



**International Convention on  
the Elimination of All Forms  
of Racial Discrimination**

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**Committee on the Elimination of Racial Discrimination**

**Consideration of reports submitted by States  
parties under article 9 of the Convention**

**Seventeenth to twenty-third periodic reports of States parties  
due in 2008**

**Nepal<sup>\*</sup>, <sup>\*\*</sup>**

[Date received: 25 January 2017]

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\* The present document is being issued without formal editing.  
\*\* Annexes can be consulted in the files of Secretariat.

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## Part I Introduction

### I. Background

1. Nepal acceded to the International Convention on the Elimination of All Forms of Racial Discrimination on 30 January 1971. The present report combines the seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty- second and twenty- third reports of Nepal covering the period from 2002 to 2016.

2. On 21 November 2006, ten-year long armed conflict formally ended with signing of the Comprehensive Peace Accord (CPA) between the Government of Nepal (GoN) and the then Communist Party of Nepal (Maoists). On 15 January 2007, the Interim Constitution of Nepal, which replaced the Constitution of the Kingdom of Nepal, 1990, was promulgated to institutionalize the political achievements including full democracy, inclusion, republican form of government, federalism and secularism as mandated by the People's Movement of 2006. It paved the way for making a new constitution through elected Constituent Assembly.

3. Election to the CA was held on 10 April 2008. The CA was well represented with women, Dalits and people from indigenous nationalities along with marginalized communities. On 28 May 2008, the CA declared Nepal as a secular and Republican State. Despite continuous efforts to promulgate a new constitution within stipulated time, it failed to do so during its tenure. Consequently, a fresh election for CA was held on 19 November, 2013.

4. All together 28 political parties secured seat in the second election of the CA through FPTP and PR process. The inclusiveness of various disadvantaged groups remains impressive as it was in the former CA. The representation in the 2nd CA is given below.

#### Representation in CA based on caste and ethnicity

<i>SN</i>	<i>Community</i>	<i>Representation (Current)</i>
1	Women	171 (28%)
2	Indigenous Peoples (Adivasi/ Janajati )	173 (28%)
3	Madheshi	161 (26%)
4	Dalit	40 (7%)
5	Backward Region	21 (3.5%)
6	Khas Arya (Bahun Chhetri)	221 (36%)

*Source:* Election Commission, 2014.

5. Nepal received the new constitution, herein after referred to as the Constitution, on 20 September 2015 after rigorous democratic exercise conducted in transparent manner. The Constitution ensures the fundamental values of democracy including the competitive multi-party democratic system of governance, 31 fundamental rights including rights against untouchability and caste-based discrimination, adult franchise, periodic elections, freedom of the press, independent judiciary and concepts of the rule of law.

6. Following the promulgation of the new Constitution, the tenure of the CA automatically terminated and it has been converted into the Legislature-Parliament. On October 12, 2015, a new government was formed from the Legislature-Parliament. The

fundamental goal of the subsequent governments is to effectively implement the Constitution by removing the structural and functional obstacles and challenges in the way of socio-economic transformation of the country. The Government has started to take every measure in order to accelerate the new phase of reconstruction of the State and to formulate necessary legislative and policy tools needed for the smooth operationalization of the Constitution. Furthermore, the Legislature-Parliament has made first amendment of the Constitution to address the demand and concerns of Madhesh based political parties. The amendment ensures proportional inclusion of the marginalized and disadvantaged in the State bodies (in Article 42 regarding Right to Social Justice); and delineation of electoral constituencies primarily based on population and secondarily based on geography.

## II. Methodology and Consultation Process

7. A cross-sectoral committee was constituted by the Ministry of Federal Affairs and Local Development under the National Dalit Commission (NDC) to prepare this report. The committee held extensive discussions and dialogues with governmental institutions, national human rights institutions, representatives of Dalit and Indigenous People's organizations, various civil society organizations, non-governmental organizations (NGOs) and media. A series of interactions was also held for deliberations on the contents of the Report. The harmonized guidelines on reporting (HRI/GEN/2/Rev.6) and Guidelines for the Treaty Specific document (CERD/C/2007/1) to be submitted under Article 9 of the CERD have broadly been followed. The measures taken to implement the Concluding Observations/Comments on the 16th Report of the CERD Committee have been included in a separate section of this report.

### Section I

#### General information

8. Nepal is a multi-ethnic, multi-lingual, multi-religious, multi-cultural, independent, indivisible, sovereign, secular, inclusive and federal, democratic republican State. As per the 2011 census report, there are more than 125 caste/ethnic groups speaking 123 mother languages and dialects.<sup>1</sup> The Nepali language is the official language and all the spoken languages throughout the country are considered as national language. Local bodies are authorized to use local languages as official language. As per the 2011 census, the majority of the population is *Hindu*, followed by Buddhists, Muslims, *Kirats*, Christians, *Sikhs and Jains*. The GoN has enlisted 59 groups of indigenous nationalities.

9. Nepal has ratified 24 human rights instruments including the seven core human rights conventions out of nine.<sup>2</sup> Continuous engagement with the UN system and other international organizations for the protection and promotion of human rights is cardinal policy of the GoN. Nepal has been working closely with the UN human rights mechanisms including Treaty Bodies, mandate holders under special procedures, and UPR process. Nepal is also committed to ensure that the people enjoy the universally declared human

<sup>1</sup> A detailed data of Census report is given in Annex-1.

<sup>2</sup> International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Convention on the Elimination of Discrimination Against Women; International Convention on the Elimination of all Forms of Racial Discrimination; Convention on the Rights of the Child; Convention on the Rights of Persons with Disabilities.

rights with no discrimination on the ground of caste, creed, race, religion, age, sex, origin, ideological conviction and any physical disability.

## Section II

### Normative and institutional framework

10. The normative and institutional framework for the protection and promotion of human rights in Nepal are set out in the Constitution, relevant laws, policies and judicial decisions.

#### A. Normative Framework

##### 1. *Constitutional Framework*

11. The new Constitution of Nepal contains a comprehensive list of fundamental rights, and provisions for the effective protection of Dalits and other marginalized groups of the country. It provides for 32 different rights as fundamental rights<sup>3</sup> in line with the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), ICERD and other international human rights instruments.

12. The Constitution recognizes ‘the right against untouchability and caste-based discrimination’ and ‘the rights of *Dalits*’ as fundamental rights. Any discriminatory treatment on the ground of origin, caste, creed, ethnicity, sex, profession, political opinion, physical disability etc. is outlawed and also entails compensation to the victim as provisioned by law. Any act depriving any person of a particular caste or tribe of services or facilities or reflecting any superiority or inferiority of persons belonging to any caste or justifying social discrimination on ground of caste is punishable. The Constitution prohibits caste-based discrimination not only in public places but also in private.

13. The institutional safeguards for the rights guaranteed in the Constitution include an independent judiciary and the separation of legislative, judicial and executive functions. The Supreme Court is empowered to test the constitutionality of all legislations, and the legality of executive and administrative decisions. The Supreme Court can issue the order or habeas corpus, mandamus, certiorari, prohibition and other appropriate order for protection of individual rights and to provide immediate relief to the victim.

##### 2. *Legal Framework*

(a) As a specific legislation, “The National Foundation for Development of Indigenous Nationalities Act, 2002 (NFDIN 2002)” provides adequate provisions to recognize, protect and fulfil basic rights of Indigenous Peoples (IPs). The Act has listed 59 indigenous groups which is not exhaustive as the GoN is authorized to include concerned

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<sup>3</sup> The Constitution of Nepal, 2015, Part 2, Art. 10: right to citizenship and Part 3, Arts. 16 through 46. The fundamental rights are: right to freedom and liberty; right to equality; right against untouchability and racial discrimination; right of Dalits; right of senior citizens, rights regarding publication, broadcasting and press; right regarding environment and health; right to education, right to language and culture; Right to employment and social security; right to property; rights regarding food; right to shelter; rights of women; right to social justice; rights of children; right to religion; rights regarding social security; right against preventive detention; right of victim, right of consumers; right against torture; right to information; right to privacy; right against exploitation; right regarding labour; right against exile and right to constitutional remedy.

communities as indigenous group subject to the provision of the Act. The section 2 (a) of the Act defines IPs as a group having own mother language, traditional rites and customs, distinct cultural identity, distinct social structure and written or unwritten history.

(b) The Local Self-Governance Act, 1999 recognizes the effective and meaningful participation of all the people including the ethnic communities, indigenous people and down-trodden as well as socially and economically backward groups in bringing out social equality in mobilizing and allocating means for the development of their own region and in the balanced and equal distribution of resources. The Act provisions for the representation of women, socially and economically backward tribes and ethnic communities, down-trodden and indigenous people living within the area at all level of local bodies.

(c) Good Governance (Management and Operation) Act, 2008 has directed the GoN to pursue a policy to uplift ethnic group, Dalit and economically backward people, inter alia, with the policies stipulated in the Constitution and other prevailing laws and the policies pursued from time to time.

14. Specific laws have been enacted to protect and promote other specific rights of children, persons with disabilities and women such as, Children Act, 1992; Child Labour (Prohibition and Regulation) Act, 2000; Protection and Welfare of Persons with Disabilities Act, 1982; Labour Act, 1992; and Trade Union Act, 1992; Bonded Labour (Prohibition) Act, 2002; General Code, 1963 (rights of women regarding property, inheritance, marriage, abortion); Some Nepal Acts Amendment Act to end gender based violence and maintaining gender equality, 2015; Witchcraft Practicing (Offence and Penalty) Act, 2015; and Sexual Harassment at Workplace (control) Act, 2015.

15. A comprehensive legislation, the Caste-Based Discrimination and Untouchability (Offence and Punishment) Act, 2011 ensures the legal rights of Dalits and effective remedy mechanism. The full text of this Act is at Annex -2.

### 3. *Policies*

16. Nepal has pursued a series of policy on human rights. The current 13th Three Year Plan (2013/14-2015/16) has adopted three approaches, i.e. access, inclusion and equity to all segments of society in the process and outcome of all developmental activities of the State. Specific strategies have been outlined to ensure inclusion of women, Dalits, Indigenous peoples and nationalities, Madheshis, Muslims, backward and deprived communities, people with disabilities, sexual/gender minorities, rural hills and mountain regions in state affairs.

17. The MoFALD has been implementing the Management Directive on Resource Mobilization of Local Authorities (MDRML), 2012 with the objectives of institutionalizing the inclusive development by empowering and strengthening IPs and other targeted groups. In compliance with the Directive of strengthening capacity of the local authority, 2009, budget has been allocated for IP, Dalits, backward communities, people with disabilities, elderly people, among others, for skill development and welfare activities. Similarly, the Local Bodies have allocated resources to the targeted groups particularly, IPs, Dalits and other marginalized people for their capacity enhancement as per the Directive of Social Mobilization of Local Authority, 2009.

18. In pursuance of 1993 Vienna Declaration and Programme of Action, Nepal has been implementing National Human Rights Action Plan since 2004. The current Action Plan (2014-2019) outlines specific activities under 18 thematic areas<sup>4</sup> including the revision of

<sup>4</sup> The thematic areas are: 1. Education 2. Health, nutrition and population 3. Labor and employment 4. Culture 5. Legal reform and administration of justice (enactment of law, law reform and the court) 6.

existing laws in line with the international human rights standards to ensure rights of IPs, Dalits and marginalized groups. The Plan has established implementing and monitoring mechanisms from the center to the district levels.

#### 4. *National Jurisprudence*

##### *Acceptance of International Human Rights Norms*

19. Nepal's commitment towards international human rights norms and principles is evident from the Preamble and Chapter on fundamental rights of the Constitution. The competitive multi-party democratic system, fundamental rights, human rights, universal adult franchise, and periodic election, freedom of the press, independent judiciary, and concept of the rule of law are basic features of the Constitution. Article 279 of the Constitution has 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.

### **B. National Institutional Framework**

#### 1. *National Human Rights Institutions*

20. In order to ensure human rights of its citizens and to promote inclusive development, Nepal has constituted a number of institutions.

21. The National Human Rights Commission (NHRC), an independent constitutional body, is mandated to ensure respect, protection and promotion of human rights of all people. A separate Collective Rights Division which looks after the issues of Dalits and IPs has been established under the Commission. Each year, the NHRC publishes annual report that comprises separate section on the IPs and Dalit rights and includes policy recommendations.

22. The National Foundation for Development of Indigenous Nationalities (NFDIN), established as an autonomous statutory body under the National Foundation for Development of Indigenous Nationalities Act, 2002, is mandated to prepare programmes on social, educational, economic and cultural development of indigenous peoples, and implement those programmes accordingly for their advancement. The NFDIN has played a paramount role in empowering the indigenous nationalities through protecting and promoting their economic, social, cultural and political rights. In addition, Article 261 of the Constitution has the provision to establish an "Indigenous Nationalities Commission" of Nepal for the overall development of indigenous nationalities. A Bill of Indigenous Nationalities Commission has been tabled to the Legislature-Parliament to give effect to the Article 261 of the Constitution.

23. The National Women Commission (NWC), established as an autonomous statutory body under the National Women Commission Act, 2007, has been upgraded as an

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Environment and sustainable development 7. Women, persons with disabilities, elderly citizens and sexual and gender minorities 8. Nepal's international obligations 9. Food security (food purity and sovereignty, production, sale and distribution of healthy agricultural products and consumers' right) 10. Transitional justice and conflict victims 11. Human Rights education 12. Inclusive development - a) Indigenous nationalities and marginalized group b) Dalits c) Backward class/region d) Badi 13. Children (Child rights protection, development and juvenile justice) 14. Housing (Urban development and housing) 15. Social service and security (drinking water, electricity, sanitation and drainage, consumption of natural resources, cooperatives, poverty, sports and road utilization) 16. Execution of Supreme Court Decisions and recommendations of National Human Rights Commission 17. Custody and prison reform 18. Institutional strengthening.

independent constitutional body through the new constitution. The NWC is mandated 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. It consists of one Chairperson and four members appointed by the GoN, including the members from Dalit and Madheshi communities.

24. The National Dalit Commission (NDC), formed by an executive order of 2002, has been upgraded as an independent constitutional body through the new constitution. The NDC is mandated to protect and promote the rights of the *Dalit* community and assist the GoN in *Dalit* upliftment programmes especially in the areas of their rights. It has carried out various important activities, including preparation of required legal measures, working plans, and publication and dissemination of various literatures on *Dalits*. It has been implementing a Five-year Strategy focusing on overall empowerment, protection and promotion of Dalit rights.

25. The National Muslim Commission, established in 2012 by an executive order, has been upgraded as an independent constitutional body to ensure the socio-cultural and religious rights of Muslims.

26. National Inclusion Commission has been established by the new constitution as an independent constitutional body for the protection of rights of marginalized and backward classes. However, this Commission is yet to be constituted.

27. Likewise, the new constitution has established Madheshi Commission and Tharu Commission as independent constitutional bodies to protect the rights of Madheshis and Tharu communities, which are yet to be constituted.

28. The Neglected, Suffered and Depressed Class Upliftment Development Board (known as Dalit Development Committee), established by the GoN in 1997, is mandated for the empowerment and upliftment of Dalit communities and to mainstream them in the development process.

29. The Badi Development Board, established by GoN in July 2012, is mandated to mainstream Badi community of Nepal into development by providing education to their children, employment to the youths and permanent shelters to the families.

## 2. *Office of the Attorney General*

30. The Office of the Attorney General represents the GoN in any courts or bodies of law and has power to conduct prosecution against the alleged perpetrators in the competent courts in order to provide remedy to victims. This office has an important role to ensure justice to the victims of the caste-based discrimination and punish the culprit.

## 3. *Social Justice and Human Rights Committee in Legislature-Parliament*

31. The Social Justice and Human Rights Committee of the Legislature-Parliament is mandated to forward necessary direction and suggestion to the GoN for the protection of human rights of all people. It evaluates and monitors governmental activities on human rights. It deliberates on annual reports of the NHRC. 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.

## 4. *Government Institutions*

32. Various government institutions have been mandated to implement the human rights treaties at the domestic level. The Office of the Prime Minister and Council of Ministers (OPMCM) is the leading government agency responsible for the promotion of human rights

related activities, including governance reform and effective implementation of relevant human rights treaties. It coordinates and harmonizes human rights related affairs of various line agencies. It also oversees the status of compliance with the reporting obligations of Nepal under various human rights treaties to which Nepal is a party. A high level mechanism under the convenership of Chief Secretary on “Promotion of Dalits’ Rights and Eradicating Caste-based Discrimination and Untouchability-2013” has been established.

33. The Ministry of Federal Affairs And Local Development (MoFALD) is the focal Ministry on Dalits and IPs issues. The Gender Equality and Social Inclusion Section (GESI) under the Federal Affairs Division of the Ministry operates and coordinates programs relating to social inclusion of excluded groups including Dalits and IPs. The MoFALD has adopted Gender Equality and Social Inclusion Policy, 2009 with the objectives of motivating MoFALD entities to implement social inclusion through institutional efforts and programs. The policy focuses on development of Dalits and IPs by formulating plans and programs; proportional participation and strengthening IPs and Dalits among other excluded groups in order to implement the international standards relating to rights of IPs and Dalits.

34. The Ministry of Home Affairs has a very important role to play in the protection and promotion of human rights of all people including Dalits and IPs. The Nepal Police, the body responsible to maintain law and order in the country, is also responsible to oversee the situation of caste-based discrimination and to conduct investigation and to bring perpetrators to justice.

35. The Ministry of Law, Justice and Parliamentary Affairs has an important role in revising prevailing legislations in conformity with international standards in order to ensure the rights of Dalits and IPs.

36. The Ministry of Women, Children and Social Welfare is the focal line agency in order to protect the rights of women, children, senior citizens, and persons with disabilities. It is mandated to take legal, policy and programmatic measures for the empowerment of these groups and people.

#### 5. *Civil Society*

37. The civil society has evolved as a vibrant institution significantly contributing to strengthen the democratic system. The Association Registration Act, 1977 and the Social Welfare Council Act, 1992 provide legislative and institutional support for the operation of NGOs and CBOs.

### **C. Scope of International Obligations**

38. Nepal strongly upholds the rights set forth in the Universal Declaration of Human Rights (UDHR) and other international human rights instruments such as ICESCR, ICCPR, ICERD and the principles enunciated in the UN Charter. Nepal is a party to almost all core universal human rights treaties,<sup>5</sup> eleven International Labour Organization (ILO)

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<sup>5</sup> International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); International Covenant on Economic, Social and Cultural Rights (ICESCR); International Covenant on Civil and Political Rights (ICCPR); First Optional Protocol to the ICCPR; Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty; Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); Optional Protocol to the CEDAW; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); Convention on the Rights of the Child (CRC); Optional Protocol to the CRC on the involvement of children in armed conflict; Optional Protocol to the CRC on the sale of children, child prostitution and child pornography; Convention on the Rights of Persons with Disabilities (CRPD); and Optional Protocol to the CRPD.

conventions,<sup>6</sup> and many other human rights related treaties.<sup>7</sup> During this reporting period, Nepal has ratified further international Conventions.<sup>8</sup> Moreover, Nepal is a party to the four Geneva Conventions of 1949. The GoN reaffirms that all human rights are universal, indivisible and interdependent, and full realization of ICERD does not depend only on straight penal legislation but also largely depends on the overall development in education, health, and employment of the citizens. It requires availability of requisite infrastructures and resources at the domestic level as well as international cooperation and technical assistance.

### Section III

#### **Responses to the concerns raised in the concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/64/CO/5)**

39. Nepal has been implementing concrete measures to end deeply rooted practice of caste-based discrimination since long. The General Code (*Muluki Ain*) adopted in 1963 outlawed such practices. Realizing the gravity of the cases related to caste-based discrimination and untouchability, the offence related to such cases has been listed as State Case in which the State carry out investigation and prosecution on behalf of victim under the State Cases Act, 1992.

40. As political commitment to the elimination of all forms of caste-based discrimination, the Parliament, that was reinstated as a result of the historical People's Movement of 2006, proclaimed Nepal as a caste-based discrimination free State on 4 June 2006 and presented 6-points plan of action for the empowerment of Dalits in each and every mechanism of the State. Likewise, the Government has been marking May 24 as the Day Against Caste-based Discrimination since 2010.

41. Nepal is fully committed to the XXIX General Recommendation of the CERD Committee. The general recommendation on different fields such as special measures, civil and political rights, socio-economic rights, right to education, abolition of discrimination and segregation, administration of justice have been addressed in this report.

<sup>6</sup> They are: Weekly Rest (Industry) Convention, 1921 (No. 14); Forced Labor Convention, 1930 (No. 29); Right to Organize and Collective Bargaining Convention, 1949 (No. 98); Equal Remuneration Convention, 1951 (No. 100); Forced Labor Abolition Convention (No. 105); Discrimination (Employment and Occupation) Convention, 1958 (No. 111); Minimum Wage Fixing Convention, 1970 (No. 131); Minimum Age Convention, 1973 (No. 138); Tripartite Consultation (International Labor Standards) Convention, 1976 (No. 144); Worst Forms of Child Labor Convention, 1999 (No. 182); and Indigenous and Tribal Peoples Convention, 1989 (No. 169).

<sup>7</sup> They include: Slavery Convention; Protocol Amending the Slavery Convention; Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery; Convention on the Prevention and Punishment of the Crime of Genocide; Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others; Convention on the Political Rights of Women; International Convention on the Suppression and Punishment of the Crime of Apartheid; International Convention against Apartheid in Sports.

<sup>8</sup> It includes: Convention on the Rights of Persons with Disabilities (CRPD); and Optional Protocol to the CRPD; two ILO Conventions namely, Abolition of Forced Labor Convention, 1959 (No. 105) on 3 August 2007 and Indigenous and Tribal Peoples Convention, 1989 (No. 169) on 14 September 2007. 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.

9. *Political changes and allocation of budget to vulnerable groups*

42. After the end of armed conflict following the political change in 2006, the then dissolved Parliament was reinstated in 2006. Since then, the country has undergone through significant political changes including the promulgation of Interim Constitution 2007, successful election of Constituent Assembly (CA) and promulgation of new Constitution, 2015 through the CA. The country has taken effective and special measures of social inclusion and social security for disadvantaged and vulnerable people. Reservation quotas have been provided to Dalits and IPs in all public services, and at the VDC level (the grassroots level of local government), the GoN has allocated 35% of the development budget for the realization of rights of the women, children, Dalits, people with disability, elderly people and other backward people. The children of Dalit communities under five years of age are provided with nutrition allowance.

10 and 11. *Strengthening of Human Rights Institutions*

43. The GoN has always been supportive to provide budget and resources for the smooth functioning of the NHRIs.<sup>9</sup> The NHRC enjoys structural, functional and financial independence in line with the Paris Principles and have maintained 'A' status.<sup>10</sup> The GoN has been gradually implementing the recommendations of the NHRC. The independence and autonomy of the NHRC guaranteed by the Constitution are further elaborated by the NHRC Act, 2012. The National Human Rights Commission Act has been amended in line with the judgment of the Supreme Court<sup>11</sup>. Furthermore, separate financial rules for the Commission have been approved by the Ministry of Finance for ensuring its financial autonomy. Importantly, Human Rights Service Bill for the NHRC has been approved in principle by the Cabinet.<sup>12</sup> The GoN is committed to extending its full support for the smooth functioning of the NHRIs. The NHRIs have been carrying out their roles and mandates in an independent and effective manner. Considering the importance of National Dalit Commission and National Women Commission, they have been upgraded as constitutional bodies along with other constitutional bodies. The GoN is in the process of drafting necessary bills in order to constitute the commissions in light of the new Constitution.

44. The National Human Rights Commission has established five regional offices and three sub-regional offices with the cooperation of GoN. Besides, that NHRC has been mobilizing other resources from national and international development agencies working in the country. As per the mandate guaranteed by the Constitution and prevailing legislation, the NHRC has nationwide monitoring mechanism for the protection of human rights.

45. The roles and responsibilities of NHRIs are attached in Annex - III.

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<sup>9</sup> National Human Rights Commission, National Women Commission, National *Dalit* Commission (NDC), National Inclusion Commission, Indigenous People and nationalities Commission, *Madheshi* Commission, *Tharu* Commission, National Foundation for Development of Indigenous Nationalities (NFDIN), Badi Community Upliftment and Development Committee, Marginalized and Dalit Upliftment and development Committee, Backward Community Upliftment and Development Committee, and Buddhism promotion and Monastery Development Committee.

<sup>10</sup> The International Coordination Committee of the National Human Rights Institutions has accredited the NHRC with "A" status.

<sup>11</sup> In the case of *Om Prakash Aryal vs. the Government of Nepal*.

<sup>12</sup> The Bill provides for the recruitment of staff in the Commission under the principle of administrative autonomy.

12. *End of caste-based discrimination*

46. With a view to end caste-based discrimination, the Untouchability (Offence and Punishment) Act, 2011 has been enacted, which prohibits and criminalizes all forms of caste-based discrimination and untouchability both in public and private places. The Act has empowered all law enforcement agencies to take appropriate and immediate measures to bring the culprit to justice and provide compensation to the victims of caste-based discrimination. Likewise, in order to promote the inter-caste marriage, the government has been providing Rs. 100,000 (US\$ 1000 approx) to the couples who entered into such marriages (between Dalit and Non Dalits) since the last few years. The GoN has adhered to the principle of equality while providing public utilities and services through State agencies to Dalits. In the year 2014/2015, 22 cases have been filed and prosecutions made against caste-based discrimination.

13. *Displacement and relocation of indigenous peoples due to wildlife conservation*

47. After the ratification of ILO Convention 169 in 2007, the GoN has started the process of revising existing legislations in line with this Convention. The GoN has prepared National Action Plan on the Implementation of the Convention. As per the Environment Protection Act, 1997, the concerned agencies must carry out environmental impact assessment or environmental assessment, as the case may be, in order to implement development project and wildlife conservation. The process of environmental impact assessment includes consultation with the concerned stakeholders and the people of project area. The GoN has duly considered the customary rights of IPs over the ancestral land where they live, and the services of rehabilitation or adequate and fair compensation has been provided to the IPs and other affected people where displacement takes place due to the construction of development project or wildlife conservation.

14. *Prosecutions and enforcement of criminal justice system*

48. In accordance with the Annual Report of the NHRC, 2013, 5 out of 274 cases lodged at the NHRC in 2012-2013 were related to the caste-based discrimination. With the objectives of raising awareness about racial discriminations among the rural people, socio-political leaders and government officers, the NDC has been conducting awareness raising programme by organizing workshops and seminars. Similarly, NHRC has conducted various promotional activities and provided a platform to the governmental and non-governmental organizations for deliberations.

49. The Caste-based Discrimination and Untouchability Act (CBDU Act) provisions that any person can lodge a complaint against cases of caste-based discrimination and untouchability in nearby police office. If the concerned police office fails to register such complaint, the complaint can be submitted to National Dalit Commission or local body. The GoN shall be plaintiff and summary procedure shall be followed in the case filed pursuant to the CBDU Act.

15. *Effective Role of Law enforcement agencies*

50. The Nepal Police is the first point of contact of the people and the Untouchability (Offence and Punishment) Act, 2011 clearly states that it is the primary responsibility of the police to take FIR and investigate the case related to untouchability. The MoHA has issued instructions to all Chief District Offices and Nepal Police to register FIR promptly and take necessary legal actions against the perpetrators in the cases of caste-based discrimination and untouchability in order to implement the Act. The Nepal Police has conducted a series of trainings to police personnel about the provision of the Act and the role of law

enforcement agencies to end caste-based discrimination. Security force related legislations provide for mandatory human rights training for security personnel.<sup>13</sup> Furthermore, the security forces have prepared handbooks and manuals on basic human rights including the provision of the Act and the role of law enforcement agencies to end caste-based discrimination.<sup>14</sup> Till date, over 7,300 police personnel and 47,619 army personnel have received specific training on human rights and humanitarian law.<sup>15</sup> Moreover, all the basic courses run by the security forces include curriculum on human rights and humanitarian law.<sup>16</sup>

16. and 17. *Measures taken to end gender-related dimensions of caste-based discrimination and forced prostitution*

51. In accordance with the policy of inclusion, a nine percent quota has been allocated for *dalits* in the public service.<sup>17</sup> Inter-caste marriage between *dalit* and non-*dalit* is being promoted by providing 100,000 rupees to the couple. The GoN has been providing free legal aid service to the economically disadvantaged *dalits*. The Ministry of Law, Justice and Parliamentary Affairs has been conducting legal awareness program targeting the marginalized and disadvantaged people even at the village level. The GoN has planned to systematically register the *dalit* caste groups and facilitate research on the marginalized groups such as *Mushahar, Dom, Badi, Gandharbha* etc. which are at the danger of extinction.

52. The GoN has taken a number of policy, legal, institutional and programmatic measures to ensure gender justice and equality. The GoN is implementing National Strategy and Action Plan on Gender Empowerment and Elimination of Gender Based Violence (2013-2018) as an umbrella policy, and other sectoral policies on women's rights. Domestic Violence (Crime and Punishment) Act, 2009, and its Regulation, 2010, are being enforced. Some Nepal Acts Amendment Act to maintain gender equality and to eliminate Gender Based Violence (GBV),<sup>18</sup> and Witchcraft Practicing (Crime and Punishment) Act, 2015 have been enacted. Similarly, Single Women Security Fund (utilization) Regulation, 2013, and Sexual Harassment at Workplace (Control) Act, 2014, have also been enacted.

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<sup>13</sup> Police Rules, 2014 and Army Rules, 2013 provide for mandatory human rights training for security personnel. Police Rules, 2013 have provisions for mandatory training on human rights and crime investigation in relation to offences against women and children. The Rules include provisions for the duty of police towards protection and promotion of human rights. As per the Police Rules, 2013, rules 53 (g), 55 (q), 57 (o), 59 (v), 60 (t), 62 (u), 63 (t), it is the duty of the police to protect and promote human rights and to implement a specific plan for the protection of the rights of vulnerable people, women and children. Likewise, Army Act, 2007 ensures that mandatory training on human rights to all army personnel is provided. Army Act, 2007, Section 20 (1) provides that a person to be included in the organization of the Nepal Army shall be provided with training and orientation on topics including human rights and international humanitarian law.

<sup>14</sup> Nepal Police has developed Crime Investigation Directives, 2014, Standard Operating Procedure on Women and Children Victim Care System, 2014, Nepal Police Polygraph Directives, 2014. The Office of the Attorney General has developed medico-legal manuals for crime investigation, Victim Protection Manual, Manual on monitoring of human rights situation of inmates in custody and prison, Resource material on criminal offence against Children and Women, Victim's rights handbook.

<sup>15</sup> Nepal Army has been conducting training on gender equality and UNSCR Resolution 1325 and 1820 since 2010, in which, 1,082 army personnel have been sensitized. Moreover, as per the National Action Plan on UNSCR 1325 and 1820, Ministry of Defence has conducted a project on promoting women's participation in the peace building process and economic opportunities since 2013. So far, 1,065 army personnel have been trained in the subject matter.

<sup>16</sup> All army personnel have received basic education on human rights as it is compulsory for them.

<sup>17</sup> The quota is at all public services including Nepal Police and Armed Police Force.

<sup>18</sup> Now the 35 day statutory limitation to initiate criminal complaint in case of rape has been extended to six months through the enactment of Some Nepal Acts Amendment Act, 2015.

53. The GoN has continuously been raising awareness against the harmful cultural practices such as dowry, child marriage and witchcraft allegation throughout the country. The OPMCM has established a Gender Empowerment and Coordination Unit.<sup>19</sup> District Coordination Committees for gender empowerment have been established in all districts. The GoN has established a gender based violence alleviation fund in all districts, hospital based one stop crisis management centres and service centres in 17 districts,<sup>20</sup> and rehabilitation centres in eight districts<sup>21</sup> in order to take preventive action and provide urgent service and support to the victims of GBV. The Nepal Police has a Women and Children Service Directorate at its headquarters, and Women and Children Service Cells in all 75 district offices. Separate buildings have been constructed for Women and Children Service Cells in 24 districts and 240 new positions have been created across the country to focus on GBV issues. For the purpose of preventing violence against women and children, the National Child Welfare Committee has established Child Help Lines in 14 districts and Women Service Centres in 15 districts, aiming at extending them to all 75 districts. The NWC has established women's rights monitoring networks at the national and district levels. It has been organizing various campaigns, providing free legal aid and counselling service to the targeted group of women. The government institutions have been working in collaboration with NHRIs. The affirmative actions, quotas, targeted programmes and other support launched by the GoN have brought progressive changes to empower women in social, economic and political fields significantly since 2007.<sup>22</sup>

54. The representation of women in civil service has risen to 15.3 percent. It is 5.8 percent in Nepal Police, 2.58 in Nepal Army, 3.4 in Armed Police Force and 1.76 in the judiciary. To encourage women's entry into public services, the GoN is implementing various programmes that empower women in terms of education, health and other services targeting marginalized communities, and a Gender and Social Inclusion Strategy is being mainstreamed in all the ministries. A comparison of Gender Development Index (GDI)<sup>23</sup> values of different times shows consistent progress both at national and local levels.

55. In the fiscal year 2014/15, the budget for promoting gender equality and women's empowerment was increased to 21.93 percent (i.e. NRs. 135.65 billion) of the total national budget. Likewise, as per the Local Authorities Resource Mobilization and Management Guidelines, 2012, local authorities have been allocating 10 percent of their capital budget to the programmes targeted at marginalized women and children. To increase the access of women to land, the GoN has introduced a provision of providing 30 percent rebate in land registration fees when registering the land in the name of a woman or jointly in the name of

<sup>19</sup> The Unit has taken immediate action in cases where concerned agencies refuse to register complaints or when they are unresponsive.

<sup>20</sup> The districts include: Panchthar, Solukhumbu, Sunsari, Saptari, Sarlahi, Makwanpur, Nawalparasi, Tanahu, Kavrepalanchowk, Baglung, Jumla, Dang, Bardiya, Doti, Kanchanpur, Pyuthan and Rautahat.

<sup>21</sup> The districts include: Kathmandu, Sindhupalchowk, Kailali, Jhapa, Parsa, Repandehi, Banke and Chitwan.

<sup>22</sup> There is a reservation of quota for women in all public services and as a result, the representation of women has been gradually increasing. Reservation policy for participation of women, among others, is ensured in civil service including in the State owned/controlled Corporations. As per the Constituent Assembly Member Election Act, 33 percent of seats under the proportional election system are reserved for women. The policy on social inclusion has resulted in a gradual increase in the participation of women.

<sup>23</sup> GDI measures achievements in the same basic capabilities (dimensions) as the HDI, i.e. average achievement in three basic dimensions of human development: a long and healthy life, knowledge and a decent standard of living, but takes into consideration inequality in achievements between women and men. The values of the GDI range between 0 and 1. A GDI value of 1 indicates perfect gender equality whereas 0 indicates perfect gender inequality. For details, pls. see p. 85, Nepal Human Development Report, 2014, GoN, UNDP.

a couple. The Gender Inequality Index declined from 0.558 in 2011 to 0.485 in 2013.<sup>24</sup> GBV has been declared as criminal offence and the GoN has pursued a zero tolerance policy against it. Fast track court proceedings have been introduced since 2010 under the District Court Rules, 1995, in cases involving women and children.<sup>25</sup>

56. Some domestic legislation including General Code, 1963; Human Trafficking and Transportation (Control) Act, 2008; Domestic Violence (Crime and Punishment) Act, 2009; and Witchcraft Practicing (Crime and Punishment) Act, 2015 provide for compensation to the victims of GBV. Because of the growing awareness, the number of complaints on GBV lodged with Nepal Police has increased significantly.<sup>26</sup>

57. The GoN has been implementing the National Action Plan for Children (2005-2015) and plans to revise it to address the issues of child sexual exploitation, abuse and violence. The Ministry of Federal Affairs and Local Development (MoFALD) is implementing the Child Friendly Local Governance programme through which one VDC and one municipality have been declared as child friendly. A new Children Bill has been drafted in full compliance with the CRC. Moreover, the National Children Policy, 2012 incorporates measures related to survival, protection, development and participation of children.<sup>27</sup>

58. Pursuant to the CEDAW Committee's recommendations, the GoN together with NWC has prepared a Bill to criminalize all kinds of harmful practices that foster gender violence. The Bill identifies 62 types of harmful practices including *Chhaupadi*, *Deuki*, *Badi* and *Jhuma*. Government agencies are organizing awareness raising programmes against these practices. As per the directive of the Supreme Court, the GoN promulgated Guidelines in 2008 to eradicate *Chhaupadi*. The number of girls attending school during menstruation has significantly increased and the number of dedicated '*Chhaupadi goths*' has decreased. The GoN has established the *Badi* Community Upliftment and Development Board for empowerment and protection of the *Badi* community.

59. The GoN has constituted a national committee at the central level and district committees in all districts for effective implementation of the Human Trafficking and Transportation (Control) Act, 2007. The law enforcement agencies are taking action against the perpetrators. The victims are entitled to a reasonable compensation, restitution, rehabilitation, economic support and psychosocial counselling service under the Act. Different programmes and a plan of action have been implemented for the effective enforcement of the Act. The Guidelines to Control Sexual Exploitation of Women Workers in Dance Restaurants and Bars also address the issue of sexual abuse. Likewise, Immigration Act, 1992, Foreign Employment Act, 2007 and its Regulation, 2008, have been operationalized. The GoN is implementing National Plan of Action against Human Trafficking, 2011-2021. The Plan prioritizes five specific areas including prevention, protection, prosecution, punishment and capacity development of concerned institutions. The GoN is working in coordination with the NWC which is implementing various programmes for prevention and monitoring as well as supporting the GoN in combating human trafficking. Inter-ministerial communication has been improved. The NWC is

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<sup>24</sup> Human Development Report, 2011 and 2013, UNDP.

<sup>25</sup> The cases include kidnapping and hostage taking, domestic violence, arson, theft, rape, human trafficking, etc.

<sup>26</sup> According to the Nepal Police, the number of complaints related to domestic violence has increased to 5,961 (in 2013/14) from 2,250 (in 2011/12). Likewise, the rape cases filed with the Nepal Police have increased to 1,170 (in 2013/14) from 711 (in 2011/12).

<sup>27</sup> The Policy focuses, inter alia, on measures to rehabilitate, provide social security, education and health care support for the street children. Furthermore, it has adopted a policy of joint action of the GoN and development partners in mobilizing community-based organizations to combat early marriage. The Policy has adopted a fast track system to take action against child marriages and local authorities have been given additional responsibilities to combat child marriages.

conducting awareness raising activities through mass media and workshops at local level on women's rights including violence against women, labour migration and trafficking.

60. Fast track court proceedings are applied in the cases of human trafficking and sexual abuse, including others, as provided in the District Court Rules, 1995. The GoN has launched various programmes against human trafficking in coordination with CSOs. A fund for rehabilitation of survivors of human trafficking has been established in each district and rehabilitation homes/centres have been established in eight districts<sup>28</sup> for the survivors/affected persons of human trafficking.<sup>29</sup> Investigation procedures for human trafficking issues have been incorporated in the training curricula of Nepal Police. Nepal Police Academy has conducted training programs on investigation procedures of human trafficking issues for Police personnel, and prosecutors and judges have received regular trainings through National Judicial Academy.

61. Badi Development Committee was set up on 27 July 2012 under the Development Committee Act, 1956. The main objective of this Committee is to mainstream Badi community by providing education to their children and employment to the youths and permanent shelters to the families. The Committee is headed by the Vice Chairperson along with five members, and all of them are from Badi community. Badi girls have been taking education in hostels. About 50 Badi girls of Jhupra village of Latikoili VDC of Surkhet district are studying in Kathmandu. The Badi Development Committee has also been providing scholarships to Badi students for their further studies. The GoN has continued the Citizens Residence Programme (*Janta Aawas Karyakram*), which is intended to provide good housing facilities to the poor and the marginalized. Under the programme, for instance, the GoN implemented a plan of building 1,762 residential houses for the *Dalits*, poor Muslims, *Chepang*, *Badi*, *Kusunda*, *Gandharva*, *Raji*, *Lodh* and other disadvantaged communities in the fiscal year 2014/15. So far 4,850 houses have been constructed and distributed to such people.

62. Section 12 (1) (c), 80 (2) (d) and 176 (2) (d) of Local Self-governance Act, 1999 (LSGA) provides rights of representation of disadvantaged groups in local bodies. The GoN has submitted a Bill to amend the Local Self Governance Act, 1999, to the Legislature-Parliament in order to ensure at least 40 percent representation of women in local bodies. The Civil Service Act, 1993 has provided certain reserved seats for disadvantaged groups like women, Dalits, indigenous people, *Madheshi*, persons with disabilities and people from backward region in civil services. In order to make civil service inclusive, the 2nd Amendment Act of the Civil Service Act, 2007 introduced reservation system. Out of the total seats, 45% seats are set aside for reservation. These 45% (assuming it 100%) seats are allocated for Women (33%), Indigenous People and Nationalities (27%), Madheshis (22%), Dalits (9%), Disabled (5%) and Persons from Backward Area (4%). This provision has helped to increase the participation of marginalized groups including Dalits in civil service. The policy of inclusion has been adopted in all security forces, State owned or controlled public enterprises, universities, schools, and public services under relevant legislations. The Police Rules, 2014, Army Rules, 2013, and Armed Police Force Rules, 2015 provide for reservation/quota for women, indigenous people, *Madheshis*, and *Dalits*.

<sup>28</sup> The districts include: Kathmandu, Sindhupalchowk, Kailali, Jhapa, Parsa, Repandehi, Banke and Chitwan.

<sup>29</sup> A total of 429 persons were rescued by mid-April 2014. The number stood at 1,458 in FY 2012/13. District Development Committees have been provided with grants of Rs. 3,750,800 for curbing human trafficking and Rs. three million to manage rehabilitation centres. Seven service centres have been established in the India-Nepal border areas for controlling human trafficking and violence against women and children.

18. *Kamaiya, their rehabilitation and development*

63. The Government welcomes the recommendation of the Committee relating to Kamaiyas (CERD/C/64/CO/5 para. 18) and is fully committed to ensure justice, by implementing the Bonded Labour Prohibition Act, 2002. In this regard, following the emancipation of the Kamaiyas, the GON has initiated rehabilitation program by providing 1,50,000 NRS (US\$ 1500) per household to buy lands for their settlement. The Freed Kamaiya Rehabilitation Land Registration Committee is mandated to work in rehabilitation program, and helps to make available plots to meet the demand of freed Kamaiyas. So far 26,000 families of freed Kamaiya have been provided land and around 19,000 have received skill oriented vocational training. The GoN has planned to support 1,452 families in building house and 1,498 families in purchasing land in the fiscal year.

19. *Bhutanese and Tibetan Refugees*

64. Nepal is not a party to the Refugee Convention, 1951 and its Protocol, 1967. However, it has provided shelter for Tibetan and Bhutanese refugees on humanitarian grounds. It is not in a position to accept any further refugees because of its internal capacity constraints and other ground realities. The refugees who entered into Nepal before 1990 had been provided refugee status and are free to enjoy the rights and liberty in accordance with the prevailing laws of Nepal. The Ministry of Home Affairs issues travel documents on their request to travel to third countries. So far, more than 4,000 travel documents have been issued. The Government of Nepal, in consideration of the prevailing socio-economic condition in the country, has not been able to accept any further refugees or asylum seekers. Nevertheless, it is making efforts to facilitate the right to education of the foreigners temporarily sheltered in Nepal.

65. The Government of Nepal is very sensitive towards the issues and problems of refugees and is doing its level best to provide them necessary support on humanitarian ground. In this respect, it is working closely with the UNHCR Nepal office. Out of around one hundred fifty thousand Bhutanese refugees, more than 100,000 have been already resettled in the third countries and the remaining are in the process of being resettled. For those who do not wish to resettle in third countries and want to participate in voluntary repatriation, the GON is working closely with UNHCR and IOM to resolve their issues.

20 and 21. *Training to teachers, social workers and law enforcement agencies to combat discriminatory cultural customs, and Inclusive Media and representation of Dalit*

66. Rights of Dalit and issues related to caste-based discrimination and untouchability have been included in school and university curricula.

67. The Judicial Academy established to conduct trainings for judges and law enforcement officials has been providing trainings on investigation and prosecution of the offences related to violation of human rights, gender and caste-based discrimination.

68. The NDC and Dalit Development Committee have been implementing awareness raising and some other training programs against discrimination to both Dalits and non-Dalits. They have been conducting sensitization programs through the use of mass media as well.

69. The State-run news agency, Rastriya Samachar Samittee (RSS), and media such as Nepal Television, Radio Nepal and Gorkhapatra daily newspaper have been broadcasting and disseminating news, and messages related to Dalits. Gorkhapatra publishes an inclusive supplement with news, views and articles on different languages spoken by the indigenous peoples of Nepal.

22. *Ratification of the amendments to article 8, paragraph 6 of the Convention adopted on 15 January 1992*

70. The Government is committed to ratify the amendments to article 8, paragraph 6 of the Convention adopted on 15 January 1992 at the 14th meeting of the States Parties to the Convention.

23. *The Durban Declaration and Programme of Action*

71. The Government has taken several legal and policy measures for the protection of the rights of Dalits, indigenous communities and other vulnerable groups in line with the Durban Declaration and Program of Action. Various such measures adopted by the government has been mentioned under the 'Normative and Institutional Framework' section of the report.

24. *Engagement of civil society in the preparation of the report*

72. The GON has been closely working with civil society organizations and other stakeholders involved in the field of human rights for the preparation of the initial and periodic reports, and the implementation of concluding observations. Civil Society Organizations have provided valuable inputs and support in this regard. While preparing this report, several rounds of consultations were made and inputs of such organizations have been incorporated.

73. The NDC has disseminated CERD report and concluding observations from centre to local level by producing a document in Nepali language. A report in Nepali language including all the matters related to CERD and Nepal's response was published in 2004 as a joint initiation of the Government of Nepal and the NDC.

## **Part II Implementation status of substantive provisions of the Convention**

### **Section I**

#### **Article 1**

74. Provisions made in the Constitution of Nepal ensure the rights of dalit and indigenous people in line with the internationally accepted principles and standards. The Constitution prohibits all forms of discrimination on any ground including caste and creed. The Caste-based Discrimination and Untouchability (Offence and Punishment) Act, 2011 criminalizes all forms of caste-based discriminations and untouchability, and provides the sufficient legal regime of preventive, punitive and promotional measures for ending caste-based discrimination. The definition of caste-based discrimination made in this specific legislation is in full compliance with the CERD.

75. Article 24 of the Constitution ensures Rights against Untouchability and Discrimination and provides that no person shall, on the ground of origin, caste, ethnicity, descent, community, profession or occupation, or physical condition, be subject to untouchability and discrimination of any form in private and public places. The Article makes provision that no person on the basis of particular caste or ethnicity shall be prevented from buying or selling or distribution or delivery of any object or facilities. The Article further provisions that racial discriminations shall not be encouraged in any way, or there shall not be any behavioral attitude to exhibit high or low status on grounds of a

particular caste, ethnicity or community, or physical condition of a person, or there shall not be any behavioral attitude that justifies social discrimination based on caste, ethnicity, or untouchability, or encouragement for the propagation of attitudes based on caste superiority and untouchability, or hatred. Likewise, the Article provisions that there shall not be any racial discrimination in the workplace by indulging or not indulging in untouchability. Further, the Article makes provision that all forms of untouchability or discrimination contrary to the provision of the Article shall be punishable by law as a serious social crime, and the victim of such an act shall have the right to compensation as provided for by law.

76. Article 3 of the Constitution declares Nepal as multi-ethnic, multi-lingual, multi-religious and multi-cultural nation. Article 4 of the Constitution ensures secularism.

77. Article 6 of the Constitution ensures all the mother tongues spoken in Nepal as the national language. Article 7.1 provisions that the Nepali language written in *Devanagiri* script shall be the language of official business in Nepal. In addition to Nepali language, Article 7.2 provisions that a province shall select one or more national languages spoken by majority of people in that province as the language of official business, as provided for by the provincial law.

78. Section 4 of the Caste-Based Discrimination and Untouchability (Offence and Punishment) Act, 2011 defines caste-based discrimination as: (1) If anyone commits or cause to commit any act as referred to in this Section on the ground of custom, tradition, religion, culture, rituals, caste, race, descent, community or occupation shall be deemed to have committed caste-based discrimination and untouchability. (2) No one shall, on the ground of custom, tradition, religion, culture, rituals, caste, race, descent, community or occupation, commit or cause to commit the following act in public or private sphere (place) against a person by making caste-based discrimination or untouchability: (a) To prevent, control or restrict anyone in any way from entering, attending or participating. (b) To expel anyone individually or collectively from public place or public occasion or to commit social exclusion or discrimination of any kind or to impose restriction on such act or to demonstrate any other kind of intolerant behavior. (3) No one shall, on the ground of caste, race, descent, community or occupation, deprive a person of using or enjoying public service. (4) No one shall, on the ground of caste, race, descent, community or occupation, deprive a person of organizing public occasion or performing any act to be organized publicly. (5) No one shall instigate or provoke anyone to commit an act that causes caste-based discrimination or untouchability or abet anyone to commit such act, or knowingly participate in such act. (6) No one shall, on the ground of cast, race, descent, community or occupation, prohibit anyone to carry on profession or business or compel anyone to carry on any occupation or business. (7) No one shall, on the ground of caste, race, descent, community or occupation, deprive or cause to deprive anyone of performing any religious act. (8) No one shall, on the ground of caste, race, descent, community or occupation, prevent or cause to prevent anyone from producing, selling or distributing any goods, services or facilities. (9) No one shall, while producing, selling or distributing any goods, services or facility, produce, sell or distribute any goods, services or facility only for particular caste or race. (10) No one shall, on the ground of caste or race, exclude any member of family or prevent him/her from entering in to the house or evict him/her from the house or village, or compel him/her to leave the house or village. (11) No one shall, on the ground of caste race, descent or community, prevent a person of marriageable age pursuant to prevailing law from getting inter-caste marriage; or shall deny to perform naming ceremony for the person born from such marriage or compel or cause to compel for divorce. (12) No one shall, by dissemination, publication or exhibition of audio visual materials, articles, pictures, figure, cartoon, poster, book or literature or by any other means, denote hierarchical supremacy of a person belongs to particular caste or race or commit an act that justifies social discrimination on the ground of caste or race or transmit the views based on caste- supremacy or hatred or use derogatory words or indicate thereof, by his/her

conduct, gesture or behavior, or instigate or abet or cause to do so in any manner that promotes caste-based discrimination. (13) No one shall, on the ground of caste, race, decent or community, deny anyone to provide employment or discriminate in remuneration or cause to do so. The text of the Caste-based Discrimination and Untouchability (Offence and Punishment) Act, 2011 is in Annex I.

## Article 2

### **Nepal government has taken the following measures to fulfil the obligations set by this Article:**

79. The protection and promotion of basic human rights is a fundamental policy of the State. Preamble of the Constitution promises to end all kind of discrimination and to ensure socio-economic justice by providing basic human rights to every citizen. The Constitution focuses on social justice and equal distribution of economic resources and provides equal opportunities. It directs to maintain cultural diversity, pursuing a policy to strengthen national unity and promote healthy and cordial social relations among various castes, religions, tribes, communities and linguistic groups. The Constitution has not only limited the rights against discrimination on the basis of caste, origin, or occupation, but also ensured the rights to all classes allowing them to participate in the State mechanism based on the principle of proportional inclusiveness. Article 16 — Right to live with dignity, Article 18 — Right to equality, Article 26 — Right to religious freedom, Article 29 — Right against exploitation, Article 31 — Right to education, Article 32 — Right to language and culture, Article 42 — Right to social justice, Article 43 — Right to social security, Article 50 - Directive principles and Article 51 — State policies of the Constitution have some other important provisions which ensure the rights against discrimination.<sup>30</sup>

80. Article 40 of the Constitution provides special rights to Dalits. It ensures the right of Dalits to participate in State agencies on the principle of proportional inclusion. It makes provision for scholarships and special provisions for Dalit students to acquire primary and higher education; special arrangement to provide health care and social security; right to use, preserve and develop their traditional occupation, knowledge, skill and technology; provide land to landless Dalits; make housing arrangements for Dalits who do not have housing of their own.

81. Article 84 (2) of the Constitution provides that in selecting candidates for the election to the House of Representatives, political parties must take into account the principle of inclusion and ensure proportional representation of the women, *Dalits*, oppressed tribes/indigenous nationalities, backward regions, *Madheshi* and other classes.

82. Clause (4) (C) of Article 269 of the Constitution on provision relating to political parties provides that the constitution of the political parties should consist the provision of proportional participation to reflect the diversity of Nepal. Clause (5) of the Article

<sup>30</sup> Article 16 of the Constitution ensures each person's right to live with dignity.

Article 18 of the Constitution provides right to equality. It ensures that equality before law and equal protection of law are both important. The provision of clause (3) of the Article allows for making special provisions for the protection, empowerment or advancement of women, *Dalits*, indigenous nationalities, *Madheshi*, Tharus, Muslims, oppressed class, backward communities, minorities, marginalized groups, peasants, labourers, youth, children, senior citizens, sexual minorities, persons with disabilities, incapacitated and helpless persons, and of the citizens who belong to backward regions and financially deprived citizens including the *Khas Arya*. Article 26 of the Constitution provides the right to religious freedom. It ensures that each person shall be free to profess, practice, and preserve his/her religion according to his/her faith.

provisions that no parties shall be registered if its name, objective, symbol and flag is of a character that may disturb the country's religious or communal unity or is divisive in character.

83. Section 9 of the Nepal Treaty Act, 1990 provides that if any provision contained in a treaty to which Nepal is a party (following its ratification, acceptance, approval or accession by the Parliament) contradicts with the provisions of domestic law, such provisions become invalid to the extent that they conflict with the treaty provision and the provision of the treaty shall come into force on par with the domestic law.

84. The Local Self-governance Act (LSGA), 1999 provisions to allocate certain seats to the people of backward and downtrodden communities for some positions of the Village Development Committees (VDCs), Municipalities and District Development Committees (DDCs). Sections 12 (1) (c), 80 (2) (d) and 176 (2) (d) of LSGA provide for special arrangements for the nomination of two members, including one woman, from the backward groups, ethnic communities, down-trodden and indigenous people to the VDC, Municipality and DDC Councils. This provision undoubtedly contributed to Dalits participation in the local governance.

85. The Civil Liberties Act, 1954 guarantees the right to equality and prohibits any form of discrimination on the basis of caste. The Act also guarantees the right to equality and equal protection of law and fully prohibits any discrimination, exclusion and restriction against any citizen on the basis of religion, sex, caste or any other ground.

86. With the objective of ensuring indigent people's access to justice and implementing constitutional obligations to provide legal aid to those people, the Legal Aid Act, 1997 has made some provisions for providing necessary legal aid to those who are incapable of protecting their rights due to the economic constraint. The Central Legal Aid Committee chaired by Minister for Law and Justice and the Legal Aid Committee in all districts have been operational to provide free legal aid for indigent people. A separate lawyer for free legal aid has been appointed in all district courts, courts of appeals and the Supreme Court. Similarly, Nepal Bar Association and other non-governmental organizations (NGOs) have been contributing in providing legal aid.

87. One of the thematic areas of the five-year Human Rights National Plan of Action (2014/15-2018/19) is to conduct specific programs by relevant line agencies from center to district level for the protection of rights of Indigenous People and Dalits. The National Human Rights Commission (NHRC) and the OPMCM monitor the implementation of this Plan of Action. The Plan of Action aims:

- To ensure the human rights related commitment in practice,
- To implement national and international obligations,
- To link human rights agendas constructively and functionally with the development issues,
- To develop human rights culture.

88. The GoN ratified the ILO Convention No. 169 on 22 August, 2007. It has conducted awareness programs on the provision of the Convention and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) from center to district level. It is effortful to develop a comprehensive plan for the implementation of the ILO Convention No. 169. Ethnographic profiles of eight groups have been prepared and others are under the process of publication.

89. The current Thirteenth Development Plan, 2013/14/-2015/16, considers social inclusion as one of the pillars of development, and sets strategies and relevant programs targeting indigenous nationalities, Dalits, Madheshi, women in remote geographical areas,

helpless, disabled, poor people and communities who are backward or compelled to be in backward positions owing to disparity existing in the society. It seeks to mobilize institutional mechanisms and make them fully operational to materialize inclusive development.

90. The Foreign Employment Act, 2007 prohibits gender based discrimination on foreign employment, and empowers the GON to make special arrangements to facilitate foreign employment to women, Dalits, indigenous nationalities, oppressed, victims of natural calamities and people belonging to remote area. Accordingly, any agency involved in selecting workers for foreign employment must reserve certain seats for women, Dalits, indigenous nationalities, oppressed, victims of natural calamities and people belonging to remote area. In order to boost up the participation of economically deprived communities and Dalits in foreign employment, GON has made arrangement for soft loans to Dalits, disadvantaged and marginalized groups, including women in the rural areas.

91. The NDC and government institutions have been supporting preparation classes for the examinations of selecting candidate for the civil service conducted by the Public Service Commission. This initiative has substantively encouraged the prospective Dalit candidates to pursue their career in the civil service. Similar classes are also being supported by NFDIN for IPs.

92. The GON has established a Focal Section in the MoFALD to look after the upliftment and development of Dalit and indigenous nationalities, called Gender Empowerment and Social Inclusion (GESI) section. Similarly Focal Desks are established in all 75 District Development Committees of the country. These mechanisms are supposed to implement plans, strategies, policies and programs related to the upliftment and empowerment of the Dalits.

93. The NDC has conducted various programs to raise awareness of Dalit communities and to create conducive environment for the enjoyment of the rights and interests of the Dalit communities. It has been launching a Mobile Justice Program with the objective of eliminating the caste and gender-based discrimination through social awareness since 2006. The GON has formed *Dalit Barga Utthan District Coordination Committees (District Dalit Community Upliftment Coordination Committee)* in all 75 districts to be chaired by DDC chairpersons, with vice-chairpersons to be nominated from the Dalit community. In order to make the civil service inclusive, Section 7 (7) of the Civil Service Act, 2049 (Second Amendment) has made some important provisions on reservation for marginalized and vulnerable groups. For this, 45 percent seats have been allocated for open competition. Within this reservation, candidates from women, indigenous nationalities, Madheshis, Dalits, persons with disabilities, and people from backward areas share 33, 27, 22, 9, 5 and 4 percent respectively. This provision has contributed to evolve the Nepalese civil service by enriching diversity and inclusiveness and reflecting the microcosm of the country in its composition. Similarly, the provisions of inclusion are incorporated in all public services including the Nepal Police, Armed Police Force and Nepal Army.

### **Challenges Ahead**

94. Poverty remains as a major variable in defining the status of Nepal's underdevelopment. Rural Dalits, as well as rapidly growing urban ones, have seriously suffered from poverty and illiteracy. Reportedly, the portrait of poverty suffered by Dalit women is even grimmer. Despite targeted programmes of the government in collaboration with civil society, international partners and NGOs, participation of these people in the state affairs is yet to increase as desired. To cope with this challenge, the government is effortful to take further concrete actions and fully implement them targeting vulnerable groups with the allocation of sufficient budget.

### Article 3

95. Nepal has never taken any policies or steps to recognize, protect, promote and institutionalize any forms of racial segregation or apartheid. Nor racial segregation or apartheid is ever practiced in society. However, some cases of caste-based discrimination is still in existence despite State interventions since long. Policy, legal, institutional and programmatic measures are in operation to combat with caste-based discrimination.

96. Since the formal abolishment of caste-based discrimination and untouchability through the promulgation of the General Code (*Muluki Ain*) in 1963, Nepal has taken further measures to end such practices. No. 10 (A) of the Chapter on Decency of the General Code (as amended) has provision that if any person commits discriminatory treatment based on untouchability against any person, or prevents any person from appearing in public places or deprives any person of public utilities on the ground of caste, religion, race or occupation, such person shall be liable to imprisonment ranging from a term of three months to three years or a fine of Rs. 1000 to 25,000 or the both.

97. Section 7 (1) (a) of the Caste-Based Discrimination and Untouchability (Offence and Punishment) Act, 2011 provides penalties ranging from imprisonment for a term from three months to three years or the fine from one thousand rupees to twenty five thousand rupees or the both for anyone who commits an offence of preventing, controlling or restricting anyone in any way from entering, attending or participating in public or private sphere;<sup>31</sup> expelling anyone individually or collectively from public place or public occasion or to commit social exclusion or discrimination of any kind or to impose restriction on such act or to demonstrate any other kind of intolerant behavior;<sup>32</sup> depriving a person of using or enjoying public service;<sup>33</sup> depriving a person of organizing public occasion or performing any act to be organized publicly;<sup>34</sup> instigating or provoking anyone to commit an act that causes caste-based discrimination or untouchability or abet anyone to commit such act, or knowingly participate in such act;<sup>35</sup> prohibiting anyone to carry on any profession or business or compel anyone to carry on any occupation or business;<sup>36</sup> depriving or causing to deprive anyone of performing any religious act<sup>37</sup> on the ground of caste, race, descent, community or occupation. Section 7 (1) (b) of the Act provides penalties for the imprisonment for a term from one month to One year or the fine from Five Hundred Rupees to Ten Thousand Rupees or the both for anyone who commits an offence of: preventing or causing to prevent anyone from producing, selling or distributing any goods, services or facilities on the ground of caste, race, descent, community or occupation;<sup>38</sup> producing, selling or distributing any goods, services or facility only for particular caste or race;<sup>39</sup> excluding any member of family or preventing him/her from entering in to the house or evicting him/her from the house or village, or compelling him/her to leave the house or village on the ground of caste or race;<sup>40</sup> preventing a person of marriageable age pursuant to prevailing law from getting inter-caste marriage; or denying to perform naming ceremony for the person born from such marriage or compelling or causing to compel for divorce on the ground of caste, race, descent or community;<sup>41</sup> denoting hierarchical supremacy of a

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<sup>31</sup> Section 4 (2) (a) of the Act.

<sup>32</sup> Section 4 (2) (b) of the Act.

<sup>33</sup> Section 4 (3) of the Act.

<sup>34</sup> Section 4 (4) of the Act.

<sup>35</sup> Section 4 (5) of the Act.

<sup>36</sup> Section 4 (6) of the Act.

<sup>37</sup> Section 4 (7) of the Act.

<sup>38</sup> Section 4 (8) of the Act.

<sup>39</sup> Section 4 (9) of the Act.

<sup>40</sup> Section 4 (10) of the Act.

<sup>41</sup> Section 4 (11) of the Act.

person belongs to particular caste or race or committing an act that justifies social discrimination on the ground of caste or race or transmit the views based on caste-supremacy or hatred or using derogatory words or indicating thereof by his/her conduct, gesture or behavior, or instigating or abetting or causing to do so in any manner that promotes caste-based discrimination by dissemination, publication or exhibition of audio visual materials, articles, pictures, figure, cartoon, poster, book or literature or by any other means;<sup>42</sup> and, denying anyone to provide employment or discriminating in remuneration or causing to do so on the ground of caste, race, decent or community.<sup>43</sup> Further, Section 7 (2) of the Act provides that if a person holding public post commits an offence, s/he shall be liable to the punishment of an additional fifty percent.

#### Article 4

98. Article 17 of the Constitution makes provision for the Right to Freedom as a fundamental right, which includes the right to dignified life, and freedom of opinion and expression, freedom to assemble peacefully and without arms, to form political parties, to form unions and associations, and to practice any profession, carry on any occupation, industry or trade. These freedoms are, however, subject to some reasonable restrictions as enshrined in this Article. Accordingly, the State is empowered to enact necessary legislations imposing reasonable restrictions on any act which may jeopardize the harmonious relations subsisting among the people of various caste, ethnicity, religion, or communities, or incite racial discrimination, or untouchability. This provision focuses on the protection of harmonious relations subsisting among the peoples of various castes, tribes or communities. Similarly, as per the provision of the Article 19, the rights relating to mass communication cannot be exercised in a way which undermines harmonious relations subsisting among the peoples of various castes, tribes or communities or that incite untouchability or gender discriminations.

99. Article 17 on Right to Freedom provides reasonable restrictions on unions and associations and political parties on any act which may instigate communal animosity, or jeopardize the harmonious relations subsisting among different caste groups, ethnicity, religious groups and communities, or an incitement of violence, or an act which is contrary to public morality. It further provides reasonable restrictions on political parties on an act of acquiring or depriving the membership of a political party only on the grounds of caste, language, religion, community or gender, or the formation of a political party that creates discrimination against citizens, or an act that incites violence, or is contrary to decent public behavior. Article 270 (5) provides restriction on political party from registration if its name, objective, symbol and flag is of a character that may disturb the country's religious or communal unity or is divisive in character.

100. Section 5 of the Political Parties Act, 2002 prohibits any political parties in committing or causing to commit an act which jeopardizes the harmonious relations subsisting among the various tribes, castes or communities of Nepal, and an act to provide membership of party only on the basis of religion, sect, caste, tribe or region. Further, Section 8 (1) (a) of the Act provides that if a party is formed only on the basis of religion, sect, tribe, caste and region, the Election Commission may reject to register the party.

101. The Libel and Slander Act, 1959 categorizes libel/defamation against caste and occupation as an offence of libel and slander and makes provisions on penalties for the offender<sup>44</sup> and provisions on compensation for the victim<sup>45</sup>. Section 11 of the National

<sup>42</sup> Section 4 (12) of the Act.

<sup>43</sup> Section 4 (13) of the Act.

<sup>44</sup> Section 5, 6, 7, 8, 9, 10 of the Act.

<sup>45</sup> Section 12 of the Act.

Broadcasting Act, 1993 provides that while producing and broadcasting any programme, a broadcasting institution has to give priority to programmes that enhance equality, mutual good faith and harmony amongst all the tribes, languages, classes, areas and religious denominations; and to the programmes that contribute to the upliftment of various languages and cultures of Nepal. Section 15 of the Act prohibits on broadcasting of advertisement materials misinterpreting, disregarding, insulting and devaluing any tribe, language, religion and culture.

102. Section 14 of the Press and Publication Act, 1991 provides restriction on publication of matters which create enmity among the people of the various castes, tribes, religions, classes, regions, communities and spread communal disharmony; and matters which hurts decency, morals and social honour of the people generally. Likewise, Section 16 provides power to the government to issue an order restricting the imports of foreign publications on the similar nature.

103. The Motion Picture (Production, Exhibition and Distribution) Act, 1969 prohibits the production and distribution of any motion picture which harms the harmonious relationship among different castes or tribes. A motion picture which undermines the relationship and bond of social cohesion is not allowed for exhibition.

104. For the protection of the right of the persons with disabilities, Dalits, children and women through mainstreaming them in the national development, the NHRC and the NDC have been monitoring and coordinating various programs in pursuance of the NHRAP. The NHRAP stresses to protect and promote rights and freedoms of the indigenous nationalities and Dalits to eliminate all forms of discrimination and inequalities based on caste, religion, culture and language; and launch various programs such as reviewing existing laws and formulating new laws.

### **Challenges Ahead**

105. Despite the strong legal provisions and governmental programmatic endeavours, some incidences of caste-based discrimination and untouchability are still reported. Lack of awareness has been creating obstacles in combating such practices.

### **Article 5**

106. The Constitution is founded on the basic principles of human rights. Non-discrimination, equal treatment and the right to social justice of Dalits and Indigenous nationalities is protected by the Constitution. Article 18 of the Constitution guarantees the right to equality before law, equal protection of law and fair trial for everyone in accordance with the internationally accepted norms and practices. Furthermore, Article 24 ensures the right against untouchability and discrimination. Discrimination such as untouchability is punishable, and the victim of such discrimination is also entitled to get compensation from perpetrators. Article 20 of the Constitution on rights relating to justice, in its Clause (9), guarantees every person's right to have a fair trial by an independent, impartial and competent court or judicial body.

107. Article 16 of the Constitution on right to live with dignity guarantees the right to security of person.

108. Article 10 of the Constitution guarantees the right of all Nepali citizens to obtain citizenship. The Nepal Citizenship Act (As Amended), 2006 ensures that every Nepali citizen is entitled to obtain citizenship certificate. Citizenship certificate is granted by decent, by birth, and through naturalization. The GoN is in process to revise the existing Act in light with the new Constitution.

109. To implement the order of the Supreme Court, the Ministry of Home Affairs has developed a system for providing citizenship certificate by the surname without mentioning caste. Thus, no person is legally bound to mention his/her caste in order to obtain citizenship certificate. This practice has helped to reduce stigmatization of Dalits and encouraged them to live with dignity.

110. Article 176 (5) of the Constitution provisions that every Nepali citizen having domicile in a province and having attained the age of 18 years shall have the right to vote in any one election constituency of domicile. Article 87 of the Constitution prescribes the qualification to be the member of the Federal Parliament as: citizen of Nepal, who has attained twenty-five years of age for the House of Representatives and thirty-five years of age for the National Assembly, who has not been punished for any criminal offence involving moral turpitude, not ineligible under any law, and not holding an office of profit. Similarly, Article 178 of the Constitution prescribes qualification of members of the Provincial Assembly as: be a Nepali citizen, be a voter of the concerned Province, have attained twenty-five years, not have been punished for any criminal offence involving moral turpitude, not deemed ineligible by any law, and not be holding an office of profit.

111. Article 18 of the Constitution guarantees the right to equality for all citizens. They shall be equal before law and no person shall be denied the equal protection of law. Further, the Article empowers the government for making of special provisions by law for the protection, empowerment or development of the citizens including the socially or culturally backward women, Dalit, indigenous people, indigenous nationalities, Madheshi, Tharu, Muslim, oppressed class, backward class, minorities, the marginalized, farmers, labours, youths, children, senior citizens, gender and sexual minorities, persons with disabilities, persons in pregnancy, incapacitated or helpless, backward region and indigent *Khas Arya*.

112. The Local Self-Governance Act, 1999 has provisions for the reservation of members from the socially and economically backward tribes and ethnic communities, downtrodden and indigenous people, and women in VDC, municipality, and DDC Councils.<sup>46</sup> The GoN has submitted an amendment Bill for the Local Self-Governance Act in order to increase the representation of women in local bodies from existing 20 percent to 40 percent. Likewise, it ensures the representation of indigenous nationalities, Dalits, minorities and other backward class. The Local Bodies (Election Procedure) Act, 1992 makes a provision for the nomination of people from communities such as Dalits, indigenous groups, etc. if their representation is not ensured by election.

113. The Constitution guarantees other civil rights, such as, freedom to move and reside in any part of Nepal in Article 17 (2) (e); right to nationality and citizenship in Article 10; right to acquire, enjoy, own, sell, have professional gains, and otherwise utilize, or dispose property in Article 25; the right to freedom of opinion and expression in Article 17 (2) (a); freedom to assemble peacefully and without arms in Article 17 (2) (b); freedom to form political party in Article 17 (2) (c); freedom to form unions and associations in Article 17 (2) (d); right to religious freedom in Article 26. Further, the Constitution guarantees the personal liberty which includes right to leave the country and return back and right against exile.

114. Similarly, the General Code makes provisions on marriage in Chapter 17, and on inheritance in Chapter 16. One who meets the marriageable age is legally free to marry with a person of his or her own choice. There is, indeed, no provision which prohibits entering into an inter-caste marriage. For ensuring the right to marriage with free choice, the

<sup>46</sup> Section 8 of the Act provisions for the reservation of six persons including one woman in Village Development Council. Section 76 of the Act provisions for the representation of no less than six persons and no more than 20 persons in Municipal Council. Similarly, Section 172 of the Act provisions for the representation of six persons including one woman.

marriage registration system has been introduced under Marriage Registration Act, 1971. The interested couples irrespective of their castes can register the marriage in District Administration Offices and acquire legal recognition of the marriage by obtaining the marriage certificate. The government has also been providing an incentive of Rs.100,000 (US\$ 1000) to a newly married couple from Dalit and non-Dalit communities to encourage the social cohesion among Dalits and non-Dalits. The Constitution ensures several economic, social and cultural rights as fundamental rights. Article 17 (2) (f) ensures the freedom to practice any profession, and carry on any occupation. Article 33 provisions the right to employment. Article 34 guarantees the right regarding labour with provision to get appropriate remuneration, facilities and contribution-based social security and right to form trade union, participate in it, and organize collective bargaining. The Government has been making efforts to create job opportunities within the country, and also trying to tap on opportunities for foreign employment available abroad.

115. Article 37 of the Constitution guarantees the right to appropriate housing for each citizen. It ensures rights against eviction from the housing owned by him/her, or encroachment on the housing, except in accordance with law. The government has been implementing special plans and programs such as *Janta Aawas Karyakram* to ensure proper housing facilities for the targeted groups including Dalits.

116. Article 35 of the Constitution guarantees every citizen's right to seek basic health care services from the State. It ensures the right of everyone to be informed about his/her health condition with regard to health care services, equal access to health care, and right to access to clean water and hygiene. In line with the constitutional provisions, the GoN has approved new National Health Policy, 2014, and Health Insurance Directives, 2014, to ensure the right to health as a fundamental right of every citizen. The Policy emphasizes increasing the access to health services to all citizens with special focus on poor and marginalized communities residing both in urban and rural areas through implementing the programmes based on equity and social justice. Similarly, the Second Long-Term Health Plan, 1997-2017, and population and sanitation related policies have been put in place. The GoN has implemented free health service in primary health care institutions and district hospitals. Now the people have free access to 70 kinds of medicines at public health facilities including district hospitals, primary health centres, health posts, and sub-health posts. The poor, indigent, PwDs and women volunteers are entitled to full free medical service. The GoN is implementing separate guidelines to ensure the quality of private and community-owned health care services. The GoN plans to introduce health insurance programme in 15 districts selecting three from each development region.

117. Article 38 (2) of the Constitution ensures right to safe motherhood and reproductive health to every woman. Pregnant women are entitled to free maternity service at all governmental hospitals and private hospitals that have agreements with the Ministry of Health (MoH). The GoN has been distributing contraceptives and permanent sterilization service free of cost. A transportation allowance is provided to those women who give birth at a health institution. Silicone Ring Pessary is provided free of cost in the treatment of the uterine prolapse. In order to ensure safe and accessible abortion services, Safe Abortion Procedure is in operation. As per the Procedure, qualified and registered health service institutions are authorized to provide abortion service. As of the end of FY 2013/14, the number of people having knowledge about the legality of safe abortion is 38 percent, number of people with knowledge about the availability of place/service centre for safe abortion is 60 percent, number of people using the safe abortion service is eight percent, rate on usage of family planning devices is 49.7 percent, rate of pregnant women utilizing delivery service at health services is 35 percent and rate of pregnant women utilizing delivery service through trained health workers is 36 percent. The 13th periodic Development Plan, 2013-2016, aims at increasing the rate on usage of family planning

devices to 67 percent and decreasing the fertility rate (among 15-49 aged women) to 2.4, and thereby increasing the life expectancy rate to 71 years.

118. Article 29 of the Constitution guarantees the Right against Exploitation which explicitly prohibits exploitation by anyone on the basis of religion, custom, tradition, culture, practices or any other bases.

119. Article 31 of the Constitution guarantees right to education. It ensures the right to access to basic education, right to compulsory and free basic education, and free education up to the secondary level to every citizen, free higher education to persons with disabilities and financially poor, the right to free education with the medium of braille script to visually impaired persons, and the right to acquire education in mother tongue up to the secondary level.

120. The Constitution ensures that each community has the right to preserve and promote its languages, script and culture. Multilingual Education Implementation Guidelines, 2009 is in operation to implement multilingual education. The communities are encouraged to operate primary level school education in mother tongues. In this regard, the Curriculum Development Center under the Education Ministry has prepared curriculum of primary school (grades 1 to 5) in 16 languages which is being piloted in some of the districts. Such languages include Maithili, Awadhi, Tharu, Newar, Tamang, Limbu, Magar, Rai Wantawa, Gurung, Sherpa, and Rai Chamling.

121. In light of the right to education enshrined in the new Constitution, the Education Act Amendment Bill 2015 has been submitted to the Legislature-Parliament. The GoN is making considerable efforts to gradually provide secondary education (up to 10th standard) for free at the community schools, and make primary education compulsory. The 13th Plan targets to ensure the implementation of free and compulsory primary education through strict adherence to the Education for All National Plan of Action. In 2001, about 20% of school age children were not enrolled in schools and the dropout rate was even higher. Nepal has made impressive achievement in all MDGs indicators relating to Education in recent years. The Education Act, 1971 makes special provisions for the welfare and upliftment of backward communities including Dalits. According to the Section 16, there shall be free primary education and no fee shall be charged for admissions into community schools. Free education up to the secondary level is to be provided to the under privileged communities like Dalits, indigenous nationalities, and women. Besides, the GON has been providing scholarships to Dalit students from primary to secondary level education (at primary level Rs. 350- 450 per student per year), at lower secondary and secondary level no fees are taken, instead the government provides subsidy to schools. Focus is laid on increasing the enrolment rate of girl children from *Dalits*, indigenous people, minorities, marginalized and backward communities. Various programmes have been launched to ensure inclusion and gender mainstreaming in education<sup>47</sup>. The GoN is implementing education and training programmes for freed *Kamlaris*. Freed *Kamlaris* have been receiving scholarships, hostel and other support from the GoN. A Food for Education

<sup>47</sup> These include reservation of 45 percent 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 nutrition program to 35 districts to mitigate drop-outs; provision of scholarship to 50 percent girls at the primary level and to all school girl students in Karnali Zone; allocation of quota for 40,000 girl students under annual 60,000 secondary education scholarships; mandatory recruitment of women teachers at a specific ratio; and income and skill generating trainings to women. Women teachers account for more than 27 percent (42,000) in community schools. A literacy campaign with the slogan of “let us be literate and enhance capacity” is being launched with local level participation. For the successful implementation of the ‘Literate Nepal Campaign’, the GoN has celebrated the fiscal year 2014/15 as ‘illiteracy elimination year’.

Programme targeting *Kamlaris* has been conducted in selected areas. Children from different marginalized groups have received various support including scholarship schemes<sup>48</sup>.

122. Literacy rate has increased from 53.74 percent (42.49 percent for female and 65.08 for male) in 2001<sup>49</sup> to 65.94 percent (57.4 percent for female and 75.1 percent for male) in 2011.<sup>50</sup> Status on school enrolment of students disaggregated among Dalits, indigenous nationalities and others is given in the table below.<sup>51</sup>

<i>School Enrolment</i>	<i>Total Students</i>	<i>Dalits percent</i>	<i>Indigenous nationalists percent</i>	<i>Disadvantaged indigenous nationalities<sup>52</sup> percent</i>	<i>others percent</i>
Early Childhood Development Center	1,014,339	18	39	NA	43
Primary	4,335,355	19.85	33.86	2.22	44.07
Lower Secondary	1,835,130	14.43	38.51	1.72	45.34
Secondary	900,585	11.01	38.62	1.71	48.66
Higher Secondary	416,995	6.75	29.79	NA	63.46

Source: Department of Education, Flash I, 2014/15.

**Promotion, repetition and dropout rate of students in different grades is given below.**

<i>Grade</i>	<i>Promotion rate</i>			<i>Repetition rate</i>			<i>Dropout rate</i>		
	<i>Girls</i>	<i>Boys</i>	<i>Total</i>	<i>Girls</i>	<i>Boys</i>	<i>Total</i>	<i>Girls</i>	<i>Boys</i>	<i>Total</i>
1	78.3	78.4	78.4	15.0	15.4	15.2	6.7	6.2	6.5
2	89.0	88.4	88.7	8.3	8.0	8.1	2.8	3.	3.2
3	90.2	89.4	89.8	6.8	6.8	6.8	3.0	3.7	3.3
4	90.0	89.3	89.6	6.4	6.7	6.5	3.6	4.1	3.9
5	91.7	91.5	91.6	5.3	5.4	5.3	3.0	3.1	3.1
6	91.5	89.3	90.4	4.3	5.1	4.7	4.2	5.7	4.9
7	90.5	90.3	90.4	4.6	4.4	4.5	4.9	5.3	5.1

<sup>48</sup> In the fiscal year 2013-2014, 1,030,126 Dalit children studying in grade one to eight have received scholarships support worth Rs. 400, and 79,551 studying in grade nine and ten have received scholarships support worth Rs. 500, and there is plan to provide 28,028 studying in grade 11 and 12 scholarships support worth Rs. 1,000 in the coming fiscal year. In the feeder hostels, priority is given for the admission to Dalit children. In the fiscal year 2014/15, the GoN provided monthly scholarships to the students from the marginalized community such as *Dalits, Raute, Chepang* worth Rs. 1,500 to Rs 3,000 to continue their higher education if they passed School Leaving Certificate Exam (10<sup>th</sup> grade) in first division from the community schools. Likewise, students from *Dom, Badi, Chamar* and *Musahar* communities opting to study engineering and medicine are provided free education up to the bachelor's level. Likewise, the GoN has planned to bring special programs to promote girls' education at school-level targeting especially those from Muslim and marginalized communities in the Terai.

<sup>49</sup> Among the age group of six years above.

<sup>50</sup> Among the age group of five years above.

<sup>51</sup> The data is only for government schools. It doesn't cover the status on school enrolment at private schools, community schools and institutional schools.

<sup>52</sup> Disadvantaged indigenous nationalities include: Bankaria, Baramu, Bote, Chepang, Danuwar, Dhanuk, Hayu, Jhagad, Kisan, Kusunda, Lepcha, Majhi, Meche, Mushibadiya, Raji, Raute, Satar, Singasa, Siyar, Surel, Thami, Thunam.

8	89.3	89.6	89.5	4.6	4.5	4.5	6.1	5.9	6.0
9	91.1	91.9	91.5	4.2	3.9	4.1	4.7	4.2	4.5
10	91.2	91.6	91.4	2.1	2.2	2.2	6.6	6.2	6.4
G 1-5	86.9	86.5	86.7	9.0	9.2	9.1	4.1	4.3	4.2
G 6-8	90.4	89.7	90.1	4.5	4.7	4.6	5.0	5.6	5.3
G 9-10	91.1	91.7	91.4	3.3	3.2	3.2	5.5	5.1	5.3

Source: Department of Education, Flash I, 2014/15.

Among the total of 295,951 school teachers, 4.71 percent are from Dalit community and 25.83 percent are from indigenous nationalities.<sup>53</sup>

123. To increase the school enrolment of school age population, the Department of Education has introduced the Welcome to School Program. The Program has been successful to bring children of socially, economically, and educationally backward communities to school. Consequently, the net enrolment at schools has increased.

124. There are other incentive programs, for example, Food for Education Program (a mid-day-snacks program) to school children in 21 food-shortage districts, where disadvantaged people are living.

125. Any scholarship provided to the GON for higher studies by private colleges in the country and foreign universities is planned to be distributed to uplift marginalized people: 40 percent of the scholarship reserved for the poor, women, disabled, Dalits and indigenous nationalities. After converting this 40 into 100, women candidates receive 25 per cent, indigenous nationalities 15 percent, Dalits 15 per cent, candidates of remote areas 15 per cent, persons with disabilities 10 per cent and poor candidates 20 per cent. This measure has motivated Dalits and other deprived communities to pursue higher studies in medical and other fields.

126. The CTEVT is providing skills oriented trainings, technical support and soft loans to *Dalits*, indigenous nationalities, women and persons with disabilities (PwDs)<sup>54</sup>. The Far-Western Development Commission and Karnali Development Commission have been constituted for the overall development of vulnerable and marginalized communities in the Far-Western Region and Karnali Zone respectively.

127. In order to promote the interests of economically and socially backward groups, Article 42 on right to social justice of the Constitution has special provisions with regard to their education, health, housing, food, and employment. The GoN has been providing support to these people through social and economic support programs. The MoFALD in collaboration with the ADB has been conducting economic empowerment programmes for hill *Dalit*, *Madheshi Dalit*, *Kumal*, *Majhi*, *Bote*, and providing seed money of NRs. 35,000 to each household. The Ministry of Poverty Alleviation and Cooperatives, the Ministry of Forest and Soil Conservation and the Ministry of Agricultural Development have been implementing livelihood support programmes to ensure the poorest people's right to generate income. Under the Ministry of Forest and Soil Conservation, a Leasehold Forestry

<sup>53</sup> Department of Education, Flash I, 2014/15.

<sup>54</sup> The CTEVT has been providing special vocational and technical education programmes targeting to *Dalit*, Muslim and marginalized groups. Since May 2013, 742 students (144 marginalized, 523 *Dalits* and 75 Muslim) are enrolled in the following courses: Nursing course (12<sup>th</sup> standard), Auxiliary Nurse Midwife (18 months' course), Auxiliary Nurse Midwife (29 months' course), general medicine (12<sup>th</sup> standard course of 36 months), Diploma in Civil Engineering (36 months' course), Agriculture Junior Technical Assistance (15 months' course in animal husbandry). Likewise, since 2011, a total of 1,702 students (161 marginalized, 1,166 *Dalit* and 375 Muslim) have graduated in the vocational/technical courses.

and Livestock Programme has served more than 70,000 households to support livelihood through granting 40 years lease of the forest land of about 0.7 hectare for every household.

128. Article 41 of the Constitution ensures the senior citizen's right to special protection and social security from the State. Article 43 of the Constitution ensures the right to social security to economically poor, physically incapacitated and helpless persons, helpless single women, persons with physical impairment, children, persons who cannot look after themselves and the citizens who belong to communities that are on the verge of extinction. In order to expand the social security right of citizens, the Social Security Programme Operation Procedure, 2009 is being implemented under the Local Self-Governance Act, 1999. The Senior Citizens Act, 2006 ensures the rights for the protection and dignity of life of senior citizens. They are provided with free health treatment at government hospitals and geriatric ward has been established in all zonal hospitals. They receive 50 percent discount in public transport. The GoN is providing a monthly allowance to senior citizens above 70 years of age and other marginalized and vulnerable groups. The people living in the *Karnali* zone and *Dalits* above the age of 60 years receive the allowance.<sup>55</sup> The GoN is implementing social security measures<sup>56</sup> through Human Rights Based Approach (HRBA) to safeguard the rights of senior citizens. An assessment of the Social Security Allowance Programme undertaken by the NPC in 2012 reveals that the average growth of social security expenditure is 0.75 percent.<sup>57</sup>

129. The GoN is implementing poverty alleviation policy through periodic development plans to ensure social and economic justice particularly to vulnerable and marginalized groups. Programmes have been carried out for the last two decades with poverty alleviation at the core of development agenda. From the Tenth Plan onwards, poverty has been classified into income poverty, human poverty, and social exclusion. Analyses of these dimensions show notable decrease in overall poverty and improvement of the Human Development Indices of the Nepalese people. Population under the poverty line shows a declining trend.<sup>58</sup> However, the devastating earthquake of 25 April 2015 and its

<sup>55</sup> The programme includes the provision of monthly monetary allowance of Rs. 500 to elderly citizens and addition of Rs. 500 per month as medical allowance to the people above the age of 70 years, Rs. 500 to single women, Rs. 1,000 to fully disabled, Rs. 300 to partially disabled, Rs. 300 to those with extreme disability and Rs. 500 to persons belonging to the endangered communities. Senior citizens above 75 years of age are entitled to free medical treatment of cancer and the diseases related to heart, and kidney.

<sup>56</sup> The social security measures include:

- Establishment of Day Care Service Centres and Senior Citizen Clubs, and Renovation of the existing old age homes
- Implementation of Senior Citizen Act, 2007 and Rules thereof
- Collecting data about senior citizens
- Review of the existing provisions on social security for necessary improvement and expansion by National Planning Commission and concerned ministries
- Formation of Senior Citizen Welfare Committee at the central and district levels
- Initiation of one model shelter home in each development region Partnership with CSOs.

<sup>57</sup> There was a considerable increase in 2008/09 and 2009/10. The proportion of the social security allowance in the total budget expenditure is also growing significantly. It has exceeded the government's total pension expenditure. The proportion of actual expenditure on social security in FY 2009/10 is 2.79 percent, which is higher than the actual expenditure on pensions (i.e. 2.52 percent of the total budget expenditure) given to the civil servants, police, teachers, and others.

<sup>58</sup> The population under the income poverty line in the year 2012 is 25.20 percent compared to 30.90 percent in 2009 (Human Development Report, 2011 and 2013, UNDP).

aftershocks are likely to increase the poverty level in the most affected areas by 2.5 percent to 3.5 percent.<sup>59</sup>

130. The GoN has carried out a survey with the aim to collect scientific data on the poverty. To provide ID cards for the poor, it has identified 356,418 poor households in twenty-five districts through the survey. The survey will also be extended to the remaining districts. The 2011 census data provides disaggregated data based on ethnicity, nationality, gender and so on.<sup>60</sup> It shows that in the last seventeen years, the poverty level has decreased to 15.46 percent from 21.56 percent in the urban areas and to 27.43 percent from 43.27 percent in the rural areas.

131. In order to address this gap between the urban and rural areas, the Poverty Alleviation Fund (PAF) is currently working in 59 out of 75 districts of Nepal. The PAF is assisted by the World Bank, which has recently agreed to provide 85 million US dollars to finance the on-going and new programmes until September 2017. The International Fund for Agricultural Development is also contributing financial assistance to the PAF.<sup>61</sup> With the objective of assisting those living in extreme poverty, the PAF has been helping the GoN in working towards reducing poverty to 21 percent by the end of 2015. Until April 2014, the PAF has assisted the formation of 23,788 community organizations of the poor to carry out different livelihood enhancing and capacity development activities. The programme has benefitted 663,151 poor households, mostly indigenous communities, *Dalits*, and women. Of these, 75 percent are women, 65 percent are those who do not have sufficient food for more than 3 months a year. For inclusive development, the GoN in its current 13th plan has focussed on demand driven and community based development approach at the local level. The programme has supported communities to become self-employed through income generation and community infrastructure related schemes.

132. There is a provision of rebate on land registration fees for the Dalits and women.

### Challenges Ahead

133. In order to implement Constitutional provisions which ensures the rights of Dalits and indigenous nationalities, the GoN is effortful to build requisite infrastructures and mobilize more resources.

134. Some incidences of boycotting and excluding Dalits still remain in some parts of society which has created obstacles in the smooth functioning of the system of encouraging inter-caste marriage between Dalit and non-Dalit community, full enjoyment of rights by Dalits, promoting a culture of social acceptance through the development of education and awareness raising programs.

135. The preservation of indigenous knowledge, skills and values of indigenous tribes and Dalits is still a challenge in the course of implementing targeted programs and modern development activities in the community.

136. Despite continuous efforts, access to education and literacy rate is still lower among the Dalits and other marginalized communities because of poverty, low awareness and ancillary cost of education.

<sup>59</sup> As per the Post Disaster Need Assessment Report of the National Planning Commission, more than 18 districts have been affected by the earthquake in April 25 and May 12, 2015 which caused loss of approximately 9,000 people, 600,000 houses/buildings, and 700,000 people pushed to poverty.

<sup>60</sup> Governmental agencies including Central Bureau of Statistics have already started to disaggregate national data under major identity groups, oppressed caste groups, indigenous people, *Madheshi* caste groups and Muslims.

<sup>61</sup> In April 2014, IFAD provided 5 million US dollars for PAF II.

137. Because of the unavailability of bilingual trained teachers, the expansion of bilingual teaching has been a challenge.

138. Although some progress has been achieved, the dropout rate of Dalit students is still higher than that of all other students at the primary level. The existing scholarship amount provided for Dalit students has been insufficient to fully cover the opportunity cost of education.

#### **Article 6**

139. With a view to provide constitutional remedy in case of violation of fundamental rights, the Constitution establishes free, fair, impartial and competent justice system. Right to obtain constitutional remedy from court of law is itself a fundamental right ensured by the Constitution.

140. Article 133 (1) of the Constitution empowers any citizen of Nepal to file a petition in the Supreme Court to have any law or any part thereof declared void on the ground of inconsistency with the Constitution because it imposes an unreasonable restriction on the enjoyment of any fundamental right conferred by the Constitution or on any other ground; or to have any law or any part thereof made by a State Assembly declared void because it is inconsistent with any law made by the Federal Parliament; or to have any law or any part thereof made by a Municipal Assembly or Village Assembly declared void because it is inconsistent with a law made by the Federal Parliament or the State Assembly; and the Supreme Court shall have an extraordinary power to declare that law to be void either *ab initio* or from the date of its decision if the law appears to be so inconsistent.

141. Article 133 (2) of the Constitution empowers the Supreme Court for the enforcement of the fundamental rights conferred by the Constitution, or of any other legal right for which no other remedy has been provided, or for which the remedy, even though provided, appears to be inadequate or ineffective, or for the settlement of any constitutional or legal question involved in any dispute of public interest or concern. The Supreme Court shall have the extraordinary power to issue necessary and appropriate orders, provide appropriate remedies, enforce such right or settle such dispute.

142. Article 144 (1) of the Constitution empowers the High Court to have the power to issue necessary and appropriate orders, for the enforcement of the fundamental rights conferred by the Constitution, or for the enforcement of any other legal right for which no other remedy has been provided, or for which the remedy, even though provided, appears to be inadequate or ineffective, or for the settlement of any legal question involved in any dispute of public interest or concern. Article 144 (2) provides that for the purposes of Article 144 (1), the High Court may issue appropriate orders and writs including the writs of *habeas corpus*, *mandamus*, *certiorari*, prohibition and *quo warranto*. Article 151 (1) of the Constitution empowers a District Court, except as otherwise provided by the Federal law, to have the power to originally try and settle all cases under its jurisdiction, to try petitions under law, including petitions of habeas corpus and prohibition, hear appeals under law from decisions made by quasi-judicial bodies, hear appeals from decisions made by local level judicial bodies formed under the State law, institute contempt proceedings and punish for contempt under the Federal law if anyone makes obstruction in the dispensation of justice by, or disregards any order or judgment by, it or any of its subordinate courts.

143. Likewise, as discussed earlier, the Caste-Based Discrimination and Untouchability (Offence and Punishment) Act, 2011 ensures the legal rights of Dalits and effective remedy mechanism for them in case of violation of their rights. The following table shows the cases with the judiciary and their status.

**Status of cases related to untouchability at the Office of the Attorney General and its affiliates.**

<i>Court</i>	<i>Total Cases registered</i>	<i>Convicted</i>	<i>Acquitted</i>	<i>Other</i>	<i>Total</i>	<i>Sub-judice</i>
District	19	2	4	0	6	13
Appellate	4	1	3	0	3	1
Supreme	2	0	0	0	0	2

Source: Annual Report of Attorney General's office 068-069.

144. Article 248 of the Constitution establishes the NHRC as a constitutional body to respect, protect and promote human rights and ensure their effective implementation. NHRC is mandated to receive human rights violation complaints, investigate such complaints, recommend for departmental actions or prosecution against perpetrators and reasonable amount of compensation for victims. Similarly, it is empowered to make coordination and collaboration with civil society and human rights related organizations for the promotion of human rights.

145. The NDC which was established by an executive order of the government in 2002 and recognized as a constitutional body by the Constitution of Nepal, 2015, is mandated, among others, to take complaints in case of the violation of Dalit rights, and recommend to concerned authorities for legal action. Furthermore, it monitors the cases of social disputes based on caste discrimination and recommend strategies for the effective implementation of ICERD at the national level.

146. Section 5 of the Caste-based Discrimination and Untouchability (offence and punishment) Act, 2011 provides detail provisions on complaint handling. Section 5 (1) empowers anyone to lodge complaint in nearby police office as prescribed if someone has committed or is going to commit an offence of caste-based discrimination and/or untouchability. Section 5 (2) provisions for registration of complaints in nearby police office even if anyone commits the offence outside Nepal. Section 5 (3) provides mandate to National Dalit Commission or local body to register the complaint if the concerned police officer fails to register the complaint, and Section 5 (4) provisions for forwarding such complaints to concerned police office. Section 5 (5) provisions for the police office to make inquiry in to the complaint and to initiate necessary proceeding on such complaint as per prevailing law. Section 8 makes provision for penalty of half of the punishment prescribed to the offender, to those who cause hindrance or obstruction in the inquiry or investigation of the offence. Further, Section 11 provisions for the Government of Nepal to be plaintiff in the case filed pursuant to the Act.

147. Some other institutions working for the protection and promotion of human rights include, *inter alia*, the NFDIN for the overall development of indigenous nationalities. It formulates programmes for the social, educational, economic and cultural development and implement them accordingly; promotes the language, script, culture, literature, art, history; preserves and promotes the traditional knowledge, skill and know-how; facilitates indigenous peoples to participate in the mainstream of overall national development, maintaining harmonious and friendly relations between different indigenous nationalities; and supports for building a just and equitable society through social, economic, religious and cultural development of indigenous nationalities.

148. Some other constitutional bodies including National Inclusion Commission, Madheshi Commission, Tharu Commission, and Muslim Commission have been

established by the Constitution for the protection of concerned communities, are yet to be constituted. Among these constitutional bodies, Muslim Commission is in operation under an Executive order.

149. Human Rights Cells and Division or Directorate have been established in each of the Security Forces, namely Nepal Police, Armed Police Force and Nepal Army. Similarly, in all ministries, human rights divisions or sections have been established.

150. In order to implement the Caste-based Discrimination and Untouchability (offence and punishment) Act, the MoHA has circulated written instructions to all District Administration Offices and District Police Offices to conduct effective investigation and take prompt legal action against perpetrators.

### **Challenges Ahead**

151. Despite having different mechanisms in place, very few cases of caste-based discrimination are registered.

152. Legal aid program conducted by the State agencies and other non-governmental organizations is still inadequate than expected, to raise legal awareness among the victims of caste-based discrimination and untouchability and to support them to initiate legal proceeding against perpetrators in court of law.

### **Article 7**

#### *Measures to combat prejudice and promote understanding and tolerance.*

153. The education system of Nepal is founded on the principle of equality and non-discrimination. The school and university education and teaching include curricula for promoting understanding, fraternity, social harmony, tolerance and friendship among caste, religious and/or ethnic groups.

154. In the school textbooks, human rights teaching, i.e., civic rights, the rights of the child, has been incorporated. Human rights related subject-matters have been incorporated in the curricula of civic education and social studies.

155. The GoN has fully implemented the decision of the Supreme Court handed down in the writ petition filed by Dil Bahadur Bishwokarma in order to end the practice of prohibiting Dalits to be admitted in hostel of a Sanskrit school.

156. The NDC has been using different forms of information materials and medium such as putting hoarding boards in different parts of the country, and airing radio jingles and programs to raise awareness in society against caste-based discrimination and untouchability.

157. Both the NDC and the Dalit Development Committee are supporting and/or producing radio programmes related to Dalits and against caste-based discrimination. Such effort is continuing in the country for more than a decade.

158. Both the NDC and the Dalit Development Committee have been producing and airing television programmes through private television channels which have contributed in raising awareness of the people and making government authorities more accountable as many policy and opinion makers are interviewed in such programmes.

159. The Dalit and Indigenous civil society organizations are also in the forefront in disseminating the information related to caste-based discrimination and advocating the rights of Dalits and indigenous peoples through popular media.

160. The Ministry of Peace and Reconstruction in collaboration with Nepal Television (state owned media) has been airing several messages to promote peace and harmony in the country. The message includes non-discrimination to Dalits and other groups.

## **Section II**

### **Conclusion**

161. Nepal has made considerable achievement through constitutional, legal, policy, institutional and programmatic measures towards eliminating the practice of caste-based discrimination and untouchability.

162. The implementation of Caste-based Discrimination and Untouchability (Offence and Punishment) Act, 2011 has contributed to timely investigation and prosecution in the cases of caste-based discrimination. Cases of violations are being reported to the concerned authorities under this Act.

163. The government has been effortful to create an environment where all people particularly marginalized and disadvantaged including Dalits can fully enjoy constitutional and legal rights.

164. The GoN will continue its constructive engagement with the UN system in order to protect and promote human rights in the country by taking all efforts to fully internalize all ratified human rights instruments in the domestic system. Similarly, the GoN will continue its policy to make collaboration with NHRIs, development partners, civil society organizations and all stakeholders in the areas of protection and promotion of human rights.

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