



# Convention on the Rights of the Child

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Committee on the Rights of the Child

## Combined sixth and seventh periodic reports submitted by Nepal under article 44 of the Convention, due in 2021\*, \*\*

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

\*\* The annex to the present document may be accessed from the web page of the Committee.



## I. Introduction

1. Nepal is a Federal Republic country with seven Provincial Governments (PGs) and 753 Local Levels (LLs). Each level of Governments has defined list of exclusive and shared powers under the Constitution and are fully functional. The total population of Nepal is 29.19248 million with 51.04 % female population. The annual population growth rate is measured at 0.93% in 2021.<sup>1</sup> Ever since its existence, Nepal treasures diversity of cultures, traditions, languages and religions. More than 123 ethnic languages and communities are identified by the population census 2011. Major religious communities in Nepal are Hindu (81.34%), Bouddha (9.04%), Islam (4.39%), Kirat (3.05%) and Christian (1.42%). The country's per capita income is 1191 US\$ at FY 2019/2020. The average life expectancy rate of the population is 66.6 Years as of 2011.<sup>2</sup> The working age population (15+ years) has a share of 71.5% of the total population of which 55.6% are female. The employment to population ratio is 34.2%.<sup>3</sup> The key source of national economy is agriculture, tourism, hydropower, trade, industry and foreign remittance. Nepal is having its population census ongoing during September–November, 2021.

2. The share of child (Under the age of 18 Years) population in Nepal is 41.82%.<sup>4</sup> Nepal has guaranteed the rights of the child constitutionally with more than 30 laws protecting rights of children. Since the adoption of concluding observation on third, fourth and fifth periodic report on the implementation of rights of child, Nepal has made tremendous progress with significant increment on vaccination of children, neonatal survivals, maternal health, almost 97% net enrollment in primary school education. Nepal has been successful to reduce number of child labor by one third of 1.6 million estimated in 2012. The incidence ratio of child and early marriages has significantly reduced. Nepal has expanded child protection services including child helplines (1098), missing children response service (104), temporary protection facilities, improved justice for children and protection for children in conflict with law. Children targeted social protection schemes are extended to cover maximum children at risk.

3. Nepal ratified the Convention on the Rights of the Child (CRC) On September 14, 1990. Further, Nepal has ratified the Optional Protocol on the Involvement of Children in Armed Conflict (2000) and Optional Protocol to the Convention on the Sale of Children, Child Prostitution and Child Pornography (2000) in 2006. Nepal is a party to the seven out of nine core human rights Conventions.<sup>5</sup> It is a party to 11 ILO Conventions including through seven Fundamental Conventions out of eight, one Governance Convention out of four and three technical Conventions. Nepal has participated to the 3<sup>rd</sup> cycle of Universal Periodic Review (UPR) and has supported 196 recommendations among which more than 65 are related to human rights of children.

4. The Committee on the Rights of the Child has considered Nepal's 3rd, 4th and 5th Periodic Report on the Implementation of the Rights of the Child that includes the progress achieved till October 2012. The UN Committee on the Rights of the Child has issued concluding observations (CRC/C/NPL/CO/3-5) on 08 July 2016. Nepal highly values the observation and recommendations made by the UN Committee on the Rights of the Child (The Committee).

<sup>1</sup> National Census, 2021 Preliminary Result. GoN, National Planning Commission, Central Bureau of Statistics, 2022.

<sup>2</sup> Nepal in Figures, 2021. GoN, National Planning Commission, Central Bureau of Statistics, 2021.

<sup>3</sup> Nepal Labor Force Survey 2017/18. GoN, National Planning Commission, Central Bureau of Statistics. 2018.

<sup>4</sup> Status of Children in Nepal, 2077. National Child Rights Council 2020.

<sup>5</sup> Nepal is party to International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Elimination of All Forms of Racial Discrimination (CERD), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Convention on the Rights of the Child (CRC) and Convention on the Rights of Persons with Disabilities (CRPD).

5. As advised by the Committee through the concluding observation, this report is the combined sixth and seventh periodic reports covering the progress made from 2013 till September 2021. This report is submitted by the Government of Nepal (GoN) pursuant to Article 44, paragraph 1 (b) of the UNCRC that highlights measures adopted and the progress made in guaranteeing the enjoyment of the rights recognized in the Convention. The report also responds to the relevant concluding observations (CRC/C/NPL/CO/3-5) in relevant Sections and Articles.

## II. Methodology and Consultation Process

6. The drafting process of the reporting involved 515 participants including 40 children representing sectors such as civil society, media, government officials, national human rights institutions and private sectors, UN agencies and development partners. GoN initiated the drafting process on 29 April 2021 under the leadership of the Ministry of Women, Children and Senior Citizens (MoWCSC). A Steering committee led by the Secretary of MoWCSC was formed having representation of sectorial ministries and Office of the Prime Minister and Council Ministers. In addition to this, a working committee was formed under the leadership of Joint-Secretary of MoWCSC. The National Child Rights Council (NCRC) as specialized body on the rights of the child coordinated and facilitated the drafting, consultation and review process. The drafting team reviewed 23 government reports and civil society submissions, media reports and organized five events of public consultation in physical presence. In addition to this, two virtual consultations were held considering the COVID-19 pandemic. The report was circulated to civil society and general public for submitting their inputs before finalization. The final draft has been shared at inter-ministerial consultation and finally adopted by the Council of Ministers.

7. The report has been drafted as per the guidelines provided by *Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by state parties under article 44 paragraph 1b of the Convention on the Rights of the Child (CRC/C/58/Rev.3)* issued on the 3rd of March 2015 by the Committee on the Rights of the Child.

## III. Treaty-specific Report

### A. General Measures of Implementation (Arts. 4, 42 and 44, para. 6, of the Convention)

8. The Committee had made nine recommendations in relation to the general measures of implementation in the concluding observations (CRC/C/NPL/CO/3-5). The recommendations include: reviewing Children's Rights Bill in light of CRC, evaluating previous National Plan of Action on Children and develop a comprehensive national child policy and programs establishing a single inter-ministerial and inter-sectorial mechanism for coordination, monitoring and evaluation of activities related to the implementation of the Convention with a strong mandate and sufficient human, technical and financial resources having an ability to work closely with the National Planning Commission; prioritization of budgetary allocation for children; mobilizing resources, combating corruption and to ensure efficient, effective and transparent use of resources; establishing and operating a system of desegregated database on the status of children and their rights with technical cooperation from UNICEF; ensuring independence of National Human Rights Institutions (NHRIs) in line to the Paris Principles and establishing a child rights section in National Human Rights Commission (NHRC); implementing dissemination, awareness raising and training to communicate widely about Convention and its provision to the wider section of the society.

9. The Constitution of Nepal guarantees the right of child as fundamental right (Art. 39) and recognizes the best interest of child as state policy (Art. 51, (J) (5)).<sup>6</sup> The Constitution of Nepal prohibits the recruitment of any child in any armed force or groups and recognizes it

<sup>6</sup> The Constitution of Nepal, Article 51 (j) Policies relating to Social Justice and Inclusion: (5) to take into consideration primarily of the best interests of the child.

as an act liable to punishment (Art. 39 (6)). The Act Relating to Children, 2018<sup>7</sup> in section 7(7) ensures that a child has right to be protected from recruitment in the military, armed forces and groups;<sup>8</sup> similarly, section 66 (2) (g) criminalizes engaging child in political organization, campaign to benefit political purpose.<sup>9</sup> The Act Relating to Children guarantees a child is entitled to various rights, rescue, protection, temporary shelter and rehabilitation support including child friendly justice (section 25, 69, 70, & 71). The Act Relating to Children, 2018 provides a list of punishment provision for different acts of crime and violence against children.

10. The Act Relating to Children, 2018 is in compliance with the CRC and the fundamental rights section of the Constitution of Nepal. The Act defines a list of activities as offence against children and different forms of activities as sexual abuse against children and criminalizes such acts (section 66). Section 66 of the Act Relating to Children, 2018 has mentioned the “Offences against the child”. Under this section, sub-section (2) defines the list of acts of violence against the child and sub-section (3) defines the list of acts of sexual abuse. Similarly, Sub-section (1) mentions that any act of violence referred to in sub-section (2) and (3), the person shall be deemed to have committed the offense against the child under this Act.<sup>10</sup>

11. The Act includes the provisions as: standard of justice for children, juvenile justice, right of victim, provision of child friendly behaviors during investigation and prosecution, protection facilities, right to privacy and rehabilitation services (Chapter 4, relating to juvenile justice, section 20-47). The Act defines the crime against children as cases being state as plaintiff (section 76). In addition to this, GoN has enacted The Crime Victim Protection Act, 2018 which also provides for several facilities, support, and compensation for the child victim and child members of victim family. The National Penal Code, 2017<sup>11</sup> criminalizes acts such as child marriage, *Chhaupadi*<sup>12</sup> and similar other untouchability practices, sexual violence, rape and attempt to rape against children. The National Civil Code, 2017 makes acts of early and child marriages as void per se. The Human Trafficking and Transportation Control Act, 2007 declares child trafficking as a criminal offence and provides severe punishment, compensation for the victim along with the state responsibility of rescue, repatriation and rehabilitation.

12. The Local Government Operations Act, 2017 is in place that has defined rights and duties of the Local Levels. Section 11 of the Local Government is mandated to implement

<sup>7</sup> This Act has replaced the existing The Act on Children’s Welfare 1992.

<sup>8</sup> Act Relating to Children, 2018 Section 7 (7) No child shall be deployed in army, police and armed group and be used for armed conflict or political purpose directly or indirectly.

<sup>9</sup> Act Relating to Children, 2018 Section 66 (2) (g) to organize him or her for the political purpose or use him or her in a strike, shutdown, transportation strike, sit-ins or rally.

<sup>10</sup> The Act Relating to Children, 2018 section 66 sub-section (2) includes involving child in addiction like smoking, drinking, or gambling, allowing the child to enter or use or see recreational centers and visuals available for adults only, to inflict punishment or behave in an undignified manner anywhere including the acts of terrorizing, humiliating, hatred, isolation and torture, to harass or cause pain through any medium, use them in political purposes, to keep/hold them illegally, to forcefully involve them into begging or use in disguise except for any cultural or religion matter, forcefully register them as orphans or keep them in children’s home against the law, discriminate or neglect in the pretext of culture, customs or rituals, involving them in child marriage, magic or circus shows, and in any medical experiments. Similarly, under sub-section (3), to have a child see or cause to see any obscene visual or involve them in child pornography including holding their obscene audio-visual, to forcefully involve them in sexual activity, to touch, kiss or hold sensitive part of their body or make them touch or hold own body or another person’s body, to engage in child sexual exploitation, to use them with the intent to provide sexual service and to use them in sexual activity or prostitution is deemed to have committed child sexual abuse. Finally, sub-section (4) mentions that displaying or expressing materials on the sex-related matter with the intention of educating, informing, act done in good faith on the course of treating a child or saving them from an accident or risk without displaying obscenity shall not be deemed to constitute an act of sexual abuse.

<sup>11</sup> This is new law that replaced existing *National Code (Muluki Ain)*, 1920.

<sup>12</sup> *Chhaupadi* is a traditional harmful practice, where a girl or woman is considered as untouchable during menstruation and discriminated. They are asked to stay outside of home or in isolation for 4–6 days of the menstruation period.

programs of health, education, sanitation, children, women and senior citizens including persons with disabilities. In section 12, the lowest unit of Local Levels (Ward Offices) are made responsible to mobilize resources for the benefit of children to ending child marriage, child labor and protecting rights of children.

13. Nepal has acceded the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol, 2002) on 16 June 2020. The government has initiated domestication of provisions in the Palermo Protocol. The Child Labor Prohibition and Regulation Act, 2000 enlists recruitment of children in armed group and forces as worst form of child labor and has a provision of fine and punishment for this offence (Section 19 (2)).

14. The GoN is in the process of formulating a new National Child Policy and National Plan of Action on Children (2021–2031). The 15<sup>th</sup> Periodic Plan (FY 2019/2020 to FY 2023/24) with a long-term vision till 2100 has included specific chapter with Action Policies on Education (Chapter 6.2), Health and Nutrition (Chapter 6.3), Water and Sanitation (Chapter 6.4), Gender Equity and Women Empowerment (Chapter 6.6) Children and Adolescents (Chapter 6.7), Persons With Disabilities (Chapter 6.9), Social Security and Protection (Chapter 6.11) and Human Rights (Chapter 8.6) and Controlling Human Trafficking and Transportation (Chapter 8.13). It provides different strategy, action policies and programs to address issues of children. Nepal has adopted a defined road-map with defined indicators for the implementation of Sustainable Development Goals (SDGs) 2015–2030. The Master Plan on Elimination of Child Labor (2018–2028) has been adopted to end all forms of child labor by 2025. Nepal has adopted the 5<sup>th</sup> Action Plan on Human Rights (FY 2020/21–FY2024/25). National Education Policy (2019) has prioritized children's right to basic education, enhancing learning ability, improving educational structures, strengthening teacher's skills and promoting inclusiveness in schools. In addition to this, a new National Plan of Action on Combating Trafficking in Person Especially in Women and Children (FY 2021/22 to 2030/31) is being drafted.

15. National Child Rights Council (NCRC) has been established as a specialized body of GoN in order to protect, promote and monitor the rights and interests of the child under the Act Relating to Children, 2018 (sec. 59). The Minister for Women, Children and Senior Citizens heads the Council. The body has representation of civil society, 12 Federal Ministries and authorities and seven provincial governments. NCRC has an Executive Director as the administrative head of the institution appointed by GoN. The Executive Director is selected based on skills, experience, knowledge and expertise in the field of child rights. The NCRC is mandated to perform as a policy advisory body, take inquiry actions on child rights abuse incidences, operate national child protection system (Child Helpline 1098 and Missing Children Response Center 104), organize capacity building support, provide mentoring and technical support to state and not state agencies on children, conduct research and studies on child rights issues, promote and educate child rights to wider communities and also responsible for arranging humanitarian support during disaster. It is also responsible to enhance collaboration and cooperation with civil society organizations, children and youth groups. It has formed a Sub-committee led by the Council Member and represented by civil society networks to have effective and efficient collaboration. It has officially recognized and engaged 47 civil society representatives from several networks, alliances and experienced experts in various committees and expert group. NCRC conducts a program of National Children Assembly which is a three days consultation with children from all over nation representing geography, sex, caste and other segments of children. The National Children Assembly engages 275 children to discuss on federal policies, programs and emerging issues of children. A number of Local Levels and Provincial Governments have been practicing children's annual consultation to have their voice in the policy-making and programming process.

16. The Ministry of Federal Affairs and General Administration has been promoting Child Friendly Local Governance (CFLG) with application of a defined national guideline for implementing CFLG. Till the end of FY 2020/2021, 12 Local Levels and 39 Ward Offices of 33 Local Levels are declared as child friendly Local Levels.

17. The Act Relating to Children, 2018 has provision of Provincial Child Rights Committee (PCRC) chaired by the Minister of Province responsible for children's rights

(section 60 (1)); Similarly, the Act provisions a Local Child Rights Committee (LCRC) in each Local Level, to be chaired by an Executive Member of the Rural Municipality or Municipality designated by the Vice-Chairperson or Deputy-Mayor of such Rural Municipal. (Section 60 (2)). The functions, duties and rights and procedures of meetings of the Committees shall be as determined by the Province and Local Level (Section 60 (3)). By Mid July 2021, two Provincial Governments have formed Province Child Rights Committee; 129 LLs have formed local child rights Committee, and 51 LLs have designated Child Welfare Officers (CWOs). All three tiers of governments have been allocating budgets targeted for children particularly to improve education, health and protection services. The NCRC is in close collaboration with UNICEF and also other development partners, has been supporting the efforts of GoN. It is working towards establishing the Child Rights Information Management System (CRIMS) and Child Protection Information Management System (CPIMS).

18. Several ministries have been implementing disengaged information system on status of children and child rights, for example MoHA has been implementing VERSP-MIS system,<sup>13</sup> MoHP has been implementing Integrated Health Management Information System and MoEST has been implementing Education Information Management System. These system produces information based on sex, caste, geography and age group population.

19. The GoN has been investing progressively on children. The Ministry of Health and Population and Ministry of Education, Science and Technology hold the largest budget share in Federal, Provincial and Local Levels. In addition to this, targeted budget has been invested on children through MoWCSC and NCRC at the federal level, Ministry of Social Development and Designated Ministries at Provincial Governments. The record at the Social Welfare Council shows that there are over 200 international agencies partnering with over 1500 Nepali non-government organization working in the field of children.

20. Different constitutional commissions have been formed by the Constitution as National Human Rights Institution for protection and promotion of human rights.<sup>14</sup> In each of those Commissions, a commissioner has been designated to deal with the matters relating to children. National Women Commission operates a helpline (1145) to respond cases of gender-based violence against women and girls; National Human Rights Commission operates a hotline (00977-1-5010015) for responding cases related to human rights violation including children's human rights. Other NHRIs have also considered child rights concern in their organizational and administrative structures. The NHRIs are fully complied with Paris Principles and have full mandate to protect and promote human rights. They also conduct fact finding, inquiries and issue recommendations to the Government of Nepal.

21. The GoN has adopted a zero-tolerance policy on corruption. A specialized constitutional body is established to counter corruption in Nepal. The Commission for the Investigation of Abuse of Authority (CIAA) has been conducting investigation and has addressed more than 25,000 complaints of corruption each year with success of 67% clearance.<sup>15</sup> GoN addressed the complaint of corruption and misuse of public property in the oldest national child right organization of Nepal, Nepal Children Organization, by forming a high-level inquiry commission led by former Chief Judge of the then Appellate Court having representation of independent expert in 2020. The Commission submitted the inquiry report on June 2021. Based on the report submitted by the Commission, the GoN has reformed the leadership of Nepal Children Organization, filed cases of further inquiry on misuse of public property and has been implementing corrective measures to improve and strengthen Nepal Children Organization. The GoN also took corrective measures on the complaints received regarding performance of Social Welfare Council, the facilitating agency on development

<sup>13</sup> Vital Event Registration and Social Protection Management Information System.

<sup>14</sup> The Constitution of Nepal has provisioned following National Human Rights Institutions as constitutional body – National Human Rights Commission (Part 25), National Women Commission (Art. 252), National Dalit Commission (Art. 255), National Inclusion Commission (Art. 258), Indigenous Nationalities Commission (Art. 261), Madhesi Commission (Art. 262), Tharu Commission (Art. 263), Muslim Commission (Art. 264).

<sup>15</sup> Annual Performance Report of Commission on Investigation of Abuse of Authority, 2076/77.

cooperation. The GoN also formed an independent inquiry commission in 2019, took action, dismissed the officials and filed cases of corruption against the alleged officials.

22. Professional academies under the aegis of the GoN have included Child Rights and Child Protection component in their regular training and education programmes. Nepal Police Academy, Nepal Army Staff College, Armed Police Force-Nepal Training Center provide human rights principles including children's human rights in their training curricula. Nepal Administrative Staff College, Teachers Training Program have included child justice, violence free behaviors, child friendly behaviors and various law and policies related to children under their training curriculum. Moreover, Child Rights and Child Protection courses have been included in the Medical and Health education and training Curriculum recently.

23. The MoWCSC has published the Child Rights Convention, concluding observation in both Nepali and English, NCRC has published child friendly versions of CRC, optional protocols and UPR recommendations, concluding observation on CRC periodic report. The NCRC has been publicly communicating child rights and child protection related legal policy information including provisions of CRC in collaboration with CSOs. It has produced child-friendly audio, video and other IEC materials and disseminated them in partnership with CSOs and development partners. The Convention has also been included in all major documents relating to children, such as The State of Children in Nepal (an annual publication of the NCRC), Child Rights Situation and Sustainable Development Goals published in 2019, and a Compilation of National and International Laws Related to Children published in 2019.

24. The MoWCSC has published its most recent periodic report (CRC/C/NPL/CO/3-5) to the Committee on the Rights of the Child in 2019. This report was also translated into Nepali and disseminated to the stakeholders concerned.

25. Office of Prime Minister and Council of Ministers (OPMCM) continuously publishes and widely shares UPR recommendations, National Human Rights Action Plan and conducts periodic monitoring on the status of implementation.

26. The relevant Parliamentary Committee has organized several dialogues and issued several decisions to be implemented to ensure that the rights of the child are protected and promoted, children receive timely and adequate care and protection, child protection mechanisms are expanded and adequate resources are invested on the field of children.

## **B. Definition of the child (Art. 1)**

27. The concluding observation on the previous report recommends amending the definition of child in compliance with CRC and ensuring that all children under 18 years of age benefit full protection under the Convention.

28. Nepal's definition of child fully complies with the convention. The Act Relating to Children defines a child as a person who has not attained the age of 18 years (sec. 2, (j)). A child is entitled to full protection and state facilities as defined by law. Various laws have defined the categories of child for the specific legal and policy compliance purpose. The Child Labor Prohibition and Regulation Act, 2000 prohibits a child under the age of 14 years to be employed in any form of labor and child below 18 years in hazardous forms of child labor. According to the Act, a child of 15–18 years can be employed with education, health protection facilities and informed consent of parents and children in light and non-hazardous work. The National Civil Code, 2017 defines a child marriage as a marriage of an individual below the age of twenty years for both boys and girls and considered as void incidence. The Act Relating to Children, 2018 in section 36 has categorized children's legal liability for act against the law. The Act Relating to Children, 2018 in section 36 and The National Penal Code, 2017 in section 45 have immune a child under the age of 10 years from any kind of punishment; a child of 10–14 years of age can be released after counseling if the commerce is fine punishable act and if the commission of act is imprisonment punishable the child can be subjected to be sent to child correction home for up to one year. For a child of 14–16 years and convicted of criminal offence can be punished half of the punishment provisioned for adult; and in case of a child of 16–18 years of age committing an offence punishable the child

is subjected to two third of punishment provisions for adults (section 36)<sup>16</sup>. The National Penal Code, 2017 also provides that unless a child is alleged of serious or heinous crime or is a recidivist, alternative to imprisonment must be sought for punishment (sec. 45 (5)). The Act Relating to Compulsory and Free Education, 2018 provides that child has right to free and compulsory education till the age of 13 years and right to free education up to secondary school. The Early Childhood Care and Development Strategy (FY 2020/21-2029/2030) state that a child between 3–8 years must enjoy the early childhood care facility.

## C. General principles (Arts. 2, 3, 6 and 12)

### Non-discrimination (Art. 2)

29. The Committee recommended in concluding observation (CRC/C/NPL/CO/3-5) of previous report, to ensure girls enjoy the same rights and entitlement as boys in all aspects of life; to eliminate all discriminatory practices; to carry out awareness raising activities; and to take efforts to combat stigmatization and discrimination against *Dalit* children.

30. The Constitution of Nepal guarantees right to equality as fundamental right in Article 18. Article 18 has included an affirmative provision allowing state to adopt special measures for ending exclusion, marginalization and stigma against the socially and culturally excluded groups including women, children, *Dalit*, indigenous, Muslims, sexual and gender minorities. The Constitution of Nepal ensures right against discrimination and untouchability in Article 24 and compensation for the victim as per the law. The Constitution of Nepal in Article 31 provides for free higher education for persons with disabilities (PWDs) and financially poor as per the law (Sub art. 3), sign language and brail education for blind and PWDs (Sub art. 4). The Constitution of Nepal provides special rights for women (Art. 38), for children (Art. 39) for *Dalit* (Art. 40) and Right to Social Justice (Art. 42). Principles of Equality, Affirmative Actions and Positive Discriminations have been recognized as State Policies (Art. 51).

31. The Act Relating to Children, 2018 in section 5 provides for the right against discrimination. The provisions are: (1) No discrimination shall be made against any child on grounds of religion, race, caste, tribe, sex, origin, language, culture, ideological thought, physical or mental condition, physical disability, marital status, family status, employment, health condition, economic or social condition of him or her or his or her family or guardian, geographical area or similar other ground. (2) No one shall discriminate between son and daughter, son and son or daughter and daughter or children from ex-husband or wife or present husband or wife in maintenance, education or health care of children.; (3) No discrimination between their own son, daughter and adopted son, daughter; (4) No discrimination shall be made with regard to maintenance, education and health-care between children born to a man and woman before and after their marriage. In section 12, the Act provides special rights of the child with disabilities.

32. The Act Relating to Rights of Persons with Disabilities, 2017 has several provisions recognizing the right against discrimination, right to equal space and opportunity for children

<sup>16</sup> Act Relating to Children, 2018 Section 36. Provisions relating to punishment: (1) If the child is less than ten years of age at the time of commission of the offence, no case and punishment of any kind shall be instituted against and imposed on him or her. (2) If a child of ten years of age or above but below fourteen years of age commits an offence that is punishable by a fine, the child shall be released after counselling him or her and if such a child commits an offence that is punishable by imprisonment, the child shall be punished with imprisonment for up to six months or be sent to the child reform home for a period not exceeding one year without subjecting him or her to imprisonment. (3) If a child of fourteen years of age or above but below sixteen years of age commits an offence, the child shall be punished with half the punishment that is imposable on the person having attained majority pursuant to the prevailing law. (4) If a child of sixteen years of age or above but below eighteen years of age commits an offence, the child shall be punished with two-thirds of the punishment that is imposable on the person of legal age pursuant to the prevailing law. (5).

with disabilities. The Act in section 20 provides for additional rights for the children with disabilities.<sup>17</sup>

33. Nepal has enacted the Caste-Based Discrimination and Untouchability (Offence and Punishment) Act, 2011. This Act prohibits any act of commission of discrimination and untouchability in both public and private spheres. The act of commission of untouchability and discrimination is considered as punishable criminal offence. The National Penal Code, 2017 under sections 160, 161 and 167 criminalizes deliberate discrimination and provides punishment for the person who commits an act of deliberate discrimination based on gender, cast, community, physical status of individuals. Similarly, the National Penal Code, 2017 in sub-section (7) of section 188 prohibits sex identification with the intention of causing abortion, do, or cause to be done, any act by which the sex of the fetus is identified, and abort or cause abortion following such sex identification. Sub-section (8) provides punishment of 3–6 months of imprisonment in case of commission of sex identification of fetus and additional one year imprisonment in case of commission of sex-selective abortion. GoN has implemented several scholarships and social protection schemes to support children with disabilities for attaining education and living life in dignity. The MoWCSC is engaged in drafting of a National Plan of Action on Ending Harmful Traditional Practice.

34. Ministry of Federal Affairs and General Administration has developed and distributed model policy on social inclusion for local levels to be adopted. The model policy provides grounds for actions of social inclusion at the local levels. Similarly, Gender and Social Inclusion (GESI) Audit Guideline, Social Inclusion Mainstream Framework, Disable Friendly Local Governance Sample Procedures are in place.

35. Nepal has recently adopted National Policy on Gender Equality, 2021. The policy aims to establish equality among men, women and people of sexual and gender minorities. It intends to make institutional arrangements, programmes and investment to contribute to end violence, discrimination against women, girls and people of sexual and gender minorities through 10 specific strategies.

36. The Free and Compulsory Education Regulation, 2020 has provisioned that a school must ensure that a child with disabilities shall not be denied in mainstream school education due to absence of disability-friendly structure and facilities; the state must take appropriate action of investment to ensure the facilities are available for the child to engage in regular school with children.<sup>18</sup> Several programmatic measures have been adopted to combat stigmatization and exclusion of children from socially and culturally marginalized communities. The disability-friendly structures have been made mandatory in schools; inclusive education policy has been adopted; free sanitary pad for girls in school have been implemented. The Water, Sanitation and Clean Environment in School Procedures, 2017 has defined the availability of water, sanitation facilities and sanitary pads in school as one of the key indicators to define a clean and girls-friendly school.

37. The Provincial Governments and Local Levels have been implementing several campaigns to promote girls school enrollment, counter discrimination against girls and to challenge stigma and discrimination during menstruation. Annual campaigns are conducted

<sup>17</sup> The Act Relating to the Rights of Person with Disabilities, 2017- Section 20. Rights of children with disabilities: (1) the children with disabilities shall have the right to ensure their dignity and honor, promote self-reliance, participate actively in the society and earn the living in a respectful manner. (2) The children with disabilities shall have the right to obtain education, training, health, care, rehabilitation service, preparation for employment and opportunities of entertainment in order to assimilate in the society and make personal development. (3) The children with disabilities shall have the right, on an equal basis with other children, to express their views on all matters affecting them and their views shall be given due weight in accordance with their age and maturity. (4) Except where an order is made by the court for the best interests of a child with disability, such child shall not be detached from his or her home, family on the basis of disability. (5) The GoN shall make appropriate provision on curricula, course books and teaching and learning matters in order to address the learning needs of the children with intellectual disabilities, mental disabilities, autism, mental paralysis or hearing and sight disabilities. (6) The children with disabilities shall have the right to such special protection as prescribed.

<sup>18</sup> Regulation to the Free and Compulsory Education Act, 2020, Rule 3-6.

to promote dignity in menstruation. In addition, various scholarship provisions are implemented for encouraging girls, *dalits* and children with disabilities to enroll and continue in education. The provincial governments have implemented several targeted campaigns to provide maximum opportunities for girls and to counter child marriages. Provincial Government of Province 2 has been implementing *Beti Bachao Beti Padhao (Save Girls and Educate Girls)* campaign that provides bicycles for girls, scholarship and educational supports. In Karnalai Province *Bank Khata Chhoriko: Surakshya Jivan Bhariko (Daughter's Bank Account-Protection for Lifelong)* program that provides the government deposit cash for the girl child since the birth till 20 years of age. In Sudurpaschim Province, *Sanai Chhu Ma Badhna Deu, Bal Bibah Hoina Padhna Deu (I am Young let me grow, no child marriage but let me go school)* program has been launched to provide special opportunities and protection for girls.

38. The school education curricula and text-books have included cultural diversity, life styles of several ethnic groups and communities, festivals of various ethnic communities, pictorial and text characters representing diverse ethnicity of Nepal. GoN has published 26 sets of mother-tongue based text-books for grade 1 to 7 students and implemented in basic schools' education.<sup>19</sup> The School Education is governed by Local Levels and are allowed to have 20% local curriculum to educate local culture and ethnicity. Nepal has achieved the target of gender parity at primary level education with more shares of girls among the total of number students in primary, basic and secondary level of education.<sup>20</sup>

39. The National Human Rights Institutions such as *National Inclusion Commission, National Women Commission, National Dalit Commission, Madhesi Commission, Muslim Commission and Indigenous Nationalities Commission* have been established as constitutional bodies. These commissions are mandated to implement promotion and protection-related activities and to keep state agencies accountable for practicing non-discriminatory and affirmative practices. *National Academy for Upliftment of Indigenous Population, Backward Community Upliftment Development Committee, Excluded, Marginalized and Dalit Community Upliftment Development Committee, Badi Community Upliftment Development Committee* are in function with programs of upliftment and development of excluded, marginalized and discriminated communities in Nepal.

### Best interests of the child (Art. 3)

40. The Committee has recommended Nepal to adopt best interest of child as a criterion for decision making in all relevant legislations and shall be applied in all administrative and judicial proceedings and decisions.

41. The Constitution of Nepal has recognized the best interest of child as State Policy (Art. 51 (j)). The Act Relating to Children, 2018 defines the best interest of child as key principle while making decision on case management process (sec. 16). The Act recognizes the principle of necessity and principle of suitability while adopting separation and alternative care for children. The Act has explicitly recognized the need of child friendly consultation and due respect to the child's view while making decision on children and their protection management. The Act has designated Local Child Welfare Officer (CWOs) as key authority to perform case management service. The Child Welfare Officer, Juvenile Court/Bench needs to obtain social assessment profile and case assessment document from designated social worker or child psychologist to guide the decision on best interest of child. NCRC has developed an education manual to educate and train CWOs, local social workers and local child rights committee members. Similarly, the Council of Technical Education and

<sup>19</sup> The Text books are available as follows: Maithili (Grade 1–7), Bhojpuri (Grade 1–6), Awadhi (Grade 1–5), Limbu (Grade 1–6), Bantawa Rai (Grade 1–5), Chamling Rai (Grade 1–5), Sherpa (Grade 1–5), Gurung (Grade 1–5), Tamang (Grade 1–5), Magar (Grade 1–5), Nepal Bhasa/Newari (Grade 1–5), Tharu (Grade 1–5), Sunuwar (Grade 1–5), Rajbansi (Grade 1–5), Yakkha (Grade 1–5), Mugali (Grade 1–5), Tharu Madhya Chhetra (Grade 1–5), Tamang Sambhota (Grade 1–5), Dhimal (Grade 1–5), Maga-Athara Magarat (Grade 1–6), Bajjika (Grade 1–5), Kulung (Grade 1–5), Chepang (Grade 1–5), Khaling Rai (Grade 1–5), Majhi (Grade 1–3), Rana Tharu (Grade 1–3). Source Curriculum Development Center, MoEST, 2077.

<sup>20</sup> FLASH II Report 2076 (2019/20). GoN Ministry of Education, Science and Technology, Centre for Education and Human Resource Development. Sanothimi, Bhaktapur 2020.

Vocational Training has been working to develop training course to produce local social workers and child psychosocial service providers. In each court, Probation Officer has been designated to facilitate the justice process, diversion and care and protection of children in conflict with law. The Supreme Court of Nepal is in the process of adopting Diversion Procedure to make sure children in conflict with law are dealt with in line with the norms of CRC.

42. The Supreme Court of Nepal has made several landmark decisions to ensure protection and child's best interest. In a case of *Pushpa Basnet vs. GoN, NCRC*; Supreme Court decided that a child shall not be in institutional care merely due to the parental poverty; State intervention to reduce institutionalization of children and in case of poor child care in institutional settings shall be recognized as action on best interest of child and shall not be considered as case of *habeas corpus*. In another case of *Rita Singh Vaidyav vs. GoN and Nepal Children Organization*; the Supreme Court decided that the institutions must be liable to ensure best interest of child. This not only includes behaviors of officials but also the best utilization of institutional properties to be invested best on children. The Supreme Court has ordered National Human Rights Commission to submit a detailed report on how to best utilize the facilities and properties of oldest Children Organization (Nepal Children Organization) for the best interest of child.

### **The Right to life, survival and development (Art. 6)**

43. The Constitution of Nepal abolishes death penalty under the fundamental right to life with dignity. It has become a core constitutional commitment since 1990.

44. The GoN has enacted policies and programs on basic health, vaccination, safe birth and preventing injuries and death to protect right to life and survival. GoN through the MoWCSC has been running Helicopter Lifting and Rescue Service for Pregnant Women who are in remote locations and requires emergency support for safe delivery. In the reporting period, more than 300 women have received this service that saved life of 300 women plus new-born infants.

45. The GoN has been providing incentives for institutional maternity practices. Through Ministry of Health and Population, government provides maternity care facilities, free iron capsules, free checkup and Rs.1000 for nutrition incentives to the new mothers while having delivery at hospitals or health centers.

46. With increasing concern over the suicide cases in Nepal and its high risk during COVID crisis, GoN has started Suicide Prevention Helpline (hotline No. -1166) at Ministry of Health and Population. With the provision of School Nursing, local child psychosocial service providers. GoN has considered suicide prevention as prime action in the field of protection of children. The National Planning Commission is drafting National Plan of Action against Suicide.

### **Respect for the views of the child (Art. 12)**

47. The Committee had recommended to promote and facilitate respecting children's views in all spheres of society; to ensure children's views are heard during judicial process and in custody; provide educational materials for practitioners and decision makers on how to consider children's view in their respective services.

48. The Constitution of Nepal in Article 39 (3) recognizes the right to Early Child Development and Child Participation as fundamental right. The Act Relating to Children, 2018 has explicitly mentioned right to participate (sec. 8), right to freedom of expression, seek and receive information of his or her right, interest and concern (section 9), right to found organization and assemble peacefully. (sec. 10). GoN has adopted Child Friendly Local Governance Guideline (2021) that recognizes the need for children's consultation in local level development planning.

49. National Children Assembly has been adopted by NCRC as a process of listening to children's voice at federal level policy-making process. NCRC operates Child Rights Portal that provides information for both children and adults. Local Levels have been adopting child participation guideline and Provincial Governments are working on this. The draft

Regulation on Act Relating to Children has defined the process and indicators of respecting children's view in administrative and case management process. The Juvenile Justice Procedure, 2019 has outlined several process and steps to be considered while listening to the children and need of children to be heard in judicial process.

50. NCRC has developed education and training modules for educating local level officials and front-line workers on child club operation, need of children's consultation in planning process and promoting culture of listening to children.

51. There are about 23,606 child led organizations with more than 500,000 child members in Nepal. Gender, disability, and cast-based inclusion are encouraged and promoted in child clubs and their networks. The majority of municipal governments have set allocated funds for children's clubs. Child clubs, particularly at the local level, play an important role in the promotion and protection of child rights.

52. Children are being represented in several local level mechanisms such as School Management Committees, Water and Sanitation Users Group to make sure children's voices are heard and well represented.

#### **D. Civil rights and freedoms (Arts. 7, 8 and 13–17)**

53. The Committee had recommended strengthening the implementation of birth registration of children and making necessary legal arrangements for ensuring children's right to citizenship is practiced without discrimination.

54. The Constitution of Nepal serves as a shield against any infringement on civil rights and freedoms of every citizen. Most of the rights enshrined in the CRC have been recognized as fundamental rights of the child. The Constitution of Nepal confers on every person the right to life with dignity and liberty (Art. 16.1); freedom of opinion expression, association and peaceful assembly (Art. 17); equality before the law (Art. 18); right to justice (Art. 20); freedom of religion (Art. 26); right to information (Art. 27) and right to privacy (Art. 28). The fundamental rights are implemented through the adoption of specific thematic laws including Act Relating to Children, 2018.

##### **Birth registration, name and identity (Art. 7)**

55. The Constitution of Nepal guarantees the right to name and birth registration along with his or her identity to every child as fundamental rights (Art. 39 (1)). GoN has enacted the National Identity and Civil Registration Act,2020, which has detailed provision of registration of vital information (Birth, Death, Marriage, Separation and Migration)<sup>21</sup>. The Act and its Regulation thereof have provisions that birth registration shall be maintained at local level office ensuring non-repetition of registration. A child born to a woman in prison may have access birth registration through the certification of Head of the respective Prison Office; in case of overseas stay of Nepali family they may have access birth registration through the diplomatic mission of Nepal; and for the child born to foreign national residing in Nepal may also obtain birth certificate with the recommendation of their diplomatic office in Nepal or presenting the proof of their nationality. The National Planning Commission, SDG 16 plus Report suggests that the coverage of birth registration is 77.2% in 2019.<sup>22</sup>

56. NCRC in coordination with the Department of National ID and Civil Registration have been facilitating children to obtain birth registration who faces legal and documentation problem while processing the birth registration. In FY 2020/21 NCRC facilitated 415 children's birth registration cases and during July-September of 2021 and succeeded to support eight children to obtain birth registration certificate.

<sup>21</sup> The Government of Nepal has enacted Birth, Death and Other Vital Registration Act 1977 before enactment of this law.

<sup>22</sup> Nepal's Roadmap for Peaceful, Just and Inclusive Societies a SDG 16 plus Report. The GoN, National Planning Commission, 2021.

### **Preservation of identity (Art. 8)**

57. The Constitution of Nepal guarantees that every Nepali citizen is entitled to obtain the Citizenship and no citizen shall be deprived of the right to obtain citizenship (Art. 10). The Constitution of Nepal provides for three different types of citizenship: i) Citizenship by Descent; ii) Naturalized Citizenship; and iii) Honorary Citizenship. Any individual who has obtained citizenship by descent prior to the commencement of this Constitution an individual whose father or mother was citizen of Nepal at the time of his/her birth; A child of a citizen having obtained the citizenship of Nepal by virtue of birth prior to the commencement of this Constitution shall, upon attaining the age of majority, acquire the citizenship of Nepal by descent in case the child's father and mother both are citizens of Nepal. (Art. 11 (2) and (3)). Similarly, every minor who is found within Nepal and the whereabouts of whose father and mother are not known shall, until the father or the mother of the child is traced, be a citizen of Nepal by descent, (Art. 11 (4)). A child born to Nepali woman who is residing in Nepal and father is not known can obtain citizenship by descent; however, if the father identified as foreign the citizenship can be converted into naturalized. A citizenship act has been enacted to facilitate Nepali people obtaining Nepali citizenship. Nepal Citizenship Act, 2006 has been enacted to ensure that the eligible individuals can obtain citizenship from district level administration office. The District Administration Office having remote villages have been operating citizenship distribution camp to facilitate rural and remote location people to access citizenship at doorsteps.

58. NCRC has been facilitating children living in institutional care, children rescued from street and unaccompanied, or children found without status of paternity and maternity to obtain citizenship. In addition to this, Ministry of Home Affairs (MoHA), local level leaders and officials are also supporting people to obtain citizenship who are eligible and in a difficult situation.

### **Freedom of expression and their right to seek, receive and impart information (Art. 13)**

59. The Constitution of Nepal guarantees the freedom of expression (Art. 17 (2) (a)), right to communication (Art. 19) and right to information (Art. 27). The Constitution of Nepal has also recognized that victim of crime shall have the right to get information about the investigation and proceedings of a case in which he or she is the victim (Art. 21 (1)). The Act Relating to Children, 2018 has recognized that a child has the right to seek, receive information related to one's concern (sec. 9).

60. The Press Council Nepal reports that there are 7,874 news publications including 744 daily newspapers, 2,839 online news media, 221 Television and 1143 Radio stations in Nepal.<sup>23</sup> The government funded publication house Gorkhapatra Sansthan publish a child magazine "Muna" every month, which is highly popular among children. Muna includes children's informative and educational materials along with space for children to express their creativity. The National Dailies, Television Channels and Radio Stations have also included specific children's section in their regular media materials.

61. To further enhance children's freedom of expression and right to seek information, GoN has initiated to establish National Children's Academy as an agency to promote creative expression of children and enhance their engagement in innovative activities.

62. NCRC has been operating a child rights portal to widely communicate to children and adults about the policy, programs, laws and government initiatives. Government has encouraged producing information in child friendly language.

63. During the COVID 19 pandemic, NCRC produced child friendly audio-video materials to inform children and their parents/caregivers on the preventive measures and available health services as well as to educate parents on how to deal with children during lockdown. These audio-visual materials have been observed by 200,000 plus individuals in social media. Every year The Ministry of Communication and Information Technology produced and widely shared information materials on child rights; sectorial ministries on

<sup>23</sup> 46th Annual Report of Press Council Nepal 2077/78. Press Council Nepal, 2021.

health, education produced several media materials and distributed to larger public for information.

64. Nepal has enacted Right to Information Act, 2007; the Act has called public institutions or statutory bodies or non-government institution that received funding from GoN to make their service-related information and progress public every three months (sec. 5 (4)). The Act also makes the office bearer accountable to provide information to information seekers except classified by the law (sec. 3 (4)) as well as makes mandatory to designate information officers in the public offices (sec. 6). In case of denial of information to the seeking person, fine and other punitive action would be taken against the office bearer. GoN has formed National Information Commission to ensure that the right to information is practiced and implemented without any undue barriers. NCRC has practiced updating publicly its daily activities through its official Facebook page, website. It also produces monthly newsletter in Nepali and English language and widely circulate to the public.

65. The Government of Nepal, Provincial Government and Local Levels have been organizing several events with children to provide child friendly approaches for expression, i.e. poetry, drawing, storytelling etc. On the occasion of National Children's Day (2021) a nationwide short video-making competition was held where 47 short videos made by 100 plus children in groups or alone were received.

#### **Freedom of thought, conscience and religion (Art. 14)**

66. The Constitution of Nepal guarantees the freedom of thought (Art. 17 (2) (a)) and Freedom of Religion and Conscience (Art. 26). The Act Relating to Children, 2018 recognizes right to take part in cultural activities according to his or her religion, culture, custom, tradition and conscience without causing any adverse effect on his or her interests. (sec. 14 (4)).

67. The Constitution of Nepal has banned the expression of biasness, deliberate criticism, hate speech against caste, community, religion; and has allowed the state to take action for preventing distribution of message that provoke fragmentation of society and stoke conflict among various ethnic groups and cultures. Section 158 of the National Penal Code, 2017 criminalizes the forced proselytizing and provides punishment of 5 years imprisonment and 50 thousand rupees fine.

68. The education curricula in schools have been designed to reflect pluralism in culture, religion, thoughts providing freedom of knowledge among children, countering biases and also encouraging harmonious and respectful co-existence among various cultures, ethnicities and religions. Child led organizations (Child Clubs) are practicing inclusive leadership and have representation of various religions and cultures in leadership.

#### **Freedom of association and peaceful assembly (Art. 15)**

69. Freedom of Association and Peaceful Assembly recognized as fundamental rights of citizens (Art. 17 (2) (b), (d)). The Act Relating to Children, 2018 explicitly recognizes the right to open a child club or organization or the right to assemble peacefully for the protection and promotion of the rights of the child (sec. 10 (1)). Formation of child clubs, engagement of child clubs in social change through various child led and child participated activities have been recognized as key approach for realizing child rights in practice. In Nepal, 23,606 child clubs are recorded with more than half a million children engaged in child rights protection and promotion activities. Nepal is the first South Asian Nation that recognize the children's right to form association through the Supreme Court Verdict; which has asked government to register and provide administrative recognition to the organization formed by children (Tilottam Paudel Vs. HMG, 2000). Legal and administrative arrangements and support for child clubs have become an integral programme of LLs in Nepal. The Child Friendly Local Governance Guideline, 2021 has recognized the formation, support and engagement of child led organization as key indicator for declaring a local level as child friendly local level. A sample procedure has been provided by the Ministry of Federal Affairs and General Administration (MoFAGA) to the LLs on formation, registration and facilitation of child led organizations. LLs have encouraged to form local level networks of child clubs. Child clubs are supported to have inclusive leadership election in peaceful and democratic way.

### **Protection of privacy and protection of image (Art. 16)**

70. The Constitution of Nepal guarantees the Right to Privacy as a fundamental right (Art. 28). The right to privacy provision protects the privacy of a person, residence, property, document, statistics, correspondence and information related to one's public image and character. The Act Relating to Children, 2018 has explicitly recognized the right to privacy of a child (sec. 11). The Act Relating to Personal Privacy, 2018 is in place and enacted. Procedural Guidelines for Protecting the Privacy of the Parties in the Proceeding of Special Type of Case, 2007 is also in place that protects individuals' right to privacy. These laws include provision of providing pseudo code to the identity of parties, in camera hearing and maintaining confidentiality of parties involved.

71. The Right to Privacy of a child, specifically particular survivors of trafficking, juvenile delinquency and sexual exploitation, is guaranteed through the provision for hearing procedure via in camera hearing in the juvenile court/benches. The media and public communication are prohibited to mention identical information and image of a child victim of abuse, exploitation, trafficking and juvenile delinquency. Nepal Press Council and Federation of Nepali Journalists (FNJ) have issued a specific media ethics on reporting and communicating news on children. NCRC, professional associations and civil society organization including academic institutions have been educating respective officials, media professionals and social workers on respecting the right to privacy and protecting children from harm.

72. The National Penal Code, 2017 has criminalized the infringement of an individual's privacy and made such act punishable by law with punishment provision. The Code prohibits giving or selling one's photograph to another without consent (sec. 296), opening letters or tapping telephone conversation (sect. 297), breaching privacy through electronic means (sec. 298).

### **Access to information from a diversity of sources and protection from material harmful to his or her well-being (Art. 17)**

73. In recent years, Nepal has made significant progress on access to media and information. Till the end of FY 2020/21, 72% of the Nepali population has access to television and 87% of population has access to radio. Similarly, 30% of population is using 4G service in Nepal. 37.854 million Mobile consumers are recorded by the end of FY 2019/2020.<sup>24</sup> The access in social media has increased significantly and social media journalism has also significantly increased. The Constitution of Nepal has explicit provision that the right to communication is subject to specific regulation for preventing harm in society, public decency and morality, gender equity, harmonious relation among various castes, tribes, religions and communities, misinformation and provoking conflict among communities. The Act Relating to Children, 2018 well recognizes the responsibility of the Media sector to publish and transmit information, without violating the rights of the child and refrain from causing adverse effect on the interests of child. (sec. 19).

74. Recognizing the risk of child vulnerability to harmful information and media content, the Nepal Telecommunications Authority (NTA) amended the conditions of license for the Internet Service Providers (ISPs) to protect children from misuse of the internet. It has prohibited ISPs to flow information related to child pornography in all forms and places. The MoWCSC has drafted a Directive on Child Online Safety that defines the role and duties of ISPs, parents, schools and the service providers along with space for child to complain anonymously about any harmful media content they encounter. The GoN is working on regulating Social Media Journalists (Youtuber, Clubhouse etc.). A new cyber security policy has been drafted that protects children from online and computer-based media content that is harmful to children. Motion Pictures (Production, Exhibition and Distribution) Act, 1969 has provision to censor media content that is harmful to children and categories Nepali Film according to the content and provides restriction notice that is possibly harmful to children.

<sup>24</sup> Annual Progress Report FY 2019/20, The GoN, Ministry of Communication and Information Technology 2020.

75. The Electronic Transaction Act, 2008, has criminalized and provided punishment for a person convicted of any act of harassment, exploitation, violence and abuse against a person through digital media or online platform (sec. 47 & 48). Nepal Police has established Cyber Crime Bureau to have special investigation and protection measures for children and victim from offence.

## **E. Violence against children (Arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)**

### **Abuse and neglect (Art. 19)**

76. The Committee has recommended enacting legislation defining and prohibiting abuse; conducting awareness raising and education programs; establishing national database on domestic violence against children; ensuring allocation of adequate human resource, technical and financial resources for enabling long term program implementation; encouraging community-based programs aimed at preventing and tackling domestic violence.

77. The Act Relating to Children, 2018 has defined various 18 activities including political use of children, use of children in the adult entertainment business and illegal institutionalization of children and so on as violence and abuse of children (sec. 66 (2)). The violence and abuse of children are criminalized and liable to punitive action along with the provision of compensation for the victim of crime. The Act prohibits father, mother, other member of the family or guardian shall abandon or leave the child of their own or under his or her guardianship unattended (sec. 7 (3)).

78. The Domestic Violence (Offence and Punishment) Act, 2009 prohibits and has criminalized all forms of domestic violence (sec3) perpetrated by domestic relationship which means a relationship between two or more persons who are living together in a shared household and are related by decent (consanguinity), marriage, adoption or are family-members living together as a joint family; or a dependent domestic helper living in the same family. (sec. 2 (b)). The Act lays out the clear procedures for filing a complaint (sec. 4), procedures for interim protection order (sec. 6), Close Court proceedings (sec. 7), Summary Procedure (sec. 8), provision of establishing service centers (sec. 11) and compensation to the victim (sec. 20). Similarly National Penal Code, 2017 has also criminalized various acts as sexual offence including rape and child sexual abuse (Chapter 18). The gravity of the punishment increases in respect to the age of a victim child is lower.<sup>25</sup> The act of child sexual abuse is punishable by 3 years imprisonment and 30,000/-as fine (sec. 225).

79. The Act Relating to Children, 2018 mentions parents/caregivers' responsibility of protection of children. Section 7 of the Act relating to Children has provisioned the parent are the responsible agents for protecting children and are not allowed to abandon their child, must make sure their children are receiving health, education and other required facilities and support, must ensure the children are protected from abuse, discrimination and exploitation or neglect. In section 17, the Act has provisioned the list of duties of parents that further keep the parents and caregivers accountable for protecting children. Section 64 of the Act has made Judicial Committee at the local level as the agency to enforce the rights of the child and liabilities of parents; similarly, section 65 recognizes the jurisdiction of the High Court to enforce the Rights of the child and parental liabilities including the ability to apply for compensation against the denial or negligence in delivering rights of the child.

80. Nepal has launched several programs to educate parents, care givers on the rights of the child and their duties. The Public Interest Advertisement materials from GoN includes messages to parents on protecting children from harm and available support system. Development Partners, Nepali Non-Government Organizations and Child and Youth led organizations have launched several local level campaigns to educate and aware parents on

<sup>25</sup> National Penal Code, 2017, section 45: If crime is committed against a child of below the age of 10 years the punishment is life imprisonment; if crime is committed against a child of 10–14 years the punishment is 18 to 20 years imprisonment; if the crime is committed against 14–16 years child the punishment is 14 years imprisonment and if the crime is committed against 16–18 years child the punishment is 12–14 years.

their duties towards children. National Child Rights Council has called for Child Rights Volunteers Training and have started mobilizing youths as Child Rights Volunteer at the community level. During COVID Crisis, NCRC mobilized 180 Child Rights Volunteers in 60 districts and provide support for 3057 children. In FY 2020/21, NCRC responded to the 483 case of violence and provided protection support for children.

81. National Child Rights Council through the Child Protection Mechanism, i.e. Missing Children Response Center (104) and Child Helpline (1098), conduct family counseling before handing over found, rescued children to the parents. The Family Counselling service support parents to understand their children's views and keeps them committed ensuring their children are protected. The proportion of the population subjected to physical, psychological or sexual violence has decreased from 23.6 % in 2015 to around 14 % percent in 2019.<sup>26</sup>

82. NCRC in technical collaboration with UNICEF and other Development Partners has been working on Child Protection Information Management System (CPIMS). This would document the case, nature, and case management status. Currently, NCRC has listed 61 temporary shelter facilities operated by Non-Government Organizations having the capacity to provide temporary shelter facilities to more than 2500 children at once; where victim of abuse and neglect can be temporarily sheltered and rehabilitation supports are provided. These shelters receive financing support from GoN based on the number of cases referred to them.

#### **Gender based violence, harmful practices and child, early and forced marriages (Art. 24, para. 3)**

83. The Committee had recommended to ensuring gender-based violence, exploitation and trafficking in women and girls are properly investigated and perpetrators are brought to justice as well as providing training to end stereotyping among the officials in criminal investigation and judicial process. The Committee also recommended taking all necessary measures for eradicating all traditional practices that are harmful to children by raising awareness, legislative measures, priorities particularly girls with disabilities, living in the rural areas and from Dalit Community. The Committee had recommended taking legislative amendment and harmonization on the legal provision on child marriages; to take awareness and sensitization activities targeting households, local authorities, religious leaders, judges and prosecutors; undertake an impact assessment of 2015 Earthquake on Child Marriage, vulnerability and measures to address the increased risk.

84. The Committee had also recommended conducting awareness campaign to combat stigmatization of and discrimination against intersex children; ensuring that intersex children have access to identity documents that corresponds with the sex/gender identity of their choice; ensuring that no child is subjected to unnecessary medical or surgical treatment without their consent; conducting investigation on such incidents; educating and training medical and psychological professionals on the range of sexual and related biological and physical diversity.

85. Nepal has made follow up interventions on above-mentioned recommendations of the Committee. Nepal has adopted several legislative measures to address and criminalized various gender-based violence such as Domestic Violence, Trafficking and Sale of Women and Girls, Control and punish Witchcraft Allegations, punish acid attack against women and girls, sexual violence, harassment at workplace and right to privacy.

86. The GoN has adopted the National Gender Equality Policy 2021 with provisions of ending gender-based violence. *President Women Empowerment Program* has been launched as a game-changer project, targeting to end all forms of gender-based violence, to promote economic access and empowerment of women in Nepal and to ensure women have access to safe birth and other emergency support.

87. Nepal Police has set up a special unit as Women, Children and Senior Citizen Service Directorate at Head Office and similar unit up to the area office. All 77 district police offices

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<sup>26</sup> Nepal's Roadmap for Peaceful, Just and Inclusive Societies A SDG 16 plus Report. The GoN, National Planning Commission, April 2021.

have designated team to operate women, children and senior citizens service center and in 277 units police officials are sensitized and trained on gender and child sensitivity. The Nepal Police Academy, National Judicial Academy, Nepal Administrative Staff College have included specific sessions in their respective training curricula on educate gender-based violence and encourage to end stereotyping. National Women Commission has been operating 24 hours hotline telephone service (1145) with service units in all 7 provinces that respond to the cases of gender-based violence. During FY 2020/21, Nepal police responded and provided support to 4,705 cases of crime against women and children. Similarly, National Women Commission responded to the 15,424 cases of gender-based violence through its helpline 1145 during period from Nov 21st, 2017 to August 31st, 2021, among which 5% are of girls below 16 years.<sup>27</sup> NCRC operates Child Helpline (1098) from 18 locations having coverage of 72 districts, in FY 2020/21 the Child helplines responded to 394 cases of violence against girls.

88. The Ministry of Health and Population has been implementing One Stop Crisis Management Center (OCMC) to respond cases of gender-based violence, abuse, rape through 78 centers in all 77 districts. The OCMC provides all relevant services for victim including health care, psychosocial care, legal aid, rehabilitation and family reunion services.

89. The Information and Communication Department, Nepal Police, MoWCSC, Department of Women and Children, Provincial Governments and LLs have shared several public messages through media against gender-based violence, stereotyping and available support system. The MoWCSC has specific unit to run program and address cases of gender-based violence as the GBV Elimination Unit under Women Empowerment Division. The GoN has made mandatory to have a designated gender focal person in all government offices including all ministries. Ministry of Health and Population (MoHP) has developed and implementing medico-legal curriculum including investigation on gender-based violence, abuse and exploitation of women and girls with gender sensitivity. In addition, local level campaigns are organized to educate people at local level on countering gender-based violence and stereotyping. Men Engage Alliance; Boys Alliance against Gender-Based Violence and Adolescents Forum are actively engaged on promoting awareness and social change.

90. The different statement on Child Marriage related Provision in National Penal Code, 2017 and National Civil Code, 2017 has been harmonized with same statement as “ Child Marriage is voidable marriage per se” by the Some Nepal Acts Amendment Act Relating to National Code, 2019. The National Civil Code,2017 has criminalized forced marriage and ensured that freedom of marriage is an individual choice and shall remain as fundamental freedom of the person.

91. The National Penal Code, 2017 has criminalized the traditional harmful practice of Menstrual Discrimination and Stigmatization (sec. 166(2)). In addition to this, for ending child marriage and countering menstrual discrimination and stigmatization social change campaigns are being launched targeting religious leaders, youths, rural women. Nationwide Campaign was held to promote Menstrual Hygiene and Dignified Menstruation. Radio Programs, television messages and social media messages are widely communicated to the public. The MoWCSC has been taking nationwide campaign and sensitization program among local level leaders, social and religious leaders on need of ending child marriage and federal policies on this. Provincial Governments, LLs and Civil Society are actively engaged to make their community child marriage free community, menstrual discrimination-free community and schools. Combating Child, Early and Forced Marriage has included in draft National Child Policy and 10 years National Plan of Action on Children as well as 15th Periodic Plan of Nepal. NCRC prevented 215 child and early marriages through helpline (1098) and missing children response (104) and Nepal Police registered cases of 64 child marriage incidence in FY 2019/20.

92. NCRC has conducted several studies on the Status of Child, Early and Forced Marriage and its impact on girls, the impact of disaster on children, and a study on good practices and lessons learnt on addressing child marriage. The findings of the studies would

<sup>27</sup> National Women Commission Helpline 1145 Fact Sheet Nov.21st 2017–August 31st 2021. National Women Commission, 2021.

be reflected in policy making, annual programming and priority setting. They will be communicated with LLs, Provincial Governments and civil societies.

93. GoN has seriously considered the issues and concerns of LGBTIQ children. An LGBTIQ child may obtain identity and correct identity according to one's will for one time. Recently GoN decided to allow Bhumika Shrestha to change her gender identity on her citizenship. In this regard, NCRC hosted a multi-sectorial dialogue on issues of intersex children and made notes to be addressed by policies and programs. The MoWCSC organized an interface dialogue with representatives of LGBTIQ communities to understand the concern and formed a taskforce to address complain of LGBTIQ people and children. The unnecessary surgical and medical treatment without consent of intersex children have been noted by the government, however, this has not been reported in any local complaint system. Yet, considering the seriousness of the issue, the Ministry of Health and Population is working to draft legislative and policy measures for prohibiting such action by health practitioners. NCRC and MoWCSC have been collaborating with civil society organization founded by LGBTIQ people, MoWCSC provides annual grant to these organizations for taking up awareness raising, community actions and to develop enabling environment to come out and live in equal dignity. NCRC has collaborated with the Nepal Pediatric Society, Pediatric Nurses Association of Nepal and National Child Protection Alliance to develop and organize training among doctors and nurses on child protection in health practice including sensitization on a range of sexual and biological diversity of children.

#### **Sexual exploitation and sexual abuse (Art. 34) and recovery and social reintegration of victim children (Art. 39)**

94. The Committee had recommended to conduct awareness for ending stigmatization; ensure accessible, confidential, child friendly and effective reporting channels; to amend legislations ensuring commensurate penalties for rape and align the penalties for marital rape with penalties for rape outside marriage; ensure availability of psychosocial support; Abolish statute of limitation for rape reporting; ensure mandatory reporting of cases of child sexual abuse and exploitation; provide reparation mechanism with adequate funding for victims of sexual violence in armed conflict; develop prevention, recovery and social reintegration programs for child victims; and ensure effective reporting and protection mechanism.

95. The Constitution of Nepal has banned the sale, and abuse of children and employment in any forced labor as fundamental rights under the Article on Right against Exploitation (Art. 29); Right of Woman (Art. 38); Right of Child (Art. 39). Other fundamental rights enshrined in the Constitution of Nepal such as the Right to Justice, Right to Employment, Right to Equality before the Law, Right of Dalit and Right to Social Justice along with provisions in State Policies (Art. 51) also supports to prevent, reduce and protect children from sale, prostitution and child pornography. Nepal is a party to the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (2000). Nepal has also ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, Supplementing the United Nations Convention against Transnational Crimes (2000). Nepal is also party to the ILO Conventions 29 and 105 on Forced Labor. The Act Relating to Children, 2018 has specifically defined list of 11 actions as Child Sexual Abuse and has criminalized them with severe punishment provision (sec. 66 (3)).

96. The Act Relating to Children provides the statute of limitation to report a case of crime against children is up to one year after the completion of age of 18 years by the child (sec. 74 (2)). The Act provides that a Child Fund at the Federal level, Provincial and Local Level (sec. 63), can be utilized for providing compensation, reparation, rescue and rehabilitation support for victim child. The Act provides for Temporary Protection Shelter (sec. 69), Rescue protection and health treatment (sec. 70), Rehabilitation Services (sec. 71) for the crime victim. The Act provides for mandatory reporting of suspected abuse, exploitation and violence against children by parents, caregivers, health workers, teachers and frontline workers with children ensuring to keep the complainant confidentiality and immunizing him/her from possible prosecution just based on the information reported (sec. 68).

97. The Nepal Police has established the Women, Children and Senior Citizen Service Directorate and dedicated Centres in all police offices. These centers aim to control crime against children and women, conduct investigations into cases reported, and provide essential

support to the victims. The Service Centers provide support to the victims of the cases of child marriage, forced marriages, trafficking, child labor, child sexual abuse, cases of rape, marital rape, sexual abuse, domestic violence and other civil and criminal offences against children and women.

98. A child victim or anyone witness of risk of abuse and exploitation or actual incidence may file complaint in Nepal police (100), Child Helpline (1098), Domestic Violence Victim Helpline (1145) and Missing Children Response Center (104), Human Trafficking Helpline (1177). NCRC has listed shelter homes those are safe, child friendly and have trained social workers in the institution to provide service for victim children. The listed child protection shelters, Child Helpline (1098), Domestic Violence Hotline (1145), Missing Children Response Center (104) and Human Trafficking Helpline (1177) have a provision of psychosocial first aid and psychosocial counseling service for children.

99. Local Child Rights Committee and Local Child Welfare Officers are made responsible to make follow up of rehabilitated children, ensuring the survivor children have safe and supportive environment back in family. There is provision of local social workers and psychosocial care providers along with local child fund to support victim and survivor children at local level. At Federal Level, a child Fund is established at MoWCSC, 53 local level governments have child welfare officers, 183 local levels have formed local child rights committee and 136 local levels have founded local child fund.

100. The draft National Plan of Action on Children has included a specific chapter on addressing child protection service and victim of child sexual exploitation. The MoWCSC and NCRC have drafted directives on Protection and Repatriation of Nepali Children from abroad to ensure that children are prevented from illicit transportation and trafficking. It has also drafted an Online Safety Directives for Children that prevents producing, transferring, possessing child images that are harmful, abusive and exploitative for children.

101. Truth and Reconciliation Commission has been established on 10 February 2015 in accordance with the Enforced Disappearances Inquiry, Truth and Reconciliation Commission Act, 2014. The Commission has mandate to investigate complaints, endeavours to bring cases in reconciliation, make recommendations for reparation and reconciliations.<sup>28</sup> The Commission has received 62,718 cases and verified 3,787 cases along with recommended 101 cases for reparation to the victims. The Commission is taking an in-depth inquiry on the incidences. In addition to this, National Human Rights Commission is also conducting investigation on complaint received on sexual offences during armed conflict.

#### **The Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment, including corporal punishment (Art. 37 (a) and 28, para. 2)**

102. The Committee had recommended putting efforts on ending torture and ill treatment of children in all settings; expeditiously establishing an independent inquiry into all alleged cases of torture and ill treatment of children in armed conflict and providing support for recovery of victims; amending domestic laws to criminalize torture. The Committee also recommended to prohibit corporal punishment and ill treatment of children in family, schools, and other institutions; Aware, educate and train parents, teachers and professionals working with children and public at large to avoid corporal punishment and adopt child friendly alternative measures; and engage children and media in such process.

103. The Constitution of Nepal has ensured that any individual in detention shall be free from torture, ill treatment and degrading behaviors; such act shall be punishable by law, and

<sup>28</sup> The Enforced Disappearances Inquiry, Truth and Reconciliation Commission Act, 2014, under section 13, stipulates the functions, Duties and Powers of the Commission as follow: Investigate incidents of gross violations of human rights, find out and record the truth and public it for the general public; Identify victims and perpetrators of conflict; Endeavor to bring about reconciliation between the victims and perpetrators with their consent and bring about reconciliation; Make recommendation on reparation and/or compensation to be provided to the victims and their families; Make recommendation for legal action against perpetrators to whom amnesty is not granted and in cases where reconciliation is not reached.; Provide the victims with identity card as prescribed and also provide them with information after completion of investigation.

any person who is a victim of such treatment shall have the right to obtain compensation in accordance with law (Art. 22).

104. Corporal Punishment is banned in all forms and manifestations. The Act Relating to Children, 2018 recognizes the act of corporal punishment, ill treatment and degrading behaviors and cruel or inhumane manner or torture him or her as a crime against children (sec. 66 (2) (d), (e), (i)). There are provisions of punishment for the perpetrator and the compensation for child victims.

105. GoN has adopted non-violent teaching methods, and teachers have been trained on alternative disciplinary mechanisms. According to the Ministry of Education, Science and Technology, teachers and school officials are trained on alternative disciplinary practice and to avoid corporal punishment. The MoEST has produced and implemented a procedure on Safe School that has confidential complaint mechanism to report corporal punishment, ill treatment and degrading behaviors. The child friendly alternative disciplinary practices are also part of regular teachers training under the Teachers Professional Development Program. The School as Zone of Peace Procedure, 2011 has provision of keeping school violence free, not to practice violent and physical punishment actions as disciplinary actions in school. The draft National Plan of Action on Children has targeted ending corporal punishment in schools and families. The progress data on SDGs reports that Nepal has reduced the number of children facing psychological aggression and physical violence in schools and families has been reduced to 72% (2019) from 82% in 2015.<sup>29</sup>

106. Nepal Police Academy, in its regular in-service training has included component on torture and alternative measures and child friendly behaviors and services in detention, child observation chamber.

### **Child helplines**

107. GoN has been operating several helplines that can be used by children for support, counseling and to report cases of abuse, violence and exploitation. NCRC operates Missing Child Response Center (104). 104 is operated in partnership with Nepal police and is functional in 73 district police office. NCRC has expanded 104 operating unit in all seven provinces with a joint team of Protection Officials and Police Officials having a provision of temporary shelter care and psychosocial first aid. The 104 provides case response service to Missing Children, Unaccompanied children, Child Labor, Children victim and vulnerable to trafficking and transportation and Street Children. Missing Children Response Center supported 3619 children in FY 2020/21.

108. NCRC operates Child Helpline (1098) in collaboration with non-government organizations. NCRC provides operating license and financial support for the operation of Child Helpline along with capacity building training and events. Currently Child Helpline Number 1098 is functional from 18 locations in Nepal with 72 districts coverage; NCRC has planned to expand this facility to 25 locations in 2021. The 15th periodic plan has planned to expand Child Helpline (1098) in every district. The Child Helpline (1098) provides counseling, legal aid, information, rescue and temporary shelter facilities for victim and vulnerable children. Child Helpline (1098) supported 10,348 children in FY 2020/21.

109. National Women Commission operates Helpline (1145), Nepal Police operates Hotline (100) and many non-government organizations also operate toll-free telephone response services.

<sup>29</sup> Nepal's Roadmap for Peaceful, Just and Inclusive Societies a SDG 16 plus Report. The GoN, National Planning Commission, April 2021.

## **F. Family environment and alternative care (Arts. 5, 9, 11, 18 (paras. 1 and 2), 19, 20, 21, 25, 27 (para. 4) )**

### **Family environment and parental guidance in a manner consistent with the evolving capacities of the child (Art. 5)**

110. Traditionally, Nepali society adopts and follows joint family arrangements. With increased urbanization and increased trends of domestic migration, the urban families are practicing more nuclear family system and joint family practice remains higher in rural area. The Population census (2011) reports 5,427,302 households in Nepal with an average size of 5.44 persons in each family. Largely, families are dependent on male breadwinner and women are more engaged in household chores. GoN has recognized the value of the care economy to acknowledge women's participation in the national economy.

111. Nepal has recognized the child's right to a safe and supportive family with proper parental guidance in a manner with the evolving capacities of children. The Act Relating to Children, 2018 has recognized the child right to parental guidance and support in section 17 under the liability of parents, care givers and members of the family. GoN has been publicly communicating about proper parental care that includes child friendly support, nutrition, education and health care for children including promoting culture to listening to children. Civil Society Organizations and Children's Clubs are engaged in promoting parenting education, parenting without violence and importance of child's to be heard in the family. NCRC has been providing emergency support such as food relief, medical support and family economy support to the family who are ultra-poor and unable to finance health care and education of their children. During family reintegration process, NCRC hold family counseling session before handing over rescued child to the respective family.

### **Parents' common responsibilities, assistance to parents and provision of child-care services (Art. 18)**

112. The Constitution of Nepal guarantees right to education, health, maintenance, proper care, sports, entertainment and overall personality development from the families and the State (Art. 39 (2)). The Act Relating to Children, 2018 has recognized the Parents' common responsibilities towards children in section 17. This section has recognized parents' common responsibility to provide education, healthcare, nutrition, protection services. This section prevents parent from leaving children alone or allowing unaccompanied mobility under the age of six years. The duties of parents and rights of children in parental care can be invoked at the local judicial committee and or High Court.

113. GoN has adopted Early Childhood Development Strategy. Currently, there are 36712 Early Childhood Education and Development Centers (ECED) in Communities and schools including 30,039 ECD aided by government that provide child care facilities including day meal.<sup>30</sup> Similarly, at the Federal Government Secretariat Premise (Singhadurbar), GoN has been operating a Day-Care Center with capacity of 80 children targeting the infants of 3–36 months old children of government employees. The Labor Act, 2017 has a provision that the enterprise must establish a day care center if it has more than 50 women working and also even if the number of women workers with children are less than 50, they can establish ECD on sharing basis with other enterprises.

114. To prevent harm and risk for children of parent in prison, section 8 of the Prison Act, 1963 provides that a mother has the right to keep a baby of 2 years together with her and the state shall provide the cost of food and other logistic to the child. To ensure the children of imprisoned people are in safe and supportive environment, in collaboration with NGOs government has arranged temporary care facilities.

115. The Ministry of Health and Population, Family Health Division have been implementing program of family counseling including pregnant women for nutritional

<sup>30</sup> Education and Human Resource Development Center, 2077. Ministry of Education Science and Technologies.

consumption and health behaviors. In addition, more than 22 Nutrition Rehabilitation Centers in operation that provide malnourishment care and treatment for children.

### **Separation from parents (Art. 9)**

116. The Act Relating to Children, 2018 has ensured child has the right to be protected from unnecessary separation and essential separation must ensure the best interest of child, necessity and suitability in section 7(2). This section has defined the decision of essential separation should be made by the competent court only. The essential separation has provision of mandatory listening to child and best interest assessment. A separated child must remain in communication and contact with the family of origin until and unless prevented by the court. This section also confirms that an adopted child or a child in alternative care shall have the right to be in contact and communication with the family of origin.

117. The GoN has implemented several social protection schemes and emergency support provision for preventing child separation merely due to poverty and lack of support to the family. Such Social Protection schemes range from emergency health care support, education support to family income generation support and child nutrition allowance.

118. GoN has been operating Protection Cluster to make sure children are protected from harm during disaster. The Protection Cluster is led by the Department of Women and Children under MoWCSC and has representation of NCRC, civil society organizations and development partners. In disaster situations Nepal police, NCRC remain alert and take necessary actions to ensure children are not separated and unaccompanied children are well protected. NCRC provided relief assistance that benefited 3057 children and collaborated with NGOs that benefited more than 6 thousand children in poor families during COVID Pandemic. This has helped children to remain in the family and to be prevented from unnecessary separation.

### **Family reunification (Art. 10)**

119. Children's right to parental care and guidance has been protected by domestic laws and the Constitution of Nepal. NCRC has been operating several efforts to facilitate separated children are reunited with families. In this regard in FY 2020/21 NCRC supported 3,732 children to be reunited with families; this includes missing children, children in institutional care, child laborers and found unaccompanied children.

120. The National Civil Code, 2017 has defined a due process for declaring a child as an orphan and designating curator and custodial right of child. A child can be sheltered in child care home only with the recommendation of child welfare officer, court, police or NCRC. If the child's parents are not identified even after a rigorous search mobilizing local police unit and local level mechanism, the child care home is allowed to publish a notice of 35 days followed by another notice of 15 days calling to claim parenthood of child. Based on all this process and if there seem almost no possibilities to trace the parent, a child can be declared orphan by the district administration office and thus eligible for orphan related treatment and services. Even after declaring orphan, if a child's parents present to claim, the child can be reunited with the family. In addition to this, children rescued and protected are facilitated for family reunification and rehabilitation with support for the family.

### **Recovery of maintenance for the child (Art. 27, para. 4)**

121. The Domestic law in Nepal have recognized the child's right to receive family protection and facilities. The Act Relating to Children, 2018 in section 7 (2) has provisioned that the financial expenses of a child shall be borne by the father and mother of the child. The local judicial Committee and the High Court is mandated to enforce such liability upon the parent/s of the child. The provision related to legal separation of parents has recognized that the custodial of children primarily goes to the mother in case she is capable of looking after them and the responsibility of the father to bear the cost of living for the child if the mother is financially unable to support their children. The father gets the right to custody and care in case the mother is not able to care for the children. Since the conception a child is recognized as a right holder to the parental property share.

### **Children deprived of a family environment (Art. 20)**

122. The Committee had recommended to expeditiously passing the legislation, support promote, regulate and review alternative care and placement facilities as well as deploy adequate human, technical and financial resources for reintegrating and rehabilitating children deprived from family environment.

123. The Act Relating to Children, 2018 defines 13 various rights for children that includes right to identity (sec. 4), right against separation from family without necessity & right to parental care (sec. 6), right to protection (sec. 7), special rights of children with disabilities (sec. 12). The act has also made state authorities responsible for considering best interest of child in making decision that affects the life of child (sec. 16) and Parents, guardians and caregivers' legal responsibilities towards appropriate care of children (sec. 17).

124. The Act Relating to Children has encouraged diversion for children with juvenile delinquencies to avoid unnecessary institutionalized correction care (sec. 27, 28 and 29). Section 49 of the Act mentions the provision of alternative care, and also includes that the child welfare authority shall make arrangements for alternative care for the children (orphan) in the following order of priority:

- (a) Relative from the side of the father or mother of the child;
- (b) Family or person willing to provide care to the child;
- (c) Organization that provides foster (family-modelled) care;
- (d) Child care home.

125. The Status of Children in Nepal, 2020, produced by NCRC reports a total of 489 child care homes (orphanage/institutional residential child care homes – CCHs) were in operation in the fiscal year 2020/2021, where a total of 11,350 children were residing.<sup>31</sup> Normally, orphan children or children at-risk are placed in institutional care by the relatives of the child and/or social workers by following administrative process in practice, and the institutional cares are found keeping children without proper assessment as well as following the complete process and requirements. It is estimated that about one third of children residing in the CCHs are orphans and one fourth of children are abandoned. Based on the legal and policy measures as well as considering this estimation, National Child Rights Council has been monitoring the CCHs, and rescuing children from those CCHs which are quite behind the minimum standards.

126. The MoWCSC and NCRC have been screening children living in child care homes to identify children having both parents and single parent. NCRC is making arrangements to send children with both parents to their family in course of protecting children from separation from their family/parent(s) and promoting family reunification. In FY 2020/21, a total of 73 children have been rescued from eight residential care homes. Furthermore 27 child care homes voluntarily closed down facilitating more than 400 children to be reunited with families. During the COVID-19 pandemic, some children residing in the institutional care were sent to their families by Child Care Homes themselves.

127. Young children of incarcerated parent(s) have to stay in prison with their parent(s), if there is no one to take care in the family or kinship. In FY 2020/2021, there were a total of 286 such children in different jails across the country. GoN has collaborated with non-government organizations for providing alternative temporary shelter and education facilities for these children until the convicted period by Court is completed or traced out kins to care the children.

128. GoN has been declared to be the guardian of orphan children. So, the MoWCSC through NCRC started to provide protection support (cash transfer) to orphan children living with their relatives. Similarly, Bagmati Provincial government has also initiated program to support orphan children across the province. Some local levels have also been providing such support. NCRC has been initiating effort to manage alternative care for such children.

<sup>31</sup> State of Children in Nepal 2020. National Child Rights Council. 2021.

129. In course of implementation of the alternative care provisions of the law, deinstitutionalization process has been initiated. It is hoped that deinstitutionalization will be systematized within a couple of years. NCRC provides financial support to the alternative care mechanism based on per child basis while it recommends to the particular institution for the purpose of care, protection or treatment of the child who is found separated, unaccompanied and vulnerable and rescued accordingly.

#### **Periodic review of placement (Art. 25)**

130. NCRC conducts regular monitoring of Child Care Homes and institutional placement arrangements. In FY 2020/21, NCRC monitored 163 child care homes in physical presence and did telephone follow up of children in another 200 plus child care homes. NCRC monitoring considered the Standards for Operation and Management of Residential Child Care Homes, 2012 as basis of monitoring performance indicators. Existing legal provisions require adoptive parents to provide a report about the adopted child's status, including nurture, health, and education (together with a postcard-size photograph) to the NCRC/MoWCSC via the Nepali Embassy in the adoptive parents' country. In FY 2020/21, Government of Nepal received follow up report from 12 adopting parents. The governments of adopting parents are required to educate and sensitize adopting parents to provide adopted child's status report as per the law of the country of origin.

#### **Adoption, national and inter-country (Art. 21)**

131. The Committee had recommended strengthening stricter criteria for inter-country adoption; ensuring exhaustion of all means of preventing termination of parental responsibilities; monitoring of child's placement and reviewing the mechanism of adoption facilitation along with consideration of the ratification of the Hague Convention on the Protection of Children and Cooperation in Respect of Inter Country Adoption.

132. The National Civil Code, 2017 has designated a chapter to regulate the adoption of children. The Chapter 8 on intra-country adoption and Chapter 9 on inter-country adoption have defined the process of adopting children in the country. The law has defined the process of adopting an orphan child by foreign nationals. Several Strict criteria are defined on declaring orphan, eligibility of child to be adopted and eligibility of adopting parent. A child adoption can be completed only through a competent court and a separate board or a designated authority has been defined as agency to regulate child adoption at inter-country level. To ensure safe, proper and best interest based inter country adoption, the GoN has stopped the process of inter country adoption since 2012 and currently working on drafting new guidelines.

#### **Illicit transfer and non-return (Art. 11)**

133. Nepal has constitutionally prohibited the illicit transfer and trafficking in children and has declared it a heinous crime (Art. 39). Nepal has Human Trafficking and Transportation Control and Punishment Act, 2007 and its rules that has criminalized the illicit transfer and transportation of children in Nepal and out of Nepal. The Act Relating to Children, 2018 provides state role of rescue, protection and rehabilitation for children victim of crime and in need of special protection.

134. The Human Trafficking and Transportation Control Regulation, 2007 provides for rescue, repatriation and rehabilitation facilities for children and women victims of human trafficking.

135. GoN is implementing National Plan of Action to Counter Human Trafficking Specially in Women and Children (2011–2021). The MoWCSC is drafting new Action plan for 2022–2032. The Government has founded Human Trafficking Investigation Bureau (HTIB) as specialized agency for criminal investigation against human trafficking under Nepal Police.

136. Several NGOs are active in implementing preventive measures including running interception and rehabilitation centers for the children at risk and victims of trafficking. The centers run by the victims and survivors are the best examples. Cross-border cooperation is

established and a CSOs Committee has been formed in border areas. In FY2020/21, more than 3,000 children were prevented and reunited with families through borderer interceptions.

## **G. Disability, basic health and welfare (Arts. 6, 18 (para. 3), 23, 24, 26, 27 (paras. 1–3) and 33)**

### **Survival and development (Art. 6 para. (b))**

137. Every child shall have the right to education, health, maintenance, proper care, sports, entertainment and overall personality development from the families and the State (Art. 39 (2)). Act Relating to Children, 2018 has protected children's right to survival by making federal, provincial and local levels responsible to introduce program and policies of injuries prevention, health and nutrition. The Public Health Services Act, 2018 provides that the basic health facilities to be free for the people of Nepal and GoN has made arrangements for poor and excluded people to attain free and quality health services. GoN has been progressively increasing the allocation of budget in health sector. Nepal has made a significant achievement with sharp reduction in neonatal mortality, infant mortality and child nutrition status.

138. The National Nutrition Policy and Strategy, 2004 has been implemented to address all types of malnutrition. Similarly, the Multi-Sector Nutrition Plan is in implementation and the MoHP has been implementing a strategic plan to improve the nutritional status of mothers, infants and children for decades.

139. Nepal is the first country in South Asia to implement the National Immunization Act, 2016 and the National Immunization Program. The government provides eight different types of vaccines free of cost to all children under the age of five years. A detailed multi-year plan (2017–2021) is being implemented to make this program effective. “Full Immunization Program” has been implemented since 2012. Until FY 2018/19, about 80 percent of the municipalities have been declared as fully vaccinated municipalities, while 58 districts have been declared as fully vaccinated districts. Gandaki province has been declared a “fully vaccinated province”. Nepal has achieved its goal of controlling Rubella and Hepatitis B. About 70% of the children are fully vaccinated till 2019.<sup>32</sup>

### **Children with disabilities (Art. 23)**

140. The 15th periodic plan has a specific chapter on addressing rights of persons with disabilities. The 15th plan sets an objective to create disability-friendly environment, free of obstacles, and enabling persons with disabilities to access all possible facilities for a just, dignified and independent livelihood. Nepal has enacted specific laws on the rights of person with disabilities. The Constitutional provisions, legal policy measures and plan of actions have priorities to promote disability-friendly facilities, inclusive education, preventive health care and support and disability friendly public facilities. 50,000 plus children with disabilities were studying in schools in FY 2019/2020.<sup>33</sup> The government provides social security allowance for children with severe disabilities and has made public transportation and other facilities free.

141. GoN provides Disability ID cards to person with disabilities through local levels. GoN has classified disabilities into eight main categories and has distributed identity cards, which allow concessions in services and also facilitate access to social security allowances.

142. GoN has expanded Community Based Rehabilitation (CBR) services in 65 districts in cooperation with development partners and NGOs, and significantly increased budget allocation in recent years. The MoWCSC has been providing annual grant to disability care centers, autism care centers and helping these institutions to expand outreach and services.

<sup>32</sup> The State of Children in Nepal, 2020. National Child Rights Council, 2020.

<sup>33</sup> Flash Report II. Center for Education and Human Resource Development, Ministry of Education, Science and Technologies, 2020.

### **Health and health services, in particular primary health care (Art. 24), mental health and well-being of children and reproductive health right**

143. The Committee had recommended to expeditiously allocate additional human, technical and financial resources to improve access and quality of health services particularly in the rural areas; take measures to reduce neonatal mortality rates; ensure multi sector nutrition plan for addressing chronic malnutrition; make necessary arrangements for mental health; and adopt comprehensive sexual and reproductive health policy.

144. The Local Government Operation Act, 2017 has mandated and made responsible all local levels to establish and operate local hospitals; which includes the rural municipalities should establish and operate 15-bed hospitals at the local level. The Nepal Multiple Indicator Cluster Survey, 2019 (Nepal MICS 2019) has reported sharp reduction in neonatal mortality with 16/1000, the infant mortality rate at 25/1000 and under 5 child mortality rates at 28 per thousand. The GoN has implemented Multi Sector Nutrition Plan in collaboration with development partners and jointly contributed by several ministries including the MoWCSC, Ministry of Federal Affairs and General Administration, Ministry of Home Affairs, Ministry of Finance with overall coordination by National Planning Commission. The current National Health Policy (2018) has provisioned to strengthen mental health services and the Ministry of Health and Population has been implementing Mental Health specific programs including helpline (1166). The GoN has adopted and implementing Sexual and Reproductive Health Strategy. The GoN has improved 1534 health facilities to be considered as adolescent friendly health facilities.

145. There are 134 hospitals, 194 primary health centers, 3,767 health posts 2,277 non-public health facilities. There are a total of 16,698 Expanded Programme of Immunization (EPI) clinics and 49,481 Female Community Health Volunteers (FCHV) working on the field for child health and survival. Nepal has also Ayurveda health services. There is one Central Ayurveda Hospital (Nardevi), one Provincial Hospital (Dang), 14 Zonal Ayurveda Dispensaries, 61 District Ayurveda Health Centers and 305 Ayurveda dispensaries across the country.<sup>34</sup>

146. Nepal has been declared open-defecation free (ODF) country on 30 September 2019 after a successful campaign on water and sanitation the led to declare all 753 municipals Open Defecation Free Zone. The nationwide campaign was launched since 2011 with the slogan of one household one toilet that led to a success of 99% of the nation's households have access to toilets.

147. A Number of nationally recognized water distribution projects in urban are in progress along with town development fund providing soft loans to municipals for running safe and clean water supply system in urban locations. The National Water Policy, 2012(NWP) has been prepared to operationalize the Water Sector Strategy (WSS) for maximizing the sustainable benefits of water use in Nepal. Integrated Water Resources Management (IWRM) has been adopted as one of the principal themes of the NWP.

### **HIV and AIDS**

148. The HIV Infection has been decreased by 63% and death due to HIV/AIDS has been reduced by 55% in past ten years in Nepal. The HIV Prevalence among adult in Nepal is less than 1% with 29,503 identified cases of people living with HIV/AIDS, among which 1171 are of children under the age of 14 years. The Government Hospitals provide free of cost HIV Test and Counseling services. In the year 2020 (Jan-July), 66,285 people were supported for HIV Test. The Community Based Prevention of Mother to Child Transmission (CB-PMTCT) program has been launched all over nation, where HIV screening and counseling is done among every ANC visit at the health facilities. ARV Medicines are made available in all districts of Nepal and lifelong ART service is provided through 80 ART sites and 20 ART Dispensing Centers that is spread in varied districts and locations of Nepal. Behavior Change Communication (BCC), interventions (life skills, peer-education, health promotion, and mass awareness), condom distribution, Voluntary Counseling and Testing

<sup>34</sup> Annual Report 2019/20, Department of Health Service, Ministry of Health and Population, 2020.

(VCT), Sexually Transmitted Infection (STI) referral, Post Exposure Prophylaxis (PEP), CD4 count, and blood safety are all included in the programs to control HIV spread.

**Social security and childcare services and facilities (Arts. 26 and 18) and standard of living (Art. 27 paras. 1–3)**

149. The Committee had recommended taking measures for increasing budget allocation for improving the standard of living for children, reducing child poverty; targeting interventions for excluded marginalized and poor families and establishing social security policy.

150. Article 43 of the Constitution of Nepal provides the right to social security in accordance with the law. Sub-section (4) of section 7 of the Act Relating to Children, 2018 provides that children with disabilities, conflict victims, displaced, at-risk or living on the streets have the right to special protection. The Rights of Persons with Disabilities (First Amendment) Act, 2018 provides for social security for persons with disabilities. The Social Security Act, 2018 is the main Act related to the social security program. Various other thematic acts on education, health, women, crime victims also have provisions related to social security. The National Planning Commission has prepared the National Integrated Social Protection Structure.

151. The Multiple Indicator Cluster Survey, 2019<sup>35</sup> reports that the incidence of Multidimensional Poverty among the population of 0–17 years of age is 21.8%, whereas among the 18 Years plus age population the incidence is 15.1%. The status is a significant improvement from the status of 2009, where almost 40 percent child population was identified in one or more deprivation of basic needs. Child poverty has been observed with the lack of awareness and sensitization among parents and inadequate access to education, health and other basic facilities. GoN has been taking several efforts including expansion of the Prime Minister Employment program, school education improvement interventions, and expansion of health facilities to the local level and social security allowances for children in difficult situation.

152. In the budget of FY 2021/22 NPR 100 billion has been allocated for noncontributory Social Security Allowances with an increase of 32.5 million from last year and the benefit value of all categories has increased by 33%.

**H. Education, leisure and cultural activities (Arts. 28, 29, 30 and 31)**

153. The Committee had recommended ensuring the effective and adequate implementation of right to education; devising financing strategies; regulating private schools; countering hidden costs in schools' fees; carrying out awareness raising to eliminate patriarchal values, stereotypes; improving school completion and progression rate and arranging teachers training.

**Education including vocational training and guidance (Art. 28)**

154. The Constitution of Nepal guarantees the right to education as fundamental right of the child (Art. 39 (2))<sup>36</sup>. Section 15 of the Children's Act, 2018 has provisions for the right of children to education. The Free and Compulsory Education Act, 2018 has provisioned that the state will provide compulsory education up to the basic level to every child who has completed four years of age and has not reached 13 years of age; every citizen will get free education up to secondary level from the state, while children of each community will get education up to basic level or secondary level in their mother tongue.

155. The Ministry of Education, Science and Technology has issued the Inclusive Education Policy for Persons with Disabilities, 2016. One of the three objectives of this

<sup>35</sup> Nepal Multiple Indicator Cluster Survey 2019, Survey Findings Report November 2020. GoN, National Planning Commission, Central Bureau of Statistics, 2020.

<sup>36</sup> The Constitution of Nepal, art. 39: (2) Every child shall have the right to education, health, maintenance, proper care, sports, entertainment and overall personality development from the families and the State.

policy is to ensure equal access to quality education opportunities for children with disabilities. The GoN has issued the Inclusive Education Policy, 2016 for persons with disabilities.

156. A total 36712 Early Childhood Education and Development Centers (ECED) were in operation during 2019/2020 that enrolled 11,13,596 children of 3–5 years of age. Similarly, 35674 schools were in operation in 2019/2020, which educated almost 7 million plus children from grade 1 to 12 with a fair share of Dalit, Janajati children and good share of girl's representation in school. In the year 2019, the enrollment rate was 97.4 % in primary level, 94.7% percent in the basic level, 51.2% in secondary level.<sup>37</sup>

157. During the reporting period, progress has been made in the education sector particularly in terms of enrolment and gender parity. GoN is concentrating its efforts on increasing retention and completion rate along with improving quality and child friendly environment at schools. Statistically, from FY 1990/91 to 2019/20, the net enrollment rate at the primary level has increased from 64 percent to 97.1 percent. The ratio of girl to boy students in basic and secondary education has increased from 0.43 to 0.98 and from 0.43 to 1.01 respectively. Overall, access, equity, quality and effectiveness of school education have increased. And the neonatal, infant and child mortality rate has significantly dropped from 50 to 16, from 108 to 25, and from 162 to 28 per thousand.<sup>38</sup>

158. Several wide-ranging and remarkable policy and programs have taken place in the education sector of the country. The SSDP supports the MoEST in various areas, in particular, social inclusion, physical infrastructure development, financial management, institution development and financing, and sector management for overall improvement in quality and coverage of basic education including vocational and technical education. Several types of scholarship provisions are available targeted to Dalit, Girls, Children with Disabilities and children from poor families. In FY 2019/20, Rs.3 billion 190 million was allocated and in FY 2020/21, Rs.2 billion 700 million was allocated for such kinds of scholarships. Additionally allowances for martyrs' families, children of martyrs and children affected by the conflict. It is estimated that the number of children receiving such assistance will be much less than the total number of children receiving assistance allowance.

159. Schools as Zones of Peace (SZOP) guideline is implemented to improve school environments so that children can learn and develop while being safe from violence and other political activities. This effort brought together community organizations such as child clubs, School Management Committees (SMCs), and political organizations to draft and agree on codes of conduct. The codes of conduct are intended to reduce school closures due to political activities, improve school governance, reduce the presence of armed forces in and around schools, resolve internal conflicts, hold political parties accountable for their commitments related to schools, eliminate the misuse of school facilities, and increase school inclusion.

160. During the COVID Pandemic Government was bound to close all schools across the country for a period of almost one year plus. After 9 months period some local levels started reopening schools at the end of 2020 and most of the schools begin to re-open from October/November 2021. The GoN through the Ministry of Science and Technology, Center for Education and Human Resource Development implemented Guidelines for Students Learning Facilitation during COVID and also Guideline for Reopening for Schools.

161. The Student Learning Facilitation Guideline issued by the Centre for Education and Human Resource development in September 2020, classified the children in five categories as per access to alternative learning modalities: 1. Children without access to any alternative learning modalities; 2. Children with access to a radio/ FM 3. Children with access to a television; 4. Children with access to a computer but without online connectivity; 5. Children with access to a device that is connected to the internet. UNICEF Survey on the Alternative Education for Children during COVID Shows that the percentage of children that continue

<sup>37</sup> Center for Education and Human Resource Development, Ministry of Education Science and Technologies, 2077.

<sup>38</sup> State of the Children in Nepal 2020. The GoN, Ministry of Women Children and Senior Citizens National Child Rights Council, 2020.

their education in one or more methods from above is found higher for children enrolled in public schools (70.5%), compared to that of children enrolled in private schools (61.5%).<sup>39</sup>

#### **Aims of education (Art. 29)**

162. The Fifteenth Plan (2018/19–2023/24) aims to develop human resources for socio-economic transformation and to develop creative, efficient, competitive, productive and innovative human resources through quality education. One of the five objectives of the education sector is to provide compulsory and free access to primary education with experience of early childhood development and free access to secondary education to all children and education is to be made quality, vital and technology-friendly.

163. The National Education Policy, 2019 aims to develop human resources in line with the needs of the country by making education at all levels competitive, technology-friendly, employment-oriented and productive. The objectives of this policy are basically to make early childhood development and education qualitative and effective, to ensure easy and equitable access to school education for all, to guarantee universal, viable, creative, competitive and quality compulsory and free education, and to establish the interrelationship between formal, informal and non-formal education. These include the development of the capacity to use traditional and modern technology for national development by integrating science and technology into the education system. The fulfilment of these objectives seems to help further ensure the right of children to education.

164. GoN has developed the School Sector Development Plan (SSDP) from July 2016 to July 2023 to continue its efforts to ensure equitable access to quality education for all. Primary education aims to develop the physical, socio-emotional, cognitive, spiritual and moral potential for all 4–12 years old children by ensuring school readiness and universal access to quality basic education. Secondary education aims to make students ready for work by developing skilled human resources, provides options between technical and general education, strengthen institutional links and facilitates the transition to higher education. Similarly, literacy and lifelong learning aims to enhance functional literacy and cultivate reading and learning habits among youth and adults.

#### **Cultural rights of children belonging to indigenous and minority groups (Art. 30)**

165. Article 31(5) of the Constitution of Nepal guarantees that every Nepali community residing in Nepal shall have the right to get education in its own mother tongue. The GoN has produced mother tongue-based text books in 27 languages for up to grade 7. The diverse culture, local culture and traditions are included in school curricula. Schools in Nepal observes various indigenous festivals and educate children about the values and tradition of such community.

166. The share of Janajati students in total is 37.7 percent. Among the School Management Committee (SMC) members 15.4% are from the Dalit community and 37.1 % are from Janajati Community. Similarly, among the Parents Teachers Association (PTA) members 14.7% are Dalit and 40.7% Janajati.

#### **Education on human rights and civic education**

167. GoN, ministry of education revised the curriculum including the components of civic education, life skills, peace and social issues, lessons – social studies, human rights, peace and emergency education, in collaboration with the NHRC, CSOs and development partners. The strategies include: awareness-raising about the responsibilities of political actors for the protection of education rights; support for the incorporation of peace, human rights and civic education (PHRC) into curricula, teachers' guides and textbooks; education cluster response to emergencies; and emergency preparedness capacity-building of the officials.

168. The rights of children have been included in national curricula for various grades (6 to 10) and are currently being reviewed for content improvement to promote the rights of

<sup>39</sup> Continuing children's education in Nepal during the COVID-19 pandemic. UNICEF, Nepal Country Office, 2021.

children. Furthermore, child rights issues have been incorporated into the teacher, police, civil service, and army training curriculums. A few credit hours on child rights are offered in several courses offered by Kathmandu University, Purvanchal University, Mid-Western University, and Tribhuvan University.

#### **Rest, play, leisure, recreation and cultural and artistic activities (Art. 31)**

169. The Act Relating to Children, 2018 recognizes right to rest, play, leisure, recreation and cultural and artistic activities (section 14). This provision has made school obliged to arrange sports, to avail playgrounds and sport materials. The Act provides children with right to engage in cultural and child friendly entertainment activities.

170. Schools in Nepal organize weekly extracurricular activities that includes cultural performance, entertaining performance and sport events. Several local levels have annual sports events. School Sports Program has been launched to promote school students' engagement in sports and entertainment activities.

171. NCRC in collaboration with sports association has launched the *Street to Stadium* program to facilitate street children, orphan children and children victim of violence and from poor families to join sports and promote them in professional sports events.

172. The Child Friendly Local Governance Guideline, 2021 has provisioned the availability of Children Park, investment on children's sports and arrangements of recreational activities as indicators of child friendly local levels. The MoWCSC has provided conditional grant to the local levels for developing Children's Parks at local level. The GoN has provisioned to establish Children's Paradise in FY 2021/22; is working to establish Children's Academy in FY 2021/22 dedicated for children's cultural performance, creativity and organizing sports and recreational activities.

173. The national television channels and FM radio stations transmit children's special episodes run by children themselves for the recreation and leisure activities that are also a source of knowledge for children.

### **I. Special protection measures (Arts. 22, 30, 32–36, 37 (b)–(d), 38, 39 and 40)**

174. The Committee had recommended to take legislative, administrative and institutional measures for ensuring children's birth registration and identity, adopt domestic legislation to protect rights of refugee children; address internally displaced children; prevent violence against children; children's views are heard in disaster response; and consider the indigenous children's views and culture during interventions.

175. GoN has enacted Vital Event Registration Act, 1976 that has ensured that every child gets birth registration and migrant children in Nepal and Nepali Children in abroad also have such facility. The birth registration rate of children under the age of five has reached 77.2 percent from the multi-indicator cluster survey of the Central Bureau of Statistics, 2019.

176. The National Child Policy, 2012 (8.12) provides provisions for keeping records by safeguarding the right of refugees and internally displaced children to their identity for any reason. It states that such children will have access to basic services. GoN has arranged humanitarian support for refugee children in collaboration with development partners and humanitarian agencies. No refugees are neglected and ignored to access such humanitarian support. UNHCR, WFP, and IOM are assisting the GoN in providing basic services to refugee children, such as education, health, and nutrition. There are 2,091 Bhutanese refugee children in Nepal in the fiscal year 2019/20.

177. The Local Levels have addressed needs and support for internally migrant children. Children on Move can access education in public schools and health facilities wherever they are living.

178. The GoN has been providing scholarships for the education of the children of conflict-affected families as well as providing grants through the Martyrs' Academy for the proper care of the conflict-affected children. Under this, five residential schools are operating

in Sunsari, Dolakha, Kaski, Dang and Doti covering the then five development areas. Till FY 2018/2019, conflict affected 1523 children are benefited through the Academy.

**Children in situations of exploitation, physical and psychological recovery and social reintegration**

179. Article 22 of the Constitution of Nepal has guaranteed that no person who is arrested or detained shall be subjected to physical or mental torture or to cruel, inhuman or degrading treatment. The Constitution of Nepal also provides that any act shall be punishable by law, and person who is victim of such treatment shall have to obtain compensation in accordance with law. In the Fifteenth Plan (2019/20–2023/24), the state has adopted the strategy of making necessary arrangements to end all forms of child labor, and SDGs has focused to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labor, eradicate forced labor and end child labor in all its forms. GoN has ratified the ILO Convention No. 29 concerning forced labor in 2007. In addition, GoN has ratified ILO Convention No. 138 and 182 in 1997 and 2002 respectively. The Government is in the process of amending Child Labor Prohibition and Regulation Act, 2000 to include informal sector child labor and to define the worst form of child labor more specifically.

180. According to the Nepal Labor Force Survey 2017/18, about 286,000 children under the age of 17 years are involved in paid employment and some 1.1 million children are involved in economic activities. This is a significant reduction in number of child labor estimated 1.6 million in 2012. National Child Labor Report (2020) has revealed that about 19.7 per cent of working children belong to the category of hazardous child labor.

181. GoN has adopted the second 10-Year National Master Plan on Child Labor Prevention (2018–2028) and recognized as path finding country to implement SDG Target 8.7. The objective of the master plan is to make the country child labor free by eliminating all forms of child labor from Nepal. It has also set the target of banishing the exploitative and worst form of child labor by 2022 and all types of child labor by 2025. In addition, the MoLESS has been implementing child labor free local level campaign where 26 local levels are already engaged and additional 50 local levels are set to join in FY 2021/22.

182. The Labor Offices have conducted 1,762 child labor inspections at workplaces in FY 2020/21.<sup>40</sup> In collaboration with NCRC and Civil Society Organization, the labor offices prosecuted number of employers and rescued more than 100 child laborers in FY 2020/21.

183. Nepal has been successful to declare itself *Street Children Free Nation* with rescuing 2000 plus children from street and providing them rehabilitation as well family reunification and independent living supports. Furthermore, Nepal has declared itself *Street Human Free Nation* with the help of Civil Society Organization.

184. GoN has a Drug Control National Policy with objectives, *inter alia*, to achieve prevention and control of illicit farming, production, transportation, sale of drugs and reduce crimes related to it. The objectives also focus on reducing the incidence of drug abuse among the vulnerable groups; increasing the access to standard, reliable treatment and rehabilitation services; and controlling and reducing the risks of infections such as HIV, hepatitis and venereal diseases among the drug users, their families and communities.

185. The MoHA has taken initiative in collaboration with the Curriculum Development Centre (CDC) in updating the school level curriculum for the prevention and control of drugs. Efforts have been made to include the subject of prevention and control of drugs in the teachers' training curriculum. The GoN has been implementing directives on operation for treatment and rehabilitation of narcotic drugs users in 2010.

186. Sexual abuse and exploitation are addressed with zero tolerance policy by GoN. GoN has been running several support systems including Nepal Police Helpline (100), Child Helpline (1098), Missing Children Service Center (104) and transit shelter facilities with

<sup>40</sup> Annual Performance Report 2077/78, Department of Occupational Safety and Labor; Ministry of Labor, Employment and Social Security.

psychosocial care and other supports of rehabilitation. In FY 2020/21, 15644 children victim of violence, abuse and at risk are directly supported by National Child Rights Council.

187. The Massive awareness campaign, sensitization and capacity building interventions for Nepal police, judiciary and investigation officers along with children and parents have been carried out.

188. Missing Children Response Center (104) and Nepal police is actively engaged to control trafficking in children. At the Local Level, Local Level Committee to Control Human Trafficking is formed and mobilized. The government has been operating 11 shelter facilities for victim/survivors of human trafficking in collaboration with civil society.

189. According to the statistics of the Women, Children and Senior Citizens Service Directorate under Nepal Police, a total of 75 children (71 girls and 4 boys) have been victims of human trafficking and smuggling in FY 2019/20. It is seen that girls are most affected by such incidents. According to the age group, children in the age group of 11 to 16 years are more at risk than other age groups. Similarly, a total of 1,393 cases of rape against girls have been reported at the Police Office in FY 2019/20.

#### **Children in Conflict with the Law, Victims and Witnesses**

190. The Constitution of Nepal guarantees every child shall have the right to get child-friendly justice. For the effective implementation of this constitutional provision, in order to coordinate among the various agencies related to the administration of justice for children in a legal dispute, there is a provision of Child Justice Coordination Committee at the Center as per section 46 of the Act Relating to Children, 2018 and District Juvenile Justice Committee in each district as per section 47. As per Rule 30, a Central Juvenile Justice Coordination Committee has been formed at the Center under the chairmanship of a Supreme Court Judge and as per Rule 34, a District Judge has been constituted. In addition to the juvenile justice system for children involved in delinquency, the court has been sensitive to issues related to children. The state has adopted a child-friendly system through concepts such as juvenile correctional facility, monitoring room, juvenile court, and direction for appropriate treatment to correct the behavior of children who have been punished by law but have not been prosecuted as adults due to their young age and physical and mental immaturity.

191. As of the secretariat of the Central Child Justice Committee, in FY 2019/20, a total of 1,362 defendants (1,309 boys and 53 girls) were involved in 36 different types of 1,022 cases in 56 district courts. Out of the total 1,022 cases, a total of 416 (40.71%) cases have been decided while the remaining 606 cases are in due process of hearing.

192. Children convicted by the court in various cases of child abuse have been kept in correctional facilities instead of being kept in jail for a specified period of time. In the eight child correction homes being operated in the country in last FY, there were 821 children and in 2019/20, a total of 1,053 children were in juvenile correctional facilities who were implicated in 36 types of delinquency. Considering that the risk of Covid-19 is increasing, 352 children including 9 girls were released and reunited with the family in coordination with the Office of the Attorney General, Department of Prison Management and MoWCSC.

#### **J. COVID and child rights**

193. Children's rights have been severely affected by COVID pandemic due to the closure of schools, increased family poverty and vulnerability of children in home, online and COVID Infection. However, children's infection and death are significantly low in Nepal, other indirect impact on the life of children are critical.

194. GoN took specific measures to address children's needs and risk in COVID. To address the impact education several measures of distance education including online education, mass media education, community volunteer led education, teachers visit programs were held.

195. To address the possible health risk of children health awareness program, sanitization campaign, mask campaign and physical distancing campaign were held. Parents were

provided with information for keeping children safe and contact hospitals in an emergency. Ministry of Health operated Direct Covid Contact Hotline. Information Materials were produced and shared among children and families to educate safety measures from COVID.

196. NCRC in collaboration with National Child Protection Alliance, Nepal Pediatric Society and Pediatric Nurses Association hosted nationwide health professional's education and training that reached more than 1,400 health workers virtually all over the nation. The Ministry of Health and Population circulated a notice to allocate 20% bed in all isolation, quarantine and health facilities. MoHP has developed a specific curriculum to train health professionals on prevention and care in the COVID pandemic along with protection concerns for children.

197. NCRC established 19 help desks all over the nation and mobilized 180 COVID Child Protection Volunteers. It helped 3 thousand 57 children at risk in COVID second wave during first half of 2021 by providing psychosocial care (827), health support (305), food relief in the family (1322) and Family counseling and support (603).

198. GoN has already initiated its efforts to make sure the children will get the COVID – 19 vaccines free of cost. Vaccine campaign for children of age 12–17 years has been already started. GoN has given approval to the Pfizer vaccine for 5–11 years of age children and it has already processed to purchase such vaccines. Soon this vaccine campaign will begin.

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