



## Economic and Social Council

### Committee on Economic, Social and Cultural Rights

## Implementation of the International Covenant on Economic, Social and Cultural Rights

### Third periodic reports submitted by States parties under articles 16 and 17 of the Covenant

#### Nepal\*

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## **List of abbreviations and acronyms**

AIDS	Acquired Immunodeficiency Syndrome
ANC	Antenatal Care
ART	Anti-Retroviral Treatment
CA	Constituent Assembly
CB-IMCI	Community-Based Integrated Management of Childhood Illness
CBOs	Community-Based Organizations
CBS	Central Bureau of Statistics
CDO	Chief District Officer

CLACivil Liberties Act  
CPAComprehensive Peace Accord  
CPRContraceptive Prevalence Rate  
CSIDPCottage and Small-scale Industries Development Programme  
CTEVTCouncil for Technical Education and Vocational Training  
DAODistrict Administration Office  
DOEDepartment of Education  
DOLDepartment of Labour  
DOTSDirectly Observed Treatment Short Course  
DOWCDepartment of Women and Children  
FEWFForeign Employment Welfare Fund  
FNCCIFederation of Nepalese Chamber of Commerce and Industry  
FYFiscal Year  
GBVGender Based Violence  
GDPGross Domestic Product  
GESIGender Equality and Social Inclusion  
GMSIGender Mainstreaming and Social Inclusion  
GONGovernment of Nepal  
GRBGender Responsive Budget  
HIVHuman Immunodeficiency Virus  
HORHouse of Representatives  
IDPsInternally Displaced Persons  
IECInformation, Education and Communication  
ILOInternational Labour Organization  
IMRInfant Mortality Rate  
INGOsInternational non-governmental organizations  
IPsIndigenous Peoples  
LGBTIsLesbians, Gays, Bisexuals, Transgendered and Inter Sexed  
LSGALocal Self-Governance Act  
MDGsMillennium Development Goals  
MMRMaternal Mortality Rate  
MOEMinistry of Education  
MOFAMinistry of Foreign Affairs  
MOHAMinistry of Home Affairs  
MOHPMinistry of Health and Population  
MOICMinistry of Information and Communication  
MOLDMinistry of Local Development  
MOLJMinistry of Law and Justice  
MOLTMMinistry of Labour and Transport Management

MOPR Ministry of Peace and Reconstruction  
MOWCSW Ministry of Women, Children and Social Welfare  
NANepal Army  
NCCHT National Committee on Controlling Human Trafficking  
NCW National Women Commission  
NDC National *Dalit* Commission  
NDHS Nepal Demographic and Health Survey  
NER Net Enrollment Rate  
NFDIN National Foundation for Development of Indigenous Nationalities  
NLFS Nepal Labour Force Survey  
NGOs Non-governmental organizations  
NHRAP National Human Rights Action Plan  
NHRC National Human Rights Commission  
NIP National Immunization Programme  
NIC National Information Commission  
NPANational Plan of Action  
NPC National Planning Commission  
OAGO Office of the Attorney General  
ODA Overseas Development Assistance  
OHCHR-Nepal Office of the High Commissioner for Human Rights in Nepal  
ONRTO Office of National Rapporteur on Trafficking  
OSH Occupational Safety and Health  
OPMCM Office of the Prime Minister and Council of Ministers  
PAFPoverty Alleviation Fund  
PIL Public Interest Litigation  
PPP Purchasing Power Parity  
PSRPPoverty Reduction Strategy Paper  
PWDs Persons with Disabilities  
SAARCSouth Asian Association for Regional Cooperation  
SBASkilled Birth Attendant  
STDs Sexually Transmitted Diseases  
SC Supreme Court  
SLCSchool Leaving Certificate  
SLTHP Second Long-Term Health Plan  
SMPSafer Motherhood Programme  
SSRPSchool Sector Reform Plan  
TYIP Three-Year Interim Plan  
UNESCO United Nations Educational, Scientific and Cultural Organization  
VDCs Village Development Committees

## I. Introduction

1. Nepal acceded to the International Covenant on Economic, Social and Cultural Rights (the Covenant), without any reservation. Nepal submitted its second periodic report under the Covenant on 30 June 2006. The present third periodic report contains the measures taken to implement the Covenant from June 2006 to February 2011, in line with the concluding observations made by the Committee on Economic, Social and Cultural Rights (E/C.12/NPL/2).

2. On 21 November 2006, the ten-year long armed conflict was officially ended with the Comprehensive Peace Accord (CPA). On 15 January 2007, the Interim Constitution of Nepal (the Constitution), which repealed and replaced the Constitution of the Kingdom of Nepal, 1990 (the 1990 Constitution), was promulgated to provide for transitional government and reflect the goals of the second People's Movement in April 2006. The mandate of the Movement was for peace, change, stability, establishment of the competitive multiparty democratic system of governance, rule of law, promotion and protection of human rights and independence of judiciary. Human rights remain at the center of the peace process which in turn stands anchored in the principles of democracy, access, inclusion and participation.

3. The United Nations Mission in Nepal (UNMIN) was established, vide resolution 1740 (2007) of the United Nations Security Council, with the mandate to support the peace process. Now with UNMIN's departure, its monitoring role has been taken over by a special committee constitutionally mandated for the supervision, adjustment and rehabilitation of the Maoist army combatants. This committee has representation of major political parties represented in the Constituent Assembly (CA). Election to the CA was held on 10 April 2008. The 601-member CA also serves as the Legislature-Parliament. It ended the 239-year old monarchy and declared Nepal as a Federal Democratic Republic on 28 May 2008. Now, the President is the head of state, and the Prime Minister is the head of government, who are elected by the CA.

4. Nepal is presently engaged in building national democratic institutions to consolidate democratic achievements, expedite the process of socio-economic transformation and take the peace process to a meaningful conclusion including the framing of a democratic constitution by the CA. Most importantly, the transformation process firmly establishes the civil and political, and economic, social and cultural rights as the bedrock of Nepal's democratic process.

## II. Methodology and consultation process

5. A committee with cross sectoral participation was formed by the Office of the Prime Minister and Council of Ministers (OPMCM) to prepare the present report upon holding consultations with a range of stakeholders. In this course, the committee held extensive discussions and dialogues with governmental institutions, national human rights institutions including the National Human Rights Commission (NHRC), and with various civil society actors including the media and non-governmental organizations (NGOs). A series of interactions including regional level workshops were also held for deliberations on the contents of the present report. The harmonized guidelines on reporting (HRI/GEN/2/Rev.5) and guidelines for the treaty-specific documents were followed broadly. The committee also reviewed the general comments and concluding observations on the second periodic report of Nepal.

## III. Background

6. As per the 2001 census, the population of Nepal is 23,151,423, with annual growth rate of 2.25 per cent. Senior citizens above 60 years account for about 6.5 per cent, children below 16 years, 40.93 per cent, and women, 51 per cent. The population living below the poverty line is approximately 25.4 per cent. The average per capita income is 560 US dollars. The unemployment rate of male and female aged 15 and above in 2008 is 2.2 and 2.0 per cent, respectively. The work participation (labor force) rate is 77.8 per cent. The literacy rate of 6 plus year population is 63.7 per cent. Average life expectancy is 63.3 years.

7. Ethnic, cultural and linguistic diversity is the most characteristic feature of Nepal as a nation. Ninety two languages are spoken as mother tongues. The Nepali language is the official language. Currently, 59 groups are recognized as *Aadibasi Janajati* (indigenous peoples (IPs) or nationalities), accounting for 37.2 per cent of the population. The religious diversity is an equally important feature of Nepal. As per the 2001 census, the majority of the population is *Hindu*, followed by Buddhists, Muslims, *Kirats*, Christians, *Sikhs* and *Jains*. Significantly, Nepal is a nation with multi-ethnic, multilingual, multi-religious and multi-cultural characteristics.

## IV. Normative and institutional framework

8. The normative and institutional frameworks 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

#### *The Constitution*

9. The Constitution is recognized as the fundamental law of the land, and any law inconsistent with it is void. More so than the 1990 Constitution, which laid primary emphasis on democracy, the Constitution's cardinal focus is on social and ethnic inclusion, constructive recognition of diversity and fundamental goal of social justice through inclusive, democratic and progressive restructuring of the State.

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

Concretely, it provides for 21 different rights as fundamental rights, and serves as a shield against any infringement of economic, social and cultural rights.

11. The Constitution has also obliged the State to provide a political system that fully upholds, *inter alia*, the universally recognized basic human rights and establishes rights of all citizens to education, health, housing, employment and food security. It also inscribes some economic, social and cultural rights in the Directive Principles and State Policies, which include provisions for positive discrimination, reservations and other forms of special support for the vulnerable or marginalized groups or communities in connection with education, health, housing, employment and food sovereignty, for their empowerment, protection and development. The Constitution in Part IV contains explicit commitment of the State to the promotion of human rights and accordingly obliges the state machineries to take cognizance of human rights in their respective functions. Article 34 of the Constitution has made the establishment of a just system in all aspects of life, including economic and social advancement, as the fundamental objective of the State. Article 35 provides for state policies about raising the standards of living of people through development of education, health, transportation, housing, and employment of the people of all regions by ensuring equitable distribution of economic resources for balanced development of the country.

#### *Laws*

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

13. Specific laws have been enacted to protect and promote other specific rights, for example, the rights of the child, women's right, right against torture, and rights of persons with disabilities (PWDs), right to form trade unions and right against child labour and bonded labour.

14. The legal framework, as culminated in the Acts and Regulations made to be in tune with treaties joined by Nepal during the period covered by the present report (the list of such legislations is at annex-1), basically provides for: substantive provisions, and mechanisms to promote and protect human rights; and procedures for remedies in cases of violations of human rights.

#### *Policies*

15. Nepal has pursued separate policies on human rights, with social inclusion of the vulnerable or marginalized groups or communities. The Three-Year Interim Plan, 2007/08-2009/10 (the TYIP) has set Nepal's long-term vision on human rights as to build an inclusive, just and prosperous nation based on human rights culture. The human rights policies aim to ensure human rights for all, by creating a favorable environment for all to live with human dignity, developing human rights culture, alleviating poverty and ending all forms of discrimination, violence and exploitation. Importantly, it is the right-based approach that underlies the human rights policies.

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

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

#### *National jurisprudence*

##### Acceptance of international human rights norms

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

##### Principles laid down by Judiciary

19. The Constitution recognizes the judiciary as one of the three pillars of the State, specifies its powers and lays down a framework for its independence. The judiciary has played a predominant role in promoting and protecting human rights through its landmark judgments. The principles and rulings laid down in such judgments, made in relation to a wide array of human rights including economic, social and cultural rights, portray the human rights jurisprudence developed by the Supreme Court (SC). By exercising the judicial power, the SC has declared *ultra vires* many legal provisions including those relating to inequality and discrimination. In a

range of areas where there were legal vacuum, such as women's rights over parental property, rights against sexual harassment and marital rape, it issued directive orders to the GON for making necessary enabling laws or streamlining laws to tune them with the guaranteed rights. These orders have brought ample change also on the elimination of various discriminatory traditions or practice.

20. The SC has also developed advanced public interest litigation (PIL) regime for the protection and promotion of public interest to seek redress in situations of violations of human rights. A wealth of jurisprudence has evolved on issues such as prisoner's rights, bonded labor, right to clean environment, right to education and health, and custodial violence. This regime has also become a mechanism to forge public participation in the dispensation of justice.

## **B. Institutional framework**

### *National human rights institutions*

21. Various national human rights institutions have been established by statutes or executive instruments to give effect to the Covenant and other relevant treaties. The NHRC was established in 2000 as an independent statutory body. Its enabling legislation is the Human Rights Commission Act, 1997. The Constitution has upgraded it into a constitutional body consisting of one chairperson and four other members appointed for a six-year term, and the formation and mandate of which is in full conformity with the Paris Principles. The duty of the NHRC is to ensure respect for, protection and promotion of, and effective implementation of, human rights. To this end, it can exercise a wide array of investigatory, supervisory, directive and recommendatory powers. Importantly, it can record any official or body defying its recommendation or direction as a violator of human rights, and issue an order for the provision of compensation to victims. Moreover, it has also carried out the monitoring the enforcement of human rights as mentioned in the CPA. A bill to implement constitutional provisions on NHRC is being considered by the Legislature-Parliament.

22. The National Foundation for Development of Indigenous Nationalities (NFDIN), established as a statutory body by the NFDIN Act, 2002, has played a paramount role in empowering the indigenous nationalities for the protection and promotion of their religious, linguistic, cultural and political rights. Indigenous nationalities district coordination committees that have been established in all districts have coordinated activities at the local level. These institutions are engaged in the preservation and development of mother tongue, scripts, culture and skills, and socio-economic upliftment, of indigenous nationalities, human resource development, awareness raising and preservation of cultural heritages.

23. Similarly, the National Women Commission (NWC) was established as a statutory body, by the National Women Commission Act, 2007, for the protection and promotion of the rights and interests of women, including their effective inclusion in the development mainstream. It has recommendatory and investigatory powers. It consists of one chairperson and four members appointed by the GON, with inclusion from the *Dalit* and *Madhesi* communities.

24. The National *Dalit* Commission (NDC) was formed by an executive order of 2002, with primary objective to protect and promote the rights of the *Dalit* community and assist the GON in *Dalit* upliftment programmes. It has carried out various important activities, including the preparation of required legal measures, working plans, publication and dissemination of various literatures on *Dalits*, including the Convention on the Elimination of Racial Discrimination. It has been implementing a Five-year Strategy focusing on the overall empowerment and political participation of *Dalits*, cultural vigilance and legal reforms. The *Dalit* community upliftment district coordination committees have served as an institutional framework in the field of protection of the rights of *Dalit* at the local level.

### *Office of the Attorney General (OAG)*

25. The Attorney General, as well as his or her subordinate officials, represents the GON in any courts or bodies and has important power to ensure humanitarian treatment of persons deprived of their liberty.

### *Human Rights Committee in Legislature-Parliament*

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

### *National Information Commission (NIC)*

27. The NIC is a statutory body established under the Right to Information Act, 2007. It hears appeals against decisions by public bodies in relation to citizens' demand to have access to information in such bodies. It is empowered to provide effective remedies on the enforcement of the right to information, by ordering for making reasonable compensation to aggrieved parties and taking departmental action against defaulters.

### *Government institutions*

28. A number of government institutions are also in place to give effect to human rights treaties at the domestic level. The OPMCM is the lead government agency responsible for the promotion of human rights related activities, including governance reform and effective implementation of relevant human rights treaties. It is also a liaison institution for the NHRC and the Office of the United Nations High Commissioner for Human Rights (OHCHR), among others. It coordinates and harmonizes human rights related affairs of various line agencies. It also oversees the status of compliance with the reporting obligation of Nepal under various human rights treaties to which Nepal is a party.

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

30. The Ministry of Women, Children and Social Welfare (MOWCSW) is responsible for the formulation, implementation, monitoring and evaluation of policies, plans and programmes on women, children and social welfare, and also for the protection and security of orphans, helpless children, women, senior citizens and persons with disabilities (PWDs). It coordinates with national and international NGOs in their activities within its purview. The national CEDAW committee has adopted necessary measures to effectively implement the Convention on the Elimination of All Forms of Discrimination against Women. The MOWCSW prepared a strategic document on gender and social inclusion in 2006, which has been instrumental in mainstreaming gender and promoting equality in the national level organizations.

31. Similarly, the Ministry of Foreign Affairs (MOFA), Ministry of Law and Justice (MOLJ) and Ministry of Home Affairs (MOHA) are other important institutions to deal with human rights related activities within their respective spheres.

#### *Anti corruption bodies*

32. In view of the fact that corruption is a great threat to good governance and ultimately to the enjoyment of human rights by all people without discrimination, several anti-corruption bodies have been established, with complementing mandate. The Commission for the Investigation of the Abuse of Authority is a constitutional body mandated to investigate and prosecute the cases of corruption and improper conduct. Similarly, the National Vigilance Center, the Special Court, OAG, Judicial Council, Revenue Investigation Department, Central Arrears Collection Office, Public Procurement Monitoring Office, Parliamentary Committees and the Office of Auditor General have performed the various functions of ombudsman against corruption.

#### *The media*

33. The media exercises full freedom of expression. The GON firmly believes that a free and responsible media is the nerve of any democratic polity. A good number of daily newspapers, weeklies, fortnightlies and monthlies are being published. There is also a remarkable growth of private satellite TV channels, community radios and print media. The media is active in bringing out various issues of national importance such as human rights, development and good governance, with the fundamental aim to generate dialogue and consensus on such issues. The media has been nurturing the right to information, and been instrumental in voicing against the violations of human rights.

#### *Civil society*

34. The civil society has evolved as a vibrant institution significantly contributing to the establishment of a sound democratic system. Voluntary action by citizens, in particular the PIL, has played a critical role in consistently holding the government accountable for its actions and in resisting infringements of human rights. Such action is reinforced by the NGOs and CBOs through their diverse programmes including awareness, access to justice, environment conservation and participation in development process. Nepal has a strong tradition of NGOs and community based organizations (CBOs). Some 27,000 NGOs are registered in the country. The Constitution has directed the State to pursue a special policy on the operation and management of NGOs. 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**

35. Nepal strongly upholds the rights set forth in the Universal Declaration of Human Rights and the Covenant and principles enunciated in the United Nations Charter. Nepal is a party to almost all core universal human rights treaties, 11 International Labour Organization (ILO) Conventions, and many other human rights related treaties. During this reporting period, Nepal has ratified two more ILO Conventions: 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. Moreover, Nepal is a party to the four Geneva Conventions of 1949. It ratified the SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia, 2002 and SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002. The GON reaffirms that all human rights are universal, indivisible and interdependent. It believes that the progressive realization of economic, social and cultural rights is largely dependent on the availability of requisite infrastructures and resources at the domestic level as well as on positive international cooperation and technical assistance.

## **V. Developments in the areas of concluding observations**

### **A. Strengthening cooperation with the Office of the United Nations High Commissioner for Human Rights**

36. Nepal is committed to make the United Nations human rights treaty bodies including the Committee on Economic, Social and Cultural Rights strong and effective mechanisms. It has extended exemplary cooperation to these bodies. It continues to remain constructively engaged with the Office of the United Nations High Commissioner for Human Rights (OHCHR) and other United Nations human rights mechanisms. The Agreement between the GON and the OHCHR was revised in June 2010 to reflect democratic changes and respect constitutional provisions.



## **B.Participation of all sectors of society in decision-making bodies**

37. Every citizen of Nepal has the right and opportunity without any distinction and unreasonable restriction to participate in the conduct of public affairs, directly or through their representatives, to vote and to be elected at genuine periodic elections, and to have access, on general terms of equality, to public service in the country.

38. The House of Representatives that was reinstated following the restoration of democracy in 2006 adopted a resolution for ensuring 33 per cent women participation in all organs of the State. Fifty seven of the total 330 members in the Interim Legislature-Parliament were women. At the moment, the citizens of Nepal are framing a new constitution through their representative body, the CA. The Constitution provides for the election to the CA by universal and equal suffrage. Accordingly, election to the members of the CA was held through secret ballots, and in a free and fair manner. To achieve inclusiveness and enhance people's participation in the polity, article 63 of the Constitution has adopted a mixed electoral system in electing the CA. Consequently, almost a third of the members of the CA (33.23 per cent) are women; and a record number of *Dalits* and people from different nationalities, along with the vulnerable or marginalized groups or communities, were elected, making the CA the most reflective and inclusive of Nepal's social diversity and plurality in its history.

39. In order to ensure the right of every citizen to public service on general terms of equality, the Constitution has established the obligation of the State to make progressive restructuring of the State, with inclusive, democratic and federal system of governance. The CA will finally settle this constitutional mission. It is to note that the Second Amendment, made in August 2007, to the Civil Service Act, 1993 has included the provision of reservation for women, indigenous nationalities, *Madhesi*, *Dalit*, PWDs and people from remote areas in order to make the civil service more inclusive and representative. The provision of reservation for certain groups of people has also been applied in all sectors of public services such as Nepal Police, Nepal Army, public schools and public corporations through amendments to their respective laws.

40. The Local Self-Governance Act, 1999 and the Local Body Election Procedure Act, 1992, are legislative measures that provide for public participation in the local self-governance. Periodic elections by universal and equal suffrage and secret ballot are the cardinal pillars of these legislations. The Constitution has explicitly provided that the provision of local self-governance authority is to be made based on the decentralization and devolution of powers to promote public participation in the system of governance by creating atmosphere conducive to the exercise of sovereignty of people and to deliver services to the people, at and even from the local level.

## **C.National Human Rights Commission**

### *Transparent a ppointment p rocess of c ommissioners*

41. Pursuant to article 131 of the Constitution, the National Human Rights Commission (NHRC) comprises five members consisting of one chairperson who must be a retired chief justice or judge of the SC or a reputed person, and four persons having rendered an outstanding contribution to the protection and promotion of human rights or the field of social service. One must hold a bachelor's degree from a recognized university and be of high moral character in order to be eligible for appointment to the office of commissioner of the NHRC. They are appointed by the President for six years term, on the recommendation of the Constitutional Council. In the appointments of the commissioners of the NHRC, diversity and inclusion of women have to be maintained. Their appointment gets confirmed only after the parliamentary hearing to be held by the parliamentary hearing special committee of the Legislature-Parliament. The process of appointment of commissioners of NHRC is, thus, transparent. There is no direct role of government officials in their appointment process at all. As specified by the Constitution, the principle of diversity and pluralism has been reflected in the present composition of the members of NHRC.

### *Financial a utonomy*

42. Pursuant to article 92 of the Constitution, the amount required as remuneration and facilities payable to the commissioners of the NHRC is chargeable on the Consolidated Fund, which is a government fund to which all revenues, loans and other moneys received by the GON are credited. Similarly, administrative expenditures of the NHRC are also chargeable on the Consolidated Fund. Thus, even though the regular budget is provided by the GON, yearly parliamentary approval is not required for the payment of remuneration and facilities to the commissioners, and for administrative expenses of the NHRC. This provision is the same as for the SC and other constitutional bodies. In addition, the Constitution explicitly provides that the remuneration and conditions of service of the commissioners shall not, so long as they hold office, be varied to their disadvantage. Similarly, as per the NHRC Act, 1997, the NHRC may obtain such means and resources from various bodies, by way of grants, as are required for the performance of its functions. It may also obtain financial assistance that may facilitate the performance of its powers and functions. Such financial assistance can be used in accordance with the terms and conditions agreed upon between the donor and the NHRC. The audit of accounts of the NHRC is to be performed by the Auditor General of Nepal. Moreover, the NHRC may, in consultation with the GON, frame rules on remuneration and facilities.

43. The GON appropriated Rs. 91,768,000.00 (0.03 per cent of the total budget) to the NHRC in FY 2010/11 whereas it had appropriated Rs. 48,216,000.00 and Rs. 53,486,000.00 to it in FY 2008/09 and 2009/10, respectively.

## **D.Review of laws against caste-based discrimination**

44. During the period of the present report, the GON has undertaken a thorough review of Nepal laws with a view to identifying and rectifying all provisions that may directly or indirectly permit discrimination on the basis of caste.

45. As provided by the Constitution itself, the State and law cannot or shall not discriminate among the citizens on grounds including caste or race. The Constitution has recognized the right against untouchability and racial discrimination on any ground as a

fundamental right. Any such discriminatory treatment is outlawed and also entails compensation to victims. A person has the right against deprivation of use of public facilities or access to religious sites on the ground of caste or race. 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 race or justifying social discrimination on the ground of caste or race is punishable. The State Cases Act, 1992 has included the caste-based discrimination as a crime in its Schedule-1, thus making the crime to be prosecuted by the State.

46. Based on the review of the existing laws, some laws were amended. However, the GON felt a need to have a comprehensive legislation in order to eliminate caste-based discrimination. Accordingly, it tabled a Bill on Caste-based Discrimination and Untouchability (Offence and Punishment) before the Legislature-Parliament in 2010. The Bill has been passed by the Legislature-Parliament, recently. The Bill prohibits and criminalizes any discrimination and untouchability based on race, caste, descent, community or occupation. It broadly defines caste-based discrimination and untouchability to include any act prohibiting or stopping any one from entering into or staying in any public place, religious place or participating in any public function or depriving any one of using any public services or restraining any one to carry on any profession or occupation or denying any one any form of job or discriminating in remuneration or excluding any member from the family on the grounds of race, caste, descent or occupation. One who commits any such act is considered to have committed an offence. Cases under this law are state cases to be prosecuted by the State. Sanctions include imprisonment and fine. Victims are also entitled to compensation.

47. In 2010, a Bill on NDC was tabled in the Legislature-Parliament with a view to making the NDC a statutory and autonomous body. The NDC is responsible for protecting and promoting the rights and interests of the *Dalit* community, mainstreaming the *Dalit* community and maintaining social justice by enhancing the participation of that community in public life and empowering such community. Similarly, the GON has also tabled Bills on Civil Code, Penal Code and Civil and Criminal Procedure Codes and Sentencing Act before the Legislature-Parliament. These Bills also contain measures against caste-based discrimination. In addition, the NWC is preparing a draft bill against the practice of witchcraft.

48. Moreover, the NDC has adopted a range of measures to make widely known the prohibition of discrimination. It has prepared Nepalese versions of the Convention on the Elimination of All Forms of Racial Discrimination and other relevant instruments and distributed the same up to the grassroots level. Similarly, the NWC has carried out public hearings, monitored the situation, and made recommendations to the GON, to overcome ill traditions and practices including witchcraft.

49. Despite measures, the practice of untouchability can be found on the ground in some forms owing to socio-structural factors, negatively affecting the dignity of people belonging to the *Dalit* community. The government policies and plans are oriented and further streamlined to address such issues.

## **E. Measures for safe and dignified return of internally displaced persons**

### **Reply to the recommendations contained in paragraph 33 of the concluding observations (E/C.12/NPL/CO/2)**

50. Various measures have been in place to ensure effective implementation of the CPA underlining the safe and sustainable return of all internally displaced person (IDPs). The development process has accelerated the functions of relief, reconstruction, rehabilitation and reintegration and maintaining social harmony and reconciliation.

51. The MOPR has launched various programmes for the relief to, and rehabilitation of, conflict affected persons. It has reconstructed 1,968 out of the 5,560 infrastructures damaged due to conflict, provided financial assistance to the families of 14,064 out of 16,719 deceased, distributed reliefs to 25,000 out of 78,689 IDPs, reliefs to 1,179 out of 1,302 persons enforced to disappear, provided annual subsistence allowance to families of martyrs in People's Movement and annual subsistence allowance and scholarship to those injured during the People's Movement.

52. In pursuance of the CPA and the Constitution, the GON has tabled a Bill on Truth and Reconciliation Commission before the Legislature-Parliament on 27 February 2010. One commission was formed by the Council of Ministers to inquire into the persons forcefully disappeared. In the meanwhile, the SC issued a directive order to form a commission under a separate law for inquiry into the forcefully disappeared citizens. Accordingly, the GON has also tabled a Bill on Disappearance Commission before the Legislature-Parliament.

53. Local level peace committees have been formed in 73 districts, 15 municipalities and 1,052 VDCs. These committees are responsible for promoting peace and reconstruction process based on mutual faith and unity, creating a favorable environment for a just society in the transitional phase, addressing the concerns of the local stakeholders, particularly the backward communities, and carrying out local level monitoring of the implementation of the CPA and subsequent agreements.

54. A Peace Fund has been established in the MOPR to make prompt actions to ensure the implementation of the CPA and subsequent agreements. Expenses can be made from this Fund for activities such as the rehabilitation of the displaced, conflict affected persons and their families, and Maoist combatants. A total of 717 million rupees, consisting of 502 million from the GON and 215 million from development partners, has been spent from this Fund. Twenty-two projects have already been completed while 15 are on-going under this Fund. The GON earmarked a budget of 8,627,655,000.00 rupees to the MOPR in FY 2010/11 while that of 1.5 billion rupees was earmarked in FY 2008/09.

## **F. Strict enforcement of the law prohibiting harmful practices**

### **Reply to the recommendations contained in paragraph 34 of the concluding observations**

55. Laws prohibit harmful practices that violate the rights of women and girls such as *Deuki*, *Badi*, *Chaupadi*, child marriage, and

witchcraft. The Constitution provides clear safeguards to women against these practices. Article 20 of the Constitution provides that no one shall be discriminated in any form merely for being a woman. This provision ultimately provides a greater scope for the implementation of rights against exploitation and violence against women.

56. It is noteworthy to reiterate that judicial intervention has also contributed to bring ample change initiative in relation to these harmful practices. For example, in the case of *Dil Bahadur Bishwokarma* of 2004, where the *Chhaupadi* practice was challenged, the SC declared the practice as a discrimination against women and a violation of women's rights, and issued directive orders to the GON to take appropriate legal and other measures to prohibit this practice. It also issued the implementation guidelines to be observed by pertinent organs of the GON. Appropriate Ministries were directed to form a committee to conduct an in-depth study on impacts of this practice on the health of women while the MOWCSW was asked to develop guidelines in tune with the spirit of elimination of discrimination and violence against women. Similarly, the SC underlined the crucial role of NGOs in carrying out educational and awareness campaigns against inhumane and discriminatory practices like *Chhaupadi*. Similarly, in the case of *Advocate Resma Thapa vs. the Council of Ministers*, the SC issued a directive order to the GON to make comprehensive laws and take other appropriate measures against the practice of witchcraft.

57. Various measures have been adopted to ensure strict enforcement of the legal provisions and directive orders for the protection of women and girls from such harmful practices. Social acceptance or the culture of silence can still be observed in some of the stereotyped areas, and these harmful practices are occasionally reported in the media. Nevertheless, as a result of the initiatives of the GON, with the support of the civil society and media, such harmful practices have significantly come down during the reporting period.

58. The GON has declared the practices of *Chhaupadi* and witchcraft as worst forms of social practices. The MOWCSW has implemented a three-year pilot project, under which activities such as awareness building through media and information, education and communication (IEC) materials (e.g. radio programmes, leaflets, posters, documentaries), health checkups and safety measures and formation of vigilance committees by including senior citizens of the community to put pressure against such practices have been carried out. This intervention has helped to bring about positive changes. The mindset of people towards *Chhaupadi* has now begun to change. The confinement period during menstrual cycle has been reduced. Instead of confining women in cowsheds, they are now allowed to stay inside their homes. Additionally, a committee established by the MOHP has already carried out an in-depth research on the adverse impacts of such practices on women's health.

59. The GON has developed and adopted 'a zero tolerance policy' on violence against women. In recognition of that gender based violence (GBV) is immoral and a human right violation, a special programme to observe the year 2010 as a year against GBV has been launched. The GON has adopted and enforced a National Plan of Action for Year against GBV, 2010, which is a single policy document, and a long-term plan is being developed based on learning from the implementation of this one-year plan. This policy document details a health sector response to GBV. It recognizes that a concerted effort on different dimensions like health, education, legal rights, protection and security is necessary to address GBV. Working with men and boys to prevent violence and for a shift in understanding of masculinity is also essential. Importantly, a Central Level GBV Complaint Management Unit has been established in the OPMCM so that immediate action can be taken in cases where concerned agencies refused to register complaints or when they were unresponsive. Recently, a Gender-Based Violence Prevention Fund (Operation) Regulation, 2010 has been adopted and enforced. Now, a dedicated fund can be used to immediately rescue, provide legal aid, psychological treatment and psycho-social counselling services to, and rehabilitate the victims of GBV. This scheme is immediately applicable throughout the country and implemented by the district-based relief mechanism with representation of both government and non-government sectors.

60. The MOWCSW has implemented programmes to empower adolescent girls, advocate their right to education and health and to end discrimination against girls in all 75 districts. To this end, a number of targeted programmes have been implemented with special focus on the empowerment of women and girls across the country. Meanwhile, NGOs have also actively worked to raise awareness against the existing social prejudices and discriminatory practices imposed on women in the name of religion and culture. The policies adopted in the recent periodic plans and GON's concerted efforts through gender responsive budget (GRB) mechanism are expected to result in desired change in this area.

61. The GON is aware that disadvantages related to gender discrimination are further reinforced by socio-cultural, institutional and other practices which discriminate against women particularly those who belong to the vulnerable or marginalized groups or communities. Such women are susceptible to discrimination due to traditional practices guided by religious and social dogmas. The dowry system, which is still in practice in some parts of the country, is also a challenge in the way to empower women, particularly those who belong to the *Madhesi* community as their level of awareness is relatively low.

## **G. Adoption of the Law on Domestic Violence**

### **Reply to the recommendations contained in paragraph 35 of the concluding observations**

62. Nepal has enacted the Domestic Violence (Crime and Punishment) Act, 2009 to put an end to domestic violence. This Act, which came into force on 2 April 2009, broadly defines "domestic violence" to include physical, mental, sexual or economic torture inflicted by a person on other person with whom that person has a domestic relation, and other act of abusing, and causing emotional harm. It provides, inter alia, for respecting the right of every person to live a secure and dignified life, making punishable violence that occurs within, or incidental to, the family, and protecting, and providing justice to, the victims of domestic violence. A person who knows that domestic violence has been committed, is being or about to be, committed has *locus standi* to file a complaint within 90 days of the commission of such act. A victim may, at his or her choice, file a complaint with a police office, NWC, Local Body or court.

63. Perpetrators of domestic violence are liable to bear treatment expenses of victims, provide appropriate compensation to victims and punishment of imprisonment for a term not exceeding six months or fine of up to twenty five thousand rupees or both. Cases of domestic violence are tried in camera in accordance with summary procedures. The court may issue interim orders, as appropriate,

for the protection of victims. Provisions of service center and service fund are institutional mechanisms to provide reliefs and protection to victims. The Domestic Violence (Crime and Punishment) Regulation, 2010 has provided for procedural matters required to implement the Act. In pursuance of this Act, service centers have been established in 15 districts. Moreover, 427 para-legal committees have been established in 23 districts to provide legal counselling to victims of GBV including domestic violence. The service centers have, in coordination with para-legal committees and women's organizations, carried out social awareness against domestic violence and provided curative services and protection to the victims of domestic violence. These centers have provided short-term shelter, medical treatment, psycho-socio and legal counselling and services to the victims, and maintained contacts with law enforcement agencies so that victims could have easy access to justice. They have facilitated the reunion of victims with their families. They have also provided financial support, in the form of home development grants, to those affected women who are indigent, helpless and whose family reunion has not been possible. Moreover, 84 community service centers have been established as sub-centers of these service centers. A total of 987 affected women have already availed services from these centers.

64. In pursuance of the Domestic Violence Regulation, 2010, four Protection Officers have been deployed in four districts: Mahottari, Surkhet, Kapilvastu, and Kanchanpur. These Officers are based at the Women and Children Development Office and have the exclusive role of ensuring needed support to victims of domestic violence as well as other GBV including human trafficking.

65. In addition, the MOHP has already finalized a manual for the operation of one stop crisis centers in every district hospital throughout the country, in a phase-wise manner. The basic objective of this mechanism is to provide all requisite services to the victims of GBV from the same point.

## **H. Measures for poverty alleviation**

### **Reply to the recommendations contained in paragraphs 36, 40 and 41 of the concluding observations**

66. Poverty alleviation has been a major priority of successive governments. Particularly since the Ninth Plan (1996/97-2002/03), development plans have strived to reduce poverty and achieve a wider economic growth. The GON has remained effortful to achieve the State's fundamental economic objective of transforming national economy into an independent, self-reliant and progressive economy, through equitable distribution of economic gains, social justice and elimination of economic inequalities. The Tenth Plan, which is also known as the Poverty Reduction Strategy Paper (2002-2007), identified poverty alleviation as its overall objective. Its major four pillars were: broad-based and sustainable economic development; social development; programmes targeted to the vulnerable or marginalized groups or communities; and good governance.

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

68. The PAF has continuously strived in reaching out the unreached. The PAF has now reached 40 poorest districts, including all 25 most deprived districts, as defined by the Central Bureau of Statistics (CBS). It has covered all five districts of the Karnali Zone, and is now working in 129 Village Development Committees (VDCs), out of 134, benefiting 50,924 poor households. Six years on the ground, the PAF has helped 543,263 poor organized in 14,827 CBOs to realize their dream of securing livelihood and a dignified life. It has implemented 13,810 income generation and 2,740 infrastructure related sub-projects. It has provided livelihood, empowerment and social capital development opportunities to the poor women, *Dalits* and nationalities, bringing them to the mainstream of development.

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

70. Between the period of FY 2006/07 and FY 2009/10, the PAF's total expenditure has doubled. Its total expenditure was 1,210.30 million rupees in FY 2006/07 while it was 2,481.5 million rupees in FY 2009/10. Its total expenditure till FY 2009/10 is 7,960 million rupees, out of which, 96.52 per cent is from the International Development Association grant, 2.80 per cent, from the International Fund for Agricultural Development grant, and the rest 0.69 per cent, from the GON source.

71. The PAF monitoring system monitors regularly and periodically at CBOs, POs and PAF levels. The PAF has adopted participatory planning, monitoring and evaluation system to ensure participation and inclusion of the poor in their development activities. A system of public auditing and public display of hoarding board of community sub-project information is mandatory to ensure transparency.

72. Despite encouraging results yielded by the PAF on the ground, there are areas that the PAF needs to give extra focus. These areas include institutional development of the CBOs, coordination and collaboration, focused approach for hard core poor, market linkages, strengthening monitoring, evaluation based feedback and learning, effective communications, advocacy and exit strategy. Also, the PAF needs to strengthen action research on poverty and raise funds for the growing requirements in the expanded geographical areas.

73. Over the past five years, the GON has allocated an average of 43.7 per cent from its total budget each year directly to poverty reducing projects as well as providing an indirect allocation of 45.2 per cent. It has spent a total of 283.4 billion rupees directly on poverty-reducing programmes, giving an annual average of 56.68 billion rupees. Significantly, resources have also been mobilized at the community level through savings and credit programmes.

74. In 2008/2009, the GON put stronger emphasis on social protection, by increasing the budget for social programmes significantly. It made provision for the identification and distribution of cards to all eligible poor people for subsidized goods and services, and increased the social security allowances for senior citizens, single women, PWDs, *Dalits* and people from *Karnali* and remote areas. It also introduced policies for increasing the capacity for food storage. The FY 2009/2010 budget has given continuity to the previous social safety programmes providing concessional loans to those farmers who have less than one hectare of land and no alternative income source. Under the sustainable agriculture programme, the GON has provided special grants and subsidies for agriculture and organic farming. The public-cooperative-private partnership has been recognized as an important element of policies and programmes aiming to combat poverty.

75. The PRSP has been supported by a Medium-Term Expenditure Framework, Immediate Action Plan, a separate Poverty Monitoring and Analysis System, District Poverty Monitoring and Analysis System and sectoral business plans for managing development results. The National Planning Commission (NPC) and other relevant Ministries have taken lead roles in adopting a results-based approach to the public sector management.

76. Consequently, Nepal has made a substantial progress in reducing poverty. Poverty was reduced by 11 percentage points between 1996 and 2004 (from 42 to 31) and 6 percentage points (from 31 to 25) between 2005 and 2009. Currently, Nepal's poverty level is 25.4 per cent, which suggests that it has been reduced by 5.5 percentage points since 2005 (table-1). However, the disparities between rural and urban areas still persist. The 2009 assessment indicated that 95.5 per cent of poor people live in rural areas and the incidence of poverty in rural areas (28.5 per cent) is almost four times higher than that in urban areas (7.6 per cent). In addition, poverty reduction rate in rural areas (18 per cent) is slower than that in urban areas (20 per cent). From the regional perspective, poverty in the Mid-Western Region is high and the disparity between better off Regions in terms of poverty reduction like the Eastern Region and Kathmandu Valley shows a widening gap between the rich and the poor. In 2004, poverty in the Mid-Western Region was 44.8 per cent while in the Central Region and in Kathmandu Valley it was 27.1 per cent and 3.3 per cent, respectively. It is estimated that in 2009 these figures were 37.4 per cent in the Mid-Western and 22.3 per cent and 1.9 per cent in the Central Region and the Kathmandu Valley, respectively.

**Table 1 Status of achievement of MDG 1.A (eradication of extreme poverty)**

Indicator	1990	2000	2005	2010	2015 Target
Proportion of population below US\$ (PPP value) per day	33.5	n/a	24.1	n/a	17
Proportion of population below poverty line	42	38	31	25.4	21
Poverty gap ratio	n/a	11.75	7.55	6.1	-
Share of poorest quintile in national consumption	n/a	7.6	6.2	n/a	-

77. Over 80 per cent people still live in rural areas and subsistence agriculture is their main source of living. The contribution of agriculture to GDP in 2008 was only 33 per cent. The main source of income in rural areas is remittance, which has contributed to 18 per cent of total GDP. According to the Nepal Labor Force Survey (NFLS) 2008, 1.4 million (some 30 per cent) of the total 4.82 million households in Nepal received remittance in 2008. On average, estimated figures indicate that 150,000 rupees was received by each remittance receiving household in 2009, giving a national average for all households (with and without remittances together) of 42,000 rupees. During the same period, remittances per capita for the entire country were 7,625 rupees. Remittances have been one of the main contributors to poverty reduction, as they get into and penetrate to remote areas of the country and the poorest sections of society. Again, currently, the economic growth rate is 3.4 per cent which is a reflection of existing problems including unemployment, poverty and increasing income disparity. In keeping with the achievements, the GON is further streamlining its measures to narrow down the gap between the rich and the poor, and disparities between the Regions. Further information on poverty reduction is under article 11.

## I. Special programmes for Ex-Kamaiyas and Ex-Haliyas

### Reply to the recommendations contained in paragraph 37 of the concluding observations

#### *Programmes for ex -Kamayyas*

78. With the abolition and prohibition of bonded (*Kamaiya*) labor system in 2000, a range of measures have been taken to address the problems faced by emancipated *Kamaiyas*. These measures relate to housing, land, work and education for their children. In order to achieve systematic rehabilitation of them and their families, emancipated *Kamaiyas* have been classified into four categories: *Kamaiyas* who have no house and land (first category), *Kamaiyas* who have their own house in an uncultivated land but do not have land (second category), *Kamaiyas* who have own house and less than 2 *Kattha* of land (third category), and *Kamaiyas* who have own house and more than 2 *Kattha* of land (fourth category).

79. On January 2009, the GON formed a Commission on the Resolution of Problems of Emancipated *Kamaiyas* to complete the rehabilitation of *ex -Kamaiyas*, and raise their living standards through infrastructure development. As many as 27,570 people were identified as *Ex-Kamaiyas* in five districts and identity cards were issued to them.

80. Under the rehabilitation scheme focusing specifically on the *Ex-Kamaiyas* of the first and the second categories, a maximum of one *Kattha* land, two *Kattha* land and five *Kattha* land were provided to *Ex -Kamaiyas*, who were living at market areas, near

highways, and rural areas, respectively. Moreover, a sum of 10,000 rupees, along with 35 cubic feet wood, was provided to each *Ex-Kamaiya* for building a house.

81. The Commission has carried out various relief and rehabilitation measures. As of December 2009, a total of 21,639 *Ex-Kamaiyas* families, out of 27,570, were rehabilitated (table 2), 4,404 *Bigaha* of land was distributed to 21,639 *Ex-Kamaiyas*, a sum of 122 million 966 thousand rupees was provided to 13,370 *Ex-Kamaiyas*, 90,407.78 cubic feet wood was provided to 2,728 *Ex-Kamaiyas* for building houses, and skill-oriented and self-employment trainings were given to 8,369 *Ex-Kamaiyas*.

**Table 2 Status of rehabilitation of *Ex-Kamaiyas* as at January 2010**

<i>SN</i>	<i>District</i>	<i>Total population of Ex-Kamaiyas</i>	<i>Rehabilitation of Ex-Kamaiyas and their families</i>	
Families already rehabilitated	Families waiting rehabilitation			
1.	Dang	705	705	None
2.	Banke	1,921	1,921	None
3.	Bardia	11,551	8,174	3,377
4.	Kailali	8,975	7,707	1,268
5.	Kanchanpur	4,418	4,386	32
	Total	27,570	22,893	4,677

82. Provisions of revolving fund and income generation fund have been made to enable *Ex-Kamaiyas* to generate income and self-employment opportunities. Any *Ex-Kamaiya* can now borrow a soft loan of 3,000 to 30,000 rupees, without any collateral from the revolving fund. The loan is repayable within a certain period. *Ex-Kamaiyas* who belong to the first and second categories and are socially and economically backward are eligible to avail benefits from the income generation fund. Skill development and business trainings for *Ex-Kamaiyas* are also financed from this fund. *Ex-Kamaiyas* can also obtain a soft loan against collateral from this fund for self-employment activities. The status of investment made under these funds is given in table-3.

**Table 3 Investments from revolving and income generation funds**

<i>SN</i>	<i>District</i>	<i>Revolving fund</i>	<i>Income generation fund</i>	
Money earmarked to (in rupees)	Investment (in rupees)	Money earmarked to (in rupees)	Investment (in rupees)	
1.	Dang	23,04,300	9,77,000	10,30,000 6,75,000
2.	Banke	13,34,886	8,58,600	10,30,000 1,58,289
3.	Bardia	50,83,542	21,98,750	19,50,000 7,51,250
4.	Kailali	57,70,700	18,65,527	19,50,000 22,82,000
5.	Kanchanpur	22,59,057	27,31,572	14,50,000 9,72,000
	Total	1,67,52,500	86,31,449	74,10,000 48,38,539

83. In addition, a land bank with a capital of 100 million rupees has been provisioned for disbursing a soft loan of up to 150 thousand rupees to each *Ex-Kamaiya* family to purchase land for settlement. A total of 115 *Ex-Kamaiyas* families have borrowed a total of 17 million 182 thousand rupees, and have purchased a total of 58-14-6 *Bigaha* of land by such loans. Similarly, an Employment Contact Center has been established to assist skilled and unskilled *Ex-Kamaiyas* in searching employment opportunities, and to contribute to the enhancement of their living standards. As many as 1,462 *Ex-Kamaiyas* have already benefitted from the services of this Center in seeking employment.

#### *Programmes for Ex-Haliyas*

84. The *Haliya* (bonded agricultural labor) system was formally abolished in Nepal on 6 September 2008. The population of *Ex-Haliyas* is estimated at 19,985 families. The GON has drafted a Bill on Emancipated *Haliyas* (Labour Prohibition) Act, 2010. In order to immediately carry out the rehabilitation of emancipated *Haliyas*, the GON has formed an emancipated *Haliyas* rehabilitation and monitoring taskforce at the center, and such a taskforce in each district. These taskforces have already started functioning. Now, they are engaged in analyzing the data of emancipated *Haliyas*, categorizing and verifying them, distributing identity cards to them and preparing the modalities of their rehabilitation.

85. The measures taken to empower *Ex-Haliyas* have two basic components: awareness and advocacy; and support for their livelihood and economic development. Measures have also been implemented at the local, community and group levels. Under the awareness and advocacy component, several local level interactive meetings were held with *Ex-Haliyas* and other relevant stakeholders including political parties. Necessary support was extended to those *Ex-Haliyas* who filed petitions in any District Administrative Office (DAO) for emancipation. Counselling centers have been established in the districts. At the community and group levels, legal literacy classes and school enrolment campaigns for *Ex-Haliya* children have been conducted. Awareness raising and capacity building activities for *Ex-Haliyas* including trainings on human rights, strategy planning, and network analysis have also been carried out. The GON believes that the *Ex-Haliyas* communities have started gradually developing leadership and negotiation skills, self-confidence and self-reliance.

86. *Ex-Haliyas* themselves have also organized as a district committee, called *Haliya Mukti Samaj*, in each of the seven districts. Some have already been registered as NGOs. In 2007, the *Rastriya Haliya Mukti Samaj* Federation was established.

87. On the other hand, according to the National Agriculture Census 2001, the number of landless farmers' families (possessing less

than 0.1 hectare of farm land) is 227,100, which constitute some 8 per cent of total 3,364,100 farmers' families. Most of the landless families work as bonded labourers for their livelihood whereas marginal farmers barely earn their living for six months from their agricultural production. Scientific land reform has been conceived in accordance with the need of developing production-oriented and entrepreneurial agricultural system for livelihood of farmers and their families. Thus, the GON feels an urgent need to ensure the access of landless and poor people to land by solving the problems such as tenants' right, *Haliya* and squatter settlements. In view of this fact, the GON is framing a national land policy and land use policy with the spirit of scientific land reform. These policies intend to be founded on the strategies and working policies of encouraging land consolidation and collective farming system, discouraging land fragmentation process, and abolishing dual ownership of land, and managing landless and agriculture dependent families appropriately.

## **J. Situation of children engaged in worst forms of child labour**

### **Reply to the recommendations contained in paragraph 38 of the concluding observations**

88. The Constitution prohibits employment, engagement or use of a minor in a factory, mine or similar other hazardous work or in army, police or conflict. Employment or engagement of children (defined as those below 16 years of age) in hazardous works is also outlawed. The Child Labor (Prohibition and Regulation) Act, 1999, has defined 'hazardous work' broadly to include tourism related works such as hotel, restaurant, trekking and rafting, public transport and construction work, manufacturing industry, and mine work. However, the Act allows engagement of children above 14 years of age as labourers in non-hazardous works, subject to specific provisions on working hours and occupational safety. Punishment of imprisonment for a term not exceeding one year or fine of fifty thousand rupees or both to the culprit is the sanction devised by the Act for its compliance. Compelling children to do work without their consent by way of luring, misrepresentation, coercion, force or otherwise is also an offense carrying the same punishment.

89. By ratifying various relevant international instruments including the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, and ILO Convention No. 182 on Elimination of Worst Forms of Child Labour and No. 29 on Forced Labour, Nepal has expressed its commitment towards elimination of worst forms of child labour, including sale and trafficking of children, debt bondage, serfdom and forced labour. A range of measures have been taken to materialize the commitment. The TYIP has aimed to abolish all forms of exploitation, abuse, violence and discrimination against children through the promotion of child-friendly environment for the physical, emotional, mental and intellectual development of, and protection of the rights of, the child. The GON has implemented a 10-year National Plan of Action on Children (2004/05-2014/15), covering areas of health, protecting children against abuse, exploitation and violence, and combating HIV/AIDS. Between the period of FY 2006/07 and 2009/-10, 16,000 child labourers involved in worst forms of child labour were rescued and 17,000 were prevented entering into such labour.

90. The GON has adopted a zero tolerance strategy in relation to child recruitment. Efforts are directed to protect and ensure that children recruited in armed conflict have access to rehabilitation and integration measures. An exodus of 4,008 non-qualified combatants, including 2,973 minors, has already been made from various cantonments, and they have been integrated into society. Recent statistics has estimated that some 19,980 children were affected by the armed conflict, 50 per cent of them were displaced and 20 per cent lost their parents; and 671 persons became disabled. In keeping with the Convention on the Rights of the Child, its Optional Protocol of 2000, and the Paris Commitments, Principles and Guidelines on Children Associated with Armed Forces or Armed Groups, 2007, the GON has recently adopted a National Plan of Action for the Rehabilitation and Reintegration of Children Affected by Armed Conflict. Its basic objective is to launch activities in an integrated manner for the protection of the rights and interests of the children associated with armed forces or groups and affected by the armed conflict and to rehabilitate and reunite them in the society. All activities will be carried out paying attention to the best interests of the child.

91. It is also to note that the GON has adopted and enforced the Emergency Child Rescue Fund (Operation) Regulation, 2010 in order to provide immediate relief to, and make immediate rescue and rehabilitation of, children who are in vulnerable situation, including those who are involved in hazardous labour, victims of forced labour, torture, discrimination, trafficking, and those living with HIV/AIDS.

92. The GON will continue its measures to address the situation of children engaged in the worst forms of child labour with the assistance and support of the civil society and international organizations including the ILO, and keep on further strengthening and expanding the measures to cover all children engaged in such labour.

## **K. Periodic review of minimum wage**

### **Reply to the recommendations contained in paragraph 39 of the concluding observations**

93. The GON has, in view of the available resources and economic condition of the country, reviewed and set minimum wage and dearness allowances for employees/workers of enterprises, on the recommendation of commissions and committees formed time to time. The Second Amendment to the Civil Service Act, 1993 has established a permanent mechanism for the review of salary, allowances and other facilities of civil employees. The salary and allowance review committee, formed under the chairpersonship of the Chief Secretary of the GON, and consisting of the Secretaries at the Ministries of Finance and General Administration as its members, determines dearness allowance based on the consumer index each year and recommends it to the GON. The committee also reviews the salary, allowance and other facilities in every three years. The criteria for such review include, in particular, the rate of increase in revenue, total number of positions and dearness allowance provided on the basis of price index in the past three years. By the FY 2009/10 budget, dearness allowance of government employees has increased by 15 per cent. Consequently, both formal and informal sectors have made increment accordingly.

94. Pursuant to the labour legislation, the GON has, in every two years, reviewed and determined the national minimum wage, daily wage and dearness allowance for employees/workers of enterprises. There is an institutional mechanism for this purpose. A tripartite

committee is formed to recommend the minimum wage. On recommendation of the committee, the GON finally establishes the national minimum wage. There is also a provision of the minimum wage fixation committee at the district level. Accordingly, the GON has, by a notification in the Nepal Gazette of 8 December 2008, specified such minimum remuneration, wage and allowance of employees/workers, with effect from 17 September 2008. Accordingly, unskilled, semi-skilled, skilled and highly skilled workers were entitled to a minimum monthly remuneration of 3,050, 3,100, 3,210 and 3,400 rupees, respectively. They were also entitled to a dearness allowance of 1,550 rupees.

95. Minimum wage for daily wage worker or employee in an enterprise was 190 rupees. Similarly, GON has, by a notification in the Nepal Gazette of 18 September 2008, revised the wage for agriculture workers, including those of tea gardens. Accordingly, the minimum daily wage of an agriculture worker is 150 rupees, while the minimum wage is 18.75 rupees on the hourly basis, with 8 working hours a day. Engagement of a minor below 14 in this work is prohibited. One above 14 and below 16 is defined as a minor for the purpose of this notification, who is entitled to the same remuneration and other allowance as payable to an adult. From 8 March 2009 onwards, an employee or worker of a tea garden is entitled to the minimum monthly remuneration of 3360 rupees and to the daily wage of 120 rupees. The GON has, by a notification in the Nepal Gazette of 23 May 2011, revised the minimum wage of workers. It has determined the minimum monthly wage of a worker at 3,550 rupees and the minimum wage of a daily wage worker at 231 rupees. A worker is also entitled to a dearness allowance of 2,650 rupees. This minimum wage provision is effective from 15 March 2011. Vide this notification, a social security fund is also to be established in each enterprise. The employers have to contribute 20 per cent of the total salary drawn by workers, and the workers have also to contribute 11 per cent of their monthly salary.

## **L. Food security and access to water for all**

### **Reply to the recommendations contained in paragraph 42 of the concluding observations**

96. The Constitution has established food sovereignty as a fundamental right. The GON recognizes that food security implies physical and economic access of each person each day to adequate hygienic and nutritional food, according to his or her requirement and desire. The government policies in this sector focus on four basic aspects of food sovereignty: availability of food, access to food, proper use of food, and food stability. The objectives of these policies are: enhancing self-dependency of the country in basic foods; improving the situation of nutrition; enhancing quality and sanitation of foods; strengthening the capacity to manage food insecurity likely to arise from crisis such as famine, drought, floods and fire; and improving the access of vulnerable groups or people to food.

97. The GON has remained effortful to ensure food security through growth in agricultural production by implementing the Agriculture Perspective Plan. It has provided transport subsidies to supply food to remote districts. Moreover, programmes for improved nutrition have been implemented with the support of the World Food Programme. These programmes included the Girls' Incentive Programme; distributing edible oil for girls enrolled in government schools; midday meals at schools; and the Maternal and Child Health Care Programme, providing food for pregnant women and children aged less than five years in districts under the *Karnali* zone only. The issue of food security has been one of the top priorities of the government's agenda, and the budget allocated for agriculture and support sectors has increased over the years. (Further information on this is given under article 11).

98. The GON believes that safe drinking water is everybody's right and good sanitation is the hallmark of healthy living; and it is the duty of the State to provide safe drinking water to its people. The Water Resources Act, 1992 and Environment Protection Act, 1997, and their respective regulations are specific laws in this respect. The uses of water resources, of which ownership is vested in the State, are categorized into eight priorities, of which drinking water and domestic use is the first one. The TYIP has adopted several strategies to provide safe drinking water to all people by 2017, through identification of new water sources and completion of water supply projects, which are also integrated with sanitation programmes. (Further information on measures to ensure access to water for all is given under article 11).

## **M. Access to public water sources**

### **Reply to the recommendations contained in paragraph 43 of the concluding observations**

99. Caste-based discrimination and segregation in cases of denial of access to public water sources is outlawed by the Constitution itself. Monitoring of access to public wells is one of the responsibilities entrusted by the Local Self-Governance Act, 1999 to the Local Bodies. Under Section 28 of this Act, the VDCs and Municipalities are responsible for the formulation, implementation and maintenance of water supply projects within the village development areas and municipal areas, respectively. These Bodies are also responsible for preserving, building and maintaining wells, ponds and water sources within their respective jurisdiction. The District Development Committees keep overall surveillance and monitoring of public water sources within the respective districts.

## **N. Adoption of a national housing policy**

### **Reply to the recommendations contained in paragraph 44 of the concluding observations**

100. The Constitution has adopted a policy of establishing the right of all citizens to housing, and uplifting and providing shelter to marginalized communities, through reservation, and a policy of implementing a scientific land reforms programme. The GON has implemented the national housing policy, founded on the concept of 'housing for all', and with the objective of providing government support to low-income groups and ensuring planned human settlement. The GON is reviewing the housing policy to make it further comprehensive. The TYIP has committed to provide safe and affordable housing facilities while promoting planned settlement.

101. The strategies adopted under the housing policy include: development of safe, low cost and environment friendly housings; provision of housing services to the weaker section of the society; and promotion of public-private partnership in the sector of



housing and urban development. Further information on the housing policy is given under article 11.

## O. Health care system

### Reply to the recommendations contained in paragraphs 45 and 46 of the concluding observations

#### *Maternal and infant mortality*

102. The Constitution safeguards the right to environment and health as a fundamental right, entitling each person to live in a healthy environment. Each citizen has the right to free basic health services from the State as provided in law. The GON recognizes that the enjoyment of the right to health is intrinsic to the dignity of human being. Higher priority has been accorded to reducing maternal and child mortality rates.

103. In order to control morbidity and mortality among children, the GON has initiated several child survival programmes including the Community-Based Integrated Management of Childhood Illness (CB-IMCI), the Community-Based Newborn Care Package and the National Immunization Programme (NIP). The CB-IMCI Package has recently been expanded to all 75 districts. Neonatal health has been made an integral part of the Safer Motherhood Programme (SMP), and provisions have been made to deliver appropriate neo-natal care through all health facilities where basic and/or comprehensive obstetric services for pregnant women are available.

104. As a high priority government programme, the NIP covers the entire country free of cost. The Multi-Year Plan for Immunization (2007-2011) outlines activities aimed at achieving measles elimination by 2011. As per the Nepal Health Sector Programme Implementation Plan (NHSP-IP 2004-2009), 75 per cent of health facilities are expected to provide prioritized elements of essential health care services (family planning, safe motherhood and neonatal health, child health, communicable disease control and out-patient care) in 2009. The GON has also introduced a free health care policy, targeting the poor and marginalized, with free distribution of the listed essential drugs from health facilities.

105. Since its initiation in 1997, the SMP has made significant progress in terms of development of policies and protocols as well as expansion in the role and skills of service providers. The National Safe Motherhood Plan (2002-2017) has set a target of reducing MMR to 134 per 100,000 live births by 2017. The Safe Motherhood and Neonatal Health Long-Term Plan (2006-2017) includes recognition of the importance of addressing neonatal health as an integral part of safe motherhood and initiating equity and access efforts to ensure that the most needy can have access to the services they need. Comprehensive Emergency Obstetric Care (CEOC) service sites are now available at 76 sites in 35 districts and Basic Emergency Obstetric Care (BEOC) services are available at 105 sites, including hospitals and Primary Health Care Centers (PHCCs). Some seven per cent of PHCCs, 45 per cent of health posts and two per cent of sub-health posts have been providing 24-hour delivery service. Now, 24-hour delivery service is available in all 75 districts. The Safe Delivery Incentive Programme (SDIP) has been in operation since 2005 in order to increase demand for and improve access to maternity services. Women who deliver in a health facility receive a payment to offset their travel costs- Rs. 1,500.00 in the Mountains, Rs. 1,000.00 in the Hills and Rs. 500.00 in the Terai. Health workers are provided with a cash incentive of Rs. 200.00 per delivery to attend home deliveries where women do not deliver in a health facility. The GON has also implemented the Mothers' Security Programme and birth preparedness package in all 75 districts to encourage institutional delivery. This Programme combines free delivery services at any public health facility and a number of partner private facilities with the SDIP. Nepal was awarded with a Millennium Award from the United Nations General Assembly in September 2010 for making a significant reduction in maternal deaths.

106. Consequently, Nepal has made significant progress in reducing the child and maternal deaths. By 2006, the infant mortality rate (IMR) and the under-five mortality rate (U5MR) had decreased to 48 deaths per 1,000 live births and 61 death per 1,000 live births, respectively. The maternal mortality rate (MMR) has decreased from 415 deaths per 100,000 live births in 2000 to 281 deaths per 100,000 live births in 2006 (table-4). In recognition of its landmark progress in relation to child survival, Nepal was honoured with the Global Alliance for Vaccine and Immunization (GAVI) award at the International Partners' Forum held in Hanoi in March 2010, and the UN Award for Reduction of Maternal Deaths in September 2010. Further information is given under article 12.

#### **Table 4 Status of child and maternal health**

<i>Indicator</i>	<i>1990</i>	<i>2000</i>	<i>2005</i>	<i>2010</i>	<i>2015 Target</i>
IMR	108	64	48	41	36
U5MR	162	91	61	50	38 *
Proportion of one-year-old children immunized against measles	42	71	85	85.6	90
MMR	850	415	281	229	213
Percentage of births attended by skilled birth attendant	7	11	18.7	28.8	60

#### *Mental health services and responses to HIV/AIDS*

107. Mental health services and programmes aimed at preventing and treating HIV/AIDS have also been integrated into the general health care system.

108. Mental health is now a priority essential health care package element and the MOHP is planning to launch a community-based mental health programme. As a post conflict country, an increase has been observed in the burden of mental cases including suicides in the country.

109. The health facilities under the public sector have increased. The GON has recently upgraded 1000 sub-health posts to health posts. Currently, a total of 107 hospitals, 204 primary health centers, 1,675 health posts, 2,127 sub-health posts, 2 Ayurveda hospitals, 183 Ayurveda dispensaries and 2 other hospitals are delivering health services.

110. Recent data published by the National Centre for HIV/AIDS and STD Control in 2010 estimate that 68,790 people are living with HIV in Nepal while this figure was 63,528 in 2009. The number of HIV infected population is given in table-5.

**Table 5 Number of HIV affected population**

<i>Population sub-groups</i>	<i>Estimated infection</i>
Children (0-14)	1,857
Adults (15 -49)	64,585
Adults (50 +)	3,348
Total	68,790

111. The GON has recently adopted and implemented the National Policy on HIV and STI, 2010. This Policy, which has replaced the 1995 policy, aims to ensure the basic health right of citizens and integrate the issue of HIV/AIDS and STI as a cross-cutting issue into the national, regional, and local planning cycles. The gender and inclusion policies are to be followed in launching HIV/AIDS related programmes. The Second National HIV and AIDS Strategy (2006-2011), which is in tandem with the 2010 Policy, emphasizes the importance of the continuum and expansion of services from prevention to treatment, care and support. It also defines most-at-risk populations (e.g. migrants and their spouses) and at-risk populations (e.g. youths, street children and trafficked girls). The GON has prioritized programmes on HIV/AIDS within the national plan and the NHSP-IP. The programmes have strived to ensure universal access to quality treatment, diagnostics, care, and support services for infected, affected, and vulnerable groups. A national HIV/AIDS operational plan (2008-2010) for monitoring and evaluation has been implemented since 2008.

112. The principle of the 'three ones' prescribed by the United Nations Programme on HIV/AIDS has been accomplished by developing and implementing: (1) a national HIV/AIDS action framework-the national HIV/AIDS policy, strategy and establishing a semi-autonomous entity- the HIV/AIDS and STI Control Board; and national monitoring and evaluation guidelines. HIV/AIDS has now been recognized as a development issue and the policy strongly recommends a multi-sectoral approach in responding to it. The GON believes that the provision of anti-retroviral treatment (ART) is an essential requirement for controlling the epidemic as well as for addressing the human-rights-based approach to caring and supporting people living with HIV. There are now 23 centers (of which two are run by the NGO sector and the rest are within the government health service) in 19 districts providing free-of-cost ART services. In November 2009, a total of 3,423 individuals or 22.7 per cent of reported cases were receiving ART. Similarly, PMTCT programme is available in 19 hospitals.

113. Prevention programmes focusing on knowledge enhancement continue to be a major pillar of the HIV/AIDS strategy. The Nepal Demographic and Health Survey (NDHS), 2006 showed that knowledge of HIV/AIDS has been increasing over the years, with 69 per cent of married women and 87 per cent of men having correct knowledge of at least one preventive method. Overall, the trend of HIV infection in adults aged 15-49 years seem to be declining from 70,000 in 2006 to 64,585 in 2010. With these achievements and the supportive environment, the GON believes that Nepal will achieve its MDG targets on HIV and AIDS.

*Physical and economic access to reproductive health care*

114. The Constitution in article 20 recognizes the right of every woman to reproductive health and reproduction as a fundamental right. The GON has recognized adolescent pregnancy and motherhood as a major social and health issue in Nepal. It has adopted a policy on running the family planning programme according to the concept of a managed family. To this end, the policy priorities raising of the contraceptive prevalence rate (CPR) with an emphasis on promoting temporary methods of contraception aimed at reducing the share of permanent sterilization in overall family planning methods. A National Adolescent Health and Development Strategy has been implemented with a view to improving access, coverage and quality of the overall adolescent health and development programmes. A range of adolescent health activities have also been undertaken to improve physical and economic access to reproductive health care.

115. The SMP includes the provision for antenatal care (ANC) services, enabling prevention of adverse pregnancy outcomes when it is sought early in pregnancy and is continued through to delivery. The GON has directed its family planning programme toward reaching couples with an unmet need and reducing the proportion of women who expressed no demand through information and awareness activities.

116. As adolescent pregnancy is associated with early marriage and early pregnancy, an important way to influence early childbearing is to curtail early child marriage. Legal provision has, therefore, been made to prohibit the marriage of girls aged less than 18 years. Adolescent health has also been introduced into the school curricula to achieve behavioural changes associated with responsible parenthood. The MOHP has launched adolescent health clinics in selected health facilities and it is in the gradual scaling up phase.

117. Figures for 2006 indicate that 19 per cent of women aged 15-19 years had already given birth or were pregnant with their first child. The percentage of adolescents who had begun childbearing increased rapidly with age, from one per cent for girls aged 15 years to 41 per cent for women aged 19 years. The proportion was lower in urban areas than in rural areas. However, the difference was not large. Adolescent childbearing was highest in the Mountains (20 per cent) and lowest in the Hills (17 per cent).

118. The provision of ANC is progressing. Of pregnant women, 73.7 per cent made at least one visit to a skilled birth attendant (SBA) in 2007, which reached to 89.9 per cent in 2009. Of women who made at least one ANC visit, 50.2 per cent made at least four ANC visits in 2009, which was an increase of 21 per cent points over the previous year (table-6).

**Table 6 Status of access to reproductive health care**

<i>Indicators</i>	<i>1990</i>	<i>2000</i>	<i>2006</i>	<i>2010</i>	<i>2015 Target</i>
CPR	24	39	44.2	45	67

Adolescent birth rate	n/a	n/a	n/a	n/a	-
Antenatal care coverage					
ANC At least one visit	n/a	48.5	73.7	89.9	100
ANC At least four visits	n/a	14	29	50.2	
Unmet need for family planning	n/a	26.5	24.6	26.3	

119. The GON is concerned that little improvement has been made in raising the CPR in recent years, mainly as a result of high levels of migration that separate couples. Although women making ANC visits to an SBA during pregnancy shows an increasing trend, it is still below the desired level. In addition, wide disparities in accessing ANC services by caste/ethnic groups have been observed. Despite an increase in the met need of family planning services, narrowing the gap for unmet need, it is still considered to be too high. The unmet need for family planning services is estimated to be 26.3 per cent in rural areas in 2010. However, out of three couples, one couple is temporarily separated owing to migration, and 15.2 per cent among couples living together.

120. In order to achieve universal access to reproductive health by 2015, the GON has, therefore, remained effortful to scale up the number of women attending ANC visits with an SBA four or more times during pregnancy, by particularly targeting disparities in access to services.

## P. Free and compulsory education

### Reply to the recommendations contained in paragraphs 47 of the concluding observations

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

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

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

124. The GON has a plan to implement compulsory basic education on a pilot basis after making necessary legal framework. To this end, the Ministry of Education (MOE) is drafting a Bill on Amendment to the Education Act. After this legal framework, the State and other actors will be facilitated to implement free and compulsory basic education in a full scale.

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

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

127. The GON has adopted policies to establish more schools and upgrade existing ones with a view to removing physical barriers to access. Consequently, since 2005, the number of registered primary schools has increased by 15 per cent and the number of primary students by nine per cent. Currently, a total of 29,089 early child development centres are engaged in imparting child education, of which 24,773 are community-based and the rest are institutional school-based. There are altogether 32,130 schools where 7,575,880 students are studying. The GON has also implemented policies to mainstream religious educational institutions such as *Gompa*, *Bihar*, *Gurukul*, *Ashram* and *Madarasha*. Resultantly, some 676 new schools were reported in 2009, and the growth of net enrolment rate (NER) in districts with a large number of religious educational institutions has been significantly higher than the national average. The GON has implemented a policy to enhance the role of local communities and parents in school management by transferring responsibilities to the locally elected school management committees. Moreover, additional 4,000 schools were handed over to the communities in 2010. Consequently, a significant improvement has been made in the enrolment of children from the vulnerable or marginalized groups or communities, including the *Dalit*, in public primary schools.

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

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

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

130. With the implementation of these policies and programmes, the GON has made a remarkable improvement in the NER at the primary level (grade 1 to 5). It is 94.5 per cent. There has also been a gradual closing of the gender gap in NER at the primary level. The gap decreased from 6.7 percentage points in 2005 to 2.1 percentage points in 2009. According to the NLFS, 2008, the literacy rate for 15-24 years old was 86.5 per cent in 2008. This is 4.5 per cent higher than the government target for 2009. Further information on the right to education is given under article 13. The status of universal primary education in Nepal is given in table-7.

**Table 7 Status of universal primary education**

<i>Indicators</i>	<i>1990</i>	<i>2000</i>	<i>2005</i>	<i>2010</i>	<i>2015 Target</i>
NER in primary education	64.0	81.0	86.8	94.5	100
Proportion of pupils that start Grade 1 and reach Grade 5	38.0	63	79.1	80.6	100
Literacy rate of 15-24 year olds, women and men	49.6	70.1	79.4	86.5	100

## **Q. Criteria for officially recognizing indigenous nationalities**

### **Reply to the recommendations contained in paragraphs 48 of the concluding observations**

131. Pursuant to the NFDIN Act, 2002, 59 indigenous nationalities were identified and recognized by the GON, vide a notification in the Nepal Gazette. In 2004, the Nepal Federation of Indigenous Nationalities (NFIN) identified five categories of the 59 indigenous nationalities, based on the composite index, using the major criteria (literacy rate, housing unit, landholding and other economic assets) and the subsidiary criteria (education level (graduate and above) and population size). As per these categories, 10 indigenous nationalities belong to the endangered group, 12 to the highly marginalized group, 20 belong to the marginalized group, 15 to the disadvantaged group, and 2 to the advantaged group.

132. According to the NFDIN Act, indigenous nationalities are those tribes or communities that have their own mother languages and traditional rites and customs, distinct cultural identity, distinct social structure and written and/or oral history. In 2009, the GON formed a nine-member high-level task force on the revision of the list of indigenous nationalities. The task force submitted a report to the GON in 2010. The report has suggested for enlisting 81 indigenous nationalities by amending the NFDIN Act. The task force has taken various criteria for recognizing indigenous nationalities. These criteria include, in particular, the recognition of common language, common economic lifestyle and production relationship, cultural homogeneity and common geography, common identity and history (written/oral), relationship with land, religion, culture, values and norms, social, cultural, economic and social exclusion, traditional political system and internationally recognized norms. The task force has suggested four categories of these 81 nationalities: endangered, marginalized, disadvantaged and advantaged. The GON is considering the report of the task force for necessary action.

## **R. Dissemination of the concluding observations**

### **Reply to the recommendations contained in paragraphs 50 of the concluding observations**

133. The GON has widely disseminated the concluding observations among government officials and judicial authorities. NGOs and INGOs have also assisted towards the publicity of the Covenant and these observations. In the course of preparation of the present report, these observations were also deliberated on at the local levels. The NHRAP has also undertaken to ensure incorporation of international human rights law in the professional training curricula for civil employees and for police, particularly police, NA, judicial and other law enforcement bodies in particular.

## **S. Ratification of conventions**

### **Reply to the recommendations contained in paragraphs 52 of the concluding observations**

134. Nepal ratified the Convention on the Rights of Persons with Disabilities and its Protocol on 7 May 2010. The GON has been enforcing the National Policy and Plan of Action on Disabilities, 2006, in tune with the Extended Decade Work Plan for Asia Pacific Region PWDs 2003-2012. Legislative reforms, promotion of awareness on disability prevention, free education and medical care, family and community based rehabilitation and employment are major areas of intervention. Required resources are being channeled to the Local Bodies for the development and empowerment of PWDs and their enhanced participation in development plans. The right based and inclusive approach is the bedrock of the GON's policies and plans in this field. Privileges in relation to education, health, skills-based training and transport services, among others, are some examples of positive discrimination in favour of the PWDs. A national coordination committee oversees and coordinates activities in this field, also in collaboration with the civil society.

135. The Protection and Welfare of Persons with Disabilities Act, 1983 and Regulation, 1994 are major legal measures to give effect to the Convention. The GON is working out for timely improvements in the policy and legal regimes in the field of rights of PWDs. It has also framed building codes requiring public buildings to be PWDs friendly.

136. Nepal is looking into the possibility of becoming a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Ministry of Labor and Transport Management (MOLTM) is developing

requisite policy, legal and institutional infrastructures. So, Nepal intends to join this Convention in due course of time, taking its national interest into account.

## VI. Implementation of specific articles of the Covenant

### Article 1-Right to self-determination

137. The GON affirms and respects the right to self-determination as mentioned in article 1 of the Covenant. It believes that the essence of this right should be understood to include the following propositions: (a) all peoples have the right to freely determine, without external interference, their political status and to pursue their economic, social and cultural development; (b) this right is to be exercised by the whole people of the country or by the nation as a whole; (c) the right to self-determination of the people should in no case be understood nor be construed as authorizing or encouraging any action which may lead to dismember or impair, totally or in part, the territorial integrity or political unity of a sovereign and independent State; and (d) every State has the duty to respect this right of people and to refrain from any act that may deprive the people of their right to self-determination.

138. The Constitution recognizes the supremacy of people as one of the core values of the system of governance. In conformity with article 1, paragraph 2 of the Covenant and article 55 of the United Nations Charter, the Preamble and articles 2, 3, 63, 138, 139 and 140 of the Constitution collectively embody the spirit of the right to self-determination. Article 2 vests the sovereignty and sovereign authority of Nepal in the people. Article 3 defines that all the Nepalese people, having multi-ethnic, multi-lingual, multi-religious and multi-cultural characteristics with common aspirations and being united by a bond of allegiance to national independence, integrity, national interest and prosperity of Nepal, collectively constitute the nation. Article 138 commits to progressively restructure the State with inclusive, democratic and federal system of governance, and to end centralized and unitary structure of the State. Article 139, recognizing the principle of decentralization and devolution of powers to the local governance bodies, commits the State for establishing a system of sharing the accountabilities and revenues between the central government and the local governance bodies according to the law.

139. So far as the question of exercise of the right to self-determination in Nepal is concerned, the people have been exercising this right from time to time. The popular movement of 1990 abolished the concept of absolute monarchy by establishing a constitutional monarchy. Similarly, as a consequence of the peaceful People's Movement of 2006, the traditional feudal monarchy was abolished in the country. The people of Nepal, by exercising the right to self-determination, through a resolution of the first plenary meeting of the CA dated 28 May 2008 abolished the 240-year old monarchy in the country. Moreover, the people of Nepal are currently framing a democratic constitution through their popular representative body, the CA, which stands as a symbol of inclusiveness and proportionality. As a matter of fact, the whole people of Nepal, through their highest representative body, the CA, are now practically exercising the right to self-determination in relation to civil and political rights, and economic, social and cultural rights.

### Article 2-Equal protection of rights

140. The GON has adopted a range of policy, legal and institutional measures, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the Covenant. As mentioned earlier, in addition to the recognition of a bundle of economic, social and cultural rights as fundamental rights, the Constitution has inspired various such rights in directive principles. In line with the Covenant, the GON has adopted measures aimed at poverty alleviation, universal access to health, education services and social welfare programmes. These measures are in pursuance of the policies of State to raise the standards of living of its people through development of infrastructures such as education, health, housing and employment of the people of all regions, by equitably distributing economic investment for the balanced development of the country. The State is obliged to mobilize requisite resources for the realization of these policies.

#### *International cooperation*

141. The GON believes that the effective progressive realization of economic, social and cultural rights is dependent on the availability of resources and development of infrastructures at the domestic level as well as on positive, predictable and sustained international cooperation and technical assistance.

142. Nepal has availed international cooperation and assistance for its socio-economic development, on which the realization of economic, social and cultural rights is essentially dependent. The flow of foreign assistance to Nepal, inclusive of all bilateral and multilateral loans, grants and technical assistance, doubled between 2001/02 and 2008/09. Its share of annual GDP ranged between three and four per cent, gradually increasing each year except for 2005/06. Per capita foreign aid flows increased from 621 rupees in 2001/02 to 1,317 rupees in 2008/09. The share of foreign assistance in total government expenditure and total development expenditure was highest in 2004/05, declining since then. The share of foreign aid in the social sector has almost doubled since 2001/02, reaching nearly 68 per cent in 2008/09. Foreign assistance received in forms of grants and technical assistance is around 34 per cent of the total foreign aid. However, the share of foreign aid in the infrastructure sector has declined significantly. The role and sectoral distribution of foreign aid are given in tables-8 and 9, respectively.

**Table 8 Role of foreign aid**

Descriptions	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09
Total foreign aid utilization (Rs billion)	14.38	15.88	18.91	23.66	22.04	25.85	29.30	36.35
Share in GDP (%)	3.13	3.23	3.52	4.01	3.37	3.55	3.58	3.66
Share in total government expenditure (%)	17.96	18.91	21.14	23.07	19.88	19.35	18.16	16.54
Share in development expenditure (%)	58.07	71.06	81.89	86.53	74.45	65.08	54.75	49.73

**Table 9 Sectoral distribution of foreign aid**

Sectors	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09
Agriculture, forestry and irrigation (%)	22.84	13.71	12.85	10.97	10.87	14.39	13.17	6.30
Transport, electricity and communication (%)	41.06	48.94	40.03	41.68	32.13	25.76	22.90	17.32
Trade and industry (%)	2.56	2.53	0.78	0.52	0.48	0.46	0.27	0.44
Social sectors (%)	32.57	33.50	46.16	45.43	50.64	58.71	62.09	67.94
Others	0.96	1.33	0.19	1.40	5.88	0.67	1.57	8.00

143. The gap between aid commitment by development partners for Nepal and actual realization of aid is wide. In 2008/2009, about three fourths of committed aid was disbursed, while actual disbursement of multilateral aid overshot commitment, the deficit for bilateral aid was significant (table-10). There is, thus, unpredictability of aid. Disbursed aid does not seem to be sensitive towards gender or geographic region.

**Table 10 Foreign aid: commitments vs. disbursement**

	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09
Total aid (%)	43.29	36.77	79.67	62.01	105.34	69.83	59.57	75.77
Multilateral aid (%)	65.65	20.94	63.81	85.23	233.17	48.91	52.92	130.02
Bilateral aid (%)	31.51	65.60	109.60	43.49	51.90	92.66	77.88	34.31

144. Aid effectiveness has not been satisfactory. A considerable amount of Official Development Assistance (ODA), about one fourth, does not come through the government financial systems and a substantial part falls outside the purview of the government's planning and budgetary processes, limiting the effectiveness of fiscal and monetary policies as well as the implementation of development programmes. Technical cooperation is still largely supply-led, and constitutes 38 per cent of the total ODA. Much of the technical assistance is fragmented, with donors having a great variety of different ideas, modalities and priorities, and the absence of coordination between donors sometimes leading to duplication of activities. Donors frequently establish separate units for implementing projects, which apply the donors' own procedures for project operations, procurement, hiring of consultants, and environmental impact assessments. Thus, the GON perceives that donors are yet to comply with commitments made in the Paris Declaration to move towards the use of common arrangements and procedures under the recipient country's leadership.

145. Nepal maintains that both donors and the GON need to further increase their efforts to improve the quality of aid effectiveness. Donors should channel resources in a harmonized manner through the national budgetary system and utilize existing institutions and systems, in the implementation of programmes. The GON is committed to further improve institutional and absorptive capabilities as well as financial management, safeguard accountability and transparency in resource utilization, and ensure effective project planning and implementation. It is also committed to make adequate resource allocation for supply-side capacity, including the agriculture and infrastructure sectors such as energy, transport and communications.

#### *Non-discrimination in exercise of rights*

146. Nepal has adopted legal, policy and institutional frameworks for the implementation of the right recognized by article 2 of the Covenant. These frameworks guarantee that the rights enunciated in the Covenant are exercisable without discrimination of any kind as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

147. The Constitution, by article 13, prohibits any discrimination made against any citizen in the application of general laws on grounds of religion, colour, sex, caste, tribe, origin, language or ideological conviction or otherwise. Moreover, the State cannot discriminate against citizens among citizens on any of these grounds. However, laws may make special provisions for the protection, empowerment or advancement of the vulnerable or marginalized groups or communities. Any discrimination between men and women in regard to remuneration and social security for the same work is also punishable.

148. Similarly, article 14 of the Constitution also recognizes the right against untouchability and racial discrimination as a fundamental right. It explicitly prohibits discrimination of any kind on the basis of caste, sex, tribe, social origin, language, religion and so on. Any person who becomes victim of any such discriminatory act is entitled to compensation as well. In pursuance of this provision, human rights policies adopted by the GON have been profoundly directed and devised towards, inter alia, the elimination of discrimination, untouchability, exploitation and violence based on caste, ethnicity, gender, region, language, or religion, protection and promotion of civil and political rights and economic, social and cultural rights of all peoples, and ensuring basic human rights of the vulnerable or marginalized groups or communities.

149. One whose right against untouchability and racial discrimination is infringed may have recourse to the SC for redress against violation. The right to constitutional remedy is per se a fundamental right. Pursuant to clause (7) of article 143 of the Constitution, these rights cannot be suspended even during a state of emergency. These rights have, therefore, been explicitly recognized by the Constitution as non-derogable rights.

150. A range of laws have been enacted to prohibit gender and caste -based discriminations. These laws also provide for the affirmative measures, which are considered inevitable for effective implementation of the principle of non-discrimination and equality of rights. Discriminatory laws of Nepal have drastically been amended during this reporting period. Based on reports received from various committees formed by relevant institutions, such legal reforms have been undertaken. Numerous legal provisions in the General Code and other legislations have been repealed or amended.

151. Despite a range of measures adopted to ensure non-discrimination and the equal enjoyment of rights by all, in particular the disadvantaged and marginalized individuals and groups, the GON is seriously concerned about the problems still existing in the equal

enjoyment of rights by IPs and *Dalits*. Existence, in one form or another, of discrimination based on caste, language, religion and culture, modest representation of indigenous nationalities in the formulation, implementation, monitoring and evaluation of policies and programmes, weak participation and access to all organs of the State, absence of real identification and recognition of indigenous nationalities, lack of effective implementation of positive discriminatory measures and weak implementation of policies, programmes and laws ensuring the rights of indigenous nationalities are some of the challenges that the GON is facing. Similarly, illiteracy, poverty, superstition, unequal distribution of resources and weak implementation of legal and institutional measures are some challenges in the enjoyment of rights by the *Dalit* communities.

#### *Rights of sexual and gender minorities*

152. Nepal has supported the Statement of the United Nations General Assembly on Human Rights, Sexual Orientation, and Gender Identity in 2004. It has thus undertaken to respect and recognize the rights of all sexual and gender minorities and abolish all discriminatory policies and laws.

153. In the case of *Sunil Babu Pant and Others v. the OPMCM and Others*, the SC, in 2007, pronounced that all sexual and gender minorities, viz. lesbians, gays, bisexuals, trans-gendered and inter-sexed (LGBTIs), are natural persons and their physical growth as well as sexual orientation, gender identity and expression must be ensured regardless of their sex at birth. It was held that the State and society should recognize the rights of lesbian, gay and bi-sexual and should also respect their human rights to marriage and co-habitation on the basis of sexual orientation. The SC issued directive orders to the GON to issue citizenship certificates to LGBTIs with their own identities and void laws that are discriminatory against LGBTIs. On the issue of same sex marriage, the SC has also issued a directive order to the GON to form a seven-member committee to conduct study about other countries'/international practice on the same sex marriage. Based on the recommendation of this committee, appropriate law will be made in this regard. This historic judgment has further enabled the LGBTIs to enjoy all rights enshrined by the Constitution and human rights conventions to which Nepal is a party, on equal footing with the other genders/sexes.

154. The NHRAP has aimed to have representation and access of sexual and gender minorities to all levels and bodies of the State, ensure the protection and promotion of their rights, ensure that they have access to, control and own natural and economic resources for their development and abolish all forms of discrimination and inequality based on race, language, religion, sexual orientation and gender identity. Review and harmonization of laws, establishment of rehabilitation centers for sexual and gender minorities, implementation of skill, income-generating and awareness programmes targeted to these minorities are some major programmes being undertaken. The GON aims to achieve the target to identify the persons belonging to sexual and gender minorities and recognize them by 2013, and raise public awareness thereabout by organizing orientation programmes in 10 districts. Persons belonging to sexual and gender minorities have started getting citizenship with their own identity.

155. The GON has allocated 2.5 million and 3 million rupees in FY 2008/09 and 2009/10, respectively, for building a community center for sexual and gender minorities. An agreement was concluded between the GON and the Norwegian Government in 2009 for providing financial support in the social development of these minorities.

156. The committee on fundamental rights and directive principles and the committee on protection of rights of minorities and marginalized communities, formed by the CA, have also included in their preliminary draft reports various matters such as provisions of issuing citizenship to the third gender according to their identity, prohibiting discrimination on grounds of sexual orientation and gender. Similarly, major political parties of Nepal have also expressed in their manifestos commitments to respect and protect the rights of sexual and gender minorities. Consequently, an activist of third gender's right has been elected as a member of the CA.

157. The GON is concerned that the sexual and gender minorities are facing various problems owing to discriminatory social practices and absence of comprehensive legal framework. These minorities are still facing various difficulties with having citizenship with their own identity because of absence of clear operating procedures in this regard. A separate policy as well as institutional mechanism targeted to sexual and gender minorities has been in the progress. The matters of rights of sexual and gender minorities are yet to be incorporated into school curricula. There is also an absence of proper representation of the persons belonging to sexual and gender minorities in governmental bodies. Traditional cultural stereotypes are yet to be overcome in fact.

#### *Enjoyment by non-nationals of economic rights*

158. The fundamental rights, with some exceptions, under part 3 of the Constitution are generally equally applicable to non-nationals. The equality or non-discrimination clause under article 13 (1) is equally applicable to non-nationals in matter of right against discrimination on the basis of caste, descent, community or profession. Similarly, the right to privacy and right against exploitation are also equally protected. The right to constitutional remedy under article 32 is also available for non-nationals. However, the right to employment and carry on occupation, employment, industry and trade is subject to some restrictions on enjoyment by non-nationals.

### **Article 3- Right to equality**

159. Nepal has adopted various measures to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights enunciated in the Covenant. The Constitution, in article 13, recognizes the right to equality as a fundamental right. All citizens are equal before law, and no person is to be denied the equal protection of law. Any discrimination made against any citizen in the application of general laws on grounds of religion, colour, sex, caste, or otherwise is prohibited. Moreover, the State cannot discriminate against citizens among citizens on any of these grounds, with the exception of making positive discrimination by law for the protection, empowerment or advancement of marginalized groups including women, *Dalits* and indigenous peoples. More than 150 laws have provided such positive measures, the principal areas of which include education, health and employment. Moreover, any discrimination between men and women in regard to remuneration and social security for the same work is also punishable. With reference to women's right, article 20 of the Constitution can be taken as a milestone. It prohibits discrimination against women merely on the ground of sex, guarantees the right to reproductive health and reproduction and the equal right to ancestral property for both son and daughter.

160. A range of laws have been enacted or amended to ensure gender equality. Numerous legal provisions in the General Code and other legislations have been repealed or amended. The Act to Amend Some Nepal Acts to Maintain Gender Equality (the Gender Equality Act), which was enacted in 2006, can be taken as gender equality legislation. As an example, the women's equal right to ancestral property is now fully guaranteed by the Constitution as well as by the 12th Amendment to the General Code. The discriminatory provision under article 9 of the 1990 Constitution in relation to citizenship, which excluded women from reassigning their identity on their children, has now been repealed by a provision of citizenship under article 8 of the Constitution. A new Citizenship Act was enacted in 2006. The 12th Amendment to the General Code 2007 also made significant changes from the gender perspective.

161. One whose right to equality is infringed may have recourse to the SC for redress against infringement. Pursuant to clause (7) of article 143 of the Constitution, these rights cannot be suspended even during a state of emergency. These rights have, therefore, been explicitly recognized by the Constitution as non-derogable rights.

162. A Gender Equality and Social Inclusion (GESI) Policy was adopted in 2010. This Policy is being implemented through various programmes including those launched with the support of local bodies and development partners. A GESI Section has been established in the MOLD for effectively implementing the said Policy, monitoring its implementation and contributing to making all activities of the MOLD and the Local Bodies gender friendly. Recently, provisions have been made that in appropriating their capital budget, the Local Bodies have to appropriate at least 35 per cent for the targeted group development programmes, namely 10 per cent for the programmes directly benefiting the women of indigent class, 10 per cent for children and 15 per cent for the other targeted classes including *Dalit*.

163. Women's participation has been made mandatory in local peace and rehabilitation committees as well as in the process of formulation and execution of local development plans. These committees are entrusted with responsibilities, *inter alia*, to promote peace at the local level, contribute to the implementation of the CPA, and monitor and implement compensation and reconstruction programmes.

164. The Foreign Employment Act, 2007 prohibits gender discrimination in foreign employment and sending girls and boys aged less than 18 years for such employment. Elimination of gender-based discrimination while facilitating foreign employment, special facility and protection for women employees by the employment agency, reimbursement of women's orientation fees from the Foreign Employment Welfare Fund (FEWF), appointment of a labour attaché in host countries with more than 1,000 female Nepalese workers, mandatory provision of life insurance equivalent to 500,000.00 Rupees are some other major provisions of the Act directly supporting gender equality. Similarly, child care centers have been established through the FEWF for the children of women working abroad.

165. Although women are still mostly employed in traditional sectors, their participation in the non-traditional work force such as the armed forces and overseas employment has increased rapidly in recent years. In 2006/07, women's share of the total foreign labor force was 1.9 per cent. By July 2009, this figure rose to four per cent.

166. Women's participation in the political domain can be taken as a major indicator of women's empowerment. The Constitution requires political parties to ensure that at least one third of their total representation is women. In the 2008 election of the CA, 368 candidates in the first-past-the-post (FPTP) electoral system and 3,067 candidates in the proportional electoral system were women. Of total candidates, 30 women were elected in the FPTP category and 161 women were elected in proportional category. In addition, six women were nominated to the CA. Thus, women comprise 33.23% of the CA membership of 601. This is a substantial increase in women's representation over previous parliaments.

167. Similarly, the DOWC has adopted two broad policy measures: women's empowerment, and gender mainstreaming and social inclusion (GMSI). Women's empowerment provides skills development training and supports micro savings and credit schemes. The GMSI is more advocacy based, working in areas such as sectoral networking, awareness-raising, and technical support to sectors to undertake gender audits. Gender focal points have been appointed in all ministries, departments, district level line agencies and Local Bodies. Women and Children Development Offices (WCDOs) have been established in all 75 districts.

168. In addition, the targeted sectoral interventions have been made with the object of improving gender equality. The Ministry of Education (MOE) has adopted several gender equality and social inclusion (GESI) measures such as provision of at least one woman in a school management committee, reservations for women in teacher quotas and recruitment (for instance, at the primary level where three and five teacher positions are available, one and two, respectively, should be allocated to women), financial and non financial incentives for girls and other marginalized children, awareness-raising about GESI, periodic review and revision of school curricular materials and teacher training materials from the gender perspective, and construction of toilets for girls in schools. This shows that another area of employment that is expanding for women is the education sector. The proportion of female teachers is gradually increasing, particularly at primary and secondary levels. Moreover, the DOE, with the support of UNICEF, has begun a process of establishing a Girls' Education and Gender Equality Network in seven Terai districts where girls' participation in education is particularly low.

169. The provision of gender responsive budget (GRB) has been implemented in order to engender development programmes. The GON has allocated 60.61 billion rupees (17.9 per cent of the total budget) for programmes directly benefitting women. As a result of the measures adopted in this respect, the gender empowerment index of the excluded women increased by 10 per cent between 2007 and 2010. Information on the status of gender equality is given under article 13.

170. A number of economic, social and cultural challenges still need to be overcome to achieve gender parity. There is a high representation of women in unpaid labour, which suggests that a large proportion of economically active women still have no access to economic resources. The share of women aged 15 years and above in wage employment in the non-agricultural sector was 19.9 per cent in 2008 which is only one percentage point increase from 1990. Overall, 78.5 per cent of women 15 years and above are



employed. The gender gap in labour force participation is 7.4 percentage points for males and females aged 15 years and above. Women often work for no monetary compensation. 74.8 per cent of the unpaid family labour force is female. The gender gap in average daily earnings is also wider, at 148.9 rupees for women and 212.5 rupees for men.

171. Again, the proportion of women in the civil service is low and decreases significantly as the level of responsibility increases. In 2009, of total female government employees, 78 per cent were in non-gazetted category, 16 per cent were in classless categories, and only six per cent were in gazetted posts. Women representation in Special and Gazetted Class I levels has increased slightly in recent years from 2.4 per cent in 2000 to 3.63 per cent in 2009 but their representation at the officer level has decreased from 6.2 per cent in 2000 to 5.7 per cent in 2009.

172. Very few women are found in the posts of judges. The first woman was appointed to the SC judge in 2001. By 2009, two of 20 judges in the SC were women, four of 110 judges in the Appellate Courts were women and one of 135 judges in the District Courts was a woman.

173. The GON believes that gender overlaps with wealth, language, ethnicity, region, religion and rural-urban differences creating mutually reinforcing challenges that result in gross inequality in almost all outcomes. Therefore, it is further making its interventions aimed at reducing gender inequality tailor-made and multiple in modality given that requirements vary.

#### **Article 4- Limitations on economic, social and cultural rights**

174. The enjoyment of economic, social and cultural rights can be subjected by law to certain limitations for the purpose of promoting general welfare, particularly in times of public emergency. Pursuant to article 143 of the Constitution, the President is authorized to declare a state of emergency in any part or whole of Nepal, on the recommendation of the Council of Ministers, where a grave crisis arises in regard to the sovereignty or integrity of Nepal or the security of any part thereof, whether by war, external invasion, armed rebellion or extreme economic disarray. The order of emergency must be laid before the Legislature-Parliament for approval within a month after its issuance. If such an order is approved by a two-thirds majority of the Legislature-Parliament, it can continue for three months from the date of its issuance. Otherwise, it *ipso facto* ceases to operate. Any such order can be revoked any time by the President on the recommendation of the Council of Ministers. Extension of the term of emergency must also undergo the same procedures. Any order issued by the President during emergency has the same force and effect as of law.

175. According to article 143 of the Constitution, the right to life, personal liberty, freedom to open political parties or associations, right against untouchability and racial discrimination, right against closure or seizure of any publication or communication media or any newspaper or press, right to environment and health, right to education and culture, right to employment and social security, rights of women, right to social justice, rights of the child, right to religion, right to criminal justice, right against torture, right against exploitation, right relating to labor, right against exile and right to constitutional remedies and right to the remedy of habeas corpus are recognized as non-derogable rights, which cannot be suspended even in times of emergency. A person is entitled to obtain a reasonable compensation for any damage inflicted on that person from any act done by any official in contravention of law or in bad faith during the continuance of an emergency order.

176. During the reporting period, the enjoyment of economic, social and cultural rights was largely affected by activities such as general strikes, demonstrations and blockades of government offices responsible for delivering services. Similarly, weak or under implementation of the CPA by relevant parties has also hindered the full realization of these rights. Various armed groups in Terai and eastern parts have been reportedly engaged in violent and disruptive activities, which have inhibited the full enjoyment of these rights.

#### **Article 5-Safeguard clauses**

177. No provision in the Constitution or any law of Nepal allows restriction upon or derogation from fundamental human rights in the pretext that the Covenant does not recognize such rights or that it recognizes them to a lesser extent. The fundamental rights and freedoms guaranteed by the Constitution and other statutes fully respect the letters and spirit of the Covenant.

#### **Article 6-Right to work**

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

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

180. The Foreign Employment Act, 2007 and its Regulation, 2008 regulate and streamline the labour and employment sector, and protect the rights of employees and provide them with security. The GON is formalizing employment through bilateral labour

agreements with recipient countries. It has entered into such agreements with five countries.

181. A major focus of the TYIP was to increase employment. For this purpose, it allocated a large proportion of the public budget to infrastructure development, especially roads, irrigation and drinking water. Basic underlying objective was to create immediate employment, generate confidence within the private sector and create a foundation for future growth. The private sector was expected to increase investment gradually and generate more employment during the plan period. The plan emphasized labour-based public works and expanded food-for-work programmes in food deficient districts. Programmes for raising awareness as to labour rights, child labour, and work-related risks have been implemented.

#### *Technical and vocational training programmes*

182. The steps taken by the GON to achieve full realization of the right to work include technical and vocational guidance and training programmes. The CTEVT, a statutory and autonomous body constituted in 1989, has imparted basic and middle level technical education and vocational training for the development of human resources. In view of broader domain of technical education and vocational training, it has granted provisional affiliation to over 160 private institutions to run three levels of training courses, viz. short-term training course, technical school leaving certificate, and diploma level programme, on various subjects, including agriculture, engineering, health, electronics and food technology. Now, these institutions can enroll about 12,000 students in one academic shift.

183. More than one million 30 thousand people aged 14 and over have received vocational training of one month to one year. A scheme entitled the Self-employment Scheme has been launched to provide non-collateral loans of up to 200,000 rupees to interested unemployed youths to undertake activities in commercial farming, agro-industries and service sectors. Free vocational and technical trainings have been provided to such youths through collaboration between the FNCCI and the government-run technical and vocational training institutions. Under this scheme, skill-oriented vocational training programmes have been launched as a campaign 'Learn Skills and Be Employed' to increase employment opportunities and productivity of laborers. Vocational and skill oriented trainings have been provided to around 36,000 people based on the demand of local, national and international labor market to enhance professional skill and capability. Technical SLC classes have been conducted for 6,000 people. Industrial poly-technical institutes will be established and operated in collaboration with the private sector.

184. While conducting the vocational and skill-orientated trainings, priority is given to conflict victims, martyr's families, *Madhesis*, backward communities, *Dalits*, IPs, *Muslims*, women, and inhabitants of backward areas. In addition, over a period of 15 years, 17 training institutes have been established in cooperation with various CTEVT development partners, which provide trainings in various areas such as agriculture, construction, travel, trekking, office management, health, tourism and sanitation. Table-11 shows the number of persons who took vocational and professional trainings on various subjects by 2008.

**Table 11 Population benefitted from vocational and professional trainings**

<i>SN</i>	<i>Subjects</i>	<i>Male</i>	<i>Female</i>	<i>Total (in thousand)</i>
1.	Teacher training	35.2	22.5	57.7
2.	Handicrafts, spinning, weaving	6.7	26.9	33.6
3.	Computer science	153.3	96.5	249.8
4.	Health related programme	37.4	54.4	91.8
5.	Electrician	24.5	0.5	25.1
6.	Dress making, tailoring	21.1	185.1	206.1
7.	Other craft, trade and industrial	14.9	1.2	16.1
8.	Engineering	13.0	0.5	13.5
9.	Agriculture, animal husbandry	51.7	24.0	75.6
10.	Driving skills and motor vehicle operation	40.2	0.9	41.1
11.	Cooking and food preparation	13.9	1.2	15.1
12.	Hairdressing, beauty work	1.1	20.8	22.0
13.	Police (security) work	10.9	0.6	11.6

185. Similarly, the MOLTM has launched various skills-oriented trainings through various training centers. It provided skill-oriented trainings to a total of 20,716 people in FY 2008/09 and 20,800 in FY 2009/10, on various subjects including plumbing, haircutting, motor vehicle maintenance, electricity and electronics and masonry.

186. In recognition of the crucial role of the youths in economic, social and cultural development, the Youth Policy, 2010 has been implemented, focusing on capacity building and mobilization of the youths. Under the National Youth Mobilization Programme, youth partnership, youth experience exchange and awareness campaigning programmes against addictions are being carried out. A National Youth Council has been formed to oversee the implementation of this Policy.

187. Agriculture business-oriented trainings have been imparted to motivate the unemployed youths towards operation of agro-business, including livestock farming. More than 1,000 families in 12 districts were benefitted from these trainings. The target was to cater a total of 5,000 youths in 45 districts during the TYIP period. Similarly, district level programmes also focused on commodity specific trainings (such as beekeeping, mushroom cultivation, sericulture, lead farmer, master trainer in IPM training) and self employment activities for the unemployed youths.

188. The TYIP aimed to make the livestock extension programme a need based, inclusive and result-oriented activity. A range of activities including those relevant to skills development, income generation and investment, infrastructure development and marketing of products have already been and are being launched. The livestock extension programme has strived to ensure the access of 25 per cent farmers to livestock services such as vaccination and other medical aid and establishing 150 community livestock service centers. Trainings on skill development on food processing and preservation

and self-employment generation were also provided, with priority to women, IPs and Dalit.

189. The working policy has been to keep on providing training opportunities to a maximum number of women and youths (particularly those belonging to the vulnerable or marginalized groups or communities) by improving training methods, quality and process, and enhancing the capacity of training centers as per the changing technology and demand in collaboration with the non-governmental sector.

190. Technical assistance has also been provided to small and medium entrepreneurs for diversification of products and resolution of problems connected with food processing. Marketing of livestock products is also an area of critical importance. The public-private partnership has been adopted as an important approach for carrying out marketing activities in the livestock sector, too.

191. Moreover, the MOI has, through the Cottage and Small-scale Industries Development Programme (CSIDP), provided approximately 22,000 people with trainings on skill and enterprise development in FY 2009/10. Available data show that various industries in operation in the country create around 10,000 job opportunities, the CSIDP and the Industrial Promotion and Skill Development Programme create 5,000 and 25,000 job opportunities, respectively, each year. Altogether, the MOI creates job opportunities for 50,000 people each year.

#### *Legal safeguards to protect workers against unfair dismissal*

192. The Labour Act, 1992 is the main legislation providing for the rights, interests, facilities and safety of workers and employees in enterprises of various sectors. Section 8 of the Act provides that the service of any permanent worker or employee may not be terminated without following the procedures specified by the Act or the rules or bye-laws framed thereunder. A worker or employee who commits misconduct such as bodily harm or injury to, or fetters or detains, the proprietor, manager or employee of the enterprise with or without using arms or causes any violence or destruction or assault within the enterprise in connection with a labour dispute or on any matter, steals any property of the enterprise, absents from the enterprise for more than 30 consecutive days without notice or who is convicted of a criminal offence involving moral turpitude or who discloses production formula without permission may be removed from service. Before imposing punishment for such misconduct, a notice of at least seven days, accompanied by the fact of misconduct and the proposed punishment should the charge be proved, has to be given to the worker or employee to submit his or her clarification. If the worker or employee fails to submit such clarification or if the submitted clarification is not satisfactory he or she may be dismissed from service. The worker or employee may file an appeal in the concerned Labour Court against the decision of dismissal.

#### *Status and trends in the realization of the right to work*

193. According to the NLFS, the total number of employed persons increased from 9.46 million in 1998/99 to 11.78 million (approximately 5.52 million males and 6.26 million females) in 2008. Approximately, 127,000 males and 126,000 females are unemployed. The proportion of paid employees increased only slightly from 16.0 per cent in 1998 to 16.9 per cent in 2008. Of these, 68.2 per cent are fully employed, 19.9 per cent are employed for half of their time, and 11.9 per cent are partly employed. Available data show remarkable regional and rural variations. Table 12 shows employment status for 15 years and above.

**Table 12 Employment status for 15 years and above**

Employment (%)	Nepal	Mountain	Hill	Terai	Urban	Rural
Fulltime (40 plus hr/week)	68.2	74.2	72.3	60.8	66.1	66.9
Part time (20-39 hr/week)	19.9	16.8	16.5	22.6	13.6	20.5
Part time (1-19 hr/week)	11.9	7.8	9.2	14.3	12.8	11.4

194. GDP growth per employed person in 2003 was low but it has now shown a positive trend, with a growth rate of 1.75 per cent in 2009. Since 1998, many of the labour-related indicators have remained relatively unchanged. Nevertheless, there was a slight increase in the share of women aged 15 years and above in wage employment in the non-agricultural sector from 15.1 per cent in 1998 to 19.1 per cent in 2008. The female youth (15-24 years) unemployment rate has, however, also increased from 2.1 per cent in 1998 to 2.9 per cent in 2008.

195. Total time spent at work by persons aged 15 and over went down from 413 million hours in 1998 to 517 million hours in 2008. Encouragingly, total time spent by children in economic activities declined from 48 million hours in 1998 to 38 million hours in 2008.

196. The employment-to-population ratio declined from 84.3 per cent in 1998 to 81.73 per cent in 2008, with 85.5 for males and 78.5 per cent females. Of those employed, 73.9 are engaged in the agriculture sector.

197. There were approximately 2,655 thousand non-agricultural informally employed persons (86.4 per cent of total non-agricultural employment) in 2008. Most of these (1,054 thousand or 39.7 per cent of non-agricultural informal employment) were "paid employees with informal job condition" (i.e. they had no paid leave or no social security contributions by the employer). There were 969 thousand (36.5 per cent of all current non-agricultural employed aged 15 years and above) "self employed" and 525 thousand (19.8 per cent of all current non-agricultural employed aged 15 years and above) as contributing family members. Distribution by sex shows that males employed in the non-agricultural informal sector increased by 31.1 per cent and females by 26.1 per cent.

198. The current labour force participation rate is 83.4 per cent for people aged 15 years and above and 33.9 per cent for children aged 5-14 years. This figure shows a significant drop from 40.9 per cent for 1998.

199. There has been marginal decrease in labour participation rate since NLFS 1998/99. So, the GON believes that it has to double its efforts to meet the MDG target of meeting full employment and decent work for all by 2015.

**Table 13 Status of achievement of full and productive employment and decent work for all**

Indicators	1990	2000	2005	2010	2015 Target
Growth rate of GDP per person employed	n/a	n/a	1.4	1.59	-
Employment-to-population ratio (15 years and more)	n/a	84.3	n/a	81.73	-
Proportion of employed people living below US\$ 1 (PPP) per day	n/a	n/a	n/a	22	17
Proportion of own-account and contributing family workers in total employment	n/a	83.1	n/a	81.9	-

200. There are still a number of challenges in the full realization of the right to work. The lack of investment for employment generation has been the main challenge over the past few years. Despite allocation of annual budget by the GON, an environment conducive to the private sector investment could not be created as expected. Thus, employment generation on the domestic front has been lower than anticipated. This situation, which has been coupled with the absence of adequate industrial security and political uncertainty, has compelled people, especially youths, to seek employment abroad. Foreign employment has become the main source of income generation for hundreds of thousands of people. Thus, Nepal has to manage the challenges of exploitation of Nepali labour abroad, and building confidence within the country. Another pressing challenge is ensuring equitable access to employment opportunities from regional and social perspectives. Generating human resources capable of competing at the international labor market, and enhancing the access of the vulnerable or marginalized groups or communities to the available opportunities in the labor market are some other challenges. In order to manage these challenges, the GON is further streamlining its plans and programmes. It is working towards making special provisions for the vulnerable or marginalized groups or communities in the private sector and international employment opportunities, as well.

### **Article 7-Right to just and favorable conditions of work**

201. As mentioned, a national minimum wage has been legally established. Accordingly, the GON has specified minimum wages for workers and employees, including agro-labourers. The Labour Act ensures that no employee or worker shall be deployed in work for more than eight hours a day or forty eight hours a week; and each employee or worker is entitled to one day as weekly holiday for every week.

202. Where any employee or worker of an enterprise is engaged to work for more than eight hours a day or forty eight hours a week, the employee or worker has to be paid overtime wages at the rate of one and one half time of his or her ordinary rate of wages. No employee or worker may be compelled to work overtime. Moreover, the duration of overtime cannot exceed four hours a day and 20 hours a week. The employee or worker is also entitled to public holidays, sick leave, maternity leave, obsequies leave, special leave with or without remuneration, as prescribed by the Labour Regulation. Similarly, the law also provide for welfare provisions such as the provision of welfare fund, entitlement to compensation where an employee or worker is seriously wounded or dies in the course of work, provision of gratuity, provident fund and medical expenses, provision of quarters, child rooms, relaxation rooms, so as to reconcile professional, family and personal life of the employee or worker.

203. Inspection of industries is also carried out from occupational safety and health (OSH) perspective as required by the labor legislation. The MOLTM is responsible for labor inspection. Labour officers and factory inspectors control the application of labor law provisions. The factory inspectors focus on OSH, basically checking machinery such as steam generators, while the labor officers focus on working conditions. Programmes on the collection of specimen and samples of elements which are hazardous to the health of workers at workplace are being implemented.

204. Also in pursuance of a directive order issued by the Supreme Court in the case of *Sarmila Prajuli, Sapana Pradhan Malla and Pramoda Shah*, a Bill on Sexual Harassment at Workplace (Prevention) Act was submitted to the Legislature-Parliament in 2009. Upon the enactment of this legislation, sexual harassment at workplace will be criminalized, with punishment of both fine and imprisonment. Sections 10 and 11 of the Bill provides for a mechanism to monitor whether the provisions have been complied with. The NWC has the responsibility to monitor the workplaces by deputing its officers directly or through any entities. These officers or entities are responsible for monitoring the compliance of the legal provisions by administrators and managers of enterprises and companies. They may issue necessary orders and directives in this respect. They make reports on the status of compliance to the NWC.

205. Workplace monitoring is another important activity having been carried out specifically by the workplace monitoring and advisory services committee, formed under the chairpersonship of Joint Secretary at the MOLTM. The objectives of the workplace monitoring are the improvement in the workplace environment, and the development of baseline data to set standards and exposure limits on hazardous substances and sources of hazards prevalent in the workplace of industries, for the protection and promotion of OSH of workers.

206. A comprehensive report, accompanied by necessary recommendations, has been prepared based on results obtained from monitoring and forwarded to the respective industry and labor office for necessary action. The committee also provides advisory services to entrepreneurs on appropriate options to control and minimize possible adverse effects of these hazards on the workers. It also conducts national and regional level training programmes with objects to create awareness as to OSH amongst workers, employers and government agencies. In the nutshell, ensuring compliance of statutory provisions by industries, recommending for necessary legal reforms, codes of conduct and standards, and providing advisory services on workplace improvement and legal compliance are the major activities of the committee.

207. In order to achieve an effective protection and promotion of OSH of workers, a number of activities have been carried out under the TYIP. These activities include: training programmes on OSH for social partners, capacity building of relevant human resources, awareness and education programmes on HIV/AIDS and STDs at work places, labor education programmes and factory inspection, monitoring and evaluation strengthening programmes.

208. The GON is seriously concerned with a range of challenges and gaps. Despite various measures in place, several problems persist in the full realization of the right to just and favorable conditions of work. Adoption and implementation of specific OSH and health care waste management policies has remained a work in progress. Occupational health issue needs to be further integrated into the primary health care. Labor laws in force need further revision in terms of coverage, monitoring mechanism and OSH. The inspection and monitoring of labour in the informal or unorganized sector need to be legally provided for. Distinction between hazardous and safe work need to be more clearly spelled out by law. In order to address these issues, the GON is further streamlining its measures.

### **Article 8- Right to form trade unions**

209. The Constitution has stipulated several important provisions vis-à-vis the right to form trade union. All citizens have freedom to form unions and associations of their choice; and all workers and employees have the right to form and join trade unions and engage in collective bargaining for the protection of their respective interests, as well as the right to exercise appropriate labour exercise, as provided in law.

210. The Trade Union Act, 1992 regulates the matter of registration and operation of trade unions. It makes necessary provisions relating to the protection and promotion of professional and occupational rights of workers. Section 4 of the Act provides that the workers of an enterprise may form an enterprise level trade union for the protection and promotion of their occupational rights. At least 50 trade unions or 5,000 workers of enterprises of a similar nature can form a trade union association, and at least 10 trade union associations can form a trade union confederation. Pursuant to Section 8, a trade union is an autonomous body corporate with perpetual succession. Currently, there are ten registered trade unions in Nepal.

211. The Labour Act, 1992, in Section 76, allows workers to organize a strike by notification to the Department of labor (DOL), Labour Office and Local Administration if a dispute could not be settled through the specified procedures including dialogue between the workers and the management, dialogue before the Labor Office, mediation and tripartite committee, within the stipulated time. Trade unions are also allowed to organize a strike under certain circumstances as mentioned in Section 76 of the Labour Act. However, the workers or trade unions cannot hold a strike if it is prohibited by the prevailing law. For example, the employees or workers who are involved in the essential services as specified by the Essential Services Act, 1955 are not allowed to organize a strike. The essential services are those relating to postal or telephone services, means of transportation of passengers and goods, airport and air traffic related services, mint or government printing services, arms and ammunition related services of the GON and such other services as specified as such by the GON by a notification in the Nepal Gazette. Similarly, persons who are deputed on security or involved in management cannot hold strikes. In such a case, the GON can form a tribunal to resolve the dispute, and the tribunal's decision is final. Moreover, the Second Amendment to the Civil Service Act has allowed civil employees of Gazetted third class (other than those who serve as chief of office) and below to form trade unions of civil employees for their professional rights and interests. Such trade unions should be registered with the DOL. The duties of these trade unions are to protect and promote the rights and interests of civil employees and give constructive suggestions to the GON to make the civil service effective and dynamic. These unions are also entitled to make social dialogue and collective bargaining on only those matters which are related to the rights and interests of civil employees such as security of their service, timely facilities, career development, security of their life and their profession.

### **Article 9- Right to social security**

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

#### *Senior citizens*

213. The GON has formulated the Policy on Senior Citizens, whose population (those above 60) is 6.5 per cent of the total population. The Policy aims, inter alia, to make senior citizens capable enough, develop more respectable family based social security systems, categorize senior citizens according to economic status for monthly allowances, establish geriatric wards in all zonal hospitals for concessional health care facilities to senior citizens, develop old age homes in all regions, and encourage NGOs and private institutions to run such homes, and utilize the experience of senior citizens in the nation building.

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

215. A regulation to implement the Act is being drafted with urgency. Moreover, the Senior Citizen Health Treatment Service Programme Guidelines, 2004, Senior Citizen National Action Plan, 2005, Social Security Programme Operation Working Methods, 2006 are also in force. The GON has been providing a monthly allowance to senior citizens above 70 years of age, with 65 years of

age for those in the Karnali Zone. Senior citizens above 75 years of age are entitled to free medical treatment of severe diseases like heart, kidney and cancer. Moreover, a range of public service employment and labour related laws and policies provide for social security measures including provisions of gratuity, pension and compulsory provident fund for employees and workers, with special focus on those from the vulnerable or marginalized groups or communities.

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

217. The Plan of Action has focused on the collaborative mechanism between the government, NGOs and the private sector in its implementation. Coordination of plans and programmes has been forged by the relevant agencies, and particularly by the senior citizen welfare committee, at the central level, and by the district senior citizen welfare committee, in collaboration with Local Bodies, NGOs and CBOs, at the district and local level. The overall monitoring and evaluation is the ultimate responsibility of the MOWCSW. Participatory approach has been adopted in the formulation, implementation, monitoring and evaluation of activities under this Plan of Action.

218. In FY 2009/10, one health shelter for elderly citizens is being established in each of the five Development Regions, in order to provide appropriate care and medical treatment to the conflict-affected elderly citizens. With a view to ensuring due respect to and security of the elderly national talents, a sufficient budget has been earmarked to establish 'Pushpalal Sarjak Home' in the capital. Health treatment programmes are in operation in all 75 districts. Institutional support and some grants are available to old age homes and daytime service centers. Allowances for senior citizens, helpless widows and PWDs have been increased.

219. Despite a range of measures undertaken, there are still many challenges in the field of protection and promotion of the rights and welfare of senior citizens. Issues related with senior citizens not receiving priority, absence of desired level of effective coordination between relevant institutions, absence of proper environment and mechanism for availing of the knowledge, skill, experience and competence that senior citizens possess, absence of a desired level of awareness about the role and contribution of senior citizens, and resource constraints in the implementation of relevant programmes and activities are some problems; and the challenge for the GON is to cope with them efficiently.

#### *Persons with disabilities (PWDs)*

220. PWDs have enjoyed various positive discriminatory measures adopted in their favour in the fields of education, health, skills-based training and transportation services, as well. The Act Relating to Children, 1992 exempts the ceiling of age for children with disabilities to stay in child welfare homes. In pursuance of the Disabled Service National Policy, 2004 and the SLTHP (1997-2017), the GON has implemented a National Child Disability Management Strategy, 2007. Health institutions at all levels are providing rehabilitation and treatment services to children with disabilities, below 14.

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

222. Various programmes have also been launched towards promotion of organizations engaged in the field of PWDs and generation of awareness about the rights of PWDs. The TYIP has estimated a total budget of 500 million rupees for carrying out various programmes on empowerment, income generation of PWDs, and enhancement of their accessibility to public facilities, and physical aids for them.

223. The GON has collaborated with the civil society and development partners in launching a range of activities, including but not limited to, community based rehabilitation, advocacy, preventive and curative medical service delivery, vocational and other income-generating activities, scholarships and special education for the PWDs.

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

225. The MOWCSW has monitored the implementation of programmes at the center while the WCDOs have monitored such implementation at the district level. Based on the reporting from the district level, future plans and programmes are set in view of economy, efficiency and effectiveness, in a collaborative and coordinated manner.

226. A number of challenges still persist in the field of the rights of PWDs. These challenges include: inadequate human, financial and physical resources; lack of proper coordination between the relevant agencies; the domain of the rights of PWDs being excluded

from the priority area; and absence of substantial change in traditional public outlook towards disability.

## **Article 10-Protection and assistance to family, mothers and children**

### *Free consent to establish a family*

227. The Nepalese society and the State have protected the family as the natural and fundamental group unit of society. Every person with marriageable age, i.e. 20 years where there is no parental consent and 18 years where such consent is available, is free to choose his or her partner for marriage. Free will and consent of the prospective spouses is given due importance, and a marriage entered into without such consent is legally voidable.

228. Joint family system has remained a norm of the Nepalese society, while nuclear families are also becoming more common in urban areas. The marriage by registration system has been introduced for those who have attained the marriageable age. Interested persons may register their marriage with, and obtain the marriage registration certificate from, the District Administration Office (DAO). This system is applicable to everybody without any discrimination irrespective of race, caste, religion, ethnicity or creed.

229. In order to encourage inter-caste marriage between *Dalit* and non-*Dalit*, the GON has implemented a scheme of providing a grant of 100,000 rupees to a newly married couple within 30 days of the registration of marriage with the DAO concerned.

### *Protection and assistance to children*

230. Various measures have been taken for the protection of, and assistance to, the children, defined as those below 16. Children account for 40.93 per cent of the total population. The Constitution, in article 22, has first protected the children's right as a fundamental right, incorporating a bundle of the rights of the child. Any form of exploitation of a child is outlawed, and the victim is entitled to compensation as determined by law. The Constitution also directs the State to pursue a policy of making special provision of social security for the protection and progress of the children, as well.

231. Nepal believes that it has a comprehensive legal regime for the protection of children. The Act Relating to Children, 1992 has been enacted to protect and safeguard the rights and interests of children. This Act, as well as the criminal justice system of Nepal, is geared towards the rehabilitation of child offenders. It focuses on the adjudication of matters in the best interests of children and strives for their rehabilitation through various institutions established by law, which include children reform homes. The GON has enforced the Juvenile Justice (Procedures) Rules since 2006. Currently, there are juvenile benches in 26 districts, with good physical infrastructures. Six courts are implementing legal and institutional framework improvement programme for the protection and promotion of the rights of the child. This programme is being extended to other eight districts. Juvenile justice committees have been formed in 12 districts.

232. Nepal has also reviewed legal measures, as appropriate, during the reporting period. It is in the process of revising the Act Relating to Children. In 2006, the Births, Deaths and Other Personal Events Registration Act, 1976 was amended, enabling both male and female family members to register the births of their children. The GON has introduced several packages such as exemption from registration or late fees to encourage parents to register the births of their children. Birth registration campaigns have also been launched in collaboration with child focused organizations particularly targeting those districts where the birth registration rate is comparatively low.

233. In 2007, the Minimum Standard Rules for Operating Child Welfare Homes were framed and enforced with a view to ensuring the best interests of children living in welfare homes. These homes have to maintain the minimum standards pertaining to physical infrastructures and basic facilities for ensuring health, education and psychosocial support for children. Criteria for regular monitoring and supervision of such homes are also specified by these Rules.

234. The MOWCSW is the lead agency to take measures for the protection of and assistance to children and monitor the effectiveness of the measures. The Children Welfare Boards are in operation at the central and district levels. Para legal committees in districts and women and children cells in Nepal Police have been formed. Paralegal committees in all VDCs will be formed by the end of this year for legal aid to children, as well. Community-based child centers are also in operation, and participation of children in these centers has increased.

235. The GON has allocated budget for improvement in child-care by poor and backward families. Since October 2009, a child protection grant of 200 rupees per month per child below 5 has been provided to up to 2 children of each poor *Dalit* family and all families in Karmali Zone. This programme has improved the nutrition level of about 400 thousand children.

236. Clause (2) of article 20 of the Constitution guarantees the right to reproductive health and reproduction as the fundamental right. This right protects women from dismissal during pregnancy and ensures conducive working conditions compatible to her health. Various service related laws including the Labour Act, 1992 and its Regulation, 1993, Civil Service Act, 1992 and its Regulation, 1993, Health Services Act and its Regulation, 1999, and Education Regulation, 2002 have made adequate provisions in relation to the work related maternity benefits. Rules 28 and 34 of the Labour Regulation provides for 52 days fully paid maternity leave before and/or after delivery. Rule 59 of the Civil Service Regulation, Rule 51 of the Nepal Health Service Regulation and Rule 106 of the Education Regulation ensure 60 days fully paid maternity leave before and/or after delivery to female employees who become pregnant.

237. Rule 59A. of the Civil Service Regulation provides for maternity care leave to civil employees. A male employee whose wife is to deliver a baby is entitled to a maternity care leave of 15 days before or after delivery. During this leave, the employee is entitled to full salary. This leave is available only for two times during the service period of the employee. A female civil employee who delivers a baby is entitled to the fully paid maternity leave of 60 days, and to an unpaid maternity leave of up to six months. Moreover, every civil employee who has got the maternity care leave or maternity leave is entitled to the baby care allowance of 5,000 rupees to each

baby for up to two babies.

#### *Trafficking in persons*

238. The Constitution, in article 29(3), specifically criminalizes trafficking in persons. A new Trafficking in Persons and Transportation (Control) Act, 2007, which repeals the previous Human Trafficking (Control) Act, 1986 has been enacted. This Act, and its Regulation, 2008, are a strong law to address the issue of trafficking in persons. This Act defines 'exploitation' as an act of keeping human being as slave. It has broadened the scope of reporting, investigation and adjudication with procedural and substantive legal provisions. It covers both cross border and internal trafficking for sexual exploitation or any other purpose, and also incorporates important provisions to provide justice to the victims, including compensation, in-camera hearing and establishment of a rehabilitation fund. It recognizes the principle of extra-territorial jurisdiction; hence trafficking of any Nepali citizen by any person or trafficking of any person by a citizen of Nepal in any part of the world is a prosecutable crime in Nepal. In the nutshell, Nepal has come out with stringent legal measures to deter, prevent and punish the crime of human trafficking in all forms.

239. The TYIP aimed to eliminate all forms of discrimination and violence against women including trafficking in persons, and the Three Year Plan Approach Paper (2010/11-2012/13) has given further impetus to this aim. The GON has implemented a national plan of action against the trafficking in women and children for sexual and labour exploitation since 1998.

#### *Preventive measures*

240. The GON has drafted and submitted a number of important Bills to the Legislature-Parliament. In 2010, the GON submitted Bills on Mutual Legal Assistance, and Extradition to the Legislature-Parliament. After enactment, these instruments will provide a legal framework to enforcement mechanism, inter alia, to more effectively address human trafficking. The Bills on Civil Code and Criminal Code are recent attempts to codify civil and criminal laws in tune with human rights treaties that Nepal has ratified. Nepal ratified SAARC Convention on Trafficking of Women and Children in 2007. Similarly, on 28 October 2010, the GON has submitted resolutions to the Legislature-Parliament for ratification of some directly relevant conventions: the United Nations Convention against Transnational Organized Crime, 2000, International Convention for the Suppression of the Financing of Terrorism, 1999, and BIMSTEC Convention on Cooperation in Combating International Terrorism, Transnational Organized Crime and Illicit Drug Trafficking, 2009. Recently, the Legislature-Parliament has ratified the United Nations Convention against Corruption, which is important to address corruption in the country that fuels criminal activities, including those against women and children.

241. The GON is reviewing the National Plan of Action on Human Trafficking to examine gaps and make it relevant to the changing context. It is drafting a Policy on Safe Migration to address the issue of illegal migration and also to prevent trafficking resulted from illegal migration. It has adopted the Guidelines to Investigate and Prosecute Crimes Relating to Foreign Employment, 2010. It has implemented the National Plan of Action on Women, Peace and Security adopted on 1 February 2011. It includes a plan for training of security personnel and the peacekeepers on GBV including trafficking.

242. The GON established District Committees on Controlling Human Trafficking in all 75 districts in 2009/10, which were established only in 26 districts in 2008/09, and provided increased budget to these Committees.

243. The GON has established a National Committee on Controlling Human Trafficking (NCCHT) as the nodal agency to lead anti trafficking efforts, led by the MOWCSW. The NCCHT has made various important decisions to combat human trafficking. On 12 December 2010, the NCCHT decided to repatriate a Nepali victim from a rehabilitation home in Bangladesh. On 27 July 2009, it decided to establish an information desk at the district level to prevent trafficking resulting from illegal migration.

244. A Foreign Employment Tribunal was established on 3 February 2010. In a period of one year, the Tribunal has considered 224 cases. The Tribunal has been an effective mechanism for addressing illegal migration and exploitation of workers. Similarly, a Committee to Hear the Issues of Undocumented Workers, including representation from the non-governmental sector, was established at the DOL. The functions of this committee are specified in the provision under the Guidelines to Investigate and Prosecute Crimes relating to Foreign Employment, 2010.

245. To protect women from the vulnerability exposed by illegal migration, women are encouraged to go through recruiting agencies and not use individual agents. A provision has been adopted to reimburse the pre-departure orientation fee to women. Since the implementation of the provision, pre-departure orientation fee has been reimbursed to some 1018 women migrants. Recently, the GON has also adopted the Domestic Workers Guidelines for Foreign Employment.

#### *Protective measures*

246. The GON has so far established rehabilitation homes in eight districts. These homes, which were established under the human trafficking legislation, have provided services exclusively to the victims of trafficking. However, as per the need, they have also provided services to women who are victims of other GBV. Some 253 victims have received rehabilitation services from these homes, and there are altogether 77 victims in these homes. Services provided by the homes include health check up and treatment, awareness programme on anti-trafficking, legal aid, psychological counselling, skill development training, and coordination for generating employment opportunities for the victims, and reintegrating victims to the community. These homes have received government funding from the rehabilitation fund established in December 2008, with a core fund of 14 million rupees, which was increased to 24 million rupees in FY 2009/10. So far the rehabilitation homes have received one million rupees each. For the rescue of victims of trafficking, a budget of 100 thousand rupees and that of 325 thousand rupees was provided to the Nepalese Embassy in India in FY 2008/09 and 2009/10, respectively. Paralegal committees run in 23 districts have also provided necessary advice to the affected or vulnerable groups.

247. The GON has established safe homes in four countries (Saudi Arabia, Qatar, Kuwait and United Arab Emirates) and is planning to establish such homes in Japan, Hong Kong, Korea, Kuwait, Oman and South Korea. The safe homes were established following



the directive order from the SC to implement the Foreign Employment Act, 2007. The safe homes have provided space to those trafficked or smuggled women who were suffering from slavery-like situations. The fast track system of the GON was also appreciated in the Global Forum on Migration, Mexico in November 2010.

248. In pursuance of the Foreign Employment Act, 2007, which also provides for a labor attaché in countries with more than 5,000 Nepali workers, and the directive order of the SC, the GON has sent labor attaches to four countries: Saudi Arabia, Malaysia, Qatar and United Arab Emirates. These labour attaches are responsible for assisting the respective embassies and missions in protecting the rights of migrant workers. The GON has continued activities to rescue victims, also in coordination with relevant NGOs. The embassies and missions of Nepal are actively engaged in rescue works.

249. In 2009, the SC issued a directive order to the GON to develop a new law on victim/witness protection, also directed to ensure protection by developing a plan of action, pending the enactment of the new law. The plan has to include measures of establishing a victim protection and support section at the Police Headquarters, forming a committee on victim/witness protection within the district police offices, appointing victim protection officers, and providing necessary services to victims. A task force is engaged in developing such a plan.

250. On 12 August 2009, the SC issued a directive order to GON to establish a fast track court mechanism to deal with criminal cases where women are victims of domestic violence and other forms of GBV. In relation to this, the directive order provides for the formation of a four member committee from the MOHA, MOWCSW, and MOLJ to carry out a study to examine necessary human resources, budget, and physical infrastructure needed for the court mechanism. It mentions that the fast track court mechanism should be established within four months of the submission of the committee's report. A committee has been formed, and a study undertaken in this respect. Similarly, on 11 November 2009, the SC issued a directive order to the GON to send Labor Attachés to countries with more than 5,000 Nepali workers, and also establish safe homes in countries with women Nepali workers.

251. A gender review of the basic training curricula of Police has been made to provide gender sensitive training for police. The review included contents on gender related issues, crimes against women and children and how to promote sensitive and effective policing. Based on the review, a new curriculum adopting gender issues was adopted in March 2010. Nepal Police has established Women and Children Service Centers in 13 districts and is planning to extend them to five more districts.

#### *Prosecution*

252. Cases of human trafficking are prosecuted as criminal cases. The onus probandi lies on the accused, and cases are tried in camera. The perpetrators are liable to punishment of imprisonment for 20 years and fine of 200 thousand rupees. Fifty per cent of the fine imposed on the perpetrator is provided to the victim. Any proceeds of crime are subject to forfeiture by the State.

253. Data of human trafficking cases reported to the police show an increase in reported cases every year over the last seven years. One hundred twelve cases were reported in FY 2006/07, 123 in FY 2007/08, 139 in FY 2008/09 and 161 in FY 2009/10. The increase in reporting may be an outcome of various factors in combination, including improved treatment towards victims of human trafficking, increased information and access to the justice system, or increased trust of the victims on the law enforcement mechanism.

254. The Office of the National Rapporteur on Trafficking in Women and Children (ONRT) has been established within the NHRC. Control and elimination of trafficking and social integration of victims is one of the strategic objectives of the ONRT. The ONRT has started publishing its reports on the situation of trafficking in Nepal since 2005. It has conducted several advocacy programmes including trainings on trafficking including safe migration. It has appointed focal persons at the NHRC regional offices to work on this issue.

#### *Sexual harassment at workplace*

255. The condition of women at workplace has also drawn the attention of the SC in some cases. In the case of *Sarmila Parajuli et al vs. the Council of Ministers 2004*, the SC upheld that sexual harassment at workplaces is one of the issues of exploitation of women in which, a woman working at an organization is sexually abused by her co-workers, or by her seniors, either with the threat of dismissal from job or some enticing promises such as promotion or other rewards. The SC has ordered enactment of legislations covering all aspects of this issue including proper investigation, adequate penal provisions and relief measures for victims of such cases. In 2010, the GON adopted and enforced the Code of Conduct against GBV at Workplace in Industrial Enterprises with a view to controlling GBV at workplaces in industrial enterprises.

256. The MOWCSW had conducted a study on 'Cabins, Dance Restaurants and Massage Parlours' highlighting the problems and recommending solutions of women workers. The study report was released on the occasion of 'Second National Day against Human Trafficking' in 2008. The study reveals cases of sexual abuse and exploitation of girls working in dance/cabin restaurants. The issue was also contended by filing a writ petition *Prakashmani et. al v. MOWCSW and Others*, decided on 26 November 2008 where the SC has issued mandamus for the enactment of legislation to protect the right to employment of women working in such places. The SC focusing on the 'dignified treatment and security measures' for women workers, has also issued comprehensive 'guidelines' containing a number of provisions regarding the registration and management of restaurants, massage parlours, maintaining individual record profile of women workers including detailed terms of reference, remuneration, physical infrastructures and range of provisions for the prohibition of sexual abuse, harassment and exploitation. Realizing that sexual harassment at the workplace is an emerging issue of serious concern, the MOWCSW has set up a task force comprising representatives from various related line ministries.

257. The GON is concerned with a range of challenges in the full realization of this right. The implementation of the policies, plans and programmes devised to enforce this right has been inhibited by the lack of required resources-physical, financial and human resources. Effective coordination between the relevant government institutions is a work on the progress. Collaboration with the civil society and development partners needs to be further strengthened.

## Article 11- Right to continuous improvement of living conditions

258. In 2005, the proportion of Nepal's population living on less than US\$ 1 (purchasing power parity value) per day was estimated to be 24.1 per cent and 31 per cent of the population were assessed to be below the national poverty line. Currently, Nepal's poverty level is 25.4 per cent. With the strategies and policies devised for development and poverty reduction being largely successful, the NPC has set a target for Three-Year Plan of reducing poverty to 21 per cent by July 2013.

259. The GON is working on the scientific land management so that land management, distribution and productivity enhancement programmes can be carried out more effectively. Top priority is being accorded through appropriate policies to mainstream the landless squatters. Income generation and shelter programmes are being launched targeting these squatters. Uplifting the living standards of the vulnerable or marginalized groups or communities through affirmative measures and targeted programmes is the major focus of the activities in this field.

260. Enhanced income-generation of the poor and backward classes also through agriculture is an important aspect of the plans and programmes launched in this field. Off-season vegetable growing in plastic sheds, goat exchange programme in 38 districts, fisheries by women group along the highway side of Kailali and Kanchanpur districts, family farming extension in 11 districts of *Terai*, potato farming in 20 districts, extreme poor targeted programmes in 10 districts, community livestock development programme in 22 districts with high population density of *Dalits* and emancipated bonded labor, programme on commercial farming of 12 priority herbs in 12 poor districts, and one family one job programme in Karmali zone are some of these programmes that have been launched. In addition, under the micro-enterprise development programme, some 6,014 entrepreneurs have been prepared from the poor and marginalized groups.

### *Right to a adequate food*

261. The State is obliged to pursue requisite policies, including reservation, to realize the fundamental right of all citizens to food sovereignty. Given that agriculture is the major source of livelihood of Nepalese people, and 74 per cent of the total population, most of them being small and marginal farmers, still dependent on agriculture for their subsistence, and one third of the GDP comes from the agriculture, the agriculture sector has, thus, an immense role to play in reducing poverty, ensuring food security and balance of trade of Nepal. The policies in this respect have been designed in such a way that the APP and National Agriculture Policy would contribute to food and nutrition security and MDGs achievement by making the agriculture sector competitive through commercialization and modernization.

262. However, the performance of agriculture has not been that much encouraging. Annual growth rate of agriculture was 2.7 per cent in the 1990s, whereas it rose up to 2.5 per cent per annum from 2001 to 2006. Its growth rate was recorded as high as 4.7 per cent in 2006/07. However, it stood to mere 2.1 per cent in 2008/09 and crop production experienced the sharp decline in the subsequent year mainly because of weather.

263. The main staple crops in Nepal are rice, maize, wheat and millet. Over the years, rice production has declined while growth in the other crops is rising slowly. The GON has taken several measures aiming to achieving the target of increasing the production of food crops from 7,762 metric ton (MT) to 9,633,000 MT, pulses 262000 MT to 377,000 MT, fruits 705,000 MT to 775,000 MT, potato 2,459,000 MT to 2,575,000 MT, vegetables 3,001,000 MT to 3601000 MT, milk 1, 496000 MT to 1,605,000 MT and meat 248,000 MT to 329,000 MT by 2013. It also aims to increase per person food crops from 272 kilogram (Kg) to 322 Kg, pulses 9 Kg. to 13 Kg, fruits 25 Kg to 26 Kg, vegetables 105 Kg to 120 Kg, potato 86 Kg to 92 Kg, fish 2 Kg to 2.01 Kg, milk 52 Kg to 54 Kg, meat 9 Kg to 11 Kg and egg 23 Kg to 31 Kg by 2013. The GON has also taken an initiative to distribute State Privileged Identity Cards to the families living below the poverty line, allowing them to have privileged access to health services, education and public utilities, along with the first right to purchase subsidized goods from the governmental agencies.

264. Recent projection for July 2008 to June 2009 suggested that 40 of 75 districts would be food deficient. The *Terai* would be in surplus, producing 11 per cent more than required. However, the Hills would face a net deficit of 14 per cent and the Mountains would produce 19 per cent less than required. For the whole country, the production balance would be 2.5 per cent lower than the required. About 35 per cent of the population feels the shortage of food. The ratio of population not in a position to consume the minimum calories, at the national level, is 39.9 per cent. This ratio for the Mountains is 45.2 per cent, the Hills 41.8 per cent and the *Terai* 37.4 per cent. Among the children below 5, 50.4 per cent are found to be stunting in relation to their age and 45.2 per cent to be under weight in relation to their age. In case of gender, the nutrition position is serious among the girls (39.7 per cent) rather than the boys (39.5 per cent). Similarly, the access of *Dalit* communities to land, which is the main base of agriculture, is very low. For example, in *Santhal*, *Jhagad*, *Kissan* and *Munda* communities, 58.5 per cent are landless. Similarly, 45.8 per cent of *Rajbansi* (*Kochi*), *Gangai*, *Dhimal*, *Tajpuria*, and *Meche* communities are landless. In total, 44 per cent of *Dalits* in the *Terai* are landless and 44.6 per cent of the *Dalits* of the Hills are marginalized farmers (owning 0.18 to 0.40 hectare of land). Among the religious groups, 40.4 per cent of Muslims are landless.

265. Nepal has become food deficient since the 1990s. Food prices have risen because of increases in transportation costs as a result of price hikes for petroleum products in the world market. The GON has been providing food through the Food Corporation in remote areas. The food for work and school feeding programmes are some other means for providing food. Various activities have been taken to ensure that the food supply system is effective to cope with short supplies. Scheduled transportation of basic items such as salt and food grains including rice, wheat and millet, subsidization in price of these items for low-income people in 30 remote and mountainous districts, building infrastructures and huge storage facilities in various places are some of these activities. The GON has also provided subsidies for the transportation of apples and beans produced in the Mountains to the market areas in the *Terai*. However, the effective functioning of markets has been inhibited with difficult terrain and lack of appropriate transport networks.

266. Data show that 22.5 per cent of the population is undernourished, against the MDG target of 25 per cent by the end of 2015. The slow declining trend in the proportion of underweight children, currently 38.6 per cent suggests a difficulty with the achievement

of the target. However, the data on proportion of stunted children indicate that it will be difficult to achieve the target.

**Table 14** Progress on achievement of MDG Target 1.C

<i>Indicator</i>	<i>1990</i>	<i>2000</i>	<i>2005</i>	<i>2010</i>	<i>2015 Target</i>
Prevalence of underweight children aged 6-59 months	57	53	43	38.6	29
Proportion of population below minimum level of dietary energy consumption	49	47	40	22.5	25
Proportion of stunted children aged 6-59 months	60	55	n/a	49	30

267. The GON believes that food security is a complex issue that cannot be addressed by food availability alone. It will further focus on improvement in production through introduction of new methods of production, and of new crops in areas where cereal crops cannot be grown or where their productivity is low. It will continue extending transport network strategically so that more settlements in remote areas are connected with markets and there is an incentive for resettlement in more accessible areas. Appropriate technologies in production, transport and processing will be further introduced and widely disseminated. For providing food to food-deficit areas, food aid programmes will continue to use food-for-food as a basic strategy. Food support will be provided on the condition that the recipient communities begin producing food that can be sold in the market. The GON is concerned with the major challenges the agriculture sector faces are to increase the growth rate of agriculture products and to limit the soaring food prices. Consequently, pressure has been experienced on availability and accessibility of food, and the task of ensuring food security to ultra poor and rural communities has become more challenging.

#### *Right to water*

268. The GON has been implementing the Twenty Year Vision (1997-2017) with a view to ensuring universal coverage of basic quality drinking water and sanitation by 2017. This Vision has primarily guided the GON's investment in water supply and sanitation. The GON has also adopted various policies addressing the issues of water supply and sanitation. The Rural Water and Sanitation Policy and Strategy, 2004, Urban Water Supply and Sanitation Policy, 2010 and National Water Plan (2002-2017) are some important instruments. The National Policy on Rural Drinking Water Supply and Sanitation, 2004 provides guidance on water and sanitation service provision in rural areas using community-led participatory approaches. The National Drinking Water Quality Standard, 2006 has set water quality standards to be applied for all water resources. These measures complement the Environment Protection Act, 1997. The National Urban Policy, 2007 has paid urgent attention to the urban poor by improving poor sanitation, reducing environmental degradation and improvising services. It has emphasized building the capacity of Municipalities to plan and manage integrated local development activities. The Nepal Water Supply Corporation Second Amendment Act, 2007, the Water Supply Management Board Act, 2006 and the Water Supply Tariff Fixation Commission Act, 2006 provide legal basis for private sector management of schemes and independent fee-setting and regulation to facilitate the improved management of water and sanitation services in the Kathmandu Valley. The Rural Water Supply and Sanitization Fund Development Board, formed in 1996, has undertaken its second phase project (2004-2009) to support rural communities.

269. The GON has introduced school and community led total sanitation programmes across the country, aiming to spread awareness of hygienic practices through social children and communities. The School Sanitation and Hygiene Education Programme is now used in over 1,000 schools, focusing on child-friendly, gender-sensitive and disability friendly water, hygiene and sanitation facilities. So as to make the Local Bodies gradually responsible for basic water supply services, water supply and sanitation schemes serving less than 1,000 people have been devolved to them. Consequently, there has been a gradual increase in the participation of users and involvement of CBOs in the development of these services. Users committees particularly those consisting of the vulnerable or marginalized groups or communities are encouraged to carry out water supply and sanitation projects and awareness campaigns.

270. Similarly, the GON is formulating solid waste and sewerage management policies and guidelines. These instruments will facilitate proper implementation of sewerage and drainage projects. The mobilization of NGOs, INGOs and CBOs in these activities is also a focused area.

271. Consequently, 80 per cent of households use an improved drinking water source, exceeding the 2015 target of 73 per cent. 94 per cent of households in urban areas have access to improved drinking water sources while 78 per cent in rural areas have such access. Nevertheless, access for urban households is yet to reach target of 95 per cent while access for rural households has exceeded its target of 72 per cent. Access to sanitation facility is also much higher in urban areas (78 per cent) than in rural areas (37 per cent) (table 15).

**Table 15** Status of access to safe drinking water and sanitation

<i>Indicator</i>	<i>1990</i>	<i>2000</i>	<i>2005</i>	<i>2010</i>	<i>2015 Target</i>
Proportion of population using an improved drinking water source	46	73	81	80	73
Proportion of population using an improved sanitation facility	6	30	39	43	53

272. 57.8 per cent of households use piped water, 38 per cent, hand pump/boring, four per cent, protected spring or dug well and only 0.2 per cent, other sources such as rainwater harvesting. Piped water is the most common source of drinking water in the Mountains and Hills whereas hand pump, deep tube well and protected dug well are the main sources of drinking water in the Terai areas. Water supply to rural households has substantially increased from 53 per cent in 1990 to 78 per cent in 2008 (table-16). However, many people in rural areas, especially those belonging to poor and disadvantaged groups or living in areas far from sources, are yet to obtain access to perennial supply of safe drinking water.

**Table 16** Access to improved drinking water and sanitation facility in households by location

<i>Location</i>	<i>1990</i>	<i>2000</i>	<i>2005</i>	<i>2010</i>	<i>2015 Target</i>
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Drinking water					
Urban (%)	90	86	93	94	95
Rural (%)	43	71	79	78	72
Sanitation					
Urban (%)	34	80	81	78	67
Rural (%)	3	25	30	37	52

273. According to the NLFS 2008, access to piped water is higher in the Mountains (77.3 per cent) and Hills (71.0 per cent) than in the Terai (16.1 per cent). Some 78.2 per cent of households in the Terai use a hand pump. By Development Region, the Western Development Region has the highest proportion of households (59.8 per cent) with access to piped drinking water, followed by the Central Development Region (45.4 per cent), Mid-Western Development Region (44.3 per cent), Eastern Development Region (37.7 per cent) and Far-Western Development Region (30.7 per cent).

274. Only 43 per cent of households have access to an improved sanitation facility of various types including water seal toilet, ordinary toilet and communal toilet. About 25 per cent of households used a toilet with a flush system, 23 per cent used an ordinary toilet and one per cent used a communal toilet. This indicates that more than half of the population still defecates in open spaces. Again, there is a wide disparity in access to a toilet between rural and urban areas, and geographical regions. In 2010, some 37 per cent of households in rural areas had a toilet compared to 78 per cent in urban areas. As per the NLFS, a larger proportion of households in the Terai (61.4 per cent) did not have a toilet compared to the Mountains (51.7 per cent) and Hills (39.3 per cent). The Western Development Region has the highest proportion of households (59 per cent) with a toilet facility and the Far-Western Development Region had the lowest proportion (32.2 per cent). About one third of districts had sanitation coverage of less than 20 per cent-10 districts in the Terai and 14 in the Hills and Mountains. With this, the GON is concerned that progress on sanitation is insufficient to reach the MDG target if more is not done.

275. The GON will further improve coordination between institutions involved in drinking water supply and sanitation, implement necessary measures such as water safety plan and quality control in all completed and new water supply schemes, and focus further on the rehabilitation and maintenance of water supply systems that are functioning poorly. It will implement sanitation programme as a campaign throughout the country. Sanitation activities will be further made as an integral part of all water supply schemes. Community-based sanitary surveillance and public-private partnerships will be further revamped. In order to reach the poorest and most vulnerable and marginalized communities, the GON will further explore a combination of different approaches such as financial support, participation with communities and awareness-raising.

#### *Right to a adequate housing*

276. A series of programmes have been adopted to achieve the policy of housing for all, which include housing programme targeted low-income families, physical improvement of habitation of landless squatters, rural housing development programme, land and housing development programme, rehabilitation of displaced families.

277. The GON has set a target of constructing 7000 low cost housing by 2013 under the housing for people programme and earmarked a budget of 300 million rupees to construct low cost modern houses in Siraha, Saptari and Kapilvastu districts. Housing facility will be provided to 3,000 households, targeting *Dom*, *Musahar*, *Chamar*, *Dusadh*, *Khatwe*, other *Dalits* and disadvantaged Muslims. The GON has launched a housing development scheme for women of Badi community in 10 districts, and a programme of building 1,942 houses for *Chepang*, *Raute* and *Kusunda* tribes in seven districts: Dadeldhura, Doti, Ramechhap, Pyuthan, Chitwan, Makawanpur and Dhading. It has extended an environment-friendly and efficient housing service for the poor people of the society.

278. Soft interest housing loans are being provided through finance companies, revolving funds and income-generating funds to the backward families including women, *Dalit*, bonded labour and IPs. The GON has also provided lands and financial assistance to the emancipated bonded labours for their rehabilitation. These activities are in pursuance of the fundamental policy to identify the number of emancipated bonded labours and provide minimum required land and employment to them as stipulated in article 35 (15) of the Constitution. Dense settlement programme is also being launched in Kalikot, Pyuthan, Rasuwa and Myagdi districts after completing the feasibility study.

### **Article 12- Right to enjoyment of the highest attainable standard of physical and mental health**

279. In line with the concept of social inclusion, the TYIP focused on the need of ensuring access to quality health services to all citizens, irrespective of the geographic regions, class, gender, religion, political ideals and socio-economic status they belong to. The National Health Policy, 1991 has focused on decentralization and devolution in health service delivery. Accordingly, management of a total of 1,433 health institutions (sub-health posts, health posts and primary health care centers) of 28 districts have been handed over to the Local Bodies. The role being played by the women health volunteers, particularly in rural communities stands as a distinct example of the people's participation in the delivery of health services.

280. A range of activities have been taken to ensure the right to health. The GON started the programme of free surgery of uterine prolapse in 2008. A total of about 10,000 hysterectomy surgeries have been carried out free of cost. Some 300,000 women have utilized safe abortion services. In FY 2008/09, the MOHP extended the service of zinc supplementation in children to 52 districts, and the Community Based Integrated Management of Childhood Illness (CB-IMCI) to all 75 districts.

281. The GON has implemented the National Malaria Control Strategy (2007/08-2011/12). Malaria treatment has been included in the country's essential health care package. Long lasting insecticide impregnated bed nets were provided free of cost to 108 million households in highly endemic districts. The GON has received funding from the Global Fund to support the programme. Nepal has adopted the Stop TB Strategy to reduce the burden of tuberculosis in the country. The National Tuberculosis Programme (NTP) covers the whole country and is integrated within the national health system. It uses the DOTS strategy, with 1,079 DOTS centers

and 3,147 sub-centers nationwide. Consequently, the prevalence rate of malaria has significantly decreased.

282. However, in relation to IMR and U5MR, data show important disparities by gender, caste/ethnicity and geographical location. In rural areas gender disparity is still quite significant, with infant mortality 1.18 times higher for females than for males, and under-five mortality 1.19 times higher. Mortality rates across caste/ethnic groups have also important disparities in mortality rates. As an example, Dalits have a U5MR of 90 deaths per 1,000 live births compared with an all Nepal level of 68. The lowest corresponding figure was for Newars at 43 and the highest figure was for Hill Dalits at 95.

283. Mortality in urban areas has remained lower than that in rural areas: IMR is 36.6 per cent lower and U5MR is 35.9 per cent lower. By Development Regions, IMR ranges from 99 per 1,000 live births in the Mountains to only 47 in the Hills. Infant mortality is higher in the Mid-Western and Far-Western Development Regions than other Regions. U5MR ranges from 128 per 1,000 live births in the Mountains to 62 per 1,000 live births in the Hills, and under-five mortality is higher in the Mid-Western and Far Western Development Regions than in other Regions. There are also disparities in access to anti-measles vaccination in terms of boys and girls, rural-urban residence, ecological zone and development region.

284. The MMR was found to vary considerably by age, with the lowest risk among women in their twenties, an increased risk for those aged under 20 and 30-34 years, and a significantly decreased risk for those aged over 35 years. There was also significant variation by caste and ethnicity. Muslim, Terai/Madhese and Dalit groups do poorly, with an MMR ranging between 273 and 318.

285. Basically, delays in seeing, in reaching and in receiving care are an important cause of poor maternal health status in Nepal. Poor referral networks, lack of availability of staff in remote districts, insufficient number of key frontline health workers for 24-hour services, financial situation of patients and their families are some other problems to be overcome.

### **Article 13- Right to education**

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

287. In the early grades of the basic education, children have been provided opportunity to study in their mother tongue i.e. students' mother tongue as a medium of instruction. The GON has implemented three language policies (mother tongue, Nepali and English) in education. Communities are encouraged to get permission to run primary schools in their mother tongue; and course-books have already been prepared in 16 mother tongues.

288. The MOE has designed and implemented the National Curriculum Framework, aiming to preserve and promote the economic, social and cultural rights of every citizen in the country. Social studies and civic education are the major subjects taken as means to deliver the concepts associated with the economic, social and cultural rights of the citizens.

289. The CTEVT receives support from the GON in expanding the supply of skilled and employable labour by expanding access to and by strengthening technical education and vocational training in the country. In terms of assistance to the targeted communities, the ongoing initiatives aim to support the poor, women, disadvantaged groups and people from lagging regions. Through formal schooling such as Annex school, Technical SLC, Diploma and other training programmes, the State aims to contribute to the students' personal development, self-reliance and employability by providing them with appropriate knowledge and relevant skills. Income generating activities are also being implemented under the broader umbrella of literacy related activities by aiming the livelihood of the women from target groups.

290. The objective of higher education in Nepal is to provide quality higher education for the production of quality human resources so that the country can participate in the global economy, and to promote equitable access to higher education. The Gross Enrollment Rate in higher education accounts about 6 per cent, which is rather low as compared to other developing countries. However, the expansion of the system has been very fast, and institutional arrangements to accommodate an increasing demand for higher education in the public sector are limited. Therefore, expansion takes place more in the non-public funded segment of higher education – mostly in affiliated campuses, which are privately funded.

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

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

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

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

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

**Table 17 Status of gender equality in primary and secondary education**

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

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

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

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

299. Of the total 32,130 schools in 2009/10, 31,655 are primary, 11,341, lower secondary and 31,835 basic levels schools. The distribution of schools by eco-belts shows that there are 3,954 schools in the Mountains, 16,557 in the Hills, 2,213 in the Kathmandu Valley and 9,406 in the Terai. Among the eco-belts, the highest number of schools is in the Hills and the lowest number is in the Kathmandu Valley. Likewise, there are 31,835 basic levels with grades 1-8, out of which 3,947 are in the Mountains, 16,506 are in the Hills, 2,093 are in the Kathmandu Valley and 9,289 in the Terai.

300. The enrolment at the primary level reached 4.90 million in 2009 from 4.03 million in 2004. This is a 22 per cent increase as compared to the total enrolment in 2004. The average annual growth rate during this period has been 4 per cent. The enrolment at the lower secondary level reached 1.60 million from 1.44 million in 2004. This is, again, an 11 per cent increase as compared to the total enrolment in 2004. The average annual growth rate during this period has been 2.1 per cent. Likewise, the increment at basic education level in 2009 is 19 per cent when compared to the figure in 2004 and the average growth rate during this period was 3.5 per cent. Interestingly, the average annual growth rates for girls are higher than the average annual growth rates of boys at both primary (5.6 per cent) and lower secondary (3.8 per cent) levels.

301. Compared to the previous school year, there are 45 districts with an increment of enrolment at the primary level. Out of the remaining 30 districts, 3 districts (Achham, Sindhupalchowk and Rautahat) report a decreased enrollment by more than 22 per cent at the primary level. Similarly, there are 65 districts with an increment of enrolment at lower secondary level and again the same three districts (Achham, Sindhupalchowk and Rautahat) report a decreased enrollment by more than 18 per cent at the lower secondary level. The increment on enrolment at the lower secondary level indicates a high transition from the primary to the lower secondary level. At the basic level, the trend of enrolment has absorbed similar pattern as in the primary and lower secondary levels. The summary of enrollment at three levels, grade-wise composition, Dalit and nationalities is given in tables-18, 19, 20 and 21, respectively.

**Table 18 Total number of enrollments at primary, lower secondary and basic levels**

Level	2004	2005	2006	2007	2008	2009	2010	Average annual growth rate
								2004-09
Primary(1-5)	4,030,045	4,502,697	4,515,059	4,418,713	4,782,313	4,900,663	4,951,956	3.5
Lower secondary(6-8)	1,444,997	1,374,796	1,301,134	1,443,515	1,466,862	1,604,422	1,699,927	2.7
Basic(1-8)	5,475,042	5,877,493	5,816,193	5,862,228	6,249,175	6,505,085	6,651,883	3.3

**Table 19 Grade-wise composition of enrollment at basic level in 2009 and 2010**

	Girls		Boys		Total		Share of girls by grade and level		Grade wise share in total enrolment of each level		Grade wise share in total enrolment of basic level	
	2009	2010	2009	2010	2009	2010	2009	2010	2009	2010	2009	2010
Grade 1	733,660	738,772	738,353	734,022	1,472,013	1,472,744	49.8	50.2	30.0	29.7	22.6	22.1

Grade 2	500,711	512,085	493,205	501,420	993,916	1,013,505	50.4	50.5	20.3	20.5	15.3	15.2
Grade 3	440,048	451,998	436,557	443,165	876,605	895,153	50.2	50.5	17.9	18.1	13.5	13.5
Grade 4	411,034	409,305	408,223	402,743	819,257	812,048	50.2	50.4	16.7	16.4	12.6	12.2
Grade 5	368,482	382,372	370,390	376,134	738,872	758,506	49.9	50.4	15.1	15.3	11.4	11.4
Grade 1-5	2,453,935	2,494,472	2,446,728	2,457,484	4,900,663	4,951,956	50.1	50.4	100.0	100.0	75.3	74.4
Grade 6	290,203	321,144	300,351	317,825	590,554	638,969	49.1	50.3	36.8	37.6	9.1	9.6
Grade 7	254,305	274,103	264,653	276,730	518,958	550,833	49.0	49.8	32.3	32.4	8.0	8.3
Grade 8	241,851	252,360	253,059	257,765	494,910	510,125	48.9	49.5	30.8	30.0	7.6	7.7
Grade 6-8	786,359	847,607	818,063	852,320	1,604,422	1,699,927	49.0	49.9	100.0	100.0	24.7	25.6
Total												
(grade 1-8)	3,240,294	3,342,079	3,264,791	3,309,804	6,505,085	6,651,883	49.8	50.2	0.0	0.0	100.0	100.0

**Table 20 Dalit enrolments at primary, lower secondary and basic levels in 2009 and 2010**

Level	Girls		Boys		Total		% of enrolment in total		
	2010	2009	2010	2009	2010	2009	2010	2009	
2009									
Primary(1-5)	492,095	538,803	487,880	525,684	979,975	1,064,487	20.0	21.5	
Lower secondary(6-8)	96,409	117,615	106,286	123,986	202,695	241,601	12.6	14.2	
Basic (1-8)	588,504	656,418	594,166	649,670	1,182,670	1,306,088	18.2	19.6	

**Table 21 Nationalities enrolments at primary, lower secondary and basic levels in 2009 and 2010**

Level	Girls		Boys		Total		% of enrolment in total	
	2010	2009	2010	2009	2010	2009	2010	2009
2009								
Primary(1-5)	951,430	935,775	939,422	935,775	1,890,852	1,891,523	38.6	38.2
Lower secondary(6-8)	337,471	346,695	331,377	346,695	668,848	711,165	41.7	41.8
Basic (1-8)	1,288,901	1,320,218	1,270,799	1,282,470	2,559,700	2,602,688	39.3	39.1

302. So far as the status of enrollment of 22 nationalities that belong to the endangered and highly marginalized groups, out of 59 nationalities, is concerned, there are 93,145 students at the primary level, 19,456 students at the lower secondary level and 101,513 students at the basic level in 2009. 93,145 students constitute about 2 per cent of the total primary level enrollment. Interestingly, the participation of girls in primary education is higher (52.6 per cent) than the share of boys. However, for the lower secondary education, the participation of girls is 48.3 per cent.

303. The following table shows the status of disabled students at primary, lower secondary and basic levels in 2009/10. The overall enrolment of students with disability in percentages at the primary, lower secondary and basic levels are 1.1 per cent, 0.9 per cent and 1.1 per cent, respectively. Of them (53,680 in total) at primary level, 0.4 per cent, 0.3 per cent, 0.2 per cent, 0.1 per cent, 0.04 per cent, and 0.1 per cent have a physical, mental, deaf, blind, deaf and blind, and vocal and speech-related disability, respectively. Out of the total 14,621 students with disabilities at the lower secondary level, 0.4 per cent, 0.2 per cent, 0.1 per cent, 0.1 per cent, 0.05 per cent and 0.1 per cent have a physical, mental, deaf, blind, deaf and blind, and vocal and speech-related disability, respectively. Similarly, at the basic level, out of the total students with disabilities, 0.4 per cent, 0.3 per cent, 0.2 per cent, 0.1 per cent, 0.4 per cent and 0.1 per cent have a physical, mental, deaf, blind, deaf and blind, and vocal and speech-related disability, respectively (tables-22 and 23).

**Table 22 Total number of students with types of disabilities and levels in 2009**

Level	Types of disabilities					Total Disabled			
		Mental	Deaf	Blind	Deaf and blind		Vocal and speech related disabilities		
Physical	Girls		8,399	7,654	3,902	2002	974	2,006	24,937
	Boys	9,940	8,350	4,441	2,260	1,064	2,689	28,744	
	Total	18,339	1,6004	8,343	4,262	2,038	4,695	53,681	
% in total disabled enrollment		0.4	0.3	0.2	0.1	0.0	0.1	1.1	
Lower secondary	Girls		3,019	1,244	981	860	341	344	6,789
	Boys	3,468	1,350	1,193	888	405	539	7,836	
	Total	6,467	2,594	2,174	1,741	746	883	14,625	
% in total disabled enrollment		0.4	0.2	0.1	0.1	0.0	0.1	0.9	
Basic	Girls		11,418	8,898	4,883	2,862	1,315	2,350	31,726
	Boys	13,408	9,700	5,634	3,141	1,469	3,228	36,580	
	Total	24,826	18,598	10,517	6,003	2,784	5,578	68,306	
% in total disabled enrollment		0.4	0.3	0.2	0.1	0.0	0.1	1.1	

**Table 23 Total number of students with types of disabilities and levels in 2010**

Level	Types of disabilities					Total Disabled		
		Deaf	Blind	Deaf and blind	Vocal and speech related disabilities			
Physical	Mental							
Primary	Girls	9,968	8,454	4,416	2,305	975	2,523	28,641
Boys	11,122	8,993	4,863	2,424	1,056	3,249	31,707	
Total	21,090	17,447	9,279	4,729	2,031	5,772	60,348	
% in total disabled enrollment	0.4	0.4	0.2	0.1	0.0	0.1	1.2	
Lower secondary	Girls	3,308	1,453	1,274	990	370	486	7,881
Boys	3,980	1,678	1,448	965	347	701	9,119	
Total	7,288	3,131	2,722	1,955	717	1,187	17,000	
% in total disabled enrollment	0.4	0.2	0.2	0.1	0.0	0.1	1.0	
Basic	Girls	13,276	9,907	5,690	3,295	1,345	3,009	36,522
Boys	15,102	10,671	6,311	3,389	1,403	3,950	40,826	
Total	28,378	20,578	12,001	6,684	2,748	6,959	77,348	
% in total disabled enrollment	0.4	0.3	0.2	0.1	0.0	0.1	1.2	

### Article 14-- Provision of compulsory education

304. As mentioned, free secondary education has been made available to the targeted groups. The GON has provided free education for girls up to grade 8 in public schools and up to grade 12 for the Karnali zone, *Dalit*, disabled and children from highly marginalized groups and students in community schools. It has provided textbooks for the secondary level students free of cost. Special emphasis has been laid on the qualitative, employment-oriented, vocational and technical education easily accessible to the people. Primary and informal education in mother tongue has also been expanded. Initiatives have been taken to raise awareness among the key stakeholders as to free and compulsory education under the SSRP.

### Article 15- - Right to cultural life, scientific research and creativity

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

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

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

#### *Protection of culture, religion, arts, languages and scripts*

308. A large number of development boards and trusts have been formed for the protection of culture, religion, arts, languages and scripts. The Department of Archaeology, under the Ministry of Federal Affairs, Constitutional Assembly, Parliamentary Affairs and Culture (hereafter the culture related Ministry), is responsible for the preservation of heritages. The GON established a Nepal National Ethnographic Museum in 2005 in Kathmandu to preserve different cultures of nationalities. The lifestyles of Brahmin Tamang, Gurung, Tharu, Magar, Rai, Newar, Sherpa, Thakali, Chepang, Sunuwar, and Limbu have already been demonstrated in the Museum.

309. The Tenth Plan has stipulated several objectives with regard to protection and promotion of the cultural life of ethnic groups and minorities, these include: to eradicate the disparities sustained by the IPs in the economic and social fields; to uplift the level of the IPs through protection of their respective cultural heritage; to improve the capabilities of the indigenous nationalities through empowerment in the field of economic, social, educational, cultural and community activities; and to involve the IPs in the process of national development by enhancing their knowledge and skills to improve their access to national resources by means of professional modernization.

310. The LSGA, 1999 is the legal instrument to institutionalize development process through participation of all people, including the



indigenous nationalities, in bringing out social equality and mobilizing resources for the development of their own region and balanced and equal distribution of the fruits of development. Importantly, an indicator for the monitoring and evaluation of projects is that at least 30 per cent of the beneficiaries should be from amongst the *Dalits* and IPs at the local level.

311. The GON has remained committed to work together with the civil society to address the issues of IPs. For example, the Nationalities Empowerment Project is being implemented with wider representation and participation of the relevant organizations. The MOE and various universities have provided for scholarship and other positive measures also targeting nationalities. The culture related Ministry has been carrying out a project of preparing an inventory of intangible cultural heritages in the country. It is also providing financial support to the National Talents Memorial Fund (*Rastriya Prativa Smarak Kosh*) and relevant NGOs and CBOs to carry out activities for the promotion and development of literature, culture and fine art. Necessary documents have been submitted to the UNESCO for the declaration of the procession of *Rato Machindranath Jatra* as a masterpiece.

312. The Copyright Act, 2002 has been enacted for the protection of the rights and interests of authors and of the integrity of their scientific, literary and artistic productions and ensuring benefits resulting from the use of such creations. Similarly, adequate freedom is ensured for scientific research and creative activities. The Copyright Registrar's Office has been established under this Act. In 2006, Nepal became a party to the Bern Convention for the Protection of Literary and Artistic Works, 1886. The Patent, Design and Trademark Act protects the interests of industrial property right holders in relation to scientific and technological research activities, in conformity with the Trade Related Aspects of Intellectual Property Rights Agreement under the World Trade Organization regime. The National Academy of Science and Technology, various universities and private institutions are carrying out research and creative activities.

313. The Nepal Academy, Nepal Fine Arts Academy, Nepal Music and Dance Academy and NFDIN are independent and autonomous mechanisms entrusted to protect cultural diversity, promote awareness of the cultural heritages of ethnic, religious or linguistic minorities and of indigenous communities and create favourable conditions for them to preserve, develop, express and disseminate their identity, history, culture, language, tradition and custom.

314. The NFIN, an umbrella organization of ethnic organizations, is devoted to the empowerment of IPs. At the district level, the Indigenous Nationalities Coordination Committee has been formed under the chairmanship of the DDC Chairperson, also comprising representatives of relevant stakeholders for the implementation of plans and programmes at the local level. A focal point has been established in each DDC and Municipality to look after this matter. The focal point is responsible for the implementation of the provisions of LSGA regarding IPs.

315. In pursuance of the 20-point agreement concluded between the GON and the IPs on 22 August 2007, and of Nepal's voluntary commitments in this respect, on 13 September 2007, Nepal voted in favour of the United Nations Declaration on the Rights of Indigenous Peoples in the sixty-first General Assembly, and on the following day, 14 September 2007, ratified ILO Convention No. 169.

316. In order to effectively implement the Declaration and Convention, the GON has been actively engaged in the adoption of a National Action Plan on Implementation of ILO Convention 169. The GON is committed to materialize the 169 Convention as a guiding instrument for the IPs' participation, consultation, free and prior informed consent and benefit sharing. It will adopt requisite legal and institutional framework designed to enable the IPs to enjoy their rights to natural resources pertaining to their lands, to participate in the use, management and conservation of these resources, to have an easy and meaningful access to opportunities and equal share to state resources on a right-based approach, to ensure their effective and politically meaningful participation in the decision-making process and equal representation in the governance of the country. It will also expand and consolidate special provisions for their education, health, employment or public services.

## **VII. Conclusion**

317. A wide range of significant achievements have been made as a result of the various policy, legal and institutional measures adopted by Nepal. Poverty has fallen by about five percentage points in the last six years. Underemployment has decreased. Both the chronic and transitory food security situation has improved. The net enrollment rate in primary education is increasing. Gender equality in education has improved substantially, and the 2015 target regarding equal access of girls and boys to primary education has already been achieved. Women's participation in public life has also improved. Their presence in the formal labour including migrant workers, security forces and teaching is increasing. Women's presence in political domain has also grown significantly over the last four years. The under-five mortality rate has decreased significantly in recent years, and the target is likely to be met earlier than 2015. The maternal mortality rate has also dropped significantly, pointing to a reduction by three-quarters by 2015. The target for reversal of HIV/AIDS and other diseases is likely to be met.

318. Nepal is passing through a democratic transformation after over a decade long armed conflict. This has consequently impacted people's ability to enjoy economic, social and cultural rights. National agenda based on wider national consensus in relation to political, economic, social transformation and development remains a work in progress. Poverty alleviation and social justice are in the process of being institutionalized by ensuring peace, security and socio-economic development. Rehabilitation of women, children and the families of those affected by the armed conflict is still a work in progress.

319. Various economic and social issues, which include poverty, corruption and environmental degradation, have also hindered the enjoyment of the economic, social and cultural rights. Despite a multi-pronged policy and strategy devised to alleviate poverty, Nepal has not been able to achieve poverty alleviation to the target. Its population is still increasing by 2.25 per cent, and over 24 per cent of people still live below the poverty line. The GON believes that its target of achieving a wider economic growth might be inhibited by a range of factors, including political stability, effects of climate change, consequences of globalization, and increasingly competitive and uncertain world trade environment. Nepal believes that the basic bedrock to ensure the desired level of protection and promotion of the economic, social and cultural rights is to ensure the overall socio, economic and intellectual development of its people.

However, Nepal is facing multi-dimensional challenges in keeping up with its commitment to human rights owing to lack of resources and infrastructures.

320. Despite several measures taken to curb corruption, the GON is aware that corruption has remained a challenge in governance, inhibited development activities, circumscribed enforcement of human rights, hampered the enforcement of directive principles and policies of the State, and constrained in basic infrastructure development. Its end effect has been a circumscription in raising the standards of the people.

321. In relation to the MDGs relating to environmental sustainability, the GON believes that much more efforts and resources will be required to achieve these targets. It is to note that ensuring environmental sustainability is linked to improvements in people's livelihoods and economic development. Even though Nepal's contribution to green-house gas emission is very low, Nepal is highly vulnerable to the risks of climate change. The GON has focused on community-based initiatives for effective conservation and sustainable use of forests and biodiversity and reduction of biodiversity loss. Energy production and efficient use also remains a major challenge. Fuel wood is still the main source of energy for cooking purposes. More than half of households have access to electricity for lighting, and the rest of the population depends on gas, oil, kerosene and other sources. Given that Nepal is predominantly an agricultural country, the impacts of climate change may be catastrophic for it in the future. The GON, therefore, seeks continued and expanded financial and technical assistance from the United Nations bodies and development partners for the effective implementation of the Covenant.

322. In the nutshell, the policy environment for meeting the MDGs targets has remained largely favourable. Overall development policies and plans have been guided by poverty reduction, inclusion and social justice. The GON, therefore, believes that potentially Nepal will be able to achieve most of its MDG targets by 2015, except for the more complex ones- full employment and climate change- which will require further stronger efforts and measures.

## **Annexes**

### **Annex I**

#### **Some Convention-related legislation enacted or amended during the reporting period**

##### **Acts**

1. An Act to Amend Some Acts to Maintain Gender Equality (Gender Equality Act) 2006
2. The Senior Citizens Act, 2006
3. The Nepal Citizenship Act, 2006
4. The Electoral Rolls Act, 2006
5. The Poverty Alleviation Fund Act, 2006
6. The Good Governance (Management and Operation) Act, 2006
7. The Election Commission Act, 2007
8. The Prison Act (2nd Amendment), 2007
9. The Election (Offences and Punishment) Act, 2007
10. The Election to the Members of the Constituent Assembly Act, 2007
11. The Constituent Assembly Court Act, 2007
12. The Right to Information Act, 2007
13. The Trafficking in Person and Transportation (Control) Act, 2007
14. The Foreign Employment Act, 2007
15. The Military Act, 2007
16. The Special Court (1st Amendment) Act, 2007
17. The Nepal Music and Dance Academy Act, 2007
18. *The 12th Amendment to the General Code (Muluki Ain), 2007*
19. The National Women Commission Act, 2007
20. The Nepal Academy Act, 2007,
21. The Nepal Fine Arts Academy Act, 2007

22. The Nepal Music and Dance Academy Act, 2007

23. The Domestic Violence (Crime and Punishment) Act, 2009

24. The Act Relating to Protection of Health Workers and Health Institutions, 2009

## **Annex II**

### **List of acts amended by the Gender Equality Act, 2006 (an Act enacted to amend gender-related provisions in various acts)**

-The General Clauses Act, 1954

-The Private Firm Registration Act, 1958

-The Employee Provident Fund Act, 1962

-The Act Relating to Lands, 1964

-The Act Relating to Remuneration, Facilities, Terms and Condition of Service of the Judges of the Supreme Court, 1969

-The Marriage Registration Act, 1971

-The Bonus Act, 1974

-The Births, Deaths and Other Personal Events (Registration) Act, 1976

-The Pension Fund Act, 1989

-The Act Relating to Remuneration, Conditions of Service and Facilities of the Judges of Appellate and District Courts, 1992

-The Insurance Act, 1992

-The Working Journalists Act, 1993

-The Act Relating to Remuneration, Conditions of Service and Facilities of the Attorney General, 1996

-The Act Relating to Remuneration, Conditions of Service and Facilities of the Office-bearers of Constitutional Bodies, 1997

-The Act Relating to Remuneration and Facilities of the Office-bearers and Members of Parliament, 1998

-The National Foundation for the Development of Indigenous Nationalities Act, 2002