



# Convention on the Rights of the Child

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Committee on the Rights of the Child

## Consideration of reports submitted by States parties under article 8, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

Reports of States parties due in 2009

**Nepal\***

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\* The present document is being issued without formal editing.

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## Contents

	<i>Paragraphs</i>	<i>Page</i>
Acronyms and abbreviations.....		4
I. General measures of implementation.....	1–51	6
A. Context of the reporting.....	1–4	6
B. Process of the preparation of the report.....	5–6	6
C. Legal status of the Optional Protocol in domestic law.....	7–10	7
D. Minimum age for voluntary recruitment.....	11–12	8
E. The governmental departments or bodies having primary responsibility for the implementation of the Optional Protocol.....	13–30	9
F. Independent national human rights institutions.....	31–39	12
G. Dissemination of the Optional Protocol.....	40–46	13
H. Data.....	47–50	16
I. Factors and difficulties affecting the degree of fulfillment of the obligations under the Optional Protocol.....	51	16
II. Prevention (arts. 1; 2; 4, para. 2; and art. 6, para. 2).....	52–70	17
A. Measures taken to ensure that persons who have not reached the age of 18 are not compulsorily recruited into the armed forces.....	52–53	17
B. Voluntary recruitment.....	54	17
C. Schools operated by or under the control of the Armed Forces (Nepal Army, Nepal Police and the APF).....	55	19
D. Measures taken to prevent recruitment of children by armed groups.....	56–60	19
E. Children who are vulnerable to armed conflict.....	61–64	20
F. Measures taken to prevent attacks on civilian objects.....	65–68	21
G. Measures taken to raise awareness among children.....	69–70	21
III. Prohibition and related matters (arts. 1; 2; 4, para. 1; and 2).....	71–79	22
A. The Constitutional Provisions.....	71	22
B. Legislation in force regarding compulsory recruitment.....	72	22
C. Legislation in force regarding voluntary recruitment.....	73	22
D. Consideration of the State party to becoming party to (i) Additional Protocols I and II to the 1949 Geneva Conventions (1977); (ii) the Rome Statute of the International Criminal Court (1998); and (iii) ILO Convention No. 182.....	74–76	23
E. Legal provisions that establish jurisdiction.....	77	23
F. Policy regarding extradition of persons accused of having committed offences referred to in the Optional Protocol.....	78–79	23
IV. Protection, recovery and reintegration (art. 6, para. 3).....	80–102	24

A.	Measures adopted to ensure that the rights and best interests of children who have become victims are fully recognized, respected and protected .....	80–81	24
B.	Public and private demobilization programmes that provide child victims of recruitment with assistance in social reintegration .....	82–85	25
C.	Relief and rehabilitation programmes .....	86–94	26
D.	The ongoing Plans and Programmes of the Government of Nepal.....	95–97	28
E.	Efforts of international organizations and non-governmental organizations ..	98–100	29
F.	Measures to ensure the protection of a child’s identity as per article 16 of the Convention on the Rights of the Child .....	101–102	30
V.	International assistance and cooperation (art. 7, para. 1) .....	103–112	31
A.	International cooperation regarding the implementation of the Optional Protocol .....	103–106	31
B.	National legislation prohibiting the trade and export of small and light arms as well as military assistance .....	107	31
C.	Cooperation with the Office of the Special Representative of the Secretary-General for Children in Armed Conflict .....	108–109	32
D.	Reports of the Secretary General to the Security Council in accordance with its resolution 1612 (2005).....	110–111	32
E.	Establishment of Peace Fund.....	112	33
VI.	Other legal provisions (art. 5) .....	113–114	33
A.	Domestic legislation more conducive than the provisions of the Optional Protocol .....	113	33
B.	Status of ratification of the main international/regional instruments of humanitarian law .....	114	33
C.	Regional commitments .....	115	34
V.	Conclusion .....	116–120	34
Annex	Members of Report Drafting and Report Revising Committee.....		36

## Acronyms and abbreviations

ADB	Asian Development Bank
APF	Armed Police Force
BS	Bikram Sambat (Era): A calendar used in Nepal
CAAFAG	Children Associated with Armed Forces and Armed Groups
CBO	Community Based Organization
CCWB	Central Child Welfare Board
CDC	Curriculum Development Centre
CDO	Chief District Officer
CPA	Comprehensive Peace Agreement
CPN	Communist Party of Nepal
CRC	Convention on the Rights of the Child
CRO	Child Rights Officer
CRPD	Child Rights Protection Desk (of NHRC)
CSO	Civil society organization
CWIN	Child Workers in Nepal Concerned Centre
CZOP	Children as Zones of Peace
DAO	District Administration Office
DCWB	District Child Welfare Board
DDC	District Development Committee
DEO	District Education Office
DWC	Department of Women and Children
DFID	Department for International Development (United Kingdom)
DPHO	District Public Health Office
ECED	Early Childhood Education and Development
FY	Fiscal Year
GoN	Government of Nepal
HIV/AIDS	Human Immuno-Deficiency Virus/Acquired Immuno-Deficiency Syndrome
IDP	Internally displaced person
ILO	International Labour Organization
JFPR	Japan Fund for Poverty Reduction
LDO	Local Development Officer
LPCs	Local Peace Committees
MoD	Ministry of Defence

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MoE	Ministry of Education
MoF	Ministry of Finance
MoFA	Ministry of Foreign Affairs
MoLJCPA	Ministry of Law, Justice, Constitutional and Parliamentary Affairs
MoLE	Ministry of Labour and Employment
MoHA	Ministry of Home Affairs
MoHP	Ministry of Health and Population
MoFALD	Ministry of Federal Affairs and Local Development
MoWCSW	Ministry of Women, Children and Social Welfare
MoPR	Ministry of Peace and Reconstruction
NDC	National Development Council
NFDIN	National Federation for Development of Indigenous Nationalities
NGO	Non-governmental organization
NHRC	National Human Rights Commission
NHRIs	National Human Rights Institutions
NJA	National Judicial Academy
NPA	National Plan of Action
NPC	National Planning Commission
NRs	Nepali Rupees
NWC	National Women Commission
OHCHR	Office of the United Nations High Commissioner of Human Rights
ONRT	Office of the National Rapporteur on Trafficking in Women and Children
SAARC	South Asian Association for Regional Cooperation
SWC	Social Welfare Council
SZOP	School as Zones of Peace
TYIP	Three Year Interim Plan of the Government of Nepal
UCPN (Maoist)	Unified Communist Party of Nepal (Maoist)
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
UNMIN	United Nations Mission in Nepal
VDC	Village Development Committee
WCO	Women and Children Office
WDO	Women Development Officer

## **I. General measures of implementation**

### **A. Context of the reporting**

1. Nepal ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, which it had signed on 8 September 2000, on 3 January 2007. The Optional Protocol entered into force for Nepal on 3 February 2007. The present report is the initial report submitted by Nepal to the Committee on the Rights of the Child as per the provision of article 8, paragraph 1, of the Optional Protocol.

2. Nepal ratified the Convention on the Rights of the Child on 14 September 1990 and submitted its initial report to the Committee on the Rights of the Child (CRC/C/3/Add.34) in February 1995, and its second periodic report (CRC/C/65/Add.30) on 4 March 2004. Nepal submitted its initial report on the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/NPL/1) on 12 May 2009. The Committee considered the initial report of Nepal on the Convention on the Rights of the Child at its 301st to 303rd meetings, held on 29–30 May 1996 and its second periodic report thereon at its 1033rd meeting on 20 May 2005. The Committee made its concluding observations on the initial report of Nepal (CRC/C/15/Add.57) and the second periodic report (CRC/C/15/Add. 261).

3. Nepal, as a State party, is committed to implementing the principles and provisions of the Optional Protocol. Nepal has continued its efforts for the fulfilment of the rights of all children as guaranteed by the Optional Protocol by initiating various administrative, legislative and judicial measures. It has developed and implemented necessary policies, strategies, programmes and projects as well as mobilized key actors and stakeholders including the government agencies, national and international organizations, United Nations agencies, community, parents and children for the realization of the rights set forth in the Optional Protocol.

4. The present initial report highlights the status of the implementation, progress achieved during the reporting period and measures adopted for the implementation of the Optional Protocol.

### **B. Process of the preparation of the report**

5. The present report has been prepared by the GoN through the Ministry of Women, Children and Social Welfare (MoWCSW) in consultations with Ministries and Departments concerned, the National Human Rights Commission (NHRC) and other national human rights institutions (NHRIs), the United Nations agencies concerned, development partners, national and international non-governmental organizations and networks, and children and their organizations. The present report primarily follows the general guidelines of the Committee (CRC/C/OPAC/2, dated 19 October 2007). It refers also to the relevant sections of previous reports of Nepal on the Convention on the Rights of the Child submitted to the Committee on the Rights of the Child (CRC/C/3/Add.34 and CRC/C/65/Add.30) and the concluding observations thereon (CRC/C/15/Add.57 and CRC/C/15/Add. 261).

6. The following paragraphs highlight key steps and processes followed for the preparation of the present report:

- A Report Drafting Committee chaired by the Secretary of the MoWCSW was formed, consisting of representatives from relevant Ministries, Departments, and the Central Child Welfare Board (CCWB).<sup>1</sup> The MoWCSW then hired the services of an expert to facilitate the process. The expert, with the guidance of the Report Drafting Committee, took the responsibility of collecting and compiling data, interacting with key government agencies as well as organizations, and prepared a draft report. The draft report was critically reviewed by the Committee, the relevant Ministries/Departments and the NHRC, and the inputs were incorporated. Then the report was shared among concerned agencies, organizations and stakeholders for their inputs prior to finalizing it.
- In the process of the preparation of the report, regional consultations were organized in Dhangadi, in the Far Western Development Region on 27 February 2009; and Pokhara, in the Western Development Region, on 12 April 2009; and in Kathmandu on 31 July 2009. There were 39 participants in Dhangadi, 36 in Pokhara and 52 in Kathmandu, representing Ministries and Departments; district level bodies responsible for children including District Child Welfare Boards (DCWBs) and Women and Children Offices (WCOs); United Nations agencies and national and international NGOs; NHRC, the National Women Commission (NWC) and national human rights institutions; Community Based Organizations (CBOs), and district level network of child clubs; and media personnel and other stakeholders.
- A separate consultation was conducted with children in Kathmandu on 16–17 July 2009. The two-day National Consultation,<sup>2</sup> which was basically organized to review the draft National Plan of Action (NPA) for Rehabilitation and Reintegration of Children Affected by Armed Conflict, was also used for the collection of input of children in the present report. A total of 21 children (12 girls and 9 boys) aged 10–18 years representing the children affected by armed conflict and/or children associated with armed groups participated in the consultation. These children were from 11 different districts.<sup>3</sup>
- The outcomes of the regional consultations as well as consultation with children were incorporated in the report as appropriate. The revised report was submitted to the Council of Ministers for approval as well as for the necessary process for forwarding the report to the CRC Committee.

### C. Legal status of the Optional Protocol in domestic law

#### **The Constitutional Provisions that ensure legal status to the provisions of the Optional Protocol**

7. The Interim Constitution of Nepal, 2007 (hereinafter called “Constitution”), provides that every child has the fundamental right not to be used in the army, police or in armed conflict. Article 22 (5) states that “no minor shall be employed in factories, mines or in any other hazardous work nor shall be used in Army, Police or in conflicts.” And, Article

<sup>1</sup> Refer to annex 1 of the present report for the list of members and the organizations represented in the Committee.

<sup>2</sup> The consultation was organized jointly by the Ministry of Peace and Reconstruction (MoPRC) and MoWCSW with the technical support of the United Nations Children’s Fund (UNICEF) and the Children Associated with Armed Forces and Armed Groups (CAAFAG) Working Group, and Save the Children.

<sup>3</sup> The districts include Sankhuwasabha, Rautahat, Kavrepalanchowk, Bara, Chitawan, Kapilbastu, Dang, Rolpa, Bardia, Doti and Kailali.

32 of the Constitution provides the right to constitutional remedy, enabling every citizen to move the court for the enforcement of the fundamental rights.

8. The Constitution in Part IV contains the commitment of the State for the promotion of human rights and accordingly guides the State machineries to take cognizance of human rights in their respective functions. Article 34 of the Constitution has ensured the protection and promotion of liberty and equality, and 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 the policies about raising the standards of living of the general public 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. The provision of Article 35 (9) of the Constitution states the policies of the State "... of making special provisions of social security for the protection and welfare of single women, orphans, children, the helpless, the aged, the persons with disabilities, incapacitated persons and the tribes in the verge of extinction". Likewise, according to the provision of Article 35 (14) "the State shall pursue a policy of making special provision based on positive discrimination for the minorities, landless, squatters, bonded labourers, persons with disability, disadvantaged communities and sections, and the victims of conflict, including women, *Dalits*, indigenous nationalities [*Adivasi Janajati*], *Madhesis* and Muslims."

9. The provision of Article 33 (m) of the Constitution explicitly states that one of the responsibilities of the State is "to implement effectively international treaties and agreements to which the State is a party".

10. Section 9 (1) of the Nepal Treaty Act 1990 provides that if any provision contained in a treaty to which Nepal has become a party following its ratification, acceptance, approval or accession by Parliament is inconsistent with the law in force, such law shall, for purposes of that treaty, be invalid to the extent of such inconsistency and the provision of that treaty shall be applicable as if it were the law of Nepal.<sup>4</sup> As per the parliamentary procedures practiced in Nepal, an international convention or treaty to which the State has become a party requires to be submitted to the parliament for endorsement and the Government requires to make it public by publishing the text (of such convention or treaties) in the Nepal Gazette.<sup>5</sup> This ensures legal status and domestic applicability of the provisions of the international conventions or treaties themselves.

#### **D. Minimum age for voluntary recruitment**

11. The minimum age for voluntary recruitment in national security force is 18 years (also refer paragraph 51 of the present report below).

12. The following is the text of the binding declaration of Nepal made under article 3 upon ratification of the Optional Protocol:

Declaration:

"(1) The minimum age for recruitment in the Nepal Army and the Armed Police Force shall be 18 years.

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<sup>4</sup> Refer to paragraphs 19 and 21 of the second periodic report of Nepal on the Convention on the Rights of the Child (CRC/C/65/Add.30).

<sup>5</sup> For example, the ratification of the Optional Protocol to the Convention on the Rights of the Child on involvement of children in armed conflict, 2000, was endorsed by the Interim Legislature-Parliament on 19 September 2006 (2063/6/3 BS) and published in the National Gazette on 26 September 2006.



(2) The recruitment in the Nepal Army and the Armed Police Force shall be voluntary and shall be conducted through open competition.”

## **E. The governmental departments or bodies having primary responsibility for the implementation of the Optional Protocol**

### **Executive/administrative bodies**

13. The MoWCSW is the focal Ministry and is responsible for ensuring rights and protection of women, children and their welfare. The MoWCSW has the Department of Women and Children (DWC) at the central level and Women and Children Offices (WCOs)<sup>6</sup> in all 75 districts. The MoWCSW is also the central authority for the functional line management of the CCWB and DCWBs in all 75 districts. The MoWCSW is the liaison-ministry for the Social Welfare Council (SWC), and NWC, the autonomous bodies governed by separate Acts. The MoWCSW, on behalf of the GoN, formulates and implements policies and plans as well as coordinates and liaises with other line Ministries and Departments, national and international organizations, United Nations agencies, CBOs, parents and children’s organizations, private sectors, mass media, professional associations and networks.

14. The DWC is responsible for implementing programme for the development of women and children, and supporting the MoWCSW in formulating plans and programmes concerning the development of women and children. The DWC is implementing, through its district offices in all 75 districts, a number of focused programmes targeting women and girl children across the country for their empowerment and uplifting their economic status in the society. Furthermore, Women Development Officers (WDOs) are also designated<sup>7</sup> to work as Child Welfare Officers as per the provision of the Children’s Act, 1992, and work for the welfare and protection of children in the districts.

15. The CCWB is a statutory body created by the Children’s Act 1992. The CCWB is responsible for working for promotion and protection of the rights of the child by collaborating and coordinating with the government agencies, development partners and civil society organizations (CSOs) to meet the State’s obligations towards children’s rights progressively as per the Convention on the Rights of the Child standards. The CCWB has DCWBs as its extended wings in all 75 districts.

16. The Ministry of Home Affairs (MoHA) is primarily responsible for maintaining law and order in the country. As its major functions, MoHA works towards (a) licensing and regulation of arms and ammunitions, (b) control of explosives, and (c) conflict management. The Chief District Officers (CDOs), who represent the GoN in the districts, are responsible for maintaining law and order in their respective districts. There are five Regional Administration Offices, and 75 District Administration Offices (DAO). In addition, there are 74 Prisons under this Ministry. Nepal Police, Armed Police Force (APF) and National Investigation Department function under the MoHA.

17. Nepal Police is responsible “to safeguard people’s rights and to maintain law and order in the country” and has been entrusted with responsibility to reduce incidences of crime, to protect the life and property of people, and to investigate crime and to apprehend offenders. Nepal Police has District Police Offices in all 75 districts. Nepal Police has established Women and Children Service Directorate at central level and Women and

<sup>6</sup> “Children” was added in the name of the Women Development Department and Women Development Offices as per the decision made by the Council of Ministers on 28 September 2010.

<sup>7</sup> This responsibility was reinforced by decision of the Council of Ministers on 28 September 2010.

Children Service Centers (WCSC) in all 75 districts as the specialized wings for protection of women and children. The WCSC is providing support to women and children victimized by abuse and exploitations for securing justice as well as their rescue and rehabilitation.

18. APF is a paramilitary force with the roles of catalyst in maintaining law and order and combating terrorism, and controlling of trans-border crimes. The APF functions in cooperation with the Nepal Army and Nepal Police.

19. The Ministry of Law, Justice, Constitutional and Parliamentary Affairs (MoLJCPA) is responsible for (i) developing a legal base for effective governance of the country and national development, and (ii) looking into functional aspects of law and administration of justice. The MoLJCPA offers legal advice to the Government institutions on legal matters and on becoming parties to treaties. Similarly, the MoLJCPA has published a compilation of texts and the Nepali translation of the international and regional human rights instruments to which Nepal is a party.

20. The Ministry of Foreign Affairs (MoFA) maintains the foreign relations of Nepal in accordance with the policies and guidelines of the GoN. This includes the promotion of bilateral, regional and multilateral relations. It functions as a first point of contact for maintaining the relations of Nepal with the external world. The MoFA is responsible for maintaining relation with the United Nations and other international and regional organizations.

21. The Ministry of Education (MoE) is entrusted with the responsibilities for ensuring children's equitable access to quality education through formal and flexible modes of delivery. Special attention has been paid to girls, children with disabilities, children from *Dalit* and disadvantaged communities as well as children from remote areas. The GoN has introduced free basic education (up to grade eight) and has been providing scholarships and midday meals to enroll and retain children in schools. In addition, provisions have been made to expand and accelerate Early Childhood Education and Development (ECED) facilities across Nepal. Emphasis has been placed on promotion of the policies for providing mother-tongue medium education at the early grades of schooling.

22. The Ministry of Health and Population (MoHP) is responsible for managing health services, and developing and executing health policies and programmes. With regard to health services to children, the GoN has recently introduced a policy for providing free basic health services, for which the "National Child Health Programme" is being implemented by MoPH.

23. The Ministry of Peace and Reconstruction (MoPR) is responsible for managing the work relating to reconstruction of physical infrastructure damaged during the period of armed conflict and providing relief and rehabilitation of the conflict victims. The other functions and duties of the MoPR include (1) formulation, implementation, monitoring and evaluation of immediate and long-term policies, strategies, plans and programmes for the establishment of peace, conflict management and reconstruction of physical infrastructures damaged due to armed conflict; (2) development and execution of policies, strategies and programmes for social and economic development of conflict-affected regions; (3) implementation, monitoring and evaluation of (peace) agreements, understandings and decisions including the Comprehensive Peace Agreement (CPA); (4) study, analysis and exchange of experiences pertaining to establishment of peace and conflict management; (5) management of programmes to provide relief and rehabilitation for those who are victimized and displaced due to armed conflict; (6) implementation and monitoring of plans and programmes to be operated from the Peace Fund; (7) management of the cantonments of combatants; and (8) functioning as focal point of governmental, non-governmental and international institutions/organizations pertaining to peace establishment and conflict management in the country. The MoPR works closely with (a) the High level (Peace)

Monitoring Committee, (b) the Truth and Reconciliation Committee (which is under formation process), (c) the Cantonment Management Central Coordination Office, and (d) the Local Peace Committees (LPCs).

24. The Ministry of Defence (MoD) is responsible for performing tasks for the protection and defence of the sovereignty, freedom and geographical territory of Nepal and for promoting national unity and integrity. The MoD functions as the line Ministry for Nepal Army.

25. The Ministry of Labour and Employment (MoLE) is responsible for formulating and implementing policies and programmes to address labour issues including child labour. The MoLE has developed and is implementing the Master Plan for the Elimination of Child Labour with the aim of addressing issues such as hazardous and worst forms of child labour.

26. The Ministry of Federal Affairs and Local Development (MoFALD) functions as the focal Ministry for local development and provides leadership to the local bodies i.e. District Development Committee (DDC), Village Development Committees (VDCs) and Municipalities. As per the provision of the Local Self-Governance Act, 1999, the local bodies are responsible for formulating and implementing development plans and projects as well as work for combating social problems. The DDCs, VDCs and Municipalities have been implementing programmes to empower people particularly focusing on marginalized sections of the society including women, children, persons with disabilities, *Dalit*, and *Janajatis*.

27. The Ministry of Finance (MoF) is responsible for financial management of the country. The MoF also functions as an advisory body to all Ministries of the GoN on financial matters.

28. The National Planning Commission (NPC) is the advisory body for coordinating and formulating development plans and policies of the country under the directives of the National Development Council (NDC). The NPC explores and allocates resources for development projects. It also works as the central agency for monitoring and evaluation of development plans, policies and programmes. While doing so, the NPC advises the Ministries, and Departments on (i) amendments to be made in the periodic plans, programmes, and projects; (ii) feasibility studies and developing master plans of large-scale projects; and (iii) appraisal of project proposals.

### **The Judiciary**

29. The courts and judicial institutions exercise judicial power in accordance with the Constitution, the laws and recognized principles of justice. The Supreme Court holds the final authority to interpret the Constitution and other prevailing laws. The courts can take reference to the principles and provisions of international treaties and conventions to which Nepal is a party.

30. The Supreme Court has also played a lead role in promoting and protecting human rights through its various 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 and the rights of the child and women, portray the human rights jurisprudence developed by the Supreme Court. The Supreme Court has declared *ultra vires* many legal provisions relating to facilities in prisons, equality and non-discrimination. In recent years, the judiciary has made landmark decisions upholding human rights principles and fundamental freedom as envisioned in international human rights instruments.

## **F. Independent national human rights institutions**

### **National Human Rights Commission**

31. The NHRC is an independent and autonomous constitutional body responsible “to promote respect for human rights and ensure their effective implementation” (Article 132 (1) of the Constitution). The NHRC is to ensure respect for protection and promotion of human rights, including their effective implementation. To this end, it can exercise a wide array of investigatory, supervisory, directive and recommendatory powers. Importantly, NHRC 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 the victims.

32. The NHRC is responsible for (a) conducting inquiries into, investigations of, and recommendation for action against the perpetrator, on the matters of violation or abetment of human rights of a person or a group of persons; (b) forwarding recommendation to the concerned authority for taking departmental action against the authority, who has the duty or responsibility to prevent the violation of the human rights, if it failed to perform such duty; (c) making recommendation to lodge a petition in the court, if necessary, in accordance with the law against the person who has violated human rights; (d) reviewing prevailing laws relating to human rights on a periodic basis and recommending to the GoN for necessary reforms and amendment thereto; and (e) recommending with reasons to the GoN to become a party to any international conventions and treaties on human rights (Article 132 (3) of the Constitution).

33. In the context of performing its functions and duties, the NHRC holds the authority to (a) exercise the same powers as the court has in requiring any person to appear before the Commission for recording his/her statement and information or examining them, receiving and examining evidence, ordering for the production of any physical proof; (b) enter, without prior notice, in case of information of incidents of the violation of human rights occurred or going to occur, into any residence or office, conduct search and seize any document and evidence relating to the case; (c) enter any government premises or other places, without prior notice, where it has information regarding violation of human rights of a person and where immediate action is required and rescue the person; and (d) order for the provision of compensation, in accordance with law, to the victims of human rights violation (Article 132 of the Constitution).

34. The NHRC is actively engaged in ensuring that children under the age of 18 are not involved in armed conflict. The NHRC is carrying out its task of promotion and protection of the rights of the child through (i) handling the complaints, (ii) conducting inquiries or investigations, (iii) organizing monitoring and observation visits for investigation of child rights violations, and (iv) making assessment of human rights situation to ensure rights of the child. Based on these, the NHRC is producing its recommendations to the concerned government authorities as well as to the stakeholders.

### **Child Rights Protection Desk**

35. The NHRC has established the Child Rights Protection Desk (CRPD) as a specialized unit within its structure for monitoring violations of the rights of the child throughout the country and for ensuring protection as and when required. The unit carries out its task of (i) complaint handling, (ii) conducting inquiries or investigations, (iii) organizing field visits, inspection and observation, and (iv) making assessment of the human rights situation to ensure the rights of the child.

### **Office of the National Rapporteur on Trafficking in Women and Children**

36. An Office of the National Rapporteur on Trafficking in Women and Children (ONRT) was established in the NHRC in 2002 as per the Memorandum of Understanding (MoU) signed between the MoWCSW and the NHRC. Following this, a National Rapporteur has also been appointed. The ONRT is mainly responsible for monitoring the incidence of trafficking and coordinating national, regional and international efforts to combat trafficking.

### **National Women Commission**

37. The NWC was established as an autonomous 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. The NWC is responsible for (i) monitoring, evaluating and analysing the policy and programmes of the GoN from a gender perspective, as well as making recommendations for their effective implementation, (ii) studying the laws concerning women and making recommendations for necessary reform, (iii) observing the physical facilities and works of the public and private offices and making recommendations for protection of the rights of the women, (iv) monitoring the implementation of the international conventions to which Nepal is a party and making sure that the State is fulfilling its reporting obligations, and (v) entertaining individual complaints regarding rights violation of women and making investigation into such cases.

### **National Foundation for Development of Indigenous Nationalities**

38. The National Foundation for Development of Indigenous Nationalities (NFDIN) was established as an autonomous statutory body, by the National Foundation for Development of Indigenous Nationalities Act, 2002, with the main objective of ensuring the overall welfare of the indigenous nationalities. Various provisions in the Constitution have boosted up the NFDIN in empowering the indigenous nationalities as well as in protecting and promoting their religious, linguistic, cultural and political rights.

### **National Dalit Commission**

39. The National Dalit Commission (NDC) was formed by an executive order of 2002, with the primary objective of promotion and protection of the rights of the *Dalit* community and assisting the GoN in *Dalit* upliftment programmes. It has carried out various important activities, including preparation of necessary legal measures, working plans, publication and dissemination of various literature on *Dalits*. It has been implementing a Five-year Strategic Plan focusing on overall empowerment and political participation of *Dalits*, cultural vigilance and legal reforms.

## **G. Dissemination of the Optional Protocol**

40. Various activities have been initiated for dissemination of the principles and provisions of the Convention on the Rights of the Child as well as the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict by the GoN, in collaboration with the United Nations agencies, national and international non-governmental organizations and networks. The following paragraphs highlight some of the specific and targeted initiatives.

**Publication and circulation**

41. The MoLJCPA has published a compilation of English text and Nepali version of all international and regional human rights instruments to which Nepal is a party. It has also published a separate compilation of international and regional human rights laws relating to women and children, in both English and Nepali languages. These documents have been circulated widely across the country;

- The text of the Optional Protocol has been translated into Nepali language and has been published in book form by CCWB. The book contains other children-related international and regional instruments<sup>8</sup> as well as national laws. This document has been widely circulated in all 75 districts through district level agencies such as DCWBs, WDO, and NGOs and their networks. The publication is distributed among the Government agencies and organizations/networks at national level as well. Besides, several child focused organizations have published the text of the Optional Protocol either in book form or incorporated in their regular publication and disseminated widely in the communities and districts where they are working;
- During the armed conflict, Nepal Army published posters, pamphlets and pocket calendars having child rights messages and issues of child protection and distributed to all staff members of Nepal Army;
- The NHRC has published and disseminated advocacy and awareness-raising materials on human rights targeting the children, women, media, the Government officials and professional groups. The CRPD of NHRC is publishing and disseminating an annual report. The report incorporates information and data about (i) child rights monitoring, (ii) cases of human rights violation of children, (iii) action taken by the NHRC and recommendations made to the concerned authorities, and (iv) activities for promotion and protection of human rights as well as human rights education.

42. Training:

- The MoWCSW and the CCWB at the centre and the DCWBs in the districts are conducting training for the government staff, professionals, adults and children and their organizations about the rights of the child in general and protection of children from armed conflict in particular;
- The National Judicial Academy (NJA), in partnership with the CCWB, has conducted child rights training to all judges of all 75 District Courts. In the training, among other issues concerning the rights of the child, protection of children from armed conflict and juvenile justice were discussed intensively. All participants were provided with the text of the Convention on the Rights of the Child as well as the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict for their reference;
- NHRC has conducted training for professional groups and general public as part of its function for promotion and protection of human rights;
- The training curricula (basic to advanced training course) of Nepal Army, Nepal Police and APF have incorporated relevant provisions of the Convention on the

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<sup>8</sup> This includes various conventions adapted by South Asian Association for Regional Cooperation (SAARC).

Rights of the Child as well as the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and pornography, and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;

- Consortium and other coalition of organizations working in the field of the rights of the child are engaged in conducting training on the rights of the child to their member organizations, CSOs, professional groups, members of national security forces and adults and children.

43. Maximizing the use of Media:

- MoPR is broadcasting a 15-Minute Weekly Radio Programme from Radio Nepal, the National Broadcasting Agency together with the FM Radios. Through the medium of such programmes, the MoPR is disseminating the content of the CPA and other understandings and agreements targeting the general public with the objective of promoting peace in the society;
- United Nations agencies, international and national NGOs and networks have also been instrumental in advocating the issue concerning the rights of the child and publicizing the principles and provisions of the Conventions and Optional Protocols related to women and children for the target groups at national, district and sub-district levels through publications, audio-visual materials, training materials, song and essay contests, painting competitions and street drama.

44. Effort towards holistic intervention:

- A number of training and workshops have been organized for the stakeholders, including government officials, teachers, police officers, schoolchildren, journalists, local authorities, DCWBs and NGOs. Besides, national and international NGOs have developed training manuals for the purpose of disseminating information on the issue of involvement of children in armed conflict. Such manuals target to disseminate information among stakeholders including professional groups from community to national levels.

### **Role of Child Clubs in raising awareness on the rights of the child**

45. A total 13,331 children's organizations (known as Child Clubs) (having 277,580 children as members)<sup>9</sup> are engaged in disseminating the principles and provisions of the Convention on the Rights of the Child as well as the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict among children and adults in the community as part of their activities. Furthermore, the Child Clubs are offering children a platform to exercise their rights to participation.

46. The principles and provisions of the Convention on the Rights of the Child as well as the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict have been incorporated in the curricula both for schools and the university system. The MoE has given emphasis to disseminating provisions of the Convention on the Rights of the Child in pre- and in-service teacher training programmes. The Curriculum Development

<sup>9</sup> The State of Children of Nepal 2012, CCWB, p. 87–88.

Centre (CDC) has developed and integrated materials on human rights, peace and civic education and social inclusion.

## H. Data

47. Nepal underwent a decade-long armed conflict (1996–2006). The armed conflict resulted in the death of about 16,729 persons, the displacement of about 78,689 persons, the disappearance of about 1,327 people, and the devastation of public infrastructures valued at about 5 billion Rupees.<sup>10</sup> On 21 November 2006, the conflict was officially ended with the signing of the Comprehensive Peace Agreement (CPA). On 9 December 2006, an Agreement on Monitoring of the Management of Arms and Armies was concluded, in witness of the Personal Representative of the Secretary-General of the United Nations.

48. The national legislation of Nepal prohibits recruiting children under the age of 18 years in the national security force (see also paragraphs 51 and 52 of the present report below).

49. The United Nations Mission in Nepal (UNMIN) verified 2,973 combatants who were under 18 years of age at the time of the ceasefire.<sup>11</sup> Of the total number of minors, 1,988 are male and 985 are female. The verification process<sup>12</sup> was completed in mid-December 2007. The GoN completed (by first week of February 2010) the process of releasing the verified minors and late-recruits combatants from the cantonments.<sup>13</sup>

50. The Three Year Interim Plan (TYIP) document mentions that during the armed conflict more than 230 children lost their lives and 107 children sustained injuries to become permanently disabled. A total 5,000 children lost their parents or were separated from their parents due to armed conflict. An estimated 11,000 children were involved in armed conflict and armed groups.<sup>14</sup> The high level commission constituted by the MoPR for the collection of data on conflict affected individual, family and infrastructures recorded 69,664 displaced people (in April/May 2009).

## I. Factors and difficulties affecting the degree of fulfillment of the obligations under the Optional Protocol

51. The following are some of the challenges with regard to realization of the principles and provisions of the Optional Protocol:

- A low literacy rate among children and adults (especially women and girls) has led to inadequate awareness about the rights of the child and in many situations hindered their realization.
- The institutions and agencies having the obligation and accountability to fulfil the rights of the child are suffering from inadequate technical capacity. There is a need

<sup>10</sup> Source: MoPR.

<sup>11</sup> Report of the United Nations Secretary-General on children and armed conflict in Nepal (S/2008/259), 18 April 2008, p. 3.

<sup>12</sup> The verification process found a total 4,008 disqualified combatants in 7 cantonments and 21 satellites – minors born after May 25, 1988, and recruits who joined the Maoist army after the ceasefire agreement of May 25, 2006. As per the MoPR source, the number of late recruits is 1,035 (804 male and 231 female).

<sup>13</sup> Reference is made to MoPR.

<sup>14</sup> Status of the Child Rights in Nepal, Annual Report 2006, NHRC.



to increase the number of trained and skilled human resources, and technical capacities for delivery of quality services.

- Protection of children from violence, abuse, exploitation and discrimination as well as armed conflict could not be fully realized at the community level owing to the lack of a comprehensive Community Support System and/or Child Protection Mechanism.
- It is observed that besides awareness raising, the projects on the rights of the child need to pay added focus on practical actions with longer term vision and sustainable approaches. As such, there is a need to have further programmatic response for supporting children and families affected by armed conflict.

## II. Prevention (arts. 1; 2 and 4, para. 2; and art. 6, para. 2)

### A. Measures taken to ensure that persons who have not reached the age of 18 are not compulsorily recruited into the armed forces

52. The existing legislation, rules and procedures for recruitment into the national security forces (Nepal Army, Nepal Police, and the APF) do not permit any person who has not attained the age of 18 to join.

53. There is no compulsory recruitment into the national security forces in Nepal.

### B. Voluntary recruitment

54. The following are the age limits defined for voluntary recruitment in different ranks of Nepal Army, Nepal Police and the APF.<sup>15</sup>

- **Nepal Army** has two positions to be filled by open recruitment – Soldiers (Sipahi) and Second Lieutenant. The following paragraphs provide details about the qualifications required and the recruitment process:<sup>16</sup>
  - (a) Soldiers
    - The age of the candidates must be over 18 years and under 22 years. To prove that the information provided is correct, a candidate is required to produce (i) a letter from concerned VDC or Municipality stating his or her permanent address and other personal details, and (ii) two individual witnesses who would provide references for the candidate;
    - In the process of recruitment, the candidates should pass physical fitness test, written tests, medical examination, and interview. Once a candidate is selected for the position, he or she is provided with pre-service training.
  - (b) Second Lieutenant
    - The age of the candidates must be over 18 years and under 21 years for those who have Intermediate level of education (equivalent to 12th grade) and

<sup>15</sup> The security forces recruit technical officers (i.e. Engineers, Doctors, and Lawyers) and technicians (Junior Commission Officers) by open competition.

<sup>16</sup> The Regulation of Army Act, 2006.

under 24 years for those who have a Bachelor's Degree. To prove his or her age and academic qualification, the candidate is required to provide the copies of academic certificates and citizenship certificate, which has the date of birth on it.

- In the selection process, the candidates are required to go through a written examination, physical test, medical examination, and individual interview. The successful candidates are provided with pre-service training prior to formal appointment to the position.
- **Nepal Police** has three positions to be filled by open recruitment – Nepal Police Personnel (*Jawan*), Police Assistant Sub-Inspector and Police Inspector:
  - (a) Nepal Police Personnel (*Jawan*) Including Helpers (*Parichar*)
    - The age of the candidates should be over 18 and under 23 years, and they should have up to 5th grade of education. The candidates are required to submit a copy of citizenship certificate and credentials at the time of their application to prove their age and education;
    - In the process of selection, the candidates are required to pass a physical test, individual interview and medical examination prior to joining the basic training course. Upon the successful completion of the training, the candidates are appointed to the post.
  - (b) Police Assistant Sub-Inspector
    - The age of the candidates should be over 18 and under 24 years and they should have a minimum of Intermediate level education (equivalent to 12th grade);
    - The selection process includes a physical test, written examination, medical examination, and individual interview.
  - (c) Police Inspector
    - The age of the candidates should be over 20 and under 25 years and they should have a minimum of a Bachelor's degree of education;
    - The selection process includes a written examination, physical test, medical examination, and individual interview. The selected candidates are provided with a basic training course prior to their appointment to the post.
- **The APF** has three positions for open recruitment – Armed Police Personnel including Helper (*Parichar*), Armed Police Assistant Sub-Inspector and Armed Police Inspector:
  - (a) Armed Police Personnel (*Jawan*) including Helper (*Parichar*)
    - The age of the candidates should be over 18 and under 22 years (for *Parichar* the upper age limit is under 30 years). The candidates are required to submit their citizenship certificates and credentials with their application;
    - During the selection process, the candidates are required to pass a physical test, individual interview and medical examination prior to joining the basic training. Only those who complete the training successfully are appointed for the post.

- (b) Armed Police Assistant Sub-Inspector
- The age of the candidate should be over 18 and under 24 years and they should have a minimum of Intermediate level education (equivalent to 12th grade). The candidates are required to pass a physical test, written examination, medical examination, and individual interview. The selected candidates are provided with training prior to their posting.
- (c) Armed Police Inspector
- The age of the candidates should be over 20 and under 25 years and they should have a minimum of a Bachelor's Degree of education. The candidates are required to pass physical test, written examination, medical examination, and individual interview. The selected candidates are provided with training prior to their posting.

### **C. Schools operated by or under the control of the Armed Forces (Nepal Army, Nepal Police and the APF)**

55. There are several schools run under the management of the Nepal Army,<sup>17</sup> Nepal Police and the APF. These schools aim to provide quality education to the children of their staff members. These schools do admit children of civilians as well. The schools follow the standard rules and regulation of the GoN and follow the national curriculum and textbooks. These schools do not provide any military training to their pupils. As such, these schools do not qualify as the schools described in paragraph No. 13 of the reporting guidelines (CRC/C/OPAC/2, dated 19 October 2007).

### **D. Measures taken to prevent recruitment of children by armed groups**

56. The GoN has adopted a zero tolerance strategy in relation to child recruitment. Efforts are directed towards protecting and ensuring that children recruited in armed conflict have access to rehabilitation and integration measures. In keeping with the principles and provisions of the Convention on the Rights of the Child as well as the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the Paris Commitments, and the Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups, 2007, the GoN has 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 groups and affected by the armed conflict and to rehabilitate and reunite them in the society. All activities are being carried out paying attention to the best interests of the child.

57. As a result of the decade-long armed conflict, there was a risk of recruiting children for direct participation in armed groups. The Government has been well aware of the

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<sup>17</sup> Nepal Army has established and is running 6 schools (3 in the capital city and one each in Eastern, Western and Mid-Western Development Regions) with the objective of providing quality educational opportunity to the children of its staff members. However, they are not required to join the army when they grow up.

situation and the MoHA is continuously updating information about the various armed groups across the country and developing strategies to address the issue.

58. The child-focused organizations and their networks<sup>18</sup> and national human rights institutions have been advocating for not using children in political demonstrations and party politics. As a result, 32 political parties pledged their commitment to the protection of children against misuse and abuse before, during and after the Constituent Assembly election. In the commitment, entitled “the Declaration of Commitment to Protect Children by Political Parties”, the parties pledged to safeguard the interests of children and refrain from misusing children for political purposes. Messages to prevent the misuse of children for political and election purposes were aired through 5 national television stations and 40 national and local FM radio stations.

59. During the period of armed conflict, the Nepal Task Force for Children and Armed Conflict was formed under the terms of Security Council Resolution 1612 (2005). The Task Force has set up a monitoring and reporting mechanism that is present in 54 districts.<sup>19</sup> The Task Force<sup>20</sup> monitors and report on six gross violations under Security Council Resolution 1612.

60. The Children Associated with Armed Forces and Armed Groups (CAAFAG) Working Group have been providing reintegration support to over 7,500 children associated with armed groups and 3,000 children affected by armed conflict including vulnerable children identified by the community. The CAAFAG Working Group has organized community sensitization in 56 working districts to raise awareness among children, and the community as a whole, on issues related to children associated with armed groups, with a focus on prevention of recruitment and supporting reconciliation.

## **E. Children who are vulnerable to armed conflict**

61. The available data indicates that children living in extreme poverty, those living in remote areas and are out of basic services, and children from indigenous communities and so called *Dalit* communities are found among the vulnerable groups.

62. The GoN, with its efforts of formulating the NPA for the Rehabilitation and Reintegration of Children Affected by Armed Conflict, aims to ensure comprehensive and long-term support to the children affected by the conflict as well as those children who are particularly vulnerable, through implementing focused intervention.

63. Local Peace Committees (LPCs) have been formed in 71 districts, 6 municipalities and 598 VDCs. These committees are responsible for promoting a 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.

64. It is also to note that the GoN has adopted and enforced the Emergency Child Rescue Fund and developed regulation in 2010 to mobilize the Fund in order to provide immediate relief to, and make immediate rescue and rehabilitation of, children who are in

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<sup>18</sup> For example, Children as Zones of Peace (CZoP), Consortium of Organizations Working for Child Participation (Consortium).

<sup>19</sup> Report of the Secretary-General on children and armed conflict in Nepal, 18 April 2008 (S/2008/259), p. 8 (para. 30).

<sup>20</sup> The Task Force is co-chaired by UNICEF and the Office of the United Nations High Commissioner for Human Rights (OHCHR).

vulnerable situations, including those involved in hazardous labour, victims of forced labour, torture and discrimination, and those living with HIV/AIDS.

## **F. Measures taken to prevent attacks on civilian objects**

65. The Three Year Interim Plan (TYIP) has adopted a policy with the aim of protecting and preventing attacks on civilian objects. Accordingly the areas where children remain active will be made peaceful, and courts, schools, hospitals, children homes and the transport sector providing services to the children will be made child-friendly.

66. The GoN declared schools as zones of peace (SZOP) on 25 May 2011 to ensure smooth functioning of schools without disrupting children's class and educational activities. In order to carry out the Government's SZOP provisions, implementation guidelines have been developed and disseminated to the stakeholders across the country. The GoN has introduced new traffic codes to secure students' safety on roads by giving special status to vehicles carrying students.

67. The CPA makes a number of commitments specially related to children. These include (i) an end to the misuse of schools, teachers and students for political purposes; (ii) an end to discrimination based on age, sex, caste or ethnic origin; (iii) an end to violence against children and child labour; and (iv) an end to the use of children by armed groups.<sup>21</sup>

68. As mentioned in paragraph 40 above, the national security forces have incorporated principles and provisions of human rights in their training curricula and are aware of respecting international human rights and humanitarian law.

## **G. Measures taken to raise awareness among children**

69. The following paragraphs of the CPA incorporate provisions that aim at protecting children and efforts have been made to promote public awareness about these provisions.<sup>22</sup>

- Realizing that the right to education for all should be ensured and respected, both sides are committed to maintain appropriate academic environment in educational institutions. Both sides agree to guarantee that the right to education shall not be violated. It has been agreed to put immediately to an end the activities like taking the educational institutions under control and using them, causing teachers and students to be disappeared or taking them under control or abduction and not to establish military barracks in the schools and hospitals in a way so that it would impede them (7.5.4.);
- Both sides fully agree to provide special protection to the rights of women and children, to immediately prohibit all types of violence against women and children, including child labour, as well as sexual exploitation and harassment, and not to include or use children who are of eighteen years or below. Children so affected shall immediately be rescued and necessary and appropriate assistance shall be provided for their rehabilitation (7.6.1, Rights of Woman and Child).

70. The concerned bodies of the GoN, NHRC, NWC and other NHRIs, various national coalitions on children's rights,<sup>23</sup> national and international organizations, United Nations

<sup>21</sup> Refer to paragraphs number 7.5 and 7.6 of CPA document, MoPR, 2006.

<sup>22</sup> Reference is made to relevant sections of CPA document, MoPR, 2063 BS.

<sup>23</sup> For example, Consortium of Organizations Working for Child Participation (Consortium), Children

agencies, media and Child Clubs are publicizing messages related to the rights of the child among various target groups. The principles and provisions of the Convention on the Rights of the Child as well as the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, and other international instruments concerning children, the provisions of the CPA and the provisions of national legislation, policies and NPAs have been used as tools to promote public awareness. The NHRC has provided various training and organized interaction programmes to raise awareness among children and stakeholders. The national coalitions and NGOs engaged in children's rights, and the media have contributed significantly in raising awareness among the general public, national security forces, political parties, government officials, teachers and children. Moreover, the children members involved in 13,331 Child Clubs established across the country have been engaged in raising awareness among children and adults in the community (also refer paragraph 43 of the present report).

### **III. Prohibition and related matters (arts. 1; 2; 4, para. 1; and 2)**

#### **A. The Constitutional Provisions**

71. In regard to the rights mentioned in the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the Constitution ensures protection of the rights of child from being involved in hazardous work and recruitment to the Army and Police and being used in armed conflict. Article 22 has elaborated the rights of children as fundamental rights in the Constitution and clause (5) explicitly states that "no minor shall be employed in factories, mines or in any other such hazardous work or shall be used in army, police or in conflicts". Other relevant provisions of the Constitution include the right to equality and equal protection of law (Article 13); the right to justice, seek judicial remedy, consult a legal practitioner of his/her choice and get fair trial by a competent court or judicial authority (Article 24); the right against exploitation (Article 29) and the right against exile (Article 31).

#### **B. Legislation in force regarding compulsory recruitment**

72. There is no provision for compulsory recruitment of children or any adults for that matter in national security forces and use of children in hostilities.

#### **C. Legislation in force regarding voluntary recruitment**

73. Laws of Nepal prohibit recruitment of children under the age of 18 in national security forces (Nepal Army, Nepal Police and the APF). Provision of Section 12 (4) of Army Act, 2006, has defined qualifications for recruitment in different positions of Nepal Army. Likewise, the Nepal Police Act, 1955 and its Regulation as well as the Armed Police Act, 2001, and its Regulation have clearly stipulated that a child under the age of 18 years is not eligible for recruitment in any positions.

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as Zones of Peace (CZOP), the Nepal Task Force for Children and Armed Conflict, formed under the terms of Security Council resolution 1612 (2005), the Children Associated with Armed Forces and Groups Working Group, and the Child NGO Federation-Nepal are among the coalition engaged in promoting the rights of the child in Nepal.

**D. Consideration of the State party to becoming party to (i) Additional Protocols I and II to the 1949 Geneva Conventions (1977); (ii) the Rome Statute of the International Criminal Court (1998); and (iii) ILO Convention No. 182**

74. In February 2007, Nepal endorsed the Paris Commitments to protect children from unlawful recruitment or use by armed forces or armed groups. The MoWCSW, on behalf of the GoN, is in the process of drafting a new bill on the “Children’s Act” (the draft bill will replace the Children’s Act, 1992) which will be submitted to the Parliament.

75. The GoN is in the process of developing the required infrastructures to become a party to the Rome Statute of the International Criminal Court in due course of time.

76. Nepal ratified International Labour Organization (ILO) Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour on 3 January 2002.

**E. Legal provisions that establish jurisdiction**

77. The General Code (*Muluki Ain*) 1963 and other laws embrace the principle that crimes committed within the territory of Nepal are subject to trial in Courts and other concerned authorities, and if any Nepali citizen commits crime outside the territory of Nepal, he or she is subject to trial under Nepali law, if found in Nepal. However, the GoN can establish jurisdiction beyond territory of the country in case a person commits an offence against Nepali citizen from a foreign land. For example, the Human Trafficking (Control) Act, 2007, has established its jurisdiction also beyond the territory of the country.

**F. Policy regarding extradition of persons accused of having committed offences referred to in the Optional Protocol**

78. The Extradition Ordinance, 2012, has provided a legal base for having an extradition treaty between the GoN and other countries for the extradition of offenders and convicted criminals. Section 4 defines an extraditable offence as the “offence that entitles the punishment of at least three-year imprisonment in accordance with Nepalese laws in force” and “offence that entitles the punishment of at least three-year imprisonment in accordance with the laws of requesting State”. Section 20 provides that “if any person, having committed an offence within Nepal, has absconded and is residing at any place or in transit while departing to any other State within the jurisdiction of any foreign country, Nepal shall request the Government of such foreign State through diplomatic mechanism to extradite such accused or offender”. Section 3 provides that “in case of any request made by any foreign State to the GoN for the purpose of extradition of absconded accused or offender, the GoN may extradite such accused or offender in the condition that if there is extradition treaty and if the offence is extraditable in accordance with the provision of Section 4 of the Extradition Ordinance, 2012”.

79. Section 3 (1) of the Mutual Legal Assistance Ordinance, 2069, provides that “in case of bilateral treaty agreement on the issues of mutual legal assistance between Nepal and Foreign States the mutual legal assistance shall be exchanged between Nepal and such foreign States”. However, the provision of Section 3 (1) “shall not obstruct for legal assistance on the basis of mutuality in special judicial proceeding in the case of diplomatic request for mutual legal assistance with the assurance of providing mutual legal assistance in similar upcoming issue” (Section 3 (2)).

## **IV. Protection, recovery and reintegration (art. 6, para. 3)**

### **A. Measures adopted to ensure that the rights and best interests of children who have become victims are fully recognized, respected and protected**

#### **National Plan of Action for Rehabilitation and Reintegration of Children Affected by Armed Conflict**

80. In the context of the decade-long armed conflict in the country and the ongoing peace process, the GoN has implemented the NPA for Rehabilitation and Reintegration of Children Affected by Armed Conflict.<sup>24</sup> In the process of finalizing the NPA, key actors and stakeholders including children were consulted by organizing Regional meetings.<sup>25</sup> The NPA has given special attention to supporting the children affected by armed conflict, including those who are in psychosocial trauma due to loss of family members, property or educational opportunity or have witnessed violence as a combatant. The NPA aims to support the children affected by armed conflict and associated with the armed group by (i) minimizing vulnerability of re-recruitment, (ii) reintegrating the children in the family and community, (iii) mobilizing resources to develop functional collaboration and coordination with actors and stakeholders, and (iv) formulating a comprehensive policy to address the issue strategically.

81. The NPA for Rehabilitation and Reintegration of Children Affected by Armed Conflict has adapted strategies for working with the target groups of children by (i) upholding accountability and transparency of individual and organization in respecting the rights of the child and humanitarian principles, (ii) enabling the capacity of children, (iii) maintaining confidentiality of the information about children, and (iv) developing functional coordination and collaboration among actors and stakeholders. The NPA has identified eight sectors for intervention and developing the plan of action. These sectors are (1) identification and data collection, (2) rescue and care, (3) family re-union, (4) rehabilitation in family and community, (5) participation, (6) community awareness, (7) transitional justice for children, and (8) developing a code of conduct for collection and use of data and for investigation and research on issues related to conflict-affected children.

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<sup>24</sup> The MoPR together with the MoWCSW took the lead role to formulate the NPA for Rehabilitation and Reintegration of Children Affected by Armed Conflict. In the process of drafting the document, a technical team was formed inviting representatives from MoPR, MoWCSW and NPC in which representatives from UNICEF-Nepal, Save the Children and Child Workers in Nepal Concerned Centre (CWIN) served as invitee members on behalf of the Task Force for Children Associated with Armed Forces and Armed Group (CAAFAG).

<sup>25</sup> A day-long Regional Consultation was organized in June 2009 in Nepalgunj, Mid-Western Development Region, to solicit input from key actors and stakeholders. A total of 15 districts were represented by CDO, local development officers (LDOs), WDO and Child Rights Officer (CRO) of DCWB and CSOs and NGOs working for and with children affected by armed conflict. A separate consultation was organized with children and young people to discuss the draft NPA. A separate two-day long National Consultation with children and young people was organized in Kathmandu during 16–17 July 2009 to review the draft. A total of 21 children and young people (12 girls and 9 boys) aged between 10–18 years representing children affected by armed conflict and/or children associated with armed groups provided their perspectives and input to the draft NPA.



## **B. Public and private demobilization programmes that provide child victims of recruitment with assistance in social reintegration**

### **Programme response of the Government**

82. The GoN is committed to ensure that children under the age of 18 are not involved in any armed conflict. In the case of UCPN (Maoist) combatants the Task Force constituted under the convenership of the Rt. Hon'ble Prime Minister for the management of UCPN (Maoist) Combatant recommended the release of under-aged children from cantonment and rehabilitating them in the family and community.

### **Discharge and rehabilitation of the 4,008 disqualified Maoist combatants, including 2,973 minors**

83. The GoN and the UCPN (Maoist) decided on 17 July 2009 to formally launch the discharge and rehabilitation process for the 4,008 Maoist combatants, including 2,973 minors, who were disqualified during the verification process. The Government has prepared a systematic process to discharge and offer a range of rehabilitation assistance packages to the 4,008 disqualified minors and late recruits with the support of United Nations. The Office of Special Representative of the Secretary-General for Children and Armed Conflict and the United Nations Children's Fund (UNICEF) have also provided support in this respect.<sup>26</sup>

84. An action plan was signed between the GoN, the UCPN (Maoist) and the United Nations agencies regarding the "Discharge of Disqualified Maoist Army Personnel and Related Tasks" on 16 December 2009. In line with the commitment made in the CPA of 21 November 2006, this action plan outlined the release of the disqualified combatants including minors and necessary assistance for their rehabilitation. The discharge process commenced on 27 December 2009 with support from United Nations organizations (United Nations Development Programme (UNDP), UNICEF, United Nations Population Fund (UNFPA), Office of the United Nations High Commissioner for Human Rights (OHCHR) and UNMIN). The discharge process took place in accordance with the Action Plan in a timely<sup>27</sup> and systematic manner during which a total of 2,394 disqualified combatants were discharged (1,843 comprised of minors). The GoN and the United Nations agencies in Nepal provided programmatic responses including support for the rehabilitation process carried out in accordance with the minimum international standards. A "Monitoring Mechanism" was set up to monitor compliance with the Action Plan which continued its task for six months. The discharged individuals would be provided rehabilitation support services over the period of one year.<sup>28</sup>

85. Reintegration and rehabilitation of the children affected by the armed conflict has been one of the focused actions agreed in the CPA. The following points are noteworthy:

- Realizing that the right to education for all should be ensured and respected, both sides are committed to maintain appropriate academic environment in educational institutions. Both sides agree to guarantee that the right to education shall not be violated. They agree to put immediately to an end the activities like taking the educational institutions under control and using them, causing teachers and students to be disappeared or taking them under control or abduction and not to establish

<sup>26</sup> Reference is made to the Press release issued by UNMIN on 17th July 2009.

<sup>27</sup> February 2010.

<sup>28</sup> Information Source: Ministry of Peace and Reconstruction, Nepal.

military barracks in the schools and hospitals in a way so that it would affect them (7.5.4.).

- Both sides fully agreed to provide special protection to the rights of women and children, to immediately prohibit all types of violence against women and children, including child labour, as well as sexual exploitation and harassment, and not to include or use children who are of eighteen years or below. Children so affected shall, immediately, be rescued and necessary and appropriate assistance shall be provided for their rehabilitation (7.6.1.).

### C. Relief and rehabilitation programmes

86. The Three-Year Plan (2010/11–2012/13) has adopted a strategy for support for “relief and rehabilitation of children affected by armed conflict, protection of children rendered vulnerable due to various reasons including conflict, marginalization, disability and HIV/AIDS” for ensuring their rights and optimal development. The GoN has continued its support for (i) implementing integrated and targeted programmes for rehabilitation and reintegration (with the provisions of psychosocial counselling, education and skills) of the conflict-affected children and children at risk (girl child, children with disability and of marginalized community, street children); and (ii) establishing and operating a “Permanent Children’s Fund” for the protection of the rights of the child as well as for providing emergency support and relief to the children who are at risk. The GoN has provided a sum of NRs 10 million to the Children’s Relief Funds and the MoWCSW has developed a guideline for management of the fund.

87. The GoN spent a sum of NRs. 187.0 million for the relief programme in fiscal year (FY) 2008/09 under “Reconstruction and Rehabilitation Programme”. This includes providing scholarships to 1,362 children of deceased persons, compensation to 527 persons against the loss of their personal property (including vehicular damage), financial support to the families of 119 abducted and disappeared persons, financial support to 1,658 persons who became disabled in the armed struggle, and subsistence allowance provided to 26 martyrs’ families and 23 injured persons during peoples’ movement-II.<sup>29</sup> Likewise, in FY 2008/09, a sum of NRs. 100,000 each was distributed to each dependant of those 11,676 persons who were killed during the armed conflict. In addition, in the first eight months of FY 2010/11, NRs. 100,000 was distributed to each dependant of 1,621 persons killed in the armed conflict.<sup>30</sup>

88. The MoPR has launched various programmes for the relief to, and rehabilitation of, conflict affected persons. It has reconstructed 1,411 infrastructures damaged due to conflict, provided financial assistance to the families of 14,064 out of 16,729 deceased, distributed relief to 25,000 internally displaced persons (IDPs), and 1,179 families of disappeared persons, and arranged subsistence allowance for 23 persons injured in the People’s Movement.<sup>31</sup>

89. In FY 2010/11, a sum of NRs. 80.1 million was used under the “Assistance to Peace Process Project” for providing compensation of NRs. 100,000 to each dependant of a person dead in the conflict and a sum of NRs. 25,000 each was provided to single women dependants of the common people dead in conflict. By mid-March 2012, a total of 13,978 dependants of the conflict victims and 4,469 single dependent women of a person dead in

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<sup>29</sup> Economic Survey FY 2009/10, Ministry of Finance, p. 269.

<sup>30</sup> Economic Survey FY 2009/10, GoN, Ministry of Finance, p. 270.

<sup>31</sup> Ibid.

conflict received financial assistance from the project. In addition, a sum of NRs. 42.5 million was utilized for providing vocational training, employment counselling, and small enterprises support service to a total of 3,030 conflict victims from 12 districts. A sum of NRs. 300,516,000 was utilized on relief and rehabilitation under the “Reconstruction and Rehabilitation Program” in FY 2010/11. Under this programme, 825 people for damaged personal property, 998 abducted people, 105 dependants of missing people, and 1,794 people who became disabled due to conflict have received financial assistance.

90. The GoN has made special provisions of providing scholarships to conflict-affected children to continue their education. The GoN has been providing scholarships to maximum three children of a person killed during insurgency as per the guideline for providing economic package to the children affected by armed conflict developed by MoPR in 2007/08. The children below the age of 18 years of a person killed during insurgency receive scholarships with a sum of NRs 10,000 for primary education, NRs 12,000 for lower secondary and NRs 16,000 for higher secondary education per year. The table below provides details of amount spent (in NRs) for distributing scholarships in different FYs.<sup>32</sup>

SN	Title of the Scholarship	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12*
1	Girls	761,939,000	1,066,799,000	2,293,744,000	1,597,217,000
2	Children with disability (1–8 grades)	17,200,000	35,586,000	62,163,000	77,348,000
3	Children with disability (9–10 grades)	–	33,746,000	4,494,000	6,838,000
4	Specially targeted groups (22 Ethnic)	61725,000	86,937,000	104,157,000	44,651,000
5	Dalits (1–8 grades)	–	984,007,000	1,100,349,000	522,435,000
6	Children of Martyrs	–	56,000	37,000	35,000
7	Conflict Victims	–	758,000	5,718,000	6,804,000

\* First eight months.

91. Protection of children severely affected by armed conflict in remote rural areas through emergency relief package programmes for children from Mugu district, and children who have been displaced from Far Western Region and Mid-Western Development Region: the GoN is providing cash support which consists of commuting cost of NRs 60 per day for 120 days for food, shelter and other costs reintegration of the internally displaced people.

92. The MoD and Nepal Army have provided (i) scholarship to study up to grade 12 in the school run by Nepal Army to the children of military personnel who were killed during the armed conflict, (ii) free medical treatment in army hospitals to the family members (including children) of serving and retired army personnel, (iii) skills enhancement and empowerment activities to support single women (of army) in cooperation with national women’s human rights organizations, (iv) free treatment and vocational training to army personnel who became disabled during the armed conflict, and (v) life skills education and vocational training to interested and needy family members of the military who died during the armed conflict, in cooperation with the Army Wives Association.<sup>33</sup>

<sup>32</sup> Economic Survey 2011/12, Ministry of Finance, p. 200.

<sup>33</sup> The Directorate of Welfare of Nepal Army is providing employment opportunities for training graduates.

93. The GoN has established the National Center for Children At-Risk 2006 (with toll free telephone number 104) and Child Helpline 1098 services for rescue, intervention and relief of those children who are in hazardous conditions and have disappeared from the family. By mid-March of FY 2011/12, there were 2,431 missing, and 380 found without guardian (abandoned) and among them a total 1,672 were rehabilitated to their own families, 24 were provided protection and care in the Child Care Homes, and 28 escaped.

94. A “Child Protection Grant” of Rs. 200 per month per child under the age of five up to two children of each *Dalit* family and all families in Karnali Zone is being provided from FY 2009/10 with the objective of improving the condition of child-care and education. The programme has benefited 458,135 children in the current FY 2011/12. It is hoped that the rate of malnutrition among children will degrade from this programme.<sup>34</sup>

#### **D. The ongoing Plans and Programmes of the Government of Nepal**

95. The GoN has given emphasis “to intensify the relief, reconstruction and rehabilitation for the conflict affected” as one of the objectives of the national budget with regard to sustainable peace, relief, rehabilitation and reconstruction. The GoN continues:

- Implementing appropriate programmes for the relief of martyrs of the conflict, children of the martyr’s family, wounded, killed during the conflict, abducted citizen, legal heir to the disappeared citizen, children who have lost both parents because of the conflicts and those who became disabled during the conflict;<sup>35</sup>
- Implementing employment and self-employment training programme for the rehabilitation of those disabled by the conflict, the displaced, families whose property has been seized forcefully, families of forcefully disappeared persons, and widows of victims of the conflict. Emphasis is given for undertaking rehabilitation and assistance programs for conflict-rendered orphans below the age of 18 years as well as other conflict-affected children;<sup>36</sup>
- Promotion of “Peace Campaign through People’s Initiatives” and expansion of the local peace committees up to village level for the enhancement of reconciliation;
- Provision of psycho-social counselling, skills training and opportunities for employment or self-employment in the process of providing relief and social rehabilitation of the individuals and groups affected by armed conflict;
- Mobilization of Peace Fund for implementing the peace, reconstruction, rehabilitation and reintegration programmes;
- Bringing all children within the net of social protection beginning from the children from poor, conflict-affected, marginalised communities as well as those children who are at risk or are living with disabilities.

96. The MoPR drafted a Procedure to Implement Programmes for Rehabilitation of Children who have lost their Parents in 2011. The procedure is in the process of getting approval of the Council of Ministers. The rehabilitation programmes aim to support children who have lost one or both of their parents due to armed conflict during the period 13 February 1996 to 20 November 2006. The rehabilitation programme provides a monthly sum of NRs 5,000 per child to cover the cost of his or her accommodation, food, medicine,

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<sup>34</sup> Economic Survey, 2011/12, Ministry of Finance, p. 251.

<sup>35</sup> Policies and Programs of Government of Nepal for the FY 2011/12, para. 126.

<sup>36</sup> Ibid, para. 128.

clothes, stationery and emergency expenses. An eight-member Children Rehabilitation Committee would be formed in each district in which the CDO would be the Coordinator. The committee is mandated to recommend the child who needs rehabilitation service and to support in implementation, management, supervision and coordination of the rehabilitation programme (Source: Relief and Rehabilitation Unit of MoPR, 2011).

97. The MoWCSW, through the DWC, is implementing the Strengthening Decentralized Support for Vulnerable and Conflict Affected Families and Children project funded by the Japan Fund for Poverty Reduction (JFPR) through the Asian Development Bank (ADB). The four-year-long project will invest US\$ 2,000,000 to achieve the following objectives: (i) to improve national capacity and professionalism for quality policy advice and social welfare delivery to the people and to increase awareness of social entitlements at the grass roots level, and (ii) to encourage economic development of 4,000 families affected by conflict by identifying suitable opportunities for gainful income. The project is focusing its efforts on (a) capacity development (Post Graduate Diploma in Social Work, Training of Trainers (ToT) to mid-level district officials, child rights sensitization, development of standards for childcare homes and production of advocacy and information materials); (b) piloting quality service (providing conditional grants for economic empowerment of those families who are exposed to income shocks as a direct result of the conflict and hence are in vulnerable situations), and (c) assistance to beneficiaries (the targeted groups will be supported through (i) matching grants for investment in sustainable livelihoods, and (ii) decentralized community based family support services, including psycho-social support, referral and other income generating services). The project aims to mobilize primary and other stakeholders at district and community levels to achieve its expected results, including: (i) increasing family income by 10 per cent, and (ii) creating environment for sixty persons to complete a one-year Post-Graduate Diploma on Social Work and at least 50 per cent of graduates to secure positions within government offices.

## **E. Efforts of international organizations and non-governmental organizations**

98. The CAAFAG Working Group was established under the overall coordination of UNICEF in 2006 having United Nations Agencies and national and international organizations as its members. This Working Group has developed its working modalities and priority areas of interventions. For example, each member organization is given responsibility to lead in particular geographical location by mobilizing other members working in the region. The Working Group has identified five major issues for interventions which include (a) advocacy and prevention, (b) return and release of children associated with armed groups, (c) capacity building of stakeholders at national and sub-national level, (d) care and protection of children affected by armed conflict and in need of protection and (e) socio-economic reintegration including reconciliation and peace building.

99. The following are the highlights of the programmes carried out by the Working Group:

- Community based reintegration of children affected by armed conflict and children who are at risk through the provision of (a) education, (b) health care, (c) livelihood support, (d) psychosocial support, and (e) improving in the quality of services (i.e. schools, health posts, etc.) with the objective of reintegrating children with their families and preventing them from joining or rejoining armed groups;
- Protection and legal assistance to conflict affected children. Other programmes include provisions of emergency services, humanitarian services, psychosocial

support, life skills training, and facilitating reconciliation at community level by mobilizing children and youths in peace building activities.

100. The Working Group has offered rehabilitation support to over 7,500 children from 52 districts who were associated with armed groups and were in difficult circumstances. The Working Group is also engaged in the following ongoing works:

- Advocacy and lobbying among the stakeholders responsible for implementation of the CPA to develop strategic programme to support children;
- Identification of children associated with the armed groups and their registration as well as mobilizing of media for preparing the local communities to receive these children;
- Provision of psychosocial support to CAAFAG and facilitation for their social-reintegration by engaging them in community based peace building and reconciliation activities;
- Capacity building and mobilization of community based organizations to support reintegration activities in respective communities and advocate for protection and promotion of the rights of the child.

#### **F. Measures to ensure the protection of a child's identity as per article 16 of the Convention on the Rights of the Child**

101. Section 49 (2) of Children's Act, 1992, prohibits the publication in any newspaper or magazine the details of the incident and the case in the court in which a child is accused of, without permission of prosecutor or the judge of the court. Similarly, Section 52 of the same Act provides for keeping information about the accused child, particularly his or her real name and address, confidential. The provision of the Act does not mention children affected by armed conflict. However, with regard to the children associated with armed group, confidentiality is respected in practice. The draft NPA for Conflict Affected Children has well discussed the issue of maintaining confidentiality while working with children associated with armed groups in sections including family reintegration, psychosocial care and provisions related to the Code of Conduct.

102. The Supreme Court of Nepal made a landmark decision in December 2007 to protect the privacy of information about the victims (i.e. women victims of violence, abuse and exploitation, children and persons infected with HIV and AIDS) in the court proceedings. The Supreme Court has issued directives to the Council of Ministers and the MoLJCPA to formulate law to ensure and maintain the standard of privacy of the victims as well as prohibition of publication and publicizing information that is detrimental to the victim. The Supreme Court has developed A Procedural Guideline for the Protection of Privacy of Parties in the Entire Prosecution and Court Process in Regard to the Cases of Special Nature 2007.<sup>37</sup>

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<sup>37</sup> Reference is made to the initial report of Nepal on the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

## **V. International assistance and cooperation (art. 7, para. 1)**

### **A. International cooperation regarding the implementation of the Optional Protocol**

103. The GoN and OHCHR, Geneva, concluded an agreement in April 2005 to establish the latter's office in Nepal. Accordingly, OHCHR–Nepal was established in May 2005, with the aim of monitoring human rights in the context of the armed conflict.

104. The GoN and UCPN (Maoist) requested the United Nations in July 2006 for its cooperation. United Nations assistance was basically sought for the following specific tasks:

(a) Continue its human rights monitoring through the Office of the High Commissioner for Human Rights in Nepal (OHCHR–Nepal);

(b) Assist in the monitoring of the Code of Conduct during the Ceasefire;

(c) On the basis of the agreement to seek United Nations assistance in the “management of arms and armed personnel of both the sides”, deploy qualified civilian personnel to monitor and verify the confinement of CPN-Maoist combatants and their weapons within designated cantonment areas. Later the modalities for all arrangements, including of arms and ammunitions, would be worked out among the parties and the United Nations;

(d) Monitor the Nepal Army to ensure that it remains in its barracks and its weapons are not used for or against any side. The modalities would be worked out among the parties and the United Nations;

(e) Provide election observation for the election of the Constituent Assembly in consultation with the parties.

105. Before UNMIN was established (23 January 2007), from August 2006, the United Nations assisted in the peace process through the Office of the Personal Representative of the Secretary-General. For a number of years, the Secretary-General of the United Nations was closely engaged, through the United Nations Department of Political Affairs, in efforts to encourage a peaceful resolution of the conflict in Nepal.

106. Most of the United Nations agencies present in Nepal have been established for a long time, in order to support and implement a wide range of development programmes and assist in response to emerging humanitarian needs.

### **B. National legislation prohibiting the trade and export of small and light arms as well as military assistance**

107. National legislation prohibits the trade and export of arms in Nepal. The Explosive Device Act, 1961, prohibits production, keeping, using, selling and transporting of explosives without acquiring license from the Government (Section 4). The CDO is authorized to monitor, trace, seize, ban and limit the provision of the license awarded to anybody (Section 6). The offence under this Act is punishable by two years' imprisonment and/or 20 thousand rupees cash penalty. Section 4 also prohibits transporting arms and ammunition to and from Nepal and within one district to another for the purpose of selling. Section 5 prohibits anybody from carrying arms and ammunition without acquiring a license and/or violating the conditions stated in the license. The offence under this Act is

punishable by seven years imprisonment and/or twenty-one thousand rupees cash penalty (Section 20).

### **C. Cooperation with the Office of the Special Representative of the Secretary General for Children in Armed Conflict**

108. The GoN has extended its coordination with the Office of the Special Representative of the Secretary General for children in Armed Conflict. The Special Representative of the Secretary-General for Children and Armed Conflict, Radhika Coomaraswamy, visited Nepal in December 2008. Her visit to Nepal was part of the follow-up to the recommendations of the Security Council on the situation of children in Nepal within the framework of Security Council resolution 1612 (2005) and promotion of the rights of children in the context of the ongoing peace process in Nepal. The Special Representative discussed the issue relating to recruitment and use of children, and the discharge of minors from the cantonments.

109. The Security Council Working Group for Children and Armed Conflict visited Nepal in November 2010. The team met leaders of various political parties, high level government officials and children affected by armed conflict. The visiting team obtained information on the status of minors released from the Cantonments.

### **D. Reports of the Secretary General to the Security Council in accordance with its resolution 1612 (2005)**

110. The situation regarding the involvement of children in armed conflict has been part of reports of the Secretary General to the Security Council in accordance with its resolution 1612 (2005). The first report was prepared in 2006, covering the period from August 2005 to September 2006. The United Nations Secretary General's report on children in armed conflict in Nepal was released on 21 February 2007 in Kathmandu. It continued to prepare such reports in the following years. The second country report on the situation of children and armed conflict in Nepal was released on 18 April 2008 covering the period from 1 October 2006 to 31 December 2007. The Annual Report of the Secretary-General to the Security Council on Children and Armed Conflict (A/63/785-S/2009/158) was issued on 24 April 2009. The report of the Secretary-General on Children and Armed Conflict in Nepal (S/2010/183) was released on 13 April 2010 in accordance with the provisions of Security Council resolution 1612 (2005), covering the period from January to December 2009. The report examines trends in violations of children's rights and provides information on progress made in their protection in Nepal.

111. The child protection experts from UNICEF supported the verification of minors, and their discharge as part of the United Nations team. UNICEF and other members of CAAFAG Working Group (UNICEF is also a member of the group) have supported the reintegration of 7,500 children who were associated with armed groups. This support comprises of educational and vocational opportunities, income generating activities and apprenticeships. It also allowed these children and young people to participate and engage in peace building and reconciliation opportunities. UNICEF and CAAFAG WG have established a network of community based psychosocial support service providers to provide psychosocial support to CAAFAG. Building on this existing reintegration programme, UNICEF, UNDP, UNFPA and ILO have developed support programme for rehabilitation of 4,007 verified minors and late recruits who were released from the cantonments during January-February 2010.



## **E. Establishment of Peace Fund**

112. The Government had enacted “Peace Fund (Operation) Rules, 2065 (2008)” with an objective of collecting and channelizing fund received from (i) the Government of Nepal; (ii) foreign governments or individuals, international associations and organizations; (iii) non-resident Nepalese; (iv) international charity; (v) Nepalese associations, organizations or individuals; and (vi) other sources. The technical assistance as well as the assistance in cash or kind received by the Fund shall be utilized and spent for the implementation of Projects and for the Secretariat as per the decision of the Board (which is chaired by the Hon’ble Minister for MoPR). The project includes provisions:

- To provide necessary support for the rehabilitation of the displaced;
- To make arrangements for technical support, cash and commodities necessary for physical structure, machineries, equipment, materials, communication system and the training that are necessary for the promotion and strengthening of peace and security;
- To support in managing the cantonments where the combatants of the Maoist army are confined and to rehabilitate the combatants of the Maoist army;
- To assist in rehabilitation of the conflict affected individuals and families;
- To arrange necessary financial and technical support in clearing and destroying the minefields and related improvised explosive devices and equipment, and in organizing trainings on the related field;
- To arrange technical and financial support for the reconstruction, rehabilitation and maintenance of the damaged or destroyed physical infrastructures pertaining to the Government or public sector during the conflict;
- To support other programmes being implemented in the country aimed at contributing to peace building.

## **VI. Other legal provisions (art. 5)**

### **A. Domestic legislation more conducive than the provisions of the Optional Protocol**

113. The GoN has adopted the principles and provisions of the international Conventions, Treaties and Decelerations into domestic law to harmonize them into domestic jurisdiction. The Government has realized that both domestic legislation and the provisions of the Convention on the Rights of the Child as well as the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict are complementary and supplementary to each other for the realization of the rights of the child in Nepal.

### **B. Status of ratification of the main international/regional instruments of humanitarian law**

114. The following is the list of international/regional instruments ratified by the GoN that relate to the recruitment or use of children in hostilities:

- The Convention on the Rights of the Child, 1989 (ratified on 14 September 1990);

- The Amsterdam Declaration, 1997 (in 1997);
- ILO Convention No. 138 (1973) concerning Minimum Age for Admission to Employment (ratified in 1997);
- ILO Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, (ratified on 3 January 2002);
- ILO Convention No. 29 (1930) concerning Forced or Compulsory Labour (ratified on 3 January 2002);
- United Nations General Assembly Special Sessions (UNGASS) Declaration, A World Fit for Children, 2002;
- The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 2000 (ratified on 20 January 2006);
- The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, 2000 (ratified on 03 January 2007).

### **C. Regional commitments**

115. Regional commitments are as follows:

- First South Asian Association for Regional Cooperation (SAARC) level Bangalore Declaration on Children, 1986;
- Second SAARC level Colombo Declaration on Children, 1992;
- SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002 (ratified in 2006);
- SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia (ratified in 2006).

### **V. Conclusion**

116. As can be seen from earlier sections, the report, following the reporting guidelines, has been prepared through a rigorous consultative process. Attempts have been made in various sections to present the actual situation of children in Nepal and an honest portrayal of the efforts made both at the Government and non-governmental level, and with the cooperation of international community to alleviate it.

117. Nepal is engaged in the peace process after the end of a 10-year long armed conflict. The GoN has already accomplished the process of discharging of disqualified UCPN Maoist combatants including 2,973 minors. The Interim Constitution of Nepal, 2007, has incorporated children's rights as fundamental rights banning the use of children in armed conflict. The current Three Year Plan (2010/11-2012/13) has incorporated several provisions for the rights of the children to be protected from involvement in armed conflict. The GoN has developed a separate NPA for Rehabilitation and Reunification of Children Affected by Armed Conflict.

118. In order to implement the principles and provisions of the Convention on the Rights of the Child as well as the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed

conflict, the GoN has made efforts for necessary legal reforms and effective implementation of relevant laws. Likewise, efforts have been made for institutional strengthening of administrative structures as well as national human rights institutions for effective realization of the rights of the children.

119. This report presents the status of the implementation of the provisions of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. The GoN has tried its best to present the reality about the situation of children, efforts made by different actors, progress made and challenges encountered. The GoN has realized that its efforts in the past have brought gradual progress in the recognition and promotion of the rights of the children in Nepal. The GoN has also recognized the importance of having consolidated efforts for making positive changes in the life of Nepali children. For this, necessity has been felt for having functional coordination among national and international agencies; child focused organizations; bi-lateral and multi-lateral donors as well as civil society actors. The GoN is ready to take the facilitating role engaging actors and stakeholders to coordinate their efforts for improving the situation of the rights of the children.

120. The GoN welcomes technical input, suggestion and guidance in regards to fulfilling its obligation towards Nepali children. The GoN believes that the report offers an opportunity to have open dialogue and discussion with the Committee on the Rights of the Child. The GoN will readily offer any further information or explanation sought by the Committee.

## Annex

### **Members of Report Drafting and Report Revising Committee**

#### **Members of the Drafting Committee (formed by the Ministerial Decision)**

Ms. Brinda Hada Bhattarai, (the then) Secretary of the MoWCSW	Chairperson
Mr. Ratnakaji Bajracharya, (the then) Joint Secretary of the MoWCSW	Member
Mr. Jaya Mukunda Khanal, (the then) Joint Secretary of the MoHA	Member
Mr. Devendra Prasad Sitaula, Joint Secretary of the MoD	Member
Mr. Sadhu Ram Sapkota, Joint Secretary of the MoPR	Member
Mr. Kedar Paudel, (the then) Joint Secretary of the MoLJCPA	Member
Ms. Mandira Dali Paudel, (the then) Director General of the DWC	Member
Mr. Dharma Raj Shrestha, (the then) Executive Director of the CCWB	Member
Mr. Laxmi Prasad Tripathi, Under Secretary of MoWCSW	Member-Secretary

#### **Invited members of the Report Drafting Committee**

Representative of Nepal Army, Nepal Police and the APF

Representatives of UNICEF-Nepal

Technical Support in Drafting the Report: Mr. Chandrika N. Khatiwada, Child Rights Activist

#### **Members of the Report Revising Committee**

Mr. Balananda Paudel, Secretary of the MoWCSW	Coordinator
Dr. Trilochan Upreti, Ex-Secretary	Member
Dr. Lava Dev Awasthi, Joint Secretary of the MoE	Member
Mr. Dilli Raj Ghimire, Joint-Secretary of the MoLJCPA	Member
Mr. Upendra Adhikari, Joint-Secretary of the MoWCSW	Member
Mr. Ramesh Dhakal, Joint-Secretary of Office of the Prime Minister and Council of Ministers	Member
Mr. Laxmi Prasad Tripathi, Under-Secretary of the MoWCSW	Member
Mr. Suresh Adhikari, Under-Secretary of the MoFA	Member
Mr. Jhanka Nath Dhakal, Section Officer of the MoWCSW	Member