduce the situation of the patient's condition to the patient or their family strictly in accordance with the facts, while taking care to avoid giving rise to undesirable consequences in the patient. The medical practitioner, when carrying out experimental clinical treatment, can do so only having obtained the consent of the patients themselves or of their family, as the case may be.

143. The National Policy and Plan of Action on Disability, 2006 has directed the government institutions to encourage the persons with disabilities to have self-respect and self-belief, to strive to enhance themselves and to be self-supporting. Guardians of the persons with disabilities are to respect the wishes of those for whom they are acting as such.

144. The National Health Research Council has developed National Ethical Guidelines for Health Research in Nepal and Standard Operating Procedures, 2011. The Guidelines prohibit the use of children, pregnant women and lactating mothers and mentally unsound persons in a medical research. A prior informed consent of a person has to be obtained for subjecting the person to a medical research. If a child is to be used for the research, such informed consent should be obtained from parents or legal guardians of the child.

Article 18-Liberty of Movement and Nationality

145. Article 12(3) (e) of the Constitution guarantees the freedom to move and reside in any part of Nepal as a fundamental right for all citizens. So, the right to liberty of movement is a constitutionally protected right. This right may be subject to restriction by law which is made in the interest of general public or by law imposing reasonable restriction on any act which may jeopardize the harmonious relations subsisting among the peoples of various castes, tribes, religions or communities. In addition, Article 31 of the Constitution guarantees the right of citizens against exile. There is no system of banishment of citizens under the laws of Nepal. The Civil Liberties Act, in Section 6, guarantees the right to movement without any obstacle and to reside and maintain household in any part of Nepal. Section 3 of the Passport Act, 1967 provides that a citizen of Nepal, who intends to visit a foreign country, should obtain a valid passport. Rule 10 of the Passport Regulation, 2067 specifies some grounds on which a passport may be refused to an applicant. It may be noted that the disability of an applicant is not a ground for refusal.

146. The DPW Act provides, in Section 10, that while traveling by bus, train or plane, any disabled person, as well as another person whose continuous support is required to him or her, may be entitled to fifty percent concession in the fare, that the GON may wholly or partly

exempt, accessories, equipment or tools to be used by the persons with disabilities from duties and taxes and that arrangements may be made to have reservations of some seats in the means of public transportation for the persons with disabilities. In pursuance of these provisions, the GON has made arrangements to facilitate the movement of the persons with disabilities by providing them and their escorts, if required, with concession in the fare and to reserve seats for them in public transportation.

147. Article 22 of the Constitution protects children's right as a fundamental right. A bundle of rights are incorporated in this fundamental right. Accordingly, every child has the right to identity and the obtaining of a birth registration is a fundamental right.

148. As mentioned above, The Birth, Death and Other Personal Events (Registration) Act, 1976 provides legal measures to register the birth of a child. There is a provision of local registrar in each VDC and Municipality at the local level to perform this function. The Act obliges the head of every household to register with the local registrar any personal event, including the birth of a child that has taken place in his or her family. The application form for the registration of personal events has a separate column in the case of a child with disabilities.

149. The Constitution and the citizenship legislation deal with the matters of acquisition and termination of citizenship of Nepal. Every citizen of Nepal, including a person with disabilities, is entitled to obtain a citizenship certificate. Any form of discrimination on the provision of citizenship is outlawed. Importantly, there has never been any case in which someone was refused a birth registration on the grounds of disability.

Article 19 - Living Independently and Being Included in the Community

150. The rehabilitation of the persons with disabilities is one of the critical areas of concern of the National Policy and Plan of Action on Disability, 2006 (NPPAD). The NPPAD has various provisions to encourage the persons with disabilities to live in the community. The NPPAD has adopted policies to alleviate poverty through the communality based rehabilitation (the "CBR"), social security and sustainable livelihood of the persons with disabilities, launch targeted programs for the rehabilitation and empowerment of the persons with disabilities and providing soft loans to the persons with disabilities for housing in a housing project, and strategies to provide institutional incentive for the community based rehabilitation of the persons with disabilities, and extend the CBR program for the independent living of the persons with disabilities. The policies also include the provision of land to homeless persons with disabilities to construct a house, and the establishment of a trust by the GON for the protection of the properties of those persons with disabilities who are not capable of utilizing their inherited properties.

151. The GON has launched the CBR programs for the persons with disabilities since the 1980s. The Tenth Plan explicitly incorporated a policy for the CBR of the persons with disabilities, and the successive periodic plans have given continuity to this policy with renewed impetus. The Three-Year Interim Plan (2008-2010) aimed to ensure the inclusion of the persons with disabilities in the community, also by raising awareness, developing accessible physical infrastructures and providing assistive devices. Similarly, The Thirteenth Plan (2013-2016) has focused on the various issues of the persons with disabilities with a view to creating conducive environment for them to be included in the community. The GON has paid due attention to

making physical infrastructures at the district and village levels friendly to the persons with disabilities. Consequently, their participation at the community and district level decision making structure or process has increased.

152. The GON has also provided financial and technical support to various organizations to implement the CBR activities which promote independent living and inclusion of the persons with disabilities in the community. The MOWCSW has been implementing the CBR activities in collaboration with, and through, non-governmental organizations and DPOs at the district level in all districts. It is to note that the GON has allocated more than 20 million rupees per year for the CBR programs. It is committed to gradually expand the CBR program in collaboration with the civil society.

153. Moreover, a range of schemes are also being implemented by the local bodies for the rehabilitation of the Persons with Disabilities. For example, various District Development Committees (DDCs) have already initiated periodic plans for such rehabilitation in the districts. These plans include: livelihood support for the Persons with Disabilities, education and awareness, disability data collection for better planning, support for assistive devices and creating accessible environment in schools and health facilities.

154. The GON has developed and implemented the CBR implementation guidelines in order to ensure better understanding about, and effective implementation of, the CBR. The MOWCSW has remained consistently effortful to build capacity of local bodies and institutions including DPOs for the effective implementation of the CBR plan.

155. It is also important to note that a great number of community based organizations (CBOs) and NGOs have played an important role in promotion of an independent living and inclusive society. The CBR activities run by the CBOs and NGOs include: providing support for medical rehabilitation, raising awareness in the community, providing vocational skills development training and self-employment support, appropriate devices, support for modification of homes, facilitating self-help groups of the persons with disabilities and their family members, schools, health centers and offices of the Village Development Committees (VDCs).

Article 20 - Personal mobility

156. The GON places emphasis on raising the independence and freedom of mobility of the persons with disabilities. Pursuant to the DPW Act, the persons with disabilities, as well as their assistants, if required, are entitled to a fifty percent fare concession in public transportation. Section 7 of the Motor Vehicles and Transport Management Act, 1993 requires the owner or manager of a passenger motor vehicle operating the transport service on a local route to reserve four seats for the persons with disabilities. All students including students with disabilities are entitled to student concessions on public transport. Similarly, as mentioned above, the persons with disabilities are also entitled to concessions on air fare.

157. In pursuance of Section 10 of the DPW Act, the GON has arranged for exempting such accessories, equipment, machineries, assistive devices or goods as may be used by the persons with disabilities or for trainings to the persons with disabilities from customs, excise duties, taxes or other levies. The GON has also exempted the materials to print Braille books, machines and raw materials to make air mold for customs duties. Similarly, the 4 wheeled scooters to be used

and owned by the persons with disabilities enjoy tax exemption. In Fiscal Year 2011-2012, customs duty exemption granted assistive devices included 2989 wheelchairs with parts and accessories, 2 Braille printers and 8 Braille typewriters. Customs exemption on four-wheeler scooter vehicles is also available for the persons with disabilities.

158. The NPPAD aims at enhancing the mobility of the persons with disabilities by providing concession and reservation in transportation for them, while making all sectors of transportation disabled-friendly. It pursues the policies of effectively implementing the policy of free fare, discounted fare and seat reservation in public transports for the persons with disabilities and their attendants, and of making means of public transport and physical environment disabled friendly. Similarly, it has adopted the strategies of making fifty percent fare discount and seat reservation in public transport for the persons with disabilities and their attendants, granting customs and other tax exemption to the purchase or import of motor vehicles for the persons with disabilities and of providing the driving license to the persons with disabilities on the recommendation of the doctor and the driving trainer.

159. The GON has established a National Disabled Fund under the Social Welfare Council (SWC). The Fund is mobilized to produce various assistive devices and mobility aids for the physically disabled people. In order to increase the access of the persons with disabilities to appropriate assistive devices at the local level, the MOWCSW has started supporting and strengthening orthopedic appliance centers in all five development regions. It has also planned to develop a reservoir of trained human resources in the field of production and distribution of mobility devices.

160. The MOWCSW has established centers in four development regions for the production and distribution of assistive devices for the persons with disabilities. These devices are accompanied by therapy services and available free of cost. Similarly, the MOPR has established a fund for providing assistance, including assistive devices and mobility aids, to the persons with disabilities due to armed conflict. Seven centers established in various parts of the countries have been engaged in the mobilization of the fund for such assistance to the persons with disabilities.

161. In collaboration with the MOWCSW, the NGOs and CBOs have also been instrumental in providing rehabilitation services to the persons with disabilities. Importantly, these organizations have also played an important role in producing and distributing assistive devices and mobility aids to the persons with disabilities. Some organizations involved in the provisions of rehabilitation services to the persons with disabilities have established an organization entitled 'National Association of Physical Rehabilitation Service Providers', which will serve as a network of these organizations and ensure an effective coordination of their activities and services. The network is expected to standardize physical rehabilitation services, scale up and monitor the effectiveness of the services.

Article 21 - Freedom of Expression and Opinion, and Access to Information

162. The GON supports and helps the persons with disabilities in using sign language, Braille and all other methods of accessible communication to obtain information.

163. The Constitution has guaranteed the freedom of expression and opinion, in addition to the right to information, as a fundamental right. Article 12(3)(a) guarantees every citizen, including a

citizen with disabilities, the right to freedom of opinion and expression. This freedom may be subject to reasonable restrictions by law, thereby restricting any act which may undermine the sovereignty and integrity of Nepal, or which may jeopardize the harmonious relations between various castes, tribes, religions or communities, or on any act of defamation, contempt of court or incitement to an offence, or on any act which may be contrary to public decency or morality.

164. According to Article 27(1), every citizen has the right to demand and receive information on any matter of public importance. However, this provision is not deemed to compel any person to provide information on any matter of which privacy is to be maintained by law. In addition, the Constitution, by Article 15, has ensured the right relating to publication, broadcasting and press as a fundamental right. Censorship of publication, broadcasting or printing of any news item or audio-visual material, including electronic one, is prohibited. However, this right is subject to such reasonable restriction as may, when necessary, be made by law for the protection of sovereignty and integrity of Nepal, or of public order or of public health or morale or for prevention of any act of treason, defamation, contempt of court or incitement to an offence or for the maintenance of harmonious relations between peoples of various castes, tribes or communities. Moreover, closure or seizure of newspaper, periodical or press for having printed or published any news item or material and interruption of means of communication except in accordance with law are also prohibited.

165. A specific legislation, the Press and Publication Act, 1992 has been designed to safeguard the freedom of opinion and expression; and upon the enactment of the Right to Information Act, 2007, the right to freedom has become a fully enforceable right. The NIC has been devised for the protection, promotion, and monitoring the implementation of, the right. This Act has further reinforced Nepal's commitment to promote freedom of information and the right of access to information.

166. The GON acknowledges that the rights to freedom of expression and opinion and information are essential to the persons with disabilities to develop as individuals and to participate in societies on an equal basis with others. The GON has adopted various policies and administrative measures to ensure that the persons with disabilities have access to information. Since the Tenth Plan, the GON has focused on policies to ensure the necessary access of the persons with disabilities to information. The NPPAD has aimed to develop a systematic information system on disability and provide the concerned stakeholders with reliable and updated information, and to enhance the access of the persons with disabilities to various fields of communication. It has pursued the policies of conducting research and investigation by experts in the field of disability through participatory method, developing an integrated information system, providing the persons with disabilities with appropriate information according to the nature of disability, of producing and distributing publicity materials as required to raise public awareness on disability and developing a sign language dictionary for the communication of the deaf and giving legal recognition to the dictionary. It has set various strategies to accomplish the aim and policies.

167. Various activities carried to achieve these policy measures include: establishment of a national disabled information and resource center to collect information and do research on disability at the national level; establishment of a mechanism to establish easy access of the persons with disabilities to information; establishment of a disabled focal point and resource center at the district level; incorporation of the issue of disability in the national information

policy, preparation of updated data of the persons with disabilities; conduction of awareness programs on disability through government and private media; provision of journalism training (with scholarship) and training on modern technology on information and communication to the persons with disabilities; tax exemption to the materials of information technology to be used by the persons with disabilities, and gradual provision of sign language interpreter and Braille printed materials in programs of public importance.

168. The Ministry of Information and Communications has produced and broadcast messages for the promotion and protection of the Persons with Disabilities through Nepal Television (NTV). The NTV currently produces and broadcasts a weekly program on disability and weekly news in sign language. The GON has planned to have news broadcast in sign language every day in a gradual manner.

169. The MOWCSW has also supported disabled persons' organizations to run radio programs and publication of print materials on various issues of the persons with disabilities. The Nepal Press Council Act, 1990 provides that high priority has to be accorded to the newspapers and magazines that are owned and published by the persons with disabilities.

170. The GON has supported the production of materials in Braille print and the promotion of Nepali sign language. It provides financial and technical support to Nepal Association for the Welfare of the Blind (NAWB) and the Nepal Association of the Blind (NAB) in the operation of the Braille press and to the National Association of Deaf and Hard of Hearing (NADH) in the promotion of Nepali sign language.

171. Section 38 of the Evidence Act, 1977 provides that a person who is a minor or who is of unsound mind cannot be a witness. Section 39 provides that if a witness is not able to speak, the witness may provide his or her evidence in writing or by a sign language. A deaf person is allowed to take an interpreter while presenting before the court.

172. The MOWCSW has also supported the production and distribution of audio materials (cassettes and CDs) and software to be used by persons with vision problems. It has also supported a talking library which maintains library of university text books on audio materials. The GON has recognized the sign language as a medium of communication.

Article 22 - Respect for Privacy

173. Article 28 of the Constitution provides that, except as provided by law, the privacy of any person, residence, property, document, statistics, correspondence or matters relating to his or her character are inviolable. The right, which is a fundamental right, is enjoyable by every person.

174. The Civil Liberties Act, 1955, in Section 10, also protects the right of privacy by prohibiting forceful entrance into the residence of any citizen without the authority of the law in force. The Postal Act, 1963, has made opening of or tempering with postal materials by any employee or other person *en route* as unlawful act and punishable by law. The Telecommunications Act, 1997 has also prescribed various penalties for tapping information or divulging information to unauthorized person except as provided by law. The Electronic Transaction Act, 2008 provides for the protection of privacy of electronic data. It is to note that, in the case of *Annapurna Rana vs Gorakh Sumsher JB Rana*, 1999, the SC held that the order

issued by the District Court to carry out vaginal and uterus test without consent of the petitioner was an explicit violation of the right to privacy as provided by the Constitution. In order to ensure the statutory remedial measures against the infringement of the rights of persons, writ jurisdiction of the SC is always available in this regard.

175. Section 28 of the Right to Information Act, 2007, contains provision on the protection of information of personal nature. It is the duty of a public body to protect the information of personal nature held in for preventing unauthorized publication and broadcasting. The use of personal information held in a public body without the written consent of the concerned person is prohibited, except in cases where disclosure is to be made pursuant to the laws in force or is required to prevent a serious threat to life and body of a person or public health or security or to control the offence of corruption.

176. The Code of Journalistic Ethics was made and issued by the Press Council of Nepal in 2003. The Code prohibits the publication, broadcast, production or distribution of any news, picture or scene in such a manner as to disclose the name, address and identity of a victim in a sexual crime or in an event or context that evokes hate or brings social contempt, without the informed consent of the victim.

177. Similarly, organizations working with the persons with disabilities and providing rehabilitation services are not allowed to disclose the details of the services provided to individuals without their written approval. However, this provision does not encourage the hiding of the identity of the persons with disabilities.

Article 23 - Respect for Home and Family

178. Nepalese society and the State have protected the family as the natural and fundamental unit of society. Marriage is considered as foundation institution of the society. Men and women of marriageable age have the right to marry and found a family. For this purpose, Clause 2 of the Chapter on Marriage of the General Code has fixed 20 years as the legal age for marriage for both men and women. With parental consent, however, persons can consummate marriage at the age of 18. A marriage entered into without the free and full consent of the intending spouses is voidable, and the person engaged in facilitating such marriage may be punished with imprisonment and fine. The marriage is regulated by different Chapters of the GC, the Marriage Registration Act, 1972, and the Births, Deaths, and Other Personal Events (Registration) Act, 1976.

179. Family life after marriage is well protected by law. In the case of Advocate *Mira Dhungana vs. Ministry of Law, Justice and Parliamentary Affairs*, the SC held that Clause 1 of the Chapter on Rape of the GC does not intend to give immunity to the husband for the rape committed by him on his wife. This judgment has introduced the concept of marital rape in Nepal. Accordingly, the Gender Equality Act, 2006 has now amended the said Clause 1 of the Chapter on Rape, criminalizing the sexual intercourse by one with his wife without her consent. The Chapters on Marriage and Husband and Wife of the GC provide appropriate procedures to ensure the equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution.

180. Clause 1 (a) of the Chapter on Husband and Wife of the GC has established the grounds for divorce, which are equally applicable for both wife and husband. However, some distinctions have been made in respect of procedures. A wife seeking divorce can directly approach the district court with a petition for divorce while a husband has first to approach the concerned local body, and then proceed to the district court, along with recommendation of that body, for divorce. This provision was challenged in the case of *Chandrakanta Gyawali vs. Office of the Prime Minister and Council of Ministers, et al.* The SC has issued a directive order to the GON to make appropriate law in this regard.

181. In the case of dissolution, the law gives priority to the mother to her children until they attain five years of age provided she does not enter into a marriage. After marriage, the wife is entitled to equal ownership in her husband's property. While awarding the decree of divorce, the court should also award a decree making partition share in property between the husband and the wife. The wife may, however, opt to accept partition share or to claim alimony until she enters into another marriage.

182. In a nutshell, all the legal protections and guarantees enjoyable by the citizens of Nepal are ipso facto enjoyable by the persons with disabilities. Any discrimination against the persons with disabilities in matters relating to marriage, family, parenthood and relationships is prohibited. The persons with disabilities, who are of marriageable age, are entitled, on an equal basis with others, to the right to marry and to found a family on the basis of free and full consent of the intending spouses, and to the right to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education. The persons with disabilities, as well as children, may retain their fertility on an equal basis with others.

Article 24 - Education

183. The Constitution, in Article 17, safeguards the right to education as a fundamental right. Accordingly, every community has the right to get basic education in its mother tongue, and every citizen has the right to free education up to the secondary level from the State, as provided in law. It is the obligation of the State to pursue a policy of establishing the right of all citizens to education. The education policy, which aims at democratic, inclusive and egalitarian quality education for all, has been structured to achieve this fundamental right, State obligation and MDG 2 by 2015.

184. The school education system in Nepal consists of primary (grade 1 to 5), lower secondary (grade 6 to 8), secondary (grade 9 to 10) and higher secondary (grade 11 to 12) levels. With the implementation of the School Sector Reform Plan (SSRP) (2009-2016), the GON has restructured the school education into the basic (grade 1 to 8) and secondary (grade 9 to 12) levels. Hence, the basic education consists of both primary and lower secondary levels.

185. Pursuant to the Education Act, 2001, the basic education has been made free to all school age children, irrespective of caste, gender and other form of diversities and differences prevailing in the society. The SSRP has defined free education to cover most of the direct costs of schooling (e.g. free textbooks, and no fees for admission, tuition and examinations). The National Action Plan on Education for All (2001-2015) has identified goals of elementary child education and

development programmes, based on four pillars: survival, development, protection and participation.

186. In order to enforce the fundamental right of each citizen to have free education up to secondary level, the GON has implemented free secondary education for the targeted groups (*Dalit* endangered groups, and highly marginalized groups) since FY 2009/10. The SSRP has included necessary budget and programs to this end. For the rest of groups, the cost sharing approach is being implemented to receive the secondary education.

187. Universalizing primary education is an explicit priority of the GON, with three main thrusts: enhancing access, enhancing equity, and improving quality. Policies for expanding access and equity have focused on removing physical barriers to access and expanding opportunities for transition to higher levels of schooling, reducing the direct costs of schooling through free education to all, and targeted scholarships and incentives for students from the vulnerable or marginalized groups or communities, and recruiting teachers from such groups or communities.

188. The Nepal Millennium Development Goals (MDG) Progress Report, 2013 reports that about 88.6 percent of the population aged 15- 24 are literate. The report shows that the literacy rate of males has increased from 90.97% to 92.97% while female literacy has jumped from 75.36% to 79.36%. The literacy rate of males and females in rural area is 91.89 and 76.26 per cent respectively.

189. The District Education Offices in all 75 districts have direct oversight over the schools in their area. The GON has established a decentralization policy, whereby the Local Bodies are expected to play an increasing role in the planning and implementation of public services. The Special Education Council, under the Ministry of Education, is responsible for developing and implementing inclusive education in the country.

190. The GON has adopted policies to establish more schools and upgrade existing ones with a view to removing physical barriers to access. Consequently, since 2005, the number of registered primary schools has increased by 15 per cent and the number of primary students by nine per cent. Currently, a total of 29,089 early child development centres are engaged in imparting child education, of which 24,773 are community-based and the rest are institutional school-based. There are altogether 32,130 schools where 7,575,880 students are studying. The GON has implemented a policy to enhance the role of local communities and parents in school management by transferring responsibilities to the locally elected school management committees. Moreover, additional 4,000 schools were handed over to the communities in 2010. Consequently, a significant improvement has been made in the enrolment of children from the vulnerable or marginalized groups or communities, including the *Dalit*, in public primary schools.

191. To ensure inclusiveness and gender mainstreaming in education, various programmes have been launched. These include reservation of 45 per cent of scholarship for higher education in medical sciences that are available to the GON for indigent students from community schools and belonging to vulnerable groups; provision of scholarship to indigent girls in *Terai* who wish to pursue technical education on auxiliary nurse midwifery; extension of day nutritional meal programme from 21 districts to 35 districts to mitigate drop-outs; provision of scholarship to 100 per cent girls at the primary and lower secondary level (basic education) and to all school girl students in the Karnali Zone; allocation of quota for 40,000 girl students under annual 60,000

secondary education scholarships; mandatory recruitment of women teachers in a specific ratio; and income and skill generating trainings to women.

192. The policies have also focused on increasing the recruitment of teachers from the vulnerable or marginalized groups or communities. There has been a gradual increase in the number of female teachers and teachers from *Dalit* and nationalities. In 2009, 34.5 per cent of teachers were female, 23.4 per cent were ethnic nationalities and 4.2 per cent were *Dalit*. Now, there are some 42,000 female teachers serving in community schools.

193. With the implementation of these policies and programmes, the GON has made a remarkable improvement in the NER at the primary level (grade 1 to 5). It is 95.3 per cent. There has also been a gradual closing of the gender gap in NER at the primary level

The current status of universal primary education in Nepal is given in Table-4.

Table-4

Status of universal primary education

Indicators	1990	2000	2005	2010	2013	2015 Target
NER in primary education	64.0	81.0	84.2	93.7	95.3	100
Proportion of pupils that start Grade 1 and reach Grade 5	38.0	63	79.1	77.9	84.2	100
Literacy rate of 15-24 year olds, women and men	49.6	70.1	79.4	86.5	88.6	100

Source, Nepal Millennium Development Goals Progress Report, 2013

194. Free basic education includes free tuition, free admission, no fees for exams and free textbooks. Schools have been clearly instructed to implement this provision. Thus, schools cannot obtain any direct costs from students for basic education. In addition, the GON provides incentives such as scholarships to all girls and *Dalit* students, student with disability, and those belonging to the targeted groups, mid-day meal to the targeted group students and cooking oil to the targeted group girls so that indirect costs of schooling can be mitigated. It provides text books free of cost to all students (Grades 1-10) studying in community schools.

195. In the early grades of the basic education, children have been provided opportunity to study in their mother tongue i.e. students' mother tongue as a medium of instruction. The GON has implemented three language policies (mother tongue, Nepali and English) in education. Communities are encouraged to get permission to run primary schools in their mother tongue; and course-books have already been prepared in 16 mother tongues. Additionally, the GON has launched inclusive education programmes, which include resource classes, and managed resource and mobile teachers for the persons with disabilities. A range of scholarships, accompanied by logistic supports, have also been provided to the persons with disabilities.

196. The CTEVT receives support from the GON in expanding the supply of skilled and employable labour by expanding access to and by strengthening technical education and vocational training in the country. In terms of assistance to the targeted communities, the

ongoing initiatives aim to support the poor, women, disadvantaged groups and people from remote areas. Income generating activities are also being implemented under the broader umbrella of literacy related activities by aiming the livelihood of the women from target groups.

197. The Gross Enrollment Rate in higher education is about 6 per cent, which is rather low as compared to other developing countries. However, the expansion of the system has been very fast, and institutional arrangements to accommodate an increasing demand for higher education in the public sector are limited. Therefore, expansion takes place more in the non-public funded segment of higher education – mostly in affiliated campuses, which are privately funded.

198. Principally, cost recovery approach is in effect in the higher education sub-sector. However, those who are enrolled in higher education are receiving education in highly subsidized costs except in technical education. In order to make this education more inclusive, incentives are being provided to the students of target groups. Girls are receiving scholarship from the Girls Scholarship Fund. Similarly, student loans for higher education are also made available.

199. The GON has launched the literacy programme under the slogan of 'let us be literate and enhance capacity'. The main aim of the literacy programme is to create literate society that can actively take part in the national development. The GON has been working for upgrading and extending the literacy, post literacy and skill-oriented activities by integrating them with other NFE programmes. The major measures adopted to promote literacy are national literacy campaign, adult literacy, women literacy I and II, post literacy programmes, alternative schooling programmes, school outreach programmes, programme for school dropout children and income generating programme. The expansion of community learning centres and community-based libraries are also other major vehicles of the continuing education. The expansion of media and private sector has also contributed to the strengthening of continuing education.

200. Likewise, the representation from women, *Dalit* and ethnic groups are also ensured in the different management committees of education to make education management more inclusive, and address the issue of disparities in education.

201. To cope with the problem of drop-outs, various measures have been taken. Incentives have been provided to the minority and indigenous students to retain them in schools. Teachers have been trained to make the teaching learning method child friendly and inclusive. School environments have been improved by carrying out repair and maintenance, and construction of girls' toilets and supply of drinking water, with special provisions for students with disabilities. Nutritional day-meal programme has been expanded from 21 districts to 35 districts.

202. No discriminatory criteria are in place for girls' and boys' enrollment in all levels of education. Special reservations in teaching are being made available to vulnerable or marginalized groups or communities.

Table-5

Status of gender equality in primary and secondary education

ADVANCE UNEDITED VERSION

Indicators	1990	2000	2005	2010	2013	2015 Target
Ratio of girls to boys in primary education	0.56	0.79	0.90	1.0	1.02	1.0
Ratio of girls to boys in secondary education	0.43	0.70	0.84	0.95	0.99	1.0
Ratio of women to men in tertiary education	0.32	0.28	0.50	0.63	0.71	1.0
Ratio of literate women to men aged 15-24 years old	0.48	n/a	0.73	0.83	0.85	1.0
Share of women in wage employment in the non-agricultural sector (%)	18.9	17.7	n/a	19.9	44.8	-
Proportion of seats held by women in national parliament	3.4	5.8	n/a	32.8	n/a	-

Source, Nepal Millennium Development Goals Progress Report, 2013

203. Partnership with media and professional organizations has been given equal importance to raise awareness among parents and other stakeholders on the value of educating girls. A network has been established and made functional for promoting girls education from the central level to the district level. Similarly, each government office has assigned a gender focal person.

204. The institutional mechanism of child development center has been expanded to enhance the access of the marginalized children to education. Special programmes have been launched for the vulnerable or marginalized groups or communities, including the people from the Karnali area. Open school education programme has a special incentive programme for those students who have stopped schooling due to work load, poverty and conflict.

205. An incentive system on the basis of admission rate, dropout rate and pass percentage has been applied to schools to improve in quality of education. School mapping are carried out, to make a balance between student teacher ratios. To maintain transparency in all grants to schools, the cost per student based system has been made compulsory and monitored strictly.

206. As of 2013/2014, of the total 35,223 school (units), 34,743 primary (grade1-5), 14,867 lower secondary (grade 6-8) and 34,923 are basic levels(grade 1-8) schools. The distribution of primary schools by eco-belts shows that there are 4,239 schools in the Mountains, 17,653 in the Hills, 2,213 in the Kathmandu Valley and 11,118 in the *Tarai*.

Among the eco-belts, the highest number of schools is in the Hill and the lowest number is in the Valley. Likewise, there are 34,923 basic level schools with Grades 1-8 in the country, out of which 4,232 basic level of schools are in the Mountain, 17,601 basic levels of schools are in the Hill, 2,091 basic levels of schools are in the Valley and 10,999 basic levels of schools are in the Terai belt respectively.

207. The enrolment at the primary level reached 4.40 million in 2014 from 4.57 million in 2012. The average annual growth rate during this period has been -0.1 per cent. The enrolment at the lower secondary level reached 1.82 million in the school year, 2013 from 1.44 million in the school year, 2007. The average annual growth rate during this period has been 4.8 per cent. The average growth rate at basic education level in 2013 was 1.2 per cent. Interestingly, the average

annual growth rates for girls are higher than the average annual growth rates of boys at both primary and lower secondary levels.

208. Compared to the previous school year, the district level analysis shows that there are 61 districts, which reported a decreased enrolment at the primary level. Out of the remaining 14 districts, 9 districts (Bara, Humla, Kailali, Mugu, Jumla, Mahottari, Parsa, Sarlahi and Kanchanpur) reported an increased enrolment by more than 5.0 percent at the primary level. On average 4.5 percent students has decreased at the primary level in the current school year. There are 36 districts with an increment of enrolment at the lower secondary level, of this there are 9 districts with more than 10 percent increment of enrolment at this level. The increment on enrolment at the lower secondary level indicates a high transition from primary to lower secondary level. At the basic level, the trend of enrolment has absorbed similar pattern as in the primary and lower secondary levels. The summary of enrollment at three levels is given in Table 6.

Table-6

Total number of enrollments at primary, lower secondary and basic levels

Level	2007	2008	2009	2010	2011	2012	2013	Average annual growth rate 2006-2012
Primary (1-5)	4,418,713	4,782,313	4,900,663	4,951,956	4,782,855	4,576,693	4,401,780	-0.1
Lower secondary (6-8)	1,443,515	1,466,862	1,604,422	1,699,927	1,812,680	1,823,192	1,828,351	4.8
Basic (1-8)	5,862,228	6,249,175	6,505,085	6,651,883	6,595,565	6,399,885	6,230,131	1.2

Source, Ministry of Education, 2013

209. The table given below shows the status of disabled students at primary, lower secondary and basic levels in 2013/2014. The overall enrolment of students with disability in percentages at the primary, lower secondary and basic levels are 1.1 per cent, 0.9 percent and 1.0 percent, respectively. Of them (48,575 in total) at primary level, 0.3 per cent, 0.3 per cent, 0.2 per cent, 0.02 per cent, 0.1 per cent, 0.00 and 0.2 per cent have a physical, mental, intellectual, hearing, visual, low vision, hearing and visually, vocal and speech-related disability, respectively. Out of the total 16,401 students with disabilities at the lower secondary level, 0.4 per cent, 0.2 per cent, 0.1 per cent, 0.02 per cent, 0.1 per cent, 0.02 per cent and 0.1 per cent have a physical,

mental, intellectual, hearing, visual, low vision, hearing and visually, vocal and speech-related disability, respectively. Similarly, at the basic level, out of the total 64,976 students with disabilities, 0.4 per cent, 0.3 per cent, 0.2 per cent, 0.02 per cent, 0.1 per cent, 0.02 per cent and 0.1 per cent have a physical, mental, intellectual, hearing, visual, low vision, hearing and visually, vocal and speech-related disability, respectively (Table 7 and Table 8).

Table-7

Total number of students by major types of disabilities at primary, lower secondary and basic level

Level		Types of disabilities							
		Physical (Affecting Mobility)	Intellectually Impaired	hearing Impaired	Visually impaired	Low Vision	Hearing and Visually Impaired	Vocal and speech related disabilities	Total Disabled
Primary	Girls	7,152	6,214	3,558	461	2169	477	3045	23076
	Boys	8093	6802	3805	461	2198	511	3629	25499
	Total	15245	13016	7363	922	4367	988	6674	48575
	% of total disability enrollment	0.3	0.3	0.2	0.02	0.1	0.0	0.2	1.1
Lower secondary	Girls	3212	1352	1092	193	1299	155	688	7991
	Boys	3375	1409	1250	176	1185	142	873	8410
	Total	6587	2761	2342	369	2484	297	1561	16401
	% of total disability enrollment	0.4	0.2	0.1	0.02	0.1	0.02	0.1	0.9
Basic	Girls	10364	7566	4650	654	3468	632	3733	31067
	Boys	11468	8211	5055	637	3383	653	4502	33909
	Total	21832	15777	9705	1291	6851	1285	8235	64976
	% of total disability enrollment	0.4	0.3	0.2	0.02	0.1	0.02	0.1	1.0

Source, Department of Education, 2013

Table-8

Total number of students by major types of disabilities at secondary level

Level		Types of disabilities							
		Physical (Affecting Mobility)	Intellectually Impaired	hearing Impaired	Visually impaired	Low Vision	Hearing and Visually Impaired	Vocal and speech related disabilities	Total Disabled
Secondary (9-10)	Girls	1492	389	409	74	596	53	233	3246
	Boys	1645	463	447	94	519	57	289	3514
	Total	3137	852	856	168	1115	110	522	6760
	% of total disability enrollment	0.35	0.09	0.10	0.02	0.12	0.01	0.06	0.75
Higher secondary (11-12)	Girls	315	38	71	20	81	14	576	1115
	Boys	313	48	78	20	73	10	591	1133
	Total	628	86	149	40	154	24	1167	2248
	% of total disability enrollment	0.15	0.02	0.04	0.01	0.04	0.01	0.28	0.54
Secondary	Girls	1807	427	480	94	677	67	809	4361
	Boys	1958	511	525	114	592	67	880	4647
	Total	3765	938	1005	208	1269	134	1689	9008
	% of total disability enrollment	0.29	0.07	0.08	0.02	0.10	0.01	0.13	0.69

Source, Department of Education, 2013

210. Under the SSRP, the GON is responsible to provide “enabling conditions for learning” for every school, which relate to the physical and educational environment, instruction, curriculum and textbooks. The SSRP also includes the provision of scholarships to public school students in Karnali Zone, students from the *Dalit* communities and students with disabilities across the country, paying special attention to girls.

211. The GON has made various provisions to ensure that children/persons with disabilities enjoy the equal rights to education on an equal footing with others. Section 6 of the DPA Act has a provision on education and training to the persons with disabilities. It provides for an exemption from fee to the persons with disabilities who intend to get admission to any educational institute to pursue education, for making necessary arrangements for appropriate trainings to the teachers teaching the persons with disabilities and for special arrangements for the education to the blind, deaf and feeble minded persons.

212. The Supreme Court, in a petition filed in 2004 by Mr. Sudarshan Subedhi and Mr. Babukaji Maharjan to enforce the legal provision of free education to the persons with disabilities, has directed the GON not to charge any admission or other fee from blind, disabled, deaf and mentally retarded students in any public school or university. The GON and public schools and universities have made necessary arrangements to implement this directive order.

213. In order to increase the access of children with disabilities to education, the GON has pursued a policy of providing scholarships to offset the costs of hostel facilities, school uniforms, and education materials and transport expenses. In FY 2010/11, the GON allocated Rs 70.4 million to 40 thousand students with disabilities throughout the country. Table-9 shows the total number of students with disabilities who received scholarship in that FY.

Table-9

Students with disabilities receiving scholarship in FY 2010/11

Level	Number of students		Amount of scholarship
	Male	Female	
Primary	40,826	36,522	75,655,000
Secondary	4,407	3,926	4,940,000
Total	45,233	40,448	80,595,000

Source, Ministry of Education

214. The GON has formed the Special Education Council (SEC) to arrange to provide special education to students with disabilities. The Education Act 1971, in Section 2 (d1) has defined special education as education imparted to blind, deaf, dumb or disabled or mentally retarded children. The Special Education Policy, 1996 has defined special education as the teaching, learning and training arrangement made through special method to meet the need of education of various types of disabled children as the other normal children in conformity with their disability. It has also defined “special schools” and “integrated schools” as well as types of disability. The Policy aims to make special education as an important part of “Education for All,” by making the physical environment of schools friendly for children with disabilities, providing free education to disabled students at all levels and providing scholarship for disabled students. Table 10 shows the number of special and integrated schools running under the Special Education Council in 2013.

Table-10

Special and integrated schools running under Special Education Council in 2013

Disability category	Special/Integrated Schools
Deaf	8
Blind	11
Intellectual Disability	14
Physical Disability	1
Total	34

Source, Ministry of Education

215. In addition, as per the Education Policy, 1996, students with disabilities, who due to their disability, are considered not to be able to complete the examination in given time will get an additional time up to one and half hour. The chief of the examination center makes a decision on how much additional time is to be given. Similarly, blind students can have a writer in the exam. The Special Education Unit (SCU) under the Ministry of Education carries out the following activities, in addition to providing special and integrated education to the children with disabilities:

- (a) Operation of public awareness programs through various mediums to raise public awareness about the program to the peoples of various sectors of the community;
- (b) Carrying out survey programs for the collection of exact data of disability,
- (c) Making arrangement for integrated education and arrangement of conducting source class, for various types of teachers training, production and development of various types of educational materials.

216. The School Sector Reform Plan (SSRP) 2009-2015 has made various provisions to increase participation of the children with disabilities in regular schools, and establish special schools as required. The Plan aims to cover 175,000 children with disabilities at the primary level and 75,000 children with disabilities at the secondary level, with the scholarship support. In 2006, about 9,100 children with disabilities received scholarships. The goal of the SSRP is to provide 175,000 students with disabilities with scholarships for basic and secondary education by 2015. The SSRP has also set a target to establish 100 new schools to cater to the need of students with disabilities and to make special provisions to cater to public schools in the Karnali zone, marginalized groups and students with disabilities, with particular focus on girl students. The Plan aims to provide all students with disabilities with scholarship by 2015, with priority being accorded to the Persons with Disabilities for lifelong learning and non-formal education. In pursuance of the Scholarship Act, 1965, the GON has also reserved scholarship quotas for the persons with disabilities. It is a legal requirement that two per cent of scholarship fund available to the GON has to be reserved for the persons with disabilities.

Table-11

Resource Classes running under the grant from SSRP 2013

Disability category	Special/Integrated Schools
Deaf	169
Blind	77

Intellectual Disability	119
Total	365

217. In 2006, the GON adopted an inclusive education policy, guaranteeing free primary education for all children and establishing resource classes for the children with disabilities. Resource classes are designated classrooms for children with specific disabilities within a mainstream school; there are classes for the blind, deaf and for children with intellectual disabilities. There are 360 integrated resource classes, of which 164 are for the deaf, 78 are for the blind, and 118 are for the children with intellectual disabilities. In addition, there are 13 special schools for deaf children, one school for blind, 13 schools for children with intellectual or developmental disabilities and one school for children with physical disabilities. Nepal also has 5 integrated schools for deaf children and 16 integrated schools for blind children.

218. The GON has established resource centers in specific geographic areas. The resource centers are responsible for developing the capacity of schools in the area by organizing opportunities to share experiences and learning and by regularly monitoring the schools. The GON has also established assessment centers for the children with disabilities in 62 districts. The function of the assessment center is to collect information on the children with disabilities in that geographic area, assess their educational needs and refer them to the appropriate education system, either general schools, resource classes or special schools.

Article 25: Health

219. The GON recognizes that the persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. The Constitution provides that every citizen shall have the right to get basic health service free of cost from the State as provided for in the law. This makes “health for all” a fundamental right. The MOHP has pursued a range of policies and plans to materialize this right.

220. In 2006, free essential health care services were offered to the poor and vulnerable citizens attending primary health care centers and district hospitals (up to 25-bed capacity). In addition, in 35 districts that ranked lowest in the Human Development Index, the program provided additional free outpatient services to the same groups in the district facilities. Similarly, a universal program commenced in January 2008, aimed at the provision of free essential health care services to all citizens, whether poor or not, at Health Posts (HP) and Sub-Health Posts (SHP) throughout the country. There are no charges for registration or for the dispensation of 32 essential drugs at the HP level and of 22 drugs at the SHP level. Since January 2009, under the "New Nepal, Healthy Nepal" initiative, all citizens are able to access District Hospitals (DH) and Primary Health Care Centers (PHCC) without having to pay for registration: they are eligible for free outpatient, emergency and in-patient services, as well as drugs.

221. The DPW Act provides for making necessary arrangements to find out factors leading to disability and prevent, control and cure it. In order to reduce adverse impacts, the GON has arranged to provide free health check-up and services, increase nutritious food to the persons with disabilities and make necessary arrangements to control viral diseases and accidents. The DPW Regulation provides that the GON may provide necessary assistance to a non-governmental hospital, which, with the prior approval of the GON, provides for free medical check-up and treatment of the persons with disabilities. Thus, in order to promote and protect the

right to health of the persons with disabilities, the legal framework of Nepal provides for free medical check-up and treatment to the persons with disabilities.

222. The NPPAD has set various activities to ensure the access of the persons with disabilities to health services even in rural and remote areas. These activities include the provision of free basic health services, with priority, to the persons with disabilities at the central, regional and district level hospitals.

223. The MOHP framed and implemented the ten point policy guidelines in 2007. The guidelines recognize health as a fundamental human right, and aim to continue to accord special priority to those persons, genders, castes and ethnic groups, communities and regions that are socio-economically disadvantaged, while ensuring that health care is available to all citizens. This policy measure reiterates the main responsibility of the State to deliver all types of health services, namely, preventive, rehabilitative and curative, to the socio-economically disadvantaged people. These services are to be organized in accord with the principles of the Alma Alta Declaration regarding primary health care.

224. The MOHP has implemented a National Childhood Disability Management Strategy since 2007, aiming primarily to provide rehabilitation services and medical treatment at the community level and prevent childhood disabilities in the country. It has long term and short term strategies for early identification, increased access to rehabilitation services through community health workers and female community health volunteers, production and supply of assistive devices, referral services, provision of rehabilitation beds in hospitals and specialist services.

225. The MOHP has remained active in the prevention of diseases and disability through vaccination, immunization and vitamin A distribution. Leprosy elimination was declared in 2009 and the medicine for newly identified leprosy patient is available at local health posts. General health care services to all citizens are available in sub-health posts, health posts, health centers and district, zonal, regional and national level hospitals. All the services available are to be equally available to the persons with disabilities. In addition, the MOHP has conducted various programs such as appropriate treatment of common diseases and injuries, reproductive health, expanded program on immunization and Hepatitis B vaccine, condom promotion and distribution, tuberculosis control and integrated management of childhood illness, nutrition education and rehabilitation, prevention and control of blindness, environmental sanitation, school health services, vector-borne diseases control, oral health services, mental health services, accident prevention and rehabilitation, community based rehabilitation, occupational health and safety, and emergency preparedness and management.

226. The Thirteenth Plan has set a range of measures for the prevention and rehabilitation of disability. These measures include: detail analysis of the effect of conflict on people's mental health, launching effective programs to reduce adverse effect of conflict on mental health, integrating mental health in general health training, basic mental health training to all health workers, and integrating mental health treatment in the primary health care. These measures have also aimed to expand the coverage of school immunization programs, increase the effectiveness of the expanded program on immunization and polio eradication program. Prevention and minimization of the vision related disability, formulation of guidelines to prevent sound related

deafness and promotion of CBR activities for the rehabilitation of physically disabled people have also been set.

227. A National Rehabilitation Centre has been established in the capital for the treatment, rehabilitation and for the provision of orthosis and prosthesis for conflict affected persons with disabilities. The regional level rehabilitation centers have provided the required assistive devices and rehabilitation services to the persons with disabilities.

228. The Nepal Health Sector Program (NHSP) Implementation Plan 2010-2015 has set a range of activities, particularly to promote and prevent disease and disability. In recognition of the fact that mental health problem has increased due to conflict and gender-based and domestic violence, the Plan has set to include mental health services in the EHCS package.

229. The GON is concerned with a dramatic increase in suicides among the women of reproductive age, which has now become a leading single cause of death. In order to address this problem, the MOHP has integrated the mental health services into the existing and future health and social programs; developed a low-cost and sustainable district service system to provide mental health promotion, prevention and treatment services; initiated measures to improve the quality of mental health data from the Health Management Information System (HMIS) and census data; and appointed a focal person responsible for mental health issues within the Ministry.

230. Malnutrition is one of the major causes of physical and intellectual disability, and nutrition intervention one of the important areas of rehabilitation. The MOHP has significantly scaled up nutrition interventions to address three major micronutrient deficiencies, namely vitamin A, iron and iodine among children and women. Vitamin A supplementation is almost universal, with the involvement of FCHVs. Sixty-four districts have been covered by an iron distribution program for pregnant women, and the consumption of adequately iodized salt by households has reached 77 percent. Eradication, elimination and control of vaccine preventable diseases is one of the major areas of interventions by the MOHP.

231. The GON is committed to the eradication of poliomyelitis in Nepal. The last indigenous case of wild poliovirus was detected in 2000, with importations each year from 2005 to 2008. There were no wild poliovirus cases detected in Nepal during 2009. The MOPH has provided prevention and rehabilitation training to the basic health staff and medical officers in coordination with specialist organizations in the field of the disability rehabilitation.

Article 26 - Habilitation and Rehabilitation

232. The DPW Act, as mentioned in its preamble, has been enacted for the purpose of making the persons with disabilities capable members as well as actively productive citizens of the society, by making necessary welfare provisions for their health, education, care and training and for their right to equality and employment. It is obvious that this legislative measure also aims to achieve the objective of rehabilitation: making the persons with disabilities capable, active and productive citizens of their society.

233. The DPW Act entitles the persons with disabilities or any organizations established for the purpose of the rehabilitation of the persons with disabilities to exemption from income tax

and any other levy. Upon the production of a certificate showing their engagement in the service of their own disability or in the rehabilitation service, they need to submit the returns of income. If any persons with disabilities are in need of a land to build a house or to engage in agricultural occupation, the GON may, subject to the laws in force and specified terms and conditions, make available the land to them for building the house or cultivation.

234. The DPW Regulation, 1994 has also made various provisions which relate to the health, education, training and employment of the persons with disabilities for their rehabilitation. In pursuance of the legal measures, the GON has established a National Disabled Fund (NDF) under the Social Welfare Council (SWC). The NDF has provided vocational trainings to the persons with disabilities and also provided devices and therapeutic support to them. The GON has also extended its collaboration with the NGOs and DPOs in the delivery of habilitation and rehabilitation services to the persons with disabilities. It has provided some measure of financial support to these organizations in all 75 districts for the implementation of CBR programs. In FY 2010/11, the MOWCSW provided 20 million rupees to these organizations for the implementation of CBR services.

235. The MOPR has also set aside a basket fund to provide quality assistive devices to the persons who became disabled in the armed conflict. The fund is being mobilized through the NDF in partnership with the NGOs implementing CBR services in different parts of the country. Similarly, the MOHP has provided financial support to the organizations for the purpose of medical rehabilitation of the Persons with Disabilities. Developing appropriate workforce to work with the persons with disabilities and their families in the community is one of the priority areas for the policies of the GON.

236. In FY 2010/11, a total of 312,000 persons with disabilities received wheelchairs, tricycles and other mobility devices and some 600 prosthesis and orthotics and surgical corrections were performed on 42,500 persons.

237. The GON aims to further strengthen collaboration with the civil society organizations and development partners in the provision of training to the staff and professions involved in the fields of CBR of disability in a regular manner.

Article 27 - Work and Employment

238. The Constitution recognizes the right to work as a fundamental right. Everyone has freedom to practice any profession, or carry on any occupation, industry or trade. Similarly, the right to employment and social security is also a fundamental right. The Constitution, in Article 18, guarantees that every citizen has the right to employment as provided by law; and every employee or worker is entitled to proper labor exercise. It prohibits the engagement of any person to work against his or her will and desire. Every citizen has a fundamental right against any form of exploitation, with the exception of compulsory service prescribed by law for public purposes. Slavery, serfdom, slave trade, institutions or practices similar to slavery, forced labor, and human trafficking in any form are prohibited by law. The Human Trafficking (Control and Punishment) Act, 2007 is an important enabling law in this respect. The law prohibits any form of slavery and human trafficking in any form and for any purpose. The offenders are liable to punishment of both fine and imprisonment, along with liability to pay compensation to victims.

239. Similarly, article 35 of the Constitution directs the State to pursue a range of policies that are significantly important from the viewpoint of the right to work and employment. Such policies include: policies of raising the standards of living of the general public through development of infrastructures such as education, health, housing and employment; policies of making basic infrastructure to impart technical education, training and orientation for the development of labor-dependent class including peasants and laborers; policies of providing allowances to the aged, incapacitated women and the unemployed; and policies of identifying, protecting and modernizing the traditional knowledge, skills and practices existing in the country.

240. The constitutional as well as legislative framework of Nepal prohibits discrimination in work and employment on the basis of disability. As mentioned earlier, the DPW Act prohibits discrimination in any form in appointments, and promotions, to any governmental service or other public service, on the basis of disability. Section 8 of this Act provides various measures to promote training and employment opportunities for the persons with disabilities. These legislative measures include: making such arrangements as may be necessary for appropriate trainings and employment for the purpose of making persons with disabilities economically independent; providing the persons with disabilities with trainings that enable them to have proper reward of labor in an environment commensurable to their condition; making provisions for the engagement of the persons with disabilities by way of labor supply system, in labor or employment schemes such as open and self-help industry or rural employment; providing the persons with disabilities with additional facilities which are needed at least for the maintenance of normal livelihood; making arrangements to provide the Persons with Disabilities with basic facilities, raw materials, soft loans and market management and necessary protection to operate cottage and rural small scale industries, for providing private employment to the disabled persons only; making arrangements to require the use of such security equipment as may be necessary to secure the persons with disabilities while engaging them in work with any equipment.

241. The Act also provides that a factory which appoints more than 25 labourers should, to the extent available, appoint to appropriate work the persons with disabilities in a number not less than five percent of the total number of labourers, on the basis of their physical capability, training, qualifications and experience. Such Persons with Disabilities labourers are entitled to receive such remuneration as is equal to that payable to the other labourers. Their terms and conditions of service and career development opportunities are also to be the same as of the other labourers.

242. Pursuant to Section 10 of the DPW Act, a factory which provides employment to the persons with disabilities may enjoy the income tax exemption at the specified rate in proportion to the Persons with Disabilities appointed by the factory. The expenses incurred for the special replacement in the equipment of the factory or the spare parts equipped therewith so as to appoint the persons with disabilities may also be calculated in the sum entitled to such exemption, subject to the specified threshold. Moreover, arrangements have also been made to ensure the availability of loans on normal interest rate from banks and financial institutions to social associations, business or industrial enterprises which provide training or employment to them.

243. The Civil Service Act, 1993, in Section 7, provides that forty-five per cent of the posts to be fulfilled by open competition are to be set aside and filled up by separate competition only

between women, indigenous peoples, Madhesi, Dalit, persons with disabilities, and candidates from the backward area. Thirty three percent of the set aside 45 percent posts (which is considered as cent percent) are reserved for women, 27 percent for indigenous peoples, 22 percent for Madhesi, 9 percent for Dalit, 5 percent for the persons with disabilities and 4 percent the backward areas. According to this provision, there will be a competition only between the Persons with Disabilities for 5 percent posts out of the set aside 45 percent posts.

244. The Education Act 1971, in section 16 (e), has the similar provision of reservation in the education service. Similarly, a great number of public corporations have also made similar provision of reservation for the persons with disabilities. For example, the Radio Nepal Employee Bye-law provides for the reservation of five per cent of the vacant posts to the persons with disabilities.

245. The Public Service Commission has made a provision allowing a person with disability candidate who has difficulty to write to be accompanied by a writing assistant in a written exam held by the Public Service Commission. In order to avail of this provision, such a person with disability should make an application and obtain permission beforehand. Section 32 of the Public Service Commission Management Guidelines, 2010 makes provisions to this effect.

246. In relation to the transfer of civil employees, the Ministry of General Administration has adopted a policy of transferring the Persons with Disabilities to the offices which are nearer to their residence or home. The GON has implemented a special scheme named the Per Child Fund for providing employment opportunities to the persons with disabilities. Currently there are 222 blind people employed in the government sector, mostly in teaching.

247. The National Cooperative Development Board Act, 1994 has established a Cooperative Board with an objective to improve socio-economic condition of the poor and the marginalized people through the promotion of mutual cooperation and support among them. The Board provides money (grant and loan) to co-operative organizations for the development work. Many co-operative groups established by the persons with disabilities have benefited from this provision and created employment opportunities to the families of the Persons with Disabilities. In some districts, the Local Bodies grant matching fund to the co-operative bodies established by the Persons with Disabilities.

248. The labor legislations provide for various measures for the security and safety of the Persons with Disabilities in work. The Labor Act, 1992, in Section 38, provides for compensation to a worker in the event that the worker gets physically wounded or sustains serious hurt or dies in course of work. The worker or his or her family is entitled to compensation. The Tea Estate Act, 1994 also provides for compensation to the workers if they become disabled in the course of work. The Act categorizes the degree of disability. If a worker becomes 100 percent disabled, the worker is entitled to compensation in a sum equal to his or her four-year salary; and in such a case his or her service may be terminated by the company.

249. The Constitution stipulates several important provisions vis-à-vis the right to form trade union. All citizens have freedom to form unions and associations of their choice; and all workers and employees have the right to form and join trade unions and engage in collective bargaining for the protection of their respective interests, as well as the right to exercise appropriate labour exercise, as provided in law. The Trade Union Act, 1992 regulates the matter of registration and

operation of trade unions. Section 4 of the Act provides that the workers of an enterprise may form an enterprise level trade union for the protection and promotion of their occupational rights. At least 50 trade unions or 5,000 workers of enterprises of a similar nature can form a trade union association, and at least 10 trade union associations can form a trade union confederation. Pursuant to Section 8, a trade union is an autonomous body corporate with perpetual succession. Currently, there are ten registered trade unions in Nepal. The Persons with Disabilities workers and employees are entitled to form and join trade unions for the protection of their interests, on an equal footing with other workers and employees.

250. The civil society organizations, as well as international governmental organizations, have also contributed to the provision of employment opportunities to the persons with disabilities. Importantly, CBR and disability empowerment activities run by these organizations provide micro finance to the Persons with Disabilities for their self-employment.

Article 28 - Adequate Standard of Living and Social Protection

251. The Constitution, in Article 18, provides the right relating to social security as a fundamental right. Accordingly, the women, labour, aged, disabled, incapacitated and helpless citizens have the right to social security, as provided in law. The State is obliged to pursue a policy of establishing the rights of all citizens to education, health, housing, employment and food sovereignty and of providing socio-economic security including the land to the economically and socially backward classes. Moreover, one of the directive principles is to adopt a policy of making special provision of social security for the protection and progress of the single women, orphans, children, the helpless, the aged, the disabled, incapacitated persons, and tribes on the verge of extinction. Various policy, legal and institutional measures have been adopted to materialize these provisions and ensuring the right to social security.

252. Senior citizens experience disability in different forms and old age is one of the causes of disability. In view of this fact, the GON has adopted policy, legal and institutional measures for the protection of the rights and interests of senior citizens. The GON has implemented the Policy on Senior Citizens, which aims, *inter alia*, to make senior citizens capable enough, develop more respectable family based social security systems, categorize senior citizens according to economic status for monthly allowances, establish geriatric wards in all zonal hospitals for concessional health care facilities to senior citizens, develop old age homes in all regions, and encourage NGOs and private institutions to run such homes, and utilize the experience of senior citizens in the nation building.

253. The Act Relating to Senior Citizens, 2006 is a specific legislation for the protection and social security of senior citizens and enhancement of trust, respect and good faith towards them by utilizing knowledge, skills, capability and experiences inherent in them. This legislation establishes the duty of all to respect senior citizens and that of the family members to maintain and care them. It entitles the senior citizens to a range of facilities and concessions including on health, water, electricity, telephone and transport services. As an institutional mechanism for the implementation of the Act, a central senior citizen welfare committee has been established under the chairpersonship of the Minister for Women, Children and Social Welfare, with responsibilities to make policy recommendation to the GON and implement the policies, plans and programmes as approved. Similarly, a district senior citizen welfare committee has been formed in each district for the implementation of the district level programmes. A senior citizen

ADVANCE UNEDITED VERSION

welfare fund has been established for the protection and social security of senior citizens. Care and day care service centers have also been established under this Act.

254. A regulation to implement the Act is being drafted with urgency. Moreover, the Senior Citizen Health Treatment Service Programme Guidelines, 2004, Senior Citizen National Action Plan, 2005, Social Security Programme Operation Working Methods, 2006 are also in force. The GON has been providing a monthly allowance to senior citizens above 70 years of age, with 65 years of age for those in the Karnali Zone. Senior citizens above 75 years of age are entitled to free medical treatment of severe diseases like heart, kidney and cancer. Moreover, a range of public service employment and labour related laws and policies provide for social security measures including provisions of gratuity, pension and compulsory provident fund for employees and workers, with special focus on those from the vulnerable or marginalized groups or communities.

255. In order to secure wider implementation of the principles and decisions on senior citizens as contained in the United Nations Principles for Older Persons 1991, Macau Plan of Action of Ageing 1998 and Madrid International Plan of Action on Ageing 2002, the Senior Citizen National Plan of Action, 2005 has been formulated and implemented. It strives to address several important aspects of senior citizens, such as: making their life convenient, utilizing their knowledge, building necessary infrastructures to enable them to live a dignified life in the society, developing respect and a sense of duty in the new generation for them, and creating the environment conducive for their economic and social security, and protection of their rights and welfare.

256. The Plan of Action has focused on the collaborative mechanism between the government, NGOs and the private sector in its implementation.

257. In FY 2009/10, one health shelter for elderly citizens was established in each of the five Development Regions, in order to provide appropriate care and medical treatment to the conflict-affected elderly citizens. Health treatment programmes are in operation in all 75 districts. Institutional support and some grants are available to old age homes and daytime service centers. Allowances for senior citizens, helpless widows and Persons with Disabilities have been increased. The senior Persons with Disabilities are also equally entitled to enjoy these social security measures available to the senior citizens.

258. The DPW Act, in Section 4, provides for the protection of the interests of the Persons with Disabilities. The GON is required to make appropriate provisions as required to make available necessary medicines and health services to such Persons for the treatment of their disability. It is also required to make them have such accessories, equipment and tools as are required to minimize the adversaries likely to occur due to their disability to the maximum extent possible and to have acquisition of capacity to work. The GON is required to provide them with welfare assistance and services to rehabilitate them educationally, professionally, economically, physically, mentally, socially and to make them fully participate in the community on the basis of equality.

259. Section 10 of the DPW Act provides for facilities and concessions to the Persons with Disabilities. If any homeless Persons with Disabilities need land for residence or cultivation, the GON makes available the land to them. The GON may make arrangements for the disabled

ADVANCE UNEDITED VERSION

homes for the aged disabled and helpless disabled to live in and for instruments for entertainment and spending time with comfort in such disabled person homes. The DPW Act has provision of unemployment allowances, living allowances, aged persons pension and special allowance for the Persons with Disabilities who are unable to earn livelihood on their own. Moreover, it is the legal obligation of the family member, guardians of or heir to a person with disabilities to take care of and maintain him or her.

260. The Act Relating to Children, 1992 exempts the ceiling of age for children with disabilities to stay in child welfare homes. In pursuance of the National Policy and Plan of Action on Disability, 2006 and the SLTHP (1997-2017), the GON has implemented a National Child Disability Management Strategy, 2007. Health institutions at all levels are providing rehabilitation and treatment services to children with disabilities, below 14.

261. Domestic air travel fare has been fixed at 50 per cent discounted rate for the Persons with Disabilities, customs duties on accessories of the Persons with Disabilities are exempted, health services are provided free of cost, and the taxable income ceiling is higher for the Persons with Disabilities. In addition, regional and district level trainings on various subjects, including employment and business, have been provided by 35 NGOs for the Persons with Disabilities in 48 districts; aids and artificial limbs have been provided free of cost to 2,000 Persons with Disabilities each year; campaigns for prevention and reduction of disability have been launched in 47 districts, with coverage of DPT and polio vaccination, nutrition programme, and early childhood development; education and consultancy services have been launched in 63 districts; experimentation of signal education system has been conducted in 80 schools of 8 districts; social security allowance is being provided to 50 persons in each district, and so far 3,700 Persons with Disabilities have benefitted from this scheme.

262. A separate unit has been set up at MOWCSW to carry out activities for the economic, social and political empowerment of the Persons with Disabilities. A national commission on empowerment and development of Persons with Disabilities at the center, and a committee on empowerment and development of Persons with Disabilities at the district level has been proposed for the implementation of programmes on the Persons with Disabilities. Similarly, grants and technical assistance have been provided to the National Federation of Persons with Disabilities and relevant NGOs. Community participation and mobilization has been forged in running rehabilitation and resource centers and other programmes so that community ownership in these programs can be further strengthened. Appropriate policies and regulations will also be developed to hand over the ownership of these centers to the communities.

263. The MOWCSW monitors the implementation of programs at the center while the WCDOs monitor such implementation at the district level. Based on the reporting from the district level, future plans and programs are set in view of economy, efficiency and effectiveness, in a collaborative and coordinated manner.

264. The MOFALD has implemented Working Procedures on Social Security, 2010. The Working Procedures classify disability into two categories for the purpose of the distribution of disability allowances as universal cash transfer. The first category comprises the complete severe disabled, defined as those disabled who cannot perform any activities of daily living even with the help of others. The second category comprises the partially severe disabled, defined as those disabled who can perform activities of daily living only with the help of others. The Persons with

Disabilities falling in the first are entitled to a monthly sum 1,000 rupees while those falling in the second category are entitled to a monthly sum of 300 rupees as the social security allowance. In FY 2013/14, a total of 25,492 completely disabled persons received a total of 25 million 492 thousand rupees as the social security allowance.

265. The GON remains effortful to achieve the State's fundamental economic objective of transforming national economy into an independent, self-reliant and progressive one, through equitable distribution of economic gains, social justice and elimination of economic inequalities. The Tenth Plan, which is also known as the Poverty Reduction Strategy Paper (2002-2007), identified poverty alleviation as its overall objective. Its major four pillars were: broad-based and sustainable economic development; social development; programs targeted to the vulnerable or marginalized groups or communities; and good governance.

266. In order to support the targeted programs, the Poverty Alleviation Fund (PAF), has provided resources directly to its beneficiaries i.e. the vulnerable or marginalized groups or communities, being always guided by the principle that the poor themselves are the best to manage their own needs and resources. The PAF has four pillars of its activities: social mobilization and empowerment; income generation and self-employment; community infrastructure; and capacity building. It has reached the poor through partnership with partnership organizations (POs) and CBOs. The CBOs are organized from households selected through well-being ranking during the process of social assessment. Only hard core, medium poor and poor are organized into the CBOs to ensure that the poor take decisions for themselves. At least 80 percent of the CBO members must be from poor women, *Dalits* and nationalities, and 50 percent members must be women.

267. The PAF has now reached 40 poorest districts, including all 25 most deprived districts. It has covered all five districts of the Karnali Zone, and is now working in 129 VDCs, out of 134, benefiting 50,924 poor households. Eight years on the ground, the PAF has helped 543,263 poor organized in 14,827 CBOs to realize their dream of securing livelihood and a dignified life. It has implemented 13,810 income generation and 2,740 infrastructure related sub-projects.

268. It is to note that 65.7 per cent of the CBO member beneficiaries fall under the hard core poor category, 25.6 per cent, under the medium poor category, 8.6 per cent, under the poor category, and 0.1 per cent, under the marginal non-poor category. Also, the 29 per cent of the CBO member beneficiaries are *Dalits*, 27 per cent are nationalities and 62 per cent are female and similar is the trend in terms of key position holders of the CBOs. Not only in numbers, PAF has brought about qualitative changes in the lives of the poor with marked increase in education, health, women participation and empowerment, collectivism and social relations as well.

Article 29 - Participation in Political and Public Life

269. The Constitution guarantees the right of citizens to participation in political and public life. Every citizen of Nepal has the right and opportunity without any distinctions and unreasonable restrictions to participate in the conduct of public affairs, directly or through their representatives, to vote and to be elected at genuine periodic elections, and to have access, on general terms of equality, to public service in the country. A range of measures have ensured this right.

270. Article 12(3)(d) of the Constitution ensures the right to freedom of associations. The exercise of this right is subject to such reasonable restrictions as may be imposed by law for the protection of the sovereignty and integrity of Nepal, of harmonious relations between peoples of various castes, tribes, religions or communities, and of public morality, and for the prevention of violent activities. The Associations Registration Act, 1997 and National Guidance Act, 1961 also provide for establishment and operation of associations for benevolent and social activities. The Persons with Disabilities are also entitled to establish and operate any associations to serve their interests. The National Federation of the Disabled Nepal (NFDN) is active in the promotion and protection of the rights of the Persons with Disabilities. It is affiliated to the Disabled People's International (DPI) and other international bodies established to safeguard the rights of the Persons with Disabilities. It has established its branches in various parts of the country and has member organizations in all 75 districts. Similarly, disability specific associations and federations like NADH Federation, NAB, and Federations of Parents with Intellectually Disabled have also been active in promoting and protecting their rights.

271. This freedom of association is also exercised through the formation of political parties, trade unions, associations, professional organizations, NGOs and other societies. Establishment of political parties is a basic freedom of citizens of the country, and the Constitution provides for certain basic rules in regard to the establishment, management and operation of political parties.

272. The Constitution provides for the election to the CA by universal and equal suffrage. Every citizen of Nepal having attained the age of 18 is entitled to vote in accordance with law. A citizen of Nepal, who has attained the age of 25, who is not convicted of a criminal offence involving moral turpitude and not disqualified by law, and does not hold any office of profit, has the right to be elected at the election to the CA. To achieve inclusiveness and enhance people's participation in the polity, Article 63 of the Constitution has adopted a parallel electoral system in electing the CA.

273. The Local Self-Governance Act, 1999 and the Local Body Election Procedure Act, 1992, are legislative measures that provide for participation of people in the local self-governance. Periodic elections by universal and equal suffrage and secret ballot are the cardinal pillars of these legislations. The Constitution has explicitly provided that the provision of local-self governance authority is to be made based on decentralization and devolution of authority to promote public participation in the system of governance by creating atmosphere conducive to the exercise of sovereignty of people, deliver services to the people, and have institutional development of democracy, at and even from the local level. In a nutshell, the legal framework does not prevent the Persons with Disabilities from being a voter and elected in any election.

274. The Election to the Members of the Constituent Assembly Act, 2007 makes a special provision for the Persons with Disabilities to ensure that they participate and vote in the election to the CA. Section 46 of the Act deals with the Persons with Disabilities voters. It provides that if any voter being unable to vote by himself or herself owing to physical disability or other reason requests for permission to be accompanied by any person whom he or she trusts, the polling officer shall, if he or she considers it to be reasonable, allow such a person accompanied by the voter to enter into the voting compartment. Similarly, if such a voter requests the polling officer to mark his or her vote in the box containing the symbol of his or her choice on the ballot paper or requests the polling officer for permission to be accompanied by another person to mark his or her vote in the box containing the symbol of his or her choice, arrangements have to be made so

that the polling officer or the person whom the voter has, with free will and consent, chosen on his or her behalf, shall assist the voter in marking the vote. However, the Election Commission has power to make special arrangement for voting by the blind, disabled, elderly persons, pregnant women and other voters suffering from other similar physical infirmities.

275. The GON has appointed and nominated the Persons with Disabilities in various committees formed by it in order to ensure their representation in the policy making. For example, the Local Peace Committees (LPCs), School Management Committees, VDC and DDC Councils have representation from the Persons with Disabilities or the representatives of DPOs.

Article 30-Participation in Cultural Life, Recreation, Leisure and Sports

276. Article 3 of the Constitution stipulates that having common aspiration of multiethnic, multilingual, multi religious, multicultural characteristics and having committed and united by a bond of allegiance to national independence, integrity, national interest and prosperity of Nepal, the Nepalese people collectively constitute the nation. This constitutional stipulation is the key spirit of the social relation of the Nepalese people with each other. It implies that every ethnic group, culture, language, and territorial or regional identity commands equality in treatment and advantage.

277. All the languages spoken as the mother tongue in Nepal are constitutionally recognized as national languages. The Nepali language in the *Devnagari* script is the official language. Accordingly, each community residing in Nepal has the right to get basic education in its mother tongue, and to preserve and promote its language, script, culture, cultural civilization and heritage. Article 17(3) of the Constitution entitles each community to preserve and promote its language, script, culture, cultural civilization and heritage. Similarly, under Article 23 of the Constitution each person has the right to profess, practice and preserve his or her own religion as handed down to him or her from ancient times, having due regard to the social and cultural traditional practices. Every religious denomination has the right to maintain its independent existence to operate and protect its religious sites and trusts in accordance with law. The Constitution has explicitly directed the State to eliminate social and economic inequalities, maintain and promote plurality and diversity of cultures.

278. Recently, the GON has adopted a national culture policy to protect tangible and intangible culture, and promote cultural and religious harmony and co-existence, founded on the notion of national unity and secularism. Nepal has ratified the Convention for the Safeguard of Intangible Cultural Heritage, 2003. The Nepal Academy Act, 2007, Nepal Fine Arts Academy Act, 2007 and Nepal Music and Dance Academy Act, 2007 are some legal measures to ensure protection, promotion and overall development of various disciplines of culture and cultural heritages of the country. The Department of Archeology, *Guthi Sansthan*, Cultural Corporation, NFDIN, and Nepal Academy are some of the important institutions involved in the protection of this right.

279. A large number of development boards and trusts have been formed for the protection of culture, religion, arts, languages and scripts. The Department of Archaeology, under the Ministry of Federal Affairs, Constitutional Assembly, Parliamentary Affairs and Culture is responsible for the preservation of heritages. The GON established a Nepal National Ethnographic Museum in 2005 in Kathmandu to preserve different cultures of nationalities. The lifestyles of Brahmin,

Tamang, Gurung, Tharu, Magar, Rai, Newar, Sherpa, Thakali, Chepang, Sunuwar, and Limbu have already been demonstrated in the Museum.

280. The LSGA, 1999 is the legal instrument to institutionalize development process through participation of all people, including the indigenous nationalities, in bringing out social equality and mobilizing resources for the development of their own region and balanced and equal distribution of the fruits of development. Importantly, an indicator for the monitoring and evaluation of projects is that at least 30 per cent of the beneficiaries should be from amongst the *Dalits* and IPs at the local level.

281. The DPW Act, in Section 5 prohibits denying to a disabled person, solely on the basis of disability, entry into any association or club or community or function providing education or training or launching social or cultural program in the country. Section 10 (2) of the Act provides for according priority to the Persons with Disabilities in the provision of appropriate training, teaching and other arrangements to facilitate the participation of the Persons with Disabilities in sports, entertainment or cultural exhibition or show.

282. The GON has taken various steps to increase participation of the Persons with Disabilities in the mainstream sports activities. The National Sports Policy, 2010 has adopted an approach to develop and expand para-sports to encourage the Persons with Disabilities to participate in the sports of their interest. The Policy has also made provision to organize various para-sports competition in order to bring the Persons with Disabilities in the mainstream development and heighten their self-esteem. The Special Education Council organizes yearly sports and cultural programs for the children with disabilities, and the Feeble Minded Welfare Association holds, through the special Olympic, regular programs for the children with feeble mindedness.

283. The NPPAD 2006 has provision of special sports, cultural and recreational activities for the physical, mental, intellectual and social development of the Persons with Disabilities. The activities set to this end include: conducting training of trainers programs to operate sports, cultural and recreational activities for the children with disabilities; making policy provision to ensure representation of the Persons with Disabilities in the National Sports Council; and organizing sports and cultural activities in the schools and providing necessary materials to the schools. The Thirteenth Plan has policy activities to organize regular sports and recreational activities for the Persons with Disabilities.

284. The GON has provided financial support to organize para-olympic games in the country and supported the participation in international para-olympic competitions. Similarly, it has also supported to organize sports for the Persons with Disabilities, such as wheelchair marathon, wheelchair basketball and blind crickets.

Article 31-Statistics and Data Collection

285. The Central Bureau of Statistics (CBS), which was established by the Statistical Act, 1958, is responsible for the collection, consolidation, publication, and analysis of statistics. It has a sole responsibility to generate database by conducting censuses and surveys for backstopping formulation of government policies and programs and monitoring its progress. In order to

accomplish censuses, the CBS works with the representation of line ministries and with a number of institutions temporarily formed to provide technical as well as professional support.

286. The question on disability was included in 2011 National Population Census (NPC). The questionnaire employed in NPC 2011 provided spaces to record information on disability from household members. But it would be necessary for respondents to understand the types and kinds of disability they are speaking of. A single question with multiple choices was modified for disability. This method is perceived not to be in sharp tune with the UN guidelines, which recommend that each domain of disability should be asked through a separate question.

287. The MOWCSW has prepared a standard format for the disability survey. The DDCs, in co-ordination with DPOs and NGOs working in disability, have collected data on disability through the country. Special software has been developed in order to systematically enter and analyze the data. The MOWCSW has already started the process of data entry and analysis.

288. Since a VDC has the responsibility to provide a recommendation for the disability identity card, it maintains register of all the Persons with Disabilities. At the district level Women and Children Development Office (WCDO) maintains records of people who have received the disability identity card. Therefore, the disability data is maintained at all levels.

Article 32-International Cooperation

289. According to Article 34 of the Constitution, in its international relations, Nepal is to be guided by the objective of enhancing the dignity of the nation in the international arena by maintaining its sovereignty, integrity and independence. Article 35 of the Constitution provides that the foreign policy of Nepal is to be based on the principles of the United Nations Charter, nonalignment, the principles of Panchsheel, international law and the norms of world peace. Similarly, Nepal is to pursue a policy of making continuous efforts to institutionalize peace in Nepal through international norms and values, by promoting cooperative and good relations in economic, social and other spheres with neighboring friendly nations and all other countries of the world, on the basis of equality.

290. The Social Welfare Council (SWC), which was established by the Social Welfare Act, 1992, is responsible for co-ordination of the activities of various social development organizations. Any foreign nongovernmental organization which desires to carry out any activity within Nepal has to obtain prior permission from the SWC to carry out the activity. An agreement is to be concluded between the SWC and the organization on the terms and conditions to be followed by the organization while carrying out the activity.

291. The Foreign Aid Policy, 2002 has acknowledged that foreign aid continues to play an important role in Nepal's development. Apart from its contribution to sustaining public investment, foreign aid is crucial to meeting the objective as articulated in the recent government's periodic plan through achieving high and sustainable rates of economic growth.

292. The GON has instructed the INGOs to make their programs and projects inclusive to the Persons with Disabilities. Most of the INGOs have adopted disability inclusive policy.

Association of INGOs in Nepal (AIN) has identified disability as one of their areas of work and has formed Disability Working Group within AIN. The AIN has taken initiatives to sensitize the INGOs to make their programs and activities inclusive to the Persons with Disabilities.

293. Various international agencies such as International Handicap (HI), Nepal UNICEF, Plan Nepal are providing support for the development of People with Disabilities and other international agencies have shown interest to support in this area.

Article 33-National Implementation and Monitoring

294. The GON believes that an effective multi-sectoral coordination is essential to ensure the implementation of the CRPD up to the grassroots level. The GON has formed institutional mechanism from the central to the district level. At the central level, a National Disability Coordination Committee has been formed under the chairmanship of the Minister for Women, Children and Social Welfare. The Committee consists of the representatives from the relevant ministries, civil society, DPOs and experts in the field of disability and rehabilitation. Representation from the persons with disabilities into the Committee would be desirable.

295. The MOWCSW is the focal ministry responsible for making coordination with all government and non-government institutions. The GON has nominated a first class officer (Joint Secretary) as a focal person for disability in each Ministry. The focal person should ensure that the provisions of the CRPD are implemented by the Ministry. The central and regional offices of the NHRC monitor the human rights violations, register the cases of human rights violations and take necessary actions.

296. At the district level, the Office of Women and Children is the focal point, which is responsible to co-ordinate with all government agencies and non-governmental organizations. The Chief District Officer (CDO) as the administrative head of the district is responsible to ensure that the rights of the Persons with Disabilities are protected.

297. In most of the districts, the District Disability Co-ordination Committee (DDCC) and CBR monitoring committee have also been formed. The CBR monitoring committee ensures that the CBR implemented under the government funding is implemented as per the plan and DDCC looks into broader issues of disability and development. Moreover, a disability identity card distribution committee has also been formed in all districts, which includes a medical doctor from the district hospital. The committee works in close cooperation with the DPOs and CBR programs in the district.

VII. CONCLUSION

298. The GON perceives that making public places, motor vehicles and services disabled friendly, making the Persons with Disabilities self-reliant by providing them with self-employment skills and making effective the production and distribution of such services, facilities and artificial devices are some challenges that need to be addressed. Various programmes are in operation for persons with disabilities such as community-based rehabilitation, special needs education, inclusive education, free assistive devices,

awareness-raising, audio visual materials, inclusive polices, institutional development, and grants and social security allowance in line with the State's commitments under the Convention on the Rights of Persons with Disabilities and its Optional Protocol, 2006. However, some major problems still persist. Among them are the lacks of facilities for persons with disabilities; limitations in service delivery and the absence of adequate programmes that promote employment or self-employment for persons with disabilities.

299. In view of the nature of problems and challenges, domestic efforts alone would not be sufficient to achieve a desired level of protection and promotion of the rights of the Persons with Disabilities on the ground and fulfill international treaty obligations. The GON believes that a proper implementation of policies, plans and strategies is crucial to achieve sustainable results. Nepal has been able to obtain development assistance from various international institutions and governments. Such assistance has made a significant contribution to social and economic development, which has resultantly supported the human rights related measures.

300. The GON feels a need for capacity building and technical assistance in order to, *inter alia*, forge further effective collaboration with the civil society, to engage further with the UN human rights treaty mechanisms, to make legislative and institutional reforms, to provide further training to the local authorities on the importance of applying the principles of human rights, and to enable the civil society to be further effective in contributing to the promotion and protection of the rights of the Persons with Disabilities.

301. The protection and promotion of human rights remains at the center of social, economic and political transformation process of Nepal. Nurturing the roots of democracy particularly in post conflict societies also requires continued international goodwill, understanding and support. While appreciating the valuable cooperation and support from the international community, the GON hopes to continue receiving even an enhanced level of support in its efforts to firmly institutionalize peace building efforts, create a web of national democratic institutions and expedite the socio-economic transformation.