



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### **Fourth periodic report submitted by Nepal under articles 16 and 17 of the Covenant, due in 2019\***

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



## Abbreviations/Acronyms

AFS	Adolescent Fertilization Services
AIDS	Acquired Immune Deficiency Syndrome
ANC	Antenatal Care
CDO	Chief District Officer
CIAA	Commission for the Investigation of Abuse of Authority
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil Society Organizations
FIR	First Information Report
FY	Fiscal Year
GBV	Gender Based Violence
GDP	Gross Domestic Product
GoN	Government of Nepal
HIV	Human Immunodeficiency Viruses
HoR	House of Representatives
ILO	International Labor Organization
MoCTCA	Ministry of Culture, Tourism and Civil Aviation
MoHA	Ministry of Home Affairs
MoICS	Ministry of Industry, Commerce and Supplies
MoLESS	Ministry of Labor, Employment and Social Security
MoLJPA	Ministry of Law, Justice and Parliamentary Affairs
MoLMCPA	Ministry of Land Management, Cooperatives and Poverty Alleviation
NPA	National Plan of Action
NDC	National Dalit Commission
NECD	National Centre for Education Development
NFDIN	National Federation for Development of Indigenous Nationalities
NGOs	Non-Governmental Organizations
NHRC	National Human Rights Commission
NHRI	National Human Rights Institutions
NWC	National Women Commission
OAG	Office of the Attorney General
OCMC	One-stop Crisis Management System
OPMCM	Office of the Prime Minister and Council of Ministers
OHCHR	Office of the High Commissioner for Human Rights
PWDs	Persons with Disabilities
SAARC	South Asian Association for Regional Cooperation
SDG	Sustainable Development Goals
UN	United Nations
USD	United States Dollar
VAWG	Violence Against Women and Girls

## **Part I**

### **General Information**

1. The Government of Nepal (GoN) submits this fourth periodic report to the Committee on International Covenant on Economic, Social and Cultural Rights (ICESCR) pursuant to Articles 16 and 17 of the Covenant. This report follows up the development and progress made in the implementation of the ICESCR after Nepal acceded to it on 14 May 1991, and responses on the Concluding Observations adopted on 28 November 2014 by the Committee while considering the third periodic report of Nepal submitted on 12 July 2011. This report covers the period from 2015-2023 and it is prepared in accordance with the guidelines adopted by the Committee in 2008 (E/C.12/2008/2).

2. The Constituent Assembly adopted a new Constitution, the Constitution of Nepal (Constitution) on 20 September 2015. The Constitution has ensured most of the rights incorporated in the International Bill of Rights as the fundamental rights. The Constitution has restructured the governance system of Nepal to federal system and the state power is shared among the Federal, Provincial and Local governments as provided by the Constitution and law.

3. Two dozen of different Acts have been enacted by the Federal Parliament in 2018 for the implementation of the fundamental rights. The Directive Principles and Policies of the State are provided in the Constitution to complement the realization of the fundamental rights. Provincial and local governments are also competent to make legislations and implement them.

4. The Constitution has also made provisions for the establishment of different Constitutional bodies such as the National Human Rights Commission (NHRC), National Women Commission, National Dalit Commission, National Inclusion Commission, Indigenous Nationalities Commission, *Madhesi* Commission, *Tharu* Commission and Muslim Commission as the independent National Human Rights Institutions.

## **Part II**

### **Development in the Areas of Principal Subjects of Concern, Suggestions and Recommendations of the Committee on Concluding Observations on third periodic Report**

#### **A. Follow-up information relating to paragraph 5**

##### **Adoption of the Constitution**

5. The Constitution was promulgated by the Constituent Assembly. The Constitution aims at protecting and promoting social and cultural solidarity, tolerance and harmony, and unity in diversity by recognizing the multi-ethnic, multilingual, multi-religious, multi-cultural and diverse characteristics, resolving to build an egalitarian society founded on the proportional inclusive and participatory principles in order to ensure economic equality, prosperity and social justice, by eliminating discrimination based on class, caste, region, language, religion, gender and all forms of caste-based discrimination.

6. The Constitution expresses its commitment to socialism based on democratic norms and values including the people's competitive multiparty democratic system of governance, civil liberties, fundamental rights, human rights, adult franchise, periodic elections, full freedom of the press, and independent, impartial and competent judiciary and concept of the rule of law and build a prosperous nation.

7. The Constitution guarantees 31 rights as the fundamental rights; including the right to equality, right to education, right to language and culture, right to employment, right to labour, right relating to health, right relating to food, right to housing, right to social justice, right to social security, right to clean environment, rights of consumer, rights of child, rights of women, rights of *Dalits*, and rights of senior citizens having direct implication on the enjoyment of the economic, social and cultural rights.

8. Similarly, the Constitution ensures the right to live with dignity, right to freedom, right to communication, rights relating to justice, rights of victims of crime, right against torture, right against preventive detention, right against untouchability and discrimination, right relating to property, right to freedom of religion, right to information, right to privacy, right against exploitation, and right against exile having direct implication on the enjoyment of civil and political rights.

9. Most importantly, the Constitution has provisioned the right to Constitutional Remedies as a fundamental right to ensure all the fundamental rights. Constitution protects the rights of women, *dalits*, and disadvantaged and marginalized individuals or groups by ensuring social justice and social security to them.

10. Moreover, Constitution ensures right to equality before the law and equal protection of law. Discrimination in the application of general laws on the grounds or origin, religion, race, caste, tribe, sex, physical condition, condition of health, marital status, pregnancy, economic condition, language or region, ideology or on similar other grounds is explicitly prohibited. Provided, however, that it may not be deemed to prevent the making of special provisions by law for the protection, empowerment or development of the socially or culturally backward citizens; including the women, *dalits*, indigenous nationalities, *Madhesi*, *Tharu*, Muslim, oppressed class, *Pichhada* class, minorities, marginalized, farmers, laborers, youths, children, senior citizens, gender and sexual minorities, persons with disabilities, persons in pregnancy, incapacitated or helpless, backward region and indigent *Khas Arya*.

## **B. Follow-up information relating to paragraphs 6 to 29 of the Concluding Observation**

### **Data collection (Paragraph 6)**

11. The information mentioned in this report are relevant and reliable as they have been compiled and disseminated by the State, through its administrative records and statistical surveys available on regular basis. Nepal is in the process of developing a reporting system based on human rights indicators as outlined in OHCHR document HRI/MC/2008/3 for national and sub-national governments.

### **Corruption (Paragraph 7)**

12. The Constitution has been promulgated with the aim of fulfilling the aspirations of sustainable peace, good-governance, development and prosperity through the federal democratic, republican system of governance. The Constitution directs to pursue the policies to guarantee good-governance by ensuring the equal and easy access of the people to the services and facilities by making public administration more fair, competent, impartial, transparent, accountable, participatory and free from corruption.

13. Similarly, the Constitution provides for the establishment of Commission for the Investigation of Abuse of Authority (CIAA), an independent constitutional body for the investigation of abuse of authority committed by any public office holder. The functions, duties, powers and rules of procedures of the CIAA are mentioned in the Constitution and the Commission for the Investigation of Abuse of Authority Act, 1992.

14. There exist various legislations related to corruption control *such as* the Prevention of Corruption Act, 2059 (2002), Special Court Act, 2059 (2002), Good-Governance (Management and Operation) Act, 2064 (2008), Right to Information Act, 2064 (2007), Public Procurement Act, 2073 (2007), Criminal Proceeds and Instruments of Offence (Freezing, Controlling and Confiscation) Act, 2070 (2013), Money Laundering Prevention Act, 2064 (2008), Mutual Legal Assistance Act, 2070 (2014), Judicial Council Act, 2073 (2017), Bank and Financial Institution Act, 2073 (2017), National Penal Code and Criminal Procedure Code, 2074 (2017), the Revenue Leakage (Investigation and Control) Act, 2052 (1996), the Extradition Act, 2070 (2014) etc.

15. Other oversight institutions such as the Office of the Auditor General, the Office of the Attorney General, National Vigilance Centre, Public Procurement Monitoring Office, Department of Money Laundering Investigation, Department of Revenue Investigation, etc. also contribute in corruption control.

16. Nepal is party to the United Nations Convention against Corruption (UNCAC) and it has introduced the National Strategy and Action Plan (NAP) to implement the Convention. Nepal has submitted its self-assessment report for first and second cycle peer review to the UNODC. Nepal is preparing new NAP to implement the UNCAC, to address the recommendations received in peer review and in the context of federal governance system.

#### **National Human Rights Commission (NHRC) (Paragraph 8)**

17. The NHRC of Nepal established as a Constitutional body to ensure its independence and autonomy. The functions and power of the commission and appointment, tenure and terms of services of the commissioners are explicitly provided in the Constitution. In order to adhere the Constitutional provisions and to comply with the Paris Principles, the NHRC Act, 2068 (2012) is being substituted by a new Bill which is in the drafting process.

#### **Rights of Indigenous Peoples (Paragraph 9)**

18. The Constitution has ensured the right to social justice and social security as the fundamental right. It provides that the economically, socially or educationally backward women, Dalits, indigenous nationalities, Madhesi, Tharu, backward classes, minorities, marginalized communities, persons with disabilities, gender and sexual minorities, farmers, labourers, oppressed or citizens of backward regions and indigent Khas Aryas shall have the right to participate in the state bodies on the basis of principle of proportional inclusion.

19. Moreover, the Constitution requires the State to pursue the policies relating to social justice and inclusion to make the indigenous nationalities' participation in decisions concerning the community, by making special provisions for opportunities and benefits in order to ensure the right of these nationalities to live with dignity, along with their identity, and protect and promote traditional knowledge, skill, culture, social traditions and experience of indigenous nationalities and local communities.

20. Indigenous Nationalities Commission of Nepal has been established as a Constitutional body. The structure, function, duties and rights of the Commission has been determined by Indigenous Nationalities Commission Act, 2017. Moreover, there is a National Foundation for Development of Indigenous Nationalities as statutory body for the empowerment of indigenous peoples.

21. The Civil Service Act, 1993 and other public service regulations have made provision for allocating 27 percent vacant positions reserved for indigenous nationalities out of total reservation. The House of Representative Election Act, 2017 requires every political party to reserve 28.7 percent seats in the list of candidates for proportional representation in HOR.

22. Section 6(1), (2), (3), (4), (5) and (6) of the Local Level Election Act, 2017, Section 28(5) and (6) of the Provincial Assembly Elections Act, 2017, Section 28(5), (6); and Schedule-1 of the House of Representatives Election Act, 2017 and Section 3(1) (a), (b), (c), and 66(2) of the National Assembly Election Act, 2018 guarantee representation of women, persons with disabilities, people from indigenous nationalities, Dalit and minority communities.

23. Similarly, the Constitution provides that the citizens belonging to the tribes which are on the verge of extinction shall have the right to social security in accordance with law. Social Security Act, 2018 provides that the social security allowance shall be provided to the tribes who are on the verge of extinction. Ten tribal communities have been enlisted as such tribes.

#### **Refugees (Paragraph 10)**

24. Nepal has been providing shelter to the Tibetan and Bhutanese refugees on humanitarian ground. The refugees who entered into Nepal before 1990 have been provided refugee status and are free to enjoy the rights and liberty in accordance with the prevailing laws of Nepal. The MoHA issues travel documents on their request to travel to third

countries. So far, more than 4,000 travel documents have been issued. The Government is making efforts to facilitate the right to education of the foreigners temporarily sheltered in Nepal. Though not a party to the Refugees Convention as such, Nepal has been pursuing a policy of adhering to the principle of *nonrefoulement*.

#### **Caste-Based Discrimination (Paragraph 11(a))**

25. Article 24 of the Constitution provides for the right against untouchability and discrimination. It provides that no person shall be subjected to any form of untouchability or discrimination in any private and public places on grounds of his or her origin, caste, tribe, community, profession, occupation or physical condition.

26. In producing or distributing any goods, services or facilities, no person belonging to any particular caste or tribe shall be prevented from purchasing or acquiring such goods, services or facilities or shall such goods, services or facilities be sold, distributed or provided only to the persons belonging to any particular caste or tribe.

27. No act purporting to demonstrate any person or community as superior or inferior on grounds of origin, caste, tribe or physical condition or justifying social discrimination on grounds of caste, tribe or untouchability or propagating ideology based on untouchability and caste-based superiority or hatred or encouraging caste-based discrimination in any manner whatsoever shall be allowed.

28. Article 24 further provides, no discrimination in any form shall be allowed at a workplace with or without making untouchability on the ground of caste. Any act of untouchability and discrimination in any form committed in contravention of this Article shall be punishable by law as a severe social offence, and the victim of such act shall have the right to obtain compensation in accordance with law.

#### **Effective Implementation of 2068 (2011) Act, (Paragraph 11(b) and 11(g))**

29. Caste and other Social Untouchability and Discrimination (Offence and Punishment) Act, 2068 (2011) has been amended in 2018 providing that if anyone commits an offence of caste-based discrimination and untouchability, he or she may be punished from three months to three years of imprisonment and a fine from fifty thousand rupees to two hundred thousand rupees as punishment and the court can provide compensation of up to two hundred thousand rupees to the victim from the convicted person. Untouchability (Offence and Punishment) Rule, 2017 enacted for effective implementation of the Act.

30. The Act clearly provides that it is the primary responsibility of the Nepal Police to take FIR and investigate the case related to untouchability. The MoHA has issued a circulation to all CDOs and Nepal Police to promptly register FIR and take necessary legal actions against the perpetrators in caste-based discrimination and untouchability related cases.

31. Nepal Police has conducted trainings to the police personnel on role of law enforcement agencies to end caste-based discrimination. Furthermore, the handbook and manuals on basic human rights includes the provisions of the Act and the role of law enforcement agencies. Specific training on human rights and humanitarian law has been provided to 35,576 Nepal Police and 25,900-Armed Police Force personnel.

#### **National Strategy and Plan of Actions and Indicators to Monitor Compliance (Paragraph 11(c))**

32. The Fifth National Human Rights Action Plan (2077-2082) provides that it is the responsibility to the MoFAGA to make an Action Plan to end the caste-based discrimination including untouchability in cooperation with MoHA, OAG, NDC, Province and local Governments and Civil Society by 2025 A.D.

#### **National Dalit Commission (NDC) (Paragraph 11(d))**

33. Nepal has upgraded NDC from a statutory body to Constitutional body. The commission has power to make recommendations to the Government to reform laws, policies and programs for the upliftment of condition of Dalit community, to monitor the effective

implementation of the law and policies related to Dalits and provide suggestions to the GoN, to assess, monitor and supervise the implementation of the inclusion of the Dalits in all the organs of the state as guaranteed by the Constitution and law and also to recommend a concerned body to file a case against the person committing a discrimination to the Dalit or infringing the rights of a Dalit.

34. National Dalit Commission Act, 2074 specifies the functions of the commission in details. The GoN need to provide necessary resources to the Commission to fulfil its mandates.

#### **Rights of Dalit Women; (Paragraph 11(e))**

35. Articles 38, 40, 252, 253, 255, 256, 258, 259 and 261 of the Constitution have guaranteed representation of women and *Dalit* women through the principle of proportional representation in all the bodies of state with special provisions for participation in public services and other sectors of employment.

36. Section 6 (2) of the Local Level Election Act, 2017 has provision for reserving two seats for women (one for *Dalit* woman) at the Ward Committees. As a result, 6,567 *Dalit* women have been elected to the Local Government in 2074 election.

37. Dalit women are entitled to receive various assistance including employment, income generation trainings, skill development trainings, and unemployment allowance through different programs of Federal, Provincial and Local Governments.

#### **Access to Justice for Discriminatory Acts (Paragraph 11(f))**

38. The Caste Based Discrimination and Untouchability (Offence and Punishment) Act, 2011 provides that a person having information of someone who has committed or is going to commit the offence of caste-based discrimination and untouchability, he or she may make a complaint to the nearby police office.

39. In case the police office refused to register the complaint, such complaint may be filed in the NDC or Local Government. The NDC or the Local Government must forward the complaint to the concerned police office in writing. The concerned police office must inquire and investigate the case as provided by law.

#### **Equality between men and women (Paragraph 12)**

40. Article 38 (Right to Women) provides that every woman shall have equal lineage right without gender-based discrimination; Women shall have the right to participate in all bodies of the State on the basis of the principle of proportional inclusion; women shall have the right to obtain special opportunity in education, health, employment and social security, on the basis of positive discrimination; the spouse shall have the equal right to property and family affairs.

41. Various legislations including The Civil Code, 2017; Civil Procedure Code, 2017; the Crime Victim Protection Act, 2018; Social Security Act, 2018; Civil Service Act, 1993 and other Service Regulations ensure the rights. The Labour Act, 2017 and Right to Employment Act, 2018 ensures equal pay for equal value of work.

42. Similarly, in order to promote inclusion, Article 215 (4) of the Constitution provides that the members of the Rural Municipality Executive shall also include four women members elected by the members of Rural Municipal Assembly from amongst themselves and two members elected by the Rural Municipal Assembly from the Dalit or minority communities.

43. Similarly, Article 216 (4) of the Constitution provides that the members of the Municipal Executive shall also include five women members elected by the members of the Municipal Assembly from amongst themselves and three members elected by the Municipal Assembly from the Dalit or minority communities.

44. Sub-section (2) of the section 6 of Local Level Election Act, 2017 provides that reservation for two women including a Dalit woman to be elected at each Ward Committee of Municipality and Rural Municipality.

45. Section 10A. (b), (d), (e), (f) of Scholarship Regulations, 2003 provides special scholarship quotas to women, indigenous, Dalit and people residing in backward areas.

**Representation of women, including Dalit and indigenous women, in decision-making positions in public and political affairs. (Paragraph 13)**

46. Representation of women, including Dalit and indigenous women in federal, provincial and local level legislative body, participation of women is significantly increased as follows:

Table 1

**Representation of Women in the House of Representatives, Federal Parliament**

S.N.	Province	First Past the Post (FPTP)			Proportional Representation (PR)			Total		
		Female	Male	Total	Female	Male	Total	Female	Male	Total
1.	Koshi	1	27	28	14	3	17	15	30	45
2.	Madhesh	-	32	32	23	3	26	23	35	58
3.	Bagmati	1	32	33	13	6	19	14	38	52
4.	Gandaki	1	17	18	8	6	14	9	23	32
5.	Lumbini	2	24	26	16	4	20	18	28	46
6.	Karnali	-	12	12	4	1	5	4	13	17
7.	Sudurpashchm	1	15	16	6	3	9	7	18	25
<b>Total</b>		<b>6</b>	<b>159</b>	<b>165</b>	<b>84</b>	<b>26</b>	<b>110</b>	<b>90</b>	<b>185</b>	<b>275</b>
Percentage		3.64	96.36	100	76.36	23.64	100	32.73	67.27	100

Source: Election Commission, 2017.

Table 2

**Representation of Women in the National Assembly**

S.N.	Province	Elected		Total
		Female	Male	
1.	Koshi Province	3	5	8
2.	Madhesh Province	3	5	8
3.	Bagmati Province	3	5	8
4.	Gandaki Province	3	5	8
5.	Lumbini Province	3	5	8
6.	Karnali Province	3	5	8
7.	Sudurpashchim Province	3	5	8
	Nominated by the President	1	2	3
<b>Total</b>		<b>22</b>	<b>37</b>	<b>59</b>
Percentage		37.29	62.71	100

Source: Election Commission, 2017.

Table 3  
Representation of Women in the Province Assembly

S.N.	Province	First Past the Post (FPTP)			Proportional Representation (PR)			Total		
		Female	Male	Total	Female	Male	Total	Female	Male	Total
1.	Koshi	2	54	56	30	7	37	32	61	93
2.	Madhesh	5	59	64	32	11	43	37	70	107
3.	Bagmati	5	61	66	32	12	44	37	73	110
4.	Gandaki	2	34	36	18	6	24	20	40	60
5.	Lumbini	2	50	52	30	5	35	32	55	87
6.	Karnali	-	24	24	13	3	16	13	27	40
7.	Sudurpashchim	1	31	32	17	4	21	18	35	53
<b>Total</b>		<b>17</b>	<b>313</b>	<b>330</b>	<b>172</b>	<b>48</b>	<b>220</b>	<b>189</b>	<b>361</b>	<b>550</b>
Percentage		5.15	94.85	100	78.18	21.82	100	34.36	65.64	100

Source: Election Commission, 2017.

Table 4  
Representation of Women in the Local Executive

S.N.	Sex	Chair/ Mayor	Percent	Vice Chair		Ward Chair	Women member	Dalit Women	Others	Total	Percent
				Deputy Mayor	Percent						
1	F	18	2.39	700	92.96	61	6 742	6 567	264	14 353	40.96
2	M	735	97.61	53	7.04	6 681	0	0	13 220	20 689	59.04
<b>Total</b>		<b>753</b>	<b>100</b>	<b>753</b>	<b>100</b>	<b>6 742</b>	<b>6 742</b>	<b>6 567</b>	<b>13 484</b>	<b>35 041</b>	

Source: Election Commission, 2017.

#### Harmful traditional practices (Paragraph 14(a), (b), (c), (d) and (e))

47. Due to legal, policy and programmatic interventions against child marriage and harmful traditional practices against girl child, the practice of child marriage has been gradually decreasing.

48. 'National Strategy to End Child Marriage' 2016, approached in March 2016, has been implemented with the goal of ending child marriage by 2030. Implementation, coordination, monitoring and evaluation mechanisms are established in central and district level for the proper implementation of the strategy.

49. The National Children Policy, 2022 is in implementation.

50. Three tiers of Government, in collaboration with civil society organizations, are also running campaigns against dowry, witchcraft allegation, *Chhaupadi*, child and forced marriages all over the country. They also have been continuing advocacy and awareness raising campaigns against '*Chhaupadi*', '*witchcraft*' and other harmful practices at the community level. The GoN, in line with the order of the Supreme Court of Nepal in 2005, has issued directives to eradicate *Chhaupadi* practices, mostly prevailing in Far Western Region.

51. The Witchcraft related Accusation (Offence and Punishment) Act, 2015 has been implemented for eliminating the superstitious belief and harmful traditional practice of witchcraft allegation. It criminalizes the practices of inflicting torture, cruelty, inhumane and degrading treatments upon the person accused of witchcraft. Similarly, the Act also incorporates the provisions on victims' support and compensation.

52. Section 168 of the Penal Code, 2017 prohibits degrading or inhuman treatment and it also banish practice to keep woman in *Chhaupadi* during menstruation or maternity period

or to practice other similar discrimination, untouchability or inhuman treatment of any kind. Anyone committing such offence is liable for imprisonment and fine along with for providing compensation to the victim.

#### **Conditions of work in the informal economy (Paragraph 15)**

53. The Labour Act, 2017 and Labour Regulation, 2018 have made comprehensive provisions to enable workers from formal or informal sectors to benefit from adequate wages and just and favourable working conditions including working hours and health and safety measures. The Act and Regulation provide for specific provisions relating to the labours working in the tea gardens, construction works, transportation sectors, tourism sector, domestic work, seasonal industries or factories. The Act prohibits to engage any labourer without concluding labour agreement and while concluding labour agreement, the agreement should contain the remuneration, facilities, and other terms of conditions of the employment.

54. Similarly, Nepal has enacted the Contribution-Based Social Security Act, which allows the informal sector workers and self-employed persons to participate in the social security scheme. In order to encourage the labourers of informal sectors and self-employed persons to participate in the contributory social security scheme, the Government will contribute an amount of money in the Social Security Fund. The Fund may be mobilized to conduct social security schemes such as treatment and health security scheme, maternity protection scheme, social protection out of accident, disability protection scheme, old age protection scheme, dependent family protection scheme, and unemployment protection scheme. The Act may be regarded as the bedrock of social protection in Nepal.

#### **Implementation of the 2009 directive of the Supreme Court to regulate work in the “entertainment” sector (Paragraph 16)**

55. In order to control sexual/harmful exploitation of women labour in the dance restaurant, dance bar etc. the Supreme Court issued a directive in 2009. The Sexual Harassment at Workplace (Prevention) Act, 2014 has been enacted on 21 November 2014. The GoN is promoting to endorse and implement the Anti-sexual Harassment Code of Conduct at Workplace and regularly conducting awareness raising programmes.

#### **Minimum wage (Paragraph 17)**

56. Pursuant to the Section 106 of the Labour Act, 2017, the Ministry of Labour, Employment and Social Security fixes the minimum wage of the worker in the recommendation of minimum wage fixation committee in every two years. As per the provision, a tripartite committee is formed to review the existing minimum wage.

57. Similarly, sub-section (1) of Section 13 of the Bounded Labour (Prohibition) Act, 2001 specifically provides for the minimum wage fixation of agricultural worker by the GoN and sub-section (2) or the Section 3 provides that agricultural worker should not be engaged in work without giving minimum wage determined by the GoN.

#### **Situation of former bonded labourers (Paragraph 18 of the Concluding Observation)**

58. The GoN has conducted various special programs related to bondage labour. The Government has prepared record of both Freed *Kamaiya* and *Haliya*, according to this record there were 27,570 households of *Kamaiya* and 16,953 household of *Haliya* respectively. Out of 27,570 household of Freed *Kamaiya* 26,090 household have already settled and 1,480 families are remained to settle. 19,531 people of the community have received skill development trainings. Similarly, out of 16,953 household of Freed *Kamaiya* only 10,650 household have verified as *Haliya*. Only 7,372 household have provided identity card.

59. Only 250 households of *Haliya* have bought land, 188 households have built their houses, 320 households have renovated their houses and 1142 persons have obtained skill development training. The GoN has classified Freed *Kamaiya* and *Haliya* into four categories A, B, C, and D. On the basis of this categories, they have obtained different colours of identity card. The basis for categorization is stated below for both Freed *Kamaiya* and *Haliya* respectively:

**For Freed Kamaiya**

<i>Class</i>	<i>Description</i>	<i>Card Type</i>	<i>Numbers</i>
'A'	The household having no land at all and residing at the house provided by the corresponding Land Lord	Red	15 570
'B'	The household occupying informal land with a house for living but having no registered land	Blue	12 000
'C'	The household having less than 2 plots (676 sq. m) of registered land and having own house	Yellow	
'D'	The household having more than 2 plots (676 m) of registered land and having own house	White	
<b>Total</b>			<b>27 570</b>

**For Freed Haliya**

<i>Class</i>	<i>Description</i>	<i>Card Type</i>	<i>Numbers</i>
'A'	The household having no any ownership on land or house at all	Red	993
'B'	The household ownership on house but not land	Brown	2 297
'C'	The household having ownership on land but not house	Green	264
'D'	The household having ownership on both land and house	White	3 818
<b>Total</b>			<b>7 372</b>

60. The GoN has made provision for rehabilitation of freed Kamaiya and Haliya. There is a policy to provide 5 plots (1690 sq. m.) of land in rural area, 2 plots (676 sq. m.) nearby the highway and 1 Plot (338 sq. m.) in the city area and if there is not any availability of the Government land to provide them then each family would get NRs. 2,00,500/- rupees as grant. Government has provided further grants to each family such as NRs. 55,000/- to construct the home and NRs. 1,00,000/- for 35 cubic feet of wood. Skill Development Trainings to income generation were also provided to them.

61. Similarly, for Freed *Haliya*, 3 *ropanis* (1516.8 sq.m.) of lands in mountains or hill region and 2 Plots (676 sq.m.) in the terai was provided. In case of not availability of Government Land grant was provided along with the house maintenance grant to the family. Additional opportunities for training, education, health, agricultural and foreign employment were also provided.

**Women migrant workers (Paragraph 19)**

62. Directive principles and policies of the state enshrined in the Constitution provide that labour and employment needs to be regulated and managed in order to make foreign employment free from exploitation, safe and systematic to guarantee the rights to employment and labour.

63. Foreign Employment Act, 2007, and its Rules, 2007, and Guidelines on the Process Related to Obtain Personal Approval for Foreign Employment, 2012; Foreign Employment Policy, 2012; Procedures on Registration and Renewal of Orientation Training Institutions for Foreign Employment, 2014 and Guidelines for Sending Domestic Workers in Foreign Employment, 2015 are other legislative and policy tools are to protect the rights and interests of migrant workers.

64. Establishment of the Foreign Employment Promotion Board and Foreign Employment Tribunal have contributed towards promoting governance for labour migration effectively. Foreign Employment Information Management System has been prepared, and is in operation allied to keep record of migrant workers.

65. The GoN has made intensive diplomatic efforts to enter into labour agreements. Nepal has concluded Bilateral Labour Migration Agreements with 10 labour destination countries with the aim of secured, ethical, managed and decent labour migration and foreign employment. The GoN has been working to sign MoU with more labour destination countries.

66. Minimum wage for migrant labourers has been fixed in five labour destination countries.<sup>1</sup> Labour attachés have been employed at the Nepali missions in seven labour receiving countries.<sup>2</sup> With an aim to help rescue women migrant workers, safe houses have been operationalized at four Nepali missions abroad.<sup>3</sup> One of such houses has also been established in *Kathmandu* for returnee women migrants. The Mangala Shahana Rehabilitation Center has been established in *Kathmandu* to provide rehabilitation support specifically for rescued foreign women migrants.

#### **Domestic Violence (Paragraph 20)**

67. The Domestic Violence (Offence and Punishment) Act, 2009, amended in 2015, lists some grave cases of domestic violence as the offences to be prosecuted by the State. Local Governments, Nepal Police, courts and the NWC have been implementing the Act and its Rules, 2010 in receiving complaints, proper investigation, prosecution and ensuring punishment against the perpetrators in the cases of domestic violence.

68. In addition, the Rules provides effective mechanisms for prevention and control of all forms of domestic violence which inflict GBV and have serious implications on rights of women. It enables survivors of violence to access psychosocial counselling, free legal aid, adequate security and protection, and necessary healthcare services. As a dedicated mechanism for dealing with the cases of VAWG at the local level, 246 Women and Children Service Centers (WCSCs) with dedicated police personnel have been established in all districts police offices of Nepal Police.

69. The MoLJPA through District Legal Aid Committees, has been providing free legal aid services. During 2018-2022, free legal aid services were provided to 13000 litigants. Similarly, all the courts have provision of court paid lawyers throughout the country. During 2019-2022, court paid lawyers provided free legal aid services to 1, 15,438 litigants.

#### **Economic exploitation of children (Paragraph 21)**

70. Article 39 of the Constitution provides that no child shall be employed to work in any factory, mine or engaged in similar other hazardous work. The Constitution has policy and directive principles to abolish all forms of labour exploitation including child labour. Section 6 of the Act Relating to Children, 2018 provides that no one child below age of fourteen shall be employed in hazardous work or as of domestic worker or *Kamalari*. The Act provides that the GoN, provincial government and local level shall adhere the necessary measures and implement standards in order to protect children. Section 5 of the Labour Act, 2017 provides that no children shall be employed in any work against the law.

<sup>1</sup> The Countries are: Bahrain, Oman, UAE, Qatar and Saudi Arabia.

<sup>2</sup> The countries are: Saudi Arabia, Qatar, UAE, Malaysia, South Korea, Oman and Bahrain.

<sup>3</sup> The countries are: Saudi Arabia, Qatar, UAE, and Kuwait.

71. The Nepal Child Labor Report has also reported that about 19.7 per cent of working children belong to the category of hazardous child labour. Out of the total population of girls in the country, 44.5 per cent girls are working, out of which about 21.9 per cent are classified as working in hazardous form of child labour. Likewise, about 36.5 per cent of total boys are working and out of which 17.3 per cent are engaged in hazardous form of activities.

72. Nepal Child Labor Report 2021 has reported that among seven million children between the age of 5 and 17 in Nepal, 1.1 million children were found to be engaged in child labour which is a significant decline in comparison to 2008 (1.6 million). About 0.2 million children are found to engage in hazardous work which is a significant decline in comparison to 0.62 million in 2008.

73. National Master Plan on Child Labour is harmonized with other National Plans of Action (NPA), in particular with the NPA on Children, NPA on Trafficking in Children and Women and NPA on HIV/AIDS. The GoN has been working to minimize child labour in the country through preventive, curative as well as rehabilitative measures targeting worst forms of and hazardous child labour.

### **Trafficking in persons including children (Paragraph 22)**

74. The GoN has constituted a national committee at the central level and district committees in all districts for effective implementation of the Human Trafficking and Transportation (Control) Act, 2007. Likewise, Immigration Act, 1992, and Foreign Employment Act and Regulation, 2007 are being implemented. Fast track court proceedings are applied in the cases of human trafficking and sexual abuse as provided in the District Court Rules, 2018. The GoN has implemented the National Plan of Action against Human Trafficking, 2011-2021.

75. Nepal is a party to the SAARC Convention on Preventing and Combating the Trafficking in Women and Children for Prostitution. There is good cooperation between Nepal and its' neighbouring countries in order to combat trafficking across boarder.

76. Nepal has ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (Palermo Protocol), supplementing the United Nations Convention against Transnational Organized Crime. An amendment to the relevant laws is being introduced to give effect to all provisions of the Protocol.

77. The GoN also has reviewed the implementation status of the NPA (2011-2022) against trafficking in women and girls and carried out reforms outlined in the NPA for effective implementation of prevention, protection, prosecution, capacity development, and coordination. Now, new NPA is being drafted and is in the process of finalization.

78. Single Women Protection Fund has been established in order to rescue, provide relief and livelihood in accordance to rules. Ten rehabilitation centers have been operated for the victims or survivors of human trafficking. Rehabilitation Fund has been created at national, provincial and local levels according to respective laws, to rescue and manage the survivors and victim of human trafficking.

79. Women and Children Service Directorate under the Crime Investigation Department of Nepal Police is ensuring widely available, fair and specialized services for women and child victims and survivors of trafficking. The initiative is to ensure justice accessible for women and children by providing a conducive reporting environment. Nepal Police has also formed a High-level Task Force to investigate crimes to prevent and control the incidences of trafficking and illegal migration of persons in general, and women and girl child in particular, in response to the risks fuelled by the human displacements and loss of livelihood due to devastating earthquakes of April and May 2015. Nepal Police has also organized awareness raising campaigns to sensitize vulnerable women and children in 4 out of 14 severely earthquake-affected districts. Security check posts in 10 critical points and 20 border locations have been established for carrying out intensive vigilance and security checks to prevent the incidence of trafficking in women and girls.

**Poverty (Paragraph 23 (b))**

80. Population below poverty line was 25.4% in 2010. In 2018, the population below poverty line is 18.7% and the Approach Paper of the new National Plan has aimed to reduce the below poverty population to 13%. The national periodic plan has objectives to identify and conduct pro-poor programs, to conduct pro-poor skill development programme and generate employment and to establish access to state resources for the poor people.

**Forced evictions and right to housing (Paragraph 24)**

81. Article 37 of the Constitution provides that every citizen shall have the right to an appropriate housing, and no citizen shall be evicted from the residence owned by him or her nor shall his or her residence be infringed except in accordance with law. Article 51 of the Constitution of Nepal has a provision to identify landless people and support them by providing housing plot for residence and cultivable land or employment opportunities for their livelihood.

82. Section 7 of the Right to Housing Act, 2018 provides that the Federal, Provincial and Local Governments shall have to provide the homeless person and family with the housing facility gradually on the basis of resources by prioritizing, with mutual coordination. Section 14 of the Act provides that the Federal, Provincial and Local Governments make proper arrangement for the resettlement of the person and family fully displaced, if there is no land elsewhere in the name of such a person and family, due to financial hardship of his or her or family.

83. The Land Acquisition Act, 1977 has special provisions for acquiring land, compensation for losses, notification of land acquisition and stakeholder consultation. The Act also has provision relating to land acquisition notices, right of landowner to file complaint and criteria for distribution of compensation. The GoN has been implementing People's Home program targeting the households of marginalized and indigenous communities.

**Right to food (Paragraph 25)**

84. Article 36 of the Constitution of Nepal provides for rights to food. Clause (2) of this Article has guaranteed that every citizen shall have the right to be safe from the state of being in danger of life from the scarcity of food. Clause (3) of this Article has provision relating to food sovereignty in accordance with law.

85. Section 3 of the Right to Food and Food Sovereignty Act, 2075 (2018) provides that every citizen shall have the right to food and right to food security. Section 4 of the Act provides that Federal, Provincial and Local Governments shall carry out functions for the prevention and control of famine on the basis of prioritization, with mutual coordination. Similarly, Section 7 provides that the Federal, Provincial and Local Governments shall provide food support to the targeted households in concessional price and to the targeted households of particular condition, for free of cost as prescribed in the rules.

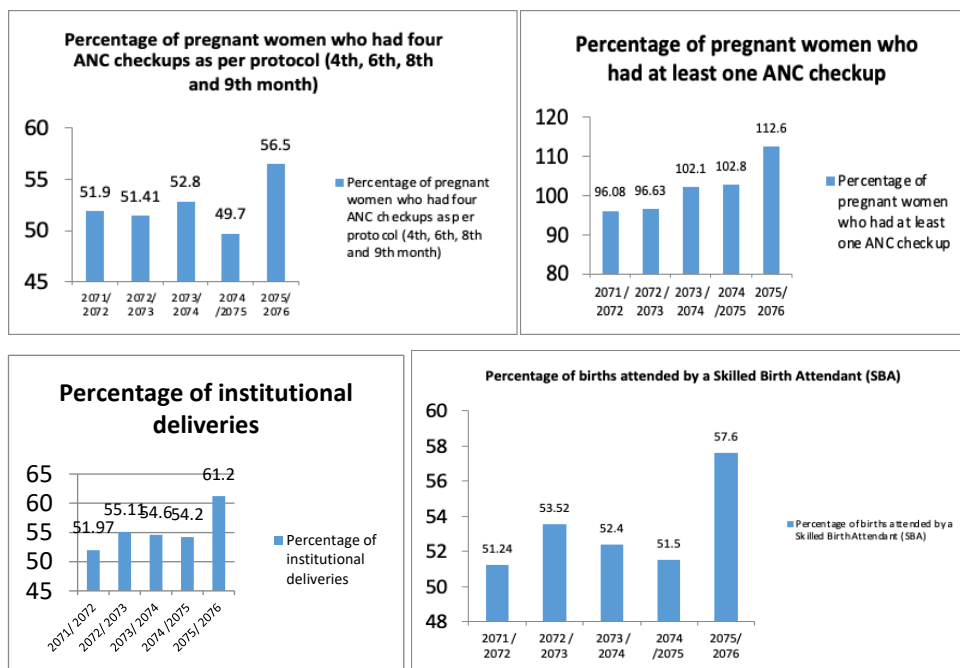
**Maternal Mortality and Sexual and Reproductive Health (Paragraph 26)**

86. Article 35 of the Constitution provides that the right to free basic health services from the State, and no one shall be deprived of emergency health services. Every person shall have the right to get information about his or her medical treatment. Every citizen shall have equal access to health services.

87. Article 38 of the Constitution provides that every woman shall have the right to safe motherhood and reproductive health. Section 18 of the Safe Motherhood and Reproductive Health Act, 2075 (2019) provides that the licensed health worker who has fulfilled the prescribed standards and qualification shall have to provide the pregnant woman with safe abortion service pursuant to Section 15 in the licensed health institution.

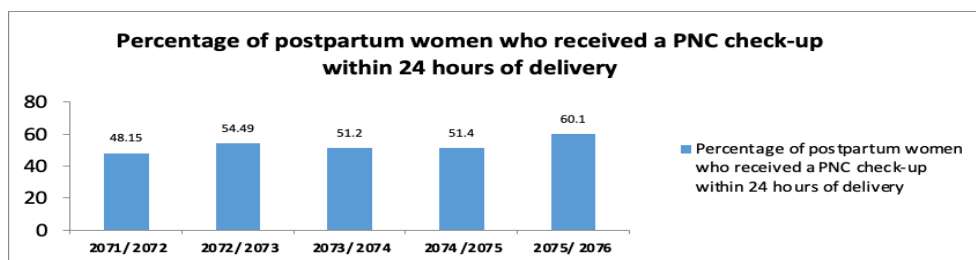
88. In order to increase universal access to Adolescent Sexual and Reproductive Health (ASRH) services and rights and raise awareness of ASRH among adolescents, the Government has offered "Adolescent Fertility Services (AFS)" at 1331 Health Facilities throughout the country.

89. Pelvic Organ Prolapse (POP) is common reproductive health morbidity in Nepal and contributes to Disability Adjusted Life Years (DALYs) and social consequences. Multiparity, maternal malnutrition, too frequent pregnancies and heavy work after delivery are the main risk factors. Conservative management (silicon ring pessary) and training was started in the year of 2072/73. Every year the Ministry allocates funds to the all-local governments to manage POP including free screening, providing silicon ring pessaries, Kegel's exercise training and free surgical services at designated hospitals and provincial level.



90. Institutional deliveries as a percentage of expected live births increased from 51.97 to 61.2 percent over the last year.

#### Postnatal visit



#### Elder persons (Paragraph 27 of the Concluding Observation)

91. The Constitution of Nepal has guaranteed the right of senior citizens. Article 41 provides that “the senior citizens shall have the right of special protection and social security from the State.” This is the first time that the rights related to senior citizens have been included as fundamental rights. The rights related to senior citizens are implemented through relevant legislations such as the Senior Citizens Act, 2006, Social Security Act, 2018, the Public Health Services Act, 2018 and Regulations framed under these Acts.

92. Section 4 of the Social Security Act, 2018 provides for social security allowance to the senior citizens. The social security allowance is provided as means of supporting, and for the financial empowerment of, the senior citizens. The Government is providing NRs. 4000/- per month as a universal, non-contributory social security allowance above the age of 68. The Dalits, senior citizens of remote and backward areas and single woman are entitled to get such social security allowance from the age of 60 years.

93. The Government has made provisions for special protection for senior citizens. The Government has opened geriatric wards in all provincial hospitals and also it is providing up to Rs. 100,000/- for the treatment of some non-communicable diseases like Cancer,

Alzheimer's, Parkinson, Spinal injury and Kidney failure cases, on the recommendation of the concerned doctor. Recently, the Government has started special health insurance programme for senior citizens above the age of seventy years. Health insurance up to Rs. 100,000/- is provided to each senior citizen. Similarly, the Public Health Act, 2075 (2018) provides free basic health facilities for senior citizens. The Government has established care centres, day care centres, and geriatric homes in the different part of Nepal. Likewise, 50% special concession is provided to the senior citizens in public transports while travelling within the country.

#### **School enrolment and drop-out rates among girls, Dalits and indigenous students (Paragraph 28)**

94. The Constitution ensures the right to compulsory and free education up to the basic level and free education up to the secondary level from the State. The Compulsory and Free Education Act, 2018 has been enacted to give effect to the fundamental right to education. The Act has the provision of educational opportunities for all regardless of differences and diversity.

95. The Act states 'every citizen shall have the right of equal access to quality education. No one shall be discriminated on any ground to get education. Sanitary pad is provided to girl students attending community school across the country free of costs. Separate toilets for female are built in each school. The GoN has taken various measures such as providing day meal for retaining students in school and reducing the dropout rate.

96. In the year 2018/19, 49,340 children from the 22 extremely disadvantaged groups have enrolled in lower basic level while 61,541 were in previous year; 18,971 in upper basic level.

97. A total of 91,364 Dalit students of targeted castes/ethnicities enrolled in secondary level (grade 9-12) in the school year 2018/19. Out of which 77,781 were in secondary level (grade 9-10) and 13,583 were in secondary level of grade 11-12.

#### **Cultural rights (Paragraph 29)**

98. Article 32 of the Constitution provides that every person and community have the right to participate in the cultural life of their communities. Every Nepalese community residing in Nepal has the right to participate in the cultural life of their communities. Article 26 of the Constitution provides that every person who has faith in religion have freedom to profess, practice and protect his or her religion according to his or her conviction, to operate and protect its religious sites and religious trusts.

### **C. Other recommendations**

99. Currently, the GoN has been studying on the state obligations to be created after acceding to the Convention on the Protection of the Rights of Migrant Workers and Members of Their Families. The Government is also of the view that necessary preparations have to be made before being a party to the Convention.

100. The GoN has submitted the updated Common Core Document to the treaty bodies in accordance with the harmonized guidelines on reporting approved by the human rights treaty bodies (HRI/GEN/2/Rev.6).

101. The GoN has disseminated the concluding observation of the Committee to all the ministries on the date 24 April 2016 to 26 April 2016. It was uploaded to the website of the Government of Nepal on 12 December 2014. The concluding observation was distributed to the government departments, regional and district level offices and shared with the participants during the stakeholder's consultation workshops held in regional centers/provincial capitals of the country.

## **Part III**

### **New Developments Made for the Implementation of the Covenant (Article-wise)**

#### **Article 1**

##### **Right to Self-determination**

102. Constitution of Nepal was promulgated in 2015 by the Constituent Assembly popularly elected by Nepali people, which in itself is a demonstration of people's right to self-determination.

103. Article 2 of the Constitution provides that the sovereignty and state authority of Nepal vests in the people. Similarly, the Preamble stipulates that the Constitution is the result of internalization of the people's sovereign rights and right to autonomy and self-rule.

104. Article 3 defines Nepal as a nation that all the Nepalese people, with multiethnic, multilingual, multi-religious, multicultural characteristics and in geographical diversities, and having common aspirations and being united by a bond of allegiance to national independence, territorial integrity, national interest and prosperity of Nepal, collectively constitute the nation.

105. Article 4 (1) of the Constitution has declared Nepal is an independent, indivisible, sovereign, secular, inclusive, democratic, socialism-oriented, federal democratic republican state.

106. Article 56 provides that the Federation, Province and Local levels shall exercise the power of state of Nepal pursuant to this Constitution and law. The Federation, Province and Local levels shall protect Nepal's freedom, sovereignty, territorial integrity, independence, national interest, overall development, multi-party, competitive, democratic, republican, federal system of governance, human rights and fundamental rights, rule of law, separation of powers and check and balance, egalitarian society based on pluralism and equality, inclusive representation and identity.

107. Constitution guarantees a range of rights as fundamental rights of the people,<sup>4</sup> to ensure the enjoyment of civil and political rights along with economic, social and cultural rights to Nepalese citizens.

#### **New Initiatives**

108. The Local Government Operation Act, 2074 (2017) protects the interest of local people and provides opportunities for the people in local governance.

109. General Elections for 753 Municipal Assemblies and Rural Municipal Assemblies held for the first time in 2074 (2017) and the representatives elected in the election exercised their Constitutional and legal powers and make laws, policies and programs for the development and benefit of the people. Now, the local governments elected from the elections held in 2079 B. S. are exercising the Constitutional and legal powers of the local governments for the wellbeing of local people in their own capacities.

110. Similarly, the provincial governments in all seven Provinces are exercising their legislative and executive powers as provided by the Constitution. Each Provincial Assembly has enacted almost 50-60 legislations and the province executives also made necessary delegated legislations to implement the laws.

<sup>4</sup> The Constitution of Nepal, 2015, Arts 16-47. 12-32.

111. Provincial Governments have launched various policies and programs for the promotion of health and education of the people. Similarly, programs to provide safe drinking water, development of agriculture and animal husbandry, protection of forest and environment, construction of roads, hospitals, schools, sewerage systems, protection of cultural and historical sites, promotion of rights of women, children, senior citizens, youths, persons with disabilities and indigenous and minority communities are conducted by the province governments.

## **Article 2**

### **Equal Protection of Rights**

112. The GoN has adopted a range of policy, legal and institutional measures, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the Covenant. As mentioned earlier, in addition to the recognition of the bundle of economic, social and cultural rights as fundamental rights in line with the Covenant, the GoN has adopted measures aimed at poverty alleviation, universal access to health, education services and social welfare programs.

113. These measures are in pursuance of the policies and programs of State especially to improve the standards of living of the people through development of infrastructures, education, health, housing and employment of the people, across the regions by equitable distribution of resources. Poverty is a major constraint in the enforcement of these programs. A series of measures, including the establishment of the Poverty Alleviation Fund (PAF), have been adopted to alleviate poverty.

### **Non-discrimination**

114. Article 18 of the Constitution affirms full commitment on the principle of equality of all citizens before law. The state is prohibited from discriminating the citizens on the grounds of origin, religion, race, caste, tribe, sex, physical condition, condition of health, marital status, pregnancy, economic condition, language or religion, ideology or on similar other grounds.

115. No person can, on the basis of grounds of origin, religion, race, caste, tribe, sex, physical condition, condition of health, marital status, pregnancy, economic condition, language or region, ideology or on similar other grounds, be discriminated. The right to equality is also categorically guaranteed by other legislations as well.

116. Article 42 is the special fundamental rights of Dalit. It provides that the Dalit shall have the right to participate in all bodies of the State on the basis of the principle of proportional inclusion. Special provision shall be made by law for the empowerment, representation and participation of the Dalit community in public services as well as other sectors of employment.

117. The National Dalit Commission is formed as a Constitutional body. It is responsible for conducting studies and exploration as to the overall situation of the Dalit community, identifying areas of necessary policy, legal, and institutional reforms, and making recommendations to the Governments. It has a mandate to monitor whether laws concerning the interests of the Dalit community, including the special provisions made for the upliftment and interests of the Dalit community have been effectively implemented, and make suggestions to the GoN.

## **Article 3**

### **Right to Equality between Men and Women**

118. Article 18 of the Constitution provides that all citizens shall be equal before the law. No person shall be denied the equal protection of the law. It is important to note that the provision of equality under the Constitution does not rule out a prospect of application of the doctrine of positive discrimination to those who have been subjected to discrimination or degrading different treatment in the past, including women.

119. The proviso to Clause (3) of Article 18 provides that special provisions may be made by law for the protection, empowerment or development of citizens, including socially or culturally backward women, Dalits, indigenous people, indigenous nationalities, Madhesi, Tharu, Muslim, oppressed and backward classes, persons with disabilities, persons in pregnancy, incapacitated or helpless, backward regions, and indigent Khas Arya.

120. Article 40 of the Constitution deals with the rights of women. Clause (3) of this Article provides that no woman shall be subjected to physical, mental, sexual, psychological or other form of violence or exploitation on grounds of religion, social, cultural tradition, practice or on any other grounds. Such an act shall be punishable by law, and the victim shall have the right to obtain compensation in accordance with the law.

### **New Initiatives**

121. The gender friendly budget approach has been devised by the NPC and MOF in formulation and implementation of plans and programs and earmarking requisite financial resources for the same so as to achieve overall development and empowerment of women.

122. A range of laws have been enacted or amended to ensure gender equality. Numerous legal provisions have been included in the Civil Code and The Criminal Code. Similarly, other legislations have been repealed and amended in line with the Constitutional provisions.

123. Article 70 of the Constitution provides that election to the President and the Vice-president shall be elected as to have representation of different sex or community. Sub-clause (b) of Clause (1) of the Article 84 provides that one hundred and ten members to be elected through the proportional electoral system where voters vote for political parties, with the whole country being considered as a single election constituency. Sub-clause (a) of clause (2) of the Article 86 provides those fifty-six elected members consisting of at least three women, one Dalit and one from persons with disabilities or minorities, from each Province by an electoral college.

124. Clause (2) of Article 91 provides that the election shall be so held that there shall be one woman among the Speaker and the Deputy Speaker of the HoR.

125. Clause (2) of Article 92 provides that the election shall be so held that there is one woman out of the Chairperson and the Vice- Chairperson of the National Assembly.

126. Clause (2) of Article 182 provides that the election shall be so held that there is one woman out of the Speaker and the Deputy Speaker of Province Assembly.

127. Clause (6) of Article 176 provides that the federal law shall provide that, in fielding candidacy by political parties for the election to the Provincial Assembly under the proportional electoral system, representation shall be ensured on the basis of a closed list also from women, Dalit, indigenous, indigenous nationalities, Khas Arya, Madhesi, Tharu, Muslims and backward regions, minority communities, on the basis of population.

128. Clause (4) of Article 215 provides that the members of the Village Executive shall also include four women members elected by the members of the Village Assembly from amongst themselves and two members elected by the Village Assembly from the Dalit or minority communities.

129. Clause (4) of Article 216 provides that the members of the Municipal Executive shall also include five women members elected by the members of the Municipal Assembly from amongst themselves and three members elected by the Municipal Assembly from the Dalit or minority communities.

130. Clause (2) of the Article 223 provides that a Municipal Assembly under Clause (1) shall consist of the Mayor and the Deputy Mayor of the Municipal Executive, Ward Chairpersons, and four members elected from each ward and members of the Municipal Executive elected from Dalit or minority communities. Clause (3), provides that a Municipal Assembly shall have representation of at least two women from each ward.

**Gender Equality and Empowerment:**

131. The President's Women Upliftment Program has been conducted for gender equality through economic and social transformation. Pregnant and prenatal women who are in the risk of death, in the remote villages are being rescued by helicopters. This Program has been implemented since 2019 and it has positive impacts on reducing GBV and discrimination, reinforcing empowerment and decreasing the risks of maternal and infant mortality.

132. Preventive, protective and curative measures have been taken to eliminate all kinds of the violence, discrimination, and harmful practices against women. For this purpose, Helpline Number 1145 (National Women Commission), 100 (Nepal Police), 104 (National Center for Children at Risk), and 1098 (Child Helpline) have been operated for the registration of complaints.

133. To provide protective services for victims of violence and female survivors, thirty-six service centers and One-Stop Crisis Management Centers (OCMCs) are established. A Gender Violence Elimination Fund has been established to provide legal aid, health services, psychosocial counselling, emergency support and the income-generating support to victims of GBV.

134. The Single Women Protection Fund has been established in order to rescue, relief and provide livelihood in accordance with the rules. Ten rehabilitation centers have been operated for the victim or survivors of human trafficking and rehabilitation fund has been established to rescue and manage the survivors and victims of human trafficking.

**Women's participation in the decision-making process**

135. Women's greater participation in national politics is a major change that has taken place in Nepal. There is mandatory requirement for political parties to nominate at least 33 percent women candidates for all levels of elections. As a result, there are 32.73% women in the House of Representatives, 37.29% in the National Assembly, 34.36% in the Provincial Assembly and 40.96% in the Municipal/Rural Municipal Assemblies.

136. The Women Development Section have been established in all 753 local levels as an institutional foundation for the empowerment of women.

**Legislative Measures**

137. Legal provisions are providing affirmative measures for the empowerment of women. Various laws, such as laws relating to citizenship and domestic violence, Safe Motherhood and Reproductive Health Rights Act, 2076 (2019), and Public Health Service Act, 2076 (2019) have been enacted and many discriminatory laws have been amended or repealed to comply with the Constitution.

138. Women can enjoy the right to property on an equal footing with men. Women are also legally recognized as coparceners and they are not required to return ancestral property even after marriage.

139. Gender discriminatory provisions relating to marriage, divorce, child custody and adoption have also been repealed and the law provides equal grounds for men and women for divorce.

**Challenges**

140. Despite the policy and legal measures, there are still some discriminatory practices between men and women. The social and cultural structure is still pigeonholed against the women considering them weaker than men. There is social stigma against people of third gender in the society and sometimes they have to encounter with various discriminatory practices.

## **Article 4**

### **Limitation on Economic, Social and Cultural rights in time of Public Emergency**

#### **Basic Information**

141. Fundamentals Rights provided in part-3 of the Constitution can be suspended during the public emergency declared pursuant to Article 273 (1) but some of the rights cannot be curtailed even in such emergency.

142. A person is entitled to obtain reasonable compensation for any damage inflicted on that person by any act done by any official in bad faith by any official during the continuance of such emergency order.

## **Article 6**

### **Right to Work and Employment**

143. The Constitution guarantees right to employment and right to labor as fundamental rights. It provides that every citizen shall have the right to employment and right to choose an employment. It further provides, every laborer shall have the right to practice appropriate labor, right to appropriate remuneration, facilities and contributory social security.

144. Right to Employment Act, 2075 (2018) along with Right to Employment Rules, ensures the right of every citizen to employment, providing every citizen with an opportunity to choose employment according to his or her capacity, and in relation to the terms and conditions of employment.

145. The Act has also ensured right to get unemployment support, along with providing livelihood allowance to unemployed person. Section 10 of the Act envisages Employment Service Center (ESC) in each of the 753 local governments. The ESC updates the unemployed people every year and provides labor and employment supports, including ensuring the employment guarantee to those who are poorest and most vulnerable.

146. The employment guarantee shall consist 100 days of employment. The family of registered unemployed are entitled to receive 50% wage of the total unemployed days as subsistence allowance.

147. The Sections 162, 163, 164 of the National Penal Code, 2074 (2017), the Labour Act, 2073 (2017), the Human Trafficking (Control and Punishment) Act, 2064 (2007) and the Bonded Labour (Prohibition) Act, 2059 (2002) are key enabling legislations to prohibit any form of slavery and human trafficking in any form and for any purpose. The offenders are liable to punishment of both fines and imprisonment, along with the liability to pay compensation to the victims.

148. The Council for Technical Education and Vocational Training, a statutory and autonomous body constituted in 1989, is responsible for imparting basic and middle level technical education and skill-oriented vocational trainings for development of human resources. It is responsible for facilitating private technical schools and providing services to maintain the quality of programs.

#### **Prime Minister's Employment Program<sup>5</sup>**

149. Prime Minister Employment Program is being implemented with the two major and overarching goals:

- Social Protection through ensured minimum employment opportunities;
- To increase productive employment opportunities.

150. Employment service centers are in operation in all the 753 local levels and Employment Information Management System is used to manage all the information related

<sup>5</sup> Annual Progress Report, 2076/77, Ministry of Labor, Employment and Social Security.

with unemployed people, employment and employment opportunities. Till the fiscal year 2021-22, total 543,584 of unemployed people have engaged in employment opportunities.

151. Study of creation of employment opportunities from the federal government and provincial government also has been carried out and the insurance of 30,000 workers has been done along with the agreement with National Insurance Companies.

152. The GoN has brought 'National Employment Policy 2016' and Foreign Employment Policy 2012 into implementation. It has expressed its commitment to sustainable development goals at the international level and to safe and secure employment through the International Labour Organization (ILO) Conventions. For this purpose, various programs are conducted with the strategy of enhancing productivity, promotion of domestic employment and abolition of forced foreign employment.

153. Institutionally, GoN has opened 110 countries for foreign employment but, on individual basis, Nepali workers have migrated to 172 countries for foreign employment. The main destinations of Nepalese workers are Malaysia, Qatar, Kuwait, Bahrain, Saudi Arabia and United Arab Emirates.

154. A total concessional credit of Rs.333.314 million has been provided to women entrepreneurs from Women Entrepreneurship Development Fund since FY 2014/15 to mid-March 2019. Micro, Cottage and Small Industries Development Fund has distributed a total grant of Rs.49.128 million to 262 entrepreneurs from FY 2013/14 to FY 2017/18. Almost 6,200 jobs have been generated from the mobilization of women entrepreneurship and Micro, Cottage and Small Industries Development Fund.

155. It is estimated that 3,042,000 jobs have been generated from the micro, small & cottage, medium and large-scale industries.

156. Producing competent human resources for the international labor market, providing necessary assistance and protection to workers seeking foreign employment, making training programmes qualitative, making legal and institutional reforms in line with new managerial and organizational practices, and enhancing the access of women, Dalits, Indigenous Nationalities, Madhesis, Muslims, persons with disability, and marginalized groups, to the available opportunities in the labor market are some of the challenges.

## Article 7

### The Right to Just and Favorable Conditions of Work

157. Nepal is a party to major eleven ILO Conventions<sup>6</sup> for ensuring the right to just and favorable condition of work. The Constitution of Nepal, Labor Act, 2017, Children Act, 2017, Trade Union Act, 1993, Child Labor (Prohibition and Regulation) Act, 2000, and Foreign Employment Act, 1986 are some important legal measures to implement these Conventions in Nepal.

158. Labour Act, 2017 is the principal law ensuring the labor's right in Nepal. The Labor Act prohibits forced labour and employment of child labour, prohibits discrimination among laborers on any grounds, prohibits discrimination in remuneration for equal work and assures right to association and join trade unions.

159. Section 28 of the Act specifies the working hours for laborers and provides that no employer shall engage a laborer for more than eight hours per day and 48 hours per week. They shall be provided with a half an hour of leisure after five hours of work. Similarly, no employer shall enforce laborer for the overtime but in case of adverse effect on life, security

<sup>6</sup> C029; Forced Labor Convention, 1930; C098, Right to Organize and Collective Bargaining Convention, 1949; C100; Equal Remuneration Convention, 1951; C105, Abolishment of Forced Labor Convention, 1957; C111, Discrimination (Employment and Occupation) Convention, 1958; C138, Minimum Age Convention, 1973; C182, Worst Forms of Child Labor Convention, 1999; C144, Tripartite Consultation (International Labor Standards); C014, Weekly Rest (Industry) Convention, 1921; C131, Minimum Wage Fixing Convention, 1970; C169, Indigenous and Tribal Peoples Convention, 1989.

and health of anybody or serious damage or loss to the employer they can be deployed for overtime work not more than four hours per day and 24 hours per week.

160. The labor law has provisions on leave and holidays, remuneration, provident fund, gratuity and insurance, fair labour practice, prohibition of sexual harassment, individual and collective dispute settlement mechanisms etc.

161. Laborer can enjoy one day for weekly holiday, one day home leave for twenty working days and twelve days sick leave per annum. Similarly, they can enjoy 98 days for maternity leave out of which 60 days are fully paid leave and 15 days for paternity leave. All holidays and leaves are fully paid.

162. Regular labor inspections in different industries are conducted by labor inspectors from labor offices. Government provides trainings on labour audit, social security, informality diagnostics, nationality and sectoral diagnostics and best international practices for capacity enhancement of officers. “Organizational Health and Safety Policy” has been passed by the government and now workplace inspection has been conducted as according to the OHS Policy. Labor audit report of 1656 workplace is received in ministry.

163. “Labor Audit Standard, 2075” and “Integrated Labor Inspection Manual and Framework” is in implementation. Accordingly, “National Occupational Safety and Health Policy, 2076” is in implementation for proper management of workplace.

164. “National Master Plan on reduction of Child Labour (2075-2085)” is being implemented and “Inter-Agency Working Group on Child Labour” conducts regular discussion on reducing child labour.

165. Similarly, “National Action Plan on Business and Human Rights (2080-2085) is also adopted and is being implemented.

166. The shortage of trained workers has created problems for the industries as well as entrepreneurs. Attractive remuneration and facilities in foreign employment as compare to Nepali labour market is a big challenge in retaining trained, skilled, semi-skilled workers in Nepal.

## **Article 8**

### **Right to Associate in Trade Union**

167. Article 34 of the Constitution has stipulated that every laborer vis-à-vis worker and employee has the right to constitute and join trade unions and engage in collective bargaining as provided by law.

168. Trade Union Act, 1992 regulates the matter of registration and operation of trade-unions. Section 3 of this Act provides that the workers of an enterprise may constitute an enterprise level trade-union. At least 50 trade-unions or 5,000 workers of similar enterprises can form an association of trade-unions, and at least 10 trade-union associations can form a confederation of trade-unions. Pursuant to Section 8, a trade union is an autonomous body corporate with perpetual succession.

169. Section 8 of the Labor Act, 2017 provides for rights relating to trade union. Section 91 of the Act provides that Trade Unions are obliged to do appropriate practices. Section 123 of the Act provides that Trade Unions may submit the claim of Collective Bargaining. Persons deputed on security or involved in management are not allowed for collective bargaining and strikes.

## **Article 9**

### **Right to Social Security**

170. Article 43 of the Constitution provides that the indigent citizens, incapacitated and helpless citizens, helpless single women, citizens with disabilities, children, citizens who cannot take care themselves and citizens belonging to the tribes on the verge of extinction shall have the right to social security, in accordance with law.

171. Moreover, clause (2) of Article 42 provides that the indigent citizens and citizens of the communities on the verge of extinction shall have the right to get special opportunities and benefits in education, health, housing, employment, food and social security for their protection, upliftment, empowerment and development.

172. Similarly, Clause (2) of Article 34 provides that every laborer has right to appropriate salary, benefits and contribution based social security. A range of policy, legal and institutional measures has been adopted with a view of giving effect to these provisions and ensuring the right to social security of laborers.

173. The Contribution-based Social Security Act, 2017, Social Security Regulation, 2018, Working Procedure for enlisting Employers and Employee, 2018 have been issued and implemented. Contributions-based social security plan has come into effect since December 2018, and it has been amended three times to broaden the extension of contributory social security schemes horizontally and vertically in different sectors.

174. As of the data of 25th of June 2023, a total of 1,7982 employer's organizations and 616,745 contributors are registered under the Social Security Fund. This registration shows the increasing trend. Four schemes<sup>7</sup> of social security, with the possibility of expansion as prescribed in the Contributory Social Security Act are executed.

175. Social Security Fund has collected NRS 3522.73 crores in the fund whilst payment of 490.43 crores has been dispensed against the claims made by 86,498 contributors. Furthermore, the Government has expanded the role of SSF and included the coverage to migrant workers and self-employed persons in the SSF.

176. Government has been providing social security allowance and economic support to economically and socially backward elderly citizens, single women and widows, disabled citizens and in danger of extinction groups and indigenous tribes and children. By mid-March of the FY 2018/19, a total of 2,814,084 beneficiaries have received monthly allowance as a benefit.

177. Social Security Plan for Workers in Foreign Employment and Self-Employed People Abroad, 2023 was adopted to expand the Social Security Scheme to foreign migrant workers. The current provision requires migrant workers to contribute at least 21.33 percent of the minimum wage rate fixed by the GoN in the fund.

### **Senior Citizens**

178. Article 41 of the Constitution provides that senior citizens shall have right to special protection and social security from the State. Section 122 of the Civil Code, 2017 provides that every son or daughter shall treat his or her mother, father with honor and respect. Every son or daughter shall provide necessary care, maintenance, medical treatment or attention to his or her mother, father; according to his or her financial and social status notwithstanding living in an undivided family or separately in accordance with law.

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

180. The Government has been running old age care centers and day-care centers for the protection, care, and security of senior citizens. The Government is providing a special discount in transportation; medical treatment of senior citizens along with monthly social security allowances.

181. The Senior Citizens Act, 2063 (2006) has been enacted and it is the specific legislation for ensuring the protection and social security of senior citizens and enhancement of trust,

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<sup>7</sup> Medical Treatment and Maternal Security Plan, Accident and Disability Security Plan, Dependent Family Members Security Plan, and Old Age Security Plan.

respect and good faith towards them by utilizing knowledge, skills, capability and experiences inherent in them. This legislation establishes the duty of all to respect senior citizens and that of the family members to maintain and care them.

182. It entitles the senior citizens to a range of facilities and concessions on health, water, electricity, telephone and transport services. The Act provides a central senior citizen welfare committee, with responsibilities to make policy recommendation to the GoN and implement the plans and programs. It also provides district senior citizen welfare committee in each district for the implementation of the programs.

183. Lack of effective coordination between relevant institutions, absence of proper environment and mechanism for availing of the knowledge, skill, experience and competence of the senior citizens, absence of a desired level of awareness on the role and contribution of senior citizens, shortage of resources and ignorance in prioritization of the need of elderly peoples are major challenges.

### **Persons with Disability (PWDs)**

184. Nepal has ratified the United Nations Convention on the Rights of Persons with Disabilities, and its Optional Protocol. Fundamental rights of persons with disability have been ensured in the Constitution of Nepal. Rights of participation of PWDs in the state bodies has also been ensured based on principle of inclusion under the rights of social justice in fundamental rights.

185. The Constitution protects the rights of persons with disabilities that include the right to education, right to participation in the State institutions based on the principle of inclusion, right to access to public services and benefits, and right to social security. Rights of Representation for Person with Disability has been ensured in House of Representatives, National Assembly and Provincial Assembly by Clause (3) of Article 84, Clause (2) of Article 86 and Clause (7) of Article 176 respectively.

186. “The Act Relating to Rights of Persons with Disabilities, 2074 (2017) has been enacted. The Act recognizes diversity within disability, eliminates and criminalizes use of derogatory terms words towards persons with disabilities. PWD represent Nepal’s 1.94% of the population. Among them, 45.46% are female.<sup>8</sup>

187. GoN issues color-coded disability identity (ID) cards.<sup>9</sup> It has ensured special rights for women and children with disability. 50% discount is provided to the person who possesses color-coded disability identity card falling in categories 1, 2 and 3 only.

188. The special education policy has been amended and new Inclusive Education Policy, 2073 has been passed. Access to Infrastructure and Communication Service Directives, 2069 is being implemented. Other programs targeted for person with disability, including rehabilitation, distribution of support appliances, advocacy and legal aid and skill development trainings have been conducted.

189. Privileges in education, health, skill-based training and transportation services are some examples of positive discrimination in favor of PWDs.

190. A range of new policy, legal and institutional measures have been adopted for the protection and promotion of the rights of PWDs on the right-based approach.

191. Province and local levels have been implementing various programs in promoting and protecting the rights of persons with disabilities. They have made their own laws, policies and programs in the spirit of the implementation of the CRPD and other human rights instruments, although their role is not clearly defined by federal law.

<sup>8</sup> Central Bureau of Statistics, 2011

<sup>9</sup> GoN issues four types of color-coded disability identity (ID) cards to persons with disabilities on the basis of severity of disability i.e. (1) Red-colored card for Profound, (2) Blue-colored card for Severe, (3) Yellow-colored card for Moderate, and (4) White-colored card for Mild level of disability. Disability ID Card Distribution Directives, 2008 has included a list of documents and procedures to apply and obtain disability ID card.

192. Inadequate human, financial and physical resources, lack of coordination between the relevant government agencies, low priority in the rights of PWDs, absence of substantial change in traditional public outlook towards disability, lack of awareness about their rights among PWDs and expectation of welfare programs from the government are the major challenges.

## Article 10

### Protection and Assistance to the Family, Mothers and Children

193. Article 38 of the Constitution provides right of women as a special fundamental right. It contains the provisions such as: equal lineage right without gender discrimination; right to safe motherhood and reproductive health; protection from physical, mental, sexual, psychological or other form of violence or exploitation on grounds of religion, social, cultural tradition, practice or on any other grounds; right to participate in all bodies of the State on the basis of the principle of proportional inclusion; right to obtain special opportunity in education, health, employment and social security on the basis of positive discrimination, spouse shall have equal rights in property and family affairs.

194. Sub-section (4) of Section 3 of the Public Health Service Act, 2075 (2018) provides that every citizen shall have the right to obtain free basic health services under the following headings, Vaccination service, motherhood, infant and pediatric health service, Service relating to communicable disease, service relating to non-communicable disease and physical disability, service relating to mental disease, service relating to elderly citizen's health, service of general emergency condition, health promotion service, and Ayurveda and other accredited alternative health services.

195. Article 51, Clause (j) of the of the Constitution of Nepal provides the social justice and inclusion policy of the state as follows:

- To make appropriate arrangements for the livelihoods of the *helpless single women*, while conferring priority to them in employment on the basis of skills, competency and qualification;
- To make self-dependent the *women who are vulnerable*, subjected to social and family exclusion and victims of violence; self-reliant by making their rehabilitation, protection and empowerment;
- To ensure enjoyment of requisite services and facilities at the reproductive stage; to evaluate economically the work and contribution such as maintenance of children and care of families;
- To take into consideration primarily of the best interests of the child;
- To identify the *freed Kamaiya, Kamlari, Harawa, Charawa, tillers, landless, squatters* and rehabilitate them by providing housing, housing plot for residence and cultivable land or employment for their livelihoods.

#### Free consent to establish family

196. Nepalese society and the State have protected the family as the natural and fundamental unit of society. Joint family system is traditional norms of the Nepalese society, although nuclear families are becoming more common. Every person can enjoy family life without any intervention.

197. The minimum legal age for marriage is twenty years in Nepal. Anyone is free to choose his or her partner for marriage. Free will and consent of the prospective spouses is mandatory for marriage, and a marriage entered without such consent is inevitably void.

198. The marriage is considered as a permanent, unhindered, sacred, social and legal bonding based on free consent between men and women, and to start a conjugal and family life. If any man and woman accepts each other as husband and wife in any ceremony, celebration or any formal or other acts including registration is considered as married.

199. Part Three, Chapter 1- 4 of the Civil code have provisions on protection of marriage and family.

### **Women Empowerment**

200. Pregnant and postpartum (sutkeri) women are being air-rescued from remote areas of different districts, to save them from life threatening situation under the President Women Empowerment Program.

201. Preventive, protective and curative measures have been taken to eliminate all kinds of violence, discrimination and harmful practices against women. Helpline Number 1145 (National Women Commission), 100 (Nepal Police), and 104 (National Center for Children at Risk) have been managed for registration of Complaints on violence against women and children.

202. Violence victims and women survivors have been provided protective services through thirty-six Service Centers and One-Stop Crisis Management Centers (OCMCs) maintained in province and district hospitals.

203. Gender Violence Elimination Fund has been established and activated for the rescue and protection of women victims of violence. Single Women Protection Fund has been established in order to rescue, relief and livelihood for women.

204. Gender analysis and Gender audit have been conducted by all three tiers of governments in their entities. The gender responsive budget committee looks into gender issues in development programs, budgeting and their implementation.

205. Several programs are in operation to enable women of socially and economically marginalized groups to have access to employment-oriented skills and productive resources and to increase their decision making and organizational capacity.

### **Protection and Assistance to Children**

206. Article 39 of the Constitution provides that every child has the right to name and birth registration along with his or her identity, every child have the right to education, health, maintenance, proper care, sports, entertainment and overall personality development from the families and the State, every child has the right to elementary child development and child participation, no child shall be employed to work in any factory, mine or engaged in similar other hazardous work, no child shall be subjected to child marriage, transported illegally, abducted/kidnapped or taken in hostage, no child shall be recruited or used in army, police or any armed group, or be subjected, in the name of cultural or religious traditions, to abuse, exclusion or physical, mental, sexual or other form of exploitation or improper use by any means or in any manner, no child shall be subjected to physical, mental or any other form of torture in home, school or other place and situation whatsoever.

207. Further, every child has the right to juvenile friendly justice, the child who is helpless, orphan, with disabilities, conflict victim, displaced or vulnerable shall have the right to special protection and facilities from the State, any act contrary to Constitution shall be punishable by law, and a child who is the victim of such act shall have the right to obtain compensation from the perpetrator, in accordance with law.

208. The GoN has formulated National Children Policy, 2080; for the protection of children. Similarly, Strategy against Child Marriage, 2072 is being implemented to eradicate the child marriage. The new strategy against Child Marriage is in drafting process.

209. Scholarships have been provided to incapable, poor and Dalit children. Consequently, education, health, sports and entertainment related facilities have gradually improved, along with increase in rehabilitation and socialization of victim and conflict-affected children. About 96.5 per cent of the school age children are enrolled in schools.

210. The Standard for Operation and Management of Residential Child Care Homes – 2012 has been framed and enforced with a view to ensure the best interests of children. All children homes have to maintain the minimum standards pertaining to physical infrastructures, operation and management and basic facilities for ensuring health, education and psychosocial support for children. Criteria for regular monitoring and supervision of such homes are also specified by these standards.

211. There is a comprehensive legal regime for child protection in Nepal. The Act Relating to Children, 2075 (2018) is an important piece of legislation enacted to protect and safeguard the rights and interests of children. The Act has been enacted in order to maintain the best interests of the children, by respecting, protecting, promoting and fulfilling the rights of the child.

212. This Act as well as criminal justice system of Nepal is geared towards the rehabilitation of juveniles. The legal regime is based on a child friendly approach. It focuses on the adjudication of matters in the best interests of children and strives for their rehabilitation through children reform homes. In exercise of the powers conferred by section 85 of the Act Relating to Children, 2075 the GoN framed and enforced the Child Justice Performance (Procedures) Rules in 2019.

213. There are juvenile benches in all 77 District Courts. Capacity building training for Judges, psychologists and social workers for juvenile bench has been carried out by National Judicial Academy. Central Child Justice Committee is formed in the chairpersonship of the Justice of Supreme Court. Similarly, District Child Justice Committees are formed in the chairpersonship of senior district judge.

214. The Vital Registration Act, 1976 has also been amended, enabling both male and female family members to report the birth registration of their children. The GoN has introduced rules for exemption on registration fees to encourage parents to register the birth of the children.

215. The GoN has also allocated budget for improvement in child-care by poor and highly backward families. The child protection grants of Rs. 200 per month per child below 5 has been provided for two children of each poor Dalit families, all families in Karnali Zone and Terai-Madhesh Districts which are lag behind in the Human Development Index.

216. Province and Local Governments have been initiating various policies and programs to protect the rights of children within their jurisdiction.

217. The implementation of policies and programs are not effective due to lack of adequate and effective coordination and monitoring mechanism within the government agencies. The financial assistance provided by the government to the children of poor and backward families, and Dalit family is not sufficient to address their fundamental need.

## **Article 11**

### **The right to the Continuous Improvement in Living Condition**

218. Nepal's economic growth is estimated to be 2.16 percent at the basic price in the fiscal year 2022/23. Due to growth in energy production, the production in the electricity, gas, steam, and air conditioning supply sector is estimated to expand by 19.0 percent. In the last fiscal year, Nepal's economic growth was 5.26 percent at basic prices.<sup>10</sup>

219. Total consumption is estimated to be 93.6 percent in the current fiscal year as compared to 94.2 percent in the fiscal year 2021/22. In addition, gross domestic savings are estimated to reach 6.4 percent of GDP during this period. The total investment is estimated to decline by 5.0 percent to Rs 1,754.16 billion in the current fiscal year. The total investment in the fiscal year 2021/22 was 37.4 percent of the GDP, which is estimated to be 32.6 percent in the current fiscal year.<sup>11</sup>

<sup>10</sup> Ministry of Finance, Economic Survey 2022/23, p. xiii.

<sup>11</sup> Ministry of Finance, Economic Survey 2022/23, p. xiii-xiv.

220. In the current fiscal year, per capita GDP is estimated to increase by 8.1 percent to Rs. 182,683 (USD 1,399). In the last fiscal year, it was Rs. 169,038. During this period, the estimated per capita gross national income is USD 1,410 and the estimated per capita national disposable income is USD 1,752.<sup>12</sup>

221. With the implementation of fiscal federalism, the integrated spending of the three tiers is gradually increasing. In the fiscal year 2021/22, the integrated expenditure of the federal, provincial, and local levels increased by 9.4 percent to Rs. 1.49 trillion. Out of total consolidated expenditure, the share of recurrent expenditure, capital expenditure, and financial management are 57.6 percent, 32.9 percent, and 9.5 percent, respectively.<sup>13</sup>

222. In the fiscal year 2021/22, federal revenue (revenue used by the federal government) accounts for 19.0 percent, and federal expenditure accounts for 26.6 percent of the GDP. Similarly, revenue shared to Provinces and local levels accounts for 2.6 percent.<sup>14</sup>

223. As of mid-March of 2023, the public debt liability of the federal government has reached Rs 2080.6 billion, including internal debt of Rs 1010.18 billion and external debt of Rs 1069.78 billion. As of mid-July of 2022, the public debt liability was Rs 2013.29 billion. By the mid-March of FY 2022/23, a total of Rs. 87.20 billion domestic loans have been mobilized.<sup>15</sup>

224. Until the mid-March of the FY 2022/23, Nepal has received commitments for international development assistance including loans and grants equivalent to Rs. 137.12 billion. Out of this, Rs. 72.58 billion has been mobilized. During this period, international development assistance amounting to Rs. 53.44 billion has been utilized.<sup>16</sup>

225. Poverty has gradually decreased due to increment in the flow of remittance. The population below absolute poverty line is estimated to be 18.7 percent and in terms of multidimensional poverty index, around 28.6 percent population is living below poverty line. The purchasing power parity of individual Nepali is Rs. 1, 03,335 (US \$1004).

226. The MoLMCPA is conducting identification of Poor families and distribution of identity card program in 26 districts. It has identified 3,91,831 poor families and identity card is being distributed through local level. Till F/Y 2079/80 in 23 additional districts 223,330 poor families are further identified and distributed the identity card accordingly.

227. The access to land is very low for peoples of marginalized communities along with Dalits. For example, in Santhal, Jhagad, Kissan and Munda communities, 58.5 percent are landless. Similarly, 45.8 percent of Rajbansi (Kochi), Gangai, Dhimal, Tajpuria, and Meche communities are landless. In total, 44 percent of Dalits in the Terai are landless and 44.6 percent of the Dalits of the hills are marginalized farmers (owning 0.18 to 0.40 hectare of land). Among the religious groups, 40.4 percent of Muslims and Churoute are landless.

228. The GoN is working out to form a commission to provide land to the landless people. The MoLMCPA has compiled initial statistics that three-lakh people are landless and unmanaged shelter. The GoN has amended the law relating to Land in order to provide land to the landless Dalits within three years.

### **Right to adequate food**

229. The Constitution recognizes right to food and food sovereignty as a fundamental right. The Right to Food and Food Sovereignty Act, 2075 (2018) contains provisions of identifying targeted household in terms of food security; provision of ration card; maintain food supply during emergencies; rights of farmers; prevention and control of famine sustainable use of agricultural land; provisions for food supply for free or concessional price, promotion of local food system including climate change adaptation.

<sup>12</sup> Ibid. p. xiv.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid. p. xv.

<sup>16</sup> Ibid.

230. The Act also made responsible to federal, provincial and local level governments to provide food support to the target households for concessional price and to the targeted households of particular nature for free as prescribed. GoN in coordination with the province and local governments, has established the agriculture market related infrastructures, cold storage, collection centers for developing the effective marketing and security of agriculture products.

231. The production and productivity of cereals and minor crops have been increased. Program for promotion and protection of local varieties of crops have been implemented. Several crop varieties having capacity to cope with the changed climatic scenario has been developed.

232. The access to food has become easy due to the increase in per capita income of the people, easily available agriculture goods in the local market and well-functioning of domestic market accompanied by free supply of food items from the neighboring countries and imports of food item from the third countries.

233. To ensure the availability of food to the residents of remote areas of Nepal, government enterprises are providing essential goods in subsidized rate from 59 sales depots in remote and rural locations of 24 districts of the country. Similarly, the GoN has been operating Goiter Control Program under which transport subsidized salt is being sold to remote and rural residents from 61 places of 17 districts.

234. 'Food for Work' and 'School Feeding' programmes are being implemented. However, the food provided through this program is not enough as per their demand. The current situation indicates that much efforts needs to be done in the realization of this right in remote areas.

235. About 35 percent of the population of the country feels the shortage of food. The ratio of population not in a position to consume the minimum calories, at the national level, is 39.9 percent. This ratio for the Mountain region is 45.2 percent, Hill region 41.8 percent and the Terai region 37.4 percent. The number of under-five years of stunting children has reduced from 57 percent in 2001 to 35.8 percent in 2016. Multi-sectoral Nutrition Plan (2013-2017 and 2018- 2022) is implemented to improve the nutrition in the citizens.

236. The prevalence of wasting (low weight for height) of under 5-year-olds has fluctuated in recent years in Nepal, from 9.6 percent in 2001 to 11.4 percent in 2014 and 9.7 percent in 2016. There was a little difference in the rate of wasting between boys (9.5%) and girls (9.8%) in 2016 and only a small difference in under 5-year-olds wasting by residence with 10.2 percent in rural areas versus 9.2 percent in urban areas. Children in the Terai had the highest prevalence of wasting (12%) compared to children in the hills (6.4%) and mountains (6.1%). The prevalence of wasting among infants aged 0-23 months was almost twice (ranging from 15.2% to 21.3%) than that among 48-59 months infants (6.2%).

237. Among the children below 5 years of age, 50.4 percent are found to be stunting in relation to their age and 45.2 percent are found to be underweight in relation to their age. In case of gender, the nutrition position is more among the girl's group (39.7%) rather than the boys (39.5%). In 2016, 17% of women are suffered from chronic energy deficiency. 40% of women (15-49 years age) suffering from anemia.

238. In order to remove nutritional deficiency, various micro nutrient supplement programs have been launched, including Vitamin 'A' for children under five years of age; distribution of nutritious food package to the family members of pregnant and lactating women under the golden thousand days program. Iron Capsule and Albendazole are provided to children aged 12 to 59 months against parasitic worms.

239. The status of food security has improved as a result of extended irrigation facilities, distribution of high yielding seeds and chemical fertilizers. Agricultural production, particularly of paddy, wheat, maize, vegetables and potatoes has been increased. Similarly, the GoN has implemented Prime Minister Agriculture Modernization Project, Advanced Seed Program, Project for Income Raising of Small and Medium Farmers, Agriculture Insurance Program, and Minimum Support Price Program to ensure food and nutrition security. The National Food Safety Policy, 2076 (2019) has been adopted by the GoN which aims to double the food production in ten years.

240. In the current fiscal year, the production of food grains such as paddy, wheat, and maize are estimated to increase by 3.9 percent, reaching 11,200,000 metric tons. In the last fiscal year, such production decreased by 3.3 percent. The area under agricultural cultivation for food grains in the current fiscal year accounts for 71.4 percent of the total cultivated area. As of mid-March, of current fiscal year, there are 11,534 metric tons of food grains in the National Food Security Depot and 8,000 metric tons in the SAARC Food Security Bank.<sup>17</sup>

### Right to water

241. Nepal has adopted various policy and legal measures<sup>18</sup> for the protection of water sources. Water pollution is also strictly outlawed. The GoN believes that safe drinking water is everybody's right and good sanitation is the hallmark of healthy living; and it is the duty of the state to provide safe drinking water to its people.

242. The Water Resources Act, 2049 (1992) and the Environment Protection Act, 2075 (2018), and their respective regulations are specific legislation in this respect. The uses of water resources are categorized into eight priorities, of which drinking water and domestic use is the first one. The ownership of all waters available in the country is vested in the State, and use of water resources requires prior permission from the state. 88% of people living in Nepal has access on basic quality of drinking water and 20% of people are using high and medium quality of drinking water. 99% households are using basic quality of sanitation services.

### Water Supply and Sanitation

243. Fifteenth Plan had aimed at providing basic quality drinking water to 99% of people and 40% of citizens access to high and medium quality of drinking water. The plan adopted a concept of "one house, one tap". The GoN has declared all the districts and local levels as the Open Defecation Free Area (ODFA). The plan has aimed to make total sanitation area to the local levels and districts which has been declared as ODFA. A large number of water supply and sanitation projects damaged by natural disasters or otherwise have been rehabilitated. The water supply and sanitation Act, 2079 (2022) has enacted to ensure efficient management of drinking water and improve status of sanitation in the country.

### Situation of Basic Drinking Water and Sanitation

<i>S.N.</i>	<i>Indicators</i>	<i>Target of National Plan, 2005, Up to 2017</i>	<i>Up to 2018</i>	<i>Achievement to date</i>
1.	Basic Drinking water Services (Percentage of total benefited population)	100	87.9	88
2.	Basic sanitation (percent of total benefited population)	100	94	99
3.	Upper-middle quality drinking water (percent of total benefited population)	27	19	20

<sup>17</sup> Ministry of Finance, Economic Survey 2022/23, p. xvi-xvii.

<sup>18</sup> These measures include: the National Conservation Strategy, 1987; Water Resources Development Policy, 1992; Water Resources Act, 1992, Water Supply Corporation Act, 2007 Nepal Environmental Policy and Action Plan, 1993, Environment Protection Act, 2018, National Water Supply and Sanitation Policy, 2014; Kathmandu Valley Strategy on Water Supply and Sanitation Policy, 2000; Water Resources Strategy, 2002; National Irrigation Policy, 2016; Sustainable Development Agenda, 2003; National Water Plan 2005; National Drinking Water Quality Standard, 2006 and Implementation Directives, 2006.

244. Policies and Program of the GoN has plan to fulfill basic drinking water facilities which are now accessible to 88 percent of population will be enhanced to 92 percent in the next fiscal year and to 100 percent in four years. Likewise, arsenic-free safe drinking water will be made available in Terai districts by completing the ongoing drinking water projects. Since Nepal is rich in water resources, the government has a policy to promote drinking water as an exportable item.

245. GoN has plan to conserve watershed areas and curb the uncontrolled exploitation of ground water to address the problems of drying of surface water sources due to factors including the climate change.

246. The sanitation facility coverage of the country was 81.99% in the fiscal year 2071/72 which reached to 99.7% by the fiscal year 2075/76. The country is declaring as Open Defecation Free (ODF) country in 30th September 2019 covering 100% of sanitation coverage. After the declaration of ODF country, for the sustainability of sanitation, Total Sanitation Program is proposed which is also a part of goal no 6 of SDG.

247. Strong socioeconomic imperatives are available to support the development of water supply and sanitation though the opportunities for collection of revenues are limited to cover the operation and maintenance cost only but in case of urban water supply system part of the capital costs is also recovered. Provincial and Local Governments are implementing large number of water supply projects with their own budget with active participation of consumers.

248. The access to basic drinking water has reached 94.93% of the population as of mid-March of 2023, while the access to high and medium-level drinking water services is 25.81 percent.<sup>19</sup>

### **Right to Housing**

249. Article 37 of the Constitution of Nepal provides that every citizen shall have right to housing and no citizen shall be evicted from the residence owned by him or her nor shall his or her residence be infringed except in accordance with law. Similarly, Article 40 of the Constitution provides that the State shall once provide land to the landless Dalit in accordance with law; the State shall, in accordance with law, arrange settlement for the Dalit who do not have housing; the facilities conferred by this Article to the Dalit community must be distributed in a just manner so that the Dalit women, men and Dalit in all communities can obtain such facilities proportionately.

250. Right to Housing Act, 2018 states that the right to build, live and use house as per the interest of the people, right to be protected from vulnerability, right to select and migrate to settle, right to conserve settlement area and open space along with respecting and protecting religious, social and cultural identity in the settlement area. Sub-section (2) of section (5) of the Right to Housing Act, 2018 provides that while evicting any citizen from the house owned by him or her for the public purpose, such eviction shall be made by providing him or her with resettlement or compensation, in accordance with the prevailing law.

251. GoN has enacted various legislations regarding right to housing like Town Development Act, 2045 (1988), *Kathmandu Valley Development Authority Act*, 2045 (1988) and Building Act, 2055 (1998). National Housing Policy, 2068 (2012) is in action which prioritizes appropriate, safe, adequate and affordable housing for all. Government has also introduced National Housing Plan, 2070 (2014) for the time span of 10 years. This plan estimates a total need of 20,00,000 houses for next ten years which include 3,90,000 units of housing for low-income families and estimates that 13,00,000 housing units will be required in the urban center.

<sup>19</sup> Ministry of Finance, Economic Survey 2022/23, p. xviii.

## New Initiatives

252. GoN has approved land acquisition, resettlement and rehabilitation policy, 2072 (2016) for development of infrastructure projects. It has adopted following policies for the security of indigenous and downtrodden groups. The policy provides for initiating inclusion program with additional assistance for victimized people of downtrodden and indigenous group; assuring of conducive consultation by implementing agency with those groups. (Clause 7.3.1).

253. The government has initiated process to frame a new policy to define the role of three tiers of governments to promote the right of housing of the citizens.

254. *Janata Awas Karyakram* has been expanded to 72 districts of the country and continued by the province governments. As of mid-July of 2022, 36,325 housing units had been constructed under this Program. A total of 19,645 housing units are under construction under the same program in this fiscal year. Construction of houses of 35 families in Mugu has been completed by mid-March of 2023 under the Integrated Modern Safe Settlement Development Program including education, health, infrastructure and employment opportunities. Under the same programme, integrated settlement is being constructed for 32 families of Parshuram Municipality of Dadeldhura District.

255. According to the National Census, 2078 (2021), 66.2 percent of the population lives in municipalities, representing a sharp rise in the urban population.<sup>20</sup>

256. For the construction of safe housing with the roof of galvanized iron sheet Safe Citizen Housing Implementation Procedure, 2018 had come into effect for the families living below the poverty line, people with houses made of straw and straw roofing, and the people rendered homeless due to disaster. Under the Safe Citizen Housing Program, 48314 housing units has been constructed as of mid-March of 2023.

257. The government has approved and implemented Procedure for Relocation of Vulnerable Settlement and Integrated Settlement Development, 2018 to relocate settlements that are geographically remote and difficult to provide services, and disaster-prone settlements to safer places and establish integrated settlements.

258. By Fiscal Year 2021/2022, a total of 8,47,744 earthquake victims have been identified as beneficiaries of the private housing grant, and grants agreement has been signed with 99.89 percent victims. Out of these victims with grant agreement, 99 percent has received the first installment, 87.73 percent of victims with grant agreement have completed their houses. Similarly, 78,857 beneficiaries for retrofitting have been identified, out of them 36,131 have signed grant agreement, and already received the grant of Rs. 50,000/- as the first installment.

259. By the end of Fiscal Year 2021/2022, a total of 3,60,443 complaints have been registered to enlist themselves as earthquake victims and all of the complaints have been reviewed for that purpose and resurvey and rechecking of all private houses has been completed.

260. By mid-March of FY 2018/19, additional grant of Rs. 200,000/- has been provided to those 1,652 earthquake victims who need to be transferred to safe places by managing the land on their own. Likewise, land has been provided to 628 families for safer settlement. Integrated settlement plan to relocate vulnerable settlements has been approved for developing 29 integrated settlements. The understanding has been made with the local levels of 32 districts to simplify the procedure, and to speed-up the reconstruction works including building of private housing.

<sup>20</sup> Ibid. p. 130.

## **Article 12**

### **Right to Enjoyment of the Highest Attainable Standard of Physical and Mental Health**

261. The Constitution guarantees every citizen the right to free basic health services from the State and equal access to health services including right to safe motherhood and reproductive health to women. Nepal was awarded for meeting SDG target on reducing maternal and infant mortality rate.

262. With increasing public and private investment in the health sector and increasing public awareness of health, there has been a significant improvement in health indicators since last years. Child mortality rate for infant is 21 and under five is 33 for 1000 live births and maternal mortality rate is decreasing. The number of pregnant women giving birth by skilled birth attendants is increasing up to 80 percent. Average age is increasing to 71.2 years.<sup>21</sup>

263. Till Mid-March 2023, there are total 215 hospitals, 201 primary health care centers and 3,820 health posts, 426 Aayurved Dispensaries and 3,196 sub-Health posts. Similarly, 6,138 Doctors, 27,683 Nurses, 674 Kaviraj, 693 Baidya, 15,896 Health-workers and 51,423 Women Health-Volunteers.<sup>22</sup>

264. In terms of human resource production, there are 1.15 doctors and 2.54 nurses per 1,000 population in the health sector in Nepal. As of mid-March of 2023, the number of women giving birth in health institutions has reached 79.3 percent. The number of children who are fully vaccinated has reached 80.0 percent. The Health Insurance Program covers 747 local levels in 77 districts. Under this program, 459 health service providers including 373 government hospitals, 33 community hospitals, and 53 private hospitals are integrated.<sup>23</sup>

#### **New Initiatives**

265. The Public Health Service Act, 2018 and National Health Policy, 2019 aim to enhance access to health services by making it regular, effective, qualitative and easily available. Nepal had aim to ensure equal access to health services to all individuals by 2022 via National Health Policy, 2014 and Nepal Health Service Strategic Implementation Plan (2016-2021).

#### **Progress Achieved**

266. The health sector achievements for the targets set in 14th National Developmental Plan showed that neonatal mortality rate has been reduced to 21 per 1000 live births (the target was 22), under-five child mortality has been reduced to 39 per 1000 live births (the target was 34). The maternal mortality rate has been reduced to 239 per 100,000 live births although the target was 148.

#### **Identified areas of Collaboration/Coordination**

267. Nepal Health Sector Strategy 2016-2021 (NHSS) takes into account the ‘multi-sector collaboration’ as one of its strategic pillars towards achieving universal health coverage-highlighting the importance of multi-sectoral contribution in addressing social determinants of health. It responds to the existing socio-political environment and the changes that have taken place both in the local and global health agenda. NHSS espouses the National Development Cooperation Policy’s mission statement to help achieve national goals through mobilizing development cooperation in a way that enhances the country’s capacity to be able to realize maximum advantages.

268. The GoN also has taken different initiatives to promote multi-sectoral collaboration to accelerate the progress in the health results. Multi-sectoral Nutrition Plan (2013-2017) and (2018- 2022); Multi-sectoral Action Plan for Prevention and Control of Non-communicable

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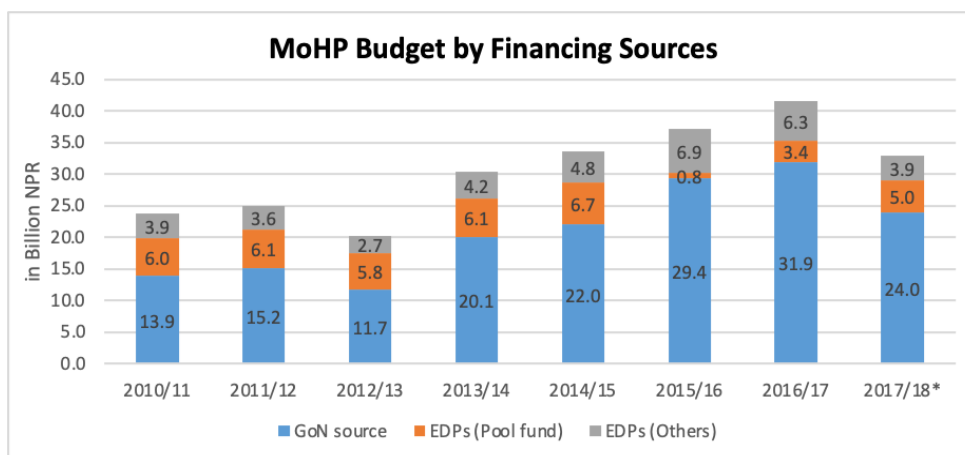
<sup>21</sup> Ibid. p. 148.

<sup>22</sup> Ibid. p. 150.

<sup>23</sup> Ministry of Finance, Economic Survey 2022/23, p. xvii-xviii.

Diseases (2014- 2020); and One Stop Crisis Management Centre are few examples towards building synergetic efforts towards addressing health issues.

269. As the country has transformed to federal system from unitary system of governance, the three tiers of governments have mandates to manage health sector functions as stipulated in the Constitution, laws and policies. The MoHP is responsible for coordination and collaboration among the governments in the health sector while the management and delivery functions depend on all governments.



270. The Immunization Act, 2016 along with Regulation of Immunization ensures every child the right to access on quality vaccines. The GoN has been striving for 100% immunization of mother and children. Vaccination against 13 types of diseases is being made available to children under the National Vaccination Program, Vaccination against rota virus from FY 2020/21 and against typhoid from FY 2021/22 has been included in the National Immunization Program. Likewise, vaccination against tetanus and diphtheria is also being provided for pregnant women.<sup>24</sup>

271. Health services against 8 different types of diseases cancer, heart disease, kidney, Sero positive, Parkinson's, Alzheimer's, head injury, spinal injury and sickle cell Anemia are available to poor citizens. 1247 poor citizens have received services by mid-March of FY 2022/23. In the last FY, a total of 35965 poor citizens had received services under the Poor Citizen Medical Treatment Program.<sup>25</sup>

272. As of mid-March, of FY 2022/23, the number of new users of temporary means of family planning is 407,566; a total of 22,866 tuberculosis patients have received services from health institutions, out of a total of 285,687 blood samples tested up to under the Malaria Control Program and 354 people were diagnosed with malaria. Similarly, a campaign to provide medicine against elephantiasis has been conducted in 15 districts where elephantiasis has been reported, and 8,071,711 people have taken the medicine.<sup>26</sup>

#### **National response for HIV/AIDS: Major HIV Services**

273. HIV Treatment Services: HIV treatment services available free of cost from 78 antiretroviral therapy (ART) centers in 60 districts of Nepal. Up to mid-March of 2022/23, Antiretroviral (ARV) drugs have been distributed to 23,760 HIV infected people including 61 pregnant women affiliated to Prevention of Mother to Child Transmission (PMTCT) program from Anti Retro Treatment (ART) Center. In the FY 2021/22, anti-retroviral drugs were distributed to 22,125 HIV-infected people, including 94 pregnant women, from the anti-retro treatment center.<sup>27</sup>

<sup>24</sup> Ibid. p.151.

<sup>25</sup> Ibid. p. 151.

<sup>26</sup> Ibid. 153.

<sup>27</sup> Ibid. 153.

274. HIV Testing Services: HIV Testing and Counseling are provided free of cost to the key populations [female sex workers (FSW), people who inject drugs (PWID), men who have sex with men and transgender people (MSM/TG)] and the general population from 175 testing centers in 77 districts of Nepal.

275. Prevention of mother to child transmission (PMTCT) of HIV: GoN launched Community-Based Prevention of Mother to Children Transmission (CB-PMTCT) program in 2009 taking PMTCT services beyond hospitals and making the services accessible to pregnant women living in remote areas. Program has been expanded in all 77 districts up to birthing centers where HIV screening and counselling is done among every antenatal care (ANC) visitor at the health facilities.

### **Special Programs in Health Services**

276. Nepal legalized abortion in 2002. The Constitution has guaranteed the safe motherhood and reproductive health right as the fundamental right of every woman. Today, abortion services are available at all levels of the public health facilities (in hospitals, some primary health care centers and some health posts) throughout the 77 districts and at government-certified private facilities.

277. The Safe Motherhood and Reproductive Health Rights Act, 2075 (2018), includes provisions increasing the number of conditions under which abortion is legal. In the last five years, Family Welfare Division trained and listed 1,890 service providers (both doctors and nursing staff), listed 721 service sites for providing safe abortion services.

278. In order to increase universal access to Access to Sexual and Reproductive Health (ASRH) services and rights and raise awareness among adolescents, the Government has offered Adolescent Fertilization Service at 1,331 health facilities throughout the country.

279. Pelvic Organ Prolapse (POP) is common reproductive health morbidity in Nepal and contributes to disability adjusted life years (DALYs) and social consequences. Multiparity, maternal malnutrition, too frequent pregnancies and heavy work after delivery are the main risk factors. Conservative management (silicon ring pessary) and training was started in the year of 2072/73. Now each year the government allocates funds to the all-local level to manage POP including free screening, providing silicon ring pessaries, Kegel's exercise training and free surgical services at designated hospitals and provincial hospitals.

280. Free Newborn Care Program was introduced in 2072/73. Cash payment to women immediately after institutional delivery and transport incentive for institutional delivery has doubled in 2074/75.

281. Pregnant women are encouraged to receive at least four antenatal check-ups, give birth at a health institution and receive three post-natal check-ups, according to the national protocols.

282. Although women are encouraged to deliver at a facility, home deliveries using emergency obstetric care kits, and obstetric first aid at home if complications occur, are important components of delivery care in settings where institutional delivery services are not available.

283. The number of mothers who received their first postnatal care at a health facility within 24 hours of delivery discharge. Family welfare division has started postnatal home visit by nursing staff since 2072/73.

## Article 13 Right to Education

### Basic Information

284. Article 31 of the Constitution provides that every citizen shall have the right of access to basic education, to get compulsory and free education up to the basic level and free education up to the secondary level from the State. The citizens with disabilities and the economically indigent citizens shall have the right to get free higher education in accordance with law.

285. Every Nepalese community residing in Nepal shall have the right to get education in its mother tongue and, for that purpose, to open and operate schools and educational institutes, in accordance with law.

286. The Constitution also made provision on the right to education for persons with disabilities. Persons with visual impairment, by means of Braille script, and with hearing and speaking impairment, by means of sign language, shall have the right to free education as provided by law.

287. Net enrollment rate is increasing due to school enrollment drive, increasing government and private investment in education and direct monitoring of local governments. There has been an increase in the net enrollment rate of each level in the academic year 2079. The net enrollment rate has reached 97.1 per cent at the basic level (classes 1-5), 96.1 per cent at the basic level (classes 1-8) and 57.4 per cent at the secondary level (classes 9-12).<sup>28</sup>

288. The retention rate of students has been steadily increasing in recent years. In the academic session 2022, the retention rates up to class 8 has reached 85.7 percent, the retention rate up to class 10 has reached 67.3 percent and the retention rate up to class 12 has reached 35.6 percent.<sup>29</sup>

289. The total number of schools was 34,368 in the academic session 2078 while it is increased by 1,664 and reached 36,032 in academic session 2079. Among the total schools, 75.9 percent are community schools, 20.5 percent are institutional schools, and 3.6 percent are traditional and religious schools.<sup>30</sup>

290. Early Child Development and Education: A total of 40,656 early childhood classes and pre-primary classes are operating including 33,762 communities (together with 538 operated in traditional schools) and 6,894 institutional ones in the academic session 2079. The number of early childhood development and pre-primary classes has increased due to the approval of more early childhood classes from the local level and an increase in the reporting of institutional schools this year compared to last year. The proportion of students enrolled in class 1 with the experience of Bal Vikas Kendra is increasing every year. While this ratio was 66.3 percent in the academic session 2074 and it increased to 76.7 percent in the academic session 2079.<sup>31</sup>

291. Attraction of Students in Community Schools: The attraction of students is also increasing in Community schools due to the various efforts made to improve the management, leadership, investment and quality of schools. Due to the lack of physical infrastructure of some community schools, the school selects students through entrance exams to enroll only students those can accommodate by the school. The school-student ratio at each level in Community schools is 132 at the basic level grades 1-5), 106 at the basic level (grades 6-8), 112 in secondary level (9-10) and 147 in secondary level (class 11-12) the academic session 2079. In the last academic session, this ratio was 104, 103,99 and 160 respectively. Comparing with the ratio of students by level of the last academic session, the

<sup>28</sup> Ministry of Finance, Economic Survey 2022/23, p. xvii.

<sup>29</sup> Ibid. p. 157.

<sup>30</sup> Ibid. 159.

<sup>31</sup> Ibid. p. 158.

ratio of students by level has increased in the basic level (1-5), basic level (6-8) and secondary level (9-10) while it has decreased in the secondary level (11-12).<sup>32</sup>

292. Education for Children with Disability: Until February 2079 to increase access to education for children with disabilities 33 special schools and 23 integrated schools are in operation. Similarly, Children with disabilities 380 resource class for arrangement has been done Free Braille textbooks are being made available to visually impaired children. Programs to develop and distribute sign language and other learning materials are also in operation. In the academic session 2022, at basic and secondary level, 56,548 Children with disabilities have received residential and non-residential scholarships.<sup>33</sup>

293. Curriculum, Textbook and Teaching materials: production and transmission: In the academic session 2022, colored textbooks have been provided for all the students enrolled in public schools operating across the country from class 1 to class 9. So far, more than 3,000 audio-visual lessons for classes 1-10 have been produced and placed on the YouTube channel (NCED Virtual). The number of subscribers of the YouTube channel is more than 305,000. The produced audio-visual lessons are regularly five hours per day broadcasted on NTV Plus channel of Nepal Television.<sup>34</sup>

294. Technical and Vocational Education: By mid-March 2022, the Incubation Center for entrepreneurship and professional development has been operationalized through 14 vocational schools aimed at young entrepreneurs. Similarly, interns have been arranged through 15 vocational schools for the enhancement of production of goods and services through practical exercises. According to making technical and professional education programs, information technology friendly, labs with educational equipment for agriculture, construction and tourism programs have been established in 7 educational institutions. In addition, classrooms equipped with information technology have been constructed in 25 educational institutions. Through the e-learning system, 298 electronic teaching learning materials have been developed for diploma level programs. As of mid- March, Kanchanpur district has been added and the number of districts declared as literate has reached to 62. Similarly, Gandaki and Bagmati Provinces have been declared literate Provinces.<sup>35</sup>

295. School Day Food Program: In the academic session 2022, 3,113,684 students across the country have directly benefited from the school day food program. Such number was 2,993,933 in the last academic session.

296. Scholarship Program: Rs. 2,388,188,000 have been distributed to 2,575,204 students studying at the school level in the academic session 2022 for various kinds of scholarships including poor targeted.

297. Information Technology in School Education: Of the 27,343 community schools operating across the country, 6,869 (25.1 percent) schools have information technology laboratories. Out of total schools, broadband internet facility is made available to 35.9 percent schools.<sup>36</sup>

298. Higher Education: The number of students studying at various universities and affiliated campuses has increased by 22.6 percent and reached to 682,589 in FY 2021/22 compared to the previous fiscal year. In the FY 2020/21, this number was 556,797. Of the total 687,421 students studying in different 11 universities and affiliated campuses in the country, the ratio of students studying in Tribhuvan University and other universities is 78.2 percent and 21.8 percent respectively. As of mid-March 2022, the number of higher education institutions having Quality assurance and accreditation from the University Grants Commission has reached to 86. This number was 64 by mid-march of 2021.<sup>37</sup>

<sup>32</sup> Ibid. p. 159-160.

<sup>33</sup> Ibid. p. 164.

<sup>34</sup> Ibid. p. 165.

<sup>35</sup> Ibid. p. 165.

<sup>36</sup> Ibid. p. 166.

<sup>37</sup> Ibid.

### **Status of Female Teachers**

299. Across all types of schools, female teachers make up 46.6% of lower basic level teachers (44.6% in previous school year), 29.1% at upper basic level (30.5% in previous year), 19.1% at secondary level with grade 9-10 (19.2% in previous year) and 18.6% at secondary level with grade 11-12 teachers.

300. In all types of community schools, female teachers made up 43.9% of teachers at lower basic level (41.0% in previous year), 22.0% at upper basic level (25.4% in previous year), 15.8% at secondary level (15.9% in previous year) and 19.6% of all higher secondary teachers.

301. Significant progress has been achieved in the enhancement of access to, and expansion of geographical coverage of education in Nepal. Major policy reforms responsible for such progress include adoption of inclusive and equitable approach, sustained allocation of public resources, collaboration between government and private sector, introduction of affirmative action and reservation for the marginalized communities and class, and gender mainstreaming.

302. In order to ensure better access to quality education, 45 percent of scholarship for higher education in medical sciences available to the GoN has been reserved for indigent students who have passed school leaving certificate from community schools and belong to vulnerable segments of society. Scholarship is provided to indigent girls in Terai who wish to pursue technical education on auxiliary nurse midwifery, day nutrition programme is extended to mitigate the drop-out problem, and a literate campaign with the slogan of “let us be literate and enhance capacity” is being launched as a campaign with the participation of local bodies, schools, teachers and local political parties.

## **Article 14**

### **Provision of compulsory education**

303. The Constitution has enshrined free and compulsory education as fundamental rights. Free and Compulsory Education Act, 2075 (2018) have been enacted along with the Regulation Relating to Free and Compulsory Education to provide free and compulsory education to the citizens. National literacy campaign is being implemented with necessary amendments. Special emphasis is laid on the qualitative, employment-oriented, vocational and technical education easily accessible to the people. Primary and informal education in mother tongue has also been expanded.

304. In order to promote access of differently able children to education, arrangements have been made for 33 Special schools, 23 integrated schools, and 380 resource classes in the academic year 2018/19. And also, Braille textbooks have been offered free of cost to children with vision impairment along with other programmes of developing and distributing learning materials including Sign Language.

## **Article 15**

### **Right to cultural life, scientific research and creativity**

305. The Article 32 of the Constitution provides that every person and community shall have the right to use their languages, participate in the cultural life of their communities and preserve and promote its language, script, culture, cultural civilization and heritage.

306. Article 26(2) of the Constitution provides that every religious denomination shall have the right to operate and protect its religious sites and religious Guthi (trusts). Article 50(2) provides that the social and cultural objective of the State shall be to build a civilized and egalitarian society by eliminating all forms of discrimination, exploitation and injustice on the grounds of religion, culture, tradition, usage, custom, practice or on any other similar grounds, to develop social, cultural values founded on national pride, democracy, pro-people, respect of labour, entrepreneurship, discipline, dignity and harmony, and to consolidate the national unity by maintaining social cohesion, solidarity and harmony, while recognizing cultural diversity.

307. Similarly, Clause (c) of the Article 51 has provisions to build the society founded on cordial social relations by developing a healthy and civilized culture, to carrying out studies, research works, excavation and dissemination for the protection, promotion and development of ancient, archaeological and cultural heritages, to make community development through enhancement of local public participation, by promoting and mobilizing the creativity of local communities in social, cultural and service-oriented works, to focus on the development of arts, literature and music which form national heritages, to end all forms of discrimination, inequality, exploitation and injustice in the name of religion, custom, usage, practice and tradition existing in the society, to protect and develop languages, scripts, culture, literature, arts, motion pictures and heritages of various castes, tribes, and communities on the basis of equality and co-existence, while maintaining the cultural diversity of the country and, to pursue a multi-lingual policy for social and cultural transformation.

308. Similarly, the Constitution has also incorporated the policies to make the indigenous nationalities participate in decisions concerning that community by making special provisions for opportunities and benefits in order to ensure the right of these nationalities to live with dignity, along with their identity, and protect and promote traditional knowledge, skill, culture, social tradition and experience of the indigenous nationalities and local communities, to make special provisions for opportunities and benefits to minority communities to enjoy social and cultural rights, with maintaining their identity, to make special provisions for equal distribution of economic, social and cultural opportunities and benefits to the Madhesi community, Muslims and backward class, and for opportunities and benefits to the indigent citizens within such communities for their protection, upliftment, empowerment and development been taken for social justice and inclusion. Language, script, culture, arts and religion has been unbundled in the federal, provincial and local levels list of rights.

309. Furthermore, a number of policies, legal and institutional measures have been taken for the protection and promotion of the right to cultural life, scientific research and creativity. A comprehensive policy on the preservation and promotion of tangible and intangible cultures is in the process of formulation.

310. There are also some Constitutional commissions such as Language Commission, Indigenous Nationalities Commission, Muslim Commission, Tharu Commission and Madhesi Commission for protection and promotion of the cultural and religious rights of various communities. Several institutions are involved in the protection of this right, which include: the Department of Archeology, Guthi Sansthan, Cultural Corporation, NFDIN, and Nepal Pragy Pratisthan. A review of the laws related to the promotion, protection and preservation of cultures and traditions of all different ethnic, linguistic and cultural groups has also been taken as an important component of the activities.

311. The MoCTCA is conducting programs for preservation and promotion of culture pursuant to Culture Policy, 2067. A large number of development boards and trusts have also been formed for the protection of culture, religion, arts, languages and scripts. Department of Archaeology is responsible for the preservation of heritages. Nepal has ratified the Convention for the Safeguard of Intangible Cultural Heritage, 2003.

312. The GoN has established a National Ethnographic Museum in 2005 in *Kathmandu* City to preserve different cultures of nationalities. The lifestyles of Brahmin Tamang, Gurung, Tharu, Magar, Rai, Newar, Sherpa, *Thakali*, *Chepang*, *Sunuwar*, and *Limbu* have already been demonstrated in the Museum. The MoCTCA has provided fund to establish and conduct 54 museums of different castes and ethnicity. Documentary of Jatra, festival, dance, cultural festival, religious carnivals has been collected and disseminated.

313. Literature cultural and tourism visit campaign; such as *Khaptad* Lyrics Journey, 2075, *Phoksundo* Lyrics Journey, 2076, Lumbini Visit Year, 2076, Karnali Rara Visit Year, 2075, Kailali Visit Year, 2075 and *Myagdi* Visit Year, 2075; has been conducted through tourism board. A process of establishing fund has been forwarded through Kathmandu Metropolitan city for conducting and management of *Indrajatra* which is main festival/carnival organized in the Kathmandu valley.

314. Department of Archaeology is working for protection, management and promotion of seven world heritage site situated in *Kathmandu* and other fifteen possible world heritage sites throughout the country in accordance with World Heritage Site Conservation Project.

315. Folk conversation collection has been published in 25 languages for protection of folk culture, folk tradition and language. Language class has been conducted in *Kusunda, Baramu and Tilung* language which are in the verge of extinction. Integrated study, related level determination, probability to use in education and lingual map, of 20 languages for use of mother tongue in the education have been completed. Lingual statistics publication and basic survey of language has been completed.

316. Partnership painting, traditional dance, handicraft exhibition and seminars of various cultural sector is being organized in the SAARC culture center. There have been various works: to protect and promote Boudhha Religion philosophy and civilization, to protect and renovate the monastery having archived and archeological values and protection and promotion of language and script related to Buddhha religion.

317. The MoCTCA provides training to link income generation and employment with cultural heritage for cultural promotion and professional development for caste/ethnic and community homestay proprietors.

318. 380 heritages have been reconstructed out of 891 heritages damaged by earthquake. The MoCTCA has made a program to reconstruct 389 heritages in the FY 2019/20. To date, a number of Temples, Stupa and buildings that have historic and cultural value have been renovated including throne meeting of Hanumandhoka, Boudha Stupa, Pratappur Anantapur of Swayambhu, Krishna temple, Charnarayan temple, Harishanker, Keshavnarayan chowk of Lalitpur durbar square and Siddhilaxmi temple and Banshagopal temple of Bhaktapur Durbar Square.

319. 699 heritages have been reconstructed out of 920 heritages damaged by earthquake and the MOCTCA has made a program to rehabilitate 753 heritages at the end of FY 2021/2022. To date, a number of Temples, Stupa and buildings that have historic and cultural values has been renovated including Gaddi Baithak of Hanumandhoka, Boudha Stupa, Pratappur and Anantapur of Swayambhu, Krishna temple, Charnarayan Temple, Harishanker, Keshavnarayan Chowk of Lalitpur Durbar Square and Siddhilaxmi Temple and Banshagopal Temple of Bhaktapur Durbur Square.

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